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Divorce and Bigamy in Liverpool, 1857-1912.

Sharon Louise Ryan

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ABSTRACT

This dissertation considers the extent to which patterns of divorce and bigamy in Liverpool changed following the introduction of the Matrimonial Causes Act of 1857 which theoretically made divorce more accessible. Using a sample of newspaper reports it examines who was initiating divorce or committing bigamy, and variations in sentencing patterns for bigamy. It compares Liverpool to the national picture and seeks to identify local factors which impact on the patterns of divorce and bigamy.

Recent national studies have demonstrated that although access to divorce remained difficult for most, petitioners represented a broader social group than had been assumed. However, divorce rates remained low and it has been argued that the tradition of self-divorce continued into the nineteenth century with couples, particularly from the working class, rearranging their marital relationships through other means such as bigamy. This dissertation considers attitudes to divorce between 1857 and 1912 when a Royal Commission made proposals for reform and, the alternative approaches used by couples whose marriages failed. It then addresses the extent to which residents of Liverpool accessed the divorce court before considering the extent of bigamy in the city.

The cost of divorce and the location of the court in London did not prevent a broad range of the residents of Liverpool from accessing divorce. The lower middle class and skilled working class were represented in greater numbers than might be expected. Bigamy continued to be used, mainly by the working classes, as an alternative means of rearranging marital relationships. While sentencing took account of individual circumstances there was no evidence of increased leniency suggested by some historians. Marital breakdown was the main reason given for committing bigamy. Cruelty, ill-treatment and drunkenness featured as causes of marital breakdown in both divorce and bigamy and suggests that for some bigamy may have been a substitute for divorce.

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No part of this dissertation has been submitted for a degree at The Open University or at any other university or institution. This dissertation draws on some material submitted for the Master's End of Module Assessment (A825).

I confirm that this dissertation is my own unaided work.

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1: Introduction

This dissertation examines divorce and bigamy in Liverpool, covering the period from the introduction of the Matrimonial Causes Act 1857, which regularised secular divorce in England and provided judicial remedy for failed marriages, to 1912, when a Royal Commission on Divorce and Matrimonial Causes made proposals for reform. Although the 1857 Act theoretically made divorce more straightforward, in practice accessibility to divorce for most people remained difficult in terms of cost and geographical location. Contemporaries and historians therefore assumed that divorce would remain the privilege of the upper classes. Through a sample of divorce petitions between 1858 and 1908 Savage demonstrated that litigants represented a broader social profile than had been assumed.¹ However divorce rates remained low and, based on reports from *The Times*, Frost argued that the tradition of self-divorce continued, with couples, especially from the working classes, rearranging their marital relationships by other means such as bigamy.² Both were national studies. This dissertation tests the hypothesis that for residents of Liverpool access to divorce remained out of reach and bigamy continued to be used as an acceptable means of self-divorce. It considers the extent to which patterns of divorce and bigamy changed in the period, who was initiating divorce or committing bigamy, and examines variations in sentencing patterns for bigamy. The dissertation

¹ Gail Savage, 'They Would if They Could: Class, Gender and Popular Representation of English Divorce Litigation, 1858-1908', *Journal of Family History*, 36 (2011), 173-190, (p.185).

² Ginger Frost, 'Bigamy and Cohabitation in Victorian England' *Journal of Family History*, 22 (1997), 286-306, (p.294).

compares Liverpool with the national picture and seeks to identify local factors which impact on patterns of divorce and bigamy.

There are a number of secondary sources, such as Stone, which provide a detailed analysis of England's transition to a divorcing society.³ These help to set the context. Stone argued that the 1857 Act did nothing to help the lower middle class or poor,⁴ a view challenged by Savage who found that the Divorce Court was accessed by a broader social class than might be expected. A smaller sample, by Hammerton, focussed on divorce cases citing cruelty, found that working class and lower middle class occupations amounted to half of the petitioners.⁵ However, Savage noted that cases brought by the poorer classes originated in London or nearby counties.⁶ This would suggest that geographical factors as well as cost impacted on accessibility to divorce.

Bigamy is another form of marital breakdown and Frost challenged the view of Gillis, that the first half of the nineteenth century represented the age of marital non-conformity.⁷ She found that bigamy continued to be used as a means of rearranging marital relationships, and argued that by the end of the nineteenth century judges were exercising leniency in sentencing, reflecting community acceptance of bigamous unions.⁸ Probert identified three assumptions to test the hypothesis that bigamy could be seen as a substitute for divorce; whether the punishment for bigamy in effect prevented the relationship, whether there was a need for a substitute, and whether bigamy was regarded as an acceptable

³ Lawrence Stone, *The Road to Divorce, England 1530-1987*, (Oxford: Oxford University Press, 1992).

⁴ Stone, p.186.

⁵ James A. Hammerton, *Cruelty and Companionship, Conflict in Nineteenth-Century Married Life*, (London: Routledge, 1992), p.105.

⁶ Savage, p.182.

⁷ Frost, p.294.

⁸ Frost, p.302.

alternative by the community.⁹ Based on cases between the late seventeenth and early twentieth century, she found that by the mid-nineteenth century the punishments applied for bigamy made it a viable alternative to divorce,¹⁰ and that bigamy was likely to be a response to marital breakdown.¹¹ However, Probert challenged the view that bigamy was acceptable to the community given the distance between the locations of first and second marriages.¹²

Local newspapers which can be accessed electronically through the British Newspaper Archive are the main primary source. Reports of divorce proceedings were a regular feature in Victorian newspapers, and *The Times* helps to identify cases relating to Liverpool. As the number of divorces rose, reporting in *the Times* was increasingly confined to defended and high profile cases. Local newspapers are used to supplement reports in *The Times*. As an indictable offence bigamy cases were heard at assize courts. Calendars of Prisoners for Liverpool Assizes provide information about defendants, such as occupation, but are not available for the whole period, while Home Office Criminal Registers are limited to name and sentence. Using a range of newspapers supplemented by these sources provides a good overview of Liverpool bigamy cases. It is important to bear in mind that cases identified represent only those which were brought to trial. Debates on divorce and marriage are accessed using House of Commons Parliamentary Papers Online, including those around the 1857 Act, and Royal Commission Reports of 1867 and 1912. Although these sources represent the elite view the Royal Commission took evidence from a variety of witnesses and help to provide a balanced picture.

⁹ Rebecca Probert, *Double Trouble: The Rise and Fall of the Crime of Bigamy*, (London: Selden Society, 2015).

¹⁰ Probert, p.8.

¹¹ Probert, p.13.

¹² Probert, p.27.

Although there may be local studies related to divorce or bigamy none have been identified during the research. This dissertation makes a contribution to current thinking by testing national hypotheses in a local setting. Liverpool experienced rapid population growth during the nineteenth century rising from 376,000 in 1851 to 685,000 in 1901.¹³ Like most cities much of this was due to inward migration but as a major port Liverpool attracted people from the wider British Isles as well as foreign born migrants. The presence of ships' crews added to a transient, cosmopolitan population and opportunities to work on board ship gave rise to long absences. These factors may have facilitated irregular relationships such as bigamous unions or may have given residents cause to access the Divorce Court. The choices which residents made may have been influenced by the location of the Divorce Court and associated costs of divorce.

¹³ Oliver Sykes, Jonathan Brown, Matthew Cocks, David Shaw and Chris Couch, 'A City Profile of Liverpool', *Cities*, 35 (2013), 299-318, (p.302).

Chapter 2: The Failure of Marriage: Attitudes to Divorce and Bigamy

The 1857 Matrimonial Causes Act simplified procedures, reduced costs and set the parameters for divorce for the next 80 years. However, the divorce rate in England remained one of the lowest in the Western world.¹ Couples continued to use alternative means to rearrange their marital relationships. There was some evidence of a shift in attitude towards divorce after 1857 with increasing recognition of the damage caused by bad marriages and by the inability of most of those affected to obtain a legal remedy. Calls for equality of access for men and women and for rich and poor increased. The 1912 Royal Commission made some radical proposals, which reflected this change in attitude, but these were not implemented. This chapter considers attitudes to divorce, and outlines alternatives used by couples whose marriages failed. It begins by setting out the main provisions of the 1857 Act.

The main objective of the 1857 Act was to introduce a secular, simplified, administrative procedure, centred around a single divorce court in London. Prior to 1857 the process for seeking a divorce was lengthy and expensive involving ecclesiastical courts and parliament. Much of the opposition to changes in the divorce law was on religious grounds but the importance of marriage as a vehicle for providing moral and economic stability was a key factor in resisting easier access. Making divorce accessible to the poorer classes was raised in debate but was not the prevailing view. One MP commented that extending facilities for divorce would amount to one of 'the greatest social curses that the country had

¹ Roderick Phillips, *Untying the Knot: A Short History of Divorce*, (Cambridge: Cambridge University Press, 1991), p.129.

ever been visited with'.² Stone argued that the Act made no attempt to make divorce equally accessible to rich and poor.³ It continued to discriminate against women, who were required to demonstrate adultery by their husband as well as an additional aggravating factor, while husbands could petition on the basis of adultery alone. The Act, based largely on previous law, received criticism from those opposed to making divorce easier who viewed a secular, efficient process as a means of doing so, but also from those, including women's groups, who did not think that the legislation had gone far enough.⁴

Despite the restrictions of the Act there was an immediate increase in the number of petitions for divorce, rising from 22 petitions for parliamentary divorce in the seven years between 1850 and 1857,⁵ to an annual average of 204 petitions in the period between 1859 and 1863.⁶ There was no expectation that the Act would lead to an increase in numbers. At the time of implementation in May 1858, *The Times* commented that despite the cheapness and simplicity of the new procedure it was unlikely to be opened up to the masses because it was harder to break-up the households of the working class than their wealthier neighbours.⁷ Working class families were dependent on the income of all family members and the role of wives in managing the household income was critical. In a study of divorce petitions between 1858 and 1908, Savage found that the poor and the working class brought cases to the divorce court in greater numbers than expected but

² *Hansard*, 3rd series, House of Commons Debates, 1857, Volume 147, col 1173.

³ Lawrence Stone, *The Road to Divorce, England 1530-1987*, (Oxford: Oxford University Press, 1992), p.383.

⁴ Stephen Cretney, *Family Law in the Twentieth Century: A History*, (Oxford: Oxford University Press, 2005), p.164.

⁵ Cretney, p.194.

⁶ Gail Savage, 'The Operation of the 1857 Divorce Act, 1860-1910, a Research Note' *Journal of Social History*, 16 (1983), 103-110, (p.104).

⁷ *The Times*, 18 May, 1858, p.9.

were underrepresented in relation to their share of the population.⁸ The cost of an undefended divorce case was between £30 and £40 and Behlmer argued that this equated to around 30 weeks' pay for an average wage earner in the Edwardian period.⁹ In practice the cost and location put divorce out of reach of many.

Petitions for divorce continued to increase slowly, reaching an annual average of 482 in the period between 1879 and 1883, rising to 764 between 1904 and 1908, and did not exceed 1,000 until 1918.¹⁰ Stone argued that, in relation to the population as a whole, divorce at these levels meant that England remained a non-divorcing society.¹¹

The double standard, which meant that wives had to demonstrate an aggravating factor as well as their husband's adultery, reflected the prevailing view that the impact of committing adultery differed between the sexes. Adultery was regarded as a sin but the injury to society was thought greater if committed by a woman because of the potential for uncertainty about the parentage of children. By adding cruelty and desertion, coupled with adultery, to the grounds for divorce for women, the Act did increase their opportunities to seek divorce. Wives constituted 40% of divorce petitioners between 1858 and the end of the century.¹² This was a significant change compared to the one percent of total parliamentary divorces prior to 1857 obtained by women.¹³ Cruelty was the most common aggravating factor used. Marital conflict, frequently involving violence, was taken for granted in

⁸ Gail Savage, 'They Would if They Could: Class, Gender and Popular Representation of English Divorce Litigation, 1858-1908', *Journal of Family History*, 36 (2011), 173-190, (p.175).

⁹ George Behlmer, 'Summary Justice and Working Class Marriage in England, 1870-1940', *Law and History Review*, 12 (1994), 229-275, (p.239).

¹⁰ Gail Savage, 'The Operation of the 1857 Divorce Act, 1860-1910', p.104.

¹¹ Stone, p.387.

¹² Cretney, p.169.

¹³ Phillips, p.130.

working class communities¹⁴ but based on a sample of cases at the Divorce Court Hammerton found evidence of cruelty and violence among the middle and upper classes.¹⁵ He argued that the increased frequency of claims of cruelty and the types of complaint brought by wives resulted in developments in the rulings given by the presidents of the Divorce Court. By 1869 violence was no longer required to substantiate an act of cruelty.¹⁶ This indicated a change in what was considered as acceptable in marriage and may have been a factor in sustaining the level of petitions for divorce submitted by wives.

These low levels of divorce should not be seen as a reflection of the extent of marital breakdown during the period. Restricted access to divorce meant that other means of rearranging marital relationships were used by those whose marriages broke down. Judicial separation orders, which included financial and custody settlements, were introduced by the 1857 Act. Applications were primarily made by wives. Only one ground had to be proved, and the orders secured the financial position of wives who may already have been separated. They were used rarely, and between 1858 and 1860 wives made 95 petitions for judicial separation but submitted 247 petitions for divorce. Only 39 orders for judicial separation were granted to wives in 1888.¹⁷ Greater use was made of separation orders introduced under the Matrimonial Causes Act 1878. These were granted by magistrates to abused wives and made provision for maintenance. Their scope was extended in 1886 to include desertion, and in 1895 to include persistent cruelty. These orders were used by a wide social spectrum but were difficult to enforce. Effort was

¹⁴ James A. Hammerton, *Cruelty and Companionship, Conflict in Nineteenth-Century Married Life*, (London: Routledge, 1992), p.19.

¹⁵ Hammerton, pp.106-107.

¹⁶ Hammerton, p.125.

¹⁷ Olive Anderson, 'State, Civil Society and Separation in Victorian Marriage', *Past and Present*, 163 (1999), 161-201, (pp.170-171).

directed at reconciliation to avoid deserted families becoming a burden on the poor law authorities. Police court missionaries, volunteers originally assigned to the courts as temperance workers, increasingly played a role in trying to keep couples together. These missionaries provided evidence to the Royal Commission in 1912 and presented an optimistic picture of couples reconciled by their efforts. The missionary for Liverpool claimed that since 1892 he had brought couples together in 75 per cent of cases he had dealt with.¹⁸ Separation orders of all types were criticised as serving no useful purpose. They divorced couples in practice but left them legally married. In 1882, Annie Besant argued that judicial separation orders meant that a wife retained 'the mass of disabilities which flow from marriage while depriving her of all the privileges.'¹⁹ Many of the witnesses to the 1912 Royal Commission reflected this view and emphasised the potential for immorality and economic disadvantage in not allowing separated couples to remarry.

Bigamy and cohabitation were also used to rearrange marital relationships. In a study of 221 bigamy cases reported in *The Times* between 1830 and 1900 Frost found that couples mainly from the working classes continued to enter into bigamous unions. She argued that these were accepted by the community if the bigamist had a good reason for leaving their first spouse, had been honest with the second and was able to support their dependents.²⁰ The judiciary were influenced by this support from communities and there was evidence of growing leniency in sentencing.²¹ In *Living in Sin*, Frost used a variety of sources, to argue that

¹⁸ *Minutes of Evidence taken before the Royal Commission on Divorce and Matrimonial Causes, Volume II*, PP.1912-13, Cmd. 6480, p.333.

¹⁹ Annie Besant, *Marriage, as it was, as it is and as it should be: A plea for reform, Bristol Selected Pamphlets*, 1882, p.40.

²⁰ Ginger Frost, 'Bigamy and Cohabitation in Victorian England' *Journal of Family History*, 22 (1997), 286-306, (pp.288-292).

²¹ Frost, p.302.

adulterous cohabitation was widespread among the working class. Appendix XI of the 1912 Royal Commission report stated that in 47 cases out of a total of 160 separated married couples at least one of the partners was cohabiting with someone else.²² The police court missionary referenced above presented a different view stating that in his experience the numbers of cohabiting couples among the lower classes in Liverpool was not large.²³ Probert studied 2,400 bigamy cases heard at the Old Bailey between that late seventeenth and early twentieth century. She queried Frost's view that cohabitation was common on the basis that, if so, couples would not risk entering into a bigamous union.²⁴ Cohabitation prior to a bigamous union was considered a mitigating factor but the fact that this was rarely claimed reinforced the view that cohabitation was not usual.²⁵ It is debatable to what extent reference to cohabitation in bigamy cases can be used as an indication of levels of cohabitation. *Judicial Statistics* indicate that bigamy itself was relatively uncommon with an annual average number of cases in the period between 1878 and 1882 of 96, and 118 in the period 1883 to 1887.²⁶ The statistics record only those cases which were brought to trial and the true instance of bigamy may have been higher, highlighting the difficulty in measuring the extent of either cohabitation or bigamy. Desertion often preceded the formation of an irregular relationship. Based on data from magistrates' courts Stone argued that orders for maintenance were reaching tens of thousands per

²² Ginger Frost, *Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England*, (Manchester: Manchester University Press, 2013), p.108.

²³ PP.1912-13, Cmd. 6480, p.334.

²⁴ Rebecca Probert, *Double Trouble: The Rise and Fall of the Crime of Bigamy*, (London: Selden Society, 2015), p.20.

²⁵ Probert, *Double Trouble*, p.24.

²⁶ *Return of Judicial Statistics of England and Wales; Part I, (Police, Criminal Proceedings, Prisons), 1897*, PP.1899, Cmd. 9135, p.21.

year in the late Victorian period, ²⁷ indicating fairly significant levels of desertion. Where marriages failed, financial pressures and the need to care for children would have placed individuals in a position where they had little option but to form an irregular union. The extent of these is hard to assess as is their acceptability to the community but Frost suggested that working class communities tolerated marriage irregularity because they knew the high cost of divorce. ²⁸ In 1912 the Royal Commission commented that it was not surprising that the lower classes took matters into their own hands if they were not able to access the legislative remedy for the wrongs which they faced. ²⁹

Although the 1912 Royal Commission was set up in response to calls for reform there was no evidence of a groundswell of opinion from the working classes for changing the divorce laws. Calls for reform came mainly from organisations like the Divorce Law Reform Unit established by a solicitor. Stone noted a shift in the views of the educated classes in the latter half of the century which may in part be explained by increased secularisation of marriage and divorce, and a focus on the happiness of individuals.³⁰ In an article in the *Westminster Review* in 1889 drawing on experience of divorce in America, Meriwether referred to marriage as a civil contract which it was right to dissolve if the happiness of the parties concerned was not likely to be attained.³¹ Feminist commentators did not adopt a uniform position on divorce with some retaining concerns about the impact of easier divorce on the security of wives and families, while others focused on equal treatment and the facility for women to free themselves from unhappy marriages.

²⁷ Stone, p.148.

²⁸ Frost, *Living in Sin*, p.109.

²⁹ *Report of the Royal Commission on Divorce and Matrimonial Causes*, PP. 1912-13, Cmd.6478, p.40.

³⁰ Stone, p.391.

³¹ Meriwether, L. 'Is Divorce a Remedy?', *Westminster Review*, 131 (1889), 676-685, (p.676).

Representation of working class views was limited to individuals who came into contact with them such as police court missionaries or organisations such as the Women's Cooperative Guild who reiterated in a letter to *The Times* that as wives of men working in ordinary trades their views were representative of the workers themselves.³² Those representing working class views took differing positions and members of the commission who opposed change concluded that there was an absence of demand for divorce from the poorer classes. The lack of pressure from the working class for reform may have been partly because they considered divorce out of their reach.

The issues addressed by the Royal Commission in 1912 indicated a change in attitude to divorce with an emphasis on equality of access. The commission concluded that courts outside London should be given jurisdiction to determine divorce cases in order to put opportunities for justice in reach of the poorer classes.³³ There was a recognition that the social and economic position of women had changed since 1857 and that modern thinking considered adultery to be an offence equally in men and women. Support from women for equality of access for men and women was unanimous, an indicator of changing attitudes. The commission considered extending the grounds for divorce to reflect more accurately the causes of marital breakdown. Habitual drunkenness, which frequently featured in marital breakdown, was added to the list. The 1912 Royal Commission referred to examples of respectable couples who wanted to marry but were not free to do so and concluded that cost and inconvenience should not preclude those who were more likely to be subject to matrimonial difficulties from

³² *The Times*, 14 November, 1912, p.13.

³³ PP. 1912-13, Cmd.6478, p37.

obtaining justice.³⁴ Attitudes might have changed but not to the extent that enabled consensus to be reached and the recommendations were not implemented.

Reports of cases from the Divorce Court were a regular feature in the Victorian press and for the majority of the public this would have been their main exposure to divorce. The impact of this reporting was debated throughout the period. It had been suggested when the 1857 Act was introduced that divorce cases should be heard behind closed doors but attempts to introduce the necessary legislation in 1860 failed. The deterrent effects of public humiliation were considered to outweigh the disadvantages of publishing salacious details of cases. Reports, which tended to cover divorces from the upper classes in more detail, also acted as a potential deterrent in representing the Divorce Court as a place for the wealthy and not for the lower classes, and in reinforcing the stigma attached to divorce. Similar arguments were again rehearsed in the Royal Commission and concerns were raised about the corrupting influence of the reports, particularly on the morality of young people. Witnesses representing the press stated that they feared losing readers to their rivals if they adopted an approach of reporting only the summing up of cases. In his evidence the Managing Director of the *Liverpool Daily Post* and *Liverpool Mercury* stated that papers which printed the full details of divorce cases tended to gain working class readership.³⁵ The press welcomed controls so that they would not have to make the decision about what to publish. Although divorce was considered a matter of public interest some limitations on

³⁴ PP. 1912-13, Cmd.6478, pp.41-42.

³⁵ *Minutes of Evidence taken before the Royal Commission on Divorce and Matrimonial Causes, Volume III*, PP.1912-13, Cmd. 6481, p.181.

press reporting were recommended by the commission but as with the other recommendations these were not implemented.

The 1857 Act simplified procedures for divorce and reduced costs but did not provide equality of access by class or by gender. Those whose marriages failed sought alternative ways of rearranging their marital relationships through legal means such as separation orders or by irregular means including cohabitation and bigamy. These alternatives were often unsatisfactory. Separation orders did not allow couples to remarry and were hard to enforce. The acceptability of cohabitation and bigamy to the community was debateable and these irregular unions offered limited stability. The areas addressed by the 1912 Royal Commission provided some indication of changing attitudes to divorce since 1857. Although there was some evidence that the Divorce Court was accessed by a broader social group than expected, for the majority of the population throughout the period, divorce would have been out of their reach. The next chapter considers the extent to which the residents of Liverpool accessed divorce after 1857.

Chapter 3: Divorce

In theory the 1857 Act made divorce accessible to a broader range of the population. In practice divorce remained an unusual way of dealing with marital breakdown. In a study of divorce petitions between 1858 and 1908, Savage found that the majority of those from the poorer classes who accessed the Divorce Court originated from London and adjoining counties.¹ The location of the court in London presented additional difficulties for residents of Liverpool seeking divorce. As well as the cost of the divorce itself, they were faced with additional expense associated with travel and accommodation for themselves and their witnesses. In evidence to the Royal Commission in 1912, the Principal of the Divorce Registry stated that the average minimum cost of an undefended divorce was around £40 with the cost of witnesses travelling from Lancashire adding a further £13.² This was at a time when it was estimated that only one in ten of the population earned more than £3 per week.³ Based on newspaper reports of divorce cases this chapter examines the extent to which residents of Liverpool accessed the Divorce Court. It describes the methodology before presenting an analysis of findings.

The focus of the research was to identify patterns in petitions for divorce relating to Liverpool based on reports from *The Times* and the local press. One risk of using newspapers as the main source was that not all cases would be reported. This was mitigated to an extent in that the objective was to assess patterns rather than

¹ Gail Savage, 'They Would if They Could: Class, Gender and Popular Representation of English Divorce Litigation, 1858-1908', *Journal of Family History*, 36 (2011), 173-190, (p.182).

² *Report of the Royal Commission on Divorce and Matrimonial Causes*, PP. 1912-13, Cmd.6478, p.44.

³ Gibson, Colin, *Dissolving Wedlock*, (London: Routledge, 1994), p.70.

undertake a statistical analysis dependent on identification of all cases. To balance the need to complete the research within the required timescales and obtain sufficient cases to analyse, cases relating to Liverpool were sampled in the 10 years following implementation of the 1857 Act, to understand the immediate impact, and alternate years thereafter, concluding in 1911. Cases were included if evidence indicated that the petitioner was resident in Liverpool when the petition was made, if the couple had resided in Liverpool for the majority of their married life or if the incidents which had led to petition had occurred in Liverpool. Cases where the connection was more tenuous, for example where Liverpool was listed as one of many places where a couple had lived, were not included. For around the first ten years of the period the coverage of divorce cases in *The Times* was relatively comprehensive with few additional Liverpool cases being reported in the local press. Local press reports were often a verbatim copy of the report in *The Times* which was not unusual for this period.⁴ This pattern changed as the period progressed and the number of cases nationally increased. By the mid-1880s the reports in *The Times* were largely confined to defended and high profile cases with the local press becoming a more reliable source for locating a broader range of cases relating to Liverpool. While the local newspapers were also selective in their coverage with the more sensational cases receiving greater coverage, more mundane cases were also reported. As a source newspaper reports provided a good overview of divorce cases. Hammerton found that many of the divorce case files held in The National Archives hold only basic information and often did not

⁴ Denise Bates, *Historical Research Using British Newspapers*, (Barnsley: Pen and Sword, 2016), p.17.

record the final outcome.⁵ By using a variety of newspapers, it was possible to identify the key details for the majority of cases which were reported.

Following the introduction of the 1857 Act there was an immediate increase nationally in the number of petitions for divorce, rising from four parliamentary divorces each year⁶ to an average annual number in the period between 1859 and 1863 of 204. The number of petitions increased gradually, with a rapid increase in the 1870s rising to 433 in the period 1874-1878, and reaching 720 in 1901.⁷ Despite the requirement to demonstrate adultery and another aggravating factor, over 40 per cent of petitioners between 1858 and the end of the century were wives. The table below provides a summary of the number of Liverpool petitions, with a breakdown by gender, based on sampling alternate years. Table 2 provides a similar breakdown for the first ten years of the period and gives the total number of cases in the sample.

⁵ James A. Hammerton, *Cruelty and Companionship, Conflict in Nineteenth-Century Married Life*, (London: Routledge, 1992), p.173.

⁶ Lawrence Stone, *The Road to Divorce, England 1530-1987*, (Oxford: Oxford University Press, 1992), p.387.

⁷ *Appendices to Minutes of Evidence and Report of the Royal Commission on Divorce and Matrimonial Causes*, PP.1912-13, Cmd. 6482, Appendix III, p.27.

Table 1: Liverpool petitions, 1858-1911 with breakdown by gender. ⁸

Period	Total Petitions	Husbands		Wives	
		Number total	% of total	Number total	% of total
1858-1867	18	11	61%	7	39%
1869-1877	50	34	68%	16	32%
1879-1887	32	21	66%	11	34%
1889-1897	33	19	58%	14	42%
1899-1907	36	24	67%	12	33%
1909-1911 Note -2 years only	13	6	46%	7	54%
Total	182	115	63%	67	37%

⁸ *The Times, Liverpool Mercury, Liverpool Echo.*

Table 2: Liverpool Petitions, 1858-1867, with breakdown by gender.⁹

Year	Total Cases	Male Number	Female Number
1858	3	2	1
1859	3	2	1
1860	4	3	1
1861	5	4	1
1862	5	4	1
1863	5	4	1
1864	2	0	2
1865	10	5	5
1866	4	2	2
1867	5	4	1
Total	46	30 65% of total	16 35% of total
Total number of cases in sample	210	134 64% of total	76 36% of total

Table 1 indicates that Liverpool divorce petitions followed a similar pattern to the national picture with a rapid increase in the 1870s. Nationally the number of petitions continued to rise after this period but at a steadier rate. In the Liverpool sample there was a drop in numbers after the 1870s but thereafter numbers remained constant but with a slight increase. The sample is based on alternate

⁹ *The Times, Liverpool Mercury, Liverpool Echo.*

years and using other years may have produced a different picture. The majority of submissions for divorce were made by husbands but, as nationally, wives in the sample were represented to a significant degree. The percentage of wives petitioning for divorce remained above 30% throughout the period with an average over the period as a whole of 37% which was broadly consistent with the national picture. The rest of this chapter considers the Liverpool petitions in more detail, beginning with the occupation of petitioners.

In a study of Divorce Court records between 1858 and 1866 Wright found that for the small number where occupation was specified, the occupations of husbands fell into the middle class or solid working class.¹⁰ This was consistent with the findings of Savage that the working class were represented in greater numbers than expected.¹¹ The petitions brought by husbands in the Liverpool cases represented a broad range of occupations, including professionals and tradespeople as well as the working class. Over a quarter of male petitioners were in seafaring roles ranging from captains of merchant vessels to a ship's carpenter. The types of occupation remained consistent across the whole of the period and a breakdown by occupational group is set out in Table 3.

¹⁰ Danaya C. Wright, 'Untying the Knot: An Analysis of the English Divorce and Matrimonial Causes Court Records, 1858-1866,' *University of Richmond Law Review*, 38 (2004), 903-1010, (p.983).

¹¹ Savage, p.175.

Table 3: Occupational grouping of petitioning husbands, Liverpool, 1858-1911¹²

Occupational Grouping	Number	Percentage of total
Professionals, e.g. dentist, solicitor and including Ship's Captains, brokers	31	23%
Shopkeepers, tradesmen	43	32%
Clerks	15	11%
Skilled workers, e.g. printer, draughtsman, plumber	27	20%
Semi-skilled/unskilled e.g. barman, cab driver, factory workman	12	9%
No information	6	5%
Total	134	100%

In their study of divorce populations in 1871 and 1951, Rowntree and Carrier found that manual workers, a definition which would include the skilled and unskilled categories in the above table, formed around 17% of the divorcing population in 1871. This compared to a total of 29% for this category in Liverpool, the majority of which were skilled workers. In their study gentry and professionals represented over 41% of the total in 1871 compared to 23% in Liverpool.¹³

There may have been differences in classification of some roles and the Rowntree study focused on one year. However, the breakdown in Table 3 would suggest that the findings for Liverpool were similar to those of recent studies. Despite the obstacles, the lower middle class, shopkeepers and clerks, and skilled working class of Liverpool were represented in the Divorce Court in greater numbers than

¹² *The Times, Liverpool Mercury, Liverpool Echo.*

¹³ Griselda Rowntree and Norman H. Carrier, 'The Resort to Divorce in England and Wales, 1858-1957', *Population Studies*, 11 (1958), 188-233, (p.222).

might be expected. The poorer working classes were not found in the sample in large numbers. Dock work was a major component of the Liverpool labour market,¹⁴ but only one individual from the sample was recorded as employed in that capacity. The casual nature of this work as well as low pay may explain why this group was not represented in larger numbers. There was no evidence in the cases sampled to indicate that petitioners were taking advantage of the *in forma pauperis* procedure. Although this provided remission of court fees the litigant was required to meet all other costs. This would put it out of reach of low paid workers, particularly those employed on a casual basis.

Wright found little information was available about the occupation of wives who brought petitions. Those which were listed were working class roles such as domestic servant, milliner, and publican.¹⁵ The sample of Liverpool cases followed a similar pattern, with the majority of reports providing no information about the occupation of petitioning wives. Where mentioned, roles included draper's assistant, a barmaid, school mistress, a music teacher and two employed in the theatrical profession. Opportunities for female employment in Liverpool were restricted and Pooley noted that the census of 1871 recorded a female employment figure of 32.3% which was lower than many other cities.¹⁶ It was questionable how wives in the sample funded their divorces. Some may have reached agreement with husbands who also wanted a divorce. Cretney noted that the Divorce Rules stipulated that a husband should meet his own costs and those

¹⁴ Colin G Pooley, 'Living in Liverpool: The Modern City' in *Liverpool 800: Culture, Character and History*, ed. by John Belchem, (Liverpool: Liverpool University Press, 2006) pp. 171-255, (p.196).

¹⁵ Wright, p.982.

¹⁶ Pooley, p.196.

of his wife.¹⁷ However, where recorded, the occupations of husbands whose wives were petitioning for divorce were similar to those indicated in Table 3. Most fell into the lower middle class and working class, with limited access to funds. Some wives would have funded their petition through independent means or support from family. Martha Boardman who sought divorce on grounds of adultery and cruelty seemed to be from a wealthy background. She was described as the daughter of a merchant and the report noted that she had property to the value of £10,000¹⁸. Lingard was reported to have supported her family when her husband was not working through income from her tobacconist's shop and it was likely that she used this income to fund her petition.¹⁹ In general, the wives in the sample were not from wealthy backgrounds. To bring a suit for divorce would have presented a financial challenge.

All the male petitioners in the sample sought divorce on the grounds of their wife's adultery. As referenced above over a quarter of the husband's petitioning for divorce were in seafaring occupations which involved long absences leading to marital breakdown. In 1875 Hamilton, a captain in the British and African Mail Steam Navigation Company sought divorce on the grounds of his wife's adultery. The petitioner was a widower and had married his second wife in 1867 when she was 25 years old. She became acquainted with the co-respondent while staying with her parents in her husband's absence. Hamilton tried to stop the relationship but discovered on return from a voyage in 1873 that the couple had spent time away together and a divorce was granted.²⁰ Petitions for divorce were brought by

¹⁷ Stephen Cretney, *Family Law in the Twentieth Century: A History*, (Oxford: Oxford University Press, 2005), p.169.

¹⁸ *The Times*, 26 July 1866, p.11.

¹⁹ *Liverpool Mercury (LM)*, 8 August 1893.

²⁰ *The Times*, 22 March, 1875, p.13.

those in a range of seafaring occupations. In 1862, Whale, a ship's steward, who had made provision for his wife's maintenance while absent, found on return that she was living with a boiler maker in London.²¹ A ship's smith, King, was granted a divorce on the grounds that his wife, a domestic servant, had formed relationship with a labourer in his absence.²² Alcohol featured as a factor in marital breakdown in around one third of the petitions for divorce brought by husbands in the sample. Wives were expected to manage the household and behaviours which could be considered to lead to neglect of their duties, such as drunkenness, came under criticism. Wiener argued that drunkenness also clashed with the womanly ideals expected, making drunken women repugnant to society and inducing sympathy for men.²³ Reports referenced wives becoming addicted to or turning to drink, or acquiring intemperate habits causing marital breakdown and leading to subsequent acts of adultery. In 1893 Rigby, a ship's steward, stated that three years after marriage his wife had taken to drink and pawned household items despite him making provision for his family while on voyages. The children went about 'half naked'. On return from his last voyage he found his wife drinking with the co-respondent.²⁴ Cases involving drunkenness were found throughout the period and impacted on all social classes. In 1901, Strumpel, a Liverpool merchant of German origin, sent his wife to a 'home for inebriates' in Switzerland after she had taken to drink. She met the co-respondent there and continued the relationship on her return.²⁵ The case of Buckley in 1889 illustrated attitudes to a wife who was alleged to drink. He admitted to striking his wife who had given way

²¹ *The Times*, 17 February, 1862, p.11.

²² LM, 27 June 1865.

²³ Martin J. Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England*, (Cambridge: Cambridge University Press, 2004), p.184.

²⁴ LM, 25 March, 1893.

²⁵ *Liverpool Echo* (LE), 16 January 1901, p.3.

'to intemperance and bad habits' before they separated and his wife committed adultery. His wife made a counter claim on the grounds of cruelty and desertion. The judge considered the wife's adultery proven. He noted that while the husband had used some violence, he 'ought not to refuse him the relief he asked' and granted him a divorce.²⁶ Violence under the circumstances was considered acceptable.

Wright argued that the fact that virtually all suits brought by men were for their wife's adultery did not make women more adulterous. Petitions from husbands usually alleged adultery with one named person.²⁷ This pattern was reflected in the Liverpool cases with the majority of petitioners naming the co-respondent or making a specific reference to an individual. There were frequent references in the reports to respondent and co-respondent cohabiting or living together as husband and wife. Ward, a mate on a merchant vessel, petitioned for divorce in 1869 on grounds of his wife's adultery. She was reported as living with the co-respondent, an accountant, as his wife.²⁸ In 1875, Eyton, a music teacher, was granted a decree nisi on the grounds of his wife's adultery with a metal broker from Glasgow. She had said she was visiting friends but eloped and was reported to be living with the co-respondent as his wife in Scotland.²⁹ Further analysis would be required to determine whether these relationships had any longevity but evidence would suggest that in many cases a new relationship, with the characteristics of a marriage, had been established prior to the husband's petition for divorce. Russell who studied multiple records relating to female petitioners in 1858 and 1868, found that more than half remarried soon after divorce and suggested that life

²⁶ LM, 26 June 1889.

²⁷ Wright, p.928.

²⁸ *The Times*, 25 February 1869, p.11.

²⁹ LM, 20 February 1875.

circumstances were different from those presented at the hearing with many having already established new relationships. This was despite the requirement under the 1857 Act that the petitioner should not be themselves guilty of adultery.³⁰ Based on this and the speed at which proceedings were concluded she argued that divorce by consent was tacitly accepted.³¹ It is debatable however to what extent divorces sought by both male and female petitioners in the sample were by mutual agreement. Press reports of divorce cases did not provide sufficient data to draw conclusions. However, the high incidence of named co-respondents in the Liverpool cases brought by husbands were consistent with the suggestion that in many cases new relationships had been formed. The parties involved would have shared a common interest in proceeding with divorce.

Female petitioners had to prove that their husband had committed another marital crime such as cruelty, bigamy or desertion for more than two years, as well as adultery. As indicated above despite these additional requirements wives were still represented in the Divorce Court in significant numbers. The table below provides a breakdown of the grounds on which petitions were based.

³⁰ Penelope Russell, 'Re-tying the Knot? Remarriage and Divorce in mid-Victorian England', *American Journal of Legal History*, 59 (2019), 257-285, (p.276).

³¹ Russell, pp.258-259.

Table 4: Grounds for divorce, wives, Liverpool, 1858-1911³²

Ground for divorce	Number	Percentage of total
Adultery and cruelty	42	55%
Adultery and desertion	22	29%
Adultery, cruelty and desertion	7	9%
Adultery and bigamy	3	4%
Incestuous adultery	1	1.5%
Adultery, additional ground unclear	1	1.5%
Total	76	100%

Over half of the female petitioners in the sample sought divorce on the basis of adultery and cruelty with a small number also adding desertion, while over a quarter sought divorce on grounds of adultery and desertion. This pattern of adultery with cruelty being the most common grounds is consistent with the findings of the study by Wright.³³ Hammerton argued that over the period there was a change in what was considered to constitute cruelty as judges' rulings developed based on the cases brought before them. There was a recognition that marital cruelty was not always physical in nature.³⁴ Many of the reports in the sample included references to frequent acts of cruelty or ill-treatment without providing further details. The inference was that the cruelty was physical in nature. This was reinforced by the fact that reports which provided additional information described acts of violence. In 1860 Mawdsley described her husband, an ex-policeman, threatening to take her life with a knife and locking her out of the house

³² *The Times, Liverpool Mercury, Liverpool Echo.*

³³ Wright, p.934.

³⁴ Hammerton, pp.124-125.

overnight. He had left her in 1858, committed adultery with a prostitute and she had heard that he was in prison in Manchester.³⁵ In 1879, Bond described ill treatment by her husband which had been witnessed by a servant, including driving her from the house with a loaded gun.³⁶ Drunkenness was also a factor in cases brought by wives, often preceding acts of cruelty. As with the petitions by husbands they occurred throughout the period impacting on all social classes.

Transmission of venereal disease to a wife by her husband was considered a form of marital cruelty impacting on her health and purity. Savage found that although cases involving venereal diseases were not numerous, they were a recognisable aspect of the Divorce Court's business.³⁷ Four cases involving the transmission of venereal disease, which reports alluded to as 'an illness' were found within the sample of Liverpool cases. In the case of Hetherington in 1885 the petitioner was reported as becoming ill as a result of her husband's misconduct³⁸ and in 1895 in the case of Lightfoot, a doctor gave evidence to confirm that the husband had contracted an illness and had given it to his wife.³⁹ As Savage identified these cases were small in number but transmission of the disease was sufficient to establish cruelty.

Desertion appeared to be relatively straightforward to evidence in cases in the sample such as in that of Dwelly in 1879. The husband sold his draper's business after two years of marriage and enlisted in the army.⁴⁰ Ascroft's husband had not lived with her since she obtained a decree of restitution of conjugal rights in 1906.

³⁵ *The Times*, 29 May 1860, p.11.

³⁶ LM, 6 March 1879, p.6.

³⁷ Gail Savage, "'The Wilful Communication of a Loathsome Disease:' Marital Conflict and Venereal Disease in Victorian England', *Victorian Studies*, 34 (1990), 35-54, (p.42).

³⁸ LM, 6 March 1885.

³⁹ LM, 28 October 1895.

⁴⁰ *The Times*, 8 November 1879, p.4.

In 1909 she was granted a decree nisi in the grounds of adultery and desertion.⁴¹ Koch sued for divorce in 1899 on the grounds of desertion and adultery alleging that her husband had improper relations with her sister. She had left her husband and had not received an allowance from him since 1896. The judge in this case determined that although the wife had left, her husband's behaviour had forced her to do so and he was therefore guilty of desertion.⁴² Probert suggested that bigamy was an easier aggravating factor to prove than cruelty or desertion.⁴³ There were two cases in the sample, both in 1877, which referenced a bigamous union but used desertion as the aggravating factor rather than bigamy. In the case of Miller, the respondent was alleged to having gone through a form of marriage with his uncle's widow. There may have been doubts about the legality of this marriage hence the reliance on desertion.⁴⁴

Bigamy was used by wives as an aggravating factor in four cases. In the case of Field in 1859 the husband had travelled to London and married under a false name⁴⁵ and in case of Kirkus the husband had divorced and remarried in America believing the divorce was legitimate.⁴⁶ Four petitions made by husbands referenced bigamy. As this was not the ground for divorce there were no details of the bigamous union with the exception of Chapman whose wife was acquitted of bigamy. She had remarried believing her husband to be dead after he had gone to India with the Royal Artillery.⁴⁷ Probert noted that more work was required to

⁴¹ LE, 11 June 1909, p.7.

⁴² *The Times*, 2 June 1899, p.4.

⁴³ Rebecca Probert, *Double Trouble: The Rise and Fall of the Crime of Bigamy*, (London: Selden Society, 2015), p.14.

⁴⁴ LM, 6 June 1877.

⁴⁵ *The Times*, 19 November, 1859, p.11.

⁴⁶ *The Times*, 24 February 1883, p.4.

⁴⁷ LE, 20 March, 1905, p.5.

understand the extent of the overlap between divorce and bigamy.⁴⁸ The findings would indicate that the overlap was not significant in relation to Liverpool cases but the sample was small and conclusions could not be drawn without further research. However, the approaches adopted by different classes to rearranging their marital relationships might explain the low instance of bigamy as an aggravating factor. The sample was comprised of mainly the lower middle class and skilled working class and it may be that it was the poorer working class who were more likely to enter into a bigamous union.

Although divorce trials were adversarial in nature, the majority of cases were unopposed. Horstman argued that this was because couples reached agreement not to wash their dirty linen in public.⁴⁹ The cases in the sample were consistent with this pattern with majority unopposed. There were eight cases across the period where one of the parties, usually the wife, submitted a counter charge. Wright argued adultery by a woman had significant implications for her future life and regardless of which party initiated the divorce adultery by a woman had a greater impact on the outcome of the case.⁵⁰ In the cases in the sample where the wife made counter charges of adultery and cruelty these were not proven. The fact that the wife was proved to have committed adultery may have influenced the court to find in favour of the husband. The one exception was the case of Starkey where the wife made a counter charge of adultery, cruelty and desertion. Evidence was provided that both parties had been addicted to drinking and had committed adultery which the judge stated 'gave the jury a specimen of low life in Liverpool'.

⁴⁸ Probert, p.16.

⁴⁹ Allen Horstman, *Victorian Divorce*, (London: Croom Helm, 1985), p.143.

⁵⁰ Danaya C.Wright, "' Well-behaved Women Don't Make History:.'" Rethinking English Family Law and History', *Wisconsin Women's Law Journal*, 19 (2004), 211-318, (p.274).

The jury found both parties guilty and judgment was reserved.⁵¹ The court had a duty to establish the truth of the facts in the petition and that the parties had not agreed divorce by mutual consent. However as suggested by Russell's study the courts may not have succeeded in doing so in all cases.⁵² In 1861 to assist the court the Queen's Proctor was introduced. The Queen's Proctor could investigate cases at any stage before the decree was made absolute based on information provided by any party or due to concerns raised by the court. Horstman noted that the Queen's Proctor stopped divorce is about five percent of suits.⁵³ There is evidence that the Queen's Proctor intervened in four cases, or just under two percent of those in the sample. In three of the cases, the decree nisi was rescinded following intervention. Two were because investigations revealed that the petitioners, one a husband and one a wife, had themselves committed adultery and in the case of Palmer, who sought divorce on grounds of her husband's incestuous adultery with her sister, evidence indicated that she had been living with her husband at periods when she alleged he had disappeared.⁵⁴

The period between marital breakdown and submitting a petition was lengthy, often more than ten years. In most cases what caused the petitioner to seek divorce after a long delay was not clear. The content of the reports would suggest reasons included re-establishing contact after a long separation or learning that an act of adultery had been committed following separation or desertion. The ability to fund a case would also have been a consideration. Ball, a cab driver, petitioned for divorce in 1879 on the grounds of his wife's adultery. She had left him in 1866 but

⁵¹ *The Times*, 9 March 1861, p.11.

⁵² Russell, p.258.

⁵³ Horstman, p.102.

⁵⁴ LM, 16 November 1865.

he had been unable to bring proceedings sooner for 'want of means'.⁵⁵ This may have true of many other cases where there was a delay in bringing a petition. A variety of other reasons were noted in the reports. McCabe, a cashier, had stopped divorce proceedings for 'the sake of the children' when his wife returned home but commenced them again when she went to live with the co-respondent.⁵⁶ Kennerly, a ship's captain who petitioned for divorce in 1895, was questioned about the delay in bringing proceedings given that his wife left him in 1883. He had spent long periods out of the country and said that he believed he could bring a case at any stage.⁵⁷ Tyler, an actress, had already obtained a judicial separation from her husband in 1886 on the grounds of desertion. She had learned in 1891 that he was living with another actress in New York but did not petition for divorce until 1895 due to ill health.⁵⁸ There were cases where the period between marriage and divorce was short but these formed a small minority. The *Liverpool Mercury* commented that the case of Boden, who petitioned for divorce from her husband on grounds of adultery and cruelty in May 1877, was unusual in that they had only married in June 1876.⁵⁹ The case of Murray, a clerk, who was referred to as the son of a gentleman in shipping, caused amusement in the court. He had married in December 1888 without the knowledge of his parents. His wife had proposed after having met him three times. He petitioned for divorce on the grounds of her adultery in July 1889.⁶⁰

Divorce cases were a regular feature of the Victorian press, but Savage found that there was a tendency to focus on cases involving the well to do or the more

⁵⁵ *The Times*, 7 March 1879, p.4.

⁵⁶ LM, 20 May 1893.

⁵⁷ LM, 11 April 1895.

⁵⁸ LM, 1 May 1895.

⁵⁹ *The Times*, 7 May, 1877, p.11.

⁶⁰ LE, 30 July 1889, p.4.

salacious.⁶¹ Two of the three cases from the sample in 1858 received detailed coverage in *The Times* and the local press. This may have been due to heightened interest in the early days of the operation of the Divorce Court but was also due in part to the nature of the individual cases. The case of Vickers involved incestuous adultery with the husband having committed adultery with his illegitimate daughter.⁶² In the case of Weber where the husband sought divorce on grounds of his wife's adultery, the couple had eloped to Gretna Green and married when his wife was around 17 years of age. Shortly after marriage the commercial house which employed Weber stopped paying him and he spent four months in a private asylum. His wife then refused to take him back⁶³. Coverage of undefended cases in *The Times* reduced as the period progressed. While the local press continued to report on Liverpool cases the majority of reports were generally limited to a brief summary. In practice the amount of detail available to report in undefended cases was probably limited. Even in those cases which included more information their tone was matter of fact and did not convey a sense of scandal. However, cases of wealthier and professional petitioners or those with a scandalous aspect continued to receive greater coverage. The case of Nixon, in 1899, lasted several days and was covered in detail. He sought a divorce on the grounds of his wife's adultery with a doctor and a key feature of the case was a suggestion that the doctor had abused his position⁶⁴. In the case of Cleaver, where the respondent was an actress and the co-respondent was Lord Paget, the evidence was reported in full.⁶⁵ Cases reported in the *Liverpool Echo* tended to adopt a more popularist approach than those reported in the *Liverpool Mercury*. In

⁶¹ Savage, 'They Would if they Could', p.174.

⁶² *The Times*, 4 December, 1858.

⁶³ *The Times*, 3 December 1858, p.11.

⁶⁴ LM, 6,12, 13,17,18 May 1899.

⁶⁵ *Liverpool Daily Post*, 27 July 1911, p.11.

1901 the *Liverpool Echo* carried a report with the headline, 'A Barmaid's Double Life', referring to a case in which a marine engineer sought a divorce of the grounds of his wife's adultery. His wife had been a barmaid and while he was at sea had become manager of a public house where the co-respondent was licensee. An added dimension which made the story attractive was the that co-respondent was well known in sporting circles as a bookmaker.⁶⁶ The case of Oddy in 1907 focussed on the female private detective who had been hired to investigate allegations of adultery and carried the headline, 'Liverpool Lady Detective's Mission.'⁶⁷ As divorce became more common and not all cases were reported, there remained an appetite for reports of this kind.

The pattern of Liverpool divorce cases was largely consistent with that at a national level with a gradual increase in the number of petitions over the period. The cost of divorce together with the restrictions of a Divorce Court located in London did not prevent a broad range of Liverpool residents from accessing divorce. The lower middle and skilled working classes were well represented and as might be expected in a major port over a quarter of male petitioners were from seafaring occupations. Husbands made up the majority of petitioners but wives were represented in significant numbers. Behaviours such as addiction to drink and violence, which were considered prevalent among the poorer working classes, had a key role to play in marital breakdown in cases involving all social classes. Based on the sample the poorer working classes from Liverpool were not represented in proportion to their share of the population. Marital breakdown was likely to have been as much an issue for this group but, due to the costs and practicalities associated with divorce, they may have adopted alternative

⁶⁶ LE 10 July 1901, p.5.

⁶⁷ LE 29 May 1907, p.5.

approaches to addressing marital breakdown. The next chapter will consider the extent to which residents of Liverpool rearranged their marital relationships through bigamous unions.

Chapter 4: Bigamy

The sample of Liverpool divorce petitions described in the previous chapter indicated that the middle class and the skilled working class were represented in the Divorce Court following the introduction of the 1857 Act. However, the poorer working classes were not represented in proportion to their share of the population. Overall the number of working class divorces remained low and they continued to use other means, such as bigamy to rearrange their marital relationships. In her study of bigamy cases reported in *The Times* Frost found that the social standing of those committing bigamy was overwhelmingly working class.¹ Frost challenged the views of other historians that the age of marital non-conformity was the first half of the nineteenth century², a view supported by Klein who studied police marriages and argued that flexible notions of marriage among the working class had not disappeared by the late nineteenth century.³ Based primarily on local newspaper reports of bigamy cases this chapter examines the extent to which the residents of Liverpool rearranged their marital relationships through bigamy. It describes the methodology and presents an analysis of the findings.

The focus of the research was to identify patterns in bigamy cases relating to Liverpool based primarily on reports from the local press. One risk of using newspapers as the main source was that not all cases which were brought to trial would be reported. This was mitigated to an extent in that the objective was to assess patterns rather than undertake a statistical analysis dependent on

¹ Ginger Frost, 'Bigamy and Cohabitation in Victorian England' *Journal of Family History*, 22 (1997), 286-306, (p.287).

² Frost, p.294.

³ Joanne Klein, 'Irregular Marriages: Unorthodox Working-Class Domestic Life in Liverpool, Birmingham, and Manchester, 1900-1939,' *Journal of Family History*, 30 (2005), 210-229, (p.211).

identification of all cases. However other sources such as court records, calendars of prisoners and Home Office criminal registers were used to supplement newspaper reports. As an indictable offence, bigamy cases were heard at the assize courts following a preliminary hearing at the magistrate or police courts. Indictment files for Liverpool Assizes from 1877 onwards are held at The National Archives and provide basic details about charges including bigamy, but the Northern Circuit case files relate to serious offences, mainly murder. The Liverpool Record Office holds calendars of prisoners tried at Liverpool Assizes from 1882 which provide slightly more information than the indictment files about the defendant including occupation where known. For earlier years, with the exception of 1863, additional sources were limited to Home Office criminal registers which record name of defendant and sentence. Newspaper reports were therefore the primary source of information with the *Liverpool Mercury* and the *Liverpool Echo* being the main newspapers used. However, it is important to bear in mind that the sources detail only cases which were brought to trial and it is not possible to know to what extent these were a reflection of the true instance of bigamy. To balance the need to complete the research within the required timescales and obtain sufficient cases to analyse, cases relating to Liverpool were sampled in the 10 years following implementation of the 1857 Act, to understand whether it had an immediate impact on instances of bigamy, and alternate years thereafter. Cases were included if evidence indicated that one of the marriages took place in Liverpool. Cases from elsewhere in the North West of England were brought to the Liverpool Assizes and not all cases heard there met this criterion. The detail included in the press about individual cases varied and Liverpool newspapers often included identical reports about a case. It was common in the nineteenth century for sole contributors to supply identical copy to a number of

editors.⁴ Liverpool newspapers did not confine their reports to local cases and included details of cases from across the country, which again was usual for the period.⁵ Conversely reports of cases heard at Liverpool Assizes were reported in newspapers from elsewhere and a range of newspapers were accessed to gain as full a picture of possible of a case. As with divorce cases the more sensational cases received greater coverage. All of the available sources had limitations in the detail which they provided but using a variety of newspapers supplemented with other sources provided an overall picture of the bigamy cases brought to trial.

Based on her study of 221 bigamy cases reported in *The Times* between 1830 and 1900, Frost argued that the long tradition of self-divorce continued throughout the nineteenth century.⁶ The table below provides a summary of Liverpool bigamy cases, with a breakdown by gender, based on sampling alternate years throughout the period. Table 2 provides a similar breakdown for the first ten years of the period and gives the total number of cases in the sample.

⁴ Denise Bates, *Historical Research Using British Newspapers*, (Barnsley: Pen and Sword, 2016), p.44.

⁵ Bates, p.11.

⁶ Frost, p.295.

Table 1: Number of Liverpool Bigamy Cases, 1858-1911, alternate years, with breakdown by gender.⁷

Period	Total Cases	Male		Female	
		Number total	% of total	Number total	% of total
1858-1867	18	14	78%	4	22%
1869-1877	21	17	81%	4	19%
1879-1887	32	26	81%	6	19%
1889-1897	27	22	81%	5	19%
1899-1907	23	18	78%	5	22%
1909-1911 Note -2 years only	3	2	67%	1	33%
Total	124	99	80%	25	20%

⁷ *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post.*

Table 2: Number of Liverpool Bigamy Cases, 1858-1867, with breakdown by gender.⁸

Year	Total Cases	Male Number	Female Number
1858	4	4	0
1859	4	2	2
1860	2	2	0
1861	2	2	0
1862	1	1	0
1863	7	5	2
1864	5	4	1
1865	12	12	0
1866	6	3	3
1867	4	4	0
Total	47	39 83%	8 17%
Total number of cases in sample	153	124 81% of total sample	29 19% of total sample

In his study of 22,000 bigamy cases between 1850 and 1950 Cox found that prosecuted bigamy cases nationally remained low at less than 150 cases per year until 1915 when they rose to 211 before reducing again. He argued that per

⁸ Source: *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post.*

100,000 of the population there was a gradual but erratic decline in the overall number of cases brought to trial from 1850 onwards.⁹ Table 1 shows that while there were indications of a decline in Liverpool cases towards the end of the period the number of cases rose after 1858, reaching a peak in the period between 1879 and 1887. Numbers were based on a sample of alternate years and a different sample may have produced a different picture. However, there were years with a high number of cases which prompted comment from the judiciary. In 1865 the judge said that he was 'sorry to see the offence of bigamy was very frequent in this town'¹⁰ and in 1903 the judge commented that while crime seemed to be diminishing in Liverpool, bigamy 'was in the ascendency'.¹¹ Based on an analysis of bigamy cases by county Cox argued that there did not appear to be any bigamy 'hot-spots' with centres of higher population having a higher number of cases.¹² An analysis of Liverpool only rather than Lancashire as a whole may have produced a different result. Further work would be required to understand whether comments by the judiciary were based on an impression or whether Liverpool's transient population was a factor in bigamy being more prevalent there than in places of a comparable size.

In line with other studies the findings indicated that fewer women than men were tried for bigamy. In their study of marital stability in Camberwell, Pimm-Smith and Probert noted that women accounted for just 16 percent of those prosecuted at the Old Bailey for bigamy in the last two decades of the nineteenth century.¹³ The

⁹ David Cox, "' Trying to get a Good One": Bigamy Offences in England and Wales, 1859-1950', *Plymouth Law and Criminal Justice Review*, 4 (2012), 1-32, (p.6).

¹⁰ *Liverpool Mercury*, (LM), 18 December 1865, p.6.

¹¹ *Liverpool Echo* (LE), 18 February 1903, p.6.

¹² Cox, p.17.

¹³ Rachel Pimm-Smith, and Rebecca Probert, 'Evaluating Marital Stability in late-Victorian Camberwell', *Family and Community History*, 21 (2018), 38-50 (p.45).

percentage of females cases from the Liverpool sample who were tried at the assizes was consistent with these findings at just over 15 percent. This was slightly lower than Probert's findings that the proportion of those convicted at provincial assizes was between 20 and 25 percent.¹⁴ It was unclear whether fewer women committed bigamy or whether they were less likely to be prosecuted but Frost suggested that the imbalance reflected men's greater opportunity for travel and that many judges considered that men hurt women more by bigamous marriages than women hurt men.¹⁵

Frost found that the majority of defendants in bigamy cases were drawn from the working class.¹⁶ Table 3 below provides a breakdown of the occupational grouping of male defendants in the Liverpool cases.

¹⁴ Rebecca Probert, *Divorced, Bigamist, Bereaved? The Family Historian's Guide to Marital Breakdown, Separation, Widowhood and Remarriage: From 1600s to the 1970s*, (Kenilworth: Takeaway Publishing, 2015), p.128.

¹⁵ Frost, p.287.

¹⁶ Frost, p.287.

Table 3: Occupational grouping of males, Liverpool, 1858-1911 ¹⁷

Occupational Grouping	Number	Percentage of total
Professionals, e.g. solicitor, brokers, merchant	8	6%
Shopkeepers, tradesmen	12	10%
Clerks	2	2%
Skilled workers, e.g. printer, joiner, plumber	26	21%
Semi-skilled/unskilled e.g. barman, cab driver, factory workman	45	36%
No information	31	25%
Total	124	100%

The findings were consistent with those in Frost's study with over half of defendants drawn from the working classes. In a quarter of cases no information was available about occupation but given the relatively low level of representation of the professional and middle classes it would be reasonable to conclude that a significant proportion of these were working class particularly given the high incidence of casual, low-skilled employment in Liverpool.¹⁸ As might be expected in a port, sailors comprised 18 percent of the overall sample. In the cases of female defendants, the occupation was formally recorded in only four cases and included a shopkeeper, a housekeeper, a keeper of a lodging house and a market woman. Three cases were formally recorded as being of 'no occupation'.

However, it is likely that more women were engaged in part time or casual

¹⁷ *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post*, Liverpool Record Office (LRO) 347/QUA/3, Calendar of Prisoners, The National Archive (TNA) PCOM 2/328 Calendar of Trials.

¹⁸ Colin G. Pooley, 'Living in Liverpool: The Modern City' in *Liverpool 800: Culture, Character and History*, ed. by John Belchem, (Liverpool: Liverpool University Press, 2006) pp. 171-255 (p.194).

employment, such as street trading, than was recorded.¹⁹ Where information was provided about the males involved in the cases with female defendants these were from working class occupations.

Cases were initially heard before a magistrate to consider whether the defendant should be committed for trial at the assizes. Documentary proof of the marriage was required which became more straightforward following the introduction of civil registration in 1837. There remained a need to prove that the person standing trial was the same person who had married which required witnesses to the marriage.²⁰ The table below sets out the number of cases in the sample by gender which were discharged.

Table 4: Cases discharged by Liverpool magistrates 1858-1911²¹

	1858-62	1863-67	1869-77	1879-87	1889-97	1899-1907	1909-11
Male	3	2	4	2	2	0	0
Female	1	1	3	1	1	2	0

A higher proportion of cases involving female defendants, at around 31 percent of the female sample, were discharged compared to male defendants at just over 10 percent. There was evidence of this more lenient treatment of women throughout the process. There were a variety of reasons why cases were discharged but the majority were due to insufficient evidence or doubts over the legality of the first or second marriage. In a small number of cases the magistrate took a view on the likelihood of a successful prosecution or exercised discretion. The Offences

¹⁹ Pooley, p.196.

²⁰ Probert, *Divorced, Bigamist, Bereaved?*, pp.106-08.

²¹ *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post.*

Against the Person Act 1861 allowed a defence of not having seen or heard of the first spouse during the seven years before the second marriage²² and was regularly used. In the case of James Costley in 1887, the defence argued that Costley had not seen his first wife for over 15 years and did not know she was alive. The magistrate did not consider that a jury would convict and discharged the prisoner.²³ The magistrate had no doubt in the case of Arthur Bullock in 1881 that both marriages had taken place but based on Bullock's claim that his first wife was already married, supported by an alleged witness to that marriage, there was a question as to whether his second marriage was bigamous. The magistrate was satisfied that the first marriage was void and discharged the prisoner.²⁴ The female cases followed a similar pattern. In the case of Emma Senar in 1881, the magistrate was satisfied that she had not seen her first husband in the seven years prior to the marriage and discharged the case.²⁵ Bertha Rylands has married her second husband after becoming pregnant. Following an argument with her mother in law in which she admitted having married before, her second husband obtained a certificate for the first marriage and took it to the police. Despite the existence of the certificate and her admission, the lack of witnesses to the first marriage resulted in the prisoner's discharge.²⁶ A decision to drop charges by the party prosecuting led to discharge in three of the female cases. Ellen Jane Bell had entered into a bigamous marriage after her husband had gone to sea. In court her first husband said that he could not afford to pursue a prosecution and

²² Pimm-Smith and Probert, p.45.

²³ LM, 28 September, 1887, p.8.

²⁴ LM, 18 August, 1881, p.8

²⁵ LE, 4 February, 1889, p.4.

²⁶ LE, 6 December, 1889, p.5.

was happy to take his wife back. The case was discharged and the couple left court together.²⁷

Probert argued that the preliminary hearing before a magistrate meant that once a case had reached the assizes the chance of conviction was high.²⁸ Table 5 below provides a summary of the sentences given to female defendants from the sample of Liverpool cases and indicates a conviction rate of 75 percent. This was slightly higher than the rate of 68 per cent for women based on a sample of cases between 1857 and 1904 in a national study by Frost.²⁹ The sample in the Frost study was more the double the size of the Liverpool sample but the results were broadly comparable.

Table 5: Female sentences, Liverpool Assize Court 1858-1911 ³⁰

	1858-1862	1863-1867	1869-1877	1879-1887	1889-1897	1899-1907	1909-1911
Acquitted/bound over	1	1	1	0	1	0	1
One month or less	1	1	0	4	2	2	0
Less than 12 months	0	2	0	1	1	0	0
12 months	0	0	0	0	0	1	0

Frost also found that women received lower sentences than men.³¹ This was borne out in the Liverpool cases, with only one female receiving a sentence of 12 months imprisonment. In 1903 Patrick Sweeney and Margaret Lloyd were

²⁷ LM, 23 November 1866, p.10.

²⁸ Probert, *Divorced, Bigamist, Bereaved?*, p.138.

²⁹ Ginger Frost, *Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England*, (Manchester: Manchester University Press, 2013), p.74.

³⁰ *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post*; LRO, 347/QUA/3, Calendar of Prisoners; TNA, PCOM 2/328 Calendar of Trials; TNA, HO 27, Criminal Registers; TNA, HO 140, Calendar of Prisoners.

³¹ Frost, *Living in Sin*, p.74.

charged jointly with bigamy, both having been married before.³² The judge commented that both had behaved badly and sentenced them to 12 months imprisonment with hard labour. This was the most severe sentence given to a female in the cases identified. Deception had an impact on the sentence given. In the case of Mary Searle in 1881, the judge noted her mitigation plea of ill-treatment by her first husband but the fact that she did not inform her second husband of the first marriage, 'weighed heavily' on him and she was sentenced to four months imprisonment.³³ The judiciary were more likely to treat women sympathetically. In the case of Ann Crombie, the judge noted that she had thought her first marriage was illegal and had told her second husband about it and 'yet here she is prosecuted for bigamy'. She was sentenced to 4 days imprisonment.³⁴ In the case of Amanda Spiro the judge commented that the case was not serious and noted that her first husband had sought to extort money from her. He would not be a party to punishing someone in these circumstances and she was sentenced imprisonment for one day which resulted in loud applause.³⁵

The conviction rate for males in the sample was over 92 percent compared to a rate of 85 per cent based on a larger sample in the study by Frost referenced above.³⁶ Sentences given to males were generally more severe, but still covered a broad range from one day to the maximum sentence of seven years. The table below sets out the sentences given to male defendants.

³² LE, 30 July 1903, p.5.

³³ LM, 29 July 1881, p.8.

³⁴ LM, 15 December 1859, p.3.

³⁵ LM, 14 August 1866, p.5.

³⁶ Frost, *Living in Sin*, p.74.

Table 6: Male sentences, Liverpool Assize Court 1858-1911 ³⁷

	1858-1862	1863-1867	1869-1877	1879-1887	1889-1897	1899-1907	1909-1911
Acquitted/bound over	0	1	1	3	2	2	0
One month or less	0	3	1	8	2	5	1
Less than 12 months	5	12	9	5	6	7	1
12 months	1	5	1	4	4	3	0
Less than 2 years	1	4	0	3	3	0	0
2 years and over	1	1	1	1	3	1	0

There was little change in the sentencing patterns over the period and the sentences given did not support Probert's view that by the final decade of the nineteenth century the most common sentence was imprisonment for one week or less. ³⁸ A small number of severe sentences of more than two years were given across the period. In 1858 the judge took the view that Philp Field, a china and glass dealer, was in a position where he should have been aware of the seriousness of the crime and a lenient sentence was not therefore appropriate, sentencing him to 3 years imprisonment. ³⁹ This was consistent with the view expressed by Frost that men of higher class, who should have been setting an example, received longer sentences. ⁴⁰ In all the cases which attracted the harshest penalties the judge's comments highlighted the cruelty of the act and that the individual should have known better. The case of George Eagleton in 1897

³⁷ *Liverpool Mercury, Liverpool Echo, Liverpool Daily Post*; LRO, 347/QUA/3, Calendar of Prisoners; TNA, PCOM 2/328 Calendar of Trials; TNA, HO 27, Criminal Registers; TNA, HO 140, Calendar of Prisoners.

³⁸ Rebecca Probert, *Double Trouble: The Rise and Fall of the Crime of Bigamy*, (London: Selden Society, 2015), p.8.

³⁹ LM, 4 August 1858, p.3.

⁴⁰ Frost, *Bigamy and Cohabitation*, p.299.

which attracted a sentence of 7 years was described as 'disgraceful', and reference was made to the fact that he had already served two sentences of penal servitude of 5 years and had 5 indictments against him including another charge of bigamy.⁴¹ Severe sentences were rare and the majority of prison sentences passed were of up to 12 months. The variations in sentencing demonstrated that the individual circumstances of the case were taken into account and there was evidence of the judiciary distinguishing between degrees of bigamy. Being honest with the second spouse about marital status was one of the factors which was taken into consideration. William Murdoch had told his second wife that he was married but claimed he was free to marry as his first wife has remarried. The judge noted that he had not told a lie to his second wife but had led her to believe she was legally married. He commented that bigamy was a crime which varied in degree and felt that a lenient sentence of three months imprisonment would ensure that justice was done.⁴² Probert argued that cohabitation prior to the second marriage was a mitigating factor on the basis that a couple who were willing to live together would not be harmed by the subsequent marriage being void.⁴³ In the case of William Kerr, a policeman, his first wife had chosen to remain in Scotland and he had left her well-provided for. He had married his second wife in Liverpool shortly after joining the borough police, having lived with her for three months before the marriage. Taking that and the two months he had already spent in custody into account, the judge sentenced him to two months imprisonment.⁴⁴ As with female defendants, deception was a key factor in sentencing decisions. The case of Edward Jones in 1883 had been brought by the

⁴¹ LM, 4 December 1897, p.5.

⁴² *Kendal Mercury*, 23 February 1861, p.5.

⁴³ Probert, *Double Trouble*, p.23.

⁴⁴ LM, 14 December 1865.

Toxteth Board of Guardians as a result of his failure to support his first wife having married again in London. The judge did not see why a man who had ruined a woman through deception should be treated more lightly than one who had ruined a woman through violence. He saw no reason to give him a lesser sentence than he would normally pass and sentenced Jones to 18 months imprisonment.⁴⁵ Although there were these variations in sentencing, the patterns in the bigamy cases identified for Liverpool did not provide evidence that judges relaxed their standards as the century progressed as suggested by Frost⁴⁶ but did support Probert's view that in the second half of the nineteenth century only a handful of cases attracted the maximum penalty making bigamy a viable alternative to divorce.⁴⁷

In those cases where information was recorded on the justification for entering into a bigamous union a number of common themes emerged. As mentioned above the defence of not having seen their spouse for seven years, often alongside the assumption that the spouse was therefore dead was used by many defendants. Bridget Lenaghan pleaded that she had not seen her first husband for around nine years and as her statement could not be disproved, she was found not guilty.⁴⁸ Another common justification given by male defendants was the immoral character or drunken habits of their spouse. In 1869 William Plant was acquitted, having claimed that his first wife, who had left him, was a 'dissipated person' and had been in prison in Manchester.⁴⁹ In the case of Richard Kinsella in 1885 he had told his second wife that his first was alive but that she was always in trouble and had spent time in prison. The judge commented Kinsella's wife had 'led him a

⁴⁵ LE, 28 April 1883, p.4.

⁴⁶ Frost, *Bigamy and Cohabitation*, p.298.

⁴⁷ Probert, *Double Trouble*, p.8.

⁴⁸ LM, 13 December 1859, p.3.

⁴⁹ LM, 7 April 1869, p.3.

wretched life' and although bigamy was on the increase there were mitigating circumstances and sentenced him to one day's imprisonment.⁵⁰ In some case the defendant argued that they believed they were free to marry. In 1883 William Williams said he had obtained a separation order from his first wife and thought this enabled him to remarry. The judge was satisfied that this was the defendant's belief and sentenced him to one day's imprisonment.⁵¹ A less credible explanation was that given by Frances Lacey who claimed that he had consulted a lawyer in a public house who having been paid a sovereign confirmed that Lacey was free to remarry as his wife was living with another man.⁵² He was sentenced to six months in prison.⁵³ Reasons for committing bigamy were not given in all cases in the sample. When they were provided, they reflected marital breakdown and did not conform to the stereotype of a serial bigamist leading a double life or seeking to marry for gain. The fact that many couples were willing to enter into a bigamous marriage, despite the risks, could be seen as indicative of a desire to sanction the union.

Information about who initiated proceedings was provided in 50 cases. The majority, 26 cases, were brought by the second spouse with a total of 20 cases brought by the first spouse or family. The second wife of George Nicholson initiated proceedings on two occasions, withdrawing the charge on the first and on the second said she no longer wished to proceed provided Nicholson kept away from her and let her keep her furniture.⁵⁴ The case of Martha Ackerley tried in 1885 was an example of second husband bringing the prosecution. The court were told that she had lived respectably in Chester but having fallen into a

⁵⁰ LM, 30 July 1885, p.8.

⁵¹ LM, 10 February 1883, p.8.

⁵² LM, 4 November 1865 p.5.

⁵³ LM, 15 December 1865.

⁵⁴ LM, 3 December 1860, p.3.

'disreputable condition' had come to Liverpool where she had found employment as a housekeeper. She married her employer, claiming to be a widow, and subsequently absconded with household linen. The case provided an indication of how seriously bigamy was viewed in relation to other offences. Ackerley was sentenced to one day's imprisonment for bigamy and five years for property theft.⁵⁵ There were two cases where charges of bigamy resulted from disputes over maintenance. Elias Winstanley's wife, whom he had bigamously married in America and brought back to Liverpool after his first wife died, applied for relief after he deserted her. Winstanley was sentenced to 18 months imprisonment⁵⁶ but the case continued to generate interest with a subsequent report about the plight of his second wife. The superintendent of police was taking donations to assist her return home to America.⁵⁷ The case of Edward Jones referenced above related to maintenance. There were only two case which were clearly a public prosecution. As information was not provided about who initiated proceedings in all cases firm conclusions cannot be drawn but the findings from the Liverpool sample are consistent with those found by Frost that public prosecutions were rare with the majority of cases brought by the first or second spouse or from within the family.⁵⁸

Probert challenged the view that under certain circumstances bigamy was acceptable to the community arguing that it should be reconsidered on the basis of the distance between the location of the first and second marriages. Many of the reports relating to Liverpool cases were brief and did not provide specific details of the location for both marriages. Of the male defendants, 54 entered into a

⁵⁵ LM, 9 February 1885, p.8.

⁵⁶ LM, 15 August 1863, p.5.

⁵⁷ LM, 22 August 1863, p.7.

⁵⁸ Frost, Bigamy and Cohabitation, p.287.

bigamous marriage in Liverpool and a location some distance away. Like most cities during the nineteenth century Liverpool attracted migrants with the majority drawn from Lancashire and Cheshire and a significant proportion from Ireland, Wales and Scotland.⁵⁹ The location of marriages reflected this pattern, with 10 taking place in Liverpool and in nearby towns such as Chester and Manchester and 13 in Ireland and Scotland. Locations also included Russia, Bombay and America which reflect Liverpool's status as a port. Probert also noted that hardly any chose the same establishment for their second marriage which would indicate a desire to conceal the invalidity of the second marriage.⁶⁰ There was only one case in the sample where it was clear that both marriages took place in the same church, five years apart. Of the female defendants four were recorded as having married in Liverpool and a location some distance away. This pattern would tend to support the view expressed by Frost that men had greater opportunities for travel.⁶¹ While the findings regarding location of marriages were generally consistent with those of Probert, the desire to hide the invalidity of the second marriage may not have been the main driver for marriages taking place in locations some distance away. Locations cited were consistent with the pattern of migration to Liverpool. Where marriages had already broken down those committing bigamy may have formed a new relationship in the place they had come to for a different purpose.

As with divorce cases the more scandalous cases attracted more newspaper coverage. The case of William Brown who was sentenced to seven years imprisonment attracted considerable press coverage. He appeared in court

⁵⁹ Pooley, pp.181-183.

⁶⁰ Probert, pp.26-27.

⁶¹ Frost, Bigamy and Cohabitation, p.287.

'dressed as a clergyman' and his occupation was noted as a Baptist Minister. He had claimed to be a minister of the Church of England when he married for the second time. He abandoned his second wife in America and on return to England became associated with another young woman. He was also accused of having obtained money by false pretences⁶² but in passing sentence the judge said that this was not equal to the cruelty of which he was guilty in committing bigamy, that he was 'wickedly deceptive' and his crimes were 'as grave as they could be'.⁶³ A letter was published in the *Liverpool Mercury* on 11 May 1897 from the Secretary of the Baptist Union clarifying that Brown did not appear on their authoritative list of ministers.⁶⁴ The case of Phillip Field in 1858, referenced above, involved a gentleman and an elopement and attracted considerable press coverage with correspondence between the parties printed in full. Although reports often contained little detail, they occasionally included a short description of the individuals involved in a case. These tended to focus primarily on the appearance and demeanour of the female victims. The two women involved in the case brought against John Kerr were described as 'well-dressed, good looking young women'.⁶⁵ There was an emphasis on respectability in descriptions of both victims and defendants with Charles Simpson, who was sentenced to four months imprisonment for bigamy, described as, 'a middle-aged, well-dressed man'⁶⁶ and Thomas Carrodus, a clerk, was a 'young man of respectable appearance'.⁶⁷ The *Liverpool Mercury* was regarded as a serious newspaper which ran a number of

⁶² LM, 11 April 1897, p.5.

⁶³ LM, 9 May 1897, p.7.

⁶⁴ LM, 11 May 1897, p.6.

⁶⁵ LM, 4 October 1865, p.3.

⁶⁶ LM 18 June 1859, p.4.

⁶⁷ LM 29 January 1885 p.4.

political campaigns for reform.⁶⁸ Based on the research undertaken it seemed to be more comprehensive in coverage of court proceedings with reports having the tone of being a paper of record when compared to the *Liverpool Echo* which adopted a more sensationalist tone. The *Liverpool Echo* described the first wife of John Breen as ‘a buxom wench, who dressed like a bride and made a sensation with her appearance’.⁶⁹ Harris Burman was discharged when his second marriage was proved to be a sham. He had induced a female Jew to believe that the marriage ceremony was legal. The *Liverpool Echo* carried the headline ‘Alleged Cruel Deception of a Jewess’.⁷⁰ These descriptions represented the views of the reporter but were intended to appeal to the readership.

Findings from the research of Liverpool bigamy cases did not indicate significant changes in patterns or attitudes to bigamy over the period. They supported Frost’s view that bigamy continued to be used as a means of rearranging marital relationships throughout the nineteenth century and beyond. However, there was no indication of greater leniency in sentencing towards the end of the century with evidence of judges explicitly making an example of those convicted. Individual circumstances of the case played a part in sentencing decisions, with judges commenting on whether they considered the case to be a serious one. In some cases, magistrates exercised discretion and discharged defendants. There were instances of the judiciary commenting on the prevalence of bigamy in Liverpool but further work would be required to assess whether rates were higher than in other similar cities. As identified in other studies the social standing of those committing

⁶⁸ British Newspaper Archive, < [http://www.britishnewspaperarchive.co.uk/titles/Liverpool Mercury](http://www.britishnewspaperarchive.co.uk/titles/Liverpool_Mercury) > accessed 3 January 2019.

⁶⁹ LE 10 March 1891, p.4.

⁷⁰ LE 29 May 1893, p.4.

bigamy was mainly working class. It was not possible, based on the evidence from the sample, to conclude that bigamy was being used as an alternative to divorce but given that marital breakdown seemed to be the main reason for committing bigamy it may have been a consideration. The cases in the sample represent only those which were brought to trial and the true instance of bigamy may have been much higher.

5: Conclusion

The dissertation covers the period between the introduction of the Matrimonial Causes Act of 1857 which secularised and simplified the procedures for divorce, and the 1912 Royal Commission which made proposals for reform. Drawing on national studies it tested the hypothesis that access to divorce remained out of reach of the residents of Liverpool and that bigamy continued to be used as an acceptable means of self-divorce. Newspaper reports were sampled to consider the extent to which patterns of divorce and bigamy changed, who was initiating divorce or committing bigamy, and variations in sentencing patterns for bigamy.

The pattern of Liverpool divorce cases was largely consistent with that at a national level with a sharp increase in the number of petitions immediately after the introduction of the Act, followed by a gradual increase over the period. The breakdown by gender was also broadly consistent with the national picture with wives represented to a significant degree. The cost of divorce together with the restrictions of a court located in London did not prevent a broad range of Liverpool residents from accessing divorce. The lower middle and skilled working classes were represented in greater numbers than might be expected. Although marital breakdown would also have been an issue for the working class, they were largely absent from the sample. Behaviours such as addiction to drink and violence, which were considered prevalent among the poorer working classes, had a key role to play in marital breakdown in cases involving all social classes. Cases in the sample were largely undefended and the majority of those divorces which involved a wife's adultery referred to one named co-respondent or a specific individual. This could suggest that a new relationship had been established prior to the submission

of the petition for divorce and that there was a possibility that petitions were submitted with the agreement of both parties. However, the court process was inquisitorial with the objective of ensuring that divorce by mutual agreement did not happen. Conclusions about the extent of divorce by mutual consent based on the sample could not be reached. Further work would be required of the kind undertaken by Russell, who used multiple sources to assess the circumstances of female petitioners after divorce.¹

While divorce cases of the wealthier and professional classes were covered in detail in newspaper reports, for the majority of cases relatively few details were recorded. The tone of the reports was very matter of fact and did not seem to reflect the sense of scandal or public humiliation attached to divorce which debates at the time, particularly those around reporting of cases in the press, would suggest. This may in part be due to the fact that the reports were a summary of a court case heard in London and in the majority of cases local newspapers would not have had a reporter present.

Findings from the research of Liverpool bigamy cases supported the view that bigamy continued to be used as a means of rearranging marital relationships throughout the nineteenth century. Although the number of bigamy cases identified was relatively low these represented only those brought to trial and the true instance of bigamy may have been higher. There were instances of the judiciary commenting on the prevalence of bigamy in Liverpool and the transient nature of the population may have facilitated this. There was evidence in the cases involving male defendants of one of the marriages taking place in a location some distance

¹ Penelope Russell, 'Re-tying the Knot? Remarriage and Divorce in mid-Victorian England', *American Journal of Legal History*, 59 (2019), 257-285, (p.258).

away from Liverpool which reflected the pattern of migration to the city. It was not possible to determine whether there was a desire to hide the invalidity of the second marriage or whether migrants whose marriages had already failed and who had come to Liverpool for another purpose took the opportunity to form a new relationship. Studies of places of a similar size would be required to assess whether the rates of bigamy in Liverpool were in practice higher than elsewhere, and the extent to which the transient population was a factor. Although sentencing decisions varied depending on the individual circumstances of the case, the evidence from the sample did not support the argument that there was greater leniency in sentencing towards the end of the period. As nationally, fewer women were tried for bigamy and throughout the process there was evidence of more lenient treatment. The findings around who brought the case were also consistent with those in the national studies. Only two cases in the sample were public prosecutions and the majority were brought by the first or second spouse or a family member.

As identified in other studies the social standing of those committing bigamy was mainly working class. The evidence from the sample did not enable the conclusion to be drawn that bigamy was being used as a substitute for divorce. However, the working classes of Liverpool were largely absent from the sample of divorce cases. Where information was recorded for entering into a bigamous union marital breakdown was the main reason given. Cruelty, ill-treatment and drunkenness featured in both bigamy and divorce as causes of marital breakdown. This, together with the relative composition by social class of the divorce and bigamy samples, suggests that for some, particularly from the working class, bigamy may have been used as a substitute. There was limited evidence in the

sample of an overlap between divorce and bigamy with it cited as a ground for divorce in a small number of cases. A larger sample may have presented a different picture and is another potential area for further work.

The findings from this study of Liverpool are largely consistent with those of national studies on divorce and bigamy but do highlight some areas of difference. While there may be other local studies on divorce and bigamy none were identified during the research, and this dissertation makes a contribution to our understanding of these topics. Studies of other localities and work on the areas identified may produce different findings and provide a challenge to current thinking.

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