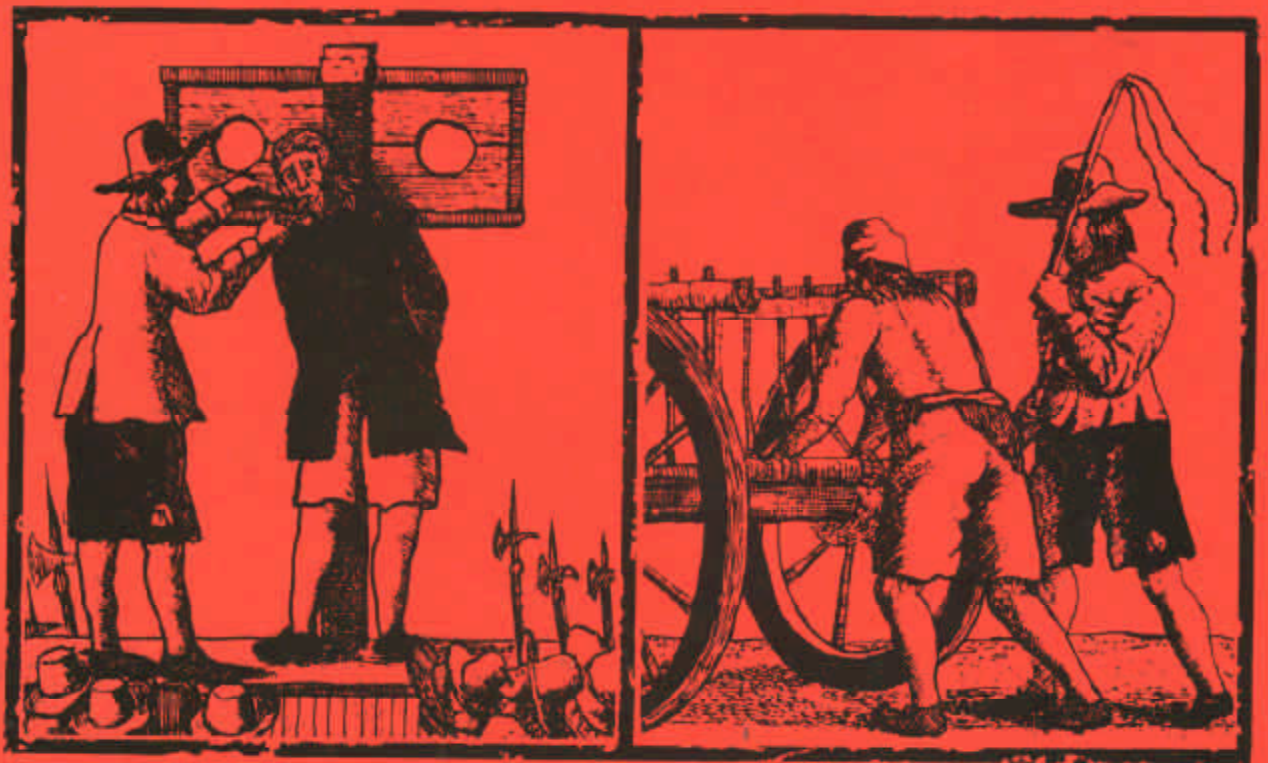


# Crime in the Vale of Evesham 1651-1670



**WEA Evesham History Workshop**

**Hereford and Worcester County Libraries**

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**Crime**

**in the Vale of Evesham**

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## THE WEA EVESHAM HISTORY WORKSHOP

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## INTRODUCTION

This short book consists of a selection of cases which came before the Worcestershire court of quarter sessions between 1651 and 1670. The documents are depositions and examinations: that is, statements taken from suspects and witnesses by magistrates before trials. They illustrate everyday crime in the seventeenth century during the years of the Commonwealth (1649-1653), the Protectorate of Oliver Cromwell (1653-1658) and the reign of Charles II. The original documents are kept at the Hereford and Worcester Record Office, County Hall, Worcester, where they may be consulted by the public.

The selection with the accompanying commentaries were made by a WEA class meeting at Church House, Market Place, Evesham, between September 1985 and Easter 1986. Photocopies of the original documents have been studied and transcripts made by class members. They hope to study crime in the area over a longer period - from 1660 to 1760 - and are compiling files of cases on particular offences: theft, poaching, sexual offences, violence and slander among them. The present selection is really a provisional statement on work in progress, to give readers an idea of what was coming before the courts in this part of the county in the Interregnum and the reign of Charles II.

These cases came up at the court of quarter sessions, meeting at Worcester Castle, four times a year. The offences considered were mostly **MISDEMEANOURS**, lesser offences which did not carry the death penalty. Some **FELONIES**, more serious offences for which an offender could be hanged, were tried at quarter sessions, but most of these offences were kept for the twice-yearly assizes at Worcester. Murder, rape and arson were felonies, so they went to the higher court.

Before county councils were formed in 1889, quarter sessions had an administrative role. It ordered repairs to bridges and roads, organised schemes for dealing with poverty and vagrancy and could arbitrate in disputes between parishes: over the payment of poor relief to people who moved from parish to parish, for example.

There were other courts in the locality, too. The Church of England had its own courts, into which those who did not go to church could be haled. Church courts also dealt with the rights of the clergy. In some places, J.P.s met together in what were called "petty sessions" to consider very minor cases and to grant licences for local alehouses. Boroughs like Evesham had their own courts, acting as petty sessions. In each rural parish there was a constable, an overseer of the highways (responsible for collecting a rate for the road repairs), an overseer of the poor (who levied a rate for giving small sums of money to those who had no income, and two or three churchwardens whose responsibilities, in an age of compulsory churchgoing, were wider than those of their modern counterparts. In some respects, and probably to the defendants in these cases, England would have seemed a much-governed country.

How did these cases come before the court in the first place? Crime was not detected systematically by a police force, although each parish had a much-abused constable. Offences fell into two categories, as they do today: those brought to the notice of the authorities by victims or their neighbours or families and those made the subject of official campaigns. Theft, crimes of violence and slander came into the first category, for example, and the licensing of alehouses and the prohibition of tobacco-growing into the second. A suspect and witnesses or informants were interviewed by justices of the peace living in the locality where the offence had occurred. Following the **EXAMINATIONS** and **INFORMATIONS**, suspects might be detained until the court of quarter sessions met. An **INDICTMENT** or charge would then be drawn up by the clerk of the court and considered by the grand jury - a group of freeholders, usually the better-off farmers and tradesmen. If they declared the indictment to be a **TRUE BILL**, in other words if they considered there was a case to answer, the case was tried, but if the grand jury thought the evidence was inadequate, they would dismiss the case with the Latin word **IGNORAMUS** (we do not know of it). Those cases judged to be true bills were then tried before a petty jury of

12 men who considered the evidence and brought in verdicts of guilty or not guilty. Most defendants would not have been represented by an attorney.

The magistrates then sentenced the guilty: in the court of quarter sessions fines or physical punishments were usual: a whipping was perhaps the most common sentence. Imprisonment for periods longer than three months was unusual and was reserved for prisoners the bench considered a danger to the public: in practice those guilty of political offences such as plotting or even speaking out against the government, refusing to comply with the law that everyone was to attend their parish church, or, after 1660, having actively supported the Commonwealth or Protectorate governments.

One of the questions we have to ask ourselves is : what was crime? A ready answer would be that crime is "breaking the law", but this leads us into difficulties. Some laws on the statute-book were only current for a short time, and others were never more than half-heartedly enforced. Some laws were flouted not only by ordinary people but by law-enforcers themselves. Just as today most people would not describe those who neglect to obtain a dog-licence or who sell Bibles on Sunday as "criminals", so in 17th-century England not everyone who broke the law was guilty of crime in the eyes of their contemporaries. So perhaps a better definition of crime would be "the breaking of social norms". We are on safer ground here, but perhaps it is only slightly safer. We cannot assume that what was acceptable behaviour to one group of people was acceptable to another. If you were nearly starving - as people in 17th-century Britain sometimes were, in periods of harvest failure - surely it was legitimate to take a rabbit? If you were nearly freezing, surely it was acceptable to pull handfuls of wool off a sheep's back? Many in the 17th-century would have thought so, but however understandable or commonly-practised, these were crimes and treated accordingly.

The difficulty with the definition of crime as "breaking social norms" is that these norms vary between social classes. These documents illustrate the class basis of English society: there were tensions between rulers and the ruled, between masters and men, between knights, esquires and gentlemen on the one hand and labourers and their families on the other. Not only was it a man's world, it was a wealthy man's world, and the needs of a labouring family got short shrift from the J.P.s on the bench, if in trying to meet those needs a bread-winner infringed someone else's right to enjoy his own property. The man who took a rabbit, a hare or a deer was attacking the liberty of the landowner to enjoy his property undisturbed.

So were laws made and enforced in order to keep the poor - the common people, our ancestors - in their place? After studying our selection, the reader of this volume might justifiably think so. Two points need to be emphasised, however. Firstly, the "rule of law" was emerging in this period. The idea was that the enforcement of law applied equally to all, and that the courts would act as a check on the arbitrary use and abuse of power by individuals or by the State. It would be naive to believe that this always meant much in practice: the rich could and often did terrorise the poor in the name of the law. But at least there was a code which governed the relations between rich and poor and for that matter between poor and poor. It was better than anarchy. A second point which needs emphasis is that there were some shared values in 17th-century England: the ethics of the common culture, Christianity. However vaguely this was expressed, and however divisive religion was (and still is in one part of Britain), most people of whatever social class would have agreed that murder, theft, sexual promiscuity and abusing one's neighbour were wrong. This selection suggests how the law could be turned to arbitrate on socially unacceptable behaviour.

Some special comment is called for on the fate of the Quakers in south-east Worcestershire after 1660. The Friends were numerous in Worcestershire and Warwickshire and had suffered at the hands of the Evesham populace during the 1650s, although the government favoured religious toleration. Persecution was made official policy by the government of Charles II. Why was this? It was partly because England was not a tolerant society. There was no protection for groups which departed

from the norm, and the norm in religion was attendance at the Anglican parish church every Sunday. You had to go to church, and those who stayed away because they disagreed with what went on there were inviting prosecution in the church courts. Not only did Quakers stay away from church, however, but they also made a point of being distinctively nonconformist by refusing to observe social conventions of the time. In order to put into practice their belief that God speaks equally to each person, and that we are all equal in God's eyes, they refused to remove their hats before their social superiors, to take legal oaths, to pay tithes to Anglican ministers and above all they persisted in holding their own meetings, in defiance of acts of parliament. They were persecuted not only because their beliefs were different, but because their politics were different and their behaviour was different, too.

Occasionally, as in 1672, the government for reasons of its own brought in Declarations of Indulgence to allow nonconformists to worship as they pleased, but these were only temporary. The Toleration Act of 1689 gave the right to free association to Protestant nonconformists (but not to Roman Catholics or Jews) but until then the Friends were persecuted rigorously for their beliefs. They were a vocal minority group who had to struggle for what we would consider basic human rights.

Read these cases, then, to see the way society has changed in 300 years, as well as to see how crime has evolved. You may conclude that nothing changes, or you might judge that everything has changed. You might even think that the past has something to tell us today.

#### **A NOTE ON THE TRANSCRIPTS**

Unfortunately, time has not been kind to the quarter session records for these years, and for most of the cases we do not know the verdicts or outcome. Those we do know have been noted. These gaps in the archive are very common; the Worcestershire records are typical in this respect. The documents have been reproduced in the original spelling in order to capture the flavour of the period. Occasionally words have been modernised, in cases where we felt the original was hopelessly obscure. Similarly, material has been added in the interests of clarity. This is indicated by squared brackets [ ]. Where the original is repetitious, words have been removed, and this is indicated by ..... Because the year began in those days on 25 March, not 1 January, we have brought the dating into line with modern practice.

**Stephen Roberts,**  
**Workshop tutor and WEA Tutor/organiser**

## SHEEP STEALING IN CLEEVE PRIOR

85/55 **The examination of John White of Badsey in the County of Worcester, Butcher, taken at Brodway the 4th day of April 1651 before Sir William Sambach, Knight, one of the Justices of the Peace of the said county.**

The said examine being charged by Edward Bushell of Cleve Prior, Gent. with the felonious stealing of one his \*wether sheepe out of a medow ground of his called Millum in Cleve prior. Upon search and enquiry of the sheepe they found a leg of mutton in the house of John White at Badsey. John White having confessed that he sold a leg loyne to his sister Mary Bradshaw, living in Ruxley Warwickshire, and being demanded how he came by the same saith:-

He denieth the stealing of the sheepe and being demanded where he had the mutton found in his house saith he bought a quarter of mutton, where of the leg of mutton was part, in Evesham the 24th day of March last between the hours of 7 and 8 of the clock at night at the house of one Richard Horton, of a country butcher, and paid 2s.8d. for the same. But where the country butcher dwells or what is his name John White knoweth not. And being demanded what was the cause that he, being a butcher, had occasion to buy any mutton answered that he had a daughter, about 9 years of age, that was then sicke and desired to eat some mutton. And being demanded whether Horton were a butcher, or no, ansered that he was not, but formerly had beene a carrier.

**The examination of Edward Bushell of Cleve Prior in the County of Worcester, Gent, taken upon oath at Brodway, the 4th day of April 1651 before Sir William Sambach, one of the Justices of the Peace.**

Edward Bushell being duly sworne and examined, saith that he, missing a \*wether sheepe of his, was told by Leonard Harborne, his servant, that the sheepe was stolne out of a ground of his called Millum in Cleve Prior on Thursday night the 27th day of March last.

Edward Bushell

**The examination of Richard Mountford servant to Edward Bushell of Cleve Prior, Gent, taken upon oath at Brodway, the 4th day of April 1651, before Sir William Sambach, Knight.**

Richard Mountford being duely sworne and examined saith that he on Friday morning, the 28th day of March last, missing a \*wether sheepe of his masters stollen out of Millum ground in Cleve Prior followed the tracks of a sheepe to Ruxley Wood in the County of Warwickshire; and there upon Sunday following found the bloud and entrails of a sheepe that there had newly beene kild; and upon search in Ruxley found a loyne of mutton of a large sheepe in the house of Mary Bradshaw, sister to John White of Badsey, Butcher. And demanding of her how shee came by it shee answered that shee had it of the said John White her brother.

And this deponent thereupon goinge the same day to John White's house found that John White had a leg of mutton in his house. And Richard Mountford demanding of John White how he came by the same, John White answered that he bought a quarter of the same mutton at Evesham, and, being further demanded of whom he bought the same, answered he would give an answere thereof when he should be called to it. And being demanded whether his sister had any mutton from him. And being demanded what the same was worth said it was worth 18d.

### Commentary

Edward Bushell's servant doggedly tracked the missing sheep until he found traces of its butchering in Ruxley Wood.

The presence of large pieces of meat in poorer households would be damning evidence, with the average labourer's wage at 8 -9d per day (assuming full employment), and the quarter of mutton valued at 2/8d. The Butcher's explanation of its acquisition sounds like the equivalent of the modern "I bought it from a man in the pub".

### Verdict

The jury could not have found the evidence against White to be telling enough, as the case was dismissed (85/21).

## WHO STOLE THE HARNESS AT HANBURY?

87/12 **The information of Henry Smyth of the parish of Hanbury, yeoman, against Thomas Russell of Childswickham in the county of Gloucester, yeoman, taken the 11th of July 1653.**

This informer sayeth that upon the 27th day of June last, a horse-geares\* [was taken] out of his barne and having notice [d] that Thomas Russell passed by that morning with his carte followed after him and found the geares he lost upon one of his horses and further sayth not.

### **The examination of Thomas Russell.**

This examinant sayth that he having lost the geares of one of his horses and passing by the house of Henry Smyth went in to his barne and tooke thence a filly horse-geares and put them upon his owne horse and farther sayth not.

### Commentary

The strange point about this case of accusation and counter-accusation is the considerable distance between the places where the two people involved lived.

## ILLEGAL DRINKING IN A SQUAT

### Comment on 94/5 and 92/5

In the late 16th and 17th centuries two problems were of major concern to Justices of the Peace :-

### Cottaging laws and control of alehouses

Richard Lillye had offended on both counts (see 94/5 and 92/5)

94/5 **Unauthorised building of and occupation of cottage on wasteland by, Richard Lillye of Wadberrow**

The Jurors of his highness the Lord Protector of the Commonwealth of England Scotland and Ireland and the Dominions thereto belonging, present on their oath that, Richard Lillye of Wadberrow within the parish of Crosses in Pershore in the County of Worcester, husbandman, the fourth day of Aprill in the year of our Lord one thousand and six hundred and fifty six, with force and arms etc., at Wadberrow, upon the wasteland there a certain cottage for his own habitation hath erected new built, and hath not assigned or put thereunto four acres of land according to the measuring of land of his own freehold and inheritance lying next to the said cottage, to be continually occupied and mannered how so long as the said cottage shall be inhabited, contrary to the form of the statute in that case and provided and against the public peace.

"in court"

Thomas Turberville



34 Seaward Road  
Badsey  
Evesham  
Worce.  
WR11 5HQ.  
2.4.87

Dear Mum,

hope you present  
paches you before you go  
off to Guernsey. Have a good  
time, won't you.

Love

Alan + Shirley

xxx

P.S. I hope you like Caroline's  
artistic efforts & the book  
we did at History Group