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Cox, David

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'TRYING TO GET A GOOD ONE'
BIGAMY OFFENCES IN ENGLAND AND WALES, 1850-1950

***David J. Cox*[1]**

Abstract

Bigamy has attracted little attention from both criminologists and historians in the past few decades. This is perhaps understandable, as bigamy is an uncommon crime, no longer regarded as a major threat to the institution of marriage or familial stability, as divorce laws have made it much easier for couples to legally separate, and co-habitation outside marriage is much more common than in pre-World War II England and Wales. [2] However, this has not always been the case; before men and women could divorce on equal terms and without blame being apportioned, bigamy was seen as one way in which men (or less usually, women) could evade an unhappy and sometimes dangerous marriage and begin afresh. This article investigates recorded bigamy offences in the period 1850-1950 (a total of over 22,000 offences), when the rates of conviction fluctuated greatly (especially in times of war and the immediate post-war aftermaths). It details sentencing patterns for convicted offenders, discusses the age and gender structures of offenders and suggests reasons for these variations. The rise and fall of bigamy offences is also discussed with regard to other factors such as changes in the laws of divorce and marriage, co-habitation, and socio-economic pressures.

Keywords: Bigamy, divorce laws, offenders, marriage, criminology, history

Introduction: Historical background

Bigamy has attracted little attention from both criminologists and historians in the past few decades.[3] This is perhaps understandable, as bigamy is now not regarded

[1] Research Associate, School of Sociology and Criminology, Keele University. cra28@crim.keele.ac.uk.

[2] Scottish figures are not included in this article, as Scotland had both a different legal system and different methods of recording annual crime. Northern Ireland is also excluded due to the fact that it only came into existence towards the latter years of the period under discussion. The quote in the title is from a House of Commons speech by Joseph Chamberlain on 4 May 1894. Speaking about proposed changes to electoral procedure, Chamberlain referred to an explanation 'which was given by a gentleman who was brought before the court for bigamy. When he was asked why he had taken two wives he said it was because he was trying to get a good one' (Hansard, *House of Commons Debate* 04 May 1894 vol. 24 cc378-409).

[3] There are a few notable exceptions: Bernard Capp has recently investigated bigamous marriages during sixteenth and seventeenth century England in considerable detail – see Capp, B., 'Bigamous marriage in early modern England' (2009) 52 *Historical Journal* 3, 537-556. Ginger Frost has examined bigamy and cohabitation in the Victorian period – see Frost, G., 'Bigamy and Cohabitation in Victorian England', (1997) 22 *Journal of Family History* 3, 286-306. Keith Soothill has approached bigamy from a criminological perspective in several co-authored articles, most notably Soothill, K., Ackerley, E., Sanderson, B., Peelo, M., 'The place of bigamy in the pantheon of crime?', (1999) 39(1) *Medicine, Science and Law*, 65-71, and Grover, C.,. Soothill, K., 'Bigamy**:** neither love nor marriage, but a threat to the nation?' (1999) 47(2) *Sociological Review*, 332-344. Jeanne Fahnestock has investigated the often

as a major threat to the institution of marriage or familial stability, as divorce laws have made it much easier for couples to legally separate, and co-habitation outside marriage is much more common than in pre-World War II England and Wales.[4] However, this was not always the case; before men and women could divorce on equal terms and without blame being apportioned, bigamy was seen as one way in which men (or less usually, women) could evade an unhappy and sometimes dangerous marriage and begin afresh. Bigamy was first classified as a felony in the Bigamy Act 1603, which stated that:

> If any person or persons within his Majesty's Dominions of England and Wales, being married, or which hereafter shall marry, do at any time after the end of the session of this present Parliament, marry any person or persons, the former husband or wife being alive [...] then every such offence shall be felony.

There was a caveat to the Act, designed to prevent miscarriages of justice:

> Provided always, that neither this Act, nor anything therein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself the one from the other by the space of seven years together, in any parts within his Majesty's Dominions, the one of them not knowing the other to be living within that time.

From 1861 bigamy was designated as a Class One (Offences Against the Person) indictable felony. As such, bigamy was therefore theoretically punishable by death by hanging, but in practice an offender could usually (though not always successfully) claim Benefit of Clergy, thereby reducing the sentence to branding on the thumb.[5]

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considerable role that bigamous relationships played in nineteenth-century popular literature, arguing that bigamy became a popular plot device following several high-profile real-life bigamy trials – see Fahnestock, J., 'Bigamy: The Rise and Fall of a Convention', (1981) 36 *Nineteenth-Century Fiction* 1, 47–71. With regard to books, bigamy is normally relegated to passing mentions in publications concerning divorce and marriage, and surprisingly does not seem to feature much in gender studies; see for example, Perkin, J., *Victorian Women* (1993), especially ch. 6, 'Punch and Judy: Holy Deadlock, Separation and Divorce', pp.93-112; Gillis, J., *For Better, For Worse: British Marriages, 1600 to the Present* (1985); Hammerton, J., *Cruelty and Companionship: Conflict in Nineteenth-Century Married Life* (1992); and Stone, L., et. al., *Road to Divorce England 1530-1987* (1990). Bigamy rarely rates a mention in criminological tomes; a rare exception is Walsh, D., Poole, A., *A Dictionary of Criminology* (1983), in which it receives a brief discussion (p.21) as to what sort of offence it should be categorised as.

[4] This is reflected in the view of at least some judges: the *Daily Mail,* 28 June 1994 reported a judge in a bigamy case as saying, 'Prosecutions for bigamy are very, very rare these days because it is easy to secure divorce. It was once a serious offence which could damage a woman's reputation and status for the rest of her life' (quoted in Grover, et. al., 'Bigamy', p. 336).

[5] Not all bigamous offenders were successful in their claim of Benefit of Clergy – see Capp, 'Bigamous marriage in early modern England' for numerous examples of individuals who paid

This was a legal fiction, by which an offender could claim to be a member of the clergy by reciting a passage from the Bible (normally Psalm 51, which thereby came to be known colloquially as the 'Neck Verse'). By claiming the status of a cleric, offenders could be sentenced under spiritual rather than temporal law, which replaced the secular death penalty for felonies with the lesser punishment of branding on the left thumb. In 1706, the reading test was abolished and all perpetrators of offences that could receive Benefit of Clergy were allowed it. This anomaly was not ended until 1718, when it was replaced by the punishment of seven years transportation to America (and more latterly, Australia). The punishment of transportation was itself replaced by a maximum penalty of seven years penal servitude in the Offences Against the Person Act 1861. The system of Benefit of Clergy was not formally abolished by Parliament until 1827.[6]

Throughout the early modern period, there was increasing concern about so-called 'clandestine marriages' – ceremonies of dubious legality that took place outside of a church. The Marriage Act 1753, also known as Lord Hardwicke's Act, was introduced in an attempt to prevent such dubious marriages, and as a corollary, to lessen the possibility of bigamous relationships. It stated that for a marriage to be legally valid it had to be performed as a formal ceremony within a church after the publication of banns or the obtaining of a licence, and at least three weeks' residency within a specified parish.[7] Unfortunately, reliable criminal statistics for the period before the mid-nineteenth century simply do not exist, so it is impossible to quantify what effect this Act had on bigamy rates[8] With regard to the sixteenth and seventeenth centuries, Capp contends that:

> Bigamy in early modern England was clearly practised on a scale far greater than in modern times, when divorce and remarriage have become relatively easy and cohabitation is socially acceptable. It was always a gender-related offence, for men found it much easier to

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the ultimate price for their crime. Women were excluded from claiming Benefit of Clergy until 1691.

[6] For examples of bigamy trials and their outcomes in the eighteenth century, see Turner, D., 'Popular Marriage and the Law: Tales of Bigamy at the Eighteenth-Century Old Bailey', (2005) 30 *The London Journal* 1, pp. 6-21. For an example of a serial bigamist and fraudster in the 1830s and '40s, see Cox, D., *Foul Deeds and Suspicious Deaths Around the Black Country* (2006), Chapter Seven, 'The Polygamous Life of "Lord Kennedy" 1838-43', pp. 71-8. 'Lord Kennedy' (real name Robert Taylor) married bigamously on at least four occasions (each time benefiting financially) and eventually received a sentence of seven years' transportation.

[7] Exceptions were made for Jews and Quakers, although these exceptions caused further legal problems for many years. For a detailed account of marriage practices and the law in the eighteenth century, see Probert, R., *Marriage law and practice in the long eighteenth century: a reassessment* (2009).

[8] It is recognised that both for the earlier period and the period under discussion, the actual amount of bigamy probably far exceeded the number of cases brought to court.

> migrate, obtain work and establish a new relationship, a pattern reinforced by the increased mobility of the period.[9]

It was not until the creation of annual *Judicial Statistics* reports in 1856 (first published in 1857) that the yearly number of those brought to trial for bigamy offences was systematically recorded.[10] As bigamy was an indictable felony, trials were always heard at the most senior court of Assizes rather than at the Quarter or Petty Sessions[11] The English legal system, although subject to several changes throughout the centuries, has in essence remained remarkably similar in its constitution from the early mediaeval period.[12] Criminal cases were first brought before a magistrate or justice of the peace (the terms are interchangeable) at either Petty Sessions, which could occur as and when the need arose, and during the period under discussion were increasingly held in purpose-built magistrates' courts (earlier Petty Sessions often having being held at community venues such as public houses), or, for more serious cases, Quarter Sessions, which, as their name implies, were held every quarter-year. In the case of serious indictable offences which could not be heard summarily (i.e. by magistrates), these had to be heard at Assizes, presided over by State-appointed judges, which usually took place twice a year in the county town – at Lent (March) and Summer (usually late-July). A Winter Assize could also be held if warranted by the number of cases waiting to be tried in any particular year. This system was swept away by the passing of the Courts Act 1971, which replaced the old structure with Magistrates' Courts (dealing with petty offences) and Crown Courts, which hear more serious offences.

There has been considerable difference of opinion amongst scholars as to how the crime of bigamy should be viewed. In her 1997 article 'Bigamy and cohabitation in

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[9] Capp, 'Bigamous Marriages in Early Modern England', p. 28.

[10] *Judicial Statistics* reports (both criminal and civil) for England and Wales have been published annually since 1856, with the first volume also containing limited statistical information for the period 1850-56. For the majority of the period under discussion *Judicial Statistics (Part I – Criminal Statistics)* were published as Parliamentary Command Papers, and are available for download on the House of Commons Parliamentary Papers Online website (HCCP) – see http://parlipapers.chadwyck.co.uk/marketing/index.jsp. For 1915, 1916, 1920 and 1921 *Judicial Statistics* were published by the Stationery Office and are therefore not available on the HCCP website. The author would like to acknowledge the invaluable assistance of Ian Bolton of Birmingham Central Reference Library in tracking down these errant volumes. From 1928, *Judicial Statistics* were published in two parts: *Criminal Statistics* and *Civil Statistics*, but the format of the annual reports remained fundamentally unchanged.

[11] There were a couple of exceptions during the period, with trials being held at Quarter Sessions in the Soke of Peterborough, but this was the result of a legal anomaly arising from historical inertia. A soke was a private liberty or jurisdiction granted to an area, which included the right to a separate judicial system.

[12] England and Wales shared a common legal system throughout the period.

Victorian England', Ginger Frost analyses disposal outcomes of 221 bigamy cases between 1830 and 1900. She argues that 'rather than subverting marriage, bigamists had a profound respect for it, if in a peculiar way', suggesting that many bigamists felt a compulsion to achieve societal acceptance by 'following in a long tradition of self-marriage and self-divorce', and that 'Victorian bigamists combined a challenge to marriage laws with a strong desire for the sanctions of ritual, particularly after 1860'.[13] This view contrasts sharply with that of Poole's interpretation of the offence, who, Soothill *et. al.* remark, 'suggests that bigamy is better thought of as offensive to the institution of monogamous marriage and a desecrator of its solemnization'.[14]

1 The Data

The charts and statistical analysis in the Appendices produced as **Figures 1 to 12** are largely based on data extrapolated and extracted from the annual *Judicial Statistics* reports from 1856-1950 inclusive. Whilst some of the statistics cover the full period from 1850 to 1950, due to inherent differences in recording methods, many of the statistics are only available for the period 1893-1950, or occasionally 1893-1938; consequently through necessity some of the charts cover different periods.[15] Population figures have been compiled and extrapolated from census summary reports from 1851 to 1951 inclusive, whilst divorce rates have been obtained from National Statistics Online.[16]

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[13] Frost, 'Bigamy and Cohabitation in Victorian England', pp. 286 and 294.

[14] Poole, A., 'Bigamy', in Walsh, D., Poole, A., *A Dictionary of Criminology* (1983), p. 21, quoted in Soothill, et. al., 'The place of bigamy in the pantheon of crime?', p. 65.

[15] These include age, gender and disposal of offenders. The year-end dates also changed from 29 September to 31 December from 1893 onwards, but any comparisons made in the *Statistics* with previous years were still valid as they were compiled using the previous twelve months as a comparator. It was recognized in 1893 that the previous methods of data-gathering were incomplete and often unreliable, with numerous discrepancies amongst the various sources used to compile the annual *Judicial Statistics*. Consequently there was a thorough overhaul of the method of data-gathering, which resulted in much more standardised reports. Despite this overhaul, it is acknowledged by the author that there remained many unresolved problems with the statistics, but for the purpose of the analysis in this article, any remaining limitations in the statistics were at least internally consistent; the methods of data-gathering remained largely unchanged between 1893 and 1950. Where differences in the annual *Judicial Statistics* affect the statistical analysis, these are clearly noted in this article.

[16] Census populations 1851-1931 obtained from Gendocs Genealogical Research in England and Wales (http://homepage.ntlworld.com/hitch/gendocs/pop.html#EW). Population for 1951 obtained from http://www.visionofbritain.org.uk/census/census_page.jsp?yr=1851&show=DB. Population figures for inter-censual years have been extrapolated assuming regular growth of population year-on-year. It is recognised that population figures for inter-censual years may therefore deviate a little from reality, as some years may have experienced greater or lesser growth than others in actuality. However, this method of extrapolation was deemed to be the most reliable in order to calculate offence rates per 100,000 head of population per year. For National Statistics Online, see http://www.statistics.gov.uk.

Figure 1 shows the total number of offenders (male and female) brought to trial at Assizes throughout England and Wales, 1850-1950. The chart shows that during the period, prosecuted bigamy offences remained low (below 150 cases per year) until 1915, when 211 individuals (157 men and 54 women) were prosecuted. After 1915 the numbers never again returned to pre-World War I levels. There are two clear peaks in absolute numbers during both World Wars and the respective immediate post-war years. However, it must be stressed that these are absolute figures; they take no account of population growth. **Figure 2** therefore uses the same raw data to show the total number (male and female) brought to trial per 100,000 head of population. The chart shows a gradual (though somewhat erratic) overall decline in prosecutions from 1850 up to the outbreak of World War I and then displays two distinct peaks during and immediately after both World Wars.

Interpretation of the data: Effects of changes in marriage and divorce law

Men and women were not considered to be equal in the eyes of the law in England and Wales during the period under discussion. The law, and especially divorce law, was heavily biased in favour of males. Did this gender bias have an effect on bigamy rates and the gender of offenders? In the same year as the publication of the first annual *Judicial Statistics* report, Parliament passed the Matrimonial Causes Act 1857. This Act, which came into force on 1 January 1858, enabled men and women to apply for legal divorce without having to resort to the introduction of private Acts of Parliament.[17] The Act did not, however, treat men and women equally; men could apply to the Court of Divorce and Matrimonial Causes for a divorce by proving that there had been adultery on the part of their wives, and that there was no collusion or condonation involved, whilst apart from having to prove adultery by their husbands, women also had to prove aggravated circumstances such as cruelty, bigamy, sodomism or desertion.[18] Legal bias against women in matrimonial and divorce law continued throughout the period under discussion, although the following list of

[17] Prior to this date, the only way in which men or women could be divorced was by getting a private Act passed through Parliament. This was a time-consuming and extremely expensive procedure, and as a result only a very small number of wealthy individuals were granted a divorce. There was also considerable social stigma attached to the whole process of divorce and this was especially directed towards a divorced female.

[18] See Stone, *Road to Divorce England 1530-1987* for further details concerning divorce law, and for a detailed account of the passing of the Act of 1857, see Woodhouse, M., 'The Marriage and Divorce Bill of 1857', (1959) 3 *The American Journal of Legal History* 3, pp. 260-275.

significant changes to the law shows that by the end of the period the situation had improved markedly:[19]

> Married Women's Property Act 1870 – allowed women to legally be the rightful owners of the money they earned and to inherit property up to £200.
>
> Custody of Infants Act 1873 – allowed the Court of Chancery to order that a mother would have access to, or custody of, any infants under 16 years of age; or to order that any such infants in her custody were to remain so, subject to any regulations for the access of the father or guardian.
>
> Matrimonial Causes Act (Separation Orders) 1878 – gave magistrates' courts power to grant a separation order, with maintenance, to a wife (in certain circumstances of aggravation), and to grant her legal custody of her children under the age of 10.
>
> Married Women's Property Act 1882 – enabled women to keep certain property that they brought into a marriage.
>
> Matrimonial Causes Act 1884 – a wife deserted by an adulterer could petition for divorce immediately, rather than having to wait for two years, as previously required.
>
> Married Women (Maintenance in Case of Desertion) Act 1886 – gave mothers the right to apply to a magistrates' court for a separation and maintenance order where there was wilful neglect to provide reasonable maintenance for her or her infant children whom her husband was 'legally liable to maintain'. Weekly amount was not to exceed £2.
>
> Married Women's Property Act 1893 – gave married women full legal control of all the property of every kind which they owned at marriage or which they acquired after marriage either by inheritance or by their own earnings.
>
> Matrimonial Causes Act 1923 – established equal rights in divorce for men and women, making it possible for wives to divorce husbands for adultery.
>
> Age of Marriage Act 1929 – raised legal age of marriage (with parental consent) to 16 for both boys and girls from 14 and 12 respectively.
>
> Matrimonial Causes Act 1937 – introduced three further grounds for divorce: cruelty, desertion for at least three years, and incurable insanity. However, the emphasis was still on proving a matrimonial offence by the respondent (except in the case of insanity), and condonation and connivance remained as bars. There was also a bar on any divorce within the first three years of marriage.
>
> Marriage (Members of His Majesty's Forces) Act 1941 – if either of the parties, being a member of His Majesty's Forces, has obtained from the appropriate authority a certificate that owing to the exigencies of His Majesty's

[19] This is not intended to be a full list of amendments to marriage and divorce laws – rather it is intended to show that the law did, over a considerable period of time, allow women and men to divorce on more equal terms.

> service he or she cannot go to that building, the marriage may, during the war period 'be lawfully solemnized in any other building in England in which marriages may be lawfully solemnized, as if the parties had duly fulfilled all the conditions required by law for enabling them to be married in that building'.
>
> Legal Aid and Advice Act 1949 – made legal aid available for divorce proceedings to both men and women.

Figure 3 shows the number of divorces granted to both males and females under this Act and subsequent amendments between 1858 and 1950. Until 1918 it can be seen that the number remained low (below 1,000 per year), and then continued to climb relatively steadily (with one or two fluctuations) until the immediate post-World War II period. Whilst there was a small post-World War I increase, we do not see the rapid increase in numbers that was present in the post-World War II period, with the highest number of divorces being granted in 1947.

Turning to **Figure 4**, which shows the total number of divorces granted per 100,000 head of population, it is apparent that divorces granted did not increase significantly throughout the nineteenth century; it was not until 1914 that the figure increased to more than two per 100,000. Although numbers rose in the post-World War I period, they did not reach ten per 100,000 until 1928, and then remained fairly constant until the late 1930s, when, with the exception of 1941, they continued to rise, peaking at over 140 per 100,000 in 1947. Unfortunately the available statistics do not differentiate between males and females until 1898.

Figure 5 shows the ratio of bigamy trials to divorces granted per 100,000 head of population from 1858 to 1950. It can be seen that there would appear to be no clear correlation between rates of bigamy convictions and divorce rates. The overall ratio of divorces per 100,000 head of population to bigamy offences per 100,000 head of population averaged 10.5:1 throughout the period. There appears to have been a watershed in 1928, with the average ratio in the seventy years from 1858-1927 being 3.7:1, whilst the average ratio in the years 1928-1950 was 30.8:1. The overall average ratio of 10.5:1 was exceeded in every year post-1927, with the exception of 1942 and 1943. The one period in which bigamy rates and divorce rates seemed to have experienced some correlation would appear to be mid-war years, in which divorce rates dropped and bigamy rates increased; this was the case in both World Wars, suggesting that wartime disruption was a major contributory factor to rises in bigamy rates; divorce rates could have been low as many husbands were abroad

and concentrating on other matters, whilst wives were busily trying to deal with wartime rationing and other hardships.

Conversely, bigamists could have found it easier to marry for a second time due to the disruptions caused by war; there were more opportunities to meet single women, the Marriage (Members of His Majesty's Forces) Act 1941 made it easier to marry out of one's parish, reducing the chance of recognition, and if the prospective bigamist was in the Armed Forces, stationing at some distance from one's local area would have further reduced the chances of discovery. This would suggest that for the majority of bigamists, the increasing ease of gaining a divorce did not play a major factor in their decision to undergo a bigamous marriage. Lawrence Stone remarks of the creation of legal divorces in 1858 that 'this change in legal status had real effects, since it enabled these men or women [who had been granted a legal divorce] to remarry instead of living in solitude, concubinage or bigamy. But the number of people involved remained statistically minute'.[20] Despite the divorce laws making it increasingly easier to gain a divorce, it would seem that the biggest constraint remained financial; it was not until 1949 that legal aid could be sought in applying for a divorce.

Interpretation of the data: Gender breakdown of offenders

We have seen above that it was much harder for women to obtain divorces for the majority of the period under discussion, and that even after obtaining a divorce, there remained a legal bias against women with regard to matters such as property division and custody of children. **Figure 6** shows the percentages of males and females petitioning for and being granted divorces between 1898 and 1950. The rate remained fairly constant from 1898 to the outbreak of World War I, with a gender breakdown of 57% men and 43% women. For the six years from 1917 to 1922 the percentage of men rose to 60% or over, perhaps reflecting a situation in which men fighting abroad had returned home to find that their wives had not been faithful during their enforced absence. In every year between 1924 and 1937 the situation reversed with over 50% of successful divorces resulting from petitions by women; this was probably the result of the Matrimonial Causes Act 1923 that established almost equal rights for women who wished to seek a divorce.

Unfortunately the statistics are not available for the years 1945 to 1948 inclusive, but from 1949 to the present-day the number of women successfully filing for divorce has

[20] Stone, et. al., *Road to Divorce England 1530-1987*, p.387.

always been higher than the number of men, with a ratio of around two women for every man.[21] These figures would suggest for the period under discussion that a bigamous route for an unhappily married woman would be a more attractive option than for a man, who could divorce more easily and who could retain both financial assets and custody of any children. If this hypothesis is correct, it should therefore be reflected in the gender breakdown of bigamy offenders.

Figure 7 shows the breakdown of male/female offenders from 1857-1950. The average percentage of male offenders throughout the period was 78.3, with female offenders accounting for a quarter or more of the total in only 20 years. Other factors were therefore clearly at work. Bernard Capp states (with regard to the early modern period) that

> it was far easier for men to find work in a new area, especially for journeymen and labourers, while soldiers and sailors were traditionally associated with both mobility and transient relationships. By contrast, a woman with small children would find it emotionally hard to leave them, and almost impossible to find work if she took them with her. A woman was also much less likely to have ready cash for expenses at her disposal.[22]

Frost corroborates this view, finding that 78.73% of her sample of offenders between 1830 and 1900 were male (174 out of 221 offenders), and this corresponds closely to the average of the figure of 78.3% seen in **Figure 7**. She argues, in a similar manner to Capp, that the main reasons for male predominance in bigamy were their greater opportunities for travel and marriage. She argues that class affected the gender balance of offending, stating (without supplying any statistical evidence) that 'upper-class male bigamists had fewer reasons to commit the crime after 1857, because they were no longer forced to remain with errant wives, and judges, as a result, were stricter with them'.[23]

Similarly, in their small-scale study into 42 bigamous offenders, Soothill *et. al.* found that there was a similar gender bias: there were only three women amongst the offenders, and of these, they found that 'curiously, the three women were each aged 20 years at the time of conviction, while the men ranged in age from 24-53 (with a mean age of 36.08 years)'.[24] However, when compared to the average percentage of females found guilty for all indictable offences in the period 1929-1950 (the only

[21] See 'Divorces: 1858-2003, number of couples divorcing, by party petitioning/granted decree', at http://www.statistics.gov.uk/statbase/xsdataset.asp?vlnk=7074&More=Y.
[22] Capp, 'Bigamous Marriage in Early Modern England', p.16.
[23] Frost, 'Bigamy and Cohabitation in Victorian England', p.288.
[24] Soothill, et. al., 'The place of bigamy in the pantheon of crime?', p. 67.

years for which gender statistics are available), the average percentage of female bigamists in the same period is noticeably higher: an average of 13.6% for all indictable offences compared to an average of 24.9% for bigamy offences.[25] This would suggest that whilst still committing a much smaller overall percentage of crime than males, females were somewhat more prevalent as bigamists than as perpetrators of other indictable crimes.

Turning to the age patterns of offenders, we see a clear difference between males and females. **Figure 8** shows that the largest age-group of males convicted for bigamy was that of those aged between 30 and 40 (an average of just over 42% of the total of convicted males). 26.2% of convicted males were aged between 21 and 30, whilst the majority of the remaining offenders (just over 29%) were aged between 40 and 60.[26] Only 2.3% of males were aged 60 or above at the time of their conviction. The age profile of male bigamists was thus somewhat different from the generally accepted age profile of offenders during the period under discussion – it is agreed that most other offences were committed (as now) by males in their late-teens and early twenties.[27] By contrast, only 0.45% of male bigamists were under 21 years of age.[28] Looking at the age-ranges of female bigamists **(Figure 9)**, we see that overall, female offenders were more likely to be considerably younger than their male counterparts. Just over 42% of females were aged 21 and below 30 at the time of their conviction, whilst just under 37% were aged 30 and below 40. 17.8% of females were aged 40 and below 60. Over 2.6% of female bigamists were aged below 21, a much higher percentage than that of male bigamists, although it must be borne in mind that in terms of absolute figures the total number of female bigamists was, as we have seen above, much lower than male bigamists.

These figures are somewhat surprising; they do not conform to the stereotype of predatory older men preying on vulnerable and inexperienced younger women. There could be several reasons for this apparent anomaly, and realistically it is impossible to quantify such reasons without investigating each of the 22,000+ cases

[25] Figures extrapolated from *Criminal Statistics* 1929-50.
[26] In this age range, it is unfortunately impossible to quantify the number of males or females aged between over 40 or below 50, and above 50 or below 60, as from 1919 the age ranges in the *Judicial Statistics* were altered to just show figures for the above 40 and below 60 category.
[27] See for example, discussion on age and offending in Godfrey, B., Cox, D., Farrall, S., *Criminal Lives: Family Life, Employment, and Offending* (2007), pp. 83-86.
[28] It must be borne in mind that until the Age of Marriage Act 1929 raised the legal age of marriage for both males and females to 16 (both with parental consent), males could legally marry at 14 and females at 12 (again both with parental consent).

in detail. The higher average age of men committing bigamous offences could for example be due to economic or work-related circumstances: men in their thirties who were unhappy with both their working and married lives and who decided to make a complete break with their pasts, men who couldn't cope with the pressures of providing for young children, men who decided to take a younger woman as a wife, or men who were established fraudsters, who regarded bigamy as simply an extension of their fraudulent lifestyle. Similarly, the younger age-range of females could be due to numerous factors including the realisation their early marriage had been a mistake, a desire to make a break before the additional complication of custody battles over young children, or a perceived economic advantage.

Interpretation of the data: Sentencing patterns

With regard to sentencing patterns, it is unfortunately impossible to provide gender-differential figures, as the statistics do not provide a male/female breakdown. Despite this, Joan Perkin remarks of the Victorian period (without providing any evidence), that 'prison sentences for men brought before the courts [for bigamy] were light' and that 'the treatment of women who had committed bigamy was much more harsh'.[29] It would clearly need an analysis of each individual sentence meted out by judges during the period in order to prove or disprove this viewpoint, but this bare assertion would seem to fly in the face of more recent work on gender differentials in sentencing, which has suggested that women tended to receive somewhat lighter sentences than men for most offences.[30] Similarly, Shani D'Cruze has found that women who were passive in court, wore respectable feminine clothing, and conformed to traditional gender roles and behaviour, might be treated more leniently than those who, by their behaviour, indicated defiance and a challenge to patriarchal authority.[31]

A typical example of this with regard to bigamy can be found in the case of Dorothy Wagstaff aka Jalland, née Burns. Dorothy Burns first married in March 1884 to Alfred Jalland, a struggling medical student, but apparently they never lived together as

[29] Perkin, J., *Victorian Women* (1993), p. 128.
[30] Analysis of a database containing some 50,000 court appearances (constructed from lower court records of Crewe, Cheshire, 1880-1940) suggests that in the majority of summary offences, women brought before the magistrates were slightly less likely to be convicted than men: 63.1% of men were convicted, whilst 60.1% of women received convictions. For further details of this database and the multitude of other data that it also revealed, see Godfrey, et. al., *Criminal Lives*. There is a plethora of other research on this subject – see Palk, D., *Gender, Crime and Judicial Discretion 1780-1830* (2006) for a concise bibliography.
[31] See D'Cruze, S., *Crimes of Outrage: Sex, Violence and Victorian Working Women* (1998).

husband and wife. According to Dorothy, she was forced to find employment as a nurse due to her errant husband's profligacy and eye for other women, and the couple parted: Alfred moved to Preston whilst Dorothy became matron of Kent County Lunatic Asylum in Canterbury. She began a relationship with Dr James Poole Wagstaff and in December 1893 bigamously married him. She told the judge at her trial that Wagstaff had convinced her that her first marriage was not valid as she had not lived together with her first husband as man and wife. They lived happily together for a decade amongst the 'county set' in Bedfordshire.

However, Wagstaff was an extremely wealthy individual and when he died in 1903 he left over £110,000 to his 'wife', Dorothy. This was hotly contested by the son of one of his cousins (who was of the view that as Dorothy was not in law Wagstaff's wife, the will was null and void), and the bigamy came to light as the result of a Chancery law suit. The case received widespread publicity, with the *Penny Illustrated Paper and Illustrated Times* running an illustrated feature entitled 'Beauty and Wealth without Happiness'.[32] Dorothy told the Recorder at the Central Criminal Court that 'the reason I gave myself up is because I have been terrorized so much by the other side that it is a perfect worry to me, and it makes me quite ill'.[33] The Recorder at her trial clearly sympathised with the erudite and well-turned-out Dorothy, commenting that 'he was quite justified in passing upon her a nominal sentence' because 'in every case bigamy in a woman is a very different case from bigamy in a man'.[34] He sentenced her to three days' imprisonment, which, allowing for her time in custody awaiting sentence, amounted to an immediate discharge.[35]

With regard to the statistics, it is however possible to analyse overall sentencing patterns for the period. **Figure 10** shows the percentage of offenders sentenced to either imprisonment (until 1949 a maximum term of two years or under) or penal servitude (from between three and seven years, abolished in 1949) from 1893 to 1950.[36] It indicates that sentencing as a whole appears to have become more lenient

[32] *The Penny Illustrated Paper and Illustrated Times*, 1 December 1906. This publication featured society 'celebrities' and their misdeeds and misfortunes in much the same way as magazines such as *OK!* or *Hello!* do today.
[33] *The Times*, 11 January 1907.
[34] *Ibid.*
[35] The Chancery case was also finally decided in her favour; after the case went to the Court of Appeal, it was decided in her favour, and she received £111,800 from her late 'husband' – see *The Times*, 26 November 1907 for further details of the decision.
[36] Penal servitude was basically imprisonment with hard labour within government-controlled Convict prisons, which had a harsher regime than Local prisons, which were initially administered by County Justices of the Peace. From 1878 all prisons were placed under

throughout the period. The number of offenders who received penal servitude for three years or more was never large, and fell gradually, reaching a low in the immediate post-World War I period, and staying at a low rate throughout the rest of the period, despite occasional fluctuations in the mid-1920s and mid-1930s.

Figure 11 further illustrates the trend to more lenient sentences, showing the percentage breakdown of disposals of those found guilty of bigamy from 1893 to 1950. It shows that whilst short sentences up to six months were the most frequently exercised option of judges throughout the period, only falling to below 40% of total disposals in one year (1950), there was a general trend away from imprisonment of all kinds in favour of other kinds of punishment, most notably recognizances without probation.[37]Judges were clearly reluctant to impose the maximum sentence available (seven years' penal servitude) except in the most exceptional cases – such sentences were normally reserved for serial bigamists (usually males) who saw bigamy as a profitable method of fraud. These figures correspond to Frost's view:

> It appears that judges relaxed their standards as the century went on, [and that] 'despite their official disapproval, judges did not believe in harsh penalties for all bigamists, irrespective of situation. Their reactions, much like those of neighbours and kin, depended on the circumstances … judges pondered a complex array of circumstances to come to their decisions.[38]

She points out that judges so regularly dismissed the public prosecution of bigamists that 'the Chief Constable of Staffordshire complained about it to the Home Secretary in 1894…. He demanded to know what police officers should do, because judges apparently did not find these cases serious enough to punish'.[39] She also suggests

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government administration, but there remained a distinction between Convict and Local prisons. Imprisonment could be served with or without hard labour; this discretion lay with the sentencing judge or magistrate.

[37] A recognizance is a formal undertaking on behalf of the recipient to adhere to the judgement of the court.

[38] Frost, 'Bigamy and Cohabitation in Victorian England', p. 298.

[39] *Ibid.*, pp. 301-2. An example of this was raised during a Parliamentary debate in 1897: E. H. Pickersgill MP asked the Secretary of State for the Home Department 'whether his attention has been drawn to the trial of a woman for bigamy at Winchester Assizes on the 6th instant, on the prosecution of a police sergeant at Fareham, with the sanction (as he said) of the Chief Constable of Hants, when the Judge, the prisoner having been found guilty by his direction, ordered her to be at once discharged and disallowed the costs of the police evidence and the costs of the solicitor for the prosecution, on the ground that it was a prosecution which ought not to have been instituted; and whether he would avail himself of the next issue of a Home Office circular to caution the police that they ought to make proper inquiry, and exercise care and discretion, before instituting prosecutions for bigamy?' Sir Matthew Ridley (Home Secretary) replied that 'I have seen a report of this trial in the newspapers, but the circumstances do not appear to me to form a sufficient ground for making a special communication, such as the hon. Member suggests, to police forces generally. I have no reason to suppose that they do not ordinarily exercise the necessary care and discretion in

that 'in the 1880s and 1890s, law enforcement officials were leery of bringing bigamy charges because pressure from below had so compromised prosecutions', but this is not borne out by the figures shown in **Figure 10** above, which show that sentences of penal servitude in fact increased in number during the late 1890s.[40] In her conclusion, Frost remarks that:

> The actions of thousands of ordinary people to expand the constrictions of the marriage law – and of the support they received from neighbours, kin, and eventually, judges, vastly limited the effectiveness of an entire type of criminal prosecutions. These cases also partially revise notions of the biases of the Victorian judicial system. Although their reasoning could be badly flawed and often showed grave iniquities, judges did take many circumstances into account in sentencing, which, at times, mitigated the conventions of class and gender.[41]

Such judicial discretion continued throughout the twentieth century. In 1930 a case of female bigamy was reported in the newspapers, having especial prominence in that the innocent second 'husband' of the bigamist was an elderly winner of the Victoria Cross. He had married a woman, Martha Maria Roberts, who was his former nurse, and some 39 years younger than him, not being aware that she had already been married in 1923. Martha contended that she had only lived with her legal husband for a fortnight and had parted from him, not hearing anything more from him since 1927. She stated that she believed he was dead. The legal husband appeared at the trial, but refused to give evidence apart from confirming that he was the defendant's legal husband. The trial judge, Justice Branson, appears to have believed Martha's testimony, finding her guilty but only passing a sentence of a £10 bind-over.[42] An Assize judge, Mr Justice Rowlatt, commented during a trial held before him in 1931 that bigamy:

> May be a trivial thing or a most serious thing. It may be a matter of ignorance and really no harm done in certain circumstances, or it may be the story of one woman being terribly wronged, and being deserted, and another woman being ruined […] I think in very many cases of this kind it is a great pity that the law cannot just look the other way.[43]

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instituting proceedings for bigamy.' (*Hansard*, *House of Commons Debate 15 February 1897 vol. 46 cc388-9*).

[40] Frost, 'Bigamy and Cohabitation in Victorian England', p. 286. However, it must be remembered that the absolute number of sentences of penal servitude were very low.

[41] *Ibid.*, p. 302.

[42] For further details of this case, see Cox, D., *Foul Deeds and Suspicious Deaths in Shrewsbury and around Shropshire* (2008), Chapter 16, 'From what was told her, she believed him to be dead – Bigamy in Minsterley, 1929', pp. 131-38.

[43] *The Times*, 2 December 1931.

With regard to more recent times, Grover and Soothill found that 'with bigamy, there is a similar difference [as in rape cases[44]], between judges which pivots around the perceived seriousness of the offence'.[45] They also found 'a growing leniency in sentencing convicted bigamists. At a time when family values are being emphasized, it seems surprising that the judiciary can sometimes fail to recognize the psychological and practical consequences of being involved with a bigamist.'[46] This 'growing leniency' was borne out (albeit on a very small sample) in comparison of sentences for bigamy offences in 1973 and 1994/5, conducted by Soothill, *et. al.*; in 1994/5 a third of convicted bigamists (12) received a fine, with less than 5% (3) offenders being given an immediate term of imprisonment.[47] Soothill *et. al.* also found that bigamists often had other convictions for fraud or theft: while 31% of the offenders had no other criminal convictions, 57% did have convictions in the categories of theft/handling stolen goods or fraud/forgery. Soothill *et. al.* comment that:

> One implication of these findings must be that there are some serious committed fraudsters for whom bigamy is just one means of gaining financially. If so, this raises the interesting possibility that we might have become more lenient in sentencing those very cases which do most damage to victims psychologically and financially and are most criminal in intent.[48]

Interpretation of the data: Geographical variations in offending and sentencing

It has unfortunately proved impossible to compile a breakdown of bigamy offences per 100,000 head of population by county, due to innumerable discrepancies in the ways in which county data was recorded in the Judicial Statistics. County boundaries, although relatively static during the period, did change, as did legal jurisdictions, and county population figures in the *Judicial Statistics* relied on outdated data.[49] It is however possible to show that there did not appear to be any major discrepancies in bigamy rates between counties; **Figure 12** shows the absolute number of offences brought to trial in each county between 1893 and 1937. Whilst the largest centres of

[44] citing Soothill, K., Walby, S., Bagguley, P., 'Judges, the media and rape', (1990) 17 (2) *Journal of Law and Society* 211-34, p. 230]
[45] Grover, et. al., 'Bigamy: neither love nor marriage', p. 335.
[46] Soothill, K., Grover, C., 'The portrayal of bigamy in the media', paper presented to the conference on News, Gender and Power, University of Wales, Cardiff, September 1996, quoted in Soothill *et. al.*, 'The place of bigamy in the pantheon of crime?' p. 66.
[47] *Ibid.*, Table 1, p. 70.
[48] *Ibid.*, p. 71.
[49] The county populations given in the *Judicial Statistics* were based on the most recent census data; this meant that the figures could be up to a decade out of date. Due to population fluctuations within counties it is therefore impossible to compile accurate population records for each county.

population – e.g. Lancashire or London – show, as one would expect, far greater numbers of cases, all of the counties appear to show a close correlation with each other on a year-on-year basis, with only minor fluctuations; there do not appear to have been significant bigamy 'hot-spots'.

2 Parliamentary Responses to Bigamy Offences

Bigamy did not loom large in Parliamentary debates during the period (especially during the nineteenth century, with the exception of discussions in the late-1850s concerning the Matrimonial Causes Act 1857), but it did occasionally raise its head above the parapet, especially when a notable public figure such as Earl Russell was indicted and found guilty of the offence.[50] The increases in bigamy during World War I was commented on, with an unsuccessful request for 'a Bill giving to all separation decrees and orders the effect of divorce after they have been in force for five years' made in 1916; this was rebuffed with the Attorney General stating that 'the present time is not opportune for legislation of the kind indicated by my hon. Friend'.[51] There were also concerns about the increase in Mormonism in Britain during the 1920s, with one MP asking the Home Secretary, Edward Shortt:

> What steps, if any, he is taking to stop the propaganda of Mormonism in this country, whereby many women and girls are grossly deceived; and, seeing that bigamy is regarded as a crime, whether he will consult the Law Officers of the Crown as to whether the proceedings of the Mormon missionaries constitute aiding and abetting of bigamy?[52]

The Home Secretary clearly did not consider this to be an important factor in the increasing bigamy rate, as despite his assurances that the matter was being investigated, nothing further came about. In 1922 the Home Secretary, Edward Shortt (who as MP for Newcastle upon Tyne had requested the aforementioned putting forward of a Bill giving all separation orders and decrees the status of divorce after five years in 1916), was asked by Athelstan Rendall, MP for Thornbury, 'the number of convictions in England and Wales for bigamy in 1919 and 1920, showing in what number of such cases the evidence proved neither deception nor cupidity;

[50] Earl Russell, elder brother of the philosopher, Bertrand Russell, was found guilty of bigamously marrying an American divorcee, after he had obtained a divorce from his previous wife in Nevada. This divorce was proved to be invalid in British law and on 18 July 1901 after a trial in the House of Lords, he was sentenced to three months' imprisonment. See *Hansard*, *House of Lords Debate 18 July 1901 vol. 97 c773* for further details of his sentence. Neither did bigamy loom large in the introductory discussions that were a feature of the majority of *Judicial Statistics*; the offence was only referred to specifically on one occasion, when in the *Judicial Statistics* for 1919 it was stated that there had been a 589% increase in offences between 1913 and 1919 (Introductory Note, p. 5).

[51] *Hansard*, *House of Commons Debate 10 July 1916 vol. 84 c56W*.

[52] *Hansard*, *House of Commons Debate 09 February 1922 vol. 150 cc337-8W.*

and in what proportion of cases the offence of bigamy was committed after long periods of separation from legal spouses?' [53] Mr Rendall was obviously concerned, as Mr Shortt had been six years earlier, that many cases of bigamy were possibly due to the legal difficulties arising from judicial separations, but Mr Shortt was only able to quote the number of convictions for each year; he was unable to provide the further requested figures.

1938 saw the conclusion of a long-running debate concerning the moving of a number of indictable offences from Assize jurisdiction to that of Quarter Sessions. It emerged that vigorous opposition had been voiced by judges to the prospective inclusion of bigamy amongst those offences. Lord Roche stated that:

> Bigamy varies from cases where the sentence should be nothing to cases where the sentence should be five years penal servitude. I have myself given such a sentence in a case in which there were five offences of bigamy committed by the same person in sequence. Cases of bigamy include cases of fraud on women in order to secure money, and there are other cases of what has sometimes been called "rape by fraud." I have the greatest admiration for Recorders, of whom there are many in this country, but I do not think that to depute to some hundred Recorders, of sometimes small boroughs, the determination of the proper sentence to be inflicted in these varying classes of bigamy is desirable.[54]

The proposal to include bigamy as an offence triable at Quarter Sessions was subsequently dropped. Much more concern was shown by both houses of Parliament with regard to the rapid increase in bigamy figures during World War II. Considerable debate was heard concerning the passing of the Marriage (Members of His Majesty's Forces) Act 1941.

Lord Phillimore asked for an amendment to ensure that the Commanding Officer (who was to issue the certificate which made it possible to change the venue of the marriage) had made reasonable enquiries to ensure that the prospective military bridegroom was not already married, pointing out that:

> It is unfortunately the case that in the last war a number of soldiers overseas serving in this country contracted bigamous marriages with girls who were in no position to know the status of the husband in his own country. Therefore my Amendment provides that the Commanding Officer of the unit in which the man is serving must state that, so far as his knowledge goes, there is no objection to the marriage taking place.'[55]

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[53] *Hansard*, *House of Commons Debate 01 March 1922 vol. 151 c421W.*
[54] *Hansard*, *House of Lords Debate 23 March 1938 vol. 108 cc367-74.*
[55] *Hansard*, *House of Lords Debate 07 October 1941 vol. 120 cc157-61*

This amendment was opposed both for legal reasons surrounding the Act's application in Scotland and by the War Office for adding unnecessary workload to already overstretched military personnel.[56] There were several motions proposed in order to get wartime ID cards marked with individuals' marital status and then shown to the necessary authorities by the respective engaged couples – Lord Mottistone stated in late 1943 that this would 'by a stroke of the pen abolish the crime of bigamy'.[57] . He raised a similar question again in the following year, stating that:

> The evil [of bigamy] is really great and growing. Public mention has been made of it by Judges of Assize, and I have heard of it from police authorities in many parts of the country. Of course, bigamy may take many forms, but the one with which I am principally concerned is that which involves the entrapping of an innocent girl by some heartless and heedless man who cannot get possession of her without taking her to church or to a register office. The result does lead to what I have described here. It causes great hardship. There can be no doubt that when we rate monogamy so highly as to make a breach of it punishable by a sentence of seven years penal servitude, and then take so few precautions to see that such breaches are not committed, we, as a State, render ourselves responsible for an untold amount of real suffering and distress of mind. For see what happens to the unfortunate woman when the fact comes out that the man has already got a wife. He has very likely disappeared by that time, and she is left amongst her neighbours without the name she has borne before, and, worst of all, the children, if there are any, are branded as illegitimate.[58]

His motion was withdrawn due to a combination of unease as to the continuation of ID cards in a peacetime situation and considerable practical legal difficulties in enforcing such an idea, but he did commend the fact that an amendment to the law was being passed which made it a requirement for all persons giving civil notice of marriage to sign a form of declaration containing a warning against the crime of bigamy.[59]

3 The rise of Bigamy Offences during Wartime

We have seen that there were two clear peaks during and immediately after World War I and World War II respectively. It is interesting to note that there do not appear

[56] *The Times*, 29 March 1944, stated that the obtaining of such a certificate was a requirement for American and Canadian soldiers wishing to marry in Britain.
[57] *Hansard*, *House of Lords Debate 26 October 1943 vol. 129 cc346-52.* This suggestion was not new; a Dr Ross had proposed that a large 'M' be printed on the prospective ID cards to identify the holder as a married person – see 'Points from letters', *The Times*, 11 May 1943. The French marked the marital status of individuals on their respective birth certificates at the time of the marriage, and *The Times* of 29 November 1930 carried a letter asking why this system could not be adopted in England. No further correspondence on the matter was published.
[58] *Hansard*, *House of Lords Debate 28 March 1944 vol. 131 cc306-19*
[59] Reference to this amendment was reported in *The Times*, 28 September 1944.

to be such distinctive peaks in the aftermath of the other two major wars in which Britain was involved in the late-nineteenth and early-twentieth century: the Crimean War (1853-1856) and the second Boer War (1899-1902).[60] There was an increase in prosecutions in the individual years 1859, 1903 and 1904, but these increases were not as marked as during either World War. It is not immediately apparent why bigamy rates should increase so rapidly and for such prolonged periods during wartime and immediately post-war. The position is further complicated by the fact that much of the statistical evidence is not available for the majority of years during World War II: we do not know the percentages of male/female offenders, neither do we know the disposal patterns for convicted offenders. We do however have the former figure for World War I. With regard to the gender breakdown of offenders, **Figure 7** above shows that for the years 1916-18 inclusive, the number of female offenders was over 30% of the total. These are the only years throughout the whole of the period under discussion in which this percentage is reached. We have already seen that the number of divorces did not significantly increase until the late 1920s, so these figures suggest that some women took advantage of the enforced absence of their husbands to 'self-divorce' and attempt to begin married life anew with a different partner. Contemporary opinion during both World Wars was that with regard to male offenders, many were in the armed forces; *The Times*, 21 July 1943, remarked that:

> Out of 123 persons indicted at the July Sessions of the Central Criminal Court, which opened yesterday, 35 are charged with bigamy, or aiding and abetting to commit bigamy. This constitutes a record for this class of offence at any single session in this court. The majority of the defendants are soldiers.

Without conducting an analysis of the occupations of all convicted bigamists during World War II it is impossible to verify this view – however, it would seem a reasonable assumption – members of the armed forces (both male and female) would have had many more opportunities to initiate and conduct bigamous relationships due to their increased mobility and circumstances; most members of the armed forces served away from their home towns and as such their marital circumstances would have been unknown to people with whom they fraternized. Whatever the reality, we have seen above that several politicians during World War II certainly believed this to be true and that they had made attempts to make bigamous marriages more difficult for soldiers, sailors and airmen.

[60] Although Britain was involved in several other wars during the period, the Crimean War and the Second Boer War were the two largest conflicts; each resulted in the deaths of over 22,000 British soldiers, and both were the focus of considerable domestic media attention and public uncertainty over the respective outcomes.

The most obvious reason for the rise in bigamy rates during wartime is that offenders took advantage of the widespread disruption, confusion and uncertainty about the future caused both at home and abroad. *The Times* was already commenting on the increased number of bigamy cases brought before the Central Criminal Court (Old Bailey) in early September 1939: reporting on the 15 cases of bigamy, it remarked that this was 'an unusually large number'.[61] Although this was a week after war was declared, the offences must have occurred some time before this event, suggesting that this uncertainty and unease was already having an effect. During a House of Lords debate on health and housing services, Lord Elton stated:

> The family was the first and foremost casualty of the war. Families had been broken up, divorce flourished, and bigamy was almost a national industry. There had been a spread of venereal disease among girls under 16. Juvenile delinquency had risen. Was it not mere wishful self-deception to talk about a better Britain on that basis?[62]

During the latter years of World War II and the immediate post-war years, it appears that the Government made at least half-hearted attempts to warn the general populace about the rise in bigamy; a half-hour radio programme entitled 'This is the Law – Bigamy' was broadcast on the BBC Home Service on at least two occasions: 8 September 1945 and 16 February 1947.[63]

Conclusion

We have seen that from the early-seventeenth century bigamy was (at least theoretically) considered to be an extremely serious offence that offended against both secular and spiritual authority. As a felony, it carried the death-penalty, but in practice the majority of sentences appear to have been relatively light. Despite this apparent dichotomy, it has received scant attention from both historians and criminologists and has often unthinkingly been regarded, as Soothill *et. al.* have commented, as 'a rare and comical crime'.[64] However, whilst the popular press often portrayed bigamy trials in this light (and continue so to do), the effects of bigamy on unwitting victims could be devastating: families torn apart and reputations ruined, with long-term social and economic consequences.[65]

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[61] *The Times*, 11 September 1939.
[62] *The Times*, 10 Dec 1943
[63] See *The Times*, 8 September 1945 and 16 February 1947 for further details.
[64] Soothill, et. al., 'The place of bigamy in the pantheon of crime?', p.70.
[65] Grover and Soothill give several examples of women who were upset by the perceived leniency of sentences received by their respective husbands (pp. 335-5): one was reported in the *Daily Mirror*, 24 June 1994, as saying 'Being married to a bigamist is like having something nasty in the air that's close to you all the time. I would like someone to come and take it away. There's a constant feeling of unpleasant uneasiness.'

The reasons for pursuing a bigamous relationship were many and varied; some perpetrators simply wanted to escape an unhappy marriage, and with the divorce laws being so complex and expensive, many escaped by going through a type of 'self-divorce' – there are numerous examples of bigamy trials in which the deserted partner gives their full blessing to the new, bigamous 'marriage'. Frost has argued that the desire to remarry, albeit bigamously shows that there was a continuing respect for the institution of marriage, and that the main problem lay with the complex and unfair divorce laws. This may have been true to a certain extent for some bigamists, but the above statistics suggest that there was not in fact a close correlation between divorce and bigamy rates. Poole has argued that bigamy showed a total disregard for the sanctity of marriage. Yet more offenders, as Soothill *et. al.* have pointed out, seem to have regarded bigamy as simply another option in the arsenal of fraudulent transactions that were available to sustain their criminal careers.

The data above has shown that whilst bigamy rates remained low when compared to other recorded offences, fluctuations did occur, primarily during periods of war and the postwar-aftermath. The majority of offenders were always male, though the percentage of female offenders did rise sharply during World War I, and females were more prevalent as bigamists than as perpetrators of other indictable crimes. There was a noticeable trend to less severe sentencing throughout the period, with few convicted bigamists being sentenced to the maximum penalty of seven years' imprisonment or penal servitude, and recent work has shown this trend to continue to the present-day, reflecting societal changes in attitude to marriage and divorce. It is clear that throughout the period under discussion judges acted perhaps somewhat un-stereotypically by exercising considerable judicial discretion and considering each trial on a case-by-case basis. In many of their reported summings-up, there was a clear discrepancy between the societal norms that the offence was seen to be corrupting and the actuality of the individual case, in which extenuating or mitigating circumstances were often brought to the attention of the jury by the judge. In reality, whilst the judicial rhetoric was often harsh, the actual sentences meted out were often relatively lenient.

The history of bigamy trials, comprising the multiplicity of reasons behind the committing of such offences, and societal and judicial responses to them, is perhaps therefore best viewed as a reflection of changing societal values throughout the period under discussion. Bigamy, although never looming large amongst the

pantheon of criminal acts, can be seen to have been influenced by numerous factors, including changes in divorce and marital law, social upheaval and periods of severe danger and uncertainty. It is hoped that this discussion of bigamy rates between 1850 and 1950 and the circumstances behind their fluctuations has thrown a little more light on what has to now been a somewhat poorly illuminated aspect of criminal justice history.

APPENDICES

Figure 1 Total number of persons brought to trial for bigamy offences 1850-1950

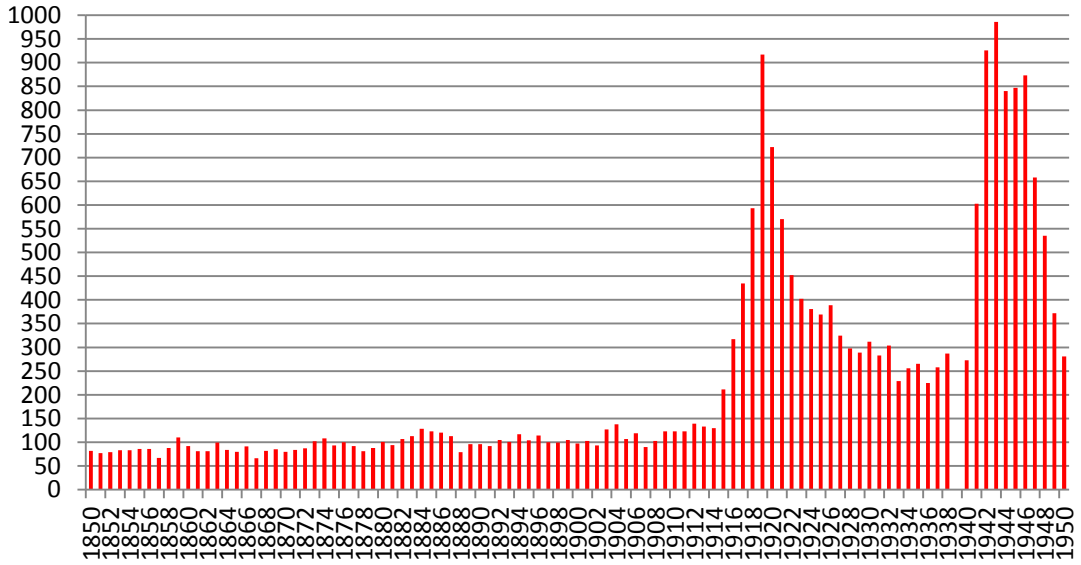
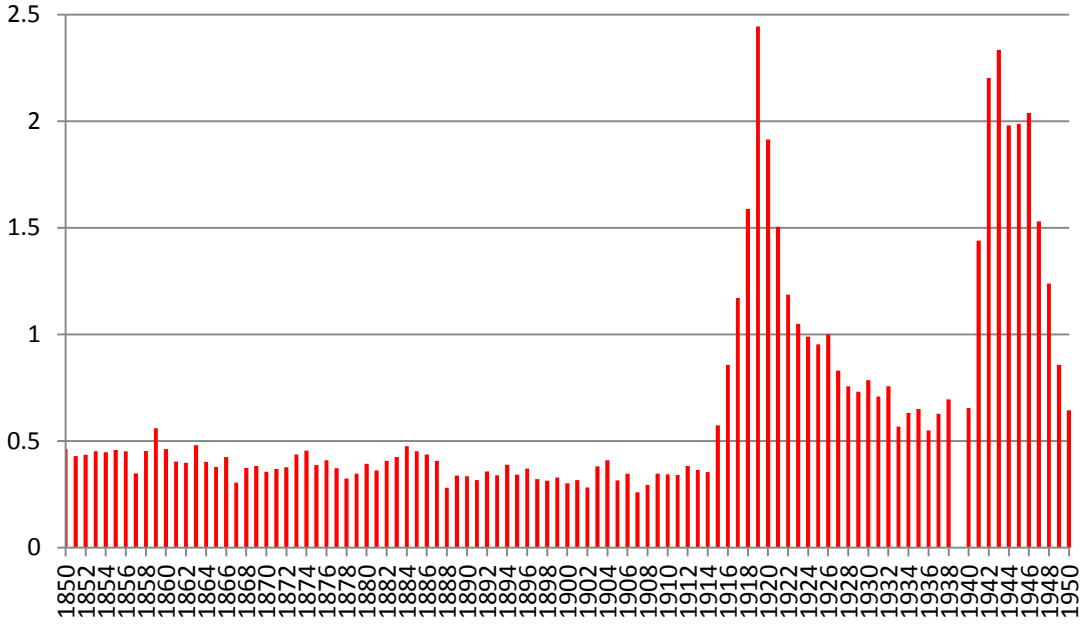


Figure 2 Total number of persons brought to trial per 100,000 of population for bigamy offences 1850-1950



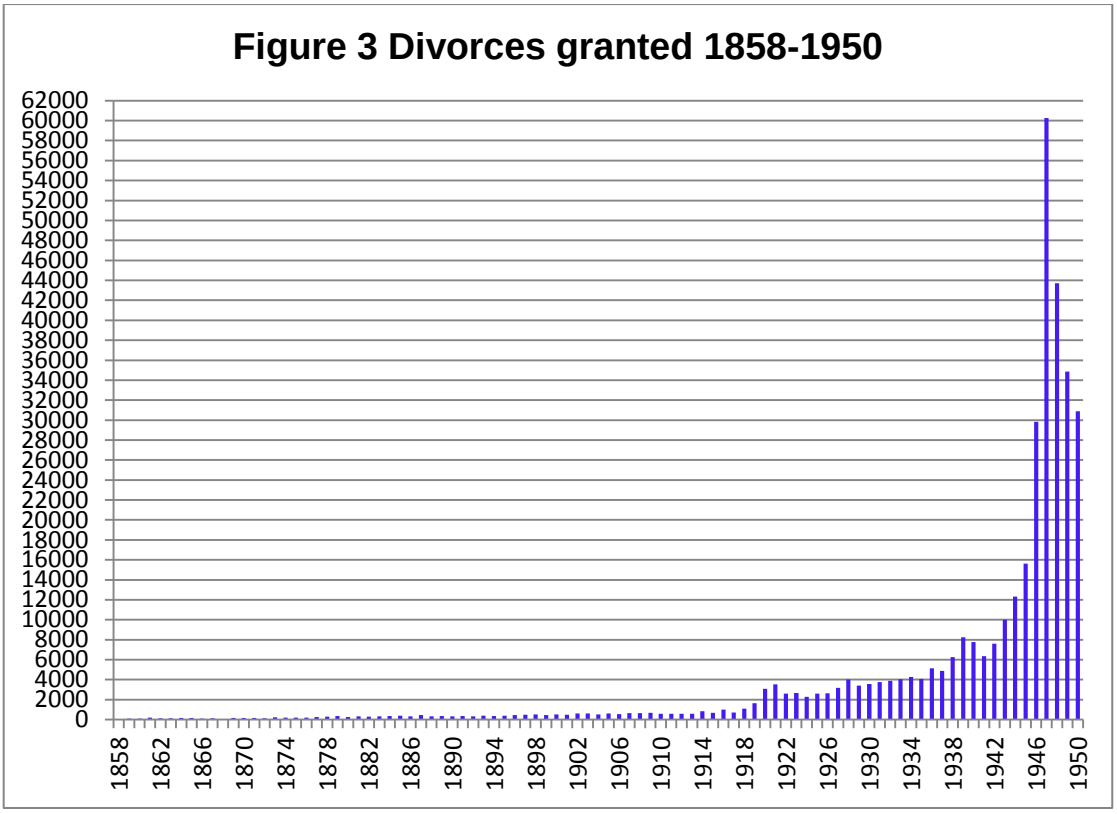


Figure 3 Divorces granted 1858-1950
62000
60000
58000
56000
54000
52000
50000
48000
46000
44000
42000
40000
38000
36000
34000
32000
30000
28000
26000
24000
22000
20000
18000
16000
14000
12000
10000
8000
6000
4000
2000
0
1858
1862
1866
1870
1874
1878
1882
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1938
1942
1946
1950

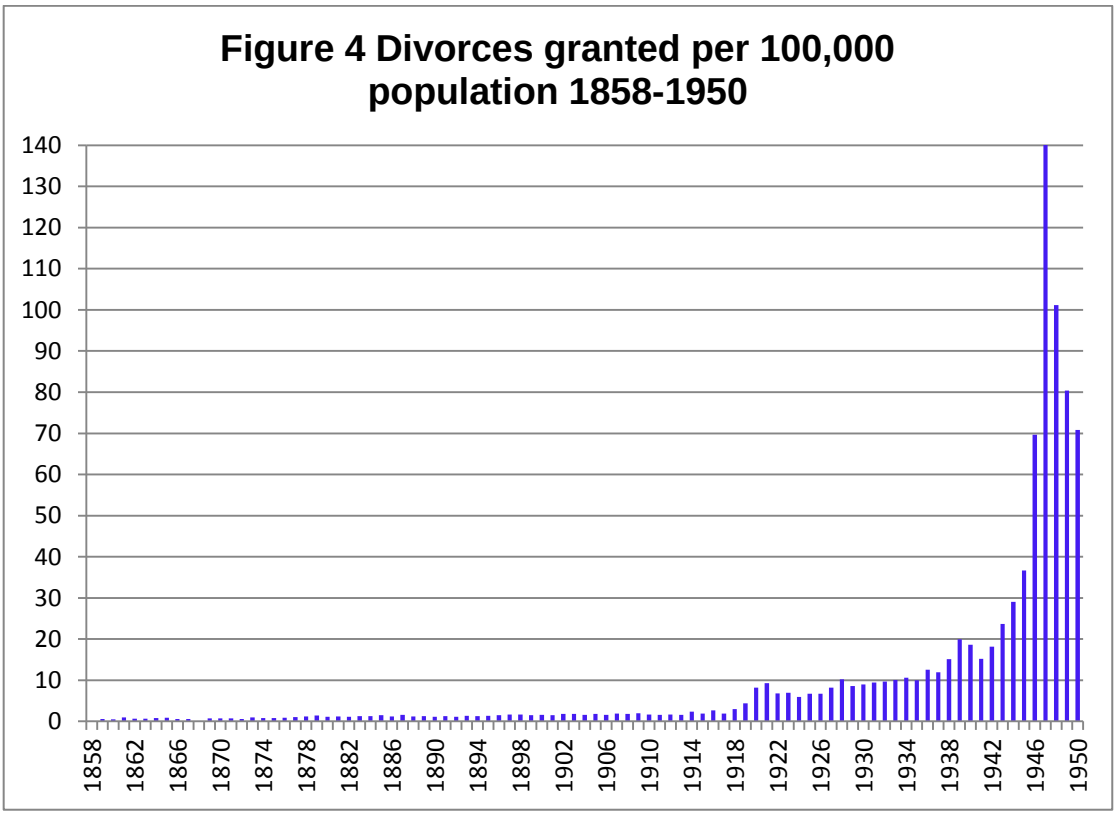
Figure 4 Divorces granted per 100,000 population 1858-1950
140
130
120
110
100
90
80
70
60
50
40
30
20
10
0
1858
1862
1866
1870
1874
1878
1882
1886
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1902
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1930
1934
1938
1942
1946
1950

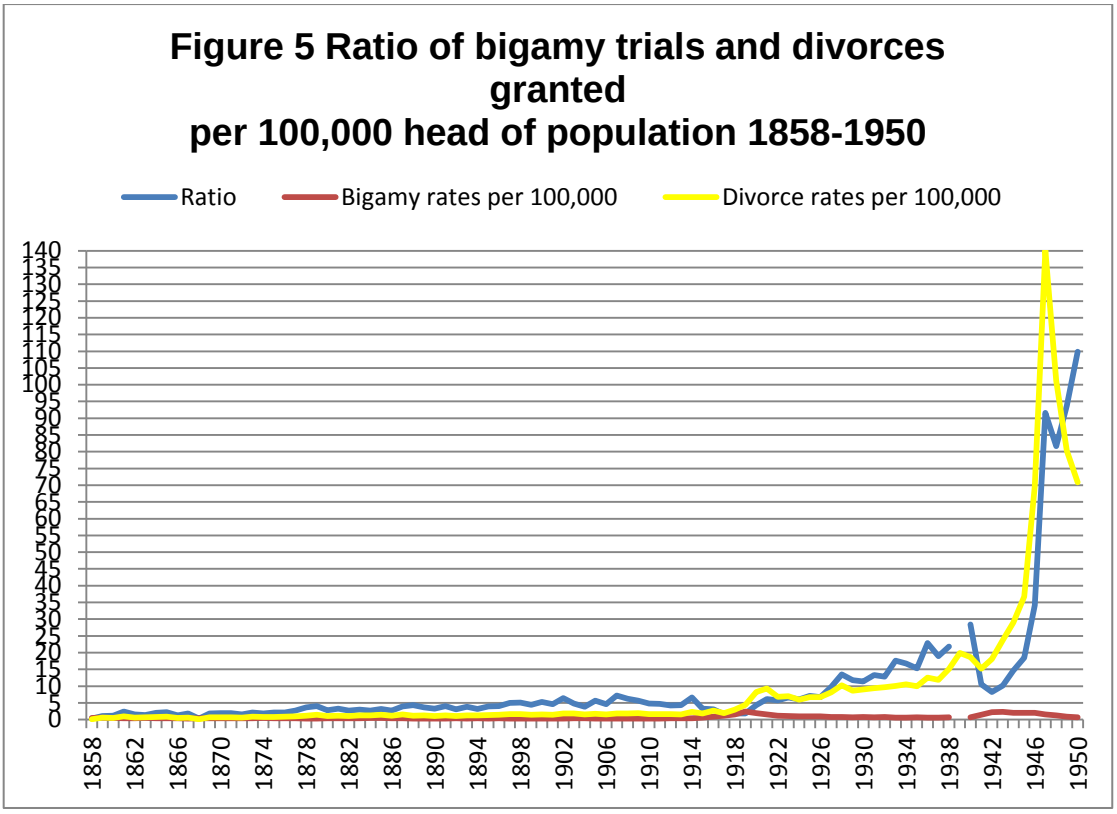
Figure 5 Ratio of bigamy trials and divorces granted
per 100,000 head of population 1858-1950
Ratio
Bigamy rates per 100,000
Divorce rates per 100,000
140
135
130
125
120
115
110
105
100
95
90
85
80
75
70
65
60
55
50
45
40
35
30
25
20
15
10
5
0
1858
1862
1866
1870
1874
1878
1882
1886
1890
1894
1898
1902
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1910
1914
1918
1922
1926
1930
1934
1938
1942
1946
1950

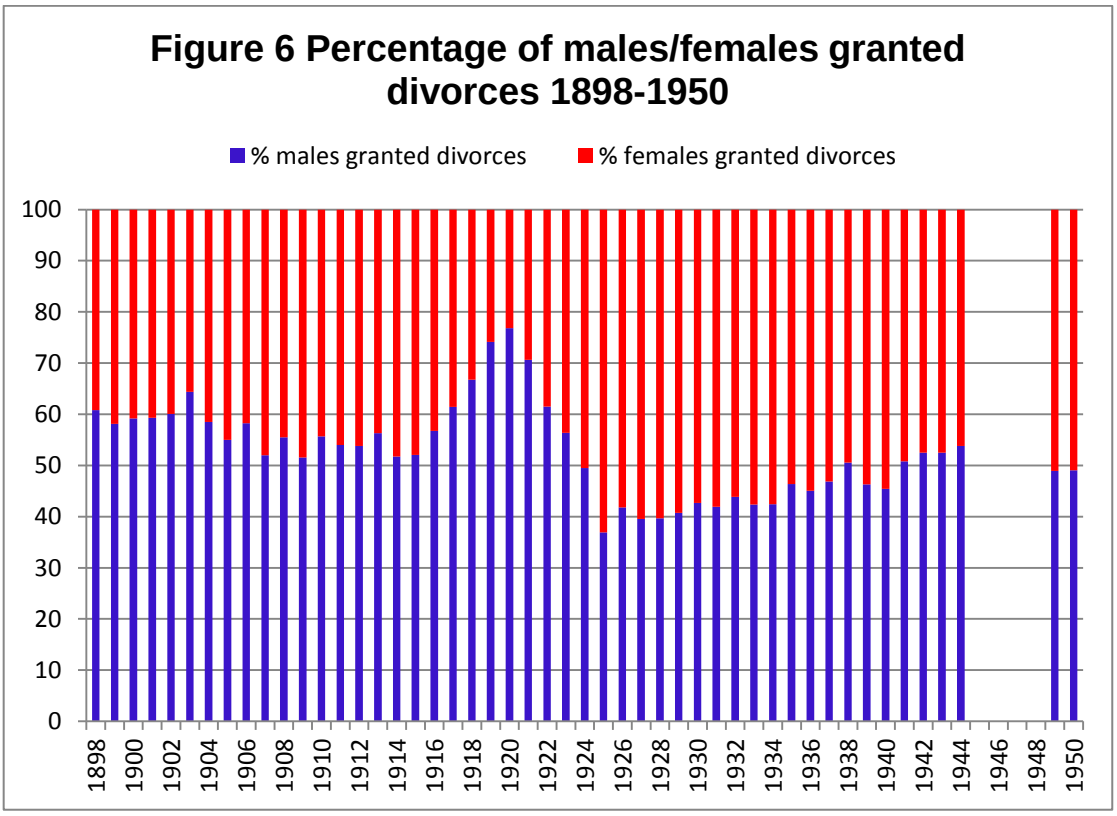
Figure 6 Percentage of males/females granted divorces 1898-1950
% males granted divorces
% females granted divorces
100
90
80
70
60
50
40
30
20
10
0
1898
1900
1902
1904
1906
1908
1910
1912
1914
1916
1918
1920
1922
1924
1926
1928
1930
1932
1934
1936
1938
1940
1942
1944
1946
1948
1950

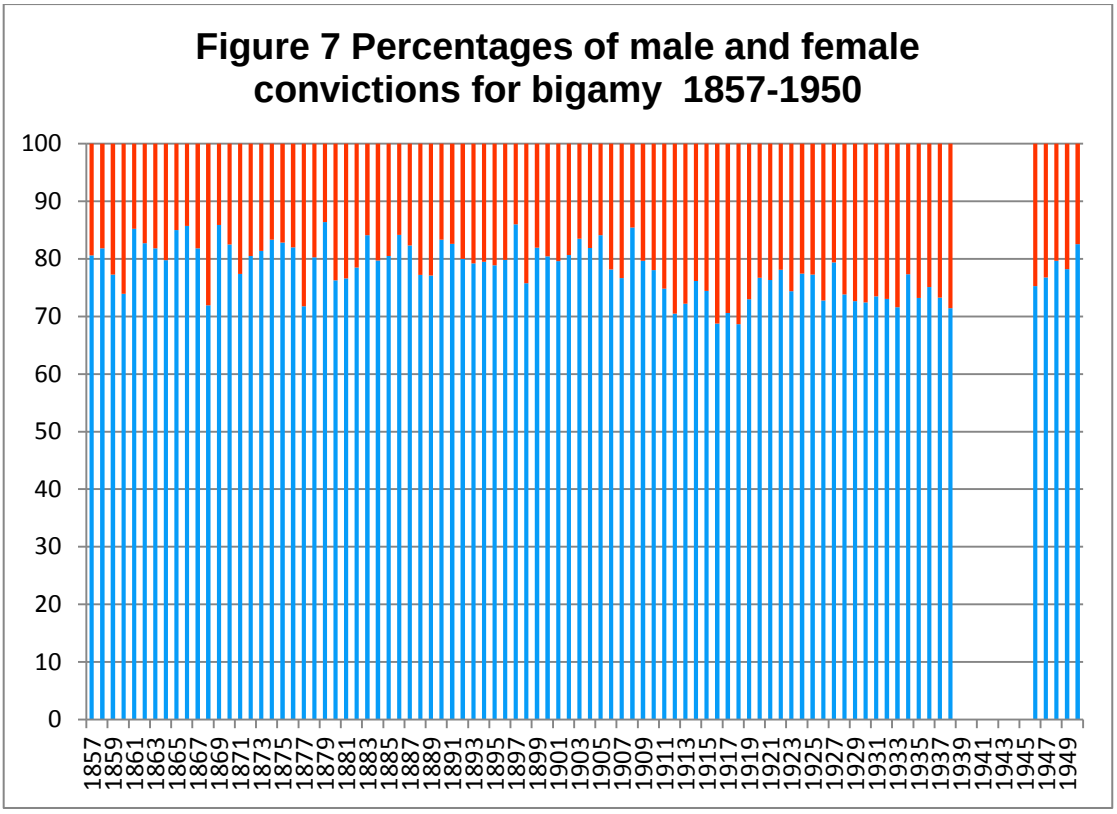
Figure 7 Percentages of male and female convictions for bigamy 1857-1950
100
90
80
70
60
50
40
30
20
10
0
1857
1859
1861
1863
1865
1867
1869
1871
1873
1875
1877
1879
1881
1883
1885
1887
1889
1891
1893
1895
1897
1899
1901
1903
1905
1907
1909
1911
1913
1915
1917
1919
1921
1923
1925
1927
1929
1931
1933
1935
1937
1939
1941
1943
1945
1947
1949

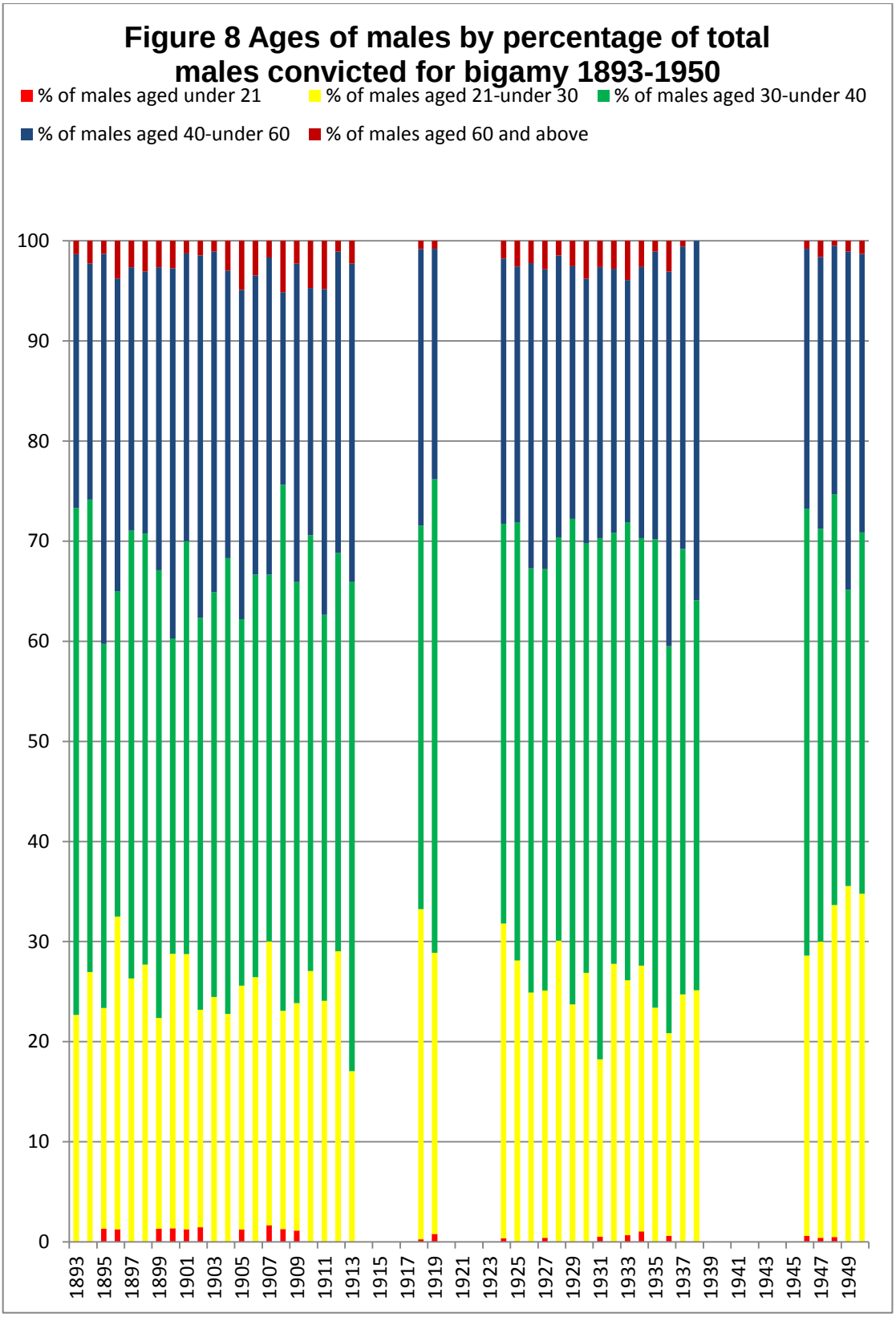
Figure 8 Ages of males by percentage of total males convicted for bigamy 1893-1950
% of males aged under 21
% of males aged 21-under 30
% of males aged 30-under 40
% of males aged 40-under 60
% of males aged 60 and above
100
90
80
70
60
50
40
30
20
10
0
1893
1895
1897
1899
1901
1903
1905
1907
1909
1911
1913
1915
1917
1919
1921
1923
1925
1927
1929
1931
1933
1935
1937
1939
1941
1943
1945
1947
1949

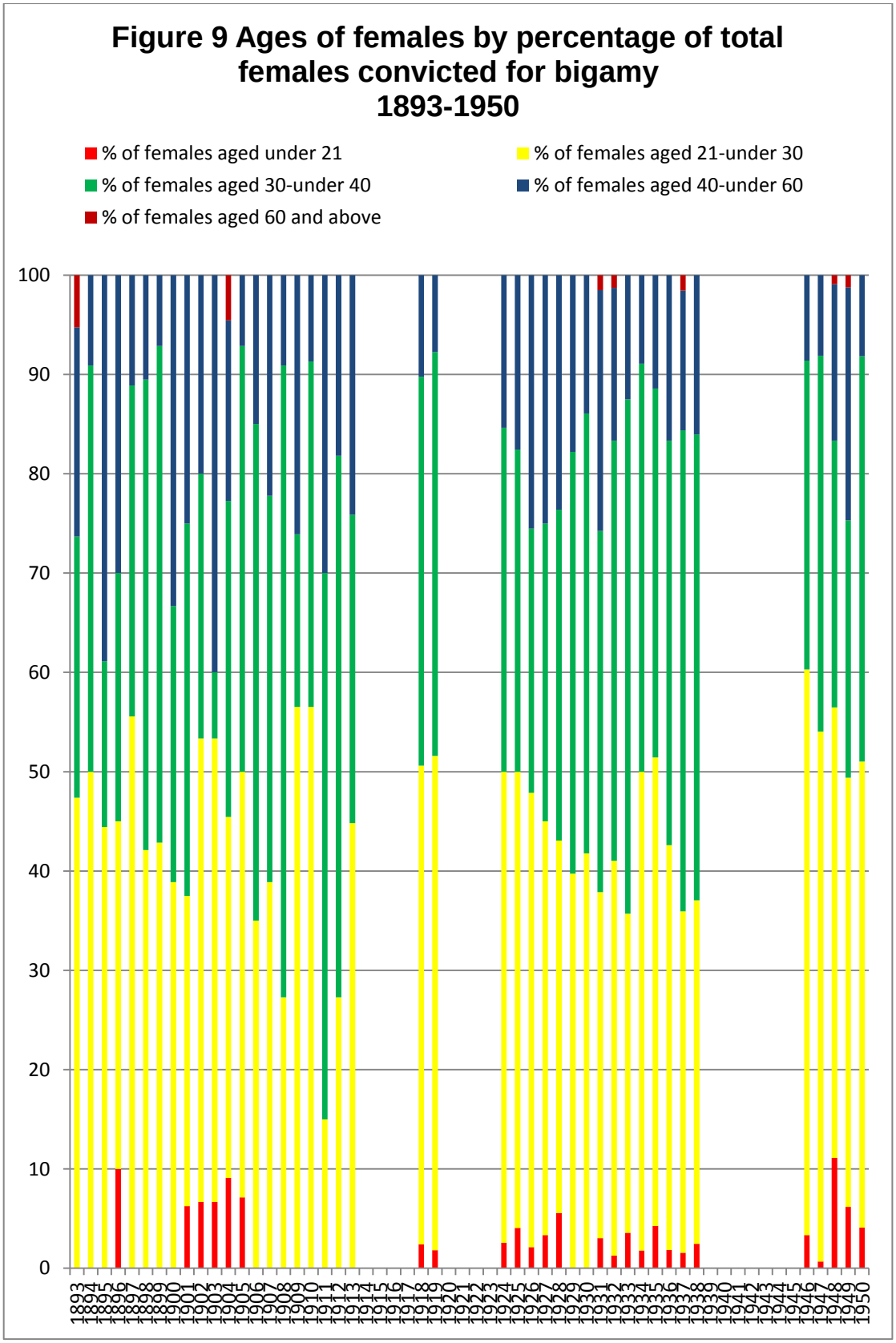
Figure 9 Ages of females by percentage of total females convicted for bigamy 1893-1950
% of females aged under 21
% of females aged 21-under 30
% of females aged 30-under 40
% of females aged 40-under 60
% of females aged 60 and above
100
90
80
70
60
50
40
30
20
10
0

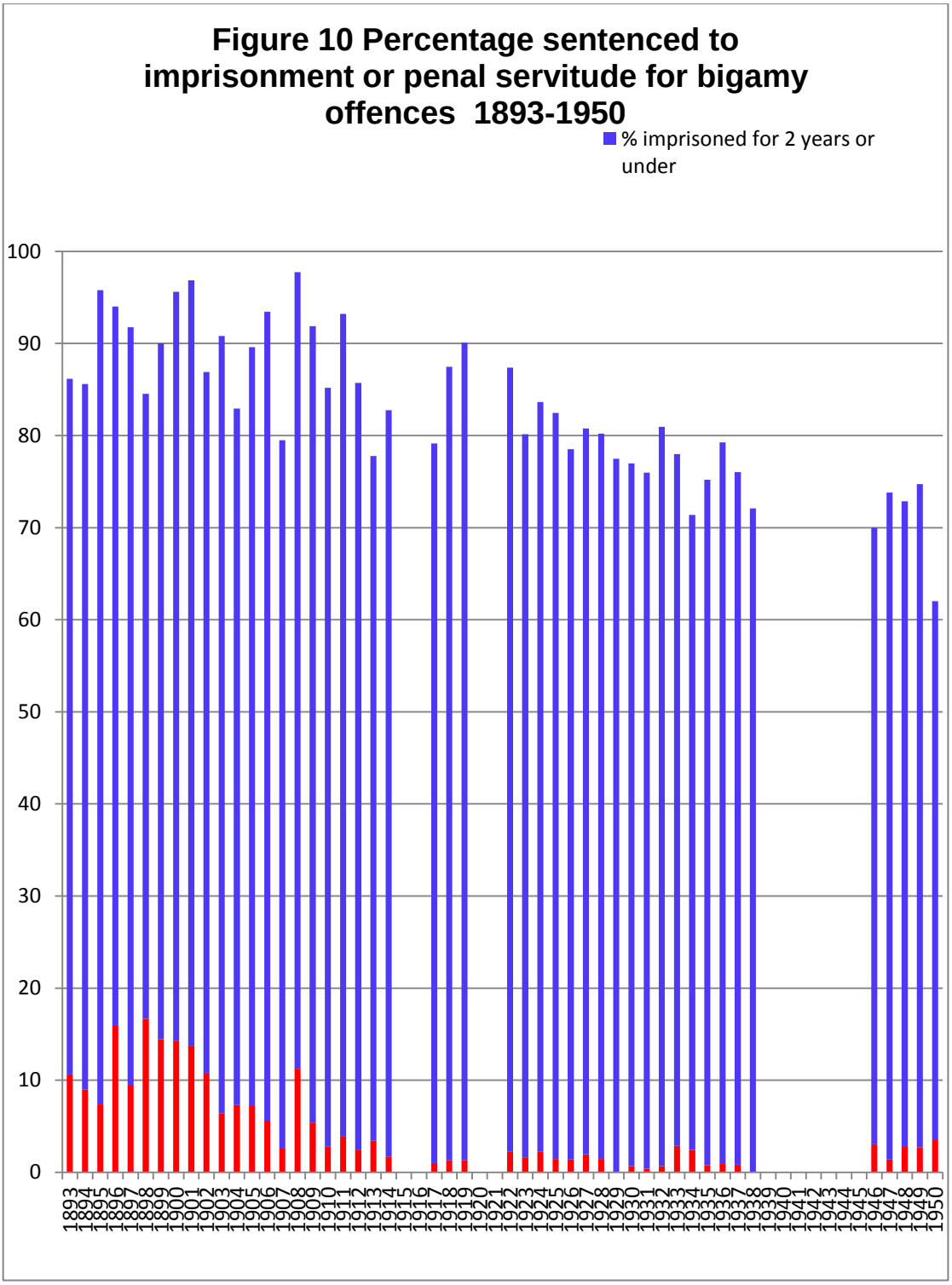
Figure 10 Percentage sentenced to imprisonment or penal servitude for bigamy offences 1893-1950
% imprisoned for 2 years or under
100
90
80
70
60
50
40
30
20
10
0
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
1904
1905
1906
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1910
1911
1912
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1914
1915
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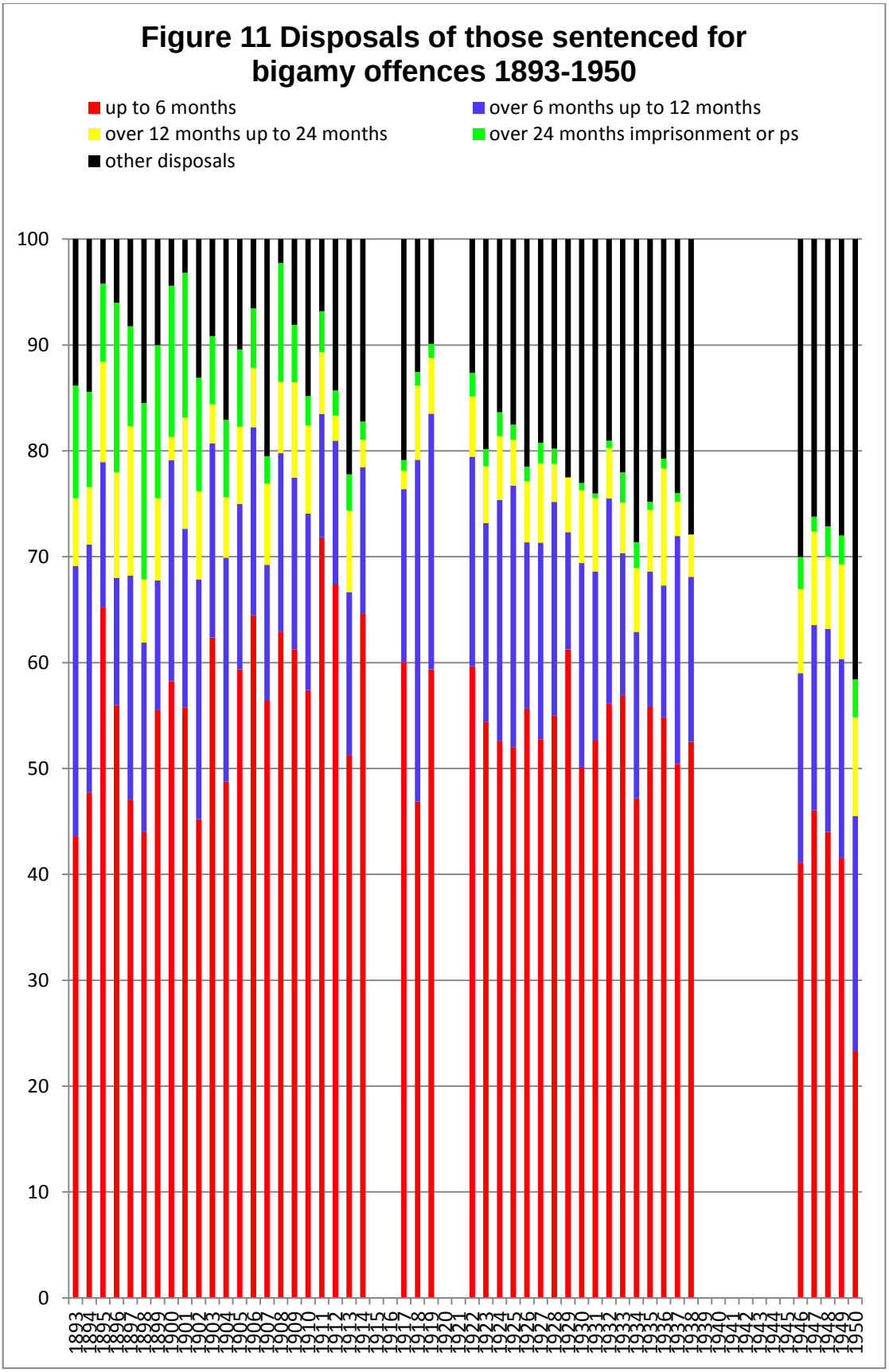
Figure 11 Disposals of those sentenced for bigamy offences 1893-1950
up to 6 months
over 6 months up to 12 months
over 12 months up to 24 months
over 24 months imprisonment or ps
other disposals
100
90
80
70
60
50
40
30
20
10
0
1893
1894
1895
1896
1897
1898
1899
1900
1901
1902
1903
1904
1905
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1909
1910
1911
1912
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1914
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1946
1947
1948
1949
1950

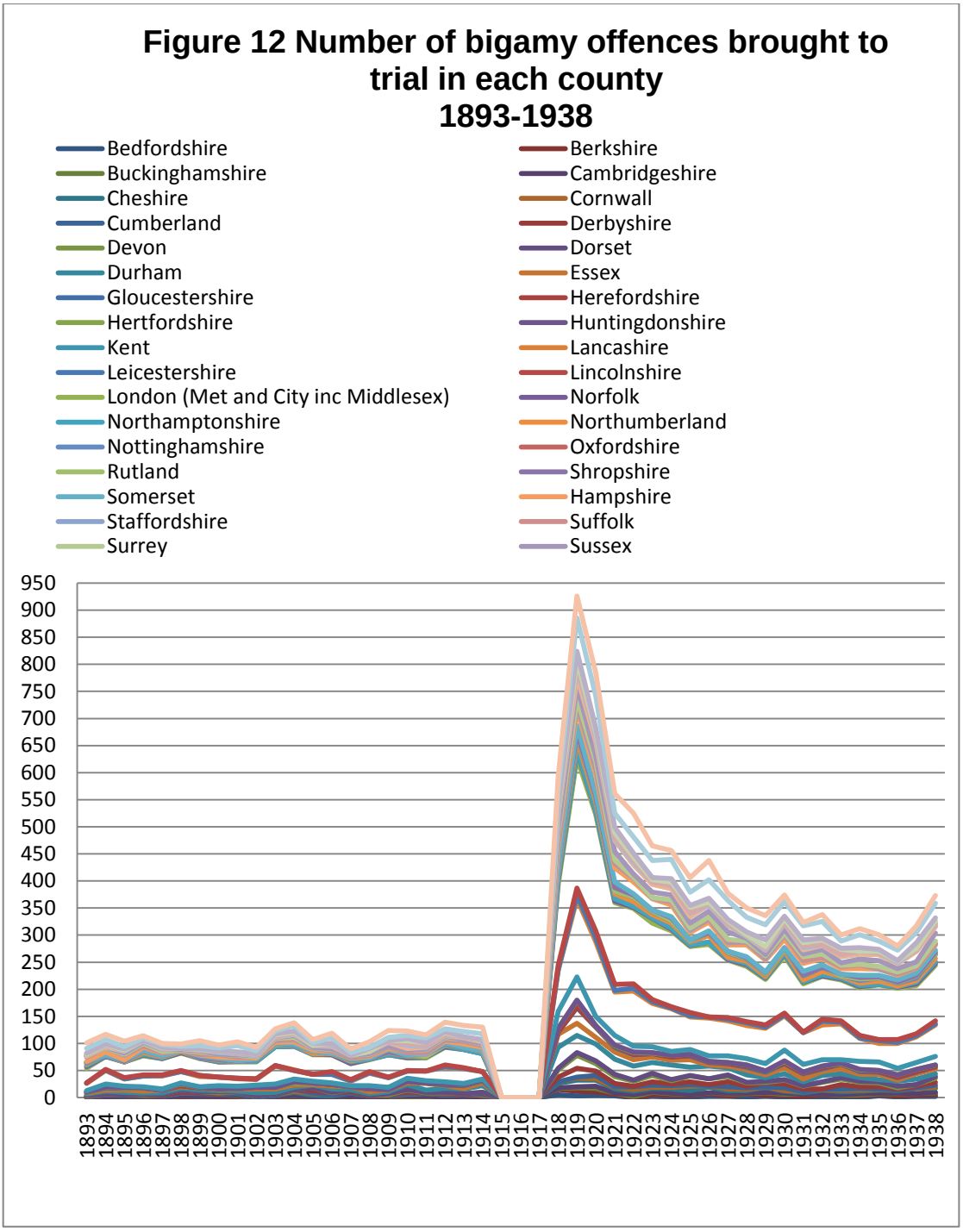
Figure 12 Number of bigamy offences brought to trial in each county
1893-1938
Bedfordshire
Berkshire
Buckinghamshire
Cambridgeshire
Cheshire
Cornwall
Cumberland
Derbyshire
Devon
Dorset
Durham
Essex
Gloucestershire
Herefordshire
Hertfordshire
Huntingdonshire
Kent
Lancashire
Leicestershire
Lincolnshire
London (Met and City inc Middlesex)
Norfolk
Northamptonshire
Northumberland
Nottinghamshire
Oxfordshire
Rutland
Shropshire
Somerset
Hampshire
Staffordshire
Suffolk
Surrey
Sussex
950
900
850
800
750
700
650
600
550
500
450
400
350
300
250
200
150
100
50
0
1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938