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# Authority and Crime, 1835-1860: A Comparison between Exmouth and Torquay

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**AUTHORITY AND CRIME, 1835-1860: A COMPARISON BETWEEN EXMOUTH  
AND TORQUAY**

by

**JACQUELINE BRYON**

A thesis submitted to the University of Plymouth for the degree of

**DOCTOR OF PHILOSOPHY**

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Faculty of Arts

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## Abstract

Jacqueline Bryon

Authority and Crime, 1835-1860: A Comparison between Exmouth and Torquay

This thesis explores the impact of crime on seaside resorts in mid-nineteenth century England, together with the implications and challenges presented for authority and control. The evidence is based on a case study of two contrasting south Devon resorts, Exmouth and Torquay. The research findings are based mainly on the period between 1835 and 1860.

In particular, the thesis considers the nature and scale of crime committed and the reactions produced amongst those in positions of power and authority. The responses of these influential individuals and groups were shaped by a range of factors such as social and economic change, class, gender and the unique characteristics of seaside resorts. As the fledgling tourist industry developed, it was important to provide an environment where visitors were welcome and their property was safe. The evidence from the two resorts reflected patterns of crime detected in other parts of the country, especially in relation to property crime, which is examined in detail. Larceny emerges as the most common category of crime. Here, the evidence indicates that this crime was regularly perpetrated by servants, with women often being convicted for stealing clothes and other wearing apparel. Workplace theft was common in Torquay, related to the fact that building work was going ahead at a fast pace from the 1830s.

The most distinctive feature of crime within the two resorts can be found in the attention given to countering anti-social behaviour and keeping order on the streets. This was closely tied up with the maintenance of 'social tone', which was of crucial importance to the

authorities in a number of nineteenth century seaside resorts, including Exmouth and  
Torquay.

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## Abbreviations

DRO Devon Record Office

SRO Somerset Record Office

TNA The National Archives

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First of all, I should like to thank the following copyright holders for permission to reproduce a number of maps in this thesis. Exeter University Press for permission to reproduce maps 1, 2 and 3 from the following book: John F. Travis, *Rise of the Devon Seaside Resorts, 1750-1900* (Exeter: Exeter University Press, 1993). ISBN 085989 3928 Devon Record Office, for permission to reproduce map 4 in Chapter 3 which locates certain Devon parishes.

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**Author's Declaration**

At no time during the registration for the degree of Doctor of Philosophy has the author been registered for any other University award without prior agreement of the Graduate Committee.

This study was self-funded, together with the receipt of a Disabled Students' Allowance.

A programme of advanced study was undertaken, leading to a Master's degree in History and Biography, awarded by the University of Plymouth in 2004.

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Signed.....

Date .....



## Introduction

The focus of this thesis is a study of crime and the way in which the authorities, that is the groups and individuals who held power, attempted to regulate crime and anti-social behaviour. In this respect the comments cited in an overview of the history of crime are pertinent. J.A.Sharpe has remarked:

...it now seems that some of the most important insights to be gained from studying crime and law enforcement in the past are those bearing on the ways in which authority was maintained and controlling groups maintained their rule.<sup>1</sup>

The topic will be addressed by comparing and contrasting the situation in two south Devon seaside resorts in early to mid-nineteenth century England. Like all seaside towns they depended on income from seasonal leisure activities and support from visitors. This presented challenges and tensions between openness to pleasure and sensitivity about personal safety, together with the need to protect and regulate the lives and property of both residents and visitors.

With this background in mind, the study will centre on Exmouth and Torquay, concentrating particularly on the years between 1835 and 1860. This period has been selected to take into account changes in municipal government and later the reorganisation of certain Magistrates' Divisions within the county of Devon. An important area of debate in both towns centred on the way in which crime was controlled and order maintained. Both resorts had reputations to protect if they wished to attract well off visitors, especially during the winter season. Within this context, the government of both resorts was controlled to a lesser or greater extent by influential local families added to which, other individuals moved into the resorts and became involved in the development and government of the towns. Therefore, these different players and groups together had to

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<sup>1</sup> J.A.Sharpe, 'The History of Crime in England, c.1300-1914: An Overview of Recent Publications,' in *A History of British Criminology*, ed. by Paul Rock, (Oxford: Clarendon Press, 1988), pp. 124-37( p.132).

meet challenges that resulted from a fast-changing economic, cultural and legal framework.

By the mid-nineteenth century the populations of many seaside resorts were growing and there were new opportunities for trade and development. Moreover, as we place Exmouth and Torquay within the wider context of law enforcement, it is important to recognise that one cannot study seaside resorts without considering their basic structure and characteristics. Firstly, for example, there was a high proportion of women in the population and secondly, a high incidence of casual and seasonal employment. In relation to crime John Walton has remarked: ‘the maintenance of a secure environment for visitors was a vital part of a resort’s stock in trade.’<sup>2</sup>

However, the control of crime has also to be seen as one element in the many problems brought about by a rapid growth in population and movement from rural to urban areas in the nineteenth century. Traditionally the focus in the process has been on larger towns and cities, but this movement also affected the developing seaside resorts. In Torquay workers were needed to build the fashionable houses and navvies to build the new railway.

Exmouth, in contrast, was not growing at the same rate. However, its location in close proximity to Exeter caused problems for the authorities, as criminals could target the town and return to the city in order to dispose of the stolen goods. The comments made by the police superintendent of the city of Exeter about crime and disorderly behaviour in the early 1860s are revealing for the way in which they allude to increasing problems in the resorts, particularly in a rural county such as Devon. In comparison, the city of Exeter was perceived to be quiet. Robert Newton, an academic and notable authority on the history of Exeter in the eighteenth and nineteenth centuries, has used the *Exeter Watch Committee Minutes* to assert that in 1862 the city was:

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<sup>2</sup> John.K.Walton, ‘Crime, Migration and Social Change in North West England and the Basque Country, c 1870-1930 *British Journal of Criminology*, 39 No.1, Special Issue, (1999), 90-112 ( p.93).

Neither a manufacturing town nor a seaport town. The population is quiet and orderly compared to such towns. I also beg to draw your attention to the absence of crime in the borough.<sup>3</sup>

In order to assess the unique characteristics of the two resorts in relation to crime and anti-social behaviour, we must first establish the historical and historiographical context in which this thesis is set. To achieve this we need to outline the views and arguments presented in existing historical works, recognising that very little historical writing specifically features crime committed in seaside resorts.

## I. Literature Review

### a) Overviews and General Histories of Crime

It is necessary to understand the national context for crime in the nineteenth century, together with major social developments in order to provide a context for discussing local case studies. An overview of past and present research by Clive Emsley provided a useful starting point. The particular value of Emsley's 2005 article lies in the detailed analysis of the changes and developments that have occurred in the study of crime over the previous decade. Emsley cites what has already been achieved, where new directions have opened up and those areas of research awaiting further study. One important element identified in the study is the emphasis on, and priorities for, policing advocated by provincial police forces.<sup>4</sup> There is also recognition that gender has become an important subject for historians, together with the fact that the culture of a society has had an impact on the history of crime. Although in terms of the analysis about culture and gender, he seems over critical of the vital contribution made by Shani D'Cruze and Martin Wiener to the history of crime.<sup>5</sup> His criticism centres on their post-modern and cultural perspectives, without giving due credit for careful textual analysis.

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<sup>3</sup> Robert Newton, *Victorian Exeter, 1837-1914* (Leicester: Leicester University Press, 1968), p.119.

<sup>4</sup> Clive Emsley, 'Filling in, adding up, moving on: Criminal Justice History in Contemporary Britain', *Crime History & Societies*, 1 (2005), 117-138.

<sup>5</sup> Emsley, 'Filling in, adding up, moving on', p.130

Of major published monographs with a bearing on the subject of this thesis, one of the most pertinent academic studies is perhaps a work by J. J. Tobias, *Crime and Industrial Society in the Nineteenth Century*, which has relevance for this thesis in that Tobias examines a system of control not in isolation, but in conjunction with that of a developing society. Much of the evidence is taken from the metropolitan area in particular, although he does consider other urban areas. He found that in the first half of the nineteenth century generations of youngsters flooded into the growing towns, in many cases, without the support of a family and friends, and some entered the ranks of the criminal fraternity.

The focus in the writing of Tobias which could have parallels for seaside resorts is the fact that it was the nature and inadequacies of a rapidly changing and growing industrial society which drove up the crime level. He also referred to the existence of a criminal class which could on occasion provide support for those on the margins of society. In this respect, one can see that the lack of employment opportunities for young people, long working hours for parents, and changes in the system of poor relief all contributed to rising crime levels. In terms of the way in which crime affected young people he draws attention to the fact that some of the newcomers to the towns were domestic servants living with their employers. This has a bearing for this thesis in that this group of people were not immune from the risk of criminal activity. In support of this assertion Tobias states: 'There is ample testimony...from the country as a whole, that domestic servants were often involved in criminal enterprises against their masters.'<sup>6</sup> Certainly, as will be seen within Torquay and Exmouth there is evidence that a proportion of servants were involved in property theft, often from those who employed them.

The emphasis by Tobias on a rapidly changing society has echoes of what was taking place in seaside resorts. In his conclusion he states: 'crime, and especially juvenile crime, in the

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<sup>6</sup> J.J.Tobias, *Crime and Industrial Society in the Nineteenth Century* (London: Batsford, 1967; repr. Harmondsworth: Penguin 1972), p.198.

first half of the nineteenth century was the crime of a society in violent economic and social transition.<sup>7</sup> One of the major valid criticisms of Tobias's work by later historians concerns the problems he had with criminal and officially published statistics. However, it is important to note that in being cautious about distortions in statistical material, he supplied documentary evidence which supported a general interpretation of how criminals were formed and defined during a period of change and upheaval.

A more recent history of crime in the late eighteenth and nineteenth centuries, *Crime and Society in England, 1750-1900* by Clive Emsley, has examined the developments in policing, the courts and the penal system, in what had become an increasingly industrial and urban society. The book is a useful introduction to the subject especially in relation to quantitative material. The fourth edition draws on more recent research featuring class and gender, topics which have direct application for this thesis.<sup>8</sup>

David Jones made a significant contribution to the history of crime with his study of nineteenth century Britain.<sup>9</sup> His case studies concerning patterns of crime in China, Manchester and Merthyr Tydfil have parallels with the seaside resorts. This book was also useful for its overview of vagrancy and crime in Victorian Britain.

Finally, in the category of general histories of crime, reference needs to be made to the work of David Philips, whose local study covering the period 1835 to 1860 relies on extensive statistical evidence in a detailed study of crime.<sup>10</sup> The work has been introduced at this point, firstly because of the fact that he has cited a direct relationship between population density, economic activity and trial committals, particularly in the years

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<sup>7</sup> Tobias, *Crime and Industrial Society in the Nineteenth Century*, p.295.

<sup>8</sup> Clive Emsley, *Crime and Society in England*, 4<sup>th</sup> edn. (Harlow: Pearson, 2010).

<sup>9</sup> David J.V.Jones, *Crime, Protest. Community and Police in Nineteenth-Century Britain* (London: Routledge and Kegan Paul, 1982).

<sup>10</sup> David Philips, *Crime and Authority in Victorian England: the Black Country, 1835-1860* (London: Croom Helm, 1977).

between 1837 and 1855. This was a period when the country as a whole was experiencing a period of deep depression.<sup>11</sup> Secondly, in relation to this research Philips points to the importance of regional studies which go beyond general national figures when interpreting the control of crime. However, there is a necessity in any regional study to focus on a viable social area and also to cover a reasonable time span. Philips' analysis of workplace theft in the context of the mid-nineteenth Black Country has a parallel with the fast growing seaside resorts. This was a category of crime which also exercised the minds of a number of employers in Torquay, at a time when building and development was going ahead apace.

#### b) Cultural, Social and Legal Framework

In order to comprehend the national context of crime and social development it is important to have an understanding of the cultural, social and legal framework surrounding it, especially in the late eighteenth and nineteenth centuries. In terms of changes in the criminal justice system, *Crime and Law in England, 1750 to 1840: Remaking Justice from the Margins* has proved helpful.<sup>12</sup> King argues that Parliament and the Westminster courts played a less important role in the process of law making in the eighteenth and early nineteenth centuries than is usually assumed. Justice was often remade from the margins by magistrates, the judiciary and others at a local level. The late eighteenth and early nineteenth centuries saw many changes in the criminal justice system of England and Wales. The capital code was repealed in stages. By 1868 capital punishment was only carried out inside prisons. Central policing also increased in importance. King focuses on four specific themes: gender, youth, violent crime and the attack on customary rights. In doing so, the book highlights important changes, for example, the relatively lenient treatment meted out to women by the late eighteenth century and the early and the growing intolerance of the courts towards everyday violence. His introductory chapter on the courts,

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<sup>11</sup> Philips, *Crime and Authority in Victorian England*, p.82.

<sup>12</sup> Peter King, *Crime and Law in England, 1750 to 1840: Remaking Justice from the Margins* (Cambridge: Cambridge University press, 2006).

the law and patterns of law breaking is meticulously referenced, providing much useful new material. Overall, the book aims to provide a more holistic picture of the ways the criminal justice system was shaped and remade within the period.

Any discussion of the background context in the period must take account of social class, a complicated term, in use since the end of the eighteenth century. For a general discussion of issues associated with class, see, for example, the works cited below.<sup>13</sup> Within a historical context class explains distinct social divisions at a given point in time. Roy Porter and John Rule have both attempted valuable definitions. Porter has stated that, ‘an eighteenth-century Englishman acquired his sense of public identity in relation to his birth, his property, his occupation and his social rank.’<sup>14</sup> In describing the social order Porter used the analogy of a pyramid, with few at the top and many at the bottom. Rule defined class as the upper class, middling people, and the lower orders. In Rule’s writing the upper class is further sub divided into two groups, inheritance and office-holding and the aristocracy and gentry. The middling people consisted of farmers, the professions and the commercial middle class. The lower orders made up the bulk of the population. However, any specific definition of this particular class in the eighteenth century is extremely difficult. Rule recognised that many of the existing terms were too static for a society in the midst of change.<sup>15</sup> If one thinks of a society in flux there were still those who believed that social position was a matter of birth and sanctioned an authority which should not be questioned or challenged. In fact Rule has stressed that throughout the eighteenth century, ‘the aristocracy not only retained their social and political power they actually increased it.’<sup>16</sup>

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<sup>13</sup> E.P.Thompson, *The Making of the English Working Class* (London: Penguin Books, 1991).  
Kidd, Alan J. and David Nicholls eds., *The Making of the British Middle Class? Studies of Regional and Cultural Diversity Since the Eighteenth Century* (Stroud: Sutton, 1998).

<sup>14</sup> Roy Porter, *English Society in the Eighteenth Century*, rev. edn. (London: Penguin Books, 1991), p.48.

<sup>15</sup> John Rule, *Albion’s People: English Society, 1714-1815* (London: Longman, 1996), p.31.

<sup>16</sup> Rule, *Albion’s People*, p.32.

The class structure which would become characteristic of a nineteenth century industrial society was just beginning to emerge. In exploring two seaside resorts in this period, it will be established how different social classes were defined. It is also important to note that different social classes can be defined by inequalities in areas of power, authority, wealth, working and living conditions, education, religion and culture.

During the investigation of the cultural aspects of crime in the nineteenth century changes in the class structure will become more apparent. This topic has been explored by Martin Wiener<sup>17</sup> and J. Carter-Wood. Carter-Wood's writing in particular has proved useful for conceptualising factors which influenced changes in behaviour and moral attitudes. He concentrates on the way in which collective attitudes towards violence are actively created and maintained. He analyses the processes at work through a mixture of conflict and compromise. Carter-Wood has chosen to do a general survey of nineteenth century crime rather than a regional study. Case studies and primary source material focus on the south east of England during the period 1820 to 1870.<sup>18</sup>

The book is also important for the emphasis placed on the interdisciplinary nature of historical sociology. The sociological theories surrounding self-control are significant. Carter-Wood's thinking has been influenced by the work of Norbert Elias, a German sociologist who attempted to conceptualise the dynamics that drive states and individuals to develop structures of self-control. In particular he identified interdependence and the growth of state power. The main focus of the book is the way in which these concepts are applied to nineteenth century England, especially the power of the state and the social expectations of self-control. This led to cultural emphasis on keeping emotions in check and the importance of Victorian respectability. It is important to remember however, that

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<sup>17</sup> Martin Wiener, *Reconstructing the Criminal: Culture, Law and Policy in England, 1830-1914* (Cambridge: Cambridge University Press, 1990).

<sup>18</sup> J. Carter-Wood, *Violence and Crime in Nineteenth Century England: The Shadow of Our Refinement* (London: Routledge, 2004).

Elias's work relates to the mediaeval and early modern period, thus, the parallels drawn should be treated with a degree of caution. If the debate about the concept of self-control is applied to the nineteenth century, particularly leisure resorts it is possible to argue that the resolution of conflict between the classes was achieved by: 'a peculiar blend between a code of good manners and a code of morals.'<sup>19</sup>

Carter-Wood argues that in nineteenth century England, an important dynamic was the interaction of two different mentalities of violence. Firstly, he introduces the term civilized, which represents an emerging culture of middle and upper class refinement. This concept idealises rationality and self-restraint. Thus, we have an example whereby the middle and upper classes are linked with controlled and less violent behaviour. Secondly, Wood introduces the term customary, which originates within an older social context. Customary was a term which legitimised direct physical confrontation and appealed to less restrained notions of propriety, common in earlier times. In claiming that this concept was particularly associated with the poor and working class, he implies that the lower orders were intrinsically more violent. Wood then goes on to assert that this civilised way of thinking became more prominent by the end of the nineteenth century because the older cultures of violence became a shadow of newer, more refined behaviour.<sup>20</sup>

Wood is aware of the many tensions in nineteenth century England which changed and shaped attitudes. He discusses the effects of industrialisation and increased state power, for example, the large amount of legislation and the move towards a centralised police force. He is also aware that there was more social commentary as an increasing number of people had access to the press and other popular literature. Self-control also became part of public debate. However, he does stress the importance of links with the seventeenth century and

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<sup>19</sup> Norbert Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations*, trans. By Edmund Jephcott, rev. edn. ed. by Eric Dunning and others (London, Blackwell, 2000).

<sup>20</sup> Carter-Wood, *Violence and Crime in Nineteenth Century England*, pp.3-4.

an emphasis on continuity as well as change. These issues and the way in which they were resolved at a local level will be expanded on in the course of the thesis.

Carter-Wood also recognises that attitudes towards violence are not just related to crime but part of the growth of state power and the struggle for status among different social groups. The fact that Carter-Wood has used labels such as middle class, upper class and working class demonstrates their common usage in the nineteenth century. Further, he says: ‘the civilising process was not a unidirectional imposition of new social values upon the working class.’<sup>21</sup> New social values also affected the working class as they adopted respectable values later in the nineteenth century. Power in the nineteenth century was exercised through a mixture of imposition, conflict and negotiation. Recent studies of the cultural framework by the likes of Carter-Wood and Wiener have provided a new depth of understanding of attitudes to crime and violence in the nineteenth century. They demonstrate clearly how the nature of crime and violence was contested and debated throughout the nineteenth century. This is applicable to this thesis in that attitudes towards crime and violence changed within Exmouth and Torquay in the period under discussion.

### c) Gender

Historians of crime have for a number of years recognised the need for greater clarity in our understanding of gender in relation to crime. The topic of women and crime has only fairly recently been expanded to include male behaviour.<sup>22</sup> Attitudes to violence began to change from the late eighteenth century and the early decades of the nineteenth century. Shoemaker has indicated that from the second half of the eighteenth century, ‘the very definition of honour as based on public reputation, in which one’s sense of worth depended on the opinions of others, was called into question by Evangelical writers and the

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<sup>21</sup> Carter-Wood, *Violence and Crime in Nineteenth Century England*, p.145.

<sup>22</sup> Robert B. Shoemaker, ‘Reforming Male Manners: Public Insult and the Decline of Violence in London, 1660-1740’, in *English Masculinities, 1660-1800*, ed. by Tim Hitchcock and Michele Cohen (London: Longman, 1999), pp. 133-50.

critics of duelling...'.<sup>23</sup> Thus, standards of male behaviour which emphasised inner virtue and character became more prominent. Attempts to change male behaviour were not simply imposed by the state or ruling class, as indicated by Norbert Elias earlier, but came out of the culture and class structures of the period. Any further discussion of gender issues must acknowledge the central place of class in any further exploration. It is sufficient to note that explorations of manliness could have wider implications for gender issues in the nineteenth century.<sup>24</sup>

In the late 1990s Shani D'Cruze explored the uses of violence as a means by which working people used their sexuality. Again, there is an indication that class had an impact on violence. A selection of her writing has been included in the literature review because it links with the fact that sexuality and male violence have often featured in feminist scholarship. As women usually made up the majority of the population in seaside resorts gender issues and crime will be explored later in the thesis.

It has already been noted that gender featured in J.Carter-Wood's exploration of the concept of civilised violence. As discussed earlier in the literature review, this was developed and refined during the nineteenth century as customary violence became more marginalised. However, Shani D'Cruze noted: 'Although hard drinking, physically tough models of masculinities were not erased from working class culture, the independent artisan of the later nineteenth century was also (for a good deal of the time) a sober and rational family man.'<sup>25</sup> In *Crimes of Outrage: Sex, Violence and Victorian Working Women*, D'Cruze saw the nineteenth-century courtroom as a theatrical arena where narratives of violence could be partly played out. Neighbourhood, along with work and home provided the space and context for much recorded violence. When women used local

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<sup>23</sup> Shoemaker, 'Reforming Male Manners', p.148.

<sup>24</sup> John Tosh, *Manliness and Masculinities in Nineteenth Century Britain: Essays on Gender, Family and Empire* (Harlow: Pearson Education, 2005).

<sup>25</sup> Shani D'Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London: UCL Press Limited, 1998), p.18.

courts to vindicate their reputations before their neighbours, it could compromise what was perceived to be respectable behaviour in the eyes of the public. One must also recognise that drama in the local courts could also compromise acceptable male behaviour.

The debate about patterns of violence within specific classes and social groups is taken further in *Everyday Violence in Britain, 1850 – 1950*. This is a collection of essays, edited by Shani D’Cruze, a number of which were first presented at a conference on ‘Women Gender and Interpersonal Violence: Historical Perspectives’, in February 1999. The introductory chapter by D’Cruze entitled ‘Unguarded Passions: Violence, History and the Everyday’, has proved important.<sup>26</sup> This essay puts interpersonal violence into its historical context by setting out the contributions which individual writers have made to the debate. For example, Anna Clark has summarised some of the key findings on the interaction between the public and the private in attitudes towards personal violence.<sup>27</sup>

Class issues are again highlighted in *Everyday Violence*, which focuses mainly on working-class violence. However, D’Cruze is keen to acknowledge that middle class people also committed acts of violence. Yet it was working-class violence that was usually construed to be a social problem. The importance of this work lies in the debate about patterns of violence within specific classes and social groups, and its relationship to age and gender.

#### d) Seaside Resorts

Following our assessment of the cultural, social and legal framework, it is necessary to consider the body of literature pertinent to the government and development of the British seaside resorts as a whole and Devon in particular. This is necessary in order to assess the unique characteristics of the two resorts in relation to crime and anti-social behaviour.

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<sup>26</sup> Shani D’Cruze, ‘Unguarded Passions: Violence, History and the Everyday’, in *Everyday Violence in Britain, 1850 – 1950: Gender and Class* ed. by S.D’Cruze (Harlow: Pearson Education), pp. 1-26.

<sup>27</sup> Anna Clark, ‘Domesticity and the Problem of Wife-beating in Nineteenth Century Britain: Working Class Culture Law and Politics’, in *Unguarded Passions* (see D’Cruze above), pp. 27-40.

John Walton's history of the English seaside resort remains important for its analysis of the factors which influenced the growth of seaside holidays. Walton's chapter on local government at the seaside has provided an excellent summary of the nineteenth century reforms of the municipal corporations. This legislation allowed the new bodies to provide a wide range of services not provided hitherto. As Walton shows, these developments were particularly important at the seaside, especially in relation to the health and comfort of visitors. He then goes on to say in relation to crime: 'Just as important as a healthy environment, however, was a reputation for order and security; ... Better-class visitors and residents had increasingly high expectations.'<sup>28</sup> It must be recognised that as the nineteenth century progressed, the upper class demanded that as these resorts became more accessible to a wider range of people, their exclusiveness was not compromised.

The class consciousness of the Victorians showed itself within the seaside resorts in that each had its own 'social tone'. H.J.Perkin has said that, 'most of the English in that age took their pleasures separately, in the company of their social equals, and each resort had its own 'social tone, finely adjusted to the exact status of its clientele.'<sup>29</sup> The social tone was not static and changed from one location to another. Geography played its part in that Victorian resorts often owed their rapid growth and development to the coming of the railways. In terms of class, Brighton and Southend were more popular, and had a lower social tone, than Bournemouth and Torquay, which were beyond the reach of a day trip. The theme of the social tone of holiday resorts was developed further by Mike Huggins, when he emphasised that the concept arose out of competing elements within the social structure of the resorts.<sup>30</sup>

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<sup>28</sup> John K.Walton, *The English Seaside Resort: a Social History, 1750-1914* (Leicester: Leicester University Press, 1983), pp.130-31.

<sup>29</sup> H.J.Perkin, 'The 'Social Tone' of Victorian Seaside Resorts in the North-West, *Northern History*, 11 (1976), 180-94 (p.180).

<sup>30</sup> M.Huggins, 'Social Tone and Resort Development in North-East England: Victorian Seaside Resorts Around the Mouth of the Tees', *Northern History*, 20 (1984), 187-204 (p.187).

These perceptions are important for the developing tourist trade in that the wealthy residents demanded that an appropriate social tone was maintained. To keep the patronage of these visitors, resorts needed powers of prohibition and restraint, as well as the ability to confine what were perceived to be offensive activities to the less well-off areas of the town. Further, residents and visitors alike wanted an assurance that property was safe and personal safety was guaranteed. As we will see as the thesis develops, problems of jurisdiction made these matters for local governing bodies as well as local police and magistrates.

Before reflecting on the seaside resorts of Devon, reference should be made to the work of W.G.Hoskins, an important authority on the county of Devon. Hoskins' pioneering work, originally published in 1954, has been updated to include a new introduction and comprehensive bibliography, which is a valuable tool for anyone researching individual Devon towns. In addition, reference is made by Hoskins, if only briefly, to seaside resorts and the factors which influenced their development.<sup>31</sup> Many market towns in Devon declined in the nineteenth century, therefore, many individuals flocked to the resorts in search of homes and employment.

In relation to Devon's seaside resorts the writing of John Travis is also important. By taking the twin issues of leisure and health Travis analysed the impact of local government bodies on the development of a number of resorts. However, there is a limited amount of material relating to public order. However, there is a significant section relating to the regulation of public bathing.<sup>32</sup> As would be expected, this exposed some sensitive Victorian attitudes towards morality and reputation. Travis has remarked:

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<sup>31</sup> W.G. Hoskins, *Devon* (Chichester: Phillimore, 2003), pp.117-20.

<sup>32</sup> John F.Travis, *The Rise of the Devon Seaside Resorts, 1750-1900* (Exeter: Exeter University Press, 1993), pp.179-83.

Public decency became as important an issue as public health at many Devon resorts and sometimes the objective in forming a local board was as much to prevent bathers behaving improperly as it was to curb sanitary nuisances.<sup>33</sup>

Other important works concerning the histories of individual resorts will be introduced as part of individual chapters later in the thesis.

The literature surrounding appropriate moral values, social control and the attempt to control crime and encourage what was perceived to be an appropriate social tone at seaside resorts is very limited. However, a case study of Blackpool in the later nineteenth and early twentieth century by John Walton is pertinent.<sup>34</sup> It appears that there was no overall strategy for dealing with problems of public order in the resort. It was not until 1853 that it became necessary to obtain a Local Improvement Act in order to license donkeys, cabs and bathing. Maintaining order in the streets was also important if Blackpool was to attract a superior class of visitors. There are important parallels with Torquay, where the government of the town, together with perceived patterns of acceptable behaviour, were also enshrined in a Local Improvement Act.

## II. Structure, Methodology and Analysis

This thesis will address a number of questions in relation to the control of crime and public order at the seaside resorts. How far, for example, did the effects of industrialisation impact on the perceived increase in crime? How far were the effects of a rapidly changing industrial society mirrored in the seaside resorts selected for detailed study? What was the effect of the increase in population in towns which had hitherto been little more than hamlets or fishing villages? In a discussion of the historical and historiographical context, it emerged that a lack of employment was forcing individuals and families to move into the fast growing and developing seaside resorts. This leads to questions about who was

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<sup>33</sup> Travis, *Rise of the Devon Seaside Resorts*, pp.179-83.

<sup>34</sup> John K. Walton, 'Residential Amenity, Respectable Morality and the Rise of the Entertainment Industry: the case of Blackpool, 1860 – 1914, *Literature and History*, 1 (1975), 62-78.

involved in property theft. How far were domestic servants involved? Was workplace theft a particular issue, especially in developing towns? In resorts with a high proportion of women in the population how far did gender and class have an impact on crime?

The challenges in fast growing changing societies have implications for authority and control. How far did cultural, social and legal changes impact at a local level? How did those responsible for the government of the resorts meet their new and changing responsibilities? To what extent did changes in local administration affect traditional areas of responsibilities such as policing?

As seaside resorts sought to preserve an appropriate social tone in order to attract visitors, questions will be addressed concerning the extent to which the courts were used to contain what was perceived to be anti-social behaviour. How were the streets regulated to maintain the safe passage of people and vehicles? How was unacceptable behaviour controlled? Was local legislation used to contain such behaviour?

The particular area chosen for study centres on the seaside resorts of Exmouth and Torquay. Within Exmouth this concerns the interlocking parishes of Littleham and Withycombe Raleigh. In Torquay, the parish selected for study was that of Tormoham. In the nineteenth century this parish covered most of what we now think of as modern day Torquay. The maps numbered 1, 2, 3 and 4 on pages 35, 55, 57 and 108 indicate their location in the county of Devon, together with the road and rail network in relation to the city of Exeter and other parishes. These particular resorts in south Devon have been chosen in order to compare and contrast changes and similarities between a resort created in the eighteenth century, with a town developed in the nineteenth century from a small hamlet. This approach will allow a case study to be constructed, rather than a more general study featuring crime in all the Devon resorts.

The main body of the thesis is structured over six chapters. Chapter 1 sets the scene by analysing in detail the development of Exmouth and Torquay from the late eighteenth century. Chapter 2 moves on to introduce the subject of crime by considering the cultural, social and legal changes in the nineteenth century which helped to shape criminal policy, both locally and nationally. As an essential part of the chapter it also considers the legislation which facilitated changes in the system of local government which allowed parishes to control lighting and watching. The third chapter examines how the “engines of authority” operated at parish level, together with the administrative structures which facilitated the prosecution and control of crime. The final three chapters analyse property crime, violent crime and anti-social behaviour and control, all from a local perspective. The conclusion draws attention to the distinctive nature of seaside resorts in terms of crime and anti-social behaviour.

Some of the difficulties in accessing quantitative material in relation to crime at a local level have already been indicated. This was a limiting factor in choosing a period for detailed study. In relation to crime the following sources were consulted for Exmouth and Torquay: TNA ASSI 25/24/8-25/43/16 *Assizes Western Circuit: Indictment Files, 1835-1860*. These files covered the most serious crimes and did include indictment records. However, it should be noted that no depositions have survived until 1861, outside the period identified for detailed study. In terms of accessing this material it should be noted that the Western Circuit covered a fairly wide area of the south west including Somerset, Southampton, Wiltshire as well as the county of Devon and the city of Exeter.

The Quarter Session Records consulted for the county of Devon are located in Devon Record Office and includes details of all the business conducted at the Sessions, with crime

forming one section.<sup>35</sup> In terms of quantitative material relating to crime in the two resorts, the Quarter Session Records for the county of Devon were analysed in detail in relation to the parishes mentioned above. Likewise, for more serious crime, statistical evidence from the Assizes was obtained from the records of the Western Circuit housed in the National Archives. It must be stated at this point that any direct comparison of statistical material will be limited by the fact that no indictment records appear to have survived for the county of Devon. Furthermore, all Quarter Session records are stored in bundles for the various years and do not simply contain records related to crime. However, the difficulties with the statistical information discussed so far can be overcome by marrying the quantitative with the qualitative material.

Qualitative material was accessed via the depositions, supplemented by information from a range of local and regional newspapers. These included the *Torquay and Tor Directory*, *Trewman's Exeter Flying Post*, the *Western Times* and the *Exeter and Plymouth Gazette*. These newspapers provided detailed accounts of the meetings of the Assizes, Quarter Sessions and Summary courts. As one would expect, the reports of some offences and crimes attracted great interest and comment. In the absence of Assize depositions the newspaper reports fleshed out the detail, particularly for the more high profile cases.

Local minute books including the minutes of the Local Board of Health and the Select Vestry were a useful primary source when looking to assess matters of policy, especially for Torquay.<sup>36</sup> The lack of similar material for Exmouth meant investigating a wider range of sources not always directly related to the governance of the town. Following the cholera outbreak, T.W.Rammell's *Report to the Board of Health on the Sanitary Condition of*

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<sup>35</sup> DRO Devon County Quarter Sessions Bundles, 1835-1860. DRO will become DHC from 1 September 2012.

DRO QS/32/158-171 *Gaol Calendars of Prisoners for Trial*.

DRO QS1/27-31 *Devon Sessions Order Books, 1830-1861*.

<sup>36</sup> DRO R4582A add 2/TC1 *Tormoham Improvement Act. Commissioners' Minute Book, July 1846-March 1857*.

DRO 4582A add 2/TC2 *Torquay (Tormoham) Local Board Minute, 1857-1864*.

*Exmouth* 1850 is important for its insight into local government and policing in the town before 1850.

It has already been argued that one cannot research crime at seaside resorts without considering their social and cultural development. In this respect, it was necessary to consult a number of primary sources not explicitly related to crime and control. Two particular diaries were consulted and these shed light on local feelings and attitudes in relation to the development of Torquay and Exmouth. In this respect, the writings of A.B.Granville and Samuel Curwen were both available.<sup>37</sup> These particular sources will be referred to in detail in the course of chapter 1. Tourism was important in the development of a number of resorts, including those in south Devon. Therefore, a number of tourist guides and histories, contemporary to the period under discussion were consulted in local studies libraries. As with other similar material, these items will also be referred to in detail in the course of Chapter 1.

The hypothesis posited in the thesis will contribute to an understanding of nineteenth century crime by suggesting that the nature and scale of crime committed in the two resorts during this period were conditioned by a number of factors. These included the reactions of the controlling authorities to criminal offences, together with a range of contextual factors. These included social and economic change, class, gender and the local area. In a number of respects the patterns detected, for example property crime and crimes of violence, were not dissimilar to patterns uncovered by historians elsewhere. Arguably, the most distinctive feature of crime in both Exmouth and Torquay was in the attention given to combating anti-social behaviour, indicating that maintenance of 'social tone' was of crucial importance to the authorities in nineteenth century seaside resorts.

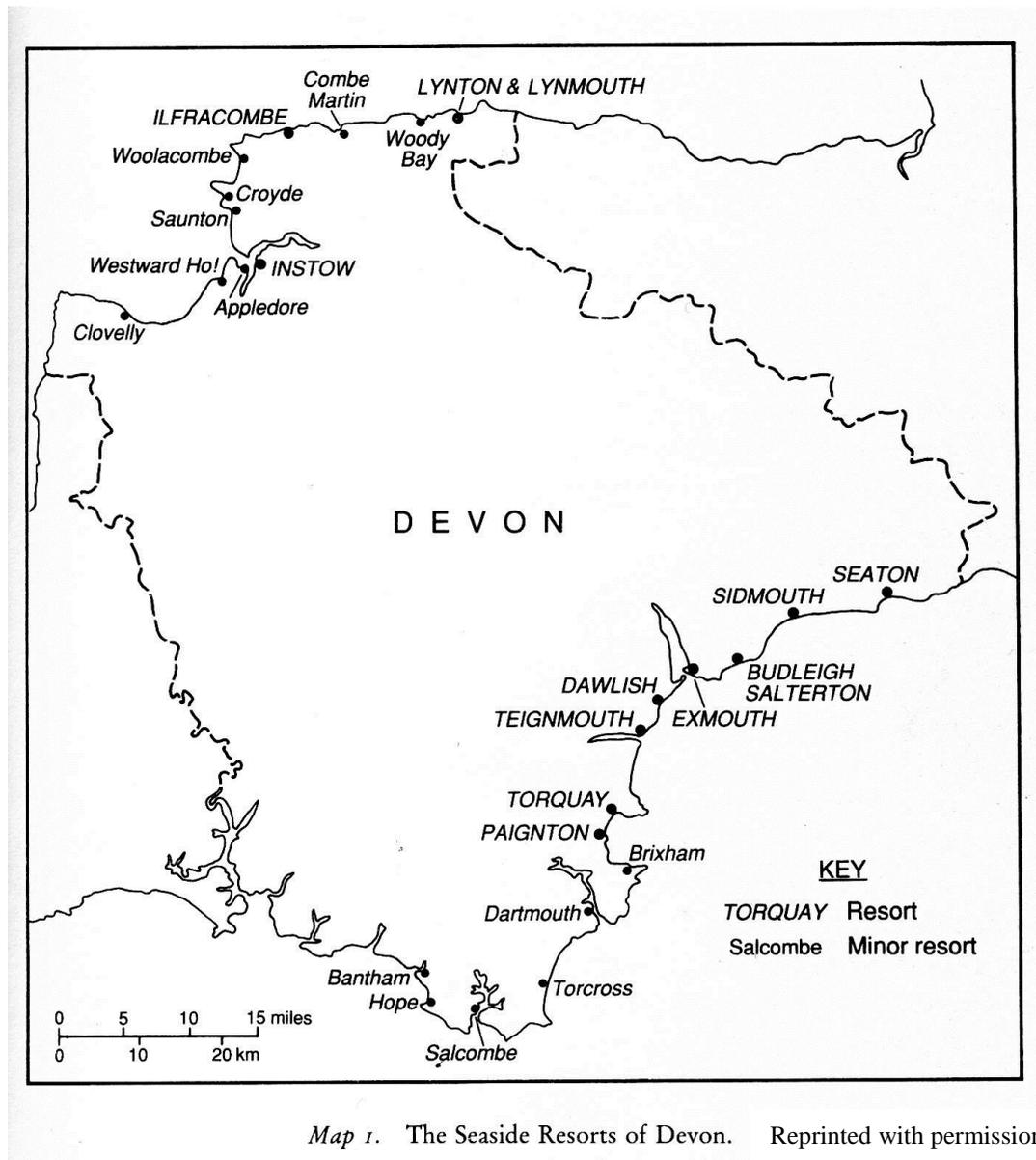
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<sup>37</sup> A.B.Granville, *Spas of England and Principal Sea Bathing Places, 2 Midlands and the South, 1841*; repr. with a new introduction by G.Martin (Bath: Adams and Dart, 1971).  
A. Oliver, ed., *The Journal of Samuel Curwen, Loyalist, II* (Cambridge, Massachusetts: Harvard University Press for the Essex Institute, Salem, Mas., 1972).



## Chapter 1 The Development of Exmouth and Torquay

In order to contextualise the study of crime, the development of the chosen resorts is considered in some detail. Exmouth and Torquay are both located in the south and east of the county of Devon. The counties of Somerset and Dorset are located to the north and east, with Cornwall located to the west. Devon's resorts are marked on the map below.<sup>38</sup>



Map 1. The Seaside Resorts of Devon. Reprinted with permission

<sup>38</sup> Travis, *Rise of the Devon Seaside Resorts*, p.5.

As a general rule, the seaside resorts of Devon developed from existing isolated fishing communities. The early resorts were known as watering places and developed in the eighteenth century as inland and coastal resorts for the provision of health and leisure, with the spas exhibiting the first signs of a new type of watering place.<sup>39</sup> By 1851 John Walton ‘was able to identify a corpus of seventy-one coastal resorts.’<sup>40</sup> Communication by road, and later rail, improved to make the coastal towns accessible.

This chapter on the development of Torquay and Exmouth will consider not only the development of each resort but also the problems faced by the authorities. In the case of Torquay the government was vested in Local Improvement Commissioners and later the Local Board of Health. The government of Exmouth appears to have been vested in prominent individuals connected with the parish of Littleham and later officials linked with the Local Board of Health. Those in authority sought to improve facilities for tourists, but the downside of such improvements also made the resorts attractive for criminals. The main focus of the chapter will feature the challenges for the authorities in terms of population growth, economic development, communication and increased opportunities for tourism. All such developments emphasise and provide a background context for assessing policing and crime.

### I. The Eighteenth Century

In terms of development as watering places, some south Devon resorts have a history stretching back to the eighteenth century. It is this mid to late eighteenth century development which is the initial concern. As an early watering place, Exmouth had the advantage of some spectacular sea views. The late Robin Bush, a historian and archivist, renowned for making local history accessible, spent his childhood in the town.<sup>41</sup> He has

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<sup>39</sup> Peter Borsay, ‘Health and Leisure Resorts, 1700-1840’, in *Cambridge Urban History of Britain, vol 2, 1540—840*, ed. by P.Clark (Cambridge: Cambridge University Press, 2000), pp.775-804.

<sup>40</sup> Borsay, ‘Health and Leisure Resorts’, p.777.

<sup>41</sup> Obituary, *Guardian*, 8 July 2010.

set the scene well regarding the physical attractions of the resort in terms of its scenery. He said:

The main attractions of the view were the twin parks of Mamhead and Powderham, which drew the eye across the estuary... the western aspect of the town commands views of glorious sunsets which have inspired artists like Francis Danby, who lived for several years at Shell house on the Maer.<sup>42</sup>

A number of sources claim it to be the oldest watering place in Devon.<sup>43</sup> This was the period when rich merchants and gentry from Exeter began to flock to Exmouth. Such an assertion is supported by W. G. Hoskins, who quotes a contemporary writer, Dr Pococke.

Dr Pococke said that in 1750 Exmouth was:

...chiefly inhabited by fishermen and publicans, it being a place to which the people of Exeter much resort for diversion and bathing in the sea, and the situation is so pleasant, having beautiful little hills to the east finally improved, and a view of the fine country on the other side, that some persons of condition have come to live at the place, which they are improving by a gravel walk to the river, and they are going to make a bowling green.<sup>44</sup>

In relation to crime, it is interesting to note that the fame of Exmouth was unwittingly spread by an unnamed judge of the circuit. Richard Polwhele, a Cornish clergyman who lived in Devon for a time has remarked: 'One of the judges of the circuit, in a very infirm state of health [who] went thither to bathe, and received great benefit from the place.'<sup>45</sup>

Such faint praise no doubt aided Exmouth's reputation with the well to do of Exeter.

Unfortunately, little detail appears to have survived about this person and his role within the criminal courts. However, the testimony of this learned gentleman had an impact on the whole county of Devon. Hoskins has gone so far as to claim that 'by the 1790s it was the most frequented watering place in Devon.'<sup>46</sup>

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<sup>42</sup> Robin Bush, *The Book of Exmouth: Portrait of a Resort* (Buckingham: Barracuda Books Ltd, 1978), p.43.

<sup>43</sup> Bush, *Book of Exmouth*.

Hoskins, *Devon*.

<sup>44</sup> Hoskins, *Devon*, p.117.

<sup>45</sup> Richard Polwhele, *The History of Devonshire, 1793-1806*; (Dorking: Kohler & Coombes, reprinted, 1977), ii, 215.

<sup>46</sup> Hoskins, *Devon*, p.117.

As for sea bathing and other leisure facilities, it is important to remember that such attractions were modelled on activities offered at the spas. Bathing machines also appeared at resorts in south Devon, as the medical fraternity advised an early dip before ten o'clock in the morning. Further, in connection to Exmouth, it is reputed that by 1755 one gentleman had cut a primitive swimming pool out of the rocks, and that by 1759 it was in regular use, being both safe and private. Robin Bush provides us with information about the reputation of Exmouth at this period, not available in other sources. He states that by 1765, an unnamed newspaper correspondent had described Exmouth as: 'the Bath of the West, the resort of the tip-top of the gentry of the kingdom'.<sup>47</sup> By July of that same year, it appears that lodgings were difficult to find; families had to suffer the inconvenience of residing in an inn. In addition, it seems that the locals were not slow to take advantage of their chance good fortune. According to Bush: 'By 1768, a coach service, the *Exmouth Machine*, was running regularly at 8am from Southernhay in Exeter at 2s. 6d. a seat...' <sup>48</sup> However, despite its popularity, it is important to realise that Exmouth at this period remained largely uncommercialised; it would appear it had a certain rural charm and romanticism which proved attractive to its visitors.

In terms of more detail about the clientele and social tensions in Exmouth at this period, the personal diary of Samuel Curwen, an American exile, who spent the summer of 1779 in the town is accessible. He discovered that, although it was the busiest of the Devon resorts at this period, it had a number of social tensions. At first he was pleased to find a number of gentry among his acquaintances. The gentry in this context were part of the social elite linked to the aristocracy and land owning class. However, he soon realised that at weekends the resort was invaded by visitors from nearby Exeter. He observed that

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<sup>47</sup> Bush, *Book of Exmouth*, p.43.

<sup>48</sup> Bush, *Book of Exmouth*, p.43.

Exmouth people resented the incursion of these visitors, some of whom had purchased the finest houses and consequently spent little in the town on accommodation or food.<sup>49</sup>

If Curwen is to be believed, it seems that the manners of the residents of Exeter left much to be desired, causing offence to the wealthy visitors. There were regular complaints that these weekend ‘trippers’ spent the Sabbath following inappropriate leisure pursuits, when they would have been much better employed attending acts of worship. Curwen himself was outraged when meeting some of this Exeter clientele during an evening promenade on Shephards Walk. He refers to the ‘shoals of Exeter damsels, whose insufferable undress and ill breeding justly exposes them to the contempt and derision of strangers.’<sup>50</sup> Thus, one can detect that even at this early period, there were signs of tension between the well off and those perceived to be of a lower social class. From brief personal diary entries, it is difficult to gain an accurate indication of the specific balance of the different social groups.

However, it is important to set the tension highlighted above in context. The wealth created in inland Devon during the eighteenth century was an important factor in the prosperity of the county. The woollen industry, for example, had brought economic stability to Devon. Further, Exeter was an important regional city at this period. Other inland centres were also rich and generated a demand for watering places where upper and middle class people could use surplus wealth, in order to benefit from the enhanced leisure facilities.

In terms of communication and travel in this period, few Londoners made the difficult journey to Devon. However, the acceleration of coach travel in the 1780s was an important factor in encouraging visitors to visit south Devon. The journey time from London to Exeter had been cut to 32 hours by 1783, and on the new mail coach to 24 hours in 1785.<sup>51</sup>

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<sup>49</sup> Oliver, *Journal of Samuel Curwen, Loyalist*, p.547.

<sup>50</sup> Oliver, *Journal of Samuel Curwen, Loyalist*, p.560.

<sup>51</sup> *Trewman’s Exeter Flying Post*, 22 July 1783, 3 November 1785.

Travel times on other coach services to south Devon were also speeded up. Thus, transport improvements placed the south Devon resorts within reach for those of the upper class who could afford the high coach fares.

However, it is important to recognise that the tourist trade was in its infancy in the late eighteenth century. At this time the Devon resorts were small and provided facilities for a restricted market. In contrast, at a national level, we know from the writing of John Walton that some specialised resorts were emerging on the Kent and Sussex coast, providing a wide range of leisure outlets for fashionable London society.

From a wider perspective, as the eighteenth century drew to a close, events further afield had a dramatic impact on the fledgling tourist industry in Devon. Travellers, who until the French wars had grown accustomed to wintering on the continent, sought other attractive venues to visit. These travellers, often in failing health, or those of rank and fortune began to sample the Devon coast as a possible alternative location. In this context, further welcome publicity was received when, in 1791, Dr Jebb, physician to George III announced that he considered, ‘the pureness and salubrity of the air at Exmouth equal to the south of France’<sup>52</sup> Following such a positive recommendation a number of other south Devon resorts were also being recommended to invalids and compared with the south of France. (The term invalids was in common usage to describe infirmity and/or medical conditions). In another interesting development, the medical profession was considering the merits of different local climates in the treatment of disease. Thus, the increased focus on the value of health restoring properties also had the potential to increase the tourist industry in coastal areas. In this respect, the south Devon resorts had the twin advantages of a mixture of pure sea air and exceptionally mild winters.

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<sup>52</sup> *Trewman’s Exeter Flying Post*, 16 June 1791.

A further fillip for the tourist trade came when travel writers began to publicise the scenic attractions of south Devon. In 1804, for example, *Picturesque Excursions in Devonshire*, by T.H. Williams went on sale in London. Therefore, it is reasonable to assume that the local attractions must have been receiving attention outside the county. Writers were making the most of an important opportunity to ensure that the charming features of the south Devon landscapes reached fashionable London society. This wider publicity no doubt encouraged some tourists to venture on long expeditions into Devon, in the search for a viable alternative to the south of France.

Indirectly, the French Wars further stimulated the tourist trade as a number of army and navy officers were garrisoned along the coast. The Channel fleet, for example, was often stationed off the coast in what today is known as Torbay. As would be expected, the officers spent much of their free time ashore, contributing to fashionable society. Further, some of their wives and families also took up residence in Torquay. In turn, this also helped a nascent resort gain further credibility.

However, there was a negative side to this publicity. One effect was that the cost of accommodation in Devon rose sharply during the war years, but it still remained below other leading resorts closer to London. We are told that in 1809, Joseph Farington, the artist, reported properties in Sidmouth being let for five guineas per week, whilst at Exmouth houses with good views could command seven guineas a week.<sup>53</sup> These were high prices by Devon standards, but quite moderate compared to the Kent coast where comparable houses were being let for ten guineas per week. As charges for accommodation soared, many fashionable incomers considered them low compared with London. Further, one can argue that the south Devon resorts had a certain attraction for those with financial problems. Firstly, by travelling to a remote county like Devon, it was possible for them to

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<sup>53</sup> James Greig, *The Farington Diary: by Joseph Farington* vol.5 (London: Hutchinson, 1925), pp. 242-3.

avoid the excesses of a stay in a major watering place. Secondly, it provided an opportunity of keeping away from creditors, which would not be possible in London or Bath.

There were other important developments affecting tourism. The south Devon resorts benefited from being the first in the country to have a winter season. It was during this season that the vast majority of invalids arrived, hoping the mild sea air would restore their health. Although visitor numbers were small at this time, it was this influx of visitors which provided the impetus for their development. In contrast with Exmouth, as late as 1792, John Swete reported that Torquay was still a small fishing port with a few new houses erected for visitors. It is important to be aware that in using Swete as a source, his prime interest was in the picturesque and items of topographical interest for the traveller. It is in this connection that he often paid a visit to important local figures. It is within this context, even at this early period there were plans to create a new resort. Palk's plans for the town stated: 'if the Plans which I have seen be carried into Execution [it] will be one day raised into importance.'<sup>54</sup> One can argue that it was Torquay's sheltered position and southerly location which made it so attractive to the invalid.

Robert Palk, the 1<sup>st</sup> Baronet was a member of an influential family in Torquay. He was born in Ashburton in 1717 and went on to build up a very large fortune, whilst serving with the East India Company, ending his career as Governor of Madras. However, when Sir Robert Palk, as he then was, returned to Torquay in 1768, no-one had even considered that the development of land around the harbour and the hills would have any future benefit for tourism. Palk had purchased land belonging to absentee landlords bordering the Cary estate and 'now returned England at the age of 61 to set up house as a county magnate.'<sup>55</sup>

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<sup>54</sup> John Swete, *Travels in Georgian Devon: The Illustrated Journals of the Reverend John Swete, 1789-1800*, ed., with an introduction by Todd Gray, 4 vols (Tiverton: Devon Books, 1997), I, p.85.

<sup>55</sup> Percy Russell, *A History of Torquay and the Famous Anchorage of Torbay* (Torquay: Torquay Natural History Society, 1960), p.66.

Alongside the Cary family, he became the second leading landowner in the area. Sir Robert died at Haldon in 1798. He was succeeded by his only son, Lawrence, who became the 2<sup>nd</sup> Baronet.

The period from 1789 to 1815 saw a rush of building activity at coastal settlements along the south Devon coast. There was clearly a need to provide accommodation for the growing resident population and also for the influx of visitors. As was mentioned earlier, before the tourist trade developed the only dwellings close to the sea had been those connected with the fishing industry. Other properties had been situated well away from the shore. This was important if they were to receive some protection from the winter gales. As one would expect, it was local wealthy landowners who were involved in most of the schemes to provide more tourist accommodation. In Exmouth, Lord Rolle began building prestigious houses on Beacon Terrace in 1791. At Torquay, Mr Cary of Torre Abbey and Sir Lawrence Palk, the two principal landowners, were separately involved in building houses close to the beach.

It is important to consider briefly some of the attractions a typical wealthy tourist would expect, including a discussion of some of the facilities provided. These visitors were used to social institutions found at spas and other provincial towns. They were familiar with baths, assembly rooms and libraries. In the resorts the newly erected bath houses were often found in prestigious locations on the sea front, or other important thoroughfares. This was the case in Exmouth and Torquay, reflecting their perceived importance in the social life of the towns. As one would expect, the south Devon resorts followed this tradition by providing assembly rooms. A small assembly room had existed in Exmouth since the 1770s. However, an increase in visitor numbers no doubt justified the construction of

elegant new buildings. In July 1801 a purpose-built assembly room was opened at Exmouth, on fashionable Beacon Hill.<sup>56</sup>

Promenades were also constructed at most of the principal south Devon resorts after 1789. Again, this was a facility that fashionable visitors were used to. However, the main public walk did not always border the sea. This was the case in Exmouth where a promenade was laid out on Beacon Hill in 1790.<sup>57</sup> It was here that visitors paraded each day. Moreover, it was on the promenades where invalids congregated. Such promenades were ideal places to take the air, and had the added advantage in that they were usually on level terrain. This was important for people who found walking difficult and for those who had to push bath chairs, carrying the aged and infirm.

Whilst most of the recreations at the south Devon resorts were based on activities fashionable at the spas, the boat race proved to be a notable exception. As early as 1772 a group of local gentlemen founded a sailing club at Starcross, opposite Exmouth on the Exe estuary; in August 1775 they organised their first regatta.<sup>58</sup> It was in the period under discussion that the south Devon annual regattas became very popular. During this period Teignmouth, Sidmouth and Torquay all began to stage their own events; visitors at Exmouth and Dawlish could view the races organised at Starcross. The regatta became the crowning point of the tourist summer season and an important visitor attraction. As Travis has remarked, the period between 1789 and 1815, as well as seeing the benefits of a winter season, was also the time when 'the region's earliest seaside resorts came of age and attracted visitors from distant parts of the country. This was the period which saw the birth and rapid growth of Torquay as a watering place.'<sup>59</sup>

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<sup>56</sup> *Trewman's Exeter Flying Post*, 9 July 1801.

<sup>57</sup> Bush, *Book of Exmouth*, p.44.

<sup>58</sup> *Trewman's Exeter Flying Post*, 18 August 1775.

<sup>59</sup> Travis, *Rise of the Devon Seaside Resorts*, p 47.

<sup>45</sup> Travis, *Rise of the Devon Seaside Resorts*, p.37.

## II. Population Growth

Following a detailed analysis of the early development of the tourist industry, particularly in the eighteenth century, we now move on to consider the important issue of population growth, with special reference to Exmouth and Torquay. Population growth is important in any nineteenth century study of seaside resorts. Rapid development also has the potential to provide opportunities, problems and challenges for those in authority.

In 1801 the south Devon resorts had relatively small populations. At a time when Margate's population was around 5600 and Brighton 7000, the population of Devon's two oldest resorts, Exmouth and Teignmouth, was much smaller. This can be seen in the following tables, based loosely on Census returns. It is important to note that the figures about population growth are not intended to be precise percentages; they only provide an indication of general trends. Thus, the percentage figures provided by Travis in Table 2 have been amended for greater clarity. In this respect the Exmouth figures are for Littleham and Withycombe Raleigh parishes; Teignmouth figures are for East and West Teignmouth parishes; Budleigh Salterton figures are for East Budleigh parish; Torquay figures are for the Tormoham parish.

<i>Resort</i>	<i>1801</i>	<i>1811</i>	<i>1821</i>	<i>Increase 1801-1821</i>
Exmouth	2601	3160	3895	1294
Teignmouth	2012	2893	3980	1968
Dawlish	1424	1882	2700	1276
Sidmouth	1252	1688	2747	1495
Budleigh Salterton	1014	1190	1706	692
Torquay	838	1350	1925	1087

**Table 1 Population of the Principal South Devon Resorts, 1801-1821<sup>60</sup>**

<i>Resort</i>	<i>1801-1811</i>	<i>1811-1821</i>	<i>1801-1821</i>
Exmouth	21.5	23.3	44.8
Teignmouth	43.8	37.6	81.4
Dawlish	32.2	43.5	75.7
Sidmouth	34.8	62.7	97.5
Budleigh Salterton	17.4	43.4	60.8
Torquay	61.1	42.6	103.7

**Table 2 Percentage Growth Rates of the Principal South Devon Resorts, 1801-1821**

It is clear that during the first two decades of the nineteenth century resorts other than Exmouth were growing at a much faster rate. Although Exmouth and Teignmouth were still the largest resorts in population terms, other watering places were increasing at a significant rate. Torquay increased fastest, growing by about 104% between 1801 and 1821. This is a remarkable increase by any standard. According to John Walton, in his history of British seaside resorts, this expansion was part of a broader pattern. It is well established that most of the resorts on the south coast of England achieved their highest growth rates in the first two decades of the nineteenth century.<sup>61</sup>

What then were the reasons for the increase in population in this period? During the Napoleonic Wars the south Devon tourist trade flourished. Following the defeat of the French at Waterloo there was much rejoicing by the inhabitants of the southern coastal resorts, as the fear of invasion had disappeared. They were looking forward to a period of prosperity and further development. However, this was not to be. During the period between 1816 and the early 1840s the pace of development weakened. Torquay was the exception; the resort grew and gained national prominence. This was at a time when its older rivals, including Exmouth experienced a decline in trade.

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<sup>61</sup> Walton, *English Seaside Resort*, p.58.

The major reason for such decline can be linked to changes in the pattern of tourism. During the wars wealthy tourists had been forced to holiday in England. However, when peace was restored many of the wealthier members of society wanted to visit the Continent. Senior members no doubt wished to revisit their old haunts, whilst younger families wanted to taste the delights of foreign travel for the first time. By 1830 it was estimated that some 150,000 Englishmen were visiting France; after that numbers were reduced to 75,000.<sup>62</sup> Wealthy visitors, who had previously made the long and difficult journey to south Devon, were the very people most likely to go on a foreign tour. Therefore, it was inevitable that some rich people would shun the south Devon watering places in favour of resorts in France and Italy.

Secondly, the south Devon resorts also had to face increasing competition from new watering places much closer to home. On the Somerset coast, for example, Weston-super-Mare, Clevedon and Portishead all started to develop as summer seaside resorts. Further, these resorts began to attract some visitors from Bath and Bristol, who earlier, had travelled to south Devon for the summer sea bathing season.<sup>63</sup>

Thirdly, other resorts competed to provide what had become a lucrative winter season. The south Devon seaside resorts justifiably claimed to be winter health resorts. However, in the second quarter of the nineteenth century, other south coast resorts such as Hastings and Ventnor began to develop winter seasons. None could claim to be as warm in winter as the south Devon resorts, but all had the distinct advantage of being much closer to London. For this reason alone, they managed to attract some visitors who might otherwise have wintered on the south Devon coast. To counter this growing competition from other

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<sup>62</sup> G.Roberts, *The Social History of the People of the Southern Counties of England* (London: Longmans and Co.,1856), p.556.

<sup>63</sup> Walton, *English Seaside Resort*, pp. 19 and 57.

resorts, there is some evidence that the Devon resorts were inclined to make sweeping claims about their climate and winter temperatures. For instance, in 1832, a guide to Torquay devoted some 23 pages to the benefits of the resort's climate. It went so far as to claim that no other watering place in Britain had the same number of advantages for invalids.<sup>64</sup>

The south Devon resorts were so concerned about the impact of foreign tourism that they even attempted to persuade sick people there was more hope of a cure in Devon than on the Continent. One local guide book announced that compared to the south of France: 'Invalids will not find more real benefit than in the healthy town of Teignmouth, the enclosed vale of Dawlish, or the warmer region of Torquay.'<sup>65</sup>

Such dramatic claims about the benefits of Torquay cannot really be substantiated if other evidence from around 1840 is considered. In this respect the writings of A.B.Granville are important. A medical doctor, he was also a shrewd observer of the social scene. He visited not only the spas, but also a number of sea bathing places along the south coast. For our purposes his visits to Torquay and Exmouth are particularly relevant. In terms of Torquay, his observations, especially in relation to the local terrain, housing and the division into richer and poorer areas have already been analysed in an earlier study.<sup>66</sup> What is important to note here is the voice of realism from a member of the medical profession as he journeyed to the principal sea bathing places along the south coast. Although we are focusing on Exmouth and Torquay, it is important to note that Granville visited the midland spas of Leamington, Malvern, Gloucester, Cheltenham and Bath. On his way to the south west coast, he also visited Wells, Glastonbury, Exeter and the new Somerset sea

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<sup>64</sup> O. Blewitt, *Panorama of Torquay*, 2<sup>nd</sup> ed. (1832), pp.35-7.

<sup>65</sup> E.Croydon, *A Guide to the Watering Places on the Coast, Between the Exe and the Dart* (Teignmouth, 1817), Part 1, p.16.

<sup>66</sup> Jacqueline Bryon, 'The "Dark Side" of Torquay: attitudes towards the poor, 1840-1860, History and Biography' unpublished master's dissertation, University of Plymouth, 2004), pp.23-5.

bathing places of Minehead and Weston-super-Mare. The south coast resorts of Bournemouth, Brighton and Hastings also featured in his travels.

In relation to his journey into Torquay, he noted the resort's developing reputation for superiority, but in what can only be described as a watering place and town of many contrasts, he was led to comment: 'Ere we enter the south western asylum of diseased lungs...' <sup>67</sup> Thus, we have first-hand evidence from a medical doctor that the fashionable hotels were full of sick people, searching to restore their health, often to no avail; 'spitting pots' were apparently regular items of furniture, something Granville did not find 'at any other town in England.' <sup>68</sup>

He also had some disparaging comments to make about Exmouth in relation to its suitability for invalids. He stated that it was battered by chilling gales in the inclement months. In addition, he went so far as to say that: 'neither it nor its climate can be recommended to very delicate invalids in winter;' <sup>69</sup> hardly the kind of comment to encourage tourism. Further, it is also interesting to note that in relation to its earlier popularity, sea bathing was no longer so attractive. In spite of attractive houses and excellent accommodation, invalids must have gone in search of more genteel and sheltered situations. Such negative publicity must have led many prospective visitors to consider wintering elsewhere in England.

This is followed by an analysis of the development of the seaside resorts from the 1820s onwards, a period when most of them found their visitor numbers falling. The population figures in tables 3 and 4 demonstrate that the pace of development slackened at most of the south Devon resorts. As in the earlier tables, it should be noted that the Exmouth figures

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<sup>67</sup> Granville, *Spas of England, II*, p. 461.

<sup>68</sup> Granville, *Spas of England, II*, p.474.

<sup>69</sup> Granville, *Spas of England, II*, pp. 465-6.

are for Littleham and Withycombe Raleigh parishes; Teignmouth figures are for East and West Teignmouth parishes; Budleigh Salterton figures are for East Budleigh parish; Torquay figures are for the Tormoham parish.

<i>Resort</i>	<i>1821</i>	<i>1831</i>	<i>1841</i>	<i>1851</i>	<i>1861</i>	<i>Increase 1821-1861</i>
Exmouth	3895	4252	5119	5961	6049	2154
Teignmouth	3980	4688	4459	5149	6022	2042
Dawlish	2700	3151	3132	3546	4014	1314
Sidmouth	2747	3126	3309	3441	3354	607
Budleigh Salterton	1706	2044	2319	2447	2496	790
Torquay	1925	3582	5962	11474	16419	14494
Seaton	489	600	765	766	809	320
Paignton	1796	1960	2501	2746	3090	2294

**Table 3 Populations of the Principal South Devon Resorts, 1821-1861**  
**Source: Travis, *Rise of the Devon Seaside Resorts***

<i>Resort</i>	<i>1821-1831</i>	<i>1831-1841</i>	<i>1841-1851</i>	<i>1851-1861</i>
Exmouth	9.2	20.4	16.4	1.5
Teignmouth	17.8	-4.9	15.5	17.0
Dawlish	16.7	-0.6	13.2	13.2
Sidmouth	13.8	5.9	4.0	-2.5
Budleigh Salterton	19.8	13.5	5.5	2.0
Torquay	86.1	67.0	91.8	43.1
Seaton	22.7	27.5	0.1	5.6
Paignton	9.1	27.6	9.8	12.5

**Table 4 Percentage Growth Rates of the Populations of the Principal South Devon Resorts, 1821-1861**  
**Source: Travis, *Rise of the Devon Resorts*.**

A new watering place had started to emerge at Paignton. However, nearly all of the older resorts, including Exmouth, grew at a more gradual rate between 1821 and 1841. As can also be seen from the tables, the population at Teignmouth and Dawlish actually fell between 1831 and 1841; Torquay being the exception with a 67% increase in population.

This more gradual population growth in most places was not confined to the south Devon coast. At a national level Walton has shown that most of England's south coast resorts grew more slowly in the 1830s and 1840s than had been the case in the previous two decades.<sup>70</sup> Although useful, it is important to recognise that percentage growth figures cannot be used as precise instruments; such figures are greatly influenced by the size of the 1801 base. The following figures have been included, firstly, as a general guide and secondly to provide a context at national level for the local data.

1	Brighton	65569
2	Great Yarmouth	26880
3	Dover	22244
4	Hastings	17621
5	Gravesend	16633
6	Ramsgate	14853
7	Torquay	13767
17	Exmouth	5961
22	Teignmouth	5149
28	Weston-super-Mare	4014
31	Sidmouth	3441
43	Blackpool	2564
48	Clevedon	1905
66	Seaton	766

**Table 5 Selected Seaside Resorts in England and Wales, ranked by population size, 1851 Source: Walton, *English Seaside Resort*, p.53.**

<sup>70</sup> Walton, *English Seaside Resort*, p.58.

1	Hove	3963
2	Weston-super-Mare	2808
3	Worthing	(1184.7)
4	Brighton	793.4
5	Torquay	740.0
6	Clevedon	470.4
7	Hastings	455.0
8	Blackpool	442.1
17	Ramsgate	255.5
27	Dover	155.5
29	Sidmouth	174.8
33	Teignmouth	155.9
40	Exmouth	126.2
42	Margate	111.9

**Table 6 Selected Seaside Resorts in England and Wales ranked by percentage growth rate, 1801-1851**

**Source: Walton, *English Seaside Resort*, p.54.**

In terms of population at a national level, Walton has demonstrated in Tables 5 and 6 certain important continuities during the first half of the nineteenth century. Brighton clearly benefited most from the demands of fashionable society in London and elsewhere. According to Walton, ‘By 1851 it was four times the size of Hastings, its closest competitor among the specialized seaside watering-places.’<sup>71</sup> At a local level, if Table 5 above is considered, Torquay was ranked at number five in a national list of seaside resorts according to percentage population growth rates. It should be noted that

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<sup>71</sup> Walton, *English Seaside Resort*, p.53.

Western-super-Mare at number two had its population growth rate inflated because of a low 1801 base figure.

Torquay was a notable exception within the south west, 'for it expanded dramatically at a time when many south Devon resorts were stagnating. In just 20 years from 1821 its population increased by a massive 230.8%.'<sup>72</sup> As can be seen from the above tables, by 1841 Torquay had become the largest watering place on the Devon coast with a population of 5962. Contemporary reports confirm this rapid growth. In 1821 it was reported that Torquay had 'from a small village grown into a well frequented watering place.'<sup>73</sup>

Torquay's rapid growth resulted mainly from the development of its winter season. As we have seen, in Torquay's early days the fine coastal scenery had been the main attraction as most arrivals came in the summer. In September 1828, the time of the year when most English resorts were saying goodbye to their visitors, it was reported from Torquay that its busy season was just beginning; lodgings were filling up and 'visitors were numerous beyond precedent.'<sup>74</sup>

In terms of its development, such a dramatic increase in population must have presented challenges for the authorities. We can get a flavour of the challenge if we consider the topic of house building. Academic and local historian Margherita Rendel has written about the rise in house building taking place as early as the 1820s. She has provided some useful figures about the pace of such building. She says: 'In 1831 there were 588 houses, of which 37 were uninhabited and 45 were being built. By 1851 there were 1663 houses of which 39 were uninhabited; 25 more were being built.'<sup>75</sup> There is further evidence about the scale of house building at this period in the *Exeter Weekly Times*. Here, the report

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<sup>72</sup> Travis, *Rise of the Devon Seaside Resorts*, p.67.

<sup>73</sup> S. Woolmer, *A Concise Account of the City of Exeter, its Neighbourhood and Adjacent Watering Places*, 3<sup>rd</sup> ed. (Exeter: E.Woolmer, 1821), p.98.

<sup>74</sup> *Trewman's Exeter Flying Post*, 18 September 1828.

<sup>75</sup> Margherita Rendel, 'Women in Torquay in the First Half of the Nineteenth Century' *Transactions of the Devonshire Association*, 126, (1994), 17-39 (pp.20- 1).

reminds us that the builder, Mr Harvey, employed more than 100 people.<sup>76</sup> However, the rapid increase in population, even at this early period did not please everyone. Blewitt, in a tourist guide points to a large increase in buildings, ‘especially those of the inferior class.’<sup>77</sup>

### III. Communications

At a time of increasing competition from rival watering places, road transport developments and improvements allowed the south Devon resorts to keep some of the trade they had built up earlier in the century. These improvements made the resorts somewhat easier to access from different parts of the country. This had implications for crime in that it also made the towns accessible for criminals. In this respect, large sections of the main highways leading into Devon were reconstructed, with smooth surfaces and easier gradients. The most important development in terms of tourism was the opening in 1819 of the new direct road over Salisbury Plain. This provided a much shorter route from London to the coastal resorts.<sup>78</sup> As a result of such improvements coach travel was speeded up. By the 1830s, some 70 coaches from all parts of the country were arriving in Exeter each day.<sup>79</sup>

Roads leading to the south Devon resorts were also improved (see Map 2).<sup>80</sup> In 1819, the turnpike road from Exeter to Exmouth was macadamised, and shortly afterwards the newly turnpiked Exmouth to Sidmouth Road was resurfaced.<sup>81</sup> A good turnpike road was made from Exeter along the coast via Starcross to Dawlish and Teignmouth. Then in 1827, the opening of the Shaldon Bridge across the Teign estuary provided the last strand along the coastal road, linking Torquay with Teignmouth, Dawlish and Exeter.

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<sup>76</sup> *Exeter Weekly Times*, 2 March 1828, p.4.

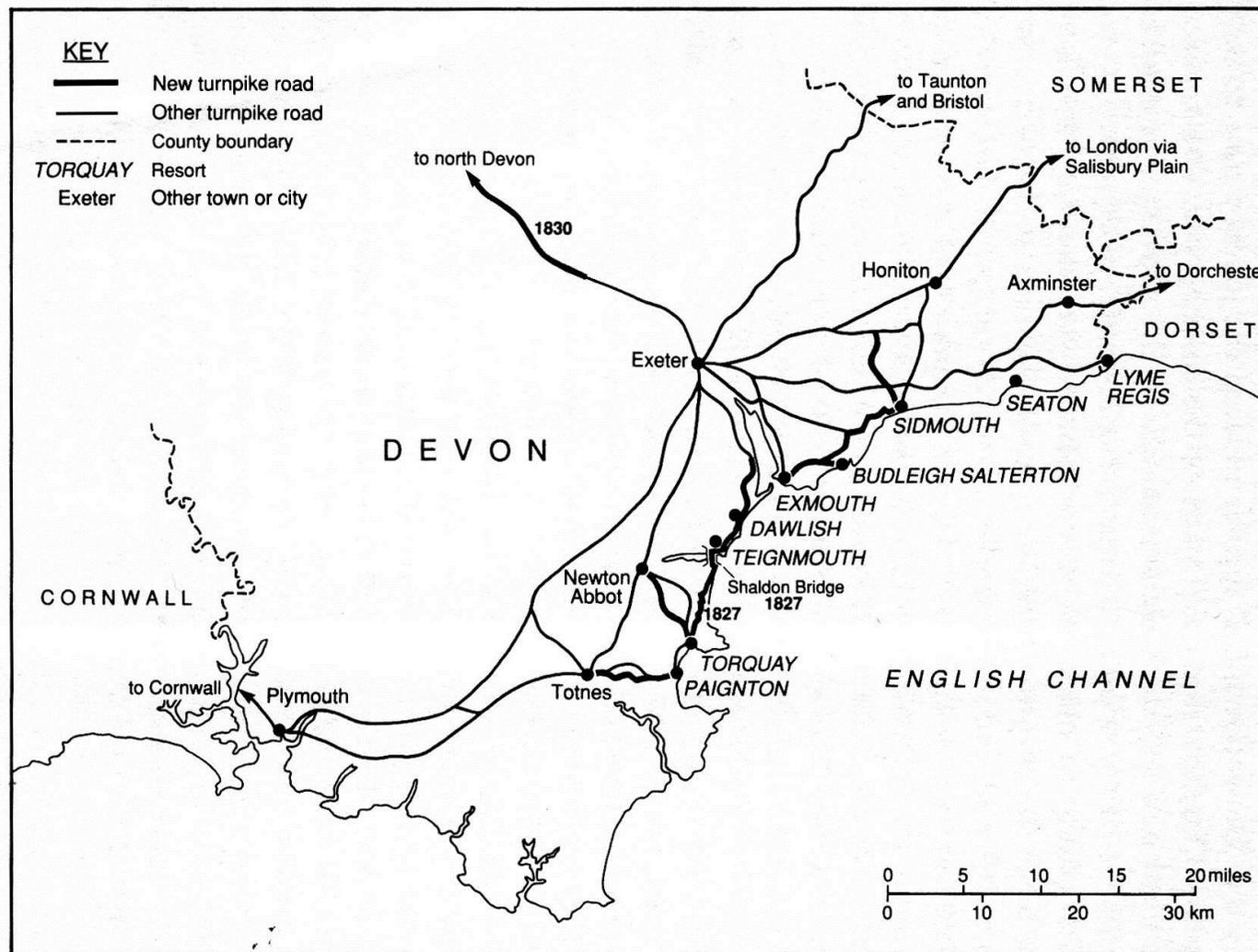
<sup>77</sup> O.Blewitt, *Panorama of Torquay*, p.62.

<sup>78</sup> G. Sheldon, *From Trackway to Turnpike: an Illustration from East Devon* (London: H.Milford: Oxford University Press, 1928), p.128.

<sup>79</sup> Sheldon, *From Trackway*, p.158.

<sup>80</sup> Travis, *Rise of the Devon Seaside Resorts*, p.66.

<sup>81</sup> Sheldon, *From Trackway*, p.151.



Map 2. Roads Serving the South Devon Resorts in 1835. Reprinted with permission  
 A growing network of turnpike roads was greatly improving access to the coastal resorts.

The improvement of the road network also allowed more frequent coach services. By 1828, coaches were running from Exeter four times a day to both Teignmouth and Exmouth. All the other leading resorts had regular coach services to and from Exeter. These were timed to connect with services to London, Bristol and other distant parts of the country. Consequently, the south Devon resorts had become much easier to reach. However, such services were only available to the better off. The high cost of travel was prohibitive and prevented the less well off from making the journey. It has been estimated that in the 1830s a five pound note hardly covered the expenses of a coach journey from London to Exeter when the cost of meals had been taken into account.<sup>82</sup> Therefore, it was not surprising that such charges placed the south Devon resorts well out of reach for those with limited means. Furthermore, many tourists preferred to visit resorts closer to their homes, rather than make the long and expensive journey to the south Devon coast.

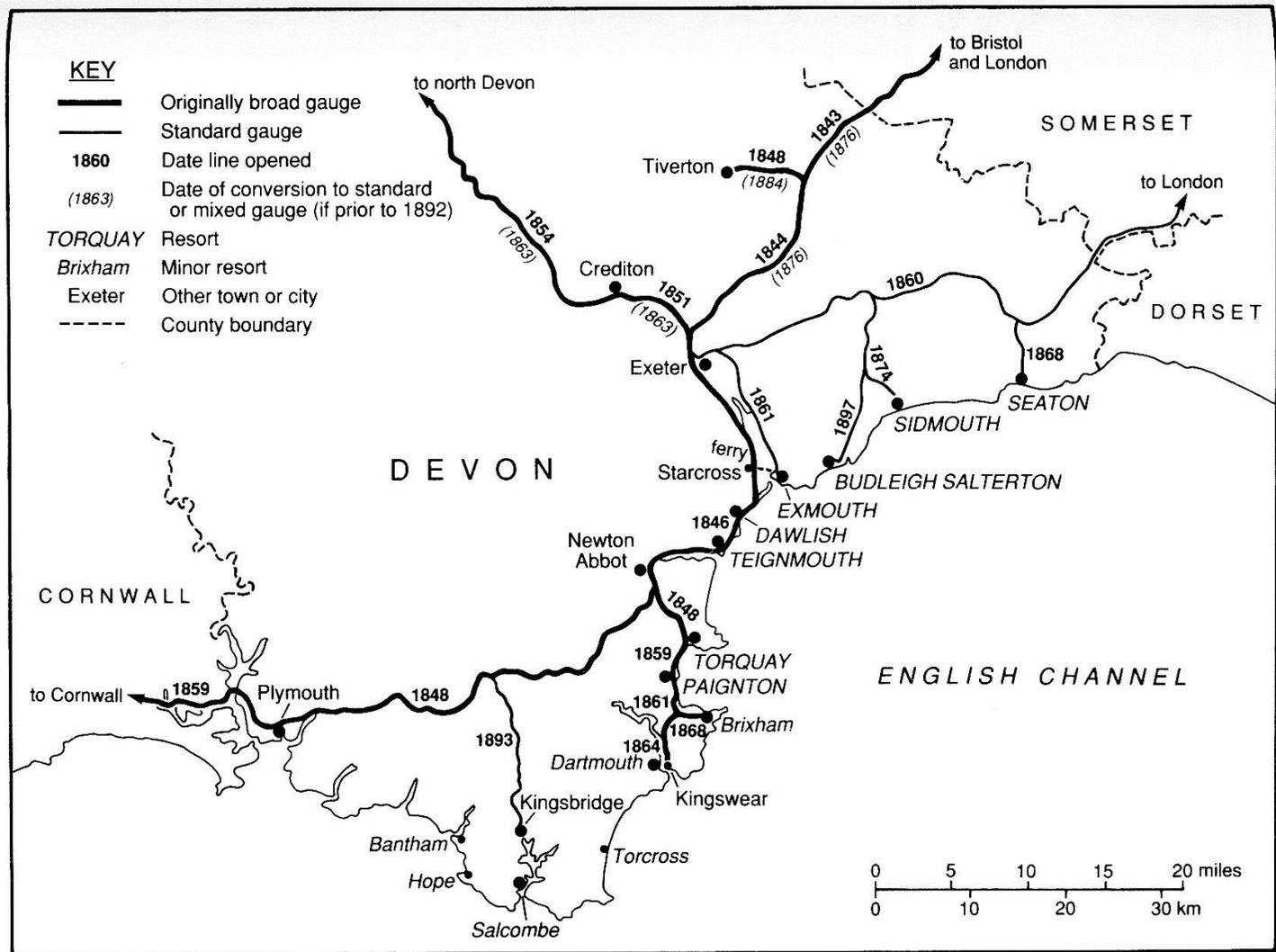
Communications further improved with the coming of the railway. On the first of May 1844 the last section of the Bristol and Exeter Railway was officially opened (See Map 3).<sup>83</sup> This led to major changes at the south Devon resorts. The railway brought many more visitors. In this context, Travis has remarked: ‘Genteel holiday-makers had to rub shoulders with a growing number of new arrivals drawn from the middle-ranks of society.’<sup>84</sup> People from even further down the social scale were also able to make brief visits. As a consequence, the railway was the catalyst for more people being able to afford to visit the seaside. As Britain began to develop into a manufacturing and trading nation the ranks of the middle class were expanded by the growth of people working in the service industries, commerce and banking. By the 1860s, some of those fortunate to earn a salary enjoyed two weeks paid holiday a year. Such privilege provided them with the time and the money to consider holidaying in Devon.

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<sup>82</sup> Sheldon, *From Trackway*, pp.168-9.

<sup>83</sup> Travis, *Rise of the Devon Seaside Resorts*, p. 97.

<sup>84</sup> Travis, *Rise of the Devon Seaside Resorts* p.94.



Map3

Railways Serving the South Devon Resorts in 1900 Reprinted with permission

In terms of perceived benefits, the *Western Times* had some interesting comments to make about the effects of the coming of the railway in relation to the marriage prospects of the spinsters of Devon. According to Travis, the comments could also apply to the seaside resorts.<sup>85</sup> An editorial in the *Western Times* stated that, ‘Increased intercourse with the more populous districts of England cannot but prove highly advantageous to the fair and lovely spinsters of Devon.’<sup>86</sup> Although a suitable and appropriate marriage was an important consideration and the seaside resorts had a surfeit of women in the population, these comments ignore the fact that railway travel also presented opportunities for crime. Recent writing has shown that women travelling alone were particularly vulnerable to sexual assault.<sup>87</sup>

Moreover, the negative aspects apart, the positive aspects of the technological and commercial success of the Victorian railway system cannot be underestimated. In this context, the arrival of the railway provided a further opportunity for scenic Devon watering places to attract new admirers from further afield.

How did railway development affect Torquay and Exmouth in particular? Firstly, travel times to Devon were slashed. By May 1845, express trains were completing the journey from London to Exeter in around four and a half hours, compared to the sixteen and a half hours achieved by the fastest coach.<sup>88</sup> Torquay, for example, found that by 1845 it needed eight coaches from Exeter as opposed to the usual six, to meet the increased demand. The main plan of the South Devon Railway was to build the coastal route from

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<sup>85</sup> Travis, *Rise of the Devon Seaside Resorts*, p.95.

<sup>86</sup> *Western Times*, 4 May 1844.

<sup>87</sup> Kim Stevenson, ‘Women and Young Girls Dare not Travel Alone: the Dangers of Sexual Encounters on Victorian Railways’, in *Gendered Journeys, Mobile Emotions* ed. by Gayle Letherby and Gillian Reynolds (Farnham: Ashgate Publishing Limited, 2009), pp.189-200.

<sup>88</sup> E.T.MacDermot, *History of the Great Western Railway*, rev. edn., by C.R.Clinker, vol.1, 1833-1863 (London: Ian Allen, 1964) , p.342.

Exeter to Plymouth, providing communication with all the favourite watering places (See Map 3). It is important to recognise that the main coaching traffic between Exeter and Plymouth had always been inland; therefore the proposed route along the coast was very important to the watering places west of the Exe. The South Devon Railway was opened as far as Dawlish and Teignmouth in 1846. This railway claimed to serve Exmouth, however, the train actually stopped at Starcross where a ferry was available to transport passengers across the Exe. This crossing by rowing boat was inconvenient and time-consuming, as it was only used by a few passengers.

A railway to the town had been suggested as early as 1825, but it was killed by the fear that it would decimate Exeter's trade. This fear was shared by prominent landowner, Lord Rolle, who had substantial investments in the Exeter Canal. Another scheme suggested in 1845 met a similar fate. At this point in time there was a possibility of taking a viaduct over the Exe and Exeter Canal. The battles regarding Exmouth's first railway have been well documented; conflict being the order of the day.<sup>89</sup> It was not until May Day 1861 that the first train entered the town. In the first five days 10,000 people travelled on the line and property prices increased overnight.<sup>90</sup>

In contrast, Torquay was soon connected to the railway network. Trains ran as far as Newton Abbot in 1846 and a branch line at Torre was opened in December 1848. This meant that the resort of Torquay benefited from the rail link, as it contributed to the enjoyment of an exceptional winter season. However, the building of the railway caused problems as well as benefits to the authorities. The railway navvies had a reputation, not without foundation, for causing trouble, as will be seen in later chapters. Indeed, the railway company paid for an extra police officer to patrol Torquay during the

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<sup>89</sup> Eric R. Delderfield, *Exmouth Milestones: A history* (Exmouth: The Raleigh Press, 1948), pp. 83-8.

<sup>90</sup> Bush, *Book of Exmouth*, p.46.

construction of the railway. The problem with the railway navvies was not just confined to Torquay. There is also evidence that the navvies caused problems in Exmouth and the surrounding area, including when the line to Exmouth was eventually complete in 1861.

#### IV. Economic and Social Changes

As a prelude to examining crime in Torquay and Exmouth, consideration needs to be given to the economic and social changes taking place in Devon in the nineteenth century and the impact this had on the seaside resorts. It is known, for example, that the old industries of cloth making and mining had passed their peak. However, farming was the major source of employment in the county. The lace industry had been affected by competition from the machine made product. Other industries, such as silk and ribbons, glove making, rope making and pottery all existed, but on a fairly small-scale. Ship building was also present in both north and south Devon. However, W. E. Minchinton has an important point when he argues in his introduction to *White's Devon* that by 1850 the county had missed the full flood of the industrialisation process.<sup>91</sup>

Nevertheless, one cannot underestimate the effect of economic changes on the county of Devon. The coming of the railway was one such example. It is important to recognise that in terms of the economy of the county as a whole, the railway eventually opened up wider markets for agricultural produce and other goods. Its negative effect was that many of the market towns in the county began to decline from the 1840s, as people began to leave the poorer and more isolated parts of the county. As Hoskins has remarked: 'between 1841 and 1851 especially, hundreds of rural parishes lost people to the towns, above all to Plymouth, Exeter and the seaside towns.'<sup>92</sup> In considering the

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<sup>91</sup> *White's Devon 1850: a reprint of history, gazetteer and directory of Devonshire*, (New York: Augustus M. Kelley, 1968).

<sup>92</sup> Hoskins, *Devon*, p.175.

possible economic reasons why people moved to the seaside resorts, it is useful to have some data about the age and gender structure of the resorts at a national level. The key feature in the following table, from a 1983 edition, identified the high proportion of females in the population within Torquay, especially those of working age. A search of the Census for the parish of Tormoham revealed a number of widows and Annuitants as heads of household.

	Under 15		15-39		40-59		60 and over	
	M	F	M	F	M	F	M	F
1851								
England and Wales	17.8	17.6	19.6	20.9	8.2	8.6	3.4	4.0
Brighton	16.4	16.0	17.4	26.2	7.5	10.0	2.7	3.8
Great Yarmouth	16.3	16.7	16.5	24.0	7.8	10.0	3.5	5.2
Scarborough	17.3	16.4	16.4	22.9	7.8	10.1	3.8	5.2
Southport	18.4	19.1	16.9	22.2	7.3	9.1	2.8	4.2
Torquay	15.7	16.3	17.5	26.5	7.5	9.9	2.7	4.0

**Table 7 Age-Sex Structure in seaside resorts: percentages of whole population**  
**Source: Walton, *The English Seaside Resort*, p.83.**

The findings of an earlier study in relation to migration appear relevant here.<sup>93</sup> A limited sample of the enumerators' books from the 1851 census was analysed. The sample consisted of two contiguous districts, including an area of dense population and a more fashionable area. A further three streets were chosen at random. Together this provided a sample of 1896 persons, 784 males and 1112 females, 16.5% of the population. The percentage of 58.6% females is not vastly different from the population of Torquay shown in Table 7 above. The discrepancy in the sample for the 15-39 age group is worthy of comment. Enumeration district 5c contained a number of hotels. The

<sup>93</sup>Jacqueline Bryon, 'Migration in Torquay during the nineteenth century' *The Devon Historian*, 77, (2008), 5-14.

prestigious Royal Hotel, which attracted wealthy visitors, employed a large number of staff, including servants. Further, there are a number of large villa residences where the occupants also employed servants. The other interesting finding related to the high proportion of houses headed by women. In the sample of 356 households, some 38.4% were headed by women. This could be partly explained by the number of wealthy women living in a fashionable area close to the quay. In contrast, in the poorer district which included Swan Street and George Street, only 24% of households were headed by women. For the purposes of this study, it is noteworthy that two policemen were living in George Street. It is possible they were placed there for strategic reasons by the authorities as the area had potential for trouble, or simply an area where the rents were affordable.

A similar exercise was not undertaken for Exmouth, as there is little evidence of such a dramatic rise in population between 1841 and 1851. A search through the trade directories would seem to indicate that Exmouth relied strongly on its close links with the Port of Exeter; hence the considerable number of master mariners resident in the town. Evidence for this assertion can be found in *White's Devon and Billing's directory and Gazetteer of the county of Devon*. However, in terms of economic development the link with Exeter cannot be underestimated. There was a vital road link from Exmouth into the city; the negative effect was that criminals could come into the town and get away fairly quickly with their stolen goods.

At national level, there is evidence that the problem of vagrancy had become more conspicuous and less acceptable in the nineteenth century, when a large number of people were identified as vagrants. David Jones has remarked: 'despite some views to the contrary, most of them were taken simply for vagrancy crimes, chiefly begging, and

sleeping in the open air and being without visible means of subsistence.<sup>94</sup> As far as Exmouth and Torquay are concerned there is evidence that the authorities arrested people for such crimes. In Exmouth, people identified as vagrants reached the town from as far away as Aberdeen.

#### V. Influence of a number of powerful families and individuals

In tune with class structures of the period, local landowners and powerful individuals influenced development. In Torquay, the Carys of Torre Abbey, the Palk family and Charles Mallock of Cockington were important figures. The Carys were a Roman Catholic family who owned land to the west of the River Fleet. We have already seen that land to the east was bought by Robert Palk, a nabob who had made his fortune with the East India Company. At a local level, it was probably his son, Sir Lawrence Palk, the 2<sup>nd</sup> Baronet, who was actually responsible for the building of the harbour in 1806. The intention was to establish Torquay as the base for the Newfoundland fish trade. Although they operated from separate power bases and were sometimes in conflict, taken together, the Cary and Palk families had a huge influence on the development of Torquay in the nineteenth century. However, it appears that Mr H.G. Cary, during his time in charge of the family finances between 1828 and 1840, refused to allow any development of land which intruded on his private estate at Torre Abbey. His son, Robert, who succeeded him at a young age, was involved in the government of Torquay when he came of age. Robert Cary's involvement in Torquay's expansion will be explored in subsequent chapters

The Mallock family of Cockington were also considerable landowners in Torquay and, like the Carys, also resisted the temptation to allow development on their land. In 1846,

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<sup>94</sup> Jones, *Crime, Protest, Community and Police*, p.26.

Charles Mallock succeeded to the secluded estate in the parish of Cockington, which by this time was on the edge of a developing and fashionable watering place. The opening of the railway in 1848 was a strong incentive for the building of the Chelston estate. However, he refused to allow any building there before 1865 and even then only permitted a limited number of sites.<sup>95</sup>

There is also need to analyse the contribution of a number of individuals who, one can argue, exercised a degree of real power in the development of Torquay between the 1830s and the 1860s. William Kitson, the younger, was one such person. A local solicitor, he was elected chairman of the Improvement Commission when this body was established in 1835. He also drew up the Local Improvement Act, aimed at enhancing lighting and watching. This legislation effectively determined how Torquay was policed and governed. Kitson was also chairman of the Local Board of Health, the body which replaced the Local Improvement Commission in 1850. In addition, he was chairman of the Gas Company, the Market Company, and the Teign Valley Railway. Further, as steward of the Palk Estate, he was largely responsible for good quality planning of large parts of the resort, until his retirement in the 1870s.

Kitson was involved in another important venture when, in October 1833, the Vivian family joined him in the setting up of what came to be known as the Torbay bank. The business was first established at Kitson's own house, 10 Vaughan Parade.<sup>96</sup> The bank grew in importance, and thanks to the deposits of residents provided the finance which led to the development of roads, the gas and waterworks.

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<sup>95</sup> W.H.Mallock, *Memoirs of Life and Literature*, 2<sup>nd</sup> ed., (London: Chapman and Hall, 1920), p.4.

<sup>96</sup> Russell, *History of Torquay*, p.91.

Edward Vivian too, became an important figure in the development of Torquay. However, it is his involvement in the government of the town with which we are particularly concerned, especially his involvement in a number of public bodies. He was elected a member of the old Town Commissioners in 1840, serving for three years. In September 1850, when the town Commissioners gave way to the Local Board of Health, he was elected to the new Board. He retained his seat as a Commissioner up to 1858. Vivian was also a Poor Law Guardian, and from 1841 was appointed as a local magistrate. In this capacity he was called upon to take an active part in the suppression of the bread riots in Torquay, which occurred in 1847 and again in 1867. Following a drink related illness he founded the Torquay Temperance Society in 1843. He attempted to make teetotalism respectable, when its principles were often derided by all classes. He also played a leading role in the fight for Torquay to keep control of its own police force following the introduction of the County and Borough Police Act in 1856.

There were other influential local families including the Harveys who were responsible for much of the prestigious building work planned by Kitson. Jacob Harvey, the senior member of the family has been described as: ‘the earliest of those whose enterprise develop Torquay from the humble quay of Tor...’<sup>97</sup> He went on to become a major employer and eventually became one of the largest owners of property in the town. Indeed, members of the building trade were heavily involved in the government of the resort. Unpublished research confirms the influence of local builders in the town. This can be seen in the composition of the Improvement Commissioners between 1835 and 1850; seven out of the twelve members had connections with the building trade.<sup>98</sup>

James Hack and March Phillips, local magistrates, are further examples of individuals

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<sup>97</sup> *Torquay Directory and South Devon Journal*, January 23, 1857.

<sup>98</sup> G. S. Duncan, ‘Church and Society in Early Victorian Torquay’ (unpublished master’s dissertation, University of Exeter, 1972), Appendix 3.

who moved into the town and undertook key roles in its government. It is possible to argue that Torquay was governed by a virtual oligarchy of local families, who wished to see the resort develop in particular ways. Collectively, this group of people were interested in maintaining respectability and minimising crime. As will be seen in Chapter 6 preserving an appropriate social tone was of paramount importance.

Like Torquay, Exmouth had an influential local landowner, namely Lord Rolle. *White's Devon* together with an obituary notice in the *Gentleman's Magazine* have shown him and his descendants as liberal patrons of the town. In fact he became the largest landowner in Devon, owning some 55,000 acres. A snapshot of the magnitude and influence of the Rolle family is given in the following:

The commodious Church, built in 1825, and the market house in 1830; the plantations and walks under the Beacon; a new sea wall; and most of the public improvements carried out during the last 20 years, have been their suggestion and expense.<sup>99</sup>

In a similar vein Bush wrote: 'there was no public undertaking in the town which did not benefit from his [Rolle's] largesse and the traders held an annual dinner to celebrate his birthday.'<sup>100</sup> After the death of his first wife, he later married the daughter of Lord Clinton, Louisa Trefusis in 1822. The union brought together two of the most powerful families in Devon. Lady Louisa became one of the most powerful women in Devon in her own right. As a wealthy widow she developed the estate at Bicton and paid for the reordering of a number of old churches in the area.

One cannot deny that Lord Rolle was responsible for some important developments in the town. However, it would be a mistake to think that all his achievements were positive. He was, for example, unsupportive of early plans for a railway link on the

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<sup>99</sup> *White's Devon*, 1850, p.231.

*Gentleman's Magazine*, vol.16, August 1842, pp.201-2.

<sup>100</sup> Bush, *Book of Exmouth*, p.126.

grounds that it would decimate Exeter's trade. At a personal level, he had substantial investments in the Exeter canal. His system of granting short term leases on his property also hindered development. However, one must also recognise that by the 1830s he was an old man and not at the height of his powers. In this respect, it is sufficient to say that he is unfortunately remembered for causing embarrassment at Queen Victoria's coronation by falling whilst doing homage.<sup>101</sup> The Hull family were also significant landowners in the town. W.T. Hull owned the manor of Broadham and Rill in the parish of Withycombe Raleigh and lived at Marpool Hall. Delderfield has claimed that in the nineteenth century the Hull Estate was 'as extensive as that of Lord Rolle.'<sup>102</sup> Unfortunately, little original source material appears to have survived to substantiate this claim.

Unlike Torquay, Anglican clergy were more directly involved in the government of the town. Thomas J. Rocke, the vicar of Holy Trinity between 1843 and 1877 was one such example.<sup>103</sup> He was, unlike his predecessors, resident in Exmouth. The 1851 Census records him as living at the Vicarage, Chapel Hill. From an Anglican perspective he was a controversial figure, and had to deal with protests in the parish because of his alleged Tractarian practices. However, in terms of the government of Exmouth, he was the chairman of the Local Board of Health from the 1840s to the 1870s and also the chairman of the Railway Company.

Another Anglican, Thomas J. Boles, is listed as a curate, living at 7 Claremont Terrace in the 1840s.<sup>104</sup> Attempts to find any details of his actual role in the parish have proved fruitless. By the time of the 1851 Census he is described as a JP for the County of

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<sup>101</sup> Bush, *Book of Exmouth*, p.126.

Todd Gray, *Remarkable Women of Devon* (Exeter: Mint Press, 2009), p.78.

<sup>102</sup> Delderfield, *Exmouth Milestones*, p.103.

<sup>103</sup> Bush, *Book of Exmouth*, p.97.

<sup>104</sup> *White's Devon*, p.234.

Devon. His duties as a magistrate are recorded in reports of the Petty Sessions for the Division of Woodbury. He was also a member of the Local Board of Health in the 1850s. On a more controversial note, he appeared at the Assizes in a civil case for blocking up a road at the boundary of his property.

However, as mentioned earlier, little detail has survived regarding any further information about the government of Exmouth at this period. In order to glean further details it has been necessary to analyse local official reports, for example, Rammell's *Report to the Board of Health on the Sanitary Condition of Exmouth 1850*. This has provided some insight into local government and policing in the town before 1850.

This detailed examination of the socio-economic development of Exmouth and Torquay has highlighted a number of findings. Seaside resorts in south Devon usually developed from existing isolated fishing communities. A number of powerful families and individuals were influential in their growth and expansion. In a bid to attract visitors attention was given to improving leisure facilities and publicising the benefits of a winter season. As the road and rail network improved the resorts became more accessible to a wider range of people, not all of whom were perceived to be desirable. In this respect, workers on the railway and those seeking casual employment presented challenges to those with responsibilities for governance.

It is now possible to understand further the context in which crime will be considered. In particular, Chapter 2 will explore the changes which helped to shape central government's criminal policy in the early Victorian period, together with the impact this had within Exmouth and Torquay.

## **Chapter 2 Cultural and Legal Framework**

In chapter one it was seen that crime was set against the backcloth of a rapidly changing society and economy. This chapter will explore the cultural and legal changes which helped to shape central government's criminal policy in the early Victorian period. In particular, it will analyse a number of statutes which changed the way the criminal justice system operated throughout the county. Secondly, it will consider legislation which changed the way local government was administered. In terms of this study, the Municipal Corporations Act of 1835 was particularly important because it allowed local improvement boards to control their areas. Such boards had responsibility for policing, paving, lighting and suppressing perceived nuisances. The County Police Acts of 1829 and 1839 also had implications for the policing of a rural county like Devon. The County Borough police Act 1856 met with contrasting reactions in Torquay and Exmouth.

### I. Cultural background

In order to develop an understanding of the legal framework, it must be recognised that a number of influences helped to shape central government's criminal policy in the Victorian period. The cultural background to these changes cannot be ignored. In this respect the writing of J.Carter-Wood is important.<sup>105</sup> In a general survey, he has examined the dynamics that drive states and individuals to develop structures of self-control. The relevance for this chapter is in the cultural emphasis linked to keeping emotions in check and the emphasis on Victorian respectability. In what was a period of rapid change, the law was increasingly expected to educate people in new standards of behaviour. However, the law was a complex entity shaped by many different groups. In

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<sup>105</sup> Carter-Wood, *Violence and Crime in Nineteenth Century England*.

this respect criminal offences were redefined and penalties for some crimes were increased. There was almost an expectation that the criminal law was required to give people guidance before they acted. In effect, everyone should be responsible for their own actions. The whole purpose of this focus was an attempt to deter through a clear tariff of enforced penalties; at the same time rewarding attempts towards self-discipline.

Religion was also a crucial influence in Victorian England and was an important factor in shaping a number of policies. It also had an impact on cultural attitudes mentioned earlier with the emphasis on respectability and keeping emotions in check. One cannot underestimate the consequences of evangelicalism in its broadest sense. In assessing this movement F.M.L. Thompson has made a valuable link with class stating: 'Middle class culture was shaped by the moral revolution of evangelicalism...Evangelicalism was a call to public and political action in almost every sphere, from bible-teaching to church-building, prison reform to the abolition of slavery...'<sup>106</sup> In *Family Fortunes*, Leonore Davidoff and Catherine Hall too have linked religion and class, but also emphasising the commitment to an imperative moral code. 'The evangelical revival, in which the home was central, made the religious idiom the cultural norm for the middle class.'<sup>107</sup>

It was also a guide for the conduct of personal and family life. However, the ideology espoused within evangelicalism was also suited to members of family businesses and other professionals. In effect, it was a pattern of behaviour well suited to the middle classes, keen to differentiate their lifestyles from some of the uncouth behaviour associated with the lower classes. The implementation of such a creed also affected

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<sup>106</sup> F.M.L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain, 1830-1900* (London: Fontana Press, 1988), p.251.

<sup>107</sup> Leonore Davidoff and Catherine Hall, *Family Fortunes*, rev. edn. (London: Routledge, 2002), p.25.

charitable works undertaken by middle class women, largely because of the leisure time provided by the employment of servants. This discussion of religion has been introduced here because of its impact in the early Victorian period, especially on middle class lifestyles. Certainly, within Exmouth and Torquay a number of those holding public office were influenced by the tenets of religion inspired by the Evangelical movement.

Religion also had a limited impact on an understanding of gender issues, especially the understanding of concepts relating to femininity and masculinity. This is what contemporaries would have described as ‘womanliness’ and ‘manliness’. At its core was a heightened image of women as being more moral and religious, while at the same time, weak and fragile. In contrast, men were considered to be stronger, more energetic and rational. Independently of evangelicalism, as has already been seen in the Introduction, a separate culture of sensibility had emerged in the eighteenth century, also relating to issues of manhood.<sup>108</sup>

It is useful to expand the growing distinction between different perceptions of what constituted appropriate male and female behaviour in the Victorian period. One can argue that these changing perceptions had an effect on the criminalising of male violence. Further, it is possible that what emerged in the Victorian court rooms was an encouragement towards the perceived innocence and weakness of women generally. In turn, this encouraged a greater severity against men who injured and killed. In *Men of Blood*, Martin Wiener has suggested that there was a reconstruction of gender attitudes

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<sup>108</sup> Shoemaker, ‘Reforming Male Manners’, p.148.

in the nineteenth century.<sup>109</sup> Further, one can also argue that this contributed to a lowering of society's tolerance regarding violence against women. In fact, from a different viewpoint, Anne Logan, writing about the historical perspective of feminism and the criminal justice system has said: 'the protection of women from the criminal justice system was a fundamental tenet of the women's movement since John Stuart Mill's denunciation of domestic tyranny.'<sup>110</sup>

The importance of gender issues and the changing emphasis in the understanding and interpretation can also be gauged by the variety of writing on the subject, particularly since 2000. In this respect, Clive Emsley, writing about the changes in our understanding of criminal justice history has said: 'wife killing was increasingly prosecuted as murder, and wife killers constituted an increasing number of those convicted and executed for murder.'<sup>111</sup> Therefore, as a result of this brief discussion concerning appropriate male and female behaviour, one can see that during the nineteenth century, the whole question of perceived violence gained prominence in a number of areas. Thus, personal security, issues relating to gender and the working of the law all became more dominant in culture and consciousness. These issues will be explored more fully at a local level in Chapters 4 and 5.

There are other factors which have relevance for this study, for example, it has been well documented that the nineteenth century witnessed a period of change and development. Increased population growth, movement to the towns, increased industrialisation; all contributed towards feelings of insecurity. One can argue that the new economic perspectives and changing political order also strengthened the need to

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<sup>109</sup> Martin Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England* (Cambridge: Cambridge University Press, 2004).

<sup>110</sup> Anne Logan, *Feminism and Criminal Justice: a historical perspective* (London: Palgrave Macmillan, 2008), p.145.

<sup>111</sup> Clive Emsley, 'Filling in, adding up, moving on', p.130.

betterment for the well off, both morally and politically. Thus, it is possible to see how the culture surrounding impulsive and violent behaviour became rather more threatening. Here we have a class of literate middle and upper class people with access to an increased number of newspapers, with wider circulation at regional and national level. Further, large numbers of official reports became readily available.

In the repression of violence the criminal law took a leading role. However, one must recognise that the law was a complex instrument shaped by a number of players at national and local level. These included legislators, politicians, civil servants, newspaper reporters, magistrates, judges and jurors, sometimes with different agendas and personal interests. The many groups involved meant that such a variety of different people aroused different sentiments which could, on occasion, produce unexpected results. Therefore, although the criminal law was instigated and administered by the priorities of the governing class, usually drawn from the echelons of the upper class, it could not always be its instrument, because of competing demands from below.

The concept of competing demand has been explored in a collection of writing by Peter King about the remaking justice from below.<sup>112</sup> Although some chapters have appeared in earlier publications, the book as a whole needs to be seen as a contribution towards a broader movement, aiming to provide a more holistic picture of the cultural contrast which the criminal justice system was shaped and remade in our period. For the purposes of this study, King argues that it is important to give attention to the ways in which the courts themselves shaped justice as it was delivered on the ground. In the course of his research, he examined Quarter Session policies towards non lethal violence by contrasting Essex with Cornwall; one area being close to the metropolitan

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<sup>112</sup>King, *Crime and Law in England*.

centre, the other at the margins. In terms of how the law was administered in specific parishes, attempts to control non lethal violence and disorderly behaviour within Exmouth and Torquay will be explored in later chapters.

## II. Statutes

After an explanation of the cultural background surrounding the criminal justice system a selection of statutes enacted during the nineteenth century will be analysed, together with their impact.

### a) Larceny Act 1808 (48 Geo.III c.29)

This Act abolished capital punishment for larceny from the person (picking pockets). Following this legislation a number of statutes reduced the number of capital larceny offences. In relation to this study the most important was:

### b) Larceny Act 1827 (7 and 8 Geo.IV, c.29)

This legislation reduced the distinction between petty and grand larceny. Thus, larceny became a single offence punishable by imprisonment or transportation. There is evidence in the cases which came before the Quarter Sessions that transportation seems to be the preferred sentencing option in serious crimes committed in Exmouth and Torquay. Further, in terms of larceny this left two capital larceny offences, larceny in a dwelling house involving property worth £5 or more and larceny of sheep, horses or cattle. The death sentence for these two offences was later abolished and replaced by a mandatory sentence of transportation for life by the Punishment of Death Act 1832 (2 and 3 Will.IV, c.62). However, for our purposes it is important to realise that larceny was a felony and was therefore only triable at Quarter Sessions or Assizes. In connection with this study it must be noted that the 1827 Act (7 and 8 Geo.IV, c.29) transferred to summary jurisdiction the offences of stealing goods from a wrecked

vessel, stealing deer, hares, wild animals, trees and shrubs. In the period between 1835 and 1860, it was not unusual for people living in Exmouth and Torquay to appear at the petty sessions charged with stealing, for example, fruit, vegetables and flowers. The local magistrates were obviously availing themselves of this comparatively recent legislation.

c) Vagrancy 1824 Act (Geo.IV, c.83)

The Vagrancy Act of 1824 was an important statute in the nineteenth century in that its primary purpose was ‘to enforce ideals of independence, work and family responsibility.’<sup>113</sup> It created three classes of criminals: idle and disorderly persons, rogues and vagabonds and incorrigible rogues. Incorrigible rogues who were simply persistent offenders could be punished by up to 12 months hard labour. In this respect, Jones comments as follows:

The Vagrancy Act was a comprehensive and flexible piece of legislation, useful in times of political and social tension, and providing police and magistrates with wide discretionary powers.<sup>114</sup>

However, as Radzinowicz has acknowledged, ‘It is not possible to get adequate figures tracing the fluctuations of vagrancy before 1840.’<sup>115</sup> Further, in relation to the treatment of prostitutes, Zedner has pointed out, in the second half of the nineteenth century convictions under the Vagrancy Act fell by a half.<sup>116</sup> A possible reason being that charges of drunkenness or indecent behaviour were substituted on women found on the streets instead; such an assertion would not be unreasonable in view of the fact that these women may have had alcohol and other problems. From the evidence so far, it would appear that the main classes of crime covered under the 1824 Act were begging,

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<sup>113</sup> Jones, *Crime, Protest, Community and Police*, p.198.

<sup>114</sup> Jones, *Crime, Protest, Community and Police*, p.198.

<sup>115</sup> L.Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, 5 vols. (London: Stevens, 1948-86), IV, (1968), p.24.

<sup>116</sup> Lucia Zedner, *Women, Crime and Custody in Victorian England* (Oxford: Clarendon Press, 1991), p.20.

being a lewd or disorderly prostitute, sleeping in the open and having no obvious means of subsistence.

At this point, a brief discussion of the position of women as undesirables seems appropriate. As Logan has acknowledged, street offences such as prostitution accounted for a significant number of female convictions in large towns and cities in the Victorian era.<sup>117</sup> However, exact numbers are uncertain and may have been exaggerated. It is important to be aware that, whilst prostitution in itself was not illegal, a wide range of provisions under the Vagrancy Act could be used to target female suspects if they were thought to be causing a nuisance to passers-by and residents. Furthermore, such findings confirm findings at national level that police in the nineteenth century saw the maintenance of order including the cleansing of urban streets as part of their mission.<sup>118</sup> In terms of relevance for this study we know, for example, that the Vagrancy Act was used in conjunction with local legislation. Thus, in fashionable watering places like Torquay and Exmouth, it could be a useful mechanism for keeping undesirables off the streets.

There now follows a discussion of issues relating to the movement of vagrants. This is crucial in view of the fact that the policies of those in authority supported the removal of undesirable persons from their areas. In this respect, it is important to remember that vagrants moved along fairly well-defined routes. Some men and women, for example, covered small geographical areas, perhaps having links with a local area. As Jones has established, others travelled further afield, following the trail of the corn and grain harvest. His examination of the Welsh records has shown that: ‘hundreds of vagrants

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<sup>117</sup> Logan, *Feminism and Criminal Justice*, p.95.

<sup>118</sup> David Taylor, *Crime, Policing and Punishment in England, 1750-1914* (Basingstoke: Macmillan Press, 1998), p.81.

travelled between Lancashire and mid Wales, whilst another group journeyed through the border counties to Bristol, Cardiff and the South Wales ironworks every year.<sup>119</sup> However, in terms of this study it is possible that the lure of seasonal work provided the catalyst for significant numbers of vagrants to make the journey to Devon and became a problem for the authorities in Exmouth and Torquay. It has already been established in Chapter 1 that a growing network of turnpike roads had improved access to the coastal resorts.

However, unlike Wales, little research appears to have been undertaken about vagrancy in the county; the exception being a dissertation by Brian O’Leary covering a later period. Although not directly relevant to this study, its significance lies in the fact that the research focuses on the ports of Bideford and Barnstaple. In making particular use of the records belonging to the respective Poor Law Unions O’Leary has focused on the welfare as well as the criminal aspects of vagrancy.<sup>120</sup>

Before a move to consider other criminal legislation, it is necessary to reflect on a number of issues relating to juvenile offenders. One can argue that, like vagrants, they too were considered to be a problem in Victorian society. In this respect, the rise in the perceived prominence of juvenile delinquency between the 1780s and 1830s came to public notice. This issue has been explored in detail by Peter King.<sup>121</sup> It is sufficient at this stage to state that in the eighteenth century juveniles were rarely indicted in the courts. In fact contemporaries did not generally regard them as a problem. However, by

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<sup>119</sup> Jones, *Crime, Protest, Community and Police*, p.188.

<sup>120</sup> B.M. O’Leary, *Vagrancy: an 'intractable' social problem for Poor Law administrators in late Victorian and Edwardian England? Vagrancy in North Devon 1870-1914* (unpublished master’s dissertation, Open University, 2007). A more accessible summary of this research can be found in an edited version in *The Local Historian* B.M. O’Leary ‘Vagrancy in North Devon, 1870-1914’, *The Local Historian*, 39 (2009), 287-99. The conclusion confirmed that Poor law casual relief was a complex issue. A majority of the travelling poor avoided used wards, therefore, the perceived problem of vagrancy was still unresolved.

<sup>121</sup> Peter King, ‘The rise of juvenile delinquency in England 1780-1840: changing patterns of perception and prosecution’, in *Crime and Law in England, 1750-1840: Remaking Justice from the Margins* (Cambridge: Cambridge University Press, 2006), pp.73-113.

the middle of the nineteenth century so-called juvenile delinquency had become a major problem, especially among people of property. King identified particular problems mirrored in this study. For example, officials in most Quarter Sessions and Assizes did not regularly record the age of the accused until well into the nineteenth century. Further, summary court clerks hardly ever did so.

The fact that county based statistics on crime committed by all age groups became available from 1834 is useful. This confirms that counties with large urban areas had the highest juvenile crime figures at around 20%. Bristol, an important port, remained the highest in England at 20%; London and Middlesex were second and third with 15%. Rural counties such as Gloucestershire and Devon, where in both cases the cloth industry was in decline had figures of around 11%.

The middle years of the nineteenth century saw legislation put in place, providing much more organisation and formality to the Summary Courts. Further, this brought more cases within their remit. A series of measures, known collectively as Jervis's Acts, were passed in 1848. In general terms this legislation dealt with the judicial work of the magistrates, established strict procedures for preliminary hearings and gave greater protection to the magistrates for any minor infringement of the law which might be committed accidentally. Perhaps the most important part of this legislation was that it amended and consolidated existing legislation on summary jurisdiction.

This legislation also had implications for the way in which juvenile offenders were to be treated. In February 1847, Sir John Packington, the MP for Droitwich, requested leave to introduce a Bill to permit the summary trial of juvenile offenders. Packington's intention was to ensure that such offenders did not spend days or weeks in prison

awaiting Assizes or Quarter Sessions; he feared that such a period could only expose them to the corrupting influence of hardened criminals.

This proposed new legislation initiated considerable debate. The positive side of such changes, according to Packington, was that good would result from young offenders being taught to feel that their crimes would be followed by immediate punishment. This concept fits in with the ideal that offenders should know the precise punishment for their wrongdoing. Critics were concerned that such trials would be in secret, undermining the principle that justice must be seen to be done. After much debate Packington's Bill eventually became law.

A major factor which encouraged the retreat from incarceration in prison was the extension of summary jurisdiction to a mass of indictable offences formally tried at the Assizes or Quarter Sessions. Radzinowicz has said: 'although it was primarily a change of criminal procedures it led to a change in the formal quality of many crimes and pushed the scale of punishments drastically down.'<sup>122</sup> As we have already established, although young offenders were intended as the main target and would be spared the corrupting influences of prison whilst awaiting trial, it had the further advantage of preventing them being stigmatised as felons. Furthermore, one can also argue that the same advantages of summary trial applied to adults, although to a lesser degree.

There were other advantages of summary jurisdiction. Radzinowicz cites the fact that the costs of proceedings would be drastically reduced. He argues that the cutting of costs and cumbersome procedures would mean that many more petty offences could be brought to court by prosecutors. He goes so far as to say: 'justices will be far more

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<sup>122</sup> Radzinowicz, *History of English Criminal Law*, V, (1986), p.619.

likely to convict and punish persons accused of trifling offences in the absence of strict legal proof than would a jury; and this greater certainty of persecution and punishment would ensure greater deterrence.’<sup>123</sup>

Not everyone was convinced of the advantage of summary jurisdiction. One argument against was that it would create a tendency to moralise between trespass and mischief as opposed to real dishonesty. In fact, it was the value of the article stolen which was to decide whether a theft should be dealt with summarily or committed for trial. Further, the critics believed that more frequent prosecutions could lead to a substantial number of petty offenders being swept into the criminal justice system and made into habitual criminals. Radzinowicz has gone so far as to say, ‘offenders would lose the traditional protection of trial by jury and be subject to the capricious decisions of the local magistrates.’<sup>124</sup> There was also criticism that inadequate record-keeping by the Summary Courts would make it easier for seasoned offenders to bury their tracks and pretend to be first offenders, thus escaping the heavier penalties they would otherwise have received.

There is now a detailed examination of the specific statutes relating to the prosecution of juvenile offenders in the mid nineteenth century.

- d) Juvenile Offenders Act, 1847 (10&11 Vict c.82) and 1850 (13&14 Vict c.37)

In relation to juvenile offenders the expansion of summary jurisdiction aimed to remove more young people from the jurisdiction of the higher courts, to lower the scale of penalties which could be imposed and to have the option of dealing with them in a

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<sup>123</sup> Radzinowicz, *History of English Criminal Law*, V, p.619.

<sup>124</sup> Radzinowicz, *History of English Criminal Law*, V, p.620.

different way. The Juvenile Offenders Act of 1847 was the culmination of years of work. It empowered magistrates to try children up to the age of 14 accused of simple larceny subject to their consent. Three years later in 1850 minor larcenies committed by young people up to the age of 16 were also brought within the orbit of the Summary Courts.

As far as this study is concerned it appears that little research has been undertaken within the county of Devon in relation to the Summary Courts. Further, as far as juveniles were concerned the age of the accused was rarely recorded. We know for example, that the Malicious Trespass Acts of 1820 and 1827 did result in increasing number of property offenders being convicted by the Summary Courts. By the very nature of the offences, a number of juveniles would have been caught raiding orchards, private gardens and woods. In relation to Exmouth and Torquay, this was certainly the case. However, the age of the offender was only usually recorded in local newspaper reports.

At a local level the number of juveniles employed as servants and errand boys was certainly reflected in the cases coming before the Summary Courts. This will be explored further in a later chapter on property offences. However, records are available in relation to juveniles who were convicted under the juvenile offenders' legislation of 1847 and 1850. In a number of cases the punishment meted out by local magistrates to young boys was a private whipping. In some cases the basic details recorded in petty session records have been fleshed out in local newspaper reports. Newspapers had become available to a wider audience and this in turn had an impact on how individuals saw summary justice in practice. The Victorian press also established certain stereotypes associated with bad behaviour and crime which could echo the position on

the ground. How far the reports in newspapers acted as a deterrent is open to debate. The fact that the majority of magistrates who sat on the local Bench lived locally and probably knew the families of some of the juveniles may have had an effect on the sentence handed out. Further, the local police would no doubt be aware of young troublemakers, therefore, it is possible that other informal sanctions had been tried and failed. One can argue that an appearance before the court was a last resort and can be seen as a failure of the authorities to control juveniles who were perceived to be a nuisance.

e) Criminal Justice Act, 1855 (18&19 Vict. C.126)

The Criminal Justice Act was important in that it covered all offenders accused of petty theft. This Act gave two magistrates sitting in the open court of Petty Sessions power to try all cases involving simple larceny or embezzlement of goods up to the value of five shillings, if the accused agreed to a summary trial. They could be punished with imprisonment up to a maximum of three months. Further, they were also empowered to hear cases where the value of the expropriated goods was more than five shillings, but only when the accused was prepared to enter a guilty plea. The results of all such proceedings had to be recorded at the Quarter Sessions. In Devon, a number of records relating to the Criminal Justice Act of 1855 have survived.

The Criminal Justice Act offered significant advantages to everyone involved. The trial would take place in the town of the Petty Sessional District in which the offence happened; for most offences this would be no more than 3 miles from where the offence took place. Further, this would alleviate transport and accommodation problems and the delay in having to travel to the county town. In the case of Exmouth and Torquay this would have involved travelling to Exeter.

There were also advantages in that the trial could be held immediately, or certainly within a week of the offence being committed; a distinct advantage compared to delays in a trial taking place at the Quarter Sessions or Assizes. Further, the accused did not have to spend a considerable length of time in Gaol awaiting trial. For the prosecutor it meant there was not a long delay before the case came to trial, and it was easier for him and his witnesses to travel to the Petty Sessions; added to which the proceedings were much shorter, less expensive and less elaborate than a trial in a higher court. Thus, there were distinct advantages from the Criminal Justice Act; for the prosecutor there was the saving in trouble, time and money; for the offender the case would be dealt with quickly and the sentence would be limited. It is not surprising, therefore, that most people accused of thefts of under five shillings elected, after 1855, to be tried summarily, while large numbers of those who pleaded guilty were also dealt with in this way.

The extension of cheap and speedy summary justice did nothing to check the increasing dominance of the police as prosecutors. However, it did lead to an increase in the number of larcenies prosecuted, and at the same time, a marked decline in the number of cases brought before the Quarter Sessions, especially in the later nineteenth century. There is evidence that this was the case in Devon. As far as this study is concerned cases brought under the Criminal Justice Act have not only been recorded, but also have surviving depositions. These are separate from the trials of those appearing at the Quarter Sessions.

### III. Local government

Legal changes in the nineteenth century did not only affect the criminal justice system, they also affected the way in which towns and cities were governed. The powers and

activities of local authorities expanded in what we have already described as a period of rapid change. The most direct experience the majority of people had of government was that of local government. It affected their lives more noticeably than did the activities of central government. However, the energy of local citizens and the speed and direction of local government expansion varied considerably from place to place. As we have seen earlier, the developing watering places of Exmouth and Torquay were also at the centre of rapid change and development.

a) Municipal Corporations Act, 1835 (5&6 Will.IV c.76)

Unrest in some of the larger towns and a perceived lack of policing led to a committee being set up to investigate the state of municipal corporations. The state of such corporations resulted in the call for a full-scale Commission to investigate the problems. In the course of their investigations the Commissioners highlighted problems relating to the police, although this was only one aspect of municipal administration examined. The Municipal Corporations Act followed the report of the Commission. However, it only applied to existing corporate towns. Radzinowicz said: ‘each town named in the schedule to the Act was to elect a Mayor, Aldermen and Councillors. These new Borough Councils... were to appoint a Watch Committee from amongst themselves.’<sup>125</sup>

In relation to the Municipal Corporations Act it would appear that clauses regarding police reform were included on the grounds that municipal policing had always been the responsibility of local government. As Emsley has commented this was not related to the success of the Metropolitan model, ‘and if the entire system of municipal government was to be reformed and rationalised, then it was logical, indeed necessary,

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<sup>125</sup> Radzinowicz, *History of English Criminal Law*, IV, 213.

to include municipal policing.<sup>126</sup> Some boroughs appear to have had disciplined and reasonably efficient police forces before the Act came into force. What appears to have been lacking is any degree of uniformity. Further, it would appear that a number of boroughs were slow to appoint police forces although they did this establish Watch Committees fairly quickly.

b) Lighting and Watching Act, 1833 (3&4 Will. C.90)

As far as the administration of parishes is concerned, it is necessary to discuss the Lighting and Watching Act. This statute enabled townships or boroughs to set up police and lighting authorities without going through a complicated procedure to obtain a Local Act. On the application of three or more ratepayers churchwardens were to convene a vestry meeting in which a two thirds majority was needed to secure adoption of the Act. 'If it were adopted inspectors were to be elected to fix the rate to be levied and appoint, employing and equipping of watchmen to protect the inhabitants, their homes and property by day or night.'<sup>127</sup> This statute was cautious in nature, although the prevention of crime and the apprehension of offenders and suspects were to come within their remit, decisions about numbers, pay and conditions were left to the ratepayers who had to foot the bill directly.

In relation to this study it is unclear how and when this particular statute was taken advantage of and acted upon. In the case of Exmouth it would appear that the statute was not adopted until the early 1840s when the parish of Littleham appointed its first police officer and secondly, when Exmouth was first lit with gas on the 8th September 1842.<sup>128</sup>

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<sup>126</sup> Emsley, *Crime and Society in England*, p.236.

<sup>127</sup> Radzinowicz, *History of English Criminal Law*, IV, p.217.

<sup>128</sup> Delderfield, *Exmouth Milestones*, p.51.

As far as Torquay is concerned, there was a proposal by some residents for adopting the provisions of an earlier Lighting and Watching of Parishes in England Act (2 Geo.IV c.27). According to local historian, John Pike, it would appear that the shopkeepers were opposed to it and there was a general consensus that money would be wasted.<sup>129</sup> Evidence for the lighting of Torquay can be found in the writing of Arthur Ellis. He states that, Torquay was lit with gas for the first time on October 8, 1834.<sup>130</sup> In the following December *Trewman's Exeter Flying Post* recorded:

The pier and quay of this place have been lighted with Gas at the expense of Sir L.V.Palk... This mode of lighting has also now obtained general use here, the inns and shops having adopted it.<sup>131</sup>

Ellis's report suggests that Torquay had adopted the Lighting and Watching Act which included measures to light the streets with gas or oil. As a result of the legislation a Gas Company was formed and it initially provided 40 lamps in the principal thoroughfares, which they undertook to supply for eight months in the year, at three guineas a lamp. This appears to have been a very moderate charge as private consumers were then paying 12s. 6d. per thousand cubic feet, reduced to 10s. in 1846, and to 8s. in 1850.<sup>132</sup>

The first lighting in Torquay was clearly a memorable event and was celebrated throughout the town. Even local magistrate, Joseph Garrow, penned a ballad of some hundred lines to celebrate the occasion. In relation to crime and the possible advantages street lighting could have in apprehending criminals, Ellis has quoted the following verse from Garrow's writing:

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<sup>129</sup> John Pike, *Torquay* (Torquay: Torbay Borough Council, 1994), p.29.

<sup>130</sup> Ellis, *An Historical Survey of Torquay*, p.292.

<sup>131</sup> *Trewman's Exeter Flying Post*, December 1834.

<sup>132</sup> Ellis, *An Historical Survey of Torquay*, p.292.

Oh! may it prosper, may it show  
The ruffian as he lurks,  
And may the new light drive away  
The devil and his works.<sup>133</sup>

However, newspaper reports have revealed that there were times when the meanness of the authorities in not providing adequate street lighting during the summer months led to criminals escaping under cover of darkness; one example of such parsimony can be seen in the 1847 bread riots in Torquay. The editor of the *Torquay and Tor Directory* lamented the lack of preparation by the authorities when rumours had been around for days about the imminence of an attack on bakers' shops. The editor remarked: 'no preparations whatever had been made, and the most obvious precautions had been overlooked; even the gas lamps, which the niggard economy of our ratepayers extinguishes during the summer half year, were not in readiness to be lighted...'<sup>134</sup>

In its early years the Torquay Gas Company paid few dividends. However, one can argue that it is testimony to the public spirit of those who wanted to see Torquay develop, that a gas company should have been established so early in the nineteenth century. It would appear that the city of Exeter had only established its gas company some ten years earlier, in 1824.<sup>135</sup> As far as the influence of local people is concerned, it is useful to emphasise that the Gas Company was one more undertaking provided at the expense of local landowner and magistrate, Sir Lawrence Palk. Further, it is known that William Kitson was a promoter of the expansion of the Gas Company during the 1850s, when the gas supplies were no longer sufficient to meet the requirements of a developing watering place. The fact that Kitson should be involved in a project like the Gas Company is yet another example of the nature and scale of his influence within

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<sup>133</sup> Ellis, *An Historical Survey of Torquay*, p.293.

<sup>134</sup> *Torquay and Tor Directory*. 21 May 1847.

<sup>135</sup> Ellis, *An Historical Survey of Torquay*, p.292.

Torquay. Moreover, it is important to emphasise the fact that there was gentry pressure in almost areas of life.

A brief analysis of the legal framework surrounding local government in the nineteenth century has allowed a glimpse of how this was interpreted at a local level. As far as Torquay is concerned, the use of local legislation was clearly a key factor in its administration and government. In contrast, Exmouth did not make use of any local legislation. It is not known why only the parish of Littleham and not Withycombe Raleigh adopted the Lighting and Watching Act. It could be that the existing parish constable system was working well and there were no particular problems controlling crime. However, as the town developed and the road network improved, maybe it was easier for criminals to enter the town, then escape to Exeter and other towns in east Devon.

#### IV. Police

Finally, in terms of legislation it is necessary to analyse in detail changes which affected how the police operated. It has already been established that an essential element in the revision of the criminal code was the establishment of an efficient and preventive police force. By the 1830s the Whig government was prepared to attempt the extension of new policing to the rural areas in some uniform way. This new police force, hierarchical in structure, was intended to check crime and disorder in an efficient and timely manner. However, this does not take into account the fact that some disciplined and efficient police forces had been created under police reform clauses of the Municipal Corporations Act. It is also possible that much opposition to police reform in the provinces may have been based on the fact that people outside London saw little relevance in police reform, which was based solely on the Metropolitan model.

In relation to the legal framework, discussion begins with the development of policing in Devon and how this affected the resorts of Exmouth and Torquay in particular. First, it is necessary to consider how various statutes enacted in the 1820s and 1830s impacted on Devon as a whole, and more specifically, how they affected policing in Exmouth and Torquay.

a) Metropolitan Police Act 1829 10 Geo.IV c.235)

This legislation set up a centralised, uniformed and preventive police force for London. From a Whig perspective, it was an example of a possible model for checking crime and disorder. In turn, it also provided a working example for the rest of the country to follow. This traditional or more orthodox view of police history which emphasised the public servant role of the police has been challenged as being too simplistic in more recent writing.<sup>136</sup>

b) Rural Constabulary Act, 1839 (2&3 Vict. c.93)

A decade later the Rural Constabulary Act enabled counties, or parts of counties, to establish effective police forces not unlike those formed in boroughs under the Municipal Corporations Act. Thus, the Rural Constabulary Act enabled any county that so wished to authorise the appropriate rate and establish its own police force. It would appear that the first opportunity for counties to debate the adoption of the County Police Act came at the Michaelmas Quarter Sessions in 1839. Devon and Cornwall did not debate the Rural Constabulary Act in their Sessions of October 1839 and January 1840; neither did they go on to adopt the legislation.

At a national level, there does not appear to be any obvious reason why some counties adopted it and others did not. Philips has commented as follows: ‘there is no single

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<sup>136</sup> Taylor, *The New Police in Nineteenth Century England*, p.8.

factor-geographical, economic, social or political-which clearly distinguishes the adopting from the non-adopting counties.’<sup>137</sup> He then goes on to quote from a number of surveys and questionnaires relating to known policing schemes. Details of known schemes across Devon between 1836 and 1839 are provided. Schemes were in existence in Ashburton, Axminster, Clifton, Islington,(sic) Paignton, South Molton and Teignmouth.<sup>138</sup> Further, research undertaken by Roger Swift has shown that the city of Exeter had a number of law officers, including a system of parish constables responsible to the corporation. These constables were deployed to patrol the city between dawn and dusk. As Swift says:

There was little coordination between the various policing agencies yet there is little evidence to suggest that contemporaries were either unduly concerned with the condition of the city streets or were dissatisfied with policing arrangements.<sup>139</sup>

Thus, it is clear that during the 1830s, policing lay in the hands of a number of local government bodies and other organisations, and that police efficiency varied from one community to the next, depending to a large extent on perceived local needs. At a local level, Torquay and Exmouth are not mentioned in Philips’ research. However, it seems that the real impetus for towns to appoint their own parish constables appears to have been the passing of the Lighting and Watching Act of 1833, together with other local legislation.

At a local level this raised crucial issues for control and policing. It has already been established in the previous chapter that when the population of the developing watering places increased, there were a number of challenges for those in authority. Firstly, it appears that the existing methods of control were no longer adequate. This has been

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<sup>137</sup>D.Philips and R.D Storch, *Policing Provincial England, 1829-1856: The Politics of Reform* (London, Leicester University Press, 1999), p.159.

<sup>138</sup> Philips and Storch, Appendix B, p.238.

Islington is incorrect. This should be Ilsington

<sup>139</sup> R. Swift, ‘Urban Policing in Early Victorian England, 1835-86: A Reappraisal’, *History*, 20, (1988), 211-237 (p.216).

well documented in the case of Torquay, less so for Exmouth. J.T.White, in a *History of Torquay*, mentions the fact that the Select Vestry, the Magistrates and the Lords of the Manors were insufficient to control parochial affairs. The seriousness of the situation can be gauged by the following comment:

When the number of inhabitants rose in 1831 to 3500, it was found that the powers of those primitive and sometimes antagonistic governing bodies were utterly inadequate either for sanitary purposes or the maintenance of order.<sup>140</sup>

The increase in population was not the only issue. Secondly, there were problems relating to tenants who built their houses without any concern for a uniform street front, clearly wanting to make the most of the ground allotted to them. Further, sanitary improvements at this time were virtually unheard of, such that the stream which ran down the Fleet Valley had become a receptacle for rubbish.

As the problems for the authorities began to increase, it appears that in the autumn of 1834 meetings were held at Batts Royal Hotel to consider making application under a Local Act of Parliament. For the purposes of this study, it is important to briefly introduce this piece of legislation at this point, as it had a huge influence on the development of Torquay from 1835 until the adoption of the County and Borough Police Act in 1856. In particular, it affected how those in authority saw their role in Torquay's development. This Act for Lighting, Watching, and Improving the Parish of Tormoham in the County of Devon, received the Royal assent on the 3rd of July 1835. In its preamble we are told that there would be considerable advantage to the inhabitants and the public if proper provisions were made:

For lighting, watching, paving, cleansing, and otherwise improving the streets and other public places within the said Parish, and for removing and preventing nuisances and annoyances and preserving the peace and good order therein...<sup>141</sup>

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<sup>140</sup> J.T. White, *History of Torquay* (Torquay: 1878), p.154.

<sup>141</sup> WILL IV – SESS 1835 *An Act for Lighting, Watching and Improving the Parish of Tormoham, in the County of Devon*.

The Act consists of more than sixty clauses. It is sufficient to say that the government of Torquay would be vested in a number of Improvement Commissioners, who were to be elected by owner/occupiers with a yearly rent or value of fifteen pounds.

The Improvement Commissioners can be divided into two groups. There were the familiar names we have already introduced. These include the Kitson family and Harvey families. There was also William Prowse, a malster and brewer who was also the Registrar for Births and Deaths. Secondly, one cannot underestimate the connection with the building trade in its widest sense. This group also included Samuel Cocking, an architect and R.Stark, a house and insurance agent, and a prominent dissenter, connected with Salem Chapel and John Rossiter, a builder and church warden. Further, although not Improvement Commissioners, one cannot discount the contribution of new people, often retired, who arrived in the town and took part in local politics.

It is important to stress the influence this group of people had in relation to the protection of the residents of Torquay and especially to recognise the powers they had in terms of appointments. They were able to appoint and employ able-bodied watchmen, night constables, street keepers and other people as they thought fit. It is also interesting to note that the said watchmen, night constables and street keepers were sworn in as constables before any Justice of the Peace. This clearly linked control with the judiciary.

The duties of the watchmen were to prevent murders, burglaries, felonies, misdemeanours and other outrages, disorders and breaches of the peace. In addition, they were required to apprehend, search and arrest vagrants, beggars and disturbers of the peace. They also had power to apprehend all drunken, riotous or disorderly persons,

prostitutes and persons shouting in the street. Anyone committing such offences could be conveyed to a watch house or place of security to be detained, before being examined and dealt with by a Justice of the Peace.

In terms of the development of Torquay powers given to the watchmen were much wider than those one might associate elsewhere in the country with the prevention of crime and keeping public order. In order to get a flavour of the legislation enacted, a number of suitable examples will be provided to support this assertion. In Clause 64, for example, we have detailed regulations about preventing carriages being left in the street, except for loading and unloading. This legislation also affected trades people unloading their goods.

There were also regulations relating to public decency. We read, for example, that people were not allowed to bathe, undress or expose their person in public areas within the parish; neither could they use offensive or indecent language in pamphlets or on Bill posters. The use of indecent language was also prevented in the highway or public area within the parish. Keeping offensive material was prohibited and was fairly wide in its scope. It covered items such as night soil or dung, sweepings from slaughterhouses which could be described as a danger to public health. However, the legislation went further, as it covered anything which could constitute a nuisance, annoyance or be offensive to other people within the parish.

The control of public decency can be linked to the development of concepts relating to politeness, modesty and manners, especially about changing attitudes during the nineteenth century. In particular, it affected ideas of respectability, which had moral, economic and cultural dimensions. A further development also had an impact on

standards of male behaviour and character. Standards of male behaviour which emphasised virtue and character were also articulated.<sup>142</sup>

In terms of an assessment of factors affecting the development of Torquay, it has been sufficient to demonstrate that the legislation was prescriptive in nature. This can be seen in the fact that the Improvement Commissioners had powers to appoint and set conditions for the employment of their officers, including resignations. This meant that in effect they could control how such people used their time. It was also possible for them to determine which particular offences to concentrate on in terms of who might be brought before the local magistrates. Thus, the Improvement Commissioners were able to control events in the town because the police were accountable to them. Even when the town adopted the Public Health legislation, members of the Local Board of Health governed Torquay in a similar manner.

In contrast, there is much less information available about the government of Exmouth at this period. Further, one must acknowledge that Exmouth was not developing at the same rate. However, newspaper reports indicate that the town had problems with people coming into the town to commit crime. It is possible that the major episodes of crime in the 1830s which included a number of burglaries led the parish of Littleham to appoint its first police officer around 1843.

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<sup>142</sup> John Tosh, *Masculinity and the Middle-Class Home in Victorian England* (London: Yale University Press, 1999).  
Tosh, *Manliness and Masculinities in Nineteenth Century Britain..*

Isaac Rake was a Devon man who had seen service, in the Metropolitan Police Force. As an old man his memories were recorded in Holy Trinity's parish magazine at the time of Queen Victoria's Diamond Jubilee. We are told that in 1838 he was a member of the Metropolitan Police and, specifically, on the 28th of June of that year was on duty at the coronation of Queen Victoria in Westminster Abbey <sup>143</sup> With the benefit of this background information he must have come to the parish of Littleham with considerable police experience. However, it appears that alongside Isaac Rake other parish constables were appointed, although by whom, and under which system remains unclear.

Withycombe Raleigh's constables were appointed by the Hundred of East Budleigh. The name of William Wheaton appears regularly in the list of the parish constables reported to the Quarter Sessions. How the various officers worked together is difficult to ascertain; as no criticism has been found, one can reasonably assume they cooperated well together. In terms of policing and control Isaac Rake was popular with the authorities. Something of his stature can be gauged by the fact that he became a sergeant in the new county police force in 1857, and was stationed in Ashburton. On retirement from the county force, he returned to Exmouth as Inspector of Nuisances, eventually becoming a member of the Local Board of Health.

Unlike Torquay, there is no direct evidence that Exmouth used local legislation with the express intention of exercising control. However, there is evidence from the two watering places that the Summary Courts at a local level were involved in regulating affairs. This could range from drivers of carts and carriages involved in dangerous driving and obstruction, to parking longer than deemed necessary for loading and unloading both goods and passengers. This type of regulation was no doubt aimed at

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<sup>143</sup> DRO 2932A/PY/1/4 *Parish Magazine, bound volume, 1887-1897*(April 1897).

keeping traffic moving along the road network, whilst not disrupting trade across south and east Devon.

In addition, there were attempts to control disorderly behaviour and those perceived to be nuisances. This meant problems with curbing drunkenness and prostitution as well as establishing a mechanism whereby beggars and vagrants were kept off the streets, all regular occurrences, even in developing and established resorts like Exmouth and Torquay.

c) County and Borough Police Act, 1856 (19&20 Vict. c.69)

For the first time this piece of legislation made the establishment of new police forces obligatory for all authorities. It was a major piece of legislation, which involved central government at an indirect level. This was achieved through a system of annual efficiency inspections. Further, this was linked to a system of central funding. Taylor has said: 'Efficient forces received a reimbursement of a quarter of the expenditure on police pay and clothing.'<sup>144</sup>

In order to get a flavour of the issues concerned, responses to the debate about rural policing across the county of Devon will be analysed. A search through the *Western Times* indicates that the first reference to the subject of a rural police appeared in a report of the Devon Midsummer Sessions 1855, when a list of Superintending Constables paid by the County was moved. This is followed by a list of constables paid by parishes.<sup>145</sup> It is interesting to note there is no mention of any parish constables being paid in the parishes of Littleham or Tormoham, in spite of evidence from directories and newspaper reports that they existed.

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<sup>144</sup> Taylor, *The New Police in Nineteenth Century England*, p.37.

<sup>145</sup> *Western Times, Supplement*, 7 July 1855.

The subject of rural policing for the county was raised again at the Devon Michaelmas Sessions, held on the 16th October 1855, when Mr Palk gave notice to the magistrates of his intention to submit a motion at the next Quarter Sessions.<sup>146</sup> He was clearly concerned about the constant and increasing demands for aid towards the maintenance of police constables. However, he was keen to point out that whenever they had been introduced, crime had been reduced. He also pointed out that at national level, much discussion was going on; clearly there was a need for some better arrangement. In this respect, Palk felt that appropriate attention had not been given to the prevention and repression of crime. He stated that if more policemen had been present vagrant boys would not have appeared before the courts. Speaking from personal experience, he felt that in the parishes which had policemen, the vagrants were prevented from coming. He believed that a well-organised system of police would repress crime, diminish the expenses of goods and give security to property. He resolved to give notice at the next Quarter Sessions that a committee be appointed to consider a report on the county police and the best way of organising them. Mr Palk's comments are interesting because they reveal something of his attitudes towards the prevention of crime. He clearly had some experience of the workings of the parish constable system and its help in preventing crime, but did not want the cost to get out of hand. As a magistrate in the Paignton Petty Sessional Division he must have been aware of how the system operated in Torquay; he appears to have been in favour of a uniform system for the county police.

Mr Lawrence Palk's motion on the county police was presented to the Quarter Sessions on the 1st January 1856. The proceedings were reported by the *Western Times* in its

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<sup>146</sup> *Western Times, Supplement*, 20 October 1855.

issue of the 5th January 1856, and included a substantial item on the rural police.<sup>147</sup> Mr Palk was the Member of Parliament for South Devon, and had requested that a committee of enquiry look into the necessity of having a county police and the best method of organising the same. The aim of having an enquiry was to decide the question of the rural police. He was keen to stress that the motion was intended to be one of enquiry alone. No-one on the committee would be pledged to the principle of the county police, as there may be many reasons why a county police force was not desirable for Devon. Expense was one possible objection. Secondly, he argued, magistrates could not tax all the ratepayers without giving them the opportunity to express their views.

From the evidence analysed so far, it appears that Palk himself was not convinced that rural police forces adopted in other counties, under earlier legislation, could be approved in Devon. He reminded members that the population of Devon was concentrated on the seaboard. In contrast, agricultural regions were thinly inhabited, therefore, did not require policing at the same level as the more densely populated areas. He seemed to have wanted a system of policing based on that already organised in some forty two Devon parishes. After all, a police force appropriate for York or Lancashire may not have been suitable for Devon

More is heard about the police debate a month later when the *Western Times* stated that under the general system of police for England, the House of Commons will have to debate the best means of repressing crime in this country, and that the abolition of transportation has brought this particular issue home. The *Western Times*, a newspaper known for its liberal stance, fears there may be unpleasant collisions with local

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<sup>147</sup> *Western Times*, 5 January 1856.

authorities and the magistracy about any new system of policing. However, there is a desire to avoid as much as possible offensive meddling with local jurisdictions. As one would expect the issue of expense was raised. The editorial then goes on to say: ‘we have always objected to any sweeping increase in the county rates for the purposes of a police.’<sup>148</sup>

If consideration is given to the correspondence relating to the new police scheme, the twin issues of central against local control and cost to the ratepayers became paramount. This was typified in correspondence from the 16th February, in relation to the police bill, from which the following comments were taken. ‘Unless the people of England speedily bestir themselves they will have the whole management of their municipal matters as far as money is concerned entirely taken from their control.’ ‘The grand object... is to increase the ratepayers’ expense, and altogether to deprive them of the control of police expenditure.’<sup>149</sup> In a subsequent issue, the editor of the *Western Times* went even further:

We cannot, however, but regard the police Bill as the beginning of a policy which would end in the complete centralisation of the police force; and this, if established, and would prove dangerous to the existence of public liberty.<sup>150</sup>

This emotive comment of the editor appeared to be a statement that he was against centralising the police force in order to improve what he perceived to be the thief catching character of the police. If this is related to the position in Devon, one can argue that it may not always be appropriate to place every superintendent of police in the hands of the Secretary of State. Therefore, if one examines policing in boroughs across Devon, it may not always be necessary, for the sake of efficiency, to place the police of Honiton, Tiverton, Exeter, Barnstaple, Totnes, Torquay, Plymouth, Devonport and

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<sup>148</sup> *Western Times*, 9 February 1856.

<sup>149</sup> *Western Times*, 16 February 1856.

<sup>150</sup> *Western Times*, 1 March 1856.

every other town in the hands of the government. As far as Devon was concerned, there appeared to be a feeling that the measure had been forced on the government because of the improper conduct of certain boroughs in the manufacturing districts. According to the *Western Times*, it was perceived that the town councils, to curry favour with the ratepayers, had kept the police below the number necessary to preserve the peace of their respective boroughs. At this time the police force of Exeter comprised one per thousand inhabitants.<sup>151</sup>

The policing issue was a complex matter relating to the distribution of power and was not simply due to tensions between local and county provision. Storch has described nineteenth century police reform partly as a battle between the national governing class and the provisional governing class.<sup>152</sup> The tensions between local and county systems were not unknown. Alfred Hughes, chief of Bath city police could see no reason why a city or borough force should not operate alongside a county or rural force.<sup>153</sup>

Reports continued to appear in the *Western Times* relating to the county police. Nothing significant appeared until July 1856 when it was reported that the justices had given immediate effect to the New Police Bill by appointing a Chief of the County Constabulary. There appeared to be little direct opposition from the county as a whole, the only regret was that the yeomanry were to be excluded from the administration.<sup>154</sup>

There was clearly much discussion and debate concerning the actual appointment of the County Constable, particularly when a candidate was rejected on age grounds. The issue was not finally resolved until November 1856 when a full report regarding the

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<sup>151</sup> *Western Times*, 8 March 1856.

<sup>152</sup> Storch, *Policing Provisional England*, p.10.

<sup>153</sup> SRO DD/X/Coll 1 *First Report of Select Committee 1853 Evidence of Alfred Hughes*.

<sup>154</sup> *Western Times*, 5 July 1856.

election of the Chief Constable appeared in the *Western Times*.<sup>155</sup> Gerald De Courcey Hamilton was finally sworn in as Chief Constable on the 16th January 1857.

Thus, the County and Borough Police Act began operating in Devon. Across the county as a whole there appears to have been little dissension. However, there was much opposition from the authorities in Torquay. The Local Board of Health wanted to retain the right to appoint and manage its own police force and did not want to be part of a new county force. The issue was first raised at Devon Quarter Sessions on the 6th January 1857 when we find an item relating to the Torquay police. Edward Vivian, local magistrate, argued that Torquay should not be included in the new county police scheme by virtue of its increasing population. In contrast, Mr Palk, an influential figure, wanted one system of police for the county and argued that the court had no power to exempt it from the Act. The issue continued to dominate the local newspapers. Vivian, for example, wanted more time before the Act applied to Torquay.

The *Western Times* also reported a meeting of the Torquay Local Board of Health, where discussions about policing in Torquay must have been a major item. Edward Vivian was concerned that in a county force, a town like Torquay would be disadvantaged and less efficient than the borough's present resident force. Following considerable discussion the following resolution was unanimously agreed:

that a communication be made to the county magistrates, requesting that this town [Torquay] may not be included in the operation of the County Police Acts, until an opportunity has been afforded to this Board to consider in what manner the provision of the Acts are to be put in force.<sup>156</sup>

Following this, several items appeared in the correspondence section of the newspaper under the heading Torquay police: centralisation. Mr March Phillips, the senior

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<sup>155</sup> *Western Times*, 29 November 1856.

<sup>156</sup> *Western Times*, 10 January 1857.

magistrate, argued that Mr Vivian protested too much as four out of five local magistrates favoured absorption into the county system.<sup>157</sup> Why the two men would want to appear in open disagreement when the Board had already agreed that a communication be made to the county magistrates, is open to speculation. It is possible that March Phillips wanted to emphasise that he was the senior magistrate, and that Edward Vivian was not speaking for everyone.

Discussions between the two men continued and letters appeared in both the *Western Times* and the *Torquay and Tor Directory*. Edward Vivian, in his reply to March Phillips was clearly in favour of Torquay retaining its independence as a borough. He feared that under the New Police Act, Torquay might be below its present strength, as figures regarding the number of police required would be based on the 1851 census, and not the existing population. He also felt that the ratepayers of Torquay should be the best judges of what was required. Again, we have the arguments relating to centralisation and the cost to local ratepayers.

A letter in similar vein appeared in the *Torquay and Tor Directory*. Again Vivian emphasised that the County Police would be advantageous in the rural districts but not in the boroughs. Further, he played on local fear that under the new legislation, the police force in Torquay could be reduced. Further, he drew attention to the fact that he perceived Torquay to be relatively free from crime. He wrote:

No town has been more free from crime, or detection been more prominent and certain, and I believe the ratepayers of Torquay to be the best judges of the amount and character of the police which they require.<sup>158</sup>

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<sup>157</sup> *Western Times*, 17 January 1857.

<sup>158</sup> *Torquay and Tor Directory and South Devon Journal*, 21 January 1857.

Such well-chosen remarks, as Vivian was no doubt aware, would be well received by ratepayers and also by visitors to Torquay.

In the next issue of the *Torquay and Tor Directory* there was another letter from March Phillips. He pointed out that until Torquay reached a population of 15,000 it could not be excluded from the County Police Act. However, he did point out that it would be unwise of the Chief Constable to send a group of strangers unacquainted with Torquay's bylaws. He envisaged that the Chief Constable would 'see the necessity of allocating at least eight police constables and two superintendents.'<sup>159</sup> On this occasion, Phillips did not contradict Vivian's remarks, but ensured that local people were aware that Torquay must be included in the legislation. On a positive note he tried to allay local fears about the future strength of the local police force.

The problems continued when in March 1857 John Harvey gave notice that at the next meeting he would announce a motion against the County Police Act being carried into force in the district. In April, the Board decided that they were against the Act as it would lead to additional expense and great inconvenience to the ratepayers. A memorandum would be prepared to instruct the Chief Constable not to give notice for the Act to apply to the District of Tormoham. A committee was formed to prepare a petition on this. The committee consisted of John Harvey, Charles Kitson, Robinson and Vivian. The Local Board of Health clearly did not want to lose control of their local police force. At their meeting on the 3rd April it was resolved:

That this Board to memorialise Sir George Grey, the Home Secretary praying him to instruct the Chief Constable not to give notice for its application to the District of Tormohun.<sup>160</sup>

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<sup>159</sup> *Torquay and Tor Directory*, 28 January 1857.

<sup>160</sup> DRO 4582A add2/TC2 *Torquay (Tormoham) Local Board Minute Book, 1857-1864*, 3 April 1857, 18 April 1857.

We know from the Minutes of the Local Board and contemporary newspaper reports that Torquay lost its battle to keep control of the local police force.

The next issue to cause debate was the question of compensation for the policemen who had been discharged. This caused particular concern in the case of Charles Kilby, who had been appointed as Superintendent in 1835. He was not eligible to join the new county force on age grounds. The local authorities in Tormoham had no powers to award compensation, unless he was disabled in the execution of his duty or had become worn out by length of service. In a report of the Devon Midsummer Sessions on the 8th July 1857, Mr March Phillips presented a memorial from Mr Charles Kilby. We read that Mr Kilby had been paid a salary of £90 per year, and had performed his duties satisfactorily, therefore deserving some compensation for his loss of office in Torquay.<sup>161</sup>

The case of Charles Kilby appears to have become a *cause celebre* as far as the members of the Local Board of Health were concerned. It was felt that he should receive a gratuity based on the twelfth clause of the County Police Act, and that the clerk should communicate this to the Secretary of State. In the case of Kilby and other police officers whose duties were transferred to the County Police this must have been more than a local issue. We read that details were to be passed on to Sir John Yarde Buller, Senior Member of the Division of the County, so that he might take it up in Parliament. The Board then, had not only lost direct control over the local police force, it had also lost its battle to obtain any compensation for their former Superintendent of Police.

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<sup>161</sup> *Torquay and Tor Directory*, 8 July 1857.

Why the authorities in Torquay should go to extreme lengths to retain control of its police force one can only speculate. There is no doubt that they were against centralisation and wanted to carry on with a system of policing they were familiar with. Cost was certainly an issue. We know, for example, that in 1857 the Torquay force cost the Local Board of Health £417, whereas under the New Act the cost would be £481 10s.<sup>162</sup> In addition, it is possible to argue that Torquay was a special case and would soon reach a population of 15,000 which allowed local control. However, the key factor in wanting to retain local control must surely have revolved around the fact that the government of Torquay was in the hands of a small number of local families and to lose control of the police would undermine their sphere of influence, particularly in the help and attention they might give to visitors. This was especially important in the development of Torquay as a fashionable watering place. Any possible reduction in the number of police officers could have had a detrimental effect on what was perceived to be a town with little crime.

The opposition to the 1856 County and Borough Police Act in Torquay was in sharp contrast to its reception across Devon as a whole. Initial misgivings about the Act not being suitable for a mainly rural county were soon overcome. In Exmouth, the system of parish constables seems to have been assimilated into the County system with no problems. As was discovered earlier, Isaac Rake carried on as a policeman and was transferred to the County force. Unlike in Torquay, relations with the Local Board of Health remained positive. When Rake did eventually retire he became a respected member of the Local Board of Health, and a valued member of the local community.

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<sup>162</sup> *Torquay and Tor Directory*, 8 July 1857.

This analysis of the cultural and legal changes which shaped the criminal justice system in the nineteenth century has highlighted some particular findings in relation to Exmouth and Torquay. Firstly, changes in criminal legislation allowed more cases to come before local magistrates. These affected the number of larceny prosecutions and also those concerning juvenile offenders. Secondly, changes to the administration of local government led to the adoption of powers gained under the Lighting and Watching Act to be adopted later in Exmouth than in Torquay. Thirdly, unlike Exmouth, the adoption of the 1856 County and Borough Police Act faced considerable opposition within Torquay. In the next chapter the way has been paved for an examination of the mechanisms of government within Exmouth and Torquay. This framework has also opened up the way for further analysis, in later chapters, of specific criminal offences and their effect locally.

### **Chapter 3 Engines of Authority**

This chapter will explore what impact changes in the legal system had at parish level. It will also explore how the criminal justice system operated in practice in Exmouth and Torquay and finally, how the court system operated in relation to summary justice. In this respect, justice in Exmouth was administered as part of the Woodbury Petty Sessional Division. In this context the term “engines of authority” is associated with power and the strategies used by parishes, magistrates and others. The Woodbury Division was reorganised in 1860, when a separate Division for Ottery was created.<sup>163</sup> In contrast, justice in Torquay continued to be administered as part of the Paignton Petty Sessional Division, which was not subject to any reorganisation.

It has been seen in the previous chapter, following legal changes to the structure of local government during the nineteenth century a certain degree of control was vested in the municipal and parish structure. Until the 1830s there had been an absence of appropriate administrative structures to manage a period of growth and social change. Pat Thane has described this as ‘the absence of reformed local institutions capable of administering new social measures in the tradition of central government delegation to the locality.’<sup>164</sup>

The Poor Law Act 1834 enacted at national level was one element of reform which impacted on parish level governance. The Municipal Corporations Act was a further step. The Whigs had a number of reasons for wanting to reform the ancient corporations. As Thane has commented most were Tory and had used their powers of patronage to have Tory members returned to Parliament in 1832. In addition, Liberal

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<sup>163</sup> DRO QS 1/31.

<sup>164</sup> Pat Thane, ‘Government and Society in England and Wales, 1750 -1914,’ in *The Cambridge Social History of Britain*, III ed. by F.M.L.Thompson (Cambridge: Cambridge University Press), pp. 1-62(p.21).

nonconformist burgesses felt that the corporations were failing in their customary duty to represent the interests of their communities to Parliament, thus feeling excluded from local influence. Further, in a point relevant for this study, the corporations had been criticised for failing to use their power as magistrates to maintain law and order. After a detailed investigation of the corporations a Royal Commission appointed in 1833, recommended elected local government in existing corporate boroughs and other sizeable towns.<sup>165</sup>

The administrative structures which allowed those in authority to control and police crime after 1830 will be analysed in detail. It has been seen earlier that at the parish level many decisions were taken in relation to crime. The actual location of the parishes under discussion can be seen in the following map. (Map 4) The parishes colour shaded relate to Exmouth and Torquay.



Map 4 Location of parishes Reprinted with permission

<sup>165</sup> Thane, 'Government and society in England and Wales', p.21.

## I. Parish

The name Exmouth is derived from the town's location at the mouth of the broad estuary of the river Exe, opposite Star Cross railway station, within the jurisdiction of the Port of Exeter. Exmouth developed on the boundary between the two Saxon parishes of Littleham and Withycombe Rawleigh. In the early nineteenth century Exmouth was a small market town, partly in the parish of Littleham, extending into the parish of Withycombe Rawleigh. Together, these two parishes form what we know now as the town of Exmouth. Both these parishes were located in the Hundred of East Budleigh; 167 miles from London, and about 10 miles from Exeter. Within the Hundred of East Budleigh, the Woodbury Petty Sessional Division covered some 22 parishes; the exception being the parish of Gittisham, which was in the Honiton Petty Sessional Division.<sup>166</sup> The reorganisation of the Woodbury Division in 1860, noted earlier, is not significant, coming at the very end of the time frame analysed here. However, any further study beyond 1860 would need to recognise that the Woodbury Division included Topsham, but no longer covered Sidmouth, Ottery and the neighbouring parishes; these were in the Ottery Division

We have already established that the ownership of the parishes was dominated by the Rolles of Bicton and the Hulls of Marpool. However, it is important to recognise that the Rolle family in particular played a significant role by providing large amounts of money for particular building developments. In this respect, we are told that:

The commodious Church built in 1825, and the market house in 1830; the plantations and walks under the Beacon; the new sea wall; and most of the public improvements carried out during the last 20 years, have been at their suggestion and expense.<sup>167</sup>

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<sup>166</sup> *White's Devon, 1850*, p.217.

<sup>167</sup> *White's Devon, 1850*, p.231.

In relation to crime we know that the parish of Littleham had taken advantage of legislation which allowed it to appoint its first police officer, Isaac Rake.

Torquay was centred on the parish of Tormoham. In the early nineteenth century Torquay was described as a beautiful village within the parish of Tormoham. It was in the Hundred of Haytor; 207 miles from London, about eight from Teignmouth and between six and seven miles from Newton Abbot. This Hundred consisted of some 22 parishes and covered the Teignbridge and Paignton Petty Sessional Divisions. Despite extensive research it has proved impossible to state with any degree of certainty exactly which parishes were included in the Paignton Petty Sessional Division. As we discovered earlier, Torquay had taken advantage of local legislation and appointed its first police officer, Charles Kilby, in 1835. However, the Quarter Session records indicate that Kilby was probably a parish constable before that date.

It has already been established that the parish was dominated by two prominent wealthy families; the Carys, a Roman Catholic family based at Torre Abbey and the Palk family. In the nineteenth century the latter was headed by Sir Lawrence V. Palk, the 3<sup>rd</sup> Baronet, who fled to France in the 1840s for fear of being imprisoned as a debtor.<sup>168</sup> As Fraser and others have shown, any study of the Palk family is beset with problems. A condition of the bequest to Sir Robert Palk indicated that the oldest son should always be named Lawrence.<sup>169</sup> Charles Mallock, of the neighbouring parish of Cockington, was also a major landowner and magistrate.

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<sup>168</sup> Iain Fraser, *The Palk Family of Haldon House and Torquay* (Newton Abbott: Silverwood Publishing, 2008), p.54.

<sup>169</sup> Ellis, *An Historical Survey of Torquay*, p.275.

## II. Magistrates

It has already been found that as the nineteenth century progressed, the Petty Sessions became more formalised. The least serious offences could be dealt with summarily by magistrates sitting alone or in pairs. As one would expect, in Exmouth and Torquay this was the situation in the nineteenth century. It is necessary to discuss how the magistrates were appointed, their responsibilities, together with some basic detail about individual magistrates and their position in the criminal justice system. Magistrates formed one vital element within our analysis of the “engines of authority”

The appointments process followed a definite procedure whereby ultimate responsibility for the appointment and dismissal of magistrates rested with the Lord Chancellor who was based in London. In the counties justices were normally selected by the Lord Lieutenant for approval by the Lord Chancellor. In his discussion of the appointments process in the eighteenth century, John Rule has stressed the impact of the aristocracy in the procedure; 255 of 299 holders of the post in the counties in this period were peers or sons of peers.<sup>170</sup> Devon continued this pattern in the nineteenth century because between 1839 and 1861, the position of the Lord Lieutenant of the county was held by Hugh Fortescue, 2<sup>nd</sup> Earl Fortescue. The Fortescues were a prestigious Devon family who for generations were prominent in county and national affairs.<sup>171</sup>

In order to be selected as a magistrate the person had to be a man of some wealth and social standing in order to have his name entered on a county’s Commission of the Peace. Justices were required to have an estate valued at £100. As King has commented this flexibility became useful as it allowed ‘an increasing number of minor gentry,

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<sup>170</sup> Rule, *Albion’s People*, p.40.

<sup>171</sup> Hoskins, *Devon*, pp. 398-9.

clergy and professional men to the bench.<sup>172</sup> Before he could act as a magistrate the person appointed had to travel to the county town, swear an oath before the clerk of the peace and pay the appropriate fees. In connection with the contents of this chapter, Commissions of the Peace for Devon have survived for 1836, 1840, 1849 and 1856.<sup>173</sup>

In association with Exmouth and Torquay, the *Quarter Session Order Books* indicate that the magistrates representing the two Divisions attended the Quarter Sessions. Besides the criminal law, their jurisdiction covered matters such as highways, bridges, the licensing of alehouses and administering the operation of the Poor Law. As one would expect, men selected as magistrates were drawn from local landowners, clergymen and others deemed to have wealth and social standing. It is interesting to note that in connection with the impact of religion in Chapter 2, across the Woodbury Division there were a number of Anglican clergy representing several different parishes, not all of whom sat on the local bench. Archdeacon J.M Stevens, Vicar of Otterton is one such person. He regularly attended the Quarter Sessions, no doubt mixing with the local elite as an important part of his role as the Archdeacon of Exeter. However, there is no evidence that he sat on the local bench. In contrast, in the Paignton Division there were a number of magistrates drawn from a pool of people who had retired to Torquay, having previously served in the armed services. The social composition of the magistrates, as was seen earlier, reflected the fact that a wider group of people were available. This situation was reflected in the Black Country, when, in the nineteenth century the magistracy was dominated by industrial entrepreneurs.<sup>174</sup>

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<sup>172</sup> King, *Crime, Justice and Discretion in England*, p.117.

<sup>173</sup> DRO QS 28/73-76.

<sup>174</sup> Philips, *Crime and Authority in Victorian England*, pp.48-9.

As a point of reference, *White's Devon* has been used to provide a list of magistrates for the Paignton and Woodbury Divisions in the late 1840s.<sup>175</sup> This list has been supplemented with names obtained from the commissions of the peace and reports of individual petty sessions (see Appendix 1). The *Quarter Session Order Books* have also provided useful information about actual attendance at the Quarter Sessions between 1835 and 1860 (see Appendix 2 for individual records of attendance).<sup>176</sup>

Local landowners played important roles in the criminal justice system. In the case of Exmouth, Sir John Kennaway of Escot House was clearly an influential figure, particularly at the Quarter Sessions. As we have already seen, he attended the Quarter Sessions on a regular basis. The Gaol Calendars reveal that he acted as Chairman of the Devon County Sessions on a number of occasions. As will be seen later, he acted as intermediary when there was dissension between the Exmouth and Woodbury magistrates about where the Petty Sessions should be held. Likewise, the local landowner, Sir J.B.Y. Buller, of Lupton in the Paignton Division, also attended the Quarter Sessions regularly. He too acted as Chairman of the Devon County Sessions.

In the early part of the period, the Petty Sessions in Torquay were held in a building, situated in Lower Union Street, which acted as a council chamber as well as a magistrates' court. It was in this building that the Petty Sessions were held on a weekly basis. By the time the Local Board of Health came into existence in 1850, one of their first requirements was the demand for a new Town Hall. Pike tells us that the recently appointed Surveyor, Mr Dixon designed the new building, complete with a campanile tower.<sup>177</sup> It was built by Mr John Harvey, a well-known local builder also involved in

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<sup>175</sup> *White's Devon*, pp.13-15.

<sup>176</sup> DRO QS 1/27-31.

<sup>177</sup> Pike, *Torquay*, p.30.

the government of Torquay. Building work commenced in 1851 and was completed a year later. Whilst construction was in progress, it appears that both the Local Board of Health and the magistrates met in the auction room of the Union Hotel.<sup>178</sup>

The composition of the local Bench in Torquay comprised a limited number of magistrates, only one of whom appears to have had any prior legal training. Joseph Garrow was the magistrate in question. He was educated for the Bar, but never practised. He sat regularly at Petty Sessions level, and also attended the Quarter Sessions. Despite the magistrates in Torquay meeting weekly they also attended the Quarter Sessions regularly. No doubt they considered it important to be part of the drama and atmosphere at the sessions and saw fraternising with influential people in Exeter an essential part of their role. Further, it provided an opportunity to raise issues important to Torquay. It is also useful to note that when arrangements were being discussed for the new county police, Torquay magistrates were usually present at the Quarter Sessions.

It has been hinted earlier that a number of magistrates who sat on the Bench in Torquay had military experience. James Hack, for example, had an army background. He was also involved in the Temperance Movement, alongside fellow magistrate Edward Vivian. H.C. March Phillips retired from the navy expecting to live a quiet and secluded life in Torquay. However, his desire for such a life did not materialise and he became very active in public affairs. He laid the foundation stone of the new market in 1852. He served as a magistrate for nearly 30 years and played a prominent role alongside Edward Vivian in quelling the bread riots in Torquay in 1847 and 1867. Food riots took

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<sup>178</sup> Pike, *Torquay*, p.30.

place across the county of Devon triggered by the rapid increase in basic foodstuffs.<sup>179</sup>

It may have been a deliberate policy in Torquay to appoint a certain number of people with a military background as magistrates, the intension being that they could sit on the local bench and exercise a measure of control over petty criminals. However, this is a policy about which one can only surmise. It could simply mean that the area had attracted a number of people who had served in the armed services, a number of whom became magistrates. There does not appear to be any evidence from elsewhere that the magistracy was penetrated by a significant number of people from military backgrounds.

The above discussion concerning parish figures and magistrates demonstrates the dominance of the elites in the governance of the county as a whole. As one would expect, the upper class, which according to the definition on pages 16 to 17 of the Introduction, could include inheritance and office holders, the aristocracy and gentry. Together these groups held many positions of power. However, in the nineteenth century there is evidence that the membership of upper and middle class groups especially was growing and changing with more middle class people holding positions of power. This can be seen in the occupations of individuals connected with the magistracy and public affairs generally.

### III. Local Improvement Commissioners

In Torquay the police were appointed and controlled by the Local Improvement Commissioners who had a significant number of powers. First, the Commissioners exercised their powers in the way in which they appointed and controlled their officers.

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<sup>179</sup> Bryon, 'The "Dark Side" of Torquay', pp. 37-52.

Newton, *Victorian Exeter*, pp.82-7.

Roger Swift, 'Food Riots in Mid Victorian Exeter', *Southern History*, (1980), 101-126.

In a surviving minute book, covering the period 1846 to 1857, we are given a flavour of the problems and priorities they faced. There are details relating to the appointment of extra policemen. For example, John Howard and Ryan (unclear), both of London, were to be appointed under the same conditions as the others ‘subject to dismissal at the pleasure of the Commissioners.’<sup>180</sup>

Second, in relation to the dismissal of officers this option was used on a number of occasions to dismiss unsuitable people. We read, for example, policeman Legge was dismissed for being drunk on duty. However, in the case of Legge we are not clear if a shortage of suitable officers led the Commissioners to reconsider their position. It is difficult to believe that their motives were purely down to compassion, when it was resolved that: ‘Legge having expressed his contrition be reinstated to the duties of policeman.’<sup>181</sup>

In relation to our discussion on policing and the response of those in authority, it appears that the Commissioners took a large degree of responsibility in deciding when particular situations warranted further action. Officers clearly had to refer certain situations to the Improvement Commissioners regarding a definite course of action. For instance, it was resolved that: ‘the surveyor summon Mr Peeke for depositing timber and sawing the same in the open place and passage in front of the green by Cary Parade.’<sup>182</sup> In a similar vein, the surveyor was instructed: ‘to get one of the police men to watch nightly on Cary Parade to discover parties throwing rubbish on the beach.’<sup>183</sup> At the same time, Mr Peeke was in trouble again for continuing to deposit timber. He was ordered to be summoned. The washing of coaches on the terrace was another issue

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<sup>180</sup> DRO R4582A add 2/TC1 *Tormoham Improvement Act. Commissioners’ Minute Book*, July 1846-March 1857, 23 September 1846.

<sup>181</sup> *Commissioners’ Minute Book*, 3 December 1847.

<sup>182</sup> *Commissioners’ Minute Book*, 6 August 1847.

<sup>183</sup> *Commissioners’ Minute Book*, 3 September 1847.

brought before the Commissioners. In this case it was referred to the Footpath Committee. Thus, one can begin to see that the Commissioners had an important influence not only on the development of Torquay, but also the way in which they made decisions on priorities for dealing with crime; in particular, how the resort might be controlled and policed. In this respect, one can argue that they also had a huge impact on the way the social tone of Torquay was determined, bringing before the courts people whose behaviour may not always be considered as criminal, yet under local legislation it was deemed to be against the law.

In respect of encouraging an appropriate social tone, there is also evidence that the Commissioners expected certain standards of behaviour from their officers. As was discovered earlier, drunkenness from its officers would not be tolerated. Further, in relation to inappropriate behaviour, there is an interesting reference to what must have been considered unsuitable behaviour by certain policemen. In a minute of the 3rd December 1847 we read as follows: ‘Superintendent be directed to reprimand those... police who have been soliciting Christmas boxes and to prohibit the repetition of such a practice in the future under any circumstances’.<sup>184</sup>

Further, the Commissioners saw themselves with duties towards ratepayers in terms of appropriate expenses. It is clear that the Commissioners were not prepared to sanction excessive claims for expenses in relation to police duties. This can be seen in the case of Mr Jolly, the surgeon, who had attended policeman Chown, injured in the execution of his duty. The surgeon must have subsequently submitted a bill for his services. However, in this particular case, it was referred back to Mr Jolly for more information in respect of Chown. Only then would the Commissioners consider it. Likewise, Mr

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<sup>184</sup> *Commissioners' Minute Book*, 3 December 1847.

Jolly's charge for attendance at the Sessions was refused on the grounds that 'the Commissioners have nothing to do with it.' In this situation, the Commissioners appear to be exercising their duty in not burdening the ratepayers with undue expense for which they believed they were not responsible.

#### IV. Board of Health

From the late 1840s the authorities in Torquay, like many other fashionable watering places, were faced with an increasing number of problems, not always connected directly with crime. The outbreak of cholera in 1849 led to the adoption of the Public Health Act. This came into force in the parish of Tormoham on the 1st July 1850. It is important to note that the Local Board of Health replaced the Improvement Commissioners as the governing body in Torquay. For the purposes of this study, the composition of the Local Board of Health is important as it provides a snapshot of the people involved in the government of Torquay at the time. William Kitson, chair of the Local Improvement Commissioners, became chairman of the new body. In relation to policing it is interesting to note that one of the first decisions at its meeting on 28th September 1850 was to order that the: 'Superintendent of police and the police men employed by the late Commissioners of Improvement be continued in their office and employment until further arrangements be made.'<sup>185</sup> At this point, Charles Kilby was the superintendent of police, surveyor and collector of rates. It would appear that the officers were also to be employed on the same terms and conditions as previously. In other words, the policing and prevention of crime was to continue much as before. However, it is important to recognise that as Torquay developed, officers would require new and different areas of expertise. This had a particular effect on the duties of the

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<sup>185</sup> DRO R4582A add 2/TC1, 28 September 1850.

superintendent of police and meant changes to his areas of responsibility. Clearly, he would be spending more time on police duties.

It has already been established that the members of the Local Board of Health were virtually the same people as the Improvement Commissioners. They had to deal with increasingly more complex problems as time went on, many of which they were facing for the first time. As Torquay continued to grow at a phenomenal rate, issues relating to the supply of water dominated the minutes during the 1850s. A search through the records has revealed some of their deliberations. One such issue appears to be a need for more qualified people who could command higher salaries. This in turn affected the duties of the superintendent of police. The complex nature of some building projects required the appointment of people with more technical expertise. This led the Board of Health to make the decision that a new surveyor was required. In relation to police matters, it seems obvious that Charles Kilby could not undertake all of his responsibilities effectively. There is, for example, a resolution to the effect that: 'Mr Kilby be continued in the office of Superintendent of police and as surveyor... until a permanent surveyor be appointed.'<sup>186</sup> In 1851 a surveyor was duly appointed. It was resolved that 'Richard Dixon be appointed at a salary of £120 a year from the 6th March for one year, the whole of his time to be at the service of the Board... required to undertake any of the duties required.'<sup>187</sup>

Charles Kilby's responsibilities were obviously redrawn in the light of the surveyor's appointment. It appears that his appointments as Inspector of Nuisances and Collector of Rates were either changed or withdrawn. At a meeting of the 7th March 1851 we read: 'Charles Kilby appointed Superintendent of Police at a salary of £70, subject him

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<sup>186</sup> DRO R4582A add 2/TC1, 1 November 1850.

<sup>187</sup> DRO R4582A add 2/TC1, 21 February 1851.

being required to take any other office at the same salary.’<sup>188</sup> These particular situations have been analysed at this point, in order to draw attention to the complex nature of government in Torquay at this time, and to emphasise the difficulties the members of the Local Board faced as they sought to police and control the development of Torquay.

It is easy to be critical of the authorities struggling to police and control the town during a period of tremendous change. The landowners and builders together had created a range of suitable buildings and facilities. At one level, the Improvement Commissioners, and their successors as members of the Local Board of Health responded by appointing and laying down very definite conditions of service for their officers, especially the police. Moreover, as will be seen later, these bodies in seeking to maintain an appropriate social tone, appeared to make use of the Summary Courts to regulate and control what was appropriate behaviour in a fashionable watering place.

## V. Critics

The fact that the gentlemen of Torquay were able to direct and control the actions of the local police force, under the direction of its long serving superintendent, had a huge impact on the way in which the town was policed and governed. Charles Kilby was a respected and trusted official in the eyes of the authorities. However, it would be a mistake to believe that there was no public criticism of the police in Torquay. For instance, *The Torquay and Tor Directory* described in graphic detail an attempt to steal from the Torquay bank in October 1846. The burglary must have caused widespread concern as the following report indicates:

The thieves effected an entrance by breaking a pane of glass and forcing the shutters in the outer office, which they thoroughly ransacked, but as nothing of value is ever kept there, they took their departure without having committed any depredation or having occasioned any mischief.... They appear subsequently to

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<sup>188</sup> DRO R4582A add 2/TC1, 7 March 1851.

have broken open the shop of Mr Austen, baker, in Union Street, where they took 3s.; they also attempted some other houses in Tor but without success.<sup>189</sup>

The report acted as a catalyst to place the power of the press in the public arena. The crime itself raised a number of issues worthy of further consideration in relation to the public perception of the police. Firstly, we are given a glimpse of the role of the press in raising the issue of serious crime and policing. There were not only strong words and comment from the editor but also criticism relating to the inefficiency of the police force, particularly the night watch. Secondly, there was criticism of the authorities. The editor of the newspaper goes on to demand immediate attention from the parochial authorities:

Not that any blame appears to rest upon the men who were then on duty, or that the Commissioners are justly chargeable with the inadequate arrangements for the protection of the town,-the fault lies in the niggardly amount of funds which the parishioners place at their disposal, rendering it impossible for them to employ a sufficient number of police to discharge the duties required in so large and populous a parish, or rather town, as Torquay has now become.<sup>190</sup>

It is noteworthy to see such fierce criticism regarding the small amount spent on the police force in Torquay at this time. It would not be unreasonable to find there was support for keeping down costs. However, it seems clear that the attempt to burgle the Torquay Bank had concentrated the minds of people on the issue of policing in the town. The amount spent on police salaries and clothing in the previous year amounted to £179 0s.6d. less than a rate of two pence in the pound. There was no doubt some justification for the remarks, as the night watch at the time consisted of three men who were required not simply to patrol the town, but also the whole of the parish, including the developing village of Upton, located not far from the town centre.

The small amount spent on policing also received wide publicity in the press. In addition, the editor gives a strong message to the authorities that unless something is

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<sup>189</sup> *Torquay and Tor Directory*, 6 November 1846.

<sup>190</sup> *Torquay and Tor Directory*, 6 November 1846.

done to increase police manpower, Torquay might attract the more professional criminals who had the potential to commit further serious crime. He says that as a first step, the Commissioners at their next meeting should increase the night watch at once, relying upon the support of the ratepayers to vote for any additional amount of money necessary. After all, the navvies building the railway were also proving to be something of a challenge. The authorities would need to be prepared for further disturbances from the navvies employed on the railway, as they had already committed assaults in the town.

Complaints about the inefficiency of the police also came from other quarters, as the following case indicates. In 1851, Charles Dart, a shoemaker, complained that Charles Kilby did not take a theft from his shop seriously. It appears that he felt that his initial complaint was not dealt with in an appropriate manner. He must have then gone on to make a verbal complaint to the Board of Health against Kilby on two occasions. Not satisfied, he then wrote to the editor of a regional newspaper, *Trewman's Exeter Flying Post*, to gain a wider audience for his case. He clearly felt very aggrieved about his treatment by the authorities. The letter was a long one, and implied that the policemen on duty did not investigate the robbery thoroughly enough. The result was that the person accused of the crime went about making false assertions.

We read:

He went about stating that I had robbed my own shop, by which statements I have sustained serious injury in my business as well as my character...I consider that I have not been dealt with justly in this case, and attribute it entirely to the onesidedness of Mr Kilby, who in not making proper enquiries has neglected his duties.<sup>191</sup>

This case illustrates the fact that Charles Dart felt that the law had not been used to bring the offender before the courts, allowing him to spread false assertions. It also

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<sup>191</sup> *Trewman's Exeter Flying Post*, 10 July 1851.

demonstrates the use of informal versus formal policing methods, whereby the victim was prepared to use a local newspaper to publicise the offence. The subsequent complaint to the Local Board of Health found in favour of Mr Kilby. The Board considered that: ‘satisfactory measures had been adopted by the officer, and therefore dismissed the case, with a desire that any further complaint by Mr Dart should be in writing.’<sup>192</sup> One can argue that the Local Board of Health thought highly of a loyal officer like Charles Kilby, and did not approve of Charles Dart’s action in going to a regional newspaper before writing to the Local Board of Health. As will be seen in later chapters Kilby was not always seen in a positive light by ordinary residents. This is hardly surprising in view of actions of the authorities. In fact, Charles Dart could have been voicing a general feeling that not all people appearing before the magistrates were involved in what would be perceived as criminal behaviour. Hence his possible feeling that ‘real’ crime was not being thoroughly investigated.

It seems appropriate to mention at this point that when the County and Borough Police Act came into operation, the Local Board of Health in Torquay wanted to retain the right to appoint their own police. It has been well documented that meetings were held and petitions sent to the Home Secretary. Arguments revolved around the fact that although the population was not quite 15,000 at the time of the 1851 Census there was reason to believe that the limit had been exceeded. If this was indeed the case Torquay could claim the right to make its own arrangement in terms of policing the borough. After all they had in Charles Kilby, a trusted officer who could make sure the policies of the Board of Health were followed and adhered to

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<sup>192</sup> *Trewman’s Exeter Flying Post*, 12 June 1851.

## VI. Exmouth

In contrast with Torquay, little information about policing in Exmouth has survived. We know, for example, that the Parish Constable system operated in Exmouth alongside the appointment of a paid police officer from about 1842. This officer was paid for by the Parish of Littleham, under the provisions of the Lighting and Watching Act. All we can say is that Isaac Rake must have settled down well and undertaken his duties efficiently and endeared himself to the people of Exmouth. Evidence for such a statement can be found in a newspaper report concerning a presentation made after nine years of service. The inhabitants of Exmouth are, ‘pleased with the zeal and vigilance of their policeman Isaac Rake.’<sup>193</sup> Other reports indicated that he worked with a number of parish constables and an Inspector of Nuisances, named Henry Southcott.

It is necessary to be aware that when the County and Borough Police Act came into operation, Isaac Rake must have been viewed as an officer with something to offer to the new police force. In 1857 he was aged 50. Therefore, as an older person his wide experience must have been viewed favourably. The *Western Luminary* reported that in early 1857 he had been appointed Sergeant in the new police force which was shortly to come into operation.<sup>194</sup> However, as a popular local man the senior members of the new police force may have considered it important for him to serve in a different area of Devon, particularly if changes in policy were considered necessary. In this respect familiarity could be a problem if new and controversial policies were to be pursued. There is evidence from other sources, for example, that he did not serve in Exmouth as a member of the new police force. The 1861 Census lists him as living in Ashburton, where his occupation is given as a sergeant in the county force. However, on retirement

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<sup>193</sup> *Western Luminary*, 13 April 1852.

<sup>194</sup> *Western Luminary*, 27 January 1857.

from the county force he returned to Exmouth where he was appointed Inspector of Nuisances to the Local Board of Health.

Scanning of surviving records presents problems in attempting to analyse how Exmouth was governed at this time. In the absence of any minute books until 1855, the report of T.W. Rammell, the government inspector, into the health of the town following an outbreak of cholera, has proved to be a useful source of information.<sup>195</sup> For our purposes, it is the background to the report, where Rammell examined the Local Acts of Parliament for paving, lighting and watching that has provided us with some clues about how Exmouth was policed and governed in the late 1840s.

In contrast to Torquay, Exmouth was not a borough or corporate town; nor was there any local Act of Parliament in force which could affect the purposes of the Public Health Act, 1848. However, a portion of the town had availed itself under the General Act, 3 & 4 Wm IV., c. 90 for the purposes of lighting and watching. In effect, for all matters of municipal government, although Exmouth had a population of around 5000, it was governed like a village or rural district. Therefore, there was clearly a need for a governing body which had full powers to manage the affairs of the town. Thus, one can have sympathy with what appears to be the general feeling, voiced in the report, that the existing state of affairs regarding the filthy state of the town was due to the fact that Exmouth was not governed in an appropriate manner.

Consideration is now given to the development of Exmouth under legislation provided for lighting and watching. The town was partially lighted with gas by a joint stock

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<sup>195</sup> T.W.Rammell, *Report to the General Board of Health on a Preliminary Inquiry into the Sewerage, Drainage, and Supply of Water, and the Sanitary Condition of the Inhabitants of the Town of Exmouth* (London: HMSO, 1850), p.4.

company, not incorporated under a Local Act. Like other legislation, it was registered according to the provisions of the General Act, the 3rd and 4th of William IV.c.90. Mr W. H. George provided the evidence to the enquiry. He says:

The gas company was registered in 1842, and the total capital expended by it to the present time is £2300... the present charge to private consumers is 10s.per thousand cubic feet. The public lamps are charged for at the rate of £31 3s.per annum... The more fashionable parts of the town only are lighted, the interior of the town being left in darkness. The line of street lighted includes the Parade, the Strand, the Beacon Hill, Louisa Terrace, Trefusis Terrace, Bicton Place and Bicton Terrace; and rather more one third of the town only can be considered as properly lighted. All the shops are lighted with gas, and a few private houses.<sup>196</sup>

As one would expect, only the shops and fashionable parts of the town had any lighting. One can argue that people coming into the town via the turnpike road from Exeter, possibly to commit crime, could easily escape under cover of darkness, especially in the winter months.

As far as the prevention and control of crime is concerned it would appear that Exmouth was only partially covered under lighting and watching legislation. The parish of Withycombe Rawleigh was not even mentioned. Mr Trenchard, solicitor and Poor Law Guardian, makes this very clear. He says:

A rate is made for the maintenance of one policeman for the parish of Littleham: 880 assessments, including the whole of the town in Littleham parish, and producing about £70 a year, paid his support in the expenses.<sup>197</sup>

Therefore, from the evidence, it would appear that the part of Exmouth which is in the parish of Withycombe Rawleigh received a minimal amount of police oversight.

However, there is evidence that the parish of Littleham contributed towards policing in the parish. In the report of a meeting of Inspectors of Police for the two parishes it was resolved that:

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<sup>196</sup> Rammell, pp.20-21.

<sup>197</sup> Rammell, p.21.

‘The parish of Littleham, after defraying the expenses of their own police officer, shall contribute £15 a year to the expenses of Withycombe...upon condition that his services are always to be available to Littleham parish when required.’<sup>198</sup>

In addition, as was discovered earlier, it is probable that the parish was also provided with constables by the Hundred of East Budleigh. In addition to William Wheaton, an entry in *White's Devon* indicates that Henry Southcott, a tailor, residing in Fore Street in the parish of Littleham was also a constable. Further details will be produced when the court records are analysed in later chapters.

There is also evidence from the later minute books that Exmouth used the Public Health legislation to take action in the courts to apprehend people for blocking drains and other perceived public nuisances. Within the legislative framework it must have been very difficult for those in authority to exercise any real control in Exmouth this time.

Therefore, the powers provided under the Public Health Act of 1848 must have been a real incentive for those with influence to improve the government and control of the town.

In terms of the practical implications of the 1856 County and Borough Police Act as far as Exmouth is concerned, it is important to reiterate that unlike Torquay, there appears to be no obvious indication of opposition from the Board of Health, or indeed, any other parties concerned with the new arrangements for the policing of Exmouth. Although Isaac Rake was originally appointed under the local Lighting and Watching Act by the parish of Littleham, he must also have been assigned other duties by the Exmouth Local Board of Health. On the 1st October 1856, for example, certain people appeared to be in arrears with the Board of Health. It was resolved that, ‘Rake be employed to collect

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<sup>198</sup> *Western Times*, 23 April 1853.

the [unclear] involved.’<sup>199</sup> It could be that on this occasion Isaac Rake was being employed in addition to, or, as part of his police duties, but this was not always the case. To add to the confusion about Rake’s duties, there is an entry for the 3<sup>rd</sup> December 1856, under the sewage account, which shows a payment of three shillings to Mr Rake for collecting rates. Thus, one can see the difficulties in trying to ascertain the precise link between the police force and Exmouth Local Board of Health, immediately prior to the County and Borough Police Act coming into operation.

In terms of relationships between the new police authority and those involved in the government of Exmouth, the minutes of Exmouth Local Board of Health provide a snapshot of the day to day running of the new force. Shortly after the passing of the 1856 County and Borough Police Act, for instance, we are told that on the 1st April 1858 the surveyor reported that he had received from Froude the police officer the balance of 1s. 4d. for impounding cattle. He had also paid 8d. for a padlock. Further, on the 23rd August 1860 a letter was read from police constable Hughes calling the Board's attention to the state of the town. It appears to relate to a problem about lighting in the town. It was resolved that the clerk be advised to write to Hughes and inform him that the lamps would be lit at the proper time.

Unlike Torquay, it appears that even at this early stage in the process of changes in policing, Exmouth Local Board of Health continued to have a good relationship with the new police force. Problems with lighting the streets were no doubt on-going. A search through the minute books does not appear to show any signs of obvious dissension. In fact, Isaac Rake on his retirement from the county police force was subsequently appointed to the position of Inspector of Nuisances by the Exmouth Local

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<sup>199</sup> DRO R7/4/c2.

Board of Health, a position he held at the time of the 1867 food riots, which as has already been discovered affected a number of towns across Devon.<sup>200</sup>

## VII. Courts

### a) Summary Courts

At national level, the collective powers and roles of the magistrates at the Quarter Sessions in the nineteenth century have been well documented. For the purposes of this chapter, it is necessary to include a brief summary of the operation of the Summary Courts. David Philips, among others, has confirmed the fact that JPs had important local powers and influence. He writes:

Sitting without a jury, alone or in pairs or threes in their local Petty Sessions, they exercised summary jurisdiction, disposing of many minor criminal charges... Here they also handled many local administrative issues - poor relief, local parish and public works, licensing alehouses, issuing of bastardy orders...<sup>201</sup>

Thus, one can see that the Summary Courts in the nineteenth century were a fast and relatively inexpensive way in which the whole community could air its grievances and obtain justice.

In order to set the scene within a local context, in Exmouth, for example, justice was administered for the whole Petty Sessional Division from a location in the parish of Woodbury. Separate Petty Sessions were held in Exmouth. A popular local history has provided a flavour of the proceedings in Woodbury. As one would expect, these proceedings almost mirror the situation described by Philips at a national level. Cases tried before the Petty Sessions included apple stealing, rabbit stealing, people who were

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<sup>200</sup> Newton, *Victorian Exeter*, pp.82-7.

Swift, 'Food Riots in Mid Victorian Exeter', pp.101-126.

<sup>201</sup> David Philips, 'Weak' State? The English state, the magistracy and the reform of policing in the 1830s,' *English Historical Review*, 119, (2004), 873-891 (p.881).

drunk and disorderly, affiliation orders, the non-payment of turnpike tolls, using obscene language and squabbles between neighbours.<sup>202</sup>

According to *White's Devon*, the Petty Sessions for Exmouth were held at the Globe Hotel every fourth Saturday. Mr H. C. Adams was the clerk to the magistrates.<sup>203</sup> In addition, Petty Sessions for the Woodbury Petty Sessional Division were held at the Globe Inn, Woodbury, every fourth Monday. People were summoned from across the Division, including some Exmouth residents. How, and why, cases came to Woodbury as opposed to Exmouth is difficult to ascertain. It is possible the improving road network provided a central access point for the Division as a whole. As time progressed the Woodbury Sessions met fortnightly; moving eventually to a purpose built court house provided in Woodbury for the whole Division in 1861. From this time, it seems that Petty Sessions were no longer held in Exmouth on a regular basis.

As the Petty Sessions were being held at more than one location in the Woodbury Division, it is important to assess the relationships between the two groups of magistrates. It would appear that sometimes tensions and rivalry existed and mediation was called for. This can be seen in discussions about the actual location of Summary Court meetings. *Trewman's Exeter Flying Post* describes a proposal to make Exmouth a location for Divisional Petty Session meetings. This proposition was not adopted because it was felt necessary to confer with the Exmouth Bench. However, it soon became clear that the Exmouth Bench had declined to meet the deputation from the Divisional Bench. Sir John Kennaway, a respected local land owner, and county magistrate well known for his involvement at the Quarter Sessions, was clearly in

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<sup>202</sup> Ursula W. Brighouse, *Woodbury: A View from the Beacon*, (A Woodbury News publication, 1981), p.119.

<sup>203</sup> *White's Devon*, p.233.

favour of the proposal. It is possible he agreed to mediate in the dispute, saying: ‘the great advantage it was to the people of Exmouth, having resident magistrates to act in cases of urgency.’<sup>204</sup> Following this statement, it was then moved that the consideration of the question be adjourned until the 8th December 1851. Unfortunately, there is no record of any further meetings taking place.

In contrast, the magistrates in Torquay met more regularly. Unlike Exmouth, there does not appear to be any evidence of tension between local magistrates and those of the Paignton Petty Sessional Division of which Torquay was a part. Details of the times and place can be seen in an entry in *White's Devon*, which states that ‘petty sessions are held every Monday in the town hall of Torquay, by the magistrates of Paignton division, to whom Mr G. E. Hearder is clerk.’<sup>205</sup> It is interesting that some magistrates from the Division also sat in Paignton. Here the Petty Sessions were held ‘at the Crown and Anchor Inn on the first Monday of every month, and Mr G. Hearder of Torquay is clerk to the magistrates.’<sup>206</sup>

There is now a discussion of possible reasons why the Petty Sessions at Torquay met more regularly than those in Paignton. The fact that the population of Paignton was smaller cannot be the main reason. In Torquay, there is evidence that it was a definite policy to apprehend people for offences such as washing coaches on the public highway and beating carpets in the street. Nuisance offences such as depositing rubbish and building materials in the street were not tolerated either. Thus, there is evidence that the authorities in Torquay used local legislation in such a way that significant numbers of people were prosecuted for offences which in other areas would not necessarily be

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<sup>204</sup> *Trewman's Exeter Flying Post*, 1 May 1851.

<sup>205</sup> *White's Devon*, p. 447.

<sup>206</sup> *White's Devon*, p. 440.

considered criminal. The fact that Torquay appears less tolerant is an indication of the willingness of the authorities to prosecute anti-social behaviour. This will be explored in more detail in Chapter 6. The fact that the magistrates at the Petty Sessions were using the courts to regulate the social tone of Torquay is a further indicator of their determination to pursue this policy vigorously. Further, even after 1850 there was a similar policy when Torquay adopted the Local Public Health Act. The following table illustrates the fact that the majority of convictions obtained at Summary Court level, based on surviving Summary Court certificates between 1841 and 1850, were obtained under a Local Act.

	<b>Convictions</b>	<b>%</b>
<b>Local Act</b>	142	51.1
<b>Other Convictions</b>	136	48.9
<b><u>Total</u></b>	278	100

**Table 8, Torquay Petty Sessions: Number of Convictions, 1841-1850**

Moreover, in administrative terms it must have been difficult for Mr Hearder to act as clerk at two different Petty Session locations, bearing in mind that Paignton and Torquay met on the same day on at least one occasion in the month. There is no indication that someone acted in his place.

#### b) Quarter Sessions

The courts of the Quarter Sessions heard the more serious offences prosecuted on indictment. As the name suggests, the Quarter Sessions usually met four times per year at Epiphany, Easter, Midsummer and Michaelmas. Extra intermediate sessions in February and November were not uncommon. The Sessions were established in all counties and corporate towns. In the case of Devon, separate Quarter Sessions were held

for the City of Exeter and the County of Devon. In theory, although rarely in practice, all serving magistrates in the respective counties or towns could hear the cases presided over. The Sessions were presided over by a chairman. As the nineteenth century wore on, as in the Petty Sessions, there was a greater degree of formality in the proceedings. The verdicts were determined by juries, but the sentences were decided by magistrates. Quarter Sessions for the County of Devon met at the Castle in Exeter, four times a year, increasing to eight later in the period; it was not uncommon for general or intermediate sessions to be held in February, July and November.

Newspaper reports of the Quarter Sessions were reported in considerable detail. For our purposes there is useful information about crime in the county and also some detail about the policies of the authorities. In period 1846 to 1850, it is noticeable that significantly more cases came on indictment to the Quarter Sessions across Devon as a whole. It was not uncommon for the Chairman to provide details about perceived problems in the county as well as statements about the level of crime. At the Midsummer Sessions, 1847, the Chairman, in his charge to the Grand Jury, noted that the number of prisoners in the Calendar was greater than ever before. W. Mackworth Praed remarked:

I fear in the present instance the number has been increased by the pressure upon the labouring classes arising from the dearness of provisions, but I don't think that circumstance sufficient to account for the very large number of offences we find set down here... in this latest there are a number of persons who are charged with riot and disturbance of the public peace.<sup>207</sup>

The reference to those charged with riot refers to people from Torquay, apprehended in connection with the recent food riots. An assessment of the food riots in Torquay in relation to attitudes towards the poor has been analysed elsewhere.<sup>208</sup> However, it is important to stress that the food riots which took place across Devon did in fact inflate

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<sup>207</sup> *Torquay and Tor Directory*, 2 July 1847.

<sup>208</sup> Bryon, 'The "Dark Side" of Torquay', pp.37-52.

the crime figures. Further, the pressure on the poor at a time of need must also have been a factor. Finally, it must be recognised that this statement from the Chairman of the Quarter Sessions does not take into account the fact that thefts of food would also be dealt with by the Summary Courts.

Changes in the legal framework and how the changing policies were enacted at a local level also received comment from individuals chairing the Quarter Sessions. It would appear that the policy which allowed summary trial of juvenile offenders under the age of 14 had not been put into practice across the county. At the Midsummer Sessions, 1848, the Chairman of the Committee of Accounts remarked:

Torquay and Paignton was the only division in which the act for the summary punishment of juvenile offenders had yet been carried out, an example which he hoped would be generally followed. The operation of the Act in this town has been very satisfactory<sup>209</sup>

From the experience in Torquay, it would appear that the authorities saw three distinct advantages for the County of Devon as a whole in carrying out summary punishment for juvenile offenders. Firstly, punishment was made more certain by removing the potential trouble and expense which possibly deterred people from prosecuting. Secondly, it saved prisoners from what could be a long imprisonment before trial, or the significant expense involved if bail was granted. Thirdly, as far as the authorities were concerned it had proved a great saving to the county in terms of time and money.

It has been seen in a previous chapter how, from a legal perspective, the Criminal Justice Act allowed more accused people to opt for a trial in the Summary Courts. Glimpses of how the Criminal Justice Act affected the Quarter Sessions, and indeed crime across Devon can be seen in some newspaper reports. As early as March 1856,

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<sup>209</sup> *Torquay and Tor Directory*, 5 July 1848.

the legislation was commented on by the Chairman of the Devon Intermediate Sessions when he remarked that: ‘There were 50 prisoners for trial, but the number would apparently have been as great as on ordinary occasions were it not for the salutary operations of the Criminal Justice Act.’<sup>210</sup>

### c) Assizes

The most serious indictable offences were tried before judges and juries at the Assizes. Emsley has provided some useful information about the background of the judges who sat at the Assizes. He says: ‘the judges were drawn from London’s most experienced legal elite; they were commonly elected from barristers with, on average, two decades of experience at the bar.’<sup>211</sup> In the nineteenth century, there were two Assizes each year in the major county towns. These were held at Lent and in the summer. Devon was part of the Western Circuit. However, separate Assizes were held in Exeter for the County of Devon and the City of Exeter. The official records for the Western Circuit cover: Dorset, Somerset, Wiltshire, Southampton, the City of Exeter and the County of Devon.

During the 1850s it was not unusual to find an extra session being held in December. *Trewman’s Exeter Flying Post* reported the arrival of the Assize judge and the ceremony that went with the occasion in great detail. Any notable cases were also given prominence. This is useful because, as we stated earlier, no depositions have survived for the Western Circuit until the late nineteenth century. In view of the fact that primary sources relating to the Assizes are limited, newspaper reports have proved to be a useful source of information about the local cases which came before the Assizes.

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<sup>210</sup> *Torquay and Tor Directory*, 5 March 1856.

<sup>211</sup> Emsley, *Crime and Society in England*, p.14.

In concluding the analysis of the Western Circuit, it is appropriate, in relation to this chapter, to include some comments about crime from the justices' perspective. For instance, in 1845, Mr Justice Coleridge made some positive comments about the fact that crime did not appear to be increasing across Devon. He said that although the population was increasing, as well as the temptation to resort to crime, there was no evidence that crime was increasing in Devon. This could be due to the vigilance of the police and prudence of the regulation the force was under.<sup>212</sup> The authorities must have gained some satisfaction from his comments, as it is possible to interpret the remarks as a positive assessment of not only their police officers, but also their efficiency in combating crime.

It is also appropriate to include some comments about the practical working of the court system in the county by the presiding justices at the Assizes. In terms of efficiency, it is interesting to note that at the Devon Lent Assizes in 1855 there is satisfaction about the fact that Devonshire held Intermediate Sessions. There were three advantages to this system. Firstly, it saved money. Secondly, it disposed of a number of minor cases, which otherwise might have come before the Assizes. Thirdly, it prevented innocent people who had been charged with offences remaining in custody. Mr Justice Crowder could obviously see definite advantages in this system, particularly for a rural county like Devon. In fact he went so far as to wish that: 'the practice of Intermediate Sessions was more widespread.'<sup>213</sup> These comments were no doubt based on his experience across the Western Circuit which included other rural counties such as Dorset and Somerset. Quarter Session officials and magistrates must have been pleased to receive such positive comments.

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<sup>212</sup> *Trewman's Exeter Flying Post*, 20 March 1845.

<sup>213</sup> *Trewman's Exeter Flying Post*, 22 March 1855.

This chapter on the “engines of authority” has emphasised the dominance of important families in the governance of the two resorts. This was reflected in the policies of the Improvement Commissioners and Local Boards of Health. These bodies often controlled appointments of officers and laid down conditions of service. In, Torquay the appointment of police was controlled by these bodies. Such policies also had implications for notions of civic pride, when a new Town Hall was commissioned in the town..

In addition, it has been possible to analyse the way in which the criminal justice system operated at a local level. This was seen from the perspective of key players. The findings indicated that a number of magistrates who lived locally conducted most of the business at Summary Court level. These same magistrates did on occasion attend the Quarter Sessions where they fraternised with the wider social elite to discuss matters of mutual concern. Commendations were sometimes offered by the Chair of the county Quarter Sessions, if for example, legislation adopted was working well. This happened when the Paignton Division put in place a policy to prosecute juvenile offenders at Summary Court level.

This examination of the context in which justice was administered in Exmouth and Torquay will allow a consideration of the different categories of crime in more depth, beginning with property crime.



## **Chapter 4 Property Offences**

Property crime had a significant impact on Exmouth and Torquay between 1835 and 1860. It has been well documented that property offences accounted for the majority of criminal offences, with around 80% of all recorded crime at national level being for larceny.<sup>214</sup> In addition, one must also recognise that most cases of larceny were tried at the Quarter Sessions and Assizes until 1855. From this date there is evidence that the effects of the Criminal Justice Act were felt at Summary Court level, particularly in Torquay.

However, as has been established in the earlier chapters, at seaside resorts there was always a tension between controlling crime and creating conditions conducive for residents and visitors; protecting property for all inhabitants was an important prerequisite. The aim of this chapter is to test how far these twin aims were achieved in relation to property crime. As was discovered in Chapter 1, rapidly growing populations together with opportunities for employment also presented challenges which had an impact on property crime. Property crime at Summary Court Level is dealt with first. This will allow detailed study of offences which usually only came before local magistrates. The main focus of the chapter will be placed on larceny, which regularly featured the involvement of servants and others in workplace theft. In this respect it will be argued that servants had an appreciable role in many criminal activities and that workplace theft had a dramatic effect in a number of areas.

In order to provide the basis for any discussion, it is necessary to have a definition of what is understood by property crime. Peter King defined it as: ‘lawbreaking acts

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<sup>214</sup> Philips, *Crime and Authority in Victorian England*, p.177.

involving the appropriation of goods, money or services.<sup>215</sup> In the context of this chapter this definition has been widened to include prosecutions for malicious damage, together with the appropriation of goods and services. The appropriation of goods can include direct theft, or indirect appropriation such as fraud, forgery, or extortion. Services in this context will focus on prosecutions for defective weights and measures. Traders in both Exmouth and Torquay were regularly prosecuted for this offence. With reference to the local situation, it is also important to recognise that the south coast of Devon was an important centre for smuggling in the eighteenth century and beyond, therefore customs offences will also come within the orbit of property theft.

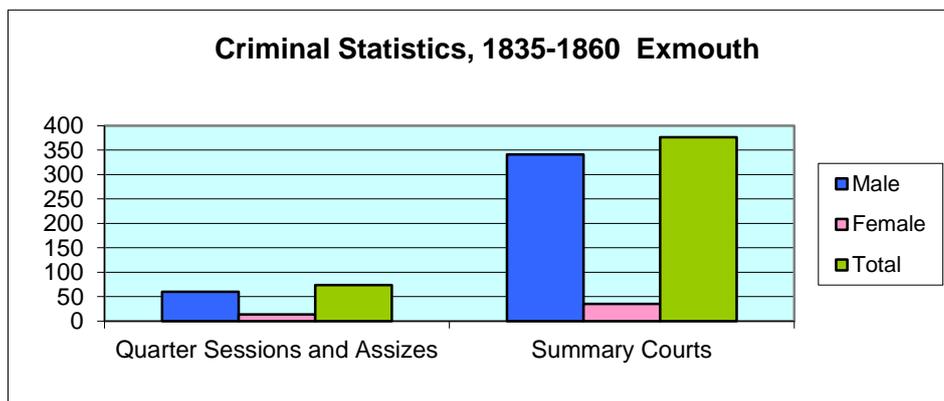
#### I. Statistics

Criminal statistics are available at national level, but not locally, so no direct comparison can be made. Therefore, we begin with a quantitative analysis of the limited number of recorded offences committed at Exmouth and Torquay within the defined period. This was necessary as no indictment rolls have survived for the county of Devon. Tables 9 and 10 have been gathered from crime figures in the two resorts accounting for approximately 450 in Exmouth and 1000 for Torquay. The quantitative data in the following tables has been collated from a variety of sources. These include the Quarter Session records at Devon Record Office. This consisted of Summary Court certificates and Quarter Session gaol calendars. The Assize records for the Western Circuit at the National Archives have also been used. These comprise indictment records that have been supplemented by information in local newspapers. In recording the data, each different charge has been entered as a separate offence.

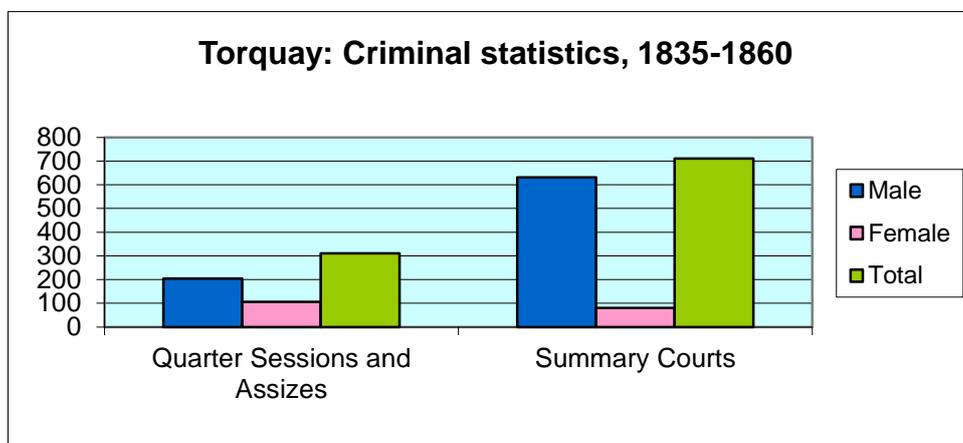
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<sup>215</sup> King, *Crime, Justice and Discretion in England*, p.6.

The “dark figure” of unrecorded crime is difficult to estimate in any meaningful way. Bearing in mind that the recorded crime figures for Exmouth and Torquay can only be approximate, it seems reasonable to estimate that the recorded figures account for somewhere between 5 and 10% of the actual crimes committed. These figures are based loosely on those estimated by King for the “dark figure”.<sup>216</sup>



**Table 9 Exmouth: Criminal statistics, 1835-1860: Male and Female Convictions**



**Table 10 Torquay: Criminal statistics, 1835-1860: Male and Female Convictions**

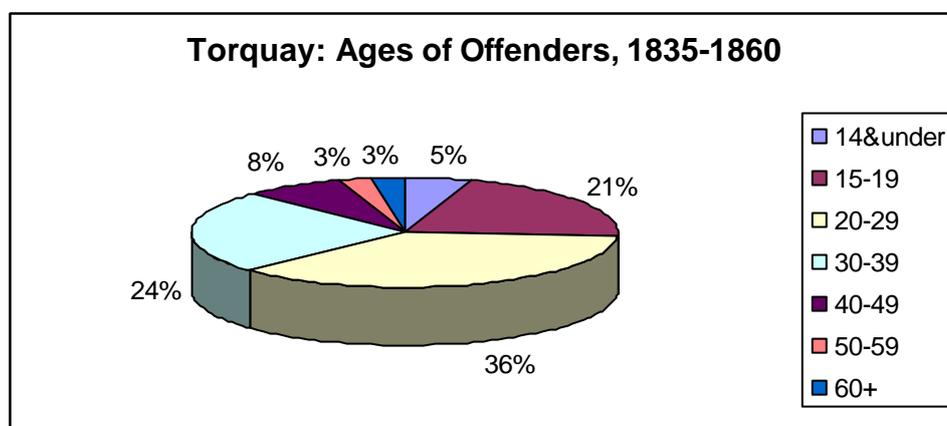
The information in the above tables has been provided in order to present a context for quantitative material about crime at a local level. This data can then be related to property crime as the chapter develops. As has been seen earlier, any figures about

<sup>216</sup> King, *Crime, Justice and Discretion in England*, p.11.

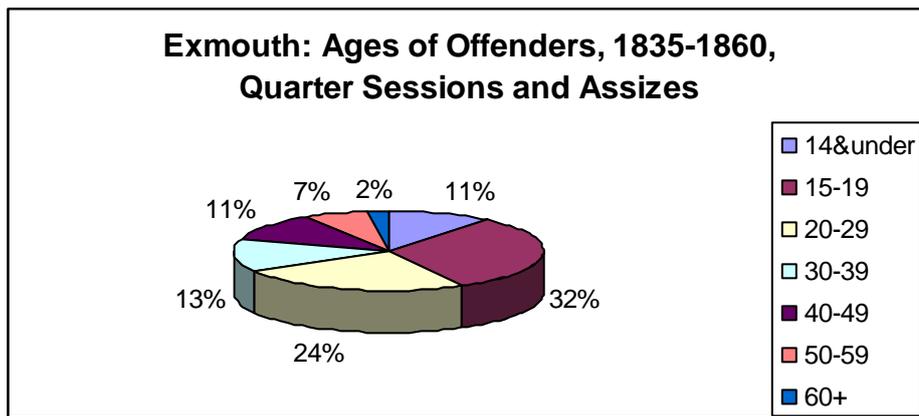
property crime can only be a very rough estimate of the crimes which were actually committed.

Data about age has also been introduced at this point to give some basic outline of the age structure in relation to offenders. This adds extra detail to the criminal statistics provided above. A consideration of the relative ages of offenders should allow us to see if any particular patterns emerge. However, one must recognise certain limitations inherent in the data. First, the age of offenders was not usually given at Summary Court Level, except in the case of juvenile offenders, and then only after 1847. Second, it was not normal practice to give the ages of offenders in newspaper reports, except when reporting cases from the Assizes. However, newspapers did on occasion record an impression of the accused's age, although this was generally recorded in gaol calendars, but was not provided if the defendant was either on bail or not in custody.

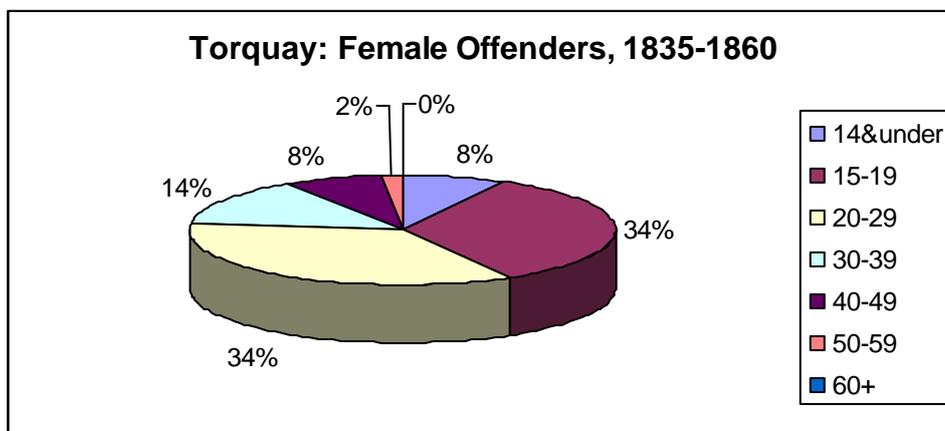
If the data in tables 11, 12 and 13, is examined, in the case of Torquay the highest proportion of offenders came from people within the 20-29 age group, followed by the 15-19 group. In contrast, at Exmouth the highest proportion of offenders was in the 15 - 19 age group followed by the 30 -39 age group.



**Table 11 Torquay: Ages of Offenders, 1835-1860, Quarter Sessions and Assizes**



**Table 12, Exmouth: Ages of Offenders, 1835-1860, Quarter Sessions and Assizes**

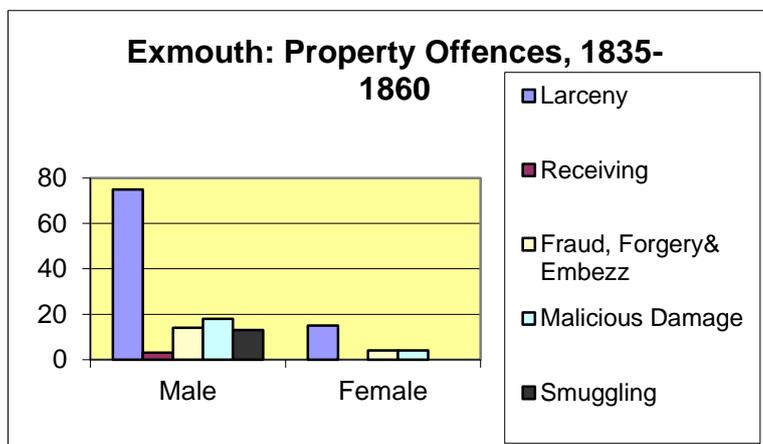


**Table 13, Torquay: Female Offenders, 1835 to 1860, Quarter Sessions and Assizes**

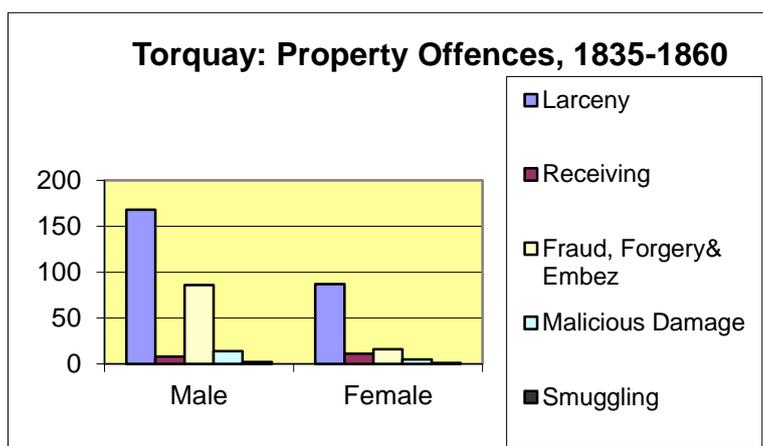
In relation to Torquay it seemed appropriate at this stage to provide some data about female offenders in relation to the age structure. Table 13 is illuminating as it shows clearly the high proportion of female offenders, especially in the 15 to 19 and 20 to 29 age groups. If we revisit Chapter 1 and examine again Table 7, relating to the age/gender structure at seaside resorts, based on the 1851 Census, it is clear that in the case of Torquay, the percentage of female offenders in the 15-39 age groups is greater than the female population of the town as a whole.<sup>217</sup> Reasons for this will be explored during the course of the chapter. It is also important to be aware that the above table does not take into account the “dark figure” of crime.

<sup>217</sup> Walton, *The English Seaside Resort*, p.83.

The quantitative material produced so far will allow the analysis of material relating to the amount of recorded property crime within the two towns. Tables 14 and 15 provide basic data about specific property offences, and how these relate to the criminal statistics for the towns as a whole.



**Table 14, Exmouth: Property Offences, 1835-1860**



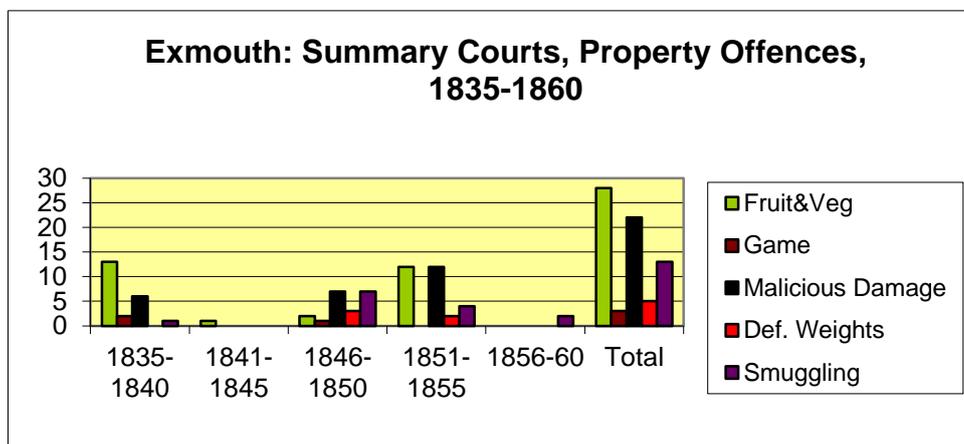
**Table 15, Torquay: Property Offences, 1835-1860**

From the data in the above tables it is calculated that in Exmouth property offences amounted to approximately 32% of all recorded crime; within this figure 27.3% were male and 4.2% were female. In Torquay, the figure was approximately 46% of which 34.2% were male and 11.6% female. Further, if the convictions from the Summary Courts for petty larceny are analysed, in Exmouth larceny accounted for around 9%. This figure would no doubt be higher if statistics were available from the Summary Courts between 1843 and 1848. In contrast, the figures for Torquay were lower at 4%.

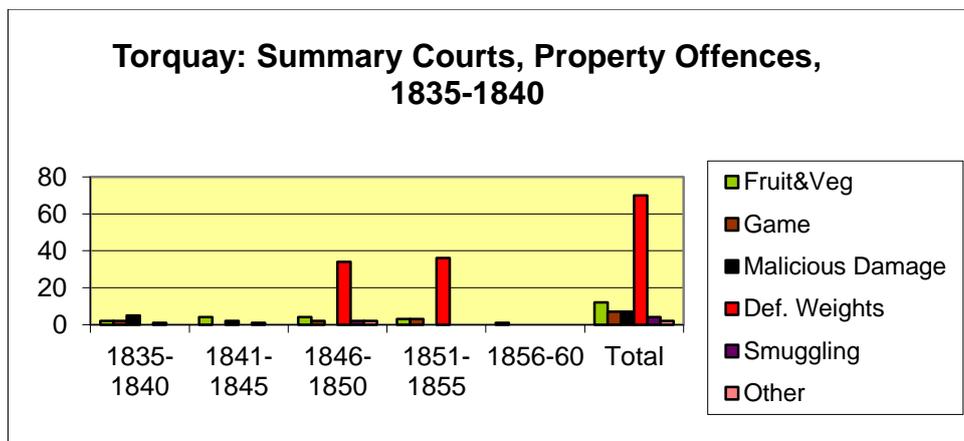
As was discussed in the introduction to this chapter, the discrepancy can be explained by the fact that up to 1855, most larceny cases were tried in the higher courts.

## II. Property offences at Summary Court Level

As one would expect, in view of the legislation in place relating to the 1827 Larceny Act, a limited number of property offences such as stealing trees and shrubs were only dealt with at the Summary Court in both resorts.



**Table 16, Exmouth: Summary Courts, Property Offences, 1835-1860**



**Table 17, Torquay: Summary Courts, Property Offences, 1835-1860**

Tables 16 and 17 indicate that besides larceny offences, magistrates at a local level were dealing with game offences, malicious damage, defective weights and measures and smuggling. Figures for female offenders have not been entered as a separate category in the above two tables, because the numbers were so small. Any significant convictions featuring women will be highlighted later in the chapter. Game offences were not a particular problem in the parishes studied. Only two offences were prosecuted in Exmouth in the period under consideration. In Torquay there were a similar number of prosecutions. However, in Torquay it was the two major landowners, the Palks and the Carys, who initiated the prosecutions, both in 1847. The year may be significant in that food riots occurred across the county of Devon as a result of the high cost of bread.

a) Malicious Damage

Cases of malicious damage will be analysed and discussed. An examination of a sample of the total cases prosecuted has revealed that a number of people appeared before local magistrates for breaking panes of glass in dwellings or licensed premises. It is possible the offenders had some kind of grudge against the victim. However, the possibilities are endless; some of the offenders may even have been drunk. In terms of precise evidence in Exmouth, for example, local solicitor John Trenchard appeared as a victim on at least three occasions, adding weight to the speculation that someone may have had a grudge against him.

Likewise, at Torquay, there is an example of a local solicitor as a victim. In this instance, the perpetrator of the crime was a young girl. The case in question raises a number of issues. The basic facts of the case are that Elizabeth Cole was convicted of damaging a pane of glass belonging to a local solicitor Mr Dendy. She appeared before local magistrate James Hack and was fined five shillings and damages of two

shillings.<sup>218</sup> However, if the newspaper report is analysed a little more closely, it emerges that Elizabeth Cole was a young girl who had been summoned on the complaint of Mr Henderson. It is important to be aware that the fine handed out to a young person was a lot of money. The newspaper report does explain that Mr Dendy was actually a solicitor in London; Rock House was a property owned and possibly visited by him during the winter season. Therefore, it is not unreasonable to assume that the plaintiff Mr Henderson was paid to look after the property during the owner's absence. We are told: 'it was not the object of Mr Dendy to press for a severe penalty, but damage to the amount of £4 10 shillings having been done to the house in question (Rock House) during the past twelve months'. This could also mean that the authorities saw children as nuisances, thereby treating them more harshly in a leisure resort? The only additional comment one can make is that it would be unusual for a young girl to be made an example of, unless of course she was known to the authorities in some way. Further, the legislation relating to juvenile offenders was in place at this time and that Torquay had availed itself of the legislation by bringing juveniles before the Summary Courts. However, there is no indication in either the Summary Court certificate, or the newspaper report of the case, that Elizabeth Cole was prosecuted as a juvenile. In terms of criminal activity, malicious damage to property did not occur often and was therefore not a serious threat to the tourist trade. It generally involved breaking windows, often at public houses, possibly as a form of revenge, or simply because the offender was drunk.

#### b) Smuggling

As the south Devon coast had a reputation as a centre of the smuggling trade in the eighteenth century, it is important to next consider smuggling offences. In the nineteenth century, records have survived concerning individuals who were convicted

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<sup>218</sup> *Trewman's Exeter Flying Post*, 5 June 1851.

for customs offences. Prosecutions were usually brought before the courts at the instigation of local customs officers, generally for concealing quantities of tobacco or spirits. A £1 fine plus costs appears to be the norm for concealing tobacco. Elizabeth Bradbeer, of Exeter, appeared at Torquay before March Phillips; she was convicted of concealing a quantity of spirits and was fined £1 with two shillings costs.<sup>219</sup>

In contrast, unlike Torquay, smuggling at Exmouth appears to have been more of a problem. A local standard secondary source refers to the Preventive Officers discovering landings. We read as follows: ‘on September 16, 1843, ninety-five four-gallon kegs of foreign spirits were discovered sunk off the Bar, near the Fairway Buoy.’<sup>220</sup> In the 1850s, even by the standards of acceptability for the south Devon coast, a high profile case actually reached the Summary Courts in July 1857. This was brought at the instigation of Richard Jago, a Coast Guardsman from Exmouth who was on duty at Straight Point, a location between Budleigh and Exmouth, in early July 1857. The case was first reported on the 2<sup>nd</sup> July 1857, when William Mutter and Charles Blackmore were committed to Devon County Gaol, for safe custody, on a charge of illegally concealing 45 tubs of brandy, under the cliffs between Exmouth and Budleigh Salterton.<sup>221</sup> More detail was provided when the case came before the local magistrates. The crime was deemed to be so serious that a Coast Guardsman from nearby Budleigh Salterton had to assist in order for the two men to be apprehended, possibly because they were deemed to be dangerous. Charles Blackmore and William Mutters, who had attempted to hide from the officers, were found to have 41 tubs, 4 flagons and other articles. The bench found the prisoners guilty and fined them £700 or six months

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<sup>219</sup> DRO *QS Bundles* 1849, Box 3.

<sup>220</sup> Delderfield, *Exmouth Milestones*, p.44.

<sup>221</sup> *Trewman's Exeter Flying Post*, 2 July 1857.

imprisonment. In this instance they were both committed to Gaol.<sup>222</sup> This brief report in *Trewman's Exeter Flying Post* appears to be the only surviving detail from the case.

It might be added that the name of Mutters was legendary in smuggling folklore in the resort. Any direct links to the above case are purely tentative speculation. However, the secondary sources do refer to officers discovering landings on the Exmouth coast. A man named Mutters was the proprietor of Mutters' Cider Shop in Exmouth. These premises were reputed to be the headquarters of the smuggling fraternity locally. It is claimed that Mutters himself was the smuggling chief of the district, on a par with the legendary Jack Rattenbury, who had earlier held a similar position around Beer and Seaton. It is claimed that Mutters 'worked chiefly from the Exmouth coves'.<sup>223</sup>

Therefore, based on this information, it would not be unreasonable to suggest that goods were regularly transported from Orcombe Point to his shop on the Salterton Road.

The following newspaper report has provided a limited amount of further evidence to suggest that smuggling along the coast was a continuing problem, difficult to contain, even in the 1860s. *Trewman's Exeter Flying Post* reported that 53 tubs of smuggled spirit were taken off Straight Point. In addition, there were also reports of contraband in the neighbourhood.<sup>224</sup> Clearly, despite their best efforts all the authorities could do was engage in damage limitation. In terms of crime it was an offence that seems to have had the tacit approval of most sections of the community in Exmouth.

#### c) Weights and Measures

As weights and measures accounted for a considerable number of convictions, these offences will be considered next. At national level it was not unusual to find police

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<sup>222</sup> *Trewman's Exeter Flying Post*, 9 July 1857.

<sup>223</sup> Delderfield, *Exmouth Milestones*, p.44.

<sup>224</sup> *Trewman's Exeter Flying Post*, 9 July 1860.

officers taking on this role alongside their police duties.<sup>225</sup> However, there appears to be little commentary available about prosecutions in the nineteenth century. At Summary Court level, weights and measures prosecutions were very unpopular. In Exmouth they did not feature very often. However, a newspaper report from 1849 is intriguing for the reporting of the convictions of certain innkeepers for supplying deficient measures. The prosecutions were brought by the Inspector of Weights and Measures, Henry Southcott. Robert Snell and Emanuel Vine were fined 10s. and 6s. for expenses; Henry Newbury was fined 5s. and 6s. for expenses. However, there is no evidence that any individuals had made formal complaints about receiving short measures in their drinks; hence it is difficult to provide specific reasons for action in the courts. However, the newspaper report is useful for detailing the attitudes of the various players involved in the case. The innkeepers were unhappy that Henry Southcott had brought the case in the first place. They all considered themselves to have been unfairly treated, not having been given prior notice of the Inspector's visit. However, they received a less than sympathetic response from the Bench when according to the report: 'Mr Southcott could go to their houses whenever he thought proper, and ... it was not at all likely that he would inform them when he was about to pay them a visit.'<sup>226</sup>

Likewise, in Torquay, prosecutions for defective weights and measures were equally unpopular. In fact where data has been recorded it appears as the largest single category of offence at Summary Court level. This can be seen clearly in table 18. In this context it was usually local traders who were prosecuted for giving customers incorrect weights in their goods. Six women traders in total were convicted between 1846 and 1860, indicating that women operated as traders in their own right, sometimes giving customers incorrect weights.

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<sup>225</sup> Taylor, *The New Police in Nineteenth Century England*, p.8.

<sup>226</sup> *Trewman's Exeter Flying Post*, 12 July 1849.

Charles Kilby, in addition to his police duties, was also the Inspector of Weights and Measures. In all the cases recorded he was the person who instigated the prosecutions. In this respect, we can gauge something of the unpopularity of weights and measures cases from the comments of the editor of the *Torquay Directory*. In fact, the editor remarked after a set of successful prosecutions that the deficient weights in most cases were very trifling, pointing out that a drachma was only the 156<sup>th</sup> part of a pound. He went on: ‘the number of convictions rather shows the praiseworthy vigilance of the Inspector, than the dishonesty of our tradesmen’.<sup>227</sup> It is noteworthy that the newspaper was not critical of the traders; rather the careful use of language implies tacit support for their cause. In contrast, there is evidence of veiled criticism concerning the over vigilance of Charles Kilby, in his role as Inspector of Nuisances. Edward Vivian, a local magistrate, was the editor of the *Torquay Directory*; therefore, it is possible that the hidden criticism of an officer employed by the town’s governing body bears his mark. However, on this point one can only speculate.

From the evidence, weights and measures prosecutions were not popular and exercised strong feelings in the local community. However, prosecutions for the offence received a certain level of support from governing bodies. It may be that on occasion Inspectors of Weights and Measures became over vigilant, thus antagonising sections of the community many of whom they relied on for cooperation in maintaining order. This therefore explained why traders were not always vigorously prosecuted.

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<sup>227</sup> *Torquay and Tor Directory*, 20 November 1850.

### III. Changes in Legislation

Following the discussion of property offences which were exclusively dealt with at Summary Court level, consideration is given as to how far changes in the legislation concerning larceny affected prosecutions at a local level. As these changes have been analysed and discussed in the previous chapter, it is sufficient to note that in the period under discussion larceny was a single offence punishable by imprisonment or transportation.

#### a) 1827 Larceny Act (7 and 8 Geo. IV, c.29)

Under the provisions of the 1827 Larceny Act (7 and 8 Geo. IV, c.29) a very limited number of offences were transferred to summary jurisdiction. These included stealing goods from a wrecked vessel, stealing deer, hares, wild animals, trees and shrubs. The impact of this particular piece of legislation in relation to the stealing of fruit and vegetables was particularly noticeable at Exmouth, rather less so in Torquay. This can be seen clearly in tables 12 and 13. It should also be noted that with these small number of exceptions, all other larcenies were triable only at the Quarter Sessions and Assizes. This was the case until the passing of the Juvenile Offenders Act in 1847 and again in 1850.

#### b) Juvenile Offenders Act, 1847 (10&11 Vict c.82) and 1850 (13&14 Vict c.37)

Certain key provisions in this piece of legislation had an impact on how larceny offences were prosecuted. These provisions will be discussed and analysed during the course of this chapter, in particular, how these changes affected the situation at a local level. We know, for example, that this legislation allowed magistrates to try children up to the age of 14 accused of simple larceny, subject to their consent; three years later in

1850 minor larcenies committed by young people up to the age of 16 were also brought within the remit of the Summary Courts.

It is now possible to see if the legislation had any significant effect on cases of larceny tried before the Summary Courts. Ages were rarely given; the only indication usually provided was that the offender was under 14. The county of Devon as a whole appears to have been slow to adopt this particular piece of legislation. A local newspaper report, for example, has revealed that the Paignton Division was the first in the county to avail itself of the legislation. At the Midsummer Sessions, 1848, the Chairman of the Committee of Accounts remarked:

Torquay and Paignton was the only division in which the act for the summary punishment of juvenile offenders had yet been carried out, an example which he hoped would be generally followed. The operation of the Act in this town has been very satisfactory.<sup>228</sup>

However, despite the above remarks, the number of surviving cases in the records for the parish of Tormoham, which covered Torquay, is small, only four in total between 1848 and 1851. In what appears to be the first recorded case in the town, William Warren was convicted in August 1848, before local magistrates Edward Vivian and James Hack, of stealing a turkey and two fowls in Torquay.<sup>229</sup> From the available evidence it appears that it was the policy of the magistrates in Torquay to order a private whipping as a means of deterrent for all juvenile offenders.

In contrast, it was some time before the courts in Exmouth and Woodbury appear to have made use of the legislation. The records reveal that the first conviction of a juvenile offender in Exmouth was July 1855. In December 1856, Henry Hillman of Littleham, a labourer, aged 12, was convicted for stealing a quantity of milk valued at

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<sup>228</sup> *Torquay and Tor Directory*, 5 July 1848.

<sup>229</sup> *DRO QS Bundles* 1848, Box 5.

3d. On this occasion the young lad was imprisoned in the House of Correction for 15 days with hard labour. The deposition revealed that this was a first offence; the defendant being caught milking a cow belonging to William Sellers, on Sunday, 23<sup>rd</sup> November 1856. A passing labourer, Edward Turner, declared that he had called out to him, but the warning was ignored. In his defence Henry Hillman expressed contrition stating that he had never done it before. This case is worthy of comment as the magistrates were also providing an opportunity for him to reform his character. We read:

Pursuant to the Acts for the better care and reformation of Youthful offenders...Henry Hillman to be sent at the expiration of his Sentence to some Reformatory School duly certified... for a period of two years.<sup>230</sup>

In relation to the above offence, one can also see some evidence that the two Exmouth magistrates, William Cole Cole and the Rev J.T.Boles, were in tune with the culture of the period. This determined a definite punishment for wrong doing, yet some encouragement and opportunity for correction and moral improvement in that he was sent to a reformatory school. In relation to sentencing, unlike Torquay, private whipping does not appear to have been used as a form of punishment. In fact at Exmouth up to 1860, juvenile offenders were either fined or sent to the House of Correction.

There is no indication which reformatory school Henry Hillman was sent to, but it is recorded that the Devon and Exeter Reformatory School for boys was actually set up at Bampford Speke in 1855 to take 30 boys. It was supported by public subscription and a Government Allowance of 5 shillings per week for each boy. We read that it:

Was one of the first attempts in the UK to remove young boys from contact with adult criminals in the hope that they could be saved from a life of crime by the practice of honest, hard work.<sup>231</sup>

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<sup>230</sup> DRO *QS Bundles*, 1857.

<sup>231</sup> M.E.Brine *The Devon and Exeter Reformatory School for Boys*  
<http://www.devonheritage.org...>[06/12/11]

More serious offences will be analysed in detail alongside all other larceny offences in a separate section later in the chapter.

c) Criminal Justice Act, 1855 (18&19 Vict. C.126)

In the previous chapter, it was established that the Criminal Justice Act of 1855 had some important implications for trial at Summary Court level. It is necessary to remind ourselves that in the case of property offenders the legislation is crucial in that it had the potential to cover all offenders accused of petty theft. The above Act gave two magistrates sitting in an open court the power to try all cases involving simple larceny or embezzlement of goods up to the value of five shillings, if the accused agreed to a summary trial. For the purposes of this chapter, it is significant to note that those convicted could be punished with imprisonment up to a maximum of three months. In addition, the magistrates were also empowered to hear cases where the value of the expropriated goods was more than five shillings, but only when the accused was prepared to enter a guilty plea. There is evidence that a small number of people elected for jury trial at the Quarter Sessions. This was the case when the offender did not want to be tried at Summary Court level, or secondly, did not want to enter a guilty plea where the value of the goods was more than 7 shillings.

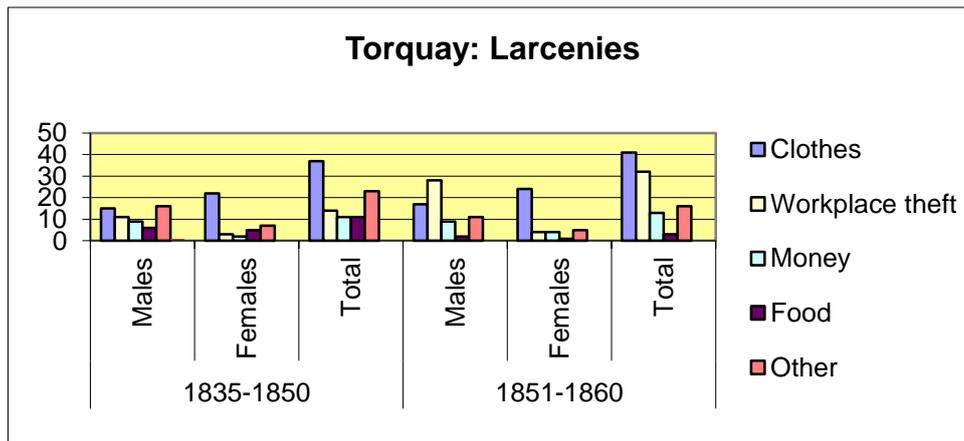
In Torquay, between 1855 and 1860 records exist showing at least 23 cases tried under Criminal Justice legislation; 14 men and 9 women. Further, there is at least one example where a person who could have been tried at a local level elected for jury trial at the Quarter Sessions. Thomas Walters, of the parish of Marlton, close to Torquay appeared before two magistrates at the Town Hall, Torquay during November 1857 for stealing apples valued at 5 shillings.<sup>232</sup>

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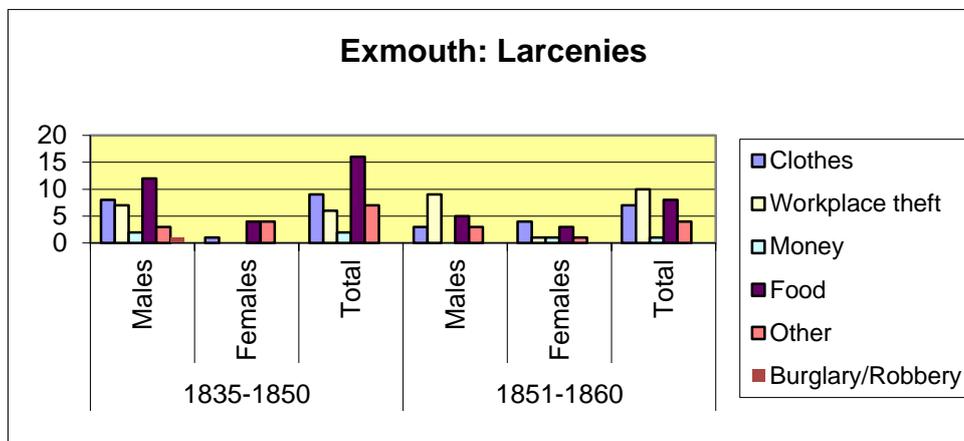
<sup>232</sup> DRO *QS Bundles* 1857, [Box 3] May, Midsummer, September and November.

#### IV. Larcenies

Larceny was the largest single category of offence recorded and therefore requires detailed treatment. This section will analyse and discuss a number of offences, together with the related offences of receiving stolen goods, embezzlement, fraud and forgery. It has already been established earlier that larceny accounted for around 80% of all committals to trial at national level. Tables 18 and 19 provide some detail.



**Table 18, Torquay: Larcenies, 1835-1860**



**Table 19, Exmouth: Larcenies, 1835-1860**

An examination of the records for Exmouth and Torquay has shown that the majority of larcenies for which people were tried involved thefts of not very large amounts in monetary terms, or, in most cases the articles were not especially valuable. Items stolen included small quantities of food and clothing; notable exceptions being those which involved robbery and burglary. This finding was replicated in other parts of the

country.<sup>233</sup> Evidence also points to the fact that in eighteenth century Exeter there was a market in the economy for the receiving and disposal of stolen goods.<sup>234</sup>

At a local level because the overall numbers of prosecutions for larceny were not large in numerical terms, it has been decided to present material based on a limited number of themes reflecting the recorded data from the two resorts. The particular themes selected for detailed analysis are: clothes, food and money. However, other recorded theft included hay, jewellery, and watches. The involvement of servants will be discussed and analysed where appropriate as it appears that servants stole from their employers on a regular basis.

#### a) Clothes and Other Wearing Apparel

The theft of clothing was not uncommon, as indicated in tables 18 and 19. Clothes were fairly easy to obtain and carry away. These items were not usually of any great monetary value in themselves. However, clothing was relatively easy to dispose of, pick apart and alter, in order to be worn without arousing undue suspicion. Wearing apparel also had the added advantage that it could be sold or pawned without too many questions being asked. Items of clothing might be stolen from shops, stalls, public houses, private houses, washing lines, hedges, or rooms where the accused might have been living or lodging. In some cases the thefts took place at establishments where the offender was employed as a servant. In addition, theft sometimes took place from outhouses or washing lines.

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<sup>233</sup> King, *Crime Justice and Discretion in England*, p.137-8.

Philips, *Crime and Authority in Victorian England*, p.178.

<sup>234</sup> Richard Williams, 'Stolen Goods and the Economy of Makeshifts in Eighteenth Century Exeter', *Archives*, 30 (2005), 85-96.

It must also be recognised that prosecutions for the theft of clothing do not fully represent the scale of the problem. In this respect Philips has commented: ‘the prosecutions for this offence are certainly only a fraction of the number of such thefts which actually took place.’<sup>235</sup> The situation in Exmouth and Torquay was probably no different and did not excite newspapers in the same way as some other crimes. One can see from tables 18 and 19 that in Torquay the theft of clothes and other wearing apparel accounted for a significant amount of property theft; a majority of the offences were committed by women. In Exmouth, the theft of clothes and other wearing apparel does not appear to have been a problem to the same extent.

In order to provide more extensive qualitative details use has been made of the depositions available for the county of Devon, available within the Quarter Sessions records. These documents have the advantage that they provide more detailed information about the crimes committed as well as other incidental detail. Depositions are in effect witness statements, resulting from the process of question-and-answer, between the magistrate and the witness. For our purposes, it is important to recognise, that as witness statements there was always the possibility of error. In this respect, one must take into account the possible shortcomings of the magistrates as well as the clerks who had to transcribe the statements of witnesses into some form of appropriate prose. There is no indication, even in the nineteenth century, when there were increased levels of literacy, exactly when such detailed statements were written up. However, it is important to note that the information and detail provided was vastly superior to the basic information recorded in the Summary Court certificates. There is the added advantage that depositions are also available from 1855 in cases where the offender was tried under the provisions of the Criminal Justice Act. Qualitative information for

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<sup>235</sup> Philips, *Crime and Authority in Victorian England*, p.196.

offenders appearing at the Assizes has been taken from newspaper reports, as no depositions have survived for the Western Circuit. Newspaper reports were also used for information in Quarter Sessions cases.

With this background in mind, it is possible to consider in more detail the theft of clothes and other items, within Torquay in particular. It can be seen in tables 12 and 13 presented earlier in the chapter, the highest proportion of offenders came from the 20 to 29 age group. This could be a pointer to the fact that a significant majority of these offenders were servants. Tobias, in his comments on the factors affecting crime, asserted that a number of the newcomers to the towns were domestic servants who lived with their employers.<sup>236</sup> However, within Exmouth and Torquay there does not appear to have been any specific comments by magistrates about theft by servants. In order to provide a fuller picture of the way in which such offences impacted on the whole community, discussion will centre on the various places, indicated earlier, where such offences could actually have been committed.

In relation to thefts of clothing from the larger houses, there are several examples of prosecutions involving servants. In this respect, it was not unusual for individuals to be given some items when leaving employment, possibly a bundle of old clothes.

However, if a servant left employment suddenly, without notice, suspicion could be aroused. The following details obtained from a deposition, have provided a typical example of theft from within a large private house. Charlotte Franks had left the service of her employer, Thomas Dean Pearse, without notice. Following her departure several items of clothing belonging to Mr Pearse's wife were found to be missing.<sup>237</sup> These included silk stockings, part of a silk velvet gown and a yellow silk gown. On leaving the household the girl is reputed to have told a charwoman that the articles were found

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<sup>236</sup> Tobias, *Crime and Industrial Society*, p.198.

<sup>237</sup> DRO QS Bundles 1835 , Box 1.

in a grate. On searching the home of Mrs Franks, the mother of the girl, Charles Kilby, the local parish constable at the time, found a yellow silk dress in a box. Charlotte Franks acknowledged the gown belonged to Mrs Pearse, but claimed that the lady had given it to her. The Assize records have revealed several other examples where servants stole items of clothing from their employers. In view of the high number of female servants, it was no surprise to find the majority of the offenders were women. It is clear from the evidence that the stealing of wearing apparel by servants was an on-going problem which was difficult to contain.

Lodging house keepers formed another group of people for whom the theft of clothing from their premises was a regular occurrence. This is not surprising as *White's Devon* has listed over 70 lodging houses in 1850.<sup>238</sup> Some of these establishments catered for the wealthy visitor in Torquay for the winter season. As one would expect, some of these lodging houses were owned and managed by women; Elizabeth Ball of Merion House, was one example. It is clear from the evidence that this establishment catered for the better off lodger. However, even this house was not immune to the theft of clothing by a servant, as the following example illustrates. From the detail in the deposition, it seems reasonable to assume that Miss Emma Gautherot and her mother Elizabeth used Torquay as a base, before moving on elsewhere. On leaving Merion House, the former occupants left behind some clothing stored for safekeeping, which they intended to make use of when returning to the town.

Elizabeth Lehman was employed as a charwoman. She had helped to pack up some boxes of clothing for two lodgers when they left Torquay. In the circumstances, it would not be unusual for the charwoman to be offered some old clothes for which the

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<sup>238</sup> *White's Devon*, p.451.

women had no further use. However, on their return the Gautherots discovered a number of items including a black shawl, a cape and part of a bonnet were missing. ‘I never gave the articles produced to the prisoner... [I] gave her a bundle of old clothes.’ Unfortunately, no list of the missing items was kept, but Emma Gautherot estimated the value to be about £11. This was a considerable sum, indicating that the two ladies must have been well off. The missing items were later found at the pawn shop belonging to Elizabeth Lamble. The fact that the prisoner, Elizabeth Lehman, was advanced seven shillings for the items is a good indication of their quality.<sup>239</sup>

As we will see in the course of the chapter it was not uncommon for stolen material, particularly clothing, to find its way to the pawn shop. In terms of our theme of theft from lodging houses, there are several examples whereby lodgers themselves stole items, some taking place at less prestigious private houses. Jane Leach lodged in a house belonging to Mr Charlicombe, a Mason, when a dress was stolen. Eliza Lattey, a colourful character was convicted of stealing the item, claiming that Jane Leach had pawned it. Again, Elizabeth Lamble was called to give evidence.<sup>240</sup>

Shopkeepers and owners of public houses and beer houses regularly found themselves victims when clothes and other items of wearing apparel were stolen from their premises. The first recorded case under the Criminal Justice Act, at Torquay in November 1855, is a good example, providing further evidence of the involvement of women. Elizabeth Buckley pleaded guilty to stealing a brown velveteen coat, valued at 7 shillings, belonging to Hugh Fegan. She was sentenced to two months imprisonment in the House of Correction with hard labour. Access to the detail in the deposition confirms the fact that such thefts were often opportunist and clothing was a relatively

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<sup>239</sup> DRO *QS Bundles* 1854, September Michaelmas and November.

<sup>240</sup> DRO *QS Bundles* 1847, Epiphany.

easy commodity to dispose of. Mr Fegan himself actually stated that the theft took place towards the end of the day whilst he was drinking a cup of tea, at the back of what appears to have been a bric-a-brac shop in Union Street. Therefore, at what was obviously a convenient moment, the defendant, Elizabeth Buckley, stole the coat from the shop window. As in some previous cases, Elizabeth Lamble, the proprietor of a pawn shop, confirmed that the prisoner had offered the coat to her.

Prestigious hotels provided accommodation for wealthy visitors. However, some inns and taverns offered rooms for other visitors. It was not unknown for items of clothing to be stolen by these casual visitors. Detailed analysis of the following case is a good example of the problems faced by people providing accommodation and secondly, the vulnerability of women who travelled alone. The case of Mary Ann Thornton has provided an apt illustration of what must have been a common scenario, involving an opportunist seasoned criminal. The defendant had travelled from Jersey, where in the course of the journey she had befriended a respectable tailor and dressmaker named Mary Bennett. On arrival in Torquay, the two women must have agreed to find accommodation at the Dolphin Inn. Whilst there, Mary Ann Thornton, in what was probably an opportunist theft, stole a cloak hanging over a banister. James Pratt, the police officer who apprehended the defendant in Totnes, deposed that the woman had travelled by steamer from Torquay. When questioned, Thornton tried to pin the blame on her former companion. In her evidence Mary Bennett remarked: ‘you are a good for nothing woman.’ The deposition makes clear that the defendant had quickly left Torquay, and secondly that she was not slow in attempting to implicate her companion.<sup>241</sup>

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<sup>241</sup> DRO *QS Bundles* 1848, Box 2.

In our continuing exploration of the ways in which all sections of the community were affected by property theft, either as prosecutors or victims, it became apparent that the theft of clothes and other items from washing lines caused considerable problems for all concerned. It appears to have been a particular problem in Torquay, when cases were prosecuted in both the Quarter Sessions and the Assizes. If we examine the depositions in more depth we are able to throw some further light on the stresses. In April 1847 Amelia Green, aged 9, was prosecuted for stealing a dress valued at one shilling from the property of William Hingston, a dairyman living in Pimlico, a poor area close to the centre of Torquay. It transpired that William's daughter Susannah when walking along the Strand, a fashionable area, close to the harbour saw Amelia Green wearing the dress. When Amelia was challenged she claimed her mother had bought it at Chudleigh.<sup>242</sup> However, it was then shown in her mother Susannah's witness statement that the dress had been pegged out to dry one evening outside the back door, in an area to which the public had access, and by accident left it there all night.

In relation to the dress it appears that no attempt had been made to sell on the stolen goods, no doubt relying on the fact that the chances of being seen wearing the stolen dress would be fairly small. Secondly, Amelia Green and her mother appeared to have made no attempt to alter the dress in any way, thus making it unrecognisable. Thirdly, the theft of such items was quick and easy, especially under cover of darkness. Fourthly, the prosecution only came about because, Susannah Hingston, the younger, actually saw someone wearing her dress.

The theft of clothes from washing lines has provided a suitable platform to introduce briefly the closely regulated hierarchy of domestic servants described by F.M.L.

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<sup>242</sup> DRO *QS Bundles* 1847, Easter Sessions.

Thompson as ‘a group without an identity, not incorporated into working class culture...’<sup>243</sup> Within the middle classes as a whole, there were those of middle class status who did not of necessity have servants who lived in, but possibly employed part-time char ladies and outside washerwomen. Hence the possibility of opportunist thefts analysed below. Clearly, bearing in mind the small number of prosecutions, it must have been the regular practice for washing to be passed to servants to hang out to dry in a suitable place, not necessarily outside the owner’s property. Thus, it was not surprising to find on occasion passers-by took advantage of the arrangement. This can be seen in the evidence provided in the conviction of Grace Kinner, aged 13. ‘I gave directions to my servant...to hang the articles out on Daddy Hole Plain.’<sup>244</sup> The young girl had been passing by as the washing was hung out to dry. On a second occasion she had taken items belonging to Amelia Shilston. However, suspicions were aroused when the young girl offered some old rags and a damp bundle of clothes to James Dart, a small-scale marine store dealer, for him to sell on her behalf.

As with most larceny offences, one can find examples demonstrating the vulnerability of wealthy widows. Elizabeth Crawly, residing in Park Street, a fashionable area of the town, had sent the family clothes to be dried at Gillet’s Plot. When the items were collected three shirts were missing. The case is also a rare example of theft from a washing line by a man, Robert Bray claimed when apprehended: ‘I brought them from Brixham’<sup>245</sup>. Elizabeth Barnes is a further example of someone charged with stealing from a washing line; one flannel and two calico petticoats from a property in Temperance Street. This discussion of a selected number of convictions has revealed that it was the type of theft which had an impact on all sections of the community.

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<sup>243</sup> Thompson, *Rise of Respectable Society*, p.247.

<sup>244</sup> DRO QS *Bundles* 1851, General Sessions.

<sup>245</sup> DRO QS *Bundles* 1849, September and Epiphany.

There is no evidence of a covert operation to remove washing from the lines of the well-to-do and then sell on the items.

Those convicted of property crime received prison sentences of varying length. In the case of Elizabeth Lehman it amounted to one day. Others received sentences of one, two, or three months in the House of Correction. Where the offender was convicted on more than one charge, the sentence was more severe.<sup>246</sup> Grace Kinner was convicted on two separate occasions; therefore, the sentence of 12 calendar months reflected the perceived severity of the offence. Convictions have also been recorded at the Assizes. In Lent 1835, Sarah Humphries, was convicted of stealing various items of wearing apparel belonging to William Shaw, which had been hung on Beacon Hill, a fashionable area of the town to dry; she was imprisoned with hard labour for three calendar months.<sup>247</sup> Again, in Lent 1852, for example, Mary Partridge, a single woman, was convicted on four charges of stealing wearing apparel and transported for seven years.<sup>248</sup> The sentence on this woman could reflect the fact that more than one conviction provided grounds for considering transportation as a sentencing option.

Some offenders prosecuted for stealing items of wearing apparel regularly attempted to dispose of the items via the pawn shop. Richard Lamble and his wife Elizabeth had a pawn shop in George Street Torquay in the 1840s, later occupying premises in Union Street from the late 1850s. *Kelly's Directory of 1856* described her as a pawnbroker and clothier, possibly indicating that her business had expanded considerably from the early days in Torquay. According to the 1851 Census the couple and their four children were living in George Street, a heavily populated, poor area of the town. Elizabeth Lamble

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<sup>246</sup> DRO QS *Bundles*, General Sessions November 1851.

<sup>247</sup> *Trewman's Exeter Flying Post*, 26 March 1835.

<sup>248</sup> TNA ASSI 25/39/2.

was born in Dartmouth. Her two daughters were both born in the town; whereas her sons aged 4 and 2 were born in Torquay. Therefore, it seems reasonable to assume that the family moved to the resort around 1846. We know from the depositions that Elizabeth in particular was regularly called to give evidence at the Quarter Sessions in cases where the defendant had attempted to pawn the goods. From the available evidence she was clearly running a reputable business. However, it was sometimes recorded that she did not always ask where the person depositing the goods had obtained them.

In the directories of 1850 and 1856 Torquay is listed as having one pawn shop. In terms of background it is important to note that pawn shops had a certain mystique in Victorian times when there was a widespread popular belief that pawnbrokers 'have always been the nation's receivers of stolen goods...a welcoming haven for thieves, burglars and tricksters.'<sup>249</sup> However, in practice pawnbrokers must have been aware of the necessity to keep on good terms with the police, sometimes at considerable expense and inconvenience to themselves and their businesses.

The available evidence points to the fact that Mrs Lamble was first called as a witness in a case involving Eliza Lattey at the Epiphany Sessions in 1847. There appears to be no evidence from newspapers or otherwise to suggest any other organised network for the disposal of stolen items of clothing. There is no recorded information that dressmakers and others ran clandestine operations altering fashionable items and selling these goods cheaply in private transactions, or via market stalls. Hotels, beer houses, inns and taverns were regularly policed for breaches of licensing regulations; therefore, it seems unlikely there was any organised activity on a large scale for the distribution of

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<sup>249</sup> David Hudson, *Pawnbroking: An Aspect of British Social History* (London: Bodley Head, 1982), p.49.

stolen goods. We have already seen hotels, inns and taverns could be scenes of crime when customers stole clothing left on the premises. As we will see later in the chapter it was not uncommon for money to be taken from the pockets of young, unsuspecting drinkers. Thus, no reputable house would want to endanger business and trade even further.

The theft of clothing and other wearing apparel was clearly a difficult problem to control and contain. As we have seen all sections of the community were affected and clearly the number of prosecutions reflected only a tiny proportion of the thefts which actually took place.

#### b) Food theft

Unlike the theft of clothing, the evidence points to food theft being more common in Exmouth. This may reflect the town's more rural outlook and the fact that farming was a common occupation. From the limited amount of data available it appears that servants were regularly implicated in the offences. The information collected has shown that fowls, meat, butter and other dairy products were amongst the items stolen. The case of Mary Heale, a 44-year-old servant, is a typical example of what amounted to an opportunist theft by an employee. William Bale had been missing pieces of meat, candles and other items in his kitchen. On the day in question, Mary Heale was seen going home with a bundle and was challenged concerning the contents. Betsy Hawkins, another witness, remarked: 'I saw Mrs Bale take from her pocket the bacon, pork and candles.'<sup>250</sup> The severity of the problem can possibly be seen in the prosecutions at the Assizes. Elizabeth Warburton is a typical example. She was charged and acquitted of

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<sup>250</sup> DRO *QS Bundles* 1844, box 4.

stealing a duck and some butter, the property of her master, Charles Sanders.<sup>251</sup> In addition, there is one example of a lodger being involved. Mary Holman was sentenced to 3 months imprisonment for stealing a leg and shoulder of salted pork and a quantity of meal and flour.<sup>252</sup> This was a substantial amount of meat and flour for one person to take away. One can only surmise as to whether she was stealing to order and had some help to take away the goods.

Torquay also had problems with food theft. Again, there is evidence showing the involvement of servants. However, in the case of Torquay a close examination of the depositions has shown two examples where established employees were prepared to jeopardise their livelihoods by stealing food. Isaiah Bindon was an apprentice employed by Matthew Churchward, a butcher running a substantial business in Torquay. As part of his duties Bindon was involved in selling meat in the shop. Churchward deposed: 'I have lost meat at various times from the shop. On information received I believe prisoner stole bacon from my larder.'<sup>253</sup>

The second example concerns the conviction of Elizabeth Gillard, the former housekeeper to Sarah Anthony. As background to the case one must be aware that a housekeeper held a responsible position within any sizeable property. It involved a significant degree of responsibility and prestige within a large household. Her former employer clearly ran a large establishment with a farm in Compton, as well as a shop in Lower Union Street, Torquay, selling dairy products. It was at this shop that the offence took place. George Avery was employed to bring over dairy products from Compton. As part of one consignment it appears that he was ordered to bring over a basket, which

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<sup>251</sup> *Trewman's Exeter Flying Post*, 30 July 1840.

<sup>252</sup> *Trewman's Exeter Flying Post*, 2 March 1855.

<sup>253</sup> *DRO QS Bundles* 1853, Midsummer and September.

would later be collected. His suspicions were aroused, and on opening the basket he found soap, flour, bacon, apples and sugar, valued at 2s.4d. Elizabeth Gillard was further incriminated by a note which said: 'to my dear mother. I have sent what I could.' In her defence the prisoner claimed to have sent the basket because of a lack of money.<sup>254</sup> However, Elizabeth Gillard had lost both her reputation and livelihood.

Torquay also had problems with customers stealing goods from shops, with food being a particular target. This finding was not surprising given the flourishing nature of the town from the 1840s. James Wheeler, a baker became a victim when Jane Partridge stole a cake late one Saturday evening.<sup>255</sup> Butchers were also taken advantage of. John Easterling, who kept a bacon shop in Pimlico, was a victim.<sup>256</sup> Like the theft of clothing, discussed earlier, these thefts were often opportune, taking place when the owner was distracted.

There appears to be no evidence that individuals were stealing food other than for their own consumption. For shopkeepers the theft of food was a continuing problem, which, if not contained, could eat into their profits and affect their businesses and livelihoods.

### c) Money

Prosecutions for stealing money occurred more frequently in Torquay. It was not unusual for such offences to take place in public houses, where servants were sometimes the victim. Jane Partridge, mentioned in the previous section, had gone to a public house named The Star, with a servant named John Reynolds. Whilst there, she took advantage of the situation and picked the pocket of her companion, taking a watch

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<sup>254</sup> DRO *QS Bundles* 1855, February and Easter.

<sup>255</sup> DRO *QS Bundles* 1847, box 2 February and Easter.

<sup>256</sup> DRO *QS Bundles* 1847, box 2 February and Easter.

and money. As a criminal with at least one previous conviction the woman was sentenced to transportation for 7 years.<sup>257</sup> This is a harsh sentence which might indicate more than one previous conviction. Likewise, Harriet Cross, a servant was also the perpetrator of crime at a beer house. She was charged with stealing a purse containing 7 shillings from the person of John Collings. He had visited a number of public houses before arriving at The George beer house. She attempted to pick the pocket of her companion, but ran off when he felt her hand in his pocket.<sup>258</sup>

Public houses could leave women exposed; sometimes they became victims of crime. The following example indicates the vulnerability of women and also the fact that it was not unknown for money to be taken from family members. Margaret Trusdal, from Northern Ireland, was employed by Robert Graham as a hawker. She was staying at The Market House Inn, Torquay, in the company of her half-brother, Hugh Boyd Graham. After paying the expense of his lodging she had put her remaining money and licence in a purse and then fallen asleep in her room. When she awoke the purse containing £11 had gone. Hugh Boyd Graham was subsequently located and arrested at The Sawyers' Arms in Exeter, where he was drunk.<sup>259</sup> He was found guilty of the offence and transported for 7 years. Theft of money was often punished severely. In this case the person concerned had taken a large amount of money and also taken advantage of the kindness of a relative.

Transportation as a punishment was reserved for the most serious offences. Within Exmouth and Torquay between 1835 and 1860 there were 10 men and 5 women transported for these offences. From the 1850s penal servitude was used as a

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<sup>257</sup> DRO *QS Bundles* 1847, Midsummer.  
DRO QS32/158.

<sup>258</sup> DRO QS 34-3/41 *Gaol Calendar Winter Assizes*, December 1857.  
*Torquay and Tor Directory*, 23 December 1857.

<sup>259</sup> DRO *QS Bundles* 1846, box 2.

punishment in 3 cases. These figures are some way below those quoted by Robert Hughes for the country as a whole. He stated that:

‘Seven men in ten were tried in England, mainly at assizes and quarter sessions in London and six chief counties: Lancashire, Yorkshire, Warwickshire, Gloucestershire, and Kent. These counties were home to four transportees in every ten.’<sup>260</sup>

The policy of transportation at national level does not appear to have impinged directly on this study as there is no evidence to support the finding that transportation of offenders peaked in the period between 1831 and 1840.<sup>261</sup>

The vulnerability of women is further illustrated by the prosecution of Henry Mudge for the theft of £7 19s. 6d. The money was taken from the home of his sister-in-law Mary Ann Waymouth, a widow. Henry Mudge regularly ate at Mrs Waymouth's house on a Sunday. Whilst visiting he had seen the lady take money from a work box. On the occasion in question he was disturbed and ‘went away in a hurry.’<sup>262</sup> Mudge was eventually apprehended in Marlton, where he had been spending money at the Church House Inn. He was found guilty of the offence and transported for a period of 15 years.

Servants were also involved in the theft of money. The case of Harriet Champion aged 18 has provided more evidence, including facts and information relating to the employment of servants. Firstly, the young lady was actually employed as a servant by Agnes Abbott of Tor. However, the theft of a sovereign took place whilst working at the home of her daughter-in-law, the wife of Paul Austin, a baker, living in Union Street, Torquay. We are not told if cleaning for other family members was a regular occurrence or simply a casual arrangement. The money had been left out in the bedroom where Harriet

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<sup>260</sup> Robert Hughes, *The Fatal Shore: A history of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill, 1987; repr. London: Vintage, 2003), p.163.

<sup>261</sup> Hughes, *Fatal shore*, p.162.

<sup>262</sup> DRO *QS Bundles* 1849, Midsummer and Michaelmas.  
DRO QS 32/158.

Campion had been left to put the room to rights one Saturday evening. It is clear from the deposition that Mrs Abbott had loaned her servant to do some extra cleaning for a close family member.

Finding and keeping trustworthy servants seems to have been an on-going problem in Torquay. However, it was an unresolved complication which does not appear to have been discussed in the public arena. Mrs Abbott seems to have treated her servants well, giving Harriet Campion 5s. in order to buy a bonnet. On her return to Tor Mrs Abbott suspected something was wrong when she saw the goods. After taking the sovereign it appears that the servant then went to Oliver's a drapers shop in Tor where she bought a bonnet and some ribbon. Jane Hamlyn, an assistant at the store remembered that the prisoner changed a sovereign in order to pay for the items. Harriet Campion was found guilty of the offence and sentenced to 2 weeks solitary confinement in prison. She had also jeopardised her chances of finding any employment in the future.

This section on larceny has shown the extent to which servants were involved in the offence and the extent to which this impacted on all sections of the community. At national level, Tobias has indicated that domestic servants as a group were sometimes exposed to the risk of becoming criminals, especially in enterprises against their masters.<sup>263</sup> In relation to the issue of gender, the evidence has shown that women were heavily involved in the theft of clothing. As we have also seen finding and keeping reliable servants was a difficult problem for all concerned. Maybe this was the reason why some large households with second homes brought some servants with them, rather than recruit locally.

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<sup>263</sup> Tobias, *Crime and Industrial Society in the Nineteenth Century*, p.198.

## V. Receiving Stolen Property, Embezzlement and Forgery

This section will be followed by the consideration of related items, linked, but not strictly speaking considered to be larceny. These items are: receiving, obtaining goods by false pretences, forgery and fraud. Workplace theft, also a problem, will be analysed as part of a separate section as it involved other issues, including theft by servants.

The charge of receiving stolen goods was used to cover two distinct types of offender. Firstly, full-time receivers of stolen property, known as fences, who made a business of buying stolen property from thieves, and selling it on a large scale. Secondly, persons on whom the police or prosecutors found stolen property, but for whom they were unable to prove the taking of the property with felonious intent.<sup>264</sup>

There does not appear to be any evidence of many fences in either Exmouth or Torquay. However, there were probably a limited number of small-scale receivers and second-hand dealers, bearing in mind the transient lifestyles of some residents known to frequent seaside resorts. An examination of the limited number of cases available has revealed that marine store dealers could on occasion find themselves in court for receiving stolen goods. Lead was a valuable commodity and must have come into their stores on a regular basis. The following case from Torquay is an apt illustration of the dilemma any reputable dealer must have faced when buying any scrap metal or building materials.

James Damerall, a marine store dealer in Pimlico came before the court for receiving a quantity of lead from a group of lads who claimed they had obtained it by legitimate means. The deposition has revealed that when confronted by the police officer James

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<sup>264</sup> Philips, *Crime and Authority in Victorian England*, p.219.

Pratt Damerall claimed not to have been aware that the lead was stolen. In fact he was able to substantiate the payment from an entry in his account book. The most incriminating evidence in the case was provided by William Pope, a mason by trade, but employed to look after four occupied houses in the Warren Hill area of Torquay. At one of the occupied houses he had found lead missing. He claimed that the lead produced was part of that missing from the building. Damerall, in his evidence denied the statement of William Pope saying: 'I deny what he has said. With regard to my buying the lead I bought it honestly of the boys and I asked... where they got it... and I gave them the regular price for it.'<sup>265</sup> James Damerall was acquitted; no doubt he would be more careful when purchasing any lead in the future.

The only two people featured on a regular basis and convicted of receiving stolen goods were Mary Ann Atherton, aged 35 and her daughter Mary Ann Mott, aged 18. The pair came before the courts frequently and were clearly well known to the local magistrates. In fact, Mr March Phillips, when committing them for trial, 'expressed the hope that if convicted they would not return to Torquay again.'<sup>266</sup> His wish was granted when, at the Easter Sessions in 1852, they were found guilty of receiving a quantity of Madrepore studs, the property of Mr William Nicholls, a Madrepore worker. Atherton was sentenced to 10 years transportation, a severe penalty and, as we have seen earlier only handed down to repeat offenders or those committing serious crime. Mott, her daughter, was sentenced to 12 months imprisonment.

Embezzlement has been described as the 'crime of a servant appropriating to his own use the money or goods received by him on account of his master.'<sup>267</sup> This emphasis is

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<sup>265</sup> DRO *QS Bundles* 1858, February.

<sup>266</sup> *Torquay and Tor Directory*, 13 April 1852.

<sup>267</sup> Philips, *Crime and Authority in Victorian England*, p.222.

different from the eighteenth century model described by John Styles, which referred to outworking in specific industries such as the woollen trade.<sup>268</sup> In view of this definition one can see the possibility of servants being prosecuted for the offence. As part of the on-going discussion about the involvement of servants in larceny offences, the theme will be explored further.

Some servants were employed to take out goods to customers, and as part of the transaction some of the servants were clearly authorised to receive money. It seems that this kind of arrangement was more common in Torquay, possibly reflecting the fact that there was a need for this kind of service in some of the larger houses. Analysis of the depositions has revealed the difficulties involved. In some instances it is quite clear that not all servants were either reliable or trustworthy when handling money. Joanna Kinner was one such example; she was found guilty of obtaining money by false pretences and sentenced to imprisonment for 8 calendar months. There is evidence that she had been discharged from the service of her employer, William Narracott, a dairyman, possibly because of her lack of trustworthiness. She was subsequently prosecuted for obtaining money by false pretences. We read: 'she was employed in taking out milk and butter and other things and authorised to receive .money in most cases.'<sup>269</sup> When delivering goods to the Rev W. Smith, one of Mr Narracott's customers, she had pocketed the money received from him. Mary Searle, the cook, deposed that she had paid for milk over a four week period. This amounted to £1 3s. 4d. The account book which should have been kept by the former servant recording all transactions was nowhere to be seen.

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<sup>268</sup> John Styles, 'Embezzlement, Industry and the Law in England, 1500-1800', in *Manufacture in Town and Country Before the Factory*, ed. by Maxine Berg, Pat Hudson and Michael Sonenscher (Cambridge: Cambridge University Press, 1983), pp.173-210.

<sup>269</sup> DRO *QS Bundles* 1851, November General Sessions.

It has already been seen that finding reliable servants worthy of trust was a recurrent problem. The situation was further exacerbated for trades' people, especially those, who like Mr Narracott, delivered goods to individual homes as part of the service he provided. No reputable trader would want to damage the reputation of his business or lose trade by employing individuals who could not be trusted when money was involved.

The complications surrounding the employment of servants can be exemplified by considering briefly the lengths to which unscrupulous individuals were prepared to go to obtain goods and money. A familiar ruse used by those accused of receiving goods by false pretences was to claim they had either been sent by one of the servants, or were indeed employed as a servant, thereby obtaining goods and money. This offence appears to have happened in Torquay, again emphasising the difficulties of finding and keeping reliable servants. Jane Brock obtained 1lb of butter from Staddon's dairy by claiming to have been sent by her sister who was a servant to Mr Wyatt, a chemist; she lived at his house in Lawrence Place. Attempting to implicate family members was not uncommon. However, in this instance evidence was provided by Elizabeth Brock saying, 'I did not give the prisoner orders to get butter.'<sup>270</sup>

In a not dissimilar scenario, James Crochor [unclear] obtained one shilling from George Glandfield, a chemist and druggist, residing in Lower Union Street Torquay, by claiming to be the servant for a family named Runtley. He claimed, 'his master had been travelling in the north of Devon and was an invalid.' On the basis of a plausible story that he did not have money to pay for the carriage of the goods ordered, Mr

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<sup>270</sup> DRO *QS Bundles* 1849, September and Epiphany.

Glandfield loaned him one shilling. This was done on the basis that he was a respectable servant, working for a reputable master.<sup>271</sup>

The dishonesty of workmen on a fairly dramatic scale can be seen in the problems encountered by Charles Raby, a coal merchant, who employed some men to hawk and sell coals on his account. Details of a complicated scam were reported by the local newspaper, when the case initially came before local magistrates.<sup>272</sup> John Northcott, a labourer, had been employed by Raby for some five or six years and earned 13s. per week. The coals were stored in bulk in cellars on the Western Quay, in the care of a man named George Heath. Those employed took the coals in hundred and half hundred weights, with Heath submitting accounts to Raby. Employees were taking more coal than was accounted for, regularly charging customers for an extra cwt. more than they delivered. A second person in his employ, William Medway, employed to look after horses and carts, but who hawked coals on Saturday and Monday for cash only, was also involved. The extent of the embezzlement was confirmed when Raby undertook a detailed stock count, after his suspicions were aroused about the honesty of his men. However, it was on the information of Samuel Bullied, a carter, also employed by Raby, that the full extent of the practice began to be exposed.

Organised scams on such a large scale were rare. Nevertheless, embezzlement on any level demanded careful organisation, cooperation and support from a number of people. Over a period of time Raby's business must have suffered, added to which, some of his customers may have gone elsewhere following the adverse publicity given to the case. In July 1853 at the Lammas Assizes, John Northcott, the chief culprit was found guilty of three charges relating to the theft of quantities of coal. He was found guilty and

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<sup>271</sup> DRO *QS Bundles* 1856, November General Sessions.

<sup>272</sup> *Torquay and Tor Directory*, 13 July 1853.

sentenced to three months in the House of Correction with hard labour. William Medway, involved to a lesser extent, was subsequently acquitted.<sup>273</sup>

Obtaining money by false pretences was unusual in Exmouth. A prosecution at the Assizes involved William Hooper. He was convicted of obtaining 56lb weight of bread and 22lb meat with intent to cheat and defraud Thomas Ellis and William Pearce.<sup>274</sup>

Forgery was very rare at the two resorts. However, it is important to note that like a number of other property offences, it was one in which servants were involved. Women were not immune. Ann Beck, a servant was indicted on several charges of forging receipts to her mistress, Miss Clara Ellis, with intent to defraud. She was found guilty at the Devon Lent Assizes and sentenced to 6 months imprisonment.<sup>275</sup> The Torquay bank was implicated in a high-profile case at the Lent Assizes in 1843; William Gibson was sentenced to 15 years transportation for uttering a forged instrument, purporting to be a cheque drawn by Robert Abraham on the firm of Vivian and Kitson for payment of £85 knowing it to be forged.<sup>276</sup> The period of transportation reflected the grave nature of the crime. As we discovered earlier there had already been an attempted break-in at the bank. Another high-profile case would not be welcome by a prestigious firm such as Vivian and Kitson.

In contrast, individuals convicted of receiving stolen goods, with one exception, appear to have been small scale receivers. This finding mirrors the situation elsewhere. Philips asserted that really large fences were only able to flourish in large cities with a significant criminal underworld. Even in an area like the Black Country, ‘there is no

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<sup>273</sup> TNA ASSI 21/62.

<sup>274</sup> *Trewman's Exeter Flying Post*, 8 July 1847.

<sup>275</sup> *Trewman's Exeter Flying Post*, 14 March 1860.

<sup>276</sup> *Trewman's Exeter Flying Post*, 28 July 1842.

mention in the contemporary literature of any large-scale fences in operation.’<sup>277</sup>

Marine store dealers were particularly vulnerable to unscrupulous people attempting to dispose of scrap metal. Again, this was reflected in the Black Country, where facilities existed to melt down scrap metal.<sup>278</sup> Embezzlement by servants was not a solely male preserve; in the cases discussed certain dishonest employees were prepared to go to any length to obtain money. Findings from elsewhere indicate that embezzlement and forgery caused problems for the police and society as a whole. In a study of Manchester in the nineteenth century David Jones found that, ‘the main offenders were clerks, cashiers, agents and commercial travellers.’<sup>279</sup> Clearly, finding and keeping honest employees presented a continual challenge to all concerned. Forgery was a rare offence at both resorts. However, any high profile cases were punished severely and received prominent coverage in local newspapers.

## VI. Workplace theft

The workplace was an area of criminal activity in the nineteenth century which had an impact on seaside resorts. As we have seen earlier in the chapter, servants were involved in theft from their employers in both resorts. However, workplace theft had a wide brief in the period under discussion at national level. Emsley has devoted a whole chapter to the subject under the heading of ‘Fiddles, perks and pilferage.’<sup>280</sup>

The construction sector was a major source of workplace theft in Torquay. The well-known builders J. T. and William Harvey appear to have been a particular target. In this respect, it is well documented that a lot of building work was being undertaken, particularly in the 1840s when a number of fine houses were constructed by Jacob

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<sup>277</sup> Philips, *Crime and Authority in Victorian England*, p.220.

<sup>278</sup> Philips, *Crime and Authority in Victorian England*, p.221.

<sup>279</sup> Jones, *Crime, Protest, Community and Police*, p.161.

<sup>280</sup> Emsley, *Crime and Society in England*, pp.147-76.

Harvey, and later his sons John Tapley and William Harvey. Thus, it seems reasonable to assume that their business was a large concern in the period under discussion.

The nature of the problem can be assessed in a recognizance, dated 20th of January 1840, which ordered John Avis, a carpenter to appear at the next Sessions to answer a bill of indictment preferred by John Harvey. The case came before the February Sessions 1840. In a deposition, Harvey stated that he had been missing timber from his building at Hexmoor, near Torquay, for some time. He did not initially suspect his own men, but discovered this was the case after lying in wait. Avis was subsequently convicted and sentenced to two weeks in prison. Prestigious builders like the Harveys would want to minimise theft from the workplace, therefore, it was not unexpected to find they wished to make an example of one of their work people.

Workplace theft related to the Harveys was clearly an on-going problem. Throughout the period we find examples of individuals who were convicted of the offence. Those concerned received prison sentences. Sydney Webster, aged 35, a plumber, is one such example. He appeared at the Torquay Petty Sessions on 20<sup>th</sup> March 1847 and was sent for trial. At the Easter Sessions, 1847, he was found guilty and sentenced to two calendar months imprisonment. Richard Larcombe was also charged with stealing lead. However, he had been on bail prior to his appearance at the Epiphany Sessions in 1849; Mr Pentecost and others vouched for his good character; therefore he was acquitted of the charge.<sup>281</sup>

Even by the late 1850s the problem of stealing lead from the Harveys had still not been resolved. Under the Criminal Justice Act we find that in May 1857, Charles Cooper and

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<sup>281</sup> *Torquay and Tor Directory*, 10 January 1849.

Charles Martin were jointly charged with stealing lead valued at five shillings and belonging to Jacob Harvey. They were both found guilty and imprisoned in the House of Correction for six weeks. It is possible that it was the same Charles Martin who in February 1858, as a 16-year-old, appeared alongside Philip Hossgood at the Quarter Sessions charged with stealing lead from the Cary Estate. Further, the case is complicated as we have seen earlier in that James Damerall, a marine store dealer, who had bought the lead in good faith, came before the court accused of receiving the stolen item. He was subsequently acquitted. Thus, one can see just how complex and far-reaching the problem of workplace theft had become in Torquay.

Further, it would be a mistake to believe that the Harvey family were the only people for whom workplace theft was a problem in Torquay. From the records, we know that Joseph Godfrey was sentenced in April 1848 for stealing wood and other materials from his employer, Mr Carpenter, a cabinetmaker. A newspaper report stated that he had been in the habit of working at home, the materials being supplied by his master. He was found guilty and sentenced to nine weeks in prison.<sup>282</sup> Workplace theft was also a problem for other employers. We read that Thomas Bowden was charged with stealing 2 pieces of timber belonging to George Bennett, a railway contractor. He appeared at the General Sessions on May 15 1849. Adam White, a bricklayer, was convicted of stealing a 3 foot rule from John Avery, an apprentice joiner to Mr Reed. The two were engaged on building the Torquay Dispensary.<sup>283</sup> Clearly workplace theft was a problem the authorities found difficult to control; action in the court was possibly only taken as a last resort.

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<sup>282</sup> *Torquay and Tor Directory*, 12 April 1848.

<sup>283</sup> *DRO QS Bundles* 1851, February and Easter.  
DRO QS 32/191-

Moreover, if the convictions at the Assizes relating to Torquay are examined, it is also clear that like Exmouth, workplace theft involving servants was also a problem. Firstly, there is an interesting case involving a juvenile named George Eales, a 14 year old servant who was convicted of stealing from his master 2d and a pint of gin valued at one shilling. In this case Eales was sentenced to three days in prison and whipped.<sup>284</sup> In another very serious case, George Marchant was found guilty at the Devon Lent Assizes in 1855 on two separate charges of stealing a horse and gig, probably belonging to his employer, William Dear. He was sentenced to be transported for 15 years.<sup>285</sup>

Perquisites or 'perks' were regularly provided by employers, but on occasion some overdid the generosity. It does appear that in the nineteenth century some employers were cutting back on perks, reflecting the emphasis on a new market economy. There is a limited amount of evidence that servants did not always observe correct boundaries, sometimes taking advantage of the kindness of the more enlightened employers, as the following case demonstrates. Matthew Churchward was a prominent local butcher, who as we have already seen sometimes prosecuted servants. In July 1850, Anne Clarke, a cook employed by him, came before local magistrates for stealing beef suet and cream. In the newspaper report of the case, when the offender came before local magistrates, the reported evidence revealed that she was in charge of the dairy; the housekeeper confirmed that maid servants were allowed to take home a limited amount of cream for their own use. The offender had possibly overstepped the mark by taking more cream than was acceptable, supposedly to make cakes.<sup>286</sup> The case went to the Lammas Assizes in August 1850 and she was convicted of stealing a pie dish valued at 2d, together with other items. She was found guilty and sentenced to three weeks

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<sup>284</sup> TNA ASSI 21/61.

*Trewman's Exeter Flying Post*, 22 March 1849.

<sup>285</sup> *Trewman's Exeter Flying Post*, 22 March 1855.

<sup>286</sup> *Torquay and Tor Directory*, 24 July 1850.

imprisonment.<sup>287</sup> It is not known if Anne Clark was an unscrupulous servant, she may simply have overstepped the mark in the initial stages. However, the fact that the case was tried at the Assizes indicates the severity of the charge; far more than an employer reducing the 'perks' offered.

As has been seen workplace theft was a significant problem, particularly in Torquay. In fact one can argue that in fast growing seaside resorts where the character and nature was changing the problems of workplace theft were akin to those described in industrial areas. David Philips devoted a significant section to industrial theft in the Black Country.<sup>288</sup> Some individuals were clearly attempting to supplement wages. However, workplace theft affected all sections of the community.

## VII. Other perceptions of crime

Finally, no account of property crime can be complete without considering burglary. This was a category of property crime usually deemed to be the work of professional criminals.<sup>289</sup> There is evidence that in Exmouth particularly it was difficult to contain and come to terms with. This perception could have been fuelled by a high profile jewel robbery in the town in 1835.<sup>290</sup> Added to this, there is evidence that a number of burglaries and robberies also took place but were never prosecuted. These crimes were all reported by local and regional newspapers. Women, particularly wealthy widows of whom there were a number, were naturally vulnerable to this type of crime.

In relation to the above circumstances, clearly the problem of thieves coming into the town from the surrounding area specifically to commit crime was difficult to resolve

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<sup>287</sup> TNA ASSI 21/21.

*Trewman's Exeter Flying Post*, 8 August 1850.

<sup>288</sup> Philips, *Crime and Authority in Victorian England*, pp. 180-95.

<sup>289</sup> Emsley, *Crime and Society in England*, p.180.

<sup>290</sup> *Woolmer's Exeter and Plymouth Gazette*, 14 November 1835.

and control. Exeter in particular was easily accessible, especially for people coming into Exmouth. The West Quarter of the City housed many of the poor residents, who because of the hunger and squalor in which they lived became members of the criminal fraternity. Support for such a perception can be found in the following example. William Shepherd, a prominent draper and postmaster, was burgled one Sunday evening, during his absence at chapel. The newspaper surmised about those responsible: 'it is imagined the robbery was effected by two of the "swell mob" who have been sojourning in Exmouth... The house is in a most public situation, and the vicinity well lighted'.<sup>291</sup> No details are provided about this gang; no doubt it had some meaning for the local population. The fact that a respected regional newspaper gave such prominence to the case adds sway to the assertion that controlling this type of crime was an on-going problem. In addition, the fact that the burglary took place in a part of the town which was well lit no doubt raised concerns even further.

There is more evidence that burglary in Exmouth was an on-going problem throughout the 1850s. The *Western Luminary* reported the fact that several unoccupied houses had been broken into and large quantities of furniture, wearing apparel, and jewellery had been carried away. We read: 'large rewards are offered for the offenders who have as yet escaped detection.'<sup>292</sup> It also demonstrates the difficulties faced by the authorities in bringing offenders to justice. It would appear to be no accident that the newspaper featured such an item at the time the new County Police Force was about to come into operation. After all, such a new venture would have a direct effect on the way Exmouth would be policed in the future.

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<sup>291</sup> *Trewman's Exeter Flying Post*, 8 February 1849.

<sup>292</sup> *Western Luminary*, 16 January 1857.

In contrast, unsolved burglaries did not feature so prominently in the local newspapers in Torquay. However, as we saw in Chapter 3, an attempted break-in at the Torquay bank caused widespread disquiet in the town in relation to the control of crime and also the related issue of adequate police numbers. One must also remember that the bank was owned by William Kitson and Edward Vivian, both prominent figures in the town. In addition, attempted burglaries of this nature must also have raised fears in the minds of the residents about the safety of their money and the failure of the authorities to control crime effectively. There was also a possibility that such negative publicity could harm the fast growing tourist trade.

The above perceptions about burglary have contributed further towards our understanding of crime at a local level, possibly implying that crime could be increasing at seaside resorts. Such a possibility has already been hinted at in the introduction. Thus, the seaside resorts had become disorderly, possibly fuelled by their rapid increase in population and the movement away from rural areas. This insight adds extra weight to the assertion that the nineteenth century seaside resorts had many of the same problems as the industrial towns and that certain crimes were difficult to control.

This chapter on property crime has allowed us to analyse in detail a selection from the wide variety of property offences committed within Exmouth and Torquay, between 1835 and 1860. As part of this process, perceptions of crime, particularly burglary, affected how the population as a whole saw the way in which crime could become out of control and threaten the safety of an environment which was intended to be attractive to visitors. High profile reports in local newspapers regularly fuelled this negativity. The historiographical debate about the changing natures of many industrial societies and their possible impact on property crime has been mirrored in the resorts studied. In

particular this is reflected in the age profile of offenders and the number of servants involved in property theft. Tobias, in particular has drawn attention to this topic in his analysis of factors affecting crime. He says:

There is ample testimony, from London in the first decades of the century and later from the country as a whole, that domestic servants were often involved in criminal enterprises against their masters.<sup>293</sup>

Secondly, attention has been drawn in some of the recent writing that the culture of a society has had an impact on crime and how it is controlled. In this respect, Carter Wood has drawn attention to the fact that civilised thinking represented an emergent culture of middle and upper class refinement that idealised rationality and self-restraint.<sup>294</sup> This aspect of culture formed an essential element, especially amongst the middle class, in Exmouth and Torquay as respectable behaviour was of crucial importance. As we will see later, maintaining an appropriate social tone featured strongly in the attitudes of the authorities.

This analysis of property crime has shown differences and similarities between the two resorts. The differences were not simply related to the amounts of recorded crime. From a legal perspective, Torquay embraced legislation enacted to speed up the criminal process earlier than Exmouth. This meant that, as one would expect, more larceny cases were dealt with at Summary Court level. In relation to juvenile offenders, more individuals appeared before the local magistrates in Torquay. Those found guilty were often privately whipped. However in both resorts cases were resolved at the Quarter Sessions and Assizes. In a rare example of arson William Osborne, aged 14, was indicted for setting hay alight. He was found guilty and sentenced to six months in

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<sup>293</sup> Tobias, *Crime and Industrial Society*, p.198.

<sup>294</sup> Wood, *Violence and Crime in Nineteenth Century England*, pp.3-4.

the House of Correction and also ordered to be whipped.<sup>295</sup> In terms of punishment as a juvenile he was not only sent to the House of Correction but whipped as well.

In relation to gender issues, perceptions about appropriate behaviour expected of women were challenged; women were regularly involved in larceny. As expected, a high proportion of women were involved in the stealing of wearing apparel. This was particularly noticeable in Torquay and was obviously related to the high proportion of servants in the town. However, this type of theft had an impact on all sections of the community. An unexpected finding was that compared to Exmouth women especially were involved in receiving stolen goods. The pawn shop was clearly an important repository for the disposal of stolen goods. Finding and keeping reliable servants presented real problems in Torquay, yet it was an issue which does not appear to have reached the public domain. The fact that a number of wealthy seasonal visitors brought their own servants with them, rather than recruit locally, could have been a partial solution to a problem not always aired publicly.

The fact that there was so much building work in Torquay from the 1830s onwards meant that workplace theft was a continuing problem, which was contained rather than controlled. In Torquay, as we have seen, it encompassed virtually all sections of the community. It was not only major local builders like the Harveys, but other builders and trades people were also victims. If this is linked to the issue of servants not only stealing from their employers, but obtaining goods and money by false pretences, one can begin to appreciate something of the scale of the problem. If we add to this theft from hotels and public houses, it is clear that containing larceny was a constant and largely unresolved challenge. This, together with burglary was a major concern in both resorts,

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<sup>295</sup> TNA ASSI 21/62.

sometimes resulting in demand for an increased police presence and systems to be put into place to contain and control property crime.

## Chapter 5 Violent Crime

Violent crime can be defined as any crime in which the offender uses or threatens to use violence against the victim. Within the context of this chapter this includes assault, fighting, threatening behaviour and drunkenness. Drunkenness could be a factor in crimes of violence.

Prosecutions for serious acts of violence were relatively uncommon in Exmouth and Torquay between 1835 and 1860. Therefore, one must recognise that the impact of violent crime on the two resorts in reality was quite limited. This was largely due to the nature of the two resorts. However, as one would expect, when such offences did occur, they were reported in considerable detail in the local newspapers. Indeed, any crime which could impinge on the tourist trade or affect the social tone of an area concerned visitors and residents alike. In this respect, there were two violent crimes which received much publicity. The first involved a highway robbery in Exmouth when a woman named Jane Drake was threatened and asked for money.<sup>296</sup> The second was a serious assault in Torquay, the victim being Jane Stone. When the case came to trial at the December Assizes 1857 Jonathan Roose, a 21 year old cellar man, was accused of threatening to kill and murder her.<sup>297</sup>

As we saw in the introduction attitudes towards violent crime changed during the nineteenth century. In this context Martin Wiener has remarked: 'In nineteenth-century England, the problem of violence, the meanings of gender and the workings of law were

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<sup>296</sup> TNA ASSI 25/35/2.

*Trewman's Exeter Flying Post*, 23 March 1848.

<sup>297</sup> DRO QS 34/4 Assize Gaol Calendar, 12 December 1857.

TNA ASSI 21/62.

*Trewman's Exeter Flying Post*, 17 December 1857.

all assuming prominent places in culture and consciousness.<sup>298</sup> Gender issues and the link with violent crime is an important topic within the chapter. In minor assault cases women generally attacked other women. However, in the few cases of serious assault where women were victims issues of morality and acceptable female behaviour come to the fore. In this respect, this chapter will contribute to the historiography of violent crime by analysing in some detail how crimes of violence impacted on Devon seaside resorts, especially Exmouth and Torquay.

The chapter is structured to highlight prosecutions for minor assault at Summary Court level, followed by a more detailed analysis of the serious assaults prosecuted at the Quarter Sessions and Assizes. Reasons for the relatively high number of assaults against the police will also be explored.

### I. Statistics

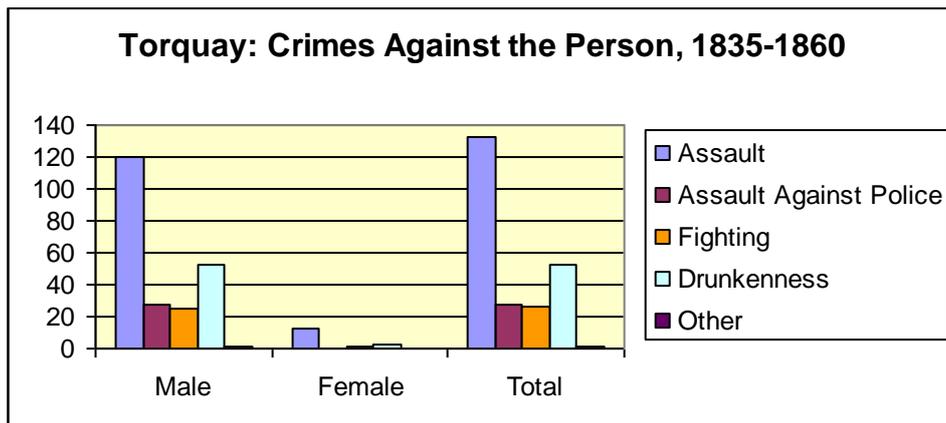
As in the previous chapter, this begins with some quantitative data in relation to violent crime. It should be noted that the majority of the convictions for these offences were for assault. In Torquay, at Quarter Session level all nine convictions for assault involved police officers. In contrast, at Exmouth, although there were four cases of assault, only one involved a police officer. Likewise, at the Assizes, in relation to Exmouth of the four indictments for assault, only one involved a police officer. In Torquay, of the eight indictments for crimes against the person five were for assault, four of which involved police officers.

In the following tables it is the data from the summary courts that comes to the fore. In this respect, within Torquay, around 29% of convictions for violent crime were at this

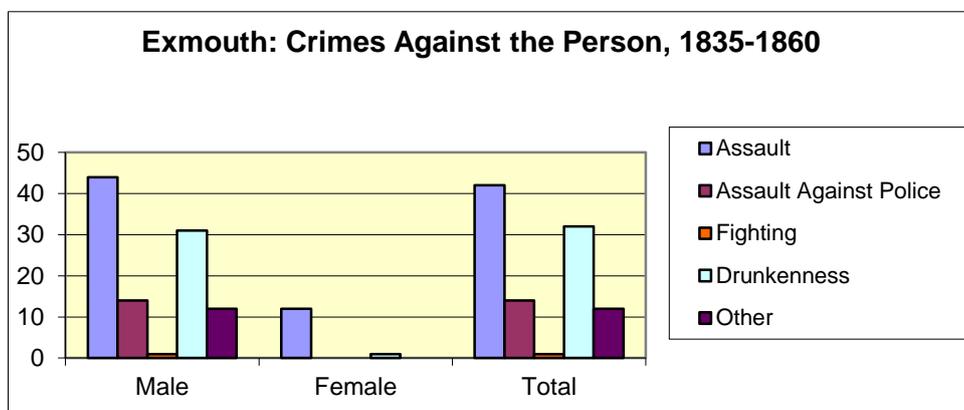
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<sup>298</sup> Wiener, *Men of Blood*, p.9.

level. The percentage figures are based on a total number of approximately 670 cases. In Exmouth there is the similar figure of around 26%. This is based on a total number of approximately 360 cases. It should be noted that these percentage figures also include convictions for fighting and drunkenness, which did not invariably include violence, but could culminate in this being the case. The related issues of threatening and abusive language are themes which will be explored further in chapter 6.



**Table 20 Torquay: Crimes against the Person, 1835-1860**



**Table 21 Exmouth: Crimes against the Person, 1835-1860**

## II. Drunkenness

Drunkenness was a problem in both resorts. As we will see in the course of the chapter it was often considered to be a factor in disruptive behaviour within the family and was regularly used as a mitigating circumstance by the violent offender. More commonly

amongst temperance reformers, drink was seen as the cause of all crime. At national level the public order problems caused by the sale and consumption of alcohol led to an emphasis on the immorality of drink. This stand was espoused by a number of Evangelicals and many of the Dissenters. In the early Victorian period a number of working men would have agreed with the sentiment expressed by F.M.L.Thompson that drink had the capacity to, ‘undermine character, religion, the work ethic, and family responsibilities...’<sup>299</sup> It was in this context that from the mid-1830s the teetotallers who supported total abstinence held sway. However, among the non-temperance element of the middle classes drinking at home was the norm.

In Torquay, as we have already discovered, at least two of the magistrates, Edward Vivian and James Hack, were prominent figures within the temperance movement locally. Newspaper reports indicated that the local branch had a membership of over 1000 people. In Exmouth in the late 1850s there was also a strong temperance movement, with meetings attracting audiences of around 200 people. Certainly, there is evidence that drunkenness was an issue which exercised the authorities in both Exmouth and Torquay. On occasion local police officers were dismissed for drunken behaviour whilst on duty.

With these facts in mind it seems appropriate to analyse a number of issues surrounding drunkenness in more detail. Despite the fact that drunkenness was given a separate category in tables 20 and 21 on the topic of crimes against the person, it is difficult to provide precise figures of people coming before the courts for being drunk; prosecutions for assault, fighting and the use of indecent language could all involve drunkenness as a catalyst. The problem is further complicated in Torquay by the fact

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<sup>299</sup> F.M.L.Thompson, *Rise of Respectable Society*, pp.308-9.

that a number of convictions for drunkenness were also obtained under a Local Improvement Act. Those convicted under this legislation were usually fined five shillings plus any costs involved.

We can get some indication of the possible scale of the problem by undertaking a search of the local directories. *White's Devon*, published in 1850, lists Torquay as having around 20 hotels, inns and taverns and 29 beer houses. Some of the hotels, for example the Royal, were very prestigious establishments and attracted many outside visitors, whereas the beer houses were usually located in the poorer more overcrowded areas of the town. As we will see later in the chapter, certain beer houses in Torquay regularly had violent disturbances. In contrast, Exmouth had 17 hotels, inns and taverns and just five beer houses as well as a beerseller in Littleham. These figures are significant as the difference in the population figures for the two towns was not large.

The Beer Act of 1830, the related Beer houses Act (11 Geo 14 and 1Wil IV c.64.) and a number of amendments, all had their roots in two unrelated demands; pressures from publicans for the freedom to trade and second, some method of adjudication which limited the freedom to trade to the respectable members of society. Further, in what was a period of intense change, an emphasis on efficient and modern police forces was an important prerequisite. As one would expect the above legislative changes paved the way for a large increase in the number of beer houses across the country. Stuart Anderson, in a detailed analysis of the arguments and changes has remarked: 'by the early nineteenth century many alehouses resembled today's public houses selling spirits as well as beer.'<sup>300</sup> However, at a local level there is no evidence that unlicensed alehouses were actually prosecuted. In fact they are not listed separately in the

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<sup>300</sup> S.Anderson, 'Discretion and the Rule of Law: The Licensing of Drink in England c. 1817-1840.' *The Journal of Legal History*, 23, No.1, (2002), 45-59 (p.45).

directories and may not have been a particular problem. This is in sharp contrast with some of the licensed beer houses and cider shops. Within Torquay, there is evidence that most of the prosecutions were brought on the complaint of Charles Kilby, the local parish constable, who later became the Inspector of Police. This would seem to indicate that he had the support of the gentlemen responsible for the government of Torquay at this time as they attempted to contain drunkenness, rather than simply being the actions of an overzealous police officer.

With this background in mind, we now move on to analyse in more detail some of the convictions relating to people who kept open their premises outside the allotted hours. There is also the scope to consider possible reasons for taking action in the courts. As early as December 1835, Samuel Bridgman, an innkeeper was fined £1 for such an offence. This was a first offence.<sup>301</sup> By February 1836, Thomas Waring, a cider house keeper was convicted for keeping a house open after 11 pm.<sup>302</sup> It appears that the efforts of the authorities to contain drunkenness may not have achieved the success they hoped for. By June 1837 the fine for a first offence had increased considerably. William Head, a beer house keeper, was fined £2 for a first offence.<sup>303</sup> By 1839 it is also possible that beer house keepers were being cautious regarding the people they admitted to their premises. George Eales, a beer house keeper, was convicted of refusing entry. He was fined 12s. 6d. and 7s. 6d. costs for a first offence under the Beer houses Act.

Newspaper reports from the 1840s have allowed us to highlight problems with individual people who came before the courts on a regular basis for not conforming to the legislation relating to drinking outside prescribed hours. Joshua Dodd, a cider

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<sup>301</sup> DRO *QS Bundles* 1836, box 1.

<sup>302</sup> DRO *QS Bundles* 1836, box 2.

<sup>303</sup> DRO *QS Bundles* 1837, box 3.

keeper from Tor, was first convicted in December 1845 for selling cider during the hours of divine worship on the complaint of Charles Kilby.<sup>304</sup> By December 1846 it is possible that he had become a beer house keeper, and again on the complaint of Kilby, was found guilty of keeping his house open during the hours of divine worship and fined 15s. and 4s. costs. The problem appears to continue and even innkeepers with houses in more prosperous areas such as Victoria Parade did not escape court action for the offence. In February 1849, John French, Joseph Edwards and William Seymour were all convicted.<sup>305</sup> One can argue that such action was a definite policy in relation to containing drunkenness as well as a means of exercising a measure of control in relation to appropriate behaviour in one of the wealthier areas of Torquay.

It is important to recognise that in the poorer areas of the town there were more beer houses than in the more affluent areas. It is known for example that two police officers were resident in George Street and another lodged at Stentiford's beer house; their presence would no doubt help in minimising possible criminal behaviour, including drunkenness. Drunk and disorderly conduct on licensed premises was severely punished. William Seward, a beer house keeper with premises in George Street, was fined £2 10s. and 15s. 6d. costs for permitting drunk and disorderly conduct.<sup>306</sup> Further, it appears that there were attempts to control the problem of drunkenness especially on a Saturday evening and the early hours of Sunday morning. Newspaper reports have provided numerous examples of individuals being drunk and abusive. James Parsons, a labourer, was drunk and abusive in Union Street early one Sunday morning.<sup>307</sup> In addition, at this time of night police manpower was very limited and, as we will see later, it was not unknown for serious assaults to take place at this time.

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<sup>304</sup> *Torquay and Tor Directory*, 8 January 1846.

<sup>305</sup> *DRO QS Bundles* 1849, box 1.

<sup>306</sup> *DRO QS Bundles* 1849, box 1.

<sup>307</sup> *Western Times*, 22 November 1851.

Moreover, there is evidence in the records of links between drunkenness and fighting. There are several examples of people coming before the courts for the offence of fighting and riotous conduct whilst drunk. One particular case in Torquay is worthy of note as it involves the landlady of the King William Inn, seeking police assistance to remove some men from the smoking room of her house. James Brooke and another man were fighting. Mrs Towell asked policeman Verco to remove some men about 11.45pm. The fight apparently continued out in the street and the police were involved in quelling this disturbance. It would seem that James Brooke was charged only as a last resort; the landlady probably involved the police initially to protect the reputation of her house, property and personal safety. As will be seen in the course of the chapter a small number of women ran public houses.<sup>308</sup>

In relation to the problem of drunkenness, the authorities attempted to control the problem in a number of ways. Binding people over to keep the peace was one method used to exercise control when drunkenness was a factor in their unacceptable behaviour. Samuel Lambie, for example, was bound over in the sum of £50 and two sureties of £20 to keep the peace towards his father, a smith, who resided in Lower Union Street. It appeared that the defendant was violent when intoxicated and had assaulted his father the previous day.<sup>309</sup> At Exmouth, Henry Barnes was charged with assaulting his mother; she did not want to press charges. The defendant regretted the occurrence, which was committed under the influence of drink. He was bound over to keep the peace for 12 months with sureties of £15 and two of £10.<sup>310</sup>

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<sup>308</sup> *Western Times*, 4 October 1851.

<sup>309</sup> *Torquay and Tor Directory*, 20 October 1849.

<sup>310</sup> *Trewman's Exeter Flying Post*, 14 March 1860.

Secondly, there is evidence from Torquay that the courts were used to caution people for unacceptable behaviour. People clearly came into the resort, especially at the weekend, for pleasure, sometimes having too much to drink in the process. In this respect, John Pearse, a builder from Plymouth, was charged with disturbing the congregation at the Wesleyan Chapel on a Sunday evening.<sup>311</sup> In the case of this man drunkenness was identified as the cause and the defendant was discharged. However, the newspaper report provided a valuable insight into the background of the case which was brought as a caution in relation to any future unacceptable behaviour. Clearly, the leaders of the Wesleyan Chapel wanted to send out two important messages. First, certain standards of behaviour were expected in a place of worship and second, drunkenness was unacceptable on such premises, particularly during divine worship.

A careful search through local newspaper reports has also provided useful insights in connection with Victorian attitudes towards drunkenness. This can be seen in December 1845 when John and Richard Bully appeared at the Petty Sessions and were fined for using indecent and abusive language. As part of the evidence it transpired that the youngest boy was only 13 years of age and very drunk. ‘The court considering it a very disgraceful case inflicted a heavy fine.’<sup>312</sup>

It has already been seen that in relation to drunkenness, the authorities made attempts to regulate inappropriate behaviour via court action if necessary. Obviously, they did not want to discourage outsiders coming into Torquay but they did want to contain drunkenness. The following case illustrates not only attitudes towards drunkenness, but in terms of gender issues appropriate female behaviour. Mary Ann James, a young lady from Bristol, was summoned on the information of Superintendent Kilby. She was

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<sup>311</sup> *Torquay and Tor Directory*, 9 January 1850.

<sup>312</sup> *Torquay and Tor Directory*, 8 January 1846.

drunk and indecent in George Street. According to the evidence of William Verco, a policeman, she was in the fashionable Ship Inn with a young man. He became ashamed of her, and left when she fell to the ground.<sup>313</sup> We are not told who had plied the woman with drink simply that she had become an embarrassment. It is not insignificant that when she behaved in an inappropriate manner the man escorting her disappeared from the scene. Furthermore, there is evidence in the Summary Court records that a Mary Ann James was convicted of indecent behaviour and sent to the House of Correction for 7 days.<sup>314</sup> Therefore, one can reasonably assume that she was the same lady referred to in the newspaper report above.

We now move on to consider the situation in Exmouth, where drunkenness does not appear to have been so much of a problem, at least until the later 1850s. In the 1830s, Richard Haymes, a well-known character in the town, was charged on a number of occasions with assault. However, in December 1835 as well as assault he was also convicted for drunkenness. He was fined 5s. and 2s. 2d. costs.<sup>315</sup> In relation to drunkenness, unlike Torquay, keeping houses open on a Sunday and selling beer and cider outside the designated hours does not appear to have been a particular problem. In fact between 1835 and the late 1850s only two cases were recorded in the resort. The first case of selling beer on a Sunday appears to have been in June 1849, when George Partridge, a beerseller of Littleham was convicted. He was fined £2 and 7s. costs. The heavy fine inflicted is an indication that the Summary Courts took breaches of the licensing laws seriously.<sup>316</sup> In 1853 for a first offence, Joseph Fletcher, a licensed victualler, was fined £1 and 7s costs for keeping his house open during the hours of divine worship. Other traders also received heavy fines. At the same court, John

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<sup>313</sup> *Trewman's Exeter Flying Post*, 26 December 1850.

<sup>314</sup> DRO *QS Bundles* 1851, box 1.

<sup>315</sup> DRO *QS Bundles* 1835, box 2.

<sup>316</sup> DRO *QS Bundles* 1849, box 3.

Linparry, a shopkeeper, was fined £2 and 8s. costs for keeping his shop open during the hours of divine worship.<sup>317</sup> Divine worship was a contemporary reference to the fact that shops and other licensed premises could not open during the usual times of church services on Sundays, Christmas Day and Good Friday.<sup>318</sup>

Those convicted in Exmouth for drunkenness were usually male, often labourers, boatmen or sailors. Like Torquay, there is evidence that people came into the town and were convicted for drunkenness. In January 1852 Arthur Hopkinson of Exeter was fined 5s. with 2s. 6d. costs for the offence.<sup>319</sup> It was rare to find a woman convicted for drunkenness in Exmouth, but as with Torquay it did happen. However, there is tentative evidence that when women were convicted at the Summary Courts, it was considered to be a shameful offence and against the perceived standards of respectable Victorian female behaviour; those concerned received a severe punishment which might include public physical punishment, as well. One appropriate illustration is provided in the case of Biddy Henry from Sligo in Northern Ireland, who was sent to the House of Correction for 14 days.<sup>320</sup> She was found wandering the streets of Exmouth drunk. The fact that she was also a vagrant probably added to the severity of the sentence. In relation to vagrancy, this topic will be analysed and discussed in greater depth as an integral part of Chapter 6.

There is at least one occasion when a woman convicted for drunkenness was left to be ridiculed in public and placed in the stocks. One must be aware that the stocks continued to be used as a form of punishment until at least the middle of the nineteenth century for petty offences. It appears that if a man was convicted of drunkenness at the

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<sup>317</sup> DRO *QS Bundles* 1853, box 2.

<sup>318</sup> Anderson, 'Discretion and the Rule of Law', p.50.

<sup>319</sup> DRO *QS Bundles* 1852, box 2.

<sup>320</sup> DRO *QS Bundles* 1853, box 2.

Exmouth Petty Sessions a fine was the usual punishment. A period in the stocks was only instigated when a defendant defaulted on payment of a fine. This was the case with William Hitchcock, a sailor from Withycombe Raleigh who was fined 5s. and costs; six hours in the stocks was specifically mentioned if he defaulted on payment. Such a punishment was unusual at so late a period when imprisonment was the standard sanction for default.<sup>321</sup>

The culture of shame has been explored in recent writing by David Nash. In a wide ranging study he maintains that officially sanctioned judicial punishments entered a decline from the eighteenth century onwards. The relevance for this chapter lies in the investigation of the history of punishment within the pillory. He says: ‘This was supposed to allow the community the chance to obtain a species of petty summary justice and to reconfirm the social and cultural order disturbed by the miscreant.’<sup>322</sup> A similar, but less brutal form of punishment was time spent in the stocks.

This form of punishment was handed out by two magistrates sitting in Exmouth, in what appears to be an isolated case. In January 1859 at Exmouth, one Jessie Mitchell of Lypstone came before magistrates G. K. Holmes, of Budleigh and Samuel Parr of Clist[Clyst] St George, for being drunk. As well as the costs of 11s. awarded to the informant William Sanders, a policeman, the woman was also sentenced to be set in the stocks for six hours at Lypstone.<sup>323</sup> Why such a punishment was deemed appropriate in the case of a woman is difficult to comprehend. The punishment would be carried out in the local parish; therefore, those with strong feelings would in effect be given free rein to vent their anger and heap physical as well as verbal punishment on Jessie

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<sup>321</sup> *Trewman's Exeter Flying Post*, 2 September 1858.

<sup>322</sup> David Nash and Anne-Marie Kilday eds., *Cultures of Shame: Exploring Crime and Morality in Britain, 1600-1900* (Basingstoke: Palgrave Macmillan, 2010), p.23.

<sup>323</sup> *DRO QS Bundles* 1859, February/Easter.

Mitchell. From the basic information provided in a Petty Sessions certificate it is impossible to know if the woman was drunk regularly and perceived to be a disgrace to the village. In terms of acceptable Victorian values Jessie Mitchell would have been found wanting. In addition, by 1859 cases at Exmouth were not always tried by magistrates living in the town, possibly because of the impending reorganisation of the Woodbury Petty Sessional Division, which took place in 1860. Moreover, it is also possible that as a relatively new county police officer, William Sanders, was not attuned to the local community, added to which the magistrates were not local to the parish.

In this continued discussion on drunkenness, it is also clear that in Exmouth drunken behaviour posed considerable problems for the authorities. There is evidence that such behaviour sometimes led to more serious charges. An assault on PC William Horne is a good example of drunkenness being the underlying cause of an assault charge. As one would expect drunkenness was not uncommon on Saturday evenings. In the case of Thomas Hearly, Horne had seen the assailant attack his wife and, as a responsible police officer, he had intervened to protect her from further violence. At that point, Hearly then struck the police officer with several heavy blows. In mitigation, the defendant said he was very drunk at the time and expressed contrition. The magistrate, William Cole Cole said: ‘most of the assault cases brought before him arose from drunkenness and he was determined to inflict severe punishment.’<sup>324</sup> The defendant was fined £1 and 8s. costs. The above quote is important as it provides a rare example of the attitude of a local magistrate in relation to drunkenness.

The effect of drunkenness on family members is further illustrated in the case of John Dewdney. He was an old boatman who appeared in court with one of his eyes damaged

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<sup>324</sup> *Trewman's Exeter Flying Post*, 17 July 1856.

following some kind of skirmish. He was subsequently summoned by a local constable, Henry Southcott, for kicking and striking him. The newspaper report has provided some important background detail. We are told:

The defendant is a notorious drunkard and the terror of all when he is in that state, which is unfortunately too frequent and his wife and family who are thus deprived of any benefit arising from his scanty and precarious earnings.<sup>325</sup>

The charges of kicking the constable and the use of obscene language were withdrawn on account of the good reputation of his family, and the remaining charge, that of drunkenness, was the only one pressed against him. For this charge he was fined 5s. and the expenses, 10s. in all, with a fortnight allowed in which to pay the fine.

This particular case is important in that we are given a number of insights into the compassion and realism of the local magistrate. First, there is the fact that the number of initial charges was reduced; this would result in the imposition of a less severe penalty for a man who only had the ability to scrape together a meagre existence. Second, the magistrate showed a degree of sympathy, advising him to keep sober in future, or, if he must get drunk go home, get to bed and not annoy the public. Third, there was realism and concern for the members of his family in that the magistrate wanted to avoid the family becoming dependent on the parish for further support. However, it would appear that Dewdney did not heed their warnings or take their advice as a John Dewdney came before the Woodbury Petty Sessions as a persistent offender. He was convicted for drunkenness. Like an earlier male offender, he was fined 5s. and expenses, with the possibility of six hours in the stocks if he defaulted on the fine.<sup>326</sup>

When the County and Borough Police Act came into force in 1856, tensions between the new officers and the local population seemed to harden, particularly in relation to

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<sup>325</sup> *Trewman's Exeter Flying Post*, 12 July 1849.

<sup>326</sup> *Trewman's Exeter Flying Post*, 30 May 1860.

licensing matters. Local constables were not all appointed to the new force. Certainly, officers in the new force responsible for the policing of Exmouth took a much firmer line in relation to licensing offences and drunkenness. There is also evidence that their relationship with the local licensees was not always positive. Between May 1857 and December 1860, 13 cases of drunkenness came before the Woodbury and Exmouth Petty Sessions, as well as 7 prosecutions for breaches of the licensing laws. Something of the problem can be seen in a newspaper headline from the local Petty Sessions labelled *The New Police and the Licensed Victuallers*.<sup>327</sup>

The report of the proceedings will be analysed in detail in order to gauge the reaction of certain key players. There is evidence that the innkeepers were perceived to be at fault, albeit sometimes through what they claimed to be ignorance. We are told that Mr Barness, the landlord of the Holly Tree Inn, Withycombe had been charged with keeping his house open during the hours allowed by Act of Parliament. It transpired that Mr Coleridge, the magistrates' clerk, had informed the defendant that he must close his house at 3 pm. and not open until 5 pm. Mr Barness claimed that he had offended through ignorance and would take care that the offence was not repeated.

Superintendent Dick of the Devon County police did not wish to press the heavy penalties, the whole object being to let the licensed victuallers know that they must observe the provisions of the Act. The bench inflicted a fine which, together with expenses amounted to 16s.

In addition, there is evidence that local people viewed the actions of the new police with some derision. Robert Williams, of the Volunteer Inn, Chapel Street, was summonsed for unlawfully refusing to admit Sergeant Washford to his house when requested. In a

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<sup>327</sup> Cann, *Exmouth History*, Vol. 5.

graphic description of the proceedings it transpired that the police officer had requested entry at 12.50 am on a Sunday morning after seeing lights and hearing voices on the premises. It appeared that the wife of the defendant had refused entry claiming that many people who wanted drink claimed to be police officers, a statement she later regretted. Mr Toby, who acted for the defence, claimed that no police officer had any right to demand admission to a public house. The interpretation of the law by the clerk and the magistrates was very unpopular; the magistrates even threatened to clear the court if the applause for Mr Toby's position was repeated. The unpopularity of the new police was further demonstrated when the Chairman had to reiterate that the word "any" did not mean any reasonable time; a police officer could enter public houses at any hour he pleased. Therefore, the Bench supported the police and imposed a £2 fine which included costs.

Robert Williams was charged for a second time with opening his house for the sale of beer on Sunday 17th May before 12.30 in the afternoon. Sergeant Washford claimed that on the day in question he had seen a young lad come out of the house at 9 minutes past 12 carrying a jug of beer. Mr Toby was again on hand to defend Williams. He claimed that the legislation provided an option for public houses to open before 12.30pm if public worship had been terminated before that time. Mr Coleridge disagreed; the Bench fined the defendant 1s. as well as costs, a total of 12s.

We have already established that the new county police were extremely unpopular with the licensed victuallers and in some cases were over zealous in the way they targeted infringements of the licensing laws. In this respect, we read that on the 3rd May, Joseph Russell, the keeper of a public house at Withycombe Raleigh, was charged with keeping his house open during the hours of divine service. However, it was proved that the

defendant's wife had only drawn a pint of beer for her father-in-law who had walked a number of miles to see his children; therefore, the Bench dismissed the case.

Beer house keepers did not escape being summonsed for keeping houses open in the allotted hours. In July 1858, at Exmouth Petty Sessions, a newspaper reported that PC Hookway found some 12 people drinking beer at the house of Daniel Yates. The tenor of the report must have aroused considerable interest as Yates did claim that those drinking beer were, in fact, his lodgers. However, it would appear that he himself had overindulged and his powers of recall were very limited.<sup>328</sup>

We now move on to consider possible reasons for the change of policy in relation to breaches of the licensing laws, at a time when the new county police force was facing a number of challenges about policing such an important watering place. A possible clue was provided in late January 1857, when it was announced that a lecture would take place at the Glenorchy schoolroom, given by the Rev. J. Butler, on the subject of temperance. It transpired that he had given long and faithful service to the temperance movement and was about to leave the town before moving to Cornwall. Further, a local newspaper reported on a meeting of the Exmouth Temperance Society at which some 200 members were present, in order to make a presentation to the aforementioned gentleman.<sup>329</sup> From the above detail we are able to glean that the temperance movement was strong in Exmouth and that support would be given to the magistrates and others responsible for the government of the town to reduce drunkenness. In addition, there would be a measure of support for a clampdown on innkeepers and others who opened their houses outside designated hours. Evidence for such a position can be seen in that the Rev Butler in his thanksgiving speech championed the cause of Exmouth teetotallers

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<sup>328</sup> *Trewman's Exeter Flying Post*, 8 July 1858.

<sup>329</sup> Cann, *Exmouth History*, vol. 5.

as well as that of total abstinence. Whilst such a stance would not be the position of all Wesleyan Ministers there would certainly be support from others such as members of the Independent Chapel at Glenorchy. Mr Sheppard, who chaired the meeting, was a member of the above place of worship. Moreover, we know from other sources that he himself had been burgled one Sunday evening whilst attending worship at the Independent Chapel.

In relation to the duties of the new police force it is also possible that those with responsibility for the government of Exmouth wanted to make sure that drunkenness and other associated crime was tackled by county police offices. It was also clear that robberies continued to be committed late on Friday night or early Saturday morning. In fact, in the very same issue of *Trewman's Exeter Flying Post* which featured the Exmouth Temperance Society, there was a detailed description of several break-ins at different shops and houses across the town. Thus, the problem of crime in Exmouth and how to contain it continued to challenge those responsible for the well-being and governance of the town.

Taking stock, if the issue of drunkenness is related to the wider historiography, almost all the established writers on crime have linked violent crime with drunkenness.

Emsley, for example has stated: 'Drink was often remarked upon as a cause of violence in the family.'<sup>330</sup> David Jones in his case study of Merthyr Tydfil stated that most arrests for drunkenness took place on Saturday nights and Sunday mornings. In addition he felt that legislation which prevented the sale of drink on Sunday mornings had had a beneficial effect in the town.<sup>331</sup> These assertions confirm that drunkenness and violent crime were regular occurrences in a number of industrial towns. Moreover, there was a

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<sup>330</sup> Emsley, *Crime and Society in England*, p.48.

<sup>331</sup> Jones, *Crime, Protest, Community and Police*, p.102.

similar pattern within Exmouth and Torquay, emphasising that some problems with drunkenness and violent crime in industrial areas were mirrored within seaside resorts.

### III. Assault

In terms of the assaults prosecuted at Summary Court level we begin by considering the impact of the railway navvies, particularly in Torquay. Here they had a definite impact on violent crime. It is well documented that the navvies had a reputation, not without foundation, for being involved in violent disturbances. This can be illustrated in a dispute about wages which resulted in an action at the Torquay Petty Sessions. A warrant had been issued for Israel Toms in relation to a violent assault. The victim, a W. Reynolds, had been engaged as part of Toms' gang. The gang referred to was probably a group of workmen in charge of someone called Tom. It appears that when Reynolds asked for wages rightly due to him, he was assaulted. From the details in an editorial statement surrounding the case, one is able to get a glimpse of public perceptions about the railway navvies and the support they provided to each other.

Within the resort of Torquay itself, there is a sense in which the navvies themselves were considered to be outsiders. However, the newspaper report suggests that in fact it was Reynolds who was indeed the interloper, not being perceived as a full and rightful member of the gang, not being a navy. We read:

This case presented a characteristic instance of Railway Law... he [Reynolds] was coolly told that it was his place to work, and that if he ever said anything about wages he would be knocked down, which was almost immediately carried into effect, his jaw being broken and being otherwise much injured, the "navvies" stood round enjoying the scene, the countryman being considered an interloper.<sup>332</sup>

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<sup>332</sup> *Torquay and Tor Directory*, 18 December 1846.

In February 1847 there is evidence that the navvies were involved in an assault at a beer house. It appeared that Henry Cox, the keeper of a beer house in George Street, had made a complaint about a navvy named William Sanders. The incident happened on a Saturday evening when several of the navvies were drinking; four of the party left without paying. When the case came before the local magistrates the newspaper reported that between 50 and 100 navvies gathered outside the Town Hall to await the result of the case at the Petty Sessions. The defendant was convicted and given a small fine and costs.<sup>333</sup> No additional details of the case were provided. However, it is possible that the beer house keeper was concerned to keep his licence and, knowing the reputation of the navvies, may have overreacted to their presence, hence the small fine.

We now move on to discuss and analyse the number of other assault cases which came before the Summary Courts in Torquay. It can be seen from table 20 that over 100 prosecutions for assault took place in the lower courts at Torquay alone. Therefore, there is a need to look more carefully at a selection of these cases in order to establish any particular trends or patterns. It is important to note that those involved covered the whole social spectrum; women were in the minority. George Earle, an Attorney at Law, was found guilty of assaulting one George Parker.<sup>334</sup> It is possible that the same George Earle had been involved in some disagreement which had spilled over into violence the previous year. A recognizance has survived ordering George Earle to keep the peace towards Charles Williams, gentleman for a period of 12 calendar months. Likewise, Charles Williams, gentleman, was ordered to keep the peace, especially towards George Earle for 12 calendar months.<sup>335</sup>

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<sup>333</sup> *Torquay and Tor Directory*, 19 December 1847.

<sup>334</sup> DRO QS *Bundles* 1841, box 5.

<sup>335</sup> DRO QS *Bundles* 1840, box 1.

Most found guilty of assault were fined. However, the fines varied enormously. At one extreme, Joseph Ryder was fined 6d. and 9s. 6d. costs for assaulting surgeon William Jolley in March 1836.<sup>336</sup> At the opposite end of the spectrum Charles Lightfoot, a livery stable keeper was found guilty of assaulting Alfred Grist, a pony chair keeper and fined £1 19s. and £1 1s. costs.<sup>337</sup> In most other cases those convicted were fined varying amounts between 6d. and £1 19s. One unusual case worthy of note was that of Robert Tisceel. He was convicted of the assault of a child under 10 and fined £2 including costs.<sup>338</sup> Clearly, assaults against children were punished severely and will be discussed in more detail later in the chapter.

On the subject of assaults, women in Torquay were usually convicted for assaults on other women. It is noticeable that initially the offence could begin with an insulting remark or gesture and then escalate into a full scale assault. The case of Mary Holmes illustrates this well. It transpired that she was summonsed to answer the complaint of Sarah Oliver, wife of a road contractor, for violently assaulting and beating her. She was fined 10s. which included costs. One must also recognise that by the mid nineteenth century it was not unusual for both parties to be represented in court; Mr Carter appeared for the prosecution and Mr Fell for the defence. A newspaper report has provided a vivid description of the evidence. We read:

Complainant was driving near the Mail Coach Inn, St Mary Church... when the defendant met her, making an insulting gesture, some words passed, ... complainant threw a small stick at her, defendant took it up and struck her with it in the cart; a scuffle followed, and complainant, an aged woman and a cripple, was knocked down into the ditch and very cruelly beaten.<sup>339</sup>

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<sup>336</sup> DRO QS *Bundles* 1836, box 2.

<sup>337</sup> DRO QS *Bundles* 1847, box 4.

<sup>338</sup> DRO QS *Bundles* 1849, box 3.

<sup>339</sup> *Torquay Directory*, 26 June 1850.

In addition, the comments from the Bench are illuminating. It was stated that although the complainant actually committed the first assault by initially throwing the stick, no person was justified in taking the law into their own hands except in self-defence.

One noticeable exception to the practice that women generally assaulted other women was the case of Anne Webber, a married woman. She was convicted in December 1849 for an assault on John Croker, a labourer. She was fined 6d. with 5s. costs.<sup>340</sup> A woman assaulting a man was against the behaviour expected from a married woman. As the fine imposed was small, it is possible there was some form of provocation. However, as with most assault cases at Summary Court Level, the lack of qualitative material has prevented further analysis and observation.

We now progress to discuss assaults on police officers. Within Torquay, there were 8 cases involving the assault of police officers in the execution of their duty at Summary Court level. Fines varied; the highest of £3 and 15s. costs was handed out to Frederick and Langdale Formby for the assault on James Pratt and George Welsford in February 1854. John Allen appears to be the only person sent to prison. This was for an assault on William Gale. He was sent to Exeter gaol for seven days.<sup>341</sup> The more serious assaults on police officers will be discussed later in the chapter.

In Exmouth, unlike Torquay, the convictions for assaults which reached the Summary Courts did not cover the same wide social spectrum. Those featured appeared to be mostly labourers and trades people. Again, fines varied widely from 6d. plus costs, to 15s. and 16s. 6d. costs for John Tobey, an innkeeper convicted of assault in May

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<sup>340</sup> DRO QS *Bundles* 1850, box 1.

<sup>341</sup> DRO QS *Bundles* 1855, box 4.

1836.<sup>342</sup> In July 1849 David Lamb, a 14 year old errand boy, was convicted of assault and fined 8s.<sup>343</sup> Again, like Torquay women were usually convicted for assaults on women.

Mary Tiller appears to be the first woman convicted for assault during our period. In February 1834 she was convicted for assault on Ann, the wife of John Baizly and fined 6d with 5s costs.<sup>344</sup> However, by 1839 the same Mary Tiller had possibly been convicted on a number of other occasions including one of assault against T. Williams, Market Keeper and fined 5s. with 6s. costs.<sup>345</sup> In the latter case it appears that initially there had been some dispute about not adhering to Market regulations; the situation then probably escalated, the outcome of which led to an assault charge.

At Exmouth, in relation to the police, we know that there were around 14 convictions for assaults against police officers at Summary Court level. The paucity of the evidence has limited the exploration of the subject. However, the early 1850s saw a number of prosecutions, hence the problem. The first conviction appeared in March 1851, when Thomas Hill assaulted William Horn, a constable in the execution of his duty and was fined 2s. 6d.<sup>346</sup> Following this one isolated case it seems that the problem escalated in the summer months. For example in August 1853 there were 6 convictions when Isaac Rake and William Horn were assaulted in the execution of their duty; fines were often £1 10s. and costs.<sup>347</sup> Likewise, In August 1854 Richard Anderson was convicted of assault and resisting arrest. He was fined £2 for each offence with costs awarded to

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<sup>342</sup> DRO QS *Bundles* 1836, box 3.

<sup>343</sup> DRO QS *Bundles* 1849, box 3.

<sup>344</sup> DRO QS *Bundles* 1834, box 2.

<sup>345</sup> DRO QS *Bundles* 1839, box 2.

<sup>346</sup> DRO QS *Bundles* 1851, box 2.

<sup>347</sup> DRO QS *Bundles* 1853, box 1.

Isaac Rake and William Horn respectively.<sup>348</sup> These convictions seem to indicate that policing Exmouth was often a problem in the summer months, hence the action at Summary Court level.

In relation to assault, one particular case from Exmouth raised a number of concerns at a local level and beyond. In the wider context, it can be seen as an acknowledgement of a complicated tension regarding a precise definition of respectable Victorian behaviour. This tension is alluded to by Martin Wiener, albeit within the context of wife killing: ‘new ideals of domesticity embodied new expectations for both genders...’<sup>349</sup> The situation echoed comments by Shani D’Cruze about interpersonal violence. She stated that although it was not the major preoccupation of the local courts, it was certainly a presence. In addition, it is important to remember that magistrates tried most domestic violence which came to court at this period.<sup>350</sup>

In terms of the situation at a local level, the fact that the report from the Petty Sessions featured in such a prominent position in *Trewman’s Exeter Flying Post* for July 1857 is noteworthy in itself. The case in question concerned George Blackmore, who held a prominent position as Treasurer of the Local Board of Health and the problems he was having with his wife Elizabeth.<sup>351</sup> The incident in question caused a dramatic distraction at the regular monthly meeting of the Petty Sessions held at The Globe Hotel in Exmouth. During a routine hearing, we are told that a local man named David Blin, described as an officer of the Inland Revenue, came into the court in a very excited state saying that he had heard the most awful scream of murder from a neighbouring house. In the circumstances he begged the magistrates to send the police there. As a result PC

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<sup>348</sup> DRO QS *Bundles* 1854, box 3.

<sup>349</sup> Wiener, *Men of Blood*, p.159.

<sup>350</sup> D’Cruze, *Everyday Violence in Britain*, p.9.

<sup>351</sup> *Trewman’s Exeter Flying Post*, 2 July 1857.

Hampton returned having in custody George Blackmore and his wife. After such a commotion, a large number of the local inhabitants had by this time crowded into the court to hear the case.

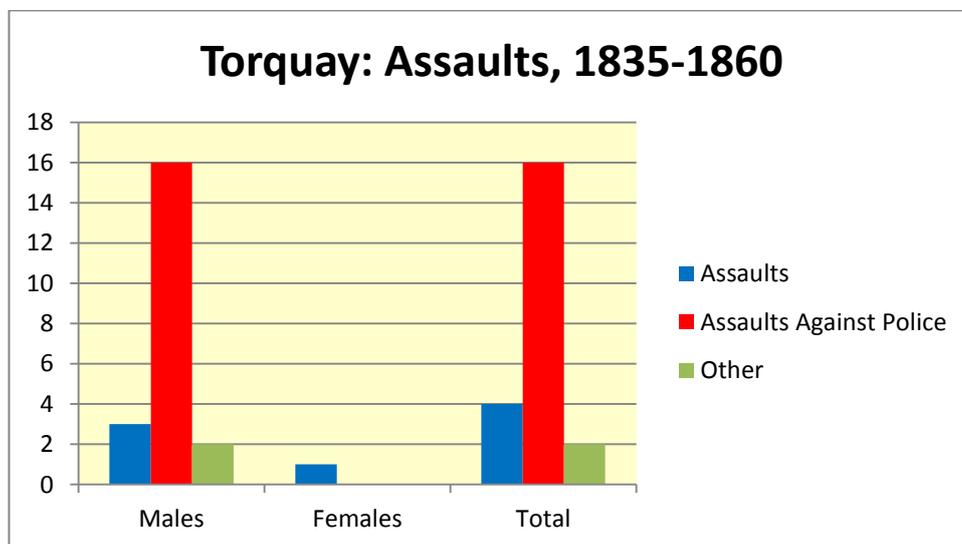
In evidence to the court Mrs Blackmore claimed that her husband had violently mistreated her and that this was a regular occurrence. In his evidence, Mr Blackmore totally refuted his wife's claims, stating that she had been guilty of an assault. The chairman said that the magistrates had heard the case from both sides but felt they could do no other than dismiss the case. However, they hoped that such proceedings would not happen again, for if they did it would be very serious for both parties. Mr Blackmore said that he was more than happy to leave the matter in the hands of Mr Coleridge, the magistrates' clerk, with a view to some suitable arrangement being made. The two individuals then left the court.

One can only speculate on reasons for the case being reported in such detail, including a number of hysterical responses from both parties. From the perspective of Mrs Blackmore no indication of the response from the townspeople of Exmouth is given. However, it is known that in Victorian times a certain code of behaviour was expected from a good wife. By appearing before the local magistrates Elizabeth Blackmore would be pictured as the very negation of a dutiful wife. The fact that such unacceptable behaviour had permeated into middle class circles had clearly generated a lot of local interest. Besides, one must recognise that *Trewman's Exeter Flying Post* normally reported the proceedings of the monthly Petty Sessions for Exmouth in a few lines, reported this case in a very detailed and dramatic way.

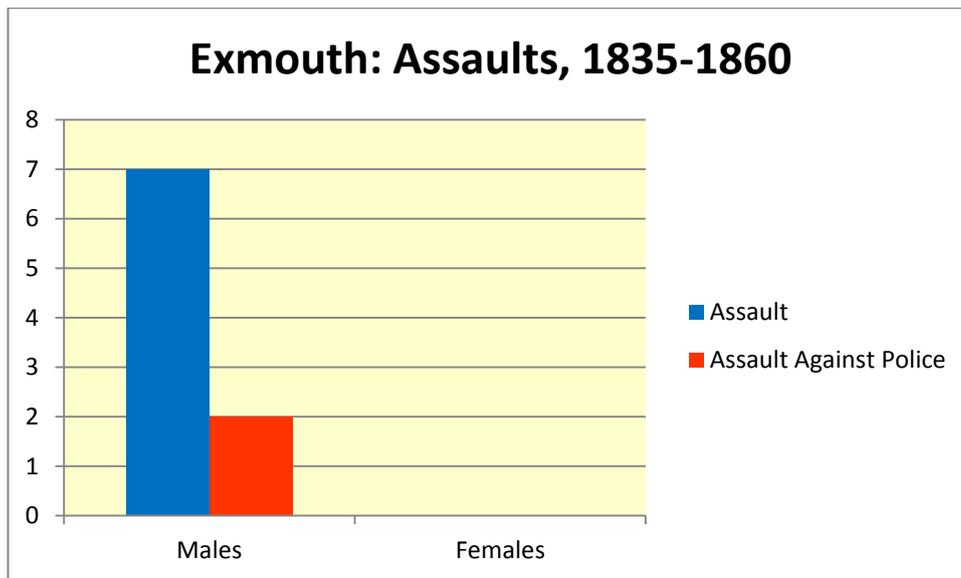
This case highlights both gender and class issues, and provides an apt illustration of the tensions in Victorian society. Mrs Blackmore did not behave in the manner expected of a respectable middle class Victorian woman. Likewise, Mr Blackmore did not conform to the expected patriarchal model of a prominent Victorian man, added to which, an appearance in the courts would not enhance his status. The above case was a notable exception to the general rule because the coverage in the press far outweighed the attention given to assault cases at Summary Court level.

a. Serious Assaults

A small number of very serious assault cases came before the Quarter Sessions and Assizes; serious assaults against the police in Torquay appear to have been a significant problem, less so in Exmouth. The following tables collated from the Quarter Session and Assize records for the county of Devon illustrate this assertion well.



**Table 22 Torquay: Assaults, 1835-1860**



**Table 23 Exmouth: Assaults, 1835-1860**

In order to analyse the issues surrounding serious assault cases it has been decided to consider in detail three cases where women were victims. In all the cases discussed the criminal and social information provided is wide-ranging in its scope. It has already been discovered that violent crime was often reported in dramatic detail by local newspapers. The following case was no exception. “A highway robbery” was the headline story in *Trewman’s Exeter Flying Post*. Jane Drake, a lace maker, was returning home about 9 pm one February evening when she was attacked by a man in Gussiford Lane Exmouth, who demanded money. The fact that it was a bright moonlit night no doubt helped to identify her assailant as a man named Tucker. He was later apprehended by Rake, the Exmouth policeman and committed to the County Gaol, for trial at the forthcoming Assizes.<sup>352</sup>

In the report of the case at the Devon and Exeter Lent Assizes the offence was described as a brutal assault and attempted robbery. In a number of cases where statements from depositions were quoted, the reporter probably heard the evidence in court and made notes from the detail presented. Thus, we are told: ‘her face was covered with mud, her

<sup>352</sup> *Trewman’s Exeter Flying Post*, 24 February 1848.

hair hanging down over her face, and the poll of her bonnet broke in.’ Her mother, Mrs Drake confirmed the distressing nature of her condition when she arrived home; ‘her mouth and nose bleeding, her face and head covered with mud, so that her features could not be recognised.’<sup>353</sup>

We are given a glimpse of the character of the victim in that under cross examination, she did not appear to be frightened, as one would have expected, but came over as a girl with very strong nerve. In fact his Lordship commented: ‘she appears to have defended herself very bravely.’ Despite her ordeal, she was able to present her evidence in a clear and determined manner.

The defendant was found not guilty, largely because under cross examination, Isaac Rake could not with all certainty identify the prisoner. In his summing up the judge remarked: ‘there was no doubt that the most brutal and unmanly assault had been committed by someone. But the important question... was, whether the prisoner was that man.’ The conduct of the young woman was praised; all negative comment was heaped on the policeman whose evidence was questioned by the defence counsel. It was not uncommon to find victims like Jane Drake coming over in a very positive light. We are told: ‘it was to be lamented that she had not, when she bit her unmanly assailant by the hand, bitten a bit harder, so that the mark might be visible.’<sup>354</sup>

The fact that this case was reported in *Trewman’s Exeter Flying Post* in such graphic detail adds further weight to the argument that violent crime, particularly where the victim was a woman, could grip Victorian society. It has already been established that in the nineteenth century newspapers had become easily accessible and the required

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<sup>353</sup> *Trewman’s Exeter Flying Post*, 23 March 1848.

<sup>354</sup> *Trewman’s Exeter Flying Post*, 23 March 1848.

reading for all social groups. Crime, alongside sex scandals and other sensations had become subjects of great interest in Victorian society.

Likewise, the attempted murder of Jane Stone in Torquay and mentioned in the introduction to this chapter, became a topic of insatiable curiosity. Therefore, the case will be analysed in more detail. Jonathan Roose's trial at the Winter Assizes 1857 was reported almost verbatim in the *Torquay and Tor Directory*. In fact a free supplement was produced to accommodate all the details, a further illustration of the local interest in the case. The impact of violent crime on women, together with issues about employment and the support of family members was an important aspect of the case. Alongside this, one must also consider wider issues of morality, community support and the reactions of the governing body of the town. The accused, Jonathan Roose, was a native of Liverpool where his late father had been employed in the merchant service. At some point after his father's death, Roose and his widowed mother came to live in Torquay; possibly because his uncle, Philip Michelmore, a wine and spirit dealer, was able to offer the young man the chance of employment, together with the prospect of financial stability for his widowed mother. The case has provided an example of the fact that family members were sometimes able to offer employment in what was becoming a flourishing seaside resort. The early reports of the criminal proceedings before the local magistrates have provided additional background information about the accused and his victim.<sup>355</sup>

Mr Michelmore took the young man on as an assistant and confidential clerk. It appears that he was a good and reliable employee. His mother, resided in lodgings in Brunswick Square, Tor, where her son usually slept overnight.

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<sup>355</sup> *Torquay and Tor Directory*, 18 November 1857.

Jane Stone, the victim, was aged 20 and a native of Exeter; her only relative in the town appears to have been an aunt named Eliza Lake, who kept the Tollgate at Tor Abbey. As with the accused, an employment prospect was probably the catalyst behind the move to the town. We are told that she was in the service of Mr Michelmore for around eight months, at the end of which she was employed in a similar capacity by Mrs Wills of 2 Warley Cottages. It was during the time of employment by Mr Michelmore that Jane Stone first met Roose. During this time he obviously became too attentive; pregnancy being the eventual outcome. Apart from Roose she told no-one of her pregnancy, and even at the time of her employment by Mrs Wills no-one seems to have suspected her condition. A servant in such a predicament had considerable problems in terms of support and livelihood in the future. This type of scenario was not unusual as servants often concealed pregnancies for fear of dismissal. All Roose could say was that he was sorry and provided the young woman with some pills to take, with the likely intention of trying to induce a miscarriage. However, the pregnancy continued, with Roose suggesting that Stone tell people the child belonged to someone else and that effectively he could offer no support. Despite visiting friends around Exeter it seems that no-one was aware of her condition.

In November, with the pregnancy well advanced Jane Stone arranged to meet Roose again to speak about the forthcoming child, in what was clearly an attempt to make the necessary arrangements. At the meeting with him on the 11th November, arranged by the victim, the deposition has provided important details about her feelings. He had come to visit at her request and she deposed: ‘when he said he couldn't provide the child, I was vexed and spoke rather sharply to him... I was angry with him... There was

a little scuffling between us. I am sure I didn't slap his face.'<sup>356</sup> It was in this context that Roose must have 'flipped' when he realised the enormity of the problem, together with the realisation that he was in an impossible position. In the seclusion of Mrs Wills's garden the attempted murder took place, the victim being severely injured necessitating her admission to the Torbay Infirmary. Roose was subsequently found guilty and sentenced to penal servitude for life.

When the theatre surrounding the reporting of the trial had calmed down, evidence begins to emerge about Jane Stone's future prospects; together with the possibility of some form of charitable appeal in order to provide financial support for her future well-being.<sup>357</sup> Letters to the editor of the *Torquay and Tor Directory* are significant for their attitudes towards the victim. Opposition to a charitable appeal is raised on moral grounds relating to the perceived immoral behaviour of the young woman. The incumbent of the parish of Torre, Dr. Joseph Harris, raised questions about events which took place before the attack. He reiterated the importance of remembering the original cause of the attack which was: 'her own sin of unchastity with him who afterwards attempted to murder her; and that sin is so fearfully common among young persons of her class, and unhappily so little thought of, as a sin among their friends...' <sup>358</sup>

The above quotation raises several issues. First, Dr Harris implies that lax morals were typical of those from the lower orders. Second, in questioning the morality of an appeal for charitable funding he questions whether the magistrates are failing in their duty to conserve public morality as well as preserving public order. In making such a provocative statement he wants the public to realise that too much public sympathy

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<sup>356</sup> *Trewman's Exeter Flying Post*, 17 December 1857.

<sup>357</sup> *Torquay and Tor Directory*, 23 December 1857.

*Torquay and Tor Directory*, 30 December 1857.

<sup>358</sup> *Torquay and Tor Directory*, 6 January 1858.

could be seen as a lack of support for upholding certain standards of behaviour, particularly from those with positions of responsibility in the town.

In response to such a letter, March Phillips, the senior magistrate, challenged his position and provided positive reasons for the appeal, stating that the poor girl had been left destitute with no means of support. In fact, he felt the magistrates would have been failing in their public duty not to have supported some form of appeal. In refusing to do this they were open to the implication of being harsh and unfeeling in their attitude towards an unfortunate woman. In a stinging criticism of Dr Harris's premature response to the affair March Phillips remarked: '[he] has given a prolonged publication to the pitiable circumstances of this miserable affair, the particulars of which had long ago been published to all the world.'<sup>359</sup> In offering their support, the magistrates were not attempting to make Jane Stone a heroine, but were simply supporting an initiative towards a young woman left without any financial support and a potential drain on the parish. The fund, we are told, raised '£129 9 shillings for immediate necessities, a substantial amount of money.'<sup>360</sup>

The wide publicity generated by the case confirmed the intense public interest in violent crime. By a careful analysis of the local newspaper reports it has been possible to gauge the attitudes of a number of major participants. The background to the case has provided confirmation of the fact that individuals regularly came to Torquay to seek employment. This was sometimes provided by family members. To put the case in a wider context, one can see that the offensiveness of male violence in this incident conformed to the pattern identified by Martin Wiener that such acts of violence were punished severely.

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<sup>359</sup> *Torquay and Tor Directory*, 13 January, 1858.

<sup>360</sup> *Trewman's Exeter Flying Post*, 11 March 1858.

In a change of emphasis, it has been seen earlier that indecent assault cases although rare, were sometimes prosecuted at Summary Court level. As one would expect, not all the defendants were found guilty. The evidence from both resorts points to the fact that it was often young girls who were assaulted. This picture echoes the findings by Louise Jackson. In writing about masculinity and the child abuser she confirmed the nineteenth century picture of the child abuser as belonging to the underclass: unemployed, idle and prone to drunkenness.<sup>361</sup> A case in Torquay involving the Rev Hugh Kelly who was accused of the indecent assault of a young girl aroused considerable local interest. The newspaper report described how the courtroom was packed for the occasion.<sup>362</sup> Kelly, in this situation was hardly the typical respectable moral Victorian man. When a defendant was convicted of an indecent assault the fine was considerable. In Exmouth, for example, John Start, a tallow chandler was found guilty of indecently assaulting a girl of 12. He was fined £5, a considerable amount of money for a tradesman.<sup>363</sup>

There is only one example from Exmouth when a defendant received a prison sentence for an indecent assault on a young girl. John Crudge aged 58, a marine store dealer, was sentenced to 6 months imprisonment for the offence. The newspaper report from the Quarter Sessions only reported the basic details of the case.<sup>364</sup> This lack of further detail is surprising if one analyses the detail found in the deposition. The detail is important as it provides more evidence about young girls as victims. We are told that Richard Crudge was walking up the Hulham Road towards Exmouth with his donkey cart. The indecent assault was witnessed by two gardeners, William Waldron and Thomas Havill, who were on their way to work. It transpired that Waldron passed by Crudge and noticed that ‘his small clothes were unfastened.’ There were five or six children with

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<sup>361</sup> Louise A. Jackson, *Child Sexual Abuse in Victorian England* (London: Routledge, 2000), p.107.

<sup>362</sup> *Trewman's Exeter Flying Post*, 6 June, 1852.

<sup>363</sup> *Trewman's Exeter Flying Post*, 8 January 1857.

<sup>364</sup> *Trewman's Exeter Flying Post*, 10 July 1856.

him at the time, which added to their concern. The two men then became suspicious and hid behind a hedge to view what happened next. The children were each offered a halfpenny if they would go on the cart and take up their clothes. Eliza Calley, described as, 'a pretty one' succumbed to his bidding but demanded sixpence.<sup>365</sup> Eliza Calley was only 11 years old; Waldron and Havill on the basis of what they had seen took charge of the cart and escorted Crudge home. Havill then went on to get a policeman.

It is difficult to know from the evidence of one deposition how prevalent it was for young girls to be assaulted. The above case rested on the fact that the witnesses who testified happened to be passing by and were disturbed at Crudge's inappropriate behaviour towards a group of children. Although Crudge did not appear to have any other convictions, one cannot be sure if similar happenings had occurred previously. There was no hint in the deposition as to why a group of children should be hanging around an older driver of a donkey cart. One can only surmise about other similar scenarios; the lure of fairly small amounts of money has always held attractions for young children. From other cases, the indecent assault of young children was not unknown in Exmouth and Torquay. However, one can argue that in terms of any analysis of serious assault it could be a hidden but unacceptable facet of Victorian society.

#### b. Serious Assaults Against Police Officers

Serious assaults against police officers were a significant problem in Torquay. The less serious assaults have already been discussed and analysed earlier in the chapter, together with any mitigating circumstances. In terms of the wider context, unlike nineteenth century Manchester, one cannot use assaults against police officers as an

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<sup>365</sup> DRO QS *Bundles* 1856, [convicted at the Michaelmas Sessions].  
DRO QS1/32 *Quarter Session Order Book*.

index of the level of violence in the town.<sup>366</sup> However, it has been established from the quantitative data that there were more cases of serious assaults against police officers in Torquay, compared to those in Exmouth. These cases raised a number of issues in relation to violent crime and how it could be controlled. It is clear that the number of officers available to patrol the streets during night-time hours was very limited and if a serious disturbance occurred the policemen on duty could find themselves very vulnerable, particularly in the small hours of Sunday morning. This was a time when both drunken behaviour and fighting were often prevalent.

A prosecution in April 1840 illustrates the problem well from a number of perspectives. The detail in the deposition appears to show that the total number of officers in the Torquay police force at this time consisted of: William Gale, Charles Kilby and John Steer, hardly sufficient to quell serious trouble. The deposition revealed that William Gale and John Steer were on duty at one o'clock in the morning when a disturbance took place near Mr Mudge's Victoria Inn. When challenged, those concerned violently assaulted the officers present. From the evidence it appears that Kilby had been on duty earlier in the evening but had then gone home to go to bed, leaving the two other officers close to the library. At this point the streets of Torquay were relatively quiet. The situation must have suddenly changed because shortly after returning home, Steer came and asked Kilby to get up because there had been a serious affray. The main protagonists were William Thomas, a mason, William Hodge, a shoemaker and Henry Lear, a carpenter. In his statement Kilby remarked: 'I have seen Humphreys, Thomas and Hodge about the streets all hours of the night... They did not appear to be drunk.'<sup>367</sup> In the struggle all three officers were struck with heavy blows and had their maces seized. Thomas, Hodge and Lear were subsequently convicted of assaulting the

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<sup>366</sup> Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain*, p.154.

<sup>367</sup> DRO *Quarter Session Bundles* 1840, Box 2 [Easter Sessions].

constables in the execution of their duty. They were imprisoned in the Bridewell for six months.<sup>368</sup>

The above conviction raises the question of what constituted an adequate police force for a fast developing watering place. In this respect, we do know that Charles Kilby, who had a number of other responsibilities in the town, was, by 1841 described in a local guide as the Chief Constable and had six assistants.<sup>369</sup> It has been difficult to ascertain exactly how and when these appointments were made. One can only surmise they were made as a direct result of what was clearly a dangerous affray. Attention has been drawn in an earlier chapter to the fact that the local police force was very unpopular in the late 1840s. In fact one of the concerns highlighted by the conviction just analysed related to the perceived inefficiency of a police force with only three night watchmen; it was not clear they could take charge of a town covering almost the same geographical area as the city of Exeter. This provides a graphic demonstration of the policing problems in the area at the time.

Serious disturbances at certain beer houses did on occasion result in police officers being assaulted in the execution of their duty. As Torquay had a significant number of such establishments it is not surprising to find that some, especially in the poorer areas of the town, were the scenes of trouble. Stentiford's beer house in Pimlico was one such house. By analysing a number of depositions from some of the assault cases prosecuted, it should be possible to assess the extent of the problem. We begin with a discussion of the prosecution of Joseph Tanner, William Crook and James Paty, indicted for assaulting the police in the execution of their duty. The three were found guilty and

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<sup>368</sup> DRO QS 1/28 *Quarter Session Order Book*.

<sup>369</sup> *Cockrem's Guide to Torquay*, 1841.

imprisoned in the House of Correction, Paty for three months, and Crook and Tanner for two months.

The police had been called to quell a disturbance and in the process, one of the officers was severely kicked and injured, requiring medical treatment. The newspaper report of the indictment and commitment of the offenders to trial is interesting for a comment which reflects the attitude of the magistrates towards such offences, together with the impact they had on the town. We read: 'the magistrates fully satisfied of the importance of maintaining the peace of the town, and the importance of protecting the officers in the execution of their duty... deemed this a proper case for indictment.'<sup>370</sup> In addition, there is also evidence that drink played a part in the offence for one of the offenders, Joseph Tanner. He was a young man of exceedingly good character, led into the scrape by drink; his master, Mr Bearne, thought highly of him. The defendants came to trial at the Epiphany Sessions 1847; the depositions relating to the case reveal more pertinent details, including glimpses of the attitudes of people present at the time. John Howard, a policeman who lodged at Stentiford's beer house was called by Stentiford to clear the house around 10 o'clock in the evening in November 1846; a number of people were fighting and making a disturbance in the tap room. It is possible that Howard was given lodgings at the beer house to be on hand if and when disturbances occurred. Pimlico, the location of the house, was in a poor area of Torquay, not far from George Street, where two other police officers also lived. In the course of the fighting and commotion, John Howard was severely kicked and beaten leaving him 'suffering severely from the injuries received.'<sup>371</sup> In fact Mr Jolley, the surgeon, was subpoenaed to give evidence about the extent of the injuries.

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<sup>370</sup> *Torquay and Tor Directory*, 15 January 1847.

<sup>371</sup> DRO *Quarter Session Bundles*, Box 1 [Epiphany] 1847.

There is yet more evidence that fighting and disturbances were an on-going problem at this beer house. In December 1849 Elizabeth Stentiford, the landlady of the Happy Return beer house called the police to clear the tap room. In the process the policeman Thomas Legge was assaulted. James Sullivan and William Burgess were both convicted of the offence and sentenced to 9 months imprisonment. The deposition of Thomas Legge is illuminating as it substantiates earlier documentation of the unruly behaviour on the premises, together with the difficulties beer house keepers had in preventing trouble and maintaining the safety of their properties. Sullivan had been apprehended by Legge some eighteen months previously, convicted and then imprisoned for breaking a window at Stentiford's beer house.<sup>372</sup> Therefore, it is not surprising in the circumstances that Elizabeth Stentiford sought the help of the police to clear her house. After all, she would not want to jeopardise her licence, and effectively, her livelihood.

In contrast, at Exmouth serious assaults against police officers were very few in number, one from the Quarter Sessions and a second from the Assizes; none involved disturbances at public houses. In the absence of an Exmouth newspaper, the following case from the Assizes did not appear to exercise a great deal of interest in *Trewman's Exeter Flying Post*. However, the assault against Isaac Rake, prosecuted at the Lent Assizes 1843 is worthy of some brief comment and further analysis. In seaside resorts it was not unknown for sailors and boatmen to be involved in assaults, particularly when they were ashore and had money to spend. As with a number of violent offences the police had been summoned to deal with the beating of a woman; Rake was sent for to take Perry into custody. The newspaper report described it as an aggravated case; the prisoner Samuel Perry, a 27 year old sailor, was initially found abusing and beating a woman. In the ensuing commotion the prisoner not only used his fists but also drew a

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<sup>372</sup> DRO *Quarter Session Bundles*, Box 1 [Epiphany] 1850.

long clasp knife which he threatened to use. He was found guilty of the offence and sentenced to 12 months imprisonment. On this occasion a policeman intervened and became a victim. In conclusion to the section as a whole, it is sufficient to state that the issue caused more problems in Torquay.

Violent crime and drunkenness were problems in both resorts, and the authorities found these difficult to contain. Drunkenness was also a factor in a considerable number of offences. There is evidence in the recognizances that offenders, particularly at the Summary Courts, were sometimes bound over by local magistrates to be of good behaviour towards their victims.

The temperance movement was significant in both resorts. Exmouth and Torquay had strong temperance societies, patronised by leading figures, all of whom held positions of influence. In the wider context Jones has cited the influence of the temperance movement amongst the Welsh chapels, Independents and Wesleyans.<sup>373</sup> At a local level, within Exmouth members of the Independent Chapel were involved in the movement. In Torquay breaches of the licensing laws were prosecuted with considerable vigour throughout the period. In contrast, at Exmouth breaches of licensing laws appear to have only been pursued when the resort was policed by the new Devon County Constabulary. One can only surmise that this was a priority of the new police force.

In terms of violent crime, recorded or hidden, local newspapers reported high-profile cases in considerable detail, especially when vulnerable women were victims. This demonstrates an element of news management in the nineteenth century leisure resorts.

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<sup>373</sup> Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain*, p.114

The way such crimes were reported demonstrated a voracious interest in the sensational reporting of certain criminal activity, some of which would attract a literate female audience. The negative impact of such press coverage was an element which could affect the fast-growing and economically important tourist trade in both resorts. This aspect was something the authorities would want to minimise and attempt to counteract as much as possible. However, this was often outside their direct control, although Edward Vivian, as editor of the *Torquay Directory* in the 1840s, did have some influence in this respect. In connection with the overall theme of violent crime and its wider context, evidence has indicated that assaults on authority accounted for a significant percentage of nineteenth century assaults.<sup>374</sup> This pattern is replicated in Torquay.

The relative decrease in violent crime, including drunkenness, towards the end of the nineteenth century could be perceived partly as the civilisation of many aspects of Victorian society. Such reflections could be linked to issues pertinent to seaside resorts, for example, better socialisation of the young, particularly younger men; added to which, writers such as J. Carter Wood and Martin Wiener have demonstrated how aggressive male behaviour was controlled and avoided to a much greater extent. In fact Wood has argued that the most important dynamic in nineteenth century England was the interaction between two mentalities of violence. Thus: “Civilised” thinking became pronounced by the end of the nineteenth century mainly because the older cultures of violence became a “shadow” of newer more refined behaviour.<sup>375</sup> Wiener, in contrast, considered attitudes towards major crimes of violence. In this respect the one issue in

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<sup>374</sup> Emsley, *Crime and Society in England*, p.45.

<sup>375</sup> Wood, *Violence and Crime in Nineteenth Century England*, p.4.

particular was: ‘that of more effectively controlling male violence in order to better protect women.’<sup>376</sup>

As one can see these issues presented challenges to those responsible for the government of both Exmouth and Torquay. A literate middle class read a growing number of journals and magazines that shaped the culture of refinement. Crime and violence became a major topic in any available work of literature; moral reformers had the press, the law and the pulpit to express their views. In the final chapter, the question of anti-social behaviour and the maintenance of an appropriate social tone will be further discussed and analysed. As the two resorts continued to develop, problems about the control of vagrancy, together with appropriate methods of regulating the streets, in line with the on-going legislation, were all matters which exercised the minds of the two governing bodies. On occasion breaches of the regulations, often enshrined in legislation at a local level, could result in action at the courts.

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<sup>376</sup> Wiener, *Men of Blood*, p.9.



## **Chapter 6 Anti-Social Behaviour**

This chapter will examine anti-social behaviour together with the related topic of social control by assessing their impact on Exmouth and Torquay, between 1835 and 1860.

These terms have been chosen in order to analyse in detail the way in which anti-social behaviour was controlled and nuisance offences minimised, often through action at Summary Court level. A limited number of case studies have been included where appropriate.

Anti-social behaviour can be defined as any aggressive, intimidating or destructive activity which can damage or destroy another person's quality of life. This behaviour, which can include crime, is an element in the social fabric of any society. Within the chapter, the term will be further explored to examine ways in which the law was used to punish offences which were deemed to affect the social tone of the two resorts in the early Victorian period. In the wider context, it will also be related to public health and other issues which could impact or damage the quality of life in the developing resorts. "Naming and shaming" undesirables was seen as an important element in the control of anti-social behaviour by provincial newspapers in the later nineteenth century.<sup>377</sup>

Social control can be defined as the process which allows societies to function and maintain a peaceful equilibrium. Within a historical context it is generally used to denote the imposition of opinions and habits of one class upon another. In the late 1970s A.P. Donajgrodzki in a collection of essays related social control to the relationships between rich and poor, expressed through a wide range of social institutions.<sup>378</sup> He saw

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<sup>377</sup> Andy Croll, 'Naming and Shaming' in late-Victorian and Edwardian Britain', *History Today*, 47, issue 5 (1997), 3-4.

<sup>378</sup> A.P. Donajgrodzki, ed. *Social Control in Victorian Britain* (London: Croom Helm, 1977).

its aim as altering the moral compass of the working class by instilling ideas of discipline and respectability. In a similar vein, F.M.L. Thompson has said: ‘Social control, is, and always has been, exercised by those with authority, whether that authority has spiritual, military, political, legal, educational, or financial roots...’<sup>379</sup>

The literature about social tone at seaside resorts has been influenced not by writers of crime, but by historians of leisure, focusing mainly on northern resorts.<sup>380</sup> However, any models based on experiences from the North West have to be modified to take account of the situation in south Devon, together with the implications for crime. Social tone can be gauged in a number of ways: prices charged by hotels, the proportion of households with servants and the scale of public buildings and leisure amenities. If this broad definition of social tone is applied to Exmouth and Torquay, one can see that policies to contain what was perceived to be anti-social behaviour were influenced by the competing demands of a variety of institutions and groups. These included a professional police, a widening upper and middle class to take on positions of responsibility, notions of civic pride and improved standards of behaviour.

The relationship between crime in its traditional sense and those crimes which had a degree of community acceptance has been well documented.<sup>381</sup> However, as we have seen in Chapter 4 on property crime, the traditional areas associated with social crime such as poaching, sheep stealing and smuggling did not often reach the Summary Courts in either town during the mid-nineteenth century. Vagrancy, one of the topics to

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<sup>379</sup> F.M.L.Thompson, ‘Social Control in Victorian Britain’, *The Economic History Review*, 2<sup>nd</sup> series, 34 (1981), 189-208 (p.206).

<sup>380</sup> Perkin, ‘The ‘Social Tone of Victorian Seaside Resorts in the North West’. Huggins, Social Tone and Resort Development in North-East England’.

<sup>381</sup> John G.Rule, ‘Social Crime in the Rural South in the Eighteenth and Early Nineteenth Centuries,’ *Southern History*, 1 (1979), 135-153.  
John Rule and Roger Wells, *Crime, Protest and Popular Politics in Southern England, 1740-1850*, (London: The Hambledon Press, 1997).

be considered later in the chapter, could come within the orbit of social crime as local communities were prepared to accept a limited number of undesirables on the streets, on condition that they moved on and did not become a burden on local parishes.

## I. Background

It has already been established in Chapter 1 that seaside resorts had unique characteristics and a dynamic of their own. The transient nature of the population meant that individuals and groups of people with differing needs and expectations came into the resorts for employment, trade and leisure. A minority of these men and women committed offences which were prosecuted at Summary Court level. In Chapter 3 the legal definition of what constitutes criminal action can change over time and within any society. The definitions of anti-social behaviour and social control on pages 231 and 232 should allow a critical and balanced analysis of how such behaviour resulted in action before the courts at these two important Devon seaside resorts.

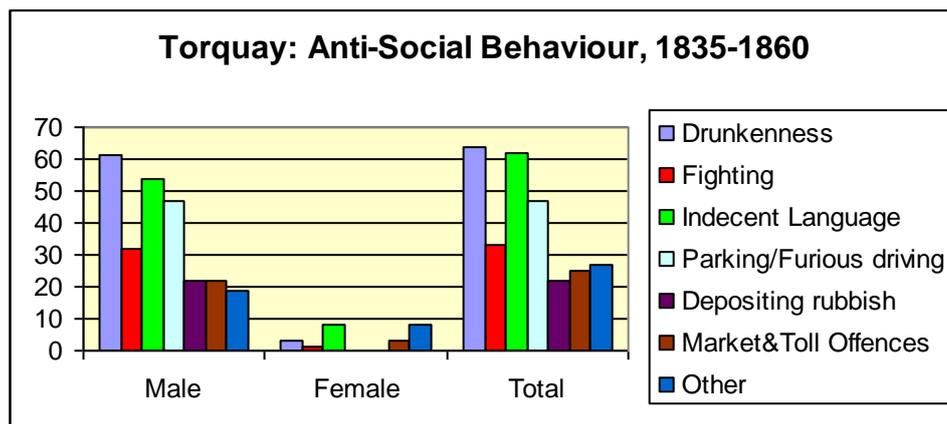
Recent writings about the Summary Courts which have contributed towards any analysis of anti-social behaviour and social control nationally are very limited; all concentrate on the eighteenth century. Peter King has paid particular attention to the Summary Courts and social relations. As far as the nineteenth century is concerned the only relevant point of note is a reference to the decrease in the capacity of magistrates to be information mediators. In relation to the more specific content of this chapter the only mention of economic and social regulation comes under the heading of dangerous and careless driving.<sup>382</sup> Robert Shoemaker has focused on the mob in London, emphasising the crowded and chaotic nature of the streets.<sup>383</sup> However, important

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<sup>382</sup> Peter King 'The Summary Courts and Social Relations in Eighteenth Century England', *Past and Present*, 183 (2004), 125-73 (pp.166-8).

<sup>383</sup> Robert Shoemaker, *The London Mob: Violence and Disorder in Eighteenth-Century England* (London: Hambledon, 2004).

parallels have been drawn by Drew Gray, albeit for the city of London in the eighteenth century, which have contributed further towards an understanding of anti-social behaviour and control. He writes: ‘the control of the streets was crucial to notions of good governance. The threat to civic peace, and by implication civic pride, came from a range of criminal or semi-legal activities that obstructed the thoroughfares of the City’.<sup>384</sup> In this respect there were periodic clampdowns on a range of activities considered an intrinsic part of popular culture of the metropolis. Thus, drunken and disorderly behaviour, prostitution, dangerous driving, and the obstruction of pavements were all areas of concern. It is significant to see that these same areas of concern also exercised the minds of the authorities in both Exmouth and Torquay, often culminating in court action. Table 24 illustrates this clearly for Torquay.



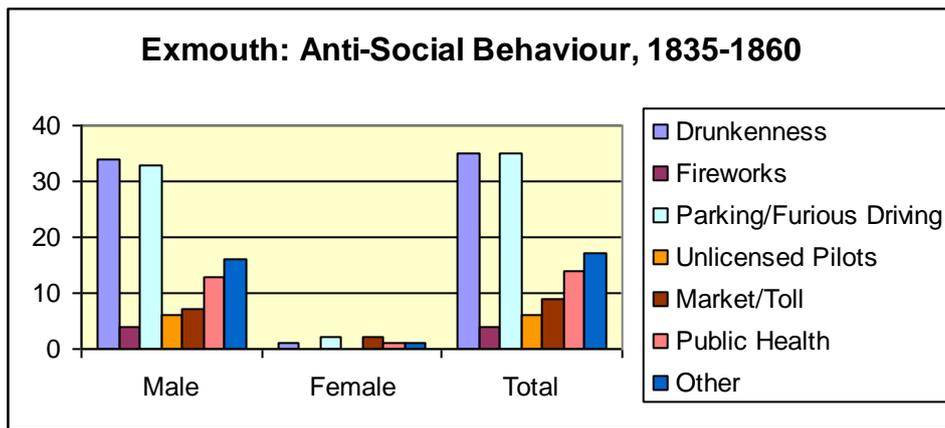
**Table 24 Torquay: Anti-Social Behaviour, 1835-1860**

The data in the above table refers to individual convictions obtained under summary legislation; the numbers have been drawn from the Summary Court certificates for the parish of Tormoham deposited at Devon Record Office. This material forms part of the Quarter Session records for the county of Devon.

<sup>384</sup> Drew.D. Gray, *Crime, Prosecution and Social Relations: The Summary Courts of the city of London in the Late Eighteenth Century*, (Basingstoke: Palgrave MacMillan, 2009), p.118.

The situation, as one would expect, was somewhat different in Exmouth. However, as one can see, Table 25 also indicates problems with drunkenness, and keeping order on the streets, which had not been resolved by other means. In addition, specific problems unique to the resort also culminated in court action. In this respect, the continued use of non-registered pilots to guide vessels into the Bight of Exmouth is a good example. The fact that a number of cases came before the Summary Courts would seem to indicate that all attempts to resolve the problem by conciliatory means had failed. However, the town would not want to discourage the important economic and trade links with the Port of Exeter. Maybe, the fact that persistent offenders were reported in the local newspapers could have acted as a deterrent.

Exmouth dealt with the infringement of public health legislation in a different way from Torquay. Individuals received orders from the Board of Health to remedy the problem. It was only if this order was disobeyed that action was taken at Summary Court level. Therefore, these offences have been listed as a separate category within Table 25. The fact that people came before the courts for contravening public health legislation would indicate not only that Exmouth took its responsibilities under this legislation very seriously, but also that it was the official policy of those responsible for the government of the town at this time. Clearly, the well documented fact that Exmouth had been described as the dirtiest place in England was not lost on the authorities. Therefore individuals were regularly brought before the Summary Courts for blocking drains and disobeying orders of the Local Board of Health.



**Table 25 Exmouth: Anti-Social Behaviour, 1835-1860**

The data in the above table refers to individual convictions obtained under summary legislation and the numbers have been drawn from the Summary Court certificates for the parishes of Littleham and Withycombe Raleigh, deposited at Devon Record Office. Like the parish of Tormoham in Torquay, this material forms part of the Quarter Session records for the county of Devon.

Whilst one would not want to argue that Torquay failed to take its responsibilities under public health legislation seriously, it is important to record that those responsible for the governance of the resort appeared to use public health regulation to govern the town in much the same way they had done under the local Lighting and Watching Act.

Under the general theme of anti-social behaviour and social control it is important to note that the Luttrells of Dunster Castle, in Somerset, used the threat of loss of employment or eviction from the family home, as a powerful tool to prevent anti-social behaviour.<sup>385</sup> There are relevant parallels for the exploration of social control at Exmouth and Torquay, in that we already know from earlier chapters that Lord Rolle and his young wife Lady Louisa were both influential within Exmouth and the

<sup>385</sup>Janet S Settingington, 'The Carhampton Magistrate District In Relation to the 1856 County and Borough Police Act (unpublished doctoral thesis, University of Plymouth, 2005), pp.179-80.

surrounding area. However, as we have also discovered in both resorts, one cannot dismiss the influence and impact of those who moved into the towns and held key roles in both the governance and the court system, not only in Exmouth, but also the surrounding Woodbury Division. In this respect, the Rev T.J.Rocke, together with his curate the Rev J.T.Boles, who later became a county as well as a local magistrate, were both important figures. Rocke held a key position as chair of the Local Board of Health from the 1840s until the 1870s, following his enforced retirement on health grounds.<sup>386</sup>

Likewise, in Torquay, by the mid nineteenth century other players were involved in the governance of the town, taking over from the power base set in place by William Kitson. From the 1850s local builders dominated the main governing body within the town. They had served their apprenticeship with the Select Vestry and exercised control over the way in which Torquay developed; ‘it was becoming apparent that some personalities were as much involved in local government for matters of self-interest as they were to watch over the interests of a larger landowner’.<sup>387</sup>

It is also important to recognise that as far as the Summary Court system was concerned, specific local legislation could also be made use of by police officers and other holders of public office, in order to take action in the courts. As one would expect, this usually happened when all other forms of sanction had failed, and, like almost all court action, could be interpreted as a failure by those trying to regulate crime at a local level. There is evidence from both resorts that as well as the major players, local police officers, customs officials, market keepers, surveyors, inspectors of nuisances, clerks to

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<sup>386</sup> *Freeman's Exmouth Journal*, 30 June 1877.

<sup>387</sup> P.M. Sandford, ‘Local Government in Torquay, circa 1820-1870’ (unpublished master’s thesis, University of Exeter, 1995), p.53.

local boards and Registrars of Births Marriages and Deaths all brought cases before the Summary Courts.

In order to analyse the related subjects of anti-social behaviour and social control, the following areas related to the topic will be discussed and analysed in detail: vagrancy, the regulation of inappropriate behaviour and how order in the streets was maintained. Within these broad categories, issues which particularly exercised those in authority included depositing rubbish, leaving timber on the highway, obstruction, furious driving and the safe passage of vehicles. The accused, almost without exception, came before the Summary Courts either in Torquay or Exmouth. However, it is important to be aware that cases involving residents from Exmouth also came before magistrates at Woodbury, where individuals from the towns and villages across the wider Woodbury Division could be tried.

## II. Vagrancy

The subject of vagrancy has been introduced in Chapter 1 and discussed in rather more detail as part of the cultural and legal framework within Chapter 2. As one would expect, there is evidence from both watering places that vagrancy legislation was used to keep undesirables off the streets. The Exmouth Summary Court records between 1835 and 1860 have shown that people were convicted for vagrancy from local parishes. John Soper, a resident of East Budleigh, for example, was convicted for being a rogue and a vagabond, a label which implied he was not a first offender. In explaining the working of vagrancy legislation Caroline Steedman has remarked: ‘a first conviction made vagrants ‘idle and disorderly’, and they could work up to the label of ‘incorrigible

rogue being bestowed on them with a third conviction'.<sup>388</sup> As the route to the resort was so accessible, it was no surprise to find that people convicted of vagrancy arrived in the town from the city of Exeter. In August 1849, Ann Rawlings was convicted for being idle and disorderly in Exmouth. She was fined 5s with costs of 3s 6d.<sup>389</sup> No further details are available about the background to the case, so we have no idea why and how she travelled to the town.

The fact that undesirables were travelling to Exmouth from much further afield was an issue that must have concerned the authorities. In the Summary Court certificates places of residence given included: Aberdeen, Jersey, a native of Bengal in the East Indies, Sligo in Northern Ireland, St. Austell in Cornwall, the parish of St Margaret's Westminster and Wolverhampton. A seaside town like Exmouth, with close connections to the nearby port of Exeter, clearly presented opportunities for regular travel and migration, attracting certain less desirable individuals. These people were clearly a challenge for the local police who must have apprehended them on a regular basis. Vagrancy formed an element of the culture within the resorts. This went against the declared aim of fostering an appropriate social tone. Too many vagrants on the streets could also dent notions of civic pride. Thus, it is unsurprising to find that vagrancy was frowned upon from time to time.

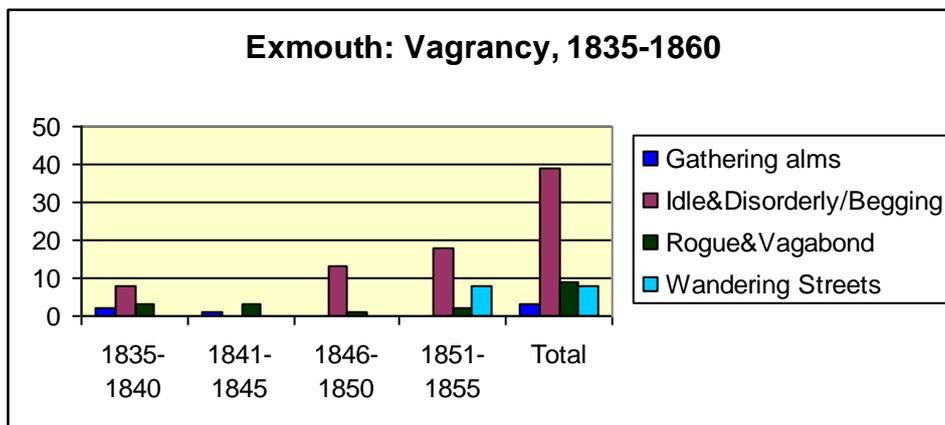
Table 26 below, collated from the Summary Court records of vagrancy convictions within the parishes of Littleham and Withycombe Raleigh, has demonstrated something of the problem in the years between 1835 and 1860. There was a five-year gap in the Summary Court records relating to Exmouth in the 1840s, added to which, there appears

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<sup>388</sup> Carolyn Steedman, *Policing the Victorian Community: The Formation of English Provincial Police Forces, 1856-80* (London: Routledge & Kegan Paul, 1984), p.56.

<sup>389</sup> DRO *QS Bundles* 1854, box 1.

to have been no convictions for vagrancy in Exmouth from 1854 until 1860. Thus, the number of recorded convictions for vagrancy in the resort probably only represents a small proportion of people cautioned. Likewise, one would not want to infer that no cases of vagrancy were prosecuted in Exmouth later in our period; it could for example, simply mean that the new county police force had different priorities or more pressing problems which warranted their attention in relation to petty crime.



**Table 26 Exmouth: Vagrancy, 1835-1860**

Separate figures have not been provided for male and female offenders. It is sufficient to indicate that from a total of 50 convictions for vagrancy, only nine were female, one of which we have already mentioned came into Exmouth from Exeter. In a seaside resort, it would not be unreasonable to suggest that some of the women may have been convicted as vagrants but were, in fact, prostitutes. It is possible that vagrancy legislation was in fact being used as a ploy to contain the problem. In this respect, a careful examination of the data has revealed that it was not unheard of to convict a woman for being idle and disorderly, yet the person convicted may have been a prostitute whom the police wanted to remove. A conviction from the 1830s provides an apt illustration. Eliza Wilson was convicted at Exmouth for being an idle and disorderly person. However, within the precise detail of the Summary Court certificate we read: ‘on the 20th of February 1837 [she] did wander and place herself in a public place in

Littleham.’ She was found guilty and committed to the House of Correction for one calendar month with hard labour.<sup>390</sup>

However, within this context it is important to be aware that of the nine women convicted for vagrancy in the town, only in one case was prostitution actually mentioned in the evidence. In August 1853 Matilda Knight was convicted for vagrancy and prostitution and committed to the House of Correction in Exeter for three weeks.<sup>391</sup> There is no evidence that she came before the local courts, or even the Quarter Sessions on other more serious charges; it could mean that she had moved on to ply her trade elsewhere.

The sentences handed out to those convicted of vagrancy usually entailed imprisonment in the House of Correction at Exeter with hard labour for varying lengths of time. The most severe sentence was three calendar months; the shortest was seven days with longer periods in between. On rare occasions individuals received a fine of 5s. plus costs.

In terms of social control it is possible to place the control of vagrancy with the orbit of encouraging decency and respectability in the working classes.<sup>392</sup> In this respect there is a limited amount of evidence that the vagrancy laws were also used to remove undesirables who did not maintain their wives and families and had become a drain on the parish. It would appear that action in the courts was a definite policy when all other sanctions had failed. As early as 1837, two individuals were convicted for being idle and disorderly persons, deserting both families and children. For this offence, Edmund

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<sup>390</sup> DRO *QS Bundles* 1837, box 2.

<sup>391</sup> DRO *QS Bundles* 1854, box 1.

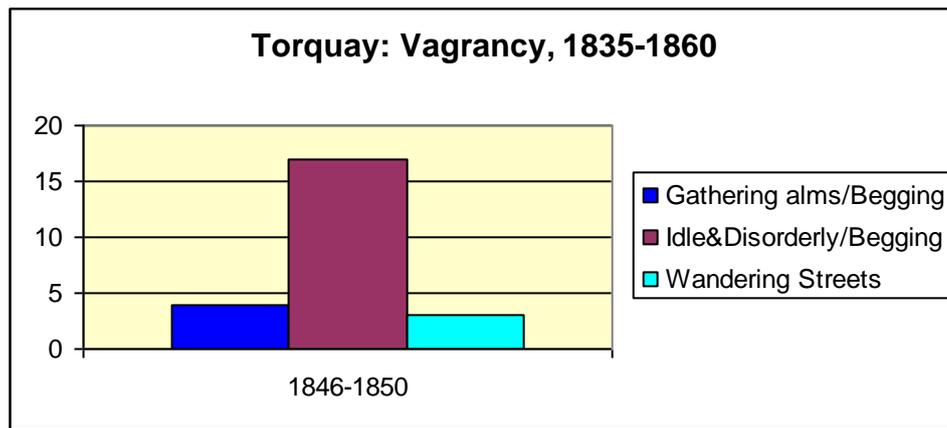
<sup>392</sup> Donajgrodzki, *Social Control in Nineteenth Century Britain*, pp.9-25.

Hollett received a three-month sentence in the House of Correction for being a charge on the parish of Littleham.<sup>393</sup> After what must have been a first offence, one can only assume that those concerned were well-known in the parish of Littleham and that, by sending them to the House of Correction, albeit for a limited period of time, the parish absolved itself of any financial responsibility, added to which, there was always the vain hope of them becoming reformed characters. However, the negative impact of such action opened up the possibility that their association with other dubious characters might lead to more serious crime as a result of the enforced incarceration.

In contrast, within Torquay there were fewer convictions for vagrancy at the Summary Courts. This is surprising as we already know from the data gathered in Chapter 1 that the population of Torquay was larger than that of Exmouth, particularly after 1851. We know from the statistics provided in the course of Chapter 4 that significantly more convictions were recorded for Torquay at the petty sessions. Further, the information gathered in Table 27 below would seem to indicate that it was the policy of the governing body in the town to target vagrancy at certain periods when it was perceived to be a particular problem. Throughout the period, all the convictions appear to be concentrated in the period 1846 to 1850, the majority between 1849 and 1850. There were 32 convictions in total, 10 involving women.

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<sup>393</sup> DRO *Quarter Session Bundles*, box 4 1837.



**Table 27 Torquay: Vagrancy, 1835-1860**

Unlike Exmouth, there is no specific evidence that women convicted for vagrancy in Torquay might also be involved in prostitution. However, a search of the local newspapers has shown that in reality, evidence on the ground might be different. One example has been found where the magistrates cautioned a group of women charged with vagrancy. In fact the heading in the report “A bright lot” suggests the women were colourful characters. However, in purely factual terms, Jane Bright and three of her colleagues had been charged with vagrancy. In court the case was dismissed with a caution. In dismissing the case, it is the warning and language of the magistrate which seems to indicate their real motive. We read that the women were: ‘advised to patronise some other watering place more suiting their avocation.’<sup>394</sup> The convention in the coded official language no doubt indicated to the readers that in certain parts of the town prostitution was endemic. As a consequence, as revealed in the Quarter Session records, prostitutes were from time to time convicted of stealing from their clients.<sup>395</sup>

It has already been established earlier in the chapter that local communities were prepared to accept a limited number of undesirables on the streets. This was on the understanding that they moved on and were not a drain on the local parish. To develop

<sup>394</sup> *Trewman's Exeter Flying Post*, 12 June 1851.

<sup>395</sup> DRO QS 32/220.

this concept further we now move on to analyse in more detail vagrancy convictions recorded at Torquay during December 1846. Wandering around the town and finding somewhere suitable to sleep during the winter months was obviously a problem. The police, no doubt under instruction, must have been urged as part of their duties to remove undesirables from their midst. On the 11th December, a vagrant named Mary Johns was committed to the House of Correction, having been found begging with a false petition. A few days later, on the 16th of December three individuals were apprehended on a charge of vagrancy, having been found wandering abroad and sleeping in a linhay at Tor Abbey.<sup>396</sup> Susan Wollacott, one member of this trio, was a well-known character, who had been imprisoned previously for a similar offence. In view of her previous bad character she was committed for two months, the others for somewhat shorter periods.

The fact that four individuals should be convicted for vagrancy within a five day period in the run up to the festive season raises a number of issues. Firstly, it is possible that imprisonment, although unpleasant, offered limited warmth, sustenance and shelter and was a more palatable option than sleeping rough. Secondly, the Cary family would not want to over-encourage undesirable individuals to seek refuge on their premises at Tor Abbey, giving the impression that those wandering the streets might generally find somewhere to sleep for the night. Thirdly, it is possible that the Carys initiated the prosecution before the local magistrates; it could also be interpreted as an example of social control, whereby a prominent family in the town influenced which vagrancy cases were prosecuted in the Summary Courts.

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<sup>396</sup> *Torquay and Tor Directory*, 18 December 1846.

A close examination of all the vagrancy convictions within Torquay during 1849 (15 in total) has revealed that all were brought by Charles Kilby, a prominent police officer in the town at this time. Without exception, all the cases came before a magistrate living in Torquay and sitting alone. These two facts alone add weight to the supposition that the problem of vagrancy had become acute at this time and those responsible for the government of Torquay had made it a priority to take action in the courts as and when necessary. This was a period when the population of Torquay was growing very quickly, attracting new and important visitors. Therefore, clearing the streets had become an important priority within the resort at this time. If this is related to the national picture, it was, in effect an example, in practice, of an important tenet of the new police in the mid-nineteenth century. As Chris Williams has commented: ‘the constant pressure to “move on”, often accompanied by summary violence when the targets were juveniles, appear to have made an impact on the way that people behaved on the streets.’<sup>397</sup> This insight has implications for the policing of Torquay in that control over unacceptable behaviour was an important priority of its governing body. In this respect, although not a popular officer on the ground, Kilby could avoid a certain measure of conflict because he could rely on the support of the Local Board which employed him. This was especially important when dissent arose about matters of policing policy. The tensions between the major players will be developed in the next section when the courts were used to resolve the problems around the regulation of inappropriate behaviour.

This section confirms that vagrancy was not a priority for the authorities in Exmouth and Torquay. Clearly a certain level of rough sleeping and begging was deemed to be

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<sup>397</sup> Chris A. Williams, ‘Policing the Populous: the Road to Professionalisation’, in *Histories of Crime: Britain 1600-2000*, ed. by A.M. Kilday and D. Nash (Basingstoke: Palgrave MacMillan, 2010), pp.160-179 (p.165).

acceptable. However, in terms of the arguments surrounding anti-social behaviour and social control it underlines the willingness of all involved in the government of the two resorts to prosecute when the situation was perceived to be untenable. Also, in terms of our argument, one cannot dismiss the fact that control of the streets was an essential element in good government and vital for preserving and maintaining an appropriate social tone.

### III. The Regulation of Inappropriate Behaviour

The regulation of what was perceived to be inappropriate behaviour was clearly a problem in Torquay. The fact that so many cases reached the Summary Courts is a sure indication of an on-going struggle to contain behaviour deemed to be unacceptable in a developing and fashionable resort. In terms of developing our hypothesis, it is important to note that the control of inappropriate behaviour was a necessary but unwelcome feature of the culture of the resorts in the mid nineteenth century. Within this broad category of unwelcome behaviour and activity, we will begin by first analysing convictions at Summary Court level for the use of indecent, obscene and abusive language.

As we have already seen in Table 24, using indecent language accounted for a significant number of offences within Torquay. The first conviction for such an offence appeared in the records in 1839. However, in that year, there were only five convictions in total for the parish of Tormoham registered at the Quarter Sessions; four were for breaches of licensing regulations and involved innkeepers and keepers of beer houses. As far as the use of unacceptable language was concerned, William Heath was convicted of using indecent and inappropriate language.<sup>398</sup> All the convictions for that

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<sup>398</sup> DRO *Quarter Session Bundles*, box 3 1839.

year were obtained under the provisions of the Lighting and Watching Act before either William Kitson or Joseph Garrow, sitting alone. The number of convictions for this offence steadily increased especially in the mid to late 1840s. It is not surprising that convictions involving anti-social behaviour and other petty offences in Torquay reached their highest number in 1849. A small number of women as well as men were prosecuted for using indecent and abusive language. Mary Ann Morgan was one such individual. She was fined what appeared to be the usual fine for the offence at this time; 5 shillings plus costs.<sup>399</sup> The evidence indicates that these offences usually occurred in the densely populated poor areas of the town which included Swan Street, Fleet Street and George Street. Lower Union Street, a busy trading area close to a more prestigious part of the town, also attracted prosecutions for anti-social behaviour.

As we have discussed in detail in an earlier chapter, the opening of the railway in the town in 1848 had positive benefits in that Torquay was more accessible for a wider clientele. There was an obvious tension between attracting the wealthier classes and people from the lower orders who were either employed in the building trade or necessary in the provision of other goods and services. However, those responsible for the town's government had the unenviable task of developing the tourist trade, whilst initiating policies and exercising social control. These twin aims meant dealing with regulation of the streets, discouraging inappropriate behaviour and, as we have already seen, trying to contain vagrancy in the resort when the situation got out of hand.

It appears that like most of the cases of inappropriate behaviour, the use of indecent language only came before the courts after a warning possibly prior to prosecution. This could lead to serious criminal behaviour, necessitating action in the courts at a higher

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<sup>399</sup> DRO *Quarter Session Bundles*, box 1 1850.

level. By 1853 it appears that persistent offenders were being sent to the Gaol in Exeter. Of the 15 offenders found guilty, 5 were imprisoned. These included Philip Duffy, who was sentenced to 10 days imprisonment, John Bully, who appears to have been a persistent offender, and James Connolly, both of whom were sentenced to 14 days imprisonment. Women were not excluded from imprisonment. Mary Butland, Matilda Fisher, Susan Passmore and Charlotte Reynolds were all sentenced to imprisonment in the common Gaol at Exeter for using profane and abusive language during 1853 and 1854 for either 5 or 7 days.<sup>400</sup>

Chair drivers generally drove open carriages of different types in the nineteenth century. Individuals were employed to transport people around the town. On occasion they presented the police with a number of problems. One example among many relates to a chair driver using abusive language in the street. William Williams admitted using abusive language. It appeared that while he was away from his stand a man took his donkey chair and rode about town. It was this situation which caused his use of bad language. The response of Charles Kilby was interesting in that he had known the defendant for many years and considered him a steady man. However, as the problem was a regular occurrence among the drivers he felt he had to take notice of it. After all, the Improvement Commissioners granted licences to carriage drivers and inappropriate behaviour could lead to the loss of a licence. Thomas O'Neill is a typical example. He was a chair driver who came before the courts regularly for offences including drunkenness and refusing to take a fare. On one occasion it was suggested that he be treated leniently because he was in danger of losing his licence.<sup>401</sup> It is probable that despite his failings, he was a good and reliable chair driver.

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<sup>400</sup> DRO *Quarter Session Bundles*, 1853 and 1854.

<sup>401</sup> *Trewman's Exeter Flying Post*, 5 June 1851.

There were instances where inappropriate behaviour was prosecuted if it was deemed to disturb visitors or lower the tone of an area. As we saw in an earlier chapter, it was not unknown for individuals to be before the courts for beating carpets out of doors. In fact, Thomas Lavis, a labourer, was prosecuted for beating carpets on the beach. According to the report in the *Torquay and Tor Directory* he was specifically advised to: ‘go at a distance where it would be less likely to disturb the invalids.’<sup>402</sup> Such an instruction sent out a clear message that the resort depended heavily on the economic contribution made by invalids in the winter season and that as early as 1845 the Improvement Commissioners were prepared to sanction action at Summary Court level if necessary. Again, in relation to our analysis it is clear that maintaining the correct social tone was an essential element of the culture and pride within the resort.

One can argue that prosecutions for washing coaches on the public highway came in the same category as beating carpets in areas frequented by wealthy visitors and invalids, on the basis that it was important to create a good impression. There is evidence that chair and chaise drivers were targeted on at least one occasion, possibly after some kind of complaint. On the 12th November 1849 Thomas Easterbrook, Frederick Stone and John Roberts, chair/chaise drivers, were all found guilty of washing their coaches on the public highway, although exactly where was not indicated. They were each fined 5 shillings, including costs.<sup>403</sup> The importance of newspaper reports to supplement the evidence provided in basic Summary Court certificates was useful on this occasion. Here, the editor of a local newspaper, with the advantage of specific local knowledge, was able to pinpoint the underlying problem. This was most likely to be the lack of somewhere suitable for coach drivers and others to wash their vehicles. Thomas

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<sup>402</sup> *Trewman's Exeter Flying Post*, 8 Jan 1846.

<sup>403</sup> DRO *Quarter Session Bundles*, Box 1 1850.

Easterbrooke, a driver, who we are told had previous convictions for similar offences understood: ‘a suitable place would be found soon’.<sup>404</sup>

The fact that all the cases were brought by Charles Kilby, in his role as Surveyor of Highways, would seem to be a further indicator of the increasing number of problems for which Torquay’s governing body was struggling to find a solution. The fact that action before the courts had become necessary meant that the situation had either got out of hand or there had been a formal complaint and Kilby was ordered to take action. Again, this is a further example of the struggles of officers and others to impose some sort of order in busy streets teeming with people.

The problems associated with inappropriate behaviour provide further confirmation of the challenges presented to those responsible for the government of the two resorts. Control of the streets, together with developing notions of civic pride, were important aspirations in the creation of an environment and culture which welcomed visitors. In addition, there is a tenuous link between inappropriate behaviour and the improvement of the person, both of which have moral and religious implications. Although there is no direct evidence, the concept of personal improvement linked to the control of immorality would be welcomed by Torquay’s governing body, a number of whom were recorded as practising high church Anglicans. Therefore, one can argue that by attempting to curb inappropriate behaviour, including the use of indecent language, the authorities were improving the quality of life for everyone. Moreover, in developing the argument of what constitutes criminal behaviour, the prosecution of inappropriate behaviour is one more example of how anti-social behaviour resulted in court action,

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<sup>404</sup> *Torquay and Tor Directory*, 14 November 1850.

adding weight to the fact that such behaviour was considered criminal, under the clauses of a Local Improvement Act.

As will be seen in the next section depositing rubbish on the streets was another negative feature which presented a poor image in the town. How to deal with the problem in Torquay must have presented real difficulties. At this time the resort was growing and developing to meet the needs of different groups and individuals.

Obstructions and filth on the pavement needed to be avoided as much as was reasonably possible.

#### IV. Depositing Rubbish

We know from an earlier chapter that a lot of building work was being undertaken in Torquay during the 1830s and 1840s, partly to attract wealthy residents to the resort. As more people visited the fashionable watering place the road network and other buildings and infrastructure had to keep pace with all the new developments. The downside of this work was that builders and other trades people clearly had an on-going problem with transporting materials into the town. There was also the related difficulty of what to do with the material when work was in progress. Thus, unlike Exmouth, Torquay clearly had a serious problem with the depositing of rubbish.

There is evidence from local minute books that the Commissioners responsible for the government of the town took a large degree of responsibility in deciding when particular situations warranted further action. The Summary Court records have revealed that individuals, particularly builders and masons, were appearing before local magistrates regularly for depositing rubbish. The documents show that action in the courts was taken from late 1840, indicating that the situation had become problematic.

The first case involved a builder named John Burgess who was found guilty in December 1840 of leaving stones and rubbish in the street.<sup>405</sup> It is probable that the same John Burgess was before the courts again for depositing a quantity of rubbish on the turnpike road. On this occasion he was fined 10 shillings, whereas George Yeo, also a local builder, was fined 2 shillings and 6 pence for a similar offence. Individuals, usually builders or masons continued to be prosecuted throughout the 1840s.

The depositing of rubbish during building work was clearly an on-going problem and not simply confined to small individual traders. This is indicated by the fact that in one particular case the Surveyor to the Trustees of the Turnpike Roads resorted to bringing a case against Mr Sharpe, who was the contractor for the Railway Company responsible for building the Torquay branch from Aller. During the construction of this line a quantity of stone, lime and other materials had been left in the road at Scot's Bridge in what must have been a fairly major obstruction. Mr Sharpe, who did not attend in person, but sent a letter to the Bench 'promising that the obstruction should not occur again'. He was fined 10 shillings plus expenses.<sup>406</sup>

Earlier, in June 1845 John Tapley Harvey, a member of the prestigious firm of local builders and a member of Torquay's governing body in the 1850s, was prosecuted for 'depositing mortar near the Royal hotel.'<sup>407</sup> This hotel was situated in a fashionable area of Torquay and attracted a number of wealthy visitors. The fact that a member of an important firm of builders could be prosecuted for depositing rubbish would no doubt send out a clear message that depositing rubbish in the streets of Torquay would not be tolerated. Added to which, leaving building materials around on the streets had

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<sup>405</sup> DRO *Quarter Session Bundles*, box 2 1841.

<sup>406</sup> *Torquay and Tor Directory*, 5 February 1847.

<sup>407</sup> DRO *Quarter Session Bundles*, box 3 1845.

the potential to cause injury as well as deterring important people from visiting the resort. Moreover, anyone either depositing rubbish or causing an obstruction at the Royal Hotel was likely to be summonsed. James Dart, a razor grinder, was summonsed by the Commissioner's surveyor to answer to a charge of placing his grinding machine in the Fort way underneath the Royal Hotel archway and obstructing the passage. He was found guilty of the offence and fined 2s. 6d. and costs.<sup>408</sup>

As we have seen from the last example prosecutions for depositing rubbish were sanctioned by the governing body in Torquay as a matter of policy. Commissioners' Minute Books confirm this. Police officers and other officials clearly had to refer certain situations to the Improvement Commissioners regarding a particular course of action. For instance, it was resolved that: 'the surveyor summon Mr Peeke for depositing timber and sawing the same in the open place and passage in front of the green by Cary Parade.'<sup>409</sup> In a similar vein, the surveyor was instructed 'to get one of the police men to watch nightly on Cary Parade to discover parties throwing rubbish on the beach.'<sup>410</sup> At the same time, Mr Peeke was in trouble again for continuing to deposit timber. He was ordered to be summonsed.

Prosecutions for the washing of coaches in public streets, which was discussed earlier, came before the Commissioners. In this case it was referred to the Footpath Committee for them to decide on a course of action. Thus, one can see that the Commissioners had an important role in deciding as a matter of policy when and how difficult areas and situations required action in the courts. The fact that the Improvement Commissioners and later members of the Local Board of Health employed police officers and other

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<sup>408</sup> *Torquay and Tor Directory*, 5 March 1847.

<sup>409</sup> DRO R4582A add 2/TC1 *Tormoham Improvement Act. Commissioners' Minute Book*, 6 August 1847.

<sup>410</sup> DRO R4582A add 2/TC1, 3 September 1847.

local officials, laying down their conditions of service meant that in terms of social control they could determine policy and decide when and how certain action was necessary.

As well as builders' materials, other items of rubbish were left on the streets. In early 1843, even before the passing of the Public Health Act, depositing offensive material on the streets was not tolerated. Matthew Churchward, a local butcher who had an extensive business in Union Street, was prosecuted for leaving a cart full of dung in the street.<sup>411</sup> It has been noted earlier in the chapter that contentious issues were referred to the governing body. To prosecute a butcher who was a prominent figure in the town would, no doubt, act as a deterrent to other local trades people who might consider similar action. It was also a common practice for butchers to keep animals on their premises, slaughtering cattle there as, and when, necessary.

There is also evidence that other people were prosecuted for depositing filth in the streets. Cases were usually brought by the Inspector of Nuisances. On the 13th of May 1850 Catherine McLawrence was found guilty of depositing filth in the street at Pimlico.<sup>412</sup> It is important to note that not all cases brought before the Summary Courts for depositing offensive rubbish were successful. In December 1851 Mary Strong was summoned for throwing fish offal outside her door. The case was brought by the Inspector of Nuisances and dismissed.<sup>413</sup> It may be that on this occasion the local officer was being over assiduous in even bringing the case to the attention of the magistrates.

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<sup>411</sup> DRO *Quarter Session Bundles*, box 5 1843.

<sup>412</sup> DRO *Quarter Session Bundles*, box 3 1850.

<sup>413</sup> *Western Times*, 27 December 1851.

In contrast, Exmouth did not appear to have the same difficulties and problems with the depositing of rubbish on its streets. This could be due to the fact that building work and other developments were not taking place at the same level as in Torquay. It is also possible that any problems in relation to the resort's development were resolved by conciliatory means and did not require action in the courts to the same extent.

The depositing of rubbish was a challenging and difficult problem, particularly in Torquay. It has formed an important strand in the on-going argument as to how far anti-social behaviour can be labelled criminal activity. As was noted earlier in the chapter, what constitutes criminal behaviour can change over time and within different societies. In this respect, one can argue that the depositing of rubbish had become so unacceptable that court action was necessary.

#### V. Parking, furious driving and obstruction

Furious and dangerous driving referred to the driving of horse drawn vehicles in a way which endangered passengers and passers-by. This, together with obstructing the highway and other parking offences caused significant problems in both resorts. The data gathered in tables 24 and 25 shows that 35 individuals were found guilty in Exmouth and 47 in Torquay. Like other anti-social behaviour discussed so far, the evidence in the Summary Court records has revealed that individuals were only prosecuted when a problem got out of hand. This perception can be substantiated in that it was only at certain limited periods when parking and furious driving appear to have actually been prosecuted.

As early as 1836 in Exmouth, three individuals were prosecuted for driving carts without reins. One can visualise the potential seriousness of the problem if trades people

bringing their goods into town did not observe basic safety rules regarding horse drawn vehicles when entering the resort. Following these early convictions for driving carts without reins there was a conviction for furious driving in June 1838. On this occasion, Robert Hitchcock of Withycombe Raleigh was found guilty and fined 13s. and 7s. costs.<sup>414</sup> The severity of the fine would seem to indicate that either it was not a first offence or the individual concerned may have alarmed those around him.

There are no more cases in the records at Exmouth, or Woodbury until February 1849. In that year a number of individuals, usually labourers, were prosecuted for driving carts without reins. At this time all the cases coming before the courts were brought at the instigation of one of the local police officers, usually Isaac Rake or William Horne. This would seem to indicate that what was perceived to be dangerous or unsafe driving had become a problem unresolved by other means. However, it could also mean that more officers were in place to police the resort. In terms of background one must recognise that by this time an increasing number of people were coming regularly into the town from the nearby parishes. The fact that those prosecuted came from the neighbouring parishes of East Budleigh, Newton Poppleford and Otterton also indicates that people were travelling into the resort for trade as well as leisure. Moreover, as the road network to the town improved clearly more vehicles used the turnpike roads, thus the need for more vigilance and regulation would be necessary. Therefore, safe travel on the streets was an important element in good government.

Between 1849 and 1855 a small number of drivers continued to be found guilty at the Summary Courts of driving without reins, furious driving and obstructing the highway. These people were fined varying amounts of between 6d. and 4s. plus costs. All were

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<sup>414</sup> DRO *Quarter Session Bundles*, box 3 1838.

from the two Exmouth parishes as well as the adjacent parishes of East Budleigh and Colaton Raleigh. Obstructing the highway seems to have become a particular problem from 1852. In May of that year, John Brice was found guilty of obstructing the highway with a horse.<sup>415</sup> Women were not immune from prosecution for this offence, and later in the year, Elizabeth Caine of Woodbury was found guilty of a similar offence.<sup>416</sup> In October 1853, she was convicted again of obstructing the highway, this time with a horse and cart in Withycombe Raleigh.<sup>417</sup> As part our on-going discussion on the role of women it seems reasonable to assume that although one woman was actually convicted of obstructing the highway with a horse and cart, some other women were also driving horses and carts and travelling into Exmouth from neighbouring parishes. The fact that from the late 1840s, a coach travelled to Exmouth on a daily basis may have increased the need for more vigilance about furious driving and obstruction. There is also evidence that turnpike roads had problems with obstruction. Moreover, if there were also individuals on foot in the vicinity there was a need for firm regulation to alleviate what could be a very dangerous situation.

Like Exmouth, Torquay also had considerable problems regulating furious driving, parking and obstruction. The problem appeared to surface in the early 1840s when the population was increasing and building work was going ahead apace. As with other issues related to anti-social behaviour, action was eventually taken in the courts under a local Lighting and Watching Act. Cases involving local drivers parking longer than necessary for loading and unloading appeared during 1841. Henry Godfrey, a carter, was found guilty of such an offence in December of that year.<sup>418</sup> The problem of dangerous driving raised its head in September 1843, when Henry Lee was found guilty

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<sup>415</sup> *Quarter Session Bundles*, box 2 1852.

<sup>416</sup> *Quarter Session Bundles*, box 1 1853.

<sup>417</sup> *Quarter Session Bundles*, box 1 1854.

<sup>418</sup> *DRO Quarter Session Bundles*, box 2 1842.

of driving a coach without reins and fined 10s.<sup>419</sup> More often than not it appears that those convicted of this offence were driving vehicles carrying passengers. Thus, there was a need for increased vigilance to ensure the safety of travellers. For example, in December 1851, John Hasking was found guilty of the furious driving of a gig. He was fined 2s. 6d. and costs of 12s. 6d. In addition, there is on-going evidence of the problems associated with the continuing building work in Torquay. In November 1843, Thomas Parr was found guilty of obstructing the highway by erecting scaffolding. Parking longer than necessary was clearly a problem which occurred from time to time and probably only reached the courts when the situation had got out of hand, possibly in the busy summer months. Evidence for such an assertion can be found in August 1847 when three pony chair keepers were found guilty of parking longer than necessary for loading and unloading their chairs.<sup>420</sup>

Curbing parking and obstruction in busy streets was an issue over which the Local Board of Health had some control. Licenses for all carriage drivers were granted by the Local Board of Health. We are given some indication of numbers from a local minute book. By the 29th November 1850 there were 38 proprietors employing 21 drivers, all of whom were local.<sup>421</sup> From this point onwards it seems licences were granted on a monthly basis, and not all to local individuals. For example, on the 6th December 1850, licences were granted to two individual proprietors namely: Jane Syms of Camberwell, Surrey and William Wynn of Brighton, Sussex. In addition, licences were also granted to five other drivers. By July 1851 the number of licences granted had risen to 42. Hence, one can see the need for some form of regulation of the growing licensed carriage trade. Clearly, parking longer than necessary to drop off passengers must have

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<sup>419</sup> DRO *Quarter Session Bundles*, box 5 1843.

<sup>420</sup> DRO *Quarter Session Bundles*, box 4 1847.

<sup>421</sup> DRO R 4582A add2/TC 1 *Commissioners' Minute Book*.

created on-going tension. Likewise, as we have already seen, finding appropriate locations where coaches could be washed continued to present problems.

In terms of control one of the conditions of the drivers' employment must have been the wearing of some form of identification. For some drivers this was obviously unacceptable. In the minutes dated 3rd September 1852 a memorial from certain hackney carriage drivers revealed their dissatisfaction with the wearing of any approved badge. In response to their concern the Board saw no reason to dispense with the wearing of badges. However, later in the month three licensed carriage drivers were found guilty of not wearing the agreed identification. Those convicted, namely Charles Collings, James Ellicott and Thomas Bale, were fined either 6d. or 1s. and 4s 6d. costs.<sup>422</sup> All were convicted on the oath of Charles Kilby. Later, in November 1852, Thomas Easterbrooke was convicted of carrying more persons than his licence allowed. Like the drivers earlier, he was fined 6d. and 4s.6d costs.<sup>423</sup> After this no further convictions were recorded at Summary Court level. As with a number of previous cases, one can only assume that the accounts in the local newspaper, together with the possible loss of a licence were appropriate deterrents.

Thus, in terms of control, the Local Board of Health had a huge influence on the people it employed as carriage drivers in the early 1850s. No driver would want to jeopardise his employment prospects. In addition, the fact that they could change not only the salary, but also the conditions of service of the officers they employed, must have helped to cement their actions. In effect the members of the governing body could respond to any difficulties by demanding that action be taken in the courts.

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<sup>422</sup> DRO *Quarter Session Bundles*, box 4 1852.

<sup>423</sup> DRO *Quarter Session Bundles*, Epiphany 1853.

In order to fully appreciate the scale of the problems of maintaining a clean, healthy and safe environment for all residents there is a need to explore in the next section how public health legislation was used by the authorities in both Exmouth and Torquay to control anti-social behaviour. Within this context anti-social behaviour can also be perceived as a breach of good practice in relation to public health. Therefore, within the next section it is necessary to analyse a number of convictions relating to public health within the two resorts.

## VI. Public Health

The two resorts dealt with public health issues in different ways. In the case of Exmouth, it was established earlier in the chapter that the Board issued orders before action was taken at Summary Court level. Cases of what has been described as violating directions issued by the General Board of Health appeared in the Summary Court certificates from 27<sup>th</sup> October 1849. On this occasion, Mary Tedberry, John Hart, and William Haynes were all found guilty of this offence. Those involved were fined amounts of between one and five shillings as well as costs. With these convictions, the costs were significant, either 18s.6d, or 19s.<sup>424</sup>

As far as Exmouth was concerned keeping swine on residential premises was no longer acceptable. On the 24th November 1849 Francis England of Withycombe Raleigh was found guilty of violating the regulations of the General Board of Health by keeping swine and a quantity of dung on the premises where he lived. He was fined 1s. together with costs of 18s.<sup>425</sup> The high costs involved were no doubt an indication of the time and effort involved in bringing the case before the magistrates.

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<sup>424</sup> DRO *Quarter Session Bundles*, box 1, Epiphany 1850.

<sup>425</sup> DRO *Quarter Session Bundles*, box 1, Epiphany 1850.

Public health matters continued to exercise the minds of those responsible for the government of Exmouth in the early 1850s. As was discovered earlier the Government Inspector, T.W. Rammell, had produced a damning report on the state of the town in 1850. Therefore, it is not surprising that the Local Board of Health was concerned about adequate drainage and the state of their slaughter houses. On the 27th November 1852 Henry Bartlett, a common lodging house keeper, appeared before the local magistrates for not providing a proper drain for his lodging house. This was a requirement laid down by the Local Board of Health. He was ordered to pay £2. Costs of 10 shillings were awarded to Henry Adams, Clerk to the Local Board of Health.<sup>426</sup> Although no minute books relating to the Exmouth Local Board of Health have survived before 1855, it seems reasonable to assume that lodging house keepers and others would have been aware of the importance of adhering to basic standards of public health in relation to the state of their premises. Therefore, action in the courts would only be taken when all other sanctions had failed.

Samuel Dagworthy, a local butcher, regularly breached public health legislation as well as coming before the courts for committing other offences. He was clearly a character who must have been well known to the local police and magistrates. In terms of public health offences he was convicted on the 25th June 1853 for keeping a slaughterhouse without a proper and sufficient well and drain. In addition, the premises must have been operating without a pump and were clearly not identified as an actual slaughterhouse, contrary to Bye Laws laid down by Exmouth Local Board of Health. For this offence he was fined 1s. As with similar cases, the costs of 8 shillings were awarded to Henry Adams, Clerk to the Local Board of Health.<sup>427</sup> However, Samuel Dagworthy must not have taken any action to remedy the situation because on the 7th August 1853 he was

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<sup>426</sup> DRO *Quarter Session Bundles*, box 3, Epiphany, March, Easter and May 1853.

<sup>427</sup> DRO *Quarter Session Bundles*, box 2, Midsummer and September 1853.

found guilty of an identical offence. On this occasion, he was fined 10s. Likewise, as in the previous case the costs of 4s 6d were awarded to the Clerk, Henry Adams. There is no precise evidence that Dagworthy learned his lesson, but no other cases of this type appear to have been recorded in the years up to 1860.

In terms of social control, one can see that the Local Board of Health in Exmouth used their Clerk, Henry Adams to bring all the offences concerned with violating public health legislation before the Summary Courts. One can argue that in taking this course of action, members of the Local Board of Health were encouraging individuals to adopt safer and healthier codes of practice on their premises; failure to heed warnings and orders from the Board led to action at Summary Court level.

In contrast, the governing body in Torquay did not avail itself of public health legislation in the same way. By late 1849 individual butchers were being convicted at Summary Court level for keeping swine on their premises. However, although these offences were health-related it appears that these health issues had become entwined in the regulation and use of new market premises. Ellis, writing about the development, recorded the fact that there were 16 individual slaughterhouses in existence at this time, including one by M. Churchward, who more will be heard about later in the chapter.<sup>428</sup> From its inception the butchers were not prepared to use the market's slaughterhouses, preferring instead to use their own facilities to dress animals for sale. In terms of public health issues, one can argue, as Russell has done that: 'one decided advantage of the new market was the abolition of the numerous private slaughterhouses in the crowded alleys of the town.'<sup>429</sup> As far as public health was concerned, to reduce the number of private slaughterhouses in crowded and cramped alleys was a laudable aim. However,

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<sup>428</sup> Ellis, *An Historical Survey of Torquay*, p.290.

<sup>429</sup> Russell, *A History of Torquay*, p.79.

as will emerge later, this whole issue became submerged in problems with the new market.

The first market in Torquay was built in the 1820s by Sir Laurence Palk. The new replacement market caused problems from the beginning, requiring an Act of Parliament to put the necessary procedures in place. As one would expect, the building involved considerable expense and was only achieved with financial support from Sir Laurence Palk. However, it was very unpopular and was opposed by ratepayers and traders alike. Market officials resorted to using the courts to resolve major difficulties, and it was William Peckins, the Secretary of the Market Company, who brought the prosecutions.

In order to assess the twin issues of public health and the problems surrounding the new market, it is appropriate at this stage to introduce a case study of butcher, Matthew Churchward. This will allow appropriate discussion and analysis of the problems and why action in the courts was subsequently deemed necessary. Churchward himself was born in Stoke Gabriel and was trading as a butcher in Torquay at the time of the 1841 Census. By 1851 he clearly had a large, extensive and successful business. His seven children were all born in Torquay. In terms of his household he had the financial resources to employ a house keeper, a maid, a cook and a nurse to look after his large family. The premises and his business in Union Street must have been large as he employed a significant number of people. These included an accountant, a butcher's assistant and four apprentices. Thus one can see that he had both the facilities and the financial resources to challenge any arrangements made for the new market.

As far as the use of private slaughter houses was concerned it was clear that Churchward and others were continuing to use their own premises. The on-going difficulties of the new market received prominent coverage in the local newspaper. In October 1850 we are told that Matthew Churchward had been summonsed once more by Mr Peckins, the secretary to the Torquay Market Company, for dressing a sheep on his own premises. This was contrary to the Act, as the Company's slaughterhouses were now open for public use. Counsels were employed for both the prosecution and the defence, even though the case was brought at Summary Court level. Although Churchward was the person being prosecuted it appears that a number of other butchers had also been prosecuted for a similar offence, but after threatening an appeal had all paid their fines and were now attending the Company's slaughterhouses. In contrast, Matthew Churchward: 'had continued clandestinely to evade the law, the Company's servants not being empowered to enter upon his premises.'<sup>430</sup> Mr Carter, defending Churchward, claimed that insufficient accommodation was provided in the slaughterhouses and although the butchers had made a complaint as required by the Market Act they were unable to take it further because of changes to the governing body in Torquay.

In their continuing efforts to improve public health, the authorities were placed in the unenviable position whereby they had to put their house in order before the new Local Board of Health took over responsibility for the government of the town. Thus, the butchers had a genuine grievance regarding the apparent negligence of the Company in not affording appropriate grounds for complaint. A second cause for complaint was the deficient accommodation at the public slaughterhouses. It seemed that the machinery was perceived to be not up to standard. This, we are told, led to several accidents. In

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<sup>430</sup> *Torquay and Tor Directory*, 16 October 1850.

spite of the supporting evidence Matthew Churchward was found guilty and fined five shillings.

At what must have been a difficult time for all concerned, it is almost impossible to know precisely what happened to the Torquay Market Company in its attempts to regulate the public slaughterhouses. As far as Matthew Churchward is concerned the adjourned case was heard on the 27th of October 1850. Quite clearly he had continued to contravene the Torquay Market Act by slaughtering and dressing at his premises in Union Street. At this hearing it appears that some proposition was made which would amicably settle the dispute between the butchers and the Market Company. Therefore, the case was adjourned until the following month.<sup>431</sup> Quite what happened following this adjournment is difficult to discover. However, it is sufficient to state that Churchward and others continued to appear at Summary Court level charged with slaughtering and dressing animals on their own premises.<sup>432</sup> Something of the contentious nature of this issue combined with the fear of those responsible for the government of Torquay can be gleaned from a resolution in the minutes of the Local Board of Health for January 1851. We read: ‘it was resolved that the Clerk writes to the General Board for information as to the rigidity of slaughterhouses.’<sup>433</sup> From this resolution, one can assume that the governing body wanted to make absolutely certain that it was on a firm legal footing in charging individual butchers for slaughtering livestock on their own premises. After all, it is known that Mr Peckins, the Market Secretary was, in fact, a member of the Torquay Local Board of Health.

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<sup>431</sup> *Torquay Directory*, 30 October 1850.

<sup>432</sup> DRO *Quarter Session Bundles*, box 2 February to Easter 1851.

<sup>433</sup> DRO R 4582A add2/TC 1 *Commissioners' Minute Book*, January 3 1851.

It is notable that as far as social control was concerned, the butchers en masse were prepared to challenge the governing body within Torquay. Maybe the fact that the new Local Board of Health had Mr Peckins as a new member added to the difficulties. After all, Matthew Churchward was an important figure and respected trader who provided employment opportunities for a number of local people. It was not in anyone's best interest for him to take his business elsewhere. Thirdly, he had the financial resources at his disposal to employ Counsel to act in his defence, which was not the norm at Summary Court level. Finally, the magistrates hearing the case were placed in a difficult position in the decision-making process, as some of their number had been involved in the setting up of the Market Company. In this respect, they were concerned that any adjournments and future hearings should be heard by a magistrate who had not previously sat in the case. In fact, the Rev T. Kitson went so far as to state that having given evidence in favour of the Bill at the committee stage in the House of Commons 'he was himself rather biased in the matter.'<sup>434</sup>

In connection with crime, the regulation of the market is a further example of the fact that the authorities were prepared to take action in the courts to further their aims even when this involved an unpopular undertaking. In addition, the evidence has demonstrated something of the difficulties and strains for those involved in the government of the resorts in the middle years of the nineteenth century. Finally, in the case of Torquay one can see something of the vested interests and struggles of a number of individuals involved in the Torquay Market Company, who at the same time, were major figures in the government of, and Summary Court system in the town.

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<sup>434</sup> *Torquay and Tor Directory*, 30 October 1850.

## VII. Toll and Market Offences

Attempts to curb anti-social behaviour involved wider problems not solely connected to the Torquay Market Company. Unlike Torquay, Exmouth does not seem to have had many difficulties with individuals breaking market regulations. The town had a flourishing market which met on Tuesday, Thursday and Saturday. The Summary Court records have shown that in early 1839 the town must have had its own designated market keeper. In February of that year two separate individuals were convicted for offering market goods for sale. Mary Tiller and Herman Robbins were both found guilty of the offence in cases brought by Thomas Williams, the market keeper.<sup>435</sup> No further details were recorded about the cases, one can only assume that it was a particular problem in that year and that action in the courts acted as a suitable deterrent.

As was discovered in the previous section, a number of provisions in the Torquay Market Act 1852 were very unpopular. As part of the market development it appears that a market place was constructed where individuals could sell their goods after paying what amounted to a toll to the Market Company. It has been claimed that: 'this source of revenue actually exceeded the market tolls.'<sup>436</sup> To avoid the market toll, small traders particularly women, were offering items of food for sale in the streets some distance away from the new market. As will be seen later, street vendors were placed in an impossible position because there were tight restrictions on where goods could actually be sold in the town. From November 1853, a number of individuals were found guilty of contravening these regulations. It is possible to glean something of the rules from the basic details provided in the Summary Court certificates. For example we are told that Thomas O'Neill did: 'expose for sale within 1200 yards from the quay or

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<sup>435</sup> DRO *Quarter Session Bundles*, Box 2 1839.

<sup>436</sup> Russell, *A History of Torquay*, p.79.

harbour, other than the market place or his dwelling that is Fleet Street... a quantity of fish.' He was found guilty and ordered to pay 1s. and 6s. 6d. costs.<sup>437</sup>

Other traders tried to evade the market toll by continuing to sell fish, fruit and poultry in the surrounding streets, thus evading the toll demanded by the Market Company.

Between 1853 and 1855, 12 people, three of whom were women, were found guilty of this offence. The cases were usually brought by Mr Peckins on behalf of the Market Company. The regulation which demanded that a toll be paid for selling goods in the market place was problematic from the beginning. Clearly traders attempted to get round this legislation by selling goods in the street. The fact that a number of people were brought before the courts for evading the market toll is an admittance of failure by the Market Company to regulate its own affairs. These small traders, unlike the butchers, did not have a powerful individual to present and argue their case. There is no hint of any form of negotiation taking place. Maybe the Market Company was taking a hard line in order to recoup some of the expense involved in the venture.

The difficulties surrounding the enforcement of market regulations, particularly in Torquay between 1853 and 1855, demonstrate the dilemma faced by the authorities in trying to regulate the behaviour of small scale street vendors who wanted to sell their goods without incurring what they saw as an unfair charge by the Market Company. The fact that those responsible for the good governance of the town had become involved in the day to day activities of the market could indicate a wider agenda. It is possible that those responsible for the control of the streets wanted to exercise social control by restricting the activities of the hawkers by placing strict conditions on their

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<sup>437</sup> DRO *Quarter Session Bundles*, Box 1 Epiphany and February 1854.

licences. By taking this course of action Torquay's governing body was in effect attempting to control the social tone of the resort.

We now move on to consider other offences which were brought under the provisions of Local Turnpike Acts, usually for evading payment of the appropriate toll. In these cases those summonsed were usually brought to court by a local toll keeper. In Torquay there is evidence that individual drivers were prepared to go to some length to avoid the payment of a higher toll. On the 26th July 1852 William Davey and Henry Easterbrook were found guilty of such an offence. According to the detail in the court record it appears that both of the drivers had unhooked the second horse from their vehicles, thus trying to avoid payment of a larger toll.<sup>438</sup> The cases were brought by William Blake, the toll keeper possibly as a warning to other drivers who might have considered a similar course of action.

Likewise, in Exmouth a number of individuals were found guilty of evading payment of the correct toll, usually at the Exmouth Turnpike Gate. These offences were small in number and usually committed by cart or wagon drivers. It is interesting to note from the records that such drivers were regularly coming into the town from the surrounding towns and parishes. There is evidence from the court records alone that drivers were coming along the turnpike road from Aylesbeare, Colaton Raleigh and Honiton. As only a minority of those travelling into the resort would be convicted of any offence at local level, it is clear that considerable numbers of people were entering the town for trade or leisure purposes. There is also evidence that people were travelling into the town from the city of Exeter. The tollgate at Courtlands Cross in the parish of Withycombe Raleigh was the point at which disturbances and problems arose from time

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<sup>438</sup> DRO *Quarter Session Bundles*, box 4 1852.

to time. In February 1860 William D. Moore, a gentleman of the city was convicted of causing a disturbance and disputing the toll. He was found guilty of the offence under a Local Toll Act; fined 6d. as well as the cost of the toll.<sup>439</sup>

In bringing infringements of toll regulations before the Summary Court one can argue that it was an attempt to ensure the smooth and efficient running of the town, making it a pleasant place to visit. The fact that those found guilty of toll offences were so small in number is an indication that toll gates and toll keepers operated in a reasonable and well regulated manner. Occasionally, when there was a problem or a disturbance, action was taken in the courts. As these cases were reported in the local newspaper it seems reasonable to assume that this sent out the message that action in the courts might be taken if necessary. Again, there is an example that anti-social behaviour was not tolerated and those who violated basic and efficient regulation of the streets could find themselves with criminal records.

#### VIII. Miscellaneous Offences

In the final section relating to anti-social behaviour and its impact on crime other crimes dealt with by the local magistrates are reviewed. These offences differed between the two resorts. In the case of Exmouth it appeared that from time to time setting off fireworks was a nuisance only resolved when certain individuals were brought before the courts. In November 1834 Henry Wins and Edward Higerty both pleaded guilty to setting off fireworks. They were each fined 20 shillings.<sup>440</sup> The severity of the fine is an indication that both had either been convicted before, or that they and others might have already been warned about their future conduct.

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<sup>439</sup> DRO *Quarter Session Bundles*, Box 1 Epiphany and Easter 1860.

<sup>440</sup> DRO *Quarter Session Bundles*, box 1 1835.

The Bight of Exmouth is a wide curve in the shoreline where many ships anchored off the town and paused before moving on to other locations. In order to move safely it was often necessary to use licensed pilots. However, the use of unlicensed pilots was clearly an on-going problem, sometimes culminating in action at Summary Court level. The problem can possibly be linked to licensed pilots who wanted to make sure that their jobs and wages were protected; secondly that the use of qualified pilots was necessary to ensure that ships coming into Exmouth were adequately protected by pilots who were knowledgeable about the local waters. However, in this respect it is unlikely that Masters would place their vessels in the hands of incompetent operatives. Whatever the reason, certain Masters of vessels coming into Exmouth were found guilty of not using licensed pilots. Those convicted received substantial fines. In January 1836, James Grott, Master of a schooner, was found guilty and fined a total of £3 6s.8d.<sup>441</sup> In a similar vein those unlicensed pilots who piloted vessels also received substantial fines. In one such case, James Clatworthy of Brixham was found guilty of piloting a vessel without a licence. Linked to this case Joseph Duquet of France was found guilty of employing James Clatworthy. Both were fined 9s.and 11s.costs.<sup>442</sup> It has been impossible to discover why the use of unlicensed pilots resulted in action in the courts. One can only assume there was the potential for trouble between the different groups involved. Within Torquay there is no evidence of such a problem. The only similar recorded case involved William Wadland, who was in charge of a schooner and refused to obey the directions of Richard Slade, the harbour master. He was found guilty and fined £1 10s.and 10s costs.<sup>443</sup>

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<sup>441</sup> DRO *Quarter Session Bundles*, box 2 1836.

<sup>442</sup> DRO *Quarter Session Bundles*, box 2 1852.

<sup>443</sup> DRO *Quarter Session Bundles*, box 1 1850.

It is difficult to know from the existing primary source material how far local magistrates at Exmouth were involved in reconciliation procedures. There is evidence that magistrates were involved in cases of apprentices running away and individuals who deserted their wives or failed to maintain their families. In the case of individuals who had failed to maintain their families and consequently become a drain on the parish, action in the courts was necessary. In one example, there is evidence that the magistrates did not always convict. William Lammercraft was charged with deserting his wife. However, the evidence of Mr Bellman, the overseer of the parish of Littleham also proved that his wife had become chargeable on the parish and that her husband had refused to receive her. However, although he was an able-bodied man and worked as a donkey chair driver it appeared that his wife had left the house and taken all the furniture with her. This meant that Mr Lammercraft had no furniture if he simply took her back; he agreed that if she would return with the furniture he would continue to maintain her. On this occasion the Bench did not convict on the grounds that Mrs Lammercraft had improperly left her husband.<sup>444</sup>

In the case of Torquay other offences coming before the Summary Courts were somewhat different. Unlike Exmouth, there is little evidence that the authorities prosecuted people for failing to maintain their wives and families. One notable exception was a notorious individual named Obadiah Gooding who originated from the parish of Aylesbeare. The court records have already shown that he was convicted in Exmouth of assault. However, by 1847 he must have found his way to Torquay because in December of that year he was found guilty of being an incorrigible rogue and failing to maintain his wife and family. He was imprisoned in the House of Correction to await

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<sup>444</sup> *Trewman's Exeter Flying Post*, 11 January 1849.

trial at the next Quarter Sessions.<sup>445</sup> One can only assume that Torquay had a limited problem with individuals who did not maintain their families and where possible, the magistrates sought to return individuals to their former parishes on the grounds that those parishes were their real place of residence.

From the early 1850s it seems that Torquay had a problem with chimneys catching fire, to such an extent that court action had become necessary. Individuals came before the Summary Courts and were found guilty under local public health legislation. A number of people, often women, came before the courts for allowing chimneys to catch fire. The fact that women were often involved could indicate that those prosecuted were in fact servants. However, the Summary Court certificates rarely record the occupation of the individual. It would appear that there was a particular problem with chimneys catching fire in 1852. In that year, three women and one man were found guilty of the offence. Those convicted were usually fined 6d as well as costs. It could mean that warnings about the dangers of chimney fires had been ignored and those responsible for the government of Torquay felt that the problem had the potential to cause serious damage, hence the need for court action. Other anti-social behaviour and nuisance offences were also dealt with by the Summary Courts. Offences not dealt with elsewhere in this chapter included ringing doorbells, extinguishing street lamps, and ill-treating animals, all of which could have annoyed residents and visitors.

One can see that in terms of anti-social behaviour and its relation to crime any action which had the potential to annoy visitors or residents sometimes resulted in court action. As was seen earlier in the chapter it has been difficult to determine whether warnings might have been given. However, as far as negotiation was concerned there is little

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<sup>445</sup> DRO *Quarter Session Bundles*, box 1 1848.

evidence that this happened as far as anti-social behaviour was concerned. In terms of social control, particularly in Torquay, the governing body was regularly consulted about the course of action to be taken. Thus, it is possible that officers employed by the governing body, did on occasion, issue warnings. However, this link is rather tenuous; the evidence points to the fact that instances of perceived anti-social behaviour were usually referred to governing bodies, who then decided, if and when, further steps were necessary.

A consideration of anti-social behaviour and social control has shown how the definition of criminal action could change according to local circumstances.

Donjagrodzki cited the importance of the concept of social control to instil discipline and respectability into the lives of the working classes. The practical application can be seen in the policies of the governing bodies. In this context, the unique nature of the two seaside resorts, together with the strains in relation to their growth and development could encourage prosecutions for anti-social behaviour. Attempts to maintain an appropriate social tone included the acceptance of a limited amount of begging, together with a small number of undesirables on the streets. It was only when the situation appeared to get out of hand that court action was taken. As we have already seen, there is also a certain amount of tenuous evidence to indicate that the vagrancy laws were sometimes used to remove prostitutes and other undesirables from the streets.

Almost all prosecutions for anti-social behaviour revolved around the twin issues of maintaining order on the streets and preserving the notion of civic pride. Moreover, such prosecutions mirrored problems in sustaining order in teeming cities and fast growing towns referred to earlier in the chapter. Within both Exmouth and Torquay cases of furious and dangerous driving, preventing obstruction and containing

drunkenness all came within the orbit of keeping order on the streets. As far as maintaining order on the streets, Torquay had the added problem of minimising the amount of rubbish and building materials left on the streets during the development work in the town during the 1840s and 1850s. In addition, there is a hint of a moral dimension in that Torquay also attempted to maintain the social tone of the resort by using the courts to prosecute individuals for crimes such as using obscene and abusive language, drunkenness and beating carpets in the streets, particularly in the more fashionable areas of the town. The moral dimension as a means of social control is emphasised through the impact of religion. It has already been noted that a number of individuals responsible for the government of Torquay were practising High Church Anglicans, who saw the practice of religion an important social institution.

In both resorts the application of social control was also exercised by the major landowners in the sense that they provided opportunities for employment and laid down conditions and terms of employment for their workforces. However, unlike rural Somerset there is no evidence that the threat of eviction was a major control mechanism.<sup>446</sup> As far as the control of anti-social behaviour was concerned the main control was exercised by the governing bodies of the two resorts. The governing body of Torquay was able to exercise social control by enacting certain provisions of a Local Improvement Act, which, as we have seen in earlier chapters, was very prescriptive in nature and was often used to control specific items of anti-social behaviour through action at Summary Court level. The fact that the police and a number of other officials were employed directly by the governing body, who set their terms and conditions of service, allowed them to direct when particular crimes and anti-social behaviour should

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<sup>446</sup> Settrington *The Carhampton Magistrate District*, pp. 179-82.

be prosecuted. As was seen with the regulations surrounding the Torquay Market Company, action in the courts was occasionally used to enforce unpopular policies.

As far as Exmouth was concerned anti-social behaviour focused on the safe regulation and passage of vehicles in the streets. As with Torquay, controlling the toll roads did present something of a problem. This revolved mainly around making the correct payments or prosecuting individuals who tried to evade payment altogether. Unlike Torquay, there was no specific local legislation which allowed the governing body to regulate what was perceived to be an appropriate social tone within the resort. In this respect, the moral dimension in relation to the control of anti-social behaviour is somewhat questionable. All one can say is that Anglican clergy played a significant role in the government of Exmouth in the period studied.

Finally the material presented about the impact of anti-social behaviour on the two resorts between 1835 and 1860 has emphasised the unique character of seaside resorts as they strove to maintain an appropriate social tone. At the same time, there were echoes of the challenges and difficulties faced by those regulating life in busy cities. There is also evidence that when all other courses of action had failed, those in authority resorted to action at Summary Court level. Thus, one can see that in all aspects of life, Victorian notions of civic pride, together with an appropriate moral tone were always present.

## Conclusion

This thesis has confirmed that any study of crime focusing on seaside resorts cannot be undertaken without a full and detailed consideration of the unique characteristics of their location. This was especially true in the middle years of the nineteenth century, when a number of resorts on the south Devon coast developed into fashionable watering places, most of which had hitherto been small hamlets, little more than fishing villages.

It has been seen throughout the thesis examples whereby the challenges presented by fast growing and changing societies had implications for authority and control. In addition, the cultural, social and legal changes enacted at national level had significant implications for those entrusted with the governance and control of the developing towns locally. The traditional structure of local government, based on the parish system, was no longer adequate for dealing with spiralling populations, which in order to meet the need required new buildings, employment and increased leisure facilities. Added to which, there were changes in certain areas of responsibility; policing being one area which presented difficulties and opportunities for those with positions of responsibility. Technological advancement in the Victorian era also aided improvements in communication. Thus, the improved road and rail network meant that many parts of rural Devon were easily accessible for the first time.

The evidence produced is based on a case study of two contrasting south Devon resorts. Exmouth was the first seaside resort in Devon, with a history as a resort dating back to the eighteenth century. In contrast, Torquay developed from what was little more than a fishing village in the early nineteenth century; research findings have focused mainly on the period between 1835 and 1860. Within this context, the government of both towns was controlled to a large extent by a number of influential local families, together with a

number of other individuals who had moved into the area on retirement. An important area of debate in both seaside resorts revolved around attempts to control crime and maintain order and regulation in the streets.

Although the county of Devon missed the full impact of the industrialisation process, there is evidence that a lack of employment forced individuals and families from declining market towns into the fast growing and newly developing seaside resorts. As we have seen in a small-scale study of migration in Torquay, families regularly moved to the town for economic reasons. From the evidence given in Chapter 1, wives often came from south Devon, with the majority of children being born in Torquay.<sup>447</sup> There is also evidence in Torquay that people with family members in the town also moved from further afield in order to find employment, particularly as servants. These findings are in line with statements by writers on migration, stating that individuals usually relocate for economic, cultural and family reasons.<sup>448</sup>

In relation to crime, Philips' study of the Black Country has shown that most of the criminal prosecutions which reached the courts in the area were not for violent crime.<sup>449</sup> Likewise, we have seen in Exmouth and Torquay that serious assaults were rare, but when such cases came to court the newspapers reported details of the trials in dramatic detail.

As with other studies of nineteenth century crime, the evidence has shown that crimes against property were more common than crimes against the person. At Summary Court level prosecutions were mainly for fruit and vegetable theft. In both resorts prosecutions

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<sup>447</sup> Bryon, 'Migration in Torquay', pp.8-9.

<sup>448</sup> Ian D. Whyte, *Migration and Society in Britain, 1550-1830* (Basingstoke: Macmillan, 2000).

<sup>449</sup> Philips, *Crime and Authority in Victorian England*, p.283.

for defective weights and measures were pursued vigorously. It was also noticeable that smuggling along the East Devon coast was almost impossible to control even in the nineteenth century. In fact there is evidence that within Exmouth and beyond certain colourful characters had become an accepted part of local folklore.

There are a number of ways in which the picture in Exmouth and Torquay appears to mirror what historians have found elsewhere. Firstly, as one would expect, larceny accounted for the largest category of property theft.<sup>450</sup> Secondly, the fact that servants were regularly involved in property theft is reflected elsewhere.<sup>451</sup> It has already been established that Torquay had a high proportion of women in the population, a number of whom were employed as servants. It was no surprise to find a high majority of women involved in the theft of clothes and other wearing apparel as women were regularly involved in the theft of clothes. These items were easy to dispose of, regularly finding their way to the local pawn shop. Thirdly, pawnbrokers had a reputation for being slow to suspect that items were stolen, with some being known receivers.<sup>452</sup> However, the fact that there was only one such establishment in Torquay is scant evidence that the business was a repository for stolen goods. There was no evidence of any professional operation for the disposal of stolen goods, neither was there any evidence that beer shops or alehouses were used for any clandestine operations.

In common with other industrial areas and towns, workplace theft, not just by servants, was a difficult problem to contain in a fast-growing resort like Torquay.<sup>453</sup> The fact that a lot of new building and development work was taking place in the town from the

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<sup>450</sup> Jones, *Crime, Protest, Community*, p.124.

Philips, *Crime and Authority in Victorian England*, p.141.

<sup>451</sup> King, *Crime Justice and Discretion*, p.178.

Tobias, *Crime and Industrial Society in the Nineteenth Century*, p.198

<sup>452</sup> Tobias, *Crime and Industrial Society in the Nineteenth Century*, p.120.

<sup>453</sup> Philips, *Crime and Authority in Victorian England*, pp.180-95.

1830s onwards only served to exacerbate the problem. All sections of the community were affected, with the theft of tools being an on-going problem. Unlike the Black Country, no evidence was found that the larger employers had become magistrates and therefore were more willing to prosecute as a means of controlling the problem. In this respect, the only comment one can make is that builders formed the majority of people on the main governing body of the town. Therefore, one cannot under-estimate their sphere of influence.

On the other hand, there are the following aspects where Torquay and Exmouth appear more distinct, or at least conform to a pattern more likely in seaside resorts than industrial towns and cities. Firstly, an issue not in the public domain, but clearly present, was that of finding and keeping reliable workers. It is a possible reason for the assertion that large households often brought trusted servants with them, rather than recruit locally. As we have seen, tradespeople too found that from time to time employees could not be trusted to handle money. This was a difficult problem to resolve, when butchers and others offered home delivery as part of the service provided. Secondly, controlling drunkenness and unacceptable behaviour in a bid to preserve an appropriate social tone was an on-going challenge, dependent on the support of the local police force.

As tourism developed it was important in both Exmouth and Torquay that their reputations as fashionable resorts for the well-to-do were enhanced and protected. The control of crime and the regulation of anti-social behaviour in Exmouth and Torquay were important themes in all attempts to maintain an appropriate social tone which would attract visitors. In this respect attracting wealthy visitors during the winter season was very important. The key element in the case of Torquay for dealing with

issues of public order was legislation, prescriptive in nature, enshrined in a Local Improvement Act from the 1830s. In fact a local popular historian remarked: ‘The Commissioners used their Act ruthlessly to make improvements.’<sup>454</sup> One can also argue that the same ruthlessness was followed in controlling anti-social behaviour.

Torquay appears to be unique in obtaining a Local Improvement Act at such an early period. Blackpool, for example, did not have an overall strategy in place for controlling and regulating services until 1853.<sup>455</sup>

The strategies used to preserve an appropriate social tone in both Exmouth and Torquay must be extended to the regulation of the streets and the maintenance of the safe passage of people and vehicles. However, this was not confined to seaside resorts. Indeed, any large town or city would find this a necessary prerequisite. The evidence at a local level has shown that in an attempt to control the situation, people in both towns were prosecuted regularly for furious driving and causing obstructions. Clearly, the road network had improved and for passengers and drivers of carriages and carts safety was deemed to be paramount.

In addition, one cannot ignore the fact that in order to achieve their aims those responsible for the governance of the two resorts sought to impose certain moral values on the population in their areas. Those with responsible positions in both towns were often High Church Anglicans who took their social responsibilities towards the communities they served seriously. Further, the influence of the temperance movement can also be seen in that prosecutions for drunkenness and breaches of licencing laws were pursued with some vigour. In order to achieve these aims reliable police forces were necessary.

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<sup>454</sup> Pike, *Torquay*, p.30.

<sup>455</sup> Walton, ‘Residential Amenity, Respectable Morality’, p.69.

Finally, this regional case study has provided a picture of Devon seaside resorts where, by and large, the majority of crime comprised small scale larceny, committed by people who were not professional criminals. Much of the crime happened in the workplace, a significant proportion of which was perpetrated by servants. Although the finding is tenuous, it is possible that some individuals were taking advantage of generous employees regarding acceptable 'perks' of the job.

In the nineteenth century, as today, there was a sensational interest in crime which gave the impression that crime levels were higher than the reality. This was certainly true in relation to crimes of violence, to which the following quotation bears testimony.

'Sensationalist phraseology such as 'shocking violent outrage', 'unspeakable violence', 'murderous assaults', and crime of dreadful depravity', were commonplace in most Victorian national and local papers, just as they are today.'<sup>456</sup>

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<sup>456</sup> Judith Rowbotham and Kim Stevenson, 'Causing a Sensation: Media and Legal Representations of Bad Behaviour', in *Behaving Badly: Social Panic and Moral Outrage-Victorian and Modern Parallels*, ed. by Judith Rowbotham and Kim Stevenson (Aldershot: Ashgate, 2003), pp.31-46 (p.39).

## Appendix 1

### Magistrates for the Paignton and Woodbury Petty Sessional Divisions

#### Paignton Division

Sir J.B.Y.Buller, Bart, Lupton

G.H.Cutler, Esq. Upton Lodge, Brixham

J.Garrow, Esq. Braddons, Torquay

J.B.Y.Buller, Esq. Churston Court

R.Shedden, Esq. Tor Abbey

J.Harry, Esq. Paignton

C. Mallock, Esq. Cockington

E.Vivian, Esq. Torquay

Sir L.V.Palk, Bart. Haldon House

J.Hack, Esq. Torquay

E. Carlyon, Esq. Greenway, Totnes

Rev T.Kitson, Shiphay

H.C.M. Phillipps, Esq. Torquay

J.Belfield, Esq. Primley Cottage

C.B.Baldwin, Esq. Torquay

Clerk, Mr G.Hearder, Torquay

Woodbury

Sir John Kennaway, Bart. Escot

T.W.Buller, Esq. Strete Raleigh

E.Divett, Esq. M.P. Bystock

Rev Archdeacon Stevens, Ottery

Rev H.W. Marker, Aylesbeare

General Thomas, Strete Raleigh

Rev J. Huyshe, Clisthydon

J.Garratt, Esq. Bishop's Court

H.Porter, Esq. Winslade, Exeter

Gen Sir H.Browne, K.C.B. Exmouth

J Tyrrell, Esq. Sidcliff, Sidmouth

W.C.Cole, Esq. Exmouth

C.J.Cornish, Esq. Sidmouth

Rev H.J.Fellowes, Sidbury

R.Hunt, Esq. Sidbury

W.R.Bayley, Esq. Cotford House

J.Garratt, jun., Esq. Bishop's Court

G.Smith, Esq. Salcombe Mount

J.M.Wolcott, Esq. Knowle House

S.Parr, Esq. Clist St George

E.Lousada, Esq. Peak House

J Carslake, Esq. Sidmouth

Clerk, Mr F.G. Coleridge, Ottery

Source: *White's Devon, 1850*, pp.13-15

Appendix 2

Paignton Division

Attendance at Quarter Sessions

Magistrates	Residence	1835-39	1840-44	1845-49	1850-54	1855-60	Sess/Atte
Sir J.B.Y.Buller, Bart,	Lupton	5	5	5	4	6	25
G.H.Cutler, Esq.	Upton Lodge, Brixham		2	1	2		5
*J.Garrow, Esq.	Braddons, Torquay	8	3				11
R.Shedden, Esq.	Tor Abbey						
J. Harry	Paignton						
*C.Mallock, Esq.	Cockington		1			1	2
*E.Vivian, Esq.	Torquay			1		5	6
Sir L.V.Palk, Bart	Haldon House	3	3				6
J.Hack, Esq.	Torquay			6		1	7
*H.C.M.Phillipps, Esq.	Torquay		2	1		14	17
*J. Belfield, Esq.	Primley Cott., Paignton		5	9	6	2	22
C.B.Baldwin, Esq.	Torquay		1	1			2
J.B.Y.Buller, Esq.	Churston Court	1	1	2	2	3	9
*Rev.T.Kitson	Shiphay		6	8	5	8	27
W.Kitson, Esq.	Torquay	3	1				4
Rev J.R.Hogg	Brixham						
H. Phillpotts	Watcombe, Torquay				1	2	3
E.Carlyon	Greenway, Totnes	1	2	1			4
*Randolph Robinson	Newby, Torquay					4	4
Sir Lawrence Palk	Haldon House					10	10

\* Magistrates sitting on the bench at the Petty Sessions

Appendix 3  
Attendance at Quarter Sessions, Woodbury Division

<b>Magistrates</b>	<b>Residence</b>	<b>1835 -39</b>	<b>1840 -44</b>	<b>1845- 49</b>	<b>1850- 54</b>	<b>1855 -60</b>	<b>Sess/ Attended</b>
Sir John Kennaway, Bart	Escot	14	10	9	6	14	53
T.W.Buller, Esq.	Strete Raleigh	4				1	5
Edward Divett, Esq.	Bystock	8	4	4	1	78	25
Rev Archdeacon J.M.Stevens	Otterton	13	7	3	1		24
Rev H.W.Marker	Aylesbeare		5	11	4		20
General Thomas	Strete Raleigh						
Rev J.Huyshe	Clisthydon		10	21	16	32	79
J.Garratt, Esq.	Bishop's Court	1	5	1		5	12
H.Porter, Esq.	Winslade, Exeter		1			1	2
*Gen Sir H.Browne, K.C.B	Exmouth			3			3
J.Tyrrell, Esq.	Sidcliff, Sidmouth			1	1	5	7
*William Cole Cole, Esq.	Exmouth			3	4	7	14
C.J.Cornish, Esq.	Sidmouth		2				2
Rev.H.J.Fellows	Sidbury						
R.Hunt, Esq.	Sidbury						
W.R.Bayley	Cotford House		3	4	3	3	13
J.Garratt, jun., Esq.	Cotford House		4	12	8	8	32
*Gustavus Smith, Esq.	Salcombe Mount	10	6	3	7	8	33
J.M.Wolcott, Esq.	Knowle House, Salc.		2	10	7	8	28
S.Parr, Esq.	Clist St. George	1	2	1	1		5
E.Lousada, Esq.	Peak House		1	5			6
J.B.Lousada, Esq.	Peak House						
J. Carslake, Esq.	Sidmouth	13	4	2			19
*Sir D. Forrest	Exmouth	5	2				7
*W. Bickford Coham	Exmouth	10					10
E.J.Honywood, Esq.	Whimble					3	3
*Gen.Sir G.P.Adams	Budleigh Salterton	3	1	1	4	1	10
*W.T.Hull	Marpool Hall	10	3				13
*Rev J.T.Boles	Exmouth					2	2
*G.K.Holmes	Budleigh Salt					2	2
*W.H.Peters	Lympstone					5	5

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TNA RAIL 631/19

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**NB** Devon Record Office will become Devon Heritage Centre from September 2012, following a merger with West Country Studies Library

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DRO QS28/73-78 *Commissions of the Peace*

DRO QS28//74 *Commissions of the Peace*

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DRO QS/11/2-4 *Registers of Summary Convictions, 1834-1862*

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