

## PATRIARCHY ON THE GALLOWS

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PATRIARCHY ON THE GALLOWS

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A Thesis

Submitted to

the Graduate Faculty of

Auburn University

in Partial Fulfillment of the

Requirements for the

Degree of

Master of Arts

Auburn, Alabama  
December 17, 2007

# PATRIARCHY ON THE GALLOWS

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THESIS ABSTRACT  
PATRIARCHY ON THE GALLOWS

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Master of Arts, December 17, 2007  
(B.A., Emory University, 2001)

92 Typed Pages

Directed by Daniel Szechi

One of the most telling ways to examine society in the early modern era is to read the pleadings of the indicted. Typically taking the form of written petitions to the monarch, the pleadings are indicative of the place that they see for themselves in society. The two models that compete to define society in the early modern period are patriarchy and paternalism.

Patriarchy is the imposition of societal roles that disadvantage women. This implies a top-down imposition of identity. Women are limited in this model and have little to no agency. Paternalism asserts that society is modeled on the family, with the monarch as the father figure. While it may appear to be a top-down approach similar to patriarchy, in reality, it implies more cooperation, as each person has a role within the family and, thus, within society.

This thesis establishes that the workings of early modern English society is properly described by a paternal, not patriarchal model.

## ACKNOWLEDGMENTS

I would like to thank my wife, Heather, for being patient with me while I struggled with this thesis. Special thanks go to Dr. Daniel Szechi, who helped me out of a difficult situation and provided me with needed guidance. Dr. Donna Bohanan was a shoulder to lean on during the writing process and Dr. Kathryn Holland Braund provided me with the Americanist point of view on what would have otherwise been a European project. The UK National Archives at Kew and the archivists that work there deserve thanks for helping me obtain the original copies of Queen Anne's State Papers. The librarians working at the British Library were equally helpful in assisting me in finding my feet.

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## **INTRODUCTION: THE HISTORIOGRAPHY OF CRIME IN EARLY MODERN EUROPE**

A beautiful and vivacious girl, Mary Brooks was not lacking in suitors in 1705. Her father, a wealthy Baptist minister, had spared no expense on her education. By the time Mary turned 18, she was as well educated as any peer's daughter might have been. Her natural wit, combined with her physical charms, made her popular in Dorset, where men visited often, seeking her hand. Mary Brooks was fussy about her future mate, however, and rejected all of them. In particular, she rejected out of hand a rich grocer, only named as "Mr. Channing," whose main faults were his disproportionate arms and legs and his splayfeet. Of all of her suitors, Mr. Channing was by far the richest, and for this reason her parents pushed her towards a match. Mary Brooks, however, had fallen in love with a neighbor. Accounts disagree, but it is acknowledged that her parents forced her to marry Mr. Channing. They were either attempting to rescue her reputation from the scandal provoked by her affair with the neighbor, or they were blinded by the wealth that Mr. Channing would bring to the family.

At any rate, Mr. Channing and Mary Brooks were married. The new Mrs. Mary Channing found herself well off, but unhappy. She still loved her former neighbor. Mary could not bring herself to love or respect Mr. Channing and treated him with scorn. Mr. Channing did not find this unusual: Mary had never treated him with anything but contempt. Whether she was desperate or simply out of control, Mary propositioned men

at her own wedding.<sup>1</sup> Eventually, she took up with her erstwhile neighbor again. Finding her marriage intolerable, she sent out her maid to procure some white mercury, also known as mercury bichloride, a poison used to kill rats and mice. A few days later, on 16 April, Mary contrived to be the only one to serve her husband breakfast. Everyone else in the household was served by the domestic servants, but for Mr. Channing. He apparently consumed his rice milk with gusto, not noticing its bad taste until the end. He asked Mary's brother (who lived with them) to taste the rice milk, but Mary intercepted the bowl and returned it to her husband. He then ordered the maid to try his breakfast, but Mary seized the bowl and bore it away. Mr. Channing did not have to wait long before his suspicions were confirmed: within an hour, his stomach was swelling, causing great pain. Mr. Channing must have made a dramatic sight: his teeth may have loosened in the little time that he had left, his kidneys likely failed catastrophically, and he probably salivated incessantly, making him drool absurdly in his last hours.

Mary Channing was arrested for the murder of her husband. She offered a spirited and intelligent defense, but it ultimately did her no good, as she was found guilty and sentenced to death. During the trial, it was alleged that she had already spent all of Mr. Channing's money, an intimation that she only killed him when he was no longer useful to her. She probably still had money, as her maid stayed in her employ until she was executed, though we cannot rule out domestic loyalty. Mary's execution was respited, but only when she was found to be pregnant. She carried the child to term, whereupon she was executed. Her execution was grisly, even for early modern England;

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<sup>1</sup> Martin J. Wiener, "Alice Arden to Bill Sykes: Changing Nightmares of Intimate Violence in England," *The Journal of British Studies* 40 (April, 2001), 190-191.



Mary was sentenced to be strangled, then burned at the stake. Though she must have been daunted by the prospect, she went to her execution with her head held high.<sup>2</sup>

Though her acceptance of her fate brought grudging respect from the spectators, they did not doubt that her fate was just. Mary Channing was sexually licentious, “pleasure-seeking, extravagant, and willful.”<sup>3</sup> She was an example of “the chief source of disorder, violence, and murder [being] domestic insubordination (on the part of wives, adolescent children, or servants).”<sup>4</sup> By fighting against her marriage, Mary Channing was battling against many accepted features of society: patriarchal authority, religious authority, and societal norms as a whole. This was acknowledged at the time, with pamphlets and the *Newgate Calendar*’s account highlighting her failings. On the surface, this appears to be an example of a patriarchal society bearing down and mercilessly crushing a transgressive woman. Burning at the stake was certainly a terrible fate. We must ask, is this indicative of the execution of justice during Mary Channing’s time? Looking at her experience, as well as others, I will show that Mary Channing was not

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<sup>2</sup> *Serious admonitions to youth, in a short account of the life, trial, condemnation and execution of Mrs Mary Channing who, for poisoning her husband, was burnt at Dorchester in the county of Dorset on Thursday, March the 21st 1706* (1706). J. L. Rayner and G. T. Crook, eds., *The Complete Newgate Calendar* 5 vols. Vol. 2. (London: The Navarre Society, 1926) 224. Barbara White, ‘Channing, Mary (1687–1706)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/67091>, accessed 20 March 2007]. Both the *Newgate Calendar* and the *Admonitions* contain the story of Mary Channing. There are significant differences between the accounts. Where they disagree, I have relied on the *Oxford Dictionary National of Biography* to adjudicate.

<sup>3</sup> Martin J. Wiener, “Alice Arden to Bill Sykes,” 190-191.

<sup>4</sup> *Ibid.*, 189.

transgressing against any hoary patriarchy. For purely practical purposes, I have confined this study to the reign of Queen Anne.

Patriarchy is the imposition of a male dominance upon society. In this system, women would be subservient to men. In the household, the man would be the actual and not merely titular ruler. On a larger scale, Queen Anne would have been prevented from taking the throne of England just as Queen Victoria was barred from the throne of Hanover. Women in a patriarchal society are granted little agency. Whatever agency they do have is found in revolt against the male dominated order.

Paternalism ends up having the same forms as patriarchy, but for completely different reasons. Paternalism is the imposition of a social order in which every person has a role that he or she was expected to act out. While in practice this could be flexible, one's place in life was supposed to be determined by birth. Circulating within this was the idea that men were rulers of the household, yet this did not reduce women to simple subservience. Instead, the household was meant to be a microcosm of the state; this reinforced the idea of the monarch as a parent who knows best for his or her people. Within this situation, every person has agency. Depending on their social rank, the expression of agency may take different forms. Nevertheless, all individuals are allowed agency in a paternalistic society.

And there was no patriarchy on the gallows. There was, however, paternalism on the gallows. We should contrast the state's paternalism with the repressive and enforced gender roles implied by patriarchy. We can see the distinction in action by looking at the petitions of the condemned and seeing the manner in which they are gendered and their likelihood of success. If one takes the petition as a sort of preemptive gallows

confession, then one can see that by attempting to attain spiritual peace, the petitioner was also attempting to attain freedom by regaining a normative role. We must also examine whether this was successful. Did a transgressive woman acting out her “appropriate” role escape more often than a transgressive man? Does this normative role even imply that one sex is disadvantaged versus another? In fact, it will be shown that this was not the case. While women and men did attempt to establish themselves within gender roles, this was not as a result of patriarchy—in which case women would be far more circumscribed—but as a result of the paternalism of the state: individuals were expressing their worth to the state; worth happened to be expressed by acting out gender roles. To understand this, we need to take a broad view and observe how the system functions. In particular, we need to examine the manner in which societal expectations (and how skillfully the indicted met them, as measured by reputation) determine the functioning of the legal system. Then, we must move on to the petitioners themselves, and examine specifically who they were and what sort of expectations they attempted to meet. And, lastly, we will move on to examining how women gendered their petitions. This gendering is important, because while the male roles are well understood, the ways in which women gendered their pleas is not. To understand this we must focus on female role-playing and representation in petitions designed to save their lives.

The general literature on the history of crime in this era falls into two opposing schools. One is inspired by Marxism and takes a top-down approach to justice, asserting that the elites “push down” the law to the lower orders. The second approach to crime and punishment is a more conservative one, though it comes from the Revisionist school. The Revisionist view is that the justice system is run for the lower orders and, while the

elite provides the framework, it is the plebeians who use the justice system. Both points of view have their supporters and each one musters a considerable amount of evidence on its behalf.

The Marxian point of view has been put forward by Douglas Hay and Peter Linebaugh, among others. Put simply, they assert that justice was actually the imposition of elite values upon the common sort. Hay illustrates this in his essay, "Property, Authority, and Criminal Law," contained in *Albion's Fatal Tree*, in which he asserts that the elite were careful in who they chose to execute.<sup>5</sup> This was not out of concern for the lower orders, but, rather, an effort to find victims whose execution would have the greatest psychological effect. Hay is at pains to point out that executions were about terrifying the public into submission. This view pays particular attention to property crimes (which are far more numerous than violent crimes) and focuses on what seems to be an obvious token of class differentiation.

Linebaugh draws a similar conclusion, though he works beyond the reign of Queen Anne. He examines the Augustan era and pays specific attention to what he calls "Tyburnography" in his book, *The London Hanged*.<sup>6</sup> His thesis is that the criminal justice system is designed to suppress the plebeians and force them into a moneyed economy. Aside from the implicit problems associated with the idea of elites forcing wage slavery down the plebeians' throats, Linebaugh's assertions are compelling, but, it probably puts too much agency into the hands of the elite and ignores the changes

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<sup>5</sup> Douglas Hay and et. al., *Albion's Fatal Tree : crime and society in eighteenth-century England* (New York: Pantheon Books, 1975).

<sup>6</sup> Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Cambridge: Cambridge University Press, 1993).

wrought by the Industrial Revolution as well as the agency of the lower orders. Like Hay, Linebaugh also focuses primarily on property crime. That he does so is because of his conviction that capitalism has been a driving force in history.<sup>7</sup>

These two theses minimize the agency of the plebeians vis-à-vis the elites. While persuasive when one restricts the examination to executions—in particular the most sensational executions, as Linebaugh does—it does not hold up when pardons and the court system are factored in. This is what Peter King has reacted to in his Revisionist analyses of the English justice system. King asserts that, far from being an elite arena, the plebeians were deeply involved in the execution of justice. King analyzed court records to determine the social origins of the participants in the justice system. He found that the lower orders actually vastly outnumbered the elite in the court records, as they did in population. The implication, then, is that justice was not just the purview of the elite.<sup>8</sup>

John Beattie, in his works *Crime and the Courts in England* and *Policing and Punishment in London*, takes a similar view.<sup>9</sup> Far from being an abstract system, the plebeians found the justice system to be a mechanism by which disputes were settled

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<sup>7</sup> This is not to imply that Linebaugh's approach is so Marxist that he ignores other effects in favor of capital. He does, however, see capital as the moving force in *The London Hanged*. See for example, 371-401.

<sup>8</sup> Peter King, *Crime, Justice, and Discretion in England 1740-1820* (New York: Oxford University Press, 2000) and Peter King, "Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800," *The Historical Journal* 27, No. 1 (March 1984), passim.

<sup>9</sup> John Beattie, *Crime and the Courts in England 1660-1800* (Oxford: Clarendon, 1986) and John Beattie, *Policing and Punishment in London 1660-1750* (New York: Oxford University Press 2001), "Introduction."

through peaceful and formulaic interpersonal confrontation. Indeed, going further, he states that the poor did not have a monolithic view of the justice system, a necessary thing if we are to accept Hay's thesis. Instead, Beattie claims that opinions of the poor were particular to specific crimes.<sup>10</sup>

My analysis borrows, however, from both the Marxians and the Revisionists. Building on the research of individuals such as Hay and Beattie, I factor in the effect of pardons and, most particularly, the petitions for pardons, which I refer to as "felony petitions." All of the researchers mentioned above do acknowledge pardons, but they often find it difficult to fit them into their paradigm. J. M. Beattie's analysis acknowledges pardons, but does not closely examine the manner they are obtained, which is integral to the overall working of justice.

I will show that plebeian acceptance and participation in the justice system are the result of the overall sense of fairness in the early modern English court system that all orders shared. What was at work was actually a sort of *quid pro quo*. While Hay is correct, the elite did carefully choose who they executed, he is wrong in suggesting that this was to terrorize the populace into submission. Instead, what we have is a reinforcement of social values by the elites. The elite certainly saw this as their role and, if E.P. Thompson is correct, so did the plebeians.<sup>11</sup> Thus, executions are expressions of paternalism. We cannot, however, ignore the other facet of this: pardons. Pardoning was paternal reinforcement of the social order. The pardoning process was often, as we shall

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<sup>10</sup> Ibid., 73.

<sup>11</sup> E. P. Thompson, *Customs in Common* (New York: The New Press, 1991). In particular, the chapter "Custom, Law and Common Right," 97-184.

see, lubricated by patronage. Additionally, pardoning served to satisfy plebeian expectations of justice regardless of the letter of the law. Pardoning and execution, together, form a vital part of the mortar that cemented together early modern English society.

## CHAPTER 1: THE WORKINGS OF THE COURT SYSTEM AND THE CREATION OF THE PETITIONS

Anne Harris must have made quite a sight when she was executed. Her face had been burned so many times as punishment for robbery that there was not a part of it that was not scarred. Indeed, her crime was not one that normally warranted death; she should have merely been burned again, because the items she stole were not valuable enough to merit a death sentence. Even though she was only twenty when she was killed, Anne Harris was a skilled shoplifter, known alternately as Sarah Davies, Sarah Thorn, or Sarah Gothorn.

Before ever turning fourteen, Anne had left her parents' household "in the parish of St. Giles without Cripplegate" and gone to live with a man known as "Jimmy the Mouth." Jimmy, it appears, introduced Anne to burglary. She learned how to survive on the streets of London as a thief. Though she was often caught, Anne knew not to steal items of too great a value. In this way, she avoided the death penalty. The maximum punishment court could inflict upon her for her crimes was being branding on the face.

Soon after Anne turned fourteen, disaster struck: Jimmy the Mouth was arrested for felony burglary. Unable to escape, Jimmy was hanged. He was ten years older than Anne. Though Anne may have mourned, we have no record of it. The *Newgate Calendar* tells us that she simply moved on to William Pulman, who bore the colorful nickname of "Norwich Will." Like many Londoners, William came from outside the



City, and was seeking his fortune by fair means or foul. Anne continued her thievery and was further stigmatized as her face was scarred again and again.

Norwich Will was executed on 9 March 1705. He had made the mistake of “robbing one Mr. Joseph Edwards on the high of a pair of leather bags, a shirt, two neckcloths, two pocket-books, twenty-five guineas, a half broad-piece of gold, and four pounds in silver.” Though they were sometimes—retrospectively—regarded as folk heroes by the local populace, highwaymen were detested by the English government, and Norwich Will was hanged. Anne Harris was sixteen. Her lover was, again, ten years her senior.

“Now [Anne], being twice left a hempen widow in less than three years, had learned in that time to be as vicious as the very worst of her sex, and was so absolutely enslaved to all manner of wickedness through custom and opportunity that good admonitions could work no good effects upon her.” Indeed, it appears that Anne refined her technique at this time. She would go to a goldsmith’s shop and ask to look at his rings. The goldsmith would lay them out and Anne would begin to haggle with him over price. While he was thus distracted, Anne would rob him of a ring or two. Her method was ingenious: by heating ale over the fire, she thickened it into a syrup, which she then rubbed on her palm, allowing her to pick up rings by simply setting her hand on them. Though this worked, she soon acquired a reputation as a thief from Ludgate Hill to Fleet Street.

Anne was finally captured for stealing some printed Calico “out of the shop of one Mr. John Andrews” along with a Mary Parker. Once again, she had managed to steal items of less value than that required for a felony. Her face was so filled with burns,

however, that her judge or jury (we do not know who made the decision) felt that she was irredeemable, and condemned her to hang. Anne appealed her sentence to the crown, sending out one letter to the Privy Council and one to the Queen. Her pleas did not avail her, and she was hanged on 13 July 1708. She was twenty years old.<sup>12</sup>

Anne Harris's story is typical of the sensational tales in the *Newgate Calendar*. In fact, the only thing that distinguished her from any number of other executions was that her story *was* sensational. Taking up a lover at thirteen, seeing him die when she was fourteen, taking up another lover, then seeing him die when she was sixteen is certainly atypical in any era. Anne Harris was, though, more than typical of the freaks and ghouls who populated the *Newgate Calendar*: in particular, she was typical of the female criminals in the manner of her crime, her pleas, and public reaction to her. What doomed her was probably not the weight of the evidence, nor the nature of her crime, but that her reputation had sunk so low that there was no redeeming her. Even in a city as large as London, Anne Harris was known to be an incorrigible thief. The scars on her face would have drowned the pleas of any character witnesses she could have mustered.

The *Newgate Calendar* served early modern England as more than just entertaining reading. It was also paternalistic propaganda. Instead of just setting out to define good behavior by offering didactic examples of bad behavior, the *Newgate Calendar* justified England's penal system. State and elite paternalism was implicit

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<sup>12</sup> Newgate Calendar <http://tarlton.law.utexas.edu/lpop/etext/newgate2/harris.htm>  
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within the early modern English justice system.<sup>13</sup> The courts were a means to enforce social norms. So long as the justice system was working within the moral economy, though these social norms may appear to have been repressing plebeians, the lower orders accepted and used the English judiciary. This was because justice was seen as an elastic concept. The elite certainly created it, but the plebeians used it extensively. So long as the elites respected the moral economy of justice, the plebeians were willing to accept the upper orders' paternalism. Indeed, this was not usually a conscious decision, but, instead, an acceptance of a familiar social role. Throughout the course of a case, paternalism was at work, influencing the likely outcome. Ultimately, paternalism was the most important element of the justice system.

Even in its most rudimentary form, plebeians were involved in the exercise of justice. Arrest, indictment, and punishment took on the form of mob justice. During the reign of Queen Anne, "hue and cry," in which a victim could call for (and expect) help in apprehending an offender, was still in place, albeit in an attenuated form. We can see the broad acceptance by the plebeians of the law in their participation in such actions. Enforcement, then, was reliant upon a broad acceptance of the law, with the implication that newly made laws or laws intended to subjugate would not have had the public's support.<sup>14</sup>

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<sup>13</sup> At this point in England's history, differentiating between the state and the elite may seem like a moot point, but it is worth noting that while the state was controlled by elites, this could mean different things on the national versus local level.

<sup>14</sup> Beattie, *Crime and the Courts in England 1660-1800*, 36.

Clearly, the common folk played a major role in the early modern English legal system. Unlike the elite, however, justice was not, for them, an impersonal concept. Instead, it was viewed as a kind of personal confrontation.<sup>15</sup> Anne Harris would have recognized it as such, even if her prosecutors did not. Her behavior was confrontational not merely because she was a wayward woman, but also because she conceived of justice in the same terms as any other interpersonal conflict.<sup>16</sup> Cases were “personal confrontations rather than [a] bureaucratic procedure.”<sup>17</sup>

This tells us why the plebeians used the justice system as much as they did: it was viewed as a just forum in which to find resolution. Indeed, prosecutions and legal interactions were usually initiated by the lower orders and this gave them a basic control of the course of a case.<sup>18</sup> Of course, when one considers that the vast majority of the population was composed of plebeians, plebeian involvement should come as no surprise. After all, normally the victim of a crime was also the prosecutor of the criminal.<sup>19</sup> Prosecutors usually stemmed from the poor or middling sort. Surprisingly, considering how poor some of these individuals could be, they still were heavily involved in

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<sup>15</sup> Hay, *Albion's Fatal Tree*, 36

<sup>16</sup> This is to say nothing of the fact that her behavior was also her only means of survival.

<sup>17</sup> Peter King, “Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800,” *The Historical Journal* 27, No. 1 (March 1984): 25.

<sup>18</sup> *Ibid.*, 26. We should not put too fine a point on this. As we shall see, there are plenty of moments in which the elites could influence the case. Nonetheless, the plebeians were the prime movers of their cases through the court system.

<sup>19</sup> *Ibid.*, 27.

prosecutions for property crime. England's elites desired this kind of intense involvement with the courts to canalize plebeian conflict into a manageable forum.<sup>20</sup> Officially, the prosecutor was expected to bear court costs. This was not usually the case in practice, however, as most plebeians could not afford the court fees, so the court bore most of its own costs.<sup>21</sup>

How did cases come to the courts, then? We know that the victims of the crime brought the cases forward, but in what manner did the cases come before a judge? This is where we see the influence of the elite. Personal interactions across social lines determined the progress of a case to the courts. Local Justices of the Peace could use their influence to affect a compromise.<sup>22</sup> Indeed, “[i]n trespass or assault cases in which the public interest was not thought to be deeply engaged, magistrates were themselves encouraged to arrange agreements that would settle the issue privately and keep it out of the courts.”<sup>23</sup> While this was illegal in the case of felonies (that is, cases for which the penalty was death), it nevertheless occurred. Even after the indictment, the defendant could short circuit a prosecution by restoring stolen goods or paying an indemnity.<sup>24</sup>

The power of the local magistrate, however, could be considerable when brought to bear. The cases of William Burton and Walker Hickson illustrate this well and provide

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<sup>20</sup> Ibid., 28.

<sup>21</sup> Ibid., 32.

<sup>22</sup> Hay, *Albion's Fatal Tree*, 40.

<sup>23</sup> Beattie, *Crime and the Courts in England 1660-1800*, 39.

<sup>24</sup> Hay, *Albion's Fatal Tree*, 41.

us an insight into the workings of an early modern court. The exceptional nature of their prosecution by a local magistrate also allows us to understand the limits of the court, because of the manner in which the prosecution overstepped its bounds; the cases of Burton and Hickson do not highlight common occurrences in court, but irregularities. William Burton was a sixty-year-old Tory who had just unsuccessfully run for Parliament. According to Burton, Launcelot Roper, only twenty years old, attacked him with a cane when Burton was riding home one afternoon. Roper, it was intimated in Burton's petitions, was a client of Burton's Whig opponent.<sup>25</sup> Walker Hickson, who happened by, intervened. When the scuffle was over, William Burton certainly seemed the worse for wear. He had been dragged down the road, hanging from the stirrups of his spooked horse. It was with difficulty that Walker Hickson, himself in his sixties, fended off Roper long enough to catch Burton's horse. Launcelot Roper then fled the scene and hid in a friend's house. There, Roper chatted with his friend, fell sleep, and died, with not a mark on him.

Roper's patron rushed to a trial that Burton and Hickson could not make go away, though they were clearly gentry. Burton and Hickson were, furthermore, unable to mount a defense because of a "little known law" specifying that two indicted prisoners could not be witnesses for one another.<sup>26</sup> Even had they been able to testify, it might not have availed them. For one thing, the judge was unsympathetic and had no interest in helping

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<sup>25</sup> This magistrate, who loomed large throughout the proceedings, is never mentioned by name.

<sup>26</sup> State Papers Domestic 34, Piece 29, Folios 23-30, UK National Archives.

them.<sup>27</sup> The jury was downright hostile. Indeed, the prosecutor contrived to reject three “church men” and replace them with Roper’s patron’s servants. Five members of the jury even admitted that they had been ordered by the prosecution to find the men guilty. Even the Archbishop of York, who supported Hickson, was unable to convince the court of their innocence. According to Burton and Hickson, the jury was packed with friends of Roper and his patron. It did not take them long to find Burton and Hickson guilty of manslaughter.<sup>28</sup> They were condemned to death in late 1710. While their lives were at stake, equally important to Hickson and Burton were their reputations. They desired a pardon “to prevent their forfeiting their good characters.”

We do not know the fate of William Burton or Walker Hickson, though, given that the recommendations of the Privy Councilors were usually followed in pardon deliberations, it seems likely that they were spared. The misuse of patronage (and therefore the perversion of paternalism) was one of the injustices that the monarch’s pardon was designed to correct.<sup>29</sup> Had they not been spared, their prospects would have been grim. There was a high tolerance for judicial violence in eighteenth-century England. This meant that serious crimes, such as mariticide, brought drawing and

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<sup>27</sup> We cannot say that the judge *necessarily* had any bias in this situation. Being an assize judge, he would have known Roper’s patron, so it is possible that he was biased, but Burton and Hickson do not accuse him of being so.

<sup>28</sup> Many indictments for manslaughter were indicative of a killing that occurred in the heat of the moment without intent. Some were the result of men being killed while settling disputes in boxing matches. These often only occurred when men were already well “in their cups.” Beattie, *Crime and the Courts in England*, 94

<sup>29</sup> State Papers Domestic 34, Piece 29, Folio 26.

quartering upon the perpetrator.<sup>30</sup> Murder, in all of its forms, horrified the early modern English, even with death and violence omnipresent. It was so reviled that it was the first crime for which the benefit of the clergy was withdrawn.<sup>31</sup> In early modern England, there was no doubt that the murderer deserved execution.

Execution was a ceremonial event that had a strong social significance. The manner of killing was fraught with the symbolism that early modern crowds appreciated. More than just killing for vengeance, execution was an act intended to serve as a lesson for the general population: it was a moral act. The ceremonial aspects of execution were already well entrenched by the reign of James I.<sup>32</sup> Hanging and other methods of killing were a means of impressing upon the populace the power of the state.<sup>33</sup> We should not, however, assume that the convict's death was merely intended to terrorize the spectators.<sup>34</sup> Instead, the execution was a performance: the ultimate form of state paternalism.

The fact that it was a performance created, too, a role for an audience. Indeed, like all good audiences, the crowd was aware of the part they had to play. Thousands of spectators could turn out for particularly infamous criminals. Sometimes, cavalry would

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<sup>30</sup> Beattie, *Crime and the Courts in England*, 74-75.

<sup>31</sup> *Ibid.*, 77.

<sup>32</sup> J. A. Sharpe, "Last Dying Speeches': Religion, Ideology, and Public Execution in Seventeenth-Century England," *Past and Present*, No. 107 (May 1985): 147.

<sup>33</sup> *Ibid.*, 161.

<sup>34</sup> *Ibid.*, 146-147.



be needed to clear the path to the scaffold.<sup>35</sup> For those who were unable to attend, there were chapbooks and other popular publications that promoted the justice of specific executions.<sup>36</sup> While there was certainly literature celebrating the criminal element, justifications of execution undoubtedly had a larger “market penetration.”<sup>37</sup>

Though condemned for a specific crime, convicts were not so much killed for a single transgression, but, rather, for all their moral failings.<sup>38</sup> In this respect, Anne Harris had no chance. Not only did her face betray a lifetime of failings, but her youth was a litany of transgressions that offended the paternalism of the elite. From running away to taking lovers at a young age to thievery, Anne Harris offended the norms of the paternal elite. Had she an excuse, or, at least, a different lifestyle, she might have had a chance. Though Anne is one of the cherry-picked few in the *Newgate Calendar*, her case is one of many that were notable in that they contributed to the overall sense of justice in execution.<sup>39</sup>

Just before an actual hanging would come the dramatic climax of the execution: the gallows confession. This was the moment that the prisoner reinforced social norms

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<sup>35</sup> Ibid., 148-149.

<sup>36</sup> Ibid., 152.

<sup>37</sup> The readership of newspapers is instructive. There were large numbers of readers for each paper. There seems to be some consensus that around 15,000-25,000 papers were produced each day. Where there is debate, however, is the number of readers that each paper had. Jeremy Black estimates 20 readers per paper, but some contemporary accounts are much lower. Hannah Barker, *Newspapers, Politics and English Society 1695-1855* (Oxford: Oxford University Press, 2000), 23.

<sup>38</sup> Sharpe, “Last Dying Speeches,” 156.

<sup>39</sup> Ibid., 163.

and the elite's paternalism by accepting his or her fate. Confessions were, in practice, a sort of moral cleansing for the condemned. They did not detail the act that the prisoner was being executed for, but, instead, were "a more general account of past sinfulness and delinquency."<sup>40</sup> This confession had been coerced out of the condemned long before. Clerical blandishments as well as popular culture emphasized the importance of a confession.<sup>41</sup> The clergy's role in obtaining these confessions was, indeed, so vital as to effectively make them agents of the state's paternalism. By getting these confessions the clergy minimized any potential separation between a loving church and a stern state, thus reinforcing the power of both.<sup>42</sup>

The just execution of prisoners further reinforced the power of the state by also creating a stage for the visible expression of power. This had limits. Because there was no standing police force and there was national antipathy to a large standing army, early modern England had no means of creating a police state. This meant that the execution of justice had to be sensitive to public sentiment or become impotent. To ensure that there was widespread faith in the justice of executing criminals in general, there had to be means by which prisoners whose conviction was questionable or for whom there was public sympathy could escape the gallows. This was self-reinforcing: pardons responded to public opinion, and were expressions of elite patronage. By reinforcing the invisible

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<sup>40</sup> Ibid., 150.

<sup>41</sup> Ibid., 152.

<sup>42</sup> Ibid., 159.

justice of the elite and, most particularly, the Crown, this satisfied everyone's sense of fair play and reinforced all parties' acceptance of their place in the scheme of things.

How, then, were pardons obtained? What sorts of negotiations and transactions went into getting a pardon? For the condemned, status and respectability were of paramount importance in obtaining pardons.<sup>43</sup> If the prisoner could not rely upon his or her own status, then he or she could turn to a respected community member and beg for a testimonial.<sup>44</sup> Indeed, "mercy was part of the currency of patronage."<sup>45</sup> This reinforced state and elite paternalism. When a pardon was obtained, the members of the elite who assisted the prisoner in getting off enhanced their reputation and status.<sup>46</sup> To illustrate we have the example of James West. The community of Reading knew him to be an old offender. His family, however, appears to have been well respected. In particular, his neighbors and the local clergy pitied James West's wife and family and asked Henry Hyde, the Earl of Clarendon, to attempt to gain him a pardon. Even though West admitted to being a regular criminal, Clarendon's intervention saved him from the gallows. James West was, instead, sent to the Queen Anne's army in Flanders.<sup>47</sup>

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<sup>43</sup> Hay, *Albion's Fatal Tree*, 44.

<sup>44</sup> King, "Decision-Makers and Decision-Making in the English Criminal Law," 45.

<sup>45</sup> Hay, *Albion's Fatal Tree*, 45.

<sup>46</sup> *Ibid.*, 46.

<sup>47</sup> British Library 61618-195. The Earl of Clarendon was a former Lord of the Privy Seal and Lieutenant-Governor of Ireland, as well as being Queen Anne's uncle. Purged along with the rest of the Tories in 1687, he abandoned James when William of Orange landed. He did not, however, pledge allegiance to William and was imprisoned. His Tory principles certainly recommended him to Anne, but remained a non-juror

During the reign of Queen Anne, judges could not commute or pardon convicted prisoners; their power was limited to reprieves, or temporary relief while the monarch decided their fate. These reprieves were meant to give the monarch the opportunity to show mercy. At the end of the assize circuit, judges would submit a “circuit pardon” or “circuit letter,” which was a list of those prisoners the judge felt to be worthy of a pardon. These letters would be sent to the Chancery, which usually approved the judge’s recommendations.<sup>48</sup> Reprieves occurred in full sight. There was no conferencing behind closed doors. This, in turn, made pardon recommendations transparent. The personal nature of criminal justice was stressed, as was the paternalist order. The actual pardoning, done by the monarch, was by contrast altogether mysterious to the plebeians because the relevant discussions occurred behind closed doors.<sup>49</sup> The Privy Council considered the pardon requests and tendered their recommendation to the monarch. They, in turn, relied on the judge’s report and usually followed his suggestions.<sup>50</sup> Judges recommended pardons “to meet the requests of local gentry or to propitiate popular

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during her reign. Nevertheless, she certainly cared for him and gave him a £1,500 pension. When he died, Anne paid for his burial. W. A. Speck, ‘Hyde, Henry, second earl of Clarendon (1638–1709)’, *Oxford Dictionary of National Biography*, Oxford University Press, Sept 2004; online edn, Jan 2006 [http://www.oxforddnb.com/view/article/14329, accessed 24 March 2007]

<sup>48</sup> An alternative to execution was generally imposed after 1660. Transportation was especially popular after 1718, when judges were allowed to commute the sentence to transportation. Beattie, *Crime and the Courts in England 1660-1800*, 430-432.

<sup>49</sup> Hay, *Albion’s Fatal Tree*, 47.

<sup>50</sup> King, “Decision-Makers and Decision-Making in the English Criminal Law,” 50.

feelings of justice.” Monarchs pardoned to maintain the social order.<sup>51</sup> Both strengthened the paternalist credentials of early modern English society.

To further illustrate the point it is worth taking a look at the case of James Feillet, a soldier condemned to death for manslaughter. James Feillet was coming home after a long night of drinking when some men cornered him in a London alley, demanding his money. Feillet was with some friends and, being a soldier, was armed and confidently fought the thieves. Indeed, he ran one of the thieves through and the rest fled. Feillet asserted that he was acting in self-defense and that he was innocent of committing malicious murder.<sup>52</sup> The jury on his case agreed, and found him guilty of manslaughter, not murder. While the penalty for manslaughter was still death, it was manifestly a lesser crime, and indicated to the judge that the jury felt Feillet deserved to be spared. Feillet certainly felt he should be pardoned, and he submitted an affidavit endorsing his story to the Privy Council.<sup>53</sup> His commander certified Feillet’s good service in Her Majesty’s Horse Guards.<sup>54</sup> The Queen’s Council was pleased to grant Feillet’s petition and there it seemed the matter would end. Not long after, however, Privy Councilor Charles Spencer, the Earl of Sunderland, received a letter from James Feillet. This time he was asking for money, not for a pardon: he could only be released when his friends covered his trial

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<sup>51</sup> Hay, *Albion’s Fatal Tree*, 49.

<sup>52</sup> British Library, 61618-1, *Petition of James Feillet*.

<sup>53</sup> British Library, 61618-1, *Affidavit for James Feillet*

<sup>54</sup> British Library, 61618-1, *Second Petition of James Feillet*

costs.<sup>55</sup> This serves to illustrate many things about the English prison system. For one thing, we can see in James Feillet's case the power of past service and links to the community. Feillet had provided evidence of his usefulness to the Crown and was rewarded for his service. Patronage and paternalism not only saved him from death, but also from rotting in prison while his friends tried to cover his costs. Feillet could even turn to the Crown in an attempt to get himself out of debt with his friends. The case is suffused with paternalism from beginning to end.

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<sup>55</sup> British Library, 61618-1, *Petition to Sunderland*. In a society in which prison was not a punishment, but just a holding cell, keeping a prisoner was a costly responsibility expected to be borne by the incarcerated.

## CHAPTER 2: THE SOCIOLOGY OF THE CONDEMNED

On 12 May 1703, a body of constables approached the district of Mayfair in Middlesex, England. Inspired by Queen Anne's desire to cleanse the iniquity of Mayfair, the constables had been sent by the Justices of Middlesex to suppress the market. Now one of the most exclusive areas of London, at the time Mayfair was a place where all kinds of "base" entertainment were given free rein.<sup>56</sup>

Originally granted as a biweekly market under Charles II, Mayfair had grown less savory over the years. James II granted the rights to collect the market fees to the family of Sir John Coell. Over time, whether because the Coell family sought to maximize their profits from the market or simply because of neglect, the market at Mayfair was perverted. Booths that sold foodstuffs and other goods were replaced with booths for music, shows, and drinking. The licentious atmosphere grew until the district was regularly populated by a carousing mob.<sup>57</sup>

A person in Mayfair could satiate a wide range of lusts. Transvestite prostitutes roamed the quarter; men found it possible "to shift the Habits of their sex, to give the Reins to their base Inclinations."<sup>58</sup> Off-duty soldiers caroused with apprentices and the

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<sup>56</sup> *Reasons for Suppressing the Yearly Fair in Brookfield, Westminster; commonly called May-Fair* (London, 1709), 5.

<sup>57</sup> *Ibid.*, 4.

<sup>58</sup> *Ibid.*, 5.

youth of the city.<sup>59</sup> The more traditional sort of prostitute also moved about the quarter, plying their trade with a forthrightness that shocked the more puritanical of the city. Alongside the sex play were many booths for drinking and playacting. One commentator expressed disgust at the playhouse, which he termed as worse than even the brothels. The confluence of "brutal Lusts and Passions of shameless and ungovernable persons" regularly produced a mob.<sup>60</sup>

Into this the body of constables marched, seeking to disperse the rabble rousers and restore Mayfair to order. It would seem that at the beginning the constables had an easy time of it. They were able to seize and question several persons, at least one of whom they suspected was a prostitute. After questioning, the constables released them and proceeded deeper into Mayfair. The disturbance that the intrusion of the constables caused spread throughout Mayfair. Soldiers on furlough rushed to confront the constables. They stood atop a barricade and hurled brickbats at them, daring the constables to attack. The soldiers were soon joined by Thomas Cooke, known as the Butcher of Gloucester.

Thomas Cooke had already lived a varied and tumultuous life that befitted his place in Mayfair. Beginning as the son of a butcher in Gloucester, Cooke was apprenticed to a barber surgeon by his father. He did not find this to his liking, however, and fled at the age of seventeen to serve under a page to William III. His family being unhappy with his willfulness, Thomas Cooke subsequently returned to become a butcher

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<sup>59</sup> Ibid., 6-7.

<sup>60</sup> Ibid., 4.



in his hometown of Gloucester.<sup>61</sup> He rose to be the master of the butchers' guild in Gloucester and used the money he had earned to open an inn. During this time, if an anonymous letter writer is to be believed, Cook abandoned his wife and took up with a prostitute who may have plied her wares in his inn. The inn failed and after a brief stint as a grazier, Thomas Cooke ended up in London with his mistress who was now claiming to be his wife. They found employ in Mayfair, she possibly resuming prostitution and he becoming a swordfighter.<sup>62</sup>

One of the women seized by the constables when they first entered Mayfair was Thomas Cooke's mistress (who always referred to herself simple as the "wife of Thomas Cooke"). When she was released she fled to Cooke and reported what had happened. Cooke seized his sword and found the constables facing off with the soldiers. Joining the soldiers he hurled insults and bricks at the constables until they panicked and fled. The soldiers and Cooke gave chase, catching one of the constables, John Cooper. Thomas Cooke thereupon dragged the constable into the sheep pens where he stabbed him through the heart.

It was now Cooke's turn to panic. He fled from Mayfair to parts unknown and eventually emerged in Dublin, Ireland. He was captured when he created a ruckus in a "publick house" while discussing sword fighting with a local fencer and loudly bragging about his part in the Mayfair riot. The fencer tried to caution Thomas Cooke, given that

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<sup>61</sup> There was an intimation in the Newgate Calendar that Cooke's family were opposed to the Glorious Revolution. Newgate Calendar <http://www.exclassics.com/newgate/ng98.htm> (7/25/06 6:54PM)

<sup>62</sup> State Papers Domestic 34 Piece 3 Number 10 Folio 18, TNA.

there was a constable in the house. Cooke was roused, however, and he asked, "Was there any of the reforming Dogs in Ireland, for . . . we in London drive them, for . . . at a Fair called May-Fair, there was a noise, and he went out to see, and . . . there was six Soldiers and himself, and that the Constables plaid their Parts with their Staves, and he made his: And farther, . . . that when the Man dropt, he wipt his Sword, and put it up."<sup>63</sup> Thomas Cooke was arrested and sent back to London for trial.

The trial itself seems to have been fairly uneventful and typical for the time. The only drama came when one of the witnesses could not identify Cooke as the man who killed John Cooper. Nonetheless, there were other witnesses who could identify Cooke as the killer and in due course he was found guilty.<sup>64</sup>

Until this point, Cooke's story, while exceptionally violent, is not notable in any other respect. It is the trial's aftermath that is particularly noteworthy. Naturally enough, Cooke had no desire to die. Unlike many in this era, Cooke was unwilling to accept his fate as just. Many who initially protested their innocence finally admitted their guilt when put on the gallows. Thomas Cooke, however, was constitutionally unable to go peacefully into that dark night.

More than any other petitioner in Queen Anne's State Papers, Thomas Cooke produced affidavits and petitions on his own behalf. Upon being interred in Newgate, Cooke and his supporters, indeed, began a letter-writing blitz on his behalf. On top of his own petition, Cooke sent the Queen and the Privy Council affidavits from nine

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<sup>63</sup> Newgate Calendar <http://www.exclassics.com/newgate/ng98.htm> (7/25/06 6:54PM) and State Papers Domestic 34 Piece 3 Number 10 Folio 18, TNA.

<sup>64</sup> State Papers Domestic 34 Piece 3 Number 10 Folio 18, TNA.

individuals.<sup>65</sup> This was surely impressive on its own, but Cooke had two further aces in the hole.

Charnell Hayter was a former constable of the city of Westminster. He provided an affidavit in support of Thomas Cooke.<sup>66</sup> The words of an upstanding lawman must surely have given the Privy Council pause. In addition, Thomas Cooke claimed to be unable to commit the crime, providing the affidavit of a surgeon from St. Giles without Cripplegate who averred that he had operated on Cooke after a fight just weeks before. The surgeon claimed that there was no way that Cooke could have used his sword.<sup>67</sup> Indeed, four of the affidavits assert that Cooke was injured the day of the riot. Medical evidence such as this is exceptional. While there are numerous coroner reports, this is the only case in Anne's State Papers that used medical evidence on behalf of the defense.

What the Privy Council thought about the medical evidence is unknown. They were certainly curious enough to request that the Old Bailey send them Thomas Cooke's trial records. Among those records, though, was a damning piece of evidence, not against Cooke, but against Charnell Hayter, the erstwhile constable. In 1692 he had been found guilty of perjury and of being a vagabond. Hayter's established willingness to lie under oath almost certainly kicked the props out from under Thomas Cooke's petitions.<sup>68</sup>

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<sup>65</sup> State Papers Domestic 34 Piece 3 Number 10 Folios 10-17, TNA.

<sup>66</sup> State Papers Domestic 34 Piece 3 Number 10 Folio 12, TNA.

<sup>67</sup> State Papers Domestic 34 Piece 3 Number 10 Folio 16, TNA.

<sup>68</sup> State Papers Domestic 34 Piece 3 Number 17 Folio 27 and State Papers Domestic 34 Piece 3 Number 18B Folio 28-29.

An anonymous letter may have been the final nail in Thomas Cooke's coffin. This letter, scratched out in a weak hand, painted a picture sympathetic to the prosecution while providing information on Cooke's character that the trial transcripts did not. The letter stated that Cooke kept a raucous household and was well known for his prize fighting. Additionally, it claimed that Thomas Cooke paid for the affidavits on his behalf.<sup>69</sup> While there is no way to confirm this, it is unusual that all of the affidavits on Cooke's behalf are written by Roger Smith and only marked by the person they purport to be from. This may only be indicative of the kind of individuals who frequented Mayfair, but it is unlike every other case in Queen Anne's State Papers in this respect.

Ultimately, Thomas Cooke's petitions were unavailing and he was executed. Even after his death, Cooke's mistress or wife continued to protest his innocence. She had a pamphlet published with the words to a song she wrote about her misery at losing Cooke. Even in death, she refused to believe that he was guilty.<sup>70</sup> She certainly did not believe that he had done anything wrong, even if he had violated the letter of the law.

The case of Thomas Cooke is instructive. It offers the historian a glimpse into the popular culture of the plebeians. The revelry of Mayfair was, perhaps, more noisome than the elite in London would have liked, but it was unusual only in its scope. That Cooke may have abandoned one wife and taken up with another woman was not, in fact,

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<sup>69</sup> State Papers Domestic 34 Piece 3 Number 12 Folio 19.

<sup>70</sup> “An Excellent New Copy of Verses Being The Sorrowful Lamentation Of Mrs. Cooke, For the Loss of her Husband *Thomas Cooke*, the Famous Butcher of Gloucester, who was Executed at *Tyburn* on *Wednesday* the 11<sup>th</sup> of *August* 1703.”

unusual. Given that there was no elite sanctioned legal means of divorce, this was the plebeian-created alternative. His disrespect for elite social norms, in particular the unwillingness to take marriage seriously alongside his willingness to make money by fighting, made Thomas Cooke the archetypal plebeian villain in the elite mind. Thomas Cooke was not merely found in Mayfair, he was an intimate part of Mayfair, with all of the odium that went along with it. This, with his willingness to murder a constable, was an affront to the social order in elite eyes. Nevertheless, the Privy Council was willing to pardon Cooke to satisfy local sensibilities, if he could prove his case. Ultimately, the evidence did damn him. The fact that he was illiterate was unimportant. Nor was it significant that Cooke was making a living in Mayfair (as objectionable as Queen Anne found it). Cooke's brief revolt against the prevailing social order was his greatest crime.

We can learn an enormous amount about individuals from their felony petitions. What, then, can these petitions tell us about the convicts as a body? Although we are not dealing with the entire population of prisoners found guilty, these people are demographically representative of their gender and age. They are not, it should be noted, representative of all orders of society. Who is in this sample, then? For that matter, where do these petitions come from? Moreover, how did they come into our hands? In exploring provenance, we will look, in particular, at women's petitions because they were less literate. As we will see, though this may seem to imply gender bias, it is instead, reflective of the imposition of roles conforming to gender expectations.

There are one hundred thirty-seven cases in this sample. Of these, thirty-four were written on behalf of women and one hundred thirty-seven were for men. Ten of these individuals claimed to be members of the Church of England, though this is

probably unimportant, as most probably took membership in the church for granted.<sup>71</sup> Of this group, we know the results for thirty-six of the petitioners. Within this body, we know for sure that at least ten were literate because they wrote and signed their petitions. Many men wrote their own petitions, though by no means all. We cannot be sure that women wrote their own petitions. Apparently, no women in this sample wrote their own petitions. It is questionable whether they could even read the petitions written for them: by 1750—thirty-six years after Queen Anne’s death—only one-third of all women could be expected to be literate.<sup>72</sup> These women, of course, were nearly all from the upper orders and middling sort. This did not indicate a patriarchal society disfavoring women. Instead, it reflected the lack of a need for literate women in early modern English society. A woman’s gender role was that of the keeper of oral tradition.<sup>73</sup> Their role only began to shift from an oral to a literate one when tradition began being recorded in recipes, letters, and commonplace books. This would start with the elite in the late seventeenth century and early eighteenth century and work its way down the orders. A woman’s ability to share and access manuscripts was directly related to her social standing.<sup>74</sup>

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<sup>71</sup> That some found the opportunity to mention their religion may actually be more important. After all, if nearly everyone was an Anglican, why should the petitioners mention it, unless there was some doubt?

<sup>72</sup> David Galenson, “Literacy and the Social Origins of Some Early Americans,” *The Historical Journal*, Vol. 22, No. 1. (Mar., 1979), 78-80.

<sup>73</sup> Dianne Dugaw, “Women and popular culture: gender, cultural dynamics, and popular prints,” in *Women and Literature in Britain 1700-1800*, ed. Vivien Jones (Cambridge: Cambridge University Press, 2000), 265.

<sup>74</sup> Victoria Burke and Jonathan Gibson (eds), *Early Modern Women's Manuscript Writing: Selected Papers from the Trinity/Trent Colloquium* (London: Ashgate, 2004), 75.

Indeed, there was a popular perception that works claiming to be written by women were, in reality, written by men.<sup>75</sup> In fact, though there were female playwrights who made their living by writing, there were limitations on the feminine voice: women's playwriting could only be profitable by being pitched to men.<sup>76</sup> One could only find a woman's voice in the context of the commonplace book or letter.<sup>77</sup> During Queen Anne's reign, those women who made their living by writing were perceived as amateurs in a male forum.<sup>78</sup> This reflected women's gender roles. Their role was changing to allow for letters and commonplace books, but had not yet it had not shifted enough to open up public writing to them.

The petitions under scrutiny conformed to acceptable female literary expression, in particular, the moral and religious letter. This letter—written to no one—was an expression of righteousness and faith. They often served to uphold normative values.<sup>79</sup> Women, then, were exposed to writing and elite women may have even engaged in writing. They did so to express themselves, but generally did so in a fashion that upheld normative values. This was a part of the self-reinforcing effect that literacy brought to women's presentation of themselves.

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<sup>75</sup> Clare Brant, "Varieties of women's writing," in *Women and Literature in Britain 1700-1800*, ed. Vivien Jones (Cambridge: Cambridge University Press, 2000), 287.

<sup>76</sup> Sarah Prescott, *Women, Authorship, and Literary Culture, 1690-1740* (Aberystwyth: University of Wales, 2003) 30.

<sup>77</sup> Burke and Gibson, *Early Modern Women's Manuscript Writing*, 79.

<sup>78</sup> Prescott, *Women, Authorship, and Literary Culture*, 30-31.

<sup>79</sup> Brant, "Varieties of women's writing," 296-297.

Though, the women condemned to die were almost certainly not from the lucky few who could read, it is important to acknowledge women's writings because they buttressed normative images of women, especially those of the clergy. This was because the great majority of the women in prison were illiterate. Hence, it is likely that the Ordinary of Newgate or another cleric wrote the women's felony petitions. Depending on their status, clergymen could be extensively educated in the Inns of Court or they could merely have a basic education in reading and writing. One way or another, the clergy, unlike the population at large, was exposed to literary culture. This, coupled with the already extant petition genre, shaped felony petitions during Queen Anne's reign. Illiterate women, the vast majority, relied on a patron, friend, or clergyman to write their petitions for them. Sometimes this could become pernicious, as can be seen from the request of the Lord Mayor asking that John Allen, the Ordinary of Newgate in 1700, be replaced, because Allen was engaged in extortion under the pretence of obtaining pardons.<sup>80</sup> Whatever prisoners could pay, there is no doubt that the Ordinary's livelihood depended on the stories of the prisoners. The Ordinary supplemented his living from selling accounts of the condemned's lives. In fact, one of the more industrious Ordinaries, Paul Lorraine, convinced Parliament to grant his publications tax-free status, making his sales that much more profitable. The Ordinary traveled from cell to cell looking for good copy.<sup>81</sup> Some of the petitions written by the clergy could have even been a quid pro quo for the more interesting tales, though this is doubtful: the

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<sup>80</sup> Peter Linebaugh, "The Ordinary of Newgate and His *Account*" in *Crime in England 1550-1800* (Princeton: Princeton University Press, 1977) 254.

<sup>81</sup> *Ibid.*, 258.



Ordinary's pamphlets were primarily intended as instructive works and lost their luster when the malefactor escaped punishment. It is more likely that the clergy in Newgate and other jails saw it as their duty to help these women. They were certainly aware of contemporary representations of women; and these representations were only becoming stronger as female writers increased in number. This provided the template from which clergy worked when writing the felony petitions.

One hundred and twenty-four cases produced felony petitions that can be found in Queen Anne's State Papers Domestic, and there are an additional thirteen cases in the British Library. Whereas the State Papers are organized somewhat topically or chronologically, the papers in the British Library stem from personal collections. Thus, many petitions—dating from his time on the Privy Council—can be found in the personal papers of John Churchill, Duke of Marlborough. Where the British Library is particularly useful is the ancillary material that contextualizes specific cases.

Especially important are the funeral sermons of the Ordinary of Newgate. Not only do they tell us that a sentence was carried out, but also they often have precious biographical information that cannot be found elsewhere. The Ordinary is a fairly reliable source. We cannot rely upon his writings for specific biographical details, but we can rely upon him to have captured the broad outlines of the convict's life.<sup>82</sup>

There are, then, one hundred and thirty-seven total cases in this study. Of these, one hundred and nine were men and thirty-one were women, meaning that only one-fifth of the cases feature women. Of the individuals lying under the death penalty, we only

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<sup>82</sup> *Ibid.*, *passim*.

know the result for thirty-five. Four of these were pardoned with transportation, fourteen were pardoned absolutely, and eleven were sent to the workhouse or military, with the remainder being executed. This would indicate that three-fourths of the individuals who petitioned were pardoned. The Old Bailey Online gives the pardon rate throughout early modern England as being just over 50%. One should not, however, take the representative nature of this sample. Indeed, William III had a reputation for dealing with property crime with execution that could have easily thrown the Old Bailey's numbers off.<sup>83</sup> In fact, alongside the generally lower crime rate during the War of Spanish Succession, property crime prosecutions declined precipitously during the reign of Queen Anne.<sup>84</sup>

Who, then, received these pardons? The pardon rates for men and women were very similar in the sample under study. Historian Peter King's research agrees: prisoners receiving pardons were not privileged by sex, but instead by age.<sup>85</sup> This is directly owing to the state's paternalism. In fact, if the prisoner could guarantee future usefulness, he or she had a better chance of garnering a pardon.<sup>86</sup> Usefulness and the ability to support one's family might seem to favor men, but, as it turned out, women's ability to contribute to the household was taken into consideration.<sup>87</sup> Thus, youth and inexperience—not

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<sup>83</sup> As far as I can tell, there are no analyses of the pardon rate confined to the reigns of specific monarchs.

<sup>84</sup> Beattie, *Policing and Punishment in London*, 338.

<sup>85</sup> King, "Decision-Makers and Decision-Making in the English Criminal Law," 37-38.

<sup>86</sup> *Ibid.*, 45.

<sup>87</sup> Beattie, *Crime and the Courts in England*, 235, 263-264.

gender—were considered strong mitigating circumstances; the ability of the prisoner to be redeemed by future usefulness to society was a factor in the pardoning process.<sup>88</sup>

Before an individual could be pardoned, he or she had to be reprieved, otherwise the punishment was carried out within a few days of sentencing. Most reprieves were designed to allow the monarch to show mercy if he or she chose. Rarely, the prisoner would request a reprieve to set their affairs in order, but more usually the reprieve was the beginning of the pardoning process. The judges would submit a “circuit pardon” or “circuit letter” in which they listed those whom they felt should be spared. The Chancery had to approve these (and in this study, they always did). Then an alternative to execution was imposed. Transportation would become especially popular after 1718, when judges were allowed to commute immediately the sentence to transportation.<sup>89</sup>

Only 17% of the condemned in this sample were transported, which is a surprising number, because throughout the early modern period England relied on transportation extensively. These numbers, however, are skewed by the Transportation Act, which increased the number of transportees significantly by allowing judges to automatically commute the sentence to exile. This was intended to increase the likelihood of convictions; juries had become chary about voting guilty when they were faced with condemning someone to death for a lesser crime. By allowing the assize judge to commute the sentence, the jury was more likely to vote guilty because they knew

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<sup>88</sup> King, “Decision-Makers and Decision-Making in the English Criminal Law,” 40-41.

<sup>89</sup> Beattie, *Crime and the Courts in England*, 430-432.

that there was gradation in the punishments. This moved the responsibility for execution from the men of the community to the sentencing judge.

Youth was, once again, a factor in eliciting a sentence of transportation.

Transportation was usually given to youth under the age of 17, regardless of sex.<sup>90</sup> Youth was favored, in part, because, if the transportee survived his or her indentured servitude, he or she would have enough time to lead a productive life in the colonies.

Transportation was a generally favored way of dealing with petty criminals in the Augustan era. Ireland would go even further, by passing a law that allowed vagrants to be transported.<sup>91</sup> This was state paternalism in action: the indigent and otherwise out-of-work were put to work in the labor strapped colonies.

There were two other kinds of pardons available to condemned women. One was the absolute pardon and the other was the workhouse. The absolute pardon was given far more often to women than to men. As we will see in the next chapter, this is indicative of their different productive sphere and the way they could best serve the state, not any special sympathy for the woman's plight; men could serve in the military, women could only serve in the home. The other alternative, the workhouse, was yet another attempt to extract productivity from women. Workhouses came much more into vogue later in the eighteenth century, but there were a few in existence during the reign of Queen Anne. Workhouses could be very similar to modern factories. They were, however,

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<sup>90</sup> King, "Decision-Makers and Decision-Making in the English Criminal Law," 41.

<sup>91</sup> Neal Garnham, *The Courts, Crime and the Criminal Law in Ireland, 1692-1760* (London: Blackrock, 1996), 20.

administered under the old poor laws and took on a paternalistic approach to their workers.<sup>92</sup> At this point, they were not necessarily in existence to punish the poor for being poor. Nevertheless, they were an option that the Crown would turn to as an alternative to execution.

Yet, men and women had similar pardon rates. The only pardoning method that favored men was sending them to the military. This would be more than made up for by the absolute pardons given to women, bringing the male and female rates into line. Even so, men and women had different approaches to obtaining pardons. This was directly related to the manner that they gendered their felony petitions. Gendering, we shall see in the next chapter, was the means by which women established their value to the state

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<sup>92</sup> Maxine Berg, *The Age of Manufactures 1700-1800* (New York: Routledge, 1985) 41.

### **CHAPTER 3: GENDERING THE PETITIONS**

No matter the issue at hand the petitions always took the same form. Different people could write felony petitions for different kinds of criminals, but they were all developed along the same lines. Masses of petitions, moreover, did not help any more than a single petition. It is important to look at other factors to try to understand what mattered in obtaining a pardon. Who wrote the petition certainly did not matter. In this respect, the petition acted as a sort of leveling document: by making them all the same, the only meaningful information to be contained within a petition was the plea itself. And, these were explicit appeals to the moral economy. If a woman desired to escape punishment, she could not afford to reject her role in society; instead, she had to embrace it. This is the unifying theme of the petitions under study here: an acceptance of sexual separation of roles in order to gain the favor of the Privy Council. To put it another way, women's petitions reinforced longstanding gender roles in order to diminish or eradicate the perception of the woman in question as transgressive.

There was a problem, however, in the only mode of expression available to the convicted: writing. Though there were literate women before King Charles II's reign, the first woman to make a living from her writing, and thus reach a sizable audience, was Aphra Behn. Being the first female author of note, Aphra Behn set the stereotype for all women writers who followed. She was sexually profligate, socially ambitious, and very well educated. Aphra Behn fitted well within the libertine court of Charles II, but she

would have been out of place in Queen Anne's austere court.<sup>93</sup> Indeed, it is notable that the most famous work of "women's" literature was *Pamela*, a book about a moral, upright, and conscientious woman, written by a man.<sup>94</sup> So, the problem then becomes that women in literature, especially in those stories written by women, themselves transgressed the norms of early modern English society.

Women's writing was the beginning of an attempt to define the female self. Women's identity in the early modern period was theoretically limited to that of wife and mother. Achieving this, however, was easier said than done. To make a successful marriage it was considered necessary that a woman bring in a dowry.<sup>95</sup> For the plebeians, this could simply mean the price of a cow. For the upper orders, it meant far more. The dowry was oftentimes a women's insurance against abandonment or widowhood. This forced women from the lower orders into the workplace. Although there were jobs considered especially appropriate for women, plebeian women at this time still had a wide variety of opportunities available to them. Elite women were usually provided with their dowry by their family and, therefore, married much earlier and bore more children than plebeian women. For women from the lower orders, their household worked as a unit to ensure survival. Thus, while elite women occupied themselves managing

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<sup>93</sup> Olwen Hufton, *The Prospect Before Her*, A History of Women in Western Europe, Vol. 1 (London, Harper Collins Publishers, 1995), 427.

<sup>94</sup> *Ibid.*, 443-445.

<sup>95</sup> *Ibid.*, 67-92. I refer here to dowries, not to jointures. The jointure allowed the survivor in a couple to inherit all of the property brought into a marriage. While this did function as a sort of insurance, as did the dowry, it is an unimportant distinction, as what the woman brought into a marriage was a dowry, a contract by which the dowry was defined as being the couple's joint property to hold upon either's death was a jointure.

households or pursuing their intellectual interests, plebeian women were toiling in the workplace. For ordinary women work could take the form of in-house tasks such as piecework associated with the textile industry or field tasks, such as gathering gleanings.<sup>96</sup> But, the state, informed by the elite woman's experience, wanted women to be married and producing children. We will see throughout the petitions below many cases in which women, who were regularly included in the workplace, conspicuously failing to invoke their vital financial role in the household (this was left to the men) and, instead, emphasizing their fecundity.

For fecundity was the primary contribution of the woman to the state. Abortion and infanticide were not simply murder, but were considered *petit treason*, a betrayal of the crown.<sup>97</sup> This is indicative of the elite vision of a woman's role. But, a woman was not simply a child production facility; she was also an active and productive member of the household. This tension between elite ideals and plebeian reality created considerable unease. Plebeian women had escaped the ghetto of being considered inferior men, but their lives were still wholly alien to their elite judges.<sup>98</sup> Their motivations were correspondingly suspect, and when they committed a crime the lack of a recognizable, "masculine," motive this caused anxiety among their male judges. Female murders, for example, were usually restricted to the household: the "intimate murder." This was

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<sup>96</sup> Ibid., 154-155.

<sup>97</sup> Of note is that counterfeiting money was, by contrast, high treason.

<sup>98</sup> Ibid., 43.



particularly shocking and consequently a staple of lurid crime literature.<sup>99</sup> In Queen Anne's reign, portrayals and normative expectations of women, though, began to move towards passivity.<sup>100</sup> This would effectively bring about a slow decline in Old Bailey prosecutions of women over the next two centuries.<sup>101</sup> In the meantime, the identity and role of women was still in flux.

Muddying the waters of female identity was the religious ideology of the Church of England. The relationship of the church to the state meant that a crime against the state was also a crime against God. The petition for forgiveness thus had to address not merely the monarch, but also the Deity. This was a dual disadvantage for certain types of criminals. To take a case in point, the archetypal female criminal was the prostitute killing her child.<sup>102</sup> The prostitute's solicitation of sex was an invitation to sin that men were considered unable to resist. The licentious woman, then, was punished more harshly than any male accomplice.<sup>103</sup> This is a shaping factor in the content of the women's petitions. Women were far more dangerous than men precisely because they were so alien. The writing of the petition had to emphasize passivity while vocally begging for forgiveness. This could be why so many women were willing to accept tacitly their guilt in their petitions and did not attempt to justify their crime.

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<sup>99</sup> Wiener, "Alice Arden to Bill Sykes," 168.

<sup>100</sup> Ibid., 186.

<sup>101</sup> Clive Emsley, *Crime and Society in England 1750-1900* (New York: Longman Publishing, 1996), 152.

<sup>102</sup> Wiener, "Alice Arden to Bill Sykes," 190.

<sup>103</sup> Ibid., 191.

The rhetoric and format of all petitions was formulaic and the felony petitions coming from the women in this sample are, if anything, even more formulaic than usual. Briefly, we shall compare two petitions, that of Sarah Drummond, a litigator writing to Charles II after Bacon's Rebellion, and that of Anne Allen (see Figure 1), a thief condemned to die. Sarah Drummond was the wife of William Drummond, one of Nathaniel Bacon's closest supporters. When Bacon revolted, Drummond followed suit and his lands were seized. Sarah Drummond was writing after Bacon's Rebellion had been crushed and her husband killed. It was her hope that she would be returned her lands, something that Governor Berkeley of Virginia was loathe to do. Sarah Drummond petitioned the king directly. The petition is divided into several parts. Underneath a standard heading—during Queen Anne's reign it was "To the Queens most Excellent Majesty," Sarah Drummond's petition was directed at "the Right Honorable the Lords Committee for Trade and Plantations"—there comes a short preface that identifies the document. In both documents, the petitioner is connected to the petition itself by this preface. In the case of Anne Allen it reads: "The humble Petition of Anne Allen now under Sentence of Death in Newgate."<sup>104</sup> This is followed by what the document purports to show (handily headed by a bold "Sheweth"). Most felony petitions follow the same rough format and this section is broken into three paragraphs. The first paragraph establishes who the petitioner was. This is followed by an (exculpatory) explanation of the crime for which she is charged. The last paragraph in this section offers an

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<sup>104</sup> SP 34 Piece 35 Number 74 Folio 90.

alternative punishment than death, whether that would be transportation or workhouse, or simply freedom. In a civil petition, such as Sarah Drummond's, this could be longer and would deal, not with a crime, but with some sort of lawsuit or money issue. All of this is followed in both petitions by a paragraph expressing awe and contrition before the power of the monarch. The petitions then typically close with a wish for the monarch's continued health and happiness.<sup>105</sup>

The example of Sarah Drummond is instructive, because scholars have followed her petition step by step, and so it serves as a convenient example of the path that a petition generally took. Her petition is not signed, so we can assume that she probably did not write it, but, being the widow of a former governor of Albemarle, in the Carolinas, we can expect that she had access to people knowledgeable about the proper forms a petition should take. Her petition was addressed to the Lord Committee for Trade and Plantations. In practice, this meant a portion of the Privy Council, just as specific members of the Privy Council, usually the Secretary of State for a given region, reviewed felony petitions. Upon review, the councilor could choose to inquire after the facts of the petition, reject it out of hand, or approve it without further ado.

We have several cases in which Privy Councilors requested explication of trial accounts in order to make the fairest decision possible. This was not a good sign, because it intimated that the Privy Council had some concerns, not the least of which was: if this individual was deserving of a pardon, why did not the judges write us recommending a pardon? We see this at work with Thomas Cooke's case. The Privy

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<sup>105</sup> Wilcomb E. Washburn, "The Humble Petition of Sarah Drummond," *The William and Mary Quarterly* 13, No. 3 (Jul., 1956), 355-356.

Council reprieved Thomas Cooke so that there would be ample time for the judge to write a letter explaining the trial.<sup>106</sup> Once the Privy Council learned the details of the case, however, Thomas Cooke was doomed. In addition, we have the case of John Lawrence, whose pardon petition was scuttled by the letter of Chief Justice Holt, who not only refused to support his petition, but also believed John Lawrence to be a hardened criminal and so not deserving of the Queen's mercy.<sup>107</sup>

Interestingly, the Privy Councilors reviewing Sarah Drummond's petition chose not to look into the facts of the case and simply passed it onto Charles II with a recommendation for approval. Charles approved Sarah Drummond's petition and sent instructions to Virginia to have her lands restored.<sup>108</sup> With the exception that felony petitions went to different Privy Councilors, both types of petitions followed the same route. While Queen Anne has been shown to be an involved monarch, we know of no case in which she overturned the recommendations of her Privy Council to pardon a felony.

Anne Allen's petition begins by emphasizing her fecundity rather than appealing her sentence or trying to prove innocence, she instead focused on her value to the state.

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<sup>106</sup> SP 34 Piece 3 Number 11 Folio 18. The description in the National Archives' index is as follows: "Chief Baron Ward and Justice Tracy to Earl of Nottingham. Report on the trial of Thomas Cooke, with details of his flight to Ireland and a query about Charnell Hayter's affidavit."

<sup>107</sup> SP 34 Piece 3 Number 140 Folio 222-223.

<sup>108</sup> Washburn, "The Humble Petition of Sarah Drummond," 370. Sarah Drummond's story has an interesting postscript. The colony of Virginia refused to carry out Charles's order and successfully petitioned to halt the restoration of Sarah Drummond's lands. It would take quite a bit of wrangling and letter writing before the issue was finally settled, but it shows the limits of what a king in England could hope to achieve in America.

She claimed to be only twenty-two years old but to have already had two children. The nature of her crime—stealing calico—places her as a plebeian. She does spend time describing the nature of the crime that she has been convicted of, but she does not assert her innocence. Rather, Anne Allen said that she was “under a great[er] Sorrow and Mortification for this Offence than words can Express.” Her expression of penitence is important, because it expresses a sort of preemptive gallows confession. Whereas the confession on the gallows was for the condemned’s peace of mind as well as the spectator’s edification, this confession was more private. Coming as early as it did, however, this confession may have suggested to the Privy Council that Anne Allen would never commit such a crime again, as she surely intended: “Resolving if her Life be Spared never more to Offend in the like Nature.” This, combined with her protestations of her “tender Yeares” lent credence to the idea that youth and fecundity—usefulness to the state, in other words—were key considerations when crafting a petition. Anne Allen’s fate has so far been lost to us. For our purposes, the form of the letter is more important than the result, because her letter was so typical of felony petitions from women.<sup>109</sup>

We can, however, compare Anne Allen’s petition with two other petitions whose results we do know. Both of these petitions beg that the convicted be allowed transportation overseas as opposed to execution. One, however, was granted a full and total pardon, while the other was executed. The differences in their petitions are instructive. Cecilia Labree was convicted of counterfeiting (see Figure 2). Her appeal is

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<sup>109</sup> SP 34 Piece 35 Number 74 Folio 90.

schizophrenic in its approach, attempting to strike all the proper chords but leaving out the most important one: fecundity. She opens by begging for mercy. The initial tone of her letter seems to indicate acceptance of wrongdoing: “That your Petitioner now lyes under Sentence of Death for High Treason and must Submit to that Dreadful Sentence.” The petition, though, quickly changes tack in the second paragraph by attacking the witness—one Elizabeth Lucas—upon whose evidence Cecilia was convicted, by noting that Elizabeth had been indicted for felony and burglary. Cecilia Labree further claims that Elizabeth Lucas was engaged in malicious prosecution, possibly to secure a lighter sentence. The petition goes on to claim that Cecilia was taken so by surprise by her indictment that she was not even aware of the charges against her. Finally, Cecilia does not beg for an absolute pardon, but instead asks to be transported overseas.<sup>110</sup> The schizophrenic tone of the letter is revealing. William III pardoned Cecilia Labree years before in exchange for transportation overseas. Whether she left England and returned or simply escaped is unknown. We do know that upon her capture she accepted the fate following the breaking of the terms of her pardon as just while at the same time attacking her original conviction. Nonetheless, she could not offer what would have been most valued by the Privy Council—children—and was executed.<sup>111</sup>

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<sup>110</sup> SP 34 Piece 35 Number 49 Folio 56 and SP 34 Piece 35 Number 49A Folio 57.

<sup>111</sup> To underscore the emphasis that the state put upon children, in 1623 in England and 1690 in Scotland, a law was passed that moved the burden of proof for the crime of infanticide from the state to the mother. In other words, the state did not have to prove that the woman was guilty, the woman had to prove that she was innocent. R. Sauer, “Infanticide and Abortion in Nineteenth-Century Britain,” *Population Studies* Vol. 32 (Mar. 1978), 82.

A far more successful felony petition was that of Katherine Jones (see Figure 3). She was accused of entering a store and stealing some “Cheapen’d Muslen.” The owner chased her and a friend down and found the cloth on Katherine Jones. Both Katherine and her friend were indicted, but she was the only one found guilty. Of note is that she refused to speak on her own behalf and thus almost obligated the jury to find her guilty. Though unwilling to testify in her own defense at trial, Katherine Jones reconsidered when faced with death. Her petition is headed by “The humble Petition of Katherine Jones, Widdow, [who] now lyes under Sentence of Death for Picking a Pocket and must Submit to that Dreadful sentence [to her] Majesties Mercy” which establishes her wretched state from the beginning. She follows by acknowledging her crime (though she calls it “Picking a Pocket”) and her fate. This is all formulaic and mostly matches Cecilia Labree’s petition. The similarities go on when Katherine Jones avers that she was only convicted on the testimony of one person, though she does not attack her accuser’s character as Cecilia Labree does. Instead, Katherine shows remorse. She claims that she has never committed a crime before and has never even been imprisoned on some minor charge. Then she continues by establishing her age as being 24. She has already said that she was a widow, so while we do not yet know if she has children or not, we do know that she can remarry. Her last paragraph is probably the most potent. Katherine begs that her conviction be commuted to transportation. She does not, as Cecilia Labree, simply provide transportation as an alternative, but asks to be sent overseas to “prevent Distraction of her Aged Parents and Children.” In essence, Katherine Jones cannot bear the problems she is creating for her family and, whether or not she is innocent, she is asking that she be allowed to escape her shame. In addition, she slips in that she has

children. Remorse, possible innocence, and children were a powerful combination: the Privy Council pardoned her absolutely.<sup>112</sup>

This combination also proved to be useful to another petitioner, Sarah Williams, who does not acknowledge committing a crime, but does not also claim to be misled or that she was framed. Sarah, instead, claims that while walking outside of a shop she happened upon two women trying to pick money off the ground. When she asked them what they were doing, the women told her that they had dropped some coins. Sarah was only too happy to help, not realizing that she was actually helping two thieves recover their money. When Mr. Newman, the shop owner, came out of the shop, he caught the women and Sarah picking up the coins. Seizing them, he had them arrested. Sarah Williams's petition lays this out in such a manner that we cannot doubt that the only crime she is guilty of is being too helpful. Indeed, she does not, like some petitioners, simply say that she has never been charged of a crime before: she claims to have never committed a crime before at all. In addition, she asserts that she is the sole caretaker for her children; her husband serving in the army in Flanders. Thus, while Sarah cannot claim remorse for a crime, she replaces it neatly with a projection of moral rectitude. Combined with the fact that both she and her husband served the state as best they could, this made Sarah Williams an obvious choice for a pardon.<sup>113</sup>

Of course, an absolute pardon was not the monarch's only alternative to executing her subject. She could also commute the sentence to transportation or send the offending

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<sup>112</sup> SP 34 Piece 35 Number 51 Folio 58. The decision to grant a pardon can be found in the petition's marginalia.

<sup>113</sup> 61618-212.



woman to the workhouse. Within this sample, only one woman was ever given transportation—Cecilia Labree—and then only by William III. That there is only one woman who was given transportation and none given transportation by Queen Anne could mean several things. It is possible that the records of transported women were lost in the intervening centuries. Transportation could have been an alternative given to people outside of London; perhaps it was believed that individuals from the countryside were more likely to survive. It is also possible that Queen Anne's government did not find transportation to be a satisfactory option. Whatever the case, it was rarely offered. More often, women who were not pardoned absolutely were sent to the workhouse.

We have two cases of note that concern women who were given the workhouse. One is Martha Wammon and the other is Jane White. Though convicted of separate crimes, both took very similar approaches in their petitions. Martha, unlike any of the petitions we have previously discussed, does not even hint at possible innocence. Even Katherine Jones, who acknowledged her crime (then promptly clouded the issue by speaking of having only one accuser and being misled), attempted to put the whiff of innocence into the air. Martha's petition silently admits her guilt by not even addressing her crime or the particulars of it, just noting that she lies under the sentence of death. Instead, Martha begs for mercy and expresses remorse. Jane White is even more forthright in outright admitting that she was a shoplifter. Both women, however, were young and Jane had three children of her own. Neither one claimed to be married, but

their emphasis on youth, Jane's emphasis on her children, and Martha's guilty conscience succeeded in making them candidates for a pardon—though not a full pardon.<sup>114</sup>

It could be argued that the gendering of women's petitions was not a response to social paternalism, but a corollary to a patriarchal social order. If this were the case, then these women would be completely lacking agency. It would reduce their petitions to completely rote exercises. Instead, the discourse in the petitions argues for agency, and there are petitions that put a lie to the idea that the women were responding to patriarchal—as opposed to paternalistic—expectations. The best way to demonstrate this is to invert the petitions we have been examining and look at a petition written by a woman on behalf of a man.

This petition originated from a woman named Anne Pritchett who was writing on behalf of her husband. He had just been found guilty of rape. In the petition, Anne Pritchett begs for her husband to be spared so that he can continue to provide for his wife and children. She warns the Queen that they “will be brought to Ruin in this World” if he is executed. Yet, reading more closely, one has to question whether Anne Pritchett really wanted her husband freed. Wherever possible, petitions noted if this is the accused's first crime. Mrs. Pritchett's letter follows this up to a point. Instead of saying that her husband has committed no crime, she says “that it is the first Foul or Gross Crime he was ever accused for.” Not a ringing endorsement. In addition, when speaking about his crime, Anne Pritchett notes that “whether he be guilty of s[ai]d Fact, [I] cannot tell.” Anne

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<sup>114</sup> 61618 – 188 and 61618 – 201.

Pritchett appears to have been silently damning her husband. The Privy Council certainly thought so, and they rejected Anne Pritchett's petition.<sup>115</sup>

Establishing that the female convict was, in reality, a paragon of active, fecund womanhood was pivotal to the success of her petition. While a woman could claim remorse or innocence, her most powerful defense was that she could bear children. Of course, the only way to prove fecundity in the early modern period was to have already had children. Many women would "plead their bellies"—claim that they were pregnant—when sentenced to death. This forced an automatic reprieve while the woman was examined to see if there were signs of pregnancy. If she was pregnant she was reprieved for the length of the pregnancy. Typically, a woman who gave birth to a healthy child guaranteed her own health and was set free. Only in very rare circumstances would she be called back to her former punishment and executed, as with Mary Channing. While the execution of a parent could force the family onto the dole and thus give local taxpayers pause, a mother was probably spared just as much for the children she could have as much as the children she did have. Ideologically, the family was the nucleus of the social order. Keeping the family together was thus not compassionate, it also ensured social stability.

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<sup>115</sup> SP 34 Piece 34 Number 12 Folio 30.

## **CONCLUSION: NO PATRIARCHY ON THE SCAFFOLD**

From the numbers presented in the second chapter, we have seen that the ratio between condemned women and pardoned women is the same as the ratio between condemned men and pardoned men. Differences, however, emerge when we look at the petitioner's pleadings, as well as the pardons given out by the Queen. Women were much more likely to be pardoned absolutely than were men. This reflects the manner in which the Queen and her Privy Council perceived particular individuals as useful. Men were given the opportunity to be a productive member of society within a strict framework, whether it was the workhouse, the military, or in transportation overseas. Women were sometimes sent to the workhouse and occasionally given transportation, but they were usually released to the not-so-strict framework of the home. In fact, men could be seen as oftentimes losing agency when they were committed to one of these frameworks. Women, on the other hand, were reinserted into a situation in which they had the most agency allowed their sex in early modern English society: the home.

This does not betray a desire on the behalf of the Privy Council or the Queen to return women to freedom for its own sake. Rather, it betrays the fact that the Crown felt that the biggest contribution women could make to England was by having children. Indeed, condemned men who had a large number of children definitely garnered more sympathy than single men in the same predicament. For women, this fact cannot be understated. Worth to the state was established by fecundity. It suggests that we should

look at the early modern woman's quest for marriage in a different light. The long period that plebeian women typically took to gather together a dowry was not undertaken simply because the most respected identity that women had open to them was that of a married woman, it was also because within marriage women had more agency than at any other point in their life cycle.

The framework of marriage, then, provided women with an identity and (theoretically) this gave them some control over their existence. This was a major concern in post-Reformation England: while in Catholic countries wealthy women had the option of the convent, women in England could only find an independent (or, at least, semi-independent) identity through marriage. In addition, divorce in Queen Anne's England was more difficult than it was in Catholic countries. This increased the investment in marriage. Failure was not an option for the great majority of married women. This explains why a woman might defend her husband even when he was probably guilty of committing a heinous crime. Hence Anne Pritchett, who sent a letter to the Privy Council asking that her husband be freed even though he may have committed rape. Her case illustrates how women felt obliged to fight to preserve their marriages even in the worst situations, just to retain some control over their circumstances.

*The Sorrowful Lamentation of Mrs. Cooke*, by the wife (or mistress) of Thomas Cooke, the Butcher of Gloucester, also serves as an excellent demonstration of the importance of marriage.<sup>116</sup> After a lengthy and contentious collection of missives, reprieves, and recriminations, Thomas Cooke was executed by hanging on August 11,

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<sup>116</sup> 61618, *The Sorrowful Lamentations of Mrs. Cooke*.

1703.<sup>117</sup> He was likely being made into an example for the riotous population of Mayfair: their misbehavior and attacks upon constables would not be permitted to continue. Cooke's wife could not accept this situation and was determined to have the last word. Accordingly, she had *The Sorrowful Lamentation*, a collection of doggerel extolling her husband's virtues and venting her spleen at the state for killing him, printed at her own expense.

Once the questions of Thomas Cooke's guilt had been cleared away, it could be seen that he was not a good candidate for a pardon. He was, in fact, the archetypal Mayfair villain.<sup>118</sup> Thomas Cooke made his living by sword fighting and clearly moved easily among the dregs of society. He had fathered no known children and was thus no asset to society. Mrs. Cooke could not lay claim to being an innocent dependent of her husband. For one thing, as mentioned, her husband had no children, and she had borne none from any previous marriage. For another, several sources suggested that Cooke's wife was, in actuality, a prostitute.<sup>119</sup> She was thus a stereotypical social threat. As if Thomas Cooke's status and place in society was not enough of a negative, his wife's alleged misconduct meant that he was even more objectionable to the elites to whom he was appealing.

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<sup>117</sup> Newgate Calendar, <http://www.exclassics.com/newgate/ng98.htm> (7/25/06 6:54PM).

<sup>118</sup> Mayfair was not the posh neighborhood it is today. During Anne's reign Mayfair was a dangerous and riotous place.

<sup>119</sup> SP 34 Piece 3 Number 12 Folio 19-20.

What we have, then, is a situation much like that described in Peter Linebaugh's *The London Hanged*: the law being used to force the normative behaviors of the elite upon the plebeians. Because the plebeians were forced to relate to their betters in elite language, they were implicitly compelled to admit that their own language was little more than "thieves' cant."<sup>120</sup> Linebaugh goes on to assert that elite lawmaking eventually helped to transform the lower orders into a lower class; they were transformed from active, albeit minor, characters in English life into wage slaves. The accuracy of this assessment is beyond the scope of this study. There are, however, some facets of Linebaugh's theses that deserve to be reexamined in light of this study. Early modern English society was in the midst of transformation from a traditional moral economy to a capitalist one. The best service that a plebeian (or, by the nineteenth century, a member of the lower class) could perform at the end of Linebaugh's study was that of the waged worker. The wage served many purposes. It kept the plebeian fed, albeit poorly, thus allowing a sense of fulfillment. It bound a plebeian to a role as long as the wage was paid. The labor that a member of the lower class performed was translated into wealth by the upper class. Thus, the wage served to keep the plebeian down better than the hanging tree (if Linebaugh is to be believed) and allowed the capitalists to enlist the lower classes in the service of the state by focusing their labor. If we accept that the primary thrust of the women's petitions examined here was to establish a woman's usefulness to the state, then we are forced to admit that perhaps Linebaugh is on to something. The gradual abandonment of Tyburn after the Gordon Riots may not have been just because of

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<sup>120</sup> Linebaugh, *The London Hanged*, 274-275.

plebeian resistance, but also because its purpose had been supplanted by the wage.<sup>121</sup>

The woman's felony petition, then, was concomitant with the wage: it represented an early stage in the transformation of the lower orders. The felony petition shows the process of the transformation of plebeian culture through rhetoric by elite culture already in train; it left no doubt what in the plebeian's life was valued.

As an example of the distance between elite and popular culture in the eighteenth century, we have the case of Thomas Colley. Hanged in 1751, Colley's story can be found in the *Newgate Calendar*. Thomas Colley roused the plebs in his local village in pursuit of an elderly couple that he suspected to be witches. The parish elite attempted to hide the couple, but were eventually thwarted by a mob, who seized the pair and brought them to Colley. He ritually ducked the couple until one of them died. When Colley was arrested, he was put under the guard of 100 soldiers brought from outside of the county to prevent the local plebeians from freeing him. Told from the point of view of a local magistrate, the account betrays the local elites' horror at the villagers' superstitions.<sup>122</sup> That the hanging reinforced elite values, there is no doubt. Such a hanging demonstrated that, while the plebs may have made use of the legal system, it was necessary to do so in ways that conformed to elite expectations.

J. M. Beattie's *Crime and the Courts* states that punishments in early modern England always involved community participation.<sup>123</sup> Indeed, from the pillory to the

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<sup>121</sup> *Ibid.*, Chapter 12, *passim*.

<sup>122</sup> Rayner and T. Crook, *The Complete Newgate Calendar*. Vol. 3, 205.

<sup>123</sup> Beattie, *Crime and the Courts*, 466.



scaffold, the public was always intimately involved with the infliction of sanctions upon the criminal. The legal process in England also had regular means by which the punishment could be ameliorated or amplified. The crowd surrounding a convict in the pillory occasionally killed the guilty and a local judge or magistrate could reprieve and sometimes pardon a convict.<sup>124</sup> The felony petitions fit neatly into this process. This became even more pivotal as English society began a gradual turn away from interpersonal violence as a commonplace feature of life. A recurring theme of trials throughout Beattie's study is that of victims devaluing the goods stolen from them so as to allow the criminal to escape a death sentence. The frequency with which clemency was offered made juries more likely to vote for the death penalty, because they knew that a judge (and perhaps even the Privy Council or Queen) would evaluate their decision according to normative criteria to which they generally subscribed. If the Privy Council or magistrate found the jury's decision to be just, the members of the jury were reassured that they had not sent a person to death who did not deserve it. Convictions in this era thus began to increase.

Queen Anne's reign is a crossroads in English criminal history. The transition to Foucault's society of imprisonment had begun, but the strict and draconian sentencing rules had yet to be ameliorated.<sup>125</sup> In fact, they were becoming more vicious, as the benefit of clergy was gradually being edged out of secular courts (anyway, a benefit which women were not allowed). Nevertheless, while the conviction rate was going up,

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<sup>124</sup> Ibid., 430-432.

<sup>125</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Alan Sheridan, trans. (New York: Pantheon Books, 1977), 7.

non-violent punishments were being resorted to more and more often. The value of the individual began to be appreciated. Family life was pivotal in this transition, because family life was taken as being ideologically analogous to the state. The individual's value to the state was thus analogous to his or her role in the family. Both men and women had value, as did children. This value was then carefully built into these petitions.

Early modern England was a society in which men and women were increasingly divided into ideologically driven separate spheres. In actual practice, the divisions between men and women often blurred, particularly among the lower orders. The division of roles between men and women was not a tool of repression meant to favor males in English society; instead, it was an acknowledgement of very real differences between men and women. Childbirth was a dangerous task that men could not experience or even hope to understand without modern medical knowledge. Conversely, men were expected to take part in war. These differences had been enshrined in elite culture and were being assimilated by popular culture. This was not a means of repression, but, instead, biological differences preserved as tradition viewed through an English cultural lens. Women engaging in transgressive behavior threatened the social order just as transgressive men threatened the social order. Unlike men, women had more limited opportunities to act out. Men were far more likely to kill or steal outside of their family because their sphere normally lay outside the home. Women generally only had the opportunity to kill their own relations, such as husbands, brothers, or children. The disapprobrium attached to the intimate murder was not because a woman committed it, but because it represented a betrayal of the social order. As women lost agency and

were moved more and more into the ideological background during the Victorian era, men became the ones who betrayed social order and thus were punished more harshly than previously.

So, in what ways was there patriarchy on the gallows? As we have seen, the pardon rate for men and women was roughly equal during Queen Anne's reign. At the surface level, then, women were neither rewarded nor punished any more than men. The reasons that men were pardoned are much more obvious when one looks at what the sentences were commuted to, whether it was transportation or transferred to the military: service to the state was paramount. Men pardoned and released to their families would seem not to have offered any special service to the state, until one reads their petitions more closely. In fact, these men typically supported large families or convincingly claimed innocence. The thinking underlying women's pardons is not so obvious, as the majority were released absolutely. More detailed analysis of the contents of women's felony petitions, coupled with close scrutiny of who was, and who was not, pardoned in fact offers a similar solution: women who could serve the state regained their freedom. Only their method of serving the state was different. We do not, then, have blatant patriarchy at work in the pardoning process, because the system did not favor men, nor did it simply become a means of repression aimed at women. Pardons were gender blind in that they were given equally to men or women. Though, the means individuals had of serving the state were not gender blind, they were not intended to privilege one sex over the other. The gallows was not a means of repression that emanated from a culturally hegemonic elite, nor was it a means of repression for a patriarchal social order.

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## **APPENDIX 1: SELECTED PETITIONS**

74, 90

To the Queens most Excellent Majesty.

*Sheweth* The humble Petition of Anne Allen now under Sentence of Death in Newgate.

That she is a Young Woman but 22 Years of Age, and hath two Young Innocent Children, to provide for.

That it hath been her unhappiness to fall into the acquaintance of a Woman with whom it was her misfortune to take out of a Shop a Piece of Callicoe for which she is convicted and Sentenced to dye, and is under a great Sorrow and Mortification for this Offence than words can Express. Resolving if her Life be spared never more to Offend in the like Nature.

That having never received Mercy she prostrates her self at Your Royall feet, and with all humility most humbly Prays.

That Your Majesty will be graciously pleas'd in Compassion to her tender Yeares and the Circumstances of her Case Mercifully to give her that Life she hath forfeited to the Law which she will spend in an honest and Contrite Life.

And as in duty bound ever Prays for Your Majesty's Long Life Happiness &c.

Figure 1. The Petition of Anne Allen, an example of a typical woman's felony petition.

Photograph by Author.

49 I. 57

To the Queens most Excell<sup>tie</sup> Maj<sup>ty</sup>,

The humble Petition of Cecilia Labree.

Sheweth

That yo<sup>r</sup>. Pet<sup>r</sup>. now lies under Sentence  
of Death for High Treason, and must  
submit to that dreadfull Sentence, unless  
yo<sup>r</sup>. Maj<sup>ty</sup>. would please to have mercy on  
her,

And for as much as Elisabeth  
Lucas who was y<sup>r</sup>. principall Witnesse ag<sup>t</sup>.  
yo<sup>r</sup>. Pet<sup>r</sup>. at her Tryall now stands Indicted  
for felony and Burglary, and it being  
done out of Malice to yo<sup>r</sup>. Pet<sup>r</sup>. who  
was ignorant of y<sup>r</sup>. fact Statute ag<sup>t</sup>. her.

yo<sup>r</sup>. Pet<sup>r</sup>. therefore most  
humbly Implores yo<sup>r</sup>. Maj<sup>ty</sup>.  
Grace and mercy towards  
her, by granting yo<sup>r</sup>. Poor Pet<sup>r</sup>.  
Pardon.

And yo<sup>r</sup>. Pet<sup>r</sup>. shall ever  
pray for.

Figure 2. The Petition of Cecilia Labree.

Photograph by Author.



51.

58

To the Queens most Excell<sup>ty</sup> Maj<sup>ty</sup>:

The humble Petition of  
Katherine Jones, Widdow,

Sheweth

That yo<sup>r</sup> Pet<sup>r</sup> now lyes under Sentence of  
Death for Picking a Pocket, and must Submit to  
that Dreadfull Sentence, ~~that~~ yo<sup>r</sup> Maj<sup>ties</sup> Mercy.

But forasmuch as yo<sup>r</sup> Pet<sup>r</sup> was  
Convicted by the Evidence only of One Person, and  
being of first fact, never having been in prison  
before upon any Account, And being but  
Twenty four years of Age.

yo<sup>r</sup> Pet<sup>r</sup> Therefore Caste herselfe  
at yo<sup>r</sup> Maj<sup>ties</sup> Feet, and  
humbly Implores yo<sup>r</sup> Maj<sup>ties</sup>  
Grace and mercy for her life,  
by Transportation, which may be  
a means to save yo<sup>r</sup> Poor Pet<sup>r</sup> Soul,  
and prevent y<sup>e</sup> Distraction of her  
Aged Parents, and Children.

And yo<sup>r</sup> Pet<sup>r</sup> shall Ever pray

Figure 3. The Petition of Katherine Jones.

Photograph by Author.

## APPENDIX 2: THE PETITIONS

Anne Allen UK National Archives	Result: Unknown SP 34 Piece 35 Number 74 Folio 90
John Allen UK National Archives Old Bailey Online	Result: Unknown SP 34 Piece 36 Number 92 Folio 116 <a href="http://www.oldbaileyonline.org/html_units/1710s/t17151012-31.html">http://www.oldbaileyonline.org/html_units/1710s/t17151012-31.html</a>
Benjamin Arnell UK National Archives	Result: Unknown SP 34 Piece 36 Number 93 Folio 117
Thomas Bagley UK National Archives	Result: Unknown SP 34 Piece 36 Number 120 Folio 164
Andrew Bains British Library 61618 - 1	Result: Pardon (HM's Service)
Henry Baker UK National Archives	Result: Unknown SP 34 Piece 36 Number 121 Folio 165
Christopher Banestar UK National Archives UK National Archives UK National Archives UK National Archives UK National Archives	Result: Pardon (Transportation) SP 34 Piece 34 Number 32A Folio 108 SP 34 Piece 34 Number 32B Folio 109 SP 34 Piece 34 Number 32C Folio 110 SP 34 Piece 34 Number 32D Folio 111 SP 34 Piece 34 Number 64 Folio 203
Henry Barratt UK National Archives	Result: Unknown SP 34 Piece 38 Number 11 Folio 16
Samuel Barrister UK National Archives	Result: Unknown SP 34 Piece 30 Number 28 Folio 50
Elizabeth Beamond UK National Archives	Result: Unknown SP 34 Piece 35 Number 93 Folio 109
Mary Bennett UK National Archives	Result: Unknown SP 34 Piece 35 Number 120 Folio 149
Thomas Betts	Result: Unknown

UK National Archives	SP 34 Piece 7 Number 71 Folio 133
Joseph Billers	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 123 Folio 152
Richard Blackham Barr	Result: Pardon (Absolute)
British Library 61618 - 1	
William Bond	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 73 Folio 88
UK National Archives	SP 34 Piece 35 Number 73A Folio 89
Henry Bonner	Result: Unknown
UK National Archives	SP 34 Piece 32 Number 74A Folio 127
UK National Archives	SP 34 Piece 32 Number 74B Folio 128
UK National Archives	SP 34 Piece 32 Number 74C Folio 129
UK National Archives	SP 34 Piece 32 Number 76A Folio 131
UK National Archives	SP 34 Piece 32 Number 76B Folio 132
James Bouchier	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 127 Folio 173
UK National Archives	SP 34 Piece 36 Number 127A Folio 174
UK National Archives	SP 34 Piece 36 Number 127B Folio 175
UK National Archives	SP 34 Piece 36 Number 58 Folio 70
UK National Archives	SP 34 Piece 36 Number Folio 173A
William Boyle	Result: Unknown
UK National Archives	SP 34 Piece 38 Number 10 Folio 15
John Brenan	Result: Unknown
UK National Archives	SP 34 Piece 23 Number 15 Folio 30
UK National Archives	SP 34 Piece 23 Number 15A Folio 27-28
UK National Archives	SP 34 Piece 23 Number Folio 29
John Brown	Result: Unknown
UK National Archives	SP 34 Piece 33 Number 40A Folio 145
UK National Archives	SP 34 Piece 33 Number 40B Folio 146-148
William Bunce	Result: Unknown
UK National Archives	SP 34 Piece 6 Number 70 Folio 117
UK National Archives	SP 34 Piece 6 Number 70A Folio 118
Robert Burleigh	Result: Unknown
UK National Archives	SP 34 Piece 21 Number 95 Folio 163-164
UK National Archives	SP 34 Piece 22 Number Folio 25
William Burton	Result: Unknown
UK National Archives	SP 34 Piece 29 Number 18A Folio 23

UK National Archives	SP 34 Piece 29 Number 18B Folio 24
UK National Archives	SP 34 Piece 29 Number 18C Folio 25
UK National Archives	SP 34 Piece 29 Number 18D Folio 26-27
UK National Archives	SP 34 Piece 29 Number 18E Folio 28
UK National Archives	SP 34 Piece 29 Number 18F Folio 29-30
Jacob Buth	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 34 Number 99 Folio 278
Chantrell	Result: Unknown
UK National Archives	SP 34 Piece 4 Number 12 Folio 12
UK National Archives	SP 34 Piece 4 Number 23 Folio 31
Hugh Clensey	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 133 Folio 164
Thomas Collins	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 68 Folio 80
Thomas Cooke	Result: Rejected
UK National Archives	SP 34 Piece 3 Number 9 Folio 11
UK National Archives	SP 34 Piece 3 Number 10 Folio 12
UK National Archives	SP 34 Piece 3 Number 10 Folio 13
UK National Archives	SP 34 Piece 3 Number 10 Folio 14
UK National Archives	SP 34 Piece 3 Number 10 Folio 15
UK National Archives	SP 34 Piece 3 Number 10 Folio 16
UK National Archives	SP 34 Piece 3 Number 10 Folio 17
UK National Archives	SP 34 Piece 3 Number 11 Folio 18
UK National Archives	SP 34 Piece 3 Number 12 Folio 19-20
UK National Archives	SP 34 Piece 3 Number 18 Folio 26
UK National Archives	SP 34 Piece 3 Number 18A Folio 27
UK National Archives	SP 34 Piece 3 Number 18B Folio 28-29
UK National Archives	SP 34 Piece 37 Number 13 Folio 30-31
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1700s/t17030707-2.html">http://www.oldbaileyonline.org/html_units/1700s/t17030707-2.html</a>
Patience Cooper	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 121 Folio 150
John Corbett	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 28 Folio 85
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/s17130708-1.html">http://www.oldbaileyonline.org/html_units/1710s/s17130708-1.html</a>
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/t17130708-19.html">http://www.oldbaileyonline.org/html_units/1710s/t17130708-19.html</a>
Edward Cox	Result: Pardon (HM's Service)
British Library	61617 - 188
Alexander Dalzel	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 20 Number 6 Folio 11-12



Daniel Defoe	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 2 Number 27 Folio 48-48A
UK National Archives	SP 34 Piece 37 Number 128 Folio 205
UK National Archives	SP 34 Piece 37 Number 129 Folio 206-207
Jane Dennis	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 58 Folio 69
Timothy Dunn	Result: Unknown
UK National Archives	SP 34 Piece 38 Number 13 Folio 21
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/t17140407-23.html">http://www.oldbaileyonline.org/html_units/1710s/t17140407-23.html</a>
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/s17140407-1.html">http://www.oldbaileyonline.org/html_units/1710s/s17140407-1.html</a>
Jane Dyer	Result: Unknown
UK National Archives	SP 34 Piece 6 Number 7 Folio 13
UK National Archives	SP 34 Piece 6 Number 7A Folio 14
Richard Dyott	Result: Unknown
UK National Archives	SP 34 Piece 18 Number 38 Folio 75
UK National Archives	SP 34 Piece 31 Number 52A Folio 133
UK National Archives	SP 34 Piece 31 Number 52B Folio 134-135
Anne Edwards	Result: Unknown
UK National Archives	SP 34 Piece 38 Number 19 Folio 31
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/s17140630-1.html">http://www.oldbaileyonline.org/html_units/1710s/s17140630-1.html</a>
Martha Elton	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 141 Folio 197
UK National Archives	SP 34 Piece 36 Number 142 Folio 198
Robert English	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 143 Folio 199
John Estrick	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 144 Folio 200
Robert Evance	Result: Unknown
UK National Archives	SP 34 Piece 10 Number 127 Folio 233-234
James Feillet	Result: Pardon (Absolute)
British Library	61618 - 1
Thomas Ferratt	Result: Unknown
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Lawrence Fitz Gerald	Result: Pardon (Absolute)
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UK National Archives	SP 34 Piece 1 Number 43A Folio 66
UK National Archives	SP 34 Piece 1 Number 43B Folio 67
Edward Fuller	Result: Pardon (HM's Service)
UK National Archives	SP 34 Piece 35 Number 136 Folio 169
UK National Archives	SP 34 Piece 35 Number 136A Folio 170
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Katherine Garwood	Result: Unknown
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Anthony Gearish	Result: Unknown
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Charles Goodall	Result: Pardon (Absolute)
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Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/t17111205-15.html">http://www.oldbaileyonline.org/html_units/1710s/t17111205-15.html</a>
Margaret Green	Result: Unknown
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Walker Hickson	Result: Unknown
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UK National Archives	SP 34 Piece 29 Number 18B Folio 24
UK National Archives	SP 34 Piece 29 Number 18C Folio 25
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UK National Archives	SP 34 Piece 29 Number 18E Folio 28
UK National Archives	SP 34 Piece 29 Number 18F Folio 29-30
Elizabeth Hill	Result: Pardon (Absolute)
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Hill	Result: Unknown
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Thomas Hitchman	Result: Unknown
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John Hoblyn	Result: Unknown
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Hockenhull	Result: Unknown
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John Hodgkins	Result: Unknown
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Mary Holden	Result: Unknown
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William Hopley	Result: Unknown
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Jane Houston	Result: Unknown
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William Huggins	Result: Unknown
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Robert Husher	Result: Unknown
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UK National Archives	SP 34 Piece 35 Number 107B Folio 131
Joseph Johnson	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 60 Folio 70-71
UK National Archives	SP 34 Piece 35 Number 67 Folio 73
Elizabeth Jones	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 35 Number 86 Folio 101
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/t17110112-16.html">http://www.oldbaileyonline.org/html_units/1710s/t17110112-16.html</a>
Katherine Jones	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 35 Number 51 Folio 58
UK National Archives	SP 34 Piece 35 Number 51A Folio 59
Thomas Kerby	Result: Unknown
UK National Archives	SP 34 Piece 33 Number 94 Folio 236
UK National Archives	SP 34 Piece 34 Number 8 Folio 23-24
James King	Result: Unknown
UK National Archives	SP 34 Piece 13 Number 36 Folio 58
UK National Archives	SP 34 Piece 13 Number 38 Folio 62
UK National Archives	SP 34 Piece 13 Number Folio 59
UK National Archives	SP 34 Piece 13 Number Folio 63
Cecilia Labree	Result: Pardon (Transportation)
UK National Archives	SP 34 Piece 35 Number 49 Folio 56
UK National Archives	SP 34 Piece 35 Number 49A Folio 57
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1700s/t17000115-24.html">http://www.oldbaileyonline.org/html_units/1700s/t17000115-24.html</a>
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1700s/o17040426-1.html">http://www.oldbaileyonline.org/html_units/1700s/o17040426-1.html</a>
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1700s/s17040426-1.html">http://www.oldbaileyonline.org/html_units/1700s/s17040426-1.html</a>
John Law	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 140 Folio 178
Moses Lawes	Result: Unknown
UK National Archives	SP 34 Piece 23 Number 20 Folio 41
UK National Archives	SP 34 Piece 23 Number Folio 40
Francis Lawrence	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 19 Folio 24
John Lawrence	Result: Unknown
UK National Archives	SP 34 Piece 3 Number 138 Folio 219

UK National Archives	SP 34 Piece 3 Number 139 Folio 220
UK National Archives	SP 34 Piece 3 Number 140 Folio 222-223
Richard Lawrence	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 63 Folio 202
Richard Lewis	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 92 Folio 108
UK National Archives	SP 34 Piece 36 Number 113 Folio 153
UK National Archives	SP 34 Piece 36 Number 114 Folio 154
George Little	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 115 Folio 144
Priscilla Long	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 168 Folio 234
Francis Lynch	Result: Unknown
UK National Archives	SP 34 Piece 37 Number 97 Folio 164-165
UK National Archives	SP 34 Piece 37 Number 98 Folio 166-167
Daniel Mackinnon	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 10 Folio 26-27
John Mapas	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 1 Number 42A Folio 63
UK National Archives	SP 34 Piece 1 Number 42B Folio 64
William Marvell	Result: Pardon (Absolute)
UK National Archives	SP 34 Piece 35 Number 131 Folio 162
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/o17101206-1.html">http://www.oldbaileyonline.org/html_units/1710s/o17101206-1.html</a>
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1700s/t17091207-27.html">http://www.oldbaileyonline.org/html_units/1700s/t17091207-27.html</a>
Edward Marven	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 102 Folio 281
John Mayne	Result: Unknown
UK National Archives	SP 34 Piece 17 Number 43 Folio 78-79
UK National Archives	SP 34 Piece 17 Number 43A Folio 81
UK National Archives	SP 34 Piece 17 Number 43B Folio 82
UK National Archives	SP 34 Piece 17 Number 43C Folio 83
UK National Archives	SP 34 Piece 17 Number 43D Folio 84
UK National Archives	SP 34 Piece 17 Number 43E Folio 85
UK National Archives	SP 34 Piece 17 Number 43F Folio 86
UK National Archives	SP 34 Piece 17 Number Folio 80
Richard Miller	Result: Unknown
UK National Archives	SP 34 Piece 30 Number 27 Folio 49

Thomas Millett UK National Archives	Result: Unknown SP 34 Piece 35 Number 115 Folio 144
John Mitchel UK National Archives	Result: Unknown SP 34 Piece 36 Number 124 Folio 168
Thomas Moore UK National Archives UK National Archives	Result: Unknown SP 34 Piece 36 Number 172 Folio 238 SP 34 Piece 36 Number 173 Folio 239
Paul Nash UK National Archives	Result: Unknown SP 34 Piece 33 Number 25 Folio 53
Martha Niblett UK National Archives	Result: Unknown SP 34 Piece 36 Number 41 Folio 52
John Norris UK National Archives	Result: Unknown SP 34 Piece 36 Number 121 Folio 165
John Norton UK National Archives UK National Archives UK National Archives UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 35 Number 29 Folio 33 SP 34 Piece 35 Number 69 Folio 81 SP 34 Piece 35 Number 69A Folio 82 SP 34 Piece 35 Number 70 Folio 84 SP 34 Piece 35 Number 70A Folio 83 SP 34 Piece 35 Number 70B Folio 85
Thomas Oades British Library 61618 - 113	Result: Pardon (HM's Service)
Lucius O'Brien UK National Archives UK National Archives	Result: Unknown SP 34 Piece 34 Number 17A Folio 48-49 SP 34 Piece 34 Number 17B Folio 50
William Ogden UK National Archives	Result: Pardon (Transportation) SP 34 Piece 36 Number 176 Folio 249-250
Richard Parsmore UK National Archives	Result: Unknown SP 34 Piece 34 Number 68 Folio 211
William Paterson UK National Archives	Result: Unknown SP 34 Piece 31 Number 56 Folio 141
Nathaniel Paulson UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 3 Number 138 Folio 219 SP 34 Piece 3 Number 139 Folio 220 SP 34 Piece 3 Number 140 Folio 222-223

John Penney UK National Archives	Result: Unknown SP 34 Piece 36 Number 179 Folio 257-258
Roger Pinckney UK National Archives	Result: Unknown SP 34 Piece 1 Number 26 Folio 33
William Poore UK National Archives	Result: Unknown SP 34 Piece 35 Number 115 Folio 144
James Powell UK National Archives Old Bailey Online	Result: Unknown SP 34 Piece 36 Number 184 Folio 263-264 <a href="http://www.oldbaileyonline.org/html_units/1710s/t17140630-8.html">http://www.oldbaileyonline.org/html_units/1710s/t17140630-8.html</a>
Robert Presgrove UK National Archives	Result: Pardon (Absolute) SP 34 Piece 36 Number 183 Folio 216A-262
Elizabeth Price UK National Archives UK National Archives Old Bailey Online	Result: Unknown SP 34 Piece 35 Number 57 Folio 68 SP 34 Piece 35 Number 66 Folio 79 <a href="http://www.oldbaileyonline.org/html_units/1700s/t17030115-19.html">http://www.oldbaileyonline.org/html_units/1700s/t17030115-19.html</a>
Prichet UK National Archives	Result: Rejected SP 34 Piece 34 Number 12 Folio 30
Thomas Pritchard UK National Archives UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 2 Number 65 Folio 98 SP 34 Piece 2 Number 74 Folio 116-117 SP 34 Piece 2 Number 75 Folio 118 SP 34 Piece 2 Number 75A Folio 119
William Pulham UK National Archives	Result: Pardon (HM's Service) SP 34 Piece 35 Number 135 Folio 168
James Radison UK National Archives	Result: Unknown SP 34 Piece 34 Number 65 Folio 204
John Ratburn UK National Archives UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 10 Number 132 Folio 245 SP 34 Piece 10 Number 132A Folio 247-248 SP 34 Piece 10 Number 132B Folio 249-250 SP 34 Piece 10 Number Folio 246
John Rawlings UK National Archives UK National Archives	Result: Unknown SP 34 Piece 4 Number 50A Folio 82 SP 34 Piece 4 Number 50B Folio 83
George Richardson	Result: Unknown

UK National Archives	SP 34 Piece 36 Number 186 Folio 267
UK National Archives	SP 34 Piece 36 Number 187 Folio 268
UK National Archives	SP 34 Piece 36 Number 188 Folio 269
UK National Archives	SP 34 Piece 36 Number 189 Folio 271
Henry Robinson	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 91 Folio 115
Joseph Robinson	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 87 Folio 256
Martha Rogers	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 109 Folio 147
UK National Archives	SP 34 Piece 36 Number 109A Folio 148
UK National Archives	SP 34 Piece 36 Number 109B Folio 149
Robert Roman	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 105 Folio 126
UK National Archives	SP 34 Piece 35 Number 105A Folio 127
Hanibal Roscarrick	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 134 Folio 165
UK National Archives	SP 34 Piece 35 Number 50 Folio 166
UK National Archives	SP 34 Piece 35 Number 50A Folio 167
John Rotter	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 115 Folio 144
Thomas Russ	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 185 Folio 266
Thomas Smallbone	Result: Unknown
UK National Archives	SP 34 Piece 1 Number 98 Folio 166
UK National Archives	SP 34 Piece 1 Number 99 Folio 167
UK National Archives	SP 34 Piece 1 Number 100 Folio 168
UK National Archives	SP 34 Piece 1 Number 101 Folio 169
Robert Smart	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 196 Folio 281
George Smith M	Result: Unknown
UK National Archives	SP 34 Piece 37 Number 12 Folio 26-27
UK National Archives	SP 34 Piece 37 Number 12A Folio 28-29
John Smith M	Result: Rejected
UK National Archives	SP 34 Piece 35 Number 62 Folio 76
UK National Archives	SP 34 Piece 35 Number 64 Folio 77
UK National Archives	SP 34 Piece 36 Number 83 Folio 102-103



Newgate Calendar	<a href="http://tarlton.law.utexas.edu/lpop/etext/newgate2/smith1.htm">http://tarlton.law.utexas.edu/lpop/etext/newgate2/smith1.htm</a>
Sarah Smith UK National Archives	Result: Unknown SP 34 Piece 35 Number 79 Folio 95
Frances Spencer UK National Archives	Result: Unknown SP 34 Piece 35 Number 65 Folio 78
Daniel Spendelow UK National Archives	Result: Unknown SP 34 Piece 35 Number 48 Folio 55
Thomas Sprignill UK National Archives	Result: Unknown SP 34 Piece 10 Number 137 Folio 259
John Stafford UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 37 Number 108 Folio 179-180 SP 34 Piece 37 Number 109 Folio 181 SP 34 Piece 37 Number 110 Folio 182
Henry Stanley UK National Archives UK National Archives UK National Archives	Result: Unknown SP 34 Piece 35 Number 63 Folio 75 SP 34 Piece 4 Number 12 Folio 12 SP 34 Piece 4 Number 23 Folio 31
Margaret Stevenson UK National Archives Old Bailey Online Old Bailey Online	Result: Unknown SP 34 Piece 36 Number 193 Folio 278 <a href="http://www.oldbaileyonline.org/html_units/1710s/t17140630-26.html">http://www.oldbaileyonline.org/html_units/1710s/t17140630-26.html</a> <a href="http://www.oldbaileyonline.org/html_units/1710s/s17140630-1.html">http://www.oldbaileyonline.org/html_units/1710s/s17140630-1.html</a>
John Sulley UK National Archives UK National Archives	Result: Unknown SP 34 Piece 8 Number 52 Folio 82 SP 34 Piece 8 Number 52A Folio 83
John Sutton UK National Archives UK National Archives	Result: Unknown SP 34 Piece 31 Number 42 Folio 97 SP 34 Piece 31 Number 43 Folio 98
Stephen Swift UK National Archives	Result: Unknown SP 34 Piece 35 Number 76 Folio 92
Symon Syleman UK National Archives	Result: Unknown SP 34 Piece 35 Number 132 Folio 163
Ann Taylor UK National Archives	Result: Unknown SP 34 Piece 31 Number 73 Folio 165
John Tustin UK National Archives	Result: Unknown SP 34 Piece 3 Number 130 Folio 207

unknown UK National Archives	Result: Unknown SP 34 Piece 3 Number 135 Folio 215-216
unknown A UK National Archives UK National Archives	Result: Unknown SP 34 Piece 19 Number 19 Folio 28 SP 34 Piece 19 Number 19A Folio 29
unknown C UK National Archives	Result: Unknown SP 34 Piece 36 Number 225 Folio 324
Joseph Uttin UK National Archives	Result: Unknown SP 34 Piece 36 Number 207 Folio 296
Mary Vernon UK National Archives	Result: Unknown SP 34 Piece 1 Number 25 Folio 31-32
Richard Walker UK National Archives	Result: Pardon (HM's Service) SP 34 Piece 8 Number 69 Folio 107-108
Walker UK National Archives	Result: Unknown SP 34 Piece 36 Number 88 Folio 112
Martha Wammon British Library 61618 - 188	Result: Pardon (HM's Service)
Phoebe Ward UK National Archives	Result: Rejected SP 34 Piece 28 Number 26 Folio 41
Thomas Warwick UK National Archives	Result: Unknown SP 34 Piece 36 Number 210 Folio 299-300
Lawrence Waterman UK National Archives	Result: Pardon (Transportation) SP 34 Piece 34 Number 58 Folio 191-192
Mary Waters UK National Archives	Result: Unknown SP 34 Piece 35 Number 56 Folio 67
Samuel Watkins UK National Archives	Result: Unknown SP 34 Piece 34 Number 10 Folio 26-27
George Watson UK National Archives UK National Archives	Result: Unknown SP 34 Piece 22 Number 13 Folio 26 SP 34 Piece 22 Number 13A Folio 27-28
James Watts UK National Archives UK National Archives	Result: Unknown SP 34 Piece 37 Number 65 Folio 118 SP 34 Piece 37 Number 66 Folio 119

UK National Archives	SP 34 Piece 37 Number 67 Folio 120
UK National Archives	SP 34 Piece 37 Number 68 Folio 121
UK National Archives	SP 34 Piece 37 Number 69 Folio 122
Elizabeth Way	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 110 Folio 150
John Way	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 98 Folio 277
James West	Result: Pardon (HM's Service)
British Library	61618 -195
John Wheatley	Result: Unknown
UK National Archives	SP 34 Piece 11 Number 12 Folio 17-18
UK National Archives	SP 34 Piece 11 Number 12A Folio 19
Jane White	Result: Pardon (HM's Service)
British Library	61618 - 201
Mary White	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 72 Folio 87
Sarah White	Result: Unknown
UK National Archives	SP 34 Piece 7 Number 70 Folio 131
UK National Archives	SP 34 Piece 7 Number 70A Folio 132
John Whiteside	Result: Unknown
UK National Archives	SP 34 Piece 35 Number 63 Folio 75
John Whittington	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 43 Folio 54
Sarah Williams	Result: Pardon (Absolute)
British Library	61618 - 212
John Wills	Result: Unknown
UK National Archives	SP 34 Piece 8 Number 4 Folio 9
Edward Wright	Result: Unknown
UK National Archives	SP 34 Piece 36 Number 218 Folio 315
John Wright	Result: Unknown
UK National Archives	SP 34 Piece 37 Number 154 Folio 239, 242
UK National Archives	SP 34 Piece 37 Number 154A Folio 240-241
UK National Archives	SP 34 Piece 37 Number 155 Folio 243
Old Bailey Online	<a href="http://www.oldbaileyonline.org/html_units/1710s/t17151207-12.html">http://www.oldbaileyonline.org/html_units/1710s/t17151207-12.html</a>

Samuel Yealse	Result: Unknown
UK National Archives	SP 34 Piece 34 Number 66A Folio 205
UK National Archives	SP 34 Piece 34 Number 66B Folio 206