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The Magistrate — and Humorous Magistrates — in Early Seventeenth-Century England

As we have seen, *The Humorous Magistrate* features — in the representation of Justice Thrifty and his professional activities — a characterization of the legal system and its officials during the personal rule of Charles I. Among the play's themes are some generally held concerns about legal process: judicial corruption and the failure of the central state to govern rural localities according to customary traditions. These issues engage what historians have called the contest between 'court and country', the reforming zeal that evangelical Anglicans and Puritans brought to the reform of the law, and the enmity that Charles I and his privy council had engendered in their (by the standards of the reformers) arbitrary rule during the 1630s.

It has been established that the play was written by John Newdigate III (1600–42),¹ a prominent gentleman and lawyer of the West Midlands. Newdigate was the eldest son of Sir John and Anne Newdigate (née Fitton), a prominent Warwickshire family allied with several quasi-Puritan or reform-minded gentry families such as the Burdetts, Egertons, Holcrofts, Leighs, Greasleys, and Hastings, whose members included prominent lawyers and JPs who were allied in sentiment to the law reformers of the age. While John Newdigate attended Gray's Inn and the Inner Temple, and was later involved in considerable litigation, there is no evidence that he studied for the bar. He was elected sheriff of Warwickshire in 1625, as member of parliament in 1628, and was on the commission of the peace from 1630, though there is no evidence that he was an active magistrate. His greatest interests seem to have been in mixed farming and coal-mining, accompanied by a keen eye for poetry and the theatre. The extended family's legal inheritance stemmed from Sir John Newdigate II, who sought to serve as a godly magistrate, and his second son Richard (1602–78) — who became a bencher of Gray's Inn, JP, and assize judge who defended reform members of parliament imprisoned by the crown, assisted in Laud's impeachment, and was later appointed to

the high court by Oliver Cromwell. He was highly praised by the duke of Bridgewater, who sponsored the marriage of his father's granddaughter, Julian-a Leigh, to Richard in 1632. The Bridgewaters were very careful in their marriage arrangements, promoting daughters who were well educated, with a keen interest in the arts, literature, and music; women who supported their husbands' zeal for reform in politics, religion and society.² These political circles clearly were often also literary circles. While Richard Newdigate may not have been a poet, his connections through marriage brought the Newdigates into closer contact with the drama-loving Egerton circle.

The purpose of this article is to describe and assess the evidence regarding the legal elements in the play that were of import within the lifetime of the author and to explain what he may have envisioned about the reception of his representation of the law by his implied audiences. I will also place Master Thrifty in relation to debates about the office of JP in the early seventeenth century as well as to the public attack on lawyers and magistrates during the 1630s and the confrontation between the crown and the inns of court and legal profession in the years 1634–42. The thesis of this article is that Newdigate's *The Humourous Magistrate* was written for his west midland audience and written to flesh out, poke fun at, and amuse this audience, through his view of the current troubles in the country regarding the law as it affected the gentry of these rural communities.

Master Thrifty, the 'Old Order', and Legal Literature

There are approximately 103 contemporary tracts and pamphlets in the first four decades of the seventeenth century that discuss magistrates in one form or another.³ An examination of a few of the major pamphlets will enable us to assess and place Master Thrifty into a literary canon, beginning with the professional writing on JPs. As magistrates were also featured frequently in the drama of the period, I will use some familiar fictional magistrates to illustrate some points made by the pamphleteers. Thrifty shares the sins of the 'unreformed' rural magistracy, who were associated with the old order and were often deemed incompetent to discharge their duties. The satire of Thrifty reveals strong hints of the reforming zeal of the new gentry and their young sons of the 1630s who — many serving as scriveners and attorneys — presaged the 'root and branch' movement of the 1640s that sought to bring a 'cleansed' legal system to the country upon the shoulders of civil war and revolution. Thus the play is a multifaceted work that had something

interesting and entertaining for both older and younger generations in the years around 1640.

William Lambarde (1536–1601) is famous for his instructions to magistrates. He exhorted them to exercise their authority and power to stamp out what we would call today ‘misdemeanours’. His view, which was widely held by the magistracy, was that petty crime, act upon act, led to major crime; that throwing garbage into the street and fouling pathways led in turn to vagrancy, petty theft, assault, rape, murder, and riot and rebellion. As he said quite eloquently, ‘All men do see, and good men to behold it with grief of mind, that sin of all sorts swarmeth, and that evil doers go on with all licence and impunity’.⁴ The solution was for jps to arrest all evil doers and apply the full process of the law no matter how small or great the crime. Lambarde’s charges to juries represent one of the ‘law and order’ models designed for a sincere and devout country justice who wished to stop criminal activity in its tracks with the vigorous prosecution of minor offences.⁵ Lambarde’s view became a popular one in the early seventeenth century. We do find, however, a Lambardian justice who is satirized for his diligence in the figure of Ben Jonson’s Justice Overdo in *Bartholomew Fair*, first performed in 1614.⁶ It was, in fact, manuals such as Lambarde’s that caused the privy council in 1631 to attempt to enforce prosecution on a national scale with rigorous penalties for those who failed.⁷

According to the records, most magistrates did *attempt* to apply the full force of the law in this period. The most common crimes that persons were arrested for were in fact petty offences, most of which were ‘regulatory’: i.e., throwing garbage and waste into ditches and onto roads, begging, debauchery, drunkenness, swearing, vagrancy, etcetera — offences which comprised approximately 56% of all arrests. In contrast, arrests for theft comprised about 21%, assaults 14%, and riots 9%. Capital crimes such as murder, arson, and theft of more expensive goods were heard before the common law judges at assizes. This left the job of prosecution for local jps a seemingly easy task but in fact it was quite difficult as jurors habitually declined to find their neighbours guilty. On average, about one-quarter of those who were apprehended were never tried and about one-third confessed. Thus, for the approximately 40% who were actually tried, the average rate of ‘guilty’ verdicts of all those who were attached was 13%, and ‘not guilty’ verdicts 14%. Cases in which the jury was unable to come to any verdict at all made up roughly 12%.⁸ The end result was that the work of magistrates like Thrifty and even his more competent counterparts was largely unsuccessful.⁹

The increased workload of the JPs that is reflected in their records was due in part to the unwillingness of central government to take up the task of law enforcement. This may explain why legal ‘custumals’ of the period included instructions for proceeding in sessions of the peace alongside those in the county assizes.¹⁰ County sessions of the peace were held quarterly and assizes semi-annually. According to practice, JPs made the original arrests, conducted most of the examinations, and usually determined which prisoners would appear before which court. Notes on the western assize circuit speak of overcrowded prisons and no room on the court agenda to clear the jail calendar. There were several reasons for giving little time to the hearing of criminal cases. Senior judges focused on the lengthy civil suits heard at sessions of nisi prius that preceded jail delivery and many of them declined to hear the criminal calendar because many prisoners suffered from ‘jail fever’ — a condition that led to declining attendance by both prisoners and legal counsel. In addition, sheriffs were notoriously unable to find grand and trial jurors after the first day of the assize sessions — a factor that contributed to numerous prisoners left undelivered from their jails and forced to wait for another semi-annual assize circuit for their day at court.¹¹

The workloads of judicial officials in these years had caught the eyes of pamphleteers and playwrights from the early seventeenth century. Thomas Dekker’s 1602 edition of *Blurt, Master Constable*, acted by the Children of St Paul’s in 1601–2, paints a vision of a constable who strives to maintain order but who is an emblem of the disorder and confusion that surrounds him. Blurt is derided as ‘thou little morsel of Justice’ by his clerk Slubber.¹² These popular city comedies played on the fears of violence and the ineptitude of those who were responsible for containing it.¹³

The threat of violence in urban areas, however, brought an increased workload to magistrates through an increase in parliamentary legislation. In the Elizabethan era, there was an increase in statutory crimes and offences and of the jurisdiction of JPs to enforce this criminal and regulatory code. In addition to published accounts of this burgeoning portfolio for the JP in the legal treatises of Lambarde, Ferdinando Pulton, and later Michael Dalton, a contemporary manuscript on ‘Resolucons of the Judges of Assizes’ outlines the Elizabethan statutes which gave rise to this increase. The writer emphasizes the additional powers given to JPs to act on and imprison for a large number of crimes, as well as to discipline hundred and parish officials.¹⁴ Another factor in the increased workload was the unwillingness of the assize courts to take on the additional criminal trials that followed from the legislation, as

the travelling judges, court officials, and jurors preferred not to spend much time with the often infected prisoners at their feet.

Indeed, the 'Book of Orders' issued by the privy council in 1631 not only charged JPs to be ever more vigilant but also threatened to prosecute them for failing in their terms of service. This 'Book' was seen by some as a touchstone of absolute monarchy, interfering in the local affairs of the country. Historians argue that it set into motion the rising opposition of local governors to the king and his privy council. As scholars have argued, *The Humorous Magistrate* makes allusions to this book and its imperatives.¹⁵ In the face of such regulation, many JPs simply gave up being serious about their unpaid jobs, especially after the jaundiced political scene of the early 1630s. This leaves us with the following question: given that the average sitting JP of the working commission, like Master Thrifty, was charged to prosecute vigilantly the 'sowers' of petty crime and given the knowledge that most of the accused went free, what was in it for Thrifty, who would have been understood to be serving his county in this position without pay or gratitude? JPs like Master Thrifty, who turned their now unpopular positions into social capital, economic advantage, or sexual pleasures, became grist for the mills of satiric writers. They also inspired later pamphleteers.

One prominent example is Bartholomew Parson's popular critique of JPs published in 1616: *The Magistrates Charter Examined*.¹⁶ Parson was a prominent JP, judge, and royal servant who was about age forty when *The Humorous Magistrate* was written. His *Magistrates Charter* is important because it provides a useful backdrop for this play's satiric depiction of Master Thrifty. Rather than concentrating on the behaviour of criminals, in the spirit of legal reform, Parsons focuses on the behaviour of magistrates.

After a preface dedicated to Justice Henry Hobart, and an exhortation against 'the impropriation of benefices, the Pope and all things Romish, as well as the Anabaptists', Parson sets a relatively high but humanly possible standard for magistrates. All judges are required by God, through Paul's gospel and monarchs, as a necessity for every state. But because men are corrupt, there are ungodly magistrates. People should not tolerate kings who are infidels, nor magistrates who are ungodly.¹⁷ As God's lieutenants they are to be in his image and should be gentle masters.¹⁸ Parsons draws attention to the three sins that JPs and jurors must be sure to discern and prosecute: perjury, false testimony, and injury, while pardon should be given to only those who are careless, casual, or ignorant.¹⁹ Discern between blood to blood, plea to plea, and stroke to stroke.²⁰ Parson warns that 'The ignorance of the

judge is the misery of the innocent'; therefore judges must be informed, hear every cause, and if wrong make an appeal.²¹ Justice without mercy, Parsons declares, is cruelty and sometimes the extremity of the law must be relaxed.²² Judges must be strong men of courage but should not use wholesome laws as 'spider webs'.²³ Thrifty, as we see him in the play, is deficient as a *JP* and transgresses against most of the items on Parson's agenda.

The work also serves as a touchstone for the writings of a north-west midlander Sir Edward Dudley, later the fourth Lord North. In 1602 Dudley was born into an ancient gentry family of Walkeringham, Nottinghamshire — a family that lost much of its landed wealth due to the profligacy of its sons in the Elizabethan and Jacobean era.²⁴ Moving to London, he was raised there, attended Gray's Inn, travelled across continental Europe, and returned to study law at the Inner Temple. He returned to the family's recent estate at Kirtling, Cambridgeshire in 1638 and recovered some of the family Nottinghamshire lands. As a *JP* from 1634 and later follower of Oliver Cromwell, he focused on the enforcement of the laws concerning tippling, gaming, and swearing.

Dudley is an interesting figure for the rural north-western Midlands because he was a leading legal figure who championed an abstemious life that featured the pastoral charge of rural communities.²⁵ Writing in his autobiography of the 'Courtney Family', he emphasized that man's purpose in life was to obtain a wife who was as useful by day as by night and who was judged by what she said as well as by how she looked; to raise and nurture a family (they had fourteen children) as one would a commonwealth; to have servants and stewards who knew their work better than their master; to manage a cost effective household; and to serve the commonwealth as a dutiful magistrate.²⁶ He defined 'oeconomy' as the art of well governing a man's house and its fortunes and he came to this view from his experiences at the inns of court in the 1620s. He confesses, 'I surfeited of idleness, taking any pastime with some of the most corrupt young men of those days'.²⁷ Beset with drunkenness and debauchery, North found salvation in 'fundamental' religion and in public life and service. He chastized his contemporary gentlemen for their profligacy, servants for their rudeness and lack of knowledge, and debt as a cancer on society that led the aristocracy to seek money 'out of the clouds'.²⁸ But Dudley was no Puritan. He sought the pleasures of life in entertainment, history, hunting, and music in that order.²⁹ Thus one can imagine him as a willful spectator of this Midlands country play.

Dudley's experiences at the inns of court were also framed by the licentiousness of the 1630s which he commented upon. A riot at the Inner and Middle Temple in the Christmas vacation time of 1638 and 1639 occurred when the students — who had the responsibility of electing their own officers for the vacation — abandoned the traditional dances and services for unrestrained drinking, smoking, gambling, and fornication which led to such severe rioting in the streets that the 'dissidents and mutineers' were suspended, imprisoned, and tried in the star chamber. These events, which developed from 1631, comprised a 'deliberate resistance' against the benchers and an attempt to claim an absolute right of student self-government in the inns of court.³⁰ Spectators of *The Humorous Magistrate* would have fully appreciated this background of licentious law students and legal institutions.

As Mary Polito and Sébastien Windle have shown, another play that attacked corrupt justices is Richard Brome's *A Jovial Crew* (1641–2) with its parody of Justice Clack, who shares some of the same phrases, characterization, and legal practices with Justice Thrifty.³¹ Written or revised in the early 1640s, both plays have a JP, clerk, lawyer, and constable as well as shepherds. Polito and Windle show that Master Clack, just like Thrifty, punishes before he examines.³² Clack also hangs or whips the convicted and saves mercy for afterwards (2710–11, 2790–1). Clack complains, as do characters in *The Humorous Magistrate*, about the countryside being rife with beggars, rogues, and vagabonds lurking under every hedge as if an army without pay (2736–41). In addition, Clack has a common phrase not unlike Thrifty's catchphrase: Clack frequently interrupts others with the statement 'That is to say - - - as I said before' (2668 *passim*), a phrase that is almost synonymous with Thrifty's frequent interjection 'as I told you before'.³³ Both Brome and Newdigate parody the legal profession. For Brome, a lawyer is an attorney who was 'pitched over the bar' (448–52) while magistrates live off fees racked out of delinquents (68–73). Thrifty similarly takes chickens as a bribe to rule in favour of the case of the bastard child born out of the parish (2000–40). In these respects, *The Humorous Magistrate* shares with *A Jovial Crew* a place in the period's fearless challenge to the status quo that rejects inherited values for the pursuit of personal liberty.³⁴ There is a further, more distant tie between the two plays as the family of Brome's patron, William Seymour — earl of Hertford — was related to the Newdigates. Hertford was a patron of poets and musicians and had his own company of players. His second wife Ann, duchess of Somerset, after his death married John's grandfather John

Newdigate I. Ann became a prominent female literary patron of the Elizabethan era.³⁵

The Turn of the 1640s

The play was written and revised in the period 1637–42, with good evidence to set the Osborne version in the year 1641.³⁶ These were tumultuous years in early modern English history with the failure of King Charles I's 'personal rule', high tension with Scotland, and a massive resistance to the payment of ship money from the summer of 1639. There followed a summons for the 'short parliament' and the convocation passage of the 'Seventeen Canons' in spring 1640, the Scottish invasion of England that summer, and the momentous events of that autumn: the assemblage of the 'long parliament', the impeachment of Thomas Wentworth, earl of Strafford, archbishop William Laud, lord keeper Sir John Finch, and six other judges, and the submission of London's 'root and branch' petition for the abolition of episcopacy. Executions, the abolition of the prerogative courts, a Roman Catholic rebellion in Ireland, and the parliament's grand remonstrance were major events of 1641 preceding the outbreak of the civil war in Manchester in July 1642.³⁷

The royal response to grievances was led by the chief justice of the common pleas, Sir John Finch. Addressing the king's newly created sergeants, he exhorted them to study the royal prerogatives well and to grind those who opposed them into powder.³⁸ This open, growing public debate between law reformers and supporters of the status quo was closely followed in the countryside as the opinions of central court judges became part of the rural dialogue over England's future.³⁹ Soon, assize judges in the western circuit, such as Sir George Croke in the years 1636–40, were accepting grand jury presentments against royal servants who charged fees for their services.⁴⁰ Croke was also a kinsman to Newdigate and gave legal advice to family members.⁴¹

The event that is seen to have heralded a vocal and later armed rebellion against the king occurred when Thomas Harrison, a vicar of Crick, Northamptonshire, walked into Westminster Hall in May 1638 and accused Judge Richard Hutton of high treason for his judgment about the ship money tax in *Hampden's Case*. Hutton wrote the court's majority opinion that the collection of ship money was unlawful. Ship money became the rallying cry of rural England against the Caroline monarchy as the case involved the general refusal of the Northamptonshire gentry to pay it. Based on the principle that

taxes for the king's ships could be levied on inland landowners because they benefited indirectly from the king's protection of shipping, refusal to pay ship monies became the symbol of opposition to the king's law. Harrison, who knew very little about the law, put his case on the shoulders of the *Oath of Allegiance* of James I — that the royal prerogative must be upheld at all costs and thus the court's abolition of ship money was treasonous.⁴² Justice Croke handed down quite a stinging rebuke to the use of the royal prerogative in such matters.⁴³ This ingenious argument on the use of a royal oath to undermine the royal prerogative would be played out with another oath that is foregrounded in the Osborne version of *The Humorous Magistrate*. The opposition to oaths by royal proclamation that had surfaced in *Hampden's Case* in 1638 was replicated when the 'etcetera oath' was enacted in May 1640. In the Osborne version of *The Humorous Magistrate*, we find Justice Thrifty subtly complaining against the same oath to his clerk.⁴⁴ Country justices such as Dudley opposed the 'etcetera oath' so strongly that it was repealed that autumn. It is highly probable that Newdigate had gained a sense of the country gentry's opposition to the oath.

In the 1640 'short parliament', there were many parliamentarians who were also lawyers or justices of the peace who had run afoul of the orders and proclamations of Charles's personal government. Parliamentarians argued that the people gave the king obedience for the protection of their ancient rights and liberties, spiritual and temporal. Because some of the king's judges had ruled against these ancient rights, parliament ordered an investigation of such justices as Sir John Finch — who immediately fled to Holland and remained there until the Restoration of 1660. The lawyers' opposition was supported by chief justice Sir John Bramston of the king's bench and chief baron Sir Humphrey Davenport of the exchequer.⁴⁵ Reform-minded lawyers and judges were supported by puritan clergymen who, in their sermons, were entreated to give 'advice from the Pulpit, before you go to the Bench, and hear God's charge to you before you give your charge to others'.⁴⁶ The objects of their attention were those members of the law profession who embodied dilatory practice, greed, and the lavish perquisites of the old order.

A near-contemporary play that was being performed in London as Newdigate perhaps was setting pen to paper was Thomas Nabbe's *The Bride*. The playwright, a writer from Worcestershire who made a career of plays and masques, opened the first performance in London in 1638 with a JP named Justice Ferret.⁴⁷ Cast as a simple magistrate, he was parodied as wise, powerful, and compassionate and a man who kept his cupboard bare (5.7.8–9).

The law here, however, is featured in his wife's speech and not his. A shrew, she holds forth while he mildly rebukes her (4.3.23–4). The play's discourse appears to nod in the direction of reform but it equivocates without the jp's own strength of conviction.

Of course there is literature that, at least on the surface, represents a defense of the Caroline order in these years. The genre of the court masque was designed to glorify and mythologize the monarch. The cavalier poet Sir William Davenant was commissioned by the benchers of the Middle Temple — most of whom held royal offices in the 1630s — to compose a masque at the inn that glorified the king.⁴⁸ Another such work, James Shirley's *The Triumph of Peace* was a masque commissioned by the inns of court for the celebration of Charles I and on the surface it was an enormous success. It featured the peace of the kingdom fostered by law and justice.⁴⁹ Thousands of people lined the streets of London for the spectacular cavalcade provided by the city as the masque moved from inn to court. The inns became dancing schools when masques were being prepared and costumes alone for this one cost over £21,000.⁵⁰ Yet, as Martin Butler has recently argued, even this masque, when read closely, can be seen as attacking the monopolists and projectors of royally-inspired industrial projects; the masque also highlights openly the movement of law reform that would actually allow for many significant changes during the Interregnum.⁵¹

A city comedy against just such monopolists is Philip Massinger's *A New Way to Pay Old Debts*.⁵² First performed in London in 1626, this popular play was in the repertory of companies who played at the Phoenix and Salisbury Court theatres down to their closing in 1642. Created from an actual extortion case over a royal patent in 1621, it features vicious lawyers, a greedy patentee Sir Giles Overreach, and his corrupt assistant Justice Greedy. The jp would give up a commission for a good dinner even if it cost £1000; 'pure justice' is 'When my belly's brac'd up like a drum'.⁵³ Mimicking the greed and corruption of the age, it brings the excesses of the city to the simplicity of rural life where the poor and low-waged were pushing upwards without understanding the principals at stake. Massinger also wrote several other plays set in rural communities, such as *The Guardian*. Set in Naples, with a woodlands community that is really a representation of Nottinghamshire, men rob without conscience because doing so reflects freedom from the administrative burdens of Caroline England.⁵⁴ Negative pictures of the enclosures of common land, builders of iron mills, and harvesters of forests are all fair game in countering the forest laws of Charles I

that turned back the clock to Norman England when the conquest rendered the forests to the king.

Performances such as these likely both reflected and contributed to the rural protests and riots that became a feature of the rural landscape in the mid and late 1630s.⁵⁵ Indeed, these years witnessed the rise of seditious talk at the inns of court, unleashed in part by the king's appeal for gifts of money from its residents for the 'bishops' war' of February 1639.⁵⁶ Such literature and theatrical performances may also have given courage to writers such as Newdigate to educate the reformation of the law and society as well as to entertain.

The Country Attorney

Calls for reform came also from the lower ranks of local officials who were engaged in legal work. Borough and town attorneys, scriveners, notaries, and estate stewards (the latter represented by the figure of Peter Parchment in *The Humorous Magistrate*) were generally highly regarded and also voiced their complaints.⁵⁷ Holdfast, a steward in Philip Massinger's *The City Madam* which played at Blackfriars from 1632 to 1642, represented a legal counselor who stood steadfast against the growing debt and conspicuous consumption of the age.⁵⁸ Some stewards, such as Arthur Gregory of Warwickshire, were also barristers.⁵⁹ It was the era of the 'county attorney', country men who attended an inn of chancery and perhaps an inn of court for a year or two and returned to their rural roots. Attorneys were the bedrock of the legal system: living in their country residences, they served their clients individually in their homes, before the local courts and before the barristers at the central courts. Warwickshire had three attorneys who were registered to act at the Westminster courts.⁶⁰ Bookish men in the 1630s — Ambrose Holbeach of Warwickshire is a typical example — drafted legal documents and gave legal advice. These were members of an amateur legal profession who deplored the established attitudes of the judicial elite⁶¹ and who were pilloried in print by John Earle, bishop of Oxford, who in the 1620s shared his manuscript for *Micro-cosmographie* with John Newdigate.⁶²

The writing that depicted corrupt lawyers was often from the point of view of such local attorneys — the men who gave legal advice to the gentry and served as their legal counsel for cases before local courts and increasingly for cases before the central courts at Westminster Hall. Warwickshire had one of the largest contingents of attorneys. Educated for a year or two at

the inns of chancery and perhaps even for a year or two at an inn of court, many attorneys saw themselves as the antithesis of the Westminster barrister — honest, hard-working men who served their local gentry and merchant clients with loyalty at a cut-rate price. Continuously since the early 1600s, such local, rural attorneys bore the brunt of opprobrium from London barristers for their lack of legal knowledge because they were increasingly bringing their clients' causes to Westminster Hall to the detriment of business for London counselors. The bad justice satirized in *The Humorous Magistrate* can be viewed as that promulgated by unfit JPs such as Thrifty in contrast to hard-working clerks like Parchment. It has been estimated that the county had approximately forty-five attorneys in 1640, one of the largest county contingents in the country; this was due to the large number of landowners domiciled in the county.⁶³ These attorneys also occupied most local offices.⁶⁴ Relatively free of government control and supervision, families with such trusted attorneys may have comprised some of the people who would have delighted in the depiction of Thrifty in *The Humorous Magistrate*.⁶⁵

Thrifty as JP in *The Humorous Magistrate*

The depiction of Thrifty and the law in *The Humorous Magistrate* demonstrates that the author, John Newdigate III, had a workable knowledge of law and the legal system, a knowledge that was certainly equal to earlier writers such as William Shakespeare and Thomas Middleton, and later playwrights like Edward Ravenscroft. This observation is based on what the author knew in order to tease his audience. We are told in act one that Mr. Thrifty, a justice of the peace, sat with the JPs on 'the bench', a phrase that means he was one of a dozen or two of the forty to sixty appointed JPs who formed the 'working commission' and sat with the quarterly court of quarter sessions in each of the four law terms of the legal year.⁶⁶ This would be familiar to his audience. So too would be his clerk Peter Parchment's remark to Spruce, 'though my Mr be not yet I am a clerk of the quorum' (76), — i.e. one of those JPs (a handful) who were trained lawyers or experienced in the law who usually spoke on behalf of the court.

What was Thrifty's status? If we take an average large county such as Nottinghamshire or Warwickshire (where the play manuscripts representing Thrifty's story appear to have resided from the seventeenth century) there would be approximately sixty persons on the commission of the peace, with about fifteen being active members. Those fifteen would comprise the

'working commission', from which was drawn the quorum — those JPs who made most of the arrests, issued most of the warrants, took most of the examinations of participants and witnesses, and sat on most of the court sessions.⁶⁷ Approximately six to eight JPs would exercise this role and perhaps half of those would have had legal training at the inns of court. Thus our Master Thrifty seems to be sketched as a member of the working commission.

Thrifty clarifies this further when he admits that he is not, as others, learned in the law: 'Ile not meddle wth learning, nor wth learned men' (220). This may explain why most of the proceedings before him concerned rather trivial matters, suggesting that in these instances he was acting as a JP in petty sessions where matters of law were not at issue.⁶⁸ Taking recognizances to appear in court or for good behaviour comprised most of this work. Thus when Thrifty states that he can secure anyone's body with a 'capon' (2059), he refers to a recognition but is also making a double quip: a hen was also often paid by a tenant to the lord of a manor for the annual relief of the tenancy.

Thrifty's lack of education is a point of satire for the playwright but one of pride for Thrifty himself. He chastises Peter for using too many Latin terms and phrases. Mr Peter Parchment responds by acknowledging that Thrifty is no ancient gentleman whose gentility is shown only by 'records, then most authenticall when rotten like meddlers, oreaten to peeces by a reuerend worm in an antiquaries studie' (233–4). Not a gentleman by birth or merit, he purchased his arms of gentility from a herald (461). Indeed, he went up the ladder of authority 'as a squirell climbs a tree' (2063). These comments by Parchment are made to show that Thrifty was one of the parvenus of the era, one of the newly minted gentry families of the Jacobean age. Parchment also warns him and the audience, however, not to 'betray yo^rselfe not to be, what you desire to seeme' (244). In other words, like your average JP, be ignorant but don't show it. Our clerk, throughout the play, is the JP's nemesis: not just in terms of Parchment's jokes about or correction of Thrifty, but for his legal status. As we have seen, Parchment relates out of Thrifty's earshot that he is of higher status as a clerk in the county than Thrifty is a justice, in that he is 'a clerk of the *quorum*' (76). The play implies that Parchment rose to his profession by hard work, probably through training as a scrivener. His statement rings of the quest for professionalism that beset the law and civil service professions in the era. It also sets the stage for Parchment to be upended later in the play — a fillip to those old-timers in the audience who would have

thought it uncommon for their masters to be continuously upstaged in the law by their clerks.

What kind of legal processes are represented in *The Humorous Magistrate* and how does the playwright regard such processes? On one level, we have an author who presents an artful farce on the law itself. There are some references to the travelling court of quarter sessions. When the deaf Mistress Mumble hears a noise from far off, she imagines, among other things, that it may be the loud sound of the ‘The Sheriffes trumpeters then, as he goes to’t ‘sises’ (272–3). Newdigate, as a former sheriff who would have led the entourage for the assizes into the courtroom at the sound of trumpets, would have been very familiar with the procedure.⁶⁹ In the play, Thrifty complains that his court of petty sessions must sit six days a week, handling overseers’ accounts on Monday, hearing court cases on Tuesdays, about highway infractions on Wednesdays, bridge repairs on Thursdays, alehouse licenses on Fridays, and bastard children affairs on Saturdays (60–4). Thrifty offers his views on his responsibilities (though his behavior belies his claims). He relates that the JP was to deliberate long and gravely on each case (71–2). He advises that ‘Iustice is impartiall, & must not take acquaintance of the face of an offender’ (1108–9). But once the court finds its culprit, the law, Thrifty relates, must exact vengeance and ‘the eares of iustice must be deafe to the cries of ye guiltye’ (1120). Once a sentence is passed, there is no ‘reuocation’, no consideration of personal circumstances; rather the law must ‘dispatch the execution’ of the judgment (1677, 1674). In actuality, this account would be taken by the audience as farce in itself because this JP ignores all of the considerations and avenues available for the resolution of the matter.

The audience would, in different degrees, laugh and muse over the paradigm as it unfolded. After all, local studies have shown that at least one-quarter of the population was involved in some aspect of sessions business at any point in time. It was common knowledge, for example, that the court sat only two or three days a term regardless of the county, and not six. The court sat, however, with great fanfare. There were feasts, much drinking, and gruesome events such as the hangings and whippings that followed for the few crimes convicted, not to exclude those committed to the stocks in the market square (or those such as Thrifty’s housekeeper Jenet, who were carted through it) to receive the opprobrium of the crowds (1104–37). Thus the spectacle of the court as theatre would not be lost on the audience either.

In counties for which we have records, cases were dispatched on Tuesdays, with the administrative business handled on Wednesday and, if necessary,

Thursday. Persons accused were arrested immediately and thrown into prison. Prisoners were brought into court shackled in chains and irons. Their causes were heard six to eight at a time, with approximately half a minute given to each one. A man or woman's face and reputation would usually determine his or her fate, and the great majority would be found guilty. (Hence Thrifty's brusque manner of dealing with anyone brought before him.) Then a raft of legal procedures came into play. A man could be pardoned by pleading fictitiously that he was a clergyman by reciting in Latin the 'neck verse' that he memorized in prison, while a woman could 'plead her belly' by getting pregnant in prison. Failing that, one could appeal conviction to the court of assizes or have one's neighbours petition the crown for mercy.⁷⁰ Since the play takes place before a magistrate sitting alone in petty sessions, the audience would be well aware of Thrifty often 'masquing' as if he were acting as a JP in quarter sessions. This becomes for his educated audience a recognizable bit of satire on the pride of Thrifty and other such JPs.

Thrifty's hubris is made more pointed in the way he regards his learned clerk and any learned colleagues with disdain. He views Parchment as 'thou illiterd exrement of authoritye' who writes with a scribble (469) and needs to consult books — 'euer a sufficient clerk lookeſ in the ſtatute book to ſee what his maſter may doe' (49–50). This second quotation also suggests that Thrifty relies on Parchment to ensure that he acts according to the law. Indeed, Thrifty praises Parchment in act four for drafting the presentations for those charged with offences who will be going to the grand jury and saving him from this work because he is 'a man þturbd wth multipli-citye of affaires' (1991–2). Here he shows the audience how an amateur JP is bound and tagged to his legal clerkly counsel, who has the lists of prisoners in jail awaiting trial before the grand and petty juries, those who have been remanded, the persons prosecuting, and possible witnesses.

The play thus demonstrates that one should not disregard the importance of the early modern legal clerk. Peter Parchment is aptly named, as if he was a figure of the Victorian novelist Charles Dickens. 'Clerks of the peace' were the officers who handled all of the documents of the local judicial system. Like Peter, many would have been trained as scriveners; clerks wrote the warrants that were requested by JPs, composed the questions for the examination of the parties, wrote the depositions, set the court's calendar, kept track of those jailed and at large, and set down the minutes of the quarterly sessions. In addition, a clerk's work would have been supervised by the county's clerk of assize, who did the same for the regional circuit court that tried offenders of capital

crimes. Our clerk is the one and only fully paid, local legal official; he is a civil servant. Often of lowly social status, clerks usually attained their positions by hard work at a grammar school where they would have been trained in Latin, math, logic, and rhetoric. Often a clerk followed his father in the profession. As a low-level civil servant, Parchment's sparring with the socially superior Master Thrifty is of special interest, especially since the all-important game of social ordering is emphasized near the end of the play when Thrifty beats and rants on his clerk (1981–93) — a scene that would go down well in a period when lawyers and civil servants were in disrepute.⁷¹

Master Thrifty also delights, or exasperates, his audience by going beyond all legal reasoning to a higher or more ridiculous plateau. Chiding his colleagues for their vulgar Latin tongue, he claims 'there's not a man in a whole appearance at a sessions, that knowes how to distinguish busines' (1033–4). At the same time, he shows his ignorance when he reprimands Parchment for drafting a search warrant without names, even though this was a common practice of the time (1080–8). When the young lover Sophie says she will be bound in a recognizance for her gentleman's bail, Thrifty asks her incredulously if she will give over her body to let his go free (1178–89). What she really means is that she will put up the money for his security to appear before the court if he runs. Thrifty also may have worded his comment to suggest licentiously that she could give her body over to him. Although he prides himself as being a knowledgeable man of the world, he clearly provides his audience with the vision of a genuinely amateur justice of the peace, clown and all.

I have been working from the Osborne version of *The Humorous Magistrate*. Reading both the Osborne and Arbury in terms of the law, it becomes clear that the author made particular decisions in his revision of legal matters. As we have seen, a reference to the 1641 'etcetera oath' is an addition. This suggests that Newdigate wanted to highlight for his audience a recent oath that many members of parliament loathed.⁷² In act two, the lawyer Strife proposes marriage to Mumble, stating how useful it would be for her to marry a lawyer (837–8). Newdigate adds to Mumble's reply in the later version the line that she would not offer herself to one 'out of the lawes black phangs' (846). In act three, his clerk Peter's flattery of Thrifty's professional status is reworked in the later version (1029–31) and the trial of Jennet for cuckolding is edited and reduced in the later version (1089–92) — revealing perhaps the growing reluctance of JPs to prosecute for this offence. The act five scene where Jennet is carted for her offence is changed in the later

version: in the Osborne version, Jennet's getting out of the cart and boxing her husband on the ear is deleted as part of the reduction of the episode (1033–7). Finally, in the Arbury the final act contains a long section where, when Strife learns that Mumble has married Thrifty, he complains that by law he should have something for his pains. This episode is deleted in the final version, suggesting that the author did not want to engage the audience in a penalty at ecclesiastical law (bringing a promise to marry) that was becoming increasingly unpopular. These changes to the later manuscript version reveal a more clear reform-minded approach to the law in what may have been the final draft of the play.

Thrifty and the Reform Movement

The Humorous Magistrate offers us a country and legal system in need of reformation. As if the author were reading from the pages of Lambarde, Thrifty admits the sorry state of the local parish, as in this exchange with a constable seeking his action:

Enter a Constable.

CON. Worthye m^r Thrifte, take pitye of the side of a distressed
parish, all most ouer-run wth rogues beggars & whores.

THRIF. A most notorious plantation, like some transmarine colonies,
rogues, beggars, & whores. (248–52)

Yet Thrifty himself sounds like a reformer in that he blames not so much the rogues and beggars as he does those beneath him in the legal chain of command, ‘places of trust & co^land are not allwayes put into the hands of men of desert’, such as the town constable who ‘is a foole’ (1515–17). A view of Thrifty’s hypocrisy and the need for his reform is reinforced in the scene with the shepherds, where the King of the Shepherds complains of a JP, who is their landlord (likely Thrifty), who will not enforce statutes ‘for feare of displeasing the great man, his next neighbour’ (1427–8), and who keeps ‘the beggars in a more formall subiection then the king of shepheards his vnder dealers’ (1421–2). In short, there is much to do and the audience is likely encouraged to see the cry for reform that the play represents. As Thrifty himself argues in one of his last speeches in the play, ‘A prime part of magistracie, as I told you before, consists in laying by passion, & disclaiming partialitye … in vouchafeing clemencie to the penitent, & extending seuerite to the incorrigible & refractorye’ (1938–42). Thrifty, in these passages,

provides a defence of himself. He argues that the world has become too lenient towards transgressions, is as concerned with mercy as punishment, and is even leaning in the direction of rehabilitation as increasing numbers of people in his world flee its shores for the new world.⁷³

I would also suggest that in the final scene we can detect a search for a more popular form of justice and a more people-oriented monarchy, a land where the monarch is in the terms of James I (and not his son Charles) — a bulwark between a haughty aristocracy and the people. In such a world, the magistracy would be beloved by their people. Thrifty declares, ‘How are those men blest ... [who] can giuean awfull respect to magistracie’ (2092–4). This notion is given unusual attention in act three, when Thrifty condemns his forefathers for their habit of ‘carting’ women and devises his own sentence for Parchment’s wife Jennet, who failed to care properly for Thrifty’s daughter:

thou shalt hauea punishment of mine own deuise, to see the ignorance of o^r forefathers, that knew not how to fit a mulct to an offence, how impropertelye haue they set women behind the cart, & then whipt ‘hem inhumanlye, I will therefore alter the practise abate the whipping, haue thee &thy confederats, if they may be come by [and] draw a cart along the streets on a solemn day, & this is yo^r iudgm^t (1129–37)

Thrifty performs his ‘charity’ as a rural JP who has to live alongside the families he encounters on the bench. This more popular form of dispensing justice was one that was coming increasingly into vogue in the 1630s as many public servants reacted negatively to the ‘Book of Orders’.

Conclusions

The Humorous Magistrate, addressing aspects of law and society, is a multi-faceted work written for several interests in the years between 1639 and 1642. First, the play enshrines in the character of Master Thrifty the older vision of Lambarde and his contemporaries at the turn of the century of a magistracy that felt victimized by the ‘crime wave’ of late Elizabethan England and reacted with a brutal regime of punishment that reflected Old Testament values. This still left, of course, for the JP to allow exceptions according to personal discretion, which Thrifty exercises in offering some mercy to his clerk’s wife Jennet. Second, the play reflects in the character of Peter Parchment the

rise of a new middling profession of legal agents — scriveners, notaries, attorneys, and solicitors who became essential to the lives of a squirearchy who were becoming emboldened with political power. Third, the interactions of the characters represent some of the legal conflicts of the period: deference to versus criticism of authority, questions about the rule of patriarchy, and debates over the royal prerogative and a vision of a 'New Jerusalem' for the law.⁷⁴ The play also represents the problem of balancing intent and fact in judicial sentencing, as well as corrupt judges, jurors, and legal officials, and attacks a law that was spoken often in Law French and written in Latin thereby eschewing the native English language. The play, in this sense, provides a glimpse into the law reform movement that was embodied by Sir Matthew Hale — in his opinion the law had degenerated, was now capable of significant improvement, and justice would be improved when magistrates recognized that they were agents and servants of the people.⁷⁵ As Master Thrifty opines in his closing speech to 'My noble friends' (2042) when his neighbours assemble before him, he is 'able to vnderstand, & answer 'hem; their chickens stand for hieroglyphicks, & their capons secure their persons, as the geese did the Capitoll' (2057–60).

What remains to be answered is why the author John Newdigate apparently chose a rural locale for this play when he spent his last decade in relative seclusion outside of London in Croydon, Surrey, and therefore whether the analysis that is presented here carries any significance in attributing the legal themes and issues to a specific midland locale. Julie Sanders has written recently on the cultural geography of early modern drama. Discussing the artistic and theatrical circles, neighbourhoods, and estates of Sir Thomas Wentworth, earl of Strafford, in Yorkshire in the 1630s, she argues that plays such as *The Humorous Magistrate* provide raw material for the study of the cultural worlds of rural localities.⁷⁶ Martin Butler has written along similar lines, emphasizing how the multimedia entertainments of song, dance, and theatre were embedded in the politics of the moment, speaking in complex ways to different audiences.⁷⁷ That writers wrote for the theatre in local communities, including the west Midlands, has been established.⁷⁸

We also know that local audiences in the region were targeted by playwrights.⁷⁹ As to why Newdigate was composing this play for a west Midlands audience in these later years can be explained by the nature of his friends and associations. Vivienne Larminie has documented how he continued to cultivate in his later life his early circle of friends from Oxford and the inns of court who shared his interests in rural matters.⁸⁰ Thus it is not unreasonable

to suggest that in the failing years of the personal rule of Charles I, he would use his literary talent to compose a play with dance and song that would tease out of his audience memories of better days in late Elizabethan and Jacobean times when the law was observed faithfully and hopes were for a future society governed by godly magistrates.

Notes

The author wishes to thank the University of Calgary Osborne Project team for their work, and Jacqueline Jenkins, Mary Polito, and Margaret Jane Kidnie for access to their editions of the play prepared for The Malone Society. In addition, I also thank Mary Polito for her critiques, Amy Scott for her editing, and the anonymous reviewers for their comments and criticisms. All errors and omissions remain those of the author.

- 1 See in general Vivienne Larminie, *Wealth, Kinship and Culture: The Seventeenth Century Newdigates of Arbury and Their World* (Woodbridge, 1995), and the individual biographies by Larminie in the online *Oxford Dictionary of National Biography* (Oxford and New York, 2004–).
- 2 See Louis A. Knafla, ‘The “Country” Chancellor: the Patronage of Sir Thomas Egerton, Baron Ellesmere’, in French R. Fogle and Louis A. Knafla (eds), *Patronage in Late Renaissance England* (Los Angeles, 1983).
- 3 The primary guide was William Lambarde; see *William Lambarde and Local Government. His “Ephemeris” and Twenty-nine Charges to Juries and Commissions*, ed. Conyers Read (Ithaca NY, 1962). Other writings that followed along these lines are as follows: *Anon: The Complete Justice* (London, 1638); William Lambarde, *Archeion, or, a Discourse Upon the High Courts of Justice in England* [London, 1635], ed. Charles H. McIlwain and Paul L. Ward (Cambridge MA, 1957); and *The Just Lawyer* [informers] (London, 1631); Robert Bolton, *Mr Bolton’s Last and Learned Worke* [sermon] (London, 1633); Thomas Beard, *The Theatre of God’s Judgement Revised* (London, 1631); Thomas Dekker, *The Blache Rod, and the White Rod* (London, 1630); [the privy council], *Orders and Directions — Commission for the Better Administration of Justice* (London, 1630); William Fenner, *A True Description of the Lawes, Justice* (London, 1629); Samuel Garey, *Jentaculum Iudicium: or, a Breake-fast for the Bench* [assize sermon] (London, 1623); Anthony Cade, *A Sermon of the Nature of Conscience* (London, 1621); Henry Goodcole, *Londons Crye Ascended to God* [Old Bailey] (London, 1619); William Pemberton, *The Charge of God and the King* [assize sermon] (London, 1619); and Michael Dalton, *The Covntrey Ivstice, Containing the*

- Practise of the Justices of the Peace out of their Sessions* (London, 1619, 1622, 1626, 1630, 1635 eds).
- 4 *Lambarde and Local Government*, 68, 84.
 - 5 See the discussion in Louis A. Knafla, “Sin of All Sorts Swarmeth”: Criminal Litigation in an English County in the Early-Seventeenth Century’, in E.W. Ives and A.H. Manchester (eds), *Law, Litigants and the Legal Profession* (London, 1983).
 - 6 Ben Johnson, *Bartholmew Fayre: A Comedy* (London, 1631).
 - 7 For a printed abstract of the orders and directions of 5 Jan 1631, see *The Stuart Constitution 1603–1688: Documents and Commentary*, ed. J.P. Kenyon (Cambridge, 1966).
 - 8 See in general Louis A. Knafla, *Kent at Law 1602: The County Jurisdiction: Assizes and Sessions of the Peace*, 2nd ed. (London, 2009), special series vol. 44; Knafla, *Kent at Law 1602: The County Jurisdiction*.
 - 9 For a quantitative study based on all of the records, see the results tabulated in Knafla, *Kent at Law 1602: The County Jurisdiction*, xxiii–xxvii.
 - 10 There were many local custumals (often called books of precedents) that outlined the process: for example, BL Lansdowne ms 569, ‘Customs of Courts’, ff 2–20. For a contemporary published authority, see Ferdinando Pulton, *De Pace Regis et Regni* (London, 1604), ff 169v–176v.
 - 11 The difficulties of the jail delivery in the assize circuit are discussed in the larger context by Gregory Durston, *Crime and Justice in Early Modern England 1500–1750* (Chichester, 2004).
 - 12 *A Critical Old-Spelling Edition of Thomas Dekker's Blurt, Master Constable*, ed. Thomas Leland Berger (Salzburg, 1979), 63, line 103.
 - 13 Thomas Dekker, *Satiromastix. Or the Vntrussing of the Humorous Poet* (London, 1602); and *A Larum for London*. 1602, ed. Thomas Lodge (Oxford, 1913).
 - 14 BL Harleian ms 6822, ff 39–53. This document is in a hand of c Charles I, being a copy of a manuscript of perhaps the early 1600s. There is a list of the justices of the peace of Kent of the latter date on f 293.
 - 15 See Mary Polito and Jean-Sébastien Windle, “You see the times are dangerous”: The Political and Theatrical Situation of The Humorous Magistrate (1637), *Early Theatre* 12 (2009).
 - 16 21 Bartholomew Parson, *The Magistrates Charter Examined* (London, 1616) and in this work, ‘An assize sermon at New Sarum, dedicated to Henry Hobart’. References below are to page numbers.
 - 17 Parsons, *The Magistrates Charter Examined*, 14–15.
 - 18 Ibid, 17, 19.
 - 19 Ibid, 22, 24.

- 20 Ibid, 25.
- 21 Ibid, 25, 26.
- 22 Ibid, 28.
- 23 Ibid, 29–30.
- 24 See, in general, Dale B.J. Randall, *Gentle Flame: The Life and Verse of Dudley, Fourth Lord North (1602–1677)* (Raleigh NC, 1983).
- 25 See Dale B.J. Randall's depiction in his more recent short biographical notice of Lord North in the *DNB* (Oxford and New York, 2004–), doi:10.1093/ref:odnb/20296.
- 26 Edward Dudley, *Observations and Advices Oeconomical* (London, 1669).
- 27 Ibid, A4r.
- 28 Ibid, 84–116; the quote at 107.
- 29 Ibid, 116–24.
- 30 A full account of these and other instances in the 1630s is by Wilfrid R. Prest, *The Inns of Court under Elizabeth I and the Early Stuarts 1590–1640* (London, 1972), 110.
- 31 *A Joviall Crew: Or, The Merry Beggars* (1652), ed. E. Lowe, H. Ostovich and R. Cave at <http://www.hrionline.ac.uk/brome>. The line citations that follow are from this edition. On the date for the performance of this play, see Matthew Steggle, 'Redating A Jovial Crew', *Review of English Studies* 53 (2002).
- 32 Polito and Windle, "You see the times", 106.
- 33 *The Humorous Magistrate*, the Osborne edition ed. Jacqueline Jenkins and Mary Polito (Manchester, 2011), line 507, and more often without 'before' — as 429, 438, 442, 513, 515, 518, 521, etc.
- 34 This is the argument put forward by Martin Butler in *Theatre and Crisis: 1632–1642* (Cambridge, 1984); see also Julie Sanders, 'Beggars' Commonwealths and the Pre-Civil War Stage: Suckling's *The Goblins*, Richard Brome's *A Jovial Crew* and James Shirley's 'The Sisters', *Modern Language Review* 97 (2002).
- 35 David L. Smith, 'William Seymour (1587–1660)', *DNB* (Oxford and New York, 2004–), doi:10.1093/ref:odnb/25182.
- 36 *The Humorous Magistrate*, the Osborne edition, ed. Jenkins and Polito, Introduction.
- 37 Finch became a magnet for the reformers. See Louis A. Knafla, "John Finch (1584–1660)", *DNB* (Oxford and New York, 2004–), doi:10.1093/ref:odnb/9438.
- 38 The speech is fully reported by John Rushworth, *Historical Collections of Private Passages of State, Weighty Matters of Law, Remarkable Proceedings in Parliament*, 7 vols (London, 1659–1701), 2.395–6.
- 39 Christopher W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008), 224–6, for some examples.

- 40 Esther Cope, *Politics Without Parliaments, 1629–1640* (Boston MA, 1987); and Michael J. Braddick and John Walter, *Negotiating Power in Early Modern England* (Cambridge, 2001).
- 41 See ‘The Undergraduate Account Book of John and Richard Newdigate, 1618–1621’, Vivienne Larminie (ed.), *Camden Miscellany*, XXX, CS, 4th Ser, 39 (1990), 247n and the entries at 159, 208, 244, 249, and 266–7.
- 42 Cobbett’s *Complete Collection of State Trials and Proceedings for High Treason and Other Crimes*, William Cobbett and T.B. Howell (eds), 34 vols (1809–18), III, col’s 1373–4. The king had his revenge: his sergeants had Hutton sue Harrison for slander in the king’s bench on a bill of Middlesex, and Hutton was awarded £10,000 — an amount that was unheard of in this era.
- 43 Brooks, *Law, Politics and Society*, 205–8. Croke was Treasurer of the Temple when John Newdigate was there: J.H. Baker, ‘Sir George Croke (c.1560–1642)’, *DNB* (Oxford and New York, 2004–), doi:10.1093/ref:odnb/6731.
- 44 Polito and Windle, ‘You see the times are dangerous’, 109.
- 45 See the more general discussion in Brooks, *Law, Politics and Society*, 228–37.
- 46 John Gauden, *Three Sermons Preached upon Severall Publike Occasions* (London, 1642), 39.
- 47 Thomas Nabbes, *The Bride. A Comedy* (London, 1640). Produced at the Cockpit in the summer of 1638, it was dedicated to our ‘noble friends’ at the inns of court.
- 48 Sir William Davenant, *The Triumphs of the Prince d’Amour* (London, 1635).
- 49 Martin Butler, ‘Politics and the Masque: “The Triumph of Peace”’, *Seventeenth Century* 2.2 (1987) for a full analysis.
- 50 Prest, *Inns of Court*, 112–14 and 230–1, respectively.
- 51 Butler, ‘Politics and the Masque: “The Triumph of Peace”’.
- 52 *A New Way to Pay Old Debts, A Comoedie* (London, 1633), in *The Selected Plays of Philip Massinger*, ed. Colin Gibson (Cambridge, 1978), 189–277.
- 53 Massinger, *A New Way to Pay Old Debts*, 3.2.23–4.
- 54 See the discussion in Butler, *Theatre and Crisis*, 254–7.
- 55 See Julie Sanders, ‘Ecocritical Readings and the Seventeenth Century Woodland: Milton’s Comus and the Forest of Dean’, *English* 50 (2001).
- 56 *Calendar of State Papers, Domestic Series, of the Reign of Charles I*, 23 vols (London, 1858–97), 1637–1638, 21; 1638–1639, 89; 1639, 152; 1640–41, 40.
- 57 See the general assessment of C.W. Brooks in *Pettyfoggers and Vipers of the Commonwealth. The ‘Lower Branch’ of the Legal Profession in Early Modern England* (Cambridge, 1986), 46–7.
- 58 Philip Massinger, *The City-Madam, A Comedie* (London, 1658).
- 59 R. Bearman, *The Gregories of Stivichall in the Sixteenth Century* (Coventry, 1973).

- 60 C.W. Brooks, ‘The Common Lawyers in England, c. 1558–1640’, quoted in *Lawyers in Early Modern Europe and America*, ed. Wilfrid Prest (London, 1981), 44–6.
- 61 Brooks, *Pettyfoggers*, 174–8, 195–7.
- 62 Newdigate copied John Earle’s manuscript of *Micro-cosmographie* into his commonplace book. See Bodleian Library, Eng. poet. ms e.112, ff 83–102 (1627).
- 63 Brooks, *Law, Politics and Society*, 20.
- 64 Brooks, ‘Common Lawyers’, 50–6.
- 65 C.W. Brooks, R.H. Helmholz, and P.G. Stein, *Notaries Public in England Since the Reformation* (Norwich, 1991), where the development of scriveners and notaries is explored — especially in the first half of the seventeenth century, with many references to those in the Midlands.
- 66 *The Humorous Magistrate*, 1036. All references to the play are to *The Humorous Magistrate*, ed. Jacqueline Jenkins and Mary Polito (Manchester, 2011). Henceforth line numbers will be included in parentheses within the text.
- 67 For the working commission, see Louis A. Knafla, *Kent at Law 1602: The County Jurisdiction*.
- 68 Michael Dalton’s *The Cntry Iustice, Containing the Practice of the Iustices of the Peace out of their Sessions* (London, 1619) was the textbook for JPs in this period. Dalton’s summary of the work of JPs in petty sessions is at 13–18. While Dalton acknowledges the vast jurisdiction created by statutes, he emphasizes that their main duty was in ‘suppressing of such iniurious and vnlawfull force or violence’ (7).
- 69 For the Warwickshire court in session, the order books for 1625–74 have been transcribed and calendared in *Warwick County Records*, ed. S.C. Ratcliff and H.C. Johnson (Warwick, 1935–1939), vols 1–5.
- 70 J.S. Cockburn, *Calendar of Assize Records. Home Circuit Indictments Elizabeth I and James I: Introduction* (London, 1985), ch. 9.
- 71 Civil servants as well as lawyers had become subjects of disrepute by the 1620s. Both were included in attacks upon the court in what historians have called ‘court versus country’. The abolition of Latin and Law French in all legal pleadings and documents of the Interregnum reflects this opprobrium.
- 72 This has been researched and examined by Polito and Windle, “You see the times are dangerous”, 107–9.
- 73 The rate of prosecutions for capital crimes began a long-term downward trend in the 1630s and juries found it more difficult to convict than to pardon: a quantitative view of J.A. Sharpe, *Crime in Early Modern England 1550–1750* (London and New York, 1999), ch. 3.
- 74 The building of the new Jerusalem would be the fashioning of a new state after the overthrow of the ‘antichrist’ (the Pope) with a congregational church and reformed

- law and government. The term became part of popular culture with John Bunyan's *The Holy City* (London, 1665).
- 75 For an assessment of Hale's judicial thought, see Charles M. Gray, *Sir Matthew Hale: The History of the Common Law* (Chicago, 1971), xiii–xxxvii; for his ideas on law reform, see Edmund Heward, *Matthew Hale* (London, 1972), 167–71.
- 76 Julie Sanders, *The Cultural Geography of Early Modern Drama, 1620–1650* (Cambridge, 2011), 5–11.
- 77 See Martin Butler, *The Stuart Court Masque and Political Culture* (Cambridge, 2008). See also *The 1630s: Interdisciplinary Essays on Culture and Politics in the Caroline Era*, ed. Ian Atherton (Manchester, 2006).
- 78 See, for example, William Sampson, *The Vow Breaker, Or, The Faire Bride of Clifton* (London, 1636), which was written for and performed in Nottingham in the 1630s. This play was dedicated to Sir William Cavendish, earl of Devonshire, who was connected to the Rolleston and Willoughby families and was also close to the Newdigates. The Newdigates may have been in attendance at Cavendish's estate for Ben Jonson's masque *Love's Welcome at Bolsover Castle* performed for Charles I in 1634. Both Cavendish and Newdigate shared common interests in drama: see Kirsten Inglis and Boyd Johnstone's “‘The Pen lookes to be Canoniz’d’: John Newdigate III, Author and Scribe”, in this special issue.
- 79 Alan Somerset, “Beginning in the Middle …”: Warwickshire Locations and Families as Audiences for Early Modern Music and Drama’, *Medieval English Theatre* 20 (1998).
- 80 Larminie, *Wealth, Kinship and Culture*, 133–7.