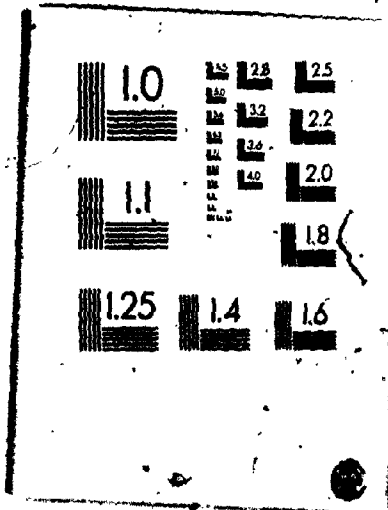


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Gaol Delivery in Yorkshire 1399-1407

by



Karen Elizabeth Ellis

A thesis submitted to the Faculty of
Graduate Studies in partial fulfil-
ment of the requirements for the degree
of Master of Arts

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ABSTRACT

It is the intent of this thesis to establish a profile of crime in Yorkshire from 1399 to 1407, a period comprising almost the first half of the reign of Henry IV of England. This will be done by the analysis of a particular gaol delivery roll,¹ with an attempt to discuss its revelations in contexts geographical, political, social and economic.

The value of such a study becomes apparent when a list of other related endeavours reveals a paucity of work on gaol delivery and crime in Yorkshire for this period.² These other works have greatly enhanced this research in terms of comparison and must be so accredited.

The analysis will identify every type of felony possible, noting where necessary, Yorkshire peculiarities

¹PRO, JUST 3/191.

²M. Gollancz, Northamptonshire Sessions Rolls A.D. 1314-1316, 1320, (Northamptonshire Record Society, xi, 1938).

B.A. Hanawalt, Crime and Conflict in English Communities 1300-1348, (Cambridge, Mass., 1979).

E.G. Kimball, A Cambridgeshire Gaol Delivery Roll 1332-1334, (Cambridge Antiquarian Records Society, iv, 1974).

Rolls of the Warwickshire and Coventry Sessions of the Peace 1377-1397, (Dugdale Society Series, xvi, 1939).

R.B. Pugh, Wiltshire Gaol Delivery and Trailbaston Trials, 1275-1306, (Wiltshire Record Society, xxxiii, 1978).

B.H. Putnam, Yorkshire Sessions of the Peace, 1361-1364, (Yorkshire Archeological Society Record Series, c, 1939).

I. INTRODUCTION

The necessity to deliver suspect felons from the gaols in which they were detained is, in a sense, as old as the gaols themselves. By the Assize of Clarendon 1166, sheriffs were ordered to make sure that gaols were built in all counties where there had been none.¹

In its earliest stages, gaol delivery was performed by both justices of the Eyre,² and by justices specifically commissioned to deliver one or more gaols. Four local worthies or knights were usually selected, and this method of gaol delivery was known as the "Four Knights System." Completely abandoned on the basis of its inherent abuses in 1292, it was already being replaced in the 1240s by small panels of justices, each one including a professional judge.³ Although these panels contained laymen and professionals, a single judge was given the power to add associates.

¹R.B. Pugh quoted in J.S. Cockburn, A History of the English Assizes 1558-1714, (Cambridge, 1972), p. 18.

²The Eyre was a royal court held by the king's justices in the country at intervals of several years and was usually part of a countrywide visitation. It was a vital part of the administration of both civil and criminal justice 1170-1294. Explained in Crown Pleas of the Wiltshire Eyre 1249, ed. C.A.F. Meekings, (Wiltshire Archeological and Natural History Society, xvi, 1960).

³J.S. Cockburn, "The Northern Assize Circuit", Northern History, III (1968), 118-130.

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in definition, incidence, and punishment of crime. In addition, an effort will be made to relate the wording of the indictments and appeals to verdicts, and to the general development of each of these crimes in legal definition and incidence. Perpetrators and victims will be investigated as far as possible, and other phenomena of medieval criminal law, such as benefit of clergy and the king's pardon, will be analyzed in their incidence and usage. A brief introduction to the process of gaol delivery follows in Chapter I.

It should be noted that the circuits these commissions were grouped into were not yet the same as those organized for assize.¹

The Statute of Fines 1299 was the point at which assize trials and gaol deliveries became the common responsibility of justices who perambulated frequently and regularly.² By this Statute, justices were told that after the Nisi Prius,³ they should remain together and deliver all the gaols within the shires rather than disperse. Thus, professional justices on their circuits were now to deal with both civil and criminal suits.

In 1305 this system was disrupted by the creation of trailbaston circuits and an experimental period following this. For the first few years, at the end of Edward I's reign, assize and gaol delivery commissions were issued to justices of trailbaston because professional justices were so much occupied with trailbaston work that there was no one of the right caliber to man separate commissions.⁴

In the early years of the fourteenth century,

¹R.B. Pugh, Itinerant Justices in English History, (Exeter, 1967), p. 8.

²Ibid., p. 10.

³Nisi Prius: The writ was so called because it ordered the sheriff to cause jurors, summoned to be present at actions put down for trial at the central courts, to come to Westminster before a named day 'unless before' the circuit justices should visit the county. In fact, the justices always came before the day. Ibid., p. 9.

⁴Ibid., p. 10.

changes were gradually introduced so that gaols came to be delivered by professional justices on regular circuits, who were also appointed as justices of assize travelling the same circuit.¹ By the Statute of Northampton 1328, and another Statute of 1330, the counties were regrouped into six assize circuits, and the duty of delivering the gaols reimposed on the justices of assize, under separate commissions.²

In the decade of the 1330s the specific mandates given to justices varied from commission to commission, some specifying delivery of all prisoners, some all but rebels, and some all but rebels and those indicted before the justice of the peace. These impositions did not continue during much of the fourteenth century and as a result, the justices of gaol delivery came to try any offender arrested for felony regardless of its nature or the agent responsible for the indictment.³

In 1285 it had been laid down in statute that two justices of assize should travel as a matter of course not more than three times a year throughout certain groups of counties. In 1293 four circuits were clearly established by statute, each staffed with paid commissioners who were

¹E.G. Kimball, A Cambridgeshire Gaol Delivery Roll 1332-1334, (Cambridge, 1978), p. 2.

²R.B. Pugh, Itinerant Justices, p. 8.

³E.G. Kimball, A Cambridgeshire Gaol Delivery Roll, p. 3.

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empowered to hear by writs of Nisi Prius. Then, by statutes of 1328 and 1330, the counties were regrouped into six assize circuits which had crystallized by 1337 into their form which endured to the twentieth century.¹ The northern circuit included the counties of Cumberland, Lancashire, Northumberland, Westmorland and Yorkshire, the subject of this study.

Within these circuits, in conformity with the pattern established in 1285, assizes were to be held thrice yearly, but for most of the fourteenth and fifteenth centuries, two annual visitations were the norm, with a spring assize in January or February, and a summer assize in July or August.² In remoter regions performance was inferior to this standard,

...and in 1382 the justices on the northern circuit were reprovved for failing to visit the gaols of Northumberland, Cumberland and Westmorland with the same frequency with which they visited those of Yorkshire.³

The gaol delivery sessions studied for the years 1401 to 1407 occurred at least twice per annum. For the years 1401 and 1403 there were three sessions; spring, summer and fall, and in 1402 there were four; one in the

¹For changes made, see J.S. Cockburn, "The Northern Assize Circuit," 120-121.

²Ibid., 120-122.

³R.B. Pugh, Itinerant Justices, p. 12.

spring, two in the summer and one in the fall. The following list shows that the only year for which there appears to be a session missing is 1405.¹

Dates of Gaol Delivery Sessions Studied
1401 - 1407

1. Wednesday March 9, 1401
2. Thursday June 26, 1401
3. Tuesday August 2, 1401
4. Tuesday January 3, 1402
5. Thursday March 30, 1402
6. Thursday April 6, 1402
7. Friday September 22, 1402
8. Tuesday January 9, 1403
9. Monday March 2, 1403
10. Monday September 17, 1403
11. Wednesday April 9, 1404
12. Monday August 4, 1404
13. Monday March 9, 1405
14. Wednesday April 14, 1406
15. Wednesday July 28, 1406
16. Wednesday March 30, 1407

All of the sessions recorded on this roll took place at the castle of York and were concerned with the delivery of felons incarcerated there. The majority of suspects studied spent less than eighteen months in prison before being delivered to the sessions, and over 40% of them, less than one year.² The process of gaol delivery at York, for the years 1401-1407, seems to have been functioning normally with the one exception of a missing session in 1405. A plausible explanation for this presents itself when some

¹Only one session is listed for the year 1407, but this does not necessarily mean that there were missing sessions because the research for this thesis was limited to a particular part of the gaol delivery roll PRO JUST 3/191, and may not have covered later sessions for that year.

²See Appendix I.

events of the summer of said year are described.

In May of 1405 Henry IV was in Worcester preparing for yet another invasion of Wales. It was here that he received some rather ominous news from his council, warning him of possible trouble in the north. Thomas, Lord Bardolf, had quietly made off for that region rather than going, as ordered, to join the king's forces. The council sent Lord Roos and the chief justice, William Gascoigne, to investigate, and on May 23, Henry rushed to Yorkshire upon being informed that the Earl of Northumberland, the Earl Marshal, Lord Bardolf and others had risen in rebellion against him. By the sixth of June, the rebellion was over and the king busy refurbishing strongholds. The rapid quelling of the uprising was largely due to the prompt action of Ralph Neville, Earl of Westmorland, who prevented the rebel forces in York from going north to join Northumberland.¹

The initiative for the rebellion seems to have been taken by the Archbishop of York, Richard LeScrope, who along with the Earl Marshal, was arrested as a traitor, and the unprecedented execution of an archbishop was performed at Henry's command. The citizens of York sought his pardon for their participation in it, which he granted, as a signet letter dated June 12th 1405, at Ripon, reveals.² After a week at Ripon, the king travelled north through York, to

¹This summary of events has been condensed from that of J.L. Kirby, Henry IV of England (London, 1970), pp. 180-190.

²Calendar of Signet Letters of Henry IV and Henry V (1399-1422), ed. J.L. Kirby (London, 1978), p. 63.

Thirsk, Northallerton, Darlington and Durham, until he reached Warkworth by the beginning of July.¹ The Earl of Northumberland and Lord Bardolf had fled to Scotland, and apart from this fact, Henry's victory in the north was complete.

The unrecorded summer session(s) of gaol delivery at York may not have taken place because of the general disruption, and the king's prolonged presence in Yorkshire during the months of June and July.² Understandably, these events could have interrupted the normal judicial processes in Yorkshire and extrapolating, possibly the northern circuit as a whole.

The trial procedure described in the gaol delivery roll is, in effect, the final stage of the legal processing of the felon. It is crucial to note at this point that prisoners in gaol awaiting delivery would include those who had been arrested following indictment of felony, but only very rarely those indicted of trespass.³ The gaol delivery sessions investigated dealt almost exclusively with felony as a later chapter will demonstrate.

A suspected felon might be brought before a gaol delivery court and arraigned by at least three different methods, including appeal, a private denunciation or suit;

¹J.L. Kirby, Henry IV, p. 188.

²J.H. Wylie, History of England Under Henry the Fourth, (4 vols. London, 1896), iv, p. 287.

³M. Gollancz, Northamptonshire Sessions' Rolls, p. xv.

indictment, wherein a community reported a suspect to the appropriate local official; and turning king's evidence by becoming an approver.¹ These methods of accusation will be more fully explained, and analyzed with reference to the gaol delivery roll studied in later chapters.

The suspect felon might confess once arraigned, that is, plead guilty, but this was rare as it resulted in immediate conviction and therefore death. It was also possible that he might refuse to plead, plead *autrefois acquit*, *autrefois convict* or proffer a pardon.² However, he was most likely to, and the records support this, plead not guilty denying the charge completely and putting himself on the country, ponit super patriam. This meant that he had submitted his case to a jury. The trial jury of those times was supposed to know, to a considerable degree, the facts from its own sources and enquiry before the trial, and to sentence the suspect accordingly. Logically then, it follows that the jury, or part of it, should have come from the neighbourhood in which the offence was supposed to have occurred.

The punishment for felony was hanging or on occasion, burning, as a solitary case in this study exemplifies.³ In

¹R.B. Pugh, Wiltshire Gaol Delivery, pp. 11-12.

²Ibid.

³Margaret Routhberry, m. 19, PRO JUST 3/191. She was indicted because she had killed her husband, and was convicted, then sentenced to burn. Her crime was considered petty treason hence this punishment. See B.A. Hanawalt, Crime and Conflict, p. 44.

addition, the chattels of the convicted felon, if any, were forfeit to the crown upon conviction, and any lands he had went to his immediate lord, after the king had a year and a day of waste on it.

This particular gaol delivery roll contains other valuable information as well as recording methods of arraignment and trial procedure. The translation uncovered sixteen sessions dating from March 1401 to March 1407, containing a total of 396 suspects and 362 victims. The entries begin with a commission to the king's justices, naming and directing them to clear the king's gaol at the castle of York of all prisoners contained there on a particular date. Then, with the abbreviation Ebor, (Eboracensis), denoting the County of Yorkshire, the statement of accusation is made.

The name of the suspect and his place of residence appear first, with rank or occupation listed occasionally, but not often. Only 49 occupations were given for suspects and 35 for victims, not a large proportion but useful nevertheless. This is, in itself, bonus information for this study as it was not made mandatory until 1413. By a statute of 1 Henry V it was ordained that in writs of appeal and indictment both the rank and profession of the defendant must be recorded.¹ The data, place, nature and some details of the crime come next including the value of goods stolen

¹Statutes of the Realm 1225-1713, ed. W.E. Raitby, (Record Commission 1810-1828), II, p. 171, (1 Henry V c. 5).

and sometimes, the weapons wielded in homicide. The victim's name and residence also appear regularly on the roll.

The method of accusation follows, as described earlier, and the suspect is asked how he wishes to plead. Usually denying the charge, he puts himself on the country and a jury is sworn in to deliver its verdict. The names of criminal jurors are given only rarely, although the names of local officials before whom indictments or appeals were made are a regular feature of the roll.¹ The major contribution by the jury to the record is its verdict, upon which the justices pronounce sentence.

Fleeing or withdrawing, retraxit, are noted on the roll too and the care with which this is done "... implies that flight aggravated an offence."² Defaults in private appeals, mainly failures to prosecute, which resulted in fines, are also recorded.

Every verdict is noted not only in the main body of the document, but also in the margin of it. Conviction is identified by an S, the abbreviation for suspendatur, meaning "let him be hanged." Acquittal is denoted by either the letter Q, for quietus, "he goes quit", or the phrase sine die, which means "he goes free." Upon conviction, any goods that the felon possessed were forfeit to the crown and their value was recorded with the sentence. If the condemned

¹Sheriffs, coroners and keepers of the peace are regularly named.

²R.B. Pugh, Wiltshire Gaol Delivery, p. 23.

man had no goods this was indicated in the margin by the words bona et catalla nulla. Should a suspect claim benefit of clergy or proffer a pardon, this too would appear in the margin as well as in the document proper.

It was interesting to discover that in this particular gaol delivery roll, indictments are listed in two distinct ways. Sometimes the entire trial procedure for a single suspect is recorded in full and sometimes long lists of individual indictments appear, upon which the whole group of suspects are led into court and asked how they wish to plead. Finally, they are sentenced en masse. Most of the sessions studied contained a combination of both procedures and this seemed worthy of mention.

In the middle ages it was possible for a suspect to delay his trial by objecting to his jury and up to a total of thirty-five jurors could be challenged in this way. If a defendant objected to any of the twelve men chosen for the jury, another panel had to be summoned and replacements selected. There are no instances of such postponements recorded in the gaol delivery roll investigated.

The study of gaol delivery and crime in Yorkshire for the period 1399-1407 constitutes somewhat virgin territory in the field of English legal history of the later middle ages. The information supplied by this particular record might be supplemented effectively with detail for homicide cases, by an investigation of coroners' rolls for the same period. These, however, were not available for

research, and thus, the present study is based solely upon the gaol delivery roll described. Its political, social, economic and geographical contexts will be presented in the next chapter, and its analysis will proceed from there.

II. THE CONTEXT

"Medieval political theory regarded the responsibility of law enforcement and maintenance of the peace as lying ultimately with the king."¹ It is no anomaly then, that for purposes didactic or otherwise, Shakespeare expounds the theme of a successful and consequently suffering usurper in his two plays about Henry IV. The king himself, is portrayed as a principle of the disorder upon which no lasting order can be built and "...lawlessness springs up about him as if like Jason he had sown the dragons teeth."² An overview of Henry's reign may bear witness to such a description and suggest other influences that may have affected both crime and gaol delivery in Yorkshire 1399-1407.

That widespread lawlessness pervaded England in the reign of Henry IV, was apparently acknowledged and lamented by contemporaries of the king. Philip Repyngdon, Abbot of St. Mary's Leicester, Chancellor of Oxford, and confessor to Henry IV, addressed the issue of lawlessness in a letter to his sovereign dated May 4th, 1401. Repyngdon had been appealed by Henry to report to him, without reservation,

¹B.A. Hanawalt, Crime and Conflict, p. 223.

²William Shakespeare, Henry IV, Part One, ed. Maynard Mack (New York, 1963), p. xxvi.

"...anything ominous that might come to his ears."¹ The tone of that correspondence is reflected in the following excerpt:

Quia lex et justitiae sunt exules
a regno, abundant furta, homicidia,
adulteria, fornicationes, ac
pauperum oppressiones; jurgia et
diversae contumeliae; et nunc pro²
lege sufficit tyrannica voluntas;

The letter has been much commended for its fearlessness, but it is dubious whether Repyngdon ran even a slight risk in "... committing to writing what was in everybody's conversation. The parliament and the council were well aware of the disordered state of the country, and lost no opportunity of urging it upon the notice of the king."³

The details of Henry's early life and the story of his usurpation need no narration here, thorough accounts are already available,⁴ and for the purposes of this outline, the events of his reign proper are more important. Henry

¹J.H. Wylie, England under Henry the Fourth, i. p.

²Thomas Bekynton, Official Correspondence of Thomas Bekynton, ed. George Williams, 2 vols. (Rolls Ser.), i, p. 151.

³J.H. Wylie, England under Henry the Fourth, i. p. 201.

⁴See E.F. Jacob, The Fifteenth Century 1399-1485, (Oxford History of England, vi, 1961), pp. 1-18.

J.L. Kirby, Henry IV, pp. 11-60.

K.B. McFarlane, Lancastrian Kings and Lollard Knights (Oxford, 1972), pp. 43-58.

J.H. Wylie, England Under Henry the Fourth, i, p. 201.

Bolingbroke, son of John of Gaunt, entered London triumphantly in September 1399, and on October 13th was crowned, three months after his return from the exile imposed upon him by Richard II in 1398.¹ Although no major battles had been fought, England had not altogether escaped the ravages of civil war, and one of the products of the usurpation was the lawlessness mentioned earlier, "...for it was a quarrelsome time and men were wont to rely on their own swords."²

The year 1400 was marked by most of the major crises of a reign fraught with both military and financial problems. In January an insurrection took place in London, and although it was crushed, it presented an ugly reminder of the instability of Henry's government. Richard's death by foul play at Pontefract in March of that year was the last stage in the usurpation and must have been a relief to the new monarch.³

Henry had also to deal with the Scots, who had invaded Northumberland the previous autumn while the Earl of that county was attending parliament. From late July to early August, the king was at Newcastle-on-Tyne, prosecuting the war, but Edinburgh did not fall, and although the Scots promised to discuss his claim to overlordship,

¹Jacob, The Fifteenth Century, p. 18.

²J.L. Kirby, Henry IV, p. 74.

³K.B. McFarlane, Lancastrian Kings, p. 55.

they did not recognize it. Henry withdrew, never again to invade Scotland, and left the defense of the border to Henry Percy, Earl of Northumberland, and his son Hotspur.

It was Wales and not Scotland that posed the most difficult and longlasting military problem of the reign. Rebellion had begun there early in 1400, under the leadership of Owen Glendower, and Henry launched the first of many unsuccessful expeditions against the Welsh rebels in September of that year. In mid-April of the next, Glendower's campaign was approaching its zenith of success, and while the king did his best to combat it, the Percies were fighting the Scots, eventually to defeat them at Homildon Hill on September 14th.

Other problems, mainly the lack of money to support the king's forces, augmented military difficulties in 1402. Both French and English sailors committed acts of piracy in the channel notwithstanding the truce of May 18th, 1400, that promised respite from the 100 Years' War. Wool exports declined quickly, causing customs revenues to fall and exacerbating the monarch's already weak financial condition.

Another rebellion threatened the throne in 1403, this time under the leadership of Hotspur, ostensibly because Henry had broken his oath sworn at Doncaster, that he came only to claim his inheritance, and because he had failed to

¹J.L. Kirby, Henry IV, p. 103.

provide good governance.¹ Cheshire was the setting for this insurrection but the king boldly and quickly surprised his opponent there at Shrewsbury on July 21st. Here, Henry IV won the only full-scale battle of his reign and Hotspur, deserted by Glendower who failed to appear, was slain that day. Then Henry journeyed to Yorkshire where he remained for two weeks during which the rebel Hotspur's father, surrendered to him at York.

There were two parliaments held in 1404 but little was really accomplished by them save some dealings with the Hanseatic League, and the pardoning of the Earl of Northumberland. The Prince of Wales was by this time in firm control of all the efforts against the Welsh, but could do little more than make a show of strength. "Henry IV's grinding financial problems made the pacification of Wales a highly spasmodic and unsatisfactory business and the king himself made no expedition into Wales during 1404."² Several successful skirmishes were fought under the leadership of the prince in 1405, however, which he communicated to his father by letter.³

¹For a full account of the 1403 rebellion and a discussion of its causes see the article by Peter McNiven, "The Scottish Policy of the Percies and the Strategy of the Rebellion of 1403," The Bulletin of the John Rylands University Library, lxii (1979-80), pp. 498-530.

²M.W. Labarge, Henry IV, The Cautious Conqueror, (New York, 1975), p. 23.

³Ibid., p. 24.

The king was clearly distracted from the Welsh problem in the summer of that year by yet another betrayal.

"The northern rising against Henry IV in May 1405 was, in its potential consequence, probably the most serious threat to the king's throne in the whole of his troubled reign."¹

Led by Northumberland, Archbishop Scrope of York, Mowbray and joined by Lord Bardolf, the plot was thwarted by the swift action of Ralph Neville, and the crisis was over by the sixth of June. Northumberland and Bardolf fled to Scotland before they could be captured, but the Archbishop was shockingly executed for his part in the treachery.²

Problems on the continent were evident in 1406 as French forces advanced towards Bordeaux and the citizens of that province looked to Henry for help. He was unable to rescue them, crippled by his own financial limitations, and they were forced to rely on their own efforts. The garrison at Calais had not been paid for quite some time, and trouble erupted over this complaint,³ adding to Henry's burdens. This was also the year of the "Long Parliament" and

¹Peter McNiven, "The Betrayal of Archbishop Scrope," The Bulletin of the John Rylands University Library, liv (1971-2), p. 173.

²Ibid., pp. 173-214. For a valuable discussion of his role in the insurrection and of the revolt itself.

³J.L. Kirby, Henry IV, p. 212.

"...although the king's financial difficulties remained acute and he did not come again to campaign in Wales, the situation there grew steadily better."¹

The remainder of Henry's reign was increasingly wearing because of his poor and often critical health. From the end of 1406 on, the prince was to play "...a more important role, serving a strenuous apprenticeship to royal power,"² and the force of his ambition must have been difficult for his father at times. Both money and Welshmen continued to cause the king problems and although the Scots were less troublesome in the north, another rebellion in Yorkshire reared its head. The rebellion of January 1408, led by the oily Earl of Northumberland and his ally Lord Bardolf, culminated in a battle at Bramham Moor, where both were killed. After this final threat was undone, Henry was able to enjoy relative peace in England until his death on March 20th, 1413.

Political disorder, civil disturbances, foreign and border wars, and economic hardship were rife in the reign of Henry IV. This king had continually faced rebellion, and opposition from his parliaments, and was constantly hindered by the lack of money which only they could provide. Each parliament had consecutively "...attacked and limited his choice of councillors until in 1410, very little initiative

¹ M.W. Labarge, Henry V, p. 25.

² Ibid., p. 28.

was left to him, his son and his council being in control."¹ It might be valuable to speculate now on the effect that the events and troubles of this reign had on crime and the administration of justice in Yorkshire 1399-1407, as this county was often the setting for them.

The general influence of war upon the pattern of crime may have been to worsen it and it seems that, in the fourteenth century anyway, men thought that wars were responsible for violence in the countryside.² It is possible that the political disorder and turbulence of the period under investigation increased the volume of crime or certain types of crime. Certainly, the presence of the king's troops may have been partly responsible, his soldiers stealing from villagers or robbing travellers under cover of repressing insurrection. Henry did ordain by statute that none should be punished who had journeyed with him to punish the recent insurrections of 1405,³ and this might be an indication of increased criminal activity by his men in Yorkshire at that time. Perhaps local robbers and thieves used the general chaos of these times to camouflage their iniquities too, and feed the lawlessness so deplored by Repyngdon.

The movements³ of the king can be roughly traced by following various entries in the patent rolls, the close

¹J.L. Kirby, Henry IV, p. 242.

²B.A. Hanawalt, Crime and Conflict, p. 229.

³Statutes of the Realm (Record Commission 1225-1713), ed. W.E. Raitby, ii, 158, (7 Henry IV c. 17/18).

rolls and the signet letters for this particular reign. In the case of Henry IV, his presence in Yorkshire 1399-1407, was apparently not infrequent. As evidenced by these sources, he was there in the summer of 1399, in June, July and September of 1400, most of August in 1403, and June and July of the two consecutive years.¹ The beneficial effect of the royal presence in the region where disturbance had been was an acknowledged fact in the later middle ages,² and this was probably valid with regard to Yorkshire in these years. Henry's peregrinations north may have had the effect of pacifying the region dominated by his most troublesome subjects, the Percies, who were by 1399 the most powerful magnates on the Scottish border.³ Perhaps the king's presence temporarily deterred crime in some measure, or more likely, caused law and order to have been more diligently administered by local officials aware of his propinquity.

Henry IV seems to have been serious about reinforcing his influence in the north because he commissioned his chief justice, Sir William Gascoigne, to preside over every session of gaol delivery studied.⁴ In fourteenth century theory,

¹Cal. Signet Letters, 10-18, 377-385, 388-390, 421, 422.

Calendar of Patent Rolls, 1405-1408.
J.H. Wylie, England under Henry the Fourth,³ iv, pp. 287-294.

²J.G. Bellamy, Crime and Public Order in England in the Later Middle Ages, (Toronto, 1973), p. 11.

³J.M.W. Bean, "Henry IV and the Percies", History, xliv (1959), p. 212.

⁴Chap.. i.

the chief justice was not to act as a justice of gaol delivery because the king's bench was the ultimate appeal court, and he might eventually have to sit in judgement on his own cases. Yet the king habitually commissioned Gascoigne to deliver the gaol at York and presumably others on the northern circuit. A reasonable explanation seems to be that Henry required a strong and respected representative of law and justice in the north and sent Gascoigne who was held in profound respect by the people, and "...clearly regarded as the ideal of a just judge."¹

Gascoigne shared eight of sixteen commissions with William de Waldeby and eight with Thomas Tildeslay.² That the same three justices were involved in all of these sessions is not unusual for "...although the justices might be shifted from circuit to circuit; it often happened that year after year the same men were assigned to the same circuits."³

William Gascoigne was a native of Yorkshire, born at Gawthorpe circa 1350. He was said to have studied law at Cambridge and figured as a pleader in the reign of Richard II.⁴ "...Among his clients was John of Gaunt, to whom he rendered

¹Dictionary of National Biography, (London 1885-1900), p. 46.

²PRO JUST 3/191.

³M.M. Taylor, "The Justices of Assize" in English Government at Work, eds. J.F. Willard, W.A. Morris, and W.H. Dunham, Jr., (Cambridge, Mass., 1950), p. 231.

⁴DNB, p. 45.

valuable assistance in managing the concerns of the duchy of Lancaster,"¹ and he was one of twenty attorneys assigned to look after Henry's interests upon his banishment in 1398.² Although he was appointed one of the king's sargeants by Richard II in 1397, Gascoigne's authority to represent the banished Duke was revoked when Richard seized the Lancastrian inheritance. In fact, "... the revocation of Gascoigne's authority to represent Henry was made one of the charges against Richard for which sentence of deposition was pronounced against him,"³ and one of Henry's first acts as King was to appoint Gascoigne chief justice of the king's bench on November 15th, 1400.

In July, 1403, he was sent to raise forces against the Earl of Northumberland, and in April 1405 to receive the submission of the Earl's adherents at the trial of that year's rebellion. Arising from the latter commission was the famous anecdote that Gascoigne refused to try Archbishop Scrope on the grounds that he had no jurisdiction over a prelate. This celebration of his independent spirit remains

¹John, Lord Campbell, The Lives of the Chief Justices of England (New York, 1894), ed. James Cockcroft, i, p. 173.

²E. Foss, Biographica Juridica. A Biographical Dictionary of the Judges of England (London, 1870), p. 290.

³John, Lord Campbell, Lives of the Chief Justices, i, p. 175, n.4; and English Historical Documents IV, 1324-1485, ed. A.R. Myers, (London, 1969), p. 410.

unsubstantiated, as does a second one, involving Gascoigne and the prince.¹ Sir John Campbell goes to great lengths to uphold the veracity of the story that when the prince defied Gascoigne in court, at the trial of one of his peers, the chief justice committed him to prison.² Although little can really be attributed to the personal anecdotes surrounding him, their character "...evinces the profound respect in which Gascoigne was held by the people."³

Summoned as chief justice to the first parliament of Henry V, Gascoigne did not appear as such when that parliament met again on May 15th, 1413. Whether he resigned or was removed from office remains a mystery. He died in December of 1419 and was buried beside his second wife Joan in the parish church of Harwood in Yorkshire, leaving behind the numerous issue of two wives.⁴ His activities and regular presence in Yorkshire from 1401 to 1407 were obvious, and might well have been significant in terms of improving the gaol delivery process and enforcing the law more rigorously, but this remains conjecture.

It is appropriate now to shift the focus of discussion to the social and economic scene of the 1399-1407 period. It was part of a longer one, marked by declining and stagnant

¹ DNB, pp. 45-6.

² John, Lord Campbell, Lives of the Chief Justices, i, p. 194.

³ DNB, p. 46.

⁴ John, Lord Campbell, Lives of the Chief Justices, i, p. 194.

population and deep, prolonged recession. This thesis, thoroughly and soundly restated by John Hatcher, is supported by evidence for high wages in a period of agricultural and industrial decline. Falling population, demonstrated by vacant landholding, arable land reverting to pasture, and arrears in rent, seems to be the only explanation for the decline. The whole situation was widespread and conditions in the northwest were scarcely more prosperous.¹ On a wider scale, we can be sure that England's economy and especially her overseas trade was gravely injured by continental wars and problems with the Hanseatic League, and that "...a progressive shortage of money may have assisted in the promotion of recession."²

Hatcher's thesis attributes the protracted decline in population to various plagues and diseases which continually and repeatedly attacked adolescent males in England. He produces a list of every possible outbreak of disease happening in the century after 1377, and that list includes two plagues, in 1400 and again in 1405-7, affecting England in the period being examined.³ Although these plagues might have had some influence on the pattern of crime in Yorkshire, this would be difficult to ascertain or even identify.

It is also possible that serious food shortages were

¹ John Hatcher, Plague, Population and the English Economy, 1348-1450 (London, 1977), p. 37.

² Ibid., p. 35.

³ J. Hatcher, Plague and Population, p. 57.

part of the general recession, even if they did not reach famine proportions. They might have affected the pattern of crime in Yorkshire in some way too, though not necessarily the incidence of felony.¹ Barbara Hanawalt found a close correspondence between the volume of crime and the price of wheat in the early part of the fourteenth century, suggesting that "the population did respond to famine conditions by turning to crime."² It would not be surprising if this were, in some measure, also true for the 1399-1407 period in Yorkshire and it might be evidenced by a proportionately high percentage of grain thefts. This will be investigated later and remains at present speculation.

A look at the geographical setting and economic activities of Yorkshire will complete the discussion of external influences on the pattern of crime there. Yorkshire, the largest county in England, was divided into three ridings that spread across the north and where possible, these have been researched.

The West Riding resembled Herefordshire with the Celtic influence and an emphasis on cattle herding.³ Agriculture was limited to small assarts in the north-western part of the riding but sheep farming flourished there, largely due to the work of monastic granges. The

¹Perhaps the incidence of trespass increased, due to more thefts of small quantities of food.

²B.A. Hanawalt, Crime and Conflict, p. 251.

³B.A. Hanawalt, Crime and Conflict, p. 11.

monasteries left their mark in other ways too, there was iron making in Knaresborough Forest and especially in the Calder and Colne valleys.¹

The East Riding was and is, basically, divided into three sections: The Vale of York on the west side, The Wolds in the middle section, and Holderness on the east side, (see Fig. 1). Large towns were few in its predominantly rural landscape, but the presence of York outside of it, was undoubtedly felt there. "The paucity of early houses no doubt reflects the relative poverty of the East Riding among English counties,"² although many villages there acquired markets and fairs in the thirteenth and fourteenth centuries.³ Beverly, the oldest town in the riding, was a thriving centre of the cloth industry in medieval times. The Humber and the Ouse formed a great artery of trade and the basis of Hull's success, but were periphery to the riding as a whole. Sheep farming was the predominant activity on the wolds and as in the West Riding, monasteries are often credited with the establishment of the great sheep runs.

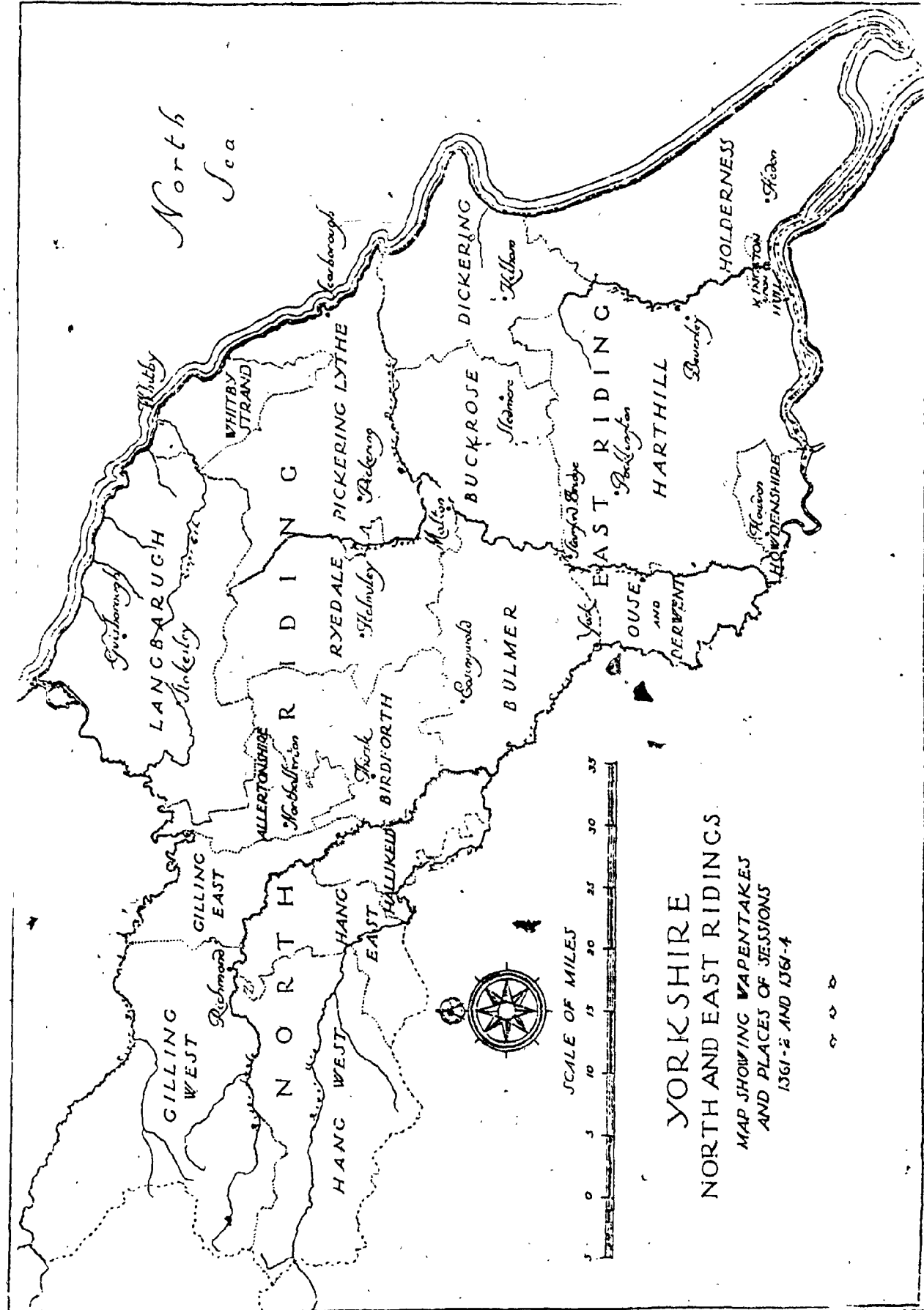
Relevant material on the North Riding was unavailable and the Victoria County History of Yorkshire,⁴ though

¹A. Raistrick, West Riding of Yorkshire, (London, 1970), p. 52.

²K.J. Allison, The East Riding of Yorkshire Landscape, (London, 1976), p. 27.

³Ibid., p. 68.

⁴Victoria County History of Yorkshire (9 vols. London, 1974).



YORKSHIRE
NORTH AND EAST RIDINGS.
 MAP SHOWING WAPENTAKES
 AND PLACES OF SESSIONS
 1361-2 AND 1361-4

1 Taken from Putnam, Yorkshire Sessions, inside cover.

valuable in terms of manorial descents and ecclesiastical history, was not particularly useful with regard to the economic history of the county. It may be assumed, without danger of gross error, that sheep were raised there too on a substantial scale, some arable land cultivated, and some cattle herding done.

Rough estimates of the general distribution of population can be obtained from the poll - tax returns of 1377. The three Yorkshire Ridings formed the largest county total (131,000) and York was one of the four largest provincial towns.¹ Extrapolating, this estimate may be roughly applied to the 1399-1407 period under investigation.

In the mid-fourteenth century there were about eight million sheep in England, an estimate based upon both the amount of wool exported and English cloth exposed for sale. For really large scale sheep farming "...we have to turn to Yorkshire and Lincolnshire whose preeminence was due mainly to the activities of Cistercian abbeys."² Centres for the cloth industry, with the exception of Beverly, were mainly in the West Riding and included York, Ripon, Leeds, Wakefield and Pontefract.

The main types of economic activities pursued in Yorkshire may well be reflected in the nature of livestock

¹R.A. Pelham, "Fourteenth Century England" in A Historical Geography of England before 1800, ed. H.C. Darby (Cambridge, 1948), p. 231.

²Ibid., p. 242.

and goods stolen in that county. This will become apparent as thefts are analyzed in the next chapter, where livestock appears to be the most frequently stolen commodity.

Finally, it remains to comment upon the presence of the Great North Road, (A-1) in Yorkshire. In medieval times it went directly through Doncaster at the southern tip of the county and travelled almost vertically north from there (see fig. 2). This road led through the forest on a safe track, crossed the mouth of all the dales as well as many settlements located near it, and was used as the boundary for many ecclesiastical parishes. The Great North Road

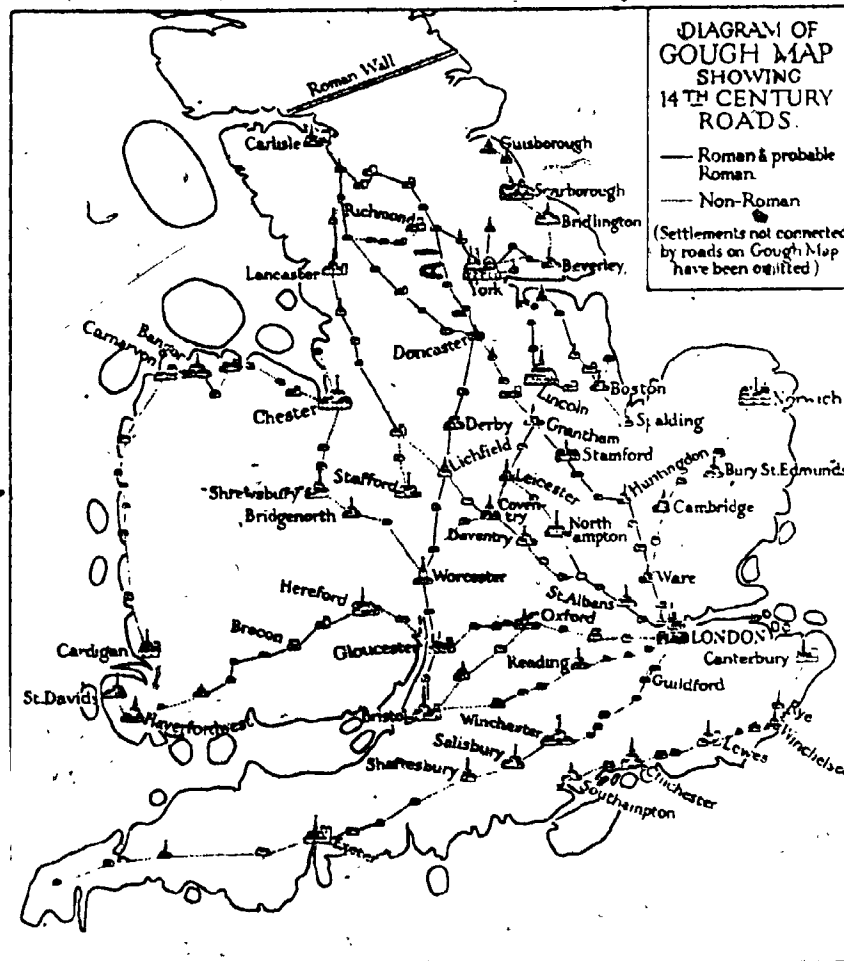


Fig. 2 Taken from Pelham, "Fourteenth Century England", p. 260.

"...was the eventual link with the capital, along it military, political and secular traffic flowed for well over a 1,000 years."¹

The possible influence that it might have had on the pattern of crime in Yorkshire is striking. Pilgrims, travellers and merchants must have been tempting and sometimes easy targets for robbers and ambushers who knew and frequented the isolated and vulnerable parts of the road. Thomas of Okes, for example, was indicted as a common ambusher, insidiator, because he and others robbed three unknown pilgrims in the king's highway at Balby, south of Doncaster.² Conversely, nearby churches, monasteries, villages and fields must have beckoned to criminals travelling the road just as frequently. In relation to this speculation, Doncaster and its surrounding area might also have been a centre of heavy criminal activity because so much human traffic flowed through it. These ideas will receive more consideration in a later chapter.

"The history of crime in late medieval England is... a tale of fluctuations."³ It is hoped that by considering the topics discussed in this chapter, in conjunction with the proposed analysis of JUST 3/191, the history of crime in Yorkshire 1399-1407, will find its place in that tale.

¹A. Raistrick, West Riding, p. 25.

²Thomas of Okes and others, m.5, JUST 3/191 feloniously robbed the pilgrims of 119s 5d.

³J.G. Bellamy, Crime and Public Order, p. 9.

III. THE CRIMES

Johannes fitz Petrus de Wylflete et Hugo fitz Petrus de Rowland capti pro eo quod...luserunt cum Alicia filia Willelmi Hogg et sicut iidem Johannes, Hugo et Alicia insimiliter luserunt, insimiliter ad terram ceciderunt et sicut dicta Alicia ad terram cecidit, cecidit super cuttello dicti Johanni in vagina sua existente de quo cuttello habuit quandam plagam in quiro suo dextro unde statim abiit. Unde coram Johanne de Redenesse coronator... indicati sunt.¹

The aforesaid death of Alice Hogg, is one of the more detailed described in the gaol delivery roll. Although most of the other homicides are described in language more mundane, this does not necessarily mean that they were any less hideous - and few crimes of any sort were so playfully initiated. The crimes committed in Yorkshire 1399-1407 form the substance of this chapter, and the discussion begins with an explanation of the indictments.

In 1166, the method of indictment was established as a routine process of royal justice in criminal and civil matters "...demanding for their trial regular visitations

¹M.3d, JUST 3/191.

of the counties by the king's justices."¹ The common method of prosecution, whereby a community, usually a tithing or a hundred, reported a suspect after the hue and cry had been raised, formed the basis, of the process called indictment.² By the assize of Clarendon 1166, twelve men in each hundred plus four men of each township within it, were required to report suspected criminals each time the king's justices visited.³ Presentments might also be made by frankpledge tithings, before the sheriff when he made his tourn,⁴ as over one third of the indictments counted were.⁵ Another form of indictment grew in popularity over the fourteenth and fifteenth centuries. This involved the lodging of bills with justices who offered them to presenting juries to supplement their own information, further enabling them to decide whether or not charges were true and men should be made to answer them.⁶

It has been stipulated that on the average, 30 or 40 prisoners would be found in the county gaols by justices of gaol delivery at each of their visits. Perhaps half of

¹Crown Pleas of the Wiltshire Eyre 1249, ed. C.A.F. Meekings, p. 2.

²Pugh, Wiltshire Gaol Delivery, p. 12.

³Bellamy, Crime and Public Order, p. 121.

⁴Kimball, A Cambridgeshire Roll, p. 14.

⁵JUST 3/191.

⁶Bellamy, Crime and Public Order, p. 121.

these would have been indicted before justices of the peace and a few others before coroners, with a majority of the remainder having been arrested on suspicion.¹ The research done on Yorkshire for the 1399-1407 period has shown that an average of 25 prisoners were tried at the gaol delivery sessions studied, and on at least five of those occasions, considerably more than that.² Table 1 shows that out of 396 suspects counted, 348 were arraigned by method of indictment, over 87% of the total, and that incredibly, only a single person was arrested on suspicion. Compared with other counties for the same period, and known trends of the thirteenth and fifteenth centuries, when such arrests were profuse, this find is curious to say the least. The other 51 cases, which involved appeals, will be discussed in the next chapter.

¹Alan Harding, The Law Courts of Medieval England (London, 1973), p. 96.

²See Appendix 2.

³M.22d, JUST 3/191. William del Hall was taken on suspicion of felony but proffered a pardon and was released sine die.

TABLE 1
ARRAIGNMENT IN YORKSHIRE GOAL
DELIVERY 1399-1407

Method of Arraignment	Number of suspects	%
Indicted	348	87.8
Appealed	51	12.8
Taken on suspicion	1	.2
TOTAL	400 ¹	

The 348 suspects indicted were charged with 376 different crimes, which are listed proportionately in Table 2. The high number of crimes is explained by the fact that 24 of the indicted suspects were charged with two or more offences. It should be noted here that three individuals were indicted on two separate occasions, but have been counted as having one indictment each to avoid confusion.²

¹The total number of suspects counted was 396, but four suspects 191, 192, 193 and 194 were both appealed m.15 and indicted m.15d, JUST. 3/191, accounting for the total of 400 in Table 1.

²These suspects were John Dousyng m.1 and m3d., Thomas of Ryse, m.4 and m.29, John Jenkynson, m.14, and m.22d, JUST 3/191.

TABLE 2

CRIMES RE: INDICTMENTS IN YORKSHIRE
GAOL DELIVERY 1399-1407

Type of Crime	Number	%
Larceny	156	41.7
Burglary	71	18.9
Homicide	44	11.7
Receiving	38	10.2
Robbery/Ambush	21	5.6
Rape	18	4.8
Jailbreak	10	2.6
Allowed Escapes	10	2.6
Counterfeiting	4	1.0
General Indictments	2	.5
TOTAL	374	

Table 3 demonstrates that a variety of verdicts were delivered to felons and a number of options were available to those who sought to escape them. "Condemnation to a term of incarceration in gaol was not a particularly common form of punishment, because other penalties..."¹ provided the king with reward rather than expense, hence, a fine was often preferred. Only one suspect received a prison sentence when

¹Bellamy, Crime and Public Order, p. 163.

convicted and, in fact, this charge had been reduced to trespass.¹ In one other case the suspect was remanded to prison to await his pardon for homicide, but the term of incarceration was not presented as a punishment for the crime.² Two gaolkeepers were found guilty of allowing prisoners to escape from their custody and they were fined 100s. each.³ Imprisonment and fines formed only a tiny proportion of the punishments meted out to convicted criminals in the gaol delivery trials examined.

Four more fortunate suspects were released sine die because their indictments were insufficiens in lege, "insufficient in law", to hold them for trial.⁴ Two of this number were none other than John de Wyflete and Hugh de Rowland, playmates of the unfortunate Alice Hogg. William Speltyng, indicted for larceny, was released because his indictment did not include the year of his alleged offence.⁵ It is clear that "...indictments had to be framed in absolutely precise terms or they were thrown out of court,"⁶ and this applies to Speltyng's case. Finally, Thomas Harbotill was indicted on the basis of several general

¹M.3, JUST 3/191.

²M.26d, JUST 3/191.

³M.3d, JUST 3/191.

⁴M.3d, m.19d, m.22d, m.26d, JUST 3/191.

⁵M.19d, JUST 3/191.

⁶Joel Samaha, Law and Order in Historical Perspective (New York, 1974), p. 77.

TABLE 3

VERDICT AND OPTIONS RE: INDICTMENTS IN
YORKSHIRE GAOL DELIVERY 1399-1407

Verdict	Number	%
Acquittal or released <u>Sine Die</u>	202	57.7
Pardon and released <u>Sine Die</u>	55 ¹	15.7
Prison	1	.28
Fines	2	.57
Insufficient Indictments or evidence ∴ released	4	1.7
Became Approvers	4 ²	1.1
Obtained Benefit of Clergy	17	4.8
Convictions	65	18.2
TOTAL	350	

¹John Dousyng was pardoned for his first offence m.1 but convicted for his second m.3d, so he has been counted in both categories of verdicts.

²John Jenkynson became an approver, m.14 and was convicted, but was pardoned later, m.22d, as an approver, so he too has been counted in two categories. Hence the total of 350 verdicts for 348 indicted persons.

charges, including his reputation as a common thief of capons, hens and pigs, as a common receiver and a comforter of thieves. Presumably because there was no specific crime or date cited, there was insufficiens in lege to put him to answer and he too was released sine die. Already by the mid-fourteenth century judges were of the opinion that "...a man should not be tried if he did not have a definite charge laid against him...",² indicating that general indictments were not enough to put someone to answer before a trial jury. This would account for Harbotill's release, and the fact that only one case like this appears on the roll, suggests that the use of such indictments was sensibly avoided.

Only four men, comprising barely over 1% of all suspects, confessed their crimes and named their accomplices, that is, became approvers of the king. "Since the chances of acquittal in a jury trial were great, those who became approvers must have been men with long criminal records or been captured in circumstances which virtually proved their guilt."⁴ Incarcerated suspects were often starved into becoming approvers while in gaol and upon making the decision to do so,

¹M.26d.

²Bellamy, Crime and Public Order, p. 134.

³M.14, m.20, m.27d, JUST 3/191.

⁴Bellamy, Crime and Public Order, p. 134.

called for the coroner to record their confessions and the names of their accomplices. Although becoming an approver promised to prolong the life of a prisoner, perhaps permitting time in which he might procure a pardon or escape, approvers were hanged as confessed felons as soon as someone they appealed was acquitted.¹

The two approvers found among the indicted² were John Mellyng and Henry of Bolingbroke. John Mellyng of Pontefract stands alone in the indictments as the perpetrator of treason. "He confessed himself to be a traitor for making false coin of pewter and alchemy in the form of money."³ He appealed one John Queldryk, John Clerk his servant, and Thomas Chollo, all of Pontefract. He testified that they also traitorously made coins of pewter and alchemy and distributed them to diverse men of the county, knowing them to be false. John Queldryk was acquitted, and consequently John Mellyng was immediately sentenced to hang, while the other two men were released without being brought to trial.

Henry of Bolingbroke⁴ confessed himself to be a thief and appealed six other men, none of whom were even brought to trial, and he was, therefore, hanged on the basis of his confession. Approvers were not numerous in the record

¹Hanawalt, Crime and Conflict, p. 36.

²Richard Barbour and John Jenkinson, M.14, JUST 3/191, were appealed, then turned approver. They will be discussed in a later chapter.

³M.20, JUST 3/191.

⁴Not the king.

examined, but they did appear, and seem to have followed the expected patterns. If indeed "...the use of approvers seemed to run in cycles of popularity...",¹ they were apparently less than popular in Yorkshire 1399-1407.

Two other options that were available to the indicted individual were to purchase a pardon from the king, or to claim benefit of clergy. If successful, the suspect would either be released sine die, or in the latter instance, be released to stand trial in ecclesiastical court where capital punishment was not a possibility. Seventeen men claimed benefit of clergy, less than 5% of the total number of suspects while 55 persons proffered pardons, over 15% of all those arraigned. The use of pardons and of the privilegium clericale will be examined more fully in a later chapter, but it should be noted here that the combined total of persons using these options exceeded the number of felons convicted on the roll examined.²

Sixty five suspects were convicted and all but one were sentenced to hang³ out of those indicted. These will be examined with reference to specific types of crime as the chapter progresses. The most common fate for indicted suspects was acquittal or release sine die, which amounted to

¹Hanawalt, Crime and Conflict, p. 17.

²The combined total of suspects proffering pardons and claiming benefit of clergy was 72, the total number of convictions was 65.

³M.14, JUST 3/191.

the same thing and henceforth will be treated as such. A total of 202 people were acquitted of those indicted and this seems to support the contention that "...trial juries were reluctant to convict..." even though "...juries of presentment were by no means loth to indict."¹

The general patterns of seasonality in the perpetration of crime are charted in Tables 4, 5 and 6, and have been calculated on the basis of 374 charges for 349 suspects indicted.² These patterns apply to all of the crimes as a bloc and will be broken down and related to each individual crime accordingly.

Crimes were most often committed on Monday, over 27% of them in fact, and Sunday was the second most likely choice for such activity. The number of crimes committed on Sunday and Monday combined exceeds 44% of the total. Thursday seems to be the only other noticeable peak, carrying just over 14%. Tuesday, Wednesday, and Saturday registered between 9% and 12%, and Friday, with just over 8%, boasts the nadir. These figures demonstrate only one really notable pattern, and that is the high concentration of crime committed on Mondays and Sundays.

¹Bellamy, Crime and Public Order, p. 124.

²Where two people committed the same crime on the same day, these were counted individually in the seasonality charts. This system applied to the same suspects who committed different crimes on different days. Where several crimes were done by one person on the same date, these were counted only once. Peter Sadeler, m.22d, was taken "on suspicion", but is included in all calculations for indictments, henceforth.

TABLE 4
SEASONALITY OF CRIME:
THE DAILY PATTERN

Day of the Week	Number	%
Monday	102	27.3
Tuesday	41	10.9
Wednesday	45	12
Thursday	53	14.1
Friday	31	8.2
Saturday	36	9.6
Sunday	66	17.6
TOTAL	374 ¹	
Sunday and Monday combined		.44.9

The monthly and seasonal patterns of crime, demonstrated in Tables 4 and 5, show little that is exceptional, save the consistently high concentration of crime that is found in the months September, October and November. More will be gleaned from these types of observations when they are made with reference to specific crimes. It is timely now to analyze the different types of crimes that people were indicted for in Yorkshire 1399-1407.

¹For some crimes, no dates were given, see examples in m.2 and m.4, JUST 3/191.

TABLE 5
SEASONALITY OF CRIME:
THE MONTHLY PATTERN

Month	Number	%
January	16	4.2
February	39	10.4
March	34	9.0
April	29	7.7
May	32	8.5
June	20	5.3
July	16	4.2
August	23	6.1
September	50	13.3
October	40	10.6
November	50	13.3
December	25	6.6
TOTAL	374	

TABLE 6
SEASONALITY OF CRIME:
THE AGRICULTURAL PATTERN

Months/Type	Number	%
December to April Fallow	118	33.8
May to August Planting	91	26.0
September to November Harvesting and Butchering	140	40.0
TOTAL	349	

Larceny was by far the crime committed most often in this period and seems the best starting point for the proposed analysis. There were 156 indictments for larceny, which made up over 41% of all of them.¹ Larceny is defined as the felonious act of taking and carrying off goods and is denoted in the gaol delivery roll by the latin phrases felonice furatus fuit, and less frequently, cepit et asportavit.² This crime is divided into grand and petty larceny, distinguished by the value of goods stolen. When the value was equal to or exceeded 1s (12p), the charge was grand larceny and the penalty, on conviction, was hanging. When the value of goods stolen was less than 1s, the charge was considered to be petty larceny, a trespass, and some lesser form of punishment applied.³

There were 10 cases of petty larceny, slightly over 7% of larcenies counted, and only one of these suspects was convicted. One man received a pardon first, and was then released sine die.⁴ For the 10 cases of petty larceny the types of goods stolen were recorded, revealing that four of the suspects stole small amounts of grain, and one of these took a goose as well. Two stole cloth,⁵ one stole plough

¹See Table 2.

²JUST 3/191.

³Hanawalt, Crime and Conflict, p. 66.

⁴M.4, JUST 3/191.

⁵M.4, m.19, JUST 3/191.

irons, and another filched a saltcellar.¹ All were acquitted, except for Thomas Speltyng who was given a prison sentence.²

The types of goods feloniously stolen in the category of grand larceny, clearly reflect the agricultural and economic activities that were pursued in Yorkshire. Livestock was the prime target, making up almost 74% of all the goods stolen. Table 7 demonstrates that 60 of 146 grand larcenies involved thefts of cattle and sheep, and 44 of them involved horses. Barbara Hanawalt observed that Yorkshire, along with Northamptonshire and Surrey, had a slightly higher level of larceny than all other counties from 1300 to 1348.

The greater importance of herding in Yorkshire's economy may have increased the opportunities for larceny of cattle and probably explains the higher percentage of larceny there.³

Her reasoning might satisfactorily be applied to the period 1399-1407, as the numbers reveal that thefts of livestock were common in Yorkshire.

Hanawalt's study also revealed that "...horses, the most valuable of the animals, were stolen most frequently,"⁴ and this holds true for Yorkshire in the period presently under examination. In over 42% of all livestock thefts, and

¹M.3, JUST 3/191.

²Ibid.

³Hanawalt, Crime and Conflict, p. 65.

⁴Loc. cit.

30% of all thefts in general, horses were the target. She also noted that because of their value, they would be carefully guarded and therefore usually stolen singly. Of the 44 horse thefts counted, 31 involved one horse only, amounting to over 70% of the total.¹ Cows and sheep, because they were herded in groups, were more likely to be stolen in numbers of two or more and in all pertinent cases counted, there were only 3 instances in which single sheep were stolen and 12 in which a single bovine creature was taken.²

Of all larcenists, grand and petty, exactly one-third were convicted and two-thirds acquitted. The verdicts delivered for certain types of thefts, with regard to the nature of the goods stolen, indicate some different attitudes on the parts of jurors towards them. Conviction rates for the larceny of livestock were the highest, as might be expected considering the greater value placed upon animals in the economy. Half of those accused of stealing cattle, and just less than half of those accused of stealing sheep, were convicted. Horse thieves were the most likely of all grand larcenists to be condemned to the gallows, as indicated by a conviction rate of almost 55%.

¹JUST 3/191.

²Sheep were stolen singly by suspects in m.1d, and cattle were stolen singly in m.4, m.5, m.5d, m.9, m.9d, m.14, m.14d, m.15d, and m.19, JUST 3/191.

³See Table 7.

Pigs and poultry figure punily in terms of livestock stolen and in both cases involving their theft, the suspects were acquitted. "Much of the poultry theft would be under 12d and therefore, not be reported, and pigs were not attractive because they would not fetch a high price."¹

The common law deemed that larceny could not be committed of things that were ferae naturae, including "...fish in a river or pond...but only of those beasts or birds...reclaimed and made tame or domestic..." that would serve for food.² One further condition applied, and that was that "...when he that steals them, knows them to be tame...."³ Two suspects stand alone among the larcenists counted, as felonious fishermen and the first of these was John of Waghams. At night "...in the fishpond of Lanwath, he furtively fished and took Pykes and Bremes worth 10 marks and feloniously took and carried them off."⁴ Likewise, Robert Wayte fished "...in some water called fosse near the castle of York and feloniously and furtively stole 100 fish called Pyke."⁵ The fish stolen by these two suspects fit into the category of beasts that had been tamed to serve for

¹ Hanawalt, Crime and Conflict, p. 70.

² Matthew Hale, The History of the Pleas of the Crown, (London, 1736), i, p. 11.

³ Ibid.

⁴ M.Z4d, JUST 3/191.

⁵ M.Z4d, JUST 3/191.

food, hence they were both indicted for larceny, the adverb felonice describing their crimes.

R.B. Pugh mentions that by the Statute of Westminster I (1275) c. 20, ill-doers in parks and fishponds, if convicted by appeal, should be imprisoned for three years, with the option of a severe fine. Evidently the theft of beasts and fish in such places if proved, was subject to punishment, but was not a capital offence."¹ It would appear that the common law had changed with regard to such thefts by the period under examination. The adverb felonice was used to describe these crimes, and therefore, had the suspects been convicted, they would have faced capital punishment. As it turned out, both were acquitted of their charges.

Cloth goods, from clothing to coverlets, were stolen less frequently, making up slightly more than 8% of all thefts in this category. Exactly half of the suspected cloth thieves were convicted and half were acquitted. Domestic goods, such as spoons, plates and similar utensils, weapons, jewellery and assorted silver items, made up almost 11% of larcenous thefts. Almost 60% of persons indicted for stealing domestic goods were acquitted and just over 40% convicted. Coined money was the target of thieves in slightly more than 10% of larcenies and only 20% of those accused of stealing it were convicted. Grain, usually corn

¹ Pugh, Wiltshire Gaol Delivery, p. 24.

or barley, was stolen on sixteen occasions, for which there were no convictions.

There were 18 suspects who ventured to steal combinations of the various goods listed in Table 7, and these mixtures usually involved different types of livestock or livestock and domestic goods. The conviction rate for such combination crimes was quite high at over 72%.

Table 8 shows the value of goods stolen in grand larceny and reveals, that the majority of them involved goods worth less than £1.

The low value of the spoils indicates much about the pattern of larceny...because it generally required little skill and no great physical risks or strength, it was¹ attractive to ordinary villagers...¹

That larceny was the easiest crime to perpetrate is evidenced by the frequency with which it was committed in Yorkshire, 1399-1407.

¹Hanawalt, Crime and Conflict, p. 75.

TABLE 7¹THE TYPES OF GOODS STOLEN
IN GRAND LARCENY

Type of Goods	Number of Thefts	%	Conv. %	Aquit. %
Poultry	1	0.68	-	100.00
Pigs	1	0.6	-	100.00
Fish	2	1.36	-	100.00
Cows	30	20.54	50.00	50.00
Sheep	30	20.54	46.66	53.33
Horses	44	30.13	54.54	45.45
Grain	16	10.25	-	100.00
Cloth	12	8.21	50.00	50.00
Domestic Goods	17	10.89	41.17	58.82
Coined Money	15	10.27	20.00	80.00
Combinations	18	12.32	72.22	27.77

¹Calculations for Table 7 above have been made out of 146, the total number of Grand Larcenies.

TABLE 8¹THE VALUE OF GOODS STOLEN
IN GRAND LARCENY

Value	Number of Thefts	%
1s-10s	49	35.0
10s-20s	39	27.85
£ 1-£ 10	46	32.85
£ 10-£ 20	4	2.85
£ 20 and over	2	1.42
Under £ 1	88	62.85

Finally, it remains to comment upon the daily, monthly and agricultural patterns of larceny. The only comparison available seems to be in Barbara Hanawalt's study and it will be used here. She observed a "...four day work week, starting on Monday and reaching a high point on Thursday. Friday, Saturday, and Sunday saw a substantial drop in the number of thefts."² She admitted though, that the daily pattern was difficult to explain. Table 9 shows an almost completely contrary pattern, indicating a clear increase for Saturday and Sunday and a major peak for Monday. Well over half of larcenies, slightly more than 60%,

¹Table 8 has been calculated out of 140 as some values were not given.

²Hanawalt, Crime and Conflict, p. 75.

in fact, were committed within this three day bloc, with Thursday showing the only other noticeable peak. This pattern, although interesting in terms of comparison, confirms the difficulty of explaining such findings.

TABLE 9¹
SEASONALITY OF LARCENY:
THE DAILY PATTERN

Day of the Week	Number of Larcenies	%
Monday	69	34.8
Tuesday	19	9.5
Wednesday	19	9.5
Thursday	23	11.6
Friday	17	8.5
Saturday	25	12.6
Sunday	26	13.3
TOTAL	198	

Hanawalt charted a distinct seasonal pattern for larceny that reflected the routine of agricultural work. The fallow period from December through April was one in which little was lying about in the open to steal. Grain, meat and livestock would be safely guarded in houses or

¹Calculations for Table 9 have been made out of a total of 198, on the basis of the same counting made for the seasonality patterns of all crimes in general.

TABLE 10
SEASONALITY OF LARCENY:
THE MONTHLY PATTERN

Month	Number of Larcenies	%
January	9	4.6
February	21	10.6
March	6	3.0
April	12	6.0
May	22	11.1
June	12	6.0
July	13	6.5
August	14	7.0
September	20	10.0
October	31	15.6
November	27	13.6
December	11	5.5
TOTAL	198	

TABLE 11
SEASONALITY OF LARCENY:
THE AGRICULTURAL PATTERN

Agricultural Season	Number of Larcenies	%
Fallow: December through April	59	29.8
Planting: May through August	61	30.8
Harvest and Butchering: September through November	78	39.9

barns, hence the lack of opportunity for larceny is reflected in the number committed in these months (21%). The planting season, corresponding with the months May through August, provided greater opportunity for larceny. Early crops ripened, herds were out grazing, and the people busy in the fields, less able to watch over their belongings. In this period larceny rose to 34% of the annual total. She found that the highest period for larceny (45%) was the season of harvesting and butchering, that is, September through November, when all available help was in the fields leaving most possessions unwatched and vulnerable to larcenists.¹

Tables 10 and 11 demonstrate the monthly and seasonal patterns for larceny in the 1399-1407 period in Yorkshire. They tend to follow Hanawalt's findings in terms of ascending order, but not with such marked differences. The fallow period contained almost 30% of all larcenies, and the planting period just short of 31% - not a substantial jump. The harvest period contained almost 40% of all larcenies, corresponding most closely to Hanawalt's figures.

In the fourteenth century there was a tendency to suggest

...the greater gravity of some crimes by adding, for example, adverbial phrases such as 'stealthily by night' to an indictment for larceny.²

¹Hanawalt, Crime and Conflict, p. 68.

²Bellamy, Crime and Public Order, p. 124.

Some comments must be made here with reference to such use of language in the indictments for larceny. Eleven of the larcenists indicted were described as either common or common and notorious thieves (communis latro, or communis et notorius latro),¹ and 10 of that 11 were convicted, indicating that jurors were harsh in their judgement of the larcenists so described.

Two larcenies were described as being committed both furtively and at night, denoted by the Latin words furtive and noctanter. One was described as noctanter only and 62 larcenies were labelled furtive alone. One other suspect was taken with the loot, cum manuopere, as well as stealing furtive. Of these 66 suspects, 23 were convicted and 43 went free. This ratio corresponds quite closely to the general pattern of verdicts for larceny of one-third convictions to two-thirds acquittals, mentioned earlier. This suggests that the addition of words such as furtive and noctanter did not substantially increase the conviction rate insofar as larceny was concerned.

One suspect was described not only as a common thief, but also as a common ambusher and depopulator of fields (communis insidiator et depopulator agrorum).² It is interesting to notice a statute of 4 Henry IV, which forbade

¹M.2, m.3, m.11, m.11d, m.13d, m.14, m.15d, m.15d, m.23d, m.29d, JUST 3/191.

²M.15d, JUST 3/191.

the use of those terms in indictments.¹ The reason for this might have been the king's response to complaints by the commons concerning the use of such phrases. Neither of the two forbidden terms appear on the roll studied after the gaol delivery session conducted on Monday March 13, 1403, at which the aforesaid depopulator was both tried and acquitted.

Larceny rates as the most prevalent crime that people were indicted for in Yorkshire 1399-1407. Larcenists most often stole livestock, in the form of horses, cattle and sheep, and the majority of all types of goods stolen were valued at £1 or less, indicating that it was probably the easiest crime to commit. Larceny was most often committed on Mondays and in the harvesting and butchering months, September through November. Approximately one-third of all those indicted for larceny in this period were convicted in Yorkshire and suspects described as common thieves were usually doomed. It is now time to examine a different sort of thievery.

"Burglary, described by the verbs burgare and deburgare, was theft or robbery preceded by breaking into a building such as a grange or a house."² For such a crime to be burglary, all breaking in did not necessarily have had to occur at night, though it frequently did.³ Both the

¹Henry IV, c. 2.

²Kimball, A Cambridgeshire Roll, p. 9.

³Ibid.

crimes described by the verb burgare and by phrases denoting the breaking of various buildings, fregit domum/ecclesiam/molendum, have been compounded and treated as one category of crime, that of burglary. No identifiable difference existed between them and both were accompanied by the adverb felonice.

According to T.F.T. Plucknett, breach of close and breach of house must be distinguished, the former being a much less serious matter.

Even when the breach of close was accompanied by an assault, the word felonice in the indictment would not make it a felony; for the intention was shown by the event to be only trespassory.¹

There was one instance where the adverb felonice was omitted on the gaol delivery roll, and the phrase fregit clausum stood alone. The charge was reduced to trespass and the sentence upon conviction was a period of incarceration.²

Plucknett's discovery that the use of the verb burgare is generally rare, but almost constantly used in the North and East Ridings,³ is buttressed by Putnam in her introduction to the Yorkshire Peace Sessions 1361-4. She notes the use of the term in those years as it was later

¹T.F.T. Plucknett, "An Analytical Index to the Indictments", B.H. Putnam, Proceedings Before the Justices of the Peace in the Fourteenth and Fifteenth Centuries (London, 1938), p. cxlv.

²M.3, JUST 3/191.

³Plucknett, Index, p. cxlv.

employed in the reign of Richard II.¹ Where Ridings were identified in the gaol delivery roll, burgare appeared five times in the North and the East Ridings and once in the West Riding.² Perhaps by the conclusion of Richard's reign, use of the term was becoming standard through all parts of Yorkshire.

Burglary was the second most prevalent crime recorded in the indictments, 71 cases comprising almost 19% of all crimes.³ Of 71 tried, 26 persons were convicted (36%), and 45 were acquitted (63%). Once again, this represents almost a one-third to two-breakdown for verdicts, reminiscent of that for larteny.

Houses were most often the targets of burglars as Table 12 shows, in over 85% of all burglaries. Churches, mills, and sheds were the other types of buildings violated but to a much lesser extent because by comparison "...the wattle and daub construction of houses made them easy targets for burglary."⁴

¹Putnam, Yorkshire Pease Sessions, p. xxxi.

²M.5d, JUST 3/191.

³See Table 12.

⁴Hanawalt, Crime and Conflict, p. 79.

TABLE 12
THE TYPES OF BUILDINGS
BROKEN BY BURGLARS

Type of Building	Number of Burglaries	%
Houses	61	85.9
Churches/Abbeys	4	5.6
Mills	3	4.2
Sheds	2	2.8
Closes	1	1.4
TOTAL	71	

The types of goods stolen reflect the tendency of burglars to break into houses. Table 13 demonstrates that domestic goods, including personal jewellery, comprised almost 45% of the loot taken in burglaries. Valuables in the form of silver, church goods (chalices, altar cloths, etc.) and coined money, combined to make up over 35%, while cloth goods, horses, and grain were clearly sought less often.

The value of goods stolen, as shown in Table 14, indicates that burglaries were more profitable than larcenies with over 69% of the goods amounting to a value of £1 or more. Twenty-three per cent of the goods stolen were valued at £20 or more - a considerable portion of the total.

TABLE 13¹

THE TYPES OF GOODS STOLEN IN BURGLARY
AND THEIR CORRESPONDING VERDICTS

Type of Goods Stolen	Number of Burglaries	% of Burglaries	Conv. %	Acquit. %
Domestic Goods	33	44.59	36.36	63.63
Coined Money	20	27.02	35.00	65.00
Silver Church Goods	6	08.10	33.30	66.60
Cloth Goods	9	12.16	44.40	55.50
Horses	3	04.05	100.00	-
Grain	3	04.05	-	100.00
Combination Thefts	20	27.02	45.00	55.00

TABLE 14

THE VALUE OF GOODS STOLEN
IN BURGLARY

Value	Number of Burglaries	%
1-12d	4	10.25
1s-10s	3	07.69
10s-20s	5	12.82
£ 1-£ 10	12	30.76
£ 10-£ 20	6	15.38
£ 20 and over	9	23.07
1 and over	27	69.21

¹ Table 13 was calculated out of a total of 74, taking overlap into consideration, that is, combination thefts. And combination thefts were calculated out of 71.

Hannawalt found that burglary reversed the pattern of larceny with regard to seasonality. While goods were readily available during the planting and harvest seasons, the number of burglaries was low and when the products of harvest were stored and fewer goods available, burglaries increased. She found that 50% of burglaries occurred from November through February with the rest spread through the remaining eight months. Tables 14 and 15 clearly demonstrate that this pattern was similar in Yorkshire 1399-1407, with almost 60% of burglaries occurring from December through April.

TABLE 15

SEASONALITY OF BURGLARY:
THE MONTHLY PATTERN

Months of the Year	Number of Burglaries	%
January	8	09.09
February	18	20.45
March	8	09.09
April	8	09.09
May	3	03.40
June	3	03.40
July	2	02.27
August	4	04.54
September	11	12.59
October	7	07.95
November	6	06.81
December	10	11.36

TABLE 16

SEASONALITY OF BURGLARY:
THE AGRICULTURAL PATTERN

Season	Number of Burglaries	%
Fallow - December through April	52	59.09
Planting - May through August	12	13.63
Harvest and Butchering - September through November	24	27.27

The daily pattern for burglary charted by Hanawalt showed that Monday had the highest number and Sunday the lowest. The four day period between Monday and Thursday contained 73% of all the burglaries she had counted.¹ Table 17 shows a similar pattern, with over 67% of burglaries occurring in that same period. The exception is that Sunday was clearly a peak day for burglary - perhaps burglars struck while villagers attended mass - leaving Friday and Saturday as the least likely choices for them.

¹Hanawalt, Crime and Conflict, p. 78.

TABLE 17¹SEASONALITY OF BURGLARY:
THE DAILY PATTERN

Day of the Week	Number of Burglaries	%
Monday	22	25.0
Tuesday	10	11.3
Wednesday	13	14.7
Thursday	14	15.9
Friday	8	9.0
Saturday	6	6.8
Sunday	15	17.0
TOTAL	88	

Sometimes, but not often in the indictments studied, burglaries involved violence. This was usually in the form of carnal rape,² homicide,³ or, as in the case of Thomas Mell who feloniously and furtively burgled the house of Thomas Coly, carnally raped his wife Alice, and wounded and maltreated Thomas, both rape and assault.⁴

It remains to discuss the verdicts delivered for burglary with regard to the types of goods stolen and the use of language in the burglary indictments. The conviction rates for burglary according to goods stolen, reveal a pattern similar to that for burglary in general. Table 13 showed that

¹Table 17 was calculated out of a total of 88 on the basis of counting used in seasonality charts for larceny and crime in general.

²M.3, m.16, m.24d, m.24d, JUST 3/191.

³M.12d, JUST 3/191.

⁴M.24d, JUST 3/191.

for thefts involving domestic goods, coined money, church and silver goods, approximately two-thirds of those indicted were acquitted. Where cloth goods were taken, the conviction rate rose to almost 45% and all burglaries involving horse thefts resulted in conviction. None of the suspects who broke mills and stole grain were convicted, but 45% of burglars who stole a combination of goods were found guilty. This was a fairly high number and might indicate that goods stolen in combination exacerbated the charge.

Twenty-two suspects indicted for burglary were described by various adjectives and adverbial phrases like those found in the indictments for larceny. Exactly half of that 22 were described as common or common and notorious thieves, and 10 of that number were convicted. Two of those common criminals were also marked for having committed their crimes at night.¹ Furtive was the adjective used to describe 6 of the 22 crimes and only 2 of those resulted in convictions. Two were described as night crimes without any reference to the perpetrator as a common thief, and both resulted in acquittals.² The solitary suspect whose crime was described as both furtive and Noctanter also went quit.³ Three suspects were accused of being common thieves and of doing night burglaries. One of that two was also slated as

¹M.1d, m.15, JUST 3/191.

²M.13d, m.25, JUST 3/191.

³M.19d, JUST 3/191.

a common ambusher and depopulator of fields - all three were convicted.¹ Of 26 convictions for burglary, exactly half contained the terms furtive, noctanter, communis latro/insidiator, depopulator agrorum, or any combination thereof. It does appear that the use of such phrases did suggest the greater gravity of some burglaries and possibly increased the conviction rates for them.

In summary then, burglary was the second most prevalent crime in the gaol delivery roll, and was found to be most concentrated in the cooler months and on Mondays. Houses were the usual targets, a fact reflected in the high percentage of domestic goods taken in this particular criminal exercise. Burglary proved to be more lucrative than larceny, as the value of goods stolen was likely to exceed £1 and not uncommonly, £20. One-third of the persons indicted for burglary were convicted and it seems that, as in larceny, those reputed to be common thieves ran the greatest risk of conviction. Violence was not often involved in burglary although it did occur, and usually took the form of rape. On this point, burglary differed from the next crime to be investigated, wherein violence was a regular feature.

The verbs depredare and spoliare indicate robbery,¹ which was "...theft accompanied by injury [or threat of the

¹M.1d, m.7 and m.15, JUST 3/191.

²Plucknett, Index, p. cxlii, and JUST 3/191.

same] to the person of the victim."¹ Charges of robbery and ambush have been treated as one in the same and combined to give a total of 21 indictments for that crime. In 1348 "...the judges of Westminster declared that all robbers would receive capital punishment regardless of the value of stolen goods."² This rule clearly applied to the case concerning John of Wilkton who "...feloniously robbed some unknown woman of two silver pence."³ He was tried, convicted and sentenced to hang, although the value of the money taken was only 2p.

Clearly, robbers were keen to seize coined money above all else and Table 18 shows that in over 75% of all robberies, money was the target. Horses were the second most likely valuables to be taken, personal clothing and valuables the third. These types of targets reflect the nature of the crime, for robbers were most apt to leap upon people and pilgrims travelling alone in order to strip them of the goods they carried.

The value of goods stolen in robberies indicate that the profits to be reaped from such activity were tempting. Over 56% of the robbers carried off money or goods worth £1 or more, and more than 37% of the pickings registered between 1s and £1.⁴ Only one suspect stole less than 1s

¹Kimball, A Cambridgeshire Roll, p. 9.

²Hanawalt, Crime and Conflict, p. 84.

³M.27d, JUST 3/191.

⁴See Table 19.

worth of goods and that was John of Wilkton, mentioned above.

TABLE 18
THE TYPES OF GOODS STOLEN
IN ROBBERY

Types of Goods	Number of Robberies	Conv. %	Acquit. %	% of Total
Coined Money	16	25	75	66.66
Cloth Goods	2	-	100	08.30
Horses	4	25	75	16.66
Valuables and Weapons	2	-	100	08.30
Combination	5	-	-	20.83

TABLE 19¹
THE VALUE OF GOODS STOLEN
IN ROBBERY

Value of Goods	Number of Robberies	% of Total
1-12d	1	06.25
1s-10s	4	25.00
10s-20s	2	17.50
£1-£10	8	50.00
£10 and over	1	06.25

¹Table 19 has been calculated out of 16.

Robbery was often committed on the King's Highway, in regia strata,¹ and since the wealth of travellers attracted robbers "... merchants were a major quarry, and roads which led to towns with important fairs and markets were the most profitable."² Indeed, although most medieval travellers kept to the main roads when possible, brigands were an expected hazard.³ Of the 21 robbers indicted, 11 were such highway brigands, and 7 of that group were known as common and notorious thieves, with one also tagged as a common ambusher. In spite of such exacerbated charges, the robbers of Yorkshire 1399-1407, were more often acquitted than not. Only 4 of the notorious robbers and 2 others of no particular repute, were convicted, making the overall acquittal rate for this crime over 71%. The number of robberies seems surprisingly low in light of the potential opportunities for this particular crime on the Great North Road and other roads in Yorkshire, while the number of acquittals seems high.

Hanawalt was, of necessity, non-committal with regard to the seasonality of robbery finding that it was always open season on the highways for the victims of robbery.⁴

¹JUST 3/191.

²Bellamy, Crime and Public Order, p. 42.

³Margaret W. Labarge, Medieval Travellers (London, 1982), pp. 19-20.

⁴Hanawalt, Crime and Conflict, p. 85.

"Only a slight decrease, not enough to be significant, is noticeable in robbery for the colder months."¹ Tables 20 and 21² show that the lowest number of robberies occurred in the warmest months of May through August, with the majority perpetrated November through April. These findings, admittedly based on a small number of robberies, do not particularly contradict Hanawalt's initial comment but nor do they support her second one.

TABLE 20

SEASONALITY OF ROBBERY:
THE MONTHLY PATTERN

Month	Number of Robberies	%
January	-	-
February	1	04.3
March	6	26.0
April	1	04.3
May	3	13.4
June	-	-
July	1	04.3
August	-	-
September	5	21.7
October	1	04.3
November	2	08.6
December	3	13.0

¹Hanawalt, Crime and Conflict, p. 85.

²Tables 20 and 21 have been calculated out of 23 due to some multiple changes.

TABLE 21

SEASONALITY OF ROBBERY:
THE AGRICULTURAL PATTERN

Agricultural Season	Number of Robberies	%
Fallow - December through April	11	42.8
Planting - May through August	4	17.3
Harvesting and Butchering - September through November	8	34.7

Table 22 shows that Sunday was the day on which most robberies were engineered, a contrast to Hanawalt's observation that Sunday marked the nadir for such crimes. In accordance with her general observations though, the same four day period, Monday through Thursday, contained the most robberies.

TABLE 22

SEASONALITY OF ROBBERY:
THE DAILY PATTERN

Day	Number of Robberies	%
Monday	3	13.0
Tuesday	4	17.0
Wednesday	3	13.0
Thursday	5	21.7
Friday	-	-
Saturday	2	8.6
Sunday	6	28.5

Robbery ranked proportionately lower on the crime scale in Yorkshire than either larceny or burglary, comprising barely 6% of all crimes. It often took place on the highway, (in regia strata), and though half of the robbers counted were notorious criminals, the conviction rate was surprisingly low. The main targets in terms of victims were travellers or pilgrims, and robbers usually sought coined money, horses and clothing from them. Most of the pickings were likely to be valued at £1 or more, and violence was the method used to get them. Patterns of its seasonality were not particularly distinctive and are difficult to estimate in light of the paucity of cases. The next crime to be examined involved violence more final in its aim, and more frequent in its practice.

In 1390, the commons complained of the granting of pardons for serious crimes at the solicitation of influential courtiers and prayed that no pardon be issued for "treason, murder or rape." The king refused to surrender the prerogative of pardon, but granted that a pardon should not avail for "murder, slaying in ambush, in assault, or of malice aforethought", unless the charter specified the crime exactly.¹ As a result of this,

... a statute of 1390 distinguished pardonable homicide from non-pardonable. In the first category were those killings committed in

¹Plucknett, Index, p. cxlvii.

self-defence, or by misadventure, and in the second, those done by ambush, deliberate attack, or felonious intent.¹

There were 44 indictments for homicide, making it the third most common crime in Yorkshire for this period. Two of the indictments concerned auxiliaries to homicides, but have been included in the main count.² There are examples of both pardonable and non-pardonable homicides in the indictments studied and these will be cited further on.

In reference to Yorkshire, there are two interesting points that deserve mention with reference to homicide. Hanawalt found that for the 1300-48 period, Yorkshire had a high rate of homicide considering that the population was sparse,³ and this appears to be true for the 1399-1407 period as well. The second point refers to the use of language describing homicide in these Yorkshire indictments. Plucknett found that the word for "murder" occurred only in the three Ridings of Yorkshire and a few other places, and was most often combined with the phrase ex malicia precogitata (out of malice aforethought).⁴ The verb murdrare "...came to mean a particularly heinous crime involving secret slaying..."⁵ or malice aforethought. The use of other terms

¹ Bellamy, Crime and Public Order, p. 31.

² M.23 and m.24, JUST 3/191.

³ Hanawalt, Crime and Conflict, p. 98.

⁴ Plucknett, Index, p. cxlviii.

⁵ Hanawalt, Crime and Conflict, p. 98.

to describe and classify homicide was more common in the cases studied, and will be investigated now.

In 23 of 44 indictments, homicide was indicated by the adverbial phrase felonice interfecit, meaning "feloniously killed." Of those so accused, only 1 was convicted, 8 were acquitted and 14 were pardoned.¹ One of that group was charged with two homicides, one felonice interfecit and the other in se defendendo, "in self-defence."² Only one indictment made use of the phrase felonice murdravit alone and the suspect was charged with two murders committed ex malicia precogitata.³ This suspect was one of the few actually convicted for homicide and he had done a number of burglaries as well.

One suspect, Richard del Hawkins, was taken because he "...felonice murdravit et mactavit Henricum del Hoyle... cum cuttello."⁴ The use of this particular phrase, meaning "murdered and slaughtered", is unique among the indictments studied and seems especially wicked in its implications. Richard went free by virtue of a pardon, which must have been an exercise of the royal prerogative in a case that seems more heinous than most.

Four of the indictments were the result of certain

¹See Table 23.

²M.29, JUST 3/191.

³M.12d, JUST 3/191.

⁴M.8d, JUST 3/191.

assaults upon victims from which they died.¹ John of Halton, at Filey, "...struck William Baldenburgh of Scarborough on the head with a certain knife, whereof he died."² One other suspect feloniously entered the house of John Gaste of Pocklington, raped his wife Alice, and on the same day, ambushed and killed John.³ Of these four suspects, not one was convicted - three were acquitted and one was pardoned.³

Two of the indictments were concerned with accessories to homicide. Richard del More of Sandhoton was a "consultory and helper", fuit consulens et auxilians, to William del More, who feloniously killed Henry del Clapham.⁴ John of Silton, brother of John Foune, was taken because he was an "aider and abettor", fuit auxilians et abettans, to the slaying of John Geldard of Hanneby, by John Foune.⁵ Richard went free by virtue of William's pardon, while John proffered his own successfully.

One case was described as an accidental homicide, per infortunam, and is a colorful one. John of Denby was taken because when he shot at the targets at Hanksesworth, his brother William, fell near the targets and John, by misfortune, struck his brother in the back, with an arrow,

¹M.4, m.21, m.23d, JUST 3/191\

²M.21, JUST 3/191.

³M.23d, JUST 3/191.

⁴M.24, JUST 3/191.

⁵M.23, JUST 3/191.

from which blow William died.¹ The jury inquired as to whether John had killed William ex malicia precogitata, and satisfied that he had not, remanded him to prison to await a pardon, which he procured and was then freed.

Four homicides were classified as having been committed in self-defence. Robert Watkinson Smyth, made assault on Richard Colton and struck him with a dagger. Then "... Richard ran after Robert and Robert, in self-defence and in fear of death, killed the said Richard Colton with the dagger."² Robert was freed by virtue of a pardon, as were two other suspects who slew in self-defence.³ The fourth was acquitted outright.⁴

The nine cases remaining involved homicides described with both the verbs interficere and murdrare. Perhaps the combination served to suggest a more hideous homicide and sway the trial jurors towards conviction. Clearly, most convictions for homicide were dealt for cases of this description, perhaps indicating such a connection. One rather lurid homicide in this category involved John Hedle of Kirkby Under Knoll.⁵ He feloniously murdered and killed Wilham Scarlett of Rumington in a most grisly manner.

¹M.20, JUST 3/191.

²M.2, JUST 3/191.

³M.16 and m.29, JUST 3/191.

⁴M.26d, JUST 3/191.

⁵M.29, JUST 3/191.

He struck the said William with a certain hammer of iron and threw him into a lime kiln. Of the nine homicides classified by the verb combination murdravit et interfecit, three of the alleged killers were acquitted, three pardoned, two convicted and one other, upon conviction, claimed benefit of clergy and was successful in so doing.

It appears that homicide suspects in Yorkshire 1399-1407 ran very little risk of conviction, and when there was the chance of it, a pardon seems to have been readily available.¹ Pardons accounted for the release of 25 people who had been indicted for homicide, over 55% of all alleged killers. This seems a high proportion, especially as 14 of those pardoned had been accused of feloniously killing their victims, with no references to self-defence or accidental homicide. Only 4 suspects were convicted, and 15 of those indicted were acquitted cleanly, without recourse to pardon. Table 23 charts all of these findings.

¹See Table 23. Table 23 has been calculated out of 45 because 2 homicides in m.29, count in two categories.

TABLE 23
HOMICIDE: VERBS AND VERDICTS

Classification of Homicide	No.	%	Convic- tion	B of C	Aquit.	Pardon
Interfecit	23	51.1	1	-	8	14
Interfecit et Murdravit	9	20.0	2	1	3	3
Murdravit	1	2.2	1	-	-	-
Murdravit et Mactavit	1	2.2	-	-	-	1
In se Defendendo	4	8.8	-	-	1	3
Per Infortunam	1	2.2	-	-	-	1
Insidiavit et Interfecit	1	2.2	-	-	1	-
Assault and Death Resulting	3	6.6	-	-	2	1
Auxiliaries	2	4.4	-	-	-	2

One final case deserves individual mention because it actually constituted petty treason in the form of a woman killing her husband. Margaret, who was the wife of John of Routhberry, with others, feloniously struck and killed John. She was found guilty of the crime and sentenced to burn accordingly,¹ the punishment for treason by a woman. Interestingly, Thomas of Midelwode who was taken for killing his wife Eleanor was acquitted.² Even

¹M.19, JUST 3/191.

²M.26d, JUST 3/191.

had he been convicted, he would have been sentenced to a felon's death and not a traitor's.

The types of weapons employed by killers were seldom recorded, but in three of five instances where this information was supplied, a knife of some sort was used. The remaining two instruments included the hammer wielded by John Hedle and the arrow aimed by John of Denby. It is also noteworthy that approximately half of the homicides occurred within the homes of the victims.¹

Table 24 shows that a striking majority of homicides took place on Sundays, corroborating Hanawalt's comment that "Sunday was the day of murder in medieval society."² Friday and Monday were also peak days for homicide. In terms of the agricultural seasons, she found that the high period for homicide was March through August, the time in which the most social contact between villagers took place.³ Tables 25 and 26 reveal September to be the month in which most homicides occurred and that 45% of them were perpetrated within the March through August period.

¹JUST 3/191

²Hanawalt, Crime and Conflict, p. 99.

³Ibid.

TABLE 24
SEASONALITY OF HOMICIDE:
THE DAILY PATTERN

Day	Number of Homicides	%
Monday	7	15.9
Tuesday	-	-
Wednesday	5	11.3
Thursday	1	02.2
Friday	10	22.7
Saturday	4	09.0
Sunday	17	38.6

TABLE 25
SEASONALITY OF HOMICIDE:
THE MONTHLY PATTERN

Month	Number of Homicides	%
January	1	02.2
February	4	09.0
March	5	11.3
April	5	11.3
May	5	11.3
June	-	-
July	3	06.8
August	2	04.5
September	9	20.4
October	4	09.0
November	4	09.0
December	2	04.5

TABLE 26

SEASONALITY OF HOMICIDE:
THE AGRICULTURAL PATTERN

Season	Number of Homicides	%
Fallow - December through April	17	38.6
Planting - May through August	10	22.7
Harvesting and Butchering - September through November	17	38.6
March through August	20	45.4

Homicide was the third most numerous crime committed in Yorkshire 1399-1407. The average killer could stab his selected victim with some sort of knife, probably on a Sunday and be acquitted of that crime more often than he would be convicted. Should conviction seem inevitable, pardons were clearly a popular and possible alternative and Henry IV seems to have been quite generous in granting them. In light of his often desperate financial situation, he must have welcomed the money that paid for pardons.

For centuries the common law stuck to its theory of accessories according to which a person who received a felon, knowing him to have committed a felony, became an accessory after the fact and liable to the punishment of felony.¹

¹Plucknett, Index, p. cxli.

There were 38 indictments for receiving and the adverb felonice was not used to describe that crime in any of those.¹ A typical indictment for this particular offence read like the following example:

Radulphus de Zeland captus
pro eo quod ... receptavit
predictos Johannem de
Salesbury et Johanem Dousyng
post felonia predicta sciens
ipsos feloniam predictam
fecisse.²

Quite simply, he received them knowing them to have done a certain felony.

There were almost as many indictments for receiving as there were for homicide, and the similarity does not end on that point. The paucity of convictions for homicide cases is exceeded by the complete dearth of them for receiving. Of 38 indicted receivers, 35 were acquitted outright and the remaining 3 were released sine die by virtue of the principal felon's death.

Rape, which could be either a trespass or a felony, ... was more than a sexual attack and was often accompanied by charges of abduction or theft of goods.³

William of Bridlington, for example, was taken because he

¹ See for examples, m.3, m.4, m.27d, JUST 3/191.

² M.3, JUST 3/191.

³ Bellamy, Crime and Public Order, p. 34.

...felonice burgavit domum
 Roberti Lygeman ... et Aliciam
 uxorem dicti Roberti ibidem
 felonice rapuit et eam cum eo
 abduxit ...¹et bona et catalla
 sua ibidem.

While some rapes were deemed felonious on the gaol delivery roll, others were not, witness Thomas Baxster who ambushed Agnes Bolloke in the field of Necton Spittel "... et eanda Agnete ibidem rapuit."² Elisabeth Kimball noted that "... abduction and rapes committed 'vi et armis contra pacem domini regis', not felonice, were evidently considered by the jury that made the presentment to constitute a trespass."³ Thomas Mell was indicted because he burgled the house of Thomas Coly and "... Aliciam uxorem predicti Thomasi Coly carnaliter cognovit et predictam Thoman vulnavit et male tractavit contra pacem domini regis."⁴ In this case, the charge of rape was not augmented by the adverb felonice. In some of the indictments, a rape was recorded by the phrase "felonice rapuit et eam contra

¹M.1d, JUST 3/191.

²M.25, JUST 3/191.

³Kimball, A Cambridgeshire Roll, p. 8.

⁴M.24d, JUST 3/191.

voluntatem suam carnaliter cognovit,¹ but those described as felonious only numbered four. Bertha Putnam noted in her introduction to Yorkshire Sessions of the Peace, 1361-1364, that although rape was rare, it was always treated as a felony.² The reverse appears to be true for the gaol delivery sessions 1399-1407.

The prosecution of rape cases was often tied to a charge of accompanying burglary or robbery so that the rape may have been an incidental to that property loss.³

Fourteen of the rape cases counted were compounded with another crime, half with burglary,⁴ 3 with robbery,⁵ and 4 with larceny.⁶ As a result of these combinations, many rapes took place in the homes of victims or in the cases involving ambush, in the fields.

Of the 4 rapes that were recorded as felonies,⁷ only 1 resulted in conviction. Henry Blount was sentenced to hang, but he had been charged with two counts of larceny

¹M.24d, JUST 3/191 for example.

²Putnam, Yorkshire Peace Sessions, pxxx.

³Hanawalt, Crime and Conflict, p. 105.

⁴M.5d, m.16, m.19, m.24d, JUST 3/191.

⁵M.4, m.10d, m.12d, JUST 3/191.

⁶M.1d, m.10d, m.22d, m.22, JUST 3/191.

⁷M.1d, m.14, m.25, JUST 3/191.

as well.¹ Of the 14 rape cases remaining, there resulted only one further conviction, and that was of a suspect who had been charged with burglary too.²

There were clearly few indictments for rape in the gaol delivery roll studied and few of those that were, appeared to be recorded as felonies. Rape usually occurred in conjunction with some sort of property crime and practically never resulted in conviction whether a trespass or a felony. The engineering of rape obviously required minimal skill, unlike the next crime to be discussed.

"Forgery and counterfeiting were infrequent because of the great skill they required compared with other treasons and most felonies."³ Forgery was not found in any of the indictments, but 4 suspects were charged with counterfeiting,⁴ and it was described as traitorous activity in those cases.

The traitorous making of false coins by means of alchemy was presented as treason and felony in the Statute of Treasons, 1352, but was reduced in the margin to felony only.⁵ "This curious view seems to anticipate a statute of some years later, which made alchemical operations in general

¹M.l.d, JUST 3/191.

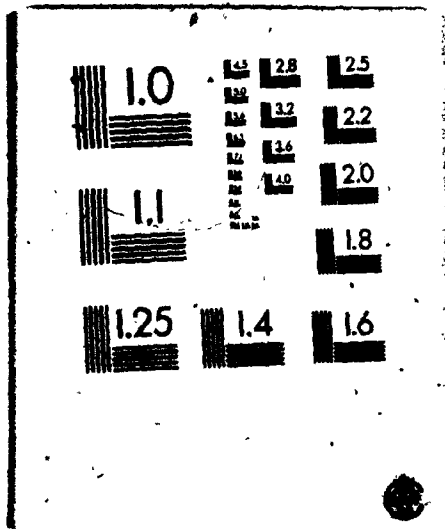
²M.19, JUST 3/191.

³Hanawalt, Crime and Conflict, p. 111.

⁴M.20d, JUST 3/191.

⁵Plucknett, Index, p. cli.

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a statutory felony."¹ That Statute ordained that none should "... use the craft of multiplication..." to make false coins on pain of incurring capital punishment for felony.² The small number of suspects taken for counterfeiting were described as having acted traitorously but the punishment for it, where dealt, was a felon's portion.

John Mellyng of Pontefract became an approver and accused three other men of Pontefract as accessories to his own counterfeiting activity. "...he confessed himself to be a traitor for making false coins of pewter and alchemy in the form of the king's money..."³ He appealed John Queldryk, John Clerk his servant, and Thomas Chollo, all of Pontefract, because

...they traitorously made 48 coins of pewter and alchemy and ... when John [Mellyng] delivered 10 false coins to them, they presented them to diverse men of the county, knowing them to be false...."⁴

John Queldryk, the first man appealed by Mellyng was acquitted by the trial jury and in accordance with the rules of approving, Mellyng was convicted immediately on the basis of his confession. Although Mellyng's crime was described

¹Plucknett, Index, p. cli.

²Henry IV, c. 4.

³M.20d, JUST 3/191.

⁴M.20d, JUST 3/191.

as treason, the punishment he was dealt was not that of a traitor, but that of a felon.

The only case involving counterfeiting seems a paradox in terms of the definition and the punishment of the crime. It is difficult to decipher and might be elucidated by further research on the topic. Two miscellaneous crimes, one felony and one trespass, remain to be mentioned in this chapter.

In 1327 a statute provided that cases of malfeasance of office were to be tried in gaol delivery, if the officials were concerned with criminal justice.¹ These offences were not considered proper felonies and were, therefore, punishable by fine.² Ten officials were indicted for allowing prisoners to escape,³ and the only two convicted were fined 100s each.⁴ Of the remainder, 4 were acquitted and 4 were pardoned.

The final crime for which indictments were tallied was breach of prison, which was a felony.⁵ In all ten indictments, the adverb felonice was employed in reference to this particular offence. A vivid case of prison break

¹B.H. Westman, A Study of Crime in Norfolk, Yorkshire and Northamptonshire, 1300-1348, (Michigan, 1970), p. 14, and E.G. Kimball, A Cambridgeshire Roll, p. lix.

²E.G. Kimball, A Cambridgeshire Roll, p. lix.

³M.4, m.6, m.11, m.28, JUST 3/191.

⁴M.4, JUST 3/191.

⁵Kimball, A Cambridgeshire Roll, p. 8.

involved John Sharpe of Barnard Castle and Nicholas Wryght, who were taken because,

They with others out of malice aforethought on 5 June [1402] last, rose in insurrection at Kyngeston on Hull and went to the king's prison there and broke it and let out divers prisoners... and others there in the stocks, crying with a robust voice 'Fire, fire, fire' and ... went to kill William Chery, now Mayor and Richard Cotome his servant... and assaulted them with swords and axes, crying... 'doune with the maire, doune with hym', and did other enormities.¹

These two leaders were pardoned for their crime as were 6 others accused of the same one.² One outside of this episode, was acquitted for breach of prison,³ and John Dousyng, a suspect, who had been pardoned for earlier crimes, reaped the sole conviction for gaolbreak.⁴

The discussion of miscellaneous crimes completes the analysis of the different crimes in Yorkshire, as presented in the indictments recorded on the gaol delivery roll for Yorkshire 1399-1407. The next chapter will deal insimiliter with appeals.

¹ Cal Patent Rolls, 1405-8, p. 115. This excerpt is part of the pardon granted to them. On JUST 3/191 they are found in m.12.

² M.19, JUST 3/191.

³ M.9d, JUST 3/191.

⁴ M.1d and M.4, JUST 3/191.

IV. THE APPEALS

"In a private appeal the victim or the next of kin of a murdered person could come to the county court and bring suit against the person or persons suspected of committing the crime."¹ The intending appellor had to take every possible step to bring the felony to the notice of the authorities by raising the hue and cry.² The immediate purpose of this was the pursuit and capture of the felon by the four neighbouring townships and if the hue had not been raised almost immediately after the felony, the appeal was quashed.³ Appellors had usually made suit from township to township and had reported the crime first to the bailiff or sergeant of the hundred, then to the coroner and finally to the next county court.⁴ "It was the county court version of the appeal which was enrolled by the coroners and used to check the appeal as made before the justices, and it was probably in the county court that it

¹B.A. Hanawalt, Crime and Conflict, p. 36.

²R.F. Hunnisett, The Medieval Coroner (Cambridge, 1961), p. 55.

³Ibid., p. 56.

⁴Ibid., p. 55.

was first made in all its formal and technical phraseology."¹ This included the date, place and nature of the crime, as well as the type and value of the goods stolen, if any, and the weapons involved in assault or homicide.

The coroner who recorded the accusation also took sureties, usually two, from the appellor to ensure that he would prosecute his appeal at the next county court. When that particular court met, the appellor made his charge in the necessary form and offered to prove it by armed combat. The appellor was summoned to appear at one of the next four county courts and if he wished to deny the accusation, he too had to offer to prove his case by battle.² If the accused failed to appear on four successive occasions, he was outlawed unless one or two men pledged to secure his attendance at the fifth county court.³ Few appeals actually led to judicial combat and the overwhelming majority of appeals were prosecuted in county court⁴ and tried by a jury.⁵

Before the appellee was summoned, the appellor had

¹ Ibid., p. 56.

² Bellamy, Crime and Public Order, p. 126.

³ Hunnisett, The Medieval Coroner, p. 61.

⁴ Ibid., p. 61.

⁵ Kimball, A Cambridgeshire Roll, p. 19.

to appear and was asked whether or not he wished to prosecute his appeal. If he withdrew it or failed to prosecute his appeal, he could be imprisoned or fined and his sureties were amerced.¹

To a contemporary, any appeal that failed, ... was tainted with some kind of falsehood. The appellant had made statements about the appellee which he could or would not substantiate.²

In the instance of a failed or forfeit appeal, the appellee was tried at the suit of the king, and there were twelve examples of this happening in the gaol delivery roll studied.³ It is interesting that only one of that number involved an appeal of burglary⁴ and the rest involved homicides.

During the thirteenth century the number of appeals rapidly declined, because the justices actively discouraged the archaic practice of mortal combat. They insisted that every variation between the appeals as made in county court and before them invalidated them.⁵ By this time the process

¹R.B. Pugh, Imprisonment in Medieval England, (Cambridge, 1968), p. 10.

²Ibid.

³M.2, m.3d, m.6, m.10d, m.17d, m.22, m.26, JUST 3/191.

⁴279, m.22, JUST 3/191.

⁵R.F. Hunnisett, The Medieval Coroner, p. 55.

of appeal was so obstructed by farcical procedural rules that most were quashed for some technical error, and this happened automatically if exceptions were successfully raised.¹ The penalties suffered for forfeit or failed appeals and the probability that they would be quashed, contributed to the decline of them. In addition, for appeals initiated against killers, the motive was usually personal vengeance and apart from this, the appellor had little to gain from his action.

Although appeals were waning in popularity by the fourteenth century, they were far from extinct,² and Elisabeth Kimball found that "the trials of those appealed constituted a substantial portion of the business done at gaol deliveries."³ Appeals largely continued for one reason it seems, and that was because "...in cases of theft they had the advantage for an appellant that if successful he could secure specific restitution of his stolen goods."⁴ In Yorkshire 1399-1407, this restitution was made on thirty occasions as the result of successful prosecutions against larcenists and burglars.⁵

¹N.D. Hurnard, The King's Pardon for Homicide Before A.D. 1307 (Oxford, 1969), p. 177.

²Pugh, Wiltshire Gaol Delivery, p. 11.

³Kimball, A Cambridgeshire Roll, p. 19.

⁴Pugh, Wiltshire Gaol Delivery, p. 11.

⁵Suspects convicted on appeal of larceny and burglary were in m.2d, m.4d, m.6d, m.7, m.11, m.11d, m.13, m.14, m.15, m.17d, m.18, m.19, m.21, m.22, m.23, m.23d, m.27, m.28d, m.29, JUST 3/191.

There were 51 appeals recorded in the gaol delivery roll for Yorkshire in this period, making up almost 12% of all cases - a small proportion compared to the number of indictments in the roll. These were initiated against four types of criminals as Table 27 shows below, namely larcenists, most often, killers, burglars, and receivers.

TABLE 27
TYPES OF CRIME RE: APPEALS
YORKSHIRE GAOL DELIVERY 1399-1407

Type of Crime	Number of Appeals	%
Homicide	14	27.4
Larceny	23	45.0
Burglary	10	19.6
Receiving	4	07.8

In cases involving homicide, the appellor had to allege felony in making his appeal, but in cases of rape or larceny the accusation could rate either trespass or felony, as the appellant decided.¹ There were 23 appeals prosecuted against larceny as shown in Table 26, and it should be noted here that in all of those appeals, the offences were rated as felonies.

It is interesting to note the dearth of appeals for rape on the roll for this particular period of Yorkshire history. Bertha Putnam found a reference made by the editor

¹Hurnard, The King's Pardon, p. 171.

of the Yorkshire Eyre Rolls of 1218-19, which indicated that there were a large number of appeals for rape in that county because life was so grim and dour there.¹ The absence of any such appeals, 1399-1407, might be explained by the waning popularity of the appeals in general or the fact that rape had become an indictable offence with the Statute of Westminster, 1285.²

In general terms, the verdicts for the appeal cases were most often convictions. Of 51 appellees, 29 were sentenced to hang as demonstrated in Table 28, and of that number 20 had been charged with larceny, 1 with homicide and 8 with burglary. One burglar³ and 3 larcenists⁴ claimed benefit of clergy when asked if they wished to deny the charges against them. They were all released to the bishop's representative in order to stand trial in ecclesiastical court.

Five appellees, all alleged killers, proffered pardons and were released sine die on the basis of them.⁵ Of 9 appellees who were cleanly acquitted, 8 had been charged with homicide and 1 with burglary. It is time now to investigate the crimes that these verdicts applied to, on an individual basis, beginning with larceny.

¹Putnam, Yorkshire Peace Sessions, p. xlvi.

²Hanawalt, Crime and Conflict, p. 104.

³M.13, JUST 3/191.

⁴M.13d, m.14, m.28, JUST 3/191.

⁵M.2d, m.10d, m.26, JUST 3/191.

TABLE 28

VERDICTS RE: APPEALS IN
YORKSHIRE GAOL DELIVERY 1399-1407

Verdict	Number	%
Acquittal or release <u>Sine Die</u>	9	19.14
Pardons	5	10.63
Conviction	29	61.70
Benefit of Clergy	4	08.51

There were 23 appeals launched against larcenists and these rate as the most successful in terms of securing convictions. Twenty of those so charged were plainly convicted and the appellors had their stolen goods restored to them. The remaining 3 appellees claimed benefit of clergy and this might be considered close to conviction, theoretically speaking. There were no acquittals and no pardons proffered as Table 29 shows below, indicating that appeals against larcenists were worthwhile in Yorkshire 1399-1407.

Livestock was most often the target of larcenists appealed, with equal numbers of horses and cows stolen most frequently. Combinations of domestic goods, valuables and cloth were taken 5 times out of 23, another peak shown in Table 30. The frequency with which livestock was filched in the appeal cases resembles the pattern for larcenies as found in the indictments.¹

¹See Table 7, Chapter 3, for comparison.

TABLE 29
VERDICTS RE: APPEALS
FOR LARCENY

Verdicts	Number of Cases	%
Acquittals	0	-
Pardons	0	-
Convictions	20	86.95
Benefit of Clergy (Successful)	3	13.04

TABLE 30
TYPES OF GOODS STOLEN
IN LARCENY RE: APPEALS

Type of Goods Stolen	Number of Cases	%
Horses	5	21.73
Cows	5	21.73
Sheep	2	08.69
Combination of Livestock	1	04.34
Domestic Goods/Weapons	1	04.34
Valuables (silver goods, (jewellery, \$)	1	04.34
Cloth	3	13.04
Combination of Goods	5	21.73

The overall pattern in terms of the value of goods stolen in these appeal cases indicates a tendency to take goods of a slightly higher value than persons indicted for larceny did.¹ Table 31 demonstrates that almost 50% of the larcenists appealed stole goods worth between £1 and £5 whereas over 60% of indicted larcenists stole goods worth £1 or less.

TABLE 31

VALUE OF GOODS STOLEN
IN LARCENY RE: APPEALS

Value of Goods	Number of Larcenies	%
1d to 12d	-	-
1s to 10s	3	13.04
10s to 20s	6	26.08
£1 and over	11	47.82
£5 and over	1	04.34
£10 and over	3	13.04
£20 and over	-	-

In terms of daily, monthly and seasonal patterns, the appealed larcenists were most active on Mondays in November, at the height of the harvesting and butchering season. Once again, and not surprisingly, the patterns exhibited in Tables 32, 33 and 34 resemble those charted for

¹See Table 8, Chapter 3 for comparison.

larceny in the indictments,¹ undoubtedly for the same reasons.

TABLE 32
SEASONALITY: AGRICULTURAL PATTERN
FOR LARCENY RE: APPEALS

Season	Number of Larcenies	%
Fallow - December through April	5	17.24
Planting - May through August	11	37.93
Harvesting and butchering - September through November	13	44.82

TABLE 33
SEASONALITY: DAILY PATTERN
FOR LARCENY RE APPEALS

Day	Number of Larcenies	%
Monday	11	37.93
Tuesday	3	10.34
Wednesday	4	13.79
Thursday	1	03.44
Friday	5	17.24
Saturday	3	10.34
Sunday	2	06.89

¹See Tables 9, 10 and 11, Chapter 3 for comparison.

TABLE 34¹

SEASONALITY: MONTHLY PATTERN
FOR LARCENY RE: APPEALS

Month	No. of Larcenies	
January	1	03.44
February	2	06.89
March	-	-
April	1	03.44
May	3	10.34
June	4	13.79
July	4	13.79
August	-	-
September	4	13.79
October	1	03.44
November	8	27.58
December	1	03.44

Ten burglars were appealed on the roll and only one of these was acquitted.² Of the remaining 9, 8 were convicted and 1 successfully claimed clerical privilege. The appeal of burglary was, like that for larceny, a profitable pursuit in Yorkshire for this period, as the conviction rate below indicates.

The types of goods stolen in these burglaries were usually domestic or valuable in nature - the types of things that would be kept inside a house. Table 36 demonstrates the distribution of goods stolen in the appealed burglaries. Table 37 does not show burglaries to have been more profitable than larceny in terms of the value of goods taken,

¹Calculated out of 29 - as calculated in Chapter 3, part one.

²M.22, JUST 3/191.

although this was the case concerning the indictments for the same crimes. The values of goods stolen seems rather to have been fairly evenly distributed over a wide range of amounts.

TABLE 35

VERDICTS FOR BURGLARY RE: APPEALS

Verdicts	Number of Cases	%
Acquittals	1	10
Pardons	-	-
Convictions	8	80
Claims Benefit of Clergy	1	10

TABLE 36

TYPES OF GOODS STOLEN
IN BURGLARY RE: APPEALS

Type of Goods	Number of Burglaries	%
Horses	1	10
Grain	1	10
Cloth	2	20
Domestic Goods/ Weapons	1	10
Valuables (silver goods, jewelry, \$)	2	20
Combination of Goods	3	30

TABLE 37
 VALUE OF GOODS STOLEN
 IN BURGLARY RE: APPEALS

Value of Goods	Number of Burglaries	%
1d to 12d	-	-
1s to 10s	2	20
10s to 20s	2	20
£ 1 and over	1	10
£ 5 and over	3	30
£ 10 and over	1	10
£ 20 and over	1	10

Burglary was most often committed on Mondays and Wednesdays, but never on Sundays - at least not in this small study. Resembling the monthly and seasonal patterns of the indictments for burglary, the appellées for that crime struck most often between December and April, the period when fields were fallow. February was the favorite month it seems, as 70% of the burglaries occurred in it.

TABLE 38
 SEASONALITY: DAILY PATTERN
 FOR BURGLARY RE: APPEALS

Day	Number of Burglaries	%
Monday	3	30
Tuesday	1	10
Wednesday	3	30
Thursday	1	10
Friday	1	10
Saturday	1	10
Sunday	-	-

TABLE 39

SEASONALITY: MONTHLY PATTERN
FOR BURGLARY RE: APPEALS

Month	Number of Burglaries	%
January	-	-
February	7	70
March	1	10
April	1	10
May	1	10
June	-	-
July	-	-
August	-	-
September	-	-
October	-	-
November	-	-
December	-	-

TABLE 40

SEASONALITY: AGRICULTURAL PATTERN
FOR BURGLARY RE: APPEALS

Season	Number of Burglaries	%
Fallow - December through April	9	90
Planting - May through August	1	10
Harvesting and Butchering - September through November	-	-

Four suspects were appealed for receiving a killer.¹
John Cay, Cecilia his wife, John Cay Junior and John Fynnay,
presumably a friend, were appealed for receiving Peter Cay.²

¹M.18, JUST 3/191.

²M.18, JUST 3/191.

Peter had been taken at the suit of John of Creslande, brother and heir of William of Creslande, whom Peter had allegedly killed. John failed to prosecute the appeal and at the suit of the king, Peter proffered a pardon, which was accepted, and both he and his receivers went sine die.

The fourteen appeal cases not yet commented on were initiated by the kin of homicide victims, thirteen by widows seeking vengeance for their husbands' deaths¹ and one by the brother and heir of a murdered man.² The number of female appellors cited here lends credence to the suggestion that "In the fourteenth and fifteenth centuries appeal was perhaps more a woman's action than a man's."³ Although in theory, a woman could only appeal homicide if her spouse died, wounded, in her arms, the king allowed appeals for the killing of other close male kin as well⁴ and the relatives of a slain man retained the right to appeal homicide, whatever the circumstances and despite the king's pardon of his own suit.⁵

Vengeance was the prime motive behind any such appeal, and the king showed considerable respect for the relative's right to pursue it. "His justices also were at

¹M.2d, m.4, m.6, m.10d, m.19, m.20, m.26, JUST 3/191.

²M.18, JUST 3/191.

³Bellamy, Crime and Public Order, p. 126.

⁴Ibid.

⁵Hurnard, The King's Pardon, p. 172.

some pains to ensure that there was an opportunity for appeal even in cases in which pardon seemed appropriate."¹

It was uncommon but not impossible for these appeals to result in conviction and some people must have thought it worthwhile "...to bring one in order to ensure the appellee's arraignment at the suit of the king when it failed, as it was almost sure to do."² Eleven of the 14 appeals were tried at the suit of the king because the appellors failed to prosecute them.³

It was only when an appeal had been quashed on the basis of some exception⁴ and the prisoner arraigned at the king's suit, that the justices would investigate the circumstances of the slaying and decide to recommend the accused to mercy.⁵ Otherwise the king's justices would know nothing more than the appellor revealed about the killing, and "... he could not, even if he so wished, state that the slaying had been accidental or in self-defence."⁶ It was mandatory to present the correct formula for appeal, simply "... the

¹Hurnard, The King's Pardon, p. 176.

²Ibid., p. 212.

³M.2, m.3d, m.6, m.10d, m.17d, m.26, JUST 3/191.

⁴Exceptions were confined to matters such as the status of the appellor and his deviation from the proper formula and omission or variation in the account of the slaying. Ibid., p. 178.

⁵Ibid.

⁶Ibid., p. 177.

allegation that the slaying had been in felony and breach of the king's peace."¹

This happened when Alice Steppyng of Skytby appealed Margaret Stokke who, according to Alice "feloniously killed and murdered" her husband Stephen. After Margaret had been brought to court and had denied the charge, the jury described the circumstances surrounding the slaying. It seems that Stephen had come into Margaret's house and feloniously broke a certain chest, cistam, belonging to her. Margaret then entered the house holding a certain mallet called horsmell in her hand, and, seeing her chest feloniously broken, she struck Stephen with the mallet, and he fell against a post in the house and died quickly.³ Margaret was acquitted and Alice was fined per falso appello.

Eleven of the homicides recorded in these appeals were described by the verb interfecit alone and 6 of these were pardoned. The remaining 3 were described by the combination interfecit et murdravit and their alleged perpetrators were acquitted.

Only twice were the weapons used to kill recorded in the appeal cases. Margaret Stokke, mentioned earlier,

¹Hurnard, The King's Pardon, p. 177.

²Ibid., p. 178.

³M.20, JUST 3/191.

⁴M.4, m.17d, m.20, JUST 3/191.

killed Stephen Steppyng with a mallet, and Richard Leper stabbed John of Corbrygg in the chest with a knife called a twytl, from which blow he languished and died.¹

Tables 41, 42 and 43, based on this particular set of appeals, indicated that homicide was a Sunday and a summer crime. These patterns are similar to those charted for the indicted killers of Chapter 3.

TABLE 41

SEASONALITY: DAILY PATTERN
FOR HOMICIDE RE: APPEALS

Day	Number of Homicides	%
Monday	2	14.28
Tuesday	-	-
Wednesday	-	-
Thursday	2	14.28
Friday	2	14.28
Saturday	-	-
Sunday	8	57.14

¹M.19, JUST 3/191.

TABLE 42

SEASONALITY: MONTHLY PATTERN
FOR HOMICIDE RE: APPEALS

Month	Number of Homicides	%
January	-	-
February	2	14.28
March	-	-
April	2	14.28
May	6	42.85
June	-	-
July	-	-
August	1	07.14
September	1	07.14
October	2	14.28
November	-	-
December	-	-
May through November	10	71.42

TABLE 43

SEASONALITY: AGRICULTURAL PATTERN
FOR HOMICIDE RE: APPEALS

Season	Number of Homicides	%
Fallow	4	28.57
Planting	7	50.00
Harvesting and Butchering	3	21.42

According to the cases studies, a person appealed for homicide in Yorkshire 1399-1407 ran little risk of conviction, and almost as often as not, proffered a pardon to secure his release. Most of these appeals were tried at the suit of the king, as their initiators failed to prosecute

them - their only real motive, revenge, scrannelly pursued.

It remains to note the use of certain adjectives and phrases in the appeal cases. Nine of the larcenies were described as furtive,¹ and three larcenists were captured with the mainour, (the stolen goods),² and two of the burglaries were committed at night.³ This does not seem to have affected the verdicts one way or the another as virtually all of the thieves appealed were convicted and while one of the night burglars was convicted, the other went quit.

Only two of all persons appealed were described as common thieves and both of them confessed to their crimes, becoming approvers of the king. Richard Barbour, the first of these, successfully claimed clerical privilege before he could be convicted by the jurors.⁴ John Jenkyson of County Lincoln was appealed for several horse thefts and convicted on the basis of his confession.⁵ Neither of these men appealed any other persons, so perhaps they were hoping to secure pardons and failed. Another larcenist, John of Castell⁶ tried to claim that he had sought sanctuary in the

¹M.5, m.6d, m.7, m.15, m.17d, JUST 3/191.

²M.2d, m.5, JUST 3/191.

³M.2d, m.22, JUST 3/191.

⁴M.14, JUST 3/191.

⁵M.14, JUST 3/191.

⁶M.11d, JUST 3/191. Sanctuary will be discussed in the next chapter.

Church of Heselarton and that he had been forcibly removed from there by his enemies. His claim was adjudged false and he was, in fact, immediately convicted.

In summary, appeals formed a small, but not negligible portion of the total number of cases studied on this gaol delivery roll. They were initiated against larcenists burglars, killers and receivers, and though almost always successful against thieves, they rarely resulted in conviction for those appealed of homicide. Chapter 5 discusses options available to all suspects, indicted and appealed.

V. THE OPTIONS

In attempting to escape capital punishment, an alleged felon might turn approver, claim clerical privilege, proffer a pardon, or seek sanctuary in order to abjure the realm. Instances of all such alternatives appear in the gaol delivery roll for Yorkshire 1399-1407, and will be examined in this chapter.

Approvers have already been mentioned in some measure,¹ but a few words of summary are warranted here. Four felons confessed to their crimes, only 1.8% of all suspects, and two of these were appealed for larceny,² one indicted for the same,³ and the other indicted for counterfeiting.⁴ One of the two appealed approvers, John Jenkynson, was charged twice by different appellors, and was taken the second time by the name of John Walker.⁵

Starvation and duress were methods not infrequently used to induce suspects to confess, and approvers often

¹See Chapter 3.

²M.14, JUST 3/191.

³M.27d, JUST 3/191.

⁴M.20, JUST 3/191.

⁵This suspect appeared as John Jenkynson on m.14 and as John Walker on m.22d, JUST 3/191.

testified in gaol delivery that they had been pressured to do so.¹ Gaolers were also more than mildly interested "... in extorting money from those whom the approvers desperately, yet often falsely appealed."² To postpone their trials, approvers frequently appealed more than one person as both John Mellyng and Henry of Bolingbroke did.³ Each appealed three other men, none of whom were convicted, and consequently both were sentenced to hang. John Jenkynson was pardoned after his second trial and released sine die, while Richard Barbour,⁴ though convicted, was released to undergo ecclesiastical trial after successfully claiming benefit of clergy.

The paucity of cases involving approvers indicates that the practice, voluntary or otherwise, was not a common one in Yorkshire at this time. When in use, it seems only to have delayed the inevitable, unless the accused could evade trial by yet another route. Flight to sanctuary, in order to abjure the realm, was such an alternative and it will be examined next.

"Every consecrated monastery, church or chapel with its graveyard could provide sanctuary for a limited period,"⁵

¹Hanawalt, Crime and Conflict, p. 36.

²Bellamy, Crime and Public Order, p. 129.

³M.20 and M.27d, JUST 3/191.

⁴M.14, JUST 3/191.

⁵Hunnisett, The Medieval Coroner, p. 37.

which was most often sought by thieves and killers under pursuit or after breaking prison. The suspect could remain therein unmolested for forty days and had to stay in the church continuously for that period, otherwise forfeiting the right to abjure the realm.¹ Watch was kept on a sanctuary known to be harbouring a fugitive by men of the four nearest townships,² but

...the guarding of churches was frequently inadequate and, although they inevitably meant an amercement for the township or other body responsible, escapes from sanctuary were common.³

The coroner had to be summoned at any point within that forty day period when the fugitive asked for him, and not necessarily immediately after he had taken sanctuary.⁴ When he arrived he gave the felon the choice of surrendering to the law or abjuring the realm. Very few chose the former, and when they did, they were committed to gaol by the coroner, so that they might stand their trial.⁵

For the felon whose decision it was to leave England and preserve his life abroad, a public oath to that effect was mandatory. After publicly confessing his felonies, he

¹ Hanawalt, Crime and Conflict, p. 37.

² Bellamy, Crime and Public Order, p. 107.

³ Hunnisett, The Medieval Coroner, p. 40.

⁴ Ibid., p. 39.

⁵ Hunnisett, The Medieval Coroner, p. 42.

swore the oath of abjuration by which he promised to leave the realm never to return, except by the explicit permission of the king or his heirs.¹ The coroner would then assign him an embarkation port and a term within which to reach it. If the felon disregarded the set conditions and was retaken, he was deemed convicted and was hanged. It is likely that most abjurors left the highway at some point and took up residence unmolested elsewhere.²

Known or notorious offenders, traitors, heretics, clerks, and persons who had committed sacrilege were denied the privilege of sanctuary.³ In theory, known or convicted felons could be dragged from sanctuary, but such forcible extractions were rare because the violation of sanctuary was a serious offence, resulting in excommunication and restoration of the felon to sanctuary.⁴

Sanctuary was mentioned only once in the roll examined and that was in partial terms. The pertinent case involved a certain John of Castell, a resident of Beverly who was appealed by Thomas of Swanland, a draper, of the same town.⁵ John had allegedly burgled the shop that Thomas owned in a street known as Les Dynges, stealing large quantities of

¹Ibid., p. 45.

²Ibid., p. 49.

³Pugh, Wiltshire Gaol Delivery, p. 9.

⁴Bellamy, Crime and Public Order, p. 107.

⁵M.11, JUST 3/191.

blue, green, white, ruby, red and russet coloured cloth, as well as some that was striped, all worth 40 marks. When John was asked if he wished to deny the charge, he replied in the affirmative and claimed that he had been forcibly removed from sanctuary. He said that he had been "...in the sanctuary in the church of Heselarton and by force, by his enemies, he was taken out of it against his will."¹ He sought that the matter be inquired of by the country, which resulted in the rejection of his claim and his conviction. The jury restored the stolen cloth to Thomas and the case was closed. This solitary reference to sanctuary infers that like approving, it was not a common feature of gaol delivery in Yorkshire 1399-1407. The Yorkshire felons who sought to evade trial in the sessions studied, were more likely to claim the privilegium clericale or purchase a pardon, and were more likely to succeed in their purpose.

The phenomenon known as "benefit of clergy" was

...the exemption of members of the clergy from the jurisdiction of the temporal courts in certain criminal cases which normally would not have come within the competence of the ecclesiastical courts.²

The origins and development of that privilege have been lucidly presented in a pioneer study of the subject by Leona C. Gabel, based primarily upon the extant gaol delivery

¹ Ibid.

² L.C. Gabel, Benefit of Clergy in England in The Later Middle Ages (New York, 1969), p. 7.

rolls of three English^r counties, including Yorkshire.¹

Seventeen Yorkshire suspects claimed privilegium clericale as recorded on the roll, a number significant enough to warrant discussion and a brief introduction to it.

From the time of the conquest until Becket's triumph, the final jurisdiction over a criminous clerk rested with the secular power, and it was not until the final years of the reign of Henry I that benefit of clergy achieved practical validity, immune from secular control in both the trial and punishment of criminous clerks. It was Henry II, in the Constitutions of Clarendon, who sought to enforce the policy that clerks, once degraded by church authorities, should be treated and punished as laymen.

The controversy between Henry II and Becket, over how criminous clerks ought to be tried, need not be rehearsed here except to mention its result. The murder of Becket led to the recall of the Constitutions of Clarendon and from this time forward, the privilege was made a complete immunity from secular jurisdiction in criminal cases, but the secular power retained the right to arrest and detain a clerk until he was claimed by ecclesiastical authorities.² In practice though, the privilege was limited by the lay court which subjected the definition of the term clericus to various conditions.

¹Ibid., p. 1.

²Gabel, Benefit of Clergy, pp. 25-28.

During the reign of Henry III, the term clericus came to include all men having first tonsure, not exclusively those in the higher orders and those who were literate.¹

Other elements of proof were clerical garb and certification of orders, but by the beginning of the fourteenth century literacy settled dubious cases of clerical identification.²

By the close of the fourteenth century, literacy alone had become proof of clergy, and the gaol delivery entries "...not only mention the reading test as a regular part of the procedure, but tend more and more to omit reference to any other proofs of clergy."³ In all seventeen cases where a suspect claimed the privilege, the reading test constituted the only proof required to substantiate it.⁴

"Until the fifteenth century and the rise of a numerous educated laity this was a reasonable way of separating clerk from layman."⁵ At this time, it is highly probable that the literacy test was being exploited by laymen to gain immunity from secular sentencing, and it comes as no surprise that the fifteenth century was characterized by increasing abuse

¹In the reign of Henry II, the term clericus applied only to members of the higher orders, i.e. subdiaconate and above. See Peter Heath, English Parish Clergy on The Eve of The Reformation (London, 1969), Chapter 1, especially pp. 13 ff, for expansion.

²Gabel, Benefit of Clergy, p. 64.

³Gabel, Benefit of Clergy, p. 85.

⁴JUST 3/191.

⁵Bellamy, Crime and Public Order, p. 152.

of the privilege and a simultaneous progression of legislation designed to define and limit its usage.

The test itself was conducted immediately on the lodging of the claim which could occur when the accused was asked to plead or at a later point in the trial.¹ For most of the thirteenth and fourteenth centuries, the most common type of plea was one in which the prisoner refused to plead except to claim the privilege entitling him to trial in the bishop's court. Six of the suspects who claimed benefit of clergy, did so in this manner,² and all of them were convicted by the lay jurors who "... seem to have been very jealous of the privilege."³ They were then released to the ordinary, the bishop's representative, and their chattels, if any, were held forfeit by the lay authorities until such time as the clerk was restored to good repute.

A second type of plea, termed a "layman's plea" by Gabel, was referred to as a practice already extant in the Statute Pro Clero of 25 Edward III, and became increasingly common in the remainder of his century and next.⁴ This involved the accused denying the charge and putting himself on the country, thereby submitting himself to trial by a lay jury. This type of plea was usually made in order to

¹Ibid.

²M.3, m.7, m.13d, m.19d, m.25d, JUST 3/191.

³Bellamy, Crime and Public Order, p. 153.

⁴Gabel, Benefit of Clergy, p. 41.

avoid punishment of any kind, lay or spiritual, by being acquitted in the king's court initially. If convicted, the clerk would then take refuge in his privileged status, which he would not have mentioned otherwise. Gabel found the proportion of acquittals to convictions for this type of plea to be almost 5 to 1 after 20 Edward III, indicating that criminous clerks from this time forth, had reason to regard this procedure as the simpler, perhaps the quicker method, and also the one more favourable to acquittal.¹ Eleven of the men who claimed benefit of clergy used this procedure and not a single one was acquitted by the lay jury that tried them.² Perhaps this is a reflection of the general anti-clerical sentiment prevalent in England at this time.

After conviction by a lay jury, if the plea of clergy was made good, the clerk would be delivered to an ecclesiastical representative, usually, and consistently in the cases studied, to the bishop's ordinary. In theory this official was to have charge of conducting the literacy test, inquiring about the letters of ordination and ascertaining bigamy. Towards the end of the fourteenth century however, the reading test was commonly administered by the court,³ and this was always the practice in the cases studied. Once

¹Gabel, Benefit of Clergy, p. 71.

²M.4d, m.7, m.10d, m.12, m.13, m.13d, m.14, m.15, m.19d, m.28, JUST 3/191.

³Gabel, Benefit of Clergy, pp. 51-55.

delivered to the ordinary, the clerk was committed to the bishop's prison, sometimes for several years, to await trial. The accused would petition to be admitted to purgation, where an oath of innocence before an ecclesiastical judge and jury of clerks was accompanied by the taking of an oath by roughly a dozen compurgators, of whom up to three-quarters might be laymen.¹

Failure to purge successfully was rare and resulted in degradation, penance, and imprisonment in the bishop's gaol for a period of up to life. If successful, the clerk was restored to good fame and his goods, if any, were restored to him by the secular authorities that held them. Practice reveals that the canonical procedure in criminal cases was largely an empty form, favorable to the accused, which could not have failed to foster lawlessness among the clergy and attracted undesirables to that vocation.²

The Statute Pro Clero restated the number of clergyable crimes, affirming the omission of high treason, misdemeanours and all civil actions save those involving money debts. Two offences that were deemed unclergyable at that time were being an insidiator viarum et depopulator agrorum and a combustor domorum.³ In light of this affirmation, the

¹Bellamy, Crime and Public Order, pp. 153-4.

²Gabel, Benefit of Clergy, p. 113.

³25 Edward III, c. 13-15.

case involving John of Frikley, clerk of Stubbs Hampole, is curious. Frikley was indicted because he had robbed and burgled three different churches ex malicia precogitata, and because he was an insidiator viarum et depopulator agrorum.¹ He claimed benefit of clergy immediately after he was asked to plead and was released to the ordinary after he had read to the court and been convicted by the lay jury. Tried at a gaol delivery session in 3 Henry IV, his crime was still considered unclergyable by virtue of Pro Clero, and yet his plea of clergy was successful. This is a curious exception for which there seems no apparent explanation.

Benefit of clergy was most often invoked for theft, especially that of horses and cattle,² but not exclusively so, as the cases examined reveal. Eight of the 17 clerks who were convicted, were taken on charges of larceny or burglary involving either horses, cattle or both,³ and one was coupled with homicide.⁴ Two others were indicted for robbery,⁵ and the remainder with burglary involving the theft of domestic goods, valuables, or coined money. Three were described as common and notorious thieves,⁶ but this does not seem to have prevented their claims from being successful once they had

¹M. 7, JUST 3/191.

²Gabel, Benefit of Clergy, p. 116.

³M. 1d, m. 2d, m. 13d, m. 14, m. 15, m. 19d, JUST 3/191.

⁴M. 19d, JUST 3/191.

⁵M. 7, m. 11d, JUST 3/191.

⁶M. 2d, m. 11d, m. 25d, JUST 3/191.

read.

Benefit of clergy was pleaded seventeen times and always successfully in Yorkshire gaol delivery 1399-1407. All of the men involved were convicted by the lay jury that tried them before they were released to the ordinary, regardless of whether they claimed the privilege immediately when asked to plead or put themselves on the country and hoped for secular acquittal first. The only mode of proof employed in the cases studied was the literacy test and all those who made the claim, including some listed as having secular occupations, read satisfactorily. Those who could then, read, and benefited by their ability, avoiding capital punishment and were likely to be purged and restored to good fame by ecclesiastical justice. Benefit of clergy was a successful method of securing an escape from lay punishment in Yorkshire for this period, but it was not as often used as royal pardons were, the next and final topic to be discussed here.

"In medieval England the king's prerogative of mercy, however worthy in conception was certainly used to excess."¹ Men were pardoned out of military necessity and so were those who deserved mercy but could not be acquitted by the courts. This number included the innocent, involuntary killers, accidental slayers, the insane, infants and those who slew in self-defence. All of these needed the king's pardon and this requirement was very strict. Pardons were

¹Hurnard, The King's Pardon, p. 1.

granted for crimes other than homicide too, and this will be demonstrated in the following analysis.

Barbara Hanawalt found that few pardons appeared in the gaol delivery rolls that she examined, noting that "...only 1.5 per cent of all those tried were pardoned and only 5 per cent of those were women."¹ Pardons were granted to 55 Yorkshire felons tried in gaol delivery sessions 1399-1407, a comparatively high percentage, in fact over 15% of all suspects studied. Only one woman was granted a pardon among this number² and only one suspect failed to succeed in proffering one.³

In her study on the king's pardon for homicide, Naomi Hurnard found that of 1,900 pardons enrolled on the patent rolls for the period 1226-1294, only 140 of them were not for homicide. The remainder were granted for a variety of crimes, among them arson, mayhem, rape, robbery, harbouring felons, prisonbreaking, allowing prisoners to escape and counterfeiting.⁴ Table 44 shows the proportion of pardons granted for various crimes in the Yorkshire sessions studied and demonstrates that pardons for homicide were the most numerous. Table 45 reveals a similar pattern

¹B.A. Hanawalt, Crime and Conflict, p. 43.

²Sybill Manell, m.17, JUST 3/191.

³William Delle, m.11d, JUST 3/191.

⁴Hurnard, The King's Pardon, pp. 245-246.

in terms of the relevant pardons recorded in the patent rolls for the same period.

In light of the fact that pardons were a matter of royal prerogative, there was no rigid, standard procedure for obtaining them. "Some were issued by chancery without royal warrant following a jury verdict of 'killed by misadventure' or 'in self-defence,'" but most pardons were obtained by an individual and direct petition to the king.¹ Some suspects were in prison pending trial when they sought pardon, and others may have awaited their trial hoping to secure one 'on the record of the court and virtual recommendation of the justices.'² The majority of petitioners were fugitives, who sought pardon before trial and had to take the initiative themselves or else rely upon friends to do so for them. Those who came before the justices took a smaller part in initiating the procedure.³

Sometimes a pardon was granted ad gratiam, that is, a suspect would be remanded to gaol so that he might sue for the king's grace. This implied a readiness on the part of the justices to recommend mercy but did not necessarily mean that they would secure the pardon for the individual remanded.⁴

¹Bellamy, Crime and Public Order, p. 193.

²Hurnard, The King's Pardon, p. 31.

³Ibid., p. 35.

⁴Ibid., p. 52.

There was a solitary example of this among the pardon cases studied, involving John Milner of Knottinglay who had feloniously killed Robert Gretham. The jury inquired into the circumstances of the killing and concluded that "Robert, out of an ancient hatred, assaulted John with a knife" first, and that John "...in self-defence and salvation of his life, struck Robert with a certain sword on the head, to his brain, whereof he died."¹ Satisfied that John had not killed Robert ex malicia precogitata, he was remanded to prison ad gratiam, and later received a pardon because the king was motivated by piety (pietate motus) to grant him one.

TABLE 44

PARDONS GRANTED IN YORKSHIRE
GAOL DELIVERY 1399-1407

Type of Crime	Number of Pardons Granted	%
Homicide	25	45.45
Aiding and Abetting		
Homicide	1	01.80
Larceny	9	16.36
Receiving	7	12.72
Jailbreak	2	03.63
Burglary	2	03.63
Rape	1	01.80
General Treasons	1	01.80
Suspicion of Felony	1	01.80
Allowing Escapes	3	05.45
Larceny and Burglary	3	05.45

¹John Milner, m.10, JUST 3/191.

TABLE 45
 PARDONS RECORDED IN THE PATENT
 ROLLS FOR VARIOUS CRIMES

Crime	Number	%
Larceny	2	05.50
Burglary	1	04.76
Larceny and Burglary	1	04.76
Rape	1	04.76
Jailbreak	2	09.50
Allowed Escapes	3	14.28
Suspicion of Felony	1	04.76
Homicide	10	40.00

It is worthy of note here that in the fifteenth century, many pardons were found to have been granted because the recipient had been accused out of hatred and malice.¹ The only reference to such animosity among the pardons studied, was to the "ancient hatred" borne by Robert Gretham towards his eventual killer, John Milner. Ironically this case appears to be a reversal of sorts, with the killer being pardoned for defending himself against an assault motivated out of ancient hatred.

Some requests for pardon seem to have been made orally, but "...a written petition could be handed in and this was the best way of ensuring accuracy in the wording of the charter of pardon."² Then, some sort of inducement had to be offered to the king - sometimes the pardon would

¹Bellamy, Crime and Conflict, p. 192.

²Hurnard, The King's Pardon, p. 35.

be bought outright and in other cases a much larger sum would be promised for a later date. Other considerations such as the influence of an outside party, excuse or extenuating circumstances were likely to sway the king too.¹ The long and often complex procedure, as well as the cost of pardons must have been significant deterrents to their purchase.

"The profit provided was of major importance to the king although he gave numerous reasons for his generosity."² Judges were often willing to wait while suspects raised the money to purchase pardons because "...the crown was patient when a profit was waiting."³ There is only one instance in which the cost of a pardon is recorded in the patent rolls, out of those counted, and that was one purchased by John de Burton; dated June 16, 1405, at Ripon for a sum of 40 marks.⁴ Although Hurnard maintained that, at least in the thirteenth century, the King was not in the habit of selling pardons just to raise money,⁵ a hypothetical extrapolation for the beginning of the fifteenth, might suggest something contrary. The sum

¹Ibid.

²Bellamy, Crime and Public Order, p. 192.

³Samaha, Law and Order, p. 59.

⁴Cal. Pat. Rolls, 1405-1408, p. 72. 40 marks amounts to 26 13s 4p.

⁵Hurnard, The King's Pardon, p. 225.

of money extracted from selling 55 pardons at 40 marks each would be 2,200 m, a considerable sum and one that would undoubtedly have been welcomed by the usually impoverished.

Henry IV.

If the number of pardons granted to felons delivered from the gaol at York alone is any indication of the total number granted all over the realm in the same period, the king might well have collected a substantial sum of revenue through the sale of them. Profit, then, would appear to have been an important reason for Henry IV's generous dispensation of pardons.

Another reason for which the king might grant pardons was out of military necessity. "Edward I introduced the policy which made pardon available to every able bodied male criminal who cared to earn it by military service,"¹ but there were no pardons granted on this basis among those examined. Two pardons were granted by Henry because he was motivated by his piety and out of reverence for God, pietate motus et ob reverencia dei,² and several others, granted by Richard II, were honoured by Henry's justices.³

For the period 1247-1272, Hurnard discovered that well over half of the pardons granted for homicide were said to have been made ad instantiam, at the instance of a third

¹Hurnard, The King's Pardon, p. 250.

²M.10, m.22d, JUST 3/191.

³M.3, m.4d, m.18, JUST 3/191.

party.¹ This would be a fairly influential person and not infrequently, a member of the royal family. A total of 6 people were pardoned at the request of Queen Joan, Henry IV's second wife, comprising just over 10% of all persons pardoned.² This is a considerably lower percentage in comparison to Hurnard's, though it is possible that such outside influence was not always recorded. Of relevance here is a statute of 5 Henry IV, which declared that anyone who had petitioned for pardon on behalf of an approver, would be fined £100, should that person commit a crime again.³ One of those for whom the queen interceded was John Jenkynson, who became an approver, and was pardoned as such on September 7th, 1404. He did not appear on the roll again as having done more crime, and the pardon was granted before the statute was made.

Pardons might also be issued for political reasons, as they might well have been in the reign of Henry III in an effort "...to pacify the country."⁴ This suggestion might be convincingly applied to the troubled times of Henry IV and particularly to the often turbulent county of Yorkshire, but this remains in the realm of speculation.

¹Hurnard, The King's Pardon, p. 250.

²Suspects 225, 226, m.17, 239, 240, 241, m.18d and 290, m.22d, JUST 3/191.

³5 Henry IV, .c. 12.

⁴Hurnard, The King's Pardon, p. 225.

Finally "...there were pardons granted after the king had announced they might be obtained during a limited period by anyone who had the wherewithal to pay," and it seems that this type of offer was made at least three times in the reign of Henry IV between 1409-1413.¹ The present analysis has shown that another may be added to his number. In the first of two parliaments of 1404, the king announced his general pardon at the request of the commons. He

...pardoned to all his lieges and other followers the suit of the peace that to him pertaineth against them for all manner of treasons, felonies, rebellions, insurrections and trespasses done and perpetrate before January xiiii...²

of that year, the first day of that parliament. Excepted from the pardon were those who were imprisoned or detained for murders, rapes of women, counterfeiting the king's seal and making false money. Eleven Yorkshire felons took advantage of this particular general pardon as Table 46, on the following page, demonstrates. It also lists the two other types of pardons that were granted to Yorkshire criminals in this period. Nineteen pardons were granted to specific persons for a specific crime done and 24 were granted to a specific person for all manner of treasons, insurrections, felonies, misprisons and transgressions done before a certain date.

¹Bellamy, Crime and Public Order, p. 193.

²5 Henry IV, c. 13-15.

TABLE 46
 THE DIFFERENT TYPES OF PARDONS
 GRANTED TO FELONS IN YORKSHIRE
 GAOL DELIVERY 1399-1407

Pardons to	Number	%
Specific person for specific crime	19	34.54
Specific person for general crimes before a certain date	24	43.63
General pardon for general crimes available to all	11	20.00

Most pardons contained limiting clauses covering all crimes committed before a certain date and excepting certain offences just as the general pardon of 1404 did. In addition, all of the pardons studied contained the proviso of "standing to right whether appealed, indicted or outlawed," which meant that the felon would have to face trial if anyone wished him to. There were no instances of a pardoned person being brought to trial again in the roll studied. Most of the pardons also contained exceptions and usually of the same type. Some excepted "murders, rapes of women and other contemptible extortions and oppressions," common and notorious thieves and criminals taken with the sway.¹ Others excepted the same things and prisonbreaking too.² All of

¹Examples are found in m.1, JUST 3/191.

²Examples are found in m.17, JUST 3/191.

the pardons excepted common and notorious offenders from their benefit, and the only suspect of 55 who failed to proffer letters patent of pardon was described as one.¹ William Delle of Alve claimed that he had been pardoned but nullas litteras bic proffert, and upon this failure he immediately resorted to benefit of clergy and was released to the ordinary. So in keeping with the tone of the exceptions, there were no common or notorious thieves pardoned in the Yorkshire sessions studied.

As pointed out in chapter three of this study an act of 1390 instructed that there should be no pardons for treason, rape, murder or homicide committed by ambush, assault or from malice aforethought. The justices were to inquire about the manner of various killings and if it was unpardonable by virtue of the said act, pardon was not to be permitted.² These stipulations are echoed in the exceptions cited earlier for the pardons investigated but clearly, there are instances in which they have been disregarded. William Wengar for example was pardoned for raping Alice Berne in the field of Shirburn near the mill where he worked. He ravished in September 1393, was granted pardon by Richard II in June 1398, and, though, he was not tried until April, 1404, he enjoyed his pardon and was freed.³

¹William Delle of Alve, m.11d, JUST 3/191.

²Bellamy, Crime and Public Order, p. 195.

³Suspect 231, m.18, JUST 3/191.

Various types of homicide were pardoned by Henry IV as Table 47 shows, some pardonable and some supposedly not. Three murders¹ and one killing ex malicia precoitata² were pardoned and fall into the category of unpardonable homicide. Four homicides done in self-defence were pardoned³ as was the solitary accidental killing done by John of Denby⁴. The criteria for accidental homicide was not altogether overly strict. Riding and driving accidents were very common and not thought requisite of pardon, nor were deaths resulting from "falling or dropping axes and so forth from trees."⁵ Most other accidental homicides did require pardons,⁶ including shooting accidents, such as the one in which John of Denby killed his brother with an arrow while aiming at targets.. This particular case was investigated by the jurors who recommended mercy, and the accused was pardoned and released.

All of the pardons studied were sealed with a writ close of non-molestation, usually dated several months after the letters patent of pardon. This seems to have been an important part of concluding the procedure because the one

¹Suspects 101, m.8d, 132, m.10d, 189, m.14d, JUST 3/191.

²Suspect 27, m.2d, JUST 3/191.

³Suspects 26, m.2d, 128, m.10, 207, m.16, 240, m.18d, JUST 3/191.

⁴Suspect 261, m.20, JUST 3/191.

⁵Hurnard, The King's Pardon, pp. 104-5.

⁶Ibid., p. 329.

suspect who did not present one had to wait in prison while he had secured it even though his pardon had been accepted.¹

TABLE 47

TYPES OF HOMICIDE PARDONED
IN YORKSHIRE GAOL DELIVERY
SESSIONS 1399-1407

Types of Homicide	Number of Pardons	
Feloniously killed felonice interfecit	17	68
Feloniously murdered felonice murdravit	2	8
Out of malice afore- thought ex malicia precogitata	1	4
Accidental slaying per infortunam	1	4
Self-defence in se defendendo	4	16
TOTAL	25	

Whether it was for political expediency, out of financial need, due to the influence of an intercessor, or at the request of the commons in parliament, pardons were offered and dispensed with generosity to Yorkshire felons 1399-1407, by their king. They were granted for a variety of crimes, mainly homicide, and even some which were supposedly unpardonable. Pardons, then, were the most frequent and successful means of escape from capital

¹M.3, JUST 3/191.

punishment used by felons tried in the gaol delivery sessions studied.

Seventy-seven suspects, almost 20% of all examined, attempted to avoid hanging by the various methods described in this chapter and those who tried the route of pardon or benefit of clergy were the most likely to succeed. It is now time to investigate the suspects themselves and this is the aim of the following and final chapter.

VI. THE SUSPECTS

There were 396 suspects tried at the gaol delivery sessions held at York between 1399 and 1407, and a reasonable amount of information about them can be extracted from the gaol delivery roll examined. Available for analysis is data on the sex and sometimes the occupation of the suspects and their victims, their relative propinquity to one another based on their places of residence, whether they worked alone or with accomplices, and whether they were multiple offenders or recidivists. Such information makes possible the division of the suspects into certain groups, which provide a natural framework for an analysis of them, commencing with a discussion of crime according to gender.

Of all the people tried in the sessions recorded, only 23 were women, comprising less than 6% of the total.¹ Of that number 22 were indicted and 4 were appealed, 3 of the women arraigned by both methods at different times.² Barbara Hanawalt found that females were accused in 10% of her cases, but noted that "Somerset and Yorkshire had a lower proportion of women suspects."³ This appears to hold

¹Exactly 5.8%.

²M.15 and m.15d, JUST 3/191.

³B.A. Hanawalt, Crime and Conflict, p. 115.

true for the period presently under examination as the percentage cited earlier testifies.

Hanawalt found women to be convicted less frequently than men¹ but in contrast to this, 5 of 24 women accused were convicted, almost 22%, a number close to that of the conviction rate for men. One of those sentenced killed her husband,² and the remaining four had been charged with larceny.³ Three of that four had been both indicted and appealed for a number of different larcenies, sometimes acting as a threesome, at other times in pairs and in some instances, alone.⁴ They appear as the only female, multiple offenders, as the rest of the women were charged with single crimes, and their conviction comes as no surprise.

Women were most often accused of larceny, in fact, more than twice as many times as they were accused of burglary, the second most likely crime to be committed by women in the record studied. Table 48 lists the different types of crimes done by women and shows the corresponding verdicts delivered. Insofar as larceny and burglary were the crimes most frequently perpetrated by females, Hanawalt's observations were the same, but while she listed receiving, homicide and robbery as the next three, and in that order,

¹Ibid., p. 117.

²M.19, JUST 3/191.

³M.13d, m.15 and m.15d, JUST 3/191.

⁴Supra, n.2.

the present findings differ slightly.¹ Robbery and homicide were committed twice each and receiving only once,² almost a reversal of the order just mentioned. Table 49 shows the various types of goods stolen by women, including domestic goods, cloth goods, grain, valuables and money, horses, and in one instance poultry, and reveals that not one of these was a much more desired target than the others.

TABLE 48

CRIMES COMMITTED BY WOMEN
IN YORKSHIRE GAOL DELIVERY
1399-1407 AND THEIR VERDICTS

Type of Crime	Number		Pardons	Acquit.	Conv.
Larceny	13	56.5	1	8	4
Burglary	5	21.7	-	5	-
Robbery	2	08.6	-	2	-
Receiving	1	04.5	-	1	-
Homicide	2	08.6	-	1	1

¹Hanawalt, Crime and Conflict, pp. 118-9. She listed receiving at 16.3%, homicide at 14.4% and robbery at 5.7%.

²M.24, JUST 3/191, Isabella Byrd received her son William after he had committed larceny.

TABLE 49
 TYPES OF GOODS STOLEN BY
 WOMEN IN YORKSHIRE GAOL DELIVERY
 1399-1407

Type of Goods	Number	%
Domestic Goods	4	20
Cloth, sheepskins, clothing	5	25
Grain	3	15
Valuables and money	4	20
Horses	3	15
Poultry	1	5
Combination of goods	-	-

Of 23 women accused, 12 committed their crimes alone and the remaining 11 acted with at least one accomplice.¹ This proportion is in keeping with the only comparable study available wherein women had accomplices in 46.8% of all their felonies.² Six of 11 women acted with men in their crimes, and five with other women.

In terms of criminal accusations, the women studied acted most often with an unrelated male partner. Emma Gaunthorpe, along with John Taillour and other unnamed men feloniously robbed a certain William Donesay of his horse in the king's highway near Gylling.³ She and her associates

¹M.5, m.9, m.10d, m.11.d, m.15, m.24, m.27d, JUST3/191.

²Hanawalt, Crime and Conflict, p. 124.

³M.5, JUST 3/191.

were described as common and notorious thieves and depopulators of fields so perhaps, as many women might have been, Emma was "...a decoy among a gang of male robbers."¹ Joanna Sedgfield was another woman who acted with a male partner apparently unrelated to her.² She and Peter Laxman furtively robbed John Mawger of Willardby, in the King's highway, of his horse, eighty sheepskins and some coined money. Finally, Joanna Byrlote of York was indicted along with her partner Richard Bowen, because they stole a horse worth thirty shillings together.³

There were three other cases in which women acted with male accomplices, and the first of these was one in which a mother received her son after he had committed several felonies.⁴ Isabella Byrd took in her son William after he had done certain crimes, and although indicted for receiving him, she was acquitted in spite of his conviction. Another woman, Margaret Routhberry, was convicted for killing her husband with other accomplices,⁵ and the third, Alice Kyrton, was indicted along with her husband because they had committed a burglary together.⁶ These cases make

¹Hanawalt, Crime and Conflict, p. 119.

²M.10d, JUST 3/191.

³M.11d, JUST 3/191.

⁴M.24, JUST 3/191.

⁵M.19, JUST 3/191.

⁶M.27d, JUST 3/191.

up all of those involving women acting with male partners in crime and it is now time to look at women working with members of their own sex.

Five women were involved in strictly female criminal associations and the combination of mother and daughter acting together predominated. Alice Couper and her daughter Sybil were indicted because they feloniously burgled the house of William Wyratt of Boulton and stole four marks in coined money from him.¹ Joanna of Fenton, her daughter Agnes and a woman by the name of Matilda Wryght, teamed up to a form thieving threesome, who committed a number of different larcenies on several occasions. The trio was appealed by a certain Robert Granut because they had allegedly stolen domestic goods worth 60s from him, and they were all convicted as a result of his prosecution.² A few months later they were indicted, and again convicted, for a series of other thefts, in which they had acted as a threesome, in twosomes, and separately.³

The overwhelming majority of women's victims were men, and their own sex was the target in only 3 of the 23 cases studied.⁴ In the reverse analysis, out of 362 victims, 41 were women and 38 of those were the victims of men. Table

¹M.9, JUST 3/191.

²M.15, JUST 3/191.

³M.15d, JUST 3/191.

⁴M.13d, m.19, m.24d, JUST 3/191.

50 shows that the crimes in which women were most likely to be the targets were foremost rape, then larceny and burglary. There was only one case in which a woman was the victim of a relative and that was Eleanor Midelmode, allegedly killed by her husband Thomas who was acquitted of the crime.¹

In summation then, there were few female suspects recorded in the gaol delivery roll studied, and of those that were arraigned, few were convicted. They were most often accused of larceny or burglary, and tended to steal household oriented goods. Slightly less than half of them acted with accomplices, six with men and five with women. Three female criminals were multiple offenders, and one other was the only woman described as a common and notorious criminal. The majority of their victims were male, and it is now time to make some brief comments about male suspects and victims.

TABLE 50
FEMALE VICTIMS IN YORKSHIRE
1399-1407

Type of Crime	Number of Female Victims (out of 41)	%
Rape	11	26.8
Larceny	13	31.7
Burglary	9	21.9
Homicide	2	4.8
Rape and Larceny	2	4.8
Rape and Burglary	3	7.3
Robbery	1	2.4

¹M.26d, JUST 3/191.

Over 90% of all suspects and over 88% of all victims counted in this study were men, so it naturally follows that most male criminals harmed other men.¹ By virtue of their numerical majority, men dominated all of the felonies discussed in Chapter three, committing most often larcenies, burglaries, homicides and all rapes. Clearly, crime in Yorkshire 1399-1407 was a man's activity as it was found to be in the 1300 to 1348 period as documented by Barbara Hanawalt.²

Although Hanawalt found that 59% of medieval criminals showed a preference for committing crimes with one or more accomplices, "Yorkshire, in spite of its reputation for gangs, had only 39.7 per cent of suspects indicted with accomplices..." and there "...the general pattern was for the suspects to be tried alone."³ Table 51 reveals that over 86% of Yorkshire's criminal men worked alone and that a very low proportion worked with accomplices in this period.⁴ She also found the size of criminal associations to be small, the majority of men worked in pairs or threes,⁵ and that the

¹Calculations were made as follows: 373 of 396 suspects were men, 94.19%/321 of 362 victims were men, 88.67%/and 301 of 321 of 321 male victims were the victims of male criminals, 93.67%, JUST 3/191.

²Hanawalt, Crime and Conflict, p. 122.

³Ibid., pp. 187-8.

⁴Calculated as follows: 48 of 373 male suspects worked with partners, comprising 12.86% only.

⁵Hanawalt, Crime and Conflict, p. 188, found that 63.6% worked in pairs, 18.8% in threes and only 17.6% with four or more associates.

most common criminal associations tried in gaol delivery were informal ones, comprised of family members or neighbours.¹ Tables 51 and 52 illustrate that the majority of criminals who worked with accomplices did so with more than three,² a decided contrast and instance of criminal interaction within families were few. Three sets of brothers committed crimes together among the male suspects studied. Robert and William Slosewyk of Oxton were fraternal larcenists,³ while Henry and John Browne of Selby, were indicted for killing a man, aided by their associates Richard and John Eleson, also of Selby.⁴ The only other familial association was that of John and Emma Taillour, the husband and wife team mentioned earlier in this chapter.

"Of all cases brought into gaol delivery, only 0.7 per cent were cases of one family member transgressing against another," and in most of these cases homicide was the charge.⁵ Only four of all the cases examined demonstrate this type of transgression and all of them involved

¹Ibid., p. 198.

²Groups of male criminals containing up to four members were specifically recorded as such and the phrase 'et alii' - and others was used in all the rest. It has been interpreted in this study as indicating more than four members in a criminal association.

³M.2d, JUST 3/191.

⁴M.6, JUST 3/191.

⁵Hanawalt, Crime and Conflict, p. 159.

homicide,¹ including one by a woman. These findings corroborate the statement made above and do seem to indicate that "...villagers were more likely to suffer felonious attack from neighbours, friends or acquaintances than from family members."²

TABLE 51

MALE CRIMINALS AND THEIR USE
OF ACCOMPLICES IN YORKSHIRE 1399-1407

Grouping Type	Number	%
Men working alone	325	86.60
Men working in pairs	10	02.60
Men working in threes	6	01.60
Men working in fours	4	01.07
Men working with others (no specific number given)	30	08.04
TOTAL	375 ³	100.51

¹Four of 396 cases comprise .0078: M.19, m.20, m.26d, m.28, JUST 3/191.

²Hanawalt, Crime and Conflict, p. 168.

³The total of 375 instead of 373 is due to the overlap of two suspects: 130, m.10d and 170, m.12d, who worked both in pairs and in larger groups of others.

TABLE 52
 PERCENTAGE BREAKDOWN OF MALE
 CRIMINALS WITH ACCOMPLICES
 IN YORKSHIRE 1399-1407

Grouping Type	Number (out of 50)	%
Pairs	10	20
Threes	6	12
Fours	4	8
With others	30	60
TOTAL	50 ¹	

The crimes most likely to be committed by men acting with accomplices were burglary, larceny, homicide, and robbery, and these are demonstrated in Table 53. Over 78% of all robberies were done by such criminal associations from 1300 to 1348;² a much higher proportion than the 38% calculated for Yorkshire in the later period under investigation here.³

¹Ibid., where the total 50 appears instead of 48.

²Ibid., p. 159.

³Eight of 21 robberies were counted as done by groups of four or more men in this study.

TABLE 53

TYPES OF CRIMES COMMITTED BY
MALE CRIMINALS WITH ACCOMPLICES

Type of Crime	Number	8
Larceny	14	25.4
Burglary	15	27.2
Robbery	8	14.5
Homicide	10	18.1
Abduction	4	07.2
Allowed Escapes	3	05.4
Receiving	1	01.8
TOTAL	55 ¹	

Forty-four men out of those arraigned committed more than one crime, comprising just under 12% of all the male suspects.² Table 53 shows that the majority of such men were wont to commit either three or more different crimes or two separate counts of the same one. Two of these men stand out as particularly nefarious criminals, and the first of them was William Delle of Alne,³ who was convicted when arraigned for seven assorted thefts, but successfully pleaded benefit

¹Total should be 47 but 8 male suspects committed multiple crimes with accomplices, hence the overlap. Those were suspects 75 m.5d, 85, m.6d, 170, m.12d, 182, m.13d, 344, m.25, 371, 372 and 373, m.27d, JUST 3/171.

²11.79% calculated from 44 men out of 373 suspects.

³M.12d, JUST 3/191.

of clergy. The second was Robert Milner of Southburton who was convicted and sentenced to hang because he had done eight different felonies, including two larcenies, four burglaries and two homicides.¹ Although the majority of suspects arraigned were charged with single crimes, the number who engaged in multiple offences was notable and the verdicts delivered to them deserve comment.

TABLE 54
MULTIPLE CRIMES BY MALE CRIMINALS
IN YORKSHIRE 1399-1407

Multiple Crime Counts	Number	%
Two courts of Larceny	14	31.8
Two courts of Burglary	4	09.0
Two counts of Robbery	2	04.5
Larceny and Burglary	7	15.9
Larceny and Homicide	1	02.2
Burglary and Rape	2	04.5
Robbery and Rape	1	02.2
Burglary and Robbery	1	02.2
Homicide and Robbery	1	02.2
Three or more different crimes not necessarily of the same type	11	25.0
TOTAL	44	

¹M.12d, JUST 3/191.

Table 55 demonstrates that multiple offenders were convicted in over half of their trials, in fact, if the pleas of clerical privilege are counted with the convictions, that total reaches almost 64%.¹ This high conviction rate suggests that multiple offenders were viewed with severity by the jurors in the Yorkshire gaol delivery sessions studied.

TABLE 55
VERDICTS DELIVERED TO MULTIPLE
OFFENDERS IN YORKSHIRE 1399-1407

Verdicts	Number	%
Conviction	24	54.5
Successful Plea of Clergy	4	09.0
Acquittal	12	27.2
Pardon	4	09.0
TOTAL	44	

A recidivist is a person "...who simply repeats criminal acts,"² and there were two such persons in the record examined. John Jenkynson of county Lincoln also called John Dirkyn of Cliff, was appealed by William of Drax because he had stolen two horses from the priory of

¹28 of 44 multiple offenders comprises 63.63% of the total.

²Hanawalt, Crime and Conflict, p. 216.

Drax.¹ At the same time he was indicted for two further thefts and because he was a common thief. At this trial, he turned approver and was convicted on the basis of his confession of these crimes committed in 1 Henry IV. He appeared in court again more than eighteen months later as "John Walker of County Lincoln, taken by the name of John Jenkynson...also called John Dirkyn, approver of the Lord King..."² He had been remanded to prison to await trial, for larceny committed in 22 Richard II, at which time he was pardoned at the special request of the Queen and released. Thomas Waillor, also called Thomas Jackson of Ryse was first indicted for larceny he did in 1 Henry IV,³ and was acquitted at that time. He appeared in court again almost six years later, indicted for stealing £20 sterling and because he was a common and notorious thief.⁴ On this occasion he was convicted and sentenced to hang. Although recidivists appeared only twice on the roll examined, they have warranted and received recognition and they also introduce a brief comment on the use of alias' in the record.

Twenty-eight men and one woman⁵ were identified in

¹M.14, JUST 3/191, Gaol Delivery Session of Tuesday, January 9, 1403.

²M.22d, JUST 3/191, Gaol Delivery Session of Monday, August 4, 1404.

³Suspect M.4, JUST 3/191, Gaol Delivery Session of Wednesday, March 9, 1401.

⁴M.29, JUST 3/191.

⁵M.13d, JUST 3/191.

the roll by more than one name. In two instances, the second reference associated the suspect with his place of residence; John Saylesbury, for example, was taken under the name of John of Saylesbury of Sledmor¹ and this was clearly stated. Sometimes the second reference identified the suspect by linking him with his employer; "Richard Scrutenman, servant, of Tollerton" was "also called Richard, servant of John of Scruten of Thirsk."² In the majority of cases though, the suspect was identified by two distinct names or places, like John Vaux of Nemelyngfeld who was also called John Burn of Willingham,³ or William Wyssy, also called William Piper of Stafford.⁴ Perhaps such alternate identifications were recorded in order to foil some of the more slippery suspects, who tried to escape trial on the basis of incorrect identification in their indictments or appeals.

It was not until 1413 that a statute ordained that the social status and occupation of the suspect must be recorded in the appeal or indictment that accused him,⁵ so before that time the appearance of such information on the

¹M.1, JUST 3/191.

²M.1d, JUST 3/191.

³M.20d, JUST 3/191.

⁴M.22, JUST 3/191.

⁵I. Henry V, c. 5.

roll examined was erratic and incomplete. In total, 49 occupations were recorded for suspected criminals and 35 for victims.¹ Tables 56 and 57 list the occupations given for both sets of persons and provide their respective proportions. Members of the clergy were the group most often identified in terms of occupations as both suspects and victims, and servants were the second most prominent group of suspects.

TABLE 56
OCCUPATIONS OF SUSPECTS IN
YORKSHIRE GAOL DELIVERY 1399-1407

Occupation	Number	%
Clergy	17	34.6
Servants	14	28.5
Millers	4	08.1
Tailors	4	08.1
Butchers	2	04.0
Officials	2	04.0
Knights	1	02.0
Bakers	1	02.0
Sadlers	1	02.0
Taverners	2	04.0
Shepherds	1	02.0
TOTAL	49	

¹49 suspects of 396 = 12.37% and 35 victims of 362 = 9.6%.

TABLE 57
 OCCUPATIONS OF VICTIMS IN
 YORKSHIRE GAOL DELIVERY 1399-1407

Occupation	Number	%
Clergy	20	57.1
Knights	6	17.1
Butchers	5	14.2
Bailiffs	2	5.7
Glassmaker	1	2.8
Soldier	1	2.8
TOTAL	35	

Servants are recorded with greater frequency than most other occupations at a time when such information was not mandatory, so perhaps there is some truth to the stipulations made by Hanawalt, that "...servants had almost a special liability for becoming part of criminal associations..."¹ and being in an unstable profession would "...band together with others of their kind to perform criminal acts."² Admittedly though, the data provided about occupations is incomplete, and no significant conclusions can really be drawn from it.

The fact that only fifteen suspects had any chattels to speak of as recorded upon conviction, indicates that the majority of alleged criminals were peasants of little means. Although six of the victims were identified as knights (see 56), it may be assumed that most of the victims were of

¹Hanawalt, Crime and Conflict, p. 195.

²Hanawalt, Crime and Conflict, p. 195.

lowly status. Table 58 shows that of the chattels recorded, over 70% were valued at more than £1, but it must be remembered that the chattels of suspect thieves naturally included their alleged pelf.¹

TABLE 58

VALUE OF CHATTELS RECORDED UPON
CONVICTIONS IN YORKSHIRE GAOL
DELIVERY 1399-1407

Name of Chattels	Number	%
Under 10s	2	13.3
11s to 20s	2	13.3
£1 and over	6	40.0
£2 and over	3	20.0
£3 and over	1	6.6
£5 and over	1	6.6
TOTAL	15	

The seventeen suspects initially recorded as clergy came from different levels of clerical life, and Table 59 lists that variety, revealing that over half of the criminalous clerks counted were chaplains. Hanawalt found that the "...clergy followed a path of crime largely unrelated to their profession,"² concentrating on the more violent

¹Pugh, Wiltshire Gaol Delivery, p. 27.

²Hanawalt, Crime and Conflict, p. 136.

property crimes. Table 60 corroborates this and also indicates that rape and receiving were equally clerical crimes. None of the seventeen were convicted except for one who successfully pleaded benefit of clergy,¹ 3 were pardoned and 14 acquitted outright. Although no sweeping conclusions can be made from such a small count, the verdicts delivered suggest that clergy arraigned in Yorkshire gaol delivery sessions, 1399-1407, ran little risk of conviction.

TABLE 59
 TYPES OF CLERGY IDENTIFIED IN
 YORKSHIRE GAOL DELIVERY SESSIONS
 1399-1407 (Suspects)

Classification of Clergy	Number	%
Clerk	2	11.7
Chaplain	9	52.9
Canon	1	05.8
Abbot	1	05.8
Monk	2	11.7
Vicar	2	11.7

¹M.7, JUST 3/191.

TABLE 60

CRIMES AND VERDICTS RE: CLERGY IN
YORKSHIRE GAOL DELIVERY SESSIONS
1399-1407

Type of Crime	Number	Pardons	Acquit- tals	Convic- tions	Benefit of Clergy
Larceny	2	-	2	-	-
Burglary	2	-	1	-	1
Rape and Burglary	1	-	1	-	-
Rape and Homicide	1	-	1	-	-
Receiving	6	3	3	-	-
Rape	1	-	1	-	-

Remaining to be discussed are both the geographical propinquity between suspects and victims, and the significance, if any, of the Great North Road and Doncaster in terms of crime concentration. Table 61 illustrates the distances separating suspects and victims, based on the residence of each party as recorded on the roll. Although not all of the places mentioned could be located and measured in relation to each other, the total of those that were would seem to provide a satisfactory indication of the general patterns. Over 63% of suspects and victims lived in the same place or up to 5 miles apart. This would corroborate Hanawalt's impression that "In the bulk of cases...the victim and the accused lived sufficiently close

to each other that they would have been acquainted."¹ Only eight of all the suspects were originally from another county and had travelled to Yorkshire, committing crimes there.² Five of the 8 were charged with larceny, 2 with burglary and 1 with "various treasons."³ Crime in Yorkshire 1399-1407 appears to have been "...a predominantly neighbourhood affair."⁴

TABLE 61

DISTANCES SEPARATING SUSPECTS
AND VICTIMS BASED ON RESIDENCE

Miles	Number	%
Same residence	119	47.0
1 to 5 miles apart	42	16.6
6 to 10 miles apart	21	8.3
11 to 15 miles apart	19	7.5
Over 15 miles apart	39	15.4
Over 30 miles apart	13	5.1
TOTAL	253	

Tables 62 and 63 reveal that the majority of suspects lived more than ten miles away from the Great North Road, and committed most of their crimes at least that far away

¹Hanawalt, Crime and Conflict, p. 170.

²M.2d, m.13d, m.14, m.17d, m.22, m.22d, JUST 3/191.

³M.22d, JUST 3/171.

⁴Hanawalt, Crime and Conflict, p. 170.

from it. The only sensible conclusion that can be drawn from this is that most Yorkshire crime was local in nature. Worthy of note though are fourteen crimes; mainly homicides and highway robberies, that were done in or near Doncaster or Balby, not far from it.¹ Although it might be expected that a concentration of crimes would be noticed at Doncaster or nearby, because it was a major junction on the road north, this was not found to be the case for the 1399-1407 period.

TABLE 62

DISTANCES BETWEEN THE GREAT NORTH
ROAD AND RESIDENCES OF SUSPECTS

Miles.	Number	%
On the Great North Road	15	05.3
1 to 5 miles away	44	15.6
6 to 10 miles away	42	14.9
11 to 15 miles away	38	13.5
Over 15 miles away	65	23.1
Over 30 miles away	77	27.4
TOTAL	281	

¹M.4, m.4, m.5, m.5, m.9, m.16d, m.17, m.23d, m.25, 395 and m.25, m.27d, m.29, JUST 3/191.

TABLE 63
 DISTANCES BETWEEN THE GREAT NORTH
 ROAD AND THE PLACE OF CRIME

Miles	Number	%
On the Great North Road	16	05.7
1 to 5 miles away	50	17.8
6 to 10 miles away	38	13.5
11 to 15 miles away	46	16.4
Over 15 miles	170	25.0
Over 30 miles	60	21.4
TOTAL	280	

Yorkshire suspects were usually men who chose to work alone in their criminal activities, while the small proportion of female suspects acted with accomplices in almost half of theirs. Multiple offenders ran at least a 50% chance of conviction, whereas members of the clergy and women were usually acquitted. Occupations were not often recorded but when they were, clergy and servants appear as the most prominent groups of suspects, clergy and knights the most prominent victims. Very few suspects were recorded as having chattels when convicted and this suggests that most of them, as well as their victims, were of lowly status. Finally, Yorkshire crime was predominantly a local activity and relatively few of the suspects, except for highway robbers, frequented the Great North Road in order

to attack their victims. This summary concludes the final chapter of this thesis, and the following conclusion will complete it.

VII. CONCLUSION

It has been the aim of this thesis to establish a profile of crime in Yorkshire, for the beginning of both the Lancastrian period and the fifteenth century. This has been attempted by the translation and analysis of a particular gaol delivery roll, covering gaol delivery sessions held at York from 1401 to 1407. This judicial process involved the trying of prisoners found in a certain gaol at a certain time, by a trial jury, and their sentencing by royal justices specifically commissioned for that purpose. "Because it was commonly those accused of the more serious offences who were arrested and imprisoned on indictment, appeal, or suspicion . . .,"¹ the crimes described on the gaol delivery roll were chiefly felonies. The criminal activities of the upper classes and the trial of misdemeanours and treasons were the business of other courts and commissions, but the preceding analysis has made possible the identification and discussion of the various felonies committed by Yorkshire peasants in this period. Its value lies in its revelations about the incidence of felony, its perpetrators, and its punishment by the juries and justices of gaol delivery at this time.

England in the later middle ages had a reputation for

¹Kimball, A Cambridgeshire Roll, p. 7.

lawlessness, and within that generally accepted context, Lancastrian public order appears to have been a particularly vexed problem. Lancastrian England was plagued by bouts of regional trouble, and Yorkshire in the reign of Henry IV, was the seat of a considerable amount of such disorder.

From 1399 to 1407, the period covered by the foregoing research, the king was in Yorkshire for substantial periods of time, and he commissioned his chief justice, Sir William Gascoigne, to gaol delivery there several times each year. The Scottish war of 1400, and the insurrection of May, 1405, necessitated the king's presence there, and the fact that he travelled to and through Yorkshire in 1403 and 1404 as well, suggests that he desired to reinforce his influence in the north on a regular basis. Henry must have realized that his presence was crucial in order to pacify the turbulence in that region, and to neutralize the power of the treacherous Percies, who possessed extensive estates and influence in Yorkshire as well as in the border counties.¹ That they posed a formidable threat to the king in Yorkshire was evident in 1405, when "...large numbers of Yorkshiresmen, many of whom were clearly tenants or near neighbours of the Percies, took up arms against the king."²

Without doubt, Yorkshire was the host of civil disturbances in the period investigated, but their direct

¹J.M. Bean, The Estates of the Percy Family, p. 3.

²McNiven, "The Scottish Policy of the Percies," 501.

influence upon the incidence of felony there does not seem to have been exceptionally significant. Although contemporaries lamented the rampant lawlessness that plagued all of England, there does not seem to have been any specific complaint about a sudden increase of crime in Yorkshire as a result of events there. It has been postulated that "... the first evidence that law and order were in serious jeopardy came not at the time of the rebellions of 1403 or 1405-8..., "¹ but in the last three or four years of Henry IV's reign when he as much debilitated by illness. Perhaps the research presented here substantiates this observation by demonstrating the absence of a chronic increase in crime in one of Lancastrian England's most troubled areas.

Yorkshire, a large, sparsely populated county, was divided into three Ridings, whose chief agricultural and economic activities were cattle herding and sheep raising, primarily pursued by the many religious houses that appeared on the county's landscape. The woollen cloth industry prospered too, especially in the West Riding and the town of Beverly in the East Riding. The Great North Road was a distinctive and obvious feature of Yorkshire's geography, and much human traffic travelled through the county on it, including the king.

A total of 396 suspects were tried at the gaol delivery sessions studied, and the majority of them (87%), were arraigned by method of indictment. Only one suspect

¹Bellamy, Crime and Public Order, p. 7.

was taken "on suspicion of felony," an unusually low statistic for any region of England in the later middle ages. The rest of the suspects were appealed by private suitor, a small proportion, (12.8%), in keeping with the known decline in the popularity of appeals over the fourteenth century.

In terms of seasonality, the majority of crimes were committed from September through November, the season of harvesting and butchering, and the daily pattern charted, revealed that Sundays and Mondays were peak days for criminal activity. Slight variations were noted for particular crimes, but they were not radically different from the general patterns.

Larceny was the most commonly committed crime recorded on the gaol delivery roll, and the economic activities of Yorkshire were reflected clearly in the nature of the goods filched by larcenists. Livestock accounted for 74% of the goods carried off; horses were taken most frequently, cattle and sheep almost as often. The conviction rates for the theft of livestock were the highest recorded for larceny, probably because of the great value placed upon animals in the economy. Domestic goods, cloth goods, and money, were stolen much less frequently, but 72% of the larcenists who stole them in combination with animals were convicted, again emphasizing the importance of livestock.

The value of goods stolen by larcenists was usually less than ~~£~~1, suggesting that it was the more serious and skilled criminals who sought "...the higher valued goods that

could only be gained through burglary and robbery."¹ Larceny required little skill and this probably explains why it was the most prevalent crime committed by Yorkshire peasants. Exactly one-third of alleged larcenists were convicted, among them 10 of 11 described as common and notorious thieves, indicating that known criminals were judged with severity by the jurors of gaol delivery at York.

Burglary was the second most prevalent crime committed by the suspects tried at gaol delivery in Yorkshire. Houses were the most common targets of burglars, and this was reflected in the high percentage of domestic goods (44.59%) and coined money (27%) stolen by them. Burglary was also a more lucrative crime than larceny, as evidenced by the value of goods stolen which usually exceeded £1, and not infrequently £20. As in larceny, one-third of alleged burglars were convicted, and 10 of 11 reputed to be common and notorious thieves were among that group.

Less than 6% of the suspects studied were taken on charges of robbery, a surprisingly low proportion considering the number of potential victims who must have travelled on the Great North Road. Perhaps the king's not infrequent peregrinations over it, deterred robbers who would have been active in his absence. Half of the small number of robbers indicted were highway brigands who attacked travellers in regia strata, and seven were notorious criminals too. Robbers usually seized coined money, horses and clothing, often valued

¹Hanawalt, Crime and Conflict, p. 76.

at £1 or more. Over 71% of the suspects accused of this felony were acquitted, a slightly higher proportion than that for larcenists and burglars.

Homicide was the third most prevalent felony for which Yorkshire suspects stood trial, and approximately one-quarter of the alleged killings were defined by the verb murdrare, a Yorkshire localism. The tiny proportion of suspects who were convicted for homicide were accused of having feloniously murdravit, or feloniously murdravit et interfecit their victim. This suggests that possibly, homicide described as murder was viewed more severely than homicide described as killing (interfecit) alone. Over 51% of those tried for this felony were pardoned, and outside of that number, few ran the risk of conviction at all.

Of the remaining crimes, receiving was the most common and all of those accused of it were acquitted and released. Rape appeared on the roll only 16 times, as both a felony and a trespass, but usually the latter. Rape was usually committed in combination with some sort of property theft, and the fact that only two rapists were convicted implies that rape was not considered to be a very serious offence. Ten officials allowed prisoners to escape from their custody, an offence that was considered to be a trespass not a felony, and 4 of them were convicted. Ten others were indicted because they had broken out of prison, a felony, but only 1 of 10 was convicted for his crime. Finally, 4 men were charged with counterfeiting the king's

coin, but only one of these was convicted, because he became an approver and none of the accomplices that he had named were found guilty.

There were 51 appeal cases recorded on the gaol delivery roll and of these, 12 failed and were then prosecuted at the suit of the king. The appeals were launched against larcenists, burglars, killers and receivers and over half of them were successful, especially those launched against thieves. In 29 of 32 appeals prosecuted against thieves, the accused was convicted and the appellor had his stolen goods restored to him. Only 1 of the 14 appeals made by widows against their husbands' killers was successful, and this was usually because the women failed to prosecute their cases. In addition, 5 of the 14 men appealed for homicide were granted pardons. Generally, appeals were more likely to result in convictions than indictments were, even though they formed a much smaller proportion of the business done at gaol delivery.

There existed a number of alternatives for felons who wanted to avoid conviction in the gaol delivery trials. Becoming an approver was not a popular option, nor was fleeing to sanctuary, among Yorkshire suspects. Far more common was the claim to "benefit of clergy," or the purchase of a pardon from the king. Seventeen suspects claimed the privilegium clericale, obtained it by reading to the court, and were released (though convicted by the lay jury), to undergo trial in a Christian court, where capital punishment

was impossible. Sixty felons were pardoned for their crimes, making up 15% of all those tried. This appears to be a significant proportion, and some of the pardons were granted for supposedly unpardonable felonies. Perhaps Henry IV sold a large number of pardons because he was often in desperate need of money, and wanted to raise it without being hindered by parliament. It is also a possibility that he granted them generously in Yorkshire for reasons of political expediency, it being a turbulent county.

The perpetrators of felony in Yorkshire were primarily male, evidenced by the fact that barely 6% of the suspects were female. Women committed larceny most often and tended to steal domestic goods above all else. Half of the women acted with at least one accomplice and in almost half of those cases, their partners were men, as were the majority of their victims. Over 90% of the suspects and 88% of the victims recorded on the roll were men whose tendency was to act alone in their crimes. Barbara Hanawalt noted that Yorkshire had a lower percentage of men (29.7%), acting with accomplices than other counties had, in the 1300-1348 period.¹ For the 1399-1407 period, that percentage was even lower, in fact less than 14%.

Interestingly, 22% of the female suspects were convicted, nearly the equivalent of the general rate of conviction calculated (23.7%). This would indicate that

¹Hanawalt, Crime and Conflict, p. 188.

women were convicted of felony as often as men were, a slightly different conclusion to that reached by Barbara Hanawalt, that women were convicted less frequently than men.¹

Although the majority of suspect felons were charged with single crimes, 9.3% of all the accused were multiple offenders, and they were convicted in over half of their trials. This would suggest that multiple offenders were judged harshly by the juries of gaol delivery 1399-1407.

Where occupations were recorded for both suspects and victims, members of the clergy dominated, and as a group they tended to perpetrate violent property crimes more than anything else. In contrast to Hanawalt's high conviction rate for members of the clergy (63.63),² none of those tried in these gaol delivery sessions were convicted. The fact that very few suspects had any goods or chattels to forfeit upon conviction, reaffirms the assumption that most of the alleged felons were peasants of poor means.

Most Yorkshire crime in this period was local in nature, and the majority of suspects did their crimes within a ten mile radius of their own homes. Curiously there appeared to be no great concentration of crime on or near the Great North Road, with the exception of some highway robberies.

¹Ibid., p. 117.

²Hanawalt, Crime and Conflict, p. 54.

It is generally acknowledged that convictions were few anywhere in England in the later middle ages.¹ Elizabeth Kimball was surprised to discover that roughly one-quarter of the Cambridgeshire suspects tried at gaol delivery 1332-4 were convicted, in light of the "...reputation of medieval courts for failing to punish crime."² Barbara Hanawalt calculated an overall conviction rate of 22.9% for the first half of the fourteenth century, in England.³ She also noted a county by county difference in rates of conviction, finding that Yorkshire juries convicted only 13.7% of the suspects they tried.⁴ There seems to have been a significant increase in the Yorkshire conviction rate by the beginning of the fifteenth century. The overall proportion of felons convicted 1399-1407, was 23.7%, almost double that calculated by Hanawalt. Perhaps the influence of chief justice Gascoigne was significant in promoting stricter judgements by the Yorkshire juries of gaol delivery in these years, but this remains conjecture.

The preceding analysis of the gaol delivery sessions held at York 1401-1407 has revealed that few sweeping changes in the types and incidence of felony took place in Yorkshire at that time. Of significance though, when compared to the early fourteenth century, were the increased

¹Bellamy, Crime and Public Order, p. 3.

²Kimball, A Cambridgeshire Roll, p. 26.

³Hanawalt, Crime and Conflict, p. 56.

⁴Ibid.

conviction rate and the considerable number of pardons granted to Yorkshire felons tried at gaol delivery. The primary value of the research presented here is that it adds an original, regional dimension to the history of crime and its punishment at the beginning of the Lancastrian period. It is only by adding to the body of extant studies of the same type that the legal and criminal history of the fifteenth century may be further illuminated, and a more complete comparison to the fourteenth century can be made. This thesis is offered as a contribution to the growing body of like research for the fifteenth century in England and it is hoped that when put into a broader context, it will be of use to the trained historian of law, crime and punishment.

APPENDIX I
JUDICIAL LAG¹

Judicial Lag	Number of Suspects Waiting for This Length of Time	%
0 to 6 months	84	20.9
6 to 12 months	90	22.4
12 to 18 months	85	21.1
18 to 24 months	51	12.7
24 to 30 months	29	07.2
30 to 36 months	13	03.2
36 to 42 months	4	0.9
42 to 48 months	6	01.4
4 to 5 years	12	02.9
5 to 6 years	5	01.2
6 to 7 years	3	0.7
7 to 8 years	4	0.9
8 to 9 years	2	0.4
9 to 10 years	1	0.2
10 to 15 years	8	01.9
15 to 20 years	2	0.4
20 or more years	2	0.4
TOTAL	401	

¹The calculations for judicial lag have been made out of 401, this is because 2 suspects appeared at two different sessions, several years apart, and 3 others appeared in different sessions several months apart.

APPENDIX II

THE NUMBER OF SUSPECTS TRIED AT
EACH GAOL DELIVERY SESSION 1401-1407.¹

Date of Session	Number of People Tried
Wednesday, March 9, 1401	42
Thursday, Juen 26, 1401	27
Tuesday, August 2, 1401	26
Tuesday, January 3, 1402	6
Thursday, March 30, 1402	26
Thursday, April 6, 1402	4
Friday, September 22, 1402	26
Tuesday, January 9, 1403	47
Monday, March 12, 1403	2
Monday, September 17, 1403	16
Wednesday, April 9, 1404	37
Monday, August 4, 1404	32
Monday, March 9, 1405	16
Wednesday, April 14, 1406	55
Wednesday, July 28, 1406	21
Wednesday, March 30, 1407	15
TOTAL	398

¹ The calculations for Appendix II total 398 instead of 396 because two suspects were recidivists and appeared at two different sessions each.

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