To what extent was the borough petty sessions in Wallingford, Berkshire between 1880 and 1891 a source of justice for working-class people?

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Abstract

This work examines the operation of the Wallingford borough petty sessions (WBPS) between 1880 and 1891 and considers the extent to which it was a source of justice for working-class people. The study analyses the details of one thousand one hundred prosecutions drawn from contemporaneous court records and newspaper articles. Using quantitative and qualitative analysis the work compares the experience of defendants and complainants from different social groups and of different gender. It finds that the magistrates of the WBPS were almost all from the principal traders of the town who were also aldermen and town councillors. Despite this there is little evidence that they used their position to advantage themselves or other traders who were often treated more severely if the court saw them falling below the standard expected. Overall, the analysis shows an even-handedness of justice to different social groups, though traders and women were less likely to receive imprisonment when convicted. The data also however show a difference in the treatment of public-order offences such as drunkenness and assault, compared to theft. The magistrates appeared to take a lenient view of petty public-order offences, particularly those occurring in public houses, possibly seeing these as part of working-classes recreation. In comparison, they viewed all offences of dishonestly, even concerning small amounts of property, as generally deserving imprisonment.

Acknowledgements

I am indebted to David Slade who generously first shared with me the cash registers and other records of his great grandfather's solicitor practice from 1881 which started me on this exploration of justice for working-class people in Wallingford.

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Abbreviations used in this work

BOA	Berks and Oxon Advertiser
BRO	Berkshire Registry Office
GWR	Great Western Railway
JP	Justice of the Peace
RM	Reading Mercury
TNA	The National Archives
WBB	Wallingford borough bench
WBPS	Wallingford borough petty sessions

Personal statement

I declare that this dissertation is my own, unaided work and that I have not submitted it, or any part of it, for a degree at The Open University or at any other university or institution. Some of this dissertation is built on work I submitted for assessment as part of A825

Chapter 1 – Introduction

The system of unpaid Justices of the Peace (JPs), also referred to as magistrates, has been a unique feature of English administration since the fourteenth century.[1] All counties, and some more important towns, had their own JPs collectively referred to as the bench. The market town of Wallingford was one of the first towns to have the right to its own justices.[2] During the nineteenth century their role changed to a much more focused responsibility for dealing with crime and disorder.[3] By the late century, this was primarily fulfilled at weekly court hearings, referred to as Wallingford borough petty sessions (WBPS). This study looks at the working of those petty sessions between 1880 and 1891 to explore to what extent they were a source of justice for working-class people.

Using court records and newspaper reports, the study examines three aspects of the court proceedings. First, the extent to which working-class people appeared before the court as defendants, complainants or witnesses, and how this varied with the type of offence, and the gender and occupation of the participant. Secondly, whether clear legal processes were followed by the court, including the clarity of the offences charged and the ability of complainants and defendants to call witnesses and have legal representation. Thirdly, whether the social class of the participants affected the court's judgements and sentencing decisions.

[1] Clive Emsley, 'The English Magistracy 1700-1850', *IAHCCJ Bulletin,* 15 (1992), 28-38 (p.28).
[2]. Sarah Flynn and Mark Stevens, 'Petty Criminals, Publicans and Sinners: Petty Sessions Records in the Berkshire Record Office', *Journal of the Society of Archivists*, 16 (1995), 41-53 (p.41).
[3] Emsley, p.28.

The study responds to the question posed by Barry Godfrey and Paul Lawrence, 'in whose interests was the judicial system run?'.[4] By analysing the activity of a petty sessions court in a rural town at the end of the nineteenth century, the work explores a less-studied aspect of the development of criminal justice in Victorian England.[5]

The work primarily draws on contemporary press reports from local newspapers and the court records of the WBPS in the Berkshire Record Office.[6] In a study of criminal justice in Kent during the Victorian period, Caroline Conley, identifies that using both these sources allows a more comprehensive account to be gained. The newspaper records do not cover every case but include important detail of the evidence, judgement and participants not found in the official contemporaneous court record.

The twelve-year study period is chosen for four reasons. First, Jennifer Davis suggests that magistrates' courts reached the peak of their popularity in the late Victorian period.[7] Secondly, it is a period of stability and consolidation following a number of Acts of Parliament changing the criminal law and the powers of magistrates.[8] Significantly, the *Summary Justice Act 1879* increased the range of offences which could be tried at petty sessions, and directed that formal records of the court proceedings should be made.[9] Thirdly, in Wallingford there were few

[4] Barry Godfrey and Paul Lawrence, *Crime and Justice since 1750* 2nd edn (Abingdon: Routledge, 2015), p.52.
[5] David Bentley, *English Criminal Justice in the Nineteenth Century* (London: The Hambledon Press, 1998), xi.
[6] Berkshire Record Office (BRO), PS/W1/2-5, Minute Books of Court of Summary Jurisdiction at Wallingford 1880-1891; PS/W2/1 Register of Court of Summary Jurisdiction at Wallingford*; Berks and Oxon Advertiser* (BOA) 1889-1891*; Reading Mercury* (RM) 1880-1890.
[7] Jennifer Davis, 'A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (2009), 309-335 (p.310).
[8] Flynn and Stevens, p.42.
[9] *Summary Justice Act, 1879, 42 & 43 Vict. Ch.49.*

changes of magistrates or of senior police officers through the 1880s. These factors allow the period to be studied with the minimum of external influences which might have affected the working of the court. Fourthly, in 1892 shorthand started to be used by court clerks increasing the practical challenges of data gathering.

Writers present differing views of how the changes in the criminal law and procedure influenced the role of petty sessions. David Eastwood argues that although many summary hearings before magistrates were 'cursory', they were a cheap and accessible source of justice for poor people.[10] David Philips supports this view in a study of the Black Country. He also notes that a significant proportion of prosecutions were brought by working-class people and concludes that this shows support for the criminal justice system.[11] Jennifer Davis reaches similar conclusions looking at the work of stipendiary magistrates in London, but acknowledges that informal extra-judicial forms of complaint resolution continued.[12] Other writers however question these conclusions about working-class support for the courts and note that Philips focuses on the small proportion of indictable crimes, and does not consider the many offences never reported.[13]

An alternative view of the role of petty sessions is offered by Douglas Hay in a review of crime and justice in eighteenth and nineteenth century England. He argues that there was little agreement between social classes about what actually

[10] David Eastwood, *Governing Rural England: Traditions and Transformation in Local Government 1780-1840*, (Oxford: Oxford University Press, 1994), p.94.
[11] David Philips, *Crime and Authority in Victorian England: The Black County, 1835-1860* (London: Croom Helm, 1977), p.126.
[12] Davis, p.330.
[13] Howard Zehr, Review of David Philips, *Crime and Authority in Victorian England: The Black County, 1835-1860* in *Journal of Social History*, 12 (1979), 645-648 (p.646).

constituted crime.[14] He highlights the way in which courts pursued offences like poaching to argue that their purpose was to protect the property of the wealthier echelon of society from which benches were drawn. He concludes that magistrates appeared paternalistic towards the poor but actually colluded with the property owners and manufacturers to protect their property. Others go further than this and argue that the role of the criminal law, and therefore the courts, was regulating the working classes.[15]

Wallingford

Wallingford was in the county of Berkshire during the period studied. Berkshire was a rural county dependent on wheat and barley and in the 1880s was experiencing a severe agricultural and economic depression.[16] It had been a very important town in the middle-ages, growing up around its ford of the Thames on the route from eastern England to Wales. In 1152 it was granted a charter by Henry II giving local merchants powers and freedoms which set the basis for the town's economy to the present day. Wallingford went into decline in the seventeenth century as other river crossings opened in neighbouring towns. By the start of the nineteenth century, it was re-emerging as an economic centre based around its malting industry and its trading position on the river. The town was established as a municipal borough under the *Municipal Corporations Act 1835*. [17] Following this, Wallingford had its own police force for twenty years until it was amalgamated into the Berkshire Constabulary in 1856.

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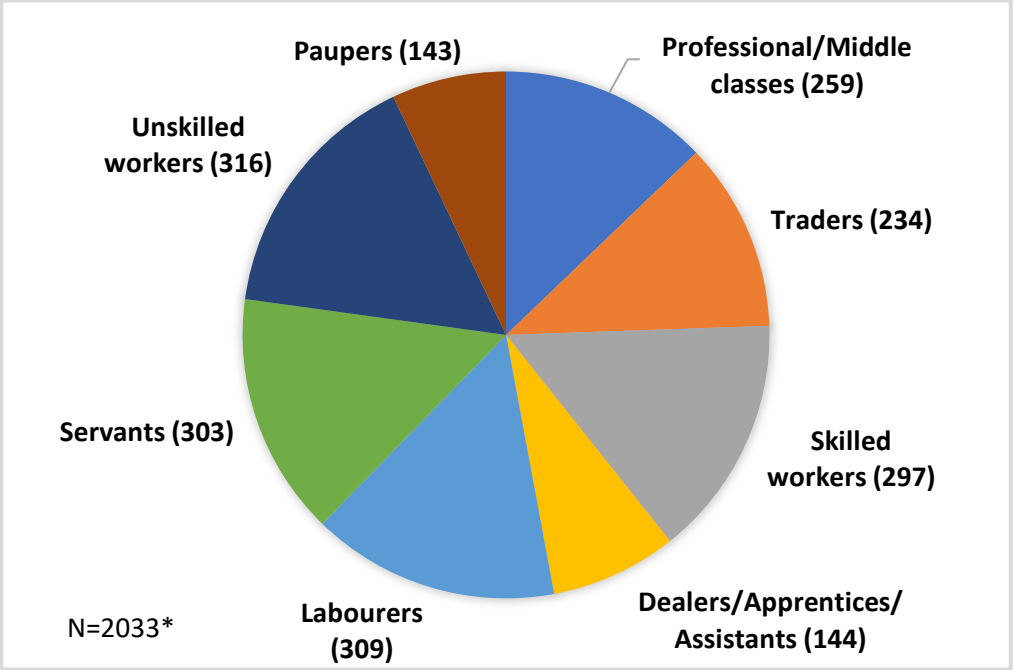
[14] Douglas Hay, 'Crime and Justice in Eighteenth and Nineteenth Century England', *Crime and Justice*, 2 (1980), 45-84 (p.47).
[15] V.A.C. Gatrell, 'Crime, Authority and the Policeman-state', in *The Cambridge Social History of Britain, 1750-1950,* ed. by F.M.L. Thompson (Cambridge: Cambridge University Press, 1990), pp.243-310 (p.244).
[16] *PP. 1881 (2778) Preliminary report from Her Majesty's Commissioners on Agriculture,* p.411.
[17] *Municipal Corporations Act, 1835*, *5&6 Will. 4 Ch.76*.

At the census in 1891, the population of Wallingford was 2888 people of whom 835 were children under fourteen years old. Figure 1.1 shows the social profile of the adult population using groups based on occupation, which are explained further in chapter three. Full details of the occupations included in each group can be found at Appendix A. A quarter of the adults in the town were from higher status professional or trader households. Almost half were from poorer labouring or other unskilled households.



*For twenty residents it was not possible to determine an occupation

Figure 1.1: Adult population of Wallingford 1891 by occupational group.[18]

Wallingford provides an example of a town in an agricultural area of southern England with a clear identity and well-established bench of JPs. There was a large community of working-class adults who writers like Shani D'Cruze suggest

[18] The National Archives, RG12/986, Census enumerator return for Wallingford 1881.

were the most likely to come to the attention of the magistrates.[19] This work explores the extent to which they received justice.

[19] D'Cruze, Shani, 'Sex, Violence and Local Courts: Working-class Respectability in a Mid-Nineteenth-Century Lancashire Town', *British Journal of Criminology*, 39 (1999), 39-55 (p.39).

Chapter 2 – The Magistrates and Proceedings

Until 1835 the magistrates of Wallingford had been the aldermen of the borough. Until the second quarter of the nineteenth century, they enjoyed a significant amount of autonomy and discretion in how they carried out their role.[1] David Eastwood suggests that this meant before 1830, the work of magistrates was improvised rather than following clear rules.[2] Jennifer Davis argues however that this discretion was important in the legitimization of the criminal justice system.[3]

Through the nineteenth century Parliament removed the administrative functions from magistrates but gave them an enhanced judicial role.[4] Successive governments also attempted to regulate and professionalise the way that justice was decided in petty sessions to make it more effective in a modern, industrial, urban England.[5] They did this through legislation which worked in two ways. First, it replaced parts of the unwritten common law with statutory offences.[6] Secondly, it set out the jurisdiction of petty sessions and the trial process which should be followed.[7] Carolyn Conley, suggests that the magistrates sometimes resisted these restrictions to their discretion.[8]

In the 1880s the WBPS sat on Saturday morning in the imposing town hall overlooking the market place. During the week individual JPs would deal with

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[1] David Bentley, *English Criminal Justice in the Nineteenth Century* (London: The Hambledon Press, 1998), p.11.
[2] David Eastwood, *Governing Rural England: Traditions and Transformation in Local Government 1780-1840* (Oxford: Oxford University Press, 1994), p.89.
[3] Jennifer Davis, 'A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (2009), 309-335 (p.314).
[4] For example, through the *Municipal Corporations Act, 1835, 5&6 Will. 4 Ch.76.*
[5] Carolyn A. Conley, *The Unwritten Law: Criminal Justice in Victorian Kent* (Oxford: Oxford University Press, 1991), p.3.
[6] Bentley, p.1.
[7] For example, in the *Summary Jurisdiction Act 1848, 11&12 Vict. Ch.42.*
[8] Conley, p.21.

people arrested and held overnight at the police station. Generally, unless the charge was dismissed or the offence was clear and not serious, prisoners would be remanded to the full court hearing at the end of the week.

This chapter considers the operation of the WBPS looking at who the magistrates were, what offences they dealt with, and the process they followed. Understanding the background of the magistrates and operation of the court allows its decisions relating to particular offences, and to different participants in the legal process, to be explored more fully.

The magistrates

In the 1880s Wallingford had seven men appointed as JPs by the Lord Chancellor. They held their posts for life. The *Municipal Corporations Act 1835* directed that the mayor of the borough would be the chief magistrate for the year he was in post, and continue as a magistrate through the following year.[9] Generally, at petty sessions, magistrates sat as a bench of between two and four. Figure 2.1 shows however that sometimes the court sat with between one and seven JPs.

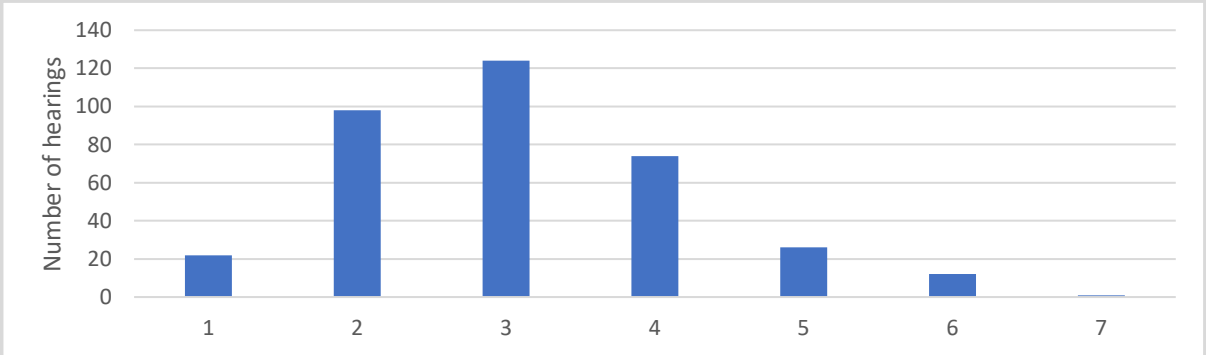


Figure 2.1: Number of JPs sitting at the WBPS hearings, 1880-91.[10]

[9] *Municipal Corporations Act 1835.*
[10] Berkshire Record Office (BRO), PS/W1/3-5, Minute book of the court of summary jurisdiction at Wallingford.

On twenty-two occasions, at weekly sessions, a justice sat alone. While this was allowed under the *Summary Procedure Act 1879*, the punishment which they could impose was less than that available to two or more magistrates.[11] At the other extreme, on Saturday 19 May 1883, all seven justices were present to convict labourer James Cherry of removing night-soil during prohibited hours.[12] Cherry was fined two shillings and sixpence in his absence. This was higher than the one shilling fine usually received by defendants found guilty of this offence. Possibly it was increased because of his non-appearance. Had he answered his summons, being faced with seven magistrates would probably have been an intimidating experience for an ordinary working man. This example suggests that the number of JPs who sat at any particular hearing was not related to the seriousness of the offences tried, and attendance by magistrates was likely a function of their availability and commitment. An average bench of more than three magistrates at the weekly hearings suggests a clear commitment by the JPs to the work of the petty sessions.

The chief magistrate chaired the weekly hearings and also dealt with most of the prisoners detained overnight by police. This was therefore an influential position in relation to prosecutions. As the elected mayor, these chief magistrates would also have overt political affiliation and Table 2.1 shows that for most of the decade they were associated with the Conservative party. Although this may suggest that they did not share more progressive views of crime and justice of Liberal colleagues, this was not borne out in the court decisions. Figure 2.2 shows the proportion of prosecutions which resulted in imprisonment during the terms of office of the chief

[11] *Summary Procedure Act 1879, 42&43 Vict. Ch.49.*
[12] *Reading Mercury* (RM), 26 May 1883, p.4.

magistrates. This suggests political affiliation did not significantly influence decisions.

Year	Chief Magistrate	Politics
1880	Henry Hawkins	Lib.
1881	Henry Hawkins	Lib.
1882	Richard Deacon	Cons.
1883	Richard Wilder	Cons.
1884	Richard Wilder	Cons.
1885	Sydney Payne	Cons.

Year	Chief Magistrate	Politics
1886	William Powys-Lybbe	Cons.
1887	William Powys-Lybbe	Cons.
1888	William Powys-Lybbe*	Cons.
1889	Thomas F. Wells	Cons.
1890	Henry Hawkins	Lib.
1891	Henry Hawkins	Lib.

*Died half-way through his term and was succeeded by Thomas Frederick Wells

Table 2.1: Chief magistrates of Wallingford 1880-91.[13]

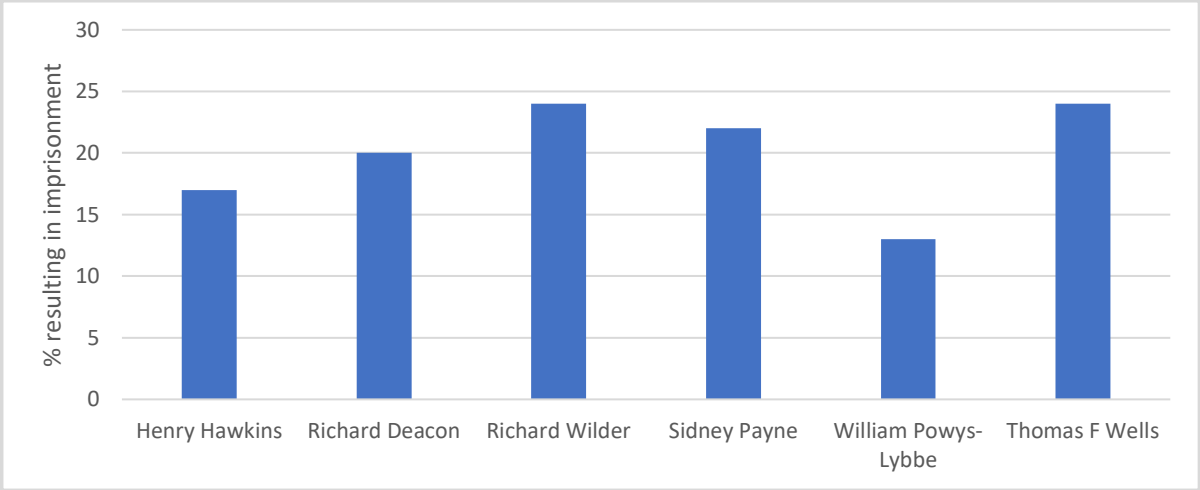


Figure 2.2: Percentage of prosecutions resulting in imprisonment 1880-91 by chief magistrate.[14]

Being appointed a JP conferred political and social status and power. It was common for some benches to have JPs who did not sit in court.[15] This had been

[13] BRO, PS/W1/3-5.
[14] BRO, PS/W1/3-5.
[15] William C. Lubenow, Social Recruitment and Social Attitudes', *Huntington Library Quarterly*, 40 (1977), 247-268 (p.247); Clive Emsley, 'The English Magistracy 1700-1850', *IAHCCJ Bulletin*, 15 (1992), 28-38 (p.29).

the case in Wallingford during the 1870s, but in the period studied, all the appointed justices regularly sat at the petty sessions.

Table 2.2 shows the JPs who were active on the bench in over half of the twelve years of this study, each sitting more than one hundred times. Some also served as chief magistrate. Between them they covered eighty-seven percent of the attendances of justices at WBPS.

Justice	Appt'd	Occupation	Corporation position	Residence
Henry Hawkins	1870	Draper	Alderman. Mayor 1879,80,81,90,91	Wallingford
Thomas Champion	1877	Ironmonger	Alderman until his death in 1887	Wallingford
Richard Deacon*	1877	Solicitor	Alderman until 1880. Mayor 1877,78,82	Wallingford
Sidney Payne	1879	Chemist	Alderman from 1888. Mayor 1885 and 1893	Wallingford
William Payne	1880	Jeweller	Alderman. Mayor 1876	Wallingford
Thomas Pettit	1880	Draper	Councillor 1875 - 1884	Wallingford
Richard Wilder	1884	Iron Founder	Alderman 1868 - 79. Mayor 1883,84	Cholsey**

*Died 1885 **a neighbouring parish to Wallingford

Table 2.2: Justices active on the Wallingford borough bench 1880-91[16]

The Wallingford borough bench (WBB) almost totally comprised of men whose wealth came from trade. A visitor to Wallingford market place in 1880 would have seen the shops of five of the magistrates dominating commerce in the town. Looking more closely, they may also have seen the products of the iron foundry

[16] John Kirby Hedges, *The History of Wallingford,* (London: William Clowes, 1881), p.212; BRO, PS/W1/3-5; The National Archives (TNA), RG11/1294, Census Enumerator Returns for Wallingford, 1881.

owned by Richard Wilder holding up the roof of the new Corn Exchange. Overall, this appears to support the assertion of the Duke of Wellington almost fifty years earlier, 'The revolution is made. That is to say power is transferred from one class in society, the gentlemen of England […] to another class of society, the shopkeepers'.[17]

The domination of the WBB by middle-class JPs in the 1880s fits with the observations of other historians. Carl Zangerl for example concludes that in 1841, forty-three percent of borough JPs were middle-class, and this rose to seventy-one percent by 1885.[18] For the Borough of Wallingford however, this national trend does not fully explain the composition of the WBB in the 1880s. Sixty years earlier the WBB comprised six active JPs, five of whom were associated with trade in the town. This was at a time when other benches were the preserve of the landed gentry and what Zangerl terms the Squirearchy.[19] Wallingford's unusual position arose from its charter granted in 1155 allowing it to have its own guild and burgesses ruling the town. This meant that Wallingford did not have a local aristocracy. The traders had governed the town for several centuries and JPs who were merchants were a well-established part of how order was maintained.

The 1881 census records show that of the magistrates in the study period, only Richard Wilder was born in Wallingford.[20] Thomas Pettit was born in Suffolk. This is evidence of the degree of mobility of people and how men could become successful on the basis of trade. Older established families of Wallingford however had not totally lost influence. Sidney and William Payne were first

[17] Quoted in Carl H. E. Zangerl, 'The Social Composition of the County Magistracy in England and Wales, 1831-1887', *Journal of British Studies*, 11 (1971), 113-125 (p.113).
[18] Zangerl, p.115.
[19] Zangerl, p.115.
[20] TNA, RG11/1294 and RG12/986, Census Enumerator Returns for Wallingford, 1881 and 1891.

cousins and Sidney's father was on the WBB in 1850. [21] Another cousin, John who had established a jeweller's shop in Wallingford in 1834, had been chief magistrate in 1852.[22] In the 1870s three shops owned by the Payne family were in Wallingford market place and the family were very important in the retail economy of the town.[23]

Table 2.2 shows a strong link between the bench and the town council. Six of the JPs were, or would be, aldermen and one was a town councillor of long-standing. Four also held the position of mayor during this decade. It appears that the ambitions of the *Municipal Corporations Act* to make the bench more independent of the town administration did not have an enduring impact in Wallingford.[24]

In the 1880s the magistrates of the WBB were important, influential burgesses of the town involved in commerce, administration and justice. They would have been well known by the community who saw their shops, even if they did not have the money to use them. An observer today might be concerned that these few men were setting, and enforcing, the regulations which governed their own businesses. A Victorian view would possibly have just seen them as successful men carrying out their civic responsibilities, which Martin Daunton suggests was an important part of maintaining their reputation.[25]

The offences tried

The first half of the nineteenth century saw an increase in criminal prosecutions nationally. This was a result, in part, of the increase in statutory offences and the

[21] Judy Dewey, and Stuart Dewey, *Payne and Son: Two centuries of a Family Firm* (Cholsey: Pie Powder Press, 1990), p.19.
[22] Dewey, p.11.
[23] Dewey, p.11.
[24] Emsley, p.37.
[25] Martin Daunton, 'Society and economic life', in *The Nineteenth Century: The British Isles 1815-1901* ed. by Colin Matthew (Oxford: Oxford University Press, 2000), pp.41-82 (p.79).

effectiveness of the new police. Concerned that the justice system would block up under this extra demand, the government increased the range of offences which could be tried summarily (that is at petty sessions without a jury).[26] One area where the power of magistrates increased related to property crimes such as theft. The *Criminal Justice Act 1855* gave petty sessions authority to hear cases of larceny and embezzlement of less than five pounds. Over the next two decades this jurisdiction was extended until ninety percent of property crime was tried before magistrates.[27]

Between 1880 and 1891, 1143 prosecutions were brought before the WBPS. These covered a wide range of offences as can be seen in Figure 2.3. Many of these offences were not serious and resulted in a small fine or a caution. Some however were among the most serious offences which could come before any criminal court. In November 1883 the bench heard a complaint by Fanny Strange, a thirteen-year-old servant who alleged that she had been raped by the son of her employer.[28] After hearing evidence for several hours, the magistrates dismissed the case allowing the alleged assailant to go free, and charged Fanny with perjury. She subsequently appeared before the Assizes and was sentenced to four months imprisonment and four years in a reformatory. Overall, however, in the twelve years studied, only twenty-five defendants were sent for trial by jury at a higher court.[29] Ninety-eight percent were dealt with completely by the magistrates. This

[26] Bentley, p.19.
[27] *Criminal Justice Act 1855, 18&19 Vict. Ch.126*; George Behlmer, 'Summary Justice and Working-Class Marriage in England, 1870-1940', *Law and History Review*, 12 (1994), 229-275 (p.232).
[28] RM, 10 November 1883.
[29] BRO, PS/W1/3-5.

accords with the findings of other studies and supports the conclusions of Margot Finn that petty sessions were the face of the criminal law.[30]

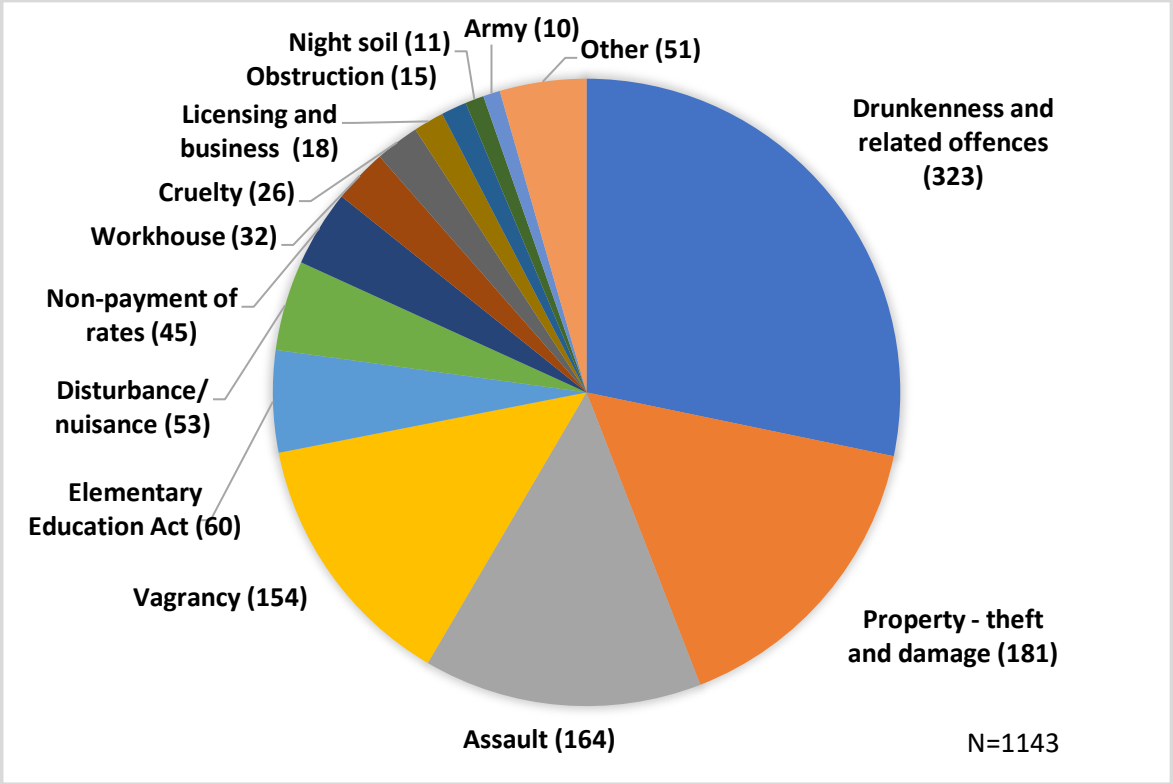


Figure 2.3: Offences prosecuted before WBPS 1880-91.[31]

Figure 2.3 shows that over half of the prosecutions concerned the traditional work of JPs around drunkenness, vagrancy and disorder. Other prosecutions were for statutory offences more recently created such as those under the *Elementary Education Acts*.[32] The number of prosecutions varies considerably year-on-year. For offences like drunkenness or vagrancy which were generally prosecuted by the police, this may be the result of changes in official priorities due to resources or political pressure. Similar variation however is also seen in prosecutions of

[30] Bentley, p.19; Margot C. Finn, 'The Authority of the Law', *in Liberty and Authority in Victorian Britain*, ed. by Peter Mandler (Oxford: Oxford University Press, 2006), pp.159-178 (p.162).
[31] BRO, PS/W1/3-5.
[32] *Elementary Education Acts 1876 and 1880*, *39 & 40 Vict. Ch. 79*.

assault and theft which are brought by individuals and are not subject to these pressures. Figure 2.4 shows the number of prosecutions for assault as a proportion of all prosecutions in each year. The year-on-year variations are unlikely to be caused by factors such as multiple defendants being prosecuted together as the assaults are generally one against one. Also, they appear not to be events such as rioting which can lead to a large number of assaults. The willingness of people to bring a prosecution was possibly affected by factors relating to the court. The most significant change in the operation of the court over time was of the chief magistrate. If this influenced people bringing prosecutions, it would suggest that the working of the petty sessions was known well enough by the community to influence their view about the value of bringing prosecutions.

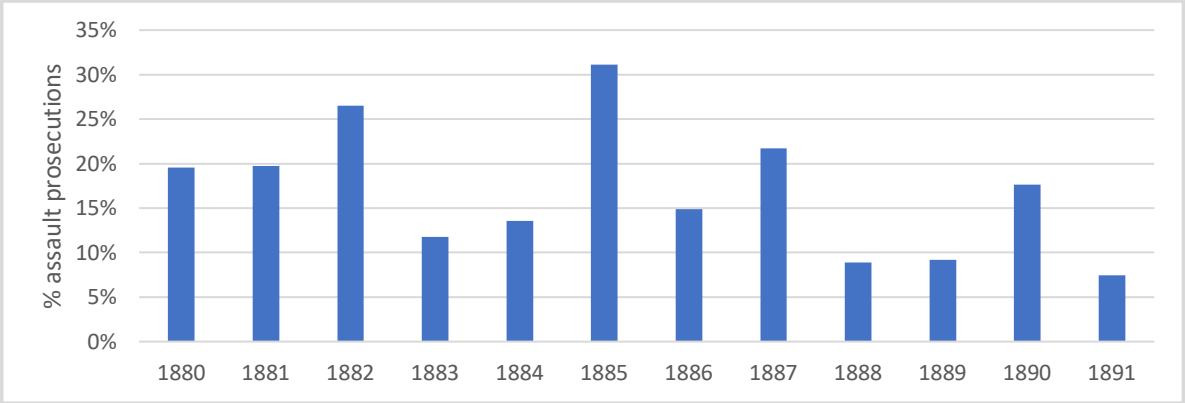


Figure 2.4: Proportion of prosecutions 1880-91 which were for assault, by year.[33]

Weekly petty sessions sometimes attracted considerable public interest. This was especially likely if a well-known person of the town was involved. One such was Joshua Beaumont who was brought before the bench for failing to maintain his wife and children.[34] Joshua had previously been a solicitor's clerk in the town and

[33] BRO, PS/W1/3-5.
[34] BRO, PS/W1/3-5.

his trial attracted such interest that proceedings were moved from the council chamber to the large hall.[35]

The court proceedings

The *Summary Jurisdiction Act 1848* was the first, and most significant, of a series of acts which set out the process to be used in petty sessions.[36] These statutes were intended to clarify court proceedings to ensure consistency of justice. The laws specified that hearings should be open to the public, evidence could be heard from both prosecution and defence, and that both should be allowed to call and cross-examine witnesses.

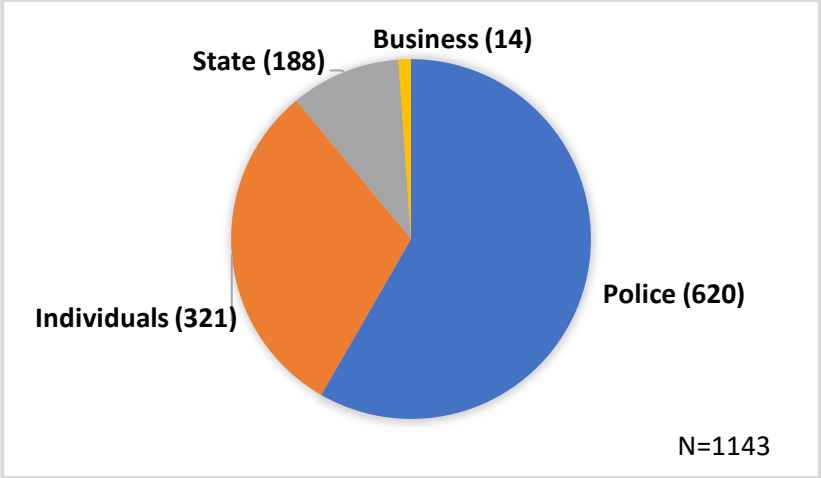


Figure 2.5: Prosecutors 1880-91 by type.[37]

Figure 2.5 shows that about seventy percent of the prosecutions heard by the WBPS were brought by the police or by a representative of another state institution such as the master of the workhouse or a town council officer. The others were brought by individuals and businesses. The proportion of prosecutions brought by businesses was very small. This suggests that the

[35] RM, 1 February 1990.
[36] *Summary Jurisdiction Act 1848.*
[37] BRO, PS/W1/3-5.

magistrates, who were predominantly traders of the town, were not primarily using the petty sessions in their own interests, as has been argued by writers looking at other benches.[38]

Hearing witnesses for both prosecution and defence was a regular part of proceedings even in apparently simple cases. In the period studied, twenty-two percent of prosecutions involved the evidence of witnesses as well as the complainant or police officers. It appears that the magistrates saw this as important in hearing the full story. In 1891 the prosecution of a boy for breaking a window with a catapult was adjourned for a week in the middle of the hearing so that a child witness who may have seen the offence could be found.[39]

Thirty-eight of the prosecutions for drunkenness included evidence from witnesses who were not police officers. In a notable case in April 1883 when Thomas Wakelin was charged with drunkenness, witnesses included the arresting officer, two other witnesses for the prosecution and four for the defence.[40] After the lengthy hearing Thomas was convicted and fined two shillings and sixpence. It is unlikely that so many would be involved in a simple prosecution in a magistrate's court today. This may be a sign of how the offence was treated more seriously in the Victorian period, an aspect which is discussed further in Chapter 3. It may also suggest that people were more willing to be involved in court cases in the 1880s, either because of interest in the proceedings or a sense of civic duty. In a study of criminal justice in Cheshire in the mid-nineteenth century, Andrew Barrett concludes that, despite the increased professionalism of the police, the public

[38] Emsley, p.37.
[39] *Berks and Oxon Advertiser*, 13 November 1891, p.8.
[40] RM, 21 April 1883, p.4.

remained the most important source of information.[41] Whatever the motivation, it appears that the evidence of witnesses was given due weight. Out of fourteen prosecutions for drunkenness where defence witnesses were called, ten were dismissed. This further supports the argument that the proceedings of the WBPS were far from the 'cursory' justice identified by Eastwood in the earlier part of the century.[42]

Representation in court by a lawyer had been lawful since 1836 but was not common. In the twelve years studied, fifty-three individuals were legally represented before the WBPS, most often by George Frederick Slade. George had set up a solicitor's office in Wallingford in 1881 and very quickly made a name for himself as an effective advocate, initially defending, but later also acting for complainants and the police. The majority of his criminal cases concerned theft or assault but they also included simple charges like drunkenness. His fees in the early part of the decade for a single attendance before the bench would have exceeded the weekly income of a domestic servant and would have been a significant part of the income of a labourer. Despite this, evidence that some working-class people were willing to pay for his assistance suggests confidence in the law and the legal process. In 1881 Edward Broadway a postman paid George ten shillings and sixpence for representing him in a case of bastardy and in 1882, Henry Hoare a labourer paid ten shillings for being represented when he was accused of assault. [43] There is evidence that George was willing to reduce or even waive his fee for poorer clients. In September 1882 George accepted ten

[41] Andrew A. Barrett, The System of Criminal Justice in Cheshire, 1820-75 (unpublished doctoral thesis, University of Keele, 1996) p.95.
[42] David Eastwood, p.94.
[43] Slade Solicitors cash register 1881 to 1884, in possession of Davd Slade, great grandson of George Frederick Slade, pp.2&8.

shillings and sixpence as payment of account of one guinea from George Wells, a labourer, who he had represented in a charge of assaulting a police officer.[44] Other cases in which George represented labourers, and even paupers, before the court do not appear in his cash register suggesting that he worked *pro bono*.

Conclusion

The development of petty sessions courts in the nineteenth century is often seen as one of progressive improvement, standardisation and professionalism.[45] At the start of the century they were seen as places where justice was handed out in a sometimes cursory and arbitrary manner which varied significantly depending on the magistrate. By 1900 they were viewed as courts acting professionally and following clear rules and procedure.[46] Writers such as Phillips argue this generalisation ignores how petty sessions varied, but it broadly fits the picture of the WBPS presented in this chapter.[47] By the 1880s the WBPS was a formal public court following accepted rules.

All seven JPs were active in at least six years of the study period, and four sat in all twelve years. Two-thirds of the hearings were before three or more JPs who changed little during the period studied. The bench decided ninety-eight percent of the cases coming before it and the courts kept detailed records complying with the *Summary Justice Act 1879*.[48] Although three quarters of the prosecutions were brought by the police and other borough officials, the 321 prosecutions

[44] Slade Solicitors Cash Register, p.60.
[45] For example, Barry Godfrey and Paul Lawrence, *Crime and Justice since 1750 2nd edn* (Abingdon: Routledge, 2015), p.54
[46] Eastwood, p.89.
[47] David Phillips, *Crime and Authority in Victorian England: The Black County, 1835-1860* (London: Croom Helm, 1977), p.24.
[48] *Summary Justice Act, 1879, 42&43 Vict. Ch.49.*

brought by individuals suggest that the petty sessions were not just a mechanism of control by the borough ruling classes.

But, even if this description of the court is accurate overall, questions remain about the extent to which this was true for all those who had dealings with it. Did all the people being brought before, or asking for help from, the magistrates enjoy a similar experience or was justice serving some groups better than others? The next chapter looks at the way that most people experienced the petty sessions – as defendants. It examines the extent to which factors like social status, and gender affected the way in which they were dealt with by the magistrates.

Chapter 3 – Defendants

On Saturday 17th March 1888, Harry Dandridge was brought before the magistrates. He was charged with being drunk and using obscene language in Wallingford High Street.[1] Harry was no stranger to the court having previous convictions for drunkenness and serving a term of imprisonment for the theft of a heifer the previous year. On this occasion police constable Foster gave evidence which was corroborated by constable Reed. Harry pleaded not guilty and, in his defence, he called his friend William Whitear, the twenty-year-old son of a local carrier, who had been Harry's drinking companion. William told the magistrates that he had been with Harry all evening and did not hear any obscene language. The charge against Harry was dismissed which may be seen as quite a lenient result considering his previous record. Through modern eyes, the charge was routine and not serious but the magistrates took the time to listen to the evidence of a witness and decide that it balanced that of two police officers.

Harry was twenty-eight years old, and worked as a butcher.[2] He was one of the traders on which the wealth of Wallingford was based.[3] William was also from a family connected with trade in the town. Would Harry have received such a sympathetic hearing if he had been a labourer or a vagrant, or if he had been female with no occupation outside the home? In her study of criminal justice in

[1] Berkshire Record Office (BRO), PS/W1/3, Minute book of court of summary jurisdiction at Wallingford.
[2] *Kelly's Directory of Berkshire, 1887*, p.175.
[3] The National Archives (TNA), RG12/986 Census Enumerator Returns for Wallingford 1891.

Kent, Colney concludes that criminality was a factor of gender and social class.[4] To what extent did these factors affect the WBPS?

This chapter explores people's experience as defendants. On average, about eight people a month found themselves before the magistrates charged with, or summoned for, offences. The chapter discusses who these people were, and the extent to which who they were influenced the offences for which they were prosecuted, and the verdicts and sentences which they received.

Identifying the defendants

The primary source of information about defendants before the WBPS is the court minute book.[5] This is the official record of hearings completed contemporaneously by the court clerk and as such, is the most authoritative information available. The account however is often brief and sometimes difficult to read. This study follows the approach of Conley in cross-referencing the official record with reports in local newspapers to allow a fuller account of the hearings to be uncovered.[6] Comparing the two accounts sometimes exposes discrepancies in the information and, where this is found, the court record is treated as authoritative.

Census records are used to identify defendants definitively and determine their occupation.[7] Edward Higgs discusses the difficulties of using census information in this way. These include errors by the heads of households, census enumerator or transcriber and people using middle names.[8] Most importantly for this research, different members of households, and communities, could have the same name.

[4] Carolyn A. Conley, *The Unwritten Law: Criminal Justice in Victorian Kent* (Oxford: Oxford University Press, 1991), p.6.
[5] BRO, PS/W1/3-5.
[6] Conley, p.14.
[7] TNA, RG11/1294 and RG12/986.
[8] Edward Higgs, *Making Sense of the Census Revisited* (London: University of London, 2005), p.19.

Additionally, because this study relies on the names which people gave to police or the court, some may have used aliases to avoid a criminal record being exposed. Higgs also concludes that there are inadequacies in the data relating to occupation, such as the under-representation of work by women and the tendency of individuals to overstate the importance of their occupational role. Despite these drawbacks, census data is commonly used in this way. This study takes two broad approaches to minimise sources of error. First, original manuscript census enumerator records are used to avoid transcription error. Secondly, the work tries to identify people in more than one census so that inconsistencies of name can be uncovered.[9]

Newspaper accounts and court minute books sometimes include information on occupation, age and residence which helps to identify defendants. Where this information can be cross-referenced to clear entries in the census records, this is taken as positive identification of a defendant. For those not identified in this way, a system of family reconstruction is used. This allows defendants to be identified from their relationship with other family members, or through neighbours, who were witnesses, or sometimes victims of the offence. For example, in 1880, Mary King was prosecuted for assault by Eliza Green.[10] Both of these names were common in Berkshire. The census records that in 1881, women with these names were next door neighbours in St Leonards Lane, Wallingford. Also, a witness at the hearing was Florence Massey the wife of a blacksmith living nearby. This points to the defendant being a thirty-eight-year-old dressmaker. Finally, the information from the courts, newspapers and censuses is cross-referenced with

[9] Higgs, p.80.
[10] BRO, PS/W1/3.

street directories and published sources about traders in Wallingford.[11] In this way, the identities and occupations of 609 defendants have been established.

Additionally, the occupations of another 316 defendants are shown in the court record and newspaper accounts but these people cannot be traced in the censuses. These are predominantly defendants described as tramps. They are included in the study because, even if the occupation stated in court by the defendant was inaccurate, it was information on which the decisions of the bench were based. In total the occupations of 925 defendants have been established out of a total of 1141 prosecutions against individuals as shown in Table 3.1. It has not been possible to determine the occupation of 216 defendants.

	Male	Female
Occupation identified	811	114
Occupation not identified	194	22
Total	1005	136

Table 3.1: Number of defendants before WBPS 1880-91 whose occupation is known and not known.[12]

This study uses occupation to classify defendants in social class groups. Stephen Royle argues that this is the best way to estimate social class, but accepts that it can be controversial.[13] Royle suggests that the most commonly used system of

[11] Christina Eke and Lynne Thorpe, *Public House Families of Wallingford 1785-1920* (privately published) n.d.; Christina Eke, *Filth, Nuisances and Waste of Wallingford (The Workers and Their Families*) (privately published) 2019; Christina Eke, *Local Carriers and their Families around the Wallingford Area 1830-1930* (privately published) 2017; *Kelly's Directory of Berkshire, 1887, pp.174-6*.
[12] BRO, PS/W1/3; TNA, RG11/1294 and RG12/986.
[13] Stephen A. Royle, 'Stratification from Early Census Returns: A New Approach', *Area*, 9 (1877), 215-219 (p.215).

categorising class based on occupation is the five General Register Office classes adapted by Armstrong. [14] These are:

- Class I Professional occupations
- Class II Intermediate occupations
- Class III Skilled occupations
- Class IV Partly skilled occupations
- Class V Unskilled occupations

The ideas of Armstrong are not used in this study for two reasons. First, as found in other studies, defendants before the WBPS were predominantly from the working classes. [15] Only twenty-seven were from professional or middle-class households. Following the ideas of Morris, the classification scheme needs to fit the context of the work. It should consider categories of working people and also includes those with no occupation like tramps and paupers. [16] Secondly, Armstrong groups people who describe themselves as dealers with other merchants. [17] In Wallingford of the 1880s, the term dealer seems more synonymous with hawker operating at the edges of the law. This work adapts the approach of Margaret and Dennis Warwick in their study of social stratification in Yorkshire. [18] The eighty-one different occupations shown for the 925 defendants are assigned into nine groups shown in Table 3.2 which is arranged in a rough order of status. The classification scheme follows Warwick in assuming

14 Royle, p.215.
15 Shani D'Cruze, 'Sex, Violence and Local Courts: Working-class Respectability in a Mid-Nineteenth-Century Lancashire Town', British Journal of Criminology, 39 (1999), 39-55 (p.39).
16 R. J. Morris, 'Document to Database and Spreadsheet', in Research Methods in History 2nd edn, ed. by Simon Gunn and Lucy Faire, (Edinburgh: Edinburgh University Press, 2016), pp.147-169 (p.150).
17 Higgs, p.138.
18 Margaret and Dennis Warwick, 'Burley-in-Wharfedale in the Nineteenth Century: A Study of Social Stratification and Social Mobility', *Local Population Studies*, 54 (1995), 40-54 (p.43).

households have a common economic status shown by the occupation of the head. Details of the occupations included in the groups in Table 3.2 can be seen at Appendix A.

Occupational group	Male	Female
Professional (including Middle class and white collar)	23	4
Traders	107	9
Skilled workers (including artisans)	74	18
Apprentices (including assistants)	19	0
Dealers	18	0
Labourers	189	23
Other unskilled workers (including servants)	141	18
Paupers	52	11
Vagrants	188	31
Total	811	114

Table 3.2: Defendants before the WBPS 1880-91 by gender and occupational group.[19]

Labourers, vagrants and unskilled workers were the most common defendants but ten percent were traders coming from the same group as most of the magistrates. About twelve percent of defendants were women, but this rises to almost twenty percent of the skilled worker occupational group. To examine how different groups were treated, this study looks at the most common offences to be prosecuted. These are drunkenness, assault and theft.

Drunkenness

Between 1880 and 1891 there were 316 prosecutions for drunkenness amounting to thirty percent of all prosecutions. These are detailed in Table 3.3. Dealing with

[19] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

offences against public order like drunkenness was a traditional role of magistrates.[20] In the Victorian period the offence was considered to be more serious than by courts today with some offenders being imprisoned.[21]

Occupational group	Drunkenness prosecutions (Convictions)	Number imprisoned	Median sentence	Number fined	Range of fines (shillings)
Male defendants					
Professional	1 (1)	0	-	1	5.0
Traders	23 (16)	4	3 weeks	12	1.0-5.0
Skilled	18 (12)	0	-	12	1.0-5.0
Apprentices.	3 (2)	0	-	2	1.0-1.5
Dealers	4 (4)	0	-	4	2.5-5.5
Labourers	61 (45)	0	-	45	1.0-10.0
Unskilled	21 (12)	0	-	12	1.0-5.0
Paupers	8 (4)	1	14 days	3	1.5-2.5
Vagrants	39 (31)	6	7 days	25	1.0-5.0
Total	178 (127)	11	14 days	116	
Female defendants					
Traders	1 (1)	0	-	1	2.5
Skilled	7 (6)	0	-	6	2.5-5.0
Labourers	11 (6)	1	7 days	5	2.6-5.0
Unskilled	3 (2)	0	-	2	5.0-10.0
Paupers	3 (1)	0	-	1	1.0
Vagrants	20 (7)	0	-	7	1.0-5.0
Total	45 (23)	1	7 days	22	

Table 3.3: Prosecutions for drunkenness 1880-91 by occupational group and gender of defendant.[22]

[20] Finn, Margot, C., 'The Authority of the Law', in *Liberty and Authority in Victorian Britain*, ed. by Peter Mandler (Oxford: OUP, 2006), pp.159-178 (p.162).
[21] Jose Harris, *Private Lives, Public Spirit: Britain 1870-1814*, (London: Penguin, 1993), p.212.
[22] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986).

Over ninety percent of the prosecutions were brought by the police. These generally followed the arrest of someone being disorderly or someone from outside the town being found incapable through drink. Townspeople found incapable appeared to be helped to their home by police who would then report them for summons, as in the examples below. All of the defendants were over the age of fourteen and they came from all occupational groups but, as can be seen from Table 3.3, one third were labourers. The number of prosecutions may suggest that the police used the legislation against drunkenness as their primary tool to keep order on the streets and enforce authority. But there are signs that the magistrates took a more lenient and understanding view than the police. Almost a third of the drunkenness prosecutions were dismissed.

In March 1891, William Pritchard, a navvy working on the new sewage works in the town, was arrested having been found by police lying drunk outside the Fat Ox public house. The magistrates dismissed the charge and summoned Caleb Bosely, the landlord of the Fat Ox to the court. They told him that he was to blame for 'putting the defendant out in the street'.[23] Possibly the justices viewed drunkenness as acceptable as long as it remained within licence premises. In July 1990 Thomas Sery, a tramp, had a charge of drunkenness dropped when he asked for understanding from the bench as he 'had been harvesting all day'.[24] Other dismissals appear more based on a sceptical view of police evidence. This can be seen in the example of Harry Dandridge where magistrates chose to accept the word of the defendant and his drinking companion rather than that of two police officers.

[23] Reading Mercury (RM), 6 November 1880, p.5.
[24] RM, 6 August 1890, p.5.

Benjamin Thomas, a forty-seven-year-old cabinet maker was before the court in February 1884. Police constable Mason gave evidence that he found the defendant lying on the ground 'beastly drunk' and had to be dragged home with the help of the defendant's wife.[25] Benjamin was defended at court by solicitor George Frederick Slade who called witnesses to say the defendant was not drunk. The magistrates dismissed the charge before the defence had completed its evidence. When asked for their reasons by police superintendent Borlase, the bench declined to give any but suggested that they did not believe the police officer. They advised the superintendent that he should take advice over prosecutions from the chief magistrate rather than the chief constable in Reading.

The chief magistrate's statement suggests two things about the WBPS. First, there was a tension between the local magistrates of Wallingford and the command of the county constabulary who had taken responsibility for policing Wallingford in 1856. Although twenty-nine years later it is possible that the borough magistrates still regretted the loss of control over this aspect of keeping order in their town. A similar tension is also seen by Davis in her study of London stipendiary magistrates who took an unsympathetic view of police who were no longer under their control.[26] . Secondly, the WBPS saw its role as setting the standards of public order in Wallingford. This accords with the arguments of Conley who sees magistrates as upholding 'community law' influenced by local values.[27] Davis argues that one of the challenges magistrates faced in the later

[25] RM, 16 February 1884, p.4.
[26] Jennifer Davis, 'A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (2009), 309-335 (p.328).
[27] Conley, p.15.

nineteenth century was being seen as 'creatures of the police'.[28] There was certainly no suggestion of this in Wallingford.

Considering the four main occupational groups predominantly made up of people living in the borough, there is little variation in the verdicts and sentences they received. Figure 3.1 compares the conviction rate and average fine for male defendants. This shows that traders, who could be seen as a higher social group, were not treated more leniently than the workers in the other groups. Imposing similar fines on defendants with different levels of prosperity could suggest that the poorer labourers and unskilled workers may have been disadvantaged. It might also be an example of the magistrates following an agreed tariff.

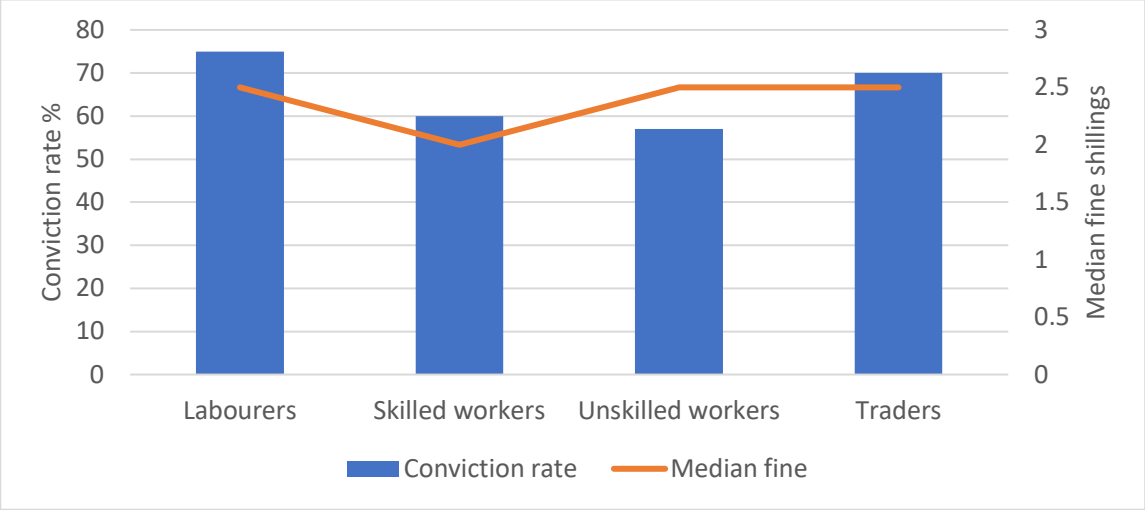


Figure 3.1: Conviction rate and median fine for adult male drunkenness 1880-91 by occupational group[29]

Nineteen percent of those prosecuted for drunkenness were women, a similar proportion to that reported by Finn.[30] It appears that the bench was more reticent

[28] George Behlmer, 'Summary Justice and Working-Class Marriage in England, 1870-1940', *Law and History Review*, 12 (1994), 229-275 (p.237).
[29] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.
[30] Finn, p.163.

to convict women than the police were to charge them. Forty-five percent of women defendants were convicted compared to sixty-seven percent of men. An example is Sarah Anne Wells, the twenty-four-year-old wife of labourer George Richard Wells, known by the nickname 'Smuggler'. Sarah was arrested twice by the police for being drunk and disorderly but both times the magistrates dismissed the case against her deciding that she was not drunk but 'just excited'.[31] On both occasions Sarah had been with her husband and the hesitancy of the bench to convict may in part be due to a traditional legal principle that a husband is responsible for his wife's actions. In a study of the involvement of women in workplace crime in mid-nineteenth century Yorkshire, Barry Godfrey finds that this principle influenced many magistrate's decisions on all offences despite relating only relating to felonies.[32]

Where a woman was convicted for drunkenness however, it can be seen from Table 3.3 that she was likely to receive a higher fine than a man convicted for a similar offence. The average fine for men of two shillings and fourpence was less than two-thirds of the average fine for women of three shillings and eight pence. This could be because only the most serious cases of drunkenness by women were convicted. It could also support the conclusion of Godfrey that women convicted were punished more harshly because they were seen to be failing moral standards.[33] Similarly Andrew Ashworth and Lucia Zedner conclude that at the time, the legal system saw women as a 'problem population'.[34]

[31] BRO, PS/W1/3-5.
[32] Barry Godfrey, 'Workplace Appropriation and the Gendering of Factory "Law"', in *Gender and Crime in Modern Europe*, ed. by Meg Arnot and Cornelie Usborn (London: Taylor and Francis Group, 1999), pp.137-148 (p.143).
[33] Godfrey, p.142.
[34] Andrew Ashworth and Lucia Zedner, *Preventative Justice* (Oxford: Oxford University Press, 2014), p.46.

The only defendant shown in Table 3.3 from the professional occupational group was William Calvert, a veterinary surgeon who was found by police lying drunk on the footway, unable to walk. The constable helped William to his home and reported him for summons. At the hearing on the following Saturday, the chief magistrate expressed his sadness that 'a person of the defendant's respectability and intelligence' should be brought before them, and fined William five shillings.[35] It seems that the magistrates did not increase the fine due to the social position and relative wealth of the defendant. This supports the idea that the magistrates had a, possibly informal, tariff to guide their decisions.

It appears that William Calvert had what would now be called a drink problem, as in 1891 he had ten pounds in gold stolen from him when he was drunk. The alleged culprits were the labourer George 'Smuggler' Wells and his wife Sarah Ann, whose home William had visited one evening for reasons which were not made clear to the court. At the subsequent trial William's housekeeper, Rose Smewing, gave evidence that he often came home intoxicated.[36] Possibly there were other nights when he was helped home but his position in the town protected him from more regular prosecution. 'Smuggler' and his wife were subsequently acquitted by the assizes.

The magistrates had power to punish those before them with imprisonment. Table 3.3 shows that this was rarely used except for vagrants. Two traders however, were imprisoned twice in the period studied. They were both persistent offenders. When one of them, Thomas Wakelin a butcher, was sentenced to one month with hard labour for being drunk, this was the eighth time he had appeared before the

[35] RM, 17 November 1888, p.4.
[36] Berks and Oxon Advertiser (BOA), 23 January 1891, p.8.

magistrates in fourteen months. The chairman of the bench said that the prison sentence was necessary because Thomas 'had come before them so frequently'.[37] This approach however does not seem to be applied consistently. For example, 'Smuggler' Wells was before the bench on twenty-two occasions in the study period but never imprisoned. Possibly higher standards were expected of traders than labourers.

Overall, the number of men convicted for drunkenness who received only a one shilling fine shows that this offence was not a high priority for the WBPS. Despite this, the percentage of prosecutions dismissed, sometimes even following a guilty plea by the defendant, suggests that evidence was carefully considered. It also suggests an independence of the bench similar to that identified by Conley where magistrates in Kent enforced community law reflecting local standards and values rather than being constrained by centralised control.[38]

The presence of witnesses and legal representation again show that proceedings were far from the 'cursory' justice David Eastwood sees in petty sessions courts earlier in the century.[39] If labourers had a higher chance of being convicted, it is only a small percentage more than traders. The few women convicted could expect a higher fine than men but overall, there are signs that justice was evenly and fairly dispensed.

Assault

One hundred and forty-three prosecutions for assault were heard by the WBPS between 1880 and 1991.[40] Only one of these, a fight between two thirteen-year-

[37] RM, 19 April 1884, p.4.
[38] Conley, p.3.
[39] David Eastwood, *Governing Rural England: Traditions and Transformation in Local Government 1780-1840*, (Oxford: OUP, 1994), p.94.
[40] BRO, PS/W1/3-5.

old boys, involved a defendant under fourteen years of age. Eighty-seven percent of the defendants can be identified in the census or other records. Prosecutions for assault were predominantly between adult townspeople and often, as will be seen, between neighbours and families.

Occupational group	Assault prosecutions (Convictions)	Number imprisoned	Median sentence	Number fined	Range of fines - shillings	Number bound over
Male defendants						
Professional	6 (2)	0	-	2	1.0-2.5	2
Traders	27 (12)	1	1 month	11	2.5-200	1
Skilled	15 (5)	1	1 month	4	1.0-40	4
Apprentices	2 (0)	0	-	0	-	0
Dealers	5 (2)	0	-	2	7.5	1
Labourers	26 (11)	4	1 month	7	1.0-5.0	5
Unskilled	20 (6)	2	1 month	4	1.5-5.0	3
Paupers	6 (5)	5	14 days	0	-	1
Vagrants	2 (2)	2	21 days	0	-	0
Total	109 (45)	15	1 month	30	1.0-200	17
Female defendants						
Professional	3 (1)	0	-	1	1.0	0
Skilled	5 (2)	0	-	2	1.0-5.0	1
Labourers	3 (1)	0	-	1	1.0	1
Unskilled	3 (3)	0	-	3	1.0-2.5	0
Paupers	2 (1)	1	14 days	0	-	0
Total	16 (8)	1	14 days	7	1.0-5.0	1

Table 3.4: Prosecutions of adults for assault 1880-91 by gender and occupational group of defendants.[41]

Table 3.4 shows that fifty-three of the one hundred and twenty-five prosecutions resulted in a punishment of imprisonment or a fine. This is a significantly lower conviction rate than for drunkenness offences. Eighteen offenders were bound-

[41] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

over in an undertaking that they would not offend again for a fixed period. Even taking these into account, forty-four percent of prosecutions were dismissed or withdrawn.

For women defendants, the proportion of prosecutions leading to conviction was higher than for men but, similar to convictions for drunkenness, women were much less likely to be imprisoned. Only one woman, Keziah Dixey a pauper in the union workhouse, was imprisoned for assaulting another female inmate. In comparison, a third of the men convicted for assault were sent to prison. Generally, this did not exceed one month, though Charles Harvey, a sixteen-year-old boy still at school received four months with hard labour for the aggravated assault on eight-year-old Eliza Ann Weston.[42] Although details of the offence are not set out in the court record the comments of the chief magistrate suggest it is likely to have been an indecent or sexual assault.

In twenty convictions, a fine of only one shilling was imposed. This was the minimum fine which the court imposed. It suggests that the magistrates did not view some of the assaults as very serious. The bench made its view clear in some of the prosecutions which were dismissed. When Henry Hoare was summoned for assaulting Walter Scott Massey in the Green Tree public house, the magistrates dismissed the assault as 'trifling'.[43] The reasons why people might have gone to the trouble and expense of bringing these prosecutions will be explored in the next chapter. Overall, the fifty-five prosecutions which were dismissed, added to the twenty for which the fine was small, suggests that the bench did not see an

[42] RM, 16 April 1881, p.4.
[43] RM, 28 January 1882, p.5.

important role for itself in dealing with the day-to-day petty violence and threats between people of the town.

However, the punishment of Charles Harvey described above showed the bench willing to deal severely with those it saw as crossing the line from routine, day-to-day incidents, to unacceptable violence. In two cases, defendants were committed for trial at the assizes. Both of these were assaults connected with a theft and both defendants were sentenced to long periods of imprisonment at their subsequent trials.[44] The approach of the bench can also be seen in prosecutions of men for what would today be termed domestic violence and in Victorian times often referred to in the press as 'wife beating'.[45]

Twenty-two men were prosecuted for assault on their wives or daughters.[46] Three of the prosecutions were withdrawn and one was dismissed, but all others resulted in a conviction or bind-over. This demonstrates a serious view of these offences when generally almost half of assault prosecutions were dismissed. Violent husbands and fathers did not get a sympathetic hearing before the WBPS. This contrasts with the findings of Conley who concludes that, at this time, the male representatives of justice often sympathised with men.[47] A guide on sentencing for magistrates published in 1877 even suggests that women victims often got what they deserved.[48]

There is evidence that the Wallingford bench sometimes took a more serious view of these offences than the community, as can be seen in the case of Edwin Evan

[44] *Reading Observer*, 13 January 1883, p.8; RM, 17 November 1888, p.2.
[45] BOA, 12 November 1889, p.4.
[46] BRO, PS/W1/3-5.
[47] Conley, p74.
[48] Nancy Tomes, 'A "Torrent of Abuse": Crimes of Violence between Working-Class Men and Women in London, 1840-1875', *Journal of Social History*, 11 (1978), 328-345 (p.339).

Steele. Edwin was a fifty-three-year-old butcher who was summoned for assaulting his twenty-four-year-old wife, Clara. They had only been married a few months. Clara complained of a range of assaults including being hit with a whip and immersed in a water butt. At the hearing Edwin was represented by a solicitor and called a number of witnesses who spoke of Clara's bad behaviour, spending money on dresses, going to public houses and using bad language towards her husband. The bench was not swayed by this argument that Edwin was provoked, and he was fined ten pounds, a very large sum at the time. The press however showed little sympathy towards Clara and reported that she 'perambulated decorated with ribbon' after the hearing.[49]

But some defendants had gone too far for the magistrates not to impose imprisonment. In July 1886 Maria Wood summoned her husband Richard in relation to a series of assaults on her. Richard had been before the court for a similar offence the previous year but had escaped punishment by saying he was going into a 'home for intoxicants'.[50] Whether that actually happened is unclear but on this occasion the court sentenced Richard to one month imprisonment with hard labour, and also used a new power to grant Maria a separation order. Richard had been a Wallingford town councillor in the 1870s. He was a colleague of the men who were sentencing him. It is possible that this was a factor in the magistrates giving him another chance in 1886 but treating him quite severely when he reoffended.

[49] BOA, 12 July 1889, p.4.
[50] RM, 2 August 1884, p.5.

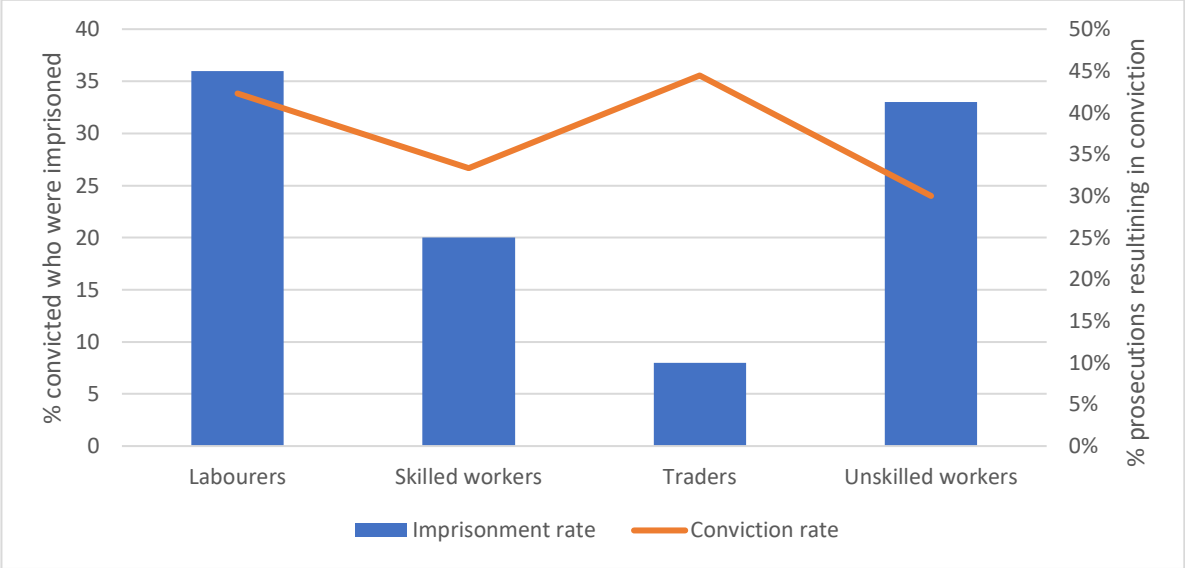


Figure 3.2: Percentage assault defendants convicted 1880-91 and percentage who were imprisoned, by occupational group.[51]

Generally, the magistrates dealt quite strictly with traders prosecuted for assault. Figure 3.2 shows traders were most likely to be convicted, but at the same time, they were also much less likely to receive imprisonment. The reasons for this might be seen in the prosecution against Edwin Steele. The chairman of the bench said that they had considered imprisonment but chose instead a heavy fine, in the interests of his business.[52] The bench expected the traders of the town to meet certain standards, but they it not want to damage their trade.

The treatment of defendants prosecuted for assault presents a different picture of the court from their dealing with drunkenness. The charges were brought by other townspeople, who were looking to the magistrates for help. How much help they received is explored in the next chapter. There is evidence that the bench was even-handed in giving judgement. The social standing of the defendant did not

[51] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.
[52] BOA, 12 November 1889, p.4.

significantly influence the verdict, though sometimes it affected the sentence given.

Theft

The power to deal with property crime was the major extension in the role of magistrates during the nineteenth century.[53] The *Summary Procedure Act 1879* allowed petty sessions to try simple larceny where the accused person consented, and the value of property did not exceed forty shillings.[54] Other offences involving dishonestly taking property were recognised at the time, particularly obtaining goods by false pretences and receiving stolen goods. This study considers this range of offences together under the broad heading of theft to gain a picture how dishonesty was dealt with.

Jose Harris argues that protection of property has always been the priority of the legal system.[55] This is supported by writers such as Phillips who concludes that magistrates from the new industrial class often acted to protect the property of people from their class.[56] If a similar charge can be directed against the Wallingford borough magistrates, it will be apparent in the way they dealt with theft. Davis notes that the London courts were helpful to employers and tradesmen.[57] Was this true in Wallingford where these were the very class of people who comprised the bench?

In the twelve years studied, there were 141 prosecutions for theft. Defendants came from all occupational groups and a wide range of ages from six to eighty-

[53] Conley, p.19.
[54] *Summary Procedure Act 1879, 42 & 43 Vict. ch.49.*
[55] Harris, p.212.
[56] David Phillips, 'The Black Country Magistracy 1835-60', *English Historical Review*, 3 (1976), 161-190 (p.177).
[57] Davis, p.318.

three years old. Twenty-one prosecutions were of children under fourteen years old, the age at which defendants were treated as adults. Only three of these resulted in a conviction, possibly showing quite a liberal attitude to child defendants. Two of the convictions however suggest a harsher approach towards those seen as potentially persistent criminals. Richard Beckley, the eleven-year-old son of a servant coachman was accused of stealing a penknife from his school. The court sentenced him to be given four strokes of the birch, one of only two instances in the study period where corporal punishment was imposed in Wallingford.[58] Thomas Barber was convicted for stealing tuppence from the donations box of the free library in the town. The trustees had suspected that money was missing and put marked coins into the box. Police constable Hill watched and saw Thomas at the box and later found the coins on him. Thomas was sentenced to fourteen days imprisonment followed by four years in a reformatory. The chief magistrate commented that Thomas had recently been before them for damaging a school desk. He said that the punishment was necessary to stop Thomas falling into regular criminal behaviour.[59]

The most common property stolen was food which may suggest that theft was driven by poverty and hunger. However, over half of the prosecutions of children concerned the theft of food, all of which were dismissed. Combining children with adults risks distorting the data. Children were more likely to act, and be prosecuted, in groups, for example in September 1886 when four girls and two boys between the ages of six and nine were prosecuted together for stealing

[58] RM, 21 April 1883, p.4.
[59] BRO, PS/W1/3.

beans from a farmer's field. Including children in the analysis increases the apparent number of thefts and reduces the overall conviction rate.

Property stolen	Number of prosecutions	Defendant gender	
		Male	Female
Food	27	24	3
Household items	24	21	3
Cash	20	16	4
Clothing	18	14	4
Jewellery and watches	8	7	1
Animals and related items	7	7	0
Sundry items	7	7	0
Fuel – principally coal	6	6	0
Total*	117	102	15

* Property is not described in one case; two cases involving commercial fraud not included

Table 3.5: Theft prosecutions of adult defendants 1880-91 by property stolen.[60]

Overall, there were 120 prosecutions of adults for theft in the study period. For ninety-three of these the occupation of the defendant is known and sixteen percent of these were women, a smaller proportion than for drunkenness. For adults food remains one of the most common items stolen and a conviction generally did not result in a prison sentence, but was not viewed as trivial. When John Yates was fined for stealing onions from John Eggleton's garden, the chief magistrate recorded that, 'people's gardens must be protected'.[61] Apart from food, household items such as knives and linen were the most common items stolen, as shown in Table 3.5. About half of these were thefts from shops and businesses.

[60] BRO PS/PS/W1/3-5.
[61] RM, 2 February 1890.

Table 3.6 shows that defendants came from all occupational groups though, once again, labourers were the largest comprising about a third of the total. Two things from the data suggest that the magistrates viewed offences for theft very seriously.

Occupational group	Theft prosecutions (convictions)	Number imprisoned	Median sentence	Number fined	Fines range - shillings	Committed for trial
Male defendants						
Professional	1 (0)	0	-	0	-	1
Traders	9 (3)	1	14 days	2	40	3
Apprentices	4 (4)	2	21 days	2	2.5	0
Skilled	8 (3)	1	1 month	2	5-40	1
Dealers	3 (1)	1	14 days	0	-	0
Labourers	27 (12)	10	1 month	2	2.5-40	8
Unskilled	15 (4)	3	2 months	1	2.5	0
Paupers	2 (1)	1	14 days	0	-	0
Vagrant	9 (2)	2	25 days	0	-	1
Total	78 (30)	20	1 month	10	2.5-40	14
Female defendants						
Traders	1 (0)	0	-	0	-	0
Skilled	1 (0)	0	-	0	-	0
Labourers	3 (2)	1	1 month	1	2.5	1
Unskilled	5 (1)	0	-	1	40	1
Paupers	1 (0)	0	-	0	-	0
Vagrant	4 (2)	2	1 month	0	-	1
Total	15 (5)	3	1 month	2	2.5-40	3

Table 3.6: Prosecutions of adults for theft 1880-91 by gender and occupational group of defendants.[62]

[62] BOA, 12 November 1889, p.4.

First, convictions for theft of property apart from food generally attracted a prison sentence. Although only thirty-eight percent of men were convicted, more were imprisoned than were fined. This was also true for women though the number of those convicted was not large and conclusions should be approached carefully. Table 3.6 suggests that labourers had a higher chance of conviction than other occupational groups and a significantly higher chance of receiving a prison sentence.

Sixteen cases of theft were committed for trial by the WBPS in the twelve years studied. In fourteen of these cases, the magistrates did not have authority to adjudicate because of the value of the property or aspects of the theft. Only two defendants were sent for trial in cases of simple larceny where the law allowed a summary trial. Both were men with previous convictions for dishonesty and it appears that the magistrates believed the defendants should face the prospect of a more severe punishment than they had the power to inflict. Both the defendants were casual gardeners. One prosecution concerned the theft of gardening tools from his employer, and the other, the theft of a watch from a shop. The two men were subsequently convicted by a jury and received six weeks and three months respectively. Whether the prosecutors being an employer and a trader might have influenced the decision of the magistrate to impose stricter punishment is considered in Table 3.7.

There were twenty-eight prosecutions of theft by employees or from businesses in the study period. Of these, seventy-one percent resulted in conviction or committal for trial, significantly higher than the forty-eight percent conviction rate for other thefts. The magistrates appeared to give a less sympathetic hearing to defendants accused of stealing from a business or their employer. This supports

the conclusions of Phillips that industrialist magistrates in the middle decades of the century treated those accused of theft from businesses more severely.[63] Thirty years later this still appears true for the trader magistrates of Wallingford.

	Theft by employees and from business		Other thefts	
Gender	Male	Female	Male	Female
Number of prosecutions	21	7	58	7
% convicted or committed	86%	29%	48%	57%
Number imprisoned	6	1	14	2
Median sentence	1 month	14 days	1 month	1 month
Number fined	7	1	3	1
Fine range – shillings	2.5-40	40	2.5-5	2.5
Number committed for trial	5	0	11	1

Table 3.7: Prosecutions of adults for theft by employees and from businesses 1880-91, compared to other prosecutions for theft, by gender.[64]

Although the overall conviction rate is low, there is no evidence that the bench had a tolerance of a level of theft in the same way as it showed with drunkenness and assaults. The severe sentence passed on Thomas Barber for taking tuppence demonstrates the serious view which the magistrates took of dishonesty. Someone accused of theft from a business or their employer had a significantly higher chance of conviction, and if they were a labourer or other unskilled worker, a much higher chance of going to prison. As in other offences discussed, women defendants had a lower chance of being convicted or committed for trial.

[63] Phillips, p.176.
[64] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

Conclusion

This chapter considers if the defendant's status influenced the justice they received before the WBPS. The analysis supports the findings of others that defendants before petty sessions were predominantly from the working classes, though in Wallingford there was also a significant group of traders.

A defendant before the WPBS in the 1880s had a significant change of the prosecution being dismissed, even when brought by the police. The magistrates took the time to listen to witnesses and consider the evidence. They also appeared to accept a level of day-to-day violence and disorder, either treating it leniently or dismissing the prosecutions completely. There is no sign that the town's traders received a more sympathetic hearing, particularly for offences involving violence against women, something which the bench treated very seriously.

If there were an acceptance of day-to-day offending, it did not extend to dishonesty. The chance of conviction was not higher than for other offences, suggesting that the magistrates demanded compelling evidence, but the penalties on conviction were more severe. The WBPS took the protection of property most seriously. This can be seen particularly in the treatment of those accused of stealing from businesses or their employer. This suggests that for some offences, who the complainant was could influence the result of a prosecution. This will be considered in the next chapter. Did working people have a level of confidence to bring their complaints to the magistrates?

Chapter 4 - Prosecutors

One of the most significant changes in the criminal law during the nineteenth century was that responsibility for prosecuting moved from the victim to the police.[1] Some writers argue that this was a way of professionalising the legal system while others see it as increasing government control and marginalising victims.[2] This chapter considers who the prosecutors were and, by examining the prosecutions, considers the extent to which working people accepted the legal system and saw magistrates as a source of justice.

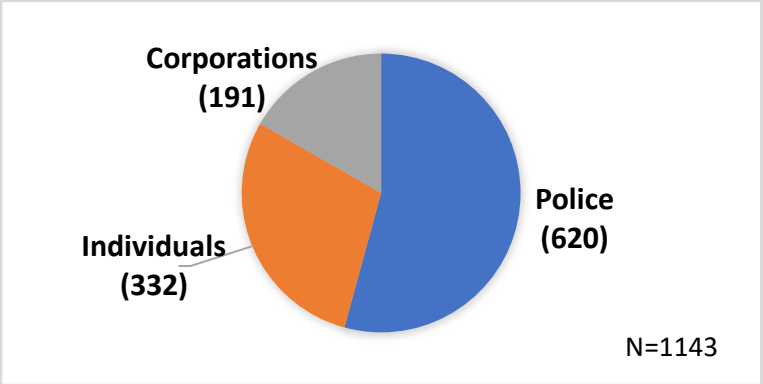


Figure 4.1: Prosecutions 1880-91 by prosecutor group.[3]

In Wallingford between 1880 and 1891, of the 1143 prosecutions, over half were brought by the police, as shown in Figure 4.1. Seventeen percent were brought by corporate bodies such as the town council, inland revenue or Great Western

[1] Barry Godfrey and Paul Lawrence, *Crime and Justice since 1750* 2nd edn (Abingdon: Routledge, 2015), p.34.
[2] David, D. Churchill, 'Rethinking the State Monopolisation Thesis: The Historiography of Policing and Criminal Justice in Nineteenth-century England', *Crime, History and Societies*, 18 (2014), 131-152 (p.132).
[3] Berkshire Record Office (BRO) PS/W2/1 Register of Court of Summary Jurisdiction at Wallingford.

Railway. Thirty percent however, were brought by individuals, usually the alleged victims.

It is not possible to know how many offences never came to the notice of the magistrates, what Gattrell terms the 'dark figure of crime'.[4] The number of prosecutions by individuals however suggests people were willing to make use of the court to seek a remedy for their problems. Phillips argues that this shows working people supported the justice system.[5] He challenges the views of Jose Harris that working classes were alienated from the law in the Victorian period, and of E. P. Thompson, about earlier in the nineteenth century, that the law was hated.[6] Davis supports the findings of Phillips but suggests that prosecutions supplemented the informal methods of resolution which persisted in London in the late nineteenth century.[7]

Seventy-seven percent of the prosecutions brought by individuals were for assault and theft, and these are analysed in this chapter. Table 4.1 shows the number of individual assault and theft prosecutions by gender and occupational group of the prosecutor. Of the 257 prosecutions, 227 of the prosecutors are identified. Of these, about one third are women and, although this varies between occupational groups, women were much more likely to prosecute for assault than for theft. Women in the professional and trader occupational groups, generally did not bring prosecutions. An exception was Bessie Baker. In 1881 she twice summoned her husband Conrad, a veterinary surgeon for making threats to her, which resulted in

[4] V.A.C. Gattrell, 'Crime, Authority and the Policeman-state', in The Cambridge Social History of Britain, 1750-1950, ed. by F.M.L. Thompson (Cambridge: CUP, 1990), pp.243-310 (p.243).
[5] Philips, David, *Crime and Authority in Victorian England: The Black County, 1835-1860,* (London: Croom Helm, 1977), p.127.
[6] Harris, Jose, *Private Lives, Public Spirit: Britain 1870-1814*, (London: Penguin, 1993), p.213; E. P. Thompson, *The Making of the English Working Class,* (London, Gollanz, 1963), p.61.
[7] Jennifer Davis, 'A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (2009), 309-335 (p.310).

him being bound over. It is possible that Conrad was prone to violence as the following year he was prosecuted twice for assault by Martha Swadling. As discussed in Chapter 3, prosecutions of professionals were rare.

	Assault		Theft	
	Men	Women	Men	Women
Professional	13	2	15	0
Traders	18	8	33	4
Skilled workers	12	14	4	1
Labourers	14	15	3	1
Unskilled workers	16	18	13	4
Other*	11	2	14	1
Total prosecutions	84	59	82	11
Total convictions	46	41	35	3
Conviction rate	55%	69%	42%	27%

* Four dealers and vagrants and those whose occupations could not be found.

Table 4.1 Prosecutions for assault and theft 1880-91 by gender and occupational group of prosecutors.[8]

Assault

Chapter 3 argues that some assaults were treated as less important by the bench. This raises the question of whether the social class or gender of the prosecutor influenced the magistrates' decision. Figure 4.2 looks at prosecutors in broad social groups, comparing labourers and unskilled workers with the higher status professionals and traders. Comparing Figure 4.2 and Table 4.1 shows that labourers and unskilled workers brought fifty percent more prosecutions for assault but had a significantly smaller chance of defendants being punished with imprisonment. This may suggest that complaints of assault from the lower status

[8] BRO, PS/W1/3-5; The National Archives (TNA), RG11/1294 and RG12/986.

groups were treated differently to those from the professional and trader groups, and may question the fairness of the justice received.

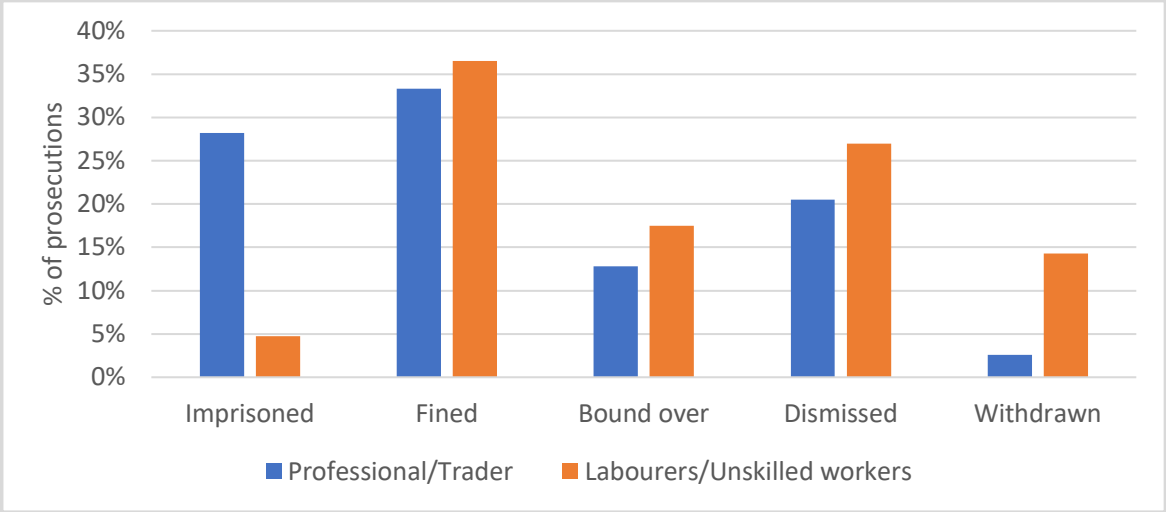


Figure 4.2: Result of assault prosecutions 1880-91 by social status of prosecutors.[9]

It is possible however that this misinterprets what justice the prosecutors were looking for from the court. Twenty-three prosecutions resulted in a bind-over to be of good behaviour. This does not necessarily show a reticence to punish offenders. It possibly reveals an empathy with victims. It is significant that women were prosecutors in eighteen cases where bind-overs were imposed. This suggests that, in bringing a prosecution, women were more interested in the violence stopping than in punishing the offender. This can be seen in the words of Annie Weller in 1890 who summoned her husband for assault. In evidence she said he 'kicked her, smacked her face and beat both sides of her head against the wall' and threatened to kill her.[10] She had frequently suffered violence including

[9] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.
[10] *Reading Mercury* (RM), 5 April 1890, p.4.

black-eyes but told the magistrates, “I am very much afraid of him but of course I don’t wish to punish him if he would be a better husband”.

Forty of the prosecutions were between family members or next-door neighbours. Of those, thirty-seven of the prosecutions were brought by women and only three by men. As already discussed, twenty-two of these concerned assault by a husband or father. Over sixty percent of prosecutions by women being of family members or neighbours supports the findings of Shani D’Cruze that female offending, and particularly women on women, violence centred on the home and neighbourhood.[11] In comparison, the life, and offending, of men extended outside the home to include workplaces and particularly public houses.

Prosecutions by women which did not concern domestic violence were generally about quite minor assaults not resulting in injury. Hannah Pearce and Mary Ann Hedges were next door neighbours in Goldsmiths Lane, Wallingford and both wives of hawkers. In May 1881 Hannah threw a basin of water at Mary Ann in an argument about their children.[12] Mary Ann summoned Hannah for the assault and in court Hannah was fined one shilling. This example is typical of the prosecutions of women by women during the study period. The fact it happened in an argument about children with a neighbour supports the idea that the context of women using the criminal law was often around the home.

The relatively trivial nature of the assault raises questions about why the case was brought. Of the ten cases where women prosecuted other women, two were dismissed, one resulted in a bind-over and six in a fine of just one shilling. One

[11] Shani D’Cruze, ‘Sex, Violence and Local Courts: Working-class Respectability in a Mid-Nineteenth-Century Lancashire Town’, British Journal of Criminology, 39 (1999), 39-55 (p.40).
[12] RM, 28 May 1881, p.5.

resulted in a more significant fine of two-shillings and sixpence. It was another case of water-throwing. Only one of these ten prosecutions ending in a bind-over suggests that the motivation in prosecuting was not primarily a wish for the violence to stop, as opposed to prosecutions of men. An explanation might be found in the findings of D'Cruze in a study of violence against women in the mid-nineteenth century.[13] While her work looks particularly at sexual assault, her idea of the local court giving a public arena for a woman to defend and protect her reputation can be applied more generally. There was popular interest in the WBPS as discussed in Chapter 2. The proceedings were regularly reported in the local press, often in detail. D'Cruze highlights that women complainants were speaking to the community as much as to the bench.[14] Hannah's token fine of one shilling was possibly less important to Mary Ann than the finding that she had been the blameless victim.

While some women complainants received support from the WBPS, this was not true for all. Some found that, in bringing a prosecution, their reputation would be a deciding factor in their evidence being accepted, something recognised by D'Cruze.[15] Jane Collett was a twenty-nine-year-old domestic servant at Gerrards Hall, a public house. In July 1882, she summoned her employer George Whiting, for assault. At the court hearing, railway porter Watkin Lythgoe was called as a defence witness. He told the court, "I have seen her go away by train and return. I know nothing of her moral character".[16] This could be just a witness stating what he had seen, but the fact that he was called as a witness suggests that it was

[13] D'Cruze, p.39.
[14] D'Cruze, p.51.
[15] D'Cruze, p.39.
[16] RM, 15 July 1882, p.8.

relevant. Possibly a single woman travelling by train in this way questioned her respectability. The charge against Whiting was dismissed.

More generally, the data suggest that the reputation of the complainant had a small influence on the result of their prosecution. Fifty-eight of the one hundred and forty-three prosecutors of assault were themselves defendants before the WBPS during the study period. Using prosecution as a proxy measure of reputation, Figure 4.3 shows that the complainants with better reputations were more likely to achieve a conviction and see their assailant imprisoned. The numbers are too small to see how this varied with occupational group.

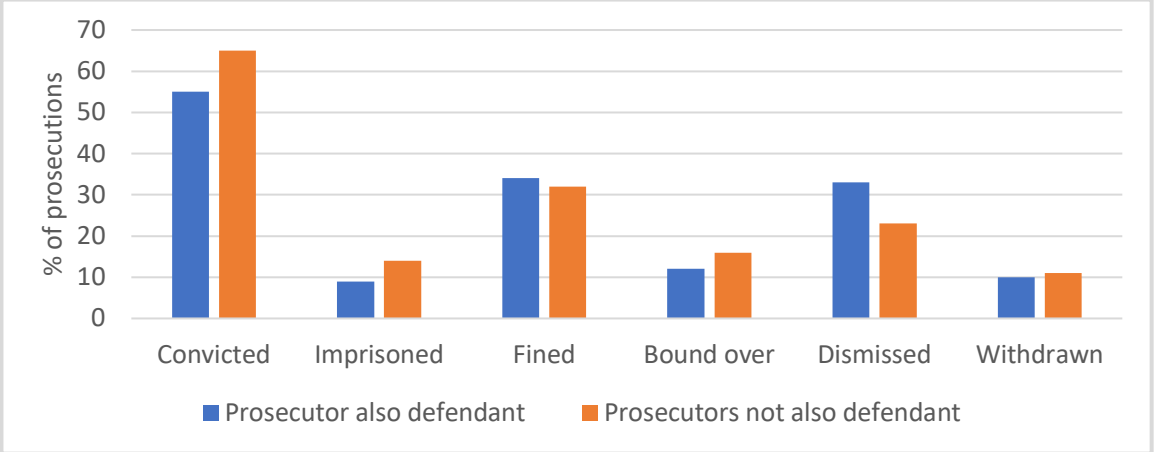


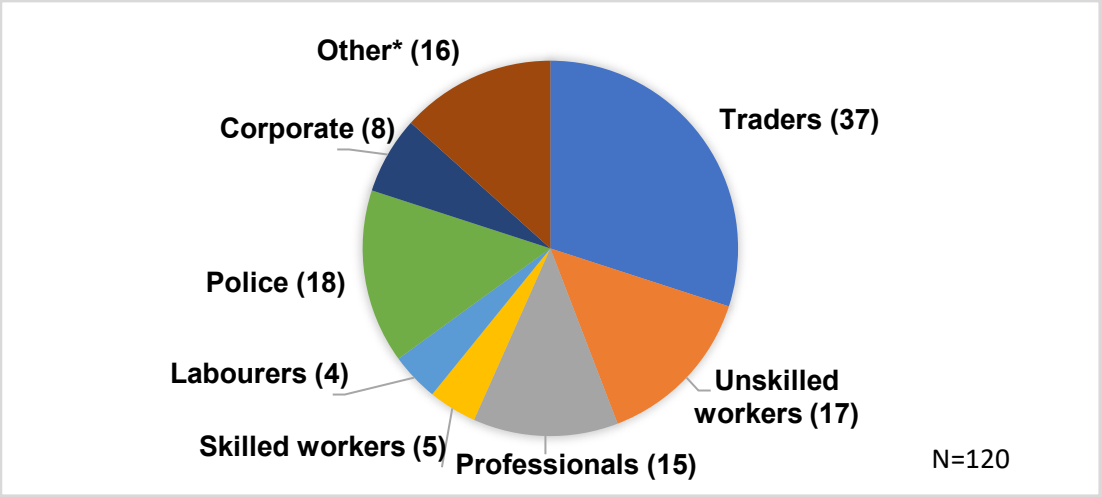
Figure 4.3: Results of assault prosecutions where prosecutor was/was not a defendant 1880-91.[17]

Overall, the number of prosecutions for assault by people from all occupational groups, and particularly women, suggests an openness in the court proceedings and a belief in the court's willingness to punish assailants or prevent assaults recurring. Prosecutions by people in the higher social groups appear to result in harsher penalties but prosecutions for assault were often an arena for working people to air their, sometimes quite minor, grievances.

[17] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

Theft

In a review of how responsibility for prosecutions moved from the victim to the police, David Churchill concludes that it was 'piecemeal' but that by 1880 the police directed most prosecutions for theft.[18] This was not the case in Wallingford. Between 1880 and 1891 only about thirteen percent of theft prosecutions were brought by the police. Seventy-eight percent were prosecuted by an individual, as shown in Figure 4.4. Twelve percent of prosecutions were brought by women, a significantly lower proportion than women prosecuting assaults. This may be because property was viewed as owned by the male head of the household. When Helen Hilliard, a twenty-two-year-old single woman, had a brooch and ring stolen from her pocket, the prosecution was brought by William Hilliard, her father.[19]



*1 vagrant, 3 dealers and 12 individuals whose occupation is not known
** Great Western Railway and municipal officers

Figure 4.4: Prosecutors of adults for theft 1880-91 by occupational group.[20]

[18] David D. Churchill, 'Rethinking the State Monopolisation Thesis: The Historiography of Policing and Criminal Justice in Nineteenth-century England', *Crime, History and Societies*, 18 (2014), 131-152 (p.141).
[19] RM, 20 August 1881, p.5.
[20] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

Of the one hundred and forty-one theft prosecutions, twenty-one were against children and are not considered here. This is because the age of the defendant, rather than the social position of the prosecutor, might be an important factor in the outcome. Of the ninety-four individual prosecutors, twelve could not be identified.

Figure 4.4 shows traders were by far the largest group with twice the number of prosecutions of any other group. Sixty-two percent of theft prosecutions by individuals were brought by people from the professional or trader occupational groups. Figure 4.5 shows that these groups were significantly less likely to have their prosecution dismissed and more likely to gain a conviction than those brought by labourers or other unskilled workers. There was also more than twice as much chance of their prosecution being committed for trial by jury.

Figure 4.5: Results of theft prosecutions 1880-91 by social groups.[21]

Having a case committed for trial however was not necessarily a favourable outcome for the prosecutor. It showed that the magistrates thought there was a case to answer, and a jury trial allowed more severe punishment. But it also

[21] BRO, PS/W1/3-5; TNA, RG11/1294 and RG12/986.

meant the complainant and witnesses having the extra trouble and expense of travelling twelve miles to Reading to repeat their evidence, possibly staying overnight. There was also the possibility of a 'tender-minded' jury ultimately acquitting the accused person.[22] Phillips suggests that many prosecutors preferred the quicker and cheaper justice of magistrates they knew.[23]

As discussed in Chapter 3, most cases committed for trial were those where the WBPS did not have jurisdiction. Of the three prosecutions brought by labourers and other unskilled workers which were committed for trial, only that of Alfred Pope, a groom, could have been tried by the magistrates.[24] Alfred stole a watch, valued at twenty-five shillings from William Filbee, also a groom, which was hanging in the stable. In sending him for trial at quarter sessions, the magistrates were probably influenced by his previous felony convictions. There is no suggestion that the prosecution was viewed as less serious because it was brought by an unskilled worker.

The majority of prosecutions for theft being brought by people from the professional and trader occupational groups is understandable. They were the people in the community with property to be stolen, and generally the time and motivation to protect it through the courts. The twenty-one prosecutions brought by labourers and other unskilled workers however, may say more about the attitude of working people to the court. In four of these prosecutions the occupation of the defendant is not known. Of the remaining seventeen, fifteen are against other labourers or unskilled workers, and only two against traders or

[22] Douglas Hay, Property, Authority and the Criminal Law in Albion's Fatal Tree: Crime and Society in the Eighteenth Century ed. by Douglas Hay, (London: Verso, 2011), pp.5-23, p.19.
[23] Phillips, p.177.
[24] RM, 11 August 1889, p.5.

skilled workers. This possibly supports Gattrell's statement that 'artisans, shopkeepers and farmers were fond of prosecuting their equals and fonder still of prosecuting their inferiors. Even labourers prosecuted each other (but rarely their betters) with surprising frequency'.[25] The two prosecutions of 'their betters' were dismissed by the magistrates.

The proportion of prosecutions brought by labourers and unskilled workers which were dismissed might suggest that they were treated less sympathetically by the magistrates. A closer look however suggests that some could be considered quite trivial. In August 1883 Eliza Cottrell, the wife of a general labourer, was in the Shakespeare public house. She put her handkerchief down and, when she went to pick it up, found it gone. She accused Mark Pope of having taken it and the handkerchief was returned to her. She summoned Mark for theft but accepted in court that it might have been meant as a joke. The magistrates saw it this way and dismissed the summons. A similar incident happened in 1881 at the Coach and Horses public house when Charles Morris a drayman, lost his coat and accused James Witherall of taking it. The missing coat was found next morning in a nearby garden and the magistrates gave the accused the benefit of the doubt. Five years later James Witherall was himself the complainant in a prosecution. He had been drinking with Ephraim Hedges, a carpenter, and tossing a shilling coin to decide who bought the beer. When the coin went missing, James accused Ephraim of having taken it. Ephraim went to the trouble of hiring George Frederick Slade to defend him. The magistrates quickly dismissed the summons refusing police superintendent Borlase's application for a remand to see if witnesses might be found. All these prosecutions were between people who knew each other.

[25] Gattrell, p.246.

They had been drinking together. Because they happened in licensed premises the bench possibly considered the incidents examples of working-class recreation.

Considering the prosecutions resulting in conviction, there is little evidence that the bench was less sympathetic to labourer and unskilled worker complainants. Figure 4.5 shows that a larger proportion resulted in prison terms ranging from fourteen days to two months with hard labour. A similar range of sentences was handed down to those convicted of theft from professional and trader complainants.

Conclusion

Thirty percent of the prosecutions being brought by individuals, and a quarter of these by women, suggests the court process was open and accessible. The WBPS was seen by people as a place to bring their problems even if sometimes they were not serious. There are signs however that the two offences considered were treated differently by the magistrates.

Summonses for assault were often brought by labourers and unskilled workers even though many were not serious and some were withdrawn before the hearing. A summons for a minor assault was a relatively common action between some families, drinking companions and neighbours, and the bench played its part in adjudicating and sometimes imposing a token fine. In comparison, assaults seen as more serious, particularly those on women by husbands and fathers, or those by the professional or trader classes, were often dealt with severely.

Prosecutions for theft did not appear to follow the general trend of predominantly being brought by the police. In Wallingford they were much more the concern of individuals from professional and trader groups. Prosecutors from these groups

had a greater chance of achieving a conviction or committal for trial. This could be explained by the type of thefts brought businesses and employers concerned higher value property. The social status of the prosecutor appeared not to be a predominant factor in the proportion of prosecutions leading to imprisonment. This suggests an even handedness of the magistrates in imposing the most severe penalties.

Chapter 5 – Conclusion

This study sets out to answer three questions about the WBPS in the 1880s. First, the extent that working people were involved as defendants, prosecutors or witnesses. Secondly, whether clear legal processes were followed. Thirdly, whether the social status of the participants affected the treatment they received. Exploring these questions reveals three key differences about the WBPS compared to some other petty sessions at the time. These are Wallingford's long tradition of magistrates from the trader middle class rather than the upper-classes, a significant number of defendants being traders rather than working class, and a large proportion of theft prosecutions being brought by individuals rather than the police. These differences support the findings of Phillips about the variety of petty sessions and shows the importance of local studies focused on towns to understand the experience of people.[1] Additionally, the study shows a significant variation between the approach of the WBPS towards its role in preserving order by enforcing laws on drunkenness and assault, and in protecting people's property, through the laws against theft.

It is apparent that, in the 1880s, the WBPS was a well-established institution of Wallingford. The petty sessions were part of the community and the weekly public hearings sometimes attracted significant interest. Ninety-eight percent of all prosecutions were tried by the magistrates at these hearings. The JPs were predominantly from the trader class of the town, well known to people from their shops or positions as town councillors, and the unpaid time which they gave to

[1] David Phillips, *Crime and Authority in Victorian England: The Black County, 1835-1860* (London: Croom Helm, 1977), p.24.

their roles showed a clear commitment. The fact that thirty percent of all the prosecutions were brought by individual townspeople from all occupational groups showed the openness of the court and its important role in the running of the town.

Considering the first question about who participated at the petty sessions, this work broadly agrees with the findings of D'Cruze and others that they were predominantly concerned with working classes.[2] Only three percent of defendants overall and ten percent of prosecutors of assault were from professional classes. This supports George Behlmer's findings that 'humble folk made use of police courts to punish members of their own class for theft and assault'.[3] In Wallingford however, traders also appeared regularly before the magistrates amounting to thirteen percent of the defendants for drunkenness and theft, and twenty-five percent for assault. This is significantly larger than the twelve percent proportion of trader households in Wallingford's population. It is noteworthy that their status in the town did not appear to give them advantage before the bench.

In relation to the second question about the court processes, the records of the WBPS generally show clear detail of the offences prosecuted. The length of time taken for some hearings, the number of witnesses heard, and the ability of both defendants and complainants to be legally represented, suggest a court which closely considered the evidence. This is further supported by the significant proportion of defendants who had charges and summonses against them dismissed. In relation to prosecutions for drunkenness, this is something which particularly shows clear independence of the bench from the police.

[2] Shani D'Cruze, 'Sex, Violence and Local Courts: Working-class Respectability in a Mid-Nineteenth-Century Lancashire Town', *British Journal of Criminology*, 39 (1999), 39-55 (p.39).
[3] George Behlmer, 'Summary Justice and Working-Class Marriage in England, 1870-1940', *Law and History Review,* 12 (1994), 229-275 (p.235).

The third question about the treatment of people appearing before the magistrates exposes in more detail the justice received. The proportion of labourers and other unskilled workers convicted was almost the same as for traders, though traders were much less likely to be imprisoned when convicted. This was possibly because of the damage which would result to their business. When accused of theft, traders were more likely to be committed for trial at a higher court, most often because of the higher value of the property stolen. The WBB did not appear to give a more sympathetic hearing to trader defendants because of their status and may even have been more severe with traders who persistently reoffended or committed serious crime.

Women amounted to twelve percent of defendants. When convicted they were less at risk of imprisonment and could expect higher fines than men for similar offences, but the figures are small making statistical comparisons difficult. More work is needed to consider the experiences of women defendants before the WBPS.

The low conviction rates and often small fines for drunkenness and assault suggest that the WBB did not see an important role for itself in petty public order problems in the town, an area which sometimes brought them into conflict with the police officers of the county force. This tendency not to involve the court in what they possibly saw as working-class recreation can also be seen in the dismissal of minor offences of theft occurring in public houses. Generally, however a more severe attitude is seen towards acts of dishonesty where imprisonment was the most likely sentence. This supports Behlmer's assertion that 'Police courts were a bulwark of propertied classes for a century from 1850.[4] The majority of thefts were

[4] Behlmer, p.235.

prosecuted by traders or people from the professional middle classes, but non-trivial prosecutions by labourers had a similar chance of achieving a conviction. Protection of property was an important objective of the WBPS whatever the status of the victim.

The social status of the defendant was not a major factor in the likelihood of conviction, but the status of the prosecutor was more significant in two ways. First, thefts from employers or from businesses were treated more severely fitting with the findings of Davis that courts were helpful to employers and tradesmen.[5] Secondly, the magistrates were firm in dealing with domestic violence assaults against women at a time when this was not the common experience of women victims.[6]

Overall, the working people of Wallingford found justice from the magistrates. The WBPS was a professional court with processes which would be recognised by a modern observer. In relation to drunkenness and assault the borough JPs were enforcers of the law but used discretion, not to support their own trader class, but to uphold local values. This fits with the arguments of Conley about magistrates enforcing community justice.[7] For theft however, discretion is less apparent and the values guiding the magistrates are more in line with protecting property.

This work raises questions which could form the focus of future study. A fuller study of the work of the JPs in the town could be achieved by exploring their work

[5] Jennifer Davis, 'A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (2009), 309-335 (p.318).
[6] Carolyn A. Conley, *The Unwritten Law: Criminal Justice in Victorian Kent* (Oxford: Oxford University Press, 1991), p.74; Nancy Tomes, 'A "Torrent of Abuse": Crimes of Violence between Working-Class Men and Women in London, 1840-1875', *Journal of Social History*, 11 (1978), 328-345 (p.339).
[7] Conley, p.15.

outside the petty sessions structure. Records of this can be difficult to find but looking at the broader work of magistrates would complement this focused study of the petty sessions. This would give a clearer picture of the way that public order and criminality were managed in Wallingford in the Victorian period. Additionally, further study of the treatment of police evidence by the WBPS would allow the relationship between the bench and the police to be examined. This would give a better understanding of the effectiveness of a rural police force in the late nineteenth century.

Appendix A

Occupational group classification scheme used in this study showing the occupations from the census enumerator records

Professional and middle class	Bank clerk, factory owner, farmer, veterinary surgeon, high sheriff, county court bailiff, living on own means, minister, schoolmaster, student
Trader	Beer seller, biscuit baker, butcher, carrier, coal merchant, fishmonger, greengrocer, Hotel owner, innkeeper, licensee, lodging house keeper, maltster, seedsman
Skilled worker	Occupations where people sell their own skills, usually requiring training and experience including blacksmith, boatbuilder, bootmaker, bricklayer, Carpenter, coach-wheeler, cooper, corset maker, engine driver, fitter, harness-maker, iron moulder, nurse, packing case maker, painter, parchment maker, plumber, printer, saddler, shoemaker, tailor, thatcher, tin worker
Apprentice	Those described in the census as apprentice, usually to a skilled worker, or as an assistant to a trader.
Dealer	Those described in the census as dealer, usually general.
Labourer	Those who use the word ‘labourer’ or ‘navvy’ in their stated occupation in the census, including agricultural, brewer’s. bricklayer’s, farm, fellmonger’s, general, mason’s, railway and road labourers
Unskilled worker	Occupations not requiring significant training, including actor, boatman, billposter, carman, charwoman, coachman, dressmaker, drover, gardener, groom, hawker, laundress, milkman, pedlar, police officer, porter, postman, railway guard, shepherd, soldier, servant, sweep, waterman
Pauper	Those in the workhouse either as permanent or casual inmates
Vagrant	Those referred to in the record as tramps or travellers and those charged with begging or sleeping rough. Those begging and referred to in court records as ‘on the road’

Note: Retired people classified as their previous occupation.

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