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THE MIDDLESEX JUSTICES

1590 - 1640

THE COMMISSIONS OF THE PEACE, OYER AND TERMINER AND
GAOL DELIVERY FOR MIDDLESEX

P. S. KING

M.A. Thesis

1972

University of Durham, Department of History

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THE MIDDLESEX JUSTICES 1590 - 1640

The commissions of the peace, oyer and terminer and gaol
delivery for Middlesex

M.A. Thesis 1972

P. S. King

SUMMARY

This is a study of the process of justice and administration in the county of Middlesex by justices of the commissions to keep the peace, to hear and determine indictments (oyer and terminer) and to deliver the gaol of Newgate. There were some differences from other parts of England in the procedure in the Metropolis, owing to its special features. Middlesex was primarily the metropolitan county, having a special relationship with the City of London.

The nature and purpose of the different commissions are considered and the various factors which influenced their working in the metropolitan district explained. The procedure of the sessions held under them is described and various aspects of the judicial process discussed. The membership of the several commissions is compared, lists of them being appended. Some of the judicial and administrative work of the more active justices, especially those serving on the four London and Middlesex commissions, is studied in some detail.

The study is based on the records of the sessions of the peace and gaol delivery of the county of Middlesex and the City of London. The City Corporation records, letters in the State Papers and the Lansdown and other collections, subsidy returns, chancery enrolments of commissions, and other records, have also been used.

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ABBREVIATIONS

Institutions whose manuscripts have been referred to frequently are cited by abbreviations, as given below, followed by the institutions' own class reference (as PRO. C/66 for patent rolls) and number.

- GLRO.M Greater London Record Office, Middlesex section.
 MJ/ - Middlesex Sessions records
- Corp.of Lon. Corporation of London Record Office.
 Rep. - Repertories of Court of Alderman
- PRO. Public Record Office, London.
- BM. British Museum
 Lans. - Lansdown MSS
 Eg. - Egerton MSS
 Harl. - Harleian MSS
- Bodl. Bodleian Library, Oxford.
- SP.D. Calendars of State Papers, Domestic Series, Public Record Office

Full details of all sources and authorities are given in the Bibliography

 DATES

New style dates (year beginning on 1st January) have been used throughout (except in quotations).

INTRODUCTION

This is a study of the work of the three judicial commissions: to keep the peace, to hear and determine cases (oyer and terminer) and to deliver the gaol, as they were enforced in the county of Middlesex. This county was in a unique position as the metropolitan county with a special relationship with the City of London.

The organisation of the commissions of the Metropolis shows some unusual characteristics distinguishing it from that in other English counties, with their assizes and quarter sessions of the peace. This was in part due to the presence of the royal courts of King's Bench and Common Pleas, which sat regularly in Westminster thus making visits from circuit judges unnecessary. Chiefly, however it was brought about by the ancient privileges of the City of London. The City had been allowed considerable independence of judicial process and had a degree of jurisdiction over the county of Middlesex since it had been granted the Sheriffwick of Middlesex. The county had a commission of the peace, while in the City the most senior of the aldermen were by charter justices of the peace. However the common gaol, under the sheriffs dominion, for both the City and the county was the City gaol of Newgate. A single commission for the delivery from it of both London and Middlesex prisoners was, therefore, directed to the Lord Mayor of London, some justices of the royal Benches and some justices of both London and Middlesex. Nevertheless independent commissions of oyer and terminer, that is for inquiry into felonies and other matters more serious than were covered by the commission of the peace, were directed separately to the City and the county. This meant that the court sessions were, in a sense, split: firstly two inquiry sessions, one for the City and one for Middlesex, secondly combined trial sessions.

These three commissions were, unlike the assize judges' commissions, directed primarily to local justices. The gaol delivery commission, in fact, was, by charter, addressed to the Lord Mayor of the City and many of the aldermen, although it also included a few justices of the royal Benches. Since sessions were held frequently under these commissions, the justices of the county's commission of the peace were only required to hold sessions of the peace twice a year. Thus, strictly speaking, Middlesex did not have quarter sessions of the peace like other counties, much of the work being done by the justices of the higher commissions.

My interest in this subject arose when, as an archivist, I was engaged in cataloguing the Middlesex sessions records. These include judicial process and administrative records under the three Middlesex commissions, including the Middlesex part of the gaol delivery, and other special commissions, but were kept together as one series by the one Clerk of the Peace and his staff. As an archivist, and therefore concerned with the origin and purpose of records, I have attempted to piece together the procedure of the different courts, and the activity of the justices. Indeed without an understanding of the process, the formal and abbreviated phrases of these records, a rich source of history, can only partially be understood. While studying the courts I also tried to answer some of the questions often asked. Were several distinct sessions held under the different commissions? What functions did each have? What sort of men acted as justices under each commission? How much of the general peace work was dealt with by the members of the higher judicial commissions? How far, in fact, was all the work under all the commissions dealt with by the same group of men? Did this also apply to the City?

I looked first at the origin and effect of the City's privileges and the City's relationship with Middlesex. In view of these privileges what

commissions were issued to the City and to Middlesex and who were the members? Having established the purpose and, to some extent the nature of membership of the commissions, I have described the procedure of the sessions, followed by some explanation and discussion of various aspects of the judicial process. Then the twice yearly Middlesex general sessions of the peace were considered, briefly, to see what work was left to the commission of the peace. This included minor felonies such as witchcraft, and the 'information process' used for the trial of certain trade misdemeanours. The provision of sessions houses and prisons for the county was also the province of the sessions of the peace. This was a matter in which the difficulties of the relationship between the county and the City were most apparent.

Finally I turned to the work of individual justices, in the light of what I have previously studied, to see what sort of men did the bulk of the work. It seems that a comparatively small body of men, named on all the commissions, were wholly occupied in justice work, almost as professional justices, especially in the metropolitan area. These were not judges of the royal courts, but most had some legal or administrative experience. Some of them were also concerned with the City and a few, too, were in direct contact with officers of the Sovereign and government. These 'professional' justices were aided and supported by a few justices of the peace, not included on the other commissions, who were concerned with particular districts, especially the outer, country areas of the county. It seems, in fact, that the Metropolis had a more sophisticated judicial system, at this time, than the rest of England.

The work of local justices throughout the country was developing and expanding during the Elizabethan and early Stuart periods. It was even more a time of change and development in the metropolitan area, with the

expansion of population beyond the City bounds. Indeed there was a possibility that, if not curbed, the City might have gathered fully within its sphere the county of Middlesex, as it did Southwark.

The Middlesex sessions records survive from 1549, but, unfortunately, the City of London sessions records only run in series from 1605. Both are important for a study of the procedure of sessions held under a commission directed to both jointly. I chose, therefore, to begin my period of study in 1590, the year when the commission of the peace was revised. I have, however, also looked back a little over the earlier years of Elizabeth's reign.

My chief sources were the Middlesex sessions records (in the Greater London Record Office) and the City of London sessions records (in the Corporation of London Record Office). The Middlesex sessions records include both the gaol delivery and general sessions of the peace, from 1549. Between that date and 1640 there are over 800 files, called sessions rolls. These consist of perhaps 100 - 200 documents each, including bills of indictment, recognizances, the gaol calendar, precepts to the sheriff and occasionally presentments of constables, petitions and other documents. From 1608 clerk's registers also survive, one for the general sessions, recording persons bound to appear at the 'inquiry' sessions, and another series for the gaol delivery sessions. The City of London sessions files are similar to the Middlesex ones for the gaol delivery of London prisoners and the preliminary sessions of the peace. I also used the Corporation of London Repertories (i.e. orders) of the Court of Alderman, letters from Fletewood and other justices to Lord Burghley and other state officials in the State Papers (Public Record Office) and in private collections such as the Lansdown Manuscripts (British Museum). Amongst other material were the Patent Rolls and special entry books

(Public Record Office) for the commissions, and writings of contemporary lawyers (Mainly in the British Museum). Full details of sources and authorities are given in the Bibliography.

County Boundary

Hundreds:

- A Edmonton
- B Gore
- C Ossulston
- D Spelthorne
- E Elthorne
- F Isleworth



Middlesex, by John Norden, from Speculum Britanniae, 1593

CHAPTER IMIDDLESEX - THE COUNTY

Middlesex was a small county, but, 'unique amongst English shires', almost surrounded the City of London, so that it could be described as the Metropolitan county, as London's county. It was bounded on the south and west by the river Thames, by the Lee on the north-east and the Colne on the West. Important main routes from London ran out north through Enfield and west through Ealing and Brentford. The county had a mainly clay soil, fertile for agriculture and not hilly but gently undulating. The best wheat was grown in the vale near Harrow called Perivale, and was said to be preferred by Queen Elizabeth for her pastry.¹ The chief markets for produce were at Enfield, Brentford and Uxbridge on the main roads from the north and west, and the most important market at Smithfield in the suburbs of the City. There were no natural resources except brick-earth.

An analysis of the occupations of men appearing at sessions of the peace, as witnesses and sureties as well as accused (but not including justices and officers), in a sample year (1611) gives some indication of the general nature of the county.² Many weavers, especially silk weavers, were centred in Stepney and Clerkenwell, while clothworkers and feltworkers were mainly from London, as were drapers, haberdashers, goldsmiths and similar merchants. Tailors worked in Whitechapel, Clerkenwell and eastern districts (thirteen appeared at one sessions alone). Sailors, mariners

1. Thomas Fuller, History Of The Worthies of England, 1662

2. GLRO.M. MJ/SR/497-501

and watermen, not unnaturally, were common in Wapping and by the river, east of London. Husbandmen were mostly from the outer parishes, but the light fertile soil of Kensington and Fulham, near to London supported a number of gardeners (nine appeared at one sessions alone). In 1616 the Fulham gardeners complained to the City Aldermen that the London Company of Gardeners were trying to tax them or else stop them from selling their goods, such as carrots, parsnips and turnips, in London.³ There was a foundere~~r~~ at St. Katherine's by the Tower. The regular 'service' tradesmen - blacksmiths, bakers, carpenters, coachmen, carters and victuallers, were, of course, evenly scattered about the country. Less frequent were fishers or fishmongers (Clerkenwell district), chandlers (Westminster and London), scrivener~~s~~s (London), glovers (Westminster etc) and the master cook to the Queen in Westminster. This particular sample does not include any paper-makers, although paper-mills were to be found near the Buckinghamshire border by the river Colne. A certain amount of leather tanning for the London leather workers was carried on around Enfield. The subsidy returns record a number of monie~~t~~ts who were exempt from tax. In 1600 21 were noted in Hackney and a few in Stepney and Shireditch. There was a shot-caster in Whitechapel and a soapboiler and a shipwright in Wapping.

In 1593 John Norden⁵ described the county: 'Myddlesex which above all other shyres is graced with that chief and head Citie London, which as an adamant draweth unto it all the other parts of the land and above the rest is most usually ferquented with hir Majesties most regall presence'. He stated that the soil is 'fat and fertile and full of profite' yielding corn and grain in abundance. The county, too, was plentifully stored and beautified with many fair and comely buildings, parks and gardens including the 'houses of

3. Corp.Lon. Rep. 33/74

5. John Norden, Speculum Britanniae: Pars Middlesex, London 1593.

recreation of London merchants'. The domination of the City of London gave the county its unique position but was the chief factor in the special problems of the administration of justice in the county. At least as early as the fifteenth century many wealthy merchants from the City of London built their main homes in Middlesex, although still keeping a town or business house in the City. To take a single example, Richard Turnaunt, a goldsmith of the City, settled in Tottenham and when he died in 1489 left, as well as his estates in Tottenham and the City, much fine gold and silver plate to his daughter, also married to a goldsmith. His property had formerly belonged to City drapers.⁶

The north and east of Middlesex, handy for the City were favourite districts for London merchants, although a few purchased land in the west, such as William Garway, Citizen and draper of London, who in 1588 acquired property with gardens and orchards in Acton.⁷ This sort of movement brought wealth into the county to some extent and also undoubtedly had a profound effect on the type and calibre of the local gentry serving in public local affairs and on commissions of the peace. Probably a large portion of the members of the commissions of the peace were of a higher calibre than those of many counties. Indeed the majority of Middlesex gentry were not 'country gentlemen' as in other counties, but City men, merchants and members of the London guilds, although many of them were younger sons of families from other counties. There are many examples, such as Sir Nicholas Raynton, a haberdasher, who acquired property in Enfield, Robert Brett, another haberdasher, in Edmonton, Sir Baptist Hicks and others, not forgetting Sir Thomas Gresham with his fine house at Osterley. William Gerrard the

6. GLRO.M. Acc/1068/24

7. GLRO.M. Acc/400/1

younger son of a Lancashire family purchased the estate of Flambards in Harrow and established himself as a 'country gentleman' in the county. Sir Robert Wroth, who inherited property in Enfield and acquired an estate nearby in Essex was by birth and inclination a real country gentleman, but he was also a public figure and host to James I for hunting. In the west an example of the small country gentleman is found in the Ashby family who settled in Harefield in the fifteenth century. They were not wealthy and had no particular interests outside their Middlesex estates but had sufficient property for the head of the family to be on the commission of the peace. The Pages of Harrow, too, were prominent in their district although their lands were only assessed at small sums. Gideon Awnsham of Isleworth was another, and perhaps Ambrose Coppinger of Harlington, who was also a gentleman of learning and personally entertained Queen Elizabeth with a Latin oration.

Many Middlesex estates were the lesser properties, convenient for London, of families whose main seats were elsewhere, such as the Pagets of Staffordshire who had property at West Drayton, and a house in London. There were often complaints of the number of land-owners who only visited the county for brief periods. Other transient residents of the county were courtiers and officers of the crown. Francis Bacon had a house at Twickenham. Thomas Egerton, Lord Keeper, purchased, from the Hawtreys, Harefield Place, where he entertained the Queen in 1602. Many lawyers resided in the county near the courts, and were something of an asset in public affairs, although law-suits brought many visitors from the country to add to the heavy population near London. Gilbert Gerrard, the Attorney General and Custos Rotulorum of the county, another son of the Lancashire Gerrards, built himself a house at Sudbury, although like another well-known Middlesex lawyer from Lancashire, William Fleetwood, he had already established

his main estate in Buckinghamshire.⁸

An assessment for the subsidy of 1602 for west Middlesex shows that in this area, where there were few of the most wealthy merchants, the average income assessed was between 40s and £4. Of those gentlemen with £10 or over, the parish of Heston included the most wealthy of all, William Reade esquire, assessed to have £130 p.a. (Reade of Osterley Park played little part in public affairs) and Thomas Whitby gentleman with £10, out of 31 assessed. There were 119 households there in 1664. Isleworth included five of £10 or over (one of £25) as well as four aliens assessed at '£8 by the poll' out of 21 assessed (394 households in 1664). Twickenham included four gentlemen of £20 or more, the wealthiest being Edward Jaches of £30 and Francis Bacon at £25, out of 30 assessed (214 households in 1664). The average assessment for western districts is, however, small. Most of the assessments were only 20s - 40s in lands and perhaps £1 - £5 in goods. The subsidy returns for the whole county for 1598-9 show, not surprisingly, most of the wealthier people near the City, for example in Chancery Lane or Holborn (where there were eight assessed at £20 or over, mainly in lands). There were also some in the north; Edmonton, with three of £20 in lands and eight of over £10 in goods out of a total of sixty-one assessed, and Tottenham with six people of £10 or over in lands, including an alien with £15. This was Balthazar Sanches who had made his home in Tottenham and later gave money to found six almshouses. There were many exemptions in the north and east, of people who served the Crown, such as two moniers of the Mint at the Tower who had houses and lands in Enfield.⁹ The Master

8. GLRO.M. Acc/312, Acc/249, Acc/446; Norden Speculum; D.N.B.; Chamberlain Letters.

9. GLRO.M. Acc/249/178-181 (subsidy returns 1602);
DRO/15/A1/1 MR/TH/6 (Hearth Tax assessment 1664);
PRO.E.179/142/237-9. 252 (subsidy returns 1598-1600)

of the Mint and ex Lord Mayor, Richard Martin, his son and another monier lived in Tottenham.

Writing half a century later than Norden, Thomas Fuller described Middlesex as 'in effect but the suburbs at large of London, replenished with the retiring houses of the Gentry and Citizens thereof, besides many pallaces of noblemen'.¹⁰ London dominated Middlesex in a more real sense, however, than by its geographical position and over-spill of population. Indeed the curious status and position of Middlesex made it quite unique amongst counties. Historically, perhaps as early as the time of Alfred, the county more or less belonged to the City. In 1132 Henry I granted Middlesex to the Citizens of London to farm for £300, allowing them to appoint the sheriff. This was regranted by John in 1199.¹¹ There were, therefore, some legal peculiarities in the organisation of administration and sessions of justice, which will be described in more detail later.

In the Elizabethan and early Stuart period this semi-dependence of the county on the City was accepted and the relationship ran fairly smoothly, since most of the leading men in local affairs of the county were City men or connected with the City. The City and the county co-operated in justice and government as partners, without the county being too consciously subordinate. Indeed at this period, which was a time of transition, of expansion and experiment with new institutions, it was even possible that the relationship might have improved and grown closer. That this did not happen may in part be due to the presence of the county's other Head, the Metropolis in a wider

10. T. Fuller, The Worthies of England, 1662

11. Walter de Gray Birch, The Historical Charters of the City of London, London, 1887; The Corporation Of London, Its Origin Constitution, Powers & Duties, published for the Corporation by O.U.P., 1950.

sense, as the seat of the royal court and government based in Westminster, and of the royal courts of law. The presence of the Court had its effect on Middlesex, not only in the influx of courtiers and officers of the crown to reside in the county, the palaces and royal progresses, but also in the intervention, however slight and however tactfully disguised, in any local matters which might, because of its proximity, affect the Court or government. One might say, too, that the county of Middlesex came between the Court and the power of the City.

The Court's presence was a mixed blessing. A petition from the inhabitants of Middlesex against an increased demand for victuals for the royal household about 1583 points out some of the disadvantages and gives another picture of the county, and incidentally shows some of the problems affecting the administration of justice in the county. They claimed that the county was small and contained many royal palaces parks and chases, also commons, heaths and wastes, all unproductive of corn and other produce. Moreover much land had been converted into private gardens and orchards and many farms had been subdivided and let at exorbitant rents. There had been a 'great influx' of new dwellers, His Majesties servants and others' who did not practise husbandry and contrived to avoid paying their contributions. Indeed nearly half of the milk cows in the county belonged to the poor who relied on the sale of the calves at market prices to pay their rents. Many large houses, too, were subdivided and crowded with 'inmates'. In any case, they said, the inhabitants were more heavily taxed and more frequently subjected to purveyance and cartage for the Queen's progresses, had heavier burdens for watch and ward, repair of highways and poor relief than other counties. Also they were called upon 'almost daily' to serve on juries at the courts

at Westminster and at Gaol Deliveries as well as at General Sessions of the Peace.¹²

This was drafted by George Ashby, a justice of the peace from Harefield who was always ready to take his pen to draft a complaint or speech. The west of the county was perhaps more affected, being less prosperous and having more courtiers and fewer City merchants amongst its inhabitants. Nevertheless, allowing for exaggeration, it presents a reasonably true picture of the county. Some of the officers, the moniers, exempt from tax have already been mentioned. Purveyance was always a grievance. In 1613 a committee of justices of the peace was appointed at the General Sessions of the Peace to meet the two royal purveyors and arrange a composition in money, instead of produce, it having been discovered that this had been arranged in Essex and that the purveyors were using the composition money from that county to purchase victualls in the Middlesex market at Smithfield. The latter seems to have been a worse grievance, no doubt less than the market price was paid, thus doubly burdening the Middlesex farmers.¹³

The royal palaces of Whitehall and Hampton Court were in Middlesex and the royal Chase was at Enfield. The Queen also had the Manor of Worcesters in Enfield, which she gave to Robert Cecil in 1602.¹⁴ Protests about enclosures, particularly for parks and gentlemen's 'pleasure grounds' but also for pasture and other purposes, are illustrated by many cases in the sessions records throughout Elizabeth's reign. In 1576, when the Queen was the guest of Sir Thomas Gresham in his recently built house

12. GLRO.M. Acc/312/565

13. GLRO.M. MJ/\$BR/1/15

14. GLRO.M. Acc/276(8) Manor Court Roll.

at Osterley, some women tore up the palings round his park and 'diabolically and maliciously burnt' them. Only two women appeared in court but others must have been involved and not caught.¹⁵ At Enfield in 1589 forty women, wives of local farm workers, were named on a charge of riotously throwing to the ground the fence round the close of a certain Alice Hayes at 'Joan Potters' in the south of the parish.¹⁶ The Enfield women were particularly lively in defending their rights, possibly because the district was much affected by enclosures for the royal Chase. A mob of women assembled again in 1603, at White Webbs near the Chase, to maintain their right to gather fire-wood there. As Vincent Skinner, a Middlesex justice, wrote explaining the affair to Sir Robert Cecil, they thought that wood should either be burnt in the King's House or given to the poor, but not carried out of Enfield Town. Such expressions of local feeling were probably not infrequent. In 1611 when enclosing a further one hundred and twenty acres the King gave an assurance to the Commoners that he would not enclose any more land.¹⁷ A similar incident happened again at Osterley Park in 1614 when several women cut down trees belonging to Sir William Reade. On two occasions mobs of men broke into enclosures of the Newdigates at Harefield and Ashford - the latter described as former 'waste' of the Manor - and trampled crops, dug up soil and cut down wood.¹⁸ At South Mimms some six men (three of whom were gentlemen of Sussex) took possession of a field, the Parkfield, to prevent it being divided into three parts.¹⁹

15. GLRO.M. MJ/SR/199/4

16. GLRO.M. MJ/SR/286/8

17. SPD 1603 Apr 15, 1611 Oct 10 & 16 GLRO.M. MJ/SR/527/55

18. GLRO.M. MJ/SR/106/2,3

19. GLRO.M. MJ/SR/307/6,8

Enclosures of manorial waste, either to extend property or for building, were common. John Norden described Hounslow Heath as 'a very lardge groundes which yeldeth comfort to one small companye of people who without the ayde ther ys could hardly relieve themselves.....And surely great woe is pronounced agaynst such as dyminishe the Comons of the Poore.....'²⁰ John Newdigate was guilty in 1583 of acquiring a parcel of land 'lately enclosed from the Common called Hounsloe Heath'²¹ Turning ploughland into pasture, too, was an offence frequently presented by juries of the Hundred (an administrative district) to the justices at sessions, especially in the earlier years of Elizabeth's reign. For example 'Wee present thirty six acres of land within the parish of Totnam now in the hands of Mr. Machan, and was alwaies wont to be in tyllage, and lett to a bocher'.²² Another aspect of enclosure is illustrated by the case of John Draney, a clothier of the City of London, who had trenched in with deep ditches and green hedges an 'open field' called 'Stepneyheathe Close' (sic) thus preventing archers from the City from entering and practising archery as they were accustomed to do in the open fields of Stepney, Ratcliffe, Mile End, Bethnal Green, Spitalfields, Moorfields, Finsbury Fields, Hoxton, Shoreditch, Islington, St. John's Field, The Mantells, Tothill and St. James' Fields. The energetic archers of Moorfields and Finsbury about 1558 can be seen practising in a lively fashion in the fields, and by the windmills, in spite of passers-by and laundresses, as depicted by the artist of the recently discovered 'Moorfields Map'. Draney was fined 12d.²³

20. B.M. Harl. 570 f.13

21. GLRO.M. Acc/1085 (Gr 136 Mx) ED.37 Hampton Manor Court Rolls

22. GLRO.M. Sessions Presentments (Acc/207/507)

23. GLRO.M. MJ/SR/108/7; M.R. Holmes, Moorfields in 1559, London Museum (H.M.S.O.), 1963

Archery was important for military defence. Men were supposed to own bows and arrows and practise regularly at the butts, but they often neglected this. An Edgware draper, Edward Whartun, for example, was charged in 1615 with persuading others to play football at Uxbridge instead of practising archery.²⁴ Football was popular but could lead to violence, as at South Mimms in 1584 when an onlooker, taunting a player, called 'cast Hym over the hedge' and was told to 'come thou and do yt'. In the resulting brawl the spectator was killed.²⁵ Most games, however, were unlawful, except for the gentry, and often a matter for the justices' attention, especially the various gambling games of cards, dice and shovegroat. These were often played in alehouses, of which there were very many, especially in the populous districts near the City and on main highways. Alehouse keepers had to be licensed by the justice, although some people tried to sell 'victualls' without licence. Another problem was the number of 'houses of ill-fame', a term which covered not only bawdy houses but also ill-run alehouses which allowed gambling, let men sit 'tipling' in working hours, or harboured those 'who walk by night and have no visible means of support'.

Perhaps the greatest problem with which the justices had to cope, emanating from the metropolis, was the increase of population and the resultant over-crowding, which put a burden on the food supplies and increased the number of poor in need of relief. Bread prices (like ale and other prices and wages) were controlled by the justices according to the price of corn, but there were often bad harvests, when bread had

24. GLRO.M. MJ/SBR/II

25. GLRO.M. MJ/SR/243/35

to be made from rye and making starch from wheat was forbidden. In an attempt to contain the increase of poor and destitute people a statute of 1589 prohibited the building of new cottages unless they were provided with four acres of land.²⁶ The justices could license exceptions in special cases but cottages were ordered to be pulled down if built in defiance of the regulations, even some years after building, although Richard Williams of Isleworth was licensed to complete his cottage, the frame having been in position for a year. A cottage built at Enfield by Ambrose Castle, servant to Sir Hugh Middleton 'about fifteen years ago' shortly after the bringing of the New River from Ware to London (1613), without four acres, was allowed to remain as habitation for 'such persons as have the oversight and amendment of the said New River'.²⁷ There were many cases of houses being subdivided, one in Clerkenwell was made into fifteen tenements, cellars were let to numerous 'inmates' and outbuildings were converted, like the barn at St. Giles converted into divers tenements by Edward Foster a bricklayer, despite warnings, although Thomas Wilson of Bethnal Green was licensed to convert stables at Charing Cross into three cottages.²⁸

Many of these cases were brought under special regulations applying to London and its environs, where for economic and other reasons many poor people had come to live. The introduction of coal for burning added to the 'noisome' smoke (as much as 4000 chaldrons were licensed to be brought from Newcastle to the City in 1605²⁹). In 1580 Elizabeth issued a proclamation

26. 31 Eliz.c. 7 (1589)

27. GLRO.M. Easter Sessions 1629 MJ/SBR/5 p. 148

28. GLRO.M. For example MJ/SR/517/84, MJ/SR/521/143-5, MJ/SR/528 75 MJ/SR/531/104, MJ/SR/522/25, MJ/SR/294/Acc/71/178) MJ/PRB/I etc.

29. P.R.O. C.66/1665

on the state of the City having remarked the 'City of London (being anciently termed her chamber) and the suburbs and confines thereof to increase daily....there are such greate multitudes of people brought in^{to} inhabit in small rooms, whereof a great part are seen to be very poor, yea such as must live of begging or by worse means and these are heaped up together and in a sort smothered with many families of children and servants in one house or small tenement'. Such conditions, the Queen feared, might lead to the spread of infection, not only within the City but 'where her majesty's personal presence is many times required' and even, 'by the great confluence of people...(for)...the ordinary terms of justice there holden,' spread throughout the realm. The remedy, on the advice of the Council and the 'considerate opinions of the Lord Mayor and Aldermen...' (the courtesy of consultation was always accorded to the City in matters concerning it), was to forbid all new building of houses or tenements within three miles of the City, by any person 'of what quality soever' and to forbid more than one family to inhabit any existing house. If any building was attempted it was to be pulled down. People dividing houses into tenements were to be imprisoned. 'Inmates' or 'undersitters' were to be removed within three months, within which time they 'may provide themselves other places abroad in the realm where many houses rest uninhabited to the decay of divers ancient boroughs and towns'³⁰ Many such proclamations were made during the next forty years and special commissions issued to justices to inquire into buildings and other annoyances and enforce the laws. In 1618, for example, a special commission was issued to certain justices of London, Middlesex and Surrey to inquire into all new buildings and 'inmates' in London and within seven miles round since

30. Corp.Lon. Proclamation of Queen Eliz. 7 Jul. 1580.

the beginning of James' reign.³¹ It would seem that evasions of the orders were frequent.

It was not only the possibility of the need for poor relief rising or the increase of crime, which caused the Court to campaign against overcrowding (although that concerned local authorities) but the ever present fear of plague infection, especially near to the palaces. This, too, made work for the justices both in enforcing the various orders, about skulking up houses, burial, pest houses, searchers^{of the dead}, and so on, and in attempting to control the movement of people from plague areas. There were regular epidemics during Elizabeth's reign and severe outbreaks in 1603, 1609, 1625 and the 1630 s. Parish registers show the great number of deaths from plague in some years, especially of people moving from the City. There were many Londoners buried in Tottenham in 1603, when the parish clerk also noted that the coronation of King James was held with less 'pompe' than usual owing to the plague, and also because of a conspiracy.³² When Joan Robinson called her last will from the window of the house in Uxbridge where she lay dying of the plague in 1609, the witnesses in the street below were all from the City of London.³³ The Robinson's house was sealed up according to the regulations, but there were cases of people breaking out of stricken houses. In 1608 the constable of St. Sepulchre's was charged before the justices with neglecting his duty to shut up a house 'by reason whereof his owne house became infected and both his next neighboures out of which there was buried five persons of the plague.'³⁴

31. PRO Crown Office Docquet Books 25 Jul 1618 (C 231) & MS indexes to patent rolls.

32. GLRO.M. DRO/15/A1/1

33. GLRO.M. Archdeaconry of Middlesex wills, 1609.

34. GLRO.M. MJ/SR/819/189, MJ/SR/464/97

Attempts were made to stop movement from plague areas and to prevent people from receiving lodgers or 'inmates' who might be infected. John Burgayne of St. Giles was charged in 1609 with receiving five people, sick of the plague, from other places.³⁵ The Middlesex justices were particularly charged to search out extra 'inmates' from anywhere near Hampton Court.³⁶ Fear of infection affected some trades such as the paper-makers of west Middlesex whose mills were closed in case infected rags should be used as raw material. Indeed some men were arrested for taking rags from infected houses.³⁷ In 1637, however, the paper-makers petitioned to be allowed to return to work as they had not received their promised relief payments and the plague had abated.³⁸

Any crowds gathering for entertainment or other purposes were discouraged, partly because of the risk of infection but also for fear of disturbances and pick-pockets. The county of Middlesex boasted the first theatres in England, but the justices found it necessary to control them. Theatres were forbidden altogether in the City. The first building to be erected especially for play-acting was built in 1576 by John Brayne and James Burbage (father of Richard) in Shoreditch in Middlesex, outside the City, and was known simply as The Theatre. It was used by Burbage's players (with whom Shakespeare was associated) until 1598 when the lease of the site ended and was then pulled down and rebuilt on the South Bank as The Globe. Another theatre, The Curtain, was built, also in Shoreditch, in

35. GLRO.M. MJ/SR/470/1

36. GLRO.M. Acc/249/819

37. GLRO.M. For example Easter sessions 1637 MJ/SR/891

38. GLRO.M. Acc/249/820

1577. The Fortune, Philip Henslowe's theatre, was built in Golding Lane in 1600, and the Red Bull in Clerkenwell about 1604. There were indeed some disturbances at these playhouses. Brayne and Burbage themselves were indicted in 1580 for bringing together unlawful assemblies of people to hear plays, for disturbances had taken place.³⁹ A 'cut-purse' was caught at the Curtain in 1600,⁴⁰ a mob of feltmakers committed 'a noteable outrage at the Red Bull the playhouse' ---one which notoriously attracted the more unruly playgoers,⁴¹ The Middlesex justices made an order in 1612 forbidding 'lewde jigges songs and dances' at the end of plays at the Fortune Theatre since they encouraged 'divers cuttpurses and other lewde and ill-disposed persons in great multitudes...'⁴² A year later the son of a Middlesex justice, Nicholas Bestney, was severely wounded by two knife thrusts at the Fortune.⁴³

The Middlesex petition complained, with some justification, of the frequency of jury service. Although mainly due to the number of different courts within the county, this was also a result of the increase in population and poverty which led to an increase in crime. A grant of land from James I to the Middlesex justices for a sessions house and prison in 1609 referred to the number of breaches of peace which 'dothe daielye soe increase as that our Common Gaol of Newgate is not large enoughe nor sufficiente...'⁴⁴ The most common crime was petty theft, particularly

39. GLRO.M. MJ/SR/225/4

40. GLRO.M. MJ/SR/378/7

41. GLRO.M. For example 1610 MJ/SR/489/9,11, 101, 103, 105

42. GLRO.M. MJ/SBR/1 p. 559

43. GLRO.M. MJ/SR/522/211

44. GLRO.M. Acc/35/10

of clothes drying on hedges, livestock and sometimes food.⁴⁵ Sometimes thefts were organised on a large scale, as when a group of clothworkers from London burgled a number of houses in Tottenham and took a rich haul of costly and elaborate articles of clothing.⁴⁶ Plate and furnishings from the houses of the great were a temptation. Sir Walter Raleigh's house in Westminster was broken into and pillow cases, embroidered with silk and gold, stolen by burglars, who the same night stole from Lord Burghley and others.⁴⁷ A parliament-robe of scarlet cloth worth £74 was stolen from Edward Lord Sturton at Clerkenwell.⁴⁸

The Queen's Palace was burgled many times. Silver spoons and jewellery were taken from a Lady in Waiting and silver gilt plate from a Sergeant at Arms in 1603, while in 1613 Whitehall Palace was broken into five times.⁴⁹ Queen Elizabeth's own silver salts were stolen from the Bishop of London's Palace at Fulham when she was visiting there.⁵⁰ The Prince of Wales' pet tame stag was taken from St. James' Park.⁵¹ Even the Tower of London was broken into and several barrels of gunpowder worth £92 stolen by three men, in 1592.⁵²

45. GLRO.M. MJ/SR

46. GLRO.M. MJ/SR/250/18 a,b.

47. GLRO.M. MJ/SR/402/39-41 (1602)

48. GLRO.M. MJ/SR/444/110 (1607)

49. GLRO.M. MJ/SR/404/92 (1603), MJ/SR/516-527 (1613)

50. MJ/SR/395/83 (1601)

51. GLRO.M. MJ/SR/480/154

52. GLRO.M. MJ/SR/

There were many cases of brawling and duelling which resulted in wounding or killing. The case of Ben Jonson who killed Gabriel Spencer with a sword thrust in 1598 but was granted 'benefit of clergy' has been quoted many times.⁵³

Recusancy, while not unique to this area, was another problem for the justices of London and Middlesex, since there was greater danger of conspiracy, near to the Court. At almost every sessions there were long lists of people indicted for not attending Church. They were fined but not usually persecuted in any way, although they were watched carefully and discouraged from living too near the royal Court, the chief aim being to make sure they were known and recorded. The Bellamys of Harrow were frequently indicted for non attendance at Church, for attending Mass, and also for harbouring Robert Southwell a priest.⁵⁴ Thomas Lord Paget forfeited his lands as a convicted papist, but his heirs apparently regained them.⁵⁵ Practising priests trained abroad, and any recusants whose loyalty to the Protestant monarch was suspect, were treated more severely since they might foment disaffection against crown and government. These were usually discovered and tried at the instigation of the politicians, by special commissions, being more of a national than a local matter.

53. GLRO.M. MJ/SR/358/68

54. GLRO.M. For example: MJ/SR/245/10 (1583), MJ/SR/271/28 (1587) MJ/SR/255/24 (1585), MJ/SR/324/46-7 (1595)

55. GLRO.M. Acc/446

There is, however, little evidence of significant rioting or disturbance for religious or political reasons. A silk weaver, Henry Marot, was charged in 1604 with conspiring the stoning to death of one English, the curate at Ratcliffe.⁵⁷ Earlier, in 1583, a group of men from various Inns of Court broke windows in St. Clement Danes and entered the church and sang 'falantido dilly' during divine service,⁵⁸ but this and similar episodes is more like hooliganism than serious protest. Other hooligans from London, on Easterday 1595, broke fences, took away stiles and pulled down bridges in Tottenham.⁵⁹ Slanderous words were occasionally spoken against the Queen, often by women, and Alice Joyse was bound over 'for speaking certain slanderous words against Scottsmen.'⁶⁰ A comment on the new poor laws made in 1603: 'A pox and a vengeance of all those whatsoever that made this statute for the poore and punishment of Rogues' suggests an understandable distaste for the punishment.⁶¹ Similar feelings were expressed more circuitously by those who had to pay the rates and taxes.

Such was Middlesex, a pleasant county, reasonably fertile and prosperous and containing the residences of a number of wealthy and learned gentlemen. It was influenced by its relationship with the City of London, the Royal Court, and the courts of law, all of which had an affect on its population and prosperity and gave rise to unique problems and institutions.

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57. GLRO.M. MJ/SR/405/60,61 (1603)
 58. GLRO.M. MJ/SR/241/32,33 (1583)
 59. GLRO.M. MJ/SR/400/5,7 (1602)
 60. GLRO.M. MJ/SR/423/23 (1604)
 61. GLRO.M. MJ/SR/404/84 (1602)

CHAPTER IITHE JUDICIAL SYSTEM IN MIDDLESEX

This chapter concerns the system of the administration of justice by the various judicial commissions, particularly as applied to Middlesex and London. The justices of the peace and other commissions, as they normally acted in England, are first described. The differences in the practice in the Metropolis are considered and those chartered privileges of the City which affected the issuing of commissions summarised. Then the four commissions which were directed to the City and to Middlesex, either jointly or separately, are described. Finally a comparison between the membership of these commissions shows further the connection between them and their nature as local commissions.

Justices of the Peace

Justices of the peace were, in effect local officers of the crown, appointed to administer and preserve the King's peace in their own neighbourhoods. Sir Thomas Smith says 'The Justices of the peace be those in whom at this time for the repressing of robbers, theeves and vagabonds... the Prince putteth his special trusts'.¹ They were selected from amongst the leading residents of the shire, unlike the ^{early medieval} sheriff and judges of the royal courts who were the King's representatives sent to the county. Keepers of the peace in the counties had been appointed from time to time by commission from the crown from early in the fourteenth century. An act of 1327 describes them: they had small powers at first, merely to arrest suspects and inquire into felonies but not to determine causes. The statute of 1361 gave them authority also to determine, and called them justices rather than keepers of the peace. Justices of the peace were firmly

1. Sir Thomas Smith, kt., The Commonwealth of England, London, 1601

established by 1461 when it was enacted that all indictments and presentments which had formerly been taken at the Sheriff's Tourn, held twice a year for each hundred in his shire, should in future be taken before the justices of the peace. This was probably already the practice, to some extent, for the powers of the sheriff had been waning for some time. The fascinating history of the rise of the justices of the peace is outside the scope of this study. Briefly it may, perhaps, be partly attributed to the rise of the Commons and country gentry and their desire to be governed by their own kind, and, moreover, by several representatives rather than one King's officer, who might become too powerful - the latter feeling was no doubt shared by the monarch. In fact the result was ^{a successful compromise} ~~the growth~~ ~~between direct and local rule~~ ~~of a sort of democracy.~~ It is a measure of the success of the justices as local administrators that they were accepted by the inhabitants of the counties, who had no voice in the appointment of their county governors until as late as 1889, when elected county councils were established for the administrative side of the justices' work.

Justices were to be good men and true (bones gentz et loialz) resident in their shires, and, from 1439, having freehold property worth at least £20 a year. Thus they supposedly had a knowledge of local conditions. An Act of 1390 had authorised eight justices for each county, but the number had increased to twenty or so by the end of the fifteenth century. Their duty to keep the peace included the day to day preservation of order and regulation of economic affairs. The commission of the peace, which appointed the justices and recited their duties, was re-phrased and made more concise in 1590. It charged them to conserve statutes and ordinances and punish those who offended against them; to take security for good behaviour and preservation of the peace and commit to prison any who have threatened to harm others or fire their homes. Two or more justices were charged to inquire, by the sworn word of honest and lawful men of the county by whom

the truth might be better known, into all felonies, witchcrafts,² enchantments, sorceries, trespasses, forestallings, extortions, unlawful assemblies, those who ride in companies against the peace, or lie in wait to kill or maim; into victuallers and abuses of the weights and measures; into all sheriffs, keepers of goals and other officers who presume to be negligent of their duties. They were also to inspect all indictments and to make and continue process and hear and determine all felonies etc. according to the laws of England. There was, however, a proviso limiting the determination of process: that in any case of difficulty, judgement should be given only in the presence of one of the King's justices of the Benches or of assizes. The commission further directed the justices to hold their inquiries on days and at places to be appointed by any two or more of them. The requirement to hold them quarterly was not part of the commission, but was included in statutes of 1362 and 1414 (36 Edw.III and 2 Hen. V c. 4). Finally the commission required the sheriff to cause to appear honest and lawful men from his bailiwick 'by whom the truth of the premises shall be better known'. The Master of the Rolls of the County was required to produce the writs, processes, indictments and other records.³

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2. 'veneficia', usually translated as 'witchcrafts' until the abolition of witchcraft in 1736 (9 Geo IIc.5) and thence rendered as 'poysonings'.
 3. Patent rolls, PRO.C/66. William Lambard, Eirenarcha or of the Office of Justice of the Peace, London, 1581, enlarged 1592. (1610 edn. used)

An average county sessions dealt with a wide range of business, from petty thefts, serious brawls, wounding and murder, vagabonds and beggars, unlicensed alehouses, orders for the repair of highways, assessing wages, and so on. Indeed during the Tudor period an endless number of duties was added to the work of the justices. A picture of a lively county meeting, attended by a large number of people, can be gleaned even from the formal surviving records of any county sessions of the peace. Most of the work of the justices of the peace, however, was done outside the quarter sessions, either alone or with one or two colleagues in his own neighbourhood. This included examining suspects and committing them to gaol or binding them, with sureties, to attend the next sessions, and binding any witnesses also to attend. They could also deal summarily with a number of minor offences authorised by statute to be within the cognizance of one or two justices alone. They also made orders about poor relief, licensed alehouses and so on. William Lambard devoted most of his much consulted manual for justices of the peace, Eirenarcha, first published in 1581, to the powers and duties of justices out of sessions.

Assizes

The commission of the peace, as described above, specifically requested justices of the peace to leave the more serious or difficult cases for the attention of one of the justices of King's Bench, Common Pleas or Assizes. The assize judges, an older institution than county justices, were commissioned to visit counties two or three times a year 'on circuit' to hear cases touching the King, or his peace. They were given several commissions. One was the commission of assize, concerning land disputes, perhaps at first the most common case heard, although more important disputes between subjects over land holdings were still heard 'before the King himself' by the bench of Common Pleas at Westminster. The word assize

actually refers to the order or statute establishing it, and is similarly used for other statutory orders such as the assizes of bread and ale. The term 'assizes' came to be used for the whole sessions. They were also given a commission of nisi prius allowing them to hear cases started in King's Bench and Common Pleas and adjourned to wait for a local jury to be summoned on an appointed day unless before (nisi prius) that time the assize justices visited the county. Of more significance was the commission to deliver his majesty's gaol for the county of all prisoners (the criminal sessions were more properly called gaol delivery sessions, not assizes). With this was another commission, oyer and terminer, to hear and determine the more serious felonies. This specifically charged them or any four or more of them to inquire, by the sworn word of good and lawful men of the county, into all treasons, insurrections, rebellions, murders, killings, rapes, unlawful conventicles, conspiracies, false accusations, oppressions, false coining etc., and to determine the cases according to the laws and customs of the Kingdom.⁴ In most counties the majority of prisoners accused of capital felonies were committed by the justices of the peace to the county gaol to be 'delivered' by the royal justices, or in other words referred to the assizes.

Middlesex and London

In Middlesex, the metropolitan county, the administration of justice and the preservation of peace was differently organised. Commissions to deal with more serious matters were directed to local, although experienced, justices. This was partly due to the presence of the royal courts of King's Bench and Common Pleas, which sat regularly in Westminster, thus making visits from circuit judges unnecessary. Chiefly, however it was brought

about by the ancient privileges of the Citizens of London. The Citizens had been allowed considerable independence of judicial process, having been granted the right to be judged only by their own representatives. They also had a degree of jurisdiction over the county of Middlesex, through the grant of the sheriffwick of Middlesex. A charter of Henry I in 1132 included the grant 'to my citizen's of London to hold Middlesex to farm for three hundred pounds upon accompt to them and their heirs, so that the said citizens shall place as sheriff whom they will of themselves, and shall place whosoever they will of themselves for keeping the pleas of the crown...and none shall be justice over the same men of London, and the citizens of London shall not plead without the walls of London for any plea'. This was confirmed by John in 1199: 'the sheriffwick of London and Middlesex, with all the customs and things to the sheriffwick belonging, within the City and without...paying therefor threehundred pounds... and they amongst themselves make sheriffs whom they will, and they may amove them when they will. Subsequent monarchs confirmed these privileges.⁵

The sheriffwick of Middlesex was regarded as part of the City's domain, not as a separate entity. Two sheriffs were chosen from among the Aldermen each year. One was elected by the City's Common Council and the other was chosen by the Mayor, until 1694 when both were elected. These two together acted as one sheriff of Middlesex. When endorsing writs relating to Middlesex they both signed their names together as the Sheriff (in the singular) of Middlesex. The City retained the sheriffwick of Middlesex until 1889.

5. Corp. Lon.; W. Birch, Charters of the City of London, London, 1888; The Corporation of London, London, 1950

Henry I's grant of their own justiciar for the City seems only to have lasted for about twenty years, but the mayor of London was included in commissions of gaol delivery from an early date. In 1327 his inclusion was granted as a permanent privilege. Within the City, too, aldermen had acted as peace keepers, with powers of determination, or capital punishment, from at least the twelfth century. From the early fourteenth century the aldermen also elected a Recorder, a lawyer, who acted as judge in the Mayor's Court. In September 1444 the City's Common Council approved a royal charter to rationalise the situation. It received the King's seal the following month and declared that from henceforth the Mayor, Recorder and those aldermen who had born the office of Mayor should be justices of the peace. This was confirmed and clarified in 1462. In 1550 when the Manor of Southwark was granted to the City the same jurisdiction was extended to Southwark, whose malefactors were also sent to Newgate Gaol. In 1602 a statute stated that every alderman could, by himself, within his own ward, execute duties appointed to be done by two justices in other counties. In 1638 the three senior aldermen who had not yet served as Mayor were added to the number of justices. In 1741 all the aldermen were made justices.

Aldermen were elected by the freemen of the ward and then served for life, unless they resigned or, rarely, were dismissed for misconduct. There were twenty five wards. Another, Bridge Without, for Southwark was added in 1550, but did not have the right to elect an alderman, being served instead by the most senior alderman transferring to Bridge Without. The Mayor was chosen only from those aldermen who had already served as sheriff. Two nominees were elected by the liverymen in Common Council, a large body including the aldermen, members elected by the freemen of each ward and

representatives of livery companies. The Court of Aldermen chose one of the nominees.⁷

The City justices of the peace, being only those aldermen who had served as Lord Mayor, were normally men of high calibre. The City sessions were, however, chiefly used for the trial or preliminary inquiry into criminal offenders, for, as in most old chartered Cities, the general administration of the City was the concern of the Court of Aldermen. This included the suppressing of nuisances, the enforcement of the laws relating to alehouses, the assize of bread, and similar matters. The Mayor's Court, over which the Recorder presided, also dealt with minor offences.

This has been a very summary account of the City government as regards its relationship and influence on the county of Middlesex. The history of the City has, however, been studied by many historians.

Commissions in Middlesex and London

The county of Middlesex had a commission of the peace like any other county, although it was distinguished by the inclusion of a number of City merchants, who had property in the county, and a number of professional lawyers, who resided there near to the courts of the Metropolis. Because of the volume of other work and the presence of other courts, however, Middlesex was only required to hold two general sessions of the peace each year, under an act of 1436 (14 Hen. VI c. 4). Full sessions of the peace, with all the county officers, including high and parish constables, were, therefore, only held twice a year, at Easter and Michaelmas.

7. The Corporation of London

As in other counties suspected felons, after being examined by justices of the peace, were committed to gaol. Inquiry was then made into the evidence for the charge, and the accused indicted, by a jury, before justices commissioned to hear and determine. The prisoner was then tried before justices with a further commission to deliver the gaol. These two commissions were the same as those given to the assize judges. However the gaol and the felons in it and suspects indicted of felony were the responsibility of the sheriff. As already shown, the Middlesex sheriff was the City of London's two sheriffs, acting as one officer. The county gaol was the City's gaol of Newgate, also used for City prisoners. Only one commission for its delivery could, therefore, be issued. This was addressed, according to the City's chartered privileges, to the Lord Mayor and some other aldermen, but also included some justices of the King's Bench and Common Pleas and some Middlesex justices of the peace.

On the other hand the other commission, oyer and terminer, was not combined. One commission was issued for the City of London, and another was directed separately to the county of Middlesex. This was one of the anomalies of the curious relationship between the City and Middlesex. For one thing, the offices of the sheriffs of London and Middlesex, although held together by the same men, were still officially separate offices. London had been granted only the farm of the Middlesex sheriffwick, not the right to include it within its own bailwick. The sheriffs who were responsible for producing the juries were, therefore, concerned with two separate bailiwicks. The jurors had to be chosen from each sheriff's own bailwick: from the body of the county to inquire into offences committed in Middlesex, and from the body of the City to inquire into offences committed within the city. Middlesex indictments could only be presented by a jury from the county. It was customary, too, for this preliminary inquest into the facts, later known as the grand jury inquiry, to be made within the

county concerned. This was their own sessions, not a summons to the King's court. Even more certainly citizens of London were entitled only to be indicted by a jury of their fellow citizens, just as they could only be tried by a jury of citizens and heard on any plea within their walls.

For another thing the Middlesex process records from the justices of the peace were the responsibility of the Middlesex custos rotulorum. This office had no connection with the sheriffwick and did not in any way come within the jurisdiction of London. It would no doubt have been technically possible to have drawn up a commission of oyer and terminer, including clauses directing the production of Middlesex jurors and records, without interfering with the remaining independent rights of the county. This was done for cases tried by special commissions or transferred to King's Bench. However, keeping the two commissions separate was a subtle way of preserving the independence of the county. It was to the Crown's advantage to discourage further growth in the City's power. This was showing signs of spreading in the mid-sixteenth century, with the acquisition of Southwark and the lease of the Manor of Finsbury. It was not impossible that closer union with Middlesex might have grown and the separate commission lapsed. This never happened. Middlesex retained its own oyer and terminer commission, although in the eighteenth century London gained greater control over the gaol delivery. The Middlesex justices of the peace were then virtually omitted from the gaol delivery commission.

The gaol delivery and oyer and terminer commissions were quite separate from the commission of the peace. It is quite untrue to say (as has often been said) that the 'Middlesex quarter sessions had a jurisdiction akin to assize jurisdiction'. It is, however, an understandable misapprehension, for the two higher commissions were local commissions, in that they were directed to local men, including some of the justices of the peace as well as lawyers and also some justices of the royal benches.

The division of the commissions produced an apparently complex division of the sessions. An inquiry sessions was held for Middlesex, in Clerkenwell or Finsbury, before a small number of justices of the oyer and terminer commission. The jury to inquire into the facts for the body of the county, or grand jury, there indicted the accused or else decided there was no case. A similar sessions was held for the City of London at the City Guildhall, sometimes on the following day. The next day the indictments from both inquiry sessions were presented to the Lord Mayor and other justices of the gaol delivery commission, sitting in the Old Bailey Sessions House near Newgate. The prisoners were then brought there and arraigned, the issue was decided by another jury, and eventually judgements given by the justices.

These three sessions were often held on different days. For example in January 1611 the London 'inquiry' was held on Monday 14th, the Middlesex inquiry on Tuesday 15th and the gaol delivery sessions began on Wednesday 16th January. In both February and March the London and Middlesex inquiries were both held on Wednesday 13th and the gaol delivery on Thursday 14th. In April 1611 the London inquiry was held on Wednesday 3 April, Middlesex on 4th and 5th April and the gaol delivery on Friday 5th April.⁸

The procedure at sessions will be described more fully in the next two chapters. First, however, a closer study of the various commissions and a comparison of the membership of each will give more indication of the relationship between them.

8. GLRO.M. MJ/SR (Precepts); Corp.Lon. sessions files, precepts.

Commissions of the peace were issued from the sovereign and were prepared by the Chancellor. Names could be recommended by the custos rotulorum of each county, and through him the whole body of justices present at sessions. In Elizabeth's reign, and earlier, the sovereign and the chancellor kept direct personal control over the commissions of the peace. Many of the notebooks in which draft lists were kept for the preparation of commissions, called liber paci, have survived, both amongst the public records and in private collections such as the Lansdown and Egerton manuscripts. Some of these contain obscure notes in Lord Burghley's hand. Queen Elizabeth herself was also reported to have deleted names from some lists, with her own hand.

The commissions were given by letters patent under the great seal (although occasionally a lesser 'half seal' was used). New ones were issued whenever alterations needed to be made, even merely to rectify omissions due to clerical error. Sometimes several alterations were made in one year, sometimes not for a number of years. Copies of commissions were recorded on the dorse of one of the patent rolls for the appropriate year. According to Barnes and Hassell these enrolments were not copies of any one commission actually sent out, but a composite record including any additions made during the year, although they appear to be simple copies including the date of sealing. However for studying the type of membership it is helpful, rather than a disadvantage, to have a full list. Dates and details of each commissions sent out are recorded in the Crown Office docket books from 1595 (although a few early volumes are missing). In these books the clerk of the Crown noted the warrants for new commissions, including the names to be added or deleted, but not the complete list of names. The commissions for the delivery of Newgate Gaol, London, and the London and Middlesex oyer and terminer commissions were recorded

with other special commissions, in 'special entry books' from 1601 to 1673 (P.R.O. C/181). They were not endorsed on the patent rolls like those of other counties.⁹

Early commissions of the peace tended to be small, consisting mainly of a few gentry of the county who would be active in their work in keeping the peace, together with a few royal court officials, included because of their office so that they could act, if necessary, but would not normally do so. In 1558 there were thirty four names on the Middlesex commission, including six officials and peers, the attorney general and a couple of lawyers, the rest being local gentry. The 1570 commissions was similar, and forty two were named in 1584. After that the numbers increase. There was a growing tendency to include every man who was qualified. A comparison of the subsidy returns with the commissions shows that once the value of a man's property reached ~~the value of~~ £20 a year, the requisite minimum, he was usually placed on the next commission, unless he was suspected of recusancy or otherwise thought unsuitable. There were also more dignitaries and peers. In 1596 there were sixty eight names, in 1610 eighty seven, in 1617 ninety eight and in 1630 one hundred and twenty nine. These included, in fact, many who had no interest in the work of the commission and never, or hardly ever, attended sessions. Of the larger commissions only one third, or less, of the members

9. PRO:C/66; C/231 (Ind. 4208-11); C/181, B.M: Lans.1218, Lans.737; Eg. 2345; T.G. Barnes & A. Hassell Smith, 'Justices of the Peace from 1558 to 1668', Bulletin of Institute of Historical Research, xxxii, 1959, pp221-242; J.H. Gleason, The Justices of the peace in England, 1558 to 1640, Oxford, 1969.

were normally active. Only the sessions attendance lists and recognizances show who were the working justices, the commissions themselves give no indication. It was the same in other counties, although because of its larger population Middlesex tended to have a larger commission of the peace. In 1620, for example, Kent had fifty justices of the peace, Gloucestershire fifty four, Essex thirty seven, Wiltshire sixty, Bedfordshire thirty one, Cambridgeshire forty four, Cheshire thirty five, Cornwall fifty seven, Northamptonshire fifty three and Surrey sixty eight.

A similar increase appears on the gaol delivery and oyer and terminer commissions for London and Middlesex, although it is not so marked since there were fewer non-active members.

The gaol delivery and oyer and terminer commissions were re-issued every November to include the new Lord Mayor and often a change of justices of the royal Benches. Sometimes a further commission was issued in the Spring. The City of London paid expenses, usually of quite small sums perhaps fifteen shillings, for the renewal of the commissions. Orders for these payments appear regularly in the 'Repertory Books' of the Court of Aldermen. The Middlesex oyer and terminer was often renewed by warrant of the Custos Rotulorum, Sir John Fortescue, as the Clerk of the Crown noted in his 'docket books'. It is, perhaps, significant that while the London oyer and terminer and the gaol delivery commission were always issued together on one day in mid-November each year, the Middlesex oyer and terminer was usually dated some days, or even a month, later, after a reminder from the Middlesex custos. For example in 1599 the London commission and the gaol delivery were dated 25 November and the Middlesex oyer and terminer 4 December. In 1602 the London oyer and terminer and the gaol delivery were dated 16 November and the Middlesex oyer and terminer 18 December.

Comparing the lists of members of the different types of commission between 1598 and 1601 shows that out of fifty nine names on the commission of the peace, twenty three were also on the Middlesex oyer and terminer. That is between one third and one half. Of these, all except two, Edward Wharton and Henry Thursby were also on the London oyer and terminer. These twenty three included the lawyers and the most hard working of the active justices of the peace. Notable amongst these were William Waad, later to be Lieutenant of the Tower, Francis Darcy, Robert Wroth, Mathew Dale, Thomas Fowler, Nicholas Collyn and John Barne. These names appear on almost all lists of those present at sessions and on recognizances. In 1606 twenty eight out of the eighty seven names on the Middlesex commission of the peace were also on the gaol delivery commission. That is, again, between one third and one half. The percentage is not so significant, however, as the fact that it was always the third who did the main work of the commission. They were the members who were the most important and influential of the justices at sessions. In fact the higher commissions replaced the quorum, for on the Middlesex commissions of the peace all names were usually included in the quorum. There was rarely any distinction as there was with other county commissions. Only occasionally one or two of the most recent additions were not so included.

A number of justices of the peace who were hard working were not also on the oyer and terminer commission. These were ones who in practice occupied themselves mainly with their own particular neighbourhoods, and ^{especially} ~~particularly~~ some from the outer parts of Middlesex. It is not altogether clear how justices were chosen for the higher commission. Chiefly it seems to have been ability for public service shown either by service on the commission of the peace, or, most often by service for the government or in the law, or on special or military commissions. Men like William Waad, John Barne and Thomas Fowler came into the latter category, having served as sergeant at the Tower, or in some other way, and were appointed to all three commissions

at the same time.

Looking at the Middlesex oyer and terminer we find that about three fifths of the names were also on the commission of the peace. The ones who were not, were mainly extra members of the royal benches and the Exchequer Courts, and also a few City Aldermen who had not sufficient property in Middlesex for the county commission of the peace. Amongst the latter were Sir Thomas Bennett, Sir Stephen Soames, Sir Henry Billingsley and Thomas Lowe. There was no official property qualification for the oyer and terminer, but it gave its members power to act as justices within the county. The Lord Mayor of London, for example, was always on the Middlesex oyer and terminer as well as the London one, but he was not always on the commission of the peace. It is perhaps surprising that Sir Richard Martin was not on the Middlesex oyer and terminer as well as the London one, for he lived in Tottenham. He was not on the commission of the peace, for his one hundred and twenty acres, for which, as a monier at the royal mint, he was excused taxes, might not have been worth sufficient. In fact he was discharged from his aldermanry in 1602 for debt. He was, however on the gaol delivery and London oyer and terminer commissions as he had been elected Mayor in 1589. He did not serve his term as Mayor, probably being excused as a royal officer.

The differences between the three higher commissions were not, in fact, very significant. The gaol delivery commission usually included virtually all the members of both oyer and terminer commissions. The London oyer and terminer commission included some aldermen not on the Middlesex one and the Middlesex one omitted some names and had an occasional addition. From about 1620, indeed, the lists of the London oyer and terminer and the gaol delivery were entered as one into the special entry book and only slight differences are shown in the Middlesex oyer and terminer.

Westminster

In 1618 the City of Westminster was given its own commission of the peace. Quarter sessions were held regularly for that City from April 1619 until 1844 when they were again merged with Middlesex. Records of the quarter sessions survive from January 1620, although a recognizance taken at a sessions for April 1619 shows that there was some sort of sessions held then. The Westminster commission was, of course, smaller than the county one. Many of the Westminster justices were also on the Middlesex commission (but the converse was not true, since only those Middlesex ones with some connection with Westminster were on that commission). The property qualification, being for a borough, was smaller than for a county justice so there were also some additional Westminster men on its commission. Quarter sessions were held in January, Easter, Mid-summer and Michaelmas, and were similar to those of any provincial county. The Middlesex general sessions of the peace continued to open in the City of Westminster, and the county retained a close connection with the City. When county rates superseded the many separate funds in 1735 the county continued to be responsible for financial affairs connected with the City sessions. More-over Westminster prisoners^{indictments} were still heard at the Middlesex inquiry sessions, under the oyer and terminer commission, before a gaol delivery, thus emphasising the connection between the two places.¹⁰

This has been a summary account of the various commissions directed to keeping the peace and administering justice in the metropolitan area. In the following chapters the sessions of inquiry and gaol delivery will be described in detail and aspects of judicial process discussed. Later the general sessions of the peace will be considered, to see what work

10. PRO. G/181/2 f.327; 7 & 8 Vc. c. 71(1844); GLRO.M. MJ/SR/574/10; GRO.M. WJ/SR/(W)1.

was left to the commission of the peace by the higher commissions. To end this chapter a contemporary account of the work of a leading justice, on all four commissions, shows more vividly the way in which a justice went from one sessions to another. It also gives an insight into the variety of work undertaken and the way in which a justice was directly involved with disturbers of the peace. It was not just a matter of court process.

The Recorder of London and leading Middlesex justice during the second half of Elizabeth's reign was William Fletewood, who wrote chatty letters to Lord Burghley¹¹ about his work. It is worth quoting one of these in full here, for he not only talks of the inquiry and gaol delivery sessions but also about many other aspects of his work in administering the law in London and Middlesex, and refers to the many other special commissions for other purposes which helped to link together many functions.

Right honourable and my verie good Lord, uppon Thursday last, beinge the Crastino of Trinity Terme, we kepte a Sessions of Inquirye in London in the forenone, and in the afternone we kepte the lyke att Fynsburie for Middlesex, in which two several sessiones, all such as were to be arreygned (sic) for Felonye at the Gaole deliverye were Indyted. Uppon Frydie morninge, until vii att night at Newgate where were condemped certen horstealers Cutpurses and such lyke to the number of x, wherof ix were executed and the tenthe stayed by a meanes from the Courte. These were executed uppon Saterdaye in the morninge. There was a showmaker also condempned for wyllful murder commytted in the Blackefryers, who was executed uppon Mondaye in the morninge. The same daye my Lord Maior beinge absente about the goodes of the Spannyard and also all my associates ¹¹ the Justices of the Benches beinge also awaye we fewe that were there did spend the same day aboute the Searchinge owt of sundrye that were receptors of Felons, where we fownde a greate manye, as well in London, Westminster, Sowthwarke as in all other places abowte the same.

11. abbreviated in ms.

Amongest our travelles¹² a gentil man borne, and sometyme a merchauntt man of good credyte who fallinge by tyme into decaye, kepte an Alehowse at Smartes Kay, neere Byllingsegate, And after for som mysdemeanour beinge put downe, he reared upp a newe trade of Lyffe, and in the same howse he procured all the Cuttpurses abowte this Gittie to repaire, Learne younge boyes to Cutt purses. There were hung up two devises, the one was a pockett, the other was a Purse. The Pockett had in yt certen Counters and was hunge aboute with hawkes belles and over the toppe did hange a little sacringe bell, and he that could take out a Counter without any noyse, was allowed to be a publique Foyster, and he that could take a peece of sylver owt of the Purse without the noyse of anye of the belles, he was adiudged a Judiciall Nypper, Nota that a Foister is a Pickpockett, and a Nypper is termed a Pickeppurse, or a Cutpurse, And as Concerninge this matter I will sett downe noe more in this place, but referr your Lordship to the paper herein enclosed.

Saterdaye and Sondag beinge past, uppon Monday My Lord Maior, My Lord Buckhurste, the Master of the Rooles, My Lord Anderson, Mr. Sackford, Master of the Requestes, Sir Rowland Hayward, myself, Mr. Owen and Mr. Younge, with the assystance of Mr. Attorney and Mr. Solicitor, did arraigne one Awfeild Webley and Crabbe for sparcinge abroad certen lewed Sedicious and traytorouse bookes. Awfeild did most trayteriously mayteyne the booke with longe tedious and frivolous wordes and speaches, Webley did affirme as much as Awfeild had uttered. They are bothe executed through godes goodnes, And your Lordship's good helpe, as Mr. Younge tolde me. There came a letter to reprove Awfeild, yt was not well disgested of as many as knewe of yt, but all was well taken. When he was executed his bodye was brought into St. Pulchers¹³ to be buryed, but the parishioners would not suffer a Traytors Corpes to be layed in the earthe, where their parentes, wyeffes, chyl dren, kynred, maisters and old neighbors did rest, And so his Carcase was returned to the buryall grounde neere Tyborne, and there I leave yt. Crabbe surelye did renounce the Pope, and my associates,¹⁴ the rest of the Benche, moved Mr. Attorney and Mr. Solicitor to be a meane to her maieste for him and for that cause he was stayed. Trewelye my Lord it is nothings needfull to wrytte for the staye of anye to be reprovved, for there is not any in our Commission of London and Middlesex but we are desirous to save or staye any poore wretche, yf by color of any lawe or reason we maye doe ytt. My singuler good Lord My Lord William of Wynchester was wont to saye, when the Courte is furthest from London, then is there the best Justice done in all England. I once hard as great a personage in Office and Authoritie as ever was, and yett lyvinge, saye the same wordes. Yt is growen soe a trade nowe in the Courte to make meanes for Repryves, twentie poundes for a reprove is nothings, although it be but for bare tenn daies, I see it will not be holpen onles one honorable gentilman, who in any tymes is advised by wronge Informacon (and suerlie uppon my sowle, not uppon any evill meaninge), do staye his penne, I have not one Letter for the staye of a Theiffe from your Lordshippe. Fearinge that I trouble your Lordship with my tedious lettres, I end this viith of Julie 1585.¹⁵

12. ie labours

13. St. Sepulchre, London

14. Abbreviated in Ms.

15. B.M. Lansdown Ms 44/38 (f113)

CHAPTER IIITHE SESSIONS

'....The justices upon that point committed me, and I was carried to Newgate.... I had no bill preferred against me the first sessions.... came notice to me that the next sessions approaching there would be a bill preferred to the grand jury against me....The two wenches swore home to the fact, and the jury found the bill against me for robbery and house-breaking, that is for felony and burglary....on the Thursday I was carried down to the sessions house, where I was arraigned, as they call it, and the next day I was appointed to be tried. At the arraignment I pleaded 'not guilty'....On the Friday I was brought to my trial....they told me the witnesses must be heard first, and then I should have time to be heard....I was found guilty of felony....The next day I was carried down to receive the dreadful sentence, and when they came to ask me what I had to say why sentence should not pass, I....to bespeak the mercy of the courtThe judges sat grave and mute,gave me an easy hearing, and time to say all that I would, but....pronounced the sentence of death upon me....' (Daniel Defoe, Moll Flanders, 1722)

This fictional account of a trial at the Gaol Delivery Sessions for London by Daniel Defoe, was written about one hundred years after the period of this study, but provides a useful, ~~almost contemporary~~ account of a gaol delivery sessions. I shall now describe a typical gaol delivery sessions, that of January 1611, step by step as it proceeded. This account is based entirely on the Middlesex and London sessions records of January and February 1611, the files of indictments recognizances, precepts and gaol calendar and the clerk's registers.¹ A little information has been added from the works of contemporary legal writers such as William Lambard, John Dalton and Fitzherbert, and other sources. To avoid frequent interruption and digressions, explanation and discussion of particular points has been left until the following chapter, where I shall consider particular aspects of the legal process.

1. GLRO.M MJ/SR 497-8, MJ/GBR/1,MJ/SBR/1, Corp. Lon. Sessions files.

The sessions of 15th-16th January, including the preliminary inquiry and the delivery of the gaol, involved a large number of people. There were some thirty justices, the clerk of the peace and numerous other clerks and officers of the court. There were forty-three men summoned for the grand jury panel, of whom seventeen were sworn, and about sixty for the trial juries. There were about thirty-five prisoners and thirty to forty accused appearing on bail, and a further twenty from the City of London. There were also some fifty witnesses, not to mention attorneys, friends and bystanders. Not all of these appeared at the same time and not all were at both the 'inquiry' at Clerkenwell and the Old Bailey. Nevertheless the sessions were undoubtedly busy and crowded affairs.

Inquiry

First came the preliminary inquiry or grand jury sessions for Middlesex at Clerkenwell. Sir Thomas Lake, the Custos Rotulorum, had previously addressed his precept to the sheriff requesting him to produce a jury of twenty-four upright and byal men to inquire for the body of the county at eight o' clock in the morning of 15th January at the Castle Inn, St. John Street, Clerkenwell. When the inquiry sessions opened ten justices were sitting on the bench: Sir Robert Leigh, Sir Baptist Hicks, John Hare, Nicholas Collyn, Edward Vaughan, Nicholas Bestney, Henry Spiller, Ralph Hawtrey, Christopher Merricke and Henry Fermor.

After the sessions had been proclaimed or convened by the court cryer, seventeen jurors were called. Beginning with the foreman, the first name on the list, the clerk administered the oath: 'You shall diligently inquire and true presentment make of all such matters and things as shall be given you in charge, the King's counsel your fellows' and your own you shall keep secret. You shall present no man for envy, hatred or malice, neither shall you leave any man unrepresented for fear, favour or affection or hope of

reward, but you shall present all things truly as they come to your knowledge, according to the best of your understanding. So help you God'. They were nominally also pledged by sureties for the good execution of their duty, but, in fact, the two pledges recorded were only two fictitious characters, John Doe and Richard Roe, well known to lawyers.

The Chairman then gave his charge to the grand jury. This was simply to explain their duty and what offences they were particularly to watch for and present to the court. It often however became a lengthy address on the law, of perhaps one half to one hour, especially when delivered by professional lawyers. The charges by the judges at Assizes in other counties were, indeed, also used as a means of passing on instructions and exhortations from the Sovereign or Privy Council to the country at large and the justices of the peace. The charge at this sessions was probably delivered, not by the Middlesex justice of oyer and terminer who took the chair when the jury gave its verdicts, but by Sir John Croke, justice of Common Pleas, the leading judge on the bench at the gaol delivery sessions the next day. Brief notes of his charge to the Middlesex jury in January 1604 show that he gave a fairly typical address. It may be illustrated by a charge given by Sir John Dodderidge to the Grand Inquisition of Middlesex of 1620, his first charge as Croke's successor.² He gave, in 'law French', a lengthy but clearly expressed, exposition of the purpose of the inquisition or inquiry jury.

'You gentlemen of this grand inquest' he said 'who have come here today for this duty, a duty of great weight and importance, however frequent and common it is. In spite of the frequency, remember two things about the

2. B.M Harl. 583 f.29: 583 f.1

urgent necessity and great worth of this duty for the public weal. The necessity and great worth are so evident and apparent to any eye and the meanest intelligence that I need not persuade or urge you. And so I will direct my speech to you instead to the grand inquest. As well as your name, I wish to explain to you your office and duty. You are called the grand inquest and you are grand in several respects as follows: you are grand in number for you are composed of a greater number than for ordinary trials. You are grand in respect of the people you represent, the whole body of the county, you are their tongues, their eyes, their ears---their tongues to deliver their complaints, their eyes to see and inquire into offences, their ears to hear their complaints. You are grand in regard to your business, that being all the pleas of the Crown. And as you are so great in all these respects so then your duty care and diligence must be as great in the accomplishment of your service according to your charge. You are also called the grand inquest of the inquiry because the fruits of your service are the indictments and presentments which you make by inquiry'.

Dodderidge diverges to consider how lucky we are in our laws compared with foreign states. He then discusses the requirements for those who administer the law: integrity, learning and knowledge, and soundness of body to undergo the labour and pains of the work, together with sufficient estate to avoid temptations of profit. He explains, at some length, that as a sworn body they work under the eyes of God who 'knows all secrets', and warns them of the 'whip and sting of conscience' which would torment them if they should fail in their duty. Next he turns to discuss the basis of their charge which has two principal parts: firstly the service of God and secondly the Kingdom's peace. He discourses on their duty to search out heresies, schism, sects like anabaptists and brownists, and

private masses and conventicles. Then he comes to the Kingdom's peace and speaks learnedly on the three divisions: political, economic, and the private carriage of each man in his particular estate. Amongst this he also details each of the types of offences they might be expected to deal with. Eventually he ends: 'I bring my charge to an end. You are a great number and "multis manibus grande levatur opus". I leave all to your care and consideration and to the guidance of the spirit of God in you.'

By this time the jury had been well instructed and were no doubt tired, although jurymen, unlike many of the court officers and others, were provided with benches to sit upon. They were, perhaps, also a little confused by Sir John's 'law-French', and, indeed the whole curious mixture of language in the court, the lawyers French, Latin, the official language of the court and the legal records as well as the common spoken English. However these were not ignorant fellows but men of some standing and there was sufficient English used for the proceedings to be 'comprehensible to them.

After the charge came the real business of the proceedings. The bills for consideration were presented to the jurors. Each case had to be certified or presented to the court by the justice who signed the committal to gaol or the bail recognizance and who had made a preliminary examination which would have been written and signed at the time. The name of the committing justice was noted in the calendar or list of prisoners committed to gaol for consideration at this sessions. The clerk also noted the name of the justice concerned in his memoranda list of persons bound by recognizance to appear. The gaol calendar for the January sessions contained twenty-four names and another fifteen had been held from previous sessions for further inquiry. Amongst the prisoners was Conania Surbye,

spinster of London, who was arrested for stealing a green kersey gown worth 20s and an ash coloured cloak from the house of Thomas Wolner in Shoreditch. She had been brought before Justice Edward Vaughan, who committed her to Newgate Gaol where she was taken by Robert Smart, Wolner being bound by recognizance to give evidence. Another woman Joan Smith, had been arrested on 31 December by Geoffrey Fletcher and committed to gaol by a warrant from Justice Robert Leigh. She was not indicted, as the grand jury found no bill against her, and since no 'ignoramus' bills survive on the file for this sessions we do not in fact know her charge. Dorothy Aylinge, otherwise Ayworth, had been taken to gaol on suspicion of felony by Christopher Ashe, by a writ signed by Justice Edward Vaughan, for stealing two pieces of 'loomwork' from Henry Trevers at Hoxton. She was reported to have admitted the offence at the time of her committal, for endorsed on the bill of indictment, together with the name of the witness, Elizabeth Lane, was the note 'a confession'. However it was quite a minor theft and the grand jury only brought in an indictment for petty larceny, a misdemeanour, instead of grand larceny, a felony by stating that the goods were worth ten pence instead of 3s. The dividing line in this period between felony and petty larceny or misdemeanour was twelve pence. Aylinge's name was therefore included in the gaol delivery book, on the list of those 'suspected but not indicted' and to be delivered but she was also, for her misdemeanour, included in the list of those who were indicted and were to stand trial.

A more serious crime was committed by one styled a gentleman, Richard Awsiter of London, who on January 4th at Hornsey had killed one Benjamin Barlow with a rapier worth two shillings. The coroner, Richard Shepard, had suspected deliberate murder and with the help of a justice of the peace, Sir Richard Baker, committed Awsiter and another, John Collins, to Newgate Gaol, where they were taken by the constable of Hornsey parish, Anthony

Taylor. The coroner could have made a committal to gaol on his own authority and often did, but a justice of the peace had to certify to the court the examination of the accused in a matter of serious felony. The grand jury duly brought in a true bill of indictment against Awsiter, although not John Collins, said to be his associate. A true bill of indictment was also brought in against a London woman called Mary Howkyn for stealing from William Leighe, a gentleman of St. Katherine's by the Tower, on 30th November 1610 four linen 'ruffe bandes' worth twenty shillings, 'a waistcoat wrought with blacke silke', a remnant of cambricke of three ells, a pair of black 'silk stockings', five smocks worth five shillings, four aprons worth ten shillings, ten 'crosseclothes' worth five shillings and fifteen pounds in money. This was quite a load, but she was not arrested until 10 December when she was taken by a haberdasher called William Deeping, of St. Katherines, who seems to have been pretty active in catching suspects. She was examined by Justice Thomas Saunderson. Two other women were charged with being accessories.

A great many of the bills for the grand jury to consider concerned suspects not actually in the gaol. Many had been allowed bail, having been bound by recognizance with sureties on pain of forfeiting certain sums if they did not appear at the sessions to answer the charge to be laid against them. They were, of course still technically in the custody of the sheriff just as much as the prisoners in the gaol. A fairly serious offender had been allowed bail before this January sessions. This was Gilbert Sherley, described as a yeoman of London. He had on January 9th, in the Strand, stabbed William Clarke with a knife, giving him a wound on the face four inches long and other wounds. Sherley was lucky enough to be a man of sufficient substance to find good enough sureties for his bail, one of them being William Murkey master cook to the Queen. He was thus spared

some time in gaol. However he was indicted by the grand jury and passed for trial, Clarke himself being then well enough to appear to give evidence along with the two by-standers. Sherley was committed to gaol while awaiting his trial. Another bailee was Gregory Brandon, who had been bound by recognizance on January 8 before William Waad to answer for hurting Simon Marten or Moorten 'for that he is in danger of his life.' Brandon was also bound by T. Saunderson a few days later to keep the peace against Thomas Reynolds, one of the witnesses in the case. As it was uncertain whether Marten would live or die Brandon was bound over until the following sessions. However the victim died on January 26th and Brandon was immediately arrested and committed to Newgate on a charge of murder, for which he was indicted by the grand jury.

A number of accused who were bailed and appeared at these sessions were not indicted by the grand jury, and, therefore did not appear at the gaol delivery sessions, even to be 'discharged'. A cheesemonger of the City of Westminster was bound to answer for taking a hat and money, but no bill of indictment was found against him. Some people accused of minor offences were dealt with directly by the justices of the peace at Clerkenwell, or bound over to appear at the general sessions of the peace. Some cases seem to have been simply discharged either by the justices immediately, the binding over on recognizance to keep the peace being considered sufficient, or because the grand jury did not bring in a true bill, for lack of evidence. Nothing more is heard of these cases, which included, Nathaniel Parker, charged with theft and assault, and Thomas Deermar and Michael Wallys, also for assault.

When all the cases had been presented to the court, the grand jury usually retired to consider all of them together. They would not have time to examine them in any great detail, but could hear witnesses for the

prosecution whose names were endorsed on the bills of indictment. One or two matters were held over for further inquiry. Having considered and discussed their cases the jury came and gave their verdicts 'in writing' to the assembled justices. That is to say the previously written indictments were endorsed as 'true Bill' or defaced or slashed through with a knife and marked 'ignoramus'-- we know nothing of this. In the City of London the bills were endorsed more formally 'this record was brought in as true (or ignoramus) by Richard Betts (ie the foreman of the jury) and his associates.' Sometimes the grand jury did not bring in its verdicts until the following day, barely in time for the opening of the gaol delivery.

While the jury were considering the bills the justices dealt with any general peace matters or administrative business that could be dealt with without waiting for the general sessions at Easter. Amongst these was the matter of a pond in Clerkenwell, apparently thought to be a danger to passers-by. It belonged to a shoemaker, Thomas Season or Seafold, who was 'ordered to bring a certificate from the inhabitants that is pond is needful for diverse respects'. This he duly did and was 'enjoyed to make a convenient wall'; as the clerk recorded: 'For as much as Thomas Season of Clerkenwell hath to this Sessions brought a Certificate under the hands of diverse of the inhabitants of Islington and Clerkenwell that his duckinge pond neare the highwaye leading to Pancrasse Church is convenient and needfull for diverse necessarye respects as it appeareth, and bound by Recognizance at the last Sessions, he is now discharged of the said Recognizance and further enjoyed that he shall make a sufficient Mudd wall about the said pond next to the highway for avoyding all perill that maye happen to anye the Kings people passage by that way, betwixt this and Whitsondaye next comminge, leaving a sufficient entrance for cattell there about to drinke in the same pond according as they have bene accustomed heretofore.'

Ralph Gurley a butcher of Cowcross, was committed to Newgate 'for keeping a common alehouse without license by his owne confession'. Two other unlicensed alehouse keepers, who had been bound under recognizance to answer did not appear and their recognizances estreated to the crown. Another victualler, Richard Lee of Rosemary Lane, was bound over in bail 'for keeping evill rule in his house.' Daniel Johns of Twickenham, Abraham Chapman of St. Martin in the Fields and John Marcke of Saffron Hill, were licensed to sell ale, or 'for tippling' as it is described, by being bound in recognizance of £20 each with two sureties bound in the sum of £10 each to keep well-run houses. For this they paid a small fee to the clerk, who noted a memorandum in his register that John March had paid his fee of 2s. A few poor-law cases were considered. George Peche, a brick-layer of St. Sepulchre's answered his recognizance and was discharged, having 'brought a note under the Constable's hand that he hath secured the parish.' Edward Mallett was similarly ordered to 'paye the parishe their charges'. Probably Edward Bibbye of Great Habton, Yorkshire, gentleman, also made restitution 'for leavinge a yong Childe in the Street', but it is not recorded. Alice Budd was bound over in bail until the general sessions of the peace 'to stand to the order that Sir Francis Darcy, Sir Gedeon Awnsam and Mr. Walrond have certified touching a bastard child borne upon her'. The clerk also noted 'The said certificate remaynes in the Custodye of Sir Gedeon Awnsam'. Other cases were held over on bail until the general sessions of the peace.

Early the next morning, all the grand jury's verdicts and presentments having been received, the clerk of the peace took the file of bills of indictment, the record of prisoners in the gaol to be discharged as not indicted or to wait for further inquiry, the justices' examinations of accused and witnesses and other papers and, with his assistants, some of the justices, and other officers, went down through Smithfield to the Old

Bailey and into the Justice Hall by Newgate Gaol. They may have had a carriage or cart to carry the records, but there was no ceremonial procession. The preliminary sessions, was in any case, a comparatively informal affair. The formality probably increased, as it did in other courts, during the eighteenth century. Moreover there was considerable traffic between Justice Hall and Clerkenwell throughout the sessions. Some of the justices may have previously gone ahead to be in time for the opening, especially on those days when the preliminary inquiry was not completed the day before the gaol delivery. A few of the original ten justices remained at Clerkenwell to clear up any unfinished general business and to keep the sessions there in being, in case of need, during the gaol delivery, probably Ralph Hawtrey, Christopher Merricke and John Hare who were not, in fact, on the commissions of oyer and terminer and gaol delivery.

A similar preliminary inquiry sessions for London had been held in the same way on Monday, 14th January, at the City Guildhall, before the Mayor, William Craven, Thomas Bennett, Stephen Soame and Leonard Halliday. This was adjourned to the Justice Hall to keep it in being.

Gaol Delivery

The gaol delivery sessions opened on Wednesday 16th January, at the Justice Hall in the Old Bailey, before the Mayor of London, Sir William Craven, as Chairman, the Bishop of London, Sir James Altham Baron of the Exchequer, Sir John Croke justice of Pleas, Sir William Waad, Lieutenant of the Tower, Sir Francis Darcy, Sir Stephen Soame, Sir John Garrard, Sir Thomas Lowe, Sir Thomas Bennett, Sir Robert Leigh, Sir Robert Wroth, Sir Thomas Fowler, Sir Baptist Hicks, James Pemberton, Henry Mountague, Recorder of London, Thomas Edwards LL.D., Henry Spiller, Henry Fermor, Matthew Dale, Nicholas Mosley, John Stone. Of these twenty-two justices, Sir John Croke was undoubtedly the leading figure in the trials of criminal cases, although

the Mayor presided. Like the preliminary inquiry the gaol delivery began as dawn was breaking.

There was a large crowd in and around the court, as mentioned above. The crowd included a variety of people and a variety of dress, from liveries and gowns of court officers and servants, rich doublets and hose of the gentry and merchants and the plainer wool and buckram and felted wool caps of tradesmen and craftsmen, the sombre gowns of barristers and counsel. At the February sessions two men were charged, one with stealing a barrister's gown and the other a counsel's gown trimmed with coney fur. On the bench was the Mayor in his robes, the justices of Common Pleas in scarlet gowns, a sergeant at law in his white coif and parti-coloured gown of morrey and russet, and so on. The court was opened by the court cryer formally proclaiming the sessions: 'Oyez, oyez, oyez, all manner of persons keep silent while the King's Commission is openly read....whereas a precept was addressed to the sheriffs:' and he read the precept calling for the jury, records, prisoners and prosecutors to be produced and for public proclamation to be made that all who wished to proceed against the prisoners or who were concerned in the trial of the issues, should appear; which precept the sheriffs had returned, endorsed as carried out, together with the list of the jury panel. Certain statutes and any general orders for London and Middlesex were then read.

The preliminaries were quickly dealt with, however, and the indictments were presented to the court. The Middlesex Custos Rotulorum, or usually his deputy, the clerk of the peace and his assistants, presented the Middlesex grand jury's indictments. The Gaoler was summoned to bring forth his prisoners from the county of Middlesex to the bar of the court, so that the bench could see them. They were arraigned one by one: 'Richard Ausiter hold up your hand' (or perhaps he was asked to step forward) so that he could be identified by the court. 'Richard Ausiter you stand indicted by the name of

Richard Ausiter, late of London, for that you did on the fourth day of January in the eighth year of the reign of our sovereign Lord James King of England (etc) at Hornsey, feloniously inflict upon Benjamin Barlow, he being then and there in the peace of God and the King, a mortal wound with a rapier worth two shillings, on the right side of his body, under the short ribs from which the said Benjamin Barlow died instantly, against the peace of our said Lord the King and his crown and dignity. How say you Richard Ausiter are you guilty of this felony whereof you stand indicted?' Ausiter said that he was not guilty and was asked 'How will you be tried?' to which he replied 'By God and my country'. The clerk murmured 'God send you a good deliverance' and recorded the answer. The next prisoner was called 'Edward Newdigate you stand indicted that on 14th December you did feloniously steal and carry away a grey gelding priced at five pounds a grey mare priced at fifty shillings and a white leather saddle from William Cragge of Ickenham.....' Not guilty. 'Conania Surbye you stand indicted for that you did steal a green kersey gown....' Surbye admitted that she was guilty as charged in the indictment, and the clerk noted that she 'acknowledged the indictment'. Richard Eyton and Gilbert Sherley also admitted the charges against them.

Philip Allgate was next called and his indictment read, charging him with assaulting John Thomas in the highway in St. Martins in the Fields and stealing a blue cloak worth 13s4d and seventeen pence in numbered pieces. 'How say you Philip Allgate? Are you guilty of this felony whereof you stand indicted or not?' Allgate did not reply. The question was repeated but Allgate refused to plead and so could not be tried in the usual way since he would not say how he wished to be tried. He was therefore taken away to await judgement. Mary Howkyn was called---for stealing clothing---but she did not appear and the gaoler announced that she had died in prison, where she had been since December 10. The indictment against her accessories was therefore dropped, since an accessory charge could only stand if the principal was convicted. Each prisoner was arraigned in turn in the same way.

There were nine pleas of 'not guilty'. Four people, indicted as accessories, did not appear and presumably writs were issued to the sheriff for their arrest. Two were later tried and acquitted at the June sessions.

Amongst other cases noted for attention at this sessions of gaol delivery, Richard Durant bound over in bail from the previous sessions was found to be already in Newgate and to have been indicted by the City of London grand jury. Jerman Poole of Derbyshire and his servant were in the Marshalsea prison for the same cause, so their case was respited or postponed. William Pewe, bound by Sir Stephen Soame to appear, produced a certificate signed by Christopher Yelverton a justice of King's Bench that his case had been transferred to Kings Bench. Another of Soame's cases was also certified to King's Bench. This concerned a William Wilson who had been bound over on recognizance from an earlier sessions on condition that he made restitution of the silks he had put to pawn. Edward Dalby, accused of dividing his barn into tenements was bound in his own recognizance of £100 to appear in Star Chamber, his case having been transferred there.

At this sessions, too, twelve indictments were proclaimed against suspected Roman Catholic recusants. The suspects had not yet been arrested but the indictments were read in open court so that the justices and others would know that they were being sought. Most were given a day at the next sessions when they should appear for trial, but many were not brought to trial for a number of years, if at all, and their names were read out at each sessions and further orders for arrest issued. One of the indictments was noted as having been certified into King's Bench in the Easter term 1615, four years later. Another, Thomas Brudenell, of Northamptonshire produced a certificate from the Bishop of London that he had attended evening service and taken the oath of allegiance.

After their arraignment the prisoners were led away. The five who had acknowledged their guilt returned to the gaol until they were called to hear judgement. The six including two men on several indictments who had 'put themselves on their country' awaited their trial. The first was called to the bar. Twelve jurors were then called from the panel, The witnesses who had been bound by recognizance to appear to give evidence and prosecute were summoned, Proclamation was made that 'if any can inform the King's attorney or this court, of any treasons, murders, felonies or other misdemeanour against Richard Ausiter, the prisoner at the bar, let them come forth, for the prisoner stands upon his deliverance'. Then, the prisoner was reminded that 'the persons that you shall now hear called are to pass upon your life and death' and the jurors were sworn one by one: 'Lay you hand upon the Book and look upon the prisoner; you shall well and truly try and true deliverance make.' The jurors were charged: 'You good and loyal men that are sworn you shall understand that Richard Ausiter, now prisoner at the bar, stands indicted for....(and the indictment was read again) to which indictment he has pleaded that he is not guilty and for his trial hath put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of the felony whereof he stands indicted or not guilty. If you find him guilty you shall say so and inquire what goods chattels and lands he had at the time of the said felony committed or at any time since. If you find him not guilty you shall inquire whether he did fly for it; and if you find he fled for it you shall inquire what goods and chattels he had at the time of such flight. If you find him not guilty and that he did not fly for it you shall say so and no more.' Then the witnesses for the prosecution were called and examined on oath; as to-day 'the evidence that I shall give' etc.

This part of the proceedings passed more rapidly than in modern trials, for there was no lengthy cross examination. There might be a counsel for the

prosecution in important cases--- indeed the attorney general was often sitting on the bench at gaol delivery sessions in the Old Bailey---but the questions were put from the bench and there was no counsel for the defence in criminal trials, not officially before 1837. At this period there was even doubt as to whether the prisoner could call his own witnesses, although Lambard thought this should be allowed in a matter of life or death. There were three witnesses against Ausiter as well as the examinations taken and written down by Sir Richard Baker and the coroner at the time of the arrest, but as these have not survived and no complete record of the trial was made we do not know exactly what they said. The jury probably ~~gave~~^{decided} their verdict as soon as the chairman on the bench had summed up the case. The question was then put to the jury 'Look upon the prisoner; how say you, is Richard Ausiter guilty of the felony whereof he stands indicted or not guilty?' The foreman replied that they found him guilty and that that was the verdict of them all and that he had no goods to their knowledge. The prisoner was then taken away and the Court recorded the verdict.

Then the next prisoner was brought forward. There were two indictments against Edward Newdigate, both for horse stealing. He was described as a gentleman, but it is not known whether he was related to the family of Newdigates of Gloucestershire and Harefield, Middlesex. He was tried on the first indictment of stealing a black nag priced at £5 from John Alcock in Whitechapel on November 4th 1610, although he was not arrested until 13th December, when a John Buckston caught him and took him to gaol on a warrant signed by Justice Robert Leigh. The jury found him guilty and that he had no goods. The other indictment charged him with a theft committed on 14th December, which if the gaol calender is correct, was the day after he had been committed to Newgate. Clerical errors were sometimes found, however, and in any case he was convicted of a capital

felony on the first indictment. Curiously enough Newdigate had already received a royal pardon for a similar offence committed a few days earlier on 3rd November 1610, when he stole a bay gelding and a bay mare, with their saddles and bridles, from John Thymelbye of Acton. At this trial at the gael delivery sessions of 5 December (the indictment is one of the many loose documents of the Middlesex sessions records separated from the original file of the appropriate sessions, but there is no doubt which sessions tried the case) Newdigate acknowledged the indictment, or admitted that he was guilty, but pleaded the King's pardon granted to him under the great seal. Whatever Newdigate's family connections, he was a 'bad lot'. The previous year he had been acquitted at the January sessions of 1609 of stealing gold and silver lace worth £4 from the Earl of Nottingham at Hampton.

Frances Davies, indicted for stealing a looking glass in a gilt frame worth ten shillings, was found by the jury to be not guilty, nor had she fled. This was a fair decision, for information in her case had been laid before Justice Sir Robert Leigh by William Legg, who was himself convicted at the same sessions of stealing cambric and kersey cloth in Clerkenwell. John Bowde was also acquitted of killing Richard Badger in Westminster with a blow on the side of his head with a candlestick worth sixpence, of which blow the victim died two weeks later. This acquittal was contrary to the findings of the inquest and the evidence of several witnesses before the Westminster coroner, William Kellett. Edward Symcock, indicted for that he voluntarily and with malice aforethought did assault William Collyns in Whitecross Street, St. Giles without Cripplegate, and with a rapier worth two shillings inflicted a mortal wound on the left thigh from which the said William Collyns instantly died. The jury found him not guilty of murder but guilty of homicide called 'manslater'. This may have been a duel or something of the sort, but unfortunately we do not have the original examinations for the details of the case. The decision enabled

Symcock to claim benefit of clergy, which he could not have done for murder.

The case of Gregory Brandon was not tried until the February sessions, since in January it was not certain whether the victim would die, but it must then have aroused considerable public interest, for this was the public hangman himself, and a most notorious character, who dwelt in Whitechapel. The court and outer court-yard must have been crowded with spectators of all classes. He stood indicted for assaulting Simon Marten in the right chest with a steel sword called a 'hanger' worth 12d and inflicting a wound half an inch deep and two inches wide from which Marten later died. There were a number of witnesses including the widow and a certain Thomas Reynolds, who had apparently been afraid of trouble himself from Brandon, for on the day following his original recognizance to answer the charge, Brandon had been bound before Justice Saunderson to keep the peace towards Reynolds. The jury found Brandon guilty, no doubt to the joy of the bystanders, who must have looked forward to hearing the judgement of death pronounced. However, they were disappointed about seeing the hangman on the gallows, for he successfully claimed benefit of clergy.

Perhaps it was the irony of seeing the aweinspiring public hangman described as a clergyman which gave Ralph Brooke, York Herald, the idea of a malicious joke a few years later, in 1616. He then contrived to trick Garter King of Arms, Sir William Segar, into granting arms to Brandon by claiming that Brandon was a merchant, supposed to be then away in Spain, who was descended from a Brandon who had been Mayor of London. Describing the incident in a letter to a friend, George Lord Carew wrote that 'His Majesty was highly offended, commaundinge the Lords Marshalle to examyne the truth'. Both the principals in the incident were committed to the Marshalsea prison. 'In meane tyme the hangman is now a gentleman which he never dreamt of', or so thought Carew⁴.

⁴Letters of George Lord Carew to Thomas Roe, ed. John Maclean, Camden Society (old series) vol. 76, London, 1860

There were no foreigners at this particular sessions, but foreign merchants and immigrants often came before the sessions and received a slight privilege with regard to the make-up of the trial jury. A case tried at the London side of the gaol delivery sessions of September 1611 arose from a brawl at the Middlesex playhouse, the Red Bull, in Clerkenwell. The City coroner held an inquest on the body of one Henry Mead who died at his home in Aldersgate and found that Peter dela Rue had assaulted Mead with an iron dagger between four and five in the afternoon on 27 July 1611 at the Red Bull in Clerkenwell. At the sessions de la Rue put himself on the country but said that he had been born outside the Kingdom of England, namely in the City of Brussels in Brabant, under the late Archduke of Austria. He begged therefore to be tried by the 'middle language'. It was decided by the court, then and there, that he should be allowed the middle or common language, and twenty-four aliens were summoned to the court and six chosen from them and sworn, to form half the jury, that is Dominic de Lewe, Jerdo Godscall, James de Beste, Daniel de Bobrye, Francis Pennantne, James van Roye. Another six were chosen from the regular jury panel already present. They found the prisoner guilty only of homicide and not of murder according to the statute. Mead was then respited by the court before judgement, or remanded in prison, probably because if he had been English he could have claimed benefit of clergy.

Judgement

When all the trials were completed and the verdicts of the jurors recorded, the prisoners were again brought from the gaol to the bar of the court and the court cryer proclaimed: 'All manner of persons keep silence whilst judgement is giving against the prisoner at the Bar'. Prisoners were given a chance to speak before judgement was passed: 'Richard Ausiter the jury say you are guilty of the felony whereof you stand indicted....have you anything to say why judgement should not be

passed'. Ausiter, in fact, had a reason. He claimed to be a clerk in Holy Orders, and as such could not receive judgement of death from a lay court. He 'sought the Book', and when the Bible was produced and a verse selected by the Bishop as his Ordinary, he read it 'like a clerk' and so was adjudged by the Ordinary to be a clerk. However since he was not actually an ordained priest and had no papers of ordination, he was ordered to be branded with the letter 'T' in the brawn of the thumb before the full court by the gaoler before being delivered, according to the terms of the statute to prevent men not actually in orders from claiming the privilege more than once. Edward Symcock, guilty of manslaughter, Richard Eyton, who confessed to inflicting a mortal wound, and William Legg, who confessed to stealing cloth, and others, were all allowed benefit of clergy and were branded.

Edward Newdigate could not claim the privilege for the serious felony of horse stealing and received the final judgement: 'you shall be taken back to the gaol of Newgate the place from whence you came and from there you shall be taken to the place of execution and there you shall hang by the neck until you are dead'. Gilbert Sherley, who had confessed to wounding another, not fatally, received sentence that he 'remayne in Newgate without bayle or maynprise by the space of one whole yeare and so long after until he shall put in good sureties for his good behaviour, to paye £40 to the Kinge for a fine and £20 to the partye hurte'. This was a very reasonable sentence. Conania Surbye, who had admitted stealing a gown and cloak, pleaded that she was pregnant and prayed mercy for the unborn child in her womb. She was therefore remanded in prison. In due course a jury of 'matrons' would decide whether she was indeed pregnant and if so she would remain in prison until after the child was born and weaned, or in her case as a minor offender she would probably be quite soon released on bail for her good behaviour.

Philip Allgate who had 'stood mute' and refused to plead, after being asked several times, received judgement of the 'peine forte et dure', that is to say that he be taken back to gaol and there be laid upon the ground without any straw or covering, and that his arms and legs be stretched out, and that there be placed upon his body so much and more iron as he is able to bear; and on the first day afterwards he shall have three morsels of barley bread without drink and on the following day he shall have three times as much water nearest the gate of the prison as he is able, and on the day on which he eats he shall not drink and on the day he drinks he shall not eat, and so living until he shall die.'

Finally the minor offenders, received judgement, such as Dorothy Ayling who was sentenced to be whipped and then discharged, after paying her fees ^{to the prison keeper,} Those who were acquitted or against whom no indictments had been found were also brought to the bar of the court to hear their judgement. These were usually to be delivered, but some were still expected to find sureties for their good behaviour before they were discharged. John Collins, for example, who had been suspected of being an associate of Richard Ausiter when he assaulted Barlowe, but was not even indicted by the grand jury, was nevertheless ordered to find good sureties for his good behaviour. One indictment, against Rowland Fletcher, was discharged as insufficient in law, after being held over from the previous sessions. He had been charged, after being examined by the Recorder of London and Justice Forsett, that having been an idle and wandering person as a soldier he had not since settled himself in any service, work or other legitimate way of life except vagrancy. After having spent two months in Newgate he was, therefore, delivered as not indicted, but he was nevertheless sent to Bridewell to be put to work as an idle rogue and beggar, under the statutory powers of two justices of the peace to enforce the acts against vagabonds.

Those prisoners committed to gaol at the 'peace' sessions at Clerkenwell were also delivered as not convicted or indicted of felony, but without interfering with the orders of the justices of the peace. Roger Ward and Ralph Gurley, for example, were delivered 'to performe orders at the Castle'. At the very end of the sessions the list of prisoners to be delivered or executed or remain in prison was proclaimed by one of the court officials probably in the outer court or in the prison yard.

Comparatively few were sentenced to death in spite of the severity of the law. Of the twenty-one Middlesex suspects who were indicted of felony, twelve were convicted, six having acknowledged their indictments, and of those twelve six were granted benefit of clergy, only one being sentenced to death. Six prisoners were acquitted, four had not been arrested (but were later tried and acquitted) one prisoner died before trial and one refused to plead. On the London side, fourteen had been indicted of felony, including one for murder, of whom two were sentenced to death including Godfrey Hubbard for murdering Hester Gardiner by stabbing her in the back with a knife and Roger Goodall for stealing money. Six gained the benefit of clergy, two were 'not yet arrested' and five others were not indicted.

At this period those to be executed were usually, although not always, hanged within a few days of receiving judgement, as there was not necessarily a three week wait. Carrying out the order for execution was the responsibility of the sheriff and gaoler, and so the dates and places of executions are not recorded in the sessions court records. Henry Machyn, a citizen of London, who, in the early years of Elizabeth's reign, kept a diary, something in the nature of a modern 'gossip column', often made a note of Old Bailey cases

and hanging judgements. In 1561 he noted 'the XXI days of Feybruary, sessions at Nuwgatt and there was cast XVII men and II women for to be hanged. The XXII day of Feybruary cam the summons for to have ther judgement and so⁷ were bornyd in ther hand at the plasse of judgement. The XXIV day of Feybruary went to hang XVIII men and II women, and serten were browth to be bered in serten parryshes in London; the barber surgens had on of them to be a notheme' (anatomy). In 1560 on 6th March 'at afternone was sessyons at Nuwgatt, and ther was rayned the lame woman that killed the yonge man in Turnagayne lane, and a dosen more, and the lame woman cast', 8th March 'rode to hanging XI VII wer men and IV women, on woman the sam woman that kylled the man in Turnagayne lane, and on man was a gentyllman, and a nodur a priest for cutting of a purse of IIIs. but he was burnt in the hand afore or elles ys boke would have saved hym--- a man of XLIV years old'.⁶

6. B.M. Cotton MSS, Vitellius F.V. ff 132 d. 133.

7. Blank^{space} in ms. for insertion of number

CHAPTER IVTHE SESSIONS Part II

I shall now go back to consider certain points about the sessions raised in the description of the procedure. These include the name of the grand jury or inquest proceedings; the purpose of the charge to the jury and who delivered it; the language used in the courts; jurors and special juries; the influence of juries on the administration of justice by the alteration of the charge; bail. Next are considered the types of sentences, the death penalty and its avoidance by 'benefit of clergy', pardons, conditional pardons and transportation overseas, prisoners who 'stood mute' and the judgement of the peine forte et dure.

In describing the preliminary sessions of the peace, or grand jury inquiry, I have used the term 'preliminary inquiry' only for convenience and to prevent confusion with the general sessions of the peace. The term 'inquiry' or 'inquest' was used by justices themselves for the grand jury proceedings, as in Fletewood's letter and the recognizances quoted in chapter II, but officially in the formal preamble or title in the records it is simply called by the all-embracing term sessions of the peace. In fact they were more than a preliminary inquiry, for as we have seen, general sessions of the peace business was also dealt with. Occasionally the terms 'sessions of inquiry', 'the inquisition' or the 'grand inquest' were used to describe only the function of the grand jury inquiry. The term 'inquest' or 'inquisition' was the original term for the grand jury the jury to inquire for the body of the county; describing their function to make inquiry or inquest rather than their nature of men sworn on oath. Although the name 'grand jury' was sometimes used at this period, 'grand inquest' or 'grand inquisition' was used more frequently. Sir John Dodderidge's charge was, for example, addressed to 'the Grand Inquisition of Middlesex' and he

used the term 'inquest' throughout his speech. 'Grand jury' became the usual term in the eighteenth century when the original functions of the inquest, to inquire and present of their own knowledge were almost entirely lost. The name 'inquest' has since then been retained only for the inquiry by a coroner's jury.

The Charge

I have translated and slightly paraphrased my quotations from Sir John Dodderidge's long 'Law-French' charge. Not many charges of this date have survived for they were not written down by the clerk as part of the official court records, and only survive as drafts amongst justices' private papers---and many were most probably given extempore---or as copies made by law students. At a later date, especially in the eighteenth century, they were sometimes printed at the request of other justices to honour their chairman or to circulate particular information included in the charge. Sir John Dodderidge's charge to the grand inquisition of Middlesex made in January 1620 was written down, probably by a law student. It seems to be a typical example.

It may occasion some surprise that I should suggest that the charge was given by one of the higher court judges. It was, however, quite natural. The charge could then serve the same purpose as those given by the circuit judge at assizes, to inform not only the jury, but also the justices and the county as a whole, of any royal proclamations, and to point out any offences which the Privy Council particularly wished to be suppressed. In Fletewood's time he almost certainly always gave the charges himself for both Middlesex and London, for he mentions holding the sessions himself. He was a prominent lawyer, but in James' reign no one man occupied quite the same position in both Middlesex and in the City.

The evidence is slender, consisting only of a few surviving charges. Others by Sir John Dodderidge were delivered to the Middlesex inquisition at Easter and Midsummer 1620, and Easter and Michaelmas 1625. Notes of Sir John Croke's charge of January 1604 when he was Recorder, also survive. It is possible, in fact, that Dodderidge's were delivered to a Middlesex jury before the King's Bench, but this seems unlikely for the name of the court would almost certainly have been stated on some of the examples. In any case the charge was probably only given occasionally by a chief justice, perhaps once in every law term or, more likely, even less. At other times one of the leading justices of the Middlesex oyer and terminer commission would have delivered the charge. Either way the one quoted is a typical example of this type of charge.

The names of the justices present at the 'inquiry sessions', as recorded on the file of indictments brought in by the jury, never, in fact, include Croke or Dodderidge. These names were endorsed on the jury list or on the top indictment, together with the name and date of the sessions, and consisted of those justices who received the jurors' indictments when they brought them in after considering them, not necessarily those present when the charge was given. When the indictments were presented to the gaol delivery justices, the details of the date and place of the preliminary sessions, the names of the jurors presenting the indictment and the names of the justices who received it, had to be recited in full, and indeed again every time the case was referred to.

At the General Sessions of the peace at Easter and Michaelmas, naturally, the leading justice present, presiding in the chair, gave the charge to the jury.

In the eighteenth century the assembled justices of the peace formally elected a chairman to represent them both in and out of court, serving for

six months or a year and sometimes being re-elected regularly. His charge was a formal polished address, more for his fellow justices than the jury. In the sixteenth and early seventeenth centuries, however, sessions were more informal, there was far less ceremony and rigidity of procedure. There were also fewer justices. The chairman would be the most senior and experienced justice on the commission present at the sessions, and his name appears first on the record of the sessions. There might be some discussion amongst the more senior as to who should take the chair and give the charge. A Surrey justice of the peace noted in his diary for 28 April 1609 that at the quarter sessions at Reigate:

'None of us came prepared to give the charge, myselfe having byne soe distracted by extremyte of my sonne Deyers busyness as I had noe leysure of one daye. But at theire importuntye I gave an exhortacon to the Juryes of betweene a quarter and halfe an houre, and then caused the Clarke of the peace to read the lawes.¹

On the Middlesex Bench in 1611, Sir William Waad, Lieutenant of the Tower, seems to have been the leading justice and almost certainly gave the charge at the Easter general sessions of the peace.

The language of the law courts, including gaol deliveries and sessions of the peace, was already an obsolete tradition. Latin was the official language of the courts of law; the records, in particular, had to be kept in Latin and remained so until 1733, except under Cromwell between 1650 and 1660. However it is obvious from even a brief study of the records that although the clerks were writing their records in traditional Latin phrases, they were more accustomed to think and speak in English, except for a number of legal terms and phrases which were used so frequently that they had become familiar. Some of the latter the clerks found difficult to translate after Cromwell's order to use English in 1650. A few convenient legal terms remained in Latin in current use even after 1733.^{*} Some indeed remain today such as decree nisi and sub-poena. Latin was also still used for the records of manorial courts and some similar legal

1. Bodl.: Rawl. Mss. C.641

* The paragraph mark SS used to mark the heading and each new entry was thought by some later clerks to be an abbreviation for *scilicet* and translated 'to wit'

phrases were used there. Most English people would have been quite accustomed to the interjection of Latin phrases into many speeches, formal notices, and, also not so long before, in Church. Londoners, too were accustomed to the speech of foreign merchants, In any case it seems probable that most of the process in court must have been translated for the benefit of the jurors, and for the prisoner, too, when it was necessary for him to understand in order to make his plea or answer questions. Occasionally where there exists a record of a process reciting actions at a previous sessions, it is stated that 'at---sessions the said A.B. heard the indictment read and fully understood the premises....'

It was probably during this period that English came more and more to be spoken in the courts, even while the formal records were kept in Latin. This was merely following the general tendency of the times. English was used by the royal Court and officers of the royal household. It was also used by the Church after the translation of the Bible and the introduction of the book of Common Prayer, except, significantly, for some of the proceedings of ecclesiastical courts. Star Chamber depositions were also in English. Any examination of the prisoner or witnesses during the sessions would obviously have to be carried on in English. Moreover general or county orders made by the justices concerning matters of administration were both spoken and recorded in English. The use of Latin for anything but judicial process and the formal preamble or title of the sessions was dying before 1650, and had certainly died long before the 1731 Act abolished the use of Latin for the records.

That other curious language, the 'law-French', used by lawyers for speeches and discussions and for pleading in some courts, was also dying. By the end of the sixteenth century it had become a crude mixture of French, Latin and English. Sir William Fleetwood, sergeant at Law and Recorder of London, who died in 1594, used the language fluently, although including

a good deal of Latin, in his law writings and his own memoranda.² Sir John Dodderidge's charge in 1620, quoted in the previous chapter, however, was nothing but a dog language, including such phrases as 'Vous soyés al consider que backslideing in religion e un growing cancker...' Obviously he was more at home in English. No doubt the language was still useful, sometimes, quite apart from tradition, for legal arguments in the open and busy halls used by courts of justice at the time, especially in the four royal courts which all sat in Westminster Hall.

Law French would not be heard much in the gaol delivery sessions, apart from charges to juries given by the older lawyers. The official chairman of the bench, the Lord Mayor of London, was not, usually, a practising lawyer, although many of the aldermen had been admitted to an Inn of Court and had some legal training. The same applied to most of those sitting on the bench. Moreover there was little pleading by counsel in the gaol delivery sessions, except occasionally on points of law. In the general sessions of the peace it was unlikely to be heard at all in this period. There was no occasion for it, nor would many of the justices present nor the other people in the court be fluent in it. Sir William Fletewood was sympathetic with the difficulties experienced by those justices without legal training who had to find their legal instruction 'in scattered and torne pamphletts written and noted by our elders in the French tonge, the which of very few beinge understood'. He wrote his own advice for justices in English.³ Most handbooks for justices were, in fact, written in English the last in French being that of Fitzherbert published in 1538 and later translated.⁴

2. B.M. Harl. 5153-6, 5225

3. B.M. Harl. 77 f.59.

4. A. Fitzherbert: L'Office del Justice'

Juries

I have suggested that the jurors probably did not understand well the legal Latin and Law French but this does not imply that most of them were not educated. The requirement that those impanelled for jury service should possess freehold property worth £2 a year, that is to say land which could produce in rents £2 each year, was high. Clergy, aliens, women, peers, justices and lawyers in their own counties were exempt. A glance at the subsidy returns shows what a very small number of people were liable to serve on juries for the county; perhaps an average of half a dozen, or less, from each parish. Unlike the qualification for men eligible to elect members of parliament for the shire, which remained at freehold property worth £2 a year, the jury qualification was raised as the value of money dropped, and was £10 in 1692. The qualification was much less than that for justices themselves, £20 raised to £200 in 1747, but jurors could be said to have more in common with the justices than with the rest of the inhabitants, or with many of the prisoners. They were men of some standing in their neighbourhoods, good yeoman and lesser gentry. Most had some education and the majority would have some experience of estate or business affairs; some being stewards of estates or manors or agents of larger land owners. Moreover jury service in Middlesex must have been required so frequently that some of them would be experienced, having sat before.

The qualification for jurors did not apply to special juries taken from the immediate neighbourhood called for a coroner's inquest or certain other special juries. Nor did it apply to the special jurors of alien birth which might form half the jury when a foreigner was tried de medietate linguae, of the middle or common language. In theory this jury was a compromise, half of the nationality and tongue of the court and half

foreigners who might understand the accused, not so much, perhaps, because they shared a common language, but more because they would have less prejudice against a foreigner and might know something of his background. In fact, although the purpose was to find people of a common language, the direction was only for other aliens and they may not always have had the same tongue, especially as these jurors were often called at short notice.

Two aliens came before the gaol delivery for Middlesex in December 1613. Cornelius Vandenburg of Whitechapel was indicted for stealing two gowns worth £6 and two cloaks worth 40s. and a waistcoat worth 5s., from John Clerck on 12 November. Cornelius Johnson, of Stepney, alien, a Dutchman, was indicted for assaulting John Noone, a cooper at Shadwell, Stepney, stabbing him with a knife worth 1d. on his left side near the short ribs. They were allowed a jury of the 'middle tongue' and the case was briefly respited while a panel of twelve aliens was produced. Six aliens from this panel, Peter Mermeere, alien, Haunce Vanlow of East Smithfield, alien, Peter Godscall, of the same, alien, Robert Mattoone of Hallowell Street, alien, Roger Shoven of the Strand, alien, and Martin Peetersen of the same, alien, were sworn together with six from the regular panel of jurors. The two prisoners were, in turn, brought before the court and jury and both were found guilty and sentenced to be hanged.

The chief importance of the juries was that they acted as a balance between the prisoner and the bench, the grand jury by making the preliminary inquiry from the point of view of average local men with some local knowledge, and the trial jury by considering the weight of the facts in evidence. They could also influence the execution of criminal justice, especially by finding a lesser charge when the nature of the accused, or other circumstances or doubt about the evidence made it appropriate. In this respect, perhaps, the justices sitting on the bench played the bigger role, for they could

influence the jury by their presentation of a case or in the charge to the jury. There were many ways in which the justices could modify the effect of a verdict: by giving a more or less severe sentence, or by keeping an acquitted person in prison to find sureties, delaying judgement, recommending pardons and so forth.

Between the two groups, the jurors and the justices, whether of the peace or of gaol delivery, justice was administered with more wisdom and humanity than the apparently severe laws might suggest. The most obvious example of this is the reduction of the value of goods stolen to less than 1s. to make it only a misdemeanour instead of felony, as in the case of Dorothy Ayling. This might be done either by the grand jury only bringing in a bill of indictment for misdemeanour, or by the trial jury finding the prisoner guilty only to the value of, perhaps 10½d. That was a figure often stated, although the sum varied in the Middlesex sessions at this period and had not become fixed, unlike Kent where Miss Melling found that 10½d. was standard.⁵ These cases were very common, roughly one third of the cases of petty thieving of oddments---not the more organised affairs--- were so treated. A striking example was Jane Baylie of Golding Lane, who, in 1613, was accused of stealing from Sir William Welche in Aldersgate Street 'a towell' worth 8s., a handkerchief worth 11d., two 'squares' worth 12d., two yards of 'bone lace' worth 2s, 'one girdle and pinpillow' worth 10d., one black wrought 'quoiffe' worth 8d., 'one napkin' worth 12d., 'five ruffe bandes' worth 10s8d., one lace band and cuffs worth 10s., 1½ ells of linen worth 4s., two pieces of linen called 'tyffanye and lawne' worth 10d., one pair of 'needle work cuffes' worth 12d., one 'pearle and golde button' worth 6s. and 'one sylver handle for a fanne' worth 8s.6d. This was perhaps not so much more than one complete woman's outfit and so might be thought to be still in the nature of picking up trifles, for there was no suggestion of breaking into the house, unlike the organised theft of the wardrobes of several households by Richard Brasell and his fellows

5. E.Melling, Kentish Sources, VI, Crime & Punishment, 1969

described in chapter one. Baylie was found guilty to the value of 4½d., a big reduction from almost 50s.⁶

Another example was Elizabeth Crowe who on 9 July 1599 stole 'a silver toothpicker' worth 3d., a 'silver eare picker' worth 3d., a silver parcel gilt ring worth 12d. and 5s. in numbered money from William Denby at Norton Folgate. She was found guilty of petty larceny of goods to the value of 11½d. It is interesting that this verdict could be given even when the goods included 'numbered' money, that is showing a face value, of more than 1s. The majority of these cases were women, perhaps because men could claim benefit of clergy, although some men received the same verdict. On 26 March 1609 Robert Johnson stole a pair of 'white woollen stockens' worth 4s. and a pair of crewell garters worth 6d. from David Griffyn, having broken into his house. The jury found the goods to be worth 11d. and he was sentenced to be whipped.

The jury's action in such cases was usually influenced by the justices. When there was doubt about the procedure a second indictment might be held over, as the Surrey justice noted in his diary in respect of two cases of stealing hens in 1609: 'John Berrye whome I sent to the gaole for stealing Calcock's and White's hennes was arrayned and whipt, and whereas two bylls were founde agaynst him whereof one was prysed vi d. and thother x d., of severall I thought it to be but larceny unless yt had byne of one mans goods. Yett to avoyde the doubts we arraigned him but uppon one of them and the other quit for I was gone home'. The reduction of value was practised more over goods than over livestock which had a recognised market value, easily assessed by comparison with prices at the last market. This is reflected in the standard wording of indictments: goods, such as clothing, furniture, foodstuffs, are described as 'worth' or 'valued at' so much, but livestock and growing crops are 'priced' so much. Moreover stealing cattle, and especially horses, was

a particularly heinous offence, for a man's livelihood could depend on them and so they have a greater value than inanimate chattels.

Bail

Justices had other ways of keeping the peace and punishing fairly. They had wide discretion to withhold or grant bail, or to remand the accused in prison, or defer the case until the next sessions, or hold people in prison until they found adequate sureties (or manucaptors) to vouch for them by recognizance, so suspects could be given a fair and appropriate punishment even although they would be officially acquitted. Convicts were often remanded in prison before judgement when the justices needed to confer or take advice about the sentence, or simply because they were to be given a light sentence or be acquitted at the next sessions. Persons acquitted or not indicted of a murder charge were, in fact, required by statute of 1487 (3 Henry VII c.I) to find sureties for their good behaviour for one year, before being discharged, in case the party aggrieved wished to appeal or bring a civil action.

For suspects awaiting trial, certain serious felonies such as murder, treason, normally meant imprisonment, under an Act of Edward I (3 Edward I c.15), but in most cases they might be bailed if they had sufficient security. Under an Act of 1554 (1 Philip and Mary c. 13) persons arrested for manslaughter or any felony that wasailable could only be bailed in open sessions, or by two justices of the peace, although Middlesex and London justices retained their rather wider powers and frequently only one gave bail in a case of suspicion: of felony.

A recognizance was simply a formal written statement, made before a justice of the peace, who signed it, by which the person or persons bound acknowledged (recognovit---hence the name) that he owed a certain sum of

money to the King, but that if he performed the condition of the recognizance then the recognizance would be void. The form of the condition, being not strictly part of the bond, was sometimes written underneath the Latin bond, in English. The condition was usually for the suspect to appear at the next sessions to answer what might be objected against him, and sometimes for his good behaviour in the mean time, or for him to keep the peace, sometimes towards a specific person. A witness would be bound to appear and give evidence or prefer a bill of indictment. Bail could save an unpleasant period of imprisonment in Newgate Gaol. For most people whether it was granted depended on the amount of security they could offer and the substance of their bailors or sureties---this is one instance where the charge of one law for the rich and another for the poor might lie. The amount of security required was assessed by the justice according to the seriousness of the offence and the likelihood of the accused trying to escape. The average sums were about £20 to £40. For serious matters, such as recusancy, £100 might be necessary. In minor cases of misdemeanour, and for the appearance of witnesses, £5 or £10 was sufficient.

In most cases guarantors, usually two in number but sometimes more or less, were also bound to be responsible for the principal party satisfying the condition of the recognizance. These were known as sureties, or sometimes 'mainpernors' or in Latin manucaptor. They were usually bound in sums of money which together totalled an equivalent sum to the principal party's bond.* A poor man might be bound by sureties only, without any sum in his own recognizance; as might married women who rarely had any property of their own, but could be guaranteed by a husband. Sureties had to prove they were men of substance, usually by showing that they were assessed to pay subsidies or taxes. At the January sessions Roger Ward was committed to Newgate for standing as bail for Robert Colte by claiming to be a 'subsidye man' when, as it turned out, he 'could not declare to this

* A symbol Ⓞ signified bonds owed by sureties (as opposed to the principal party) in the clerk's registers.

Courte that he was ceased at last subsidie.'

It is, in fact, by no means certain that justices only accepted subsidy assessed men as bail; for in minor cases it does not seem always to have been so. It was also not uncommon for groups of people suspected of the same or similar charges to stand bail for each other. Amongst the recognizances for the January sessions 1611, for example, Arthur Cadicke, a chandler of Westminster, was surety for Bernard Cooke, cheesemonger of Westminster, to answer a charge of stealing a hat, both parties being bound in the sum of £10; but Cadicke was himself accused of being an accessory to Cooke, and was bound to answer with another surety, James Bread, cheesemonger. In fact no indictment was brought against either of them. One often finds that the same person acts as bail for several people in different cases, which leads one to suspect that some lawyers or minor court officials, or possibly 'informers', such as Bartholomew Benson (see chapter V), or other people about the courts, may have stood bail in the hope of profit in likely cases. It is possible that the phrase 'a common bayle', noted by the clerk in connection with Roger Davies bail for good behaviour, could refer to some common bailor rather than the commonness of this standard form of recognizance.

Sentences

Sentences and punishments, although severe by modern standards, were not without humanity and frequently in accordance with strict justice, for as has been said, the justices were able to exercise discretion in the application of the laws to the particular offenders and offences before them. If in theory all felonies were hanging matters, it is a fact, as we have seen that only a small proportion actually received the death sentence, and many of these received pardons later.

Convicts from Newgate gaol were usually hanged at Tyburn, which was then in the fields well away from the City and suburbs. The name became so notorious as to be synonymous with hanging. In fact it was not the only place of execution. The judges might appoint another place if it seemed more appropriate. The place or date of execution was not usually recorded by the sessions clerk, only the actual sentence. Executing the sentence was the responsibility of the Sheriff and gaoler, and performed by the public hangman and his assistants. Information, can, therefore, only be gleaned from other sources, such as Henry Machyn's diary, where he notes, for example, that on 21 April 1561 three people were hanged at 'Hyd parke korner' and six at Tyburn. Another entry mentions the gallows at Charing Cross in 1553 'The 26 day of Aprell was cared from Marchalsee in the care through London unto Charyng Crosse to the galows and ther hangyd 3 men for robyng of serten spaneardes of Tresur of gold out of the abbay of Westmynster... The XXIX day of Aprill was cutte downe of the galows a man that was hangyd the XXVI day of Aprell...and he hangyd in a payre of fyne hose lyned with sarsenet, and after bered under the galaus'. This being a special case touching on the Royal Court and international diplomacy had been dealt with by the Marshal of the Kings Household. Convicts were sometimes ordered to be hanged near to the scene of their crime, instead of Tyburn. William Hollis was sentenced at the December gaol delivery of 1612 to be hanged on Hounslow Heath. Men convicted of robbery on the high seas were hanged at low water mark at, for example, Wapping.

Disposing of the bodies was apparently something of a problem. Machyn mentions that some were taken back to be buried in certain parishes in London and others were used for scientific purposes. Fletewood himself

mentions in the letter quoted earlier (chapter two) that parishioners did not like to have convicted traitors buried amongst their relatives in the parish church yard. In 1605 the City of London Aldermen's court ordered the sheriffs and others to 'consider of some fitt and convenient plott of ground to be procured for a buriall place for such as shalbe executed at Tyborne, and to acquaint this Court therewith⁷. The most unpleasant form of hanging, when the victim was taken down while still living and drawn and quartered, was only used for traitors against the realm. These included recusant priests and counterfeitors of the coins or seals of the realm. Traitors were also dragged to the place of execution tied to a hurdle drawn behind a horse instead of riding in a cart. Presumably this served to convince the crowds that this was the lowest and meanest sort of wretch who should not enlist any sympathy or awe, as might some of the felons standing upright in the cart on progress to Tyburn. It probably also ensured that the victim was almost unconscious before he reached the gallows. The head and quarters might, if the King directed, be displayed publicly as a warning.

Benefit of Clergy

The most usual way of avoiding the gallows in this period was by claiming benefit of clergy. This privilege arose from the principal that a layman could not have judgement of life and death over a clerk in Holy Orders and so clerics suspected of crimes were handed to the ecclesiastical courts. Originally, as Miss Gabel has described, when arraigned, such a person claimed that he was a clerk and so could not answer without his Ordinary⁸. The Ordinary, usually his Bishop or Archdeacon was, therefore,

7. Corp.Lon. Rep. 27/163

8. L.C. Gabel, Benefit Of Clergy in the Later Middle Ages, 1929

called before the Court and claimed the Clerk. In some cases, before actually handing over the accused, the Court might order the jury to inquire into the matter and hand him over as a clerk convict. In the fifteenth century it was more frequent for the clerk to plead, but saving his clerical privilege (*salvo sibi privilegio clericali*) or to ask for his privilege only after conviction. It was also possible in a serious case that the ecclesiastical court would disfrock the clerk and hand him back to the law courts.

During the thirteenth century the definition of a clerk was extended from those in higher orders to include those who had received the first tonsure. Normally it was the duty of the Ordinary to examine the accused clerk's letters of ordination and say whether he accepted the accused as truly one of his clerks. The clerk's ability to read was also examined by the Ordinary as an additional test when there was any doubt, as there sometimes was. In 1286 for example the justices of the gaol delivery of Newgate thought the tonsure of Robert de Newby looked too recent and questioned the gaoler. During the fourteenth and fifteenth centuries the reading test came to be the main test of a clerk. It was usually administered by the Ordinary, but the judge could do it himself, and indeed might not necessarily in every case accept the Ordinary's decision. The Ordinary was not always willing to condemn a man even when he could not read and was not a clerk. In 1365 a prisoner at Appleby was found to be able neither to read nor to pronounce the syllables, but seemed to know certain passages. The judge gave him the Book upside down but he still read as before, so the Ordinary had to refuse to accept him. It was discovered that two boys had been admitted to the gaol and had taught the prisoner certain verses. In a case as late as 1666, quoted by Miss Gabel, the Ordinary at Winchester pronounced that a prisoner was able to read when he had obviously never looked at the Book so the Judge had him brought near to the bench and gave

him the Book again, whereupon the prisoner confessed that he could not read.

In this way many scholars who were not in fact in Holy Orders escaped the death penalty and the practise increased. Finally in 1489 the privilege was limited by an act 'for murderers and thieves':

'Whereas upon Trust of the Privilege of the Church, divers persons lettered, have been the more bold to commit Murder, Rape, Robbery, Theft and all other mischievous deeds, because they have been continually admitted to the Benefit of the Clergy as often as they did offend in any of the Premises. In avoiding such presumptuous Boldness, It is enacted, ordained and established by the authority of this present Parliament that every person, not being with Orders, which once hath been admitted to the Benefit of his Clergy, eftsoons arraigned of any such offence, be not admitted to have the Benefit of his Clergy. And that every person so convicted of Murder to be marked with an 'M' on the braun of the left Thumb, and if he be for any other felony the same person to be marked with a 'T' in the same place of the thumb, and those marks to be made by the Gaoler openly in the Court before the Judge, before such person be delivered to the Ordinary.'⁹

Persons asking the privilege a second time were to be allowed to have a time appointed for them to produce their letters of orders and if they could not do so lost the privilege.

The privilege was gradually removed even from first offenders, for the more serious offences, by later acts. In 1531 it was withdrawn from persons convicted of petty treason, wilful murder, or malice aforethought, robbing of churches, robbing of persons inside their dwelling houses while the owner and his family were there and 'put in fear', highway robbery, burning of dwelling houses or barns, or aiding and abetting in any of these offences, except for persons of the order of sub-deacon or above. (23 Henry VII c. 1). This act was confirmed by Edward VI in 1547 with the addition of the crime of horse stealing. It was also stated that killing by poison was murder. Members of Parliament could claim their clergy even if they could not read and they did not have to be burned in the hand (1 Edward VI c.12). In 1566

'cut-purses' and other thieves robbing 'from the person' lost the privilege (8 Elizabeth c.4). Offences involving the person, such as picking a pocket, assault on the highway or breaking into a man's dwelling house, as well as stealing a man's horse on which his livelihood might depend, were always considered particularly heinous offences. Richard Newdigate, as mentioned earlier, was therefore not able to claim benefit of clergy for horse-stealing. In the late eighteenth and early nineteenth centuries many young people were transported to Australia for apparently trivial thefts of cheap watches or even handkerchiefs, because the value of the goods was immaterial to the nature of the offence 'from the person'.

In 1576 the privilege was also removed from rape and burglary, and, rather more significantly, it was decreed that convicts, not in orders, should not be delivered to the Ordinary after burning in the hand but discharged, except that justices could keep them in prison for up to one year (18 Elizabeth c.7). This was the most important act since 1489, for it meant that even where clergy was allowed the convict by no means escaped punishment, but received a penalty more befitting his offence than hanging. One other act was significant, that of 1621 which extended the privilege to women for the theft of goods under the value of ten shillings, where men would have had their clergy. They were to be branded in the hand upon the brawn of the left thumb with a hot branding iron, having a Roman Letter T upon the said iron, the said mark to be made by the gaoler openly in Court before the judge'. They were also to be whipped or sent to the house of correction for one year, (21 James I c.6). Henry VIII also made two attempts to put minor clerks in the same position as laymen; once in 1512 but the Pope declared two years later that laymen had not jurisdiction over churchmen; again in 1536, (28 Henry VIII c.1) but this was repealed by Mary.

In spite of the various acts to reduce the number of claims for benefit of clergy, the percentage was great during this period, and if anything became

greater. As we have seen it was allowed in almost one third of the cases in January 1611, and this seems to be the average. In 1603, of 120 indicted for felony, 53 were found guilty by the jury and 16 confessed, a total of 69 convicts, of whom 24, about one third, were granted benefit of clergy. In 1606, of 71 indicted, 42 were convicted and only 8 were allowed benefit of clergy, but in the following year 26 out of 77 were granted it. In 1613 there were again almost one third, out of about 320, indicted, of whom 150 were convicted 45 were granted benefit of clergy. In 1617 about 60, out of some 180 convicted of felony, were allowed the privilege, while in 1620 24 were granted it out of 85 convicted and some 250 indicted. In earlier years the percentage was rather less. In 1558 only two men were allowed benefit of clergy while twenty four were sentenced to death out of thirty eight indicted. In 1560 8 were granted their clergy out of 20 convicted, 3 people being acquitted out of the 23 indicted. In the whole of Mary's reign only 14 persons are recorded as having been granted benefit of clergy and 83 were sentenced to death out of 160 convictions. Between 1549 and 1553 10 clerks were recorded, and 63 persons sentenced to death out of 118 convicted felons. The figures quoted are not complete, especially for the earlier years as the clerk did not always bother to record the sentence. Moreover there are still a number of unsorted indictments amongst the Middlesex sessions records which have not been examined.

One reason for the large number of laymen accepted as clerks was the English Reformation. Once the English Bible was appointed to be read in churches it seems unlikely that the Latin text would have been retained in the law courts. Sir Thomas Smith, in his De Republica Anglorum, states that a psalter was used. This probably means a complete service book, not just the psalms, for this would best demonstrate the reading 'like a clerk'. This must have been in English for after 1552 there were penalties for clergymen who used anything except the approved English text. The text chosen was

never recorded. Nor was it mentioned in law books. From 1706 (5 Anne c.6) the test was abolished and all first offenders granted the privilege.

Many people have assumed that the same passage was always read, that is part of the Fifty-first Psalm. This, being particularly appropriate, was no doubt often used ('Have mercy upon me O God according to thy loving kindness...blot out my transgressions...against thee have I sinned in thy sight...deliver me from bloodguiltiness'). However the Ordinary, or occasionally the judge appointed the passage to be read. Gabel found no evidence of which passages were read, but almost certainly it was not always the same, especially not the well-known Fifty-first psalm which must have been heard regularly from prison chaplains and at the gallows. Had this been so there would rarely have been cases of failure, but in fact it was not uncommon for men who called for the Book to be unable to read, and judges would not always have been able to tell whether he was watching the words closely. In 1610 John Ramsey, indicted for stealing a desk, and a dictionary as well as some money, was unable to read and so was sentenced to hang, and in 1606 Thomas Hill failed to read and was sentenced to hang for stealing four gold buttons set with diamonds and rubies. In 1613, twelve men failed to read, while sixty succeeded and were allowed clergy. I think myself that the present tradition of the Fifty-first Psalm has arisen from a confusion of the reading test with the condemned prayers or the reading of the psalms shortly before execution. A confusion possibly further increased by the fact that the chaplain of Newgate Gaol was also known as the 'ordinary'.

Occasionally men tried to make the claim a second time, as John Hunter did in 1614, and sometimes a special jury was called to decide whether a man had previously been allowed his clergy, as in January 1571 for John Jarrett or in 1585 when a jury found that Christopher Calvert had previously been convicted in Bedford and allowed clergy there. In 1601 evidence was given that Peter Sharpe had committed burglary in another county, but his associate,

Henry Arnold, was allowed to be branded with a 'T' for stealing cloth, tapestry and jewels.¹⁰ Second claims were not made too frequently; presumably the brand mark was usually sufficiently clear. The court records were, of course also consulted, and in Kent, a special book was ordered to be kept from 1627 to record brandings. The brand mark was simply a form of identification, not in itself a punishment. The original distinct mark 'M' for a murderer, as opposed to the 'T' for thieves and other criminals was not used after the 1531 and 1547 acts stopped the privilege for murder. After 1531 those who were allowed 'clergy' for the lesser charge of manslaughter, like Ben Jonson, were also branded with a 'T'. This 'T' had no connection with the name Tyburn, but naturally came to be known as the Tyburn mark.

It is, perhaps, worth remarking that the usual term for ~~the~~ branding was burning, or 'to be burnt'---branding is a more modern term. Shakespeare speaks of being 'burnt in the hand for stealing of sheep'.¹¹ Often the records merely note briefly 'burnt' (crematur) and such phrases as 'burnt for stealing sheep', 'burnt for a witch' have misled some readers. Fire to consume sin may have been used occasionally by the Church in purification but not by the Common Law courts. Rogues (idle vagrants) were branded in the shoulder, sometimes publicly in the nearest market place, and it was probably a rogue who was to be branded at Uxbridge, according to Machyn in 1555: 'The 8 day of August between 4 and 5 in the mornyng was a presoner delevered unto the Shireyff of Medyllsex to be cared unto Uxbridge to be borned; yt was the markt day - owt of Nugatt delevered.'¹²

10. GLRO.M. MJ/SR/491/107

11. Hen. VI pt. II. IV. 2

12. BM. Cott. Vitellius F. V.

The result of the various benefit of clergy acts was to rationalise the penal code and create other punishments than death for lesser offences. It widened the concept of justice, making punishment more closely related to the crime and the criminal. Juries made distinctions not only in the value of goods stolen, but also in other respects according to intention; for example between manslaughter and killing in self defence as opposed to simple murder. Many of the cases of killing in brawls or duels were found to be only manslaughter or even killing in self-defence and the culprits were enabled to claim benefit of clergy, such as Philip Foote and John Croker of Holborn, who appears actually to have been a clerk, in 1613, or Nicholas Collett in 1598, found guilty of manslaughter not murder. Distinctions were made, too, between various kinds of robbery, house-breaking and burglary. Most of these convicts were kept in prison after branding, at least until they had found sureties for their good behaviour. A sheep stealer, John Porter of Whitechapel, in 1625 successfully read and was branded but was ordered 'to bee sent for a souldier'.¹³ Convicts were sometimes discharged to be soldiers or to serve in the new plantations overseas.

Pardons

This was often a condition of a royal pardon which was another way of escaping the gallows at this period. They were usually granted at the instigation of the justices concerned, especially in doubtful cases or where there appeared to be mitigating circumstances for first offenders.

13. GLRO.M MJ/SBR/I/219, MJ/SR/521/167

Long lists of convicts receiving the royal pardon were recorded on the Patent Rolls during the reigns of Elizabeth I and James I. Many of the pardons were for women who could not claim benefit of clergy before 1621. In 1590, for example, letters patent of the Queen state that being 'piously moved by our special grace and on the information of William Webbe Mayor of the City of London and other of our justices assigned to deliver our gaol of Newgate we have pardoned...' and then follows a long list of prisoners, convicted at gaol delivery sessions between February and July 1589, including Priscilla Masterton convicted of stealing clothing from John Holmes in Westminster, Elizabeth Hawtry wife of James of Turnmill Street for harbouring Elizabeth Arnold convicted of stealing several jugs, one with a whistle and one with a pearl, and twelve other women. There was also John Draper convicted of stealing a 'hobby horse', black with a white star, from Robert Throckmorton in Holborn, and three other men. They were all pardoned on condition that they found good sureties for their behaviour.¹⁴ Full details of the indictments were returned by the justices when making recommendations for pardons, and so the pardons recorded on the patent rolls are useful where records are defective.

In 1562, as Henry Machyn records, 'The xx day of Aprell was rayned at Yeld-hall (ie Guildhall) a grett compenens of mareners for robyng on the sea ...The xxv day of Aprell were hangyd at Wapyng at the low water marke & for robere on the se, and there was one that had hys alter about ys neke and yett a pardon cam be tyme'. It is interesting that Machyn mentions the situation so beloved of novelists, the pardon coming in the nick of time. It is possible that occasionally such situations were deliberate, to demonstrate the sovereign's mercy more effectively to a crowd.

Usually the pardon was not petitioned for or granted until after sentence had been pronounced, so that it is only rarely that the sessions clerk noted it in his records, although two of the three men convicted of breaking into Whitehall Palace and stealing jewellery in 1614 were pardoned after receiving the death sentence, as the clerk noted. Thomas Foot, who was convicted at the sessions of 19 May 1613 of killing in self defence only and remanded in prison to find sureties, produced at the next sessions on 30 June his royal pardon dated 19th June.¹⁵ Sometimes people received their pardons immediately, as did Edward Newdigate when he was able to plead his pardon at the time of his trial in December 1610, as described in the last chapter.

Transportation for Service Overseas

Some convicts were pardoned on condition that they served over-seas as seamen or soldiers. Special commissions were sometimes appointed to find men in the prisons suitable for such service. In 1559 some chosen for service at sea were ordered to remain in Newgate until sent for by the Lord High Admiral. In 1602 a commission was appointed to reprieve some condemned prisoners to be galley slaves. Often the Lord Mayor, and some of the aldermen and justices were members of these commissions. In 1586 Sir William Fletewood mentioned that 'Thursday was spent by Mr. Wroth and Mr. Yoonge in perusinge the strength and habilities of the prisoners.' An act of Parliament of 1597 allowed convicts to be sent overseas, and many served on the exploratory or colonising voyages of the time, such as the London merchants' venture of 1615. As Lord Carew described in his letters, they sent a 'small barke victualled for 9 months under Robert Bilot 'for the discovery of the northe-west passage.'¹⁶

15. GLRO.M. MJ/SR/529/106, 187, MJ/SBR/2/15, 21, 22

16. Corp. Lon. Rep. Books; PRO. C/66/1581, C/231/1 & 3, Pat. Roll indexes; BM. Lans. 49/1; Carew Letters

They also sent a pinnace to find the north-east passage, and a fishing fleet to Greenland.

There are, unfortunately very few records of individual convicts sent over-seas and these are sometimes obscure. Only a small number were needed and they were taken from the prisons after judgement had been given in the courts, by order of the Lord Mayor, or the royal commissioners. When the clerk of the sessions made a note in his records it is not always clear where the prisoner was to be sent. Thus Henry Wilson and George Thruppe, convicted at the October goal delivery 1610, were ordered 'to be sent to Swethland'. This may have referred to one of the northern voyages but could have meant one of the venture voyages to America or Bermuda, although it seems a little early for the latter.

In 1614 Barnaby Litgolde was convicted at the May sessions of stealing household goods and clothing from a waterman at Blackwall and at the July sessions he and a woman named Jane Sanson were ordered to be sent to Bermuda, or the 'Barmowdes'. In the record for the June sessions it was originally noted that Litgold was 'respited for good sureties for good behaviour or to submit for ('decendo pro') Greeneland by order of the Lord Mayor. This may mean that he was originally to 'volunteer' for the Greenland or north-west passage voyage, for he came from Blackwall, a waterside parish. Possibly however Greenland may be another name for the Bermudas. These islands had caught the public imagination since Sir George Somers had been wrecked there in 1609 and found them to be green and well-wooded with a pleasant climate. Significantly in 1618 the name 'Barmowdes' had been given to a number of alehouses in Milford Lane, St. Clement Danes, which were being used as

sanctuary by 'divers persons accused for murthers and other heynous and outragious offences', until the justices ordered the constables to arrest the keepers of the alehouses, suppress them from selling ale and bring them before the sessions. Others sent to Bermuda after conviction at the Middlesex goal delivery sessions in 1614 were Thomas Burrowes and Robert Everett of Edgware for highway robbery, William Clarke also of Edgware, Richard Storey for stealing a horse, John Duffeilld, John Crosse and Augustine Callys. A few others were ordered, less specifically, to the Indies, including Thomas Peirse arrested with picklocks and similar instruments in his possession, Robert Dennys for felony and Elizabeth Jones.¹⁷

A request for convicts for Virginia seems to have come a little later. In 1617, Stephen Rogers was reprieved and ordered to be sent to Virginia, at the request of Sir Thomas Smith, because he was a carpenter, although he had been found guilty at the April sessions of having killed a man. An 'incorrigible vagabond', Ralph Brookes, was reprieved on the order of the Sheriff also to be sent to Virginia. Two years later Elizabeth Handsley convicted of stealing, and William Hill granted benefit of clergy for stealing a bull, were both sent to Virginia. Leonard Bemboe, granted benefit of clergy after being convicted of stealing a silver bowl was to be 'sent for Bohemia,' presumably for military service.¹⁸ Some of the earliest settlers in South Africa too are said to have been convicted at goal delivery sessions for Middlesex in 1613.

17. GLRO.M. MJ/SBR/3

18. GLRO.M. MJ/GBR/2, MJ/SR/532, 533, MJ/GBR/3

Peine Forte et Dure

The result of 'standing mute' the peine forte et dure has been described. There were not very many cases; some thirty during the reign of James I, which is less than one percent of the total number of prisoners indicted. It is surprising that even those few should choose such an unpleasant sentence, especially since it appears to have been the usual practice to put the question 'how will you be tried?' several times and to give people time to change their minds. For those with lands or possessions it was a way of preventing their heirs from losing their property, since if the prisoner did not speak before he died he would not actually die a convicted felon. However only a few of those who stood mute actually had much property. It may also have been felt that by avoiding an actual conviction children were saved from the stigma of having a convicted felon as a parent. This may particularly apply to women, for a number of them stood mute, like Dorothy Androwes in 1609, and several others.

In other cases it seems to have been a way of saving accessaries who could not be tried unless the principal was convicted. In 1613 for example when George Fisher was accused of breaking into a house and stealing a cloak, a rapier and a looking glass, the two women accused of being accessaries were discharged because 'the principal stood mute'. In many cases where one accused stood mute the others associated with him were acquitted. This happened with the two women associated with Dorothy Androwes, but there is not enough evidence to show whether, in fact they might all have been acquitted had she pleaded. The same did not happen in the case of the three who broke

into the house of Cuthbert Burbage in Holywell Street, when one, Henry Elliott stood mute. Elliott's wife Emma was acquitted, but the other man, Thomas Pierson, was tried and found guilty, although only of theft, not of burglary so he was able to claim benefit of clergy and was branded.

In many cases of standing mute, too, the charges were comparatively minor, such as were likely not to be given the death penalty and might be reduced to petty larceny unless they were known criminals. It is probable that people hoped to be released without further judgement, or to bribe the goaler to keep the weights light while they avoided trials on other indictments. In 1553 an act was passed to take away benefit of clergy from those who stood mute, stating that people were trying to avoid the effects of the 1531 act, removing benefit of clergy from certain offences, by standing mute. There would be no point in this if they were certain to die under the 'peine' in a more painful way than hanging. One must assume that the penalty was not carried out to the full in all cases.

In fact the descriptions of the 'peine' which I have quoted are all from the 1660s and perhaps it is wrong to quote such a description for a 1611 trial. It is quite likely that the great severity of the 'peine' may have developed only during the seventeenth century. In medieval cases quoted by Miss Gabel where a pretended clerk failed to read and was declared not to be a clerk but still refused to plead, he was committed to the diet ('ad dietam'), which suggests something less severe. Perhaps for women, in particular, before the benefit of clergy was extended to them in 1621, the peine was used as a milder punishment. On the other hand Ralph Bathurst, indicted in 1609 of the murder of John Savage was pressed to death for standing mute.¹⁹

19. GLRO.M MJ/SR/538/229, MJ/SR/522/226, 228; SPD. 1609

For some women the plea that they were pregnant, if found to be correct by a jury of twelve women, might give them a privilege similar to the benefit of clergy, but officially this privilege only extended to the innocent child; once the child had been born and weaned the mother was called to her judgement. There is no evidence as to whether the sentences were always actually carried out after the lapse of time. A number of women received pardons and there was a tendency for justices to be lenient with pregnant women. At the goal delivery of 16 February 1609 it was 'ordered by the Court that Margaret Beche indicted of felonye, for that she is great with Childe shall be bayled in the Courte to appear the next sessions'.²⁰ She was thus allowed to bear the child at home.

Property and goods of felons

When the trial jury were asked to consider their verdict they were also asked to state what property and goods the prisoner had, or goods only if the charge was less than felony. They were also asked whether he had fled for his offence. Property played an important part in law, for property of felons and outlaws was forfeit to the King. Outlaws included those who put themselves outside the law by fleeing from justice, or the law of the land, ^{even when later acquitted} Juries in fact always found that the prisoner had not fled--'he is not guilty nor did he flee', noted very briefly by the clerk 'non cul nec rec'.²¹

James I occasionally made grants of the property of specified felons, or more rarely of all felons in a particular district as rewards to courtiers

20. GLRO.M. MJ/GBR/1/58d

21. Or sometimes 'retr' or 'Se retraxit'. Recedo and retraho seem both to have been used. i.e. : 'non culpabilis nec se recessit'. This clerical note seems to have puzzled the early students of Middlesex sessions records, Cordy-Jeaffreson and Le Hardy, although the fact is explained in most justices' text books.

or officials. Sir Lewis Lewknor was granted the goods of Ralph Bathurst, pressed to death after standing mute. In fact, however, it was also rare for a jury at a goal delivery or sessions of the peace to find that a convict had any goods at all, the normal response of the jury was 'he is guilty of the indictment and has no goods' (culpabilis cattalla nulla). The few cases where a suspected felon had sufficient property for the King or his assignee to be ^{an} interested party were transferred to the King's Bench or tried by a special commission.

Stolen goods were if possible returned to the owners and the constable, bailiff or informer was usually ordered to return them. At the gaol delivery of February 1610, for example, the order was made instructing 'the oatmeale man of Kensington to deliver unto Charles Sherrell a bay mare with two white feet, a bridle and saddle stolen from him'.²²

In one case the wife of a convicted thief who was herself acquitted of complicity in the crime, was nevertheless remanded in prison until she told where the stolen lace was.²³ Sometimes goods were the perquisite of the Lord of a Liberty. In 1610, at the April goal delivery, it was ordered that the bailiff of the Liberty of Lord Wentworth or the bailiff of the Dean and Chapter of St. Pauls should receive the 'iron pannes' worth £13 6s. 6d. stolen by Edward Pazez then in Newgate.²⁴ The weapons used for assault or murder were also forfeit, ^{being} known as deodands, usually to the Lord of a Liberty. The Lord of the Manor at Harrow, for example, claimed deodands.

22. GLRO.M. MJ/GBR/1, 301

23. GLRO.M. MJ/GBR/2/16

24. GLRO.M. MJ/GBR/1/120

A small point arising from the description of the sessions is the number of people tried for crimes committed in Middlesex described as of London or more specifically of a London City parish. There is no doubt that with the growth of the population there were a large number of people living on the edge of the City, who made use of the surrounding area in Middlesex, not only for recreation---in the theatres and pleasure grounds and 'summer houses' in the fields to the north of the City--but also for trade. In later times the description 'of London' without a specific parish may have been used as a vague description to apply to anywhere in the metropolitan area when the precise abode was not known but this does not seem to be so at this time. Indeed the amount of crime in the area immediately outside the City, particularly where it was not certain in which jurisdiction it came was something of an embarrassment to the justices of both London and Middlesex and a cause of some dispute. The description of abode of a prisoner in the formal records is correctly expressed 'late of' or 'sometime of', meaning that he lived there at some time to prevent an indictment being queried on the ground that he no longer lived there, especially as he would normally be in custody at the time of his trial. As 'late of' (nuper de) is a technicality I have omitted it from ^{paraphrased} quotations.

CHAPTER VTHE GENERAL SESSIONS OF THE PEACE

Having discussed the gaol delivery and inquiry sessions we should now consider the general sessions of the peace to see which functions were left to them. These were especially matters of county administration and some minor offences. While on the subject of the general sessions, I also deal with certain forms of process particularly associated with the sessions of the peace. These are the 'traverse', 'submission', and the 'information process'. Incidentally I discuss some of the effects of the latter form of process, and also the commissions of annoyances for the metropolitan area, which alleviated some of its worst effects in that area. Finally brief mention is made of the City of Westminster sessions.

I have already shown that some general peace business was dealt with at Clerkenwell before the gaol delivery sessions. In many matters touching on administration, the contiguity of the two jurisdictions of the City and the County, especially where they over-lapped in the populous districts at the edge of the City, made it necessary for the two authorities to collaborate. Indeed general orders were sometimes announced at the gaol delivery sessions for both the City and County. In most matters affecting both the City and the County, the Middlesex justices, not surprisingly followed the City. The two general sessions were the county's own particular sessions. They were not greatly different in form from the other sessions.

The general sessions opened in the City of Westminster, summoned by a similar precept, from the Custos Rotulorum and other justices to the Sheriff, like that for the inquiry sessions, but also calling for all the local county officers to be present. The opening day, at least, was very much a county ceremony. Some of the justices who were present at the inquiry and the gaol

delivery were also present, together with some others, who only served on the commission of the peace. At Easter 1611 William Waad, Lieutenant of the Tower, presided, with nineteen others sitting on the bench: Sir Francis Darcy, George Mountaine Dean of Westminster, Sir George Carew, Sir Robert Leigh, Sir Thomas Fowler, Sir John Brett, Sir Robert Ashby, Sir Gedeon Awnsham, Sir Richard Brownlow, Nicholas Collyn, Edward Forsett, Henry Spiller, Nicholas Bestney, Francis Roberts, Henry Fermor, Thomas Sanderson, Christopher Merricke, Mathew Swale, and Edward Doubleday. All these were the energetic members of the commission, who worked hard at their duties; signing warrants, making examinations frequently and attending committees. Their names become familiar.

Constables etc.

A large number of officers presented themselves and took the oaths and gave their names to the clerk for his record, some signing his list themselves. There were the bailiffs of nine important liberties, including the Duchy of Lancaster at Enfield, Charles Chute esquire, and of the Duchy of Lancaster in the Strand, Thomas Smythe, gentleman, the liberties of the Bishop of London, of Lord Wentworth and the Manor of Hendon. There were the bailiffs of the hundreds, five for Ossulston and one each for Edmonton, Gore and Elthorne, while Spelthorne and Isleworth were this year combined. Then there were the chief or high constables of the hundreds, for which there were several names but usually only one was appointed and sworn in for each hundred or, in Ossulston, each division of the hundred. These were peace officers responsible to the justices, unlike the bailiffs. All the high constables were described as gentlemen. The high constable of Westminster, Nicholas Goudge was also Westminster City coroner.

The petty or parish constables served for each parish, or in a few large parishes for the ward (or division of a parish). Several were named of which one for each parish was sworn in to serve for a year. Constables were nominally also pledged by two sureties, but like the sureties for the grand juries they were fictitious characters, John Doe and Richard Roe. The constables, in fact, served as a grand jury at the general sessions, and could make presentments for the county, especially of matters concerning their own districts. One of the constables sworn at this sessions, Robert Tyler of Wapping was at the May sessions at Clerkenwell ordered to be 'presentlie dismissed from beinge Constable of Wappinge for that he standeth Indicted for 4 several assaltes and it is referred to Sir William Waad and Sir John Key shall make choice of some other fitt man to be a constable in his stead.'

A charge was no doubt given by William Waad, who was the leading Middlesex justice at this time, possibly a more prosaic one than Chief Justice Croke's at the Inquiry and including more direct instructions about the county peace, together with a reading of particular acts and orders, and almost certainly in English. No Middlesex general sessions charges are known from this period, but most charges probably followed the pattern given in text-books, including Lambard's, some of whose own charges have survived. Then a proclamation was publicly made of the names of ten people who had been indicted of recusancy. The Sheriff was charged to arrest them and bring them before the court at the next sessions; they were also indicted for contempt of court for not having answered at the gaol delivery sessions.

Administrative Matters

More mundane business of the county was next attended to. Treasurers of county funds were appointed by the justices, for the year following.

Matthew Swale esquire of Paddington was appointed Treasurer of the fund for maimed soldiers within the hundreds of Ossulston, Edmonton and Gore and Richard Marshe of Hendon, yeoman, was appointed treasurer for the hospitals of Marshalsea and Kings Bench for the same hundred, while for the western hundreds of Elthorne, Spelthorne and Isleworth, John Middleton, Gentleman, of New Brentford was treasurer for maimed soldiers and John Boothe of Cowley, yeoman, for the hospital of Marshalsea and the Kings Bench. Of these four Matthew Swale was the only one who was also a justice of the peace. Auditors were appointed to take the accounts of the previous treasurers: Francis Darcy and Gedeon Awnsam justices of the peace of the west of the county for their district and William Waad and Matthew Swale for the treasurers of Edmonton, Gore and Ossulston.

Orders were made about the prices of bread, beer and servants' wages for the next year. Strong beer was to be priced at 8s. the barrel and the small 4s., similar to London except that the middle quality was not to be brewed in Middlesex. The assize of bread--that is the price per weight, and the quality of flour used--was to be as in London. Servants' wages were to be as before. In fact the maximum wages allowed in Middlesex and the City of London were never altered during this period, not in fact since the records survive for Middlesex. They were probably the same as those stated in Fitzherbert's Justices' handbook, that is, for example, for a bailiff of an estate 36s. a year plus 6s. for clothing, for a mason, carpenter, rough mason, tiler, plumber, glazier, or joiner in summer, between Easter and Michaelmas 6d. per day or 4d. per day plus meat, and in winter 5d. or 3d., but a ship's carpenter having charge of men only received 4d. a day without meat or 3d. with meat and drink.¹ The scales

1. Fitzherbert, L'Office del Justice..(1538 & 1584 eds)

laid down were very precise and dealt with a great many trades. The rates allowed were the maximum which the employer was allowed to pay; there was no minimum rate for the protection of servants. It was not until the eighteenth century that in response to many petitions the official rates for some jobs, such as the silk-weavers, were altered.

The next part of the procedure was usually to call for the recognizances and those people bound by them to appear. At the 1611 sessions many people had been bound over from the January sessions at Clerkenwell. Robert Colte and Roger Warde, for example, both to answer for claiming to be a 'subsidie man', or assessed for the subsidy and therefore qualified to go surety for bail. It was noted that Justice Robert Leigh would inform against them. A woman called Andrea Willmott, of Westminster, appeared, accused of 'setting hornes one her neighboures dore'. She was committed to Newgate but at the end of the sessions was to be brought back to the Castle 'to putt in Sureties' for her good behaviour. Thus she was given a brief but adequate period of imprisonment without actually being indicted. Her sureties were two butchers from St. Clement Danes, probably neighbours, and were bound in the sum of £20 each. Willmott, as a spinster and having some property, was allowed also to be bound in her own recognizance of £40, which although not unheard of was a distinction for a woman. Horns at the door was a typical neighbours' scandalous comment, as Mr. Emmison has found in Essex, being a symbol of obscure origins for a 'cuckolded' husband.²

An order was made agreeing 'that Edward Newman shall builde a Cotage accordinge to the lawe at Hendon, accordinge to a petition nowe exhibitted

2. F.G. Emmison, Elizabethan Life: Disorder, Chelmsford, 1970

and Certified'. There were also several cases of bastardy. There were other cases of selling ale or wine without license. Most of these cases arose from the meetings held by a few justices in their own hundreds. Several had been held in various parts of the county in February; for example on 6 February in Finsbury, 11 February in Holborn, 19 February in Clerkenwell, mainly for licensing, taking recognizances from butchers not to sell meat in Lent, and so on. For example Nicholas Lowder a smith of Hounslow was sent to Newgate for refusing to stand to the order that Sir Francis Darcy, Sir Gedeon Awncsham and Mr. Walrond have certified touching a bastard child.' Thomas Dearinge appeared and pleaded guilty to keeping an alehouse (or tipling house) without licence. A cunning innkeeper of East Smithfield, John Gurden and his wife, were 'suspected to steal their own silver to make the guests answer for it'. Several people were summoned to appear for buying and selling old iron, like John Darby of Whitechapel who was bound over not to 'use the trade of goinge up and downe and sellinge and buying of old iron'.

Curiously, a matter dealt with in January at Clerkenwell was raised again. Thomas Season had then been ordered to build a wall round his pond for the safety of passers-by, but now it was ordered 'that Season shall be sent for by warrant to appeare at the next Sessions and that he shall not proceed in walling upp his pond'. Season appeared at the May sessions and was ordered not to continue walling it up. The question of this pond remained a matter of controversy for some time. Three years later in June 1614 yet another order was made, this time for the pond to be destroyed altogether: 'Order for Season, the cobbler of Clerkenwell to be committed until he let out the water and deface his ducking pond, being a general annoyance, certified in Court by Sir William Waad'.

Judging by the number of recognizances, both for general peace matters and cases for inquiry which would be passed to the gaol delivery, this sessions of the peace was very busy, as might be expected of the main county sessions. The recognizances had been taken before several justices, the most hard working before this sessions being William Waad, Ralph Conningsby, Lewis Lewknor, Robert Leigh, who was always very busy indeed, Gedeon Awnsham, Edward Forsett, Edward Vaughan amongst others. Most of our information of the various minor breaches of the peace which came before the bench at sessions, comes from recognizances, many of which are most informative. Other minor matters included many people bound over to keep the peace towards a neighbour---several men of South Mimms seem to have quarrelled with John Banks. John Willis, a waterman, was bound to answer both for building a new tenement in Ratcliffe Highway and also for 'refuseing to paye pore men their wages whom hee had sett on work'. A rope maker, Richard Foster, was also summoned 'for refuseing to pay his servant hir wages' and Thomas Ferne of East Smithfield, a bricklayer, had to 'answeare what shall be objected against him by the companie of the Bricklayers'. Sir Robert Leigh had examined or taken recognizances of a great number of minor offenders from the populous districts of the northern edges of the City near his house in Clerkenwell. He almost always wrote a brief but descriptive note at the foot of each tiny but neatly written strip of parchment forming the recognizance, beneath his distinctive signature: 'for assaulting one Seagood as he satt peaceably att his dore, some of his company breaking a rapier upon his head', 'for stealing of a bay tree out of a gentleman's garden', 'for sufferinge his man and mayde to be common pilferers, he knowinge the same and mayteyne them in yt', 'charged to keep a bawdie house and otherwyse of a vitious lyfe', 'for outrageosly beating an infante his apprentice'.

From the rural west of the county Henry Tomlyn of Pinner was bound before Ralph Hawtry 'for receyving unto his house at unseasonable houres in the night and acting disorderly himself in the night tyme'. One case that was dealt with at the gaol delivery, for it is clearly marked as having appeared at Justice Hall, was Nicholas Urbin of the Minories, a pin maker, 'for givenge unreasonable correction in a childe that served him soe that shee is lamed in hir necke'. One of those charged with building unlawful new tenements, William Felgate of Barking, who pleaded not guilty at the Justice Hall, had his case transferred to King's Bench.

Adjournment to Clerkenwell

On the second day the sessions were adjourned to Clerkenwell, where the general sessions was continued and also the preliminary inquiries for the gaol delivery sessions, which opened on the same day, were dealt with. It is not clear from the records exactly at what point in the proceedings the adjournment took place, but^{it} was probably after the general business and many of the recognizances had been considered. In April 1608 a line was drawn in the register marking the adjournment at the end of the first day after about half the recognizances had been dealt with. Six justices were then omitted from the list of those present on the second day; Robert Leigh, Henry Spiller, James Walrond went to the gaol delivery, Thomas Fowler managed to attend both and the other two presumably went home.³ In 1611 Robert Leigh, William Waad, Thomas Fowler Edward Forsett, and Henry Spiller attended the gaol delivery, but some of them, probably including William Waad, may have managed to attend both. It is in fact difficult to distinguish precisely between general sessions business and matters to be passed to the

gaol delivery. Probably little distinction was actually made, except for convenience. Some of the names of those noted in the clerk's register as bound to appear by recognizance were marked as 'general sessions', some of these being recognizances certified by justices not also on the oyer and terminer commission, such as Christopher Merricke, Robert Ashby and Toby Wood.

Occasionally general sessions orders were pronounced at the gaol delivery sessions when they affected both the county and the City of London. In October 1608, for example, it was 'agreed by the justices of the peace for London and Middlesex in full and open sessions that from and after the next sessions of gaole deliverye here to be holden, noe more sortes of Beere and Ale to be brewed but after the rate of 8s. the barrel the stronge and 4s. the small'. It was also ordered 'whitebakers to bake wheaten bread two thirdes wheat one thirde Rye, the penny loafe to waye 10 oz., the penny whiteloafe 8 oz, Brownebakers to bake thone halfe wheate thother halfe Rye, and noe loaves but of three sortes, viz. 1 d. 2 d. and 6 d. The penny loafe to waighe 14oz and the rest after that rate.'⁴ This was a time when harvests had been bad. Again, in December 1611 it was announced that as the price of grain was dearer the price of beer should be raised to ten shillings the barrel for the strong, six shillings for the middle sort and four shillings for the small.

4. GLRO.M. MJ/GBR/I/37-40

Other matters were sometimes dealt with by the two sides together at the gaol delivery instead of becoming matters of dispute, as for example the question of who was responsible for the support of Elizabeth Griffen in the City Pest house during the plague: 'Whereas Elizabeth Griffen, together with Robert Griffen and Bridgett Griffen her Children did lately abide and lodge in the house of one Reginalde Silvester, an Alehousekeeper in the parishe of St. Giles in the Fields in the Countie of Middlesex. And beinge there infected with the plague about the beginnunge of june last past 1609 were sente to the Pesthouse and were there cured of the disease, for which together for their Dyett, and other necessaries the sume of vi^{li}. 16 s. 6 d. was disbursed and paide by Roger Walronde gentleman, Marshall of the Cittye of London, to the Surgeon and other Officers of the saide house. And for that it plainelye appeared unto this Courte as well by the Confession of the saide Silvester as alsoe by other proofes, that the saide Elizabeth Griffen, and her saide two Children, had their last aboade and abidings in his saide house at or neare the tyme of their first infeccon. It is therefore ordered by the saide Courte that the Churchwardens and Constables, together with the Overseers for the poore of the saide parishe of St. Giles in the Fieldes shall presentlye upon sight thereof make an Asseasement upon the inhabitants of the said parish (being of the whelthier sorte)'. This sort of combined order helped to bring all sides together, and also gave the justices of the peace the benefit of the experience of the lawyers of the gaol delivery bench, which other county justices could only have by making an application for the opinion of the judges of assize.

It seems that at this period, for convenience a number of the minor offences were actually dealt with at the Justice Hall at the time of the gaol delivery sessions, not at Clerkenwell, especially if the accused were in gaol. In one case the clerk noted in his register 'sent to Upper house' which suggests that the relationship of the gaol delivery to the sessions of the peace was regarded in this way.

City of London

In the City of London the general administrative and minor peace business was, in any case dealt with by the Court of Aldermen rather than the sessions of the peace. For example in January 1611 the Court of Aldermen committed Geoffrey Wilson to the common gaol for victualling without licence 'there to remain by the space of three days untill he become bound by recognizance with two sureties and pay a fine of twenty shillings'. In September they committed Mary Fryth, a cutpurse to Newgate 'for divers misdemeanors'. Other victuallers were committed or bound by recognizance for being unlicensed, giving insufficient measures, selling flesh in Lent, or keeping disorderly houses. Mr. Walrond, Treasurer for maimed soldiers, was ordered to pay 40 s. a year to Jeremie Evers a former ensigne who had lost his sight. The Court of Aldermen also made regular orders concerning the assize of bread and of beer, and a committee, including the Mayor and Recorder, was ordered to attend for the assessment of wages. In September 1611, William Kinge, surgeon at the pest house, where Elizabeth Griffen and her family had been cured, was for his 'great diligence in Curing of such persons as have been sent thither, and that by reason-of ~~the~~ this attendance and employment there his frynds and former acquaintance do utterly refuse to use him in his profession' was granted a stipend of £3 a year, which was raised to £5 in April 1612.⁵

Offences and Punishment

The judgements given at sessions of the peace were similar to those pronounced at gaol delivery sessions, including especially the lesser punishments given to minor offenders. Whipping was a common punishment, either in the gaol or publicly in the market place or while running, tied to

5. Corp. Lon. Rep. Books.

the back of a cart ('at a cart's tail'), through the streets between two fixed places. Whores were carried about the streets in a cart or on horseback with a paper on their heads, or wearing blue hoods or mantles, the sign of a whore, so that they would be known. One of Robert Leigh's recognizances concerned the harbouring of 'a noted carted whore'. The prime purpose of such punishment for misdemeanours was to make offenders known to the public at large and also to expose them to ridicule. In addition to whipping or fining they might have to ride the streets on horseback, but facing the horses tail, with a paper on their heads describing the offence, or be put in the stocks or pillory. Stocks, a pillory and a whipping post (to which the offender could be fastened while being whipped) were set in most market places or other convenient spots and were used for a variety of minor offenders and vagrants. Some may be seen depicted by the artist of the London Map if one examines it closely, in Newgate Market, for example, on Tower Hill or at Charing Cross.

Machyn, in his diary, and Fletewood, in his letters, often mentioned the people they saw sitting in the stocks or riding in carts. In 1563, for example, 'two women ryd abowtt London in a care; on a common skold, with a dystaffe in her hand, thoder with a whyt rod in here hand, with blew hodes on there hedes' and 'at Sant Katheryns beyond the Towre the wyffe of the syne of the Rose, a taverne, was set on the pelere for ettyng of rawe fleshe and rosted both, and four women was sett in the stokes all nyght tyll ther hosbandes dyd feyche them hom', (this eating of meat took place in Lent).⁶ In September 1611 Anne Hall, convicted of stealing a child was to be 'whipped att a cartes tayle through the streets to the place from whence she stole the childe and there to sitt in the stockes with a paper on her hede shewing her offence....' In 1617 John Tracher for an assault on his ~~man~~ was to be

6. B.M. Cott. Vitellius F.V.

whipped on two market days at Brentford and to spend one day in the stocks at Acton. A common informer for making an agreement for money with his accused without the courts permission was 'to be sett upon a horse with his face to the horses taylor and ride to the pillory and there to stand two hours in the open market with a paper upon his head inscribed "for unjust compounding upon several informacons without licence" as well as paying a fine of £10.⁷

Justices of the peace were specifically charged in their commission to enquire into witchcraft, enchantments and sorceries. These were thus particularly matters for the general sessions of the peace, although accusations of witchcraft were also sometimes heard at the gaol delivery sessions. In Middlesex witchcraft was not a very serious matter. When it did appear before the court the justices seem to have treated it with an enlightened degree of scepticism. In most cases it was fairly obviously thought to be merely a symptom of quarrels and suspicions amongst a group of neighbours. Accusations were brought against a woman, Agnes Godfrey, wife of John Godfrey of Enfield, by the same group of her neighbours every few years. The first time was in 1597, and then she was bound over to keep the peace by justice Richard Candeler 'for that she is accused by certaine of her neighbours for suspicion of witchcraft.' In 1610 she was indicted and found guilty of practising witchcraft upon Frances Baker, causing Frances to become ill and wasted, but did not receive a severe penalty. She was tried again for several accusations between 1612 and 1621 but was acquitted.

7. GLRO.M MJ/GBR/ 1 & 2

A gentleman, Stephen Trefulack was found guilty and adjudged to have the penalty according to the statute, for, in the standard phraseology of the indictment, not having God before his eyes but moved and seduced by devilish instigation, on 25 July 1591 at Westminster, unlawfully and diabolically exercising and practising certain nefarious and diabolical arts, called witchcrafts, enchantments, charms and sorceries with the intention of provoking George Southcott, gentleman to the unlawful love of a certain Elianore Thursbye. Richard Nelson was indicted for using witchcraft to cause a baby aged eleven weeks to fall ill, but it is not recorded whether he was found guilty. A husband and wife, William and Joan Hunt were acquitted in 1613, of practising witchcraft to make a woman lame and a man waste away. The same Joan Hunt was found by a coroner's jury, composed no doubt of her neighbours, to have murdered by witchcraft one Robert Hill, but was nevertheless acquitted by the trial jury at the sessions of February 1614. The appropriately named Dorothy Magick, was accused of having been persuaded by Susan Poole to try to kill Susan's husband and mother in law by witchcraft. They were both bound over with sureties for their good behaviour, but not indicted. It is not recorded whether the first accusation was made by the mother in law or just one of the neighbours. An apothecary claimed he could find stolen goods by wizardry and was bound over twice, but apparently never indicted.

There were only fourteen actual indictments for witchcraft during the reign of James I, and the majority of these were acquitted. There were only about thirteen, several being for the same person, during Elizabeth's reign, ~~and although~~ One woman was hanged in 1574, for bewitching several people and a number of horses and cows, and another woman, accused of killing two people by witchcraft, died before the court (mortuus in facie curie) which was no doubt thought to be a divine judgement. The others were all acquitted, even the seven accused of causing the death of other people.

The Middlesex justices seem not to have been impressed by any particular fear of witchcraft and treated all the accusations wisely. Witchcraft was also dealt with, and perhaps taken more seriously, by the ecclesiastical courts.⁸

Forms of Process

Some of the charges concerning matters less than felony, especially those which in modern times might be called civil matters, although the distinction had not then fully developed, such/^{as} not having served an apprenticeship, or not repairing highways, might be 'traversed'. Instead of simply saying that he was not guilty as charged and putting himself on his country, the accused traversed the indictment or contradicted it by saying that the premises on which it was based were not correct. He might say, for example, that he was not the owner of the land which carried responsibility for that part of the highway, or that he was practising a different craft from that requiring an apprenticeship, and so had no need to answer the indictment and on that point he put himself upon his country and asked the jury to decide. In other words he was able, and wished, to offer a specific defence case to be argued. Such cases were not dealt with immediately but a day at the next sessions was appointed, at the request of the attorney general or prosecuting attorney, to allow him and the accused time to prepare the case. Indeed these cases often took a long time and were carried over a great many sessions, for the matter was first presented to the court, then the accused was summoned to appear at the next sessions, at which time he traversed his indictment, then another day was given at the next sessions.

8. GLRO.M. MJ/SR 530/83, 527/144, 202-4, MJ/SBR/2/47, 53, 56.

A special record had to be kept of traverses, since, each time the case came before the court, every previous action had to be fully recited: 'Whereas in another place, that is to say at the sessions of the peace (alias prout scilicet ad sessiones pacis) held at---on---before---justices... A.B. of--- by the sworn word of (names of jurors) honest and loyal men of the said county there indicted in these words (reciting the indictment in full) whereat precept was issued to the sheriff to summon....And at---sessions A.B. appeared in his own person and heard the indictment read....' and so on.

In 1590, for example, Edward Reve, described as a joiner was indicted by the grand jury at the sessions of the peace at Finsbury on 2 June, before Robert Wroth, John Barne, John Heynes and Richard Yonge of practising the mystery of a chandler without having served an apprenticeship, whereupon a precept was issued to the Sheriff to produce Reve before the justices to answer for his contempt of her Majesty the Queen. Reve duly appeared at the Easter general sessions of the peace, 1591, at Westminster before William Fleetwood, Recorder of London, Robert Wroth, Mathew Dale, Sir William Fleetwood of Ealing, John Barn and Jeromy Hawley, heard the indictment read and fully understood it, and said he was not guilty of the premises on which the indictment was based and on that he put himself upon his country. Then Henry Clerke who was prosecuting for the Queen sought a day and another precept was sent to the sheriff to produce a jury on that day. At the sessions at the Castle Inn in St. John Street on 29 June 1591 Reve and Clerke appeared before Sir Owin Hopton, Mathew Dale, Richard Yonge and three other justices, and a jury consisting of William Hassle and eleven others sworn to try the truth of the premises. The jury said that Reve had sold all kinds of chandlery wares, such as candles, soap, butter, cheese and mustard. The justices then wished to take the matter of judgement into avisandum (hic se advisare volunt) and gave a day at the next session for their judgement to

be given. At the next two sessions of 27 August and Michaelmas the justices were still considering, but at length at the sessions held at the Castle on 2 December 1591 before Sir Owin Hopton, Sir William Fleetwood, Sir Robert Wroth, Mathew Dale, John Barn and William Gerrard, having fully considered all the premises, they said that Edward Reve had been exercising the aforesaid art and mystery and gave judgement that he should forfeit forty shillings for each of the two months that he did so.⁹

Traverse cases were not as common during the reigns of Elizabeth and James I as they became later in the late seventeenth and eighteenth centuries when the number of defended or argued cases increased (until it became the practice in all cases). Another similar case to Reve's was in 1614 when Isaac Wilson of St. Clement Danes traversed his indictment for exercising the craft of a carpenter without having served an apprenticeship.¹⁰

A different and more serious case, not strictly a traverse, was treated in a similar way in 1638 and was more interesting. Thomas Gayer a wire-drawer of Shoreditch was indicted at the general sessions of the peace at Westminster on Monday 1 October, of drawing silver and copper wire to look like silver and selling it to the deception of the King's subjects. At the gaol delivery sessions on 3 October 1638 Gayer was brought to the bar by the sheriff and put himself upon his country. In this case Christopher Walker, the Middlesex Clerk of the Peace, prosecuted for the King, and at the same sessions a jury was called and found Gayer guilty of deception but not guilty of the rest of the premises. Gayer was fined £100.

9. GLRO.M MJ/SY/1(1)

10. GLRO.M MJ/SBR/2/2

11. GLRO.M MJ/SY/1(2)

The distinction between traversing an indictment or simply saying 'not guilty' to an indictment for felony is very slight; one of those extraordinary peculiarities of the common law. The distinction disappeared entirely as it became more customary for a defence ~~case~~ to be offered and argument to be heard in all cases, and the term 'traverse jury' came to be almost another name for the petty or trial jury.

In cases of misdemeanour which could be traversed the accused could also submit, immediately, and put himself on the mercy of the King and the court and beg to be admitted to a fine. He was then usually given a very small fine, usually 12 d., much less than the statutory penalty for the offence. Submission ~~was~~ not the same as confessing or acknowledging the indictment (a plea of guilty) but was often accompanied by a 'protestando' that the accused was not guilty. In 1613 Christopher Pickford, his wife, servant and three others were accused of an unlawful and riotous assembly in Petticoat Lane in Stepney. They submitted and put themselves in mercy and were fined 12 d. each.¹² This is interesting, for the example and pro-forma given by William Lambard for a record of a traverse was for a riotous assembly; in his case an armed one, which one might have thought inappropriate to this form of process.

Under certain acts concerning trade, industry and agriculture, particularly the Statute of Labourers of 1351, and later acts culminating in the Statute of Artificers of 1563,¹³ prosecution might be initiated in court by a private person. If successful he was entitled to half the fine or forfeiture. This was originally enacted to encourage the enforcement of such regulations locally, but many tradesmen and others presented 'informations' as a source of additional income, sometimes almost on a professional basis. The usual procedure was for the informer to present his information to the Court, either the King's Bench, the Exchequer (especially for matters affecting customs or

12. GLRO.M. MJ/SBR/2/26-27

→ 5 Eliz. c. 5; also the Common Informers Act of 1588 (31 Eliz. c. 5).

excise regulations or other fiscal dues) or sessions of the peace. The information was presented, or exhibited, by the informer, who, as much (qui tam) for the King as for himself (as it concerned a breach of the King's peace it could not be a purely private action) gave the information that etc.

For example, Bartholomew Benson informed, at the Michaelmas general sessions in 1614, that Henry Howard of Stepney had exercised the trade of a blacksmith without having served an apprenticeship for seven years, and that he should forfeit £22.¹³ The informer then prayed the court's decision (advisamentum) and half of the forfeit. If the court agreed with the charge a precept was addressed to the Sheriff for the appearance of the accused and the case would proceed in the usual way. The proceedings might carry over several sessions, for frequently the accused was not produced until several sessions later and then might traverse the matter and be given a day at a later sessions to plead his case.

This could be costly to the informer as well as the accused. Sometimes the accused might submit himself to the mercy of the court and beg to be admitted to a small fine, as described above. In other cases, to save time, the two parties were given leave by the court to confer as was the case with two of those informed against by Bartholomew^{Benson}, in October 1614, Peter Leonard and George Freeman.¹⁴ They would then agree a sum to be paid in compensation.

13. GLRO.M. MJ/SR/534/3,5, MJ/SBR/2/132-136

14. GLRO.M. MJ/SBR/1/634, MJ/SR/525/216-9 MJ/GBR/2

Probably it was from this type of agreement for a composition payment that informers gained most of their profits, especially when payments were made unofficially before the case was put to the court. Naturally few such cases came to the knowledge of the courts, but very occasionally informers were charged with making unlawful compositions. In 1613 John Harper of Wapping was indicted for 'informing against' several Surrey men, including Edward and William Pigge, butchers, for offences against the laws regulating cordwainers, tanners and shoemakers, and John Taylor for breaking the assize of firewood, and then compounding with them for sums between twenty two and twenty five shillings, without the consent of any Court of Westminster. Harper was 'at large' and not immediately arrested. In 1617 a common informer was sentenced to stand in the pillory, first riding there facing the horse's tail, for compounding without licence. A case of definite blackmail, although not arising from the usual type of informer case, occurred in 1614, when Richard Seaman, a gentleman of Milford Lane, was bound over for good behaviour 'for offeringe to take composicon of Rowland Morgan after he had charged him with felonye, as appeared by his owne letter nowe reade in Courte, done onely in malice'. The charge in this case was suspicion of stealing a cloak, not a matter where the informer might have gained profit by the normal course of law, but the case shows the way in which the law could be abused. Morgan is described as from 'Harroldston' Pembrokeshire and was, no doubt thought to be an innocent traveller.¹⁵

One administrative advantage of the information process was that under the acts for minor trade regulations the information was presented straight to the court and not considered first by the grand jury. This was not by any means always the case, however, sometimes the information was passed on by the jurors. In 1596, John Reade appeared before the jurors and gave his information and it was passed to the court as a presentment of the jury

concerning a cutler who did not complete his term of apprenticeship.¹⁶ The more usual court record was in the form of a 'memorandum that at---sessions A.B. gave his information that...' It seems sometimes to have been the practice for the informer to have been examined on oath later by one or two justices. However, whether the information was considered by the jury, discussed in full court, or examined by certain justices privately, some form of inquiry was carried out and the validity of the case pronounced upon by the court, the procedure varying with the court and the offence. Many cases were, in fact not pursued.

Professor Elton has described the career of an early London informer, George Whelplay a haberdasher, who was informing of cases of evading the regulations concerning the export of cloth, chiefly in the court of Exchequer between 1538 and 1543. In this type of case the informer was entitled to half the goods confiscated which could be quite profitable, and often he had already confiscated the goods himself. In spite of this Elton showed that Whelplay made comparatively little profit in the cases which came before the court. Many of these concerned places outside London and many cases were not pursued. Still others were apparently dropped after undue delay in returning local juries. In the cases which were tried, the juries would acquit the accused on the slenderest evidence. In Elton's opinion most of the cases were genuine, although Whelplay apparently became a legend, remembered many years later, for vexing the Exchequer with false information.¹⁷

Informers of London and Middlesex were most active at the sessions of the peace during the second half of the reign of James I and later, although there were a few, like John Reade mentioned above in the earlier period. Many of them appear to be craftsmen, often informing mainly in cases relating to their own trade, but the trade of the informer was often not mentioned in

16. GLRO.M. Acc/565/68

17. G.R. Elton, 'Informing for profit: A sidelight on Tudor methods of law enforcement', Cambridge Historical Journal XI part 2, pp. 149-167

the record. Most of them tended to specialise either in a particular type of case or a particular area. Thomas Fearne and Thomas Hill, both bricklayers, informed in a few cases in 1613 against bricklayers for not having served an apprenticeship or for contravening the regulations for plasterers. Fearne apparently prosecuted Robert Graves on behalf of the Plasterers Company and does not appear in many other cases, although Thomas Hall also gave an information against a miller for mixing musty corn with the fresh in his sacks. Bartholomew Benson, a miller, probably of Whitechapel, appears to have been more of a professional informer, active from about 1613. In October 1614 he informed against five people for erecting cottages without four acres of ground, against eight men for carrying on the trades of a blacksmith, carpenter, glazier or chandler without having served an apprenticeship, and against eight beer brewers for selling beer at more than the authorised price or without licence. Most of those accused by Benson were from Whitechapel, Wapping or Stepney.¹⁸

Only a few of the persons accused by information appeared in court within the next few sessions and most of those who did entered a plea of not guilty to be heard at future sessions, and little more is heard of them. Two of the cottage builders appeared to answer the information at the April sessions following and were discharged. Another of the builders, Thomas Morgan of Ratcliffe, a shoemaker, had already been ordered and bound with a surety, not to proceed with his building, after several warnings by the constable of Ratcliffe Mr. Smith.¹⁹ This was at the previous sessions of August 1614, before Benson's information had been presented, showing that the normal administration of law and order was quietly proceeding in spite of the common informers. In the case of one of the beer brewers it was

18. GLRO/M. MJ/SBR/2;

19. MJ/SR/525/21

specifically stated that unless he pleaded against the information nothing was said by the court. Probably in many cases the court preferred to let the case drop. At the April sessions of 1615 Benson also gave information against Lawrence Penne of Whitechapel for not attending church for eleven months, for which he claimed Penn should forfeit £10 for each month, and against six carpenters, two bricklayers and a glazier for not having served an apprenticeship.²⁰

Roger Risbye, probably of Westminster informed on much the same sort of charges as Benson, particularly in the Westminster district. Most of those accused by him in 1613 and 1614 defended the cases, often through an attorney, and were discharged. He was more successful in his charge against John Burgess, a Westminster chandler, for ingrossing one hundred fitches of bacon, that is buying them to sell at a profit in the same market. Burgess was fined £50 of which Risbye claimed half.²¹ John Broughton informed against unlicensed alehouse keepers from Westminster to Whitechapel, and also informed against one of Benson's accused, James Desmasters in May 1614, shortly after Benson's own information had been laid, but Desmasters was discharged.²²

Most of these informers, especially Benson, often stood as sureties for recognizances not necessarily connected with their informations. Possibly this was a sideline to their informing work. It is not, however, always possible to be certain that they are the same person. There were two John Broughtons, one a yeoman of Cowcross, who is probably the informer, acted as surety for several alehouse recognizances, and the other, of St. John Street, Clerkenwell, was a victualler. There was also a perfumer called Bartholomew Benson, possibly no relation.

20. MJ/SBR/2/98

21. GLRO:M. MJ/SR/526, 529/158

22. MJ/SBR/I/170

From April 1624, since informing had increased and become a regular practice, the Middlesex Clerk of the Peace kept a special register or memoranda book for informations.²³ Benson was still active, but a number of other professional informers had appeared, although very little is known about them. They all informed on most minor offences, especially unlicensed alehouses, over-charging, not having served an apprenticeship, selling meat in Lent, ingrossing or forestalling in the markets and not attending church. These informers included William Ellill, who covered Westminster, Clerkenwell and East London, George Raymond, who ranged from the Tower out to West Middlesex, including Uxbridge, John Atkinson, Richard Shackerley and others. The clerk noted against many of the entries that the accused appeared, usually at the following sessions or later, and that at the next sessions after that either the accused pleaded his case or the informer and the accused were given leave to talk together and compound. The latter seems to have been allowed in about one quarter of the cases. No verdicts or judgements are recorded in this register for those who defended their cases. This was often a full year after the first appearance of the accused, and is recorded in the main sessions records. Only a few of the information cases are, however, recorded in the main series of court records, possibly because many were dismissed or allowed to drop. In the case of William Webb in January 1626 the clerk noted in the Information Book that unless Webb wished before the next sessions to plead to an information exhibited against him by William Ellill for exercising the art of a brewer without having served an apprenticeship nothing would be said. The case would not be pursued unless the accused wished to defend it. Most of those cases which were defended seem to have been acquitted. Occasionally a case was transferred to the King's Bench. Some of the accused named in the book of informers were noted as 'dead' or a 'misnomer. It seems that informers were not always careful in presenting

23. MJ/SY/1, (1624-1629).

their cases. I have already quoted a case where the matter had already been dealt with by the constable and the normal course of law, and an example, of which there are many, of overlapping of informers. The rather casual treatment of informations by the Middlesex justices suggests that the justices and officials, as well as the juries, distrusted common informers. In this context it is as well to remember that the terms informer and information were also used for a witness in any felony or misdemeanour case and the written statement made before a justice, and must not be confused with the technical description of 'common informer'.

In fact the growing numbers of professional common informers tended to reverse the original purpose of the system by destroying or at least bringing it into ill-repute, instead of aiding the administration of the laws. It also made the ordinary, well intentioned member of a trade unwilling to give any information. A Westminster man refused to serve on a jury because 'he would not be an informer'. It was not only the extra harrassment and vexation caused, but the opportunities for extortion and even blackmail which never came to the ears of the Court. Mrs. Davies has made a study of the enforcement of certain laws by informations, based on a sample of provincial counties, but incidentally showing that a number of London and Westminster tradesmen acted as informers in other counties.²⁴ She seems to be surprised that common informers were held in such bad repute, but she quotes the expenses of one Essex informer, which for one case totalled £4. 5s., including 4s. 4d. to the clerk of the peace for a copy of the information, and payments of 2s. to various clerks and 8s. 6d. to the bailiff for summoning a jury. In the Middlesex Information Book the clerk noted by one entry that Willism Ellill owed 4s. To make a profit as well as covering expenses the informer would need either to share a large fine, and it is clear from the Middlesex records

24. M.G. Davies, The Enforcement of English Apprenticeship 1563-1642, New York, 1956

and the examples quoted by Mrs. Davies that fines were usually small, considerably less than the statutory fine, or he must extort unofficial payments. Some of Mrs. Davies' studies dealt with 'patented informers', those who had an official grant of the right to search out certain offences, but not necessarily in their own immediate neighbourhoods. These were the most open to abuse.

In 1593 William Waad, who like most of the leading justices of London and Middlesex was a wise and experienced lawyer, wrote to Lord Burghley about a group of informers who claimed to be acting under a patent. Waad was well aware of the trouble that might be caused.

It maie please your Honourable Lordship, Beinge this day at Highgate to meate with the rest of the Justices that are Comyssoners for the Subsidy, complainte was made unto us of Certaine persons that went about the Contrie heere with a Comysson under the Greate Seal of Englande to exacte the Penalty of the Statute for not weareng of Cappes. Addinge further that they were authorysed by your Lordships of her maiestes Privie Councill for their proceedinge. Because I did call to memorie that there was a sute of that nature attempted of late by Certaine of Lichfielde to your Lordships I called the parties before me and they did avowe to my face before the rest of the Justices that they had leave of your Councill at the Councill Borde for the execucon of the statute, which I knowinge to be otherwyse, examininge them farther, I finde that three or fower of them are Citizens of London, and one only of Lichfielde. And because theire Patente was longe sitherne taken from them by your Councill, which your pleasure was I shoulde Cause to be soughte out that it might be perused. They had latelie gotten forthe an Exemplification thereof and by verture of the same had dyrected their precepte in soche strange soret as your Lordship maie see by the inclosed wherein yf they might have proceeded I assure your Lordship it would have bred great trouble and discontentment in the Contrie especiallie at this tyme. Therefore I was bolde (knowinge howe greatlie herein they had abused your Lordships and sent theire undoe proceedinge) to take from them the duplicate of their Pattentes which I sende herewithall to your Lordship. And because the men that went aboute to execute the Patent are Londoneres and none of them named in the Patent but one I durst not adventure to sende them to the Courte but have taken Bonde of them for their forth cominge to abide soche further order as it shall please your Lordships to take orther to see them punyshed or restrayned, otherwyse it is likelie they will procure newe duplicates and attempt the like in other Counties.²⁶

Waad had the knowledge and, more important, the authority, to deal with this. The authorities on the whole seem to have been against professional informers, particularly patented ones, and there were many attempts to control informers. Early in Elizabeth's reign a proposal was drafted, and survives amongst the state papers, to provide relief from the 'extortion of common promoters' and 'to repress their unlawful and undue practices and vexations' and it was suggested that a commission composed of justices of the peace would be better both for the people and the realm. These commissioners could receive presentments from any two residents of the county, who might be paid expenses from the forfeits. Another suggestion was for two justices of the peace in every county to be commissioners to search out these offences. In 1576 a bill was drafted but not passed for the registration of informers. Further bills for restrictions were proposed in 1621 and 1624. The early Elizabethan proposals are of the most interest to the student of London and Middlesex, for perhaps as a result of letters such as Waad's, some of the suggestions were in fact put into practice in the metropolitan area, by the issue of special commissions.

These commissions, known as Commissions of Annoyances, were appointed to deal with particular annoyances in the metropolitan area, especially the populous districts around the City boundaries. These usually consisted of a few of the most active and best qualified Middlesex justices on the commission of oyer and terminer. They included those hardworking justices, becoming familiar to us, William Waad, Edward Forsett, Henry Spiller, Henry Fermor, Thomas Saunderson, Nicholas Bestney, Baptist Hicks, Edward Vaughan, Nicholas Collyn and Robert Leigh. The Commission of Annoyance of 1625 included forty eight names, about two-thirds of the oyer and terminer commission, but this was considerably more than earlier ones and included some dignitaries and non-active justices.²⁷

The commissioners were sometimes given limited charges, for example, just to search out irregular new buildings, sometimes wider powers to search out general annoyances. One appointed, in February 1619, certain justices of the peace in Middlesex 'for the reformatio[n] of Annoyances within four miles about the City of London, with other articles and institutions'. They were particularly concerned with unlawful building and overcrowding with 'inmates'. They usually covered the immediate suburbs, such as Holborn, Clerkenwell, Shoreditch, but were sometimes extended to seven miles or more round the City and sometimes included justices from Surrey and Kent. A separate commission was appointed at the same time, as in February 1619, for the City of Westminster.

A few of the commissioners met in different parts of the district and held what were almost a kind of petty sessions. In fact they were occasionally even noted in the general sessions of the peace registers, although under quite a separate commission. Matters were passed from sessions of the peace for the attention of the commissioners for annoyances and conversely people were bound before the commissioners to attend and answer at the sessions of the peace. There were several meetings of the commissioners in 1611, mostly concerned with building and lodging offences, but some other nuisances as well. On 7 September in Holborn, Waad, Forsett, Spiller, Fermor, Saunderson and Thomas Bauldwin fined Adrian Mathewes of Grays Inn Lane £40 for having inmates in his house and ordered him to remove them before the Sessions, when he was to produce a certificate that he had done so. His other offence was referred to the sessions of the peace; he was to 'reforme his other annoyance as the Jury shall think fitt and to discharge the parishe of a childe for that he hath the goods of the parentes'. They also dealt with a man for abusing one of the commissioners, Mr. Fermor. They met twice again in Holborn, on 18 September and 7 October. On 8 October in Finsbury Leigh, Fowler, Collyn, Vaughan, Spiller, Forsett and Richard Sutton

dealt with a number of offences concerning buildings. A divided tenement was ordered to be turned back into one house. Abraham Shakemapple was bound by recognizance to appear at the next sessions of the peace 'and in the meane tyme to pull down his Smythes forge which he hath lately erected in Grubstreet being a great annoyaunce to the neighbours by the filthie smoake and the hammeringe etc.', and an order was made concerning a stopped up sewer. At the Tower on 9 January 1612 Waad, Saunderson, Spiller and Baldwin, together with Sir Roger Dalyson and Sir John Kay (both City men) dealt with divided houses and a 'melting' house which caused a nuisance to people near by. Two days later in Westminster the Commissioners, Leigh, Fermor, Baldwin, Chambers and George Mountaine, Dean of Westminster, and Sir George Carew, the two latter being from Westminster City also dealt with a 'melting' house. Amongst other matters, too, they ordered Ralph Haley of Edgeware, collier, 'not to sett his cole Cartes in the Street without Temple Barre'.

At the gaol delivery earlier on 14 June 1611, three men, Samuel Dedrossett, Peter Berde, and George King, having been accused before the commissioners of keeping 'melting' houses, were 'committed to Newgate for behavinge themselves in Contemptuous manner against the Commissioners of Annoyaunces, not to be bayled but by one of the Commissioners beinge a justice of peace, to appeare at the Sessions to answeare several indictments which are to be preferred against them on his Majesties behalfe for diverse annoyaunces'. In December 1613 William Mansfield was bound over until he pulled down several buildings and to appear at the next sitting of the commissioners of Annoyances.²⁸

While these commissions were active there was less scope for the common informer, except in apprenticeship matters which were not dealt with by the annoyance commissioners. Although there were sometimes slighting remarks made about the commissioners and doubts raised about their authority

by some members of the public, the system seems to have been well adapted to the particular problems of the metropolitan area. The commissions seem to have faded out or become more of a formality during the latter part of Charles' reign, partly because there were less of the long serving experienced justices concerned with both the City of London and metropolitan Middlesex and partly for economic reasons. A jury of annoyances for Westminster, however, was adopted into normal City government, having been established under the statute of 1594 (37 Elizabeth c. 17) and continued until the nineteenth century.

Westminster City Sessions

The City of Westminster had its own quarter sessions of the peace from 1619. They were much like those of any county (more so in fact than many Cities or Boroughs, which were often of less importance as being supplementary to the normal city government and affected by any chartered privileges) and so there is no need to describe them in much detail. At the Easter sessions 1620 the High Constable, Richard Styles, and the other constables made their presentments, especially of people who had not attended church, and a 'bluddshedd committed upon the bodie: of Edward Hans'. The names were recorded of the annoyance jury, who made presentments of nuisances, selling beer undermeasure or overcharging and so forth. A number of prisoners had been committed to the Gatehouse by justices Forsett, Dobinson, Man, Edmund Doubleday and others; These included 'John Biddell 'being charged to have hooked a wastcoate out of the window of Umphry Lean'. Others had been bound by recognizance to answer for a variety of offences, including abusing or refusing to aid the constables, 'going of a message for one that was accused of a felony', and victualling and lodging wandering persons. Amongst general business alehouse licences granted out of sessions were certified, petitions from several citizens were received and considered, including one for a licence to sell ale and beer, and an order was made for more stocks to be provided.²⁹

CHAPTER VISESSIONS HOUSES AND PRISONS

There is surprisingly little reference to the buildings in which courts of law were held by contemporary writers of the sixteenth and seventeenth centuries. John Stow in his Survey published in 1598 mentions the Old Bailey casually, in his description of Farringdon Without:

'Now again from Newgate, on the left-hand or south side, lieth the Old Baily which runneth down by the wall upon the ditch of the city, called Houndes ditch, to Ludgate. I have not read how this street took that name but is like to have risen of some court of old time there kept; and I find that in the year 1356, the thirty fourth of Edward III, the tenement and ground upon Houndes ditch, between Ludgate on the south and Newgate on the north, was appointed to John Cambridge, fishmonger, Chamberlain of London, whereby it seemeth that the chamberlains of London have there kept their courts, as now they do by the Guildhall, and till this day the Mayor and justices of this city kept their sessions in a part therof, now called the Sessions Hall, both for the city of London and shire of Middlesex. Over against the which house, on the right hand, turneth St. George's lane towards Fleet lane'.¹

It was, in fact, only during Stow's lifetime that a special house was built for the gaol delivery sessions. Originally the gaol delivery was held in the gaol itself, as was the case with most county assizes. The great hall of Newgate gaol was then known as Justice Hall. After the new Sessions Hall was completed many entries in the City records refer to the repairs and alterations made to the old Justice Hall in Newgate to accommodate prisoners. It must have been a high and substantial room for in 1600 during 'reparacons of the Great Hall at Newgate for safekeeping of prisoners', the floor was 'new borded', the grate amended, a loft built and bedsteads bought.²

Justice Hall, Old Bailey

The new sessions house or Justice Hall was built in 1539 after the Court of Common Council had agreed that 'a convenient place' should be

1. John Stow, Survey Of London, London, 1598

2. Corp.Lon. Rep. 25/64, 133, 136

made upon the common ground of the City by Fleet Lane in the Old Bailey for the delivery of the prisons. It was certainly a solid stone building for there was stone on the site, some of which was later quarried for repairing Ludgate, ^{and was} close by Newgate wall (Stow turned down the Old Bailey by the Sessions Hall). It was probably, too, a fairly simple building, perhaps consisting of little more than one main hall. It had casement windows, for in 1611 nineteen shillings and fourpence was paid 'for casements and worke done at the Sessions House by the Smyth and the Glasier'. There was a spacious yard where witnesses and members of the public could wait, and gardens. There must also have been a room or rooms for the keeper, possibly under the main hall. Richard Weaver, who was appointed keeper in 1601, was to have 'the keeping and use of the said Sessions House and of the yarde and garden and fees and profits'. Weaver was appointed at the request of the Mayor as he had served as a young man in the Mayor's household. He replaced Gregory Browne who had been offered the stewardship of Christ's Hospital, after serving three years as keeper of Justice Hall.³

The yard was ^{despoiled} ~~affected~~ in 1588 ^{by} 'an annoyance which offentymes happeneth in the yarde at the Sessions Hall in the Old Bailey without Newgate, and especially when the Justices sitt there'. This was apparently caused by 'the sinck of water descendinge from the howse of Taylor, gent'. The City Chamberlain and Sheriffs were ordered to do something about it 'in such sorte as they thinck mete for the swete kepinge of the same.'⁴ In the same year a stable was ordered to be provided: 'Mr. Chamblen shall presentlye Cause a Convenyent place to be made in a roome or in the Sessions Yarde withoute Newgate where the stone was latelye hewen for buylding of Ludgate, for feyve horses to stande during the time of sessions there'.⁵ In 1603 it was ordered that the back doors to the sessions yard should be stopped up.

3. Corp.Lon. Rep. 21/31, 494

4. Corp.Lon. Rep. 22/110

5. Corp.Lon. Rep. 23/9

There were probably great doors into the main hall of the sessions house, which would be left open during the sessions, for most of the waiting witnesses as well as spectators, and perhaps some of the accused would be standing in the yard outside.

Inside, the Justice Hall was probably only barely and simply furnished. The formal, solidly furnished court-rooms, familiar to-day, were developed only during the second half of the eighteenth and in the nineteenth centuries. Sessions of most courts were held in buildings used for many purposes, or for different types of sessions, and had to be easily rearranged. The chief royal courts of King's Bench, Common Pleas, Chancery and Exchequer for example sat in Westminster Hall, each court in one corner of the hall. A drawing made in the mid-seventeenth century shows the courts of King's Bench and Chancery side by side at one end of the hall.⁶ Temporary low partition boards divide the body of each court from the rest of the hall. Several men are shown standing within the partitions of the two courts before the judges, who sit on a raised bench beneath a canopy emblazoned with a shield of arms. On each side somewhat rickety looking rough wooden boxes or galleries have been set up for the juries, and perhaps members of the public in the upper one. Beneath, in the main part of the hall are gossiping groups of men, dogs, and what appear to be stall holders selling goods. All these erections were very easily removed or altered for a royal function or a large state trial. Machyn mentions in 1553 that there 'was a grett skaffold in Westmynster hall against the morow, for the duke of Northumberland comyng to be rayned', probably something like the galleries shown in the drawing.⁷

An illuminated manuscript of the late fifteenth century thought to have been part of a legal textbook or 'Abridgement' of the laws, has charming

6. BM. Print Colln. Reproduced in Legal London, catalogue of an exhibition at the Royal Courts of Justice, London, July 1971, selected, S.O'Malley.

7. BM. Cott. Vitellius F. V.

portrayals of the four courts in Westminster Hall, drawn separately. At the King's Bench five judges, robed in scarlet with white coifs on their heads, sit on a raised bench, beneath the shield of arms. Below them is a large table with several men sitting round it and set on it scrolls, pots of ink etc. The jurors, portrayed as rather rude and wild-eyed fellows, are grouped together at one side of the table. A court usher, wearing a parti-coloured robe, with the Book and a short staff in his hands is administering the oath (he is apparently standing on the table to do it, but that is probably an effect of the compression of the illumination). Behind the table, ^{and} the clerks' bench appears to be a rope or light rail, at which stands a prisoner wearing a shirt and with fetters on his legs, guarded by a tipstaff. Slightly behind him on either side stand two sergeants at law in their white coifs and the parti-coloured gowns, these of a less contrasting colour than the court officials wear. They both have a solemn and learned air. Right at the back of the court (or bottom of the picture) stand a line of prisoners, all fettered together with a heavy chain, leaning against a rough wooden plank or bar. One is resting in a dejected fashion, supporting his head in his hand, his elbow on the rail, another, clothed only in a rag, leans right over the bar with his back to the court. In the view of the Exchequer Court, two, rather better dressed prisoners sit, cramped, in a portable wooden cage.⁸

There seems to have been altogether much less pomp and formality in the law courts than there is in modern times. Justice was a public and everyday affair. The Justice Hall in the Old Bailey was probably not so very different from Westminster Hall, although much smaller. It was, of course, always known as the Justice Hall in the Old Bailey; the use of the name of the street to refer to the building and the court developed much

8. The Whaddon Folio, property of the Inner Temple, reproduced in Legal London, catalogue of exhibition, 1971

later, as a euphemism. Inside there would be benches and a table. Cushions were provided, for in 1617 the City Chamberlain was requested to 'take care and give directions that one dozen of Cushions such as those at the Sessions at Justice Hall in the Old Bayley be forthwith made and provided for that Court at the Cittyes charges'. These, of course, were for the justices on the Bench. In 1597 there were 'Convenyent formes to be provided for the Juryes to sitt upon during the tryals for lief and deathe there', that is for the jurors of the trial or petty jury. There was also to be 'a barr to be set up from the place where the ordinary standeth directly towards the place where the Justices do sitt.' Again in 1609 'long planckes for the jury to stand on at the arraignment and tryall of prisoners at the sessions house in the ould Bayly' were ordered, presumably in addition to the forms.⁹

Prisoners from Newgate brought to be arraigned waited in a dock or enclosed area. This was not like the small dock in the centre of a modern court, where a prisoner sits during his trial, but a comparatively large room or enclosed space outside the main court area, or on its fringe, where all the prisoners could wait. In 1597 this had to be enlarged. It was ordered that 'Mr. Chamblein shall presentlie cause the doggett wherein the prisoners are usually putt at the tyme of their arreignments during the sessions of gaol delivery of Newgate to be enlarged in breadth and borded under foote'. The 'dock where the prisoners of Newgate stand' was enlarged again in 1617, the work being then put under the direction of the Recorder, the Chamberlain, Sir Stephen Soame, the Common Sergeant and the Sword Bearer. The dock was presumably inside the hall for it is usually stated clearly when the yard was referred to. The later Justice Hall which replaced the Tudor one burnt down in the Fire of London was 'a fair and stately building and very commodious' as it was described by the artist of an engraved view

9. Corp.Lon. Rep. 33/75; 29/162

published in the early eighteenth century, but it appears in the drawing that the dock may be outside the great doors, which are open to show a large part of the room (not the whole for the galleries described by the artist are not visible nor are the jury benches) but the perspective of the drawing is not clear. The sword bearer, mentioned earlier, carried the City sword before the Mayor. It may have been placed before his seat at the sessions. It now hangs above the Mayor's chair at the Central Criminal Court and was first mentioned in 1563. Above the hall there was probably a dining room for the use of justices, and where general affairs might also be discussed.

During sessions the hall must have been a busy scene, if not quite as noisy and bustling as Westminster Hall. In 1609, when the amount of business had increased considerably since the early Elizabethan period, the City carpenter was ordered to 'make a seate in some convenient place in the yarde there for Clarkes to sitt in for the easier drawing of indictments and more speedier dispatch of busines. at sessions tyme, without troble or disturbance to the Court'. It is possible that the sessions may not have been held quite so much as one unit dealing with one case at a time. The order of proceedings, separating the arraignment, the trial and the sentence, made it possible for several things to be dealt with at the same time. It was often noted in the registers that accused were referred to certain justices for further inquiry. There were several examples of this in January 1611. Obviously this was sometimes done on later days, but often must have been a case merely of a small group moving aside to a corner of the hall immediately. Similarly the Ordinary or his deputy might be hearing clergy claimants read, or juries assessing whether they were the same people who had already had the privilege, while other business was proceeding. It must also have been possible, and probably sometimes done, for another jury to be hearing a case, perhaps the London jury, before another, perhaps the Middlesex, one had completed its

deliberations. There was always a large number of experienced justices present on the bench. It would be easy to exaggerate this sort of possibility, but there is no doubt that quite a large volume of cases and general business was dealt with in a comparatively short time.

Finsbury Court

The London sessions of the peace and inquiry before the gaol delivery were held at the City Guildhall, which is well known and has often been written about. The inquiry sessions for Middlesex were often held in Finsbury. This was convenient for the chief lawyers on the oyer and terminer commission, for it was one of the closest parts of Middlesex to the City walls, where the boundaries of the suburban City curved in towards the walls. It was only a short walk through Moorgate to the Guildhall. William Fletewood wrote in 1586, 'Upon Tewesday morninge...my self with others did sitt at Fynsburie, where we found my Lord Windsors office. After that I went into London and kept the sessions there where we had little to do. At afternoone went to Fynsbury againe and did likewise keepe the sessions for Middlesex where we had not much adoe but in verie small causes. Wednesday was spent at the Gaoll of Newgate.'¹⁰

Finsbury Court, the manor house of Finsbury Manor is shown on the 'Moorfields' map, situated on the wide road running north from Moorgate. A survey of 1567 mentions a 'great barn, gatehouse and stables, court and orchard' and on the map four buildings are shown grouped round a courtyard with the orchard or garden in front of the main house.¹¹ The barn and stables were on either side of the house to the back of it. A moat surrounded the property. A separate small building in the orchard, by a little bridge over the moat is described by Dr. Holmes as the Gatehouse.

10. BM. Lans. 49/f.1

11. M. Holmes, Moorfields in 1559, London (H.M.S.O.) 1963.
Corp.Lon. Survey

It may also have served as the prison which the Liberty possessed, and which is referred to in sessions records of this period and for many years afterwards. Since there must have been an entrance for horse-riders and carts directly into the court-yard (not the garden or orchard) the building with big doors opposite the house may have been the main gatehouse or entrance way. It is a substantial building with windows and a chimney, rather more than a cartshed, and may well have been used for some of the sessions, with the big doors open on to the court yard. There were plenty of other rooms and buildings for other meetings and for the jury to retire to, including the great barn, when it was empty (before harvest). The hall in the house itself was no doubt used for the private meetings of special commissioners, such as is mentioned by Fleetwood, and committees of justices.

Other petty or divisional sessions were also sometimes held at Finsbury by two, three or more justices, for licensing alehouse keepers, taking recognizances of butchers, and other minor matters between general sessions. The Manor of Finsbury was a manor of the Dean and Chapter of St. Pauls, but was held by the City of London from 1514 until 1867. It was, however, outside the City boundaries in the county of Middlesex, which at this point came close to the City wall without the intervening ^{area} of City suburb which surrounded most of the walls. This was a period when the City was trying to extend its jurisdiction, as it did over Southwark, but it never succeeded in including Finsbury. The Manor was an important liberty and its bailiff had fairly wide powers of arrest, hence its prison.

Clerkenwell, Hicks Hall

The inquiry sessions for Middlesex, when held in Finsbury, were usually adjourned to St. John Street, Clerkenwell, which was convenient for Newgate, a short distance away through Smithfield Market. Any general

business was also dealt with there. It seems that whether the inquiry opened at Finsbury or Clerkenwell depended partly on the convenience of those taking it, since it varied between one place and the other, right through the Elizabethan period. In St. John Street the justices met and held their sessions at an inn known as the sign of the Castle. On recognizances and other records it is just described as 'the Castle in St. John Street'. It was probably a big and well patronised inn for it was situated on the main road north, convenient for travellers to and from London. It was also convenient for the cattle and produce market at Smithfield. Like many Tudor inns it probably had an inner court-yard, with the main inn room partly open on to it, and galleries round, ideal for public sessions. However towards the end of the sixteenth century the Middlesex justices began to find the Castle 'very unmeet noysome and of to narrow a roomth' and looked for a site on which to build a sessions house. In 1595 they petitioned Lord Burghley. He wrote to Mr. Martin from Whitehall on 9 April, 'the Justices of Peace in the countie of Middlesex have benasuttors unto me for a pece of wast ground in St. Johnes Streete, to buylde a Sessyons house uppon, whose sute I sende unto yow herin, prayinge yow to have consideracon of theire requeste, and to confer with some of theym and to make a plott of the ground they desire, and to sende the same unto me, together with this letter herein inclosed, and your opinyon what yow thinke is meete to be don concerninge in the same'.¹² Mr. Martin was probably Richard Martin Recorder of London, not the Alderman Richard Martin, warden of the Mint, who had been knighted in 1589. His reply is not known. The piece of land was granted, but not until 1609. Then James I granted to Sir Thomas Lake, Sir Lewis Lewknor, Sir Thomas Fowler, Sir George Coppyn. John Hare, Henry Spyller and other justices of the peace, a piece of ground in the high street of St. Johns 'to build

12. Bodl. Ms. Tanner 77

thereon a sessions house for the publique use of administering justice.¹³ Funds for the new building were provided by Sir Baptist Hicks, Middlesex justice of the peace, who was a wealthy mercer. It was therefore resolved by the justices at their first sessions there that the new hall should be known as Hicks Hall. It was completed in time for the January sessions of 1613.

Some of the local residents in St. John Street were not too happy about the presence of the new sessions house. Grace Watson, wife of an apothecary of St. John Street made 'reviling speeches' against Sir Baptist Hicks about the building, and said more in front of the court at the first sessions, while she was being charged. An innkeeper, of St. John Street, James Ewer, left dung from his house at Hicks Hall gate. It is not known whether he was the keeper of the Castle, whose trade probably suffered from the departure of the justices.¹⁴

Hicks Hall remained in use for over one hundred and fifty years. A later engraving of it shows it as a narrow, two storey building, right in the centre of busy St. John Street, just where it begins to widen near Smithfield Bars. The Braun and Hogenburg map shows an older building quite close to the site of Hicks Hall. The building was repaired and altered many times during the years it was in use. Above the court-room was a dining room for the justices. There were offices for the clerks, a record room---the clerk asked for a ladder in 1727 to reach the top of the pile of records---and presumably rooms for the keeper. There are frequent references to the provision of cushions and curtains, and of benches for the justices 'with erections in front' ---the latter presumably to write on. A portrait of the donor Sir Baptist Hicks was hung on the

13. PRO. Pat. C/66/1791; GLRO.M. Acc/35/10

14. GLRO.M. MJ/SBR/I/579, 595

wall. The position of the hall was something of a disadvantage. Throughout the seventeenth and early eighteenth centuries there were complaints from justices about the hindrance from the traffic, particularly carts parked outside the hall. Their petition for the grant of a new site in 1772 complained of the danger to justices from the cattle on market days. They also pointed out that Middlesex which was the foremost county of England had ever had a worse sessions house than other counties.--- a rather unjust comment for it was not originally an ungraceful building.¹⁵

Newgate Gaol

The words of the patent granting the land to the Middlesex justices described it as being intended for a sessions house, common prison or a house of correction, since 'trespasses, breaches of the peace and other mysbehaviors of whome to our greif the nomber dothe dailye soe increase as that our Common Gaol of Newgate is not large enoughe nor sufficiente to receive or deteine them all with conveniencie' Newgate was the King's common gaol for the county of Middlesex as well as the City of London. The gatehouse of the New Gate had been used as a gaol for felons from the twelfth century. It had been rebuilt with money left by Richard Whittington in 1423, when it stretched out into the Old Bailey and formed an arch over Newgate Street. It then consisted of a central hall, chapel and day and night wards for prisoners, with separate wards for women. There were several storeys on either side of the gate, but it was rather cramped and uncomfortable, in spite of numerous attempts to repair and enlarge the accommodation. In 1604 for example reports were called for from a committee of Aldermen concerning the 'stone chamber' and, in 1612, a storey was erected over the high hall of both the common gaol and the master's side.

15. GLRO.M. Order Books (MJ/OC); New sessions house papers (MJ/SH)

On 13 October 1612 a full report on the state of the prison was prepared for the Court of Aldermen by the sheriffs and surveyor. It gives an indication of the shape of the prison and the number of rooms contained in the comparatively small space of a gatehouse.

'It may please your lordshipp and Worshippes, we have accordinge to your order viewed the gaole of Newgate and the Keepers house and considered of the decayes thereof and doe finde that the battlements of the two turrets westward are very much decayed and think mete that such of the stones as be loose or like to fall whereby damage may ensewe be Speedily taken downe and so rest till a fitter season of the yeare to repaire the same. And we finde also that the gutters of leade betwene the Common Gaole and the Masters side be very much decayed, and thinck meete that the same be new cast and new layed where it is needfull. Item we finde it needfull that a cappe of leade be layed along the ridge of the leades over a part of the Common Gaole. Item wee finde defects in tiling over the west side of the Justice Hall which we thinck meete be Speedily amended. Item wee finde that the floore of the high hall is decayed and wanteth some planckes which wee thinck meete be in convenient tyme supplied where need is, But whereas the keeper desireth to have a roome buildt over the same, wee thinck meete that so much be done to it by bording or planking overhead as may make it strönge for safe keeping of prisoners, But if he will have a roome over it for his profitt, wee thinck meete he doe it at his owne chARGE. Item wee finde a paire of staires decayed in the woemens warde and the planck of the floore there and of the Masters Chamber defective and that the floore over lymbo and the furnace in the kitchen are defective, which wee thinck meete be in convenient tyme be amended.' 16

These repairs were ordered to be carried out. The building described was a stone building on two sides of a road, joined by an arch over the road, and had battlemented turrets, probably four (two on the east and two on the west). There were a number of large open rooms or halls, given descriptive names, such as high hall, stone chamber, limbo.

The extra floor desired by the Keeper had to be provided by him, for it was considered to be for his own profit, so he was asked for a contribution to this work. The keepership was a profitable post, much sought after. There were numerous fees which could be charged to prisoners,

not only for extra comforts such as beds, food and admission to better rooms on the 'master's' side instead of the common rooms, but also on discharge, ~~except~~, naturally, on discharge by hanging. An assistant keeper or turnkey, usually had the privilege of selling ale and wine.

The keepership was usually reserved by the City Aldermen for decayed citizens as they informed Lord Burghley in 1573 when he recommended a certain William Sparke for the next vacancy. Many of them were not, therefore, in office for long before they died. In 1614 Nathaniel Carmarthen, gentleman, was appointed on the death of William Day, who had been keeper less than a year: 'Nathaniell Carmarden gent. was by this Court admitted Keeper of the gaole of Newgate under the Sheriffs of this Citty in the place and steede of William Day lately deceased. To have hold and exercise and enioye the same place with all fees profittes Comodities and advantages thereunto dew and of right belonging so long as he shall execute the same in his own person and not otherwise, and shall well and honestly use and behave himself therein, and was heere accordingly sworne for the dew execucon thereof. And alsoe tooke the oth of Allegiance menconed in the statute of third Jacobi cap 2. And so always provided that he give securitie to the sheriffes of London and Middlesex to their liking before he take possession of the gaole'.¹⁷ Eighteen months later Carmarthen was succeeded by John Foster, goldsmith.

One keeper, Simon Houghton, was dismissed for being too lenient with recusant prisoners, and even allowing one to leave the gaol. That prisoner was one whom the King had particularly wanted to be kept for questioning and possible conversion, and His Majesty was greatly displeased. Houghton was tried in Star Chamber for his offence. Even although Houghton was dismissed, his successor, Roger Price, had to buy

17. Corp.Lon. Rep. 32/56r

his office. In April 1613 the Court of Aldermen ordered Price to pay £50 to Houghton, the residue of the £500 'formerly set downe to be yeelded to the said Houghton in full discharge and satisfaction... concerning his late keepership.'¹⁸ The profits must have been worth while.

There were also many lesser officers. In 1617 Adam Boulton, Richard White and Edward James, officers under the keeper of Newgate Goal, were committed to prison in the Poultry Compter for divers misdemeanours.¹⁹

Some attention was paid to the spiritual needs of prisoners. In 1589 the Aldermen requested the Treasurer and Governors of St. Bartholomew's Hospital to appoint 'some sufficient and learned person' to be superintendent of the prisoners in the gaol of Newgate. In 1620 'for encouragement to preserve his paines and attendances at the gaol of Newgate' Henry Goodcole, clerk, was to receive £10 from St. Bartholomew's Hospital, which was to be augmented to £15 from the City Chamber. In the same year a fitt and convenient place was ordered to be made for the preacher 'to goe instruct the poore condemned prisoners at Newgate'.²⁰

In view of the high fees and profits taken by the keeper, life cannot have been easy for the poorer prisoners in the gaol. During the inquiry into Keeper Houghton and the recusant prisoners various statements were taken which showed something of the lives of the prisoners. 'The poore prisoners live at the devotion of good people. The debtors upon the basket. [ie for begging]. The Masters side 10d. a meale and 4d. a night for their bedd. The Recusants make provision of their owne, viz. preists, and lay men diett all together, a Cooke of their owne. The priests finde themselves lodging, 3s. a weeke a peece for their Chamber. Those which be poore at 26d., 20d., 2s., 2s.4d. a weeke'. Keeper Houghton

18. Corp.Lon. Rep. 31/78

19. Corp.Lon. Rep. 33/67

20. Corp.Lon. Rep. 29/194, 34/510

was examined by the Bishop of London and said 'that about one weeke before Robertes the Benedictine Monk was executed, the Spanish ambassador, or some of his house did send unto Robertes into Newgate, a banquet of divers tartes and very many other sortes of sweete meates. And the night before the execucon of the said Robertes (as this examinant hath heard since that time) there came into Newgate a greate lady disguised as if she had ben a weaver woman but whether she were an outlandishe weoman or noe or whether she supped with Robertes or not this examinant cannot tell. But saith that his servant Renioldes who keepeth the key of that place where the priests lye cann best tell.'²¹

Because of the much greater freedom of entry of visitors to the gaol, and to some extent a less secure custody of prisoners, fetters and leg irons of some kind were regarded as a necessity rather than a further punishment. Machyn mentions a woman 'sett in the stokes in Newgatt markt, with serten fylles and odor instrumentes the wyche she browth to Newgatt to here husband for to fyle the yrons of ys leges and odor thynges'. The stocks, and what is probably a pillory, in Newgate Market, can just be distinguished on the Braun and Hogenberg map. Only during a period of plague were visitors stopped. In December 1606 the Court of Aldermen allowed the keeper, Richard Hickman forty shillings a week towards the relief of the poor prisoners and ordered that 'noe other people be suffered to come at them for daunger of dispersing the said infection'.²² Imprisonment, indeed, was not at this time primarily a means of punishment, but merely a means of keeping suspected persons safe until they were brought to trial and convicted and convicts until their sentence was carried out, or debtors until they had made restitution.

21. PRO. SP/14/61/91

22. Corp.Lon. Rep. 27/312r

There were several other prisons in London in which debtors and minor offenders and also some suspected of felony might be kept especially those of more gentle birth or wealth. These included Ludgate, the Poultry and the Compter. The King's Bench Prison, the Clink and the Marshalsea, the prison for offenders within the jurisdiction of the Marshal of the King's household, were both in Southwark. Bailiffs of Liberties, and some manors or parishes had a small cage or lock-up near their stocks, where offenders might be kept over-night. One such is shown by the cartographer at Charing Cross and there seems to be another in Newgate Market near the stocks. A cage and stocks were also placed outside Hicks Hall in St. John Street.

Middlesex House of Correction

The houses of correction which, under an act of 1576 (18 Eliz. c. 3), were to be established in all counties, although in a sense for the punishment of minor offenders, were really just workhouses for setting to work idle and incorrigible rogues and vagabonds. The City of London house of correction was the notorious Bridewell hospital, founded by Edward VI. This was, of course, used by Middlesex too, just as Newgate was also the Middlesex county gaol as well as the City's. Rowland Fletcher, an idle rogue, was sentenced at the January sessions 1611 to two months in Bridewell. Middlesex was not, therefore, bound by the 1576 act to provide a separate house of correction. However Middlesex wanted its own prison although this was opposed by the City as being prejudicial to the farm of the Sheriffwick. Nevertheless the House of Correction Act and its reminder in 1609, when few counties had apparently obeyed its provisions, served as a spur to the county of Middlesex. The discussions which took place amongst senior Middlesex justices and others are not recorded, but they somehow

concluded, not only that there should be a house of correction for Middlesex, but that the City should contribute to it. The City put a firm stop to this in August 1605, by making an agreement, for a money payment, with those concerned with the building of a house which was then proposed:

'It is ordered that Mr. Chamblen shall paye and deliver unto Thomas Stanley, Henry Briskowe and William Baniham the some of £200 in respect of a release by them made to this Cittye concerning two houses of Correction, thone in the Countye of Middlesex and thother in the Countye of Surrey, which as they pretended were yelded to be erected at the charges of this Cittye, and also in respect of a Report made to the Kings maiestie by the right honourable the Earl of Shrewsburye, Sir John Fortescue knight [the Middlesex Custos Rotulorum] Chancelor of the Duchie of Lancaster and Sir John Popham knight Lord Chief Justice of England, That in their opinions this Cittye was to paye to the sayd Stanley, Briscowe and Baniham the sum of £517 and upwards.'²³

This terse record of the Court of Aldermen suggests a certain amount of intrigue

To be fair to the Aldermen, it is not at all clear exactly who was doing the intriguing, although later events make it seem that the claim of Stanley was not just a forgery by private speculators. The scheme was left in abeyance for a time, but was raised again in 1614, when at the general sessions of 6 October it was finally resolved that 'nothing was held to be so requisite for the government of the county as the provision of a house of correction, which has hitherto been omitted because of expectation of receiving composition from the City of London for their pretended right and interest in the hospital of Bridewell founded by Edward VI'. Sir Francis Darcy and other justices were, therefore empowered 'to treat with the citizens of London on behalf of the county'. They were also to 'set a tax upon the whole county for raising such money as will serve to buy, build and furnish a House of Correction, and to provide stocks of money and all things necessary for the same'.²⁴

This time they took the trouble to examine the records before obtaining legal opinion, and their discoveries were so encouraging that they addressed themselves directly to the Privy Council with the results of their searches in the records. They persuaded the Council to take a hand by addressing a formal letter to the Mayor and Aldermen, which was done on the 20 October:

'After our verie hartie Comendacons to your Lordships and the rest, It hath pleased his Maiesty to take into his gracious and Princely Consideracon the necessity of haveing a howse of Correccion or two within the County of Middlesex, the want whereof causeth all sortes of Roagues, idle and disorderly people to resort with boldness to all parts both in and about the City of London, the highwaies pestered with beggers, the gæles filled with Theeves, mens howses broken and Robbed every daie and night, so as the persons and Estates of his Maiesties Subiectes are continually endangered more in this place than in anie other parte of the Kingdome to the greate dishonor of the gouverment, which ought not to be suffered especially where the Courts of Justice are kept, and in a place where his Maiestie doth so ordinarily reside, wherefor haveing called before us the Justices of peace of Middlesex, whome it principally concerneth, requireing at their hands the due execucon of the lawe and erection of a house or houses of Correction for those kind of people, and that to be done with Speede. Wee finde tham very ready both with their purses and endeavoures to sett in hand so good a worke being sensible of the danger, and careful to prevent it. But the charge wilbe soe greate (as they informe us) either for the building or purchasing such howses as are fitt for this purpose and for the maynetenance of the persons above the proportion of other Counties where the mischeife is not so exorbitant, as it will require to greate a some for that County a lone to Rayse, and overheavy a charge for them to beare, Wee well conceave what a benefit it would be to London if in Middlesex a house of Correccion were erected and maintained and how much it wilbe for your safety and ease of charges that now the City is at, for want of such a howse to keepe those people out of the City as your selves will find. Besides it is pressed to us with some earnestnesse that when £450 old rent per annum was taken from an Hospitall in Middlesex and translated to your Hospitalls in London, and the howse of Bridewell given upto you, with libertie to search and apprehend all such Idle and suspected persons in all places with in the Citty and Suburbes thereof as also in the County of Middlesex. It was intended that either you should free the Countie of these Kinde of people or the Justices of that County to have use of that place for such purposes; though wee are not willing to hearken to anie questions that may alter things seeled in your government if you be inclinable to that, which wee thinke reasonable, And whatsoever may fall out upon prooffe yet whilst these questions and claymes are indebate amngest you the Commonwealth in the meane time suffers. And therefore as a matter pertayneing to our care commended was by his Maiesty and commanded by the lawe, Wee have required the Justices of Middlesex. ~~presently to erecte~~ erected ~~house~~ house of City

'Correction in the Countie of Middlesex. And because the good of that City is therein also manifestly included whereof your care and gouverment, Wee pray you at or desires and for avoydeing further question add some contribucon towards this good worke in respecte of their great Charge and your benefitte. Though wee proportion no (? sum) Wee hope your-selves will thincke five hundred pounds.....' 25

This was a very tactful, although pointed, letter. Of course the Council were by this date ready to encourage Middlesex to draw away from the City's domination, in the hope of preventing any further increase of the great power of the City of London.

The day after the Council had seen some of the Middlesex justices and composed their letter to the Aldermen, on 21st October the committee of Middlesex justices met at Hicks Hall and agreed that a tax of £2000 should be raised from the county. This was to be collected by Sir George Coppyn and other justices. Sir Baptist Hicks was to be treasurer of the fund. The Privy Council's letter was read to the City's Common Council on 16 December, after the Aldermen had had time to appoint a committee to meet and consider their answer. Eventually they recommended acceptance of the Middlesex house of correction and the payment of the sum of £500 (so delicately suggested by the Council) on condition that the City should not again be bothered by vagrants and rogues from Middlesex. 'With a free and generall consent of the whole court', they decided 'the some of £500 shalbe freely given and disbursed by the City as of their free and voluntary gifte for and towards a stocke to be provided in the howse or howses of Correccion which shalbe built for the imployment and setting to worke of all such vagrants as shalbe there to be imployed. The same £500 to be payde.....when the same house or houses shalbe builded and not before.....And it is further ordered that some contractes and agreements shalbe made on the Cities behalfe with the Justices of peace of the said County that all Vagrants and such like

coming out of the said County which shalbe taken within this City shalbe presently apprehended and sent backe to the said howse or howses of Correccion soe to be erected, there to be kept and set on worke according to the lawe, whereby the City may be eased of them.' In January the Middlesex Sessions of the peace ratified the orders made by the committee in December and ordered the purchase of two properties in Clerkenwell, and for a fit and convenient house of Correction to be erected on it 'for the employment in labor for rogues, vagabonds, sturdy beggars or idle and wandering persons'.²⁶

The building was completed by the following October General Sessions, in 1615, when John Stoyte of Newington, Surrey, gentleman, was appointed governor at £200 a year. He was to appoint a matron of the women at £13, 6s. 8d. a year. The governor also had to pay a salary, the same amount as to the matron, to a porter, and £2 a year to their servants. A chaplain was to be appointed, a discreet and honest person 'to be the reader of dāvine service and praiers in some publique place in the said howse, who shall, once everie daye at the leaste, reade publique prayers in the sayd house, and twice, every sabbath daye'. The orders for the government of the house were established at the sessions of the peace the following January. They stated that every person should be set to labour and not have any 'nurture' except what they could earn, unless they were sick, except that they were allowed fresh straw every month and warm pottage on Sunday, Tuesday and Thursday. Special provision was made for children over seven years old, and the maimed. Unruly apprentices sent for correction were also to be kept apart from the rest of the rogues.²⁷

The house was comparatively large, for there were seven rooms for the women alone, and presumably rather more for males, together with rooms for

26. Corp.Lon. Jor. 29/295

27. GLRO.M. MJ/SBR/2

the keeper, matron and other officers. There were gardens round the house planted with fruit trees, and it was situated some way north of Hicks Hall in open country. Not unnaturally the house of correction was often referred to as the Middlesex or new Bridewell.

The City duly paid the promised £500. In fact they actually paid half of it to Sir Baptist Hicks in the June before the house was completely finished, although the formal contract upon which the City insisted was not actually drawn up and signed before October. This recorded the formal agreement that all vagrants coming out of the county into the City should be promptly apprehended and sent back to the house of correction there to be kept and set to work, 'where by this Citty may be eased of them'. The final £250 was paid in November.²⁸

The county may be said to have gained a victory, although with some reservations over this point. This was perhaps a small step towards the separation of the county and City, encouraged by the monarch and privy council. Only a small step that is, for it was not a complete victory, and moreover Sir Baptist Hicks was himself a prominent alderman, only prevented by his work for the King and royal Court from becoming Sheriff and Mayor and playing a greater part in City affairs.

New Prison

In the matter of the prison or gaol, however, the City was not willing to concede anything. A prison for misdemeanants and suspected felons seems to have been established near the House of Correction a year or so after the latter was complete. The news reached the disapproving ears of the City

²⁸. Corp.Lon. Rep. 32/120, 198, 211

Aldermen in November 1618 and a committee was appointed to look into the matter that 'the Justices of Middlesex doe endeavour and sue to obteyne a Gaole within that Countie', and to 'consider thereof and to take a course if they shall thinke fitt for staye of their proceedinges therein'.

A year later they took into consideration the patent for the new erection of a prison in Middlesex and also the Prison now kept by one Bringhurst in Holborn' (Isaac Bringhurst was one of the bailiffs of Ossulston Hundred).

The following January (1620) the Keeper of Newgate, John Foster, sent a petition, since he no doubt thought he was losing fees. The Recorder and the two sheriffs were ordered to execute the order of last October 'touching a new prison erected att Clerkenwell and the prison in Bringhurst house in Middlesex. And they to advise of some present Course to be putt in execucon for remedye of the great inconvenience and preiudice which Cometh to the Fee farme of the Citty of London and Countye of Middlesex by the aforesaid prisons'. Apparently this had no effect for a further order was issued in September 'to take some course and order that the prisoners in the new prison in Holborne and Bringhurst House, for which the sherifes are lyable to answeare may be removed, to his Majesties gaole of Newgate. And that from henceforth noe such prisoners be committed to the New prisons but to the gaole of Newgate.'²⁹

Little more is heard of Mr. Bringhurst the bailiff's prison, but otherwise the situation remained a deadlock. The New Prison, as it was called, in Clerkenwell, remained, but never attained the status of a county gaol. Middlesex suspects were committed there by the justices, but those suspected of felony still had to be taken down to Newgate for the gaol delivery. They were usually taken down the day before and delivered from there, thus owing a fee to the keeper of Newgate even if they were acquitted. The controversy

continued into the eighteenth century. In 1727 it was ordered that the preceding day was not soon enough for prisoners to be taken to Newgate for the gaol delivery. They must be taken down six days before the sessions. Middlesex justices protested indignantly, claiming that their prisons were much healthier and that it was not right for/^apossibly innocent Middlesex man to have to spend so long in Newgate, where he was likely to catch gaol fever. In 1765 the City's request for Middlesex to contribute to the rebuilding of Newgate Gaol aroused Middlesex justices to even greater indignation ---they only used Newgate because the City insisted, they had prisons of their own. Somewhat ironically the first keeper of New Prison was Adam Bolton, one of the officers of Newgate committed to prison for misdemeanours.³⁰

Westminster Gatehouse

The twice yearly general sessions of the peace which opened in Westminster were held in the Westminster Gatehouse, as were most of Westminster City's own sessions. The Gatehouse was also used as a prison, both for offenders and debtors. John Norden described it as 'a prison, not only for the Cytie of Westminster but for anie malefactor with in the shire. But if anie felon be committed to the same he is removed to Newgate and at the commanplace of Gaole Delivery, he is tryed. The custidye of this place is disposed by the Stewarde of the Cytie now the Lord Burleigh Lord High Treasurer of England.'³¹ There were actually several gatehouses in Westminster. This one was presumably one of those in King Street, not the tiny gatehouse to the Abbey precinct. When the Westminster City Sessions Books record the place of the sessions it is always described as the Court House in King Street, and the first official court house built after the gatehouses were pulled down was in King Street.

30. GLRO.M. MA/G/Gen/1122-24, MJ/GBR/4

31. BM. Harl. 578

A reference in 1617 to the Gatehouse being set on fire describes it as 'his Majestyes prison and a dwelling house'. If there was also a room suitable to be used as a court room for the well-attended general sessions of the peace, there must have been more than one room over the gateway, which suggests the gatehouse shown on the map some way up King Street, rather than that at the bottom leading into what was sometimes known as the Sanctuary. This is, however, mere conjecture. It would not, of course have been the gatehouse to Whitehall Palace itself. In one case in 1615 the Lord Chamberlain himself committed a carpenter to the Gatehouse for misdemeanours at Whitehall 'at the Maske'.

In the early years of Charles I's reign a house of correction was built for Westminster in Tothill Fields (near what is now Victoria Street). A house of correction for vagrants was also established in Uxbridge.

CHAPTER VIITHE MIDDLESEX JUSTICES AT WORK

In this chapter I will look at the amount and type of work undertaken by the Middlesex justices of the peace in their own parts of the county, in preparing for the sessions and in administrative work delegated by the justices in full sessions of the peace. I shall also consider the small group of particularly active justices. Some of those with legal and administrative experience seem to form a body of what might almost be called professional justices. Some of these seem more closely connected with the royal court and government.

The bulk of the work of all justices at all levels was not the formal work of the general and inquiry sessions, but a multitude of day to day duties concerned with keeping the peace and administering the county, mostly in their own districts, or else in special tasks, perhaps delegated by the general sessions or, sometimes, by special commissions direct from the Privy Council. It is sometimes hard to remember, from a modern stand-point, the high degree of central interest exercised over local affairs and the local justices of the peace by the sovereign and the Council. This was naturally even more so in the metropolitan area. A glance through the voluminous correspondence of Lord Burghley illustrates vividly this aspect of Tudor government. The fatherly atmosphere of direct intervention fades gradually under the Stuarts, partly, perhaps, because of the expansion of offices about the Court and also the population growth and economic and trade development.

'Divisional' Justices

The greatest importance of the majority of local justices was their presence as influential inhabitants in their own neighbourhoods. During the

reign of Philip and Mary the Privy Council gave particular instructions to the justices for the 'good government of the county of Middlesex'. This illustrates both the functions of the justices of the peace and the way in which the government and the Privy Council could direct them to particular needs. These instructions were sent during the developing years of the Tudor justices.

'After our hartly comendacons, whereas we have receyved the Kings and Quenes highnes commission and instructions touching the good government of the Countie of Middlesex, Amongh the which these thinges following are, amongst others to be executed out of hand. First the watches shall begyn the xxth day of April next ensewing and yf the same be duely kept according to the lawes enacted to have a good respect to the execucon of the statute of hue and crye, and Keepers of Alehouses and the punyshment of ¹vacabonds and Idle persons, and yf they shall finde any offendours culpable in these or any other such lyke, then the same alsoe be brought to the next Justice of peace of the said shire; adioyning it. And as touching upon the rest of our charges and Instruments ye shall have further intelligence at our meeting at the next generall sessions of peace to be holden within the said Countie.

Thyse shalbe to charge and commawnd you in the Kinges and Quenes hyghnes behallf to not dylatlye to gyve order to see the premysses executed at your perryll.' ²

Annexed to the copy of the instructions was a list of the justices concerned with each of the three divisions to whom the charge was sent before the general sessions. Most of the justices listed are those who lived in the area, although some border districts overlapped. Some of the more learned of the justices, such as the recorder of London, acted in more than one division. The previous recorder, Sir Robert Brooke also served for Ossalston. He had been recorder from 1545 until 1554 when he became chief justice of common pleas.

The Hundreds of Elthorne Spelthorne and Hyselworth

My Lord Pagett

The Master of the horses

Mr Peckham

Mr Roger of ³

Mr Rede

Mr Nudigate

Mr Cookk

Mr Recorder

1. 'ydle persons' deleted

2. GLRO.M. Acc/759/1

3. blank in Ms

Mr Fitzgarrett
 Mr Storye
 Mr David Martyn

Mr Loss

The hundreds of Gore and Edelmonton

Mr Stamford
 Mr Cocke
 Mr Taylor
 Mr Roberts
 Mr Elrington
 Mr Patent
 Mr Losse
 Mr Chydleys
 Mr Holshill

Mr Rede
 Mr Newdigate
 Mr Stapleton

The Hundreds of Osulston

The Master of the horses
 Sir Roger Cholmeley
 Sir Robert Brooke
 Sir Humfrey Browne
 Sir Arthur Darcy
 Sir Richard Rede
 Mr Recorder
 Mr Chichley

Mr Elrington Mr Cock
 Mr Stapleton
 Mr Southcote
 Mr Coghill

These instructions were relayed by the justices to the constables of their districts. The constables then presented to the justices information about any of the offences mentioned. This was usually done at a special meeting, sometimes called petty sessions, held by two or three justices, perhaps for one hundred or for two or three hundreds, combined as shown in the charge. In the large hundred of Ossulston covering the metropolitan area, however, they usually sat in two or three places. Many of the presentments for these sessions have survived, especially during this period of Philip and Mary's

reign and the early years of Elizabeth, when constables' presentments seem to have been most regularly received. They deal mostly with the sort of offence mentioned in the charge: unlicensed or ill-kept alehouses, vagabonds, not watching or raising the hue and cry, turning tilled land into pasture for fattening cattle, or playing unlawful games. For example a presentment of the constables of the hundreds of Enfield and Edmonton of the time of Philip and Mary begins: 'We present thirty six acres of land within the parishe of Totnam, now in the hands of Mr Macham, and was alwaies wont to be in tyllage and lett to a bocher' and includes the complaint that Umfrey Raynaldes had felled young trees on the waste, that unlawful games had been played in Enfield and alehouses kept without sureties (that is without having given bond and been licenced) in South Mimms and Hadley.⁴

In 1611 some of the justices meetings or petty sessions were recorded in the main general sessions books (which was unusual), since in a sense they were private 'out of court' meetings arranged by the individual justices). On 6 February Sir Robert Leigh, Sir Thomas Fowler, Nicholas Collyn, Edward Vaughan and Thomas Saunderson sat in Finsbury to hold special sessions, when by virtue of a letter from the Lords of the Council dated 24 January 1610/11 'directed for and concerninge the killinge and dressinge of fleshe and other Lente business according to his Majesties proclamacon and orders in that case made and provided, the Butchers undernamed (upon Certificate from the parishioners of their poverties) were by the said Justices mutuallye and with one generall Consente thought fitt and soe lycensed to kill and sell fleshe this Lente season in the places hereunder menconed according to the said orders'. Only three were licensed, two from St. John Street and one from White Cross Street. A similar sessions was held at the Tower on 7 February by Sir William

4. GLRO.M. Acc/257/507 Also presentments temp. Mary. See also chap. I.

Waad, Lieutenant of the Tower, Sir John Kay and Thomas Saunderson, who licensed four butchers and deleted a fifth name because the applicant had 'fled away for felonye'.

Yet another sessions was held on 19th February at New Brentford by Sir Francis Darcy, Sir Gedeon Awnsham, Edward Vaughan, Henry Spiller and Ralph Hawtrey, who licensed three butchers, one from New Brentford, one from Old Brentford and from Uxbridge. On 16th April another sessions was held at New Brentford by Sir Francis Darcy, Sir Gedeon Awnsham, Edward Vaughan and Christopher Merrick. This was for general business and they also bound several people to appear at the next general sessions of the peace, one for pursuing process out of the Marshalsea without a warrant, one to keep the peace towards John Ramne, constable of Edgeware. Edgeware was in Gore hundred which for most purposes was combined with Enfield and Edmonton, but it was easier for people to reach New Brentford than Edmonton.

On 17th April Sir Lewis Lewknor, Sir Thomas Fowler, Edward Vaughan, Nicholas Bestney and Thomas Saunderson held a sessions at Mile End at which six people were bound to appear at the next sessions for 'tipling' without licence. Probably they also licensed other alehouses and dealt with other business which could be done out of sessions. Sir Robert Leigh and Sir John Brett held the sessions for Edmonton hundred at Edmonton on 22nd April and bound James Sadocke of Edmonton, Vinter, to answer at the next sessions of the peace 'for drawinge wyne withoute lycence Contrarye to the statute'. These last two sessions were held after the Easter general sessions of the peace, and may have followed a reminder or instruction given in the charge at those sessions. The cases arising were dealt with at the sessions of the peace at Clerkenwell on 7th May, when two of those bound did not answer their recognizances which estreated to the crown. One who answered for tipling without

licence was allowed to be licensed with sureties 'yf Sir William Waade consent', an example of the influence exercised by a leading justice in his own district.⁵

Many of the matters dealt with at these 'petty' sessions were within the competence of one or two justices acting alone, and were dealt with directly and not passed for attention at the general sessions, so being rarely noted by the clerk of the peace in the official records. This might include licensing or binding alehouse keepers by recognizance to keep a good house.

In many respects the justice of the peace in his own neighbourhood (the phrase 'next justice' simply meant nearest) was more of a preventive officer, exerting his influence on his neighbours. The more experienced justices, especially those who were not in any way dependent upon fees or advancement and who were able to use their own discretion in the treatment of offenders, achieved great success in this work. It could involve a considerable amount of unrewarding work, of which little trace is shown in the official records of the sessions of the peace. A letter from Sir Vincent Skinner to Sir Robert Cecil about a mob of women who invaded Enfield Chase illustrates the value of an influential and respected justice in his own district. Sir Robert Wroth dealt with the affair with firmness but also with fatherly benevolence. He was wise enough and of sufficient calibre and status to listen to the rebels complaints and settle the matter without any drastic action, granting merely a slight concession.

'May it please your Honour. Sir Robert Wroth and I according to your good pleasure signified, repayed to Enfield on Weddensdaye at night last, and early the next morning resorted to Whyte Webbes, a place bordering upon the Chace, where we found no such company of women as we expected, the most of them being departed to their houses to take their rest, And thereupon roade towards Cattall Gate where the women had assembled and continued daye and night in greate numbers from Monday last and there we found some dosen or thereabouts, whom we demaunded the cause of their first assembling and continuance there and receved this answer, that for mayntenance of their custome and right that the Chace wood shold not be carried out of the town of Enfield but spent in the Kinges howse for ayring, whereof it was appointed and which for lack of ayring was lyke to fall to ruyne. To a further demaund why this yere rather than in former yeres when it had bene caried, of my precise knowledg, these twentyone yeres to Theobaldes without contradiction, was answered that the patent was now ended by the Quenes death, which word patent none of them could tell us what it men untill we asked them whether the graunt made for 60 lodes of woodes were that they ment which they affirmed to be their meaning. But demaunding of them further how they knew that to be so and who told them so, wold geve no direct answere but that it was so reported, from one to another.

Then the course holden with them by Sir Robert and me was this. First Sir Robert declared that by this riotous act they had done as much preiudice to them selves and their posterities and to him and his as could be, for where this broushwood falles for the kinges deare had by the meare grace of the kinges most noble progenitor bene permitted to the inhabitants of Enfield and to the towns bordering upon the Chace, now there was iust cause ministred to his highnes to dyter them to shewe their right by graunt and that no custome or prescription would tye the King. He added further that they had very evill requited his kindness and favor which in the sute for putting down the botes had stood their very honourable frend, wherunto was added that to thintent your honor shold not take any offence the matter was cancelled from yow, and uppon their desisting and submitting them selves their offences and your iust displeasure might qualified (sic). And hereuppon we found that they were sorry for any offence conceived against them pretending still that the wood ought not to be caried but to the Kings place. Then they were told that the King had appointed to remayne at Thebaldes 8 or 10 days, that his hows at Enfield was preparing for his trayn and that the purpose was to cary part of the wood to the Kinges place and part to Thebaldes for the Kinges use. And in the end with assuring them that the wood shold so be carried, as they shold have no just cause of exception they referred themselves wisely to us and departed quietly; being also somewaie satisfied that they caried away some 50 or fortie fagots which had bene made upp of the small shramell wood which they pretended to appertein to the pore for their releif and not be converted to any particular use.

And so we rode to every lodge and gave order in some of their hearinge that all shramell wood shold be left for the pore and none made into fagottes any more hereafter and left them reasonably satisfied that the wood shold for this yere be caried parte to the Kinges howse at Enfield and parte to Thebaldes for the Kinges use and not otherwise'.

The two justices also had, as part of their normal duties, to see that carts were provided by the inhabitants of the parishes to carry royal supplies, in this case the firewood.

'And hereuppon Sir Robert Wrothe and I had conference with Curle the Cheife Cunstable to furnish 20 cartes for 20 lodes to be caried to Enfield howse, whereof Sir Robert and I to furnish 4 and the residue to be furnished by other the inhabitantes. And the other fortie Cartes for the other fortie loades to be provided in Cheshunt and Edmonton, and to be redy against Tuesday next, and that uppon signification of your good pleasure herein and your allowance thereof. It shold be published in the Church at Enfield on Soday next. And notice to be geven by me to the Cheif Constable that the other sixteen Cartes at Enfield besydes Sir Robertes and myne to be in redines against which tyme we bothe agreed to be in the Chace to see the wood delivered, if any departure shold be on their part from that agreed.'

A conscientious justice of the peace in his own home district might be torn between his duty to the King and his interest in the neighbourhood. One of the rebels claimed that Sir Robert Wroth was sympathetic, or even party to, their proceedings. Indeed as a local landowner he was probably conscious himself that the decay of the old Palace of Enfield meant a loss of work and profit to the community. This is perhaps the most telling point of this case in illustrating the administration of government and justice through the local men. The local justice, if he was honest and not hampered by personal need for profit, could assess the local conditions and apply the laws accordingly. In this case Wroth made a slight concession to the local needs. He was fortunately proved not to have been involved in the affair.

'It was also confessed unto us that they determined' wrote Skinner 'to stave there untill Morning.... by occasion of a meeting assembled at my house, and yet some sayd they had departed sooner but that a woman of Enfield affirmed that she had spoken with Sir Robert Wroth at London on Monday last and had acquainted him with their procedinges and that he badd them go forward as they had begonne, all which uppon examinacon and confronting the parties was found to be a false and forged matter, and so confessed and acknowledged with submission unto him, which was some satisfaccon to him to fynd it followed to the roote being greatly greved with that false and slaunderous report, as it appurantly was proved.'⁶

It was in this sphere of assessing the local situation and dealing with it accordingly, that the justice of the peace became so much more valuable than the constable, a far older peace officer.

The Justice and the Constables

Justices still depended on the constables for information, and for much of the routine administrative work. The constables undertook the invidious tasks of collecting rates, taxes and other dues, taking suspects to the goal and generally assisting the justices. A lazy justice of the peace might, indeed, leave too much to the High Constable. Middlesex and London justices were once accused of this. This Privy Council had instructed them to see that the lower bars of the tenters, used for stretching newly woven cloth, were removed so that the cloth would not be stretched unduly 'which is practised in no other country but here and in the Low Countries'. However the justices showed 'slight regard of these directions' and the Privy Council sent a further, irate, communication, in 1601:

'As you have showed slight regarde of these directions you have received lately from us for the suppressinge of tenters, so wee must call upon you in any other sort to waken you out of so depe a slomber and to lett you know what belongeth to your duties and with what respect you ought to performe these commandementes you receive from this Borde, especially in matters of weight and consequence. For wee doe understande your order ys when you receive any soche commaundementes from us to direct your preceptes unto the High Constables and petty constables to performe the same, without taking further accompte of them, in which case yt were a shorter course for us to sende our warrantes immediately unto them, whoe would with the more care regard the same, and yf they did otherwyse wee could eall them to a reckonyng...'

A similar complaint was addressed to the Lord Mayor and Aldermen of the City of London. In their case a further accusation was made:

'In steede of executing our direction while you and the Justices of Middlesex strive who shall undertake the same....'

This was the beginning of an increasing lack of co-operation between the City and the county. The tenting grounds were mostly in the suburban areas immediately outside the City walls, and there was some dispute as to who was responsible. The City was, in fact, attempting to extend its boundaries, but there was opposition from various factions.

Relations between the constables and the justices were not always good. The high, or chief, constable was in an uncertain position and might wish for greater power. One Middlesex justice of the peace, a rather difficult, quick tempered old gentleman became involved in a dispute over the appointment of a high constable. This was George Ashby, a justice of the peace of Harefield. He complained in 1582 of John Atlee who had been high constable of Elthorne hundred for fourteen or fifteen years, according to Ashby, 'during which long tyme (by reason of his evill inclynacon to do hurte and no goode in the countrey) he is growen to Cunnyng an officer in that service'. Moreover, claimed Ashby, 'the said John Atlee hath ever bin a man so obstynate towardses the Justices of peace of that hundred that he will seldom or never use any of their directionz in the Quenz Maiesties service or obey their preceptes but most careleslye neclecting the same as though his auctoritie and skill in service had bin equivalent with theirs'. There was, no doubt a grain of truth in the accusations, for a high constable who had served so much longer than the official three years, although this was not too unusual, was undoubtedly in a powerful position. However there were no complaints against most of the high constables, although there were occasionally cases of abuse by members of the public, more especially against the lowly parish constable.⁸

The most arduous and unpleasant task which involved both justices and constables concerned taxes and other dues. The actual collection was the duty of the high constable, assisted by the parish constable. If it was a national tax they were responsible to the tax commissioners, but one of Ashby's complaints against constable Atlee was that he levied taxes unfairly and never paid any himself. The 'next justices' frequently had to deal with people who refused to pay. Many people were bound over to answer at sessions for refusing to pay the rate for the new house of correction, a new venture. These included William Hitchnough of East Smithfield and Thomas Multon of Mile End. This rate was so unpopular that some of the constables refused to collect it. William Reade, constable of Ealing and Old Brentford was committed to prison for refusing to gather the money, but he eventually capitulated and made his account, handing over £8. 4s. The constables of Hampton, Uxbridge, Fulham, Northolt, Greenford, Stanmore and St. Giles and other places also needed a little pressure.⁹

There was endless trouble over the purveyance of food and supplies for the King's household. Committees of justices were many times appointed to meet the commissioners and agree a composition in money as for example in April 1613. In 1615 an agreement was made for a sum of £40 to be paid yearly in lieu of the wood and carts for carrying wood from the county. The Officers of the Green Cloth still, however, reserved the right to deal with persons who refused to pay (no doubt penalties were more profitable, a further grievance for the county). The sums officially assessed on such offenders were taken as part of the £40 payment. Justices themselves were supposed to set a good example in making such payments, and especially visible things like supplying carts, as did Wroth and Skinner in Enfield. Ralph Hawtrey acted for several years as collector of the 'great composition' for the provision

of his majesties household' for his division. This was one of the many additional burdens that fell to justices of the peace. Hawtrey eventually begged his associate justices to elect another in his stead, which was agreed in 1620 provided he agreed to act for just one more year.¹⁰

In addition to the justices' work in their divisions, much of the general work of the county was delegated by the justices in general sessions to committees or small groups of justices. This work, too, could be time consuming and burdensome. A committee was appointed annually to take the audit of treasurers' accounts. Others were set up to consider the 'assize' of bread, or the assessment of rates of wages, which Daniel Muskett, Eusby Andrews and John Lowther considered in 1615.¹¹ Matters concerning poor relief were normally delegated to two or three of the justices of the district concerned. Disputes between parishes over which was responsible for a poor family were heard at general sessions, but examination and consideration of the facts of the matter was frequently delegated to particular justices, as in 1625, 'the case in difference between the overseers of Stepney and Zachary Highlord referred to the heareinge of Eusebie Andrews and George Longe'. Sometimes two or more justices might give a certificate for a collection to be made for the poor of a parish or other purposes in places outside the county. In 1591 Sir Owin Hopton and Sir Rowland Hayward granted a certificate to John Pigge proctor of the poor house of St. Mary's Enfield 'to gather in Cambridgeshire and Norfolk.'¹²

10. GLRO.M. MJ/SBR/3/214

11. GLRO.M. MJ/SBR/2

12. GLRO.M. MJ/SBR/4/253; SPD.38 vol.2.

Viewing the repairs of local bridges was another regular job of justices. Sometimes when much work needed to be done a group of justices was delegated to supervise the work. They sometimes made an agreement with a local man to be permanently responsible for maintenance. Christopher Tyllier or Tylliard of Harmondsworth had made such an agreement 'for the repayre and continuall maintenance of Longford Bridge' and was to have certain lands next to the bridge. This had not been completed as £40 was still owing, so an order had to be made for the levying of further sums of money in the adjacent parishes 'for payment of officers and for perfecting the said agreement touching the foresaid Bridge and the assurance of the foresaide lande for the perpetual maintenance thereof'.¹³ Tillyard, a gentleman, was also the treasurer for maimed soldiers of Isleworth, Elthorne and Spelthorne, and in fact assisted as a local peace officer, although he was not actually on the commission of the peace.

One of the most arduous committees must have been the one for the building of the house of correction. They had not only to raise money, but also to find a site, agree a price for its purchase and arrange a conveyance of property actually occupied by several different tenants, search the City's records and find ways of coming to an agreement with the City, including their appeal and appearance before the Privy Council, make a contract with the builders and supervise the work. Further committees were appointed regularly for the 'ordering and establishinge of all things concerning the house of Correction.' Later in 1620 other committees were established for the 'provyding orderinge and government and establishment of houses of Correcon' at both Uxbridge and New Brentford.

13. GLRO.M. MJ/SBR/3/223-4.

14. GLRO.M. MJ/SBR/4

The Volume of Work

Which justices did most of the work? How hard did they work? To answer this we must examine the court records, especially the recognizances signed by individual justices. These give some impression of their activity, although of course the unrecorded activity and the influence exerted in their own districts cannot be assessed.

One of the most energetic justices, to judge from the great number of his recognizances was Sir Robert Leigh. His home in Clerkenwell was in a busy, populous district. He seems to have been particularly concerned with minor moral offences. In January 1611, for example, he certified thirty three recognizances, of which eight were for keeping bawdy houses or living a 'vicious life', seven for minor assaults or threats against neighbours, seven for victualling without licence, two for cheating or gambling, five for theft, one for harbouring thieves and three for witnesses to attend. At the general sessions of the peace in April he certified forty five recognizances, of which the majority, thirty four, were for minor cases of assault or to keep the peace against specified people, six for leading immoral lives or keeping bawdy houses, two for harbouring thieves or helping their escape, one for theft, one for cozening, or cheating, and one for uttering counterfeit money. Thirty to forty recognizances seems to be a fair average for Leigh during the years from about 1604 to 1612 when he was at his most active. He rarely missed a sessions and was also assiduous in holding or assisting local or petty sessions and on committees, in Clerkenwell, East London and the Enfield and Edmonton district, where his friend and associate John Brett lived. He was also conscientious in his work for the commission of the peace of Essex, where his main property was, and where his distinctive signature appears regularly, if not in quite such bulk, amongst the sessions records. Leigh's servant and clerk, Theodore Handle, seems to have assisted him in his work. In April 1611

he himself escorted four people to Newgate, committed by Leigh.

The clerk presumably also helped in the drawing up his recognizances, although the hand of many of them is very similar to the signature, both being that of a man used to doing much writing, and Leigh may have written some himself. They are all well written in a very small but neat hand, in the standard Latin form of a bond: 'be it remembered that on---day came before me Robert Leigh knight...!' and so on. Immediately below is Leigh's clear but characteristic signature. The most interesting and useful feature is that at the foot of each document, below the signature, is a brief note in English of the cause for which the man bound must answer, except on a few which simply say 'pro pace'. The whole recognizance was compressed into a very small space, so that many entries must have been written on a standard folio of parchment in which form Leigh probably carried it to the sessions. The recognizances appear to have been separated by cutting the parchment into strips after they were written, and this was probably done at the sessions as Leigh was certifying them, so that they could then be put with the relevant examinations and other papers until the cases were heard. Occasionally one of his recognizances was written on a slightly larger separate piece of parchment in a different form, that is the Latin bond with the condition^{in English}--- that is that if the within bounden appears at the next sessions then the recognizance is void---but still in a similar hand with a line of English at the foot noting the reason.

Although Leigh appears to have examined a larger proportion of what one may call the immoral offences than most of his associates, it is not enough to suggest that he was in any way a fanatic. His home in Clerkenwell was in a populous district bordering the City where there was a higher proportion of such offences. He was concerned with several cases of riotous behaviour at the Red Bull Playhouse, which again was in his district, in Clerkenwell, and

had a bad reputation. He and his wife were once assaulted, although not seriously, by a servant, and there are two or three cases of scandalous remarks made about him and his son as justices, but this happened on occasion to most justices.

Sir William Wadd produced twelve recognizances in January 1611, three for assault, two for bastardy and the rest to appear and answer for reasons not stated; and at the general sessions of the peace another twelve, including several for building and trade offences. His recognizances, too, are neatly written in a small scrivener's hand, probably that of a trained clerk, in the standard form of the Latin bond with the condition in English. The signature is easily written with a flourish at the end. Occasionally an odd recognizance appears in his own hand, rather untidily written as if in a hurry.

Edward Forsett also wrote an easy hand, rather rounded in character, with some of the Italic influences, fashionable at the time, showing in his signature. He only certified ten recognizances in January 1611, mostly for assault or theft, and at the general sessions of the peace fourteen to keep the peace. Amongst other regularly active justices were Sir Lewis Lewknor, Nicholas Collyn and Henry Fermor. All produced a fair number of recognizances written in a quick practised hand. Lewknor's were probably drawn by a clerk and sometimes give the reasons, but not always. The Londoners, Henry Mountague, Recorder, and Stephen Soame, Alderman, who produced some recognizances at the sessions used a slightly different style of recognizance: that on --- day A.B. appeared and gave as surety (or in bail) so and so, usually without much indication of the cause. Mountague's clerk used a neat hand showing some influence from the court hands, while Soames' had neat, small scrivener's style writing, the difference between the lawyer and the merchant. Mountague's signature was clear and squarish, Soames' slightly italic.

Some of the less professional of the justices of the peace show more variety in the form of their recognizances. Thomas Saunderson used large pieces of parchment often written with a fine point in an easily cursive hand, showing italic influence, and signed in the same style. His recognizances are styled slightly differently, putting the names of the sureties first: 'AB. and C.D. came before me T.S. and went surety for--' In some of his the bond seems to be written in a slightly different and rather rougher hand, with the condition and signature in Saunderson's hand, as if his clerk had partly prepared them in advance. He certified ten recognizances in January 1611 and twenty-eight at the general sessions, mainly from Whitechapel, Rosemary Lane and the east of London, including four for buying old iron, eleven for theft or receiving and four for keeping bawdy houses.

Some of the justices of the peace, especially the country ones who were not as busy, show themselves as less practised in writing and drafting recognizances. Toby Wood's squarish recognizances were written in rather a rough fashion. He only produced seven in January 1611, mostly for Rosemary Lane and Whitechapel. Sir Robert Ashby's three recognizances from Uxbridge at the April sessions, one for bastardy and two to keep the peace, were fluently and quite neatly written, but tend to have a number of deletions and alterations, apparently in his own hand. His signature, however was firm and flourished. John Brett of Edmonton and Gedeon Awmsam of Isleworth, both only produced one recognizance each from their districts at the general sessions, one for an unlicensed alehouse and the other for 'sundry misdemeanours' and both are well written and signed with neat, flourished signatures.

John Brett was particularly modern in that he used Arabic figures which were only just coming into use in England. Amongst the busiest justices of the late Elizabethan periods were Matthew Dale of Southwark and the London borders, Ambrose Coppinger of west Middlesex, William Fletewood the recorder, Sir Owin Hopton, Lieutenant of the Tower, and John Grange.

Justices of the peace were, of course, expected to undertake many tasks which were not part of the commission of the peace, simply because they were the leading men of the county. Such jobs included raising military forces, in addition to the number they were normally bound to return to the musters themselves, according to the size of their property. Sir Robert Wroth's younger son raised a voluntary company of two hundred men in 1602, when the disorderly pressing was so disliked that the Council were fain to take other orders and blame the City for it. In 1591 Sir Gilbert Gerrard, Custos Rotulorum, and three other justices, Robert Wroth, Francis Flower and John Barn were appointed by the Lord Lieutenant to find one hundred men for the Low Countries and John Barn was responsible for collecting money for their coat and conduct money at £25.12 s. each. In 1598 William Waad gave instructions to the muster master on training levies and pike men.¹⁵ The commission of Lieutenancy in Middlesex, because it was the metropolitan county and close to the Court, was rarely at this time directed to one person but to a group of commissioners who usually were composed of many of the leading justices of the oyer and terminer commission, thus involving them in further in the administration of the county under the central government. The more active and experienced justices served on many other miscellaneous commissions, especially in the metropolitan area. There were the regular commissions of sewers and occasional commissions such as the one to examine the City of London boundaries, aliens, to raise money to repair St. Pauls, or to inquire into the property of a convicted felon or others.

15. PRO. SP. 12 vol. 167

The Professional Justices

I showed in chapter two that there were in addition to the ordinary justices, a small number with legal or administrative experience who were named on all the Middlesex and London commissions. These seemed to undertake an even greater volume of work and formed a select group of what might be called 'professional' justices. The greatest of these was Sir William Fletewood, who was recorder of London from 1571 to 1592. He was a professional lawyer, made a sergeant at law in 1580, and seems to have found a career as the chief metropolitan magistrate. As recorder of London and the leading Middlesex justice he was in direct contact with the royal court. He seems to have been the government's expert on metropolitan affairs and wrote regularly to Lord Burghley. He was not, however, in any way, subservient.

Fletewood had a particularly busy life and his description of a week's work shows how hard he and some other Middlesex justices worked. He included his diarium in a letter to Lord Burghley.

'Upon Tewesday morninge at such time as the Earle of Arundele cause was in handeling in the Starre chamber my selfe with others did sitt at Fynsburie, where we found my Lord Windsors office, After that I went into London and kept the Sessions there where we had little to do. At afternoone went to Fynsbury againe and did like wise keepe the Sessions for Middlesex where we had not much adoe but in verie small causes.

Wednesday was spent at the Gaoll of Newgate where we had little or nothinge to doe. The matters there were slender and of no great importance. There were none executed. But all the rephies are referred to the order of the Lords the Commissioners, for which cause we received letters from via of the Lords.

Thursday was spent by Mr. Wroth and Mr. Yoonge in perusinge the strength and habilitie of the prisoners. My self that day went to the Courte by commaundement where I found neare fortie of Westminster and the Duchie. Our cominge was for the Marshall Sessions but it did not holde, hit is adjourned unto the next day before the next terme.

Upon Friday a good number of the commissioners for the sewers sate in Southwark upon a newe Commission where we did bestowe a great piece of that day. At afternoone I sate in Commission at Lambeth with my Lord

grace, where three Oxford preachers charged for that they would have all temporal causes to be decided by the Seniors of the Church and that her Majestie had^d to deall in causes ecclesiastically with such like matters. ...Satterday was by me employed to abbreviate and explain a new commission ...My Lord Mayor hath a house at Zeling near Braineford where he was robbed. The goods came to Mrs. Gardiners house whose husband was lately Chirographer. She imprisoned the officers in her house but now she hath made restitution and is sore for her misdemeanours...¹⁶

Fletewood might be described as the chief Metropolitan Justice, although, of course, there was no such position officially. During James' reign there was no one justice who could be so described. Two or three men were the most influential in different spheres. The recorder of London was primarily concerned with the City. In Middlesex the leading justice was often the holder of the Lieutenancy of the Tower. This was a crown office and raises the question of how far the leading, 'professional' type, justices were direct crown nominees. Also how far the growing independence of Middlesex from the City's domination was fostered by the royal court. The recorder of London was elected by the aldermen of the City. The King was, however, sometimes able to influence their choice. In 1603, for example, he thanked them for electing Henry Mountague.¹⁷ The elected recorder was not always a Middlesex man, but, as I explained in chapter two, the oyer and terminer commission gave power to act in the county. Moreover office holders might be named on commissions of the peace without holding other property. Fletewood was named on several county commissions of the peace as recorder of London.

The lieutenancy of the Tower was often given to a particularly good Middlesex justice of the peace or a crown officer who had proved to be a strong administrator. I think, myself, that there can be little doubt that it was a deliberate policy of the government to place in this office a man who would be a strong justice in the metropolitan area and also help to

16. BM. Lans. 49/1

17. SP.D. 1603

counteract the influence of the City's officers.

The Lieutenant of the Tower during Fletewood's time was Sir Owin Hopton, a most active Middlesex justice. He held the office for about twenty years until his death in 1594. He was succeeded by Sir John Peyton. Sir William Waad, who was appointed in 1605, had been a Middlesex justice since 1596. He seems to have been connected with military and government affairs for some time. It was he who, in 1598 gave instructions to the Middlesex muster master about the training of levies. In 1603, when the plague was bad he made suggestions for its redress. As Lieutenant of the Tower he was especially responsible for the custody of any prisoners in the Tower as well as for their examination. Many of these were recusants. He also seems to have been responsible for arranging the carriage of prisoners to other places when necessary; in 1603 he wrote to Cecil from the Tower (although this was before his promotion to Lieutenant) to report the safe arrival at Winchester and the examination of Sir Walter Raleigh. The carriage and transport of important foreign visitors and other personnel was also one of his duties. In 1611 he claimed as his due certain effects left by a prisoner, William Seymour, in the Tower, at the time of his escape, and payment for debts incurred by the same Seymour for medicine and tapestries and hangings in his apartment. When Waad lost his office he himself considered, in a letter written in 1615, that it was because of his too great indulgence to prisoners, especially Sir Thomas Overbury, although he had refused all access to Overbury. This may have been so for Waad seems to have been a humane man, but it was sometimes expected that state prisoners, especially recusants, might be subjected, at their examination to persuasion, even torture if necessary. The Council instructed Sir John Peyton, the previous Lieutenant and others to examine Philip May by torture unless he confess all. ¹⁸

As mentioned earlier, Waad was a very active member of the peace and oyer and terminer commissions, signing many recognizances, holding special local meetings for various purposes and also serving on many committees. He often seems to have been the chairman at Middlesex sessions.

Not all the Lieutenants of the Tower were conscientious justices. Some only held the offices very briefly. Sir Gervase Elwes held office only briefly in 1611 before he was dismissed. He was thought to have been involved in the murder of Sir Thomas Overbury. Some men found the office 'troublesome and dangerous', as did Sir George Moore. He yielded it in 1617 to Sir Allen Apsley, who was said to have paid £2500 for the office.¹⁹

During that time, however, there were a number of strong men on the Middlesex commissions, being named on all three. Foremost of these was Sir Baptist Hicks, a City merchant and alderman who had served the King in many ways. He was particularly concerned with the committees for the new Middlesex houses of correction, as described in chapter six. He was also active in most justice of the peace work. Also amongst the active members of all commissions at this time, were Sir Robert Wroth, Sir Robert Leigh, Sir Vincent Skinner, and the lawyer, Sir Julius Caesar.

The direct concern of the royal court to appoint suitable men to be the leading justices in the metropolitan area, raises the question of the relationship between the royal court and the metropolitan justices. These men of the highest calibre, although in direct contact with the court, like Fletewood, were not subservient. There was, however, a justice of the peace, Richard Young, who in the late sixteenth century was in a position rather like

that in the eighteenth century called, unofficially, the court justice. He was, in fact, the justice of the metropolitan area, who was asked by the royal court to deal with matters directly affecting the court, or which overlapped other areas, at a more immediate or lower level than the great lawyers, such as Fletewood.

Early in 1594, Young examined a tailor called William Hancock, who lived with one of her majesty's musicians in Hackney. Hancock had, it seems, told John Rogers, a chandler of Hackney, that the Queen was sick but denied that he had also reported, as he was accused, that the Queen was dead. Since the witness Rogers confirmed his story the matter was allowed to drop and was not given the publicity of a hearing at the sessions.

In 1593 Young was responsible for examining some members of a gang of highwaymen and robbers who had been committing robberies in London and other parts of the country. They had apparently come from Ireland, their Irish names causing the clerk some difficulty, and they were to be indicted not at the goal delivery but before the Lord High Admiral. One of the men, Pierce Comyn, was described as a 'sewter about the Court' and so was of particular interest to Lord Burghley. He also gave information about another robber 'Perce Hacket', ^{and} on examination gave a list of the names of others including: 'Perce Hacket of Ireland being at Court, John Macke Thomas of Ireland about the Courte, Edmund Sawle of Ireland about London, Phillip Oge of Ireland about London, Perce Comon sewter about the Court. Hacket ^{himself} ~~also~~ said that four days earlier a number of men, whom he named, had invited him to the house of one of them, David Burke, for they would rob a dwelling nearby 'that hath charge of her Majesties Jewles where they might have the valewe of £7.' Perce Hacket had been servant to the Earl of Ormonde and he and Comyn between them confessed to several highway robberies, although Hacket denied some of Comyn's accusations.

They robbed a horseman near Tyburn of twenty shillings in money and a sword and dagger, and they took forty shillings a cloak and a sword from a horseman and woman near Windsor. Comyn also confessed, or rather accused, 'that the last progress John of Carew and Robert Mack Williams being now both in Ireland robbed a trunk of the Countess of Oxforde'²⁰.

One of the aspects of justice of most direct concern to the court was the apprehension of recusants suspected of disaffection to the crown. This was, of course, not confined particularly to any county limits. Richard Young was particularly responsible for tracking down recusants in the London area and for examining those committed to prison. Several of the written statements of those examined survive amongst the state papers. In 1591 Young was associated with the commissioners against recusants ~~against~~ the whole country, of whom the foremost was the notorious Richard Topclyffe, together with Richard Braithwaite and Dr. Fletcher. They were charged to examine Eustace White a seminary priest on such articles as Topclyffe administered and if necessary 'for the better boultinge forthe of the truthe cause them to be put to the manacles and soche other tortures as are used in Bridewell to thend they may be compelled to utter soche thinges as shall concerne her Majestie and the Estate'. In June 1592 Justice Yonge 'or some other lyke commissioner' was ordered by the Council to 'apprehend Richard Bellamy of Oxendon, Harrow, and his wife and ther two sonnes and ther tow daughters in whose house father Southwell alias Mr. Cotton was taken by Mr. Topclyffe a commissioner, and wher a nnumber of other preests have been receved and harberd...And they to be commyted to several prysons, Bellamy and his wyfe to the Gaythouse, and ther too daughters to the Glynke and ther tow soones to St. Katherynes.' This was carried out and Katherine Bellamy was indicted at the Middlesex sessions of gaol delivery. Another Bellamy destroyed himself in prison. Some members of the family had been convicted some years earlier

in 1586, for hiding the priest Babington in their barns, clothed in rustic attire. Young himself directed a writ to the constables and other officers of Middlesex to apprehend one John Roche and bring him before Young at his house near London Stone.

Richard Young was well known in Court circles for his work. When a report was sent from Antwerp that an Englishman was thought to have slipped by and taken ship for Gravesend, the writer added 'the best thing is to send his description to Justice Young'. Sometimes he and his associates seem to have been successful in persuading a suspect to submit and be converted. In one letter to Burghley Yonge mentioned that 'one Hardeste a priest who hath submitted himself and is now at Emanuell Colledge in Cambridge where he commendeth to be very learned' but another 'Stand the frier did breake his prison two nights ago but was taken again'. He was not, however, altogether popular with people, especially recusants, many of whom spoke of their fear of him, and a certain Captain Yorke and others threatened 'to come to the burning of London and to pluck Justice Young and the others'. On at least one occasion William Fleetwood had occasion to reprove Justice Young. In 1585, as Father Thomas Garnet remembered, a young woman was convicted on very slender evidence of supplying a priest with the rope he used to escape from prison, but Fleetwood 'told Young openly that unless in future he brought better evidence against his victims he must look for some other magistrate to pronounee sentence. This God-fearing man then went straight to the Queen and the result was that she reprieved out of her mercy those whom Young had impiously condemned'.²¹

21. SP.D.; BM. Lans. 75/21 (f.42); Christopher Devlin, The Life of Robert Southwell, London, 1956; Middlesex sessions records; Acts of Privy Council.

As some recompense for all his hard work in his various duties Richard Young was granted the monopoly on starch in 1588, although it had apparently been transferred to Sir Richard Martin, keeper of the Mint, by 1593. After Young's death his widow 'Mrs Justice Yong' seems to have been granted an annuity.²² Richard Young did not neglect his duty as a Middlesex justice of the peace. He was a most regular attendant at the sessions and signed a large number of recognizances.

Justice Henry Spiller seems to have taken up some of Young's work, some years later. In 1615 he prepared a report of the King's revenues from recusants, showing what parts might be increased. A certain Thomas Felton complained of Spiller to Lord Salisbury and later wrote from the Fleet prison that he was afraid that his Lordship was displeased with his accusations and would forbear with them, although he had been much wronged by him ever since Spiller had charge of the dangerous service against recusants. The Recorder of London at this time, Sir Henry Mountague, also still played an important part in the search for and conviction of recusants. Mountague wrote to Lord Salisbury in February 1611 explaining that things prepared for a mass, bags of money and letters addressed to foreign parts had been found in Lockey's house near Aldersgate: 'My good lord this night in the search.....neere Aldersgate streete was found all things prepared for a mass, divers prohibited and superstitious (?things) and with all three bagges of money containing three or four hundred pound which I have caused to be dealed up and taken into my custodye....'²³

22. SP.D.

23. PRO. SP.14 vol. 61 (Ms. torn)

CHAPTER VIIITHE MIDDLESEX JUSTICES - A CONCLUSION

A comparison of the four Middlesex and London commissions, as I described in chapter two, shows that a small number of justices appeared on all four commissions. These were mainly those who had some legal or administrative experience. This can be seen more clearly from the lists appended. A study of the work of the justices, too, seems to suggest the existence of what I have called the 'professional' justices.

In effect there seems to be more of a hierarchy of officers of justice in Middlesex than in other English counties. Superimposed on the normal county justices of the peace was a small body of men, who had usually had experience as justices of the peace, as administrative or government officers, or as lawyers. Sir William Waad and Sir Owin Hopton, for example, were Lieutenants of the Tower, and had held other semi-military offices under the crown. Sir Vincent Skinner had held various crown offices and received allowances from the crown as a 'Gentleman of the Tower.' William Bowyer held military offices. Sir Julius Caesar, William Fletewood and Gilbert Gerrard were prominent lawyers. Nicholas Bestney, Nicholas Collyn and Mathew Dale were lawyers. George Coppin was clerk of the crown. There are other examples. There were also, of course, many City aldermen and merchants who were men of high calibre and good administrators. These men were named on the Middlesex and London oyer and terminer and the goal delivery commissions as well as the Middlesex commission of the peace.

This group formed an intermediate level. They were not comparable with the high court or assize judges, who, when on circuit in the country acted as the higher authority and as advisors, but were local justices. They

did the main work of administering justice in the Metropolitan area, dealing with all aspects of the job: examining suspects and giving bail bonds, licensing and minor matters. They held local meetings with one or two fellow justices, and they themselves sat on the goal delivery bench to judge felonies. They were also delegated other special tasks concerning the metropolitan area, by special commissions, or by orders from the Privy Council. They were, thus, very fully occupied with little time for other matters. It is in this sense of making a career as justices that I have used the term 'professional'.

Giving judgement from the goal delivery bench there were usually also one or two 'chief justices' of the Common Pleas, King's Bench or Exchequer Courts. These sessions were not so very different from county assizes.

How did the system compare with other counties? These had their regular quarter sessions of the peace, much like the general sessions for Middlesex. Justices of the peace also acted 'out of court' in the usual way. However many cases had to be transferred from quarter sessions to the assizes, which were then held only about twice a year. Many administrative and other matters had to be ratified at assizes or opinions sought from the judges. Within the sessions the form of procedure was, of course, much the same.

The provincial judicial system was slow and cumbrous. In the Metropolis, including Middlesex, the system was made simpler and speedier by the presence of the 'professional' body of justices. More particularly by the independent oyer and terminer commissions, with their 'inquiry sessions' which cut across and joined the two other commissions. The frequent sessions of oyer and terminer or 'inquiry' replaced some of the judicial aspects of the quarter sessions of the peace and led straight into the goal delivery sessions, being really part of that sessions.

The simpler process and the small 'professional' body of justices gave Middlesex a much more sophisticated system of justice than other counties. It was necessary owing to the complexity of the Metropolitan area. The privileges of the City of London, the presence of the royal court, the denser population, the existence of the courts of justice and the inns of court, and the presence of a number of lawyers and City merchants of high calibre, all contributed to it. One must not exaggerate the quality of the justices, or suggest that there was an entirely different judicial system. The general principles of the judicial commissions were exactly the same as elsewhere. The distinctions were to a great extent accidental. Nevertheless they existed and continued.

To emphasise these distinctions and the high calibre of the justices, we should look more closely at some of the men concerned. I have appended a list of the more active justices with a few biographical details. Of these probably William Fletewood did most for justice in the Metropolis. He might be called the greatest Metropolitan magistrate.

William Fletewood's father, Robert, was the third son of William Fletewood of Hesketh, Lancashire, and seems to have been a scrivener living in Fleet Lane, London. William was born about 1535, probably in Lancashire. He was educated at Eton, as he mentioned in his speech to the Catholic martyr Thomas Alfield at his trial in 1585, when he sadly 'wondered that his father (ie Alfield's) in King Henry's days being an usher of Eton....had brought up many learned divines and other that served the Queen in temporal causes, whereof hundreds, the Recorder himself was one of the meanest'. He then went to Oxford and the Middle Temple, where he became a bencher in 1564 and a double reader, in 1564 and 1568. By this time he was described as 'of Missenden, Buckinghamshire', where he had acquired an estate. He married Mariann, daughter of John Barley of Kingsey, Buckinghamshire, and had four children: William, who succeeded to the Missenden property, Thomas, who

also entered Middle Temple and became attorney to the Prince of Wales, Cordelia and Elizabeth. He lived for many years in a house near Aldersgate, London, called Bacon House after Sir Nicholas Bacon the Keeper of the Privy Seal, who rebuilt it, and later moved into another house in Aldersgate, Noble House, not far from St. Olaves's Church near the gate. He died at Noble House, but was buried at Missenden.

Fletewood became a freeman of the Merchant Tailors Company in 1557, and was a member of Parliament for the City in 1572, 1586 and 1588. He was elected recorder of the City in 1571 and held the office until 1592. He was made a sergeant at law in 1580, when he received a gift from the City to mark the occasion. He was made Queen's Sergeant, a high honour, in 1591. He served on the commissions of the peace for Middlesex and Buckinghamshire, for both of which he was active, and as recorder, he was named on the commissions of some other counties, as well as the commissions of oyer and terminer and goal delivery for London and Middlesex. He also served on many special commissions in the metropolitan area, such as archery, sewers, boundaries, piracy, the reform of abuses in printing, finding convicts for service at sea and many others. As a lawyer, Fletewood had a high reputation as a first class advocate, upright and strictly honest in his interpretation of the laws. His very strictness and inflexibility was probably, in fact, one of the reasons for his failure to receive advancement to Chief Justice, which would have been expected before he had been recorder for twenty years.

He was extremely hardworking and earnest in his legal and other work, as can be seen from his many letters to Lord Burghley, in some of which he includes his 'diarium', an account of his daily work during the previous week. I have quoted several of these letters (chapters 2, 3, 7). He was not only concerned with the trial of criminals in court but also actively went out to search for them and to view for himself the problems of the Metropolis. One of his letters tells of his finding a 'Fagin' type school for young

pickpockets which he describes. He had a great interest in and understanding for his fellow creatures, which he shows in his sorrowful account of the teacher of pickpockets, a gentleman born, and sometime merchant who had fallen on bad times and gradually lapsed into an evil way of life.

Amongst all his other work Fletewood drafted an enlightened scheme for preventing plague in London by maintaining open spaces (1583). He prepared reports on such matters as the right of sanctuary for criminals at St. Pauls (1589) and measures to be taken against Jesuits. When in 1571 he made a speech at the Guildhall concerning the conspiracy in the north and urging the citizens to watch for signs of defection, he also quoted the City records to show that it was not unusual for the Sovereign to declare his intentions to the City or consult the City. It was true enough, in fact one of the many privileges which the City guarded jealously, and no doubt the reference was a wise move to enlist the Citizens' support, but it was not calculated to please the Queen and government.

Fletewood was concerned with many of the trials of Catholic recusants and was a zealous protestant feared by recusants, but nevertheless was never willing to condone any bending of the laws. I have mentioned earlier (chapter 7) the tribute paid to him by the martyr Thomas Garnet for intervening to reprieve a woman convicted on inadequate evidence. He was himself active in searching for evidence, and once found himself briefly in the Fleet Prison for breaking into the Spanish Ambassador's house, in 1576.

William Fletewood's own writings include his personal manuscript law 'Abridgement' or memoranda and commentary on the laws, gathered over the years and written in law French. The work reflects the thorough and painstaking lawyer he was. His 'Office of a Justice of the Peace', preserved in manuscript, but not published until some seventy years after his death,

is a concise and simply written hand-book, although including some slightly sententious preaching. It shows, however, his understanding of the difficulties of the inexperienced justice of the peace in finding information from obscure law books, (although he fears that some do not even try.) He realised that many justices were old, but 'the elder a man waxeth the more discretion he hath'. It was Fleetwood's ability to see and understand both sides of any question that made him such an able lawyer, but also made him less popular and less likely to be considered for advancement in a political society. He died in 1594 and was buried at Missenden.¹

A justice who came in between the 'professional' justices and the county justices of the peace was Sir Robert Wroth. He was one of the leading gentry of the county and very much the good local justice in his own area, but he also served on all the commissions and did much other work.

Robert Wroth was the eldest son of Sir Thomas Wroth (1516-1573) who had been Lord Lieutenant and on the commission of the peace for Middlesex and held various crown offices. From his father Robert inherited estates in Middlesex, including Durants, Enfield, and others in Essex, Hertfordshire and Somerset, but he lived mainly at Loughton Hall, Essex, which he acquired through his wife, Susan, daughter of John Stonard of Loughton. He had been admitted to Grays Inn in 1559 and was on the commissions of the peace for Middlesex and Essex, being prominent as a justice in both counties and often chairman at Middlesex general sessions of the peace, between 1597 and 1603. He was also on the oyer and terminer and goal delivery commissions for Middlesex and regularly attended those sessions.

1. BM Harl. 5225, 5153-6; 'Declaration made by Mr. Recorder in the Guildhall...' (1571); D.N.B.; Christopher Devlin, Life of Robert Southwell Lon. 1956; H.W. Woolrych, Lives of Eminent Sergeants at Law Lon., 1869; R.W. Buss, Fleetwood Family Records (privately printed in parts, 1914),

He was greatly respected as a justice and acted with wisdom. I have quoted earlier (chapter 7) the description of his actions with regard to the mob who invaded Enfield Chase in 1603. He also served on several special commissions, including that for the trial of Guy Fawkes and the trial of Raleigh. He was sheriff of Essex in 1587 and walker of Waltham Forest, which lay in between his own properties. His younger son was one of the young captains who raised volunteer companies in 1602, having a company of two hundred men. Wroth died in 1606 and was buried at Enfield, leaving Durants and other property to his son, Robert.

Robert Wroth, the son, was admitted to Grays Inn in 1594 and was also on the commissions of the peace for Essex and Middlesex and the oyer and terminer and goal delivery commissions for Middlesex. He was equally conscientious in his attendance and his name often appears as serving on a committee or having matters referred to him. By preference, however, he seems to have been a scholar and a country gentleman. In 1611 he received a royal licence to enclose some of his property in Essex, including Benhold Wood. He lived mostly at Durants, Enfield, where he was often visited by James I for the hunting. Ben Jonson, who seems to have enjoyed the friendship or at least the patronage of the Wroths, paid Sir Robert a poetic tribute.

How blest art thou, canst love the country Wroth
 Whether by choice or fate or both
 And though so near the City and the Court
 Art ta'en with neither's voice nor sport

. . .

But canst at home in thy securer rest
 Live with unbought provision blest

. . .

Mongst lowing herds and solid hoofs
 Along the curled woods and painted meads
 Through which a serpent river leads
 To some cool courteous shade which he calls his

. . .

In spring, oft roused for thy master's sport
 Who for it makes thy house his court.

Sir Robert's wife, Mary, daughter of the Earl of Leicester, was said to be a woman of genius. She was the author of a romance Urania published in 1621, and was the subject of three poems by Ben Jonson, who thought her the 'fair crown of your fair sex'. Sir Robert died in 1614, leaving a young widow with a jointure of £1200, a son a month old and his estate £23000 in debt.²

At the other end of the scale was the country justice of the peace. A typical example was George Ashby of Harefield, in west Middlesex. Although a country justice, he was, like most of them, a conscientious justice and a public spirited man. It was he who drafted the petition from the inhabitants of the county, quoted in chapter one. He was, however, much more of a local country gentleman, and certainly could not be called a professional justice. He was named on the commission of the peace of 1584, one of the early smaller commissions. In his later years, however, he seems to have been a bit too ready to take up arms, or at least his pen, against his neighbours, to the extent that one might almost suspect that he had a slight persecution complex.

The story of one quarrel with some of his fellow justices does not show Ashby in a very good light. It began apparently quite simply with Ashby recommending, in 1582, a new high constable for Elthorne Hundred, one John Blackwell, in place of John Atlee, who had already served in the office for some fourteen or fifteen years. Ashby claimed that Atlee had himself not wanted to continue in office owing to his advanced age. Atlee, however, apparently informed the Bench that he was willing to serve longer and they reinstated him, before Blackwell had been sworn in, with the effect that Ashby felt that he and Blackwell had been reprovved before the court. John Blackwell requested Thomas Hughes an associate of Ashby to write a statement

2. SP.D.: Indexes to patent rolls; D.N.B.; Works of Ben Jonson; Robinson History of Enfield; Emmison Elizabethan Life

explaining how Blackwell had first come into the office. This was addressed on 13 January 'to the Queene's Majesties Justyces of peace to be assembled at the next session of Inquiry of Goal Delivery for the cownty of Middlesex' and explained 'Trew yt is that John Atlee, the Late high Cunstable fyndinge himselfe unapte for that servyce by reason of his yeares and not wylling to contynewe lenger in the offyce, made meanes unto me meanye tymes that he havinge longe servyd in the offyce to his greate charge and troble, mought nowe in his olde yeres be discharged. Which matter I imported to Mr. Asshebye my assotyat allotted to the servyce of that hundred. And uppon conference had betweene us...(being wyllinge and a sufficiente man) we thought good to place him [ie Blackwell] in John Attlee's steade...I made thesayde John Atlee pryvye thereunto...' neighbour Atlee I do not forgett your olde sewte made unto me'...Mr. Assheby repayringe after to the generall sessions did...recommende the said John Blackwell'.

George Ashby, feeling himself insulted, took the matter further and, in January and February 1583, ^{addressed} several letters to the Master of the Rolls, Gilbert Gerrard, who was also Middlesex Gustos Rotulorum. With these he enclosed a statement of his 'Articles obiected against John Atlee to approve hym an unmete man to bere office of high Constable'. These began with the perfectly reasonable comment that Atlee had already held office for fourteen or fifteen years, but then continued with complete lack of fitness. 'The said John Atlee hath ever bin a man so obstynate towards the Justices of peace of that hundred that he will seldom or never use any of their directionz in the Quenez Maiesties service, or obey their preceptes, but most carelessly neglecting the name, as though his ^e auctoritie and skill in service had bin equivalent with theirs'. Ashby added that Atlee had three hundred acres of rich ground for which he had contrived to be discharged of all taxes; a touch of jealousy there perhaps. Moreover he accused Atlee of overthrowing the composition arranged between the officers of the Green Cloth and the

County. Ashby was almost fanatical about purveyance and taxes. A little earlier he had brought a case against the parson for not providing a cart for the purveyors.

By the time of Ashby's third letter to Gilbert Gerrard, of 26 February 1583, the first two not having produced much effect except that Gilbert Gerrard suggested that the matter might be discussed at the next ~~goal~~ delivery, and then, no doubt wisely, did not attend that himself, the affair had blown up into a quarrel particularly between Ashby and another justice William Gerrard, Gilbert's brother. Ashby was becoming almost hysterical about his 'pore credit' ^{answring} ~~which~~ 'from hearsay which was beleevd to the defacing of me and disappointing my proposition...The question was wheather

'John Blackwell or John Atlee ought in equitie to be thoffycer I sygnified my knowledge unto you that John Atlee was indirectlie brought in and Blackwell wrongly ys to be put out before he was ympannelled. Yet John Atlee was believed as a man of honestye and I and Blackwell reproovid... Such credit so openly geven hath puffed him upp into an evill minde, And he is so glad of his usurped dignytye that he knowes not hymselfe, And he brocheth such matters as hindreth the Queenes Maiesties good service Abateth the Justices there Auctorytye and breedeth disobedience amongys the people. When I go about to preserve the Queenes Maiesties good service and discover his false practiziz I am myslyked by (your Brother) Mr. W. Gerrard who defendes hym in all thinges so earnestlie that he will suffer nothinge to be hard agenst hym. I bound hym and others of his neighboures whom he had stirred into contempt and disorder to answeere at the Cessions which I tooke to be the ordynary course of Justice wherebye they mought knowe ther default... And when they were called, my default for bindinge them was pronounced and my rebuke and they dischargd (as having ^{done} no wronge) before the writte was hard. Such was the affection towards the said John Atlee or rather his gret hatred towards me, he touched me with reproch openly (as I thought) when I dealt synserely. And he told me secretly that his Stamock Gruggid me for uttring words of reproch ageynst your worship, Him self and his kindred, Yea and all the name of the Gerrardes, words supposed to be spoken by me at open dynner tyme in Seriant Smythe's house at Ruislipp in Mr. Gerrardes own hearinge, whereunto he then replyed nothinge for disquietinge the Company (as he said), his friendes comynge to hym after dynner merveling why he would put upp any such reprochful wordes ageynst hym self and kindred but his answeere to his Friendes was that he would comytt the wordes to wrytinge and use his remedye when he sawe his tyme. Thus ar my Wordes written which I never did speake and my self much hated by those whom I have no way offended. He least not so But his Stomock beinge full he Uttered more and told me I had lately abusyd your worship a longe corrupt Libell in which was no trew word, or at lest no one trewe sentence'.

* deleted in Ms.

Ashby denied the accusation and asked William Gerrard to prove it or else give him all his lands, but then more prudently continues his letter:

'But I will make no such wager because I have not so much landes to gage agenst hym. But if he wilbe contented I will ioyn yssewe with hym yf yowe wilbe the Judge, that if he can approve in my first second or this my third lettre to be any one Materiall Untruth...The convicte person of us two by your iudgment shall gyve to the defender of truthe one hundred pound or ellz to acknowledge before yowe his error and become friend unto hym who is found ynocent. And for your worshipps paynes in hearinge the Matter either privatlie or publicly (if I be found Faultye) I will openly aske yowe forgevnes uppon mye knees in the Court of Chancery and Willingly to wards Amends gyve you one hundred gret tymber okes towards the buylding of your house at Sudbury.'

Ashby wrote at the same time to Gilbert's wife, Anne, another long account of the whole business and begged her to interceed with her husband, promising her a velvet gown and repeating his offer of a hundred 'tymber okes twardes the building of his house at Sudbury'. There is no evidence that Gerrard accepted the oak trees. In fact he appears to have acted with dignity and kept himself as remote as possible from the dispute.

In the Autumn the affair took another turn, showing that its roots were deep in the past, Ashby drew up another statement concerning the 'manner of the Uniust Vexation of George Ashby, gentleman' apparently also addressed to Gilbert Gerrard. This complaint apparently resulted from Old John Smith (probably the father of the Sergeant at Law) buying leases of land in all the surrounding parishes for his sons and daughters, some twelve years earlier (again we see some jealousy or rivalry). Ashby claimed that the Smiths, out of malice, 'have bethought to seke my troble an other way. And that hath ben by the working of one John Thomas the wickedest instrument that ever was' and he said that for twenty five years John Thomas had kept 'a parfitt kallendar' of Ashby's life and condition. Ashby's calculations of time do not always seem to tally. Unfortunately Thomas had unearthed the scandal of Ashby's misconduct twenty two years

earlier with 'a young Smythe woman'. It is not clear what relation she was to the Smith family; perhaps a cousin. At that time Ashby was brought before the Bishop of London and the matter dealt with firmly but discreetly without, claimed Ashby, offending the Churchwardens and other parishioners, although they were all tenants of Mr. Newdigate the Lord of the Manor and Ashby's great neighbour, who married Sergeant Smith's daughter. The girl married two years later (that is twenty years before the Blackwell dispute) one of Ashby's servants and had a house of her own with some secret maintenance from Ashby, only a quarter of a mile from Ashby's and had other children. Thomas, or rather Smith as the instigator, persuaded the Bishop of London to have Ashby 'inquired' of and the articles against him included a string of miscellaneous charges ranging from unlawful games of bowls to wrongly taking bail and letting thieves escape: 'his newest Articles lastlie objected agenst me Ar for usuall bowling at Woxbridge as he pretendeth, For setting upp of Maygames and making of bānkettes and tending to lightnes, For dealing Corruptible in Matters of Justice, And for taking of bailes and not certifying the bondes at the Cessions whereby theeves are lett go and trewe men loose ther goodes. These Articles as he hath put them down in Wrytinge nowe before the Bisshopp so did he Openly chardge me in woordes to my face (that I savyd theves from the Gallowes in hugger mugger). Ashby had already tried bringing an action in the King's Bench, where Sergeant Smith was obviously well known and the matter was apparently considered a trivial quarrel: 'for which woordes I brought my action and tried in the Kings Beanch where my recovery was but only ten shillings for damage agenst hym. Suche great bearinge was had on his behaulf agenst me'.³

No doubt there was something to be said on both sides of this rather sordid quarrel, but unfortunately George Ashby shows particularly badly,

3. GLRO.M. Acc/312/57-563, P.R.O. PROB PGC 46 Mead (will)

especially as he was unwise enough to entangle with two families of note and standing, the Smiths and the Gerrards. The Smith family included Humphrey, a justice of the peace, and Thomas of Uxbridge, one of the Queen's Guards, and a John ^{Smith, gentleman, was involved with the mob which broke into an enclosure} at Ickenham belonging to William Says in 1563.

The Ashby family had lived in Harefield and Ickenham since at least the fifteenth century. John Ashby purchased property in 1480. A George Ashby had been clerk of the signet to Henry VIII and died about 1516, leaving a son Thomas, a minor, and a widow Rose, who remarried. Our George Ashby was probably the son of Thomas, to whom another son, Francis was born in 1540. George seems to have inherited his property in or before 1568 for he and his wife Ann secured their lands in Harefield and Enfield by a suit of fine at Westminster in February 1569. In 1588 he made provision for his second wife Elizabeth and his son and heir, Robert, after his death. His other sons were probably Bonaventure and William. George seems to have died about ten years after this, and Sir Robert inherited. Robert's eldest son was Francis and another son, William, was baptised in December 1600. Sir Robert Ashby appears to have been a much more respected justice of the peace than his father, and was active in attendance both at local meetings and general sessions. He died in March 1618 and was buried at Harefield. His son Francis died not many years later in February 1624, leaving William to carry on the family traditions.

One reason for the development of a semi professional body of justices was the expense of the job in this busy area. Only small fees were allowed to justices, for taking recognizances for example, or similar matters, and for attending sessions. Fees were often difficult to collect, especially from the poorer offenders. Walter Cope, in 1604, wrote a note for the clerk of the peace at the foot of one of his recognizances: 'I praye you if this partye appeare take two shillings and four pence of him for me before you discharge the recognizance for he hath not paid me.'

Busy professional justices like Sir Robert Leigh may have had a moderate income from recognizance fees, but they would themselves have to pay clerks and have many other expenses.

Many of the 'professional' justices were wealthy men who took to the public life only in retirement. Noteable of these was Sir Baptist Hicks, the wealthy London mercer. Others held some crown office carrying a stipend, or were granted a monopoly like Richard Young, or some other form of pension. In spite of this, many, including professional lawyers of repute, such as Fletewood and Sir Julius Caesar, as well as lesser men like Vincent Skinner, frequently had to beg for preferment. There was never any suggestion of corruption, however. Fletewood scorned those who took fees for granting brief reprieves, but this does not seem to imply more than postponements of judgement for a few weeks until the next sessions, and no doubt the money was needed.

Middlesex owed much to the influence of the City, and to this period when there was considerable co-operation between the City and the County. It would be profitless to speculate on how things might have developed, had not the growth of independence for the county been encouraged; if, in fact the two had continued to grow closer and the City had spread over its attendant county. Perhaps an even more sophisticated combined judicial and administrative system would have developed. This might have eventually spread to the rest of the country, much as the metropolitan police magistrate system, which developed in part of Middlesex, was eventually adopted more widely.

~~This~~^{It} did not happen. London and Middlesex continued to move further apart. Indeed by the mid-eighteenth century, the oyer and terminer commissions were entirely distinct. Middlesex then held a combined sessions

of the peace and oyer and terminer at Clerkenwell, but few Middlesex justices were included on the goal delivery commission. The Middlesex clerk of peace also ceased to serve as clerk of the arraignments at the goal delivery although the Middlesex and London 'sides' of the goal delivery of Newgate were still separated and separate records kept.

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APPENDIX IBiographical notes of some justices in 1590-1640

- C.P. : date first named on commission of peace
- W : date first on Westminster Commission of peace
- OT & GD : ~~q~~ indicates included on oyer and terminer and goal delivery commissions.
- Inn of Court : L. - Lincoln's Inn
M. - Middle Temple
I. - Inner Temple
G. - Gray's Inn
N. - New Inn
- Assd : Sum assessed, for property in place specified for subsidies between 1598 & 1608.
- Note : This is not a complete list of justices on the commissions, only those who were regularly active. Full commission lists for various years are in appendix 2.

More details of those marked +, are given at the end of the list.

APPENDIX IBiographical Notes of Some Middlesex Justices, c. 1590-1640

	<u>Date first on Commission</u>		
	<u>CP.</u>	<u>DT.</u> <u>GD.</u>	<u>Inn of Court</u>
+Andrewes, Euseby, kt. d 1628 of Edmonton & Holborn	1611		
Andrewes, Euseby, kt son of above	1617		L.
Andrews, Lawrence, Dean of Westminster	1602		
Apsley, Alan, kt. Lieut. of Tower	1617		
Ashley, Anthony, kt also on Wilts.	1609		
Ashby, Francis. d. 1624 of Harefield, son of Robert	1618		
Ashby, George, kt. d.c. 1598 of Harefield (see chapter VIII)	1584		
Ashby, Robert, kt. d. 1618 of Harefield, son of George	1607		
Ashton, Roger, kt. of Cranford, Master of the Wardrobe	1607		
Ayfe, Arthur of Wilesden, Hampstead	1597	GD	M.
Awnsham, Gedeon, kt. of Heston & Isleworth, assd £20	1602		L.
Baker, Richard, kt. d. by 1616	1607		L.
Baker, Thomas	1620		
Bannastre, Robert, kt.	1607		
Bannister, Henry, d. 1628 of ?Hackney, goldsmith of City	1615	GD	
Barne, George, kt. d. 1593 Haberdasher of City, Mayor 1586-7, MP Lond. 1588-9	1586	GD	
Barne(s), John d.c. 1610 ? son of George, active esp Hornsey, Hampstead	pre1590	GD	G.
Benn, Anthony Recorder	1617	GD	
Bennett, John, kt. of Dawley, Harlington (assd £20) brother of Thomas B. Mayor 1603	1607	GD	

	<u>C.P.</u>	<u>GD</u> <u>OT</u>	<u>Inn</u>
Berkley, Richard, kt. Lieut.of Tower	1596	GD	
Bernard, Francis	1620		
+Bestney, Nicholas	1610		G
Son of Robert of Grays Inn & Enfield (d.1585)			
Blake, William	1620		
Blunte, Richard	1597		
of Whitechapel (assd £20 1598)			
Bowes, Jerome, kt.	1598		M.
Bowyer, William, kt.	1601		G
of Denham & Hillingdon (Probably the same W.B. who held military office and was responsible for the garrison at Berwick)			
Braithwaite, Richard	W. 1620		
Brett, John, d. 1620	1602		M.
of Edmonton, son of Eliz.and Robert (d. 1586) Citizen and Merchant Tailor of London.			
Brett, Robert	1607		
of Edmonton			
Brownlowe, Richard	1607		
Chief Protonotary of Bench	1607		
Bushe, Richard	1597		
of London, also on Kent and Essex			
Byrd, William	1620		
Master in Chancery			
Candeler, Richard	1592		
of Enfield (assd. £20)			
+Caesar, Julius, kt. d. 1636	1590	GD	G.
of Hornsey, St. Katherines, London and Surrey, Master of Requests, chanc. of Exchq. MP.			
Carew, George, kt.	1596		
Aldgate			
Cecil, Edward, kt.	1618		L.
Challenor, Thomas, kt.	1607		
also on Bucks., Berks., Herts			
+Collyn, Nicholas d. 1616	1597	GD	L.
Conningsby, Ralph, kt.	1600		
also on Berks., Herts., Wilts.			
Conningsby, Thomas	1620		
Coke, Edward d. 1634	1590	GD	I.
Recorder, 1592, attorney general 1594			
+Cope, Walter, kt.d. 1615	1600	GD	
of Kensington, (assd £20) Master of Court of Wards & Liveries 1612			

	<u>C.P.</u>	<u>GD</u> <u>OT</u>	<u>Inn</u>
Coppin, George, kt. d 1620 Clerk of the Crown	1603	1619	
Coppinger, Ambrose of Harlington (assd. £25 1602) Entertained Queen Elizabeth at his home in 1602, recommended for preferment by Archbishop of Canterbury to Sir Thomas Lake in 1606.	1590		G
Cornwallis, Charles, kt.	1618		
Croke, John kt. d. 1620 of Norfolk and London, sergeant at law, Recorder of London	1596	GD	I.
Crosse, William	1620		
Dale, Mathew son of Mathew D. of London, nominated by Burghley, to be sergeant at law (BM. Lans 75/59,70) recognizances mainly from London and Southwark district. His name disappears from the Com. of peace about 1607 but he, or his son (admitted to Middle Temple in 1603 as an apprentice in law) remains on the goal delivery and oyer and terminer, until 1619	1590	GD	M.
Dallison, Maximilian, kt.	1620		
+Darcy, Francis, kt. of Isleworth (assd. £25 1602)	1596	GD	G.
Daniel, William	1590	GD	G.
Danvers, John, kt.	1620 W 1620		L.
Darrell, Henry	W 1620		
Davies, Thomas	1618 W 1620		
Dodderidge, John, kt. d. 1628 Justice of Kings Bench, 1612 Sergeant at Law	1607	GD	M.
Doubleday, Edward Appointed, with Andrew Bright, keeper of library at H.M. Palace of Westminster (PRO C/66/1654)	1611	GD	
Drew, Edward Recorder, sergeant at Law	1593	GD	
Duckett, William	1620		G.
Edmonds, Thomas Custos Rot. 1618, Ambassador to France c. 1611-1617. Treasurer of Household, Clerk to Crown, 1620	1617	GD	
Fermor, Henry, d. ?1616 of Hayes (assd. £25 1602)	1607		
Fletewood, William, d. 1594 Recorder, of Aldersgate and Missenden, Bucks. (See chapter VIII)	1572	GD	M.
† Fleetwood, William, kt. of Cranford & Ealing, and Chalfont Bucks, cousin of above	1588		

	<u>C.P.</u>	<u>OT</u> <u>GD</u>	<u>Inn</u>
Fleetwood, William kt. of Bucks, Master of Requests ?son of Recorder	1607	GD	M,
Fleming, Thomas Recorder 1594, Solicitor Gen. 1596	1594	GD	L.
+Forcett (Fawcett, Forsett), Edward d. 1630 of Marylebone (assd £10, 1598)	1607	GD	
Fortescue, John kt. <u>Custos Rot.</u> 1593, Chanc. of Excheq. of Hendon (assd. £50, 1598)	1592	GD	G.
Fortescue, Nicholas, kt. 9	1619		
Fowler, Thomas kt. d c. 1622 of Islington (assd. £20, 1598)	1596	GD	
+Ger(r)ard, Gilbert, kt. d. 1593 Custos Rot., Attorney Gen. 1559, Master of Rolls, 1581 of Gerards Bromley, Staffs. & Harrow	1558	GD	G.
Gerrard, Gilbert, kt. & bart. d post 1648 of Ashton Clinton, Bucks. & Harrow. Son of William G. of Flambards, Harrow.	1617		G.
Ger(r)ard, Thomas, d ? 1608 Son of Gilbert, Master of the Rolls	1596		
Gerrard, William, d. 1584 of Flambards, Harrow, brother of Gilbert Master of Rolls.	c. 1580		G.
Gerrard, William d. 1609 of Flambards, Harrow, son of William above.	1592		?G.
George, William kt.	1618	GD	
Gibbon, William	1619		
Glover, Thomas	1615		
Gofton, Francis, kt.	1619		
Goodman, Gabriel Dean of Westminster	1591		
Gosnold, Henry	1620		
Grange, John d c. 1603 of St. Giles, Westminster (assd £20 1598)	1598	GD	
Hare, John Clerk of Court of Wards and Liveries	1607		
Harrison, William An officer of Tower, Disappears from Com. before 1617	1600		
Hawley, Jerome, d. 1624 of Ruislip & Brentford	1590		M.
Hawtreay, John of Ruislip & Bucks., son of Ralph H. (d. 1569)	1590		

	<u>C.P.</u>	<u>OT</u> <u>GD</u>	<u>Inn</u>
Hawtrej, Ralph	1607		G
of Ruislip (assd. £10 in 1602, £15 in 1607, £20 1609) High collector of subsidy, 1602, in hundreds of Elthorne, Spelthorne and Isleworth, collector of composition for royal household.			
Haynes, John	1584		
of ? Finchley			
Hayward, Rowland, kt.	1584		
of Twickenham, also Alderman			
Heath, Robert	1618 W 1620	GD	
Recorder of London, also on Kent, Surrey, Essex			
+Hicks, Baptist kt.	1610	GD	
Mercer, citizen of London, Lived Hampstead, Kensington			
Hopton, Owin, kt. d.c. 1595-6	1570		
Lieut. of Tower. of Hampton & Oxfordshire. His widow Anne of Wroxton, Oxfordshire, died in 1600, leaving bequests to sons Arthur of Somerset, & William. O.H. signed recognizances for most of county and seems to have been chairman of sessions after the retirement of Fleetwood.			
Houch, Edward, kt.	1620 W1620		
Kaye, John kt.	1610		
Tower district			
Kemp, Nicholas	1598	GD	N.
Islington			
Killigrew, Robert, kt.	1617		
Also on Kent			
Killigrew, William kt.	1596		
of Hanworth			
Knyvett, Thomas, kt.	1584	GD	
Stanwell			
Lake, Thomas, kt.	1607	GD	
<u>Custos. rot.</u> from 1607, but may have assisted previous <u>Custos.</u> as in 1594 & 1601 note on g.d. roll. 'the fyles of the recordes of the sessions of the peace of this yeare were delivered to Sir Thomas Lake', of Canons, Middlesex, Clerk of Signet, 1603			
Leake, Jasper	1598		
of Edmonton (assd £20 1598)			
Leake, John kt.	1607		
+Leigh, Robert kt. 1612	1600	GD	G.
of Chingford, Essex & Clerkenwell. Also on Essex			
Lewkenor, Lewes d.c. 1625-30	1607 W 1619		M.
of Aldersgate St. (assd. £30)			

	<u>C.P.</u>	<u>OT</u> <u>GD</u>	<u>Inn</u>
Longe, George, d. 1626 Clerk of Peace 1612 - 1619, of Islington & St. Bottolphes Clerk of pleas of Exchequer 1619	1619		L. I.
Lovelace, Richard	1617		G.
Lowther, Richard	1619		G.
Machell, John of Hackney (assd. £40 1598) Son of John M. of Hackney, Citizen and Alderman of London & sheriff (1555-6)	1590	M.	M.
Martin, Richard d. 1618 Master of Court of Requests (1585). Recorder of London, son of William of Exeter.	-	GD	M.
Martin, Richard kt. of Tottenham, Master of the Royal Mint, elected Mayor 1589 but did not serve full year.	-	GD 1589-95	
Martin Richard of Tottenham, son of above, also monier	1618		?G.
Merrick, Christopher	1607		
Michell, Francis Also of Surrey	1615 W 1619	GD	G.
Mingay, Francis A newphew of Sir Edward Coke who, in 1614 begged the court of Aldermen to have Mingay made a justice of Southwark. He was leased a house in Southwark by the City. (Corp. of Lon. Rep. 32)	1607.		
Moore, George, kt. Lieut. of Tower 1615	1615	?GD	
Mountagu, Henry, kt. d 1642 Recorder of London, 1603-1611, Chief Justice of Pleas 1615. Earl of Manchester. Son of Edward M. of Northants. Also on Surrey & Northants.	1603	GD	M.
Mountaine, George, Dean of Westminster,	1611		
Muskett, Simon	1618		G.
Nowell, Edward of Edmonton, 2nd son of Edward N. of Edmonton	1626		L.
Peyton, John, kt. Lieut. of Tower 1592	1592 1592	GD	L.
Peacock, Edward of Finchley (assd. £20)	1598		
Pitt, William kt.	1619		
Popham, John, kt. Justice of Pleas	1596	GD	
Raynton, Nicholas, kt(1633)d. 1646 of Forty Hall, Enfield, haberdasher and Alderman of City, Mayor 1632 president of Barts. Hosp. 1634-46. One of 4 aldermen committed to the	1625	GD	G.

	<u>CP</u>	<u>OT</u> <u>GD</u>	<u>Inn</u>
Tower 1640 for refusing to make lists of inhabitants of their wards able to contribute £50 to loan for Charles I.			
Roberts, Francis	1607		G.
Robinson, Arthur	1620		
Sackvyle, Edward, later Earl of Dorset, Committee for house of correction.	1615 W 1620	GD	
St. John, Rowland, kt.	1620		
Saunders, Valentine	1607		
Saunderson, Thomas East London	1611		L.
Skevington, Richard	1592		M.
Skinner, Vincent, kt. Merchant of London and Lincolnshire. Held various crown offices. Recommended by William Lambard for eschaetorship of Kent, 1593, received payment, 1603, for payment of allowances as gentleman of Tower and charges of prisoners in Tower & Gatehouse. His son William married Bridget Coke, daughter of Edward Coke.	1600	OT 1608	L.
Slingsby, William, kt.	1620		L.
Spiller, Henry granted Manor of Billetts, Laleham, 1606. Was especially concerned with recusants, (see chapter 7)	1607	GD	
Swaine, William	1620		
Thursby, (Thorsby) Henry Master in Chancery	1597	O&T	L.
Throckmorton, Arthur	1590		
Tounson, Robert, Dean of Westminster	W 1618		
Vaughan, Edward d. 1626 of St. Bottolph without Aldersgate	1596	GD	G.
Waads, William, kt. d. 1623 Lieut. of Tower 1605, of Belsize Park, Hampstead, (assd. £20) (see chapter 7)	1596	GD	G.
Walrond, James son of Roger Walrond, Marshal of City of London	1603	GD 1611	
Wardour, Chidioc Westminster	1601		
Whitelock, James, d. 1632 Justice of Pleas, of Bucks., and Fleet Street.	1620 W 1620		M.
Wigmore, Richard, kt.	W 1618		
Wood, Owen, dean of Armagh of Tottenham, removed from Com, briefly in 1602 with Earl of Essex.	1599		

	<u>CP.</u>	<u>OT</u> <u>GD</u>	<u>Inn</u>
Wood, Tobias	1602		L.
Wroth, Robert, kt. d. 1606 of Enfield and Loughton, Essex. Also on Essex (see chapter VIII)	1584	GD	
+Wroth, Robert, kt. d. 1614 of Durants, Enfield, son of above	1607	GD	G.
Young (Yonge) Richard d.c. 1595 Especially concerned with recusants (see chapter 7)	1589	?GD	

ANDREWES, Euseby

Andrewes' main home and property was in Edmonton, but he also had a house in Holborn, and other property. He was the son of a Thomas Andrewes, who outlived Euseby and was left a small annuity of £13. 18s. in his son's will. Andrewes and his wife, Barbara, had a son, also called Euseby, who inherited most of his father's property and was also on the commission from 1617 and was admitted to Lincoln's Inn in 1620. They also had a daughter, Katherine, who was left £800 to be paid when she was eighteen from money due on the conveyance of lands in Lincolnshire. The other children died young. Andrewes made his main home in Edmonton, where he desired to be buried without ostentation 'amongst my sweet children'. He also had a house in Holborn where he seems to have spent much of his time. Some of the household furniture from that house was to be moved to Edmonton after his death for his son, including a blue bed with the bedding, and bedstead and furnishings, and some chairs and stools. He left the lease of the Holborn house to his wife, with some of the furniture, and the use of a silver basin and ewer and ten plain silver tankards emblazoned with his arms until she should marry again. She also had his leases of property in Buckinghamshire. Andrewes also held at some time property in Lincolnshire and Warwickshire, the latter leased from the Darrell family. Susan Darrell brought an action for debt against him for unpaid rent in the Star Chamber.

Euseby Andrewes was chiefly active as a justice from about 1615 to 1625, especially in the Enfield and Edmonton district. He served on committees such as that for the assessment of wages in 1620, and in 1625 to audit the treasurer's accounts and to consider a poor law appeal. He was a typical conscientious justice of the peace, rather than one of the professional lawyer justices. His recognizances are more roughly written than some but his writing was fluent and his signature flourished although difficult to read. He died in 1628.*

*PRO. Prob. 11/154; Hutton, Reports of Cases in Star Chamber

AWNSHAM, Gedeon, kt.

Sir Gedeon Awnsam, of Heston and Isleworth, was appointed to the commission of the peace in June 1602. He had some education and legal knowledge, for he was admitted to Lincoln's Inn, and this may be why he was included in the commission since in the 1602 subsidy his Isleworth lands were only assessed as worth £10, although his total assessment was £20 in 1609. He was also a City man, although not an alderman, and had a home in the City of London, being described, in his wife's will, as of St. Benet Fink, London, and Isleworth. The Isleworth house was broken into in 1609 by a thief called John Morrell who stole a black grosgrain cloak, a sword and a dagger. His wife was Anne Barrowdale, who died in 1615. They had a son, also called Gedeon, and a daughter, Susan, who married Sir John Dodderidge, the lawyer and justice of pleas. Susan quarrelled with her brother over the terms of their father's will, until young Gedeon released his claim in his own will. Sir Gedeon was an active and conscientious justice of the peace, especially in his own area, where he signed many recognizances with a neat, fluent signature. His recognizances are all made out in the standard form for a legal bond--the Latin bond with the English condition below---in a neat but cursive hand, possibly trained by a scrivener. He regularly attended the general sessions of the peace and sometimes the Clerkenwell inquiry sessions, and was often appointed to audit the treasurer's accounts for the western districts, as in 1611 and again as late as 1625. With other local justices, such as Sir Francis Darcy he held local sessions for the hundreds of Isleworth and Spelthorne for licensing, taking recognizances and other minor matters. His association with Dodderidge suggests that he was on good terms with some of the senior lawyers, although he himself was not on the oyer and terminer or goal delivery commissions. He disappeared from the commission of the peace about 1625, which is presumably when he died. His son Gedeon does not seem to have been named on the commission after him, although the grandson, Robert, was noted in one of the liber paci

(or official notebooks listing justices names probably used by officers of the Chancellor when considering new commissions) of the reign of Charles I and he may have served for a short time. Awnsham's son Gedeon eventually succeeded to his prepertry but died himself in 1642 and was buried with his predecessors in Heston. He then had lands in Isleworth, Twickenham and Heston, which his son Robert inherited. The younger Gedeon also had four daughters, Margaret, who was left a house in Isleworth and £200 for her marriage portion and Susan, Anne and Lucy. He had a fair library, which he left to William Hubbard of the Middle Temple, except for the law books, or justices' hand-books, by Dalton, Poulton and Lambard. Richard Braithwaite, a justice of the peace, godfather to the son Robert received his best horse and best rapier and sword and six books (probably the law books excluded from Hubbard's legacy). Braithwaite was named as one of the executors with Nicholas Awnsham of Hounslow, Gedeon's cousin, and Hubbard.*.

*GLRO.M. MJ/SR/522/211, PRO. Prob. 11/68 (PCC will 37 Brudenell)

BESTNEY, Nicholas

Nicholas Bestney was the son of Robert Bestney of Grays Inn, who died in 1585 leaving to his son Nicholas all his chambers and lodgings in Grays Inn and to his son Benjamin his lease in the Old Park of Enfield, and to his cousin the best bed from his house at Bedlam. Bestney was only assessed for the 1598 subsidy for £10 in goods at Enfield. He was added to the commission, probably as a lawyer in 1610. He was very active in 1611, signing many recognizances from Shoreditch, Stepney and Whitechapel, with his flourished signature, and assisting at petty sessions at Mile End. He had disappeared from the commission again by 1617. He was not on the oyer and terminer or goal delivery commissions. His son, Nicholas was the victim of an assault in which he received stab wounds at the Fortune Theatre in June 1613.*

CAESAR, Julius, kt.

Julius Caesar was born in Tottenham in 1557, the son of Margaret, née Perin, and Caesar Adelmare, the physician to Queen Elizabeth, who was descended from the family of Dalmarius of Treviso, Italy. He was baptised at St. Dunstons London as Julius Caesar Adelmare, but later dropped the Italian surname. He married in 1581 Dorcas, daughter of Richard Martin of Tottenham, master of the Mint, and alderman of the City. They had several children, of whom survived Thomas, Robert who became one of the six clerks of Chancery, and Charles who became Master of the Rolls. Caesar's second wife, whom he married in 1596, was Alice Dent widow of a merchant with property in Mitcham, Surrey, and his third was Anne Hungatt, nee Wodehouse, of Norfolk, who was a sister of Mary the wife of Sir Robert Killigrew of Hanworth. Caesar had a house in Hornsey and also in Hackney, where, according to his will, he had a library of books. He also lived in St. Katherine's by the Tower as Master of St. Katherine's Hospital, which he became in 1596, and where he was assessed as worth £50 a year in the 1598 subsidy assessment. In 1603 he was granted the Manor of

* PRO. P. 06. 11/69. QLRD. H. MJ/5A/522/211; MJ/68A/1/224

Lynward in Lincolnshire. He became a judge of Admiralty in 1584, but several times begged Lord Burghley for advancement. In 1588 he became a master in Chancery. In 1590 he was made Master of the Court of Requests and was granted £100 a year by Queen Elizabeth to be paid from the receipts of the Exchequer. He was knighted by James I in 1603 and in 1606 he became Chancellor of the Exchequer, where his brother Thomas had earlier been a baron. In 1614 he became Master of the Rolls and was elected member of parliament for Middlesex, with Sir Thomas Lake, in the same year. He was named on the Middlesex commissions of the peace and oyer and terminer from 1590. He was an active justice in spite of all his other work; Three recognizances taken before him in 1593, all relating to St. Giles Cripplegate, were sealed with his armorial seal instead of being signed. His signature does, however, appear frequently on recognizances. In 1603 he apparently took the chair at the general sessions of the peace and he occasionally served on committees. He died at the age of seventy nine in 1636 and was buried in St. Helens Bishopgate, where a memorial remains. This was designed in punning fashion in the form of a conveyance deed in Latin 'To all Christian people to whom this present writing should reach, know that I Iulius Dalmare otherwise Caesar' and after reciting his offices ended 'by this deed confirm in the Divine name freely the debt of life' and as a deed enrolled in chancery the endorsement below 'enrolled in heaven'.*

COLLYN, Nicholas

Nicholas Collyn of Lincolns Inn, to which he was admitted in 1571, and St. Giles Cripplegate, was born in Broxted, Essex. In his will he left forty shillings to the poor of Broxted 'where I was born' to be distributed by his cousin John Collyn of Moor End, Broxted. Collyn and his wife had two sons William and Richard, who inherited property in Suffolk and Essex. Although he was only assessed at £10 in St. Giles in 1607, his Essex property was richer - in 1612 Sir Gamaliel Capell begged Lord Salisbury not to grant the appeal of Nicholas Collyn of Little Laver against being rated at £80 for the loan, for his backwardness in paying was hindering others from advancing their money. Collyn was on the Middlesex commission of the peace from 1596 and the gool delivery and was especially active and regular in attendance, ^{until his death in 1616}

*PRO. Prob. 11/128 (126 Cope)

COPE, Sir Walter

Sir Walter Cope lived in Kensington, where in 1598 he was assessed as worth £20 a year. He also had property, including quays and wharves in Barking and the City of London, and he was assessed at £15 for 'goods' in the Duchy of Lancaster in the Strand. In his will he left to his wife Dorothy his house in Kensington, with all edifices, barns and the gardens 'within the brick wall' and four closes adjoining, near the parsonage grounds. Various leases, rectory tithes and other properties were left to his son in law Sir Henry Rich, ~~and~~ his nephew Sir William Cope knight and baronet, and his friends George Coppin, clerk of the crown and justice of the peace, and Sir William Smith, and small bequests to the servants and others, ^{including} Philip Chewte, Richard Moore and Nathaniel Hunt. He begged his executors to try to avoid selling his own estate to pay his debts. He served on the Middlesex commission of the peace, but not the oyer and terminer or gool delivery, from 1600. He wrote recognizances for

the Kensington district in his own neat hand. In November 1612 he was granted a mastership of the court of wards and liveries for six months and afterwards during his majesty's pleasure. Rather curiously he appears to have been afraid of a gunpowder plot against himself, as he wrote to Sir ^{Castleton} Dudley in 1611.*

*SP.D. PRO.Prob. 11/125 (66 Rudd)

DARCY, Francis, kt.

Francis Darcy of Isleworth, where he was assessed at £25, was probably the son of Sir Arthur Darcy who was on the commission of the peace before him in 1558, and who married ^{Nicholas} ~~May~~ the daughter of Sir ~~Alexander~~ Carew. In 1612 and 1613 Francis Darcy was occasionally described in formal records as, for example, 'Francis Carew alias Darcy and Gedeon Awncsham two of the next justices of the peace'. He was on the commission of the peace for Middlesex from 1596 and also the goal delivery and oyer and terminer, and was probably chairman at the general sessions of the peace in 1602. He did much work in his own district and was also appointed to audit accounts and to ~~other~~ committees. He was one of the commissioners for the subsidy of 1602 in the hundreds of Elthorne, Spelthorne and Isleworth. At the parliamentary elections at Uxbridge in 1614 a servant of his was committed to prison for saying the King had forbidden his master to stand. In May 1616 he was removed from the commission, probably because of a taxation dispute, but was replaced again soon.

FLEETWOOD, William, of Granford

William Fleetwood of Ealing and Granford was a second cousin of the Recorder, and also on the Middlesex commission of the peace and attended some of the same sessions as his cousin, being distinguished in the records then by the description 'of Yeling' (ie Ealing). He was a son of the Hesketh

William Fleetwood's second son Thomas, who acquired property 'The Vacches', near Chalfont St. Giles, Buckinghamshire, which his other son George inherited, although William also had some Buckinghamshire property. A son of the elder son of William Fleetwood of Hesketh, John Fleetwood of Penwortham, settled in Staffordshire. All the branches of the Fleetwood family seem to have been interested in law and entered one of the Inns of Court and became at least justices of the peace. Since they all favoured the christian names William or Thomas a number of William Fleetwoods may be found on the commissions of the peace of several counties.* The three families in Buckinghamshire are particularly confusing. The recorder of course was usually distinguished by his offices, but the younger members of the family are not so distinguished.

GERRARD, Gilbert, & others.

Gilbert Ger(r)ard of Gerards Bromley Staffordshire, and Harrow, Middlesex, was Middlesex Custos Rotulorum for much of Elizabeth's reign, succeeding Roger Cholmeley, until his death in 1593. He had been Attorney General from 1559 and was promoted to Master of the Rolls in 1581. He also held various other offices under the Crown, and served on several special commissions. He was on the Middlesex commission of the peace from Elizabeth's first of 1558 and on the oyer and terminer and goal delivery. He also served on the goal delivery for the Marshalsea from 1573. He was knighted in 1579. Gerrard was said to be a son of James Gerard, a younger son of the Gerard family of Ince, Lancashire, who himself died in Harrow in 1568. Gilbert married Ann Ratcliffe and acquired property in Staffordshire, where he established his main seat at Bromley. He also lived in various places in Middlesex. He built a house about 1592 at Sudbury near Harrow, where his brother, William was already living. He had two sons, Thomas and Ratcliffe. The elder was probably the Thomas Gerrard who was on the Middlesex commission of the peace from about 1596 until 1608, and who became Lord Gerard. William Gerrard, Gilbert's brother purchased the estate of Flambards in Harrow in 1560. Two years later William Ger^fard gentleman was indicted for not fencing in and protecting the young saplings

*The spelling varies, The modern form was not definitely established until later

or 'sprynge' in certain coppices, of thirty two roods, and between fourteen to twentyfour years of age in Greenford, following their cutting and lopping. He too was on the commission of the peace after 1572, and was involved in the dispute with George Ashby already described. Ashby in his complaining letter to Gilbert Gerrard wrote 'your brother' and then deleted it and expressed it more formally 'Mr. W. Gerard'. William died in 1584. His son William, inherited Flambards and married Dorothy, an aunt of Thomas Bellamy, one of the family of recusant sympathisers of Harrow, and in 1590, possibly about the time of his marriage acquired property in Greenford. He was on the Middlesex commission of the peace from about 1592 until his death in 1609, and was also clerk of the council of the Duchy of Lancaster. William the younger had a son Gilbert, who was on the Middlesex commission of the peace from 1615 and was a member of Parliament for Middlesex. He married May Barrington and inherited Aston Clinton, Buckinghamshire, and his sons, Gilbert and Francis, were admitted to Grays Inn in 1620, the same year their father received his baronetcy.*

*D.N.B.; GLRO.M. Acc/924/1, Acc/312; Druett; Harrow Through the Ages

HICKS, Baptist kt.

Born in 1551 the son of Robert Hicke an ironmonger of London, Baptist Hicks was a mercer and citizen of London. He supplied silk and velvet to the royal Court, for which numerous bills for large sums of money survive amongst the state papers, and he became wealthy. He was excused from serving as alderman in 1603 and 1611 and as sheriff in 1604 and 1613, because the King was 'pleased to use his continuall care and travell in our service' and so he never became Lord Mayor or prominent in the City government. Instead, in his later years, he used his talents and some of his wealth in the service of the county of Middlesex. He was on the commission of the peace and oyer and terminer from 1610 and regularly attended sessions from early in 1611. His

gift of money for the building of the sessions house called after him and his work on the committee for building a house of correction has already been described (chapter 6). He also served on other special commissions. Hicks married in 1585 Elizabeth daughter of Richard May an alderman and merchant tailor. He had a house in Kensington which, in 1614, was borrowed by the Earl of Somerset. In 1621 he acquired the Manor of Hampstead from John Wroth, who received a royal licence to alienate it. He also purchased property in Rutland, and the Manor of Chipping Camden, Gloucestershire, which became his main home and where he was buried after his death in 1628. He was knighted in 1603, became a baronet in 1620 and Baron Hicks, Viscount Ilmington of Camden in 1628. Amongst his bequests he left tithes to the Mercers' Company to endow scholarships from St. Pauls School to Trinity College, Cambridge.⁺

⁺ D.N.B.; SP.D; PRO. Patent Rolls C/66/2243; BM. Lans. Ms.

FORCETT, Edward

Edward Forcett was assessed as having property worth £10 a year in Marylebone in 1598. In 1605 he was granted a great close of pasture in Kentish Town called 'Okefield'. In 1611 he received the grant of the Manor of Tyburn from the King. When he died in 1630 he was living in Charing Cross and his land and inheritance was already settled on his son Robert; he noted in his will that the 'proofes and evidences of them or any of them are locked upp in a chest or leather trunke sett upon a frame in my lodging at Charinge Crosse house where I now dwell, the key is in my closett of that Chamber lying upon a shelf there'. His chattels were to be divided between his son and his daughter, wife of Mathew Howland of Holborn, one of his Majesty's gentlemen pensioners. Forcett asked to be buried in Marylebone Church in the vault he had made there. Forcett served on the commission of the peace and goal delivery

from 1607, by which time he was assessed at £20. He was pretty active, especially in the Westminster and Marylebone area, and his recognizances were written in his own small neat hand.*

* SP.D.; PRO. Pat Roll indexes; Prob. 11/157 (46/Scroopey)

LEIGH, Robert kt.

Robert Leigh of Chingford, Essex, and Clerkenwell, Middlesex, served on the commission of the peace of Essex, where his main home was and whose quarter sessions he attended regularly from 1588, and the commission of peace for Middlesex to which he was appointed in 1600. He was also on the oyer and terminer and goal delivery commissions for Middlesex and London. As I have described earlier (chapter 7) he was exceptionally hardworking, rarely missing a sessions and signing numerous recognizances, from the populous districts around Clerkenwell. His recognizances were distinctive, usually written in neat but tiny writing on narrow pieces of parchment, with a brief note describing the charge in the vernacular, probably in his own hand. His distinctive signature was neatly but fluently written. He frequently assisted in holding local sessions, either in north-east London or occasionally in Edmonton, across the Lee from his Essex home. His clerk, Theodore Handle, sometimes assisted him by, for example, ~~by~~ taking people to goal as in April 1611. Many of his recognizances concerned petty thefts, misbehaviour at playhouses, or moral offences such as were prevalent on the northern bounds of the City. Leigh was a member of Grays Inn to which he was admitted in 1557, although his son, Robert entered Lincoln's Inn in 1608. He was also a City merchant and had an interest in the East India Company. In 1611 Leigh's servant, William Smith, assaulted Leigh and his wife Elizabeth at their home in Clerkenwell. Elizabeth was his second wife. The first, Mary, was buried at Chingford, where Robert Leigh himself asked to be buried, near his beloved wife Mary. He bequeathed to Elizabeth after his death a nest of little wine bowls. The eldest son Robert

inherited the interest in Chingford Manor and was also left plate towards buying out of his wardship, so was presumably not of full age at his father's death early in 1613. The eldest daughter, Mary, married Robert Hatton, with a dowry of £1000 of which £10 was still owing at her father's death. The other children, Edward, Thomas, Grace and Anne, received bequests of money and what was due from the East India Company. Sir John Brett of Edmonton, Leigh's 'good friend' was named as executor of his will and received £20.

SP.D., (1611); PRO. Prob. 11/120 (60 Fermor); Emmison: Elizabethan Life.

APPENDIX 2MIDDLESEX COMMISSION OF THE PEACE 1596

Thomas Egerton	OG
William Lord Burghley	
Robert Earl of Essex	
Charles Lord Howard	OG
William Lord Cobham, Lord Chanc.	
Henry Lord Seymour	OG
Roger Lord North	
George Lord Hunsdon	0
Thomas Lord Buckhurst	OG
John Popham kt.	OG
Robert Cecil kt. Princ Sec.	
John Fortescue kt. Chanc. of Excheq.	OG
William Russell kt.	
<u>Edmund Anderson kt.</u>	OG
Edward Fenner, justice of Pleas	OG
John North kt.	
John Stanhope kt.	
Edward Carye kt., Master of Jewels	
John Harbert, a master of Requests	OG
<u>Julius Cesar</u> , a master of Requests	OG
Richard Barkley kt., Lieutenant of Tower	OG
Dringo Drury kt.	
George Carew	
Edward Hoby kt.	
Thomas Gerrard kt.	
<u>Francis Darcy kt.</u>	OG
Anthony Ashley kt.	0
<u>Gabriel Goodman</u> , Dean of Westminster	
Edward Coke attorney General	OG
Thomas Fleming, Solicitor General	OG
William Fleetwood, Receiver General of the Court of Wards	0
Edmund Tilney	
Edward Stanhope, Master in Chancery	OG
<u>John Crooke</u> , Recorder of London	OG
<u>Robert Wrothe</u>	OG
<u>Thomas Knyvett</u>	OG
<u>William Killigrew</u>	
Arthur Throckmorton	
<u>William Waade</u>	OG

George Gary
Francis Bacon OG
Richard Payne
Arthur Atye
Francis Flower
Thomas Crompton
William Hickman
Mathew Dale OG
Vincent Skinner OG
Henry Thorsbye OG
Thomas Fowler OG
Cristopher Rithe
Ambrose Coppinger
John Barnes OG
William Gerrard
Richard Skevington
George Ashbye
Ralph Waller
John Machell
Edward Vaughan
Richard Candeler
(Nicholas Collyn added 1587) OG

Custos Rotulorum: John Fortescue

(All of quorum)

(PRO C. 66/1465)

The 1598 commission omitted Burghley, but added: Thomas Smith, clerk of Parliaments, Thomas Owen, justice of Queen's Bench (OG), Jasper Leake, Robert Brett, Edward Peacock, John Grange (OG), Nicholas Kemp. John Peyton had become Lieutenant of the Tower and replaced Richard Barkley on the oyer and terminer and gaol delivery commissions. Barkley remained on the commission of the peace. (PRO. C/66/1482)

OG : also on oyer and terminer and gaol delivery commissions.

Names underlined are the active members of the commission.

Commission of the Peace 1603 .

Thomas Egerton, keeper of the Great Seal
 Thomas Lord Buckhurst, Treasurer
 Charles Earl of Nottingham, High Admiral
 Richard Bishop of London
 Robert Lord Cecil
 Henry Lord Seymour
 William Lord Russell of Thornaugh
 Thomas Lord Gerrard of Gerrards Bromley
 John Stanhope kt. Vicechancellor of the household
 John Popham kt. Chief Justice of Pleas
 John Fortescue kt. Chancellor of Duchy of Lancaster
 John Harbert kt. Second Secretary
 Edmund Anderson kt. Chief Justice of King's Bench
 Edward Fenner
 Edward Carie kt. Master of the Jewels
 Julius Cesar kt. Master of Requests
 Thomas Challenor kt.
 Edmund Carie kt.
 Thomas Vavasor kt. Marshal of the household
 Jerome Bowes kt.
 George Harvie kt. Lieutenant of the Tower
 John Peyton kt.
 Richard Berkeley kt.
 Dringo Drewry kt.
 George Carew kt.
 Edmund Tilney, Master of the Revels
 Philip Boteler kt.
 Edward Hoby kt.
 Francis Darcy kt.
 Anthony Ashley kt.
 Arthur Throckmorton kt.
 Robert Wroth kt.
 George Carie kt.
 Thomas Knyvett kt.
 Walter Cope kt.

Ralph Conningsby kt.
William Killigrewe kt.
William Bowyer kt.
William Fletewood kt.
Arthur Ayte kt.
Robert Leigh kt.
Thomas Fowler
William Waad
Thomas Smith
Robert Brett
John Crooke
Edward Coke
Thomas Fleming
William Fleetwood
Francis Bacon
Henry Mountague
George Coppyn
Ambrose Coppinger
John Grange
Edward Peacock
Lancelot Andrews
Owin Woodd
Mathew Dale
Christopher Rith
John Barnes
William Gerrard
Nicholas Collin
Henry Thoresby
James Walrond
Tobias Wood
Chidiock Wardour

(All of 'quorum')

PRO C. 66/1620

COMMISSION OF PEACE 1607

Richard Archbishop of Canterbury
 Thomas Lord Ellesmere Chancellor
 Thomas Earl of Dorset Treasurer
 Robert Earl of Salisbury Princ. Sec.
 Thomas Bishop of London
 William Bishop of Rochester
 William Lord Russell
 Thomas Lord Gerrard
 John Lord Stanhope Vicechanc. of household
 George Lord Carew
 Thomas Lord Knywett
 Thomas Flemyng kt. Chief Justice of Common Pleas
 John Harbert kt. Second Sec.
 Julius Cesar kt. Chancellor and subtreasurer of Exchequer
 Edward Coke kt. Chief Justice of King's Bench
 Edward Fenner kt. Justice of Pleas
 John Croke kt. Justice of Pleas
 Thomas Foster kt. Justice of King's Bench
 Nowell Sotherton Baron of Exchequer
 Roger Aston kt. Master of the Wardrobe
 Edward Carye kt. Master of the Jewel
 Thomas Challenor kt.
 Edmund Carie kt.
 Thomas Vavator kt. Master of the household
 Jerome Bowes kt.
 William Waade kt. Lieutenant of the Tower
 Edward Philipps kt. one of H.M. servants
 Drugo Drury kt.
 Edmund Tilney Master of the Revels
 Edward Hoby kt.
 Francis Darcy kt.
 Anthony Ashley kt.
 George Carey kt.
 Robert Brett
 Lewis Lewknor kt.
 Walter Cope kt.
 Ralph Coningsby kt.
 William Killigrew kt.
 Vincent Skinner kt.

William Bowier kt.
 William Fleetwood kt.
 Richard Baker kt.
 Robert Leigh kt.
 Thomas Fowler kt.
 Thomas Smith kt. Clerk of Parliament
 Thomas Lake kt.
 Henry Hobart kt. Attorney General
 William Fleetwood kt.
 Robert Wroth kt.
 Henry Barker kt.
 John Leake kt.
 Francis Bacon kt. Solicitor General
 Henry Mountague Recorder
 George Garew kt. a master in Chancery
 Thomas Grompton kt. Judge of Admiralty
 George Coppin kt. Clerk of the Crown
 John Bennett kt.
 Robert Ashby kt.
 Gedeon Awnsbam kt.
 John Brett kt.
 Robert Banastre kt.
 John Dodridge kt. sergeant at law
 Richard Neale Dean of Westminster
 Owen Wood Dean of Armagh
 Henry Thoresby Master in Chancery
 Richard Brownelowe Chief Protonotary of Bench
 John Keyes
 John Barnes
 William Gerrard
 Nicholas Collin
 Tobias Wood
 James Walrond
 Valentine Saunders
 Chidioc Wardour
 Edward Vaughan
 Richard Sutton
 Richard Blunt
 Francis Roberts
 William Harrison
 Edward Forset

Henry Spiller

Francis Mingay

Nicholas Kemp

Ralph Ha(w)trey

Christopher Merick

Henry Fermour

(all of quorum except Fermour)

PRO. C.66/1748

COMMISSION OF PEACE 1610

Richard Archbishop of Canterbury
 Thomas Lord Ellesmere, Chanc.
 Robert Earl of Salisbury
 Henry Earl of Northampton, Lord Privy Seal
 Charles Earl of Nottingham High Admiral
 Henry Earl of Lincoln
 George Bishop of London
 Richard Bishop of Rochester
 William Lord Russell
 Thomas Lord Gerrard
 John Lord Stanhope, Vicechancellor
 George Lord Carew
 Thomas Lord Knivett
 Thomas Flem yng kt. Chief Justice of Pleas
 John Herbert kt. Second sec.
 Julius Cesar kt. Chancellor and Subtreasurer of Exchequer
 Edward Coke kt. Chief Justice of King's Bench
 Edward Fenner kt. Justice of Pleas
 John Croke kt. Justice of Pleas
 Thomas Foster kt. Justice of King's Bench
 Nowell Sotherton Baron of Exchequer
 Roger Aston kt.
 Edward Carye kt.
 Thomas Challenor kt.
 Edward Carye kt. (sic)
 Thomas Vavasor kt. Marshall of the household
 Jerome Bowes kt.
 William Waade kt. Lieutenant of Tower
 George Carew kt.
 Edward Philipps kt. sergeant at law
 Drugo Drury kt.
 Edward Tylney master of the Revels
 Edward Hoby kt.
 William Cornwallis kt.
 Francis Darcy kt.
 George Carye kt.
 Robert Brett kt.
 Lewis Lewkenor kt.
 Walter Cope kt.

Richard Wigmore kt.
 Roger Dallison kt.
 William Killigrew kt.
 Vincent Skinner kt.
 William Bowyer kt.
 William Fleetwood kt.
 Robert Fleetwood kt.
 Thomas Fowler kt.
 Thomas Lake kt.
 Henry Hobart kt. Attorney General
 Robert Wroth kt.
 Henry Barker kt.
 John Leake kt.
 Baptist Hicks kt.
 John Bennett kt.
 Francis Bacon kt. Solicitor General
 Henry Mountague kt. Recorder
 Mathew Carew kt. a master in chancery
 George Coppin kt. Clerk of Crown
 Robert Ashby kt.
 Gedion Ansham kt.
 John Kaye kt.
 John Brett kt.
 Michael Hicks kt.
 Robert Bannastre kt.
 John Dodridge kt. sergeant at law
 Henry Thoresby a master in Chancery
 Richard Brownlowe
 John Hays clerk of Court of Wards
 John Barnes
 Nicholas Collin
 Tobias Wood
 James Walrond
 John Bingley
 Valentine Saunders
 Chidiok Wardour
 Nicholas Kempe
 Edward Forcett

Edward Vaughan

Richard Sutton

Richard Blunt

Francis Robert(s)

William Harrison

Henry Spiller

Francis Mingay

Ralph Ha(w)trey

Christopher Merick

Henry Fermour

(All of quorum)

Custos Rotulorum: Thomas Lake

(PRO. C.66/1897)

COMMISSION OF PEACE 1617

- 1 George Archbishop of Canterbury
- 1 Francis Bacon kt. Keeper of the Great Seal
- 1 Thomas Earl of Suffolk
- 1 Edward Earl of Worcester keeper of the Privy Seal
- 1 Lewis Lord Lennox, Steward of Household
- 1 Charles Earl of Nottingham High Admiral
- 1 William Earl of Pembroke Chanc. of Household
- 1 Edward Earl of Hertford
- 1 Richard Earl of Dorset
- 1 William Earl of Salisbury
- 1 John Bishop of London
- 1 Richard Bishop of Durham
- 1 Thomas Lord Wentworth
- 1 Dudley Lord North
- 1 John^{Lord} Stanhope
- 1 George^{Lord} Carew
- 1 Thomas Lord Knyvett
- 1 Thomas Edmundes kt. Controller of the Household
- 1 Thomas Lake kt. one of the principal secretaries
- 1 Fulke Greville kt. Chanc. & subtreasurer of Exchequer
- 1 Julius Cesar kt. Master of the Rolls
- 1 Henry Mountague kt. Chief Justice of Pleas
- 1 Henry Herbert kt. & bart. Chief Justice of Bench
- 1 John Croke kt. a justice of Pleas
- 1 John Dodridge kt. a justice of Pleas
- 1 Edward Sackville kt.
- 1 Edward Cecil kt.
- 1 John Sotherton a baron of Exchequer
- 1 Thomas Vavasor kt. Marshall of Household
- 1 William Waade kt.
- 1 Thomas Smith kt.
- 1 Allan Apsley kt. Lieutenant of the Tower
- George Bucke kt. Master of Revels
- 1 Francis Darcy kt.
- 1 Robert Brett kt.
- 1 Lewis Lewkenor kt.
- 1 Richard Wigmore kt.
- 1 William Killigrew kt.
- 1 Richard Baker kt.

- 2 Thomas Fowler kt.
- 2 Robert Killigrew kt.
- 2 Henry Barker kt.
- 2 Baptist Hicks kt.
- 2 John Bennett kt.
- 2 Ranulph Crew kt. sergeant at law
- 2 Henry Yelverton kt. Attorney General
- 2 Thomas Coventry kt. Solicitor General
- 2 Mathew Carew kt. a master in Chancery
- 2 George^{Copper} kt. Clerk of the Crown
- 2 William Smith kt.
- 2 William Slingsby kt.
- 2 James Bacon kt.
- 2 Robert Ashby kt.
- 2 Gedion Ansham kt.
- 2 Robert Johnson kt.
- 2 John Kaye kt.
- (John Brett - name deleted)
- 2 Ferdinand Heyborn kt.
- 2 Edward Moseley kt. Attorney of Duchy of Lancaster
- 2 John Suckling kt.
- 2 John Lee kt.
- 2 Thomas Perient kt.
- 2 Anthony Benne kt. Recorder of London
- 2 Nicholas Kemp kt.
- 2 Clement Edmundes kt.
- 2 George Calvert kt.
- John Welde kt.
- 2 George Gouldeman S.T.D.
- 2 Thomas Edwards LL.D. Master in Chancery
- 2 Thomas Fanshawe
- Gilbert Gerrard
- 2 John Bingley
- 2 Valentine Sanders
- 2 Edward Forcett
- 2 Nicholas Sutton
- 2 Thomas Watson
- 2 Thomas Wilson

Francis Roberts

Edward Wardour

^qWilliam Buggyns

^qHenry Spiller

Ralph Hawtrie

Richard Lovelace

Simon Muskett

^qThomas Sanderson

^qEdward Doublday

^qFrancis Michell

Francis Williamson

Eusebie Andrewes

^qHenry Bannister

Richard Lowther

Mathew Small

Edward Barnes

George Wylmore

^qof quorum

Thomas Lake custos rotulorum

(PRO.C. 66/2147)

COMMISSION OF THE PEACE 1625

George Archbishop of Canterbury
 Thomas Coventry kt. Lord Keeper of the Great Seal
 James Lord Ley Treasurer
 Henry Earl Mandeville Lord President of Privy Council
 Edward Earl of Worcester
 George Duke of Buckingham High Admiral
 Thomas Earl of Arundel and Surrey
 William Earl of Pembroke
 Thomas Earl of Suffolk
 Edward Earl of Dorset
 William Earl of Salisbury
 John Earl of Bridgewater
 William Earl of Northampton
 Robert Earl of Warr
 Henry Earl of Holland
 John Earl of Clare
 Henry Viscount Rochford
 Edward Viscount Wimbledon
 Henry Viscount Falkland
 Oliver Viscounty Grandison
 Richard Bishop of Durham
 Henry Lord Maltravers
 Edward Lord Conway Principal Secretary
 George Lord Berkly
 Thomas Lord Wentworth
 William Lord Pagett
 Dudley Lord North
 George Lord Carew
 Fulk Lord Brooke
 John Lord Vaughan
 William Lord Gray of Warke
 George Lord Baltimore
 Thomas Edmondes kt. treasurer of Household
 John Sucklinge kt. Controller of Household
 Richard Weston kt. Chanc. of Exchequer
 Julius Cesar kt. Master of the Rolls
 Robert Naunton kt. Master of Court of Wards
 Ranulph Crewe kt. Chief Justice of Pleas

Henry Hobart kt. & bart Chief Justice of King's Bench
 John Walter kt. Justice of King's Bench
 John Dodridge kt. Justice of Pleas
 John Denham kt. a baron of Exchequer
 William Jones kt. Justice of Pleas
 James Whitelocke kt. Justice of Pleas
 Heneage Finch kt. Recorder of London
 John Hubart kt. & bart.
 Robert Cotton kt. & bart.
 Gilbert Gerrard bart.
 Baptist Hicks kt. & bart.
 Percy Herbert kt. & bart.
 Francis Cottington bart.
 John Sotherton a baron of Exchequer
 Edward Zouch kt.
 John Davies, King's sergeant
 Robert Heath kt. Attorney General
 Allan Apsley kt. Lieutenant of the Tower
 Francis Darcy kt.
 Robert Kelligrewe kt.
 William Slingsby kt.
 John Danvers kt.
 Robert Wingfield kt.
 John Francklyn kt.
 Edward Mosely kt. Attorney of the Duchy of Lancaster
 John Ashfield kt.
 William Brouker kt.
 Richard Wynne kt.
 Thomas Wilson kt.
 John Hippesley kt.
 Henry Rowe kt.
 Edward Wardor kt.
 Henry Spiller
 John Wolstenholme kt.
 John Osborne kt.
 Francis Goston kt.
 Richard Sutton kt.
 William Pitt kt.
 William Parkhurst kt.
 John Heyward kt. Master in Chancery

Robert Rich kt. Master in Chancery
Edward Salter kt. Master in Chancery
Thomas Fanshawe
Edward Carre kt.
George Gouldman S.T.D.
Roger Bates S.T.D.
William Pierce S.T.D.
Francis Carew
Valentine Saunders
John Gulston
Edward Forcett
William Hill
Nicholas Rainton
Walter Alexander
Thomas Barker
John West
Thomas Marsh
Thomas Ravenscrofte
Ralph Hawtree
George Willmore
William Hudson
Euseby Andrews
George Longe
Alexander Baker
John Page
Francis Towneley
William Blake

(all on quorum except Long and Baker)

WESTMINSTER CITY COMMISSION OF PEACE 1618

George Archbishop of Canterbury
 Francis Lord Verulam Chancellor
 Edward Earl of Worcester Keeper
 Lewis Lord Lennox
 George Marquis of Buckinghamshire Master of the Horse and Chief Steward
 of the City of Westminster
 Charles Earl of Nottingham High Admiral
 William Earl Pembroke Keeper of the Household
 Thomas Earl of Arundell
 Edward Earl of Hertford
 Thomas Earl of Suffolk
 Richard Earl of Dorset
 William Earl of Salisbury
 Richard Bishop of Durham
 Thomas Lord Wentworth
 Dudley Lord North
 Francis Lord Russell
 John Lord Stanhope
 George Lord Carewe
 Thomas Lord Knivett
 Thomas Edmundes Treasurer of household
 Thomas Lake a principal secretary
 Fulke Greville kt. Chanc. Exchequer
 Julius Cesar (kt.) Master of the Rolls
 Edward Coke kt.
 Henry Mountague Chief Justice of Pleas
 Henry Herbert kt. Chief Justice of King's Bench
 John Croke Justice of Pleas
 John Doddridge kt. Justice of Pleas
 John Denham a baron of Exchequer
 John Sotherton a baron of Exchequer
 Christopher Parkyns a Master of Requests
 Lionel Cranfield kt. a master of Requests
 Ranulph Crewe kt. sergeant of law
 Henry Yelverton kt. Attorney General
 Thomas Coventry kt. Solicitor General
 Edward Villiers
 Francis Darcy
 Richard Brett

Richard Wigmore

James Ley Attorney of Court of Wards

John Bennett

George Coppin kt. Clerk of Crown

William Smith kt.

Edward Moseley kt. Attorney of the Duchy of Lancaster

William Walther

John Sucklinge

John Lee

Clement Edmunds

George Calvert

John Bingley

Francis Blundell

Thomas Watson

Thomas Wilson

Edward Wardour

Henry Spiller

Robert Tounson Dean of Westminster

Thomas Mountford S.T.D.

x George Darrell S.T.D.

x Gabriel Gant S.T.D.

James Whitelock

Thomas Windebanke

Edward Forcett

John Parker

Edward Doubleday

Humfrey Chambers

x William Pitt

x George Lemetavey

x Ralph Dobbinson

x Michael Moseley

x William Man

x John Fabian

x John Dowse

x Not on quorum

(PRO.C/181)

APPENDIX 4COMMISSIONS OF OYER AND TERMINER AND GAOL DELIVERY OF NEWGATE 1601

	<u>Middx</u>	<u>Lond.</u>	<u>G.D.</u>
	<u>O & T</u>	<u>O & T</u>	
John Garrard Mayor	x	x	x
c Thomas Egerton	x	x	x
c Lord Buckhurst, Treasurer	x	x	x
c Earl of Nottingham	x	x	
Lord Salisbury	x	x	
Edward Earl of Worcester	x	x	
c Richard Bishop of London	x	x	x
c Henry Lord Seymour	x	x	x
Robert Lord Rithe	x	x	x
William Knollys		x	
John Stanhope kt.	x	x	x
c Robert Cecil Princ. Sec.	x	x	x
c John Popham Chief Justice	x	x	x
c John Fortescue Chanc.	x	x	x
c Edmund Anderson Chief Justice	x	x	x
William Peryham Chief Baron of Exchequer	x	x	x
Robert Clarke Baron of Exchequer	x	x	
Francis Gawdye Justice of Pleas	x	x	x
Thomas Walmsley	x	x	
c Edward Fenner	x	x	
c Julius Cesar a master of Requests	x	x	x
Roger Wilbraham	x	x	x
c Francis Darcy	x	x	x
Richard Martyn		x	x
John Harte		x	x
John Spencer	x	x	x
c Anthony Ashley		x	x
c Robert Wrothe	x	x	x
Stephen Slayney	x	x	x
Henry Billingsley	x	x	x
Stephen Soame	x	x	x
Nicholas Mosley		x	x
William Rider		x	x
c Thomas Knyvett	x	x	x
William Danyell sergeant at law	x	x	x
c Edward Coke Attorney General	x	x	x
c Thomas Flemyng Solicitor General	x	x	x

	<u>Middx</u> <u>O & T</u>	<u>Lond.</u> <u>O & T</u>	<u>G.D</u>
c John Croke Recorder	x	x	x
c Francis Bacon	x	x	x
c Edward Stanhope a master (of requests)	x	x	x
c William Fleetwood		x	
c William Waade	x	x	x
Paul Bayning Aldn		x	
Robert Lee Aldn		x	
Richard Wheler	x	x	x
c Mathew Dale	x	x	x
Thomas Wrothe		x	
James Altham	x	x	x
c Nicholas Collyn	x	x	x
Richard Topcliffe	x	x	x
c John Barne	x	x	x
c Thomas Fowler		x	x
John Ellys		x	
c Tobias Wood	x	x	x
c John Grange	x	x	x
Lord Hunsdon	x		
Christopher Yelverton	x		
Henry Thoresbie	x		
Edward Wharton	x		

c : also on Middlesex commission of the peace

(PRO. C/181)

OYER & TERMINAL AND GAO DELIVERY 1611

	Middlesex OT	London OT	GD
James Pemberton, Mayor	x	x	x
Lord Ellesmere	x	x	x
Lord Salisbury	x	x	x
Earl of Northampton	x	x	x
Earl of Nottingham	x	x	x
Earl of Suffolk	x	x	x
John Bishop of London	x	x	x
Robert Lord Rithe	x	x	x
Thomas Lord Knivelt	x	x	x
Thomas Fleming	x	x	x
Julius Cesar, Chanc. of Exchequer	x	x	x
John Hubert	x		
Edward Philips	x	x	x
Edward Coke, Justice of Pleas	x	x	x
Lionel Tanfield, Chief Baron of Excheq.	x	x	x
Thomas Walmisley	x	x	x
Edward Ferrer	x		
Christopher Yelverton, Justice of Pleas	x	x	x
Peter Warburton, Justice of Pleas	x	x	x
Denis Williams	x	x	x
George Singg, Baron of Exchequer	x	x	x
James Altham, Baron of Exchequer	x	x	x
John Croke	x	x	x
Thomas Foster, Justice of K.B.	x	x	x
Edward Bromley, Baron of Exchequer	x	x	x
Humphrey Winch	x	x	x
John Sotherton, Baron of Exchequer	x	x	x
Henry Hobart, Baron of Exchequer	x	x	x
Roger Wilbraham, Mr. of Court of Requests	x	x	x
William Waade	x	x	x
Thomas Smith	x	x	x
George Carew	x	x	x
Francis Darcy	x	x	x
Walter Cope	x	x	x

	Middlesex OT	London OT	GD
Robert Leigh	x	x	x
Thomas Lake	x	x	x
Stephen Seame	x	x	x
John Garrard	x	x	x
Thomas Bennett	x	x	x
Thomas Lowe	x	x	x
John Watts	x		
Henry Rowe	x	x	x
Thomas Cambell	x	x	x
William Craven	x	x	x
Baptist Hicks	x	x	x
Francis Bacon	x	x	x
Henry Mountague	x	x	x
John Doddridge	x	x	x
Thomas Edwards LL.D.	x	x	x
Henry Thoresby	x		
Richard Brownlowe, Chief Protomotary	x		
Richard Wheeler	x	x	x
Matthew Dale	x	x	x
Edward Moseley	x	x	x
Nicholas Collin	x	x	x
James Walrond	x	x	x
Edward Vaughan	x		
Edward Forcett	x	x	x
Henry Spiller	x	x	x
Nicholas Kept	x		
Henry Fermor	x	x	x
Earl of Shrewsbury		x	x
Earl of Worcester		x	x
Henry Fowler	x	x	x
Robert Wroth	x	x	x
William Lord Knollys		x	x
Edward Lord Wolton		x	x
John Swinerton		x	x

(PRO. C/181)

APPENDIX 5MAYORS OF LONDON

1558-9	Thomas Leigh		d.	1571
1559-60	William Hewett		d.	1567
1560-1	William Chester	Draper	d.	1595
1561-2	William Harper	Merchant Tailor	d.	1574
1562-3	Thomas Lodge	Grocer	d.	1585
1563-4	John White	Grocer	d.	1573
1564-5	Richard Malorye	Mercer	d.	1567
1565-6	Richard Champyon	Castle Baynard	d.	1568
1566-7	Christopher Draper	Ironmonger	d.	1581
1567-8	Roger Martyn	Mercer	d.	1573
1568-9	Thomas Rowe	Merchant Tailor	d.	1570
1569-70	Alexander Avenon	Ironmonger	d.	1580
1570-1	Rowland Heyward	Clothworker	d.	1593
1571-2	William Alleyn	Leather seller Adm Mercer c. 1564	d.	1586
1572-3	Lionel Duckett	Mercer	d.	1587
1573-4	John Ryvers	Grocer	d.	1584
1574-5	James Hawes	Clothworker	d.	1582
1575-6	Ambrose Nicholas	Salter	d.	1578
1576-7	John Langley	Goldsmith	d.	1578
1577-8	Thomas Ramsey	Grocer	d.	1590
1578-9	Richard Pype	Leather seller Trs. Draper 1571	d.	1587
1579-80	Nicholas Woodroff	Haberdasher	d.	1598
1580-1	John Branche	Draper	d.	1588
1581-2	James Harvie	Ironmonger	d.	1583
1582-3	Thomas Blanche	Haberdasher	d.	1588
1583-4	Edward Osborne	Clothworker	d.	1592
1584-5	Thomas Pullyson	Draper	d.	?
1585-6	Wolston Dixie	Skinner	d.	1594
1586-7	George Barne	Haberdasher	d.	1593
1587-8	George Bonde	Haberdasher	d.	1592
1588-9	Martin Calthorpe	Draper	d.	May 1589
1589	Richard Martin	Goldsmith	d.	1617
1589-90	John Harte	Grocer	d.	1604

MP London 1592-3, 1597-8. President St. Barts Hosp. 1593-1604
Auditor Lon. 1575-7. (Will PCC 1 Harte 1604 Jan).

1590-1	John Alloit	Fishmonger	d.	1591
1591-2	William Webbe	Salter	d.	1599
1592-3	William Rowe	Ironmonger	d.	1593
			Will	PCC 36 Dixy 1594
1593-4	Cuthbert Buckell	Vintner	d.	1594
1594-5	John Spencer	Clothworker	d.	1610
1595-6	Stephen Slanye	skinner	d.	1608
1596-7	Henry Billingsley	Haberdasher	d.	1606
1596	Thomas Skinner	Clothworker	d.	1596
1597-8	Richard Saltenstall	Skinner	d.	1601
1598-9	Stephen Soame	Girdler	d.	1619
1599-1600	Nicholas Mosley	Clothworker	d.	1612
1600-1	William Ryder	Haberdasher	d.	1611
1601-2	John Garrarde	Haberdasher	d.	1625
1602-3	Robert Lee	Merchant Tailor	d.	1606
1603-4	Thomas Bennett	Mercer	d.	1627
1604-5	Sor Thomas Lowe	Haberdasher	d.	1623
1605-6	Sir Leonard Halliday kt. 1603	Merchant Tailor Treasurer EIC*	d.	1612
1606-7	Sir John Watts	Clothworker	d.	1616
1607-8	Henry Rowe kt. 1603	Mercer	d.	1612
1608-9	Humphrey Weld	Mercer	d.	1610
1609-10	Thomas Cambell kt. 1603 Governor EIC* 1602-3	Ironmonger	d.	
1610-1	William Craven kt. 1603	Merchant Tailor	d.	1618
1611-2	James Pemberton kt. 1603	Goldsmith	d.	1613
1612-13	John Sarynnerton kt. 1603	Merchant Tailor	d.	1616
1613-14	Thomas Myddleton	Grocer	d.	1631
1614-15	Sir Thomas Hayes kt. 1603	Draper	d.	1617
1615-16	John Jolles kt. 1606	Draper	d.	1621
1616-17	John Leman kt. 1617	Fishmonger	d.	1632
1617-18	George Bolles kt. 1618	Grocer	d.	1621
1618-19	Sebastian Harvey kt. 1618	Ironmonger	d.	1621
1619-20	William Cokayne kt. 1616	skinner	d.	1626

* East India Company

1620-1	Francis Jones kt. 1617	Haberdasher	d.	1623
1621-2	Edward Barkham kt. 1622	leatherseller	d.	1634
1622-3	Peter Probie kt. 1623	Barber-surgeon	d.	1625
1623-4	Martin Lumley	Draper	d.	1634
1624-5	John Gore kt. 1626	Merchant Tailor	d.	1636
1625-6	Allan Cotten kt. 1626	Draper	d.	1628
1626-7	Güthbert Hacket kt. 1627	Dyer	d.	1631
1627-8	Hugh Hammersley kt. 1628		d.	1636
1628-9	Richard Deane kt. 1629	Skinner	d.	1635
1629-30	James Cambell kt. 1630	Ironmonger	d.	1842
1630-31	Robert Ducye Bart. 1629	Merchant Tailor	d.	1634
1631-2	George Whitmore kt. 1632	Haberdasher	d.	1651
1632-3	Nicholas Raynton kt. 1633	Haberdasher	d.	1646
1633-4	Ralph Freeman	Clothworker	d.	1634
1634-	Thomas Moulson	Grocer	d.	1638
1635	Robert Parkhurst kt. 1635	Clothworker		
1635-6	Christopher Clitherow kt. 1636	Ironmonger	d.	1641
1636-7	Edward Bromfield	Leatherseller		
1637-8	Richard Venn (Fenn)	Haberdasher	d.	1639
1638-9	Sir Marris Abbot kt. 1625	Draper	d.	1662
1639-40	Henry Garraway kt. 1640	Draper	d.	1646

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