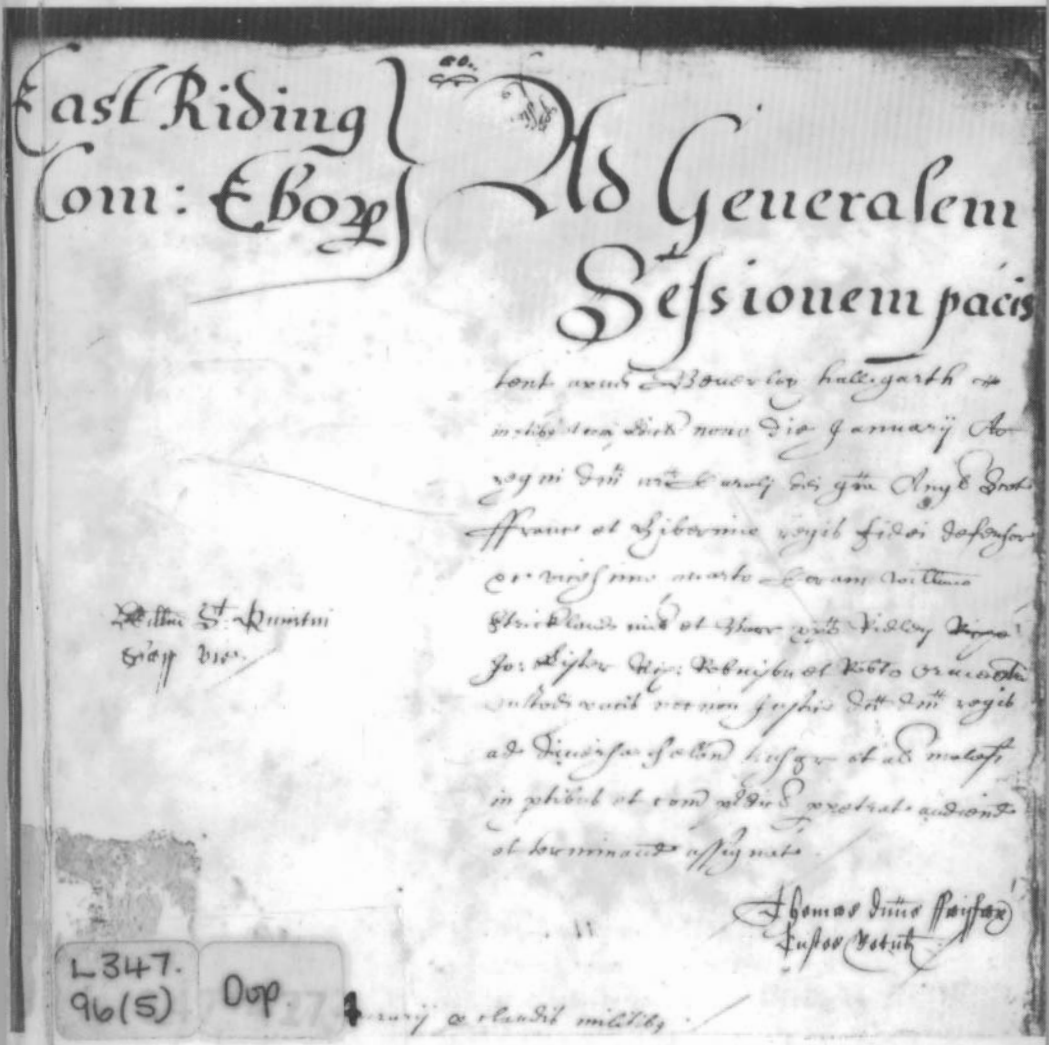
THE EAST RIDING JUSTICES OF THE PEACE IN THE SEVENTEENTH CENTURY

by

G. C. F. FORSTER



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INTRODUCTION

England in the 17th century has been described as 'a union of partially independent county states, each with its own ethos and loyalty.' At this time the life of the vast majority of Englishmen, even of the wealthier sort, was lived almost wholly within the confines of their own county, or 'country' as they usually called it. County society was dominated by landowning families, groups of country gentry, sometimes distinct but often connected by ties of kinship and marriage. They formed what it is now fashionable to call the 'community of the county' or, more explicitly, 'the community of county gentry,' characterised by local and family pride, some degree of corporate sense and localised preoccupations. It may be that the landowners of Yorkshire, or even of each of the three Ridings, were too numerous and too widely scattered to display the same homogeneity and sense of community as, say, those of more closely knit counties like Leicester or Kent. But there can be no doubt that, in Yorkshire as elsewhere, the public and social positions of the landed gentry became much closer from the later 15th century as governments made increasing use of the power of local families to manage affairs in the provinces. Each county steadily became a more important unit of administration: in taxation, defence, justice, the regulation of economic and social affairs.

Then, and for long after, few people ever came into direct contact with the central government. Instead it was the governors of the local communities, in town and country alike, who punished their wrong-doings, maintained order and organised such help as was available in time of trouble. In entrusting local affairs to men of local standing the government was able to draw on their knowledge of the situation in their own districts, and on their sensitivity to the issues which troubled their neighbours. The gentry were also able to make use of their prestige to provide support for the government's measures. But, as we shall see, localism had its disadvantages: it inhibited thorough uniform administration; it allowed full sway to personal squabbles and pressures; and it encouraged local self-interest to dominate the conduct of public business, especially where money was concerned. Nevertheless, although county administration was the responsibility of local office-holders, especially of the justices of the peace, the central government gave them instructions and expected to intervene if these were not properly executed.

Local rulers and their duties, methods and institutions have formed the subject of several accounts drawn from statutes and legal manuals, but rather less attention has been paid to the work they actually did. Surviving records of local government enable some conclusions to be drawn about its practice, however, and what

follows is an attempt to answer certain questions about the role of the justices of the peace in the government of the East Riding during the Stuart period. What new responsibilities accrued to them, especially as the result of political upheavals, and how were they discharged? What were the central government's orders about, and how were they exeeuted? What do the records reveal about the way local magistrates went about their public duties? To what extent did they try to make the existing administrative machinery work? How conscientious were they in their public work, and how far were they equal to their responsibilities? The answers to these questions will tell us something about social life in the East Riding and something too about the problems of an age when government meant, for most people, local government.

I

The Framework of Local Government

By 1600 various agencies were concerned with local government, in Yorkshire as elsewhere: they ranged from long-standing courts and officers to officials appointed by the Tudors to meet the new demands of their age. They included the old local courts of shire, wapentake, honor and manor; royal officials appointed in the localities, such as the sheriff; local men specially commissioned by the Crown for the purposes of government; towns like Hedon, Kingston upon Hull and Beverley, with their chartered corporations; and the parishes, with their old customary officers and their statutory new ones.

The older local courts had long been in decline, although here and there, where a liberty was still in private hands, as Holderness and Howden were at this time, the court still met to transact the same kind of business as the many surviving manorial courts: the transfer of property, the punishment of minor misdemeanours, the consideration of certain civil pleas. These last also formed the main business of the high sheriff's monthly county court, which nevertheless mainly came into its own as the setting for the election of the county members of parliament. The sheriff himself had lost all his most important powers during the two preceding centuries, but his obligations were still considerable, involving the county court, the collection of certain minor royal revenues and numerous legal duties. He was responsible for the execution of judicial writs, the custody of prisoners in the county gaol at York Castle, the empanelling of juries and the execution of sentences, as well as attendance on the king's judges and local magistrates. All these tasks meant that the shrievalty was an expensive and burdensome honour, and therefore one which some men tried to avoid, despite the electoral influence and social prestige it conferred. York and Hull had their own sheriffs, chosen by their respective corporations from among their leading citizens, but for the county as a whole there was one high sheriff, annually appointed by the monarch. During the 17th century several East Riding gentlemen served, including Sir Henry Griffith of Burton Agnes, Sir John Hotham, Sir Matthew Boynton of Barmston and Sir William St. Quintin of Harpham. Among other East Yorkshire names in the list were Bethell, Warton, Hildyard, Langdale, Constable and Darley: only the more prominent members of county society were likely to be chosen for such an honourable office.

There was little honour, though perhaps rather more profit, in other royal offices, the numbers of which had increased under the Tudors. First came the old office of coroner, then as now responsible for inquests on deaths; the East Riding had two coroners, who seem to have usually been local attorneys, but little record of

their work has survived. In addition there were various customs officials at Hull and Bridlington, together with the escheators and feodaries whose concerns lay with royal rights over feudal tenures.

But the principal new office was that of lord lieutenant, originating in the country's military needs and harnessing the military traditions of the aristocracy to the state. By 1590 the country had been divided into lieutenancy districts, each under a lord lieutenant who had deputies to assist him with his arduous duties, which largely involved the organisation of the country's militia forces. The importance of England's military defences, the concern of the Privy Council, and above all the fact that the men chosen for office were usually magnates having close links with the Court, meant that the lord lieutenant and his deputies had considerable authority. In Yorkshire the office of lord lieutenant was linked with that of lord president of the Council in the North until the abolition of the latter body in 1641, but when the lieutenancy was reorganised at the Restoration a separate lord lieutenant was appointed for each Riding. The tradition of naming magnates and courtiers continued, however: in the East Riding, Lord Bellasis, the Duke of Monmouth, the Earl of Mulgrave, the Duke of Somerset, the Duke of Newcastle and the Earl of Kingston all held the office between 1660 and 1689. Detailed information about the work of lieutenancy in this period is hard to find, but much of the work plainly fell on the deputy lieutenants who were usually selected from the ranks of the leading county gentry. In 1673, for example, they included Sir Francis Boynton, Sir Robert Hildyard, Sir Michael Warton, Sir Hugh Bethell and Sir John Hotham (grandson of the governor of Hull).

Many vital aspects of local government were in the hands not of royal officers but of commissions of local gentlemen, appointed as the need arose to carry out the orders of the government or the central courts, to collect legal evidence, for example, or to raise taxes. Some of these commissioners were more permanent, notably the commission of sewers, which was responsible for drainage, and which therefore played an important part in the life of certain areas of the East Riding. Above all, there was the commission of the peace which appointed the justices of the peace. With a jurisdiction dating from the 14th century, the J.P.s, whether working singly, or in informal groups, or in their courts of Quarter Sessions, became in Tudor times the key figures in the judicial and administrative system of the country, and as such their office will be examined in more detail in Section II. (1) But in some regions the J.P.s formed only a part of the authority available to the central government, special institutions having been devised to meet special needs. Thus in Yorkshire and other northern counties there had evolved since the early 16th century the Council in the North, which had extensive civil and criminal jurisdiction and wide administrative powers. The early 17th century was not a creditable period in the history of the Council, which was at that time undermined by

faction and weakened by the inadequacy of some of its principal officers, but it reached a high point of effectiveness during the presidency of Thomas Wentworth, Earl of Strafford, when it played an important part in the government of Yorkshire until its abolition on the eve of the Civil War.

Alongside the various secular courts and officers there survived in each diocese a system of active Church courts which had originated in the middle ages but which still supervised the affairs of the clergy and exereised jurisdiction over the laity in marters of faith and morals. Thus, throughout the 17th century, East Riding men and women accused of such eeclesiastical offences as Puritan noneonformity, Roman Catholic recusancy, moral lapses, misbehaviour in church or non-payment of tithe, were likely to find themselves haled before the diocesan courts at York. These courts had their own officials, and at intervals the archdeacon of the East Riding, as well as the arehbishop, conducred a visitation of the parishes to discover what was amiss, bur parish officers, J.P.s and officers of the lieutenancy were called upon to co-operate with them in the detection and punishment of suspects.

While it is right to give first place to the institutions of government in the counry as a whole, other, smaller, administrative units demand some artention. In many ways the corporate towns showed less uniformity than the counties, because charters of incorporation provided for a great variety of borough eonstitutions. Governmental tasks varied too, for the problems faeing the corporations of eomparatively large towns like York and Hull (or Newcastle and Norwich) were very different from those of smaller market rowns like Beverley and Scarborough (or Ripon and Pontefract), let alone those of such deeayed boroughs as Hedon. But one essential feature was the exclusive right of every eorporation to administer the town's affairs without interference from the county magistrates. Hull, Beverley and Hedon all enjoyed this exclusive jurisdiction; there the borough eourts confined themselves to the administration of jusrice, while other aspects of local government were dealt with at the very frequent meetings of the town council. Another fearure was the exclusion of the eentral goverment from any share in the appointment of the town's governing body, which usually consisted of a mayor with a number of other aldermen (who also acted as borough J.P.s) and a select body of councilmen. Vacancies were filled by co-option, which meant that town corporations were mainly self-perpetuating oligarehies, who of course vigorously upheld their ehartered privileges against rival bodies.

The counties themselves had been divided centuries before into hundreds, or in the case of Yorkshire, wapentakes, which retained some adminisrrative importance for legal work, poliee duties, the miliria and taxation. In the East Riding there were six wapenrakes, Howden, Holderness, Ouse and Derwent, Buckrose, Dickering and Harthill. Holderness and Harthill, the biggest in area, retained

their ancient sub-divisions for administrative purposes: the latter was divided into Holme, Hunsley, Bainton and Wilton Beacons, the former into North, Middle and South. Each wapentake had a bailiff who performed legal duties, while eaeh of the undivided wapentakes and each division in Holderness and Harthill had a high (or chief) constable, partly to carry out the administrative tasks already mentioned, but above all to act as rhe main link berween the county and the parish.

After the Reformation the parish had become the basic unit of secular administration. The petty constables, formerly township or manorial officers, had come to be regarded as parish officials; they, and the original parochial officers, the churchwardens, were joined by the new officials created under Tudor statutes, the surveyors of the highways and the overseers of the poor. Together with the high constables these men formed the 'working sraff' of local government under the supervision of the J.P.s. By 1600, therefore, the parish 'played a most significanr role in rhe government of England,' and there were some 190 ancient parishes in the East Riding.

Plainly, the county was much governed, at least in theory, by a host of officials, courts and councils. The posirion was not, however, as clear-cut as it seems. Thus the same men frequently served in different offices simultaneously—some of the J.P.s were also commissioners of sewers and deputy lieutenants, for example, some were members of the Council in the North—and it can be difficult to discern in which capacity they were acting. High sheriffs had usually served as justices before their year in the shrievalty, and returned to thc bench afterwards. A multiplicity of officers all concerned with a particular matter—of law and order, for example, or of taxation—could result in rivalry rather than efficiency. Overlapping or ill-defined jurisdiction could also be a source of trouble: the corporations of York and Hull squabbled about their respective trading rights for many years; the East Riding justices came into conflict with those of rhe corporate towns over the arrest of malefactors, the apportionment of ratcs and the serrlement of vagrants; they disputed too with the magistrates of the North and West Ridings about shared responsibility for the repair of bridges on their borders. Customary rights and chartered privileges were jealously guarded but frequently infringed, and any picture of administrative tidincss is a misleading one.

Morcover, as Sidney and Beatrice Webb insisted long ago, the county was not an organisation of local self-government but a unit of obligation. Its various officers were responsible for the discharge of specific duties imposed upon them by custom, statute or the king's commission. Sometimes the county's rulers received orders or exhortations direct from the Privy Council. At other times they were subject to indirect government pressure, bought to bear on them by means of the judges of assize, the lord lieutenanr or the Council in the North. They themselves were responsible for transmitting

central orders to the officers of wapentake and parish. They occasionally found that the government's directions were accompanied by threats of punishment for neglect, and in the last resort they could be dismissed by royal order.

Yet although the central government frequently tried to enforce the obligations of local authorities and to call them to account, it would be a mistake to suppose that its commands were always obeyed or that the law was always carried out. Much depended on the circumstances and on the men. Nevertheless, there had been important and creative changes in local government during the 16th century: the decline of the sheriff, the pressing need for military security and internal order, and the attempt to solve social and economic difficulties by legislation, resulted in the organisation of the militia and the lieutenancy, the establishment of the administrative importance of the parish, and the growth of the authority of the J.P., the latter becoming, indeed, the 'pivotal official' in civil affairs.

II

The Origins and Powers of the Justices of the Peace

The origins of the office of J.P. are to be found in the experiments of the late 12th and 13th centuries in appointing small commissions of knights to complement the work of the inadcquate number of royal judges in the conservation of the peace. During the 13th century these bodies of commissioners, called 'keepers of the peace', gradually became a normal part of the system of government. As they had proved their usefulness it is perhaps not surprising to find that, in faee of the widespread riot, rebellion and violence of the early 14th century, these commissions of keepers of the peace were given statutory sanction in 1327. Now thus firmly established, the office was an attempt ro harness the forces of law and custom by designating local knights and gentlemen to act as keepers, to enquire into felonies and trespasses, and to make arrests. But these powers were limited: keepers could initiate proeeedings against suspects, but not derermine them. As a result the government was occasionally obliged to appoint special stronger commissions for the repression of violence, and during the middle decades of the 14th century there were disputes about the organisation and powers of the keepers of the peace. The argument turned partly on their inability to decide eases, partly on their involvement in military duties and partly on the question of their concern with administrative responsibilities under the Statutes of Labourers. As a consequence the authority of the keepers of the peace during these years fluctuated considerably.

The statute of 1361, however, marked a major step forward. It was an attempt to strengthen the office by removing the uncertainties and by permanently extending the powers of the keepers. They lost their military functions, but new administrative duties were laid upon them under the eeonomic legislation of the time. They were given definite authority to determine felonies and trespasses done in the county, and this extension of their judicial powers was marked by their transformation from keepers into Justices of the Peace. Indeed the statute left the way open for their development as the predominant local administrators and criminal law judges.

Ar first progress was uncertain but in surviving records we can cateh a glimpse of the work of early East Yorkshire justices between 1361 and 1364. The commission comprised seven J.P.s, who in these years held their sessions at Hedon, Howden, Beverley, Pocklington, Sledmere, Stamford Bridge and Kilham, some of them places which were no more than villages. Although the J.P.s' area of jurisdiction excluded liberties like Holderness and Beverley, the

juries which presented offenders sometimes acted for those areas as well as for the main body of the Riding. During these years well over 400 cases were brought before the justices, including 39 felonies, 87 trespasses and 278 economic offences. The felonies included cases of homicide, burglary and arson, as well as the more common instances of theft; the trespasses including cases of assault and extortion, together with complaints about hedges and roads (which commonly went to manorial courts); and the economic offences included the use of illegal weights and measures, as well as other marketing offences, and above all breaches of the labour laws by payment of, or demands for, excessive wages. The range and importance of some of these cases emphasises the contribution made by the J.P.s, even in the early years of the office, to the government of the country, and it is important to notice that in the 1360s they were already involved in business which, as we shall see, was still their concern 300 years later.

Alongside this element of continuity there were, of course, a number of developments, beginning in the century and a half after the statute of 1361. Within a short time general quarterly sessions were instituted to establish the necessary judicial and administrative machinery for the regulation of the shires. In 1380 there is the first mention of a clerk of the peace for each county, appointed to provide each commission with professional legal advice and clerical help, and paid a fee. The authority of the J.P.s in economic and administrative matters was further extended, largely as a result of pressure by the Commons who urged that they be charged with the execution of the mass of legislation produced to counter the problems caused by the plagues of the 14th century. By the mid 15th century the sheriff's court had lost to the J.P.s its power to hear and determine cases, but before 1500 the justices themselves lost some ground in the final stages of criminal cases to the legally-trained judges of assize. But that was a small setback in comparison with the steady enhancement of the J.P.s' powers granted, albeit reluctantly, by the central government which appointed them to the commission of the peace.

The commission 'soon established the social composition it was to maintain more or less unaltered for the succeeding five centuries.' It included a preponderance of country gentry, with a few lawyers and lay magnates. Its members had to be resident in their county, and after 1439 had to be holders of freehold land worth £20 a year. The leading J.P. was named keeper of the records (*custos rotulorum*), an office which dates back to 1368; the appointment ensured the beginnings of organisation and, by giving the justice seniority, also ensured some supervision over the rest. J.P.s with legal training were specified as members of the *Quorum*, selected justices of whom one must be present for the conduct of certain business, an arrangement which ensured that important matters were dealt with only in the presence of one of a small group of trusted or expert members of

the Beneh. All J.P.s under the rank of banneret qualified for the wages settled in 1388 and 1390 at a rate of 4s. a day for a maximum of twelve days a year spent at Quarter Sessions; the many other duties were unpaid. Those named as justices took an oath of office, and their tenure then lasted until a new commission was issued. The numbers on a commission grew from six in 1388 to about twenty by 1500, and although J.P.s were appointed by the king's government these figures reflect a desire for inclusion and suggest that in part justices were from the first selected through local influences and represented local interests.

Furthermore, while J.P.s were named and to some extent controlled by the central government, records of their work show that much of the responsibility for local administration was left in their hands. But by contrast there were ways in which the J.P.s had a unifying and centralising effect, even before 1500: they used newer methods of legal procedure and proof; they enforced a growing body of statutes throughout the realm; in their sessions they substituted the common law and common law courts for local custom and local courts in private hands; and by their office and their work they facilitated interference in local matters by the great departments of state. Much of the value of their work lay in their day-to-day dealing with felonies, trespasses and violence of all kinds, tasks in which those commissions of local gentry proved themselves a safeguard against the dangers of leaving local matters to one or two great magnates. The judicial forms under which they conducted their business considerably strengthened the authority of local government but at the same time gave the individual a means of protection at law. As early as the end of the 15th century, therefore, the J.P.s seemed to offer the best potential means of keeping the peace, and (in the words of Miss Putnam) 'had gone a long way towards that domination of local government for which they are famous.'

During the 16th century the authority of the J.P.s was enlarged and consolidated, at the expense of the sheriff and the older communal courts, by the steady accretion of responsibilities, many of them of a complex character. It is therefore not surprising to find that at the same time there appeared a succession of justices' manuals, the most famous and enduring of which was William Lambard's *Eirenarcha* of 1581. These treatises were practical text-books, not learned discussions of legal principles, and their numbers and popularity prove the J.P.s' interest in, and need for, instruction in their obligations.

Their principal duty remained that of the enforcement of law and order. They were the chief instrument of the Tudor monarchy in the important but formidable task of curbing the lawlessness—assaults, brawls, riots and other outrages—which was encouraged by the social and religious tensions, as well as by the economic changes, of the century. To meet such threats the J.P.s were armed with duties

and powers derived from two sources, namely statute and the commission of the peace. Tudor statutes created a number of new felonies, affecting the law on riots, damage to property, clipping coins, witchcraft, hunting and game rights, and religious observanee. But while this legislation increased the burden of J.P.s in certain direetions, there was nevertheless some shrinkage in their power to hear and determine the more serious felonies, a tendency confirmed by a clause in the reformed commission of the peace (first issued in 1590), by which cases of serious felony—*casus difficultatis*—were expressly reserved to the judges of assize. Compensation for this reduction of the J.P.s' authority came through the statutory creation of numerous misdemeanours (otherwise known as criminal trespasses) which were punishable on indictment by normal criminal procedure before the local justices. These misdemeanours included less serious forms of existing offences otherwise classed as felonies, connected for example with religion, the poor law, the regularion of trade, and rhe preservarion of game. But the statutory misdemeanours also included a hosr of new crimes: the abduction of heiresses under sixteen, damage to standing crops, fence-breaking, swearing, profanation of the Sabbath, alehouse nuisances, drunkenness, perjury and rhe misdeeds of office-holders. Records of the earlier 17th century show that by then misdemeanours had come to dominate the strictly judicial duties of the J.P.s, for they alone had the local knowledge to enforce the law effectively.

Indeed, by the end of the 16th century no fewer than 309 statutes imposed a grear variety of duties on J.P.s and 176 of those acts had been passed since the accession of the Tudors in 1485. Some of them were of limited significance, others only temporary; many simply placed on the J.P.s the obligation to punish breaches of rhe law by ordinary judicial means. Bur orhers laid upon them more positive administrative tasks, commirting to them growing responsibilities for local government in important fields of activity: religion; industry; the relations of masters and men; marketing; roads and bridges; the relief of poverry and distress. The possession of these wide administrative duties most clearly disringuishes the J.P.s of 1600 from those of 1500, and by the later date the justices' responsibility for law and order was equalled by a burden of statutory tasks which 'in effect made them the pivot of all government in the locality.'

Statures imposing judicial and administrative duties on J.P.s were only one source of their authority; the other was the commission of the peace which named the justices for the county, emphasised the judicial rather than the administrative aspects of their office, and conferred on them general powers for the conservation of the peace. The form of the commission was revised in 1590 and remained unchanged, apart from the substitution of English for Latin, until modern times. It charged the J.P.s named to take sureries for good behaviour; it authorised two or more J.P.s, including one of the *Quorum*, to hold regular sessions and to hear and

determine a variety of cases (with the proviso for *casus difficultatis* already mentioned); it nominated the principal justice to act as *custos rotulorum* and to appoint the clerk of the peace. While proclaiming the essentially judicial character of the J.P.s' office, however, the commission of the peace also comprehensively authorised the justices to enquire into all matters within their lawful competence, thus reminding them of their statutory governmental duties and clearly establishing their double function as judges and administrators.

Even a single justice wielded a wide range of authority. If there were a breach of the peace he could order a search for the culprits, take sureries from suspects or commit them to gaol. He could impose fines on those guilty of offences under the statutes relating to unlawful games, tippling in alehouses, drunkenness, swearing, poaching or absence from church. He could arbitrate in disputes between masters and their servants or apprentices. He could enforce the various laws concerning trade, and he could supervise parish officers in the discharge of their various obligations. The duties of two J.P.s 'were similar in kind, but greater in degree.' With a wider criminal jurisdiction they could punish rioters and take bail. They could deal with offences under the statutes of labourers, punish the parents of bastard children and make orders for maintenance. They also had important administrative duties. They licensed alehouses and enforced the provisions of the licences. They exercised some control over sheriffs and their officers, whose accounts and books they could examine. They could give testimonials to dismissed servants. They examined the accounts of hospitals and could make regulations for special relief in districts affected by the plague. They had important duties under the poor laws: the appointment of overseers, for example, the supervision of the work of parish officers and the audit of accounts. Three or more justices had still wider powers, in relation to decayed bridges, the upkeep of gaols, and the supervision of the cloth industry; they were also charged to assist the ecclesiastical officers in checking disturbances in church, enforcing the payment of tithe and taking action against Roman Catholic recusants.

Although the scope of the J.P.s' work was much extended by statute and commission, the actual powers they traditionally held were deemed on the whole sufficient, and there were few additions to them. Acts of 1487 and 1555, however, reformed their powers to take bail, and strengthened their ability to conduct informal examinations of captured suspects, thus facilitating the preparation of a ready case against the accused before his appearance in a formal court. The question of the justices' power to order arrest was more controversial. J.P.s were permitted to order the arrest of anyone who was presented by a jury or whom they themselves suspected of a serious crime. But they developed the practice of issuing warrants for arrest upon suspicions laid before them by other persons: this

was for long regarded as an illegal attempt to extend their powers, and it was not generally accepted until the 17th century.

By contrast, there were some limitations even on the recognised powers of the J.P.s. Those on a county commission, such as that for the East Riding, were excluded from chartered rowns like Beverley, Hedon and Hull, as well as from the archbishop of York's liberty of Beverley, all of which had their own justices. (2) Certain matters—for example, measures against a riot or a bastardy order, or the hearing of a complaint abour a srolen horse—were to be dealt with by the 'nearest' or the 'next' J.P. or J.P.s. Some business required, as we have seen, the presence of more than one justice—licences for alehousekeepers and drovers, the inspection of defective cloth, or a meeting to organise the repair of a bridge. As a further safeguard against abuse the forms of punishmenr or the size of a fine were usually fixed in the relevant statute, and while J.P.s had some discretion in the assessment of wages or in the size of sums paid in relief to lame soldiers or the victims of misfortune, all magisterial decisions and actions not conforming precisely to the directions of statute were void.

Consequently, these limitations, as well as the large additions to the J.P.s' work, and the dangers inherent in the employment of country gentlemen to administer complex statutes, raised the question of organisation, in which there were a number of developments during Tudor and Stuart times. The nomination of the *Quorum* of justices was, as already mentioned, an attempt to ensure that certain expert or experienced men were present for the transaction of important business, but as more and more J.P.s were named in the *Quorum* the distinction eventually became meaningless. Of perhaps more importance by the 17th century was the nomination of a senior J.P. ro act as *custos rotulorum*, and there is evidence to show rhat some care was taken over the appointment. The clerk of the peace also grew in influence as the work of ordering the business of the courts, entering decisions, drafting legal documents and organising the records became more importanr and more onerous. In addition ro the clerk and his staff, the J.P.s gradually acquired other executive and financial officers for county purposes. They established a degree of control over the sheriff and his bailiffs when these men were acting in their service, and over the high constables of the wapentakes. New officials were instituted by statute, notably the treasurers for various county funds—poor prisoners, lame soldiers, hospitals—and the masrer of the house of correction. Moreover, while the J.P.s' own organisation was well suited ro their judicial duties, and to administrative work done under judicial forms, for the purely routine business of governmenr they needed a body of officials working continuously, administering the law and doing so with local knowledge. The officers of the parish were able ro do these things, and therefore to make possible rhe development of county governmcnt, acting under the supervision

of J.P.s. This closer relationship with other authorities involved the J.P.s in issuing orders, adjudicating disputes, checking accounts, enforcing obligations and, above all, supervising the new duties thrust upon the parish as the principal unit of local government. Moreover, in response to the heavier judicial and administrative burdens placed on them individually or in small groups, the J.P.s evolved new ways of organising their own work. Thus by 1600 there were in some counties special sessions to deal with particular tasks such as licensing. The J.P.s fashioned another device to facilitate their labours: they divided themselves among the old territorial sub-divisions of the county, one or more wapentakes forming a division, for which the local J.P.s held divisional sessions between the quarterly assemblies. There are only scanty references to divisional meetings in the East Riding but they are enough to suggest that such sessions did useful work in maintaining the peace and enforcing the administrative statutes.

Nevertheless, only in quarter sessions could the J.P.s fully exercise their general authority to hear and determine all cases falling within their commission and all matters placed in their charge by statute. Despite the importance of the work done informally by justices singly or in groups, some of their duties were performed only at quarter sessions, which have been called 'the essential and most formidable occasion for action by the justices.' There they carried out all their higher judicial and administrative functions. The Bench at Quarter Sessions therefore came to co-ordinate the varied work of individual justices and to reinforce their decisions; it heard appeals, settled cases and issued numerous administrative orders, sometimes for a particular locality, often for the whole county.

These developments in the authority and work of the justices were slow, for the J.P.s needed to acquire experience and to adapt their traditional judicial methods to non-judicial business. There was as yet no distinction between the enforcement of obligations by judicial means and the performance of administrative functions. Thus local government was carried out under the customary forms of procedure in courts of law; much of it, especially at first, consisted of punishments, threats and the restraint of anti-social behaviour rather than of the positive promotion of order by practical measures. In other words, for the J.P.s the main way of putting administrative statutes in force was often simply to punish breaches of them. Eventually, however, statutes gave to the justices wide administrative authority to be exercised without formal legal procedures, and by about the end of the 17th century one can see the beginnings of a separation between their administrative and judicial functions.

Before that time the growth of the administrative duties of the J.P.s presented difficulties, for these men were amateurs who were unlikely to devote much time and thought to the solution of problems many of which seemed to have little relevance to life in their own

counties. Furthermore, they could be discouraged from taking vigorous action by a knowledge of the failings of subordinate local officers: some of their time was indeed spent, not in taking the initiative in local government, but in punishing other officers for neglect of duty. On the other hand, the impressive enlargement of the responsibilities of the J.P.s in the 16th and 17th centuries conferred on them increasing importance among the county authorities and meant also a decisive growth in their local influence, leadership and prestige. These reasons were sufficient to make country gentlemen in the Tudor and Stuart periods eager to serve on the commission of the peace.

III

The East Yorkshire Justices of the Peace

In the 17th century the commission of the peace for the East Riding, as in other counties, included principal officers of State, royal judges, clerks of assize and legal members of the Council in the North (until 1641), nobles with territorial influence in the county, and country gentlemen. The presence of officers of State was purely honorary and they performed no local duties. The judges of assize came on circuit twice yearly, sitting in York, hearing cases referred to them, and taking the opportunity to instruct the main body of J.P.s in their duties. Legal members of the Council in the North had their own jurisdiction in the county but occasionally sat with their fellow-J.P.s in Quarter Sessions. Among peers with property in the Riding one finds on the commission at different times the Earls of Northumberland, Cumberland, Mulgrave and Burlington, Lord Howard of Escrick and Lord Langdale. In practice such men were only honorary justices, but as men of rank they could provide useful links with the Court. The main body of J.P.s, the working justices, included baronets, knights, esquires and gentlemen representing the main county families; some were newcomers, many of them were long-established in the county. Added to them was a sprinkling of prominent clergy, as well as lawyers who aspired to the status of gentry. Among the lawyer-justices who brought legal expertise to the East Riding Bench were Thomas Hebblethwaire of Norton (who became M.P. for Malton), Francis Thorpe of Birdsall (who became judge during the Commonwealth), Durand Hotham (son of the famous Sir John), William Lister (recorder of Hull) and James Moyser (recorder of Beverley). Clergy were sometimes appointed to the commission because they were believed to be outside the rivalries of gentry families: in the East Riding the archbishop of York (who ranked with the peerage) was often named, as were some of the deans of York, but there is no increase in the number of clerical justices during the Laudian regime of Archbishop Neile, when such an increase might have been expected.

The numbers on the commission of the peace for the East Riding grew from between 25 and 30 working J.P.s during the second half of Elizabeth's reign to no fewer than 48 in 1621-2. Some reduction in numbers followed, bringing the body of working justices down to an average of 30 during the reign of Charles I. But the total increased again during the 1640s and 1650s when the government was obliged to cast around for political support and used nominations to the commission as a means of trying to gain it: this probably accounts for the large figure of 52 justices, in addition to the honoraries, named in 1657-8. The commission reorganised at the Restoration

included only 34 working justices, and this reduction in size was subsequently continued until 1685 when there were only 22 names on the working commission, again possibly a total which reflects political or religious considerations, for within a year changes brought the figure up to 30.

The increase in the number of justices, other than honoraries, appointed to the East Yorkshire commission from Elizabeth's reign onwards was no doubt due partly to the heavier load of duties, partly to the need to provide enough J.P.s for divisional work. But even allowing for the fluctuations it was clearly also due to a growing demand for a place in the commission, from members of both older families determined to maintain their position in the county, and newer families eager to serve and thereby demonstrate their acceptance into county society. From the later 16th century, therefore, the commissions include the names of some families for the first time: Sotheby of Birdsall, Gee of Bishop Burton (formerly of Hull), Griffith of Burton Agnes, Hebblethwaite of Norton, Lister of Linton (another Hull family), to name only a few.

The burdens of office which the J.P.s accepted were, as we have seen, considerable: heavy and regular duties; travel to meet fellow justices; expense; possible personal danger and the near-certainty of local hostility when decisions (about assessments, for example, or parochial appointments) were unpopular; threats of punishment by the Privy Council for failure or negligence. The financial rewards were negligible. Why, then, the eagerness for nomination as a justice? In addition to the familiar motives of a desire to serve, or a wish to rule, men realised that membership of the county Bench brought honour and prestige to the J.P. and his family, perhaps a fruitful connection with the Court or with an important magnate like the Lord President of the Council in the North, a chance to guard one's own community from central or local demands, certainly local recognition. In short, inclusion was a prized social asset, and to be omitted was an indignity. Worse, if a J.P. lost his place it might go to a neighbouring rival. Exclusion could therefore mean the loss of opportunities for the pursuit of personal quarrels through the influence of office. It certainly meant the loss of the chance to influence important local matters—rating, appointment of sub-ordinate local officers, enforcement of statutory obligations on parishes and householders—as well as a means to help friends or injure enemies.

That membership of the commission of the peace was used in this way is admirably illustrated by the activities of Sir Thomas Posthumous Hoby of Hackness, who was a J.P. in both the North and East Ridings. Hoby was a newcomer, who settled in Yorkshire after his marriage to Margaret, daughter of Sir Arthur Dakins, J.P. As a recent arrival he was anxious to establish his standing in the East and North Ridings in the face of local rivals, notably the Eures of Malton and the Cholmleys of Whitby, older families with

Roman Catholic connections, which, as a staunch Puritan, he deeply mistrusted. Accordingly he launched a series of lawsuits against them: the ingredients of these included a claim to property, charges of slander, riot and non-co-operation in magisterial duties and accusations of sympathy for the Catholic plots of the early 17th century, together with the alleged fraudulent use of judicial powers to protect recusants. In particular he accused the Eures, one of whom was a fellow J.P. in the East Riding, of creating a drunken disturbance in his home. The outcome was a formal reconciliation of the two sides but amounted to a defeat for Hoby. In 1615, however, he rashly extended his complaints about magisterial collusion with recusants to several colleagues on the East Riding Bench.(2) These fresh accusations were levied against Sir William Constable of Flamborough, Sir William Hildyard of Bishop Wilton, John Hotham (later Sir John) of Scorborough and John Legard of Ganton. There were allegations of malpractice in the conduct of business, unruly behaviour, and a denial of access to the records, as well as the charge of shielding recusants and persuading other J.P.s to attend and pack the Bench with popish sympathisers. In their evidence the defendants denied the specific charges and the innuendoes, but Hoby won some support from other J.P.s who gave evidence. The outcome of this case is not known, and its effects on local government in the East Riding cannot be measured, but it is hardly likely that it made for future co-operation among the justices concerned. Moreover, this case, like the others in which Sir Thomas Hoby figured, involved a number of considerations not all of which are made explicit by the records. There were clearly religious antipathies and cross-currents, although these are sometimes difficult to isolate: for example, Hoby and Constable were both strongly Puritan; and one of Legard's kinsmen, Sir William Babthorpe, who was a Catholic, actually complained that despite their relationship Legard had been strictly punctilious in presenting him for recusancy. More important, perhaps, than religion were the elements of jealousy and faction: personal dislike and malice on both sides, for Hoby had a reputation as a busybody and his presence in the county aroused the resentment of some; a struggle for local esteem; rivalry for recognition of magisterial authority; a desire by Hoby to establish his own position by inflicting public defeat and humiliation on fellow justices seen as rivals.

The opportunities and advantages of membership of the commission made it natural that in the selection of J.P.s local influence would be brought to bear. Formally the justices were appointed to office by the king's commission issued under the great seal by the Lord Chancellor; once selected a man remained a J.P. until his name was omitted from a new commission. In appointing justices, the Lord Chancellor relied on the advice of other great officers of State, personal knowledge, the reports of judges, and the opinions of notables like the lord lieutenant or the diocesan bishop, as well as

on recommendations from county magnates. Among the last named Strafford was able, soon after becoming Lord President, to secure the re-appointment to the commission of some of his former associates—Sir William Constable and Sir John Hotham among them—who had been excluded on account of their parliamentary activities. The normal qualifications for appointment were not difficult for the majority of the gentry to meet: a man had to have property worth £20 per annum, as in the early days of the office, but the figure was now construed to mean that his status should be that of a gentleman; he had to be resident in the county; in addition to the oath of office he had to take the oaths of allegiance and supremacy as well as the sacramental tests prescribed in the later 17th century. In short, the J.P. had to be financially independent, a man of standing, resident and therefore something of a leader in his own locality.

Generation after generation of a landed family might serve the county as magistrates, In the East Riding, Bethells, Boyntons, Gees, Hildyards, Hothams, Legards and Sothebys had a remarkable record of service throughout the century, despite the political changes. The commissions of the peace represented the 'county community of gentry' in a real sense. Father and son occasionally served on the same Bench, justices related by ties of blood or marriage frequently did so: the commission of 1634-5, for example, included Sir Christopher Hildyard and his son Henry, while Sir Christopher and his cousin Sir William (of Bishop Wilton) had both been named in four commissions between 1608 and 1632; the brothers Roger and Thomas Sotheby were both nominated in 1604, 1608 and 1621-2, and two more brothers, John and Matthew Alured, served together in the early 1650s, as did two wealthy republicans, Sir Richard Darley of Buttercrambe and his son (another Richard); two prominent Cromwellian brothers, Sir William and Walter Strickland of Boynton, were both nominated to many of the commissions during the Interregnum. During the 1670s and 1680s there were often three Wartons (of Beverley) in the commission, but in general after 1660 members of a family tended to follow each other, rather than to sit on the Bench together, and this may be the result of competition for places on the rather smaller commissions of the Restoration period.

Some of the East Riding J.P.s in the 17th century were large landowners: one of the wealthiest squires in Yorkshire was Sir William Strickland of Boynton, who first took his place on the commission in 1630, and several other J.P.s added to their estates before the Civil War, among them Sir William Alford of Meaux, Sir Edward Payler of Thoraldby (a legal official), Sir Marmaduke Langdale of North Dalton and the Wartons of Beverley, who reached the Bench only at the Restoration. But many of the justices had rather wider concerns than their rural estates. Several served on the commission in another Riding, even another county. Some, as we

have seen, had legal experienee. Others had commereial interests, and a group of Puritan J.P.s (and other gentry who later became J.P.s)—Sir Matthew Boynton, Sir William Constable, Sir Riehard Darley, Henry Darley and Henry Alured—was involved in the Puritan colonising ventures of the 1630s. Similarly, some J.P.s had gained military experience on the Continent, among them Sir Marmaduke Langdale, Sir William Constable and Sir John Hotham and his son. Members of the commission of the peace usually supplied the sheriffs of the county: from 1603 to 1641 sixteen East Riding J.P.s served as sheriff; from 1642 to 1660 seven more justices from the Riding served as sheriff, in addition ro Sir Matthew Boynton who filled the offiee for a second time; from 1661 to 1689 the Riding provided three more sheriffs from among its J.P.s. The 'working' eommission, therefore, included a number of men who had shouldered, or eould expect to shoulder, the eeremonial and exeeutive duties of the shrievalty, and these eonnections berween the two offiees brought advantages to each in terms of local knowledge and experienee.

The same considerarions apply to membership of Parliament, for many leading J.P.s sat in the Commons during the 17rh century, representing either the whole county or one of its parliamenrary boroughs. Before the Civil War, fourteen J.P.s sat in the Commons at least onee, some sat repeatedly: Sir Thomas Hoby was an M.P. ten rimes bctween 1589 and 1629, Sir Christopher Hildyard rcpresented Hedon three times, and Sir John Horham sat for Beverley in all five Parliaments from 1625 to 1640. Of the 34 J.P.s (other than the 'honoraries') on the East Riding commission in 1640, no fewer than ten had served in Caroline Parliaments. The pattern was not disturbed by the alterations in Parliament and its eonsrituences during the 1650s, because from the start of the Civil War to rhe Convention Parliament of 1660 as many as 33 East Riding J.P.s sat in one or more Parliaments, a high figure which refleers the sympathy for the parliamentarian cause among the East Riding genrry, as well as the changing politieal temper of the times. Among rhe most notable members of both Bench and Parliamenr during these years were Hugh (later Sir Hugh) Bethell of Rise and the brothers Sir William and Walter Strickland. Finally, the politics of rhe Restoration period arracted eleven justices who sat in the Commons between 1661 and 1685. There ean be no doubt rhat the presence of J.P.s in the Commons enabled Parliament to draw on their experience and understanding while they, in their turn, were able to keep fellow magistrates in touch with wider affairs in the eountry and thereby to bring central and local governmenr into closer relationship.

Another advantageous feature of the commission of rhe peace, as far as the eenrral governmenr was concerned, lay in rhe natural foundation of the influence which the J.P.s commanded. Possession of land gave them a recognised elaim to soeial leadership, a claim

strengthened by the economic dependence on them of their tenants, labourers and servants, together with the humbler folk among their neighbours. In the countryside the traditional deference by the lower orders towards their betters therefore provided the government with an effective basis for the exercise of authority in the provinces through the local gentry.

The Privy Council always had strong reasons for exercising some degree of supervision over appointments to the commission. From time to time it expressed some dissatisfaction with the character of the justices selected, and it had in the mere threat of dismissal an effective means of disciplining local gentry mindful of the disadvantages of exclusion. Among the reasons for omission or expulsion from the commission of the peace were prolonged absence, notorious neglect of duty, or unreliability on religious grounds. Convicted recusants, no matter how prominent in the locality, were ineligible, but during the reign of James I gentry with Roman Catholic family connections appear in the East Riding commissions, even though some of them may have been crypto-Catholics; they included Sir William Eure, Sir Marmaduke and Sir Philip Constable of Everingham, Sir Ingleby Daniell, Sir Thomas Fairfax of Gilling, Sir Marmaduke Grimston, Nicholas Girlington of South Cave and Roger and Thomas Sotheby. Their nomination as justices may have been due to the absence of alternatives in particular districts, to personal influence—the Constables and the Eures were unquestionably influential families, or simply to a calculation by the government that the attraction of local office might sway the loyalty of all but the most uncompromising Catholics.

Similar reasoning perhaps lay behind the attitude shown by the government of Charles I toward justices who showed open hostility to its measures. From the later 1620s onwards several East Riding J.P.s were associated with the political (and Puritan) opposition group in Yorkshire led by the Fairfaxes; they included Sir William Constable, Sir Matthew Boynton, the Alureds and the Stricklands. The last-named, together with John Legard of Ganton, had close links with the Hotham faction. Sir William Constable was a notoriously resolute opponent of the Crown, and he, with other J.P.s, Henry Alured, Sir John Hotham and Sir Marmaduke Langdale, opposed several of the Crown's financial exactions between 1625 and 1640. Constable and Hotham were dismissed in 1626 but were, as we have seen, soon reinstated. Hotham was dismissed again in 1640, when Langdale was threatened with dire punishment for his attitude to ship-money, but otherwise Charles' opponents among the magistrates were not disturbed despite their political hostility.

Politics and political reliability had a much more profound influence on the Bench during the years 1642 to 1660. Fifteen of the 'working justices' active at the end of 1642 supported the Royalists, nine were Parliamentarians, though of the latter Sir John Hotham

eventually changed sides. During the years of eivil war, politieal sympathies, military easualties, natural deaths and forced or voluntary withdrawals from public life resulted in a great loss of justices. The first commission known to have been issued after the war, in 1647-8, therefore shows drastie changes. Only six of the pre-war justiees survived to take their plaee on that commission: Sir William Constable, Sir William Striekland, Sir Philip Stapleton of Warter, John Alured, John Lister and Riehard Remington of Lund. This eommission named 33 local or 'working justices' but twelve of these were not included in any other eommission issued during the Interregnum. Even allowing for the known deaths of four of these men soon after the eommission came into force, it seems clear that the list was enlarged by Parliament in the hope of attraeting support by the offer of a local position to neutrals or lukewarm Royalists, and this eonclusion is somewhat strengthened by the fact that three of the twelve returned to the commission after 1660.

Twenty of the J.P.s named in 1647-8 were listed in the commission of 1649-50, but only four of the six pre-war justices were placed in this seeond list, two, Stapleton and Remington, having died in the mean time. The overwhelming majority of the J.P.s in these first two post-war commissions therefore not only lacked magisterial experience themselves but had very few knowledgeable colleagues on whom to rely for advice. Nor was this the end of discontinuity on the Bench, for successive governments tampered with the commissions on politieal or religious grounds. At the end of 1653, for example, sixteen East Riding J.P.s were omitted, presumably beeause they were regarded as hostile to the establishment of the Protectorate, and only half of them were reinstated later. In all 81 J.P.s were appointed to the commission from 1649 to the end of the Interregnum, but only thirteen men appeared continuously on the commissions: Thomas, Lord Fairfax (who was nominally *custos rotulorum*), John Anlaby, Hugh (later Sir Hugh) Bethell of Rise, Sir John Bourchier of Beningbrough, Richard Darley, Durand Hotham, Joseph Micklethwaite of Swine, Philip Saltmarsh, Thomas Stiring, Walter and Sir William Strickland, Edward Wingate and a military appointee, Col. Charles Fenwick. On these justices, therefore, rested a major share of the responsibility for local administration during the troublesome 1650s, and their numbers included newcomers to office—Anlaby, Darley, Micklethwaite—and outsiders new to the county—Stiring, Wingate and Fenwick. In addition to this group the commissions of the Interregnum included influential republican J.P.s like John Alured, Sir William Constable, and Sir Richard Darley, all of whom were removed only by death, and ten others whose service in the commissions was not continuous. This last group comprised members of old magisterial families—Alured, Gee, Legard, Pearson of Lowthorpe, Robinson of Thicket—as well as members of lesser gentry

families who were newcomers to county office—Carlile, Etherington, Lodge, Nelthorpe of Beverley, and Stillington of Kelfield.

The local prominence of newcomers and minor gentry was of limited duration for the Restoration brought about another upheaval in the ranks of the East Riding magistrates. In the last Cromwellian commission there were 55 names, in the first after the monarch's return there were 38, but only eight J.P.s appeared in both commissions: Sir Hugh Bethell, Durand Hotham, Col. Charles Howard, Sir John Legard, William Lister (recorder of Hull), John Pearson of Lowthorpe, Richard Robinson and Robert Sotheby. Here are clear signs of another major political purge, and as a result the magisterial work of the Riding was again placed in unried hands for the most part. Finally, it is interesting to observe that of the justices in the pre-war commission only one returned in 1660, Lord (formerly Sir Marmaduke) Langdale, and he died shortly afterwards.

In contrast with the upheavals of the period of the Rebellion, the 20 years after the Restoration were years of stability in the commission. Many of the Riding's magisterial families were able to re-establish their traditional place in local public life, but some of the names which were prominent in the 1650s—Alured, Constable, Darley, Strickland—did not reappear in the commissions. Instead two particularly successful families were able for the first time to establish themselves in the circles of the magistracy, Wartons of Beverley and Osbaldestons of Hunmanby, three of the former serving together in the commission during the 1670s and two of the latter during the 1680s.

By the 1680s the commissions of the peace all over the country were again subject to interference on political or religious grounds. Dismissal of justices and deputy lieutenants was one of the few weapons left to the Crown in its attempt to regain and strengthen its position in the provinces. Accordingly, in 1680-1 six East Riding J.P.s were removed, among them such known opponents of the regime as Sir John Horham, Sir Watkinson Payler, Sir Michael Warton and William Gee, all M.P.s who seem to have favoured the exclusion of James, Duke of York, from the throne. There was a further purge of J.P.s during the months after October 1686, this time of men opposed to the royal policy of relief for Roman Catholics and dissenters by means of the repeal of the penal laws. Only three East Riding J.P.s were dismissed on this occasion—Sir Edward Barnard, William Bethell, and Michael Warton (father of Sir Michael), a much smaller number than those suffering the same fate in other counties. But at the same time the government took the opportunity to bring into the commission eleven new justices among whom several prominent Catholics can be identified, notably Robert, Viscount Dunbar, Lord Langdale, Sir Philip Constable of Everingham, Henry Constable of Burton Constable, George Metham Philip Langdale and Robert Dolman.

Within a year there was another threat to the tenure of J.P.s, namely to those who made an unsatisfactory response to the notorious Three Questions, which were framed to elicit pledges of support from local administrators for James' policy, especially for the penal laws. The answers of 25 East Riding J.P.s to the questions have survived. Eighteen replies refused to pre-engage support, and sixteen of these used similar evasive phrases which indicate prior agreement among the justices on the response to be given; none explicitly rejected the proposals; seven declared support for the abolition of the penal laws, all of these replies coming from the Catholic J.P.s nominated in 1686. The Three Questions were intended to prepare the way for a further purge, and the returns from the lords lieutenant included lists of Catholics or dissenters fit for inclusion in the commission of the peace. The sequel was noted by Sir John Reresby in his *Memoirs* (1936 edn., p. 494): 'the prime of the gentry . . . had been put out of the commission of the peace . . . and ordinary persons both as to quality and estates (most of them dissenters) had been put in their room.' How many such changes there were in the East Riding it is impossible to say, but in the political confusion of the second half of 1688 local government was almost at a standstill, and there was little for the new appointees to do before the accession of William III brought about the issue of new commissions of the peace, in which those who had fallen foul of James' government were reinstated.

Political purges make it difficult to establish conclusions about the average length of service on the commission, but some men undoubtedly acted as J.P.s for long periods. Sir William Alford of Meaux and Sir Thomas Metham were both included in all the commissions from 1604 to the Civil War, an attainment made all the more notable in Metham's case by his Catholic connections. Sir Thomas Hoby's magistracy seems to have covered an even longer span of years, but was interrupted by his omission from the list between 1626 and 1628. There were some who appeared in the commission for 20 years or more without a break, including Richard Bowes of Babthorpe, Sir Matthew Boynton, Nicholas Girlington, Sir Christopher Hildyard, John Legard, Sir Philip Monkton and Roger Sotheby. The question of service during the Interregnum has already been examined, but in turning to the later 17th century we find that very few of the J.P.s appointed at the Restoration were still in office in 1688. The names of those who were include Thomas Crompton of Sunderlandwick, William Osbaldeston and John Stapleton of Warter, together with Tobias Jenkins of Grimston and Tobias Hodgson, who was described by the Lord Lieutenant in 1688 as 'mad.' The powers of survival shown by these justices were almost matched by others whose service on the Bench lasted for more than 20 years before the upheavals of the 1680s: Sir Jonathan Atkins of Grimthorpe Park, Sir Francis Boynton, Sir Thomas Daniell of Beswick, Sir Robert Hildyard, James Moyser, Sir Watkinson

Payler, Sir Ralph and Michael Warton. Throughout the century, however, many justices appeared in two or three commissions, serving perhaps for ten or twelve years, before their names dropped out, by no means always on account of death.

Some may have been omirted for showing themselves unwilling to carry out the manifold tasks of the office. But although inelusion in the commission was no guarantee of devotion to duty, there were many J.P.s who were undoubtedly conseientious and tried to inculcare a similar outlook in others. Even that difficult and quarrelsome man, Sir Thomas Hoby, was described by a conremporary as 'the most understanding, able and industrious justice of rhe peace in this kingdom' (Surtees Society, vol. 124, p. 6). There is evidence to show that individual J.P.s were very busy with magisterial work, dealing with vagrants, examining witnesses, punishing absentees from church, and taking sureties. To their more informal labours our of sessions must be added the formal business of Quarter Sessions, the main focus of the J.P.s' attentions.

IV

The East Riding Court of Quarter Sessions

i *Organisation*

The J.P.s were required by statute to hold four general sessions each year, in the weeks following the feasts of Epiphany, Easter, the Translation of St. Thomas the Martyr (7 July) and St. Michael the Arehangel. In other words, Quarter Sessions met in midwinter, the early spring, about midsummer and in the autumn; excepr for the midsummer meeting they took the name of rhe appropriate festival. The main interruption in this cycle of meetings occurred during the Civil War: regular sessions were certainly resumed in April 1647, but references in records after that date to cases and appointments show that some sessions were held in the Riding in 1645 and 1646. It is rarely possible to establish the exact duration of Quarter Sessions in the East Riding for the records usually mention only the date when the meeting began, but although each sessions could last three days if necessary, entries in the Pipe Rolls for wages paid to the clerk of the peace suggest that one or two days usually sufficed. In some counties the Quarter Sessions were all held at the county town, in others each quarterly sessions assembled at a different place, while in large counties each quarterly sessions met by adjournment in two or three places. Thus the North Riding justices held two general sessions ar Thirsk, but on the other two occasions they held divided sessions, meeting at Richmond for the western district and at Malton or Helmsley for the eastern. The solution found for the problem posed by the size of the West Riding was similar: a general sessions at Pontefract at Easter, followed at midsummer, Michaelmas and Epiphany by three meetings each quarter at a town in each of the three areas of the Riding (north, central and south) to form rhe other sessions for the year. Arrangements like these had several advantages: traders in different market towns enjoyed more business; there was a reduetion in the travelling time and expenses of all those who had to attend except the J.P.s themselves; the court could be made more easily aware of localised problems; and the assembly of magistrates, officers, litigants and lawyers could have the effect of spreading an impression of the strength of authority and the majesty of the law. In the East Riding, however, geography, difficulties of communication, and a shortage of large market towns determined that the sessions usually met at Beverley, occasionally at Pocklington: between April 1647 and September 1651 the court met on fifteen occasions at Beverley and on only four at Pocklington. In Beverley there was a sessions chamber in the Hallgarth, (4) with a separate room for the private deliberations of rhe grand jury; candles, carpet and cushions

were provided, and in April 1650 the J.P.s duly arranged for the arms of the Commonwealth to be displayed above the bench, in place of the Royal Arms. At Pocklington there was a sessions house; it was also used for the manorial courts, and in 1655 it was repaired at a cost of £3 5s. 2d. 'for the more convenient sitting of the Justices.'(5) Concentration of the East Riding sessions in these two places denied the J.P.s the advantages arising from divided sessions but nevertheless brought its own benefits. It avoided the dangers of excessive localism and possibly produced more standardised methods of dealing with the business. Above all, general rather than divided sessions perhaps had a higher standing in the eyes of those bound to attend.

The importance of the occasion did not necessarily ensure the presence of the J.P.s at the Quarter Sessions, for the attendance was affected by a variety of influences: the weather and the distance to be travelled, narrow pre-occupations, a desire to play a part in important matters such as the appointment of subordinate officers or the levying of rates. Two main sources give information about the presence of justices at sessions, the Exchequer Pipe Rolls, on which the high sheriff gave details of what he had paid in wages to the justices, and the lists of attendances noted by the clerk in the records of the court itself. The evidence of the Pipe Rolls, unfortunately, is not wholly reliable and is therefore difficult to use. In the early 17th century the sheriff failed to differentiate between the Ridings, and as some of the East Riding justices were also in the commission for one of the other Ridings, one cannot be sure whether the attendances they are credited with all refer to their presence at the East Riding Sessions. At this time, however, the Pipe Rolls show a convincingly wide variation in the number of days on which individual justices were present, but later in the century the justices named are all credited with two days or multiples of two, figures which are suspiciously rounded and which suggest that an appearance on the first day of sessions brought an allowance for the two days which the court often occupied. These suspicions are strengthened by the recollection that it was the widespread practice in the 17th century not to give the money to individuals but to keep it in a common fund to pay for entertainment while the court was sitting; thus there was no need to record the exact number of attendances for each individual, for all that was needed was a reasonable total claim to be attached to a list of J.P.s.

Approaching the evidence of the Pipe Rolls with these not inconsiderable reservations in mind, one can cautiously suggest that the attendance record of the J.P.s presents certain features which are reasonable, perhaps predictable, and can be corroborated by evidence elsewhere. Some J.P.s attended the sessions regularly, some never appeared at all. Between 1616 and 1625 there was a knot of particularly active J.P.s, including Sir William Alford, Sir William Constable, John Legard, Henry Alured and Thomas

Sotheby. In the 1660s and 1670s the number said to have attended at least once in each year ranged from sixteen to nineteen out of a commission of about 30 working justices. During these two decades the Pipe Rolls point to a particularly active group which included Sir Robert Hildyard, Sir Edward Barnard, Sir Ralph Warton, Sir Michael Warton, Durand Hotham, William Gec, John Vavasour, John Estoft and John Heron. (6)

We are on much safer ground with the lists of the J.P.s attending the Quarter Sessions for which minute books have survived. For example, from 1647 to 1651 the numbers presenr fluctuated considerably. From six to eighr was a fairly common attendance but it could sink below these figures, especially at Epiphany when the weather would be at its worst. By contrast, attendance at the Easter sessions, to which certain items of business were reserved, was the highest and usually reached double figures: in April 1650 no fewer than fifteen justices were present. As we have already suggested, the list of J.P.s at Quarter Sessions varied not only in numbers but in composition. From April 1647 to September 1651 there were nineteen sessions and 27 J.P.s appeared ar least once, but these figures conceal srartling differences. Christopher Ridley and Francis Carlile attended on sixteen occasions, John Lister on fifteen; Richard Robinson, Durand Hotham and Thomas Stiring made ten or eleven appearances. The main burden of county government during years of political rension and danger rested on these six men, only one of whom, Lister, had been in a pre-war commission; of the five other survivors from pre-war commissions only Richard Robinson and Sir William Strickland appeared ar rhe sessions between 1647 and 1651. At the other end of the scale five J.P.s appeared only once during these years, and of the 35 working J.P.s named in the commission of 1649-50, thirteen did not attend Quarter Sessions. These findings tally with rhe suggestions made from the evidence of the Pipe Rolls and show that the work of Quarter Sessions throughout the century fell on small groups of J.P.s whose conscientious attendance obviously made them particularly familiar with the business, enlarged their influence and possibly made them more respected in the county. Limitarion of responsibility in this way may have resulted in greater efficiency; it certainly gave greater power to a comparatively small number of jusrices who ar any one time formed a magisterial elite.

Besides the J.P.s who were in attendance, some with their own private clerks, a large number of other people had to be present: the clerk of the peace and his staff; the sheriff, or more usually his deputy; the coroner; the high constables and bailiffs of wapentakes; petty consrables; jurors; prisoners; witnesscs and those bound by sureties to appear; attornies; informers; petitioners and applicants for licences. The total present at any one sessions cannot be determined but it was large enough to make a meeting of the court a crowded, possibly even a disorderly, occasion.

Responsibility for the due ordering of business rested with the clerk of the peace. He was appointed by the *custos rotulorum*, and his presence, together with that of his own clerks, was essential to the functioning of Quarter Sessions. The clerk of the peace had to ensure that the correct procedure was followed, that precedent was duly observed and the forms of legal process correctly framed; in general he was in charge of the secretarial side of the court's work. He received a wage for daily attendance, as well as fees, according to a fixed scale for the various documents which he drew up and for his other services on behalf of the court, to which he had to submit his accounts. The clerk of the peace had to be learned in law and might hold the office for some years. Among the longest-serving East Riding clerks in the 17th century were Robert Blackadder (c. 1595-1609); Richard Blanchard (1662-79), and Thomas Mace (1679-1713). The records which were drawn up by these clerks and their staff, and which still survive, are evidence of a high standard of work: they are tidy, legible and well organised.

The systematic arrangement of entries in the surviving sessions books throws some light on what was done at the Quarter Sessions, and on the procedure, but it may not follow the strict order of business. Indeed there is little documentary evidence on which to base an account of the court's routine, and for this one has to use the sessions records in conjunction with contemporary legal manuals which described model arrangements, from which the practice of individual courts may well have often diverged. At the beginning of the Quarter Sessions the J.P.s took their place on the bench, sometimes under the chairmanship of the *custos rotulorum*, or of another senior justice, sometimes apparently without a chairman. There followed certain formal preliminaries: the crier proclaimed the sessions, the clerk of the peace read the commission, there was a roll-call of those officers required to attend, and the clerk collected from the J.P.s and officers any documents relating to the court's business. The names of those summoned for jury service were then called, the jurors sworn in, and fines imposed on absentees. Two types of jury were empanelled, to perform different functions. First there was a grand jury, usually of 31 men, to act as a jury of enquiry, the 'grand inquest of the county,' whose duty was to give preliminary consideration to bills of indictment, to report the 'true bills,' those in which there was a case to answer, and to throw out those in which there was no triable issue. The grand jury also had to make general presentments of whatever seemed amiss in the administration of the county, and to make specific presentments of decayed bridges, unrepaired roads, official misdemeanours, and various other nuisances. Secondly, there was also one or more 'petty jury' of twelve men, charged to reach a verdict of guilty or not guilty on those brought to trial.

Once the juries were empanelled the court was ready to hear the articles of the charge and to proceed with its business. The charge

might be read by the chairman or a J.P. learned in the law, and it consisted of two parts: an introductory exhortation, followed by a classification, definition and summary of the laws and offences which the jurors were to enquire into and present. A set of 49 articles of enquiry from the East Riding grand jury in the mid 17th century includes a wide range of subjects: profane swearing, drunkenness, unlawful games, perjury and immorality; offences against persons and property; an enquiry 'if any have dispensed false news, fantastical prophecies or be devisors of news'; economic offences such as the use of faulty weights and measures or counterfeit tokens, the sale of bad meat and attempts to monopolise the supply of foodstuffs; an enquiry into the state of roads and bridges, into offences against the law of masters and servants, and into breaches of the regulations affecting certain crafts; and as many as sixteen articles investigating the malpractices of the sheriff and sheriff's officers. These articles are similar to those delivered in charge in other counties and at other times; they were aimed at drawing attention to the most persistent problems of local government and at educating other agents of law enforcement in what was expected of them.

After the charge the grand jury withdrew to consider the bills of indictment and to formulate their own presentments. While they did so, the court made statutory appointments and fixed rates. Then all adjourned for dinner. When the sitting was resumed the constables made their presentments to the grand jury, the latter body delivered the true bills, the accused were arraigned before a petty jury and the cases were heard. Accused persons summoned by process started in a previous sessions were then called; if they appeared they were tried, if not the process was renewed. After the petty jury had declared their verdicts, recognizances were checked (to ensure that the conditions in them had been fulfilled) and new recognizances were taken. The J.P.s then returned to the consideration of general administrative matters and made whatever orders were necessary. Finally, judgement was delivered against the prisoners and the business of the court was concluded.

Quarter Sessions, then, were a working court, following an essentially medieval procedure: charge, presentments, indictments juries were all 'rooted in medieval practice.' Indeed, it has rightly been asserted that 'the greatest changes in the two hundred and fifty years following the 1388 statute were not in the court's procedure or composition, but in its power and responsibilities.' (Barnes, *Somerset 1625-1640*, p. 68). These developments made the Quarter Sessions not only a court but a council, a place where administrative orders were issued, petitions considered, instructions from the government transmitted to the county, replies drafted and sent to the government. In one sense, therefore, the Quarter Sessions formed a general assembly, conversant with local needs, able to act in accordance with them, and therefore of considerable

significance for many people throughout the county. The Quarter Sessions could also be a forum where there were discussions on matters of public concern, where the gentry could consult each other, and where there was a chance to formulate opinion. Unfortunately evidence for this side of quarter sessional activity is lacking in the East Riding, hut it happened elsewhere, and there are no grounds for supposing that things were different in East Yorkshire.

V

The East Riding Court of Quarter Sessions

ii *Business*

The records of the court show how the county conducted its business and how the J.P.s set about their three-fold task in administration: the enforcement of statute, the provision of a few rudimentary public services, and the supervision of subordinate officers. The court had direct responsibility for a number of matters, including trade offences and the control of markets, bridge repairs, relief for lame soldiers, poor prisoners and sufferers from the plague, the assessment of wages and the issue of licences, as well as any other item of importance which came its way. Although devolution, made necessary by the burden of work, had placed the main responsibility for many other aspects of administration on J.P.s out of sessions—such matters as roads, alehouses, parish rates, bastardy, parochial poor relief and the behaviour of parish officials—the Quarter Sessions retained a supervisory role, hearing appeals and complaints against decisions reached elsewhere and therefore in the last resort exercising some control over these administrative matters as well. In short, the court of Quarter Sessions was the means of co-ordinating the whole of the J.P.s' work, legal and administrative, in sessions and out.

The great variety of business transacted at Quarter Sessions is best demonstrated by a brief summary of the work done at one meeting, the midsummer sessions, for example, in 1651. There were ten J.P.s present, along with the usual array of subordinate officers. The number of processes issued shows the difficulty of ensuring the presence of defendants in court: there were 25 writs of summons and ten distraints; writs for arrest were issued in 22 cases for the first time, in thirteen for the second time and in three for the third; there were six writs threatening outlawry in default of appearance. The offences of which the recipients of these writs were accused included riot, extortion, theft, tippling, swearing, drunkenness, playing unlawful games, begetting a bastard, assault, incontinence, non-repair of roads, working on Sunday, keeping an unlawful alehouse, harbouring undersettlers (7) and pursuing a craft without the necessary qualification of apprenticeship. The court awarded, or continued, pensions for 89 lame soldiers. Numerous orders were issued on more purely administrative matters: the award of £6 13s. 4d. to a victim of piracy and 5 marks each for victims of the plague; a cottage to be built on waste land for a poor person; the master of the house of correction to be dismissed, and two J.P.s to nominate a replacement; the farmer of the tithes at Howden to pay the tax assessed; the father of a bastard child to pay 8d. weekly for its maintenance; the vicar of Kirkburn to be reported to the Sequestration Committee for his failure to publish the parliamentary ordinance

for a day of thanksgiving. There were in addition four orders of a more general nature: the bench agreed to take a 21-year lease of the court house at Pocklington; high constables were ordered to take special care to maintain watch and ward; all treasurers for bridges were to present their accounts; alehouse licences were to be granted only at Quarter Sessions or at special licensing sessions.

Following the deliberations of the grand and petty juries sixteen defendants were acquitted, along with the parishioners of St. John's, Beverley (for non-repair of a road). Sentences on those found guilty included a public whipping at Pocklington and Kilham for a Hatpham man convicted of pulling wool from sheep's backs, and a variety of fines imposed as follows: the sheriff of Yorkshire for allowing four people to escape from custody (£35); the bailiff of Ouse and Derwent for permitting an escape (40s.); two absentees from jury service (13s. 4d. each); the vicar of Wawne for allowing a sermon by an itinerant preacher (13s. 4d.); twelve fines for assault ranging from 40s. to 2s. 6d., together with two fines of 40s. and £5 respectively for the more serious crime of assault on a constable; keeping disorderly company (10s.); pound-breaking and assault (£3 6s. 8d.); failure to keep the watch (5s.); trying to influence a jury (£3); two cases of extortion by an officer (£3 6s. 8d.); selling bad meat (10s.); drunkenness (3s. 4d.); harbouring inmates (10s.). As well as ordering the forfeiture of two recognizances for failure to observe the conditions, the court took two sureties for good behaviour and bound seven people to appear in court, one on a charge of putting poison in his wife's broth. Finally, the court recorded that the defendants in thirteen criminal cases—which included charges of theft, riot, tippling and assault—had entered pleas of traverse, (8) the hearing of which was postponed to the next sessions. Clearly the J.P.s would have much trouble in dealing with all these matters in an equally effective way. The sheer burden of work falling on the handful of those present in court was itself a major difficulty. The complications of many of the statutes to be administered made matters worse. So too did the justices' enforced reliance on the services of unpaid and frequently inefficient officers.

Furthermore, while some decisions were straightforward others were probably reached only after sharp disagreement. That disputes at Quarter Sessions could be complicated not merely by the statutes but also by personal rivalries and (at times) religious differences is admirably shown by the Star Chamber case of 1615, when Sir Thomas Posthumous Hoby complained against four of his fellow J.P.s, Sir William Constable, Sir William Hildyard, John Hotham and John Legard.(9) Hoby alleged that they had conspired together to prevent the due indictment and conviction of Roman Catholic recusants. The burden of his complaint was that after he and other justices had called for a determined effort to secure full presentments at Quarter Sessions, the defendants persuaded other justices to attend, as a means of protecting some of their kindred and close

friends who had, by their connivance, hitherto escaped conviction. The result was that 21 attended the Epiphany sessions in 1615 and all stayed to the end, whereas the normal attendance was much smaller and most of the J.P.s usually left before the sessions closed. Finding themselves in a strong majority the defendants and their friends then set about the task of trying to thwart the king's service in the matter of recusancy, by using procedural devices, misbehaving, moving unnecessary questions, putting 'idle matters' to the vote and discouraging the jury from the performance of their duties.

Hoby supported this general complaint about his fellow J.P.s with a number of more specific charges: Legard and Hildyard had tried to prevent the grand jury from indicting Sir Robert Dolman; when Hoby had tried to deliver bills of indictment against a number of alleged recusants Hotham began to interrupt Hoby in a loud voice, and tried to seize the bills and the examinations; Legard had referred scornfully to the examinations produced by Hoby and challenged him to swear to their authenticity; Hotham had been discourteous to George Ellis, a lawyer-J.P., by sitting in front of him while he was delivering the charge, and later by displacing him from one of the seats by courtesy left for the lawyers on the bench; in order to hinder the work against recusants, Constable (as *custos rotulorum*) had ordered an adjournment for dinner, but when Ellis, Hoby and others decided to remain and continue the sitting, Constable had insisted on adjourning and had ordered the clerk of the peace to remove the records, thus preventing any further business. Hoby also raised two side-issues which both involved Legard: in one it was said that Legard had complained that the foreman of the grand jury had been unreasonable in not accepting bills which contained drafting faults (the suggestion being that Legard had done this to take revenge on the jury for indicting his recusant friends); in the other Hoby claimed that Legard had publicly and aggressively disagreed with Ellis about the responsibility for road repairs at Brandesburton, had refused Hoby's request to to consult the judges, had outvoted Hoby's supporters in favour of putting the question to the jury, and had then browbeaten the jury to return the verdict he wished.

In their replies the defendants denied all charges of collusion, of shielding recusants and of misbehaviour. They put a more favourable interpretation on several of the alleged events, and in general they sought to play down the hostile aspect of their actions and attitudes, insisting that they were not seeking to show disrespect to Hoby or to hinder the king's service. But many of their answers were evasive, forgetful and therefore not very convincing. They also made counter-allegations: that Hoby had tried hard to persuade *his* supporters to attend; that in his turn Hoby had shown partiality by seeking to prevent the indictment of Sir Henry Constable (later Viscount Dunbar) and had succeeded in securing a vote of the majority of the justices in Constable's favour, whereupon Legard had

challenged Hoby's attitude in the matter and ensured that Constable's name was re-entered in the indictment. There were also two defences on more practical grounds: one was that the adjournment for dinner was supported to allow a private discussion to take place among the justices; the other was that adjournment was called simply because dinner was ready.

The outcome of this case is unfortunately not known, but the complaints, replies and evidence given on both sides all provide interesting details of what actually happened, or could happen, at Quarter Sessions: acrimonious disputes in public, procedural tricks, private discussions, lobbying, voting and majority rule, not to mention some lack of formality, even of dignity, which one would not divine from the staid pages of the records. The case also reveals tension, personal quarrelling and intrigue among the J.P.s. This dissension was a natural outcome of the high feelings aroused by the recusant problem, with its cross-currents of religious and personal antagonism on the one hand, and of friendship and family loyalty on the other. But there is nothing to suggest that local government in the East Riding was frequently debilitated by such troubles and disharmony. Nevertheless, it is always difficult to detect signs of sustained policy and action in the work of the Quarter Sessions, and it would not have been possible for the J.P.s to have covered the whole field of local administration affected by statute. Instead the J.P.s at Quarter Sessions usually concentrated on routine business and on a narrow range of problems which demanded regular attention: crime, vagrancy and poor relief, alehouses and markets, roads and bridges, all matters which could be dealt with piecemeal.

Routine business included the appointment of the high constables for the wapentakes and the treasurers of county funds. The high constables' importance in local administration demanded that care should be taken in the selection of men for the post. To guard against corruption and inefficiency, high constables were appointed only at Quarter Sessions for a period of three years, and it was the sensible practice of the East Riding J.P.s to require the outgoing high constable to explain the duties to his successor; the two men then served together until the next sessions. On that occasion the outgoing high constable presented his accounts to the J.P.s for audit, a necessary form of control which the justices sometimes had to insist upon. Even with these precautions, the J.P.s found themselves having to fine, or threaten to fine, high constables for failure to pay in the monies they had collected or for negligence in other ways. A high constable of Ouse and Derwent figured in the Star Chamber case already discussed: he was accused by different J.P.s of being dilatory in the collection of assessments, of treating recusants sympathetically, and of disqualifying himself for office by removing from his division. To some extent there were similar difficulties with the treasurers of the only two permanent funds held by the

county, for 'lame soldiers' and for poor prisoners and hospitals. The first originated in a statute of 1593 which instituted a fund in each county to provide relief for deserving (and properly recommended) ex-soldiers; the second originated in the act of 1597 which established county funds for the aid of poor prisoners in gaols and paupers in hospitals. During most of the 17th century there were in the East Riding two treasurers for lame soldiers and two for poor prisoners (known officially as the treasurers for the King's Bench—or Upper Bench during the Interregnum—and Marshalsea). All four treasurers were appointed annually at the Easter Sessions, and the treasurers for the lame soldiers' fund, which was by far the larger of the two, were J.P.s; the treasurers were required to make up their accounts and present them for audit within a month of leaving office.

Although Quarter Sessions organised relief for poor prisoners in the county gaol, the prison itself, in York Castle, was the responsibility of the high sheriff. That officer used ordinary royal revenues for the normal upkeep of the county gaol, but although the J.P.s of all three Ridings attempted to avoid any liability for major works, they were not wholly successful and from time to time they were obliged to raise contributions. At the end of the 17th century the justices in Yorkshire may even have anticipated the Gaol Act (1700), for they began to levy rates for the rebuilding of the county gaol, and an entirely new prison was erected between 1701 and 1705.

By contrast the house of correction unquestionably fell within the responsibilities of the J.P.s and ratepayers. An act authorising counties to raise money for a house of correction was passed in 1576, and in some places such an institution came into being during the following thirty years, though whether the East Riding was amongst them is not known. In 1610 another act obliged each county to provide at least one house of correction 'to set rogues or other such idle persons on work.' Houses of correction were established in the North Riding at Richmond and Thirsk, but there was only one in the East Riding, at Beverley; it was in a building near the town hall, leased in 1611.[19] The house of correction was controlled by a master, appointed by the justices in sessions and directly responsible to them for the maintenance of good order, the safe custody of those committed to his charge and the provision of tools and a stock of raw materials with which the inmates could be gainfully employed. In the East Riding the Civil War caused some upheaval in the management of the house of correction. First the J.P.s had to increase the yearly fee paid to the master, Richard Kellington, to £30 because the payment had been diminished during the troubles. Then, in 1647 and 1648, orders had to be made for the repair of the building. In 1649 the J.P.s entered into a fresh lease of the premises and made a new agreement with the master. They also decided that in future the supervision of the house of correction would be delegated to a management committee of four J.P.s to

whom the master would be responsible. At the same time the Quarter Sessions agreed to make available a standing fund of £50, to be used in re-equipping the house of correction: the first purchases included a twelve gallon copper, a pair of looms, two pairs of big shears, flock cards, combs, handlestooks,[11] two spinning wheels, wool cards, shuttles, a press and a mill for grinding corn; more lodging was also provided. Two years later a handmill and shears for dressing cloth were acquired. But shortly afterwards Kellington was given three months' notice of dismissal as master and ordered to make up his accounts for the committee of J.P.s, who were charged to find a successor. When completed and working properly the house of correction was used in a variety of ways by the justices: it was a place of custody for criminal suspects awaiting trial; it was used for the detention of vagrants and of convicts serving short terms of imprisonment; whippings and other corporal punishments were inflicted there; and it provided compulsory employment for the workshy and some of the less deserving workless. The house of correction was thus a prison and a workhouse, a punitive and a reformative institution; as such it played an important part in the J.P.s' treatment of crime and poverty alike.

Among the large number of criminal offences which came before the Quarter Sessions with monotonous regularity, larceny was the most common, totalling perhaps a half of all the criminal cases heard at many sessions. It is hardly surprising that thieves usually took clothing or ordinary household chattels, because in most homes there was probably little else to steal. But in times of scarcity, and during the winter months, foodstuffs and livestock figured noticeably in the accusations. These included cases of unlawfully milking another man's cow, pulling wool from sheep, and stealing sheep, a particularly serious matter in the pastoral economy of parts of the East Riding. Among other offences against property were occasional breaches of the game laws, including tracking hares in the snow and killing deer in Londesborough Park, but on the whole poaching seems to have been less common than in other parts of Yorkshire. In a disorderly age, however, offences against the person were predictably frequent and ranged from straightforward cases of assault and battery, for unspecified reasons, to the more serious allegation against Edward Blashell of Harpham, brought before the court in 1651 on a charge of putting poison in his wife's broth. Brawls and small-scale riots appeared regularly among the cases heard at Quarter Sessions, and some of these probably included an element of self-help, an attempt to remedy a local grievance, for example, to settle a dispute about property or to wipe off an old score. In the early 17th century a number of East Riding enclosure riots were considered in Star Chamber, but thereafter there is no record of any major disturbance in the Riding, and even the presence of soldiers, some of them Scots, in the 1640s and 1650s does not seem to have given rise to any serious disorder.

During the mid 17th century, years of danger and crisis, security became a much greater problem for the J.P.s. Between 1648 and 1651 more strenuous attempts were made to ensure that the watch was regularly maintained, especially on the coast. There the dangers were not solely political, for there were reports from Holderness in 1651 of the landing of pirates 'who have plundered goods out of houses and have wounded some and affrighted others.' In addition to the watch, therefore, the J.P.s urged that the beacons should be kept in readiness and that the high constables should report to them men who neglected their obligations in these matters. Later in the 1650s the East Riding justices joined with those of the other Ridings in a petition for naval protection against pirates hovering off the coast. Internal security presented an even bigger problem. Throughout the century the J.P.s acted against seditious talk and the spread of rumour: in 1666, for example, Justice Gee examined William Hunsloe of Walkington for uttering opprobrious words against Charles II and for spreading the rumour that the Dutch had invaded England after a big naval victory.[12] But during the 1640s and 1650s nervousness and danger made the J.P.s pay more attention to the problem. They instructed searches for alleged Royalist plotters and for stores of arms, and they dealt severely with cases of seditious talk. Some of the outbursts complained of were of no consequence, some indeed were probably no more than 'alehouse sedition': men were punished for drinking either loyal toasts or confusion to the Parliament—'they never did good nor would do'; informers reported Thomas Hood of Huggate in 1649 for speaking against Cromwell 'to the encouragement of the malignant party' and for spreading rumours of his defeat—'Cromwell has lost his army and Ireton is sore hanged.' But the offence was always treated more seriously when a minister was involved, a reflection of the status of the clergy and the power of the pulpit. Two clerics, Marmaduke Richardson of Pocklington and George Holroyd of Foston on the Wolds, were committed to the Assizes for seditious talk; Richardson was charged with praying publicly for Prince Charles after his father's execution, Holroyd with preaching against bloodshed on a day of thanksgiving in 1651 for military and naval successes.[13] About the same time several other clergymen found themselves accused before the court of uttering 'malignant speeches' or reading seditious pamphlets in church, while the incumbent of Wawne was fined for allowing an itinerant minister to preach. The restraint of possibly dangerous preaching was accompanied by the punishment of a handful of clergymen who misbehaved or who failed to use the new forms of service and adhered to the Book of Common Prayer, which was proscribed. Offences involving the clergy were in normal times judged by the ecclesiastical courts, but the abolition of these bodies during the Puritan Revolution resulted in the J.P.s being temporarily concerned in different ecclesiastical matters. These included the solemnisation of marriages (as recorded

in the surviving registers of several East Yorkshire parishes) and the enforcement of the rates which were levied, for example at Kilnwick and Bishop Burton in 1648 and 1649, for the repair of the parish churches.

Foremost among the religious offences which concerned the J.P.s throughout the century was Roman Catholic recusancy: the presentment and conviction of recusants took place at Quarter Sessions and could be fraught with difficulty, as the Star Chamber case of 1615 shows. The regular conviction of recusants seems to have continued until the Civil War, but although some suspected recusants were summoned to Quarter Sessions in 1647 the penal laws were mostly disregarded thereafter until the Restoration period. For a short time between 1678 and 1681 the authorities were active in the conviction of recusants, but the presence of Roman Catholics on the Bench in the 1680s foreshadowed easier conditions for them and, although there was an upsurge of persecution after 1689, by the early 1700s the enforcement of the recusancy laws had been relaxed.

But the concern of the J.P.s with private beliefs and behaviour in the 17th century did not end with recusancy. Misconduct of all kinds was closely linked in the minds of the magistrates with heavy drinking, an opinion which accounts for the attention always paid by them to the problems of drunkenness and (as we shall see) the regulation of alehouses. Furthermore, the justices were called upon to administer early-17th-century acts for the observance of Sunday, the punishment of profane swearing and the suppression of unlawful games, and of plays and interludes. The Puritan Revolution gave a notable stimulus to the work of the J.P.s in the reform of manners and conduct. In the East Riding the justices began in 1648 a sustained attack on unlawful games, regularly convicting and fining offenders. At one session in 1648, for example, five men from Holme upon Spalding Moor were fined for unlawful games on the Lord's Day. In 1650 the high constables were ordered to arrest 'all such as go about to draw people together to see any interludes or that are dancers upon ropes.' At this time, it should be remembered, the J.P.s were anxious to discourage assemblies which might pose a political threat to the Commonwealth as well as a moral threat to men's souls. The same consideration hardly applied, however, to the strict measures taken to discourage and punish carriers who moved goods, or dealers who sold them, on Sundays. In the same spirit the J.P.s arranged for 100 copies of the ordinance for the observance of the Sabbath to be distributed in the Riding, and three men, who may have been constables, were summoned to answer for making an arrest on the Lord's Day. Cases of profane swearing appear in the court's records, as well as occasional allegations of sexual immorality, for which both parties were usually punished. Although such matters normally fell within the purview of the church courts, there is no doubt that in the Interregnum the J.P.s made a determined effort to execute the moral legislation of the time.

In general the main burden of punishing those convicted of offences against public order in the Riding fell on the J.P.s, although the more serious cases of felony went to the Assizes, as the surviving records of that court show. The number of offenders brought before the Quarter Sessions is a testimony to the persistence of J.P.s and local officers in the face of the many difficulties which beset them in the execution of their duty. At some Quarter Sessions, indeed, time was spent in punishing those who hindered the maintenance of the peace. One of the main problems was that of getting people to court in the first place, and sometimes orders for the summons or arrest of accused individuals were made repeatedly at one sessions after another before they appeared; some seem never to to have done so. As well as suspects who openly defied the J.P.s' warrants there were constables who failed to execute them. There were also householders who neglected to take their turn in keeping the watch, or who were guilty of collusion in the concealment of evidence against their neighbours. From time to time violent attacks were made on constables or bailiffs, whose jobs could clearly be hazardous. Even when they had a suspect in custody he was sometimes rescued by his family or friends. Not surprisingly the J.P.s occasionally found that prisoners, including convicts, had escaped, even from the hands of the sheriff's officers, and they vented their wrath on the sheriff himself, imposing on him fines which in the mid 17th century ranged from £5 to £20 for the failure of his officials.

Offenders who were eventually brought to trial and conviction were usually either fined or whipped. The fines imposed were often small, ranging from 4d. to 5s., but as we have already seen higher fines were fixed, especially in the case of more serious or multiple offences like pound-breaking and assault, or in the case of wealthier criminals. Some of the more well-to-do among those convicted at sessions were allowed to enter bonds for good behaviour with two sureries; the amount in which a man became bound and the sum of the sureties' bond were at the discretion of the J.P.s, and in the East Riding they varied from £10 to £40. For other offenders a whipping was ordered, especially when their poverty made physical punishment the only possibility, or when the justices wished to make a public example of them. In the latter case the whipping was usually carried out on a market day, otherwise it was done, perhaps at once, by the sheriff's officer. A sheep-stealer in 1648 was ordered to be whipped while the market was in progress at Pocklington 'upon his naked shoulders till the blood comes,' and the market-places of Beverley and Kilham witnessed similar scenes. The existing East Riding records contain no reference to capital punishment, presumably because the reservation of felonies largely to the Assizes meant that grand larceny was the only capital charge regularly tried at Quarter Sessions. There a convicted thief was able to avoid the death penalty in one of two ways: either the court undervalued the

goods stolen, or the accused made a successful plea of benefit of clergy, which in practice meant that he had to read the 'neck verse' (as it was called) from the Bible. The penalty was then reduced to a whipping or perhaps to branding in the hand or arm, a sentence carried out at the sessions house in Beverley, where there was a post 'with locking irons also for the keeping fast the hand of the prisoner'.

Figures for the ratio of acquittals to convictions vary a good deal from sessions to sessions, but on average about half of those indicted seem to have been convicted. Criminal proceedings show a certain monotony, especially when the records list the crimes without the verdicts and penalties, or the penalties without the crimes. Yet the East Riding sessions records suggest that the justices tried hard to carry out their main duty of keeping the peace, and that on the whole order was maintained as far as was possible in 17th-century society. There is therefore probably much truth in Professor Hurstfield's comment that the J.P.s meted out 'rough justice' in face of the endemic lawlessness of the time.

Much of the threat to domestic peace arose from hunger, poverty and unemployment, problems which could be made worse by bad weather, harvest failure, trade depression or an outbreak of the plague. During the 16th century the alleviation of poverty was the object of several experiments in legislation, behind which lay a notion of social duty, an interest in the 'common weal' (or well-being) and a fear of disorder. These attitudes were reflected in the distinction drawn between the deserving (or impotent) poor and the undeserving (or able-bodied, workshy) poor. The aims of the poor law, consolidated in the acts of 1598 and 1601, were to relieve the impotent, educate the children of paupers, coerce the idle and the vagrant, and provide work for the able-bodied unemployed. The main responsibility was placed on the parish: churchwardens and overseers of the poor, appointed by the parish and supervised by J.P.s, were charged with the execution of the law and with the assessment of a poor-rate on parishioners to finance their efforts. Money was required to provide relief, to meet the expense of chastising and removing vagrants, to bind pauper apprentices, to provide food, fuel, even shelter and finally burial for the paupers of the parish. In all these matters the J.P.s devoted much time and energy to controlling the parish officers, whose work they themselves supplemented both by managing the special county funds already mentioned for lame soldiers and poor prisoners, and by taking measures on a county basis when emergencies arose.

The efficient administration of the complex provisions of the poor law was unlikely to have been achieved quickly, and the extent to which poor-rates were regularly raised in the parishes during the early 17th century is debatable. Evidence from the main body of the East Riding at that time is unfortunately lacking, but records in various parts of Yorkshire show substantial signs of activity by

public authorities. In Hull the corporation supervised poor relief in the town's two parishes, while in York pioneering schemes in the 16th century to provide work for the poor were renewed by the 1620s. The North Riding justices maintained almshouses and exerted pressure on local officers to provide out-relief and occasionally cottages for the deserving poor. The orders of J.P.s in both the West and North Ridings show that while the law about poor relief was put into operation only slowly before 1603, it was regularly enforced in James' reign. It is likely that the East Riding justices did not stand aside from all this activity—especially as some of them were on the benches in the other Ridings—and that the administration of the Elizabethan poor law was slowly established in East Yorkshire.

The evidence of the 1630s points in the same direction. The Book of Orders issued by the government in January 1631 enjoined the strict administration of most of the statutes falling within the purview of the J.P.s, who were to report their activities and achievements to the Privy Council. As it was prompted by the famine conditions of 1629 and 1630 the Book of Orders laid heavy emphasis on the Poor Law, and the certificates returned by J.P.s from all parts of Yorkshire attest to their sustained activity, even when one allows for the natural optimism of men reporting on the effectiveness of their own efforts. From Beverley, for example, it was reported in 1631 that stocks had been raised for providing work for the poor, who were employed in spinning hemp: 'in Sr. Mary's parish six pounds [sterling], in St. Martin's parish seven pounds, and in St. Nicholas' parish six pounds, besides the stocks they former[ly] had.' J.P.s in the Buckrose division were among those reporting in 1635 on the care taken 'to raise stocks for setting our poor on work.' ([14]) The implication of these and similar certificates is that in the East Riding, as elsewhere in Yorkshire, the J.P.s were strengthening the means of poor relief already established and were not having to start from scratch. Moreover, the methods and habits of poor-law administration were sufficiently established in the 1630s to survive the breakdown of law and local government in the 1640s. Nevertheless the sessions records of the post-war period make it plain that by 1647 the system needed to be overhauled: on the one hand the house of correction was decayed, charitable funds were diminished, the accounts of officials were either missing or unchecked and the evasion of rates was widespread; on the other hand dislocation caused by the war emphasised the need for a more careful observance of the statutes. But this time there were no detailed enquiries by the central government, which contented itself with general orders for the administration of the poor law, reinforced in the mid 1650s by pressure from the Major-Generals.

By dividing the indigent into different categories—pauper children, the old and the infirm, the workless and the workshy—the statutes ensured that they were treated in different ways. Fear played

its part in the attitudes of the government and the local authorities: as repression was easier to organise, and cheaper, than relief it often bulked larger in the records. Under acts of 1576 and 1610 the J.P.s were charged to deal with the parents of bastard children: some of this work fell on justices out of sessions but their orders were confirmed by Quarter Sessions, which also heard appeals against them. The result was that in the mid 17th century the East Riding Quarter Sessions made from two to eight bastardy orders each year. Once the difficult question of paternity was settled the court usually punished the erring mother by a whipping, sometimes done in public to emphasise the disgrace and no doubt to deter others. The mother was then sent to the house of correction, usually for a month, but there were occasions in the East Riding when the mother of a bastard child—Isabel Ellythorpe of Holme upon Spalding Moor, in 1651, for example—was sent to the house of correction for a year. No such punishment was visited on the father. Instead he was subject to a maintenance order, by which he was forced to enter a bond with sureties for the payment of a small weekly sum towards the maintenance of the child. The amount imposed varied: Tristram Gray, who had fathered a child on Mary Bulmer of Kilham, had to pay 8d. weekly; William Carlin, the partner of Isabel Ellythorpe, was charged 2s. weekly. The money was sometimes paid to the mother, sometimes to the parish overseer, and the maintenance order remained in force until the child was seven or, more rarely, eight years old. At that age bastard children were compulsorily apprenticed, at the father's expense, to local employers, whom the J.P.s sometimes had to compel to accept the responsibility.

The harshest treatment was reserved for vagrants, especially in hard times or when an outbreak of the plague made wanderers a danger to health, as well as to public order. Incorrigible rogues and sturdy beggars, often single men and women, were discouraged by whipping and branding, followed sometimes by a spell in the house of correction, where they, along with other shiftless persons and convicted offenders, were obliged to work in the hope that they would discard their idle habits. They were then sent from constable to constable back to their own parishes, that is to their place of birth or to the district where they had previously been settled for a year. But such punishments did little to prevent further offences, and at most sessions the J.P.s had to make orders for the chastisement of vagrants: orders in twelve cases were made in 1650. In that year vagrants were returned to several places in Yorkshire as well as further afield: Balderton (Notts.), Huttoft (Lincs.) and Linterton (Hereford). At the same time the constable of Staxton was arrested 'to answer for his neglect in letting wanderers pass through the town unpunished,' and the East Riding J.P.s made other attempts to remind local officers of their duty where vagrants were concerned. In 1669 they asked the mayor of Hull to prevent vagrants from reaching the East Riding by means of the ferries at Hull and Hessle.

During the 1670s and 1680s the J.P.s issued detailed orders to constables, requiring them to conduct 'two privy searches every year' for the discovery of all 'rogues, vagabonds and sturdy beggars,' who were to be whipped and returned with passes to their own parishes (*Cherry Burton Parish Register*, pp. 36-8). But as well as restricting the movement of wanderers, in one way local authorities made the problem of vagrancy worse, by evicting 'undersetrlers' with no financial support from rural hovels and from the slums of towns like York and Hull. As undersettlers, whether lodgers or squatters on waste land, were a potential burden on parochial funds, their fellow parishoners sometimes petitioned for their removal. In 1647 the people of Settrington complained that James Dodsworth, his wife and children were undersetrlers; in response to the complaint the J.P.s ordered the parish constable to send the family back to Bentley (W.R.) where the overseers were to care for them. Two years later five similar offenders were removed from East Cottingwith, and in 1651 there were 26 orders against undersettlers, including fourteen cases at Beeford and Market Weighton.

The measures against undersettlers were simply the attempts of officers, villagers and magistrates to meet local difficulties. At the time the law of settlement was not well defined, and there was therefore uncertainty about identifying 'the poor of the parish' who were entitled to parochial poor relief. During the middle years of the 17th century the movement of population (partly perhaps the result of the Civil War), the wish of migrants to secure a recognised settlement for their families and themselves, and a widespread desire to define settlement and thereby to limit the burden of poor-rates on a given parish, together form the background to the Poor Law Act of 1662. This statute, better known as the Settlement Act, legalised the removal of newcomers within 40 days of their arrival in a parish, if they were likely to become chargeable and occupied a tenement worth less than £10 a year; they could be transferred by the overseers to wherever they had last resided for 40 days, subject to the approval of two J.P.s and to the right of appeal to Quarter Sessions. As we have seen the act in many ways only legalised what had been the practice hitherto, but in doing so it laid another heavy burden on the magistrates as well as on the overseers, faced as they were by the manifest desire of parishioners to evade, and to shift on to other shoulders, their obligations to help the poor in their midst.

Relief for the deserving poor took several forms. For the workless each parish was supposed to provide tools and a stock of raw materials—wool, flax, hemp or iron—on which they could work. But although there is a paucity of references in sessions records to these means of assisting the able-bodied poor it is clear that they existed in some parts of the Riding, and we have seen that the provision of employment figured in some of the reports sent in by the East Riding justices during the 1630s. In the middle of the century sessions orders occasionally show that the J.P.s assumed

that the arrangements for parish stocks had survived the Civil War: in one instance, in October 1648, they ordered the overseers of Welton to provide work for Henry Ribchester 'who wants his sight and yet able of body for labour.' But in general it is hard to avoid the conclusion that this method of relief was not universally adopted in the East Riding, and that even where it had existed it fell into disuse later in the century, no doubt because it was difficult to organise and economically impracticable.

Instead, the easiest way for the overseers to fulfil their obligations was to give small sums to anyone in need. These could take the form of once-for-all gratuities, and two or three times a year J.P.s themselves ordered such payments to be made to destitute individuals by the treasurer of the fund for poor prisoners. Yet the justices were plainly unwilling to subsidise parish relief regularly in this way, and they therefore tried unceasingly to make the law effective. Although parish overseers were subject to supervision by neighbouring J.P.s, the Quarter Sessions regularly took a hand, and at most sessions two or three orders were made, directing parishes to provide weekly relief. In one typical instance, in 1649, the J.P.s heard a petition from a poor man and his wife who lived at 'Barneby' (i.e. Barmby, either Barmby Moor or Barmby on the Marsh), and they ordered the overseers to pay them 12d. weekly and to appear before the court. In another case, Margaret, wife of George Stevenson, 'a soldier now in service in Scotland,' was granted monthly relief of 4s. from the overseers of Shipton (now Shiptonrhorpe), who were themselves fined 20s. for ignoring Justice Anlaby's warrant on the matter, the fine going to the use of the poor. Much of the parochial poor-rate was thus spent in making weekly payments—of sums ranging from 6d. to 1s. ro rhose without means of support.

In addition funds might be needed to pay for pauper children to be compulsorily apprenticed on a J.P.'s order or to provide a cottage on the waste, again on the direction of the Bench and subject also to the permission of the lord of the manor. All these forms of relief were paid for by the parish poor-rate, augmented by fines imposed by the J.P.s for certain offences such as tippling. The J.P.s therefore intervened to compel overseers to do their duty, to enforce the payment of rates, to arbitrate in parochial rating disputes, and in general to force parishes to discharge their obligations towards the poor. When in 1650, for example, the inhabitants of Beeford complained of the great number of poor people in the parish, the court ordered the inhabitants of Dunnington and Lissett to contribute to Beeford's rates.

Although Professor Jordan has recently asserted that a regular poor-rate was not common in the earlier part of the century except during emergencies, and that private charities bore the burden of relief, the Yorkshire evidence makes this seem unlikely. But charities were undoubtedly important. By 1660 the East Riding enjoyed about 17 per cent of the value of the charitable endowments of

Yorkshire, and the charities of the Riding were mainly concentrated on the relief of the poor, rather than on religious or educational objectives. Payments from charities also often passed through the hands of the overseers: we catch a glimpse of what could go wrong, especially after the upheavals of the Civil War, when in 1651 the J.P.s had to instruct the churchwardens and overseers of Bishop Burton to distribute Lady Gee's charity according to her will—and not to detain the arrears.

In addition to supervising parochial relief, the J.P.s themselves administered funds for the assistance of lame soldiers and poor prisoners. Lame soldiers and impoverished ex-mariners were eligible either for a regular pension or for an occasional gratuity from the lame soldiers' fund; similar payments were made to a small number of the widows of such men. Claimants had to produce a certificate from a responsible officer, giving details of service and any disablement suffered, but as the possibilities of forgery or other abuses were considerable the J.P.s were cautious in adding names to the pensioners' list and sometimes the Privy Council had to intervene before they would do so.

In 1647 pensions to lame soldiers in the Riding averaged in total about £22 a quarter: in July 1647 the money was shared among 27 ex-soldiers (or sailors) and one widow. But the number of claimants was bound to rise, and in April 1648 the list included 46 male pensioners, one widow and four recipients of gratuities 'for this time.' Noting that £117 7s. had been the yearly rate for lame soldiers, the court decided to double this figure because 'multitudes of maimed soldiers resort to the Parliament for maintenance.' Perhaps because the pensions list did not grow during the following months, or because a parliamentary ordinance allowed only a 60 per cent rise in the rate, the increase was cut in 1648, to yield £180 for a year's pensions. For a time this sum sufficed, but by July 1649 expenditure for the quarter for 64 pensioners, including three widows, was £44 10s. 10d., and there was uncomfortably little in hand. At Epiphany 1650 the J.P.s resolved to examine the lame soldiers' pension list, no doubt hoping to reduce it, but it seems that they found nothing there for their comfort: at Easter 1650 the rate on the Riding was raised to produce a fund of £260. A year later there were 70 pensioners, five of them widows, and ten men to whom gratuities were paid, but another rise in the numbers followed in the wake of military developments nationally: in October 1651 the list named six recipients of occasional gratuities and 85 pensioners, including six widows, a three-fold increase since July 1647. There was, however, more stability in the sums paid by the treasurers. The pensions usually ranged from 10s. to £1 a quarter, the lower figure being by far the more common; as these sums were often smaller than the amounts paid for ordinary poor relief, it is possible that a pension was regarded as a supplement to other sources of income. More peaceful times, and natural causes, brought about

some diminution in the total of pensions, and in 1661 the J.P.s in all three Ridings reduced the burden of lame soldiers' pensions at a stroke, by removing ex-Parliamentarian soldiers from the list.

The other county fund was neither as large nor as heavily charged as the lame soldiers' fund. It was used for the relief of poor prisoners in London and local prisons, for special help to needy persons and for general eharitable purposes. But the poor prisoners' fund also had to be inereased and was fixed at £20 in 1648. Within two years the fund was in arrears and was therefore doubled. Apart from regular payments for poor prisoners, in the nature of things the number and size of the calls on the fund varied, but three examples of emergency relief, paid by the treasurer in 1651, must suffice: William Dixon was granted £6 13s. 4d. to compensate him for his losses at the hands of pirates; a number of the inhabitants of Market Weighton who suffered a fire were granted five marks; and ten poor distressed widows of Withernsea and Owthorne, with 24 fatherless children between them, were awarded £5 for relief after their menfolk had been drowned in a storm at sea during the previous autumn. Neither these sums, nor the contributions specially raised by the J.P.s for places stricken by the plague, were ever large, although the justices were often readier to organise help from surrounding distriets for infected areas than for individuals because widespread distress eould all too easily lead to unrest. Even in this matter the J.P.s' response might be less than generous. In 1637-8 the plague raged in Hull, but when the corporation complained to the Privy Council about the small amounts raised by the county authorities the East Riding J.P.s were unrepentant. They retorted that they had raised substantial sums, that they had needs of their own, and that Hull had mismanaged its precautions and had not helped the people of the Riding during an earlier outbreak.

If official help were not forthcoming in cases of emergency the individual was thrown back on his own efforts. He could, with the support of his neighbours and the Quarter Sessions, apply to the Lord Chancellor for a brief, which authorised a collection for the sufferer within a defined area. As the procedure was complicated most people confined themselves to applying to the jusrices in sessions for a local brief, that is, authority to organise a collection on behalf of themselves (and their neighbours): in other words, to beg legally. During the mid 17th century the Quarter Sessions might grant up to six briefs every year. Some went to individuals, of whom George Gray of Cottingham is typical: he complained about a fire which had destroyed his home 'to the utter undoing of himself, his wife and four small children unless they be timely relieved,' produced a certificate of support from his neighbours, and was granted leave to beg for alms in Harthill wapentake for three months. The same procedure was followed in the case of more general calamities: thus after a fire at Speeton 'which by violence of the wind and fierceness of the fire burnt down to the ground nine

dwelling houses', the unfortunate householders were allowed to seek alms for a whole year in Dickering, Buckrose and Harthill.

Although poor relief was in the main an activity for justices out of sessions, poor-law administration took up a lot of time at Quarter Sessions. There petitions for relief were heard, as well as appeals about rating and settlement; there the bench considered cases of negligence and put pressure on parishioners and overseers to discharge their responsibilities. But the J.P.s issued few general orders about poor relief, provided little sustained stimulus for more effective measures, and did nothing to remedy the inherent weakness of the system. Their role was supervisory and poor relief business was therefore dealt with piecemeal.

The result was that despite the expenditure of time, energy and money, poor-law administration tended to be make-shift and uncoordinated. Perhaps that was inevitable when the system depended on the parish, where fiscal considerations and an understandable desire to shift responsibility on to the shoulders of others determined what was done, or left undone. Not that the J.P.s acquiesced in parochial negligence. In the East Riding, however, as in many other parts of England, there was a strong emphasis on the repressive aspect. Hence by the early 1700s the range of poor relief administered by the J.P.s in sessions had narrowed somewhat. True, they were still granting pensions and gratuities to lame soldiers, they sometimes ordered relief for individuals who successfully petitioned the court and occasionally they forced a master to take a pauper apprentice. But much of their time was now spent in hearing appeals and disputes about settlement and removal: in 1710, for instance, they granted a regular payment to only one person but they made seven orders for the removal of poor people likely to fall on the rates. In any case, relief had always been mainly a palliative which did nothing to alleviate the condition of the poor in an enduring way, or to prevent their becoming a sizeable social and economic burden. The rigorous enforcement of the poor law, with all its complexities, depended on local circumstances and usually fell short of its objectives.

A host of economic controls were, like poor relief, related to social stability and public order. The great majority of 115 penal statutes in force by the early 17th century concerned economic affairs and gave the J.P.s formidable powers of interference with agriculture, industry, marketing, and the relations of masters and men. The very complexity and scope of these regulations turned the enforcement of them into a happy hunting-ground for informers, who were always active when social and economic conditions made the temptation to break the law especially strong. Some informers (or 'relators') were professionals in search of the profits held out to them by the statutes, namely half the fine imposed or a composition in lieu; others were disgruntled craftsmen or tradesmen, reporting their competitors for infringements of the law in the hope that they

would be restrained. Behind the statutes lay a mixture of motives: fears that hunger and social grievances would erupt in violent outbreaks; the defence of the country and the well-being of its trade; a paternalist view of society. Consequently the regulations were intended to secure the *status quo* and to prevent disturbances to trade or domestic peace as a result of profiteering, extreme wage demands, unstable conditions of labour, declining standards of quality, inadequate workmanship or new methods.

Innovation was generally suspect, and nowhere was this more true, in the earlier part of the century at least, than in the attitude to agricultural changes. Thus the panic aroused by the Midland Revolt of 1607 gave rise to fitful attempts to continue the traditional policy against enclosure. J.P.s were enjoined by the government to prevent depopulating enclosure and to discourage meddling with common pasture, both being activities which led to riots in many parts of Yorkshire, as elsewhere. The local justices investigated enclosure and tried to stop hedging; even after the repeal of the tillage acts in 1624 judicial interference continued under the commissions which examined the question in the 1630s. Sir William St. Quintin of Harpham was one of those threatened at this time with legal proceedings for enclosing property at Burton Agnes. But already there was a more efficient method of carrying out enclosure, by agreement enrolled in Chancery. The proprietors and commoners of Brandesburton in 1630 were among the first to resort to this means which, along with the change of opinion about enclosure, had the effect of removing supervision by the J.P.s from an important aspect of rural life.

The same suspicion of new methods lay behind regulation in industry, but here it was matched by a determination to maintain the standard of goods produced, in the interest of consumers and overseas trade. In general it is possible that industrial regulations attracted less attention than other economic matters because their effect on scarcity, the poor and public order was indirect rather than direct. As many of the statutory provisions affected the cloth industry they formed an additional burden for the J.P.s in cloth-producing areas such as West Yorkshire. But the enforcement of cloth regulations was hardly a problem for the East Yorkshire justices, though from time to time they, like their counterparts in the West Riding, objected to the government's attempts to discourage the county's wool-dealers, whose activities they considered necessary to wool-growers and yarn-spinners alike.

A more insistent burden on the East Riding J.P.s was the duty to enforce the seven-year apprenticeship for crafts and trades stipulated by the Statute of Artificers (1563) in a genuine attempt to encourage good craftsmanship and to hinder changes of occupation which could lead to social instability. There is sufficient evidence of breaches of the law to suggest that the system of statutory apprenticeship did not work well, especially in rural areas, whereas in York and

Hull the corporations and the gilds were better able to enforce the apprenticeship regulations. Moreover, the unsettled conditions of the 1640s no doubt helped, perhaps eneouraged, unqualified intruders to enter industry and trade. By the end of the Civil War there is strong evidence in the quarter sessional records of the enforcement of the law on apprenrieeship, and informers were aerive in bringing accused crafrsmen and traders before the eourt. It is likely that in the post-war eeonomie depression established craftsmen would be speeially anxious to secure the help of the J.P.s in proteeting their livelihood against illegal competition, but only rarely does evidence of this appear: rhus in July 1649 a miller, George Browne, informed againsr two men of Beeford and Foston respeetively for working illegally as millers.

However, informers were responsible for produeing in court a steady stream of accusations against people from all over the Riding for exereising a eraft or trade without having served the neeessary apprenticeship. The number of presentments therefore rose impressively during the difficulr years 1647-50: there were only a handful in 1647 and 1648; but in 1649 the rotal reached 26 (seventeen of them at Miehaelmas sessions) and there were 77 eases in 1650 (31 of them presented at midsummer). The occupations involved were mainly those associated with rural areas: baker, buteher, miller, wool-dealer. Fifteen illegal butchers and two millers were named at Michaelmas 1649, while at midsummer 1650 John Watts laid informations against 20 allegedly unqualified millers. Although the informers brought many cases, the difficulty was to ensure the presence of the accused craftsmen at quarter sessions, and during these years they were often named in repeated writs of atrachment issued by the court. When they did appear and were found guilty, they incurred fines which varied aceording to the duration of the offence.

The attack on unqualified erafstsmen was soon over: in 1651 the number of new offenders dwindled to two and signs of growing laxity are found in various parts of the county. It may have been partly due to the J.P.s' reluctance to do anything which, by throwing men out of work, could merely aggravate the problems of pauperism and vagrancy, an attitude reflected in the ordinance of 1654 which dispensed with the law on apprenticeship for ex-parliamentarian soldiers in search of work. It is impossible to say what happened about unqualified craftsmen in the East Riding during rhe years after 1660, but the J.P.s' interest in apprenticeship was never confined to the punishment of this offence. They occasionally intervened to settle disputes between master and apprentice and tried to enforce the obligations of both. Indeed, by the early 1700s the involvement of the East Riding sessions in apprenticeship cases was confined to the consideration of petitions to caneel indentures, ineluding those made for pauper apprentices. In 1709, for example, William Wright, a Cottingham miller, petitioned against an

unsuitable apprentice, who was therefore discharged and placed in the care of the overseers; a similar decision was reached in the case of a poor apprentice at Bishop Burton. The court did not always support the master, for it tried to protect the interests of the apprentice as well: again in 1709, Thomas Steel secured discharge from his apprenticeship with Robert Hallowes of Bridlington because his master had left the district. Cases like these are, however, few and far between in the records of the court, and it is likely that, except during times of economic difficulty like the middle years of the 17th century, apprenticeship regulations were not as important in the East Riding as they were in the main towns or in those parts of the West Riding countryside where industry flourished.

Apart from their concern with apprenticeship the J.P.s were involved by the act of 1563 in the relations between masters and men about wages and contracts. The statute laid down that the justices, having regard to 'the plenty or scarcity of the time,' should every year 'rate and appoint the wages as well of such of the said artificers . . . or any other labourer, servant or workman whose wages in time past hath been by any law rated and appointed, as also the wages of all other labourers, artificers . . . which have not been rated, as they shall think meet to be rated . . . by the year, or by the day, week, month or otherwise, with meat and drink, or without meat and drink, and what wages every workman or labourer shall take by the great for mowing, reaping or threshing . . . and for any other kind of reasonable labours or service.' The wage rates so assessed were to be proclaimed on market days and at the statute hirings (sometimes called sessions or fairs) held by high constables. As the J.P.s were naturally not compelled to issue new assessments every year, in the East Riding it seems to have been their practice to allow the same rates of wages year after year. Some re-assessments may not have survived, for there is no record of any wage rates for the East Riding between 1593 and 1647. But in the latter year the J.P.s caused an assessment to be drawn up and proclaimed in the usual way, no doubt another of the moves to tighten up local administration after the Civil War. The East Riding J.P.s, like those of the West Riding, therefore anticipated by more than a year a parliamentary order calling for the execution of the wages clauses of the Statute of Artificers. Plainly the authorities hoped to prevent masters and men from taking advantage of the unsettled conditions, on the one side to poach labour, on the other to extort unreasonable wages. But although during the next twelve years the Quarter Sessions of the West and North Ridings heard cases against men refusing to work for the assessed wages, and against employers offering more than the legal rate, there is almost no evidence of the same kind in the records of the East Riding court between 1647 and 1651, when one might have expected the J.P.s and officers to have been specially vigilant. During these years the East Riding sessions intervened only once in a wages dispute. In July 1650 the J.Ps.

sought to end a disagreement between William Browne of Buckton and his shepherd, Joseph Hunt: the latter was awarded £3 6s. 8d., without meat and drink, for his wages from Lady Day to Martinmas.

Differences over wages may, however, have been partly to blame for the instances of breach of contract between masters and men which came before the J.P.s. These cases arose from the sections of the 1563 act which made it illegal in certain enumerated occupations to hire men for less than a year, which forbade dismissal or departure before that term was ended except on cause shown to a justice, and which required servants in husbandry or the enumerated occupations, on leaving their employment, to obtain a testimonial certifying that they were legally free to join another employer. Yearly hirings were to be upheld, therefore, as a safeguard against the evils of unlawful wages, irregular employment and lapses into vagrancy. Between 1647 and 1651 the East Riding J.P.s paid rather more attention to this problem than to the enforcement of scheduled wage-scales, and they considered half-a-dozen cases against masters for hiring men who lacked a testimonial because they were still in the service of someone else. Such poaching of labour had to be discouraged. So too had departure before the term of service was completed. In 1648 Richard Dalby, a servant of Viscount Valentia, was ordered to return to his master if the latter would take him back. The following year the J.P.s punished a carpenter, Tristram Righill, 'who departed from his work at Bridlington Quay after he had undertaken the same before it was finished'; he was sentenced to a month's imprisonment, he had to pay £5 to his aggrieved master, and he had also to pay those who had set him to work 'such costs and damages as they shall be put unto recovery thereof.'

For the enforcement of wage schedules and the complementary measures affecting masters and men, the J.P.s had at hand an important means of assistance in the high constables' statute sessions. In the middle of the 17th century these sessions met in each wapentake at Martinmas. They were attended by the petty constables, who reported offenders against the Statute of Artificers and delivered bills listing the names of employers and their servants and showing the wages paid in their parishes. The wage assessments in force were published, and there was a roll-call of masters, whose bargains with the men hired were recorded: the statute sessions therefore helped men to find employers, masters to find men. But they did more, for they prevented hiring in private, with its attendant dangers of poaching labour, unsettled terms of employment and the payment or extortion of excessive wages.

The methods of implementing the act of 1563 at Quarter Sessions and statute sessions continued after the Restoration. In 1669 the East Riding justices issued a wage assessment which included increases in the rates hitherto proclaimed; it seems to have been drawn up after consultations with the J.P.s of Hull and the Parts of

Lindsey (Table 1). The maximum yearly rates of wages, with meat and drink, given in this assessment show an average increase of 78 per cent over those assessed in 1593 (the only earlier schedule to survive). The 1669 assessment includes maximum daily rates, with or without meat and drink, for a variety of farm labourers: mowers, shearers, hinders (both men and women), haymakers, weeders of corn, threshers, ditchers, scourers and wallers; there are also daily rates for thatchers, housewrights, ploughwrights and carpenters. Although it is impossible to say how far these rates were enforced, the evidence produced by Professor Kelsall of actual wages paid reveals the diversity of practice one might have expected: for example, the estate accounts of the Constables of Everingham show that wages were in accordance with the nature of 1669, but farm accounts from Welwick indicate that while the majority of wages were below the assessed maxima some were above it.

Table I

Extracts from Wage Assessments, 1669 and 1679

	1669	1679
A bailiff	£4	£6
The chief kind of a husbandman	£3	£5
The chief shepherd	£2 10s.	£3 (or £7 without meat and drink)
A servant in husbandry that can mow and plough well	£2 15s.	£4
Every other servant in husbandry	£2	—
An ordinary woman servant ...	£1 8s.	£3

By 1679 the J.P.s were obliged to issue a new wage assessment which sanctioned increases averaging 36 per cent over the yearly rates with meat and drink proclaimed ten years earlier (Table 1). This assessment, which was probably made in concert with the justices of the North Riding, was accompanied by a restatement of the obligations of constables, masters and men under the Statute of Artificers. It is likely that this summary of parts of the law is evidence of the determination of the J.P.s to make a renewed attempt to enforce its provisions, possibly in abnormal circumstances. Moreover, the new rates applied only to yearly wages with meat and drink, which suggests that there was no need to interfere with daily- or piece-rates, or to allow for a rise in the cost of living. Professor Kelsall has therefore argued convincingly that the new East Riding assessment of 1679, along with its counterparts in the North Riding, Lindsey and Hull, was occasioned by an emergency, in this case a temporary shortage of labour due to an epidemic of agues.

Indeed, it seems likely that during the later 17th century the interest of J.P.s all over the country in wage regulation was confined to periods of abnormal labour conditions and had little to do with the cost of living or with paternalist concern. By 1700 different attitudes, economic changes and legal decisions had all raised obstacles to the regulation of wages, yet for long afterwards the practice continued to be widespread. Thus the East Riding justices, after consultations with J.P.s in the other Ridings, issued a new assessment in 1722. But although it was deemed worthwhile to reissue it in 1757 the quarter sessional records contain no proceedings for infringements of the wage rates laid down. Moreover, the orders of the J.P.s during the early decades of the 18th century make it clear that by this time they were having difficulty in ensuring regular and effective support from statute sessions in this aspect of their work.

The justices were concerned not only with manufacture and the contracts between masters and men but with marketing as well. They had detailed statutory powers for the protection of consumers, especially the poor, against those who engrossed supplies, used faulty weights or sold bad foodstuffs. They were to prevent hunger, distress and possible unrest by ensuring that markets were well stocked, and they were to control middlemen, of whom contemporaries had an exaggerated suspicion. In York and Hull the corporations tried unceasingly to detect and punish marketing offences which might threaten supplies to the townsmen, but in the East Riding, as in other rural areas, matters were rather different. The marketing laws could have given Quarter Sessions plenty of business, and the J.P.s did indeed claim to be enforcing them effectively in response to the Privy Council's 'scarcity orders' of the 1620s and 1630s. In the middle years of the 17th century, when one might have expected that wartime conditions would have produced a heavy crop of marketing offences, the Quarter Sessions received few informations on the subject. Corn badgers were occasionally licensed and some butchers were fined for selling unwholesome meat. Otherwise the J.P.s' attempts to influence marketing were confined to a decision in 1647 that 'such silver as is of the coin of England though it be clipped ought to go in payments as formerly' in order to facilitate trade. Justices out of sessions had some responsibility for the regulation of markets, but the inactivity of the Quarter Sessions in the matter is hard to explain. It may be a reflection of the comparative unimportance of the rural markets of East Yorkshire. It may be that the statutory provisions were too complicated for the administrative machinery available: parochial officers were not specifically charged with duties in markets, as were some of the municipal officials. But whatever the reason, except when there was pressure from the government the laws about markets and trade seem to have been feebly executed in the Riding.

If effort be the criterion the same could hardly be said of the regulation of alehouses, those 'nurseries of naughtiness' as Lambard called them. An act of 1552 enabled J.P.s out of sessions to select alehouse-keepers, with the intention of restricting the number to a total just large enough to supply the needs of the neighbourhood; and a provision for the yearly renewal of licences made the suppression of superfluous or disorderly alehouses easier. Legislation in 1604, 1606 and 1610 further reduced the opportunities for drinking. The J.P.s had therefore ample powers in their own localities to license or suppress alehouses and thereby to discourage heavy or prolonged drinking, which could too easily lead to gaming, crime, idleness, vice and pauperism. They had a free hand in determining the fitness of applicants for licences and could take steps to drive alehouse-keepers out of business on receipt of local complaints about disorder or 'inordinate drinking.' But there was a difficulty which in the end proved insuperable: the unceasing proliferation of alehouses, many of them unlicensed, many of them apparently suppressed but quickly re-established. The result was that continuous attempts to enforce the licensing laws came to occupy a good deal of the J.P.s' time both in and out of sessions. This was particularly true of the mid 17th century when restrictions on alehouses and the supply of drink coincided with the regulation of manners in other ways.

Quarter Sessions records therefore abound in lengthy lists of offenders against the licensing laws and in repeated orders for the suppression of unnecessary alehouses. In April 1647 no fewer than 88 alehouse-keepers from all over the Riding were presented for selling ale without a licence, and some of them were again named in another lengthy list of offenders presented in October of the same year. The size of these lists is no doubt a reflection of the breakdown in local government during the Civil War. More often the court considered only a handful of presentments at a time: in October 1649 eight unlicensed alehouse-keepers from Market Weighton and four from Cottingham were brought before it. Sometimes it merely heard the cases of one or two individuals, presumably those against whom their neighbours had complained. One such offender was William Lamb of Rillington, who had kept 'great disorder in his house upon the Lord's Day to the dishonour of God and the grief of the well-affected'; he was ordered to pull down his sign and forbidden to keep an alehouse for three years. Similar sentences were passed on other offending alehouse-keepers, who were also subject to fines ranging from 5s. to £1, for the use of the poor of the parish; persons found guilty of inordinate drinking were punished in the same way. The court possibly paid more attention to the problem of drinking and alehouse offences in 1651. One of the most serious offenders brought before the J.P.s was a Howden alehouse-keeper, Mark Backhouse (whom the clerk not inaptly sometimes called 'Baccus'): in January 1651, on being found guilty of keeping a disorderly and unlicensed alehouse, he was sentenced to three days

in prison and a fine of 20s. for the poor; the constable was to pull down his sign, and Backhouse was to give his bond not to brew ale. Whether he proved contumacious or whether he could not produce the bond is not known, but at the summer sessions he was committed to the house of correction for a month for unlicensed brewing. In the same year there were a number of punishments for unlawful drinking—for instance, four Melton men were accused of tippling for two hours—as well as drunkenness, unruly behaviour and unlawful games.

Malting and brewing had to be restricted in years of bad harvest, to conserve supplies of barley for food. At these times, for example in 1608, 1622 and 1630, the Privy Council issued scarcity orders, which called upon J.P.s to ensure that markets were served with adequate supplies and to limit the numbers of brewers and alehouse-keepers. In general, the reports from the counties suggest that the justices made a satisfactory response. During the mid 17th century we again find them trying to safeguard food stocks by controlling the supply of barley to brewers. In July 1648 the court made a general order for fines on unlicensed brewers, and the following Easter it was laid down that no one should buy barley for malting until Michaelmas, by which time it was no doubt hoped that the harvest would have increased the stocks.

But it is clear that as far as the regulation of alehouses and drinking were concerned achievement fell far short of intention. The repetition of orders and the constant appearance or re-appearance of alehouse-keepers before the court show that however sustained their efforts the magistrates had very limited success in the enforcement of licensing obligations. The problem was practically insoluble. One difficulty was that any attempt to regulate drinking cut across the ingrained convivial habits of the people and was not easy to accomplish in the face of local wishes. Another difficulty was that power over licences lay not only with Quarter Sessions but also with justices out of sessions who, because of pressure in their own neighbourhood, sometimes acted contrary to the wishes of their colleagues. Again, an alehouse-keeper whose licence was revoked by local J.P.s was strongly tempted to find other justices who would reinstate him. Hence the order made by the East Riding Quarter Sessions in July 1651 that alehouse-keepers were to be licensed only at Quarter Sessions or at special licensing sessions. The latter provided a possible solution to some of the problems in the East Riding, as in other places, by concentrating the business of licences in a meeting of J.P.s called for that purpose. It was probably for this reason that by 1700 Quarter Sessions took little interest in the licensing laws, beyond an occasional order to cancel the ale-selling licence of innkeepers (whose inn licence was untouched) who had allowed unlawful drinking and disorder on their premises: inns were for travellers, not tipplers.

Wayfarers, whether on business or pleasure, were intended to benefit from the statutes passed in the 16th century for the repair of roads and bridges, the condition of which could obviously affect both social life and economic activity. Responsibility for road repairs rested squarely on the parishes. Under the acts of 1555 and 1563 parishioners were to choose two surveyors of the highways whose task it was to organise the repair and maintenance of roads in the parish; occupiers of land were to provide carts, tools and workmen; the meaner sort of people were to work *gratis* on the roads for up to six days in a year. The J.P.s in and out of sessions enforced these obligations; they supervised overseers and checked their accounts, punished neglect by individuals or whole parishes, and they themselves could present roads which were in desrepair. However important the degree of oversight and stimulus provided by the J.P.s their effectiveness was limited by the essentially parochial nature of the responsibility for road repairs, and even in Quarter Sessions they did not make general orders about the matter or supply any initiative for repairs.

Instead they imposed small fines on overseers who, like those of Burstwick in 1651, failed to appoint the necessary days for parish labour on the roads. From time to time they punished individuals who deliberately absented themselves from the 'common days work'; this labour was often unwillingly given, and the fines for refusal seem to have been recognised as payments in lieu of service. The J.P.s acted against such encroachments as fences, gates or pits which blocked the roadway. They named committees of magistrates to resolve disputes. Such hearings could be protracted: in October 1649 Justices Lister and Hotham were appointed to enquire into a dispute between Bishop Wilton and Kirby Underdale about the repair of certain unkept and dangerous lanes, but in July 1650 the same J.P.s were asked to reconsider the question and try to reach a settlement, in default of which the Bench itself undertook to decide the matter at the Michaelmas sessions.

Nevertheless, the most regular and arduous duty of the Quarter Sessions as regards road repairs was the consideration of complaints against whole parishes for the non-repair of roads. Presentments for this offence were both regular and numerous: twenty cases of defective roads and lanes were brought before the court in July 1647, followed by a steady stream of similar presentments from all parts of the Riding during the next eighteen months, no doubt another consequence of local upheavals since 1642; in October 1648 24 places were presented for unrepaired roads. If the case were a serious one, involving an important road, the judges of assize could be asked to bring pressure to bear, as they were in the case of the parishioners of Beverley, presented in 1650 for the non-repair of the road leading to Hull. But for the most part all the J.P.s could do against a neglectful parish was to impose a fine which, however small, could be levied only by distraint on individual parishioners;

the proceeds went to the surveyors, for the employment of paid labour. Few sessions passed without distraints being ordered for the non-repair of roads. But the proeedure was cumbersome, possibly unfair, and in the bope of avoiding difficulties the fines were often respited to allow parishes time to meet their obligations.

By the early 1650s, indeed, the East Riding J.P.s had already developed a system of conditional fines. Neglectful parishes were ordered to repair their roads within a stated time on pain of a larger penalty being levied if they failed to do so: in January 1651, for example, a suspended fine of £30 was imposed on Scagglethorpe and Settrington, to be paid unless their roads were repaired by midsummer. These conditional fines were large enough to be a real incentive to the fulfilment of parocbial obligations, and to judge by the number of cases in which the fine was eventually lifted the threat seems often to have had the desired result. Yet the need for a device of this kind, and the number of parishes presented for allowing roads to fall into disrepair, show that the system of statute labour and parish responsibility was far from satisfactory.

The only possible subsritute for unpaid and often unwilling labour, however, was the employment of workmen paid out of a rate, which the law was slow to permit. Nevertheless, in exceptional cases we find the East Riding justices allowing the assessment of a rate for road repairs, even without statutory backing. In 1648, for example, having heard a petition from the surveyors of the highways between Hull and Newland, the J.P.s ordered the immediate collection of £4 1s. 6d. in Sculcoates for road repairs. Although legislation for road-rates began with the ordinance of 1654, it was half-hearted and temporary until an act of 1691 allowed J.P.s to levy a parish rate if they were convinced that the roads would not otherwise be adequately repaired. The same act directed J.P.s to hold special divisional sessions for highways business. It is impossible to say when these meetings were established in the East Riding, but during rhe early years of the 18th century the East Riding magistrates at Quarter Sessions seem to have limited their interest in road repairs to the imposition of suspended fines on neglectful parishes.

The J.P.s had wide powers and more direct responsibilities for the repair of bridges. An act of 1531 charged counties with the upkeep of all bridges for which no liability could be proved to lie elsewhere, either on individuals or on such bodies as parishes or corporate towns. It established machinery for carrying our repairs: when decayed county bridges were presented in court the J.P.s were empowered to levy rates and to appoint surveyors to organise the work under the supervision of neighbouring justices or other gentry. The system was a workable one which could draw on local knowledge of bridges, traffic, the river, the site and the workmen, but it imposed another heavy burden on the J.P.s. As far as non-county bridges were concerned, the J.P.s had to force those responsible to meet their obligations, and we occasionally find them doing so:

in April 1648, for example, they ordered the people of Kirkburn to repair their bridge, a parochial responsibility, and at rhe summer sessions they tried to instil greater urgency into the proceedings.

The county bridges were the larger and more important ones, whieh often needed considerable sums of money spent on them, especially after the Civil War. If they spanned a boundary river they caused further prohlems: in the case of Kirkham bridge, for insrance, it was the usual pracrice of the East Riding Bench to ask their fellow justices in the North Riding to raise a conrriburion. But the levying of large sums of money aroused the familiar difficulties of delay and evasion in payment, financial malpracrices and denials of any obligation to share the charges, while the renewal of orders for the repair of certain bridges shows that the srandard of workmanship left much to be desired.

In the mid 17th cenrury the case of two hridges, rhose at Kexby and Sramford Bridge, admirably refleets the problems which confronted the J.P.s in fulfilling this part of rheir duty. By Easter 1648 some work had been done on these two bridges, but although a rate (the amount of which is not known) had been levied some of the money had not materialised, and after checking the accounts the J.P.s issued warrants for the rates to be levied by distraint. At Michaelmas 1648 four J.P.s were appointed to inspecr the bridges and consulr the workmen about the cost of the repairs srill necessary. During the Epiphany sessions 1649 the sheriff was ordered to empanel a jury from Ouse and Derwent wapenrake and from the Wilton and Holme divisions of Harthill ro ascertain the liability for repairs to the bridges in question. At the same rime a rare of £600 for the bridges was levied on the whole Riding. No more is heard of repairs at Stamford Bridge, but larer in 1649 the East Riding was indicted at the Assizes for the non-repair of Kexby bridge, and the Bench had to arrange for the cost of the defence, £17 8s., to be met. By Easter 1650 a further £200 was required from the Riding for Kexby bridge, a treasurer and three surveyors being appointed for the work. This order was repeated and strengthened at the midsummer sessions, with detailed instructions to high and petty constables ro co-operate wirh the collectors; a special meeting was arranged ar Bainton, where the J.P.s were ro give orders for distraint on the property of people who had delayed or refused paymenr. In January 1651 the J.P.s were demanding that the accounts for Kexby bridge be produced at the Easrer sessions. But by then a new round of troubles over county bridges had begun: there was a case pending in the court of Exchequer against the Riding in general and Ouse and Derwent in particular over the non-repair of county bridges; while as if to add to the difficulties about the bridges in the west of the Riding, the Bench found that £600 was needed for the repair of the bridges at Elvington and Howsham.

In view of the complicarions and manifest deficiencies of the machinery for bridge repair it is nor surprising that during the later

17th century J.P.s all over the country began to dispense with some of the legal formalities which made the procedure cumbersome. They developed the practice of levying a general bridge rate rather than special rates for a particular bridge, the proceeds being disbursed by one of the treasurers when occasion demanded. Repairs were thus expedited. By 1708 the East Riding J.P.s were employing a permanent surveyor of bridges at £10 per annum for his salary and riding charges. From time to time he inspected all the county bridges, of which there were eight: Yedingham, Stamford Bridge, Kexby, Kirkham, Elvington, Buttercrambe, Howsham and Norton. When repairs were needed he undertook them, set men to work, provided materials and presented the bill for approval and payment by the J.P.s in sessions. The effect of these arrangements was to reduce the time spent on bridge repairs at Quarter Sessions and to make the upkeep of the bridges more a matter of routine than hitherto. But substantial sums were still required, and bridges remained an insistent burden on the finances of the Riding.

One supremely important difficulty underlay many aspects of the J.P.s' work: the supply of money. Local government in the 17th century was cheap, but it was often too cheap and resulted in inadequate provision of services and plausible excuses for neglect. There was no regular, general county rate. Instead the arrangements for raising money were makeshift and unco-ordinated: the sums required by individual parishes or by the Riding as a whole—for poor relief, for example, or bridges or the house of correction—had to be raised *ad hoc*. All too often the story was one of evasion, delay and argument about the fairness of the assessment. As far as levies on the whole Riding were concerned there could be no argument about the distribution of the charge between wapentakes, for a poundage rate had been laid down by the J.P.s early in the century and was still in force in 1662 (Table 2). The chief difficulties came from disagreements within parishes over the apportionment of the levy among the parishioners or about its distribution between different townships. Assessment disputes occurred regularly in the mid 17th century, no doubt because of heavier national taxes and local rates as well. Individual J.P.s were sometimes called upon to act as umpires, but in some cases the Quarter Sessions decided the matter: thus in July 1650, having heard a dispute about rates between Garrowby and Bugthorpe, the Bench ordered that the former should pay eight parts and the latter twelve parts of all national and local assessments, and that they should have separate parochial officers.

Although the J.P.s had responsibility for the approval and levying of rates, the collection—and often the disbursement—of them was a matter for high constables and the officers of the parish. Here was another source of difficulty in local government. Subordinate officers could be unreliable and too amenable to the pressure of neighbours; some stooped to extortion or embezzlement. Hence the

J.P.s always tried to insist on their good behaviour. Even the high sheriff, a social equal of the justices, could cause trouble. One Yorkshire sheriff from the East Riding, Sir Michael Warton, exceeded his powers by threats to recusants in 1616-17 and caused so much offence that he was gaoled by the Star Chamber. As we have seen, sheriffs were held responsible for the failure of their officers to keep prisoners safely in custody, and in 1649 the J.P.s threatened to fine sheriffs who extorted more than the fixed scale of fees. At Quarter Sessions the J.P.s had to spend time compelling other officers to perform their duties satisfactorily: parish constables were fined small sums for absence from Sessions or other neglect of duty; wapentake bailiffs were fined 10s. or 20s. for the non-execution of warrants; and conditional penalties were imposed on high constables who failed to produce the rates which they had collected. Cases of negligence were much more common than those of corruption, but in 1708 the J.P.s decided to guard against certain temptations by an order that no alehouse licences were to be granted to high constables or bailiffs. The J.P.s' problems were enhanced by the unceasing need to supervise subordinate officers whose unreliability was a serious, apparently irremediable, weakness. Even when local officials took their duties seriously, the complications of the law and the unspecialised nature of their powers made it difficult for them to be wholly effective.

Table 2

*A Poundage Rate for the East Riding, c. 1600**

	s.	d.	
Holderness	5	6½	in £
Harthill	5	6½	in £
Dickering	3	2	in £
Buckrose	2	4½	in £
Howden	1	5½	in £
Ouse and Derwent	1	5¼	in £
Beverley		5½	in £

(Galway MSS).

*Every pound rated on the East Riding was levied according to the proportions represented by these sums.

Furthermore, in the parishes the attitude of the community to office-holders could be one of resentment and suspicion; here local government was often hindered by obstruction, grudges, threats and strained relations over the reporting of misdeeds. All the J.P.s could do was to try to uphold the authority of the parish officers wherever possible. Yet another hindrance to the effective working of local government lay in the squabbles between communities about roads, bridges, relief, settlement and other matters which cost money. This localism, a tendency to give priority to the supposed

interests and needs of the smaller community, undermined efficiency and was difficult to counteract. Moreover, the J.P.s themselves were sometimes guilty of similar failings, pursuing private interests or quarrels at the expense of their public duties, ignoring some of their statutory obligations, and bickering about expenditure.

One of the great troubles was lack of general direction. The sanctions at the disposal of the central government were weak, while distance and inadequate communications made it almost impossible to maintain steady pressure on local administrators. Nevertheless, when the government did exert its authority, as in the 1630s and to a lesser extent after the Civil War, it achieved results which were perhaps more enduring than might have been expected, thanks to the habits and the routine developed by the J.P.s. Thus local government displays some striking features of continuity throughout the 17th century. The administrative system survived the Civil War, and the machinery was quickly brought back into working order. For a large part of the century economic controls were maintained, even if intermittently, in the spirit of the Tudor code. But the J.P.s always laid emphasis on some aspects of the law and overlooked others, tackling a limited number of problems with periodic bouts of enthusiasm; consequently their performance over the whole field of local government often fell far short of what was required. Meanwhile their aims narrowed. By the later 17th century the justices were allowing certain economic regulations, no longer regarded as necessary, to fall into disuse, and as we have seen they were increasingly confining their interest in the poor law to the issue of orders for individual relief and to the adjudication of settlement disputes.

Meanwhile in other directions the scope of the J.P.s' work was changing, even widening by the early 1700s. At that time they were being called upon to fix the rate of charges for the carriage of goods by road and to approve the licensing of places for nonconformist worship. Moreover, in 1708 the East Riding J.P.s were mainly responsible for setting up the Registry of Deeds at Beverley: the Quarter Sessions levied a rate for building the registry; a committee of J.P.s negotiated for a site; and justices were designated to check and sign the enrolment books. By that time, although much of the framework of quarter sessional government remained unaltered, some newer methods had been evolved. In addition to divisional sessions these included meetings for special purposes such as licensing and the delegation of work to *ad hoc* committees of justices. There was only one new official, the county surveyor for bridges, but instead of four treasurers for lame soldiers and poor prisoners there was now only one. In his hands were concentrated funds raised by rates for bridges and a variety of other purposes, including lame soldiers (to whom pensions were still paid), the relief of individuals in distress, and the purchase of statutes and stationery for the Quarter Sessions—in short a county treasurer in the making.

On the other hand many features of county government by J.P.s in and out of sessions were unchanged, and several of them carried considerable advantages. Thus reliance on complaints by neighbours could make for speedy redress. Local bodies and officials were able to see the consequences of neglect and had to shoulder their responsibilities, while the acceptance by local communities of regulations and duties could greatly assist the enforcement of the law. Moreover, localism had advantages as well as drawbacks, for it meant an understanding of local requirements and wishes which could serve the ends of government. Armed with a thorough knowledge of conditions in their area, the J.P.s were sharply aware of common needs, and this awareness led them to temper the statutes in the interests of their own localities, thereby mixing law with commonsense. Similarly, a sense of community and a general interest in a district together produced a certain pressure on J.P.s to conform and to co-operate in their duties: the attitudes revealed by both sides in the Star Chamber case of 1615 show that this was so. Besides, despite the lapses, the torpor and the unorganised and piecemeal character of much of the J.P.s' work, a good deal was accomplished for the orderly government of the East Riding: funds were raised, laws were administered, orders were enforced, officers were controlled, wrongdoers were punished. True, one reads more about the malefactor and the negligent than about the obedient and the efficient, but that is because the record of the J.P.s' work is mainly that of a court of law, concerned with what was amiss. Moreover, no one can measure the deterrent effect of the prosecutions: 'there is no silence like that of the well-behaved citizenry.' In the last resort, however, the effectiveness of the J.P.s depended on the fact that they were the natural leaders of the local community, with (in Professor Hurstfield's words) 'responsibilities extending widely and deeply into the whole fabric of the county.'

NOTES

1. The term 'commission of the peace' is used in two senses, one meaning the royal commission which granted powers to certain men as J.P.s, the other referring to the body of justices named in the commission.

2. During the 17th century, most of the J.P.s commissioned for the archbishop's liberty of Beverley were also J.P.s for the East Riding, but no record of their work in the first capacity has survived.

3. P(ublic) R(ecord) O(ffice), Sta. Cha. 8/175/4; H. Aveling, *Northern Catholics*, passim.

4. Beverley Hallgarth [or Hall Garth] was on the site of the archbishop's manor-house near the Minster.

5. Sheffield Central Library, Wentworth Woodhouse Muniments, Bright MS. 64.

6. P.R.O., E 372/461-70; /508-10; /519-21; Sheffield Cent. Lib., Wentworth Woodhouse Muniments, Bright MS. 64.

7. Undersettlers, sometimes called inmates, were poor squatters or lodgers.

8. A traverse was a technical plea against the matter or form of an indictment.

9. P.R.O., Sta. Cha. 8/175/4.

10. The house of correction was near the Guildhall, and adjacent to it eventually was the Country Hall, used for sessions during the 18th century.

11. More correctly, perhaps, handle stocks. A handle was a frame set with teasels used for raising nap on cloth. Stocks may mean simply a quantity of handles, or possibly a piece of equipment for holding the handles.

12. *Depositions from the Castle of York* (Surtees Society, vol. 40), p. 144.

13. Ibid., pp. 24, 39-40.

14. E.M. Leonard, *The Early History of English Poor Relief*, pp. 255, 259.

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This study is based mainly on the comparatively small number of quarter sessional records surviving from the 17th and early 18th centuries, together with miscellaneous documents arising from the work of the J.P.s. The Quarter Sessions Order Book for the period 1647-51 comprises not only administrative orders but a summary of other proceedings as well: the trial of criminal cases, processes, recognizances, the names of justices and jurors present. There are, however, no depositions or detailed indictments, while verdicts and sentences are not always recorded. The Quarter Sessions Order Book for the reign of Queen Anne is more limited in scope; it consists of administrative orders and occasional memoranda; the Sessions Files contain supplementary information. The quarter sessional records from the early 18th century would repay further study, both in respect of general county government and of particular topics such as crime, the poor law and social conditions.

Extensive use has been made of the State Papers Domestic and the Registers of the Privy Council, published and unpublished. The former include a variety of letters, orders, reports and memoranda pertaining to the work of J.P.s, the latter include directions from the central government to the localities. The proceedings of the Courts of Exchequer and Star Chamber have also been examined. The Commissions of the Peace for the period are found among the various classes of manuscripts at the Public Record Office, the British Museum, and the Bodleian and Cambridge University Libraries; a guide to these lists with explanatory information is to be found in the article (cited below) by T. G. Barnes and A. H. Smith.

There is no general survey of local government in this period, but A. G. R. Smith, *The Government of Elizabethan England*, gives a helpful outline and E. A. L. Moir, *The Justice of the Peace*, provides a useful account of the development of the office. Reference should also be made to the J.P.s' handbooks by Lambard and Dalton, and to the records of early proceedings before J.P.s edited by B. H. Putnam. Among studies of individual counties, J. Hurstfield's chapter in the *Victoria County History, Wiltshire* and T. G. Barnes' book on Somerset are the most illuminating and are both of more than localised interest and importance. The gentry of 16th- and 17th-century Yorkshire have been admirably studied by J. T. Cliffe, and much relevant biographical and topographical material is listed in A. G. Dickens and K. A. MacMahon, *A Guide to Regional Studies in the East Riding of Yorkshire and the City of Hull* (1956).

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