

**Gender, Class and Property Crime in South East England**  
**c. 1860-1900.**

**By**  
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**A thesis submitted to**  
**Royal Holloway, University of London**  
**for the degree of master of philosophy.**

## **Declaration of Authorship**

I Krissie Joan Glover hereby declare that this thesis and the work presented in it is entirely my own. Where I have consulted the work of others this is always clearly stated.

**Signed:**

**Date:** 26<sup>th</sup> June 2018.

## **Abstract**

This thesis uses court records and newspaper reports to reveal contemporary understanding of gender, class and property in the second half of the nineteenth century. Using three property crimes - theft by domestic servants, poaching and arson - this thesis demonstrates how social interactions and identities were revealed by criminal actions.

After examining wider historiography and prevailing notions of property, gender and class this thesis begins by investigating cases of “stealing from master” at the Old Bailey. Limiting the study to those cases where the defendant lived with their master in their home this chapter reveals how notions of gender, class and property are played out within the competing prism of the home and the work place.

The third chapter of this thesis examines the hyper-masculine crime of poaching revealing how social identities were imagined and utilised in a rural context. Using a sample of cases from South Hinckford Magistrates court in Essex, *The Gamekeeper* and newspaper reports this chapter will investigate the poacher and the position of the gamekeeper in poaching conflicts. Thus, exposing a new perspective on Victorian masculinity and respectability.

The thesis then moves away from abstract ideas of property to perhaps the most concrete- bricks and mortar. Arson, similarly to poaching, has been consigned by historians as rural crime of protest. This chapter challenges that notion by using cases of urban arson heard at the Old Bailey to reveal who the urban arsonist was, why they committed the crime and how the judicial system dealt with their deviance.

Finally, the thesis concludes by bringing the three crimes together in a comparative study to demonstrate the pivotal role gender, class and the built environment play in the nature, perception and reception of nineteenth-century property crime.

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## Contents Page

	<b>PAGE</b>
Title Page	i
Declaration of authorship	ii
Abstract	iii
Acknowledgements	iv
Contents Page	v
List of figures, tables and graphs	vii
Abbreviations	viii
<b>1. Introduction</b>	<b>1</b>
1.1 Social Identities: Gender and Class.	2
1.2 Social Spaces: London and the Home	24
1.3 Why Stealing from master, poaching and arson?	33
1.4 Methodology.	39
1.5 Thesis outline.	50
<b>2. “Stealing from Master”;     Servants and Theft in the Victorian Home</b>	<b>53</b>
2.1 Domestic Servants and the Home.	62
2.2 A sting or a fool? Detecting theft in the home.	67
2.3 Who was indicted for ‘stealing from master’?	71
2.4 From petticoats to cutlery; the prizes of petty pilfering.	83
2.5 The trials of Ohrland, Martin and Meckling- a comparative study.	86
2.6 Conclusion.	99

<b>3. The Poacher, Gamekeeper and the Press 1860-1900; “Folk heroes - or common thieves?”</b>	<b>101</b>
3.1 Folk Heroes or Petty Thieves? The Poaching Debate.	114
3.2 Poaching in Practice: South Hinckford Magistrates’ Court	121
3.3 Masculinity, Physicality and <i>The Gamekeeper</i> .	137
3.4 Conclusion.	161
<b>4. Arson at the Old Bailey: Fire in London, 1860 to 1900.</b>	<b>164</b>
4.1 Arson or Accident?	172
4.2 The Urban Arsonist.	179
a) The Female Arsonist and Domestic Service.	187
b) Mothers as Arsonists.	194
c) The Poacher as an Arsonist.	196
d) The Institutional Arsonist.	199
e) The Incendiary Green Grocer.	200
4.3 The Threat of Arson in Urban Communities.	202
4.4 Conclusion	211
<b>5. Conclusion</b>	<b>213</b>
5.1 Turbyfield, Cordwell and Dodman.	214
a) Gender	214
b) Class and Respectability	219
c) Space	221
Bibliography	226

## **List of Figures, Graphs and Tables.**

### **Figures**

<b>3.1</b> Jurisdiction of the South Hinckford Magistrates Court.	122
<b>3.2</b> The opening page of the eighth edition of <i>The Gamekeeper</i> , 1:8 (May 1898).	140
<b>3.3</b> OPI Portrait of J. Matthews.	146
<b>3.4</b> OPI Portrait of I. Bloxham.	146
<b>3.5</b> OPI Portrait of A. Nichol.	146
<b>3.6</b> OPI Portrait of F. Folds.	146
<b>3.7</b> OPI Portrait of W. Rooker.	152
<b>3.8</b> Three portraits of “Old Bill” from Anon., “About “Old Bill” Himself”, <i>The Gamekeeper</i> , 3:27 (Dec 1899), p. 53.	159

### **Graphs**

<b>2.1</b> Percentage of Male and Female Defendants Indicted for ‘Stealing from Master at the Old Bailey in the years 1862, 1872, 1882, 1892 and 1902 (%)	74
<b>2.2</b> Sentence Length for Servants found guilty for ‘stealing from master’ at the Old Bailey in the years 1862, 1872, 1882, 1892 and 1902.	76
<b>2.3</b> Age of defendants indicted for ‘stealing from master’ at the Old Bailey in 1862, 1872, 1882, 1892 and 1902.	80
<b>2.4</b> Items allegedly stolen by servants indicted for ‘stealing from master’ at the Old Bailey in 1862, 1872, 1882, 1892 and 1902.	84
<b>3.1</b> A bar chart illustrating the type of game offence noted in the official records of South Hinckford Magistrates court in a given five-year period.	127
<b>3.2</b> A bar chart illustrating verdicts given for game offence cases heard at South Hinckford Magistrates Court in a given five-year period.	130
<b>3.3</b> A seasonal analysis of game offences at South Hinckford Magistrates Court.	133

<b>4.1</b> Sentence Length for male and female defendants found guilty of arson from 1860-1900 heard at the Old Bailey.	182
---	-----

<b>4.2</b> Number of male and female defendants accused of arson at the Old Bailey from 1860-1900.	184
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## **Tables**

<b>2.1</b> Defendants Indicted for ‘Stealing from Master’ at the Central Criminal Court.	73
--	----

<b>3.1</b> A table detailing the number of cases and defendants presented at South Hinckford Magistrates Court for game offences in a given five-year period.	124
---	-----

<b>4.1</b> Number of defendants tried for arson at the Old Bailey from 1860 to 1900.	180
--	-----

<b>4.2</b> Percentage of male and female defendants accused of arson at the Old Bailey in each decade from 1860-1900.	180
---	-----

<b>4.3</b> Sentence Length for male and female defendants found guilty of arson from 1860-1900 heard at the Old Bailey.	192
---	-----

<b>5.1</b> Verdicts reached for all defendants presented in this thesis.	218
--	-----

<b>5.2</b> Verdicts reached for male defendants presented in this thesis.	218
---	-----

<b>5.3</b> Verdicts reached for female defendants presented in this thesis.	219
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## **Abbreviations**

**ERO** Essex Record Office.

**OBO** Old Bailey Online.

**PRO** Parliamentary Records Online.

**OPI** Our Portrait Illustrations, *The Gamekeeper*.



## **Introduction**

“There is no truth in the statement that we left money about; we had no suspicion of anyone”.<sup>1</sup> Yet despite this statement, Mary Criffield found herself prosecuting her servant Sarah Beard and defending her own actions at the Old Bailey in 1886. Mary and her husband Thomas – a baker in the newly built suburb Brockley – set a trap for a thief after noticing fourteen shillings was missing from the previous week. The Criffield’s case is not extraordinary and despite coming in a moment of crisis the court records reveal snippets of their everyday lives including interpersonal relationships and day-to-day domestic management. Many themes can be drawn from this case and it is indicative of the aim of this thesis; to show how social identities were revealed when crimes came before the courts. The first area of focus is how gendered identities are formed, performed and reformed. The testimonies of the Criffields depicted a life of domestic bliss with six children, two servants and an errand boy all co-existing under one roof. It is this bliss, and by extension her reputation, Mary was seeking to protect by denying she was a suspicious mistress. Yet the actions of the Criffields and Sarah betray this ideal, illustrating underlying conflicts between members of the household. This is particularly clear in the tone of Thomas’s testimony whereby he consistently calls Sarah “the prisoner” rather than by her name. Secondly, this case offers an example of how class conflict and antagonisms revealed themselves in everyday life. The testimonies give concrete examples of how inter-class relationships were forged daily through face-to-face contact. In addition, the perceived respectability of defendants- a factor closely linked to their gendered identity- was often a determining factor in how the court dealt with their indiscretions. Beard, for example, was said to be of good character and therefore the jury and prosecutor called for mercy resulting in a lenient sentence of 3 months’ hard labour. Lastly, cases like this one show us how the geography of a home and the built environment was affected by criminal behaviour. The Criffields invited a policeman in their home and used a doorbell from their business to set the trap. Their actions allowed the arresting policeman, the Magistrate, the

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<sup>1</sup> Mary Criffield’s statement in OBO, Sarah Beard, t18860628-747.

Old Bailey judge, jury, public gallery, me and now you into their inner sanctum- their home.

Society is defined and shaped by its boundaries which evolve over time; the difference between private and public, femininity and masculinity, rough and respectable were experiences dictated by social customs. This thesis will use crime and criminal activity as a window through which to examine every day experiences and the boundaries of social normative behaviour. As the leading feminist historian Catherine Hall argues, “the margins can be very productive terrain- a space from which both to challenge and establish our own perspectives”.<sup>2</sup> The study of criminal cases provides the opportunity to challenge and establish how social identities were developed in the second half of the nineteenth century. This thesis situates itself amongst other cultural studies of crime but will focus on three overlooked offences: stealing from master, poaching and arson. These three crimes have been woven together in this project as they offer a fertile ground from which to tease out Victorian perceptions of gender, class and property. This project will also contribute to our understanding of spaces, urban and rural life, age and in a few instances race. To do this it will utilise the rich detail in the Old Bailey Proceedings alongside depictions of crime in the print media. This is not a novel and new approach but this thesis will go some way in placing stealing from master, poaching and arson within wider historiographies of social identity and crime.

### **1.1 Social Identities: Gender and Class.**

Davidoff and Hall once noted that “the practice of history is a complex and messy business”.<sup>3</sup> They are in a better position than most to comment as their seminal and oft-quoted work has been challenged, undermined but oddly also championed at every turn. The theory of separate spheres has shaped and directly influenced domestic and gender

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<sup>2</sup> C. Hall, *White, Male and Middle Class; Expectations in Feminism and History* (Cambridge: Polity Press, 1992), p. 33.

<sup>3</sup> L. Davidoff and C. Hall, *Family Fortunes; Men and Women of the English Middle Class 1780-1850, Revised Edition* (London: Routledge, 2002), p. xiii.

history for the past thirty years with women positioned in the private sphere of the home and men seen as dominating the public sphere of work and politics. Many an essay has been written on the usefulness of this black and white division, often citing the grey area in between, as many men and women crossed the divide.<sup>4</sup> Davidoff and Hall discuss these transgressions themselves but this is often overlooked with their work being used as a target for “historiographical potshots”.<sup>5</sup> The simplicity of the theory has ultimately been its downfall with nuances and the detail lost in the debate. In the revised edition of *Family Fortunes* Davidoff and Hall confront the criticism levelled at them, arguing that they had intended to outline the “common sense of the middle classes” rather than the everyday reality and admitting that it “was always fractured”.<sup>6</sup> They highlight the several instances in which they themselves demonstrated when the boundaries were crossed but suggest that wider changes in how we see the world, more specifically how we *do* history, have challenged their original theory.

In the decade and a half since *Family Fortunes* was published our world view has turned on its axis... The categories with which we perceive and think about the world, too, have shifted. We now recognise differences *within* categories, while elements of “diversity, multiplicity, difference and complexity” are welcomed as positive encounters.<sup>7</sup>

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<sup>4</sup> See for example J. R. Walkowitz, *City of Dreadful Delight; Narratives of Sexual Danger in Late-Victorian London* (Chicago: University of Chicago Press, 1992). G. S. Frost, *Promises Broken, Courtship, Class, and Gender in Victorian England* (London: University Press of Virginia, 1995). J. Tosh, *A Man's Place; Masculinity and the Middle-Class Home in Victorian England* (London: Yale University Press, 1999). S. Reverby and D. Helley, *Gendered Domains: Rethinking the Public and Private in Women's History* (London: Cornell University Press, 1992). R. Beachy, B. Craig and A. Owens (eds.), *Women, Business and Finance in Nineteenth-Century Europe; Rethinking Separate Spheres* (Oxford: Berg, 2006). J. Landes (ed.), *Feminism: The Public and the Private* (Oxford: Oxford University Press, 1998). L. Nead, *Victorian Babylon; People, Streets and Images in Nineteenth-Century London* (London: Yale University Press, 2000). H. Fraser, S. Green and J. Johnston, *Gender and the Victorian Periodical* (Cambridge: Cambridge University Press, 2003). A. Vickery, “From Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History”, *Historical Journal*, 36:2 (1993), pp. 383-414. M. P. Ryan, *Women in Public: Between Banners and Ballots 1825-80* (London: Johns Hopkins University Press, 1990).

<sup>5</sup> L. Delap, B. Griffin and A. Wills, “Introduction” in their *The Politics of Domestic Authority in Britain Since 1800* (London: Palgrave MacMillan, 2009), p. 5.

<sup>6</sup> L. Davidoff and C. Hall, *Family Fortunes* (2002), p. xvi.

<sup>7</sup> M. Glucksman, *Cottons and Casuals: The Gendered Organisation of Labour in Time and Space* (Durham: Sociology Press, 2000), p.17 as quoted in L. Davidoff and C. Hall, *Family Fortunes* (2002), pp. xxxix-xl.

History, like people, does not fit into a few small boxes but several overlapping areas with interdisciplinary approaches changing the way we all *do* history. We can no longer talk of the middle class, or women, or Jewish people, or East Enders, or youths in isolation; place, age, gender, class and race have merged creating more nuanced understandings of complex ideas like identity and group consciousness. D'Cruze, in the introduction to a volume on historical violence, stated similar ideals arguing that "it is not, in the end, particularly helpful to debate whether gender overdetermines the effect of class, or vice versa...it is far more helpful to conceptualise historical situations through the intersections of gender and class".<sup>8</sup> I echo these sentiments and will demonstrate in this thesis how different types of property crime are experienced by victims and perpetrators, revealing how concepts such as gender, class and place overlap in everyday life. The shift away from binary categories into a more complex understanding of identity is evident in the historiography of gender studies from the 1960s to today with developments reflecting wider political and social movements such as second wave feminism and Marxism.

Gender history began its life as a discipline as women's history. It was driven by feminist desires to write women's experiences into wider historical narratives in the 1960s but remained on the periphery of mainstream academia until the late seventies and early eighties.<sup>9</sup> The linguistic or cultural turn that helped facilitate this change focussed on language and expressions of individuals and groups as a form of representation.<sup>10</sup> Gender

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<sup>8</sup> S. D'Cruze, *Everyday Violence in Britain, 1850-1950: Gender and Class* (London: Longman, 2000).

<sup>9</sup> S. O. Rose, *What is Gender History?* (Cambridge: Polity Press, 2010) p. 3. L. Kerber, "Separate Spheres, Female World, Women's Place: The Rhetoric of Women's History", *Journal of American History*, 75:1 (1998), pp. 9-39. See for example S. Rowbotham, *Hidden from History: 300 Years of Women's Oppression and the Fight against It* (London: Pluto, 1973). C. Hall, *White, Male and Middle Class* (1992). Women's history related to the social and labour history movement. See for example S. Rowbotham, *Women's Consciousness, Man's World* (Harmondsworth: Penguin, 1973). S. Rowbotham, *Hidden from History* (1973). S. Alexander, "Women's Work in Nineteenth-Century London: A Study of the Years 1820-50" in J. Mitchell and A. Oakley (eds.), *Rights and Wrongs of Women* (Harmondsworth: Penguin, 1976), pp. 59-111.

<sup>10</sup> This transformation was not immediate with academics sceptical of the move away from more traditional sources. See for example the 1990s debate in the *Social History* journal sparked by P. Joyce, "The end of social history?", *Social History*, 20:1 (Jan. 1995), pp. 73-91. G. Eley and K. Nield, "Starting Over: The Present, the Post-Modern and the Moment of Social History", *Social History*, 20:3 (1995), pp. 355-364. P. Joyce, "The End of Social History? A brief reply to Eley and Nield", *Social History*, 21:1 (1996), pp. 96-98. Also prior to this J. Vernon, "Who's afraid of the 'linguistic turn'? The Politics of Social History and its Discontents", *Social History*, 19:1 (Jan. 1994), pp. 81-97. For a more contemporary review of the direction of social history as a discipline see P. Joyce, "What is the social in Social History?", *Past & Present*, 206 (Feb. 2010), pp. 213-248. J. Kocka, "Losses, Gains and Opportunities: Social History Today",

history is based on the fundamental idea that gender differences were socially constructed and not biologically determined. They were “never static, but constantly challenged, reshaped and rethought, in words and in action”.<sup>11</sup> Ideas about what it meant to be a man or a woman and codes of masculinity and femininity shifted over time and were the consequence of particular cultural and social pressures. Therefore the only way to make “full sense” of them is when they are “placed in a whole social, economic and cultural world”.<sup>12</sup> Davidoff and Hall had intended to achieve this by embedding women’s experiences in the larger course of human history through elevating the everyday lives of relatively mundane women in the home to the wider academic arena.<sup>13</sup> In so doing they inadvertently inspired a plethora of work on the agency of women in the public sphere and the domestication of men that have cast light on the day to day lives of ‘normal’ people.

Several historians have revealed how women of all classes were not confined to the private sphere but operated with a considerable degree of agency in the wider public arena. Walkowitz, for example, has shown using the crimes of Jack the Ripper that women were ever present on the streets of London.<sup>14</sup> Walkowitz’s thoughtful use of crime as a starting place to explore the dimensions of London, gender dynamics and class antagonisms demonstrates how crime can help us to explore more complicated ideas. Her exploration of crime in the courtroom and how these interactions were played out on the pages of the print media bring into focus how some women could use the cultural framework they operated within to engage with and shape national politics. It is perhaps more symptomatic of the middle classes whose philanthropic efforts can be seen as an extension of their domestic lives.<sup>15</sup> Pugh called this women’s role in *social* politics stating that “women had a particularly close interest in social policy” as they were the first to

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*Journal of Social History*, 37:1 (Autumn 2003), pp. 21-28. M. Hewitt, “Class and the Classes” in C. Williams (ed.), *A Companion to Nineteenth-Century Britain* (Oxon: Blackwell, 2007), pp. 305-320.

<sup>11</sup> R. Beachy, B. Craig and A. Owens, “Introduction” in their edited volume *Women, Business and Finance* (2006), p. 9.

<sup>12</sup> C. Hall, *White, Male and Middle Class* (1992), p.13.

<sup>13</sup> L. Davidoff and C. Hall, *Family Fortunes* (2002), p. xvii.

<sup>14</sup> J. R. Walkowitz, *City of Dreadful Delight* (1992).

<sup>15</sup> F. Prochaska, *Women and Philanthropy in Nineteenth-Century England* (Oxford: Clarendon Press, 1980).

experience fluctuations in prices and often had responsibility over the domestic budget.<sup>16</sup> Therefore the nature and type of politics engaged in justified the position of women in the debate.<sup>17</sup> For example, women were avid campaigners in national debates such as the abolition of slavery and the repeal of the contentious Contagious Diseases Acts in 1886.<sup>18</sup> Yet both can be placed within wider narratives on what it meant to be a respectable woman. Female abolitionists such as Hannah More (a key member of the influential Clapham Sect) and Georgiana, Duchess of Devonshire wrote anti-slavery poems with moral tones and hosted political meetings in their homes.<sup>19</sup> Less influential women used their role as domestic managers to arrange sugar boycotts in the 1790s to put pressure on slave owners. Women were also key consumers of Wedgwood's famous medallions which depicted a kneeling slave in chains publicising the wearer's support for the campaign. The use of the home, domestic management and fashion allowed women to create a political niche that did not interfere with their male counterparts but did influence national discourse. More covert forms of female agency in the public sphere could be found in the ever-expanding urban retail sector.

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<sup>16</sup> M. Pugh, *State and Society; A Social and Political History since 1870, Fourth Edition* (London: Bloomsbury, 2012), p. 54.

<sup>17</sup> S. Richardson, *The Political Worlds of Women: Gender and Politics in Nineteenth Century Britain* (Abingdon: Routledge, 2013). B. Griffin, *The Politics of Gender in Victorian Britain: Masculinity, Political Culture and the Struggle for Women's Rights* (Cambridge: Cambridge University Press, 2012). C. Bolt, *The Women's Movements in the United States and Britain from the 1790s to the 1920s* (London: Routledge, 1993). K. Gleadle and S. Richardson (eds.), *Women in British Politics, 1760-1860; The Power of the Petticoat* (London: Macmillan, 2000).

<sup>18</sup> L. Billington and R. Billington, "'A Burning Zeal for Righteousness': Women in the British Anti-Slavery Movement, 1820-1860" in J. Rendall (ed.), *Equal or Different: Women's Politics, 1800-1914* (Basingstoke: MacMillan, 1985), pp. 82-111. C. Midgley, "Anti-Slavery and Feminism in Nineteenth-Century Britain", *Gender and History*, 5:3 (Autumn 1993), pp. 343-362. C. Midgley, *Women Against Slavery: The British Campaigns, 1780-1870* (London: Routledge, 1995). J. Jordan, *Josephine Butler* (London: Continuum, 2007). J. R. Walkowitz *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980). J. Jordan and I. Sharp (eds.), *Josephine Butler and the Prostitution Campaigns- Diseases of the Body Politic; Volumes I-V* (London: Routledge, 2003). P. McHugh, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980).

<sup>19</sup> W. Hague, *William Wilberforce; The Life of the Great Anti-Slave Trade Campaigner* (London: Harper Perennial, 2008). S. Tompkins, *William Wilberforce; A Biography* (Oxford: Lion, 2007). A. Stott, *Hannah More: The First Victorian* (Oxford: Oxford University Press, 2003). A. Foreman, *Georgiana, Duchess of Devonshire* (London: Harper Collins, 1999). S. Richardson, "'Well-Neighbour'd Houses': The Political Networks of Elite Women" in K. Gleadle and S. Richardson (eds.), *The Power of the Petticoat* (2000), pp. 56-73.

Rappaport reimagined Walkowitz's city of danger by bringing into the narrative of female experiences the leisure pursuit of shopping. She revealed how shopping was "more than merely purchasing goods in a shop" but rather the reframing of public spaces to include tea rooms, clubs and theatres suitable for female consumption- a feminine urban culture.<sup>20</sup> Yet there are two caveats to this. Firstly, shopping was not just a feminine pursuit. Breward examined spaces of masculine consumption and the need for respectable men to dress fashionably. His work illustrates the "finer graduations of masculinity" by outlining how not just central department stores but also local retailers contributed to the formation of social identities.<sup>21</sup> Secondly, the position of respectable women in the West End was not uncontested or uncomplicated. Nead - beginning with the protestations of an out of town father in the letter section of *The Times* - draws out the nuances and ambiguities of the sight of respectable women on the streets. Entitled "The Rape of Glances" borrowed from an article of the same name in the *Saturday Review* she evaluated the ocular economy of the city and the roles women performed within it.<sup>22</sup> She argued that if a woman wanted to protect herself from stray glances and unwanted advances she must "dress unattractively, walk at a speedy pace and look straight ahead".<sup>23</sup> This alludes to the performative nature of gender whereby women and men needed to play certain roles to maintain respectability in the public arena. Yet her most important observation was that we must not view "public life as a monolithic entity" but a contested terrain by which respectable women had several access points.<sup>24</sup> As has already been shown women could enter the public world through politics, shopping and philanthropy but what options did women have who did not have the capital required to engage in the public sphere through these avenues?

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<sup>20</sup> E. D. Rappaport, *Shopping for Pleasure: Women in the Making of London's West End* (Princeton: Princeton University Press, 2000), p. 5. See also J. Ryan, "Women, Modernity and the City", *Theory, Culture and Society*, 11:4 (Nov. 1994), pp. 35-64. L. Walker, "Vistas of Pleasure: Women Consumers and Urban Space in the West End of London, 1850-1900" in C. C. Orr (ed.), *Women in the Victorian Art World* (Manchester: Manchester University Press, 1995), pp. 70-85.

<sup>21</sup> C. Breward, "Fashion and the man: From suburb to city street. The spaces of masculine consumption 1870-1914", *New Formations; Sexual Geographies*, 37 (Spring, 1999), p. 48.

<sup>22</sup> L. Nead, *Victorian Babylon* (2000), pp. 62-73.

<sup>23</sup> *Ibid.*, p. 66.

<sup>24</sup> *Ibid.*, p. 70.

The simplest answer to that question is work. Many women worked to aid their household economy but respectable women had to be careful to choose a job that suited her sensibilities.<sup>25</sup> Milne observed in 1857 that middle-class women had two choices when faced with having to support themselves: “either she may endeavour to gain the means of subsistence in a way in some measure fitting her previous station in life; or, unable to do this, she may leave that status to join the ranks below”.<sup>26</sup> This is a stark reminder that class is not assigned at birth but is a dynamic concept that ebbs flows throughout an historical actor’s life cycle. Kay outlined the need for some middle-class women to work due to a gender imbalance in London. She argued that women profited from embarking on retail ventures targeted at a female audience creating a feminised marketplace.<sup>27</sup> Single women had slightly more independence in this regard as married women would be conscious of undermining the authority of her husband as the bread winner.<sup>28</sup> These ideas were entrenched during the Chartist movement which sought to use the evangelical notion of the family unit to prove the respectability of the lower sections of society.<sup>29</sup> For many work was a necessary evil that could not be avoided especially in the volatile labour market. It is unclear how many women worked outside the home due to the unreliability of census data and under reporting of petty jobs like needlework but it is clear a sizeable

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<sup>25</sup> S. Alexander, “Women’s Work in Nineteenth Century London 1820-1850” in J. Mitchell and A. Oakley (eds.), *The Rights and Wrongs of Women* (London: Penguin, 1976). J. W. Scott and L. A. Tilly, “Women’s Work and the Family in Nineteenth-Century Europe”, *Comparative Studies in Society and History*, 17:1 (Jan. 1975), pp. 36-64. J. Humphries, “Women and Paid Work” in J. Purvis (ed.), *Women’s History: Britain, 1850-1945: An Introduction* (London: UCL Press, 1995), pp. 72-90. A. August, “How Separate a Sphere? Poor Women and Paid Work in Late Victorian London”, *Journal of Family History*, 19 (1994), pp. 285-309.

<sup>26</sup> J. D. Milne, *Industrial and Social Position of Women in the Middle and Lower Ranks* (London: Chapman Hall, 1857), p.129.

<sup>27</sup> For every 100 men there were 119 women. Approximately one fifth of businesses were run by women in this period. A. C. Kay, “Retailing, Respectability and the Independent Woman in Nineteenth-Century London” in R. Beachy, B. Craig and A. Owens (eds.), *Women, Business and Finance* (2006).

<sup>28</sup> For example, Hellerstein, Hume and Offen argue that women engaged in philanthropic activities as they were not paid and therefore could not undermine the masculinity of their husband by infringing on his role as a provider for the family. E. O. Hellerstein, L. P. Hume and K. M. Offen (eds.), *Victorian Women; a Documentary Account of Women’s Lives in Nineteenth-Century England, France and the United States* (California: Stanford University Press, 1981), pp. 429-30.

<sup>29</sup> S. K. Kent, *Gender and Power in Britain, 1640-1990* (Oxon: Routledge, 1999). S. K. Kent, *Sex and Suffrage in Britain 1860-1914* (Princeton: Princeton University Press, 1987). A. Clark, “Gender, Class and the Constitution: Franchise Reform in England, 1832-1928” in J. Vernon (ed.), *Re-Reading the Constitution: New Narratives in the Political History of England’s Long Nineteenth Century* (Cambridge: Cambridge University Press, 1996). A. Clark, *The Struggle for the Breeches; Gender and the Making of the British Working Class* (London: University of California Press, 1995). J. Schwarzkopf, *Women in the Chartist Movement* (New York: Palgrave MacMillan, 1991).



number of women worked in the public domain.<sup>30</sup> When one considers prostitution as well working women's presence in the public sphere was far greater than the notion of separate spheres depicts.<sup>31</sup>

The position of prostitutes is particularly interesting in the context of contested spaces and the ocular economy of London. It has already been touched upon but the visibility of prostitutes on London's streets not only affected their reputations but also other women in their vicinity. This was the crux of the issue in the Contagious Diseases debate; the ambiguity between who was and was not a prostitute tarred everyone with the same brush. The gentleman whose daughter was accosted, for example, was unaware that Regent's Street was a popular haunt for prostitutes during the day. He could be excused his naivety as Regent's Street is adjacent to Oxford street – the centre of feminine urban shopping culture in the city. One wrong turn and the presence of an unaccompanied woman has a completely different connotation. Nead describes this as the “moral geography” of the city and demonstrates how space and place – a key theme of this thesis – is pivotal to Victorian understandings of social identity.<sup>32</sup> Another aspect it illuminates is the importance of performance of gendered identities in perceptions of respectability.

This thesis will continually refer to women and men's *roles* drawing inspiration from an article by Summerfield that asks the question what does the word *role* mean? Her summations are persuasive; “it suggests adopting a persona, playing a part, speaking a script, occupying a space, wearing a costume, presenting a scene”.<sup>33</sup> In short it suggests that manifestations of identity are in fact performances akin to actors on a stage whereby roles are pre-determined and importantly are performed for an audience. Summerfield's

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<sup>30</sup> E. Higgs, “Women, Occupation and Work in the Nineteenth Century Censuses”, *History Workshop Journal*, 23:1 (1987), pp. 59-80. E. Higgs and A. Wilkinson, “Women, Occupations and Work in the Victorian Censuses Revisited”, *History Workshop Journal*, 81:1 (2016), pp. 17-38.

<sup>31</sup> J. Walkowitz, *Prostitution and Victorian Society* (1980). E. M. Sigworth and T. J. Wyke, “Study of Victorian Prostitution and Venereal Disease” in M. Vicinus (ed.), *Suffer and be Still. Women in the Victorian Age* (London: Methuen, 1972), pp. 77-99. P. Howell, “Prostitutional Space in the Nineteenth-Century European City” in I. S. Black and R. A. Butlin (eds.) *Place, Culture and Identity* (Quebec: Laval University Press, 2001), pp. 181-202.

<sup>32</sup> L. Nead, *Victorian Babylon* (2000), p. 65.

<sup>33</sup> P. Summerfield, “Concluding Thoughts: Performance, the Self, and Women's History”, *Women's History Review*, 22:2 (2013), p. 346.

assertions were inspired by Butler's *Gender Trouble* in which she argued that gender was not a 'natural' part of our identity but rather a learned set of customs, rituals and ideas that we perform every day. Gender, in this school of thought, is a social construct dictated by social discourses rather than any inherent biological differences between the sexes.<sup>34</sup> For historians this is an illuminative path to take as it allows us to investigate how ideas of gender have changed over time, how they were challenged and how historical actors used cultural instruments available to them to express and justify their identities. This thesis will do this by utilising court records and newspapers to illustrate how individuals used social normative ideas through their own language and *performance* to manipulate the judicial system. But as Summerfield has highlighted the audience is as, if not more important, than the actors in this play. How the judicial system reacted to deviant behaviour is as significant as the behaviours itself as it reveals hegemonic social identities in action. The research presented here will assess both the crime and reaction of established institutions to assess how individuals undermine, challenge and utilise prevailing social ideals in what I would describe as a manipulation of the courtroom. This approach has been adopted before for violent crimes and marital conflict.<sup>35</sup> This project will add property crimes to this literature to develop a fuller understanding of gender and class identities. As already mentioned it will operate in the grey areas of historical discourse; in between public and private, masculinity and femininity, rough and respectable. To that end I have shown how other scholars have brought women's experiences into wider historical discourse from revealing everyday domesticity to engaging in the public spaces of politics and work. What is missing is the reverse to this debate – how men operated within the domestic private sphere. This is particularly pertinent to the overall notion of this project that crime and deviance reveals how social identities were performed, maintained and controlled both in private and public.

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<sup>34</sup> J. Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London: Routledge, 1990). See also J. Butler, "Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory", *Theatre Journal*, 40:4 (Dec. 1988), pp. 519-531.

<sup>35</sup> See for example A. J. Hammerton, *Cruelty and Companionship; Conflict in Nineteenth-Century Married Life* (London: Routledge, 1992). L. Hall, "'The Subject is Obscene: No Lady Would Dream of Alluding to it': Marie Stopes and her Courtroom Dramas", *Women's History Review*, 22:2 (2013), pp. 253-266. E. Ross, *Love and Toil: Motherhood in Outcast London, 1870-1918* (Oxford: Oxford University Press, 1993). S. D'Cruze, *Everyday Violence* (2000). G. S. Frost, *Promises Broken* (1995) and *Living in Sin; Cohabiting as Husband and Wife in Nineteenth-Century England* (Manchester: Manchester University Press, 2008).

A consequence of the cultural turn and feminist history was the realisation that masculinity had a history too. Previously men in historical narratives have been presented as “genderless” but scholarship has moved towards a more holistic approach.<sup>36</sup> Scholars have attempted to reveal what it meant to be a man in different historical contexts and have shown that manliness and masculinity has many faces. Arguably Davidoff and Hall inspired this approach as they highlighted how men were present and engaged in the domestic sphere. This was furthered by the work of pioneering historians Tosh and Roper who uncovered many forms of male middle-class domesticity including their roles as fathers and husbands.<sup>37</sup> Tosh later argued that the domesticity of men changed during the nineteenth century leading to a “flight from domesticity” whereby men were lured to outdoor adventure and public life from the 1860s.<sup>38</sup> This was disputed by Francis who suggested that rather than be enticed outside the home men “constantly travelled back and forward across the frontier of domesticity”.<sup>39</sup> Their work proved that masculinity was a fluid and “unstable gender formation”.<sup>40</sup> There was no ‘right’ way to be a man but hegemonic ideas were based on evangelical muscular Christianity; a man should show strength but always be in control of his emotions and provide for his family (economically and morally).<sup>41</sup> Despite the appearance of natural difference between the sexes these were fought for in everyday interactions and were intrinsically linked to notions of respectability and social class.<sup>42</sup> But these terms when applied to real people within their historical context are vague. Strength to a dock yard worker could be the ability to carry heavy cargo for hours then spend his wages drinking in his local tavern. Whereas strength for a businessman could be completing a negotiation and managing his workforce. These

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<sup>36</sup> S. O. Rose, *What is Gender History?* (Cambridge: Polity Press, 2010), p. 56.

<sup>37</sup> M. Roper and J. Tosh (eds.), *Manful Assertions: Masculinities in Britain since 1800* (London: Routledge, 1991).

<sup>38</sup> J. Tosh, *A Man’s Place: Masculinity and the Middle-Class Home in Victorian England* (New Haven: Yale University Press, 1999), p. 189.

<sup>39</sup> M. Francis, “The Domestication of the Male? Recent Research on Nineteenth- and Twentieth- Century British Masculinity”, *The Historical Journal*, 45:3 (2002), p. 641.

<sup>40</sup> J. Tosh, “What Should Historians do with Masculinity? Reflections on Nineteenth- Century Britain”, *Historical Workshop Journal*, 38 (1994), p. 183.

<sup>41</sup> D. B. Marshall, “‘A Canoe, and a Tent and God’s Great Out-of-Doors’: Muscular Christianity and the Flight from Domesticity, 1880s-1930s” in H. E. Ellis and J. M. Meyer (eds.), *Masculinity and the Other: Historical Perspectives* (Newcastle: Cambridge Scholars, 2009), pp. 25-39.

<sup>42</sup> R. Connell, *Gender and Power: Society, the Person and Sexual Politics* (California: Stanford University Press, 1987), pp. 183-86.

are only anecdotal observations and refer to historical actors from different classes but illustrate the problem with oversimplifying what it meant to be a man in nineteenth-century England. As Huggins has noted “some activities were respectable to some people but not to others” in the same way some masculinities were respectable to some people not others.<sup>43</sup>

Early scholarship on masculinity focussed on the middle classes, reflecting the power of nineteenth-century hegemonic ideas. This has changed with crime- more specifically violence- being used as a prism through which to view a greater variation of male experiences. The cultural turn motivated criminal historians to recognise and analyse the impact crime had on wider social discourses. This coincided with a shift away from studies of property crime to violent crime creating several seminal works on the relationship between gender and crime.<sup>44</sup> Crime and criminal behaviour were deemed the preserve of lower class men. Presumably this assumption was because men accounted for ninety per cent of those committed for trial for crimes against the person. Archer went as far as to say male violence was that prevalent that it was considered a ‘normal’ characteristic of masculinity”.<sup>45</sup> The statistics overshadowed nuances between the sexes and blinded historians to asking important questions such as what impact did expectations of masculinity and conversely femininity have on crime? Did social perceptions of what it was to be a man or a woman change the way the establishment dealt with criminals? In short did the gender of the defendant matter at all?

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<sup>43</sup> M. J. Huggins, “More sinful pleasures? Leisure, Respectability and the Male Middle Classes in Victorian England”, *Journal of Social History*, 33:3 (Spring 2000), p. 588.

<sup>44</sup> M. J. Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England* (Cambridge: Cambridge University Press, 2004). L. Zedner, *Women, Crime, and Custody in Victorian England* (London: Clarendon Press, 1991). M. L. Arnot and C. Osborne (eds.), *Gender and Crime in Modern Europe* (London: UCL Press, 1999), pp. 1-42. S. D’Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London: UCL Press, 1998). S. D’Cruze, *Everyday Violence* (2000). S. D’Cruze, L. Jackson and J. Rowbotham, “History at Large: Gender, Crime and Culture in the Twentieth Century: Conversations Between Academics and Professionals”, *History Workshop Journal*, 60 (2005), pp. 139-151. A. Davies, “Youth Gangs, Masculinity and Violence in Late Victorian Manchester and Salford”, *Journal of Social History*, 32:2 (Winter, 1998), pp. 349-369. A. Davies, ““These Viragoes are no Less Cruel Than the Lads’: Young Women, Gangs and Violence in late Victorian Manchester and Salford”, *British Journal of Criminology*, 39:1 (1999), pp. 72-89.

<sup>45</sup> J. Archer (ed.), *Male Violence* (London: Routledge, 1994).

Wiener and Emsley took up the mantle first and argued that by the end of the period society and the state were no longer willing to allow the physical excesses of masculinity to overspill into violence.<sup>46</sup> Wiener, in particular, argued that the nineteenth century marked a ‘civilising offensive’ on the physical excesses of men whereby physical acts of violence, even those previously seen as a show of honour such as duelling and fair fist fights, were condemned and treated more harshly than previously.<sup>47</sup> Shoemaker confirmed this notion and argued that there was a growth of politeness, desire for privacy and move away from the outdoors to in marking the end of the street mob.<sup>48</sup> To gain a better understanding of the nuances of these ideas one can look towards more crime specific studies such as Davies’ comprehensive assessment of masculinity and violence in youth gangs.<sup>49</sup> Davies’ research on youth gangs in late Victorian Manchester and Salford is an important study of the symbiotic relationship between violence and masculinity. He argues that gangs provided working-class youth with an arena to prove their masculinity as other avenues, such as being a breadwinner and family man, were out of their reach due to their age. His study is noteworthy as he highlights one expression of masculinity without losing sight of the fact that there are “a range of very different conceptions of what ‘being a man’ entailed” and being in a gang was just one outlet for this.<sup>50</sup> Furthermore, his research highlights the influence of age on the perceptions of respectable behaviour. This project will build upon this by examining the impact of age on criminal behaviour and punishments. Davies’ also provides evidence that undermines Wiener’s ‘civilising offensive’ as it tends to suggest that a fight fought fairly (fists with no weapons) was often viewed leniently by the judicial system. This is an opinion supported by Archer, who argued that cases where fights were ‘fair’ were often thrown out of the courts as a matter of working-class honour and respect.<sup>51</sup> The notion of

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<sup>46</sup> M. J. Wiener, *Men of Blood* (2004). C. Emsley, *Hard Men; Violence in England Since 1750* (London: Hambledon and London, 2005).

<sup>47</sup> Shoemaker argued this process happened earlier in the eighteenth century. See R. Shoemaker, “Male honour and the decline of public violence in eighteenth-century London”, *Social History*, 26 (2001), pp. 190-208. R. Shoemaker, “Reforming Male Manners: Public Insult and the Decline of Violence in London, 1660-1740” in T. Hitchcock and M. Cohen (eds.), *English Masculinities 1660-1800* (London: Longman, 1999), pp. 133-150.

<sup>48</sup> R. Shoemaker, *The London Mob* (London: Hambledon and London, 2004), pp. 151-2.

<sup>49</sup> A. Davies, “Youth Gangs, Masculinity and Violence” (1998), pp. 349-369.

<sup>50</sup> *Ibid.*, p. 353.

<sup>51</sup> J. E. Archer, “‘Men Behaving Badly’? Masculinity and the Uses of Violence, 1850-1900” in S. D’Cruze, *Everyday Violence* (2000), pp. 41-54.

restrained physicality and respectability will be tested in the thesis, more specifically in the poaching chapter. Here the physical excesses of poachers will be juxtaposed against gamekeepers demonstrating how gamekeepers sought to present their own masculinity as powerful yet restrained in the face of unruly poachers who did not adhere to a code of conduct.

Wiener also challenges feminist thought on the subjugation of women in the Victorian period. He suggests that rather than limiting women, the fixation of Victorian society on their weakness disproportionately protected them. On the one hand, it guaranteed lower prison sentences for women and on the other it was the primary drive behind the ‘civilising offensive’ and the higher rates of conviction, prosecution and execution of men. I will engage with this narrative by providing a statistical analysis of three specific property crimes comparing offending and conviction rates between men and women. Wiener’s central argument, the ‘civilising offensive’, is inspired by Norbert Elias’ theory of the ‘civilising process’. Elias argued that the reason violent interpersonal crime has declined over time is society’s continued desire to civilise driven by a top down approach initiated by the state. Mackay challenges his ideas in her overview of *Respectability and the London Poor* pointing out his approach “seems to deny agency to the majority” who on an individual basis could have resisted these ideas.<sup>52</sup> Despite this it is evident that violent behaviour did gradually decline through a combination of more sophisticated criminal justice systems and policing as well as the perceived connection between civilised behaviour and higher status.<sup>53</sup>

The civilising offensive should be contextualised within the wider work on gender and crime. Although crime and criminal behaviour was, statistically, more likely to be the preserve of men many important studies of women and crime in the nineteenth century have been conducted. Scholarship by Zedner, D’Cruze and Jackson have shed light on the prosecution, conviction and perception of women who committed crime in the nineteenth

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<sup>52</sup> L. Mackay, *Respectability and the London Poor, 1780-1870: The Value of Virtue* (London: Pickering and Chatto, 2013), p. 3.

<sup>53</sup> N. Elias [trans. E. Jephcott], *The Civilising Process: The History of Manners and State Formation and Civilization* (Oxford: Blackwell, 1994).

century.<sup>54</sup> Zedner's ground breaking monograph aimed to assess "the role of gender in determining attitudes and responses to criminality" and suggested that "the result was that criminality was perceived, judged, and explained differently according to the sex of the offender".<sup>55</sup> She tracked the experiences of women through the penal system highlighting a shift away from moralistic to psychological and biological disorders in order to explain the behaviour of deviant women. This explicitly linked social and cultural norms to contemporary understanding of female deviancy. D'Cruze also tracked the experiences of women in the courtroom in her *Crimes of Outrage: Sex, Violence and Victorian Working Women* in 1998.<sup>56</sup> D'Cruze used a more geographical framework emphasising the importance of place by assessing violence in the home, the workplace and in the community. Often the women she wrote about were the victims of crime, but they were independent agents in the altercations and used the courtroom as well as the public arena as a form of retribution when acceptable boundaries of marital violence were crossed. Similarly, Hammerton recognised that marital violence was an expected part of life but when it "exceeded the bounds of normative economy of violence" women actively sought outside influences to punish their spouses.<sup>57</sup> Evaluating 909 cases from the Lancashire, Cheshire and Suffolk magistrate courts alongside newspaper records from 1840 to the 1890s D'Cruze revealed the value of a woman's reputation and began an interesting discussion of performance in the courtroom.

According to Victorian ideals, women should be submissive, innocent, pure, gentle, self-sacrificing, patient, sensible, modest, quiet and above all care for others and her family by being a good wife and a good mother. A woman was seen by many as the moral protector of the family and naturally more pious than men. Therefore, when a woman committed a crime she not only broke the state law but also the laws of nature and fell further than any man could. More crime-specific studies, such as the gendered nature of infanticide, have supported the view of the fallen woman in the wider press but not

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<sup>54</sup> L. Zedner, *Women, Crime, and Custody* (1991). S. D'Cruze, *Crimes of Outrage* (1998). S. D'Cruze and L. A. Jackson, *Women, Crime and Justice in England since 1660* (Hampshire: Palgrave MacMillan, 2009).

<sup>55</sup> L. Zedner, *Women, Crime, and Custody* (1991), pp. 1-2.

<sup>56</sup> S. D'Cruze, *Crimes of Outrage* (1998).

<sup>57</sup> A. J. Hammerton, *Cruelty and Companionship* (1992).

necessarily in the courtroom with murdering mothers often acquitted on minor technicalities. Ward, for example, demonstrated how lay understandings of puerperal insanity based on preconceived notions of what a woman should be were more significant in determining the guilt of a defendant than medical or legal testimony.<sup>58</sup> Defendants wilfully manipulated the courtroom's predisposition to view women as victims rather than criminals leading to extraordinarily low conviction rates. This was especially true of mothers of illegitimate children whereby the absent father was demonised for not fulfilling his responsibilities and the mother was portrayed as a victim of her circumstances. The reluctance of the jury to convict mothers who killed their children was so acute that at the beginning of the century the state introduced a new crime as part of the Ellenborough Act- concealment of birth - which carried a maximum sentence of two years' hard labour.<sup>59</sup> Women in these cases were conscious of social perceptions of motherhood, family and femininity and used this to their advantage. The stark contradiction between the fallen woman in the press who abandoned her duties as a mother and the extraordinarily low conviction rate is what first interested me in crime and its wider social implications. This paradox can be found in many crimes, as there was a fine line between innocent and guilty that could be determined by a courtroom performance.

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<sup>58</sup> T. Ward, "The Sad Subject of Infanticide: Law, Medicine and Child Murder, 1860-1938", *Social and Legal Studies*, 8:2 (1999), pp. 163-180.

<sup>59</sup> M. L. Arnot, "Gender in Focus: Infanticide in England, 1840-1880" (Unpub. PhD thesis, University of Essex, 1994). M. L. Arnot, "Understanding Women Committing Newborn Child Murder in Victorian England" in S. D'Cruze (ed.), *Everyday Violence* (2000), pp. 55-69. M. Jackson (ed.), *Infanticide; Historical Perspectives on Child Murder and Concealment, 1550-2000* (Aldershot: Ashgate, 2002). D. J. R. Grey, "Discourses of Infanticide in England, 1880-1922", (Unpub. PhD thesis, Roehampton University, 2008). D. J. R. Grey, "'What Woman is Safe...?': Coerced Medical Examinations, Suspected Infanticide, and the Response of the Women's Movement in Britain, 1871-1881", *Women's History Review*, 22:3 (2013), pp. 403-421. D. J. R. Grey, "'More Ignorant and Stupid Than Wilfully Cruel': Homicide Trials and 'Baby-Farming' in England and Wales in the Wake of the Children Act 1908", *Crimes and Misdemeanours*, 3:2 (2009), pp. 60-77. A. R. Higginbotham, "'Sin of the Age': Infanticide and Illegitimacy in Victorian London", *Victorian Studies*, 32:3 (Spring 1989), pp. 319-337. J. Thorn (ed.), *Writing British Infanticide; Child-Murder, Gender and Print, 1722-1859* (London: Delaware, 2003). L. Rose, *The Massacre of the Innocents, Infanticide in Great Britain, 1800-1939* (London: Routledge, 1986).



D'Cruze, Frost, Ross and Hall have all demonstrated how women used the “melodramatic setting” of the courtroom to further their own agenda.<sup>60</sup> Frost specifically argued that in cases of broken promises the courtroom was a theatre and the performers followed a similar formulaic script emphasising assigned gender roles. She notes that through an analysis of “the remarks of plaintiffs, defendants, judges and jurors about manliness and womanliness” we can get “a firm sense of the characteristics of ‘proper’ men and women”.<sup>61</sup> She further argued that this was such an entrenched system that if “the plaintiff played the part of the victimized heroine, and the judge and jury usually sympathised; indeed, judgements for the plaintiff, as long as she played the role properly, were almost automatic”.<sup>62</sup> She recognised the limitations of using court records highlighting that both sides would want to win and therefore their testimony would be coloured somewhat. But it is this desire to win and the lengths that both men and women went to portray their respectability that makes this research so successful. What historical actors *choose* to display and why is as rewarding to examine as inner beliefs which are very difficult for us as historians to access. Mackay argues that any link between inner beliefs and external actions is “ultimately speculative... best we can do is explore it within the contested terrain in which it operated”.<sup>63</sup> The contested terrain between public and private, rough and respectable and men and women will underpin the research presented in this thesis. It seeks to emulate the approach of Frost and others by bringing domestic property crime into the wider narratives of social and criminal history. By pulling apart testimonies in theft from master, poaching and arson cases I will show that these cases follow a formulaic structure with overarching themes of gender and class underlying testimonies, judgements and public reactions throughout. Furthermore, Wiener’s and Zedner’s somewhat contradictory theories will be tested in this thesis. Ideas of masculinity and femininity will be positioned against portrayals of crime in newspapers and the sentences each received in the courtroom. This thesis also aims to answer Arnot and Usborne’s call for a more gendered approach to research in criminality rather than taking

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<sup>60</sup> G. S. Frost, *Promises Broken* (1995), p. 9. See also her *Living in Sin* (2008). A. J. Hammerton, *Cruelty and Companionship* (1992). L. Hall, “‘The Subject is Obscene’” (2013). E. Ross, *Love and Toil* (1993). S. D'Cruze, *Everyday Violence* (2000).

<sup>61</sup> G. S. Frost, *Promises Broken* (1995), p. 40.

<sup>62</sup> *Ibid.*, p. 9.

<sup>63</sup> L. Mackay, *Respectability and the London Poor* (2013), p. 9.

a uniquely masculine or feminine perspective. They argue, and I agree, that the criminal experiences of men and women should be studied in tandem in line with the recent rise of gender, rather than women's history.<sup>64</sup>

It has been alluded to many times but it is important to emphasise how gendered identities are inherently linked to nineteenth-century understandings of class and respectability. Theft from master, poaching and arson all involved face-to-face interactions vertically (between classes) and horizontally (within classes). Cases presented in this project will show how defendants and victims positioned themselves within this metaphorical ladder to gain a more favourable outcome. The value of class as a category of classification has been challenged in recent years. Questions of class consciousness, conflict and discourse based on language have clouded the social history narrative with Joyce controversially asking whether we were witnessing the end of social history in 1995. The heated debate played out on the pages of *Social History* has been described as posturing both by the debaters themselves and observers but the ideas presented are pervasive.<sup>65</sup> Taking a post-modernist perspective, Joyce argued that we can only assess discourses of class rather than class itself suggesting class as a historical category of analysis should be reimagined. Yet, as Hewitt has observed “few historians have been able or willing to abandon entirely the language of class as a tool of social description” concluding that, “not only does it remain the single most important contemporary (that is, nineteenth-century) mode of social categorization, but it has no serious rival as a way of aggregating social and economic categories into meaningful collectives”.<sup>66</sup> Van Voss and Van der Linden echoed these ideas, rationalising that although historians may now question their practice in reality we have “not been able to avoid referring to differences among social classes, which have been very tangible

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<sup>64</sup> M. L. Arnot and C. Usborne, “Why Gender and Crime? Aspects of an International Debate”, in their edited volume *Gender and Crime in Modern Europe* (1999), pp. 1-42.

<sup>65</sup> P. Joyce, “The End of Social History?” (1995). See also G. Eley and K. Nield, “Starting Over” (1995). P. Joyce, “The End of Social History? A Brief Reply” (1996). For observers see P. E. Johnson, “Looking back at Social History”, *Reviews in American History*, 39:2 (June 2011), p. 383.

<sup>66</sup> M. Hewitt, “Class and the Classes” in C. Williams (ed.), *A Companion to Nineteenth-Century Britain* (2007), p. 307 and p. 318.

differences for real historical actors, in describing [our] actors”.<sup>67</sup> This is particularly true for criminal historians where distinctions between classes could be acute and treatment by the courts equally as diverse. Early scholarship revealed how the judicial system was used by the state to control the excess of the working classes but later historians demonstrated how the working classes used courts to settle disputes themselves.<sup>68</sup> This is a subtle shift. The working classes are shown to be actively engaged in the justice system but to what extent can we deem individuals conscious of their class identity and how did they implement this on a day-to-day basis?

Scholarship of the Victorian period has traditionally been a hot bed of rich and detailed work on class formations. This can be traced to the disruptive nature of industrialisation and rapid urbanisation at the beginning of the period which led to a period of class consciousness and conflict. Ricardian distribution theory stated that class was based on income creating three different types of people: landlords made money through rent, capitalists made money from profit and workers who laboured for their wages. In short people either made money from rent, from profit or from wages – crudely the upper, middle and working classes. The industrial revolution altered this landscape with the value of land decreasing and factory production becoming more prominent, inflating the value of the middle classes in the political and economic arena. Karl Marx would complicate this model further by delineating society into two: the bourgeoisie (employers) and the proletariat (employees). Marxist interpretations of class were firmly linked to their economic output but from the 1960s historians sought to organise historical actors using a more complex formula including class formations from a social, political and cultural context. What exactly class consciousness was (and still is) is difficult to ascertain but Hewitt phrased it as the moment individuals “identify themselves as members of one of these classes, bound by common experiences and sharing common ideologies”.<sup>69</sup> E. P.

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<sup>67</sup> L. H. Van Voss and M. Van der Linden (eds.), *Class and Other Identities; Gender, Religion and Ethnicity in Writing European Labour History* (Oxford: Bergham Books, 2002).

<sup>68</sup> S. D’Cruze, *Everyday Violence* (2000), p. 4. J. Davis, “A Poor Man’s System of Justice: The London Police Courts in the Second Half of the Nineteenth Century”, *The Historical Journal*, 27:2 (Jun. 1984), pp. 309-335.

<sup>69</sup> M. Hewitt, “Class and the Classes” in C. Williams (ed.), *A Companion to Nineteenth-Century Britain* (2007), pp. 310-11.

Thompson's seminal contribution to literature on class argued that class was defined and shaped by struggle; only through struggle do individuals become conscious of their position and collective identities.<sup>70</sup> He stated that working-class consciousness peaked in the 1830s around the Chartist movement and later posed that "class in its modern usage arises within nineteenth-century industrial capitalist society".<sup>71</sup> Stedman Jones, in a self-professed attempt to challenge Thompson's theory of working-class consciousness, stated that language and not struggle defined class. He argued that language was not a neutral vehicle for class expression but rather class experiences were shaped by the conscious deployment of political language.<sup>72</sup> Scott added to this dialogue by outlining how language shaped gender identities which Joyce noted was "indissolubly linked" to class formations.<sup>73</sup> In addition, Joyce stated that identity was multiplex with several identities interplaying, challenging and complementing each other at any one time.<sup>74</sup> The notion of several categories of identification is now firmly entrenched in social history narratives. Kocka marks this as one of the great gains of post-modernist social history

Social history has changed. In some respects it has greatly improved. Social historians have learned to analyse the manifold relations between different dimensions of social inequality, especially class, gender and ethnicity, but also age.<sup>75</sup>

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<sup>70</sup> E. P. Thompson, *The Making of the English Working Class* (London: Penguin, 1968).

<sup>71</sup> E. P. Thompson, "Eighteenth-Century English Society: Class Struggle without Class?", *Social History*, 3:2 (May 1978), p. 146-51.

<sup>72</sup> G. S. Jones, *Languages of Class: Studies in English Working-Class History 1832-1982* (Cambridge: Cambridge University Press, 1983).

<sup>73</sup> P. Joyce, *Class* (Oxford: Oxford University Press, 1995), p. 128. J. W. Scott, *Gender and the Politics of History* (London: Princeton University Press, 1988).

<sup>74</sup> P. Joyce, *Visions of the People: Industrial England and the Question of Class, 1840-1914* (Cambridge: Cambridge University Press, 1991).

<sup>75</sup> J. Kocka, "Losses, Gains and Opportunities: Social History Today", *Journal of Social History*, 37:1 (Autumn 2003), p. 25.

Huggins and Mangan put this within a Victorian context and noted that:

[Victorians as individuals] were multifaceted, leading lives that might entail multiple identities and multiple selves, as different times, at different places, and with different companions. They could, and did, live not in one but in several worlds.<sup>76</sup>

A cursory glance at court records and their statements reveals this. For example, Lucy Hellery, a domestic arsonist from Bow, was hauled before the Old Bailey in 1866 after setting fire to her husband's shed.<sup>77</sup> Hellery was at one time a devoted wife but the relationship became strained when her husband failed to provide for their children. In retaliation, she became verbally abusive and set fire to the shed in her garden that her husband had been banished to. This change of character reflected her change in circumstances and in that one moment she was a good mother, a bad wife and a criminal. Cases like this permeate the pages of this thesis and illustrate how fruitful using court records can be and how historical actors utilised their social identities. This is particularly significant when we use the term *respectable* or *respectability* to describe and justify actors in the courtroom.

Huggins noted in his discussion of leisure that “notions of class and class relationships have often been empirically linked by historians to the concept of respectability”.<sup>78</sup> Yet the term has continually been referred to as “slippery” and difficult to define.<sup>79</sup> Early discussions alluded to it being a trickle-down effect of hegemonic middle-class idea of what it meant to be respectable. This was particularly potent by the late nineteenth century as the power and visibility of the middle classes increased. We have already discussed the normative power of middle-class domestic ideals in Davidoff and Hall's separate spheres theory but the influence of middle classes was not limited to

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<sup>76</sup> M. Huggins and J. A. Mangan, “Prologue” in their *Disreputable Pleasures: Less Virtuous Victorians at Play* (London: Frank Cass, 2004), p. xiii.

<sup>77</sup> OBO, Lucy Hellery, t18660917-812.

<sup>78</sup> M. J. Huggins, “More Sinful Pleasures? Leisure, Respectability and the Male Middle Classes in Victorian England”, *Journal of Social History*, 33:3 (Spring, 2000), p. 585.

<sup>79</sup> See for example L. Mackay, *Respectability and the London Poor* (2013), p. 7. J-M. Strange, *Death, Grief and Poverty in Britain, c.1870-1914* (Cambridge: Cambridge University Press, 2005), p. 6.

private spaces. Epstein, Morris and later Gunn showed how their collective identities were established by ritualised dinners, civic celebrations and monuments such as elaborate town halls.<sup>80</sup> Wahrman argued this was an attempt to gain legitimacy in the political sphere and mark out the middle ground as the place for moderate and reasonable men.<sup>81</sup> But Stedman Jones and Strange both argue that respectability was not a uniquely middle-class concept borrowed by working classes but rather a working-class formulation shaped and defined by working-class experiences.<sup>82</sup> This is not the primary reason that respectability is difficult to place within its historical context. This I would contend is owed to the fact that notions of respectability changed from time to time, place to place and person to person. I am not alone in this assertion. Bailey in his infamous review of the use of respectability in historical research argued that the term had been misused and gave a false representation of its application in Victorian England. The point he makes that resonates loudly with the arguments presented in this thesis is that respectability is not culturally “absolute”.<sup>83</sup> Simply labelling an historical actor as respectable gives the illusion that they were and would always be respectable but respectability was a fluid state; one could be respectable one day but the next wander on to the wrong street, wear the wrong clothes, say the wrong thing or *commit a crime* and their respectability would be called into question. Harrison defined respectability as a continuous dialogue between oneself and others; a state of constant flux.<sup>84</sup> Huggins and Mangan, in their review of leisure, reflected these sentiments noting that individuals were “capable of crossing and recrossing the changing lines of respectability”.<sup>85</sup> Criminal actions are a perfect example

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<sup>80</sup> J. Epstein, *Radical Expression: Political Language, Ritual, and Symbol in England 1790-1850* (Oxford: Oxford University Press, 1994). R. J. Morris, *Class, Sect and Party: The Making of the British Middle Class, Leeds 1820-1850* (Manchester: Manchester University Press, 1990). S. Gunn, *The Public Culture of Victorian Middle Class: Ritual and Authority in the English Industrial City 1840-1914* (Manchester: Manchester University Press, 2000).

<sup>81</sup> D. Wahrman, *Imagining the Middle Class: The Political Representation of Class in Britain, c. 1780-1840* (Cambridge: Cambridge University Press, 1995).

<sup>82</sup> G. S. Jones, “Working-Class Culture and Working-Class Politics in London, 1870-1900; Notes on the Remaking of a Working Class”, *Journal of Social History*, 7:4 (1974), pp. 460-508. J-M. Strange, *Death, Grief and Poverty* (2005), p. 7.

<sup>83</sup> P. Bailey, ““Will the Real Bill Banks Stand Up?” Towards a Role Analysis of Mid-Victorian Working-Class Respectability”, *Journal of Social History*, 12:3 (Spring, 1979), p. 337.

<sup>84</sup> B. Harrison, *Peaceable Kingdom: Stability and Change in Modern Britain* (Oxford: Oxford University Press, 1982), p. 161.

<sup>85</sup> M. Huggins and J. A. Mangan, “Epilogue: The dogs bark but the caravan moves on” in their *Disreputable Pleasures* (2004), p. 204.

of how a change in circumstances can destroy the respectability and perversely provide concrete examples of when contemporaries used respectability as a tool to manipulate middle-class observers.

Bailey's ideas are relevant to this discussion of gender, class and property crime as they mirror Butler's performative gender thesis from a class perspective. He suggests that individuals portray respectability by "mouthing a few passwords" and wearing "accessories of respectability" in a deliberate calculation to limit middle class and police intrusion.<sup>86</sup> He argued that rather than be an absolute state "respectability was *practiced* in a much more limited sense: limited by gender, by age, by situation and by role, so that there could be different modes of behaviour within a single life style, at different times and in different contexts".<sup>87</sup> There is a sense that this performance was not limited to inter-class relationships but also within different sub-sections. Ross, for example, argues that for a woman maintaining cleanliness of both her children and her home would establish a public veneer of respectability. Interestingly she also suggests that the desire for respectability hindered working-class women by excluding them from mutual support networks required in the temperamental labour market. In Ross' thesis respectability was shaped by a middle-class drive for privacy; respectable mothers would not let their children play in the streets and would never be found gossiping on the doorstep.<sup>88</sup> In this sense respectability was a divisive notion within working-class communities. Kirk's assertions reflected this position arguing that the main division was between rough and respectable and that this "point of division which worked against class solidarity".<sup>89</sup> This is counter to Thompson and Best who suggested that notions of respectability cut across class boundaries and promoted a greater class consensus.<sup>90</sup> Several cases arose in this project that confronted these diametrically opposed ideas and tested how respectability

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<sup>86</sup> P. Bailey, "Will the Real Bill Banks Stand Up?" (1979), p. 343.

<sup>87</sup> M. J. Huggins, "More sinful pleasures?" (2000), p. 586.

<sup>88</sup> E. Ross, "'Not the sort that would sit on the doorstep': Respectability in Pre-World War I London Neighbourhoods", *International Labor and Working-Class History*, 27 (Spring, 1985), pp. 49-52.

<sup>89</sup> N. Kirk, *The Growth of Working-Class Reformism in Mid-Victorian England* (Illinois: Illinois University Press, 1989), p. 229.

<sup>90</sup> G. Best, *Mid-Victorian Britain, 1851-75* (London: Fontana Press, 1971). F. M. L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain 1830-1900* (Massachusetts: Harvard University Press, 1988).

was used and perceived by the Victorians. They will also reveal, in line with Davis' view that the division between rough and respectable was not definitive but elusive and dependent upon perceived perceptions, - the 'casual poor', the 'rough' or the 'residuum' - were an ideological construct rather than an identifiable group with objective reality.<sup>91</sup>

## **1.2 Social Spaces: London and the Home.**

The last facet of respectability and wider narratives of social identities is the significance of space and place. Sharples suggested that "within the urban landscape, constraints of respectability were weakened by geographic and temporal contexts".<sup>92</sup> This is also reflected in Huggins work where he argued that "respectable behaviour was underpinned by fear of pressure from church, neighbours, friends and family within these communities" and when individuals moved away from rural to urban cities this pressure was greatly reduced in the anonymity of the city.<sup>93</sup> Their ideas are significant in the context of this thesis as they both use the study of leisure to illustrate how place impacts social identities. They have avoided what Soja has termed "space blinkering historicism" and placed historical actors within their spatial confines noting how spaces shape people and how people shape spaces.<sup>94</sup> I will emulate this approach through the prism of crime and demonstrate how pivotal notions of place, the home and boundaries are to the definition of crime itself and perceptions of criminal behaviour. This thesis will also endeavour to answer and provide some clarity to Bailey's question "what were the sites and occasions of class encounter, whether by design or accident, in the individual trajectories of daily life?".<sup>95</sup>

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<sup>91</sup> J. Davis, "'Jennings' Buildings and the Royal Borough: The Construction of the Under Class in Mid-Victorian England" in D. Feldman and G. S. Jones (eds.), *Metropolis London: Histories and Representations since 1800* (London: Routledge, 1989), pp. 11-39.

<sup>92</sup> J. Sharples, 'I am a Chess-Player': Respectability in Literary and Urban Space 1840-1851", *Sport in History*, 35:2 (2015), p. 315.

<sup>93</sup> M. J. Huggins, "More sinful pleasures?" (2000), p. 592.

<sup>94</sup> E. Soja, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (London: Verso, 1989), pp. 10-11.

<sup>95</sup> P. Bailey, "'Will the Real Bill Banks Stand Up?' (1979), p. 348.



Most of this thesis is situated in London due to the jurisdiction of the Old Bailey. By 1900 London had a population of around four and half million contained within a city that continually expanded in every direction without any oversight or planning. This created an illusion of a city in chaos and confusion where every turn could have led to a new adventure or nightmare. Contemporaries struggled to comprehend the sheer size and volume of life inside the city with new districts being developed every day. Some, like Booth, resorted to quantification through mapping and statistics using arbitrary measures to bring order to the disorder of everyday life in London.<sup>96</sup> Others adopted metaphors to describe the city as its own life force- the streets became arteries that were blocked by people and traffic threatening the inhabitants of the city; the railways were limbs that stretched into the countryside trampling and polluting their surroundings; the slums and overcrowded housing were cancerous to the patient and needed removing before infecting the rest of the city.<sup>97</sup> These commentators imagined London as a living entity that directly influenced the lives and wellbeing of its inhabitants suggesting the streets, walls and open spaces had their own agency. Historians, like Walkowitz, Gunn, Feldman and Stedman Jones have viewed the city from a similar perspective by examining how the built environment influenced social interactions and expressions of identity.<sup>98</sup> This thesis builds upon this approach in light of the spatial turn by recognising that people “interact *through* space, and only secondarily *in* place”.<sup>99</sup>

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<sup>96</sup> C. Booth (ed.), *Life and Labour of the People in London*, 17 vols. (London: Macmillan, 1892-1903).

<sup>97</sup> H. James, *Essays in London and Elsewhere* (London: Osgood, McIlvaine and Co., 1893). W. Bartlett, *London by Day and Night Or, Men and Things in the Great Metropolis* (New York: Hurst, 1852). B. Jerrold and G. Doré, *London: A Pilgrimage* (London: Anthem, 2005) [orig. 1872]. M. Schlesinger, *Saunterings In and About London* (London: Nathaniel Cooke, 1853). M. A. Stanley, *Work About the Five Dials* (London: Macmillan, 1878). H. Mayhew and J. Binny, *Criminal Prisons of London and Scenes of Prison Life* (London: Griffin Bohn and Co., 1862). H. Mayhew, *London Labour & The London Poor*, 4 vols. (London: Griffin Bohn and Co., 1851). L. Nead, *Victorian Babylon* (2000). R. Porter, *London; A Social History* (London: Penguin, 1994).

<sup>98</sup> J. R. Walkowitz, *City of Dreadful Delight* (1992). S. Gunn, *The Public Culture of Victorian Middle Class* (2000). D. Feldman and G. S. Jones (eds.) *Metropolis London: Histories and Representations since 1800* (London: Routledge, 1989). G. S. Jones, *Outcast London: A Study in the Relationships between the Classes in Victorian Society* (Oxford: Clarendon Press, 1971).

<sup>99</sup> R. Kingston, “Mind over Matter? History and the Spatial Turn”, *Cultural and Social History*, 7:1 (2010), pp. 111-121. For spatial turn see A. Torre, “A ‘Spatial Turn’ in History? Landscapes, Visions, Resources”, *Annales Histoire, Sciences Sociales*, 63:5 (2008), pp. 1127-1144. T. Zeller, “The Spatial Turn in History”, *Bulletin of the German Historical Institute*, 35 (2004), pp. 123-4. F. Driver and R. Samuel, “Rethinking the Idea of Place”, *History Workshop Journal*, 39 (1995), pp. v-vii.

London was a city delineated by perceptions of space. The East End was characterised by poverty, overcrowding and vice.<sup>100</sup> The West was mainly associated with affluence, shopping and pleasure.<sup>101</sup> The suburbs complicated this picture by offering refuge from the city within a short train ride from it.<sup>102</sup> Within these spaces there were more lines of difference. For example, areas that represented certain races, such as the Jewish Quarter, or sectors that were related to an industry or business.<sup>103</sup> Historical actors who occupied these spaces took on different meanings and their actions reflected the built environment they occupied. This was most acutely felt in the home where most crimes explored in this thesis were committed.

At one level, home is something that belongs to one, a place that is idiomatic in the sense of being peculiarly suited to an individual. At the same time, that experience is communal. However different the individual places evoked by the term are, “home” is a concept we all identify with, even if from the outside. It can refer to houses, to a feeling of security (being at home), and to wider geographical sites such as a street, town, region, nation.<sup>104</sup>

The ‘home’ is a fluid and complex term that changes over time, between places and historical actors. It could be the house you grew up in, the country you reside or something that is not a precise location but rather ‘where the heart is’. It can be embodied by people and relationships, such as husbands and wives, or other family members. It is often not just one building but rather a multitude of locations that hold a resonance to an individual. A home, therefore, is not just one place but can be several simultaneously. The term ‘home’ is also used as a prefix to suggest safety or domesticity. For example, the Home Office, the Home Guard or even the home screen on a computer desktop.<sup>105</sup> Even in the

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<sup>100</sup> S. Koven, *Slumming; Sexual and Social Politics in Victorian London* (Oxford: Princeton University Press, 2004). A. Davies, *The East End Nobody Knows* (London: Macmillan, 1990).

<sup>101</sup> E. D. Rappaport, *Shopping for Pleasure* (2000).

<sup>102</sup> F. M. L. Thompson, *The Rise of Suburbia* (Leicester: Leicester University Press, 1982). R. Porter, *London* (1994).

<sup>103</sup> L. Nead, *Victorian Babylon* (2000). J. White, *London in the Nineteenth Century* (2008).

<sup>104</sup> A. Findlay, “Remaking Homes: Gender and the Representation of Place”, *Home Cultures*, 6:2 (2009), p. 116.

<sup>105</sup> The Home Office is a UK governmental department that deals with domestic affairs including law and order and immigration. The Home guard was established in 1940 to defend the home front from the threat of invasion during WWII and was eventually disbanded in 1957. Both use the term ‘home’ to define

modern world the home is instantly recognisable but difficult to define.<sup>106</sup> Contemporaries had similar difficulties defining the home. In 1823 Walker's dictionary defined the home as a house, a private dwelling, a country or a place of constant residence.<sup>107</sup> Johnson offered a more succinct definition in 1855 as a country or place of constant residence.<sup>108</sup> Both make the distinction that the home is both a country and a permanent residence but neither elaborate on the emotional freight attached to the term. However, Walker's definition does imply that contemporaries adopted the notion of the home as a "private dwelling" but does not suggest it was a gendered space as Davidoff and Hall have argued. Neither definition attempts to explain that the home was both a domestic space and a work place. Indeed, the dual nature of many homes in the Victorian period, comprising both work and domestic activities, altered their function and internal dynamics creating a compromised space placed somewhere in between public and private - a line normally drawn at the front door. This makes research on the home problematic as it is difficult to decide when the domestic space begins and the work environment ends and whether this distinction is important at all.

The idea of the home as a sanctuary and a refuge was strengthened by the emergence of the Evangelical movement during the Victorian period, creating what some have described as a "cult of the home".<sup>109</sup> The home- its spatial configuration and place within the Victorian psyche- has increasingly become a viable site for academic research. In light of Davidoff and Hall's separate spheres theory many historians have sought to reveal the everyday activities within working- and middle-class homes. Jane Hamlett and

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themselves as institutions that protect the safety of Britain as a home to its citizens from the threat from the public.

<sup>106</sup> The study of the home is not limited to the historical discipline with the field generating greater importance as a site for geographical study. See for example A. Blunt and R. Dowling, *Home*, (Oxon: Routledge, 2006). A. Blunt and A. Varley, "Geographies of Home: An Introduction", *Cultural Geographies*, 11 (2004), pp. 3-6. A. Blunt, "Imperial Geographies of Home: British Women in India, 1886-1925", *Transactions of the Institute of British Geographers*, 24 (1999), pp. 421-440. K. Brickell, "'Mapping' and 'Doing' Critical Geographies of Home", *Progress in Human Geography*, 36:2 (Apr. 2012), pp. 225-244. K. Brickell, "Geopolitics of Home", *Geography Compass*, 6:10 (2012), pp. 575-588.

<sup>107</sup> J. Walker, *A Critical Pronouncing Dictionary and Expositor of the English Language* (New York: Collins and Hannay, 1823), p. 258.

<sup>108</sup> S. Johnson, *Johnson's Dictionary of the English Language* (London: G. Routledge and Co., 1855), p. 98.

<sup>109</sup> J. Hamlett and L. Hoskins, "Introduction", *Home Cultures*, 8:2 (2011), p. 112.

Lesley Hoskins discuss and present a number of these works in an introduction to a special edition of *Home Cultures* designed to “understand what house, home and work meant- or if they even existed as concepts for the people, the periods and the places they [the authors] discuss”.<sup>110</sup> They argue that the home is not simply the place where one lives but rather it “carries a particularly ideological freight that differs between people and groups over time”.<sup>111</sup> The discussion of work in the home is particularly significant to this thesis as it represents the blurring of the distinction between the private domestic sphere and public working space. There are examples of this across the class spectrum. For the upper middle classes the presence of domestic workers, gardeners and labourers in their home presented an interesting situation whereby the workplace of one individual and the home of another coincided under the same roof. The overlap between the home and work was also realised in the lower middle classes where many tradesmen, professionals and their apprentices worked from home. This situation was also experienced amongst the working classes who partook in a wide range of work in the home in a bid to survive. This thesis engages with the idea that work and home were often intertwined by evaluating how working relations operated in the home, and what happened when these went wrong.

Lesley Hoskins, Jane Hamlett and Hannah Barker have attempted to shed light on the relationship between home and work.<sup>112</sup> Lesley Hoskins presented a small cross section of individuals who utilised the home as a work space in an interesting piece entitled “Stories of Work and Home in the Mid-Nineteenth Century”. She highlighted the lives of three “unexceptional” individuals with one case, John Mabon, being particularly interesting in the context of this thesis as it is representative of the gender dynamics and multipurpose spaces at the centre of property crime.<sup>113</sup> John Mabon ran a lodging-house in Manchester with his wife and children. Hoskins suggests that his wife, rather than John, ran the business as it was a respectable vocation for women because “it used their

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<sup>110</sup> Ibid., p. 110.

<sup>111</sup> Ibid., p. 111.

<sup>112</sup> H. Barker and J. Hamlett, “Living Above the Shop: Home, Business and Family in the English ‘Industrial Revolution’”, *Journal of Family History*, 35:4 (2010), pp. 311-328.

<sup>113</sup> L. Hoskins, “Stories of Work and Home in Mid-Nineteenth Century”, *Home Cultures*, 8:2 (2011), pp. 151-170.

domestic knowledge but did not require them to work outside the home”.<sup>114</sup> The inventories for the house suggest that the family managed to maintain a separate living space from their business as the parlour lacked enough chairs for guests to use. However, the parlour was also listed as having a press bedstead suggesting that when the house had too many guests members of the family had to sleep in the parlour. This is an infringement of work on the domestic space of the family, as the bed may well have sometimes been occupied by a lodger. Hoskins concludes that although inhabitants showed a desire to keep work and home separate, this could not be implemented in practice. Hannah Barker and Jane Hamlett also argue that “the importance of the shop to the livelihood of these families meant that business took precedence over domesticity in terms of allocating space” in the home.<sup>115</sup> They extended their analysis by revealing how work practices created a family unit albeit with an established hierarchy. They argued that in the North West at least, Tadmor’s idea that ‘family’ included everyone who lived in the household in the eighteenth century rather than just the nuclear family unit, continued into the nineteenth.<sup>116</sup> However, they modify this thesis by suggesting that there is a clear distinction within households between blood relatives and paid staff through the use of rooms. Access to specific rooms in a house is a theme that Hamlett has highlighted before in her own research on middle-class domestic space and family relationships.<sup>117</sup> She argued that parental control was exercised through the restriction of access to adult rooms such as the drawing room and study. Moreover, she highlights the division of not only parents and their children in the home (through the segregation of the nursery from the rest of the house) but also servants and the family. This reinforced not only a “hierarchy of authority within the family, but a hierarchy of class”.<sup>118</sup> Agency within the home, or more accurately the middle-class home, was not only divided along class and age lines but also by gender.

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<sup>114</sup> Ibid., p. 159.

<sup>115</sup> H. Barker and J. Hamlett, “Living Above the Shop” (2010), pp. 311-328. Quote on p. 314.

<sup>116</sup> N. Tadmor, “The Concept of the Household-Family in Eighteenth-Century England”, *Past and Present*, 151:1 (1996), pp. 111-140.

<sup>117</sup> J. Hamlett, “‘Tiresome Trips Downstairs’: Middle Class Domestic Space and Family Relationships in England, 1850-1910”, in L. Delap, B. Griffin and A. Wills (eds.), *The Politics of Domestic Authority* (2009), pp. 111-123.

<sup>118</sup> Ibid., p. 121.

Hamlett, in a sophisticated integration of advice manuals, inventories and autobiographical texts, argued that in a utopic world the home would have separate and distinct rooms for both men and women.<sup>119</sup> The drawing room and boudoir were the preserve of the women of the household and the dining, smoking and billiard rooms as well as the study and library were reserved for their male counterparts. However, this was simply the ideal- the reality was very different. The size of the house and money available took precedence over pervasive gender ideals in dictating the nature and use of rooms. This does not mean to say that those with fewer resources did not wish to formulate their houses to match middle-class ideals- rather they lacked the resources to do so.<sup>120</sup> Findlay also discussed the gendered nature of the home pointing out that the home is a “female space but a male possession”.<sup>121</sup> This contradiction between the owner and user of the space is a familiar concept that returns in discussions of domestic abuse; reasons, and sometimes justifications, for marital conflict are often drawn from the ambiguous nature of the husband in the home that he provides financially for but yet lacks autonomy over.<sup>122</sup> The uneasy position of the man in the home is exacerbated when one considers the role of male domestic servants- an issue that will be explored in depth in the next chapter- who were ‘naturally’ superior but by station inferior. The suggestion that specific people were segregated into specific rooms in the home is an interesting idea when interwoven into this thesis as it presents two questions. Firstly, who decides who is allowed in which

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<sup>119</sup> J. Hamlett, “‘The Dining Room Should Be the Man’s Paradise, as the Drawing Room Is the Woman’s’: Gender and Middle-Class Domestic Space in England, 1850-1910”, *Gender & History*, 21:3 (Nov. 2009), pp. 576-591.

<sup>120</sup> J. Hamlett has written extensively on the symbiotic nature between an individual’s domestic space and their identity in her monograph *Material Relations: Domestic Interiors and Middle-Class Families in England, 1850-1900* (Manchester: Manchester University Press, 2010). The first chapter is particularly fascinating as it argues that instead of the home being a refuge from the public world it is in fact open to intrusion. Visitors and servants often crossed the threshold as well as the fact many professional men worked from home. Keeble supports this in his essay on wealth and luxury in “the well-to-do late Victorian home” stating that visitors were pivotal to the process of home-making. He argues that through the process of bringing gifts and offering opinions on interiors visitors had a significant impact on the domestic space. Furthermore, his work also argues that the home was “undoubtedly” an important aspect of his subject’s “personal identities” placing further weight behind Hamlett’s central thesis. T. Keeble, “‘Everything Whispers of Wealth and Luxury’” (2007), p. 83.

<sup>121</sup> A. Findlay, “Remaking Homes” (2009), pp. 116-119.

<sup>122</sup> E. Foyster, *Marital Violence: An English Family History, 1660-1857* (Cambridge: Cambridge University Press, 2005). A. J. Hammerton, *Cruelty and Companionship* (1992). N. Tomes, “A ‘Torrent of Abuse’: Crimes of Violence between Working-Class Men and Women in London, 1840-1875”, *Journal of Social History*, 11:3 (Spring, 1978), pp. 328-345. A. Clark, “Domesticity and the Problem of Wife Beating in Nineteenth-Century Britain; Working-Class Culture, Law and Politics” in S. D’Cruze (ed.), *Everyday Violence* (2000), pp. 27-40.

room? And secondly what happens when individuals enter rooms that they are not allowed in? Examining the distribution of space in the home can offer an insight into the complex power dynamics between husbands and wives, and masters and servants. In the case of poaching, debates over the way in which estate boundaries are defined and maintained can show us how power was negotiated between gamekeepers and poachers.

Previous research has tended to focus on middle- and upper-class homes due to source availability. Doolittle explains that working-class homes are often missing from the historical record as they “were too poor to leave many written or visual records of their material lives”.<sup>123</sup> Despite this, scholars such as Ross, Strange and Doolittle herself have attempted to reveal everyday domesticity within wider gender studies.<sup>124</sup> This is evident in new research on fatherhood and the home. For example, Strange has used autobiographical accounts to examine the position of the father in domestic spaces noting how his presence improved rather than disrupted family time.<sup>125</sup> Broughton and Rogers’s edited volume, *Gender and Fatherhood in the Nineteenth Century*, also contains three essays on working-class fatherhood.<sup>126</sup> The research presented in this thesis will expand upon studies of working-class culture and the home, as property crime was enacted on and by a wide cross section of society. Domestic servants and apprentices who worked and lived with their masters, poachers who roamed landed estates and urban arsonists who willingly set fires across the city showed no deference to the nature of the property they were either stealing or destroying be that an expensive town house in west London or a shop in the darkest corner of the east end. The criminal actions of a few in society reveals the everyday interactions between individuals and property in a large variety of homes. The built environments explored in this thesis range from sheds- such as the temporary shelter for arsonist Lucy Hellery’s husband in 1866- to public houses- the site of many

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<sup>123</sup> M. Doolittle, “Time, Space and Memories: The Father’s Chair and Grandfather Clocks in Victorian Working-Class Domestic Lives”, *Home Cultures*, 8:3 (2011), p. 247.

<sup>124</sup> E. Ross, *Love and Toil* (1993). M. Doolittle, “Time, Space and Memories” (2011), pp. 245-264.

<sup>125</sup> J-M. Strange, *Fatherhood and the British Working Class 1865-1914* (Cambridge: Cambridge University Press, 2015), pp. 82-110.

<sup>126</sup> Various chapters including A. Walker, “Father’s Pride? Fatherhood in Industrialising Communities”, pp. 113-125, H. Rogers, “‘First in the House’: Daughters on Working-Class Fathers and Fatherhood”, pp. 126-137 and J-M. Strange, “‘Speechless with Grief’: Bereavement and the Working-Class Father, c.1880-1914”, pp. 138-152 in T. L. Broughton and H. Rogers (eds.), *Gender and Fatherhood in the Nineteenth Century* (Hampshire: Palgrave MacMillan, 2007).

thefts from bar staff including Caroline Hodson in 1862 and Henry Adams in 1882.<sup>127</sup> The inclusion of a selection of homes in one study will help show how the material culture of the home varied across class boundaries and how this affected the nature and incidence of property crime.

The study of the home is a vibrant field but still needs developing for example how does the home react in extraordinary circumstances? Hamlett's *Material Relations* includes some exploration of the transformative power of death in the home and Strange has researched the impact of grief and poverty in working-class homes but as a focal point of research, the home is primarily assessed in its normative stable state.<sup>128</sup> In contrast to this, my research demonstrates how and in what ways the home adapts to destabilising influences by illustrating the responses and reactions of its inhabitants to a criminal act occurring within its perimeters. This pushes the boundaries of research on the home by exploring how the home, as an institution, is a fluid entity that constantly evolves to suit contemporary social attitudes even in disruptive periods. It also explores the lengths home owners, or those who had a stakeholder's interest in the home (for example lodgers), endeavoured to limit the effects of crime on the home and how they sought to return to domestic bliss as they defined it. It will also explore the impact of property crime on the perceived privacy of the home and the relationship individuals had with property ownership on a day-to-day basis. The public v private is a well-worn trope but by using crime as a prism through which to see nineteenth-century society I will show how the sanctuary of the home was wilfully transgressed. Theft from master, poaching and arson will act as three case studies in this discussion of the home, social identities and crime.

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<sup>127</sup> OBO, Lucy Hellery, t18660917-812. OBO, Henry Adams, t18820131-762.

<sup>128</sup> J. Hamlett, "Death, Memory and the Reconstruction of the Domestic Interior" in her *Material Relations* (2010). J-M. Strange, *Death, Grief and Poverty* (2005). J-M. Strange, "'Speechless with Grief'" (2007). J-M. Strange, "'She Cried a Very Little'; Death, Grief and Mourning in Working-Class Culture, c.1880-1914", *Social History*, 27:2 (2002), pp. 143-161.



## **1.2 Why servant theft, poaching and arson?**

*What is socially peripheral is so frequently symbolically central.*<sup>129</sup>

Those who committed crime or fell victim to it in this time period accounted for a small and, according to contemporary criminal statistics, declining proportion of society. Yet tales of criminal activities were told in earnest in the printed press and permeated public consciousness. The actions of few socially peripheral individuals were symbolically central and held more influence than more mundane activities. Crime, like respectability, is a slippery term and should be placed within its historical context. How a society defines crime, attempts to control it and treats those whom it deems deviant reveals wider cultural assumptions about class, gender and in the case of property crime, ideas of domesticity and consumerism. The study of crime emerged in the 1970s and 80s in line with a wider drive to take a bottom-up approach to history. It was hoped through an exploration of court records that the voices of the working classes could be heard lending a new perspective to everyday interactions with property and work.<sup>130</sup> Meier argued that criminal histories can be roughly divided between two categories; institutional history focussed on prisons, police and criminal statistics and cultural history which is more concerned with wider social implications of crime such as the proliferation of gender and class stereotypes.<sup>131</sup> Early studies placed institutions at the centre of their research using court records and criminal statistics to assess how and why criminal behaviour change over time. For example, in 1980 Gatrell focussed on property crime and theft, and found that property crime declined in the second half of the nineteenth century with recorded thefts falling from 1840 through to 1914.<sup>132</sup> Radzionowicz and Hood took a positivist view of criminal statistics and described the decline as an “English miracle” as the decline

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<sup>129</sup> P. Stallybrass and A. White, *The Politics and Poetics of Transgression* (New York: Cornell University Press, 1986), p. 5.

<sup>130</sup> C. Emsley, “Crime and Punishment: 10 Years of Research (1)”, *Crime, History and Societies*, 9:1 (2005), p. 117.

<sup>131</sup> W. M. Meier, *Property Crime in London 1850 to Present* (New York: Palgrave, 2011), p. 3.

<sup>132</sup> The reliability and accuracy of criminal statistics is debateable and will later be discussed in more depth. V. A. C. Gatrell, “The Decline of Theft and Violence in Victorian and Edwardian England” in V. A. C. Gatrell, B. Lenman and G. Parker (eds.), *Crime and the Law: The Social History of Crime in Western Europe since 1500* (London: Europa, 1980).

corresponded with a growth in population and urbanization - factors that were expected to increase property crime rather than fostering a decline. Many have sought to explain this by first challenging the accuracy of the statistics and then pointing towards a more civilised society and the implementation of an efficient police force.<sup>133</sup> Hay argued in his succinct overview of crime and justice in 1980 that changes in criminal behaviour can be directly attributed to changes in legislation. He pointed towards the repeal of the punitive Black Act in 1823 and the introduction of key legislation such as the Penal Servitude Act and Habitual Criminals Act as turning points for criminal behaviour and management. He concluded by calling for criminal history to be developed as part of a “total social history” which reconstructs from a variety of sources “the social histories of the communities in which the crime and prosecution took place”.<sup>134</sup>

This project takes on Hay’s challenge and seeks to place property crime within wider cultural studies. I will show how using three distinct crimes under one umbrella term- property crime- can help us view social identities from a different perspective. I have consciously chosen multiple crimes to avoid what Kilday and Nash described as “the temptation to view the law and, indeed, ‘crime’ as a monolithic entity which is studied with agendas to reflect this”.<sup>135</sup> By taking this approach this project aims to reveal how a variety of individuals and homes operated on a day-to-day basis adding to our understanding of nineteenth-century life. Property crime is an all-encompassing term for any crime involving theft or destruction of property. This includes a wide breadth of crimes crossing class and gender boundaries such as embezzlement, burglary, shoplifting

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<sup>133</sup> L. Radzinowicz and R. Hood, *A History of English Criminal Law, Vol. 5 The Emergence of Penal Policy* (London: Stevens & Son, 1986). V. A. C. Gatrell and T. B. Hodden, “Criminal Statistics and their Interpretations” in E. A. Wrigley (ed.), *Nineteenth- Century Society* (Cambridge: Cambridge University Press, 1972), pp. 336-396. B. Godfrey, D. Cox and S. Farrall, *Serious Offenders: A Historical Study of Habitual Criminals* (Oxford: Oxford University Press, 2010), pp. 69-70. W. M. Meier, *Property Crime in London* (2011), p. 3. H. Taylor, “Rationing Crime: The Political Economy of Criminal Statistics since the 1850s”, *Economic History Review*, 51 (1998), pp. 569-590. D. Taylor, *Crime, Policing and Punishment in England, 1750-1914* (Basingstoke: Palgrave, 1998). D. Hay and F. Snyder (eds.), *Policing and Prosecution in Britain 1750-1850* (Oxford: Clarendon Press, 1989).

<sup>134</sup> D. Hay, “Crime and Justice in Eighteenth- and Nineteenth-Century England”, *Crime and Justice*, 2 (1980), p. 68.

<sup>135</sup> A-M. Kilday and D. Nash (eds.), *Histories of Crime Britain 1600-2000* (2010), p. 1.

and pick-pocketing.<sup>136</sup> This thesis will focus on stealing from master, poaching and arson as I believe they provide the best window through which to assess gender, class and domesticity and are underrepresented in historical research. Theft by servants allows us to see how overlapping work and domestic spaces can be corrupted and eroded by crime. Moreover, the position of servants in the home reveals everyday examples of class interaction and what happens when these relationships breakdown. Poaching moves this analysis outside the home revealing how boundaries and definitions determined the perception of property and crime and how that altered over time. In addition, a close reading of the portrayal of poaching can reveal wider cultural understandings of class and gender. Finally, arson, the most destructive property crime provides the perfect opportunity to assess how individuals interacted with their built environment and their community. This thesis will take a journey from crime to crime but the underlying themes of gender, class and the impact of space will be present throughout. From pilfering to property destruction those who committed and suffered will be pulled out of the shadows of history and put together in one nuanced study. This will avoid the tendency to view crime as one monolithic entity whilst complicating our understanding of social identities. To demonstrate why a study of this kind is required we must look at what historiography in these fields has already disclosed.

Research on criminal history has seen a shift away from property crime in recent years to more sensationalist violent crimes leaving gaps in the historiography. Theft by servants has been overlooked by historians focussing instead on white-collar crime, shop lifting and pick pocketing. White-collar crime is an emerging sphere of research with historians such as McGowan, Robb, Wilson and Locker revealing middle-class work practices through assessments of embezzlement, fraud and forgery.<sup>137</sup> Shop-lifting, on the

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<sup>136</sup> D. Palk, "Private Crime in Public and Private Places: Pickpockets and Shoplifters in London 1780 to 1823", in T. Hitchcock and H. Shore (eds.), *The Streets of London: From the Great Fire to the Great Stink* (London: Rivers Oram Press, 2003).

<sup>137</sup> R. McGowan, "From Pillory to Gallows: The Punishment of Forgery in the Age of the Financial Revolution", *Past and Present*, 165 (1999), pp. 107-140. G. Robb, *White Collar Crime in Modern England: Financial Fraud and Business Morality 1845-1929* (Cambridge: Cambridge University Press, 1992). G. Robb, "Women and White-Collar Crime; Debates on Gender, Fraud and the Corporate Economy in England and America, 1850-1930", *British Journal of Criminology*, 46:6 (Sep. 2006), pp. 1058-1072. S. Wilson, "Invisible Criminals? Legal, Social and Cultural Perspectives on Financial Crime in Britain 1800-1930" (Unpub. PhD thesis, University of Wales, 2003). S. Wilson, *The Origins of Modern Financial Crime:*

other hand, has come under scrutiny by historians interested in consumer culture and medical historians in attempts to explain the cultural and gendered connotations surrounding the diagnosis and invention of kleptomania.<sup>138</sup> Pick-pocketing, a working-class crime readily associated with Dickensian notions of criminality, has been adopted by historians researching childhood and youth delinquency, such as Horn and Shore.<sup>139</sup> This has left a gap for a more comprehensive assessment of theft in the home - more specifically by servants who live and work in the same space. Theft by servants was separated from other forms of theft in 1823, resulting in 1,639 cases heard at the Old Bailey from 1860 to 1900 but as of yet has received little academic attention.<sup>140</sup> Several scholars have revealed the perception of the criminality of domestic servants and the fear of the unknown in the household but have not exploited the evidence available from the Old Bailey.<sup>141</sup> The term 'servant', in this context, does not just refer to traditional domestic

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*Historical Foundations and Current Problems in Britain* (Oxon: Routledge, 2014) J. P. Locker, "The Most Pernicious Species of Crime; Embezzlement in its Public and Private Dimensions, c.1850-1930", (Unpub. PhD thesis, Keele University, 2004). S. Wilson, "Fraud and White-Collar Crime: 1850 to the Present", in A-M. Kilday and D. Nash (eds.), *Histories of Crime* (2010).

<sup>138</sup> T. C. Whitlock, *Crime, Gender and Consumer Culture in Nineteenth-Century England* (Aldershot: Ashgate, 2005). E. S. Abelson, "The Invention of Kleptomania", *Signs*, 15:1 (Autumn, 1989), pp. 123-143. P. O. Brien, "The Kleptomania Diagnosis: Bourgeois Women and Theft in Late Nineteenth Century France", *Journal of Social History*, 17:1 (Autumn, 1983), pp. 65-77. K. Segrave, *Shoplifting: A Social History* (North Carolina: McFarland, 2001).

<sup>139</sup> P. Horn, *The Victorian Town Child* (London: Sutton Pub. Ltd., 1997) and H. Shore, *Artful Dodgers: Youth and Crime in Early Nineteenth-Century London* (London: Royal Historical Society, 2002). Shore's monograph best illustrates the impact *Oliver Twist* has had on popular perceptions of nineteenth-century childhood as demonstrated by the title *Artful Dodger*- the fictional leader of a gang of pick pockets in the novel. See also D. Palk, "Private Crime in Public and Private Places: Pickpockets and Shoplifters in London 1780 to 1823", in T. Hitchcock and H. Shore (eds.), *The Streets of London: From the Great Fire to the Great Stink* (London: Rivers Oram Press, 2003).

<sup>140</sup> The one notable exception being the work of Barry Godfrey who looked at theft from factories in Yorkshire. As this did not occur in a domestic space and is based in Yorkshire it does not infringe on the work presented here. B. Godfrey, "Workplace Appropriation and the Gendering of Factory Law: West Yorkshire, 1840-1880" in M. L. Arnot and C. Osborne (eds.), *Gender and Crime in Modern Europe* (1999), pp. 1-42. B. Godfrey, "The Impact off the Factory on Workplace Appropriation in Mid to Late Nineteenth-Century Yorkshire", *British Journal of Criminology*, 39:1 (1999), pp. 56-71. B. Godfrey, "Judicial Impartiality and the Use of Criminal Law Against Labour: The Sentencing of Workplace Appropriators in Northern England, 1840-1880", *Crime, History and Society*, 3:2 (1999), pp. 57-72. B. Godfrey, "Private Policing and the Workplace: The Worsted Committee and the Policing of Labor in Northern England, 1840-1880" in L. Knafla (ed.), *Policing and War in Europe: Criminal Justice History, Vol. 16* (Connecticut: Greenwood Press, 2002), pp. 87-104. B. Godfrey and J. Locker, "The Nineteenth-Century Decline of Custom, and its Impact on Theories of Workplace Theft and White Collar Crime", *Northern History*, 38 (2001), pp. 261-273.

<sup>141</sup> L. Delap, "Housework, Housewives and Domestic Workers; Twentieth-Century Dilemmas of Domesticity", *Home Cultures*, 8:2 (2011), pp. 189-209. T. McBride, *The Domestic Revolution: Modernization of Household Service in England and France, 1820-1920* (London: Croom-Helm, 1976), p. 107.

servants but an employee. The creation of the new form of theft was designed to control the growing industrial workforce and punish servants who worked in a commercial environment yet, as will be shown, many servants operated within the domestic sphere. Examples of ‘stealing from master’ that reached the Old Bailey were often more extreme cases where defendants stole items of value as smaller cases were normally dealt with by local police courts. The choice to only focus on the Old Bailey was a conscious one as it demonstrates the type and nature of crime that warranted the attention of the Old Bailey and the lengths employers would stretch to punish their employees. This chapter will test contemporary fears of pilfering servants and in doing so reveal the intimate relationships operating within the home and the workplace. By examining the actions of deviant servants, I intend to shed new light on the home and add to historiography on Victorian work practices. It is also worth noting that the kind of servants who appear in these cases were not just those involved in household work but apprentices and other kinds of workers like retailers, apprentices and publicans. Therefore, this study offers a more varied picture of work in the home than given in previous discussions of domestic service. The project will then move outside and reveal how Victorian notions of masculinity and class operated in the fields of Essex.

Poaching tested contemporary understanding of boundaries and property ownership. There have only been a few studies of nineteenth-century poaching with early research focussing on it being a crime of protest in rural areas.<sup>142</sup> Jones in particular dissected rural poaching and its wider political impact claiming poaching was an accepted and common aspect of rural life.<sup>143</sup> Archer, Osborne and Winstanley have moved research away from rural to urban centres in Lancashire examining the effects of urban gangs and violence.<sup>144</sup> This thesis will contextualise poaching within the second half of the nineteenth century using two case studies comparing everyday experiences of poaching

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<sup>142</sup> T. Shakesheff, *Rural Conflict, Crime and Protest: Herefordshire, 1800-1860* (Woodbridge: Boydell Press, 2003). H. Hopkins, *The Long Affray: The Poaching Wars 1760-1914* (London: Secker and Warburg, 1985).

<sup>143</sup> D. J. V. Jones, “The Poacher: A Study in Victorian Crime and Protest”, *The Historical Journal*, 22:4, (Dec. 1979), pp. 825-860.

<sup>144</sup> J. E. Archer, “Poaching Gangs and Violence: The Urban-Rural Divide in Nineteenth-Century Lancashire”, *British Journal of Criminology*, 39:1 (1999), pp. 25-38. H. Osborne and M. Winstanley, “Rural and Urban Poaching in Victorian England”, *Rural History*, 17:2 (2006), pp. 187-212.

to greater cultural understandings of the crime. Actual cases of poaching from South Hinckford Magistrates' court will be juxtaposed to cultural accounts in the printed press and *The Gamekeeper* - a professional journal for the maintenance of game. The study delineates itself from others by revealing how gamekeepers adapted hegemonic masculine values to create their own social identity within a hyper-masculine world. Moreover, it will challenge the notion of poaching as a class war by exposing the absence of landowners from court records and cultural depictions. Instead, the crime will be examined as a battle between two groups of society from similar social strata over land boundaries. This provides the opportunity to interrogate how a different form of property - one that moves and is a life source - impacts wider assumptions of class and gender within the wider ideas of the project. Disputes over boundaries are pivotal to the poaching narrative but the line between what contemporaries perceived to be morally right and wrong was also forged in fire in discussions of urban arson.

Arson not only changed the ideological framework of the home from a private to public space but destroyed it all together. William Blackstone in his influential commentary of the common law stated that arson is "the malicious and wilful burning of the house or outhouses of another man" and was particularly damaging as it was an offence against the right of habitation which is "acquired by the law of nature as well as by the laws of society".<sup>145</sup> Previous research on arson has focussed on the action as a form of protest, such as Griffin's, Hobsbawn's and Rudé's work on the Swing Riots or the actions of the suffragettes at the turn of the century.<sup>146</sup> Others, such as Andrews, have sought to explain the medico-legal implications of the crime alongside modern theories surrounding pyromania.<sup>147</sup> However, there is a gap in the historiography for research on

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<sup>145</sup> W. Blackstone, *Commentaries on the Laws of England; Volume 4* (London: A. Strahan, 1800), p. 220.

<sup>146</sup> C. J. Griffin, "The Violent Captain Swing?", in *Past and Present*, 209:1 (2010), pp. 149-180. E. Hobsbawn and G. Rudé, *Captain Swing* (London: Penguin, 1973). See for acts of protest in Norfolk and Suffolk (where there were 1,972 cases of arson in between 1815 and 1870) J. E. Archer, 'By a Flash and a Scare': *Arson, Animal Maiming and Poaching in East Anglia 1815-1870* (Oxford: Clarendon Press, 1990).

<sup>147</sup> J. Andrews, "From Stack-Firing to Pyromania: Medico-Legal Concepts of Insane Arson in British, US and European Contexts, c. 1800-1913. Part 1", *History of Psychiatry*, 21:3 (2010), pp. 243-260 and J. Andrews, "From Stack-Firing to Pyromania: Medico-Legal Concepts of Insane Arson in British, US and European Contexts, c. 1800-1913. Part 2", *History of Psychiatry*, 21:4 (2010), pp. 387-405. Both works rely heavily on Baker's contemporary case studies. Baker worked at Broadmoor Criminal Lunatic Asylum and used his extensive case notes to publish articles on his patients. See for example J. L. Baker, "Cases of Incendiarism with Commentary", *Journal of Mental Science*, 35:149 (1889), pp. 45-54.

how arson affected the home from a material and emotional perspective. Urban arson, to date, has been ignored by historians despite the prevalence of prolific arsonists like William Anthony in the second half of the nineteenth century. The study of urban arson challenges the narrative that it was purely an act of protest and reveals how contemporaries interacted with their built environment.

In isolation, this thesis will use these three crimes to further our understanding of nineteenth-century society by shedding light on previously overlooked class and gender interactions. However there has, as of yet, been no attempt to bring these three crimes together within one study. This project will rectify this. Placing these crimes side by side reveals how definitions of property were fluid and dependent upon their spatial configuration and in some respects wealth. Putting a stolen dress alongside a rabbit may seem counter intuitive but it is only in comparison can you see the complexities of Victorian property crime. Also, the drawing together of these three crimes will complicate the established narrative of the criminal as the outsider or the residuum of society. The criminal, despite being statistically on the periphery was a firmly entrenched member of society. They did not operate from outside society but within local communities on the doorsteps of their neighbours. Whether an apprentice stealing a roll of cheese, a green grocer setting fire to a competitor's door or a career poacher catching a rabbit or dozen to sell to an unscrupulous butcher, crime was an everyday occurrence that shaped society as much as was shaped by it.

### **1.3 Methodology**

To create a more nuanced understanding of property crime and domesticity this thesis will use two key sources: court records and newspaper articles. In this section I will discuss the availability of each of these sources, their limitations and the practicalities of their use. It is hoped by triangulating these sources I will be able to combine statistical data with descriptive accounts of how and why individuals committed property crime and their subsequent experiences within England's judicial and penal system. The approach

draws inspiration from both criminal and social history to bridge the gap between macro data and more narrative driven micro accounts. The data will be illustrative with the focus on individual case reviews taking inspiration from other crime led social histories.<sup>148</sup> This approach allows for deeper analysis of the intricacies and complexities of property crime to help tease out patterns and trends. The thesis will trace property crime and its wider implications in the second half of the nineteenth century by focussing on three key crimes: theft by domestic servants, poaching and arson. Each chapter will draw on different sources which will be evaluated in depth there but the overall aim is the same- to access everyday activities and domesticity using records created by the criminal actions of a few. To effectively use court records it is important to recognise how the judicial system was organised, the records it produced and their availability today.

The Victorian judicial system was organised around four courts: Magistrates, Local County, Assizes and the Queen's Bench. The court records were arranged on a hierarchal basis with petty crimes dealt with at magistrates' level and more serious crimes like homicide at the assizes. The Queen's Bench, in contrast, only sat in exceptional circumstances to discuss constitutional matters. The survival rates for records kept by these courts is also reflected in the severity of the crime; by far the most sporadic and patchy are Magistrates' court records who heard the least serious crimes. Magistrates' courts were introduced at a local level to alleviate the pressure on the court system by an increased population. Each magistrate kept a varying degree of records including registers with basic details of the crime and minutes which detailed written testimonies and in some cases legal arguments. The survival rates of these records depend on the local record office they are held in as each county keeps their own records but damage over time including floods and human error has led to many gaps in these archives. More serious crimes were tried at local county courts and were held quarterly in the winter, spring, summer and autumn. They were heard by a bench of two or more Justices of the Peace and a jury. Local county courts or quarter sessions heard cases that were not capital offences or punished by life time imprisonment. The most serious crimes, therefore, were heard at the

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<sup>148</sup> See for example Foyster's analysis of marital violence through two specific trials. E. Foyster, *Marital Violence* (2005).



assize courts. The assize courts, with exception of London and Middlesex, are divided in between six circuits; Home, Norfolk and South-Eastern, Midland, Northern and North-Eastern, Oxford, Welsh and Western circuit.<sup>149</sup> The records for the assizes are held at the National Archives but again survival rates are patchy. Take for example the Northern circuit: here indictments containing very basic details are available up until 1891 but are missing from this date until 1923. Depositions are sporadic throughout the late nineteenth century and again are completely missing in the period 1891 to 1923 and only two court minute books survived from this period covering the dates 1879 to 1885 and 1885 to 1890.<sup>150</sup> In contrast to this the records from the Old Bailey and specifically the proceedings are far more complete and offer a series of records through which to conduct research.

In 1834 the Central Criminal Court Act separated London, Middlesex and parts of Essex, Kent and Surrey from the assize circuit creating one Central Criminal Court (the Old Bailey). The Old Bailey heard cases from these areas and those deemed to be of national importance. The records from these trials are held separately in the National Archive but the proceedings have been published online. The proceedings were digitised using optical character recognition software (with an accuracy rate of over ninety-nine per cent) allowing users to key word search the full text or limit their search through marked up fields like crime, verdict and sentence.<sup>151</sup> The text has been completely digitised alongside the original image to allow the user to compare the two and check the veracity of the account. The project is relatively rare in that it is run by historians Clive Emsley, Tim Hitchcock and Robert Shoemaker and has been created with the historian in

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<sup>149</sup> Until 1830 cases in Wales were heard at the Court of Grand Sessions of Wales and records are held at the National Library of Wales. The palatinate of Chester joined the assize court system in 1830 with Durham and Lancaster merging into the system in 1876. See “Criminal trials in the assize courts 1559-1971”, *The National Archives*, <http://www.nationalarchives.gov.uk/records/research-guides/assizes-criminal-1559-1971.htm> (accessed 9<sup>th</sup> Sep. 2015).

<sup>150</sup> One should note that prior to 1876 the Northern circuit also embodied the north-eastern assizes and their indictments, depositions and minute books are arranged together in the ASSI 41, 44, 45, 46 and 47 series. After 1876 the circuit was divided between the north east and the north and any surviving documentation for the northern circuit was moved to another set of files (ASSI 51, 52, 53, 54, 55) with the north-east documentation remaining in the previous series.

<sup>151</sup> OCR software is not as effective for documents pre-1840 due to the quality of the image. T. Hitchcock, “Confronting the Digital or How History Writing Has Lost the Plot”, *Cultural and Social History*, 10:1 (2013), pp. 9-23.

mind.<sup>152</sup> The proceedings contain basic statistical information such as age, gender and the crime allegedly committed as well as the verdict reached and, where relevant, the sentence handed down. In addition to these many entries include witness statements which provide a unique opportunity to explore and understand the working relationships in the home and the impact of crime. Witness statements are included when the defendant chooses to contest the charge and outline how the crime was committed and detected. It should be noted that the proceedings are like court depositions but their presentation altered the scope, nature and content. The proceedings were designed for public consumption and were first published in 1674 in the format of a periodical and were widely read but came under increasing pressure from other publications in the second half of the nineteenth century. Newspapers were cheaper than ever due to the reduction of stamp duty and its eventual removal in 1855 meaning the public could read about the events of the Old Bailey elsewhere. By the end of the nineteenth century the readership was limited to the legal profession and public officials as the proceedings could not match the entertainment value of newspapers. Furthermore, the information included in the proceedings were restricted as the publishers had to take into consideration space and cost in an ever increasingly competitive market. Therefore, information that would be incredibly useful to an historian, such as legal arguments, are very rarely included as they were not thought to be of public interest. Moreover, the proceedings consciously excluded details that they deemed inappropriate for public consumption such as illicit details of sexual encounters. One should also note that not all entries included long witness or defendant's statements. If the defendant pled guilty the entry is only limited to the name of the defendant, the indictment and verdict.<sup>153</sup> Despite these limitations the Old Bailey proceedings are the most complete set of criminal records available and will provide the foundation for both the theft and arson chapters in two ways.

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<sup>152</sup> "About this Project", *The Proceedings of the Old Bailey*, <http://www.oldbaileyonline.org/static/Project.jsp>, (accessed on 9<sup>th</sup> Sep. 2015).

<sup>153</sup> C. Emsley, T. Hitchcock and R. Shoemaker, "The Proceedings - The Value of the Proceedings as a Historical Source", *The Proceedings of the Old Bailey*, <http://www.oldbaileyonline.org/static/Value.jsp> (accessed on 9<sup>th</sup> Sep. 2015).

Firstly, basic data will be collated including the name, age and gender of the defendant and the crime committed, verdict and sentence to provide a quantitative survey. To do this I will use the Old Bailey online advance search interface setting the crime and date range in the marked fields. The results will then be farmed into an Excel workbook and tabulated to guarantee the accuracy of any graphs or charts created from the data. For example, the gender of all defendants will be noted and presented to assess whether a crime is particularly gendered and what impact that gender had on their sentence. However, the data will only show how property crime manifested itself but not explain why. To achieve this and aid our understanding of domesticity and property crime I will juxtapose the data to a more comprehensive analysis of the narrative of a selection of cases. The cases will be cited using their unique online reference and the name of the defendant to allow the reader to access the cases in the same format.<sup>154</sup> The most fruitful cases contain pages of information including important eyewitness testimonies. These testimonies are crucial in any understanding of crime as they provide insight into motive and the interactions between defendants and victims before, during and after the crime, and they show us how they presented themselves before the courts. The rich detail given in the testimonies contextualise the data and allow us to see how a crime was committed, in what circumstances and how the judicial system treated those who transgressed the law. They can also be closely read to reveal gender and class relations between the defendant, their victims and wider society. This approach will be adopted for the theft and arson chapters but must be adapted for poaching as quite simply the sources do not exist.

A different approach has been taken with poaching from 1860 to 1900 as only nine cases of poaching were heard at the Old Bailey making a similar approach impossible. I will explore in the poaching chapter why this was the case but instead of losing the opportunity to interrogate a different form of property crime I decided to look to the Home Counties for a series of records that could be used in a study of this size. Research led me to the Essex county record office and the South Hinckford Magistrates court. The

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<sup>154</sup> Hitchcock argues that historians regularly use online sources but reference the printed version instead misleading the reader. I have chosen to reference cases using their online reference to demonstrate how I interacted with the sources so my methodology is clear. T. Hitchcock, "Confronting the digital" (2013), p. 12.

jurisdiction of this court lies forty-five miles outside London and covers an area of rural Essex punctuated with urban elements. More importantly the records are almost complete and provide enough source material to offer a viable context to the wider poaching narrative. Using the archive catalogue, I collected and collated records relating to game offences in the area. The records are in two formats and will be utilised in a similar way to the Old Bailey records but without the benefits of digitisation. This in practice, means sifting through hundreds of pages of records to single out game offence cases, which although time consuming does provide perspective and gives a sense of how prevalent the crime was in the area compared to other offences. Court registers cover the period 1880 to 1905 and the minutes cover 1860 to 1903 with a seven-year gap from 1866 to 1874.<sup>155</sup> The registers include very basic details but the minutes note eye witness statements and offer insight into notions of property, boundaries and how poaching was enacted. Similarly, to the Old Bailey the minutes are heavily weighted in the favour of the complainant with defence statements either missing or limited to a single line entry meaning we are left to infer motive from another's point of view. This is not ideal but not insurmountable with witness testimonies from policeman and gamekeepers often recanting statements given to them by the defendants as to why they committed the crime. The minutes were handwritten and at times illegible but key information such as the name and offence are clear. I will conduct a close reading of the volumes singling out all the game offence cases and collate them in a single database. I will use this data to assess the impact of gender, class and boundaries on poaching in the second half of the nineteenth century. It is important to note, however, that criminal statistics are not reflective of the actual incidence of crime and should be viewed with caution.

Godfrey, Lawrence and Williams once noted that historians should “beware” using crime statistics.<sup>156</sup> The first national collection of crime statistics came in 1810 when the House of Commons called for a review of all indictable offences and thus began the obsession with quantifying and qualifying criminal behaviour. Godfrey argues that the

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<sup>155</sup> There is one minute book missing representing a seven-year gap in the records from 1866 to 1874. Court registers ERO, P/H R1-3. Court minutes ERO, P/H M11-18.

<sup>156</sup> B. Godfrey, P. Lawrence and C. A. Williams, *History and Crime; Key Approaches to Criminology* (London: Sage, 2008), p. 27.

desire to quantify criminal behaviour was fuelled by academics in mainland Europe who, through statistical enquiry, felt crime did not just appear but was rather a symptom of society and could be controlled if properly understood.<sup>157</sup> To achieve this Parliament requested annual returns from courts and police forces to help shape legislation and by extension public opinion but the returns were far from accurate. National criminal statistics relied on the collection and presentation of data by several criminal justice institutions that may “skew” them to suit their own agenda.<sup>158</sup> Many criminal historians have debated how reliable criminal statistics are and the conclusion is- they are not. Gatrell and Hodden, for example, argued that pre-1840 levels of criminality were artificially inflated, amongst other things, by a new enthusiastic police force.<sup>159</sup> Emsley and King, on the other hand point towards the effects of urbanisation and a more efficient bureaucratic government.<sup>160</sup> Tobias stated bluntly “criminal statistics have little to tell us about crime and criminals”.<sup>161</sup> Sindall, in perhaps the most pessimistic view of statistics argued we should “view the statistics as a phenomenon in themselves... a measure, not necessarily of what was happening, but what people believed was happening”.<sup>162</sup> This has not stopped historians using them to good effect. Understanding what people believed was happening can be as useful to a social historian as what occurred. In fact, Emsley argues that the same point could be made about most sources and no historian “worth their salt would seek to base general conclusions on one set of source material”.<sup>163</sup> This thesis is conscious of that and combines court records with perceptions of property crime in the wider print media. Furthermore, instead of using official returns to government I have chosen to collate my own statistics from the court records in an attempt to limit the number of external authorities who have handled and manipulated the data, but this is not a perfect

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<sup>157</sup> Godfrey states that Adolphe Quetelet in Belgium and Andre- Michel Guerry in France led the discussion and inspired similar works in Britain. B. Godfrey, *Crime in England 1880-1945; The Rough and the Criminal, the Policed and the Incarcerated* (Oxon: Routledge, 2014), p. 19.

<sup>158</sup> Ibid.

<sup>159</sup> V. A. C. Gatrell and T. B. Hodden, “Criminal Statistics and their Interpretations” (1972), p. 374.

<sup>160</sup> C. Emsley, *Crime and Society in England, 1750-1900* (Harlow: Pearson, 2010), pp. 21-56. P. King, *Crime, Justice and Discretion in England 1740-1820* (Oxford: Oxford University Press, 2000).

<sup>161</sup> J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century* (California: Batsford, 1967), p. 21.

<sup>162</sup> R. Sindall, *Street Violence in the Nineteenth- Century: Media Panic or Real Danger?* (Leicester: Leicester University Press, 1990), p. 20.

<sup>163</sup> C. Emsley, *Crime and Society* (2010), p. 31.

solution. The number of cases that were prosecuted are marginal compared to actual levels of deviance due to what criminal historians have coined ‘the dark figure of crime’.

“We never tell the police- it’s no good”. The words of a frustrated tradesman who was regularly stolen from is illustrative of the extent of the dark figure of crime.<sup>164</sup> A phrase regularly used by criminologists describes crime that is unreported, undetected and therefore unrecorded rendering them impossible to access through court records. This is not an issue confined to the nineteenth century with unreported crime as prevalent today as ever. For example, the British Crime survey estimated there were eleven million crimes in 1981 but less than three million crimes were recorded by the police.<sup>165</sup> King argued in his work on the eighteenth century that as little as one in twenty cases of thefts resulted in prosecution due to a reluctance to report it.<sup>166</sup> White, in his study of nineteenth-century London, theorised that this reluctance was because the majority of property crime was enacted against the working classes where “losses were often inconsiderable- and bruises quickly healed”.<sup>167</sup> It is impossible to calculate the differences between reported and unreported crime as it was dependent on wider social and cultural factors. Sharpe, in his study of crime in early modern England, stated that statistics altered on the whim of the public and its “willingness to prosecute” which was influenced in part by moral panics in the media.<sup>168</sup> Furthermore, when we consider the domestic nature of some of the crimes the dark figure of crime becomes more potent. Emsley, for example, notes that “police officers were reluctant to cross the threshold into the privacy of the domestic space”.<sup>169</sup> This reluctance to police the private sphere brings to attention the ‘dark figure’ of crime and its importance to studying crime in the household. Each type of crime analysed in this thesis has its own permutations that effect the extent of under reporting which will be discussed in more depth later. However, it is important to note from the outset although

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<sup>164</sup> J. White, *London in the Nineteenth Century* (London: Vintage, 2008), p. 342.

<sup>165</sup> K. Jansson, “British Crime Survey- Measuring Crime for Twenty Five Years”, <http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs07/bcs25.pdf> (accessed 10<sup>th</sup> Sep. 2015), p. 7.

<sup>166</sup> P. King, *Crime, Justice and Discretion in England* (2000).

<sup>167</sup> J. White, *London in the Nineteenth Century* (2008), p. 341.

<sup>168</sup> J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (Oxon: Pearson Education, 1999), p. 61.

<sup>169</sup> C. Emsley, *Hard Men* (2005), p. 67.

statistics will be utilised in this thesis they will not be used in isolation and not without caution.

Crime is a fascinating subject accounting for countless column inches, research papers and documentaries. How a society approaches and perceives criminal behaviour unveils what are established norms and has wider cultural implications. In a nineteenth-century context culture was driven by the printed press which was inundated with reports of criminal activities. The interest in crime crossed class and gender boundaries as wider society engaged in what Rowbotham and Stevenson termed “criminal conversations”. They argued that “dukes and dustmen all enthusiastically read about crime” in a wide variety of newspapers aimed at different sections in society but strikingly the reports were all very similar.<sup>170</sup> In fact, it is common for trial coverage to be repeated verbatim in many different newspapers due to budget constraints. I will engage with the print media throughout this thesis using reports of trials, editorials and letters to reveal how society interacted with criminal behaviour and what impact that had on social constructions like gender and class. This is particularly fruitful in instances where court records are missing or limited. For example, if a defendant pled guilty at the Old Bailey the proceedings only noted basic details such as their name, age and sentence but newspaper reports can help fill in the gaps. In an age of digitisation analysis of newspapers has never been easier providing historians with an almost unlimited source to access nineteenth-century criminal discourses and plug some of the gaps court records leave. To date nearly eight million articles can be searched and read in *The Times Digital Archive* let alone the increased digitisation of regional newspapers ongoing at the British Library. This level of information improves the accuracy and reliability of historical research but digitisation has created many pitfalls for unsuspecting historians. Nicholson, for example, argued that the sheer volume of online resources is overwhelming for cultural historians and advocates a distance reading of texts to track changes in terminology over time.<sup>171</sup> In

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<sup>170</sup> Newspapers were not limited to higher classes with working-class reading rooms and rising levels of literacy guaranteeing papers reached a wider audience. J. Rowbotham and K. Stevenson “Introduction” in their edited volume, *Criminal Conversations: Victorian Crimes, Social Panic and Moral Outrage* (Ohio: Ohio State University, 2005), p. xxvi.

<sup>171</sup> B. Nicholson, “Counting Culture; or, How to Read Victorian Newspapers from a Distance”, *Journal of Victorian Culture*, 17:2 (2012), pp. 238-246.

addition, Hitchcock has called for a greater awareness amongst historians to changes digital history has made to the discipline. Citing problems with key word searches and online projects designed not by historians but external commercial companies, he argues historians are not acknowledging the new methodological framework. He stated that although in the short term this has had little negative effect on the academy historians need to be aware of their research practices and the effect this has on knowledge.<sup>172</sup> One should also note that newspapers, digital or not, have their own limitations that need to be interrogated.

Changes in legislation and technology meant more newspapers and journals were available to the masses leading to a highly competitive and saturated market. The 1853 repeal of advertisement tax and the abolition of the stamp and paper duties in 1855 and 1861 are seen as a “turning point” and a “landmark” for the printed press as they made newspapers cheaper than ever.<sup>173</sup> Journalists, therefore, had to compete to survive in this environment and ultimately “bad behaviour sold well”.<sup>174</sup> Casey argued that this led to a rise in stories relating to crime giving the perception that crime was increasing when statistics stated the opposite. “New Journalism” or the shift away from dry factual stories to sensationalist accounts undermines the accuracy of the pieces.<sup>175</sup> Fraser, Green and Johnston went as far as to say that “journalism of the periodical press was a fundamentally provocative and reactive medium”.<sup>176</sup> Journalists had to write articles that were engaging and entertaining to sell their publications sensationalising the details of the trials

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<sup>172</sup> T. Hitchcock, “Confronting the Digital” (2013), pp. 9-23.

<sup>173</sup> The repeal of the 1855 stamp duty was described as a turning-point by Brown and Milne. See L. Brown, *Victorian News and Newspapers* (Oxford: Clarendon Press, 1985), p. 4. M. Milne, *Newspapers of Northumberland and Durham* (Newcastle: Graham, 1971), p.15. Wiener, on the other hand, described the repeal of the 1861 paper duty as a landmark for the printed press. See J. H. Wiener, *The War of the Unstamped: The Movement to Repeal the British Newspaper Tax, 1830-1836* (New York: Cornell University Press, 1969), p. xi. See also M. Hewitt, *The Dawn of the Cheap Press Victorian Britain: The End of the ‘Taxes on Knowledge’ 1849-1869* (London: Bloomsbury, 2014). A. Jones, “The Press and the Printed Word” in C. Williams (ed.), *A Companion to Nineteenth-Century Britain* (Oxon: Blackwell, 2007), pp. 369-380.

<sup>174</sup> J. Rowbotham and K. Stevenson (eds.), *Criminal Conversations* (2005), p. xxiv. See also J. K. Chalaby, *Invention of Journalism* (Hampshire: Palgrave Macmillan, 1998).

<sup>175</sup> C. A. Casey, “Common Misperceptions: The Press and Victorian Views of Crime”, *Journal of Interdisciplinary History*, 41:3 (Winter, 2011), pp. 367-391.

<sup>176</sup> H. Fraser et al., *Gender and the Victorian Periodical* (2003), p. 1.



somewhat.<sup>177</sup> Moreover, many of the articles were written anonymously making an informed judgement on the beliefs and attitudes of the author practically impossible. In addition to this, journalists, responding to their readership, wrote more extensively on extraordinary crimes often involving murder and violence therefore everyday examples of crime were overlooked. Furthermore, an editor can change and adapt each article to fit the overarching narrative of the publication to make them seem “to have emanated from the same pen”.<sup>178</sup> Historians should therefore be careful not to take portrayals of crime in newspapers as an accurate reflection of the criminal nature of England but rather for what they are- a portrayal. Moreover, we can only speculate using circulation figures and letters as to how readers interpreted this portrayal because as Darnton explains “they did not think as we did”.<sup>179</sup> Despite these difficulties it would be foolish not to include newspapers in this study albeit with a couple of caveats. Yes, journalists were prone to exaggerate and we cannot ever truly understand how people engaged with the printed press daily but the images portrayed in print are indicative of wider behaviour and accepted social norms. Newspapers will be used throughout this study to add context to individual trials and wider debates surrounding criminality, property, gender and class.

Hay argued in 1980 that criminal history can only reach its “full development as part of a total social history” involving the communities in which the crime and prosecution took place.<sup>180</sup> I will aid this development by using the home and property as a window through which to view criminals and their wider community. Starting from the enactment of the Malicious Damage Act in 1861 to the end of the Victorian period, this thesis will bring crime and criminal activity into the ever-widening historical narrative on the Victorian home and domesticity. By sampling cases from a variety of property crimes this thesis will demonstrate how the presence of crime in domestic spaces altered both the physical and psychological construct of the space and its inhabitants; the cases will create a new understanding of how thresholds and boundaries were constructed and transgressed.

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<sup>177</sup> J. K. Conboy, *Press and Popular Culture* (London: Sage Publications, 2002). M. Hampton, *Visions of the Press in Britain, 1850-1950* (Illinois: University of Illinois Press, 2004).

<sup>178</sup> *Ibid.*, p. 12.

<sup>179</sup> R. Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (New York: Basic Books, 1984), p. 4.

<sup>180</sup> D. Hay, “Crime and Justice in Eighteenth- and Nineteenth-Century England” (1980), pp. 45-84.

Court records offer unparalleled access to a more diverse set of homes than traditional sources as they add a rich dialogue between the inhabitants themselves and between the household and the wider public. Newspapers reports supplement this study by revealing wider social issues pertaining to property crime and the impact gender and class perceptions had on the incidence and punishment of crime. To create a better understanding of property crime, gender and class in the second half of the nineteenth century this thesis will navigate incidents and perceptions of theft, poaching and arson.

#### **1.4 Thesis Outline**

The first research chapter of this thesis explores the experiences of domestic servants who were accused of stealing from their master. It will develop the understanding of the criminality of domestic servants by including occupations that although were tried under the same crime have not been examined in the same study before. By placing traditional domestic servants alongside other trades that worked and lived in the home, such as retailers and craftsmen, a wider cross section of homes in London will be assessed expanding the field of research. To expose the influence of space on social interactions the chapter will focus on servants who lived with their masters by linking the location of each crime to its national census record. To do this I will focus on trials heard in 1862, 1872, 1882, 1892 and 1902 to link them to the proceeding year's census records. Using the biographical details of defendants such as age, gender and occupation the analysis will create a more nuanced understanding of gender, class and space in Victorian London. I will also uncover the measures masters took to protect their property and the type of servant summoned to the Old Bailey unveiling late nineteenth-century perceptions of criminality and service. Finally, this chapter will demonstrate how the position of the servant in the home and their relationship with their master affected the nature of the crime and their subsequent treatment in the courtroom. The thesis will then move outside the home to assess property crime on larger landed estates demonstrating how Victorian notions of property, gender and class were complex and fluid.

The second chapter will shift the focus of the thesis outside the traditional boundaries of the home by evaluating the relationship between poachers, gamekeepers and property. The chapter branches out into Essex using a rare run of court minutes and registers to add substance to an otherwise cultural debate. Property in this instance was not bricks and mortar or tangible objects but rather mobile game that freely crossed boundaries between private and public land. This chapter will assess how the mobility of property created a fine line between private and public ownership and how that affected the perception of poaching as a crime. What sets this study apart from others of its kind is the sources used and its focus on both the poacher *and* the gamekeeper. This chapter will begin by exploring press representations of poachers and gamekeepers tracking how public opinion changed as the century progressed. It will assess what impact legislation, more specifically the Poaching Prevention Act 1862 and the Ground Game Act 1880, had on the everyday experiences of poachers and gamekeepers as well as wider opinions of the crime. The image of poachers will be juxtaposed against actual cases heard at South Hinckford Magistrates court to determine whether poachers were indeed folk heroes or common thieves. The chapter will then conclude by shedding light on the practices and experiences of gamekeepers who sought to limit the excesses of poachers using their professional journal, *The Gamekeeper*, as a case study. This chapter will reveal how notions of masculinity, respectability and space were central to the identity of gamekeepers and poachers and what impact that had on wider opinions of poaching. The discussion will then be moved from rural poaching to urban arson underlining the key themes of gender, class and property.

The third chapter focuses on the most destructive form of property crime- arson. Previous historiography has focussed on arson as a crime of protest or compared the medico-legal arguments surrounding pyromania today to their nineteenth-century counterparts.<sup>181</sup> But no-one has examined the impact of arson on urban environments like London. This chapter will examine 365 cases of urban arson heard at the Old Bailey from 1860 to 1900 to create a better understanding of the crime and perceptions of space, gender

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<sup>181</sup> See for example E. Hobsbawm and G. Rude, *Captain Swing* (1969). J. E. Archer, 'By a Flash and a Scare' (1990). J. Andrews, "From Stack-Firing to Pyromania, Part 1" (2010), pp. 243-260. J. Andrews, "From Stack-Firing to Pyromania, Part 2" (2010), pp. 387-405.

and class in an urban setting. I will draw on key biographical data to illustrate who, what and why an individual set fire to property alongside a selection of case studies to reveal the intricacies of the crime. The personal interactions between inhabitants of the home and wider authorities such as the police and insurance companies will also be illustrated to establish the wider implications of arson on the community. Furthermore, I will assess how an arsonist was convicted and what key factors determined whether a fire was accidental or had criminal intent. The chapter aims to demonstrate how inhabitants interacted with their material environment and by extension the wider community through property crime. Similarly, to stealing from master this chapter will shed light on domestic settings and will evaluate how the actions of a few undermine the sanctity of the home. Moreover, by exploring what happened to individuals and families who completely lost their homes and possessions, the chapter will assess the extent to which the notion of home really was embedded in the Victorian psyche.

The thesis will conclude by analysing theft, poaching and arson side-by-side through a comparative assessment of three case studies: stealing Emma Turbyfield, poaching Robert Cordwell and fire setting John Dodman.<sup>182</sup> By presenting the three crimes in focus in one chapter it is hoped that the similarities and differences can be more readily addressed creating a better understanding of property crime in the second half of the nineteenth century. It is disingenuous to claim the three cases are representative of all cases sampled in this thesis, as each is unique with its own circumstances and permutations, but this is an opportunity to bring the project together in one succinct piece. The biographical factors of the defendants, such as gender, occupation and location, will be compared to draw out key themes established across the thesis. These issues will be discussed at length to have a more accurate and constructive debate cementing the key themes and ideas developed in the project. Without these personal testimonies and individual cases this thesis will fall into a theoretical argument without substance. The uses of case studies will finally, and conclusively, illustrate the importance of using court records to not only view criminality but also gender, class and space.

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<sup>182</sup> OBO, Emma Turbyfield, t18710403-336. OBO, John Dodman, t18791020-940. OBO, John Dodman, t18791020-941. ERO, Robert Cordwell, P/H M11, 23 Oct. 1861. ERO, Robert Cordwell, P/H M11, 9 Apr. 1862. ERO, Robert Cordwell, P/H M11, 17 Dec. 1862. ERO, Robert Cordwell, P/H M12, 7 Dec. 1864.

## **“Stealing from Master”**

### **Servants and Theft in the Victorian Home**

In 1862 *The Fountain and Star Tavern* became the focus of a criminal investigation. The public house was situated on Lawrence Lane in the city of London and was home to seven people including the owner Charles Davey, his sister Emma and retired father George from Suffolk. They also had one lodger, Thomas W. Blagg from Nottingham, and three servants: Eliza Wade a forty-eight-year-old cook from Yorkshire, George Patmore a nineteen-year-old waiter and Caroline Hodson a twenty-nine-year-old from Cambridge accused of stealing from master.<sup>1</sup> The awkwardly named crime was created in 1823 to punish workers who stole from their employers and was delineated from other forms of property crime by the pre-existing relationship between the victim and the defendant. This chapter will shine a light on the cases of stealing from master heard at the Old Bailey, exposing everyday sites of class encounters and revealing dynamic social identities and varying attachments to different spaces in Victorian London.

Instances of stealing from master occurred in commercial and domestic spaces, which often overlapped in one building. Geographers like Soja, have previously accused historians of ignoring the impact of space and has called for “a triple dialectic of space, time and social being: a transformative re-theorization of the relations between history, geography and modernity”.<sup>2</sup> The spatial turn is indicative of this line of thinking and has led historians to think more geographically, exploring how historical spaces influence social actors and vice versa.<sup>3</sup> This began with studies of nationhood but was also realised in landscape histories, which incorporated the environment into social interactions. The emphasis has since shifted to cities and urban living where more sources survive.<sup>4</sup> For

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<sup>1</sup> Charles Davey and his family migrated from Suffolk. PRO, *Census Returns of England and Wales, 1861*, Class: RG 9; Piece: 223; Folio: 81; p. 21; GSU roll: 542595.

<sup>2</sup> E. W. Soja, *Postmodern Geographies; The Reassertion of Space in Critical Social History* (London: Verso, 1989), p. 12.

<sup>3</sup> P. Hubbard and R. Kitchin (eds.), *Key Thinkers on Space and Place, Second Edition* (London: Sage, 2011).

<sup>4</sup> A. Torre, “A ‘Spatial Turn’ in History? Landscapes, Visions, Resources”, *Annales Histoire, Sciences Sociales*, 63:5 (2008), pp. 1127-1144. T. Zeller, “The Spatial Turn in History”, *Bulletin of the German Historical Institute*, 35 (2004), pp. 123-4. F. Driver and R. Samuel, “Rethinking the Idea of Place”, *History Workshop Journal*, 39 (1995), pp. v-vii.

example, Gunn's work on material manifestations of middle-class identities in city centres explores the relationship between space and class identities in an historical context.<sup>5</sup> Campbell, in his review of articles from *Past & Present*, outlines how this new framework has forced us to ask "how we relate to the space around us... what hierarchies we create within it, how we imagine and relate it to other places, and how we represent it to others".<sup>6</sup> If we apply these questions to the inhabitants of *The Fountain and Star Tavern* we can begin to appreciate the added dimension thinking geographically can bring to historical research.

Space is not simply a neutral background for events... Town Halls, city parks and commercial pleasure gardens, slums, urban tenements and suburban homes, parlors, sculleries, and bedrooms, railway stations and carriages – all of these spaces have meanings.<sup>7</sup>

The tavern held a cacophony of meanings for its inhabitants, patrons and observers. As Steinbach noted, spaces have meanings and those meanings influenced what happened within their parameters. For regular patrons, it was a site of pleasure where they could socialise with their peers. Outside observers attached a different emotional freight to the tavern, associating it with drunkenness, immorality and criminality.<sup>8</sup> For Emma and Charles, it had become an uneasy compromise between managing a private domestic space and a public business. Not only was the front of house a source of income, already blurring the lines between the private and public which were normally drawn at the front door, but the back had become a public space with paying lodgers taking up

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<sup>5</sup> S. Gunn, *The Public Culture of Victorian Middle Class* (2000).

<sup>6</sup> C. J. Campbell, "Space, Place and Scale: Human Geography and Spatial History in *Past & Present*", *Past & Present: Virtual Edition* (May 2016).

<sup>7</sup> S. L. Steinbach, *Understanding the Victorians: Politics, Culture and Society in Nineteenth-Century Britain* (London: Routledge, 2012), p. 11.

<sup>8</sup> For an interesting discussion of Victorian alcoholism and symbolism in novels see T. L. Reed, *The Transforming Draught: Jekyll and Hyde, Robert Louis Stevenson and the Victorian Alcohol Debate* (London: McFarland & Company, 2006). For historical discussions of drunkenness, criminality and decency see D. J. Cox, K. Stevenson, C. Harris and J. Rowbotham, *Public Indecency in England 1857-1960: A Serious and Growing Evil* (Oxon: Routledge, 2015), pp. 158-176. M. J. Wiener, *Men of Blood*, (2004), pp. 170-200. H. Yeomans, *Alcohol and Moral Regulation: Public Attitudes, Spirited Measures and Victorian Hangovers* (Bristol: Policy Press, 2014), pp. 167-202. L. Williams, *Wayward Women; Female Offending in Victorian England* (Barnsley: Pen & Sword History, 2016), pp. 117-168.

rooms. For Thomas, lodging may have been a temporary arrangement, but for Caroline and her colleagues their home had a complex multi-layered significance. It was a home and a workplace with each room having different connotations and fostering varied social interactions. In addition to this George Davey had to contend with the fact he was no longer the head of the home but rather a retired man dependant on his son for shelter. The diverse nature of the inhabitants of the *Fountain and Star* was not unusual in Victorian London where scores of people could live under one roof. Overcrowding was commonplace at this time and was exacerbated by an agricultural crisis that led to 331,000 immigrants into the city in the 1860s alone. The problem was far worse in poorer areas like the east end which was “a magnet for the destitute and the displaced from all over Britain and the world” as unskilled labourers flooded the market.<sup>9</sup> The government, recognising public health problems and fearing the immorality of lower classes living in close proximity, implemented several ‘improvements’. For example, they demolished housing to widen thoroughfares and metaphorically unclog the arteries of the city but instead the measures forced the same number of people into fewer homes intensifying the problem not solving it.<sup>10</sup> Crime in the home provides a window through which we can peak at historical actors and assess how the built environment influenced the lived experiences of those enclosed by it. Caroline’s simple, yet criminal actions, are indicative of the effectiveness of this approach.

In May 1862 Caroline was caught by Emma “drawing gin from the bar into a soda water-bottle” for her own personal use and when questioned, she simply replied “it was only a little gin”. Emma, disturbed by the fact her servant of eighteen months was stealing gin with so little regard for her master, called the police and had her arrested. Her room was then searched and a large quantity of items belonging to Charles were found, including foodstuffs and cutlery, as well as a letter from Henry Clark asking for more items. Henry Clark and his wife Mary Ann were Caroline’s brother-in-law and sister and frequent visitors to the tavern.<sup>11</sup> Their home was searched and several items were found that Charles claimed belonged to him including a blanket bearing his name. Inexplicably

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<sup>9</sup> R. Porter, *London* (1994), p. 268.

<sup>10</sup> S. L. Steinbach, *Understanding the Victorians* (2012), pp. 20-27. R. Porter, *London* (1994), pp. 324-327.

<sup>11</sup> “Police Intelligence”, *Reynold’s Newspaper*, 4 May 1862.

Henry was found not guilty.<sup>12</sup> Caroline, on the other hand, was found not guilty on the first indictment, but was indicted a second time to be found guilty and sentenced to four months' imprisonment.<sup>13</sup> The details of this case are relatively mundane but from written statements, we can visualise the hierarchy in place in the home and how divisions between public and private operated in various social settings. Davidoff has argued that servants protected their masters from the outside public world both physically and metaphorically by interacting with the "sordid and disordered parts of life" for them.<sup>14</sup> This chapter will complicate this notion by arguing that servants were not necessarily a barrier to the public world but rather a gateway through which public life can infiltrate private spaces. It will explore how the position of the servant in the home was contested by revealing access they had and what items were stolen. Furthermore, a close reading of the proceedings will expose how social identities were constructed in the action and presentation of criminal behaviour in the courtroom. In doing so it will open the doors of homes like the tavern to academic scrutiny, arguing that criminal actions altered the nature of the home and influenced the social identity of inhabitants. Thus, echoing Kingston's sentiment that we "interact *through* space, and only secondarily *in* place".<sup>15</sup>

Davidoff once argued that "domestic service and working-class marriage are exceptionally elusive areas of study as so much of their activity took place in private homes".<sup>16</sup> The privacy of the home does not exclude them from scholarship, but rather makes it more difficult due to limited and often incomplete sources. We, as historians, must be more imaginative and use material in new and interesting ways to produce a more complex and nuanced image of Victorian life. Hoskins, for example, has used inventories to address the work life balance in Victorian homes. Inventories are limited as they only list valuable items without noting how they were acquired, how they were used and by whom. But by highlighting where items were in the home, Hoskins observed how that

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<sup>12</sup> OBO, Caroline Hodson and Henry Clark, t18620512-574.

<sup>13</sup> OBO, Caroline Hodson, t18620512-575.

<sup>14</sup> L. Davidoff, *Worlds Between: Historical Perspectives on Gender and Class* (Cambridge: Cambridge University Press, 1995), p. 24. See also S. Pooley, "Domestic Servants and their Urban Employers: A Case Study of Lancaster, 1880-1914", *Economic History Review*, 62:2 (2009), pp. 405-429.

<sup>15</sup> R. Kingston, "Mind over Matter? History and the Spatial Turn", *Cultural and Social History*, 7:1 (2010), p. 114.

<sup>16</sup> L. Davidoff, "Mastered for Life" (1974), p. 407.



space was used revealing how social identities shape every day experiences.<sup>17</sup> This thesis takes inspiration from this approach and uses Old Bailey proceedings in a similar way using court records to gain access to previously hidden homes and therefore hidden lives. However, like inventories, the Old Bailey proceedings have some limitations for studying home life, that we need to be aware of. These are epitomised in the phrase ‘dark figure of crime’ which denotes crime that are not reported or recorded. It is often everyday crime that has either gone unnoticed or the victim was reluctant to report. The Old Bailey cases obviously do not show us all instances of this crime, and ‘stealing from master’ was particularly likely to be underreported to the police. In the context of this chapter two factors are particularly potent: the perceived respectability of the master and their paternalistic instincts.

The first factor to be considered is the desire of the master to preserve the respectability of themselves and their families. Respectability was a contested but desired social status for working- and middle-class families.<sup>18</sup> A fundamental tenement of respectability was privacy and the sanctity of the home as well as the ability to manage those beneath them. Masters and mistresses did prosecute their servants, as will be shown in this chapter, but in so doing they gave observers the chance to question their respectability and the management of their home. In the case of domestic servants who were employed to clean and cook in the home the damage was most keenly felt by the female head of the household. A criminal incident suggested a household in chaos and perhaps that the mistress had lost the respect of her subordinates. Furthermore, as will become apparent throughout this chapter, by reporting the crime the public was invited to judge the household through the intrusion of the police, the trial and its newspaper coverage. What was previously a private matter would be thrust into the public domain giving neighbours the opportunity to question the respectability of their peers. One way to circumvent this was to simply fire the servants without a ‘character’ reducing their chances of taking up another position. This process was aided by the reluctance of the police to intervene. Emsley argued that “police officers were reluctant to cross the

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<sup>17</sup> L. Hoskins, “Stories of Work and Home” (2011).

<sup>18</sup> D. S. Kamper, “Popular Sunday Newspapers, Respectability and Working-Class Culture in late Victorian Britain” in M. Huggins and J. A. Mangan, *Disreputable Pleasures* (2004), p. 86.

threshold into the privacy of the domestic sphere” as court records suggest that the police only entered the home on the express wishes of the master who had already gathered the evidence.<sup>19</sup> For example, the police were only called into the *Fountain and Star Tavern* when Emma Davey caught Caroline decanting gin for her own personal use.<sup>20</sup> The potential for underreported crime is therefore large as it relied solely on the employer being willing to prosecute and suffer the consequences.

Secondly, masters were encouraged not to report their servants but give them a chance to improve their character. This undoubtedly stems from the philanthropic ideals of the higher classes in the nineteenth century and was actively encouraged by periodicals of the time.<sup>21</sup> An interesting article in the *Leisure Hour* succinctly demonstrates this desire by arguing that “in case of serious faults - even in the case of dishonesty - it is wiser and better to endeavour patiently to reclaim the defaulter than to send her out, branded as she must be if the truth is spoken, with the mark of shame”.<sup>22</sup> The *Leisure Hour* was a weekly periodical published by the Religious Tract Society who aimed to improve the morality of working-class families by providing evangelical readings. It was not aimed at middle-class readers but those working-class families that considered themselves respectable and might employ a single servant. The empathy called for here was not uncommon but is reflective of publication’s overall narrative to improve working-class life.<sup>23</sup> Yet, as the cases presented here attest to some masters felt it was their duty to report servants. For example, in 1860 Frederick White, after marking coins in the presence of the police and catching his servant Emily Smith red-handed, replied to her requests for him to let her go with - “let you go, I cannot think of anything of the kind; you will be getting into some

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<sup>19</sup> C. Emsley, *Hard Men* (2005), p. 67.

<sup>20</sup> Testimony of Emma Davey in OBO, Caroline Hodson and Henry Clark, t18620512-574. However, once requested by the master it was not unusual for the police to mark coins to help find thieves.

<sup>21</sup> F. K. Prochaska, “Female Philanthropy and Domestic Service in Victorian England”, *Bulletin of the Institute of Historical Research*, 54:129 (May 1981), pp. 79-85.

<sup>22</sup> Anon., “Servants and ‘Characters’”, *The Leisure Hour*, 2 Apr. 1864, p. 215.

<sup>23</sup> H. Fraser et al., *Gender and the Victorian Periodical* (2003), pp. 219-220. D. Lechner, *Histories for the Many: The Victorian Family Magazine and Popular Representation of the Past. The Leisure Hour, 1852-1870* (Germany: Transcript Verlag, 2017). D. Lechner, “Serializing the Past in and out of the *Leisure Hour*: Historical Culture and the Negotiation of Media Boundaries”, *Memoires du livre*, 4:2 (2013). Online edition, <https://www.erudit.org/fr/revues/memoires/2013-v4-n2-memoires0674/1016740ar/> (accessed 31 Aug. 2017).

other service and seeing them the same”.<sup>24</sup> White portrayed his actions as a service to his peers framing them as a respectable action of a respectable man. This chapter will explore the motives of employers and what impelled them to report their servants but it is evident that many cases simply did not make it into the courtroom. The ‘dark figure’ is frustrating but does not make these records obsolete. Understanding why servants were reported and who was found guilty in close readings of cases can unveil more about Victorian social identities than raw data. How an employer reached their decision, how the defendant was portrayed and how the judicial system reacted uncovers how social identities were understood and performed by historical actors.

The nature of the Old Bailey proceedings dictates that the focus of this chapter is London and the surrounding area. London was the hub of domestic service throughout the nineteenth century, and to a certain extent, crime.<sup>25</sup> Young individuals, like the inhabitants of *The Fountain and Star* tavern who travelled from places as far away as York, migrated from all over the country to the city in search of a job.<sup>26</sup> Gillis argued that those who migrated from rural areas were preferred to local servants as they had a “reputation for reliability” compared to their local counterparts, who often left service at a young age.<sup>27</sup> Higgs echoed this sentiment, stating that “rural women were generally regarded as the best servants, not the cheapest, and as being more willing to accept their position of social subordination”.<sup>28</sup> The continual migration into the city guaranteed a steady stream of naïve outsiders who were perceived as vulnerable to temptation. Networks of criminals and the ability to easily fence items could tempt servants into petty crime which was feared would lead to a degenerative underclass. The *Leisure Hour* outlined this in 1864:

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<sup>24</sup> OBO, Emily Smith, t18600102-165.

<sup>25</sup> J. R. Gillis, “Servants, Sexual Relations, and the Rules of Illegitimacy in London, 1801-1900”, *Feminist Studies*, 5:1 (Spring 1979), pp. 143-147. T. McBride, *The Domestic Revolution* (1976), pp. 34-47.

<sup>26</sup> This applies not only to the servants but also their employers. For example, the Daveys migrated from Suffolk.

<sup>27</sup> J. R. Gillis, “Servants” (1979), p. 148.

<sup>28</sup> E. Higgs, “Domestic Servants” (1983), p. 208.

Unfortunately for the young and inexperienced, there exists in London, and in most large towns, a large and unprincipled class who live by the petty pilferings and peculations of servant girls. These harpies are ostensibly small shopkeepers- green-grocers, potato-dealers, or wood-merchants- but, in addition, they are the receivers of stolen goods and will buy anything, from a candle-end to a bottle of wine from the bin, or a diamond ring from the toilet-table, and ‘no questions asked’.<sup>29</sup>

The notion of London as a city of crime was not limited to evangelical publications. The *Temple Bar*, for example, in a description of the city exclaimed that “the vice and crime of the world take refuge in London”.<sup>30</sup> We will see in next chapter how contemporaries idealised the countryside as a place to escape the human and industrial pollution of the city. London, on the other hand, was continually imagined as a city of poverty, disease and crime. Henry James was particularly scathing describing London as a “mighty ogress” that devoured the weak but championed the strong.<sup>31</sup> As Mayhew, the great city explorer, and Binny noted, “London is essentially a city of antithesis - a city where life itself is painted in pure black and white”.<sup>32</sup> These sentiments echo Bartlett’s analysis who argued that “there is a good and ill; enormous wealth and terrible poverty; great virtue and frightful vice... London is the wealthiest and most wretched city in the world – city of extremes”.<sup>33</sup> Contemporary commentators observed a link between poor standards of living and the temptation to fall into a criminal life style. Jerrold and Doré, in their illustrated journey through London, recalled walking “from low house to low house we go, picking up some fresh scrap of the history of Poverty and Crime - they must go hand in hand hereabouts”.<sup>34</sup> Bartlett drew on these fears by describing how “thieves, prostitutes,

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<sup>29</sup> Anon., “Servants and ‘Characters’” (1864), p. 214. Some networks were integrated into legitimate businesses and used as a part of everyday life especially for the poorest in society. The use of pawn shops in London was extensive with servants ‘borrowing’ items from their masters to get a temporary loan or pawning their prized possessions in the middle of the week just so they could eat before their next pay check on Friday.

<sup>30</sup> Anon., “London, as it Strikes a Stranger”, *Temple Bar- A London Magazine for Town and Country Readers*, 5 (Jun. 1862), p. 386.

<sup>31</sup> H. James, *Essays in London* (1893), pp. 23-24.

<sup>32</sup> H. Mayhew and J. Binny, *Criminal Prisons* (1862), p. 28.

<sup>33</sup> W. Bartlett, *London by Day and Night* (1852), p. 20.

<sup>34</sup> B. Jerrold and G. Doré, *London: A Pilgrimage* (2005), p. 172.

robbers and working-men” were “herded together... in frightful masses”.<sup>35</sup> It is in this context we analyse the criminal behaviour of servants in their master’s homes. This study will not be limited to domestic servants who worked exclusively in the home but will draw in discussions of servants of retailers, publicans and apprentices who lived under their master’s roof.

This chapter relies on three key sources: Old Bailey Proceedings, census records and printed press accounts of the crimes. The proceedings were used in two ways; firstly, to formulate a quantitative survey of reported incidents of theft by a servant in between the years 1862 and 1902 and, secondly, the rich detail from individual proceedings were juxtaposed to the data to provide a more comprehensive overview of a complex crime. There are too many indictments to offer a complete survey of every incident in this period to present here therefore I have focussed on five single years a decade apart to compare to census data: 1862, 1872, 1882, 1892 and 1902. Record linkage allowed me to use the preceding year’s census to trace inhabitants within the household which meant that servants who clearly did not live in their master’s home could be removed from the survey. Where possible, incidents of theft by servants who did not live in the home were removed from the sample, but it was not always possible to find this out. For example, if the defendant pled guilty and had a common name it is very difficult to find them in census records. In these instances, the case will be included rather than removed from the survey to guarantee no cases are missed. Therefore, the data presented here has limitations, but it does offer material that can be used to interpret trends in criminal activity, detection and prosecution. In addition, I will take a qualitative approach adopting a close reading of the proceedings and accompanying press reports. This chapter will analyse the language used to record courtroom exchanges to reveal how servants and masters imagined their social identities including gender, class, age and where possible race. To begin the chapter will contextualise the discussions by reviewing employment in domestic spaces. It will then follow the defendants from their detection through to the courtroom exploring what they stole and why. Finally, I will present three individual case studies exposing how the

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<sup>35</sup> W. Bartlett, *London by Day and Night* (1852), p. 19.

criminal actions of a few offer new insights into employment, relationships and crime in London.

## **2.1 Domestic Servants and the Home**

The home was an imagined private space protected from the public world of economics and work, but in reality, the two regularly overlapped creating what McKee termed a “social unit of consumption”.<sup>36</sup> The classic example of this is domestic service.<sup>37</sup> The national census of 1851 noted that there were 751,541 domestic servants in England, which grew to a peak in 1891 of 1,386,167 female servants and roughly 60,000 men. However, these figures should be used with caution as the official definition of service and the family shifted over time distorting them.<sup>38</sup> Higgs argues that the census records “are several stages removed from the reality of the nineteenth century”, as they were open to different levels of interpretation from individuals such as the householders to office clerks.<sup>39</sup> There were ambiguities in defining the position and role of servants in the home compared to female family members who performed the same roles but were not paid. For example, Emma Davey from *The Fountain and Star Tavern* was classified as a housekeeper, but not a servant. This ambiguity can be illustrated in the Registrar General’s statement in 1863 that “the family in its complete form consists of a householder with his wife and his children; and in the higher classes with his servants”, making a distinction between female family members and domestic servants.<sup>40</sup> This distinction was removed in 1891 when the decision was made to include all female relatives who helped in the home in the same category as domestic servants thus superficially inflating the number of

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<sup>36</sup> P. McKee, *Public and Private; Gender, Class, and the British Novel 1764-1878* (Minneapolis: University of Minnesota Press, 1997), p. 8.

<sup>37</sup> T. McBride, *The Domestic Revolution: The Modernization of Household Service in England and France, 1820-1920* (London: Croom-Helm, 1976). L. Delap, *Knowing Their Place: Domestic Service in Twentieth-Century Britain* (Oxford: Oxford University Press, 2011). Higgs, “Domestic Servants” (1983).

<sup>38</sup> E. Higgs, “Domestic Servants” (1983), p. 202. L. Schwarz, “English Servants” (1999), pp. 245-6.

<sup>39</sup> E. Higgs, “The Tabulation of Occupations in the Nineteenth Century Census, with Special Reference to Domestic Servants”, *Local Population Studies*, 28 (1982), p. 58.

<sup>40</sup> From the office of the Registrar General in 1863 as quoted in L. Davidoff, M. Doolittle, J. Fink and K. Holden, *The Family Story: Blood, Contract and Intimacy, 1830-1960* (London: Longman, 1999), p. 161.

women in service.<sup>41</sup> Despite these discrepancies, domestic service was an occupation dominated and driven by women.

The majority of women would have engaged with domestic service as either a servant or a mistress.<sup>42</sup> The sector was by far the largest source of income for women up until World War II and had several benefits. Firstly, for a migrant in London service offered the safety and security of bed and board. Indeed, as Dawes noted, “to some extent, a life in service was sheltered from the cruel world outside”.<sup>43</sup> Secondly, as they were trained in household management and could save a dowry it was deemed a suitable job for unmarried women. This perception is intrinsically linked to the third explanation- it suited the ‘natural’ disposition of women and matched their designated gender role. Women were expected to be passive, maternal and subordinate in a patriarchal society, which were perfect attributes for service. Their caring nature and natural disposition to motherhood was seamlessly translated into service. As Davidoff observed, “one of the stock defences of domestic service for working-class girls had been the belief that it gave a training for married life, for the girl’s natural transition to wife and motherhood”.<sup>44</sup> Finally, domestic service permitted women to stay *in* the home whilst they worked making it a more respectable job for them. Sibley argued that “both space and society are implicated in the construction of the boundaries of the self but that the self is also projected onto society and onto space... the built environment assumes symbolic importance, reinforcing a desire for order and conformity”.<sup>45</sup> In this context, the home as a space validated the respectability of female servants by entrenching a woman’s position in the home. Conversely, their visibility in the home increased the respectability of their masters, as it was evidence of their wealth. If female servants were a sign of respectability both for themselves and their employer, as they endorsed acceptable notions of self, what impact did male servants have?

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<sup>41</sup> E. Higgs, “Domestic Servants” (1983), p. 202.

<sup>42</sup> L. Davidoff et al., *The Family Story* (1999), p. 158.

<sup>43</sup> F. Dawes, *Not in Front of the Servants; Domestic Service in England 1850-1939* (London: Wayland Publishers, 1973), p. 30.

<sup>44</sup> L. Davidoff, “Mastered for Life: Servant and Wife in Victorian and Edwardian England”, *Journal of Social History*, 7:4 (Summer 1974), p. 420.

<sup>45</sup> D. Sibley, *Geographies of Exclusion: Society and Difference in the West* (Oxon: Routledge, 2015), p. 86 [orig. 1995].

Men were expected to be strong and powerful leaders in the public domain. Domestic service is a contradiction to these championed perceptions of masculinity, creating a figure that was contested in its very existence. To a certain extent, the position of manservants in the home challenged notions of masculinity and may partially explain the relatively low number of them compared to women.<sup>46</sup> Schwarz observed that contemporaries viewed manservants as “a flagrant example of degeneracy, which in turn was a product of the love of luxury that was lamentably but relentlessly spreading throughout the population”.<sup>47</sup> This was a view adopted by the state in 1777 when it imposed a manservant tax. The tax was applied on a sliding scale with one manservant costing of £1 5s. up to £3 each for the employer of eleven or more. The tax for manservants was much higher than female servants, which started at 2s. 6d. for a single servant and rising to 10s each for those employing three or more.<sup>48</sup> The reasoning for this was twofold. Economically, the state adjudged the role of a manservant to be limited; servants did not improve the economy as they did not make anything of any financial value therefore placing a fit young man in service was a waste of his economic potential. This was deemed unacceptable and an unnecessary extravagance on the part of the master’s family, and so a manservant was a luxury that, like others, should be taxed. Socially, men were assumed to be naturally superior to women in many ways making the dynamic between a manservant and his master particularly antagonistic when the master was a mistress. Davidoff argued that deference to mistresses contributed to a decline in manservants the 1870s and 1880s as women struggled to control them.<sup>49</sup> Manservants were expected to be deferent to their masters regardless of their sex creating an awkward social situation for *both* the master and servant who often struggled to navigate the difficult relationship. This dynamic shifted depending on the type of work the servant engaged in and the domestic space he worked within.

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<sup>46</sup> L. Davidoff et al., *The Family Story* (1999), p. 162.

<sup>47</sup> L. Schwarz, “English Servants and their Employers during the Eighteenth and Nineteenth Centuries”, *Economic History Review*, 52:2 (May 1999), p. 237.

<sup>48</sup> S. E. Brown, “Assessing Men and Maids: The Female Servant Tax and Meanings of Productive Labour in Late-Eighteenth-Century Britain”, *Left History*, 12:2 (Winter 2007), p. 13.

<sup>49</sup> *Ibid.*, p. 417.



Domestic servants operated in a wide variety of households across the country from small workshops to large country manors. However, contrary to popular perceptions upper-class families and larger establishments only employed a small percentage of the domestic workforce. The biggest employers of servants were small households that employed only one or two servants who completed all the domestic chores.<sup>50</sup> This radically altered the relationship between the master and servant, as those in smaller households would inevitably be closer due to physical proximity. Furthermore, which is where the definition of domestic service becomes complicated, craftsmen, artisans and retailers often employed apprentices, journeymen and assistants to work and live in their establishments.<sup>51</sup> Alongside their work-related roles, these servants were also expected to perform domestic duties normally associated with traditional service. According to Higgs, the manservant tax altered the total number of domestic servants and how they were tabulated in the census in two ways; masters stopped employing men and asked women to take on more roles to save money or a master might not notate his manservant as a servant but rather an apprentice to avoid the tax.<sup>52</sup> This ambiguity between a domestic servant and a working servant was incorporated into the criminal justice system, which deemed theft from a trade and theft from a master the same crime and categorised both under 'stealing from master'. The crime, therefore was defined by the defendant's job, but incorporated a wide variety of individuals from barmaids to all round maids, footmen to apprentices, gamekeepers to butchers. Despite the title, for domestic workers the friction between public and private prevailed.

Lucy Delap outlined the problems with characterising servant-keeping homes in terms of public and private in her work on late-nineteenth- and early-twentieth-century service:

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<sup>50</sup> M. Ebery and B. Preston, *Domestic Service in late Victorian and Edwardian England, 1871-1914* (Reading: Reading University, 1976), pp. 20 and 69. E. Higgs, *Domestic Servants and Households in Rochdale* (New York: Garland Pub. Co., 1986), pp. 53 and 66. P. Horn, *The Rise and Fall of the Victorian Servant* (Gloucester: Gill and MacMillan, 1975), p. 18. L. Picard, *Victorian London; The Life of a City 1840-1870* (London: Weidenfeld and Nicolson, 2005), pp. 120-130. S. Pooley, "Domestic Servants" (2009), p. 406.

<sup>51</sup> E. Higgs, "Domestic Servants" (1983), p. 208. L. Schwarz, "English Servants" (1999), p. 236.

<sup>52</sup> E. Higgs, "Domestic Servants" (1983), p. 208.

As a workplace within the home, domestic service is located ambiguously as neither private or public. Its prominence as a widely acknowledged ‘problem’ in British society illustrates the ways in which ‘private’ and ‘public’ fail to capture the complex social landscape of class and gender. Servant keeping houses were places in which authority was exercised, paid workers were engaged or fired, while simultaneously powerful discourses positioned it as a site of intimacy and privacy.<sup>53</sup>

Delap’s assessment of domestic service as a “workplace within the home” creating an ambiguous situation for both the servant and master is a theme that is explored throughout this chapter. Others have argued that domestic servants made the home more private as they acted as a mediator between the private space and domestic realm.<sup>54</sup> However, this chapter will build on the idea that instead of protecting the home they made it vulnerable to the intrusion of the public. The notion of separate private and public spheres was therefore, not only complicated by the intrusion of work-related activities in the home, but also the deviant actions of staff emphasising the vulnerability of the home to outside forces. For example, several defendants who were summoned to the Old Bailey acted with other conspirators either in the taking of the goods or selling them on. They built upon familial relationships and wider networks of criminality to fence or alter items they had stolen in attempts to evade detection. Gillis argues that these connections were more likely to be created by domestic servants in smaller households than those in larger households. Aristocratic households were more likely to move as the seasons changed dislocating servants before meaningful social networks could be made.<sup>55</sup> Lucy Delap echoed this sentiment by stating that masters were acutely aware of their staff creating relationships outside the home and even if these were innocent they feared their secrets would be divulged to the wider public. In efforts to create a “more individualistic and privatised domestic realm”, housewives were encouraged to take on more of the domestic chores to

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<sup>53</sup> L. Delap, “‘Campaigns of Curiosity’: Class Crossing and Role Reversal in British Domestic Service, 1890-1950”, *Left History*, 12:2 (2007), p. 56.

<sup>54</sup> L. Davidoff, *Worlds Between* (1995). S. Pooley, “Domestic Servants and their Urban Employers” (2009), pp. 405-429.

<sup>55</sup> J. R. Gillis, “Servants” (1979), p. 148.

reduce the threat of domestics in the home.<sup>56</sup> This fear added to the decline in domestic service entering the twentieth century. The irrational fear of the criminality of domestic servants was largely unjustified as will be demonstrated by the low incidence of crimes reported to the Old Bailey.<sup>57</sup> I will now explore how servants were caught stealing exposing common detection techniques and, in some cases, the foolishness of the defendant.

## **2.2 A sting or a fool? Detecting theft in the home.**

The home was a contested space in nineteenth-century London. The balance between a private domestic life and a public workplace was delicately struck by families and staff who worked and lived side by side. Yet the prevailing idea of an Englishman and his castle suggest there was a desire for privacy. *The Temple Bar*, for example, observed how homes were erected behind fences giving the illusion of privacy as “if there is anything a true-born Briton loves, it is to take his comfort in security from all intrusion. When other people eat, drink, and enjoy themselves in public, he wishes to be strictly private”.<sup>58</sup> Schlesinger made similar observations, noting that “every English house has its fence, its iron stockade and its doorway bridge”.<sup>59</sup> This desire led to the creation of middle-class and respectable working-class suburbs aided by the expansion of the railway network.<sup>60</sup> Porter noted that “once railways invaded, street after street went up, row upon row of houses”.<sup>61</sup> London literally stretched wrought iron tentacles far and wide “swallowing up green field after green field” giving inhabitants more space.<sup>62</sup> Respectability in the suburbs was predicated on what Bailey observed as the “bourgeois

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<sup>56</sup> L. Delap, “Housework, Housewives, and Domestic Workers; Twentieth-Century Dilemmas of Domesticity”, *Home Cultures*, 8:2 (2011), p. 192. Meldrum also argued that “increasing privacy within the household depended upon a growing distance between employers and servants”. T. Meldrum, *Domestic Service and Gender 1660-1750; Life and Work in the London Household* (Essex: Pearson Education, 2000), p. 70.

<sup>57</sup> T. McBride, *The Domestic Revolution* (1976), p. 107.

<sup>58</sup> Anon., “London, as it Strikes a Stranger” (Jun. 1862), p. 384.

<sup>59</sup> M. Schlesinger, *Saunterings In and About London* (1853), p.3.

<sup>60</sup> J. White, *London in the Nineteenth Century* (2008), pp.67-100.

<sup>61</sup> R. Porter, *London* (1994), p. 280.

<sup>62</sup> H. Mayhew and J. Binny, *Criminal Prisons* (1862), p. 13.

concern to maintain social distance”.<sup>63</sup> This was as important in working-class areas where respectable families would isolate themselves from their neighbours by avoiding doorstep gossiping.<sup>64</sup> Where possible wealthier families moved out of the slums into the working-class suburbs like Leyton, Willesden, Tottenham and West Ham.<sup>65</sup> By distancing themselves from the destitute and from each other with fences and wide thoroughfares, historical actors maintained privacy, and by extension respectability. This desire for privacy was displayed in the courtroom. By using the Old Bailey proceedings we can ascertain how thefts were detected and the measures masters adopted to protect their property. This reveals how individuals in the home interacted with their domestic environment and how perceptions of outside forces in the home directed investigations. The efforts of property owners reflected a desire to protect the privacy of the home and by extension their respectable status. It also provides a fresh perspective on the importance of privacy in maintaining a respectable status. There were two ways a thieving servant was uncovered: a random search or an organised trap.

The first and most common way to catch a servant was to simply search them. To do this a master had to first notice items were missing which could be difficult especially in workshops, pubs or kitchens where staff could take little and often. For example, a cook might take spare vegetables, or an apprentice tailor could take a few extra yards of material without the knowledge of their respective masters, if removed gradually over time. This might continue for years if servants were restrained, but greed was often the undoing of many of the defendants summoned to the Old Bailey. Edward Hughes, for example, was caught stealing 169 pieces of leather in February, a further 151 pieces in June, then another 642 pieces in the same month.<sup>66</sup> Once it was clear that items were missing, masters were then tasked with identifying who had taken the goods, whether to prosecute them and how to do so. Suspicion was linked to what items were stolen and the individual circumstances of each case, but the fear of the other in the home underpinned accusations. When an item went missing, be that an expensive ring or some loose coins, the staff were suspected first,

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<sup>63</sup> P. Bailey, ““Will the Real Bill Banks Stand Up?”” (1979), p. 340.

<sup>64</sup> E. Ross, ““Not the sort that would sit on the doorstep”” (1985), pp. 39-59.

<sup>65</sup> R. Porter, *London* (1994), p. 282.

<sup>66</sup> OBO, Edward Hughes, t18620616-625.

over family or even lodgers. This perhaps stemmed from the irrational fear of the criminality of domestic servants and sheds light on the difficult working dynamic between a domestic and their master. The lack of trust between the two parties, who lived and worked side by side, undermines the notion of the home as safe sanctuary from the outside evils of the world, instead depicting an environment of continued suspicion. An exemplar of this was discussed in the introduction to this thesis but I will raise it again here to further illustrate this point.

Thomas Criffield employed several bakers, a shop woman, an errand boy and a general maid to help run his bakery in south London in 1886. The accused, Sarah Beard, did not live with her master but the case reveals the extent a master might go to protect his home. Also, other servants did live in the home and would be subject to the same working conditions. The Criffields were said to be suspicious employers who left money out to bait their staff into stealing. This cat and mouse game came to a head when the Criffields had some money marked by a police constable in preparation for an elaborate sting operation. The money was placed in a purse and put into a wardrobe in a bedroom on the first floor - a room that was accessible to all members of the Criffields' staff - as a trap. The use of marked coins was not unusual, but the lengths the Criffields went to was. Not only did they place a purse in the wardrobe, they took a bell from the shop floor and hid it in the door to alert them to when one of their members of staff opened it. Once it became clear the money had been disturbed, instead of searching the suspect themselves, the Criffields called for the police constable, who found two marked florins on Beard's person.<sup>67</sup> Beard was found guilty but both the jury and the prosecution asked for mercy leading to her being sentenced to three months' hard labour.<sup>68</sup> The pleas for mercy were a reflection of both the small amount of money taken and I would argue the excessive measures the Criffields took; marking coins was a commonly used tactic but to use them in such a way was unusual, especially within a bedroom. By leaving the coins out and

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<sup>67</sup> Searching domestic servants was heavily contentious with issues such as property ownership and the right to privacy undermining the master's authority. This is explored in more depth later in this chapter with regards to the servant's box.

<sup>68</sup> OBO, Sarah Beard, t18860628-747.

almost enticing their staff to steal from them the Criffields were a clear example of the distrust of the other in the home and desire to protect it from criminality.

These strategies were more widely adopted on commercial premises like public houses. Henry Adams, for example, in July 1882 was suspected of stealing money from the tavern he worked in. The landlord, suspicious of his new barman, asked a detective sergeant to mark coins and send in various friends and family to purchase alcohol. The coins were later found on Adams, who stated he had simply borrowed them and had intended to pay them back; an excuse dismissed out of hand by the jury who found him guilty and sentenced him to eighteen months' hard labour.<sup>69</sup> The public house and the bakery are both examples of premises where the home and the work place overlapped, which caused tensions. The method of detection adopted by the master had an impact on both the verdict and the sentence handed down to the accused. The amount of money taken and, I would suggest, the reasonable measures adopted by the landlord without placing undue temptation in the way of Adams, led to a sentence that was six times longer than Beard's. There were other factors that influenced the sentence, as no two crimes are identical. Performance of social identities like gender and respectability in the courtroom converged with the nature of the crime site creating varied punishments. But we can see in everyday class interactions that distrust of the other and an element of attachment to the property at stake. It is impossible to know how many fruitless stings were set up and searches undertaken but by employing these methods masters signalled their intent to protect their property even if it meant offending those who lived under their roof. However, in some cases neither a sting nor a random search was required; the foolishness of the servant was enough to secure a conviction. Take for example the case of Sarah Keys.

On 13<sup>th</sup> August 1872 Keys was arrested for stealing a gold watch, a chain, two coins, a locket and a pair of earrings belonging to her mistress Agnes Bruce.<sup>70</sup> These were typical items to steal as they were small, easy to conceal and easy to fence which begs the

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<sup>69</sup> OBO, Henry Adams, t18820131-762.

<sup>70</sup> OBO, Sarah Keys, t18720819-624.

question how was she caught? Keys fabricated seeing a man in Bruce's bedroom who ran away dropping some of the items in the garden on his way out.<sup>71</sup> The mistress' mother, having sat in the garden all morning, disputed Keys' version of events. Keys was found guilty and sentenced to eight months' imprisonment. The events highlight the fluidity of the boundary between public and private space in domestic settings. The items were stolen from the most private and intimate room in the home- the bedroom. The position of the domestic servant in this space suggests that the ideological boundary between private and public was not always respected. Paradoxically, Keys' error in blaming a phantom man shows a lack of understanding that she was under constant surveillance even in a private setting. The domestic servant, therefore, presented a challenge to the private nature of the home. We have seen that despite the difficulties with detection servants were caught by employers protecting the privacy of their home. Keys was not stung by an undercover operation, nor was she seen taking the goods or worse caught with the items. She was caught because she was reckless. The measures masters adopted to catch their staff reflected the desire to maintain the home as a refuge from outside influences. The next section will ask who was indicted for 'stealing from master'? It will explore the impact that their gender, age and relationship with their employer had on the nature of the crime and treatment within the judicial system.

### **2.3 Who was indicted for 'stealing from master'?**

There were 132 reported cases of stealing from master in the years 1862, 1872, 1882, 1892 and 1902 with the volume of cases steadily declining from fifty-six in 1862 to eleven in 1902. This amounts to approximately five cases a month in 1862 to one in 1902 - a remarkably low number of cases when one considers the widespread fear of servant theft in the latter half of the nineteenth century. These figures support McBride's assertion that the fear of domestic criminality was unjustified. She argued that the fear was the result of their position in the home; "servants were considered to be the holders

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<sup>71</sup> Key's account was recanted by a police sergeant who interviewed her on the day of her arrest. Testimony of Wesley Tobit in *ibid*.

of a sacred trust... because of their physical proximity, however, employers were more sensitive to the possibility of crimes they might commit”.<sup>72</sup> Furthermore, due to the heightened sensitivities of masters, when a crime was committed by a domestic servant, they “took a particular resonance given that service traversed class boundaries: it brought the working-class world directly into the bourgeois home and hearth”.<sup>73</sup> The physical and ideological boundary between the classes was transgressed by domestic servants and resulted in conflict that sometimes, but rarely, ended up in the Old Bailey. The low incidence of stealing from master cases at the Old Bailey does not, however, reflect the actual incidence of the crime. Alongside the dark figure of crime, many stealing from master cases would have been heard at smaller local police courts as the Old Bailey only heard cases of importance such as theft of high value items. This chapter focuses on the Old Bailey rather than local courts to explore the master-servant relationship in homes that are rarely scrutinised. The majority of cases heard at the Old Bailey involved trade disputes, such as apprentices and craftsmen, stealing from their masters rather than the traditional domestic servant-master relationship. The rate of such thefts, as outlined presently, was relatively low, suggesting class tensions in the home were not as fraught as previously thought. The types of cases which reached the Old Bailey, reveals the profile of servants who helped themselves, or perhaps more accurately, the servants who were *accused* of helping themselves.

The first aspect of the defendant’s identity explored is the most visible in the courtroom - gender. Over the five sample years only 16.8 per cent of cases involved female defendants and in one year, 1892, not a single case involving a female defendant was recorded. It could be argued that the absence of a single case of female theft from a master in 1892 is not representative of the whole decade. There is merit to this argument but there is a clear decline in the number of cases of female defendants from 1862 to 1902 - ten cases were recorded in 1862 to one in 1902 suggesting the 1892 findings were not

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<sup>72</sup> T. McBride, *The Domestic Revolution* (1976), p. 107.

<sup>73</sup> M. Fahrni, “‘Ruffled’ Mistresses and ‘Discontented’ Maids: Respectability and the Case of Domestic Service, 1880-1914”, *Labour/Le Travail*, 39 (Spring 1997), p. 95. Fahrni’s work on Canadian domestic servants highlights the transatlantic nature of the difficulties in defining the private and public realm in late nineteenth and early twentieth century.



an anomaly. This is quite a surprising statistic for a sector that was both in reality and ideologically dominated by women. For example, in 1891 for every man who worked as a domestic servant there were twenty-two women. To make a more direct comparison, just 4 per cent of the domestic workforce in 1891 were male, but in the sample of ‘theft from master’ cases extracted from the proceedings 83.2 per cent of the cases were for male defendants. A superficial assessment of this data would suggest that male domestic servants were more likely to steal from their masters than their female colleagues but this is a flawed conclusion. A deeper analysis of this data is required to tease out the true meaning behind the figures and explain the supposed anomaly.

**Table 2.1 Defendants Indicted for ‘Stealing from Master’ at the Central Criminal Court.**

Year	Male Defendants			Female Defendants		
	Guilty	Not Guilty	Total	Guilty	Not Guilty	Total
<b>1862</b>	42	4	46	8	2	10
<b>1872</b>	22	3	25	6	0	6
<b>1882</b>	13	7	20	1	1	2
<b>1892</b>	10	2	12	0	0	0
<b>1902</b>	8	2	10	1	0	1
<b>Overall</b>	<b>95</b>	<b>18</b>	<b>113</b>	<b>16</b>	<b>3</b>	<b>19</b>

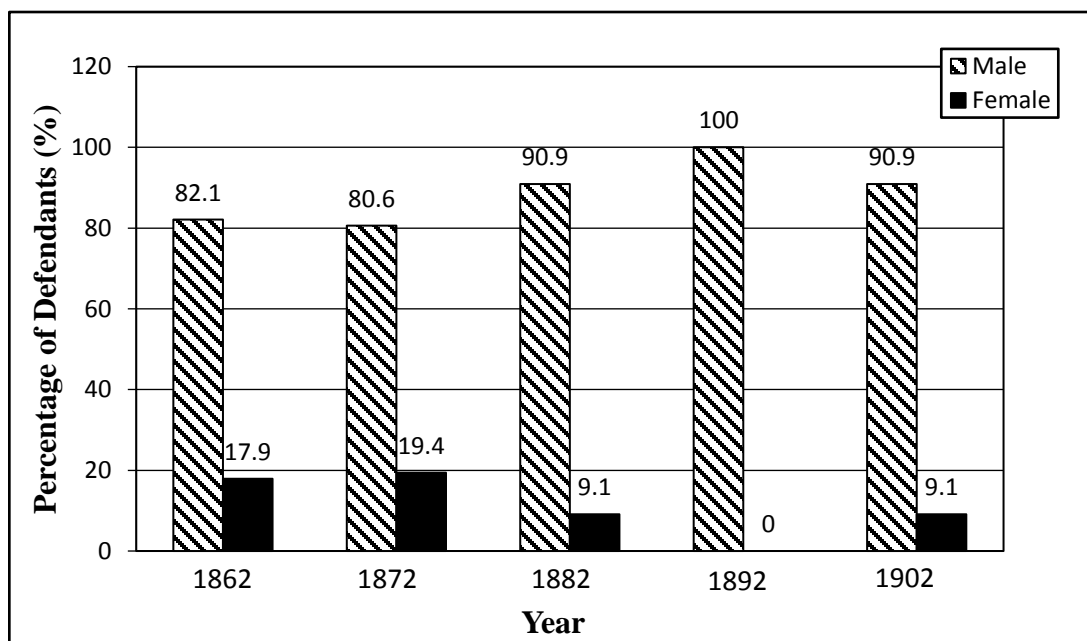
The first, and perhaps most obvious conclusion, is that a number of male defendants were not traditional domestic servants and were pulled from a much wider pool of employees. “If one were to add all the undetected thefts of everyone who worked for a master without necessarily living in his house, the weight would be overwhelmingly on the side of men”.<sup>74</sup> Beattie’s assertion assumes two things: firstly, men were more likely to steal and secondly only domestic servants in the traditional sense lived in the home. The evidence presented in this chapter refutes this claim, as the home was a workplace and living space for a multitude of individuals employed in a variety of trades; apprentices, craftsmen and retailers often lived in their workshops along with their masters in a similar arrangement as domestic servants. Take, for example, the case of Richard

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<sup>74</sup> J. M. Beattie, “The Criminality of Women (1975), p. 93.

Paynter a forty-year-old salesman brought before the Old Bailey for stealing a coat in 1862. He previously owned his own business but faced economic hardship and had to move in with his new employer Edward Groves. He was found not guilty due to a lack of evidence and released.<sup>75</sup> He had lived with another employer and was also indicted for stealing from him in April of the same year.<sup>76</sup> Paynter would have had more freedoms than a traditional servant which he exercised leading to these court dates. He was originally arrested for being drunk but when searched he had 122 pawn tickets on him. Pawning items was a legitimate form of credit for the working classes. One might pawn a coat one day and pick it up a few days later when they were paid but 122 tickets is an extraordinary number raising suspicions.<sup>77</sup> Ultimately these suspicions were unfounded but damaging, as it is not feasible he kept his job after this episode.

**Graph 2.1 Percentage of Male and Female Defendants Indicted for ‘Stealing from Master at the Old Bailey in the years 1862, 1872, 1882, 1892 and 1902 (%)’.**



<sup>75</sup> OBO, Richard Paynter, t18620303-380.

<sup>76</sup> OBO, Richard Paynter, t18620303-381.

<sup>77</sup> L. Mackay, *Respectability and the London Poor* (2013), pp. 19-44. B. Lemire, *The Business of Everyday Life; Gender, Practice and Social Politics in England, c.1600-1900* (Manchester: Manchester University Press, 2005). A. August, *Poor Women's Lives: Gender, Work, and Poverty in Late-Victorian London* (Virginia: University of Virginia, 1999), p. 72.

A second explanation for the over representation of men in the data sample, is that employers were more likely to *report* men than women. Men tended to work in the commercial sector of the home and stole items of greater economic value. Women, on the other hand, took household items that were not worth enough to be heard at the Old Bailey. This does not mean the objects had no value as will be shown in chapter four. Arson cases exposed an emotional attachment to material objects like books, but it was not their destruction that was important but the surrounding environment and threat to life. But in cases of stealing from master it was the value of the items that was paramount. One might therefore expect conviction rates for men and women to be different, but this was not the case. The conviction rate for *both* male and female defendants however was eighty-four per cent. Whilst this sample size is too small to make any sweeping assertions it provides an interesting prism through which to view Zedner and Weiner's competing theses.<sup>78</sup> Weiner posed that men were more likely to be found guilty as the state embarked on a civilising process penalising manly excesses. Zedner redressed this assumed bias by outlining how women suffered disproportionately longer sentences due to their gender. Women, as the moral protectors of society, were held to higher standards than men so when their behaviour was proven to be criminal they were considered to be doubly deviant.<sup>79</sup> I would argue that it is irresponsible to directly compare two cases focussing simply on the defendant's gender, as there are several factors that determine the length of sentence handed down to a defendant as no two cases are ever the same. This does not mean to say that gender has no place in a comparison, but rather this thesis would suggest, it is more complicated. For example, Zedner's theory that women, when found guilty, were treated more severely is both supported and undermined by this sample. Only two women were sentenced to more than twelve months, compared to twenty-eight men, suggesting it is in fact men who are dealt more severe sentences. However, the longest sentence was given to a woman, supporting Zedner's argument. Ursula Kelly, a twenty-six-year-old domestic servant employed by William Chidsey Lee, pleaded guilty in July 1872 to stealing money and a watch from her master. As this was her second conviction for a similar offence she was sentenced to seven years' penal servitude.<sup>80</sup> It could be

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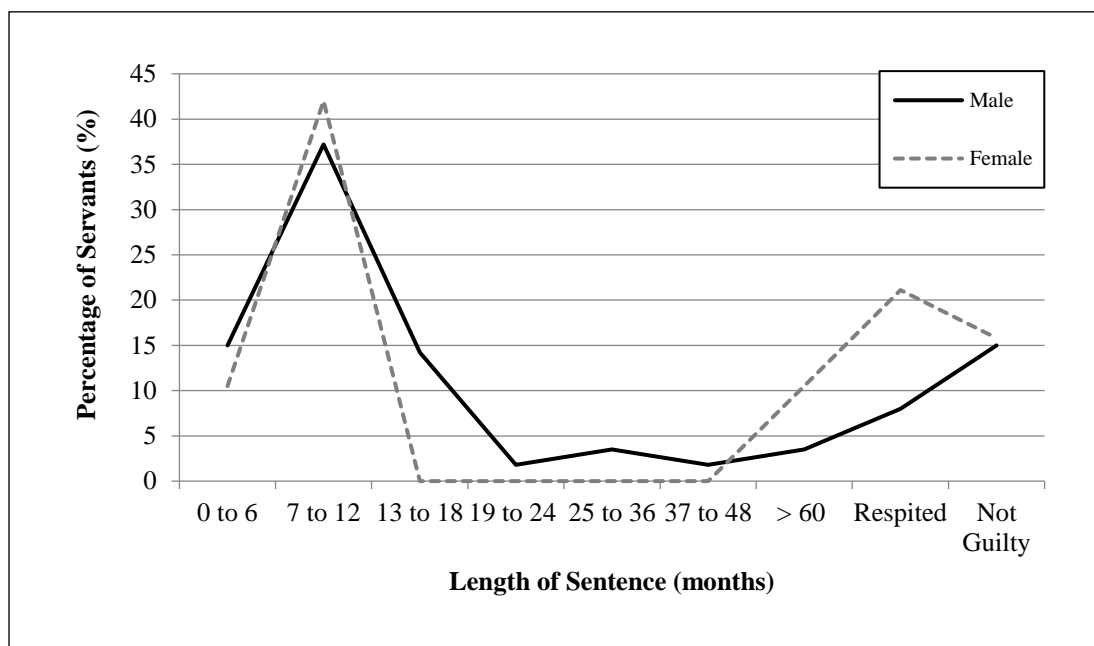
<sup>78</sup> M. J. Weiner, *Men of Blood* (2006). L. Zedner, *Women, Crime and Justice* (1991).

<sup>79</sup> L. Zedner, *Women, Crime and Justice* (1991).

<sup>80</sup> OBO, Ursula Kelly, t18720708-514.

argued in this instance, that it was not her gender that was the defining factor, but rather the fact it was her second conviction highlighting the difficulties of directly comparing criminal cases. Graph 2.2 illustrates the varying length of sentences for male and female defendants, but perhaps the best way to depict the differing perceptions of men and women is to present the case of Charles Meadows and Eliza Noakes in October 1862.<sup>81</sup>

**Graph 2.2 Sentence Length for Servants found guilty for ‘stealing from master’ at the Old Bailey in the years 1862, 1872, 1882, 1892 and 1902.**



Charles Meadows was a fifteen-year-old errand boy for William Blackmore in his butter and cheese shop on Church Street in Greenwich. Eliza Noakes, a friend of Meadows, was a married woman who lived locally but had no connection to the home in question. Blackmore noticed that he was missing stock and, under the guidance of the

<sup>81</sup> Another interesting point this analysis brings to light is the higher percentage of respited cases for women than men- 21.1 per cent of cases involving women had their sentences respited compared to eight per cent of men. A judge could respite the sentence for various reasons and finding the eventual sentence is very difficult. Some sentences were respited indefinitely therefore the defendant was, in effect, released whereas others were sentenced later. The trial of Isabella Martin, William Patten and Charles Kitching in 1882 is the best example of this and is discussed in more detail later. Isabella Martin is never re-sentenced whereas Patten and Kitching received their sentence a month later.

police, marked several bladders and had his premises observed. One day a police constable followed the young Meadows to Noakes' residence and found a bladder under a pile of rags. Her husband, according to Meadows, instigated the theft, but as he was not present when Noakes was found with the bladder, he could not be charged. This did not prevent the assassination of his character at the trial.<sup>82</sup> Noakes was found guilty but according to a brief article in *The Morning Post* Blackmore requested mercy for her "on the ground that he believed she had acted under the coercion of her husband, by whom he believed the boy had been seduced into the commission of the offence".<sup>83</sup> Even the prosecutor could not accept that Noakes acted on her own, rather, she was coerced by her husband. One could argue that nineteenth-century gender roles played a key role in this perception. There was minimal evidence against Mr Noakes. He was not the subject of the trial but due to preconceived gender notions he was deemed culpable. His wife was presumed incapable of making decisions on her own and due to her weak disposition easily manipulated by her husband. Mr Noakes, on the other hand, was assumed to be inherently criminal. Blackmore, however, was a generous man, as he not only requested for mercy for Noakes but also his servant Meadows:

The boy had been between two and three years in his (the prosecutor's) service, and until recently had conducted himself honestly, and with great industry. His parents were decent, hardworking people, with a large family, and if the court would pass upon him a lenient sentence, he would again take him into his service and endeavour to reclaim him to his former habits ... the recorder sentenced ... the boy to four days' imprisonment, telling him he ought to show by future good conduct his extreme gratitude to a very kind and feeling master.<sup>84</sup>

The sympathetic reaction of Blackmore suggests that he set up the sting to catch the thief unaware of the fact it was Meadows - a boy for whom he had a strong affection. It is possible, and I would suggest likely given his pleas for mercy, that if Blackmore had been aware to the threat from within he may have simply reprimanded Meadows without

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<sup>82</sup> OBO, Charles Meadows and Eliza Noakes, t18621027-1111.

<sup>83</sup> "Central Criminal Court", *The Morning Post*, 31 Oct. 1862.

<sup>84</sup> Ibid.

inviting the intrusion of the police, court and press in his private business. As is the case, Blackmore was left to plead for mercy in a way that divulged as much about his relationship with the boy, as his perceptions of respectability. In support of his employee, Blackmore chose to emphasise his honesty, industry, record of service and family background. The outcome of the trial suggests that these characteristics were also valued by the judge, with the wider implication being that a defendant's character was as important as the act he had engaged in. Furthermore, Blackmore's knowledge of Meadow's family reveals a relationship that extended beyond a work contract. The efforts of Blackmore to protect and teach his employee despite his betrayal are more symptomatic of a parent, rather than an employer suggesting he adhered to an emotional model of masterdom. Their relationship highlights the familial bond that often grew between a master and their servant. It could be argued that Blackmore's paternalistic actions were due to the young age of his servant, although this courtesy was not always extended. For example, in November of the same year Mary Hunter, "a lady of property", prosecuted her sixteen-year-old domestic servant with prejudice.

Hunter hired two sisters: sixteen-year-old Sarah Oldfield and nineteen-year-old Jane Haywood as domestic servants in her property in Brixton. It is unclear why the sisters have different surnames but they allegedly stole blank cheques and twenty pounds in cash.<sup>85</sup> *Lloyd's Weekly Newspaper*, a working-class Sunday publication that was prone to sensationalism, noted that Haywood was twenty and Oldfield was only nineteen contradicting the detail in the proceedings.<sup>86</sup> It is not unusual for journalists to misquote the age of defendants but this was not always an innocent mistake. The journalist prior to writing the article would often know the verdict and sentence, which influenced the tone and direction of their article. Youth is associated with innocence and vulnerability, whereas there is a sense as people age they should understand the role society expects them to play. Therefore, if a defendant had been found guilty their age could creep up in the press coverage of the trial. This was not limited to stealing from master cases, but also occurred in arson cases, which are presented in chapter four. On the swipe of a pen and

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<sup>85</sup> OBO, Jane Haywood and Sarah Ann Oldfield, t18621124-92.

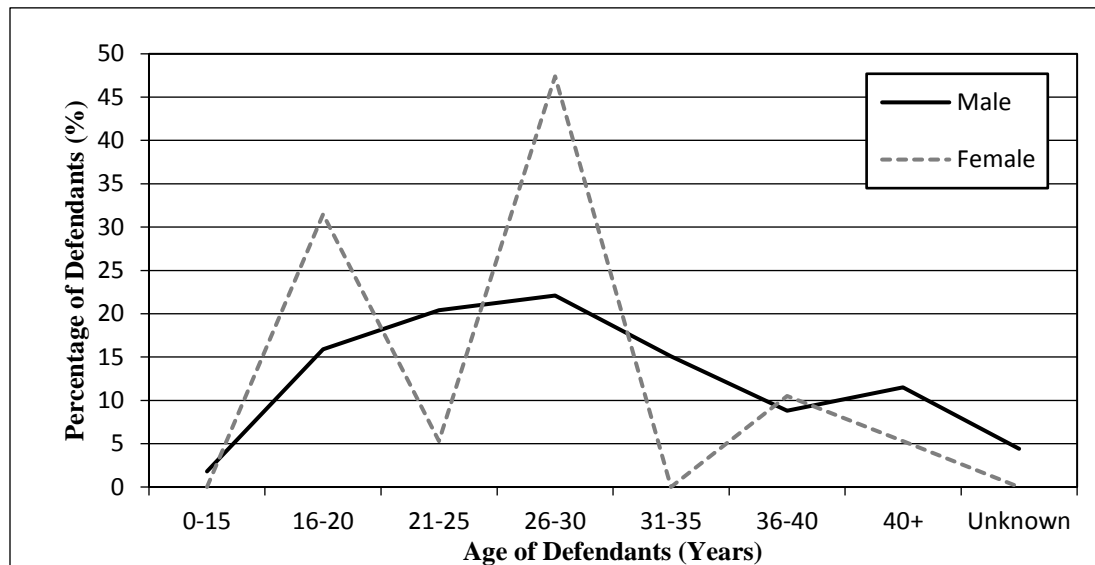
<sup>86</sup> "Extraordinary Case of Forgery", *Lloyd's Weekly Newspaper*, 23 Nov. 1862.

the slam of a printing press a defendant could be presented as a young innocent girl or a manipulative young woman. Jane was indicted for a second time with their brother, William, for forgery and cashing in the cheques at surrounding businesses.<sup>87</sup> Interestingly, William's wife was formerly in the service of Hunter and it could be assumed that she gave them a good character leading to their employment. With this in mind, one might expect Hunter to vouch for her servants, as she had a relationship with the family and she willingly employed multiple members. Yet her evidence given at the trial showed no affection towards her staff, and at no point did she plead for a lenient sentence in the same vein as Blackmore, despite Oldfield's young age. It is difficult to assess why Blackmore and Hunter reacted in different ways, as we cannot access their emotions, but there are differences between the cases that may have led to this. Firstly, the disparate value of the goods should be considered. Meadows stole some lard and one bladder, whereas the Haywoods and Oldfield stole £20 and five blank cheques with a possible limitless value. The greater the value of goods, the greater the sense of betrayal, making it difficult to forgive the accused, regardless of their age. Secondly, Meadows was influenced by an outside source, but the Haywoods and Oldfield were only influenced by each other. Blackmore could apportion blame for Meadows' behaviour to external factors - a luxury not afforded to Hunter who had been betrayed by a family she had trusted. The contradictory actions of Blackmore and Hunter suggest that although age might have been a factor, it should not be considered in isolation.

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<sup>87</sup> OBO, Jane Haywood and William Hayward, t18621124-93.

**Graph 2.3 Age of defendants indicted for ‘stealing from master’ at the Old Bailey in 1862, 1872, 1882, 1892 and 1902.**



Male defendants were more likely to be aged from twenty-one to thirty years old, whereas female defendants were visible in high numbers in both their teens and late twenties. King argued, in his work on eighteenth-century female offenders in London, that women were more susceptible to accusations of theft in three key life phases: when they moved away from their family for work in their early life, during the upbringing of their offspring in their midlife and, if widowed, in old age.<sup>88</sup> This argument holds weight in the nineteenth century and aspects of it can clearly be seen in graph 2.3, whereby there are definitive peaks in offending in early life but King’s observations become more complicated when we assess the evidence for midlife and late life offenders. For example, only approximately fifteen per cent of female defendants were over the age of thirty-six. King suggests female criminality rose in later life if the woman was widowed, but it was unusual for a widow to be employed as a domestic servant, therefore removing the opportunity to steal from their master. Furthermore, the life cycle of a woman in domestic service dictated they left the profession when married; it was expected that once a servant

<sup>88</sup> P. King, “Female Offenders, Work and Life-Cycle Change in Late-Eighteenth-Century London”, *Continuity and Change*, 11 (1996), pp. 61-90.



married they would retire and use the skills they learnt as a domestic servant to, in effect, serve their husband and bring up their own children.<sup>89</sup> It should also be noted that domestic servants tended to marry later in life accounting for the rapid decline in convictions in the early thirties rather than early twenties as they began leaving the profession. However, this explanation does not apply for the rise in offending between twenty-six and thirty years old. King suggests that this rise could normally be attributed to a woman's need to feed her children, but this is not a factor here. I would argue, therefore, that the rise in indictments for twenty-six to thirty-year olds was not a reflection of their family situation, but rather their position in the home. It can be reasonably assumed that servants were more likely to steal at this point in their lives due to their position in the household, both in terms of access and knowledge of the intimate every day workings of the property. Elder servants would have enjoyed a greater level of trust and probably held a higher position than their younger counterparts, giving them greater access to valuable items. Furthermore, their experience gave them the ability to pick the most valuable items and engage with the second-hand goods market to fence them. The evident peaks in offending for women in their late teens and late twenties are not, however, a trend reflected by their male counterparts.

Male criminality is more readily associated with the excesses of young men who choose violent ways of performing their masculinity.<sup>90</sup> There was no *one* way to be a man but several competing characteristics that changed depending on the audience and the environment a man was acting within. We will see in the next chapter how gamekeepers defined their masculinity in terms of physicality and conflict, but respectable men in London were encouraged to show restraint. Davies argued that young men turned to crime as other forms of masculinity were out of their reach such as getting married, providing for a family and having a stable job.<sup>91</sup> This is refuted by the incidence of male theft from master cases in this sample as only 38.1 per cent of defendants were under the age of

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<sup>89</sup> For an interesting discussion of the similarities of the servant/master and husband/wife relationship see L. Davidoff, "Mastered for Life" (1974).

<sup>90</sup> C. Emsley, *Hard Men* (2005). M. J. Weiner, *Men of Blood* (2004). J. E. Archer, "'Men Behaving Badly'?" (2000), pp. 41-54.

<sup>91</sup> A. Davies, "Youth Gangs" (1998), pp. 349-369.

twenty-five. The explanation for this inconsistency can be found in the non-violent nature of the crime and perversely the desire to provide financially for a family in later life. Davies' thesis is based on violent gangs, which does not align with stealing with master cases, as taking scrap pieces of metal or a coat was not a violent act yet the life cycle of the defendant did alter the incidence and reporting of crime. There is no way of knowing how many servants were not reported and for what reason, but age not only affected how a defendant was presented but to a certain extent what items they choose to steal.

This sample is not exhaustive but there are some interesting trends worth highlighting. The profile of a domestic servant accused of 'theft from master' was more likely not to be a domestic servant who maintained the home but rather an apprentice or shop worker. They were usually middle-aged men who crossed the boundary between acceptable perks of the job and theft. Of course, there were several examples of female domestic servants who transgressed, but they formed the minority of criminal proceedings for 'theft from master'. We have seen how gendered identities and age complicate the master's decision to prosecute or request mercy. Youth and femininity suggested vulnerability to manipulation providing defendants with an excuse for their behaviour. The clamour to label domestic servants as inherently criminal was not reflected in those who were prosecuted, as employers were seemingly reluctant to engage with the system. It was comparatively easier to fire a servant or correct him or her rather than go through the arduous process of introducing the state criminal justice system into one's home. The personal expense was unworkable for many employers who simply wanted their house to return to normal working order. However, craftsmen and shop owners who were focussed on their profit margins were more eager to prosecute their employers as it affected them financially, suggesting that money was a prime motivator. These cases were more likely to be heard at the Old Bailey than local police courts due to the higher value of the items stolen by men than their female counterparts. We now turn our attention to these items exposing the spatial configuration in which they were taken from.

## **2.4 From Petticoats to Cutlery; The Prizes of Petty Pilfering**

On 29<sup>th</sup> January 1872 a thirty-nine-year-old woman, Mary Ross, was brought before the Central Criminal Court, accused of stealing a petticoat and other items from her master William Ulrich. Despite being Ross' master for six months William Ulrich was not present at the trial but his wife, Mary Grace Ulrich, was the prosecutor's star witness. The case was mounted after Mrs Ulrich dismissed Ross for "impertinence" and refused to let her leave without emptying out her box. Domestic servants' boxes were a site of contestation, as it was ambiguous who owned the box and who was entitled to look inside it. Masters believed that as the box was in their property they had every right to search it, whereas domestic servants would vehemently oppose this as they considered the box and its contents to be theirs and private. Hamlett noted that representations in novels suggested that masters forfeited their servants' trust if they opened their boxes, as it was their only site of privacy.<sup>92</sup> The invasion of Ross' privacy is more acute when it is revealed it was the result of a disagreement rather than any suspicion she had acted criminally. Mrs Ulrich stated that she had "missed a large quantity of house linen" but she had no reason to suspect Ross. The box, therefore, was searched due to a disagreement rather than suspicion of criminal behaviour.<sup>93</sup> Ross resisted, so a policeman was called who searched the box on the direction of the master. In this instance the wishes of the servant were ignored suggesting the hierarchy in the home was respected and enforced by outside institutions. He searched the box and found a plethora of household goods that Mrs Ulrich claimed to be hers: towels, brush, a child's dress, some embroidery, a child's pinafore and a petticoat.<sup>94</sup> Ross argued that the items had found their way into the box when the family moved but the jury dismissed this as the items had been used since. Bizarrely, after dismissing, accusing, searching and ultimately prosecuting Ross, Mrs Ulrich recommended mercy to the judge. As a result, she was sentenced to just two months'

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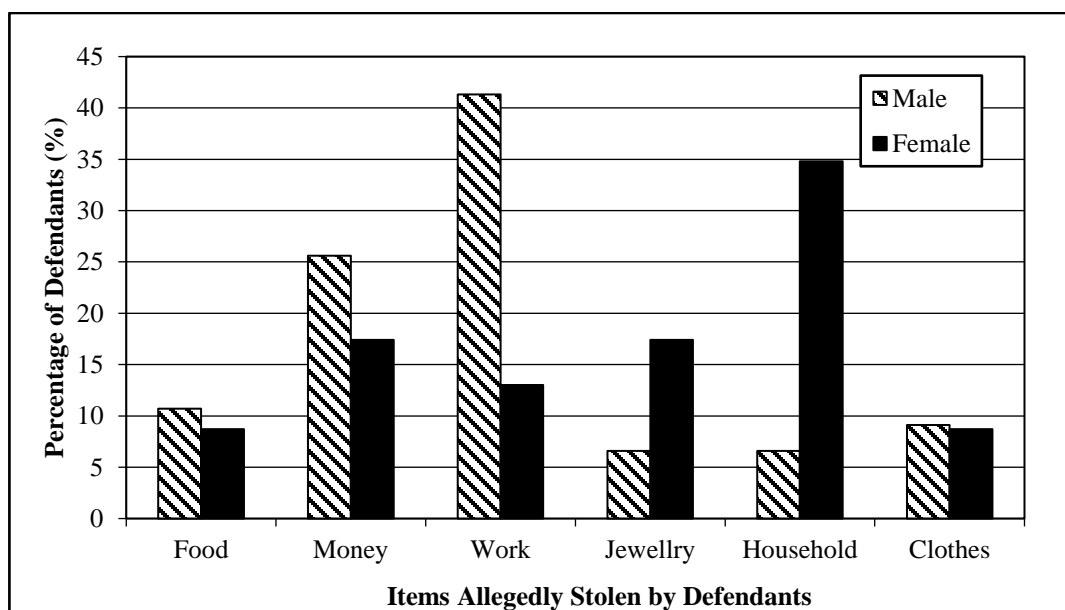
<sup>92</sup> J. Hamlett, *Material Relations* (2010), pp. 59-60.

<sup>93</sup> Testimony of Mary Grace Ulrich in OBO, Mary Ross, t18720129-219.

<sup>94</sup> It is unclear why Ross stole children's clothing - perhaps her defence statement had an element of truth or the dress and pinafore were for a friend or family member.

imprisonment.<sup>95</sup> The items Ross stole were fairly typical of female domestic servants who were more likely to take household objects as seen in Graph 2.4.

**Graph 2.4 Items allegedly stolen by servants indicted for ‘stealing from master’ at the Old Bailey in 1862, 1872, 1882, 1892 and 1902.**



The items stolen by servants reflect their position in the home and in some cases wider criminal networks. They vary greatly but fit into six categories: food, money, work related items (such as cloth), jewellery, household items (cutlery, candlesticks et cetera) and clothes. D’Cruze and Jackson argue that female thieves were more likely to steal household items as they understood which items were of value, had access and knew how to hide them. For example, textiles such as tablecloths could be converted into clothing making it difficult to track back to the original item.<sup>96</sup> Women were more likely to steal household goods than male defendants who instead stole items related to their trade. For example, in 1872 Robert Lane stole iron hurdles from his master Joseph Stainton. Lane’s position was like female domestic servants in that he understood the value of the iron and had access to it because he was a gardener.<sup>97</sup> The circumstances for women stealing

<sup>95</sup> OBO, Mary Ross, t18720129-219.

<sup>96</sup> S. D’Cruze and L. A. Jackson, *Women, Crime and Justice in England Since 1660* (London: Palgrave MacMillan, 2009), pp. 32 and 46.

<sup>97</sup> OBO, Robert Lane, Henry Styles and Alexander Stradling, t18720819-625.

household goods and men taking items related to their trade were similar; both were related to their occupation meaning they had the knowledge and contacts to sell the items on. Yet other historians, such as Fahrni and Delap, have argued domestic servants were more likely to take food and clothing for every day survival.

Fahrni's research on Canadian domestic servants suggests that "thefts from the employer's household were generally articles of clothing".<sup>98</sup> In addition, Delap has revealed cases of servants taking or borrowing their master's clothes to dress above their station.<sup>99</sup> Domestic servants did not have much disposable income to spend on clothing and might take their masters to assimilate into higher social circles but the cases heard at the Old Bailey did not reflect this. I would suggest there are three reasons for this. Firstly, as referenced previously, only the most serious cases were heard at the Old Bailey. Secondly, there was a fine line between theft and the acceptable perks of the job, which was drawn differently depending on the wishes of the master. For example, cooks and kitchen staff often took extra food from suppliers as a thank-you for their business which many masters either willingly ignored or were unaware of. Finally, items such as food were easy to hide due to their perishable nature. It is incredibly hard to prosecute someone with no evidence. Therefore, I would argue that the cases heard at the Old Bailey do not necessarily reflect everyday cases of theft from master, but rather what contemporaries deemed as extreme cases - normally high value items or a persistent record of offending. Yet the evidence does reveal that the items stolen by both male and female defendants were ultimately determined by access and knowledge. Servants stole items that were easy to access, transport and hide. London was the perfect hub to move on stolen items with 'no questions asked' and they were often passed on to an intricate network of second hand dealers and pawnshops. Several defendants in this study utilised their knowledge of this network to quickly move on stolen items. In the following section, the case of Isabel

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<sup>98</sup> M. Fahrni, "'Ruffled' Mistresses" (1997), p. 91.

<sup>99</sup> L. Delap, "'Campaigns of Curiosity'" (2007), pp. 33-63.

Martin will be discussed alongside those of Andrew Ohrland and Philipp Meckling. In Martin's case alone, seven different pawnbrokers were called as witnesses.<sup>100</sup>

## **2.5 The Trials of Ohrland, Martin and Meckling- a Comparative Study.**

This chapter concludes with a comparative study of three cases of stealing from master. The first defendant, Andrew Ohrland, was an apprentice who was found guilty of stealing silk fringes from his master, Silas Edmonds, on Noble Street near St. Paul's Cathedral in August 1872.<sup>101</sup> The second case involved a domestic servant, Isabella Martin, and two assailants in Kensington who were found guilty at the Old Bailey in January 1882.<sup>102</sup> The final defendant, Philipp Meckling, was a twenty-seven-year-old foreign domestic servant falsely accused of stealing cutlery from a boarding house run by the Rumbles, mother Mary and sisters Ada and Eva, at the turn of the century in Clapham Common.<sup>103</sup> The trials of Ohrland, Martin and Meckling will be explored and compared to illustrate the importance of the position of the servant in the household, their level of trust and their subsequent treatment in the courtroom. Each case is from a different decade and a different domestic situation, and the cases also reveal the roles of gender, age and ethnicity in this domestic crime. The comparison will demonstrate that although each case is unique there are similarities one can draw between individual cases of stealing from master. In particular, the servant's role in the household as a whole, the level of trust between servant and master, and the spatial position of the servant in the home were all determining factors. This study will begin with comparing the profile of each defendant, their domestic setting and how their position in the home impacted on the crime they committed. The comparison will then progress on to the nature and structure of their trials including who stood as witnesses, the evidence offered and the eventual verdict. In

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<sup>100</sup> Pawnbrokers often testified at trials but the number summoned to provide evidence for this case is particularly high. OBO, Isabella Martin, Matilda Biggs, William Charles Patten and Charles Kitching, t18821120-59.

<sup>101</sup> OBO, Andrew Ohrland and William Lasser, t18720108-146. The second defendant, Lasser, was charged for receiving the silk fringes.

<sup>102</sup> OBO, Martin et al., t18821120-59. Patten and Kitching were charged for stealing the items along with Martin and Biggs who were charged for receiving the stolen goods and selling them on.

<sup>103</sup> OBO, Philipp Meckling, t19020602-470.

particular, cases will be used to explore the trust relationship between master and servant, and the way in which social identities both shaped the nature of these crimes and were used in the courtroom. The section will conclude by illustrating how the home, as both a spatial and psychological construct, shaped the nature of the crime and how the crime itself changed the nature of the home from a domestic private space to one open to the inspection of the police, the jury and the public.

Previous discussion has utilised evidence from the Old Bailey proceedings but has not directly compared the nature and structure of the trials. Each entry into the proceedings includes the defendant's name and age, the prosecutor's name, the alleged crime, verdict and sentence. Many entries also detail witness testimonies and defence statements, which allow us to comprehend the nature of the crime and in what context it was committed. Frost in her work on breach of promise noted that the courtroom was a melodramatic setting and the trial followed a similar script.<sup>104</sup> Records of the trials, however, vary. The three trials that have been compared are indicative of the fruitfulness and frustrations of using the proceedings. Martin's and Meckling's trial proceedings are full of rich detail and witness testimonies from household members and the police to set the crime of stealing from master into the context of the internal dynamics of the home and the local community. Ohrland's case, on the other hand, is a fine example of how brief some entries are;

146. ANDREW OHRLAND (17), and WILLIAM LASSER (25), PLEADED GUILTY to stealing and receiving 36 yards of silk fringe, of Silas Edmonds, the master of Ohrland— *Judgment Respited*.<sup>105</sup>

However, Ohrland's case has not been consigned to the historical scrap heap as it was covered extensively in the press. Coverage of the Old Bailey was prevalent but repetitive. The same story was often reprinted in the provincial press as they had fewer resources to send their own journalist. Ohrland's case, including witness statements, legal arguments

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<sup>104</sup> G. S. Frost, *Promises Broken* (1995), pp. 9 and 26.

<sup>105</sup> OBO, Andrew Ohrland, t18720108-146.

and the eventual sentence (twelve months for Ohrland and five years for Lasser), was printed in at least four different newspapers; *The Morning Post*, *The Standard*, *The Huddersfield Chronicle and West Yorkshire Advertiser* and *Reynold's Newspaper*.<sup>106</sup> *The Huddersfield Chronicle and West Yorkshire Advertiser's* article is an example of the dissemination of information from the metropolis to the wider provinces. The story was picked up because the prosecutor was attempting to set a new legal precedent. The article entitled, "Felons' Goods- Novel Application", describes the prosecutor's request for money confiscated from Lasser's premises as compensation for items stolen from him. It was a "novel application" as he requested remuneration not just for the items at the centre of the case, but additional items allegedly stolen by Ohrland and sold to Lasser in the past.<sup>107</sup> The judge refused his request but stated Lasser would be forced to pay the prosecutor's legal costs. The coverage of this case was by no means unusual. By 1872 the printed press had greatly expanded in the aftermath of the removal of the taxes on knowledge. The expansion of the press encouraged the proliferation of crime stories and a new form of journalism. Editors were searching for interesting stories to compete in a new market and the performance put on at the Old Bailey was very popular.<sup>108</sup> Defendants and witnesses performed on a stage in front of an audience in the room but also wider society who would later digest their routine in print. Their words, therefore, held a wider cultural meaning reflecting dominant conceptions of social identity and criminality.

The evidence offered in trials of defendants accused of stealing from master varied from eye witness testimonies to the defendants being caught with the stolen items. In Ohrland's case he was spotted by a local detective watching the premises, presumably on the request of Edmonds, selling silk fringe to Lasser. The detective followed Lasser for a short distance and took him into custody. Whilst he was in custody his lodgings in

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<sup>106</sup> "Central Criminal Court. -Tuesday", *The Morning Post*, 31 Jan. 1872. "Central Criminal Court, Jan. 30", *The Standard*, 31 Jan. 1872. "Felons' Goods. - Novel Application", *The Huddersfield Chronicle and West Yorkshire Advertiser*, 3 Feb. 1872. "Central Criminal Court", *Reynold's Newspaper*, 4 Feb. 1872.

<sup>107</sup> "Felons' Goods. - Novel Application", *The Huddersfield Chronicle and West Yorkshire Advertiser*, 3 Feb. 1872.

<sup>108</sup> L. Brown, *Victorian News* (1985). M. Hewitt, *The Dawn of the Cheap Press Victorian Britain* (2014). J. Rowbotham and K. Stevenson (eds.), *Criminal Conversations* (2005). C. A. Casey, "Common Misperceptions" (2011), pp. 367-391. A. Walker, "The Development of the Provincial Press in England c. 1780-1914", *Journalism Studies*, 7:3 (2006), pp. 373-386.



Whitechapel were searched and forty-five pounds in cash as well as “136 cards of fringe” were apprehended.<sup>109</sup> This was the only evidence offered in the trial, which instead focused on the legal processes involved in compensating the prosecutor for his losses. One should note that both Lasser and Ohrland pled guilty so the need to present convincing evidence was limited. The level of evidence required becomes more complicated when one or more of the defendants pleaded not guilty as in the case of Martin - she was indicted alongside other defendants who all pled not guilty, apart from Patten. The evidence presented was overwhelmingly designed to prove Martin, Kitching and Biggs’ guilt not Patten’s. Therefore, the nature and emphasis of the evidence shifted away from Patten.<sup>110</sup> The trial began with evidence from Anderson then onto eyewitness testimonies from the gate-keeper of Lineden Gardens and the onsite policemen. The multitude of people involved in a simple criminal act from detection to punishment demonstrates how individuals from different social backgrounds engaged with one another. These relationships were not always peaceful but fraught with tension.

One of the major contrasts that emerges between the three case studies are the differing relationships between the master and the servant. Bailey asked in 1979 what were the sites and occasions of class encounters in individual trajectories of daily life? Here we see three very different social encounters that are inherently classed due to the economic relationship between the parties.<sup>111</sup> The site of class encounter is the home, which brought with it an emotional freight that sometimes developed into conflict but also friendship. Martin’s case exposes a softer almost friendly relationship between the master and the servant. Her master, Robert Anderson, was a successful barrister who had made his way up from his Irish roots to work as a secretary to the Police Commissioner in the Home Office. His home life was a picture of perfect domesticity; a wife, four sons and an entourage of servants all living under one roof at 39 Lineden Gardens.<sup>112</sup> In August 1882 he took a family holiday and left his twenty-year-old cook, Isabella Martin, in charge of

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<sup>109</sup> “Central Criminal Court. –Tuesday”, *The Morning Post*, 31 Jan. 1872.

<sup>110</sup> OBO, Martin et al., t18821120-59.

<sup>111</sup> P. Bailey, ““Will the Real Bill Banks Stand Up?”” (1979), p. 348.

<sup>112</sup> PRO, *Census Returns of England and Wales, 1861*, Class: RG 11; Piece: 28; Folio: 103; p. 34; GSU roll: 1341006.

his household. There were no male servants, but they did employ a servant ten years older than Martin, who could have been given the responsibility of running the household in the Andersons absence.<sup>113</sup> However, from Robert Anderson's witness statement one can infer that Martin's continuous and loyal service for four years was a more important factor in his decision than the servant's age. He alluded to a familial bond between them through which he confessed to having "confidence" in her.<sup>114</sup> His actions, unlike the earlier example of the Criffields, reveal a degree of trust between the two parties as he gave her the responsibility of managing and maintaining his home whilst he was away. There is no indication as to whether this was the first time she was left in charge but it was definitely the last. Anderson's home was broken into with Martin allegedly opening the door to her friends Patten and Kitching and allowing them to take any items they wished. Anderson's decision to leave Martin in charge led to the crime because it gave her access and the authority to silence the other members of staff.

Testimony from the gate-keeper of Lineden Gardens stated that the robbery was discovered on 24<sup>th</sup> September, but Martin said that the theft in fact occurred on the 24<sup>th</sup> August - a whole month before the crime was discovered - but she was too embarrassed to report it. The number of items stolen (valued at £100) and the size of the home make it implausible that the other servants were ignorant to the theft. Furthermore, in one glance the gatekeeper noticed that the paper covering furniture in the home had been disturbed then on closer inspection it was clear that the house had been ransacked with boxes "busted" open and drawers strewn about the room. It is hard to see how Martin's colleagues could have remained unaware of this.<sup>115</sup> These events tend to suggest that Martin not only had the confidence of her employer but also her fellow employees who trusted her and possibly helped cover up the crime in fear for their own jobs. Martin was

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<sup>113</sup> The 1861 census stated that Anderson employed 4 domestic servants: Isabella Martin (aged 26) as a cook, Harriet Gislingham (aged 20) and Maud Minns (aged 18) as general servants and a nurse, C. Haywood (aged 32). Miss Haywood was employed to look after Anderson's four very young sons aged between new born and six years old.

<sup>114</sup> Robert Anderson's testimony in OBO, t18821120-59.

<sup>115</sup> George Tinsley Witness testimony in OBO, Martin et al., t18821120-59. The fact that paper was used to cover furniture suggests servants were not permitted to use certain rooms in the house whilst their master was away. One could assume that this applied to all rooms besides the kitchen and servants quarters highlighting the spatial restrictions upon servants in their home even when their masters were away.

the most skilled domestic servant in the household as she was employed as a cook earning her seniority over her peers. Combined with Anderson's faith in her Martin was in a very privileged position that she wilfully abused for monetary gain. She was able to take the items and either dupe her peers or convince them not to report her. Despite the unsavoury ending there was a positive relationship between the master and servant for a considerable length of time. This was not always the case.

Philipp Meckling, a German born domestic servant who spoke very little English, found himself under the service of the Rumbles in April 1902. He agreed to stay for 18 months, but on the 21<sup>st</sup> May he became disillusioned and left in search for "a better situation".<sup>116</sup> The Rumbles were a small family of adult women, consisting of a sixty-one-year-old widow and mother, Mary, and two sisters, Eva and Ava, the latter being noted as the prosecutor in the trial.<sup>117</sup> At the turn of the century it was perceived that finding *good* help was becoming increasingly difficult due a diversification of the market. Numbers of domestic servants increased in this time from 1.3 million in 1851 to 2.6 million in 1911 but demand was high so domestic servants had more freedom to pick an employer. They could also move out of the domestic service completely into factory work or the booming retail sector.<sup>118</sup> It was this that led Eva, the younger sister, to employ Meckling through an agency. They were persuaded by their doctor to "try a foreigner" but they never trusted him.<sup>119</sup> When Meckling left the premises on the eve of the 21<sup>st</sup> May the Rumbles found seven spoons and eight forks missing as well as a cash-box kept in a secretaire in their mother's room. They instantly accused Meckling regardless of the fact he was not found with the items on his person on his return or a pawn ticket, neither was he seen by any of the Rumbles or their solitary lodger at the time, Mr Nicholls, taking the items.<sup>120</sup> Their suspicion was built upon two things. Firstly, that he was foreign and as such was always under suspicion. Secondly, he was not a member of the family. It should be noted that

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<sup>116</sup> Defence Statement in OBO, Philipp Meckling, t19020602-470.

<sup>117</sup> PRO, *Census Returns of England and Wales, 1902*, Class: RG13; Piece: 460; Folio: 49; p. 3.

<sup>118</sup> J. Benson, *The Working Class in Britain 1850-1939* (London: I. B. Tauris, 2003), pp. 23-24.

<sup>119</sup> Eva Rumble's testimony in OBO, Philipp Meckling, t19020602-470.

<sup>120</sup> A point that proved decisive, alongside his respectability, in the trial whereby he was found not guilty and acquitted of all charges. OBO, Philipp Meckling, t19020602-470.

neither was Mr Nicholls but as Meckling was both a domestic servant and foreign his assumed guilt was far greater.

Ada and Eva Rumble consistently referred to Meckling as “the prisoner” showing little or no familiarity with the defendant. Evidence from the trial suggests that the defendant spoke minimal English, making communication between the defendant and his masters very difficult. It is noted at the beginning that all evidence was translated for the defendant and the sisters. Both make reference to his poor English and state that they taught him basic signs to get by. This does not paint a picture of perfect domestic bliss and may go some way to explain why Meckling, only one month into his agreed eighteen-month stay, went in search of a better situation.<sup>121</sup> In contrast to this Robert Anderson’s tone is one of familiarity and warmth. He refers to Martin by her full name and does not at any point refer to her as the prisoner or defendant. This combined with his admission that he granted her a favour by getting her friend and co-defendant Patten a job suggests a close relationship in stark contrast to Meckling and the Rumbles.<sup>122</sup> On the other hand, Edmonds, rarely refers to Ohrlund at all focusing his attention instead on Lasser (the receiver) whom he blames for tempting his servant into stealing a vast amount of material. It is, therefore, difficult to assess Ohrlund and Edmonds’ relationship in the same manner as the other two cases. The two cases and the attitudes of each of the masters towards their servants, demonstrates the complexities of everyday class interactions. Each relationship was unique and, in the case of Martin and Anderson, could be more reflective of a friendship than a simple master-servant dynamic.

Another difference one can draw from the cases is the social identity of the accused including their age and gender. As previously discussed age was a factor in the reporting and determining guilt. The three lead defendants varied in age from seventeen to twenty-six years old. In addition, four other defendants were indicted alongside the main defendant as either a co-conspirator (Patten and Kitching in Martin’s case) or a receiver of stolen goods (Lasser in Ohrlund’s case and Biggs’ in Martin’s case). Biggs

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<sup>121</sup> OBO, Philipp Meckling, t19020602-470.

<sup>122</sup> OBO, Martin et al., t18821120-59.

and Patten were both aged twenty-nine whereas Kitching was significantly older at forty-two years old. The age of the defendants broadly replicates the overall findings of this chapter. The female defendants, Martin and Biggs, fall into the peak age range of twenty-six to thirty years old but the ages of the male defendants are far more diverse. The age of the defendant did, in some instances, affect the position they held in the household. Take for example Andrew Ohrland. Ohrland was only seventeen years old when he was caught selling silk fringes from his master's workshop in 1872. He had worked for Edmonds for two years as an errand boy giving him access to most areas of the workshop and allowing him to build contacts with Lasser (the receiver of the stolen goods) as he had freedom to operate both in the public world and the workshop.<sup>123</sup> His age, and probably lack of skill, dictated his title and role within the home providing him with the opportunity to commit the crime. The identity of the defendant was important in the taking of the items but instrumental in the courtroom.

Taking each case in isolation we can see how perceptions of youth, masculinity, femininity and respectability influenced courtroom decisions. Ohrland and Lasser both pleaded guilty with their sentences respited at the original trial due to the legal complications regarding compensation. Newspaper reports of the trial later in the month stated that Ohrland was sentenced to 12 months whereas Lasser received a longer sentence of five years. The judge, reportedly, remarked that Lasser received a longer sentence, as "receivers were by far the most mischievous class of the community".<sup>124</sup> The sentences handed to Ohrland and Lasser respectively represented cultural views of impressionable servants and tempting criminal underclass. It could also be representative of the age of Ohrland who at seventeen was a naïve young man corrupted by the elder Lasser. The influence of age on the sentence of the defendants is also reflected in Martin's case. Patten was sentenced to two years' imprisonment whereas his co-conspirator, Kitching, thirteen years his elder was sentenced to five years.<sup>125</sup> The implication being that the older a defendant was the more responsible and retrained he or she should be and conversely the

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<sup>123</sup> "Central Criminal Court", *The Standard*, 31 Jan. 1872.

<sup>124</sup> "Central Criminal Court", *Reynold's Newspaper*, 4 Feb. 1872.

<sup>125</sup> PRO, "William Charles Patten and Charles Kitching", *England & Wales Criminal Registers, 1791-1892*, Class: HO27; Piece: 192, p. 299.

younger a defendant was the more vulnerable they were to outside influences. London was a shifting and expanding maze where a wrong turn could place a young man at the mercy of a criminal. This was especially true in the east end where poverty and crime came hand in hand. Martin, in contrast lived in a gated street in affluent Kensington which in theory should have protected her from temptation but failed. There is a correlation between the age of the defendant and the severity of the sentence handed to the defendant but perceptions of gender and respectability were also determining factors.

It will be shown throughout this thesis that the concept of respectability was crucial in the courtroom. Who had it and who did not shaped the outcome of the trial as it was generally accepted that a respectable individual was honest and would not engage in criminal acts. A difficulty with respectability is that individuals were aware of what characteristics were desired and could perform them without being them. Bailey discusses this in relation to philanthropy and the separation of deserving and undeserving poor in giving charity, but the stakes were higher in the courtroom.<sup>126</sup> People presented a polished persona of themselves and their families to 'win' either by prosecuting or defending (depending on the position of the individual). In addition, there was no one, singular way to be respectable. Davis labelled respectability an "ideological construct rather than an identifiable group with objective reality" where divisions between rough and respectable "was not hard, fast and categorical but elusive and contingent upon perceived perceptions".<sup>127</sup> This was tested in the courtroom where claims of respectability were often presented but seldom defined. For example, a co-defendant in the Martin case Matilda Biggs, a twenty-nine-year-old, married, 'respectable' woman from London, was accused of selling on stolen items for Patten. She argued that she assumed he had come by them legally as he was an ex-policeman - a feasible argument which the prosecution later accepted after character witnesses testified to her respectability.<sup>128</sup> It is difficult to assess which factor was more significant in the decision of the prosecution to drop their

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<sup>126</sup> P. Bailey, "'Will the Real Bill Banks Stand Up?'" (1979), p. 343.

<sup>127</sup> J. Davis, "'Jennings' Buildings and the Royal Borough: The Construction of the Under Class in Mid-Victorian England" in D. Feldman and G. Stedman Jones (eds.), *Metropolis London: Histories and Representations since 1800* (London: Routledge, 1989), pp. 11-39.

<sup>128</sup> Charlotte Davis' and Walter Andrews' testimony in OBO, Martin et al., t18821120-59.

case - Bigg's excuse or her respectability - but the language and layout of the proceedings suggested that her respectability was the defining factor. The arresting police inspector, Walter Andrews, stated when cross examined by Biggs' defence counsel, that he had "made inquiries about Mrs Biggs and her husband; they are respectable people" but made no reference to Biggs' defence that she had no knowledge of the possessions ill-fated past. After a remarkably short one-line defence statement the case was dropped. At no point was respectability define. It was just accepted. However, it is important to point out that Mr Biggs was never arrested. This is an interesting angle to explore as criminality is normally assumed to be a male preserve, but the role of Mr Biggs had, in this instance, been ignored. Perhaps this could be explained by the type of possessions Mrs Biggs admitted to selling for Patten: table covers, needlework and cutlery - household goods which, as previously noted, are assumed to be the preferred items for female thieves. Meckling, in contrast to the two other defendants, was found not guilty due to the lack of evidence against him. The proceeding's entry implies that the case was born out of a lack of communication between the parties, due in part to the language barrier, rather than any concrete evidence.

Henry James called London "the capital of the human race".<sup>129</sup> There was no language unspoken, a religion unfollowed or a culture without representation. This melting pot of diversity sometimes created conflict and confusion. The Meckling case is indicative of that as communication was strained and his position in the home always contested. In this case the spatial configuration of the home and his place within it was offered as evidence of his guilt; "there was no need for the prisoner to go into my mother's bedroom, but he had access to all the rooms". The issue of access is crucial in determining the influence the layout of the home had on the nature of the alleged crime. Ada Rumble's statement that Meckling had access to all the rooms was a vain attempt to convince the jury that Meckling had stolen the cash-box. Furthermore, earlier in the trial her sister, Eva, when describing where the cash-box was kept, added that "the prisoner slept on the same floor" as her mother's bedroom highlighting the importance she placed on the spatial arrangement of the home and who occupied which room. One could argue that it was a

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<sup>129</sup> H. James, *Essays in London* (1893), p. 12.

little odd that Meckling slept on the same floor as the house had enough room to hold five additional lodgers of which only one room was filled.<sup>130</sup> The close proximity of the servant's bedroom and their mother's generated concern and attributed to the unfounded accusation of theft. Therefore, the home, and its spatial design, did not impact the crime itself as it was deemed not to have happened, but rather the perception of criminality. In contrast to this, Martin's guilt was proven by access rather than the discovery of stolen goods on her person. Martin was under suspicion as soon as the burglary had become apparent as she was ultimately in charge of the home but when her friend, Patten, was found with several of Anderson's belongings the glare of suspicion was unbearable. The friendly relationship between Martin and Patten was already known to the Andersons, as previously their friendship led Martin to request a favour from Anderson for him. Martin, in what perhaps better demonstrates the familial relationship between herself and Anderson rather than herself and Patten, asked Anderson to get Patten a job as a prison warden.<sup>131</sup> Martin was therefore accused of being guilty by association and colluding with Patten and Kitching (an acquaintance) to steal from her master. Martin's proximity to Patten and position of responsibility in the home secured her conviction not her actions. In contrast to this Ohrland's case makes no reference to the spatial position he held in the home but one can infer from his role that he had access to a variety of rooms as an errand boy.

The cases can also be used to consider how the household operated, and the gendered division of power between husband and wife. The Old Bailey proceedings follow a very distinct pattern. The first witness is often the listed prosecutor as was the case in Martin's and Meckling's trials.<sup>132</sup> The official prosecutor, who was chosen to represent the interests of the family, sheds light on the gender dynamics inside the home and in the wider society. Take for example, Robert Anderson, the official prosecutor in Martin's case. Martin was the house cook working in a team of four domestic servants to

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<sup>130</sup> The home was a lodging house. The 1901 census listed five lodgers: A. E. Millington (28)- a surveyor's clerk, J. Mc. K. Robinson (25), A. Robertson (27)- a bank cashier, F. C. Challands (25) and G. A. Burling (29)- both clerks. See PRO, *Census Returns of England and Wales, 1902*, Class: RG13.

<sup>131</sup> Robert Anderson testimony in OBO, Martin et al., t18821120-59.

<sup>132</sup> It is unclear who was the first witness called in Ohrland's trial, but it is very likely it was Silas Edmonds.



take care of the Anderson's everyday needs. Her responsibilities and duties regarding the household fell quite succinctly within the remit of Agnes Anderson, Robert's wife, rather than Robert himself. Housewives were expected, and in the case of several advice manuals, directed to manage and run the household *including* domestic servants. Furthermore, Agnes was more likely to have a closer bond with Martin and have a better understanding of the day-to-day running of the household as she spent more time in the home than her husband who worked for the civil service. Yet, Agnes does not appear at all in the proceedings; she is not listed as the prosecutor or called as a witness. This contradiction highlights a controversial aspect of household management: who had the ultimate responsibility for the home? The wife who runs it or the husband who pays for it? In this case, and in every other case in this sample, the official prosecutor was the male head of the household where one existed. This further complicates the notion of separate spheres; if women are to be confined to the domestic sphere and are championed as having domain over it (as the notion dictates) then this should translate in the courtroom, but this is simply not the case.

The Meckling case had a woman lead prosecutor, as the Rumbles were an all-female family. One would assume the eldest member would take on the responsibility of being the official prosecutor, but in this instance, it was not the case. The head of the household as listed in the 1901 census entry for the premises was Mary Rumble but her daughter Ada took on the role.<sup>133</sup> Mary, a sixty-one-year-old widow at the time of the trial, was mentioned on several occasions but was never called as a witness. She lived in, and was noted in the census as running, the lodging house with her two daughters, Ada and Eva, but was not included. This could be due to her old age but it is stated that she was in the kitchen, not bed-ridden, and must have been absent from her bedroom for the cash-box to be removed. It is difficult to ascertain why Ada was the official prosecutor and not her mother but a logical explanation would be that Ada ran the lodging house for her mother and as such was responsible for Meckling's actions.<sup>134</sup> In contrast to this, and more in line with Martin's case, the official prosecutor in Ohrland's trial was his workshop

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<sup>133</sup> PRO, *Census Returns of England and Wales, 1902*, Class: RG13.

<sup>134</sup> It is not unusual for an elderly parent to live with their adult children under their supervision as shown in the case of Caroline Hodson in the introduction.

master, Silas Edmonds, and not his wife. Edmonds was acting in the interests of his business in the trial not his household. It had become custom, in an all-male courtroom, that the male head of the household sat as the official prosecutor regardless of whether he was present or knew the defendant. This did not alter the trajectory of the trial as their evidence, although second hand, was accepted as a first-hand account. A man retelling his wife's story was more legitimate than her own words. This reflects the patriarchal society in which these crimes took place and it is important to place their actions within this context. Equally, it is important to note that this was prevalent in stealing from master cases that occurred within the wives 'natural' domain - the home.

Who stood as the official prosecutor and the witness testimony gave an insight into the hierarchies of the home and the nature of social interactions that occurred within it. The home was an emotive space associated with safety, but the presence of crime transformed the space and compromised its sense of privacy. The Martin case is the most apt example of this. On discovery of the suspected burglary by the gatekeeper two policemen assessed the home for points of entry. They concluded that none of the doors or windows had been forced open therefore the assailants must have been let in. The definition of the space changed when the police entered. It was no longer a family home with mementos and treasured possessions. Through the eyes of the policemen it was a crime scene with every ornament, piece of furniture and paintings acting as evidence.<sup>135</sup> It is unclear who gave the inspector permission to cross the boundary into the Anderson's family home, as Anderson was still ignorant of the events unfolding. In this context, the actions of the defendants had a direct impact on the ideological definition of the home. In the space of just over two hours the boundary between the private domestic space and the public sphere had been crossed by the gatekeeper, the police constable and the inspector, all of whom undertook a comprehensive inspection of the home. The home was no longer private. Whether a crime had been committed or not even the accusation blurred the line that had previously been drawn at the front door all without the Anderson's knowledge. The vulnerability of the home and the family is clear.

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<sup>135</sup> Thomas Edward Maber testimony in OBO, Martin et al., t18821120-59.

The three cases presented in this study demonstrate the complexities as well as the benefits of assessing the crime stealing from master through the focal point of the home. By comparing three different cases across a thirty-year period from three very different homes this study has illustrated how the spatial construction of the home can affect the alleged crime committed and how the home as a domestic space is transformed by criminal action. Furthermore, it has shown how key factors, such as age, gender, ethnicity and position in the home affected the perception of the criminal action itself as well as the determined punishment. However, the most important aspect to be uncovered by this analysis is that although there are similar issues surrounding trust and access to the home, each case has unique permeations. From the Anderson's Kensington townhouse to Meckling's south London lodging house, each case provides us with a unique insight into nineteenth-century homes that would have otherwise been lost had it not been for the alleged crimes of Ohrland, Martin and Meckling.

## **2.6 Conclusion**

*Places are constructed out of articulations of difference.*

D. Massey, 2005.<sup>136</sup>

The cases of stealing from master presented in this chapter have shown that the home was not always harmonious but often the site of conflict. It is these conflicts, or differences, that have helped shaped the space creating an emotional attachment to the concept of the home. Differences across class, gender, age and race lines have been articulated to add to our understanding of Victorian domestic life. The criminal actions of a few have opened the doors of several homes revealing everyday encounters in working- and middle-class establishments between individuals from varied backgrounds. It has placed the domestic servant at the heart of family life but questioned who they were and how did their position enable them to commit a crime. The servant most likely to be

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<sup>136</sup> D. Massey, "Places and Their Pasts", *History Workshop Journal*, 39:1 (Spring, 1995), pp. 182-192. D. Massey, *For Space* (London: Sage, 2005).

indicted was a middle-aged man working in the trades due, in part, to the nature of the types of cases the Old Bailey heard but also the reluctance of some masters to prosecute traditional domestic servants for mundane and forgivable offences. This reluctance is indicative of a more complex relationship between masters and their servants than simply a business contract as seen by Blackmore's pleas for mercy and Anderson's admission of trust. The emotional attachment between masters and servants reveals an intimacy that might not be expected across class boundaries and complicates notions of the master servant relationship. This has been achieved by critically analysing a previously overlooked crime and placing it within its wider historical context.

This chapter has shown how servants, the police, the court and the press practically and ideologically crossed the boundary between the public and private spheres. Servants acted as a gateway between the private domestic space and public world by inviting intruders in or by taking items out. The police and court evaluated the private sphere and passed judgement on the inhabitants bringing their actions to the public's attention. These judgements were predicated on entrenched notions of respectability and gender which defendants and prosecutors manipulated to get favourable outcomes. The press communicated these ideals with the wider public using language to promote acceptable social identities by passing their own judgement on the accused. The next chapter will test notions of gender and respectability in a rural setting through the escapades of the poacher and his rival the gamekeeper. It will challenge the notion that poaching was simply a crime of protest and evaluate through representations how poachers and gamekeepers were written into public discourses.

## **The Poacher, Gamekeeper and the Press 1860-1900**

The Victorian poacher was a paradoxical figure. He was both a criminal and a victim, masculine and feminine, respectable and rough. Contemporary and subsequent discourses often label the poacher as one or another rarely recognising that he could perform these roles in isolation and in tandem. Criminality, masculinity and respectability are complex and evolving terms that are often dependent upon one another. The imagined identity of the poacher is indicative of this. A poacher can display masculine attributes of strength, skill and providing for his family yet depending where the rabbit, pheasant or duck was they could be performing a criminal act thus undermining their respectability. A single criminal action can overshadow a lifetime of respectable behaviour but, as this chapter will demonstrate, the poacher held a privileged position within the hierarchy of criminals in that he was often empathised with. The rural economy was seasonal and thus volatile which meant families had to employ a variety of methods to make ends meet. Taking the odd rabbit ‘for the pot’, even if illegal, was not necessarily unrespectable. His shifting identity is reflective of the mobile nature of his crime. As the game moved from one place to another the boundary between criminal activity and ingenuity shunted creating an ever-changing imagined identity that had far reaching social implications. Conversely, gamekeepers imposed a strict code of masculinity and respectability through a professional periodical in efforts to delineate themselves from their foes. In the field and the courtroom gamekeepers presented themselves in a particular way to legitimise the protection of game even if it took a violent turn such as the shooting of a poacher’s dog or an altercation. It was shown in the previous chapter how gender, respectability and imagined class identities were pivotal in stealing from master cases, where property was concrete. This chapter will reveal how these ideas adapt and change when property *moves*.

The debate between whether the poacher was a typical undeserving criminal or a Robin Hood-like figure who completed honorable deeds in the shadows of society continues today. In May 2015, *The Daily Mail* published an article entitled “Confessions of England’s last poachers: folk heroes – or common thieves?” which struck a nostalgic tone and called for the skills of poachers to be preserved:

Young people aren't brought up to have to kill animals for food anymore, so they don't know how to hunt with dogs or traps — all they want to do with guns is shoot each other. They'll never learn to fend for themselves, like we Toveys did. And all the skills that have been handed down will be lost when the last of the old-fashioned poachers hang up their guns and turn their dogs into docile pets.<sup>1</sup>

The article was written by the son of a poacher and suggests that poaching was a useful skill and beneficial to society. His assertions were received favorably by readers who commented that his life was “well lived” and “beautiful”. They also shared their own stories of poaching commenting that it “wasn't seen as stealing in those days” and when they lived in Northern England they would often find “bloody parcels of meat” on their doorstep.<sup>2</sup> *The Daily Mail* is associated with right wing ideology and sensationalist journalism based on human interest stories. The paper is conservative and traditionalist with a story like this fitting well into their overall narrative. It is difficult to ascertain the veracity of these accounts but it would be fair to assume the story was read by hundreds of thousands of people both in print and online as *The Mail Online* alone had 13.8 million unique readers a day in May 2015.<sup>3</sup> Throw away comments such as it “wasn't seen as stealing in those days” are indicative of the pervasiveness of the poor poacher down on his luck narrative; he was not stealing he was providing. But for whom? The Toveys admitted that their grandad was a poacher “along with being a butcher and a slaughterman”.<sup>4</sup> He owned a butcher's shop on the high street in a small village in South Gloucestershire and sold his ill-gotten gains for profit in the 1940s. This certainly does not fit the poor poacher narrative.

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<sup>1</sup> B. Tovey, “Confessions of England's last poachers: Folk heroes- or common thieves? Whatever your view, these shameless yet magically evocative father-and-son memoirs are irresistible”, *The Daily Mail*, 16 May 2015, <http://www.dailymail.co.uk/news/article-3083997/Confessions-England-s-poachers-Folk-heroescommonthieves-view-shameless-magically-evocative-father-son-memoirs-irresistible.html> (accessed 10<sup>th</sup> Sep. 2015).

<sup>2</sup> Statements can be found in the comment section in *ibid.* authors of comments in order of appearance are fredup, username42, SamuiDunc and messmanager.

<sup>3</sup> W. Turvill, “Website ABCs: Telegraph floors rivals with Mayweather fight coverage, BBC wins most general election readers”, *Press Gazette*, 18 Jun. 2015, <http://www.pressgazette.co.uk/website-abcs-telegraph-floors-rivals-mayweather-fight-coverage-bbc-wins-most-general-election/> (accessed 11th Aug. 2017).

<sup>4</sup> B. Tovey, B. Tovey and J. F. McDonald, *The Last English Poachers* (London: Simon & Schuster, 2015). Ebook chapter 2.

The reaction to Tovey's memoir was mixed and is reflective of wider debates rooted in the nineteenth century. Richardson, similarly to *The Daily Mail* readers, spoke fondly of poaching noting the skill it took to succeed. He argued that "poachers- the traditional sort- come near the top of the national hierarchy of thieves" and "the successful poacher needs the patience of an oak and the reactions of a rabbit".<sup>5</sup> This view is quite different to that taken by Heffer in his review of the memoir; "stealing game is no different from someone walking into the Tovey household and stealing food they have just brought from Tesco". Heffer was so incensed that he wrote "there is nothing romantic about stealing from the rich - it's a crime like any other" and the publishers should be ashamed.<sup>6</sup> We can find similar debates in the pages of nineteenth-century periodicals. An article appeared in a weekly penny magazine devoted to outdoor country life in 1897. It struck a tone of admiration albeit accepting the flaws of the poacher:

There he is, the village ne'er-do-well-tall, lanky, hardy, tanned. Shrewd, skilful in woodcraft, in prisons oft, fond of his beer, a short clay pipe and strong tobacco, such is the man who will run many risks for the love of knocking over a plump rabbit, or netting a covey of partridges. His dog, in breed a lurcher, is a type of his master, rough in form, unkempt, stealthy, full of cunning.<sup>7</sup>

The poacher later encountered armed gamekeepers and ran away. One of the gamekeepers recognised the man as "Long Mike" and argued "e'll give us the slip like'e did last week in the 'ome spinney. Better pop at 'im" but his compatriot argued that they would be better to "try a chance shot at the dawg. That'll 'urt 'im moast". The dog dies and the article ends. The article evoked sympathy for the poacher who is praised begrudgingly, despite his many vices and criminal activity. But interestingly *The Rambler* shortened the gamekeepers' dialogue and added accents making them sound more like criminals than the poachers themselves. This negative depiction caught the eye of the editor of a new

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<sup>5</sup> N. Richardson, "Eels in their pockets", *London Review of Books*, 37:24 (Dec. 2015), pp. 33-4.

<sup>6</sup> S. Heffer, "The 'art' of stealing presented as English heritage", *The Spectator Online*, <https://www.spectator.co.uk/2015/06/the-art-of-stealing-presented-as-english-heritage/> (accessed on 11<sup>th</sup> Aug. 2017).

<sup>7</sup> Anon., "The Poacher and his dog", *The Rambler*, 4 Sep. 1897 reprinted in Anon., "The Poacher and his dog", *The Gamekeeper*, 1:2 (Nov. 1897), p. 9.

periodical entitled *The Gamekeeper*. He, in what appears to be his endless frustration with “ignorant” commentators who use “stock sentimental phrases” to praise those whom he despises, argued with great passion that although he could ignore the apparent admiration for the poacher he found their “irresponsible assertions” as to the actions of his peers simply too provocative to ignore. He argued that gamekeepers would never shoot a retreating man, but praised them for their great aim in putting the dog down. It is not so much the content of this discussion that is so illuminating, as the story itself is not verified, but the emotive language used by both sides. The responses stirred by gamekeepers and supporters of poachers were based on their understanding of wider narratives of social identity.

Gender, class and place are all themes that underpin this thesis and are significant factors in the gamekeeper verses poacher debate. Yet, unlike the other crimes explored in this thesis, poaching was a crime experienced almost entirely by men. Women only performed roles on the periphery such as cooking game or, in the case of wealthy widows, employed gamekeepers to protect their land. This created a hyper masculine environment whereby masculinity was challenged, performed and reformed. This chapter will seek to show why poaching was a masculine pursuit and how those tasked with managing it defined their masculinity through their profession. The poacher and the gamekeeper present two very different types of Victorian masculinity but operate within the same community and have the same skills. Notions of respectability and status are key to their understanding of what it meant to be a man and for gamekeepers specifically these ideas were crucial in separating themselves from their antagonists. In this historical context the use of respectability as a character descriptor is divisive and not cohesive as Thompson and Best had proposed.<sup>8</sup> It has been argued that the middle classes used the term to represent decency to control the criminal behaviour of those ‘below’ them.<sup>9</sup> This striving for decency and deciding what is morally right and wrong was determined by geographical boundaries and the law. The debate has so far been framed between the gamekeeper and the poacher not landowner and poacher. This is a conscious choice as the gamekeeper was

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<sup>8</sup> G. Best, *Mid-Victorian Britain* (1971). F. M. L. Thompson, *The Rise of Respectable Society* (1988).

<sup>9</sup> D. J. Cox et al., *Public Indecency* (2015), p. 2.



the public façade of the estate in the field and the courtroom. Land owners are conspicuously absent from Magistrate court records with gamekeepers acting as a rural police force. They were also rarely mentioned in *The Gamekeeper* periodical. The detection, capture and punishment of poaching has a fractured legislative history and reveals how rural communities have evolved over time.

The legislative framework which regulated poaching had a controversial history dating back to the Black Act of 1723. The Black Act was introduced to limit the actions of poaching gangs and was named after a form of camouflage. Two prolific gangs in Hampshire and Windsor blackened their faces to hide under the night sky and were brutally efficient in killing game and gamekeepers. The Act, in efforts to protect gamekeepers as much as property, made up to fifty offences punishable by death. This included poachers found hunting deer and those found in forests or royal parks with blackened faces. In Radzinowicz's comprehensive study of the Act, published in 1945, he argued "the Act constituted in itself a complete and severe criminal code which indiscriminately punished a vast and heterogeneous mass of offences, without taking into account either the personality of the offender or the particular circumstances of each offence".<sup>10</sup> Rogers suggested that although the Act was draconian in its measures, it was necessary as something had to be done to stop the "bully-boys".<sup>11</sup> The Act stayed in place for a century until Robert Peel repealed all but the provisions for arson and maliciously shooting at a person in 1823, thus marking the beginning of the reform of Britain's unforgiving penal code. The Black Act was replaced in 1828 by the Night Poaching Act that made trespassing at night in possession of poaching equipment illegal. This was followed by the 1831 Game Act, which is still in force today.<sup>12</sup> Prior to 1831 hunting was the preserve of the higher classes or those in possession of some land. The 1831 Act removed this restriction. It decreed that anyone with a game licence could hunt within the seasons allotted and had the right to kill game on the land they occupied, regardless of whether they owned or rented it. This did not prevent poachers as is evident in the passing

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<sup>10</sup> L. Radzinowicz, "The Waltham Black Act: A Study of the Legislative Attitude Towards Crime in the Eighteenth Century", *The Cambridge Law Journal*, 9:1 (Mar. 1945), p. 72.

<sup>11</sup> P. Rogers, "The Waltham Blacks and the Black Act", *The Historical Journal*, 17:3 (Sep. 1974), p. 484.

<sup>12</sup> The Night Poaching Act was reviewed and extended in 1844.

of the Poaching Prevention Act in 1862. The Act allowed police to stop and search anyone they suspected of poaching and redefined rabbits as game. This was not effective as the authorities had to prove any equipment or game found on the poacher was intended for, or had been put to, illicit use, leading to many poachers only being prosecuted for trespassing. It is this and the controversies over what game represented that meant very few cases were heard at the Old Bailey.

The Old Bailey was, until the establishment of the Supreme Court in 2009, the highest court in Britain and as such its time was limited to either significant crimes against people and property, or cases of national importance. Offences against game laws, it seems, did not fall into any of these categories unless the interaction escalated to a bloody affray. Only eleven cases of poaching were heard in between 1860 and 1900 after being upgraded by local Magistrates due to the escalation of violence between the parties concerned. I would suggest this reflects nineteenth-century ideas of property and wider perceptions of poaching as a crime of necessity, thus linking with conceptualisations of the poacher as folk hero rather than the less noble common thief. The mobile nature of game is pivotal to the understanding of game as *property* by contemporaries. Drawing on the common pheasant as an example helps explain the complexities of game as property and as such its place within common law. The pheasant was, and still is, a popular game bird for hunts across Britain. It is protected by the 1831 Game Act and can only be hunted from the beginning of October to the end of January by those with game licences. Many pheasants are reared for the hunting season and are released onto large game estates for the pleasure of the homeowner and his guests. However, pheasants by their very nature are mobile and are free to move from the estate into public areas, challenging traditional notions of property. If the pheasant is no longer on the estate, to whom does it belong? Perhaps this is easy to answer when discussing pheasants that are reared specifically for the hunt but what about those pheasants that breed naturally in the wild and how does the common poacher tell the difference? Therefore, if a poacher shoots a pheasant from a public footpath is he poaching at all? Is he a common thief or just profiting from common land? Compare this, for example, to the petty thief who steals a pheasant from a butcher in London. The pheasant was purchased by the butcher, prepared and put on display. His

ownership of the property is evident by its placement and the removal of that pheasant would be a clear act of theft punishable by the law. Similar cases of theft were discussed in the last chapter and were abundant at the Old Bailey. Perceptions of property and the movement of game appear to circumvent notions of criminality, downgrading the seriousness of the crime despite the relative expense of the game in question and resulting in the meagre incidence of game law offences heard at the Old Bailey. Cases, therefore, were heard in local Magistrates courts where gamekeepers' witness statements were crucial.

The position of the gamekeeper has not played a prominent role in previous historiography, with the focus more on the motives and methods of the poachers themselves. The study of poaching has been an integral part of the rural history from the 1970s with pivotal works by Jones, Hopkins, Archer and more recently Winstanley and Osborne shaping the field.<sup>13</sup> Earlier research is focussed on poaching as a crime of protest acting as a barometer of class conflict in rural England. Jones developed the idea of poaching and protest further in 1979 with an insightful article entitled "The Poacher; a Study in Victorian Crime and Protest". He argued that the poacher had become an "ordinary figure, an accepted and normal part of rural life" and suggested that the study of the crime and its perception could "tell us a good deal about the secret world of the village and the labourer".<sup>14</sup> Despite the title of the piece he moves past the idea of poaching as a crime of protest but one based on three key factors; temptation, demoralization and distress, surmising that "there is a little doubt that the relationship between poverty and poaching was a strong one".<sup>15</sup> Hopkins in contrast makes a conscious decision to focus exclusively on cases which escalated into bloody conflicts in his monograph *The Long Affray; The Poaching Wars in Britain 1760-1914*.<sup>16</sup> Hopkins takes

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<sup>13</sup> E. J. Hobsbawm and G. Rudé, *Captain Swing* (1973). D. J. V. Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain* (London: Routledge and Kegan Paul, 1982). D. J. V. Jones, "The Poacher" (1979), pp. 825-860. H. Hopkins, *The Long Affray* (1985). J. E. Archer, 'By a Flash and a Scare' (1990). J. E. Archer, "Poaching Gangs and Violence" (1999), pp. 25-48. H. Osborne and M. Winstanley, "Rural and Urban Poaching" (2006), pp. 187-212. H. Osborne, "The Seasonality of Nineteenth-Century Poaching", *The Agricultural History Review*, 48:1 (2000), pp. 27-41.

<sup>14</sup> D. J. V. Jones, "The Poacher" (1979), p. 825.

<sup>15</sup> *Ibid.*, p. 836.

<sup>16</sup> H. Hopkins, *The Long Affray* (1985).

great pains to describe the details of several particularly serious cases but neglects the more common case of petty poaching hindering his understanding of everyday rural life. As Osborne and Winstanley state “between eighty and ninety per cent of poaching prosecutions were for the relatively minor offence of ‘trespass in pursuit of game during the day-time’, or day poaching” suggesting the clear majority of cases do not escalate to the poaching wars Hopkins devotes his research to.<sup>17</sup> This chapter, although recognising that the incidents of ‘bloody’ poaching were significant to contemporary understanding of the crime and formation of legislation, will focus on examples of petty poaching where neither the poacher or the gamekeeper were harmed. The research presented in this chapter will fit between these works by focussing on petty crimes and discourses of poaching rather than poaching as an act of protest or a bloody battle. Using examples from the printed press alongside a close reading of cases heard at South Hinckford Magistrates court this chapter will reveal how social identities were manipulated and adapted in rural communities.

The development of our understanding of poaching reflects wider changes in rural history studies. Originally focussing on class conflicts and economic change rural and agricultural historians have moved to embrace social history and all that encompasses. Rural society operated a three-tier class system based on relationships with land: landowners, tenant farmers and labourers. At the top sat a small group of affluent land owners who relied on the income from rent. This exclusive group have attracted the most attention from historians due to the existence of a rich collection of sources but their importance declined through the period.<sup>18</sup> Those who rented the land – tenant farmers – managed production and kept any profits made. Hoyle noted that “the farming class includes men of every imaginable description and reputation” across the socio-economic spectrum. Tenant farmers and land owners had a mutually beneficial relationship but in Hoyle’s estimation “landlords needed tenants much more than tenants needed landlords”

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<sup>17</sup> H. Osborne and M. Winstanley, “Rural and Urban Poaching” (2006), p. 188.

<sup>18</sup> D. Cannadine, *The Decline and Fall of the British Aristocracy* (New York: Vintage Books, 1999). F. M. L. Thompson, *English Landed Society in the Nineteenth Century* (London: Routledge, 1963).

as they lacked the expertise and time to farm their land.<sup>19</sup> This became more apparent towards the end of the nineteenth century as England entered a period of agricultural depression. From 1873, as a result of a mass importation of cheap American grain and increased mechanisation, the value of cereals plummeted. At the beginning of the century agriculture represented thirty three percent of gross national product in 1800 but it had reduced to around ten percent by 1914.<sup>20</sup> Essex suffered due to its reliance on corn and reluctance to change. Hunt and Pam argued this was exacerbated by its prosperity during the golden age leading to complacency amongst farmers to adopt new methods. They also challenged the myth that Scottish labourers saved Essex outlining how it was not just the Scots that had a positive impact but an influx of immigrants in general.<sup>21</sup> Labourers formed the base of the class pyramid in rural society and are representative of the position of most poachers in this period.

Farm labourers lived a precarious lifestyle. They were often seasonal workers who were employed when there was a good harvest and had no long term financial security. The prosperity of labourers and their families varied depending on region and a mixed local economy to protect them against failing crops. Their fortunes were adversely impacted by enclosures and limited poor relief leaving many vulnerable to fluctuations in the labour market. Fox argued that conditions and wages improved in the second half of the century, but it is evident that they had one of the lowest living standards in the country.<sup>22</sup> It could be argued this was a key reason for rural depopulation and the ‘Rural Exodus’ as labourers migrated to towns for more regular work.<sup>23</sup> The rapid industrialisation and the social ills that created led to a reimagining of the rural as ‘the countryside’ or ‘the pastoral’.<sup>24</sup> Taylor and Smout have shown how rural areas became

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<sup>19</sup> R. W. Hoyle, “Introduction: Recovering the Farmer” in his edited volume *The Farmer in England, 1650-1980* (London: Routledge, 2013), pp. 1-2.

<sup>20</sup> M. Winstanley, “Agriculture and Rural Society” in C. Williams (ed.), *A Companion to Nineteenth-Century Britain* (Oxon: Blackwell, 2007), p. 218.

<sup>21</sup> E. H. Hunt and S. J. Pam, “Agricultural Depression in England, 1873-96: Skills Transfer and the ‘Redeeming Scots’”, *Agricultural History Review*, 59:1 (June 2011), p. 81. E. H. Hunt and S. J. Pam, “Responding to Agricultural Depression, 1873-96: Managerial Success, Entrepreneurial Failure?”, *Agricultural History Review*, 50:2 (2002), pp. 225-252.

<sup>22</sup> A. W. Fox, “Agricultural Wages in England and Wales during the last Fifty Years”, *Journal of the Royal Statistical Society*, 66:2 (Jun. 1903), pp. 273-359.

<sup>23</sup> J. Saville, *Rural Depopulation in England and Wales, 1851-1951* (Oxon: Routledge, 1957).

<sup>24</sup> S. L. Steinbach, *Understanding Victorians* (2012), pp. 13-15.

contested spaces between what Smout termed ‘use’ and ‘delight’.<sup>25</sup> This shift away from viewing land in purely economic terms and more as site of pleasure perhaps reflects the declining economic importance of agriculture. Winstanley argues that contemporaries who did not live off land idealised the countryside and “valued as a ‘national’ asset” in need of protection. They projected their hopes and fears on open spaces and fresh air in hopes it could limit the degenerative impact of pollution and overcrowding in the cities. These ideas were proliferated by novels, poetry, art and architecture which emphasised the idyllic nature of the countryside that “had come to embody the quantities, virtues and attractions of the nation”.<sup>26</sup> A dichotomy had thus been culturally imagined between the morally pure and clean countryside and the corrupt filthy urban centres. Poachers complicate this paradox as they do not conform to the utopic notion of the countryside but are firmly rural figures. Gamekeepers, on the other hand, were the gatekeepers to country estates and maintained pursuits that were crucial to urban dwellers imaginations of the rural lifestyle. This chapter will add to existing scholarship on rural society in the second half of the nineteenth century by juxtaposing Magistrate court records with periodical discourses of the poacher and the gamekeeper. In so doing I will reveal how they were framed by and helped construct notions of masculinity, respectability and property.

This chapter takes a different methodological approach to the previous one in that the court records used are from outside of London. As previously discussed the Old Bailey heard a very limited number of cases and a search of the London Magistrate courts produces a similar outcome. This led me to Essex County Record Office (ERO) where I found one of the most complete collections of court records in the Home Counties. The South Hinckford Magistrates court records are in two formats: court registers and minute books. The records are both handwritten by the same clerk and are held in a series of bound volumes. The court registers cover the period 1880 to 1905 and offer very basic details of the trials including the defendants’ and complainants’ names, the verdict and punishment. The minutes, in contrast to this, provide a more detailed account of the crime

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<sup>25</sup> H. Taylor, *A Claim on the Countryside: A History of the British Outdoor Movement* (Edinburgh: Edinburgh University Press, 1997). T. C. Smout, *Nature Contested: Environmental History in Scotland and Northern England since 1600* (Edinburgh: Edinburgh University Press, 2000).

<sup>26</sup> M. Winstanley, “Agriculture and Rural Society” (2007), p. 219.

including crucial eyewitness statements and cover a longer time frame from 1860 to 1903. Unfortunately, there is one book missing representing a seven-year gap from 1866 to 1874 but this is still an excellent collection.<sup>27</sup> The minutes meticulously note eyewitness statements but they are heavily weighted against the defendants with their statements often only limited to a few lines if at all. The most common defence statement was “no defence” or in some cases “it was not me” making it very difficult to view the crime from anything other than the point of view of the prosecutor. This is not unique to game law offences or Magistrates courts. Court records, regardless of the relative importance of the court, were typically weighted against the defendant even in cases of acquittal. Yet, despite this clear bias against the defendant one can still ascertain aspects of their illicit activities from the poachers’ viewpoint through the statements of eyewitnesses. Witnesses, although almost exclusively acting on the behalf of the complainant, often detailed exchanges between the poachers and their captors revealing the motivations of the poacher and attempts to evade legal action. Although these sources are fruitful it is worth briefly reflecting here on the limitations of our knowledge of this crime.

Everyday crime often goes undetected, unreported and unpunished. Archer argued that the size of the problem for poaching is “enormous, for it was quite literally a ‘moonlight’ activity”.<sup>28</sup> The first factor, and perhaps most obvious, is that the crime of poaching itself was hard to detect. For example, the incident discussed in the opening of this chapter would not have happened if the gamekeepers had taken a different route or the poachers had been quicker. Secondly, unless poachers were seen shooting or catching the game it was difficult to prove that the game, especially rabbits, were caught illegitimately. The final explanation as to why poaching cases may not make it to trial mirrors the situation between a master and a servant: the paternalistic instinct of the complainant or victim. Jones also identifies this problem stating that it is particularly potent in the countryside where “the ideology of paternalism and deference... both permitted and demanded a certain generosity on the part of landowners”.<sup>29</sup> The paternalistic instinct, or rather the need to be viewed as paternalistic, was heightened in

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<sup>27</sup> Court registers ERO, P/H R1-3. Court minutes ERO, P/H M11-18

<sup>28</sup> J. E. Archer, “Poaching Gangs and Violence” (1999), p. 26.

<sup>29</sup> D. J. V. Jones, “The Poacher” (1979), p. 829.

the context of the poaching debate. The prevalent image of the poacher as a downtrodden individual just trying to get a rabbit for the pot laid parallel to the unbridled hatred of the Game Laws meant many land owners had to find alternatives to court action in a bid to preserve their reputation among the lower orders.

An oft-used tactic was to utilise the ill-gotten knowledge of poachers and employ them as gamekeepers which was in theory a tactically astute move.<sup>30</sup> Poachers were members of the same communities and their experiences made them an invaluable resource. Also, more crudely, by employing a poacher the landowner was in effect bribing them to stop poaching. Thus, removing the problem and ensuring the future safe keeping of game without resorting to costly, both in monetary and reputational terms, court action. Despite its clear benefits, it was met with fierce opposition from the gamekeeping profession who found themselves working alongside the very people they had been fighting against. *The Gamekeeper* described it as an act of “timidity” and argued that rather than stop the individual from poaching it gave them “a position wherein it is well-nigh impossible to detect malpractice and by virtue of which he is able to poach to his heart’s content”.<sup>31</sup> Furthermore the publication argues that a poacher could never make a good gamekeeper as he would yield “to a temptation to poach for the purpose of gratifying his love of idleness”, concluding that “they have no belief in the romantic game stealer so often described”.<sup>32</sup> *The Gamekeeper* had a vested interest in protecting their profession from the intrusion of poachers especially in the rural economy where stable jobs were difficult to find.

Due to the dark figure, a quantified study of poaching has little merit without accompanying qualitative research. This chapter, recognising this, will take a cultural history approach by adopting close reading of case studies to reveal wider assumptions of class, gender and place. These will be compared to editorials, articles, comments and photographs from *The Gamekeeper* as a counter narrative to the poacher down on his luck.

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<sup>30</sup> This practice was so common that the phrase ‘poacher turned gamekeeper’ has become part of common vernacular to denote an individual whose behaviour or occupation is opposite to what it was previously.

<sup>31</sup> “The Poacher as a Gamekeeper”, *The Gamekeeper*, 1:6 (Mar. 1898), pp. 3-5. Quote from p. 4.

<sup>32</sup> *Ibid.*, p. 3.



Poaching was, and to a certain extent still is, a battle fought between two parties and to study one without the other would undermine the effectiveness of the conclusions reached. In fact, the crime of poaching was framed in the public consciousness as a fight, in a lot of cases quite literally, between gamekeepers protecting game and poachers who sought to kill it. With regards to poaching the gamekeeper had three roles - to deter, capture and prosecute - acting as a quasi-police force in rural areas where an official police force was in its infancy.<sup>33</sup> Without a competent gamekeeper, poachers could pilfer at will and would not face prosecution since not only did gamekeepers catch poachers, they acted as the key eye witnesses in their trials. This was a role they relished. Moreover, its pursuit was encouraged in a periodical devoted to the profession - *The Gamekeeper* - with numerous articles offering both practical and legal advice on how to limit the number of poaching offences and the correct method for securing a successful conviction in the courtroom.<sup>34</sup> The presence of the gamekeeper in poaching altercations is therefore pivotal to any understanding of the crime especially if one is to view it through the prism of late-nineteenth-century ideals of masculinity and gender.

This chapter is crucial to the overall thesis as it will reveal how individuals sought to define themselves through discourse and in the courtroom. It will conclude that although the property involved *moves*, creating a fluid understanding of what constituted criminal behaviour, notions of respectability and masculinity were still central to contemporary understanding of criminality in rural settings. It will focus on case studies from South Hinckford and *The Gamekeeper* alongside other publications to tease out the complexities of this controversial crime. As such this chapter, will begin by analysing a selection of commentaries in the printed press to contextualise the overall debate and

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<sup>33</sup> The Metropolitan Police Act in 1829 established a police force in central London but police forces in the provinces took longer to come to fruition. The 1839 County Police Act allowed Justices of the Peace to establish police forces in their counties similar to the Metropolitan police, but it was not until the 1856 County and Borough Police Act that all counties were forced to have an established police force. The implementation of the Poaching Prevention Act in 1862, allowing the police to stop and search suspected poachers, suggests the police had a prominent role in the detection and prevention of poaching but the police rarely appear in the records of the South Hinckford Magistrates with gamekeepers taking on their role.

<sup>34</sup> The articles are littered throughout the publication but for some specific examples see the following articles in *The Gamekeeper*: "Notes and Queries", 1:2 (Nov. 1897), p. 9. "Wirksworth Bench and the Game Laws", 1:3 (Dec. 1897), p. 10. Kiney, "Keepers and the Ground Game Act", 1:5 (Feb. 1898), pp. 8-9. Kiney, "The Law as Regards Night-Poaching", 1:8 (May 1898), p. 9.

perceptions of the poacher and the gamekeeper. The chapter will then move onto analyse data from the South Hinckford Magistrates court presenting who poached in the area and how legislation affected the discovery and punishment of poachers. The chapter will conclude with an examination of *The Gamekeeper* and how gender, more specifically ideas of masculinity and physicality, affected the perception of the gamekeeper and the poacher creating a greater understanding of poaching and property in the second half of the nineteenth century.

### **3.1 Folk Heroes or Petty Thieves? The Poaching Debate**

The competing narratives of the poacher as a folk hero versus the poacher as a petty thief were played out on the pages of Victorian journals and newspapers. We are in a privileged position today as “it has never been so easy to consult the nineteenth-century press”.<sup>35</sup> This section draws on selected examples of articles, including novellas and parliamentary debates to better understand how late-nineteenth-century society understood the crime and related to its perpetrators. The articles were selected to illustrate the pervasiveness of the debate and how it cut across the class spectrum. Firstly, I will assess how the gamekeeper was portrayed. Then the focus shifts to the poacher himself; was he depicted as poverty-stricken man down on his luck or as a member of the criminal classes? Finally, I will show how journalists directly engaged with the narrative and placed themselves within the historical landscape arguing that poaching had moved from a "golden age" to an “iron age” in which attitudes to poaching appeared to harden in the second half of the nineteenth century.

The poacher debate was a focal point for wider public concerns; poverty, crime and class antagonisms collapsed into two imagined identities. The poacher and the

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<sup>35</sup> J. Mussell, *The Nineteenth-Century Press in the Digital Age* (London: Palgrave Macmillan, 2012), p. xiii. J. Mussell, “Beyond the ‘Great Index’: Digital Resources and Actual Copies” in J. Shattock (ed.), *Journalism and the Periodical Press in Nineteenth-Century Britain* (Cambridge: Cambridge University Press, 2017), pp. 17-30. T. Hitchcock, “Confronting the digital” (2013), pp. 9-23. B. Nicholson, “Counting Culture” (2012), pp. 238-246.

gamekeeper were, for all intents and purposes, two sides of the same coin. Heads the gamekeeper protected game and tails the poacher took it. The coin, however, did not always lie flat. Motives changed, methods fluctuated, and identities remained fluid. A gamekeeper who shot a retreating poacher was vilified. A poacher who clubbed a gamekeeper? Equally so. The shifting landscape was difficult for Victorian society to comprehend as for many their only interaction with this way of life was through the print media. Greg, writing in the wake of the removal of the taxes on knowledge, acknowledged the power of journalism to shape national debate by simply and powerfully stating that the press “does all the thinking of the nation”.<sup>36</sup> This was exacerbated by improvements in communication and travel with one contemporary commenting that “no class is beyond its influence. There is not a man, there is hardly a woman, who is not more or less dependent on it”.<sup>37</sup> The press held a normative power and as Foucault has reminded us:

Discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling- block, a point of resistance and a starting point for an opposing strategy. Discourse transmits and produces power; it reinforces it, but also undermines and exposes it, renders it fragile and makes it possible to thwart it.<sup>38</sup>

The image of the poacher and the gamekeeper challenged notions of respectability and masculinity by straddling the line between righteousness and indignation. It was a contested space where the criminality of the action depended on the observer’s perception of poverty, class and gender.

The plight of the poacher was viewed with some sympathy in the mid nineteenth century with the idea that the upper classes bore some paternalistic responsibility for their fate. This notion was dramatized in Elizabeth Gaskell’s *My Lady Ludlow* which was serially published in Charles Dickens’ magazine *Household Words* in 1858 and republished in 1859 in *Round the Sofa*. It told the story of a wealthy widowed Lady who

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<sup>36</sup> W. R. Greg, “The Newspaper Press”, *Edinburgh Review*, 102 (Oct. 1855), p. 470.

<sup>37</sup> E. S. Dallas, “Popular Literature- the Periodical Press”, *Blackwood’s Magazine* (Feb. 1859), pp. 180-181.

<sup>38</sup> M. Foucault, *The History of Sexuality Volume I: An Introduction* (New York: Pantheon Books, 1978), p. 101.

took in poor women from aristocratic families. She clashed continuously with her estate manager, Mr. Horner, who thought it would be economically advantageous to educate the children of the working-class families surrounding her estate. Lady Ludlow was vehemently against it, claiming it might lead to an uprising like the French Revolution and refused to employ servants who could read and write. Lady Ludlow's disregard for the working classes in her charge came to a head when her clergyman, Mr. Gray, brought to her attention the case of a well-known poacher, Job Gregson, who had been wrongfully arrested for theft. He pled for her to use her influence as a Lady to have him released, a claim she flatly refused due to his poor character, but later changed her mind after visiting his family cottage and witnessing the squalor his wife and children were living in. She questioned the Magistrate, Mr. Latham, on the lack of evidence against Gregson. He claimed, "it is but a short step from poaching to thieving".<sup>39</sup> She did not accept his assertions and demanded his release on bail, using her superior position in the House of Lords, as she will not see him in jail for two months "and his wife and children left to starve".<sup>40</sup> Lady Ludlow's interaction with the Gregsons does not end there. Mr. Horner takes Harry Gregson, one of Job's sons, under his stewardship hoping to train him as a clerk. Horner dies prematurely leaving £200 to Harry and the rest of his land to Lady Ludlow with the hope she will rid it of debt and leave it all to Harry to create a school house with Mr. Gray. She accommodated his wishes out of obligation to Mr. Horner and sympathy towards Harry Gregson who had been maimed after a fall from a tree. Gaskell's novella imagined a rural society whereby Lady Ludlow choose to overlook indiscretions in favour of protecting residents and allowed the promotion of a boy of no rank. *Household Words* and *Round the Sofa* were widely read publications and stories like this shape social discourses. The implication being that the image of the poacher was softened to an almost child-like figure in need of protection rather than a member of the criminal underclass. Discourses create emotional attachments to imagined subjects helping us to shape *and* challenge gendered and class identities. These discussions were not limited to the poacher or the pages of the press.

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<sup>39</sup> E. Gaskell, *My Lady Ludlow* (New York: Harper and Brothers Publishing, 1858), p. 14.

<sup>40</sup> *Ibid.*, p. 15.

Moving forward to the 1880s the characterisation of poachers and gamekeepers had become more controversial. In the wake of a public debate over proposed changes in the game laws *The Times* covered an animated debate in the House of Commons. It was the preamble leading to the passing of the Ground Game Act with members of Parliament on both sides casting aspersions on the character of gamekeepers. Peter Alfred Taylor gave a particularly rousing speech which was later published by the Anti-Game Law League in a pamphlet form.<sup>41</sup> He was a radical Liberal M. P. for Leicester who supported the Reform League calling for universal suffrage and social equality. Taylor is an interesting subject in the context of this thesis as he was the son of a silk merchant and the nephew of prominent textile industrialist who built factories in the South Hinckford jurisdiction. He became a partner of Samuel Courtauld's business in the 1830s and used his wealth to pursue a parliamentary career to address social inequality. The Courtauld estate was the site of several poaching cases and employed gamekeepers to protect their land as will be demonstrated later. Therefore, his demonization of gamekeepers is strange but not extraordinary as he lived in London away from rural conflicts and it reflected his wider political ideology. He argued that gamekeepers regularly shot poachers in the back as they ran away and took vicious dogs out with them with the sole purpose of hunting and attacking poachers. His description undermines the masculinity and ultimately respectability of gamekeepers as he implies they are cowardly. He further argued that the Poaching Prevention Act contravened the privacy of respectable people: "perfectly innocent people [are] liable to be stopped and searched if any scoundrelly gamekeeper choose to suspect that they had game in their possession".<sup>42</sup> His opinions are almost identical to those who opposed the Contagious Diseases Acts and suggest that there was a desire to not only protect women from public invasion but also men. Taylor's aim here was clear: to discredit gamekeepers and depict them as brutal, unforgiving enforcers of the much-hated game laws. Evidence of the power of this portrayal can be seen in popular ballads of the time. Re-printed in a national Sunday newspaper the second verse of *The Gallant Poacher* romanticises the poor poacher and in contrast a murderous gamekeeper:

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<sup>41</sup> Anti-Game Law League, *The Game Laws. Speech of Mr. P. A. Taylor in the House of Commons, March 2<sup>nd</sup>, 1880* (London: Waterlow and Sons, 1880).

<sup>42</sup> "Game Laws", *The Times*, 3 Mar. 1880.

Me and five more a-poaching went,  
To kill some game was our intent.  
Our money ended, all was spent,  
We'd nothing else to try.  
The moon was bright,  
No cloud in sight.  
The keeper heard the crack of gun;  
And swiftly to spot did run,  
And swore before the rising sun,  
That one of us should die.<sup>43</sup>

The poachers are depicted as gallant folk heroes who, when they had nothing else left, went in search of a rabbit for the pot. The gamekeeper, in contrast, is shown to be callous with no regard to the life of the poacher. The ballad was printed in a Sunday newspaper—the *Lloyd's Weekly*. In 1890 Sunday papers sold more than two million copies and were perceived to be working-class publications but they were not enjoyed by the working classes exclusively.<sup>44</sup> The Sunday papers were charged with only publishing sensational material and disrupting the Sabbath undermining their respectability. However, Kamper has argued that they “tried to make their readers feel respectable, and they did so, like their opponents, by using class language”.<sup>45</sup> However, the depiction of the poacher here is less straightforward than it might first appear. The ballad was printed with a commentary disputing the image it portrayed and aligned poachers with other criminal classes. Baring-Gould described the poacher as the “most ill-conditioned man of the district, who maltreats his wife and neglects his children” and spent most of his time “at the public-house, where most of his ill-gotten gains are expended”.<sup>46</sup> The folk hero poacher was celebrated for using his innate abilities as a man to provide food for his family as a last resort. In this portrayal, he poached to drink and abandon his family - the antithesis

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<sup>43</sup> A ballad called *The Gallant Poacher* as quoted in S. Baring-Gould, “The Poacher”, *Lloyd's Weekly*, 22 Dec. 1895.

<sup>44</sup> D. S. Kamper, “Popular Sunday newspapers” (2004), p. 83.

<sup>45</sup> *Ibid.*, p. 84.

<sup>46</sup> S. Baring-Gould, “The Poacher”, *Lloyd's Weekly*, 22 Dec. 1895.

of a respectable man. The language used intentionally provoked an image of a man failing his duties and put poachers up to be metaphorically shot down rather than empathised with.

The poacher as a poor down on his luck fellow was also challenged by sporting magazines by first exalting the virtues of gamekeepers and secondly by vilifying poachers as “vagabonds”.<sup>47</sup> For example, in 1878 *The Sporting Gazette* stated that gamekeepers required “not only honesty and skill, but a considerable amount of ‘backbone’ in the character to resist temptation” and exhibited a “manliness of his appearance, and in youth it is easy to see that he must have been an athlete”.<sup>48</sup> Masculinity here was defined by a good moral character, respectability and an athletic disposition. The drive to recast the narrative and elevate the gamekeeper as the heroic manly defender of property was also motivated by a belief that poachers had garnered too much sympathy for too long. *The Country Gentleman* wrote in 1886 that “it is generally admitted that poachers have been objects of a good deal of misplaced sympathy” and “in nineteen cases out of twenty the convicted poacher gets far less than he deserves”.<sup>49</sup> One would expect *The Country Gentleman* to adopt this line of thinking as the editors created a narrative that reflected the sensibilities of their readers. However, their comments are by no means unique. *The Hampshire Advertiser*, for example, argued that the poacher secured himself “a certain amount of sympathy” simply by acting against the elite of society.<sup>50</sup> It was repeatedly suggested that this sentiment, the pro-poacher narrative, was created by novelists and poets who presented a “romantic and picturesque ideal” as depicted in *The Gallant Poacher* and *My Lady Ludlow*.<sup>51</sup> *The Country Gentleman* was scathing of this, stating that it is “nonsense that is talked about the poor poacher who is driven into illicit courses by the pangs of starvations... figments of the fictionalist’s not very exalted imagination”.<sup>52</sup> *The Racing Times* contributed to the discourse by describing the imagined identity of the

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<sup>47</sup> See for example “Literary Gleanings”, *The Hampshire Advertiser*, 9 Jan. 1869.

<sup>48</sup> “Gamekeepers”, *The Sporting Gazette*, 12 Oct. 1878.

<sup>49</sup> “Ground Game Legislation”, *The Country Gentleman: A Sporting Gazette and Agricultural Journal*, 3 Apr. 1886.

<sup>50</sup> “The Poacher-Idealised”, *The Hampshire Advertiser*, 6 Apr. 1892.

<sup>51</sup> “Miscellaneous”, *The Racing Times*, 6 Jan. 1868.

<sup>52</sup> “Ground Game Legislation”, *The Country Gentleman*, 3 Apr. 1886.

poacher in a 'golden age' in contrast to a more critical depiction of contemporary poachers in the present day or 'iron age'. According to this narrative, the poacher of the 'golden age' embodied contemporary masculine virtues:

We may imagine him a good sportsman, a self-taught naturalist, sober, and in his own eyes at least, honest and industrious. Last, but not least, let him stand 6 feet high, be a mode of strength and activity, with a frank, bold countenance, a merry blue eye, extremely white teeth, and a smile that would subdue a duchess.<sup>53</sup>

This depiction is remarkably similar to descriptions in *The Gamekeeper* of gamekeepers of the past. Sporting, sober, honest, strong and the ability to charm those of a higher class were attributes assigned to "an old-time English gamekeeper".<sup>54</sup> The merging of these two diametrically opposed identities elevates these qualities into those worthy of respectable men providing role models to the readers of the publications. Yet, poachers were unlikely to read *The Racing Times* so the portrayal of the 'golden age' poacher pacified readers who still saw the good in the image of the poacher by admitting this *was* the poacher of the past but in the 'iron age' rural life has changed. The poacher of the 'iron age' transgressed these codes by operating in a similar mode as other thieves. He was often a member of a gang "whose business is to fill the dealers' shops in town and country, and to get drunk on the proceeds".<sup>55</sup> The emphasis on poachers as thieves challenged their respectability reducing them to the same level as other criminals. Furthermore, by consistently suggesting poachers spent their money in public houses the authors played on Victorian fears of drunkenness aligning them with a "major evil".<sup>56</sup> How far these cultural representations of the poacher resembled actual crimes carried out and tried in the courts will now be considered, as the second section of this chapter turns to a case study of poaching in practice.

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<sup>53</sup> "Miscellaneous", *The Racing Times*, 6 Jan. 1868.

<sup>54</sup> "An Old-time English Gamekeeper", *The Gamekeeper*, 1:1 (Oct. 1897), pp. 7-8.

<sup>55</sup> Ibid.

<sup>56</sup> D. J. Cox et al., *Public Indecency* (2015), p. 158.



### **3.2 Poaching in Practice: South Hinckford Magistrates' Court**

The jurisdiction of the South Hinckford Magistrates' court lies approximately 45 miles north east of London in the county of Essex. As shown in figure 3.1 it encompassed populated areas such as Braintree, Bocking and Felsted as well as several smaller parishes including Panfield and Rayne.<sup>57</sup> Essex was a successful agricultural county which specialised in cereals. Hunt and Pam outlined how Essex in the middle of the century "contained extensive arable acreage, its farms were larger than the average, and it appeared well-placed to benefit from any stimulus emanating from London and the metropolitan markets".<sup>58</sup> However, in 1873 Essex's agricultural industry was hit by a depression and struggled to recover. This would have affected agricultural labourers the most, potentially expanding the pool of poachers in the area, but South Hinckford had a diverse economy. The area was agricultural, but was littered with industrial elements due to the direct train line to London and the spirit of entrepreneurial families like the Courtaulds.<sup>59</sup> George Courtauld and his cousin Peter Taylor founded a textile business in 1794, which specialised in silk manufacture but was taken over by his son, Samuel, in 1816. They built three mills in Braintree, Bocking and Halsted employing 2,000 people by 1850 and over 3,000 by the 1880s. A notable aspect of the business is its large reliance on young female staff. For example, in 1838 female staff accounted for over 92 per cent of the workforce.<sup>60</sup> A young woman could therefore contribute to the household economy (reducing the need of male family members to poach) but employment for young men was not forthcoming. In 1854 Samuel brought Gosfield Hall, including its 2,000-acre estate, where he eventually died in 1881 worth an estimated £700,000. Gosfield Hall appears as a site of poaching throughout the Magistrates' minutes as the Courtaulds sought to punish poachers on their land in the same vein they treated their employees. It was reported, that despite the benevolence of the Courtaulds and their business partners who

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<sup>57</sup> Prior to 1860 the jurisdiction also included Gosfield.

<sup>58</sup> E. H. Hunt and S. J. Pam, "Essex Agriculture in the 'Golden Age', 1850-73", *Agricultural History Review*, 43:2 (1995), p. 161.

<sup>59</sup> Several engineering firms also operated in this area including Crittall Manufacturing Company who manufactured metal framed windows and the Lake and Elliot iron foundry.

<sup>60</sup> "Essex's Industrial Archaeology: Courtauld's silk weaving in Braintree", *Essex County Record Office Blog* (Jun. 2013), <http://www.essexrecordofficeblog.co.uk/courtaulds/> (accessed 1<sup>st</sup> Feb. 2014).



The first time the Courtaulds' land appeared in the poaching records was on the 19<sup>th</sup> December 1860. James Kemp and William Byford were indicted for ferreting (the placing of ferrets in rabbit holes to lure rabbits out) on Courtaulds' plantation in Bocking.<sup>64</sup> James Mills, a labourer who was cleaning a ditch, witnessed Kemp and Byford catching a rabbit and reported them. In the other four cases the Courtaulds' gamekeepers, Theophilus Haines, James Ridgewell and Charles Dunscomb, acted as either the key witness or the complainant. The Courtaulds themselves were conspicuous in their absence from the official records, with only a cursory reference as to the employment of the gamekeepers or the land where the poachers were caught the only connection to the family themselves. It is unclear whether the Courtauld family consciously distanced themselves or it was a coincidence, but it was a familiar theme in the court records; the complainant was rarely the landowner but rather the key witness or gamekeeper acting on the landowner's behalf. This is only one of the observations that can be deduced from an analysis of the court records. As already discussed the South Hinckford Magistrates' court offers the most complete series of records on poaching but there is a set missing from 1866 to 1874. To compensate for this I have decided to compare three five-year periods across our time frame: 1860 to 1865, 1880 to 1885 and 1890 to 1895. Empirical data is limited to names of defendants and complainants, the date of the trial, verdict reached by the Magistrate and sentences handed down to the defendant. In addition to this witness statements outline the alleged crime, methods used and in some cases, offer a motive for the act. Despite limitations of the data, it does provide a rare insight into everyday poaching either side of the depression and the endeavours of the authorities to limit it. This section will outline the number of cases and defendants presented to the court and how the crime noted in the official records changed over time. I will highlight how poaching was built upon networks of criminality, especially in the first half of 1860, with families and individuals such as Henry Chapman summoned frequently before the Magistrates. Thus, complicating the idealised representations of the poacher. Finally, I will evaluate the conviction rate for game offences and assess how notions of respectability and masculinity affected the type of sentence handed down by the Magistrate contributing to our understanding of rural communities and identity.

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<sup>64</sup> ERO, James Kemp and William Byford, P/H M11, 19 Dec. 1860.

**Table 3.1 A table detailing the number of cases and defendants presented at South Hinckford Magistrates' Court for game offences in a five-year period.**

Year	Number of cases heard	Number of defendants presented	Number of cases with one or more defendants
1860-1865	36	68	12
1880-1885	26	50	16
1890-1895	28	44	12
Total	90	162	40

Over the three five-year periods analysed, a total of 162 defendants were presented to the Magistrates' court for game offences. Each was noted in the records as one of the following: game, trespassing in pursuit of game, trespassing in pursuit of conies (rabbits and hares) or night poaching. All the defendants were male, with the only reference to women being notes of summons delivered to defendants' wives when the defendants failed to appear in court.<sup>65</sup> The inherent manliness of poaching will be explored in more depth in later discussions of masculinity and *The Gamekeeper*, but it is necessary to highlight it here. The findings from South Hinckford are consistent with other studies of poaching.<sup>66</sup> For example Clive Emsley, in his monograph on crime and society, stated that "poaching, in the sense of shooting, snaring or trapping game was almost always conducted by men". However, women were present in auxiliary activities such as "the black market carrying and selling of poached game" and the more rudimentary cooking of game caught for the pot.<sup>67</sup> Schindler supports this view in her work on poaching in the German countryside by stating "killing was man's work" but argued that for women the line was drawn at "pointing fire-arms at another living being" with setting traps and

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<sup>65</sup> For example, a summons was left with John Church's wife on 5<sup>th</sup> December 1860, but he went to London instead for a "situation". ERO, John Church, P/H M11, 5 Dec. 1860. A summons was also left for George Byford who was accused by the Courtaulds of ferreting on a plantation in Forfield on 4<sup>th</sup> Dec. 1861. ERO, George Byford, P/H M11, 4 Dec. 1861.

<sup>66</sup> The author to date has only encountered one case of a female poacher. Ann Swales, a "respectably-dressed woman", was fined twenty shillings in 1896 for taking a hare from a snare on land bordering her own. "A Lady Poacher", *The Yorkshire Herald*, 23 Sep. 1896.

<sup>67</sup> C. Emsley, *Crime and Society* (2010), p. 99.

smuggling rifles under skirts acceptable.<sup>68</sup> Women, although absent from the court records, signify the importance of wider networks of criminality for poaching to be a successful enterprise. This includes the killing of the game in the first place- 43 per cent of cases presented in this study had two or more defendants. Furthermore, many members of the gangs appeared with acquaintances and family members in different gangs unveiling what could be described as a community of criminality. Take for example the escapades of the Chapman and Lindnell families.

Archer argued that poachers fell into four categories: the full-time poacher working on his own, casual opportunists who poached when out of work, recreational poachers and dangerous male gangs.<sup>69</sup> I would argue this is too simplistic and the cases presented at South Hinckford often fell somewhere between a dangerous gang and recreational poachers. On the 26<sup>th</sup> January 1863 Henry Chapman, William Lindnell and four accomplices were spotted by Thomas Jagger, a labourer for a neighbouring landowner, chasing a wounded hare with their three dogs. Ritvo has observed that a dog was a status symbol quoting a contemporary dog owner's annual "nobody who is anybody can afford to be followed about by a mongrel dog".<sup>70</sup> It is quite telling, therefore, that the dogs in this case were a lurcher, a greyhound and a mongrel. These breeds were popular with poachers with gamekeepers preferring 'superior' spaniels and Labradors. The possession of a lurcher was as damning to a defendant as being caught with a trap and was presented as evidence of guilt. Jagger approached the group on his lunch break to warn them not to chase the hare onto his employer's land otherwise he would have report them. They replied that he "must know nothing" and proceeded to send their dogs onto the land to find the hare.<sup>71</sup> They were unsuccessful, but when they moved on Jagger recovered the wounded hare to present as evidence to the Magistrate who adjudged them

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<sup>68</sup> Although Schindler's work is situated in eighteenth-century Salzburg similarities can be drawn with England's countryside. N. Schindler, "The Mill at Bluntau: A Family of Poachers in Late Eighteenth-Century Salzburg Countryside", *German History*, 17:1 (1999), p. 88.

<sup>69</sup> J. E. Archer, "Poaching Gangs and Violence" (1999), p. 26.

<sup>70</sup> H. Ritvo, "Pride and Pedigree: The Evolution of the Victorian Dog Fancy", *Victorian Studies*, 29:2 (Winter 1986), p. 227. Quote from G. Stables, "Breeding and Rearing for Pleasure, Prizes and Profit", *The Dog Owners' Annual for 1886* (London: Dean and Son, 1896), p. 166.

<sup>71</sup> Testimony of Thomas Jagger in ERO, Joseph Melbourne, Henry Chapman, William Thomas Lindnell, William Cook, William Francis and James Golding, P/H M11, 4 Feb. 1863.

to be guilty and fined them a pound each. This is just one example of many gangs of poachers who operated in this area but they did not appear to be dangerous as they did not have any weapons. Researching the records in series has revealed an intricate network of criminality with Henry Chapman acting as the lynch pin between the groups of friends and in some cases family.

Henry Chapman appears six times in front of the Magistrates with a variety of accomplices including the Lindnell and Hatley families, as well as Joseph Melbourne and his own son Joseph Chapman.<sup>72</sup> The second time he appeared was the most interesting and symptomatic of the depth of the criminal network operating in the area but also an indication of the effectiveness of legislation in limiting everyday poaching. On 5<sup>th</sup> November 1862 Chapman, Melbourne, John Brown and Walter Peters were summoned to the Magistrates' court to stand trial for allegedly ferreting for rabbits. The entry into the minutes is listed as "Game- new act" and coincides with the passing of the Poaching Prevention Act. Charles Turner, a police constable and the complainant, saw Brown exiting a field and suspected him of illicit activity. In accordance with the new powers granted to police constables by the act he requested to search him and found five rabbits on his possession.<sup>73</sup> He claimed he had brought them from Chapman, Melbourne and Peters and an inspection of Chapman's home found a damp net stained with fresh blood. Peters, presented with the evidence admitted to selling the rabbits for six pence, the quartet were found guilty and fined seven shillings a piece. Chapman's gang of poachers and associate sellers contradicted the idea of a poacher as a folk hero and fed into the notion of them as petty thieves. Firstly, the poachers were not catching food for themselves or their families. Secondly, the network of buyers and sellers suggest this was a premeditated

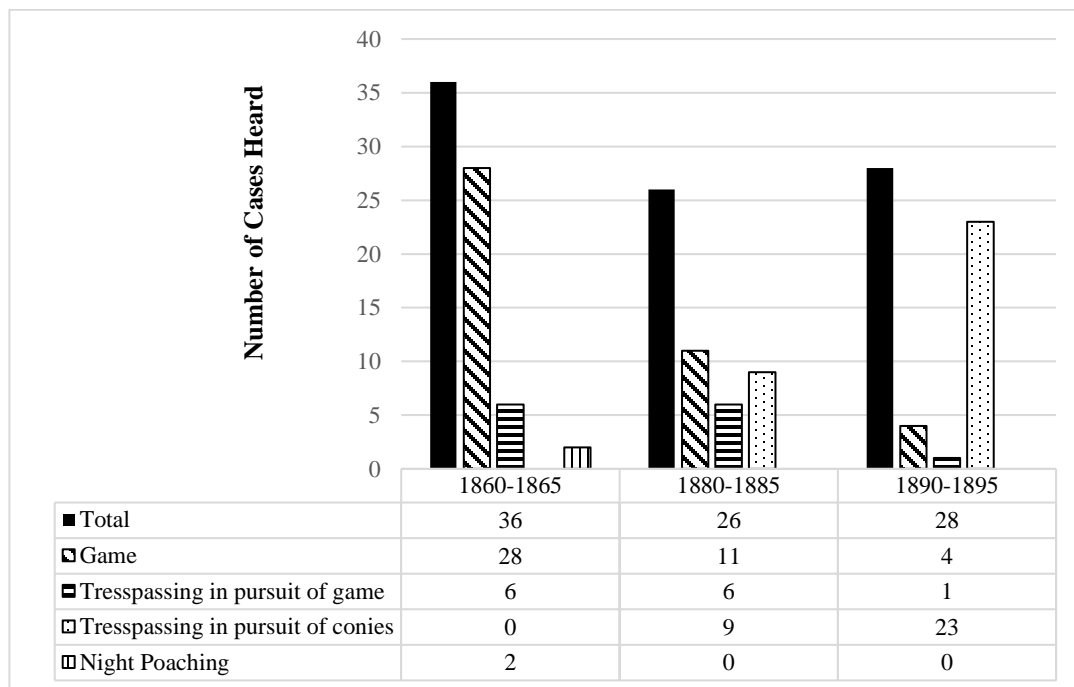
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<sup>72</sup> He failed to appear the last two times he was summoned. The first time he failed to appear he was summoned alongside Norman Hatley for being found in a field off of the public pathway with a dog and rabbits on their person. He was found guilty in his absence and fined ten shillings. ERO, Henry Chapman and Norman Hatley, P/H M12, 7 Dec. 1864. The second time he was caught with a relation of Hatley- Thomas Hatley- ferreting for rabbits "six or seven rods from the footpath" and fined one pound each. ERO, Henry Chapman and Thomas Hatley, P/H M12, 25 Oct. 1865.

<sup>73</sup> This is not the only reference to the Poaching Prevention Act in the minutes. On 23<sup>rd</sup> November 1892 William Watson, William Spearman and Arthur Cook were apprehended by William Cooper, a police constable, who was suspicious as they had a dog. He stated he "searched them under the poaching prevention act- I put my hand in Watson's pocket and found a ferret in a bag" along with three rabbits in Spearman's jacket pocket. They were found guilty. ERO, William Watson, William Spearman and Arthur Cook, P/H M17, 23 Nov. 1892.

money-making enterprise rather than a survival technique; the poachers were not taking a rabbit for the pot but money for their pockets.<sup>74</sup> Chapman and his many accomplices throughout the first half of 1860 were not dangerous and nor could you argue their actions were recreational but they posed a problem to authorities as their activities were continuous. The condemnation of this form of poaching led to the passing of the Poaching Prevention Act in 1862 and the Ground Game Act of 1880.

**Graph 3.1 A bar chart illustrating the type of game offence noted in the official records of South Hinckford Magistrates' court in a given five-year period.**



The records list four types of game offences: game, trespassing in pursuit of game, trespassing in pursuit of conies and night poaching but reporting of these changed over time. I attribute this to changes in legislation which altered the name of the act rather than the crime itself. Take for example trespassing in pursuit of conies. The Ground Game Act in 1880 gave tenants the unalienable right to catch ground game (conies) on their land regardless of any tenancy agreement. The act was passed to appease those who felt

<sup>74</sup> Poaching in gangs for a commercial market was not unique to South Hinckford. Several historians have found poaching for a “thriving commercial market” was a regular activity, especially in urban areas. H. Osborne and M. Winstanley, “Rural and Urban Poaching” (2006), p. 204.

individuals had the right to pursue game on their own land to both feed their family and protect their property. Mr. Hewitt of the Sussex Chamber of Agriculture, for example, calculated damage done by rabbits alone to some farms amounted to up to twenty-five pounds a day.<sup>75</sup> I would suggest that the Act was an awkward compromise as it focussed solely on ground game, excluding the more lucrative and attractive game bird market. However, by decriminalising the hunting of conies on an individual's land the Act had a wide-ranging impact, both in ideological and practical terms. Ideologically it cemented the notion of the English man's home was his castle and any property within those boundaries was rightfully his. A popular sentiment amongst pro-poachers, if we may call them that, was that game was the property of everyone as it moved freely across land boundaries and was a gift from God.<sup>76</sup> In this sense poaching could be seen as individuals enjoying the collective fruits of the land but by removing this anomaly, whereby a land owner could be prosecuted for catching game on his own farm, it lessened sympathy amongst the general populace and as Emsley argues made "him [the poacher] appear more of a criminal".<sup>77</sup> It might therefore be expected that there would be a spike in occurrences of poaching in the courts after 1880 as victims would be more inclined to prosecute, but national records suggest poaching declined after the 1870s- a trend reflected in South Hinckford whereby the total number of cases fell from thirty six between 1860 and 1865 to twenty eight in 1890 and 1895- but occurrences of trespassing in pursuit of conies increased dramatically.<sup>78</sup> There was not one single reported case between 1860 and 1865 but between 1890 and 1895 trespassing in pursuit of conies accounted for the majority of cases. A closer analysis of the data reveals that this was not, however, a new crime born out of legislation but rather the redefinition of an old one. Again, to explain this, we can look to our prolific poacher, Chapman and his peers.

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<sup>75</sup> Mr. Hewitt's evidence was offered as part of a debate held in the House of Commons with regards to the game laws and proposals to improve it. "Game Laws", *The Times*, 2 Mar. 1880.

<sup>76</sup> D. J. V. Jones, "The Poacher" (1979), p. 839.

<sup>77</sup> C. Emsley, *Crime and Society* (2010), p. 83.

<sup>78</sup> Osborne and Winstanley found that cases of poaching declined by almost a half after the 1870s. They argued this was due to a growing demand for respectability and the general increase in living standards brought on by increases in wages and employment meaning the part-time opportunistic poacher had no reason to steal to survive. The South Hinckford records do not represent such a drastic decline with the number of cases presented only falling by approximately twenty per cent from 1860 to 1895. H. Osborne and M. Winstanley, "Rural and Urban Poaching" (2006), p. 188.

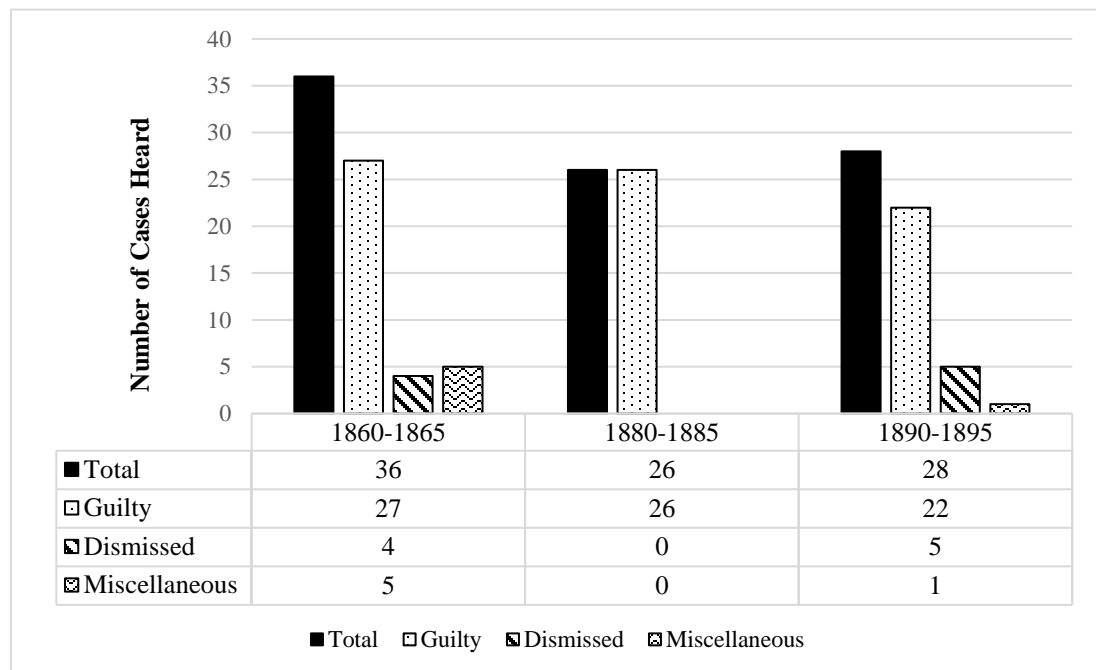


Chapman was summoned six times between 1860 and 1865 - five times for game and once for “game-new act”- yet every case was related to the poaching of rabbits and hares. In fact, of the twenty-eight cases reported as game between 1860 and 1865 twenty-three involved rabbits and hares that would have later been defined as trespassing in pursuit of conies.<sup>79</sup> To further emphasise this point between 1890 and 1895 exactly twenty-three cases of trespassing in pursuit of conies were heard. What this shows is that the Ground Game Act did not, as it aimed to do, reduce the number of tenant farmers facing poaching charges in this area. I could not find a single case of a defendant charged for poaching on his own land suggesting that the main consequence of the Ground Game Act was to redefine the crime as trespassing in pursuit of conies instead of the rather vague game heading it had before. This led me to ask, did this change in terminology change the outcome of the trial in terms of the conviction rate? The figures shown in graph 3.2 suggest that this might be the case. The conviction rate in the 1860 sample was 75 per cent nominally rising to 77 per cent in the 1890s but the real stand out figure is the 100 per cent conviction rate amongst game offences in the 1880 to 1885 period. This is a relatively small sample size but does reflect wider trends. I would suggest that this striking conviction rate was the realisation of the increasing appearance of criminality Emsley refers to. The Ground Game Act was a conciliatory action taken by Gladstone’s government to reduce sympathy shown to poachers in the courtroom and it was effective. The Ground Game Act did not increase the number of poaching cases in South Hinckford but certainly helped increase the rate of conviction especially in the immediate time frame. This suggests that attitudes towards poaching were hardening with more and more Magistrates willing to convict.

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<sup>79</sup> The five other cases related to the stealing of eggs, unlicensed fishing and the shooting of partridges and pheasants. ERO, Spunge, P/H M11, 19 Jun. 1861. ERO, Charles Tanner, P/H M11, 15 Apr. 1863. ERO, Titus Lewis, P/H M12, 24 May 1865. ERO, Edward Parnell, P/H M12, 11 Oct. 1865. ERO, James Whiffer, P/H M12, 11 Oct. 1865.

**Graph 3.2 A bar chart illustrating verdicts given for game offence cases heard at South Hinckford Magistrates' Court in a given five-year period.**



*\*Miscellaneous includes cases that were adjourned and never heard again and cases that were withdrawn*

The average conviction rate for gaming offences in South Hinckford from 1860 to 1900 was 90 per cent with only nine cases dismissed in the sample used for this study. A conviction in a criminal court can normally be attributed to finding and establishing a means, motive and opportunity to commit the crime. Yet, the testimonies suggest that motive was secondary and by no means necessary to secure a conviction, with eye witnesses preferring to focus on how and where the game was obtained. I would argue this is due, in no small part, to the preordained perception of poachers as poor men who were either poaching in the face of poverty or to generate an income. Thus, negating the need to form individual motives for each case. The fact a conviction could be obtained without a motive suggests the complainant need only provide a means and an opportunity for the crime to occur. A cursory look at the cases presents us with three factors that are crucial to establish these. Firstly, and unsurprisingly, the discovery of game in the possession of the accused. Secondly, a means of acquiring said game such as hunting equipment (most commonly nets and snares) and hunting animals including ferrets and dogs. These could be traced back to individual poachers as each one had their own unique

way of catching game with *The Gamekeeper* stating that the way a snare was set or the material it was made from could be used to distinguish who had made it.<sup>80</sup> Finally, where the accused was when the alleged poaching occurred was also important. The first two factors are relatively straight forward to ascertain but on their own did not necessarily lead to a conviction. For example, Thomas Lindnell was dismissed on 10<sup>th</sup> September 1862 despite his dog being found on Thomas Page's land catching a hare. The reason? He successfully argued, with the help of an eye witness, that he "was never off the road at all" and the dog had simply run off.<sup>81</sup> Ascertaining boundaries between private and public property is paramount in any discussion of poaching because it defines the crime; public land meant that certain game, such as conies, were free to the public therefore poaching had not occurred.<sup>82</sup> What is interesting, however, is the minute detail in the witness statements and how a public footpath is defined. James Ridgewell's testimony is the perfect example of this.

In November 1861 Ridgewell, a gamekeeper for William Coutauld, discovered a gang of poachers on his master's land. He described how he found William Reynolds standing on the footpath and his assailants, Enoch Ely and James Kemp, in the ditch ferreting for rabbits. His conversation with the poachers demonstrates how gamekeepers and poachers alike recognised the need to define boundaries to secure, or in the poachers' case, avoid a conviction. Ridgewell on finding the poachers said to Reynolds "I thought he had been sick of ferreting rabbits" to which he replied, "I am on the footpath". Ridgewell pointed out they were "not all in the footpath" and Kemp in his defence argued he was "only a little way out" because "there was a rabbit". Conceding that Kemp was only slightly off of the footpath Ridgewell stated that although the area he stood was

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<sup>80</sup> Anon., "Poachers' Snare", *The Gamekeeper*, 2:16 (Jan. 1899), pp. 54-55.

<sup>81</sup> ERO, Thomas Lindnell, P/H M11, 10 Sep. 1862. Lindnell's surname appears more than once in the records and it is likely that the men were related due to the small jurisdiction of the court and the short time frame between each case. George was summoned but failed to appear for ferreting for rabbits with Henry and Joseph Chapman. ERO, Henry Chapman, Joseph Chapman, Norman Smith and George Lindnell, P/H M11, 26 Feb. 1862. William Lindnell, as previously mentioned, was convicted in February of the following year again with Henry Chapman. ERO, Joseph Melbourne, Henry Chapman, William Lindnell, William Cook, William Francis and James Golding, P/H M11, 4 Feb. 1863.

<sup>82</sup> After the passing of the new Game Laws in 1831 a licence was still required to hunt game regardless of whether it was public or private land. Also, it was only possible to hunt certain birds in season. A contravention of either of these would result in a guilty verdict regardless of where the accused was standing.

“trodden away” it was not a footpath.<sup>83</sup> It is prudent to put it into the context of the time and place to demonstrate how contradictory this comment is. A footpath through a wood or a field would simply be a well-trodden pathway therefore if Kemp was standing on a “trodden away” part of the wood was he not also stood on a footpath? The contention between public and private land built on such fine margins adds another dimension to the discussion of game ownership. The fine line between a public footpath and private land was a prevailing theme with most cases observing where the defendant was stood when apprehended. In this case Ridgewell’s opinion was accepted and all three assailants were convicted. This was not unusual.

The word of the gamekeeper was believed over the assailant due to their perceived respectability. The minutes followed a set script with the defendants’ point of view only appearing in the witness statements or very rarely at the end. Gamekeepers, due to repeat appearances in court and learning from the experiences of their peers, understood and executed their roles very well. Their performance began before they entered the room by picking out their costume. A smart clean suit delineated them from the defendant and lent an air of respectability before they had uttered a word. Secondly, gamekeepers had a working understanding of the law and used it to their advantage. Ridgewell consciously noted the placement of Reynolds, Kemp and Ely with one eye on a conviction later. If a gamekeeper was unsure they could consult their peers or publications like *The Gamekeeper*. In only the second edition of the publication a gamekeeper wrote in asking to be informed “what can be done to people taking dogs along the highway, and allowing such to stray over grounds and coverts and pursue the game there?” In reply the editor stated it was still indeed trespassing in pursuit of game, as the dogs were the poacher’s responsibility but it “would be a very weak case” and it would be “best to remonstrate with the dogs’ owner, and only prosecute should he then persist in allowing the dogs to continue hunting unchecked”.<sup>84</sup> Finally, gamekeepers’ expressed themselves in a language that Magistrates related to as they interacted with social superiors at work. By dressing appropriately, having the right knowledge and using the language of higher

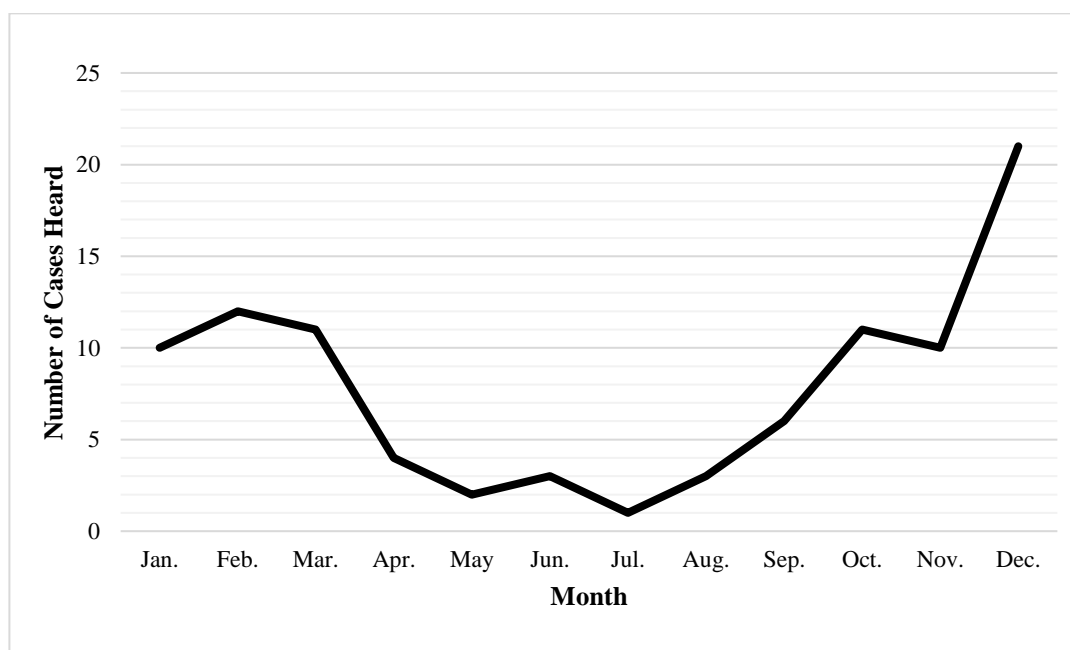
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<sup>83</sup> ERO, William Reynolds, James Kemp and Enoch Ely, P/H M11, 6 Nov. 1861.

<sup>84</sup> “Notes and Queries”, *The Gamekeeper*, 1:2 (Nov. 1897), p. 14.

classes gamekeepers emphasised their respectability adding weight to the stories they told. This performance was not unique to gamekeepers. Historians have shown how historical actors have performed gendered and class identities in the courtroom to get a favourable verdict.<sup>85</sup> The high conviction rate obtained suggests that gamekeepers enjoyed a respected position in rural society with their word having more worth than the alleged poachers. The role of the gamekeeper in poaching altercations will be analysed in more depth shortly but one final question must be asked of South Hinckford first; to what extent was poaching a seasonal crime

**Graph 3.3 A seasonal analysis of game offences at South Hinckford Magistrates' Court.**<sup>86</sup>



Historians have consistently emphasised the strong causal relationship between poverty and poaching with times of economic depression often reflected in a rise in

<sup>85</sup> G. S. Frost, *Promises Broken* (1995). G. S. Frost, *Living in Sin* (2008). A. J. Hammerton, *Cruelty and Companionship* (1992). L. Hall, “The Subject is Obscene” (2013). E. Ross, *Love and Toil* (1993). S. D’Cruze, *Everyday Violence* (2000).

<sup>86</sup> The graph illustrates the number of cases heard at South Hinckford Magistrates court from 1860-1865, 1880-1885 and 1890-1895.

poaching. It has been argued that the correlation between poverty and poaching led to a decline in poaching in the summer months when the rural labour market was strongest.<sup>87</sup> Osborne defined this summer hiatus in poaching as between April and September; a trend also reflected in our sample data. Graph 3.3 illustrates the spread of poaching cases across a calendar year with a definitive drop in cases between April and August leading to an acceleration of poaching from September through to December. It should be noted, however, the data used for the graph is drawn from when the cases were heard by Magistrates, rather than the date of the crime itself. In most cases this would have occurred in the previous month therefore the summer hiatus in this sample could more accurately be defined as between March and July with a peak in November. To a certain extent this suggests that the poachers in this sample conformed to the romanticised image of the down on their luck, out of work man looking to support his family in difficult times. Yet, as we have already seen this is not always the case with enterprising groups of men using their ill-gotten gains to generate an income. Osborne provides an explanation for this conjecturing that the continual fascination with economic factors has over shadowed the pivotal role the external environment has in shaping the crime. He argued that “availability, maturity and marketability of the quarry were often the key determinants of why offending exhibited such a marked seasonal pattern”.<sup>88</sup> There is a caveat to be added; the most common game caught in the area were rabbits and hares which even in Osborne’s estimations “were ever present, albeit in varying numbers throughout the year” somewhat undermining the strength of his argument.<sup>89</sup> To compensate for this he uses evidence to suggest rabbits and hares were not subject to the same seasonal poaching habits as other game but that simply is not the case in South Hinckford where there is a clear lull in poaching in the summer months. The evidence, when viewed holistically, suggests that the explanation for the seasonality of poaching lies somewhere between these two theories. It is true that practical implications, such as the availability of game and conditions required to poach, are dependent on seasons but the desire to poach was far

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<sup>87</sup> A. Howkins, “Economic Crime and Class Law, Poaching and the Game Laws, 1840-1880” in S. B. Burman and B. E. Harrell-Bond (eds.), *The Imposition of Law* (New York: Academic Press, 1979), pp. 273-287. J. E. Archer, *By a Flash and a Scare* (1990). D. J. V. Jones, “The Poacher” (1979).

<sup>88</sup> H. Osborne, “The Seasonality of Nineteenth-Century Poaching” (2000), p. 28.

<sup>89</sup> *Ibid.*, p. 33.

more driven by monetary concerns. Whether one conscribes to the romanticised image of the poacher or his more criminal minded counterpart both are driven by a desire to survive. This was far harder to do in the winter when legitimate means of earning a living were limited leading to peaks in poaching offences in the later months of the year. The reason why an individual poached is hard to ascertain from the court minutes but one case stands out from the rest.

In March 1884 Jonah Sutton and his friend John Rowd took their lurcher out in pursuit of rabbits. This was not Sutton's first illicit action. He was caught three months previously with another prolific poacher, Charles Saunders, and two others chasing rabbits. They were found guilty and fined two pounds apiece.<sup>90</sup> On this occasion they were spotted by Thomas Davey's gamekeeper whose suspicion was roused when he saw Sutton with a lurcher. The breed of dog and Sutton's past led him to challenge them which resulted in a chase. Unluckily for Sutton and Rowd the athletic gamekeeper caught them and found a few rabbits in their possession. This is not a unique story but the gamekeeper's testimony divulged the motives of the poachers. He stated he had asked them why they were taking rabbits from someone else's land knowing the risks associated with such an action. The answer was brutally honest "what are we meant to do if we can't get work?". Yet Sutton and Rowd's official defence was "no defence".<sup>91</sup> The gamekeeper appears to be sympathetic to the poacher's circumstances as he offered an excuse for their behaviour covertly requesting leniency. Gamekeepers were not immune to the plight of their neighbours. Russell recounted an interview with a gamekeeper who described how the court was "mostly very lenient" to "a mere matter of some poor devil filching rabbits or a pheasant".<sup>92</sup> The phrase "poor devil" suggests that the gamekeeper himself accepted the idea of a down on his luck individual catching a rabbit for the pot but drew the line at money making ventures. It appears in this case the court were not as accommodating as

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<sup>90</sup> Charles Saunders and Sutton were fined forty shillings whereas their accomplices Thomas Saunders and Charles Newman were charged five and ten shillings respectively. There is very little detail in the minutes for this case, but the fact Charles and Sutton were fined at a much higher rate would suggest they were either older than their counterparts and/or repeat offenders. ERO, Charles Saunders, Thomas Saunders, Jonah Sutton and Charles Newman, P/H M15, 5 Dec. 1883. ERO, P/H R1 (1880-1885), p. 75.

<sup>91</sup> ERO, Jonah Sutton and John Rowd, P/H M15, 26 Mar. 1884. ERO, P/H R1 (1880-1885), p. 81.

<sup>92</sup> H. Russell, "A Chat with a Gamekeeper", *The Gamekeeper*, 4:3 (Nov. 1890), p. 31.

Sutton was fined two pounds and Rowd ten shillings. This is reflective of Sutton's repeat offences and possibly the multitude of rabbits on his person. It could be asked why did Davey's gamekeeper report Sutton and Rowd at all if he sympathised with them? It is difficult to answer this question as we can never truly understand an individual's motives as they are shaped by individual circumstances and the context they operated within. The gamekeeper could have been sending a message to other poachers to stay away, he could have feared losing his job, he may have believed the court would offer leniency or he could have simply recounted the story as he knew it without an ulterior motive. These contradictions are what make studying history so fascinating but equally frustrating.

The data provided by South Hinckford Magistrates' court has exposed how external factors such as legislation, poverty and the wider community affected every day poaching in rural Essex. Evaluating the court minutes and registers in series has revealed trends, such as the seasonality of poaching and the changing definition of the crime, that can be contextualised within the socio-economic factors over time. Furthermore, I have demonstrated how the law was understood and utilised by both the prosecution and defence, especially the definition of boundaries between private land and public footpaths. Also, this study has shown that poachers were willing to operate in groups and engaged with the wider community in what I have termed as a network of criminality. This network of poachers, buyers and sellers emerged at the same time as a more critical cultural commentary on poaching that framed it as a crime akin to other forms of property theft. But nonetheless poaching in practice was more complex than its representation- as it was clearly economically motivated (shown in seasonal variations) and displayed some facets of organised criminal activity. Gamekeepers delineated themselves from poachers through their dress, intellect and language which asserted their respectable masculinity. Finally, the defendants and witnesses summoned to the court have confirmed that poaching, unlike any other crime, is committed by men, limited by men and punished by men. This case study has added to literature on rural communities by lifting stories of poaching from archived court registers and minutes to reveal how neighbours co-existed and challenged each other. However, it was limited in its scope as court cases can only show what was discovered and not which remained hidden in the field. This chapter will



now move onto a close reading of *The Gamekeeper* and attempt to unpick the masculine connotations of poaching more broadly using the position of the gamekeeper as its focal point.

### **3.3 Masculinity, Physicality and *The Gamekeeper***

In August 1899 “An Expectant Gamekeeper” made “A Wise Proposition” and ignited a fierce yet intriguing debate as to who made the better gamekeeper; a well-bred son from a long line of gamekeepers or someone who came to the profession later in life? The so-called ‘outsiders debate’ raged throughout *The Gamekeeper* from the pages of the editorial to the correspondence section for nine months, only halting when the editors issued a cease of all communication on the topic.<sup>93</sup> The issue provoked a mixture of highly emotive responses from readers on both sides of the debate. Using their personal experiences in the field among “game, guns and dogs” their contributions not only highlighted their opinions on the subject but also how gamekeepers viewed themselves, their masculinity and their profession within the wider context of poaching.<sup>94</sup> The position of the gamekeeper is very rarely discussed outside the continually evolving dialogue of the poacher and his crimes in the annals of history. In this context, the gamekeeper is the antagonist of the piece. His manliness is defined by his heroic defence of property and as the principal adversary to the poacher. In a shift from previous approaches to the subject, in the final section of this chapter I will turn my attention to the figure of the gamekeeper. In a close reading of *The Gamekeeper* I will shed light on how the profession was shaped and experienced, but also how this complex figure was represented in relation to contemporary codes of masculinity.

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<sup>93</sup> Only one contributor to the debate, Mr. Rooker, was willing to use his real name with everyone else taking an adoptive name reflecting their position in the debate. For example, ‘Merit’ called for jobs for those who had earned it regardless of their heritage and the ‘20-Year-Old Son of a 20 Years Experienced Gamekeeper’ promoted the cause of the keeper’s son. The original article penned by An Expectant Gamekeeper was published in August 1899 with the final correspondence in May 1900 as directed by the editors. The eight editions in the intermediary were littered with correspondence under the headings “A Wise Proposition” and “A Keeper’s Son”, a large article and an editorial on the subject. For the original article see An Expectant Gamekeeper, “A Wise Proposition”, *The Gamekeeper*, 2:23 (Aug. 1899), p. 167.

<sup>94</sup> High Down, “A Wise Proposition”, *The Gamekeeper*, 3:26 (Nov. 1899), p.33.

*The Gamekeeper*, a monthly periodical devoted to the interests of game preservers published from 1897 to 1925, is a useful resource to access notions of masculinity attached to a profession. The periodical covered all aspects of gamekeeping practice including rearing, dogs, trapping and, more importantly for this study, accounts of altercations with poachers, advice on how to limit their effects and prosecute them. The periodical is littered with stories and exploits of gamekeepers who had encountered poachers and the legal framework surrounding their capture and eventual prosecution. It gives an insight into how gamekeepers saw themselves, poachers and poaching as a crime as many of the articles are submissions from readers themselves; the opening edition called to the readership to “fill many of its pages” where “poaching cases of more than usual interest... will always be found a place”.<sup>95</sup> The periodical is a product of decades of technological advancement in photography and printing allowing for a greater range of publications. The removal of the taxes on knowledge and photomechanical processes opened the media market to the many.<sup>96</sup> Key to the growing popularity of the printed press was the rise of ‘New Journalism’ and the proliferation of crime narrative. Casey, in an informative piece on misperceptions of crime in *The Times* and *The Manchester Guardian*, presents the theory that there was a perception of rising crime despite clear evidence of its decline in national statistics. He argues this was due to a shift from mainstream political reporting to sensationalist stories on crime to stand out in an ever-competitive environment.<sup>97</sup> This created an illusion of rising crime within wider society despite evidence to the contrary. While the press has the power to create a narrative it can also be shaped by external ideas; it was both representative of public opinion and a cultural forum that went some way to shaping it. *The Gamekeeper* was an example of this as it asked for contributions and was therefore moulded by wider discourses but editorial choices dictated what was printed, where and in what format.

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<sup>95</sup> Editors, “To Our Readers, Concerning the Journal”, *The Gamekeeper*, 1:1 (Oct. 1897), p. 2.

<sup>96</sup> L. Brown, *Victorian News and Newspapers* (1985). M. Milne, *Newspapers of Northumberland and Durham* (1971), p. 15. J. H. Wiener, *The War of the Unstamped* (1969). M. Hewitt, *The Dawn of the Cheap Press Victorian Britain* (2014), p. 1.

<sup>97</sup> C. A. Casey, “Common Misperceptions” (2011), pp. 367-391.

*The Gamekeeper* was published and edited by Gilbertson and Page- a food manufacturing company- and was used as an advertising tool for their various products. The editor was responsible for the tone and overall narrative of the periodical but had to strike a balance between its readers, its proprietors and its authors.<sup>98</sup> From the outset it is clear *The Gamekeeper* aimed to directly engage with its audience in their placement of photographs, illustrations and personal stories. For the proprietors of this publication maintaining a dialogue with its readers was crucial to its commercial success. Yet, I would argue that this dialogue had wider implications. The periodical provided a space for ideas of masculinity and respectability to be tested by its readers. Fraser, Green and Johnston argued that this “process is crucial for social development and change” allowing gamekeepers to create idealised notions of self in conflict with each other and more importantly the poacher.<sup>99</sup> They also noted how the editors “might be described in Foucauldian terms as agents of knowledge, and, depending on the periodical’s politics, the dominant discourse, the house style, reveals both what it chooses to promulgate and what it excludes”.<sup>100</sup> The editors of this publication chose to start each volume with a picture of a gamekeeper in the centre of the front page. This was a statement that they represented the reader and the reader was central to everything the publication stood for. In this section I will evaluate these photographs and reveal how the publication sought to represent its readers and how the readers sought to represent themselves using class and highly gendered language.

A close reading of *The Gamekeeper* reveals five key attributes a keeper must have or be a master of. Firstly, he must be athletic with a genuine love of country sports. Secondly, he should be amenable to his master and ideally work for a respectable family with good standing in the local community. Thirdly a respectable gamekeeper came from a long line of gamekeepers or was at least trained by a gamekeeper steeped in the traditions of the profession. Next, a gamekeeper should have a good working knowledge of animal rearing, breeding and training. Finally, a gamekeeper should be proficient at protecting

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<sup>98</sup> M. Beetham, “Towards a Theory of the Periodical as a Publishing Genre” in L. Brake, A. Jones and L. Madden (eds.), *Investigating Victorian Journalism* (New York: St. Martin’s Press, 1990), p. 25.

<sup>99</sup> H. Fraser et al., *Gender and the Victorian Periodical* (2003), p. 200.

<sup>100</sup> Ibid., p. 79.

his master's land from poachers through physical force and in the courtroom. These attributes were created and maintained by the dialogue between the readers and editors of the publication. The most acute example of this can be seen in the opening pages of each edition entitled "Our Portrait Illustration" (OPI).

**Figure. 3.2 The opening page of the eighth edition of *The Gamekeeper*.<sup>101</sup>**

**The Gamekeeper**  
A JOURNAL  
Devoted to the Interests  
OF GAME PRESERVERS.

EDITED BY THE PROPRIETORS:  
**GILBERTSON & PAGE, LIMITED, HERTFORD.**

Vol. I, No. 8. MAY, 1898. PUBLISHED MONTHLY. PRICE 1d., POST FREE 3d.

**OUR PORTRAIT ILLUSTRATION.**

MR. R. HAMES, whose portrait we present herewith, is head-gamekeeper to Fortiscae Horner, Esq., on the Mells Park Estate, Frome, one of the best-known game preserves in the Western Counties. Mr. Hames is a native of Dorsetshire, where his father occupied a like position for twenty-five years, on the Handford Estate near Blandford, then owned by the late Henry Kerr Seymour, Esq., M.P.

Mr. Hames first came to Mells Park in the year 1862, as under-keeper at the age of seventeen, and two years later was promoted to the chief charge, which position he has held with conspicuous ability for thirty-four seasons. Few keepers, indeed, are able to boast of a record like this, while still in possession of full strength and vigour, and such an instance is certainly remarkable. Personally Mr. Hames is of fine presence, being over six feet in height, and carrying his fifty-three

years easily, so we do not think the head place at Mells will be open yet awhile.

The Mells Estate is situated under the shelter of the Mendip Hills, in a quiet out-of-the-way spot between the cathedral city of Wells and the market town of Frome, and is of large expanse, its acreage being estimated at close upon 10,000. The bag each season is varied enough to please the most exacting gunner, and includes about 3,000 pheasants, and generally amounts to quite 10,000 head in all.

As Mr. Hames' employer is one of Her Majesty's Commissioners for Woods and Forests, it cannot be expected that his own coverts are neglected in any respect; consequently the estate has long been recognized as one of the best from a game-preserver's point of view, a reputation which in a large degree may be ascribed to the head-keeper's thorough knowledge of his vocation.

**MR. R. HAMES,**  
Head-Gamekeeper to Fortiscae Horner, Esq., at  
Mells Park, Frome, Somerset.

<sup>101</sup> R. Hames, "OPI", *The Gamekeeper*, 1:8 (May 1898), p. 1.

The OPI opens every edition of *The Gamekeeper* creating a quasi-hall of fame. Figure 3.2 is an example of the layout of the front page and is typical of every edition. Approximately a third of the page is devoted to branding with a clear title and strap line adjacent to a line engraving of a gamekeeper holding a shotgun and a dog nestled in a forest. The eye is instantly drawn to the photograph in the middle of the page with two columns of text bordering either side. Beegan has argued that illustrations and photographs bind “together the magazine and its audience in a particularly intimate relationship”.<sup>102</sup> Green-Lewis has observed that this can also be the case between historians and their subjects with photographs giving students “a kind of intimacy with the Victorians”.<sup>103</sup> However, it is important to note that they are not simply evidence of history but are themselves historical.<sup>104</sup> In the light of the ethnographic turn, whereby photographs of the ordinary took over images of the extraordinary, we need to understand how images were produced and used by historical actors.<sup>105</sup> This section will explore the archive of images revealing not only the content but also the historical context that led to their production and how we access them today. In doing so I will explore the importance of photographs to the Victorian psyche of the self and what Green-Lewis has called a “narrative desire” to tell our own and others stories.<sup>106</sup>

In 2005 General Wilson of Marbath approached the National Gamekeeper’s Association with 336 issues of *The Gamekeeper* to be preserved for future generations to enjoy. The organisation recognised the importance of the collection in legitimising their profession and paid to create a digital archive with a fully searchable user interface. The archive contains a portable document file of every edition which can be downloaded in the same way academics access most journal articles today. Mussell posed that the increasing digitisation of newspapers has created a discursive space in which we can see

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<sup>102</sup> G. Beegan, *The Mass Image; A Social History of Photomechanical Reproduction in Victorian London* (Basingstoke: Palgrave Macmillan, 2008), p. 1.

<sup>103</sup> J. Green-Lewis, “Teaching Victorian Literature in the Context of Photograph”, *Victorian Review*, 34:2 (Fall 2008), p. 33.

<sup>104</sup> J. Tagg, *The Burden of Representation: Essays on Photographies and Histories* (London: Macmillan, 1988), p. 65.

<sup>105</sup> G. Batchen, “Snapshots: Art History and the Ethnographic Turn”, *Photographies*, 1:2 (2008), p. 127.

<sup>106</sup> J. Green-Lewis, *Victorian Photography, Literature and the Invention of Modern Memory; Already the Past* (London: Bloomsbury, 2017), p. xvi.

print anew.<sup>107</sup> A similar process can be seen here whereby digitisation has given the material a new impetus generating research evident in this thesis. The creation of the archive constitutes what Sekula termed a “territory of images” whereby the “unity of the archive is first and foremost that imposed by ownership”.<sup>108</sup> Ownership is easier to determine when one individual purchases and commissions photographs. For example, middle-class observer Arthur J. Munby’s collection which has been used to illustrate class and gender notions in action.<sup>109</sup> But in this case ownership is contested between the publishers, the readers and now the National Gamekeeper’s association who all had different vested interests. The publisher and by extension the editors were competing in a crowded market to increase readership. Gilbertson and Page were using the periodical as a vehicle to sell their products devoting a high percentage of the publication to advertising. Photographs and illustrations were crucial to this process as they engaged the reader and allowed them to visualise society around them. They were placed sporadically as part of “a very specific reading process, as the reader turns the pages backward and forward, glancing rather than studying”. In contrast to this, the reader was not in Beegan’s words “consciously looking *for* anything in particular”.<sup>110</sup> The photographs gave intimacy but the experience would have been temporary and fleeting as they were designed to be read once, maybe twice, then discarded. Greg observed this in 1855 noting that illustrated newspapers were “written to be read hastily and to be read only once”.<sup>111</sup> Periodicals had a longer shelf life than newspapers which were replaced daily but the life span of half tones in a periodical were much lower than photographs. The photographs themselves take on a different meaning in this context as despite being entitled portraits their consumption was vastly different to carte de visites or daguerreotypes.

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<sup>107</sup> J. Mussell, “Beyond the ‘Great Index’” (2017), p. 19.

<sup>108</sup> A. Sekula, “Reading an Archive: Photography between Labour and Capital” in J. Evans and S. Hall (eds.), *Visual Culture: The Reader* (London: Sage Publications, 1999), p. 182.

<sup>109</sup> S. Edge, “Urbanisation: Discourse Class Gender in mid-Victorian Photographs of Maids- Reading the Archive of Arthur J. Munby”, *Critical Discourse Studies*, 5:4 (Nov. 2008), pp. 303-317. S. Edge, “The Power to Fix the Gaze: Gender and Class in Victorian Photographs of Pit-Brow Women”, *Visual Sociology*, 13:2 (1998), pp. 37-56.

<sup>110</sup> G. Beegan, *The Mass Image* (2008), pp. 13-14.

<sup>111</sup> W. R. Greg, “The Newspaper Press”, *Edinburgh Review*, 102 (Oct. 1855), p. 483.

[Historical photos] must also be understood, not simply as visual images, but as visual residue of acts of communication, shaped by the equipment and processes of image-making, and by the assumptions and knowledge, values and beliefs, of the society in which they were originally created and subsequently circulated and viewed.<sup>112</sup>

Today a photograph is usually a digital item made up of bytes and pixels; it has a certain materiality in that they are stored and viewed on phones and computers but we readily document and consume images digitally.<sup>113</sup> In contrast Victorian equivalents were distinctly material objects taken to memorialise an individual or landscape providing a snapshot in time. The first commercial photographers were opened in London in 1841 by Richard Bead catering to a high-class clientele.<sup>114</sup> Photography was an expensive art form and required the subject to sit still due to long exposure times. As the century progressed this changed due to technological advancements. The advent of carte de visites made mass production easier and affordable essentially democratising photography. The proliferation of photography came together with significant improvements in printing methods. Previously all images had to be hand engraved on wooden blocks by up to twenty-four men taking twelve hours each. This was a costly process and took a long time limiting how many images could be printed. But the invention of photomechanical processes allowed this to be done in a fraction of the time. It created half tones that a former member of the *Illustrated London News* observed was so convincing that “not one man in five hundred knows the difference between a wood-engraving and a process block”.<sup>115</sup> Jobling and Crowley argued that this process exposed the working classes to weeklies that transcended “class barriers by encouraging the democratisation of visual culture” aided by the spread of literacy in the wake of the 1870 Education Act. According to their calculations by 1900 there were 2,328 magazines across Britain with the majority

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<sup>112</sup> J. M. Schwartz, “The Archival Garden: Photographic Plantings, Interpretive Choices, and Alternative Narratives” in T. Cook (ed.), *Controlling the Past: Documenting Society and Institutions: Essays in Honor of Helen Willa Samuels* (Chicago: Society of American Archivists, 2011), pp. 105-6.

<sup>113</sup> J. Green-Lewis, *Victorian Photography* (2017), p. xvi. G. Baylis, “A Few Too Many Photographs? Indexing Digital Histories”, *History of Photography*, 38:1 (2014), pp. 3-20.

<sup>114</sup> S. Edge, “Urbanisation: Discourse Class Gender” (2008), p. 310.

<sup>115</sup> C. K. Shorter, “Illustrated Journalism: Its Past and its Future”, *The Contemporary Review*, 75 (Apr. 1899), p. 492.

containing illustrations.<sup>116</sup> Readers of *The Gamekeeper* would therefore be accustomed to images but we should note that consuming images in print is very different to say a daguerreotype. By printing just the surface of the photograph without its context the image loses the natural sheen of a daguerreotype and felt closer to reality signifying rationality and candor.<sup>117</sup> Moreover, the images were not printed on their own but surrounded by text. Green-Lewis articulated this by noting that photographs “bled into discourse”.<sup>118</sup> Beegan’s work echoes this by not only highlighting that images would have been handled very differently to photographs but by observing that “the written text could change the meaning of the image; the image could encourage the readers to see the text in new ways. The two could act to support, enrich, transform, or contradict each other”.<sup>119</sup> The layout of the front page of *The Gamekeeper* almost invites this overlap often hinting at facial expressions and stance in the main body of the articles. It is important, therefore, to investigate the text and the images together to mirror contemporary experiences as far as possible.

In a selection of photographs Batchen noted that “each example captures a unique pose, even if that pose obediently repeats a million other, very similar poses. They are all the same, but they are all also just slightly different from each other”.<sup>120</sup> This is evident in the collection here. The subject of the piece is always dressed in either a two or three-piece suit in a seated position with most photographs only including the head and shoulders of the keeper. They often look to the side of the camera lens rather than straight through it as shown in figure 3.3.<sup>121</sup> This softens their appearance giving the keeper an air of wisdom rather than overt strength. Photography was believed to be an “apparatus of insight” revealing intellect, respectability and rank allowing Victorians to categorise their peers.<sup>122</sup> Jäger argued that “it was not a neutral medium” and was used to further scientific

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<sup>116</sup> P. Jobling and D. Crowley, *Graphic Design: Reproduction and Representation since 1800* (Manchester: Manchester University Press, 1996), p. 12 and p. 9.

<sup>117</sup> G. Beegan, *The Mass Image* (2008), p. 16.

<sup>118</sup> J. Green-Lewis, *Victorian Photography* (2017), p. 4.

<sup>119</sup> G. Beegan, *The Mass Image* (2008), p. 14.

<sup>120</sup> G. Batchen, “Snapshots: Art History and the Ethnographic Turn”, *Photographies*, 1:2 (2008), p. 125.

<sup>121</sup> A. Linkman, *Family Albums: An Exhibition of Photographs Dating from the Earlier Decades of the Century from the Family Albums of Working People* (Manchester: Manchester Polytechnic, 1982).

<sup>122</sup> S. Lalvani, *Photography, Vision, and the Production of Modern Bodies* (Albany: University of New York, 1996), p. 50. See also N. Rosenblum, *A World History of Photography* (New York: Abbeville Press,



understanding and create aesthetically beautiful images.<sup>123</sup> We can see the former in the increased use of photography in mental asylums and at crime scenes with Anwer observing that “the human face was believed to confess the corruptions of the soul”.<sup>124</sup> The images on display here are very different in that they do not show corruption but virtue. An exception to this can be seen in figure 3.4. The April 1899 portrait of Isaac Bloxham of Pull Court, Worcestershire has more of his body in the frame and he is looking straight into the lens.<sup>125</sup> Bloxham is positioned with his shoulders facing the camera in an open, almost confrontational stance, yet his eyes show a hint of vulnerability present in the surrounding text. Bloxham was employed as a dog-boy at the age of eleven and was promoted ten years later, at the same establishment, to head gamekeeper where at the time of publication he had served for thirty-three years. The article came in the twilight years of his life where the health of the “grand old keeper has not been so satisfactory”. The narrative demanded an air of sympathy because of his declining health yet overwhelming respect due to his long service. In this context, the surrounding text has helped frame the image and explain the deviation from normal standards. The drive to establish a tradition or legacy is evident in the overall narrative of the publication.

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1984). Particularly page thirty-nine where they argue that photographs can reveal “personality, intellect and character... through the depiction of facial configuration and expression”.

<sup>123</sup> J. Jäger, “Discourses on Photography in mid-Victorian Britain”, *History of Photography*, 19:4 (1995), pp. 316-318.

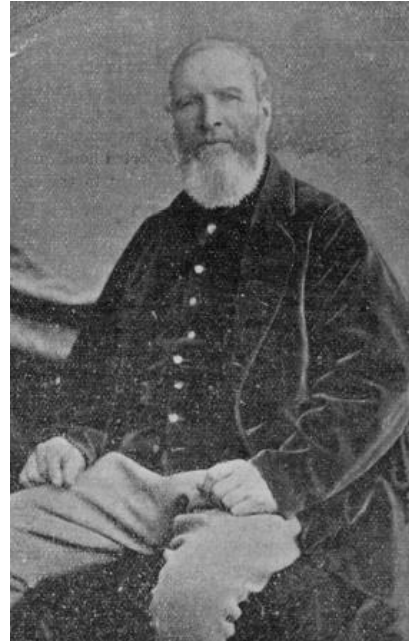
<sup>124</sup> M. Anwer, “Murder in Black and White: Victorian Crime Scenes and the Ripper Photographs”, *Victorian Studies*, 56:3 (Spring 2014), p. 433. See for example B. Brookes, “Pictures of People, Pictures of Places: Photography and the Asylum” in C. Coleborne and D. Mackinnon, *Exhibiting Madness in Museums: Remembering Psychiatry through Collections and Display* (London: Routledge, 2011), pp. 30-47. J. Tucker, *The Face of Madness: Hugh W. Diamond and the Rise of Psychiatric Photography* (London: Cornell University Press, 1976). J. Tucker, “Photography as Witness, Detective and Imposter: Visual Representation in Victorian Science” in B. Lightman (ed.) *Victorian Science in Context* (Chicago: University of Chicago Press, 1997), pp. 378-408.

<sup>125</sup> I. Bloxham, “OPI”, *The Gamekeeper*, 2:19 (Apr. 1899), pp. 97-98.

**Figure 3.3 OPI Portrait of  
J. Matthews.**<sup>126</sup>



**Figure 3.4 OPI Portrait of  
I. Bloxham.**<sup>127</sup>



**Figure 3.5 OPI Portrait of  
A. Nichol.**<sup>128</sup>



**Figure 3.6 OPI Portrait of  
F. Folds.**<sup>129</sup>



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<sup>126</sup> J. Mathews, "OPI", *The Gamekeeper*, 4:38 (Nov. 1900), p. 21.

<sup>127</sup> I. Bloxham, "OPI", *The Gamekeeper*, 2:19 (Apr. 1899), p. 97.

<sup>128</sup> A. Nichol, "OPI", *The Gamekeeper*, 4:39 (Dec. 1900), p. 41.

<sup>129</sup> F. Folds, "OPI", *The Gamekeeper*, 2:20 (May 1899), p. 113.

“He is a scion of a long and honourable line of gamekeepers”.<sup>130</sup> This sentiment can be found in almost all portrait narratives and is indicative of the importance attached to heritage. For example, in March 1899 Charles Stonebridge forced this point upon the editors with the opening lines of his OPI stating:

When forwarding his portrait for production in *The Gamekeeper*, Mr. Stonebridge alluded with justifiable pride to his descent from a long line of gamekeepers, and, without going so far into the past as to weary our readers, we may mention that his grandfather held the position of head-gamekeeper under the late Lord Ongley at Old Warden Park, Beds, for fifty years.<sup>131</sup>

This statement brings two very different issues to the fore. Firstly, where does the desire from both the keepers and the editors to publicise their heritage stem from? And secondly, who wrote the narratives? We will tackle the latter issue first as it indirectly affects the former. In the example given above Charles Stonebridge gave implicit directions on the content of his narrative and submitted his own portrait.<sup>132</sup> This is the first suggestion that the gamekeepers had a degree of agency in putting themselves in the OPI yet it is unclear to what extent their instructions were followed. The narrative is written in third person and the portraits follow a set pattern suggesting the editors gave guidelines before submissions. Yet there was scope for expressions of individuality through dress and body language. If we compare figures 3.5 and 3.6 for example, we see that both gamekeepers are gazing off to the right of the camera lens and have open stances but are quite different. A. Nichol is wearing a dark suit with a bow tie and a stern expression that would not look out of place in any middle-class profession. He is noted to be the Head Keeper for Sir Wilfred Lawson at Brayton Hall in Cumberland- a well-known Liberal MP who promoted temperance principles. In addition to his normal keeping duties Nichol is championed for his dog breeding abilities with his special fancy

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<sup>130</sup> J. Barnard, “OPI”, *The Gamekeeper*, 1:9 (Jun. 1898), p. 1.

<sup>131</sup> C. Stonebridge, “OPI”, *The Gamekeeper*, 2:18 (Mar. 1899), p. 81.

<sup>132</sup> There is only one other reference to how the editors chose the subjects for “OPI” and the content of it thereafter. The July 1900 edition immortalised W. Rooker, one of the key protagonists of the outsiders debate, because the editors had “received several requests for the production of Mr. Rooker”. W. Rooker, “OPI”, *The Gamekeeper*, 3:34 (Jul. 1900), p. 181.

being “the much sought-after Labrador retriever” which he sold for twenty-five pounds a time. In 1917 he was one of the first committee members of the Labrador Retriever Club alongside “the great and the good” and was a regular at dog shows.<sup>133</sup> I would argue his photograph was consciously chosen to portray a respectable image reflecting his master’s principles as much as his own. In contrast F. Folds in figure 3.6 worked for a very rich American family who made their money in the banking sector.<sup>134</sup> They invested large amounts into the grounds with *The Gamekeeper* commenting that Folds’ expenses were the envy of his peers.<sup>135</sup> His expression is visibly softer and his dress far more flamboyant than Nichol even in the grey scales of half tone images. No other gamekeeper in thirty-nine editions of the publication wore anything like this with the majority electing a plain suit and tie. What the OPI has shown is that there is no one set identity for gamekeepers worthy of the front page but it is in fact determined by several different factors not least their employer’s own personal preferences.

The second issue that Stonebridge’s OPI highlighted was the desire for gamekeepers to publicise their heritage as well as their masters. The importance of heritage in a profession has been seen as a marker of respectability and masculinity. Shoemaker argued in his ground-breaking study *Gender and English Society 1650-1850* that the “father’s primary role was to provide economic support, authority, discipline and preparing children for their career”.<sup>136</sup> The establishment of an occupational lineage and placing their children in a good profession, preferably their own, was a key indicator of a successful father. Strange also argues that the passing on of working skills was a form of inheritance from the father to his sons.<sup>137</sup> The successful passing on of skills and a profession is a respectable endeavour in direct contrast to poachers who appeared to lack

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<sup>133</sup> R. Edwards, “The Development of the Labrador Breed and its Eventual Recognition by the Kennel Club, 1896-1916”, *The Labrador Retriever Club* (2013), [http://www.thelabradorretrieverclub.com/articles/Richard%20Edwards/Development%20LRC\(2\).htm](http://www.thelabradorretrieverclub.com/articles/Richard%20Edwards/Development%20LRC(2).htm) (accessed 22<sup>nd</sup> Aug. 2017).

<sup>134</sup> S. J. Pak, *Gentlemen Bankers; The World of J. P. Morgan* (Massachusetts: Harvard University Press, 2013), p. 49.

<sup>135</sup> F. Folds, “OPI”, *The Gamekeeper*, 2:20 (May 1899), p. 113.

<sup>136</sup> R. B. Shoemaker, *Gender in English Society 1650-1850; The Emergence of Separate Spheres* (London: Longman, 1998), p. 124.

<sup>137</sup> J-M. Strange, ‘Families Need Fathers?’ *Emotion and Paternity in Working-Class Culture, 1880-1914. Full Research Report* (Swindon: ERSC, 2009), p. 4.

the discipline to work. The promotion of lineage and heritage was not confined to the OPI but spilt into the main body of journal and beyond. For example, the aforementioned outsiders debate which we will now explore in more detail showed that gamekeepers were not one homogenous group with the same principles but from a variety of backgrounds with conflicting ideas on what makes a respectable gamekeeper and by extension a respectable man.

The outsiders debate was ignited by a controversial article penned by ‘An Expectant Gamekeeper’. The article, entitled “A Wise Proposition”, and the subsequent correspondence exposed a fracture of opinion amongst the profession over how a man could become a gamekeeper- either through their heritage or on merit. “A Wise Proposition” suggested that landowners should only employ gamekeepers’ sons to ease overcrowding in the profession and guarantee the “birth right” of them to “follow the calling of their father(s)”.<sup>138</sup> His supporters, who wrote into the journal, held similar views. ‘Pur Sang’ (translated into English as ‘Pure Blood’) argued *The Gamekeeper* should keep a membership list to which only gamekeeper’s sons could apply and from which all vacancies are filled. After a few years he proposed this system “would be sufficient to cleanse our ranks and save our profession its good name”.<sup>139</sup> ‘H. B.’, in another vote of confidence for ‘An Expectant Gamekeeper’, stated he would only employ sons of keepers as he “cannot believe that a man who decides to be a gamekeeper long after he has attained manhood can ever become as efficient as one bred to that vocation”.<sup>140</sup> ‘Third Generation’ posed the question “who can know a gamekeeper’s duties better than a man born and bred to the calling?”<sup>141</sup> Finally ‘High Down’, in one of the more convincing arguments, noted that sons of keepers were brought up among “game, guns and dogs” and had “the advantage in the race of life” making them naturally better for the job.<sup>142</sup> The belief in lineage and a son having the right to follow his father’s footsteps was not unique to the gamekeeping profession. In an analysis of working-class

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<sup>138</sup> An Expectant Gamekeeper, “A Wise Proposition” (1899), p. 167.

<sup>139</sup> Pur Sang, “A Wise Proposition”, *The Gamekeeper*, 2:24 (Sep. 1899), p. 186.

<sup>140</sup> H.B., “A Wise Proposition”, *The Gamekeeper*, 2:24 (Sep. 1899), p. 186.

<sup>141</sup> Third Generation, “A Wise Proposition”, *The Gamekeeper*, 3:25 (Oct. 1899), p. 13.

<sup>142</sup> High Down, “A Wise Proposition”, *The Gamekeeper*, 3:25 (Oct. 1899), p. 13.

fatherhood, Rogers found that fathers had a more “tender relationship” with their daughters than their sons as they “had to learn the self-control and emotional distance that would enable them to follow in their fathers’ footsteps, carry on his name and, often, his line of business or profession”.<sup>143</sup> Tosh also pursues this theme by arguing that the mother figure in the home “stood for love”, whereas the father by contrast “represented the discipline required for survival in the outside world”. Tosh also notes a steady shift towards the end of the nineteenth century to the idea of work as a “calling” and a key facet of bourgeois masculine identity. He argues this was due to the rise in middle-class evangelicalism, which promoted the moralising influence of work.<sup>144</sup> The views of ‘An Expectant Gamekeeper’, ‘Pur Sang’, ‘H.B.’, ‘Third Generation’ and ‘High Down’ were reflective of this desire to preserve the profession for their sons and future generations. This was in part because they worked within an aristocratic arena which was itself predicated on ideas of breeding, blood and power through birth. Yet the fierce backlash these comments provoked suggests that these ideals were increasingly under siege at the end of the century.

The leader of the opposition in this debate was the controversial and outspoken Mr. Rooker, who, interestingly, was the only correspondent willing to use his own name. Rooker’s employment history was varied and crossed into several different professions which directly contradicts the notion of gamekeeping as a lifelong calling instilled from birth. At the age of twelve he took a gardening job and at the age of twenty-one he was promoted to head gardener. In 1884 he left the profession completely and joined the Warwickshire police but after eighteen months he decided to return to his boyhood profession due to the murder of one of his colleagues. He took a position in the Midlands but was later promoted to estate manager with gardens *and* game under his control. Due to ill health later in life he was advised to move out of hot-houses and as a result sought a position of head gamekeeper. In 1893 he was made head of the 7,000 acre estate at Wroxton Abbey in Banbury a position he still held seven years later when his profile was

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<sup>143</sup> H. Rogers, “‘First in the House’” (2007), p. 130.

<sup>144</sup> J. Tosh, “Domesticity and Manliness in the Victorian Middle Class; The Family of Edward White Benson” in M. Roper and J. Tosh (eds.), *Manful Assertions* (1991), p. 65.

entered into the OPI in July 1900.<sup>145</sup> The environment that gardeners and keepers worked in was the same making the transition more logical than some of the cases put forward that suggested “good-for-nothings” were taking jobs but, crucially, he would not have encountered poachers.<sup>146</sup> However, his experience in the police force may have helped as his OPI entry suggests poachers were forced to respect him as he had been in many fierce night affrays. The biography of Rooker may go some way in explaining his strong opposition to only employing gamekeepers who had a heritage of keeping in their family. He, in colourful and emotive terms, argued that over half of the current keepers were outsiders and helped maintain the high standards expected of the profession as they would do anything their employer asked. He believed, in no uncertain terms, that everyone was entitled to a living as “long as their efforts continue honest”.<sup>147</sup> Rooker’s supporters held similar views, giving several examples of keepers’ sons who refused certain jobs, were idle or choose their fathers’ methods above their employers.<sup>148</sup> One of his supporters, ‘Common-Sense’, explained this as “a false belief in their own importance”.<sup>149</sup> The surge of support for Rooker suggested that a hierarchal system based on heritage was not widely accepted and in fact in some cases shunned. The more modern notion of a meritocracy and the belief a man could make a living anyway he chose was by far the winner in the debate, with even the editors asserting that they could not “afford to lose them [the outsiders] from amongst us”.<sup>150</sup> This shift from lineage to merit in one of the most traditional occupations reflects similar movements in wider society. As the relevance and economic significance of land declined due to the industrial revolution, the results of hard work and application created a new generation of employees who believed in working for a living rather than being born into it.<sup>151</sup> Rooker’s views,

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<sup>145</sup> Ibid.

<sup>146</sup> Pur Sung, “A Wise Proposition” (Sep. 1899), p. 186.

<sup>147</sup> W. Rooker, “A Wise Proposition”, *The Gamekeeper*, 3:25 (Oct. 1900), p. 181.

<sup>148</sup> As many correspondents wrote to *The Gamekeeper* against privileges giving to keepers’ sons as for it. Writing anonymously under a false name Merit, Common-Sense, A Lover of Fair Play and An Old Keeper all argued for the employment of good keepers regardless of their heritage. See the correspondence section from volume 3, issue 25 to issue 32. Furthermore, Centurion supported their argument in his own article against An Expectant’s Gamekeeper’s “A Wise Proposition”. He outlined the reasons why he would not employ a keeper’s son over another simply due to his heritage using examples from his past. Centurion, “The Sons of Keepers”, *The Gamekeeper*, 3:26 (Nov. 1899), pp. 26-27.

<sup>149</sup> Common-Sense, “A Wise Proposition”, *The Gamekeeper*, 3:25 (Oct. 1900), p. 182.

<sup>150</sup> W. Rooker, “OPI” (Jul. 1900), p. 181.

<sup>151</sup> D. Cannadine, *The Decline and Fall of the British Aristocracy* (London: Yale University Press, 1990).

therefore, were not controversial, but the methods by which he expressed them most certainly were.

**Figure 3.7 OPI Portrait of W. Rooker.**<sup>152</sup>



Tosh stated that a Victorian man should display “rationality as against emotionality, energy rather than repose, constancy instead of variability, action instead of passivity, and taciturnity rather than talkativeness”.<sup>153</sup> Rooker pictured in figure 3.7 conformed to many of these characteristics; he is the archetypal respectable gamekeeper adopting the same stance as others that appeared in the OPI. He does not appear to be extraordinary at all but his self-promotion and over confidence riled his peers. He said he could “break a dog, rear partridges, pheasants, and wild-ducks, handle a poacher like a tiger, and hold [my] own with the rest of you”. Rooker followed this statement with a not too subtle suggestion that anyone doubting him should prove their worth in a physical

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<sup>152</sup> W. Rooker, “OPI” (Jul. 1900), p. 181.

<sup>153</sup> J. Tosh, *Manliness and Masculinity in Nineteenth-Century Britain* (Harlow: Pearson Education, 2005), p. 69.



fight at the next keepers' dinner where he "stands 5ft. 10in. in his socks, weighs 16 stone, is 41 years old, and considered a roughish handful".<sup>154</sup> Describing himself as a tiger and challenging his peers was a clear expression of his masculinity through his physical prowess. One could assume this show of power would be welcome in a profession defined by its prowess in poaching affrays yet, as 'An Employer of Keepers' described in an earlier edition, a respectable keeper was expected to use his powers in defence not attack.<sup>155</sup> His peers adopted this stance and mocked him for his excesses. 'High Down' sarcastically replied he would "invite my friend down to have a further discussion on this subject, but I am only five feet seven and a half, never weighed eleven stones, and having nothing of the tiger in my disposition".<sup>156</sup> 'A Twenty-Year Old etc.' doubted the validity of Rooker's personal description stating he would "dearly like to see his 'sixteen stone' chase a poacher for a mile and then put him through the 'tiger' performance".<sup>157</sup> One correspondent replied in kind but again found the reference to being a tiger a step too far. He argued that "although I am not a tiger I am capable of holding my own when called upon" and signed off rather ingeniously 'A Six-Footer' in reference to his own physical disposition.<sup>158</sup> The editors freely published the correspondence perhaps to increase engagement with their audience, create a scandal or as a form of tacit approval of the physicality on show. It is difficult to know exactly what their motives were but interestingly it was not just the violence readers objected to but his boasting.

Several of the succeeding letters highlight his unashamed and unguarded self-promotion, arguing it served no purpose and the more appropriate action would be to allow others to comment on your ability. The indignant replies from Rooker's peers suggest that his "talkativeness" and "emotionality" contravened their codes of behaviour and masculine characteristics demanded by wider society. Gamekeepers, if we can for one moment consider them as a group, would have been expected to conform to Victorian ideals of muscular Christianity where self-restraint and not 'roughish' fights were the

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<sup>154</sup> W. Rooker, "A Wise Proposition" (Oct. 1899), p. 13.

<sup>155</sup> He argued that a keeper should not "pose as a 'fighting-man'" but he should be able to defend himself when confronted by a poacher. "Defence; Not Attack", *The Gamekeeper*, 3:27 (Dec. 1899), pp.46-47.

<sup>156</sup> High Down, "A Wise Proposition" (Nov. 1899), p. 35.

<sup>157</sup> A Twenty-Year-Old in *ibid.*, p. 35.

<sup>158</sup> A Six-Footer, "The Sons of Keepers", *The Gamekeeper*, 3:28 (Jan. 1900), p. 75.

priority especially in the homosocial aristocratic world they operated within.<sup>159</sup> Victorian masculine culture “demanded self-control and public rectitude” driven by the state which required “a greater degree of control”.<sup>160</sup> Gamekeepers are a perfect example of a profession that struggled to conform with these codes of respectability and masculinity. Respectability is a fluid concept with one’s credentials under constant review.<sup>161</sup> For example, if we take the various aspects of physicality and place them on opposite ends of a pair of scales we can begin to appreciate the balancing act and compromises taken every day by gamekeepers like Rooker. On one side, we have athleticism and sporting achievements on the other physical violence. Complicating this balance is the ever-present poacher. Affrays with poachers were celebrated with scars revered as battle wounds and violence an accepted part of the job. But, crucially, the gamekeeper was always the heroic victim protecting himself and his master’s property. Through this prism, a gamekeeper maintained his reputation by fighting but with caveats in the same manner as the working classes could still indulge in ‘fair’ fights in some quarters. Fighting *for* something, in this case property, does not undermine their status but enhanced it and provided the balance required to be a respectable man in the Victorian period.

Gamekeeping was a male preserve and created a stage on which men could act and test their masculinity amongst their peers. This is seen most acutely in descriptions of their physical appearances. Robson, for example was said to “loom large on the horizon; may be said to fill the eye; and once seen, is not easily forgotten”. He was “widely known” and “generally liked by all classes” but his OPI was dominated by descriptions of his physical prowess. He was described as being “fully 6 feet in height” and having a “commanding presence” making him “one of the finest of a fine race”.<sup>162</sup> The praise lavished on Robson is focussed almost exclusively on his physique, suggesting this is the ideal to aspire to if you wish to be “one of the finest”. One could argue possessing a large frame and a commanding presence was a must for a gamekeeper as it was a physical

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<sup>159</sup> J. A. Mangan and J. Walvin, (eds.), *Manliness and Morality in Middle-Class Masculinity in Britain and America, 1800-1940* (Manchester: Manchester University Press, 1987), p. 6.

<sup>160</sup> S. Garton, “The Scales of Suffering: Love, Death and Victorian Masculinity”, *Social History*, 27:1 (Jan. 2002), p. 41. M. J. Wiener, *Men of Blood* (2004), p. 206.

<sup>161</sup> P. Bailey, ““Will the Real Bill Banks Stand Up?”” (1979).

<sup>162</sup> A. Robson, “OPI”, *The Gamekeeper*, 1:10 (Jul. 1898), p. 1.

profession but the obsession with height is quite unnecessary. There is no reason why a short man could not protect game but it is deemed important to the proprietors of the publication to the extent that when a keeper fails to reach these lofty heights they emphasise their other strengths to compensate. For example, Wilkes was described in December 1899 as being “about medium height” but “full of vigour” and Norman in the previous year was also of medium height yet “strongly built”.<sup>163</sup> Even our Labrador enthusiast Nichol made up for his lack “in stature by industrious energy”.<sup>164</sup> The empathic nature of these entries and the descriptions of tall commanding keepers create the illusion that a respectable gamekeeper was of a certain size and stature. Moreover, the reference to gamekeepers as a “race” and the physique required to be one of the finest could be viewed as a symptom of the Empire and social Darwinism whereby gamekeepers promoted their physicality in an attempt to prove their superiority. By highlighting and embracing the physicality of the profession in imperialistic terms the keepers were perhaps expressing their desire to be part of a wider cultural trend. Francis in his overview of Victorian masculinity argued the “imperatives of empire celebrated a militaristic and robust hyper-masculinity, which found its apotheosis in the homosocial world of the boys’ adventure story”.<sup>165</sup> In this instance gamekeepers substituted the adventure stories for real or imagined statements of themselves as a fine race in terms of their physical appearance and prowess. However, the ultimate expression of their physicality was in the numerous poaching affrays against their only adversary, the villainous poacher.

The pages of *The Gamekeeper* were punctuated with tales of poaching affrays, instructions on how to catch the illusive poacher and steps to take to ensure their conviction. These articles will be analysed in greater depth shortly but presently the focus will remain with the portrait illustrations and descriptions. There are three elements that were emphasised regularly and offer an insight into how the profession viewed itself in

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<sup>163</sup> Wilkes, “OPI”, *The Gamekeeper*, 3:27 (Dec. 1899), p. 41. Norman, “OPI” (Oct. 1898), p. 1.

<sup>164</sup> A. Nichol, “OPI”, *The Gamekeeper*, 4:39 (Dec. 1900), p.41.

<sup>165</sup> M. Francis, “The Domestication of the Male?” (2002), p. 640. The desire for a more adventurous lifestyle was described by Tosh as a “flight from domesticity”. J. Tosh, *A Man’s Place* (1999), pp. 170-194. Garton argued there was a shift towards a “homosocial and imperial world of adventure and manly achievement and a related denigration of home as routine and feminine”. S. Garton, “The Scales of Suffering” (Jan. 2002), p. 41.

relation to poachers. Firstly, the ferocity of the affrays and the harm afflicted both by the poacher and the gamekeeper. Secondly, the number of encounters and finally how many poachers were successfully prosecuted. Each element will be assessed in turn to demonstrate how both physicality and the effective use of the law fed into the notion of the powerful, masculine gamekeeper against ineffectual and effeminate poachers.

Mawson was the head gamekeeper to the Right Honourable Lord Windsor at Oakley Park in Shropshire in November 1899. Personally, he was noted to be of a “quiet demeanour, above the average height and of good appearance”. His entry goes to considerable effort in highlighting his experience with poachers across England, especially in the northern country among colliers. Here he worked in a single-handed establishment and was isolated against notorious colliers who always worked in gangs. However, he is celebrated for his competence and it is argued that “we believe his name yet lingers in their memories as a resolute keeper” but his body has been left with “sundry scars, the relics of bruises and cuts inflicted by that favourite weapon of the collier, his clog”. Despite this *The Gamekeeper* celebrates his efforts by stating “he quickly taught the colliers to respect him, and from that time his worries grew less”.<sup>166</sup> In this instance Mawson’s masculinity was not defined by his physique but rather his resilience to the onslaught of the famously vicious collier poaching gangs and the scars he bore to prove it. The gamekeepers recognised the symbolism attached to their scars and used them to promote their self-worth in the eyes of their peers. “Merit”, for example, in the midst of a heated discussion in the correspondence section argued that he bore “sufficient scars to prove” his involvement in poaching affrays and argued they also proved “that they were affrays in the real sense of the word”.<sup>167</sup> Therefore, one can infer from these statements that the ferocity of the affray and the number of scars gained were in some way, at least from the point of view of the keepers themselves, a measure of their masculinity. They wore them as if they were battle wounds, proving that they had the strength to fight a group of poachers and teach them respect. It is not only the physicality of gamekeepers in the face of poaching that was celebrated. The number of poaching encounters and

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<sup>166</sup> R. G. Mawson, “OPI”, *The Gamekeeper*, 3:26 (Nov. 1899), p. 21.

<sup>167</sup> Merit, “A Wise Proposition”, *The Gamekeeper*, 2:24 (Sep. 1899), p. 186.

subsequent prosecutions were discussed frequently as markers of an effective gamekeeper.

Encounters between gamekeepers and poachers were regularly reported for their ferocity but the pages of *The Gamekeeper* suggested that it was just as important to prosecute them, as it was to engage with them physically. For example, Barnard was noted for engaging in “stiff encounters with poachers... but out of these affrays he has generally managed to emerge victorious, and in most cases has secured a conviction against the offenders”.<sup>168</sup> Mr. Norman’s entry, in contrast to this, celebrated his proficiency in stronger terms:

Mr. Norman’s visits to the local police-court become very frequent about this period, and with such skill did he conduct both the operations against the poachers and the prosecutions which ensued, that the gangs were thoroughly disheartened, and, wisely recognising the futility of attempting to prevail over the new head-keeper, ceased from troubling.<sup>169</sup>

The portrait illustrations were designed to celebrate the gamekeeper in question and the inclusion of their proficiency in the use of the law suggests that it was a valued and integral aspect of the gamekeeper’s job. Mr. Mawson’s entry encouraged gamekeepers to push for prosecution as not only did it punish the poachers in the immediacy, if the author is to be believed, it also dissuaded poaching gangs from invading again. The gamekeeper held a respected position in rural society with his testimony proving pivotal to maintaining a high conviction rate as we saw in the South Hinckford case study. However, the game laws were not simple to implement with loop holes, including public footpaths through private land, making it particularly difficult for gamekeepers to prosecute. *The Gamekeeper*, recognising these difficulties, published several articles and letters in an attempt to clarify the law and the role of the gamekeeper within it.

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<sup>168</sup> J. Barnard, “OPI” (1898), p. 1.

<sup>169</sup> Mr. Norman, “OPI”, *The Gamekeeper*, 2:13 (Oct. 1898), pp. 1-2.

It was fundamental to the poaching cases from South Hinckford that boundaries between public and private land were clearly defined but in practice this was difficult. The ambiguity between the two led the *The Gamekeeper* to clarify issues of law. In the October 1898 edition H. Trinder detailed a case whereby a poacher walked free from the courts as the summons was for game offences, but the poacher had taken rabbits which do not fall under the definition. He warned against the “ignorance of the prosecutor” and implored readers to be specific in their terminology.<sup>170</sup> Yet, “High Down,” in his reply in a later edition queried this stating he had successfully convicted poachers in the same situation.<sup>171</sup> Other articles specifically designed to educate the readers on the intricacies of the Ground Game Act, the Poaching Prevention Act and Night Poaching Act accumulated to generate the impression that many gamekeepers were still unsure of their legal standing at the turn of the century.<sup>172</sup> This somewhat confuses the picture drawn by the data from South Hinckford, wherein the majority of cases relied on evidence supplied by a competent gamekeeper to secure a conviction. I would suggest, therefore, that the content was driven not by a desire to increase the conviction rate itself, but rather increase the number of poachers who faced trial. An average of just under six cases a year over three five-year periods is relatively low number and is by no means an accurate indication of the incidence of poaching in the area. By publishing articles on the intricacies of the law and regularly providing tips on how to catch poachers *The Gamekeeper* was aiming to decrease the number of undetected and therefore unreported cases. It is unclear whether they were successful in their endeavours but it does go some way to demonstrate the emphasis gamekeepers placed on limiting the effects poachers. *The Gamekeeper* has been used to this point to highlight how gamekeepers viewed themselves as respectable gentlemen in comparison to their poaching foes. We see this again in a series of articles allegedly written by a reformed poacher – ‘Old Bill’.

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<sup>170</sup> H. Trinder, “Wirksworth Bench and the Game Laws”, *The Gamekeeper*, 1:3 (Dec. 1897), p. 10.

<sup>171</sup> High Down, “Wirksworth Bench and the Game Laws”, *The Gamekeeper*, 1:5 (Feb. 1898), p. 13.

<sup>172</sup> There are too many articles and letters to cite here but for a sample see Kiney, “Keepers and the Ground Game Act”, *The Gamekeeper*, 1:5 (Feb. 1898), pp. 8-9. Kiney, “The Law as regards to Night-Poaching”, *The Gamekeeper*, 1:8 (May 1898), p. 9. W. H., “The Poaching Prevention Act”, *The Gamekeeper*, 1:8 (May 1898), pp. 8-9.

**Figure 3.8 Three photographs of ‘Old Bill’ captioned “Ah! What was that? You don’t believe in Old Bill now? Well you are hard to convince!”<sup>173</sup>**



The image of the poacher in *The Gamekeeper* thus far has been limited by the editors and contributors who purposefully put them in the background of the narrative as an almost mysterious figure with no face. There is one exception to this rule and it is worth noting because it offers us an insight into how the journal constructed the image of the other. It began with a series of articles written by ‘Old Bill’ that appeared in the 1899 editions of *The Gamekeeper* and ended with a OPI-esq feature in the middle of the December issue. The articles described his poaching techniques, more specifically long netting, offering advice on how to spot and prevent other poachers engaging in similar activities.<sup>174</sup> The format of the articles was unusual as they constructed the narrative by copying his words verbatim including the nuances of his accent. For example, the opening line of Part I reads: “‘Ave I bin long-nettin’, did yer say? Aye! Many a hundred times, an’ never been catched, although there ‘ave bin jist a few presshus narrer escapes”.<sup>175</sup> This

<sup>173</sup> Anon., “About ‘Old Bill’ Himself”, *The Gamekeeper*, 3:27 (Dec. 1899), p. 53.

<sup>174</sup> There were eight articles published monthly from February to September 1899. Old Bill, “Long Nettin’ Part I”, *The Gamekeeper*, 2:17 (Feb. 1899), p. 70. Old Bill, “Long Nettin’ Part II”, *The Gamekeeper*, 2:18 (Mar. 1899), pp. 85-86. Old Bill, “Long Nettin’ Part III”, *The Gamekeeper*, 2:19 (Apr. 1899), p. 102. Old Bill, “Long Nettin’ Part IV”, *The Gamekeeper*, 2:20 (May 1899), p. 121. Old Bill, “Long Nettin’ Part V”, *The Gamekeeper*, 2:21 (Jun. 1899), pp. 134-135. Old Bill, “Long Nettin’ Part VI”, *The Gamekeeper*, 2:22 (Jul. 1899), p. 150. Old Bill, “Long Nettin’ Part VII”, *The Gamekeeper*, 2:23 (Aug. 1899), p. 165. Old Bill, “Long Nettin’ Part VIII”, *The Gamekeeper*, 2:24 (Sep. 1899), p. 181.

<sup>175</sup> Old Bill, “Long Nettin’ Part I” (1899), p. 70.

style is remarkably different to the other contributions which causes it to stand out amongst the monotonous tone of the other articles. I would suggest that the use of this language was deliberate to emphasise the lowly social standing of ‘Old Bill’ in contrast to the more refined gamekeeper. The inclusion of ‘Old Bill’ was controversial with some readers doubting his existence and suggesting the articles were parodies designed to engage the audience. This led to the taking and publishing of the charming photographs in figure 3.8 alongside a biography of some sorts in the same mould as the OPIs.

The photographs are remarkably different to those in the OPIs. Firstly, his clothes are of poorer quality than the gamekeepers. The interviewer said he convinced ‘Old Bill’ to take the photographs “just as he was, without putting on his Sunday best” explaining the apparent differences but there is an underlying drive to belittle the poacher. This is evident in the second difference- the poses. He has an almost playful look far removed from the stoic images that saturate the publication. The text accompanying the images said these were “three typical positions and expressions” but even the captions undermine this assertion. In the OPI the captions gave the name of the subject, where they worked and for whom. Here the captions play on reader’s curiosity and are almost sarcastic by observing the reader would never be convinced. However, the narrative and to a certain extent the photographs do attempt to separate ‘Old Bill’ from other poachers labelling him a “respectable poacher”. He supposedly loved poaching for the sport but held those who resorted to violence in contempt. The author described him as a “very pleasing-looking party indeed for a poacher and he certainly does possess a straight eye, with none of the leer so characteristic” of other poachers.<sup>176</sup> It is impossible to know whether ‘Old Bill’ existed or who the man in the photographs really is. It could be another journalist blacked up and this comment a humorous joke, but the discourses remain the same. By juxtaposing ‘Old Bill’ to themselves and more deviant poachers the editors created a hierarchy of class defined by language, behaviour and dress.

This case study has added to existing rural historiography by investigating discourses to show how gamekeepers understood and expressed their social identities. It

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<sup>176</sup> Ibid.



has revealed that there was no one or right way to be a respectable gamekeeper worthy of the OPI but there were some prevailing ideals that thread the articles together. The overarching narrative was one of a masculine profession astute in game rearing, physical prowess and intellect to dominate in the field and the courtroom. *The Gamekeeper* placed the profession firmly above poachers within rural society by endorsing their masculine virtues and celebrated them on the front page of their periodical. Furthermore, I have demonstrated that gamekeepers were not one homogenous group but rather came from a variety of backgrounds with different aims and ambitions. These were epitomised in the portraits that adorned the front pages. Green-Lewis once posed that “what photography *does* rather than what it *is* has become the driving question” in research.<sup>177</sup> This analysis followed this line of thought to show not only what was in the portraits but to place them within their historical context and to consider how they worked in the context of the publication as a whole. The stance, attire and accompanying descriptions in the text depicted a profession defined by its respectable masculinity. This investigation has underlined how important photography is in understanding the ordinary as well as the extraordinary. We must remember that these sources are historical and handle them with caution but collections like this should be preserved and championed in historical research. Shorter asked in 1899 “will the public get tired of photographs?” concluding “I think not”.<sup>178</sup> Will historians get tired of photographs? I hope not.

### **3.4 Conclusion**

This chapter was divided into four sections revealing how social identities were expressed in discussion of two key characters in rural life- the poacher and the gamekeeper. The first section reviewed current historiography and the methodology adopted in this chapter providing a research framework. The second contextualised the poacher as a victim verses poacher as a criminal narrative in contemporary discourse. Beginning with *My Lady Ludlow* it demonstrated the emotive language attached to the

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<sup>177</sup> J. Green-Lewis, *Victorian Photography* (2017), p. xviii.

<sup>178</sup> C. K. Shorter, “Illustrated Journalism: Its Past and its Future”, *The Contemporary Review*, 75 (Apr. 1899), p. 492.

imagined identity of the poacher and explored the role of the gamekeeper in this dynamic. It also suggests that this narrative became more controversial later in the century as attitudes towards poaching hardened. In contrast to these representations, the third section delved into the Magistrate records to complicate our understanding of everyday poaching. Using South Hinckford as a focal point it illustrated how poachers were prosecuted with very high conviction rates on the authority of the gamekeeper's testimony. This was achieved by gamekeepers who had a working knowledge of the law and social expectations. Wearing the right costume and reading off a script gamekeepers proved their respectability and their word. It also adds to scholarship on poaching by exposing networks of criminality challenging depictions of him as a poor down on his luck fellow. While poaching has been seen by historians as a form of protest, this demonstrates that it is also worth considering it as a property crime, similar to the others explored in this thesis. Finally, in an exhaustive reading of *The Gamekeeper* this chapter demonstrated how a profession sought to define itself by using deeply gendered class language. Through an imaginative use of photography and a hall of fame the periodical created an identity that was dynamic but underpinned by notions of physicality, intelligence and honour.

Gender, class and property were central concepts to the understanding of poaching as a crime in rural environments. In the context of the wider themes of this thesis the escapades of the poacher and the gamekeeper have tested prevailing notions of masculinity and respectability in a hyper-masculine environment. While the figure of the poacher could be framed as conforming to respectable masculinity in that he might be seen to be providing for his family in a time of need, this was increasingly challenged by an emphasis on poaching as a criminal act. While the masculinity of the gamekeeper was less controversial, its construction was also less than straightforward. As the debates within *The Gamekeeper* show this rested on a careful balance of physical prowess, honourable behaviour and sometimes hereditary virtue. However, gamekeepers themselves did not agree on the relative importance of particular components – demonstrating that this was a masculine identity that was contested and under construction. The next chapter will move from poaching to a crime that has often been studied in tandem with it, arson. Both have often been interpreted as forms of protest.

However, as this chapter has taken a broader approach to poaching, considering it in relation to contemporary ideas of class and gender, a similar approach will be taken in the chapter that follows, pulling urban arson into wider discourses of gender, class and property crime.

## **Arson and The Old Bailey: Fire in London, 1860 to 1900.**

In 1864 James Coleman ripped straw out of his mattress, stuffed it into a hole in his lodging house wall and set it alight causing two to three pounds of damage. He had no recollection of his actions due to “the stupor of drink” but the events of the day were retold by the house owner, his son, a police sergeant and an agent for Liverpool and London Fire Insurance Company at the Old Bailey in 1864. Arson is a crime that is difficult to detect, as the line between deliberate and accidental is vague and predicated on lay understandings of identity and conflict. There were a few indicators of deliberate arson, but as was shown here, notions of respectability and gender were central to convictions. Like poaching and stealing from master, arson cases offer a window through which to view Victorian understandings of social identities and space. Coleman’s case is symptomatic of this as it reveals the impact of space on behaviour, social interactions and notions of respectability. One of the factors that separates arson from poaching and stealing from master, however, is the prevalence of insurance fraud.

Insurance fraud was a common motive for arson- one which Coleman used to deflect blame from himself in his unusually long prisoner’s statement. The Colemans left the lodging house in a separate dispute resulting in lost income for the home owner Charles Jones. Coleman said Jones owed his broker money but “the place not being in an eligible condition, the landlord would not let it, and therefore he must lose his property, or resort to stratagem of some kind”.<sup>1</sup> The fire officer also supported this statement declaring that “it was in a very bad state of repair—I should say that it was not in a lettable condition—I should not like anybody connected with me to take it”.<sup>2</sup> His defence strategy ultimately failed as he was found guilty but his representations did earn him a reprieve. He received a very lenient sentence of only four months’ imprisonment as the jury strongly recommended to mercy “on account of his being under the influence of drink, and on account of his wife”.<sup>3</sup> 365 cases of arson were heard at the Old Bailey from 1860

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<sup>1</sup> Prisoner’s statement in OBO, James Coleman, t18640919-905.

<sup>2</sup> Testimony of Henry Augustus Fisher in *ibid*.

<sup>3</sup> OBO, James Coleman, t18640919-905.

to 1900 of which 168 were found guilty; only sixteen of these received a shorter sentence than Coleman. A closer reading of the proceedings contextualises the jury's pleas and reveals why.

The first half of Coleman's statement noted he was "under the influence of drink". For an act to be criminal, it must be accompanied by some level of *mens rea*- the intent to commit a crime. Intent whilst under the influence of drugs or alcohol was, and still is, difficult to pin-point. Voluntary intoxication has, in some cases, been used as proof of basic intent but, as Rebecca Williams outlines, it is a far more complex issue today. She argues that to automatically assume intent because of drinking does not take into consideration the time lapse between drinking, and that the action and the decision to drink does not constitute foresight to commit the crime. Perhaps more importantly, in the context of accidental arson, it is difficult to prove a sober man would have foreseen the dangers of his actions any more than a drunk man.<sup>4</sup> In the case of arson, where purpose and intent must be proven (a difficult task in itself) being intoxicated could result in a verdict of accidental fire as the accused could be deemed incapable of understanding at the time of the offence. This is a reoccurring theme with many juries recommending mercy due to the inebriated state of the defendant at the time of his or her actions. The proceedings in this case take it one step further alluding to a shared responsibility between Jones and Coleman as the former left Coleman with a lit candle when intoxicated.

The second half of the statement is more ambiguous and stems from fractured relationships in the home. "On account of his wife" implies the jury was pleading for mercy so Coleman could look after his wife but it stems from a tacit acceptance of his actions. When released after his original arrest a neighbour accosted Coleman and told him Henry Jones, Charles' son, had "most grossly insulted" his wife. Coleman also stated that the Jones family had intimidated his wife, providing the judge and jury with a plausible explanation for his behaviour. Jones in reply stated Coleman had threatened him but his actions can be placed within nineteenth-century models of working-class

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<sup>4</sup> R. Williams, "The Current Law of Intoxication: Rules and Problems" in J. Herring, C. Regan, D. Weinberg and P. Withington (eds.), *Intoxication and Society: Problematic Pleasures of Drugs and Alcohol* (Basingstoke: Palgrave, 2013), pp. 267-282.

masculinity. In his work on gang culture in nineteenth-century Salford, Davies argues that “youths assumed a chivalrous obligation to avenge perceived insults to their female associates”. This behaviour was taught within a “wider association between ‘hardness’ and masculine status which permeated working-class culture”.<sup>5</sup> It followed that Coleman’s protection of his wife’s honour could be viewed as an act of chivalry. It is important to view Coleman’s actions, therefore, within the context of masculine virtues of the time and the championing of physical prowess as an element of his perceived manliness.<sup>6</sup> However, as Wiener has convincingly argued, as the Victorian era marched on there was a greater demand from the state for self-restraint in the face of violence.<sup>7</sup> Tosh pinpoints the beginning of this transition from the late nineteenth century, suggesting the link between masculinity and violence was much weaker in 1914 than it had been in 1880.<sup>8</sup> The lenient sentence given to Coleman was therefore reflective of his time not simply his actions.

The Jones family, like masters in chapter two and gamekeepers in chapter three, adopted respectable personas to manipulate the trial, which contributed to a guilty verdict. Charles twice mentioned his occupation and stated he worked twelve-hour days which had no bearing on the case. He also described how he helped Coleman into bed in his inebriated state despite him threatening to kill him earlier in the evening. Charles framed the events to demonstrate how he was a respectable and reasonable man who had no ulterior motive in blaming Coleman for the fire. The language and stance adopted exposes prevailing notions of respectability and how they could be performed to try and induce favourable outcomes. Frost talks of a “formulaic” process in breach of promise cases where the same type of witnesses were called and played “well-known parts”:

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<sup>5</sup> A. Davies, “Youth Gangs” (1998), p. 350.

<sup>6</sup> E. Archer, “Men behaving badly’?” (2000), p. 51.

<sup>7</sup> M. J. Wiener, *Men of Blood* (2004).

<sup>8</sup> J. Tosh, “Masculinities in an Industrializing Society: Britain, 1800-1914”, *Journal of British Studies*, 44:2 (Apr. 2005), p. 334.

The women were pathetic maidens hurt by cruel seducers; and the men were hapless bachelors, caught in the snares of husband-hungry women. The judge and jury played the parts of avengers or conciliators, depending on the situation.<sup>9</sup>

Arson cases also followed a pre-ordained script with witnesses and stakeholders, including fire officers from insurance companies and first responders to the scene, playing roles that emphasised the respectability, or lack thereof, of defendants and victims. Coleman's case is just one example of 365 but reveals many of the themes that will be discussed: the prevalence of insurance fraud, difficulties with defining arson, the social tensions that underline criminal behaviour and how notions of gender and respectability overlapped influencing the reporting and punishment of the crime. While the intersection of gender and crime is a familiar subject area, there has been little research undertaken on urban arson in the metropolis outside of the suffragette era.<sup>10</sup>

Previous historiography has tended to see arson as a crime of protest or as a result class conflict. This was particularly evident during times of economic hardship, such as the Swing Riots in the 1830s. Rural labourers destroyed machinery and burnt down barns in an attempt to demonstrate their frustrations with the ever-growing industrialisation of the agricultural sector. New and more efficient machinery took over from human hands, pushing peasants to their breaking point both economically and socially. Rudé and Hobsbawm's seminal account of the riots, *Captain Swing* helped to inspire subsequent explorations of arson.<sup>11</sup> Historians, including Wells, Charlesworth and Archer, have explored arson in relation to rural life and class differences in their work on south east

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<sup>9</sup> G. Frost, *Promises Broken* (1995), pp. 26 and 29.

<sup>10</sup> Seminal works on the intersection of gender and crime include: M. J. Wiener, *Men of Blood* (2004). L. Zedner, *Women, Crime, and Custody* (1991). C. Emsley, *Hard Men* (2005). S. D'Cruze and L. A. Jackson, *Women, Crime and Justice* (2009). M. L. Arnot and C. Osborne (eds.), *Gender and Crime* (1999).

<sup>11</sup> E. Hobsbawm and G. Rudé, *Captain Swing* (1969). G. Rudé, "Protest and Punishment in Nineteenth-Century Britain", *Albion: A Quarterly Journal Concerned with British Studies*, 5:1 (Spring 1973), pp. 1-23. For the Swing Riots see also C. J. Griffin, *The Rural War: Captain Swing and the Politics of Protest* (Manchester: Manchester University Press, 2012). Special edition of *Southern History* "Captain Swing Reconsidered: Forty Years of Rural History from Below" more specifically, in the context of this chapter, C. J. Griffin, "'The Mystery of the Fires Captain Swing as incendiary'", *Southern History*, 32 (2010), pp. 22-44.

rural areas including East Anglia and Kent.<sup>12</sup> Their work shaped and contributed to a lively three year-long debate in the pages of *The Journal of Peasant Studies* from 1979 to 1982. Discussion centred on the nature of protest in rural areas, and in particular the extent to which there was a movement from open to secretive acts - the movement of arson from an overt to covert action.<sup>13</sup> Archer followed on from this debate, publishing his thesis in 1990 on rural crimes of protest in East Anglia; poaching, animal maiming and arson. He argued that incendiarism was “endemic at the best of times, reaching epidemic proportions during the worst”.<sup>14</sup> This view was first expressed by Jones in 1976 when he stated that incendiarism had reached “epidemic proportions” in East Anglia.<sup>15</sup> Poole supported this argument stating that although arson had been widely accepted as an epidemic it was “an epidemic largely unexplored or else subsumed within broader arguments about rural proletarianisation”.<sup>16</sup> Despite the ardent interest shown by early nineteenth-century historians in rural arson, there has remained a lack of critical research that does justice to the ‘epic proportion’ of the crime itself. This is even more apparent of urban cases.

Arson is a rare crime within the field of criminal history in that it was more frequently found in rural rather than urban spaces. It is not the only crime more frequently committed in rural areas, poaching being the prime example, but it is the only one that is not directly influenced by its environment. For example, poaching is more common in

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<sup>12</sup> J. E. Archer, *‘By a Flash and a Scare’* (1990). J. Rule and R. Wells, *Crime, Protest and Popular Politics in Southern England, 1740-1850* (London: The Hambledon Press, 1997). C. J. Griffin, *Protest, Politics and Work in Rural England, 1700-1850* (London: Palgrave, 2014). M. Reed and R. Wells (eds.), *Class Conflict and Protest in English Countryside 1700-1880* (London: Frank Cass, 1990).

<sup>13</sup> R. A. E. Wells, “The Development of the English Rural Proletariat and Social Protest, 1700-1850”, *The Journal of Peasant Studies*, 6:2 (1979), pp. 115-139. A. Charlesworth, “The Development of the English Rural Proletariat and Social Protest, 1700-1850: A Comment”, *The Journal of Peasant Studies*, 8:1 (1980), pp. 101-111. R. A. E. Wells, “Social Conflict and Protest in the English Countryside in the Early Nineteenth Century: A Rejoinder”, *The Journal of Peasant Studies*, 8:4 (1981), pp. 514-530. J. E. Archer, “The Wells-Charlesworth Debate: A Personal Comment on Arson in Norfolk and Suffolk”, *The Journal of Peasant Studies*, 9:4 (1982), pp. 277-284.

<sup>14</sup> J. E. Archer, *‘By a Flash and a Scare’* (1990), p. 85. For an international perspective see also R. Shulte, *The Village in Court: Arson, Infanticide and Poaching in the Court Records of Upper Bavaria 1848-1910* (Cambridge: Cambridge University Press, 1994).

<sup>15</sup> Jones used evidence gathered by Thomas Campbell Foster - a *Times* correspondent who gravitated towards East Anglia in the 1840s - to successfully demonstrate the scope of arson in the period and contemporary fascination with the crime. D. Jones, “Thomas Campbell Foster and the Rural Labourer; Incendiarism in East Anglia in the 1840s”, *Social History*, 1:1 (1976), p. 5.

<sup>16</sup> S. Poole, “‘A Lasting and Salutory Warning’: Incendiarism, Rural Order and England’s Last Scene of Crime Execution”, *Rural History*, 19:2 (Sep. 2008), p. 163.



rural spaces due to the availability of game yet in urban areas, like London, where there were more buildings to be burnt, arson can hardly be termed endemic, let alone epidemic. The potential for devastation is much higher in London where houses were tightly packed together along narrow winding lanes. If one establishment caught fire it would not take much for it to destroy a whole street. But only 365 cases were heard at the Old Bailey in the forty years from 1860 to 1900 compared to 337 cases found by Archer in Norfolk and Suffolk in the decade between 1860 and 1870 alone.<sup>17</sup> The research has reflected this and focussed on rural areas rather than the capital, which has been overlooked. There are two notable exceptions to this: research on insurance fraud and the psychiatric debate surrounding the legitimacy of pyromania, which does not focus on a particular locality, but rather England as a whole.<sup>18</sup>

Robin Pearson, in an article on moral hazards and the assessment of insurance risk in *The Business History Review*, highlighted the non-scientific nature of arson detection and how insurance surveyors were asked to assess an applicant's "character" and "temperance" as much as the physical landscape of the building itself.<sup>19</sup> The reasoning for this was two-fold; firstly, the applicant was more likely to be a victim of arson if he had an obtrusive or confrontational character and secondly, he himself could be more likely to commit fraud if of poor character. Some companies attempted to circumnavigate this by only accepting policies from applicants that were known to the business or their associates. Pearson highlights the unscientific nature of arson detection and lack of professionalism within the insurance sector with surveyors often being builders who may or may not have sufficient knowledge of the landscape they were assessing. Insurance surveyors are key witnesses in most arson cases heard at the Old Bailey. They were often asked to comment on the nature of the fire, the amount of damage and more interestingly the character of the individual involved before and after the fire. This chapter will build upon Pearson's work by adopting a similar approach as Poole in his examination of arson

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<sup>17</sup> J. E. Archer, *'By a Flash and a Scare'* (1990), p. 46.

<sup>18</sup> J. Andrews, "From-Stack Firing to Pyromania. Part 1" (2010), pp. 243-260. J. Andrews, "From-Stack Firing to Pyromania. Part 2 (2010), pp. 387-405.

<sup>19</sup> R. Pearson, "Moral Hazard and the Assessment of Insurance Risk in Eighteenth- and Early- Nineteenth-Century Britain", *The Business History Review*, 76:1 (Spring 2002), pp. 6-7.

in Somerset. He outlined the thought processes, methods and motives of the last execution administered at a crime scene of three labourers found guilty of incendiarism.<sup>20</sup> He successfully adopted a microhistory approach rather than emulating his counterparts' reliance on statistics, which, in turn, allowed for a more nuanced interpretation of day-to-day judicial manoeuvring and judgements than would be possible with raw data.

Scholars beyond the field of history have approached nineteenth-century arson from different perspectives, lending their expertise to create a multi-and inter-disciplinary analysis. Griffin, a historical geographer, mapped arson in the countryside in the early nineteenth century using reports from provincial newspapers.<sup>21</sup> He observed that newspapers placed incidents of fires into three distinct categories: "accidental, deliberate (arson), or as having no discernible cause".<sup>22</sup> These categories were informed by lay persons, such as insurance surveyors, and were delineated by common factors rather than scientific knowledge. For example, Griffin suggests that fires in the bed chamber were often deemed accidental due to "careless servants knocking over candles or leaving candles too close to curtains or beds".<sup>23</sup> For example, Sarah Chadd was found not guilty, despite asking for lucifers to set fire to her lodgings, as a candle had been accidentally left next to the curtains in the bedroom.<sup>24</sup> This was not always the case as servants could be punished quite severely at the Old Bailey for setting fire to their master's bedrooms. Emma Pennington was transported for seven years after setting fire to her master's bedchambers in 1851.<sup>25</sup> Neither of these cases were featured in the London press, as the damage was minimal and their stories less than extraordinary. This is the fundamental disadvantage of examining newspapers in isolation - what is being left out is as significant as what is being included.

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<sup>20</sup> S. Poole, "'A Lasting and Salutory Warning': Incendiarism, Rural Order and England's Last Scene of Crime Execution", *Rural History*, 19:2 (Sep. 2008), pp. 163-177.

<sup>21</sup> C. J. Griffin, "Knowable Geographies? The Reporting of Incendiarism in the Eighteenth- and Early Nineteenth-Century English Provincial Press", *Journal of Historical Geography*, 32 (2008), pp. 38-56. For another historical geography review see R. Kuhlken, "'Settin' the Woods on Fire': Rural Incendiarism as Protest", *Geographical Review*, 89:3 (Jul. 1999), pp. 343-363. Kuhlken focussed on the relationship between the individual and their landscape using examples from England, Algeria and the United States.

<sup>22</sup> C. J. Griffin, "Knowable geographies?" (2008), pp. 47-48.

<sup>23</sup> *Ibid.*, p. 48.

<sup>24</sup> OBO, Sarah Chadd, t18700228-284.

<sup>25</sup> OBO, Emma Pennington, t18510707-1515.

Editors and proprietors of periodicals decided and directed the overall narrative of their publications. Fraser, Green and Johnston state that this was reflective of readers' desires as in an increasingly competitive market economics directly influenced journalistic choices.<sup>26</sup> The printed press was a form of consumption with profit margins the driving force behind publications creating pressure on human resources and space on the page. Many articles were repeated verbatim from London based newspapers as the provincial publications lacked the resources to send their own journalists. They were also under pressure from stakeholders who viewed the press as a moralising force.<sup>27</sup> One example Griffin drew upon was the Swing riots. He described how many newspapers were under pressure not to print successive cases of arson through fears of encouraging or supporting further acts.<sup>28</sup> Due to improvements in digital history accessing nineteenth-century newspapers and periodicals has never been easier. We can key word search and sift through millions of pages in seconds but there is a responsibility to dig behind these sources and ask why they exist? Like photographs of gamekeepers newspaper articles of arson and other criminal acts had a purpose.<sup>29</sup> By comparing newspaper reports to the Old Bailey Proceedings, themselves a publication with their own limitations, this chapter will investigate how language choices revealed and shaped social identities. The changing dynamics of respectability and gender will be tested through an analysis of fires set in London and demonstrate how arson, and its representation in the courts, like stealing from master and poaching, was a product of social constructs and interactions.

The existing body of work on arson has a noticeable gap concerning cases that occur in urban spaces including their perpetrators, the nature of the crimes and the dwellings they took place in. Like poaching, arson has been recorded as a crime of protest, but this does not represent arson in the urban setting. Those who committed arson in the city had many motives; few were driven by class-consciousness or a desire to protest their social circumstances. Therefore, this chapter will complicate our understanding of the

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<sup>26</sup> H. Fraser et al., *Gender and the Victorian Periodical* (2003), p. 77.

<sup>27</sup> M. Hampton, *Visions of the Press in Britain 1850-1950* (Illinois: University of Illinois Press, 2004). M. Conboy, *Press and Popular Culture* (London: Sage Publications, 2002).

<sup>28</sup> C. J. Griffin, "Knowable Geographies?" (2008), pp. 38-56.

<sup>29</sup> J. Mussell, *The Nineteenth-Century Press* (2012). J. Shattock (ed.), *Journalism and the Periodical Press* (2017). T. Hitchcock, "Confronting the Digital" (2013), pp. 9-23.

arsonist by adding to the narrative the lived experiences of those who did and were victims of arson. It fits into the overall aims of this thesis as it demonstrates how spaces and social identities help create but are also shaped by the nature and perception of crime. Furthermore, the evidence presented will give an insight into the often fraught and tense relationships between the victim and the defendant and how these played out within the sphere of the home. This chapter is divided into three sections. The first examines how a fire was investigated and what factors determined whether it was arson or an accident. It will focus on three key questions: was the fire deliberately set? Was there a clear motive? And was it premeditated? The second section exposes the identity of the urban arsonist through a close reading of the proceedings and the printed press. I will examine individual cases involving different types of arson to shed light on how ideas and expectations around contemporary social roles shaped the way these crimes were perceived and judged. As in previous chapters, I suggest that both those on trial and their accusers were acutely aware of codes of behaviour relating to gender and class. Arson was perceived to be a masculine action due to the damage it caused but this chapter will show women were also complicit in the crime as domestic servants, wives and mothers. Finally, I will reveal how arson was perceived as a threat to the community through the actions of a confidence gang and a prolific arsonist- William Anthony. This delineated urban arson from rural arson as there was a very real threat to life. Overcrowding was rife, houses backed on to each other, streets were narrow and claustrophobic meaning fire could spread quickly and violently. The Great Chicago Fire of 1871 only heightened the fears of fire leading to wide spread condemnation of arson as a selfish and dangerous act.

#### **4.1 Arson or Accident?**

An accidental fire can be simply defined as one that happened by chance, without motive or malice. However, how and why a jury determines whether it was by *chance* is anything but simple. A late-nineteenth-century jury with minimal scientific knowledge would have to rely on lay understandings of fire and motive to reach a conclusion. To do this, the jury members were asked by the prosecution and defence to answer three key

questions to make a judgement. Was the fire deliberately set? Was there a motive? And was there evidence of premeditation? Using four case studies, where the fire was deemed accidental rather than arson, this section will demonstrate how the jury used evidence presented to answer these questions and find the defendant not guilty. The defendants in these cases present a cross-section of indicted suspects where arson was deemed not to have occurred due to a lack of intent. Mary Ann Tobin, an eighteen-year-old domestic servant, was accused of deliberately setting fire to her master's workshop in the basement of their home in Lambeth in 1868.<sup>30</sup> Four years later, Jesse Wheeler, a twenty-three-year old builder was accused of setting fire to a construction site in Colney Hatch.<sup>31</sup> In 1875 John King, a middle-aged railway worker was indicted for deliberately setting fire to items of clothing with the intent of bringing his lodgings down in Vauxhall and finally George Loveday, George Culmer and Ellen Wheeler were brought before the Old Bailey for conspiring to defraud an insurance company by setting fire to Loveday's home in Walthamstow in 1891.<sup>32</sup>

*Was the fire deliberately set?* The placement and nature of the fire was crucial in this case study. For example, if the fire had started in multiple locations and an accelerant was used (either a stack of papers placed in an odd position or more covertly chemical accelerant) it could be comfortably decided that arson had occurred. In all four cases the fire originated in one place in the absence of an obvious *added* accelerant. In addition, it should be noted that no fire has the capacity to catch without an accelerant of some form to burn, whether that is the unfortunate placement of a curtain over a candle in a bedroom or paper near a flame in an office. The difference here is these items would be expected to be in these rooms, giving the jury reasonable grounds to suspect an accident rather than foul play. Take, for example, the case of Mary Ann Tobin. The fire originated in the basement of her home destroying the room and damaging the tools within it. It was suspected that a chemical accelerant was present, implying arson may have occurred. However, her master was a manufacturer who worked in the basement and occasionally

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<sup>30</sup> OBO, Mary Ann Tobin, t18681026-960.

<sup>31</sup> OBO, Jesse Wheeler, t18720408-343.

<sup>32</sup> OBO, John King, t18751025-612. OBO, George Loveday, George Culmer and Ellen Wheeler, t18910209-224.

used naphtha - a highly flammable hydrocarbon mixture - accounting for the ferocity of the fire. In Jesse's case the accelerant was wood shavings and wooden planks that "caused the fire to flare up to a great height".<sup>33</sup> Scrap wood and paper are popular accelerants for arsonists as they were cheap, but as this occurred in an unfinished house where the owner stated he had not swept them away from previous building work, it was passed off as an unfortunate accident. Loveday, Culmer and Wheeler's case was perhaps more difficult for the jury to conclude. Loveday claimed he left the oil lamp on in his bedroom and that it had exploded, explaining the extensive damage to his room and why the fire spread to the rest of the house rather than staying localised. Yet no witness could verify that unequivocally, but equally none could dispute it either, with a surveyor commenting he thought there was nothing suspicious about the fire. The ambiguity surrounding the nature of the fire meant understanding motives of the three became paramount.

*Was there a motive?* The two prevalent motives for arson are financial gain (defrauding insurance companies) and the interpersonal grievances between the victim and defendant. It is clear juries also considered the character of the defendants and, in most cases, the victims themselves in reaching a conclusion on motive. Jesse's case was perhaps the easiest to resolve; he had no motive. He did not know the victim and had simply fallen asleep on a scaffolding board and awoke to the fire. Suspicion arose when he fled the scene but his genuine remorse and pleas for forgiveness led to his acquittal.<sup>34</sup> Loveday, Culmer and Wheeler's case was far more complicated. The proceedings suggest that their motive was purely of the financial kind. Culmer and Wheeler had already been indicted and sentenced to several counts of insurance fraud earlier in the day, but the case involving Loveday returned a different verdict.<sup>35</sup> The home in question was Loveday's rented seven-room house that provided shelter for himself, his wife and several children and was known locally as Loveday's boarding school. Loveday did not have an occupation but paid for

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<sup>33</sup> Jesse Wheeler will be referred to as Jesse instead of his surname as to not confuse him with Ellen Wheeler (of no relation). Testimony of Elisha Tomlin in OBO, Jesse Wheeler, t18720408-343.

<sup>34</sup> OBO, Jesse Wheeler, t18720408-343.

<sup>35</sup> Ellen Wheeler, George Culmer and Warren Ingram were part of a confidence gang who defrauded multiple insurance companies. An article in *The Morning Post* gives an overview of all the cases and how they interweave into one long news item- 'Serious Charges of Arson', *The Morning Post*, 18 Feb. 1891. See also OBO, Ellen Wheeler, t18910209-223. OBO, George Culmer, t18910209-221. OBO, Warren Ingram, t18910209-227.

the house, furnishings and general living expenses with money left to him. There was no suggestion that he was having financial trouble and it was only the word of Frederick Whitehead, an acquaintance, who professed to have witnessed conversations between the trio to set fire to the house that the case even made it to court.<sup>36</sup> Loveday, countering Whitehead's claims, asked "having money and a good home why, he asked, should he do what was alleged against him?".<sup>37</sup> This was a persuasive argument combined with Loveday's respectable character in his community, philanthropy and the ambiguous nature of the fire itself leaving the jury no choice but to acquit him. King, in contrast to Loveday's alleged actions, did not set fire to his lodgings but rather his wife's clothing in a heated argument. The clothing was burned on the floor as an act of revenge because he perceived his wife "behaves bad to [him]" but there was no evidence presented of any animosity between King and his landlord.<sup>38</sup> The lack of a grievance between the two, along with the minimal damage inflicted on the floorboards, undermined the notion that the fire was anything other than an out of control argument between spouses; intent to damage the lodgings and therefore grounds for arson were non-existent. Perversely, Tobin's perceived motive - mistreatment at the hands of her master - worked in her favour.

*The Saturday Review* published an insightful article on "The Philosophy of Arson" in 1864 focussing on rural incidents but one comment stands out; "suspicion is aimless where there is no one to suspect".<sup>39</sup> *The Saturday Review* was a weekly periodical that positioned itself above other weeklies in price (it cost 6d. an issue) and by publishing on Saturdays thus avoiding the stigma of Sunday newspapers.<sup>40</sup> It adopted a serious tone and instructed readers on themes associated with high culture; politics, science and the arts. The article is damning of arsonists but makes a measured observation that every fire led to a suspicion of arson, but the legal burden of proof was almost impossible to achieve. In the case of Tobin, two fires were set, one on Saturday (when no-one was home) and one

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<sup>36</sup> Whitehead was eventually discredited by Culmer who accused him of acting out of vengeance after failing to steal Culmer's wife from him.

<sup>37</sup> "Wholesale Charges of Arson and Fraud", *Lloyd's Weekly Newspaper*, 22 Feb. 1891.

<sup>38</sup> Thomas Mee the arresting policeman stated King gave this explanation for the fire. See Testimony of Thomas Mee in OBO, John King, t18751025-612.

<sup>39</sup> "The Philosophy of Arson", *The Saturday Review of Politics, Literature, Science and Art*, 17:429 (16<sup>th</sup> Jan. 1864), p.77

<sup>40</sup> D. S. Kamper, "Popular Sunday Newspapers" (2004).

on Monday with her master present that was quickly extinguished. She admitted to the fire on Monday as she was caught leaving the scene, a place where “she had no business... at all” but refused to take responsibility for the more damaging fire on the Saturday for which she was standing trial.<sup>41</sup> Having been caught and having admitted to the fire on the Monday, her master’s suspicion was justified, he had a suspect. The proceedings imply she was motivated by the mistreatment of her masters, who exasperated the issue in their witness statements by admitting to calling her a “diabolical wretch” and “vile girl”.<sup>42</sup> Although this was in response to an extraordinary situation, the policeman commented to Tobin “this was a very bad job for her”, a statement he then relayed to the court.<sup>43</sup> The image of a mistreated servant is more potent when one considers that even her masters stated she was “faithful”, had a good character reference and that they had the “utmost confidence” in her. The jury, therefore, was presented with both a motive for the crime but also a reason to lean towards a not guilty verdict if there was no clear evidence to find her guilty, which there was not. The contradiction between a “faithful” servant and an arsonist, despite the evident motive, was too difficult to believe.

*Was there evidence of premeditation?* This could be determined by tangible evidence like the placement of flammable material but also more anecdotal evidence such as whether the defendant was wearing clothes or shoes. Were other people present? Or, in the case of insurance fraud, what was the actual value of the items compared to the claim processed after the act? Again, we can begin with Jesse’s case. It is unclear how the fire started but it is implied that ash from his pipe ignited wood shavings. To prove premeditation, Jesse would have to have on his person an object designed solely to light a fire, but pipes and smoking were, of course, commonplace in nineteenth-century culture. Tobin, similarly to Jesse, showed no sign of premeditation. Loveday, on the other hand, generated suspicion when he took his whole family to Brighton for the day leaving the premises empty. George King, an assessor for Phoenix Insurance Company, stated that

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<sup>41</sup> Testimony of Thomas Charles Clarkson in OBO, Mary Ann Tobin, t18681026-960.

<sup>42</sup> Thomas Clarkson admitted to calling his servant a “diabolical wretch” after catching her on Monday and his wife called her a “vile girl” after finding her praying for forgiveness. See *ibid.* and the testimony of Mary Clarkson in OBO, Mary Ann Tobin, t18681026-960.

<sup>43</sup> Testimony of Frank Hudson in OBO, Mary Ann Tobin, t18681026-960.



was his only suspicion and he “thought it was a very funny thing you should take such a number of children out”.<sup>44</sup> However, the fact that the house was well furnished implied that the fire was not pre-planned but rather an accident. Furthermore, the amount of compensation applied for was consistent with the valuation of the items, suggesting no financial gain was made - a point Loveday made in his prisoner’s statement stating he was a “considerable loser by it”.<sup>45</sup> This case also adds to our understanding of working-class suburbs. Loveday’s school was in Walthamstow, an East London suburb, that expanded after the Cheap Train Act 1883 forcing companies to put on cheap workmen’s trains. It had six rooms according to witness testimonies and was probably one of the houses White described in his review of respectable working-class suburbs around East London; “two-storey, terraced, usually off six rooms, with a small though highly prized garden”.<sup>46</sup> The value of the items in the home, however, was quite high. His insurance claim was settled for £391 with two pianos and a piano organ listed in the Proceedings. The fire officer and policeman both noted it was a well-furnished house implying that this was evidence of his innocence. Ross argued that “respectability was attached to fairly specific behaviours, possessions, and associations which functioned symbolically to indicate both moral excellence and social status”.<sup>47</sup> Loveday’s home served as a symbol of his social status and went some way to discrediting the claims against him. The prosecutors and defence took a different approach in King’s case; the presence, or rather lack of, clothes.

Only two witnesses were presented in King’s trial; his landlord and the arresting policeman and both were cross-examined on King’s state of dress. Frustratingly, we do not know what was asked in the cross-examination (a consequence of the proceedings) but we can infer from both their responses that the questioner was eager to understand what King was wearing to deduce whether the act was premeditated. It is implied that if King was in sleeping attire with no shoes, then he was intent on *just* destroying the clothes and not the room, as he had no intention of leaving. O’Brien (his landlord) stated he could not

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<sup>44</sup> Testimony of George King in OBO, George Loveday, George Culmer and Ellen Wheeler, t18910209-224.

<sup>45</sup> Prisoner’s statement in *ibid*.

<sup>46</sup> J. White, *London* (2008), p. 91.

<sup>47</sup> E. Ross, “Not the sort that would sit on the doorstep” (1985), p. 40.

“tell you whether he was undressed or in his night shirt but when I had got the smoke out he had got some of his clothes on”. Thomas Mee (the arresting policeman) answered that “when I saw him first he had his trowsers and waistcoat on, but his feet were bare”.<sup>48</sup> Both statements suggest he was getting dressed in the aftermath of the fire and as such had not planned it, indicating it was not arson. As shown, proof of premeditation takes many forms and it was up to the prosecution and defence to shape the argument in their favour. It could be as simple as a pair of shoes in King’s case or a more complex compromise between different factors as seen with Loveday’s. Premeditation can help define the motive of the defendant but ultimately it is that which shapes the jury’s decision.

The cases presented here show that proving arson had occurred and was not an accident was a difficult and arduous task that relied on interlinking factors. A simple *yes* to the three leading questions was almost impossible to achieve and the judgement of the jury was influenced as much by the characters of the individuals involved as the evidence presented. For the case to make it to the Old Bailey, an element of suspicion and doubt must have already been present otherwise it would have been deemed an accident instantly. Once suspicion arose, motive and perceptions of that motive became paramount. While discussions of the material circumstances in which these crimes took place were very important, a jury was aware that the placement of the fire and use of accelerants could be manipulated to avoid suspicion by anyone with guile. Likewise, proof of premeditation was subjective and difficult to obtain, increasing the importance of motive. For King and Jesse, the complete absence of financial gain from the fire and lack of animosity towards the victim led almost instantly to an acquittal. The absence of motive was more difficult for Tobin and Loveday to prove. They had to rely on more incidental evidence such as the lack of premeditation and their previous respectable characters in order to be acquitted. Given the difficulty of proving arson, the character of the accused and the way that they were able to present themselves in the light of contemporary social ideas was particularly important in these cases. This chapter will now explore who the urban arsonist was and consider how their gender, occupation and motive (and the way that these were presented before the courts) affected the outcome of their trial and the severity of their sentence.

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<sup>48</sup> Testimony of William O’Brien and Thomas Mee in OBO, John King, t18751025-612.

## **4.2 The Urban Arsonist**

Defendants brought before the Old Bailey on arson charges did not fit into one mould but several. They crossed gender, age and social boundaries; the urban arsonist could be a single mother from Greenwich, a green grocer on New-Kent road, a teenage domestic servant in Spitalfields or an unemployed young man in the West Ham Union Workhouse.<sup>49</sup> They attacked property across the capital including lodging houses, shop fronts, factories, prison cells, sheds and town houses; North to South, East to West- no part of London was immune from fire. Griffin observed that the provincial press separated rural cases into three categories: accidental, deliberate (crimes of protest) and no discernible cause.<sup>50</sup> Urban arson was more complex with different factors affecting motive and methods. Therefore, I propose that there were five categories of arson heard at the Old Bailey: accidental, commercial, revenge, institutional and random. Accidental arson has already been covered in some depth and was defined by the verdict of the presiding jury in each case. As is quite evident, cases of accidental fires overlapped with other categories but have been separated as their circumstances are different which was reflected in the verdict. Commercial arson describes incendiarism where there was a business arrangement that resulted in financial gain. An example of this would be a deliberate attempt to defraud an insurance company. Revenge arson, in contrast, was characterised by fractured relationships between historical actors. There was a lack of financial motive and the fire was driven by conflict. This could be enacted between family members, friends, neighbours or simple acquaintances. Institutional arson applies to cases of arson enacted within institutions including prisons and workhouses. Finally, random arson was enacted by individuals unknown to the victim in any capacity. Institutional and random arson were relatively rare events, with the clear majority of urban arsonists committing arson for direct commercial gain within the context of relationships in their local community. There are two possible explanations for this: availability and detection. Institutional arson, whereby a prisoner or inmate sets fire to their room, is limited by availability. Prisoners, for example, would not have easy access to lucifers or other flammable materials to commit

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<sup>49</sup> In order OBO, Martha Brinfield, t18561027-1064. OBO, Henry Standing, t18600813-728. OBO, Ellen Hannah Toohey and Francis Alice Whimper, t18690503-474. OBO, Michael Donnelly, t18930626-629.

<sup>50</sup> C. J. Griffin, "Knowable geographies?" (2008), pp. 47-48.

the crime. Random arson, on the other hand, is difficult to detect, as the defendant was unknown to the victim. Unless the random arsonist was caught on the scene, or seen committing the crime, there is no reason why he or she would be suspected. Therefore, I would suppose that the number of random arson attacks was far higher than represented at the Old Bailey but fell into the shadows of the dark figure of crime. Urban arsonists usually fitted into one of these categories, but their identities were multi-layered. I will now examine who the urban arsonist was before presenting case studies demonstrating how this crime could reveal social identities in the community and the courtroom.

**Table 4.1 Number of defendants tried for arson at the Old Bailey from 1860 to 1900.**

Male					Female					Total				
G	NG	I	M	T	G	NG	I	M	T	G	NG	I	M	T
134	137	6	6	283	36	44	1	1	82	170	181	7	7	365

*\*Abbreviations: G- Guilty, NG- Not Guilty, I- Not Guilty due to Insanity, M- Miscellaneous, T-Total.<sup>51</sup>*

**Table 4.2 Percentage of male and female defendants accused of arson at the Old Bailey in each decade from 1860-1900.**

Year	1860-1869	1870-1879	1880-1889	1890-1900	Total
Male (%)	70.4	73.4	82.4	80.0	77.5
Female (%)	29.6	26.6	17.6	20.0	22.5

A relatively rare verdict for arson cases was not guilty on grounds of insanity. There were only seven arson cases related to insanity from 1860 to 1900 with the defendants either being found not guilty on grounds of insanity or unfit to plead by the surgeon at Newgate prison, Dr. John Gibson.<sup>52</sup> However, the term ‘pyromania’ cannot be found in a single case, with the defence and prosecution preferring to rely on evidence of

<sup>51</sup> Miscellaneous includes cases that were either suspended or respited.

<sup>52</sup> OBO, William Edmunds, t18610107-147. OBO, Frederick Duggan, t18660917-803. OBO, Mary Crooks, t18680608-526. OBO, James Yates, t18710814-625. OBO, Jeremiah O’Neil, t18790210-330. OBO, Edwin Crane, t18800528-545.

a preceding medical condition or a family history of madness. Andrews' two-part study of pyromania in the *History of Psychiatry* touches upon this, comparing pyromania to kleptomania.<sup>53</sup> He argued that in 1890 although some contemporary academics accepted pyromania as an ailment it was still not established as a "special form of insanity" in its own right but rather a symptom of other manias.<sup>54</sup> The reluctance to recognise pyromania as a form of insanity seeped into the courtroom with contemporaries viewing it as a "convenient plea".<sup>55</sup> Baker, a practitioner at Broadmoor criminal lunatic asylum, suggested that, in his opinion, the majority of patients suffered from imbecility or melancholia rather than pyromania.<sup>56</sup> The reluctance of the judicial system to accept pyromania is evident in the proceedings as only one case heard at the Old Bailey from 1860 to 1914 referenced pyromania in any context. Charlotte Annie Fitzgerald, indicted for simple larceny in October 1873, was deemed to suffer from erectomania by a medical gentleman at Marlborough College. He explained the condition to the courtroom by comparing it to pyromania and kleptomania:

Her state was then such as I have had to designate erectomania, which is a mental disease, analogous with pyromania and kleptomania, that means the concentration of all the powers upon one object- it may be an object of great esteem, great love, but that taking possession of the mind is as much a mental disease as kleptomania or pyromania.<sup>57</sup>

Fitzgerald was subsequently found not guilty on grounds of insanity. One could infer, therefore, that pyromania was a term known in the justice system and a useful reference

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<sup>53</sup> J. Andrews, "From-stack firing to pyromania. Part 1" (2010), pp. 243-260. J. Andrews, "From-stack firing to pyromania. Part 2" (2010), pp. 387-405.

<sup>54</sup> Evidence drawn by Andrews from R. Quain (ed.), *A Dictionary of Medicine*, Vol. 2 (London: Longmans, Green & Co., 1890), p. 314.

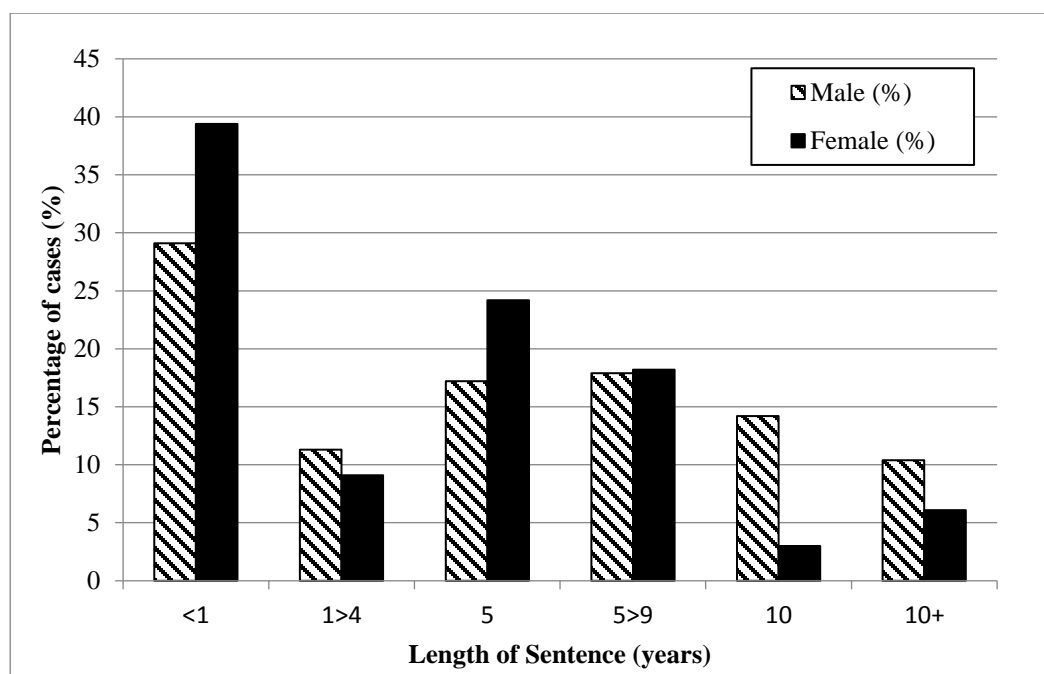
<sup>55</sup> H. C. Chapman, *A Manual of Medical Jurisprudence and Toxicology* (Philadelphia: W. B. Saunders, 1892), p. 159 as quoted in J. Andrews, "From stack-firing to pyromania. Part 2" (2010), p. 390.

<sup>56</sup> J. L. Baker, "Cases of Incendiarism" (1889), p. 48. Baker based his findings on case notes from ninety-nine male and eight female patients incarcerated from 1864 to 1887 for incendiarism. Baker accounted thirty-six cases to imbecility and twenty-one to melancholia a total 55.3 per cent of all cases. The rest of the cases were attributed to epilepsy, general paralysis, mania, monomania and dementia. Baker also authored the entry for 'Pyromania' in D. H. Tuke, *A Dictionary of Psychological Medicine*, Vol. 1 (London: J. & A. Churchill, 1892), pp. 1056-1059.

<sup>57</sup> OBO, Charlotte Annie Fitzgerald, t18731027-675.

point, yet the uniqueness of this case poses a problem to this hypothesis. I would suggest, in line with Andrews' suppositions, that although pyromania was a well-known term in wider popular culture it was yet, by 1914, to be accepted as a recognised mental health condition. This can be explained within the wider context of the mental healthcare profession, which was in its infancy, and its practitioners who were often ignored in the courtroom in favour of lay eyewitnesses. Tony Ward, in his assessment of the relationship between lay understanding of mental illness, the law and science, argued that the opinion of the jury (who only had a basic lay understanding) superseded all others. He extends this argument by suggesting that only medical testimony that was accepted by jurors was that which supported lay understandings of insanity.<sup>58</sup> Verdicts related to insanity were relatively small in this sample accounting for just 1.64 per cent of cases but it is important to contextualise arson within the wider scientific and medical framework.

**Graph 4.1 Sentence Length for male and female defendants found guilty of arson from 1860-1900 heard at the Old Bailey.**



<sup>58</sup> T. Ward, "Law, Common Sense and the Authority of Science: Expert Witnesses and Criminal Insanity in England, 1840-1940", *Social and Legal Studies*, 6:3 (1997), pp. 343-362.

The sample size for this study includes 283 men and 82 women with a surprisingly similar acquittal rate; 48.4 per cent of men and 53.7 per cent of women were found not guilty. However, the lengths of sentences varied quite considerably. Women were far more likely to get a shorter sentence, with most cases resulting in a sentence of five years or less (72.7 per cent of women compared to 57.5 per cent of men). Women were also more likely to get a sentence of less than a year, with sentences of twelve months or less handed down to 39.4 per cent of female defendants who were found guilty compared to 29.1 per cent of men. The differences are more pronounced when looking at the opposite end of the sentencing scale; a quarter of male and just under a tenth of female defendants were sentenced to ten years or more. It could be argued that these sentencing trends are reflective of wider crime in the nineteenth century. Wiener, in his well-established thesis, argued that there was a growing criminalisation of masculine behaviour.<sup>59</sup> Emsley supported this view and suggested that men were expected to adhere to new codes of politeness and “restrained standards of behaviour” leading to stricter sentences.<sup>60</sup> Arson was not a violent personal crime but a malicious offence against property and outside their scope of analysis. I would argue the destructive nature of the action, especially in cases that occurred as an act of revenge, lent itself to a similar analysis. The statistical evidence from this case study, however, presents a challenge to this notion. In comparison to women, men faced longer sentences, but when one looks at the spread of data for male sentences on their own, a different picture emerges. It is true that twenty-five per cent of cases resulted in a sentence of ten years or more, but more cases, twenty-nine per cent, received a sentence of less than a year. This contravenes the notion that men were treated more harshly for their crimes. However, as Emsley and others have pointed out, crime statistics should be viewed with a great deal of caution.<sup>61</sup>

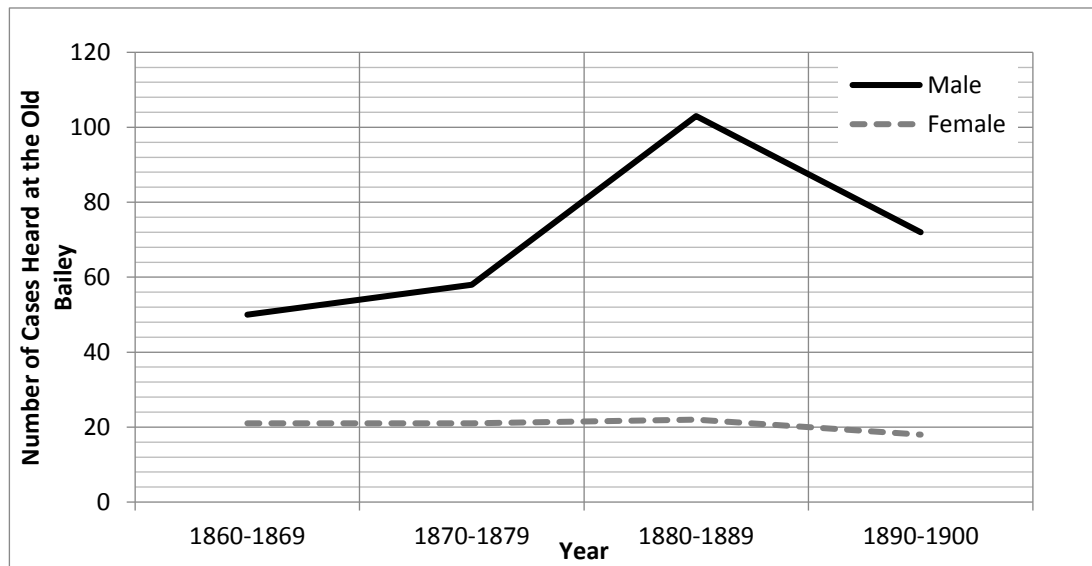
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<sup>59</sup> M. J. Wiener, *Men of Blood* (2004).

<sup>60</sup> C. Emsley, *Crime and Society* (2010), p. 103.

<sup>61</sup> See chapter two “The Statistical map” in C. Emsley, *Crime and Society* (2010), pp. 21-56.

**Graph 4.2 Number of male and female defendants accused of arson at the Old Bailey from 1860-1900.**



Emsley observed that criminal statistics were not just a reflection of crime but of external social, economic and political factors that “changed from decade to decade, even from year to year”.<sup>62</sup> Innocuous clerical errors, ambitious police constables or a moral panic enflamed by media outrage could drastically alter the records we have today. The Old Bailey Proceedings are a fairly unique entity within criminal records as they are a complete series but are still subject to the same social, economic and political pressures Emsley refers to. Take for example graph 4.2. The number of female defendants indicted for arson remained constant throughout the period. Conversely the number of male defendants increased and peaked in the 1880s to then fall again entering the 1890s. This contravenes trends visible across crime in general in the late nineteenth century.

It is widely accepted that recorded crime rates fell from the 1840s onwards in England. This has been attributed to both the inflation of pre-1840s figures and the possible under reporting of crime after 1840. Gatrell and Hodden first looked at the statistics in detail in 1972, suggesting that pre-1840 recorded levels of crime were

<sup>62</sup> C. Emsley, *Crime and Society* (2010), p. 25.



artificially inflated. They argued this was due to a combination of a new eager police force operating in metropolitan areas, the removal of the death penalty meaning more people were sentenced or, and this point is slightly tenuous, a greater readiness to report crime.<sup>63</sup> Others, such as Emsley and King, have pointed to an increasing population, urbanisation and a more efficient bureaucratic government as key factors in rising crime in official statistics prior to 1840.<sup>64</sup> In contrast to this McDonald recognised that official figures were falling after 1840 but observed the need among sociologists, lawyers and judges to comment on the perception of rising crime prevalent in society. She argued that interest groups had a desire to manipulate the figures to suit and support their ideological purposes. For example, it was important for Marxists that crime was seen to rise as a way of highlighting the increasing gap between rich and poor as capitalism advanced. Consensus theorists, meanwhile, who used the rise in urbanisation and industrialisation to explain the breakdown in “traditional beliefs and social control mechanisms” used the perception of rising crime to champion their ideas.<sup>65</sup> The ambition of social commentators and the authorities could explain the almost doubling of male indictments in the 1880s to 103 from 58 in the 1870s. Again, we can look towards Emsley here who showed that in 1879 the Metropolitan Police was under increasing pressure in the press to catch those who engaged in property crime as statistics showed an increase of reported burglaries from 735 in 1877 to 2,429 the following year. The rise in figures led to moral panic and forced the police to be more aggressive in policing crime moving into the 1880s.<sup>66</sup> Yet this does not explain the consistency of female indictments throughout the period.

Feeley and Little discovered that women accused of crime fell from 45 per cent in the late seventeenth century to 12 per cent in the early twentieth labelling the trend “the vanishing female”. Their research was based on trials at the Old Bailey but the overall trends do not match arson cases. Women accounted for 22.5 per cent of cases of arson brought before the court from 1860 to 1900. If compared more directly to Feeley and

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<sup>63</sup> V. A. C. Gatrell and T. B. Hodden, “Criminal Statistics and their Interpretations” (1972), p. 374.

<sup>64</sup> C. Emsley, *Crime and Society* (2010), pp. 21-56. P. King, *Crime, Justice and Discretion* (2000).

<sup>65</sup> L. McDonald, “Theory and Evidence of Rising Crime in the Nineteenth Century”, *The British Journal of Sociology*, 33:3 (Sep. 1982), p. 404.

<sup>66</sup> C. Emsley, *Crime and Society* (2010), p. 28.

Little's figures decade by decade similar discrepancies occur. Taking the figures given at the start of each decade and comparing them to the average given here over that decade, Feeley and Little's figures are consistently at least 30 per cent and, in the case of the 1890s, 65 per cent lower than the figures for arson.<sup>67</sup> For example, in 1890 women on average accounted for 7 per cent of all cases heard at the Old Bailey, but over the decade they represented 20 per cent of all arson cases. I would suggest, in reference specifically to arson, a crime that has inherent masculine overtones (the aggressiveness of the crime and the destruction wrought), that rather than a vanishing female, the position of the woman remained constant. This is more evident when looking at Graph 4.2 which demonstrates that although the percentage of female cases heard at the Old Bailey changed over the period, this reflects the fluctuation of the number of male cases rather than any change in female cases which remained consistently in the low twenties. This poses the question, why?

Crime was considered the preserve of men with the incidence of reported female crime falling throughout the period but the figures for urban arson do not reflect wider trends. It is difficult to answer that question without making broad assumptions about the nature of female criminality and response of the courts, but I would suggest it could be explained using the notion of the dark figure of crime. In previous chapters I have outlined how everyday crime was often unnoticed and, more importantly, unreported. In the case of domestic servants and theft, some masters had a paternalistic instinct towards their staff and felt it was their duty to protect and educate young female domestic servants instead of punishing them through the courts. Yet, the all-encompassing and destructive nature of arson makes it almost impossible to be unnoticed and, as such, more cases are reported. Undoubtedly some cases slipped through the net - cases whereby no defendant could be found or more commonly it was deemed an accident and therefore never made it to trial - but the increased likelihood of a fire being *noticed* in comparison to a missing item could

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<sup>67</sup> In 1860 there was a thirty per cent difference (21 compared to 30 per cent for arson), 1870 a forty-eight per cent difference (14 compared to 27 per cent), 1880 a more moderate thirty-three per cent difference (12 compared to 18 per cent) and finally in 1890 a sixty-five per cent difference (7 compared to 20 per cent). Figures drawn from appendix table A2 in M. M. Feeley and D. H. Little, "The Vanishing Female: The Decline of Women in the Criminal Process, 1687-1912", *Law and Society Review*, 25 (1991), p. 756.

account for this discrepancy. However, when arson committed by domestic servants was detected, it has caused a considerable furore, as the following detailed case study will show.

a) **The Female Arsonist and Domestic Service**

Domestic service was the most common occupation for female arsonists, accounting for 69.2 per cent of all cases in this study. The remaining defendants were either unemployed housewives or inmates in a workhouse except for a single fishmonger. Domestic service was the largest employer of women, so it is not altogether surprising and there were certain aspects of service that lent themselves to arson; access to domestic spaces, ability to freely move around the home and the potential for acrimonious relationships between masters and servants. The Francis Whimper and Ellen Toohey case of 1869 is a useful example with extraordinary press coverage revealing entrenched notions of respectable social identities and interactions.<sup>68</sup> The case is particularly interesting as not only does it illustrate the most common female arsonist - a young domestic servant setting fire to her master's home after a perceived grievance - it also demonstrates how the verdict reached was directly affected by the manner in which defendants were presented by defence barristers and the printed press.

The story of Francis Whimper and Ellen Toohey was incredibly popular with tales appearing in several sensationalised weeklies, illustrated periodicals, daily newspapers and provincial publications.<sup>69</sup> Their story was set in a town house in Spitalfields, East London. It was home to the Bariums: Cornelius Barium (the master of the house), his wife Elizabeth, three children - Percy, Lucy and Cornelius, three servants - Whimper, Ellen

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<sup>68</sup> Whimper's surname is notated as "Wimpey" in *Lloyd's Weekly Newspaper*, 2 May 1869, "Whimpey" in *The Standard*, 20 Apr. 1869, and "Whymper" in *Daily News*, 6 May 1869. I have decided to adopt the Old Bailey's way of spelling Whimper for consistency.

<sup>69</sup> "Singular Confession of Arson", *The York Herald*, 24 Apr. 1869. "Central Criminal Court", *Daily News*, 6 May 1869. Articles that followed the case from Worship Street Police Court to the Old Bailey can also be found in the following publications: *Pall Mall Gazette*, 20 Apr. and 27 Apr. 1869. *Liverpool Mercury*, 21 Apr., 27 Apr. and 7 May 1869. *The Illustrated Police News*, 24 Apr. 1869. *Lloyd's Weekly Newspaper*, 25 Apr., 2 May and 9 May 1869. *The Standard*, 20 Apr. and 6 May 1869. *Berrow's Worcester Journal*, 24 Apr. 1869. *Manchester Times*, 24 Apr. 1869. *The Morning Post*, 6 May 1869. *Reynold's Newspaper*, 9 May 1869.

Toohey and Martha Bradley - and finally an unspecified number of male shop assistants. The evidence heard at trial was limited to the testimony of Toohey with Bradley supporting various timings mentioned in Toohey's testimony to the police.<sup>70</sup> One evening everyone vacated the household except Whimper, Toohey and the children until Bradley came home later. Toohey and Whimper toured the house in their absence and Whimper seized the opportunity to take money from her employers with keys she had previously acquired. Toohey described this event as a passive observer rather than a co-conspirator deliberately framing her actions in a favourable light. The co-workers, confident that no one was coming home soon, also entered one of the male assistant's rooms (Mr. Airton) and, using a hammer, opened his box containing his personal belongings but the lock broke. Toohey then claimed she attempted to stop Whimper:

I [Toohey] said 'that is a judgement on us;' she [Whimper] said, 'I don't know what to do, I shall murder Mr. Airton in the middle of the night;' I said, 'Don't do that.' We then came downstairs, and she said, 'I will set the house on fire;' then we put the baby to bed.<sup>71</sup>

The statement was first given by Toohey the following Friday after being charged with larceny and arson, despite having two opportunities to confess previously. Her response to Whimper's alleged comment that she will murder Mr. Airton as "don't do that" seems to be a tepid response to the rather drastic action allegedly being proposed. There was also no response at all to the proposition of setting the house on fire. After hearing the evidence at Worship Street Police Court, the press focussed on the exchange but exaggerated Toohey's response to she "begged her not to do that" with some taking a more accurate yet still over emphasised approach of stating she "objected".<sup>72</sup> This subtle change in language from the original Proceedings portrays Toohey as a victim rather than

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<sup>70</sup> Toohey did not testify in the court room but her testimony to the arresting officer was retold by him. See James Osborne testimony in OBO, Toohey and Whimper, t18690503-474.

<sup>71</sup> Ibid.

<sup>72</sup> Quote drawn from "Arson. - Extraordinary Confession", *The Illustrated Police News*, 24 Apr. 1869. Toohey also described as begging in "Summary of this morning's news", *Pall Mall Gazette*, 20 Apr. 1869. "Multiple News Items", *The Standard*, 20 Apr. 1869. "General intelligence", *Berrow's Worcester Journal*, 24 Apr. 1869. She was deemed to "object" in "Alleged arson by servant girls", *The Liverpool Mercury*, 21 Apr. 1869 and "Police Intelligence", *Lloyd's Weekly*, 25 Apr. 1869.

accomplice. Her younger age, subordinate position and eventual confession make her the perfect foil for the evil Whimper in the narrative of rogue domestic servants. She represented the young impressionable woman who could still be moulded into a respectable member of society. It is impossible to assess the extent to which the press coverage affected the jury's decision but Toohey was found not guilty, despite her confession whilst Whimper was handed an exemplary ten-year sentence in spite of her continued protests of innocence.

The printed press was a space in which notions of gender and respectability were tested and promoted. We saw in the previous chapter how gamekeepers represented themselves as the heroes of the poaching narrative and debased poachers as effeminate. A similar process is happening here. The press manufactured three characters- two heroes and a villain- to play out the melodrama. The arc of the story changed from court to court with the tone and nature of articles subtly shifting after the Old Bailey trial on 3rd May 1869. For example, prior to the trial, the printed press said Toohey was as young as fourteen years old and Whimper was noted as no older than sixteen.<sup>73</sup> Yet, at the Old Bailey, Toohey was stated to be seventeen years old and Whimper twenty years old, a fact which Whimper contested during the trial; "I have to say that my age is not twenty, it is only eighteen".<sup>74</sup> Her contestation suggests that she felt her age would be a significant factor in not only determining her guilt, but also the length of her sentence. The post-trial coverage, in contrast to the pre-trial scramble, does not refer directly to their age but rather to them as being "young women".<sup>75</sup> To best illustrate the point on 21<sup>st</sup> April *The Liverpool Mercury* headlined their coverage of the case "Alleged arson by servant girls", beginning the entry by stating their ages as fourteen and sixteen but, on 7<sup>th</sup> May after the trial, they neglect to mention their respective ages, but refer to them as "two young women".<sup>76</sup> Whimper's corrections show an understanding of a judicial system in which younger

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<sup>73</sup> "Police Intelligence", *Lloyd's Weekly Newspaper*, 25 Apr. 1869.

<sup>74</sup> OBO, Toohey and Whimper, t18690503-474.

<sup>75</sup> "Central Criminal Court", *Daily News*, 6 May 1869.

<sup>76</sup> "Alleged arson by servant girls", *Liverpool Mercury*, 21 Apr. 1869. "A House set on fire by servant girls", *Liverpool Mercury*, 7 May 1869. The press coverage after the Old Bailey trial also had a direct tone which reflected the events of the trial rather than embellished with opinions. It could be argued this is due to the availability of the Old Bailey proceedings to public scrutiny- a luxury not afforded to the proceedings of the Worship police court giving journalists more freedom to romanticise and scandalise the events.

individuals are more likely to get lenient sentences. The lowest recorded sentence for arson in this period was four days and a whipping for two fifteen and thirteen-year-old boys in September 1887.<sup>77</sup> It appears to be common in arson cases for the judge to give more lenient sentences to younger perpetrators as nine of the sixteen defendants given sentences below four months were under the age of twenty-one. However, their sentences were often combined with a longer sentence in a reformatory. For example, fourteen-year-olds John Muir and Andrew Swan who set fire to the day room at Central London District School in April 1877 were sentenced to “three months’ imprisonment, twenty strokes with a birch rod, and five years in a reformatory”.<sup>78</sup> The fascination with the Whimper and Toohey case was not simply a reaction to their young age but also their position within the household. Building on the research presented in chapter two this case further demonstrates the antagonistic relationship between the work place and the home.

The Bariums employed three domestic servants; the two accused and a cook named Bradley. The defendants were entrusted with the welfare of the children, yet their actions placed them in danger. Bradley, on the other hand, led them to safety even though they were not directly her responsibility. This conflict between their assigned roles and actions titillated and aggravated the press. Bradley was lauded as the heroine of the piece who fought off the flames to save her master’s offspring, whereas Whimper was described as a cold and vindictive woman who was more interested in saving her possessions than her charges. Toohey, on the other hand, was said to be concerned about the welfare of the children but she was not elevated to the heights of Bradley. The placing of children, especially those from a higher class, in such imminent and unnecessary danger was not just a contravention of their work obligation, but also society’s demands upon women. Women were typically deemed to be natural caregivers and mothers who nurtured those in their care. Therefore, Whimper’s crime was twice as potent; she broke the law of the land and the laws of nature. This case is a clear reflection of what Zedner describes as a ‘moralistic’ approach to female criminality. As demonstrated here, when female criminals were found guilty they were handed stricter sentences as they were deemed doubly

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<sup>77</sup> OBO, Joseph Blenden and Douglas Warren, t18870912-878.

<sup>78</sup> OBO, John Muir and Andrew Swan, t18770409-386.

deviant; they broke criminal law and “artificial notions of the ideal woman - an exemplary moral being”.<sup>79</sup> The judge’s statement is a product of this perception:

She [Whimper] has been convicted upon the clearest evidence of one of the greatest crimes that could be committed, and she committed that crime under circumstances of the greatest possible aggravation. She had set fire to a house in which there were three children... it was impossible to pass over such an offence without a sentence of the most exemplary severity.<sup>80</sup>

Unfortunately, the judgement is not noted in the Proceedings so there is no point of comparison to see if the journalist has edited the language as in the previous witness statements. The quote appeared in *The Morning Post* which was a conservative daily paper aimed at a high-class readership.<sup>81</sup> Labelling the crime as the “one of the greatest crimes” echoed its readership’s political persuasion and perception of the lower classes. The content of the ruling fit the narrative of the elitist publication by playing on the fears of the servant keeping classes of the stranger in the home. The article pacifies their fears somewhat by informing them Whimper was sentenced to ten years’ penal servitude. To put this into context, only two other female defendants got longer sentences for arson between 1860 and 1900 out of a sample size of 82, of whom 33 were found guilty.<sup>82</sup> Mary Delee, a 21-year-old domestic servant set fire to her master’s house after a robbery in striking similarity to Whimper was sentenced to 15 years’ penal servitude in 1868, with the proceedings citing the fact it was her second offence for the severity of the sentence.<sup>83</sup> Eliza Stebbings was sentenced to 15 years’ penal servitude with her partner John Stoneman in 1863 for feloniously setting fire to a dwelling-house, with intent to defraud

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<sup>79</sup> L. Zedner, “Women, Crime, and Penal Responses: A Historical Account”, *Crime and Justice*, 14 (1991), p. 308.

<sup>80</sup> “Multiple News Items”, *The Morning Post*, 6 May 1869.

<sup>81</sup> L. Brake and M. Demoor, *Dictionary of Nineteenth-Century Journalism in Great Britain and Ireland* (London: Academia Press, 2009).

<sup>82</sup> Male defendants are more likely to receive a tougher sentence with 25 per cent of men receiving a longer sentence than Whimper compared to just 10 per cent of men.

<sup>83</sup> OBO, Mary Delee, t18680606-652

the Imperial Fire Insurance Company.<sup>84</sup> It would be disingenuous to suggest Whimper and Toohey were representative of all urban arsonists, as their case was extreme, but it did highlight how the position of the defendant within the home and the portrayal of their biographical data affected their trial and sentencing. An interesting parallel could be drawn here between Whimper's actions and infanticide.

**Table 4.3 Sentence Length for male and female defendants found guilty of arson from 1860-1900 heard at the Old Bailey.**<sup>85</sup>

Sentence (years)	Male		Female		Total	
	No. of cases	%	No. of cases	%	No. of cases	%
< 1 year	39	29.1	13	39.4	52	31.1
1 > 4 years	15	11.2	3	9.1	18	10.8
5 years	23	17.2	8	24.2	31	18.6
5 > 9 years	24	17.9	6	18.2	30	18.0
10 years	19	14.2	1	3.0	20	12.0
>10 years	14	10.4	2	6.1	16	9.5
<b>Total</b>	<b>134</b>	<b>100</b>	<b>33</b>	<b>100</b>	<b>167</b>	<b>100</b>

Whimper was not the children's mother and as such was one step removed from forming a maternal bond with the children therefore she could not use this role in the courtroom. For example, in cases of infanticide the emotional freight attached to motherhood could be a very successful defence tactic. The heinous nature of the crime created a moral outrage, yet social factors led to an incredibly low conviction rate. It is difficult to place a number on the incidence of infanticide in the nineteenth century with estimates ranging from 300 to 1,000 per year.<sup>86</sup> Unwanted babies were found in all manner

<sup>84</sup> OBO, John Stoneman and Eliza Stebbings, t18630511-738.

<sup>85</sup> Data for tables 4.1 to 4.3 was drawn from OBO. Note that some cases have multiple defendants so will be counted more than once.

<sup>86</sup> These numbers are highly contested as it is difficult to gauge if the children found dead in this time period died of natural causes or intentional homicide. Some such as Dr. Lankester (a coroner for Middlesex and avid campaigner against infanticide) argued as many as 3,000 children were murdered a year in England and Wales but this has not been substantiated. G. K. Behlmer, "Deadly Motherhood: Infanticide and



of places, including water closets and railway carriages, often disposed of by domestic servants running from social shame and the economic burden an illegitimate child would bring. This, unsurprisingly, led to a moral outrage, but the passion exhibited on the pages of the dailies was not reflected at the Old Bailey. From 1860 to 1900, 110 cases of infanticide were brought before the court - just short of three cases a year on average - with only fifty of these cases resulting in a guilty verdict. A caveat to this, however, should be added; thirty-four of these cases were found guilty of the lesser offence of concealment of birth carrying a maximum sentence of two years' imprisonment.<sup>87</sup> Therefore, despite the moral outrage exhibited in the press and Parliament, in a forty-year period only sixteen defendants were found guilty of infanticide - a small number in comparison to the total number of cases heard at the Old Bailey in the same time frame. There are several reasons for this including difficulties with detection and proving the baby was born alive.<sup>88</sup> But more significantly, and relevant to the case in question, was the desire of the jury to see the defendant as a poor and emotional woman victim of her circumstances – Whimper's case could not be framed in this way. Whimper was not seduced by an older man who should have known better, nor would she suffer the social stigma attached to bringing up an illegitimate child, she would not face an economic burden and her body was not in disarray after labour. The lack of a maternal bond, and the perceived added pressures this brought, led the jury and the presiding judge to see Whimper as a cold woman who neglected her responsibilities with no clear motive except money resulting in a hefty

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Medical Opinion in Mid-Victorian England", *Journal of the History of Medicine* (Oct. 1979), p. 425. R. Sauer, "Infanticide and Abortion in Nineteenth-Century Britain", *Population Studies*, 32:1 (Mar. 1978), p. 86.

<sup>87</sup> Concealment of birth was introduced in 1803 as part of the Lord Ellenborough Act. It was becoming increasingly evident that juries were reluctant to send women to the gallows for infanticide, so a new action was taken. Rather than remove capital punishment and diminish the importance of infanticide as a crime a new crime was introduced to give juries the option of punishing the defendants for their actions which gave them the option not to execute them.

<sup>88</sup> To demonstrate infanticide had occurred proof of life had to be established which could be determined by something as minor as a third party hearing the baby cry or the more sophisticated but ultimately flawed lung test. The lung test involved placing the deceased baby's lung in a water tank and if it floated it was deemed proof that the baby had breathed. Proof of life was not always enough as it could be argued that the baby died accidentally during child birth. For example, evidence was presented at Ann Read's trial that she had cut the throat of her child using a knife, but the defence argued the child had cut his throat during labour. Subsequently she was found guilty of the lesser crime of concealment of birth and only sentence to one-year penal servitude. OBO, Ann Read, t18610408-344.

sentence. The next section of this chapter will show that some female arsonists, like the perpetrators of infanticide, could benefit from being a mother.

### **b) Mothers as Arsonists**

Lucy Hellery set fire to shavings in her husband's shed in 1866. They were estranged and according to a witness had been separated for four years. Strange has observed how autobiographical texts described sheds as masculine spaces suggesting the ownership here is not unusual.<sup>89</sup> The incident occurred in their yard in Bow, a working-class suburb, after a domestic dispute had spilled out into the street outside their home. Both witnesses and Hellery's representations are heavily coloured by shifting ideas of respectable gender roles. If we take Hellery's statements first we can see that she framed her actions in light of her husband's lack of action. First, she notes that her husband "goes away from me and comes back when he thinks proper" suggesting he neglects his duties as a father and a husband. Her attempts to emasculate him and fashion a victim persona for herself are emphasised by her defence statement:

*Prisoner's Defence.* I went to ask my husband to give me a bit of food—he said that he would not—I went to the shed, to see if there was any food there—I took a match and struck it, and before I could see what I was doing the brimstone caught the shavings—I called to him, "Harry! Harry! your shavings is on fire"—he said, "Let the b/—/shavings burn"—it was more his fault than mine, for if I had been strong enough I would have put it out myself—I have a home of my own, and my children are suffering there ever since I have been here, but my husband has never been near them.<sup>90</sup>

Hellery, in one statement, managed to describe herself as a hungry helpless mother who accidentally set fire to the shed and her husband as a heartless man who neglected his children. Interestingly her husband, only referred to once and only then by his given name, did not appear as a witness in the proceedings. This is very unusual for cases of arson,

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<sup>89</sup> J-M. Strange, *Fatherhood and the British Working Class* (2015), pp. 107-8.

<sup>90</sup> Testimony of Lucy Hellery in OBO, Lucy Hellery, t18660917-812.

where the first witness is normally the property owner and/or victim and noted as such. There is no explanation as to why he is absent; it could be that he has left the home again or he is reluctant to prosecute as his children would be left alone. The verdict, therefore, rested on the testimony of passers-by.

Henry Hubbard was a local fishmonger who witnessed a “bit of disturbance between the pair” on the street outside their home.<sup>91</sup> Much of working-class life in this period spilled onto the streets as space was limited. Yet MacKay and Shoemaker have observed that public disputes were declining and were increasingly seen as a symbol of roughness. Shoemaker specifically argued the age of the London mob was over as people migrated indoors due to an increasing desire for privacy.<sup>92</sup> MacKay, accepting the basic premise, stated that “at different times, different sectors adopted, adapted, resisted, manipulated or rejected various strands of the new discourse extolling privacy and individual responsibility”.<sup>93</sup> If a defendant was respectable, as demonstrated in stealing from master and poaching cases, they were more likely to be found not guilty. Conversely, if the prosecutor was unreasonable and displayed characteristics unbefitting of a respectable member of society a defendant could expect a favourable outcome. But the jury was comprised of men from the middling classes who were more likely to adopt the perspective that marital conflict should be confined to the home. Therefore, even though Hellery deliberately framed her defence around respectable gender roles she was found guilty and sentenced to twelve months’ imprisonment. On this occasion extolling the virtues of femininity and maternity did not obtain a not guilty verdict but did lessen her sentence. Others were more successful.

Martha Brinfield was accused of setting fire to her rented home in 1856 for the insurance premiums but her children were still inside the property at the time. This case is slightly outside the time parameters of this thesis, but the Proceedings are illustrative of the benefits of being a mother in the context of a criminal trial. Brinfield lived in “a state of wretched poverty” and had not paid her rent for a few months. She had no furniture

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<sup>91</sup> Testimony of Henry Hubbard in *ibid.*

<sup>92</sup> R. Shoemaker, *The London Mob* (2004), pp. 151-2.

<sup>93</sup> L. MacKay, *Respectability and the London Poor* (2013), p. 4.

in her upstairs room and their living conditions were so poor that when neighbours entered the property after seeing smoke, they could not find a candle to inspect the origin of the fire to put it out.<sup>94</sup> Hellery and Brinfield lived in similar conditions and their destitution had an impact on their actions. Poverty was often cited as a motive for arson in rural areas as it was a reaction to the oppression of the ruling classes, particularly among the working population. Conley, for example, in her work on Kent, found that between 1860 and 1863 sixty per cent of men tried for arson argued poverty had led them to commit the crime.<sup>95</sup> This was not so much an expression of hardship or protest, but rather a plea for shelter and food a gaol could offer. Poverty was not offered directly here as a motive, but the desire for food in Hellery's case and rent in Brinfield's was a consequence of poverty. Yet, despite a similarly large body of evidence against Brinfield, she was found not guilty due to her role as a mother. She was noted to have often cursed her landlord and threatened to set fire to the home and watch it burn in fits of anger. When she was told she was being arrested for arson she exclaimed "Good God! What set fire to the house and my children in it!". Her defence argued that it was improbable "that she should have committed a crime which might have resulted in the destruction of those most dear to her in the world".<sup>96</sup> Again the defence was framed around respectable notions of gender but in this case, it was successful. The differing outcomes of these trials illustrates that although defendants performed specific roles aligned to their gender these did not always garner the result expected.

### c) **The Poacher as an Arsonist**

Respectable masculinity was equally projected by male defendants, but it was a complicated and nuanced process. The case of the poacher turned arsonist heard at the Old Bailey in 1894 was indicative of this. The case occurred in a rural setting just outside London making it an exceptional incident in this study but was subject to the same prejudices as cases from the city in the courtroom.

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<sup>94</sup> OBO, Martha Brinfield, t18561027-1064.

<sup>95</sup> C. A. Conley, *The Unwritten Law; Criminal Justice in Victorian Kent* (Oxford: Oxford University Press, 1991), p. 154.

<sup>96</sup> "Central Criminal Court", *The Morning Post*, 3 Nov. 1856.

In December 1894 William Vickery, a farmer in Chessington, was awoken by one of his employees to find his barns, stables and hayricks on fire.<sup>97</sup> The farm, located in Surrey on the outskirts of the city, suffered approximately £600 worth of damage. One of the alleged guilty party, George Javes, was caught running away from the scene by one of his farm hands and held until the local police constable arrived.<sup>98</sup> Javes claimed he was sleeping in one of the barns with two women and his co-defendant William Maynard and was merely running away in fear for his life, which Maynard confirmed. Javes and Vickery had crossed paths before on Vickery's land, with the former being accused of rabbiting with three other men. According to Vickery, he confronted Javes who allegedly threatened him, stating "he should not be on the farm long" presenting the jury with a viable motive for the crime.<sup>99</sup> However, Vickery admitted to neglecting to inform the Magistrate in the preceding trial of Javes' threat, somewhat undermining the authority of his evidence. His assertion could be viewed as an opportunistic ploy to get Javes and Maynard convicted rather than a factual retelling of the confrontation as no other witness could corroborate the threat. The previous relationship between Vickery and Javes was a key component in the case and illustrates how wider networks of familiarity affected both the actions of the defendants and the eventual verdict given to the defendants - in this case to their benefit. Javes and Maynard's case is particularly telling as the dual accusation of poaching and arson adds another dimension to this gender analysis.

Poachers, as discussed in the previous chapter, were deeply divisive characters who created fierce debate. On one side were property owners and gamekeepers who typically considered poachers as lazy career criminals who would rather pilfer than do an honest day's work. On the other were those who empathised with the poor living conditions poachers laboured in. One might presume that the jury, made up of middle-class men with property, may hold the opinion of poachers as lazy career criminals pushing them towards a conviction. But Javes and Maynard walked free. Despite having a motive, opportunity and the ability to set the fire (both were found with lucifers on them

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<sup>97</sup> OBO, G. Javes and W. Maynard, t18950107-171.

<sup>98</sup> Hutchins and one of his colleagues had permission to sleep in a shed with their families on "a little straw" and were called as eye witnesses to testify at the trial.

<sup>99</sup> Testimony of William Vickery in *ibid*.

on their arrest) they were found not guilty. There are arguably two reasons for this - lack of understanding of rural life and the perceived respectability of the defendants. Firstly, it could be assumed (but I would argue incorrectly) that the jurors, as they resided in an urban area, had little knowledge of rural affairs and as such were untainted by the prevalent anti-poaching sentiment. I would suggest that this is slightly tenuous. Jurors were likely to have read one of the many accounts of bloody poaching battles in the metropolitan press. Ignorance is unlikely. Therefore, the respectability and perceived masculinity of the defendants takes on the upmost importance in the context of this case.

Gendered identities and codes of socially acceptable conduct affected the verdicts reached by juries and sentences handed down by judges. This is visible in the *Whimper and Toohey* case, as *Whimper's* deviance from the law and her position as the children's nurse led to an exemplary sentence, but the opposite applies here. There was a clear and concerted effort throughout the trial to ascertain and then affirm the respectability of the defendants. Their respectability, a measure of their masculinity in this instance, was exclusively attached to their occupation, with no reference to the precarious moral position they had found themselves in the evening before laying with two women. Witnesses were continuously asked to testify to the validity and nature of the defendants' employment; a police inspector, William Picket, the alleged victim Vickery and a police constable Jethro Black were all questioned on the nature of the defendants' occupation. It was said that they were both employed by the Ditton Waterworks, which was deemed by police constable Jethro Black as "respectable employment".<sup>100</sup> The portrayal of the defendants as honest working men who were simply at the wrong place at the wrong time plays quite heavily into the portrayal of the down-on-his-luck one-time poacher. This is a potent combination when considering the unreliability of Vickery's statement and late-nineteenth-century ideals of character reform, leading ultimately to a not guilty verdict. The issue of respectability was paramount to the verdict reached in this trial and is a reoccurring theme throughout this thesis, especially in discussions of gendered criminality. If it could be proven a defendant was acting out of character and was a normal law-abiding citizen who conformed to gender stereotypes - employment and rationality

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<sup>100</sup> Testimony of Jethro Black in *ibid*.

for men and a nurturing, caring nature for women - their sentence would often be considerably reduced or they would be acquitted altogether. Perceptions, and to a certain extent the realities of gender differences, had a definitive impact on the nature of the crime committed and the subsequent reaction of the judicial system.

#### **d) The Institutional Arsonist**

Institutional arson is unusual in the field of urban arson and only accounts for a small proportion of the crimes recorded. Institutions that appear include prisons, workhouses and industrial homes where inmates destroyed property in protest to their social situation. For example, in February 1875 Mary Burt, a prisoner at Middlesex House of Correction, was found guilty of setting fire to the bedding in her prison cell. She claimed she was acting out of frustrations of being wrongfully imprisoned and mistreated by the guards. The judge was not moved by her plight and sentenced her to eighteen additional months' penal servitude.<sup>101</sup> The type of arson committed by Burt, a form of protest, is more commonly found in rural areas and has dominated the historiographical landscape. In those instances, desperate farm labourers protested against wealthy landowners whom they felt had wronged them. In the same vein, Burt acted out of desperation against the state she felt had mistreated her. In both instances the juries were unsympathetic; they represented the state and enforced the law to its fullest extent.<sup>102</sup>

An interesting comparison to this case can be found in June 1893. Michael Donnelly an inmate at the West Ham Union Workhouse, was charged for setting fire to a shed in the grounds.<sup>103</sup> He was accused of cutting off the brass end of a hose and placing it under some wood on the roof and setting it alight. His actions did not cause much financial damage, but he was sentenced to fifteen months' imprisonment. This is quite a long

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<sup>101</sup> OBO, Mary Burt, t18750201-180.

<sup>102</sup> Minnie Edwards was also imprisoned for a further twelve months for a similar incident in 1877. OBO, Minnie Edwards, t18771210-93.

<sup>103</sup> OBO, Michael Donnelly, t18930626-629. For other examples of institutional arsonists found guilty of setting fire to workhouses see OBO, Henry Barnes, t18890408-379. OBO, William Sumrule, t18970208-205. OBO, Elizabeth Henley, t18630511-739.

sentence for the minimal damage caused but he showed little remorse and endangered the lives of people living nearby:

The prisoner, in his defence, stated he set fire to it, but that he did not intend to injure anybody, or to take any life; that he thought as he had got locked up for nothing he would do something to get locked up for.

His statement alludes to wider working-class frustrations at being locked up in terrible conditions for the crime of being poor. Institutional arson, therefore, can be seen as a crime shaped and defined by the actions of the state and those who sought to oppose it. Unlike other forms of urban incendiary institutional arson was enacted against the wider economic and social situation the defendant found themselves in. The judiciary, unsympathetic to their circumstances, punished them to the fullest extent of the law and in doing so reinforced the social hierarchy that imprisoned them in the first place.

#### e) **The Incendiary Green Grocer**

Arson also manifested itself in trade disputes between individuals of the same social standing. Henry Standing, a greengrocer, was caught red-handed by a policeman while setting fire to some rags and stuffing them through his competitor's front door as he slept inside. An example of revenge arson Standing stated he "merely did it to frighten, not with the intention to set the house on fire - only to frighten him as he has been taking some of my customers away". Standing had been upset not by the actions of his competitor directly, but by his competitor's wife - a Mrs Phillips - who had told "some person who was buying fruit at my shop that their shop was the best".<sup>104</sup> This innocuous statement led to quite drastic action that endangered the lives of the inhabitants and demonstrated a disregard for property. Standing, it seems, did not quite understand the gravity of his situation as he told his arresting officer, P.C. Lemoor, he would "rather be in custody for this than I would for a felony". When challenged he replied, "what I mean to say is I

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<sup>104</sup> OBO, Henry Standing, t18600813-728.



would rather be taken for this than I would for stealing anything”.<sup>105</sup> The message here is clear: Standing perceived arson on a lesser moral and judicial plane to theft. Standing’s attempts to separate himself from his perception of the criminal class- those who stole from his shop- suggests he viewed himself differently. However, his views are not matched by many of his contemporaries, who recognised the serious nature of the crime. The *Glasgow Herald*, for example, in an opinion piece on the “Classification of Crime” placed arson near the top alongside murder, describing it as a:

Savage, audacious, reckless crime, which next to homicidal attacks on the person compromise the safety and possessions of individuals; and the offenders guilty of them are regarded as a common enemy that is as fair to restrain or extirpate as beasts of prey. Malicious injuries to persons or property are of a kindred complexion; they import cowardice, meanness, or malignity, of which as it is often peculiarly difficult to guard against them, it is incumbent on society to be proportionately vigilant and severe in punishment.<sup>106</sup>

The *Glasgow Herald* was a weekly paper edited by moderately nationalist George Outram.<sup>107</sup> The judicial system was different in Scotland, but this piece reflects on perceptions of arson rather than the legal ramifications of the act. The article is unlikely to have been read in London, but the opinions were echoed in the South. Conley, for example, recognised this sentiment in rural Kent where individuals argued “it was better to be a highwayman than an arsonist” as arson “was a crime utterly unprofitable to those who committed it, who must therefore be actuated by malicious motives or be reckless of consequences”.<sup>108</sup> It seems the Old Bailey reflected these ideals and sentenced Standing to four years’ penal servitude, despite the minimal damage to his competitor’s door. One wonders whether he understood the gravity of his situation then.

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<sup>105</sup> Testimony of David John Lemoor in *ibid*.

<sup>106</sup> “Classification of Criminal Punishments”, *Glasgow Herald*, 8 Mar. 1850.

<sup>107</sup> R. M. W. Cowan, *The Newspaper in Scotland: A Study of its First Expansion, 1816-1860* (Glasgow: G. Outram & Company, 1946). A. Phillips, *Glasgow’s Herald, 1783-1983* (Glasgow: Richard Drew Publishing, 1982).

<sup>108</sup> As quoted in C. A. Conley, *The Unwritten Law* (1991), p.153.

### **4.3 The Threat of Arson in Urban Communities**

This chapter has so far revealed urban arson was not committed by one type of person but many; domestic servants, poachers, prison inmates, green grocers, housewives. Their social position was both a determining factor in why they committed the crime and how the court perceived their actions. Like stealing from master and poaching, representations in the court room were founded in deeply entrenched notions of respectable gender; occupations, family responsibilities, language, dress, the home, physicality and honour were pivotal in discussions of criminality. Arson, however, is distinct from these two crimes in two ways. Firstly, it was often committed as an indirect crime. What I mean by this is the setting of the fire itself was not the primary criminal act; it was implemented to cover up a previous indiscretion or, and most commonly, to defraud an insurance company. Cases heard at the Old Bailey suggest that the relationship between insurance fraud and arson was well established and, to a certain extent, expected by both the courts and insurance companies. Fire officers were frequently in attendance and provided crucial evidence to secure convictions. When they were successful the sentence handed down was severe due to the premeditative nature of the crime that sometimes took months to plan. Secondly, the crime posed a threat to the community as fire could spread quickly and with devastating effect. The last part of the chapter will present cases of insurance fraud and discuss what impact they had on the surrounding community. It will ask how the spatial configuration of London lent itself to arson cases and what influence it had on perceptions of the crime. Thus, echoing Hubbard's assertion that we should ask what spaces and places do, not just what they are.<sup>109</sup> I will begin with perhaps the most bizarre explanation offered to a jury- the movements of a cat.<sup>110</sup>

Frederick Proctor rented a five-floor commercial and domestic property at 24 Goodman's Yard in the Jewish district near Tower Bridge.<sup>111</sup> The property, owned by siblings Mr. Kennedy and Mrs. Southouse, had a cellar, a shop front on the ground floor

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<sup>109</sup> P. Hubbard, "Space/Place" in D. Atkinson, P. Jackson, D. Sibley and N. Washbourne (eds.), *Cultural Geography: A Critical Dictionary of Key Concepts* (London: I. B. Tauris, 2005), p. 47.

<sup>110</sup> OBO, Frederick Proctor, t18880109-205.

<sup>111</sup> J. White, *London* (2008), pp. 152-155.

with an outside shed, a bedroom on the first floor and two empty rooms on the top two floors. Proctor sought to have the premises insured by several providers and eventually purchased a policy from Sun Fire Insurance for £100. Insurers described a plain property with rubbish littering the cellar and a sparse living area with an “iron bedstead, rather a common one, with a little bedding on it, two or three cheap prints on the walls and two chairs”.<sup>112</sup> The only items of value were the fittings and scales in the shop and the limited stock. This was not the only shop owned by Proctor who also had premises in Poplar, East London, run by Mr. Pearce, a key witness in the trial proceedings. He condemned Proctor and openly admitted in court to physically assaulting him as he had not paid him his wages and said he “deserved more because I didn’t get my rights”. This would be damaging to Proctor’s reputation as a respectable employer and businessman, but Pearce’s assertion that Proctor had threatened to set fire to the shop and defraud the insurance company was far more damning.<sup>113</sup> Normally the antagonistic relationship between Proctor and Pearce would undermine Pearce’s revelations somewhat, but a customer also witnessed the assertion. Therefore, when 24 Goodman’s Yard was found on fire a few weeks later, Proctor was the prime suspect. Undeterred, and possibly foolishly, he claimed for £90 worth of goods which were not on the premises at the time of the fire, arousing further suspicion. George Harrington, an auctioneer and surveyor sent to assess the extent of damage, estimated the value to be only £14 18s with items such as mahogany drawers, dresser and chairs not on the premises.<sup>114</sup> If Proctor had honestly claimed on his insurance policy, he might never have found himself at the Old Bailey, but his outrageous demands made it inevitable.

As it was difficult to prove a fire was deliberately set and not accidental, many cases were settled by insurers without question. Proctor’s decision to include many items on his claims list that were neither present nor for which he had any evidence of ever owning, supports this notion and suggests that this practice was known in wider society. I

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<sup>112</sup> Testimony of George Powne Robins Beaver in OBO, Frederick Proctor, t18880109-205.

<sup>113</sup> Testimony of Samuel James Pearce in *ibid*.

<sup>114</sup> Proctor claimed for, amongst other things, three suits of clothes, boots and mahogany furniture including a chest of drawers, a washstand and six chairs. Harrington stated that there was no mahogany furniture on the premises only broken walnut chairs and an old common washstand. Testimony of George Harrington in *ibid*.

suggest here that it was the unrealistic demands made by Proctor that put him in court and led him to make a desperate attempt to avoid a conviction by blaming his cat. He implied the cat has knocked over paraffin and set the shop alight, which was implausible as three separate fires were set, undermining the notion that it was an accident. Ironically, this same cat provided evidence for Proctor's whereabouts on the evening in question. Proctor employed Robert Cook to white-wash the shop to fix it up. One could infer this was a superficial attempt to avert suspicion from Proctor's plan or, conversely, evidence that the incident was not premeditated, but in fact an accident - a debate which it is impossible to settle. Interestingly, despite seeking refuge with Cook in the aftermath of the fire, Proctor argued Cook was the last one in the shop and was therefore responsible. This was refuted by Cook who said that Proctor let the cat out when they left together - the very same cat that, less ironically and more tragically, was found dead on the first floor, meaning Proctor must have returned to let him in. Proctor was found guilty and sentenced to five years' penal servitude. Minus the cat, this case is typical of insurance fraud in this time.

A popular sentiment today is that insurance fraud is a victimless crime, but the evidence from Proctor's case would suggest that Victorian society, more specifically the East End, did not always adopt a similar stand point.<sup>115</sup> In the immediate aftermath of the fire, Proctor left the area and effectively went into hiding. A few days later Cook coaxed him back by appealing to his masculinity; "why don't you show yourself up like a man, and go before them? Everybody says you set fire to the place; why don't you show yourself up?".<sup>116</sup> He returned and was confronted by a mob of about twenty. They sought retribution from a man they perceived had put the community in danger by placing their homes and lives in harm's way. Cook said in the proceedings that they had "used lots of threats because they thought they were going to be burnt out".<sup>117</sup> London is often characterised as a city of anonymity which gave rise to fears of crime and vice as actions lacked the accountability of rural life. Sennett has argued that modernity created an

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<sup>115</sup> This sentiment stems from the perception that insurance companies are faceless, and it is assumed can absorb the cost of fraudulent claims. This is not strictly correct as insurance premiums rise to reflect changes in fraudulent behaviour such as increases in whip lash claims in car accidents. See for example R. Thoyts, *Insurance Theory and Practice* (Oxon: Routledge, 2010), p. 207.

<sup>116</sup> Testimony of Robert Cook in OBO, Frederick Proctor, t18880109-205.

<sup>117</sup> Ibid.

impersonal and unsociable city that caused people to retreat into their private lives out of the public domain.<sup>118</sup> This is partially true but there was also thriving working-class communities that relied on mutual support to survive, suggesting that London was not always a city of strangers. Ross, for example, has outlined informal networks of support in working-class areas where doorstep gossiping was instrumental in community building.<sup>119</sup> Jerrold and Doré also described how they plunged “into a maze of courts and narrow streets of low houses- nearly all the doors of which are open, showing kitchen fires blazing far in the interior, and strange figures moving about”.<sup>120</sup> The crowds of people and life on the streets is what made the East End so mysterious and fascinating to foreign observers and visitors from different social groups.<sup>121</sup> People freely moved from street to street, became accustomed to familiar faces and expected a certain level of behaviour from their neighbours. This did not necessarily reflect middle-class notions of respectability but the furious reaction this case provoked suggests that there were standards people were expected to adhere to. Anderson observed a similar process and argued that London was neither anonymous or sociable but rather a third dimension is necessary to view the city as it was - a dynamic space where one could be both anonymous and part of a community.<sup>122</sup> This ideological framework is useful when comparing Proctor with the next case - Charles Bond and Thomas Nye.<sup>123</sup>

In the summer of 1866 Charles Bond and Thomas Nye colluded to rent a shop and the adjoining domestic space with the intent of destroying it and defrauding an insurance company. Their confidence scam was not limited to themselves; in addition, three other women and an insurance surveyor also conspired together to financially gain. On 28<sup>th</sup> August, Bond claimed to have left London with his wife for a short break in Norfolk but he stayed in a coach house in the city. Before doing so he acquired broken machinery and some furniture, which he insured at its highest value with the help of one of his

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<sup>118</sup> R. Sennett, *The Fall of Public Man* (London: Faber and Faber Ltd., 1986).

<sup>119</sup> E. Ross, ““Not the sort that would sit on the doorstep”” (1985), pp. 39-59.

<sup>120</sup> B. Jerrold and G. Doré, *London: A Pilgrimage* (2005), p. 171.

<sup>121</sup> S. Koven, *Slumming; Sexual and Social Politics* (2004).

<sup>122</sup> P. K. Anderson, *Street Life in Late Victorian London; The Constable and the Crowd* (London: Palgrave Macmillan, 2013), pp. 209-210.

<sup>123</sup> OBO, Charles Wilson Bond and Thomas Nye, t18670610-614.

conspirators who acted as an expert in the field. With the property insured at its full value and an alibi set, he tasked his friend and employee, Nye, with the job of setting a fire that would inflict the maximum damage possible without detection. The meticulous lengths to which Bond and Nye went to defraud the insurance company reveals a different form of arson born out of greed rather than revenge. Arson was particularly hard to detect, as there was no scientific process to build a case around with stakeholders relying on experience rather than fact. There were three key factors used by insurance companies and the judiciary to determine the cause of a fire. Firstly, where the fire was placed; if the fire was in separate places and could not have been started from one accident - for example a fallen candle - then arson was suspected. Secondly, the presence or smell of accelerants that was out of place including oils, paper and flammable materials. In the Proctor case, for example, the prosecution took great lengths to underline the fact straw and paraffin should not have been on the premises. Finally, and more subjectively, interpersonal grievances between the stakeholders: this is not relevant to cases of insurance fraud, as the crime is committed against a faceless company rather than an individual. Therefore, it would not be difficult for an experienced fraudster to manipulate the system if he had a working understanding of how fire burns and where to place it without causing suspicion. Nye knew how to avoid suspicion, but his prowess as an arsonist was limited.

Nye's actions only caused superficial damage much to the displeasure of Bond who, rather surprisingly, told the visiting insurance surveyor, Romsey, that "if I had done the job myself instead of trusting it to a fool, I should have left a door and a window or two open to give it a good draught, I would have had it down". Romsey amazingly encouraged further action by replying "practice makes perfect: the second will be better, I suppose". He furthered his role in the conspiracy by failing to notify his employers and processing a fraudulent claim, much to the annoyance of the prosecution who berated him for his lack of morality. Romsey stoically responded - "the man is my client, and until I was compelled to speak I had no right to betray him" concluding that he "should see the thing wound up" so the insurance company could "get out of it as quick as possible".<sup>124</sup> The attitude of the insurance company was increasingly nonchalant as the claim was paid

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<sup>124</sup> Testimony of John Romsey in *ibid*.

out in December 1866 despite fears that the fire was deliberately set and when asked in the trial if they were prosecuting, they simply replied “no”.<sup>125</sup> Bond’s lack of inhibition, the surveyors encouragement and the company’s limited response is indicative of the pervasiveness of this form of insurance fraud. Bond and Nye were only prosecuted on the testimony of a disgruntled member of their gang, Elizabeth Hutchings, and had committed this kind of act before. The implication being that if they had managed to remain cordial with their peers this case never would have been brought before the Old Bailey.

There are parallels to be drawn between Bond’s and Proctor’s cases in that they were both fraudulent insurance claims and both set out to make the most money possible from poor quality property. However, the differences between the cases shed greater light on community cohesion and the importance of interpersonal relationships in the reception and reaction to crime. The ferocity of the reaction of local community in Proctor’s case was simply not matched by those located in and around Bond’s. These two cases are illustrative of Anderson’s thesis, which viewed London as both a city of strangers and a cohesive community. I would argue that people choose what they wanted to be to suit their needs. Proctor was a prominent member of the local community and a well-known face amongst his neighbours. He relied on their patronage and had made personal links with his employees and their families. In contrast to this, Bond was an enigma. He rented the premises purely to destroy them and therefore made no attempt to build interpersonal relationships outside of his carefully constructed scam. This highlights the interesting dynamic between the criminal and their community; the more integrated the criminal was, the more acutely their crime was felt by those around him. The sense of betrayal felt by Proctor’s peers has no parallel in the Bond case because, simply put, no one knew who he was. This runs perversely to prevailing ideas in criminal history of the heightened fear of the other, the unknown or the stranger in the darkness. But I would argue this is because arson enacted with the aim of defrauding an insurer did not have a personal victim with whom the public could empathise. Therefore, in this case, the fear of the unknown is redundant, as the perpetrator’s transgressions could not impact directly on the lives of the public. The difference in Proctor’s case was that he knowingly placed the lives of his

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<sup>125</sup> Testimony of John Perry in *ibid*.

neighbours in danger giving the community a focus for their anger for the disruption he caused. The last case presented in this chapter will illustrate how this anger was exacerbated when the arsonist attacked more than one community.

*Reynold's Newspaper* published an article entitled "A Diabolical Scoundrel-Wholesale Arson" in response to the actions of William Anthony who was indicted for multiple counts of arson in December 1871.<sup>126</sup> *Reynold's* headline is scathing and indicative of its sensationalised editorial style. It had a circulation of 200,000 in 1870 and was primarily purchased by lower class readers of "low educational standard".<sup>127</sup> But the case was so "diabolical" that it crossed class boundaries and was also published in *The Times*, *The Pall Mall Gazette*, *The Star*, *The Morning Post* and *The Standard*. His actions provoked outrage in the city leading to a plethora of newspaper articles condemning his acts of "extreme depravity".<sup>128</sup> Anthony was accused of setting up to 160 fires in London over an eighteen-month period, which is astounding, but what really caught the imagination of journalists was his motive. It seems he set fires so he could collect the reward of half a crown per fire for being the first person to report it to the relevant authorities. One noted his actions had "no malice whatsoever" as he had no personal connection to the property he set on fire.<sup>129</sup> Putting people and property at extreme risk for a relatively small sum of money, especially to a trained blacksmith, confused journalists who struggled to rationalise his motives.<sup>130</sup> Anthony's case is by far the highest profile example of a random arsonist and is extraordinary in its scale, but it is not unique. Random acts of urban arson, although rare in this time period, had a significant impact on the perception of arson within London. What sets random arson apart from commercial and revenge, and is pivotal to the perception of Anthony's crime, is the unknown element. It is this unknown element that enraged and intrigued the press as to why an individual would place his community at risk.

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<sup>126</sup> "A Diabolical Scoundrel- Wholesale Arson", *Reynold's Newspaper*, 17 Nov. 1871. OBO, William Anthony, t18711211-102.

<sup>127</sup> A. Ellegård, "The Readership of the Periodical Press in Mid-Victorian Britain: II. Directory", *Victorian Periodicals Newsletter*, 4:3 (Sep. 1971), p. 7.

<sup>128</sup> "Occasional Notes", *The Pall Mall Gazette*, 14 Dec. 1871.

<sup>129</sup> "The Alleged Inflammability of London May Well", *The Times*, 16 Nov. 1871.

<sup>130</sup> "Trial of Arson", *The Star*, 19 Dec. 1871.



The media, and by extension the public, could empathise with and understand a poor man attempting to defraud an insurance company or an argument escalating between two people, but Anthony's motive was "contemptible...inadequate" and "paltry".<sup>131</sup> He did not know his victims and had no malice towards them. The lack of dialogue between himself and his victims and the marginal financial gain he made called into question the point of his actions. In some ways, the reporting of the crime demonstrates the need of society to understand and dissect criminal behaviour. Without a viable motive his actions seemed senseless and were described repeatedly as "extraordinary" and "remarkable".<sup>132</sup> The prosecution, despite indicting Anthony for several counts, rested after he was found guilty of the first "as the prisoner was liable to penal servitude for life for the offence for which he had been convicted". The prosecution then pressurised the judge further by reportedly stating that "whereas the fires occurring in London from unknown circumstances formerly numbered twenty five to thirty per month, the number had dropped to three per month since the prisoner's arrest".<sup>133</sup> It is clear the prosecution expected a life sentence but the judge 'only' passed down twelve years leading the defendant to allegedly smile and thank the judge, thus provoking further outrage within the pages of the metropolitan press. *The Pall Mall Gazette* in response called for the "good old times" when arson was a capital crime and expressed disbelief at what they perceived to be a lenient sentence claiming sentences of fifteen to twenty years were standard for a crime of this magnitude.<sup>134</sup> In reality, the sentence was not unduly lenient in comparison with other cases of urban arson heard at the Old Bailey in this time period; just fewer than 6 per cent of defendants received longer sentences in between 1860 and 1900.<sup>135</sup> This did not stop *The Pall Mall Gazette* from vilifying the judge, stating Anthony's "gratitude [was] not misplaced, but it is no smiling matter for the inhabitants of London" who would have to face a thirty-three-year old arsonist in

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<sup>131</sup> "Central Criminal Court", *The Morning Post*, 12 Dec. 1871. "Central Criminal Court", *The Standard*, 14<sup>th</sup> Dec. 1871.

<sup>132</sup> "Trial of Arson", *The Star*, 19 Dec. 1871. "Central Criminal Court", *The Morning Post*, 12 Dec. 1871.

<sup>133</sup> "Summary of this Morning's News", *The Pall Mall Gazette*, 14 Dec. 1871.

<sup>134</sup> "Occasional Notes", *The Pall Mall Gazette*, 14 Dec. 1871.

<sup>135</sup> Only ten other defendants received longer sentences from 1860 to 1900 accounting for 5.9 per cent of all cases where the defendants were found guilty.

twelve years' time.<sup>136</sup> This perceived imbalance between the punishment and the crime was exacerbated by events across the Atlantic.

In October 1871 Chicago was severely damaged from a large fire, which “destroyed almost all that was very valuable ... thought to be about \$100,000,000” and resulted in the loss of life of up to 300 people.<sup>137</sup> *The Times* in response to the fire ran a feature on the so-called “Inflammability of London” claiming that London was in fact at a high risk of a large fire similar to Chicago.<sup>138</sup> The fear associated with fire, and its uncontrollable nature, was fuelled by the metropolis’ own experience of the Great Fire in 1666 which resulted in the estimated destruction of 70,000 homes and the seemingly chaotic nature of London’s rapid expansion.<sup>139</sup> Nead described nineteenth-century London as a “Victorian Babylon” with new technologies and infrastructure expanding the perimeters of the city daily. She argued that London was a bundle of contradictions “that symbolised material wonder and tumultuous destruction”.<sup>140</sup> The rapid changing nature of the built-up urban environment combined with the irresponsible actions of arsonists generated a fear of a city that already felt overcrowded. Therefore, the media outrage over Anthony’s reckless actions should be put into the context of the time. Anthony’s first case was heard a mere month after the atrocity in Chicago and his final hearing only a month after that; coverage of the Chicago fire and fears of a similar event in London were still potent resulting in the vilification of Anthony Williams. This is not to say his actions would have been ignored in other circumstances, but rather the level of vitriol would have been limited. In this context, and that of all arsonists in this chapter, the built environment was paramount to the detection, perception and punishment of their actions.

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<sup>136</sup> “Epitome of Opinion in Morning Journals”, *The Pall Mall Gazette*, 15 Dec. 1871.

<sup>137</sup> “The Great Fire at Chicago”, *The Times*, 11 Oct. 1871.

<sup>138</sup> In reaction to the Great Chicago Fire of October 1871 *The Times* ran a series of articles and printed letters in relation to the flammability of London. See for example in *The Times*: Punjabee, “The Inflammability of London”, 3 Nov. 1871. Punjabee, “The Inflammability of London”, 16 Nov. 1871. Anon., “The alleged inflammability of London may well”, 16 Nov. 1871. J. S., “The Inflammability of London”, 20 Nov. 1871. A. Crump, “The Inflammability of London”, 5 Dec. 1871.

<sup>139</sup> A. Tinniswood, *By Permission of Heaven: The Story of the Great Fire of London* (London: Random House, 2011).

<sup>140</sup> L. Nead, *Victorian Babylon* (2005), p. 3.

#### **4.4 Conclusion**

Of all crimes, arson is at once the most easy of perpetration, the most difficult of discovery, the most secure from conviction, and the most likely to perpetuate itself when it has become a fashion, or a passion.<sup>141</sup>

“The Philosophy of Arson” printed in *The Saturday Review* outlined several facets of arson that this chapter has unpicked using London and the urban environment as its focus. The author states arson is easy to commit, difficult to detect and hard to prosecute - a hard supposition to refute. The wide variety of arsonists presented here suggests that arson was a relatively easy act with little or no knowledge required to set a fire. Secondly, as has been comprehensively shown, arson is particularly hard to detect, with the line between an accident and arson determined by motive, premeditation and above all the character of the defendant. Finally, if we compare the conviction rates of the three crimes across this thesis convicting an urban arsonist was difficult. The conviction rate for poaching at South Hinckford and theft from master at the Old Bailey were both in the low eighties compared to a 46.7 per cent conviction rate for urban arsonists. This comparably low conviction rate is attributed to the difficulties of proving intent despite the overt nature of the crime.

This chapter has shown that urban arson should not be overlooked or absorbed into discussions of rural arson. The motives and methods adopted by urban arsonists were different and reflected the built environment in which the crimes occurred. Rural arson was a crime of protest against elites, but most cases of urban arson were the result of two things: revenge and money. James Coleman, Lucy Hellery and Henry Standing resorted to arson because of personal and professional conflicts. Francis Whimper, Frederick Proctor, Charles Bond and even William Anthony set fire to property for financial gain. What binds these cases together is not simply the fires they set but the influence of the built environment on their actions; maze like streets, chaotic homes and overcrowded districts lent themselves to conflict and provided an arena in which criminal actions could

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<sup>141</sup> “The Philosophy of Arson”, *The Saturday Review*, 16 Jan. 1864, p. 77.

flourish. Finally, in line with the overall aims of this thesis it has shown how court records and press representations reveal the understanding and adoption of social identities. Discussions of age, occupation, family responsibilities and respectable character dominated discourses of property crime in this period.

## Conclusion

This study has shown how nineteenth-century understandings of social identities and space were adopted and manipulated through three overlooked property crimes: stealing from master, poaching and urban arson. It has demonstrated that crime did not occur on the periphery of society but was an everyday occurrence that revealed the nature of social interactions between historical actors and their surroundings. Crime was not ordinary, nor was it extraordinary; it was a fact of life. Historical actors encountered crime as victims, instigators, newspaper readers and courtroom audience members. These encounters were shaped by their own social identities and what they perceived to be the acceptable identity of others. Scott argued that experiences can only be read within their discursive framework; language choices, expressions and narratives are reflective of the tools available in contemporary culture.<sup>1</sup> The way in which these crimes were understood, therefore, has a historical context that is shaped by linguistic choices and social expectations. Through a close reading of court records and the printed press this thesis has provided a window through which to access this discursive framework and view notions of gender, respectability and space in action. To conclude this study, I will compare three exemplar cases outlining the key findings of this thesis: Emma Turbyfield, a thief from South London, Robert Cordwell, a poacher residing in Essex and John Dodman, an arsonist living and working in Knightsbridge.<sup>2</sup> Their behaviour, social identities and relationship with space will demonstrate how a close reading of court records can add to our understanding of crime and social history.

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<sup>1</sup> J. W. Scott, "The Evidence of Experience", *Critical Enquiry*, 17:4 (1991), pp. 773-797. P. Summerfield, "Concluding Thoughts" (2013), p. 349.

<sup>2</sup> OBO, Emma Turbyfield, t18710403-336. OBO, Emma Turbyfield, t18710403-337. OBO, John Dodman, t18791020-940. OBO, John Dodman, t18791020-941. ERO, Robert Cordwell, P/H M11, 23 Oct. 1861. ERO, Robert Cordwell, P/H M11, 9 Apr. 1862. ERO, Robert Cordwell, P/H M11, 17 Dec. 1862. ERO, Robert Cordwell, P/H M12, 7 Dec. 1864.

## **5.1 Turbyfield, Cordwell and Dodman**

The research presented in this project has found inspiration in many places but Nash and Kilday's multi-crime approach resonated strongly. They suggested that examining more than one crime in a study avoids the tendency to view the "law and, indeed, 'crime' as a monolithic entity".<sup>3</sup> Thus, reducing the temptation to overlook subtle complexities and nuances which are particularly relevant in a cultural study of this type. Examining stealing from master, poaching and arson alongside one another has provided three different perspectives on property crime, creating a multi-layered analysis. Each crime had different permutations but there were three reoccurring themes: gender, class and space. The conclusion of this thesis will draw on these themes and show how the identity of historical actors was not limited to one characteristic but an entanglement of several.

### **a) Gender**

Gender identities manifested themselves in the enaction of crime and were performed by historical actors in the court room. The roles performed required a coded language which was adopted by defendants to prove innocence and prosecutors to prove guilt. Frost described broken promises of marriage cases as following a formulaic script and I would contend that this was not unique to only those cases.<sup>4</sup> Investigating the three property crimes in one study exposed similar patterns with historical actors drawing on and sometimes manipulating their gendered identities to attempt to win their trial. The Turbyfield, Dodman and Cordwell cases were indicative of this process with both the defendants and prosecutors adopting gendered language.

Turbyfield was brought before the Old Bailey for stealing fourteen night gowns, twelve chemises and three table cloths from her employers the Bulmers. Clara Bulmer, the mistress of the household, stated that she came to be in their employment by "her appearance" and without a character reference. She later let her go but reemployed her

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<sup>3</sup> A-M Kilday and D. Nash "Introduction" in their edited volume *Histories of Crime* (2010), p. 1.

<sup>4</sup> G. S. Frost, *Promises Broken* (1995), p. 26.

because “she was destitute”. Turbyfield repaid her kindness by stating in the courtroom that her husband had seduced her and gave her the items to keep quiet. He denied this and she replied:

How can you say you never gave me those things; did not you give them to me, after drugging me with a glass of wine and seducing me? and you gave me a sovereign at the same time; I should think you gave me 5*l.*, and those clothes, to keep me silenced from Mrs. Bulmer.<sup>5</sup>

Her pleas were ignored and she was found guilty and sentenced to twelve months’ imprisonment. Both Turbyfield and Clara Bulmer performed prescribed feminine identities to ‘win’ the case. Clara Bulmer played the philanthropic mistress who was willing to give Turbyfield a second chance, demonstrating a generosity of spirit. Turbyfield, on the other hand, performed the sexually vulnerable young woman who had fallen victim to the advances of the older man. The next case also drew on the idea of a man who failed to live up to contemporary standards of masculinity. John Dodman was accused of stealing plates then setting fire to his mistress’ house to cover up his crime. He had been given his notice and was due to leave the next day. His actions were typical of urban arsonists as it was often a secondary crime designed to hide a previous indiscretion. The central narrative to this case was he had endangered the women he had been employed to serve as he worked in an all-female household. Provocative images of respectable women choking on smoke and wandering into the streets in night garments were evoked by several witness testimonies.<sup>6</sup> His employers, the Curtises, were depicted as vulnerable women who had been exposed to the public by a man unable to control his emotions. There were many ways to express manliness in the Victorian era but a central characteristic was self-restraint which Dodman lacked.<sup>7</sup> He was found guilty and sentenced to an extraordinary twenty years’ imprisonment- the long sentence was partly in consequence of his failure to live up to contemporary expectations about masculine

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<sup>5</sup> OBO, Emma Turbyfield, t18710403-336.

<sup>6</sup> OBO, John Dodman, t18791020-941. See also “Police Intelligence”, *The Morning Post*, 13 Oct. 1879. “Serious Charge of Arson and Robbery by a Butler”, *The Illustrated Police News*, 18 Oct. 1879. “Central Criminal Court”, *The Standard*, 29 Oct. 1879.

<sup>7</sup> S. O. Rose, *What is Gender History?* (2010), p. 67.

behaviour. The last case in the comparison is that of Robert Cordwell the poacher, whose trial revealed a crime that had a complex relationship with masculinity.

Cordwell was caught poaching four times and brought before South Hinckford magistrates court by gamekeepers. Chapter three of this thesis revealed how gamekeepers viewed and presented themselves in a professional journal - *The Gamekeeper*. It promoted controlled physicality, lineage and knowledge of breeding, hunting and the law as key characteristics of a respectable gamekeeper. Conversely, poachers were emasculated as lazy career criminals who did not deserve the empathy of neutral observers.<sup>8</sup> Emsley and Schindler argue that poachers were universally male as, on one hand, poaching did not suit the sensibilities of women and on the other the act was an expression of masculinity.<sup>9</sup> Other crimes, like the actions of Dodman, contravened masculine virtues but poaching could also be seen as an extension of them. The idealised poacher was a 'down-on-his-luck' opportunist who caught a rabbit for the pot therefore providing for his family. This study showed that this was not an accurate portrayal of the poacher; he was as likely to be a member of a poaching gang engaging in a criminal enterprise. However, as the century progressed the implementation of the Poaching Prevention Act and the Ground Game Act eroded sympathy for poachers as property and boundaries became more defined. This coincides with a wider movement towards a more civilised and restrained behaviour as described by Elias's civilising process.<sup>10</sup> The crime was described as a cat and mouse game between two parties with the gamekeeper in Cordwell's case even exclaiming "I've got you at last" suggesting in this case poaching was framed as a masculine competition as much as a crime of protest.<sup>11</sup> This thesis has looked beyond the parameters of poaching as a class crime to ask who the poacher and the gamekeeper were? It placed them within their historical context revealing how their imagined identities influenced wider social narratives. It has also expanded our understanding of an overlooked profession and considered its relation to masculinity in the second half of the nineteenth century.

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<sup>8</sup> See for example Anon., "The Poacher and his dog", *The Gamekeeper*, 1:2 (Nov. 1897), p. 9.

<sup>9</sup> C. Emsley, *Crime and Society* (2010), p. 99. N. Schindler, "The Mill at Bluntau" (1999).

<sup>10</sup> N. Elias, *The Civilising Process* (1994). M. J. Weiner, *Men of Blood* (2004).

<sup>11</sup> ERO, Robert Cordwell, P/H M12, 7 Dec. 1864.



Crime occurred in society and was therefore influenced by social constructs and social interactions. Relationships built between individuals are unique in each case but tensions and the subsequent break down in trust are commonplace. Several relationships have been explored in this thesis and analysed within the framework of gender. Mothers who were acquitted because they could not possibly harm their children.<sup>12</sup> Domestic disputes between husbands and wives over finances and providing for children resulting in lenient sentencing.<sup>13</sup> Paternalistic masters pleading for mercy for their charges and gamekeepers who relentlessly chased poachers and celebrated their successes in the pages of their own journal.<sup>14</sup> These relationships were framed by contemporary understanding of gender and respectability. I would argue that these understandings were transferred into the court room where the prosecution and defence engaged with these ideas to further their own agendas; Turbyfield attempted to sway the jury by arguing she had been corrupted, Dodman was presented as lacking honour and self-restraint and Cordwell was shown as a poor man trying to catch a rabbit to feed his family. This thesis has demonstrated how these narratives influenced conviction rates resulting in varied sentences.

Crime is dominated by the actions of men who are statistically more likely to commit criminal acts; 100 per cent of poachers, 83.2 per cent of thieves and 77.5 per cent of arsonists presented in this thesis were men. The surprising statistic is the high proportion of men who stole from their masters as domestic service was a predominantly female job.<sup>15</sup> However, as Chapter Two explained, cases of servant theft that reached the Old Bailey were often related to the commercial activities of the home therefore outside the remit of the typical female servant who worked purely on the domestic aspects of the household. Chapter Two also tested the theories of Wiener and Zedner highlighting the similar conviction rate for men and women. But sentences for men were decidedly longer supporting Wiener's assertions that the state adopted a civilising process in this time period.<sup>16</sup> Chapter three found that the conviction rates between male and female arsonists

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<sup>12</sup> OBO, Martha Brinfield, t18561027-1064

<sup>13</sup> OBO, Lucy Hellery, t18660917-812.

<sup>14</sup> OBO, Charles Meadows and Eliza Noakes, t18621027-1111.

<sup>15</sup> E. Higgs, "Domestic Servants" (1983), p. 202. L. Schwarz, "English Servants" (1999), pp. 245-6.

<sup>16</sup> M. J. Wiener, *Men of Blood* (2004).

were quite similar but the conviction rate was much lower than the other two offences; just under half of arson cases compared to 83 per cent of poaching and 84 per cent of stealing from master cases. This is a reflection, not of gendered identities, but the difficulties in proving arson had occurred as forensic science was in its infancy. The jury relied on lay understanding of fire with factors such as the placement of fire, use of accelerants and a viable motive used to determine whether there was criminal intent. Dodman, for example, was convicted as he was the only person on the floor where the fires started, he had been relieved of his service and there were four separate fires set outlawing the possibility of an accident. The cases presented in this thesis have illustrated how gendered identities are performed in the court room and the influence that had on the perception and punishment of crime. However, gender was a concept that was entangled with other forms of social identity most notably class and respectability.

**Table 5:1 Verdicts reached for all defendants presented in this thesis.**

Verdict	Servant Theft		Poaching		Arson	
	#	%	#	%	#	%
Guilty	111	84.1	75	83.3	170	46.6
Not Guilty	21	15.9	9	10	181	49.6
Miscellaneous <sup>17</sup>	0	0	6	6.7	14	3.8
Total	132	100	90	100	365	100

**Table 5:2 Verdicts reached for male defendants presented in this thesis.**

Verdict	Servant Theft		Poaching		Arson	
	#	%	#	%	#	%
Guilty	95	84.1	75	83.3	134	47.3
Not Guilty	18	15.9	9	10	137	48.4
Miscellaneous	0	0	6	6.7	12	4.3
Total	113	100	90	100	283	100

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<sup>17</sup> Miscellaneous refers to cases where defendants were found guilty but insane or adjourned and never re-heard.

**Table 5:3 Verdicts reached for female defendants presented in this thesis.**

Verdict	Servant Theft		Poaching		Arson	
	#	%	#	%	#	%
Guilty	16	84.2	0	0	36	43.9
Not Guilty	3	15.8	0	0	44	53.7
Miscellaneous	0	0	0	0	2	2.4
Total	19	100	0	0	82	100

**b) Class and respectability**

Scholarship has moved away from defining class distinctions by an individual or collective's relationship with the economy. The linguistic turn has challenged us to look past this and recognise class as only one form of social identity amongst many others. Kocka has observed that this is one of the benefits of a new form of social history that has "learned to analyse the manifold relations between different dimensions of social inequality, especially class, gender and ethnicity, but also age".<sup>18</sup> Hewitt has also outlined that "class remained fluid, subjective and uncertain, constantly cut across other identities and structures".<sup>19</sup> This project is a product of this intellectual framework in that it has examined class alongside other social constructs. Gender, for example, was a central theme but notions of femininity and masculinity were entangled with ideas of class identity. Frequently the word 'respectability' replaced class with historical actors using the loaded term to label individuals who matched prevailing social norms. The term itself was dynamic and encompassed many characteristics that fluctuated depending on time and space. This thesis has shown that respectability was a desired social state but not absolute.<sup>20</sup> Criminal behaviour represented a challenge to the respectable status of defendants and victims as shown in court room performances.

Peter Bailey argued that historical actors performed respectability in certain situations to avoid philanthropists and police invasions.<sup>21</sup> Stealing from master, poaching

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<sup>18</sup> J. Kocka, "Losses, Gains and Opportunities: Social History Today", *Journal of Social History*, 37:1 (Autumn 2003), p. 25.

<sup>19</sup> M. Hewitt, "Class and the Classes" (2007), p. 318.

<sup>20</sup> P. Bailey, "'Will the Real Bill Banks Stand Up?'" (1979), p. 337.

<sup>21</sup> *Ibid.*, p. 343.

and urban arson cases have demonstrated this in the second half of the nineteenth century. Prosecutors and defendants relied on their respectable status to carry favour with the jury as respectability was equated with honesty; a testimony delivered in the right vernacular by an individual who possessed desired characteristics ultimately held more weight. This is evident in Turbyfield's case. Thomas Bulmer, the man she accused of seducing her, was a doctor who was well respected in his community. Turbyfield, in contrast, was portrayed as a woman who had abused the trust of her mistress who had generously reemployed her in her time of need. Therefore, when the verdict came down to who they believed more there was only going to be one outcome. We can also see this in poaching cases whereby the word of the gamekeeper was believed over the poacher without exception. The gamekeeper understood the tenants of the law and expressed themselves in a respectable manner as they had experience of interacting with social superiors in their day-to-day jobs, and were also familiar with the legal procedures necessary to secure convictions of poachers. The gamekeepers in Cordwell's cases, for example, noted the position of poachers and the equipment they carried as these were deemed evidence of guilt.

Poaching is a crime that has been shaped by class consciousness and privilege whereby stealing game has been depicted as a form of protest.<sup>22</sup> But the image of the landowner was conspicuously absent from the South Hinckford records and the many accounts of poaching in *The Gamekeeper*. Poachers summoned to South Hinckford did not refer to the landowner or express a desire to protest the hated game laws but rather to make money. This thesis has demonstrated that poaching was a constant battle between poachers and gamekeepers who were proxies for their employers. In contrast, urban arson and stealing from master exposed conflict that arose when the home overlapped with work. This thesis has investigated how direct interaction between people from different social statuses resulted in a more punitive outcome for defendants. Dodman, for example, endangered his social superiors resulting in twenty-year imprisonment. A parallel can be drawn from this case to Whimper and Toohey examined at length in Chapter Four.<sup>23</sup> Both

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<sup>22</sup> H. Hopkins, *The Long Affray* (1985). D. J. V. Jones, "The Poacher" (1979). D. J. V. Jones, *Crime, Protest, Community and Police* (1982). E. J. Hobsbawm and G. Rudé, *Captain Swing* (1973).

<sup>23</sup> OBO, Toohey and Whimper, t18690503-474.

cases resulted in long sentences and involved the endangering of lives of men and women of higher social status. Other cases, where the defendant and victim were of a similar social standing, for example the green grocer Henry Standing, resulted in a more lenient sentence.<sup>24</sup> The research presented in this thesis has given examples of class interactions and examined how notions of respectability influenced criminal behaviour and punishment. It is important to note, however, that these encounters occurred in a given space with its own meaning. The home, private and public spaces were determined by ideological and physical boundaries that altered the nature of crime and revealed everyday social interactions.

### c) Space

Property crime provides a window through which to view everyday experiences but these are situated in a space with attached social meaning. As Steinbach eloquently noted “awareness of space reshapes our interpretations of the human interactions that are so often structured by them: a pub conversation could never take place in a church or a bedroom”.<sup>25</sup> This thesis has taken a journey through working-class slums, middle-class suburbs and the grounds of upper-class estates showing a cross section of Victorian society. The three case studies presented in this conclusion are indicative of this. Cordwell was caught on large country estates in Essex, Dodman set fire to a Kensington town house and Turbyfield stole from a home in Woolwich. If we take Cordwell’s cases first we can see how the understanding of space and place directly influenced perceptions of criminality.

Cordwell was first summoned for trespassing in pursuit of game and fined two pounds for ferreting in October 1861. It was a typical case that used footpaths as boundaries between private and public land. He was noted to be “fifteen to twenty feet off of the footpath” and could therefore be sentenced to trespassing in pursuit of game.<sup>26</sup> The second time was more complex as it transpires he had the permission of the tenant farmer

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<sup>24</sup> OBO, Henry Standing, t18600813-728.

<sup>25</sup> S. L. Steinbach, *Understanding the Victorians* (2012), p. 11.

<sup>26</sup> ERO, Robert Cordwell, P/H M11, 23 Oct. 1861.

to capture rabbits but not hares. He was caught with a hare but the case was dismissed as the tenant farmer argued the snare was set for a rabbit.<sup>27</sup> The third time he was sentenced to two months for night poaching and the fourth he set nets in a wood and was caught off the public footpath. Cordwell's indiscretions reveal the importance of the different meanings attached to space in defining criminality. The punishment for poaching was often a fine which implies it was low on the hierarchy of crimes. But night poaching was treated more severely as the meaning of the space changed as the sun set. Prolific poachers and gangs operated at night under the protection of darkness and posed more of a threat to gamekeepers and were punished accordingly. The varying punishments for the same crime, in the same place exemplifies how meanings attached to spaces were dynamic and had consequences for inhabitants.

Henry James noted in his description of London that for the inhabitants there was a "luxury in the knowledge that he may come and go without being noticed".<sup>28</sup> London provided a cloak of anonymity and with it the ability to commit a crime undetected. For crimes like stealing from master there was also an underground network of fences and pawn brokers willing to take stolen items. It was feared this encouraged criminal behaviour as there was less social pressure to conform to respectable ideals. However, this thesis has shown, in line with Anderson's observations, that London could be both anonymous and sociable.<sup>29</sup> Local communities relied on one another to survive so when one endangered the others they could react ferociously as seen in Proctor's case in chapter four. I believe urban arson should be examined as a separate crime to rural arson as the built environment changed the nature of the crime and the type of people who committed it. Urban arsonists set fire to buildings in acts of revenge or secondary crimes to cover ulterior actions like defrauding insurance companies. By considering the configuration of the space, I argue that we need to move beyond seeing arson as predominantly an act of protest.<sup>30</sup>

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<sup>27</sup> ERO, Robert Cordwell, P/H M11, 9 Apr. 1862.

<sup>28</sup> H. James, *Essays in London* (1893), p. 8.

<sup>29</sup> P. K. Anderson, *Street Life in Late Victorian London* (2013), pp. 209-210.

<sup>30</sup> E. Hobsbawm and G. Rudé, *Captain Swing* (1969). G. Rudé, "Protest and Punishment in Nineteenth-Century Britain" (1973). C. J. Griffin, "'The mystery of the fires'" (2010). J. E. Archer, *'By a Flash and a Scare'* (1990). J. Rule and R. Wells, *Crime, Protest and Popular Politics* (1997). C. J. Griffin, *Protest,*

The final but most notable space to consider is the home. This thesis has demonstrated that the home was a fluid concept that enveloped a wide variety of premises including spaces that were both commercial and domestic. Inhabitants within the home interacted differently with the space depending on their position. Servants, the focus of the second chapter of this thesis, contended with a space that was both a place of sanctuary for their masters and a work space for them.<sup>31</sup> This led to conflicts over privacy and property ownership. Turbyfield, for example, was searched at her new residence when her mistress noticed a number of items were missing. Searching servants, especially their boxes, was highly contentious with many masters referring to outside authorities before taking on this responsibility.<sup>32</sup> The actions of Turbyfield, and others similar to her, did not lead to permanent damage to the home but did add to contemporary fears of the criminality of domestic servants. Just how powerful these fears were is shown by the fact that it was cases of theft by domestic servants that were most often portrayed in the press rather than more prevalent trade disputes. The private sanctuary of the home was a middle-class ideal that was often disrupted by public forces. Property crime was one vehicle in which the private became public changing the nature of the home as an ideological space.

Campbell has argued that “historians tend to study time and place as parallel concepts”.<sup>33</sup> This thesis has moved away from that approach and examined them as complimentary concepts that both moulded and disrupted social identities. The second chapter centred on the contradictory nature of the home as a domestic and commercial space. I observed how crime disrupted the private nature of the home bringing domestic conflict into the public domain. The third chapter questioned how divisions between private and public were drawn and what influence that had on the perception of criminality. The fourth chapter examined the spatial configuration of the built environment moving beyond arson as simply a crime of protest and considering its

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*Politics and Work in Rural England* (2014). A. Charlesworth, “The Development of the English Rural Proletariat and Social Protest” (1980). J. E. Archer, “The Wells-Charlesworth debate” (1982). D. Jones, “Thomas Campbell Foster” (1976).

<sup>31</sup> L. Delap, “Campaigns of Curiosity” (2007). J. R. Gillis, “Servants” (1979). L. Delap, “Housework, Housewives, and Domestic Workers” (2011). T. Meldrum, *Domestic Service and Gender* (2000).

<sup>32</sup> J. Hamlett, *Material Relations* (2010), pp. 59-60.

<sup>33</sup> C. J. Campbell, “Space, Place and Scale” (2016), p. 1.

significance in the social space of local neighbourhoods. This thesis has examined a wide variety of spaces and demonstrated how the meanings attached to those spaces influenced social identities and interactions within their parameters.

This thesis has illustrated the benefits of using court records and newspaper reports to access nineteenth-century notions of class, gender and property. However, there are limitations to this approach. By only exploring court records this study is restricted to cases that were detected, reported and punished. King describes the difficulties of this by explaining the judicial system as a long corridor of rooms each designated to a different stage of the process that the accuser could leave at any point removing the case from the historical record.<sup>34</sup> The ‘dark figure’ of crime is an obstacle for all criminal historians making it impossible to accurately record the incidence of crime. The Old Bailey proceedings are a useful resource but can be frustrating especially when the defendant pled guilty as details are limited. This will have affected the balance of the research, as cases where defendants decided to contest their charge inevitably got more attention due to source availability. Moving on from the proceedings, the magistrates’ records utilised in the chapter on poaching are limited by what the court clerk deemed necessary to notate. Nevertheless, this project has shown that useful conclusions can be drawn from close reading of cases alongside cultural depictions in the printed press opening new research avenues.

A study of all crime that took place in the home is beyond the scope of a single PhD thesis but the findings of this project do point in some interesting directions. For example, how did the crimes explored in this thesis compare to other types of crime – murder and violence between family members, for example - that took place in domestic surroundings? What else could we learn about the home from widening the net of crimes considered? We know that theft disrupted the normal routines and privacy of the home, but what happened when homes were thrown open by even more disruptive and damaging crimes? The body of research presented here could be used as a platform to investigate crime in the home or as a comparative project with other areas of the country. I would be

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<sup>34</sup> P. King, *Crime, Justice and Discretion in England* (2000).



particularly interested to see if the nature of urban arson in London was replicated in other cities. The spatial configuration of crime could be further examined using geographical information software to map criminal behaviour. This, one imagines, would reveal hotspots and provide a visual representation of crime over time. Advancements in technology make these projects more feasible and I hope this thesis will provide inspiration for those willing to view social constructs through the focal lens of crime.

The central aim of the thesis is to demonstrate how property crime was influenced by social constructs and conversely, how social constructs altered the nature, detection and punishment of criminal behaviour. This thesis asked how notions of gender, class and space were interwoven through the actions of alleged criminals and those who sought to limit what they deemed to be deviant behaviour. Stealing from master, poaching and arson were selected as the focus for the thesis as these three crimes offer instances of conflict that have been overlooked by social historians. Each crime has its own permutations but consistently notions of gender, class and space dictated how each were perceived and punished.

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