

PERCEPTIONS OF LAWLESSNESS: THE CONTRIBUTION OF THE
HONOUR OF LEICESTER TO CRIME AND LAWLESSNESS
BETWEEN 1260 AND 1360 AND ITS BEARING ON THE BALLAD
LITERATURE OF THE PERIOD

Thesis submitted for the degree of
Doctor of Philosophy
at the University of Leicester

by

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ABSTRACT

Perceptions of Lawlessness: The Contribution of the Honour of Leicester to Crime and Lawlessness Between 1260 and 1360 and its Bearing on the Ballad Literature of the Period.

By Kathryn Joy Bates

This dissertation addresses the different perceptions of lawlessness held by the magnate and gentry classes in the thirteenth and fourteenth centuries. These attitudes are analysed in relation to the coalescence of the Honour of Leicester within the Earldom of Lancaster, the acceleration of the retaining phenomenon, changes in the legal system and the accompanying rise in recorded crime.

Crime figures obtained from selected gaol delivery rolls, the Calendars of the Close and Patent Rolls, alongside evidence from the surviving eyre and assize rolls, demonstrate a rise in lawlessness between 1260 and 1360. The reasons for this increase, its perception by the population, and its portrayal in the ballads and political songs are the major themes of this thesis.

The anarchy that followed the death of Simon de Montfort, the development of the Earldom of Lancaster, the abandonment of the eyre, continuing wars, purveyance, disease, taxation, the rise of professionalism, and the practice of retaining all encouraged crime. The attitude that violence and extortion were not only acceptable, but were a means of political and social elevation is repeated in both the legal documents and literature of the day. Felons of the age, such as the Folvilles and Beltofts, are mirrored in the tales of Robin Hood, Gamelyn and Adam Bell.

Lawlessness had become an acceptable means of self-advancement for the gentry and magnate classes. Families competed for retaining alliances that brought power, influence and control of the local area; corruption was bound to follow, and consequently lawlessness. Contemporary poets could confidently place the outlaw as the hero against the tyranny of the crown, and the injustice of the law.

To my beautiful daughter Lucy,
born 28 April 1999.

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Bibliography

ABBREVIATIONS

All the works listed here appear in the footnotes. Further details of all the books and articles cited can be found in the bibliography. Works cited on more than one occasion are given their full title in the first instance, and from then on, shortened titles.

Primary Sources

CCR	<u>Calendar of the Close Rolls</u>
CIM	<u>Calendar of Inquisitions Miscellaneous</u>
CPR	<u>Calendar of the Patent Rolls</u>
CRR	Curia Regis Rolls
D&T	Dobson, R. B. and Taylor, J., <u>An Introduction to the English Outlaw: The Rymes of Robyn Hood</u> (Gloucester, 1989)
EHD	<u>English Historical Documents</u>
KB	Rolls from the Court of the Kings Bench
SS	Selden Society
RS	Rolls Series

Secondary Sources

VCH	<u>Victoria County History</u>
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Periodicals

BIHR	<u>Bulletin of the Institute of Historical Research</u>
EHR	<u>English Historical Review</u>
JSH	<u>Journal of Social History</u>
P&P	<u>Past and Present</u>
TRHS	<u>Transactions of the Royal Historical Society</u>

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INTRODUCTION

To understand the perceptions of lawlessness held by the Midland population of 1260 and 1360 it is necessary to examine and review both the documentary and literary evidence for the period. By concentrating this study on the Midland counties of Leicestershire, Nottinghamshire, Northamptonshire and Warwickshire an insight into medieval attitudes towards crime and corruption, within the Honour of Leicester, can be gained.¹

The surviving records highlight the Honour as one of the most violent and corrupt areas of the country. To say that its inhabitants were more villainous than those anywhere else in England would be a reckless statement after viewing only a portion of the documentation. Yet there are indications that, with the exception of London and the surrounding area, the Midlands were near the top of the criminal league. The reason for this appears to have originated with the rebellion of Simon de Montfort, and the subsequent forfeiture of his lands. With the fall of so influential a figure, a power vacuum was left in the Honour of Leicester. Once peace was restored Henry III attempted to fill the void and settle the resulting unrest. He did this by uniting De Montfort's forfeited lands with those of the disinherited Earl of Derby, Robert Ferrers.² This new area, designated as the Earldom of Lancaster, was presented to Henry's son Edmund.³ The formation of the Earldom undoubtedly appeared to provide the means of quelling the unrest in the area. However, it marked the beginning of a growth in violence that was to encompass the majority of the Midlands.

¹See Appendix I for a map of the Honour of Leicester. The place names quoted from the primary sources used within this thesis will be spelt as they appear in the original text.

²See the Complete Peerage, Vol. 5, p.307, for details of the lands forfeited by Ferrers.

³CPR 1258-1266, p.470.

The primary evidence for this research has been obtained from the translation and examination of two fourteenth century gaol delivery rolls for Leicestershire and one from Northamptonshire.⁴ In addition, evidence has been gained from a selection of the assize and eyre rolls for the region.⁵

Documentary sources such as these are subject to the problems of age, and many that have survived into the twentieth century are in poor condition.⁶ Although justices were responsible for making sure that all the plea rolls dealt with during their careers were sent to the Treasury, many went astray.⁷ Even those that made it to the Treasury are not necessarily available today. For example, the civil pleas of Nottinghamshire for 1268-69 and for Leicestershire from 1269-1271, are entered as having been delivered to the Treasury, but are now missing.⁸

Due to the limited survival of such documents, the evidence used within this thesis has been supplemented with that from the Calendars of the Patent and Close Rolls.⁹ Thus the examined sources provide information about the lawlessness of a wide range of the Midland population, from tradesmen and the lesser gentry, to the higher classes of nobility, proving that the medieval criminal was not confined to narrow social grouping, but came from the broad spectrum of society.

⁴Just3/30/1; Just3/30/2; Just3/51/1.

⁵For example, Just 1/631 and Just1/635, record the felonies of many Northamptonshire criminals who sought sanctuary between 1298 and 1329.

⁶Such as Just3/51/1, where only a fraction of the cases are legible. See Chapter 2.1.

⁷In 1257 Henry III ordered that on the retirement or death of a justice, his documents were to be transferred to the Treasury. Consequently far more eyre rolls survived than had previously done so. However, the survival rate was still limited, with only half of the eyre rolls remaining from 1274 onwards. D. Crook, Records of the General Eyre (London, 1982), pp.12-24.

⁸Records that did not survive into the twentieth century were lost for a variety of reasons. Some must have been sent to the wrong place, others were accidentally destroyed or lost before they reached the Treasury. *Ibid.* pp.12-30.

⁹CPR 1258-1361, 22. vols. (London, 1891-1910); CCR 1260-1360, 23 vols. (London, 1909-1934).

During the thirteenth and fourteenth centuries individuals perpetrated the majority of the recorded crimes. Nevertheless, as the surviving documents illustrate, large numbers of felonies were committed in groups.¹⁰ Often comprising of friends and family, or servants and masters, these felons would come together for a one-off crime against a specific target, rarely continuing to indulge in a life of crime. However, one member of a family would often willingly risk punishment by assisting another with a crime, illustrating the strong feelings of loyalty within the medieval family. This feeling of pride, or notion of dignity, contributed to the level of violence in society, as family members protected each other and their own honour.¹¹

Although most groups of criminals worked together for a very brief period, others took on an occupational or professional criminal status. The Folville, Beltoft and Hauberk families all used crime to improve their situation, make money and maintain family lands.¹² These factual Midland criminal bands can be compared with those from the pages of medieval ballad. Over the last thirty years there has been a resurgence in the amount of research concentrating on the life, or legend, of Robin Hood. Books and papers have been written and answered amongst established scholars, with an extensive assortment of theories arising.¹³ The Robin Hood ballads, along with the political poems of the period, provide the literary evidence used in

¹⁰B. Hanawalt, Crime and Conflict in English Communities, 1300-1348 (London, 1979), pp.114-50, 184-221. See Chapters 2.2 and 3.1 for examples of individual and gang criminal activity.

¹¹The notion of dignity is discussed in Chapter 1.4.

¹²See Chapter 3.1.

¹³R. Hilton, 'The Origins of Robin Hood', P&P, 14 (1958); J. Holt, 'The Origins and Audience of the Ballads of Robin Hood', Ibid., 18 (1960); M. Keen, 'Robin Hood - Peasant or Gentleman?', Ibid., 19 (1961); M. Keen, The Outlaws of Medieval Legend (London, 1987); J. Holt, Robin Hood (London, 1982); D&T; S. Knight, Robin Hood: A Complete Study of the English Outlaw (Oxford, 1994); J. Lees, The Quest For Robin Hood (Nottingham, 1987); G. Philips & M. Keatman, Robin Hood: The Man Behind the Myth (London, 1995). It is not the aim of this thesis to enter into the argument for the existence, or not, of Robin Hood.

this thesis.¹⁴ By examining the types of crimes committed, the weapons used and the attitudes expressed within such verse, comparisons can be made with the facts gleaned from the documents examined, to see if the perceptions of lawlessness evident from the literature are accurate.

This thesis is divided into two main parts. The first concentrates on the attitudes medieval society had towards crime, the felonies they committed, and attempts to understand why they committed them. The second part concentrates on the reality of crime, and addresses the influences behind such a lawless society. This structure is initially outlined within this Introduction, beginning with a brief background to the period 1260 to 1360.

i. – Historical Background

The political and economic state of England was not directly to blame for the high level of lawlessness practised by many members of its population, but it certainly exacerbated the problem.

In 1260 England was facing the drama of the growing rebellion by Simon de Montfort and his adherents, which led to the Barons War. This baronial disquiet, which culminated in De Montfort's death at Evesham in 1265, signalled a growth of unrest in England. This unrest was not due to the conflict alone, but to an accumulating state of crisis within the gentry class which lasted beyond Evesham. The contemporary chronicle, 'Liber de Antiquis Legibus', describes how the malevolence of 1264 continued until at least 1267, "And this was the beginning of calamities and the start of the fatal war, through which so many manors were destroyed, and so many men, both rich and poor, ruined, and so many thousands of men perished."¹⁵ Such

¹⁴I. Aspin, ed., Anglo-Norman Political Songs (Anglo-Norman Text Society, Vol. 11, Oxford, 1953); P. Coss, ed., Thomas Wright's Political Songs of England (Cambridge, 1996); D&T. See Appendix II.

¹⁵T. Stapleton, ed., Liber de Antiquis Legibus (Camden Society, First Series, No. 34, London, 1846), p.61

disturbances were particularly felt in the Earl's own territories, especially in his Honour of Leicester. The 'Curia Regis Roll' details accounts of violence and general lawlessness in this region. The following passage is just one example from Leicester in 1267 that underlines the seriousness of the situation.

Robert de Tateshale, the elder, by his attorney v. Ralph Chamberleng, Adam Hubert, Gilbert Clark of Barwe, John de Craunford and William, son of Adam de Quattone (Whatton), in a plea wherefore, in the time of the disturbance in the realm, they took, plundered and scattered the said Robert's goods and chattels in his manors of Bredon, Sumerdeby and Holwell, to the grave damage of the said Robert. They did not come. The sheriff is commanded to arrest them, if found.¹⁶

In the Midland shires repercussions were being felt as late as 1268. Even though the war had ended with a royalist victory, a state of anarchy remained in the region. Manors and crops were plundered and burnt, and attacks on the person were increasingly common.¹⁷ It was as if the bitterness felt after defeat was taken up by those not involved in the conflict and used as an excuse to attack neighbours and property to improve their own situation. In this fashion one of the major reasons as to how and why a state of lawlessness reached crisis level in the Midlands is revealed.

The Baron's War was essentially a Midland and East Anglian conflict. The majority of those who fought on the side of De Montfort came from the Midland region.¹⁸ It is little wonder then that the pillage that accompanied and outlived the war affected the Honour to such a horrifying degree.

¹⁶CRR No.181 (Michaelmas, 1267), m.9d.

¹⁷G. Farnham, 'Extracts from the Curia Regis Rolls Relating to Leicestershire, AD. 1269-1272, Part 2', Associated Architectural Societies Report and Papers, 35 (1919-20), pp.184-97. For example, the 1267 'Curia Regis Rolls' for Leicestershire record the imprisonment, by men with 'force of arms', of Henry de Nottingham at Kenilworth castle. In 1268 they document that gangs, with 'force of arms', stole from the manors of Overton and Shackerstone. *Ibid.* pp.184, 194-5.

¹⁸D.T. Williams, 'Simon De Montfort and his Adherents', ed., W. Ormrod, England in the Thirteenth Century: Proceedings of the Harlaxton Symposium, 1984 (Nottingham, 1985), pp.166-77.

Northampton, Leicester and Nottingham all shared in the desolation which seemed to follow the royal army, as it sacked its way across the country.¹⁹ Due to the treasonous nature of the crimes associated with De Montfort's adherents, few are to be found in the ordinary records of the period. Offences against the king were dealt with at the highest levels, and rarely entered the everyday legal affairs. In a period of crisis such as this little time was afforded to the recording of information, and many crimes must have remained undocumented.

The political songs of the time recall many of the events of the Barons War, from the 'Song of the Barons' in c.1263, to the 'Lament of Simon de Montfort' written c.1267-1268.²⁰ They also record many of the grievances that spurred the people of England on to support the rebels cause. 'A Song on the Times', written towards the middle of Henry III's reign, complains of the avarice and evil of the king and his nobles.

Right and wrong march nearly on an equal footing;
there is now scarcely one who is ashamed of doing what is unlawful;
the man is held dear who knows how to flatter,
and he enjoys a singular privilege.²¹

Once De Montfort's forces had been defeated, the crown lost no time in outlawing all who had followed him. To ensure the king did not lose any lands, the Winchester Commission was set up in 1265.²² This inquisition, by taking away the lands of many established families, unintentionally helped to maintain the state of unrest.

¹⁹H.R. Luard, ed., *Flores Historiarum*, AD 1067-AD 1264, Vol. 2 (RS, 95, London, 1890), p.489.

²⁰Aspin, ed., *Political Songs*, pp.12-35; Coss, ed., *Wright's Political Songs*, pp.59, 125.

²¹*Ibid.* p.48.

²²D. Douglas and H. Rothwell, eds., *EHD*, Vol. 3 (London, 1975), p.379. The opening sentence of the Commission reads, "Appointment in pursuance of the ordinance lately made by the counsel of the magnates at Winchester, of William Bagod and Robert de Grendon, with the sheriff of the counties of Warwick and Leicester, to take into the king's hands the lands of rebels in those counties, and extend them and to send the extent thereof to the king by the feast of St. Edward (13 Oct) to Westminster."

In the following year many of England's bishops and earls took a stand against the deteriorating situation, by instigating the Dictum of Kenilworth. The Dictum gave those who had opposed the king a chance to regain their lands and property. The measures imposed by the Dictum are listed in the 'Rotuli Selecti'.

First, concerning them that began the war and yet continue:

Item, they that forcibly and maliciously held Northampton against the King:

Item, they that were taken at Kenilworth which came from the sacking of Winchester, or that other-where were against the King whom he hath not yet pardoned:

Item, they that warred at Evesham against the King:

Item, they that were at Chesterfield against the King in battle:

Item, they that freely, wilfully, and uncompelled sent any aid against the King or his son:

Item, the Bailiffs and Officers of the Earl of Leicester which robbed their neighbours, and procured manslaughter, house-burnings and other evils to be done: Shall pay as much as their lands be worth by the space of Five Years.²³

The majority of the barons who had fought against the king eventually had their estates restored, but at a price. Buying back land often meant borrowing money from the Jews or the Treasury, who could increase their profits by charging extortionate interest rates. What at first sight seemed to be government's acceptance that lands needed to be restored to the barons in order to lessen the state of crisis, could actually be viewed as a method of getting money into the Treasury. This means of punishment was close to an act of oppression, and only seemed to aggravate the attitude of lawlessness.

After the accession of Edward I an inquest was held into the local administration of England. This attempted to retrieve the royal rights and land that had been usurped during the Barons War.²⁴ Edward, recognising the

²³J. Hunter, ed., *Rotuli Selecti ad res Anglicas et Hibernicas spectantes, ex archivis in domo capitulari West-Monasteriensi, deprompti* (London, 1834), p.xxxiv.

²⁴The results from this enquiry became the Hundred Rolls.

need to address the problem of law and order, proclaimed a series of statutes to make the law more efficient. The first of these was the Statute of Westminster in 1275, which addressed the problem of corruption among Edward's officials. Crime, however, continued to cause concern, prompting the Winchester Statute of 1285, which attempted to structure a system for keeping the peace.²⁵

Edward I was not a great reforming figure when it came to the law, however he did recognise the dire need to improve the legal system. Burnell, Edward's chancellor and constant advisor, was the 'architect of the statutes', which Edward is recorded to have said must apply common justice "to the poor, as to the rich."²⁶ Yet the emphasis in the statutes was to make the present system more efficient, speeding up the process of justice, not on making the law fairer or more comprehensive. This was a positive start, but did not go far enough to have a significant effect on the lawlessness of the country. Edward certainly did not deserve to be labelled 'The English Justinian'.²⁷ Nothing was done to provide an effective method of law enforcement, and for many people the statutes worsened an already desperate situation.²⁸ The penalties imposed on criminals largely centred on fines or the removal of goods and chattels. At a time when people were over-burdened with taxes, purveyance, and the human costs of war, this must have felt like official oppression. Many must have been forced into crime in order to pay their taxes, and if their goods and chattels had been removed then they would have to commit further crimes to find the food to survive.

Edward I engaged on a campaign of war and conflict soon after his accession, putting a tremendous strain on the country's economy. Throughout his reign he gathered armies to fight against Wales, Scotland and

²⁵M. Prestwich, *The Three Edwards: War and State in England 1272-1377* (London, 1980), p.21.

²⁶Statute of Westminster I; Douglas and Rothwell, eds., *EHD*, Vol. 3, p.397.

²⁷M. Prestwich, *Edward I* (London, 1988), p.267.

²⁸See Chapter 5.1.

France. A large number of these potential soldiers were recruited from the Midland counties. Provisions had to be found for all these military forces. The strain of extra taxes to pay for the campaigns, a lack of local manpower, and the effect of provisioning precipitated an inevitable rise in lawlessness at a local level. The 'Song of the Husbandman', written in c.1300, focused on many of the grievances felt in the fourteenth century. The following verse complains about the effect of war purveyance.

It is grievous to lose, where there is little,
and we have many fellows who expect it;
the hayward commandeth us harm to have of his;
the bailiff causeth us to know evil, and thinks to do well;
the woodward has woe in keeping for us, who looketh under the branches;
there may not arise to us or remain with us riches or repose.
Thus they rob the poor man, who is of little value:
he must needs in sweat and in labour waste away so. ²⁹

The persistent conflicts of the 1290s meant that the running of the country was neglected. Everything apart from the gathering of the revenue needed to continue the war was set aside. The eyre was allowed to collapse and the lawless state of the Honour and England continued on a downward spiral.

On his accession Edward II inherited a difficult political situation. He had to continue to raise the revenue needed to fight his father's wars, as well as calm the church, which had begun to fear for its privileges.³⁰ Edward's weak rule worsened the lawless situation, and failed to discourage crime.

Once in power Edward II recalled his favourite, Piers Gaveston, and later presented the equally hated Despensers (the elder and the younger, both

²⁹Coss, ed., Wright's Political Songs, pp.149-50; J. Coleman, English Literature in History, 1350-1400: Medieval Readers and Writers (London, 1981), p.63. The references to famine within the 'Song of the Husbandman' suggest that it could be dated more accurately c. 1315-16.

³⁰N. Fryde, The Tyranny and Fall of Edward II, 1321-1326 (Cambridge, 1979), p.15.

called Hugh), with positions of authority.³¹ Magnate opposition quickly rallied against these favoured nobles. Ignoring the need for the king's prior permission, a group of barons, who became known as the Ordainers, drew up a document swearing to "maintain the honour of the crown, to repair abuses which had tarnished it up to that time and to redress oppressions committed against the people."³² These points were deliberately aimed at the king, and were against the power and influence of Gaveston.

The Ordainers' leader was Thomas, Earl of Lancaster, one of the most influential figures featured in this study.³³ The best account of the life and deeds of Thomas of Lancaster has been compiled by Maddicott.³⁴ It was Lancaster's corrupt and ruthless behaviour that made the Honour of Leicester one of the most violent and oppressed areas of England. Notorious as an aggressive landlord, who retained bailiffs and other officials as ruthless as himself, Thomas' main aim was to increase his personal standing.³⁵

In 1311 Edward's military campaigns took him and his followers to Scotland. Lancaster refused to fight, and while Edward was away he and his fellow Ordainers pressed for reform. Their unsatisfied demands culminated in the murder of Gaveston in 1312, the start of a period of accelerated unrest, and two years of virtual rule by Lancaster.³⁶ There is no doubt that the barons' murder of Gaveston and the hatred felt towards the Despensers had

³¹*Ibid*, pp.13-26.

³²*Ibid*, p.16.

³³H. Maxwell, ed., *The Chronicle of Lanercost, 1272-1346* (Glasgow, 1913), p.193. The other Lord Ordainers were the Archbishop of Canterbury, the Bishops of London, Salisbury, Chichester, Norwich, St. David's and Llandaff; the Earls of Gloucester, Lancaster, Lincoln, Hereford, Pembroke, Richmond, Warwick and Arundel; the Barons, Hugh de Vere, William la Mareschal, Robert FitzRoger, Hugh Courtenay, William Martin and John de Grey.

³⁴J. Maddicott, *Thomas of Lancaster, 1307-1322: A Study in the Reign of Edward II* (Oxford, 1970).

³⁵*Ibid*, p.32.

³⁶*Ibid*, pp.129, 161-89.

been fuelled by Edward's reckless extravagance towards them. It was the right of the king to reward his favourites with lands and titles, but in both these cases he had stepped over the accepted traces.³⁷ By appointing Gaveston, who was not of royal blood, to the Earldom of Cornwall Edward unwittingly ensured that his reign and Gaveston's life were both increasingly precarious.³⁸ The tension created by Edward and Gaveston's relationship increased the disquiet that was engulfing much of England's gentry. Meanwhile the country as a whole was suffering in the grip of a severe famine, which served to further exacerbate lawlessness between 1314 and 1318.³⁹

The deeds of the Ordainers alone did not produce the dramatic rise in crime that might have been expected. Whether petty crime flourished cannot be proved, but in the Earldom of Lancaster the violent crime rate remained steady. The English army's resounding defeat at Bannockburn in 1314, for example, produced a greater response in the songwriters' manuscripts than in the Midland crime rate.⁴⁰ Following England's defeat at Bannockburn, Lancaster ruled England in all but name for two disastrous years, from 1314 to 1316. This period of rule emboldened Thomas' officials, who committed more ambitious offences, leading to a corresponding increase in reported cases of oppression and extortion.⁴¹

It was not until Thomas of Lancaster was pursued by the king in 1321, and executed in 1322, that a violent reaction can be found in the criminal records of the day.⁴² Thomas had undoubtedly been a ruthless man, yet many had supported him rather than the crown. Considering all the crimes with

³⁷See General Conclusion.

³⁸Maddicott, *Thomas of Lancaster*, pp.70-1.

³⁹Prestwich, *The Three Edwards*, pp.247-8.

⁴⁰Coss, ed., *Wright's Political Songs*, p.262.

⁴¹*CPR 1313-1317*, pp.245, 584; Maddicott, *Thomas of Lancaster*, pp.160-89.

⁴²*CPR 1321-1324*, pp.149, 156.

which Thomas of Lancaster had been connected, it seems incredible that by 1327 all his outrages were forgotten (at least by the general population).⁴³ His elevation to the status of martyr suggests that anybody who stood against the 'tyranny' of the crown would enjoy popular favour, especially with the benefit of hindsight. The ballads, often in prayer form, written about Thomas' life hail him as a hero, not as a ruthless and corrupt nobleman.⁴⁴

The effect that Thomas' death had on the society of the Honour of Leicester, and the Earldom of Lancaster as a whole, was profound. There were direct criminal attacks against the crown, and acts of revenge in retaliation for Lancaster's own deeds. For example, in 1322 the Patent Rolls record a commission including ministers and keepers, who entered and looted the properties, now in the king's hands, that had belonged to Lancaster and his fellow rebels.⁴⁵

As in the case of the Barons War, many of the nobles who had supported Thomas of Lancaster were outlawed and disinherited. Many of these barons, including Thomas' brother, Henry, conspired with Edward's estranged wife, Queen Isabella.⁴⁶ In 1326 Isabella entered England with Roger Mortimer and her son, the young Edward, whom she intended to place on the throne.⁴⁷ Once safely established in England, Isabella and Mortimer marched on London and deposed Edward II.⁴⁸ As crime flourished in a

⁴³See Chapter 4.2 for the Thorpe Waterville Dispute.

⁴⁴See, Coss, ed., Wright's Political Songs, p.272, for a poem about the martyrdom of Thomas of Lancaster.

⁴⁵CPR 1321-1324, p.156. The lands raided by the king's officials were situated in the counties of Derbyshire, Staffordshire, Warwickshire, Leicestershire, Northamptonshire and Shropshire.

⁴⁶Henry himself was neither outlawed or disinherited, but used his position of influence with Isabella and Mortimer to try and regain some of the lands that had been confiscated on his brother's execution.

⁴⁷Prestwich, The Three Edwards, pp. 97-114; S. Waugh, England in the Reign of Edward III (Cambridge, 1991), pp.11-4.

⁴⁸C. Valente, 'The Deposition and Abdication of Edward II', EHR, 113 (1998), pp.852-81; M. McKisack, The Fourteenth Century, 1307-1399 (Oxford, 1959), pp.91-5.

distracted London, the year 1327 saw a dramatic rise in the number of violent crimes, which quickly spread into the counties of Leicestershire, Nottinghamshire, Northamptonshire and Warwickshire. Between 1327 and 1330 there occurred one of the most lawless phases of the century's history, only to be rivalled by the revolts of the 1380s.⁴⁹ Criminal bands, such as the Folville brothers from Leicestershire, flourished under the new regime, distracting the government from any further possible improvements in the law.⁵⁰

In 1330, encouraged by Henry of Lancaster, Edward III forced Isabella to relinquish the rule of England to him.⁵¹ Almost at once the number of oyer and terminer commissions issued for violent crimes decreased, suggesting that the crime rate had fallen. In fact this apparent reduction in crime was due to a brief interlude in the workings of the oyer and terminer circuits, rather than any actual fall in the country's lawlessness.⁵² Once order had been restored Edward III resumed the wars begun by his grandfather, allowing the consequences of conflict to again adversely effect the crime rate.

Henry, the third Earl of Lancaster, died in 1345, and was succeeded by his only son, Henry of Grosmont, who had already been appointed the Earl of Derby in 1337.⁵³ The news of his father's death reached Henry whilst he was in Gascony, furthering his already excellent military record. He returned to establish his new position in 1347. In doing so he continued his father's quest to reunite and expand the Lancaster lands that had been lost after

⁴⁹R. Hilton and T. Aston, The English Rising of 1381 (Cambridge, 1984).

⁵⁰See Chapter 3.1 and 3.2.

⁵¹Henry of Lancaster, with Richard de Bury and William Montague, plotted with the young Edward to overthrow Isabella and Mortimer. This was achieved during a coup at Nottingham castle on 19 October 1330. Waugh, Edward III, p.13.

⁵²R. W. Kaeuper, 'Law and Order in Fourteenth-Century England: The Evidence of Special Commissions of Oyer and Terminer', Speculum, 54 (1979), pp.741, 746.

⁵³R. Somerville, History of the Duchy of Lancaster, 1265-1603, Vol. 1 (London 1953), p.37.

Thomas' execution.⁵⁴ His military loyalty was rewarded by land grants on the Dordogne in 1345, and in 1349 the lands of De Lacy reverted to the Earldom after the death of Alice De Lacy, Thomas of Lancaster's widow. It was under the rule of Henry of Grosmont that, in 1351, the Earldom of Lancaster became a Duchy.⁵⁵

Although Henry's career in arms brought the Duchy improved land holdings, his absenteeism carried its own problems. It is well documented that England's crime rate went up when the king was out of the country.⁵⁶ This was also the case at a local level when the ruling lord was absent. The early years of the Duchy were fraught with opportunities for lawlessness, such as the spread of the Black Death into the region in 1348, and the introduction of the Statute of Labourers, which such absenteeism only served to aggravate.⁵⁷

On Grosmont's death in 1361 the management of the Duchy passed to his two daughters.⁵⁸ The lands of the Duchy were divided into those north and south of the River Trent, and were presented to Maude and Blanche and their husbands, William, Duke of Bavaria and John of Gaunt. With the death of Maude in 1362, Blanche and John reunited the remaining Lancastrian lands. John of Gaunt was appointed the second Duke of Lancaster on 13 November 1362.⁵⁹

The levels of unlawful behaviour across all classes of society were still high in the 1340s. However, Edward III's government began its own

⁵⁴For an account of Grosmont's life and military career see K. Fowler, The King's Lieutenant: Henry of Grosmont, First Duke of Lancaster, 1310-1361 (London, 1969), especially pp.172-86.

⁵⁵Somerville, History of the Duchy of Lancaster, Vol. 1, p.40.

⁵⁶Waugh, Edward III, p.160.

⁵⁷C. Platt, King Death: the Black Death and its Aftermath in Later Medieval England (London, 1996); Waugh, Edward III, p.110.

⁵⁸Somerville, History of the Duchy of Lancaster, Vol. 1, pp.49-51.

⁵⁹A. Goodman, John of Gaunt: The Exercise of Princely Power in Fourteenth Century Europe (London, 1992), pp.43-67.

improvements to the legal system, which proved to be at least partially effective, and the crime rate did not swell to the levels it had reached in the 1320s and 1330s.⁶⁰ The upturns in crime after 1340 can be partially attributed to natural factors, such as the Black Death of 1348 and its resurgence in 1361.⁶¹ The Hundred Years War against France kept pressure on the population to produce enough food for themselves and a marching army.⁶² Many of the old reasons for crime remained under the rule of Edward III, and would continue into the following century.

ii. – The Literary Evidence

The literature of medieval England is a valuable resource for the historian attempting to understand the attitudes of the people of the time. During the nineteenth century Thomas Wright collected together many of the works of the medieval poets. It was his belief that “a single passage of the satirist or poet will sometimes throw more light over the character of historical events than whole pages of discussion.”⁶³ This typically Victorian standpoint towards medieval England cannot be ignored, but neither must it be taken at face value. The fourteenth century was undoubtedly a time that lent itself to literary reproach, as the “undercurrent of moral condemnation,”⁶⁴ in both the ballads and poems shows. Yet it is only by comparing these songs and ballads to the historical records that a more realistic picture of the medieval attitude to lawlessness can be ascertained.

⁶⁰See Chapter 5.3.

⁶¹The Black Death continued to have a significant effect on the population and crime rates throughout the remainder of the fourteenth century. Platt, King Death, pp.121-30.

⁶²C. Allmand, The Hundred Years War: England and France at War, c.1300-c.1450 (Cambridge, 1988), pp.120-35; N. Wright, Knights and Peasants: The Hundred Years War in the French Countryside (Woodbridge, 1998), p.80.

⁶³Coss, ed., Wright's Political Songs, p.xii.

⁶⁴Ibid, p.xiii.

Robin Hood, whether he existed as a single figure, or whether as a complex mixture of different characters and events, has always been a figure of freedom. The outlaws were the heroes, defying lordship and living unfettered lives. It cannot be said what first triggered the popularity of the tales, but the flouting of an oppressive law that was inherently flawed must have been a major factor.

An outlaw appearing as a hero in popular stories was not a new concept in the fourteenth century. The tales of 'Hereward the Wake', 'Fulk Fitzwarren' and 'Eustace the Monk', from the reign of King John, all show the outsider as the hero.⁶⁵ These ballads all have a strain of romantic notion running through them. Following on from the ideals of King Arthur and his knights, they all clearly distinguished right from wrong in a relatively clean-cut manner. Robin Hood and his chronological counterpart Gamelyn had a new ruthlessness that suddenly leapt out to the reader.⁶⁶ No longer is the hero a figure of unimpeachable character. The romance now associated with Robin and his outlaw band was added to the tales in the Elizabethan and Victorian eras, and did not feature in the original ballads.⁶⁷

The overriding theme of the Robin Hood tales, as with all other outlaw literature, is that the outcast is the hero. Authoritative figures are portrayed as cruel, oppressive and corrupt, the only exception being the king. Discussion about why the ballads were written in this way, and at this particular time, goes some way to illustrate the lawless nature of the audience that listened to them. Much work has been concentrated on the audience the ballads were designed for, with a division between those who believe they were aimed at the peasants as a symbol of hope, and those who see the gentry as a major portion of the audience.⁶⁸ This second argument is interesting, as it was this

⁶⁵Details of these stories can be found in Keen, *Outlaws*, pp.9-63.

⁶⁶D. Sands, ed., *Middle English Verse Romances* (New York, 1966), pp.154-81.

⁶⁷Philips and Keatman, *Robin Hood*, pp.170-2.

⁶⁸Holt, *Robin Hood*, pp.109-58; Knight, *Robin Hood*, pp.49-50. See Chapter 1.3.

latter group who inspired many of the period's violent crimes. In an era when legal documents appear to be awash with the misdeeds and extortions of the nobility, surprise should not be expressed at the attitudes revealed in the ballads.

The point of origin for the Robin Hood ballads has been a matter for debate for many years.⁶⁹ There is no doubt that the ballads were very well known before the first surviving documented mention of Robin Hood was written down in 1377. Langland's much quoted 'Vision of Piers the Plowman' finds Sloth remarking,

I kan noght partitly my Patemoster as the preest it syngeth
But I kan rymes of Robyn Hode and Randolf Erl of Chestre.⁷⁰

Over the last 700 years a myriad of ballads and songs have been written about the legendary figure of Robin Hood. These can be compressed into just forty-seven main stories, twenty-seven of which contain tales of violence and crime. Not all of these ballads survive from the period in question; most were created during or after the seventeenth century.⁷¹ Other tales would have been lost before they were ever put to paper. Six of the earliest stories have survived largely intact. Undoubtedly they were adapted with each retelling, before finally being written down between c.1450 and c.1550. These ballads were 'The Lytell Geste of Robyn Hood';⁷² 'Robin Hood and the Monk'; 'Robin Hood and the Potter'; 'Robin Hood and the

⁶⁹J. Maddicott, 'The Birth and Setting of the Ballads of Robin Hood', *EHR*, 93 (1978), pp. 276-99. See Chapter 1.1.

⁷⁰W. Langland, *The Vision of Piers the Plowman; B-Text* (London, 1989), Passus V, lines 395-6, p.56.

⁷¹J. Ritson, *Robin Hood: A Collection of all the Ancient Poems, Songs and Ballads, Now Extant, Relative to that Celebrated English Outlaw*, Vols. 1-2 (London, 1797); Hales & Furnivall, eds., *Bishop Percy's Folio Manuscript* (London, 1868); F. J. Child, ed., *English and Scottish Popular Ballads* (New York, 1956); D&T.

⁷²This ballad will be referred to as 'The Geste'.

Curtal Friar'; 'Robin Hood and Guy of Gisbourne', and 'Robin Hood's Death'.⁷³

From these original ballads comparisons can be drawn with cases recorded in the legal documents of the period. The felonies committed by Robin Hood and his men reflect those which were the most prominent in a criminal society. Four of the six early tales contain twelve murders, three cases of robbery, three counts of kidnap and extortion and one assault.⁷⁴ The majority of cases recorded in the Patent and Close Rolls also concern murder. Robbery and theft follow as the next most recorded crimes, just as they are featured in the earliest ballads. If other documentary sources are examined, such as the gaol delivery rolls for Leicestershire, theft appears much more frequently than murder.⁷⁵

'The Tale of Gamelyn' is also useful in a comparison of the legal records with the ballads of the day. It is generally accepted that this tale was conceived and written down in the fourteenth century.⁷⁶ In a similar fashion to Robin Hood, Gamelyn overcomes corruption, this time within his own family. The tale opens with the death of Gamelyn's father, leaving him at the mercy of his wicked elder brother, who tries to deny Gamelyn his rightful inheritance.⁷⁷ The recurrent theme of overcoming those with the reins of

⁷³All these ballads can be found in D&T.

⁷⁴The two ballads that do not include any crime are the 'Curtal Friar' and the 'Potter'. These ballads featured fights between Robin and future band members. The crimes in the remaining four ballads can be attributed to any of the characters in the ballads, not just the outlaws.

⁷⁵Just3/30/1; Just3/30/2. See Chapter 2.1.

⁷⁶Sands, ed., *Middle English Verse*, p.156; R. Kaeuper, 'An Historian's Reading of the Tale of Gamelyn', *Medium Aevum*, 52, No.1 (1983), p.51; E.F. Shannon, 'Mediaeval Law in The Tale of Gamelyn', *Speculum*, 26 (1951), p.458.

⁷⁷J. Scattergood, 'The Tale of Gamelyn: The Noble Robber as Provincial Hero,' ed., C. Meale, *Readings in Medieval English Romance* (Cambridge, 1994), p.163.

power is also repeated in the ballad, 'Adam Bell, Clim of the Clough, and William of Cloudesly'.⁷⁸

This continuous 'anti' feeling towards all types of authority, both secular and clerical, must have been a reflection on the period. Surely the tales would not have had such prolonged popularity if people from all classes of society could not relate to them. They must therefore echo a level of reality, although exaggerated.

This study will also examine what Wright termed the 'political songs', written in response to the pressures of the age.⁷⁹ These medieval poems and tales can be placed into four categories with an anti-authoritarian flavour. First there are those of social and economic complaint. Secondly, those reflecting the heroic nature of English wars and thirdly, the futility of these same conflicts. Finally came the anti-clerical propaganda, which largely centred on the misuse of privilege and money.

The main theme of the outlaw ballads was the righting of wrongs. Violence was always justified because it was only practised against those who were in authority, and were therefore corrupt. Keen neatly sums up the attitude of the ballads when he wrote, "that in the course of justice, blood must be properly shed."⁸⁰

iii. - Retaining

The second part of this study concentrates on the influence of lawlessness on thirteenth and fourteenth century society. One of the major factors in determining the number of violent crimes that took place amongst the gentry was retaining. In an age when success depended on local influence, through the control of the sheriff and officials, and when justices

⁷⁸D&T, pp.260-73.

⁷⁹Coss, ed., Wright's Political Songs; Aspin, ed., Political Songs.

⁸⁰Keen, Outlaws, p.159.

and lawyers were professional men, rather than the wealthiest members of the gentry, retaining was a major means of advancement.⁸¹

Although referred to throughout the previous sections of this introduction, retaining has not yet been clearly defined. The retinue or household of a thirteenth and fourteenth century nobleman would include everyone from his barber to his men-at-arms. Retainers were all paid by a lord to carry out tasks for him and his family. Within this thesis the term retainer refers to someone whose loyalty and service to a magnate was bought with fees or robes, to maintain political and legal standing. By the fourteenth century it was these retainers who formed the backbone of a lord's legitimate and illegitimate operations.⁸²

The retaining alliances of the fourteenth century can be described as forming a series of concentric circles, with the magnate in question at the centre. Surrounding him would be the administrative officials, justices and knights, forming the three most important elements of a noble's power: his local influence, his assurance of good legal advice and the ready availability of men-at-arms. This circle was surrounded by another containing the daily workers on a lord's estate, such as his cooks, barbers and tenants. On the outside edge of these concentric circles came the less desirable elements of a retinue. Not every lord would have retained a criminal contingent, but many found it advantageous to do so, if only on an ad hoc basis. To view these mercenaries as the least important of a lord's retainers would not always be accurate. Some of the more powerful lords, such as the Earls of Lancaster

⁸¹N. Ramsey, 'Retained Legal Counsel, c.1275-c.1475, TRHS, Fifth Series, 35 (1984), pp.95-112; J.R. Maddicott, Law and Lordship: Royal Justices as Retainers in Thirteenth and Fourteenth-Century England (P&P Supplement 4, Oxford, 1978), pp.1-87. S. Waugh, 'Tenure to Contract: Lordship and Clientage in Thirteenth Century England', EHR, 101 (1986), pp.811-39.

⁸²B. Hanawalt, 'Fur Collar Crime: The Pattern of Crime Among the Fourteenth Century English Nobility' JSH, 8 (1975), p.8.

and Oxford, used criminals almost as often as justices and bailiffs.⁸³ It was the individual's own requirements that would dictate the positioning of the circles.⁸⁴

The subject of maintenance is currently favoured amongst established scholars. Consequently many articles in periodicals have been produced debating the origins of bastard feudalism and its bearing on the political and social aspects of medieval life.⁸⁵ This study will seek to ascertain why retaining accelerated so dramatically in the early fourteenth century.

The maintaining of a military power was one of the original and most important uses of retaining. Military retaining operated by a lord maintaining a knight or captain, who would then sub-contract a company of soldiers. The nobleman would then have a military force that he could send to the king on demand. With the continuous wars of the era this was an invaluable method of raising armies. By the reign of Edward III whole armies were being selected in this manner.⁸⁶ Each captain and man-at-arms was paid, so the system was profitable, as well as popular. However, such a military force could also be used for more corrupt endeavours. Magnates such as Thomas of Lancaster, with a military force at their fingertips, could defy rival lords, and in his case, the king.⁸⁷

⁸³ See Maddicott, Thomas of Lancaster, pp.40-66, for details of Lancaster's employment of criminals.

⁸⁴By arranging the members of a retaining alliance in such a pattern it is possible to contrast it with the traditional pyramid design constructed to show the influence of feudalism.

⁸⁵Plummer first used the term 'bastard feudalism' in 1885. It was next used by K.B. McFarlane in the 1940s. See Chapter 4.1. Further discussion about retaining can be found in the following: Waugh, 'Tenure to Contract', pp.811-39; D. Crouch, P. Coss and C. Carpenter, 'Debate: Bastard Feudalism Revised', P&P, 131 (1991), pp.165-203; M. Hicks, Bastard Feudalism (London, 1995); F. Lachaud, 'Liveries of Robes in England, c.1200 - c.1330', EHR, 111 (1996), pp.279-98.

⁸⁶Waugh, Edward III, pp.174 -5.

⁸⁷See Chapter 4.2.

Retaining took on a political dimension with the feeing of lawyers, judges and legal administrators, such as sheriffs and bailiffs.⁸⁸ The maintenance of lawyers and justices did not affect the amount of lawlessness in society directly, but it had a significant knock-on effect. Corrupt judges allowed many criminals to continue their careers unimpeded, and consequently increased the lawlessness in society.⁸⁹ Inclusion on a lord's payroll increased an official's local standing and power. Such men were often open to bribery and corruption, and in many cases would have pursued any case (whether it involved crime or property), if it was to their lord's best advantage. The effect of the extension of local influence in the fourteenth century was the prime mover in the increase of retaining.

It was the retaining of groups of criminals to commit crimes on a magnate's behalf that made the most visible difference to the amount of violence in society. In noble circles it appears to have been acceptable to use force to improve your own personal standing. Gangs of hired thugs were retained to carry out attacks, threats, and even murders.⁹⁰

Shortly after the accession of Edward II a song was composed satirising the numerous retinues of the nobility that were apparent at the end of the previous reign. The lyrics concentrate on the idleness of these servants, and how they preyed on the hard-working peasantry around them.

The rogues are horelings,	Satan their sire
and haunt the play:	said in his saying,
the gadlings are gluttons,	Goblin made his garner
and drink before it dawns.	of the grooms' maw. ⁹¹

⁸⁸Ramsey, 'Retained Legal Counsel, c.1275-c.1475', pp.95-112; Maddicott, Law and Lordship, pp.1-87.

⁸⁹Hanawalt, Crime and Conflict, pp.46-7.

⁹⁰Examples of criminal retaining can be found in Chapters 3.1, 3.2 and 4.4.

⁹¹Coss, ed., Wright's Political Songs, p.238.

As the amount of retaining grew throughout the fourteenth century so did the level of bribery and corruption. Edward III introduced measures in 1346 to limit retainues, making payments with robes and fees illegal.⁹² These measures had come far too late to stem the tide of maintenance that now controlled local government and the communities of England.

iv. – The Criminal Justice System

The operation of the criminal justice system in the fourteenth century was reliant on the local community. Both the capture and the indictment of felonious members of society was the responsibility of their neighbours. As Musson states, “the identification of offenders was left mainly to the wronged individual and the local community.”⁹³

The simplest method of capturing a criminal was also the closest to home. The *hutesium et clamour*, or hue and cry, was to be proclaimed whenever anyone found evidence of crime. Should a burgled house or an assaulted man be discovered, then the members of the local community were to initiate a search for the felon. If a community failed to raise the hue and cry, or let a felon escape, then its members would face punishment. For example, in 1292 the bailiff of Kettering charged Simon Martynot for not raising a hue and cry.⁹⁴ Although the hue and cry probably encouraged some people not to commit crimes, it was neither an effective or efficient system.

The justice system was largely dependent on two forms of prosecution, appeals and indictments. An appeal of felony gave the victims or their family the chance to accuse those considered guilty. Trial by jury provided the opportunity for some compensation and retribution. It was not essential for

⁹²Waugh, Edward III, pp.160-1.

⁹³A. Musson, Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294-1350 (Woodbridge, 1996), p.169.

⁹⁴C. Wise, ed., The Compotus of the Manor of Kettering 1292 (Kettering, 1899), p.21.

the appellant to appear in the court, but when they did, there seems to have been a greater chance of conviction.⁹⁵

As with all the court and justice systems within the medieval legal machine, the appeals procedure was open to abuse. A malicious appeal (the false accusation of an enemy or unwanted neighbour) was a growing problem in an increasingly retained community.⁹⁶ Felons could also manipulate the system if their victims did not appear, by falsely accusing them of a malicious appeal. If an appellant was found to be malicious then he would be fined, usually being placed in gaol until that fine was paid.

Alongside appeals, indictments and presentments formed the basis of medieval justice. A presentment was a formal written accusation of a crime recorded by a presenting jury before a court.⁹⁷ Indictments largely conformed to the same guidelines, except that presentments focused on particular crimes (often concerning death), and indictments addressed a wide range of allegations. Presentments arose from *veredicta* (eyre articles), whereas indictments came from private litigation. These procedures were not always separate and it was not unusual for presentments to lead to indictments.⁹⁸

It was during the reign of Edward I that one of the most important events in medieval legal history occurred. The commissions of the general eyre, which had been the mainstay of criminal court hearings since it originated in the early thirteenth century, was almost entirely abandoned in 1294.⁹⁹ The eyre sent groups of justices on a tour of selected counties, listening to the pleas that had accumulated since their last visit. These visits took a long time to complete and so the system was effectively dropped, a

⁹⁵Musson, *Public Order and Law Enforcement*, p.171.

⁹⁶CCR 1272-1279, pp.303-4.

⁹⁷Musson, *Public Order and Law Enforcement*, pp.175, 296.

⁹⁸*Ibid.* p.177. Musson suggests that by the fourteenth century the terms 'indict' and 'present' had become largely interchangeable.

⁹⁹A. Harding, *The Law Courts of Medieval England* (London, 1973), pp.86-92.

decision shaped by the continuing pressures of war with France. The void left by the eyre, and the lack of an effective replacement, put a terrific strain on the legal system, which lasted beyond the appearance of the justices of the peace in the reign of Edward III. The eyre had been a far from perfect system, but it had at least provided some level of justice. With the removal of an understood enforcer of punishment the chance of having to answer for your crimes was reduced still further.¹⁰⁰

In an attempt to find a successful alternative to the general eyre many new commissions were instigated, such as the trailbaston in 1305.¹⁰¹ This was essentially a 'stop-gap' measure to make enquiries and arrests in the case of the specific crime of highway robbery, all other crimes being reliant on further special commissions. As early as March 1305 so many people had been arrested under this commission, that it became a matter of some urgency to get them all tried. The sheer volume of trailbaston enquiries illustrates just how lawless England had become. However, although the enquiries produced many arrests, they were very unpopular, and were said to be unfair. Out of this discontent came 'The Outlaw Song of Trailebaston'.¹⁰² The anonymous poet claimed that anyone who happened to be carrying a weapon could be accused of being in a criminal band, and anyone who knew anything about law might be accused of conspiracy.

If I am a companion and know archery,
my neighbour will go and say,
'This man belongs to a company,
to go hunt in the wood and do other folly;
so now I will live as a pig will lead his life.

¹⁰⁰See Chapter 5.2.

¹⁰¹R. B. Pugh, ed., Wiltshire Gaol Delivery and Trailbaston Trials, 1275-1306 (Wiltshire Record Society, 33, Devizes, 1978), p.5.

¹⁰²Coss, ed., Wright's Political Songs, pp.231-6.

If I happen to know more law than they know,
they will say this conspirator begins to be treasonable,...¹⁰³

Edward's advisors had created a tool that could be implemented in answer to the perpetrators of one type of crime, but as the song suggests, it was far from a solution to the lawlessness in England.

The view of trailbaston was only one type of a number of commissions of oyer and terminer, that is to hear and determine a particular case. Commissions of oyer and terminer varied widely in the type of crimes they addressed. As Kaeuper explained, there was a broad scale of commission activity, ranging from justices having the authority to punish a large number of people, all arrested for the same category of crime over a set of counties; to small private commissions about a very specific incident in a particular area.¹⁰⁴ Most of the commissions granted concentrated on the crime of trespass, which was specifically under royal jurisdiction.¹⁰⁵ From 1275 there was a dramatic rise in the number of oyer and terminer cases in England, as the Patent Roll evidence underlines. This trend continued to grow, the commissions having their heyday within the reigns of the three Edwards.¹⁰⁶

By 1285 there were so many cases demanding a special commission that the Second Statute of Westminster limited them to only the most serious cases. The oyer and terminer hearings were very popular, unfortunately they were also open to corruption. Bribing justices and judges had become fairly common in the thirteenth and fourteenth centuries. As 'The Compotus' illustrates, the practice operated from the simplest level, with the giving of

¹⁰³*Ibid.* p.236. See Chapter 5.2 for further analysis of 'The Outlaw Song of Trailebaston'.

¹⁰⁴Kaeuper, 'Law and Order', pp.734-84.

¹⁰⁵The term 'trespass' referred to a number of crimes, usually of a serious nature, and often involving property. See Chapter 2.1.

¹⁰⁶See Kaeuper, 'Law and Order', p.741, for a chart showing the number of Special Commissions issued between 1272 and 1377. Only the gentry and magnate classes were eligible (and wealthy enough), to take out these special commissions of oyer and terminer.

cheeses as presents. "To gift to the chief Justice by the Bailiff 1 cheese, which weighed 1 stone. To gift to the companion of the Justice 1 cheese."¹⁰⁷

The justices who delivered the gaols and sat on commissions from the early fourteenth century, came largely from the gentry class. Ironically it was men from this same group who committed most of the crimes of corruption, bribery and oppression. Bribing a justice meant that a litigant could control the outcome of his or her case before the trial. There are a number of recorded occasions when a defendant 'discouraged' a plaintiff from pursuing a case.¹⁰⁸ By the middle of the fourteenth century it was not uncommon for nobles, who found themselves or their men the subject of hearings, to intimidate their opponents.

Men and women who stood accused of felonies could, under certain circumstances, be granted liberty whilst awaiting trial. The Statute of Westminster of 1275 stated that anyone who was not accused of homicide or treason could be bailed. The allowance of bail depended on the accused providing twelve men to act as sureties. These mainpernors had to stand bail for the suspected criminal and deposit pledges for his future good conduct.¹⁰⁹ When it was time for the trial the mainpernors were responsible for bringing the accused to court. If the villain did not come then the twelve sureties would be amerced. In 'The Tale of Gamelyn' Gamelyn is granted bail after his brother Sir Ote organises it on his behalf; 'I bidde him to maynpris that thou graunte him me.'¹¹⁰ Ote is well aware of the penalty that would face him if Gamelyn did not return from the forest to hear the charges against him.

¹⁰⁷Wise, ed., *The Compotus of the Manor of Kettering*, p.71.

¹⁰⁸For example, Robert de Vere, Constable of Rockingham, set an ambush for the Abbot of Pipewell so that he would not reach the court where he was to be the judge. Just1/1411b.m.3d; E.L.G. Stones, 'The Folvilles of Ashby-Folville, Leicestershire, and Their Associates in Crime, 1326-1347,' *TRHS*, Fifth Series, 7 (1957), p.124.

¹⁰⁹Mainpernors - one who takes the hand.

¹¹⁰Shannon, 'Mediaeval Law in The Tale of Gamelyn', p.460; Sands, ed., *Middle English Verse*, line 744, p.176.

On the morn saide Gamelyn to Sir Ote the heende,
 "Brother." he saide, "I moot forsothe fro thee wende
 To loke how my yonge men leden here lif,
 Whether they liven in joye or elles in strif."
 "By God," saide Sire Ote, "that is a cold reed!
 Now I see that all the cark shall fallen on min heed;
 For whan the justice sitte and thou be nought y-founde,
 I shall anon be take and in thy stede y-bounde."¹¹¹

As with all the duties held by the local officials of England, the issuing of bail was subject to corruption. For a price, those who were not entitled to bail could free themselves from imprisonment.¹¹² There were many occasions when those who had committed the most heinous of crimes were bailed. In 1277 Alan Gos and Henry le Gaunter were bailed after being charged with the murder of Robert de Tuttbury in Nottinghamshire.¹¹³ The Close Rolls show the frequency of the granting of bails for the more prosperous members of the criminal class, despite the seriousness of the offences. In 1333 both Robert de Vere and John de Wylebury were delivered from prison, when they found sufficient mainpernors, after committing violent assaults.¹¹⁴

Those not eligible for bail, or who failed to find the required number of mainpernors, had to reside in prison until the next gaol delivery. The modern image of a medieval gaol is well deserved. Dark, crowded and damp, they provided a severe means of punishment for any who entered their walls. Meagre food and water, encasement in chains and exposure to the cold meant that death from starvation and gaol fever was not uncommon.¹¹⁵ The upkeep of the gaol was the responsibility of the sheriff. This office was passed onto the gaoler, who paid the sheriff for the privilege. No wages were granted

¹¹¹*Ibid*, lines 755-62, p.177.

¹¹²R. B. Pugh, *Imprisonment in Medieval England* (Cambridge, 1968), p.208.

¹¹³*CCR 1272-1279*, p.389.

¹¹⁴*CCR 1330-1333*, p.602.

¹¹⁵Pugh, *Imprisonment in Medieval England*, pp.315-37.

with the post of gaoler, so other means of remuneration were sought. Extorting a few pennies here and there, and charging prisoners for all their food, made for a fairly profitable existence. Those who could afford it were able to negotiate a fee allowing them to wear lighter irons. This made a stay in prison an extremely expensive business, which could result in the poor starving to death.¹¹⁶

The process of gaol delivery was in use from as early as 1220.¹¹⁷ Generally these commissions were ordered to be held on a given date, when the appointed justices would deliver the gaols in question, and hear the cases of the accused. Sometimes delivery was limited to a specific crime, such as homicide. In order to be tried for homicide the accused had to procure a special writ of *bono et malo* from the crown, which they then had to present at the court.¹¹⁸ By 1302 the writ had become popular, featuring in a considerable number of the records until the middle of the century.¹¹⁹ The nature of the writ, as its name would suggest (for good and ill) meant that the accused had to plead not guilty.¹²⁰ However, the writ was simply a necessity in the process of having your case heard, it did not assume either guilt or innocence. For example, Nicholas, serjeant of Watchim was taken and appealed for the murder of Bran of Twyford, killed at Ashby-Folville, but was found not guilty.¹²¹ Conversely, William Swift was found guilty of the death of Adam, son of William Le Hoo and Thomas son of Richard de Oleston in Leicestershire.¹²² Both of these criminals were under the writ of *bono et malo*.

¹¹⁶*Ibid*, pp.165-91.

¹¹⁷R.B. Pugh, 'The Writ De Bono Et Malo', *The Law Quarterly Review*, 92 (1976), p.258.

¹¹⁸B. A. Hanawalt, *Crime in East Anglia in the Fourteenth Century: Norfolk Gaol Delivery Rolls, 1307-1316* (Norfolk Record Society, 44, 1976), p.19.

¹¹⁹Pugh, 'The Writ De Bono Et Malo', pp.258-67.

¹²⁰*Ibid*, p.259.

¹²¹Just3/30/1.m.2.

¹²²Just3/30/1.m.3.

Twice a year the county sheriff visited each hundred to take presentments from the various vills. A jury of twelve men was selected to hear the charges and make indictments. Once this was done the sheriff sent out his bailiffs to arrest the suspects and remove their chattels.¹²³ In cases of homicide the coroner would be called to view the body. If he and the jurors involved declared that a murder had taken place then the coroner or bailiff would arrest the suspects.¹²⁴ Once a felon had been apprehended he would be guarded until he could be taken to gaol to await delivery.

Many of those who were tried at gaol delivery had been appealed by a second party, usually a victim or victim's relation, or by an approver. An approver was someone who, already arrested, could try and influence the outcome of their own case by naming any accomplices.¹²⁵ The length of time a criminal had to spend in prison depended on the time of their arrest in relation to the last gaol delivery. If they were caught just after a delivery had finished, then it could be several months before they were tried or released. Gaols were supposed to be delivered every four months, however deliveries were often missed and it was not uncommon for those prisoners not eligible for bail, to have to wait over a year, even if innocent.¹²⁶

Once a gaol had been delivered the criminals came before the County or Hundred Court. Before the court could hear the cases of the accused the sheriff had to select a jury. Twelve citizens were assembled from twenty-four men of the surrounding hundreds to sit on the bench.¹²⁷ The accused could refuse to have certain people on the jury without providing explanation.

¹²³Hanawalt, Crime in East Anglia, p.17.

¹²⁴R. F. Hunnisett, The Medieval Coroner (Cambridge, 1961), pp.9-22.

¹²⁵J. Bellamy, The Criminal Trial in Later Medieval England: Felony Before the Courts from Edward I to the Sixteenth Century (Stroud, 1998), pp.39-41.

¹²⁶Hanawalt, Crime in East Anglia, p.18.

¹²⁷J. B. Post, 'Jury Lists and Juries in the Late Fourteenth Century', eds., J.S. Cockburn and T.A. Green, Twelve Good Men and True: The English Criminal Trial Jury, 1200-1800 (Princeton, New Jersey, 1988), pp.65-75.

There were problems associated with this dismissal of jurors, for they could also act as witnesses to the crime. The juror who was dismissed was still able to influence the verdict of his fellows, if he had not already done so. Before they even came to court the jurors had to investigate the crime and could call witnesses of their own. This double duty of the jury made corruption more plausible. On the word of the jury a man could face the ultimate penalty, therefore encouraging the packing of juries. Here again are the growing consequences of a retaining community.¹²⁸ Lords could place particular jurors on the bench to favour their own cause, to either falsely charge a neighbour they wanted removed to make their community influence stronger, or to ensure the release of their own hired criminals. In ‘The Tale of Gamelyn’ it is Gamelyn’s older brother, John, who acts as both accuser and judge when Gamelyn came before his “sitting of deliveraunce”.¹²⁹ John ensured that the jury was packed with his brother’s opponents, so he would be sure to hang.

To huire the men on his quest to hangen his brother.¹³⁰

The king was obviously aware of the practice of packing juries, for in his instructions to the justices of the eyre for 1278-1279 he wrote, “Whereas we have been given to understand that certain malicious persons ..., to serve their own ends, being more prone to evil than good, have presumed to make certain detestable confederacies and evil plots amongst themselves, taking oaths to uphold the cause of their friends...in pleas...coming up to courts, by deceitful conduct on assizes, juries and recognitions..., and in like made to grieve their enemies, and where possible to discredit them.”¹³¹

¹²⁸Hanawalt, *Crime and Conflict*, p.52.

¹²⁹Sands, ed., *Middle English Verse*, line 745, p.176.

¹³⁰*Ibid*, line 801, p.178.

¹³¹H. M. Cam, *The Hundred and the Hundred Rolls: An Outline of Local Government in Medieval England* (London, 1930), pp.80-1.

The selection of the jury was all the more important as the punishment for a crime heard at gaol delivery was death. There were a few exceptions to this rule, such as those felonies committed by the insane, which could result in the accused being returned to prison.¹³² In cases of theft where the value of goods was very low, then the accused could be acquitted, as they were not worth enough to pursue an indictment.¹³³ Most of those felons found guilty, however, would face the ultimate punishment for their crimes.

Felons that found they were unable to avoid the law were able to seek sanctuary in the churches, abbeys and priories across England. The coroners' roll for Northamptonshire reveals the frequency with which felons sought sanctuary.¹³⁴ Once the felon had established himself in the church, he had the right to abjure the realm after forty days and nights of safety. Before the forty days concluded the coroner would come to the church to hear the confession of the criminal. He also heard an oath from the felon, swearing that he or she would abjure the realm. This meant that within a set number of days the accused would cross to a port of the coroner's choice and leave England, never to return. Should the abjured felon deviate from the route given to them, refrain from leaving the country, or return to England, then they could be killed on sight, or brought before the gaol delivery before being hanged.¹³⁵

Criminals who remained at large despite the efforts of the sheriff and his officers to apprehend them became outlaws. If the accused failed to appear in court to hear the charges against them on five occasions, then on the fifth they were declared exigent.¹³⁶ This meant that male criminals were

¹³²CPR 1266-1272, p.537.

¹³³Hanawalt, Crime in East Anglia, p.19.

¹³⁴Just1/632.

¹³⁵An excellent account of the process and risks of abjuration can be found in Hunnisett, The Medieval Coroner, pp.37-54.

¹³⁶Ibid, pp.61-4.

outlawed and females were waived. Both outlawry and waivery meant exclusion from normal civilisation. Thanks to the Hollywood epics concerning banished men, every schoolchild knows that outlaws could be killed on sight. In fact by the mid-thirteenth century outlaw hunting was becoming uncommon, with the outlaw being arrested and taken to gaol instead.

Although many court hearings pronounced a guilty verdict, a significant proportion of those tried were pardoned of their crimes.¹³⁷ The excessive use of pardons throughout the medieval period had a profound effect on the turbulent nature of society. Being pardoned rarely meant that you were innocent, it was more likely to mean that you had enough money to secure your freedom and good name. The legal documents for 1260 to 1360 show that certain crimes were more likely than others to result in a pardon. According to the Patent Rolls the most frequently pardoned crime was murder, but there was very little chance of a pardon after the property crime of breaking houses.¹³⁸ This highlights the attitude that more worth was put on property, power and influence, than on someone's life. At first the frequency of pardons for homicide is surprising, but closer examination of the individual cases reveals that most pardoned cases were interpreted as death by mis-adventure or self-defence.¹³⁹ This is understandable when accidents during practising with arms, which could easily lead to death in the absence of any effective medical aid, are considered.

The almost continuous wars of the three Edwards meant that a large force of fighting men was constantly required. This led to the practice of pardoning criminals in return for their war time service.¹⁴⁰

¹³⁷N. D. Hurnard, The King's Pardon for Homicide Before A.D.1307 (Oxford, 1969), pp.251-72.

¹³⁸Hanawalt, Crime and Conflict, p.97. CPR 1258-1361, 22. vols.

¹³⁹See Chapter 2.1.

¹⁴⁰Hanawalt, Crime and Conflict, pp.236, 266-7; R. Hilton, A Medieval Society: The West Midlands at the End of the Thirteenth Century (London, 1966), pp. 250-1.

Appointment of Roger Brabazon to receive from persons in prison or outlaws at large charged with homicides, robberies, or other crimes, or from the friends of such, sufficient mainprise that they will forthwith go on the king's service to Scotland and to remain there at the king's wages, during pleasure, and after their return take their trial if appealed: and after such mainprise being testified by the said Roger before the chancellor, they are to have letters of pardon of the king's suit.¹⁴¹

Under the reign of Edward III this became such a popular form of conscription that the lords petitioned the king to limit its use.¹⁴² In theory the concept is a logical one. Criminals would be sent away from the area where they had committed their felonies, and would not be grieved over if killed in action. The reality of the situation was very different. There is no doubt that sending felons away was a short-term solution to curtail crime, but there was a high possibility of them returning. Evidence from the records suggests that despatching such men to war meant that on their return they were even more proficient in the now well practised arts of murder and plunder. Criminals who had freely looted the countryside whilst fighting in France or Scotland would continue this life style on their return to England. With their new freedom many pardoned criminals returned to unemployment and a bleak future. It was inevitable that they would resume their criminal activities. Felons were not pardoned and sent to war in an attempt to reduce crime in an area. They were merely a cheap and available force, to be utilised as the king saw fit. The practice of war pardoning was most disturbing when criminals, such as the Folvilles, were excused horrific crimes to serve the king in battle.¹⁴³ The number of pardons granted in wartime was significantly higher than during peacetime.¹⁴⁴ In the Patent Roll for the year 1303, 636 men were pardoned so that they could fight in Flanders and Scotland, and in 1346, 1403

¹⁴¹CPR 1292-1301, p.186.

¹⁴²Waugh, *Edward III*, p.159.

¹⁴³See Chapter 3.2.

¹⁴⁴A. Ayton, 'Military Service and the Development of the Robin Hood Legend in the Fourteenth Century', *Nottingham Medieval Studies*, 36 (1992), pp.139-40.

men were granted pardons to fight in France.¹⁴⁵ In peacetime the number of men pardoned per year (according to the Patent Roll evidence) averaged between twenty and forty.

It was not just war pardons that released criminals into society. After the Barons' War, the rebellion of Thomas of Lancaster and the overthrow of Isabella and Mortimer, many pardons were granted to those who had backed the defeated side. It was during these unsettled periods that a rise in acts of extortion and oppression occurred. Most of those accused of rebellion would buy pardons, regaining their lands and chattels. Once again the legal administration of England was failing to discourage lawlessness.¹⁴⁶

The pardoning system is observed in many of the ballads of the medieval period. In 'The Geste' the knight is on his way to repay a loan from the Abbot of St. Mary's, that he needed to secure a pardon for his son. Later in that same ballad Robin Hood and his men are pardoned for all their misdeeds, but only in return for their war service.¹⁴⁷

The latter end of Edward III's reign saw a renewed effort to deal with the problems of maintaining order. He introduced keepers of the peace, whose responsibilities grew until they became justices of the peace.¹⁴⁸ This was the most successful piece of jurisdiction since the eyre. The solution to decreasing the amount of violent crime had not been found but more positive steps were beginning to be taken.

This study will help to illustrate how the legal system itself, through its inadequacies and corrupt administration, contributed to the lawless nature of medieval society.

¹⁴⁵See CPR 1301-1307, pp.165-82; CPR 1345-1348, pp.484-512, for war pardons granted in the counties of Leicestershire, Nottinghamshire, Northamptonshire and Warwickshire.

¹⁴⁶CPR 1327-1330, p.513.

¹⁴⁷D&T, 'The Geste', verses 121-2, pp.87-8 and verses 414-5, p.109. See Chapter 3.2.

¹⁴⁸B. Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace 1327-1380', *TRHS*, Fourth Series, 12 (1929), pp.19-48; Musson, *Public Order and Law Enforcement*, pp.11-82. See Chapter 5.3.

v. - Conclusion

The crimes that took place within a community were a response to the tensions and conflicts of everyday life. The hardship caused by continual war, the strain of the 1315-1318 famine, heavy taxation, combined with the outbreak of the Black Death in 1348 and again in 1361, all precipitated criminal activity. The need to survive led many to commit petty crimes that would not have found their way into the legal documents of the day. Others chose to adopt criminal behaviour as a profitable existence, working for themselves, or their lord, working alone, or in gangs of organized villains.

Violence was undeniably part of existence for people from all social classes. By using ~~both~~ legal and literary references this study will go some way ~~to~~ examine the nature of the violent crimes that took place in the Honour of Leicester between 1260 and 1360.

**Part One: The Crimes and Criminals of the Honour of
Leicester**

Chapter One

MEDIEVAL ATTITUDES AND THEIR PORTRAYL IN THE BALLADS

The portrayal of violence and the pursuit of wealth through lawlessness in thirteenth and fourteenth century literature allows the historian to examine the attitudes of medieval society. This chapter will study these attitudes in relation to the medieval concept of honour, and the origins and audience of the ballads and political songs of the age.

1.1. The Origin of the Robin Hood Ballads

Once William Langland had admonished his priest in the 'Vision of Piers the Plowman', in 1377, for knowing the rhymes of Robin Hood better than his Pater Noster,¹ the stage was set for an explosion of fourteenth and fifteenth century references to the outlaw.

The surviving Robin Hood ballads can be traced back to six originals. These are 'The Lytell Geste of Robyn Hode' (c.1492); 'Robin Hood and the Monk' (c.1450-1500); 'Robin Hood and the Potter' (c.1460-1530); 'Robin Hood and Guy of Gisbourne' (c.1450-1500); 'Robin Hood and the Curtal Friar' (c.1500), and 'Robin Hood's Death' (c.1500).² The dating of these texts is accepted to be between the late fifteenth and early sixteenth centuries, but there is still the question of a date for the ballads' oral tradition. It is these original ballads that form the basic pattern for later tales. For example, 'Robin Hood and the Butcher' bears a remarkable similarity to 'Robin Hood and the Potter,' with little more than the trade of the title character being altered.³

¹Langland, *Piers the Plowman*, Passus V, lines 395-7, p.56.

²The dating evidence for each of these ballads can be found in D&T.

³D&T, 'Robin Hood & the Butcher', p.151; *Ibid*, 'Robin Hood & the Potter', p.123.

The most important of the Robin Hood tales, because of both its great length and its literary worth, is 'The Geste'. This brings together eight of the most well known stories or fyettes.⁴ These eight stories were probably separate in their original format, being amalgamated over a period of time, before finally being written down as a complete saga. As with most medieval scripts the oral tradition of 'The Geste' is extremely difficult to date. No original manuscripts remain, but several black-letter copy texts have survived.⁵

The evidence for the oral origin of 'The Geste' suggests a fourteenth, rather than a thirteenth century date.⁶ The large number of written references to Robin Hood, after Langland's inclusion of the outlaw in his work of 1377, would suggest that by the mid-1400s Hood's name was widely recognised. A reference to Robin appears in 'Dives and Pauper', a text thought to have been written by a Franciscan monk between 1405 and 1410. As with 'Piers the Plowman', the subject is a criticism of the popularity of the ballads, compared to the importance of the teachings of the church.

gon levir to heryn a tale or a song of robyn hode or of sum rubaudry than to heryn messe or matynes.⁷

In c.1420 Andrew of Wyntoun wrote 'The Metrical Chronicle', in which he placed Robin Hood and Little John in both Barnsdale and

⁴It is within the fyettes of 'The Geste' that Robin shoots for the silver arrow at an archery tournament, helps Sir Richard of Lee, and spends time in the king's service. *Ibid.* pp. 71-112.

⁵One of the surviving copies of 'The Geste' is included in the London printing of *Wynkyn de Worde*, now held in Cambridge University Library, which dates between 1492 and 1534. *Ibid.* pp.71-2.

⁶Hilton, 'Origins of Robin Hood'; Holt, 'Origins and Audience'; J. Holt, 'Robin Hood - Some Comments', *P&P*, 19 (1961); Philips & Keatman, *Robin Hood*, pp.29-78. Also see Maddicott, 'Birth and Setting', pp.276-99, for an excellent overview of the ballad's origins.

⁷D&T, p.2.

Inglewood forests in c.1283.⁸ Possibly the most famous quotation from the fifteenth century concerning Robin Hood comes from a vernacular sermon composed by Hugh Legat, a Benedictine monk of St. Albans Abbey.

for mani, manime seith, spekith of Robyn Hood that schotte never in his bowe.⁹

The literary sources of the late-fourteenth and fifteenth centuries contain many allusions to Robin Hood. Even Chaucer referred to the legendary hero in his work, 'Troilus and Criseyde', which can be dated to c.1385.¹⁰

Ballads are a particularly hard form of narrative to analyse. To appeal to a continually changing audience the stories would have been altered and updated a great many times. A knowledge of the outlaw's escapades is clearly displayed in 1439, when a judge of the court of Common Pleas, described a Derbyshire criminal called Piers Venables (who is alleged to have had a gang of his own) as, "beyng of his clothinge, and in manere of insurrection, wente into the wodes in that country, like it hadde be Robyn Hode and his meynne."¹¹ Fifty-nine years later the tales were obviously still popular when Roger Marshall of Wednesbury in Staffordshire incited a riot in neighbouring Willenhall, under the alias of Robin Hood.¹²

The fact that there are no known written references to Robin Hood prior to 1377 is the strongest piece of evidence for dating the origins of the

⁸F. J. Amours, ed., The Original Chronicle of Andrew of Wyntoun: Printed on Parallel Pages from the Cottonian and Wemyss Manuscripts (Scottish Text Society, First Series, 50, Edinburgh, 1903-08), pp.136-7.

⁹D. M. Grisdale, ed., Three Middle English Sermons From The Worcester Chapel Manuscript, F.10 (Leeds, 1939), p.8.

¹⁰There are too many references to discuss within the confines of such a study, and indeed they form a project of their own. Detailed lists of all the pre-seventeenth century written references to Robin Hood can be found in D&T, pp.315-9; Knight, Robin Hood, pp.262-88. Further information can also be found in Maddicott, 'Birth and Setting', pp.277-8.

¹¹Keen, Outlaws, p.202.

¹²Philips & Keatman, Robin Hood, p.4.

ballads. It will therefore be argued that the oral tradition of Robin Hood originally came from the fourteenth century. Further indications of the ballads' oral origins come from the content of the tales themselves. This means that the evidence is largely circumstantial, but it helps to enforce the argument for a fourteenth century, as well as review the evidence for a thirteenth century date. For example, the language of the texts reveals an understanding of retaining or bastard feudalism.¹³ One of the first indications that the audience had an understanding of retaining comes with the mention of the livery Robin's men wore.

And everyche of them a good mantell
Of scarlet and of raye;¹⁴
All they came to good Robyn,
To wyte what he wolde say.¹⁵

The wearing of a lord's personal livery was increasingly important in the fourteenth century.¹⁶ 'The Geste' also includes evidence of fee paying, mastership and the defence of colleagues against outsiders, all features of retaining.¹⁷ Maintenance was present in the thirteenth century, but it was neither as prevalent nor as vital as it was to become. It is unlikely that a thirteenth century audience would have been as responsive to songs concerning retaining as that of the fourteenth century.

'Adam Bell', in common with 'The Tale of Gamelyn', included further evidence of the use of retaining. Adam, William and Clim are accepted into the service of the queen, and consequently receive her livery.¹⁸ Similarly, the king appoints Gamelyn as the chief justice and forester of all the free forest in

¹³Maddicott, 'Birth and Setting', p.278.

¹⁴Raye = stripped cloth.

¹⁵D&T, 'The Geste', verse 230, p.95.

¹⁶Lachaud, 'Liveries', pp.279-98.

¹⁷See Chapter 4.5.

¹⁸D&T, 'Adam Bell', verses 164-5, pp.272-3.

the east and west.¹⁹ Again, the casual mention of retaining is probably the most telling indicator that these ballads had their origins in the fourteenth century. The recent work on Robin Hood by Philips and Keatman puts forward the theory that Hood was amongst the Lancastrians who rebelled after the execution of Thomas of Lancaster in 1322.²⁰ Such a belief is backed up by the inclusion of the murder of a knight of Lancaster and his squire in 'The Geste'.²¹ The theory is obviously open to the accusation of conjecture, but would certainly correspond with the most likely period for the ballads to have been written.

The backdrop to the ballads is provided by the forests of the Midlands and Yorkshire, and the officials that controlled them and the neighbouring towns. Previously it has been argued that an oppressive forest setting must refer to a thirteenth century date of origin. However, the people of the fourteenth century also suffered at the hands of corrupt forest officials and harsh forest jurisdiction. The ballads' geographical setting is therefore an unsatisfactory means by which to identify the century of origin.²²

In the early fourteenth century there was a rise in the importance and prestige of archery, a skill with which Robin Hood and his outlaws are much associated. The longbow had become a popular weapon in the king's armies. In 1333 the longbow played a major part in the English victory over the Scots at Halidon Hill.²³ Although the longbow was used in the thirteenth century it had not yet become as popular as it would be in the fourteenth century.²⁴

¹⁹Sands, ed., Middle English Verse, lines 890-3, p.180.

²⁰Philips and Keatman, Robin Hood, pp.51-8.

²¹See Chapter 2.2.

²²Maddicott, 'Birth and Setting', p.280; Holt, Robin Hood, pp.83-108.

²³Edward III allegedly recruited over half the archers for Halidon Hill from the poachers of Sherwood Forest. See the 'Ballad of Halidon Hill' in F. Brie, ed., The Brut: or The Chronicles of England, Part 1 (London, 1906), pp. 287-9.

²⁴Holt, Robin Hood, p.79.

In his work on Robin Hood, Holt suggests that the mention of the knightly distraint of Sir Richard of Lee meant 'The Geste' had a thirteenth century date.²⁵

I trowe thou warte made a knyght of force,
Or ellys of yemanry.²⁶

The practice of the distraint of knighthood was proclaimed by Henry III,²⁷ and was still being used by Richard II. Consequently, its mention alone is not sufficient to confirm a thirteenth century origin.²⁸

An early-to-mid fourteenth century origin for the Robin Hood ballads would also coincide with the violently criminal careers of both the Folville and Coterel brothers. It cannot be confirmed that the tales influenced such gangs, or that the ballads grew out of their activities, but many similarities can be noted, such as the types of crimes they committed.²⁹

Although there can be no conclusive statement that the ballads of Robin Hood originated in the mid-fourteenth century, the circumstantial evidence from the tales, the growth in the number of documentary entries concerning the outlaws after 1377, the mention of the longbow, and the frequent references to retaining suggest this as the most likely period.³⁰

²⁵Ibid. p.187. Holt maintains that the Robin Hood ballads had their oral tradition in the thirteenth century.

²⁶D&T, 'The Geste', verse 45, p.82.

²⁷The distraint of knighthood is examined in M. Powicke, The Thirteenth Century 1216-1307 (Oxford, 1962), pp.546-9.

²⁸Maddicott, 'Birth and Setting', pp. 276-99.

²⁹See Chapter 3.2.

³⁰Maddicott goes further than simply suggesting a date of c.1330, by naming some of the sheriffs and abbots on whom the ballads could have been based. Maddicott, 'Birth and Setting', pp.282-94.

1.2. Political Songs

As the surviving literature reflects, the late-thirteenth and fourteenth centuries were periods of political and economic tension across England.³¹ The songwriters of the age specialised in topical, satirical and anti-authoritarian verse. The wording of works such as 'A Song of the Times'³² (where a fox and a wolf portray the characters who oppress and plunder the middle and lower classes), shows the depth of feeling the English had concerning the misrule of their country.

Hate and wrath there is very rife,
and true love is very rare:
men who are in the highest station of life,
are most laden with sin.³³

The first major wave of popular political manuscripts emerged in the thirteenth century. Although there were political songs in previous years, it was not until the reign of King John that public opinion became more openly vented. The reign of Henry III did not provide the steadiness of government needed to clamp down on these derogatory songs. Once the floodgates had been opened a steady stream of satirical verses spread across the country.

Over 300 poems concerning contemporary issues have been recorded from the thirteenth, fourteenth and fifteenth centuries.³⁴ They vary in form from brief lines of rhyme to complex and formal verses. The different styles of poetry reflect a wide-ranging authorship, including literate soldiers, minstrels, political commentators and observant clerics. Despite their diverse

³¹An interesting comparison can be made between the literature of medieval England and France. R.W. Kacuper, *War, Justice and Public Order* (Oxford, 1988), pp.315-46.

³²Coss, ed., *Wright's Political Songs*, p.195. 'A Song on the Times' is recorded in the 'Harley ms', No.913, fol. 44. Wright dated this poem to c.1308, however the reference to hobelers (lightly armed horsemen), makes Coss's suggested date of c.1320-1340 more acceptable. *Ibid.* p.xxxix.

³³*Ibid.* p.195.

³⁴R.H. Robbins, 'Poems Dealing with Contemporary Conditions', ed., A. Hartung, *A Manual of the Writings in Middle English, Vol. 5* (New Haven, 1975), pp.1385-556.

subjects and origins, all the literature of complaint was an immediate means to an end. Events and social conditions instantly apparent to the potential audience inspired their composition. One of the most important aspects of these political songs was a general condemnation of the age.³⁵ Using the poems which Wright entitled 'political songs' from the reigns of Henry III to Edward III as a guide,³⁶ five main topics can be located. Tales relating to the most recent wars, and the pride, avarice and corruption of the nobles, were the most popular subjects. The remainder of the songs complained about the church, the oppression of the peasantry and the taxes imposed upon them. Coleman suggests that two further categories of complaint can also be established, against the advice given to the king, and the misuse of tax money that was supposed to finance the French wars.³⁷

One of the most graphic and wide ranging songs of complaint is the poem Wright termed 'The Evil Times of Edward II.' In 'The Auchinleck' manuscript, completed in c.1330, this work is termed 'De Simonie.'³⁸ The anonymous author examines the causes of the social breakdown that occurred under the administration of Edward II. He believed that the wickedness of those indulging in corruption and self-interest inevitably led to the provocation of God's wrath. The first verse of the poem sets the tone of this lengthy work.

³⁵Coleman, English Literature in History, p.61.

³⁶Coss, ed., Wright's Political Songs; T. Wright, ed., Political Poems and Songs Relating to English History, Composed During the Period From the Accession of Edward III to That of Richard III, (RS 14, 1, London, 1859).

³⁷Coleman, English Literature in History, pp.65-6.

³⁸Coss, ed., Wright's Political Songs, pp.323-45; T. Turville-Petre, 'The 'Nation' in English Writings of the Early Fourteenth Century,' ed. N. Rogers, England in the Fourteenth Century: Harlaxton Medieval Studies, Vol.3 (Stamford, 1993), pp.129-31.

Whii werre and wrake in londe and manslauht³⁹ is i-come,
 Whii hungger and derthe on eorthe the pore hath undernome,
 Whii bestes ben thus storve, whii corn hath ben so dere,
 ze that wolen abide, listneth and ze muwen here the skile,
 I nelle lizen for no man, herkne who so wile.⁴⁰

‘De Simonie’ begins by attacking the greed and corruption of the church, and goes on to address the shortcomings of justices, sheriffs, mayors and bailiffs. Taxes and merchants are the next targets of complaint, before the author attacks the corruption and arrogance of all men, on whom God will be avenged.

That God wole for-don⁴¹ the world we muwe be sore agaste.⁴²

Many of the most well known songs of complaint that have survived from both the thirteenth and the fourteenth centuries were documented in the ‘Harley 2253’ manuscript.⁴³ This manuscript, which is believed to date from c.1340, contains a mixture of Latin, French and English verse in no uniform order.⁴⁴ Possibly the most important political poem contained within the manuscript Wright aptly named the ‘Song Against the King’s Taxes’. A mixture of French and Latin warns the young king, presumably Edward III, to be careful of his wicked advisors.⁴⁵

One must not impute such wickedness to the king, but to his evil counsellor in his savagery. The king is a young knight and not of an age to compass any trickery, but to act in all honesty. Such a measure works general havoc.⁴⁶

³⁹Were and wrake = war and mischief. Manslauht = murder.

⁴⁰Coss, ed., Wright’s Political Songs, pp.323-4.

⁴¹For-don = destroy.

⁴²Coss, ed., Wright’s Political Songs, p.344.

⁴³The ‘Harley 2253’, held in the British Library, contains love poetry and well as political and satirical works. The manuscript is believed to have been compiled for Bishop Thomas de Charlton of Hereford.

⁴⁴Coleman, English Literature in History, p.79.

⁴⁵Aspin, ed., Political Songs, pp.105-15.

⁴⁶Ibid, p.112.

Not only does the poem emphasize the effect of harsh taxes, but it also presents a clear picture of the growing importance of the Commons in the government of England. Edward is warned not to enter into a foreign war without their counsel.

A king ought not to go forth from his kingdom in manner of war unless the community of his realm consent to it. Full often does one see treason bring many a man to grief; none can know who is wholly to be trusted. Let not the king leave the land without taking counsel.⁴⁷

Songs and ballads help to show how the administration of England was seen in the eyes of the general population. As the 'Song of the Husbandman' (also in 'Harley 2253'),⁴⁸ illustrates, government was regarded as the vehicle of oppression, which plainly exercised itself in the form of taxes, wars and purveyance.

Taxes have always been one of the main burdens on the population in any country. In thirteenth and fourteenth century England this burden was at an extreme level. The government was under severe financial pressure, largely due to the demands of war. The Treasury was in debt, and still needed a great deal of money for its conflicts with Scotland and France. The Welsh campaign alone, with its associated spate of castle building, cost the Treasury £120,000.⁴⁹ This is a huge sum compared to the crown's actual resources, which have been estimated at c. £24,500 per annum.⁵⁰ Enormous amounts of revenue had to be found, and taxes were the only practical solution. By 1290 subsidies that had only been collected on an occasional

⁴⁷Ibid. p.111.

⁴⁸Coleman, English Literature in History, p.63; Coss, ed., Wright's Political Songs, pp.149-52.

⁴⁹Prestwich, Edward I, p.200.

⁵⁰M. H. Mills, 'Exchequer Agenda and Estimate of Revenue, Easter Term, 1284', EHR, 11 (1925), p.233.

basis were harvested more frequently,⁵¹ with six collections in the last fourteen years of Edward's reign. This set the trend for the following years, with sixteen taxes, of a growing rate, levied between 1294 and 1334.⁵²

Pressure from the need to find money for extra taxes was an obvious incentive to crime. The aforementioned 'Song Against the King's Taxes', written c.1339, clearly shows the heavy burden of taxation.

People are reduced to such ill plight,
that they can give no more;
I fear, if they had a leader, they would rise in rebellion.
Loss of property often makes people fools.⁵³

Hand in hand with the extortionate rise in taxes came the use of the writ of *prise*, or purveyance. This gave the king and his appointed officials the right to commandeer food, transport and materials from the land to support his armies. Purveyance took on an increased importance from the end of the thirteenth century, being at its most prevalent between 1294 and 1297, 1314 and 1316, and from 1333, continuing intermittently throughout the Hundred Years War. It was practised on a massive scale within the Midland counties, which bore the brunt of provisioning in the reigns of Edward I and Edward III, temporarily taking a secondary position to the southern counties in the reign of Edward II.⁵⁴ Armies that were mustered in the central regions of England frequently marched through the East Midland counties on their way to Wales, the South of England (towards France), and to Scotland. Abuse of the writ of *prise* was widespread across England, so regulations were imposed to protect the population and their goods. In 1296

⁵¹For a table showing the direct taxes on the laity between 1290-1307, see W. Ormrod, 'State Building and State Finance in the Reign of Edward I', ed., W. Ormrod, England in the Thirteenth Century: Harlaxton Medieval Studies, Vol. 1 (Stamford, 1991), p.18.

⁵²J. F. Willard, Parliamentary Taxes on Personal Property 1290-1334: A Study in Medieval English Financial Administration (Cambridge, Mass., 1934), pp.3-5, 9-11.

⁵³Coss, ed., Wright's Political Songs, p.186; Aspin, ed., Political Songs, pp.105-15.

⁵⁴VCH Derbyshire, Vol. 2, pp.100-1.

it was ordered that the collection of grain should continue, but that no one was to be left without enough to live on.⁵⁵ That such a proclamation should be made reflects just how much grain must have been collected from the land.⁵⁶

The appropriated goods were supposed to be assessed and paid for at the current market price, but frequently no money changed hands, and receipts given were not honoured. Bribery, corruption and fraud went hand in glove with purveyance. The collections were administered by the sheriff of each shire, and carried out by his bailiffs and their assistants. They were to arrange each community's contribution, as in 1297 when a Nottinghamshire court assessed each wapentake at a number of sheep and oxen.⁵⁷ The letter of the law was not always adhered to, as Maddicott describes, "more frequently the sheriff's subordinate, the hundred or wapentake bailiff, simply descended on a village and took what he wanted, often quite arbitrarily, without payment (or at best with payment deferred through the giving of tallies), and in a way which bore little relation to the owner's ability to sustain the prise."⁵⁸ This was increasingly the case by the reign of Edward II, and such was the abuse during Edward III's reign that further parliamentary action had to be taken. In 1303 it was proclaimed that those who owned less than £10 worth of chattels should not have any corn taken from them.⁵⁹ By 1331, purveyors who persistently offended could face a trail for larceny, and a possible death sentence.⁶⁰

⁵⁵M. Prestwich, War, Politics and Finance Under Edward I (London, 1972), pp.128-36.

⁵⁶In 1296-7 the people of Kent suffered from the removal of 4,900 acres of produce; Kaeuper, War, Justice and Public Order, p.110.

⁵⁷Just1/672.m.4d.

⁵⁸J. R. Maddicott, English Peasantry and the Demands of the Crown (P&P Supplementary Series 1, Oxford, 1975), p.26.

⁵⁹Prestwich, War, Politics and Finance, pp.128-36.

⁶⁰Maddicott, English Peasantry, pp.28-9.

Those who collected the provisions were willing to defraud not only the public, but also other nobles and the king himself, who never received all that he had requested. Many kept goods for themselves, or resold what they had collected at inflated prices. It was the poorer element of the population who suffered most from both taxes and purveyance. They had neither the resources nor the money to survive once their goods had been appropriated. The 'Song of the Husbandman' clearly states that, "he who hath any goods, expects not to keep them."⁶¹

The practice of purveyance was administered through the king's Wardrobe. Between 1295 and 1307, and briefly again in 1312, Walter Langton held the office of Treasurer.⁶² In 1296 Langton and his confederates were passing through the village of Weston in Nottinghamshire, when the local people raised a hue and cry against them. The villagers pursued Walter's retinue, accusing them of being 'thieves and plunderers'.⁶³ Langton demanded £1000 damages after the incident, and had all the participants arrested. Although the assault on Langton and his men is documented in the 'Plea Roll', no indication is given as to why it took place.⁶⁴ After administering the rise in taxes and an increase in the amount of purveyance, Langton was definitely an unpopular figure, but it is unlikely that the villagers would have recognised him. However, there seems to be no other explanation for the assault. Casual provisioning by the aristocracy was one of the most common abuses of the practice. It is conceivable that the villagers were reacting angrily to an attempt made to take food or fresh horses for Langton's continuing journey north.⁶⁵

⁶¹Coss, ed., Wright's Political Songs, p.149.

⁶²See Chapters 4.2 and 5.4.

⁶³D. Crook, 'Thieves and Plunderers, An Anti-Ministerial Protest of 1296', BIHR, 67 (1994), p.327.

⁶⁴Ibid. p.332.

⁶⁵Ibid. p.334.

The songs and tales of both the thirteenth and fourteenth centuries leave us in no doubt that the government was viewed as one of the forces that brought poverty and oppression to the people. The king however, was often set apart from those who inflicted these burdens. In the popular ballads both the king and queen are revered figures, whom the outlaws looked up to, and even worked for.⁶⁶ The political songs and poems present a more confused impression. The king is included in the satirical complaints of the populace when the song is about the state of England, whilst he is praised in loyal tales about the wars with Scotland, Wales and France. For example, in 'A Song on the Times', Edward II's regime is declared to indulge in fraud, "...perfidy reigns...The fraud of the rulers prevails";⁶⁷ whilst in the 'Song on the Scottish Wars', during Edward I's reign, "Edward, our King is entirely devoted to Christ; he is quick to pardon, and slow to vengeance."⁶⁸ Attitudes to the monarchy differed depending on who was on the throne, on whether they were fighting for the honour of their country, or if their subjects were trying to survive with few resources. However, even when complaining about the king, the poets were careful not to mention a precise name, but simply implied that they were referring to the monarch. This was presumably the safest line to take when songs such as these would certainly have reached the ears of the king's officials, if not his own. In most cases the poet attacked the king's administrators, rather than the king himself. The 'Song of the Husbandman' however, is the exception as both the officials and the king himself are the subject of the authors' complaint. The 'king's bailiffs' extracted a debt that had already been paid to 'the Crown', and the 'king's' demand for taxes could only be met through the sale of 'seed corn'.⁶⁹

⁶⁶D&T, 'The Geste', verse 433, p.110; *Ibid*, 'Adam Bell', verses 163-9, pp.272-3.

⁶⁷Coss, ed., *Wright's Political Songs*, p.133.

⁶⁸*Ibid*, p.163.

⁶⁹J.R. Maddicott, 'Poems of Social Protest in Early Fourteenth Century England', ed., W. Ormrod, *England in the Fourteenth Century: Harlaxton Symposium, 1985* (Woodbridge, 1986), p.132.

The political songs of 1260 to 1360 embraced the grievances of the poor and attacked the wealth and greed of the rich. Criminal activity amongst specific nobles was never blatantly stated, but rather hinted at generally within the songs. In the song, 'On the King's Breaking His Confirmation of the Magna Carta', written c.1306-7, the complaint is a familiar one.⁷⁰

Because lust hath leave,
the land is destitute of morality;
because thief is magistrate, the land is pennyless;
because pride hath sleeves, the land is without alms.⁷¹

The sentiment of the political songs remains the same throughout the period: authority is corrupt. However, as the following section shows, this recurrent theme did not necessarily mean that the poems were aimed at an audience from the poorer elements of society.

1.3. The Circulation of the Songs and Ballads, and their Audience

Any work on the ballads and songs of the medieval period must consider how they were circulated, and by whom. Such anti-authoritarian work, which Coleman labelled, 'Abuses of the Age Literature',⁷² was widely known by the fourteenth century. The circulation of ballads before their textual recording was accomplished by word of mouth, chiefly by minstrels. Strolling players were employed by the households of the gentry to sing at special occasions, others sang at markets, fairs and in taverns, anywhere where they could be sure of an audience. In 1445 Walter Bower wrote, "Then from among the dispossessed and banished, arose the most famous cut-throat Robin Hood, and Little John with their accomplices, whom the foolish multitude are so extravagantly fond of celebrating in tragedy and comedy; and the ballads concerning whom, sung by jesters and minstrels, delight them

⁷⁰Aspin, ed., Political Songs, p.60.

⁷¹Ibid, p.255.

⁷²Coleman, English Literature in History, p.60.

beyond any others.”⁷³ The satirical nature of the songs and ballads would surely have ensured their popularity.

Many of the ballads of Robin Hood begin by inviting those nearby to “Lythe and listin, gentilmen, That be of frebore blode”, or “Come listen to me, you gallants so free, All you that love mirth for to hear.”⁷⁴ This obvious appeal to freemen can be interpreted in two ways. Firstly, the ballads may have been literally written for freemen, or secondly, they could have been an attempt to make all those listening feel free, which would certainly be in keeping with the sentiment of the tales. It is feasible that both interpretations apply, as most levels of society would have had access to strolling players at some time. The frequent references to yeomen, those with a trade, and the lesser gentry add strength to the first theory. However, a minstrel’s livelihood depended on people listening to his tales, so ultimately he would sing to anyone who would pay him.

Analysis of the ballad audience began when Joseph Ritson declared, in 1795, that the ballads endeared Robin Hood to “the common people”.⁷⁵ Hilton brought the discussion more up-to-date when he stated that ballads were purely outlets for peasant discontent.⁷⁶ The scholar’s debate has now reached the conclusion that they were written for the gentry and their retainers.⁷⁷ This is a credible theory, in view of the fact that it was this section of society that committed most of the recorded crime.⁷⁸ The figures of authority ridiculed in these tales were those who exploited, not just the

⁷³Philips & Keatman, Robin Hood, p.4.

⁷⁴D&T, ‘The Geste’, verse 1, p.79; Ibid., ‘Robin Hood and Allen a Dale’, verse 1, p.173, dated c.1550-1600.

⁷⁵Ritson, Robin Hood, Part 1, p.xi.

⁷⁶R. Hilton, ed., Peasants, Knights and Heretics (Cambridge, 1976), pp.232-3.

⁷⁷Holt was the first to mention this possibility. Holt, ‘Origins and Audience’, pp.89-110. A good literary discussion about the audience of the ballads can be found in Knight, Robin Hood, pp.49-51.

⁷⁸See Chapter 2.2.

poor, but lesser noblemen as well. Characters like the Abbot of St. Mary's would have been powerful enough to bribe and oppress lesser barons and knights. Guy of Gisborne is a mercenary figure, employed by officials to rid them of a problem through violence. Both these issues were most relevant to the lesser gentry. In 'Robin Hood and the Potter', it is a tradesman, a person with his own stand at market, who is engaged into the band, not a beggar or a poor vagabond.⁷⁹ The problems connected with livery and the distraint of knighthood were not the concerns of commoners.⁸⁰

There is a conclusive lack of information within the ballads about the peasantry, and the issues that would concern them. Never is there any mention of 'robbing the rich to feed the poor'. In fact 'the poor' are only mentioned on one occasion. Robin instructs his men that there was little point in bringing a poor man into the forest for his dinner, presumably because he would not have enough money to pay for it.⁸¹ The implication is that any 'robbing the rich' that did go on was to further enhance Robins own position, maintain his men, and form retaining alliances of his own. This encompasses the attitudes of the lesser and greater gentry, who committed crimes in order to further and maintain their own public standing.

The literary composition of the political songs also steers the historian away from the assumption that the audience for medieval roguishness was the peasantry. Works such as the 'Song of the Husbandman' would suggest an educated hand. The sophisticated rhyming style and linking-stanzas suggests that this particular poem was written by a cleric with peasant sympathies. Coleman places this accomplished author in the Southwest of England, probably writing in c.1300.⁸² The lesser gentry, or 'middle-class,' was a

⁷⁹Stories such as 'Robin Hood and the Beggar' and 'Robin Hood and the Pedlar' are all of a later genre. Child, ed., *English and Scottish Popular Ballads*, pp.318-29.

⁸⁰See Chapter 1.1.

⁸¹D&T, 'The Geste', verses 13-4, p.80.

⁸²Coleman, *English Literature in History*, p.63.

growing force by the fourteenth century, with an increasing desire to be literate. The satirical poems of the period seem to have been a product of their awareness of the deficiencies in the administration of England, rather than a cry for sympathy from the peasantry.⁸³

By the end of the fourteenth century only the most immobile rural freeholder was beyond the reach of the period's heroic and political literature. Increasing numbers of agricultural workers were visiting towns and cities to sell their produce, so the circulating literature was no longer confined to the ears of urban dwellers alone.

1.4. The Notion of Dignity

One of the most persistent attitudes of the medieval age outlined in the ballads and songs is related to the notion of honour or dignity. This feeling of pride meant that kinsmen and women would protect each other, and their good name, at the expense of almost everything else. Such ties of kinship could deter potential attackers from targeting one member of a family, for fear of reprisal from the others. Insulting a family's name could have serious consequences, sometimes resulting in a confrontation, frequently violent. The coroners' roll for Northamptonshire gives an example of such an altercation in December 1309, with a "wounding by arrow during an argument over a game of wrestling".⁸⁴

Medieval dignity fostered a code of vengeance, which encouraged one family member to assist another in a crime. A striking example of this occurred in Northamptonshire in 1297, when Simon Whetebred and Nicholas le Rede fought over a debt that Nicholas owed Simon. Using a stick as his

⁸³*Ibid.* pp.64-6.

⁸⁴C. Gross, ed., Select Cases from the Coroner's Rolls, A.D.1265-1413: With a Brief Account of the History of the Office of Coroner (SS, 9, London, 1896), p.62.

weapon, Simon fatally wounded Nicholas. In order to prevent Nicholas' wife raising the hue and cry, Simon's sister Matilda throttled her.⁸⁵

In her work on Northamptonshire, Hanawalt shows that only 8% of the 554 crimes recorded in the surviving fourteenth century coroners' rolls occurred between one family member and another.⁸⁶ Those crimes that did take place within a family group were mainly the result of disagreements over land. Arguments could also take place over inherited moveable property, sometimes leading to inter-familial theft.⁸⁷ Family members relied on each other a great deal, and violent crime between them was comparatively uncommon.

Masters, servants, and occupational groups also exercised this notion of honour. Servants would help their master, out of loyalty, to settle some external feud. Records show that some lords sent their servants to settle their personal grudges, which could mean issuing threats, committing an assault, or even murder. The 'Coram Rege Roll' for Leicester in 1349 gives an example of such behaviour.

The abbot of Croxton v. William Palmer, the servant of John Botiller, in a plea wherefore, since the abbot, in his damage at Eyton, wished to impound certain cattle by John Brunne, his servant, the said William, with force and arms, rescued those cattle and assaulted the servants of the abbot there. ⁸⁸

This notion of pride is arguably one of the most prominent in the ballads. There is no question that the attitude was viewed as laudable, and loyalty was prized above all else. Yet the underlying fact is that this honour or dignity made violence more acceptable. Violence was permissible as long as it was used to protect your own kind. The tales of Robin Hood show how

⁸⁵Just2/120.m.17r. Both men were from the village of Helmdon.

⁸⁶Hanawalt, *Crimes and Conflict*, p.159.

⁸⁷CPR 1340-1343, p.92; Matilda Payfot of Higham Ferrers accused her sons of breaking into her close and carrying away her chattels.

⁸⁸CRR No.357 (Michaelmas, 1349), m.9d.

loyal the members of a group should be to their master. Obviously the context is a story, and therefore everything in it is exaggerated, but it is frequently made clear how quickly the 'ideal' gang member would come to his leader's aid. In 'Robin Hood and the Curtal Friar', Robin finds himself in a stalemate situation after a long fight with the cleric. Eventually he asks a boon of the friar, and Robin calls his men.

Robin Hood set his horn to his mouth,
He blew but blasts three;
Half a hundred yeomen, with bows bent,
Came ranging over the lee.⁸⁹

The ballads of Robin Hood also give examples of how loyalty between members of the gang led to the protection of each other by killing, wounding and kidnapping outsiders. In 'The Geste' Robin's men fight against the sheriff's soldiers to save their friend and ally, Sir Richard of Lee.⁹⁰ Later in the same tale the king, disguised as an abbot, comes looking for Robin and his men. Once Robin realises who his visitors really are he calls for his men to come forward. The king is clearly impressed by the loyalty of the outlaws to their leader.

Robyn toke a full grete home,	All they kneled on theyr kne,
And loude he gan blowe;	Full fayre before Robyn;
Seven score of wyght yonge men	The kynge sayd hym selfe untyll,
Came redy on a rowe.	And swore by Saynt Austyn,

'Here is a wonder semely syght
Me thynketh, by Goddes pyne,
His men are more at his byddynge
Then my men be at myn'.⁹¹

⁸⁹D&T, 'Robin Hood and the Curtal Friar', verse 27, p.163.

⁹⁰Ibid. 'The Geste', verse 342, p.103.

⁹¹Ibid. 'The Geste', verses 389-91, p.107.

Family loyalty is also illustrated in these ballads. In 'Robin Hood and the Monk', Much and Little John are hidden by Much's uncle, whilst waiting to ambush a monk who had just treacherously betrayed Robin to the sheriff.

Fforthe then went these yemen too,
Litul John and Moche on fere,⁹²
And lokid on Moch emys hows⁹³
The hye way lay full nere.⁹⁴

When they view the 'great-headed' monk coming along the highway (on his way to see the king), they take their opportunity to avenge Robin. In one of the most gratuitous acts of violence in the tales, the outlaws kill the monk and brutally murder his innocent page.

Litull John was so agrevyed,	'He was my maister,' seid Litull John,
And drew owt his swerde in hye;	'That thou hase browght in bale;
This munke saw he shulde be ded,	Shalle you never cum at our kyng,
Lowd mercy can he crye.	Ffor to telle hym tale.'

John smote of the munkis hed,
No longer wolde he dwell;
So did Moch the litull page,
Ffor ferd lest he wold tell.⁹⁵

These excerpts from the Robin Hood ballads give the impression that violence had become accepted in society. There are many other tales that would confirm that view. The fourteenth century ballad of 'Adam Bell, Clim of Clough and William Cloudsey' also shows the acceptance of violence in popular literature. Their activities are concentrated in the northern forest of Inglewood and the surrounding countryside. The outlawed William Cloudsey

⁹²On fere = together.

⁹³Emys hows = uncle's house.

⁹⁴D&T, 'Robin Hood and the Monk', verse 38, p.118.

⁹⁵Ibid., verses 50-2, p.119.

and his wife Alice are in hiding from the sheriff. Alice realises that they have been discovered and gets ready to use violence to defend her husband.

Fayre Alice folowed hym as a lover true,
With a pollaxe in her hande:
'He shalbe deade that here cometh in
Thys dore, whyle I may stand.' ⁹⁶

Such brutal episodes are accepted because they protect one party from another. The belief that family or group loyalty was of such importance that violence could be used to ensure each members safety and freedom is one of the most illustrated attitudes in medieval literature.

1.5. Conclusion

The attitudes and opinions held by the population of thirteenth and fourteenth century England are extremely difficult to determine. Few people were literate, and consequently little information about everyday life was recorded. The ballads and songs of the period help to fill this gap in our knowledge by indicating some of the issues that were important to the population as a whole. The oppression felt due to taxes and purveyance comes out clearly in the rhymes of the day, as do both patriotism and the consequences of war.

The offences of bribery and extortion by ministers were a constant theme in both the ballads and the songs. In 1377 'Piers the Plowman' is still denouncing the corruption connected with fees for officials, using the character of Avarice to show two classes of payment; those for good work and those for corruption.⁹⁷ Medieval honour or dignity is repeatedly reflected in the ballads, as one character willingly risks his life for another. Attitudes towards crime are mixed throughout all the poems and ballads. On the one hand it is a source of complaint when ministers are oppressive and practice

⁹⁶*Ibid.*, 'Adam Bell, Clim of Clough and William Cloudsey', verse 25, p.262.

⁹⁷Langland, *Piers the Plowman*, Passus XIV, lines 245-50, pp.171-2.

extortion. Conversely, the outlaws are applauded for highway robbery and murder. Such acts were seen to be justified because they were against figures of authority and their colleagues.

This literary evidence, combined with the documents of the period, can be used to build up a picture of medieval opinion. There was a strong will for a fairer system, but a resignation that little was improving.⁹⁸ The lasting impression is that violence and crime was acceptable amongst the general population if it increased chances of survival; and that it was expected from administrative groups and the noble classes.

⁹⁸This is especially clear in the 'Outlaw's Song of Trailebaston'; Coss, ed., Wright's Political Songs, p.231.

Chapter Two

CRIMES AND CRIMINALS

“Not only were medieval criminals more numerous than their modern counterparts, but by reason of their numbers and importance they excited much more general sympathy than they do nowadays, and were as a rule dealt with by society in a more lenient manner.”¹ This view is reinforced by the research completed by Given and Hanawalt into the number of murders committed in thirteenth and fourteenth century society.² Using evidence from the coroner’s rolls, they both conclude that everybody would have encountered some form of murder or violent attack at some time in their life. This chapter will reinforce the impression that violent lawlessness, in the form of murder and theft, tainted many lives between 1260 and 1360, highlighting the view that medieval society can be characterised by its ‘nature of violence.’³

2.1. Crime and Forms of Criminal Behaviour

The legal records of the thirteenth and fourteenth centuries suggest that 1260 to 1360 was a particularly violent period in medieval history. Although caution must be exercised regarding exaggeration and bias from a chronicler recording a particularly gruesome or complex crime, the large numbers of documented crimes reflect the rising lawlessness. Undoubtedly the majority of the crimes committed were of a petty nature. Offences as widespread as breaking the assizes of beer and digging in an unlawful place littered the manorial rolls of the period. The bailiff’s account for Kettering in 1292 illustrates the minor crimes that were dealt with throughout the year.

¹T. F. Tout, ‘Medieval Forgers and Forgeries’, Bulletin of the John Rylands Library, 5 (1919), p.208.

²Hanawalt, Crime and Conflict; J.B. Given, Society and Homicide in Thirteenth-Century England (Stanford, California, 1977).

³A.J. Finch, ‘The Nature of Violence in the Middle Ages: An Alternative Perspective’, BIHR, 70 (1997), p.252.

And of 6d. from Juetta, daughter of Peter of Barton, on charge of taking a fowl. And of 3d. from Julian Coulurde for breaking the assize of beer.⁴

This chapter aims to analyse the crimes recorded in two of the gaol delivery rolls for Leicestershire: Just3/30/1 and Just3/30/2. Of these two sources Just3/30/1 is both the longer and the better preserved. It records crimes from the deliveries of 1310, 1311 and 1316, largely concentrating on the Hundreds of Gartree, Goscote and Framland, whilst occasionally overlapping with Guthlaxton.⁵ Just3/30/1 was originally stitched together at one end of the membrane. It would have had a cover added to the completed roll, but this has failed to survive. There are tiny holes regularly spaced along the sides of the membranes, contemporary with the document, which were probably used as guidelines.

Just3/30/2 details crimes committed between 1330 to 1331 from the town of Leicester and the Hundred of Goscote. Originally sewn together at one end only, each membrane was separated during the eighteenth century, but has been re sewn in the original order. Some minor repairs were made to both rolls in the 1950s, when silk paper was used to fill in holes in the parchment. There is some discoloration to Just3/30/1, but it is unclear whether this is due to early cleaning attempts, or merely to old age. Just3/30/2 has received little restoration or cleaning and as a consequence is harder to read. Much of the ink has faded, making analysis of the cases more difficult.⁶

Use has also been made of the Northamptonshire gaol delivery roll, Just3/51/1. Sadly this roll has not survived in such good condition as its counterparts from Leicestershire. Large areas of text are either missing or

⁴Wise, ed., *The Compotus of the Manor of Kettering*, p.17.

⁵This study will use ninety-four of the legible cases from Just3/30/1. Those cases that concentrate solely on Guthlaxton have been discounted in the interests of providing a picture of the crime rate on the eastern edge of the county of Leicester. Consequently only the Guthlaxton cases which involve another Hundred have been included. Just3/30/1 also provides a handful of cases from the town of Leicester, plus seven cases from outside the county. These will not be included in the statistics used for this chapter.

⁶Only twenty-eight cases were legible from Just3/30/2.

extremely faded. The roll was cleaned and restored in 1955, but the materials used in this process have merely contributed to its discoloration. Consequently, only the fifth membrane of the roll has been translated in this instance, providing seventeen cases from July 1308.⁷

These rolls provide the opportunity to examine the crimes and criminals of medieval society. They also reveal whether criminals acted alone or in groups and if they worked locally or in a neighbouring community. Comparisons will be made with information from the 'Calendars of the Patent Rolls' and the 'Calendars of the Close Rolls', which (as the large number of oyer and terminer enquiries included within them would suggest), concentrated on the more privileged sections of medieval society.⁸ Both sets of evidence, although addressing the crimes of different areas of society, give a clear impression of how easy it was to get away with crime, and how inefficient the justice system had become.

Unlike the twentieth century criminal, the medieval felon was not given a precise label for the offences he committed. 'The Mirror of Justices'⁹ lists the categories of medieval crime: perjury,¹⁰ falsification,¹¹ treason, arson, homicide, suicide, (false) imprisonment, mayhem,¹² wounding, larceny, hamsoken¹³ and rape. Within the gaol delivery rolls the most frequently perpetrated crimes fall into three main groups: theft, murder and the receiving of felons and stolen goods. An examination of the Patent and Close Rolls arranges the most frequently perpetrated crimes into five main groups: murder, assault, theft, breaking houses or parks, and extortion and oppression. The

⁷A translation of the remaining membranes was not possible within the confines of time allowed for this study.

⁸CPR 1258-1361, 22 vols.; CCR 1259-1364, 23 vols.

⁹W. J. Whittaker, ed., *Mirror of Justices* (SS, 7, London, 1893), pp.17-29.

¹⁰Perjury = those who alter information in the courts, e.g. removing the name of a person who has committed a crime, from the court roll and forgiving fines before payment.

¹¹Falsification = forging the king's seal or money.

¹²Mayhem = loss of limbs via assault. The loss of ears, teeth, the nose or the lips is not mayhem.

¹³Hamsoken = forcible entry of a house or park, or a felonious assault.

crimes in both the gaol delivery rolls and the Calendars can be further divided into those against property and those against the person. For example, forty-five of the cases within the gaol delivery roll for Leicestershire between 1310, 1311 and 1316 were directly against property, while twenty immediately affected a victim.¹⁴

Medieval crimes were also divided into the categories of either felony or trespass. Felonies were the most serious crimes, including murder, burglary, arson, and escaping from prison.¹⁵ Trespass covered a wider area of criminal activity, including assault, larceny, abduction, extortion and falsifying weights and measures.¹⁶ In the fourteenth century a series of new trespasses were recognised, such as the giving and receiving of excessive wages, and refusing to work.¹⁷

Violent felonies and trespasses were the crimes sung about in the contemporary ballads and songs. The theft of property featured in the tales of Robin Hood. In 'The Geste', whilst Little John is in the service of the sheriff under the alias of Reginald Greenleaf, he and the cook steal money and silver ware from the treasure house.

They toke away the silver vessell,	Also they toke the gode pens,
And all that thei might get,	Thre hundred pounde and more;
Pecis, masars, ne sponis, ¹⁸	And did them streyte to Robyn Hode,
Wolde thei not forget.	Under the grene wode hore. ¹⁹

Later in the same tale Robin holds up a monk on the highway, and takes £800 from his saddlebags.²⁰ Finally, in 'Robin Hood and the Potter', Robin

¹⁴Just3/30/1.

¹⁵Two cases within the examined gaol delivery rolls are simply recorded as felonies. Just3/30/1.m.2; Just3/30/1.m.4.

¹⁶J. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London, 1973), p.33.

¹⁷These new trespasses were introduced after the Black Death, when England was experiencing a labour shortage. Waugh, *Edward III*, p.166.

¹⁸Masars = drinking cups.

¹⁹D&T, 'The Geste', verses 175-6, pp.91-2.

²⁰*Ibid*, 'The Geste', verse 247, p.97.

tricks the sheriff to come into Sherwood. Once he is deep within the forest Robin steals the sheriff's horse and goods.

'That wot y well', seyde Roben,
'Y thanke God that ye be here;
Thereffore schall ye leffe yowre hors with hos,
And all yowre hother gere.'²¹

The reality of theft was less sophisticated than Robin's devious misleading of the sheriff, and had more in common with Little John's pillage of the sheriff's kitchen. Most thefts were either entirely opportunistic or were in retaliation for a previous theft or wrong. As Figs. 1 and 2 show, theft was the most recorded crime in the gaol delivery rolls for Leicestershire, with fifty-four of the 122 cases involving the stealing of goods. This trend is echoed in Northamptonshire, where eight of the seventeen cases examined concerned theft.²² Fig. 3 illustrates that the stealing of clothing and livestock were two of the most common crimes of theft. Twenty per cent of the cases from Just3/30/1 that concerned theft simply state that goods or chattels had been taken. The thieves tried in the gaol delivery rolls were usually those caught in possession of the goods in question. Once the stolen items had been passed on then there was little chance of detection unless the felon was named in court by an approver, often an accomplice in the crime.²³

Burglary and robbery, the more serious forms of theft, involved the violent aspects of plunder, assault or even murder.²⁴ Nine cases of violent larceny are recorded in Just3/30/1, three of which resulted in the death of the victim.²⁵ These more daring acts of theft were often committed against strangers, sometimes leading to their murder. For example, the justices for the

²¹*Ibid.*, 'Robin Hood and the Potter', verse 71, p.131.

²²Just3/51/1.m.5

²³In Just3/30/2 approvers are simply referred to as appellers. It is their own involvement in the crimes that gives the impression that they were actually approvers. For information about approvers see Bellamy, *The Criminal Trial*, pp.39-41.

²⁴See *Ibid.*, pp.69-86, for a discussion of the differences between acts of larceny, burglary and robbery.

²⁵Just3/30/1.m.2; Just3/30/1.m.4.

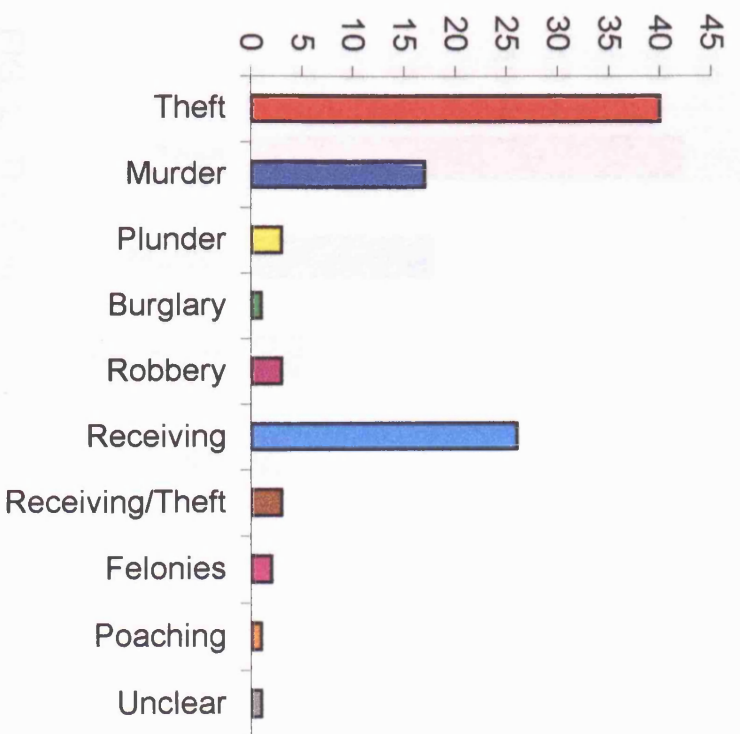


FIG 1. The Crimes Recorded in Just3/30/1.



FIG. 2. The Crimes Recorded in Just3/30/2.

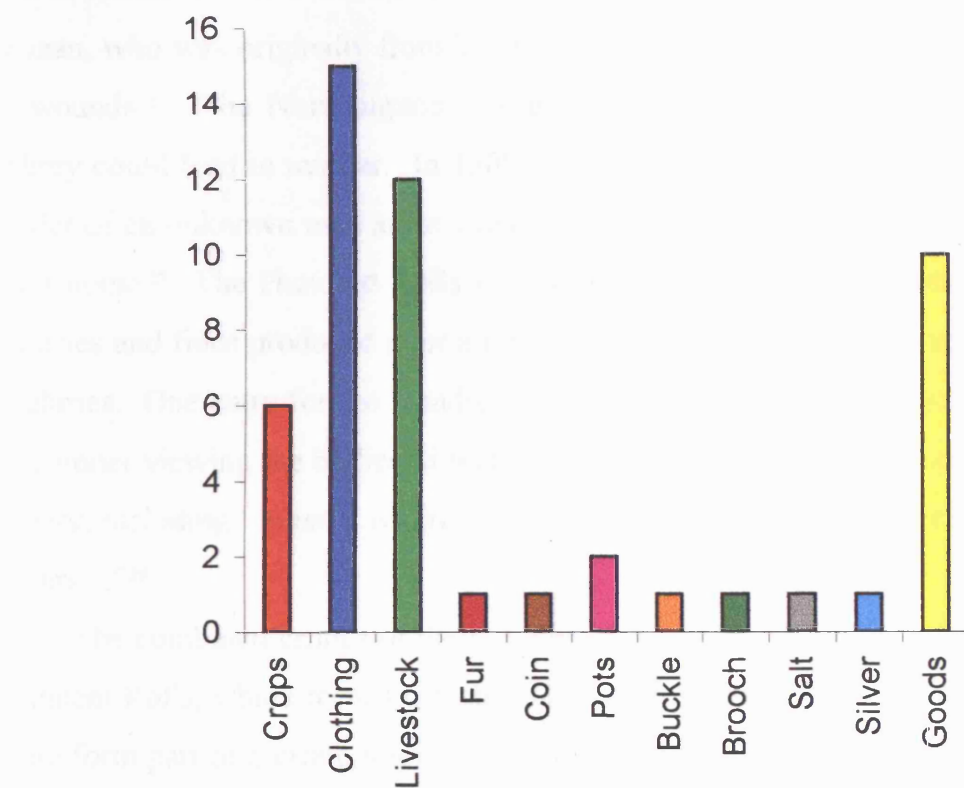


FIG. 3. Items Recorded as Stolen in Just3/30/1 and Just3/30/2.

Hundreds of Framland and Guthlaxton heard that John of Eyton and Richard of Childecote, in association with other thieves, plundered an unknown man in the field of Lindle co. Leicestershire, stealing one tunic and one shirt. They beat the man, who was originally from Warwickshire, so severely that he died from his wounds.²⁶ The Northamptonshire gaol delivery roll also illustrates how robbery could lead to murder. In 1308 Jordan of Bradford was accused of the murder of an unknown man at the town mill, whilst robbing him of silver, furs and a horse.²⁷ The Hundred Rolls for Derbyshire 1274-1275 document some enquiries and fines produced after a number of murders which occurred during burglaries. One entry for the Hundred of Appletree contains seven accounts of the coroner viewing the bodies of men and women murdered in the course of a robbery, including “Juliana, widow of Fulford...who was killed in her house by robbers...”²⁸

The combined crimes of theft and murder or plunder can also be seen in the Patent Rolls, which record fifteen such cases.²⁹ Robberies of such a serious nature form part of a crime referred to in the Calendars as breaking houses and parks. This violent felony involved entering a manor, close, or park, damaging the grounds, stealing goods, and assaulting or murdering anyone in the way. 127 of these sensational crimes featured in the oyer and terminer commissions recorded in the Patent Rolls, between 1260 and 1360. The serious way in which property and devaluing crimes were regarded is reflected in the fact that no pardons were rewarded for them in this period. One such incident took place in Leicestershire in 1330.

(Commission of Oyer and Terminer to Richard de Wylughby, Simon de Drayton, Roger de Baquelle and Robert Burdet), on complaint by William de Bredon that Robert Tebbe, Adam Tebbe, Richard Tebbe, William Tebbe,... and others broke his houses and chests at Bredon and Scorthum, co. Leicester, and drove away a horse,

²⁶Just3/30/1.m.2.

²⁷Just3/51/1.m.5.

²⁸J. P. Yeatman, *Feudal History of Derbyshire*, Section III, Vol. 2 (London, 1895), pp.46-7.

²⁹An example of a crime involving both theft and murder can be found in *CPR 1258-1266*, p.480.

three oxen and three cows, worth 10l., fished his vivaries, carried away fish, timber from his house, six charters, seven writings obligatory and other muniments, and assaulted his servants.³⁰

In the early thirteenth century Bracton records that an assault victim could, should his wounds be severe enough, bring an appeal of mayhem or felony against the accused.³¹ By the early fourteenth century an assault could be recorded as a maiming, but would still only be classed as a form of trespass.³² Despite the terminology 'assault' being used by the fourteenth century, English law still failed to provide a specific punishment for what it regarded as a trespass, often only forcing the accused to pay a fine, despite the extent of the victims wounds.³³ Assaults that accompanied larceny were often of a very serious nature.

Commission of oyer and terminer to William de Shareshull, William Basset, Robert de Thorpe and Hugh de Berewyk, on complaint by Richard de Thorpe that Simon de Braybrok, vicar of the church of Gildesburgh, Richard Mayn, Richard Randolf of Sharnesford, William le Hunte and others carried away his goods at Gildesburgh, co. Northampton, and assaulted his servant Geoffrey de Burton there, whereby he lost his service for a great time.³⁴

The Patent Rolls record 233 enquiries into assault, only 3 of which were pardoned. Eighty-four of these were committed for their own sake, with the remaining 149 accompanying another crime. The crime of assault or plunder is portrayed in the literature of the period. The violence of the attacks described in 'The Tale of Gamelyn', and the light-hearted attitude that is taken towards them gives an insight into the nature of fourteenth century crime. The theme of the poem is undoubtedly retribution, and it is this that seems to excuse the violence it contains. When Gamelyn beats the servants in his elder brother's

³⁰CPR 1327-1330, p.560; Four other people were involved in this crime.

³¹Bellamy, *The Criminal Trial*, p.189.

³²T. Twiss, ed., *Henrici de Bracton De Legibus Et Consuetudinibus Angliae*, Vol. 2 (RS, 70, London, 1878-1883), pp.408, 411.

³³Bellamy, *The Criminal Trial*, p.189

³⁴CPR 1343-1345, p.81.

household, it is simply dismissed as 'play', yet he is described as, 'a wilde lioun', who came at his victims with 'a pestal'.³⁵ Later in the poem Gamelyn attacks his brother's porter, breaking his neck and throwing him into the well.³⁶ Again the incident is described as 'play,' a means by which the hero of the story gets his own way and overcomes his 'evil' brother.

As receiving was as common a crime as theft, then it must be assumed that it was as dangerous to keep or receive stolen goods, especially within the locality of their original owners, as it was to carry out the theft in the first place. The receiving of stolen goods, such as tunics and wheat, in payment for harbouring criminals, accounted for 27% of the cases in the Leicestershire roll, Just3/30/1.³⁷ In 1310 Thomas, son of Egidic, came before the court as a denounced approver. During his court appearances Thomas appealed against thirty-two other people in twenty-five separate cases. Nineteen of these cases involved the accused receiving Thomas, his colleagues and his stolen goods.³⁸

The higher classes were also involved in the receiving of criminals.³⁹ Those who retained felons to do their dirty work were expected to receive and shelter them from the clutches of the law.⁴⁰ Despite its frequent appearance in Just3/30/1, receiving only accounted for 7% of the cases in Just3/30/2.⁴¹ The coroner's rolls for Northamptonshire show that receiving accounted for only 4.6% of the crimes in Northamptonshire between 1300 and 1348.⁴² These figures suggest that the large numbers of receivers indicted in 1310, 1311 and 1316 in Leicestershire were the result of the arrest of a particularly active

³⁵Sands, ed., *Middle English Verse*, lines 120-32, p.160.

³⁶*Ibid.*, lines 303-6, pp.164-5.

³⁷See Fig.1.

³⁸Just 3/30/1.m.1; Just 3/30/1m.3.

³⁹CPR 1345-1348, p.551.

⁴⁰See Chapter 4.4.

⁴¹See Fig. 2.

⁴²Hanawalt, *Crime and Conflict*, p.93.

approver. However, receiving was obviously a serious problem, a side effect of the other crimes being committed in medieval society.

The crime that always attracts the most interest in studies of this kind is that of murder. There were two meanings of the word murder in the medieval period. The original meaning was connected with the fine of *murdrum*, which was paid when a body was found during the Norman period.⁴³ Until the end of the thirteenth century documents rarely used the term murder. It was more usual for unlawful killing to be referred to as *occidere* or *interficere*, that is a secret slaying, under cover. In the early fourteenth century the term murder acquired its accustomed meaning.⁴⁴

From the number of murder offences within the gaol delivery rolls it is clear that this most serious of felonies played a significant part in the crime rate of the Midlands. As Figs. 1 and 2 show, homicide formed 18% of the crimes within Just3/30/1 and 25% of those within the Just3/30/2.⁴⁵ The records do not provide any indication as to whether these crimes were premeditated or opportunist, but they were certainly fairly frequent. Of the twenty-five murder cases, only five of the accused were guilty, three of the verdicts were illegible, the remainder being found not guilty.

A further indication of the frequency of murder cases can be seen by examining a membrane from the Northamptonshire eyre rolls for 1329-1330, which reveals 72 murders.⁴⁶ These homicides were dealt with in a variety of ways. Fourteen people were outlawed after failing to turn up for their trials; twelve were found not guilty; ten were sent to prison while the judge decided if they had killed in self defence; seven were pardoned; four were hanged; four were placed in the town's mercy; four escaped; three were sent to gaol; two people died in prison while awaiting their trial; two were covered by the benefit

⁴³Bellamy, *The Criminal Trial*, p.57.

⁴⁴*Ibid*, pp.56-60. See Bellamy for an account of the origins of the terminology of murder.

⁴⁵Compare with Hanawalt's findings in Norfolk, with 14% of the records showing acts of homicide. Hanawalt, *Crime in East Anglia*, p.11.

⁴⁶Just1/635.

of clergy⁴⁷ and one unfortunate was burnt at the stake. In the remaining nine cases the accused were arrested, but no further information is given.

Motives for acts of homicide are extremely difficult to determine from the gaol delivery rolls. As with those cases of theft, the homicides recorded appear to have been unplanned events which took advantage of current surroundings, with perhaps the felon taking a cursory glance to make sure they were not being overlooked. Many of the murders recorded were the result of quarrels that got out of hand. An example from the Warwickshire eyre for 1262 tells that Geoffrey de Bygginge of Stoke and Mabel le Hucstere quarrelled, until Geoffrey threw her to the ground, where she ruptured internally, and later died.⁴⁸ The frequency of homicides involving family and occupational groups must indicate that, to some extent, murder was used as a means of revenge and a method to gain land and maintain one's position in society. A commission issued in this vein in March 1305 shows how an unknown party was seemingly determined to stop John Dyve receiving the debt he was owed.

Commission to John Luvel of Snotescumbe, and Hugh Wak, on complaint by John Dyve, to enquire by jury of the county of Northampton touching the persons who despoiled Simon Godman his servant, whom he had sent to Wyke Dyve for a sum of money, of 4 marks and other goods at Wyke, killed him and buried him without view of the coroners.⁴⁹

The homicides recorded within the Patent and Close Rolls are perhaps more likely to have definite motives. Members of the gentry and lesser gentry who could afford to hire thugs, or were hired themselves, to carry out specific murders, must have known exactly what they wanted to result from a certain person's death.⁵⁰

⁴⁷See Chapter 2.2.

⁴⁸T. John, ed., 'Extracts from the Crown Pleas of the Warwickshire Eyres', ed., P. Coss, The Early Records of Medieval Coventry (Records of Social and Economic History, New Series, 11, London, 1986), p.53.

⁴⁹CPR 1301-1307, p.349.

⁵⁰The hiring of criminal gangs to carry out particular crimes is discussed in Chapter 4.4.

As Chapter 1 has illustrated, arguments between neighbours were a major cause of murder in the thirteenth and fourteenth centuries. Quarrels that got out of hand could become physical, and end up with the drawing of a weapon, usually a readily available knife. The result could easily be the accidental death of a participant.⁵¹ Death by misadventure,⁵² accidental death⁵³ and death by self defence⁵⁴ accounted for 146 of the enquiries into murder recorded in the Patent and Close Rolls.⁵⁵ Manslaughter was not considered a crime until the sixteenth century.⁵⁶ Those cases that a twentieth century court would label manslaughter are found within the medieval categories of wounding, breaking houses, assault and plunder. Those recorded in the Patent Rolls as being considered “out of their right mind”⁵⁷ were often pardoned their crimes, as were those who acted in a “fit of frenzy”.⁵⁸ However, the gaol delivery rolls give the example of Richard of Thorp of Northamptonshire, who was arrested and tried for the death of Serlon of Thorp. The justices decreed that Richard was mad, and returned him to gaol.⁵⁹

Murder was the felony most committed in the ballads of Robin Hood, with twelve cases in four of the original six ballads, including the death of Robin Hood himself. There are two versions of the ballad concerning Robin’s eventual end. Both revolve around the prioress of Kirklees in Yorkshire, who plotted his death by bleeding, as revenge against his treatment of the church.⁶⁰ In the first version of the ballad the prioress is accompanied by Red Roger,

⁵¹See Chapter 2.3 for a discussion on the use of weapons in medieval crime.

⁵²CPR 1301-1307, p.421.

⁵³CPR 1358-1361, p.243.

⁵⁴CPR 1313-1317, p.343.

⁵⁵CPR 1258-1361, 22. vols; CCR 1260-1360, 23 vols.

⁵⁶J. M. Kaye, ‘The Early History of Murder and Manslaughter, Part 1’, *The Law Quarterly Review*, 83 (1967), pp.365-95; Bellamy, *The Criminal Trial*, pp.62-3.

⁵⁷CPR 1266-1272, p.537. Pardoned due to madness and insanity.

⁵⁸CPR 1301-1307, p.458. A mother kills her daughter in a fit of frenzy.

⁵⁹Just3/30/1.m.3.

⁶⁰D&T, ‘Robin Hood’s Death’, version B, verse 8, p.137.

sometimes referred to as Sir Roger of Doncaster. Whilst Robin was bleeding to death, Roger attacked him, but Robin managed to cut his head off with a sword.

But Robin was light and nimble of foote,
And thought to abate his pride,
Ffor betwixt his head and his shoulders
He made a wound full wide.⁶¹

The idea of Robin having enough strength left to kill a man after he had been bleeding to death for nearly 24 hours is farcical. However, the ballad clearly shows that violence was accepted as a means of revenge, a force for right over wrong. It also portrays the authoritative figures of the prioress and Sir Roger as evil, compared to Robin, who is seen as a skilful hero, disposing of Roger in his final hours.

The other 'Robin Hood' homicides are no less violent. The sheriff of Nottingham meets a grisly end in two of the early ballads. The first sheriff is murdered in reprisal for an attack on the outlaws after the capture of Sir Richard of Lee, and the wounding of Little John by an arrow in the knee.

Robyn bent a full goode bowe,	And or he myght up aryse,
An arrowe he drowe at wyll;	On his fete to stonde,
He hit so the proude sherife,	He smote of the sherifs hede,
Upon the grounde he lay full still.	With his bright bronde. ⁶²

In 'Robin Hood and Guy of Gisborne' two attempts are made on the sheriff's life. The first fails, when Little John misses hitting the sheriff with an arrow, accidentally killing one of his men. Towards the end of the ballad John's skill with a bow is reaffirmed, when the sheriff is murdered whilst running away from the outlaws.

But he cold neither soe fast goe,
Nor away soe fast runn,
But Litle John, with an arrow broade,
Did cleave his heart in twinn.⁶³

⁶¹*Ibid.* 'Robin Hood's Death', version A, verse 21, p.136.

⁶²*Ibid.* 'The Geste', verses 347-8, p.104.

All the homicides in these ballads, and others from the same genre, such as 'Adam Bell, Clim of the Clough, and William of Cloudesly' (who claim to have killed over 300 men), and 'The Tale of Gamelyn' (which tells of the murder of at least 20 individuals), justify their murders because they are acts of revenge, generally out of loyalty to a master or a friend, or in the interests of public justice.⁶⁴ The attitude that it was acceptable to remove someone who was a threat to yourself, family, and friends seems to be a theme replicated from medieval life.

Poaching was one of the most recurrent crimes in medieval England, ranging from the petty theft of fallen wood, to the assault and murder of those protecting the king's forest.⁶⁵ The poaching of rabbit, deer and boar was a way of enhancing an insufficient diet for the poor. Many must have been willing to risk punishment to feed their starving families. The gaol delivery rolls for Leicestershire give only one example of a poaching case, when Thomas of Halonton and Roger Berar of Belton were indicted for killing does.⁶⁶ It was the gentry who elevated poaching to its status as one of the most prevalent crimes in medieval society, as hunting was a very popular pastime. The eyre rolls for Rockingham forest in 1286, for example, record that the knight, Robert of Cockfield, poached regularly with his groom, his woodward and two men from Oakley, one of them the son of a parson.⁶⁷ The Patent and Close

⁶³*Ibid.* 'Robin Hood and Guy of Gisborne', verse 58, p.145.

⁶⁴The other incidents of homicide in the Robin Hood ballads can be found in *Ibid.* 'The Geste', verse 453, p.112; 'Robin Hood and the Monk', verses 49-53, p.119; 'Robin Hood and Guy of Gisborne', verses 12, 17, p.142, verse 40, p.144; *Ibid.* 'Adam Bell, Clim of the Clough, and William of Cloudesly', verse 138, p.271. Sands, ed., *Middle English Verse*, pp.157-81.

⁶⁵J. Birrell, 'Who Poached the King's Deer?: A Study in Thirteenth Century Crime', *Midland History*, 8 (1982), pp.9-25; J. Birrell, 'Forest Law and the Peasantry in the Later Thirteenth Century', eds., P. Coss, and S. Lloyd, *Thirteenth Century England II: Proceedings of the Newcastle Upon Tyne Conference, 1987* (Woodbridge, 1988), pp.149-63.

⁶⁶Just3/30/1.m.2. The document describes Thomas as being Thomas of Crannetio of Halonton. The majority of poaching cases would have come before the Forest courts.

⁶⁷Birrell, 'Who Poached the King's Deer?', p.12.

Rolls for the East Midlands record 117 enquiries into poaching. Twenty-four of these criminals were pardoned, a further 86 being bailed. The taking of both vert and venison was especially prominent in Sherwood and Rockingham forests.

Stephen de Lindeby, imprisoned at Nottingham[sic] for a trespass made in the king's Hay of Lindeby, has letters to Geoffrey de Nevill (Neuull), justice of the Forest beyond Trent, to bail him.⁶⁸

The ballads of Robin Hood also contain references to poaching in Sherwood.⁶⁹ In 'Robin Hood and the Curtal Friar' the outlaws have a competition to see who is the most skilled archer, by killing deer.

'Which of you can kill a buck?
Or who can kill a doe?
Or who can kill a hart of Greece,
Five hundred foot him fro?' ⁷⁰

The ballads give the impression that poaching was purely for sport; there is no indication that the outlaws were killing for meat, although it can be assumed that the provision of food was an incidental sideline. This would certainly be in keeping with the activities of the gentry and their gangs in fourteenth century England. In 'The Tale of Gamelyn', John, Gamelyn's brother, poaches deer from Gamelyn's parks so often that they were 'bireeved' of deer.⁷¹

The crime of counterfeiting was one of the most hazardous for the medieval criminal. Not only did it require a great deal of time and skill, the forging of money was considered treason, and was therefore punishable by a

⁶⁸CCR 1272-1279, p.15.

⁶⁹The forest of the ballads is usually referred to as 'Nottingham forest', not Sherwood. There is a school of thought that places Robin Hood in Yorkshire because one of the forests mentioned in the ballads is Barnsdale. However, there is also a 'Barnsdale wood' within Sherwood, and another 'Barnsdale wood' which formed part of the forest of Rutland; Lees, *The Quest for Robin Hood*, pp.51-71.

⁷⁰D&T, 'Robin Hood and the Curtal Friar', version B, verse 3, p.161.

⁷¹Sands, ed., *Middle English Verse*, line 85, p.159.

tortured death.⁷² It must therefore have come as a relief to Alice Whyting, her daughter Letica, Galfride the Carter, and his wife Annabella, to be found not guilty of the charge when they were accused in Leicestershire in 1330.⁷³

The final felony disclosed in the gaol delivery rolls for Leicestershire is arson. This crime is rarely found in the legal records of the thirteenth and fourteenth century. No cases were heard in the Hundreds of Leicester in 1310, 1311 or 1316, and only one case is recorded from 1330.⁷⁴ In this complex case John Bussel was appealed of stealing goods and chattels worth 10s., and burning down a house. The poor condition of the document means it is not possible to tell whose house was attacked, or whether someone was in it at the time. It appears that the said John had been a member of the clergy, and that he was pronounced guilty of the crime.⁷⁵

As there was no insurance on property the likely motives behind the wilful burning of property were revenge, or a threat before extortion. Sometimes homes or food storage barns were burnt down after they had been burgled, or to cover up a murder. It is probable that a greater number of threats of arson were made than actual attacks, in an attempt to extract money from a chosen victim. Gangs of criminals are known to have sent threatening letters to rich landowners as a quick way of making money. Henry de Wynkeburn, a member of the Coterel gang from Derbyshire, sent a letter to William Amyas, mayor of Nottingham, via an unknown man, telling him to pay £20 to the society of 'gentyz savages'. If he did not pay all his properties outside Nottingham would be burnt down.⁷⁶

⁷²Hanawalt, Crime in East Anglia, p.11.

⁷³Just3/30/2.m.2. See Fig.2.

⁷⁴Ibid.

⁷⁵Just3/30/2.m.1. The Patent Rolls for 1260-1360 document two cases of arson from 1278 and 1279, and a further thirteen cases between 1303 and 1360.

⁷⁶Report on the Manuscripts of Lord Middleton: Preserved at Wollaton Hall, Nottinghamshire (Historical Manuscript Commission, No.69, London, 1911), p.279.

Arson is recognised as a crime in the ballad, 'Robin Hood's Death', when Little John declares that he will burn down the priory after Robin has been bled to death by the prioress.⁷⁷ However, Robin forbids John to carry out his revenge, reinforcing the outlaw's image as heroes against a corrupt authority.

Although there are no other specific crimes mentioned in the gaol delivery rolls under examination here, three further crimes are worthy of discussion. Rape, abduction and extortion were all crimes in their own right in the fourteenth century, yet each can also be linked together, as they were largely bound by a need or desire to own more property.

It was not until the second Statute of Westminster that rape was given the status of a crime in its own right. Before 1285 rape was recorded as a form of assault, punishable by castration. This sentence was rarely carried out, often being replaced by a fine.⁷⁸ For a crime to be considered rape, Bracton writes, the woman concerned had to seek out the provost of the hundred, the sergeant of the king, the coroner and the sheriff. When she made her appeal she must declare that the accused had come 'violently and wickedly', and taken away her virginity.⁷⁹ This does not mean that only unmarried women could claim rape, but a married woman could not make the claim herself, it had to come through her husband.⁸⁰

Once the statute of 1285 had been passed, rape was punishable by hanging in line with any other serious crime.⁸¹ Very few cases came to court and those that did frequently ended in an acquittal of the charge, or even the marriage of the felon to the victim. Even after the statute there were few documented cases of rape that ended in prosecution.

⁷⁷D&T, 'Robin Hood's Death', verse 25, p.136.

⁷⁸Bellamy, *The Criminal Trial*, p.164.

⁷⁹Twiss, ed., *Henrici de Bracton De Legibus*, Vol. 2, pp.416-8.

⁸⁰Bellamy, *The Criminal Trial*, p.163.

⁸¹See *Ibid.* pp.162-82, for an excellent account of the legal processes and consequences of rape.

The crime of ravishment was closely related to that of rape. Ravishment referred to the abduction of women, but did not necessarily lead to the greater crime. Those convicted of ravishment after the 1285 statute faced two years in prison and a large fine. This seems a light penance to the modern mind, but the state of the medieval prison made even a few months imprisonment a harsh penalty.⁸²

Ravishment and rape was more likely to occur between a man looking for an increased stake of land in the local area, a woman with a large inheritance, a widow who has just gained her husband's lands, or the daughter of a wealthy lord, rather than as an opportunistic crime. This made rape and abduction amongst the higher classes as much a property crime as an assault. Women who were trapped in marriages that were not to their liking are known to have used abduction and rape as a way of escaping from their husband; arranging to be abducted by the suitor of their choice.⁸³ The rape of a wife would also have been an effective act of revenge on her husband by a political or economic rival. For example, in 1357, Christiana, wife of Robert de Lethare was ravished and raped at Coventry by Nicholas le Hunte of Warwick, who also stole the family silver. Shortly afterwards he ravished her again, this time at Stratford-on-Avon, stealing more of her husband's goods.⁸⁴ Many rape cases must have been settled out of court to avoid any scandal.

Evidence for rape is limited. There were no cases recorded in the Patent or Close Rolls until after 1311, nor did Hanawalt discover any in the coroner's rolls for Northamptonshire between 1300 and 1348.⁸⁵ After 1311 there are only 5 cases of rape recorded in the Patent Rolls. The following example took place in Nottinghamshire in 1330.

⁸²S. S. Walker, 'Punishing Convicted Ravishers: Statutory Structures and Actual Practice in Thirteenth and Fourteenth Century England', *Journal of Medieval History*, 13 (1987), pp.237-50.

⁸³*Ibid.*, p.239.

⁸⁴CPR 1354-1357, p.569. Clearly this was an attack against Robert de Lethare. It is difficult to decide whether it was carried out with or without Christiana's consent.

⁸⁵CPR 1258-1361, 22. vols.; CCR 1260-1360, 23 vols.; Hanawalt, *Crime and Conflict*, p.105.

Order to restore to Thomas de Radeclif son of Thomas de Radeclif on Trent, clerk of the diocese of York, his lands, goods and chattels, which were taken into the king's hands upon his being charged before Robert de Malberthorp and Robert de Scorburch, late justices in eyre in the county of Nottingham, with the rape of Alice de Rughford at Carleton near Nottingham, who was carried off to Radeclif on Trent, as he has purged his innocence before William, archbishop of York, to whom he was delivered by the justices according to the privilege of the clergy.⁸⁶

As the above extract shows, the crime of abduction was interwoven with that of rape. However, it was not just potential ravishers who kidnapped men and women in the medieval East Midlands. There were 8 abductions recorded in the rolls for the East Midlands and 6 kidnaps and ransoms. Only two of these abduction cases were pardoned, an attack on a nun on the Nottinghamshire and Lincolnshire border, and the abduction of Margaret, daughter and heiress of Thomas de Multon of Gillesland, taken by Ranulph de Dacre from Warwick castle.⁸⁷ Four of the ransom cases were pardoned, possibly because the justices were afraid they might be greeted with similar treatment if they did not pardon those accused. The nature of these crimes meant that they were generally carried out by at least two assailants. Gangs often specialised in abduction in order to extract large ransoms from their victims.⁸⁸

Rape does not appear in the original ballads of Robin Hood. Robin and his men are seen as the upholders of women's virtue. It was not until the arrival of the later medieval French play, 'Robin and Marion', that abduction,

⁸⁶CCR 1330-1333, p.59. The record goes on to show that one William de Burton (who was in sub-deacon orders) assisted Thomas in this crime. In Northamptonshire there was one rape recorded accompanied by a murder, an unlawful assembly and an assault on the under-sheriff; CPR 1348-1350 p.515. In Warwickshire one rape was pardoned at the request of the Archdeacon of Lincoln, CPR 1321-1324, p.139. Two rapes occurred in Leicestershire, both of them accompanied by a robbery; CPR 1307-1313, p.426; CPR 1354-1358, p.352. In 1343 a commission was granted by the government to examine all the violent crimes committed in Leicestershire, with specific reference to rape. CPR 1343-1345, p.181.

⁸⁷CPR 1350-1354, p.225; CPR 1317-1321, p.39.

⁸⁸See Chapter 3.1.

with the overtones of rape or ravishment, enters into the stories. Approached by a knight, Marion, a shepherdess tending her flock, is forced into the woods.

Marion: 'My lord! Take your horse away! He almost hurt me. Robin's horse doesn't rear when I follow his plow.'

Knight: 'Be my sweetheart, shepherd girl; give in to me do.'⁸⁹

Marion raises the hue and cry, and somehow manages to talk her way out of trouble. The Robin Hood songs and poems were there to arouse popular sympathy; a rape by a gang member would not have achieved this aim.

Abduction and kidnapping led to ransoms, and so to extortion. Extortion was practised with expertise by many of the criminal gangs across England.⁹⁰ The sending of threatening letters, often imitating the royal style, demanding money with menaces appears to have been a growing problem in the fourteenth century.

Lecia Pymme,⁹¹ of Bonyngton carried a letter to the parson of Cortlyngstok (Cortlingstock, co. Notts) and Robert de Barton to extort money from them, directed to them by William Pymme, her son, grievously threatening them.⁹²

The fourteenth century gang headed by Lionel, the so-called, 'king of the rout and raveners' (robbers), operating in Yorkshire and the surrounding area, was notorious for 'influencing' the appointments of local officials.⁹³ By sending threatening letters, and making sheriffs and under-sheriffs eat the writs they were delivering, they had quite an effect on who was appointed to what position. The following example from 1336 shows a letter they sent to the chaplain of Huntingdon, Richard de Snaweshill.

Lionel, king of the rout and raveners salutes, but with little love, his false and disloyal Richard de Snaweshill. We command you, on pain to lose all that can stand forfeit against our laws, that you immediately remove from his office him whom you maintain in the vicarage of Burton Agnes; and that you suffer that the Abbot of St.

⁸⁹O. Mandel, *Five Comedies of Medieval France* (New York, 1970), p.87.

⁹⁰Stones, 'The Folvilles of Ashby-Folville', pp. 117-36; Bellamy, 'The Coterel Gang', pp.698-717.

⁹¹Pymme was a female adherent of both the Folville and Coterel brothers. See Chapter 3.1.

⁹²*Report on the Manuscripts of Lord Middleton*, p.280.

⁹³Stones, 'The Folvilles of Ashby-Folville', pp.134-5.

Mary's have his rights in this matter and that the election of the man whom he has chosen, who is more worthy of advancement than you, or any of your lineage, be upheld. And if you do not do this, we make our avow, first to God and then to the king of England and to our own crown that you shall have such treatment at our hands as the Bishop of Exeter had in Cheap; and we shall hunt you down, even if we have to come to Corey Street in York to do it. ... Given in our Castle of the North Wind, in the Green Tower, in the first year of our reign.⁹⁴

It is clear from this letter that the Abbot of St Mary's was paying these brigands to threaten Richard de Snaweshill. It is perhaps no coincidence that the corrupt abbot in the Robin Hood tales is also from St. Mary's.⁹⁵

The violent offences that occur in the popular ballads of the fourteenth century are only committed against figures of authority and those in their service. The murders of Robin Hood's sheriff and monk and Gamelyn's brother are all in retaliation for wrongs done to them or members of their gangs. The thirteenth and fourteenth century was notorious for its corrupt officials. With the government consumed with activities in France, Wales and Scotland, extortion and corruption were left to flourish amongst the administrators of local government. There are 18 recorded accounts of extortion and oppression recorded in the Patent and Close Rolls between 1260 and 1360.⁹⁶ At first glance this does not seem very many, until it is recognised that often the officials whose duty it was to pursue the criminals, committed many acts of oppression themselves. It was a brave tenant who complained against the local lord or bailiff. The Warwickshire eyre for 1262 illustrates how bailiffs could abuse their position.

The jurors present that Hugh Russell was taken with a certain horse which Ranulf de Kaus and Walter le Blunt, bailiffs of Coventry, said he stole, and they put him in the stocks and held him there for 8 days so that his feet rotten through that imprisonment and later fell from his legs from which he afterwards died. And Walter comes and

⁹⁴Hanawalt, Crime and Conflict, p.209.

⁹⁵The Abbot of St Mary's appears in 'The Geste'; D&T, pp.79-112.

⁹⁶CPR 1307-1313, p.40.

denies that he ever took the aforesaid Hugh or imprisoned him, or that he was imprisoned with his assent and concerning this puts himself on the country for good or ill.⁹⁷

Ranulf and Walter were found to be guilty of the crime. In the interim period between the crime and the trial, Walter had taken holy orders, so was cast in gaol until being handed over to a clerical court, whilst Ranulf was outlawed.⁹⁸ The Rutland eyre for 1269 records that Peter de Neville was abusing his position as a forest official by committing acts of extortion, taking what belonged to the king, and unlawfully fining and imprisoning people.⁹⁹ Another commission, issued in 1314, concerned extortion in the manor of Selueston in Northamptonshire.¹⁰⁰ The king had been informed that the houses of the manor were not being cared for and that the tenants were being oppressed.¹⁰¹ The problem of landlords and officials abusing their position was serious enough for the government to take time out from the administration of war to pass measures to curb their excesses. In 1317 a body of justices was appointed to look into the offences and malpractice of the king's officials and others in Nottinghamshire and Derbyshire.¹⁰²

The political poems of the period contain complaints of extortion, oppression and corruption. The 'Song on the Venality of the Judges' complains bitterly of the harshness of the sheriff towards the poor.

⁹⁷John, ed., 'Extracts from the Crown Pleas of the Warwickshire Eyres', p.55.

⁹⁸This is an excellent example of how felons used the church to avoid punishment for their crimes. See Chapter 2.2.

⁹⁹G. Turner, ed., Select Pleas of the Forest (SS, 13, London, 1901), pp.44-53.

¹⁰⁰CPR 1313-1317, p.245.

¹⁰¹Ibid. p.245.

¹⁰²CPR 1313-1317, p.685. Other enquiries into the misuse of official authority can be found in Just 1/637.m.10; Just 1/638/8-682/2.m.14/537; Just 1/681.m.5.

Concerning the sheriffs, who can relate with sufficient fulness how hard they are to the poor?

He who has nothing to give is dragged hither and thither, and is placed in the assises, and is obliged to take his oath, without daring to murmur.

But if he should murmur, unless he immediately make satisfaction, it is all salt sea.¹⁰³

In the 'Song Against the King's Taxes', the lamenting of the poor hits a familiar note.

O God, who wast crowned with the sharp thorn,

have pity with divine grace upon thy people!

May the world be comforted of such ruin!

To tell unvarnished truth, it is mere robbery.

The property of the poor taken without their will, is as it were stolen.¹⁰⁴

These complaints are repeated in much of the literature of the period, suggesting that the amount of extortion revealed in the records hints at a much deeper problem. In 1359 the Close Rolls record that the corrupt justice Walter de Thorpe was exigented to be outlawed for acts of extortion and trespass he inflicted on the tenants of Thorpe Langton, Leicestershire.¹⁰⁵

The Robin Hood ballads give the impression that extortion and ransom were the means by which the outlaws made most of their money. The ballads tell of rich officials being waylaid along the roads that ran through the forest, before being invited to dinner. Once they had eaten their fill, they were forced to pay for their meal, along with a tax to pass through the forest. An example of the outlaws planning their crime can be seen in the first stanza of 'The Geste'.

Than bespake hym gode Robyn:

'To dyne have I noo lust,

Till that I have som bolde baron,

some unketh gest.

Till that I have som bolde baron,

That may pay for the best,

Or som knyght, or some squyer

That dwelleth here bi west.' ¹⁰⁶

¹⁰³Coss, ed., *Wright's Political Songs*, p.228.

¹⁰⁴*Ibid.*, p.185.

¹⁰⁵CCR 1354-1360, p.640. This same Walter de Thorpe was sent to the Tower in 1350 for the continued abuse of his position as justice. See Chapter 4.3.

¹⁰⁶D&T, 'The Geste', verses 6 -7, p.79.

The crimes committed in medieval England covered a wide spectrum, from petty crime to murder and rape. Largely unplanned, the crimes were mainly opportunistic, such as stealing items left unguarded, or taking part in a fight which escalated into an assault or murder. Those crimes that were premeditated, often committed within the higher echelons of society, were those of the most serious nature, such as breaking houses.

2.2. Criminals of the Honour of Leicester

Criminals did not come from one specific class, but from all sections of medieval society. Each class, gender and occupation had members embroiled in the use of violence and lawlessness. Theft, extortion and murder were accepted as means of sorting out disputes and furthering political ambitions. The scholar must appreciate the contemporary attitudes towards violence committed by medieval society. For example, when Adam of Clattercote found John of Sutton feeding his animals on the green in the village fields he asked John to pay for the damage. John drew a knife and chased Adam to the river. As Adam was unable to escape he hit John with a poleaxe, killing him straight away. When the case came to court the jury decided that this was justifiable self-defence, and sent Adam to prison to await the king's grace and pardon.¹⁰⁷ This incident illustrates how jealously each community guarded its rights to grazing lands and property, giving an insight into a way in which violence could escalate from a quarrel. Land and property disputes were frequently the cause of medieval violence. In Leicestershire, July 1336, Richard Astel and an accomplice killed William de Kylby of Wigston in the meadows of Newton Harcourt. Then in 1340, Alice, the daughter of Roger de Walton of Wigston, killed Adam Godwin. Both of these incidents concerned arguments over rights to areas of land.¹⁰⁸

¹⁰⁷Just1/1/1028.m.3; R. Hilton, A Medieval Society: The West Midlands at the End of the Thirteenth Century (London, 1966), p.251.

¹⁰⁸W.G. Hoskins, The Midland Peasant: The Economic and Social History of a Leicestershire Village (London, 1957), p.78.

The Calendars of the Patent and Close Rolls give the impression that the higher classes were all involved in some degree of crime. The coroner's rolls for Northamptonshire confirm that it was the well-to-do families that frequently appeared in the courts, although it was the lesser gentry that dominate the legal records. The status of those who appeared in the court rolls can be assessed by the value of the recorded moveable chattels. Hanawalt has shown that out of the 248 cases, where the value of chattels is given, the average wealth of those arrested for murder in Northamptonshire in the fourteenth century was 10s.4d, making them landowners.¹⁰⁹ Unfortunately little evidence of chattel values is given (or where given is legible), in the gaol delivery rolls for Leicestershire. Only eight of the cases examined from Leicestershire give chattel values, all of which were over 6s. A further twelve cases state that the accused had no chattels; the other cases giving no clues as to the defendant's worth.¹¹⁰ Those chattels that are mentioned, however, are all significant. For example, Henry, son of William Ranloc of Drayton, found guilty of theft in the Hundred of Gartree, had his chattels worth 2s., and his house in Norton confiscated.¹¹¹ The chattels that are recorded suggest that those accused in the gaol delivery courts were members of the lesser gentry or those with their own property or workshop.

The lesser gentry are the most prominent social group to appear in the legal records between 1260 to 1360. Hilton remarked with some accuracy that, "Members of the gentry families appear (in the legal rolls) with such considerable frequency, in proportion to their total numbers, that disorder appears almost to be a by-occupation of the class."¹¹² There can be no doubt that these were the people committing most of the serious offences. However, this fact must be balanced against the knowledge that they were also the largest group with the right to appear in court.

¹⁰⁹Hanawalt, Crime and Conflict, p.129.

¹¹⁰Ibid: Just3/30/2.

¹¹¹Just3/30/1.m.4.

¹¹²Hilton, Medieval Society, p.254.

It is within the class of lesser gentry that Sir Richard of Lee, the knight from 'The Geste', can be placed. Although he does not commit a violent offence himself, he is associated with felonious activities. Sir Richard is found receiving known criminals, Robin Hood and his men.¹¹³ Receiving was one of the foremost crimes associated with both the lesser gentry and the higher nobility, who retained criminals for their own use.¹¹⁴ Sir Richard first encounters Robin in Sherwood, en route to York. He desperately needs money to help his son gain a pardon, after he had been convicted of murdering two of Lancaster's men.

'He slewe a knyght of Lancaster,
And a squyer bolde;
For to save hym in his ryght
My godes both sette and solde.'¹¹⁵

Tradesmen were also involved in the crimes of medieval society. Petty crimes, such as under-weighting grain and short-changing customers, form the backbone of complaints against the trading community.¹¹⁶ Market traders are often portrayed as evil and greedy in the ballads and poems of the medieval period. In 'Robin Hood and the Potter', it is the potter who sets about Little John with a staff.¹¹⁷ If medieval proverbs are to be believed, then the activities of millers, weavers and tailors should be viewed with particular caution; "Put a miller, a tailor and a weaver in a bag, and shake them. The first one who comes out will be a thief."¹¹⁸ The truth of this is difficult to determine, as few records document the trade of the criminals. Those that do reveal the occupation of the accused seem to suggest that tradesmen generally only entered into more violent felonies in order to protect their business or family.

¹¹³D&T, 'The Geste', verses 310-4, p.101.

¹¹⁴See Chapter 4.4.

¹¹⁵D&T, 'The Geste', verse 53, p.82.

¹¹⁶Wise, ed., *The Compotus of the Manor of Kettering*, pp.3-39.

¹¹⁷D&T, 'Robin Hood and the Potter', verse 6, p.126.

¹¹⁸H. Von Hentig, *The Criminal and His Victim: Studies in the Sociology of Crime* (New Haven, 1948), p.308.

A gaol delivery entry for Nottinghamshire in 1316 tells how Walter le Shepherd was hung for stealing eleven sheep to increase his dwindling flock.¹¹⁹ The delivery rolls for Leicestershire show that tailors were just as likely to commit crimes as carters, serjeants and watchmen. They were also as likely to be victims as any other profession.¹²⁰ Considerably more evidence is needed before it can be pronounced that tailors and millers were the most notorious criminals of the fourteenth century.

One section of society that needs special attention is the clergy. This occupational group supposedly removed from violence, was actually deeply immersed in crime. In Northamptonshire alone the clergy was responsible for 5% of all the felonies that took place between 1300 and 1348.¹²¹ The Leicestershire Hundreds confirm that the clergy were active members of the criminal fraternity. Eighteen of the legible cases in Just3/30/1 and Just3/30/2 involved members of the clergy, who were accused of a range of crimes from theft to murder. Seven of these clerics were found guilty, two cases were withdrawn and three do not record the outcome. The remaining six were pronounced not guilty.¹²²

Those clerics whose crimes were recorded in the Patent and Close Rolls concentrated on the more violent property crimes, which proved more profitable than basic larceny.¹²³ The Patent Rolls document several criminal incidents featuring the priory of Weedon Beck, in Northamptonshire. This priory formed part of the alien abbey of Bec-Hellouin, whose brothers came from Rouen in France.¹²⁴ Administered through its English base in Wiltshire,

¹¹⁹Records of the Borough of Nottingham: Being a Series of Extracts from the Archives of the Corporation of Nottingham, Vol.1, King Henry II to King Richard II, 1155-1399 (Nottingham, 1882), p.89.

¹²⁰Just3/30/1; Just3/30/2.

¹²¹Hanawalt, Crime and Conflict, p.136.

¹²²Just3/30/1; Just3/30/2.

¹²³CCR 1330-1333, p.254.

¹²⁴The abbey had two bases in the Midlands, at Atherstone in Warwickshire and Weedon Beck in Northamptonshire. VCH Northamptonshire, Vol.2, p.183.

the collected priories of Bec-Hellouin in England became known as the Bailiwick of Ogbourne.¹²⁵ A commission of oyer and terminer from March 1299 records that Simon Molger complained that the abbot, prior, and William de Harden,¹²⁶ with some armed men, carried away his goods from Weedon Beck.¹²⁷ The same hearing also registered complaints on similar grounds from four other men of the same place.¹²⁸ The abbot and his prior also had to answer to justices Roger Brabazon and Peter Mallore.

(Commission of oyer and terminer) to Roger Brabazon and Peter Mallore, on complaint by John Person of Wedon, the younger, that the abbot of Bec Herlewin, Theobald, prior of Okeburn, and William de Hardene, with a multitude of armed men, assaulted him at Wedon, co. Northampton, and imprisoned him until he took an oath that he was a bondman of the abbot, and carried away his goods.¹²⁹

There was a further unnamed person at this hearing, who complained that this same group assaulted him at Weedon Beck. In September 1299 the Prior also had to answer at a commission accusing him of the murder, or being involved in the death, of William of Weedon Beck.¹³⁰ The abbot and his confederates seem to have justified their violence because it was directed at those who questioned their villein status, claiming that they were not bondsmen of the abbot. The alien abbeys of England faced opposition from the local area, and it is possible that neighbours of the priory supported tenants who rebelled against their lord.¹³¹

The high number of offences committed by members of the clergy must have, to some extent, been encouraged by their ability to plead 'benefit of

¹²⁵For a list of the priories included in the Bailiwick of Ogbourne see M. Morgan, The English Lands of the Abbey of Bec (Oxford, 1946), pp.138-50.

¹²⁶William of Harden was the chief steward of the estates of Bec. He was not a tenant of the abbey, but held an estate in Wiltshire. Harden was retained by the abbey's estate for forty-five years. Ibid., p.56.

¹²⁷CPR 1292-1301, p.464

¹²⁸Ibid., p.465

¹²⁹CPR 1292-1301, p.466.

¹³⁰Ibid., p.474

¹³¹Morgan, Abbey of Bec, p.109.

clergy'. Clerics were tried under diocesan law, and would not face the punishments meted out to them by the lay courts. Consequently, a high number of accused felons claimed to be clerics, hoping to escape capital punishment. Proof therefore had to be provided to determine whether or not you were a man of the cloth. This 'proof' often took the form of simply wearing clerical dress or completing a reading test.¹³²

Benefit of clergy meant that lay courts could only state whether a cleric was guilty or not, before being obliged to hand him over to ecclesiastical control. The gaol delivery rolls show that there were two main ways in which a prisoner could claim benefit of clergy. Firstly, on arraignment some would plead neither guilty nor not guilty, but clergy. Secondly they could plead not guilty and put themselves on the country, claiming benefit of clergy once found guilty.¹³³

Evidence that the church was involved in crime helps to justify its reputation for avarice and misconduct. Many of the popular ballads record the clergy as being lazy, corrupt and miserly. In the tales of Robin Hood the churchmen are often the targets of ambush. In 'The Geste' Robin and his men take money from a monk of the Abbey of Saint Mary's, claiming that they had asked Our Lady for some money, and she had sent this monk for them to waylay. The monk claims to have only twenty marks, but when searched he is found to have over eight hundred. Thus this ballad portrays the monk as an acquisitive liar.

'What is in your cofers?' sayd Robyn,
'Trewe than tell thou me.'
'Syr,' he sayd, 'twenty marke,
Al so mote I the.'

'Yf there be no more,' sayd Robyn,
'I wyll not one peny;
Yf thou hast myster¹³⁴ of ony more,
Syr, more I shall lende to the.

¹³²J. Bellamy, Criminal Law and Society in Late Medieval Tudor England (Gloucester, 1984), pp.115-9.

¹³³Ibid. p.117.

¹³⁴Myster = need

'And yf I funde more,' sayd Robyn,
'I wys thou shalte it for gone;
For of thy spendynge sylver, monke,
Thereof wyll I ryght none.

'Go nowe forthe, Lyttell Johan,
And the trouth tell thou me;
If there be no more but twenty
marke,
No peny that I se.'

'Lyttell Johan spred his mantell downe,
As he had done before,
And he tolde out of the monkes male¹³⁵
Eyght hondred pounce and more.'¹³⁶

Criminal gangs, casual and permanent, factual and fictitious, often included a member of the church.¹³⁷ Even the Folville brothers included a member of the clergy.¹³⁸ The ballad 'Robin Hood and the Curtal Friar'¹³⁹ introduces a cleric to the outlaw band.¹⁴⁰

Further confirmation of attitudes towards the priestly class is revealed in the ballad 'Robin Hood's Death', where it is the prioress (Robin's cousin), who finally kills the outlaw.

She blooded him in the vein of the arm,
And lock'd him up in a room;
There did he bleed all the live-long day,
Untill the next day at noon.¹⁴¹

In an obvious attempt to show that the outlaws were more honourable than the figures of authority in medieval society, Robin does not allow John to burn down the abbey after he is found dying; "I ne'er hurt fair maid in all my time, Nor at my end shall it be...."¹⁴² This anti-clerical attitude is enforced in

¹³⁵Male = trunk.

¹³⁶D&T, 'The Geste', verses 243-7, pp.96-7.

¹³⁷CPR 1317-1321, pp.82, 84, 90, 93; CPR 1343-45, pp. 88, 578.

¹³⁸Robert de Folville, vicar of Teigh (Ty). See Chapter 3.1.

¹³⁹Curtal = short coated. D&T, 'Robin Hood and the Curtal Friar', p.160.

¹⁴⁰The presence of Friar Tuck in the books and films about Robin Hood is due to a corruption of the May Day celebrations. Lees, *The Quest for Robin Hood*, pp.91-6.

¹⁴¹D&T, 'Robin Hood's Death', version B, verse 8, p.137.

¹⁴²*Ibid*, verse 15 p.138

the 'Song Against the Bishops' from c.1256, a bitter satire against the misconduct and unchristian behaviour of those in the church.

The clerical order is debased in respect of the laity;
the spouse of Christ is made venal,
she that is noble, common;
the altars are for sale;
the eucharist is for sale,
although venal grace is vain and frivolous.¹⁴³

This attitude of disrespect towards the clergy, especially those of high rank, is not unexpected considering some of the crimes in which they were involved, especially those committed by the higher orders of the church. There are two obvious examples of criminals in the High-Church, Walter Langton, Bishop of Coventry and Lichfield, in the reign of Edward I and Thomas De Lisle, Bishop of Ely in the reign of Edward III. De Lisle had a short career as a 'robber baron' between 1354 and 1356, beginning when he was accused of assaulting the king's cousin, Blanche, the sister of Henry Grosmont, Duke of Lancaster, and conniving in the murder of one of her servants.¹⁴⁴ De Lisle's activities in the south-east of England are echoed in the midland counties by the those of Walter Langton, who continuously used his position to further his own ambitions. On Edward II's accession Langton was arrested and put on trial for the crimes he had instigated. The list of forty-eight complaints against him included some from men of rank, such as Henry of Lancaster, as well as from the poorer classes. His crimes ranged from champerty¹⁴⁵ to the illegal seizure of lands and manors, such as Quenby in Leicestershire.¹⁴⁶ The most common accusation levelled at Langton was that he imprisoned or threatened complainants. He also used the unpopular office of sheriff to control others.

¹⁴³Coss, ed., Wright's Political Songs, p.45.

¹⁴⁴J. Aberth, 'Crime and Justice under Edward III: The Case of Thomas De Lisle', EHR, 107 (1992), pp.283-301.

¹⁴⁵Champerty = to pervert the course of justice.

¹⁴⁶A. Beardwood, 'The Trial of Walter Langton, Bishop of Lichfield 1307-1312', Transactions of the American Philosophical Society, 54, Part 3 (1964), p.14.

An example of this was the case of Thorpe Mandeville, belonging to Richard Whitacre, which was held of him for life by Langton. In 1305 Walter wished to hold the land in fee, but Whitacre was unwilling to allow this. In retaliation for standing in the way of his plans, Langton made Whitacre sheriff of Leicestershire and Warwickshire. One year later Walter held him to account, facing Robert with financial ruin unless he agreed to sign Thorpe Mandeville over to Langton.¹⁴⁷ Unsurprisingly, Langton survived his trial largely intact, and by the middle of Edward II's reign he was being called upon to advise the king.¹⁴⁸

The higher nobility, termed 'Fur Collar Criminals',¹⁴⁹ had a different perception of crime to the lower gentry. They, like the king himself, accepted that there must be a level of criminal activity to secure the path to advancement in the political arena. Thomas, Earl of Lancaster, for example, instigated many political crimes, such as the murder of Piers Gaveston, a crime that may be viewed as 'quasi-legal', or on the fringes of the law.¹⁵⁰ In the eyes of the barons Gaveston was too great an influence on Edward II, making his removal justified.¹⁵¹ Nevertheless it was murder, premeditated and calculated by the leading magnates of England. Lancaster and his adherents were not the only nobles who realised the value of dissension during the fourteenth century. The following example from 1323 shows members of the gentry engaging in homicide, breaking houses and assault.

(Commission) touching the persons who with William Trussel and William his son, Roger la Zouche and Ralph his son, William de Bredon, Robert de Holand, Robert de Halton, William de Staunton, 'chivaler', John son of William de Ferariis, Robert de Famham, Walter de Busseby, John Mallesores of Lubbenham, William de Fyleby of

¹⁴⁷See Chapter 5.4.

¹⁴⁸Beardwood, 'The Trial of Walter Langton, Bishop of Lichfield 1307-1312', pp 36-8.

¹⁴⁹Hanawalt, 'Fur Collar Criminals', pp.1-17.

¹⁵⁰The Ordainers viewed this act as 'quasi-legal' as they claimed that the writ that cancelled Gaveston's exile had not been received in Warwickshire. Maddicott, Thomas of Lancaster, p.129.

¹⁵¹See Introduction i. and General Conclusions.

Mountsorel, entered the earl's manors at Lugteburgh, Beaumaner, Fretheby, Emesby, Huclescote and Querndon, co. Leicester.¹⁵²

Although they usually employed others to carry out their crimes, the nobility was behind many of the murders in the thirteenth and fourteenth centuries.¹⁵³ These crimes had two main objectives, to secure land, administrative interests and power, and to further these interests wherever possible. These high profile crimes are illustrated in the above example, where a group of nobles, including Robert Holand¹⁵⁴ and Roger la Zouche,¹⁵⁵ raided the main midland estates of the hated Hugh Despenser in 1324.¹⁵⁶

The tyranny of Edward II and the influence of his courtiers, who in effect ruled England, brought a period of true lawlessness to England. This period of political crisis was compounded when Isabella and Mortimer overthrew Edward II and manoeuvred Edward III onto the English throne in 1327.¹⁵⁷ Henry of Lancaster took up this mantle of violence and used it to bring revenge on all those who had turned against his predecessor and brother, Thomas of Lancaster. Contemporary chroniclers report that Henry secured the murder of Robert Holand after he had betrayed Earl Thomas to the king.¹⁵⁸ 'The Brut' suggests that one of Thomas' retainers, Thomas Whither (or Wyther), carried out the deed on Henry's instructions. As Holand made his way towards, "Quene Isabel (in) London; and Sir Thomas Whither smote of his

¹⁵²CPR 1321-1324, p.387.

¹⁵³The maintenance of a criminal force by the nobles of England is discussed in Chapter 4.4.

¹⁵⁴Holand had been the chief retainer and right hand man of Thomas of Lancaster until he betrayed him in 1322. J.R. Maddicott, 'Thomas of Lancaster and Sir Robert Holland: A Study in Noble Patronage', *EHR*, 86 (1971), pp.449-72.

¹⁵⁵The name Roger la Zouche has been associated with the Folville gang on more than one occasion. See Stones, 'Folvilles of Ashby-Folville'. See Chapter 3.1.

¹⁵⁶The Despensers were disliked and distrusted for the power they exercised over Edward II. Fryde, *Tyranny*, pp.27-36, 106-18.

¹⁵⁷*Ibid.* pp.195-206.

¹⁵⁸Maddicott, 'Thomas of Lancaster and Sir Robert Holland', p.470.

heede, ...and Sir Thomas duellede (with) Sir Henry, Erl of Lancastre; and he put him in hidyng for drede of (the) Quene..."¹⁵⁹

Politically motivated crimes, although undoubtedly violent, were often left unpunished. The level of acceptance with which these treasonous crimes were greeted gives the impression that they were an extension of the nobility's duties. The king turned a blind eye to many of the trespasses committed by his leading magnates. Edward II repeatedly pardoned Thomas of Lancaster and his adherents, illustrating Lancaster's political authority and the need to prevent Lancaster turning his considerable power against the crown.¹⁶⁰

It was not just the East Midlands that experienced a rise in noble crime. In Buckinghamshire, Sir John Molyns had built up his status and influence with years of activity on the king's behalf.¹⁶¹ He fought in Scotland, and served at the start of what was to become the Hundred Years War. In October 1330 Molyns was amongst the followers of Montague who moved against Isabella and Mortimer at Nottingham castle. Sir John was also an active force on the justice bench in Buckinghamshire.

On the 30 November 1340 however, Edward III returned home from the Continent in response to hearing of a domestic rebellion. Those barons who had been left to look after the running of England were called to account. Molyns was amongst those accused of rebellion.¹⁶² Rather than face the king's wrath Molyns took flight, only to be captured by William Montague, earl of Salisbury. He was charged with murder, subverting a justice to escape detection, kidnapping, poaching and theft. After escaping from Montague, Sir John lived as an outlaw for the next five years, gathering confederates about him. In 1345, Molyns received a royal pardon; he recovered his forfeited lands and much of his old status. By 1350 he was heading a commission of the peace

¹⁵⁹Brie, ed., *The Brut*, Part 1, p.257.

¹⁶⁰For an example of the many pardons granted to Lancaster and his men see *CPR 1313-1317*, pp.21-5.

¹⁶¹N. Fryde, 'A Medieval Robber Baron: Sir John Molyns of Stoke Poges, Buckinghamshire', ed., C. Meekings, *Medieval Legal Records* (London, 1978), pp.198-223.

¹⁶²*CCR 1343-1345*, p.192.

in Buckinghamshire. However, it was not long before there were new complaints about his oppressive conduct as the queen's steward. In 1357 Molyns was charged with "treasons, felonies, robberies, conspiracies, confederacies and maintenances."¹⁶³ Molyns was sent to Nottingham Castle for the first term of his imprisonment, before being moved to Cambridge where he stayed until his death in 1361.

2.3. Weapons and Crime in the Honour of Leicester

The majority of the cases recorded in the legal rolls do not disclose whether or not a weapon was used. Where such information was included, the knife was often the most popular weapon involved.¹⁶⁴ Knives were carried habitually by large numbers of craftsmen, labourers and householders. The ready availability of this potentially lethal weapon meant that should a quarrel escalate into a physical brawl, then it could become a serious assault or a murder. Henry II, in the Assize of Arms of 1181, promoted proficiency with weapons. This stated that all freemen had to possess arms of a status comparable with their wealth.¹⁶⁵ By the reign of King John this assize included more of the community, down to the level of villeins. Villagers and townsmen were to be ready to use their weapons in the event of a hue and cry. The assize was confirmed in 1242 and then again in the Statute of Winchester of 1285, when all holders of fifteen, ten and five librates of land had to own, and be practised in, certain weapons. Consequently more people were proficient with a variety of weapons than ever before.¹⁶⁶

The legal records do not always state whether a weapon was used in the pursuance of a particular crime.¹⁶⁷ The Leicestershire gaol delivery rolls only

¹⁶³CPR 1354-1358, p.548.

¹⁶⁴Hanawalt, *Crime and Conflict*, p.302.

¹⁶⁵Poole, *Domesday Book to Magna Carta 1087-1216*, p.369.

¹⁶⁶Waugh, *Edward III*, p.157.

¹⁶⁷The eyre rolls only recorded a percentage of the weapons used. In his work on Kent, Oxfordshire, Norfolk, Bristol, and some areas of London, Given found that only 455 of the 2434 murders are

record one case that involved a weapon.¹⁶⁸ The types of weapon used are best illustrated by examining the documentary evidence compiled by Farnham and Bateson.¹⁶⁹ Fig. 4 shows the different types of weapons recorded as having been used across the period 1260-1360 in Leicestershire. More crimes are recorded as being committed with 'force of arms' rather than with a specific weapon. This ambiguous statement only informs us that one or more weapons were used. The crimes where the terms 'force of arms' and 'armed' appear all concern serious property crimes or murders. Interestingly, all the entries in Fig. 4 refer to crimes committed by groups rather than individual felons. These figures are comparable with those from the Northamptonshire eyre rolls shown in Fig. 5.

Only 71 cases recorded in these documents show that weapons were used in the pursuance of a crime. The reality must have been very different. Many crimes, which must have been executed using a weapon, have had the information omitted from the record. For example, in 1305 an enquiry was set up to investigate which "malefactors slew Thomas (de Belhus), by night at Bodeneye, (Leics)."¹⁷⁰ The use of the word 'slew' suggests that an implement was used in the crime, presumably a sword or a knife. There are many other entries implying the use of a weapon. When someone was assaulted to the extent that they could not continue with their work, when someone was

recorded naming specific weapons. Out of these 29.9% died of knife wounds. Given, Society and Homicide, p.189.

¹⁶⁸Just3/30/1.m.2. A knife was used by Roger of Melton to strike and kill Adam of Kilkenny.

¹⁶⁹For the purposes of Fig. 4, the following works have been consulted: G.F. Farnham's, Leicestershire Medieval Village Notes, 6 vols. (Leicester, 1930); Quordon Rolls (London, 1912); 'Extracts from the Curia Regis Rolls Relating to Leicester', Associated Architectural Societies Report and Papers, 35 (1919-1920); Charnwood Forest and its Manors (Leicester, 1930); Bateson, Records for the Borough of Leicester, Vols. 1 and 2.

¹⁷⁰Farnham, Leicestershire Medieval Village Notes, Vol.5, Part 1, p.11. In his work on the surviving records of Leicestershire Farnham incorrectly attributes this quote to CCR 1302-1307, p.253.

wounded, or when great damage was done to property, there was probably a weapon involved.¹⁷¹

The range of readily available implements that could be turned into lethal weapons was greater than today. With the majority of the population engaged in some level of agriculture, scythes, forks, pick-axes, stakes and other tools would have been close at hand. There would also have been incidents where the physical force of the assailant overpowered his or her victim, such as in cases of strangulation, or being kicked and beaten to death. As Fig. 4 illustrates, one of the most unusual weapons used to effect an assault in Leicestershire was a fish.

Richard Blundel, of Querndon, was attached to answer to William, son of William Pynkeny of Cosington, in a plea of assault on Thursday after the Purification, 28 Edward I, between Loutheburgh and Querndon, and damage 100s. The jury say that Richard Blundel struck William with a certain hard fish called "Esokfisshe" to William's damage 4s. Therefore William recovers his damage and Richard is committed to gaol.¹⁷²

This was not the only incident when an unusual weapon was used in a violent crime. In 1327, Joan Reynolds of Somerset was the subject of a vicious assault by two brothers. After tying her thighs to the wheel of a cart and her hair to a beam, they burnt her with candles and placed hot eggs under her arms.¹⁷³

The ballads of Robin Hood illustrate the types of weapons used by criminals in the fourteenth century. The six original ballads record the use of four types of weapon: knives, swords, bows and arrows and staves or sticks. There cannot be a direct comparison between the weapons documented in the legal records and the ballads. Bows and arrows were used more in the stories

¹⁷¹CRR No.262, (Michaelmas, 1325), m.94.

¹⁷²Farnham, Leicestershire Medieval Village Notes, Vol.2, Part 1, p.115; Just 1/466.m.2.

¹⁷³CPR 1327-1330, p.205. No reason is given for the assault.

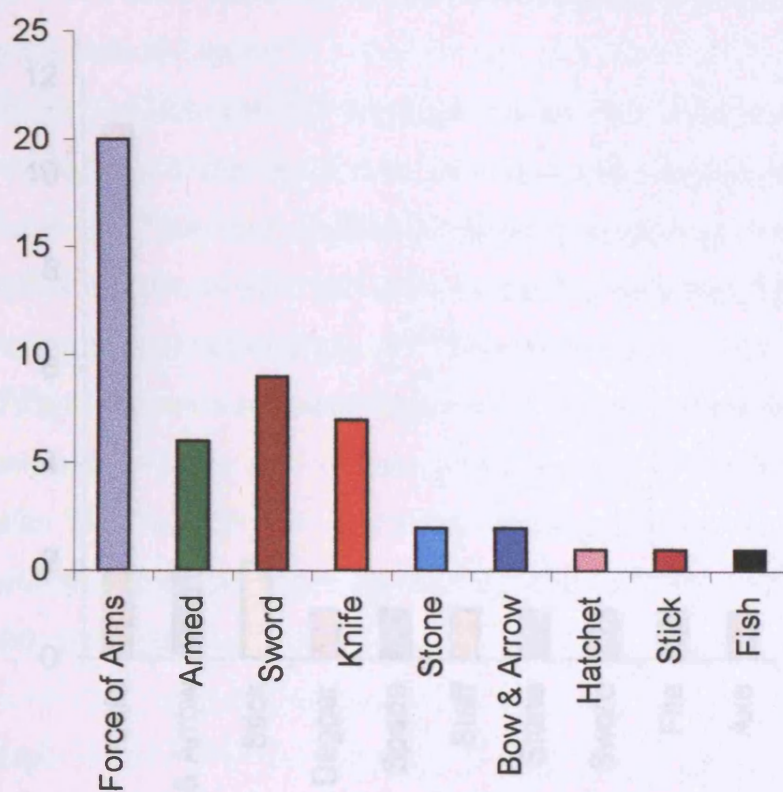


FIG. 4 Weapons Used in Leicestershire Between 1260 and 1360.

FIG. 5 Weapons Used in Northamptonshire Between 1329 and 1330.

of the period for acts of violence than in real life. Something more practical, such as a knife, would be easier to conceal, murder and escape with than an arrow, which needed to be carefully aimed. Poaching, sport and war were the main uses for the bow and arrow.¹⁴

Like the folk ballads and the recorded crimes that were committed in Leicestershire, the knife was used more than any other implement. This is unlikely to have been the case if all the weapons used were known. The Northamptonshire Assize rolls for 1300 to 1348 shows that 41.7% of all murders were committed with knives.¹⁵ The eye for 1329-1330 shows that eleven out of the twenty-two recorded crimes were perpetrated using a knife.¹⁶ The only instance of a knife as a weapon in the Robin Hood stories is when Robin murders the Sheriff of Gisborne, making him unrecognisable.¹⁷ Again the ballads are a reflection of real life, although the confines of six stories limit the range of weapons.

1.4. Conclusion

Most of these crimes featured in the Leicestershire past delivery rolls were committed locally, in Leicestershire or the surrounding area. Occasionally crimes were caught further afield, as in the case of Robert the Provost of Thorpe Arnold, who, with others, plundered an unknown man in Nottinghamshire, stealing his buckle and two bangles of linen.¹⁸ It is perhaps because crimes were committed so close to the felon's home that the felons were apprehended and equally could explain why no party were acquitted. Those committing a crime in an area where they were unknown would have been more likely to have the finger of suspicion pointed at them, because it meant

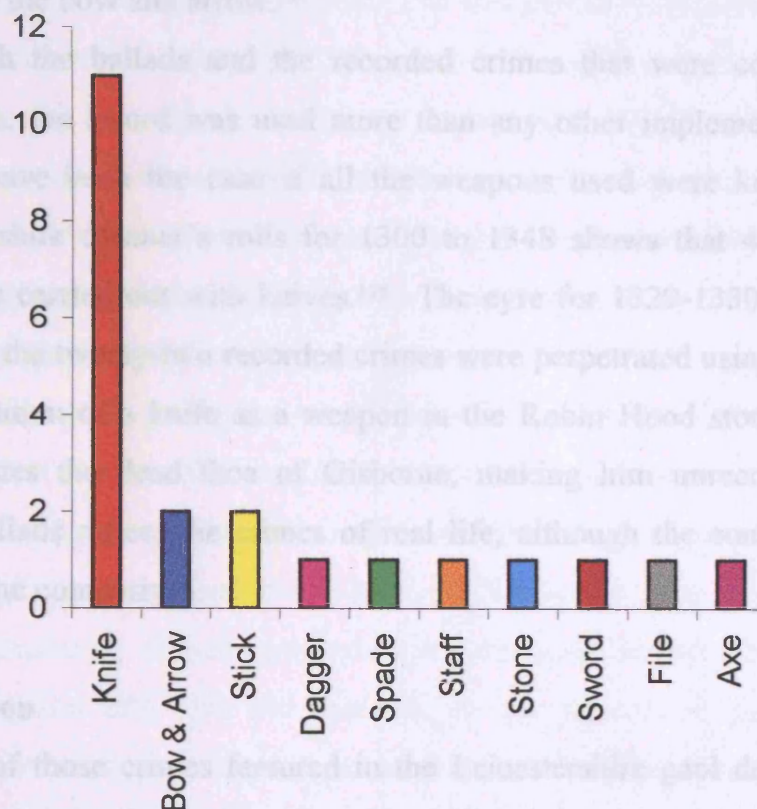


FIG 5. Weapons Used in Northamptonshire Between 1329 and 1330.

¹⁴There are four instances of the bow and arrow being used as a weapon in the Robin Hood ballads.

¹⁵DNT, 'The Assize', volume 263-62, p. 266.

¹⁶Timewell, *Crimes and Confessions*, p. 103.

¹⁷pp. 631-644/635.

¹⁸DNT, 'Robert Provost of Thorpe Arnold', volume 42, p. 144.

¹⁹pp. 631-644/635.

of the period for acts of violence, than in real life. Something more practical, such as a knife, would be easier to threaten, murder and maim with than an arrow, which needed to be correctly aimed. Poaching, sport and war were the main uses for the bow and arrow.¹⁷⁴

In both the ballads and the recorded crimes that were committed in Leicestershire, the sword was used more than any other implement. This is unlikely to have been the case if all the weapons used were known. The Northamptonshire coroner's rolls for 1300 to 1348 shows that 41.7% of all murders were carried out with knives.¹⁷⁵ The eyre for 1329-1330 shows that eleven out of the twenty-two recorded crimes were perpetrated using a knife.¹⁷⁶ The only mention of a knife as a weapon in the Robin Hood stories is when Robin mutilates the dead face of Gisborne, making him unrecognisable.¹⁷⁷ Again the ballads reflect the crimes of real life, although the confines of six stories limit the comparison.

2.4. Conclusion

Most of those crimes featured in the Leicestershire gaol delivery rolls were perpetrated locally, stealing from a neighbour, or assaulting a stranger in the area. Occasionally felons were caught further afield, as in the case of Robert the Provost of Thorpe Arnold, who, with others, plundered an unknown man in Nottinghamshire, stealing his buckle and two bundles of linen.¹⁷⁸ It is perhaps because crimes were committed on the doorstep that the felons were apprehended, and equally could explain why so many were acquitted. Those committing a crime in an area where they were unknown would have been more likely to have the finger of suspicion pointed at them, because it meant

¹⁷⁴There are four mentions of the bow and arrow being used for sport in the Robin Hood ballads. D&T, 'The Geste', verses 289-92, p.100.

¹⁷⁵Hanawalt, Crime and Conflict, p.302.

¹⁷⁶Just1/632; Just1/635.

¹⁷⁷D&T, 'Robin Hood & Guy of Gisborne', verse 42, p.144.

¹⁷⁸Just3/30/1.m.2.

that no one local would have to suffer. Despite their crimes, neighbours appear to have been reluctant to send their fellows to the gallows.

As Figs. 1 and 2 show, theft was the most frequently committed crime in Leicestershire between 1310, 1311 and 1316 and in 1330. Murder was also a dominant crime, again enhancing the view that most people would have encountered some form of violent felony during their life. Receiving closely followed, often being connected with the crime of theft, robbery or burglary.

In fifty-six of the ninety-four cases documented in Just3/30/1, twenty of the twenty-eight cases in Just3/30/2, and twelve of those in Just3/51/1.m.5, verdicts of not guilty were returned. There were a further two cases where the accused was found not guilty, but was returned to prison on another charge.¹⁷⁹ Only twenty-one cases produced guilty verdicts, three appeals were withdrawn, and the remaining twenty cases have unclear verdicts. This predominance of not guilty verdicts further underlines how inefficient the legal system was in the fourteenth century. Either a large percentage of innocent people were being accused of crimes they did not commit, or the juries and justices were unwilling to commit anyone to the maximum sentence without being absolutely sure of their guilt. These findings coincide with those of Hanawalt, who discovered that only one third of those tried at the gaol delivery of East Anglia for 1307-1316 were convicted.¹⁸⁰

The 'Calendars of the Patent Rolls' confirm that more people were acquitted or pardoned crimes of which they were accused than were punished. In the higher echelons of society 397 cases saw the convicted felon pardoned.¹⁸¹ This was usually in exchange for fighting for their country, or because they could afford to buy their way back into favour.

Women were less likely to commit crimes than their male counterparts in medieval society. The gaol delivery rolls for Leicestershire show that

¹⁷⁹Ibid.

¹⁸⁰Hanawalt, Crimes in East Anglia, p.20.

¹⁸¹CPR 1258-1361, 22 vols.

individual women only committed eight of the 122 examined cases while a further five were perpetrated by groups of both men and women. Men acting alone perpetrated seventy-eight of these 122 cases.¹⁸² These gaol delivery rolls therefore suggest that the average medieval felon was male, over sixteen, a thief or receiver of stolen goods, who would usually steal or receive clothing or livestock. The felon would probably work alone. It would also appear that few communities would escape from the shadow of homicide. With the help of documentary evidence from the Patent Rolls and the Northamptonshire eyre rolls, the picture can be expanded still further, indicating that the felons favoured weapon was the knife.

¹⁸²See Chapter 3.2.

Chapter Three

THE CRIMINAL GANGS OF THE EAST MIDLANDS

The majority of crimes perpetrated in the thirteenth and fourteenth century were committed by individuals. However, the surviving records show that many felonies were committed by groups of criminals. These gangs were usually composed of family and friends, or servants and masters. In most cases they came together for a specific crime, to address one particular set of circumstances. The established criminal band or association was not as common. Yet, as the following extract illustrates, there were enough of these criminal groups to cause considerable concern.

Commission of oyer and terminer to Robert de Colevill, John Dengayne, John de Verdoun, Hasculph de Whitewell, Richard Knyvet and John Haketut, on complaint by men of the counties of Lincoln, Northampton and Rutland, that confederacies and assemblies of armed men are formed against those dwelling there whom they think to be rich, to extort ransoms and such sums of money as they assess from them by threats, that these disturbers of the peace have imprisoned those who refuse to pay such ransoms and killed some, that they lately assaulted William de Shilvyngton at Staunford so that his life was despaired of and killed Richard Swain his servant for the causes aforesaid, and that after the perpetration of that felony they dispersed into the said counties where they daily perpetrate homicides and plunderings, so that merchants and others cannot pass by the highways without very great peril of death.¹

These bands were well-organised groups with a specific leader. Unlike occasional groups of criminals, who had a single aim, these criminals had time to plan their felonies. Such gangs had a range of crimes in their repertoire, from theft to extortion and murder. They had the vital ability to mobilise whenever a worthwhile opportunity occurred, minimising any risk involved. It is these occupational criminal groups that will be the focus of

¹CPR 1340-1343, p.322.

this chapter, with particular reference to the Folville, Beltoft and Hauberks families.

3.1. Criminal Associations: The Folville Brothers, the Hauberks and the Beltofts

It has traditionally been believed that men and women were driven to join criminal gangs once they were already in trouble with the law. This view is promoted by the heroic ballads of the day, such as 'The Tale of Gamelyn'.² In reality the majority of the lesser gentry who worked in such gangs had not previously been in trouble. Most were simply using crime as a way to make money.

As the Folvilles, Beltofts and Hauberks illustrate, family ties formed the basis of most medieval gangs. However, there were a few bands that attracted men with no previous connections to them. One such gang was run by Roger Godberd from Swannington in Leicestershire, who led a group of outlaws around Nottinghamshire, Leicestershire and Derbyshire. In 1260 Godberd was attached in a plea where he was accused of attacking a tenant with force of arms.

Jordan le Fleming v. Roger Godeberd in a plea wherefore, since the said Roger demised to Jordan his manor of Swaninton for a term of 10 years, and the same Jordan had not held the manor for one whole year, the said Roger ejected Jordan from the said manor with force of arms, and took and carried away Jordan's goods and chattels to the value of £20. Roger did not appear. Order for attachment.³

In 1264 Godberd is listed as a member of the garrison protecting Nottingham castle. Later that year he joined the rebel party of Simon de Montfort, and fought against the king in the Barons' War. After the king's victory, many of the rebels were offered pardons and the return of some of

²Gamelyn joined a group of outlaws after being barred from his home by his brother. He soon becomes king of the outlaws. Sands, ed., *Middle English Verse*, line 695, p.175.

³CRR No.168 (Michaelmas, 1260), m.16d.

their lands in return for compliance with the Dictum of Kenilworth. When Roger Godberd went to obtain his pardon, his associates received one straight away, but Roger and his brother William had to wait a month for theirs. When it did eventually arrive the terms were unfavourable, with little land being returned to them.⁴ By early in 1267 Roger had adopted a criminal lifestyle. It seems he had already (possibly while waiting to receive a pardon), led an assault on Garendon Abbey in Leicestershire, forcing the abbot and monks to surrender land that they had leased from him, and to hand back bonds for the money that he owed to them.⁵

In March 1267 the king wrote to the Constable of Nottingham, Roger Leyburn, conveying concern about the number of robberies in Nottinghamshire. He even allowed the townsfolk of the county to erect wooden palisades around their property. After the king's communication, Leyburn took a force of arms into Duffield Firth in Derbyshire that April. In September he repeated the exercise, this time working across Charnwood in Leicestershire.⁶ No arrests were made but there were fatalities amongst the men, and several horses were lost. It has never been conclusively determined that the outlaws Leyburn was pursuing were Godberd and his men, but it would seem likely.⁷ In 1270 Godberd was still at large, and complaints about his villainous activities were reaching the king in London. The king ordered that the sum of 100 marks should be levied, so that Reynold de Grey could capture the outlaw leader.

Whereas lately on complaint by the prelates, magnates and nobles of the realm the king was informed that through outlaws, robbers, thieves and malefactors, mounted and on foot, in the counties of Nottingham, Leicester and Derby, wandering by day and night, so many and great homicides and robberies were done that no one with a

⁴CPR 1266-1272, p.16; Keen, *Outlaws*, p.195.

⁵CCR 1268-1272, p.350; *VCH Leicestershire*, Vol. 2, p.89.

⁶Holt, *Robin Hood*, p.97.

⁷*Ibid*, p.97.

small company could pass through those parts without being taken and killed or spoiled of his goods, the king provided by his council that 100 marks should be received as a loan from Florentine merchants to the use of Reynold de Grey, who mainperned before the king to take the said malefactors or the greater part of them...and he according to his mainprise has taken Roger Godberd, the leader and captain of the malefactors, and others of them and detains them in prison;...⁸

The Folville brothers were one of the most notorious criminal gangs of the fourteenth century. Eustace, Laurence, Richard, the vicar of Teigh,⁹ Robert, Thomas and Walter, came from Ashby-Folville in Leicestershire.¹⁰ The family first came to public attention in 1326 through their involvement in the murder of Roger Belers. Eustace de Folville, whom E.L.G. Stones judged to be the most violent of the brothers, led the group.¹¹ Eustace was a “wild and criminal character (who committed) evils.”¹² It was Eustace who, with assistance from Walter and Robert, helped to organise the Belers murder. Roger Belers (or Bellers) was an elderly baron of the exchequer and an adherent of Thomas of Lancaster, who had acquired his power under the unpopular Despenser regime. Consequently he had many enemies, especially in his native Leicestershire. It cannot be determined exactly why Belers was murdered, but it appears that the Folvilles were paid by Henry de Herdwyk and Roger la Zouche to kill him.¹³ Belers himself had been accused of being an oppressive and rapacious man who falsely acquired a number of estates.¹⁴

⁸CPR 1266-1272, pp.633-4.

⁹J. Nichols, ed., The History and Antiquity of the County of Leicester, Vol. 3 (London, 1795-1815), p.389; W. Page, ed., VCH Rutland, Vol. 2 (London, 1908), p.152. Both these volumes suggest that Richard de Folville was actually Eustace de Folville's uncle, not one of the brothers.

¹⁰It is possible that Laurence, Thomas and Walter were cousins to Eustace and Robert, rather than brothers. E.B. Redlich, History of Teigh in Rutland (Shipston-on-Stour, 1926), p.27.

¹¹Stones, 'The Folvilles of Ashby-Folville', p.118.

¹²Redlich, History of Teigh, p.26.

¹³Farnham, Leicestershire Medieval Village Notes, Vol. 3, p.117.

¹⁴Nichols, ed., History and Antiquity of Leicester, Vol. 2, Part 1, p.225.

The Folville family did not embark on this scheme alone; from the early stages of their careers they had help from criminals outside the family group.

The jury of the town of Leicester say on oath that Eustace de Folevill, Robert and Walter, his brothers, and Ralph, the brother of Roger la Zousche, on Sunday next before the feast of the Conversion of St. Paul, 19 Edward II, (1326) killed Roger Beler in the field of Brokesby, by and with the counsel and consent of Henry de Herdwyk and Roger la Zouche of Lubbesthorp. And that Henry received the said Eustace and the others at Onlep on the same day as they slew Roger Beler.¹⁵

This excerpt from the assize rolls reveals that the murder was committed in Brokesby field, not far from Belers' manor at Kirby Beler.

None of those suspected of this crime were caught or tried, even though great effort was put into tracing the criminals. Orders were given to the justice, Edmund, earl of Arundel, to pursue the murderers into Wales.¹⁶ It is believed that Eustace, Ralph la Zouche and some of their associates (aided by Thomas de Folville), left the country for a while to avoid arrest.

Appointment of Edmund de Assheby, sheriff of Leicester, to pursue and arrest Thomas de Folevill charged with assent and aid to the escape from England of Ralph son of Roger la Zousche of Lubesthorp and Eustace de Folevill and others indicted of the death of Roger Beler.¹⁷

Roger Belers' son Ralph, his grandson, and his widow used the murder to their own advantage to conspire against Robert de Helewell. The 'King's Bench Roll' for 1328 shows that they arranged for Robert de Helewell to be indicted for Belers' death. They allowed him to be arrested and placed in Leicester prison until he was acquitted before the king's court. The justices declared that he had been "detained falsely and maliciously to the great damage of the said Robert de Helewell, and against the peace."¹⁸ Whether the Belers family genuinely believed Helewell guilty of the murder is

¹⁵Just 1/470.

¹⁶CCR 1323-1327, p.550.

¹⁷CPR 1324-1327, p.250.

¹⁸CRR No.274 (Michaelmas, 1328), m.91d.

uncertain. However, as the Folvilles were known to be responsible for the death from the early stages of the investigation, it appears that the Belers family were simply making good use of an opportunity to pursue a private vendetta against Helewell.

All those implicated in the Belers murder were declared outlaw in 1326. However, this proclamation came to nothing with the removal of Edward II. The Folvilles simply suffered the forfeiture of their lands at Resby in Leicestershire in punishment for the murder.¹⁹ On 11 February 1327 a pardon was issued to all those involved in Belers' death.²⁰

After their outlawry the Folvilles kept a low profile by transferring their criminal activities to Lincolnshire, where they committed a series of robberies between September and November. Before long the family and their associates were back in Leicestershire. Parliament was soon informing the sheriff of Nottinghamshire that a group of malefactors, including a Robert and Simon de Folville, "were roaming abroad in search of victims to beat, wound, and hold to ransom."²¹ Eustace de Folville, undoubtedly one of the 'malefactors' referred to by parliament, had been leading a particularly villainous assault on the area, having committed three murders, a rape and three robberies by 1328.²²

In 1329 Eustace, Laurence, Walter and Robert all received a general pardon for their services against the rebellion of the late Thomas of Lancaster's followers.²³ However, after Edward III had gained full control of the crown in 1330, the Folvilles were being hunted again. An order was

¹⁹Nichols, ed., *History and Antiquity of Leicester*, Vol. 3, Part 1, p.389.

²⁰*CPR 1327-1330*, p.10.

²¹*CCR 1327-1330*, p.213; Stones, 'The Folvilles of Ashby-Folville', p.120. This is the only mention of a Simon de Folville found in the surviving records; it is possibly a mistake on the part of the chronicler.

²²*Ibid.*, p.120.

²³*CPR 1327-1330*, p.374.

given out for all but Thomas and John to be arrested, and secured in Nottingham castle. Once again the brothers eluded those searching for them. In 1332 Walter de Folville and his adherents, John Lovet and Nicholas Eton furthered their catalogue of crimes by killing William de Longeforde and John de Tyssyngton at midnight in Derby.²⁴

The Folville brothers were not the only occupational criminal band operating across the Earldom of Lancaster in the fourteenth century. The Coterel brothers from Derbyshire also exercised an influence over the area. The crime that first brought the Coterel gang into the legal records was an assault on the vicar of Bakewell in 1328.²⁵ In June of the following year, John Coterel was amongst a group involved in the breaking of parks across Derbyshire.²⁶ By 1330 the Coterel family and their confederates had become notorious. In June of that year they committed the double murder of John Matkynson and Sir William Knyveton, at Bradley in Derbyshire.²⁷ The Bakewell jury who indicted them for this crime are recorded to have said that they “rode armed, publicly and secretly, in a manner of war, by day and night.”²⁸ The Coterels must have been very confident in their ability to avoid capture after performing such crimes. Indeed, they had many supporters who would shelter them from harm. Two examples of the gang’s allies can be seen in Sir William Aune and Sir Robert Ingram. Aune, the constable of Tickhill castle, ran his own gang in Staffordshire and Warwickshire. That one of the king’s constables should be involved in crime and criminal retaining in the very heart of Lancastrian territory illustrates how complex the

²⁴Report on the Manuscripts of Lord Middleton, p.273.

²⁵J. Bellamy, ‘The Coterel Gang: An Anatomy of a Band of Fourteenth-Century Crime’, EHR, 79 (1964), p.699.

²⁶CPR 1327-1330, p.432.

²⁷Report on the Manuscripts of Lord Middleton, p.273.

²⁸Holt, Robin Hood, p.152.

whole concept of maintenance had become.²⁹ It also shows how deeply both the crown and the earldom were steeped in illegal activity. Aune specialised in the extortion of money from unsuspecting travellers.³⁰ Sir Robert Ingram was particularly important among the Coterels' associates, as he had been the mayor of Nottingham on a number of occasions, and was the sheriff of Nottinghamshire and Derbyshire four times between 1322 and 1334.³¹

Just as the Folvilles had escaped from the law after their many felonies, so the Coterels avoided the consequences of their crimes. In December 1330 Roger de Wennesley, the son of a local knight, was appointed to capture both the Coterels and the Folvilles.³² However, the attempt to bring the families to justice resulted in failure when Wennesley decided to join the criminals instead.³³

Occasionally the Coterel and Folville brothers worked together. The most scandalous crime to result from this union was the kidnap and ransom of the justice, Sir Richard de Willoughby. Sir Richard was an active force in the oyer and terminer commissions across much of the East Midlands. On more than one occasion he had crossed both families and their associates, so he must have been a tempting target for extortion and humiliation.

The wapentake of Kesteven present that Richard de Folevill, parson of the church of Ty, Laurence de Folevill, Walter de Folevill, Nicholas de Rothele and Nicholas de Eton, on Tuesday after St.Hilary, 5 Edward III, feloniously took Richard de Wylughby, of Leicester, to Monkeshaugh, co. Lincoln, and detained him there until

²⁹Aune is referred to as having been one of the king's constables in CPR 1313-1317, p.253.

³⁰CPR 1327-1330, p.84, records a general commission against Aune and his gang for various extortions and misdemeanours in Nottinghamshire, Derbyshire and York.

³¹Ingram was sheriff of Nottinghamshire and Derbyshire 26 Nov 1322-1 June 1323; 16 Feb 1327-16 Nov 1328; 10 Jan 1334 - 24 Feb 1334 (apparently he did not act). List of Sheriffs for England and Wales from the earliest times to A.D.1831 Preserved in the Public Record Office (List and Index Society 9, New York, 1963), p.102.

³²Bellamy, 'The Coterel Gang', p.702.

³³Hanawalt, Crime and Conflict, p.212.

he had made a fine with them for 1,300 marks; Eustace de Folevill, Robert de Folevill, Thomas de Folevill, John Lovet, William de Langham of Wymundham, William le Long of Oakham, and many others being also concerned in the same felony.³⁴

The surviving documents suggest that the actual ambush took place on the Leicestershire border, possibly at Waltham-on-the-Wolds. Willoughby was then taken into Lincolnshire. Events are then unclear, but it is believed that the gang and their captive travelled from one hiding place to another until the ransom was paid.³⁵ The Folvilles received 300 marks from their enterprise, and the Coterels earned 40 marks for their support.³⁶

Willoughby was again targeted by a group of felons in 1340, when he was besieged in Leicestershire to prevent a court hearing from taking place.³⁷ This attack was not the only assault on a figure of authority in the Earldom that year. Sir Robert de Vere, the constable of Rockingham castle and his followers threatened the justice William la Zouche of Haringworth in Northamptonshire.³⁸ In a later incident, De Vere set up an ambush for the Abbot of Pipewell. Such attacks aimed at preventing court hearings were a provocation the government could not ignore. At Westminster in 1332 Geoffrey le Scrope, the chief justice of the King's Bench, made a speech outlining two lines of preventative action. The first of these was that commissions made up of magnates should be appointed as 'Keepers of the Counties,' to oversee local jurisdictions and counteract the deep distrust felt towards the keepers of the peace.³⁹ This lack of faith is not surprising, as members of the knightly class (which included the Folvilles and De Vere)

³⁴Just1/1411b.

³⁵Stones, 'The Folvilles of Ashby-Folville', p.122; Just1/1411b.m.4d.

³⁶Bellamy, 'The Coterel Gang', p.707.

³⁷See Chapter 4.4.

³⁸Complete Peerage, Vol. 12, p.938; Stones, 'The Folvilles of Ashby-Folville', p.124.

³⁹See Chapter 5.3.

were recruited to this office. The second recommendation by Scrope was that the king should visit each county to supervise the new keepers. It is difficult to determine whether these measures were actually carried out. The documents that recorded the new keepers of the counties have largely perished, but those that do survive suggest that they sat in most of the counties of England.⁴⁰ This proclamation was not simply in response to an isolated attack on the structure of justice by the criminals of the East Midlands, but a protest from right across the country. Yet the Folvilles' area of activity was singled out for closer scrutiny. A trailbaston held by three of the most senior justices in the country was initiated to tour the East Midlands. However, on its conclusion only two people had been arrested for their involvement in Willoughby's kidnap. Robert Lovet, parson of Ashwell in Rutland and Alice de Folville were both acquitted soon after they were taken.⁴¹ The whole incident illustrates the inadequacy of the legal system in England. There seems to have been a genuine belief by those in Parliament that these two measures alone had solved the immediate problems of gang violence. Conflict was again simmering in Scotland, so the issue of group crime was temporarily forgotten.

In the fourteenth century members of the noble and clerical classes retained groups of criminals to carry out their more unsavoury and lawless tasks.⁴² In return they would shelter their felons when they needed to go into hiding, and they would pay them for the crimes committed.⁴³ Amongst the Folvilles' supporters was Alan of Baston, canon of Sempringham in

⁴⁰Stones, 'The Folvilles of Ashby-Folville', pp.126-7.

⁴¹*Ibid.* p.127.

⁴²See Chapter 4.4.

⁴³Stones, 'The Folvilles of Ashby-Folville', p.127. James and Nicholas Coterel avoided arrest after the kidnap of Willoughby, because they were warned of the approach of the keeper by the Prior of Lenton. Meanwhile William de Ufton, whom they employed as a spy, informed John Coterel and his associate Roger Savage of the approaching authorities.

Lincolnshire, who periodically harboured the brothers. It was Baston's contact with the Folvilles which led the canon and cellarer of Haverholme Priory to pay the brothers to destroy a rival's watermill.⁴⁴

The Folvilles remained unchecked for most of their criminal careers. It seems that by 1332 the government had an "inability to maintain its purpose."⁴⁵ There was always something else that needed its attention; capturing criminals and improving the justice system was not deemed important in comparison with the ongoing wars of the period. By March 1332 it was generally believed that the proposals of Le Scrope had been effective, and therefore law and order had been restored to England. The trailbaston that had been started in the Midlands was transferred to the King's Bench. The Folville brothers remained free from any charges, enabling them to pursue their criminal lifestyle.

From the end of 1332, however, there began the start of a slow decline in the number of violent acts carried out by the Folvilles. In November 1332 Robert de Folville was pardoned, and in July 1333 Eustace received a pardon in return for his service in the Scottish wars, on condition that he would fight on the side of the king whenever he was asked to do so. This clause came into effect in both 1337, when Eustace fought again in Scotland, and in 1338, when he served at Flanders. On this occasion, Richard, Thomas and Walter de Folville, along with Nicholas and James Coterel were also on the list to serve in France. In 1337 Robert de Folville went overseas to serve in the retinue of the Earl of Northampton, who had helped secure his pardon in 1332. Richard de Folville was back in England by 1340, and a commission was appointed to arrest him.

⁴⁴G. Platts, Land and People in Medieval Lincolnshire: History of Lincolnshire, Vol. 4 (Lincoln, 1985), p.256.

⁴⁵Stones, 'The Folvilles of Ashby-Folville', p.127.

(Appointment) of Thomas Wake of Lydell, Nicholas de Cantilupo, William de Eyncourt and Robert de Colvill to take William de Sudbury, knight, William de Burton, knight, and Richard de Folvill, parson of the church of Teye, and imprison them in the Tower of London in the custody of the constable.⁴⁶

Late in 1340 or early in 1341, Richard de Folville took refuge in his church at Teigh, but his pursuers caught up with him there. After a fight, in which several of the hunters were wounded and shot, Richard was dragged from the church and beheaded by Sir Robert de Coleville. The Pope was outraged when he heard about the treatment that Richard de Folville, a man of clerical orders, had received, and he imposed a penance on De Coleville.

To the bishop of Lincoln. Mandate to impose a public penance on, and then to absolve, Robert de Colvile, knight, formerly in the commission of the peace, who in the discharge of his office laid hands on Richard de Folevyle, rector of Ty, a man guilty of homicide, theft, and other crimes, who, when the under-sheriff came to take him, shot at the people in the cemetery, killing a man and wounding many, on which the said knight, coming to the help of the under-sheriff, duly required Richard and his accomplices⁴⁷ to leave the church, and on their refusal broke open the doors, seized the said priest, and cut off his head in the public street. The knight and his followers are to go barefooted, naked except their breeches, with rod in hand, and halters around their necks, if they safely can, round all the principal churches of the district, and while a penitential psalm is recited at the doors of each church, are to be beaten with the rod, confessing their crime, and are to be declared deprived of whatever patronage they had in the church, after which they are to be absolved, and have a penance enjoined.⁴⁸

Richard de Folville was the only member of the Folville family to be executed in punishment for his criminal deeds. His brother Eustace was still partaking in a variety of criminal activities some twenty years after the original murder of Roger Belers. The last time Eustace was recorded

⁴⁶CPR 1338-1340, p.481.

⁴⁷This is the only account of the incident that mentions Richard de Folville having accomplices.

⁴⁸W. Bliss and C. Johnson, eds., *Calendar of Papal Registers, Papal Letters A.D. 1342-1362, Vol. 3* (London, 1897), p.142.

committing a crime of violence, within the surviving documentary material, was in 1345, when he took advantage of the king's absence in France by forcibly seizing the manor of Gouteby in Leicestershire. During the course of this crime, Eustace and his associates are recorded as having committed "horrible trespasses and contempts," including theft, assault and the waste of property.⁴⁹

The Folville brothers' lifestyle was not new to the family; many of their ancestors also had a criminal background. In 1248 Eustace de Folville⁵⁰ was amongst those accused of the death of William le Venur, for which he was held in Warwick prison.⁵¹ By 1258 he had been pardoned for his involvement in the murder and was acting as a justice in Oxford. In 1265 Eustace was listed amongst the disinherited after backing De Montfort in the Barons' Rebellion. The king pardoned him in June 1267, on the proviso that he stood by the Dictum of Kenilworth.⁵² The records suggest that Eustace remained out of trouble until his own murder, at home in Ashby in 1274.⁵³ The family appears to have refrained from criminal methods of advancement until 1304, when John de Folville, Eustace's son, was accused of assault.⁵⁴ Like his father before him, John was pardoned for his crime and by 1309 was serving as a justice. He died in 1310, and was succeeded by his son, also John. It was this John who fathered the infamous Folville gang.⁵⁵

The oldest brother, again John, did not become involved in the criminal activities of his kin. He had three sons of his own, John, Geoffrey

⁴⁹CPR 1345-1348, p.179.

⁵⁰Eustace was the son and heir to William de Folville, who had backed the rebellion of 1216. His lands were restored to him in 1217 by Henry III. VCH Rutland, Vol. 2, p.151.

⁵¹CPR 1247-1251, p.28.

⁵²CPR 1266-1272, p.149.

⁵³CPR 1272-1281, p.115.

⁵⁴CPR 1301-1307, p.285.

⁵⁵VCH Rutland, Vol.2, pp.151-2.

and Christopher. Although they never approached the extremes of violence that their uncles attained, they continued the family tradition. In 1346 Geoffrey and Henry Folville are recorded as having received war pardons on the testimony of the Earl of Warwick for offences they committed prior to the hostilities.⁵⁶ Geoffrey and Christopher are known to have defrauded Maud, John's daughter, out of the manor of Teigh in 1363. However, it is generally accepted that it was Christopher's wife Margaret who was behind this fraud, and many other criminal enterprises.⁵⁷ Margaret outlived her husband, and then married Lawrence Hauberk of Scalford,⁵⁸ a descendant of the Hauberk gang.⁵⁹

The Folville and Coterel gangs were active over a period of ten to fifteen years, during the 1320s and 1330s, with Eustace de Folville continuing to work independently until his death in 1346. Roger Godberd and his gang were not active over such a long period of time, only working for four years between 1266 and 1270. These gangs of notorious criminals only worked for twenty-four years out of a century of history. This does not mean that gang activity was limited in the Honour of Leicester between 1260 and 1360. It is more likely that the majority of gangs simply did not reach such a level of notoriety.

The Hauberk family of Scalford in Leicestershire perpetrated a series of crimes in the fourteenth century. They first appear in the Patent Rolls in 1326 when Robert (son of Simon), Hauberk was involved with the Folvilles in the murder of Roger Belers.⁶⁰ Then in 1328 Simon and William Hauberk formed part of a large gang who assaulted and then stole from Robert de

⁵⁶Farnham, Leicestershire Medieval Village Notes, Vol. 1, p.58.

⁵⁷Redlich, History of Teigh, p.29; VCH Rutland, Vol. 2, p.153

⁵⁸Ibid, p.153.

⁵⁹Lawrence was the Patron of Teigh church in 1363, 1368 and 1377. Redlich, History of Teigh, p.30.

⁶⁰CPR 1324-1327, pp.284, 288.

Folville at Ashby-Folville in Leicestershire. This appears to have been a revenge attack for the Belers murder, as it was led by Ralph Belers.⁶¹ The contradictory nature of these two attacks suggests that the Hauberk family helped to commit these crimes for money, probably under the instruction of a retaining lord.

On June 27 1327 William Hauberk was fatally wounded in an argument with William the Black of Leicester.⁶²

It happened on Saturday next after the feast of the Nativity of St John the Baptist (June 27), in the aforesaid year, in the evening twilight, that dispute arose between Will Hauberk of Scalford and Will, the son of John the Black of Leicester, in the house of the said John the Black, so that they fought together even to the King's highway, and there each of them abused the other with malicious words, so that the said Will the Black struck the said Will Hauberk with a certain knife near the left breast even to the heart; of which wound he immediately died.⁶³

The scholar can only hypothesise as to why Hauberk was in Black's house in the first place. It is probable, however, that William was caught in the act of stealing from Black's father's house. The coroners' roll records that the hue and cry was raised once Hauberk had been killed.

John the Sponner first found him dead, who immediately raised the hue even to the four gates of the town of Leicester, which came together with the flankpledge, and ordered the coroner and bailiff of Leicester, before whom was taken the inquest which says that it suspects no one of the death except the aforesaid Will. the Black, who fled immediately after the deed. He had no chattels and was not in tithing because a clerk.⁶⁴

A lack of surviving evidence means that the Hauberks' crimes cannot be traced throughout the next decade. However, in May 1343, the Hauberks

⁶¹CPR 1327-1330, p.279.

⁶²There were two William Hauberks' active at this time. The records do not indicate whether this William was the elder or the younger.

⁶³Bateson, Records of the Borough of Leicester, Vol. 2, p.2.

⁶⁴Ibid, p.2.

themselves were the victims of a violent attack. Robert, son of Simon Hauberk, complained that the parson of Herdeby church, his brother, and some associates assaulted and stole from him.⁶⁵ The following year Robert and his associates launched a revenge attack against the said parson.

Commission of oyer and terminer to John de Tiptoft, Richard de Wylughby, Giles de Meynill, Payn de Vilers and Robert de Gaddesby, on complaint by Master John de Langetoft, parson of the church of Herdeby, that Robert son of Simon Hauberk of Scaldeford and others assaulted him at Herdeby, co. Leicester, and wounded him, so that his life was despaired of, broke his close and houses there, carried away his goods and assaulted his men and servants and imprisoned them, whereby he lost their service for a great time.⁶⁶

The Hauberks were never caught or pardoned for the parson's death. De Langetoft himself had been a known felon operating throughout Leicestershire, specialising in property crimes with a small group of accomplices.⁶⁷

The Hauberks again featured in the legal records in 1356 when they assaulted Richard Spenser at Scalford.⁶⁸ That same year they were also indicted for a series of offences typically associated with medieval criminal gangs.

(Commission of oyer and terminer) to Henry (Grene), John (de Verdon) and John (de Knyghton), in the county of Leicester, touching all felonies, trespasses, conspiracies, oppressions, extortions, unjust alliances, falsities, champerties, embraceries, damages and excesses against (the) king and people by Robert Hauberk of Scaldeford, Simon, his son, Laurence, brother of the same Simon, Robert Aubeneye, chaplain, Thomas atte Hull of Scaldeford, Thomas, vicar of the church of Scaldeford, Roger Kyng and Robert son of German Hauberk.⁶⁹

⁶⁵CPR 1343-1345, p.88.

⁶⁶CPR 1343-1345, p.273.

⁶⁷Farnham, Leicestershire Medieval Village Notes, Vol.2, p.135.

⁶⁸CPR 1354-1358, p.398.

⁶⁹Ibid, p.398.

As yet no evidence has been found to suggest that any of the Hauberks were pardoned or brought to justice for their crimes. The records suggest that Robert raised his sons to be aware of the potential gains available from crime. The family make a further appearance in the Patent Rolls of 1360 when they assaulted the servants of John Orger and stole his cattle.⁷⁰

The Hauberk family help to illustrate how violence had become accepted as part of life in the fourteenth century. Examining the Beltoft family from Clayworth in north-east Nottinghamshire reveals an alternative attitude to violence. They originally adopted violence to pursue a private vendetta against a family from the neighbouring town, the Beckinghams of Beckingham.

The Beltofts were members of the lesser gentry, with lands in Nottinghamshire, Yorkshire and Lincolnshire.⁷¹ They are first recorded in the Patent Roll of 1261, when Alan de Beltoft was the subject of a murder enquiry.

Appointment of Gilbert de Preston to enquire whether Alan de Beltoft, detained in the king's prison of Nottingham for the death of John son of Alan de Bekingham, killed him in self-defence or by felony.⁷²

This incident marked the beginning of the feud between the Beltofts' and Beckinghams'. The vendetta continued to simmer until 1278 when a commission was issued against the Beltofts.

Commission of oyer and terminer to J. de Reigate, N. de Stapelton and Thomas de Normanvill touching an appeal which Alan de Bekingham brings in the county of Nottingham against Richard de Shireburn, Roger de Beltoft, Nicholas Sloghel,

⁷⁰Ibid, p.398. The Orger family also came from Scalford in Leicestershire. John Orger and his brothers are also known to have used crime to their advantage. In 1359 they were involved in the assault of Richard de Stafford. CPR 1358-1361, pp.283-4.

⁷¹CCR 1323-1327, p.128

⁷²CPR 1258-1266, p.188. This case was still being investigated in 1262, when enquiries were being made into the possibility that it was a malicious killing. CCR 1262-1264, p.39.

Robert son of John de Bekingham, Faukes de Hul and Ralph de Mitton for burning his houses at Wodehuses, robberies and other trespasses.⁷³

Amongst the Beltofts' adherents was Robert, son of the John de Beckingham who had been killed by Alan de Beltoft, seventeen years before. This allegiance with the Beltofts against his own family was reinforced in May of that year when he joined them in the murder of Geoffrey de Fughelholm, one of Beckingham's kinsmen.⁷⁴ By September Robert de Beltoft was assisting Robert de Beckingham and others to murder Alan, son of the elder Alan of Beckingham.

(Commission of oyer and terminer) to Reginald de Grey and Walter de Northburgh, touching an appeal which John son of Alan de Bekingham brings in the county of Nottingham against Robert son of John de Bekingham, Robert son of John son of Richard de Bekingham, William Havenok of Hayton, Ralph de Mitton, Eustace le Mercer, Robert de Horbiry, Robert le Keu, Nicholas de Swaleweclyve, John Butemund, John son of Reginald de Sk....wik, Robert Wisnard, Walter de Axiholm, Herbert de Beltoft, Alan le Fraunceis, Roger de Beltoft, Robert son of Alan de Bekingham, Thomas de Lanum and Robert le Fraunceis of Beckingham,⁷⁵ of the death of Alan son of Alan de Bekingham, his brother.⁷⁶

The contention between the two families continued in 1284 when Thomas of Beckingham appealed Robert Beltoft (spelt Beutoft), Henry le Keu and Walter le Clerk for possession of twenty acres of woodland and common pasture in Beckingham. The jury ruled in favour of Beckingham, adding a further grievance between the two factions.⁷⁷

In 1290 Alan de Beckingham was appealed for the death of Peter de Dynington. At first Alan pleaded that he was a cleric and therefore was not liable for punishment. However, Beckingham was overruled and sent to

⁷³CPR 1272-1281, p.289.

⁷⁴*Ibid.* p.289.

⁷⁵In this instance 'Beckingham' is given its modern spelling.

⁷⁶CPR 1272-1281, p.293.

⁷⁷R. Thoroton, *The Antiquities of Nottingham*, Vol. 3 (Nottingham, 1790-1796), p.315.

Nottingham gaol, where he died whilst waiting for the next gaol delivery. In 1292 the king seized his lands, before granting them to Robert de Beltoft and his wife Guerrina, after they pleaded for them in court.⁷⁸ Land disputes seem to have been at the heart of the continuing feud between the Beltoft and Beckingham families. Their territories were very close to each other in the north-east of Nottinghamshire.

Thirty-four years later, in 1313, the animosity between the two families was still strong. However, there was a change in position between the two families, when the new generation of Beckinghams' took the initiative. In February of that year Simon and Thomas de Beltoft complained that they were assaulted at Beckingham.⁷⁹ The specific motive behind Robert de Beckingham's determined removal of his brother and his kinsman remains unknown. It is unlikely that the landed dispute between the neighbours was enough to turn one member of a family away from the rest. Robert appears to have brought the criminals together with the specific purpose of terrorising his own family.

By June of that year the Beltofts had recovered themselves sufficiently to attack the Constable of Tickhill castle.

(Commission of oyer and terminer) to John de Donecastre, Richard de Bernyngham and Ralph Crophille, on complaint by William de Anne, king's yeoman, constable of the king's castle of Tykehille, that Simon de Beltoft, together with others, violently assaulted him whilst lately holding the king's court at Whetelay, co. Nottingham, and interfered with him so that he could not hold that court.⁸⁰

Aune appears to have been assaulted in order to prevent a case being heard. The extract does not reveal if it was the Beltofts themselves who were to be accused in court, or if they were being paid to disrupt proceedings on someone else's behalf. To attack a yeoman of the crown was especially

⁷⁸*Ibid.* p.315.

⁷⁹*CPR 1313-1317*, p.253.

⁸⁰*Ibid.* p.327.

serious. Aune in particular was in a very strong position. He had not only the backing of the king, but also of the Honour of Tutbury, and therefore the Earldom of Lancaster, and his own private mercenaries. It is unlikely that the Beltofts would have carried out this attack without a commission from a third party.

As the above example demonstrates the Beltofts' crimes were not confined to localised vendettas. In 1274 Roger de Beltoft was imprisoned and bailed in Lincolnshire for the death of Roger Doole.⁸¹ In 1282 Thomas de Beltoft had his lands restored to him after being accused of homicide in neighbouring Lincolnshire. As a clerk he "purged his innocence" before the Bishop of Lincoln, who secured his release in accordance with the benefit of clergy.⁸² In 1315 the coroner's roll for Nottingham shows that Thomas was again accused of murder, in a return to the families' private feud. This time his clerical status did not protect him.

Outlawry of Thomas son of Alan de Beltoft on an appeal of murder at Beckingham brought by Eva, late the wife of Peter de Donington, servant of Robert de Bekyngham.⁸³

The murder of Robert of Beckingham's servant adds another question mark to the interlocking motives that seem to surround the crimes of the Beltofts and Beckinghams.

In 1323 the Beltofts were again the subject of an oyer and terminer commission.

...on complaint by John de Carewell that Simon de Beltoftes and Thomas his brother, William del Isle, William de Carleton, Roger son of John de Beltoftes of Whetleye, John son of Ralph de Claworth, William de Beltoftes of Claworth and Leticia his wife, Hugh de Thorp of Claworth, William Daubeneye and Agnes his wife, Alan le Rede of Everton, William son of Alan de Everton, William Bernard of

⁸¹CCR 1272-1279, p.91.

⁸²CCR 1279-1288, p.166.

⁸³Chancery Miscellanea Part VI, Northumberland to Suffolk, Transcripts of Records, Preserved in the Public Record Office (List & Index Society 81, 1972), p.36.

Marseye, the elder, William Bernard of Marseye, the younger, Roger son of Hugh de Lanum, Robert Croke, Roger atte Halle of Burton, William son of Ralph de Claworth, Thomas son of Peter de Hayton, Beatrice daughter of Thomas de Lanum and others assaulted him at Claworth, co. Nottingham, tore out his eyes, cut out his tongue and inflicted other enormities upon him.⁸⁴

The level of violence in this attack shows how their crimes had begun to increase in ferocity. The following year Thomas de Beltoft was amongst a small group who broke the manor and park of Thomas de Furnivall at Worksop, Nottinghamshire.⁸⁵ In 1328 the gang are recorded as having committed another act of breaking houses, when they entered the manor of Simon de Kynardesleye in Clayworth Woodhouse.⁸⁶ The number of adherents accompanying the brothers grew with every year of activity. These helpers included the Bardot brothers, several members of the Clayworth community, and Rolland, squire to Simon de Beltoft.⁸⁷

The horrors that could be inflicted on witnesses and appellants by criminals are reflected in the number of pardons issued to those who did not pursue appeals. One such incident occurred after Simon de Beltoft strayed into Northamptonshire.

Pardon to Margery late the wife of Hugh de Gorham of her waiver in the county of Northampton for non-appearance before the king to answer a ransom due for not prosecuting her appeal against Simon de Beltoft and others of a robbery at Chirchefeld, provided that she satisfy the king of the ransom.⁸⁸

No clue is given as to what form of persuasion was used to prevent Margery from continuing her prosecution. The Beltofts' reputation for violence must have been enough to prevent similar appeals reaching that stage.

⁸⁴CPR 1321-1324, p.370. This is the first indication that Simon de Beltoft was a knight of the shire.

⁸⁵*Ibid.* p.447.

⁸⁶CPR 1327-1330, p.353.

⁸⁷*Ibid.* p.353.

⁸⁸*Ibid.* p.383.

The only pardon recorded in the examined documents, given to a member of the Beltoft family, was issued to Simon in 1330. It was granted for outlawry in Nottinghamshire after he failed to appear before the justices in eyre.⁸⁹ It was shortly after this that Simon was appointed as the arrayer of men from Nottinghamshire to join the forthcoming military campaign in Scotland.⁹⁰

The nature and longevity of the feud between the Beltoft and Beckingham families provides an insight into the role violence played in the medieval family. Kinship ties had always been extremely powerful in the medieval period. In this age of accelerated retaining, family connections and the ownership of land took on an increased importance. The historian can only surmise that the feud between the two families was fuelled by arguments over the acquisition of land, although it undoubtedly began in 1260 when Alan de Beltoft was accused of the death of John de Beckingham.

3.2. The Effect of Gang Activity on the Honour of Leicester, and its Reflection in the Ballads

The extortion and violence practised by gangs, operating both independently and under the instruction of a lord, increased the amount of lawlessness in the Honour of Leicester.

The Patent Rolls record that 704 of the 1327 cases recorded from Leicestershire, Nottinghamshire, Northamptonshire and Warwickshire between 1260 and 1360, were committed by individuals. Only fifteen cases record a pair of felons, and only seven cases document three assailants. In contrast 430 crimes were perpetrated by three or more assailants, with a further 171 cases failing to state how many people were involved. As the documents generally state that 'persons', a 'multitude of men', or an

⁸⁹CPR 1330-1334, p.29. John de Oarewell had accused Beltoft of trespass.

⁹⁰CCR 1327-1330, p.183.

‘assembled group’ carried out these crimes, it can be assumed that more than three individuals were responsible.⁹¹

Of those cases recorded in Just3/30/1 and Just3/30/2, eighty-five of the 122 cases were committed by individuals, twenty-six were committed in pairs, four by three people, and seven by more than four assailants. Out of the 126 cases of theft and robbery documented in the 1329 eyre roll for Northamptonshire, only two were perpetrated by three or more felons. Twelve thefts were committed by pairs, the remaining 112 crimes being executed by individuals.⁹² The coroners’ rolls for Northampton show that 44.8% of all the crimes committed between 1300-1348 were perpetrated by groups of varying sizes.⁹³

Despite their violent crimes, the gangs of the East Midlands evoked sympathy from the people. It was the justices, and figures that represented law and order who were unpopular. Stones rightly concludes that the general populace took a light-hearted view towards the crimes of the Folville family.⁹⁴ In a period when ballads and political songs were increasingly popular, it is clear that the tales of Robin Hood and Adam Bell tell, in their own fashion, of the motivation behind the medieval criminal group. Although it cannot be clearly stated that the ballads influenced criminal bands, or that the ballads grew out of the awe that surrounded such groups, similarities can be noted. Most important is the aforementioned sympathy expressed by the general population towards these characters, both fact and fiction. As Bellamy remarked in his work on the Coterels, “The impression is given that in many quarters the gang was not only respected, but reluctantly admired.”⁹⁵ Writing with the benefit of hindsight, the chronicler Knighton was sympathetic to the

⁹¹For an example of a group crime see CPR 1272-1281, p.290

⁹²Just1/632.

⁹³Hanawalt, Crime and Conflict, p.188.

⁹⁴Stones, ‘The Folvilles of Ashby-Folville’, p.134.

⁹⁵Bellamy, ‘The Coterels’, p.717.

cause of the criminal association. After the Folvilles had killed Roger Belers in 1326, Knighton described the attack as justifiable retribution for the oppressions he had imposed upon others.⁹⁶ Similarly, when Eustace de Folville died in 1346, Knighton did not mourn the death of a criminal, but of a “dashing, defiant man”.⁹⁷ The conduct of individual gang members seems to have been passed off as the work of gentleman thieves, rather than that of dangerous criminals. By 1377 the term ‘Folville’s Law’ had emerged, meaning rough and ready justice, and the violent redress of wrong.⁹⁸ The term is used in the epic poem, ‘The Vision of Piers Plowman’.

And some ryde and to recovere that unrightfully was wonne:
He wissed hem wyne it ayein thorough wightnesse of handes,
And fecchen it fro false men with Folvyles lawes.⁹⁹

There are further parallels between the gangs that roamed the East Midlands and the stories of the period. Both those of fact and fiction had supporters willing to harbour them from the forces of law. In ‘The Geste’, whilst being pursued by the sheriff, the outlaws are protected in the castle of Sir Richard of Lee.¹⁰⁰ The Coterel brothers were often sheltered by the Dean and Chapter of Lichfield Cathedral, and the Folvilles could hide in the grounds of Sempringham in Lincolnshire.¹⁰¹ Sir Robert de Vere of Rockingham castle in Northamptonshire also harboured various criminals from across the Midlands, employing many of them himself.¹⁰²

⁹⁶Chronicon Henrici Knighton, Vol. 1, pp.432-3. The edited and translated version of Knighton’s Chronicle also mentions Eustace de Folville, but not in the detail of the original text. G. H. Martin., ed., Knighton’s Chronicle 1337-1396 (Oxford, 1995), pp.76-7.

⁹⁷Chronicon Henrici Knighton, Vol.2, p.46; Keen, Outlaws, pp.199-200.

⁹⁸Holt, Robin Hood, p.155.

⁹⁹Langland, Piers the Plowman, Passus XIX, line 245, pp.242-3.

¹⁰⁰D&T, ‘The Geste’, verses 309-14, p.101.

¹⁰¹Bellamy, ‘The Coterels’, pp.711-2; Stones, ‘The Folvilles of Ashby-Folville’, pp.123-4.

¹⁰²Ibid, p.124.

Many of the gangs that roamed the Honour of Leicester hired extra men to help them carry out specific tasks. In 'Robin Hood and the Potter' and 'Robin Hood and the Curtal Friar' Robin offers newcomers livery if they will join his band.

'If thou wilt forsake fair Fountains Dale,
And Fountains Abby free,
Every Sunday throughout the year,
A noble shall be thy fee.

'And every holly-day throughout
the year,
Changed shall thy garments be,
If thou wilt go to fair Notingham,
And there remain with me.' ¹⁰³

The real outlaws also collected assistants as they travelled. Robert Lovet, parson of Ashwell in Rutland, for example, helped the Folville family on an occasional basis. He was involved in the murder of Belers in 1326, and together with his brother John, assisted in various robberies and attacks.¹⁰⁴

The crimes committed by these professional gangs largely resemble those documented in the ballads. Forcing money out of those who passed over a bridge in 'Robin Hood and the Potter', was certainly a milder form of extortion than threatening to burn down property or break legs, but the sentiment was the same. A reasonably profitable career could be made out of this type of lawlessness. Murder and theft were high on both agendas, as acts of revenge, or under instructions from others. Legal documents and literary sources give accounts of outlaws poaching the king's deer and holding to ransom travellers abducted on the highway. Langland echoes the peril of encountering highway robbery when he describes the dangers of lurking outlaws.

¹⁰³D&T, 'Robin Hood and the Curtal Friar', verses 39-40, p.164.

¹⁰⁴Stones, 'The Folvilles of Ashby-Folville', p.123.

For Outlawe is in the wode and under bank lotieth,
And may ech man see and good mark take
Who is bihynde and who bifore and who ben on horse-
For he halt hym hardier on horse than he that is a foote.¹⁰⁵

Robin Hood's band only attacked those deemed worthy of their special attentions, notably a corrupt authority and the avaricious church. The Folvilles concentrated their more ambitious crimes on these same officials. However, the majority of criminal groups would have picked their gains from any passing person, from any status; the weakest always being the easiest target.

The Folvilles were never brought to trial; however, they did receive pardons for crimes pronounced in their name. On more than one occasion the Folville brothers were pardoned in return for war service. Robin Hood and his men are pardoned, in the closing fyttres of 'The Geste', so that they can serve their king.¹⁰⁶ In both instances the outlaws returned to their previous lifestyles, leaving royal service as soon as possible.

The compositions of the actual and fictional bands are also closely linked. Largely made up of members of the lesser gentry, tradesmen and clerics, the groups of medieval England resembled those of legend. It is here that the similarities end, for the deeds of Robin Hood were stories, in a world where the sun shone and the oppressed won through. The outlaws of history worked throughout the winter, as well the warmer months, being housed by various receivers and retainers. They also faced the realities of capture, as the apprehension of Richard de Folville illustrates.

There was undoubtedly a level of admiration, tolerance and even hero worship surrounding those who openly flouted the law. It is perhaps notable that Gamelyn's status appears to be higher in the minds of the audience once

¹⁰⁵Langland, *Piers the Plowman*, Passus XVII, lines 104 -7, pp.210-11.

¹⁰⁶D&T, 'The Geste', verses 431-2, p.110.

he is made king of the outlaws.¹⁰⁷ However, those who lived in an area where gangs or hardened criminals practised, would probably have had a quite different outlook. It is unlikely that gangs would have stoutly kept to 'robbing the rich.' Occasionally the legal records give a glimpse of the relief that must have been felt when criminals were captured or killed. An example from Shropshire in 1297 illustrates this when Robert Dun is pardoned for killing such a felon.

Pardon to Robert Dun for killing Peter Brun of Tasseleg, a public and notorious malefactor, in self defence, notwithstanding that he did not raise the hue and cry upon the death of the said Peter.¹⁰⁸

The Folville family was not the only gang that roamed the Honour of Leicester in the late thirteenth and fourteenth centuries, but they were amongst the most persistent, and consequently the most renowned. The similarities between their activities and those sung about in the ballads of the day would suggest that whoever wrote the stories had a degree of understanding as to how such groups operated. They certainly realised that there was sufficient public sympathy towards such gangs to make tales about an anti-authoritarian outlaw popular.

In 1350 and 1351 there were two murders in Yorkshire that gained such notoriety that ballads were still being sung, and then written down, in the sixteenth century. 'The Eland Feud' tells the story of the murder of Sir John Eland, and his son (also John) by Adam Beaumont and his adherents.¹⁰⁹ In order to make the story more appealing the balladeer embellished the story, ignoring some of the more pertinent facts. The tale tells how Sir John Eland, sheriff of Yorkshire, gathered a band of criminals about him and marched to Crosland Hall, the home of Sir Robert Beaumont. En route they stopped at

¹⁰⁷Sands, ed., Middle English Verse, line 695, p.175.

¹⁰⁸CPR 1292-1301, p.243.

¹⁰⁹J. M. Kaye, 'The Eland Murders 1350-1351: A Study of the Legend of the Eland Feud', Yorkshire Archaeological Journal, 51 (1979), pp.61-81.

the manors of Quarmy and Lockwood where Eland's band killed Hugh of Quarmy and Lockwood of Lockwood. On arrival at Crosland they rushed the house, decapitated Beaumont and forced his two sons to eat with them. The youngest son did so, but Adam, the elder, "sturdily would neither eat nor drink."¹¹⁰ The author gives no real explanation for the original murders by Eland, but mentions that Beaumont disobeyed Eland and that they had quarrelled over the murder of one of Eland's kinsmen.

The second section of the ballad tells how the sons of the murdered lords practised with arms for fifteen years whilst they waited their opportunity for revenge. When the time came they ambushed Eland, on his way to a tourn in Brighouse, attacked and killed him.¹¹¹ The final section of the ballad begins with the flight of these new murderers to the 'wild parts' of Lancashire. The ballad ends rather abruptly with a warning for the Yorkshire gentry to refrain from fighting each other.¹¹²

The official version of events is not so colourful. The court of the King's Bench for October 1350 states that Beaumont and his confederates feloniously killed Sir John.¹¹³ His son, also Sir John Eland was then murdered, and Adam Beaumont, William of Lockwood and other criminals were indicted for his death.¹¹⁴

It would seem then that Sir John of Eland met his death in the course of his duty. As we have seen from the attacks on Sir Richard of Willoughby, the holder of the office of sheriff or justice was an obvious target for reprisals and revenge. There is no documentary evidence suggesting that Eland ever

¹¹⁰*Ibid.* p.62.

¹¹¹A tourn was a court held twice a year by the sheriff in each hundred, at which both indictments and presentments were heard.

¹¹²See Kaye, 'The Eland Murders 1350-1351', pp.61-3, 67-70, for an outline of the composition and contents of the ballad.

¹¹³*Ibid.* p.64.

¹¹⁴*CPR 1350-1354*, p.156; Kaye, 'The Eland Murders', p.65.

took a gang to murder Sir Robert Beaumont.¹¹⁵ The ballad had been based on the bones of truth, but was embellished to make a more entertaining tale. The author of the ballad had successfully woven the Eland murders together with the murder and mayhem carried out by Robert Beaumont's son, John, who pursued a criminal career, between 1339 and 1348, to create an interesting story.

Many of the facts of the Eland case have similarities with the ballads and criminal gangs from the East Midlands in the fourteenth century. Most prominent of all is the fact that none of the prime players in the crime were brought to justice for the murders.

The East Midlands and Yorkshire did not have the monopoly on lawless gangs. The most renowned gang in Lincolnshire emerged in the early 1330s. Led by Walter Ferriby of Brant Broughton,¹¹⁶ they plundered villages and committed acts of assault and theft until Walter (or 'Black Wat') was finally imprisoned. A further example of a medieval gang was led by Malcolm Musard, who held lands in Gloucestershire and Worcestershire. He was involved in a variety of violent crimes, from assault and theft to murder and rape. He also escaped any punishment for his deeds.¹¹⁷

The records of the King's Bench for 1280 show that a member of the lesser gentry, James Clinton, with twenty-four followers, including some of his relations, and the cleric Master John Baddesley (who had a gang of his own), broke into a house, at Baddesley Clinton in Warwickshire, and took £2 worth of goods.¹¹⁸ In 1332, the jurors of Newark in Nottinghamshire, heard about a group of the outlaws, led by William Pymme, who were received in

¹¹⁵Beaumont himself has been recorded as a common malefactor, charged with many assaults and oppressions. *Ibid.* p.66.

¹¹⁶Brant Broughton lies c.7 miles east of Newark in Nottinghamshire, providing easy access into the neighbouring county and therefore out of Lincolnshire's jurisdiction.

¹¹⁷Hilton, *Medieval Society*, pp.255-8.

¹¹⁸*Ibid.* p.253.

various places throughout the county. Amongst their retainers was Thomas de Bolewyk, the bailiff of Kingston-on-Soar.¹¹⁹

Fourteenth century gangs had developed a multitude of weapons against capture and arrest. Polite sounding, but threatening, letters were a popular method of preventing unwanted legal attentions. A reply from a justice to a gang leader from Kent indicates that the problem was countrywide. "For the love of your father I have hindered charges being brought against you and have prevented execution of indictment actually made."¹²⁰ Other gangs adopted a more direct violent approach, by burning property and assaulting servants as a warning to those who wished to stand against them.¹²¹

The lawlessness of the brigands of the East Midlands made them an undesirable target for the law enforcement officials of the period. A gang led by Sir Roger Swynnerton of Staffordshire held the entire county court captive and threatened to kill the sheriff if he started the hearing against them.¹²² Such was the danger attributed to arresting such felons, that sheriffs often left the task to their unfortunate under-sheriffs. It was certainly far safer to side with such violent outlaws than to stand firm and oppose them. The ineffective nature of law enforcement meant that gangs were free to practise their crimes. Such was the fear engendered by the gangs of the era that only those foolish enough, or with no choice, attempted to arrest them.

3.3. Conclusion

The gaol delivery rolls for Leicestershire suggest that criminals working alone committed the majority of crimes in the late thirteenth and

¹¹⁹Report on the Manuscripts of Lord Middleton, p.280.

¹²⁰Hanawalt, 'Fur Collar Crime', p.7.

¹²¹See Chapter 2.1.

¹²²Hanawalt, Crime and Conflict, pp.49-50.

fourteenth centuries.¹²³ Hanawalt's examination of the coroner's rolls of Northamptonshire for 1300 to 1348 also shows that only 44.8% of all felonies were tried with accomplices.¹²⁴ However, when studying records from the counties of Somerset and Essex, Hanawalt found that, in contrast, most of the crimes that came to trial were committed in company.¹²⁵ This evidence, although limited, would suggest that there were either less criminal groups operating in the midlands, or that they were more adept at evading capture. The very nature of group crime, which was usually more violent, meant that it was recorded in more detail because of its sensational nature. This makes such gang activity appear to be more widespread than it actually was.

The activities of organised gangs, despite their comparative rarity, had a profound effect on the lawless state of England.¹²⁶ The authorities simply did not have the ability or manpower to face such bands. Government was occupied with its conflicts in Scotland and France, and little time could be spent in the pursuit of individual groups. Scrope endeavoured to address the growing problem of groups of the lesser gentry terrorising justices and magnates, but his attempt was not nearly far-reaching enough to make a difference. All the criminal band had to do was move from the shelter of one retainer to another to be relatively safe.

¹²³Just3/30/1; Just 3/30/2.

¹²⁴Hanawalt, Crime and Conflict, p.188.

¹²⁵Ibid. p.188. Somerset had 69.7% of its felonies committed by more than one person, whereas Essex saw 59% of its crimes perpetrated in company.

¹²⁶Despite Hanawalt's belief that most of the crimes recorded in the coroner's and gaol delivery rolls were committed by more than one felon, she is careful to stress that organised and professional gangs, such as the Folvilles, remained in the minority. Ibid. pp.220-1.

Part Two: Factors that influenced and aggravated Lawlessness in the East Midlands

Chapter Four

RETAINING AND LAWLESSNESS

Throughout this thesis frequent reference has been made to the practice of retaining. This chapter will examine the nature of this phenomenon; its increase in popularity during the fourteenth century; the effect it had on the lawlessness of the East Midlands; and how its use is reflected in contemporary ballads and poems.

4.1. The Acceleration of the Practice of Retaining

The dynamic behind the increase in retaining was the necessity for every freeman or gentleman to seek a lord, and consequently the need for every lord to retain men of worth to increase his personal standing. It was in the interests of every able man to be included in a retaining indenture, to assure the continued prosperity of his family. The declining standards of justice, the growing demand for military forces, and a change in farming styles, were factors in the acceleration of maintenance between 1260 and 1360.

The practice of retaining, or 'bastard feudalism'¹ was not an innovation in the thirteenth century, but dates back to before the mid-twelfth century. In c.1150 for example, the abbot of Athelney Abbey granted Robert de Beauchamp some land in the county of Somerset as a reward for assisting

¹Charles Plummer was the first to use this phrase in 1885. McFarlane took up the concept in the 1940s. J.M.W. Bean, From Lord to Patron: Lordship in Late Medieval England (Manchester, 1989), p.3; K. McFarlane, 'Parliament and "bastard feudalism"', TRHS, Fourth Series, 26 (1944), pp.240-69.

in the pleas and business of the abbey whenever asked to do so.² The first major increase in the number of retaining relationships occurred in the thirteenth century.³ As early as 1220, Osney Abbey in Oxfordshire was paying two marks a year to Fulco de Bridport to serve its lawsuits.⁴ In 1240 a number of unwritten agreements were being struck between justices and barons. By 1250 the private councils of noble households were developing a retained structure.⁵ In the 1260s this expansion became more marked. After the Battle of Evesham an inquisition revealed that the younger Simon de Montfort had given robes to John Fortin in exchange for his service.⁶ In the fourteenth century this development changed into a headlong rush of maintenance, and consequently an increase in the rivalry it promoted.

A change in estate management at the beginning of the thirteenth century was one of the major forces behind the increase of retaining. A move towards 'high-farming' meant that lords were beginning to draw in their leaseholds and take control of the cultivation of their demesne lands themselves.⁷ It became essential for landlords to adopt this style of agriculture to make a profit sufficient to meet the rising cost of living, a consequence of high inflation at the time. This new style of farm management created a need for an increase in the number of staff, such as stewards, bailiffs, and other officials, to control the estates. This simple change in the administration of tenurial lordship sparked off a new age of

²Ramsey, 'Retained Legal Counsel, c.1275-1475', p.95. Hicks also gives examples of retaining in the twelfth century, although not without criticism from other scholars. Hicks, Bastard Feudalism, pp.19-27.

³Prestwich, War, Politics and Finance, p.37.

⁴Ramsey, 'Retained Legal Counsel,' p.97.

⁵Maddicott, Law and Lordship, pp.9-10.

⁶"John Fortin was with Sir S. de Monte Forti the younger for a time and received of him a coat"; CIM, (Chancery), Vol. 1, 1219-1307 (London, 1916), No.705, p.216.

⁷E. Miller and J. Hatcher, Medieval England: Rural Society and Economic Change (London, 1978), pp.213-24.

retaining, which became steadily more concentrated as the century progressed.⁸ These changes also led to a need for tighter controls on expenditure, meaning that better accounting records had to be kept. Literature was developed to give advice about how to get the most from your land. Works such as Walter Henley's 'Husbandry' expounded the virtues of more entrepreneurial land owning.⁹

Demesne farming also called for a high level of control over the legal, as well as the administrative officials of the period. The new exploitation of land meant that disputes over property would more frequently lead to litigation. It was no longer economical to hire a lawyer for just one specific case. Lords needed constant advice on how to claim and keep their land.

By the 1270s war was contributing to the increase in retaining. Not only did it lead to a need for stronger military forces, but it also led to the neglect of most of the country's other business, including the justice system. The crown could no longer afford to govern the shires as all its finances and time were tied up in war. So the aristocracy began its gradual take-over of the governance of the localities. The nobility generally held land in more than one county, thus spreading the growing networks of retaining alliances across England. This enhanced landed power and the simultaneous rise of the position of professionals certainly gives credence to Carpenter's conclusion that the fourteenth century began an "age of ambition".¹⁰ The demand for professional men (such as lawyers and administrators) had become so great, and the body of men qualified was so small, that high wages or fees could be bargained for.¹¹

⁸Waugh examines the legal and economic implications that brought about this change in the administration of land holding. Waugh, 'Tenure to Contract', pp.812-3.

⁹Hilton, *A Medieval Society*, p.86.

¹⁰C. Carpenter, *Locality and Polity: A Study of Warwickshire Landed Society, 1401-1499* (Cambridge, 1992), p.96.

¹¹These new professionals were often the younger sons of landowners.

An important element in the relationship between the noble and those he retained was the means of payment. It was clearly understood that a lawyer, judge or official would be paid in advance of any work he might have to do for a particular employer. The average wage for a lawyer's counsel appears to have been between £1 and £2.¹² This fee did not put the retainer under an obligation to a single lord, but made it known that his advice was available when required. Retaining during the reign of Henry III had been rewarded with robes and estates rather than, or as well as, a fee.¹³ This gradually altered over the period 1200 to 1270, with the introduction of contracts or indentures to secure life service for the lord, and a lifetime's fees for those maintained. These contracts gave the lords a modicum of control over how much was being paid to those retained. Official salaries were now accepted as the standard form of payment. The idea of rewarding services with pockets of land was no longer practical. Lawyers and officials wanted cash with which to purchase property in areas of their choice, rather than lands that were scattered across England.¹⁴

As the thirteenth century developed, the number of contracts grew at a quickening pace. Waugh has recorded more than seventy cases (from between 1220 and 1300) which agreed lifetime involvement.¹⁵ As with all figures gleaned from medieval records, it must be assumed that the total number of contracts actually presented was in excess of this. By the fourteenth century indentures and pensions were being used frequently by the lords from both the higher and lesser gentry. Four examples of such indentures survive pertaining to the retainers of Thomas of Lancaster, namely Sir William Latimer, Sir Hugh Meynill of Derbyshire, Sir John Eure and Sir

¹²Ramsey, 'Retained Legal Counsel', p.107

¹³Lachaud, 'Liveries of Robes in England, c.1200-1330,' pp.279-98.

¹⁴Waugh, 'Tenure to Contract', p.817.

¹⁵*Ibid.* pp.819-20. For example, Waugh records 32 pensions found by Maddicott; 20 agreements for wardships and marriages, and 15 contracts for the promotion of children.

Adam de Swillington. They all stress that service was to be for life, and that they were to provide a certain number of men each for Lancaster's retinue. The indentures also state the rewards given for this service. Meynill, for example, was to take ten marks of rent from his tenants per year. He would also be compensated for any horses lost, and be given supplies and fodder for twenty-six horses.¹⁶ All those retained were to receive the knight's livery, and in return would attend parliament when summoned. Liveries of robes were regularly given to retainers in the thirteenth and fourteenth centuries. The wearing of livery labelled men and women as belonging to a specific lord; it was a visible expression of the bond between lord and man.¹⁷ Finally Lancaster would warrant all other men against his retainers.¹⁸

A lack of justice also increased retaining in this period. Without an effective law enforcement system many felt it legitimate to take the law into their own hands. The continuing need or desire to improve and enforce land ownership meant that many lords were willing to employ criminals to remove rivals, and destroy their means of income. Public order and the power of the nobles had become inseparable. The law, in the form of the courts, was frequently only consulted when all private means, including extortion and the use of maintained felons, had failed.¹⁹

By the end of the thirteenth century it had become essential for all lords to retain officials, both administrative and legal, to support them. A magnate's connections could make the difference between having or not having influence at court, and the power to control and keep their lands.

¹⁶Maddicott, *Thomas of Lancaster*, pp.41-3.

¹⁷N. Saul, 'The Commons and the Abolition of Badges', *Parliamentary History*, 9 (1990), pp.302-15; Lachaud, 'Liveries', pp.279-98.

¹⁸Maddicott, *Thomas of Lancaster*, pp.42-3.

¹⁹Hanawalt, *Crime and Conflict*, pp.62-3, 142-3.

4.2. Military Retaining

The wars of the three Edwards brought an increase in the demand for soldiers. The feudal methods of recruitment were already beyond repair and military retaining took a firm hold. The maintenance of a military force was controlled by a lord hiring a knight or captain, who then sub-contracted a company of soldiers. The lord would then have a military force that he could lend to the king (or any other noble by whom he was retained) on request. Each man-at-arms was paid, as was the captain, thus encouraging men to enter into service. By the middle of the thirteenth century it had become commonplace for lords to accumulate a force of men-at-arms and archers. Edward III recruited whole armies for his French campaigns in this manner, moving gradually from the paid army to the contracted army.²⁰

When the king required recruits for his army, a commission of array was issued, ordering a certain number of men to meet at specific points across the country.²¹ The Statute of Winchester (1285) declared that all men between the ages of fifteen and sixty had to be prepared to go to war. Even those who earned less than £2 a year were expected to have scythes or knives to hand in case they were needed in battle.²²

Many of the soldiers recruited for the king's armies were criminals, who agreed to serve in return for pardons. Whilst they formed an essential part of the fighting retinue, they could cause problems once their period of service had been completed. The intermittent periods of peace between 1260 and 1360 meant a return to unemployment for many members of this military pool.²³ There was little hope of temporary employment for these men, many

²⁰Kaeuper, *War, Justice and Public Order*, p.31.

²¹Prestwich, *The Three Edwards*, pp.66-8. Examples of the appointment of officers of array can be found in *VCH Derbyshire*, Vol. 2, p.102; *VCH Warwickshire*, Vol. 6, p.9.

²²Waugh, *Edward III*, p.157.

²³A. Ayton, 'Military Service and the Development of the Robin Hood Legend in the Fourteenth-Century', *Nottingham Medieval Studies*, 36 (1992), p.138.

of whom would have turned to crime. Military retaining brought a slight decline in this sporadic petty lawlessness, by giving soldiers a base to return to. However, those without a retaining lord were free to join raiding parties that ravaged the countryside.²⁴ There was nothing to stop those who had plundered foreign soil continuing the practice when they came home. It was not only pardoned criminals who returned to illegal practices on their return, but also many ordinary soldiers who saw it as a new and more profitable lifestyle. A statute of 1360 drew attention to the problem when it asked for something to be done about gangs who “have been plunderers and robbers beyond the sea and are now returned and go wandering and will not work as they used to do before this time.”²⁵

Men who had learnt how to survive off the land could easily live on their wits in the forests of England for as long as they needed to. Documents surviving from the period show that men who sporadically choose to live in the forests were not that unusual by the mid-fourteenth century. The ‘Anonimale Chronicle’ records the progress of the convoy escorting the captured King John II of France to London in 1357. On the journey a crowd of several hundred men held them up, “as if they were a band of robbers and evildoers with bows and arrows, swords and bucklers.”²⁶ The French king was said to be terrified, but the Black Prince assured him that these were just men who, “live rough in the forest by choice, and it is their habit to array themselves so every day.”²⁷

The men-at-arms retained by the nobility not only satisfied the king’s need for military strength, but also acted as a symbol of a lord’s power.

²⁴N. Wright, Knights and Peasants: The Hundred Years War in the French Countryside (Woodbridge, 1998), pp.80-95. Gives an excellent account of the violent raiding carried out across the French countryside.

²⁵Rotuli Parliamentorum, Vol. 2 (London, 1783), p.332.

²⁶V. Galbraith, ed., The Anonimale Chronicle, 1338-1381 (Manchester, 1927), pp.40-1.

²⁷Ibid, p.41.

Thomas of Lancaster, for example, frequently displayed his power by using his military force to further his own career. In 1315 the king wrote to Lancaster telling him not to create assemblies of armed men. By 1318 Lancaster was being rebuked by parliament for coming amongst them with a 'force of arms'.²⁸ By using such a threatening force, Thomas and his fellow Ordainers were able to force Edward II's hand over two very important political issues, the granting of a commission to the Ordainers in February 1310, and the exile of the Despensers in 1321.²⁹ Lancaster's isolation from government between 1317 and 1318 meant that his retinue was the only protection he had against attack from outside forces.

Lancaster used his maintained military force to make territorial gains for his own estates. The most well known example of this is the Thorpe Waterville dispute of 1312. This complex affair arose from Lancaster's desire to hold the Northamptonshire manors of Alwinkle, Achurch and Thorpe Waterville. Amongst the retainers Thomas employed to increase his own status was William Tuchet, who was not only retained by the Earl, but was an adherent of Walter Langton, the unscrupulous Treasurer of England.³⁰ Langton had conveyed these manors to Tuchet. However, when Langton fell from favour, the king presented the manors to the Earl of Pembroke. In response to this, Thomas sent a small garrison of squires and crossbow-men, under the control of his constable, John Barrington, to the area. Tuchet forcibly entered Thorpe Waterville castle, and claimed the lands of Pembroke and his tenant, John Hotot.³¹ It was important for Lancaster to secure these manors because they were adjacent to his local holdings around Higham Ferrers. Extra land in this area would help to consolidate his control and influence in Northamptonshire.

²⁸Maddicott, Thomas of Lancaster, p.43.

²⁹Ibid, p.53.

³⁰Beardwood, 'The Trial of Walter Langton, Bishop of Lichfield, 1307-1312', pp.5-42.

The Thorpe Waterville incident shows how easy it was for magnates to resort to violence to get their own way. The lawlessness continued when justices tried to hear the case against Tuchet. When Hotot and Pembroke took out writs against Tuchet for novel disseisin, Lancaster stepped into the breach. Thomas incurred expenses of £82 (presumably for bribes), to secure his new lands.³² However, armed assemblies hired by the Earl of Pembroke prevented Tuchet and Lancaster's legal advisors attending the hearings.

Commission to John de Hastings, Nicholas de Segrave and John de Crumbwelle.
On behalf of John de Hotot it has been shown to the king that, whereas Hervey de Staunton, William de Ormesby and Henry Spigurnel, justices assigned to take an assise of novel disseisin arraigned before them by the said John de Hotot against William Tuchet and others...touching tenements in Thorpe Waterville, Aldewyncl, Achirche, Undle and Tichemershe, had assembled in a certain place in the county of Northampton to take that assise, certain persons with an armed multitude approached them and uttered such threats and caused such terror as well to the justices as to the jurors coming there for the assise, that the justices were unable on that account to take it...³³

The king resolved the matter in 1314 when he forced Pembroke to quitclaim the three manors to Lancaster. Presumably this was in the interests of uniting rather than further dividing his administration. The records of the Earldom show that by 1315 Lancaster was paying Tuchet a retaining grant of life estate at the manors in question, thus securing his loyalty, and keeping the manors under the earl's influence.³⁴

The more corrupt of the retaining lords used their military force to prevent court sessions taking place, by waylaying the opposing justice, or invading a courtroom if a case was going against them. Sir Robert de Vere used his maintained men-at-arms to prevent justice taking its course on more

³¹Maddicott, Thomas of Lancaster, pp.154 -9.

³²Ibid, pp.154-5; Somerville, History of the Duchy of Lancaster, Vol.1, pp.24-5.

³³CPR 1313-1317, p.141.

³⁴Maddicott, Thomas of Lancaster, pp.154-5.

than one occasion. In 1331 De Vere is alleged to have led a group of armed men to the road at Beanfield Lawns in Northamptonshire, and threatened the royal justice, William la Zouche of Harringworth, as he travelled around the county on an oyer and terminer commission. Presumably De Vere was due to have his misdeeds discussed at court, for it is claimed he said to La Zouche, "You wish to destroy me, but before I am destroyed I shall destroy all those who intend to destroy me, whatever their rank or estate may be."³⁵

The maintenance of an armed force was an essential element in the fourteenth century household. By 1360 Edward III was encouraging men and boys to practise at archery, to improve the population's overall skill with the weapon. He also asked those liable for service to find themselves lords who would retain them.³⁶ Not only did this mean the lords had a ready-made force to offer the king but, as Given stated, it gave a lord "a means of injuring his opponents indirectly, without his physical involvement."³⁷ It was the military power of a noble, which could provide considerable menace when his retained men took action against an opponent.

4.3. Legal and Administrative Retaining

One of the most important of the magnates' contacts was the justice, the most influential of which sat on the King's Bench. However, these men were always at the king's beck and call, so any retaining alliance they had would take second place. The scene was therefore set for the rise of professional lawyers and justices. The reign of Edward I saw a growing trend in the number of laymen, rather than clerics, taking the dominant positions on the court benches of the country. This trend was facilitated by two important measures introduced towards the end of the thirteenth century. First, there

³⁵Stones, 'The Folvilles of Ashby-Folville', p.124.

³⁶Waugh, Edward III, p.157.

³⁷Given, Society and Homicide, p.79.

was a growing amount of literature written on the subject of law and legal standing, providing guidelines for professional lawyers and judges to follow. Secondly came the 1278 appointment of special pleaders known as the king's serjeants or narrators, who took care of the king's business in the courts, and who were less open to bribery as they were paid a regular fee.³⁸ Unlike the royal justice, the narrator did not have a permanent commitment to the crown, so was in demand amongst the nobles of the time. As the narrators were paid a fee by each noble and from any other clients that they may assist, they could build up very large incomes. By the middle of Edward II's reign narrators were able to expect an eventual seat on the bench, or even a judgeship.³⁹

By Edward III's reign the narrator was considered the authority on pleading, especially in the court of Common Pleas. They were the experts in understanding the law of the time, increasing their demand amongst the magnates of England. As there was only one narrator per county, it was usually the most influential and wealthy lord who secured their advice.⁴⁰ In Edward II's reign it had already become clear that it would be a worthwhile investment to retain legal apprentices. Eventually these men would hold positions of influence, probably as justices.

Retaining legal counsel to help lords win the cases brought against them, and the payment of fees and robes for such services, inevitably led to the use of bribery and corruption. Edward I was so incensed by the number of cases of legal corruption reported to him in his survey of 1286-1289, that the majority of the King's Bench justices were dismissed, fined and temporarily imprisoned.⁴¹ This caused consternation amongst those lords

³⁸Maddicott, *Law and Lordship*, p.19.

³⁹Sir Richard de Willoughby began his career as a narrator, before eventually becoming the Chief Justice.

⁴⁰Ramsey, 'Retained Legal Council', p.103.

⁴¹Powicke, *The Thirteenth Century*, pp.362-3.

who had employed such justices. However, this did not prevent the continuation of judicial malpractice. In 1340 a public petition was handed to the king complaining about the misdeeds of the justices across England. In 1344 and 1345 Sir Richard de Willoughby was accused of taking bribes. It is recorded that Willoughby “sold the laws as if they had been oxen or cattle.”⁴²

The corruption and extortion indulged in by lawyers and judges was a popular topic of criticism in the satirical poems of the fourteenth century. The ‘Song on the Venality of the Justices’ shows how the men of law were seen in the eyes of the populace.

There are judges, whom partiality and bribes seduce from justice;
these are they, I remember well,
that pay toll to the devil, and they serve him alone.⁴³

The situation had become so serious that in 1346 Edward III sent a royal proclamation out from Westminster, aimed at curbing the abuses of the justices, judges and lawyers across England. Justices were told that they had to treat all men equally in the eyes of the law, be they rich or poor. They had to use their discretion to answer only writs that would allow them “to do law and right.”⁴⁴ So that all clients could be treated equally, justices and lawyers had to swear not to receive extra fees, robes or gifts while they were in office. The standard fees for completing a case were increased to compensate for the inevitable loss of revenue justices would encounter. If a justice was found to be in breach of these new regulations, the king could confiscate his lands and chattels.⁴⁵

The ordinance continued by introducing measures to keep law and order throughout England. Most significant to this study was the ruling that magnates and members of the king’s household should not resolve the

⁴²L. O. Pike, ed., *Year Book, 14 and 15 Edward III* (RS, 31, London, 1889), p.258.

⁴³Coss, *Wright’s Political Songs*, p.225.

⁴⁴Maddicott, *Law and Lordship*, pp.40-1.

⁴⁵*Ibid*, p.41.

quarrels of others in return for gifts. Those who were found to be guilty of retaining were to be dismissed from a magnate's following, and stand before an independent council. Justices of assize were given special powers to enquire into abuses of the law by local officials, maintainers, and others who were involved in bribery and corruption.⁴⁶

Law enforcement in the fourteenth century depended on the co-operation of the very people who were committing many of the abuses in the first place; consequently changes were bound to be slow. If a magnate were to cut himself off from military or legal support he would make his social position unstable. It was a lord's retinue which supported his position in the community. Many of the magnates in question were immensely powerful, and because the king needed their support, they would have been able to hinder the passage to a change in the law. The ordinance against retaining was almost wholly ignored from the start. Corruption continued, most graphically illustrated by the scandal of William Thorpe in 1350.⁴⁷

Thorpe was a professional lawyer who had risen through the ranks. His reputation for venality was such, that in 1346, the king warned William to stop his corrupt practices or he would be hanged. In October 1350 he was arrested and taken to the Tower for continuing to accept bribes. Thorpe was made an example of by having his lands removed, but the threat of hanging was revoked. Inevitably William was granted a pardon, some of his lands were restored, and before long he was able to resume his profession. The example of Thorpe helps to illustrate just how little had been achieved by the new ordinance. Nobles, justices and officials continued to practice retaining with increasing pace into the mid and late-fourteenth century.⁴⁸

⁴⁶*Ibid.* pp.41-2.

⁴⁷*Ibid.* pp.48-51.

⁴⁸*Ibid.* pp.51-7.

Side by side with the retaining of legal experts came the maintenance of administrative officials, such as sheriffs, bailiffs and estate managers. These men were needed to make sure that the lord's work was done, and that rents and taxes were collected. As with legal retainers, extortion and oppression soon became mixed in with the other duties of many of those officials retained. An example from 1258 shows how Sir William de Lisle's man of business, Robert Carpenter, took unscrupulous advice from the local bailiffs. On their suggestion, Carpenter learnt how to make sheepskins appear to be worth more than they actually were, so that they could be sold at inflated prices.⁴⁹ By 1263, Henry III's government was increasingly concerned about the amount of intimidation practised by the bailiffs of the period. Yet the onset of the rebellion meant that little was done to limit these excesses. By the beginning of Edward I's reign many officials had built themselves a powerful position which could not easily be assailed. One of the most notorious of these was Adam de Stratton, the steward to Countess Isabella. He built his reputation for corruption by purchasing debts owed to the Jews, and then mercilessly pursuing those who now owed him money or land. When Edward I clamped down on the corruption within government in 1289, £13,000 was found in Adam's house.⁵⁰

In the ballads of Robin Hood the audience is warned to mistrust the sheriff after he goes back on his word not to pursue Robin and his men.⁵¹ The 'Song on the Venality of the Judges' underlines the attitude that the sheriffs of England were deeply involved in acts of corruption.⁵² With the decline of sherival power, the only major task left to the sheriff was to

⁴⁹A. Harding, England in the Thirteenth Century (Cambridge, 1993), p.150.

⁵⁰R.H. Bowers, 'From Rolls to Riches: King's Clerks and Moneylending in Thirteenth-Century England,' Speculum, 58 (1983), pp.67-70; Prestwich, Edward I, pp.341-2.

⁵¹D&T, 'The Geste', verse 298, p.100.

⁵²Coss, ed., Wright's Political Songs, pp.228-9.

administer the writs issued by the courts of government.⁵³ This responsibility made the sheriff a prime target for those who wished to maintain officials. Once they had been retained, a lord could direct the presenting of writs, and consequently have some control over justice. This was especially true for the Palatine of Lancaster, where the issuing of writs was under the earl's control, rather than the king's.⁵⁴

As with military retaining, Thomas, Earl of Lancaster provides an excellent example of a lord who was prepared to use unlawful means to extract the best from his estates. Lancaster wanted to increase his income as often as, and in whatever way, possible. To this end he retained bailiffs and stewards of a ruthless nature. As a landlord, Lancaster was famed for his harsh treatment of tenants. The people of Leicester compiled a long petition indicating their grievances against the earl. Thomas had allowed farmers to fine tradesmen heavily for the sale of merchandise, such as cloth. He also set the farm at such a high level, that officials could only collect it by using oppressive methods.⁵⁵

By the reign of Edward III the problem of officials abusing the system that they were in place to protect was at an all-time high. The following commission from 1347 is just one example from a number of petitions that were issued in the fourteenth century.

Commission of oyer and terminer to William de Thorpe, Roger Hillary, Thomas de Brailles, John de Peyto the elder and Richard de Hastang, on complaint by the commonalty of the counties of Warwick and Leicester that Richard de Stoneleye, late sheriff of those counties, and his ministers and servants, by colour of their offices as well as of commissions and writs to the same Richard and to John

⁵³ See Chapter 5.4.

⁵⁴ Somerville, History of the Duchy of Lancaster, Vol.1, p.20.

⁵⁵ Maddicott, Thomas of Lancaster, p.34.

Waleys, his predecessor in the said office, have been guilty of divers oppressions against the king and his people of those counties.⁵⁶

The above commission shows the ridiculous nature of the inquisitions into official corruption. The first justice mentioned on the investigative panel is the aforementioned William Thorpe, one of the most corrupt of all the justices in fourteenth century England.

The political songs and ballads for the period illustrate further the increasing number of complaints about those in control of the localities of England. 'A Song on the Times' from the reign of Edward I complains about the unlawful behaviour of those in charge of law enforcement.

Those king's ministers are corrupted,
that should take heed to right and law,
and all the land for to amend,
of these thieves they take bribe.
If the man who acts lawfully is brought to death,
and his property taken away;
of his death they make no account,
but of their prey they have a share.⁵⁷

Magnates needed as many influential men as possible on their side. By the first half of the fourteenth century the retaining of justices, lawyers and officials was at its height. A great deal depended on retaining the correct men; only those who could help enhance a magnate's position were of real worth.

4.4. The Retaining of Criminals

Many nobles, when they could not get what they wanted by other means, hired criminal gangs to do their 'dirty work' for them. As Hanawalt's paper on 'Fur Collar Crime,' reveals, the upper classes committed crimes (or

⁵⁶CPR 1345-1348, p.316.

⁵⁷Coss, ed., Wright's Political Songs, p.197.

had crimes committed on their behalf), with the prime objective to further their personal control of wealth and power.⁵⁸ Many of the homicides and extortions that a noble felt necessary would be committed by felons retained on a permanent or casual basis. As with the retaining of judges and officials, fees and protection would be offered to those who committed crimes on the lord's behalf.

In Leicestershire in 1299 there was a violent assault in the field of Herberbury.

The sheriff was commanded to attach John de Lodbrok, Henry and Nicholas, sons of the same John, and others, to answer to Richard Fox of Rylbeston for the death of Robert Fox, his brother, of which he appeals them, because the said Henry and Nicholas, his brother, on the vigil of St. Mary, last past, came to the field of Herberbury, and the said Henry came there with a sword of iron and steel, in length one ell, and in breadth 3 inches, and struck the said Robert Fox with the sword on the left arm; Nicholas, the brother of the said Henry, came with a hatchet called "a Poleaxe" and hit Robert Fox on the head, and John de Lodbrok, after the deed aforesaid, received Henry and Nicholas in his manor of Herberbury and elsewhere.⁵⁹

The fact that John de Lodbrok received the felons into his manor after the murder strongly suggests that it was initiated on his instructions.

Acts of extortion by a lord's retinue were usually carried out by means of a crude protection racket. Occasionally lords hired help from criminal gangs who were expert in methods of extortion. William de Aune, for example, operated a group of retained criminals in Warwickshire and Derbyshire, specialising in extracting money with menaces.⁶⁰

The perverse nature of English justice is shown by examining an entry from the Patent Rolls from 1315.⁶¹ Here, Aune complains about a rival group, led by Simon de Beltoft, that violently assaulted him whilst holding a

⁵⁸Hanawalt, 'Fur Collar Crime', pp.1-17.

⁵⁹CRR No.160 (Michaelmas, 1299), m.50.

⁶⁰CPR 1327-1330, p.84. William de Aune was the keeper of the king's castle at Ticknell.

⁶¹CPR 1313-1317, p.327; See Chapter 3.1.

court at Whetelay in Nottinghamshire; the session had to be abandoned. That Aune should be sitting on the court bench at all shows just how corrupt the legal system had become. An even more brutal attack took place in 1340 against Sir Richard de Willoughby and his fellow justices.

When the said Richard had come to Leycestre to go thence to Monks Kirkeby and divers other places for the furtherance of the said business, certain evil-doers for two days besieged him and his men and servants then lodged at Thurkeston, in the abbacy of Leycestre, and assaulted them, wounding and maiming some of the men and servants, and killing some, whereby the business has remained and still remains undone...⁶²

It was the obvious intention of the evildoers to stop the hearing of “assizes, juries, certificates, and attaints,” at any cost.⁶³ Although the direct motivation for this attack cannot be determined, it can reasonably be presumed that a gang of felons committed the crime on someone else’s behalf.

Receiving felons was one of the most frequent allegations directed against a nobleman.⁶⁴ Almost all retaining alliances included the proviso that, when necessary, a lord would protect the criminals he employed. Sir Robert de Vere, whose castle was on the Northamptonshire, Leicestershire and Rutland border, was particularly well placed to shelter those fleeing from the law. Along with Nicholas de Sparham and Walter Comyn,⁶⁵ De Vere was receiving and maintaining (amongst others), Ralph, son of Geoffrey de Repyndon, Roger le Megre, and Reginald de la More, “notorious thieves, outlawed in that county (Derby).”⁶⁶ The assize rolls record that De Vere and his hired felons left the castle secretly by the postern gate at dawn, and that

⁶²CPR 1340-1343, pp.86-7.

⁶³*Ibid.* p.86.

⁶⁴Hanawalt, ‘Fur-Collar Crime,’ pp. 4-5.

⁶⁵Both men were also involved in the ransoming of Willoughby. See Chapter 3.1.

⁶⁶Report on the Manuscripts of Lord Middleton, p.277.

“those bringing victuals to the castle are not allowed to enter, lest they should come to know those armed men.”⁶⁷ In 1335 the knight, William de Montague, was pardoned for all his trespasses and for receiving John Mautravers and other banished felons.⁶⁸ The Lord Middleton’s manuscript gives further examples of receiving and retaining alliances.

The jurors of the second inquisition of the Peak present, amongst other things, that Nicholas son of John de Tadyngton frequently bought victuals at Baukwell and elsewhere in the county for the use of James Coterel and other outlaws, and carried the same to them at Shakelowe (recorded in Great Shacklow Wood, in Sheldon, parish of Bakewell) and elsewhere when desired, and he thus maintained, received and sustained them.⁶⁹

The higher nobility seem to have held the opinion that it was acceptable to bend the law in order to secure and further their positions. A high proportion of those nobles that did retain and then receive felons must have gone unrecorded, as it would have been a very difficult crime to prove.

One of the only options for those who were too poor to afford legal advice was to take illegal action. If summoned to the manorial court or threatened by a landlord’s bailiffs, a peasant or lesser landowner had little choice but to commit a crime. These felonies could include anything from theft, to pay a landlord’s extortionate rent demands, to the assault and homicide of those threatening them or their livelihood. If the felon then failed to appear in the county court room on more than four occasions then they would be declared outlaw.⁷⁰ Many outlaws fled into distant counties, Wales, or the forests of England. Those who became outlaws were in danger of being drawn into a permanently criminal lifestyle, and could even be retained as a hired criminal by a local lord. Thus a vicious circle was formed.

⁶⁷Stones, ‘The Folvilles of Ashby-Folville’, p.124; Just1/1411b. A further account of De Vere and his men practising oppression can be found in CPR 1330-1334, p.235.

⁶⁸CPR 1334-1338, p.88.

⁶⁹Report on the Manuscripts of Lord Middleton, p.276.

Once one crime had been committed a felon could be forced into perpetrating further crimes to receive a fee.

4.5. Retaining in the Ballads and Songs

The ballads and political songs of the age yield information about the retaining alliances that were forming across England. A careful look at the Robin Hood tales can reveal much about the maintaining tradition of the fourteenth and fifteenth centuries. While reading the ballads of Robin Hood a variety of questions present themselves. Did a noble retain Robin himself? If he were retained then would Robin have had to sub-contract his men? Or did Robin himself act as the retaining body, feeing his own men? Was the whole band based on friendship and co-operation, without specific fees being an issue, as many of the modern day ballads and films would have us believe? These questions are most easily answered by studying 'The Geste', the longest of the Robin Hood stories.

'The Geste' tells us that Robin led a retinue of men, who received from him a livery of scarlet and striped cloth. This supplying of livery suggests that it was Robin himself who retained his men, not an outside nobleman.⁷¹ The role of Little John in the ballads further indicates that it was Robin who retained the outlaws. When the knight in 'The Geste' needs an escort to York it is Little John to whom Robin assigns the duty as yeoman.⁷²

Later in the tale, John takes on the identity of Reynolde Greenleaf, and is offered a fee of twenty marks in exchange for service in the sheriff's household. While he is working for the sheriff, Little John persuades the cook to join him in the greenwood, for the same fee.

⁷⁰R. Palmer, County Courts of Medieval England 1150-1350 (Princeton, 1982), pp.322-5.

⁷¹D&T, 'The Geste', verse 230, p.95.

⁷²Ibid., 'The Geste', verse 81, p.84.

'And every yere of Robyn Hode
 Twenty merke to thy fe.'
 'Put up thy swerde', saide the coke,
 'And felowes woll we be.' ⁷³

Throughout the ballads there are many references to Robin being the master of the band, and the leader of the merry men. In 'Robin Hood and the Monk', John tries to cheer Robin up, "Pluk up thi hert, my dere mayster."⁷⁴ In 'Robin Hood and the Potter', the reader is introduced to "...hes mery maney," (his many followers).⁷⁵ However, when the sheriff tells the king about Robin, he reports that he is retained by the knight he helped out of debt at the beginning of the story, Sir Richard of Lee.

Ther he telde him of that knight,	'He wyll avowe that he hath done,
And eke of Robyn Hode,	To mayntene the outlawes stronge,
And also of the bolde archers	He wyll be lorde, and set you at nought,
That were soo noble and gode.	In all the northe londe.' ⁷⁶

It is possible that an alliance between Robin and Sir Richard would have been set up after Sir Richard's lands had been recovered. This is the only mention of an outside retainer in the ballad at this stage, and it can be assumed that it was only a casual alliance, Robin remaining the retaining master. The situation only alters in the seventh fytte of 'The Geste', when Robin agrees that he, and some of his men, should join the king's retinue.

'I wyll come to your courte,
 Your servyse for to se,
 And brynge with me of my men
 Seven score and thre.' ⁷⁷

⁷³Ibid. 'The Geste', verse 171, p.91.

⁷⁴Ibid. 'Robin Hood and the Monk', verse 5, p.115.

⁷⁵Ibid. 'Robin Hood and the Potter', verse 4, p.125.

⁷⁶Ibid. 'The Geste', verses 323-4, p.102.

⁷⁷Ibid. 'The Geste', verse 416, p.109.

To celebrate Robin joining his retinue, the king invites him and his men to dine at Nottingham. The king dresses in Robin's livery (which now appears to be green), before setting off for the castle to fool the sheriff into thinking the outlaws are taking over the town. The eighth fytte of 'The Geste' shows that Robin had only been in the service of the king for twelve months before he ran out of money to pay his men's fees.⁷⁸ He could no longer afford to retain his retinue, and before the end of the year only two of Robin's men were left. Once his money had run out Robin returned to the forests of the East Midlands, where his followers soon gathered about him. The ballads explain that he regained his wealth by waylaying unsuspecting travellers, remaining in the greenwood for the next twenty-two years.

The author of 'The Sloane' manuscript also gives the impression that Robin Hood was a retaining lord looking out for the best and strongest men to join his band. This is best illustrated by examining his manner of recruiting new members to the band. 'Whersoever he hard of any that were of unusual strength and 'hardines', he would desgyse himselfe, and, rather then fayle, go lyke a begger to become acuaquaynted with them; and, after he had tried them with fyghting, never give them over tyl he had used means to drawe (them) to lyve after his fashion.'⁷⁹

As part iii. of this chapter illustrates, the justice was an essential part of the noble's retained household. Without influence in court circles there was little chance of winning a case when standing against someone with retained legal advice. Those who did not have enough land to maintain legal support appear to have had a reduced chance of winning in the courtroom. However, it was not always those without land who could find themselves at the mercy of a greater lord's retaining alliance. This situation is well illustrated in 'The Geste'. The tale concentrates on the knight, Sir Richard of

⁷⁸*Ibid.*, 'The Geste', verse 433, p.110.

⁷⁹Ritson, *Robin Hood*, pp.iii-iv.

Lee, who had to buy a pardon for his son after he killed a knight of Lancaster and his squire.⁸⁰ To find the £400 needed to buy his son's freedom, the knight had to mortgage his lands to the abbot of St Mary's in York. The knight had been unable to make enough money to pay the abbot back, so in an attempt to win an extension to the repayment period, he travels north towards the abbey. As Sir Richard ventures through the greenwood he is waylaid by Robin, who lends him the money. The knight continues towards York, where he meets the abbot, who is accompanied by the chief justice of England and the sheriff. The day had come when payment was due, and the abbot and his colleagues expect that the knight's lands would be in their hands before the day was out.

The hye iustyce and many mo
 Had take in to they honde
 Holy all the knyghtes det,
 To put that knyght to wronge.⁸¹

At first the knight pleads for extra time to pay his debt, pretending that he had not found the money in time. As we might expect from such an anti-authoritarian tale, the justice, abbot and sheriff deny the request. The ballad explains that the sheriff and justice are in the service of the abbot.

'Thy daye is broke', sayd the iustyce,	'I am holde with the abbot,' sayd the
'Londe getest thou none.'	iustye,
'Now, good syr iustyce, be my frende.	'Both with cloth and fee':
And fende me of my fone.'	'Now, good syr sheryf, be my frende.'
	'Nay, for God,' sayd he. ⁸²

In reply to this lack of charity, the knight produces the money he owes, prompting the abbot to demand his fee back from the justice.

⁸⁰D&T, 'The Geste', verse 53, p.82. The 'Lancaster' in question was probably Thomas or Henry. Philips and Keatman, *Robin Hood*, pp.51-8.

⁸¹D&T, 'The Geste', verse 94, p.85.

⁸²*Ibid.* 'The Geste', verses 106-7, p.86.

'Take me my golde agayne,' saide the abbot,

'Sir iustice, that I toke the.'

'Not a peni,' said the iustice,

'Bi God, that dyed on tree.'⁸³

The knight is once again secure in his lands, and leaves the abbot to brood over his loss. It had obviously been the intention of the retained alliance of abbot, sheriff and justice to deprive the knight of his lands, by bending the law to their advantage. The ballads of Robin Hood always show the oppressed overcoming the pressure of authority. Such tales must have promoted hope amongst the poorer nobles and peasants of the time.

The most obvious retaining alliance displayed in the ballads of Robin Hood is the arrangement between Guy of Gisborne and the sheriff of Nottingham. 'Robin Hood and Guy of Gisborne' is the most violent of all the early ballads. The sheriff hires Guy to kill Robin on his behalf. The character of Gisborne illustrates clearly the perception people had of the manner of men employed to carry out criminal activities for others.

'I dwell by dale and downe,' quoth Guye,

'And I have done many a curst turne;

And he that calles me by my right name

Calles me Guye of good Gysborne.'⁸⁴

After a violent sword fight, Robin eventually overcomes Guy. To trick the sheriff into believing that Guy has killed him, Robin beheads Guy and slashes his face with a knife, thus making him unrecognisable. He also puts on Guy's horsehide cloak, and blows a blast on his horn, so the sheriff would hear it and believe that Robin was dead.⁸⁵ While Robin had been fighting Gisborne, the sheriff had captured Little John. Still disguised as Guy, Robin

⁸³Ibid. 'The Geste', verse 123, p.88.

⁸⁴Ibid. 'Robin Hood and Guy of Gisborne', verse 34, p.144.

⁸⁵Ibid. 'Robin Hood and Guy of Gisborne', verse 47, p.145.

asks to slay John rather than receive his knight's fee.⁸⁶ Robin then frees John and the sheriff realises that he has been deceived.

Legal records verify that it was not unusual for an official to hire someone to track down known criminals. In 1272 the king and a council of magnates agreed that Reynold de Grey should be paid 100 marks to capture Roger Godberd, the leader (and retainer) of a gang of outlaws operating in Nottinghamshire, Leicestershire and Derbyshire.⁸⁷

It was not only the Robin Hood ballads that include mention of retaining. 'The Tale of Gamelyn' features Adam Spencer, a faithful family retainer, who assists Gamelyn's escape from his wicked brother "in hope of avauncement".⁸⁸ Adam even helps Gamelyn fight off a posse of men sent to arrest him by the local sheriff.⁸⁹ In 'Adam Bell, Clim of Clough and William Cloudsey', all three outlaws are retained by the king. William Cloudsey was offered eighteen pence a day to be the chief ranger of the northern forests.

'I geve the eightene pence a day,
And my bowe shalt thou beare,
And over all the north countre
I make the chyfe rydere'⁹⁰

The fact that retaining should be included in the everyday tales of the Middle Ages shows that it had become part of fourteenth and fifteenth century life. The ballads underline that oppression from retaining, and the use of criminal bands for unlawful acts were already accepted behaviour amongst the gentry.

⁸⁶*Ibid.* 'Robin Hood and Guy of Gisborne', verses 49-51, p.145.

⁸⁷*CPR 1266-1272*, p.622. See Chapter 3.1.

⁸⁸Sands, ed., *Middle English Verse*, line 418, p.167.

⁸⁹*Ibid.* lines 590-604, p.172.

⁹⁰D&T, 'Adam Bell, Clim of Clough and William Cloudsey', verse 163, p.272.

4.6. Conclusion

The maintenance of justices, knights and local officials all improved the status, and increased the power and influence of nobles across England. The larger the noble's retinue, the greater his say over the politics of the counties in which he held estates. "Maintaining many men and dressing them in the lord's livery was not only important for the lord's place in society; it was also necessary for the protection of his interests at home and for his service in the wars of the king."⁹¹ The retaining of such men inevitably led to abuses of the system, as it became more important to keep up with all the other nobles in the counties where land was owned.

Bribery and corruption were obvious side effects to the maintaining of a justice on a county bench. Although it would be unfair to suggest that all judges were corrupt, there was certainly a substantial problem on the benches of England. Numerous complaints from across the country prompted action, including the dismissal of the Bench in 1289, and the introduction of measures to curb malpractice by Edward III in 1346. A poem from 1376 shows that corruption was continuing to be a problem within the legal profession towards the end of the century.

It is the custom at Westminster
That whoso would learn the trade
Of the law, for this purpose needs
Some money, in order to mount up high.
It is a situation to prize:
According to this practice
On money he will grow wise;
If he makes a start with money,
Later on he will know how to use it
To his own advantage and the harm of others:....⁹²

⁹¹Hanawalt, 'Fur Collar Crime', p.8.

⁹²E. Rickert, Chaucer's World (London, 1948): 'How To Be A Successful Lawyer', c.1376-79, pp.159-60.

It was not just on the courtroom bench that retaining was influencing the level of crime. The maintenance of a military force, the feeing of bailiffs and other local officials led to acts of extortion and oppression. In many cases the military groups kept by the lords were the equivalent to organised bands of thugs.

The political poems and ballads show us that retaining was a well understood practice, but was unpopular with much of the population, who would not have been included in these exclusive networks. The 'Song Against the Retinues of Great People' (written about the retainers of Edward I's reign) says that those employed by the lords were in league with Satan. They are described as drunken, lazy and scoundrels who will "be lodged in hell."⁹³

Attempts to limit retaining and its associated corruption were made in 1377 with the forbidding of the use of hats as livery. By 1384 the motion was more serious with a statute aimed at outlawing retaining itself. John of Gaunt prevented the proclamation gaining ground, for he declared that lords were well able to control their men.⁹⁴ Gaunt probably believed this to be true; the crimes his men committed were largely unimportant to him, unless of course they were to his personal benefit, in which case they were acceptable anyway. Further acts were introduced in 1393, 1401 and 1429, but remained unsuccessful. As late as 1504 Henry VII's officials were continuing to legislate against magnate retainership.⁹⁵ The medieval kings did not seek to abolish bastard feudalism, for they had too many interests entwined in the practice to wish to remove it. However, by the sixteenth century the crown was seeking a way to become the sole beneficiary from it.⁹⁶

⁹³Coss, ed., Wright's Political Songs, p.240.

⁹⁴Hicks, Bastard Feudalism, p.124.

⁹⁵Ibid, pp.124-5.

⁹⁶Ibid, p.133; Waugh, Edward III, pp.130-5; J. Thomson, The Transformation of Medieval England, 1370-1529 (New York, 1983), pp.121-4.

Chapter Five

CHANGES IN THE LEGAL SYSTEM AND THEIR IMPACT ON LAWLESSNESS IN SOCIETY

An examination of the changes made to the legal system between 1260 and 1360 reveals not only how they failed to diminish crime, but also how, in some cases, the system actually aggravated lawlessness. The government of medieval England saw legal administration in black and white terms. Evil should be punished and corruption should be removed. The principles of 'do as you would be done by' and 'for as you sow, so shall you reap' rang true in the medieval mind. Such basic theories, however, could not actually be applied to the web of courts and commissions that had jurisdiction across England.

The King's Court was the supreme legal authority of the age. It was split into three sections; the King's Bench, the Court of Common Pleas and the Exchequer of Pleas.¹ The King's Bench was the highest court in the land, which dealt with major felonies and breaches of the peace. The busiest court was that of the Court of Common Pleas, which handled a wide range of litigation, from property offences to breaches of obligation. The Exchequer Court dealt with cases of debt, and often heard complaints against officials.² Beneath these came a conglomeration of courts with overlapping responsibilities, such as manor and hundred courts.³ Alongside these courts

¹R.C. Palmer, The Whilton Dispute, 1264-1380: A Social-Legal Study of Dispute Settlement in Medieval England (Princeton, 1984), p. 21.

²Ibid, p.21.

³The court systems of medieval England were extremely complex. They are examined in depth in the following: Palmer, County Courts of Medieval England, 1150-1350; F. Willard, A. Morris, and H. Dunham, eds., The English Government at Work, 1327-1336, Vol. 3: Local Administration and Justice (Cambridge, Mass., 1950); D. Crook, 'The Establishment of the Derbyshire County Court, 1256', Derbyshire Archaeological Journal, 103 (1983), pp.98-106; B.W. McLane, 'Changes in the

came the justices in eyre who travelled around selected counties hearing and determining a variety of commissions, and delivering the gaols.

After the administration of the courts came the actual policing of the country.⁴ A glance at the number of crimes in the Leicestershire gaol delivery rolls for 1310-1311 is sufficient to see that the nature of policing the counties was ineffective, with no specific elements of crime prevention.⁵ The legal system had not deteriorated overnight, but had gradually ceased to be effective over the final years of Henry III's weak administration. Edward I realised that to counteract the abuses of the country's officials, and to decrease the general crime rate, an attempt at reforming the legal administration was essential.

5.1. The Early Legal 'Reforms' of Edward I

"In the fourteenth century, legal principles were developed more by political events and by judicial decisions and discussions than by an ambitious jurist or a conscious legislator."⁶ Although Ehrlich was referring to the reigns of Edward II and III when he made this statement, it can equally be applied to the formative years of Edward I's reign.⁷ On his accession to the throne in 1272 Edward I recognised that positive measures were urgently

Court of the Kings Bench, 1291-1340: The Preliminary View from Lincolnshire,' ed., W. M. Ormrod, England in the Fourteenth Century: Proceedings of the Harlaxton Symposium, 1985 (Woodbridge, 1986); Z. Razi & R. Smith, eds., Medieval Society and the Manor Court (Oxford, 1996); J. Bellamy, The Criminal Trial.

⁴See Introduction iv.

⁵Just /3/30/1. See Chapter 2.1.

⁶Ehrlich, 'Proceedings Against the Crown 1216-1377' ed., P. Vinogradoff, Oxford Studies in Social and Legal History, Vol. 6 (Oxford, 1921), p.112.

⁷See, A. Musson and W. M. Ormrod, The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century (London, 1999), pp.1-7, which proposes that the changes that took place within the English justice system at this time were due to a gradual process of evolution, rather than the result of several dramatic events.

needed to strengthen the controls on law and order, and consequently strengthen his own position.⁸ Eleven years had passed since the defeat of De Montfort at Evesham, but unrest still infected the country. The Dictum of Kenilworth had ensured that those paying for the reinstatement of their property would still recall the rebellion, and resentment must have been keenly felt.⁹

After receiving numerous complaints about corruption in official circles, Edward initiated an enquiry to determine the extent of this misconduct. This initial research began a series of investigations that were to become known as the Hundred Rolls.¹⁰ This enquiry provided Edward with the means to inspect the true state of his country. The Hundred Rolls were used to ascertain who occupied what land, how much of it had been usurped after the rebellion of 1265, and where property repairs were needed.¹¹

The corruption and brutality employed by officials, highlighted by this survey, shows that a state of maladministration had been allowed to

⁸Prestwich, Edward I, pp.267-96.

⁹An example of the bitterness felt is displayed in the Whilton dispute, when the death of both William and Nicholas Whilton left the inheritance of Whilton Manor in Northamptonshire open to question. The manor had been passed to Thomas de Turberville after the Whiltons supported De Montfort during the Baron's War and it was unclear who had a legitimate claim to the lands, and should therefore pay the fee required by the Dictum of Kenilworth. Palmer, The Whilton Dispute, pp.28-61.

¹⁰The Hundred Rolls are catalogued in the PRO as the Hundred Rolls and the Extract Hundred Rolls. The methods employed by those carrying out the enquiry are detailed by H. Cam, 'Studies in the Hundred Rolls: Some Aspects of Thirteenth Century Administration', ed., P. Vinogradoff, Oxford Studies in Social and Legal History, Vol.6 (Oxford, 1921); S. Raban, 'The Making of the 1279-80 Hundred Rolls', Historical Research, 70, No.172 (1997), pp.123-45.

¹¹CIM, (Chancery) 1219-1307, Vol. 1, No.943, p.288. An example of the repairs required can be seen at Brigdestock manor in Northamptonshire, where the house was in a good state, but the outbuildings and preserve both needed some attention.

develop.¹² This situation led Edward to initiate a series of judicial reforms that were to earn him the title the 'English Justinian'.¹³ These new legal policies were intended to secure the crown's control over the country rather than to deal specifically with community corruption.

Two months after his coronation the new king ordered his escheators to seize all the lands that had been illegally taken after the Barons' War. Edward also appointed thirty-two new sheriffs across England.¹⁴ The implementation of new legislation was then held up by the intervention of the Welsh war between 1276 and 1277. It was not until 1278 that an eyre was commissioned across England to deal with the complaints that had arisen from the Hundred Rolls. Just as the itinerant justices had done in the final eyre before the Barons Rebellion, the 1278 eyre made use of the *querela*.¹⁵ This was to hear and determine the complaints, often given orally, of the poorer members of a community, without their incurring the expense of issuing a writ or making a criminal appeal.¹⁶ The 1278 eyre was the first occasion on which the knightly juries of presentment were able to speak for their own counties. Their powers were concentrated on the magnates and their servants, who might have intimidated lesser juries.¹⁷ New procedures acted as an assurance that the new reign was bringing with it the opportunity for all sections of society to have a say in redressing any wrongs committed against them. There was an initial surge of popularity for the new regime, never more so than when inquisitions were sent forth to bring miscreant

¹²J. R. Maddicott, 'Edward I and the Lessons of Baronial Reform: Local Government 1258-80', Thirteenth Century England, Vol. 1: Proceedings of the Newcastle Upon Tyne Conference I (Woodbridge, 1986), p.7.

¹³Prestwich, Edward I, p.267.

¹⁴Maddicott, 'Edward I and the Lessons of Baronial Reform', p.10. See below.

¹⁵Ibid, pp.11-2.

¹⁶A. Hershey, 'The Earliest Bill in Eyre: 1259', Historical Research, 71, No. 175 (1998), p.228.

¹⁷Maddicott, 'Edward I and the Lessons of Baronial Reform', p.13; Crook, Records of the General Eyre, p.32.

officials to justice.

The first major outcome of the 1272 inquiry was the Statute of Westminster, proclaimed in 1275. This was a comprehensive document, consisting of fifty-one points, addressing the problems revealed in the preceding year. "First the king wills and commands that the peace of the Holy Church and of the land be well kept and maintained in all points, and that common justice be done to all, as well to the poor as to the rich, without regard for anyone."¹⁸ This appeal to both the wealthy and the poor alike appears to have come from a genuine desire to make England's legal administration more efficient across the whole population.

The motivation behind the introduction of the Statute of Westminster was threefold. Its first, and most important, purpose was to preserve and keep the peace. This point was addressed in the ninth clause of the document, which stated that the common pursuit of malefactors should be ensured by the county posse. Magnates were not to give felons refuge, and severe penalties were initiated for sheriffs and other officials who abused their position. The second section of the statute aimed its doctrine at the magnates of England, concentrating on restrictions over seignorial jurisdiction. The final part of the statute addressed the evidence gathered from the Hundred Rolls on the local administration of the country.¹⁹ Edward clearly intended the Statute of Westminster (issued at his first parliament) to form the backbone of the policies for the whole community. It was stated that the statute should be proclaimed in every county, hundred court, city, borough and market town in England.²⁰ To reinforce these new regulations (and to make sure that every royal official knew about them), the proclamations were transcribed and delivered to every sheriff and bailiff in

¹⁸The Statute of Westminster I, 1275; Douglas and Rothwell, eds., *EHD*, Vol. 3, p.397.

¹⁹*Ibid.* p.397

²⁰*CPR 1272-1281*, p.104.

England.²¹

The main objectives of the First Statute of Westminster emerged from a concern about extortion by royal officers; writs and the processes of civil and criminal law; the use of bail; the privileges of feudal lords and the exaction of hospitality from religious houses.²² A number of these measures led to further statutes, dealing with specific issues. The 1276 Statute of Ragman, for example, gave the justices in eyre the ability to enquire into the offences committed by officials during the preceding twenty-five years. The levels of misconduct uncovered were so high that it proved impossible to implement the Ragman Inquests.²³ Targeting such a huge body of influential men would have been extremely unwise in the light of the recent rebellion. Edward and his administrators wisely decided that it would be more prudent to prevent future abuses, rather than to rake up the past.

Edward and his associates had improved the efficiency of the legal system, as far as it went. However, it had never been their intention to introduce massive reforms, and lawlessness continued, in spite of the new statutes designed to limit it. 'A Song on the Times' voiced the popular dissatisfaction that had failed to be abated by Edward's initial reforms.

At present, a writing is of no [worth] but right and law lie as it were asleep,
and the care of the wicked race is blind,
it has not sufficient foresight to fear the future.
The sons of iniquity crush those who resist;
the peace of the church perishes, and the proud reign.

²¹Maddicott, 'Edward I and the Lessons of Baronial Reform', p.15.

²²*Ibid.* p.11. These were similar to the motions put forward by the barons who drew up the Provisions of Oxford in 1258. The barons' main aims had been to curb the abuses of officials and to prevent the usurping of the king's lands and the taking of bribes, in return for the release of criminals.

²³Palmer, County Courts in Medieval England, p.228.

The wicked prelates support this state of things by their supineness,
for they refuse to suffer death for justice.²⁴

Even though the new legislation had been proclaimed in every public place in England, royal officials continued to commit acts of corruption. The crown had not provided a sufficient police force to back up its initiatives. In many cases those regulating the officials were themselves corrupt.

In a further attempt to quell the lawlessness across the country, Edward announced the Second Statute of Westminster in 1285.²⁵ This second statute sought to enlarge on the measures suggested in the first: how to actually administer the law. It then extended the scope of the legislation to cover land law. This new legislation could be implemented if lands were being held as a means of recovering a debt; a debtor might even try to forcibly recover his lands. In the late thirteenth century possession really was nine-tenths of the law. Plaintiffs and defendants alike required speedy action if they wanted to keep hold of lands to which they believed they were entitled. An example of an Assize Court hearing for the illegal disseisin of a free tenement can be seen in the 1307 assize roll for Leicester. William Dogel, William the Tailor of Mountsorrel, William of Sapcote and others were accused of unjustly taking, with force of arms, the land of Robert son of John de Farnham in Mountsorrel. The jury judged that Robert de Farnham should recover his seisin, along with his damages, which the Jurors assessed at 50 shillings. William le Taillour and his associates were to be sent to prison.²⁶

Edward's principal ideas for the effective policing of his country were set out in 1285 in the Statute of Winchester. Its preamble stated why such measures needed to be improved.

²⁴Coss, ed., *Wright's Political Songs*, pp.133-4.

²⁵The Statute of Westminster II, 1285; Douglas and Rothwell, eds., *EHD*, Vol. 3, p.428.

²⁶Farnham, *Quorndon Records*, p.69; Just1/466.m.12.

...from day to day, robberies, homicides, and arsons are more often committed than heretofore, and felons cannot be convicted by the oath of jurors, which more readily suffer felonies committed against strangers to pass without punishment than indict offenders, the great part of whom are of their own country; or at least, if the offenders are in another country, their abettors and receivers are persons of the neighbourhood.²⁷

This open flaunting of the law was addressed in stern terminology, with the proposed improvements in capturing criminals taking a firm stance.

First, a new law whereby the hundred in which a robbery or other felony was committed was made answerable for the damage, unless the offenders were discovered and convicted; and secondly, several regulations of police, providing, among other things, for the stricter watch of cities and towns, the improvement of highways, especially by the removal of trees, bushes, and other cover from their immediate proximity, and the more effectual following of the hue and cry, when offenders were pursued by the force of the country.²⁸

The initial impetus behind the legal reforms of Edward's reign was to secure his position on the throne, showing the populace and barons alike that he was in charge. He did this by implementing many of the measures suggested by the Provisions of Oxford, but under his terms. The Barons' War and the information gleaned from the Hundred Rolls enquiry produced the catalyst required to move towards making the law more efficient and effective. There was a need to show the people that the crown cared about its subjects. An effort was made to give some relief to the poor with the action aimed against the corruptions and oppressions of bailiffs and sheriffs. It was also acknowledged that the processes of law had to be speeded up. By the time many cases were heard, innocent people had died whilst awaiting trial in prison. At no point was it Edward's intention to put together a new legal system, he was merely refining processes that were already in place.

²⁷F. M. Nicols, 'Original Documents Illustrative of the Administration of the Criminal Law in the Time of Edward I', *Archaeologia*, 40 (1866), p.91.

²⁸*Ibid.*, p.91.

However, these early measures set the scene for the changes that were to follow throughout the next century.

5.2. The Impact of the End of the Eyre

“Some justices are commissioned to go from county to county to hear all cases in general.”²⁹ The general eyre was a court system by which a set of itinerant justices worked their way around the counties of England, hearing and determining cases.³⁰ The duties of the eyre justices were to hold all the counties’ civil pleas, the local crown pleas, hear all the appeals of felony, to try those suspected of crimes and to deliver the gaols. Furthermore, they had to hear and determine all complaints against officials. After 1278 their powers were increased by allowing them to hear pleas concerning liberties, particularly those brought on writs of *quo warranto*.³¹ Thus they fulfilled the joint functions of taking the crown’s representatives into every county, creating much needed revenue for the Treasury from fines, and controlling the conduct of the king’s officials. They also had the specific task of enquiring into all matters of homicide. This meant that they had jurisdiction over the juries picked to hear such cases. Once these justices in eyre had arrived in a county their jurisdiction would supersede that of those usually in power.³²

Once it was proclaimed that an eyre court was on its way, each hundred and borough was obliged to bring forward a jury of twelve men. Two of these men would be chosen as electors, who then picked the other ten men. When they reached the session of eyre, the jurors each had to answer a

²⁹Twiss, ed., *Henrici de Bracton De Legibus*, Vol. 2, p.308.

³⁰The origin of the eyre can be traced back to the twelfth century. Henry II had actively used itinerant justices to deal with criminal cases across England. Crook, *Records of the General Eyre*, p.2.

³¹*Ibid*, p.1.

³²Given, *Society and Homicide*, p.5.

list of questions, known as the articles of the eyre. This list included the statement that they should report, “all deaths from violence and suspicious causes, all capital executions by judgement of the courts in the county or on persons from the hundred in courts elsewhere, all abjurations of the realm by self-confessed felons and all appeals.”³³

On 20 June 1260 the eyre came to Northamptonshire, which received a special commissions hearing for the first time since February 1253. The officials of the county were given forty days to prepare for the coming of the justices.³⁴ During the reign of Henry III, 281 eyres were held throughout England (with additional eyres conducted in London).³⁵ Twenty-one of these eyres were held in a circuit that lasted from 1261 to 1263.³⁶ The Leicestershire and Buckinghamshire eyre included within this itinerary was scheduled to begin on 20 January 1262, but it was postponed until 23 April. The Rutland eyre was also scheduled for the same circuit in January 1263, but was never completed.³⁷ The work of the eyre broke off during the Barons’ War, resuming after the Dictum of Kenilworth. Between 1268 and 1272, and then 1274 and 1277, with the accession of Edward I, a further thirty-five eyres were conducted.³⁸ In 1278, after the data from the Hundred Rolls had been assimilated, the justices in eyre were again sent out on their respective circuits to hear and determine the complaints declared.

The breakdown of the general eyre occurred throughout the final decade of the thirteenth century. Its collapse came from the overwhelming

³³*Ibid.*, p.5.

³⁴*CCR 1259-1261*, pp.451-2.

³⁵120 of these eyres records survive at the PRO; Crook, *Records of the General Eyre*, p.14.

³⁶*Ibid.*, p.14. Fifteen of these eyre rolls still survive in the PRO. Amongst these are the Northamptonshire eyre of 1261-1262, a roll of civil pleas and attorneys (Just1/616), and an Estreat Roll of eyres of Northamptonshire, Bedfordshire and Buckinghamshire (Just1/617).

³⁷Crook, *Records of the General Eyre*, p.127.

³⁸*Ibid.*, p.14.

demands placed upon it by the poorest litigants under the *querelae*. These, combined with the action of trespass, had begun to clog up the work of the justices in eyre with civil writs, which brought every type of injury, to both man and his property into the eyre court.³⁹ Once Edward I had placed enquiries into royal rights, baronial franchises and corruption by his officials on top of the eyres' workload, they simply could not cope. The proceedings were taking longer and longer, including the spectacular Lancashire eyre that lasted from 1284 to 1286.⁴⁰ Edward's determination to stamp his control on the rule of England, and the population's determination to have the hearing they believed they deserved, simultaneously crippled the country's main instrument of justice.

After the abandonment of the 1294 itinerary, new procedures were initiated to replace the exhausted eyre. The Assize Courts began to adopt the circuit approach of the eyre justices, visiting each county more frequently than before. However, the sheer number of complaints meant that they too could not cope. So a series of commissions were initiated to fill the gap left by the eyre.⁴¹ The most significant of these commissions were those of oyer and terminer, that is those who heard and determined cases.⁴²

Oyer and terminer justices embraced a broad range of crimes and trespasses within their commissions. They administered general commissions where justices had the powers to put to trial a whole class of offences over the counties allocated to them. They could also conduct special commissions to hear complaints by private persons in a specific county. The special commissions, however, can usually be given the broad heading of cases under

³⁹See Chapter 2.1; Kaeuper, 'Law and Order', pp.734-84; Harding, The Law Courts of Medieval England, p.86.

⁴⁰Ibid., pp.87-8.

⁴¹Ibid., p.88.

⁴²The oyer and terminer commissions form the majority of the commissions recorded in the 'Calendars of the Patent Rolls' between 1260 and 1360.

the royal jurisdiction of trespass.⁴³ The justices of oyer and terminer therefore embraced a huge range of criminal and civil disturbances.

Edward used the oyer and terminer commissions to cope with the mounting pressure of complaints in the royal courts. They dealt with a large number of *querelae*, and smoothed the judicial function of parliament.⁴⁴ During the first eyre of Edward's reign, between 1278 and 1283, the number of commissions declined, but it surged again in 1283 with the withdrawal of the eyre due to the Welsh war.⁴⁵ The eyre of 1292-1294 was the first to show signs of collapse.⁴⁶ By 1298 England was again facing military action in Scotland, Wales and Gascony. The social unrest that always accompanies war was rife and so, in the absence of the eyre, the oyer and terminer justices were sent out to hear and determine those cases placed before them.

In 1305 another type of commission was introduced to ease the burden now placed on the oyer and terminer courts. The trailbaston commissions, named after the staves carried by criminals, were set up to hear and determine various felonies and trespasses.⁴⁷ They were concerned with the most violent of the country's crimes, including highway robbery and breaking into houses. The trailbaston enquiry of 1305 despatched a commission to Nottinghamshire, Northamptonshire, Rutland, Leicestershire and Lincolnshire.

Because many malefactors and disturbers of our peace commit homicides, depredations, arsons and very many other injuries by night and by day and wander and roam in the woods, parks and divers other places...⁴⁸

The commissions of trailbaston were split into five different circuits.

⁴³Kaeuper, 'Law and Order', p.739.

⁴⁴*Ibid.* pp. 734-84. Kaeuper gives an excellent account of the origins and workings of the oyer and terminer commissions.

⁴⁵*Ibid.* p.743. Between 1283 and 1292 there were approximately fifty such commissions each year.

⁴⁶*Ibid.* p.743.

⁴⁷Prestwich, *The Three Edwards*, p.34.

⁴⁸Douglas and Rothwell, eds., *EHD*, Vol.3, p.519.

Northamptonshire and Rutland were included in the Midland circuit, and Leicestershire, Nottinghamshire and Warwickshire were included in the Northern circuit.⁴⁹ The trailbaston enquiries highlight the growing distinction between those cases of the king's suit and private complaints. This coincided with a further fall in the standards of public order. The use of the trailbaston itself can even be seen to have increased lawless behaviour. There was such an ardent distrust of both it, and those officials that administered it, that it was judged as a further means of oppression. The 'Outlaw Song of Trailbaston,' written early in the reign of Edward II, illustrates the strength of feeling against these commissions.

It is the articles of Traillebaston; - except the king himself,
may he have God's curse-
whoever first granted such a commission!
For there is little reason in any of the points of it.

Sire, if I wished to chastise my lad - with a slap or two, to amend him,-
he will ask a bill against me,
and will cause me to be arrested,
and to give a great ransom before I escape from prison.⁵⁰

As the above verse illustrates, anyone could make a complaint within these commissions. Suits of private litigants were becoming increasingly popular. By the fourteenth century it seems that private bills of complaint were the only means by which to get violent criminals before a jury. The imagined singer of the song of trailbaston was an old soldier who had served his king in Scotland, Flanders and Gascony, but now false accusations against him were forcing him to keep to the woods.

⁴⁹The Justices for the Midland Circuit were John Botetourt, William Howard, Nicholas Fernbaud, constable of Bristol, and Robert de Herewedon. The Justices for the Northern Circuit were Peter de Maulay, Edmund Deyncourt, William le Vavassour, John de L'Isle and Adam Middleton; F.W. Maitland, ed., Memoranda De Parlamento AD 1305: Records of the Parliament Holden at Westminster (RS, 98, London, 1893), pp.xcviii-xcix.

For this cause I will keep myself among the woods, in the beautiful shade;-
where there is no falseness and no bad law;-
in the wood of Beauregard, where the jays flies,-
and where the nightingale sings always without ceasing.

But the bad idlers, on whom may God have no pity!-
with their false mouths have indicted me-
of ill robberies and other delinquency,-
so that I dare not be received among my friends.⁵¹

The song continues by attacking the justices as corrupt and cruel. The singer declares that he would teach Spigurnel⁵² and Belflour⁵³ ("people of cruelty") a lesson. He gives a firm and prophetic warning about the results of such commissions.

I would teach them the game of Trailebaston,-
and would break their back-bone and their crupper,-
their arms and their legs, it would be but right,-
I would cut their tongues and their mouths likewise.

He who first commenced these things,-
never in his life will he be amended;-
I tell you for truth, he has committed therein too great a sin,-
for out of the fear of prison there will be many a robber made.⁵⁴

Never had a single type of commission received such specific literary protest. The trailbaston song continues at great length about the limitations that the commissions placed on the daily life of the people of England. Those who practised archery were afraid to do so in case they were accused of poaching, and those who knew more about the law than the justices could be

⁵⁰Coss, ed., Wright's Political Songs, p.231.

⁵¹Ibid., p.232.

⁵²Henry Spigurnel was a justice of assize during the mid -fourteenth century. Musson, Public Order and Law Enforcement, pp.101-2; Just 3/30/1.

⁵³Belflour is thought to have been Roger de Bellafagus. Coss, ed., Wright's Political Songs, p.383.

⁵⁴Ibid., p.233.

accused of treason.⁵⁵ Society had no faith in the very people who were sent to administer its law. In this light of mistrust and fear it is easy to see how criminal groups such as the Folvilles and Beltofts developed.

Despite the use of other commissions, the oyer and terminer remained strongly favoured across England. In 1318, only two years after the 1313-1316 trailbaston, there were 270 commissions of oyer and terminer in process.⁵⁶ The number of commissions issued declined in the final turbulent years of Edward II's reign, but quickly rose again under Isabella and Mortimer in 1327. The Statute of Northampton, issued in 1328, reiterated the formal conditions for the undertaking of oyer and terminer commissions.⁵⁷

Although the oyer and terminer went some way to fill the gap left by the eyre, it was as open to abuse as every other piece of the medieval legal machine. The practice of retaining can often be seen to be operating within the special commissions of the age. Members of the gentry were increasingly using the courtroom as a weapon in the battle for dominance over their neighbours. The Close Rolls reveal cases where, after a crime was committed, the wrong person was accused of a crime in order to remove him or her from the community. In 1302 the sheriff of Northampton, John de Seyton, received the following instruction.

Order to deliver Robert de Culeworth of Brackele, who is imprisoned at Westminster for the death of Robert le Porter of Aynho, who was slain in that county, wherewith he is charged, to twelve men of that county who shall mainpern to have him before the justices at the first assize in those parts if any one wish to speak against him, as the king learns by inquisition taken by the sheriff that he is charged with the said death out of hatred and not because he is guilty thereof.⁵⁸

As retaining took a firm grip on fourteenth century society it was not

⁵⁵Ibid. p.236.

⁵⁶Kacuper, 'Law and Order', p.744.

⁵⁷Ibid. pp.745-6.

⁵⁸CCR 1302-1307, p.1. Examples of similar cases can be found in CCR 1279-1288, p.97; CCR 1302-1307, p.241; CCR 1307-1313, p.5.

just the gentry who took the opportunity to manipulate the system. Tradesmen and townsmen could obtain commissions against their lords, fellows and rivals from other areas. By choosing which justice they required to plead on their behalf and then pleading poverty, they could get a commission without any financial loss, and have a sympathetic judge.⁵⁹

Edward's dismissal of four of the five senior English justices in 1289 for acts of misconduct, illustrates how common judicial corruption had become.⁶⁰ Justices who allowed either the plaintiff or appellant to bribe them, and thus influence the outcome of a case, were not unheard of. The practice of being able to choose a justice favourable to the cause therefore contributed to the amount of lawlessness across England. It was not until 1360 that the crown finally saw this as a cause of corruption, and declared that the court would choose the justice, not the party involved.⁶¹

Since the end of the general eyre attempts to replace it with commissions of both oyer and terminer and trailbaston had only been partially successful. Trailbaston had dealt with a huge number of criminal enquiries, but its sheer unpopularity brought problems of its own. The oyer and terminer could not deal with all the cases that came its way. They too were slipping under a landslide of noble corruption. Consequently the general eyre was now, with the benefit of hindsight, regarded as the ideal system of law.

In 1329 Isabella and Mortimer revived the eyre in an attempt to address the rising tide of lawless disorder across the country. However, its resurrection was short lived.⁶² The first of the revived eyres was to be held in Northamptonshire and Nottinghamshire in 1329. Crook records that the eyre

⁵⁹Kaeuper, 'Law and Order', p.752.

⁶⁰Brand, 'Edward I and the Judges', pp.31-40; Hanawalt, Crime and Conflict, p.49.

⁶¹Kaeuper, 'Law and Order', p.760.

⁶²D. Crook, 'The Later Eyres', EHR, 97 (1982), pp. 241-68.

was begun in Northamptonshire because it was in the centre of the country.⁶³ However, it is possible that Northamptonshire was chosen as the eyres' starting point because the people of East Midlands were (with the exception of London), notorious for criminal activity at the time. These were the first eyres to take account of the new motion preventing armed assemblies attending courts.⁶⁴ This would have been a welcome step for those who had suffered at the hands of oppressive gangs.

The Northamptonshire eyre began on 6 November 1329, running until 5 October 1330.⁶⁵ In Nottinghamshire the proceedings began a week later, on the 13 November, but finished three days earlier, on 2 October 1330.⁶⁶ On 2 July 1330 the eyre reached Derbyshire.⁶⁷ It was during this eyre that Isabella, widow of Sir William De Chuton, brought a suit against the Coterel gang for the murder of her husband. In a blatant act of intimidation, James Coterel presented himself before the bar with more than eighty armed men. Isabella wisely reconsidered her suit and quickly ended the proceedings in fear of her life.⁶⁸

In 1330 Edward III deposed Isabella and Mortimer, and a new policy was initiated towards the upholding of law and order. Government moved away from the general eyre as a peacekeeping force, by linking both the assize and gaol deliveries. They also increased the powers of those who dealt with conspirators. These measures, alongside the rise of the keepers of the

⁶³Crook, Records of the General Eyre, p.182.

⁶⁴B. Putnam, Proceedings Before the Justices of the Peace; Edward III to Richard III (Ames Foundation, London, 1938), p.xxxix.

⁶⁵The sessions ran from 6 Nov 1329- 16 Dec 1329; 14 Jan -23 March; 22 Apr-25 May; 4-22 Jun, 5 October 1330. Just1/629-635.

⁶⁶The sessions ran from 13 Nov-16 Dec 1329; 11 Jan-17 March, 22 Apr- 23 May, 4-30 June, 2 October 1330. Just1/682-690.

⁶⁷The sessions ran from 2-27 July, 6 Oct-18 Dec 1330; 9-29 Jan, 27 May 1331. Just 1/164-169.

⁶⁸Kaeuper, 'Law and Order', p.765.

peace, proved to be a much more efficient system than the current eyre.⁶⁹

In May 1331 the Derbyshire eyre was brought to an end. It was the last one to be completed. The eyre that had been initiated in order to deal with the East Midlands violent crime rate had been unsuccessful in deterring further crime. In 1332 the Folvilles kidnapped Willoughby, and an oyer and terminer commission was despatched to a beleaguered Leicestershire.⁷⁰ After the decline of Mortimer's eyre revival, the system only existed for the calling of specific individual eyres for private complaints.⁷¹

It is difficult to determine how greatly the end of the eyre increased lawlessness across the East Midlands. Its decline, and the lack of an effective replacement, meant that criminals were freer to commit crimes of escalating violence. The introduction of the oyer and terminer commissions went some way to control the problem, but it was too narrow in its applications to replace the eyre on its own. Occasionally the new commissions actually provoked violence, such as when courts were overrun with criminals, and when officials corrupted proceedings.⁷² A petition sent to parliament in 1315 catalogues the abuses that beset the commissions of oyer and terminer.⁷³ As they were increasingly used as weapons between rival lords, the complaints about them intensified.

The community of the people of his realm show our lord the king that great evils and oppressions against the law are done to many of the people of the land because commissions to hear and determine trespasses are granted more lightly and more commonly than they used to be, against the common law. For when a great lord or powerful man wants to injure someone, he fabricates a (charge of) trespass against him or he maintains someone to whom a trespass has been done, and purchases

⁶⁹Crook, *Records of the General Eyre*, p.182. See Chapter 5.3.

⁷⁰See Chapter 3.1.

⁷¹Crook, 'The Later Eyres', pp.241-68. See Cam, 'Studies in the Hundred Rolls', for the use of the eyre system during the remainder of the fourteenth century.

⁷²Kaeuper, 'Law and Order', p.765.

⁷³*Ibid.* p.777.

commissions oyer and terminer to people favourable to him and suspect to his adversary, who are willing to do whatever he wants...⁷⁴

The petition continued by accusing sheriffs of fraud and telling defendants that if they came to court they should expect to receive bodily injury. The breakdown of the eyre cannot be solely blamed for such thuggery, but it did help to foster the lawless attitude of the age.

5.3. The Role of the Keepers of the Peace and the Rise of the Justice of the Peace

One of the most important posts within the local community was the *custodes pacis*, or the keeper of the peace.⁷⁵ From the beginning of the thirteenth century this title had occasionally been given to the under-constables, and by the 1260s the position was recognised across England.⁷⁶

The role of keeper of the peace became increasingly prominent during the unrest of the Barons' Rebellion. The opposing captains in each shire took on the title *capitanei et custodes pacis*.⁷⁷ Once the crown had reclaimed its authority and the barons were awaiting their fate, the role of the keepers developed further. Some became wardens, keeping a check on the Welsh and Scottish March lands, in a role not unlike their early predecessors.⁷⁸ The remaining constables followed the instructions in the Statute of Winchester of 1285.⁷⁹

One of the main points addressed in the Statute of Winchester was the inspecting of arms held by each household, giving the keeper of the peace localised control over the community militia. The statute commanded, "that

⁷⁴*Ibid.* p.777; *Rotuli Parliamentorum*, Vol. 1 (London, 1783), p.290.

⁷⁵Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace 1327-1380', pp.22-3.

⁷⁶A. Harding, *Law Courts of Medieval England* (London, 1973), p.93.

⁷⁷*Ibid.* p.93.

⁷⁸*Ibid.* p.93.

every man have in his house arms for keeping the peace...that the view of arms be made twice a year. And in each hundred and liberty let two constables be chosen to make the view of arms and the aforesaid constables shall, when the justices assigned to this come to the district, present before them the defaults they have found in arms, in watch-keeping and in highways..."⁸⁰ The statute also required that highways should be widened and that ditches which exceeded their necessary width should be filled in, gates had to be shut from sunrise to sunset, and bailiffs were to enquire on a weekly basis about anybody harbouring those believed to be suspect.⁸¹ Thus the Statute of Winchester gave the keepers of the peace a new direction. Not only were they maintaining some military responsibilities, they were becoming more judicial in character.⁸²

In 1287 a general commission was issued, which required the keepers of the peace to make sure the Statute of Winchester was being enforced.⁸³ Putnam declared that only those commissions issued which especially mentioned the Statute of Winchester would come under the attention of the keepers of the peace.⁸⁴ This, however, does not take into account the often vague wording of many commissions. As Musson points out, there were many other commissions issued which addressed the same criteria (the checking of crime), as Winchester without naming the Statute itself.⁸⁵

By the reign of Edward II the powers of the keepers of the peace had increased further. In 1307-1308 commissions were granted giving keepers

⁷⁹Douglas and Rothwell, eds., EHD, Vol.3, pp.460-2.

⁸⁰Ibid. pp.461-2.

⁸¹Ibid. pp.460-2; Musson, Public Order and Law Enforcement, pp.15-8.

⁸²Ibid. p.15.

⁸³B. Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace 1327-1380', TRHS, Fourth Series, 12 (1929), p.23. The term 'keepers of the peace' first appeared in a Parliamentary Writ for 1287; Musson, Public Order and Law Enforcement, p.15.

⁸⁴Putnam, 'The Transformation of the Keepers of the Peace', pp.19-48.

⁸⁵Musson, Public Order and Law Enforcement, p.18.

the ability to arrest anyone suspected of being a rebel or 'contrariant'.⁸⁶ In a Parliamentary writ for 1307, the king proclaimed measures to keep the peace whilst he was overseas marrying Isabella, the daughter of Philip IV. Edward appointed keepers to each county, instructing that they should not leave until his return. He also decreed that the Statute of Winchester should be re-proclaimed in every town, hundred, borough and wapentake where the peace of the realm was not stable.⁸⁷ In 1308, only three months after the previous commissions of the peace were issued, another set were begun which included the power of pursuit and arrest of malefactors from hundred to hundred, and the arrest of purveyors who abused their position.⁸⁸

In 1314 six commissions of the peace were issued, probably in response to Edward II's weakening political position and his concern for internal peace.⁸⁹ These commissions were important in the development of the keepers of the peace as they were now authorised to determine their own indictments, and could imprison those indicted until the coming of the next gaol delivery. They could also punish fellow keepers and sheriffs whom they found to be corrupt.⁹⁰ A further set of commissions, issued in 1316, granted the keepers the powers of gaol delivery itself. The granting of these commissions saw the beginning of the move from the position of keeper of the peace to justice of the peace. Keepers now had the power to enquire into felonies as well as trespasses, and they could hang the felons that they arrested. The keepers also dealt with complaints of assault, theft and rape,

⁸⁶*Ibid.* p.26.

⁸⁷*CPR 1307-1313*, pp.29-31; Douglas and Rothwell, eds., *EHD, Vol.3*, pp.523-4. A similar mandate was proclaimed in 1313 when the "conservators of the peace and the sheriff of the county of Leicester" and all other counties, were told to be on their guard for disturbances whilst the king was in France. *CPR 1307-1313*, p.588.

⁸⁸Musson, *Public Order and Law Enforcement*, p.27.

⁸⁹The Thorpe Waterville Dispute between the Earls of Lancaster and Pembroke is the best example of the civil unrest that prompted such commissions. See Chapter 4.2.

⁹⁰Musson, *Public Order and Law Enforcement*, pp.34-9.

although they still did not have the authority to hold trials.⁹¹

The complete transformation of the keepers of the peace into justices of the peace was accomplished in sporadic stages between 1327 and 1380. On 8 March 1327, Isabella and Mortimer assigned keepers of the peace to 17 counties across England, a further group being assigned to 8 more counties on 17 July.⁹² The keepers had to set up enquiries to hear all felonies and trespasses, and they had to arrest and imprison all those indicted of crimes, until the coming of gaol delivery. Finally the keepers had to command the sheriff to summon jurors to hear the cases of those imprisoned.⁹³

In 1329 new peace commissions conferred the capacity to hold trials on the keepers. This was the first truly judicial role of the keepers of the peace. As with the revival of the eyre, the keepers' new role was short-lived. The collapse of Isabella and Mortimer's regime in 1330 brought a withdrawal of the keeper's authority. The keepers had to wait until 1332 to see a revival of their powers of jurisdiction.⁹⁴ It was during this year that Geoffrey Scrope reported to parliament that the disorder and disruption caused by gangs across the country was reaching epidemic proportions.

...and this was known to all, that various people defying the law, had risen in great companies, destroying the liege people of our lord the king, both men of Holy Church, justices of the king, and others, taking some of them and detaining them in prison, until they had paid, to save their lives, heavy fines and ransoms at the will of the malefactors, putting some to death, stripping some of their goods and chattels, and doing many other evil deeds and felonies, in despite of the king, breach of his peace, and destruction of his people.⁹⁵

⁹¹*Ibid.* pp.40-8.

⁹²*Ibid.* pp.53-4.

⁹³Putnam, 'The Transformation of the Keepers of the Peace into the Justices of the Peace,' pp.25-6.

⁹⁴A. Verduyn, 'The Selection and Appointment of Justices of the Peace in 1338', *BIHR*, 68, No.165 (1995), pp.1-2.

⁹⁵D. Douglas and A. R. Myers, *EHD Vol.4* (London, 1969), p.534. In the light of the recent attack on Richard de Willoughby, specific reference was made to the East Midlands in this report.

The prelates agreed that the keepers of the peace were currently proving to be an inadequate force of order. After much consultation the magnates agreed to appoint keepers of the counties.⁹⁶ These new officials were to be assisted by the existing keepers of the peace and the sheriffs. They were to carry out the array, pursue suspects, and hear and determine felonies and trespasses.⁹⁷ Thus there was actually no real difference in the duties of the keepers of the counties and keepers of the peace.

Three commissions were administered with additional emergency powers to arrest gangs. In October 1332 the keepers of the counties were withdrawn because it was believed that they had restored law and order.⁹⁸ In reality, however, any drop in crime was negligible. The criminal gangs which prompted the commissions and the revival of the eyre were still at large.⁹⁹ Many other felons had been pardoned in return for good service in the military campaigns of the age, and were now free.¹⁰⁰ Alongside these, there must also have been a large number of felons continuing to commit petty crimes, unaffected by what government decreed.

In 1336 a trailbaston was initiated to quell the disorder in the local communities. Before its completion, the commissions were again withdrawn to free the administrators to prepare the country for military service in France.¹⁰¹

In 1338 Edward was preparing to leave England for a foreign campaign. In the past the king had returned from such forays to be presented

⁹⁶Musson, Public Order and Law Enforcement, pp. 62-5.

⁹⁷Putnam, 'Transformation of the Keepers of the Peace into the Justices of the Peace', p.29; Douglas and Myers, EHD Vol.4, pp.534-5.

⁹⁸Musson, Public Order and Law Enforcement, p.65.

⁹⁹Just1/1411b.

¹⁰⁰See CPR 1327-1330, p.116, for two examples of pardons granted to men of Northamptonshire after they served in Scotland.

¹⁰¹Putnam, 'Transformation of the Keepers of the Peace into the Justices of the Peace', pp.32-3.

with lists of complaining petitions about the lawless behaviour of his subjects. On this occasion Edward decided to take precautions to limit the illicit behaviour of the populace in his absence. In April 1338 the king called together a group of knights to discuss peace keeping and the defence of England's coastline during the forthcoming military venture.¹⁰² A list of men suitable for both tasks was drawn up, providing historians with the only list of fourteenth century keepers of the peace. Sadly no list of the keepers was drawn up for the northern county circuit; consequently there is no information for Nottinghamshire or Warwickshire. However, Leicestershire, Rutland and Northamptonshire's peace-keepers were recorded.¹⁰³ The assigning of each knight to a particular district for peace-keeping was left to the king and council after the meetings had disbanded. Only 40% of those nominated were appointed. The council made its own appointments for the remaining positions.¹⁰⁴

As the lists of the selected keepers of the peace illustrate, the most popular choice for the post were members of the gentry. However, as the number of magnate crimes in the Patent and Close Rolls clearly show, the magnates and the Commons had different views on the maintenance of law and order. Clearly the Commons recognised the need for magnate support of the legal system. This belief had to be reconciled with the fact that the much of the nobility had one hand on the peace commissions, whilst the other either controlled a group of criminals, or dabbled in lawlessness at first hand.¹⁰⁵

¹⁰²Verduyn, 'The Selection and Appointment of Justices of the Peace in 1338', pp.3-5.

¹⁰³*Ibid.* pp.17-21; The justices of the peace for 1338 in Leicestershire were Thomas de Chaworth, Roger Cuyly, John Waleys, Roger de Belgrave and William de Bredon. In Rutland the justices were Robert de Helewell, John de Seyton, John Hakelut, Hasculph de Whitewell, Richard Knyvet and Geoffrey Ridel. In Northamptonshire the justices were William la Zouche of Harringworth, John Dengayne, Laurence de Preston, Warin Latymer, John de Hegham, John de Lyouns and Peter fitz Waryn.

¹⁰⁴*Ibid.* p.9.

¹⁰⁵*Ibid.* p.8.

The crown was faced with Hobson's Choice. The magnates were to a large extent responsible for the lawless state of England, yet there was no way that peace could be maintained in the king's absence without them. So magnates were appointed to oversee the gentry keepers of the peace.

The first true justices of the peace were appointed on 6 July 1338.¹⁰⁶ Not only were the justices commissioned to maintain the peace in their allotted counties, but like their predecessors, they were also responsible for defence. The justices now had the authority to hear and determine felonies and to try offences committed after the commission had begun. However, only one month had passed before a council met at Northampton to change the duties of those appointed to oversee the justices. Reports had reached government that the officials in charge were having problems apprehending those felons who travelled from county to county evading arrest. Three further commissions were added to the seven already in operation, and the number of magnates regulating the proceedings was doubled. Summary orders of arrest were also introduced in an attempt to prevent these nomadic criminals escaping justice. These new measures were encapsulated in the Ordinance of Northampton, which went on to state that criminals who were arrested should be held in prison without bail until an inquisition could take place.¹⁰⁷

The authority of the justices of the peace appointed in 1338 remained until 1344, forming the longest session of peace-keeping in the fourteenth century to date. During this period of uninterrupted authority the image of the peace-keepers improved amongst the magnates of the country. This must have been because they were allowed to establish themselves before changes were made again. Between 1344 and 1350 there was a new commission of the peace nearly every month. Increasingly men of law were added to the

¹⁰⁶*Ibid.* p.10.

¹⁰⁷*Ibid.* pp.10-11.

commissions to deliver the gaols that the justices had filled.¹⁰⁸ In February 1350 specific justices of the peace were again called upon to patrol the counties. Besides their established powers, the justices could now enquire into negligent officials. The justices of the peace retained these powers of control until 1359. By the fifteenth century their position was assured in the legal make up of England.¹⁰⁹

As with every law-enforcing body in medieval England, corruption and oppression were connected with the keepers of the peace. The previous chapter clearly demonstrated that in the fourteenth century the growth of retaining was at the heart of such venality. Every lord wanted his candidate to be chosen for the position of keeper or justice of the peace, so that his influence could be upheld throughout the county courts. The choosing of men to be keepers of the peace was an informal process, and the council was never fully informed of all those selected to serve in the office. It was therefore inevitable that complaints would be made about the unsuitability of certain keepers. Sometimes local magnates would complain about certain officials in an attempt to replace them with keepers of their own choosing, even if they had been fulfilling their function properly.¹¹⁰

In the lists of proposed keepers for Leicestershire in 1338 is the name of Simon Hauberk. Although nominated, he was not appointed as a keeper. Considering the criminal record of Simon and the rest of the Hauberk family it is neither suprising that he was nominated, nor that he was turned down.¹¹¹ Northamptonshire, however, did not escape the authority of a keeper with criminal connections. William la Zouche of Harringworth had been a member of Thomas of Lancaster's retinue, and had been involved in the

¹⁰⁸Musson, Public Order and Law Enforcement, pp.77-9.

¹⁰⁹E. Powell, Kingship, Law, and Society: Criminal Justice in the Reign of Henry V (Oxford, 1989), p.17.

¹¹⁰Verduyn, 'The Selection and Appointment of Justices of the Peace in 1338', p.9.

¹¹¹See Chapter 3.1.

murder of Piers Gaveston.¹¹² Zouche's kinsman, Eon la Zouche, kept the family interest in lawlessness alive by assisting the Folville Brothers in the murder of Roger Beler in 1326.¹¹³ After 1340 the Patent Rolls show a steady increase in the numbers of agents of the crown being accused and then pardoned of oppression and corruption. Amongst them was Robert de Belgrave, one of the justices of the peace appointed to Leicestershire in 1338.

Pardon, at the request of Richard, bishop of Durham, to Roger de Belegrove of all that pertains to the king for all manner of oppressions, extortions, excesses and trespasses, committed against the king and people in the time in which he was minister of the king in divers offices, whereof he is or may be impeached at the king's suit, on condition that he answer at the suit of others, if any have anything to say against him in respect of the said trespasses.¹¹⁴

In 1346 Edward tried to prevent the accepting of bribes by issuing the Ordinance for Justices. He issued the ordinance just as he was leaving England for France, to limit lawless activity within official circles in his absence. It proclaimed that justices should be impartial and available to both rich and poor. The retaining of such justices was forbidden, and they were no longer allowed to accept gifts from anyone other than the king.¹¹⁵ Such was the power and influence of the retaining lords and their maintained forces that the ordinance had failed almost as soon as it was proclaimed.¹¹⁶ Once the justices of the peace had control over the purveyance of goods for England's military operations, fresh opportunities for bribery and extortion were

¹¹²William la Zouche was pardoned for his part in Gaveston's death. CPR 1313-17, pp.21-4; Complete Peerage, Vol. 12, Part 2, p.938.

¹¹³Eon la Zouche was also pardoned for his involvement in Gaveston's death. CPR 1313-1317, pp.21-4. After the death of Beler he was outlawed and fled to France; Rotuli Parliamentorum, Vol. 2 (London, 1783), p.432; Complete Peerage, Vol. 12, Part 2, p.940.

¹¹⁴CPR 1340-1343, p.238.

¹¹⁵Waugh, Edward III, pp.160-1. See Chapter 4.3.

¹¹⁶In 1351 justice Walter Thorpe was convicted of taking bribes during his administration. See Chapter 4.3.

available.¹¹⁷

5.4. The Role of the Sheriff

In 1258 the Provisions of Oxford attempted to curb the excesses of the country's sheriffs by laying down conditions for their appointment. The sheriff was to be a local landowner, elected to his post for one year at a time, and paid a salary to avoid the need for extortion.¹¹⁸ Although these were sound principles, in practice local men seldom had the economic strength and prestige to keep the nobles of the region under control. "The massive usurpations of royal rights with which Edward had to contend were not only the result of civil war but also of the ineffectiveness of the sheriffs, who, both before and after 1258, had been complaisant before magnate power."¹¹⁹ It was here that the priorities of the king and the lords differed. Edward wanted powerful sheriffs who would be vigilant to the nobles' misdeeds. The magnates wanted a figure they could manipulate to their own advantage. Local power meant having control over all the local officials, the most important being the sheriff.

In an attempt to increase his hold on the counties of England, Edward I dismissed thirty-two sheriffs in 1274, including those of Northamptonshire and Nottinghamshire and Derbyshire.¹²⁰ Only the five counties whose sheriffs were previously held in fee escaped change, as they were outside crown control.¹²¹ These changes were largely in response to the Hundred

¹¹⁷See Chapter 1.2.

¹¹⁸Maddicott, 'Edward I and the Lessons of Baronial Reform', p.18.

¹¹⁹*Ibid.*, p.19.

¹²⁰In the counties of Nottinghamshire and Derbyshire Walter de Stirchesle took the post of sheriff from Walter, archbishop of York. In Northamptonshire Gilbert de Kirkeby took over from Master Roger de Seyton. List of Sheriffs for England and Wales, pp.92, 102.

¹²¹Maddicott, 'Edward I and the Lessons of Baronial Reform', p.19. Cornwall, Lancashire, Rutland, Westmoreland and Worcestershire all held their sheriffs in fee.

Roll commissions, which had revealed a high degree of malpractice amongst the sheriffs of England.

Towards the end of the thirteenth century the first legal professionals began to adopt public positions. Walter de Stirchesle, sheriff of Nottinghamshire and Derbyshire, was one of the first trained administrators to take up the post of sheriff in England.¹²² These new sheriffs had to swear an oath of duty and loyalty to the crown.¹²³ They had to regain any rents or lands that were being withheld from the king, and make sure all financial acquisitions reached the Treasury in their correct proportions. Further to these requirements, the sheriff had to appoint a bailiff, hold local courts and enforce the keeping of the peace. He was also responsible for empanelling juries and collecting judicial income. At a local level the sheriff had to treat the king's subjects fairly and equally, promising not to accept gifts or favours from anyone.¹²⁴ The sheriffs may have taken this oath, but those who actually honoured it to the letter must have been in the minority. In a retaining community the receiving and giving of liveries, gifts and favours was the oil that kept the localities' wheels turning. As the following political verse illustrates, the oath in itself was not enough to ensure that sheriffs refrained from brutal and extortionate behaviour, and certainly did not prevent maintenance.

Who can tell truly
How cruel sheriffs are?
Of their hardness to[o] the poor people
No tale can go to far.
If a man cannot pay
They drag him here and there,
They put him on assizes,
The juror's oath to swear.

¹²²List of Sheriffs for England and Wales, p.102. Stirchesle is sometimes spelt Stirkelegh.

¹²³Maddicott, 'Edward I and the Lessons of Baronial Reform', p.19.

¹²⁴Ibid, p.20.

He dare not breathe a murmur,
Or he has to pay again,
And the saltness of the sea
Is less bitter than his pain.¹²⁵

Attempts to prevent corruption amongst the nation's sheriffs were taken a step further when new measures to supervise them were introduced. Each sheriff was given the control of county escheats and wards. Above these officials Edward appointed three stewards to oversee the sheriff's activities in the counties. Richard de Holebrok was appointed to oversee the East Midlands, whilst Thomas de Normanvill took charge of the North Midland counties.¹²⁶ To prevent these stewards being tempted into extortion themselves they were each presented with a generous annual salary of £50.¹²⁷ The king's stewards had overall responsibility for the royal lands now administered by the sheriffs. As they settled into their new positions they took further powers away from the existing officers, especially the sheriff.¹²⁸ Stewards supervised the commissions of oyer and terminer and administered the inquisitions over the lands and forests of the counties. Even though the sheriff was technically in charge of the escheats, the stewards were increasingly seen as the real escheators of England. The most important of all the stewards' new powers was the ability to enquire into any accounts of misconduct by royal officials brought to their attention. By appointing such stewards, Edward had narrowed the margin for corruption and bribery by the country's sheriffs and under-sheriffs. Despite the profitability of the office to the crown, these stewardships remained an experiment, and by the 1280s had

¹²⁵Cam, The Hundred and the Hundred Rolls, p.106. This untitled song goes on to suggest that the sheriff's clerks were just as corrupt as their masters were. This popular opinion against the sheriff seems justified in the face of evidence from the legal records. CPR 1345-1348, p.316.

¹²⁶The third steward was Ralph Sandwich; he had control over the South of England.

¹²⁷CPR 1272-1281, p.112; Maddicott, 'Edward I and the Lessons of Baronial Reform', p.22.

¹²⁸Ibid. p.22.

been abandoned, possibly due to their inability to deal with so much work.¹²⁹

From 1274 onwards the sheriff faced the effects of the slow removal of his responsibilities. One of the major changes facing the sheriff was a reduction in his power to issue writs. With the increase in the amount of litigation removed to the court of common pleas, viscontiel writs became more limited by the writ *pone* than ever before.¹³⁰ The *pone* allowed writs to be removed from the seignorial court to the higher courts of the land.¹³¹ Consequently, more responsibility was taken away from the sheriff and his tourn. The growing use of the Kings Bench for *querelae*, and the oyer and terminer commissions, which targeted many of the corrupt officials, brought a further fall in the sheriff's responsibility. Prior to the eyre in October 1278, Edward removed another sixteen of his sheriffs in twenty-three counties, and in November a further nine counties had five sheriffs replaced. Gervase de Wilesford took over the position of sheriff in Nottinghamshire and Derbyshire, and Thomas de Arden was appointed to the post in Northamptonshire. The troubled counties of Leicestershire and Warwickshire received Thomas de Charlecote¹³² as their new sheriff in October, only to have him replaced in December by Robert de Verdun.¹³³

Edward now chose to adhere to the policy of recruiting local men. The majority of these new sheriffs came from the locality where they would be officiating. Gervase de Wilford, for example, was lord of Clifton and Wilford in Nottinghamshire and a knight of the shire during the parliament of 1295.¹³⁴ This policy, however, did not remain in place into the next century. The justices for the Nottinghamshire eyre of 1329 complained that they could

¹²⁹*Ibid.* p.23.

¹³⁰Palmer, *County Courts of Medieval England*, p.229.

¹³¹Twiss, ed., *Henrici de Bracton De Legibus*, Vol. 5, pp.110-1.

¹³²The new sheriff was possibly called Thomas de Hasele.

¹³³*List of Sheriffs for England and Wales*, pp.92, 102, 144.

¹³⁴Maddicott, 'Edward I and the Lessons of Baronial Reform', p.26.

not obtain by distraint the records of former sheriffs because they had held no lands in the county.¹³⁵

In the reign of Edward III the sheriff continued to swear to undertake his service for the profit of the king, to guard fiscal rights and to treat the people of his bailiwick lawfully.¹³⁶ It was also stated, as it had been in the Ordainers' demands of 1311, that a sheriff should promise not to accept bribes.¹³⁷ Yet the problems of bribery and corruption among the sheriffs were accelerating rather than decreasing. In 1327 the sheriffs of England that had been appointed by Despenser were dismissed, again due to corruption.¹³⁸ In 1344 the problem of corruption was recognised when a clause was added to the sheriff's oath which swore against the perversion of justice through gifts. Sheriffs also had to issue receipts for any goods taken in purveyance and for writs they presented.¹³⁹

The only powers left to the sheriff were his foremost tasks, concerned with the keeping of the peace and the arrest and imprisonment of felons. The Statute of Northampton in 1328 enforced the severe penalties sheriffs could inflict upon anyone caught riding with force of arms.¹⁴⁰ At Edward III's accession the sheriffs were ordered to proclaim that anyone who dared to disturb the peace would forfeit life and limb. In their pursuit of criminals the sheriffs made use of a posse, their main weapon in the battle to keep the peace.¹⁴¹

One of the most frequent reasons for an arrest was an accusation by a

¹³⁵W.A. Morris, 'The Sheriff', The English Government at Work, Fiscal Administration, Vol. 2, eds., W.A. Morris and J.R. Strayer (Cambridge, Mass., 1947), p.48.

¹³⁶Ibid. p.46.

¹³⁷Ibid. p.42.

¹³⁸Ibid. p.47.

¹³⁹Ibid. p.46.

¹⁴⁰Ibid. p.57.

¹⁴¹Musson, Public Order and Law Enforcement, p.185.

third party, or implication by an accomplice in the crime (an approver).¹⁴² Arrests that resulted from a private accusation were treated with some suspicion because they presented the perfect opportunity for a sheriff to indulge in corruption. Officials had long been suspected of forcing approvers to lay blame on innocent men, so they could extort money from them.¹⁴³ Further opportunities for corruption came by suppressing indictments and concealing offences. As it was the sheriff's duty to summon local inquisitions, it is not hard to see how he could manipulate the system in favour of friends, and to the disadvantage of opponents. At the Nottinghamshire eyre of 1330 the late sheriff, Edmund de Cressy, was indicted for taking fines to replevy those charged with theft. Edmund was also charged with allowing two murderers to pay for bail, when they should have resided in gaol until their hearing.¹⁴⁴ In 1347 Richard de Stoneleye faced an oyer and terminer commission after complaints were made against him concerning "divers oppressions against the king and his people" while he was under-sheriff of Leicestershire and Warwickshire from 1344 until 1346.¹⁴⁵

The position of sheriff was in itself unpopular. By 1311 the number of people paying to avoid the task was on the increase.¹⁴⁶ Sheriffs could face personal financial loss when they had to account for their county's revenue. In 1305 Walter Langton forced Richard Whitacre to become the sheriff of Leicestershire and Warwickshire after he refused to grant him a piece of land he coveted.¹⁴⁷ Only a year later he held him to account, facing him with

¹⁴²Hanawalt, Crime in East Anglia, pp.17-8.

¹⁴³Morris, 'The Sheriff', p.57.

¹⁴⁴Ibid. p.63; Just1/686.m.89d; List of Sheriffs for England and Wales, p.102.

¹⁴⁵Ibid. p.145. CPR 1345-1348, p.316.

¹⁴⁶Morris, 'The Sheriff', p.49.

¹⁴⁷List of Sheriffs for England and Wales, p.144.

financial ruin.¹⁴⁸

Even without the misdealing of Langton, the position of sheriff remained a hazardous one. At the front line of criminal justice, the sheriff had to counteract the activities of the gangs that operated across the country. By 1335 the armed bands roaming across the Earldom of Lancaster had become a frequent cause of complaint.¹⁴⁹ The sheriffs of the affected counties were ordered to stamp out their activities. To a limited extent this was achieved by visiting the tournaments that took place across the region, where rivals would often arrange to face each other. In extreme cases the sheriff would organise a posse and take to the forests to hunt a gang down.¹⁵⁰ Sheriffs and their accompanying officials had very little power over organised criminals. Each time they brought their posse close, the gang or felon simply had to move into another county, therefore removing themselves from that sheriff's jurisdiction.

The First Statute of Westminster made the sheriff liable for refusing people bail, which again increased opportunities for extortion and oppression.¹⁵¹ Should the sheriff delay in his tasks, let criminals escape, or bail those who should be placed in prison, he would face amercement himself. Sheriffs also faced the difficult job of finding jurors from the correct sections of society, again giving them the means for corruption. The packing and bribing of juries was almost commonplace by 1320.¹⁵²

In the search for the greatest influence over the locality, the sheriff was an important pawn in a magnate's game. Despite a decline in power, the sheriff's responsibilities were too many and too important to be left out of the range of the local lord's influence. The sheriff was still attendant on the

¹⁴⁸See Chapter 2.2.

¹⁴⁹Bellamy, 'The Coterels'; Stones, 'The Folvilles of Ashby-Folville.'

¹⁵⁰See Chapter 3.1 for the case of Roger Godberd and his gang. Holt, *Robin Hood*, p.97.

¹⁵¹Maddicott, 'Edward I and the Lessons of Baronial Reform', p.14.

¹⁵²Post, 'Jury Lists and Juries in the Late Fourteenth Century', pp.65-75.

escheators, the constables of the castles, the keepers of the forests and the arrayers of the king's forces.¹⁵³ He also retained many of his fiscal duties, collecting the farms of the hundreds and the fines and amercements incurred by society.¹⁵⁴

5.5. Conclusion

The changes in the legal system of the thirteenth and fourteenth century played an important part in creating the lawless state of England. The decline of the eyre, the changing role of the sheriff, the malicious use of appeals, and the growing responsibilities of the justices of the peace all afforded opportunities for corruption.

After the confusion of the final years of Henry III's reign, Edward I introduced a series of new statutes addressing the lack of law and order in England. The Statutes of Westminster, Winchester and their counterparts all attributed to a change in the approach of officials in administering the law. Edward's prime objective had been to improve the efficiency of the legal process. He wanted court cases to be swifter, gaol deliveries more frequent and the arrest rate to increase. However, although he and his advisors produced documents that spelt out what needed to be done, they did not suggest any new means of attaining perhaps the most important issue in law and order, the capturing of criminals. After Edward's initial zeal, military matters took his attention, and the question of lawlessness was again neglected. The alterations to the legal system ordered by Edward I were not really 'reforms'. The capturing of felons and the prevention of crime was to remain a localised concern. The use of the hue and cry and the local posse were still the primary feature of the police force.¹⁵⁵ The sheriffs and bailiffs

¹⁵³Morris, 'The Sheriff', p.69.

¹⁵⁴*Ibid.*, pp.73-100.

¹⁵⁵See Introduction v.

were concerned with the keeping of the peace, but were too tied up in the administration of court hearings, finding jurors and bribing approvers, to concentrate simply on capturing the large numbers of felons active in their area of jurisdiction.

The most important change to the legal make up of England was the withdrawal of the general eyre. So long the mainstay of the court system, the eyre was a tried and trusted method of hearing and determining the cases of the accused. When it was taken away in the 1290s nothing was effective as an immediate replacement. Commissions of oyer and terminer, trailbaston, and extra gaol deliveries all endeavoured to take on the responsibilities of the eyre. They went some way to keeping the court system in operation, but as each had a limited scope, they were not truly effective replacements. The eyre had not been the perfect system, but it had been a recognised way of trying criminals, keeping the wheels of justice in motion. Once it had ended the only widely understood method of punishment was gone.

The introduction of keepers and then justices of the peace helped to bridge the gap that had been left by the eyre thirty years earlier. By appointing those with a specific role to keep the peace in the counties, the crown hoped to limit the lawlessness that was now endemic in society.

GENERAL CONCLUSIONS

An examination of selected documentary and literary evidence from the late thirteenth and fourteenth centuries helps the historian to confirm that lawlessness in the East Midlands had become an integral part of medieval life. Crime and lawless behaviour were considered as both a means of survival and a method of social advancement. The attitude of medieval society appears to have been as responsible for its criminal activity as the economic and social pressures of the time. A general acceptance of crime combined with the acceleration of retaining, anti-authoritarian attitudes, changes to the legal system, and the underlying political situation, made Leicestershire, Nottinghamshire, Northamptonshire and Warwickshire increasingly lawless between 1260 and 1360.

The initial breakdown of law and order in this period began after the death of Simon De Montfort at the Battle of Evesham and the subsequent defeat of his rebellion.¹ The majority of the Midlands gentry had supported De Montfort, and many lost everything when the king took their lands in punishment for their treason. The mass outlawry of the rebels, which followed the defeat, was used as an excuse for revenge, violence, and the illegal seizure of property, not only by those involved in the conflict, but also by those who saw the potential for opportunistic crime in this time of chaos.² Despite the legislation of the Winchester Commission and the Dictum of Kenilworth, the crime rate increased steadily.³

¹Maddicott, 'Edward I and the Lessons of Baronial Reform', pp.1-30; C. Knowles, 'The Resettlement of England After the Barons' War, 1264-67', *TRHS*, Fifth Series, 32 (1982), pp.25-41.

²D. Williams, 'Simon De Montfort and His Adherents,' pp.176-7.

³Powicke, *The Thirteenth Century*, pp.203-12.

From some of the lands forfeited by the defeated barons, Henry III created the Earldom of Lancaster.⁴ The first earl of Lancaster, Edmund, gained his initial territorial acquisitions from the holdings of Simon de Montfort.⁵ However, it was the granting of the lands of the Earl of Derby that highlighted Henry III's willingness to bend his own laws in order to get the lands he wanted for his son. The Ferrers estate was conferred on Edmund in May 1266 after a "piece of legal chicanery" produced a charter giving the new Earldom the Honour of Derby.⁶

The joining of the De Montfort and Ferrers lands brought the majority of the Midlands under the control of the Earl of Lancaster. When Edmund's son Thomas took control, these holdings increased still further. The most important addition was the De Lacy lands, which Thomas inherited on the death of his father-in-law, the Earl of Lincoln. Much of the land belonging to the Earldom of Lancaster lay in Leicestershire, Derbyshire, Northamptonshire, Staffordshire, Lincolnshire and Nottinghamshire.⁷

By uniting lands forfeit by his enemies Henry III probably believed he was creating a strong base in the centre of England, capable of quelling the unrest which remained after the death of De Montfort. To a certain extent this proved to be the case under the leadership of Edmund.⁸ However, as this thesis illustrates, the administration of Earl Thomas of Lancaster revealed the

⁴It had been intended that the Earldom would act as a form of compensation for Henry's son, Edmund, after he failed to gain the Kingdom of Sicily. *Ibid*, p.206.

⁵The charter presenting Edmund with the Honour and castle of Leicester was proclaimed on 26 October 1265. He did not gain the title of the Earl of Leicester until January 1267. *CPR 1266-1272*, p.339.

⁶Ellis, *Earldoms in Fee*, p.117; Maddicott, *Thomas of Lancaster*, p.1.

⁷*Ibid*, pp.8-39. Outside of the midlands, the Earldom's main areas of influence were in South Yorkshire and Lancashire, Northumberland and the North Riding of Yorkshire.

⁸The lower crime rate during Edmund's administration may have had more to do with Edward I's new legal reforms than Edmund's leadership.

potential for lawlessness within the new Earldom.⁹ Rather than creating a unit of peace, Henry had unwittingly created a power that could rival the crown.

Under the guidance of Chancellor Burnell, Edward I introduced a series of statutes, such as the Statutes of Westminster and Winchester, to streamline and increase the efficiency of the legal system.¹⁰ However, the importance of crime prevention was not fully realised, and no form of crime deterrent or police force was initiated. In 1292, through a combination of overwork and lack of finance, the general eyre was brought to an end.¹¹ With this one act Edward I brought the most effective form of law enforcement to date to a halt. Even after the introduction of new special commissions the judicial system continued to break down. Trailbaston was partially successful, and resulted in the arrest of many violent criminals. Yet it remained one of the most mistrusted commissions of the fourteenth century.¹² From 1293 onwards lawlessness in England became more apparent. The constant need for money associated with Edward's ambitious military campaigns led to an unprecedented rise in taxes and the use of purveyance.¹³

Instead of easing the situation, Edward II's rule merely saw a continuation in the lawlessness of society. It was no coincidence that a high number of crenellation licences were granted during Edward II's reign. Taylor put this rise down to a change in architectural fashion, saying

⁹CIM, (Chancery), Vol. 2, 1307-1349, No.548, p.138. Gives examples of the complaints that the people of Leicester made against Thomas of Lancaster, in comparison with the rule of Edmund. For example, it is recorded that under Edmund those paying tolls to the farmers only had to pay double by view of some of the jurors of the town. In the time of Thomas they took very heavy ransoms at their own will, exceeding the value of the item on which the toll was being paid.

¹⁰Douglas and Rothwell, eds., EHD, Vol. 3, pp.397, 460.

¹¹Harding, The Law Courts of Medieval England, pp.86-92.

¹²See Chapter 5.2. Coss, ed., Wright's Political Songs, pp.231-6.

¹³See Chapter 1.2.

crenellations were just a form of decoration.¹⁴ This was certainly the case by the sixteenth century, but in the fourteenth century they were still a defensive necessity. Crimes of forcible entry, such as the breaking of houses and novel disseisin were amongst the most violent of the age.¹⁵ This was a period when possession could be said to have been nine-tenths of the law, and effective defences were essential.

It was during the reign of Edward II that Thomas, Earl of Lancaster showed his true power as a retainer of criminals. A ruthless landlord and ambitious political player, Lancaster helped to make the Honour of Leicester one of the most lawless regions of England. The Patent Rolls for 1305, for example, record that a group of men maintained by Lancaster were the subjects of an oyer and terminer commission, for breaking the houses of the Prior of Tutbury.

(Commission of Oyer and Terminer) to Roger le Brabazon and William de Bereford on petition by the prior of Tuttebury to the king and council that Michael de Meldon, John de Miners, William Bordeleys...with others broke the doors of his houses at Merston, Broughton, Duvebrigge, Esmundeston, Elvaston, Holinton and Edulveston, co. Derby, entered them and took his beasts of the plough and other beasts and kept them impounded until he made fine; prevented him from carrying his corn to the value of 60*l.* in his fields at Scropton in autumn so that it remained until the following Easter and was totally spoilt; caused him to be summoned, distrained and attached on frivolous causes at Thomas, earl of Lancaster's hundred of Appeltre in the name of the earl, some of the above persons being bailiffs of the earl, and caused him to be amerced in spite of his answering the said frivolous charges, and extorted 25*l.* from him; tore up and carried away the piles in his soil at Duvebrigge, and the posts and wattles put there for the defence of his land from inundations of the river of Duve.¹⁶

¹⁴C. Taylor, *Visions of the Past* (London, 1983), pp.154-68.

¹⁵CPR 1324-1327, p.288; CPR 1338-1340, p.182.

¹⁶CPR 1301-1307, p.353. Fifteen other men are named as having taken part in this attack.

This form of extortion, using the threatening presence of Lancaster's retained force, was to become the trademark of the earls' lawless activities. The granting of the writ of palatine gave Lancaster's retained felons protection from the outside world. Only those criminals who were indicted in a writ passed by the Earl of Lancaster himself could be arrested straight away.¹⁷ This umbrella of protection extended across all of Lancaster's lands, encouraging crime within to flourish.

As leader of the Ordainers, Thomas of Lancaster constantly sought to curb the excesses of Edward II. The king's generosity to his favourites, such as Gaveston, sealed his fate from an early stage. The murder of Piers Gaveston in 1312 was an illegal act that the magnates felt forced to commit.¹⁸ Extreme violence towards royal favourites had become one of the only ways to influence the king's behaviour.¹⁹ A political dimension had therefore been added to the lawlessness within the Earldom of Lancaster. Once the magnates had killed Gaveston the door was open for an escalation of politically motivated crime and violence.

After fifteen years of friction and conflict, Edward II finally had an opportunity to gain the upper hand over Thomas of Lancaster. The brief civil war which Edward fought against Lancaster in 1322 revealed Thomas's weakness as a leader. The battle of Boroughbridge that led to Thomas's capture was blighted by his inexperience.²⁰ The Earl of Hereford's suicidal attempt to cross the bridge, and Robert Holand's desertion of Thomas were

¹⁷Somerville, *History of the Duchy of Lancaster*, Vol. 1, pp.41-3.

¹⁸F. S. Haydon, ed., *Eulogium Historiarum*, Vol.3 (London, 1863), p.195; N. Denholm-Young, ed., *Vita Edwardi Secundi: The Life of Edward the Second, By The So-Called Monk of Malmesbury* (Edinburgh, 1957), pp.24-5.

¹⁹See Chapter 2.2.

²⁰McKisack, *The Fourteenth Century*, pp.66-7; Prestwich, *The Three Edwards*, pp.90-1.

the final straw.²¹ Lancaster's capture and execution quickly followed.²² Thomas' death sparked off a series of vicious riots and vendettas, not only in reprisal for his oppressions, but also against the king for sanctioning the unprecedented execution of a man of royal blood, without a fair trial. Within only a few months Thomas was being given martyr status, his oppressions apparently forgotten by the population.²³ The contemporary attitude seems to have been that any power was better than that of a tyrannical king.

Let us honour the highest King,
for the memory of the sweet martyr,
whom we join in praising with utmost reverence.
He is called Earl Thomas, of an illustrious race;
he is condemned without cause, who was born of a royal bed.
Who when he perceived that the whole commons were falling into wreck,
did not shrink from dying for the right, in the fatal commerce.
O royal flower of knights, preserve ever from evils this thy family, bringing
them to glory! Amen.²⁴

When Edward banned pilgrimages to the place of Lancaster's execution, in 1323, there was a series of disturbances. The king commanded that the constable of Pontefract castle should take a body of men to prohibit the assembling of "malefactors and apostates" from worshipping Lancaster.²⁵ In contrast to the Barons' War, when Henry III pardoned many of his opponents, Edward II's pursuit of Lancaster's supporters was an "unprecedented blood bath."²⁶ Rather than being financially punished, many of the rebels were executed, imprisoned or forced into exile. Those captured

²¹Maddicott, 'Thomas of Lancaster and Sir Robert Holland', pp.449-72; Fryde, *Tyranny*, p.56; *CPR 1321-1324*, p.75.

²²*Rotuli Parliamentorum*, Vol.2, p.3; Maddicott, *Thomas of Lancaster*, pp.311-2.

²³Maxwell, ed., *The Chronicle of Lanercost*, p.235.

²⁴Coss, ed., *Wright's Political Songs*, pp.269-70.

²⁵Kerr, *Higham Ferrers and its Ducal and Royal Castle and Park* (Northampton, 1925), p.45.

²⁶Prestwich, *The Three Edwards*, p.93.

had to wait three months before the king prepared a commission to deal with his prisoners. Edward also initiated enquiries into those lesser rebels who had escaped, taking his revenge on all those who had followed Lancaster.²⁷

Abuses by royal favourites were never more obvious than when the Despensers controlled Edward II, and therefore England.²⁸ Despite their exile in August 1321, the Despensers had not learnt from their mistakes, renewing their avaricious habits on their return to England the following November.²⁹ While they held power between 1322 and 1326 there was a period of true lawlessness in England. Adopting a policy of extortion the Despensers set about rebuilding their extraordinary wealth and power. A favourite method of acquiring funds was to target widows, and force them, by imprisonment or blackmail, to hand over their lands and money. For example, Alice De Lacy, the estranged wife of Thomas of Lancaster, was harassed until she handed over many of the Lancaster estates.³⁰ The corrupt were at the top of the tree, and violence had become a popular solution to the gentry's problems.

Out of this period of chaos there emerged the criminal gangs of the Folvilles, Beltofts and Hauberks, who helped to make the East Midlands one of the most violent regions of the fourteenth century.³¹ Residing in the manors, houses and forests of Leicestershire, Warwickshire, Northamptonshire and Nottinghamshire, they made extortion an art form and murdered for the highest bidder. Like their fictional counterparts, these outlawed gangs were admired and respected for their daring acts against authority.³²

²⁷Fryde, *Tyranny*, pp.69-72.

²⁸*Ibid.* pp.106-18.

²⁹*Ibid.* pp.49-51; Prestwich, *The Three Edwards*, pp.93-6.

³⁰Prestwich, *The Three Edwards*, p.94; Fryde, *Tyranny*, p.113.

³¹See Chapter 3.1.

³²Stones, 'The Folvilles of Ashby-Folville', p.134.

Professor Hicks was sceptical about the extent of the violence committed by such robber bands, claiming that once normal government had been restored after the fall of Edward II, there was a return to order.³³ This was true to some extent. Once Isabella and Mortimer had been removed in 1330, after their brief supremacy, there appears to have been a slight fall in the gang activity that had gone unrestrained during their rule. But this period was extremely short lived. The Folvilles and Coterels in particular continued their retained allegiances for at least another five years, before turning to legal and military careers.³⁴ Such was the fear of reprisal from these gangs, that on occasion justices were unwilling to administer against them. In 1334 Henry, son of Henry de Hockele, complained that the Folville gang had seized his chattels and his wife, detaining her until he paid a ransom of 1000 marks. Hockele was awarded a special commission, but the justices were unwilling to act against such a notorious group. Henry is recorded as having been “terrorised by life and limb.”³⁵ This type of behaviour was not exclusive to the East Midlands. In one of the most infamous of all fourteenth century court cases, the people of Monks Risborough in Buckinghamshire accused the prior of Christchurch, Canterbury, of employing Sir John Molyngs and John Inge as prejudiced justices.³⁶ Molyngs, whose reputation for violence was known throughout the Home Counties, lived up to his image by kidnapping ten residents, tying them up and bringing them in two carts to the priory, where they were imprisoned until two of them died.³⁷

As the contemporary literature and documents show, criminals came from every section of medieval society. However, the confines of this study do not allow an examination of those peasant classes too poor to stand in the

³³Hicks, *Bastard Feudalism*, p.118.

³⁴Stones, ‘The Folvilles of Ashby-Folville’, p.129; Bellamy, ‘The Coterels’, p.712.

³⁵CPR 1330-1334, p.505.

³⁶Fryde, ‘A Medieval Robber Baron’, pp.204-5.

county court, but begins with those eligible to appear before the gaol delivery court. The gaol delivery rolls for Leicestershire reveal that it was the traders, members of the lesser gentry and the clergy who formed the backbone of medieval criminal society.³⁸ An additional search through the Patent and Close Rolls confirm that it was the lesser gentry and clergy who featured in the majority of the recorded cases. However, due to the exclusive nature of the Calendar evidence, tradesmen are rarely included. Instead, the higher classes and their often sensational crimes are documented.³⁹

As Figs. 1 and 2 illustrate, the gaol delivery rolls show that theft was the most perpetrated felony in Leicestershire in 1310, 1311 and 1316 and again in 1330.⁴⁰ It was also the most committed crime in Northamptonshire in 1310.⁴¹ Theft was followed in frequency by the crimes of murder and receiving.⁴² Very few people were untouched by acts of violent crime, and even fewer avoided crime altogether, either as felon or victim.

An examination of the aforementioned gaol delivery rolls reveals that the average fourteenth century criminal from the East Midlands, recorded within these rolls, was male, worked alone, and was a thief who stole from someone within a five to ten mile radius.⁴³ In her work on the coroner's rolls for Northamptonshire, Hanawalt has confirmed that the majority of Midland felons were tried alone.⁴⁴ In her study of Northamptonshire, Hanawalt has also confirmed that many of the crimes committed took place close to home.

³⁷*Ibid.*, pp.204-5.

³⁸Just3/30/1; Just3/30/2.

³⁹CPR 1258-1361, 22. vols.; CCR 1260-1360, 23 vols.

⁴⁰See Chapter 2.1 for Figs. 1 and 2. Just3/30/1; Just3/30/2.

⁴¹Just3/51/1.m5.

⁴²See Chapter 2.1 for Figs. 1 and 2.

⁴³See Hanawalt's work for a comparison with the gaol delivery data examined from East Anglia. Hanawalt, *Crime in East Anglia*, pp.9-20.

⁴⁴Hanawalt, *Crime and Conflict*, p.188.

However, when looking at the more organised bands of criminals she notes that 15.4% of their victims lived over 11 miles away, whilst 21.2% lived in neighbouring counties.⁴⁵ Considering the uncertainty of medieval county boundary jurisdiction, and the ready accessibility of both the Great North Road and the many forests of the Midland's, it is not surprising that so many of the orchestrated crimes committed by professional gangs were committed away from home.⁴⁶

The Patent and Close Rolls for the East Midlands concentrated on the more violent crimes, which usually involved some form of physical assault, such as breaking houses and armed assemblies.⁴⁷ The crimes recorded in these volumes include those contrived by political motivation. Unlike the cases heard during the localised gaol delivery sessions, the Calendars show that murder took precedence over theft. For example, the Patent Rolls record 314 cases of murder, compared to only fifty-two cases of theft.⁴⁸ In addition to these crimes, a further fifteen are documented, which combined the crimes of murder and theft.⁴⁹

No surviving English poem records the full horror of the crimes that medieval society committed as graphically as the German poem, 'Meier Helmbrecht' does.

⁴⁵Ibid. p.197.

⁴⁶The Folvilles, Coterels, Beltofts and Hauberks all committed crimes over ten miles from their homes. See Chapter 3.1.

⁴⁷For an example see, CPR 1330-1334, p.135.

⁴⁸Between 1260 and 1360 the Patent Rolls show that there were 94 murders committed in Leicestershire, 93 in Nottinghamshire, 62 in Northamptonshire and 59 in Warwickshire, plus 6 other homicides that took place across the county borders. In comparison, there were only 9 recorded cases of theft in Leicestershire, 23 in Nottinghamshire, 10 in Northamptonshire and 8 in Warwickshire, plus 2 that took place on the Nottinghamshire and Derbyshire border. CPR 1258-1361, 22. vols.

⁴⁹Ibid.

I seldom bring the peasants joy
That in our neighbourhood are found.
Their children, where I've been around
Eat water-soup that's thin and flat.
I make them suffer more than that!
I quickly press the one's eye out,
On others' backs I lay about,
Across an ant's nest one I stake,
Another's beard I jerking take
With pinchers piecemeal from his face,
Break this one's limbs in many a place,
Tear that one's scalp off while he squeals,
String up by the tendons of his heels
Another one, with withes for twine,
All that the peasants have is mine!"⁵⁰

The evil intent shown in this poem does not come through in every violent offence recorded in the Patent, Close and gaol delivery rolls, but many cases do suggest a wanton disregard for human life and feelings. An example from 1318 tells how a group of twenty-five men and women broke into the house of Agnes de Haldenby in Thrapeston, Northamptonshire, imprisoned her, took her into Warwickshire, gouged her eyes out and cut out her tongue.⁵¹ Sadly, no reason is given for the motivation behind this vicious attack.

Alongside the crimes of theft and murder, the Patent, Close and gaol delivery rolls document cases of corruption by officials such as bailiffs, sheriffs and provosts.⁵² For example, Robert the Provost of Thorpe Arnold

⁵⁰B. Hanawalt, 'Violent Death in Fourteenth and Fifteenth Century England', *Journal of Comparative Studies in Society and History*, 18 (1976), p.313.

⁵¹*CPR 1317-1321*, p.292. Other examples of violent assaults can be found in *Ibid.* p.472; *CPR 1321-1324*, p.55; *CPR 1334-1338*, p.447.

⁵²*CPR 1358-1361*, p.280.

was accused of plundering a stranger, stealing two bundles of linen and a buckle.⁵³ In the fourteenth century there were also many attacks on officials and justices by groups of occupational and occasional criminals. In 1332 the Folvilles initiated their infamous attack on Sir Richard of Willoughby, and in 1340 Sir Robert de Vere was perverting the course of justice at a court that was standing against him.⁵⁴

The ballads and political poems of the period illustrate popular attitudes towards the officials and higher classes who controlled the localities of England. The so-called political songs were aimed at specific events, characters or particular grievances, the main theme being official corruption.⁵⁵ The majority of the fourteenth and fifteenth century ballads viewed the sheriffs, bailiffs, and foresters as corrupt, brutal and unjust. The authors concentrated on stories that depicted the justices coming to a sticky end. In 'The Tale of Gamelyn' the justice was hung in place of Gamelyn,⁵⁶ and in 'Adam Bell, William of Cloudsey and Clim of Clough' the officials of Carlisle went through a terrifying ordeal when the outlaws slaughtered 300 men.

Fyrst the justice, and the sheryfe,
And the mayre of Caerlall towne;
Of all the constables and catchipolles⁵⁷
Alyve were left not one.⁵⁸

The machinery of the crown was clearly viewed as the vehicle of oppression. This view is reinforced by those tales that presented direct attacks on retaining, the abuses of the church, and the avarice of the wealthy.

⁵³Just3/30/1m.2.

⁵⁴Stones, 'The Folvilles of Ashby-Folville', pp.122-5. See Chapter 3.1.

⁵⁵Aspin, ed., Political Songs; Coss, ed., Wright's Political Songs.

⁵⁶Sands, ed., Middle English Verse, line 879, p.180.

⁵⁷Catchipolles = sheriff's officers.

⁵⁸D&T, 'Adam Bell', verse 139, p.271.

Although ballads and songs, such as the 'Song of the Husbandman'⁵⁹ were exaggerated to capture the imagination of the audience, they were based on truth. As the literature claims, there was not just a failure in the practice of law enforcement, but an abuse of the ad hoc commissions by the gentry. It was those who should have been enforcing the law who were committing the worst felonies.

The reality of lawlessness between 1260 and 1360 is to be found in the shift from central to localised political control. The acceleration of retaining that this inspired, with its associated rise in professional lawyers and officials, was a major driving force behind crime. Many of the other factors contributing to the crisis in the enforcement of law and justice can be interlocked with the momentum of this phenomenon. The need for permanent officials to manage the land led to the appointment of bailiffs and associated administrators.⁶⁰ An increased need for troops forced the king to take up military retaining himself, thus passing responsibility for provisioning on to the local lords.⁶¹ The writ of *prise* was sorely misused, especially on the route to Scotland, badly affecting the Midland and Northern counties.⁶² With the pressures already in existence from famine and increased taxes, it was an uphill struggle for local landlords to find enough provisions for the king.⁶³ To gather the amount of produce needed the gentry used oppression and extortion, employing heavy-handed officials to collect goods on their behalf. This led to those being oppressed having to steal the goods they needed. Purveyance provided a vicious circle of crime that the three Edwards failed to address.

⁵⁹Coss, ed., Wright's Political Songs, p.149.

⁶⁰Waugh, 'Tenure to Contract', p.812.

⁶¹Waugh, Edward III, pp. 174-5, 204-5.

⁶¹Waugh, Edward III, 1.2, pp.100-1.

⁶³Prestwich, The Three Edwards, pp.269-70.

Maintenance itself was not illegal. The means to recruit an army and commission lawyers were not only largely acceptable, but also essential. The desire to retain as many men of influence as possible had become paramount. With, or because of, the declining standards in justice, lords began to maintain lawyers and judges.⁶⁴ As disputes over property became more frequent, it became increasingly vital to have legal advisors close at hand. The maintenance of lawyers did not lead directly to crime, but had a knock on effect, exacerbating an already serious situation. The perversion of the course of justice seems to have been a job requirement in any retained legal alliance.

The political poem 'Song Against the Retinues of Great People', written in the reign of Edward I, the Robin Hood ballads, and 'The Tale of Gamelyn' illustrate how prolific retaining had become.⁶⁵ The inclusion of references to liveries and the corruption of juries within popular verse must mean that the audience understood the concept of maintenance. Military, legal and administrative retaining opened the door to corruption. Extortion and oppression in the form of bribery, and the taking of money with menaces became the trademark of many retainers. Thomas of Lancaster was infamous in the city of Leicester for employing corrupt sheriffs and bailiffs. Fullers and weavers were forced to pay 40.d for permission to work with broadcloth, and fishmongers had exclusive tolls extorted from them.⁶⁶ That such a high level of corruption and official brutality was operating across England is repeatedly reflected in the literature of the period. In the poem, 'Four Wise Men on Edward II's Reign', the author airs his grievances concerning a

⁶⁴Ramsey, 'Retaining Legal Counsel', pp.95-112.

⁶⁵Coss, ed., Wright's Political Songs, p.237; D&T; Sands, ed., Middle English Verse, pp.156-81.

⁶⁶CIM, (Chancery), Vol. 2, 1307-1349, No.548, p.138.

corrupt authority, "For theef is reve, the land is penyless; For pride hath sleve, the land is almesless."⁶⁷

There does not appear to have been any incentive to stay on the right side of the law. The levels of crime committed by people of high social standing appear to have depended on the political and economic events of the time, rather than on whether they believed what they were doing was right or wrong. The notion of dignity or honour meant that families helped each other commit crimes, and readily committed acts of revenge against those who had insulted or harmed a family member or colleague. One of the most violent examples of this was the murder of Robert Holand. Henry of Lancaster is believed to have ordered this homicide in retaliation for Holand's desertion of Thomas of Lancaster before the battle of Boroughbridge.⁶⁸ By claiming that they were acting in revenge for some past wrong, the criminals of medieval England were depicting their violence and corruption as honour. Acts such as Holand's murder make it difficult to distinguish between politics, private warfare and acts of thuggery.

'The Tale of Gamelyn' emphasises the concept of honour, by explaining the importance of a good showing at a local wrestling match, lest the family name be disgraced.⁶⁹ Robin Hood and his men continually protected each other from the common enemy, authority. This attitude is mirrored within the actual gangs of the day. By sticking together, protecting one another from outside influences, gangs could remain at liberty for many years.

Closely linked to the honour of a family was ambition expressed in the acquisition of land. The acceleration of retaining as a means of employment

⁶⁷C. Sisam, The Oxford Book of Medieval English Verse (Oxford, 1970), lines 39-40; 'For the thief is the reeve, the land is penniless; For pride has fine clothes, the land is alms less', pp.74-6.

⁶⁸See Chapter 2.2.

⁶⁹Sands, ed., Middle English Verse, lines 183-90, pp.161-2.

meant that “everi lord bi-holdeth othur, how he is arrayed, how he is horsid, how he is manned; and so envyeth other...” This sermon continued by saying that “The squire is not satisfied unless he lives like a knight; the knight wants to be a baron; the baron an earl; the earl a king...”⁷⁰ Such feelings of ambition and envy towards neighbours further encouraged acts of lawlessness. Arguments over land were at the heart of many of the quarrels which expanded into assaults or even murders in the late thirteenth and fourteenth centuries.⁷¹

The East Midland counties were a geographical haven for both the actual criminal groups and those invented and embroidered by the songsmiths of the day. The Great North Road, running through Northamptonshire, Leicestershire and Nottinghamshire, en route from London to Yorkshire, provided an excellent network for criminal activity. Bandits could conceal themselves at the side of the roads, which were frequently wooded, and ambush merchants and other potential targets. This happened with some frequency along the Fosse Way between Lincoln and Newark in Nottinghamshire, an area that became notorious for outlaw activity.⁷² Many other roads provided the same service, such as Watling Street, which ran between Barnsdale and Pontefract in Yorkshire.⁷³ This name also applied to the section of the Great North Road that ran between Ferrybridge and Worksop in Nottinghamshire.⁷⁴ Watling Street is illustrated as one of the haunts of Robin Hood in ‘The Geste’.

⁷⁰G.R. Owst, Literature in the Pulpit in Medieval England: A Neglected Chapter in the History of English Letters and of the English People (Oxford, 1961), pp.311, 313.

⁷¹John, ed., ‘Extracts From The Crown Pleas Of The Warwickshire Eyres’, p.53.

⁷²Platts, Land and People in Medieval Lincolnshire, Vol.4, p.258.

⁷³Holt, Robin Hood, p.84.

⁷⁴D&T, p.22.

<p>‘Take thy gode bowe in thy honde’, sayde Robyn, ‘Late Much wende with the, And so shal Willyam Scarloke And no man abyde with me;</p>	<p>‘And walke up to the Saylis, And so to Watlinge Strete And wayte after some unketh gest; Up chaunce ye may them mete.⁷⁵</p>
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Some of the most hazardous stretches of road for merchants and wealthy travellers were those which ran along county borders. The borderlands of Rutland, Leicestershire, Lincolnshire, Nottinghamshire, Northamptonshire, Warwickshire and Derbyshire were a haven for highway robbers. These were ideal places for criminals to work because the counties jurisdiction was unclear. An entry from the Patent Roll of 1276 shows how complications arose when a crime was committed on a boundary.

Commission to Osbert de Bereford to settle the metes of a place called ‘le Pleyne’ in the confines of the counties of Lincoln, Rutland and Leicester, since homicides, robberies, and other offences are frequently perpetrated there, and it being unknown in what county that place is, the sheriffs and coroners of the aforesaid counties contending therupon do not exercise their office there as in raising and pursuing the hue and cry, and viewing the bodies of slain persons, so that those things which regard the king’s peace are insufficiently observed there.⁷⁶

In the Patent Rolls, six extortion cases are recorded as having taken place on the borders of the East Midlands counties. As responsibility for these areas was unclear, boundaries were the ideal locations for receiving extorted funds and kidnapping those who would provide a substantial ransom. Pockets of extremely vigorous criminal activity developed along the borders of the Midlands. Places such as Stretton, on the boundary between Leicestershire and Lincolnshire, and Thorpe Waterville near the Leicestershire and Northamptonshire border, were safer areas in which to commit crimes than many towns and villages situated away from the

⁷⁵Ibid ‘The Geste’, verses 17-8, p.80.

⁷⁶CPR 1272-1281, p.178.

borders.⁷⁷ The following commission from 1308 shows that concern continued to be expressed about cross border crime.

Commission to Thomas, earl of Lancaster, to enquire, in the counties of Warwick, Leicester, Stafford and Derby, touching malefactors who avoid arrest by passing from county to county, to arrest all such persons and to deliver them to the sheriffs of their respective counties.⁷⁸

The woods and forests of England, especially Sherwood in Nottinghamshire, are associated with the deeds of outlaws and criminals. The legal records confirm that criminal gangs, such as the one led by Godberd, used Sherwood, whilst the Folvilles and Coterels made use of Charnwood in Leicestershire, Rockingham Forest in Northamptonshire, and Peak Forest in Derbyshire.⁷⁹ Forests made excellent hiding places, as they were comprised not only of woodland, but also of clearings and villages. Criminals could sustain themselves for weeks at a time. The sheer size of many of the forests was a bonus to those avoiding the law. When Leyburn was hunting criminals in the thirteenth century, he entered the forests of the East Midlands on two occasions, lost several men and horses, but caught no outlaws.⁸⁰

The perceptions of lawlessness that shade the literature of the period 1260 to 1360 help the modern scholar to understand contemporary attitudes towards crime. Violence had become commonplace in a society blighted by continuous war, increased taxes, purveyance, famine and disease. The anarchy that followed the death of Simon de Montfort and the creation of the Earldom of Lancaster, the inadequacy of the changes in the legal system and

⁷⁷Three of the twenty-eight cases recorded in Just3/30/2 occurred in Stretton, Leicestershire. Thorpe Waterville is probably best associated with the dispute over it and neighbouring villages in Northamptonshire, by Walter Langton. See Chapter 4.2.

⁷⁸CPR 1307-1313, p.87.

⁷⁹Bellamy, 'The Coterel Gang', p.704.

⁸⁰Holt, Robin Hood, p.97.

the weakness of Edward II, all contributed to the century's lawlessness. Criminals created out of the lawlessness of the age, such as the Folvilles and Beltofts, are mirrored in the tales of Robin Hood, Gamelyn and Adam Bell. Extortion had become a way of life, and theft a means of survival for officials, lesser members of the gentry and consequently, the population they oppressed. The threat of violence was certainly more a reality than violence itself, but the criminals of the period had few qualms about carrying out acts of intimidation if their demands were not met.

The varying perceptions of lawlessness held by the magnates, who used it as a means to their own ends, the gentry and tradesmen who used it for profit, and the freemen and servile peasants who were to suffer from it (and were therefore forced to become embroiled in it), are all reflected in the literature inspired by the age. The period 1260 to 1360 was to see a denial of justice across not only the East Midlands, but across the whole of England, that was to continue until long after the death of John of Gaunt in 1399, with echoes still being heard in the sixteenth century.

APPENDIX I

THE HONOUR OF LEICESTER IN THE FOURTEENTH CENTURY

The following list shows the settlements within the Honour of Leicester in the fourteenth century, divided into their separate bailiwicks.¹ This list is followed by a map of the area.

Key:

1. = Carlton Curlieu Bailiwick
2. = Glenfield Bailiwick
3. = Earl Shilton Bailiwick
4. = Northampton Bailiwick
5. = Sileby Bailiwick (sometimes called Belgrave)
6. = Desford Bailiwick
7. = Hinckley Bailiwick
8. = Warwick Bailiwick

Leicestershire

Leicester

1. Wigston Magna	Illston-on-the-Hill	Carlton Curlieu	Glooston
W. Langton	Theddingworth	Thorpe Langton	Laughton
Ashby Magna	Knaptoft	Bitteswell	Mowsley
Catthorpe	Stockerston	E. Langton	Walton
South Kilworth	Shangton (Chadwick)	Stonton Wyville	Cranob
Willoughby Waterless			

¹ The places included in this list are based on those included in the map on p.220 taken from L. Fox, 'The Administration of the Honor [sic] of Leicester in the Fourteenth Century', Transactions of the Leicestershire Archaeological Society, 20 (1938-39), pp.289-374.

2. Glenfield **Bromkinsthorpe**

3. Blaby	Normanton Turville	Enderby	Nosely
Thurlaston	Earl Shilton	Whetstone	Sapcote
Emerton (Westerby)	Countesthorpe	Croft	Frowlesworth
Thorpe Prums	Broughton Astley		

5. Lockington	Hathern	Cotes	Prestwold
Shoby (Hoby)	Keyham	Wanlip	Walton-on-the-Wold
Long Whatton	Thorpe Acre	Wymesmold	Saxelby
Sileby	Birstall	Thurcaston	Burton-on-the-Wolds
Belgrave	Humberstone	Bushby	Incarsby
Houghton-on-the-Hill			

6. Ravenstone	Bagworth	Thornton	Desford
Osbaston	Cadeby	Thurnby	Evington
Feckleton	Kirby Muxloe	Stapleton	Kirby Mallory

7. Upton	Stoke Golding	Atterton	Wellsborough
Shenton	Witherley	Hinckley	Higham-on-the-Hill

Rutland

5. Teigh

Nottinghamshire

5. Gunthorpe	Keyworth	Edwalton	Sutton Bonnington
Cotham (Gotham)	Lowdham	Newthorpe	Normanton-on-Soar

Warwickshire

7. Wilnecote

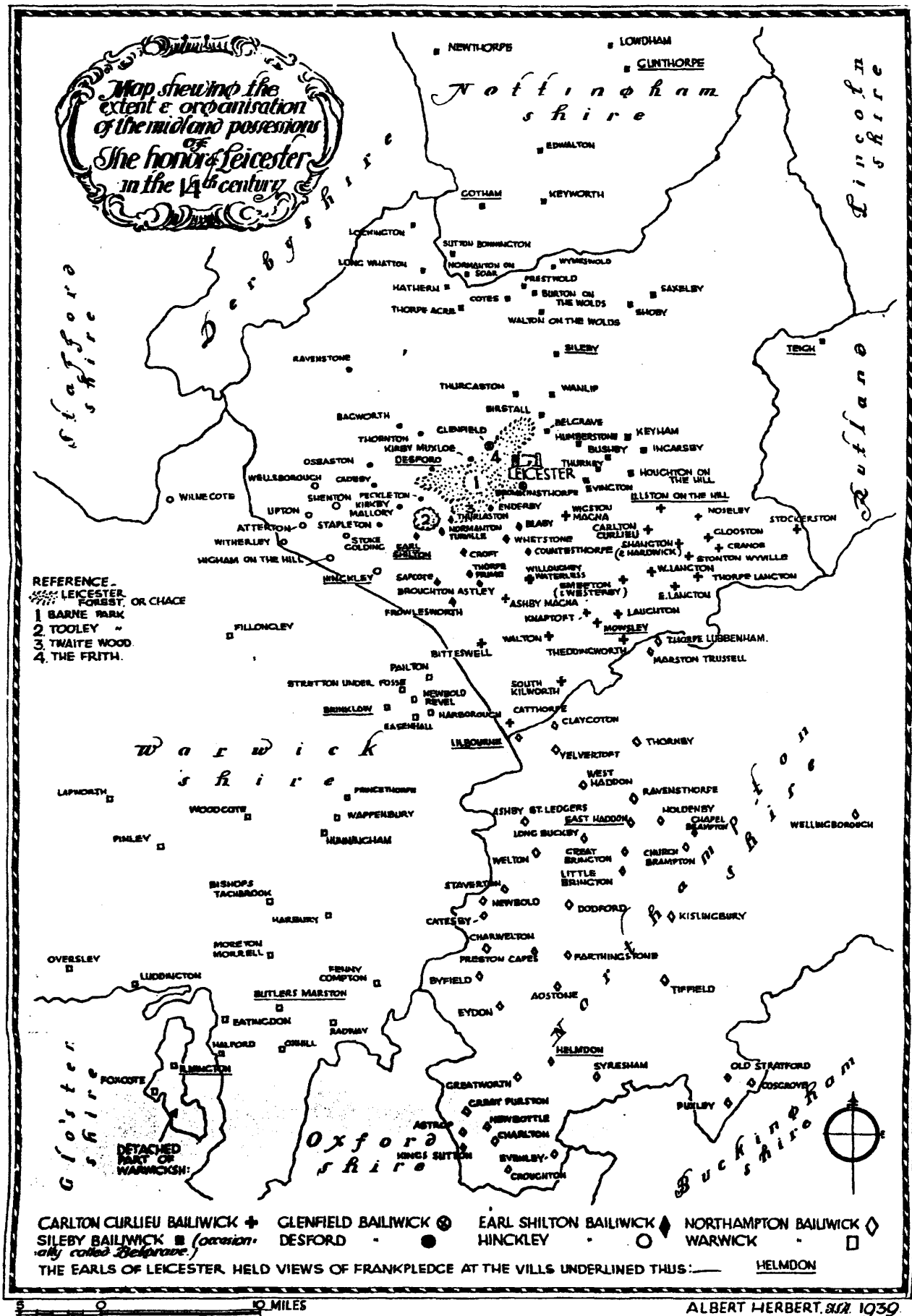
8.Fillongley	Pailton	Princethorpe	Lapworth
Wappenbury	Foxcote	Radway	Ilmington
Oversley	Moreton Morrell	Halford	Butlers Marston
Oxhill	Brinklow	Harborough	Newbold Revel
Easenhall	Pinley	Woodcote	Hunnington
Harbury	Luddington	Eathington	Fenny Compton

BishopsTachbrook Stretton-under-Fosse

(Foxcote and Ilmington are in a detached part of Warwickshire within Gloucestershire)

Northamptonshire

4.Holdenby	Chapel Brampton	East Haddon	Wellingborough
Welton	Great Brington	Staverton	Church Brampton
Little Brington	Catesby	Kislingbury	Preston Cafes
Tiffield	Adstone	Helmdon	Greatworth
Newbottle	Astrop	Puxley	Old Stratford
Croughton	Thorpe Lubbenham	Claycotton	Marston Trussell
Lilbourne	Thornby	Yelvertoft	West Haddon
Ravensthorpe	Long Buckby	Newbold	Ashby St.Ledgers
Dodford	Charwelton	Byfield	Farthingstone
Bydon (Eydon)	Syresham	Charlton	Great Purston
Kings Sutton	Cosgrove	Evenley	



Map 1. The Honour of Leicester in the Fourteenth Century

APPENDIX II

LIST OF POEMS, SONGS AND BALLADS FOUND IN THE TEXT

ROBIN HOOD BALLADS

Title	Recorded Date	Source
The Geste of Robyn Hood	c.1492-1534	Dobson & Taylor, <u>Rymes of Robyn Hood.</u>
Robin Hood and the Monk	c.1450-1500	<u>Ibid.</u>
Robin Hood and the Potter	c.1460-1530	<u>Ibid.</u>
Robin Hood and the Curtal Friar	c.1500	<u>Ibid.</u>
Robin Hood and Guy of Gisborne	c.1450-1500	<u>Ibid.</u>
Robin Hood's Death	c.1500	<u>Ibid.</u>
Robin Hood and Allen-a-Dale	c.1550-1600	<u>Ibid.</u>
Robin Hood and the Butcher	c.1657	<u>Ibid.</u>
Robin Hood and the Beggar	c.1663	Child, <u>English and Scottish Ballads.</u>
Robin Hood and the Pedlar	c.1775?	<u>Ibid.</u>
Robin and Marion	c.1650-1700	Mandel, <u>Five Comedies of Medieval France.</u>

OTHER BALLADS

Title	Recorded Date	Source
Hereward the Wake	c.1150-1200	Keen, <u>Outlaws of Medieval Legend.</u>
Fulk Fitzwarin	c.1200	<u>Ibid.</u>
Eustace the Monk	c.1200	<u>Ibid.</u>
The Vision of Piers the Plowman	c.1377	Langland.
Troilus and Criseyde	c.1385	Chaucer.

Title	Recorded Date	Source
Adam Bell, Clim of Clough and William Cloudsey	c.1557	Dobson & Taylor, <u>Rymes of Robyn Hood.</u>
The Tale of Gamelyn	c.1500	Sands, <u>Middle English Verse Romances.</u>

POLITICAL SONGS AND POEMS

Title	Recorded Date	Source
Song Against the Bishops	c.1256	Coss, <u>Wright's Political Songs.</u>
Song on the Times	c.1250	<u>Ibid.</u>
The Song of the Barons	c.1263	<u>Ibid.</u>
The Lament of Simon De Montfort	c.1265-68	<u>Ibid.</u>
Song on the Scottish Wars	c.1298	<u>Ibid.</u>
Song of the Husbandman	c.1300	<u>Ibid.</u>
The Outlaw's Song of Trailebaston	c.1305-1310	<u>Ibid.</u>
On the King's Breaking His Confirmation of Magna Carta	c.1306-7	<u>Ibid.</u>
Song on the Venality of the Judges	c.1300-1320	<u>Ibid.</u>
Song Against the King's Taxes	c.1339	<u>Ibid.</u>
A Song on the Times	c.1320-1340	<u>Ibid.</u>
Song Against the Retinues of the Great People	Reign of Edward II	<u>Ibid.</u>

Title	Recorded Date	Source
The Office of Saint Thomas of Lancaster	c.1322-1325	<u>Ibid.</u>
De Simonie <u>or</u> The Evil Times of Edward II	c.1330	<u>Ibid.</u>
Four Wise Men on Edward II's Reign	Reign of Edward II/III	<u>Oxford Book of Medieval Verse.</u>
How to be a Successful Lawyer	c.1376-79	Rickert, <u>Chaucer's World.</u>

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Just 3	Gaol Delivery Rolls.
C47	Chancery, Miscellanea.
KB27	King's Bench Plea Rolls.

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