

**POPULAR ATTITUDES TOWARDS RURAL  
CUSTOMS AND RIGHTS IN LATE  
NINETEENTH AND EARLY TWENTIETH  
CENTURY ENGLAND**

**Tracey Elizabeth Young**

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# ABSTRACT

The central aim of this study is to explore rural attitudes concerning subsistence customary practices, such as gleaning from the harvested fields, catching wild rabbits, birds or fish; gathering wild foods; and collecting wood, furze and gorse. It focuses on the period between 1860 and 1920, when social, economic, political and cultural, changes and transformations, were taking place in rural England. It is a comparative regional study of the Cambridge Fens in Cambridgeshire, the Nene River Valley in Northamptonshire and parts of the Chilterns, mostly situated in Buckinghamshire. Tensions and conflicts concerning customary practices were often expressed through petty and social crime, and these can be viewed in the weekly petty session reports published in local and regional newspapers. These are a reliable and continuous historical source regarding the business of the local courts, which along with school log books, memoirs and diaries, provide insights into the attitudes and opinions of rural populations. The particular significance of this study is that it extends the current historiography and aids our understanding of rural conflict associated with popular culture during this period. The continuation and perpetuation of customary beliefs relied on memory, repetition, negotiation and community tenacity. But ultimately the continuation of asserting such rights, and the shape and form this took, depended on the availability of resources in each region, and individual's and community's changing needs and requirements.

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# INTRODUCTION

This thesis explores rural attitudes towards customary practices in the second half of the nineteenth century by focussing on three specific environmental regions, each of which presented distinct and divergent opportunities for exploiting natural resources. More precisely, it considers how local communities in different environments, landscapes and economies, responded to the loss of popular ‘subsistence’ customs and rights.<sup>1</sup> Resulting tensions and conflicts were often expressed through petty and social crime, and it is by analysing such behaviour that this study evaluates how contemporary social, economic, political and cultural issues influenced rural communities’ perceptions and assertions of ‘traditional’ customary rights in the late nineteenth century.<sup>2</sup> In doing so it makes an original contribution to a historiography on the subject that has been primarily concerned with the erosion of customary rites in the eighteenth and early nineteenth centuries. It also attempts to uncover rural mentalities, in other words the collective attitudes, unspoken and unconscious assumptions, and perceptions of rural populations, by exploring not only the nature of popular cultures, but also crime and class, along with other aspects of social, economic and political rural life.<sup>3</sup>

I have been particularly influenced by the seminal works of David Underdown, Edward P. Thompson, Bob Bushaway and Robert Storch, who developed and highlighted different approaches to the analysis of popular culture and custom. The concept of cultural conflict was explored by David Underdown, who explained how the ‘erosion of rural traditions was hastened by the adoption of the absolutist conceptions of property rights’ in the seventeenth century.<sup>4</sup> His ideas on regional patterns of protest were further developed by Andy Wood in his examination of free miners in the Peak Country during the early modern period.<sup>5</sup> The influential work of E. P. Thompson on customary rights in rural England during the eighteenth century analysed the relationship between custom, law and common right, exploring the role of criminal law, social

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<sup>1</sup> Customs and rights, which enabled individuals and groups to collect and forage for food and materials in order to sustain a basic standard of living.

<sup>2</sup> Concept of tradition will be discussed further in chapter 1, see also B. Bushaway, *By Rite: Custom, Ceremony and Community in England, 1700-1880* (London, 1982), p. 23 and P. Laslett, *The World we have lost* (London, 1971), pp. 159-178.

<sup>3</sup> P. Burke, ‘Strengths and Weaknesses of the History of Mentalities’, *History of European Ideas* 17 (1986) 439. For further discussions on the history of mentalities see M. A. Gismondi, ‘The Gift of Theory: A Critique of the Histoire of Mentalities’, *Social History* 10 (1985) 211-230.

<sup>4</sup> D. Underdown, *Revel, Riot and Rebellion: Popular Politics and Culture in England 1603-1660* (Oxford, 1985), p. 61.

<sup>5</sup> A. Wood, *The Politics of Social Conflict: The Peak Country, 1520-1770* (Cambridge, 1999).

relations and the economy.<sup>6</sup> Bob Bushaway's reconstruction of 'the ideology of custom' was concerned with the mechanisms of social cohesion and social disruption throughout the eighteenth and early nineteenth century.<sup>7</sup> And finally, Robert Storch's collection of essays outlined the tensions between continuity and change in customs, rituals, values and beliefs during the nineteenth century.<sup>8</sup> This rich literature provides a foundation on which to build and develop this inquiry into English popular cultures. The analysis of the source material on which this thesis is based has also been influenced by psychological, sociological, and anthropological approaches, and a full and in-depth understanding of the geographical landscape within which the communities in question lived and worked.<sup>9</sup>

In order to examine the attitudes, beliefs, ideas, and behaviours of different regional cultures, it will be necessary to first understand and define the complex concepts of popular culture, attitudes and mentalities, about which there has been much debate and disagreement in past historiography.<sup>10</sup> Clifford Geertz, for example, described the concept of culture as purely 'a semiotic one', in contrast to Clyde Kluckhohn, who gave the concept eleven different definitions.<sup>11</sup> Psychologists, too, admit that the topic of culture and attitude change has been a difficult one, defining attitudes as 'evaluative beliefs that serve to promote an underlying set of values'.<sup>12</sup> For this study Peter Burke's concise and coherent definition of culture is appropriate and relevant, for he defined it as 'a system of shared meanings, attitudes and values', describing popular culture as a culture of 'ordinary people...those below the level of the elite'.<sup>13</sup> This approach analyses history 'from below' which

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<sup>6</sup> E.P.Thompson, *Customs in Common* (London, 1993).

<sup>7</sup> B.Bushaway, *By Rite: Custom, Ceremony and Community in England 1700-1800* (London, 1982).

<sup>8</sup> R.D. Storch (ed.), *Popular Culture and Custom in Nineteenth-Century England* (London, 1982).

<sup>9</sup> See how Sarah Williams drew on the work of anthropologists and sociologists in her study of *Religious Belief and Popular Culture in Southwark c. 1880-1939* (Oxford, 1999). She aimed to move beyond the external considerations of social structures and institutions to consider the dimensions of mentality and culture.

<sup>10</sup> See P.Burke, *Popular Culture in Early Modern Europe* (Aldershot, 1994), T.Harris, 'Problematizing Popular Culture', in T.Harris (ed.), *Popular Culture in England, c. 1500-1850* (London, 1995); M.Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2000); S.Hall, 'Popular Culture and the State', in T.Bennett, C. Mercer, and J.Woollacott (eds), *Popular Culture and Social Relations* (Milton Keynes, 1986); and P.H.Hutton, 'The History of Mentalities: the New Map of Cultural History', *History and Theory* 20 (1981) 237.

<sup>11</sup> C.Geertz, *The Interpretation of Cultures* (London, 1975), p. 5, John Bodley in *Cultural Anthropology: Tribes, States and the Global system* (1994) states that he in fact published 160 different definitions of culture. [www.wsu.edu:8001](http://www.wsu.edu:8001)

<sup>12</sup> Rosenberg (1960), Jones and Gerard (1967) in S.S.Brehm, *Psychological Reactance: A Theory of Freedom and Control* (London, 1981), p. 121. Attitude was in Richard Petty's words: a 'general and enduring positive or negative feeling about some person, object or issue.' R.E.Petty, *Attitudes and Persuasion: Classic and Contemporary Approaches* (Iowa, USA, 1981), p. 7.

<sup>13</sup> T.Harris (ed.), *Popular Culture in England*, p. 1.

leads us to a deeper understanding of society,<sup>14</sup> while the regional perspective of the study will assess the similarities of cultures from areas geographically related.<sup>15</sup>

Historiographically, there has been much controversial debate as to the extent to which enclosure and the loss of commons affected working communities. Debates focus on the value of the commons and customary rights, how much common land was actually available at the time of enclosure, who in fact really possessed these rights and the effects of the losses in the immediate aftermath of enclosure.<sup>16</sup> This thesis is notably different from such studies in that it is not particularly concerned whether these customs had ever been established and recognised by law, or whether the individuals in questions had ever legally held them. Essentially it is concerned with the peoples' perceptions of, defence of, and attitudes towards the loss of their subsistence customs and rights. Both Jeanette Neeson and Jane Humphries argued that common rights continued to be greatly valued during the eighteenth and into the early part of the nineteenth century. And Alun Howkins stressed that generally, on rural issues in the latter part of the nineteenth century, there was both continuity and change. However the literature pertaining to rural attitudes towards traditional subsistence practices is rather sparse.<sup>17</sup> The second half of the nineteenth, and the beginning of the twentieth century, have been characterised by Gordon Mingay, Alun Howkins, Pamela Horn and Barry Reay, as a period of social, economic, political and religious change, and this thesis aims to investigate how these factors impacted on traditional attitudes and views between 1860 and 1920.<sup>18</sup>

## Background

Victorian England saw 'massive shifts in literacy, changes in mortality and fertility, a transformation in the complexion of the rural workforce, including the decline of female farm labour, increased mechanisation, large scale emigration, rural depopulation, significant alteration in

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<sup>14</sup> J.Sharpe, 'History from Below', in P.Burke (ed.), *New Perspectives on Historical Writing* (Cambridge, 1992), p. 35 and p. 33.

<sup>15</sup> For more discussion on regional culture as a concept see D.Underdown, 'Regional Cultures', in T.Harris (ed.), *Popular Culture in England*.

<sup>16</sup> J.M.Neeson, *Commoners: Common Right, Enclosure and Social Change in England, 1700-1820* (Cambridge, 1996); J.Humphries, 'Enclosure, Common Rights, and Women: The Proletarianization of Families in the Late Eighteenth and Early Nineteenth Centuries', *The Journal of Economic History* 50 (1990) 17-42; L.Shaw-Taylor, 'Labourers, Cows, Common Rights and Parliamentary Enclosure: The Evidence of Contemporary Comment c. 1760-1810', *Past and Present* 171 (2001) 95-126.

<sup>17</sup> J.M.Neeson, *Commoners*, and J.Humphries, 'Enclosure, Common Rights, and Women'; A.Howkins, *The Death of Rural England: A Social History of the Countryside Since 1900* (London, 2003), p. 1.

<sup>18</sup> G.E.Mingay, *The Transformation of Britain, 1830-1939* (London, 1986); A.Howkins, *Reshaping Rural England: A Social History 1850-1925* (London, 1992); P.Horn, *The Changing Countryside in Victorian and Edwardian England and Wales* (London, 1984); B.Reay, *Rural England: Labouring Lives in the Nineteenth Century* (Hampshire, 2004).

poor-law administration, the rise and fall of rural unionism, the economic impact of imported wheat, meat and dairy products', diverse patterns of religious worship, changes in the organisation of land ownership, the decline of landed authority and the politicisation of the people, all 'complicated by regional, gender and class variations'.<sup>19</sup>

Rural conflict and tensions of the early nineteenth century, caused by enclosure, the introduction of innovative farming methods and mechanisation, changing concepts of law, unemployment, low wages, and the loss of customs and rights, is known to have expressed itself in a variety of forms.<sup>20</sup> Yet it has been noted, that past historians, had a tendency to interpret 'massive' changes in popular culture, rather than moderate, modest, and smaller changes which could potentially reveal just as many insights into rural life and attitudes.<sup>21</sup> Similarly, it could be argued that historians in the past, have been only too willing to focus on the overt expressions of opposition conveyed in outward manifestations of social disturbances, riot, revolt, violent affrays and cattle maiming, rather than the more subtle everyday forms of resistance, such as foot dragging, false compliance and feigning ignorance.<sup>22</sup> More recently, historians have shown a greater awareness that the changes and responses experienced in rural contexts were not necessarily always so simplistic, swift, unsubtle or overt.<sup>23</sup> Nevertheless, this was a period of major changes in the countryside, which did result in different and 'fluctuating conditions for all social classes', and substantial shifts in peoples' attitudes, which resulted in a variety of modified and adapted ambivalent reactions and responses.<sup>24</sup>

Changing socio-economic conditions of the late nineteenth century led to the continued erosion and decline of common law.<sup>25</sup> Government and large local landowners remained resolute in their determination to 'restrict local customary rights... on what they insisted was exclusively their property'; an ideology diametrically opposed to the rural labouring populations' perceptions and

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<sup>19</sup> B.Reay, *Rural Englands*, p xi. L.M.Springall described the mid nineteenth century as ' a period of transition'. L.M.Springall, *Labouring Life in Norfolk Villages 1834-1914* (London, 1936), p. 68. A.Everitt, 'Nonconformity in Country Parishes', in J.Thirsk (ed.), *Land, Church and People* (The British Agricultural History Society, 1970). F.M.L.Thompson, *English Landed Society in the Nineteenth Century* (London, 1980).

<sup>20</sup> See A.Charlesworth, *An Atlas of Rural Protest in Britain 1548-1900* (London, 1983).

<sup>21</sup> J.M.Golby, and A.W. Purdue, *The Civilisation of the Crowd: Popular Culture in England 1750-1900* (London, 1984), p. 15.

<sup>22</sup> See J.P.D.Dunbabin, *Rural Discontent in Nineteenth Century Britain* (London, 1974), and A.Charlesworth, *An Atlas of Rural Protest*.

<sup>23</sup> See A.Howkins, *Reshaping Rural England* and B.Reay, *Rural Englands*.

<sup>24</sup> P.Horn, *The Changing Countryside*, front cover.

<sup>25</sup> P.Denham, *Law: A Modern Introduction* (London, 1989), pp. 8- 9.

understanding of traditional law.<sup>26</sup> English common law dates from ‘time immemorial’, a concept that will be discussed further in chapter one, and it comprised of a jumbled collection of popular customs and beliefs that developed over many centuries. From the early twelfth century, judges appointed by the monarchy toured the country and ‘found’ or ‘discovered the popular law’. It could be argued that common law was just a collection of general customs, nationally applied, but in reality the system was far more complex: judicial representatives came to their own conclusions, it was they who made up the law, using their own common sense. Yet many customs, especially local ones, did greatly influence their decisions even though strong and sometimes rigid evaluative procedures were imposed before its official recognition as part of common law.<sup>27</sup> Consequently, very few people had legal proof of their claims and it was this argument as ‘an immemorial user’ that was frequently used by the labouring poor to claim their rights, believing that once a practice was established, it could be considered a custom, and a custom, ‘steadily exercised, was nearly as good as a right in law’.<sup>28</sup> The customary rights assumed that it was ‘the legal right of one or more persons to take some part of, the produce of, or the wild animals on the land of another person’: a right to the herbage; a right to take tree loppings or gorse, furze, bushes or underwood; a right to take turf or peat; a right to take fish; a right to turn out pigs to eat acorns and beechmast; and a right to take animals *ferae naturae*.<sup>29</sup>

Enclosure had become regarded by many, as ‘depriving the poor of what had always been theirs’.<sup>30</sup> It caused major shifts in how the fundamental concepts of rural life were perceived. In contrast to the pre-enclosure supposition that the common land belonged to everyone, enclosure brought restrictions that encouraged the increase of game preservation, prohibited access to the fields and the commons, thereby increasing the number of ‘trespassers’ and ‘poachers’. This resulted in all sorts of disagreements and legal disputes, such as one of the many poaching cases heard at the Holt Petty Sessions. In this case it was argued, significantly, by the defence, that ‘all the poor’, both before the Enclosure Act was passed and subsequently, ‘used to get rabbits as they liked’ on the

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<sup>26</sup> J.C.Scott, *Domination and the Arts of Resistance* (London, 1990), p. 189. See also R.Congost, ‘Property Rights and Historical Analysis: What Rights? What History?’, *Past and Present* 181 (2003) 73-106.

<sup>27</sup> P.Denham, *Law*, p. 8.

<sup>28</sup> J.C.Scott, *Domination and the Arts of Resistance*, p. 194.

<sup>29</sup> Beckett (Alfred F.) Ltd. v. Lyons [1967], quoted in G.D.Gadsden, *Law of Commons* (London, 1988), p. 1.

P.G.Langdon-Davies, *Commons Registration* (London, 1967), p. 87 and G.D.Gadsden, *Law of Commons*, p. 77 for further explanations and descriptions please refer to appendix 2.

<sup>30</sup> G.E. Mingay, *Parliamentary Enclosure in England* (Essex, 1997), p. 133.

common. Even though the Bench fined the offender £2 it was reported that ‘it was with reluctance that they did so’.<sup>31</sup>

These arguments and concerns were neither new, isolated, distinct nor unique. Statute law concerning enclosure and land organisation extended over 600 years, with the chronology of some individual local awards spanning over the lifetime of two or more generations.<sup>32</sup> Debates on the change or continuity of popular culture are complex and sometimes controversial. Stuart Hall argued that there is no evidence for the ‘simple historical evolution of popular culture’.<sup>33</sup> The effects and influences on attitudes towards enclosure and the subsequent loss of subsistence customs and rights, on different landscapes, environments and economies, almost certainly differed greatly at various periods in history depending on a range of conditions, such as whether enclosure had been early or late or if it had been a long and protracted procedure. Other influences include the attitudes of the landowners and the harshness of the local courts. Also the extent of the loss of customary rights, poverty and need in the locality, and of course the availability of natural resources. Enclosure may have temporarily meant more work for some, but for many the ultimate effects were disastrous: enclosure was ‘a denial of ... rights,’ it ‘privatised communal lands and commodified collective rights’. On the other hand, the majority of those in authority, who feared overt social protest and revolution, believed that enclosing the commons would ‘promote social stability’ and ‘abolish... the independence of the commoners’.<sup>34</sup>

This prompts us to consider whether rural conflict, tension and stress, expressed in various shapes and forms, as responses to any loss of traditional rights, was wholly in defence of the subsistence value of the customary practices. The social and cultural significance, the symbolic value of the power, freedom and independence they allowed, and the opportunity for a visible and public voice, may have been of far greater importance. The late nineteenth and early twentieth centuries may prove to be a time in which the real ‘value’ of subsistence customs and rights lay not necessarily wholly in their monetary or subsistence value, but in the ideology of local popular culture, cultural identity, individuality, freedom of access and the opportunity for self expression.

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<sup>31</sup> M.J.Carter, *Peasants and Poachers in Norfolk* (Suffolk, 1980), p. 2. This enclosure act was dated 1812.

<sup>32</sup> G.D.Gadsden, *Law of Commons*, p. v. A.Wood, *The Politics of Social Conflict*, p. 113. See for example D.Eastwood, ‘Communities, Protest and Police in early Nineteenth-Century Oxfordshire: The Enclosure of Otmoor Reconsidered’, *Agricultural History Review* 44 (1996).

<sup>33</sup> S.Hall, ‘Popular Culture and the State’, in T.Bennett et al, (eds), *Popular Culture and Social Relations*, p. 23.

<sup>34</sup> M.J.Carter, *Peasants and Poachers in Norfolk*, p. 1 and R.C.Russell, ‘Parliamentary Enclosure, Common Rights and Social Change: Evidence from the Parts of Lindsey in Lincolnshire’, *Journal of Peasant Studies* 27 (2000) 57.



## Method

At first glance, existing historiography appears to provide access to a wide range of research, sources, interpretations and information on rural life in the late nineteenth century.<sup>35</sup> However some historians in the 1990s were of the opinion that ‘rural history [was] not in good health’ and that ‘it [told] us very little of the life and motivations of rural people’.<sup>36</sup> Keith Snell agreed, describing the majority of it as ‘unimaginative and reactionary’, failing in ‘any significant way to advance our understanding of the rural world’.<sup>37</sup> The dilemma is that, in order to get to the people themselves, historians are required to peel back the layers of individuals’ lives. They need to look beyond the obvious, interpret the gaps and the silences, and to analyse, not only the overt, explicit and undisguised sources of evidence, but also the concealed, elusive and subtle. This is a time consuming, yet not always conclusive exercise, which may explain why so very little has been written on late nineteenth century rural attitudes.

The literature on specific subsistence customs is scant, yet, what does exist is well researched and covers various historical periods. Peter King, for instance, concentrated his analysis on the economic importance of gleaning during the eighteenth and early nineteenth centuries.<sup>38</sup> Stephen Hussey, on the other hand, discovered that gleaning in Essex continued to be an important custom in to the twentieth century.<sup>39</sup> Much has been written on poaching, but although there are examples, such as Bob Bushaway’s work at Wishford forest, Tim Shakesheff still felt that wood and crop theft were a largely ignored and under-researched subject.<sup>40</sup> What soon becomes apparent is the considerable lacuna in the study of actual attitudes towards the loss of these customs and rights; the

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<sup>35</sup> For example G.E.Mingay, *A Social History of the English Countryside* (London, 1990); P.Horn, *The Changing Countryside* and J.Thirsk, *The Rural Economy of England* (London, 1984).

<sup>36</sup> M.Reed, ‘Class and Conflict in Rural England: Some Reflections on a Debate’, in M.Reed, and R.Wells (eds), *Class Conflict and Protest in the English Countryside 1700-1880* (London, 1990), p. 2.

<sup>37</sup> K.Snell, quoted in M.Reed, ‘Class and Conflict in Rural England’, in M.Reed, and R.Wells, *Class Conflict and Protest*, p. 2.

<sup>38</sup> P.King, ‘Gleaners, Farmers and the Failure of Legal Sanctions in England 1750-1850’, *Past and Present* 125 (1989) 116-150; P.King, ‘Customary Rights and Women’s Earnings: The Importance of Gleaning to the Rural Labouring Poor, 1750-1850’, *Economic History Review* XLIV (1991) 461-476 and P.King, ‘Legal Change, Customary Rights, and Social Conflict in Late Eighteenth Century England: The Origins of the Great Gleaning Case of 1788’, *Law and History Review* 10 (1992) 1-31.

<sup>39</sup> S.Hussey, “ ‘The Last Survivor of an Ancient Race’: The Changing Face of Essex Gleaning ”, *Agricultural History Review* 45 (1997) 61-72.

<sup>40</sup> D.J.V.Jones, ‘The Poacher: A Study in Victorian Crime and Protest’, *Historical Journal* 22, (1979); D.Hay, P.Linbaugh, J.G.Rule, E.P.Thompson, C.Winslow, *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England* (London, 1975); J.E.Archer, *By a Flash and a Scare: Arson, Animal Maiming and Poaching in East Anglia 1815-1870* (Oxford, 1990); H.Hopkins, *The Long Affray: The Poaching Wars in Britain, 1760-1914* (London, 1985); E.P.Thompson, *Whigs and Hunters: The Origins of the Black Act* (New York, 1975); R.W.Bushaway, ‘Grovely, Grovely, Grovely and all Grovely: Custom, Crime and Conflict in the English Woodland’, *History Today* 31 (1981) 37-43; and T.Shakesheff, ‘Wood and Crop Theft in Rural Herefordshire, 1800-60’, *Rural History* 13 (2002) p. 1.

fact is there 'are no censuses of mental attitudes to help us'.<sup>41</sup> It is only through the analysis of theoretical and problematical concepts relating to popular culture, mentalities, cultural change, continuity and transformation, and the identification of mechanisms, processes and forms of resistance used by the people to express themselves, that we can recover 'the attitudes of ordinary people towards every day life'.<sup>42</sup> The challenge is to devise an appropriate and creative methodology, by extending and developing new and innovative ways of engaging with and interpreting a wide range of sources. This can be done by applying a combination of analytical devices and theoretical frameworks. This interdisciplinary approach of considering, in addition to the basic categories of historical analysis, an anthropological and ethnographical perspective, will add richness and diversity to the debate.

Historians such as Barry Reay, Margaret Spufford, Charles Phythian- Adams and James Obelkevich,<sup>43</sup> to name but a few, have emphasised that in order 'to make the past live', and to turn the people in the documents 'into real human beings', we need to reconstruct past communities, so that their 'internal mechanism can be understood'.<sup>44</sup> Hence, first we need to ask the question who are the people whose attitudes are so important for this research? They are ordinary, everyday working rural people, labourers, lowly traders and small farmers, mostly those from the lower ranks of society, who still needed to supplement their wages by gathering and collecting extra provisions.<sup>45</sup> Some historians have complained that essential historical understanding can be lost by exclusively concentrating on one level of society.<sup>46</sup> But although it is the attitudes of working people that this research is based upon, it is the attitudes of the magistrates, landowners, and law makers - who held a fundamental different set of values, beliefs and attitudes due to their distinct and separate upbringings - that had a direct impact on the lives of the working people.<sup>47</sup> For this reason their attitudes will not be forgotten or excluded from this thesis. In fact, it is often these

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<sup>41</sup> C.Phythian-Adams, 'Rural Culture', in G E Mingay (ed.), *The Vanishing Countryman* (London, 1989), p. 84.

<sup>42</sup> P.H.Hutton, 'The History of Mentalities', *History and Theory* 20 (1981) 237.

<sup>43</sup> B.Reay, *Rural Englands*, B.Reay, *Microhistories: Demography, Society and Culture in Rural England 1800-1930* (Cambridge, 1996); M.Spufford, *Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries* (Gloucestershire, 2000); C.Phythian-Adams, 'Rural Culture', in G.Mingay (ed.), *The Vanishing Countryman*; and J.Obelkevich, *Religion and Rural Society: South Lindsey 1825-1875* (Oxford, 1976).

<sup>44</sup> M.Spufford, *Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries* (Gloucestershire, 2000), p. xix; M.Reed, and R.Wells, 'An Agenda for Modern English Rural History?', in M.Reed, and R.Wells, *Class Conflict and Protest*, p. 215.

<sup>45</sup> For discussion on explanation and definition of 'average labourer' etc. E.P.Thompson, *The Making of the English Working Class* (London, 1991), p. 233.

<sup>46</sup> M.Reed, and R.Wells, 'An Agenda for Modern English Rural History?' in M.Reed, and R.Wells, *Class Conflict and Protest*, p. 215.

attitudes and views of authority that are the easiest to access. The lives and the words of the educated, landed gentry, members of parliament, and the magistrates, were recorded in government papers, official documents, diaries and biographies. As to the voice of the ‘common people’ there seems, at first glance a ‘deadening silence’.<sup>48</sup> Nevertheless, it is a misconception to believe that because there is sparse direct evidence it will be impossible to ‘get into the minds of the people [of] the past’.<sup>49</sup> By identifying the forms, tactics and strategies used by the people to resist cultural change, and analysing their behaviour, it should be possible to infer what their attitudes were and how they may have changed throughout the late nineteenth century.

In 1966 John Brehm’s theory of reactance explained that by eliminating, or threatening to restrict a person’s ‘freedom to act’ as he or she chose, aroused in that person a ‘motivational drive’. This drive is said to motivate a person to attempt to ‘re-establish a lost or threatened free behaviour or attitude’.<sup>50</sup> As such, it is unsurprising that conflict and tensions, resulting from the differing attitudes towards subsistence customary rights and the redefinition of many of them as crimes, subsequently manifested itself as reactive petty crime.<sup>51</sup> For this reason, the investigation of what is often referred to as social crime will be a central feature.<sup>52</sup> Recorded petty crime will be used to assess the strength, intensity and fluctuations of the everyday struggles and attitudes of the labouring people during the second half of the nineteenth century. Tim Harris complained that such a monocausal approach to history could give it a rather biased angle.<sup>53</sup> But, like much of Malcolm Gaskill’s research, this study will work on the assumption that by exploiting crime to ‘shed light on the long term development of English mentalities’, one can analyse history not only from ‘below’, but also from ‘within’.<sup>54</sup>

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<sup>47</sup> See F.M.L.Thompson, *English Landed Society*, for information on the lives of English landed society during the nineteenth century.

<sup>48</sup> In the official documents, J.F.C.Harrison, *The Common People* (London, 1984), p. 119.

<sup>49</sup> G.Rude, *The Crowd in the French Revolution*, quoted in J.Black, and M.MacRaild, *Studying History* (London, 2000), p. 111.

<sup>50</sup> J.Brehm, *A Theory of Psychological Reactance*. ‘When people believe[d] that their freedom to act or hold a certain position [was] limited, they tr[ie]d to somehow reinstate that freedom’. R.E.Petty, *Attitudes and Persuasion*, p. 155.

<sup>51</sup> For information on redefining customs see B.Bushaway, *By Rite*, p. 26.

<sup>52</sup> See E.Hobsbawm, ‘Distinctions between Socio-Political and other Forms of Crime’, *Bulletin of the Society for the Study of Labour History* xxv, (1972); Thompson, E.P., *Whigs and Hunters*, and D. Hay, P.Linbaugh, J.G.Rule, E.P.Thompson, C.Winslow, *Albion’s Fatal Tree*.

<sup>53</sup> T.Harris (ed.), *Popular Culture*, p. 3.

<sup>54</sup> M.Gaskill, *Crime and Mentalities*, cover.

Opposition, resentment and hostility associated with the loss of subsistence customs and rights, frequently revealed itself in the form of pilfering wheat, poaching, stealing wood and trespass.<sup>55</sup> In John Archer's opinion, an examination of these crimes 'brings to light the mundane and prosaic nature of the permanent tensions and conflicts within rural society'.<sup>56</sup> Some historians have asked the question as to why enclosure and therefore the subsequent loss of subsistence customs 'fail[ed] to evoke social responses' equal to those of the sixteenth and seventeenth century?<sup>57</sup> In contrast to Marxist interpretations, which suggested that it was because the working class were in a 'transitional' period between 1850-1880 that they failed to collectively fight,<sup>58</sup> Andrew Charlesworth argued that crowd actions were in fact an exceptional intervention in the politics of subsistence.<sup>59</sup> So although nineteenth century rural populations have been accused of being completely passive, deferential and quiescent, the apparent lack of overt outbursts of discontent and violent protest during this period, does not necessarily suggest that peoples' attitudes and assertions ceased.<sup>60</sup> On the contrary, Alun Howkins still found evidence that behind the show of deference during this period, there 'lay a world in which conflict was potentially endemic'.<sup>61</sup>

Expressions of assertion, defiance and disaffection took diverse and various forms. It is by recognising the variety of mechanisms and processes used, exploring the changes in the character, patterns and forms of resistance, that change, continuity or transformation in popular attitudes and mentalities can be ascertained. Results are not necessarily achieved by violent protest, the silent, subtle and unobtrusive can sometimes be far more powerful.<sup>62</sup> And in reality the working people had a 'vested interest' in avoiding any 'explicit display of insubordination'.<sup>63</sup> It was often to their advantage to disguise their resistance. Jeanette Neeson's seminal work on eighteenth century rural

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<sup>55</sup> Gleaning, snaring rabbits often on the ancient common land, collecting snap and dead wood and walking on ancient common land and rights of way.

<sup>56</sup> J.E.Archer, *By a Flash and a Scare*, p. 255.

<sup>57</sup> M.Reed, and R.Wells, 'An Agenda for Modern English Rural History?' in M.Reed, and R.Wells, *Class Conflict and Protest*, p. 219.

<sup>58</sup> E.Hobsbaum in M.Savage, and A.Miles, *The Remaking of the British Working Class 1840-1940* (London, 1994), p. 7.

<sup>59</sup> A.Charlesworth (ed.), *An Atlas of Rural Protest*, pp. 72-80.

<sup>60</sup> R.Lee, 'Customs in Conflict: Some Causes of Anti-Clericalism in Rural Norfolk, 1815-1914', *Rural History* 14 (2003) 199.

<sup>61</sup> On rural farms between 1900 and 1920, A.Howkins, 'Structural Conflict and the Farm Worker: Norfolk, 1900-1920', *The Journal of Peasant Studies* 4 (1977) 217-229.

<sup>62</sup> Consider the ultimate success of historical icons such as Rosa Parks and Gandhi. Rosa Parks, as part of the civil rights campaign in Alabama, USA, 1955. She refused to relinquish her bus seat to a white passenger. And Gandhi, Indian national leader, whose campaign of non-violent civil resistance to British rule led to India's independence. *Encarta, World English Dictionary* (London, 1999), p. 1374 and p. 768.

<sup>63</sup> J.C.Scott, *Domination and the Arts of Resistance*, p. 86.

Northamptonshire revealed that much of the rural population were ‘shrewd realists’.<sup>64</sup> In fact, Roger Wells argued that covert social protest was the ‘enduring mode of protest in the English countryside’.<sup>65</sup> Barry Reay agreed, describing the rural worker of the nineteenth century as ‘practising the art of the possible, employing a varied repertoire of resistance, according to context and opportunity’.<sup>66</sup> Everyday forms of resistance required little or no co-ordination or planning.<sup>67</sup> Yet although prosaic in form, resistance continued to be a constant daily exertion of the working people, described by Marc Bloch as ‘patient, silent struggles’.<sup>68</sup>

The hidden manifestations of resistance – as opposed to public ones - expressed opposition openly, yet in a disguised form, by concealing ideological insubordination with the clever use of language in the public arena. Grumbling was often the first stage of opposition, followed by rumours, gossip, folktales, ballads, songs and poems.<sup>69</sup> But resistance and opposition did not only contain speech acts, the hidden transcript was also ‘enacted in a host of down-to-earth, low-profile stratagems’.<sup>70</sup> In the late nineteenth century these stratagems typically included foot dragging, feigning ignorance, and non-cooperation, along with illegal gleaning, poaching, wood stealing and trespass. The fact that many of the gestures of protest were indirect does not mean that attitudes were weakened or that the responses were any less effective: all kinds of behaviour ‘inform us about attitudes’.<sup>71</sup> The continuous and constant attrition of the multiplicity of defiant acts may have eventually affected the attitudes and mentalities of even the landed society, whose power, control and authority was already in decline.<sup>72</sup> Yet, paradoxically, their counter responses - of exerting pressure, bribery, sacking, and withholding charity and privileges - is evidence that the dominant classes too had their own hidden transcripts.

### Areas of Study

In order to make sense of the attitudes pertaining to these apparent everyday power struggles, differing examples of hidden transcripts and levels of social crime, this research will largely confine itself to analysing source material relating to three specific regions in the southern half of England.

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<sup>64</sup> J.M.Neeson, ‘The Opponents of Enclosure in Eighteenth Century Northamptonshire’, *Past and Present* 105, 116.

<sup>65</sup> R.A.E.Wells, ‘The Development of the English Rural Proletariat and Social Protest. 1700-1850’, *The Journal of Peasant Studies* 6 (1979) 115.

<sup>66</sup> B.Reay, *Rural Englands*, p. 171.

<sup>67</sup> J.C.Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (London, 1985), p. xvi.

<sup>68</sup> Marc Bloch, *French Rural History*, quoted in J.C.Scott, *Weapons of the Weak*, p. xvi.

<sup>69</sup> Discussed by J.M.Neeson, *Commoners*, p. 265.

<sup>70</sup> J.C.Scott, *Domination and the Arts of Resistance*, p. 188.

<sup>71</sup> A.H.Eagly, *Psychology of Attitudes* (Orlando, 1993), p. 105.

<sup>72</sup> See F.M.L.Thompson, *English Landed Society*.

Parts of the wooded, chalky upland landscape of the Chilterns, the Nene River Valley of Northamptonshire on the clays, and the fenland of northern Cambridgeshire, areas not geographically distant from one another, yet topographically and geologically very distinct.<sup>73</sup> It is after all, as Stuart Hall noted, distinctions rather than similarities that are the most informative.<sup>74</sup> The diversity of the local environments, landscapes, geology, soils and therefore agricultural activities and settlement types, resulting in a variety of landownership and enclosure patterns, population and migration trends, suggests an assortment of different life styles and subsistence opportunities in each of the regions. These environments were closely related to popular culture and as a consequence historical communities cannot be understood without some knowledge of them.<sup>75</sup> The distinct and specific ‘territories’ in which individuals lived and with which they identified, was extremely important in the make up and uniqueness of these regional identities.<sup>76</sup> Alun Howkins discovered that even through to the 1920s the culture and consciousness of the rural poor was very much ‘local as opposed to national’.<sup>77</sup> So although the region can be accused of being ‘infinitely elastic’ it does provide an invaluable framework in which to study popular culture.<sup>78</sup>

The Cambridge Fens, positioned on the outer limits of Cambridgeshire, sit on drained silt deposits. Described sometimes as a low energy environment with its weaving, slow moving rivers and drains, yet on the other hand, dynamic in the context of its natural vegetation sequences and ever changing landscape.<sup>79</sup> Not that Daniel Defoe would have agreed: in his opinion there was nothing dynamic or interesting about the region, for when passing Wisbech in 1722 he wrote that he saw ‘nothing that way to tempt [his] curiosity’.<sup>80</sup> In comparison to the vast rivers and drainage systems of the Fens, the Nene River Valley focuses around a fairly narrow river with a wide valley bottom.<sup>81</sup> This provided rich meadowland in dry weather, yet like the Fens they were susceptible to flooding.<sup>82</sup> The

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<sup>73</sup> See appendix 1 for maps

<sup>74</sup> S.Hall, ‘Popular Culture and the State’, in T.Bennett et al (eds), *Popular Culture and Social Relations*, pp. 23-24.

<sup>75</sup> P.Burke, *Popular Culture*, p. 244, C.Phythian-Adams, ‘Local History and Societal History’, *Local Population Studies* 51 (1993) 44.

<sup>76</sup> K.Schurer, ‘Surnames and the Search for Regions’, *Local Population Studies* 72 (2004) 51.

<sup>77</sup> A.Howkins, *Poor Labouring Men: Rural Radicalism in Norfolk 1870-1923* (London, 1985), p. xii.

<sup>78</sup> J.D.Marshall, ‘Why Study Regions? (1)’, *Journal of Local and Regional Studies* 5 (1985) 15. For more discussion on defining and studying regions see J.D.Marshall, ‘Why Study Regions? (2): Some Historical Considerations’, *Journal of Local and Regional Studies* 6 (1986) 1-12; A.Everitt, ‘Country, County and Town: Patterns of Regional Evolution in England’, *Transactions of the Royal Historical Society*, 5<sup>th</sup> Series 29 (1979) 79-108; and E.Royle (ed.), *Issues of Regional Identity* (Manchester, 1998).

<sup>79</sup> R.B.Butlin, ‘Images of the Fenland Region’, in E.Royle (ed.), *Issues of Regional Identity*, p. 26.

<sup>80</sup> D.Defoe, *Tour through the Eastern Counties of England 1722* (London, 1888), p. 152.

<sup>81</sup> Two miles wide in places. T.Ireson, *Northamptonshire* (London, 1964), p. 116.

<sup>82</sup> T.Ireson, *Northamptonshire*, p. 127.

Rector of Cogenhoe wrote in 1848 that ‘few seasons pass without a summer flood’.<sup>83</sup> Other contemporaries wrote of the ‘unhealthiness’ of the villages bordering the Nene, how ‘greatly prejudicial to health’ the floods were and of the ‘unwholesomeness of the air’.<sup>84</sup> These views contradict William Pitt, who had written in 1805, that the climate of the county was ‘very favourable both to health and vegetation’, and the soil was rich and productive, virtually nowhere was ‘barren or intractable’.<sup>85</sup> In contrast to these two wet regions, the Chilterns’ entire history had been influenced by its scarcity of water. The difficulties of obtaining water in quantity, as well as the effect of the chalk soil on agricultural possibilities, were responsible for the sparse settlement in the region and the retention of vast acres of woodland.<sup>86</sup>

The average population figures for these areas between 1851 and 1921 differed considerably – 63096 in the Cambridge Fens, 156223 in the Nene River Valley and 130101 in the Chilterns.<sup>87</sup> But in order to compare and contrast changes and continuities in the landscapes and environments, and to assess the impact of population pressure on each region, the main priority was to select regions of similar acreages - the Cambridge Fens covered 205579 acres, the Nene River Valley 217389 acres and selected parts of the Chilterns 226301 acres.<sup>88</sup> It was for this reason that regions rather than counties or administration districts were chosen as zones for analysis. This approach was not without difficulties, not only because of the blurred physical and conceptual divisions, but also in the locating, collecting and tallying of sources not fixed in county, administration or ecclesiastical districts. However, the nature of this study – to investigate responses of local communities in different environments, landscapes and economies – required the analysis of distinct environmental regions.

### Sources

Evidence of the attitudes of the poor can be extrapolated from court records, newspapers, memoirs, diaries and school records, not only from the direct language they may have used, but also in the descriptions of their appearances, behaviour and relationships with authority. The majority of local non-violent crimes were dealt with at petty session court meetings, which were presided over by local justices without juries. Their records were regarded as the property of the clerk, and as a result

<sup>83</sup> The Rector of Cogenhoe, 1848, quoted in T.Ireson, *Northamptonshire*, p. 128.

<sup>84</sup> Dr A.Robertson and Mr Hartshorne, quoted in T.Ireson, *Northamptonshire*, p. 128.

<sup>85</sup> W.Pitt, *A View of the Agriculture of Northants* (London, 1809), p. 3.

<sup>86</sup> B.J.Bailey, *View of the Chilterns* (London, 1979), cover and p. 18.

<sup>87</sup> See appendix 3, these ratios should be considered when reading any of the data.

few have survived.<sup>89</sup> Because they were unofficial, their form and structure varied, but essentially they were notebooks containing minutes of the proceedings and/or registers of those who attended. They sometimes offer the opportunity to hear the voices of the people through witness and defence statements.<sup>90</sup> Unfortunately the problem of record survival presents difficulties in using the sessions to draw conclusive comparisons on a regional basis. Nonetheless, Peter King successfully used them to highlight how, in one area, Essex, the courts could be used as an arena by all levels of the community, while Tim Shakesheff used them to analyse the extent and continuation of wood and crop theft in rural Herefordshire.<sup>91</sup> The paucity and incompleteness of surviving session records in many regions around the country, could explain why historians have been unwilling to utilize them fully in the past.

Nineteenth-century regional newspapers are far more reliable as a continuous historical source regarding the business of the local courts. Historic newspapers reflect the way in which contemporaries saw the world and, even before the removal of stamp duty in 1855, they provided the main source of information on contemporary debates and affairs. They helped to ‘articulate, focus and formulate the growing force of public opinion’, being both ‘makers and reporters’ of prevailing views.<sup>92</sup> During the nineteenth century there was a growth in regional newspapers, which highlighted the distinct and different public opinions and concerns of diverse regions and landscapes. So, even though these newspapers tended to copy national news from the London broadsheets, the local news reports reflected local issues, concerns, attitudes, worries and mentalities. Despite it being suggested that newspapers have been under-exploited as an historical source, those historians who have utilised them have done so to investigate similar subjects to this project.<sup>93</sup> J.P.D. Dunbabin and R. Arnold, for example, used them to investigate nineteenth-century rural discontent, while Owen Davies, Edward Thompson, Bob Bushaway, Robert Storch and Robert Malcolmson used them in their studies of popular cultures.<sup>94</sup> Systematically surveying the

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<sup>88</sup> The area of Cambridge Fens covered was 205579 acres, the Nene River Valley 217389 acres and the Chilterns 226301 acres, for more information see appendix 4.

<sup>89</sup> Except in Kent, for which several series from 1703 are extant. F.G. Emmision, and I. Gray, *County Records* (The Historical Association, 1973), p. 16.

<sup>90</sup> For this reason it is ‘clearly vital that historians should analyse the[m]’ if they exist. P. King, ‘The Summary Courts and Social Relations in Eighteenth Century England’, *Past and Present* 183 (2004) 128.

<sup>91</sup> P. King, ‘The Summary Courts’, *Past and Present* 183 (2004) 125-172, T. Shakesheff, ‘Wood and Crop Theft.

<sup>92</sup> H. Barker, *Newspapers, Politics and English Society 1695-1855* (London, 2000), p. 225. J. Black, and D.M. MacRaild, *Studying History*, p. 14.

<sup>93</sup> O. Davies, ‘Newspapers and the Popular Belief in Witchcraft and Magic in the Modern Period’, *Journal of British Studies* 37 (1998) 139.

<sup>94</sup> J.P.D. Dunbabin, *Rural Discontent*, and R. Arnold, ‘The Revolt of the Field in Kent 1872-1879’, *Past and Present* 64 (1974) 71-95; O. Davies, *Witchcraft, Magic and Culture 1736-1951* (Manchester, 1999); O. Davies, *A People*



newspapers ‘allows us to get closer to the individuals we are studying’.<sup>95</sup> They provide insights into the attitudes and opinions, of not only the accused, but also the reporters, gamekeepers, magistrates, landowners and the local community.

Using newspapers as a source for identifying tensions and conflicts, examining patterns of cultural change and continuity and exploring regional differences, can be extremely time consuming, raising complex and controversial questions of sampling and selectivity. It requires a disciplined and systematic approach, which is often complicated by difficulties in locating correct coverage areas. This may explain why historians have been accused of being ‘slow to treat newspapers seriously as organs of public opinion, [but used them only as] quarries of factual evidence’.<sup>96</sup> Specific local and regional newspapers were selected on the basis of their areas of coverage and distribution, the period of publication and their reporting styles.<sup>97</sup> In order to make sense of the newspaper findings as a collective entity, the statistical information obtained from the pre-selected set of petty session reports was entered into a Microsoft Access database.<sup>98</sup> The data was used to highlight the type, frequency and areas covered by any rural antagonisms, and the age, sex, class and relationship of those involved in any petty crime, thought to have been associated with the loss of subsistence customs and rights. Many historians have used databases as the backbone of their research, but in this case the database was not created to produce precise and accurate statistical data, it was designed primarily to identify distinct trends and patterns.<sup>99</sup> Displaying the data in graphs and tables simplified the process of identifying the strength and spread of public feeling, and the forms in which local tensions and conflict were expressed. This approach enabled huge amounts of source material to be effectively managed, cross-referenced and backed up with other sources.

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*Bewitched: Witchcraft and Magic in Nineteenth Century Somerset* (Published by author, 1999); E.P.Thompson, *Customs in Common*; B.Bushaway, *By Rite*; R.D.Storch (ed.), *Popular Culture*; and R.W.Malcolmson, *Popular Recreations in English Society, 1700-1850* (Cambridge, 1973).

<sup>95</sup> O.Davies, *A People Bewitched*, p. 5.

<sup>96</sup> M.Murphy, *Newspapers and Local History* (British Association for Local History, 1991), p. 5.

<sup>97</sup> See appendix 5 for list of newspapers used for database.

<sup>98</sup> For the Chilterns, reports from the petty sessions held at Chesham, Ivinghoe, Gt Missenden, Berkhamsted, Amersham, Tring, Hemel Hempstead, Princes Risborough and Watford were recorded. For the Nene River Valley, reports from the petty sessions held at Northampton (some of), Wellingborough, Oundle, Thrapston and Kettering were recorded and for the Cambridge Fens, reports from the petty sessions held at Ely, March, Chatteris, Wisbech and Whittlesey were recorded. See also appendix 6. For information on database see appendix 7.

<sup>99</sup> Mostly demographic and economic historians, i.e. N.Goose, *Population, Economy and Family Structure in Hertfordshire in 1851: Volume 1, The Berkhamsted Region* (Hertfordshire, 1996), and E.A.Wrigley, *Identifying People in the Past* (London, 1973).

These additional sources contextualised and brought life to the story of rural attitudes. Agricultural surveys, maps and county histories provided information on the landscape, topography and agricultural practices in each area. Periodicals, such as *Notes and Queries*, confirmed many general national and local attitudes of the period, along with contemporary writings and newspaper articles. But the most significant evidence came from journals, diaries, memoirs, and school log books, which provided direct evidence of people's thoughts and feelings on local issues.<sup>100</sup> Even though poems and memoirs are sometimes unfairly criticised for being too nostalgic and sentimental, twentieth-century analysis of the nineteenth-century poet John Clare's work, concluded that he had the memory of a 'saga-teller', its reliability 'seldom allowed him to become merely sentimental'.<sup>101</sup> Nonetheless, memoirs and diaries do reflect personal attitudes, opinions and feelings, and whether experiences were idealised or exaggerated is irrelevant; in essence it is these very attitudes and emotions that this investigation is attempting to recover. Sentimentality, after all, is itself a 'mentality', and an integral part of rural cultural attitudes. Combinations of all these sources were compared and contrasted with the results from the database, yet much came down to what is often described as 'at the heart of the historians work' - interpretation.<sup>102</sup>

Linking together the statistical results from the database with the voices recorded in the defence speeches, newspaper reports, diaries, and memoirs of the defendants, witnesses, gamekeepers, magistrates and landowners, and identifying the often hidden and disguised forms of tactics and strategies used by the poor to resist cultural change, was indeed complex. What is particularly problematical for this study is that it is itself based on interpretations: individuals and communities own interpretations of what they perceived to be their rights. It is only by close reading of the sources, reading them, as John Tosh explained, 'against the grain' and 'beyond the letter of the text', that any coherent interpretation can be achieved.<sup>103</sup> The key to our interpretations lies in understanding what influenced attitudes and ways of thinking, and in appreciating that attitude change does not always take place immediately after an influential event.<sup>104</sup>

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<sup>100</sup> For example: L.R., Haggard (ed.), *I Walked by Night: The King of the Norfolk Poachers* (London, 1935), and G.Christian (ed.), *A Victorian Poacher: James Hawker's Journal* (London, 1962) which highlighted poachers views, attitudes and mentalities. D.S.D.Jones, *The English Gamekeeper: A Social Professional History* (Southampton, 1998) and A.Nudds, *The Woods Belong to me: a Gamekeepers Life* (Cambridge, 1998), and other memoirs such as F.Thompson, *Lark Rise to Candleford* (Middx, 1982) and E.Grey, *Cottage Life in a Hertfordshire Village* (Harpenden, 1934) tell a more general story about rural life in the late nineteenth century with loose, yet informative references to customary activity.

<sup>101</sup> E.Robinson, and G.Summerfield, *Selected Poems and Prose of John Clare*, (London, 1967), p. xv.

<sup>102</sup> J.Tosh, *The Pursuit of History* (London, 2002), p. 271.

<sup>103</sup> J.Tosh, *The Pursuit of History*, p. 280.

<sup>104</sup> Referring to 'sleeper effects'. S.S.Brehm, *Psychological Reactance*, p. 140.

Language was also a significant component in the interpretation of the source material.<sup>105</sup> Initially it was necessary to understand how people used language to express themselves, to communicate and how some meanings may have changed over time: ‘Linguistics and history are close neighbours on the intellectual map’, which explains why Habermas wished to encourage all historians to learn to ‘speak the language that they interpret’.<sup>106</sup> At first, language seems a very direct form of expression, but used in diverse and subtle ways it can be deceptive, often ‘camouflag[ing] more than it reveals’.<sup>107</sup> Individuals and communities could create coded language by simply altering the tone, pronunciation or pacing of words and sentences. But mostly, actual language was modified to disguise hidden meanings by using passive expressions or feigning ignorance. This suggests that, paradoxically, on the one hand labouring people wished to avoid confrontations with the authorities, while on the other they clearly wanted to state their case. Specific vocabularies and styles developed and grew out of different cultural situations. For example, the early petitioners adapted their language according to the situation they found themselves in: they stated their demands by adopting the ‘appropriate language of humility and subordination of their position’ while at the same time reminding their masters of the ‘responsibilities of power’.<sup>108</sup> Similarly, in nineteenth century local courts people adapted their language by repeating and stressing key words and expressions to emphasise specific points of the law. The courts seem to have been the chosen arena, with a ready audience. It is here that certain contentious issues, associated with subsistence customary rights, came to a head and a pattern of specific themes began to emerge in the language of many of the defence statements – that of immemorial rights and access to the land. This language was in direct contrast to that used by the courts, which was based on property rights and trespass and, at times, sought to conceal and play down social unrest, tensions and conflict, by labelling offences rather vaguely.

The newspaper reports and court depositions actually encapsulated the language and thereby the attitudes not only of those who stood accused but also the attitudes of individual journalists, magistrates, gamekeepers, farmers and landowners. The reports sometimes even described non-

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<sup>105</sup> See P. Burke and R. Porter (eds), *The Social History of Language* (Cambridge, 1987) and P. Burke, *Language and Communities in Early Modern Europe* (Cambridge, 2004).

<sup>106</sup> P. Corfield (ed.), *Language, History and Class* (Cambridge, 1991), p. 10 and J. Habermas, *Critical Theory*, p. 300 quoted in P. Corfield (ed.), *Language, History and Class*, p. 19.

<sup>107</sup> Editors, ‘Editorial-Language and History’, *History Workshop* 10 (1980) 1.

<sup>108</sup> M. J. Braddick and J. Walter (eds), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge, 2001), p. 136.

verbal communications, such as facial expressions, dress and body language and the timing and speed of the responses. In addition, diaries and memoirs gave references to the way in which people reacted, for example with a deferential and tactical smile, or using apologetic, threatening or sarcastic tones in their language. There were of course limits to the understanding and usage of language by the lower classes, some of whom did not seem to have the educated linguistic ability to take arguments any further forward. It was only in association with the middle classes later in the century that they were able to articulate their language sufficiently to participate in legal debates on equal terms.<sup>109</sup> It is at this stage that it becomes evident just how much linguistic meaning and values change over time.<sup>110</sup> A new vocabulary of rights of access, freedom to roam, and recreation was emerging. This was language that emphasised the ‘preservation’ of commons, rights, and fresh air, not just of game and archaic landed supremacy.

As with all historical research there will be some gaps and problems with the sources, although the sheer volume of material is very persuasive. Nevertheless, even though the newspaper reports were written by journalists for a specific target audience, they were also often written with intimate local knowledge. *The Cambridge Chronicle and University Journal*, for example, was said to have relied upon local correspondents for its village news. In some ways, these local dispatches could be described as ‘eye witness accounts of village happenings’.<sup>111</sup> Often there were ambiguities in the reporting styles and patterns. Coverage was not always complete or consistent,<sup>112</sup> which led Robert Storch to argue that the disappearance of a particular custom or attitude should not be dated exclusively ‘by the silence of the sources’, their absence may ‘merely reflect a change in editorial policy.’<sup>113</sup> Luckily, some inconsistencies were self-explanatory. On the 7 November 1868 for instance, the Kettering Petty Session section in the *Northampton Mercury* was uncharacteristically short, stating that: ‘there were a considerable number of other cases and the sitting was prolonged till half past seven o’clock in the evening’.<sup>114</sup> This suggests that either there was no journalist to cover the evening sitting, the reporter on duty wished to get away early, or there was not enough allocated print space in that particular edition. Similarly on the 11 November 1887, the Ely Petty Session column reported only that: ‘the business before the bench was of an uninteresting

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<sup>109</sup> As members of Societies such as the Commons Preservation Society and the Footpaths Protection Society.

<sup>110</sup> J.Starobinski, *Action and Reaction* (New York, 2003) referred to in L.Kramer, ‘The History of Words becomes the History of Thought’, *History and Theory* 44 (2005) 228.

<sup>111</sup> R.I.Rudderham, *Littleport Chronicle 1770-1899* (Wisbech, 1981), p. 1.

<sup>112</sup> For example, there doesn’t seem to be any regular petty sessions for Hemel Hempstead and Watford after 1888 in the *Hertfordshire Mercury*.

<sup>113</sup> R.D.Storch, *Popular Culture*, p. 109.

description'.<sup>115</sup> Nevertheless, none of these problems detract from the most perplexing dilemma of all: how to actually access mentalities, which, for the majority of the time, were all 'in the heads' of the working people.<sup>116</sup> It was not until they were expressed in some shape or form that it was possible to begin to explore and assess them.

This thesis sets out to evaluate peoples' attitudes towards the loss of subsistence customs and rights in late nineteenth and early twentieth-century England. In order to do this it begins by identifying the essential components of popular customary culture through the exploration of rural perceptions of tradition and the examination of the central importance of the community in aspects of traditional customary activity. Knowledge, in the form of memory, was crucial in the perpetuation of customary enactments, so this will be analysed, along with the relevance of time immemorial and the seasonality of customary behaviour. With due consideration to the three environmental regions, it will then analyse the manner in which attitudes and opinions were conveyed through nineteenth-century rural conflict. First, by examining how these attitudes had been expressed in the past, then by exploring the changing concept of crime and social crime. Everyday forms of resistance formed part of the working population's repertoire of responses to the curtailment of their rights and these can be viewed in various situations including the interplay between different sections of rural society. Chapter three concentrates on the various ways in which customary activities and attitudes towards them were controlled. The environment was the most significant feature of any regional control, but equally community constraints and support impacted on local activities and opinions of them. The predominance of landed authority, although powerful and influential at times, was also in decline during this period, and some evidence for this can be seen in the range of negotiating strategies utilised in rural areas. The last chapter will evaluate regional changes in the countryside during this period, how improved communication links, social organisation and standards of living affected attitudes towards traditional ideas. The growth of state control, politicisation and education will also be considered. And finally this thesis will investigate the role and influence of individuals, their relationships, and national based associations, in the forming and perpetuation of attitudes towards customary rights beyond the period covered by the bulk of the current historiography. Recognising the significance of the evolution of these rural attitudes, how concepts, ideas, and opinions formed, and how they may have transformed, helps us to appreciate the complexities of

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<sup>114</sup> Kettering Petty Session, *Northampton Mercury*, 7 November, 1868.

<sup>115</sup> *Cambridge Chronicle*, 11 November, 1887.

<sup>116</sup> S.S.Brehm, *Psychological Reactance*, p. 122.

present day ideological rural attitudes, conservation and preservation issues, and assists in predicting future social behaviours and responses to cultural change.

# **CHAPTER 1**

## **A SENSE OF TRADITION**

The interpretation of tradition and culture by various social groups has invariably differed throughout the centuries, inevitably leading to the formation of diverse and distinct attitudes towards them. The primary concern of this chapter is the attitudes of ordinary rural populations towards ‘traditional’ culture in the countryside: how it was perceived and expressed; what it meant to the community; by what means the knowledge of it came into their possession; and to what extent time may have influenced their attitudes towards it. Through the analysis of these themes it will be possible to explore the key aspects and components involved in popular customary beliefs, in particular subsistence customs and, subsequently, to identify those essential elements in the analysis of later behaviours in the following chapters.

Jeanette Neeson, in her investigation of eighteenth century rural Northamptonshire, found that ‘the pace of change was uneven’ in the countryside, both chronologically and geographically.<sup>1</sup>

Therefore, we may expect to find evidence for alterations in customary activity to be evolving and developing gradually in different environments and economies over time. The diverse topography and resources of rural England created regions similar to those referred to as the French *pays*, where communities of a particular landscape are said to have shared a ‘common way of life’.<sup>2</sup> Therefore Andy Wood’s argument, that during the seventeenth century, the physical distinctions in the land, generated social structures and local identities that had a ‘special force within popular culture’, may also be pertinent in the investigation of attitudes towards subsistence customary rights in the late nineteenth century.<sup>3</sup>

By examining the evidence of custom and culture recorded by the courts and in the newspapers, in conjunction with novels, art, and poetry, this chapter will try to understand the foundations on which attitudes towards customary rights were based; how opinions and ideas towards them manifested themselves within the community; how knowledge of them and their development was disseminated and the importance of time in changes and continuities of ideas, opinions, attitudes and knowledge. Even though it is important to appreciate the background of popular culture and its

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<sup>1</sup> With regard to the loss of commons and common rights, J.M., Neeson, *Commoners*, p. 5.

<sup>2</sup> J.D.Marshall, ‘Why Study Regions? (2)’, p. 2.

<sup>3</sup> A.Wood, *The Politics of Social Conflict*, p. 27.

development, it is almost impossible to establish an historical baseline of attitudes in order to measure the nature and significance of change. Nevertheless, it is generally accepted that, countrywide, the commons belonged to the people and even after enclosure many believed that they still had the right to collect, forage, and have access to the land; these customs provided a framework for everyday life.<sup>4</sup> After enclosure much of the landed population went to great lengths to persuade and coax communities off the land, by whatever means they felt appropriate.<sup>5</sup> Yet it was no easy task, the customs associated with the large tracts of commons and wastes were the people's history, heritage and identity, as much as their livelihood. Hence, contrary to the concerted efforts of the hierarchy, and despite enclosure, urbanisation and industrialisation, many local rights and customary laws survived far into the nineteenth century.<sup>6</sup>

## THE CONCEPT OF TRADITION

An important factor in our understanding of how and why certain attitudes appear to have endured over long periods of time is the consideration of how specific attitudes developed and strengthened. This is a question Alice Eagly has complained has not been addressed nearly enough in contemporary research; in her opinion 'implicit in the discussion of attitude strength is the idea that strength develops over time'.<sup>7</sup> Therefore we will begin our analysis of late nineteenth-century attitudes by determining rural populations' concept of tradition. On a basic level tradition can be defined as a long established custom or belief, quite often having been handed down from generation to generation.<sup>8</sup> But closer examination of the concept by Eric Hobsbawm and Terence Ranger has shown that the notion is a paradox and that 'traditions which appear or claim to be old are often quite recent in origin and sometimes even invented'.<sup>9</sup> Nevertheless, Margaret Stacey's study of social change in Banbury in the late 1940s revealed that traditional societies were more than capable of absorbing a certain amount of new or invented customs, showing that what are

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<sup>4</sup> B. Bushaway, *By Rite*, p. 1.

<sup>5</sup> Even to the extent of moving roads and footpaths, changing whole landscapes and by reinventing festivities. The Earl of Bridgewater without legal sanction closed the road across Berkhamsted common, between Aldbury and Hemel Hempstead. G.H. Whybrow, *The History of Berkhamsted Common* (London, 1934), p. 66 and R.W. Ambler, 'The Transformation of Harvest Celebrations in Nineteenth Century Lincolnshire', *Midland History* 3 (1976) 298-306

<sup>6</sup> A. Wood, *The Politics of Social Conflict*, p. 324.

<sup>7</sup> A.H. Eagly, *The Psychology of Attitudes*, p. 681.

<sup>8</sup> *Encarta World English Dictionary*, the word itself comes from the Latin *traditio*, which means 'to hand down' or 'to hand over'.

<sup>9</sup> E. Hobsbawm, and T. Ranger, *The Invention of Tradition* (Cambridge, 1983), p. 1.



termed ‘non traditional today may well be traditional tomorrow’.<sup>10</sup> For this study the process of inventing tradition and assimilating adapted customs, provides us with evidence of attitude formation and attitude change.

Many of the cultural changes influenced by shifts in social, economic and political pressures were not necessarily gradual or one sided. Throughout the nineteenth century, regular attempts were made to reform traditional popular culture by suppressing - or replacing with ‘an alternative culture’ or a ‘new tradition’ - certain behaviours that had become considered ‘subversive, immoral or...boorish’.<sup>11</sup> One example is customary festivities, such as the harvest celebrations, which were transformed by the introduction of the harvest festival church service in the second half of the nineteenth century.<sup>12</sup> But it was not only the elite who attempted to force changes in regional traditions. The poor too created, adapted and invented tradition by insisting that their beliefs were traditional and thereby claiming their existence by precedence. English law was not based solely on Statute Law, but had developed as a ‘common law’ system, which relied heavily on previous decisions, interpretation and the building up of general principles from individual cases. Even squatters and migrants moving into a community claiming rights by virtue of residence manipulated and extended traditional and ancient customs in their own interest. Consequently, what was perceived to be traditional, or customary, was not necessarily recorded as legal in the eyes of the law, and even for those that were, legal definitions were open to interpretation by the different classes of rural society. In its simplistic form the aristocracy and the landed gentry on the one hand believed firmly in the tradition of law, authority and position and their need to uphold it, while on the other, the labouring people believed in the tradition of long acquired rights, mutual responsibility and obligation, and a degree of community and individual independence.

Beliefs are one of the main components that influence the formation of attitudes.<sup>13</sup> As such, the array of conflicting beliefs and opinions held by differing sections of society resulted in an assortment of attitudes, and their fluidity was evident in how they changed their opinions on rural

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<sup>10</sup> M.Stacey, *Tradition and Change: A Study of Banbury* (Oxford, 1960), p. 182.

<sup>11</sup> P.Burke, ‘Popular Culture between History and Ethnology’, *Ethnologia Europaea* XIV (1984) 7.

<sup>12</sup> Said to have been ‘chastened ... adapted...[and] modified’. R.W.Ambler, ‘The Transformation of Harvest’, p. 298.

<sup>13</sup> R.E.Petty, *Attitudes and Persuasion*, p. 7. Attitudes consist of three components, which are cognitive, affective and behavioural. Attitude formation is rooted in the cognitive (mental) component which consists of beliefs and perceptions – both of which this thesis is concerned with.

issues.<sup>14</sup> People's relationship with the land had always been intimately connected not only for practical reasons of warmth and sustenance, but also from a cultural perspective. Open and closed spaces, religious and ritual landscapes, and land associated with kinship and death, had had a certain significance in the minds of many people. Often working practices and customary law had allowed communities to continue this relationship and to identify themselves closely with the region in which they lived. Many became deeply associated and identified with specific stretches of land, for example the wooded landscape of the Chilterns or the waterways of the Fens. Enclosure put an end to this: in John Clare's opinion it not only changed the landscape, but also destroyed a complete way of life. As a poet, he not only observed the environment in which he lived, but he also understood its significance. The procedure of enclosure entailed not only the tearing up of trees, damming brooks and planting hedges; it also uprooted old customs on its way.<sup>15</sup> To a certain extent these perceptions differed in separate regions, depending on the nature of the landscape.<sup>16</sup> But generally speaking, before enclosure, the land, space and movement across it locally had been a basic natural right to everyone.

By identifying the evidence of people's attitudes expressed and reflected in poems, novels, paintings and songs, we can examine the impact enclosure had on peoples' perception of the land.<sup>17</sup> Much shows a deep empathy for ordinary rural populations, clearly expressing - not only attitudes and opinions towards tradition, custom, rights, the environment, nature and the landscape- but also the interactive relationships between them.<sup>18</sup> The development of forms of imagery reflecting views on traditional ways of life was a fairly new phenomenon of the late eighteenth century: it 'created ... a new category of art, in which the elements of landscape played a major rather than a subordinate part'.<sup>19</sup> It is through these representations and those of the poets and novelists that it is possible to get a small insight into what regional popular culture and local customs represented to some sections of the population. As Louis James wrote 'a landscape in literature is a view, not only

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<sup>14</sup> For example, late in the nineteenth century, as we will discuss later, in the midst of the industrial, crowded, smog-filled, polluted urban streets, the middling classes took a retrospective view of traditional culture and rural ways of life.

<sup>15</sup> E. Robinson, and G. Summerfield, *Selected Poems*, p. xv.

<sup>16</sup> For example the Chilterns maintained many of its commons and the Cambridge Fens never had many rights of way and roads, as was the nature of the drained land.

<sup>17</sup> For example by Wordsworth, Robert Bloomfield, John Clare, William Barnes and Tennyson, for example Hardy, Trollope, Cobbett, William Howitt, George Borrow, Richard Jefferies and Rider Haggard. Also see the argument made for the use of folk songs exalted by Alun Howkins, 'The Voice of the People', *Oral History* 3 (1975) 50-73.

<sup>18</sup> *A New Song Called 'The Gleaners Diversion'*, Ballad, Bodleian Library, G.A. Oxon b 96(5a), Munday and Slater Printers, Oxford, various poems by John Clare, see appendix 10.

<sup>19</sup> Artists such as Richard Wilson, Gainsborough, Stubbs and the water colourists Paul Sandby and Alexander Cozens. R. Treble, 'The Victorian Picture of the Country', in G.E. Mingay (ed.), *The Rural Idyll* (London, 1989), p. 50.

of the countryside, but of the moral and social attitudes of writer and reader'.<sup>20</sup> Many poets and novelists were distinctively linked to the regions in which they wrote.<sup>21</sup> Indeed, a major feature of literature of the country throughout the nineteenth century was the development of a 'sense of difference' between the English Regions.<sup>22</sup> These, sometimes idyllic, regional opinions were not only recorded by people with a literary or artistic talent; the journal of Henry Gibbons, a farmer from Bledlow Ridge illustrates this point. His diary for 14 June 1870 records: 'On to Hampden Common, one of the most picturesque.... How lovely is this small spot of uncultivated wild common'.<sup>23</sup>

Parallels can be drawn with the perceptions of the French, who also expressed their attitudes towards tradition and customary rights through art. The famous painting of *The gleaners*, by Jean Francois Millet, came to symbolize and embody the perceptions of and the values held by the French people and it went on to be one of the most reproduced scenes of French life to this day. It was a picture that was 'gauged less on its artistic merits than on the message[s] it conveyed'. Not only did it reflect late nineteenth-century idyllic perceptions of the countryside but also it reasserted the 'rights' that had belonged to the French people from time immemorial.<sup>24</sup> Similarly, the interest in country books in England, such as those by Richard Jefferies and George Sturt, and the popularity of expressive novelists, painters and romantic poets celebrating the countryside and rural values, goes some way towards revealing the strength of people's affinity to and attitudes towards rural country life, the landscape and associated customs.<sup>25</sup> The idyllic representations, clearly visual and vocal, often over emphasised or exaggerated, expressed the emotional connection felt by much of the population, from a rural and urban perspective, and it could be argued that its strength and force would have potentially contributed to the influencing and adaptation of the opinions and attitudes of those who then in turn read and saw them.

<sup>20</sup> L. James, 'Landscape in Nineteenth Century Literature', in G.E.Mingay (ed.), *The Rural Idyll*, p. 61.

<sup>21</sup> For example John Clare (1793-1864) poet from Helpstone, Northamptonshire; William Barnes, poet from Dorset; George Crabbe (1754-1832), poet from Suffolk; Ebenezer Elliot (1781-1849), poet from Sheffield; and Thomas Hardy (1840-1928) novelist and poet from Dorset. Note some regions better represented than others, B.J.Bailey wrote in 1979 that: 'artistic expression [did] not match craftsmanship in the Chilterns' (B.J.Bailey, *View of the Chilterns*, p. 42).

<sup>22</sup> L. James, 'Landscape in Nineteenth Century Literature', in G.E.Mingay (ed.), *The Rural Idyll*, p. 68.

<sup>23</sup> The Journal of Henry Gibbons of Bledlow Ridge (1870) BRO AR 87/94.

<sup>24</sup> Painting first put on show at the Paris Salon in 1857, L.Vardi, 'Construing the Harvest: Gleaners, Farmers, and Officials in Early Modern France', *The American Historical Review* 98 (1993) 1424 -1447.

<sup>25</sup> Richard Jefferies: *An Amateur Poacher* (1879), *Gamekeeper at Home* (1878), *Nature near London* (1883), *The Open Air* (1885), *Fields and Hedgerow* (1889), *Wildlife in a Southern County* (1879) and George Bourne: *Changes in the Village* (1912), *A Farmers Life* (1922), *A Wheelwrights Shop* (1923).

### Cultural expressions.

Artistic culture was only one of many ways in which people could express their opinions and attitudes towards the loss of tradition, custom and access to the land. Before the mid- nineteenth century, cultural expressions were generally experienced on an open and collective basis. Culture, beliefs and attitudes were often conveyed through actions and participation with music and noise, feasts and celebrations, dancing, processions, parades and carnival.<sup>26</sup> These traditional, visual actions frequently accompanied subsistence customs, giving formality to informal activities and overtly expressed the participants' attitudes towards them. In the Cambridge Fens, in 1897, Harvest Horkey – a procession and feast to celebrate the harvest – still took place at Dairy Houses Farm, Littleport.<sup>27</sup> A gleaning feast at Brixworth, in 1864, was a festivity very similar to that of the harvest celebrations. Here too the farmer provided the venue and a large gathering of four hundred gleaners and their children were said to have 'sat down to tea, bread and butter, and cake'.<sup>28</sup> Similarly Edwin Grey's recollections of gleaning parties in Harpenden during the 1860s and 70s also described laughing, singing, chattering and the general festive character of the events.<sup>29</sup> Unfortunately it was this festive, informal and intimate atmosphere that the Commissioners of the *Employment of Children, Young Persons and Women in Agriculture Commission* particularly mistrusted. A Lincolnshire doctor told the Commission in 1867 that 'one of the greatest sources of evil is gleaning. Young and old are congregated together in one field, and the greatest immorality results'.<sup>30</sup> In contrast, other contemporaries took alternative and divergent views of the cohesive nature of these activities. John Clare wrote of a traditional group of nutters whose behaviour was similar to a communal gathering of what was described as 'a party of nut gatherers' in the parish of Polebrook in 1869.<sup>31</sup> Wood gathering had its festivals and ceremonies, dancing and singing too, and it was these ritual elements that stuck in peoples' memories and which Bob Bushaway believed contributed significantly to the survival of famous customary events, some of which still take place today, such as ritual wood gathering at Wishford Forest in Wiltshire.<sup>32</sup>

<sup>26</sup> See for example M.Ingram, 'Ridings, Rough Music and the Reform of Popular Culture in Early Modern England', *Past and Present* 105 (1984) 79-113; E.P.Thompson, *Customs*; and B.Bushaway, *By Rite*.

<sup>27</sup> Littleport, *Cambridge Chronicle*, 17 September, 1897, p. 6.

<sup>28</sup> Article in *Northampton Mercury*, 10 September, 1864.

<sup>29</sup> E.Grey, *Cottage Life*, p. 121.

<sup>30</sup> PP 1867-8 (4068) XVII pp 520-1, Appendix Part II (c) to the 1st Report of the Commissioners on the Employment of Children, Young Persons and Women in Agriculture.

<sup>31</sup> J.Clare, *Nutters*, in E.Robinson and G.Summerfield, *Selected Poems*, p. 137; Oundle Petty Session, *Northampton Mercury*, 25 September, 1869.

<sup>32</sup> B.Bushaway, 'From Custom to Crime: Wood gathering in Eighteenth and early Nineteenth Century England: A focus for Conflict in Hampshire, Wiltshire and the South', J.Rule (ed.), 'Outside the Law: Studies in Crime and Order 1650-1850', *Exeter Papers in Economic History* 15 (1982) 70; R.W.Bushaway, 'Grovelly, Grovelly'; B.Bushaway, *By Rite*.

Peoples' most important values are very much part of what some ethnologists call the 'deep structure' of a culture, and the actors are possibly unlikely to be completely aware of them.<sup>33</sup> Therefore the actual meaning and purposes of many of the customary actions and consequent responses were not necessarily consciously planned or understood by the participants. Nonetheless, festivities did bring people together, here they reasserted their positions, expressed their views, and cemented relationships. Festivities also provided a rare opportunity for light entertainment and favourable circumstances in which to convey the general attitudes of a community or specific group of people. Keith Thomas, for example, believed that the beating of the bounds and perambulations of the parish boundaries were a 'corporate manifestation of the village community'.<sup>34</sup> Collective expressions of support and identity were very obvious at Thrapston when the case against Alice Wills for aiding and abetting poachers was withdrawn and her supporters were seen 'parading' and wearing blue ribbons around town.<sup>35</sup> Anthropological analysis of these rituals and ceremonies reveal that they express something of the relationships between different parts of the social structure. Social distinctions, for example, appear to have been submerged in a common celebration at the gleaners' feast in 1864, when the gleaners were waited on by the 'classes above them'.<sup>36</sup> Research suggests that in pre-industrial England, the most simple customs overtly stated their social function, whereas complex ritualistic customs 'may have been so overlaid that [their] function was latent, or less obvious to the participants'.<sup>37</sup> Harvest times, and the customs associated with it, appear to have been of the first order: they 'provided a context for the labouring poor ...in which they set their view of community life'.<sup>38</sup> Once the social distinctions between farmers and labourers were forgotten, there was relief from work and discipline, and an opportunity to let off steam.<sup>39</sup>

These events could be viewed as safety mechanisms and a means of balancing relationships in the rural world, yet some anthropologists have found the opposite to be true. J. C. Scott discovered that much opposition and many revolts involving slaves, peasants and serfs, around the world and throughout history, took place 'precisely during such seasonal rituals designed to prevent their

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<sup>33</sup> P.Burke, 'Popular Culture between History and Ethnology', p. 5.

<sup>34</sup> K.Thomas, *Religion and the Decline of Magic* (London, 1997), p. 65.

<sup>35</sup> Thrapston Petty Session, *Northampton Mercury*, 5 October, 1894.

<sup>36</sup> Article in the *Northampton Mercury*, 10 September, 1864.

<sup>37</sup> C.Phythian-Adams, *Local History and Folklore: A New Framework* (London, 1975), p. 25.

<sup>38</sup> B.Bushaway, *By Rite*, p. 148.

<sup>39</sup> P.Veyne, *Le Pain et le Cirque*, in J.C.Scott, *Domination*, p. 187. He argued that Holidays, festivals and celebrations served as safety valves.

occurrence'.<sup>40</sup> As such, many rural customs and festivities were increasingly seen as opportunities for plain merriment and time wasting, by all but the labouring poor, and attacks on them and traditional pastimes became a regular event. Evidence does show that excessive drinking at harvest time often led to quarrels, and might have more serious consequences than a mere argument over who should foot the bill.<sup>41</sup> But, as David Jones attested, 'catching a rabbit or having a drink were two of the few pleasures left to country people'.<sup>42</sup> Nevertheless, when Mr Cavendish MP spoke at the Bucks Agricultural Association meeting in 1861, he said that he could not 'advocate the celebration of harvest home suppers'. His experience of giving them had been an 'unfortunate affair', where the men drank far too much beer.<sup>43</sup>

Rev.R.S.Hawker is said to have overseen one of the first harvest thanksgiving services in 1843.<sup>44</sup> This new and invented tradition combined with some of the older elements of traditional celebrations, but to some this was an artificial celebration that had no meaning. As Roger Ambler points out, the new celebrations 'reflected the alterations', which were taking place in social and economic relationships.<sup>45</sup> Technological changes also had an impact on popular harvest customs.<sup>46</sup> In reality however these changing approaches to agriculture were only one facet of altering attitudes, the pace of change was dependent on local conditions: environments, landscapes, populations and industry. Any new cultural forms did not 'simply displace old ones; they co-existed, thereby diversifying and complicating the interpretative task of reconciling new forms with old conceptions'.<sup>47</sup> The practice of having a parochial or district harvest was reported in *The Times* in 1864. First there was a church service of thanksgiving in each parish, followed by a sit down meal. In the evening, tea was served to the women and children and the festivities finished with a dance, 'all returning at night fall sober, happy and contented'. This 'modern and improved mode' of celebrating the end of harvest was much preferred by the clergy and the landed gentry,<sup>48</sup>

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<sup>40</sup> J.C.Scott, *Domination*, p. 187.

<sup>41</sup> *Bucks Herald*, 13 July, 1878.

<sup>42</sup> D.Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain* (London, 1982), p. 69.

<sup>43</sup> 'Bucks Agricultural Association', *The Times*, 24 October, 1861.

<sup>44</sup> A vicar of Morwenstow in Cornwall, H.Davies, *Worship and Theology in England from Newnan to Martineau, 1850-1900* (London, 1962), p. 210, and J.R.D.Moorman, *A History of the Church of England* (London, 1953), p. 360.

<sup>45</sup> R.W.Ambler, 'The Transformation of Harvest Celebrations', p. 299.

<sup>46</sup> I.e. the substitution of reaping and harvest machines for the sickle, the scythe and other hand implements. A.R.Wright, *British Calendar Customs*, Vol 1 (London, 1936), pp. 182-183.

<sup>47</sup> P.H.Hutton, 'The History of Mentalities', p. 254.

<sup>48</sup> This particular event was said to have been established in Worcestershire two years before, Harvest Homes, *The Times*, 6 September, 1864.

especially the Vicar of Aylesbury, who said in 1888 that he firmly believed that the harvest festival was the ‘perfectly right institution’.<sup>49</sup>

Changing patterns and forms of these customary celebrations frequently led to reduced and diminishing memories of their meaning and purpose. The Ely Rural Deanery Magazine of 1902 reported that the Sutton Feast, like many others around the country, had in the course of time lost much of its original purpose and the emphasis of the feast had changed.<sup>50</sup> The religious service associated with the new festival was already being referred to in 1873 and 1878 as the ‘customary’ service at Aldbury and Little Gaddesden.<sup>51</sup> Change did not apply only to the completion of harvest celebrations. A local farmer in the Chilterns during the 1880s commended the virtues of a ‘Harvest without beer’, an occasion where he gave cold tea instead of beer to his workers in the field and found that it saved on time, accidents and money, and in return he received much thanks from the labourers’ wives.<sup>52</sup> Attitudes were not just changing towards the harvest customs, for various customary events associated with subsistence customs by which the poor collected food or largess were also under scrutiny. An article in the *Cambridge Chronicle* in 1870 clearly illustrates changing attitudes towards Plough Monday. The author wrote ‘we were, as usual, subjected to the intolerable nuisance of ostensive plough boys parading the streets in tawdry finery, and soliciting arms in a rude manner’. At Ely it was referred to as the ‘annual nuisance’, yet wealthy locals resigned themselves to its continuance by saying ‘we are afraid that this anniversary is one of those nuisances that we must ‘grin and bear’.<sup>53</sup> However evidence does suggest that there were indeed subtle changes in attitudes towards certain forms of cultural expressions during the late nineteenth century.

#### Obligations and responsibilities.

Enclosure, restrictions on traditional customary activities and the withdrawal of support by the landed classes led to the inevitable breakdown of strict codes of reciprocal obligations and responsibilities that had in the past been closely associated with rural popular cultures. As mentioned earlier, customary harvest activities provided the opportunities for labourers and their families to ‘enforce the traditional pattern of responsibilities and dues’ which bound them to the

<sup>49</sup> Aylesbury Harvest Festival, *Bucks Herald*, 29 Sept, 1888.

<sup>50</sup> H.Painter, *Sutton* (Cambridge, 1980).

<sup>51</sup> Aldbury Harvest Celebrations, *Hertfordshire Mercury*, 20 September, 1873 and Little Gaddesden Harvest Festival, *Hertfordshire Mercury*, 5 October, 1878.

<sup>52</sup> *Bucks Herald*, 3 July, 1880.

farmer. But, as Bob Bushaway noted, the late eighteenth and early nineteenth century saw a rise in the confrontations caused between these traditional views of social responsibilities and obligations, as the farmers' attitudes towards work and discipline changed.<sup>54</sup> So too, what William Cobbett had described as the 'sacred compact' of the Old Poor Law, the very 'embodiment of the reciprocity between rich and poor' changed as the parochial organisation of the New Poor Law administration lost its face-to-face connections with the local populations.<sup>55</sup>

The imbalance in the duties and responsibilities of past reciprocal relationships was part of the 'overall transition [in] the ordering of relationships'. Enclosure was changing the social links between master and man.<sup>56</sup> Historians such as Rex Russell have argued that the main aim of enclosure and subsequent changes associated with it was to 'create a more stable society, a society in which...[everyone] knew their place and responsibilities'.<sup>57</sup> But many still favoured traditional methods of positioning and reasserting relationships, such as the 'good old English custom' reported in the *Cambridge Chronicle* in 1860. Mr King provided a supper for the event, and the newspaper reported that 'such social gatherings greatly tend to keep up the feeling of respect between master and man, which ought [to] always exist'.<sup>58</sup>

In Alun Howkin's opinion, it was the withdrawal of the elite from their pivotal role in popular culture that was 'crucial in [the]undermining [of] the old ways'.<sup>59</sup> Yet, regardless of this apparent breakdown in reciprocal obligations, there was a continued sense of responsibility within local communities and families, upon which many expectations were placed. For example, two boys from Chesham Bois, accused of taking wood, were told that they had to show they could behave themselves over the next six months or their fathers would be called to pay £5 each.<sup>60</sup> In an assault case over gleaning rights, Mrs Harris, the owner of a particular field, said that she had 'told them

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<sup>53</sup> Plough Monday, *Cambridge Chronicle*, 15 January, 1870.

<sup>54</sup> B.Bushaway, 'Ceremony, Custom and Ritual: Some Observations on Social Conflict in the Rural Community, 1750-1850', *Exeter Papers in Economic History* 12 (1979) 11.

<sup>55</sup> A.Howkins, *Reshaping Rural England*, p. 65. See K.Snell, *Annals of the Labouring Poor: Social Change and Agrarian England 1660-1900* (Cambridge, 1985), p. 104.

<sup>56</sup> E.Robinson, and G.Summerfield, *Selected Poems*, p. xv. See also John Clare, *The Parish*, appendix 10.

<sup>57</sup> R.Russell, 'Parliamentary Enclosure', pp. 55 and 95.

<sup>58</sup> Chatteris, *Cambridge Chronicle*, 8 December, 1860.

<sup>59</sup> A.Howkins, 'The Taming of Whitsun; The Changing Face of a Nineteenth Century Rural Holiday', in Eileen and Stephen Yeo (eds), *Popular Culture and Class Conflict 1590-1914: Explorations in the History of Labour and Leisure* (Sussex, 1981), p. 190.

<sup>60</sup> William Thornley and Percy Brandon, Chesham Petty Session, *Bucks Herald*, 8 June, 1895.



(the inhabitants of the parish who had traditionally gleaned the fields) to take gleaned wheat away from the newcomers'.<sup>61</sup>

The attitudinal changes of the landed population and employers, influenced by market forces and capitalist ideals, were especially difficult for the elderly to understand and adjust to. James Wyke senior, an elderly man from Northamptonshire, and his two sons were clearly confused when they were all accused of stealing wood from their employer, Mr Pell. In defence James Wyke senior stated that he was 'cutting up wood and it was customary to allow those employed to take away small pieces'. Apparently he firmly believed that 'no farmer would object to a poor man in his employment having a small piece of wood'.<sup>62</sup> In other circumstances old ways were simply transported into the new situations. At the Hertford Court Sessions in 1870, a farm labourer was accused of taking a pheasant on the harvest field, an ancient customary right in many arable regions, but this man now believed he 'had a right to anything caught in the [new]machines'.<sup>63</sup>

Agricultural improvements, improved yields, technology and machines had become far more important to landowners and farmers in the growing competitive market economy of the nineteenth century; progressive ideals that were not always easy to reconcile with traditional customary rural attitudes. The use of machines meant there were far fewer leasings for the gleaners, which led to many debates on the morality of the new systems employed by the farmers on the fields. A letter to the *Bucks Herald* on the 24 August 1878 discussed in detail how 'harvesting [was] conducted on different principles from those prevailed before the introduction of machinery'. The letter referred to a previous correspondence from Mr Morris, who asserted that 'every parishioner [has] a right...to go into any field in the parish to glean'.<sup>64</sup> As was the nature of English law, debates on such subjects often harked back to the 1668 Norwich case in which Sir Matthew Hale stated that 'the law gives licence to the poor to glean by the general custom of England'.<sup>65</sup> And as a counter argument the famous 1788 Steel versus Houghton case in which the judges held that there was no such custom.<sup>66</sup> Despite these and other divergent opinions (that, for example, horse raking was a

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<sup>61</sup> Northampton Div. Petty Session, *Northampton Mercury*, 22 September, 1860.

<sup>62</sup> Northampton Div. Petty Session, *Northampton Mercury*, 31 March, 1866.

<sup>63</sup> Hertford Court Sessions, *Hertfordshire Mercury*, 27 August, 1870.

<sup>64</sup> *Bucks Herald*, 24 August, 1878, p. 7.

<sup>65</sup> *Bucks Herald*, 24 August, 1878, p. 7.

<sup>66</sup> *Steel v Houghton et Uxor*, *The Times*, 13 June, 1788, *Northampton Mercury*, 2 August, 1788, *Cambridge Chronicle*, 21 June, 1788.

‘penny wise and pound foolish’ practice)<sup>67</sup> the writer of the letter firmly believed that in 1878 the corn was the property of the farmer, and therefore no observer had the right to criticise his farming methods.<sup>68</sup> This was a clear indication that farmers no longer took seriously their obligation to leave leasings in the fields for the poor as set out in biblical texts.<sup>69</sup> The vindication of this practice was still a concern to the public in 1901 however, for an article in the *Cambridge Independent* was titled: ‘End of Harvest: little left for gleaners in machine-cut fields’.<sup>70</sup>

### Tradition of access.

So, as we have seen, views on tradition, land and space, cultural expressions, and obligations and responsibilities differed greatly, depending on social class and the regional environment. What then were the attitudes of these people generally towards the tradition of access? Jeanette Neeson explained that enclosure was the most fundamental change in land organisation, and it would have greatly affected local and regional cultural mentalities. Before enclosure – in arable and well-drained regions - ‘you could walk across the parish from one end to the other along common tracks and baulks without fear of trespass’, however this would not have necessarily been the case in the fenlands.<sup>71</sup> The notion that the land was shared, without any obvious ownership, frames an interesting concept in a changing English rural environment obsessed with property ownership.<sup>72</sup>

Even though enclosure changed the general landscape, traditional views on rights of access to certain areas of land, more closely associated with the general public, apparently still enjoyed a degree of support. The editorial of *The Times* in 1876 advocated that ‘Commons, from the village green or the roadside slip, to the wild heath, are part of our natural religion: we all believe in them’.<sup>73</sup> Yet firmly implanted views on traditional access were difficult to reconcile with the conflicting Victorian ideological attitudes towards property rights. This was clear in the case of two women who were summoned to the Chesham Petty Session court for ‘treading upon clover and destroying the same’; apparently an innocent activity of collecting wild flowers had become a property issue. Evidence given by Catherine Ware stated that for several weeks ‘a number of

<sup>67</sup> F O Morris, Letter to the Editor, *The Times*, 12 August, 1878.

<sup>68</sup> of horse raking up, several times, when the reapers had finished, *Bucks Herald*, 24 August, 1878, p. 7.

<sup>69</sup> ‘When ye reap the harvest of your land, thou shalt not wholly reap the corner of thy field, neither shalt thou gather the gleanings of thy harvest – thou shalt leave them for the poor and the stranger’. *Leviticus* 23:22.

<sup>70</sup> *Cambridge Independent Press*, 23 August, 1901, p. 5.

<sup>71</sup> J.M.Neeson, *Commoners*, p. 3.

<sup>72</sup> John Clare, ‘Love Hearken the Skylarks’, in E.Robinson, and G.Summerfield, (eds), *Selected Poems*, p. 39. See appendix 10.

<sup>73</sup> Editorial, ‘Should all commons in this island ever come to be enclosed’. *The Times*, 29 May, 1876.

persons have been in the habit' of going into her field to gather poppy flowers.<sup>74</sup> A similar case at Kettering reported that two shoemakers had 'on several weeks past, especially on Sundays', been in the habit of gathering lent lilies from Geddington Chase, with many other local people. The most significant point of this report was that in his summing up, the magistrate said: 'It is a mistake for persons to think they had a right to go where they pleased'.<sup>75</sup> Similar disputes occurred on the waterways of the Cambridge Fens and the Nene River Valley. When James Nutt and John Pettit, were accused of illegally netting in water at Doddington, their solicitor challenged the rights of the Nene Angling Club, reminding the court that the common land of England held that 'all navigable rivers belonged to the Queen and the people, and all in common had a right to fish there'.<sup>76</sup>

John Clare claimed that there was 'unbounded freedom' of the countryside before enclosure.<sup>77</sup> Fences were often unnecessary. Henry Tidmarsh, an agricultural labourer in Oxfordshire gave testimonial evidence in 1852 that 'in common fields, the occupiers of lands require no boundaries'.<sup>78</sup> The rogational perambulation furnished the community with a 'mental map' of the parish boundaries.<sup>79</sup> Maurice Beresford described this activity as both a 'statement of the past rights of the village and the means by which these rights should be preserved in the future'.<sup>80</sup> The customary procession highlighted significant landscape features which 'defined a circuit of territory to which local people may well have felt an allegiance'.<sup>81</sup> The collective participation bound the parish community together and allowed, yet another 'excuse for immoderate festivities'.<sup>82</sup> However, the hundreds of miles of quick set hedges, planted during the reorganisation of the landscape, also served as powerful reminders and symbols of the new barriers, which had been created between man and the land.<sup>83</sup> These boundaries not only restricted access and customary activities, but also polarised social crimes and local tensions. In the past, dead and fallen wood had been collected from the commons, especially those in wooded areas such as on the Chilterns. Now the temptation was to scavenge from the hedges, which after all not only set the limits of a persons

<sup>74</sup> Ann Ing and Sarah Ann Pratt of Chesham, Chesham Petty Session, *Bucks Herald*, 7 August, 1875.

<sup>75</sup> Joseph Wills and Joseph Nichols from Geddington, Kettering Petty Session, *Northampton Mercury*, 30 April, 1864.

<sup>76</sup> Shoemakers from Wellingborough, Wellingborough Petty Session, *Northampton Mercury*, 7 March, 1868.

<sup>77</sup> Perhaps because of the lack of fences. J.Clare, *The Mores*, in E.Robinson, and G.Summerfield, *Selected Poems*, p. 169.

<sup>78</sup> Oxford Archive, MSS dd Par. Ewelme c. 12 (b).

<sup>79</sup> B.Bushaway, *By Rite*, p. 84.

<sup>80</sup> M.Beresford, *History on the Ground* (London, 1973), p. 30.

<sup>81</sup> D.Fletcher, 'The Parish Boundary: A Social Phenomenon in Hanoverian England', *Rural History* 14 (2003) 177.

<sup>82</sup> D.Fletcher, 'The Parish boundary', p. 180.

<sup>83</sup> R.Mabey, *The Common Ground: The History, Evolution and Future of Britain's Countryside* (London, 1993), p. 134.

land but quite often also delimited a road or right of way.<sup>84</sup> It was difficult to comprehend how a physical boundary could have such a dual identity. All the same, punishments could be severe. George Humphrey and William Wells were both fined 20s for stealing wood from a hedge.<sup>85</sup> William Weedon, out collecting underwood with his son, found himself imprisoned for three weeks.<sup>86</sup> Yet Mr Elliot, occupier of the land on which William Martin was accused of damaging a fence, said that he hoped the Magistrate would be ‘lenient’, as he only wished to ‘let parties see that they could not trespass on his land whenever they liked’.<sup>87</sup>

Similarly, the concept of a general and long-established right of way came under scrutiny. Mr Justice Williams stated in 1860 that it was ‘an established maxim, once a highway always a highway, for, the public cannot release their rights, and there is no extinctive presumption or prescription’. Hence country folk continued to use old and ancient routes to work and market.<sup>88</sup> Unfortunately many found themselves in the courts. When George Tew was accused of damaging wheat his accuser stated that this was one of the usual cases, the defendant ‘thinking, with a great many others, that there was a footpath across the field’.<sup>89</sup> A comparable case was heard in 1869, when the Bailiff to Albert Peel MP said that the people of Spratton had no right to go through the plantation: ‘they did so too often, but without his permission, only their men could go through it on their way to work’.<sup>90</sup> So bad was the extent of opposition to alterations made to rights of way in some regions that ‘hundreds of persons’ were said to be ‘in the habit of trespassing’ on a certain estate in Northamptonshire in 1864.<sup>91</sup>

Traditional attitudes of the local people, and the conflicting views of the law and the landed population towards rights of general access, extended to those of movement too, and this regularly involved conflict over the movement of livestock. It is unlikely that the sheep and cows had been ‘free to range’, as John Clare apparently believed.<sup>92</sup> The law was clear that ‘if a man’s beast without his will or knowledge break into another’s close, he is guilty of trespass, for a man is bound by law

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<sup>84</sup> Note the lack of hedges in the Fenlands, where drains acted as boundaries.

<sup>85</sup> From a hedge belonging to Captain Joseph Lowndes. Chesham Petty Session, *Bucks Herald*, 18 April, 1868.

<sup>86</sup> Missenden Petty Session, *Bucks Herald*, 11 July, 1868.

<sup>87</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 August, 1864.

<sup>88</sup> Dawes v Hawkins case of 1860, J.Riddall, and J.Trevelyan, *Rights of Way: A Guide to the Law and Practice* (Open Spaces and Ramblers Association, 2001), p. 26.

<sup>89</sup> Northampton Petty Session, *Northampton Mercury*, 4 August, 1860.

<sup>90</sup> Moses Reeve, Bailiff to Albert Peel MP, Northampton Div. Petty Session, *Northampton Mercury*, 13 February, 1869.

<sup>91</sup> Northampton Div. Petty Session, *Northampton Mercury*, 21 May, 1864.

<sup>92</sup> J. Clare, *The Mores*, see appendix 10.

to keep his beasts without doing wrong to anyone'.<sup>93</sup> Despite this, much of the conflict recorded in the late nineteenth century involved straying animals on the roadside. In rural areas the origins of some of the roads was that of a drove, the width accommodating the movement and pasturing of animals. In other places the grass margins on the roadsides were remnants of a time before universal metalling. The extra width provided alternative routes through the mud, and thus, even today, many are still legally part of the highways and subject to a public right of way.<sup>94</sup> The combination of the belief in the roadside waste being a common right of way, and the fact that in some parts of the country the roadside verges formed part of the manorial waste, led to many disputes over the grazing and straying of animals on the verges.<sup>95</sup>

In 1877 five men from Benwick were charged with allowing cattle and horses to stray and graze on the Benwick and Whittlesey highways contrary to the Highway Act of 1864. Some of the men were also charged by Mr Luke Hughes of 'unlawfully and wilfully committing damage and injury to the herbage' of Parsons Way Drove. The cases were of great interest to the inhabitants of Benwick, as many of them claimed that, 'some years back' it was considered that they 'had a right to do the acts complained of'. The defence put a plea of prescription forward and a number of aged inhabitants of the hamlet were called to testify that the acts complained of had been constantly done for 40 years and upwards. Evidence from the 1856 enclosure award for the districts of Doddington and Benwick was presented and this did indeed show that there were rights of pasturage attached to the drove, but unfortunately, of the nineteen names on the award none were those of the accused. The bench over-rode all prescriptions and convicted each of the defendants.<sup>96</sup>

A comprehensive examination of these disputes was not undertaken as part of the database survey constructed for the present study, but brief sample searches reveal that these conflicts were far more regular in the Cambridge Fens than in the other two regions. On 7 October 1882, for example, the Ely Petty Session reported four out of its six cases as straying animal offences,<sup>97</sup> and during 1892 there was fourteen cases of stock straying in the area, in comparison to only twelve game cases.<sup>98</sup>

<sup>93</sup> *Anon*, 1496 Keil, 3,72 E.R. 156n.7, per J.Keble quoted in G.D.Gadsden, *Law of Commons*, p. 243.

<sup>94</sup> *The Common Lands of Cambridgeshire* (Cambridge County Planning Committee, 1956), p. 50. Also an Act of 1285 required that there should be a two hundred feet clearance on each side of highways between market towns.

<sup>95</sup> In 1845 there was a Parish meeting of the occupiers of lands in the Parish of Immingham in the Lincolnshire Fens to discuss the best means of stocking the commons and roads. R. Russell, 'Parliamentary Enclosure', p. 73.

<sup>96</sup> Mr Charles Kightly, Mr Edward Lisney, and Mr John Thorpe all farmers, Mr John Shaw a carrier, and Mr William Hibbins a horse breaker, charged by Mr J.B.Southwell, *Cambridge Chronicle*, 13 October, 1877, p. 7.

<sup>97</sup> *Cambridge Chronicle*, 7 October, 1882.

<sup>98</sup> *Cambridge Chronicle*, 1892.

This is not to say that the right to graze animals on the roadside was any more of an extensive belief in this area, but more likely that there was a greater need to maintain dry and clear communication networks. In contrast to the other two regions, the wetness of this landscape in the past appears to have greatly curtailed the natural development of extensive and alternative right of ways, which inevitably resulted in conflicting access interests.<sup>99</sup> Nonetheless, these arguments continued in other areas too. As late as 1910 a case was brought against Alfred Brown of Cholesbury for allowing his horses to stray on the side of the road. The lane in question linked two commons and Alfred stated that ‘not more than one horse and cart had passed that way in six months’ and therefore did not consider that he was doing any harm.<sup>100</sup> At Chesham in 1897 an assault took place over the gathering of grasses from the roadside, just one of many cases that provides evidence that disagreements over so-called roadside wastes were not limited to the movement and straying of livestock, but part of a wider conflict over the tradition of access to the land.<sup>101</sup>

## COMMUNITY

The manifestation of all these traditional and cultural expressions, reciprocal relationships and views on access rights can be found in the community. Nineteenth-century rural communities were often self-supporting structures central to many aspects of everyday life, particularly for those of the lower classes. They were complex entities, a means by which individuals and their families identified themselves, their position and their role. Community controlled, disciplined and organised; it gave protection and support in times of need; and it was the basis on which all customary rights and activities were built. Customs, wrote Charles Phythian-Adams, ‘are not an individual but a social matter’.<sup>102</sup> However, as Peter Burke explained, to the historian community is ‘at once an indispensable term and a dangerous one’.<sup>103</sup> The word community comes from the Latin ‘communis’, meaning common, public, shared by all or many<sup>104</sup> and the general definition for it, is of a group of people who live in the same area and/or as a group of people with a common background.<sup>105</sup> Elizabeth Frazer, described a community as a ‘set of variables’, which could include

<sup>99</sup> *The Whittlesford Parish Magazine*, in June 1888, reported that although it had been forbidden by law for sometime, the inhabitants of Hinxton regularly grazed their cattle on the roadside and grass baulks that separated the fields.

<sup>100</sup> Aylesbury Petty Session, *Bucks Herald*, 30 April, 1910.

<sup>101</sup> Charlotte Larking and Jessie Florence Price, Chesham Petty Session, *Bucks Herald*, 9 October, 1897.

<sup>102</sup> C. Phythian-Adams, *Local History and Folklore*, p. 8.

<sup>103</sup> P. Burke, *Languages and Communities*, p. 5. He claims that the word implies a homogeneity, a boundary and a consensus that is not found once historians engage in research at ground level.

<sup>104</sup> D. Harper, 2001. Online Etymology Dictionary, [www.etymonline.com](http://www.etymonline.com)

<sup>105</sup> *Encarta World English Dictionary* (London, 1999).

a place, interests and communion.<sup>106</sup> For many historians the community is a conceptual framework and a manageable unit of analysis.<sup>107</sup> However the concept, meaning and needs of a community can change over time and, as we shall see, there were indeed changes during the latter part of the century. By examining the social organisation and structure of the communities, their shared histories and beliefs, relationships and ties, and responses to threats and challenges, an assessment can be made of changing attitudes towards customary subsistence rights.

The inhabitants of nineteenth-century rural communities were made up of a combination of groups of people: aristocracy, landed gentry, clergy, farmers, tradesman, gamekeepers and the labouring majority. The balance between these groups, however, altered considerably towards the end of the century due to the out migration of agricultural labourers and the subsequent decline of the artisan tradesman.<sup>108</sup> Still it was from within this amalgamation that members of the community formed their perceptions of social structures, positioning and hierarchy, which in turn shaped their personal and cultural values and attitudes. Yet the most essential elements of pre-enclosure communities, those of co-operation, tradition and custom, were increasingly being criticised during the late eighteenth and early nineteenth centuries: ‘A man ever so ingenious in agriculture, hath no opportunity of displaying his abilities’, wrote a vicar from Northamptonshire in 1792. ‘He is confined to old customs, and can only do the same as his neighbours’.<sup>109</sup>

The family was described, perhaps rather ideologically, by German sociologist Ferdinand Tonnies as the ‘perfect expression of community’.<sup>110</sup> It was certainly one of its most essential elements and a vehicle by which many of the cultural values, ideas and attitudes percolated. Within the context of customary activities, the family often participated together and as part of the community. Following the harvest, young and old family members would lease the fields: ‘mothers with children and pram were there’ explained Walter Rose in his nostalgic portrait of an English village in the 1870s.<sup>111</sup> Numerous accounts of whole families gleaning and blackberrying together on a regular basis are recorded in the school log books: in 1916, Pitstone School recorded that ‘several families have gone

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<sup>106</sup> E.Frazer, *The Problem of Commutation Politics* (Oxford, 1999), p. 76. He was a lecturer in the history of political thought.

<sup>107</sup> M.Spufford, *Contrasting Communities*; D.Mills, and K.Schurer, *Local Communities in the Victorian Census Enumerators’ Books* (Oxford, 1996); B.Reay, *Rural Englands*.

<sup>108</sup> Due to the introduction of farm machinery. For information on the decline of the rural artisan, which was a ‘nationwide phenomenon and the result of fundamental economic and social change’ see C.W.Chalklin, ‘The Decline of the Country Craftsmen and Tradesmen’ in G.E.Mingay, (ed.), *The Vanishing Countryman* (London, 1989)

<sup>109</sup> R.L.Greenall, *A History of Northamptonshire and the Soke of Peterborough* (London, 1979), p. 83.

<sup>110</sup> F.Tonnies, *Community and Civil Society* (Cambridge 2001), p. 22. German sociologist Ferdinand Tonnies

gleaning'.<sup>112</sup> Family and generational ties were deeply embedded in the minds of the people, and many believed that the rights of their ancestors were their rights too: rights of access, gleaning, and wood collecting. Two brothers, who were accused of trespassing in search of game, considered that because they were the sons of Issac Stone, who had a right to cut furze on the common, they too had a right to be there.<sup>113</sup>

By analysing the surnames on the database it was possible to identify family members within groups of poachers and gleaners. Two hundred and seventeen, that is 7.9 per cent of all cases, included two or more members of a family.<sup>114</sup> Some were brothers or cousins, such as Philip, Joseph and George Brownsell convicted of trespassing after game in 1878,<sup>115</sup> or Joseph, George and Harry Dealey, brothers convicted of a game trespass on Mr du Pre's land,<sup>116</sup> and John and James Maple who were poaching fish from Tring reservoir.<sup>117</sup> Others were fathers and sons, such as John Langley senior and junior, accused of game trespassing at Marlow Bottom,<sup>118</sup> George and Walter Eames, father and son, from Bourne End,<sup>119</sup> and John Maisey senior and junior, both fined for poaching fish in 1880.<sup>120</sup> There were also a few examples of mothers and daughters, such as Hannah and Dorcas Atkins, convicted of damaging fences while collecting wood.<sup>121</sup> Indeed, additional evidence suggests that many types of subsistence customary activities were undertaken at some time or another as a family activity. Mary Cole for example recalled that, even at the turn of the twentieth century, gleaning was very much a family affair.<sup>122</sup>

Despite women and children being very much involved in subsistence customs of gathering and collecting, Bob Bushaway noted that generally, with regard to customary ceremonies, women and children were not 'normally regarded as powerful elements in the structure of the community'. Yet when they did play a central role, for example in a demonstration, the symbolic value was

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<sup>111</sup> W. Rose, *Good Neighbours* (Devon, 1988), p. 30.

<sup>112</sup> BRO E/LB/166/1, Pitstone School Log Book, 5 September, 1916.

<sup>113</sup> Edward and Robert Stone of Turville, Gt Marlow Petty Session, *Bucks Herald*, 9 February, 1888.

<sup>114</sup> Regionally that was represented at 7.3% in the Cambridge Fens, 6.77% in the Nene River Valley and 9.4% on the Chilterns.

<sup>115</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 26 January, 1878.

<sup>116</sup> Beaconsfield Petty Session, *Bucks Herald*, 1 May, 1880.

<sup>117</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 8 May, 1880.

<sup>118</sup> Gt Marlow Petty Session, *Bucks Herald*, 22 September, 1883.

<sup>119</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 5 January 1878.

<sup>120</sup> Beaconsfield Petty Session, *Bucks Herald*, 11 December, 1880.

<sup>121</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 18 February, 1860.

<sup>122</sup> M. Chamberlain, *Fenwomen* (London, 1975), p. 29. Fred Tolley described 'wooding' with his family. R. Samuel (ed.), *Village Life and Labour* (London, 1975), p. 213.



strengthened by their presence.<sup>123</sup> More often than not the women played supporting roles in the community, being present, adding to the collective strength and unity of a situation and providing alibis and paying court fines.<sup>124</sup> In 1901 George Wright was accused and identified as a poacher by the gamekeeper of the Stockwood Estate. In his defence he claimed to have been at home at the time of the incident, a story corroborated by his mother.<sup>125</sup> Similarly in 1878, James Stevens from Tring sent his mother to appear for him at Great Berkhamsted Petty Session Court.<sup>126</sup> Women were rarely caught poaching; yet they were sometimes mentioned as accomplices and accessories to men. Michael D Allen wrote of a case where Julius George Jones, an occasional poacher, forced his wife to act as his lookout.<sup>127</sup> Others left quarry in ditches and under bushes for women to collect, or took them along to carry their nets, snares, and guns, believing that they were less likely to be searched under the Poaching Prevention Act. Nevertheless Ann Carsby of Corby was still searched and prosecuted under the Act in 1892.<sup>128</sup> And three women, described by John Humphreys as ‘belonging to’ two notorious poachers, were also found to have twenty seven rabbits tied by their legs and slung over stout bands fixed under their dresses.<sup>129</sup> Sometimes a couple would just pretend to be lovers out for an evening stroll, or like Emma and Elizabeth Henson, innocently claim to be looking for small birds eggs amongst the ferns when questioned.<sup>130</sup> On very rare occasions women did poach alone, the editor of the *Shooting Times*, Mr Lewis Clement, wrote of a gypsy woman he once caught out alone with eight rabbits hidden under her skirt, which she had obtained by running a whippet in the warren.<sup>131</sup>

Places, and specific landscape features had, as previously discussed, in the past been of special communal relevance: collective rural centres, places to meet, and even to worship. In the medieval and early modern periods, commons, wastes and greens were used as community meeting places, for recreation, parades, festivals and fairs. However, enclosure in the eighteenth and nineteenth century brought with it a most ‘forceful and intense assault’ on customary rights by ‘denying access

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<sup>123</sup> B.Bushaway, *By Rite*, p. 200.

<sup>124</sup> Not at the front of parades and processions, but there nonetheless, at tin can band, Wishford Forest, straw bear procession, etc.

<sup>125</sup> M.D.Allen, ‘Poachers’, *Bedfordshire Magazine* 22 (1990) 186-89.

<sup>126</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 7 January, 1878.

<sup>127</sup> M.D.Allen, ‘Poachers’, p. 190.

<sup>128</sup> M.J.Carter, *Peasants and Poachers*, p. 78.

<sup>129</sup> J.Humphreys, *Old Poachers* (Devon, 1997), p. 31. Frederick Rolfe wrote of his wife accompanying him poaching in the early 1900s. ‘Many a hare have she carried under her coat for Me.’ L.R.Haggard (ed.), *I Walked by Night*, p. 50.

<sup>130</sup> Even though they had four previous convictions against them for accompanying William Smith to trespass after game. Oundle Petty Session, *Northampton Mercury*, 29 August, 1885.

<sup>131</sup> J.Humphreys, *Old Poachers*, p. 31.

to customary locations and venues'.<sup>132</sup> At Little Gaddesden, on the Chilterns, a traditional feast was held on the Green annually on 29 June, St Peter's day. But during the late nineteenth century moves were made to take control of such events as they were considered by some to be deteriorating into what was reported as 'an annual orgy', with scenes of 'indescribable wickedness', drunkenness and fighting, and attracting people from all 'other parts'.<sup>133</sup> Generous gestures, such as the building of a new public space- a village hall- by Lord Brownlow in 1921 inevitably came with provisos attached, and were never to serve the same purpose as the greens and the commons in the minds of the people.<sup>134</sup>

As a focus for interconnecting and interrelating relationships the community sometimes found itself involved in inter-community disagreements. The commoning rights at Norwood Common, shared between its tenants and those of March, and between Sutton Fen and Long Sutton, frequently led to disputes and sometimes bloodshed and the slaughtering of livestock.<sup>135</sup> In 1844 a dispute occurred between the Ely and the Witchford gleaners, which 'terminated very disastrously'. Apparently there was a 'great jealousy of gleaners going out of their own parish' and many fights 'among the fair sex' had broken out as a result of such actions. On this occasion, permission was given to both Ely and Witchford workpeople to glean in the others parish and some Witchford residents resented this. As a consequence, the Ely gleaners found themselves being pelted, causing the horses to run and overthrow the wagon.<sup>136</sup> The Hammerton versus Honey case of 1876 declared that for a custom to be recognised it not only had to be 'ancient, certain, reasonable and continuous', but also 'exercisable by members of a local community'.<sup>137</sup> As such, it was sometimes to the advantage of one individual section of a community to claim that another had equal rights, to justify its own. Harry West claimed that 'we are not the only ones (who take from Botley wood); they come to the woods from all parts'.<sup>138</sup>

The community played a 'crucial role in generating people's sense of belonging'.<sup>139</sup> As a collective experience it is described by social psychologists as a 'sense of community'. The concept focuses

<sup>132</sup> B.Bushaway, *By Rite* (London, 1982), p. 242.

<sup>133</sup> H.Senar, *Little Gaddesden and Ashridge* (Sussex, 1983), p. 86.

<sup>134</sup> H.Senar, *Little Gaddesden*, p. 77.

<sup>135</sup> R.B.Pugh, *A History of the County of Cambridgeshire and the Isle of Ely*. Vol 4 (London, 1953), p. 238.

<sup>136</sup> Permission given by Mr H Lawrence, many were hurt; one member had a leg broken and a little girl her fingers crushed. *Cambridge Chronicle*, 31 August, 1844, p. 3.

<sup>137</sup> Hammerton v. Honey case 1876 quoted in G.D.Gadsden, *Law of Commons*, p. 327.

<sup>138</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900.

<sup>139</sup> Crow and Allen, *Community Life: An Introduction to Local and Social Relations* (Hemel Hempstead, 1994), p. 6.

on the experience of community rather than on its structure or formation. It is defined more precisely as ‘a feeling that members have of belonging, a feeling that members matter to one another and to a group’.<sup>140</sup> People recognise their culture as that ‘which distinguishes them from others and thereby, as the source of their own identities’,<sup>141</sup> therefore a community could be constructed to be symbolically both ‘a resource and repository of meaning and a referent to their identity’.<sup>142</sup> Nevertheless, traditional communities, while emitting social identities and encouraging community cohesion, could be on one hand inclusive, while on the other, exclusive. The landed gentry had decided to self exclude themselves during the nineteenth century by gradually withdrawing their support from customary activities.<sup>143</sup> Those of the lower orders may well have felt connected in their opposition to the landed gentry and their ideals, while the gamekeepers, the policemen and even some of the farmers, may be excluded from the community for their connection, albeit only superficial, with the landed classes.<sup>144</sup>

Discipline within the community could be harsh. Edwin Grey wrote that local custom was not imposed from outside or above, but apparently self enforced by the community. It was strong and persuasive in ‘children’s play; in the ceremonies and observances of birth, marriage and death; in determining what conduct was acceptable and what was not; in making distinctions between the respectable and the non respectable, and in laying on renderings of rough music on old pots, pans and kettles to express condemnation of those whose behaviour offended village morality’.<sup>145</sup> Walter Rose recalled an incident during his boyhood in the 1870s when the behaviour of a man thought to have ‘over-chastised’ his wife, was deeply disapproved of by the community. A sack of straw to represent the body of the accused man was mounted on a hurdle, carried to the offender’s house with the accompaniment of pots and pans being beaten. The effigy was then burned outside the house to disgrace the transgressor.<sup>146</sup> These episodes of rough music and skimmingtons were forceful, overt, demonstrable and expressive forms of disciplining the populace. They could not have taken place without the sanctioning of a large proportion of the community. For example, a rough music incident at Waddesden in Buckinghamshire during 1878 involved some two to three

<sup>140</sup> D.W.McMillan and D.M.Chavis, ‘Sense of Community: A Definition and Theory’. *American Journal of Community Psychology* 14 (1986) 6-23. Social psychologists.

<sup>141</sup> A.P.Cohen, *Belonging: Identity and Social Organisation in British Rural Cultures* (Manchester, 1982), p. 6.

<sup>142</sup> A.P.Cohen, *The Symbolic Construction of Community* (London, 1985), p. 118.

<sup>143</sup> B.Bushaway, *By Rite* (London, 1982), p. 158.

<sup>144</sup> A ballad from the Bodleian library describes how a gamekeeper could become an outcast of the community: ‘His conscience stings, He must wander thro’ the world, And ever feel the smarting thorn, But pointed at with finger of scorn’, *Gallant Poacher*, Ballad, Bodleian Library, Frith c. 19(41).

<sup>145</sup> F.M.L.Thompson, forward in E.Grey, *Cottage Life*, p. iv.

hundred people.<sup>147</sup> Nonetheless, there were very few examples of rough music reported in the regions in this study during the latter half of the nineteenth century.

Tradition, community and custom historically provided a sense of permanence, independence and security. This was evident in the language used by the older inhabitants when called upon to justify long acquired community rights. At Great Gaddesden in 1888, those who took it upon themselves to restore a local right of way asserted that they ‘knew it to be a right of way all their lives and during the lives of their fathers before them’, an attitude that prevailed into the twentieth century.<sup>148</sup> In his defence of a game trespass charge in 1915, William Osbourne said that he had been told by ‘the oldest inhabitant of the village, that there had always been a footpath’ where he had been walking.<sup>149</sup> Perceptions of permanence, independence and security could also be attributed to specific landscapes themselves. The wooded ridge of the Chiltern’s landscape, for example, had altered very little over the past few centuries.<sup>150</sup> In contrast, the Nene River Valley in Northamptonshire had experienced massive changes in its land organisation due to early and extensive enclosure.<sup>151</sup> On the other hand, the Cambridge fenland landscape had very little permanence; it had seen unprecedented changes made by the Adventurer’s draining of the land in the seventeenth century, and the subsequent drying out and reflooding.<sup>152</sup> Understandably the fluidity of local landscape encouraged local thinking that the ‘world was both precarious and in large part unknown’, which in turn influenced rural communities’ reliance on customary and popular beliefs.<sup>153</sup>

### Self Help

Both historians and contemporary commentators have debated at length whether access to the open fields system and common grounds encouraged the community to work together and help one

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<sup>146</sup> W.Rose, *Good Neighbours*, p. 98.

<sup>147</sup> Aylesbury Petty Session, *Bucks Herald*, 27 July, 1878.

<sup>148</sup> Great Gaddesden, *Hertfordshire Mercury*, 18 February, 1888.

<sup>149</sup> Northampton Div. Petty Session, *Northampton Mercury*, 8 January, 1915.

<sup>150</sup> See L.W.Hepple, and A.M.Doggett, *The Chilterns* (Sussex, 1999) and J.T.Coppock, ‘The Chilterns: A Landscape Evolves’, *Geographical Magazine* (1983) 308-312.

<sup>151</sup> See J.Neeson, *Commoners*, J.M.Steane, *The Northamptonshire Landscape* (London, 1974) and R.L.Greenall, *A History of Northamptonshire*.

<sup>152</sup> See J.Coles, and D.Hall, *Changing Landscapes, Ancient Fenland* (Cambridge County Council, 1998); H.C.Darby, *The Changing Fenland* (Cambridge, 1983); D.Hall, ‘The Changing Landscape of the Cambridge Silt Fens’, *Landscape History* 3 (1981) 37-49; and D.Hall, and J.Coles, *Fenland Survey: An Essay in Landscape and Persistence* (English Heritage, 1994, Archaeological Report 1). An Adventurer funded the construction of the drains and in return for draining the Fenland was rewarded with large grants of resulting farmland.

<sup>153</sup> J.F.C.Harrison, *The Common People*, p. 182.

another. Walter Rose referred to this as the ‘spirit of co-operation’.<sup>154</sup> Yet communal co-operation on the fields was only one facet of a community’s self help strategy in the past.<sup>155</sup> Nevertheless enclosure of the commons was robbing the poor of their most important ones by extinguishing their rights to sources of fuel, nuts, wild fruits, plants and the gleanings of the harvest field.<sup>156</sup> Early modern rural populations, claims Andy Wood, had judged themselves to be self reliant, and they were proud of the independence, which they ‘derived from their access to communal resources’.<sup>157</sup> Similarly, in George Bourne’s opinion these traditional views still persisted in late nineteenth-century England, ‘a man wanted to derive the necessities of life from the material and soil of [his] own countryside’ he said.<sup>158</sup>

Attitudes towards helping the poor and needy changed during the nineteenth century. Firstly the administration of the New Poor Law was becoming increasingly formal, in contrast to the old system it was administered by professional officers, it eliminated the arbitrary allowance system, and it imposed a mandatory obligation on the destitute to enter the centrally placed workhouses. Secondly, charitable benefits derived from other sources, more often than not, carried conditions and restrictions. Landlords ‘apparent virtues’ were according to P.A.Graham in 1892, ‘but vices in disguise’.<sup>159</sup> The landed gentry were not adverse to using acts of benevolence to demand discipline and deference, their ideological attitude was that charitable acts be aimed at certain deserving sections of the community, be seen, be visual, and to be marked by a plaque or monument in recognition of their great deeds. This was in direct contrast to many past traditional customary methods of giving indiscriminately through customary and seasonal events. Philanthropic Victorian’s now strived to create opportunities for those in need to make a better life for themselves, by providing schools, libraries and fresh water.<sup>160</sup>

In spite of the changing attitudes of the landed population towards the claiming of largess and similar forms of begging and cadging, evidence suggests that the attitudes of the rural poor towards

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<sup>154</sup> W.Rose, *Good Neighbours*, p. 76.

<sup>155</sup> The New Poor Law discouraged many, including that of neighbourly charity. B.Reay, *Rural England*, p. 80.

<sup>156</sup> B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 10.

<sup>157</sup> A.Wood, ‘The Place of Custom in Plebeian Political Culture: England, 1550-1800’, *Social History* 22 (1997) 56.

<sup>158</sup> G.Bourne, *Change in the Village* (London, 1966), p. xii.

<sup>159</sup> ‘They are beneficent. ...but their beneficence implies the forfeiture of every particle of freedom, and the submission of the people to whatever may be imposed on them’. P.A.Graham, *The Rural Exodus* (London, 1892), p. 41.

<sup>160</sup> Schools around the large estates were often built and patronised by the large landowners, these acts of benevolence were clearly marked on plaques and engravings on the buildings, still seen today. For example parishes directly connected to Ashridge House in the Chilterns and Boughton House in Northamptonshire. And the fresh water system brought to Little Gaddesden and Ringshall by the Brownlows in 1858.

their rights to subsistence self help remained unchanged.<sup>161</sup> Largess had been an additional form of levy claimed by the harvesters from neighbouring farmers and the more wealthy houses in the community. Some referred to it as bribe money or ‘civility money’; refusal to pay could result in intimidation or the ‘wanton despoiling of hedges and herbage’.<sup>162</sup> Refusal to give generously on Plough Monday could result in part of ones property being ploughed up and on Shrove Tuesday being subjected to lent crocking.<sup>163</sup> Complaints in the *Cambridge Chronicle* stated that many of the ploughboys soliciting alms were not even ploughboys, but were ‘idle’ and ‘just trying to get something for nothing’.<sup>164</sup> An article in *The Times* in 1861 painted a picture of absolute mayhem during the harvest celebrations, described as an ‘inane affair’ of which the noise and the drunken behaviour terrorised the young, and despite the demands for money, the majority ended up ‘poorer than before they levied the largess from frightened neighbours’.<sup>165</sup>

However, the combination of participating in largess and doling customs and the gathering of resources from the common land were an important element of the rural survival strategy used by many through the lean winter months when the harvest earnings had been spent and employment was hard to find. At Chatteris on the Cambridge Fens, 21 December was known as Mumping day, when old men and women, and sometimes young women, would customarily pass from house to house claiming alms.<sup>166</sup> Similarly in Buckinghamshire on the same day ‘old dames’ of the community went in pairs to claim alms from those who could afford it. Walter Rose described their attitude as ‘not one of indignant poverty; they came in recognition of a time-honoured custom, a rite that needed no other explanation but the plain announcement, “if you please, we’ve come a-thomassing”’.<sup>167</sup> There was no stigma attached to such deeds, and the language that they used to explain their actions would never have included begging.<sup>168</sup>

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<sup>161</sup> See B.Bushaway, *By Rite* (London, 1982), chap 4 and 5.

<sup>162</sup> Joseph Haselwood’s copy of John Brand’s *Observations on popular antiquities*, quoted in B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 14.

<sup>163</sup> Lent crocking was having sherds of old pot being thrown at your door. B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 18.

<sup>164</sup> Plough Monday, *Cambridge Chronicle*, 15 January, 1870.

<sup>165</sup> News ‘Fifty Years since’, *The Times*, 17 October, 1861.

<sup>166</sup> *Fenland Notes and Queries*, Vol 1, 1890-1892, p. 20. Also at Isleham in the Fens recorded up to the Second World War. M.Chamberlain, *Fenwomen*, p. 149.

<sup>167</sup> W.Rose, *Good Neighbours*, p. 135.

<sup>168</sup> A-gooding, a-catterning, a-clements, a-souling, a-corning, a-mumping, a-st’andring. B.Bushaway, *By Rite*, p. 188.

The poor saw acts of generous alms giving and economic aid as part of the normal reciprocal relationship between them and the wealthy members of the community.<sup>169</sup> There were many different methods of dispensing customary charity and favours, other than those of allowing access to subsistence resources or as part of customary festivities. Certain jobs had perks attached: Sir Frederick Eden, reported that in 1797, if a labourer was employed as a hedge cutter he was allowed to take home a faggot every evening<sup>170</sup> and a bavin was still allowed to be taken by hedge cutters in Northamptonshire in 1824.<sup>171</sup> When the gamekeeper John Wilkins cleared Mr Fowles' belongings from Chilton House, he was specifically told that anything not worth bringing away was to be 'throw[n] down in the street, for some old woman to burn'.<sup>172</sup> Thus confusion, contradiction and ambivalence followed as views on customary rights and responsibilities altered within certain sections of a community. Evidence of this is revealed in cases such as that of John Botterill from the Nene River Valley, who was summoned to court for stealing a piece of dead wood. He was described in the newspaper as a 'respectably dressed man', and good character references were given to the court, including one from a clergyman who said that he was 'an honest man'. It seems somewhat unlikely that such a man would risk his reputation for the sake of a piece of wood valued at 6d. Botterill's defence was simply that 'it had always the custom in the village to take away pieces of wood when they are found lying on the side of the road'.<sup>173</sup>

Not only were the combinations of opinions and attitudes vertical and horizontal across the structure of communities, they were not necessarily all one-way either. In 1861 the *Cambridge Chronicle* reported 'we are pleased' to find that many of our farmers are 'returning to the good old custom' of giving a traditional harvest supper.<sup>174</sup> However, at Aldbury in 1873, not only were the parishioners expected to attend a 'church thanksgiving' instead of claiming a harvest supper, beer and largess but, to add insult to injury, they were compelled to give generously to a collection made on behalf of the West Hertfordshire Infirmary.<sup>175</sup> It was a similar situation for the people of Downham in the Cambridge Fens. Their harvest thanksgiving in 1861 raised £4 4s for a local

<sup>169</sup> B. Bushaway, *By Rite* (London, 1982), p. 188.

<sup>170</sup> Sir Frederick Eden, *The State of the Poor*, Vol III (London, 1797), p. 797.

<sup>171</sup> A.E. Baker, *Glossary of Northamptonshire words and phrases* (London, 1854), p. 35, quoted in J. Rule (ed.), 'Outside the Law', p. 96. A bavin was a faggot tied with two bands.

<sup>172</sup> J. Wilkins, *An Autobiography of an English Gamekeeper* (Chesham, 1892), p. 309.

<sup>173</sup> Northampton Div. Petty Session, *Northampton Mercury*, 31 January, 1880.

<sup>174</sup> Bourn, *Cambridge Independent Press*, 14 September, 1861, p. 8.

<sup>175</sup> Aldbury Harvest celebrations, *Hertfordshire Mercury*, 20 September, 1873.

hospital and in 1872 raised £9 15s 3d in aid of a new church organ.<sup>176</sup> Distinctions of opinions and attitudes were polarized in 1870 when in the parish of Doddington a new style harvest festival service took place in the church. It was reported to have been ‘very popular with all the classes’ and the collection raised £30. Many of the local farmers gave a half-day holiday to their workers so that they could attend. Yet on the very same day, several other farmers of the parish held traditional ‘horkey’ harvest suppers for their workers.<sup>177</sup> The manifestation of the old and the new, side by side or combining together, suggests that this was a transitional period in the history of local attitudes towards customary rights and responsibilities, and a time of reassessment as to the true value of subsistence customary rights.

There has been much debate as to the economic importance of these subsistence customary rights and self-help strategies, or as Olwen Hufton described them, the ‘economy of makeshifts’.<sup>178</sup> Steve King and Alannah Tomkins describe how before 1850 the labouring poor employed a variety of ‘makeshifts’, which included taking full advantage of customary access to the land in order to collect, gather and forage.<sup>179</sup> Peter King estimated that between 3 and 14 per cent of the annual household income was derived from gleaning during this period.<sup>180</sup> But as Samantha Williams pointed out, it soon becomes evident that there were strong regional contrasts: ‘makeshift resources differed according to place and period’.<sup>181</sup> For example in Bedfordshire it was reported that gleaning represented, at most, only 2.3 per cent of a labouring families annual income.<sup>182</sup> Nevertheless, any contributions, however small, would have been greatly received following the severe cutbacks in relief imposed by the New Poor Law.<sup>183</sup> Gleaning and wood gathering may not have represented a large proportion of the family income, but it ‘made up the deficit between structured wages and expenditure’ and it provided a safety net in times of desperate need.<sup>184</sup> Walter Rose wrote that it was impossible to over estimate the value of gleaned corn to the very poor. Those who participated knew that it would ‘stand them in good stead against the privation of the coming

<sup>176</sup> Downham, *Cambridge Independent Press*, 5 October, 1861, p. 7. Downham, *Cambridge Chronicle*, 26 October, 1872, p. 6.

<sup>177</sup> Doddington, *Cambridge Chronicle*, 17 September, 1870, p. 6.

<sup>178</sup> O.Hufton, *The Prospect Before her* (London, 1997).

<sup>179</sup> S.King, and A.Tomkins (ed.), *The Poor in England 1700-1850: An Economy of Makeshifts* (Manchester, 2003). See also S.Hindle, *On the Parish* (Oxford, 2004).

<sup>180</sup> See P.King, ‘Customary Rights and Women’s Earnings’, and P.King, ‘Gleaners, Farmers’.

<sup>181</sup> S.Williams, ‘Earnings, Poor Relief and the Economy of Makeshifts: Bedfordshire in the Early Years of the New Poor Law’, *Rural History* 16 (2005) 21.

<sup>182</sup> PP 1837-8 XVIII, Select Committee on the Poor Law Amendment Act, Report 38, pp 34-5. For discussion of value in Hertfordshire see N.Goose, *Population, Economy and Family Structure in Hertfordshire*, pp. 107-8.

<sup>183</sup> S.Williams, ‘Earnings, Poor Relief’, p. 24.

<sup>184</sup> B.Bushaway, *By Rite*, pp. 143-4.



winter'.<sup>185</sup> Nineteenth and early twentieth centuries school log books, in all three of the regions in this study, record children regularly absent from school to glean wheat and peas, collect acorns and gather blackberries.<sup>186</sup> Arthur Rance, of Potten End, still used the opportunity of collecting acorns to supplement his income at the end of the nineteenth century; he would sell them to the farmer for 10s a bushel and buy himself a new pair of shoes each year.<sup>187</sup>

Traditionally, informal charity was 'expected' during times of economic pressure.<sup>188</sup> Hence, as we have seen, many traditional customs claimed rights to resources or largess when harvest supplies and earnings were exhausted and winter work scarce.<sup>189</sup> Customary events, such as Bottle Kicking at Hallaton, which still takes place today, included an element of alms giving: Hare pie and bread was distributed to all the parishioners.<sup>190</sup> At Easling in Kent, Bob Bushaway referred to a custom of 'squirrel hunting' during the months of November and December,<sup>191</sup> and on Boxing Day, at the turn of the nineteenth century, Angus Nudd recalled that the whole village was given permission to 'have a days rabbiting on the common'.<sup>192</sup> In fact many felt that in times of great poverty poaching was the honourable way to look after a family. Even though the men of Lark Rise were not 'habitual poachers', Flora Thompson recalled that 'when the necessity arose, they knew where the game birds were and how to get them'.<sup>193</sup> Evidence from the database suggests that this was a widespread and common attitude. The highest number of poaching and fish poaching cases took place in all three regions during the period of 1880-1889/1899.<sup>194</sup> The school log books also reveal that there were far more mentions of gleaning during this period, which are the years most often associated with agricultural depression.<sup>195</sup>

The abundance of source evidence and lucid descriptions put forward by historians of the early modern and modern period have clearly shown that visual and overt assertions of community

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<sup>185</sup> W.Rose, *Good Neighbours*, p. 30.

<sup>186</sup> See J.Kitteringham, *Country Girls in 19<sup>th</sup> Century England* (History Workshop Pamphlet, 1972), p.3 and many examples to follow.

<sup>187</sup> V.J.M.Bryant, *A History of Potten End* (Hertfordshire, 1986), p. 166.

<sup>188</sup> B.Bushaway, 'Ceremony, Custom and Ritual', p. 23.

<sup>189</sup> Sara Birtles suggestions should be noted at this point, that: 'many of the rights exercised by the landless were in fact extra-manorial and of comparatively recent origin: the result of the practical implementation of statutory poor relief', see S.Birtles, 'The Impact of Commons Registration: A Norfolk study', *Landscape History* 20 (1998)

<sup>190</sup> J.Morison, and P.Daisley, *Hare Pie Scrambling and Bottle Kicking* (Hallaton Museum Press, 2006).

<sup>191</sup> B.Bushaway, 'Ceremony, Custom and Ritual', p. 20

<sup>192</sup> A.Nudds, *The Woods Belong to me*, p. 20.

<sup>193</sup> F.Thompson, *Lark Rise to Candleford*, p. 154.

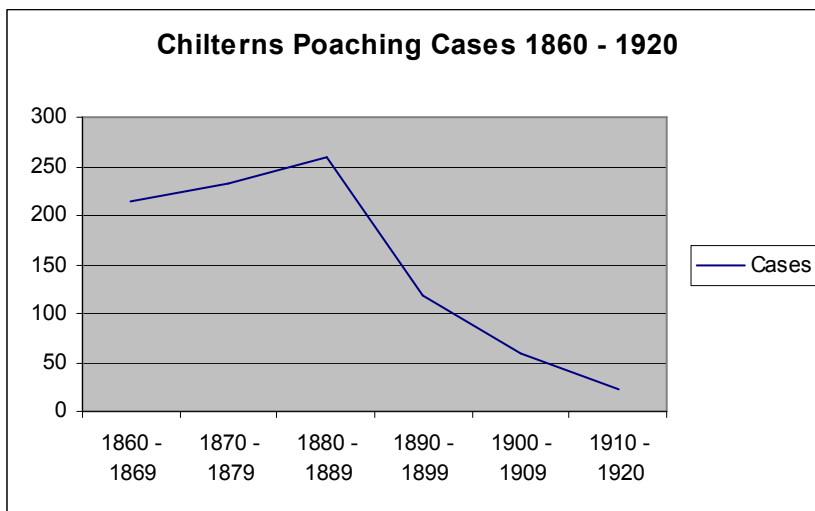
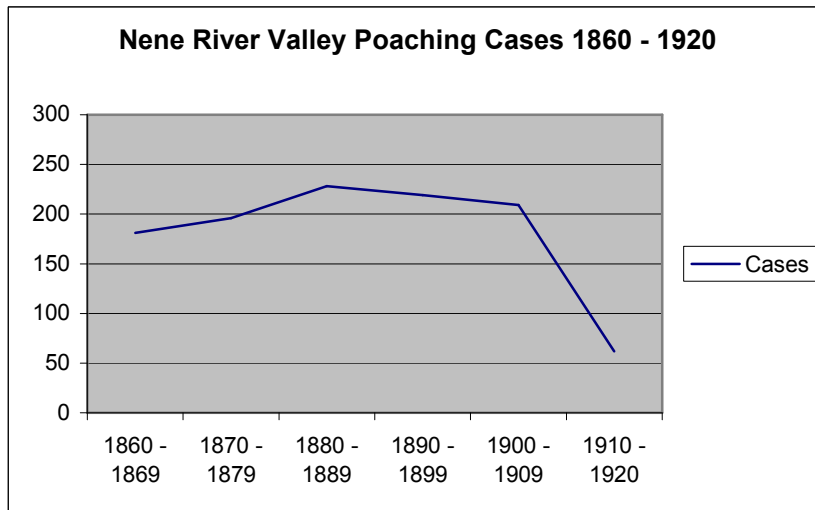
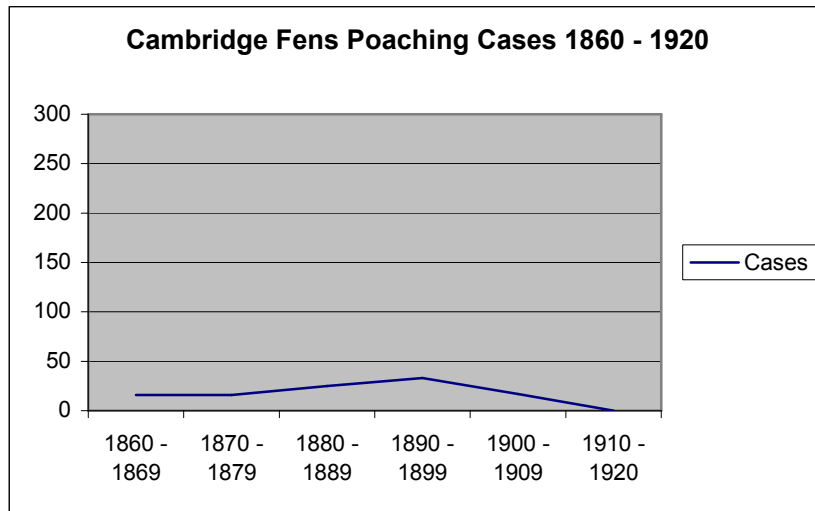
<sup>194</sup> See figures 1 and 2.

cohesion, solidarity, commitment, identity and belonging were extremely important traditionally in past customary community activities. Yet contrasting and conflicting opinions at all levels of society, in various regions, including those in this study, throughout the late nineteenth and early twentieth centuries, suggests that attitudes toward the rights and responsibilities of the community and the value of informal charity differed immensely.

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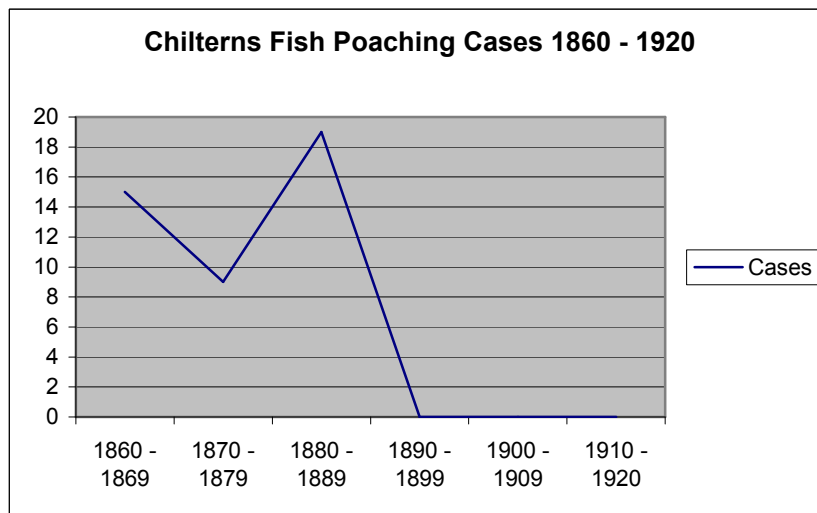
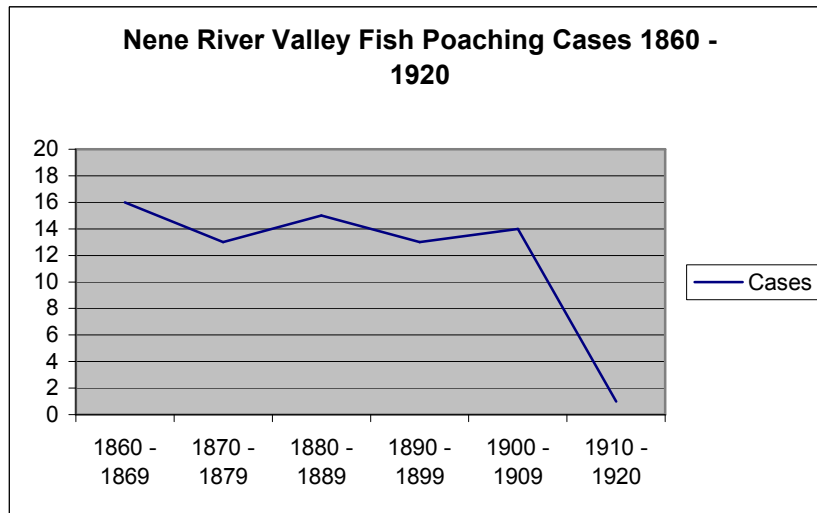
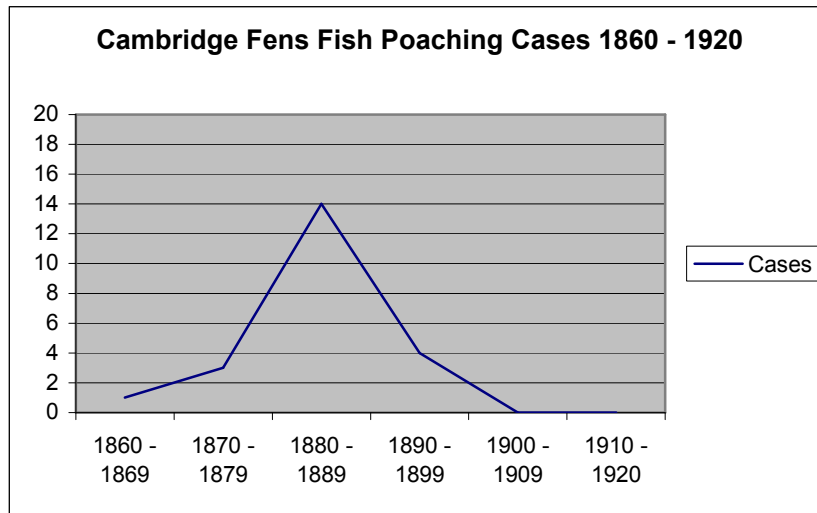
<sup>195</sup> See figures 3,4 and 5, although gleaning was not always specifically mentioned it was often implied. However all my data refers to direct references. Discussion on the agricultural depression in chapter 4.

Figure 1



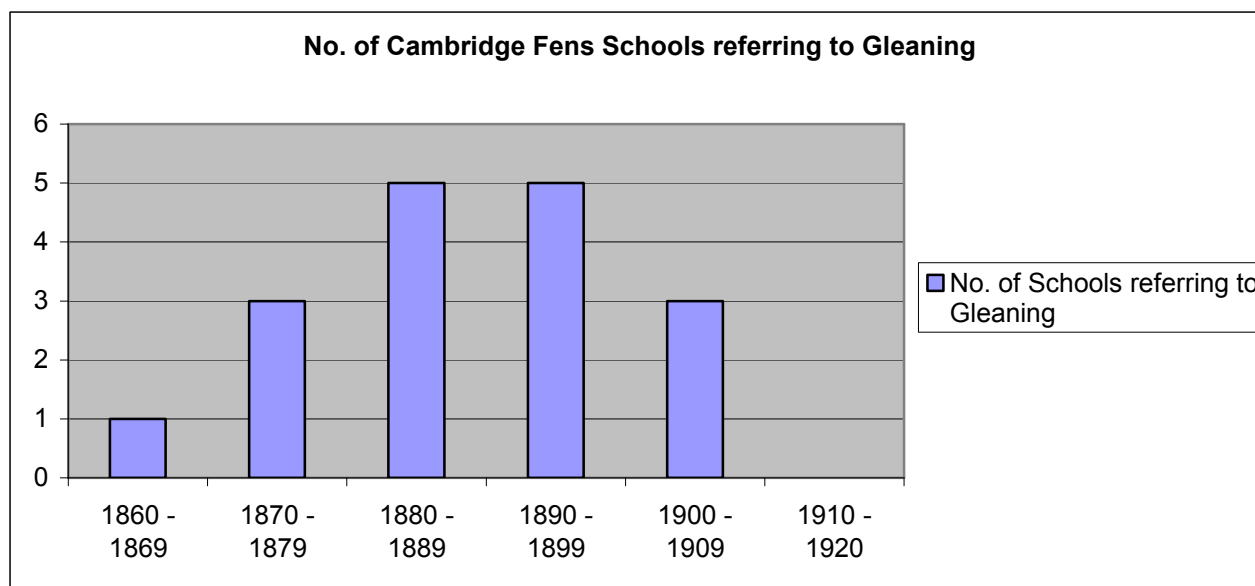
Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 2



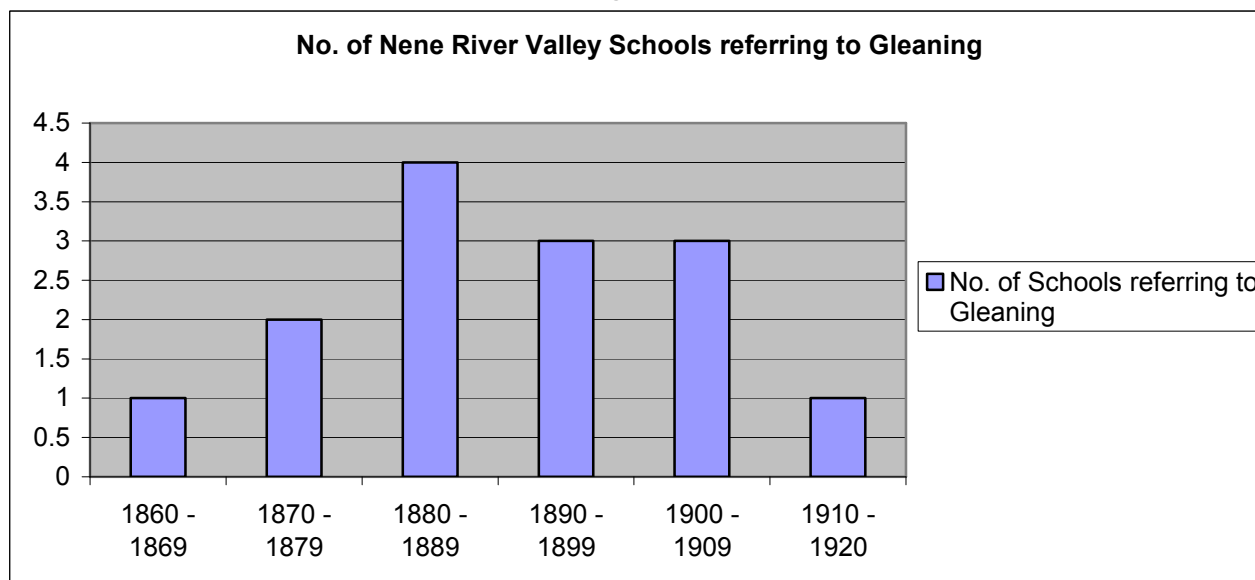
Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 3



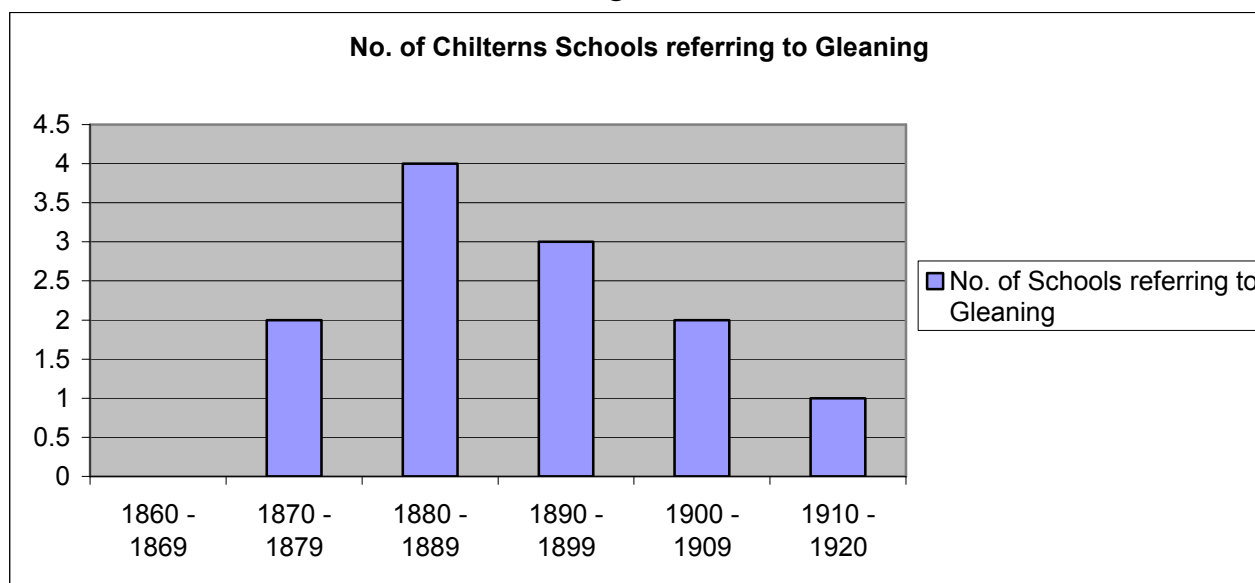
Sources: CRO School Log Books - C/ES38B/1 and /2 Hive End, Chatteris; C/ES38C/1 New Road, Chatteris; C/ES 116 D/1 West Fen, March; C/ES 133A/1 and/2 Parson Drove; C/ES 170 J/1 and 2 Whittlesey North Side; C/ES 51A/1 Coveney; C/ES 54A/1 Fen Ditton; C/ES 181E/1 Wisbech South Brink; C/ES 128 /B1 Outwell; C/ES180E/1 Thorney; C/ES182A/2 Witcham; C/ES66P/6 Pricklow; and C/ES178A/1 Wimblington.

Figure 4



Sources: NRO School Log Books – SLB/66 and /67 Grafton Underwood; SLB/113 and /114 Newton Bromswold; BRO 101 Broughton; SLB/117 Gt Oakley; 275P/327 and /328 Pytchley; SLB/158 and /159 Wadenhoe; SLB/165 Weekley; SLB/150 and 151 Tansor; SLB/166 and /167 Wellingborough; and LA1/ES/161/2 and /3 Kettering.

Figure 5



Sources: BRO School Log Books – E/LB/116/6 Ivinghoe Aston; PR.175/25/19 Princes Risborough; PR.122a/25/1 Lands End; E/LB/140/1 Gt Marlow; E/LB 168 A/2 Prestwood; E/LB/166/1 Pitstone; E/LB/116/1 and /2 Ivinghoe; and AR 1/2001 Edlesborough.

## KNOWLEDGE

### Memory

The continuing and differing attitudes towards traditional beliefs, was dependent on local and historical knowledge within the community. They relied heavily on collective and individual memories, the understanding of complex interpretations, and the dissemination of information on customs, land usage and the law. David Fletcher described these local communities as ‘collective reposit[or]s of information’.<sup>196</sup> To be knowledgeable was to possess information, which included ideas, practices and ways of thinking.<sup>197</sup> Hence, attitudes towards diminishing customary rights were based on informed local knowledge, which could differ over space and time. Nevertheless, traditionally all customs were built ‘upon a sense of the past’, because the past ‘conferred an authority which the present could not’.<sup>198</sup> Memories potentially provided a frame of reference,

<sup>196</sup> D.Fletcher, ‘The Parish Boundary’, p. 191.

<sup>197</sup> *Encarta World English Dictionary*, and D.Goldblatt (ed.), *Knowledge and the Social Sciences: Theory, Method, Practice* (London, 2004), p.122.

<sup>198</sup> A.Wood, ‘The Place of Custom’, p. 52.

which supplied information on how things should be and ‘of when things were different’.<sup>199</sup> Those who held local positions of authority realised this. One response was, for example, to prohibit parish boundary walking after enclosure in the hope of suppressing ‘the memories of parishioners who could recall rights and customs associated with open fields and commons’.<sup>200</sup> This technique proved to be unsuccessful in many areas. Andy Wood found that years after the extinction and enclosure of a common, older inhabitants of a community might ‘find in the memory of lost customary rights a justification to reclaim what had once been their ancestors’.<sup>201</sup> In some cases the depth and level of knowledge was quite remarkable. In a dispute concerning public rights on Berkhamsted common, an old man named William Ashby came forward and recited all the legal details of the commoners’ rights.<sup>202</sup> In other instances, parishioners had no memory or knowledge on which to base their interpretations, as when Samuel Garrett claimed that he had ‘no knowledge’ that the fish in that part of the river belonged to the Nene Angling Club and he just assumed that he had a ‘perfect right’ to fish there.<sup>203</sup> Similarly William Owen claimed he did not know he was doing any wrong when caught fishing illegally in a private stream.<sup>204</sup>

Tradition itself is often described as a story or a custom that is ‘memorised’ and passed down from generation to generation, without the need of a writing system.<sup>205</sup> Indeed, knowledge of popular culture, extrapolated from local memories, was disseminated amongst nineteenth-century communities orally. This in itself, explained Charles Phythian-Adams, ‘underlines the unchanging circumstances in which old beliefs were perpetuated’.<sup>206</sup> However the orality of popular culture was not a direct result of widespread illiteracy.<sup>207</sup> Reality was that popular beliefs concerning subsistence customs and rights were part of everyday life, a life which was based on community and togetherness, where communication and knowledge giving was undertaken in a collective manner, laws and customs memorised, and learning and education was practical not theoretical.

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<sup>199</sup> M.Stanford, *The Nature of Historical Knowledge* (Oxford, 1987), p. 49.

<sup>200</sup> B.Bushaway, *By Rite*, p. 25.

<sup>201</sup> A.Wood, ‘The Place of Custom’, p. 53.

<sup>202</sup> Case against John Andrews and Jonathan Horwood, ‘the ‘writings’ on the Common stated that the furze and the ferns belonged to the villiens, the herbage to the tenants, and the underwood and all the lop of the trees belonged to the villiens, and if they wanted any repairs done they were to go into Frithsden Woods and cut down a tree’. Gt Berkhamsted Petty Session, *Bucks Herald*, 7 June, 1873.

<sup>203</sup> Northampton Div. Petty Session, *Northampton Mercury*, 12 June, 1880.

<sup>204</sup> Kettering Petty Session, *Northampton Mercury*, 25 April, 1868.

<sup>205</sup> *Oxford English Dictionary*, OED Online, www.oed.com

<sup>206</sup> C.Phythian Adams, ‘Rural Culture’, in G.E.Mingay (ed.), *The Vanishing Countryman*, p. 80.

<sup>207</sup> The literate were indeed a small minority in the earlier part of the century but ‘always they could be found’. D.Vincent, *Literacy and Popular Culture: England, 1750-1914* (Cambridge, 1989), p. 12.

The work of cognitive psychologists has shown that the most essential factors in the perpetuation of customary activities is the way in which the memory of it is laid down and how the brain then retrieves that information.<sup>208</sup> To know something is not enough, one needs to be able to recall it, wrote Endel Tulving.<sup>209</sup> Visible collective customary festivals, parades, feasts, processions and rituals were the ideal vehicle by which knowledge of local custom was imprinted on to the minds of the community, and recalled by the memory of observing, participating and experiencing. For instance, the procession, ritual and festivities that accompanied the rogation reinforced the knowledge of parish boundaries, laid down in collective and individual memories.<sup>210</sup> When the churchwardens of St Peters recorded the perambulations of Berkhamsted in 1624 they made specific reference to the number and importance of, the younger generation taking part. These particular processions continued until early in the twentieth century when on one of the last occasions heavy rain had caused the unbanked pond to overflow into the smaller pool by Martin's hedge. The precision of the activity was of such importance that 'the whole company waded through the water in order to divide Berkhamsted from Northchurch with absolute accuracy'.<sup>211</sup> Suppressing, such activities could, in Andy Wood's words: 'annihilate the organisational focus for local memory' and consequential 'inactivity' led to a 'gradual loss of knowledge' about local lands and associated customs.<sup>212</sup>

Place names could also serve as reminders of land usage prior to enclosure, especially on drained landscapes: Fodder Fen, Common Pasture, Cow Pasture, Turf Fen, and Fodder Fen Common near Manea in the Cambridge Fens are just a few examples easily found by just perusing over a modern day ordnance survey map. In some instances the local community insisted on continuing to use ancient place names when new ones were allocated, or inventing new ones to explain the changes that had taken place. These actions are firm evidence as to the unyielding and stubborn attitudes of local inhabitants towards changes to their landscape and environment. Viviane Bryant, in her interviews with aged inhabitants of Potten End, recorded that many of them still called Horseshoe Pond on the Common, the 'new pond'; a local pseudonym given to it by their ancestors some 150

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<sup>208</sup> Cognitive psychology concentrates on the mental processes that people use to acquire, store, retrieve and use the knowledge they have. M.Cardwell, L.Clark, and C.Meldrum, *Psychology* (London, 2003), p. vi.

<sup>209</sup> Endel Tulving spoke of two kinds of memory: episodic- remembering and recalling events, and semantic –just knowing about it. E.Tulving, 'Episodic Memory: From Mind to Brain', *Annual Review of Psychology* (2002).

<sup>210</sup> D.Fletcher, 'The Parish boundary', p. 183.

<sup>211</sup> V.J.M.Bryant, *A History of Potten End*, p. 11.

<sup>212</sup> A.Wood, *The Politics of Social Conflict*, p. 137, G.D.Gadsden, *Law of Commons*, p. 7.



years previous.<sup>213</sup> Remembrance of other events were firmly fixed in the minds of the people due to the bitterness of the memories associated with them, as in the case referred to by Bob Bushaway where Mary Smith had been charged with taking wood from a hedge some seventy years before. Mrs Mills recalled the event, and to her the punishment seemed severe, unfair and unjustified.<sup>214</sup>

The repetition of many customs ensured their remembrance. This was particularly true of those with seasonal connotations or ritual elements, such as the beating of the bounds, wood collecting at Wishford Forest and the May Day Parades. The repetitiveness of chants and songs and the significance of when and where they were sung, imprinted clearly on to the memory: ‘Wheat, wheat, harvest home, see what great bundles we bring home’, sang the youngsters on their way home from gleaning in Hertfordshire.<sup>215</sup> Songs were handed down through the family or the community as a source of knowledge, evidence of local attitudes and ‘expressions of the[ir] social background’.<sup>216</sup> Poems and ballads may have even perpetuated the memories of altered landscapes and prohibited customary activities.<sup>217</sup> Hence learning by rote in late-nineteenth century educational establishments was purely an extension of traditional methods of learning, although it did not guarantee a full understanding of the knowledge given. Nevertheless, again landowners and those who held magisterial authority took advantage of these tried and tested methods to get their messages across. They continually repeated new or altered interpretations of the law and social expectations in the local courts, and sometimes made concerted efforts to systematically suppress and stamp out certain crimes to emphasise their point. In 1868, at just one sitting of the Hemel Hempstead Petty Session, unusually seven cases of mushroom stealing were brought before the magistrates by different landowners.<sup>218</sup>

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<sup>213</sup> This pond had been deliberately dug as one of several obstacles ordered by the Earl of Bridgewater in 1823 to stop up the old road from Hemel Hempstead to Aldbury in an attempt to control the movement of local people.

V.J.M.Bryant, *History of Potten End*, p. 36. Also an example can be found in East Yorkshire TA228311, where under the street name of Hillston Road it is written just as boldly ‘also known as Furze Road’.

<sup>214</sup> ‘Her clothes [were] taken off her in the freezing cold’ and then ‘she was whipped at the stocks’. Summary conviction records for wood theft in Wiltshire County Records in B.Bushaway, ‘From Custom to Crime: Wood Gathering in Eighteenth and Early Nineteenth Century England: A Focus for Conflict in Hampshire, Wiltshire and the South’, J.Rule (ed.), ‘Outside the Law’, p.98.

<sup>215</sup> E.Grey, *Cottage Life*, p. 123.

<sup>216</sup> R.Grieg, ‘The Social Context of Traditional Song: Some notes on Collecting’, *Language and Lore* 5 (1971) 4.

<sup>217</sup> ‘They shut the road through the woods. Seventy years ago, Weather and rain have undone it again, And now you would never know, There was once a road through the woods, Before they planted the trees, It is underneath the coppice and heath, And the thin anemones’. R.Kipling, *The Way through the Woods*, in K.Baker (ed.), *The Faber Book of Landscape Poetry* (London, 2000).

## Age

Traditional communities venerated established knowledge, seniority and age, relying heavily on the memories of its aged members. They were the guardians and ‘repositories of the knowledge’.<sup>219</sup> As defenders of custom they ‘sought to preserve the rights not only for themselves but for future generations’,<sup>220</sup> and as such it was of the utmost importance that knowledge of customary rights be passed to the younger generation. The basics of this were mainly achieved through socialisation,<sup>221</sup> through experience such as when small boys were ‘ducked in the ditch or given a clout’ at specific points of the boundary walk to ‘imprint the spot upon their memories’,<sup>222</sup> or through observation, participation, songs and chants. These experiences were, to a certain extent, fluid, as inevitably the community responded to outside influences and therefore attitudes were constantly forming, adapting and changing, albeit very subtly, over the course of time.

Children’s participation in customary activity started from an early age. Besides accompanying their parents to feasts, fairs and parades, they went gleaning as babes in arms and even toddlers were expected to contribute to the family’s efforts in the collecting and gathering of wheat leasings, beans and blackberries. Young children were similarly introduced to poaching. In their early years they would learn to keep quiet about the dead rabbit that appeared on the kitchen table, then later the nature of their agricultural work would serve as an ideal training ground: ‘crow scaring gave bored children the time and experience to trap and snare’.<sup>223</sup> Their early exposure to and participation in such activities ensured their understanding of socially acceptable behaviour within the community. In 1885 two little girls from Hemel Hempstead were well instructed in the rights and wrongs connected to the gleaning process, for on the 12 September they acted as witnesses in the case against Sarah Hollick, a married women, who stood accused of stealing wheat.<sup>224</sup> They also learnt to differentiate between what was acceptable within the community, but not to society at large. Florence Rance, who was born in 1886, regularly went rabbiting with her brother, but their ‘wary eyes watched constantly for a keeper or policeman, for this was poaching and therefore

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<sup>218</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 29 August, 1868.

<sup>219</sup> Prof. Anthony Giddens, ‘Tradition’, *The BBC Reith Lectures Revisited*, 24 November, 1999, p. 2.

<sup>220</sup> A.Wood, ‘The Place of Custom’, p. 52.

<sup>221</sup> ‘The processes by which children learn the language, culture and norms of the society in which they live.’ G.Mooney, B. Kelly, D.Goldblatt, and G.Hughes (eds), *Tales of Fear and Fascination: The Crime Problem in Contemporary UK* (Milton Keynes, 2004), p. 31.

<sup>222</sup> E.P.Thompson, *Customs*, p. 98.

<sup>223</sup> J.E.Archer, *By a Flash and a Scare*, p. 232.

<sup>224</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 12 September, 1885.

illegal'.<sup>225</sup> Teaching by example was not just for the very young. At Durston, the older inhabitants were much 'aggrieved at their right of gleaning being poached upon' and Mary Farmer Senior may have felt it was her responsibility to openly and visually assert local rights in front of her daughter in law when she assaulted Mary Burton, a newcomer on the gleaning field.<sup>226</sup>

In her work on analysing attitudes, Alice Eagly found that making comparisons between the attitudes of the young and the old was informative, to the extent that age served as 'an exact proxy' for the strength of social attitudes'.<sup>227</sup> Authorities may have attempted to discourage this attitude formation by summoning young children to court on minor charges.<sup>228</sup> In 1877 Thomas Clunnie and George Tucker were called by Mr Britten, who said he did not wish to press for a penalty, but only desired that the boys 'should know that they had no right to gather the walnuts'.<sup>229</sup> And it is unlikely that John Cockerill, an eighteen year old from Wootten in the Nene River Valley, realised that there was a possibility of being imprisoned for seven days for taking 'a twig and sharpening it'.<sup>230</sup> Nonetheless the young were encouraged to take leading roles in customary activities and to act independently. In the May Day festivities at Lark Rise, Flora Thompson recalled that 'beyond giving flowers for the garland, pointing out how things should be done and telling how they had been done in their own days, the older people took no part in the revels'.<sup>231</sup> A similar observation could be made of the Tin Can Band procession at Broughton, which still takes place today: the average age of those who participate is between sixteen and twenty, but there is obvious sanction and approval from the older generations who, well past midnight, come to their windows and front doors to wave the revellers on.<sup>232</sup>

Age analysis of those committing crimes associated with subsistence customs and rights could be an indication as to just how widespread, across the generations, customary beliefs were. John Archer's work on the earlier part of the nineteenth century suggested that single men under the age

<sup>225</sup> V.J.M.Bryant, *A History of Potten End*, p. 150.

<sup>226</sup> Northampton Div. Petty Session, *Northampton Mercury*, 22 September, 1860.

<sup>227</sup> A.H.Eagly, *The Psychology of Attitudes*, p. 681. See also Krosneck and Alwin, 1989 and Sears 1981 and 1986.

<sup>228</sup> As Frederick Rolfe wrote 'No doubt that the Maderstrates thought to cure me with a lesson'. L.R.Haggard (ed.), *I Walked by Night*, p. 33.

<sup>229</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 October, 1877.

<sup>230</sup> Northampton Div. Petty Session, *Northampton Mercury*, 9 June, 1866.

<sup>231</sup> F.Thompson, *Lark Rise to Candleford*, p. 201.

<sup>232</sup> Broughton Tin Can Band, near Kettering. First Sunday after the 12<sup>th</sup> December. Meet at the last stroke of Midnight. For more information see M.Pipe, 'Ghosts and Folklore of Northamptonshire', Vol III, Northamptonshire record office, ref. ROP 2164.

of twenty-five years old committed the majority of rural crime.<sup>233</sup> The age of a defendant was not consistently recorded in the newspaper reports used for this study. Fifty-one cases however mentioned the specific age of an individual accused, or the individuals accused within a group, and all but five of these cases recorded that the men involved were less than thirty years old. John Barber was only fifteen and Samuel Irons seventeen when fined for game trespass at Weston Favell in 1869,<sup>234</sup> and Henry Watts who was only thirteen when caught trespassing in pursuit of game in the same year.<sup>235</sup> Sometimes the defendant would just be described as a lad or youth, as in the case of two youths John and Thomas Edmunds, who were both fined £2 each for trespassing in search for conies in 1875.<sup>236</sup> This survey recorded an extra sixty-two cases that stated that the individual, or group accused, were youths, lads or young men.<sup>237</sup>

### Understanding Customary Rights

There were many discrepancies in what local populations considered permissible and what was acceptable in the eyes of the law.<sup>238</sup> Different levels of society interpreted government regulations according to their own interests, the influence of local customs and laws on their own life, and their intellectual understanding of the facts. Not nearly enough work has been done on how legal changes affected customary practices, argues Peter King, which is hardly surprising as evidence on the subject is extremely contradictory.<sup>239</sup> As previously discussed, common rights originated from common law and so they were not always written down and this made them extremely difficult to defend. On the other hand, of those that were, such as the ‘Articles of Agreement’ made during the reign of Elizabeth I at Cottenham and Streatham, they could be clearly and concisely written, but

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<sup>233</sup> J.E.Archer, *By a Flash and a scare*, pp. 179-180, 196-7. See also D.J.V. Jones, ‘The Poacher: A study in Victorian Crime and Protest’, *Historical Journal* 22 (1979) 825-860, and H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching in Victorian England’, *Rural History* 17 (2006) 187-212.

<sup>234</sup> Northampton Div. Petty Session, *Northampton Mercury*, 12 June, 1869.

<sup>235</sup> Northampton Div. Petty Session, *Northampton Mercury*, 18 September, 1869. There were other cases, which involved those significantly older. William Perry aged 63 from Hemel Hempstead was fined for wilfully damaging a hedge valued at 4d. Hemel Hempstead Petty Session, Hertfordshire Mercury, 16 November, 1878.

<sup>236</sup> Aylesbury Magistrates Chamber, *Bucks Herald*, 14 August, 1875.

<sup>237</sup> Nineteenth century ballads frequently depicted the poacher, or poachers, as: a ‘bound apprentice’, a ‘poaching lad’, ‘wild and wicked lads’, and ‘young men of every station’ - implying their youthful age too. ‘When I was bound apprentice’, *The Poacher*, Ballad, Bodleian Library, Harding, B 28(9), Printer –Smith w; ‘Come all you gallant poaching lads’, *The Sledmore Poachers*, Ballad, Bodleian Library, Firth b 34(124); ‘Come all you wild and wicked lads’, *Young Henry Poacher*, Ballad, Bodleian Library, Harding B 11(4370); And ‘Young men of every station, that dwell within this nation’, *Oakham Poachers on the Lamentation Of Young Perkins*, Ballad, Bodleian Library, Harding B 20(198).

<sup>238</sup> Due to changing social, economic, political and cultural influences of the late nineteenth century. These will be discussed in chapter 4.

<sup>239</sup> P.King, ‘Legal Change’, p. 2.

very few survive.<sup>240</sup> Labouring people put much emphasis on the continuous use of particular rights and the Prescription Act of 1832 backed this up legally.<sup>241</sup> Hence attitudes and opinions were based not only on what they experienced and had been taught of customary rights, but also on their interpretations of basic state sanctions. The contradiction was that, although the labouring population may have understood that poaching was illegal, if a right to catch a rabbit on the common had existed for sixty years that right was far more persuasive than any statutory law.

Ambivalent interpretations of the law and customary rights extended to the law courts. The 1877 *Hall v. Byron* case concerning ‘rights in soil’ appeared to diametrically oppose Victorian views on property rights by stating that: ‘the lord may take gravel, marl, loam, and the like, in the waste, so long as he does not infringe upon the commoners’ rights’.<sup>242</sup> Similarly, the 1788 *Steel v. Houghton* ruling was in direct contrast to what was written in the 1722 *Commentary on the Laws of England*. It had stated that ‘by the common law and custom of England the poor are allowed to enter and glean... without being guilty of trespass’.<sup>243</sup> Historiographically it was argued, in particular by John and Barbara Hammond in 1911, that the 1788 ruling enabled farmers to take control of the poor’s gleaning activities.<sup>244</sup> However, Peter King and Stephen Hussey’s work suggests that this was not entirely true.<sup>245</sup> ‘farmers were rarely able to mobilise formal legal sanctions against the gleaners’.<sup>246</sup> Even after the First World War, Mr Toppesfield told Stephen Hussey that gleaning was right for anybody who would go on a cornfield or ‘at least we used to reckon it was - a farmer never stopped us’.<sup>247</sup> During the period of gleaning ‘the fields no longer belonged to the farmers but to the villagers’. The law decreed one thing ‘but the labouring poor went their way regardless’, noted D H Morgan.<sup>248</sup>

<sup>240</sup> ‘The town to have the wood growing in the Fens for public use’, ‘the inhabitants to have the leavings... also the fishing in the Abbots Creeke and in the ditch in Smithy Fen’ and ‘the inhabitants to use the commons, which were commons for sixty years past, to their benefit’. Article xv, xx, xxii, recorded in W.Cunningham, *Commons Rights at Cottenham and Streatham* (London, 1910), p. 193, 204, 207 and 208.

<sup>241</sup> See appendix 11.

<sup>242</sup> *Hall v. Byron* 1877, in G.D.Gadsden, *Law of Commons*, p. 201.

<sup>243</sup> *Commentary on the Laws of England*, 1722, III, 212, quoted in W.O.Ault, ‘By-Laws of Gleaning and the Problem of Harvest’, *Economic History Review*, 2<sup>nd</sup> series 14 (1961) 214.

<sup>244</sup> J.L. and B. Hammond, *The Village Labourer* (London, 1968), pp. 67-9.

<sup>245</sup> See P.King, ‘Legal Change’; P.King, ‘Gleaners, Farmers and the Failure of Legal Sanctions’; P.King, ‘Customary Rights and Women’s Earnings’; and S.Hussey, ‘The Last Survivor of an Ancient Race’.

<sup>246</sup> P.King, ‘Legal Change’, p. 2.

<sup>247</sup> Interview with Mr W Toppesfield, born 1909, recorded 1994, in S.Hussey, ‘“The Last Survivor of an Ancient Race”’, p. 66.

<sup>248</sup> D.H.Morgan, ‘The place of harvesters in nineteenth-century village life’, in R.Samuel (ed.), *Village Life and Labour*, p. 61.

In some respects the legal contradictions resulted from the contrasting attitudes of the magistracy, which differed from one region to another, depending on the power of their authority and the strength of local support for customary rights. Towards the latter part of the nineteenth century, however, statute law began to be far more rigorously and stringently adhered to due to the increased intervention of the state into many parts of everyday life.<sup>249</sup> As a consequence, magisterial conclusions, for sometime, became unpredictable and many defendants were genuinely surprised and confused at the fines and sentences meted out to them. Charles Weston and Peter Picton were both accused of stealing underwood, but neither made any attempt to deny their actions stating in court that they ‘did not see any harm in it’.<sup>250</sup> Three men from Rickmansworth claimed that they ‘did not think they were doing any harm’ when convicted of game trespass.<sup>251</sup> And as late as 1907, Elizabeth Barker and Rose Horwood, who were convicted for stealing walnuts that had already fallen off a tree, claimed that they had ‘gone out wooding, and did not think they were doing any harm’.<sup>252</sup>

To others it may have been incomprehensible that they would find themselves in court for such petty crimes. William Batson of Amersham common was fined 10s for stealing twenty-five mushrooms, while Charles Final and Charles Bladen were fined 15s each for stealing acorns.<sup>253</sup> Paradoxically, one labouring man, who was accused of cutting furze on the common, expressed his view of the triviality of such an accusation by drawing a parallel between it and collecting wild flowers, arguing that they might as well charge him ‘for picking a daisy from the roadside’.<sup>254</sup> Yet ironically, today he would indeed be fined up to £1000 under the Wildlife and Countryside Act, 1981, (schedule 8) for such an action.<sup>255</sup> Some misinterpretations of the law and the punishments assigned to them were far more distressing. Sarah Faulkner, a deaf woman, and a lad named James Simpkins, were sentenced to seven days imprisonment for taking wood to the value of 4d from a hedge. The woman, who had let it be known to the court that she had an infant at home, believed that she had only been fined, but as she tried to leave the court the police had to make her understand her sentence, whereupon she began to scream loudly.<sup>256</sup>

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<sup>249</sup> More discussion in chapter 4.

<sup>250</sup> Watford Petty Session, *Hertfordshire Mercury*, 23 June, 1883.

<sup>251</sup> James and William Branch, along with Henry Hoope Watford Petty Session, *Hertfordshire Mercury*, 14 April, 1888.

<sup>252</sup> Aylesbury Petty Session, *Bucks Herald*, 9 November, 1907.

<sup>253</sup> Amersham Petty Session, *Bucks Herald*, 1 September, 1883, Hemel Hempstead Petty Session, *Bucks Herald*, 11 December, 1880.

<sup>254</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 7 June, 1873, p. 8.

<sup>255</sup> See appendix 11.

<sup>256</sup> St Albans Liberty Court, *Hertfordshire Mercury*, 12 November, 1870.

Knowledge of recently enacted statute laws took some time to filter through to rural areas, and even then local police and gamekeepers may not have fully understood the complex specifics of them. This seemed particularly true of the Poaching Prevention Act of 1862.<sup>257</sup> In 1870 James Harris and Joseph Howard were accused of poaching on the land in occupation of Robert Smith, but the case was dismissed on the grounds that ‘the keeper had no right to search a man on a public road or path’.<sup>258</sup> However, although their knowledge of the law was often muddled - being acquired piecemeal, orally, by observing arrests, by attending court hearings and information from the newspapers - the vast majority of ordinary people did in fact understand a great deal about the law, and their knowledge of it could be used to their own advantage: to twist a situation, or find a relevant excuse. Robert Horton was just one labourer to do so, claiming he ‘knew all about the law and was shooting pigeons’, rather than poaching.<sup>259</sup> It could be argued that lack of education and the exclusion of many rural workers from the political process, prior to the 1870s and 1880s, limited their knowledge of official law and their linguistic capabilities to respond to accusations successfully. Admittedly many misunderstandings appear to be genuine, possibly as a result of inaccurate interpretations of official and legalistic language used by the courts, magistrates and the newspapers. But, on the other hand, there were some who appeared to have chosen to simply carry on interpreting the law as was convenient to them. For instance, two ‘respectable looking women’ from Aldwinckle could not easily claim they were collecting dead or snap wood when they were caught with a piece of wood one yard long and six inches in diameter.<sup>260</sup>

The hierarchy could linguistically manipulate the peoples’ understanding of the legal system by over emphasising certain words laid out in statute laws, such as ‘permission’. When an activity or action was understood by a community to be a custom or right, it was not considered to require permission but, as a means of control, the law enabled landowners and farmers to enact permission clauses if it suited them to do so. Mrs Field of Tiptree made no reference to seeking permission when she recalled that it was acceptable as a child in the 1880s to pick watercress growing wild, bunch it up and sell it so she could buy her ill father a tin of crabmeat.<sup>261</sup> Yet a farmer named James Wells complained to the court in 1895 that Rose Scott and Mary Plested, two married women who

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<sup>257</sup> See appendix 11 .

<sup>258</sup> St Albans Petty Session, *Hertfordshire Mercury*, 19 February, 1870.

<sup>259</sup> Gt Missenden Petty Session, *Bucks Herald*, 16 October, 1875.

<sup>260</sup> Emma Smith and Elizabeth Francis, Thrapston Petty Session, *Northampton Mercury*, 14 September, 1889.

<sup>261</sup> Mrs Field, *My First Job*, Essex Record Office, T/Z 25/378, in J.Kitteringham, *Country Girls*, p. 19.

were gathering sloes and blackberries, ‘were in the field without permission’. The magistrate fined them 1s each, told them that ‘they should have got permission before entering the field’, but made no comment on whether they were wrong for collecting blackberries and sloes.<sup>262</sup> Permission clauses were increasingly used. When Sarah Roberts was summoned for stealing a quantity of wheat from a farm at Cheshunt Common, she claimed that she had a right to glean there like the many others in the fields. But the farmer made no attempt to conceal that fact that he wanted the gleanings to go to the families of his workers. The case resulted in the Chairman of the Court announcing that ‘no person had a right to glean from any field without first asking permission of the owner’.<sup>263</sup> No wonder many felt aggrieved at having to ask permission for what they felt was their right. A sense of this is evident in the school log books, for although it was now a legal requirement for children to attend elementary school, many parents and guardians are recorded as not asking permission for their children to be excused so they could glean with the family. Rather, they ‘informed’ the schoolmaster that the children would be absent while there was gleaning to be done. At Coveney in 1888, the school log book for that year recorded that ‘mothers called to say that gleaning was not finished, and consequently they must detain the children at home’.<sup>264</sup>

To understand why certain rituals and activities took a particular form seemed irrelevant to the vast majority of the population. Anthony Cohen thought that it was unlikely that they experienced popular culture as a ‘coherent system of ideas’, but more that people just knew ‘their way of doing things’.<sup>265</sup> Anthony Giddens suggested that ‘taking part in a tradition doesn’t involve [a] cognitive question’ it is ‘relatively unthinking’ experienced, lived, and ‘taken for granted rather than questioned’.<sup>266</sup> Evidence for such attitudes are apparent in Flora Thompson's description of Palm Sunday. The original significance of eating figs on that day, she explained, ‘had long been forgotten’ but it was nonetheless ‘regarded as an important duty’.<sup>267</sup> Similarly, at the Burry man celebrations just outside Edinburgh, an event that has continued to take place through to the twenty first century, J.R.Daeschner asked a local participant what his interpretations of the parade and festivities were. His reply was that he did not know why they paraded, or what the festivities were about, neither did he know whether it was important for him to understand the significance of them,

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<sup>262</sup> Chesham Petty Session, *Bucks Herald*, 5 October, 1895.

<sup>263</sup> Cheshunt Petty Session, *Hertfordshire Mercury*, 27 August, 1870.

<sup>264</sup> CRO, C/ES 51 A/1, Coveney School Log Book, 1 October, 1888.

<sup>265</sup> A.P.Cohen, *Belonging*, p. 5.

<sup>266</sup> Prof. Anthony Giddens, ‘Tradition’, pp. 2-3.

<sup>267</sup> F.Thompson, *Lark Rise to Candleford*, p. 232.



but what he did think was important was that ‘the tradition keeps going’ and he hoped ‘it goes on forever’.<sup>268</sup>

In the same way, it was not necessarily important for individuals to understand why the pattern of their immediate landscape had changed and access to it restricted - they just knew it had. Therefore memory and knowledge of ancient land use and rights of way continued to influence the formation of attitudes. Footpaths and rights of way were physical links between areas of land that were important to the people. Before the days of pocket maps and commonplace long distance travel, familiar and well-known paths provided security and safety. Unlike new roads which were usually built to the economic benefit of the land owners and entrepreneurs, local rights of way and paths were practical routes for everyday use: to go to work, to collect wood, to get to church or into the next village. Pathways could, in their own way, be symbolic, ritualistic, processional ways, a route that had always been taken or significant as a church path or corpse way.<sup>269</sup> Many of the local roads had been part of the common land prior to enclosure.<sup>270</sup> Therefore in proceeding decades, paths, tracks and roads were often seen as ‘no mans land’.<sup>271</sup> They had a strange status, as in the incident when John Wilkins was told to leave unwanted items on the road and, in his capacity as a gamekeeper, he found it increasingly difficult to apprehend a suspected poacher on a path unless he caught him red handed.<sup>272</sup> Nonetheless, parish authority attempted to extend jurisdiction over these areas. In a case reported in the *Northampton Mercury* in 1885, entitled ‘An Old Custom’, Mary Benson and Sarah Emerton were summoned for hanging clothes across the road, to which they both answered that they had possessed the right to for many years.<sup>273</sup> Knowledge of ancient rights of way, through necessity, were usually extensive within local rural communities, and for that reason a number of rights of way disputes appear to have been concealed under the guise of ‘unlawfully damaging growing crops’ or ‘grass’. The case involving John Burgen of Bovingdon is a typical example. He was charged with damaging a growing crop of grass, for which he had to pay damages and costs, but no fine,<sup>274</sup> while in 1868, as a result of his local knowledge, William Perry managed

<sup>268</sup> J.R.Daeschner, *True Brits* (Chester, 2004), p. 113. Burry Man celebrations, South Queensferry, Near Edinburgh, on the second Friday after the first Thursday in August.

<sup>269</sup> Such as that used by the villagers of Stanley to Wakefield Parish Church burial grounds. [www.Freepages.history.rootsweb.com](http://www.Freepages.history.rootsweb.com). and Tarbock to Huyton Parish. [www.History.knowsley.gov.uk](http://www.History.knowsley.gov.uk)

<sup>270</sup> O.Rackham, *The History of the Countryside* (London, 2001), p. 265.

<sup>271</sup> There were many individual protests from poachers that marshes, pools, footpaths and ditches had always been considered public property. D.J.V.Jones, ‘The Poacher’, p. 838. While on the other hand, relations were antagonised by keepers patrolling byways and footpaths and police watching cross roads and lanes. R.Jefferies, *The Gamekeeper at Home*, p. 20.

<sup>272</sup> J. Wilkins, *An Autobiography of English Gamekeeper*, p. 309.

<sup>273</sup> Northampton Petty Session, *Northampton Mercury*, 21 February, 1885.

<sup>274</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 29 July, 1865.

to get the case of wilfully damaging grass and herbage at Shrub Hill common against him dismissed.<sup>275</sup>

## TIME

Knowledge, memory and the understanding of customs, law and land usage were essential elements for the perpetuation of customary rights; so too was a specific concept of time. There had been a distinct shift in attitudes to, and emphasis on time during the eighteenth and nineteenth centuries, especially by the higher classes. This, as Edward Thompson explained, was explicitly attributable to industrialisation and urbanisation.<sup>276</sup> The rural populations, on the other hand, had their own perceptions of time, its importance in everyday life, and in the customary world. This amounted to a multiplicity of attitudes towards the past, present and the future: the concept of time immemorial; the understanding of seasonal work patterns and customary events; the expectations of routine and habit in everyday life; and the ideological belief in the continuance of traditional popular culture. All of this was heavily influenced by regional, environmental and economic factors, and the consequential patterns of cottage industries and local industrialisation.

### Immemorial

Custom itself depended essentially on its long use, of having been observed ‘time out of mind’ or from a time when ‘memory of man runneth not to the contrary’, even if the origins of many of them were ‘for the most part forgotten’.<sup>277</sup> A claim of time immemorial was originally used legally to refer to a time long past, beyond memory or record, but the introduction of the Prescription Act in 1832 abandoned this specific method of legal dating.<sup>278</sup> Nonetheless, older attitudes, which were often considered to be more stable, continued to be given priority over new ones, and the relevance of time remained.<sup>279</sup> In a dispute over access on to Coombe Hill in 1893, one of the accused asserted that ‘people have been allowed on Coombe Hill as long as I can remember’, while another

<sup>275</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 29 February, 1868.

<sup>276</sup> See E.P.Thompson, ‘Time, Work Discipline and Industrial Capitalism’, in *Customs in Common*.

<sup>277</sup> A.J.Betty, “ ‘According to Ancient Custom Time Out of Mind’ A Problem of Manorial Custom”, *Local Historian* 14 (1980) 93; Charles Elton Esq. Barrister at Law, *Observations on the Bill for the Regulation and Improvements of Commons* (London, 1876), p. 3.

<sup>278</sup> Was originally referred to in legal disputes as a time prior to the keeping of official legal records, fixed in 1189 at the beginning of Richard I's reign. *Microsoft Bookshelf 94*, Multimedia Reference Library and Encarta, World English Dictionary. See appendix 11.

<sup>279</sup> A.H.Eagly, *Psychology of Attitudes*, p. 681.

defendant stated that ‘anyone has gone there for past years’.<sup>280</sup> This was an attitude that still persisted in 1914 when three men from Lacey Green were accused of damaging corn growing in a field. They argued that ‘there had been a footpath there for many years’, and in fact it had been used for at least the last sixty years.<sup>281</sup> These specific references to particular time durations of usage suggests that the accused were often fairly knowledgeable on certain points of law – in particular, the Prescription Act of 1832.

The time constraints for proof made it essential to provide reliable witnesses, and the memories of elderly members of a community were especially important in this undertaking. Five men accused of damaging a gate on the way to Wellingborough claimed to be on a footpath that went across the meadow by Smith’s mill, this route saved them approximately a mile off their journey each day. William Blott disputed that this was a right of way, but the defendants had the case dismissed by producing evidence of a sixty-year use. Thomas Title, aged seventy nine, said he had ‘used it without interruption’ and James Cooper, aged seventy-two, said he had ‘used the road for sixty five years’.<sup>282</sup> The importance of time here lay, not only in the past (past use) but also in the present (time saved) and the future (time to be saved). As Andy Wood explained, customary rights were not static, they could be ‘evolutionary, encompassing both long-standing practices and recent gains or compromises’.<sup>283</sup> Similarly too, the significance of time was demonstrated by the extent of generational support. In 1866 Mr Wykes senior declared that a disputed footpath had been used for over 60 years, while Mr Wykes junior assured the court that he remembered it being used for over 30 years. The bench subsequently returned a verdict that ‘by long usage’ it had become an acquired right.<sup>284</sup>

So it seems that an official right was not always necessary, for time itself could provide just as much authority. In a dispute at Ashdown forest in 1880, the Vice Chancellor Bacon stated that the commoners had never had a right to take from the forest, yet in 1881 it was accepted that Bernard Hale had ‘proved at first instance that for a period of upwards of sixty years he and his predecessors

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<sup>280</sup> No fine was given, only costs required. Aylesbury Petty Session, *Bucks Herald*, 2 December, 1893.

<sup>281</sup> Horace Harvey, and Walter and Cornelius Williams, of Lacey Green, Princes Risborough Petty Session, *Bucks Herald*, 22 August, 1914.

<sup>282</sup> Wellingborough Petty Session, *Northampton Mercury*, 12 December, 1868. The belief of acquiring a right through long usage is still with us today, evidence of this can be found in the concerns of local councils and large landowners and their subsequent actions. See appendix 14.

<sup>283</sup> Referring to his research into seventeenth century customary rights. A. Wood, ‘The Place of Custom’, p. 50.

<sup>284</sup> *Northampton Mercury*, 5 May, 1866. For discussion on the prominent place of the past, see P. Readman, ‘The Place of the Past in English Culture c. 1890-1914’, *Past and Present* 186 (2005) 147-200.

in title had claimed to take, and had taken, not by way of permission, not by way of concession on the part of the Lord, but taken as of ‘right’.<sup>285</sup> Of course there were, as always, individuals who took advantage of these apparent loopholes in the law for their own personal benefit rather than that of the community. John Dickens was charged with encroaching on to the highway in 1868. He announced to the bench, in a self assured manner, that they had no jurisdiction and that he proposed to prove that he had occupied the ground for ‘three and twenty years’, and therefore believed that he had ‘gained a right by prescription’.<sup>286</sup> But, by the same token, this component of the law could have an unexpected and undesired effect on communities who did not regularly make use of their rights too, for although a common may have been ‘obtained by long sufferance’ it could also be ‘lost by long negligence’.<sup>287</sup> The law of prescription, on one hand allowing for a comparatively short period of use to establish a right, would as a parallel development, take only a short period of non-use to imply its abandonment.<sup>288</sup> This may explain why, as a precaution in the early years of the Second World War, Mr Percy Philips was reported as perambulating the entire parish of Broughton, alone at midnight, in deep snow, beating a tin can, to ensure the preservation and continuance of a customary tradition known as the ‘tin can band’.<sup>289</sup>

These examples suggest, in part, the shape and form of attitudes towards long-term views, although time on a day-to-day basis seemed to have separate meanings and levels of importance to different groups of people. To many landowners, for example, open fields and commons led to ‘inefficiency and wastefulness of time’, as did popular customs, festivals and feast days.<sup>290</sup> In 1791 the Reverend A. Macauley wrote of how local festivals, feasts and wakes ‘never fail[ed] to produce a week, at least, of idleness, intoxication and riot’.<sup>291</sup> Traditional festivals did not fit in well with the new industrial work rhythm<sup>292</sup> and attacks on them, in Alun Howkins’ opinion, were directly attributed to the need to impose work and time disciplines on to a pre-industrial labouring population in the

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<sup>285</sup> B.Short, ‘Conservation, Class and Custom: Lifespace and Conflict in a Nineteenth-Century Forest Environment’, *Rural History* 10 (1999) 140.

<sup>286</sup> Northampton Div. Petty Session, *Northampton Mercury*, 9 May, 1868.

<sup>287</sup> *Anon.* 1588, 3 Leon.202, 74 E.R. 632; in Gadsden, G.D., *Law of Commons*, p. 152.

<sup>288</sup> G.D.Gadsden, *Law of Commons*, p. 152. See also John Peck’s diary. 1841. ‘Drove to Wisbech to try to substantiate a Common right on the Tydd Commons now to be enclosed, but failed, not having stocked the commons 30 years, the time fixed by the Commissioners.’ Quoted in D. Blawer, *The Trade of a Farmer, John Peck of Parson Drove* (Wisbech, 2000), p. 2.

<sup>289</sup> M.Pipe, ‘Broughton Tin Can Band’, p. 10.

<sup>290</sup> E.P.Thompson, *Customs in Common*, p. 378.

<sup>291</sup> Reverend A.Macauley, *The History of Claybrook*, 1791, quoted in J.M.Golby, and A.W.Purdue, *The Civilisation of the Crowd*, p. 17.

<sup>292</sup> P.Burke, ‘Popular Culture between History and Ethnology’, p. 11.

new and developing capitalist society.<sup>293</sup> Industrialisation and subsequent demands on productivity had brought with it changed attitudes to time discipline and employees became enclosed into a framework of time and motion. Altered work patterns and regular working weeks forced people to work by the clock. Nonetheless it often took several generations for habits and time disciplines to change in the countryside.<sup>294</sup> ‘What had taken a thousand years to establish could not be destroyed in a single year’, wrote Walter Rose of his village; rural perceptions were not easy to subdue, for time had a different quality to those who lived and worked on the land.<sup>295</sup> Admittedly, enclosure had meant the loss of shorter and more flexible working hours for many, but for those who worked from home or on a freelance daily basis, their week still took on an irregular cycle, one of alternate bouts of intense labour and of idleness.<sup>296</sup>

Essentially perceptions of time, and the pace of change, were dependent on local industry and its influence on its surroundings. None of the three regions under investigation experienced wholesale industrialisation in the nineteenth century and thereby retained many traditional rural values, including that of time. The fenlands isolated towns and villages, with their wet but drained agricultural land, remained primarily a rural economy, while paradoxically, although the industry of shoemaking had been successful in Northamptonshire since the Civil war, it did not become fully factory based until the 1890s.<sup>297</sup> Men continued to work independently from home, pleasing themselves as to the hours they worked, or in small, local workshops, where the discipline of time would have been nothing in comparison to the large industrial factories of the north.<sup>298</sup> A large percentage of the Chilterns population also continued to keep flexible working hours, it being practically the last refuge in England for some of the traditional woodland industries before mass production made them extinct; here the men would work independently, as chair bodgers or the like, widely dispersed throughout the woods.<sup>299</sup> Similarly, in the earlier part of the nineteenth

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<sup>293</sup> A.Howkins, ‘The Taming of Whitsun’, in Eileen and Stephen Yeo (eds), *Popular Culture and Class Conflict*, p. 87.

<sup>294</sup> E.P.Thompson, *Customs in Common*, p. 394.

<sup>295</sup> W.Rose, *Good Neighbours*, p. xv. W.Rose, *Good Neighbours*, p. 89.

<sup>296</sup> E.P.Thompson, *Customs in Common*, p. 373-5. In isolated cases the observance of Saint Monday still perpetuated into the nineteenth and twentieth century. For example, miners in the Yorkshire pits and coopers at Burton-on-Trent.

<sup>297</sup> R.L.Greenall, *A History of Northamptonshire*, p. 79.

<sup>298</sup> Henry Mayhew described them as a ‘stern, uncompromising and reflecting race’, which he attributed to ‘the solitude of their employment’. *Morning Chronicle*, 1850.

<sup>299</sup> B.J.Bailey, *View of the Chilterns*, p. 38.

century, local women managed to avoid regular work in the factories or on the fields by exploiting the opportunities offered by regional cottage industries.<sup>300</sup>

This is not to say that the precision of time was not important to these rural populations; in customary activities, exactness and accuracy could be critical. The controlling gleaning bell caused many community conflicts when individuals were seen not to be adhering to its authority. In 1877 five women were accused of assaulting Elizabeth Smith, but in defence of their actions, they claimed that Elizabeth ‘went to glean at 6.00am instead of 8.00am’ when the gleaning bell was customarily rung.<sup>301</sup> Nevertheless, generally, the significance of customary time is best understood in the context of the past, present and future: past authority, continued assertion in the present, and the intention to ensure the perpetuation of a right in the future. This is the basis on which Harry West claimed a right to collect faggots from Botley wood: his father had done so for twenty-six years before he himself did. Even the prosecution was forced to admit that it had ‘been happening for a long time’, which may explain why they felt the need to try to stop the act now, as it would inevitably continue into the future if not checked.<sup>302</sup>

### Seasonality

The seasons ruled the timing of country life: the rhythm of the farming year, the number of daylight hours, and the availability of natural and cultivated resources. The memory of past seasons and the recognisable ripening of the crops signified a time for harvesting, collecting and foraging, and a time to celebrate and show thanks for nature’s bounty. The influence of annual and seasonal change on popular activity was also reflected in the timing of doling rituals. Popular culture could provide subsistence in difficult times, not only through ritual charitable giving, but also in offering opportunities to collect and store for the winter months or through allowing certain seasonal privileges. These customary privileges became synonymous with seasonal events, such as harvesting when reapers in some areas would be permitted to keep all the rabbits they could catch while cutting the corn. In mid- nineteenth century Norfolk, there were reports of fifty or sixty rabbits a day being caught by groups of harvesters. However, farmers complained bitterly that, not only were the men taken from their work by the frequent charging and capturing of rabbits, but they

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<sup>300</sup> Such as lace making and straw plaiting, see N.Goose, *Population, Economy and Family Structure in Hertfordshire in 1851: Vol 1, The Berkhamsted Region* (Hertfordshire, 1996), pp. 34-46 and W.Page (ed.), *Victoria History of the County of Buckinghamshire* (1925), p. 106- 113.

<sup>301</sup> Northampton Div. Petty Session, *Northampton Mercury*, 29 September, 1877.

<sup>302</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900.

also caused great injury to the standing corn. Action was consequently to discourage the activity.<sup>303</sup> At Chesham in 1878, William Rance and William Smith were convicted of taking game while tying sheaves of corn.<sup>304</sup> In another case at Thrapston in 1893, Robert Tiley was accused of the same, but he did not consider that he was doing any harm. In his opinion 'it was the custom to chase rabbits when the farmers were cutting' and he believed the right applied to anyone. As such, he made no attempt to conceal the fact that he 'had brought his boys' dinner', suggesting he was in no hurry to move on.<sup>305</sup>

Customary activities such as gleaning, blackberrying and nutting were obviously seasonal, and the extent of the communities' participation in them can be assessed from the local school log books.<sup>306</sup> Evidence suggests that seasonal customs often took precedence over governmental set term times, the lack of attendance frequently forcing school authorities to extend the school holidays. The local school at Fen Ditton delayed the commencement of the new term in 1890, 1891, 1895, 1897 and 1898, because so many pupils were in the fields gleaning.<sup>307</sup> At Broughton, in the Nene River Valley on the 27 September 1886, a schoolmaster, who had previously complained bitterly of the lack of acknowledgement and respect given to the Education Act, was forced to close the school for a further week that summer.<sup>308</sup> Similarly in the Chilterns, at Princes Risborough in 1877 and Edlesborough in 1902 the village schools were closed for an extra week.<sup>309</sup> The log books also highlighted the subtle difference in the timing of seasonal customary activities, which depended on the type and variety of cultivated crops, natural resources and the climate of each region. Wheat and barley could only be grown on the higher, well-drained ground around the settlements of the Cambridge Fens.<sup>310</sup> In many of the lower fields root vegetables were grown; hence the frequent references in the Cambridge log books to potato picking. This was not a subsistence custom as such, but nonetheless an example of the power of seasonal customs and attitudes towards them set against attempts by the government to control rural time. Parsons Drove Council School recorded

<sup>303</sup> M.J.Carter, *Peasants and Poachers*, p. 46.

<sup>304</sup> Chesham Petty Session, *Bucks Herald*, 24 August, 1878.

<sup>305</sup> Thrapston Petty Session, *Northampton Mercury*, 3 September, 1897.

<sup>306</sup> Vivienne Bryant's research indicated that from December to February many children were wooding, in March they would gather primroses, gleaning and fern gathering (fayning) in September, followed by blackberrying and collecting acorns for the pigs in November. V.J.M.Bryant, *A History of Potten End*, p. 70.

<sup>307</sup> CRO C/ES54A1, Fen Ditton School Log Book, September, 1890, 1891, 1895, 1897 and 1898. Also West Fen 1901 and 1902, C/ES 116 D/1, West Fen School Log Book, March, September, 1901 and 1902.

<sup>308</sup> BRO 101, Broughton School Log Book, 27 September, 1886.

<sup>309</sup> Only 25 of the 85 pupils attended on the first day of term, BRO PR.175/25/18, Princes Risborough National School, 3 September, 1877 and BRO AR 1/2001, Edlesborough School Log Book, 10 September, 1902.

<sup>310</sup> General information on parishes. C.Vancouver, *General View of Agriculture of Cambridgeshire* (London, 1794).

that as late as 1904, 1905 and 1906, it was still common to close the school for two weeks during September or October, so the children could help with the potato picking.<sup>311</sup>

So too the nature of the landscape can suggest probable explanations for the lack of references to ‘non-attendances due to blackberry picking’ in this region. Ditches and drains formed the field and road boundaries of the Fens, and therefore there were fewer hedgerows to be exploited for fruits, berries and dead wood. In contrast the Nene River Valley, being extensively enclosed, had many miles of hedgerows. As a result there are many references to pupils gathering blackberries in the autumn months rather than attending school.<sup>312</sup> The open landscapes and riverside meadows of the valley were also ideal for planting with a mixture of arable crops, which provided plenty of seasonal opportunities for the local gleaners.<sup>313</sup> It was a similar situation in the Chilterns, which was described as ‘the first and best corn country in the kingdom’.<sup>314</sup> According to William Ellis, farmers in the Chilterns understood well how to improve the soils and to select the correct species of corn to be grown.<sup>315</sup> The region was also extensively wooded and hedged: ‘a most exquisitely and beautiful cultivated Hedgerow’d country’ wrote John Parnell.<sup>316</sup> These hedges appeared to be ‘rather the work of nature than plantation’, extending ‘thirty or forty feet broad’, and offering ample opportunities for collectors and foragers.<sup>317</sup> In 1882, the Prestwood Church of England School’s register recorded that only thirty-four of its eighty pupils attended on the 25 September, as ‘many scholars were gathering blackberries’.<sup>318</sup>

The regional differences in soils and environments, and the consequential seasonality of customary activity, is also evident in the analysis of recorded crimes on the database. Nature itself ‘shaped the seasonal round of offending’.<sup>319</sup> However, historians such as Alun Howkins, John Archer and David Jones, maintained that the seasonality of crime was based more on social and economic

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<sup>311</sup> CRO C/ES 133A/2, Parsons Drove Council School Log Books, entries in September and October for 1904, 1905 and 1906.

<sup>312</sup> For example NRO SLB/113, Newton Broomswold School Log Book, 11 October, 1880 and 1 October, 1886.

<sup>313</sup> J.M. Steane, *The Northamptonshire Landscape*, p. 281.

<sup>314</sup> Said of Hertfordshire in particular, D. Walker, *General View of the Agriculture of the County of Hertford* (London, 1795), pp. 25-30 maybe as a result of innovative eighteenth century farmers who followed some of the most up to date practices in manuring and crop rotations, L.M. Munby, *The Hertfordshire Landscape* (London, 1977), p. 193.

<sup>315</sup> See William Ellis, *Modern Husbandman*, 1731, *The Practical Farmer*, 1732, *Chiltern and Vale Farming*, 1733, and *Practice of Farming in all Soils*, 1735.

<sup>316</sup> John Parnell, 1769, T. Fuller, *The Worthies of England* (1952), p. 229, quoted in L.M. Munby, *The Hertfordshire Landscape*, p. 171.

<sup>317</sup> D. Defoe, *A Tour through England and Wales* (1724-6), pp. 8-9 quoted in L.M. Munby, *The Hertfordshire Landscape*, p. 172.

<sup>318</sup> BRO E/LB 168A/1, Prestwood Church of England School Log Book, 25 September, 1882.



factors. Their work revealed that crimes associated with subsistence customs were more prevalent between the months of October and March, a time of year when outdoor labouring employment was hard to come by and poverty most acute.<sup>320</sup> Harvey Osbourne challenged these widely accepted assumptions, asserting that ‘ecological and environmental factors played a fundamental part in shaping annual patterns of offending’.<sup>321</sup> Using his research on salmon poaching in the Lake Counties, which highlighted the migratory patterns and breeding seasons of certain fish and animals, he argued that these factors had more influence on the seasonality of crime than ‘economic variables alone’.<sup>322</sup> In this particular study, there were very few cases of poaching in the Cambridge Fens. Nonetheless, the data available shows that, on average, there were more cases during the period between September and February. In the Nene River Valley there was a sharp rise in the numbers of cases in November through to March and again in the Chilterns the pattern was very similar, rising in October through to February.<sup>323</sup> So these figures tend to suggest an economic argument for their seasonality, that is there seemed to be more poaching undertaken in the winter months when many men were unemployed, when food was scarce, rather than poaching purely because an opportunity was there. Yet, in contrast, cases of fish poaching brought to the petty sessions show an opposite seasonal pattern. In the Cambridge Fens, the data reveals that more cases were reported between June to September, and similarly in the Nene River Valley the numbers rose in April through to October, although the pattern is not so clear in the Chilterns there was a general increase of cases through the summer months.<sup>324</sup> Wood stealing, on the other hand, shows no preference related to seasonality, for although we may imagine that more fuel would be needed in the cold winter months, in the domestic arena it was required all year round.<sup>325</sup>

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<sup>319</sup> H.Osbourne, ‘The Seasonality of Nineteenth-Century Poaching’, *Agricultural History Review* 42 (2000) 28.

<sup>320</sup> A.Howkins, ‘Economic crime and class law, Poaching and the Game Laws, 1840-1880’, in S.B.Burman, and Harrell-Bond (eds), *The Imposition of Law* (London, 1979), J.E.Archer, *By a Flash and a Scare*, and D.J.V. Jones, ‘The Poacher. However even the seasonality of employment could itself vary. See N.Goose, ‘Poverty, Old Age and Gender in Nineteenth-Century England: The Case of Hertfordshire’, *Continuity and Change* 20 (2005) 351-384.

<sup>321</sup> H.Osbourne, ‘The Seasonality of Nineteenth-Century Poaching’, p. 27.

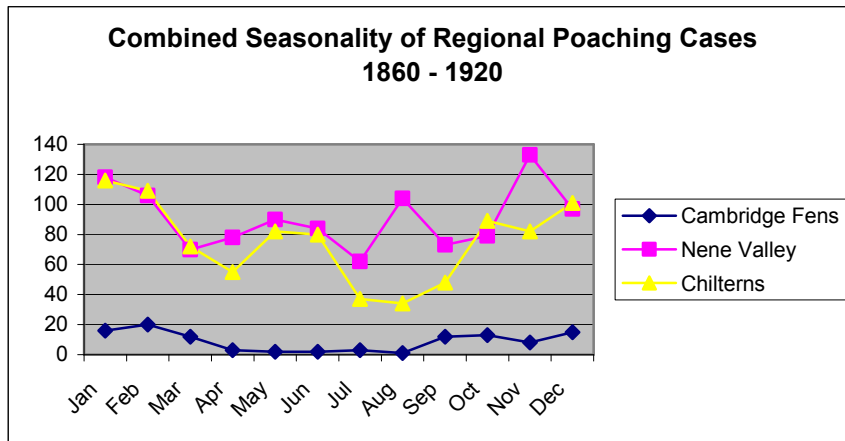
<sup>322</sup> H.Osbourne, ‘The Seasonality of Nineteenth-Century Poaching’, p. 29. Considered natural life cycles, the visibility of young birds and mammals when the corn was cut. And the practicalities of catching rabbits when frosts drove them underground.

<sup>323</sup> See figure 6.

<sup>324</sup> See figure 7.

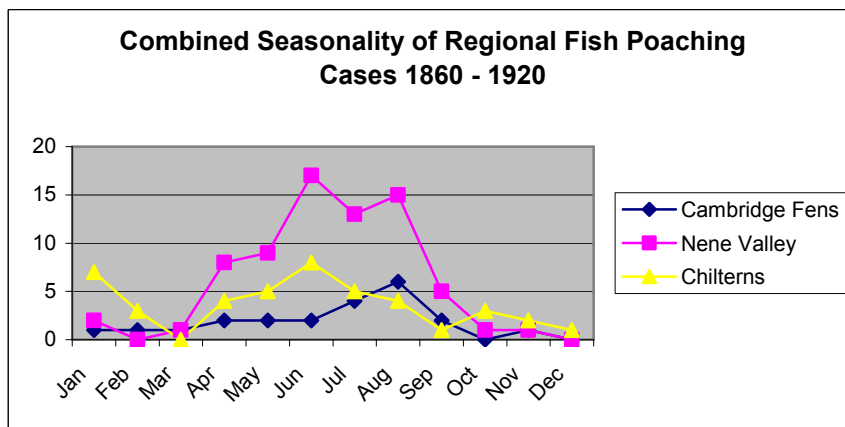
<sup>325</sup> See figure 8. These results differ to those of Tim Shakesheff’s, who found that in Herefordshire between 1800-1860, wood theft took a clear seasonal trend, with many convictions in the cold winter months. T.Shakesheff, ‘Wood and Crop Theft’.

Figure 6



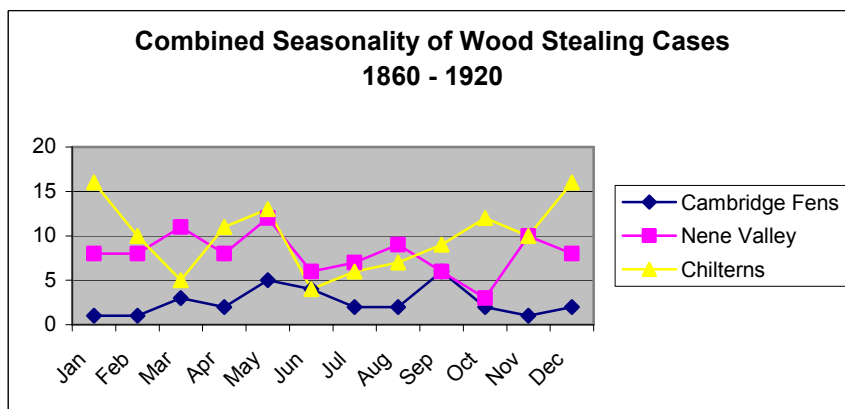
Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 7



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 8



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

The actual time of day in which many of these activities took place was of the utmost relevance to those in authority, and sentences for wood stealing and poaching were far greater when undertaken during the darkness of night.<sup>326</sup> For this reason, defendants' reactions to such accusations could be extremely forceful, as in the 1897 case of three old offenders from Addington who argued vehemently in court. They did not wholly deny the charge brought against them, and in fact they clearly stated that they had been poaching, but at 6.00am not 5.00am as they stood accused.<sup>327</sup> At the same time, there was no amnesty when time had lapsed between committing a crime and appearing before the bench. On the 28 February 1880, a charge was brought against Henry Parker of Wellingborough for an offence that allegedly took place on 14 April 1878.<sup>328</sup> In August 1897, William Pollard was charged for having breached the Poaching Prevention Act on the 1 July 1893, and although he had absconded and only just returned to Gretton, he was duly fined 10s.<sup>329</sup>

### Continuance

Regardless of differing concepts of time, the precedence given to time immemorial, and the importance of the seasons, custom regulated the pattern of life for all classes. Customary activities and practises became part of the routine and habit of daily and yearly life. In Anthony Giddens' opinion, traditional behaviour always involved repetitive behaviour and it was this regular repeating that reinforced and strengthened attitudes towards traditional customs.<sup>330</sup> Wood gathering, for example, was a 'systematic and regular' method of gathering fuel for heat and cooking. It was a necessity of life and could not be undertaken on a 'sporadic or casual' basis.<sup>331</sup> Similarly it was critical that the seasonal routine of collecting berries, nuts and crab apples, was undertaken at regular set times, when the fruit ripened in early autumn. By regularly participating in a customary activity it became part of a daily or seasonal routine, a habit that by its constant repetition, strengthened attitudes towards it, and ensured its perpetuation, or at least the perpetuation of views and attitudes towards it.

The school log books show that beliefs and attitudes could easily become habitual, for absences and closures due to collective participation in gleaning activities was a regular occurrence. Of the thirty-

<sup>326</sup> B.Bushaway, 'From Custom to Crime', in J.Rule (ed.), 'Outside the Law', p.80.

<sup>327</sup> Kettering Petty Session, *Northampton Mercury*, 12 October, 1889.

<sup>328</sup> Wellingborough Petty Session, *Northampton Mercury*, 28 February, 1880.

<sup>329</sup> Kettering Petty Session, *Northampton Mercury*, 6 August, 1897.

<sup>330</sup> Prof. Anthony Giddens, 'Tradition', , p. 2; A.H.Eagly, *Psychology of Attitudes*, p. 681.

two schools surveyed for this project, twenty-four mentioned gleaning specifically.<sup>332</sup> Regularity offered security and a certain degree of authority. After all, more often than not, the school boards responded to popular authority by closing the schools and legitimising the absences. Similarly, the defendants from the Chilterns, accused of trespassing in search of game in 1900, confidently asserted that they ‘went on to the hill every Sunday’, believing that the authority lent by the regularity and habit of their actions was a reasonable defence in itself.<sup>333</sup> Habits were recurrent, but often unconscious patterns of behaviour, needing no explanation to justify them.<sup>334</sup> This was demonstrated when William Cliff, made no excuse for his actions, but just stated that he had ‘been in the habit of cutting ferns’, or when William Blunt, accused of poaching fish at the Aldenham reservoir, made no attempt to deny the charge against him, nor deny that he was in the wrong. His only defence was that ‘the inhabitants, for a number of years, had been in the habit of fishing there’.<sup>335</sup>

Despite being opposed through the centuries by both church and state, many customary activities survived the test of time. Sometimes this was because offenders seemed either oblivious to or chose to completely ignore the changing opinions of state and society, continuing to act as they had always done. This seemed to be the case when Charles Clarke and his son nonchalantly admitted that they had taken wood, and ‘had done before’.<sup>336</sup> In other cases, customs survived because of their ‘capacity to accommodate internal change’, and adapt to new situations and needs.<sup>337</sup> But generally the customs that were ‘remembered and continuously asserted’ were more easily defended, and for the most part, any change to them, came slowly in the rural regions.<sup>338</sup> The cases analysed between 1900 and 1920 reveal that attitudes towards customary rights were still relevant at

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<sup>331</sup> B. Bushaway, ‘Grovely, Grovely’, p. 38.

<sup>332</sup> Thirteen schools in the Cambridge Fens, eleven in the Nene River Valley, and eight in the Chilterns and of them ten in the Cambridge Fens, eight in the River Valley and six in the Chilterns specifically mentioned gleaning. see figure 9.

<sup>333</sup> Aylesbury Petty Session, *Bucks Herald*, 2 June, 1900.

<sup>334</sup> Microsoft bookshelf, (1994).

<sup>335</sup> Beaconsfield Petty Session, *Bucks Herald*, 24 November, 1883; Watford Petty Session, *Hertfordshire Mercury*, 31 October, 1863.

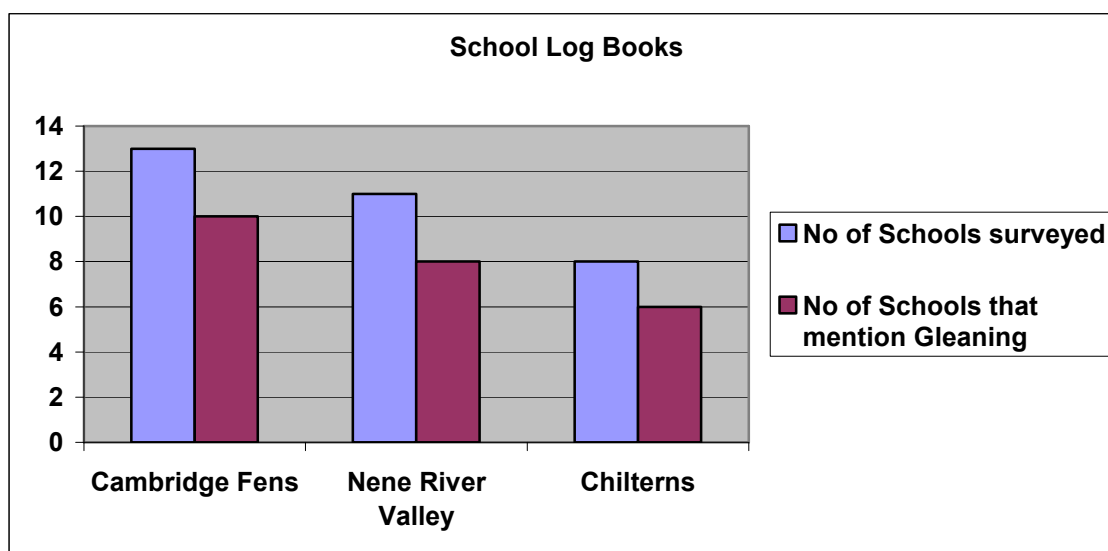
<sup>336</sup> Beaconsfield Petty Session, *Bucks Herald*, 25 July, 1885.

<sup>337</sup> K. Tiller, ‘Rural Resistance in South Oxfordshire’, in O. Ashton, R. Fyson, and S. Roberts (eds), *The Duty of Discontent: Essays for Dorothy Thompson* (London, 1995), p. 99. Examples throughout thesis - Tin can band below is one example. Collecting wood on specified day as in Wishford forest another.

<sup>338</sup> A. Wood, *The Politics of Social Conflict*, p. 166 and F. Thompson, *Lark Rise to Candleford*, p. 535. This was a consequence of the cultural lag that inevitably existed in such a rapidly developing and changing nation. Cultural lag is a term originally used by anthropologists to describe the gap between an invention and society’s ability to actually use it, but can also be used in respect of ideas. C. Doucet, *The Globe and Mail*, 23 May 2005, p. A13.

the turn of the century.<sup>339</sup> And some had adapted to represent modern views and opinions, such as when, in 1920, William Walden was accused of trespassing in search of game on government land at Halton. He responded by arguing that as it was Crown land, requisitioned during the war, it was public land, and thereby claimed to have ‘as much right as the witness’ to be on it.<sup>340</sup>

**Figure 9**



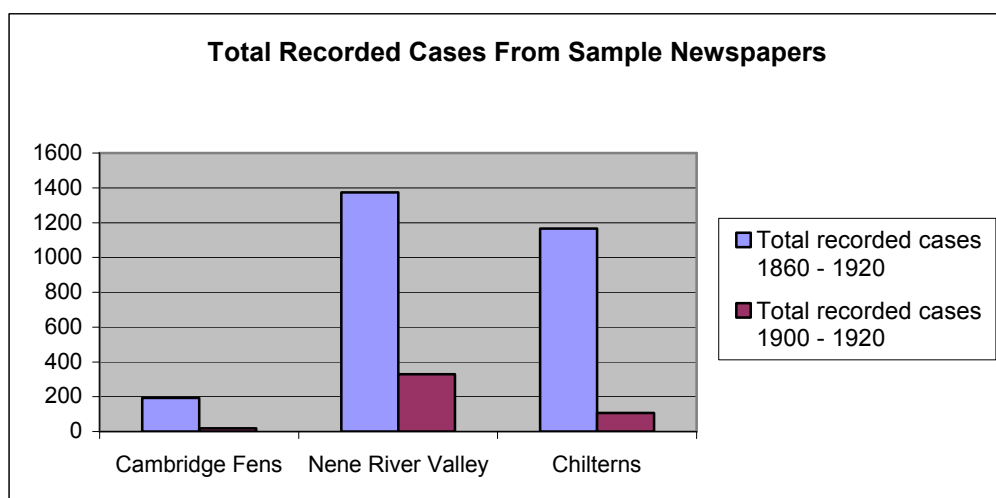
Sources: CRO School Log Books - C/ES38B/1 and /2 Hive End, Chatteris; C/ES38C/1 New Road, Chatteris; C/ES 116 D/1 West Fen, March; C/ES 133A/1 and/2 Parson Drove; C/ES 170 J/1 and 2 Whittlesey North Side; C/ES 51A/1 Coveney; C/ES 54A/1 Fen Ditton; C/ES 181E/1 Wisbech South Brink; C/ES 128 /B1 Outwell; C/ES180E/1 Thorney; C/ES182A/2 Witcham; C/ES66P/6 Pricklow; and C/ES178A/1 Wimblington.

NRO School Log Books – SLB/66 and /67 Grafton Underwood; SLB/113 and /114 Newton Bromswold; BRO 101 Broughton; SLB/117 Gt Oakley; 275P/327 and /328 Pytchley; SLB/158 and /159 Wadenhoe; SLB/165 Weekley; SLB/150 and 151 Tansor; SLB/166 and /167 Wellingborough; and LA1/ES/161/2 and /3 Kettering.

BRO School Log Books – E/LB/116/6 Ivinghoe Aston; PR.175/25/19 Princes Risborough; PR.122a/25/1 Lands End; E/LB/140/1 Gt Marlow; E/LB 168 A/2 Prestwood; E/LB/166/1 Pitstone; E/LB/116/1 and /2 Ivinghoe; and AR 1/2001 Edlesborough.

<sup>339</sup> See figure 10. Other cases just ran on and on, for example the disputes around Rhayadr and Buith that began in 1876, they ran on for some fifty years. D.Jones, ‘Crime, Protest and Community in 19<sup>th</sup> Century Wales’, *Llafur* 1 (1974) 7.

<sup>340</sup> Aylesbury Petty Session, *Bucks Herald*, 31 July, 1920.

**Figure 10**

Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

In order to explore and analyse the multitude of diverse forms of customary behaviours and conflict collected for this study, chapter one has sought to identify the essential influential components and requisites for customary beliefs to exist and to be perpetuated. It has suggested that the differing geological and topographical landscapes of each region, and the availability of resources, led to subtle regional distinctions in local customary activities. By examining the concept of tradition, we can begin to understand how important it was for rural populations to express collectively their beliefs and attitudes in visual, noisy celebrations, parades and festivities. There was often a degree of formality surrounding the manifestations of ritual behaviour although there is no evidence to suggest that ordinary people consciously fully realised the significance of their actions. The sources provide examples of how customs adapted in response to variations in reciprocal obligations and technological changes, enabling traditional core beliefs to be protected and preserved. The community and family was the main vehicle by which cultural values, ideas and attitudes percolated through rural society. Group support, security and identification were of the utmost importance, therefore customary activities were tightly controlled, disciplined and organised by the communities themselves. Customary beliefs and the traditional rural economy put great emphasis on self-reliance, of which collecting, foraging and claiming largess played a major role.

Knowledge of customary rights, obligations and responsibilities, and the law was disseminated and remembered orally, practically and collectively. Memory of activities, festivities, and the rules and

regulations attached to them, were more easily recalled and remembered when individuals had personally participated, observed and experienced them. Consequently, senior members of a community were seen as repositories of knowledge. They had a responsibility to maintain and protect that information and thereby preserve local customs for future generations, by sharing their knowledge and encouraging younger members to participate in customary activities. However, understandings and interpretations differed between different groups of the rural population because of the different parts they played and therefore an array of opinions and attitudes emerged. Finally the significance of time, in the context of seasonality, time immemorial and continuance, brought together the influential aspects and traits in subsistence customary rights, which will help us to identify altering attitudes towards them in the following chapters.

## **CHAPTER 2**

### **CONFLICT: SOCIAL CRIME, COMMUNITY, AND CLASS TENSIONS**

Rural popular culture and the continued and persistent assertions of customary activities in the countryside increasingly conflicted with the expectations of late Victorian society.<sup>1</sup> This chapter will examine that conflict in order to assess how it may have changed over time and how it affected popular culture and customary rights themselves. The consequential attitudes of local communities towards any attempts to suppress, curtail or prohibit these activities were and are not always immediately and directly detectable, yet they can be inferred from what are often termed ‘observable responses’ of those involved.<sup>2</sup> During the early part of the nineteenth century restrictions and repression would often cause responsive opposing behaviour that was collective, noisy and protesting, behaviour which was similar to the traditional elements often embodied in popular customs and ceremonies themselves: confrontation, disruption, and anti social behaviour.<sup>3</sup> As such, the middle and upper classes found expressions of popular culture threatening and dangerous because they produced crowds, took place in open public spaces, were noisy, and often included an element of excessive drinking and violence.<sup>4</sup> What is distinctive about the responses towards the curtailment of subsistence customary rights in the latter part of the nineteenth century was that behaviour could be overt or covert, collective or individual, noisy or secretive and premeditated or spontaneous. By examining rural attitudes within the framework of rural conflict, this chapter will identify these responses by analysing the forms in which they were expressed. Through the exploration of attitude-behaviour relations, evidence suggests that older traditional attitudes tend to be stronger, more stable, and far more closed to change.<sup>5</sup> On that basis, in order to seek important evidence as to the source and extent of future attitudes and resistance to change, this chapter will first assess the strength of strategies used prior to 1860 to make known and convey opinions. It will then continue by analysing social crime as a means of expressing opposition in the late nineteenth century, evaluate the value of general everyday forms of resistance and assess how rural attitudes can be viewed through rural class relations.

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<sup>1</sup> Of self-reliance through honest work and controlled and organised recreational activities.

<sup>2</sup> A.H.Eagly, *The Psychology of Attitudes*, p. 2.

<sup>3</sup> See B.Bushaway, *By Rite*, p. 168.

<sup>4</sup> R.D.Storch (ed.), *Popular Culture*, p. 1.



## PROTEST

In order to understand the processes and changing forms of responses involved in expressing opposition during the late nineteenth and early twentieth centuries, we need to begin with an examination of the external expressions and physical manifestations of conflict and protest in the past. It is wrong to assume, as Edward Thompson reminds us, that the earlier forms of protest were random and unorganised.<sup>6</sup> Protests such as the swing riots and the disturbances at Otmoor during the 1830s, were tightly and coherently organised and, as Bob Bushaway argued, these visual and overtly expressed protests, sprang from the same cultural experiences as contemporary customary ceremonies.<sup>7</sup> There was a ‘progressive development of protest’ during the nineteenth century.<sup>8</sup> This theme, Ian Hermon believes, continued into the twentieth century, where he traced clear unbroken links between the civil unrest caused by injustices of the nineteenth century and the street violence of the twentieth.<sup>9</sup> However, rural unrest of the nineteenth century is generally categorised as happening in two great explosions, with a lull in between. Discontent was ‘intense and evident’ in the first half of the century,<sup>10</sup> followed by a period in which rural society ‘entered a state of calm’ between 1850-1875.<sup>11</sup> And finally, as we shall see, in the period particularly under investigation in this study, discontent appears to have been expressed just as intently, but in more subtle and individualistic forms.

### Popular Forms of Protest

In tracing the responses of rural communities, we find that during the eighteenth century the most identifiable form of popular protest was rioting, which occurred as a response to a wide range of issues.<sup>12</sup> Benjamin Franklin wrote that, during his visit to England in 1769, he had seen riots about corn, elections, workhouses and coal, and involving weavers, sawyers, and smugglers, to name but a few.<sup>13</sup> It was generally believed that English common law allowed for such direct intervention if disagreements could not be settled amicably.<sup>14</sup> As a consequence, every year of the first half of the nineteenth century witnessed violent rural protest and the spectacular exploits of Captain Swing and

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<sup>5</sup> A.H.Eagly, *The Psychology of Attitudes*, p. 670 & 681.

<sup>6</sup> E.P.Thompson, *Customs in Common*. In his opinion conflictual events, such as the food riots of the eighteenth century were a highly complex form of direct popular action, disciplined and with clear objectives. Chapter 4 and 5.

<sup>7</sup> B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 9.

<sup>8</sup> J.E.Archer, *By a Flash and a Scare*, p. 251.

<sup>9</sup> I. Hemon, *Riot! Civil Insurrection from Peterloo to the Present Day* (London, 2006), p. xii.

<sup>10</sup> G.E.Mingay, *The Transformation of Britain*, p. 134.

<sup>11</sup> A.Howkins, *Reshaping Rural England*, p. 3.

<sup>12</sup> J.Stevenson, ‘Bread or Blood’, in G.E.Mingay (ed.), *The Unquiet Countryside* (London, 1989), p. 23.

<sup>13</sup> I. Hemon, *Riot! Civil Insurrection*, p. 2.

Rebecca were just part of a continuous pattern of crime and protest.<sup>15</sup> Barry Reay saw riots of this period as ‘a form of community politics’ in defence of what were perceived to be traditional rights and customs; they were a ‘form of pre-political collective bargaining’.<sup>16</sup> Strategies, such as lobbying and petitioning were also employed.<sup>17</sup> But, on the whole, opposition seems to have more frequently taken threatening and violent forms, including the mobbing of surveyors, destruction of enclosure records, the breaking down of fences and hedges, anonymous threatening letters and machine breaking.<sup>18</sup>

Of far more concern was animal maiming, which John Archer suggests continued into the 1870s, and the most common form of malicious damage of the period, incendiarism.<sup>19</sup> This too persisted into the 1870s when, although cases began to decline in areas where it had been extensive in the past, incidents continued elsewhere.<sup>20</sup> Newspaper sampling for the later period (after 1875) reveals that firing, was especially prevalent on commons or former commons.<sup>21</sup> In 1890, Joseph Fay was committed to six months hard labour for setting fire to the furze on Chorleywood Common.<sup>22</sup> In 1915 Henry Webb was accused of firing furze on Prestwood common, although he claimed that ‘it had been the practice for years for the villagers to burn some of the old grass’.<sup>23</sup> And during the 1918 court hearing in which Gilbert Bristow was put on probation for six months following his conviction for wilfully damaging the furze on Naphill common, the court noted that there had been a number of fires on the common during the previous month.<sup>24</sup>

So why was opposition expressed in such diverse forms in different landscapes and economies? And what does this tell us of rural attitudes? In asking these questions Edward Thompson advised that we should consider the significance of a particular form of behaviour, rather than just analysing

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<sup>14</sup> J.Marsh, *Back to the land: The Pastoral Impulse in Victorian England from 1880-1914* (London, 1982), p. 50.

<sup>15</sup> A.J.Peacock, ‘Village Radicalism in East Anglia’ in J.P.D.Dunbabin (ed.), *Rural Discontent*, p. 39 and p. 27;

D.Jones, ‘Rural crime and protest in the Victorian era’, in G.E.Mingay (ed.), *The Unquiet Countryside*, p.111.

<sup>16</sup> B.Reay, *Rural Englands*, p. 160; H.Newby, *The Deferential Worker* (London, 1977), p. 32.

<sup>17</sup> M.J.Braddick and J.Walter (eds), *Negotiating power*, p. 138.

<sup>18</sup> See J.E.Archer, *By a Flash and a Scare*; J.Neeson, *Commoners*; and D.Jones, *Crime, Protest, Community and Police*.

<sup>19</sup> J.E.Archer, *By a Flash and a Scare*; and D.Jones, *Crime, Protest, Community and Police*, p. 33

<sup>20</sup> Such as East Anglia, P.Horn, *Labouring Life in the Victorian Countryside* (London, 1976), p. 224. See appendix 13

<sup>21</sup> In turn, as would be expected, far more cases were detected in areas where there were more commons in existence.

The following examples are all from the Chilterns.

<sup>22</sup> Hertfordshire Summer Assizes, *Hertfordshire Mercury*, 2 August, 1890 and in 1900 Jesse Parsons fined £5 for setting fire to Hyde Heath Common. Chesham, *Bucks Herald*, 26 May, 1900.

<sup>23</sup> Gt Missenden Petty Session, *Bucks Herald*, 15 May, 1915.

<sup>24</sup> High Wycombe County Petty Session, *Bucks Herald*, 19 January, 1918.

the behaviour for itself.<sup>25</sup> For example, rather than only contemplating the impact of riots and disturbances on the authorities, we should consider how the behaviour itself impacted on the participants. Alice Eagly suggested that the attitudes produced by these collective groups were far more extreme than those produced by individuals acting alone, while Adam Cash believed that the ‘anonymity’ of group activities facilitated the antisocial behaviour itself.<sup>26</sup> Group polarisation explains why community collective activities, such as rough music, gleaning parties and customs involving parades and processions, stuck firmly in the minds of those involved: they provided both ‘an ideological and an organisational basis to popular resistance’.<sup>27</sup> Nevertheless, tensions, conflict, and subsequent responses, from even small collective demonstrations, could often be contagious, especially within a region that shared similar environments, pressures and problems; patterns of conflict could radiate, incorporating members from surrounding parishes.<sup>28</sup>

Despite the public attention and support attracted by overt and collective protests, Roger Wells was convinced that all such manifestations of opposition ‘ended essentially in failure’.<sup>29</sup> As a consequence, it has been claimed that rural inhabitants resorted to covert actions after the defeat of these more open forms of protest. However, Barry Reay warned that the separation between these actions could be misleading, for opposition could be both overt and covert, individual and collective.<sup>30</sup> What is clear is that the rapid social, economic, political and cultural changes of the nineteenth-century intensified social conflict,<sup>31</sup> at the same time as a ‘heighten[ed] sensitivity to rural disorder’ emerged.<sup>32</sup> Collective disturbances were unacceptable modes of behaviour in the

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<sup>25</sup> E.P.Thompson, *Customs in Common*. See also David Underdown who wrote that we should not stop at looking at the forms.... ‘but we should try to decode them to get to the culture they express.’ D.Underdown, ‘Regional Cultures?’, in T.Harris (ed.), *Popular Culture in England*, p. 46.

<sup>26</sup> A phenomenon often described as group polarization, A.H.Eagly, *The Psychology of Attitudes*, p. 655. A.Cash, *Psychology for Dummies* (New York, 2002), p. 181.

<sup>27</sup> A.Wood, ‘The Place of Custom’, p. 54.

<sup>28</sup> See J.M.Neeson, *Commoners*, p. 65. Landless labouring families taking part in riots at West Haddon and Warkworth. They joined the mob of three hundred to protest at the enclosing and fencing of Wilbarston Wold, signing the counter-petitions against enclosure in Wellingborough and Burton Latimer, and tearing down notices for the enclosure bills. And in M.Pipe, ‘Broughton Tin Can Band’, pp. 9-11, Northamptonshire record office, ROP 2164. In 1929 the community of Broughton was joined by the parishioners from Kettering, Burton Latimer, Desborough and Rothwell, when the authorities threatened to put an end to the ‘tin can band’.

<sup>29</sup> R.Wells, ‘Social Conflict and Protest in the English Countryside in the Early Nineteenth Century: A Rejoinder’, *Journal of Peasant Studies* VIII (1981)

<sup>30</sup> B.Reay, *Rural Englands*, p. 152 and for more discussion on this see J.E.Archer, ‘The Wells – Charlesworth Debate: A Personal Comment on Arson in Norfolk and Suffolk’, in M.Reed, and R.Wells (eds), *Class, Conflict and Protest*, p. 86. A point of discussion that will follow throughout this thesis.

<sup>31</sup> See R.Wells, ‘Social Protest, Class, Conflict and Consciousness, in the English Countryside 1700-1880’, in M.Reed, and R.Wells (eds), *Class, Conflict and Protest* and J.Lea, 2004, ‘Crime and Protest in the Eighteenth Century’, [www.bunker8.pwp.blueyonder.co.uk/history](http://www.bunker8.pwp.blueyonder.co.uk/history)

<sup>32</sup> R.D.Storch, ‘Policing Rural England before the Police’, in D.Hay, F.Snyder (eds), *Policing and Prosecution in Britain 1750-1850* (Oxford, 1989), p. 263.

eyes of the authorities, and those seen to be participating in overt, collective or riotous resistance risked the threat of being dismissed from their employment and home.<sup>33</sup> As such, different situations in diverse regions called for distinct and separate responses to restrictions and curtailments of customary rights and repression very often ‘forced protest underground’.<sup>34</sup> Patterns of opposition and resistance were changing, as individuals and groups sought new ways of expressing their dissatisfaction.

### Regional Conflict

David Underdown has observed that the outlook of the ordinary common people, in the seventeenth century, ‘seemed to vary according to the region in which they lived’.<sup>35</sup> Here various social systems were characterised ‘not only by [their] internal structures but also by [the] reactions [they] produced’.<sup>36</sup> This section will attempt to identify the evolutionary trends and patterns of conflict in the regions under discussion prior to 1860. Responses depended on social, economic and political pressures, nationally and regionally, and thus took an array of shapes and forms. Change in attitudes often came slowly. For example, reactions to enclosure were not always immediate, as it was not necessarily foreseen that changes and restrictions to customary ways of life would be forced upon a community. George Bourne(Sturt) made this observation when speaking to the old folk about the enclosure of Bourne common: ‘there was little they said that suggested that the fateful ordinance seemed to them a fateful one at the time’.<sup>37</sup>

From 1790 onwards there was a prolonged attack on all aspects of rural popular culture and parliamentary enclosure was one important element of that attack.<sup>38</sup> It is difficult to assess the precise impact on the rural populations. Parliamentary enclosure was essentially a regional experience, affecting some districts more heavily than others.<sup>39</sup> The Hammonds found evidence for resistance to enclosure relatively sparse, so too did Edwin Gonner, who believed that the lack of resistance was the ‘greatest testimony’ to the advantages of enclosure.<sup>40</sup> Other historians concluded that ‘enclosure’s victims were too weak, too fearful, and too unfamiliar with parliamentary

<sup>33</sup> B.Reay, *Rural Englands*, p. 146.

<sup>34</sup> R.Wells, ‘Social Conflict and Protest: Rejoinder’,.

<sup>35</sup> D.Underdown, *A Freeborn People: Politics and the Nation in Seventeenth-Century England* (Oxford, 1996), p. v.

<sup>36</sup> M.Bloch, *French Rural History*, p. 169 quoted in J.C.Scott, *Domination*, p. 78.

<sup>37</sup> G.Bourne, *Change in the Village*, p. 84.

<sup>38</sup> R.Russell, ‘Parliamentary Enclosure’.

<sup>39</sup> G.E.Mingay, *Parliamentary Enclosure*, p, 158.

<sup>40</sup> J.L.and B.Hammond, *The Village Labourer*; E.C.K.,Gonner, *Common Land and Inclosure* (London, 1912), p. 83.

procedure to defend themselves'.<sup>41</sup> Nonetheless, in Edward Thompson, Peter King and Paul Muskett's opinion, opposition has probably been 'underestimated'.<sup>42</sup> Jeanette Neeson was in agreement, yet she believed that there were no major uprisings because enclosure came slowly, parish by parish, over a period of time.<sup>43</sup> This is borne out in the approximate tallies of enclosure dates for each region under investigation, taken from the Tate and Turner's *Domesday of Enclosure*.<sup>44</sup>

If first we consider the Cambridge Fens, it is apparent that there has always been a constant battle between man and nature, and the local inhabitants were no strangers to transient and shifting landscapes. The annual hardships experienced by the floods were said to have bred a 'race of hard and cheerful men: stubborn, proud, resilient and wary'.<sup>45</sup> The majority of them were against the draining of the Fens, and their opposition was expressed in published pamphlets and in the vandalising of the drainage works.<sup>46</sup> Keith Lindley found that there was evidence for opposition riots in all the main areas of the North Fens.<sup>47</sup> Customary conflict arose for many reasons. At Exning in 1796, disagreements over gleaning rights resulted in severe disturbances in which one particular group of gleaners paraded to Newmarket holding a flag of defiance. Many more people joined them on the way, and it was said that they all behaved very riotously throughout their journey.<sup>48</sup> Eighteen sixteen saw the Littleport riots, in which 'a great concourse of people ... assembled for the purpose of destruction'.<sup>49</sup> These disturbances, radiated across the Fens, where the participants called for bread or blood at similar events at Outwell and Upwell.<sup>50</sup> A story conveyed to Enid Porter from Chaffer Legge, which originated from his grandfather, described rural living conditions at the time of the riots. Even though it was hard to get work, he said, the men of the Fens were not as bad off as some because 'four or five nights a week' they managed to get out

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<sup>41</sup> J.M.Neeson, *Commoners*, p. 261.

<sup>42</sup> E.P.Thompson, *Customs in Common*, p. 116; P.King, 'Legal Change, Customary Rights', p. 26 and P.Muskett, *Riotous assemblies, popular disturbances in east Anglia 1740-1822* (Ely, 1984), pp. 41-42 in P.King., 'Legal Changes, Customary Rights', p. 26.

<sup>43</sup> J.Neeson, 'Opposition to Enclosure in Northamptonshire' in A.Charlesworth (ed), *An Atlas of Rural Protest*, p. 60.

<sup>44</sup> The Cambridge Fens experienced 0 early (pre 1800), 15 mid (1800-1849), and 6 late (after 1850) Parliamentary enclosure awards; the Nene River Valley in Northamptonshire had 52 early, 32 mid and 1 late, while the parts of the Chilterns under examination had 1 early, 14 mid and 16 late. See W.E.Tate, *A Domesday of English Enclosure Acts and Awards* (Reading, 1978), not forgetting that 95,000 acres of the original adventurers 'new' lands, were technically 'enclosed'. P.Hewitt, *Fenland: A Landscape made by Man* (no publisher or date given, read at Cambridge local studies, at main city library), p. 19.

<sup>45</sup> He made no reference to the women. J.M.Heathcote, *Reminiscences of the Fen and Mere* (Peterborough, 1994), p. 6.

<sup>46</sup> C.Taylor, *The Cambridgeshire Landscape* (London, 1973), p. 195.

<sup>47</sup> K.Lindley, *Fenland Riots and the English Revolution* (London, 1982), p. 262.

<sup>48</sup> Disturbance at Exning, *Cambridge Chronicle*, 13 August, 1796, p. 3.

<sup>49</sup> *Cambridge Chronicle*, 31 March, 1816.

poaching'.<sup>51</sup> This implied that it was an activity relatively easy to get away with in areas of the Fen. Not so lucky were the rioters, many of who spent a year in Ely prison, while nineteen were transported to Botany Bay and five were executed. Michael Carter claimed that the shock to the rural community, both of the riots and of the aftermath, was 'immense', and its effects were still evident in 1830 when Littleport, Ely and Cottenham Market failed to rise in support of Captain Swing.<sup>52</sup> Similarly there were very few incidents of collective opposition in the region at the end of the nineteenth century.

Within regions themselves, however, there were divisions in attitudes and patterns of behaviour. Whittlesey, an important brick making area in the Fens, had a reputation for being 'wild and dirty'. Its inhabitants rioted on Guy Fawkes night in 1834 and there was a degree of hostility there to enclosure and drainage.<sup>53</sup> Elm, on the other hand, was known to have a reputation as 'a law abiding village'.<sup>54</sup> John Archer described the anti-enclosure movement at Burwell in 1851 as a 'most interesting' and in some ways important anti enclosure. It was the scene of the last great display of open and collective protest that required the presence of both the army and the metropolitan police. The dispute, led by a local farmer, lasted for more than six weeks and was centred on 188 acres of common on the Fen. On the day that the surveyor was due, the men from the parish guarded and watched the parish boundaries, while the town crier proclaimed: 'this is to give notice that the police intend this day to bring a strong force to take the Fen, and it is expected that every poor man will come this day and do his duty'.<sup>55</sup> So as we have seen the people of the Fens, even if sparsely populated, were quite capable of organising themselves. Nonetheless, all these stories contrast greatly with the evidence collected from the nineteenth century newspapers for this study. Here there were few poaching cases, gleaning disputes and group opposition of any kind during the period in question, albeit for a spate of disputes over village charities.<sup>56</sup>

No less than 51.4 per cent of all Northamptonshire's common fields were enclosed between 1760 and 1870, even though the inhabitants of the Nene River Valley had opposed many of the proposed

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<sup>50</sup> See A.J.Peacock, *Bread or Blood: The Agrarian Riots in East Anglia 1816* (London, 1965), p. 116.

<sup>51</sup> W.H.Barrett, Edited by E.Porter, *Tales of the Fens* (London, 1969), p. 85.

<sup>52</sup> M.J.Carter, *Peasants and Poachers*, p. 6.

<sup>53</sup> P.B.Pugh,, *Cambridgeshire*, p. 123.

<sup>54</sup> P.B.Pugh, *Cambridgeshire*, p. 180.

<sup>55</sup> J.Archer, 'The Nineteenth-Century Allotment: Half an Acre and a Cow', *Economic History Review* L (1997) 30-31, Full story in editions of the *Cambridge Chronicle*, February – March, 1851.

Bills.<sup>57</sup> Petitions were one method of delaying enclosure, but overall only 3 per cent of all the county's enclosure Bills were successfully petitioned against.<sup>58</sup> Again conflict resulted from disagreements over an array of perceived customary rights. In June 1727 extensive timber-stealing riots took place in the Royal forests of Whittlebury and Salcey where 'the country people and even many people of good position... seem[ed] to have become possessed with the idea that they had a right to go to the forests and cut down and carry away what timber they pleased'.<sup>59</sup> The regional historiography of the Chilterns on the other hand reveals very little evidence for early extensive, overt and riotous disputes.<sup>60</sup> Even though parliamentary enclosure had made an early start in the Chilterns, the main period of activity came fairly late within the movement.<sup>61</sup> Nevertheless, Michael Turner did note that rural labourers participated in destroying the enclosure 'notices' posted in Oakley, Stewkely, Princes Risborough, Towersey and Haddenham in Buckinghamshire.<sup>62</sup> And the seventeenth century opposition to the first attempt to enclose Berkhamsted Common is well documented at the local archives.<sup>63</sup> There were also, as previously mentioned, a good many cases of arson reported across the Chilterns, described in the sources as 'setting fire to the furze'. This confirms Barry Reay's observation that 'many acts of arson occurred on the top of hills'.<sup>64</sup> An example of this occurred in Studham in 1875, where Charles Hart was committed to trial for setting fire to the furze.<sup>65</sup> In 1878, five men, all from Studham again, were brought in front of the court for doing the same.<sup>66</sup> Whether or not the topographical position of these areas was significant we cannot be sure from the sources but, as will be discussed in chapter three, there were a great many commons still in existence on the higher reaches of the Chilterns in the late nineteenth-century.<sup>67</sup>

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<sup>56</sup> See figure 1 and 15; Where 'nonconformist labourers and trades people challenged what they saw as corrupt administration of the charity lands by local elites'. M.Woodhouse, 'Rural Unrest', in T.Kirby, and S.Oosthuizen (eds), *Atlas of Cambridgeshire History* (Cambridge, 2000).

<sup>57</sup> E.C.K.Gonner, *Common Land*, pp. 280-5. Even as early as 1607 there was a series of anti enclosure protest referred to as the Midland Rising, while in 1649 'starving men' in Wellingborough inspired by the Digger ideals began to cultivate the town's common.

<sup>58</sup> J.M.Neeson, *Commoners*, p. 274.

<sup>59</sup> *Northampton Notes and Queries*, Vol 1, 1886, p, 123.

<sup>60</sup> Although there were protracted disputes in some of the common woodlands in the seventeenth century – Kensworth, Tring and Bucks. S.Hindle, 'Persuasion and Protest in the Caddington Common Enclosure Dispute 1635-1639', *Past and Present* 158 (1998) 44.

<sup>61</sup> M.Reed, *The Buckinghamshire Landscape* (London, 1979), p. 201. That is mid to late 1800s. See footnote 44

<sup>62</sup> M.E.Turner, 'Parliamentary Enclosure in Buckinghamshire: 1738-1865', PhD Thesis, 1973, p. 195.

<sup>63</sup> Also see G.Whybrow, *The History of Berkhamsted Common*, pp. 28-29 and H.Falvey, 'Crown Policy and Local Economic Context in the Berkhamsted Common Enclosure Disputes, 1618-42', *Rural History* 12 (2001) 123-158.

<sup>64</sup> B.Reay, *Rural Englands*, p. 149.

<sup>65</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 13 February, 1875.

<sup>66</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 23 March, 1878.

### Causes, reactions and motivation.

What is evident from the general local historiography is that, whatever the strength of resistance, local communities, in each of the regions, were more than capable of opposing the suppression of customary activities. But in order to understand the attitudes of rural populations we need to identify exactly what the basic, fundamental causes of such conflicts were and why at specific periods, they demanded alternative responses. Sharon Brehm noted that ‘oppositional behaviour’ occurred in response to both ‘physical obstructions’ and ‘directives and prohibitions’.<sup>68</sup> On a practical level causes of conflict were influenced by the contemporary social, economic, political and cultural climate, hence disputes often arose as opposition against the loss and curtailment of employment due to the use of machines, the loss of customary subsistence rights associated with open fields and commons, and the loss of various forms of charity. All of these impacted on rural standards of living, making hunger and poverty a main cause of conflict. Yet, on another level, the causes of conflict were a result of the personal and psychological needs.<sup>69</sup>

Conflict emanating from the enclosure of the land was the main reason for opposition. In contrast to the hope that the General Enclosure Act of 1845 would reduce the opportunities for such disturbances, the 1868-9 Select Committee reported that in the previous year ‘there had been widespread opposition to enclosure’. Most significantly the Committee’s general opinion was that attitudes towards enclosure and customary habits would ‘take generations to eradicate’.<sup>70</sup> The 1845/6 Act made not only enclosure, but also game preservation, cheaper, encouraging its growth and adding to local tensions.<sup>71</sup> As the market economy continued to grow, farmers and landowners adopted new attitudes, placing stricter definitions and controls on the rights of private property. As a consequence the labouring communities were forced to defend their traditions, sometimes ‘aggressively’ and ‘brandishing their customs and ceremonies as a weapon in that defence’.<sup>72</sup> Nevertheless, regions experienced agricultural improvement, industrialisation and urbanisation at differing rates, and the policy of general enclosure was a piecemeal process that was ‘a constant

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<sup>67</sup> W.G.Hoskins, and L.Dudley Stamp, *The Common Lands of England and Wales* (London, 1963), p. 252 and p. 289.

<sup>68</sup> S.S.Brehm, *Psychological Reactance*, p. 254.

<sup>69</sup> Of traditional beliefs, reciprocal privileges, independence, identification, continuance, rights and access.

<sup>70</sup> PP 1868-69, X, ‘Report from the Select Committee on Inclosure Act’, p. 46 in A.Howkins, *Reshaping Rural England*, p. 117.

<sup>71</sup> M.J.Carter, *Peasants and Poachers*, p. 34.

<sup>72</sup> B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 10.



cause of irritation' in the way it interfered with customary rights.<sup>73</sup> For these reasons there can be no one assessment of the attitudes of rural populations towards the loss of subsistence customary rights.

What were the specific mechanisms that provoked individuals or groups to respond? Generally the 'motivational drive' aroused by restricting or eliminating certain freedoms induces a response known as reactance whereby, individuals or groups, attempted to 're-establish their lost or threatened free behaviour or attitudes'.<sup>74</sup> There are of course variables affecting the degree of reactance, for example, the strength of a threat and whether that threat would take immediate effect; the presence, visibility and recognition of a freedom; the importance and practical need for it; the proportion of the freedom threatened; and the implication for future threats. Reactance is an intense and emotional experience, which can accompany feelings of hostility and physical manifestations, which can be viewed through crime or social crime. Psychological forms of reactance are best seen in everyday forms of resistance, whereas social power relations, on the other hand, provide a setting to which reactance theory is readily applied and can be assessed through the examination of class conflict.

If the provocation of conflict was motivated under similar circumstance, why were the forms of responses so different? Some responses were challenging and aggressive, others negotiatory, while some so covert that they were hardly distinguishable as opposition. Those that were violent possibly expressed frustrated and impatient attitudes, while the use of fire may have had a powerful psychological impact on perpetrators and observers, a shared experience, which could have culminated in a sharing of attitudes. The motivation behind the making of threats, on the other hand, may have been simply to warn, intimidate, anonymously vent personal anger or in some cases just constitute a manner or style of speech. For example, there was a clear sense of bitterness in the words of an ex-commoner who spoke to George Bourne in the early years of the twentieth century: 'I can remember when all this was open common' he said 'and you could go where you mind to.'

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<sup>73</sup> For example Buckinghamshire remained essentially and overwhelmingly rural throughout the nineteenth century. M.Reed, *The Buckinghamshire Landscape*, p, 226 and see W.Cunningham, *Common Rights at Cottenham and Streatham*, p. 174.

<sup>74</sup> R.E.Petty, *Attitudes and Persuasion*, p. 155 and for information on reactance see S.S.Brehm, *Psychological Reactance* and J.Brehm, *A Theory of Psychological Reactance*; M.E.Heilman, and B.L.Toffler, 'Reacting to Reactance: An Interpersonal Interpretation of the Need for Freedom', *Journal of Experimental Social Psychology* 12 (1976) 520.

Now it is ‘all fenced in’. Nevertheless it is unlikely that when he told the writer that he ‘should like to see them woods all go up in flames’, that he really meant to fire the common himself.<sup>75</sup>

Of course it is difficult to assess what the anticipated outcomes of specific types of behaviour were and whether the perpetrators really took account of them. Whatever the motivation for the ‘wilfully and maliciously’ firing of a stack of wheat at Chatteris on 14 September 1864, it is unlikely that those responsible intended it to spread and destroy seventy-five houses and damage fifteen.<sup>76</sup> Even though the motivational qualities of reactance are so strong that a person may feel compelled to do something about it, inevitably people react in various ways depending on the restriction placed on them and the punishments administered in any one area.<sup>77</sup> So too motives and intended outcomes can change in the same way. As Robert Storch explained ‘customs and practices themselves changed and mutated in the process of being defended’.<sup>78</sup> This was evident when the twentieth century peace protests to keep cruise missiles off Greenham Common evolved, in part, as a fight to reclaim the local common land.<sup>79</sup> Thus the evolution of traditional beliefs and practices, motivations, reactions and responses, and expected outcomes makes it very difficult to assess the exact value of, and purpose served, by any form of conflict.

One element of customary conflict that appears to have been constant throughout the centuries, however, is that of access. Access to, and across, various sections of land consistently manifested itself in conflict associated with traditional popular culture, enclosure and subsistence rights. It was ‘access’ that allowed commoners to collect fuel, food and materials from the commons. However, for all classes of the population, land was automatically associated with concepts of possession and power, and therefore actual customary assertions were rarely about ownership, but more about ‘use’.<sup>80</sup> By extension, access to the land and the footpaths that crossed it became a frame of reference that was returned to time and time again, in various conflicts. Ancient rights of way were a physical and a mental manifestation of the people’s rights, which are still deeply embedded in our

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<sup>75</sup> G.Bourne, *Change in the Village*, p. 73.

<sup>76</sup> Stack of wheat belonging to Mr John Clarke, at Hive End, Chatteris. A reward for £100 was offered for information that would lead to the conviction of the person or persons responsible. Information from a copy of an original poster held at Chatteris museum.

<sup>77</sup> Parochial control and state intervention – to be discussed in following chapters

<sup>78</sup> R.D.Storch (ed.), *Popular Culture*, p. 12.

<sup>79</sup> See D. Fairhall, *Commonground: The Story of Greenham* (London, 2006).

<sup>80</sup> For more explanation see Jeanette Neeson, *Commoners*.

mentalities today, and were the hardest form of right to extinguish.<sup>81</sup> These rights could be claimed in cases and disputes, concerning poaching, gleanings, fishing and wood gathering. In 1842 for example, the women involved in a gleanings fracas claimed that they were ‘only passing over the common to some other place in search of gleanings’.<sup>82</sup> Richard Hearn of Chalfont St Giles claimed when accused of trespassing in search of game that he ‘did not leave the footpath’,<sup>83</sup> while Harry Keen and Alfred Sharp, accused of the same, desperately used the excuse that they had ‘been told that there was a footpath in the woods’.<sup>84</sup> Such reasoning easily backfired. An accused poacher, Jack Nash, argued that ‘he had never been out of the footpath at all’, but Mr Garrett produced a map of the land to prove that there was no footpath in existence.<sup>85</sup> The three regions in this study have shown, as it would be expected, that in areas where there were few footpaths and rights of way, such as the Cambridge Fens, there was far less emphasis on them in the accused’s defence statements.

Ironically, the landed gentry could also use perceptions of access as a tool because to prove trespass was far easier than getting involved in a prolonged and protracted dispute over long-established customary common rights. The Malicious Trespass Act of 1820 provided for the summary punishment of ‘persons wilfully or maliciously damaging or committing trespasses on public or private property’, while in the same year the *Hereford Journal* noted that farmers and landowners ‘should find it a most useful act’.<sup>86</sup> When Robert Brown and Ralph Hearn were both seen ‘200-300 yards out from the footpath’, this was enough to fine them 10 shillings each for trespassing in search of game.<sup>87</sup> On the 26 May 1883 two cases were presented to the Beaconsfield Petty Session, George Payne and Daniel Goodhall were involved in both, the first for damaging an ash tree and the second for game trespassing. They were convicted of both, based on the fact that there was ‘no footpath through the wood’.<sup>88</sup> Nevertheless, gamekeeper John Wilkins considered that the paths and

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<sup>81</sup> Threat of closure of public rights of way always guarantees public outcry. *Footpath Campaign*, [www.ramblers.org.uk](http://www.ramblers.org.uk), 23.02.05; and contemporary commentators, such as Patrick Abercrombie, consistently advocated that ‘whatever happens to the country, its footpaths must be jealously preserved’. P.Abercrombie, *The Preservation of Rural England* (Liverpool, 1926), p. 18.

<sup>82</sup> Hatfield Hyde, *County Press for Herts, Beds, Bucks, Huntingdon, Cambridge, Essex and Middx*, 3 September, 1842.

<sup>83</sup> Amersham Petty Session, *Bucks Herald*, 24 May, 1890.

<sup>84</sup> Chesham Petty Session, *Bucks Herald*, 7 June, 1890.

<sup>85</sup> J.Wilkins, *An Autobiography of English Gamekeeper*, p. 81.

<sup>86</sup> *Hereford Journal*, 23 August, 1820, quoted in T.Shakesheff, ‘Wood and Crop Theft’, p. 5.

<sup>87</sup> Chesham Petty Sessions, *Bucks Herald*, 8 February, 1890.

<sup>88</sup> Beaconsfield Petty Session, *Bucks Herald*, 26 May, 1883.

rights of way running alongside and sometimes through the woods ‘rendered it doubly difficult’ to catch poachers.<sup>89</sup>

The opinions of those sitting on the petty sessions during this period exhibited a variety of interpretations as to the status of public footpaths. In some incidences the courts seemed almost threatened by people congregating on these walkways, as in the case of George and Harry Rolfe, George Page, Thomas Dorresfield and William Ashby from Northchurch, who were all fined 2s each for causing an obstruction on the footpath.<sup>90</sup> But clearly the law was not always fairly administered. At the Watford Petty Session court on 16 May 1863, Mr Hedges, a farmer from Aldenham, was brought before the court for ploughing up a public footpath. It soon transpired that he had in fact been committing the same offence for nine consecutive years, yet still the magistrates decided to dismiss the case if he promised not to do it again.<sup>91</sup> Mr Boutall, on the other hand, had the audacity to accuse Henry Salmon of damaging an apple tree, when in fact he had done it himself while building a wall to block up the public footpath.<sup>92</sup> No wonder an anonymous writer to the *Bucks Herald* asked the question ‘are the days of our footpaths numbered?’<sup>93</sup> Some cases brought before the courts were ludicrous and a complete waste of the court’s time. When a cripple from Studham was accused of game trespass, apparently because he had left the road, the chairman called it a ‘trumpery case’.<sup>94</sup> And although Joseph Hazell was fined £1 for trespassing after game in 1905, the evidence given by Mr Joel, that he had seen him ‘step off’ the footpath seems a bit fastidious.<sup>95</sup>

This section has analysed the responses and processes involved in traditional popular conflict from the early modern period to the mid nineteenth century, the majority of which consisted of overt forms of reactions, often practiced in a collective communal manner and fairly easy to identify as direct opposition to particular grievances. It has also established that although conflict and opposition, and motivational reactance, took an array of forms, one common element apparent in the conflict caused by the loss or threatened loss of subsistence customary rights was that of access. The following section will assess the extent in which customary conflict, which moves away from riot and violent confrontation, was frequently expressed through social crime.

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<sup>89</sup> J. Wilkins, *An Autobiography of an English Gamekeeper*, p. 105.

<sup>90</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 20 September, 1890.

<sup>91</sup> Watford Petty Session, *Hertfordshire Mercury*, 16 May, 1863.

<sup>92</sup> Ely Petty Session, *Cambridge Chronicle*, 23 April, 1864.

<sup>93</sup> Letter to the Editor, *Bucks Herald*, 8 December, 1883.

<sup>94</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 5 July, 1873.

<sup>95</sup> Amersham Petty Session, *Bucks Herald*, 28 January, 1905.

## SOCIAL CRIME

The relationship between social protest and crime remains unclear, mainly because attitudes that created the definitions of crime and disorder, and therefore their meanings, themselves changed over time.<sup>96</sup> As John Archer explains, crime was not ‘some absolute and fixed concept, unchanging and unvarying’.<sup>97</sup> Various social groups had distinct and separate perceptions of the law, which varied according to different circumstances and social conventions, and hence it formed a constantly moving frontier of what was, and what was not, acceptable conduct.<sup>98</sup> As a consequence, crime as a manifestation of conflict was often adapted to express differing attitudes and situations.

The legal and normative definitions of crime demonstrate how conflicting and contrasting interpretations and views were formed. For example, a crime is an act that ‘breaks or contravenes the letter of the law’, whereas the normative definition is that crimes are acts ‘, which break or contravene a set of formal or informal norms or codes’ and are therefore ‘social constructions’.<sup>99</sup> Historical research reveals that a variety of crimes were not regarded by the labouring poor as crimes at all, and in this context they can be described as social crimes. Social crime occurred when there existed conflicting sets of official and unofficial interpretations of the legal system, and usually involved ‘an element of social protest and strong communal support’.<sup>100</sup> The concept had its origins back in the 1970s, although there were disagreements on the legal definitions of what constituted a criminal action, and the many ways in which crime was categorised.<sup>101</sup> Towards the end of the 1970s, John Rule described it as a concept that ‘makes sense of a range of popular attitudes and actions’.<sup>102</sup> It still, however, has its critics. In 1999 John Lea wrote that the concept was too ‘broad and at times even opaque’.<sup>103</sup> Nevertheless, as John Beattie noted, there are limitations to the concept, for in his opinion, most rural crime was economic, ‘a defence against

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<sup>96</sup> See M.Reed, and R.Wells, ‘An Agenda for Modern English Rural History?’ in *Class Conflict and Protests in the English Countryside*, p. 219.

<sup>97</sup> J.E.Archer, *By a Flash and a Scare*, p. 4.

<sup>98</sup> See D.Hay, ‘Property, Authority and the Criminal Law’ in D.Hay, et al. *Albion’s Fatal Tree* and J.A.Sharpe, *Crime in Early Modern England 1550-1750* (London, 1999), p. 5.

<sup>99</sup> G. Mooney et al, (eds), *Tales of Fear and Fascination*, pp. 6-7.

<sup>100</sup> J.A.Sharpe, *Crime in Early Modern England*, p. 176 and 140. See also E.J.Hobsbawm, ‘Distinctions between Socio-Political and other Forms of Crime’.

<sup>101</sup> In the work of E.Hobsbawm, ‘Distinctions between Socio-Political and other Forms of Crime’; E.P.Thompson, *Whigs and Hunters*; and D.Hay et al (eds), *Albion’s Fatal Tree*.

<sup>102</sup> J.G.Rule, ‘Social Crime in the Rural South in the Eighteenth and Early Nineteenth Centuries’, *Southern History* 1 (1979) 136.

<sup>103</sup> J.Lea, a professor of criminology, ‘Social Crime Revisited’, *Theoretical Criminology* 3 (1999) 308.

hunger', a 'survival crime'.<sup>104</sup> Nonetheless more recent historiography tends to agree that the vast majority of rural crime 'was indeed social crime'.<sup>105</sup>

During periods of change and transition, a custom itself could become a crime, for 'what was legal behaviour one year might well be classed illegal the next'.<sup>106</sup> Sir John Clapham wrote that, first and foremost, commoners 'commoned by custom not right. And custom was illegal'.<sup>107</sup> Yet the labouring populations themselves did not necessarily question the legality of custom. John Botterill, the honest man of good character referred to in chapter one, said it was 'not for him to say that such conduct was justifiable'.<sup>108</sup> Yet, when forced to defend the legality of their rights, ordinary people could find it difficult. At Chatteris in 1798, rights attached to 163 houses were 'swept away' simply by a clause in an Act, which required that the claimants themselves prove their rights - which they could not.<sup>109</sup> Nevertheless, as Jeanette Neeson noted, social crime was one way of attempting to preserve traditional rights and customs for it would often take many years before the idea of a right 'was worn down into a privilege, and before commoners would accept that privileges could be taken away'.<sup>110</sup>

The reorganisation of the landscape had extended and created conflict, opposition, and crime. The increase in enclosure, and expansion of property laws, transformed the custom of gathering and collecting for subsistence into a crime.<sup>111</sup> Where once locals would collect dead and fallen wood from the commons, such as in the Nene River Valley before their enclosure, they now collected, as previously discussed, from the enclosure hedges, without the full understanding that these physical boundaries had owners and the wood belonged to them. When William Thompson and Alexander Brown were accused of wilfully damaging a hedge, they claimed they were only 'pulling out sticks',<sup>112</sup> while William Prior was committed to gaol, for one month's hard labour, for merely picking up wood to the value of 1s.<sup>113</sup> So too, after enclosure, animals were no longer wild and

<sup>104</sup> J.M.Beattie, *Crime and the Courts in England 1660-1800* (Oxford, 1986), p. 54. G.Rude, *Criminal and Victim: Crime and Society in Early Nineteenth-Century England* (Oxford, 1985), p. 78.

<sup>105</sup> T.Shakesheff, *Rural Conflict, Crime and Protest: Herefordshire, 1800-1860* (Woodbridge, 2003).

<sup>106</sup> J.E.Archer, *By a Flash and a Scare*, p. 4.

<sup>107</sup> J.H.Clapham, *An Economic History of Modern Britain: The Early Railway Age 1820-1850* (Cambridge, 1959), pp. 115-17.

<sup>108</sup> The newspaper article describes him as this. Northampton Div. Petty Session, *Northampton Mercury*, 31 January, 1880.

<sup>109</sup> J. M.Neeson, *Commoners*, p. 79.

<sup>110</sup> J.M.Neeson, *Commoners*, p. 163.

<sup>111</sup> J.Rule, 'Social Crime in the Rural South', p. 137. See also B.Bushaway, *By Rite*, p. 209.

<sup>112</sup> St Albans Div Petty Session, *Hertfordshire Mercury*, 12 May, 1888.

<sup>113</sup> From Chequers Wood, Aylesbury Petty Session, *Bucks Herald*, 13 October, 1888.

ownerless, now any man, who picked up a rabbit from the common or the hedgerow, was clearly labelled a poacher and a thief.<sup>114</sup> Yet, still uncertainties of interpretations and perceptions of the law remained, even among the learned. In 1865 the *Blades v. Higgs* case asserted that English law did not recognize an absolute right of property in wild animals or wild plants: ‘whilst it is still free and alive an animal belongs to everybody – or, more correctly, to nobody’.<sup>115</sup>

According to Keith Wrightson however, the process of redefining and marking ‘new boundaries of permitted behaviour’ had been progressing since the 1680s. The farmers and the landed classes, as we have seen, increasingly withdrew from traditional culture; they attacked it, and attempted ‘to impose a new form of discipline that would reinforce their own position’.<sup>116</sup> In England after the American and French Revolutions, riot and large gatherings of people were seen as a potential threat to social order and inevitably, as Robert Storch explained, the reform of popular values and customs became ‘intimately bound up’ with problems of public order and social discipline.<sup>117</sup> Even though some historians believed that the threat which crime posed to social order was ‘symbolic rather than real’,<sup>118</sup> the early nineteenth-century crisis in rural society persuaded the majority of the landed population to ‘buy into’ the new ideology of order created by moral entrepreneurs and theorists in the towns and the cities. This ideology redefined and relocated the ‘baseline’ of tolerated behaviour in the countryside.<sup>119</sup> These explanations go some way towards explaining the changes that took place in oppositional responses to the threat of and loss of subsistence customary rights in the latter half of the nineteenth century. Thus the motivational impetus for redefining crime, and thereby customary rights, was the protection of property and position, fear of revolt and, in some instances, genuine concern for improving society and agricultural productivity. There were of course regional ambiguities.<sup>120</sup> One particularly contradictory Act of Parliament stated that in order to preserve the fenland embankments in Lincolnshire from burrowing rabbits, it would ‘not’

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<sup>114</sup> P.B.Munsche, *Gentlemen and Poachers: The English Game Laws, 1671-1831* (Cambridge, 1981), p. 4.

<sup>115</sup> R.Mabey, *The Common Ground*, p. 144.

<sup>116</sup> K.Wrightson, and D.Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (London, 1979) and K.Wrightson, *English Society 1580-1680* (London, 1982), quoted in T.Harris (ed.), *Popular Culture*, p. 2.

<sup>117</sup> R.Etheridge, ‘Nineteenth Century Northampton: The Nature of the New Police, Change and Power’. *Northamptonshire Past and Present* 9 (1995)175; R.D.Storch (ed.), *Popular Culture*, p. 3. The Seditious Meeting Act 1817, the Six Acts 1819, the Combinations Acts 1799-1800.

<sup>118</sup> V.A.C.Gatrell, ‘The decline of Theft and Violence in Victorian and Edwardian England’, in V.A.C.Gatrell, B.Lenman, and G.Parker (eds), *Crime and the Law: The Social History of Crime in Western Europe Since 1500* (London, 1980), p. 270.

<sup>119</sup> R.Storch, ‘Policing Rural England before the Police’, in D.Hay and F.Snyder (eds), *Policing and Prosecution*, p. 263.

<sup>120</sup> See Charles Elton Esq, *Observations on the Bill for the Regulation and Improvements of Commons*.

be an offence to catch rabbits there.<sup>121</sup> Yet, as we shall see, even though popular culture throughout the early modern period had been deeply influenced by the operation of the criminal law, customary ways of thinking and acting which ‘had taken thousand years to establish could not be destroyed in a single year’.<sup>122</sup>

### Forms of social crime

The poor simply did not accept Parliament’s definition of the law, and despite the huge numbers of petty crimes reported in the local and regional newspapers, it remains difficult for the historian to clearly differentiate ‘crime’ from ‘social crime’, as definitions and perceptions of crime, as previously noted, changed over time.<sup>123</sup> Nevertheless, in resisting changes, and defending their right to collect and scavenge, ordinary people often found themselves being regarded as criminals.<sup>124</sup> This survey examined 193 social crimes in the Cambridge Fens, 1,373 in the Nene River Valley and 1,166 in parts of the Chilterns between 1860-1920.<sup>125</sup> Poaching was the most familiar social crime. It was ‘an extension of a traditional and independent way of life, in which notions of rights and customs played an important part’.<sup>126</sup> It was covert in its application, yet overt in the message it conveyed. John Archer characterised it as a clear act of defiance, while Alun Howkins considered it as ‘simply the exercise of a particular version of other rights attached to land, especially common lands and woodland’.<sup>127</sup> The privileged classes labelled poaching as a terrible crime, while the majority of the labouring classes vehemently believed that ‘game was made for the poor as well as the rich, and God made the birds of the air and the fish of the sea for all’.<sup>128</sup> Joseph Arch confirmed this view when he addressed the Select Committee on Game Laws in 1872: ‘the plain truth is, we labourers do not believe hares and rabbits belong to any individual, not any more than thrushes and blackbirds do’.<sup>129</sup>

<sup>121</sup> *Fenland Notes and Queries*, Vol 2, January 1892-October 1894, p. 61. Specifically this law applied as far as the tide came in and within one furlong of such limit. *Notes and Queries*, Vol 3, January 1895-October 1897, p. 98.

<sup>122</sup> W.Rose, *Good Neighbours*, p. xv.

<sup>123</sup> *Hansard*, 23 July, 1862, A.Howkins, *Reshaping Rural England*, p. 125. See figure 11.

<sup>124</sup> These acts were described by Barry Reay as crimes of subsistence, B.Reay, *Microhistories: Demography, Society and Culture in Rural England, 1800-1930* (Cambridge, 1996), p. 117.

<sup>125</sup> See figure 11.

<sup>126</sup> D.Jones, *Crime, Protest, Community and Police*, p. 70. Poaching referred to as ‘taking game without permission from private land’. E.A.Martin and J.Law (eds), *Oxford dictionary of law* (Oxford, 2006).

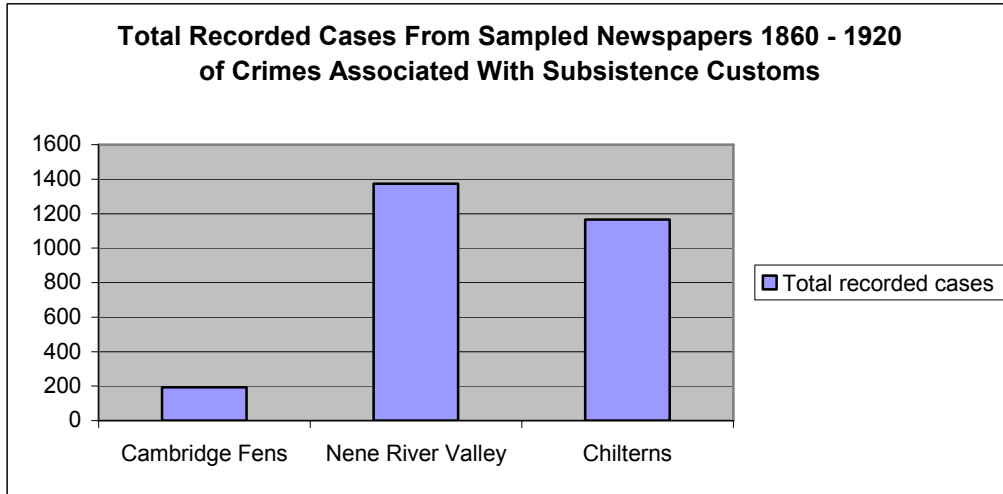
<sup>127</sup> J.E.Archer, ‘Poachers Abroad’ in G.E.Mingay (ed.), *The Unquiet Countryside*, p. 58. A.Howkins, *Reshaping Rural England*, p. 118.

<sup>128</sup> D.Johnson, *Victorian Shooting Days: East Anglia 1810-1910* (Woodbridge, 1981), p. 40. Various wild mammals, birds and fish were exploited including moles, small birds, seagull eggs and mussels from the coast. Richard Carew gave a long list of edible wild birds in *The Survey of Cornwall* (London, 1811) referred to in D.Woodward, ‘Straw, Bracken and Wicklow Whale: The Exploitation of Natural Resources in England since 1500’, *Past and Present* 159 (1998)47.

<sup>129</sup> PP 1872, X, Select Committee of the House of Commons on the Amendment of the Game Laws, p. 423.

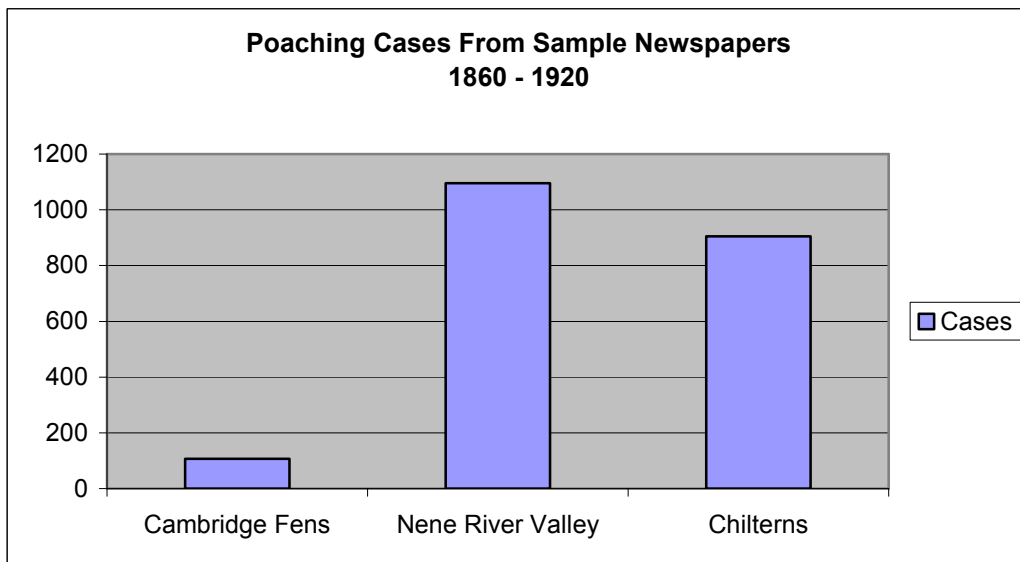


Figure 11



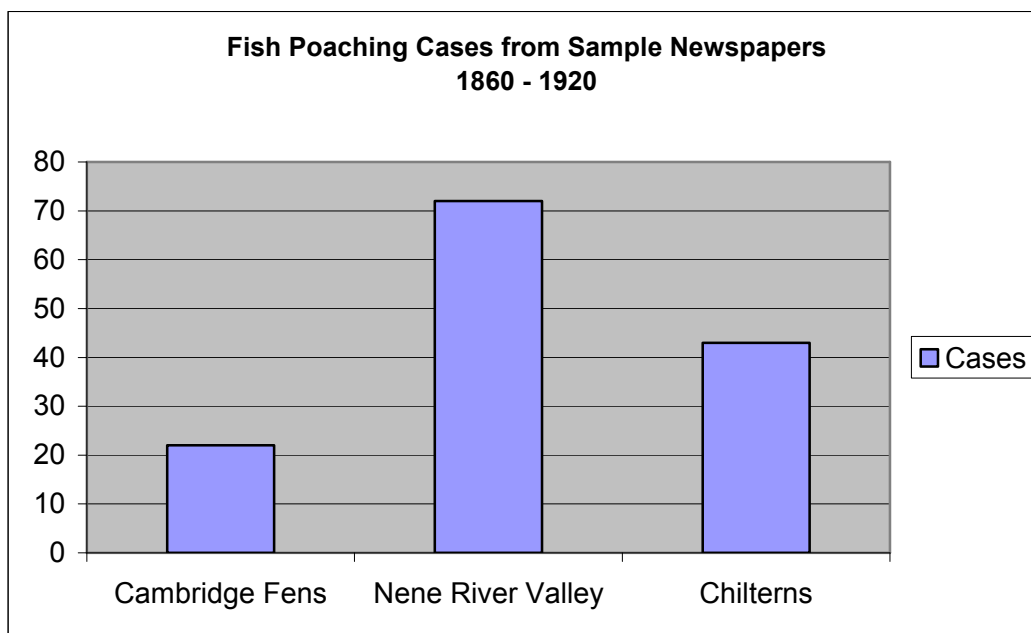
Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 12



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 13



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Poaching accounted for 107 of the crimes recorded in the Cambridge Fens, 1,095 in the Nene River Valley and 905 in the Chilterns.<sup>130</sup> Whilst although rivers and drains were abundant in the Cambridge Fens, fish poaching accounted for only twenty-two of the crimes, where as in the Nene River Valley, in a less watery landscape, it accounted for seventy-two. In the Chilterns, where there were no watercourse on the hills and very few in the connected valleys, forty-three crimes were associated with fish poaching.<sup>131</sup> What is specifically different about the regions is that, although there were very few recorded cases of poaching in the Cambridge Fens, there was nonetheless, a decline in cases from the 1890s. In the Chilterns there was also a rapid decline in poaching cases from 1889 onwards, but in the Nene River Valley there was no decline until after 1909.<sup>132</sup> This suggests that although the populations of the Nene River Valley had experienced early and extensive enclosure, as we shall discuss later, popular culture, pressure of a large population and limited subsistence resources, continued to influence popular customary activities. Similarly in recorded cases of fish poaching in the Cambridge Fens and the Chilterns there was a sharp

<sup>130</sup> See figure 12.

<sup>131</sup> See figure 13.

<sup>132</sup> Refer back to figure 1.

downturn after 1889, but again in the Nene River Valley this does not occur until after 1909.<sup>133</sup> These numbers can be compared with the national figures on poaching that showed that prosecutions continued to rise throughout the 1860s from around 9,000 in 1860 to just over 11,700 ten years later. After dipping sharply in the early 1870s to just over 8,600, they then resumed their upward trend, peaking in 1877 at just under 12,400 cases.<sup>134</sup> Between 1878 and 1882 11,444 cases were recorded, before an obvious decline to 7,838 cases for the period 1895-9.<sup>135</sup>

The historiography and crime statistics seem to indicate that poaching was declining towards the end of the century, although even a small study such as this demonstrates that there were clear regional differences in the speed and timing.<sup>136</sup> Nevertheless, without understanding fully the impact of social, economic, political and cultural change on attitudes, it should not be assumed that attitudes themselves changed at the exact time as evidence suggests particular activities ceased - if indeed these activities ceased at all.<sup>137</sup> Contemporary writers tended to suggest that poaching was still very much an integral part of rural life in the latter years of the century,<sup>138</sup> and continued beyond the remit of this study.<sup>139</sup> Evidence for variations in the patterns of continuance were not the only regional discrepancies, for even within a county itself there could be inconsistencies. The evidence from newspaper reports throughout this period implies that there were very few cases of poaching in the fenlands, yet eleven years previously the *Cambridge Chronicle* reported that 'we regret to hear that the crime of poaching is exceedingly prevalent in this county at the present time'.<sup>140</sup> The explanation for such divergent opinions could lie in the manner in which information from the petty sessions was reported, or it could highlight the extent of incongruity within a county caused by topographical and environmental disparities. Southern Cambridgeshire's upland landscape was very different to the northern fenlands, which were far too intersected with wide dykes and drains to be any good for hunting, and therefore it was never extensively used to preserve game.<sup>141</sup> Yet along with the tidal mud flats, the drains provided an abundance of wildfowl –

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<sup>133</sup> Refer back to figure 2.

<sup>134</sup> H.Osbourne, and M.Winstanley, 'Rural and Urban Poaching in Victorian England', *Rural History* 17 (2006)189.

<sup>135</sup> P.Horn, *Pleasures and Pastimes in Victorian Britain* (Gloucestershire, 1999), p. 119.

<sup>136</sup> J.E.Archer, *By a Flash and a Scare*, p. 255.

<sup>137</sup> Could have been a case of under-reporting, or non-pursuance by the authorities.

<sup>138</sup> See J. Arch, *From Ploughtail to Parliament: An Autobiography* (London, 1986); G.Baldry, (edited by Lilas Rider Haggard) *The Rabbit Skin Cap* (London, 1939); G.Christian (ed.), *A Victorian Poacher*; L.R.Haggard (ed.), *I Walked by Night*; and J.Wilkins, *An Autobiography of an English Gamekeeper*.

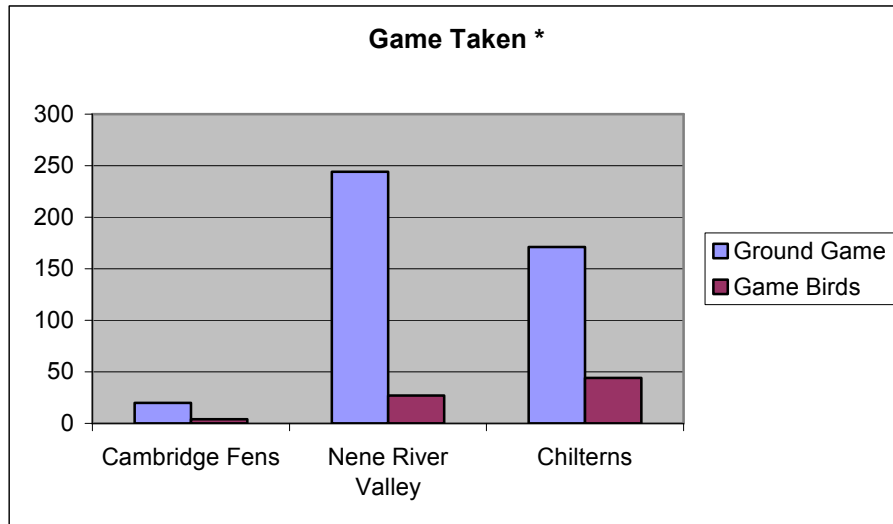
<sup>139</sup> For example Michael Allen's research led him to state that in Buckinghamshire 'a familiar character into the 1930s was the poacher'. M.D.Allen, 'Poachers', p. 185.

<sup>140</sup> M.J.Carter, *Peasants and Poachers*, p. 34.

<sup>141</sup> R.J.Olney, *Rural Society and County Government in Nineteenth Century Lincolnshire* (Lincoln, 1979), p. 35.

mallard, teal, widgeon – providing ‘more than enough for everyone’, and were controlled only by seasonal shooting regulations, which in the past had been ‘rarely enforced’.<sup>142</sup>

Figure 14



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

\* Where mentioned in sampled newspapers

This brings us to the question as to what was actually being poached; bearing in mind that information was not consistently recorded in the newspapers. In the Cambridge Fens there were twenty cases of ground game taken (that is rabbits and hare), in comparison to only four cases of game birds, during the period in question.<sup>143</sup> Historically, poaching was reported far more frequently in parishes adjacent to large landed estates.<sup>144</sup> Yet even in the Nene River Valley, home of many game preserves, there were still far more ground game being taken, 244 cases in comparison to only twenty seven cases of game birds, and similarly in the Chilterns 171 cases of ground game compared to forty four cases of game birds.<sup>145</sup> At the same time there were no cases of deer stealing recorded on the database, although there were extensive deer parks in both the Nene

<sup>142</sup> D.Johnson, *Victorian Shooting Days*; cover. P.B.Munsche, *Gentlemen and Poachers*, p. 4. Closed season October through to May.

<sup>143</sup> See figure 14.

<sup>144</sup> R.Lee, *Unquiet Country: Voices of the Rural Poor, 1820-1880* (Cheshire, 2005), p. 114.

<sup>145</sup> See figure 14. George Wright unashamedly admitted that he was ‘guilty of picking up a rabbit...and nothing else’. Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 24 January, 1885.

River Valley and in the Chilterns.<sup>146</sup> The evidence is very persuasive, and it suggests that the vast majority of poachers were only taking traditional quarry – that of rabbits and hares, even when pheasant, partridge and deer were readily available. This implies that the act of poaching locally was very often a social crime, possibly committed in response to the loss of, and in an attempt to re-establish, certain customary rights. In Frank Kelmsley’s words, ‘it was alright to catch rabbits – they were our perks – but not pheasants’.<sup>147</sup>

Gleaning too could be categorized as a social crime. The practice of collecting stray ears of corn and straw from the fields after reaping was an ancient custom and it was popularly supposed that a landowner had no right to prevent the practice.<sup>148</sup> It was originally overt and collective in its operation; it incorporated many ritualistic elements of traditional popular culture; was an essential means of providing bread for the family throughout the winter months; and was important enough to delay the children’s return to school after the summer holidays.<sup>149</sup> Nonetheless, there was, and is, much debate as to the legality of gleaning, and it was never formally defined by Parliament as a criminal offence. Peter King argued that even the 1788 judgement did not allow farmers to control it and the courts were not successful in stopping it either.<sup>150</sup> David Hoseason Morgan found that the practice continued into the twentieth century, and he believed that the ‘annual invasion’ by the rural community on to vast tracts of private property, could clearly be viewed as a manifestation of the collective belief that the ‘right of access to the soil was a fundamental right which should not and could not be revoked’.<sup>151</sup> Nonetheless, although the authorities acknowledged that there were subtle differences between, for example, stealing fruit that was ready gathered, punishable as a felony, and gathering wild fruit oneself, it was still considered as a criminal case of trespass.<sup>152</sup>

Even though historians refer to an array of court cases, which demonstrate how widespread gleaning remained, there is a lack of real evidence in this database.<sup>153</sup> In the Cambridge Fens only

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<sup>146</sup> By 1892 there were 21 deer parks in the Chiltern area this amounted to 11,800 acres. J.Whitaker, *A Descriptive List of the Deer Parks and Paddocks in England* (London, 1892). First time cases should have been heard first at the petty sessions. See G.C.Oke, *Oke’s Handy book of the Game and Fishery Laws* (London, 1861), pp. 120-130.

<sup>147</sup> Frank Kelmsley’s words, born in 1887 quoted in B.Reay, *Microhistories*, p. 120.

<sup>148</sup> See P.King,, ‘Gleaners, Farmers’, and P.King,, ‘Customary Rights and Women’s Earnings’.

<sup>149</sup> See evidence form the school log books and V.J.M.Bryant, *A History of Potten End*, p. 156.

<sup>150</sup> P. King, ‘Gleaners, Farmers’.

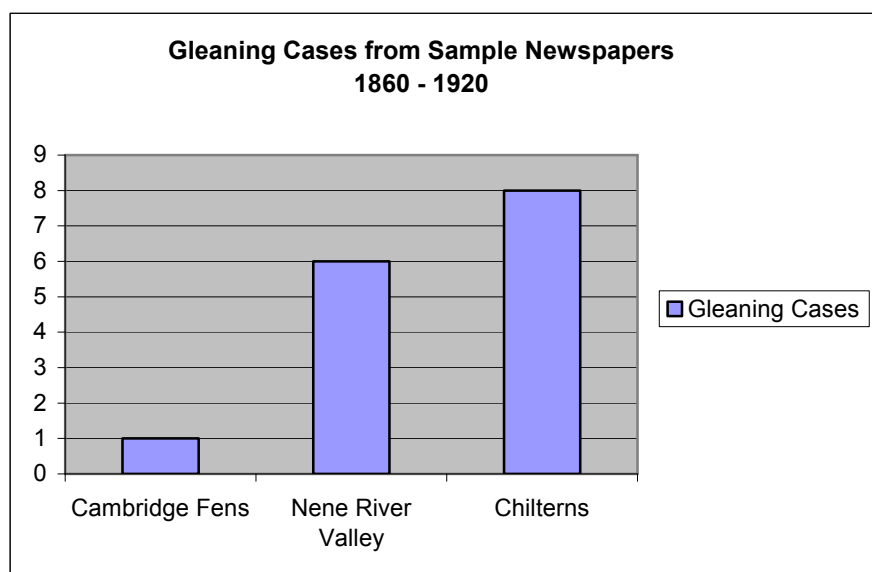
<sup>151</sup> D.H.Morgan, *Harvesters and Harvesting 1840-1900: A Study of the Rural Proletariat* (London, 1982), p. 151.

<sup>152</sup> P.Horn, *The Rural World 1780-1850* (London, 1980), p. 165.

<sup>153</sup> P.King, ‘Gleaners, Farmers’; P.King, ‘Customary Rights and Women’s Earnings’; P.King, ‘Legal Change, Customary Right’; S.Hussey, “ ‘The Last Survivor of an Ancient Race’; and D.H.Morgan, *Harvesters and Harvesting*, p. 155.

one criminal case is recorded, in the Nene River Valley six and in the Chilterns eight.<sup>154</sup> Similarly, cases referring to the collecting of wild foods from the hedgerows, commons and wastes, such as blackberries and nuts, only amounted to seven in the Cambridge Fens, twenty-four in the Nene River Valley and twenty three in the Chilterns.<sup>155</sup> Yet, in contrast, the school log books and contemporary accounts suggest that gleaning and blackberrying continued to be very much part of the lives of the working populations throughout the period surveyed.<sup>156</sup> Gleaning for example was mentioned as a reason for mass absences in ten different schools in the Cambridge Fens, eight in the Nene River Valley and six in the Chilterns.<sup>157</sup> Clearly there were divergent attitudes towards gleaning and collecting wild foods, the legality of it and its continuance. The figures from the school log books show no signs of decline in these activities until 1910, yet if we were to rely on evidence from the newspaper reports we would assume that all such related activities were a very rare occurrence.<sup>158</sup>

Figure 15



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

<sup>154</sup> See figure 15.

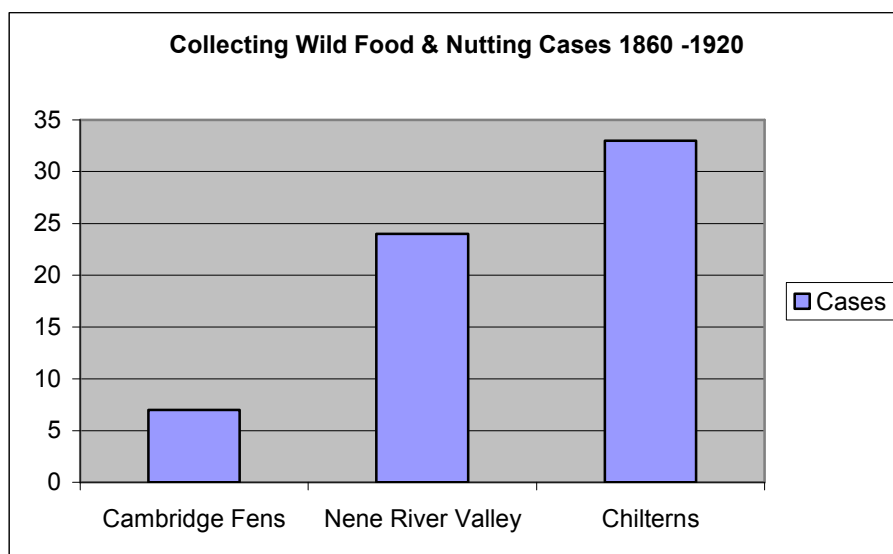
<sup>155</sup> See R.Mabey, *Food for Free* (London, 1996); R.Mabey, *Flora Britannica* (London, 1996); K.Thomas, *Man and the Natural World: Changing Attitudes in England 1500-1800* (London, 1984), pp. 72-3; and D.Woodward, 'Straw, Bracken'. See appendix 2. See also figure 16, these appeared in the petty sessions most frequently as accusations of trespass, and it was those examples that were collected for the database.

<sup>156</sup> Contemporary accounts mentioned throughout thesis.

<sup>157</sup> Refer back to figure 9.

<sup>158</sup> Refer back to figures 3,4 and 5.

Figure 16



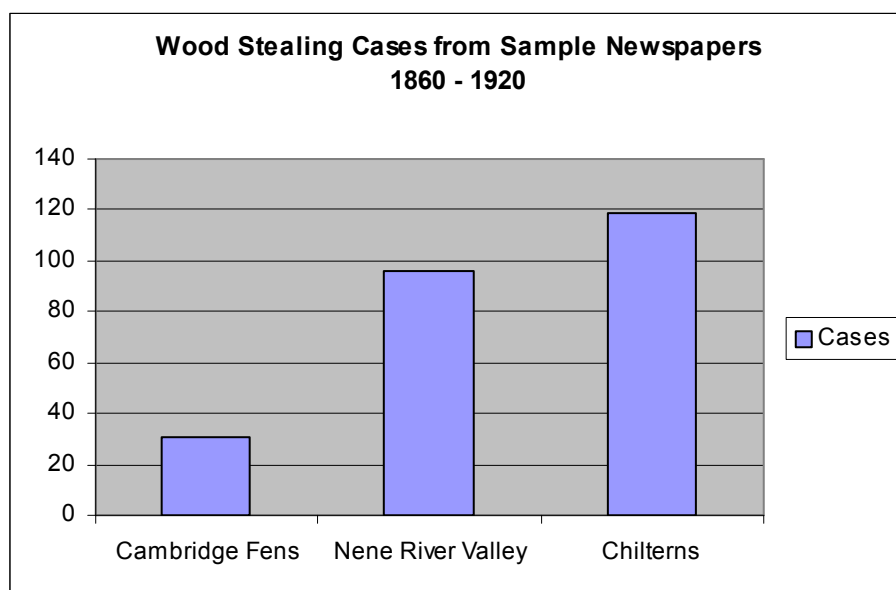
Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

In the same way that poaching, gleaning and foraging for wild foods could be seen as forms of social crime, so too wood stealing is considered by historians such as Tim Shakesheff as often being ‘committed within a wider realm of social protest’.<sup>159</sup> Gathering wood had been a long and persistent custom, particularly in the extensively wooded areas of the Chilterns. This was done either by collecting snap wood, as in the 1860 case when three men from Hambleton were convicted at the Great Marlow Petty Session, for ‘stealing growing timber’, or by simply picking up dead wood lying on the ground, as in 1893 when Herbert Keen was accused of stealing wood. In this case Herbert’s father challenged the bench’s interpretation of the crime stating that he ‘did not consider it stealing to pick up a piece of rotten wood’.<sup>160</sup>

<sup>159</sup> T.Shakesheff, ‘Wood and Crop Theft’, p. 1.

<sup>160</sup> B.Bushaway, “Grovely, Grovely”, p. 37. Vancouver wrote in his account of agriculture in Hampshire of how the peasantry were ‘tolerably well supplied with fuel’, by claiming a right to collect fallen branches and twigs and small

Figure 17



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Changing attitudes towards property, management of timber plantations and the relationships between landowners and the local community were increasingly manifesting itself in the modification of legal sanctions. The database recorded thirty one cases of wood stealing in the Cambridge Fens, ninety six in the Nene River Valley and 119 in the Chilterns. In the Fens and the Chilterns there was an overall decline during the period surveyed, whereas in the Nene River Valley numbers peaked between 1890 and 1899 before beginning to decline.<sup>161</sup> Even though there were comparatively few trees, hedges and fences in the Fens in comparison to the other two regions, and notwithstanding the fact that sedge was the more favoured fuel for domestic and bakers ovens, it is surprising that the number of cases was proportionally high when population ratios are taken into consideration.<sup>162</sup> Here too we see the persistent pattern of the continuing assertion of customary rights to the very end of the nineteenth century evident in the criminal data for the Nene River Valley.

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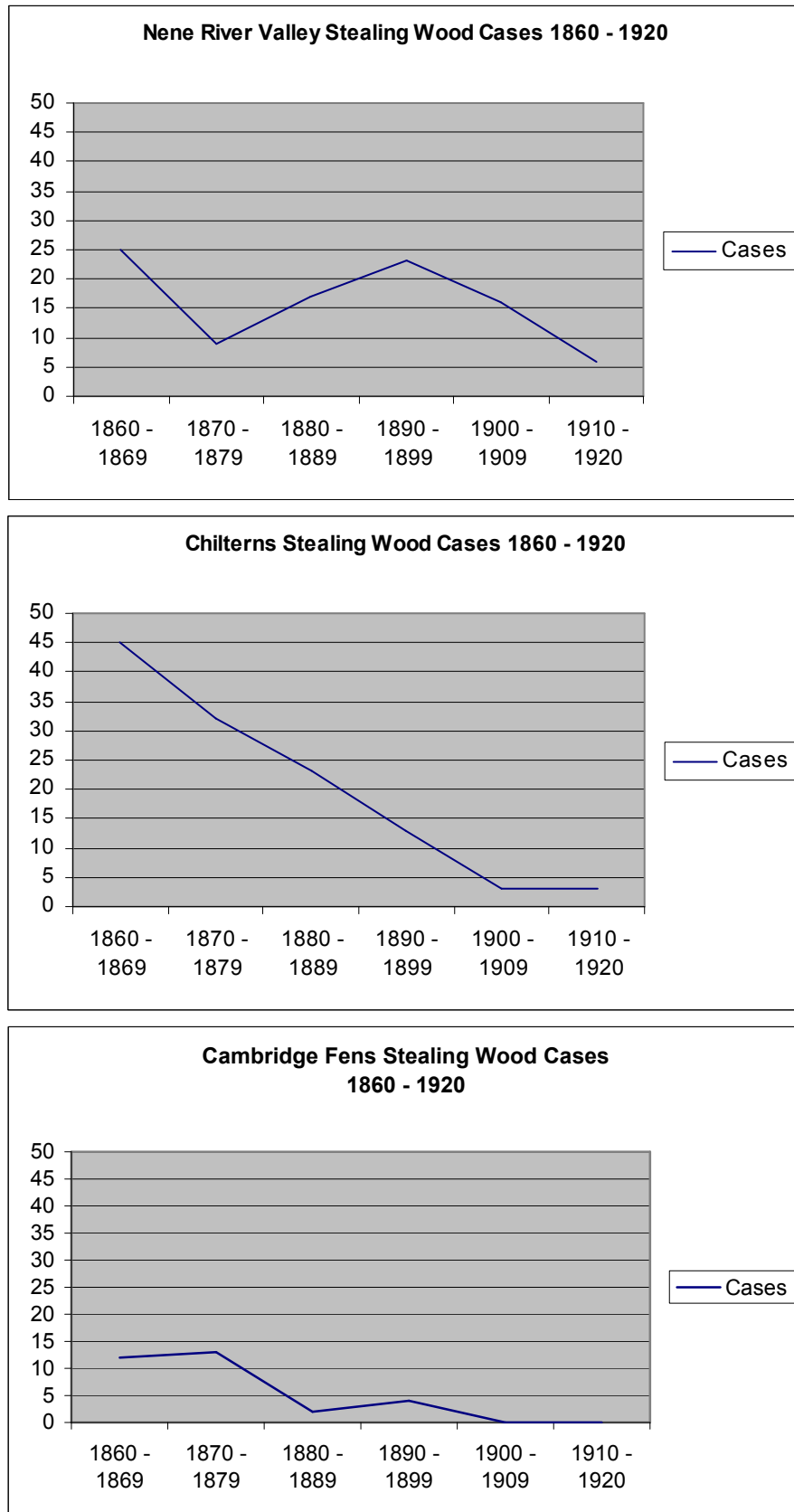
branches they could snap off: 'by hook or by crook'. Gt Marlow Petty Session, *Bucks Herald*, 28 January, 1860. Aylesbury Petty Session, *Bucks Herald*, 9 September, 1893.

<sup>161</sup> See figures 17 and 18.

<sup>162</sup> T.A.Rowell, 'Sedge in Cambridgeshire: Its Use and Production since the Seventeenth Century', *Agricultural History Review* 34, 1986, 140-148



Figure 18



Sources – Petty Session newspaper reports: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Much of the source material suggests that alterations to the landscape and limitations of access more frequently influenced and regulated customary activities than did the actual restrictions to those activities themselves. The place in which social crime was enacted, therefore, could itself have been significant. David Jones found that ‘a good number of offences in mid Wales and the Midlands occurred on disputed property or recently enclosed land’, and although the particular location of a crime was not regularly recorded in the newspapers used for this survey, where it was we find some good examples of crimes committed on the commons and wastes.<sup>163</sup> Henry Potter and George Draper, for example, were convicted of trespassing in search of conies on Berkhamsted common.<sup>164</sup> Ephraim Philibey damaged a dead fence at Lee common, Reuben Cox was accused of stealing holly from a place described as ‘common wood’, whilst George Hammond, Benjamin Simmonds and Richard Buckingham were all found guilty of trespassing in search of conies on ‘scrubland’ at Monks Risborough’.<sup>165</sup>

Indeed, forty six cases directly and specifically mention that a crime took place on common land, representing 1.68 per cent of all the cases surveyed for this database. There may have been many more which were not recorded, or in some cases the name of the old common land may have been changed to discourage local communities associating traditional customs and memories to the land. For example in 1868 Samuel Hart and Levi Gates were accused of trespassing in search of game on the ‘New Ground’.<sup>166</sup> Nevertheless, traditional customary knowledge and information about the land continued to be handed down through the generations. Charles Sells believed he had a right to fish on Boxmoor in 1863, an area which is still common land owned by the inhabitants of Hemel Hempstead and on which it is still, to this day, legal to fish free of charge.<sup>167</sup> Presumably tradition and local knowledge convinced Walter Birch that he had a right to take rabbits from the ‘Poor land’ in Tring.<sup>168</sup> Indeed, the designated terms and titles of areas of land very often caused confusion all round, and even the magistrates were not completely sure as to the legal status of common land. In 1888 a case was brought against a family from Great Marlow who had rights to cut furze on the

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<sup>163</sup> D.Jones, *Crime, Protest, Community and Police*, p. 70. See also the Holt rabbit case of 1850s and 1860s, which concerned ‘the Lows’, 120 acres of waste land in Norfolk that was at the centre of a dispute over the termination of traditional rights to catch rabbits. *Norfolk News* and *The Times*, 1856-1866, referred to by D. Jones, p. 71.

<sup>164</sup> Gt Berkhamsted, *Bucks Herald*, 5 May, 1860.

<sup>165</sup> Gt Missenden Petty Session, *Bucks Herald*, 15 December, 1860; Hemel Hempstead Petty Session, *Bucks Herald*, 25 December, 1875; Princes Risborough Petty Session, *Bucks Herald*, 1 December, 1860.

<sup>166</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 8 February, 1868.

<sup>167</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 13 June, 1863.

<sup>168</sup> Gt Berkhamsted, *Hertfordshire Mercury*, 20 June, 1863.

common, but were being tried for trespassing in search of game, the magistrates subsequently dismissed the case as ‘the ownership of the game on the common was not proved’.<sup>169</sup>

### Reasons for the continuation of social crime

Unlike some collective disturbances and riots, whose focus and cause was not always clearly outlined, social crime could be more likely to connect directly with any lost or altered custom.<sup>170</sup> Nevertheless, if we are to believe Edwin Grey’s account of Harpenden at the end of the nineteenth century, there was very little serious crime in rural areas: ‘the days of my boyhood and youth was free from any serious crime’ he said, ‘for I can remember nothing more startling than a poaching affray’.<sup>171</sup> So why were otherwise law abiding rural citizens prepared to commit such crimes? And are we in fact right to assume that certain forms of social crimes were always in response to the curtailment of customary rights? Perhaps the fact that 80-90 per cent of all poaching prosecutions were for the relatively minor offence of trespassing in pursuit of game during the ‘day-time’ suggests that the participants sought to convey a significant and specific statement.<sup>172</sup> For, although night poaching carried harsher sentences, surely there would have been far more opportunity and less chance of being caught or identified under the cover of darkness. The paradox is that although in many cases individuals appear to knowingly break the law - perhaps as an act of protest – they still did not consider themselves criminals. George Brooke, who was a poultry and game salesman from Leadenhall Market, confirmed this view when he was asked by Mr Bright of the Select Committee if a poacher was a thief, ‘no, certainly not, a poacher is not a thief’ he replied without any hesitation.<sup>173</sup> Similarly the Kettering Anti-Game-Law league unanimously agreed, at their meeting in 1873, that poaching was ‘an offence which none could consider a crime’, and in interviews carried out with men born in rural areas after 1890, Alun Howkins found that none would agree that poaching should be regarded as a crime.<sup>174</sup>

It continued to be difficult for ordinary people to personally reconcile their understanding of statutory law with their traditional knowledge of right and wrong. Even when caught and imprisoned their attitudes did not necessarily change. A prison inspector wrote in one of his reports

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<sup>169</sup> Gt Marlow Petty Session, *Bucks Herald*, 4 February, 1888.

<sup>170</sup> Poaching as a response to the lost opportunity to catch a rabbit for the pot, wood stealing in response to the loss of right to gather firewood etc.

<sup>171</sup> E. Grey, *Cottage Life*, p. 127-8. Edwin Grey’s reminiscences, generally, presented a rather idealistic picture of rural life.

<sup>172</sup> H. Osbourne, and M. Winstanley, ‘Rural and Urban Poaching’, p. 188.

<sup>173</sup> D. Johnson, *Victorian Shooting Days*, pp. 41-48.

that a twenty-four year old had been to jail three times for similar offences; he ‘thinks there is a difference between poaching and stealing’.<sup>175</sup> Scarboro’ Jack, a wildfowler and poacher from the fenlands, said he could ‘never see as how poachin’ is a crime or a sin, its only a misdemeanour, same as brawlin’ in church, gatherin’ a few mushrooms, [and] pluckin’ blackberries off hedges’.<sup>176</sup> Likewise, Griffith Evan Jones, a Welsh salmon poacher, declared in 1877, ‘I never stole anything in my life’ yet he then went on to ‘regale at length’ his adventures as a poacher.<sup>177</sup> Others showed signs of realising the different levels of acceptance within society and adjusted their behaviour accordingly. Tony, in Thomas Hardy’s *Life’s little Ironies*, told Hannah that he had a couple of ferrets in a bag, but warned ‘I don’t wish it knowed, as twould be called poaching’.<sup>178</sup> On the other hand, there were those whose undying beliefs were so strong that they simply chose to ignore new regulations that conflicted with traditional habits.<sup>179</sup> Hence, in some areas, it was very difficult for the authorities to compel individuals and communities to break the habits of a lifetime. The persistence of wood stealing at Botley Wood in the Chilterns, for example, forced Lord Rothschild to employ a watcher in the area, and when Harry West was asked by him, ‘who gave you permission to come here and take wood’, he answered in a rather blasé and unconcerned manner, ‘no one; we have always been in the habit of coming here for wood’.<sup>180</sup> In the same way as local inhabitants at Wellingborough continued to cross a private orchard, despite repeated warnings not to.<sup>181</sup>

In certain cases frustration, resentment and temptation could have fuelled social crime. The act of enclosure may have satisfied the needs of some at the expense of others who depended on the land for their subsistence. Consequently, frustration could be the driving force for defensive reactions.<sup>182</sup> To James Hawker, a poacher from Northamptonshire, the motivation to poach was a mix of bitterness and temptation. He said he did it more for revenge than for gain, writing that ‘the class that starved me certainly tempted me with all their game and fish’.<sup>183</sup> Thomas Easton had warned in the earlier years of the century that the forests themselves ‘tempts the poor to become poachers

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<sup>174</sup> Kettering: The Game-Law Question, *Northampton Mercury*, 7 June, 1873. A.Howkins, ‘Economic Crime and Class Law: Poaching and the Game Laws, 1840-1880’, in S.Burman, and B.Horrell-Bond, *The Imposition of Law*, p. 186.

<sup>175</sup> D.Jones, *Crime, Protest, Community and Police*, p. 70.

<sup>176</sup> M.J.Carter, *Peasants and Poachers*, p. 55.

<sup>177</sup> P.Horn, *Pleasures and Pastimes*, p. 119.

<sup>178</sup> T.Hardy, *Life’s Little Ironies*, (1894), chapter 5, p. 94.

<sup>179</sup> See D.J.V.Jones, ‘The Poacher’, p. 839.

<sup>180</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900.

<sup>181</sup> Wellingborough Petty Session, *Northampton Mercury*, 10 September, 1864.

<sup>182</sup> D.Katz, ‘The Functional Approach to the Study of Attitudes’, *Public Opinion Quarterly* (1960), p. 181.

<sup>183</sup> G.Christian (ed.), *A Victorian Poacher*, p. 95 and p. 3.

and timber stealers'.<sup>184</sup> The countryside and associated rural ways of life presented tempting seasonal opportunities too, which were unavoidable to those working on the land: rabbits running across the fields as they worked; ripe nuts and berries on the tree and bushes as they walked home; and dead fallen wood littering the footpaths and roads. Certain employments would have presented more temptations than others, so that cases such as that of Edward Higgins from Bovington are unsurprising, he was accused of trespassing after game while being employed to cut down nettles at Westbrook Hay.<sup>185</sup> Similarly, while watching over the farmer's pigs, George Baldry, a young lad in the 1880s, took the opportunity to gather elderberries for his mother's wine making.<sup>186</sup> Particularly interesting is Flora Thompson's recollection of how she and her brother had witnessed 'a neat bit of poaching'. They were hiding in a haystack when the last farm labourer to leave spotted a hare hiding near the stile, he stopped and pretended to tie his laces while his fellow workers walked ahead, when every one was out of sight he threw himself at the hare, caught it, killed it and stuffed it in his dinner basket.<sup>187</sup>

To avoid temptation, many gamekeepers considered it their responsibility to keep preservation game from straying on to the roads and footpaths, but the temptation was 'irresistible' to those who were 'sportsmen by constitution'.<sup>188</sup> Six shoe finishers from Ecton claimed that it was 'human nature to look down rabbit holes' when they were accused of searching for rabbits at Overstone in 1885.<sup>189</sup> Some described this impelling force as addictive. James Hawker wrote that although he had first taken up poaching because of poverty, he soon 'became addicted to it'.<sup>190</sup> In the same way as poaching was described by Frederick Rolfe as 'something like drug taking'.<sup>191</sup> In a life of hardships and discomforts, danger and risk, where the game and the hounds were better fed than the labourers themselves; social crime was an obvious form of oppositional activity and, to the local community, justifiable.<sup>192</sup> The mental attitude of those who accepted the inevitability of their plight

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<sup>184</sup> Appendix of statistical information on the parish of Eling attached to Thomas Easton, *Statements relative to the pauperisation of Kirriemuir, giving an account of Eling and other parishes in Hampshire* (Forfar, 1825) quoted in B. Bushaway, 'From Custom to Crime', in J. Rule (ed.), 'Outside the Law', p. 90.

<sup>185</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 11 September, 1897.

<sup>186</sup> G. Baldry, *The Rabbit Skin Cap*, p. 78.

<sup>187</sup> F. Thompson, *Lark Rise to Candleford*, p. 154. As the Chairman at a mass meeting in Aylesbury said: game preserving is like 'placing money in the streets and refusing to allow passers by to pick it up'. The meeting was arranged to collect money for the families of the convicted Aldbury poachers. H. Hopkins, *The Long Affray*, p. 280.

<sup>188</sup> By scattering supplementary feed away from roads and footpaths J. Wilkins, *An Autobiography of English Gamekeeper*, p. 387. Gilbert White, *The Natural History of Selbourne* (London, 1789; reprint 1965), pp. 31-2.

<sup>189</sup> Northampton Div Petty Session, *Northampton Mercury*, 5 December, 1885.

<sup>190</sup> G. Christian (ed.), *A Victorian Poacher* quoted in P. Horn, *Pleasures and Pastimes*, p. 120.

<sup>191</sup> L. R. Haggard (ed.), *I Walked by Night*, p. 68.

<sup>192</sup> M. J. Carter, *Peasants and Poachers*, p. xii.

may well have, in the same way, accepted the risks associated with social crime. Local populations adjusted their style of protest and opposition according to changing concepts and opinions towards crime, and of local social, economic, political and cultural factors. And some, as we shall see, chose to express their disapproval in even more subtle ways.

## EVERYDAY FORMS OF RESISTANCE

Everyday forms of resistance were often used as a mechanism by which opposition and disapproval could be expressed without direct physical confrontation or criminal activity. Its indirectness disguised, concealed and camouflaged most forms of overt or challenging behaviour while, to those who were aware of the intensity of local tensions, the hidden meanings of its shrouded language and covert actions were clearly understood. This analysis of everyday forms of resistance, which was associated with the loss of local subsistence customary rights, provides yet another perspective on the processes used by labouring communities to convey and express their attitudes towards popular culture throughout the late nineteenth and early twentieth centuries.

The anthropologist James Scott described everyday forms of resistance as ‘prosaic’ and ‘constant struggles’ that stopped ‘well short of outright collective defiance’.<sup>193</sup> Some historians claim that rural workers resorted to these individual and covert forms of resistance after the defeat of more open forms of protest.<sup>194</sup> Howard Newby, for example, believed that it was precisely during this period that ‘resistance took a more subterranean form’.<sup>195</sup> Other historians consider this separation rather ‘misleading’ as evidence from the eighteenth century suggests that resistance had frequently taken a more ‘sullen’ rather than ‘vibrant’ mode.<sup>196</sup> Nevertheless, the introduction of greater restrictions and changes in the ruling classes’ attitudes towards the status of popular culture would have almost certainly impacted on its organisation and forced many overt expressions underground.

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<sup>193</sup> J.C.Scott, *Weapons of the Weak*, p. xvi.

<sup>194</sup> Jeanette Neeson for example noted that ‘the ineffectiveness’ of village protest like petitions and riots ‘is significant in itself’. J.M.Neeson, *Commoners*, p. 263.

<sup>195</sup> H.Newby, *The Deferential Worker*, p. 64. Between Captain Swing in the 1830s and the revolt of the field in the 1870s. Refer also to historiography earlier in this chapter.

<sup>196</sup> See B.Reay, *Rural Englands*, p. 152; E.P.Thompson, *Customs in Common*, p. 115; and M.Bloc, *French Rural History*, p. 170 quoted in J.C.Scott, *Weapons of the Weak*, p. xvi: great millennial movements were ‘flashes in the pan’ compared to the ‘patient, silent struggles stubbornly carried on by rural communities’.

The problem for the historian in locating everyday forms of resistance is that they ‘make no headlines’.<sup>197</sup> Not only because of the subtlety of their expression, but perhaps through fear of undermining the authority of the ruling classes, or encouraging further antagonisms, the editors of local newspapers appear to have felt uneasy publicising widespread general insubordination and opposition. Of course it is quite feasible that attitudes towards, and interpretations of, everyday responses varied in diverse regional locations and across time, and therefore it is crucial to analyse an array of sources, the bulk of which convey evidence through the language used by accused perpetrators of petty crime, and descriptions given of body language, facial expressions and general behaviour.

These methods of dealing with and expressing opposition were well established in the nineteenth century, yet they constantly adapted in response to changing situations. The labouring poor had very rarely been afforded the luxury of direct confrontation without severe punishment, so for some, not unlike the slaves observed by Lawrence Levine, they exercised self-control, restraint, and deference.<sup>198</sup> However, their propensity to act and react with subtlety was often looked upon by the elite as being cunning or deceptive, yet psychologically to the individual, they did not so much have a need to engage in resistant behaviour as to ‘demonstrate the right to do so’.<sup>199</sup> Hence the purpose and outcomes of employing everyday forms of resistance could potentially, on the one hand, send clear messages of resistance to authority, while on the other, build the confidence of pro-active individuals who were awaiting a time when they could successfully assert their opinions and views openly. These labouring rural workers were the nineteenth century counterparts to Jeanette Neeson’s eighteenth century ‘shrewd realists’.<sup>200</sup> Everyday forms of resistance were a means of diffusing, and avoiding angry and violent outbursts, and could also serve to make those on the receiving end extremely uncomfortable. For although they may well have understood the meanings of the messages sent in language and gestures, they themselves were very often powerless to respond - a tactic used by the disempowered throughout history to the present day.<sup>201</sup>

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<sup>197</sup> J.C.Scott, *Weapons of the Weak*, p. xvii.

<sup>198</sup> For example Lawrence Levine observed that young black males had a cultural tradition of self-control training that taught them to absorb verbal insults without retaliating physically. L.Levine, *Black Culture and Black Consciousness* (New York, 1977), p. 358 quoted in J.C.Scott, *Domination*, p. 137.

<sup>199</sup> M.E.Heilman, and B.L.Toffler, ‘Reacting to Reactance’, p. 519.

<sup>200</sup> See J.M.Neeson, ‘The Opponents of Enclosure’, p. 116.

<sup>201</sup> As in the description given by an Israeli soldier of the stares received from Palestinian teenagers ‘their eyes show hatred...all the things they cannot say and all the things they feel inside of them, they put into their eyes and how they look at you.’ T.L.Friedman, ‘For Israeli Soldiers, ‘War of Eyes’ in West Bank’ 1988 in J.C.Scott, *Domination*, p. 155.

Clearly, many individuals intentionally used specific techniques that enabled them to undertake illegal actions with the minimum of risk, such as getting the keeper drunk so that a good evenings poaching could be had.<sup>202</sup> But it is difficult to say with any certainty how many of the ‘subtle’ acts of resistance found in this study were planned, or the messages they conveyed fully understood by the individual perpetrators. On the whole, anthropologists claim that everyday forms of resistance required ‘little or no co-ordination or planning’, and as such they mostly represented local sentiments and were rarely linked to outside issues or political movements.<sup>203</sup> These low profile techniques were said to have been ‘admirably suited to the social structure’ of a class ‘scattered across the countryside, lacking formal organisation’ yet, paradoxically, the number and period of continuation of everyday forms of resistance found in the sources suggests that they may have formed part of a much larger, deliberately formulated, defensive campaign of attrition.<sup>204</sup>

### Styles of resistance

These everyday forms of resistance were wide ranging, so working people often used a mixture of techniques to express their opposition to one particular controversial issue. For example, ordinary people who contested enclosure in eighteenth-century Northamptonshire used a combination of methods to express their dissatisfaction: foot dragging, moving new landmarks such as gates, posts and rails, stealing survey and field books, and using complex delaying tactics.<sup>205</sup> But, first and foremost, gossip and rumour were the most ‘familiar and elementary’ form of disguised popular aggression. Gossip and rumour had ‘no identifiable author, but scores of eager retailers who claim[ed] they [were] just passing on the news’.<sup>206</sup> It gave power to ordinary people and an opportunity to organise opinions and attitudes. Grumbling came next, which was described by John Walter as ‘the easiest and probably the first weapon of the weak’.<sup>207</sup> It was a form of ‘veiled complaint’ and the intention behind it was to ‘communicate a general sense of dissatisfaction without taking responsibility for an open, specific complaint’.<sup>208</sup> However, it was a style of resistance that was least likely to leave an impression in the official historical record. Yet messages transmitted in some forms of ballads, songs and poems could be construed as grumbling, in the

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<sup>202</sup> Alice Rushmer who lived in the Fens at the beginning of the twentieth century with her husband and nine children told Mary Chamberlain how one of the ways her husband got a good nights poaching was to go into the village and get the keeper drunk. M.Chamberlain, *Fenwomen*, p. 80.

<sup>203</sup> J.C.Scott, *Weapons of the Weak*, p. xvi.

<sup>204</sup> J.C.Scott, *Weapons of the Weak*, p. xvii.

<sup>205</sup> J. M.Neeson, *Commoners*, p. 262.

<sup>206</sup> J.C.Scott, *Domination*, p. 142.

<sup>207</sup> J.Walter, ‘Public transcripts, popular agency and the politics of subsistence in early modern England’, in M.J.Braddick, and J.Walter, (eds), *Negotiating Power*, p. 128.



same way as personal journal and diary entries often conveyed a general sense of moaning and groaning.<sup>209</sup>

Another form of basic, easily conducted, and common mode of resistance was that of simply making excuses. When James Turner was accused of trespassing after game he argued that he had only gone out to shoot a few larks.<sup>210</sup> A few weeks later in the same area, John Martin and John Allen both claimed to be only ‘after starlings’ when accused of the same.<sup>211</sup> The three men from Woolaston who were accused of trespassing after game at Wellingborough in 1893 all gave the same reply: that they were all ‘out for an innocent walk’.<sup>212</sup> In 1910 Alfred Rathbone’s excuse was that he was ‘looking for a rook to hang up as a scarecrow’.<sup>213</sup> These excuses may have been ‘just’ believable, but some petty criminals went too far, and thought they could get away with anything. Thomas Bush, accused of being in possession of 175 rabbits, said he’d ‘found them’.<sup>214</sup> And the notorious identical Fox twins continually used the ‘mistaken identity’ trick when they appeared in court.<sup>215</sup>

It was not mandatory for everyday forms of resistance to be subtle and elusive, for they could be extremely obvious, especially when individuals were disobedient, defiant, arrogant and assertive. Seventeenth and eighteenth century historiography implies that in order to defend their perceived rights the labouring poor actually fostered a ‘custom of disobedience’, and perhaps the same could be said of the nineteenth century labouring poor.<sup>216</sup> For example, when Henry Kingham was ordered to pay a fine for trespassing after game on land at Little Gaddesden he replied defiantly that he ‘would not pay a farthing’.<sup>217</sup> Similarly when three Hemel Hempstead men were all fined £2 for illegally fishing in the River Gade, the newspaper reported that one of the defendants shouted ‘if I

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<sup>208</sup> J.C.Scott, *Domination*, p. 154.

<sup>209</sup> For example John Clare’s various poems on enclosure, Oliver Goldsmiths ‘The deserted Village’, William Barnes ‘The Common a-took in’, Rudyard Kipling, ‘The Way through the Woods’, all from K.Baker, (ed.), *The Faber Book of Landscape Poetry*. And *The Journal of Henry Gibbons of Bledlow Ridge*, 1870, AR 87/94

<sup>210</sup> Kettering Petty Session, *Northampton Mercury*, 30 January, 1864.

<sup>211</sup> Kettering Petty Session, *Northampton Mercury*, 12 March, 1864.

<sup>212</sup> Wellingborough Petty Session, *Northampton Mercury*, 20 January, 1893.

<sup>213</sup> Northampton Div. Petty Session, *Northampton Mercury*, 1 July, 1910.

<sup>214</sup> Kettering Petty Session, *Northampton Mercury*, 15 September, 1905.

<sup>215</sup> J.Humphries, *Old Poachers*, p. 30.

<sup>216</sup> J.Brewer, and J.Styles, (eds), *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (London, 1980), p. 32. Even though there does not seem to be any regional distinctions in the forms of resistance.

<sup>217</sup> Hence he was swiftly committed to prison for three weeks. Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 9 May, 1860.

had £40 I still would not pay it'.<sup>218</sup> Mathew Bowers was particularly defiant when fined in 1892, he announced to the court that he had 'had more game than would pay for that fine since the previous harvest'.<sup>219</sup> In some instances defendants were unbelievably rude and disrespectful, ten men cutting underwood in 1868 'laughed' at Earl De La Warr's steward when he asked them to stop.<sup>220</sup> George Cooley of Boxmoor, arrived at court drunk and had to be 'ejected from the room' for misbehaviour, and the school log books highlighted the general unwillingness of local communities to obey authority.<sup>221</sup> The schoolmaster at Pytchley – who was probably annoyed at the numbers of extended absentees during the late gleaning season of 1882 - entered in the log book that 'several children left before time to go gleaning beans....several more parents came wanting dozens more, but I refused to allow them to go', even so, subsequent entries reveal that his directions went unheeded.<sup>222</sup>

### Language

Language was a significant component in the styles of everyday resistance and as an 'expression of thought' it is powerful evidence of nineteenth and early twentieth century popular attitudes.<sup>223</sup> Yet it is 'never as transparent or obvious as it [first] seems', for its very versatility and flexibility lends itself to continuous change, and regional and historical anomalies add to the difficulty of its precise interpretation.<sup>224</sup> Nevertheless, the essence of verbal and spontaneous utterances can tell us far more about attitudes than the written words of an official report. Here, as a source, local newspapers offer the historian a unique opportunity, for whatever his social status, political agenda or biases, the reporter often innocently captured the immediate reactions of the poor when he recorded their unadulterated words in his account of court proceedings. Autobiographies, novels and poems, on the other hand, need to be read with a little more care, for although they disclose the hidden transcripts - discourses that take place 'off stage', beyond direct observation of authority – they may be reworked, reworded and reinterpreted from their original source.<sup>225</sup>

The labouring poor used a common language resulting from 'a common outlook and experience', which could be both inclusive and exclusive.<sup>226</sup> Hidden codes communicated and shared ideas and

<sup>218</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 7 February, 1963.

<sup>219</sup> Ely Petty Session, *Cambridge Chronicle*, 1 January, 1892.

<sup>220</sup> East Grinstead Petty Session, March 1868, B.Short, 'Conservation, Class and Custom', p. 128.

<sup>221</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 21 October, 1893.

<sup>222</sup> Subsequent entries 'rest gone gleaning'. 275P/327 *Pytchley Endowed School*, 5 October, 1882.

<sup>223</sup> P.Atkinson. Language is Understanding [www.ourcivilization.com/undrstnd.htm](http://www.ourcivilization.com/undrstnd.htm)

<sup>224</sup> Editorial, Language and History, *History Workshop* 10 (1980) 5.

<sup>225</sup> Hidden transcript rather than public transcript. J.C.Scott, *Domination*, p. 5.

<sup>226</sup> Editorial, Language and History, *History Workshop* 10 (1980) 5.

opinions within one facet of the community while sending messages of disapproval and hostility to another. These distinct vocabularies offered a degree of autonomy and independence to subordinate groups and the meanings of certain words became polarized, adding power, force and pressure to their usage in everyday forms of resistance. When Samuel Garret claimed he had a ‘perfect right’ - that is by virtue of a common right - to fish in the river Nene, the members of the Nene Angling club felt just as strongly that they too had a ‘right’ - as laid down in statute law and on the grounds of membership. Nevertheless, Garret clearly disseminated and confirmed the continuing belief in customary ‘rights’ in his community, while at the same time challenging the authenticity of the clubs ‘rights’.<sup>227</sup> Similarly specific words and phrases could reflect the traditional beliefs of a group. Customarily collecting underwood, fallen sticks and branches, for example, was often referred to by the working community as ‘wooding’.<sup>228</sup> The authorities, on the other hand, did not seem to acknowledge that such words existed. Instead they used official language that labelled and stigmatised ordinary people by describing the activity as theft or trespassing, consistently emphasising property ownership and criminal wrongdoing.<sup>229</sup> In the *Dictionary of Historical Slang*, published in 1880, for instance, the gleaner was defined as ‘a thief of unconsidered trifles’.<sup>230</sup> Here we see that words could have dual connotations and be manipulated to have distinct meanings to different groups of people; they could be taken out of one social framework and forced it in to a new one.<sup>231</sup> The indignation of the labouring poor was conveyed and argued through the emphasis upon words such as rights, customs, access, time immemorial, obligations and responsibilities, conservation and preservation,<sup>232</sup> while the farmers and landowners felt similarly justified to defend their rights with the very same language.<sup>233</sup> So too, in the twentieth century, the word ‘access’ would be used in similar disputes, but here it would come to mean access for ‘air and exercise’, rather than to collect and forage, or for sport and leisure.<sup>234</sup>

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<sup>227</sup> Northampton Div. Petty Session, *Northampton Mercury*, 12 June, 1880.

<sup>228</sup> See for example Aylesbury Petty Session, *Bucks Herald*, 9 November, 1907 and various references in V.J.M.Bryant, *A History of Potten End*.

<sup>229</sup> The woodgather described as a wood stealer in *Hampshire County Magazine*, 1787, in B.Bushaway, “‘Grovely, Grovely’”, p. 38. Such as wilfully ‘injuring a crop of grass’ rather than just stating that an individual had taken a short cut over a field or used an ancient right of way. Ely Petty Session, *Cambridge Chronicle*, 22 June, 1872.

<sup>230</sup> E.Partridge, *A Dictionary of Historical Slang*, abridged by J.Simpson, (1972), p. 378, quoted in J.M.Neeson, *Commoners*, p. 184.

<sup>231</sup> See F.N.Spender, *Man Made Language* (London, 1980).

<sup>232</sup> For example gleaners claimed long standing collective rights based on – a right to gather, of access, an obligation to preserve their customary rights, rights that had been held from time immemorial.

<sup>233</sup> Emphasising that they believed to be their long-term property rights, which prohibited access to the land in order to preserve and protect the game and conserve the countryside for their own personal leisure.

Everyday forms of resistance were made up of more than just words; the way in which they were spoken and the body language that accompanied them were just as significant. In Roy Wagner's opinion expression and communication were 'interdependent'; neither were possible without the other.<sup>235</sup> Even tones, accents and ways of speech suggested Alun Howkins, transform our historical understanding of the sources.<sup>236</sup> When Thomas Fitchugh, told the court, 'I ain't gonna pay', the grammar, pronunciation and tone of this short sharp sentence conveyed additional information of his class, education, insolence and blasé attitude towards authority. Unfortunately written records very rarely captured hesitance and repetitiveness or the gestures associated with speech that affects its meanings, all of which can be so revealing in everyday discourses.<sup>237</sup> Nonetheless, even silence could be an everyday form of resistance and thereby an indication of individual or collective attitudes: refusing to give evidence, to defend oneself, to name an accomplice, or inform on a known offender. When Albert Garrett was caught trespassing in search of game, he would not give his name to the keeper, and as a consequence was fined an extra 2s.<sup>238</sup> Similarly, Frank Gomm was fined an extra 5s for giving an incorrect name when he was apprehended.<sup>239</sup>

The most straightforward form of everyday resistance used clear and truthful language that made no attempt to cover, conceal, moderate or diminish its tone, nor did it offer hostile or aggressive opposition. In 1857, William Hagon told the court, 'I committed no trespass. The land belongs to my cottage, and rabbits are God's free creatures to be taken by any who can get 'em'.<sup>240</sup> Richard Jeffery of Yardley Hastings was very direct in his response to the court on the 24 December 1864 when he boasted that he intended to go to jail for Christmas dinner.<sup>241</sup> At the same time, straight and clear language could be challenging without being threatening. Even though George Humphrey denied taking fish from a pond on Berkhamsted Common, he challenged the landowner's rights by stating 'if Lord Brownlow wanted to keep fish he should keep them somewhere else'.<sup>242</sup> When asked who had given him permission to enter Botley Wood, Harry West calmly replied 'no one'. By making no attempt to cover up, defend himself or make an excuse, and by continuing his defence

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<sup>234</sup> A ruling by the judge in the A.G.v Southampton Corporation 1969 case quoted in P.Clayden, *Our Common Land: The Law and History of Commons and Village Greens* (Oxford, 1985), p. 53 and see also chapter 4.

<sup>235</sup> R.Wagner, *The Invention of Culture* (New Jersey, 1975), p. 36.

<sup>236</sup> A.Howkins, *Poor Labouring Men*, p. xi. Accent and dialect obviously connected to certain regions.

<sup>237</sup> See M.Gaskill, *Crime and Mentalities* p. 24; L.Hunt, *New Cultural History* (London, 1989), pp. 1-22. See P.Corfield, (ed.), *Language*, p. 14.

<sup>238</sup> Chesham Petty Session, *Bucks Herald*, 6 June, 1903.

<sup>239</sup> Chesham Petty Session, *Bucks Herald*, 20 May, 1893.

<sup>240</sup> Holt Petty Sessions, March 1857, quoted in R.Lee, *Unquiet Country*, p. 101.

<sup>241</sup> As he had done before, Northampton Div. Petty Session, *Northampton Mercury*, 24 December, 1864.

<sup>242</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 6 June, 1885.

with ‘we have always been in the habit of coming here for wood’, he challenged the establishment by putting the onus onto the prosecution to prove that there was no right to do so.<sup>243</sup>

### Stratagems

The previous example was just one of many everyday strategies used by the labouring poor to state their opposition to the curtailment of customary rights. In 1990 Mick Reed wrote that there was a great need for more research into this subject.<sup>244</sup> Regrettably it has been impossible, with the sources available, to discover whether specific styles of everyday forms of resistance were distinct to a particular region. However, this study has ascertained that the labouring poor used a wide range of diverse forms of resistance, which changed and adapted with the coming of new ideas and situations. Even so, many everyday strategies continued to adhere to the social principles of natural order, hierarchy and subordination.

Feigning deference is a good example of this.<sup>245</sup> Deference itself was the outward expression of conformity, where the appropriate ‘language of humility’ and the ‘subordination of position’ appeared to be willingly applied.<sup>246</sup> Some historians have stated that, during the second half of the nineteenth century, workers were readily obedient and deferent because they had a ‘fatalistic acceptance of their own humble place in society’.<sup>247</sup> In the same way Howard Newby believed that ‘for the most part they resigned themselves to the[ir] situation, [and] bit their tongues rather than speak out’.<sup>248</sup> This was not to say that social discontent did not exist, just that ‘by and large it was kept under the surface’.<sup>249</sup> The actual acts of deference – saluting, bowing, curtsying, and touching the forelock – could themselves be seen as ritualised and habitual. These were superficial behaviours that gave the impression of deferential countenance, while not necessarily expressing the true attitudes of their performers and therefore the behaviour could be very ‘calculative’ in the realms of everyday resistance.<sup>250</sup> So public compliance did not necessarily denote private acceptance; it was easy to disagree privately or anonymously, but psychologically people were more likely to conform when their behaviours were made public or an authoritative figure was close

<sup>243</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900.

<sup>244</sup> Was discussing how conflict extended beyond set forms of protest in the countryside and thus of the differing forms of conflict, and the variety of strategies used to deal with them. M.Reed, and R.Wells, (eds), *Class, Conflict and Protest*, pp. 100 – 112.

<sup>245</sup> See P.Burke and R. Porter (eds), *The Social History of Language*. For discussion on the power of language.

<sup>246</sup> M.J.Braddick, and J.Walter, (eds), *Negotiating Power*, p. 136.

<sup>247</sup> T.Wild, *Village England: A Social History of the Countryside* (London, 2004), p. 70.

<sup>248</sup> H.Newby, *The Deferential Worker*, p. 162.

<sup>249</sup> T.Wild, *Village England*, p. 70.

by.<sup>251</sup> Nevertheless it is difficult to assess statistically how many actively manipulated the rituals of subordination with a tactical smile and a polite greeting of deference, or to what degree the accused framed their answers so not to directly offend, and thereby conceal and disguise their true feelings towards authority.

For some, playing up to stereotypical expectations was another potentially advantageous strategy. This tactic could greatly benefit the labouring poor by lowering the general expectations of the higher classes.<sup>252</sup> Once Frederick Baldwin's mother had paid his fine for taking wood from Aldbury common, she rather characteristically asked if she could have the wood - 'now that she had paid for it'.<sup>253</sup> Just as Frank Putman, one of three young men convicted of trespassing in search of game, impertinently asked 'can we have our game back now?'<sup>254</sup> Similarly the local newspaper correspondents often noted nonconforming stereotypical characteristics. William Cliff, who was convicted of cutting ferns, was described as 'a man of respectable appearance', while George Wright of Aldbury, was characterised as 'a decent looking labourer'.<sup>255</sup> Perhaps Frederick Ludgate, Thomas Martin and Ernest Howard were let off with a caution because they were depicted as 'respectable looking lads', in the same way as William Meadows and John Barrat, 'two respectably attired men' had their case discharged.<sup>256</sup> Either way the labouring population, in the same way as the landowners, magistrates, police and gamekeepers, needed to guard against becoming too predictable. When a poacher gathered information of a policeman's beat or a keeper's route, to aid his own movements, there was an equal chance that his adversaries would play him at his own game. A gamekeeper would often empty his pipe at known gates or stiles, deliberately leave his coat in the woods, or keep his lantern burning all night, in order to catch the poacher out.<sup>257</sup> Here

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<sup>250</sup> H.Newby, 'The Deferential Dialectic', *Comparative Studies in Society and History* 17 (1975) 143.

<sup>251</sup> A.Cash, *Psychology*, p. 179. Numerous examples for this can be found in chapter three and the last section of this chapter that deals with class relations.

<sup>252</sup> For example 'slaves who artfully reinforced their master's stereotyped view of them as shiftless and unproductive may well have thereby lowered the work norms expected of them', Erving Goffman, *Relations in Public: Microstudies of the Public Order* (1971), p. 339 in J.C.Scott, *Domination*, p. 34.

<sup>253</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 24 February, 1883.

<sup>254</sup> Ivinghoe Petty Session, *Bucks Herald*, 5 March, 1910.

<sup>255</sup> Beaconsfield Petty Session, *Bucks Herald*, 24 November, 1883. Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 24 January, 1885.

<sup>256</sup> Beaconsfield Petty Session, *Bucks Herald*, 16 May, 1885. Kettering Petty Session, *Northampton Mercury*, 19 November, 1864.

<sup>257</sup> See John Wilkins, *An Autobiography of an English Gamekeeper*.

too the opportunity to mock and humiliate - another form of everyday resistance – could be enacted.<sup>258</sup>

The paradox of these forms of resistance is that, in order for them to have the desired effect, a certain amount of skill, knowledge, intelligence and understanding was required, yet one of the most frequently used everyday forms of resistance was that of feigning ignorance and stupidity.<sup>259</sup> In the eighteenth century the slowness of the countryman had often been equated with stupidity, but as Edward Thompson argued, it was in fact his realisation that he needed to ‘conserve his energy’ if he was to get through the long days of heavy labour, that caused him to act this way.<sup>260</sup> Similarly, as Joseph Arch pointed out in the late nineteenth century, ‘a man with the weight of many masters on him learns to be dumb, and deaf, and blind, at a very early hour in the morning’.<sup>261</sup> By playing dumb and acting up to perceived stereotypes, the labouring poor could screen their direct opposition with ignorance. This strategy of ‘refusing to understand’ and feigning ignorance formed part of multiple legal defences.<sup>262</sup> The Kinghams expressed their ‘regret and ignorance’ when they were caught illegally fishing in Tring Reservoir.<sup>263</sup> Similarly Richard Barrett and John Roksby of Raunds ‘pleaded ignorance’ when accused of illegally fishing on the river Nene.<sup>264</sup> Pleading ignorance was not only an approach reserved for the labouring classes. When George Baker, a gentleman with shooting rights, was quizzed on his understanding of local customary rights he too pleaded ignorance, stating, ‘I know nothing of that’.<sup>265</sup> On the other hand some defendants were truly stupid, and they made no attempt to conceal the fact. George Edward Gray caught ferreting at Great Oakley, ‘repeatedly implicated himself’, during cross-examination.<sup>266</sup> Similarly, one of the four defendants accused of trespassing after game at Little Houghton rather stupidly stood up in court

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<sup>258</sup> Such as at the second Rebecca Riots in 1880, when salmon poachers on the river Wye fixed a stale salmon to the market hall in Rhayader with a mocking note. ‘where were the river watchers when I was killed? Where were the police when I was hung here?’ P.Horn, *Pleasures and Pastimes*, p. 119.

<sup>259</sup> Of custom, law, relationships, landscape, activities of gamekeeper and police, attitudes of local community. etc.

<sup>260</sup> E.P.Thompson in R.Palmer (ed.), *The Painful Plough* (Cambridge, 1973), p. 5. See also M.Freeman, ‘The Agricultural Labourer and the ‘Hodge’ Stereotype, c. 1850-1914’, *Agricultural History Review* 49 (2001) 172-186.

<sup>261</sup> Joseph Arch, quoted in R.Palmer (ed.), *The Painful Plough* (Cambridge, 1973), p. 4.

<sup>262</sup> See E.Hobsbawm, ‘Peasants and Politics’, *Journal of Peasant Studies* 1 (1973) 13. He equates it to a form of class struggle.

<sup>263</sup> F and G Kingham, Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 24 April, 1880.

<sup>264</sup> Both said they were unaware that it was the angling association’s waters. Thrapston Petty Session, *Northampton Mercury*, 25 January, 1907.

<sup>265</sup> In the Holt Lows court case, R.Lee, *Unquiet Country*, p. 111.

<sup>266</sup> Kettering Petty Session, *Northampton Mercury*, 7 December, 1900.

and pretty much admitted the offence by saying that there was in fact five individuals and the witness did not get within a quarter of a mile of the group, so how could he have identified them?<sup>267</sup>

Even though resistance to the loss of customary rights had up to this period been essentially ‘a local matter’, ethnographical and anthropological studies reveal that the strategies used by ‘subordinates’- in different regions, countries and periods in history - shared very similar traits.<sup>268</sup>

In a dispute over fishing rights on the Great and Little Ouse River, the local men of Brandon Creek first boycotted the Ship Inn when the landlord became the water bailiff, next they covered the tow path with tintacks in a deliberate attempt to puncture the local policeman’s bicycle tyres, and finally, an old fen man, Chafer Legge, arranged for a solid line of anglers to be found on Sunday morning fishing the banks between Brandon Creek and Littleport. When the Bailiff, assisted by two policemen, arrived each angler solemnly reeled in his line, at the end of which were old tins, bricks, old boots and nail studded bicycle tyres.<sup>269</sup> Here was a community responding to local and internal pressures that could have emerged in any of the regions investigated. Clearly much more work needs to be done on this subject. However, the sources collected for this study do tend to suggest that, although many individual isolated acts of everyday resistance may have been unplanned and uncoordinated, they were nonetheless widespread and various. They worked in conjunction with other forms of opposition that expressed the attitudes of the labouring classes and their continuation appears to have formed part of an overall strategy of attrition, nibbling away at local policies, costing the courts time and money, and humiliating and mocking wherever possible. It was these repetitive forms of ‘attitudinal responding’ that caused overall attitudes to strengthen and for resistance itself to become part of local culture.<sup>270</sup>

## CLASS INTERPLAY

Many underlying tensions and antagonisms relating to the reformation of popular culture culminated in hostility and conflict between the classes.<sup>271</sup> The assortment of opinions, attitudes,

<sup>267</sup> Northampton Div. Petty Session, *Northampton Mercury*, 27 March, 1903.

<sup>268</sup> J.M.Neeson, ‘An Eighteenth-Century Peasantry’, in J.Rule, and R.Malcomson, (eds), *Protest and Survival: The Historical Experience* (London, 1993), p. 49. Similarities of power relations and strategies of resistance in cases involving slavery, serfdom and caste subordination in J.C.Scott, *Domination*, p. xi.

<sup>269</sup> E.Porter, *Cambridgeshire Customs and Folklore* ( London 1969), pp. 232-233.

<sup>270</sup> Fazio, 1986 in A.H.Eagly, *The Psychology of Attitudes*, p. 681.

<sup>271</sup> For definitions and discussion on class see E.P.Thompson, *The Making of the Working Class*; E.P.Thompson, ‘Eighteenth-Century English Society: Class Struggle without Class?’, *Social History* 13 (1978); W.M.Reddy, ‘The Concept of Class’, in M.L.Bush (ed.), *Social Orders and Social Classes in Europe since 1500: Studies in Social*



and interpretations of custom, law, crime, and language were extremely variable.<sup>272</sup> Enclosure and the loss of subsistence customary rights had, in the opinion of Douglas Hay and Nicholas Roger, helped to ‘fuel the fires of rural class grievances’.<sup>273</sup> It ‘informed, legitimised, and sharpened class politics’ noted Jeanette Neeson.<sup>274</sup> Nevertheless class remained essentially a relationship, which saw a ‘structural reordering’ in the latter half of the nineteenth century.<sup>275</sup> As such, many historians have seen rural tensions as part of a process to achieve and maintain traditional social alignments, for this was a period when every member of the community knew his or her place and few would have wished to actually change it.<sup>276</sup> By examining the internal and external conflicts of the rural classes, this section aims to extrapolate their divergent attitudes. Again the vast majority of the source material has come from local and regional newspapers, where from the language and behaviour exhibited in the courtrooms, historians in the twenty first century, can witness the interplay between the accused, accuser, witnesses and magistrates.

There were many contradictions in the delineation of the classes. Even Edward Thompson found some of the terms used to describe and define different groups of people very ‘vague’, such as the ‘gentry’ and the ‘labouring poor’. Yet essentially, and particularly significant in this study, he believed that ‘land remained the index of influence, the plinth on which power was erected’.<sup>277</sup> Such power was correspondingly relative to the amount and type of land owned. In the 1870s, John Bateman defined no less than eight classes of landowners in his survey of the counties.<sup>278</sup> This rural hierarchy based on specific types of land ownership was to become somewhat altered over the

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*Stratification* (London, 1992); and M.Reed, ‘Class and Conflict in Rural England: Some Reflections on a Debate’, in *Class Conflict and Protest*. Where landownership was concentrated in the hands of one or two proprietors stratification was at its clearest. ‘At the head of affairs stood the principal landowner, followed by other gentry living in the parish, and then by the parson, the substantial farmers, the rural craftsmen, the shopkeepers and the small holders. At the bottom of the scale came the agricultural labourers and their families. .... where there was no resident proprietor, notably in ‘open’ parishes where land ownership was widely dispersed, the parson was perhaps the only ‘gentleman in the community, and the social divisions were less marked’. P.Horn, *Labouring Life*, p. 8.

<sup>272</sup> C.E.Searle, ‘Custom, Class Conflict and Agrarian Capitalism: The Cumbrian Customary Economy in the Eighteenth Century’, *Past and Present* 110 (1986) 120.

<sup>273</sup> D.Hay and N.Rogers, *Eighteenth-Century English Society: Shuttles and Swords* (Oxford, 1997), p. 101.

<sup>274</sup> J.M.Neeson, ‘An Eighteenth-Century Peasantry’, in J.Rule, and R.Malcolmson (eds), *Protest and Survival*, p. 59. He believed that rural England was ‘a theatre for the making and remaking of class relations’.

<sup>275</sup> W.M.Reddy, ‘The Concept of Class’, in M.L.Bush (ed.), *Social Orders and Social Classes*, p. 16; E.P.Thompson, *The Making of the Working Class*; E.P.Thompson, ‘Eighteenth-Century English Society’, p. 165. ‘Rural England comprised not of static, or normative, class conflicts but rather of mutable social alignments’. D.Eastwood, ‘Communities, Protest and Police in early Nineteenth-Century Oxfordshire’, p. 35. This was also the opinion of J.Neeson, J.Archer, K.D.M.Snell, and A.Howkins.

<sup>276</sup> D.Eastwood, ‘Communities, Protest and Police’, p. 35. He suggests that Jeanette Neeson, Keith Snell, Roger Wells, John Archer and Alun Howkins were of the same opinion. See also F.Thompson, *Lark Rise to Candleford*, p. 417.

<sup>277</sup> E.P.Thompson, *Customs*, p. 16.

<sup>278</sup> J.Bateman, *The Great Landowners of Great Britain and Ireland* (Leicester, 1971), p. 501. See appendix 16.

century and consequently the disparity in local attitudes widened.<sup>279</sup> However, as Mick Reed reiterated, there were ‘no simple lines of cleavage’ to separate the opposing groups, and, as we shall see, alliances and oppositions were said to have shifted, broken and reformed in response to contemporary economic, legislative and environmental factors.<sup>280</sup> Class hierarchy existed not only across the system but also within it. The occupation of gamekeeping, for example, had its own hierarchy: the head gamekeeper, second keeper, beat keeper, under keeper, apprentice keeper, dog boy and beaters.<sup>281</sup> Different sets of beliefs held by different social classes produced different attitudes.<sup>282</sup> As such, the range of opinions within this one class tier, from the gamekeeper, who rubbed shoulders with the aristocracy, to the beater who probably spent most of his time labouring on the fields, would have differed vastly and presumably strained relations within, as well as outside, of any particular group.

Even though class relationships had altered extensively throughout the late eighteenth and early nineteenth century, the pattern of landownership and the number of large landowners still determined the spread of game preserves and the extent of permissive access to the land.<sup>283</sup> This in turn may have influenced the intensity in which local traditional subsistence customs were pursued and the amount of local petty crime. The bulk of landownership in England and Wales during this period was concentrated in the hands of a few; in 1873 seven thousand families owned four-fifths of the British Isles.<sup>284</sup> In some counties the role of the very large landowners was particularly prominent.<sup>285</sup> This was true of Northamptonshire, where as far back as 1610 John Norton wrote ‘No shire within this land is so plentifully stored with Gentry’.<sup>286</sup> Nationally, in the 1870s, one hundred and two landlords with estates of 1000 acres or more owned 57 percent of the land.<sup>287</sup> If we

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<sup>279</sup> Hereditary aristocratic rule altered due to social, economic and political changes and a subsequent influx of entrepreneur self-made moneyed men into the countryside. See chapter 3 for further discussion and F.M.L.Thompson, *English Landed Society*.

<sup>280</sup> M.Reed, ‘Class and Conflict in Rural England: Some Reflections on a Debate’, in *Class Conflict and Protest*, p. 23. Kate Tiller found this in nineteenth century South Oxfordshire where solidarities associated with rural resistance were far more complex than any simple ‘monolithic class model’, K.Tiller, ‘Rural Resistance in South Oxfordshire’ in O.Ashton et al (eds), *The Duty of Discontent*, p. 98.

<sup>281</sup> ‘The gamekeeper was as much a symbol of Victorian values as was the workhouse and the factory gate’. D.S.D.Jones, *The English Gamekeeper*, p. 2.

<sup>282</sup> See A.H.Eagly, *The Psychology of Attitudes*, p. 668. ‘People on opposing sides of attitudinal issues...base their attitudes on different sets of beliefs’.

<sup>283</sup> See A.Howkins, *Reshaping Rural England*, chapter 9 and C.E.Searle, ‘Custom, Class Conflict and Agrarian Capitalism’.

<sup>284</sup> J.Bateman, *Great Landowners*.

<sup>285</sup> P.Horn, *The Rural World*, p. 223.

<sup>286</sup> R.L. Greenall, *A History of Northamptonshire*, p. 52. It was specifically famous for its hunting, and ease of access, for no part of the county was more than two and a half days ride from London.

<sup>287</sup> R.L.Greenall, *A History of Northamptonshire*, p. 65.

compare the counties of Northamptonshire, Cambridgeshire and Buckinghamshire, we find that of the top five landowners in each county, all of Northamptonshire's owned more than 14,000 acres, while only two of Cambridgeshire's and only one of Buckinghamshire's did.<sup>288</sup> Jeanette Neeson implied that where occupancy was concentrated in a few hands, 'commoners might also be few', whereas where landholdings were more diffuse there was a greater number of commoners.<sup>289</sup> We may therefore surmise, that where local populations lacked official commoning rights and great swathes of land were owned by large landowners, such as in the Nene River Valley, that examples of conflict associated with customary rights requiring access to land may be greater than in areas where landholdings and settlements were more diffuse, such as in the Cambridge Fens. If we express the number of all owners of land in the 1870s recorded by John Bateman as a percentage of the county population taken from the 1871 census, we find that 5.83 per cent of the population owned land in Northamptonshire, compared to 6.39 per cent in Buckinghamshire and 6.86 per cent in Cambridgeshire.<sup>290</sup> These percentages can then be compared with the number of crimes recorded on the database. In the Nene River Valley there were a total of 1,373 petty crime cases potentially associated with customary subsistence rights; 1,166 were recorded in the Chilterns; but surprisingly only 193 cases for the whole period were recorded in the Cambridge Fens.<sup>291</sup> It is difficult to draw any decisive conclusions from these figures, and it must not be forgotten that these are totals for each county and the database is of set regions. This point is particularly significant when referring to the Cambridge Fens, for its landscape and the patterns of dispersed settlement would have contrasted greatly with the lowland towns of the county. Nonetheless, there is a little less landownership and more crime in Northamptonshire and if we are more specific in our analysis of these figures they prove to be slightly more tantalising. The numbers of peers and great landowners holding land in the each of the counties account for 0.014 per cent of the Buckinghamshire population, 0.014 per cent of Northamptonshire population, but only 0.007 per cent of Cambridgeshire.<sup>292</sup>

### Division of attitudes

By analysing the attitudes, which were evident in the responses and behaviours of those who felt that their rights were threatened or indeed had been extinguished, we can also view the subsequent

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<sup>288</sup> K. Cahill, *Who Owns Britain* (Edinburgh, 2001). See appendix 8.

<sup>289</sup> J. M. Neeson, *Commoners*, p. 75.

<sup>290</sup> Population in 1871: Northamptonshire = 248,234, Buckinghamshire = 155,007, Cambridgeshire = 192,033.

<sup>291</sup> Refer back to figure 11.

attitudes of those who were in conflict with them or on the periphery of any disagreements. Rather than forming their views on any logical assessment of popular traditional customs, economic pressures or changes in the law, large landowners, gentry and gamekeepers often based their opinions, not only on personal cultural experiences, but also on their perceptions of the actions and conduct of those who claimed to be asserting their customary rights. There was a gulf between the cultural opinions of the great landowners and the labouring population during this period.

Government – which consisted of the landed classes and representatives of the Church - made the law. The law gave landowners, and the Church, the monopoly of rights to and over the land, and the gentry enforced these laws in their capacity as Justices of the Peace. Law was therefore an instrument of class power and it often ‘cut across the customary practices of the governed’.<sup>293</sup> To Frederick Rolfe, who claimed that game was as much his as it was the landowners, property law, so fundamentally essential to the rich, was inconsistent with traditional popular views.<sup>294</sup>

In comparison to the attitudes towards lowly class poachers, who a correspondent to *The Field* described as having ‘no right to be considered save as a robber and a law breaker’, the breaking of property and game laws by the gentry was not deemed as serious: ‘the unlawful hunting by gentlemen was not deemed a disgrace’ wrote William Chafin.<sup>295</sup> The rationale often cited for such behaviour was that tracking, chasing, hunting and killing served as a ‘rehearsal for war’, but this was not an argument that remained valid in the closing years of the nineteenth century.

Nevertheless, hunting remained an important and integral part of aristocratic culture and hostility against the vast tracts of land preserved for it became particularly acute at times of depression, high unemployment and food shortages.<sup>296</sup> The Anti-Game-Law League claimed in 1873 that game kept ‘no less than fifteen million acres of land out of cultivation, land which would, if properly cultivated, produce more than enough to feed the entire population of this country’.<sup>297</sup> Hunting events, such as the shooting party hosted by Earl Brownlow in 1865, would have only served to

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<sup>292</sup> We will continue this discussion in the next chapter when we can compare statistics with the available acreage of commons and wastes.

<sup>293</sup> J.G.Rule, ‘Social Crime in the Rural South’, p. 135.

<sup>294</sup> See Lillias Rider Haggard (ed.), *I Walked by Night*.

<sup>295</sup> M.J.Carter, *Peasants and Poachers*, p. 56. Referring to the late eighteenth century. P.B.Munsche, *Gentlemen and Poachers*, p. 7.

<sup>296</sup> R.B.Manning, *Hunters and Poachers: A Cultural History of Unlawful Hunting in England 1485-1640* (Oxford, 1993), p. 35. Refer back to figures 1 and 2.

<sup>297</sup> Kettering: The Game-Law Question, *Northampton Mercury*, 7 June, 1873.

polarize such antagonisms, especially when the hungry poor heard that they had bagged 1,853 head of game.<sup>298</sup>

Even though the attitudes of different levels of society may have been formed in very different ways, it was possible for two people, from two different levels of society, to have identical attitudes towards a particular issue.<sup>299</sup> Summoning to, or passing judgement at, the petty sessional courts did not necessarily typify the personal opinions of the magistrates, clergy or landowning farmers. Mr Parker for example told the court that he had once heard the Squire say that he reckoned a man was ‘a fool who could not pick up anything that laid in front of him’.<sup>300</sup> When John Cherry of Little Harrowden expressed his regret at damaging the growing holly tree and promised not to offend again, Mr Arthur Young, seemed only too willing to drop the charge against him, and paid the court’s costs himself.<sup>301</sup> Even more extraordinary was a case of a fatherless, unemployed young lad, who was involved in a poaching incident in Tring. On this occasion a ‘gentleman’ and ‘stranger’ in the court came forward to pay the fine.<sup>302</sup> Alternatively two closely connected groups could have strong and opposing opinions. Contrary to his rental agreement, Mr Bankart instructed his gardener, John Chalk, to put traps in the garden where the rabbits ate his shrubs. The court seemed unwilling to bring a case against Mr Bankart, a man of some status, so they directed that the accusation against the gardener for trapping rabbits would be dismissed only if Mr Bankart himself paid the expenses of the court.<sup>303</sup> These non-landowning gentlemen, as tenants of the aristocracy and large landowners, found themselves in a position of ambivalence, often forced into an uncomfortable alliance with the lower classes.

Farmers often found themselves in similar situations. They were a complex and diverse group, varying greatly in economic consequence and social status. For example the large, progressive, innovative, capitalist farmers felt more akin to the great landowners than their tenanting counterparts.<sup>304</sup> Small farmers, mostly tenants, with less disposable wealth, identified closely with the local community and often led disputes within the neighbourhood themselves. During the long-

<sup>298</sup> At Little Gaddesden and Ringshall Copse, Ashridge, *Bucks Herald*, 4 February, 1865.

<sup>299</sup> R.E.Petty, *Attitudes and Persuasion*, p. 27.

<sup>300</sup> Mr Parker’s son Herbert had been brought before the court for picking up wood, which he claimed, was old and rotten. Aylesbury Petty Session, *Bucks Herald*, 9 September, 1893.

<sup>301</sup> Wellingborough Div. Petty Session, *Northampton Mercury*, 11 January, 1907.

<sup>302</sup> Gt Berkhamsted, *Bucks Herald*, 24 January, 1863.

<sup>303</sup> Watford Petty Session, *Hertfordshire Mercury*, 11 March, 1865.

<sup>304</sup> P.Horn, *The Changing Countryside*, p. 12. William Howitt described them as the little kings of village life, *The Rural Life of England* (London, first published in 1838), quoted in B.Reay, *Rural England*, p. 12.

running enclosure disputes at Otmoor, local farmers ‘found themselves prominent agents’.<sup>305</sup> Similarly the anti-enclosure dispute at Burwell, Cambridgeshire, was led and organised by an individual farmer named Edward Balls.<sup>306</sup> It was the game laws in particular that brought the farmers into conflict with the landowners. It was not until 1880/81 that tenant farmers were given the right to kill hares and rabbits on their farms, and even then many landowners managed to have this right written out of tenancy agreements.<sup>307</sup> Hence poaching continued to be the ‘long and persistent war of the nineteenth century’.<sup>308</sup> There were obvious regional difference in the losses sustained from the ravages of game and this depended on whether a farm was predominantly arable or pasture land, and the amount of game preserves in its immediate vicinity. In Buckinghamshire, it was estimated that the damage caused by game ‘amounted to at least one fourth’ of the county’s crops.<sup>309</sup> Despite such tensions, some landowners, such as Mr Lefevre of the Chippenham estate in Cambridgeshire, attempted to retain amicable relations with his tenant farmers and periodically invited them to join him on a shoot.<sup>310</sup>

For the latter part of the nineteenth century evidence suggests that farmers and artisans inhabited a conspicuously uncertain position in the community’s class system and their ambivalent position became more prominent and pronounced in their relationships with the labouring poor. Even though they often shared their cultural history, they were also instrumental components in the hierarchal institutional assemblage of power and responsibility, occasionally as magistrates, but more often serving on the Parish Board of Guardians, on the newly formed school boards and later at the Parish Councils. It was not unknown for wealthy tenant farmers - rather than the aristocratic landlords - to initiate schemes for restoring the parish church, building a school, or making improvements to the roads and bridges.<sup>311</sup> However, the game laws brought the tenant farmers into overt conflict with their landlords, and forced them too into an ‘uneasy alliance with the poor’.<sup>312</sup>

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<sup>305</sup> D.Eastwood, ‘Communities, Protest and Police’, p. 45.

<sup>306</sup> J.Archer, ‘The Nineteenth-Century Allotment’, p. 31.

<sup>307</sup> See appendix 14.

<sup>308</sup> J.E.Archer, *By a Flash and a Scare*, p. 223.

<sup>309</sup> P.Horn, *The Rural World*, p. 179.

<sup>310</sup> *Cambridge Chronicle*, 3 June, 1875, Mr Lefevre invited the farmers upon Chippenham estate to ‘join him in the field and cover shooting for two days’.

<sup>311</sup> For example on the Holkham Estate. See P.Horn, *The Changing Countryside*, p. 65.

<sup>312</sup> P.King, ‘Edward Thompson’s Contribution to Eighteenth-Century Studies. The Patrician-Plebeian Model Re-examined’, *Social History* 21 (1996)226.

Tenant farmers rarely dared to reduce the ground game population themselves.<sup>313</sup> They understood well enough that eviction and the loss of their livelihood would follow any court appearance. This was not to say that they had no means of redress. Some farmers resorted to treading on clutches of partridge and pheasant eggs, while others refused to inform on known poachers: ‘a good many farmers shut their eyes to the poacher.’ wrote Frederick Rolfe.<sup>314</sup> Mr Thomas Glover, a farmer of Oadby, in Leicestershire, actually solicited the help of local labourers: ‘if your chaps don’t come and kill the hares on the Evington Foot Road, they’ll eat all my barley’ he said to James Hawker.<sup>315</sup> Two men, accused of trespassing after game on land occupied by their employer, in 1883, were summonsed to court by, not the employing farmer, but Earl Brownlow’s gamekeeper. Neither man turned up to the court hearing, instead they sent their wives. One can only surmise at the reasons for their actions, but possibly they had continued in Mr Bunker’s employment and he may well have agreed to pay their fines.<sup>316</sup> There is plenty of evidence to show that employers did pay their labourers fines, for a variety of reasons. They either felt the laws were unfair, they wanted their workers back to work as soon as possible, or they themselves may have instructed the labourers to cull the game. Whether or not they had authority to do so was a continual subject of debate. Charles Carter was convicted of game trespass on land owned by the Rev. E Moore, but Mr Wilson, the occupier of the land, said that he had verbal permission from the landlord to kill rabbits and he had sent Carter out to see the wire. Nevertheless Charles was officially fined 6d and 17s even though Mr Wilson made no secret of paying it for him.<sup>317</sup> In a similar case George Gibbs was fined for trespassing after game, even though he claimed that Mr Stone had given him permission, again the local newspaper noted that Mr Stone himself came forward and paid the fine.<sup>318</sup>

As specific conflicts are scrutinized more closely, it becomes apparent that the act of bringing a case to court does not necessarily reflect a negative attitude towards customary rights. Tenants may have been under an obligation to summons offenders, even if they did not wish to pursue the cases themselves. William Harlock, for example, simply refused to prosecute Lydia Rumsey and Mary Ann Long for stealing wood when the case came to court and it had to be discharged.<sup>319</sup>

Nevertheless, in addition to his crops, a tenant farmer had a responsibility to protect and maintain

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<sup>313</sup> G.Christian (ed.), *A Victorian Poacher*, p. 63.

<sup>314</sup> D.J.V.Jones, ‘The Poacher’, p. 827 and P.Horn, *The Rural World*, p. 173. L.R.Haggard (ed.), *I Walked by Night*, p. 156.

<sup>315</sup> G.Christian (ed.), *A Victorian Poacher*, p. 49.

<sup>316</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 3 March, 1883.

<sup>317</sup> Beaconsfield Petty Session, *Bucks Herald*, 29 May, 1880.

<sup>318</sup> Gt Marlow Petty Session, *Bucks Herald*, 25 April, 1885.

his fenced and hedged boundaries, which is perhaps why farmer Robert Gomm of Hawbridge stated that he ‘didn’t really want to press the case’ against the labourer William Batchelor for stealing underwood, but because the ‘repetition had caused such damage’ he felt compelled to.<sup>320</sup> It might also explain why Mr Painter, prosecuting William Austin for damaging a crop of corn, said he ‘never objected’ to him collecting mushrooms ‘providing no damage was done’.<sup>321</sup> There is also evidence of accusers changing their minds once proceedings had begun. Mr Dell, the holder of private fishing rights, ‘changed his mind’ about the case he had brought to court against three men.<sup>322</sup> Likewise when William Brown, an ironstone worker from Broughton, appeared in court, the farmer Mr Jones said that the object in bringing the matter before the bench was to simply stop the practice of breaking down fences in his fields. Nevertheless, when it became apparent that Brown could not afford the fine of 10s, with costs and damages amounting to another 9s and 6d, Mr Jones interrupted the proceedings to announce that he ‘would be very sorry that the man should go to prison’, so he offered to advance Brown sufficient money to pay if he would promise to repay it in good time. The offer was said to have been ‘greatly accepted’.<sup>323</sup>

Even more perplexing in the analysis of local perceptions of customary rights and class relations is the examples of artisans and skilled tradesmen who continued to customarily forage and gather, without any obvious financial need to. Arthur Peck, a skilled stonemason from Hertford, wrote several diary entries that implied that he regularly and unashamedly went out poaching. The first entry recorded a trip up Mangrove Lane with his dogs and a subsequent warning received from the local keeper, while several other entries mentioned trips out ferreting or shooting.<sup>324</sup> Such examples disturb and confuse perceptions of class boundaries and membership. As William Reddy explained, ‘no individual can be assigned definitively to a single class,’ for ‘class relationships often turn on the way in which they have been terminated or occur only seasonally or affect people only from certain age groups’.<sup>325</sup> Gamekeepers are particularly difficult to assign to a class and to assess their attitudes towards customary practices. For, like all those who enter new groups and take on new jobs, the gamekeeper was obliged to behave in a fashion appropriate to the expectations of his role.

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<sup>319</sup> Ely Petty Session, *Cambridge Chronicle*, 21 June, 1862.

<sup>320</sup> Chesham Petty Session, *Bucks Herald*, 5 May, 1860.

<sup>321</sup> Northampton Div. Petty Session, *Northampton Mercury*, 7 July, 1860.

<sup>322</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 11 August, 1860.

<sup>323</sup> Kettering Petty Session, *Northampton Mercury*, 27 January, 1883.

<sup>324</sup> Diary entries were in 1860, in H.Creaton (ed.), *Victorian Diaries: The Daily Lives of Victorian Men and Women* (London, 2001). This again is a point that will be returned to in a later chapter.

<sup>325</sup> W.M.Reddy, ‘The Concept of Class’, in M.L.Bush (ed.), *Social Orders and Social Classes*, p. 18.



Despite the difficulty in reconciling conflicting beliefs, some were able to maintain private attitudes at variance with their public behaviour.<sup>326</sup> As a result, gamekeepers were rarely fully accepted as members of any class. When the gamekeeper John Wilkins was walking home from the magistrates court after serving as a witness in a poaching case, his employer passed him in a carriage, waved, but did not offer him a lift; he subsequently completed his walk home with the accused poacher.<sup>327</sup> The law itself apparently put little value on the gamekeepers as individuals, even if the work they did was considered to be crucial. In 1885 Arthur Hobbs was fined one pound more for trespassing in search of conies than he was for assaulting the keeper.<sup>328</sup> In spite of this, gamekeepers seemed to act as if their position in society was above that of the agricultural labourer. His weekly wage packet was slightly more than the labourer's, but it was also slightly less than a skilled tradesman such as a carpenter or a blacksmith.<sup>329</sup> As a consequence he could well find himself struggling to provide for his family and falling back on customary methods of gathering and foraging from nature's supplies. As in the case of the under keeper, and father of six small children, who was convicted of 'cutting underwood' at Beechwood in 1860.<sup>330</sup>

Furthermore, gamekeepers could themselves be men of 'dubious character'. Some, for example, had 'no scruples about receiving stolen eggs or birds from those who could help them stock a poor preserve'.<sup>331</sup> Others clearly just took advantage of the position they held. In 1885 Waller and Chamberlain, two keepers in the employment of Mr Raleigh, were convicted of illegally fishing in the stream belonging to the Duke of Bedford near Flaunden. It was claimed that they had taken thirty-two trout to the value of £1:4:9.<sup>332</sup> There are also examples of keepers who, after leaving their profession, either reverted back to local customary ways or found it hard to change their gamekeeping habits. William Freeman, an ex-keeper from Oundle, was found guilty of killing a hare in 1864, while an old gamekeeper named Alfred Goldswain, once in the employment of Lady Dashwood, was caught poaching with snares in 1865.<sup>333</sup> The paradoxical attitudes and expectations created by such cases caused much curiosity amongst those with an interest in rural affairs. When

<sup>326</sup> See D.Katz, 'The Functional Approach, p. 196.

<sup>327</sup> See J.Wilkins, *An Autobiography of an English Gamekeeper* generally and p. 365.

<sup>328</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 31 January, 1885.

<sup>329</sup> D.S.D.Jones, *The English Gamekeeper*, p. 7.

<sup>330</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 26 May, 1860.

<sup>331</sup> L.M.Springall, *Labouring Life*, p. 72.

<sup>332</sup> Chesham Petty Session, *Bucks Herald*, 8 August, 1885.

<sup>333</sup> Oundle Petty Session, *Northampton Mercury*, 27 August, 1864. Wycombe County Petty Session, *Bucks Herald*, 2 September, 1865.

Fredrick Forsdyke, gamekeeper to the Earl of Essex; George Freeman, gamekeeper to Mr Jonathan King; and John Simmonds, an assistant gamekeeper were brought before the Watford bench for poaching eels and fish, ‘the greatest possible interest appeared to be taken’ and as a consequence the court was ‘crowded in every available part’.<sup>334</sup>

So gamekeepers, like some farmers, took on a dual position within rural society, making it particularly difficult to theorize on their attitudes, opinions and reactions to traditional customary rights. This is especially so when historians attempt to consider the conflict played out between these two ambiguous groups. The gamekeeper, a ‘universally disliked’ figure, held powers that ‘embodied a resented encroachment on the property rights of the farmer’, he spied on them, informed on them, and contrary to trespass laws, patrolled freely across their land.<sup>335</sup> Richard Jefferies recalled an incident where, in response to the ‘intrusions and poaching of a neighbouring keeper’, farmer Willum invited him and a friend to hunt on his ancient farm.<sup>336</sup> It was not only small tenant farmers that demonstrated these deep and bitter resentments. In 1859 Henry Corbet, secretary to the London Farmer’s club, which was described as a leading capitalist organisation, made a scathing attack on over preservation and gamekeepers.<sup>337</sup> Many gamekeepers did indeed appear to abuse the position and power bestowed upon them. In 1878, gamekeeper Samuel Crewe was charged at the Luton bench for assaulting a farmer and of stealing a gun. Mr Pratt, the farmer who held the shooting rights, had allowed his neighbour to kill rabbits on his fields. Even so, the keeper, from the adjoining land, took the neighbour’s gun away. When Mr Pratt intervened and tried to explain the situation, the keeper held the gun up and threatened to ‘beat his brains out’.<sup>338</sup>

These relationships were extremely volatile, and resentment and discontent could erupt at anytime into physical and verbal attacks from either side. When farmer Samuel Philips, who did not have any shooting rights, was caught by the gamekeeper for using a gun on his own farm, he used the opportunity to vent his anger and frustrations. The rabbit population caused him a great deal of

<sup>334</sup> Watford Petty Session, *Hertfordshire Mercury*, 25 July, 1868.

<sup>335</sup> J.Fisher, ‘Property Rights in Pheasants: Landlords, Farmers and the Game Laws, 1860-80’, *Rural History* 11 (2000) 171.

<sup>336</sup> R.Jefferies, *The Amateur Poacher* (1878), in J.Humphreys, *More Tales of the Old Poachers* (Devon, 1995), pp. 25-7.

<sup>337</sup> ‘The jealous, lying, murdering keeper...the very essence of evildoing...one loathes the very name of such an office...the authority he exercises – a power so much above his proper station in life; and that as a rule, he proportionately abuses’. *Mark Lane Express*, February 1859, *Agricultural Gazette*, August 1859, and *Farmers’ Magazine*, February and March 1859 in J.Fisher, ‘Property Rights in Pheasants’, p. 172. Over Preservation is a term used when landowners do not keep a check on the ground game populations on their tenanted farms, or adjoining land.

<sup>338</sup> *Hertfordshire Mercury*, 5 October, 1878.

suffering; they destroyed his hedges, ate his crops, and the keeper had made no attempt to control them.<sup>339</sup> These grievances continued to be forcefully expressed throughout the century. However, in the latter years there are examples of such cases being dismissed by the courts, suggesting maybe, that attitudes were starting to change amongst the magistracy. The case against Alfred Saunders in 1890 was one such example. He was a farmer from Kensworth with no shooting rights on his land and even though Thomas Osbourn, keeper to Mrs Batchelor, legally held the rights and brought the case to court himself, the bench subsequently dismissed it.<sup>340</sup> Gamekeepers were beginning to lose their credibility. As Harry Hopkins observed, magistrates were becoming reluctant to convict poachers on the identification by a gamekeeper alone.<sup>341</sup> When the bench refused to convict William Page solely on the gamekeeper's identification evidence, the case inverted on itself and Page claimed expenses against the gamekeeper for his troubles.<sup>342</sup> Similarly in 1900, Oscar Clipston and George Edward Gray turned the case against the keeper, claiming that it was his dog that had killed the rabbits not there's.<sup>343</sup>

However, mutual animosity between the parties continued. Gamekeeping was a vulnerable and risky profession. Poachers murdered John Seabrook, a gamekeeper from Flamsted, in 1860.<sup>344</sup> In 1883 Frederick Eggleton of Wigginton was convicted of beating and assaulting the gamekeeper.<sup>345</sup> And in 1891, two poachers from Aldbury were convicted of killing two gamekeepers on the borders of the Stocks Estate.<sup>346</sup> Between November 1880 and July 1896 there were at least thirty serious affrays in different parts of the country, resulting in seventeen fatalities.<sup>347</sup> On the whole these cases appear to have been taken seriously by the courts. Even though the poaching case against Thomas Nash and Thomas Warren was dropped, they were still charged for assaulting the keeper.<sup>348</sup> Nevertheless, keepers were capable of giving as good as they got. Indeed, some had a particularly nasty streak in them. Jonathan Culverhouse was unable to attend court due to the injuries he sustained during his arrest.<sup>349</sup> Fred Ayres, who was brought before the bench on a game trespassing

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<sup>339</sup> Watford Petty Session, *Hertfordshire Mercury*, 9 July, 1870.

<sup>340</sup> Berkhamsted Petty Session, *Bucks Herald*, 4 October, 1890.

<sup>341</sup> H.Hopkins, *The Long Affray*, p. 198.

<sup>342</sup> Watford Petty Session, *Hertfordshire Mercury*, 11 December, 1880.

<sup>343</sup> Kettering Petty Session, *Northampton Mercury*, 2 November, 1900.

<sup>344</sup> The Murder of a Gamekeeper, *Bucks Herald*, 7 April, 1860.

<sup>345</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 10 February, 1883.

<sup>346</sup> *The Times*, 15 December, 1891 and 19 January, 1892.

<sup>347</sup> P.Horn, *Pleasures and Pastimes*, p. 120.

<sup>348</sup> Gt Missenden Petty Session, *Bucks Herald*, 16 June, 1883.

<sup>349</sup> William Mead, the gamekeeper, was subsequently charged with shooting at him. Watford Petty Session, *Hertfordshire Mercury*, 18 December, 1880.

charge, stated that he had been ‘struck several violent blows with a stick’ by one of the keepers.<sup>350</sup> The four gamekeepers who caught Frederick Rolfe used the opportunity to ‘lay into’ him: ‘they knocked me about with sticks and kicked me most onmercifull’. So bad were his injuries that a cart was required to take him to the lock up and he was subsequently rushed to hospital the following morning.<sup>351</sup>

Even though at first sight evidence of retaliatory attacks inform us more about individual relationships than about attitudes towards customary practices, they also reveal the continuing intensity of the conflict caused by them. For example, on the same day as they were convicted of poaching at Oundle in the Nene River Valley, Jason Dixon and George Moisey beat up the gamekeeper Henry Timpson, in the Red Lion Inn.<sup>352</sup> A gamekeeper named Edward Dixon was said to have been ‘looking for a fight’, when arrested for drunkenness and bad behaviour in 1877.<sup>353</sup> And Humphrey Wright and Ambrose Mabbutt assaulted the gamekeeper, ‘for no apparent reason’, while they were at work.<sup>354</sup> But, like many of the examples given earlier in this chapter, hostilities and opposition took many forms. Henry Oakin felt no need to resort to violence or abuse to express his opinions, and admitted to Inspector Tripp that he just went on the common and walked about ‘to annoy’ the gamekeeper.<sup>355</sup> Yet contrary to popular perceptions, gamekeepers and poachers had a lot in common. Some gamekeepers had been poachers themselves in their early years. Frederick Rolfe, the infamous king of the Norfolk poachers, had been very surprised when the new estate owner offered him the position as gamekeeper.<sup>356</sup> Angus Nudd, a gamekeeper who was born in the early years of the twentieth century, readily admitted poaching on the saltings in his younger days.<sup>357</sup> Indeed an early modern proverb stated that ‘the greatest deer-stealers make the best park-keepers’.<sup>358</sup> These multiple, competing and contradictory identities may well explain the respectful attitude some keepers had towards the poacher, and the apparent personal sympathies exhibited by others.<sup>359</sup>

<sup>350</sup> Northampton Div. Petty Session, *Northampton Mercury*, 12 March, 1897.

<sup>351</sup> The head keeper subsequently got the sack over the incident. L.R. Haggard (ed.), *I walked by Night*, p. 68.

<sup>352</sup> Oundle Petty Session, *Northampton Mercury*, 4 September, 1869.

<sup>353</sup> Kettering Petty Session, *Northampton Mercury*, 23 June, 1877.

<sup>354</sup> *Northampton Mercury*, 7 September, 1894.

<sup>355</sup> Great Berkhamsted Petty Session, *Bucks Herald*, 8 November, 1890.

<sup>356</sup> L.R. Haggard (ed.), *I Walked by Night*, p. 123.

<sup>357</sup> A. Nudds, *The Woods belong to me*, p. 38.

<sup>358</sup> M.P. Tilley, *A Collection of the Proverbs in England in the Sixteenth and Seventeenth Centuries*, quoted in R.B. Manning, *Hunters and Poachers*, p. 171.

<sup>359</sup> For example James Knight in J. Humphreys, *Old Poachers* (Devon, 1997), p. 157, who said ‘He needs no weapons or help of any kind. He is without doubt a master of his art. Envied by keepers...’; Several examples given by John

The local police officer was another member of rural society who held a contradictory and ambiguous social position. On one hand, sharing the cultural heritage of their fellow villagers, while on the other, being perceived as ‘personal servants of [the] great landowners’.<sup>360</sup> A survey conducted in Northamptonshire in 1836 recorded that applicants for the new rural police consisted of: one bricklayer, four shoemakers, one servant, one tailor, one policeman, one carpenter, five labourers, one plaster, and one gardener.<sup>361</sup> Ordinary working men, yet as George Bourne recalled, once he had taken up his position within the force, he became ‘the lonely man of the parish’.<sup>362</sup> It was the Poaching Prevention Act of 1862 that seriously polarised class antagonisms.<sup>363</sup> Ordinary constables were given powers to stop and search for game, and instruments used to take game on the person of anyone they thought had been on enclosed ground for that purpose. It was feared that the increased rights to stop and search any person on the road or in a public place, would be used to obtain convictions for minor thefts, such as the taking of pieces of wood or traditional perquisites.<sup>364</sup> Hence the Act extended the ‘hatred and contempt’ already directed at the gamekeepers to include police officers too.<sup>365</sup> A witness at the 1873 Select Committee stated that ‘the police very frequently stop and search without reasonable and probable cause to suspect’.<sup>366</sup> Frederick Rolfe recalled the embarrassment and humiliation felt in his younger days when he was trying to make an honest living, but was constantly stopped and searched in front of his friends.<sup>367</sup>

The courts favoured evidence brought forward by the rural police and punishment for assaulting an officer could be severe. Equally newspaper coverage on such cases was extensive. In 1897 William White was given one months hard labour for assaulting P C Dolton when he was caught poaching.<sup>368</sup> Nonetheless police officers too, were not always completely honest. Frederick Rolfe wrote of an incident where a policeman had found his nets, but he traded them back to him for a

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Wilkins. Such as when he was asked not to give more information than he had to as a witness in court, he replied: ‘If the magistrates don’t ask the question I won’t name it’. J.Wilkins, *The Autobiography of an English Gamekeeper*, p. 261, p. 367 and p.365.

<sup>360</sup> D.Jones, *Crime, Protest, Community and Police*, p. 78.

<sup>361</sup> Watch Committee Minutes ,15 January 1836, R.Etheridge, ‘Nineteenth Century Northampton’, p. 178.

<sup>362</sup> G.Bourne, *Change in the Village*, p. xiii.

<sup>363</sup> D.Jones, *Crime, Protest, Community and Police*, p. 78.

<sup>364</sup> P.Horn, *Labouring Life*, p. 230.

<sup>365</sup> A.Howkins, *Reshaping Rural England*, p. 126.

<sup>366</sup> Mr W.S.Walpole, an attorney from Beyton near Bury St Edmunds, P.Horn, *Labouring Life*, p. 231.

<sup>367</sup> Frederick Rolfe in L.R.Haggard (ed.) *I Walked by Night*, p. 30.

<sup>368</sup> Northampton Div. Petty Session, *Northampton Mercury*, 26 February, 1897.

hare.<sup>369</sup> And in the poaching case against him in 1897, William Day objected to the policeman ‘a telling of wilful lies’.<sup>370</sup> Even so, there were individual officers who were prepared to express their disapproving attitudes against the game laws, although we can not be sure if this in turn informs us of their supporting views on traditional customary rights. The Chief Constable of Norfolk told the 1872 Committee that most poachers were otherwise ‘honest and industrious’, while the Chief Constable of Hertfordshire told a committee in 1873 that ‘too much game is let to strangers who do not care one pin about the farmer and his crops’.<sup>371</sup>

Antagonistic resistance and hostility between social groups was part of ongoing rural tensions that had always existed in rural societies and it is very informative in the analysis of attitudes within local communities. The evidence presented in this section confirms that there was indeed extensive restructuring and reordering of relationships taking place in the late nineteenth century. It also suggests that some individuals or groups of people were not easy to assign to a particular class and set of cultural ideas, and argues that perceptions of traditional customary rights and attitudes towards certain sets of people and activities, changed and altered depending on individual and regional situations. Relationships, alliances, positions and thereby attitudes were mobile, fluid, ambivalent and varying. However, we can say – even though examples of conflict were very sparse in the Cambridge Fens - that there were definite examples of continuing assertions of customary rights, which inevitably attracted responses that expressed the attitudes of others in local rural societies.

The processes used by local communities to convey and express their opinions and attitudes towards popular culture in the late nineteenth and early twentieth century have been identified in this chapter from within the framework of rural conflict. Reactions to the restrictions, curtailments or loss of customary rights adapted in response to changes in the social, economic, political, environmental and legislative climate, and they are evident in acts of protest, social crime, everyday forms of resistance and class conflict. Responsive opposing behaviours found in the form of communal, collective and noisy protests and riots were conducted in ‘traditional, even ritualistic ways’.<sup>372</sup> However, examples of these seemingly direct, visual and obvious actions greatly

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<sup>369</sup> L.R.Haggard, (ed) *I Walked by Night*, p. 52.

<sup>370</sup> Northampton Div. Petty Session, *Northampton Mercury*, 25 June, 1897.

<sup>371</sup> PP 1872, 14, 34 in A.Howkins, ‘Economic Crime and Class Law’, in S.Burman, and B.Horrell-Bond, *The Imposition of Law*, p. 285. Colonel Robertson, quoted in H.Hopkins, *The Long Affray*, p. 258.

<sup>372</sup> R.Lee, ‘Customs in Conflict’, p. 199.

diminished as the nineteenth century progressed, as the hierarchies' sensitivity to rural disorder heightened<sup>373</sup> and overt protests began to be successfully suppressed by the establishment.<sup>374</sup> Nevertheless, hostility continued to be expressed, but it became more subtle and individualistic, manifesting itself as social crime. This was not an organised form of opposition, yet the cumulative effect of large numbers of petty crimes being committed and the players astuteness, evident in many of the newspaper quotes, would have inevitably impacted on the governing bodies.

A far more common, yet elusive, method of opposition was the use of everyday forms of resistance. This was a technique that required skill, individual strategic planning and ingenuity. This mechanism, by which opposition and disapproval could be expressed without direct physical confrontation or criminal activity, disguised, concealed and camouflaged attitudes and opinions on the surface, but was readily understood by the community at large. Everyday forms of resistance continued as part of a process of attrition throughout the late nineteenth century, which served to antagonize the authorities while bolstering the self-esteem, respect and confidence of the perpetrators. Social antagonisms, on the other hand, was an ongoing and continuing vehicle for expressing cultural disagreements, which appears to have become polarised during this period as a result of changes in industrialisation, migration, legislation and local relationships. As a consequence of the contradictions in the delineation of the classes and the disparity in relationship and alliances, opinions, beliefs and attitudes were mobile, fluid, ambivalent and varying.

The statistical data on social crime provided the most compelling evidence for regional comparisons, while examples of everyday forms of resistance and the interplay between the different social groups, although offering abundant examples of continued assertions highlighted no clear patterns of regionality. Nevertheless, the overall number and variety of cases seems significant even though there were anomalies in the lack of evidence for petty crime in the Cambridge Fens. However, the evidence from the school log books told us far more about gleaning and foraging for food in each region than any of the newspapers. Inconsistent findings such as these, and the unevenness of cases reflecting conflict between the classes, may actually say more about reporting and recording styles, and attitudes towards certain types of conflict, than of conflict itself. By considering the significance of a particular behaviour rather than just analysing the behaviour itself, as Edward Thompson advised, it is evident that ideals and methods were developing in response to

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<sup>373</sup> R.Storch, *Policing and Prosecution in Britain, 1750-1850* (Oxford, 1989), p. 263.

<sup>374</sup> R.A.E.Wells, 'The Development of the English Rural Proletariat', p. 115.

the social, economic, political, environmental and legislative changes, but firmly established attitudes towards customs, rights and access were not necessarily changing themselves.<sup>375</sup> Some social scientists argue that ideological resistance grows best when shielded from direct surveillance.<sup>376</sup> Thus by concealing resistive acts behind the disguise of petty crime, insubordinate behaviour and friction between the classes, regional populations' opposition and opinions were able to germinate, grow, and simmer. The following chapter will assess how these processes were restrained.

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<sup>375</sup> E.P.Thompson, *Customs in Common* and Peter Jones made a similar observation when he analysed the swing disturbance of 1830 – the emphasis on work and wages in the riots was not as straightforward as it first appeared. 'Swing, Speenhamland and Rural Social Relations: The 'Moral Economy' of the English Crowd in the Nineteenth Century', *Social History* 32 (2007) 271-290.

<sup>376</sup> J.C.Scott, *Domination*, p. xii.



## CHAPTER 3

### CONTROL AND RESTRICTION OF CUSTOMARY ACTIVITY

Social control is a central concept used in any analysis of social organisation.<sup>1</sup> It is, as F.M.L.Thompson points out, often used to ‘denote the imposition of opinions and habits by one class upon another’,<sup>2</sup> and as Anthony Donajgrodzki claimed, it could be maintained and expressed through ‘a wide range of social institutions’.<sup>3</sup> Evidence from the current research supports this previous work; popular culture and access to customary rights during the late nineteenth and twentieth centuries was controlled using an assortment of methods, by a variety of individuals and groups. As we saw in the previous chapter, processes of conflict were themselves not only reactions and responses to curtailments, directives, prohibitions and loss, but also methods by which ordinary working people could express their desire to exercise a measure of control over their lives. Control consistently came under the direction of various individuals and groups. Each had their own distinct and specific agenda, and therefore used their own particular methods, systems and procedures to assert a degree of control.<sup>4</sup> As part of controlling local subsistence customary rights and popular attitudes, attempts were made to control land, space, and resources, morality and rowdiness, and processes of crime and resistance. This was possible by legal and self-regulation, supervision, restricting access to information, punishment, coercion, bribery and persuasion. Even though all those involved acted initially in response to their personal ideological concerns, these could and were influenced by changes in local and national, economic, social, cultural and political issues throughout the period in question.

Control is a form of exercising power, managing, supervising, directing or regulating, and it can be a means of restricting or limiting the occurrence or expression of somebody or something by keeping it from appearing, increasing or spreading.<sup>5</sup> As Robert Storch explained, this was the approach taken by the dominant classes – government, landowners, the Church and the local magistrates - towards popular culture in the early nineteenth century, in which they attempted to

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<sup>1</sup> M. Janowitz, ‘Sociological Theory and Social Control’, *The American Journal of Sociology* 81 (1975) 82.

<sup>2</sup> F.M.L.Thompson, ‘Social Control in Victorian Britain’, *The Economic History Review*, 2<sup>nd</sup> Series 34 (1981) 190.

<sup>3</sup> A.P.Donajgrodzki (ed.), *Social Control in Nineteenth Century Britain* (London, 1977), p. 9.

<sup>4</sup> Each variety or type of mechanism was the result of ‘particular antecedent variables’ and, in turn, each form had ‘a different impact on social behaviour’. M. Janowitz, ‘Sociological Theory’, p. 85.

<sup>5</sup> *Oxford, Penguin and Encarta English Dictionaries*.

reform and redefine popular values, beliefs and behaviour.<sup>6</sup> Harold Perkin claimed that during the eighteenth century the hierarchy, based on property and patronage, had similarly paternalistically controlled the lives of the poor.<sup>7</sup> And Keith Wrightson found the same pattern in the sixteenth and seventeenth centuries, when many elements of popular culture were controlled in response to the stricter standards of public order and puritanical influences.<sup>8</sup> Edward Thompson disagreed with the image of absolute control. He stressed a very different picture of social control, of a 'discipline of the crowd' itself and of popular culture being 'the people's very own'.<sup>9</sup> His analysis of eighteenth century relations was 'negotiation not subordination, conflict not consensus, structural reciprocity not pyramids of status and power'.<sup>10</sup> A similar pattern emerges in this study, and like many historians, such as Hugh Cunningham in his investigation of nineteenth-century leisure, it reveals that ordinary working people were 'not passive or totally powerless before external agencies of change'.<sup>11</sup> They may have been 'perpetually on the receiving end of outside forces and influences', but as F.M.L. Thompson argued, they were not 'putty in the hands of a masterful and scheming bourgeoisie'.<sup>12</sup> Custom itself was a powerful organising principle, disruptive or anti social behaviour was often tolerated, and the ritual of conflict between groups was a central feature.<sup>13</sup> Here groups and individuals demonstrated their strength and control.<sup>14</sup>

Analysis of the opinions and interpretations of personal controlling actions and counter actions are complex. Therefore it is essential that the context in which the sources presented themselves, and how attitudes were viewed and recorded, needs to be closely scrutinised. The authorities believed they were protecting, reforming, improving and preserving the land, culture, and social order, whereas local populations considered that they were protecting, maintaining and preserving their livelihoods, culture and social position. Likewise the petty crime evidence is, on one hand, a negative source, the result of behaviour that could be said to have been the exception to the norm or atypical, while on the other hand, it is positive in that it presents to the historian personal attitudinal

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<sup>6</sup> R.D.Storch (ed.), *Popular Culture*, p. 3.

<sup>7</sup> H.Perkin, *The Origins of Modern English Society 1780-1880* (London, 1969), p. 37 quoted in P.King, 'Edward Thompson's Contribution to Eighteenth-Century Studies', p. 217.

<sup>8</sup> K.Wrightson, *English Society*.

<sup>9</sup> See E.P.Thompson, 'The Moral Economy of the English crowd in the Eighteenth Century', *Past and Present* 50 (1971) 76-136 and E.P.Thompson, 'Patrician Society, Plebeian Culture', *Journal of Social History* 7 (1974) 382-405; P.King, 'Edward Thompson's Contribution to Eighteenth-Century Studies', p. 218.

<sup>10</sup> P.King, 'Edward Thompson's Contribution to Eighteenth-Century Studies', p. 218.

<sup>11</sup> See H.Cunningham, *Leisure in the Industrial Revolution c. 1780-1880* (London, 1980), chapter 6.

<sup>12</sup> F.M.L.Thompson, 'Social Control', p. 189.

<sup>13</sup> D.Eastwood, 'Communities, Protest and Police', p. 36.

<sup>14</sup> V.W.Turner, *The Ritual Process*, (London, 1969) in B.Bushaway, 'Ceremony, Custom and Ritual', p. 16.

evidence that would not have otherwise been recorded. Using this evidence chapter three explores how land and space played its part in controlling popular customs and attitudes, the influence of social community pressure, the extent of authoritarian governance and the methods used to negotiate power in rural England in the late nineteenth and early twentieth centuries.

## THE ENVIRONMENT

By borrowing concepts from a combination of academic disciplines, such as sociology and anthropology, social historians differentiate between two controlling mediums - socialization and social control. Socialization is associated with the way social groups 'transmit and imprint' their values and customs, whereas social control is synonymous with the processes in which groups 'impose' their value systems on the rest of society.<sup>15</sup> Both methods of control, designed to sustain and reproduce beliefs and behaviours, are examined in this chapter. But, first and foremost, certain activities were very much controlled by the environment. This section will begin by investigating how availability and access to resources and space influenced and controlled assertions of and attitudes towards customary rights.

### Resources

The control of subsistence customary rights were ultimately determined by the topography, geology, and soil structure, and thereby the availability of resources in each region. The main and most important repositories of subsistence gleanings were the commons or local wastelands. They had retained part of their status, as land for the use of the people, under the medieval manorial system. Nevertheless by the 1500s less than a third of the English land mass was said to have been common land, and by 1873 this was further reduced to 1.70million acres.<sup>16</sup> There were vast regional disparities in the proportion of common land in each county ranging from less than 0.1 per cent to over 25 per cent.<sup>17</sup> In Cambridgeshire, a county of some 547,427 acres, 5,919 acres were common land in 1873,<sup>18</sup> and by 1962 this had been reduced to 1178.85 acres.<sup>19</sup> Northamptonshire, consisting

<sup>15</sup> F.M.L.Thompson, 'Social Control in Modern Britain', *ReFresh* 5, (1987) 2.

<sup>16</sup> G.Clark and A.Clark, 'Common Rights to Land in England 1475-1839', *Journal of Economic History* 61 (2001) 1009. England and Monmouthshire, further reduced to 1.09 million by 1958. J.R.Wordie, 'The Chronology of English Enclosure, 1500-1914', *The Economic History Review*, second series 36 (1983) 488.

<sup>17</sup> L.Dudley Stamp, 'The Common Lands and Village Greens of England and Wales', *The Geographical Journal* 130 (1964) 459.

<sup>18</sup> 1873 returns, W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 92. This represented 1.08% of the land.

of 633,286 acres of land, was left with only 2,947 acres of common land in 1873 as a result of intensive enclosure<sup>20</sup> and by 1962 absolutely no common land was registered in the county.<sup>21</sup> The Chilterns fared considerably better. Buckinghamshire comprised of land amounting to 468,574 acres, of which 10,438 acres of it was common land by 1873,<sup>22</sup> reducing to 3447 acres by 1962.<sup>23</sup> And finally, Hertfordshire, although measuring only 390,828 acres of land, held 5,345 acres of common land in 1873,<sup>24</sup> while still retaining 5180.05 acres in 1962.<sup>25</sup> In addition to the retention of large swathes of common land on the Chilterns, there were, in Hertfordshire the highest concentration of village greens, 116, amounting to 370 acres, and in Buckinghamshire seventy-two, amounting to 137 acres.<sup>26</sup>

The accompanying graph highlights the regional differences in the amounts of common land available, which may go some way in explaining the differing attitudes towards, and assertions of, customary rights.<sup>27</sup> For example, the size and amount of commons in existence in Buckinghamshire and Hertfordshire during the second half of the nineteenth century may partly explain why, as discussed in chapter 2, of the forty cases which specifically recorded that a crime was committed on the common, all took place in the Chilterns.<sup>28</sup> By the same token, it is not surprising to find no cases recorded on the commons of the Nene River Valley, when very little common land remained in Northamptonshire as a whole during this period.<sup>29</sup>

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<sup>19</sup> W.E.Hoskins, and L.D.Stamp, *The Common Lands of England*, p. 255. This represented 0.22% of the land. Please note that these figures are for the whole of the county, which includes large commons around the university. In 1962 there were only 384.25 acres of common land north of the Isle of Ely.

<sup>20</sup> 1873 returns, W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 92. This represented only 0.47% of the land.

<sup>21</sup> W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 305.

<sup>22</sup> 1873 returns, W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 92. This represented 2.23% of the land.

<sup>23</sup> W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 252. This represented 0.74% of the land.

<sup>24</sup> 1873 returns, W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 92. This represented 1.37% of the land.

<sup>25</sup> W.E.Hoskins, and L.D.Stamp, *The Common Lands*, p. 287. This represented 1.33% of the land.

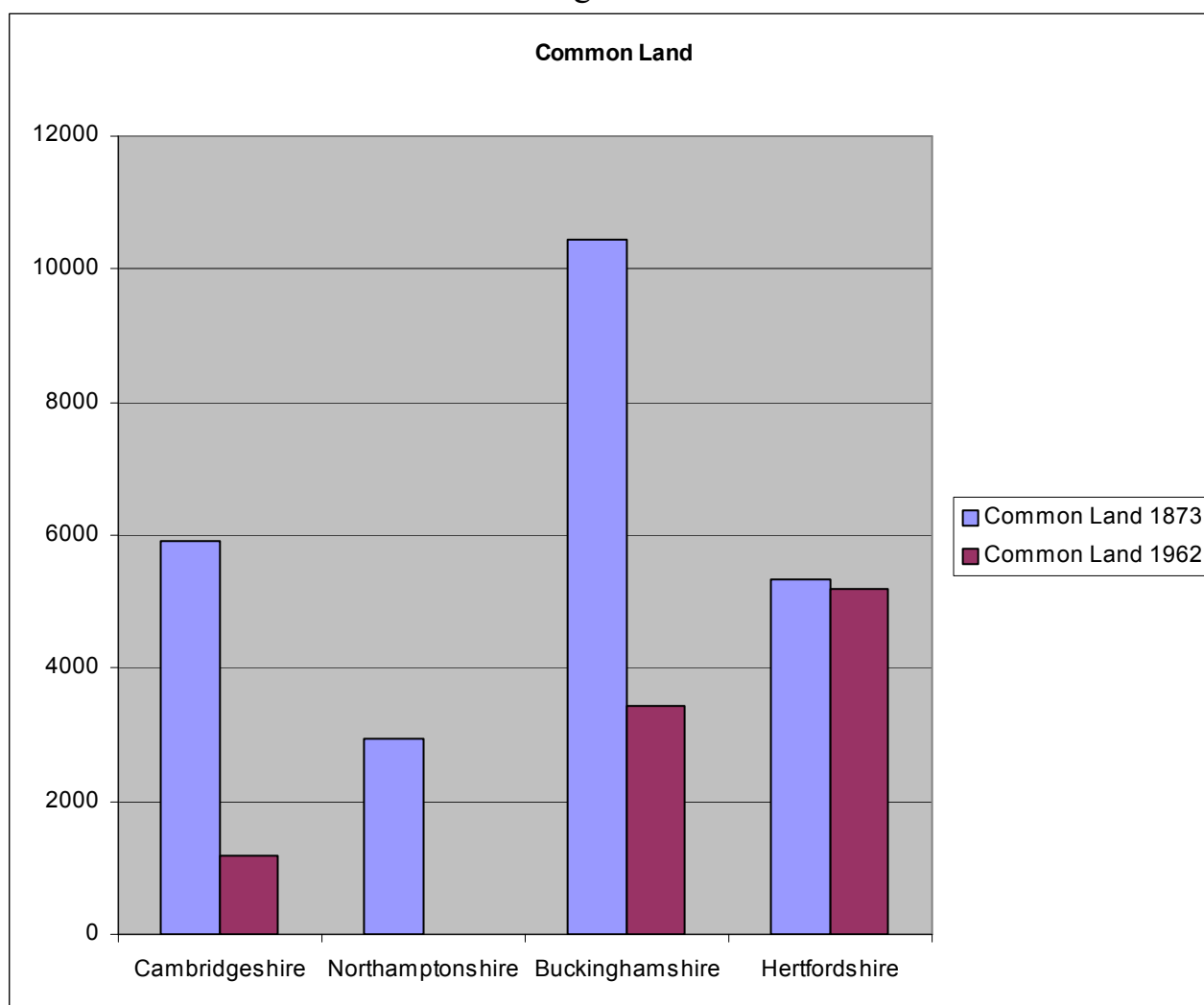
<sup>26</sup> L.Dudley Stamp, 'The Common Lands and Village Greens', p. 465.

<sup>27</sup> See figure 19.

<sup>28</sup> William Irving was accused of game trespass on Beaconsfield Common, Beaconsfield Petty Session, *Bucks Herald*, 10 March, 1883; Seven men were all found guilty of poaching on Studham Common, Great Berkhamsted Petty Session, *Hertfordshire Mercury*, 25 January, 1868; and numerous incidents were recorded on the 1156.3 acres of Berkhamsted common. D.Jones also noted that there were a great number of crimes occurring on disputed or newly enclosed land. D.Jones, *Crime, Protest, Community and Police*, p. 12.

<sup>29</sup> See also M.Turner, *English Parliamentary Enclosure* (London, 1980), p. 32. 'In the midlands, enclosure affected the most densely populated rural areas'.

Figure 19



Note: Only 384.35 acres of the Cambridgeshire common land was within the Fens north of the Isle of Ely in 1962.

Source: W.G.Hoskins & L.Dudley Stamp, *The Common Lands of England & Wales*, (London, 1963)

Opportunities to acquire certain resources were controlled, in part, by ease of access and its availability in the landscape. For example, many well-known commons comprised mostly of woodland, which offered many tempting resources for those in need.<sup>30</sup> Hence the results from the database show that ‘wooding’ and ‘nutting’ were far more prevalent in the Chilterns, which contained the large wooded commons.<sup>31</sup> Elderly inhabitants of Potten End told Vivienne Bryant, in the 1980s, that when they were younger many families ‘from habit or necessity’ went wooding and fuzzening on the common, and indeed some claimed that they still did.<sup>32</sup> Similarly George Sturt wrote, of Bourne near Farnham in 1912, that the local women ‘were, and still are, frequently

<sup>30</sup> L.Dudley Stamp, ‘The Common Lands and Village Greens’, p. 463. This was particularly true of the Chilterns.

<sup>31</sup> Refer back to figure 17 and figure 16.

<sup>32</sup> V.J.M.Bryant, *A History of Potten End*, p. 139.

noticeable, bringing home on their backs faggots of dead wood, or sacks of fir cones, picked up in the fir woods a mile away or more'.<sup>33</sup>

Where resources were abundant, and access did not threaten the status of the land, the continued usage of customary rights was far more likely to be tolerated. For example, perhaps, as Patrick Abercrombie wrote, because it was an 'unthreatened country' where no one attached 'any importance to the banks of streams', there was very little recorded fish poaching in the Cambridge Fens.<sup>34</sup> Likewise, game was said to be 'over abundant with more than enough for everyone', in the neighbouring county of Norfolk, which may explain why these Fens, which shared a similar environment and landscape, experienced very few cases of poaching in comparison to the Nene River Valley and the Chilterns.<sup>35</sup> The Nene River Valley situated in a landscape, which was so densely populated with peers and great landowners, was, unsurprisingly, in an environment full of game estates - and gamekeepers - and subsequently high numbers of men being accused of poaching.<sup>36</sup>

As previously discussed, distinct environmental regions, situated on different underlying rocks and creating diverse soils, lent themselves to a variety of agricultural and cropping opportunities. These would in turn influence the types of subsistence customary rights pursued. In the Chilterns, for example, which was described by D.Walker in 1795 as the 'first corn county in the kingdom', there were more cases reported of wheat gleaning disputes.<sup>37</sup> Whereas in the Cambridge Fens, a variety of crops appear to have lent themselves to different gleaning opportunities. James Wilson, a labourer from Downham was charged with stealing a sheaf of beans in September 1864, and Benjamin Pedley was accused of stealing a peck of potatoes from a field in Sutton in 1880.<sup>38</sup> Similarly in Northamptonshire a little boy was found guilty of stealing peas at Broughton in August

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<sup>33</sup> G.Bourne, *Change in the Village*, p. 23.

<sup>34</sup> P.Abercrombie, *The Preservation of Rural England*, p. 19. See also Figure 13. Remembering that there was a general right to fish on tidal rivers, W.Howarth, *Wisdom's Law of Watercourses* (Kent, 1992), pp. 15-16.

<sup>35</sup> D.Johnson, *Victorian Shooting Days*, p.50.

<sup>36</sup> Refer back to figure 1 and appendix 8. Northamptonshire was specifically famous for its hunting, and ease of access, no part of the county was more than two and a half days ride from London. R.L.Greenall, *A History of Northamptonshire*, p. 52.

<sup>37</sup> D.Walker, *General View of the Agriculture of the County of Hertford*. Refer back to figure 15.

<sup>38</sup> Ely Petty Session, *Cambridge Chronicle*, 10 September, 1864. Ely Petty Session, *Cambridge Chronicle*, 31 July, 1880.

1860.<sup>39</sup> Yet paradoxically, the school log books for each area suggests that gleaning wheat took place in all three regions in equal measure.<sup>40</sup>

Even though nature and the landscape were influencing the availability of resources, it was not without a level of interventional control. Contrary to accounts, such as the one put forward by Fred Tolley, that tended to suggest that commons were a chaotic free for all: ‘everyone used to go up there and get what they wanted’ he said ‘all their wood, and anything they could scrounge’, in reality resources were not perpetually expendable, management strategies were a necessity, for it was vital that the commons were maintained and harvested in such a way that their resources were self renewing.<sup>41</sup> Local customs themselves often controlled, managed and regulated these commons.<sup>42</sup> That is not to say that the state had no interest in such matters. Qualifications were often attached to individual enclosure Acts stating certain conditions in order to ensure the ‘better growth and preservation of trees’ for example.<sup>43</sup> But more often than not local people had taken, and continued to take, responsibility and formed their own management bodies.<sup>44</sup> Contemporaries and many past historians have argued that these organisations were ineffectual and their regulations of the commons still ‘led inexorably to the exhaustion of natural resources’.<sup>45</sup> Yet, more recent historians, such as Jeanette Neeson and Donald Woodward, have forcefully argued against these views, offering evidence for the widespread success of the use of by-laws, for ‘without such regulations...many of the commons and wastes of early modern England would have been quickly denuded’.<sup>46</sup> In fact, the deterioration of a common was most often due to ‘lawbreaking’ claimed Susan Jane Buck-Cox, rather than any form of mismanagement.<sup>47</sup>

These by-laws worked by regulating, limiting and restricting the usage of the available resources. Restrictions on the cutting of underwood in some parts of the Chilterns date back to the 1550s,<sup>48</sup> and strict controls on the cutting of fern and furze, for fuel, animal bedding, and the thatching of

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<sup>39</sup> Kettering Petty Session, *Northampton Mercury*, 11 August, 1860.

<sup>40</sup> Refer back to figure 9.

<sup>41</sup> Fred Tolley, in R.Samuel (ed.), *Village Life*, p. 208.

<sup>42</sup> O.Rackham, *Ancient Woodland: Its History, Vegetation and uses in England* (London, 1980), p. 174.

<sup>43</sup> Inclosure Act, 29 Geo II, c 36, Charles Elton, *Observations on the Bill*, p. 37.

<sup>44</sup> See I.Campbell, and P.Clayden, *Law Of Commons and Village Greens* (Oxon, 1980) and N.MacMaster, ‘The Battle for Mousehold Heath 1857-1884: “Popular Politics” and the Victorian Public Park’, *Past and Present* 127 (1990) 126.

<sup>45</sup> See G.Hardin, ‘The Tragedy of the Commons’, *Science* 162 (1968) and B.J.McCay, and J.M.Acheson, *The Question of the Commons: The Cultural and Ecology of Communal Resources* (Arizona, 1987).

<sup>46</sup> D.Woodward, ‘Straw, Bracken and Wicklow Whale’, pp. 54–55.

<sup>47</sup> S.J.Buck-Cox, ‘No Tragedy on the Commons’, *Workshop in Political Theory and Policy Analysis* (1994) 60.

<sup>48</sup> S.Hindle, ‘Persuasion and Protest’, p. 49.

ricks from Berkhamsted common, continued up to the end of the nineteenth and early twentieth centuries. This was done by implementing a closed season (between 1 June to 1 September) and banning long cutting implements.<sup>49</sup> An 1825 Ashridge estate map further illustrates these restrictions. It clearly depicts a line running through Potten End as the ‘Boundary of Fritsden liberty for cutting furze and fern’. The tenants followed the unusually ancient custom of marking out their own small lots, and they arrived on the common late on the night of August 31 in order to be ready to cut round the edges of their chosen territory, at the turn of the new day.<sup>50</sup> The majority of customary rights were ‘limited to the needs of the household’, and tight regulations were in place to exclude individuals from outlying parishes taking from the common.<sup>51</sup> Nonetheless, there was a woman named Julie Rance from Potten End, who continued to take advantage of the custom well into the twentieth century, even though she did not do so purely for her own needs. The fuel she collected was used to heat the oven in which she cooked the Sunday dinners for local families.<sup>52</sup> It appears that because this was to the benefit of the local people she was not reprimanded. Whereas David and Thomas Rance of Great Gaddesden were charged, not only for ‘doing damage to furze’ on the common but, more specifically, for selling it on to the inhabitants of Leverstock Green who had no rights on this specific land.<sup>53</sup>

To prevent over exploitation of the common woods, rights were often controlled by limiting the act of collecting and gathering to certain times of the year. At Shirburn, in the Chilterns, there were specific weeks set aside for the collecting of firewood from the common. In some areas, such as Studham, there were additional fixed limits as to the number of cartloads permitted to be taken.<sup>54</sup> Even well publicised and enduring rights such as those possessed by the inhabitants of Wishford Forest, whose right of estovers is defined under the Commons Registration Act, have conditions attached, here it is specified that the collecting of dead wood must take place on foot.<sup>55</sup> Often these limitations and restrictions were in place not so much for the preservation of the resources themselves, but for the protection of the game and the benefit of the gamekeepers. This may explain

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<sup>49</sup> V.J.M.Bryant, *A History of Potten End*, p. 11 and R.Mabey, *The Common Ground*, p. 131.

<sup>50</sup> Referred to in V.J.M.Bryant, *A History of Potten End*.

<sup>51</sup> What were termed ‘out-townsmen’. G.D.Gadsden, *Law of Commons*, p. 83. S.Hindle, ‘Persuasion and Protest’, p. 49.

<sup>52</sup> V.J.M.Bryant, *A History of Potten End*, p. 12.

<sup>53</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 8 February, 1873.

<sup>54</sup> L.W.Hepple and A.M.Doggett, *The Chilterns*, p. 126.

<sup>55</sup> Mr Robert Key(Salisbury), *House of Commons Hansard Debates* for 13 June 2000, Column 799.



why the notices were put up at Salcey Forest in Northamptonshire, back in 1785, which stated that collecting fuel could take place only on Mondays and Thursdays.<sup>56</sup>

In addition to regulating access and resources on the common, farmers and proprietors often found it easier to limit and restrict the pursuance of customary activities, rather than causing local hostility by attempting to extinguish them with legal sanctions.<sup>57</sup> Despite gleaning being tightly regulated by custom, further directives were often deemed necessary.<sup>58</sup> In 1845 a group of farmers announced a new set of regulations which stated that only boys under the age of sixteen could glean with the women, and it could only take place between the hours of 8am and 6pm.<sup>59</sup> Others insisted that permission be sought before entering the fields, and some limited the privilege to those who had worked for them during the harvest.<sup>60</sup>

The supervision and control of land and resources, in some form or another, was essential and necessary for many reasons - a fact very much recognised today by conservationists, environmentalists and ecologists. Neglect of landscapes and resources was one of the consequences of mis-management or lack of it, a point that is evident in a report published in the *Bucks Herald* in 1873. The article implied that the height of the furze (six-seven feet) and the fact that the 'parishioners dare not cut it', contributed to the scale of the fire on the common.<sup>61</sup> Similarly, Lord Eversley highlighted the appalling state of a home counties' common in 1910. He noted that its deteriorating condition appeared to have been a consequence of unsupervised fires, the destruction of heather and underwood, the digging of stones for road repairs and, general mis-management.<sup>62</sup> The legacy left by the lack of control, preservation or protection of nineteenth century commons and wastes, may be apparent in Northamptonshire, for the county, that lost so much of its common

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<sup>56</sup> *Northampton Mercury*, 9 July, 1785.

<sup>57</sup> B.Bushaway, *By Rite*, p. 144.

<sup>58</sup> For example, the guard sheaf or gleaning policeman ensured no one entered the field to glean until the field was cleared and the gleaning bell indicated the times for gleaning. See D.H.Morgan, 'The Place of Harvesters', in R.Samuel (ed.), *Village Life*, p. 58.

<sup>59</sup> New regulations stated that only boys under the age of 16 could glean and gleaning could only take place between the hours of 8am and 6pm. *County Press for Herts, Beds, Bucks, Huntingdon, Cambridge, Essex and Middx*, 16 August, 1845.

<sup>60</sup> D.H.Morgan, 'The Place of Harvesters', in R.Samuel (ed.), *Village Life*, p. 58.

<sup>61</sup> *Bucks Herald*, 16 March, 1878.

<sup>62</sup> J.G.Shaw-Lefevre, *Commons, Forests and Footpaths* (London, 1910), p. 53.

land in the nineteenth century, today has no Outstanding Areas of Natural Beauty or National Parks and very few sites of Special Scientific Interest.<sup>63</sup>

### Space

Space was after all a resource itself and it needed to be controlled, especially as populations continued to grow during the nineteenth century. As Sara Birtle noted, space and land possessed both an ‘economic and a social function’.<sup>64</sup> Therefore, as Neil MacMaster observed, while investigating the transformation of popular culture during the nineteenth century, historians have ‘almost inevitably been drawn to the question of public space’.<sup>65</sup> Commons, wastes and village greens, not only provided raw materials for every day subsistence, they provided space within which to work, to court, to gossip, to participate in sports, and socialise; they were spaces central to economic and social relations.<sup>66</sup> Nevertheless some feared social spaces while others viewed them as dangerous, sinful places. Back in 1781 an anonymous writer wrote that forest commons were the ‘most fruitful seminaries of vice’.<sup>67</sup> A letter to the editor of *The Times* in 1865 wrote that commons were where the ‘germ of much crime is planted’, and the editorial of *The Times* on the 29 May 1876 expressed its fears that the ‘roughs’ on the commons were asserting their ownership and dictating how these spaces should be used.<sup>68</sup> It was also feared that social spaces provided areas in which ‘practices and discourses of resistance’ could take place ‘insulated from control and surveillance’.<sup>69</sup> Furthermore, expressions of popular culture, which invariably took place in these open public spaces, frequently produced ‘crowds, noise, excessive drinking and increased levels of violence’.<sup>70</sup> It was because of this that Victorian reformers were ‘keen to modify and eradicate’ all forms of collective and visible activities in open spaces.<sup>71</sup>

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<sup>63</sup> Today the County Council is responding by creating pocket parks. Pocket parks are open spaces, providing free and open access for all. They help protect and conserve local wildlife, heritage and landscape.  
[www.pocketparks.com/about/vision.asp](http://www.pocketparks.com/about/vision.asp)

<sup>64</sup> S.Birtle, ‘A Greenspace beyond Self Interest: The Evolution of Common Land in Norfolk, c. 750-2003’, PhD thesis, University of East Anglia, 2003, p. 3.

<sup>65</sup> N.MacMaster, ‘The Battle for Mousehold Heath’, p. 117.

<sup>66</sup> B.Short, *The Ashdown Forest Dispute 1876-1882: Environmental Politics and Custom* (Sussex, 1997), p. 34. See also A.J.Reiss, *The Sociological Study of Communities*, *Rural Sociology* 4 (1959) 118.

<sup>67</sup> Anon, *Observations on a Pamphlet entitled an Enquiry into the Advantages and Disadvantages, Resulting from Bills of Enclosure* (Shrewsbury, 1781), p. 5. Quoted in J.M.Neeson, *Commoners*, p. 33.

<sup>68</sup> Letter to the Editor, ‘The Hertfordshire Commons’, *The Times*, Thursday, 17 August, 1865. Editorial, ‘Should all the commons in this land ever come to be enclosed’ *The Times*, 29 May, 1876.

<sup>69</sup> J.C.Scott, *Domination*, p. 118.

<sup>70</sup> R.D.Storch (ed.), *Popular Culture*, p. 1.

<sup>71</sup> I.e. blood sports, fist fighting, bonfire, wakes and fairs see also R.W.Malcolmson, *Popular Recreations*.

As control of public spaces became a ‘core public order concern’ for the Victorian authorities, an array of spatial control strategies were employed. Robert Storch has shown how, in urban areas, the new police forces were effective as regulators of public behaviour, but the most successful method of controlling the feared activities was by denying physical access to the types of spaces and traditional open locations they required.<sup>72</sup> In the towns, streets and squares, areas of traditional culture, were transformed into ‘symbols of civic authority’ - town halls and official parades.<sup>73</sup> In the countryside many open spaces were either enclosed, landscaped, developed or even converted into public parks, whatever their fate they lost their original function and were liable to new rules and regulations.<sup>74</sup> That is not to say that there had previously been no attempt to control specific activities in these spaces. Back in 1819, for example, the Earl of Bridgewater considered that the women’s running race at the Holyday fair on the common was, ‘highly improper’, and threatened to arrest anyone who attended it.<sup>75</sup> Yet, the surveillance of large open spaces, whether they were commons, wastes or a public park, was difficult. At Mousehold Heath in 1886 two extra police and a plain clothed officer were required to patrol the park successfully.<sup>76</sup> However, the subject of re-defining social space will be examined further in chapter four. But for now, it only needs to be noted that the continued control and restrictions on social spaces and the promotion of specific public recreational areas was a ‘further instrument for ...social control’.<sup>77</sup>

Primarily, the physical landscape and environment controlled local space. Watersheds and ridges separated settlements.<sup>78</sup> For example, in the Nene River Valley, a stream that flowed into the Nene almost encircled the parish of Great Addington, while the parish of Aldwinkle was bounded on the east by the river Nene and on the south by a tributary known as Harper’s Brook, and the east and the south of Irlingborough, was bounded by the Nene and the Ise.<sup>79</sup> In the Fens, water was a different kind of barrier; it forced settlements on to high ground, like the village of Littleport that rose 65ft out of the Fens.<sup>80</sup> Water too was a space that often caused conflict and confusion, who owned the

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<sup>72</sup> R.D.Storch, ‘The Policeman as Domestic Missionary: Urban Discipline and Popular Culture in Northern England, 1850-1880’, *Journal of Social History* 9 (1976) 481-509 and R.D.Storch (ed.), *Popular Culture*, p. 95. N.MacMaster, ‘The Battle for Mousehold Heath’, p. 117.

<sup>73</sup> N.MacMaster, ‘The Battle for Mousehold Heath’, p. 118.

<sup>74</sup> A.Taylor, ‘“Commons-Stealers”, “Land-Grabbers” and “Jerry-Builders”’: Space, Popular Radicalism and the Politics of Public Access in London, 1848-1880’, *International Review of Social History* 40 (1995) 399.

<sup>75</sup> HRO DE/LS/B167.

<sup>76</sup> N.MacMasters, ‘The Battle for Mousehold Heath’, p. 152.

<sup>77</sup> M. Chase, *The People’s Farm* (Oxford, 1988), p. 12.

<sup>78</sup> C.Phythian Adams, *Rethinking English Local History* (Leicester, 1987), p. 35.

<sup>79</sup> W.Page, *Victoria County History of Northamptonshire*, Vol 3 (1930) p. 155, 164, 207, and 215.

<sup>80</sup> R.B.Pugh, *A History of the County of Cambridgeshire*, p. 95.

fishing rights: the local inhabitants, tenant farmers, landowners, or the Drain Commission? William McNally insisted that he was unaware that he was fishing on hired waters when accused of unlawfully taking fish in waters claimed by John Whitfield, a farmer from Wisbech St Mary.<sup>81</sup> Did David Freeman of Hemel Hempstead understand that the stream between the property of Mr Halsey and Mr Brownlow did in fact have fishing rights attached to it, and that it was not purely an estate boundary?<sup>82</sup> In the same way, four labourers from Sutton, accused of unlawfully taking eels with gleaves by Robert English representing the Middle Level Commissioners, were adamant that their right to do so had stood for at least two hundred years.<sup>83</sup>

Physical barriers such as hills, ridges, forests and woods were a form of control in the landscape. Yet, on the scarp slope of the Chilterns, strip parishes transcended these restrictions and made full use of the mix of landscapes and spaces.<sup>84</sup> Similarly, nature could restrict movement and assist it. Bogs, Fens and watercourses limited the number of public footpaths and rights of way across the land, yet at the same time increasing the possibility of moving around on the waterways. During the early modern and modern period much of England's landscape was manipulated by man – further draining of the fenlands and extensive enclosure of agricultural lands. Enclosure encouraged manmade fixed and visible demarcation of space. Hedges and fences imposed a new landscape and prevented forms of physical movement associated with the commoning economy.<sup>85</sup> At this point, as Nicholas Bloomley explained, the 'questions of spatial access acquired a new significance', especially with reference to the fencing and hedging of open spaces.<sup>86</sup> In 1863, James Newton and John East appeared in court charged with damaging a live fence. The fence in question had been set up fourteen years earlier, but still the defendants argued that in the past no fences had existed on the wasteland.<sup>87</sup> One of the paradoxes of enclosure was that, where on one hand the fences and hedges greatly curtailed the movement of some sectors of society, for others it offered increasing opportunities to flout and display their power and wealth. Fox hunting, for example, came to be seen as a 'public display' of the ruling classes who were the only ones 'permitted access across newly defined landscapes'.<sup>88</sup>

<sup>81</sup> Ely Petty Session, *Cambridge Chronicle*, 14 July, 1877.

<sup>82</sup> Berkhamsted Petty Session, *Bucks Herald*, 22 January, 1870.

<sup>83</sup> Ely Petty Session, *Cambridge Chronicle*, 18 September, 1880.

<sup>84</sup> Strip parishes straddle different landscape topographies. See L.W.Hepple and A.M.Doggett, *The Chilterns*.

<sup>85</sup> N.Blomley, 'Making Private Property: Enclosure, Common Right and the Work of Hedges', *Rural History* 18 (2007) 5.

<sup>86</sup> N.Blomley, 'Making Private Property', p. 5.

<sup>87</sup> Chesham Petty Session, *Bucks Herald*, 9 May, 1863.

<sup>88</sup> J.Finch, "'Grass, Grass, Grass": Fox-Hunting and the Creation of the Modern Landscape', *Landscapes* 5 (2004) 50.

Roads, roadsides, lanes and footpaths held ambiguous positions. Often interpreted as public spaces where common rights could be claimed, yet also used as a means of control. Most people used them as a frame of reference in the landscape, respected them, and kept to them, and certain expectations were associated with them. Mr Samuel Redding said in a case against two young lads at Great Missenden, that he ‘merely wanted them and others to know that they must keep to the footpaths’.<sup>89</sup> Nevertheless these public spaces, that often bounded or crisscrossed estates and game preserves, were a constant source of uneasiness. Gamekeepers and their assistants were often forced to patrol public spaces and rights of way, even stopping and searching courting couples, while the police would watch the crossroads and lanes leading into certain villages, should they have information to suggest that poaching was taking place.<sup>90</sup> As we have seen, the sorts of, and extent of, customary activities practiced in any one region, was very much dependent on the type of landscape, environment and the resources it produced. The natural environment and to some extent the manmade landscapes were instrumental in controlling subsistence customary activities and attitudes towards them.

## COMMUNITY CONTROL

In conjunction with the environment, the community also contributed to the control of subsistence customary rights, and attitudes towards them, in the late nineteenth and early twentieth centuries. Control was achieved in various ways, though generally, through a combination of ‘compliance, coercion and commitment’ to a certain set of social values.<sup>91</sup> This could be accomplished, in part, through community pressure, and a process described by F.M.L.Thompson as ‘socialization’.<sup>92</sup> Members of a village or parish readily learned the rules and practices of their group and as a consequence ‘expected and accepted forms of behaviour’, and attitudes, were easily ‘transmitted’ throughout the community.<sup>93</sup> This section will examine the various ways in which community control was achieved through aspects of community support, self-regulation and the Church.

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<sup>89</sup> Gt Missenden Petty Session, *Bucks Herald*, 14 July, 1900.

<sup>90</sup> R.Jefferies, *The Gamekeeper at Home*, p. 120.

<sup>91</sup> N.Abercrombie, S.Hill and B.S.Turner, *Dictionary of Sociology* (Middx, 1984), p. 384.

<sup>92</sup> Socialization is the transmitting and imprinting of values and customs. F.M.L.Thompson, ‘Social Control in Modern Britain’, p. 2.

Songs, ballads and poems have sometimes been described as ‘mechanism[s] for the articulation of social anxiety’, and as Alun Howkins has clearly shown, they were informative in conveying the opinions and feelings of ordinary people towards their community and their fellow neighbours.<sup>94</sup> Even though there is no such evidence directly related to the three regions in this study regarding community attitudes and opinions, we do have the diary of Henry Gibbons, from Bledlow Ridge, in which there is the suggestion that some members of the local population sympathised with a recently caught local poacher.<sup>95</sup> Positive popular sanctioning of social crime had been, according to John Rule, an extremely important characteristic of local communities in the late eighteenth and early nineteenth centuries.<sup>96</sup> In this study too, evidence from the local and regional newspapers, suggests that local approval of these crimes continued into the latter part of the nineteenth century and beyond.

The nature of long established communities and the importance of co-operation, shared histories and beliefs, has been discussed in chapter one, so here it only needs to be reiterated that communities were, as Keith Snell recounted, ‘bounded or limited area[s] in which almost everybody knew each other’ and more importantly, ‘to which people felt they belonged’.<sup>97</sup> The family formed the foundational basis for such communities, often practicing self-discipline, self help and self respect. F.M.L.Thompson regarded it, in some senses, as ‘the basic cell in the machinery of social control’.<sup>98</sup> As we saw in chapter one, members of the same family were often involved together in social crimes associated with customary rights. However, family support could take a variety of forms. The daughter of a poacher named Crowy Kerry, for example, routinely took the catch round to his ‘regular customers’ for him.<sup>99</sup> George Evans, a baker from Harrowdean, claimed, as a convenient excuse, that he was on his way to his uncle’s field when he was accused of

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<sup>93</sup> F.M.L.Thompson, ‘Social Control’, p. 190. ‘People in groups develop common standards or rules’, A.H.Eagly, *Psychology of Attitudes*, p. 631. ‘The more a group feels that it is bound together and tightly organised, the more power the group has over its members’. A.Cash, *Psychology*, p. 179.

<sup>94</sup> L.Bellamy, K.D.M. Snell, and T.Williamson, ‘Rural History and Popular Culture’, *Rural History* 4 (1993) 1; A.Howkins, ‘The Voice of the People: The Social Meaning and Context of Country Songs’, *Oral History* 3 (1975) 50; See also R.Palmer, *The Painful Plough* (1973), *Ballad History of England*, (1979); Ballad Collection, Norfolk Rural Life Museum.

<sup>95</sup> *The Journal of Henry Gibbons of Bledlow Ridge* (1870) 28 November, 1869, BRO AR87/94. In particular they discuss that they have the same opinions as George (the poacher) that the birds ‘are wild and hence belong to anyone who can kill or catch them’.

<sup>96</sup> J.G.Rule, ‘Social Crime in the Rural South’, pp. 51-52.

<sup>97</sup> K.D.M.Snell, *Parish and Belonging: Community, Identity and Welfare in England and Wales, 1700-1950* (Cambridge, 2006), p. 496.

<sup>98</sup> F.M.L.Thompson, ‘Social Control in Modern Britain’, p. 2.

<sup>99</sup> R.Samuel (ed.), *Village Life*, p. 215.

trespassing in pursuit of game.<sup>100</sup> And when Thomas Baker of Wigginton appeared before the bench for trapping and snaring rabbits, his sister pointed out to the bench that Thomas had five children and no wife saying: ‘the children were half starved, what was he to do?’<sup>101</sup> Similar support was demonstrated when Henry Impey’s mother and sister represented him at court and may well have paid his fine, and when James Stevens’ mother appeared at the Great Berkhamsted Petty Session Court for him in 1878.<sup>102</sup> However, the representation of a member of one’s family was not always acceptable. When Thomas George’s wife turned up at court to answer the charge of trespassing in search of game brought against him, her offer to pay all the costs incurred was turned down and a warrant was issued for his arrest.<sup>103</sup>

Control within the family and neighbourhood was very often based on a sense of responsibility and an obligation to be loyal to, to protect and to cover up for those who were involved in social crimes; these responsibilities were often mutually reciprocated. James Hawker, a well-known nineteenth century poacher, recorded that even when he had enough meat for himself and his family, he felt an obligation to poach for his neighbours.<sup>104</sup> John Watson wrote, in 1891, that any excess animals taken would be ‘disposed of in the village’, which greatly relieved the hardships of the unemployed.<sup>105</sup> Family and neighbours could often take priority. Flora Thompson recorded that when Bob Trevor had horse-raked the field after the harvest he took great care to ‘leave plenty of good ears behind for the gleaners’ of his neighbourhood, and it was well understood that the corner under the two hedges was for his mother, and ‘nobody else [was] to leaze there’.<sup>106</sup>

It is possible that some customary disputes unified a community and made it stronger.<sup>107</sup> During the second Rebecca riots, of the second half of the nineteenth century, the whole community was said

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<sup>100</sup> Wellingborough Petty Session, *Northampton Mercury*, 3 November, 1893.

<sup>101</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 19 December, 1868.

<sup>102</sup> Gt Berkhamsted, *Bucks Herald*, 7 June, 1873; Gt Berkhamsted Petty Session, *Bucks Herald*, 7 January, 1878. And when the wife of a man called Gomm appeared at in court for him, Gt Berkhamsted Petty Session, *Bucks Herald*, 8 June, 1878. Also George Mead was represented by his mother when he stood accused of ‘damaging a tree whilst getting acorns’ at Gadebridge Park. Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 17 November 1883 and Alfred Evans, a labourer from Hyde Heath, was represented by his mother at court. Chesham Petty Session, *Bucks Herald*, 23 May, 1903.

<sup>103</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 October, 1866.

<sup>104</sup> G.Christian (ed.), *A Victorian Poacher*, p. xvi.

<sup>105</sup> J.Humphreys, *More Tales of the Old Poachers*, p. 22.

<sup>106</sup> F.Thompson, *Lark Rise to Candleford*, p. 336.

<sup>107</sup> ‘In any practical attempt to change attitudes, social support and group influence assume first importance’, D.Katz, ‘The Functional Approach to the Study of Attitudes’, p. 195.

to have given ‘active support’ to the poachers.<sup>108</sup> Similarly, the tenants of Grovely Forest, ‘jealously guarded’, the rights they had managed to hold on to.<sup>109</sup> And when the highway past the Hoo, at Great Gaddesden, was deliberately obstructed in 1888 by a big hole filled with black water, it was three farmers and various members of the parish who ‘filled in the hole and restored the right of access to the public’.<sup>110</sup> Paradoxically, the loyal and cohesive nature of a community could create difficult divisions in other ways. When the dispute over the wasteland at Otmoor broke out, fellow townsmen refused to serve as special constables and those that did told the magistrates that they would not police that particular area.<sup>111</sup> The inclusiveness of community support could lead some to believe that all the members of a group were guilty of the same behaviour. At a case heard at the Northampton Divisional Petty Session in 1864, two men from Yardley Hastings were fined for trespassing in pursuit of game. The prosecution said that the Marquis of Northampton had not desired to press the case very hard, ‘but he must take some steps to keep the Yardley Hastings people from trespassing’.<sup>112</sup> Nevertheless there were indeed some villages, that James Watson claimed, were collectively involved in customary crime, almost everybody he said, ‘from cottage wives to postmen, blacksmiths and parish clerks were involved [in poaching], spending winter evenings mending nets, making wires and breaking in the lurcher dogs’.<sup>113</sup>

The physical presence of groups and crowds not only conveyed to the authorities the strength of local collectiveness, but also contributed to the control of community actions and attitudes. In order not to risk the loss of future local support or being labelled an outsider, such sights served to influence individuals to consider participating themselves. Crowds sometimes carried defendants from courtrooms to their homes and paid their fines.<sup>114</sup> When the evidence of a gamekeeper led to the prosecution of four men on a charge of night poaching at Blackburn in 1862, it was deemed necessary for eight policemen to escort the gamekeeper home. But that did not stop a crowd of 400 people marching to Pleasington Hall to hurl stones and show their disapproval.<sup>115</sup> Examples of crowd intervention towards the end of the late nineteenth century in the three regions in this study are far and few between, however they do exist. At Brigstock in the Nene River Valley, in 1894, a

<sup>108</sup> D.Jones, ‘The Second Rebecca Riots: A Study of Poaching on the River Wye’, *Llafur* 2 (1976) 52.

<sup>109</sup> R.W.Bushaway, ‘Grovely, Grovely’, p. 42.

<sup>110</sup> Great Gaddesden, *Hertfordshire Mercury*, 18 February, 1888.

<sup>111</sup> D.Eastwood, ‘Communities, Protest and Police’, p. 42.

<sup>112</sup> Northampton Div. Petty Session, *Northampton Mercury*, 14 May, 1864.

<sup>113</sup> From James Watson, *Poachers and Poaching*, 1891 quoted in P.Horn, *Pleasures and Pastimes*, p. 119.

<sup>114</sup> D.J.V.Jones, ‘The Poacher’, *Historical Journal* 22 (1979) 859. In East Anglia and Radnorshire during the mid-nineteenth century.

<sup>115</sup> Case referred to by C.Emsley, *Crime and Society in England 1750-1900* (London, 1987), p. 141.



large crowd supported Alice Wills, and similarly large crowds gathered outside the Ivinghoe court to hear the decision on several poaching cases on the Chilterns in 1869.<sup>116</sup> There is some evidence to suggest that the fear of crowd reprisals influenced the handling of customary activities. Walter Rose wrote in the 1870s that ‘no one’ at the time denied the privilege of gleaning ‘or would have risked the opposition of public opinion if it had been withheld’.<sup>117</sup>

Rural customary practice, a belief in rights, and harsh economic reality, explained Alun Howkins, was ‘supported by the village community and celebrated in its popular culture’.<sup>118</sup> Yet it was not essential that community support take the overt and visible form of participating in crowds, or openly handling customary pickings. In fact only a very small percentage of the population was actually convicted of social crimes associated with customary rights - in the Cambridge Fens 0.31 per cent, Nene River Valley 0.88 per cent and on the Chilterns 0.90 per cent.<sup>119</sup> David Jones suggested that local support often influenced official crime rates, he referred to a book written by Herbert M. Vaughan in 1926 - *The South Wales Squires* – which highlighted the point that the number of poaching offences that were heard at the courts, especially where game was not extensively preserved, ‘bore no relation to the known popularity of the crime’. His own work, for the period covering the 1880s and 1890s, revealed that only one or two cases a year were mentioned in the Petty Sessional Divisions, even in districts that were known to be ‘notorious poaching areas’. This research has similar finding in the Cambridge Fens, where very few poaching cases were officially recorded in the late nineteenth century. This, David Jones too claimed, was attributed to community support and the protection of local poachers.<sup>120</sup> There is evidence of this in the Chilterns where Charles Chapman, landlord of the Fox public house in the 1880s, allowed one of the village boys, who was being pursued by the authorities, to ‘lie up in his loft’ without turning him over to the law.<sup>121</sup> Raphael Samuel also discovered that, in nineteenth century Oxfordshire, regular poachers were so ‘well known’ that orders were frequently ‘put to them’ by local housewives.<sup>122</sup>

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<sup>116</sup> Thrapston Petty Session, *Northampton Mercury*, 5 October, 1894. Ivinghoe, *Northampton Mercury*, 24 April, 1869.

<sup>117</sup> W. Rose, *Good Neighbours*, p. 30.

<sup>118</sup> A. Howkins, *Reshaping Rural England: A Social History 1850-1925* (London 1991), p. 124.

<sup>119</sup> These figures are based on data collected from the local newspapers used and the average population in each area over the period of time. It takes no consideration as to whether there was more than one defendant.

<sup>120</sup> D.J.V. Jones, ‘Crime, Protest and Community’, p. 32.

<sup>121</sup> V.J.M. Bryant, *A History of Potten End*, p. 150.

<sup>122</sup> R. Samuel, (ed) *Village Life*, p. 214.

Financial support could also be forthcoming. When two little boys were accused of damaging a quick set hedge in 1866, both sets of parents claimed they could not afford the fines, resigning themselves to the possibility that the boys would have to go to prison. Yet onlookers in the court soon collected the money to pay one of the fines, and by doing so pressurised the magistrates to extend the payment period for the other by seven days.<sup>123</sup> Sometimes local support was expected or assumed to be appropriate to justify customary actions. When George Letts summoned Joseph Cumberpatch to court for stealing watercress, he felt no need to deny his actions, he admitted the charge, and as justification continued by saying that he took ‘only a little cress’ and claimed that ‘plenty of people went there on Sundays’.<sup>124</sup> Perhaps he felt that he was not actually committing an individual crime but participating in a communal activity.

Local social crime could ‘be sustained by community tolerance’ claimed Steven Humphries.<sup>125</sup> There is evidence to suggest that tolerance and the general ‘turning of a blind eye’ to rural social crime allowed it to perpetuate and thereby controlled its continuance. The Aylesbury minute book for 1903 records a poaching case in which the gamekeeper, Seth Cox, claimed that he had watched the accused for about half an hour catching rabbits, during which time there ‘were a lot of people on the common’. This statement tends to suggest that members of the public took no notice of the poachers’ activities and that the poachers did not feel threatened by their presence.<sup>126</sup> Similarly, certain members of a district were known to own ferrets and dogs, like George Baldry’s father, who regularly lent them out to others.<sup>127</sup> When the poacher James Hawker escaped from his captors, the keepers shouted to the labourers ahead on the road to ‘stop the fugitive’. But when James told them that he had killed a couple of hares to feed his kids, the labourers encouraged him to run off quickly and they continued to ignore the shouts of the keepers.<sup>128</sup> Some earlier examples of local tolerance were rather more extreme. At Hungerford, in 1849, a crowd of approximately 1000 people just came to ‘watch’ the blaze of an incendiarism attack.<sup>129</sup> In fact, the actions of one or two could almost be seen as methods of controlling and encouraging others to engage in overt demonstrations of non-compliance. At an incendiarism incident, recorded in the *Cambridge Chronicle* in October

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<sup>123</sup> Wellingborough Petty Session, *Northampton Mercury*, 13 January, 1866.

<sup>124</sup> Northampton Div. Petty Session, *Northampton Mercury*, 18 August, 1860.

<sup>125</sup> S.Humphries, *Hooligans or Rebels? An Oral History of Working Class Childhood and Youth 1889-1939* (Oxford, 1981), p. 313.

<sup>126</sup> Poaching on Pitstone Common, 27 June 1903, Aylesbury Minute Book October 1897-January 1917, BRO, PS/I/M/2.

<sup>127</sup> G.Baldry, *The Rabbit Skin Cap*, p. 76.

<sup>128</sup> G.Christian (ed.), *A Victorian Poacher*, p. 33.

<sup>129</sup> *The Times*, 19 March, 1849.

1849, it was reported that ‘great apathy was manifested by the Kirtling labourers ...for when the engines arrived from Newmarket, the workmen would not assist in working it’.<sup>130</sup>

The subtle and unobtrusive actions of not participating or responding could be interpreted as a form of silent support. Yet actual deliberate silence itself could, in other respects, be an obvious method of showing support and of controlling information. A former landlord in Norfolk told Alun Howkins that there was a ‘conspiracy of silence’ that defended local poachers.<sup>131</sup> When the gamekeeper, John Wilkins, lost the poacher named Dabber whom he was pursuing, he decided to wait for him at his place of work. But, apparently without any coaxing by Dabber himself (for he had not yet arrived), all but one of the workers present claimed that Dabber had been at work all morning.<sup>132</sup> As Douglas Hay noted, not only were keepers ‘met with a wall of silence’ when they tried to make inquiries, but word always seemed to ‘spread like lightning’ when they obtained a search warrant, and all of a sudden witnesses ‘lost their memories’.<sup>133</sup> Customary practices of silence probably had its roots in the family, where even very small children understood that specific subjects should never be spoken of. For example, when a ‘bird’, which according to Flora Thompson was apparently a regular feature of the hamlet menu, appeared on the table, no questions would be asked, ‘it would never be named and no feathers would ever be left lying about by which to identify it’.<sup>134</sup>

As we have seen there were many ways in which the local working population could offer its support to those asserting, what they perceived to be their customary rights. Some methods were more obvious and risky than others. Providing alibis was one such form. In the case against Levi Lines, a regular poacher on the Chilterns, both William Barton and Sarah Carter provided alibis and in the 1879 case against Johnny Trueman, his sister Emma, told the bench that he was at home with her on the night of a poaching incident.<sup>135</sup> Aiding and abetting was a more pro-active and riskier form of support, and punishments could be harsh. When Henry Smith of Chipperfield, near Hemel Hempstead, was charged for poaching, he was fined 10s with costs at 11s, while Amos King and

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<sup>130</sup> *Cambridge Chronicle*, 1849, M.J.Carter, *Peasants and Poachers*, p. 28. Barry Reay and other historians have interpreted this as ‘exercising an overt form of collective protest’, B. Reay, *Rural Englands*, p. 152.

<sup>131</sup> A.Howkins, *Reshaping Rural England*, p. 124.

<sup>132</sup> J.Wilkins, *An Autobiography of English Gamekeeper*, p. 91.

<sup>133</sup> D.Hay et al., *Albions Fatal Tree*, p. 198.

<sup>134</sup> F.Thompson, *Lark Rise to Candleford*, p. 154.

<sup>135</sup> M.D.Allen, ‘Poachers’, pp. 186-189.

Fred Mason of Two Waters were prosecuted for aiding and abetting, and subsequently fined 10s and 12s costs.<sup>136</sup>

Even though members of a local area may not have necessarily approved of certain individual's behaviour, they could, nonetheless, empathize or sympathize with their motives, their poverty and the symbolic protest they were making. George Rude's belief that poaching was losing its popular approval by the mid nineteenth century, contradicts that of the Select Committee on the Game Laws that met in 1873.<sup>137</sup> They reported that 'the man who kills a hare or a rabbit in the daytime is not looked upon with any disfavour by his equals - or by society in general'.<sup>138</sup> In fact in 1877, Griffith Evan Jones alleged that, community sympathy for salmon poaching was so widespread that two members of his own gang were actually magistrates.<sup>139</sup> Harvey Osbourne and Michael Winstanley wrote that poachers actually 'acquired a reputation' not as criminals, but as 'champions of the poor's customary and natural rights'.<sup>140</sup> And because of their position in the 'forefront of the battle' over custom, rights and law they became folk heroes, and characters of popular songs and stories.<sup>141</sup> In 1888 Sir Ralph Payne Gallwey warned that the public 'is still inclined to see the poacher as Robin Hood', for generally they had become 'martyrs to the game laws'.<sup>142</sup> Many of the folk hero stories were published as ballads, songs and poems, yet it was, according to Harry Hopkins, 'thanks to the new watchfulness of the provincial and national press' that news of customary disputes was being brought to the attention of the general public in the late nineteenth century.<sup>143</sup> The intensity of public sympathy is evident in reports such as the one concerning Joe and Sam Boswell, which resulted in the local vicar telegraphing the Home Secretary to inform him that there was 'universal indignation', in the parish, that a reprieve had not been extended to the Boswells.<sup>144</sup> Similarly, widespread sympathy and support was evident in the 'impassioned' pleas for mercy, published in local newspapers, when the Aldbury poachers were sentenced to death in 1892.<sup>145</sup>

<sup>136</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 11 December, 1880.

<sup>137</sup> G.Rude, *Criminal and Victim*, p. 85.

<sup>138</sup> Quoted in P.Horn, *Labouring Life*, p. 229.

<sup>139</sup> P.Horn, *Pleasures and Pastimes*, p. 119.

<sup>140</sup> H.Osbourne, and M.Winstanley, 'Rural and Urban Poaching', p. 187.

<sup>141</sup> D.J.V.Jones, 'The Poacher', p. 826.

<sup>142</sup> Sir Ralph Payne Gallwey, *Shooting – Field and Covert*, 1888, in H.Hopkins, *The Long Affray*, p. 277 and p. 5.

<sup>143</sup> See R.Palmer, *The Painful Plough* (Cambridge, 1973), *Ballad History of England*, (1979); Ballad Collection, Norfolk Rural Life Museum and collections of ballads at Bodleian Library. H.Hopkins, *The Long Affray*, p. 277.

<sup>144</sup> *The Times*, 20 February, 11-12 March, 1890.

<sup>145</sup> See H.Hopkins, *The Long Affray*, p. 278.

### Self regulation

The specific level of community support in any one area, provided to the transgressors of official statute laws, a means by which to assess community opinions on customary rights. Secondly, it served to influence and shape local population's attitudes themselves. Nevertheless, this alone was not enough to control local activities and opinions. Social control, in its 'classical sense', explained Morris Janowitz, relied on the 'capacity of a social group to regulate itself' and this was done in a more pro-active, organised and practical manner.<sup>146</sup> Even so, although 'to regulate' means to organise or control, an activity or process, by making it subject to rules or laws, self-regulation was not subordinate to the formal legal system.<sup>147</sup> Instead large groups of people exerted pressure, and maybe a certain amount of fear, on individual members, in order to induce conformity. Indeed, the fear of group reprisals could be far more worrying than detection by the authorities. George Baldry's diary recalls that when he was young in Norfolk, during the 1880s and 1890s, he would catch rabbits on the harvest fields. But his 'greatest worry' was not being caught by the farmer, landowner or police, but by the harvest men themselves – for he was doing them out of their customary harvest catch.<sup>148</sup>

So what were customary community rules and regulations and how did they work? In relation to gleaning, strict local codes of behaviour were prescribed as to: when a field could be entered; the period of weeks in which it could continue to be gleaned; how the gleanings could be collected; and how gleaning times should be shared between neighbouring and competing gangs of gleaners.<sup>149</sup> The gleaning bell signalled the beginning and the end of the gleaning day and this was still an important feature of this customary activity right through to the end of the nineteenth century. In Hertfordshire twenty parishes still rang the gleaners bells in the 1890s.<sup>150</sup> In Buckinghamshire the bell rang at Aston Abbott until 1883 and at Olney until 1886,<sup>151</sup> while the *Northamptonshire Notes and Queries* reported that in 1886, 'though by no means universally rung as was once done' the gleaning bells could still be heard in some fifty parishes.<sup>152</sup> The consequences of not respecting the guidance of the bell are illustrated in the case of a mixed group of men, women and children who

<sup>146</sup> M. Janowitz, 'Sociological Theory and Social Control', p. 82.

<sup>147</sup> *Encarta World English Dictionary*.

<sup>148</sup> G. Baldry, *The Rabbit Skin Cap*, p. 61.

<sup>149</sup> 'Farmers would lay five sheaves on the hedge to intimate that the gate would be opened to gleaners at five o'clock the next morning', the practice was still evident in 1924. In Hertfordshire the gleaning period was three weeks. D. Jones-Baker, *Old Hertfordshire Calendar* (London, 1974), p. 168. And A. Howkins, *Reshaping Rural England*, p. iv.

<sup>150</sup> D. Jones - Baker, *Old Hertfordshire Calendar*, p. 168.

<sup>151</sup> Cocks, *The Church Bells of Buckinghamshire*, quoted in D. Hoseason Morgan, *Harvester and Harvesting*, p. 158.

<sup>152</sup> *Northamptonshire Notes and Queries*, Vol I, 1886, p. 248.

found themselves labelled as ‘dishonest gleaners’ in 1880. Apparently they were still gleaning at 7pm in the evening.<sup>153</sup> In addition, the bell reinforced customary regulations and justified the penalties inflicted on those who did not adhere to customary rules.<sup>154</sup> Bitter disputes and personal assaults were often a result of individuals taking it upon themselves to uphold customary rules and regulations. Two assault cases heard at the Ely Petty Session on 11 August 1877 - one involving Elizabeth Clay and Pleaney Hanines, and the second involving Hannah Lawrence and Sarah Cross - both appear to be caused by a gleaning dispute.<sup>155</sup> The assault case against Jane Budday of Kingsthorpe clearly stated that there was a ‘quarrel in the gleaning field’.<sup>156</sup> And the fact that two separate parties of women were gleaning in a field at Woodnewton at the same time seems to have caused Susannah Scotney to assault Alice Reed.<sup>157</sup> These self-regulatory disputes offered opportunities to engage in complex community power relations and to convey to others the severity of certain misdemeanors. When fifty four year old Jane Wall assaulted Rachel Dickerson, the assault may have been particularly severe because Rachel had apparently ‘informed the farmer’ that they were there.<sup>158</sup>

Certain members of the local population may have felt a compelling moral obligation to maintain customary regulations. When William Ayres and George Pearce were accused of unlawfully and maliciously breaking part of a wooden fence at Chesham Bois, Ayres admitted the offence involving the fence enclosing the cottage and ground belonging to Mrs Fry. Yet in his defence he claimed that he had acted under a ‘fair and reasonable supposition’ and that he had ‘a right’. He was himself the owner and occupier of premises adjoining the common and he contended that Mrs Fry had ‘encroached very much on the common’. This particular dispute had been running for some eight years and each time the parishioners believed that Mrs Fry was encroaching further on to the common they pulled her fences down, she then repaired the fences and they pulled them down

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<sup>153</sup> Case against Charles Hobbs, William Dell, John Peddar (aged 6yrs), Alice Howard and Anne Thorn, all of Cherry Bounce. At Hemel Hempstead Petty Session, *Bucks Herald*, 11 September, 1880.

<sup>154</sup> ‘Their corn will be forfeited and it will be bestrewed’. D.H.Morgan, ‘The Place of Harvesters’, in Samuel (ed.), *Village Life*, p. 60. See also S.Hussey, ‘The Last Survivor’, p. 63.

<sup>155</sup> Ely Petty Session, *Cambridge Chronicle*, 11 August, 1877. Similarly, Arthur and Herbert Holliman were found guilty of ‘stealing wheat’ at Hemel Hempstead Petty Session, *Bucks Herald*, 11 September, 1880. In another case six children were accused of ‘stealing wheat’, in a field in which they claimed to be gleaning. Chesham Petty Session, *Bucks Herald*, 22 September, 1860.

<sup>156</sup> Northampton Div. Petty Session, *Northampton Mercury*, 10 September, 1864.

<sup>157</sup> Oundle Petty Session, *Northampton Mercury*, 24 September, 1864. Also Elizabeth Fung, Susanah King and Anne Reeves were fined 19s each for assaulting Sarah Hitchcock at Gubblecote, Gt Berkhamsted Petty Session, *Bucks Herald*, 9 September, 1865 and Charlotte Austin accused of assaulting Harriet Stalwood during a quarrel among gleaners, High Wycombe Borough Court, *Bucks Herald*, 6 September, 1873.

again. This collective persistence paid off and ultimately the local participants could claim to have controlled the outcome of the dispute. The magistrates dismissed the case stating that ‘under the circumstances their jurisdiction [had been] ousted’.<sup>159</sup>

Local working populations meted out a variety of different punishments. Some, as we have seen, fitted the crime, for example, those caught gleaning out of hours had their gleanings shaken and thrown about, or illicit fences physically removed.<sup>160</sup> Others were more conventional, such as the Lord and the Lady of the harvest using their power and authority to fine those who did not adhere to the harvest rules.<sup>161</sup> John Clare wrote of a customary punishment called ‘booting’, which sometimes took place at the harvest home. The aim of the punishment was to inflict public humiliation upon the offender, rather than to cause any actual physical harm.<sup>162</sup> Shame punishments like this, formed an important part of regulating, mostly moral behaviour, within the community. They were designed to ostracise and shame, and more often than not they involved a lot of noise.<sup>163</sup> For example, a householder that did not conform or participate in offering largess at specific customary events, had potsherds thrown at their door.<sup>164</sup> In the rough music incident that took place in Watford, on the edge of the Chilterns, in 1868, seven labourers, followed by at least twenty - thirty supporters, blew horns, rattled kettles and sheep bells at Common wood. Here, apparently a married woman, named Eliza Biggs, was believed to have behaved improperly with another man, while her husband, was in hospital with a broken leg. The labourers were convinced that the case had been morally ‘fully proved’, stating that they thought they would just ‘have a little music’ in order to ‘shame the woman’. In spite of the Chairman’s rebuke, that they had no right to set themselves up as judges, the court fined neither them nor their followers.<sup>165</sup> A similar case is recorded at Chatteris where, despite their reputation of being ‘hard fighting, hard living and hard drinking’, some villagers were ‘sticklers for ...proprieties’. If a young girl found herself with an illegitimate child,

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<sup>158</sup> Jane ‘took hold of her ears, rubbed her face with her hands and spat upon her face three times’. St Albans Liberty Session, *Hertfordshire Mercury*, 17 September, 1870.

<sup>159</sup> Chesham Petty Session, *Bucks Herald*, 24 February, 1900.

<sup>160</sup> M.J.Carter, *Peasants and Poachers*, p. 34.

<sup>161</sup> 10s if they were away for a day, but only 2 shillings and sixpence if they were ill. L.R.Haggard (ed.), *I Walked by Night*, p. 92.

<sup>162</sup> When anyone had misconducted themselves on the harvest field they were subjected to a mock trial and condemned to be booted. J.W.Tibble and A. Tibble (eds), *Selected Poems* (London, 1976), p. 40. B.Bushaway, *By Rite*, p. 116.

<sup>163</sup> See M.Ingram, ‘Ridings, Rough Music’, p. 91.

<sup>164</sup> B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 18.

<sup>165</sup> Rough Music, Watford Sessions, *Hertfordshire Mercury*, 29 February, 1868.

‘all her neighbours assembled outside her bedroom window, beating saucepans, rattling kettles and frying pans, whooping and hollowing to show their disapproval’.<sup>166</sup>

These informal community systems regulated minor transgressions of breaking customary codes and overstepping moral norms. Nevertheless, even though the pressure on individuals to go along with the group’s opinions, for fear of being ‘cast out’, was very strong, there were those who were prepared to deviate further from accepted standards of behaviour.<sup>167</sup> Probably the most challenging and threatening to local populations was the informer. The informer could be a fellow parishioner, often an individual who lived on the peripheral of the main social group, or someone who held an ambivalent position within it, such as the gamekeeper or the schoolteacher.<sup>168</sup> John Humphreys gave an account of a schoolmaster who notified the gamekeeper that ‘little Tommy Robinson was always bringing cooked hare or pheasant to school for his lunch’. Tommy’s labouring father was subsequently watched closely, as it was deemed unlikely that he legitimately came by such fare. Ironically the schoolmaster received a reward of a couple of rabbits for this information.<sup>169</sup>

There had, of course, always been informers and some were particularly prized by local landowners. In the late eighteenth century the 1<sup>st</sup> Marquis of Bath employed a professional informer: William Arnold was paid £20-17/9d a year, which was only £10 less than the head keeper.<sup>170</sup> Official informers such as this were rare, most were ordinary members of a community. When someone informed on Frederick Rolfe when he was a lad, he believed ‘some kind friend (sic)’ gave him away.<sup>171</sup> There were numerous reasons why someone would become an informer. The convicted poacher named Monk, for example, felt so indebted to the gamekeeper Wilkins, for the help he received when he got out of prison, that he subsequently informed him whenever he heard of poaching gangs planning to raid his lands, even when these gangs included members of his own extended family.<sup>172</sup> A woodman in Mantles Wood, who testified against Daniel Shirley, a man accused of maliciously damaging trees, may have done so to protect his own job.<sup>173</sup> But most did it for money, in Joseph Arch’s opinion they could not ‘resist the temptation of a ten shilling reward,

<sup>166</sup> J.Wentworth-Day, *A History of the Fens* (London, 1954), p. 155.

<sup>167</sup> See A.Cash, *Psychology*, pp. 179- 182 and A.H.Eagly, *The Psychology of Attitudes*, p. 646 for explanations.

<sup>168</sup> See F.Thompson, *Lark Rise to Candleford* for good description of schoolmistress’s position in the village.

<sup>169</sup> J.Humphries, *Old Poachers*, p. 141.

<sup>170</sup> With an apparel allowance of £5-2/2d, D.S.D.Jones, *The English Gamekeeper*, p. 43.

<sup>171</sup> L.R.Haggard (ed.), *I Walked by Night*, p. 33.

<sup>172</sup> J.Wilkins, *An Autobiography of English Gamekeeper*, p. 344.

<sup>173</sup> Gt Missenden, *Bucks Herald*, 23 April, 1870.



for becoming tattlers and tale bearers to the farmers'.<sup>174</sup> Imagine the temptation presented to the labouring poor when massive rewards were offered. A reward for £100 was offered, in September 1864, for any information regarding the 'wilfully and maliciously' setting fire to the stacks of wheat belonging to Mr John Clarke, at Hive End, Chatteris.<sup>175</sup>

Informing was often viewed as one of the greatest crimes against the local community.<sup>176</sup> Informers themselves, according to David Jones, could receive violent and physical punishments, while others were ostracised and effigies of them were burnt.<sup>177</sup> At Clippesby, Norfolk, in 1868, John Mumford found himself at the brunt of a rough music procession. An effigy of him was paraded through the village. He had previously given evidence in a local poaching case, in doing so he had 'transgressed an unwritten code' and the parade was an opportunity for the local working people to 'exact their own form of retribution'.<sup>178</sup> The stigma attached to contravening community expectations was immense, yet the practice continued, as a letter to the Editor of *The Times* from Thomas Conway reveals. He claimed that as a consequence of offering a reward of £5 to any of his labourers, who could catch a particular troublesome poacher, the said poachers never seemed to risk returning to his land again.<sup>179</sup> However, witnesses could change their stories once a case came to court. When James Gates and John Yorke appeared before the magistrates for trespassing after game, the witness for the prosecution seemed to lose his memory. He said that he had suffered with sunstroke several years before, which caused memory loss, and under the circumstance he could not corroborate his written statement. All the bench could do was to advise him to 'bring his memory' next time he came to court.<sup>180</sup>

### Church

In addition to community support and self-regulation, the Church played a pivotal role in controlling local activities, shaping attitudes and controlling rural behaviour.<sup>181</sup> Protestant

<sup>174</sup> J.Arch, *From Ploughtail to Parliament*, p. 157.

<sup>175</sup> Copy of original poster exhibited at Chatteris museum.

<sup>176</sup> See C.C.Jones, *The Religious Institution of the Negroes in the United States* (1842), quoted in Scott, J.C., *Domination*, p. 188.

<sup>177</sup> D Jones, *Crime, Protest, Community and Police*, p. 83.

<sup>178</sup> R.Lee, *Unquiet Country*, p. 3. Many local contemporary accounts describe the custom and its continuation. E.Grey, *Cottage Life*, pp. 118-126 and F.Thompson, *Lark Rise to Candleford*.

<sup>179</sup> Letter to the Editor, 'Game Preserver', *The Times*, Wednesday, 13 September, 1871.

<sup>180</sup> Thrapston Petty Session, *Northampton Mercury*, 24 March, 1893.

<sup>181</sup> See D.R.Mills, *Lord and Peasant in Nineteenth Century Britain* (London, 1980). Even though the 1851 census revealed that only half the population attended church on a regular basis. And J.Thirsk, (ed) 'Land, Church and People'.

Christianity accepted the Bible as the highest religious authority: it provided a basis for understanding the world; it could be used as an instrument of social control; and it supplied the justification for many customary activities.<sup>182</sup> Religious ritual sanctioned specific customary behaviours, for example, the ringing of the parish church bell to signify the commencement of gleaning. Moreover, the reaffirmation at Salisbury Cathedral of the customary practice of collecting snap wood at Wishford forest ensured the perpetuation of the custom.<sup>183</sup> Evidence suggests that the Church continued to be used, by others, to justify ideological concepts. The Land Nationalization Society and the English Land Restoration League, established in the 1880s and 1890s, not only argued that people had specific natural rights to land, but also that monopoly in land was ‘against divine will’.<sup>184</sup>

Custom was often affected and controlled by the strength of a region’s religious loyalties.<sup>185</sup> The 1851 religious census showed, for all of the four counties included in this study, roughly 60 per cent of the population were Anglican and 40 per cent Dissenters.<sup>186</sup> The influence of, mostly non-conformist, union leaders was widely believed to be undermining support for the Church of England in some of these areas.<sup>187</sup> But more importantly, as historians such as Barry Reay and Nigel Scotland noted, non-conformists, especially Methodists, were actually helping to overcome some of the structural barriers to rural protest and control by providing organisational frameworks with leadership and encouraging public speaking, reading and writing.<sup>188</sup> One way or another the Church was continuing to play its part in controlling popular behaviour. As we saw in chapter one it played a central role in the harvest thanksgiving services. In 1844 it was a clergyman from Cambridgeshire who used his religious knowledge to support the rural community by criticising the farmers for preventing the poor from gleaning.<sup>189</sup> Whereas in Northamptonshire, in the years between 1870-1875, it was the community itself, who during the conflict concerning outdoor relief

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<sup>182</sup> As previously discussed: the Old Testament’s commandment to leave ‘the gleaning of the harvest...to the poor’, Boaz’s command in Ruth ‘let her glean and reproach her not’.

<sup>183</sup> See R.W.Bushaway, ‘“Grovelly, Grovelly”’.

<sup>184</sup> J.Burchardt, *Paradise Lost: Rural Idyll and Social Change since 1800* (London, 2002), p. 81.

<sup>185</sup> D.Underdown, ‘Regional Cultures’, in T.Harris (ed.), *Popular Culture*, p. 32. See also S. Williams, *Religious Belief*. She emphasised the religious dimension of Popular Culture.

<sup>186</sup> Herts: 59% Anglican, 41% Dissenters, Bucks: 57% A., 43% D., Northants: 56% A., 44% D., Cambs: 51% A., 49% D., J.Thirsk, (ed) ‘Land, Church and People’, p. 181 and J.Golby (ed.), *Communities and Families. Vol 3* (Cambridge, 1994), p. 160.

<sup>187</sup> P.Horn, ‘Agricultural Trade Unionism in Buckinghamshire. 1872-85’, *Records of Buckinghamshire* 20 (1975) 83.

<sup>188</sup> B.Reay, *Rural Englands*, p. 168. and N.Scotland, *Methodism and the Revolt of the Field: A Study of the Methodist Contribution to Agricultural Trade Unionism in East Anglia, 1872-1896* (Gloucester, 1981) in M.Freeman, *Social Investigations and Rural England 1870-1914* (Suffolk, 2003), p. 54.

<sup>189</sup> *The Times*. 19 September, 1844, (the farmers from Bourn).

at Brixworth, ‘registered their protest against traditional sources of authority’ by not attending church services.<sup>190</sup> Nevertheless, for many, as Alun Howkins found, the Church ‘was forced on them as the price of charity’.<sup>191</sup> In Buckinghamshire the Reverend Thomas Hayton forcefully controlled his village charity by only giving to Churchgoers – never to Dissenters.<sup>192</sup> Joseph Arch, who went as far as accusing the local rector and his wife of ‘petty tyranny’, imparted a similar account.<sup>193</sup>

The 1851 religious census revealed that only one in two of the population went to church or chapel on census Sunday. Suggesting that maybe religious observance was in decline and the Church had less control over its parishioners. Eric Hopkins found this to be particularly true from the 1880s onwards.<sup>194</sup> Sunday was no longer a sacred day, to some it became a day of opportunity. In 1903 Mr T de Fraine, owner of land at Chartridge, told the court that gangs of men ‘went all over the fields on Sundays’.<sup>195</sup> As a consequence Sunday became the gamekeeper’s worst day: ‘the idle rough characters from the adjacent towns pour out into the country, and necessitate extra watchfulness’ wrote Richard Jefferies.<sup>196</sup> At Beaconsfield in 1885, evidence against George Payne stated that it was ‘a continual practice of his to trespass while people were in church’.<sup>197</sup> On the other hand, to some, shooting on a Sunday had far greater complex moral implications than just those associated with property rights. When Mr Camps accused William Toats of trespassing after game, he stated that his main concern was ‘to put a stop to Sunday shooting’.<sup>198</sup> These opinions are highlighted in the 1870 case against George Green and Thomas Edwards, for although they had rights to shoot over Mr Wader’s land, they did not have a right to do so on Sundays and were subsequently

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<sup>190</sup> E.T.Hurren, ‘Agricultural Trade Unionism and the Crusade against Outdoor Relief: Poor Law Politics in the Brixworth Union, Northamptonshire, 1870-1875’, *Agricultural History Review* 48 (2000) 212. (Noted by John Beasley, land agent to the Spencer family).

<sup>191</sup> A.Howkins, *Reshaping Rural England*, p. 236. And because of this many labourers hated their parson more than their employer or the local squire. Henrietta M Batson, ‘Hodge at home’, *Nineteenth Century* xxxi (1892) 178.

<sup>192</sup> J.Donald (ed.), ‘The Letters of Thomas Hayton, Vicar of Long Crendon, 1821-1888’, *Buckinghamshire Record Society* 21 (1979) 79 ff, in A.Howkins, *Reshaping Rural England*, p. 82.

<sup>193</sup> J.Arch, *From Ploughtail to Parliament*. In many areas, the farm labourers were persuaded not to attend dissenters meetings by the threat that if they were to ‘go near the unorthodox Christians’ they could say ‘good-bye to all the charities; no more soup and coals’.

<sup>194</sup> E.Hopkins, *A Social History of the English Working Classes 1815-1945* (London, 1979), p. 131. See also A.Howkins, *Reshaping Rural England* (London, 1991), p. 235 for references as to the impact of the depression years on church attendance. See also G. Stedman Jones, ‘Working Class Politics of London 1870-1900’, *Journal of Social History* 7 (1974) 460-508. He said that late nineteenth century working class culture was impervious to church based religion.

<sup>195</sup> Chesham Petty Session, *Bucks Herald*, 6 June, 1903.

<sup>196</sup> R.Jefferies, *The Gamekeeper at Home*, p. 134. Plus, out of respect to the day, gamekeepers did not carry their guns, making their work far harder than on any other day.

<sup>197</sup> Beaconsfield Petty Session, *Bucks Herald*, 2 May, 1885.

<sup>198</sup> Ely Petty Session, *Cambridge Chronicle*, 30 September, 1887.

charged.<sup>199</sup> However, despite ‘poaching on Sunday’ being given some distinction by reporters and magistrates, there does not seem to be any evidence that it incurred higher fines.<sup>200</sup>

The legal system of Great Britain attempts to regulate behaviour and underpin our moral code, yet it can also be used to bolster Church ideology.<sup>201</sup> In 1890, Mr W.Gadsden of Nettleden Farm brought a case of ‘damaging underwood’ against H.Chenells of Potten End. He had been caught nutting and breaking down branches, but Mr Gadsden’s main concern was not the stolen nuts, the damaged branches, or the trespass on his land, but the fact that ‘people were in the habit of taking beer on a Sunday into the woods... and he wanted the practice stopped’.<sup>202</sup> Sundays and holidays were often feared by the authorities, they lacked the structure and control of a working day and invariably brought together large numbers of people.<sup>203</sup> During the 1850s and 1860s this fear led to what F.M.L.Thompson described as a ‘moral crusade’.<sup>204</sup> In an attempt to control the behaviour of those attending a harvest dinner, labourers from a parish in the Chilterns were given a ticket that entitled each of them to only two pints of beer.<sup>205</sup> This moral crusade to control popular behaviour extended beyond attempting to suppress certain customary activities and the consumption of alcohol on Sundays and annual holidays. In 1883, Alfred Ransom was apparently proud of the fact that, for over thirty years, he had offered his men coffee and cocoa on the harvest field rather than the traditional pre-requisite of beer.<sup>206</sup> This section has highlighted that belonging to a community brought with it social expectations, rewards and penalties. And community support, self-regulation and the Church, continued to play a leading role in the controlling and exercising of customary activities, and the sanctioning of associated social crimes.

## LANDED AUTHORITY

For the majority of the nineteenth century though, the landowners of England held an ‘undisputed sway’ over the countryside, and many of them sought to socially control local populations,

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<sup>199</sup> Hertford County Session, *Hertfordshire Mercury*, 15 October, 1870.

<sup>200</sup> Charles Witney, George Hatchett and Herbert Hearn, convicted of ‘poaching on Sunday’, Gt Missenden Petty Session, *Bucks Herald*, 13 October, 1900.

<sup>201</sup> S.Baron-Cohen, *The Essential Difference* (London, 2003), p. 27.

<sup>202</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 18 Oct, 1890.

<sup>203</sup> J.C.Scott, *Domination*, p. 64..

<sup>204</sup> F.M.L.Thompson, ‘Social Control’, p. 198.

<sup>205</sup> Little Gaddesden Harvest Home, *Bucks Herald*, 4 October, 1873.

<sup>206</sup> ‘Beer in the Harvest Field’, *Hertfordshire Mercury*, 21 July, 1883.

subsistence customs, and popular attitudes, by imposing their values on the whole of society.<sup>207</sup> This was in contrast to many of the groups of working people who had, through methods of socialization, endeavoured to simply manage these activities within the community itself.<sup>208</sup> In addition to attempting to control access to the land, space and information, a section of the landed elite sought to extinguish, what they perceived to be, immoral behaviour associated with popular customs, they redefined some customary practices as crime, and punished those who did not abide by their rules. Primarily they did this by using their power, authority and influence, which as F.M.L.Thompson reminds us, had always been the manner in which they ensured the protection and preservation of all things that empowered them.<sup>209</sup> This part of the chapter will assess the historical authority of the landed classes and the extent of its decline during the late nineteenth century. It will also analyze the procedures and techniques used by them in their attempt to control popular customary activities and subsidiary attitudes.

Land initially underpinned their power and gave them control; from it they obtained considerable wealth, it provided the prestige of local leadership, and it made them literally ‘Lords of Creation’.<sup>210</sup> The economic success of Britain, as an emergent industrial state, and the protection of land and property interests, was paramount. As a result, during the earlier part of the nineteenth century, such concerns took priority over social reform, and parliament and the courts reflected these attitudes.<sup>211</sup> Here, in the courts, the landed classes were ‘magisterially and portentously visible’ as, according to Edward Thompson, they ‘assumed wholly as their own: the administration of law’.<sup>212</sup> This apparently continued throughout the nineteenth century, for during the 1890s P.A.Graham described the great landowners as ‘selfish monopolist[s] who prostituted the legislature to obtain laws for [their] especial protection’.<sup>213</sup>

English landowners dominated the petty session courts. Mr W.S.Walpole, an attorney who was a witness at the 1873 Select Committee, considered that this caused unfair and biased judgements to

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<sup>207</sup> G.E.Mingay (ed.), *The Rural Idyll*, p. 1. G.E.Mingay, *Land and Society in England, 1750-1980* (Harlow, 1994), p. 119.

<sup>208</sup> For further explanations on socialization and social control see F.M.L.Thompson, ‘Social Control in Modern Britain’, p. 2. He believed that social control was ‘always... exercised by those with authority’, F.M.L.Thompson, ‘Social Control’, p. 206.

<sup>209</sup> F.M.L.Thompson, ‘Social Control’, p. 189.

<sup>210</sup> For land gave them the power and opportunity to make and re-make rural landscapes. R.L.Greenall, *A History of Northamptonshire*, p. 65.

<sup>211</sup> P.Denham, *Law*, p. 3.

<sup>212</sup> E.P.Thompson, ‘Patrician Society, Plebeian Culture’, p. 390.

<sup>213</sup> P.A.Graham, *The Rural Exodus*, p, 41.

be passed against poachers and the like, and subsequently he called for all game cases to be heard by a stipendiary magistrate instead.<sup>214</sup> However, all the cases referred to in this study, where the details were stated, demonstrated that when cases concerning their own land were heard, magistrates ‘stepped down’ or ‘retired’ from the bench. Colonel Smith-Dorrien ‘left the bench’ as soon as the case against Walter Scott who trespassed on his land was announced.<sup>215</sup> When William Bees was accused of trespassing in search of conies on Mr Lowndes land, he too ‘stepped down’ from the bench.<sup>216</sup> Similarly Mr Lucas ‘retired from the bench’ when the case against James Collin and William Garner accused of poaching on his land was heard.<sup>217</sup> Nevertheless, their shared values, beliefs and loyalty to one another, meant that they almost certainly ‘acted for each other’ in such circumstances.<sup>218</sup> As the *Nottingham Journal* stated in 1862, ‘whether guilty or not’ the man accused of poaching was ‘sure to be convicted’.<sup>219</sup>

### Decline of Authority

In Alun Howkins’ opinion, the landed elite’s total power, after 1850, and during England’s rural golden age, appeared unshakeable.<sup>220</sup> David Cannadine agrees, the landed classes were still ‘undeniably in charge’ and ‘on top’, in the 1870s, their position was unrivalled.<sup>221</sup> Yet, as F.M.L.Thompson and Alun Howkins discovered, change was coming albeit slowly and one could detect the ‘gradual erosion’ of landed power and status.<sup>222</sup> The 1880s was the most troubled decade.<sup>223</sup> Yet, within the countryside, the landed elite appeared to continue to ‘exert much of their traditional authority until the end of the nineteenth century’.<sup>224</sup> So what factors were influencing the apparent decline in the authority of the landed classes? Why was the rate of change so uneven across the regions? And how did the changes affect the control of customary activities? For a start the pressures of population growth, urbanisation, and emigration, which although affecting each region at different times, was nonetheless breaking down the social bonds and informal social institutions of traditional society.<sup>225</sup> David Cannadine blamed the ‘demands of an increasingly

<sup>214</sup> P.Horn, *Labouring Life*, p. 231. A stipendiary magistrate was a paid one.

<sup>215</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury*, 19 November, 1870.

<sup>216</sup> Chesham Petty Session, *Bucks Herald*, 7 June, 1890.

<sup>217</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 18 October, 1890.

<sup>218</sup> D.J.V.Jones, ‘The Poacher’, p. 855.

<sup>219</sup> *Nottingham Journal*, 21 November 1862, quoted from Jones, D.J.V., ‘The Poacher’, p. 855.

<sup>220</sup> A.Howkins, *Reshaping Rural England*, p. 138.

<sup>221</sup> D.Cannadine, *The Decline and Fall of the British Aristocracy* (London, 1996), p. 25.

<sup>222</sup> F.M.L. Thompson, *English Landed Society*, p. 325 and A.Howkins, *Reshaping Rural England*, p. 5.

<sup>223</sup> D.Cannadine, *The Decline and Fall of the British Aristocracy*, p. 25.

<sup>224</sup> P.Horn, *The Changing Countryside*, p. 31.

<sup>225</sup> Land tax, rates and income tax, F.M.L.Thompson, ‘Social Control in Modern Britain’, p. 2.

hostile, predatory and intrusive state'; while Gordon Mingay felt that the landowning classes were being 'weakened by successive reforms of the franchise and the arrival of new representative institutions in local government'.<sup>226</sup> All these factors took their toll on the landed classes, along with the burden of direct taxes, which F.M.L.Thompson calculated to have risen from 9 - 30 per cent of their rental incomes.<sup>227</sup> The agricultural downturn of the last quarter of the nineteenth century appears to have been a crucial and significant element in the decline of rural landed authority. For although most twentieth century historians tend to accept that the depression only 'exaggerated differences that had always been significant' in landed society, it was nonetheless, as Lord Eustace Percy described, the period in which 'the great landowning families ceased to govern England'.<sup>228</sup>

The landed elite may well have hastened these changes, for the domination of an individual, group or set of ideas, cannot persist of its own momentum. Essentially, as J.C.Scott explained, it requires 'continuous efforts at reinforcement, maintenance, and adjustment' including 'demonstrations and enactments of power'.<sup>229</sup> Yet the historiography informs us that by the beginning of the nineteenth century the 'country gentry were already withdrawing support' for customary and community based activities which had previously provided them with opportunities to maintain and demonstrate traditional enactments of power.<sup>230</sup> As an alternative, they chose to assert their powers through enclosure and the law, turning their backs on customary traditions of community based responsibilities and obligations.<sup>231</sup> Their reputation was no longer based on their propensity to give generous alms, but instead it was often one of blame.

'You made him a poacher yourself squire, When you'd give neither work nor meat;  
And your barley fed hares robbed the garden, At our starving children's feet'.<sup>232</sup>

Examples such as these suggest that respect for the landed classes was already in decline by the second half of the nineteenth century. Firstly, respect needed to be 'earned' by a 'generous attitude'

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<sup>226</sup> D.Cannadine, *The Decline and Fall of the British Aristocracy*, p. 120. Further discussion on this subject in chapter 4. G.E.Mingay, *Land and Society*, p. 119 and M.Cragoe, *An Anglican Aristocracy: The Moral Economy of the Landed Estate in Carmarthenshire 1832-1895* (Oxford, 1996), p. 247. Further discussion in chapter 4.

<sup>227</sup> F.M.L.Thompson, *English Landed Society*, p. 328. Not forgetting death duties introduced in 1884.

<sup>228</sup> R.J.Olney, *Rural Society and County Government*, p. 179; Lord Eustace Percy, *Some Memories* (1958), p. 12 quoted in D.Cannadine, *The Decline and Fall of the British Aristocracy*, p. 141.

<sup>229</sup> J.C.Scott, *Domination*, p. 45.

<sup>230</sup> B.Bushaway, *By Rite*, p. 158.

<sup>231</sup> Discussed in chapter 1.

towards the community, and secondly, it needed to be sustained. In situations where it was not, such as during the hostilities which occurred between Lord Sackville at Knole Park and the local community in 1883-1885, collective opposition was said to have made ‘no attempt to feign social class deference to rank and title’.<sup>233</sup> Late nineteenth century local newspapers highlight this apparent lessening of obligatory displays of deference. For example, in contrast to the style of language and wording used in the past, a *Northampton Mercury* report appeared to question the authority of the landowner involved in a footpath dispute at Broughton.<sup>234</sup> Similarly, in a letter to the editor of the *Bucks Herald* in 1883, concerning the ploughing up of a footpath, the writer directly and sarcastically challenged the landowner’s legal knowledge and integrity.<sup>235</sup> A number of nineteenth century statute laws have, retrospectively, served to symbolise the declining position of the landed classes and the changing balance of power in rural England. The Ground Game Act of 1880 was one.<sup>236</sup> Nevertheless, the alterations brought about by the changing legislation were ‘seen to be coming’ by some, they sensed the general discontent and tried to redress the balance of power in the countryside. Such as when Mr Abel Smith Esq. of Woodhall Park, Tring, placed an announcement in the *Bucks Herald* in 1870, stating that from the 1 November to the 1 February his tenants ‘shall be at liberty to course hares, with [their] own dogs’.<sup>237</sup>

Inevitably the landowners’ sphere of influence shrank when their power to spend money in the locality reduced.<sup>238</sup> There were regional variations, yet the reduction in land values towards the end of the nineteenth century would have substantially contributed to their declining influence. In a selection of southeast estates in Buckinghamshire, Hertfordshire, Cambridgeshire and Northamptonshire rents fell by 41 per cent by 1894-8.<sup>239</sup> It was during this period that the new men of wealth moved into the countryside.<sup>240</sup> Some of these nouveau riche wanted to own land in order to make a social statement, but not necessarily deal with the responsibilities it brought. Many had

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<sup>232</sup> C.Kingsley, *A Rough Rhyme on a Rough Matter*, (1847) in M.J.Carter, *Peasants and Poachers*.

<sup>233</sup> D.Killingray, ‘Rights, ‘Riot’ and Ritual: The Knole Park Access Dispute, Sevenoaks, Kent, 1883-5’, *Rural History* 5 (1994) 64.

<sup>234</sup> Kettering Petty Session, *Northampton Mercury*, 21 September, 1889.

<sup>235</sup> ‘The landlord is a magistrate, and must understand the law of the case very well’. Letter to the Editor, *Bucks Herald*, 8 December, 1883.

<sup>236</sup> J.Fisher, ‘Property Rights in Pheasants’, p. 176. See also appendix 11.

<sup>237</sup> *Bucks Herald*, 15 January, 1870 and ‘Neighbouring Counties’, *Cambridge Chronicle*, 15 February 1870.

<sup>238</sup> ‘Deference was in any case connected closely with the landlord’s power of spending money in the locality; when that power shrank so did his sphere of influence’. F.M.L.Thompson, *English Landed Society*, p. 182.

<sup>239</sup> F.M.L.Thompson, *English Landed Society*, p. 310. As a consequence the depression drove a number of the traditional landowning families into bankruptcy. Rider Haggard was later to write that ‘almost all the old Cambridgeshire landed aristocracy had departed’. R.Haggard in P.Horn, *The Changing Countryside*, p. 47.

<sup>240</sup> Self made men from industry and commerce. F.M.L.Thompson, *English Landed Society*, p. 293.



no cultural attachments and, as a consequence, often paid little attention to the well being of the local population. Estates were often brought for their own personal pleasures. In the county of Suffolk in 1911, two out of every three country seats were let for game, which equated to the presence of ten gamekeepers per 10,000 acres of land.<sup>241</sup> Ironically, at a time when the power and influence of the landed classes was in decline, game preserves were at their zenith. Between the 1860s and the 1890s the number of gamekeepers across the country grew by 60 per cent, by 1911 there was thought to be twice as many gamekeepers as policemen in the countryside.<sup>242</sup> However, regional disparities are obvious. In the 1881 census there were only three gamekeepers recorded in the Cambridge Fens region, thirty-nine in the Nene River Valley, and seventy-six in the Chilterns. This in itself may explain the variation in numbers of poaching cases brought to the local petty sessions in these three regions. In addition, the database reveals another anomaly. Contrary to the number of game estates and the increased numbers of gamekeepers, cases of crimes associated with customary subsistence activities in all three regions, between 1890-1900, were declining.

Despite the costs of running these large landed estates, many of the great landowners, including some of the new wealthy industrialists, spent very little time on their estates. Absenteeism brought with it another set of problems, some of which impressed on customary ways of life. The absence of moral and legal authority in the parish, as a result of absentee landowners, wrote John Britton, meant that ‘the inhabitants were undisciplined, illiterate and deprived of good example’.<sup>243</sup> Poachers and foragers were quick to take advantage of such situations, for any points of weakness in surveillance and enforcement created opportunities that were quickly exploited.<sup>244</sup> Nevertheless, some ensured that their presence and authority was not forgotten, for example the *Northamptonshire Notes and Queries* for 1886 noted that, although the fifth Duke of Buccleuch was ‘not often at his seat’, the villages, schools and churches nearby had ‘abundant proof of the generous interest he always took in the well being of his tenantry’.<sup>245</sup> Others delegated power to their bailiff, estate manager or head gamekeeper when they were absent for long periods of time. In these situations there was always a danger that certain individuals may over exercise their power.<sup>246</sup>

<sup>241</sup> It was the ‘most densely kept [county] in the land’. P. Horn, *The Changing Countryside*, p. 47.

<sup>242</sup> H.Hopkins, *The Long Affray*, p. 264. The number of gamekeepers in England had reached 12,000 by 1911. J.Fisher, ‘Property Rights in Pheasants’, p. 177.

<sup>243</sup> J.Britton, *The Autobiography of John Britton* (London, 1850), p. 29.

<sup>244</sup> J.C.Scott, *Domination*, p. 195.

<sup>245</sup> Rev. W.D. Sweeting, *Northamptonshire Notes and Queries*, Vol 1 (Northampton, 1886), p. 81.

<sup>246</sup> This would have had a detrimental effect on the attitudes of local communities, since the greater they believed the difficulty of exercising what they believed to be specific freedoms, the greater they perceived the threat against such rights and freedoms to be. S.S.Brehm, *Psychological Reactance*, p. 57.

Indeed, the authority held by some of these gamekeepers often inspired them to act over zealously. When a gamekeeper presented information against Frederick Bonham on a charge of trespassing after game with his dogs, it was found that the dogs were far too old to run and the case was dismissed.<sup>247</sup> There were other factors that encouraged gamekeepers to abuse their authority. Ned Turvey, a gamekeeper in 1919, claimed that he received 3/6d from the magistrates each time he proved a case.<sup>248</sup> However, the gamekeeper's position, *in loco* of the landowner, brought with it responsibilities too. As a consequence the gamekeeper John Wilkins, frequently, felt duty bound to assume responsibility for ex- and potential poachers, and sometimes even ex-gamekeepers who had fallen on bad times.<sup>249</sup>

### Methods of Controlling

The manner in which customary activities were controlled, and the form and severity of punishments meted out for 'social crimes', could potentially reflect the attitudes of those in power, since it was those with social power that 'frequently' had the 'ability to reward or punish those with less power'.<sup>250</sup> Where such power was vigorously asserted subordinates were thought to be compelled to comply with contemporary rules and regulations. Indeed the 'incremental process' of crime may well have 'accelerated precipitously' whenever enforcement of the law was lax.<sup>251</sup> However, John Beattie's work, covering the period between 1660-1880, found that fluctuations in the number of indictments reflected the changing reality of crime and changing attitudes towards it.<sup>252</sup> Therefore extrapolating evidence of any social consensus on the law, tradition and attitudes from the prosecution rates is not wholly reliable, especially as controlling strategies, applied by certain members of the landed classes, often included the use of indirect cultural and ideological

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<sup>247</sup> Wellingborough Petty Session, *Northampton Mercury*, 13 April, 1889. Another case heard at the Bucks Epiphany sessions recorded that the landowner, Mr Clicker, had instructed John William Brown to stop people trespassing in the meadow. However, when he confronted a mushroom gather named Henry Marshall, he apparently was not prepared to listen to reason or explanation. An assault took place, of which Marshall insisted was a result of an act of self-defence. It later transpired that he had in fact received permission to participate in the said activity. Bucks Epiphany Sessions, *Bucks Herald*, 6 January, 1900.

<sup>248</sup> Ned Turvey quoted in B.P.Martin, *More Tales of the Old Gamekeepers* (Devon, 1993), p. 18.

<sup>249</sup> Often charitably gifting their families a couple of rabbits for their Sunday lunch. J.Wilkins, *An Autobiography of English Gamekeeper*, p. 255.

<sup>250</sup> French and Raven, 'The bases of social power' (1959) in S.S.Brehn, *Psychological Reactance*, p. 152.

<sup>251</sup> J.C.Scott, *Domination*, p. 194. Hence when the Bishopric of a substantial forest fell vacant for six months, in the eighteenth century, the local tenants were said to have used the opportunity to make 'a vigorous assault on the timber and deer'. E.P.Thompson, *Whigs and Hunters*, p. 123.

<sup>252</sup> J.M.Beattie, *Crime and the Courts*, p. 200.

pressures.<sup>253</sup> In order to discover the attitudes of the landed classes, towards subsistence activities, we need to analyse the various techniques they employed to control them.

Firstly, as previously mentioned, for many centuries the large landowners of Great Britain had controlled parliament, and hence managed to manoeuvre a whole series of Parliamentary Acts to tighten up punishments for their own ends.<sup>254</sup> In 1798, five men appearing at the Hampshire Quarter Session, found themselves transported for damaging trees, and still in 1817 transportation was the sentence for unarmed night poaching.<sup>255</sup> It was not until 1827 that the Black Act was repealed and the use of mantraps and spring guns prohibited. Public opinion was turning against the extreme penalties of the game laws.<sup>256</sup> As a consequence, by 1831, punishments were far less severe than those that had gone before. Trespassing in search of game, that is for rabbits, snipe, woodcock, quail and landrail, now carried a maximum fine of £2. This could be increased to £5 if poachers were part of an armed gang, and offenders usually only found themselves imprisoned if they failed to pay their fines.<sup>257</sup> By the 1880s and 1890s the perceived severity of poaching offences had declined considerably, so much so, that a poacher could find himself in front of the magistrate time and time again without being imprisoned, and many first time offenders even got away with mere cautions.<sup>258</sup>

Nonetheless, even though the levels of imposed judicial penalties had greatly reduced by the second half of the nineteenth century, some still seem rather harsh proportionately. At Chesham in 1860 Samuel Humphreys, George Ringsell, Benjamin and Charles Jones, and William Mitchel, were all ordered to pay a fine of £10 each for trespassing in search of game on Lord Chesham's land.<sup>259</sup> In 1863 Edward Grace and James Quick were both committed for one months hard labour for stealing wood that was valued at 6d, while in the same year Charles Humphrey and Charles Grant were imprisoned for fourteen days for stealing wood to the value of 3d.<sup>260</sup> And still, in 1875, Edward

<sup>253</sup> F.M.L.Thompson, 'Social Control in Modern Britain', p. 2.

<sup>254</sup> D.Johnson, *Victorian Shooting Days*, p. 39. From 1760-1816 approx 33 Acts designed to preserve game reached the statute books. P.Horn, *The Rural World*, p. 173.

<sup>255</sup> C.Emsley, *Crime and Society*, p. 107; P.Horn, *The Rural World*, p. 175.

<sup>256</sup> P.Horn, *The Rural World*, p. 178.

<sup>257</sup> P.Horn, *Labouring Life*, p. 229. However, it was still thought unfair that a single magistrate, sitting alone, could pass judgement on summary cases.

<sup>258</sup> D.Jones, *Crime, Protest, Community and Police*, p. 82.

<sup>259</sup> Chesham Petty Session, *Bucks Herald*, 5 May, 1860.

<sup>260</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 14 February, 1863. Chesham Petty Session, *Bucks Herald*, 19 December, 1863.

Harrawell was sentenced to ten days in prison for stealing one faggot valued at only 3d.<sup>261</sup> At Harpole, in 1877, local landowners may have been operating a zero tolerance approach to certain misdemeanours. Edward Clarke was fined 1s, charged 9s 6d costs, and ordered to pay damages of 1d for stealing only ‘two’ growing walnuts from an orchard.<sup>262</sup> The effect of such over zealous accusations, noted Brian Short, sometimes created defiant feelings rather than setting an example.<sup>263</sup> Mr L. Liberty, an owner of land at Ellesborough, may well have realised this in 1893 when he stated that he wanted ‘leniency’ against four men who were accused of stealing wood from hedges and trees in the Parish.<sup>264</sup> The magistrate residing over the 1885 case against John and Frank Jerome, John Keeley and Arthur Anson, obviously held a very different opinion. These men were all charged merely ‘on suspicion’ of being on Mr Mackenzie’s land in search of game.<sup>265</sup> Similarly, even though there was ‘doubt’ as to whether three shoemakers from Desborough, even went into the plantation in question, they were still all fined £3 11s because one of them had a previous conviction.<sup>266</sup> These cases were in complete contrast to the lawsuit brought against Mr Thomas Miller, ‘an opulent farmer’, who was fined a paltry 1s for ploughing up a whole footpath, even though it caused ‘much inconvenience to foot passengers’.<sup>267</sup>

Some magistrates, not only discriminated between those committing crime, they, along with many plaintiffs, were more than willing to differentiate on the specifics of a criminal act, for example, between poaching and the stealing of domesticated animals and birds. Alfred Allsford was given eight months hard labour for stealing six tame rabbits, whereas the majority of those convicted for ‘trespass in pursuit of game’, were only fined between one and five pounds.<sup>268</sup> There was little complacency concerning serial offenders however, for as David Jones explained, a man with a previous conviction always knew his ‘chances were thin’.<sup>269</sup> Nevertheless many litigations reported in the newspapers stated that the offender was ‘an old poacher’, ‘a familiar poacher’, ‘a notorious poacher’, or ‘a regular poacher’, Samuel Tyrell was said to have been ‘well known for his practices’

<sup>261</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 26 June, 1875.

<sup>262</sup> Northampton Div. Petty Session, *Northampton Mercury*, 24 November, 1877.

<sup>263</sup> B.Short, ‘Conservation, Class and Custom’, p. 137.

<sup>264</sup> William Benning, William Brackley, Joseph Adams and William Franklin Aylesbury Petty Session, *Bucks Herald*, 2 December, 1893.

<sup>265</sup> Gt Marlow Petty Session, *Bucks Herald*, 25 April, 1885.

<sup>266</sup> Kettering Petty Session, *Northampton Mercury*, 13 November, 1880.

<sup>267</sup> Kettering Petty Session, *Northampton Mercury*, 25 August, 1866.

<sup>268</sup> Bucks Lent Assizes, *Bucks Herald*, 18 March, 1865; J.E. Archer, ‘Poaching Gangs and Violence: The Urban-Rural Divide in Nineteenth Century Lancashire’, *British Journal of Criminology* 39 (1999) 26.

<sup>269</sup> The ratio of convictions to acquittals for poaching at the level of summary jurisdiction in was 6:1. D.J.V.Jones, ‘The Poacher’, p. 857. This information referred to 1857-71 in England and Wales.

and Amos Crane described as ‘notorious for game offences’.<sup>270</sup> Attitudes towards these men are evident in the level of fines that they were demanded to pay, which were considerably higher than those of first time or casual poachers. In 1885, John Sheppard, an ‘old offender’ was fined £5 for trespassing after game while his accomplices Walter Gregg and George Upson were fined only £2 and £1 respectively.<sup>271</sup> Similarly, those who actually received poached items were often considered the worst culprits. James Dean, for example, a chair turner from Naphill, was fined £10 for receiving two stolen pheasants.<sup>272</sup> When James Knowles was fined £1 plus 18s 6d costs for buying a poached pheasant, Charles Turner, the poacher, was only ordered to pay costs of 14s 6d and no fine was imposed on him.<sup>273</sup> Likewise in the legal proceedings concerning the theft of a small amount of wood in 1897, the case against the offender was dismissed, while the receiver, a shoe hand named George Wilson, was fined £1 17s and told that he was the ‘worst of the two’.<sup>274</sup> ‘If there were no receivers of stolen goods, there would be no thieves’ declared the Chairman of a Kettering case in 1880.<sup>275</sup>

In the same way as the meaning of crime is socially constructed, so too ‘official recognition and the pursuit of crime is socially constructed’.<sup>276</sup> Evidence for this can be seen in the variety of responses exhibited by complainants and the judiciary towards customary activities, which they perceived to be criminal acts. There are examples which seem to indicate that conscious efforts were being made to single out certain customary pursuits in an attempt to eliminate them. This form of control was of course a technique that could have been used purely to reassert landed authority, or merely as a procedure to curtail specific activities that had become a particular nuisance. Nonetheless, this approach emphasised and drew attention to these acts, while impacting on peoples’ perceptions of their severity. Conversely, the increased numbers of crimes at a definitive point in time could just as easily be evidence of collective organisation amongst the labouring people themselves. During 1894 there were a number of cases concerning people trespassing while picking mushrooms in the Nene River Valley area. One particular case against four lads, reported that up to twenty-seven

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<sup>270</sup> About 10 per cent of poaching case in the Nene River Valley and the Chilterns. See appendix 18; John Thompson of Potten End, Gt Berkhamsted Petty Session, *Bucks Herald*, 24 January, 1880; William Walduck of Sarratt, Gt Berkhamsted Petty Session, *Bucks Herald*, 9 February, 1878; George Cooley of Aldbury, Gt Berkhamsted Petty Session, *Bucks Herald*, 5 June, 1880; George Wyatt and William Chapman, Gt Berkhamsted Petty Session, *Bucks Herald*, 22 September, 1900; Samuel Tyrell, Kettering Petty Session, *Northampton Mercury*, 14 January, 1860; Kettering Petty Session, *Northampton Mercury*, 26 May, 1860.

<sup>271</sup> Watford Petty Session, *Hertfordshire Mercury*, 17 January, 1885.

<sup>272</sup> Aylesbury Petty Session, *Bucks Herald*, 17 January, 1903.

<sup>273</sup> Gt Berkhamsted, *Hertfordshire Mercury*, 9 June, 1860.

<sup>274</sup> Kettering Petty Session, *Northampton Mercury*, 26 February, 1897.

<sup>275</sup> Kettering Petty Session, *Northampton Mercury*, 26 June, 1880.

individuals were seen in the field at one point.<sup>277</sup> However, examples like this were exceptions rather than the norm. More common were examples of landowners or farmers bringing multiple cases to the summary courts. On the 1 September 1875 Mr J.H.Blundel cited ‘damaging nut stems’ in all four separate cases he put before the bench on that day.<sup>278</sup> The case brought against William Lines, who was accused of illegally fishing at Pitsford, was slightly different, and tends to suggest that the local authorities, that is land owners, angling club and magistracy, had only recently decided to put a stop to such activities, for William in his defence claimed he had fished there for thirteen or fifteen years and had never before been ordered to stop.<sup>279</sup>

The volume of petty and social crime prosecutions during this period perhaps caused a measure of embarrassment to the landed classes, just as it had done in the eighteenth century.<sup>280</sup> Under such circumstances, in order to avoid adverse publicity, landowners may well have advised gamekeepers to be lenient with local ‘one off’ poachers.<sup>281</sup> Similarly, by manipulating descriptions of offences and relabelling crimes, it may have been easier to bring about a conviction, and the scale and extent of specific problems would have been concealed too. As Douglas Hay noted, ‘by identifying actions and actors as criminal’, crime statistics became ‘indices of organisational processes rather than of the incidence of certain forms of behaviour’.<sup>282</sup> The technique of altering the classifications of customary motivated acts, not only masked the extent and prevalence of certain crimes but, presenting them to the court in another guise avoided addressing the complex issues surrounding customary rights. In October 1870, six cases of damaging trees and hedges were heard at Hemel Hempstead Petty Session, yet all those accused claimed to be collecting acorns, which suggests that maybe the accusation of customarily collecting acorns alone would not have ensured a convictions and, more worrying for local magistrates, it may have opened up a wider debate on customary rights.<sup>283</sup> Similarly the number of those convicted of ‘damaging growing crops’, such as William Hall and John Seabrook of Hemel Hempstead, Henry ford of Chipperfield and George Wright of Amersham, and Arthur and Herbert Holliman of Hemel Hempstead, greatly increased during the months of August and September, which may again suggest that these individuals were in fact

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<sup>276</sup> G.Mooney et al. (eds), *Tales of Fear and Fascination*, p. 9.

<sup>277</sup> Kettering Petty Session, *Northampton Mercury*, 22 June, 1894.

<sup>278</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 11 September, 1875.

<sup>279</sup> Northampton Div. Petty Session, *Northampton Mercury*, 28 July, 1877.

<sup>280</sup> See E.P.Thompson, *Whigs and Hunters*, p. 190.

<sup>281</sup> J.Humphrys, *More Tales of the Old Poachers*, p. 140.

<sup>282</sup> D.Hay, ‘Crime and Justice in Eighteenth and Nineteenth-Century England’, *Crime and Justice* 12 (1980) 66. See also P.Burke, *Sociology and History* (London, 1980), p. 58. He said that the ‘labelling’ of certain groups, as criminals, was another way of controlling.

customarily gleaning in the fields rather than deliberately damaging crops as reported in the local newspapers.<sup>284</sup>

Imposing legislative penalties, discriminating between individuals and certain crimes, along with the relabelling of offences, were only some of the landed classes' methods of control. Far subtler and maybe even more effective was their ability to bribe and persuade the labouring classes, either into behaving or at the very least appearing to behave as they wished. The 'threat' of punishment was obviously designed to deter criminal acts, yet once a crime had been committed and a case arrived at court, the threat of severe penalties were still a strong manipulating tool. When Henry Austin stood before the bench it was implied that the accusation against him could possibly be more than a simple case of damaging a fence, and potentially the case could be sent to trial.<sup>285</sup> In July of 1863, Will Holland of Aldbury was brought to court on a charge of cutting and stealing furze. Because Will insisted that he had a customary right to cut furze on the Common, the bench announced that it was 'for another court to decide whether the defendant had the right or not'.<sup>286</sup> Evidence of last minute agreements is implied in examples of cases being brought before the magistrates only to have the charges 'not pressed'.<sup>287</sup> Similarly, more than the fear of the initial threat of fines and imprisonment, the fear of what may come after a prosecution may have deterred many far more. For example, some employers continued to employ poachers, while others penalised them and their relations: 'a convicted poacher could lose his job, house and allotment, and find poor relief hard to get,' observed David Jones.<sup>288</sup> Roger Wells described this form of control as 'social control through poor relief'.<sup>289</sup> The diary of George James Dew, a relieving officer, related a story of a seventy-one year old woman who was refused relief on the basis that members of her family had been convicted of poaching.<sup>290</sup> Similarly farmers refused to hire members of a gleaner's family

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<sup>283</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 15 October and 29 October, 1870.

<sup>284</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 15 September, Hemel Hempstead Petty Session, 1860. *Bucks Herald*, 29 September, 1860. Hemel Hempstead Petty Session, *Bucks Herald*, 11 September, 1880.

<sup>285</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 January, 1866.

<sup>286</sup> Gt Berkhamsted, *Bucks Herald*, 25 July, 1863.

<sup>287</sup> For example the case against four labourers accused of 'wilfully breaking down a dead fence in Streatham. Ely Div. Petty Session, *Cambridge Chronicle*, 24 December, 1864.

<sup>288</sup> D.J.V.Jones, 'The Poacher', p. 837. 'Any labourer wanting a plot of land had to comply with subjective standards of honesty, industriousness, and respectability', J.Archer, 'The Nineteenth-Century Allotment', p. 27.

<sup>289</sup> R. Wells, 'The Development of the English Rural Proletariat', p. 125; J.Clare, *The Parish*, appendix 10; and N.Agar, *Behind the Plough: Agrarian Society in Nineteenth-Century Hertfordshire* (Hertfordshire, 2005), p. 36.

<sup>290</sup> 'The lands on which they have poached belong to Sir Henry Dashwood and it was on this account that the woman was refused relief'. P.Horn, (ed.), *Oxfordshire Village Life: The Diaries of George James Dew (1846-1928) Relieving Officer* (Sutton Courtenay, 1983), p. 18.

if they had offended them.<sup>291</sup> Nevertheless, neither formally imposed penalties or social forms of control necessarily resulted in conformity. The control of allotment allocation for example was said to be ‘an incentive to good behaviour’.<sup>292</sup> However, even though, by June 1886, Northamptonshire was a county with the third largest number of allotments in the country, examples of petty crime there were still higher than in either of the other two regions.<sup>293</sup>

The fear of acquiring a false reputation may have also presented a threat. The rumours that the gleaner’s tea at Comberton had run on past midnight may well have been circulated in an attempt to stain the reputations of the gleaners, and thereby persuade them to discontinue the long-standing practice. Instead, in their defence, not wishing to be considered as immoral, they published a notice in the *Cambridge Chronicle* denying the rumours that there had been dancing and inappropriate behaviour at their traditional tea party.<sup>294</sup> The importance of ‘reputation’ is further highlighted in the litigation against Charles Johnson, whose case didn’t stand a chance once the Chairman announced that the defendant had been in ‘bad and suspicious company’.<sup>295</sup> Conversely a respectable reputation could act in an individual’s favour when it came to a court hearing. When three young men were brought before the court on a charge of trespassing in search of game, the bench were asked to deal with one of them, named Croxford, leniently as his father was a ‘respectable tradesman’.<sup>296</sup> Nonetheless, such requests did not assist the likes of Eli Summers who, even though he ‘came from a respectable family’, the Nene Angling Club felt ‘bound’ to make an example of him.<sup>297</sup>

Defendants could be coerced into making a public apology and promising never to repeat specific illegal acts again.<sup>298</sup> Such visual and overt episodes were designed to create an overall image of landed control and send clear and explicit messages to the local population that customary acts were no longer acceptable and that many were seeing the error of their ways. Joseph Arch told the

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<sup>291</sup> P.King, ‘Gleaners, Farmers and the Failure of Legal Sanctions in England’, p. 144. He also quotes a case where a woman who continued gleaning once warned, had her parish payments stopped and was sent back to her parish of settlement after many years.

<sup>292</sup> Royal Commission on the Employment of Children, Young Persons and Women in Agriculture 1867, Mr Norman’s Report on Northamptonshire, p. 120.

<sup>293</sup> 20,627 allotments, Return of the Number of Allotments in Great Britain, 1886 (Cd.4848), quoted in P.Horn, ‘Northamptonshire Agricultural Labourers and the Quest for Allotments – the 1870s’, *Northamptonshire Past and Present* 4 (1966) 376. Also see J.Burchardt, *The Allotment Movement in England 1793-1873* (Suffolk, 2002).

<sup>294</sup> *Cambridge Chronicle*, 20 November, 1872, p. 5.

<sup>295</sup> Northampton Div. Petty Session, *Northampton Mercury*, 26 February, 1897.

<sup>296</sup> Northampton Div. Petty Session, *Northampton Mercury*, 7 March, 1868.

<sup>297</sup> Northampton Div. Petty Session, *Northampton Mercury*, 2 May, 1868.

<sup>298</sup> Apologies further analysed in section entitled ‘negotiating power’.



Parliamentary Committee in 1872 that this method of control was widely used. Valued labourers caught poaching for the first time were often let off with a warning if they agreed to sign a confession.<sup>299</sup> When Elizabeth Wyman conceded and promised not to offend again, this gave the magistrates an opportunity to threaten that if any one else in the area thought they could challenge the authorities with their claims of immemorial rights, ‘they would be severely punished’.<sup>300</sup> There were of course some who attempted to control local behaviour by trying to deal with the problems that caused it and thereby avoid obvious confrontations. The Squire of Marham, for example, asked his agent to find the local unemployed men some work, for ‘if not we shall make poachers and thieves of them all’ he warned.<sup>301</sup> Similarly Frederick Rolfe’s policy, when he became a keeper, was to employ local known poachers as beaters to keep them out of trouble.<sup>302</sup>

Even though English landowners used an array of methods and tactics to gain and maintain a level of control over popular culture during the late nineteenth century, customary activities, requiring access to the land, frequently challenged their authority. The threat of reactive responses, especially when several perceived freedoms or rights were jeopardized, aroused strong feelings among the poor.<sup>303</sup> When in the eighteenth century Queen Caroline asked Sir Robert Walpole how much it would cost to have the general public shut out of St James’ Park, he replied ‘only a crown, madam’.<sup>304</sup> Nonetheless, the success of the landed classes’ endeavours to maintain control varied from one region to another over time. Captain W.J. Williams, an inspector of prisons in Norfolk, observed that in some places one magistrate would uphold certain laws to their extreme while another would ‘scarcely have anything to do with them’.<sup>305</sup> Between 1844 and 1845, in many rural areas, ‘so much irregularity’ had been found in the trial of game law offences, for example, that a number of ‘pardons and mitigations of sentences’ had to be issued.<sup>306</sup> The danger posed by using such a variety of controlling mechanisms and discretionary powers, was that in regions where there was a ‘vigorous execution’ of the criminal code a ‘neutral or even counter productive effect’ could

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<sup>299</sup> PP 1872, x, 321.

<sup>300</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 October, 1877.

<sup>301</sup> L.R.Haggard (ed.), *I Walked by Night*, p. 95.

<sup>302</sup> The argument was that if not employed the poachers would follow up behind the shoot picking up wounded animals or having a free range of the areas when the keeper was busy with the shoot. ‘it pay the keeper to have him onder(sic) his eyes’. L.R.Haggard (ed.), *I Walked by Night*, p. 129; see also D.S.D.Jones, *The English Gamekeeper*, p. 42.

<sup>303</sup> More reactance is aroused by threats to several freedoms. S.S.Brehm, *Psychological Reactance*, p. 44.

<sup>304</sup> Quoted in E.P.Thompson, *Customs in Common*, p. 111.

<sup>305</sup> In 1846, M.J.Carter, *Peasants and Poachers*, p. 35.

<sup>306</sup> Forty discharges from prison and fourteen commutations of sentence. P.Horn, *Labouring Life*, p. 179 and 229.

be produced.<sup>307</sup> Nevertheless, as we have already seen, the data in this survey revealed that after 1890 all reported crimes associated with customary activities were in decline.<sup>308</sup>

The reduction of these crimes was as a consequence of a combination of factors. Essentially, in this section, we can see that the statistics may well be closely linked to the authority of the landed classes: their ideological influence on reporting policies, their procedures in documenting local offences at the petty sessions and their discretionary powers as magistrates.<sup>309</sup> All of which was influenced by changes in the social, economic, cultural, and political climate of late Victorian England. But, because the ruling classes generally took ‘great pains to foster a public image of cohesion’, it can be difficult identifying subtle changes in their reactions and altered attitudes.<sup>310</sup> Towards the end of the century however, we do begin to detect a more balanced attitude in the courts. In 1900, for example, although there had apparently been a misunderstanding as to the fishing rights owned by the occupiers of an area of nearby land and the working mans angling club, the magistrates announced that it was their duty ‘to protect the club’, even though this meant that they came down on the side of the working man.<sup>311</sup> Similarly, where earlier in the century, either the word of a gamekeeper, or some small shred of circumstantial evidence would have been sufficient to convict a poacher, by 1900 far more proof was required. The case against David Brown and Frederick Weston for instance was dismissed on the grounds that there was ‘no absolute proof’ against them, and the game case against James Bindley in 1903 was adjourned for a week simply ‘for the production of further evidence’.<sup>312</sup> As P.A.Graham explained in 1892, because public opinion so strongly opposed the game laws, landlords needed to ‘have a clear case...before hoping to prosecute a poacher’ if they did not wish to incur ‘the inconveniences of unpopularity’.<sup>313</sup>

Even though attitudes may appear to have been softening in the courts or in the bringing of cases to them, one gets the sense that the magistracy attempted to avoid stating that a defendant was simply ‘not guilty’. In 1903 when the case against George Mineards was dismissed, the bench would only

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<sup>307</sup> D.Jones, *Crime, Protest, Community and Police*, p. 19.

<sup>308</sup> Refer back to figure 1, 2 and 18.

<sup>309</sup> All of which was influenced by changes in the social, economic, cultural, and political climate of late Victorian England. Discussed in the next chapter.

<sup>310</sup> J.C.Scott, *Domination*, p. 55.

<sup>311</sup> The occupiers of the adjacent land were subsequently ordered to pay 10s 6d. Northampton Div.Petty Session, *Northampton Mercury*, 29 July, 1900. At an incendiarism case heard at the Hertford Assizes court the judge stated that ‘the rights of the lord of the manor, as well as the poorer commoners should be protected’ Hertford Assize, *Bucks Herald*, 24 April, 1880.

<sup>312</sup> Thrapston Petty Session, *Northampton Mercury*, 5 January, 1900; Kettering Petty Session, *Northampton Mercury*, 27 March, 1903.

say that a ‘mistake might have been made’.<sup>314</sup> Similarly, after Frank Oakins provided witnesses and an alibi in his defence, the bench would only state that they would give him ‘the benefit of the doubt’.<sup>315</sup> Occasionally there were signs of changing attitudes in the amounts of damages awarded. It is interesting to consider whether the magistrates at a disputed right of way case considered that William Shaw did have a right to go over the particular field in question. They found him guilty, but there may have been just a tinge of doubt in their minds after they heard several witnesses claim that they too had used the disputed path for over fifty years. Eventually, the proprietor, William Brown was awarded damages of only 1s, in contrast to the £2 10s he had originally claimed for.<sup>316</sup> Further evidence of yielding attitudes is that of sympathy. When William Cotterill of Kings Cliffe, ‘a half famished looking youth’, pleaded guilty of breaking underwood, the bench said that they commiserated with his condition.<sup>317</sup> And in 1897, the Chairman presiding at a wood stealing case against a gardener named John Ward, stated that ‘he was very sorry to see an old man in such a painful position’.<sup>318</sup>

Ironically, as the power and the authority of the landed classes declined, so organisations such as the National Trust, began to realise that it was the very collapse of the rural estates that posed the greatest threat to the structure of rural England.<sup>319</sup> However, the majority of the rural landscape continued to be owned and controlled by large landowners in some shape or form.<sup>320</sup> Changes in Victorian society, on one hand, may well have influenced fluctuations in the level and types of control asserted by the landed classes, while conversely, controlling methodologies adapted according to prevailing attitudes. How these opposing and contradicting notions were reconciled and hence power and control negotiated will be the subject for analysis in the next section of this chapter.

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<sup>313</sup> P.A.Graham, *The Rural Exodus*, p. 45.

<sup>314</sup> Northampton Div. Petty Session, *Northampton Mercury*, 28 August, 1903.

<sup>315</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 7 March, 1885. Similarly it was stated that William Hasley was given the ‘benefit of the doubt’. Kettering Petty Session, *Northampton Mercury*, 3 June, 1910.

<sup>316</sup> Thrapston County Court, *Northampton Mercury*, 16 February, 1889.

<sup>317</sup> Reducing the expenses to 2s 6d and allowing a fortnight to pay, Oundle Petty Session, *Northampton Mercury*, 22 December, 1860.

<sup>318</sup> Northampton Div. Petty Session, *Northampton Mercury Supplement*, 22 May, 1880. Similarly when Thomas James Comeford was accused of taking watercress, it was brought to the attention of the bench that his father lay dead at home and his mother was seriously ill. Northampton Div Petty Session, *Northampton Mercury*, 8 October, 1897.

<sup>319</sup> P.Lowe, ‘The Rural Idyll Defended: Form Preservation to Conservation’, in G.E.Mingay (ed.), *The Rural Idyll*, p. 120.

<sup>320</sup> Although today many are institutional landlords. No. 1 The Forestry commission, No.2 The Ministry of Defence, No. 3 The National Trust for England and Wales. K.Cahill, *Who Owns Britain*. See appendix 12. Paradoxically, many of them claim to manage the land for the good of the people, even some of the larger and more successful individual

## THE NEGOTIATION OF POWER

Contrary to the general supposition, that control was often based on simplified binary models of power and subordination between dominant and inferior groups, the evidence from this study suggests that extensive complex supplementary power relations and interactions were taking place with regard to the control of popular culture and customary rights during the latter part of the nineteenth century. As we have seen in the previous sections of this chapter, all those involved in rural life and popular culture appear to have had abundant means, and opportunity, in which to register their dissatisfaction, express their beliefs, to participate in regulating activities and to oppose restrictions. By examining and analysing the actions of these groups we find that the strategies, used by all sides, were very much part of a larger and more complex framework in which power and control over rural life, popular culture, customary rights, independence and social standing, was actually being negotiated - behaviour which has been observed by historians and sociologists alike. In the debate over Gramsci's concept of cultural hegemony, Peter Burke, for example, questioned whether the ruling classes really 'imposed' their values on the lower levels of society, or whether there was in fact a process of 'compromise' being played out between them.<sup>321</sup> Similarly Barrington Moore realised that, although in any stratified society there was always a set of limits on what both dominant and subordinate groups could do, there was often 'a kind of continual probing' to find out what each side could get away with.<sup>322</sup> In further analysis it becomes apparent that of the five bases of power discussed by French and Raven, all lend themselves as tools to be used, by both dominant and subordinate groups, in the negotiating process over matters concerning rural popular culture and attitudes towards it.<sup>323</sup> This part of chapter three sets out to determine firstly, why and how negotiation took place, investigate the role and importance of informational power in these negotiations, and to examine the arenas in which negotiations took place.

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private landowners, such as the Duke of Buccleuch, (who is still the largest private landowner in Gt Britain) has a contemporary reputation as an environmentalist and one who allows unprecedented access to his land.

<sup>321</sup> P.Burke, 'Popular Culture between History and Ethnology', p. 8.

<sup>322</sup> B.Moore, *Injustice: The Social Bases of Obedience and Revolt* (New York, 1987), quoted in J.C.Scott, *Domination*, p. 192.

<sup>323</sup> J.R.P.French and B.Raven, 'The Bases of Social Power', in D.Cartwright (ed.), *Studies in Social Power* (Michigan, 1959). Legitimate power refers to the power of an individual, reward power (self explanatory), coercive power results from the expectation of a negative reward, referent power is very much to do with charisma and strength of personalities, expert power comes through holding specialised knowledge, and sometimes a sixth power - informational power - which refers to holding information. J.Potgeiter, 'The Use of Power in Negotiation' Part I, II, III, [www.calumcoburn.co.uk](http://www.calumcoburn.co.uk) and I.G.Asherman, P.Bob, J.Randall and S.Asherman (eds), *The Negotiation Source Book* (HRD Press, 2001).

Why did rural populations feel the need to negotiate over enactments of and restrictions to, customary activities, access to the land and the exacting of penalties? Rural custom had remained, as Brian Short noted, as a ‘scene of contestation and negotiation’ throughout the nineteenth century.<sup>324</sup> Not only were the views and opinions of the working people forceful on the subject, but also they believed that custom itself was a ‘powerful protector’, justifying and legitimising their beliefs and convictions, and conferring on them the confidence to negotiate power and control over it,<sup>325</sup> while the dominant groups of the countryside felt similarly justified in working to maintain and extend their ‘material control and symbolic reach’ in society.<sup>326</sup> However, the precept of negotiating power for the working people was not purely about challenging authority, nor did they necessarily wish to invoke custom as a way of returning to ‘past circumstances’.<sup>327</sup> Negotiating was a means by which they sought to, not only protect their rights, identity and independence, but also to demonstrate their strength and solidarity, and to preserve traditional social hierarchies and relationships. In some ways, it could be said that they were actually negotiating the terms of their own subordination.<sup>328</sup> Likewise, to the dominant members of the rural world, the laws and directives cited in negotiations were essentially less to do with the conservation of land, preservation of game, and protection of property, and far more to do with expressing their power and authority, retaining social positions and the maintenance of social order.<sup>329</sup> Hence, not only did the act of negotiating entail mediating, bargaining and reaching agreements over customary rights, it was also a key component of rural communication. Within the framework of the negotiating process, all those involved had the opportunity to ‘send a message’ to the other side and attempt to ‘influence’ their attitudes, views and opinions.<sup>330</sup>

The context in which negotiations took place was varied. Even if country folk were illiterate, it did not mean they were inarticulate; they were quite capable of expressing their feelings and their

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<sup>324</sup> B.Short, ‘Conservation, Class and Custom’, p. 149.

<sup>325</sup> ... of the weak against the strong, J.S.Mill, *Principles of Political Economy* (Toronto, 1965), p. 240.

<sup>326</sup> J.C.Scott, *Domination*, p. 197.

<sup>327</sup> See also H.Falvey, ‘Crown Policy and Local Economic Context in the Berkhamsted Common Enclosure Dispute’, p. 130. Similarly Buchanan Sharp and Keith Lindley concluded that by defending ‘ancient customs’, rioters in the sixteenth and seventeenth centuries were not trying to improve their lot, just aiming to preserve the existing fabric of local society. B.Sharp, *In Contempt of all Authority: Rural Artisans and Riot in the West of England, 1586-1660* (London, 1980), p. 86 and K.Lindley, *Fenland Riots*, p. 57.

<sup>328</sup> This argument was used by M.J.Braddick and J.Walter in their analysis of social relations in the early modern period. M.J.Braddick and J.Walter, *Negotiating Power*.

<sup>329</sup> P.B.Munsche, *Gentlemen and Poachers*, p. 7.

<sup>330</sup> R.Fisher, ‘Negotiating Power: Getting and Using Influence, in J.W., Breslin and J.Z.Rubin (eds), *Negotiation Theory and Practice* (Cambridge: Programme on Negotiation Books, 1991), p. 128.

minds in several ways.<sup>331</sup> Fenmen, for example, in the seventeenth century, whose customary rights on former fenland commons had been taken by the new landowners: drove their cattle on their crops, cut turf from their enclosures, and mowed and carted off their hay, in order to enunciate their disapproval and attempt to negotiate some kind of compensation.<sup>332</sup> In fact many enclosure awards, of the seventeenth and eighteenth century, had been accomplished through complex processes of negotiations, some of which took months or even years to complete.<sup>333</sup> In the nineteenth century Robert-Chambers and Flora Thompson both wrote of how rural workers elected a ‘foreman’, ‘tea man’ or a ‘lord’ to enter into seasonal negotiations on their behalf.<sup>334</sup> These individuals, as Alun Howkins explained, were crucial in maximising bargaining power during the harvest.<sup>335</sup> Gleaners, on the other hand, negotiated the timings of access to the fields with the farmer via an imaginary ‘policeman’ which took the form of the last stook standing in the field.<sup>336</sup> Yet negotiating strategies were not always recognised as such, but whether direct or indirect, these kinds of actions often forced disputed issues out into the open.<sup>337</sup> Nevertheless, that did not guarantee an opportunity to negotiate. When the common wood at Sarratt was set on fire, Mr Clutterbuck, the owner, said he regretted that the case had reached the courts, ‘it was rather the action of the commoners which brought it here’ he said, and as a consequence he was not prepared to offer any evidence.<sup>338</sup>

Language manipulation and styles, as previously noted, influenced and impacted on attitudes towards tradition, conflict and control, as they did on negotiations of power. Language was often emphasised or extenuated, especially when negotiating the severity of a crime. For example, when Hannah Kellum was charged for damaging a ‘dead’ fence.<sup>339</sup> This description gave the impression that she was some kind of vandal rather than a local woman collecting firewood. This style of manipulative language was discussed in the *Northampton Mercury* in 1887, a reader complained that in one particular case the said ‘live’ fence, was in fact ‘a few old sticks across a footpath’.<sup>340</sup>

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<sup>331</sup> E. Weber, *Peasants into Frenchmen: The Modernisation of Rural France 1870-1914* (California, 1976), p. xiv. He was referring to rural populations in nineteenth century France.

<sup>332</sup> K.Lindley, *Fenland Riots*, p. 58.

<sup>333</sup> See J.M.Neeson, *Commoners*, p. 107 for examples.

<sup>334</sup> Robert-Chambers (ed.), *The Book of Days: A Miscellany of Popular Antiquities II* (London, 1888), p. 376, quoted in B.Bushaway, ‘Ceremony, Custom and Ritual’, p. 11. Another reference made in F.Thompson, *Lark rise to Candleford*, p. 257.

<sup>335</sup> A.Howkins, ‘Structural Conflict and the Farmworkers’, p. 226.

<sup>336</sup> Its removal signalled that permission had now been given to enter. V.J.M.Bryant, *A History of Potten End*, p. 156.

<sup>337</sup> A.P.Donajgrodzki, *Social Control*, p. 11.

<sup>338</sup> Hertfordshire Summer Assizes, *Hertfordshire Mercury*, 30 June, 1900.

<sup>339</sup> Kettering Petty Session, *Northampton Mercury*, 30 January, 1875. And Susannah Kirby of Kingscliffe was also accused ‘doing damage to a dead fence’, Oundle Petty Session, *Northampton Mercury*, 20 June, 1885.

<sup>340</sup> *Northampton Mercury*, 13 August, 1887.

The use of specific kinds of language could also contribute towards negotiations concerning reputations. The Earl of Buckinghamshire claimed that he did not wish to ‘stigmatise’ Sidney Tilbury and Joseph Newton by charging them with theft, so he decided to bring a charge of damage instead.<sup>341</sup> Similarly, the upper hand was often gained in negotiations by the manner in which an individual was addressed; defendants were always referred to by their first names, while landowners and most occupiers of land were addressed more formally.<sup>342</sup> In addition, the cross over usage of certain vocabularies could potentially confuse, while at other times assist in negotiations. The late nineteenth century was, as Brian Short explained, a period of ‘developing ideologies’ in rural conservation and preservation, and the language used to reflect these ideas is often heard in conflicting and competing contexts.<sup>343</sup> Consequently the language heard, in court defence and accusation statements, conveyed evidence of personal and group concerns, opinions and attitudes; social status; the influence of custom within the community; and intellectual understanding of the law.<sup>344</sup>

### Information

Negotiations could not take place without possession of certain information, the giving and withholding of information and the having of knowledge that others did not possess, was a flexible and fluid negotiating tool.<sup>345</sup> The lack of first hand official information reaching the rural populations was often seen to be to the benefit of the educated elite, for they realised that knowledge carried far more weight than any other type of resource.<sup>346</sup> Evidence for this can be seen in the way that the landed elite reacted when in 1887 Mrs Creswell, a squire’s daughter and widow, published a book on her experiences of being forced into bankruptcy as a result of the hunting that took place on the Sandringham Estate. Almost all copies of her book were bought up and destroyed by the estate’s agent, Edmund Beck.<sup>347</sup> The dissemination of such information relied on a literate audience and literacy was an important component of reconciling power in the countryside. The

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<sup>341</sup> Aylesbury Petty Session, *Bucks Herald*, 2 October, 1920.

<sup>342</sup> J.C.Scott, *Domination*, p. 32. This research made the same observation.

<sup>343</sup> B.Short, ‘Conservation, Class, and Custom’, p. 149. Preservation is a means of protecting or of guarding something from *danger, harm or injury*, while conservation, on the other hand, is a means of protecting from *change*. *Encarta, World English Dictionary*, p. 1488 and 404.

<sup>344</sup> Here again much of the language used suggested that the landed gentry’s major concerns were for preserving game, protecting property and maintaining their hierarchy, whereas for the labouring poor, conserving their customary rights, maintaining access to specific lands and the opportunity to reassert their position within the community was paramount.

<sup>345</sup> Refer again to J.R.P.French and B.Raven, ‘The Bases of Social Power’, in D.Cartwright (ed.), *Studies in Social Power*.

<sup>346</sup> D.Goldblatt (ed.), *Knowledge and the Social Sciences*, p. 120.

<sup>347</sup> On the orders of the Prince’s private secretary. *Eighteen Years on Sandringham Estate* by a Lady Farmer in H.Hopkins, *The Long Affray*, p. 271.

question of literacy had deeply divided the landed gentry before the introduction of Forster's Education Act in 1870. Education, literacy and access to information and knowledge, was believed to have caused many of the disturbances in the early part of the nineteenth century and fears were that 'once a working man could read, who could control what he read?'<sup>348</sup>

In order to negotiate a position of power over customary claims, magistrates, solicitors and lawyers, would often convey information using specific intellectual or legalistic language, which they thought would not necessarily be fully understood by the general public.<sup>349</sup> Nevertheless, the percentage of the population actually recorded as being involved in customary crimes was very low.<sup>350</sup> But frequent association, through newspapers, courts, neighbours and gossip, provided ample information for the rural population to assess the legal system. Those who appeared in court may have held even more information and knowledge of the way in which to use the system to negotiate within it. Frederick Rolfe boasted that he 'had lerned(*sic*) a lot of law' from his frequent court attendances.<sup>351</sup> Increasingly, during the nineteenth century, emphasis was being put on the written word, even though verbal agreements and negotiations were still being entered into.<sup>352</sup> The problem was that only when a disagreement arose would others become aware of them. In a dispute over the title of the land known as Kingsthorpe Gorse Bushes, Mr Theophilus Medway, claimed that he had been let the shooting rights and herbage on a verbal agreement by the trustees of the charity land, which explains why the inhabitants of Kingsthorpe knew nothing of the arrangement.<sup>353</sup>

As the population became more literate and publications more widely available, newspapers began to play an even larger part in disseminating ideas, influencing attitudes and thereby impacting on the bargaining power of the population. Even though there were distinct regional differences, newspaper editors generally had a fair amount of control over the type of information reaching the people, how it was reported, how it was presented, and even the extent to which it was under-

<sup>348</sup> 'The education of the lower classes has been the sole cause of the late disturbances', *Norfolk Chronicle*, 22 January, 1831; R. Lee, *Unquiet Country*, p. 41.

<sup>349</sup> They would use it as 'an instrument' that they used to 'mystify and control'. P. Burke, 'Strengths and Weaknesses', p. 2. 'Language and power are closely connected', M. Gaskill, *Crime and Mentalities*, p. 24; P. Corfield (ed.), *Language*, p. 8.

<sup>350</sup> Using the average population figures against the 1880-1889 poaching figures less than 0.50% percent of the population were involved in each area.

<sup>351</sup> L.R. Haggard (ed.), *I Walked by Night*, p. 51.

<sup>352</sup> Although more often written evidence was demanded. When William Hinton claimed he had been given permission to shoot over a specific piece of land, the bench insisted on written evidence. Watford Petty Session, *Hertfordshire Mercury*, 30 August, 1890.



reported.<sup>354</sup> Towards the end of the century letters to the editor, written by readers from all walks of life, were frequently published dealing with controversial issues such as the game laws, stopping up of footpaths, gleaning, and the enclosure of the commons.<sup>355</sup> Information on certain customary disputes was also more widely reported during this period and often from a popular point of view. In 1878 the press reported that Earl De La Warr had made a ‘feudal bluster’ in his desire to turn Ashdown Forest into a ‘mere sporting ground’, and after the legal ruling at the Rolls Court, the *Bucks Herald* stated that Lord Brownlow could not expect popular sympathy to be with him in his defeat.<sup>356</sup> Evidence that previously accepted views and opinions were being reconciled in the minds of the general population.

Local newspapers were also responsible for the spread of information and prevailing attitudes from neighbouring regions. The *Hertfordshire Mercury* reported on a meeting held by the East Suffolk Chamber of Agriculture concerning the game laws,<sup>357</sup> while in 1870 the *Bucks Herald* and the *Hertfordshire Mercury* reported a story of a Hertfordshire landowner who gave his tenants permission to destroy rabbits with ferrets, a story that was also reported in the *Cambridge Chronicle*.<sup>358</sup> Many reports were increasingly well balanced in their observations of the facts. Edwin Mills, a labourer, was described as ‘a respectable looking man’ and, although found guilty, it was still reported that he was given an excellent character reference by his employers. Here too there is evidence of a reconciliation of ideals in the mind of the judge, who noted that it was necessary that ‘the rights of the lord of the manor, as well as the poorer commoners, should be protected’.<sup>359</sup> In 1915, when Albert Ebenezer Fox got his hundredth conviction, the newspapers no longer referred to him and his brother as poachers but ‘those genial sporting gentlemen who are familiar figures in the local courts on game law summonses’.<sup>360</sup> Most importantly the sharing and

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<sup>353</sup> Northampton Div. Petty Session, *Northampton Mercury*, 1 February, 1868.

<sup>354</sup> In this study there were very few petty crime cases being reported in the *Cambridge Chronicle*, with very little specific information, whereas, in the *Bucks Herald*, there were many detailed cases recorded. Similar discrepancies occurred in the national papers, although to what extent can only be assessed by the individual according to their personal opinions. The half a column coverage given by the *Times*, to Joseph Arch’s four hours of evidence to the Game Law Committee in 1873, may well have been considered too short for some.

<sup>355</sup> For example letters to the Editor: ‘a commoner’, *The Times*, 10 August, 1865; ‘from an old inhabitant of the little town of Berkhamstead’ *The Times*, 17 August, 1865; ‘an occasional correspondent’, Right of Way on the Norfolk Broads, *The Times*, 22 August 1888; ‘Boaz’, Ruth in the 19<sup>th</sup> Century, *The Times*, 23 September, 1867; ‘A Bedfordshire Farmer’, Gleaning, *The Times*, 14 August, 1878; ‘a farmer’, Game Preservation, *The Times*, 13 September, 1871; ‘A suffering farmer’, A Farmers Complaint, *The Times*, 14 February, 1878.

<sup>356</sup> *Daily Echo*, 9 September, 1878, (ESRO AMS 4097) quoted in B.Short, *The Ashdown Forest Dispute*, p. 33; ‘The Common Rights at Berkhamsted Common’, *Bucks Herald*, 22 January, 1870.

<sup>357</sup> ‘Game Laws’, *Hertfordshire Mercury*, 16 April, 1870.

<sup>358</sup> *Bucks Herald*, 15 January, 1870 and ‘Neighbouring Counties’, *Cambridge Chronicle*, 15 February, 1870.

<sup>359</sup> Hertford Assize, *Bucks Herald*, 24 April, 1880.

<sup>360</sup> J.Humphreys, *More Tales of the Old Poachers*, p. 95.

dissemination of information, opinions and attitudes, provided rural populations with the knowledge required to negotiate in an informed and educated manner. A classic example of this was the talks given at meetings and rallies organised by the Commons Preservation Society. At one such meetings in December 1895, a talk given by Mr Percival Birkett, informed the inhabitants of Chesham that, as long as a local common remained open, their common rights could not cease.<sup>361</sup>

### Arenas

Negotiations concerning subsistence customary rights emerged in various arenas. They were sometimes enacted at the point of activity, such as in the woodlands or on the fields, while at other times, official forums provided the place to mediate, discuss or argue. For example, in order to avoid poachers entering the woods under the pretence of collecting nuts, or nut collectors damaging the trees, some gamekeepers attempted to negotiate a compromise over access into the woodlands by gathering acorns and nuts themselves and then throwing sackfuls of them down on the public footpaths.<sup>362</sup> Other negotiations, such as those concerning gleaning after the harvest, were played out on the field. Nonetheless, unsuccessful negotiations may have resulted in assaults, which inevitably ended up at the petty sessions, such as the incident involving Thomas Carter, of Hill Farm, and Sarah Williams, a mother of eight. Sarah was accused of stealing a quantity of wheat and straw, while Mr Carter was accused of assaulting her. The negotiations between the two continued before the bench, with Mr Carter expressing that he had no wish to send Sarah to prison, even though she had been abusive to him. Nevertheless he insisted that he wanted her to acknowledge that she was wrong and to withdraw the assault claim against him.<sup>363</sup>

It was at the local petty sessional courts that most evidence of individual and group negotiations for power appeared to manifest. Peter King described these summary courts as a ‘vital arena’ where ‘social tensions were expressed and social relations re-configured’.<sup>364</sup> It was here that the public transcript, ‘the repertoire of acceptable public behaviour between superior and subordinate in face to face contexts’, and the hidden transcripts, ‘what each side may say or think when they are

<sup>361</sup> Common Rights on Chesham Moor, *Bucks Herald*, 14 December, 1895. He also informed them that although they had been constantly told that in order to be a legal commoner they would have to have been a freeholder or a copyholder, this was not true. A commoner could be person who had used the common unopposed for thirty years.

<sup>362</sup> This provided ‘ocular evidence that it [was] useless [to] enter the woods a-nutting’. R.Jefferies, *The Gamekeeper at Home*, p. 108.

<sup>363</sup> A ‘Fracas in the Harvest Field’. After much wrangling, the summons was withdrawn. Gt Marlow Petty Session, *Bucks Herald*, 9 September, 1865.

<sup>364</sup> P.King, ‘The Summary Courts and Social Relations’, p. 127. He was speaking of the eighteenth century.

offstage', met.<sup>365</sup> Nineteenth century local newspaper's highlighted how these negotiations for power revealed themselves in court attendances, apologetic acknowledgments, types and levels of punishments, out of court settlements, counterclaims and crowd support in the courts. Visual and vocal appearances in court alerted the public to particular disputes, negotiations between parties, and publicised attitudes, opinions and the policies of both sides. Initially, the ritual of law appeared to be more frequently played out in the courts by the elite classes, yet closer analysis reveals that the rural labouring populations also performed their own modes of symbolic negotiating practices before the bench, for example, feigning ignorance, making or refusing to make apologies, and continually re-asserting customary claims. Nevertheless, even though under normal circumstances it was very rarely possible for ordinary working people to instigate legal challenges to the changing ideologies of the local hierarchy themselves, once brought to court on a petty charge they readily turned the tables and used the opportunity to state their own grievances and publicly criticise the system. Despite the poaching case against William Orchard being brought before the bench by the gamekeeper, Charles Palmer, it was Jabez Batty, who occupied the land, who used the opportunity to stand up in court and complain that the 'rabbits were eating him up'.<sup>366</sup>

The moments of face-to-face confrontation provided favourable and advantageous circumstances in which those accused could state their points of view and explain their motives. The case against Elizabeth Wyman of Denton is a good illustration of this. She appeared to relish the opportunity to voice her side of the story when she was called to answer to the charge of nutting and damaging growing trees on the land owned by the Marquis of Norfolk. Elizabeth confidently argued that 'within her memory, which was forty six years, the rotten wood, acorns, sloes and nuts had been allowed for the poor', she continued by saying that she would take her oath 'on a bible, a thousand bibles, or ten thousand bibles [that] leave had never been denied either her or her father'. Once Elizabeth had aired her grievances and had her say, she seemed content enough to make a promise to the Marquis that she would not offend again, and was subsequently released.<sup>367</sup> The opportunity to convey and communicate, concerns, interests and information, as part of the negotiating process, was not restricted to any one social group. In 1900 Lord Rothschild used a similar strategy. He complained, through his prosecution counsel, that even though local residents had been taking wood from Botley wood for a long while, he now wished 'to put a stop to the practice'. Yet, on this

<sup>365</sup> M.J.Braddick and J.Walter (eds), *Negotiating Power*, p. 5.

<sup>366</sup> Princes Risborough Petty Session, *Bucks Herald*, 24 August, 1878.

<sup>367</sup> Northampton Div. Petty Session, *Northampton Mercury*, 6 October, 1877.

occasion, the prosecution team were instructed not to press for any penalty. It appears that Lord Rothschild wanted only to state his position and announce his intentions.<sup>368</sup>

An appearance in court may have been feared and dreaded by some, but to others, the opportunity to voice their opinions and negotiate their position, filled them with confidence and self-assurance. The courtroom was deemed, by some, as a safe platform from which to vent their anger against unjust rules, regulations and statute laws. When John Davis, a farmer from Northchurch, was summoned by George Fox, keeper for Mr Lucas under the games laws, he was extremely angry, shouting that he would ‘do what he liked on his own ground’ and stating that in his opinion it was the keeper who had ‘no right on his ground’.<sup>369</sup> The courtroom also offered the forum in which direct questions could be asked about the injustices of enclosure. William Birch asked the witness Herbert Haddrell: ‘how is it I am not allowed to go on Coombe Hill?’<sup>370</sup> John Jeyes, on the other hand, had so much trust and faith in his right to use the legal system to counteract the accusation made against him, that he called one witness after another, until the Chairman was forced to put a stop to it.<sup>371</sup>

Not everyone felt the same about the opportunities presented by a court appearance. Some defendants did not bother to turn up for their hearings. Sixty-four cases on the database record that the defendant was not present when the case was called; forty-seven of those were from the Nene River Valley.<sup>372</sup> William Wright and Joseph Clarke of Kettering, both ‘failed to appear’ before the bench to answer the charge of trespassing after game at Rushton.<sup>373</sup> William Overstall, charged with unlawful fishing, just did not turn up at court in June 1870.<sup>374</sup> But Walter Pleasance, who did not appear at the Wisbech court hearing on 14 January 1887, maybe had second thoughts on the implications of his actions and found his way there on the 21 January 1887.<sup>375</sup> However, when

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<sup>368</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900. Similarly in the fish poaching case against George Reading, Mr Rose stated the he ‘instituted these proceedings with the view of preventing a reoccurrence of the offence’. Chesham Petty Session, *Bucks Herald*, 24 January, 1880, and the prosecution against John Loveday and William Spriggs intimated that Mr W.C.Braunston’s reasons for instituting the proceedings was to ‘put an end to the practice of hunting over his fields with dogs’. Kettering Petty Session, *Northampton Mercury*, 25 July, 1885.

<sup>369</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 20 December, 1890.

<sup>370</sup> Even though the witness only replied, ‘I’ve had my instructions from the head keeper to stop people going there’, William was able to voice his concerns and share them with the community. Aylesbury Petty Session, *Bucks Herald*, 2 December, 1893.

<sup>371</sup> Northampton Div. Petty Session, *Northampton Mercury*, 5 June, 1903.

<sup>372</sup> Again there is an even spread chronologically which suggests that similar strategies were being used in the courts throughout the period in question.

<sup>373</sup> Kettering Petty Session, *Northampton Mercury*, 6 August, 1887.

<sup>374</sup> March Petty Session, *Cambridge Chronicle*, 25 June, 1870.

<sup>375</sup> Wisbech Borough Session, *Cambridge Chronicle*, 21 November, 1887.

James Mansell, a labourer, did not turn up to answer the charge against him in September 1903, a warrant was issued for his arrest.<sup>376</sup> Which is probably what happened to Alfred Wyatt who was reported to have ‘absconded’, rather than turn up at court in 1900.<sup>377</sup> Whether or not non-arrival before the bench was a deliberate tactic, which formed part of the negotiating process, it is hard to say. Yet, there does appear to be evidence to support the idea that the actual appearances in court were sometimes negotiated. The number of disputes being settled out of court, or privately settled, suggests that there was another dimension to the court process. The case against John Wakeling, of Kingscliffe, who was summoned by John Nicolas, of Brigstock, for wilful damage to a fence, was recorded as ‘privately settled’.<sup>378</sup> However, the magistrates may have also sensed that the courts were being used to negotiate personal antagonisms. For when J. Tebby and J. Townsend were accused of damaging a tree and unlawfully making a cart track over John Cook’s property, the bench actually requested that the parties settle the matter out of court.<sup>379</sup> Nevertheless the law appears to have been consistently challenged and tested. At the Ely Petty Sessions, in August 1892, William Benton stated that it had been brought to his attention that following a dispute, over fishing rights, Henry Cross intended to fish at a certain time in order to ‘test his right’.<sup>380</sup> In testing the limits of the law Theophilus Hannell, William Bolton, George Hughes and Alfred Costa, who were all accused of setting fire to Chorleywood Common, forced Mr Justice Keating to acknowledge their grievances, even though he demanded that they all enter into a recognizance.<sup>381</sup>

A frequently used means of negotiating power in the courtroom was based on apologies. The act of making one, of showing remorse, asking forgiveness, and making symbolic amends, are ‘a more vital element in almost any process of domination than punishment itself’.<sup>382</sup> The disassociating oneself from an offence superficially demonstrated that the individual publicly accepted the judgement of a superior and thus ‘implicitly, the censures or punishment that follow[ed] from it’.<sup>383</sup> Therefore demands for an apology or retraction were often used to regain the honour of the landowner however insincere any show of compliance may have been. On the other hand, from the

<sup>376</sup> Beaconsfield Petty Session, *Bucks Herald*, 12 September, 1903.

<sup>377</sup> Aylesbury Petty Session, *Bucks Herald*, 20 July, 1900.

<sup>378</sup> Thrapston Petty Session, *Northampton Mercury*, 28 August, 1880.

<sup>379</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 9 October, 1875.

<sup>380</sup> Ely Petty Session, *Cambridge Chronicle*, 19 August, 1892. Henry Kingham, described as an old pensioner, may have been testing the limits of access rights when he was accused of wilfully damaging to grass. Gt Berkhamsted Petty Session, *Bucks Herald*, 19 June, 1875.

<sup>381</sup> Lent Assizes, Hertfordshire, *Hertfordshire Mercury*, 5 March, 1870.

<sup>382</sup> J.C.Scott, *Domination*, p. 58.

<sup>383</sup> E.Goffman, *Relations in Public: Micro studies of the Public Order* (New York, 1971), p. 113, quoted in J.C.Scott, *Domination*, p. 57.

perspective of the working people, an apology often represented a ‘comparatively economical means of escaping the most severe consequences of an offence’.<sup>384</sup> For example, the farmer Mr Bowler accepted the apologies of Arthur Page and Walter Greaves, who were accused of stealing acorns, insisting only that they paid the costs of the court.<sup>385</sup> As we have seen, evidence suggests that there was a section of the population whose main aim was to be given the opportunity to negotiate power and authority over customary subjects, and for this, appearing in court was an essential element. This may explain why the defendants, referred to as Young Clarke and Charles Clark, refused to enter into a private agreement with Mr Allen of Chalfont St Peter when they were accused of stealing old oak timber. The defendants admitted taking the wood, stating that they had done so before, and although Mr Allen let it be known that he did not wish to press the case, they requested that the dispute be dealt with summarily. Eventually they were both fined 10s, but they had the satisfaction of knowing that by choosing this course of action, their views and opinions were officially recorded.<sup>386</sup>

The consequence of acknowledging misdemeanours and expressing regret were varied; proceedings were often dropped or fines reduced. In order to derive the maximum benefit from an apology it is possible that some may have been staged. Why else bother with the expense of a court hearing if all the charges were going to be dropped upon receipt of a renunciation? And furthermore, why would defendants show remorse so freely if it had not been indicated to them that charges could possibly be dropped? The reason was that staged apologies, in the courtroom, sent plain and clear messages to all the right people, especially if the formal recantation was reproduced in the local newspapers.<sup>387</sup> In addition, the courtroom audience, as witnesses, provided an insurance policy to the accused, and the visual and vocal act of accepting the judgements of the magistrates was a symbolic act of restoring power to the landed elite.<sup>388</sup> This is not to say that genuine, sincere and un-staged apologies were never given. Yet it is difficult to know whether William Allen, a labourer from Twyell, was being completely honest when he told the court: ‘I am very sorry for what I have done...’ or if William Hardwick and William Brown were feigning sincerity when they asked to be forgiven for trespassing in search of game.<sup>389</sup>

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<sup>384</sup> J.C.Scott, *Domination*, p. 57.

<sup>385</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 13 November, 1875.

<sup>386</sup> Beaconsfield Petty Session, *Bucks Herald*, 25 July, 1885.

<sup>387</sup> C.Emsley, *Crime and Society*, p. 143.

<sup>388</sup> That there would be no recanting on assurances to drop charges.

<sup>389</sup> Wellingborough Petty Session, *Northampton Mercury*, 10 November, 1866; Northampton Div. Petty Session, *Northampton Mercury*, 19 July, 1873.

By using the negotiating tactic, of admitting to a lesser charge, defendants attempted to force the authorities into reducing or modifying the severity of any penalties imposed on them. John Mabbut, for example, claimed to be getting watercress when he was brought before the bench on a game offence charge.<sup>390</sup> And Samuel Gray of Thrapston, in the Nene River Valley, when summoned on a charge of trespassing after game at Titchmarsh, said that he was only ‘going cressing’.<sup>391</sup> In order to negotiate a lesser fine, Walter Jacobs, convicted of trespassing in search of rabbits, went even further, telling the bench that he had since smashed his gun into pieces so that he might not be tempted to offend again.<sup>392</sup> The bargaining techniques of John Beecher backfired on him when he tried to minimise his fine, not by denying having been unlawfully in possession of a pheasant, but by asking if the magistrates would take into account that he had only been up before them about three times in the last ten years. Unhappily for him the superintendent had an up to date list that proved he was lying.<sup>393</sup> There were others, who seemed to believe that they had some say in the type and mode of punishment meted out to them once they had been convicted. John Hancock was said to have ‘elected to go to prison for one month’, rather than pay his fine of £1 13s 6d. Walter Dunmore of Walgrave, also ‘elected to go to prison’, rather than pay his fine for trespassing after game. Frank Ashby said he would ‘rather do time than pay’ his fine for wilfully damaging a fence.<sup>394</sup> And after the business of the day had been concluded at the March Petty Session in 1895, a labourer named Riley, considered he had the right to enter the courtroom and re-negotiate the terms of the fine imposed on him at the previous sitting; he announced that he would not pay and had therefore come to give himself up. When the Superintendent refused to take him, he left the court apparently ‘much dissatisfied’.<sup>395</sup>

The data from this survey has also revealed that there were a number of litigations documented as ‘not pressed’. As a result, 208 of the 2736 cases in the study were recorded as dismissed, which

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<sup>390</sup> Wellingborough Petty Session, *Northampton Mercury*, 22 December, 1883.

<sup>391</sup> Thrapston Petty Session, *Northampton Mercury*, 16 May, 1885.

<sup>392</sup> Gt Missenden Petty Session, *Bucks Herald*, 10 October, 1903.

<sup>393</sup> Kettering Petty Session, *Northampton Mercury*, 7 August, 1885.

<sup>394</sup> Ely Petty Session, *Cambridge Chronicle*, 2 February, 1900; Northampton Div. Petty Session, *Northampton Mercury*, 23 April, 1887; Wellingborough Petty Session, *Northampton Mercury*, 20 August, 1887. Fred Aspland of Littleport Fen had apparently not been too willing to pay the imposed fine for trespassing in pursuit of game, until he was threatened with a harsher penalty, then he chose to tell the court, ‘very well, I can pay’. Ely Petty Session, *Cambridge Chronicle*, 12 January, 1900.

<sup>395</sup> March Petty Session, *Cambridge Chronicle*, 22 March, 1895; The Chairman asked him if he required time to pay the fine, but his answer was that he wished to ‘lay it out’.

represents 7.6 per cent of all the cases analysed.<sup>396</sup> Whether there is any evidence here of negotiating taking place it is difficult to say. But it seems strange that a percentage of these cases went through the ritual of a court appearance, where the accused was compelled to stand before the bench while the offence against them was read out, forced to lose a day's pay, and risk being stigmatised and humiliated, when the case was to be so swiftly concluded with a dismissal or 'not pressed' verdict. One explanation could be that the process of the court appearance itself acted as a form of compromised punishment. On the other hand, it may have formed part of the process of negotiation and compromise played out between the landowners and the tenant farmers, who perhaps were pressurised into pursuing certain cases under their tenancy agreements, yet withdrew them at the first possible opportunity, usually once payment for damages had been received. For example, the farmer Chas Watson was reported to have withdrawn the case against Harry Holland, Albert Woodbine and Edward Christmas upon payment of expenses.<sup>397</sup> And four of the six cases referring to stealing or damaging wood reported in the *Cambridge Chronicle* in 1862, were all withdrawn once the defendants had paid the costs incurred by the court.<sup>398</sup>

The behaviour of re-offenders is particularly difficult to place in the wider context of power, control and negotiation. By filtering the database for repetitions of the first named defendants, it was found that there were no re-offenders in the Cambridge Fens area, yet 9.3 per cent of the cases in the Nene River Valley and 12.4 per cent of cases in the Chilterns did involve re-offenders.<sup>399</sup> But does this tell us anything significant about negotiating strategies? The continual 're-appearance', on one hand, reminds us of the part repetition played in earlier customary activities.<sup>400</sup> On the other hand, it may suggest a certain challenge to the authorities; indeed the varying levels of fines did appear to reflect some degree of response from them. For example, at a game case on the Chilterns in 1878, Alfred Paradine and George King, who were described as old offenders, were both fined £5 and 14s each, whereas their accomplice, who appeared in court for the first time, was fined only £2 14s.<sup>401</sup> However, it is extremely difficult to explain the behaviour of individuals such as James Hanson who was caught trespassing after conies on Coombe Hill for the fortieth time, John Pratt brought

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<sup>396</sup> These percentages were similar across all three regions. 7.25% of cases in Cambridge were dismissed, 7.94% in the Nene River Valley and 7.29% in the Chilterns.

<sup>397</sup> For damaging a willow tree. *Cambridge Chronicle*, 24 January, 1880. And the case of Thomas Onion who was accused of unlawfully taking fish, was discharged once he admitted the offence, *Cambridge Chronicle*, 24 April, 1880.

<sup>398</sup> *Cambridge Chronicle*: Chatteris Petty Session, 7 June, 1862; Ely Petty Session, 6 September, 1862; Chatteris Petty Session, 11 October, 1862 and Ely Petty Session, 29 November, 1862.

<sup>399</sup> See appendix 10.

<sup>400</sup> See chapter 1. Regular repeating reinforced and strengthened attitudes towards traditional customs. A. Eagly, *Psychology of Attitudes*, p. 681.



before the bench for his forty-sixth game offence, and Joseph White, who was called up for his sixty-fifth appearance in 1914.<sup>402</sup>

The counter claim was another tool to be used in negotiations. Following a gleaning dispute in 1877, between Elizabeth Robinson and Mr Davey Vesey, it was Mr Vasey, the farmer, who found himself being summoned on a charge of assault, and accused of using ‘more force than was necessary’.<sup>403</sup> The motives for using counter claims may well have been the desire to negotiate and rebalance social positions. When Frederick George Larkin accused Joseph Ayres, a labourer from Tylers Green, of trespassing in search of game. Joseph responded by placing a complaint before the court that Larkin had assaulted him. Eventually the case was dismissed on the understanding that the charge of assault against Larkin be dropped, and both men were ordered to contribute towards the costs of the court.<sup>404</sup> Others were rather impertinent in their attempts to make counter claims. George Wright of Luton tried to claim expenses when the case against him was dismissed, only to be told by the bench that he had ‘better keep quiet and think himself fortunate’.<sup>405</sup> And when Frederick Rolfe, who was a known poacher, was wrongly arrested and remanded for stealing turkeys, he instructed his lawyers to make a claim of £5 for wrongful arrest.<sup>406</sup> Very few counter claims were recorded in the sources used for this study, but those that were, seemed evenly spaced regionally and chronologically.

Members of the public spectating at the petty sessions played their part in the negotiating process too. Their presence not only supported the defendants, but it sometimes created a theatrical atmosphere where they could be either just part of the audience or participating players, and the very assemblage of large groups of people may well have served to intimidate the authorities, in the same way as crowds had done in the past. When William Birch appeared before the Aylesbury Petty Session in 1893, the gamekeeper reported to the Chairman that the people ‘had no right’ to go onto

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<sup>401</sup> Ivinghoe Petty Session, *Bucks Herald*, 4 May, 1878.

<sup>402</sup> Aylesbury Petty Session, *Bucks Herald*, 28 August, 1890. Especially as these crimes took place at the same location; Thrapston Petty Session, *Northampton Mercury*, 8 September, 1893; Kettering Petty Session, *Northampton Mercury*, 1 May, 1914. And William Humphreys who was before the bench in 1890 for the twentieth time. Gt Berkhamsted Petty Session, *Bucks Herald*, 31 May, 1890.

<sup>403</sup> Kettering Petty Session, *Northampton Mercury*, 13 October, 1877. When Thomas Box encroached on to the common, in the seventeenth century, several artisans and labourers decided to breach his hedge in the hope of being taken to court themselves; for then they could place a counter claim against him for encroachment onto the common. N.Blomley, ‘Making Private Property’, p. 15. Likewise, in 1786, when a farmer took from a group of gleaners their half filled sacks, they responded by accusing him of theft. P.King, ‘Gleaners, Farmers and the Failure of Legal Sanctions’, p. 124.

<sup>404</sup> High Wycombe Petty Session, *Bucks Herald*, 23 November, 1895.

<sup>405</sup> M.D.Allen, ‘Poachers’, p. 186.

Coombe Hill, whereupon a voice from the crowd shouted ‘they can’t be stopped’.<sup>407</sup> In the case against Francis and Spencer Longland there were so many witnesses, on both side, that the case was dismissed altogether.<sup>408</sup> And at the Ivinghoe Petty Session Court in 1869 there was so much local interest, in the five separate cases of game trespass, that news of the event was even reported in the *Northampton Mercury*. Here, although each violation of the law had been committed by different men in various parishes - Ivinghoe, Pitstone and Edlesborough - they were all brought before the bench by Earl Brownlow’s gamekeeper Job Rawson and large crowds of people mustered in the town awaiting the decisions of the magistrates.<sup>409</sup>

Within the structural framework of these court proceedings, intrinsic elements of ritual, ceremony, community support and social alignment, appear to have been as central as they had been to traditional customary activities. Therefore it is unsurprising to note that noise, applause and laughter were also often an integral part to the court experience. When Walter Peasance junior and John Fines appeared at Wisbech Petty Session, they made so much noise that they had to be placed in the cells.<sup>410</sup> William Waterton shouted so loudly at his hearing that he too was taken out of court.<sup>411</sup> Similarly James Mallard, John Green, John Dunham and Thomas Butchers were reported to have used such violent and offensive behaviour when they appeared before the bench, that even though they were originally only fined, James Mallard ended up being committed to prison for two months hard labour.<sup>412</sup> Conversely, members of the general public could cause just as much commotion in and around the courts, which may have been even more unsettling for the bench. For example when George Hawkes and Mark Prentice’s game case was dismissed at the Kettering Petty Session in March 1894, there was great ‘applause in the court room’.<sup>413</sup> And when the case against Alice Wills, which we have previously discussed, was withdrawn, there was ‘great excitement’ and several of her supporters were seen afterwards ‘parading the town wearing blue ribbons’.<sup>414</sup>

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<sup>406</sup> L.R.Haggard (ed.), *I Walked by Night*, p. 53.

<sup>407</sup> Aylesbury Petty Session, *Bucks Herald*, 2 December, 1893.

<sup>408</sup> Accused of trespassing in pursuit of game, Northampton Div. Petty Session, *Northampton Mercury*, 6 January, 1866.

<sup>409</sup> Ivinghoe, *Northampton Mercury*, 24 April, 1869.

<sup>410</sup> Wisbech Petty Session, *Cambridge Chronicle*, 17 June, 1887.

<sup>411</sup> He shouted that the witness was a liar and then repeatedly shouted ‘hang me, transport me’. Gt Berkhamsted, *Bucks Herald*, 7 February, 1863.

<sup>412</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 5 April, 1873.

<sup>413</sup> Kettering Petty Session, *Northampton Mercury*, 16 March, 1894.

<sup>414</sup> Thrapston Petty Session, *Northampton Mercury*, 5 October, 1894.

The explosive release of laughter during charivari represented, in Martin Ingram's opinion, a psychological release of the tensions and conflict in everyday life.<sup>415</sup> This may have been the reason for such outbursts at the petty sessions. At the case concerning George Tilly, who was found guilty of taking partridge eggs at Geddington, there was laughter throughout the court when he responded by announcing that there were plenty of hares at Newton, and he would catch some to pay his fine.<sup>416</sup> William Hardy, who had been found in possession of three nets and a ferret at 10.55 pm, caused laughter in the court when he questioned how the bench thought it was possible to go ferreting in the dark.<sup>417</sup> Parallels can be drawn from elements of both of these cases and that of James Stacey investigated by Owen Davies. In 1883 James successfully played the fool and frustrated all attempts by the court to prove that he was a local cunning man.<sup>418</sup> Conversely the magistrates at Amersham made themselves the brunt of the courtroom mockery when they contradicted their own decisions. Initially they had given Walter Witney 'the benefit of the doubt', suggesting that they considered him to be innocent, but they then followed this up with the ambivalent request: 'but do not do it again'.<sup>419</sup> In some circumstances the belief in ones right, a good sense of humour and the theatrics of the courtrooms fuelled the laughter and mockery. Eli Brown, an engine driver, said he was after crows when he was arrested in connection with the Poaching Prevention Act and for being in possession of a loaded gun. However there was much laughter in the court when he refused to take his gun home with him once the case had been dismissed: 'I don't want to be charged with carrying a gun without a licence' he said, 'I will send someone in for it'.<sup>420</sup> Likewise, Ebenezer Albert Fox was said to have caused much laughter when asked by the magistrate what he was doing in the wood late at night, 'I was there to meditate upon the Baptist book by the light of the moon' he replied, at which time he pulled from his pocket the sacred volume – along with a cloud of pheasant feathers.<sup>421</sup>

Like many of the customary practices themselves, the reasoning behind a high proportion of negotiations was probably 'relatively unthinking', and therefore it is debateable whether their purpose was ever speculated upon.<sup>422</sup> Nevertheless, generally, the evidence from the sources suggest that the sought after outcomes, were not just those of protecting customary rights, but of

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<sup>415</sup> M.Ingram, 'Ridings, Rough Music', p. 98.

<sup>416</sup> Kettering Petty Session, *Northampton Mercury*, 4 June, 1897.

<sup>417</sup> Northampton Div. Petty Session, *Northampton Mercury*, 13 January, 1893.

<sup>418</sup> O.Davies, *A People Bewitched*, pp. 84 - 91.

<sup>419</sup> Amersham Petty Session, *Bucks Herald*, 19 May, 1900.

<sup>420</sup> Northampton Div. Petty Session, *Northampton Mercury*, 22 January, 1887.

<sup>421</sup> J.Humphreys, *More Tales of the Old Poachers*, p. 94. Taken from *Open Field* magazine, May, 1990.

retaining independence, of rebalancing social relationships, and of maintaining social order. Collective and visual negotiations regarding subsistence customary rights assumed many of the essential elements of traditional popular culture which brought people together, it reasserted and cemented positions, disseminated information and opinions, while acting as a safety valve at times of conflict by providing light entertainment. Even though acts of insubordination that went unpunished or without rebuke were considered by some to encourage others to exploit that breach, others believed that the opportunities to ‘counter argue’ in negotiations reduced reactance arousal and increased positive attitude change.<sup>423</sup> Even the simplest of social change, wrote Gordon Hughes and Ross Fergusson, must in the end ‘be imposed or emerge through extensive processes of negotiation’.<sup>424</sup>

This chapter has investigated how, in order to control subsistence customary rights and local popular attitudes towards them, attempts were made to control land, space and resources; morality and rowdiness; and processes of crime and resistance. Firstly the environment controlled subsistence opportunities; the types of resources produced were limited by the natural physical and geological landscape, which controlled the structure of the soil, hydrology, and a region’s natural boundaries, while access to these resources, although dominated by local topography, became determined by newly laid hedges and fences as enclosure was imposed on the landscape. Roads, roadsides, lanes and footpaths, on the other hand, held an ambivalent position, for they delineated parameters and created barriers, while on the other hand, provided access and public spaces. Similarly commons and open land, not only served as areas to collect and forage, but also in addition, provided opportunities to socialise, to participate in sporting activities, and to host fairs and popular celebrations, which explains why public spaces became a ‘core public order concern’ during the nineteenth century.<sup>425</sup>

Secondly local community pressure, through systems of socialization, controlled and supported those who participated in customary practices by way of community tolerance, well placed silences, sympathy, and empathy. Subsistence activities themselves were controlled through co-operation, self-regulation, humiliation, and public ridicule. Transgressors of customary codes were made to feel, by the local population, ‘the force of its sanctions, whilst its supporters were permitted to enjoy

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<sup>422</sup> Refer back to Anthony Giddens discussion on Tradition. A.Giddens, ‘Tradition’, pp. 2-3 [bbc.co.uk](http://bbc.co.uk).

<sup>423</sup> J.C.Scott, *Domination*, p. 196; Wellins and McGinnies, ‘Counter Arguing and Selective Exposure to Persuasion’, *Journal of Social Psychology* 103 (1977) 115-127, in S.S.Brehm, *Psychological Reactance*, p. 53.

<sup>424</sup> G.Hughes, and R.Fergusson (eds), *Ordering Lives: Family, Work and Welfare* (London, 2004), p. 4.

the reciprocal rewards'.<sup>426</sup> Thirdly the extent of, and manifestation of, landed authority varied over the period in question. With the aid of their power, authority and influence, the landed elite used an array of procedures and techniques in their attempt to impose control over access to the land, customary rights and attitudes towards them. Having redefined some customary practices as crimes, they altered and adjusted the severity of penalties, purged certain crimes, threatened, bribed and coerced local populations. Nonetheless, as social, economic and political changes impacted on their authority towards the end of the century, so too their domination of the courts and administration of the law was reduced.

However, once we began to analyse the negotiating tactics used by all levels of rural society, it became clear that, even though the majority of negotiating and controlling actions were rarely realised or recognised as such, the control of customary activities was not based on a binary model of power and subordination.<sup>427</sup> Possession of certain information and the manipulation of language played an important part in all types of controlling strategies, including those involved in negotiations. The courts were the main arenas for resolving differences and it was here that negotiations revealed themselves in court attendances, apologetic acknowledgements, types and levels of punishments, out of court settlements, counter claims and crowd support.<sup>428</sup> The intrinsic elements of ritual, ceremony, community support, social realignment, noise, laughter, and group participation - all factors central to traditional customary activities- were all apparently evident within the structural framework of these court proceedings. In conclusion, the purpose of attempting to assert control over customary activities was rather complex, for it appears that reasserting social positions, cementing relationships, disseminating information, and providing light entertainment, while expressing and conveying prevalent opinions and attitudes of specific sections of the population may have actually been the main objective of controlling behaviour.

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<sup>425</sup> R.D.Storch, 'The Policeman as Domestic Missionary', pp. 481-509.

<sup>426</sup> B.Bushaway, *By Rite*, p. 11.

<sup>427</sup> A.P.Donajgrodzki (ed.), *Social Control*, p. 11.

<sup>428</sup> Here, in the early nineteenth century, they operated 'as mediators ... to the resolution of local disputes'. P.King, 'The Summary Courts and Social Relations', p. 163.

## CHAPTER 4

### TRANSFORMATION OF THE COUNTRYSIDE AND CHANGING ATTITUDES

So far we have examined how traditional customary behaviour, conflict caused by persistent assertions of customary rights, and the maintenance and expressions of controlling customary activities, affected their continuation and popular attitudes towards them. This chapter will investigate how changes in the countryside, along with increased state intervention, impacted on the land, and the composition of those involved in subsistence customary activities.<sup>1</sup> The speed of change in the social, economic and political organisation of the English countryside inevitably influenced popular culture. Thomas Hardy felt that, during his lifetime, ‘the rate of change... had accelerated dramatically’.<sup>2</sup> Yet, in Alun Howkins’ opinion, the ‘reshaping’ of rural England, did not happen by ‘cataclysmic forces’ but more by ‘a process of attrition’.<sup>3</sup> Both modern day historians and nineteenth century contemporaries tended to view rural society at that time as ‘in a process of transformation’ or transition.<sup>4</sup> It was a period of great transportation improvements, which aided migration and urbanisation. The development of mass production contributed to the declining prosperity of the country craftsman. Cheap imports, changing husbandry and cropping techniques affected agricultural fortunes. The expansion of state authority, compulsory education, and the extension of the franchise altered social expectations, which resulted in the redefinition of land use and of the amalgamation of the participants in many areas of late Victorian life.<sup>5</sup> As a consequence, the structure of popular cultures was greatly affected by the ‘decline of the self sufficient subsistence rural culture, and the formation of a new dependency culture’.<sup>6</sup> Nonetheless, custom and culture could, and would, change to meet new conditions, as W.G.Sumner noted, it had always been a ‘mass of assimilations’ that responded, and adjusted, to changing ‘physical circumstances’

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<sup>1</sup> Keith Snell too wanted to see how economic and structural changes influenced social attitudes. K.Snell, *Annals of the Labouring Poor*.

<sup>2</sup> Quoted in B.Bushaway, *By Rite*, p. 1.

<sup>3</sup> ‘Of [a] gradual nibbling away – of endless, almost meaningless local change’. A.Howkins, *Reshaping Rural England*, p. 5.

<sup>4</sup> B.Bushaway, “ ‘Tacit, Unsuspected, but still Implicit Faith’: Alternative Belief in Nineteenth Century Rural England”, in T.Harris (ed.), *Popular Culture*, p. 190. He was referring to K.D.M.Snell, *Annals of the Labouring Poor*; A.Howkins, *Reshaping Rural England*; M.Reed, and R.Wells (eds), *Class, Conflict and Protest*; and H.Newby, *Country Life: A Social History of Rural England* (London, 1987).

<sup>5</sup> ‘All times are times of transition; but the 1880s were so in a special sense, for the world was at the beginning of a new era, the era of machinery and scientific discovery’. F.Thompson, *Lark Rise to Candleford*, p. 69.

<sup>6</sup> See P.Horn, *The Changing Countryside*.

<sup>6</sup> O.Davies, *Witchcraft Magic and Culture*, p. 280.

while co-existing with new introduced views.<sup>7</sup> The formation of, and changes to, attitudes involve social processes that are more easily understood in terms of the needs that they served.<sup>8</sup> Thus this chapter will begin by examining changes in the countryside during the late nineteenth century and analysing how rural needs changed as a consequence.

## CHANGES IN THE COUNTRYSIDE

In order to understand nineteenth century popular culture, this section will assess how changes and developments in communications, social organisation, and standards of living, influenced the attitudes of the rural population. Pamela Horn described this period as ‘a watershed in the nation’s history’.<sup>9</sup> It was a time of change and transition, explained John Dunbabin, when mechanisation, technology, pressure on resources, and spatial organisation altered the outlook of ordinary country folk.<sup>10</sup> George Bourne wrote, in 1912, that the old rural outlook of England was dead, and the rural population was ‘waiting for something new to take its place’.<sup>11</sup> As life styles and expectations adapted to social, economic and political change, so too did popular culture which was so ‘intimately bound up with material life’.<sup>12</sup> Nevertheless, changes in the regularity, need, or significance of exercising customary rights did not necessarily equate to a change in attitudes towards them, nor did the experiences of one region inevitably mirror those of another.<sup>13</sup>

### Communications

Communication networks for example impacted on diverse and distinct landscapes and environments very differently. Firstly they not only enabled the movement of things, but also encouraged the diffusion and transference of culture. In the Fens, however, roads were still ‘few and far between’ in the late nineteenth century. Despite extensive efforts to drain the land, they could only be built on the seams of firm clay, which meandered through the peat. Where they did exist,

<sup>7</sup> W.G.Sumner, *Folkways* (Boston, 1906), quoted in P.Denham, *Law*, p. 8; E.Weber, *Peasants into Frenchmen*, p. 492; See B.Bushaway, “ ‘Tacit, Unsuspected, but still Implicit Faith’, in T.Harris (ed.), *Popular Culture*.

<sup>8</sup> D.Katz, ‘The Functional Approach to the Study of Attitudes’, p. 167 and A.H.Eagly, *The Psychology of Attitudes*, p. 627.

<sup>9</sup> P.Horn, *The Changing Countryside*, p. 3.

<sup>10</sup> J.P.D.Dunbabin, ‘The Revolt of the Field: The Agricultural Labourer’s Movement in the 1870s’, *Past and Present* 26 (1963) 74.

<sup>11</sup> G.Bourne, *Change in the Village*, p. xiv.

<sup>12</sup> R.D.Storch (ed.), *Popular Culture*, p. 11.

<sup>13</sup> There were ‘wide divergences of experiences...even within individual parishes’. P.Horn, *The Changing Countryside*, p. 1.

they were often so badly constructed that they could only be used for six months of the year.<sup>14</sup> Parson Drove in 1895 was a village that was apparently, ‘nearly cut off from the rest of the world’, for there was said to be no good roads so the dikes and banks – which were maintained by the adjoining landowners - had to serve a ‘double purpose’. Consequently for much of the year, they not only protected against floods, but also served as local roads.<sup>15</sup> Mary Coe recalled that when she was a girl the postman had no alternative but to walk along the banks of these waterways and, if he had a letter for the family, he would blow his horn and one of them would cross the water to collect it.<sup>16</sup> Indeed many remained impassable until they were heavily concreted during the Second World War.<sup>17</sup> And even then, Gladys Benefer, who was a district nurse in the Fens after the war, remembered that there was still only one un-made up road actually into the village.<sup>18</sup>

In contrast to the Fens, the Nene River Valley, seated in the centre of the country, lay close to the great north and south routes through England and, thanks to the valley of the river, on a route east to west.<sup>19</sup> Here news, concepts, and beliefs could reach the people via the main trunk road and the connecting network of small towns, whereas in the Fens, ideas and opinions tended to reach the people through contact with the bargemen. However, many ancient communication routes, and networks of footpaths and lanes, were lost when the General Enclosure Act gave licence to the commissioners to re-plan the landscape and run roads in straight lines from one village to another.<sup>20</sup> On the hills of the Chilterns, where settlements were small and farms probably more widely scattered originally than in the Fens, some of the oldest and well-known track ways and turnpikes continued to run through its valleys during the nineteenth century.<sup>21</sup>

Communication networks often directly affected customary rights and common land itself. For example, the low land values of commons and wastes made them prime targets for acquisition when canals and railways were planned. Hence the rent of £25 per year paid by the Eastern Railway when it cut across Frederick Rolfe’s local common was very tempting to the local landowner.<sup>22</sup>

<sup>14</sup> M.Chamberlain, *Fenwomen*, p. 31.

<sup>15</sup> S.Edgar quoted in D.Blauer, *John Peck of Parson Drove: An Exceptional Fenman* (Wisbech, 1997), p. 3.

<sup>16</sup> M.Chamberlain, *Fenwomen*, p. 31.

<sup>17</sup> M.Chamberlain, *Fenwomen*, p. 19. They were concreted by order of the War Agricultural Committee. C.Taylor, *The Cambridgeshire Landscape*, pp. 229-230.

<sup>18</sup> M.Chamberlain, *Fenwomen*, p. 172.

<sup>19</sup> A.Mee, *Northamptonshire* (London, 1975), p. 14.

<sup>20</sup> J.M.Steane, *The Northamptonshire Landscape*, p. 236.

<sup>21</sup> See J.T., Coppock, ‘The Chilterns’, p. 311. Roads became the responsibility of the rural and urban district councils in 1895.

<sup>22</sup> L.R.Haggard (ed.), *I walked by night*, p. 115.



Historically water borne trade had always been an integral part of life and communication in the Cambridge Fens. The drains, cuts and tidal rivers were its ‘public highways’ and were treated as customary rights of way.<sup>23</sup> Even in the long hard winters the frozen rivers provided skaters with an easy and swift route between one isolated village and another; up to seventy or eighty miles could be travelled in a single day.<sup>24</sup> However, this mode of travel did have its pitfalls. When John Peck skated to Peterborough one severe January morning, he was forced to walk all the way home after an unexpected afternoon thaw.<sup>25</sup> If not travelling on the water, the dikes, banks, embankments and causeways themselves provided direct dry and safe routes. Alice Coe, of Isleham, for example, recalled how she still used the riverbanks to cycle to a neighbouring village at the turn of the twentieth century.<sup>26</sup>

Paradoxically, as previously discussed, the figures collected for the database show that there was very few fish poaching cases in the Cambridge Fens where the waterways were so extensive. In the vicinity of the rivers and canals of the Nene River Valley and the Chilterns far more conflict was recorded. Towpaths in these areas, in the same way as the fenland dikes, took on the popular perceived status of public rights of way. For example, John Blunt asserted strongly that he was on the towpath when accused of trespassing after game, while Arthur and Frederick Ward said, in defence of the game trespass charge set against them, that they had only been shooting wild duck from the towing path.<sup>27</sup> In some instances the privileged classes were somewhat un-nerved by the status of these towpaths and the assortment of people crossing their land via them. They feared that they brought poachers from the towns, and that they were used by the locals to move around unnoticed. As a consequence, at the Cassiobury Park estate, the Earl of Essex insisted that the route of the towpath should be diverted from the west to the east bank through his estate because he was afraid that poachers might use it to gain access to his game preserves.<sup>28</sup>

It was nevertheless the coming of the railways that had a greater impact on the social isolation of rural life.<sup>29</sup> Not only did they stimulate the growth of towns, bring new industries to the localities,

<sup>23</sup> W.Howarth, *Wisdom's Law of Watercourses*, p. 150 and C.Taylor, *The Cambridgeshire Landscape*, p. 233.

<sup>24</sup> E.Porter, *Cambridgeshire Customs and Folklore*, p. 241; J.Wentworth-Day, wrote that his mother would often skate 35 miles or more in a day. J.Wentworth-Day, *A History of the Fens*, p. 89.

<sup>25</sup> Which took him six hours. D.Blauer, *John Peck of Parson Drove: An exceptional Fenman* (Wisbech, 1997), p. 4.

<sup>26</sup> M.Chamberlain, *Fenwomen*, p. 146.

<sup>27</sup> Aylesbury Petty Session, *Bucks Herald*, 30 October, 1897; Wellingborough Petty Session, *Northampton Mercury*, 16 January, 1914.

<sup>28</sup> L.M.Munby, *The Hertfordshire Landscape*, p. 208.

<sup>29</sup> P.Horn, *The Changing Countryside*, p. 8.

and standardise time, they also assisted the farmers in moving livestock and increased the general mobility of the workforce.<sup>30</sup> Travel enhanced labourers' experiences by bringing them into contact with more people and broadening their horizons. In addition the newspapers brought from London and the outlying regions each day disseminated ideas, information, and the opinions of others. Nevertheless, there were still some areas that claimed to have been relatively untouched by the magnitude of such structural changes to communication networks. Walter Rose claimed that the 'village spirit' remained unaffected by the main line railway, which came near to the village.<sup>31</sup> And N.Marlowe noted that a 'noticeable phenomenon' of the coming of railways to Northamptonshire was its 'limited effect on the countryside'.<sup>32</sup> Much of this was to do with timing. For example the railway was not introduced extensively into the Fens until the end of the nineteenth century and then they only took over a small percentage of the barge work. In fact barges were still recorded as being used to import coal and export sugar beet in the 1930s.<sup>33</sup> The coming of the railway itself often caused conflict. In a letter to Samuel Smiles in 1857 Robert Stephenson wrote that Northampton had 'distinguished itself by being rather more furious than other places in its opposition to the railways'.<sup>34</sup> However, in the Chilterns the railways brought significant structural changes to rural areas. Commuter routes to Beaconsfield, Chesham, Amersham and the Chalfonts, in the 1890s, meant that it was now possible to live in the country and go to work daily in London. Middle class residential developments sprang up in these areas and newcomers poured in.<sup>35</sup> The land on which the tracks were laid, be it common, waste or private land, was often compulsorily purchased and ambiguities arose regarding the extent of ownership. Hence, William Clarke, a shoemaker from the Nene River Valley, was charged with being in possession of twenty-two dead rabbits on the local railway line.<sup>36</sup> And John Ford was fined for damaging watercress, to the value of 10s, on the property of the Metropolitan Railway Company in 1895. What is significant about this case is that John did not deny that he was at the said place, but told the bench that the watercress had never been cultivated, so in his eyes it was just 'growing wild'.<sup>37</sup>

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<sup>30</sup> Adoption of Greenwich time in 1852.

<sup>31</sup> W.Rose, *Good Neighbours*, p. 77.

<sup>32</sup> N.Marlowe, 'The Coming of railways', p. 204.

<sup>33</sup> M.Chamberlain, *Fenwomen*, p. 19.

<sup>34</sup> Quoted by N.Marlowe, 'The Coming of Railways', p. 205.

<sup>35</sup> Professionals, businessmen, and politicians. M.Reed, *The Buckinghamshire Landscape*, p. 226 and L.M.Munby, *The Hertfordshire Landscape*, p. 214.

<sup>36</sup> Northampton Petty Session, *Northampton Mercury*, 7 June, 1873.

<sup>37</sup> Gt Missenden Petty Session, *Bucks Herald*, 23 February, 1895.

Railways gave more mobility to urban communities, which led to the proliferation of rural rambling, cycling and holidaying, and contributed to the changing structure of recreation and the commercialization of some aspects of popular culture.<sup>38</sup> Even though it was predominately the middle classes who participated in and organised these activities, manual workers were, especially from 1871 onwards, visible on rural day trips.<sup>39</sup> On the downside, cheap day excursions were said to have encouraged poachers and ‘rough characters’ to pour out of the towns on a Sunday.<sup>40</sup> Trains brought poachers to the countryside, while bicycles and motorised vehicles enhanced the chances of a quick get away. In 1900, P.C. Cross from Great Weldon in the Nene River Valley was only able to apprehend one member of a team of poachers because the rest of them had made their get away on push bikes, while Angus Nudd recalled a poaching incident where a group of poachers actually shot at their quarry from their lorry.<sup>41</sup> Nonetheless, the main impact of new advanced transportation systems, where it touched nineteenth century rural populations, was that of a diffusion and transference of culture and modern ideas. This is especially evident in the Chilterns commuter belt, where middle class intellectual and political ideals were transported wholesale to the rural world.

### Social Organisation

Improved communication networks were also an important element in the changing patterns of social organisation during the nineteenth century. Britain was being transformed from an economy based on agriculture, to one based on industry and commerce, and as a consequence, between 1801 and 1911, the proportion of the population living in urban areas rose from 20 to 80 per cent.<sup>42</sup> However, regionality was again a significant factor. For example, none of the regions in this study were ‘heavily’ affected by industry or massive urbanisation. The fenlands came through this period relatively untouched and has remained rural and agriculturally based to this day. The Nene River Valley on the other hand, although predominately involved in the manufacture of shoes since the seventeenth century, did not become a factory based industry until 1895.<sup>43</sup> As a result it experienced

<sup>38</sup> H.Taylor, *A Claim on the Countryside: A History of the British Outdoor Movement* (Edinburgh, 1997), p. 7.

<sup>39</sup> J.K.Walton, *The British Seaside: Holidays and Resorts in the Twentieth Century* (Manchester, 2000), p. 53. Act of Parliament in 1871 instituted August bank holiday.

<sup>40</sup> R.Jefferies, *The Gamekeeper at Home*, p. 134. By 1914 the railways had reached their peak in areas such as Buckinghamshire, where no part of the county was more than five miles from a railway line. M.Reed, *The Buckinghamshire Landscape*, p. 234.

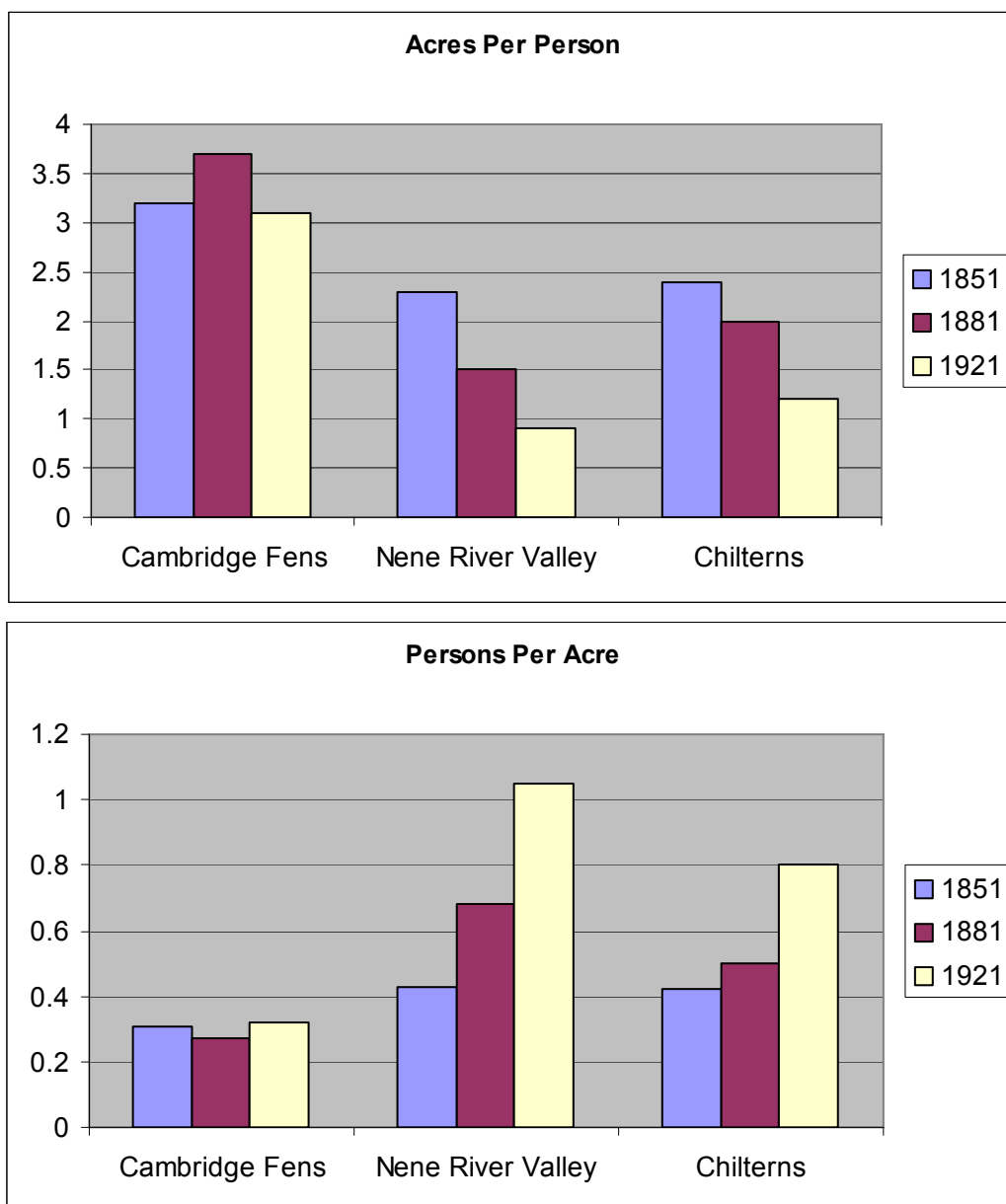
<sup>41</sup> Kettering Petty Session, *Northampton Mercury*, 2 November, 1900; A.Nudds, *The Woods belong to me*, p. 116.

<sup>42</sup> P.Lowe, ‘The Rural Idyll Defended’, in G.E.Mingay (ed.), *The Rural Idyll*, p. 114; B.Short, *Land and Society*, p. 9. However it should be noted that agricultural workers still formed the largest single occupational group recorded in every census until 1901. M.Freeman, *Social Investigations*, p. 2.

<sup>43</sup> R.L.Greenall, *A History of Northamptonshire*, p. 103.

only modest amounts of town growth, meaning it too retained much of its ‘rural character’.<sup>44</sup> So too the Chilterns remained free from the ‘disfiguring scars’ inflicted on the landscape by widespread industrialisation, mostly due to its topography and lack of mineral deposits.<sup>45</sup>

Figure 20



Source: *Census 1851; Population tables 1: Number of inhabitants Vol 1*, (Her Majesty’s Stationery Office, London, 1852), *Census 1881: Population tables*, (Her Majesty’s Stationery Office, London, 1882), *Census of England and Wales 1921: General tables*, (Her Majesty’s Stationery Office, London, 1925)

Any type or amount of movement obviously influenced the stability of population numbers, yet it is difficult to generalise on its effects on popular culture. As Cristobel Orwin and Edith Whetson

<sup>44</sup> R.L.Greenall, *A History of Northamptonshire*, p. 106. Northampton grew most of all; in 1801 it increased from 7,000 to 87,000, but Kettering only grew from 3,000 to 29,000 and Wellingborough from 3,000 to 18,000. By the standards of Industrial Britain in the 19<sup>th</sup> century none ranked as even a moderately large town.

explained, no two villages in the late nineteenth century were the same and ‘any generalisations can be highly misleading’.<sup>46</sup> Nevertheless, in Charles Phythian Adams’ opinion it was the decline in the numbers of the people available to hold certain attitudes in common that really affected popular culture, rather than any rapid dissolution of beliefs themselves.<sup>47</sup> Of the three regions in this study, population trends in the Cambridge Fens show very little change throughout the period under investigation, even though much of the rest of the English countryside was said to have been emptying.<sup>48</sup> Indeed the fenland population appeared to have remained stable between 1851 and 1901.<sup>49</sup> Analysis of the amount of land in each area in comparison to the amount of people living on it reveals that in 1851 there was 3.2 acres of landmass per person in the Cambridge Fens, which only dropped to 3.1 acres by 1921. This compares with 2.3 and 0.9 acres in the Nene River Valley, and 2.4 and 1.2 acres in the Chilterns.<sup>50</sup>

Nevertheless, even though there were regional differences and local discrepancies, overall rural England and Wales lost 684,000 people through migration between 1861 and 1871.<sup>51</sup> By 1901 many villages in Buckinghamshire had fewer inhabitants than they had in 1801.<sup>52</sup> In some areas there was, what seemed to be, a ‘gradual creaming off’ of the younger members of the rural population.<sup>53</sup> Farmers complained that in Hertfordshire, and other counties near London, there were ‘only boys, girls and old-folk left’.<sup>54</sup> Such factors may have possibly affected the petty crime figure towards the end of the century. Harvey Osbourne and Michael Winstanley suggested, while trying to explain fluctuating poaching figures, that the outflow of young labourers may have possibly removed some of the more ‘troublesome elements of the population’. They also suggested that their departure might have improved the ‘prospects’ for those who remained.<sup>55</sup> Indeed in the 1890s a farmer told Rider Haggard that young men were now seldom to be seen upon the land, while it

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<sup>45</sup> An essential base for large-scale industrial development. M.Reed, *The Buckinghamshire Landscape*, p. 25.

<sup>46</sup> C.S.Orwin and E.H.Whetham, *The History of British Agriculture, 1870-1914* (Newton Abbott, 1971), p. 317. See also J.Saville, *Rural Depopulation in England and Wales, 1851-1951* (London, 1957).

<sup>47</sup> C.Phythian Adams, ‘Rural Culture’, in G.E.Mingay, *The Vanishing Countryman*, p. 84.

<sup>48</sup> Refer to Appendix 3 and introduction for explanation on how figures were collected. And L.F.Salzman (ed.), *A History of the County of Cambridge and the Isle of Ely*, Vol 2 (London, 1948), p. 121.

<sup>49</sup> R.Jones, ‘Population Change 1801-1901’ in T.Kirby, and S.Oosthuizen (eds), *Atlas of Cambridgeshire History*. Wisbech 10600 to 9800, Ely 7600 to 7800, Whittlesey 7700 to 7100, March 6200 to 7600 and Chatteris 5100 to 4700.

<sup>50</sup> See figure 20.

<sup>51</sup> T.Wild, *Village England*, p. 88.

<sup>52</sup> M.Reed, *The Buckinghamshire Landscape*, p. 226. Not only influenced by industry and urbanisation. Rural areas responded to the fluctuating fortunes of cottage industries – in the Chilterns (particularly on the north scarp), straw plaiting and lace making.

<sup>53</sup> M. Brayshaw, ‘Depopulation and Changing Household Structure in Mining Communities of West Cornwall, 1851-1871’, in D.Mills, and K.Schurer, *Local Communities*, p. 326.

<sup>54</sup> P.A.Graham, *The Rural Exodus*, p. 20.

appeared that all the hedgers, ditchers, and thatchers were all over fifty years of age.<sup>56</sup> In 1881 Charles Booth had found that forty-three people in every 1000 in the countryside were over the age of sixty-five years old, whereas only twenty-eight in every 1000 were in urban areas.<sup>57</sup> However, Nigel Goose's study of poverty, old age and gender in nineteenth century England suggests that there is no real evidence to imply that as a consequence the older generation were experiencing easier times.<sup>58</sup>

Fluctuating in and out migrating patterns may have unbalanced traditional hierarchies within popular culture, diluted attitudes, weakened community cohesion and created new rivalries. Elizabeth Smith of 'New' Duston claimed that Elizabeth Cory, Anne Robins, Emma, Sarah and Ann Perkins, who she referred to as old Dustonians, 'came and took her Barley away and began to abuse her', they claimed she had no right to glean at Duston.<sup>59</sup> Likewise strangers continued to be mistrusted by the community, and it would seem treated more severely by the courts. In 1888 the court referred to William Burbridge, who was accused of trespassing in search of game on the Mr Allen's land, as 'a stranger in the neighbourhood', even though he had recently been employed at Chalfont St Giles. The five poaching cases previously heard at the Beaconsfield Petty Sessions that year had fined those found guilty between 2s and 10s, however William was fined considerably more at 25s.<sup>60</sup> Similarly, when two young lads were caught taking rotten wood from the old pits, Henry Loweth, a native of the parish, was let off, while William Dodd who was 'new to the area' was bound over for £5.<sup>61</sup>

### Standards of Living

How did improved communications, transportation, industrialisation, urbanisation, migration and fluctuating population numbers affect standards of living and thereby rural popular culture? Firstly

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<sup>55</sup> H.Osbourne, and M.Winstanley, 'Rural and Urban Poaching', p. 188.

<sup>56</sup> Rider Haggard, *The Days of My Life* (1926), quoted in P.Horn, *The Changing Countryside*, p. 99.

<sup>57</sup> See W.A.Armstrong 'The Influence of Demographic Factors on the Position of the Agricultural Labourer in England and Wales, c. 1750-1914', *Agricultural History Review* 29 (1981) 71-82.

<sup>58</sup> On the contrary some were experiencing extremely difficult times. See specifically N.Goose, 'Poverty, Old Age and Gender', pp. 351-384.

<sup>59</sup> Northampton Div. Petty Session, *Northampton Mercury*, 29 September, 1877. John Marius Wilson's *Imperial Gazetteer of England and Wales* (1870-1872), noted that there was an increase in population at Duston between 1851 and 1861 due to the erection of two iron foundries at St James. [www.visionofbritain.org.uk](http://www.visionofbritain.org.uk).

<sup>60</sup> Beaconsfield Petty Session, *Bucks Herald*, 14 January, 1888.

<sup>61</sup> William said that he believed that he too had a right to the wood when he saw the others taking it. Thrapston Petty Session, *Northampton Mercury*, 17 November, 1893.

through agriculture, since one fifth of the working population were still agricultural labourers in 1851 and because farming itself was directly affected by all the above factors one way or another.<sup>62</sup> Eric Kerridge argued, in the 1960s, that rather than an agricultural revolution, changes in agriculture in the late eighteenth and early nineteenth centuries had been as a result of a continual process over a long period of time.<sup>63</sup> Furthermore, debates and assessments as to the timing, causes, extent and impact of it, and the later agricultural depression, continue to this day.<sup>64</sup> Many contemporaries, and subsequent historians, saw the downturn in agricultural fortunes as an unparalleled disaster caused by a run of atrocious weather in 1878-9 and again in 1893-4.<sup>65</sup> Others blamed the cheap food being transported by railroad and steamship, which flooded into Britain and as a consequence forced much of the countryside out of cultivation.<sup>66</sup>

There is, however, an alternative school of thought, that there was in fact 'no general depression in English farming'.<sup>67</sup> That it was purely a regional experience and it 'hit landed incomes and rural jobs alike'.<sup>68</sup> E.H.Hunt's survey of regional wage variations in Britain between 1850 and 1914 highlighted that his region three - which encompassed all of the regions under investigation here - was 'particularly affected by overseas competition'.<sup>69</sup> Nonetheless, the soils of the British Isles 'vary in their composition and quality over very short distances'; so even generalisations in small areas are problematical.<sup>70</sup> The county of Cambridgeshire is a good example. Here it was the fenland farmers who survived the depression years better than those elsewhere, probably because they

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<sup>62</sup> K.D.M., Snell, 'Deferential Bitterness: the Social Outlook of the Rural Proletariat in 18<sup>th</sup> and 19<sup>th</sup> Century England and Wales', in M.L., Bush (ed.), *Social Orders and Social Classes*, p. 162.

<sup>63</sup> E.Kerridge, *The Agricultural Revolution* (London, 1967). See also G.Williams, 'The Disenchantment of the World: Innovation, Crisis and Change in Cardiganshire c. 1880-1910', *Ceredigion*, IX (1983) 303-321

<sup>64</sup> For example, P.D.Dunbabin suggested that the golden age of farming ended in 1865 while D.H. Aldcroft argued that the decline in wheat, barley and oats prices did not happen till 1874. D.H.Aldcroft, 'Communications: The Revolt of the Field', *Past and Present* 27 (1964) 109.

<sup>65</sup> F.M.L.Thompson, *English Landed Society*, p. 309; L.M.Springall, *Labouring life*, p. 93; and T.Wild, *Village England*, p. 95.

<sup>66</sup> P.Lowe, 'The Rural Idyll Defended', in G.E.Mingay (ed.), *The Rural Idyll*, p. 115. The First American prairie wheat reached the British shores in the 1870. F.M.L.Thompson, *English Landed Society*, p. 309. Foreign imports of food undercut British producers. B.Short, *Land and Society*, p. 9. R.K.Webb made the argument that 'the agricultural depression was directly related to an influx of foreign grain'. R.K.Webb, *Modern England: From the Eighteenth Century to the Present* (London, 1969), p. 367. The number of farmers and graziers in England and Wales, between 1871 and 1891, dropped from 249,907 to 223,610, a decline of 10.5 per cent in twenty years. P.Horn, *The Changing Countryside*, p. 63.

<sup>67</sup> J.D.Chambers and G.E.Mingay, *The Agricultural Revolution 1750-1880* (London, 1978), p. 209. For more extensive discussion see P.J.Perry, *British Farming in the Great Depression, 1870-1914* (London, 1974).

<sup>68</sup> B.Short, *Land and Society*, p. 9.

<sup>69</sup> E.H.Hunt, *Regional Wage Variations in Britain 1850-1914* (Oxford, 1973), p. 148.

<sup>70</sup> J.Thirsk, *Agricultural Regions and Agrarian History in England, 1500-1750* (London, 1987), p. 13.

specialised increasingly in profitable vegetables and flowers rather than wheat and barley.<sup>71</sup> At a farmers meeting in 1894, it was reported that those farming on the marshy lands were ‘holding their own’ by diversifying and growing new crops of potatoes, vegetables and fruit.<sup>72</sup> In Wisbech, for example, the fruit growers appeared in the mid 1880s followed by flower growers in the 1890s.<sup>73</sup> Farmers in the Chilterns responded to international competition over wheat by extending grass acreage, so much so that contemporaries referred to fields ‘that tumbled down to grass’ in the area.<sup>74</sup> However the south scarp of the Chilterns appeared to have been affected little during this period, for it was here that Cox’s Orange Pippin apples, lilies, roses and watercress were grown for the ‘insatiable demands of London’.<sup>75</sup> As in the Chilterns, Northamptonshire saw substantial conversion of arable land into permanent pasture and, as a consequence, its annual wheat acreage fell from 82,000 in 1872 to 45,919 by 1919.<sup>76</sup>

In addition to the technological innovations and improvements in farming techniques, which David Hoseason Morgan blamed for changing, and bringing to an end, customary practices such as gleaning; bad harvests, weather conditions, alternative cropping and changing land use, would have severely affected the availability of opportunities to collect, forage and glean.<sup>77</sup> How were these changes, and the poverty experienced by some at this time, reflected in the petty crime data? David Jones suggested that working people ‘turned to crime fairly quickly when faced by economic and social pressures’ and as evidence he claimed that, although it took a distinctly regional character, poaching, including fish poaching, reached ‘unprecedented levels’ during the so called agricultural depression.<sup>78</sup> Peter Munsche had come to the same conclusion in his study of poachers between 1671-1831. He found that levels of poaching activity were ‘closely tied to the cost of living’ and therefore it increased greatly in the famine years of 1795-6, 1800-1, and 1806-7.<sup>79</sup> In 1887 the *Northampton Mercury* reported that there had been an increasing number of poaching related

<sup>71</sup> C.Taylor, ‘Fenlands’, in J.Thirsk, (ed) *Rural England: An Illustrated History of the Landscape* (Oxford, 2000), p. 186.

<sup>72</sup> L.F.Salzman (ed.), *A History of Cambridge and the Isle of Ely*, Vol 2 (London, 1948), p. 122.

<sup>73</sup> R.Haggard, *Rural England*, Vol 2 (London, 1902), p. 53. And there was the development of the Chivers jam makers in the south of the fenlands in the 1890s.

<sup>74</sup> L.W.Hepple, and A.M.Doggett, *The Chilterns*, p. 14.

<sup>75</sup> M.Reed, *The Buckinghamshire Landscape*, p. 229.

<sup>76</sup> S.H.Beaver, *The Land of Britain*, Land Utilisation Survey of Britain Part 58, ‘Northampton’ (London, 1943), p. 391. quoted in J.M.Steane, *The Northamptonshire Landscape*, p. 282.

<sup>77</sup> D.H.Morgan, *Harvesters and Harvesting*, p. 151 and D.H.Morgan, ‘The Place of Harvesters’, in R.Samuel (ed.), *Village Life*, p. 29; Especially as this was ‘above all a depression in wheat’, F.M.L.Thompson, *English Landed Society*, p. 209.

<sup>78</sup> D.Jones, *Crime, Protest, Community and Police*, p. 69; and D.J.V.Jones, ‘The Poacher’, p. 831. The national figures for convictions of daytime trespassing in pursuit of game was at its highest between 1878 and 1882. See appendix 17



crimes that month, and that a large proportion of them appeared to be the result of the scarcity of work during the winter, and the reluctance of the poor to apply to the Guardians.<sup>80</sup> The results from this survey tend to agree with this rationale. Poaching and fish poaching reached a high point in the 1880s in all three regions, while the school log books noted too that incidences of non attendance and school closures associated with gleaning, reached their highest during these years.<sup>81</sup>

Not all nineteenth century unemployment was caused directly by the agricultural downturn. The mechanisations of rural handicrafts, such as lace making and straw plaiting in Hertfordshire and Buckinghamshire caused unemployment problems and accounted for the depopulation of many rural villages.<sup>82</sup> In Northamptonshire though, privation was never so acute as it was in some of the southern counties, mostly because shoemaking had spread slowly into many of the villages earlier in the nineteenth century, and as discussed previously, did not move out into factories until the turn of the twentieth century.<sup>83</sup> Nevertheless, where there was unemployment, there always seemed to be petty crime. Large families, wrote Fred Archer, who survived the agricultural depression after 1879, lived not on the measly ten to fourteen shillings a week they occasionally earned, but on poaching.<sup>84</sup> When Alfred Thorn and Daniel Halsey were accused of ‘trespassing in search of conies’ on Berkhamsted common, they told the keeper that there were twenty nine men out of work in Aldbury at that time; ‘what [are] they to do?’ they asked.<sup>85</sup> George Lucas claimed that he had been out of work for nine weeks when he was caught rabbiting in 1885, and in the same year, Frederick Badrick of Chipperfield, admitted trespassing in search of game, but said that he only ‘did it for a piece of bread’.<sup>86</sup> Hunger was indeed often cited as a justification and highlights further the inadequacies of the poor law in dealing with the problems associated with seasonal work. George Times claimed he was ‘hungry and had no work’, when he was caught with rabbits and nets, while

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<sup>79</sup> P.B.Munsche, *Gentlemen and Poachers*, p. 149.

<sup>80</sup> *Northampton Mercury*, 5 March, 1887.

<sup>81</sup> Refer to back to figures 1,2,3,4 and 5.

<sup>82</sup> M.Reed, *The Buckinghamshire Landscape*, p. 228. See also N.Goose, *Population, Economy and Family Structure, vol 1*.

<sup>83</sup> R.L.Greenall, *A History of Northamptonshire*, p. 88.

<sup>84</sup> F.Archer, *Poachers Pie* (London, 1976), p. 28.

<sup>85</sup> Great Berkhamsted Petty Session, *Hertfordshire Mercury*, 21 February, 1885. Number of heads of household in Aldbury village in 1851 was approximately 154. N.Goose, *Population, Economy and Family Structure in Hertfordshire in 1851, Vol 1*. In 1871, 189 household recorded in the census. ([www.visionofbritain.org.uk](http://www.visionofbritain.org.uk)).

<sup>86</sup> Towchester Petty Session, *Northampton Mercury*, 3 January, 1885. William Dancer from Chalfont St Peter, convicted of game trespass, said that ‘being out of work he must do something to live’. Beaconsfield Petty Session, *Bucks Herald*, 8 December, 1888. Great Berkhamsted Petty Session, *Hertfordshire Mercury*, 21 March, 1885.

one defendant from the Kettering Petty Session told the court that he ‘would not have done it had not his wife and family been starving’.<sup>87</sup>

The severity of the problems caused by the lack of employment opportunities are further illustrated in examples such as when George Jarman, Walter Tebbutt and Henry Tebbutt were all called to answer a game offence charge in 1893. The newspaper reported that they were all apparently ‘very respectable men’, yet they still found themselves in a situation where they had been ‘frozen out of work’.<sup>88</sup> And George Cursley, from Burton Latimer, found himself with ‘no fire and no coal’ because he had not worked for five or six weeks.<sup>89</sup> Of course local magistrates must have understood the causes of much of the petty crime brought before them. Mr Fourmy, a magistrate at the Chesham Petty Session, stated that ‘the devil found mischief for idle hands to do’, and that the game trespass offence before him, that concerning George Gladman, would not have happened had he been in work.<sup>90</sup>

What is becoming clear is that, where beliefs in subsistence customary rights existed, there was a tendency to assert those rights more vigorously at times of greater need.<sup>91</sup> Nevertheless, it is difficult to identify precisely, especially from a national perspective, when those periods were. During the eighteenth century, Jeanette Neeson believed that the commons had ‘supported a viable, even admirable way of life’, and although the commoners may have been poor, ‘they were not paupers’.<sup>92</sup> The ‘economy of makeshifts’ had been an essential element of the rural economy.<sup>93</sup> Nevertheless, by 1873, for commoners who did not hold pasturing rights, the right to gather food, fuel and materials, only equated to approximately £1 a year, while allotment allocation compensated less than a third of rural workers.<sup>94</sup> Mid Victorian prosperity had brought ‘little visible

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<sup>87</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 14 January, 1865; Kettering Petty Session, *Northampton Mercury*, 16 March, 1894. ‘When we needed extra meat we shot rabbits said Tom Mullins a farm labourer from Macclesfield in 1870. J.Burnett (ed.), *Useful Toil: Autobiographies of Working People from 1820s to 1920s* (London, 1974), p. 67 and John James told Thomas Kent’s gamekeeper that ‘I only want one for my dinner’. Gt Missenden Petty Session, *Bucks Herald*, 16 November, 1907.

<sup>88</sup> Under the circumstances the bench ordered them to pay costs only. Kettering Petty Session, *Northampton Mercury*, 20 January, 1893.

<sup>89</sup> Kettering Petty Session, *Northampton Mercury*, 22 December, 1893.

<sup>90</sup> Chesham Petty Session, *Bucks Herald*, 5 December, 1903.

<sup>91</sup> As David Jones suggested ‘there is little doubt that the relationship between poverty and poaching was a strong one’. D.J.V.Jones, ‘The Poacher’, p. 836.

<sup>92</sup> Common rights ‘could double a family income’. J.M.Neeson, *Commoners*, p. 21 and 177. However, the policies of the New Poor Law often discouraged strategies of neighbourhood charity and gleaning. B.Reay, *Rural Englands*, p. 80.

<sup>93</sup> S.Williams, ‘Earnings, Poor Relief and the Economy of Makeshifts’, p. 21. See also S.King, and A.Tomkins (eds), *The Poor in England*.

<sup>94</sup> J. Burchardt, *The Allotment Movement*, p. 232.

gain' to the agrarian worker.<sup>95</sup> Thomas Kebbel, a long-standing investigator of rural life, conceded that in 1870, the chief breadwinner, in half of all the agricultural families, did not receive enough in permanent wages to keep his family.<sup>96</sup> However, regional differences led to 'sharply conflicting portrayals of rural social conditions', even when investigators visited the same regions, they seemed to hold a range of 'politically determined interpretations' as to the outlook for agriculture and the conditions of the labourer's life.<sup>97</sup>

In Gordon Mingay's opinion, nationally, living standards were rising substantially towards the end of the century.<sup>98</sup> Alun Howkins agreed, and added that the rising standards of living among the poor were the 'first and most important' explanation for the decline in poaching.<sup>99</sup> However, when Seebohm Rowntree investigated labourer's living conditions much later in 1913 he still found that, whilst the cost of living had risen by 10 per cent between 1900 and 1910, the wages of ordinary labourers in England and Wales had risen by an average of only 3 per cent. When the further increase in prices of 5 per cent between 1910 and 1912 are taken into consideration, the real wages of agricultural workers had actually diminished since 1900.<sup>100</sup> E.H.Hunt's regional investigation of wage variations in Britain between 1850-1914 showed that, in the Cambridge Fens, the Nene River Valley and the parts of the Chilterns, wages had been 'near average' in the 1850s, but by 1914 they were among the lowest in Britain.<sup>101</sup> Vancouver had recorded in 1794 that the average weekly wage of a rural labourer in Cambridgeshire was 9s, this rose to 13s in the mid century, but fell back to 10s by 1890.<sup>102</sup> Asked how they lived on irregular and low earnings, the poor admitted: 'we can't do so honestly'.<sup>103</sup> 'Poverty made me poach' said James Hawker. By the same token, Len Austin recollected that if a rabbit wasn't caught, there was 'nothing else' for them to eat. Rabbit was hence the 'staple diet' for many families.<sup>104</sup>

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<sup>95</sup> 1850-1870, D.H.Aldcroft, 'Communications', p. 109.

<sup>96</sup> T.E.Kebbel, *The Agricultural labourer* (London, 1870), pp. 17-18.

<sup>97</sup> M.Freeman, *Social Investigations*, p. 43.

<sup>98</sup> More people could regularly afford meat at least once a week, and could buy larger quantities of dairy produce, salad stuff, apples, plums, cherries, strawberries, raspberries and chicken. G.E.Mingay, *The Transformation of Britain*, p. 110.

<sup>99</sup> A.Howkins, 'Economic Crime and Class Law', in S.Burman and B.Harrell-Bond (eds), *The Imposition of Law*, p. 286.

<sup>100</sup> P.Horn, *The Changing Countryside*, p. 217.

<sup>101</sup> E.H.Hunt, *Regional Wage Variations*, p. 17. See appendix 15 for figures.

<sup>102</sup> B.Galloway, *A History of Cambridgeshire* (London, 1983), p. 95.

<sup>103</sup> D.Jones, *Crime, Protest, Community and Police*, p. 69.

<sup>104</sup> G.Christian, (ed.), *James Hawker's Journal*, p. 77. Len Austin, born 1902 quoted in B.Reay, *Microhistories*, p. 120. Fred Tolley and his family regularly poached two or three rabbits off the common every week in the 1880s and 90s. He said it was part of their 'staple diet'. R.Samuel (ed.), *Village Life*, p. 214. 'It is the only change of diet they have' said

Despite, as we have seen, improved communication links, the changing patterns of social organisation, and fluctuating standards of living towards the end of the nineteenth century, there was still a real ambivalence about the affects of changes in the countryside on rural popular culture. Rowland Edmund Prothero reported in 1912 that labourers were ‘better paid, more regularly employed, better housed, better fed, [and] better clothed’ than they had ever been.<sup>105</sup> And these rising levels of personal wealth has been said to make the gathering of natural resources ‘increasingly unattractive’.<sup>106</sup> Nevertheless there are still many examples of all types of traditional customary activities continuing. On the 6 January 1904 for example Outwell Infant School log book recorded that the children were still given the afternoon off ‘on account of the bread dole’.<sup>107</sup> Elsie Cooley, born at Potten End in 1892, recalled that her greatest memory of childhood was of always being hungry, and that she and her nine brothers and sister relished any opportunity to scrimp and forage for food.<sup>108</sup> Similarly, although from the mid 1880s, the price of meat began to fall in response to the influx of cheap chilled and frozen imports, information from the database suggests that poaching continued far beyond this point.<sup>109</sup> Pride, dignity and self-respect were still gained by providing adequately for ones selves. Families would brag about how many bushels of flour they had acquired after a few weeks of gleaning. Some even kept their sack on the chair in the living room and passers by would be invited to ‘step inside an’ see our little bit o’leazings’.<sup>110</sup> The Groom family of Fritsdon claimed that they could still glean enough for a sack full of flour to keep them through the winter, at the turn of the century, while the Bachelors from Boxted allegedly collected enough for 2-3 sacks.<sup>111</sup>

Nevertheless, needs and expectations were changing. There was no longer such a demand for wood because the railways brought cheap coal to many parts of the country. At the same time activities

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Captain Bicknell, Chief Constable of Lincolnshire in 1872. H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching’, p. 206.

<sup>105</sup> R.E.Prothero (1912) quoted in P.Horn, *Labouring life*, p. 239.

<sup>106</sup> ‘Such collection would offer a poor return compared with the possibility of doing a few hours of extra paid work’. D.Woodward, ‘Straw, Bracken and the Wicklow Whale’, p. 74.

<sup>107</sup> CRO C/ES 128/B1, Outwell Infant School Log Book, 6 January, 1904.

<sup>108</sup> V.J.M.Bryant, *A History of Potten End*, p. 150.

<sup>109</sup> H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching’, p. 206. See also J.B.Jefferys, *Retail Trading in Britain, 1850-1950* (Cambridge, 1954) and R.Perren, *The Meat Trade in Britain, 1840-1914* (London, 1978). Raphael Samuel suggested that sometimes poaching provided money for other items such as shoes. R.Samuel (ed.), *Village Life*, p. 221.

<sup>110</sup> F.Thompson, *Lark Rise to Candleford*, p. 28.

<sup>111</sup> V.J.M.Bryant, *A History of Potten End*, p. 156.

such as home baking, and home brewing, were in decline.<sup>112</sup> Necessities may have changed, but habits were often harder to break. Families in Potten End, Vivienne Bryant was told, went wooding from habit and necessity.<sup>113</sup> Flora Thompson recalled how children, on their way to school, would eat shoots from the hawthorn hedge, sorrel leaves from the wayside, haws, blackberries, sloes and crab apples, ‘not so much because they were hungry as from habit and a relish of the wild food’.<sup>114</sup> Nevertheless gleaning, observed Bob Bushaway, had become ‘uncommon’ after the technological innovations of the late nineteenth century.<sup>115</sup> Even so, gleaners at Swavesey were still reported as being heavily laden with gleanings at the end of the day in August 1900.<sup>116</sup> As part of this debate, Stephen Hussey argued that ‘rather than eradicating the gleaner, the twentieth century brought with it changes in the ways in which people gleaned and the uses they put their gleanings to’; many continued to glean for their animals rather than for their own consumption.<sup>117</sup> In 1920, Mrs S. of Steeple Bumpstead and her sister had the job of picking up enough corn to feed the chickens throughout the winter.<sup>118</sup> The apparent popularity of gleaning for animal feed not only ensured its continuance into the twentieth century but it was also said to have ‘enjoyed something of a renaissance’ during the second world war.<sup>119</sup>

The period of the First World War is of particular interest in this study. The pressure for, and disruption of supplies during this period intensified needs, yet the database shows very little petty crime associated with subsistence customary activities during this period. However, on the other hand, the school log books suggest extensive and continued pursuance of customary activities such as gleaning, and collecting wild foods and berries. For example, at Pitstone in 1915, the schoolmaster wrote that, owing to the poor attendance caused by the girls gleaning, the school would be closed until the 13 September. Similarly in September the following year he recorded that there was very bad attendance as ‘several families had gone gleaning’.<sup>120</sup> And at Great Oakley in

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<sup>112</sup> S.Hussey, ‘The Last Survivor of an Ancient Race’, p. 68. The inexpensiveness of bread made it unnecessary. Maude Robinson quoted in B.Bushaway, *By Rite*, p. 145.

<sup>113</sup> V.J.M.Bryant, *A History of Potten End*, p. 139.

<sup>114</sup> F.Thompson, *Lark Rise to Candleford*, p. 173.

<sup>115</sup> B.Bushaway, *By Rite*, p. 145.

<sup>116</sup> *Cambridge Chronicle*, 24 August, 1900, p. 8.

<sup>117</sup> S.Hussey, ‘The Last Survivor of an Ancient Race’, p. 62 and 69.

<sup>118</sup> Mrs S., Steeple Bumpstead, b 1908, interviewed 1992, quoted in S.Hussey, “‘The Last Survivor of an Ancient Race’”, p. 69.

<sup>119</sup> S.Hussey, “‘The Last Survivor of an Ancient Race’”, p. 70.

<sup>120</sup> BRO, E/LB/166/1, Pitstone School Log Book, 7 September 1915 and 5 September, 1916.

1916 the schoolmaster, with the permission of the school managers, dismissed the school early every day for a whole week so that they could go gleaning.<sup>121</sup>

The pursuance of customary practices was often actively supported for the good of the war effort itself during this period. For three consecutive afternoons in October 1918, pupils from the Wellingborough Winstanley Road School, went blackberrying ‘for his Majesty’s Forces’, while on the 25 September 1917, the Kettering National School closed for the afternoon in order to pick blackberries for the troops.<sup>122</sup> This school closed again on the 2 October ‘so that the boys might gather blackberries for making jam for the forces’.<sup>123</sup> These were not isolated events. At Ivinghoe, in 1917, it was recorded that the children accompanied their teachers to collect blackberries on the 17, 24 and 25 September, and again on the 1 and 2 October.<sup>124</sup> Neither were they token efforts. On one day in November 1917 the children from the infant’s school at Winstanley Road, Wellingborough, sent 120lbs of horse chestnuts to the council yard.<sup>125</sup> This evidence suggests that while the collective memory of notions and knowledge of self-sufficiency and making do survived, attitudes towards subsistence customary rights altered little amongst some rural communities.<sup>126</sup> In times of need, such as during agricultural depressions, at times of unemployment, and during and after war, there was a detectable continuation of customary enactments and outward discussions as to the merits of collecting and foraging for supplies.<sup>127</sup> For example, an article in the *Hertfordshire Mercury* in 1915 argued that the gleaning of acorns and chestnuts to supplement livestock food during the war should be more widely encouraged, and a letter to the Editor of the *Bucks Herald* complained in 1918 that the grass on the road sidings was a ‘tremendous waste’ of cattle food’.<sup>128</sup> Indeed outward support and encouragement for rural subsistence customs, as part of an everyday form of makeshift during the war, became ever more evident. In fact during the Second World War

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<sup>121</sup> NRO, SLB/117, Gt Oakley School Log Book, 26 September, 1916.

<sup>122</sup> NRO, SLB/166, Wellingborough Winstanley Road Infants School Log Book, 1,2 and 3 October, 1918. NRO LA1/ES/161/4, Kettering National School Log Book, 25 September, 1917.

<sup>123</sup> NRO LA1/ES/161/4, Kettering National School Log Book, 2 October, 1917.

<sup>124</sup> BRO E/LB/116/2, Ivinghoe School Log Book, 17 September, 1917.

<sup>125</sup> NRO SLB/166, Wellingborough Winstanley Road Infants School Log Book, 2 November, 1917.

<sup>126</sup> George Bourne implied that self-sufficiency and making do survived until the Second World War. G.Bourne, *Change in the Village*.

<sup>127</sup> Michael Carter wrote of men returning from the war to find no employment, only a dole payment, and being forced by circumstances to turn to poaching to feed their families, and to send the young lads out to collect sticks and wood for the fire. M.J.Carter, *Peasants and Poachers*, p. 79.

<sup>128</sup> Agricultural Gleaning, *Hertfordshire Mercury*, 6 November, 1915; Claimed that one hundred tons of grass was left to rot each year. Letter to the Editor, *Bucks Herald*, 29 June, 1918.

it was part of the governments initiative programme to actually encourage rural populations to participate in the ‘hedgerow harvest’.<sup>129</sup>

## THE STATE

The pressures of urbanisation, industrialisation, demographic growth, agricultural depressions, and war, compelled government institutions to remodel themselves and to acquire an ever increasing interventionist stance towards the end of this study period.<sup>130</sup> Generally, this was in response to the changing attitudes towards social problems that were increasingly highlighted by nineteenth century social investigators. There were of course, as we have already seen, many existing key rural social institutions in operation that both ordered, and shaped daily activities and defined the ways in which individuals and groups related to one another.<sup>131</sup> But it was the growth of state regulation, and intervention, that would greatly impact on life and popular culture from a national dimension during this period. Increased legislation, such as the Local Government Act of 1894, adjusted the balance of power in the countryside and the development of an array of national government agencies, including the rural police, frequently altered the way in which popular culture and offences associated with it were viewed and dealt with. This section will investigate the results of such intervention on popular culture by analysing how certain institutions, compulsory education, increased political awareness and centralised organisation of social spaces influenced popular attitudes.

Early modern customary disputes, more often than not, applied to local issues, especially those concerning enclosure and access, and as Heather Falvey found, few directly challenged central authority: ‘their politics were those of the parish, not of the nation’.<sup>132</sup> In addition, during this period, local rural offices of authority, such as poor law guardians and local magistrates, often upheld customary law and fostered ‘a local consciousness of rights’.<sup>133</sup> Local landowners continued to provide ‘organisation, institutions, moral and social authority’ to the rural world, along with wealthy farmers such as John Peck, the farmer diarist from Parson Drove in the Cambridge Fens, who at various times in his working life held the position of constable, tax assessor and local

<sup>129</sup> R.Mabey, *Food for Free*, p. 13.

<sup>130</sup> See P.Horn, *The Changing Countryside*, p. 239. The 1906 Liberal government committed itself to a ‘more intensive programme of legislation’. S.J.Lee, *Aspects of British Political History, 1815-1914* (London, 1994), p. 7.

<sup>131</sup> G.Hughes and R.Fergusson (eds), *Ordering Lives*, p. 1.

<sup>132</sup> H.Falvey, ‘Crown Policy and Local Economic Context in the Berkhamsted Common Enclosure Dispute’, p. 131.

valuer.<sup>134</sup> However, increasingly, as Brian Short explained, there was a ‘visible involvement of the state’ in the lives of rural populations, replacing the earlier Victorian discreet and laissez faire approach.<sup>135</sup> Throughout the second half of the nineteenth century there was, as Barry Godfrey noted, ‘a capillary growth of regulation’ in all areas of rural and urban life designed to alleviate social conditions and to impose ‘order’.<sup>136</sup> For example the Sewage and Sanitary Act of 1867 and 1868, Torrens Act of 1868, the River Pollution Act of 1876, Public Health Act of 1877, the Metropolitan Commons Act of 1866, Commons Act of 1876, Ground Game Act of 1880, the Local Government Act of 1894, Commons Act of 1899, Open Spaces Act of 1906, and the 1908 Old Age Pension Act - to list but a few.

Through improved communication networks, the state penetrated into rural areas.<sup>137</sup> As a result of rising literacy levels and political inclusion there was a wider understanding of statute law and the establishment of the Local Government Acts of 1888 and 1894 enabled ordinary working individuals to participate in local affairs. Legislation in the field of summary offences continued to increase during this period; the gradual reform of the magistracy reduced the ‘direct power of the elite in criminal matters’, while Parliament’s increased intervention ‘reform[ed] and refashion[ed]’ the law and criminal procedures.<sup>138</sup> By the 1880s the personal dimension and involvement of the landed classes in upholding the law locally had largely disappeared. Newly defined inspectors of markets, rates and truancy surveilled the countryside along with the professional police forces. However, newly appointed constables seemed reluctant to become too involved in apprehending poachers on local rural estates.<sup>139</sup> So much so that some of the larger landowners still felt it necessary to employ their own private police. For example, it was Earl Brownlow’s private policeman, Mr Becke himself, who brought the case of game trespass against Daniel Cooke and Walter Bedford to the Berkhamsted court in 1873.<sup>140</sup>

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<sup>133</sup> A.Wood, ‘The Place of Custom’, p. 54.

<sup>134</sup> F.M.L.Thompson, *English Landed Society*, p. 6; See *Diary of John Peck of Parson Drove*, 1814-1815 held at Wisbech Library and D.Blauer, *The Trade of a Farmer*.

<sup>135</sup> B.Short, *Land and Society*, p. 333.

<sup>136</sup> B.Godfrey, ‘Changing Prosecution Practices and their Impact on Crime Figures, 1857-1940’, *British Journal of Criminology* 48 (2008) 183.

<sup>137</sup> See J.De Pina-Cabral, ‘Paved Roads and Enchanted Moresses: The Perception of the Past among the Peasant Population of the Alto Minho’, *Man*, New Series, Vol 22 (1987) 720.

<sup>138</sup> A.Howkins, *Reshaping Rural England*, p. 234; D.Bentley, *English Criminal Justice in the Nineteenth Century* (London, 1998), p. 5.

<sup>139</sup> Introduced between 1839 - 1856

<sup>140</sup> Gt Berkhamsted Petty Session, *Hertfordshire Mercury and Bucks Herald*, 21 June, 1873. While some gamekeepers went on to be policemen. D.S.D.Jones, *The English Gamekeeper*, p. 74.



Douglas Hay and Francis Snyder suggested that, contrary to initial intentions, the English police system had developed a distinctive kind of ‘ad hoc’ decentralisation. It was a mix of ‘local control and central supervision’, often aiming to gain the public’s ‘trust and respect’, rather than the ‘gentry’s thanks’.<sup>141</sup> However, such intentions were short lived when further intervention by the state introduced the Poaching Prevention Act in 1862.<sup>142</sup> This Act, as we have seen, allowed the police to search any person on the road, or in a public place, whom they suspected of poaching or having in their possession a gun, nets, or snares.<sup>143</sup> Thomas Worley and James Radcliff both had their nets destroyed by the local policeman when they were caught at Beaconsfield in the Chilterns, while John Edwards was forced to forfeit his gun when he was summoned to the Oundle Petty Session.<sup>144</sup> P C Hughes told the Wellingborough sessions that John George Skelham had damp nets and dirty shoes when he apprehended him, and on that basis alone, he was fined one pound.<sup>145</sup>

During the early years of the new police force, David Philips noted that the labouring population was becoming ‘subjected to a greater degree of surveillance and interference’.<sup>146</sup> Yet, it was subsequent state intervention, that crime historian Vic Gatrell believed led to the era of the ‘policeman state’ after the 1880s.<sup>147</sup> Nevertheless, there were apparently regional areas in which the police were unwilling to intervene. For example, it was said to take a brave policeman to arrest a man for poaching in some parts of the Cambridge Fens.<sup>148</sup> Local police were often blamed for ‘prohibiting all concourse on the streets and open spaces’ by driving the feasters and revellers into far-off fields and obscure corners, and for bringing about the death of the old fairs and amusements.<sup>149</sup> However, the control of such events suited certain elements of the local population.

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<sup>141</sup> D.Hay, and F.Snyder (eds), *Policing and Prosecution*, p.11; J.E.Archer, ‘Poachers abroad’ in G.E.Mingay (ed.), *The Unquiet Countryside*, p. 62.

<sup>142</sup> J.E.Archer, ‘Poachers abroad’ in G.E.Mingay (ed.), *The Unquiet Countryside*, p. 62. This new Act did not only cause conflict between individuals and the police, but also the gamekeepers who assumed they had the same powers as the police. For example, Richard Hearn of Chalfont St Giles, complained ‘what ‘right’ did the keeper have to search him?’ Amersham Petty Session, *Bucks Herald*, 24 May, 1890.

<sup>143</sup> P.Horn, *Labouring Life*, p. 230.

<sup>144</sup> Beaconsfield Petty Session, *Bucks Herald*, 30 August, 1890; Oundle Petty Session, *Northampton Mercury*, 21 October, 1889. In 1915 the request of several defendants involved in a poaching case applied for the restoration of their guns, but were all denied. Northampton Div. Petty Session, *Northampton Mercury*, 25 June, 1915.

<sup>145</sup> Wellingborough Petty Session, *Northampton Mercury*, 5 October, 1900.

<sup>146</sup> D.Philips, *A New Engine of Power and Authority*, p. 189, quoted in R.Etheridge, ‘Nineteenth Century Northampton’, p. 181.

<sup>147</sup> V.Gatrell quoted in B.Godfrey, ‘Changing Prosecution Practices’, p. 172.

<sup>148</sup> M.Chamberlain, *Fenwomen*, p. 20.

<sup>149</sup> A.Williams, *Villages of the White Horse* (London, 1918), p. 214.

The *Cambridge Chronicle* reported in 1870 that some were ‘very pleased’ to see that the borough police were checking the behaviour of those participating in the Plough Monday parade.<sup>150</sup>

Debate continues as to the success of individual aspects of intervention in the late nineteenth century. Many complained, for example, that the Poaching Prevention Act of 1862 had resulted in an increase in the numbers of hares and rabbits on the fields. This led Colonel Robertson, the Chief Constable of Hertfordshire, to report that the Act had ‘failed’.<sup>151</sup> Nonetheless, Barry Godfrey noted that increased legislation and new agencies of administration influenced prosecution practices, and policies from the 1880s, which in turn shaped crime trends. Through this process the victim disappeared as an active participant and instead privatised agencies and the police assumed the active role of prosecution.<sup>152</sup> This is interesting because the figures in the database show that, for two of the three regions in this study, there was a sharp decline in the number of poaching and fish poaching cases brought to court after this period.<sup>153</sup> This is not to necessarily imply that state intervention encouraged or forced attitudes to change, but it may well have influenced changes in the crime figures, which could have then been interpreted, by some, as a change or transformation in the attitudes of the rural labouring populations.

### Education and the Franchise

In a similar way, compulsory elementary education was an opportunity to indoctrinate young people and influence their attitudes towards various aspects of rural life.<sup>154</sup> This in turn potentially created a population that would be more receptive and accepting of the plethora of nineteenth century statute laws. The state run schools imposed notions of what they considered suitable habits, behaviours and attitudes for that period. This was done through set religious teachings and a national curriculum that was monitored, along with those who taught the children, by an elected governing body. Even so, in the same way as Philip McCann found earlier in the nineteenth century, children were ‘astutely discriminating’. On one hand, they may have accepted instruction on basic

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<sup>150</sup> Plough Monday, *Cambridge Chronicle*, 15 January, 1870. However at other events, even today, there continued to be no police presence. For example the Tin Can Band, at Broughton and Bottle Kicking at Hallaton.

<sup>151</sup> In fact it was claimed that there had been a steady increase in poaching cases since the enactment. Chief Constable of Staffordshire, Select Committee on the Game Laws, 1875, quoted in H.Hopkins, *The Long Affray*, p. 253.

<sup>152</sup> B.Godfrey, ‘Changing Prosecution Practices’, p. 171.

<sup>153</sup> Refer back to Figure 1 and 2.

<sup>154</sup> Education Acts of 1870, 1876 and 1880.

literacy, while on the other hand, rejected moral and controlling teachings.<sup>155</sup> Nevertheless, even though late nineteenth century rural school children apparently ‘worked unwillingly’ and ‘upon compulsion’ at school, it required only a year or two of schooling to produce a ‘fundamental reorganisation of cognitive activity’.<sup>156</sup> In earlier debates, gentlemen farmers had objected to the education of the labouring poor on this basis, they feared the consequences once working people analysed and fully understood their rights.<sup>157</sup> Paradoxically there were others who continued to consider that education was ‘one of the greatest enemies’ of custom and culture.<sup>158</sup> Nonetheless, where custom had been written down it could surely provide certainty and clarity, while at the same time be utilised as evidence in defence of customary rights by those who could read and understand it. The ability to read and write ‘transformed’ the nature of learning by providing new means of ‘storing and retrieving the mental product of a culture’, while literacy was used as a ‘tool for communication’, which could extend knowledge outside the community while also accessing the opinions and conflicts of others.<sup>159</sup>

The growth of a literate population was evident in the increased use of sign posting and notice boards used to warn against, instruct and inform on customary practices. Nonetheless, it was a method of communicating information that had been used, albeit considerably less frequently, prior to the compulsory education of the labouring population. For example a clear ‘warning against gathering wood under the pretence of nutting’ was published in the *Hampshire County Magazine* in 1787, while in 1802 a ‘notice forbidding gleaning before the harvest’ was put up at Thurfield in Hertfordshire.<sup>160</sup> And a similar ‘notice to gleaners’ was erected in 1862, after local farmers met at Sawbridgeworth.<sup>161</sup> However, ‘each little tyrant with his little sign’ had long been despised and hated by many, including John Clare, and they continued to be an unwelcome accompaniment to

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<sup>155</sup> Indeed, whether consciously or sub- consciously, they often managed to allow state ideology and indoctrination to ‘pass over their heads’. P.McCann, *Popular Education, Socialization, and Social Control: Spitalfields, 1812-24* (1977), in F.M.L.Thompson, ‘Social Control’, p. 193.

<sup>156</sup> F.Thompson, *Lark Rise to Candleford*, p. 182; Which could potentially lead to the questioning and analysis of everyday rural life. A.R.Luria, *Cognitive Development. Its Cultural and Social Foundations* (Mass. USA, 1976), p. 55, quoted in D.Vincent, *Literacy and Popular Culture*, p. 8.

<sup>157</sup> Rev.Beckett, quoted in A.Howkins, *Reshaping Rural England*, p. 178.

<sup>158</sup> R.J.Olney, *Rural Society*, p. 92. Even though, from the late sixteenth century onwards, ‘orality and literacy had become ever more closely intertwined in custom’. A.Wood, ‘The Place of Custom’, p. 53.

<sup>159</sup> D.Vincent, *Literacy and Popular Culture*, p. 18.

<sup>160</sup> *Hampshire County Magazine*, I, No xxii, October, 1787; 10 August, 1802, H.R.O. D/P107.29/26.

<sup>161</sup> H.R.O. D/EHeB1/77.

the countryside.<sup>162</sup> In 1907 disapproving members of the public knocked down a number of signs that had been erected by the Thrapston and District Angling Association.<sup>163</sup>

The majority of notices, erected on private land, or in the form of announcements published in the local newspapers, were intended as warnings to potential trespassers. Benjamin Stockdade of Elm warned that all dogs found straying, coursing or poaching on any of his land would be shot, while Frederick Grounds announced that any person found trespassing on his land, would be ‘prosecuted according to the law’.<sup>164</sup> A notice in the *Cambridge Chronicle* in 1874 highlights again county discrepancies and the ambiguity of some of the crime records, for its tone implied that there was a problem with poaching in the county, when in fact, for the Cambridge Fens, there were only two cases reported in the paper for 1870, two in 1872 and none in 1875.<sup>165</sup> Sometimes the signposts or announcements were purely informative and they give us an extra insight into regional customary activities. William Jacobs of Creek Road went to the trouble, and expense, of placing an advertisement in the *Wisbech Standard* in 1888, announcing that he was ready to ‘thrash gleaning corn with his horse machine’. This suggests, firstly, that there was a considerable amount of gleaning still being undertaken in the area, and secondly William must have been fairly confident that the labouring poor were sufficiently literate to read the notification itself.<sup>166</sup> Indeed newspapers continued to act as a conduit throughout the twentieth, and into the twenty first century, to warn, inform, threaten, justify and remind the general public of statute legislation. On the 27 March 2003, the *Cambridge Evening News* still found it necessary to remind anglers that the Cambridge lodes were ‘classed as rivers, not canals or still waters, and [were] subject to [a] statutory closed season’.<sup>167</sup>

Increasingly considerable expectations were placed on state education and those who attended its institutions. William Jackson and George Huckle of Kings Langley, who were convicted of trespassing on growing crops, were both expected to be literate in 1875 when the case against them stated that there were ‘boards up’ so there could be ‘no denying’ that there was no right of way.<sup>168</sup> Similarly when two young lads were accused of ‘damaging growing grass’ at Great Missenden, the

<sup>162</sup> J.Clare, *The Mores*, in E.Robinson, and G.Summerfield, *Selected Poems*, p. 169. See appendix 10.

<sup>163</sup> Thrapston Petty Session, *Northampton Mercury*, 25 January, 1907.

<sup>164</sup> *Wisbech Standard*, 19 October, 1888, p. 4.

<sup>165</sup> Notice that ‘all persons trespassing in search of game on the lands in occupation by the undersigned...[would] be prosecuted’ ‘Game Notice’, *Cambridge Chronicle*, 7 September, 1872.

<sup>166</sup> *Wisbech Standard*, 19 October, 1888.

<sup>167</sup> *Cambridge Evening News*, 27 March, 2003.

magistrates just assumed that they could both read. In their summing up they reminded the court that there was a notice board erected that cautioned trespassers and informed them that they would be prosecuted.<sup>169</sup> There seems also to have been a growing obligation on landowners to erect such signs in order to ensure swift and successful prosecutions. In 1889, a right of way dispute between William Shaw and William Brown, specifically mentioned that there was no notice board erected.<sup>170</sup> Similarly when six boys were caught illegally fishing at Kingsthorpe, the defence pressed the point that there were no warning signs, so therefore the boys were unaware that they were doing anything wrong.<sup>171</sup> At the Botley wood case mentioned earlier, the magistrates, in their deliberations, went as far as inquiring whether there was a specific sign placed in the said woods warning off trespassers.<sup>172</sup> In 1920 the magistrates at the Aylesbury Petty Session had very little sympathy with a local farmer who had not erected sufficient information notices on his land. Several individuals had been brought before the court for gleaning without permission on land that had been carted, but not raked. Yet the magistrates dismissed the case and sternly advised that ‘if persons did not wish their fields to be gleaned, there were ways of making it known’.<sup>173</sup> Nevertheless, even when signs and notices were erected there were always those, like Walter Busford, when accused of stealing mushrooms, just claimed not to have seen the notices.<sup>174</sup>

As we have ascertained so far in this chapter, state intervention responded to changing social requirements, which in turn affected the need for certain customary activities. Its institutions, such as the rural police force, intended to control and regulate, while education, as Peter Burke noted, was also part of a movement designed to reform popular culture.<sup>175</sup> Knowledge and information gained from education led to the questioning, assessing and possibly altering of perceptions, while at the same time, enabled a fuller understanding of the roots, significance and importance of local popular culture.<sup>176</sup> In addition, these favourable opportunities, presented by state education, were

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<sup>168</sup> Hemel Hempstead Petty Session, *Bucks Herald*, 7 August, 1875.

<sup>169</sup> James Wilkins and Frank Holloway. Great Missenden Petty Session, *Bucks Herald*, 14 July, 1900.

<sup>170</sup> Thrapston Court Court, *Northampton Mercury*, 16 February, 1889.

<sup>171</sup> Northampton Div. Petty Session, *Northampton Mercury*, 31 August, 1889.

<sup>172</sup> Aylesbury Petty Session, *Bucks Herald*, 14 April, 1900.

<sup>173</sup> Aylesbury Petty Session, *Bucks Herald*, 2 October, 1920.

<sup>174</sup> On Robert Westerly’s land at Kislingbury. Northampton Div. Petty Session, *Northampton Mercury*, 18 August, 1893.

<sup>175</sup> P. Burke, *Popular Culture*, p. 252.

<sup>176</sup> D. Vincent, *Literacy and Popular Culture*, p. 19.

also increasingly extended to the adult population in the form of evening classes and reading rooms sponsored by local wealthy landowners.<sup>177</sup>

Further evidence from the school log books strongly suggests that none of the above factors directly affected the continuance of certain subsistence customary activities in which the local children participated. In 1877 only twenty five out of eighty five children turned up for the first day of school after the summer break, because the gleaning had not yet been completed, while at the Ivinghoe Aston School only one pupil was present on the afternoon of 26 September 1888.<sup>178</sup> Similarly in 1871 only one child arrived on the first day of term, and still a week later, attendance had only risen to three at the Pytchley Endowed School.<sup>179</sup> One of the worst examples of non attendance due to gleaning was that of the Newton Broomswold School in 1878. When the schoolmaster rang the bell at the usual time ‘no children attended’.<sup>180</sup> Likewise, even at the turn of the century in 1902, Edelsborough School reopened to so few children that it was decided to close the school for a further week until the gleaning was over.<sup>181</sup>

Not only did customarily gleaning the fields after the harvest continue to involve great numbers of the rural population, but also additionally, specific local communal activities continued to have precedence over and above the rule of educational institutions and their representatives. The school master at Broughton, in the Nene River Valley, complained in 1881 that not only was ‘no notice whatever taken of the Education Act’, but furthermore, the state elected attendance officer made very few appearances; indeed he had made none for at least three months.<sup>182</sup> It has been estimated that, between 1870 and 1890, half a million parents were prosecuted for failing to send their children to school, but there still seemed to be a degree of acceptance that many children would be missing during certain times of the year.<sup>183</sup> In 1896 the schoolmaster of Ivinghoe School recorded his complaints, not only of the attendance numbers, but also that the attendance officer seemed to

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<sup>177</sup> Such as when in 1894 Lord Brownlow, allowed John O’Gadesden’s house to be used as a reading room. H.Senar, *Little Gaddesden*, p. 77.

<sup>178</sup> BRO PR 175/25/18, Princes Risborough National School Log Book, 3 September, 1877. BRO E/LB/116.6, Ivinghoe Aston School Log Book, 26 September, 1888.

<sup>179</sup> NRO 275P/327, Pytchley Endowed School Log Book, 11 and 18 September, 1871.

<sup>180</sup> NRO SLB/113, Newton Broomswold School Log Book, 9 September, 1878.

<sup>181</sup> BRO AR 1/2001, Edlesborough School Log Books, 9 and 10 September, 1902. As was the case at Chatteris 1881, CRO C/ES38C/1, Chatteris New Road Infant School Log Book, 1881 and March in 1902, CRO C/ES 116 D/1, March, West Fen School Log Book, 15 September, 1902.

<sup>182</sup> NRO BRO 101, Broughton School Log Book, 14 October, 1881 and 29 September, 1881.

<sup>183</sup> B.Godfrey, ‘Changing Prosecution Practices’, p. 184.

take ‘little or no notice of such absence’.<sup>184</sup> Similarly, even though the schoolmaster of the Princes Risborough National School had sent a list of those still absent to the attendance officer, he complained in a later log book entry that ‘on enquiry I cannot find that he has taken any notice of their absence’.<sup>185</sup>

Despite seasonal and customary interruptions, by the 1890s and 1900s, the Education Acts were having a real impact on working people’s lives.<sup>186</sup> Everywhere, remarked the Countess of Warwick, ‘there was a ferment in the minds of men’.<sup>187</sup> Education and knowledge liberated poor people; it gave them the skills and information to form their own opinions and to question authority.<sup>188</sup> The styles and types of letters sent to the editors of local newspapers are testimony to the shifts in understanding and confidence of some individuals. For example, one who signed himself as ‘a lover of rural scenery and justice’, complained of the injustice of a previously reported rights of way case, while another individual described himself as a ‘pedestrian’. The latter took the opportunity to criticise the behaviour of local landowners who closed off footpaths, and called for action to be taken before it was ‘too late to prevent some of our most beautiful walks being closed forever’.<sup>189</sup> In a very strong letter to the *Bucks Herald* in 1883, another writer asked by whose authority the ancient footpath, between Mentils Wood and Hyde Heath Common, had been closed to the public.<sup>190</sup> These examples were not necessarily written by the poor, however they do highlight contemporary views on footpaths and rights of way.

Frederick Rolfe succinctly described an incident that serves to demonstrate how the ‘plurality of knowledge systems and information sources’ democratised society during this period.<sup>191</sup> He found an old book, *The History of Charities in Norfolk*, which stated that the parishioners of Pentney were entitled to benefit from the rents collected on local charity lands - which had originally formed part of the common. However, none of the coals, blankets, money or apprentice placements outlined in

<sup>184</sup> BRO E/LB/116/1, Ivinghoe School Log Book, 29 July, 1896.

<sup>185</sup> BRO PR 175/25/19, Princes Risborough National School Log Book, 12 and 16 September, 1892.

<sup>186</sup> A.Howkins, *Reshaping Rural England*, p. 240.

<sup>187</sup> J.Arch, *From Ploughtail to Parliament*, p. xxiii. Rural populations, were beginning to be thinkers, The Game Laws, *Northampton Mercury*, 5 December, 1868, p. 5. Team men were regularly seen seated on their corn bins reading the penny newspapers. *People’s Weekly Journal*, 1864 and *Eastern Weekly Press*, 1867, quoted by L.M.Springall, *Labouring Life*, p. 78.

<sup>188</sup> See example of Joseph Arch questioning the legality of the ticket admittance system to the local school and the distribution of local charity. J.Arch, *From Ploughtail to Parliament*, pp. 52-54.

<sup>189</sup> Article, *Northampton Mercury*, 13 August, 1887.

<sup>190</sup> Letter to the Editor, *Bucks Herald*, 8 December, 1883.

<sup>191</sup> D.Goldblatt (ed.), *Knowledge and the Social Sciences*, p. 121.

the book had been gifted for many years. As a consequence a parish meeting was arranged in which it was demanded that alms for the poor should be reinstated.<sup>192</sup> An incident such as this was surely not the intended outcome of compulsory education. Indeed the application of educated and intellectual responses to customary conflicts was to have far reaching consequences for the state. In a similar, and fairly recent example of how education, knowledge and access to information produced unexpected and undesired results, the protesters on Greenham Common discovered - by painstakingly studying documents at the Public Record Office- that the 1892 Military Lands Act used by the MOD to acquire the common originally, did not extinguish commoners' rights, neither did it revoke the public's right of access to the land.<sup>193</sup>

In 1880 the union leader, George Rix, expressed what many were beginning to realise for themselves; knowledge was indeed power.<sup>194</sup> However, it was not only education that was empowering the rural populations. The extension of the franchise to the country worker in 1884 doubled the size of the electorate from approximately three million to just short of six million men.<sup>195</sup> This was a period when, not only were many becoming more self conscious and sensitive about their rights, but they were also becoming more aware of the different ways in which they could express their views.<sup>196</sup> From a political point of view, individuals could attempt to influence public attitudes and ways of thinking by become elected to the school boards and the County and Parish Councils.<sup>197</sup> By 1895 the *Contemporary Review* calculated that between a third and half of the parish seats were won by farmers, about a quarter by craftsmen, and most of the rest by labourers.<sup>198</sup> Indeed, James Hawker himself was elected on to the Oadby School board. This did not go down well with the local 'gentlemen', one of whom was overheard saying, 'things have come to a nice pass if we have to have an old poacher on the school board'.<sup>199</sup> It is debateable whether or not this led to local concerns taking precedence over and above national ones. In 1894, the secretary to the Commons Preservation Society, Mr Fithian, was elected to the Bushey Parish Council. *The Times* reported that 'the contest was mainly on the question of the acquisition of allotments, the preservation of footpaths, roadside wastes, field paths, and the control of village charities' – all

<sup>192</sup> L.R.Haggard (ed.), *I Walked by Night*, pp. 109-110.

<sup>193</sup> Hence the whole area was eventually reinstated as common and pastures land. D.Fairhall, *Common Ground*, p. 111.

<sup>194</sup> He was a labourers' union leader from Norfolk, *Eastern Weekly Leader*, 15 May, 1880.

<sup>195</sup> A.Howkins, *The Death of Rural England*, p. 22.

<sup>196</sup> L.M.Springall, *Labouring Life*, p. 79.

<sup>197</sup> School Boards created in 1870-71 and County and Parish Councils 1889 and 1894. A.Howkins, *Reshaping Rural England*, p. 156.

<sup>198</sup> 'With a sprinkling of clergy, gentry, professional men, Nonconformist ministers and women'. A.Howkins, *The Death of Rural England*, p. 23.



local matters.<sup>200</sup> Yet, in 1907, the Cambridge and Ely Angling Society took their case to the High Court after local magistrates dismissed it. Mathew Bowers had been charged with taking a roach from the river below Littleport Bridge, but the bench, taking into consideration local and customary traditional practices, maintained that the local people had fished there without interference for the last sixty years. Even so the Ely Bench was ordered, by the High Court, to convict the case and advised that, from thereon in, anyone caught doing the same should be fined 2s and costs.<sup>201</sup>

### Organisation of Social Spaces

The spread and increase of state intervention inevitably affected the organisation of social spaces - commons, wastes and village greens. As we have already discussed, they were traditionally not only areas in which to collect, gather and forage, but also places for collective participation in games, sports, fetes, fairs, festivals and feasts. Historically they were also places of assembly, demonstrations and radical protests. For example, when 25,000 supporters of the National Charter met in 1848, they did so on Kennington Common.<sup>202</sup> Consequently governments often feared places where there was unlimited access to open spaces, believing that freedom of speech could easily lead to the freedom of actions. The *People's Paper* reported in 1852 that 'all great reforms in England, from the Charter gained on the field of Runnymede down to the present, had either commenced, or been consummated, by meetings held in the open air'.<sup>203</sup> As a result, and consistent with late nineteenth century logical reasoning, the organisation and control of social spaces was frequently subjected to new and extended legislation.

At the same time, urbanisation, industrialisation, education, opinions on social reform, and all the changes in the countryside, which affected personal needs and requirements, impacted on the perceived importance of such spaces. By the 1880s their value was changing and there was a 'significant shift in public attitudes towards the use' of them.<sup>204</sup> Even official government offices had reassessed their opinions of specific events held on the commons. Instead of believing that fairs

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<sup>199</sup> G. Christian (ed.), *A Victorian Poacher* (Oxford, 1962), p. 95.

<sup>200</sup> The Country, *The Times*, 20 December, 1894. The only working man elected to the new Norfolk County Council demanded, at his first meeting in 1889, that the police should 'be removed from game protection'. Quoted in A.Howkins, *Reshaping Rural England*, p. 234.

<sup>201</sup> The Cambridge and Ely Angling Society Case, *Cambridge Chronicle*, 17 May, 1907.

<sup>202</sup> H.Conway, *People's Parks: The Design and Development of Victorian Parks in Britain* (Cambridge, 1991), p. 24.

<sup>203</sup> *People's Paper*, 3 July 1852, p 7 and A.Taylor, 'Commons-Stealers', p. 390.

<sup>204</sup> P.Gould, *Early Green Politics: Back to Nature, Back to the Land, and Socialism in Britain, 1880-1900* (Sussex, 1988), p. 90. Some groups even believed that they had the potential to elevate the morality of the people. G.D.Gadsden, *Law of Commons*, p. 8.

were ‘dangerous orgies’, they were now viewed as ‘innocent amusements’ of the poorer classes,<sup>205</sup> while the open land itself was seen as offering opportunities for fresh air and exercise badly needed by the urban populations.<sup>206</sup> In 1890, a local doctor at Berkhamsted regularly advised his patients, not to seek a change of air by travelling to the coast, but instead to take the fresh air up on the common where he said ‘the air is as good as anything you will find at the seaside’.<sup>207</sup> Nevertheless, sufficient and adequate land was not always set aside, especially for the rural workforce. In the 1890s, Michael Freeman believed that there were still very ‘limited social and recreational opportunities in rural England’.<sup>208</sup>

The changing significance of open spaces as areas of clean fresh air in which to walk, play, and participate in organised sport, was on one hand an indication of the altering needs of the community, yet on the other, evidence of middle class influences backed up by government legislation. The expanding railway network enabled the growth of a substantial commuter belt, but as increasing numbers of the urban middle class moved out of the towns and cities, so conflicts arose between ‘incompatible definitions of what the countryside was and what it should be’.<sup>209</sup> Middle class newcomers and national pressure groups put into action plans to redefine the function of rural open spaces as urban amenities in an attempt to use the countryside as ‘an antidote to the harshness of urban life.’<sup>210</sup> Instead of a resource for subsistence, the importance of the commons, wastes and open spaces became ‘aesthetic’ and objects of middle class ‘consumption’. Importance was now placed on the preservation of views, like those from Richmond Hill. Paths and roads were deliberately laid out to manage and control certain sections of land ‘so as to give access to the tops of hills or to picturesque parts’.<sup>211</sup> For example, at St Albans in 1907, there was a strong objection to the ‘enclosing of a picturesque spot’ with high fences, beside the River Ver.<sup>212</sup> These were of course real and genuine concerns, often caused by expanding building programmes to house the

<sup>205</sup> The Home Office in 1880, H.Cunningham, ‘The Metropolitan Fairs: A Case Study in the Social Control of Leisure’, quoted in F.M.L.Thompson, ‘Social Control’, p. 198.

<sup>206</sup> The General Enclosure Act of 1845: ‘the health, comfort and convenience of the local inhabitants should be taken into consideration before any enclosure [be] permitted’. R.Mabey, *The Common Ground*, p. 134; R.A.Slaney’s *An Essay on the Beneficial Direction of Rural Expenditure* (London, 1824) stated the advantages of providing open spaces for the labouring classes.

<sup>207</sup> Dr Steel in H. Nash, *Reminiscences of Berkhamsted* (first published 1890) (Berkhamsted,1988), p.116.

<sup>208</sup> M.Freeman, *Social Investigation*, p. 65. Between 1845 and 1864 over 600,000 acres of common land was enclosed in England and Wales, yet of that only 4,000 acres was allotted for recreation or for the benefit of the poor. D.Killingray, ‘Rights, ‘Riot’ and Ritual’, p. 66.

<sup>209</sup> J.Burchardt, *Paradise Lost*, p. 12.

<sup>210</sup> P. Lowe, ‘The Rural Idyll Defended’, in G.E.Mingay (ed.), *The Rural Idyll*, p. 117. J.Burchardt; *Paradise Lost*, cover.

<sup>211</sup> J.Burchardt, *Paradise Lost*, p. 7; J.G.Shaw-Lefevre, *Commons, Forests and Footpaths*, p. vi and 194.

influx of newcomers. However their priorities, for example, to preserve the ‘beauty of the common’, differed greatly to the everyday worries of the rural population.<sup>213</sup> Yet, as Sara Birtles explained in 2003, it was because of its very flexibility that English common land could, and still can, ‘adapt and be adapted within [its] changing physical and economic landscape’. Common land existed, and still exists today, as ‘a concept over and above its physical form’, and its relevance continued to evolve within the social and intellectual landscape.<sup>214</sup> Therefore perhaps any evidence, for what appears to be altered attitudes of the rural labouring population towards social spaces and customary activities, may be explained as a natural adaptation in response to contemporary changing social and economic circumstances, that is rather than any real shifts in deep seated attitudes towards traditional customary activities.

An example of this adaptation, and the cumulative affects of redefinition, meant that some open spaces were reorganised into parks and recreation grounds. By doing this the authorities aimed to ‘provide improved, reformed recreations’ and ‘to wean the working class away from the alleged degeneration of their culture’.<sup>215</sup> As Stephen Jones noted, when he investigated state intervention into sport and leisure during the inter war years, the state often ‘sought to use leisure for its own ends’.<sup>216</sup> Newly formed parks reflected prevailing Victorian attitudes; they provided opportunities for walking, playing games and enjoying the pleasures of nature. But simultaneously, restrictions and regulations stated that there should be no football, no dancing, no picking of flowers, and no holding of public meetings.<sup>217</sup> People could assemble, but in a ‘passive rather than a participatory role’, and always under the control of a ‘definite regulatory agency’.<sup>218</sup> The regulation of leisure ‘increasingly meant the disciplining and policing ... of working class culture’, which extended into the twentieth and twenty first centuries, and can be seen in the long list of bye laws attached to all commons, parks and recreation grounds.<sup>219</sup> As a result, many controlled and redefined social spaces

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<sup>212</sup> St Albans, *Hertfordshire Mercury*, 1 June, 1907.

<sup>213</sup> Preservation of Chesham Bois, *Bucks Herald*, 9 July, 1910.

<sup>214</sup> S.Birtles, *A Green Space beyond Self Interest*, abstract.

<sup>215</sup> S.G.Jones, ‘State Intervention in Sport and Leisure in Britain between the Wars’, *Journal of Contemporary History* 22 (1987) 163.

<sup>216</sup> S.G.Jones, ‘State Intervention in Sport’, p. 163. See also P.Bailey, *Leisure and Class in Victorian England: Rational Recreation and the Contest of Control* (London, 1978) and H.Cunningham, *Leisure*.

<sup>217</sup> P.Horn, *Pleasures and Pastimes*, p. 13 and H.Conway, *People’s Parks*, p. 6.

<sup>218</sup> M.J.Daunton, *House and Home in the Victorian City: Working-Class Housing 1850-1914* (London, 1983), p. 15.

<sup>219</sup> S.Redhead, *Unpopular Cultures: The Birth of Law and Popular Culture* (Manchester, 1995), p. 42; I.Campbell and P.Clayden, *Law of Commons*, p. 33.

lost their original material function of providing subsistence resources. The Victorian landscape painter John Linnel complained, even the ‘landscape is reduced to a toy shop sentiment’.<sup>220</sup>

So the creation of specific and regulated leisure spaces had a dual purpose, first they denied access for certain customary pursuits, while secondly encouraged organised activities, which were thought to be ‘self improving and character building’.<sup>221</sup> Nevertheless this form of reasoning somewhat misunderstood the everyday lives of the rural poor. For they took their exercise, sport and leisure, intermingled with everyday activities and customary pursuits, they did not necessarily separate them. Ellen Blunt, who was born at an Outwell farm in 1895, recollected skating on the river as a means of transportation, and for sport and exercise.<sup>222</sup> Harvey Osbourne, and Michael Winstanley claimed that the pursuit of game for subsistence also fulfilled a ‘deeper need for sport’.<sup>223</sup> Indeed all levels of society seemed to enjoy pursuing animals for food and sport. There was, according to Richard Jefferies, ‘an instinctive love’ of such a sport in ‘everyman’s breast’, which could not be erased by state regulation alone.<sup>224</sup> Many game cases found in this research involved groups of men out together on a Sunday, which may suggest that the activity had recreational connotations. When five men from Finedon were accused of a game offence, the local newspaper reported ‘a Sunday excursion’.<sup>225</sup> Similarly at Boxmoor, a case involving six men was titled ‘Sunday afternoon amusement on the common’.<sup>226</sup> And a witness named Mr Bletsoe told the court that it was a regular occurrence to see seven or eight men out together poaching on a Sunday.<sup>227</sup> Indeed John Wilkins

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<sup>220</sup> In his opinion it was not until one got ‘upon a common, near a forest, or into farmlands’ that one begun ‘to breathe again’, and more significantly, ‘feel out of the influence of man’s despotism’. A.T.Story, *The Life of John Linnel* (Richard Bentley and Son, 1892), pp. 50-51. See appendix 9.

<sup>221</sup> H.Taylor, *A Claim on the Countryside*, p. 2. Sport became more organised from late 1860s onwards.

F.M.L.Thompson, ‘Social Control’, p. 201. See also N.MacMasters, ‘The Battle for Mousehold Heath’, p. 121. In the choice of activities the people’s voice was rarely heard. H.Conway, *People’s Parks*, p. 189.

<sup>222</sup> L.Faulkner (ed.), *Half in Sunlight, Half in Shade: Oral History from Outwell and March* (Cambridge, 1999), p. 40. Ellen was interviewed and recorded at the age of 102. She also described how, she and her family, would set lines in the drains and rivers at night in the hope of catching pikes and eels by morning.

<sup>223</sup> H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching’, p. 207.

<sup>224</sup> R.Jefferies, quoted in W.J.Keith, *Rural Tradition* (Sussex, 1975), p. 134. A nineteenth century ballad stated ‘Ye gentlemen both great and small, Gamekeepers, poachers, sportsmen all’ stated the ballad of *Poor Bill Brown*. *Poor Bill Brown*, Ballad, Bodleian Library, Frith c. 19(49).

<sup>225</sup> Kettering Petty Session, *Northampton Mercury*, 22 October, 1897. Also Six men from Broughton, for example, were caught going after game on a Sunday in April 1889, Northampton Div. Petty Session, *Northampton Mercury*, 13 April, 1889.

<sup>226</sup> Gt Berkhamsted Petty Session, *Bucks Herald*, 21 October, 1893.

<sup>227</sup> Thrapston Petty Session, *Northampton Mercury*, 22 January, 1897. And in the same year, William Day made no effort to deny that he was on Mr Lovell’s land after game. He told the court that ‘it was right he was there. He did love a bit of sport, and would have it as long as he could walk’. Northampton Div. Petty Session, *Northampton Mercury*, 25 June, 1897.

actually believed that poachers mainly took game for the excitement, rather than on account of any ‘pecuniary benefit’.<sup>228</sup>

During the nineteenth century leisure time, noted Peter Bailey, ‘was one of the major frontiers of social change’.<sup>229</sup> This is when a whole range of outdoor pursuits became fashionable, including rambling, cycling, climbing, camping, caravanning, angling, natural history, and field sports.<sup>230</sup> Their popularity, however, brought even more people into the countryside and increased pressure on public open spaces. P.A.Graham, who wrote in 1892 of rural depopulation and country pastimes, described those out merely in pursuance of recreation and leisure as, ‘aggressive tourists’ who ‘searched out all the prettiest and wildest nooks of England’.<sup>231</sup> Thirteen Picnickers from London were one such group, who in 1905 were accused of damaging mowing grass on private property; they claimed that the *Metropolitan Railway Guide* had listed these specific grounds at Great Missenden as open to the public.<sup>232</sup> Nonetheless, even though it was said that the nationalisation of British culture was bringing new sports and interest to the rural poor, most of them had very little time or money for organised leisure and unproductive holidays.<sup>233</sup> Mary Cole recalled that during her childhood, at the turn of the century, school holidays were still spent gleaning.<sup>234</sup> And Charlotte Yonge, a nineteenth century novelist, observed that elderly women, even if purely for ‘old sake’s sake, rather than the actual gain’, continued to spend their holidays in the fields gleaning too.<sup>235</sup>

So what role did the state play in the changing status of social spaces, and did this affect rural attitude towards traditional customary activities? The state provided the legislation that formed the foundation, basis and framework for regulating and organising land at a local level. Some legislation imposed complete bans on specific activities, such as the 1872 Royal Parks Bill that prohibited any kind of political meetings.<sup>236</sup> Others, such as the Public Health Act of 1875, gave local authorities powers, which enabled them to create and maintain parks.<sup>237</sup> The Commons Act

<sup>228</sup> J.Wilkins, *The Autobiography of an English Gamekeeper*, p. 212.

<sup>229</sup> P.Bailey, *Leisure and Class in Victorian England*, p. 6.

<sup>230</sup> P. Lowe, ‘The Rural Idyll Defended’, in G.E.Mingay (ed.), *The Rural Idyll*, p. 117. ‘These activities offered relief from monotonous routine, and exercise and refreshment for city dwellers, including creative outlets for the leisure opportunities progressively being opened up to ever broader social strata through the growth of real wages, shorter working hours, and the spread of the railways.’

<sup>231</sup> P.A.Graham, *The Rural Exodus*, p. 45.

<sup>232</sup> Gt Missenden, *Bucks Herald*, 15 July, 1905.

<sup>233</sup> After the 1890s and 1900s. A.Howkins, *Reshaping Rural England*, p. 133.

<sup>234</sup> M.Chamberlain, *Fenwomen*, p. 29.

<sup>235</sup> C.Yonge, *An Old Woman’s Outlook in a Hampshire Village* (London, 1896), p. 197.

<sup>236</sup> A.Taylor, ‘Commons-Stealers’, p. 389.

<sup>237</sup> H.Conway, *People’s Parks*, p. 4.

1876 encouraged the promotion of health and comfort, and the regulation of commons and forests through the representative local bodies of conservators.<sup>238</sup> Increasingly newly empowered district councils acquired, and took responsibility for, local wastes and greens, and the Commons Act of 1899 further enabled them, and assigned conservation groups, to enact regulations on them.<sup>239</sup> In addition, in order to regulate the plethora of government directives, new agencies of administration were created to issue and check licences and permits, and to police redefined open spaces.<sup>240</sup>

The consequences of this legislation, on matters concerning social spaces, may again have resulted in unexpected and undesired outcomes. For example, middle class alliances and pressure groups, although they frequently urged changes in the law and continually participated in reorganising the land, they were rarely able to ‘initiate legal action’ themselves when commons and wastes came under threat.<sup>241</sup> Instead, in order to instigate an action, they would aide and advise those who could.<sup>242</sup> As G.D.Gadsden noted, however, the law of common lands was always and still is ‘a rather obscure branch of the law’ with ‘major areas of difficulty in its interpretation and practice’.<sup>243</sup> Indeed in their 1963 publication, William George Hoskins and Laurence Dudley Stamp referred to the ‘chaotic state’ of these laws.<sup>244</sup> In order to remedy some of the ambiguities surrounding common land and associated rights, the state introduced a scheme in 1965 for registering any still known to be in existence. Ironically concepts of, and attitudes towards, common land appeared to have changed very little since the late nineteenth century. There were many ‘misconceived applications’ and, as a consequence, the ‘mere assertion of belief’ in a right seemed to be ‘sufficient to secure provisional registration’.<sup>245</sup> Had the government’s intentions in 1965 been to inform and

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<sup>238</sup> P.Gould, *Early Green Politics*, p. 93 and B.Short, ‘Conservation, Class and Custom’, p. 128. In the late 1880s an elected Board of Conservators was created by government order to manage Therfield Heath, which aimed to balance the rights of Therfield commoners with the needs of Royston for recreational space. L.M. Munby, *The Hertfordshire Landscape*, p. 188.

<sup>239</sup> P.Clayden, *Our Common Land*, p. 81. In addition the Open Spaces Act of 1906 empowered local authorities to set aside specific areas for cricket, football and organised games p. 69.

<sup>240</sup> Park keepers became ‘part of working-class demonology in their own right’ as they ‘co-operated with the police, dressed like them, and used fences, gates and padlocks to exclude’. A.Taylor, ‘Commons-Stealers’, p. 386.

<sup>241</sup> Famous ones being Berkhamsted, Plumstead, Tooting Graveney, Wimbledon, Wandsworth, Coulsdon, Dartford and Epping Forest. See B.Short, ‘Conservation, Class and Custom’, p. 128.

<sup>242</sup> I.e. a commoner, J.Marsh, ‘*Back to the Land*’, p. 42.

<sup>243</sup> Estler v. Murrells (1959), quoted in G.D.Gadsden, *Law of Commons*, p. 2 and p. vi.

<sup>244</sup> W.G.Hoskins, and L.D.Stamp, *The Common Lands*, front cover. No precise records from the nineteenth century existed and even estimates of overall totals in acreages were unreliable. The 1874 return estimated two million acres with a possible margin of error of one million acres either way. W.G.Hoskins and L.D.Stamp, *The Common Lands*, p. 96.

<sup>245</sup> *Common Land: The Report of the Common Land Forum*, p. 36. For example a highway, extending approximately one mile long and averaging 40 feet in width, was registered as a common. Para 008, Braygate Lane East Keal and Toynton All Saints CL 112 – Lincolnshire, p 68. And strips of grass verge lying within the highway boundary registered

educate the general public on the law, along with legally and officially registering land and rights - then it was unsuccessful, for in 1985 Paul Clayden wrote that still, nine out of ten people misunderstood the status of common land and rights associated with it.<sup>246</sup>

In spite of the ambiguity surrounding some of these spaces, newly formulated legislation and administration techniques re-classed certain activities, for example walking on the grass in the park, or playing football in specific spaces, became a crime. Nevertheless, as Neil MacMasters explained, traditional patterns of working class leisure pursuits managed to continue in many areas through to the twentieth century. The keeper on Mousehold Heath reported that he continually had his hands full with poachers, and most of the notice boards displaying the by-laws of the park had been repeatedly torn down.<sup>247</sup> The Recreation Grounds Act 1859 and the Public Improvements Act 1860 encouraged the creation of parks, sometimes using commons, private estates and marginal lands.<sup>248</sup> But evidence suggests that traditional attitudes towards customary practices sometimes persisted on recently redefined spaces. At Beaconsfield, in 1883, Richard Jacock was fined for wilfully damaging a birch tree in Dropmore Park, and Charles Thakham and Henry Roe were caught 'damaging a walnut tree in Rickmansworth Park'.<sup>249</sup> Similarly Mary Desborough and Elizabeth Hopkins of Finedon were accused of stealing wood from the local park, and Frederick Debow was found cutting bushes and damaging a thorn tree in Abington Park, the property of the Municipality, in 1903.<sup>250</sup> Thomas Cole still believed that he had a right to graze his pony on the West End Recreation Ground at High Wycombe in 1903, while seven years later William Wallington still allowed his cows to pasture there.<sup>251</sup>

In his study of nineteenth century popular culture in Somerset, Owen Davies suggested that the 'forces of change may have actually helped maintain some aspects of rural tradition'.<sup>252</sup> Similarly,

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as a common in Oxfordshire. Para 008 highway verge registered as common, Penny Hooks Lane, Shrivenham CL 92 Oxfordshire, p. 68 and p. 37.

<sup>246</sup> P. Clayden, *Our Common Land*, p. 1. 'A right of public access is available only on a minority of the common lands - estimated at perhaps one fifth of the total acreage'. G.D. Gadsden, *Law of Commons*, p. 9.

<sup>247</sup> N. MacMasters, 'The Battle for Mousehold Heath', p. 152.

<sup>248</sup> See appendix 11.

<sup>249</sup> For example Richard Jacock, fined for wilfully damaging a birch tree in Dropmore Park. Beaconsfield Petty Session, *Bucks Herald*, 14 April, 1883. Watford Petty Session, *Hertfordshire Mercury*, 16 September, 1893.

<sup>250</sup> Wellingborough Petty Session, *Northampton Mercury*, 1 November, 1873; Northampton Borough Petty Session, *Northampton Mercury*, 10 March, 1905.

<sup>251</sup> High Wycombe Petty Session, *Bucks Herald*, 12 September, 1903; High Wycombe Petty Session, *Bucks Herald*, 21 May, 1910. Augustus Smith, a finisher from Kettering, was also prosecuted for 'poaching on a public footpath through recreational grounds. Kettering Petty Session, *Northampton Mercury*, 8 December, 1893.

<sup>252</sup> O. Davies, *A People Bewitched*, p. 158.

evidence from this study implies that government, and middle class intervention, ultimately protected, preserved and conserved spaces so vital for customary activities. They may have imposed their own standards and interests on the land, but in doing so, in some areas, they restored its respectability, while maintaining its accessibility and usability.<sup>253</sup> This was possible because, paradoxically, as the economic, and to a certain extent social importance of the countryside was ‘eclipsed’, so its symbolic importance grew.<sup>254</sup> Intervention not only protected many open spaces under threat, but it also compelled rural and urban districts, where no commons survived, to acquire land in order to provide open spaces, parks and gardens.<sup>255</sup> These spaces today provide opportunities, not only for the conventional activities they were designed for, but during the summer months many host traditional fairs, fetes and races, and come late summer and early autumn children can still be seen collecting blackberries, conkers and nuts.<sup>256</sup>

## COMPOSITION AND ORGANISATION

In order to discover, and draw out, detailed and significant elements of attitudinal behaviour from the sources, this final section will analyse the composition, arrangement and organisation of those involved in upholding and defending customary rights during the period in question. The turning points in society were not necessarily, as Stuart Hall explained, when the contents of popular culture changed, but when cultural relations between groups shifted.<sup>257</sup> In the early modern period popular culture had been ‘everyone’s culture’ and attitudes towards it were interlinked.<sup>258</sup> The following centuries saw its abandonment to the lower classes as oppositions and alliances shifted ‘broke and reformed’.<sup>259</sup> Finally, during the late Victorian and Edwardian period, the changing complexity of social relations often led to the combining, blending and merging of attitudes and opinions across much of the social spectrum. This section will concentrate on the interactions, rather than the divisions between those participating in popular culture.<sup>260</sup> First it will explore the extent of individual and group participation in asserting and preserving customary rights; analyse

<sup>253</sup> P.Horn, *The Changing Countryside*, p. 224.

<sup>254</sup> P.Lowe, ‘The Rural Idyll Defended’, in G.E.Mingay (ed.), *The Rural Idyll*, p. 115.

<sup>255</sup> J.G.Shaw-Lefevre, *Commons, Forests and Footpaths*, p. vi.

<sup>256</sup> Traditional here in its modern day context refers more to the regularity and place of an event, rather than its format.

<sup>257</sup> S.Hall, ‘Popular Culture and the State’, in T.Bennett et al. (eds), *Popular Culture and Social Relations*, pp. 23-24.

<sup>258</sup> P.Burke, quoted in T.Harris (ed.), *Popular Culture*, p. 1.

<sup>259</sup> In response to contemporary social, economic, political, legislative and environmental factors. M.Reed, ‘Class and Conflict in Rural England: Some Reflections on a Debate’, in M.Reed and R.Wells (eds), *Class Conflict and Protest*, p. 23. See also K.Tiller, ‘Rural Resistance’, in O.Ashton, R.Fyson, and S.Roberts (eds), *The Duty of Discontent*, p. 98.

<sup>260</sup> This is what Peter Burke suggested. P.Burke, *Popular Culture in Early Modern Europe* (Aldershot, 1994), p. xvi.



changing relationships and organisation techniques; and finally consider the impact of nationally formed pressure groups on popular attitudes.

### Individuals and groups

This research reveals that the majority of rural society had the opportunity to participate in customary activity if they chose to do so. The most represented section of the population were men involved in poaching. As discussed in chapter one, a large proportion of these were young men, indeed very few were specifically recorded as ‘old’, which ties in with the findings of previous nineteenth century poaching studies.<sup>261</sup> Men and women experienced popular culture in ‘very different ways’.<sup>262</sup> But women, as ‘primary exploiters’ of the commons, were nevertheless visible participants in asserting customary rights.<sup>263</sup> They also, almost exclusively, controlled gleaning.<sup>264</sup> Ninety three percent of gleaners were female in the eighteenth century and this study shows that, in the late nineteenth century, they continued to be the predominant participants.<sup>265</sup> Collecting small amounts of wood – or wooding - was often undertaken by women too. For example, Lucy Wilson, Mary Swan and Harriet Blades were all fined for damaging underwood while gathering sticks at Thrapston in 1866.<sup>266</sup> Surprisingly women partaking in subsistence customary activities were not necessarily poor and in need. Jane Yeamans of Rothwell, accused of stealing wood from a dead fence in 1868, was described to the court as being ‘fashionably attired’ and carrying a parasol.<sup>267</sup>

Evidence from the school log books has been most persuasive in suggesting that children played a substantial part in ensuring the continuation of certain subsistence customary activities. The courts too recorded children gleaning, like eleven-year-old James Barkwell and six children from Chesham aged between nine and fourteen.<sup>268</sup> Others were reprimanded for taking wood, such as eleven-year-old Eliza May Parker in 1868, or fined, as six young lads from Studham were for

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<sup>261</sup> J.E.Archer, *By a Flash and a scare*, pp. 179-180 and 196-7. See also D.J.V. Jones, ‘The Poacher’, pp. 825-860, and H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching’, pp. 187-212. These results also tie in with Nigel Goose’s findings; he noted the prominence of elderly men in Hertfordshire workhouses - especially in the month of January. This may suggest that older men were less likely to utilize poaching, as a customary makeshift, to the same degree as their younger counterparts. See N.Goose, ‘Poverty, Old Age and Gender’, p. 361 and 367.

<sup>262</sup> C.Hall, ‘The Tale of Samuel and Jemima: Gender and Working Class Culture in Nineteenth-Century England’, in Kaye and McClelland (eds), *Thompson: Critical Perspectives* (Philadelphia, 1990), pp. 78-102.

<sup>263</sup> J.Humphries, ‘Enclosure, Common Rights, and Women’, p. 17.

<sup>264</sup> P.King, ‘Customary Rights and Women’s Earnings’, p. 462.

<sup>265</sup> P.King, ‘Gleaners, Farmers and the Failure of Legal Sanctions’, p. 122.

<sup>266</sup> Thrapston Petty Session, *Northampton Mercury*, 28 April, 1866.

<sup>267</sup> Kettering Petty Session, *Northampton Mercury*, 18 July, 1868.

<sup>268</sup> Northampton Div. Petty Session, *Northampton Mercury*, 3 August, 1868; Chesham Petty Session, *Bucks Herald*, 22 September, 1860.

damaging a cherry tree on Earl Brownlow's land.<sup>269</sup> Personal recollections, such as those of Albert Packman, who recalled gathering pinecones for fuel, collecting food for domestic rabbits and acorns for the pigs at the very end of the nineteenth century, and Harold Kay, who remembered helping his father from 4am in the morning to collect blackberries and mushrooms, highlights further the role children played in subsistence customary activity.<sup>270</sup> Interestingly, Edwin Grey's reminiscence of customary participation was that it was an enjoyable experience. The gleaning of the harvest fields was 'much enjoyed' he wrote, 'I and many others, though not compelled to glean, went more for the fun'.<sup>271</sup>

Even though the majority of examples in this study are of individuals acting alone, participating as part of a group still seemed to have some resonance in the customary world. One hundred and forty three cases from the database involved four or more defendants, that is 5.23 per cent of all cases.<sup>272</sup> Some poachers came together in what seemed to be a social and recreational form. Attitudes towards these groups were ambiguous. For instance, when seven men were apprehended at Kings Langley in 1883, the landowner was not particularly threatened or surprised by the event, not even wanting to press charges.<sup>273</sup> Whereas others regarded groups or gangs in a very different light. Scarborough Jack was one who stated, 'they ain't sport'.<sup>274</sup> Some groups could be quite sizeable. On the eve of feasts and holidays 'large sections of the community' often went out to collect mushrooms, bilberries, watercress and the like, and at Harpenden local gleaning gangs were so large that they required a specially elected leader.<sup>275</sup>

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<sup>269</sup> Kettering Petty Session, *Northampton Mercury*, 12 September, 1868; Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 25 August, 1888.

<sup>270</sup> Albert was born in 1892, B.Reay, *Microhistories*. Harold was born in 1921. B.Reay, *Microhistories*, p. 115.

<sup>271</sup> E.Grey, *Cottage Life in a Hertfordshire Village*, p. 119.

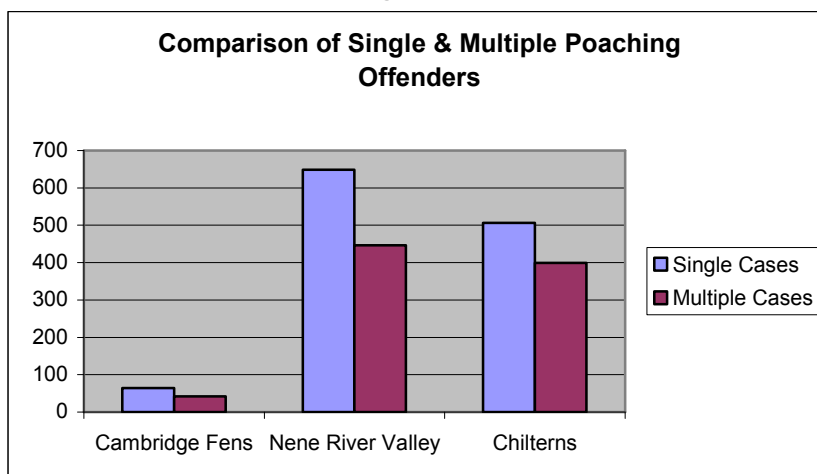
<sup>272</sup> Again the pattern is consistent across the regions. On the Cambridge Fens 4.15%, Nene River Valley 4.95% and on the Chilterns 5.7%. See figures 21 and 22.

<sup>273</sup> Hemel Hempstead Petty Session, *Hertfordshire Mercury*, 13 January, 1883.

<sup>274</sup> M.J.Carter, *Peasants and Poachers*, p. 56.

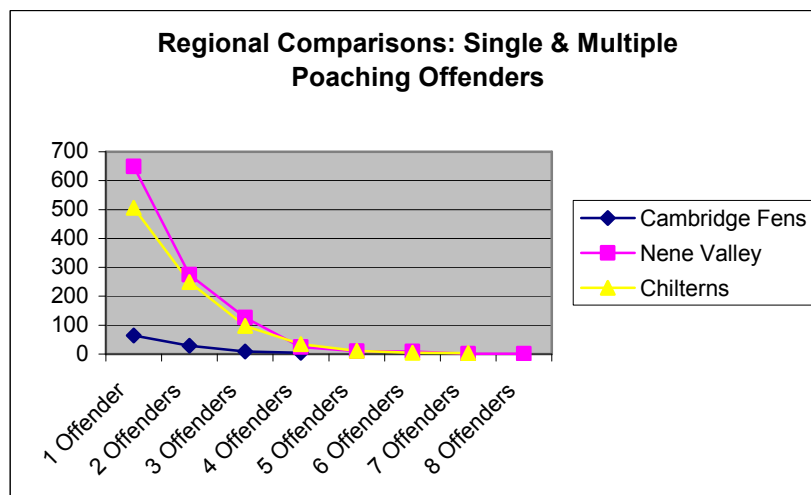
<sup>275</sup> D.Jones, *Crime, Protest, Community and Police*, p. 71; E.Grey, *Cottage Life in a Hertfordshire Village*, p. 121.

Figure 21



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

Figure 22



Sources: *Cambridge Chronicle* 1860-1920, *Northampton Mercury* 1860-1920, *Bucks Herald* 1860-1920, *Hertfordshire Mercury* 1860-1920

In order to fight their causes, protect their interests or express their opinions, groups of like-minded individuals, usually from a similar social background, sometimes established clubs or associations.<sup>276</sup> For example, in an effort to combat poaching some landowners and occupiers of land formed Property Protection and Game Associations. These assisted members to detect, apprehend and prosecute offenders, often offering substantial rewards for information that would

<sup>276</sup> This was, as David Philips noted, an expression of the 'clubability' of Englishmen so noted by foreigners. D. Phillips, 'Good Men to Associate and Bad Men to Conspire: Associations for the Prosecution of Felons in England, 1760-1860', in D. Hay and F. Snyder (eds), *Policing and Prosecution*, p. 27.

lead to successful legal actions.<sup>277</sup> The Wisbech Game Association for example offered a reward of ‘five guineas over and above other rewards’.<sup>278</sup> Costs for these were met through paid membership. The Hemel Hempstead Property Protection Society had ninety-six members in 1873 and its accounts recorded that it held £17 3s 2d from subscriptions.<sup>279</sup> Funds paid for specialist solicitors who carried out prosecutions, prepared lists of notorious poachers, compiled details of persons suspected of complicity in the illegal traffic of game and game eggs, and educated gamekeepers in respect of the game laws.<sup>280</sup> These associations forbade their members to drop or compromise prosecutions.<sup>281</sup> This may explain some of the more minor and trivial examples of petty crime we see reported in the newspapers, such as the three labourers who were accused of trespassing on land and ‘doing damage to dandelion roots’ by the Chatteris Property Protection Association in 1887.<sup>282</sup> And the ‘reluctance’ expressed by the occupier of a plot of land, Mr Parrott, when the Tring Association for the Protection of Property brought the case against Herbert Ayres and Samuel Ball for damaging a fence on his land.<sup>283</sup>

It was not only landowners and occupiers of land who combined and unified themselves this way, poachers often organised themselves into protection societies too. An article published in the *Hertfordshire Mercury* during 1870 reported on a society in Halifax, West Riding, which paid the fines of those members caught poaching with its subscription fund. This led to one particular individual to boast to the court that the job had only cost him 6d.<sup>284</sup> Ironically they claimed to be secret societies, but the authorities were well aware of their existence. The Chairman at a poaching case, heard at High Wycombe in 1873, remarked sarcastically that he knew himself of the ‘poachers co-operative’.<sup>285</sup> Certain groups of commoners also felt the need to co-ordinate and manage the commons as part of a protection group. At Chippenham in Cambridgeshire the principal inhabitants had, back in 1792, formed a prosecuting association which was bound to prosecute any theft of wood, hedges, fences, corn ...’<sup>286</sup> Similarly in 1888, a preservation committee took responsibility for Harpenden’s common, but for a very different reason, they were primarily concerned with the

<sup>277</sup> D.S.D.Jones, *The English Gamekeeper*, p. 46.

<sup>278</sup> M.J.Carter, *Peasants and Poachers*, p. 10.

<sup>279</sup> *Hertfordshire Mercury*, 1 February, 1873.

<sup>280</sup> D.S.D.Jones, *The English Gamekeeper*, p. 46.

<sup>281</sup> D.Philips, ‘Associations for Prosecution of Felons’, in D.Hay and F. Snyder (eds), *Policing and Prosecution*, p. 127.

<sup>282</sup> Chatteris Petty Session, *Cambridge Chronicle*, 4 February, 1887.

<sup>283</sup> Aylesbury Petty Session, *Bucks Herald*, 14 January, 1888.

<sup>284</sup> Reported under the Watford Column. *Hertfordshire Mercury*, 5 November, 1870.

<sup>285</sup> High Wycombe Petty Session, *Bucks Herald*, 3 May, 1873.

<sup>286</sup> CRO R55.7.31.1, 18 October, 1792, quoted in J. M.Neeson, *Commoners*, p. 76.

number of ‘undesirables’ who gathered there at race meetings.<sup>287</sup> New clubs and associations were said, by David Philips, to be in decline by the period surveyed in this study, however there are examples of them still playing a prominent role in certain areas such as Tring and Hemel Hempstead.<sup>288</sup> Others continued not so much for practical purposes, but more for their sociability, which manifested itself in the annual dinner.<sup>289</sup> Essentially these clubs and associations consisted of people with similar attitudes and ways of thinking, and it was through combining their strength that those groups, such as the Oak Apple Club at Wishford forest, (whose motto incidentally was ‘unity is strength’) were successful and, for some, able to survive to this day.<sup>290</sup>

### Relationships

The groups of people so far analysed, namely poaching and property protection groups, acted, participated and cooperated together towards a common purpose and originated from similar social backgrounds. Nevertheless, it is as a by product of social interactions that attitudes are formed and changed, therefore this section will continue by exploring whether attitudes changed as relationships, partnerships and interactions, diversified during the late Victorian and Edwardian period.<sup>291</sup> First we will consider the complex and paradoxical relationship man had with nature, which was ‘simultaneously functional and symbolic, continuous and changeable’.<sup>292</sup> Back in 1822 William Cobbett wrote scathing accounts of places like Ashdown forest, describing it as a ‘most villainously ugly spot’, while in 1827, William Luther Sewell’s impression of forests was of ‘dreary wastes of beggary and desolation’.<sup>293</sup> In contrast, appreciation for the beauty, peace and the freedom of nature were captured in the artistic expressions, and views of places like Burnham Beeches. Thomas Gray, is said to been enthralled by the beautiful beech trees overhanging the stream while writing ‘Elegy in a Country Churchyard’, and Felix Mendelssohn is thought to have been inspired here for the incidental music for Puck and Oberon in *A midsummer Nights Dream*.<sup>294</sup>

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<sup>287</sup> L.M.Munby, *The Hertfordshire Landscape*, p. 188. At Ashdown Forest in 1874 a Commoners’ Association was formed: The Conservators of the Commonable Rights of Ashdown Forest. B.Short, ‘Conservation, Class and Custom’, p. 138.

<sup>288</sup> D.Philips, ‘Associations for Prosecution of felons’, in D.Hay and F. Snyder (eds), *Policing and Prosecution*, p. 123.

<sup>289</sup> Announcements made of the Hemel Hempstead Property Protection Association’s annual dinners. *Hertfordshire Mercury*, 1 February, 1873 and *Bucks Herald*, 18 Feb, 1888.

<sup>290</sup> Refer to R.W.Bushaway, ‘Grovelly, Grovelly’, pp. 37-43.

<sup>291</sup> A.H.Eagly, *The Psychology of Attitudes*, p. 627. See also M.Reed, and R.Wells (eds), *Class, Conflict and Protest*, p. 112.

<sup>292</sup> R.Mabey, *The Common Ground*, p. 32.

<sup>293</sup> B.Short, ‘Conservation, Class and Custom’, p. 129.

<sup>294</sup> While artists such as John Peddleer and Myles Birkett Foster were inspired to paint. Even the popular soprano singer, Jenny Lind, was said to have been inspired to sing by the beeches. The Corporation of London, Burnham Beeches information sheet, [www.cityoflondon.gov.uk/openspaces](http://www.cityoflondon.gov.uk/openspaces)

There is in fact evidence, argued Keith Thomas, for a widespread appreciation of nature and the countryside in pre-industrial Britain, although this is far more recognisable following industrialisation.<sup>295</sup> In particular, in the 1880s - 1890s, there was a distinct ‘rival of, and interest in’ all things rural, and people’s changing relationship with nature, the countryside, and the land, is evident in the number of different organisations dedicated to preserving them in the late nineteenth century such as the Commons Preservation Society, the National Footpath Preservation Society, the National Trust and the Society for the Promotion of Nature Reserves.<sup>296</sup> However, it should not be forgotten that, in the mind of the rural worker, the image of the countryside had not necessarily gone through the same alterations as those who had experienced intense industrialisation and urbanisation, for he had not merely resided in the countryside all his life, ‘he was part of it, and it was part of him’.<sup>297</sup>

Changing attitudes towards the countryside ‘were deeply implicated in social change’.<sup>298</sup> Back in the seventeenth century, for example, minor gentry, and some of the clergy, allied themselves with the poor and took a prominent role in organising local opposition to the drainage and enclosure of the Fens.<sup>299</sup> Before that, in the mid sixteenth century, an alliance of the classes had attempted to ‘stave off’ enclosure near Brigstock, Northamptonshire.<sup>300</sup> Then, through the period of general enclosure, urbanisation and industrialisation, some class distinctions became polarized, as reciprocal relationships in rural areas became blurred.<sup>301</sup> Real change appeared again towards the end of the nineteenth century with the ‘modernisation’ of social relations and the movement of the middle classes out into the countryside.<sup>302</sup> Whether the intervention of the middle classes in rural affairs was welcome or not is debateable. In David Killingray’s opinion, their controlling strategies reduced the frequency of disputes involving access to land during this period, but this kind of

<sup>295</sup> K.Thomas, *Man and the Natural World*.

<sup>296</sup> A.Howkins, *Reshaping Rural England*, pp. 227-228. See also J.Burchardt, *Paradise Lost*. Also refer to William Morris, *News from Nowhere* (1890), which Alun Howkins refers to as the ‘bible of the back to the landers’.

<sup>297</sup> G.Bourne, *Change in the Village*, p. 80.

<sup>298</sup> J.Burchardt, *Paradise Lost*, p. 3.

<sup>299</sup> C.Holmes, ‘Drainers and Fenmen: The Problem of Popular Political Consciousness in the Seventeenth Century’, in A.Fletcher and J.Stevenson (eds), *Order and Disorder in Early Modern England* (Cambridge, 1985), pp. 166-95. See also R.A.Butlin, ‘Images of the Fenland Region’, in E.Royle (ed.), *Issues of Regional Identity* (Manchester, 1998), p. 34.

<sup>300</sup> NRO Montagu (B) Boc W28 (Barton to Montagu, Nov. 1710) quoted in S.Hindle, “ ‘Not by Bread only’? Common Right, Parish Relief and Endowed Charity in a Forest Economy, c. 1600-1800”, in S.King, and A.Tomkins (eds), *The Poor in England*.

<sup>301</sup> Although there were isolated conflicts, as previously mentioned, such as that at Otmoor in Oxfordshire, that found local communities united in their protests ‘fostering social solidarities which transcended class divisions’. D.Eastwood, ‘Communities, Protest and Police’, p. 35.

<sup>302</sup> A.Howkins, *Reshaping Rural England*, p. 222 and 225.

intervention, especially at Mousehold Heath between 1857 and 1884, was not always particularly welcome.<sup>303</sup> Nevertheless there were examples that illustrate that the lower classes appreciated the help and advice given by them. A letter to the *Birmingham Daily Post* in 1884, concerning the stopping up of a footpath highlighted this: ‘can you help us’ it asked, for ‘I cannot do any more myself being nothing more than a working man’.<sup>304</sup> A letter published in the *Bucks Herald* exemplifies how these relationships were promoted. Entitled a ‘Herts Commoner’, the letter asserted that it was the ‘principle of the times to watch over the interests of the public and guard the weak against the strong’, concluding with a request for help to ‘stand up for the public rights’.<sup>305</sup> Nevertheless, middle class strategies differed to that of the working man, as the database reveals, the vast majority of crimes that could be associated with customary rights continued to be committed by the labouring population.<sup>306</sup>

The urban and rural populations, not unlike the middle and lower classes, shared a cultural history. Protests that took place in Cambridge, Norfolk and Suffolk in 1816 were significant for the manner in which the workers of villages and towns combined to advance their demands.<sup>307</sup> Indeed urban protests concerning opposition to the loss of common rights, noted Edward Thompson, could be far more formidable, more visible, and more successful than rural protests.<sup>308</sup> The survival of large commons adjacent to many large towns ‘gave a significant rural flavour to the lives of many urban dwellers’.<sup>309</sup> Indeed, as Martin Wiener noted, the nation’s identity remained quintessentially rural, and maybe more importantly to note, man did not change his beliefs and drop his cultural affiliations overnight.<sup>310</sup> Many held on to ‘established habits and cultural preferences’, perhaps keeping whippets and greyhounds for rabbiting. Rural habits and traditional recreational practices could just as easily contribute to urban subsistence, explained Malcolm Chase, like ‘brewing with nettles and dandelions, fishing, blackberrying and mushroom gathering.’<sup>311</sup> Hence access to the

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<sup>303</sup> D.Killingray, ‘Rights, Riot and Ritual’, p. 63; N.MacMaster, ‘The Battle for Mousehold Heath’, pp. 117-153.

<sup>304</sup> J.Marsh, ‘Back to the Land’, p. 51.

<sup>305</sup> *Bucks Herald*, 12 August, 1865.

<sup>306</sup> See appendices 19, 20 and 21 for details of occupations.

<sup>307</sup> B.Reay, *Rural Englands*, p. 148.

<sup>308</sup> E.P.Thompson, *Customs in Common*, p. 121.

<sup>309</sup> J.Burchardt, *Paradise Lost*, p. 43.

<sup>310</sup> M.Wiener, *English Culture and the Decline of the Industrial Spirit, 1850-1980* (Cambridge, 1981); J.D.Marshall, and J.K.Walton, *The Lake Counties from 1830 to the Mid-Twentieth Century* (Manchester, 1981), quoted in B.Reay, *Rural Englands*, p. 19.

<sup>311</sup> M. Chase, *The People’s Farm*, p. 14. An article in the *Cambridge Chronicle* suggested that there was far more urban poaching going on than was reported in the petty sessions. Specifically with reference to a case where dogs were chasing a rabbit in the Ely grave yard. *Cambridge Chronicle*, 18 May 1900. See also H.Osbourne and M.Winstanley, ‘Rural and Urban Poaching’.

countryside continued to be important to many urban workers, although not only for subsistence, but also as a means of retaining ‘control over their environment’, a ‘general quality of life’, as well as for recreational purposes.<sup>312</sup> John Walton’s study of Lancashire revealed that towns mainly recruited from the surrounding countryside’, so it is not surprising that there were some urban dwellers who retained values and habits associated with the local countryside.<sup>313</sup> As Harvey Taylor explained, some elements of traditional culture were actually ‘perpetuated rather than eradicated’ under these circumstances. For example, the ingrained knowledge of the intricate networks of rural footpaths and drove roads, known so intimately to those who had grown up in the countryside, were later transplanted and utilised for recreational purposes by the expanding urban populations.<sup>314</sup> In fact it was precisely on the fringes, of some of the largest towns and cities in England, that major conflict events concerning footpaths took place in the late nineteenth century.<sup>315</sup> Traditional distinctions between town and country, wrote Pamela Horn, were becoming blurred.<sup>316</sup> Rural perceptions of subsistence rights and associated customary language for example were clearly evident when seven children, who resided in the town of Aylesbury, were charged for stealing wooden fences in 1918, however, they all claimed that they had only been ‘going wooding’.<sup>317</sup> Similarly, after the fences were pulled down at the local common, the inhabitants from Berkhamsted, which included shopkeepers and farmers in their gigs, joined the labouring population as they wandered over the common and cut morsels of the flowering gorse.<sup>318</sup>

### National Pressure Groups

Increasingly prominent towards the end of the nineteenth century, and the beginning of the twentieth century, were national pressure groups. Their formation, growth and proliferation, reflects and highlights, not only attitudes and continuing concerns related to access to the countryside, but also the composition and organisation of groups as a result of the continual changes in social interactions. The nationalisation of rural culture, in Alun Howkins opinion, was a response to the internal and external changes in the English countryside, many of which we have previously discussed.<sup>319</sup> As Flora Thompson wrote, the outside ‘national’ world was beginning to reach even

<sup>312</sup> M. Chase, *The People’s Farm*, p. 14.

<sup>313</sup> J.K.Walton, *Lancashire. A Social History* (Manchester, 1987), p. 124.

<sup>314</sup> Rambling, cycling etc. H.Taylor, *A Claim on the Countryside* (Edinburgh, 1997), p. 22.

<sup>315</sup> For Example, Bolton, Leeds, Walsall and Manchester. See M. Chase, *The People’s Farm* for more detailed references.

<sup>316</sup> P.Horn, *The Changing Countryside*, p. 226.

<sup>317</sup> They said they had picked the wood up off the road. Aylesbury Petty Session, *Bucks Herald*, 19 October, 1918.

<sup>318</sup> J.G.Shaw-Lefevre, *Commons, Forests and Footpaths*, p. 47.

<sup>319</sup> A.Howkins, *Reshaping Rural England*, p. 238.



the most remote areas.<sup>320</sup> Yet the paradox of the strength, and amount of support potentially attained by national groups, was that in a local context, its national character tended to dilute regional qualities and concerns. Similar observations were made concerning the transition of local village unions: once they became branches of larger organisations ‘their individual characters were to some extent lost’.<sup>321</sup> However, with regard to unions, Joseph Arch believed that no real lasting improvements would be made if they were ‘confined to a few men in one county’, he believed that to have any impact they required men from every county in England to be bound into one great unit by ‘a common desire and a common hope’.<sup>322</sup> Perhaps an element of this logical and intellectual reasoning was behind the formation of some of the newly formed pressure groups. In this, mostly regional study, there is evidence for widespread and diverse objections to the attempted curtailment of customary access and activities. As Elizabeth Helsinger explained, however, it is difficult to ‘generalise’ about local resistance, as it rarely led to organised and effective national actions.<sup>323</sup> On the other hand, it is far more difficult for historians to extrapolate specific and individual regional attitudes when widespread national actions took place. Even so, this section will attempt to discover how national pressure groups impacted on the attitudes of local rural society.

Pressure groups, such as the Commons Preservations Society, formed in 1865, the National Footpaths Protection Society (1884) and The National Trust (1894), were groups that were prepared to campaign and fight on a continual, rather than intermittent basis.<sup>324</sup> They unified, consolidated and coordinated the, ‘formerly piecemeal proliferation of local associations’, and the nature of membership and subscription enabled everyone to participate to the degree in which they felt comfortable.<sup>325</sup> Nevertheless, local participation was still of great importance. The massive task of surveying all the public footpaths and commons in the country, in order to provide maps for access disputes, required on one hand, national coordination, while on the other, its completion relied on local and regional knowledge and volunteers.<sup>326</sup> In contrast to the ordinary rural worker, who Richard Jefferies explained, possessed ‘no genuine programme’ for the future’, national pressure groups were wide reaching, focussed and committed to long-term outcomes.<sup>327</sup> They were, in

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<sup>320</sup> F.Thompson, *Lark Rise to Candleford*, pp. 69-75.

<sup>321</sup> R.J.Olney, *Rural Society*, p. 90.

<sup>322</sup> J.Arch, *From Ploughtail to Parliament*, p. 71.

<sup>323</sup> E.K.Helsinger, *Rural Scenes and National Representation* (Princeton, 1997), p. 140.

<sup>324</sup> For information on the range of pressure groups formed during this period and their main concerns, see J.Burchardt, *Paradise Lost*, p. 93.

<sup>325</sup> H.Taylor, *A Claim on the Countryside*, p. 51.

<sup>326</sup> P.Abercrombie, *The Preservation of Rural England*, p. 45.

<sup>327</sup> R.Jefferies, *Hodge and his Masters*, pp. 262-3.

origin, middle class and urban, and in the same way as members of local unions had been ‘guided by men more astute than themselves’, national pressure groups, claimed an article in the *Agricultural Gazetteer*, provided leadership to the rural poor.<sup>328</sup> They were professionally administered and enjoyed the financial backing necessary to fight footpath and countryside access campaigns.<sup>329</sup> Rarely, as previously mentioned, did these groups initiate legal action themselves, but instead ‘aided and advised those who could’.<sup>330</sup> For example, at Ashdown Forest in 1880, Joshua Williams QC, Sir William Harcourt and R.E. Webster, all from Lincolns Inn, represented the commoners.<sup>331</sup> On this basis the rural working people were encouraged, and financed, to present cases concerning debarred access and customary rights before the courts, rather than committing petty crimes in order to force the courts acknowledgment. A point that could partly explain the drop in particular petty crimes during this period. A case concerning a right of way over Mr Sharpe’s field at Broughton, in the Nene River Valley, illustrates the growing confidence among the rural population. It recorded that Frederick Lilley, James Chapman, Alvin Brown and Walter Wilson, clearly and concisely asserted categorically that Mr Sharpe ‘had no right to plough up the awarded footpath’.<sup>332</sup>

Generally the rural working people had not been particularly interested in changing the larger structures of the state and the law; this had mostly been the preserve of the middle class.<sup>333</sup> In Sara Birtle’s opinion, it was they who, as leaders of national pressure groups, forcefully, visibly and consistently, overturned legal understandings and reinterpreted history in order to justify what they considered to be an ‘overwhelming social and philosophical right’ to access commons and open spaces.<sup>334</sup> Paradoxically the development of the outdoor movement depended on the continuance of older cultural influences, such as ‘recreational use of, and attachment to, old routes and customs’.<sup>335</sup> So in order to mobilize the support needed to make sufficient impact, some of these groups attempted to ‘revive the needs basic to old attitudes’.<sup>336</sup> The past and the countryside were

<sup>328</sup> A.Howkins, *Reshaping Rural England*, p. 229; *Agricultural Gazetteer*, 24 August, 1872, p 1144, quoted in D.H.Morgan, *Harvester and Harvesting*, p. 122.

<sup>329</sup> ‘Which was facilitated by the commitment of the urban commercial and legal classes, including members of the legal profession’. H.Taylor, *A Claim on the Countryside*, p. 6.

<sup>330</sup> That is those with commoner rights. J.Marsh, *Back to the Land*, p. 42.

<sup>331</sup> The heavy costs, which would have been incurred by the hiring of these three, indicates the extent to which the defendants were being backed by the wealthy. B.Short, *The Ashdown Forest Dispute*, p. 32.

<sup>332</sup> Kettering Petty Session, *Northampton Mercury*, 21 September, 1889.

<sup>333</sup> J.C.Scott, *Weapons of the Weak*, p. xv.

<sup>334</sup> S.Birtle, *A Green Space beyond Self Interest*, p. 211.

<sup>335</sup> H.Taylor, *A Claim on the Countryside*, p. 3.

<sup>336</sup> D.Katz, ‘The Functional Approach to the Study of Attitudes’, p. 177.

presented as a collective inheritance that expressed a national spirit, and the restoration of some traditions and the creation of nostalgic and idyllic views gave permanence to popular culture that had never really existed before.<sup>337</sup>

The growing popularity of outdoor recreational pursuits, conflicts over access to open spaces and rights of way campaigns, 'combined to elevate' localised squabbles to issues of 'national importance'. Potential supporters were canvassed with leaflets, while knowledge of conflicts reached a wider audience from banners and posters and by publicising them in the newspapers.<sup>338</sup> High profile cases, such as that at Loughton, brought public indignation when they heard about the young man, imprisoned for malicious trespass, who subsequently died in prison of pneumonia.<sup>339</sup> Petitioning, demonstrating, informing and educating were the main tactics of groups such as the Commons Preservation Society, as we saw in a previous example regarding the meeting held at Chesham Moor in 1895.<sup>340</sup> Nevertheless these groups tried to win influence with all classes of the population, including those in powerful positions.<sup>341</sup> Hence they too were not averse to playing their part in negotiations, often taking on the role of arbitrator.<sup>342</sup> It is at this point that local rural customary rights were often weakened, undermined and diluted. At Loughton, on the edge of Epping Forest, for example, lopping rights were eventually sacrificed in order to maintain continued access rights to the forest.<sup>343</sup>

Even though, as David Killingray claimed, pressure group campaigns were popular protest without violence and with little destruction of property, there were examples of the Commons Preservation Society being 'sufficiently committed' to a cause that it participated in 'direct and forcible modes of resistance'.<sup>344</sup> Similarly pressure groups did not necessarily take full control of a situation once they became involved. Despite the decision made at a meeting organised by the Commons Preservation Society, to appoint a committee who would be responsible for removing the obstructions on the

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<sup>337</sup> P.Lowe, 'The Rural Idyll Defended', in G.E.Mingay (ed.), *The Rural Idyll*, p. 119; A.Howkins, *Reshaping Rural England*, p. 249 and A Howkins, 'Whitsun in Nineteenth-Century Oxfordshire' quoted in F.M.L.Thompson, 'Social Control', p. 201.

<sup>338</sup> H.Taylor, *A Claim on the Countryside*, p. 51.

<sup>339</sup> J.Marsh, *'Back to the Land'*, p. 46.

<sup>340</sup> *Bucks Herald*, 14 December, 1895.

<sup>341</sup> P.Readman, 'Landscape Preservation, 'Advertising Disfigurement', and English National Identity c. 1890-1914', *Rural History* 12 (2001) 63.

<sup>342</sup> The Commons Preservation Society was careful to observe the rights of private property as well as supporting commoners' rights. H.Conway, *People's Park*, p.70.

<sup>343</sup> In 1879, £7000 compensation was paid to the villagers with which a village hall was built, known as lopping hall. J.Marsh, *'Back to the Land'*, p. 46.

footpath at Knole Park, members of the local community still took it upon themselves to ‘act immediately’. Indeed it was in a rather familiar traditional manner that over a thousand individuals, all in a ‘carnival spirit’, wielding picks, hammers and files, went to break down the offending posts. Significantly, and not unlike conflicts such as that at Otmoor, several policemen and a superintendent were said to have been present, yet did nothing to stop the crowds. In fact the whole event was similar to that of a traditional skimmington, as the crowd, with the men dressed as women, went to the mansion singing, shouting, and hooting.<sup>345</sup>

In addition to the more obvious explanations as to why there was such an upsurge in national pressure groups during this period, the modernisation of social relations, discussed by Alun Howkins, is key.<sup>346</sup> Not only was there a collectivist development in social thought at this time, but also a society was emerging in which ‘respectability’ was as much a keyword in working class organisation and culture, as it was to the middle class.<sup>347</sup> National pressure groups, with social philosophers and writers, such as John Stuart Mill, John Ruskin, William Morris, Thomas Huxley, Lord Avebury, and William Henry Hudson as their founder members, clearly spoke ‘respectability’ to ordinary working folk. Nevertheless, respectability on its own was not sufficient to attract the support of the working populations, in rural or urban contexts. National pressure groups needed to reach a wide audience, and to relate intertwining and overlapping concerns of preservation, public access and conservation in a format that would appeal to and bring together, the rural and urban, and working and middle classes.

The need to preserve the landscape and green spaces was a ‘complex mix of aesthetic, social, political and economic impulses’, and the Commons Preservation Society was the first national organisation to actively promote it.<sup>348</sup> Nevertheless, as we have previously discussed, specific words such as preservation, conservation and access had varying connotations to different groups of people. Many of the urban middle classes, on one hand, believed that the countryside should be

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<sup>344</sup> D.Killingray, ‘Rights, Riot and Ritual’, p. 64; B.Cowell, ‘The Commons Preservation Society and the Campaign for Berkhamsted Common, 1866-70’, *Rural History* 13 (2002) 158.

<sup>345</sup> D.Killingray, ‘Rights, Riot and Ritual’, pp. 63-71.

<sup>346</sup> Education, politicisation, changes in the countryside, life style changes, ease of communications; and increasing freedoms of speech and publication, A.J.Reid, *Social Classes and Social Relations*, p. 42; A.Howkins, *Reshaping Rural England*, p. 222 and 225.

<sup>347</sup> P.Johnson, ‘Class Law in Victorian England’, *Past and Present* 141 (1993) 149. A.Howkins, *Reshaping Rural England*, p. 223.

<sup>348</sup> J.Burchardt, *Paradise Lost*, p. 47; B.Cowell, ‘The Commons Preservation Society’, p. 146. See also P.Parkes, ‘A Pasture in Common: A Twentieth-Century Environmental History of Ewyas Harold Common (Herefordshire)’, *Rural History* 16 (2005).

preserved because it was ‘morally and physically improving and purifying’,<sup>349</sup> while the rural working population were far more concerned about preserving rural tradition and customary rights.<sup>350</sup> However, a unifying and common concern was that of access. The rural labouring people required it in order to exercise subsistence customary activities, which is why we found that the majority of social crimes associated with customary activity referred, in some way, to the act of ‘trespass’. On the other hand, the urban and middle class populations required unhindered access to certain lands, specifically for leisure and recreational purposes. Attitudes towards preservation and access manifested itself on the commons. As we have discussed throughout this thesis, the commons were the focal point for a large proportion of customary activities and so, unsurprisingly, commons and common rights became the ‘cornerstone’ of the Commons Preservation Society’s methodology in protecting open spaces.<sup>351</sup> Recreation formed the most compelling and consolidating motivations for preserving access rights. However, ironically the land to which these rights related had often been criticised in the past for hosting rough, churlish and boorish activities. Now it was to become the focus for organised, ‘civilizing’ recreations and future protection.<sup>352</sup> That is not to say old forms of popular recreation were completely abandoned. Ewan MacColl, folksinger, poet and playwright from Lancashire, described how he continued to forage, poach, and pilfer on recreational excursions, way into the twentieth century.<sup>353</sup> However, perhaps the value of footpaths and open spaces was shifting; the labouring mans hours of work were falling, holidays were becoming more general, average incomes were rising, and working class interest, in what had initially been middle class organised pastimes, was spreading.<sup>354</sup>

Protest movements ‘shape our thinking’, wrote James Jasper.<sup>355</sup> Indeed, groups such as the Commons Preservation Society ‘transformed public opinion from regarding common wastes as a local embarrassment, to preserving them as a national treasure’.<sup>356</sup> In turn, as A.V.Dicey, a

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<sup>349</sup> J.Burchardt, *Paradise Lost*, p. 10.

<sup>350</sup> ‘The use of a particular variety of language expresses, maintains and even helps to create solidarity between the members of the group. P.Burke, *Language and Community*, p. 5.

<sup>351</sup> W.H.Williams, *The Commons, Open Spaces and Footpath Preservation Society, 1865-1965* (London, 1965) referred to in D.Killingray, ‘Rights, Riot and Ritual’, p. 67. The Commons Preservation Society was the ‘driving force’ behind important legislative changes to the law concerning both rural and urban commons. B.Cowell, ‘The Commons Preservation Society’, p. 156.

<sup>352</sup> See N.MacMaster, ‘The Battle for Mousehold Heath’, and H.Taylor, *A Claim on the Countryside*, p. 1.

<sup>353</sup> E. MacColl, *Journeyman: An Autobiography* (London, 1990), p. 178. Folksinger, poet, socialist, poet and playwright.

<sup>354</sup> J.Burchardt, *Paradise Lost*, p. 92. See also A.Howkins, *Reshaping Rural England*, p. 230.

<sup>355</sup> J.M.Jasper, *The Art of Moral Protest: Culture, Biography and Creativity in Social Movements* (London, 1997), p. 44.

<sup>356</sup> S.Birtles, *A Green Space beyond Self Interest*, p. 211.

constitutional theorist, noted in a lecture he gave in 1898, public opinion governed legislation.<sup>357</sup> This is evident from the successful court rulings on Wimbledon Common, Hampstead Heath, Berkhamsted Common, Burnham Beeches, Epping Forest, and countless footpaths and rights of way disputes.<sup>358</sup> Public opinions though were not necessarily formed or originated from a common source; indeed there were a number of motivational forces associated with access, preservation and protection of open spaces.<sup>359</sup> Similarly there were many different forms of participation, and these acts did not necessarily imply total approval, even of the institutions involved.<sup>360</sup> Nevertheless, by redefining commons as public spaces, the Commons Preservation Society had a direct influence, not only on rural and urban populations understanding of common land, but also on future historians.<sup>361</sup> This may be why John K. Walton and Robert Poole warned that, in popular culture, apparent continuities in form should not be confused with continuity of function and meaning.<sup>362</sup>

In assessing the types and impact of changes in the countryside, the extent of legislation, and the composition of those involved in claiming customary rights and access to the land, this chapter supports notions of a reshaping of rural England.<sup>363</sup> However actual attitudes towards customary rights were far more temperamental. To some extent observable attitudes and opinions did alter according to the practicalities and expectations of social, economic and political changes in the late nineteenth century, yet these were somewhat superficial. During periods of changing needs, such as agricultural downturns, war or unemployment, there is evidence, particularly in the school log books, to suggest that local populations easily and quickly reverted back to asserting traditional opinions. In a similar vein, those who had previously moved away from the countryside, or had not been involved in popular culture for a very long time, reverted back to using the assertions of other's, in order to campaign, and lobby, for access to the countryside and open spaces.<sup>364</sup> Nevertheless the rate of change inevitably differed from one region to another, as the circumstances of such changes were very much dependent on the local landscape and environment. This was a period when people and ideas merged, combined and coalesced, sometimes leading to the evolution and redefinition of social relationships, land use and attitudes.

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<sup>357</sup> A V Dicey, *Law and Public Opinion in England during the Nineteenth Century* (London, 1962), p. 3.

<sup>358</sup> By 1894 95,000 acres of open spaces had been preserved, P.Gould, *Early Green Politics*, p. 99.

<sup>359</sup> Attitudes can have a 'different motivational basis in different people'. D.Katz, 'The Functional Approach to the Study of Attitudes', p. 167.

<sup>360</sup> A.J.Reid, *Social Classes*, p. 54.

<sup>361</sup> B. Cowell, 'The Commons Preservation Society', p. 157.

<sup>362</sup> J.K. Walton, and R.Poole, 'The Lancashire Wakes in the Nineteenth Century' in R.D.Storch (ed.), *Popular Culture* in T.Harris (ed.), *Popular Culture*, p. 23.

<sup>363</sup> A.Howkins, *Reshaping Rural England*.

In spite of these apparent changes, it is extremely difficult to create substantial change in long held attitudes, which is why it is a subject that continues to fascinate psychologists and challenge historians.<sup>365</sup> Throughout the period in question, and continuing to the present day, the question of access has been the predominant and unchanging factor in asserting subsistence customary claims and in campaigning for rights of way or recreational amenities. Attitudes towards access may have differed between different groups of people, but attitudes towards it within those specific groups altered very little. The familiar, traditional and unmodified flavour of some popular responses, such as that at Knole Park, exemplifies how conventional and time-honoured approaches were still readily available even once a working partnership had been formed with a nationally organised pressure group. In addition, the ‘flexibility’ of the commons, referred to by Sara Birtles, encouraged and enabled the continuation of a wide variety of activities. However, as Anthony Giddens explained, it is a myth to think of traditions as ‘impervious’ to change.<sup>366</sup> They were evolving continuously, and perhaps, as Hugh Cunningham suggests, rather than viewing culture as a structure, we should instead view it as a process that is continually evolving and adapting itself to new developments and circumstances.<sup>367</sup>

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<sup>364</sup> Maybe in their time of need.

<sup>365</sup> A.H.Eagly, *The Psychology of Attitudes*, p. 559.

<sup>366</sup> A.Giddens, *Tradition*.

<sup>367</sup> H.Cunningham, *Leisure*, p. 194.

## CONCLUSION

The aim of this thesis has been to explore regional rural mentalities, and to extend the historiography regarding traditional customary practices in the late nineteenth and early twentieth centuries. It has found, as did David Underdown in his study of the seventeenth century, that people in different environmental regions responded to conflict and pressures in different ways,<sup>1</sup> and the continuation of asserting subsistence customary rights depended on the availability of resources in the landscape, and changing and altering subsistence needs. The individual and collective memory of rural populations regarding these rights was not consistently accurate, yet, as Andy Wood noted, ‘it hardly mattered’. What was important was that their memories provided ‘both a spur to action and a means of transmitting ideas over generations’.<sup>2</sup> This thesis clearly highlights working peoples’ capacity to protest and negotiate on their own terms, in the same way as Edward Thompson found they could during the eighteenth and early nineteenth centuries.<sup>3</sup> Using a similar approach to Bob Bushaway, this study examines popular cultures against the background of social and economic change, but in this case the study period has been extended through to 1920, a period which some historians, such as Alun Howkins, Pamela Horn and Gordon Mingay, have described as a time when the countryside was being reshaped and transformed.<sup>4</sup> Nonetheless, with regard to common land and enclosure, as Ben Cowell noted, there has been much ‘historiographical discontinuity’ during this period.<sup>5</sup> So to address this issue and assess the strength of popular attitudes regarding the land, this research began by investigating petty sessional court reports in the local newspapers for social crimes associated with subsistence customary activity. There was indeed a significant decline in criminal cases related to customary beliefs by the turn of the century.<sup>6</sup> However, as Barry Godfrey explained, crime rates were becoming increasingly subjected to the policies and practices of the police and other appointed officials at this time, which may have affected the figures themselves.<sup>7</sup> Nevertheless, what has become apparent was that even if a

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<sup>1</sup> D.Underdown, ‘Regional Cultures?’, in T.Harris (ed.), *Popular Culture* and D.Underdown, *Revel, Riot and Rebellion*.

<sup>2</sup> A.Wood, ‘The Place of Custom’, p. 53.

<sup>3</sup> E.P.Thompson, *Customs in Common*.

<sup>4</sup> B.Bushaway, *By Rite*; A.Howkins, *The Death of Rural England* and A.Howkins, *Reshaping Rural England*; P.Horn, *The Changing Countryside*; Mingay, G.E., *The Transformation of Britain*.

<sup>5</sup> As a result of his examination of the activities of the Common Preservation Society. B.Cowell, ‘The Commons Preservation Society’, p. 158.

<sup>6</sup> This ties in with the findings of other historians. Owen Davies found in his study of witch beliefs that there was a significant decline in cases from the 1880s onwards. O.Davies, *Witchcraft, Magic and Culture*, p. 275.

<sup>7</sup> B.Godfrey, ‘Changing Prosecution Practices’, pp. 171-189.



practice, activity or custom was to fall into disuse, it did not necessarily indicate that there was a corresponding decline of popular belief in it.<sup>8</sup>

The expressive forms of opposition and hostility to the curtailment of customary rights found in social crime were recorded in weekly reports published in local and regional newspapers. The veracity of these publications, their geographic coverage and consistency during the period of research made them seem reliable sources. However, any analysis was always mindful that ‘the history of crime is the history of reporting’.<sup>9</sup> Newspapers on one hand encapsulated local attitudes and opinions, while on the other hand, recording conventions and editorial policies could be selective in the information published. There was also a marked ‘sensitivity to different offences in different communities’ and this may explain some of the anomalies between the number of crimes recorded in the Nene River Valley and those in the Cambridge Fens.<sup>10</sup> Peter King noted that in the eighteenth century inconsistent styles of reporting in the newspapers led to contradictory messages on certain issues.<sup>11</sup> In the courts themselves at the end of the nineteenth century, magistrates and accusers shied away from specifically dealing with the question of customary rights, trying instead to encourage normative codes of behaviour, which related to property rights and accessing the land.

The school log books reveal a detailed view of the real levels of participation, acceptance and local approval of certain subsistence customary activities, while the findings from both the log books and the newspapers were added to, and sometimes confirmed by, personal and intimate recollections from contemporary diaries and memoirs. All these sources have their strengths and weaknesses. The newspapers, for example, only partially reveal the extent of the continuation of customary activity because the incidents recorded were only those exposed through conflict. There was also only a small window of opportunity in which to record seasonal activities such as gleaning and foraging for nuts and berries. The school log books were pivotal in filling this gap, for they reveal that consistently, year on year, large numbers of children, from all three regions, participated in customary activities such as gleaning and collecting wild fruits. They also give a clear picture of the importance and prevalence of reasserting customary rights in times of need: during the war and agricultural down turns. Despite their shortcomings, newspapers proved invaluable, not only for the

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<sup>8</sup> See also O.Davies, *Witchcraft Magic and Culture*, p. 273.

<sup>9</sup> T.C.Curtis, ‘Explaining Crime in Early Modern England’, *Criminal Justice History* 1 (1980) 133.

<sup>10</sup> D.Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain* (London, 1982), p. 4.

<sup>11</sup> P.King, ‘Newspaper Reporting and Attitudes to Crime and Justice in Late Eighteenth and Early Nineteenth Century London’, *Continuity and Change* 22 (2007) 73.

statistical information extrapolated from them, but the way in which they place social crimes in context with contemporary events and concerns, and in their ability to record the precise, everyday words of the defendants. In addition, because of the lack of original surviving petty session documents, extensive regional comparisons would not have been possible without them.

Despite the abundance of sources to hand, it is always going to be difficult to get at the attitudes and mentalities of rural populations. The key is in the interpretation of popular responses to the loss and curtailment of customary rights; reactance would inevitably express itself in some shape or form.<sup>12</sup> By formalizing the findings onto the database, which enabled a comprehensive analysis of an array of points recorded in the newspapers, and presenting the results in the form of graphs and tables, patterns and trends were identified over time and place. From this the decline of cases towards the end of the century in the Chilterns and the Fens was revealed, and the slightly later decline in the Nene River Valley. The database also highlights the fluctuation in trends at times of need, such as during periods of unemployment. The examination of cultural mentalities within the framework of a regional study was advantageous too. It reveals, as we have mentioned, that the geographic and topographic features of a landscape influenced customary activities. It suggests that communities from areas who had experienced widespread early enclosure did not necessarily adjust and accept new ways of life any faster than, or as fast as, areas enclosed much later, but that the number of large preserving landowners in a region did affect customary responses. The regional approach also highlights the influence of middle class incomers, and the Commons Preservation Society, on regions positioned towards the outskirts of London at the turn of the century. It was, however, the collecting of sources from a variety of regions at the same time that first brought to light regional discrepancies in reporting and recording styles, and the potential significance of a ‘lack’ of evidence in any one area.

This brings us to the question of the crime figures. Douglas Hay warned that ‘by identifying actions and actors as criminal’, crime statistics become only ‘indices of organisational processes rather than of the incidence of certain forms of behaviour’, one possible explanation for the numbers of reported crimes in the Nene River Valley.<sup>13</sup> I also found that the technique of altering the classifications of customary motivated acts not only masked the extent and prevalence of certain

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<sup>12</sup> ‘Reactance theory holds that regardless of their source or character, pressures to give up freedoms will arouse reactance’. M.D.Heilman and B.H.Toffler, ‘Reacting to Reactance’, in S.S.Brehm, *Psychological Reactance*, p. 246.

<sup>13</sup> D. Hay, ‘Crime and Justice’, p. 66. See also P.Burke, *Sociology and History*, p. 58. He said that the ‘labelling’ of certain groups, as criminals, was another way of controlling.

crimes, but by presenting them to the court in another guise also avoided addressing the complex issues surrounding customary rights. As Peter Burke wrote, labelling certain groups of people, as criminals, was just another way of controlling the population.<sup>14</sup> As a consequence crime statistics were closely linked to the authority of the landed classes, their ideological influence in reporting policies, their procedures in documenting local offences and their discretionary powers as magistrates. All of these points were influenced by social, economic, cultural and political changes in the countryside at the end of the nineteenth century - which again may partly explain the drop in crime figures at that time. Language, however, used as a tool by the ruling classes to describe and explain criminals and crime, was also used extensively by the rural working people from all three regions. Language was a significant component in the styles of everyday forms of resistance and as an ‘expression of thought’.<sup>15</sup> Even everyday words such as access, trespass and rights could become highly charged in court depositions regarding complex conflicts and issues relating to customary access, enclosure and trespass on game estates.

Questions about popular culture, wrote David Underdown, are ‘much easier to formulate’ than to answer.<sup>16</sup> However the chapters here were designed to tease out what were considered the four main factors for consideration. Chapter one places the whole study in context by describing and explaining the main elements and components involved in rural customary behaviour, so that they can be identified in what ever form they may have taken later in the century. The second chapter takes an in-depth look at the conflict that resulted from the curtailment of customary activity, and the different shapes and forms it took. Chapter three highlights the central role of control, and the complex processes and mechanisms used to achieve it. And finally chapter four, not only explains the changes and transformations taking place in rural England at the end of the nineteenth and early twentieth centuries, but suggests that, while they may have influenced life styles, needs and opportunities, these changes and transformations did not necessarily affect memories and beliefs in traditional rights.<sup>17</sup>

Even though, as we have discussed, there were obvious limitation in the results and accuracy of this research, certain themes do emerge. For example, the importance of individual and collective

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<sup>14</sup> P.Burke, *Sociology and History*, p. 58.

<sup>15</sup> P.Atkinson. Language is Understanding [www.ourcivilization.com/undrstnd.htm](http://www.ourcivilization.com/undrstnd.htm)

<sup>16</sup> D.Underdown, ‘Regional Cultures?’, in T.Harris (ed.), *Popular Culture*, p. 37.

<sup>17</sup> ‘Often behaviour change precedes attitude change’. D.Katz, ‘The Functional Approach to the Study of Attitudes’, p. 196.

memory is apparent throughout. Many early cases involved claims to immemorial customary rights, while at end of the century, in an attempt to save and preserve common land, the Commons Preservation Society depended on commoners who could claim long-term memory of rights on the land. The repetition of customary subsistence activities, recreational pursuits and of appearances in court to reassert a belief, strengthened attitudes within a community. Group polarisation and community cohesion found in rough music, gleaning parties, parades and processions may have been more prevalent in the early part of the nineteenth century but there was still evidence for it, albeit in a slightly different form, at the end of the nineteenth century, in examples of crowd support in the courts, and during disputes such as those at Knole Park, Otmoor and Berkhamstead Common. Social relationships, although continuously changing were of the utmost importance throughout, while the use of different forms of negotiation techniques never waned. Information and knowledge may have reached working people in different formats towards the end of the century, yet it had been no less of an important element earlier on. And finally, conflict and protest which were - because of a greater sense of 'individualism, self discipline, [and] solidarity' in the late nineteenth century - continuously changing forms, were still constant in their ultimate aim, which was to preserve a right of access to the countryside.<sup>18</sup>

The extent and timing of social change in the countryside, wrote Alun Howkins, is difficult to determine. It is a matter of deciding how far to stress continuity, how far to focus on change and finally to assess the cumulative impact on the rural way of life.<sup>19</sup> But even then, there is ambiguity, for first there needs to be agreement as to where to begin measuring change. In Northamptonshire, for example, even before enclosure, only half the population had access to a common.<sup>20</sup> Whereas in the Chilterns there was, and continued to be, large areas of open commons and wastes for much of the population. Tradition and custom, on one hand suggests permanence, yet on the other hand, as Edward Thompson explained, in reality it was a 'field of change'.<sup>21</sup> However, customs that had lasted for centuries, 'did not die out in a moment', women, for instance, still gleaned after the harvest but they just accepted that they would collect less once the mechanical reapers had passed over the fields.<sup>22</sup> Local social structures, the economy, and the political landscape were all indeed

<sup>18</sup> J.Obelkevich, *Religion and Rural Society*, p. 61.

<sup>19</sup> A.Howkins, *The Death of Rural England* and A.Howkins, *Reshaping Rural England*.

<sup>20</sup> G.E.Mingay, *Parliamentary Enclosure*, p. 152.

<sup>21</sup> E.P.Thompson, *Customs in Common*, p. 6. He also said that custom was 'never fact', but more an 'ambience', p.102.

<sup>22</sup> F.Thompson, *Lark Rise to Candleford*, p. 69. Similarly Stephen Hussey discovered, gleaning continued into the twentieth century, but it did not continue unchanged. S. Hussey, 'The Last Survivor', pp. 61-72.

changing, but so were needs and requirements.<sup>23</sup> Yet paradoxically, as Owen Davies noted, these ‘forces of change may have actually helped maintain some aspects of rural tradition’.<sup>24</sup> Railways, for example, encouraged the movement of people into the countryside in pursuit of leisure activities, they brought commuters out of the towns and enabled the national pressure groups, such as the Commons Preservation Society and Footpath Protection Society, to organise demonstrations and meetings on rural common land.

How were these changes influencing the attitudes and views of rural working people between 1860 and 1920? Long-held and deeply ingrained attitudes are particularly difficult to change, a fact that the Select Committee of 1868-1869 was acutely aware of when it acknowledged that it would take ‘generations to eradicate’ existing attitudes towards enclosure and customary habits.<sup>25</sup> The memory of events, and of lost rights, stuck firmly in the minds of many. Walter Rose wrote that even though it had been forty years since enclosure in his village, it was ‘but as a day’ to the locals.<sup>26</sup> There were indeed many examples of a continuation of asserting customary rights far beyond the turn of the twentieth century. Opposition associated with the Second Rebecca Riots in Wales continued to annoy the fishing authorities all the way through to the 1930s.<sup>27</sup> Peter Ditchfield described women still ‘wooding’ on former common land in the 1970s,<sup>28</sup> and the ritual of collecting wood from Wishford forest in Wiltshire still continues today.<sup>29</sup> In the Chilterns William Cook from Potten End still claimed he went ‘fayning’ (ferning) in the 1930s’, gleaning clubs operate throughout the fenlands today, and footpaths are still the ‘lynchpin’ of many rural recreations.<sup>30</sup>

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<sup>23</sup> Migration, working patterns, farming methods and machinery, more men had the vote and establishment of local councils.

<sup>24</sup> O.Davies, *A People Bewitched*, p. 158.

<sup>25</sup> PP 1868-1869, X, ‘Report from the Select Committee on Inclosure Act’, p. 46 in A.Howkins, *Reshaping Rural England*, p. 117.

<sup>26</sup> ‘Their hearts still clung to the semi-free life when, without fear of trespass, all were able to ramble from end to end of the long parish, along the lanes and over baulks’. W.Rose, *Good Neighbours*, p. 5.

<sup>27</sup> D.Jones, ‘The Second Rebecca Riots’, p. 54.

<sup>28</sup> P.Ditchfield, *Country Folk*, quoted in J.M.Neeson, *Commoners*, p. 184.

<sup>29</sup> Bushaway, R.W., ‘Grovely, Grovely’, pp. 37-43.

<sup>30</sup> V.J.M.Bryant, *A History of Potten End*, p. 12. Peterborough County Council operate one such scheme: The Gleaning Project is a partnership between the Peterborough County –City Health Unit, gleaners, local churches and local farmers (they still operate on a system based on permission, organised groups and partnerships).

<http://pcchu.peterbrough.on.ca/gleaning.htm>, 12.07.04. And M.Shoard, *This Land is Our Land: The Struggle for Britain’s Countryside* (London, 1997), p. 264.

So there was an element of a continuation of many customary activities and the act of protecting rights in the countryside retained its place in popular culture.<sup>31</sup> Nevertheless, there can be no denying that the world and the context in which people lived was changing and the continuation of a custom was often only possible because of its ability to adapt and evolve to meet new needs. Custom 'was not static, but evolutionary', it often 'changed and mutated' in the process of being defended, and adapted to new situations and needs.<sup>32</sup> However, new cultural forms did not simply displace old ones, 'they co-existed... reconciling new forms with old conceptions.'<sup>33</sup> A good example of this mix is the ritual of the tin can band at Broughton in the Nene River Valley. In the twenty first century all the original elements of the custom remain, perambulation, noise, and drinking, with the addition of the crowds being followed by some young people in their cars once the procession reaches the main road. As well as the banging of drums and pans, and the blowing of whistles at this point, those in their cars participate by continuously sounding their car horns. Yet despite the adaptation, restructuring, and reassigning of customary practices and places, there continued to be confusion as to the acceptability of certain ones. In 1910, Arthur Jones, a shoe operative from the Nene River Valley, did not deny that he had been shooting rabbits, for he felt confident that he had done no wrong when he told the court that he had 'shot the rabbit on the road, but picked it up in the park'.<sup>34</sup>

Jeremy Burchardt claimed that generally attitudes to the countryside were 'overwhelmingly conditioned by the transformation of Britain from a rural agricultural country into an urban and industrial one',<sup>35</sup> while Alun Howkins, as we have previously discussed, believed that rather than a transformation, there was a reshaping of the rural world between 1850 and 1925. However, his research found, as did this study, that it was experienced in various ways, within certain regions, by

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<sup>31</sup> Many countries around the world envy the rights that the English (and Welsh) have to their public footpaths, bridleways and access to the countryside. M. Shoard, *This Land is Our Land*, p. 268. And as a consequence, a large percentage of protected common land is now an important conservation asset and designated as Sites of Special Scientific Interest. A sample survey of 18 counties in England and Wales showed that 25% of commons were notified as SSSI: Aitchison and Medcalf, *Common land and Conservation. Biological Surveys in England and Wales - a synthesis*. (English Nature Research Report no. 77, 1994). Seventy per cent of common land receives some form of site protection, *Chilterns Commons Network*, Spring 2007, (produced by the Chiltern Conservation Board).

<sup>32</sup> It encompassed 'both long standing practices and recent gains or compromises'. A. Wood, 'The Place of Custom', p. 50. R. Storch, *Popular Culture*, p. 12. K. Tiller, 'Rural Resistance in South Oxfordshire', in O. Ashton, R. Fyson and S. Roberts (eds), *The Duty of Discontent*, p. 99.

<sup>33</sup> P. H. Hutton, 'The History of Mentalities: The New Map of Cultural History', *History Theory* 20 (1981) 254

<sup>34</sup> Northampton Div. Petty Session, *Northampton Mercury*, 15 July, 1910. There are still major difficulties in the interpretation or some of these areas. For example it was not until the Commons Preservation Act of the 1960s that there was a statutory definition for common land, G. D. Gadsden, *Law of Commons*, p. vi and 11.

<sup>35</sup> J. Burchardt, *Paradise Lost*, p. 13. He also asked 'did social reality determine attitudes, or were attitudes more than mere manifestations of underlying socio-economic trends', p. 3.

different groups of society.<sup>36</sup> There may have been a transformation in education, transportation, mechanisation, and local organisation, creating a new social environment in which subsistence customs no longer played such a large part, but there is no conclusive evidence to suggest that attitudes changed correspondingly; as soon as needs arose, traditional notions of rights surfaced. Evidence for this is revealed, not only in their increased usage in times of need, but also in general attitudes towards accessing the land, which can be viewed in the support and followings that national pressure groups apparently commanded and their subsequent successes at the end of the nineteenth and early twentieth centuries.

For many, even in the twenty first century, the idea of collecting food ‘for free’ is symbolic of, not only a past era, but of a continuing tradition and ancient right.<sup>37</sup> Evidence for its popularity can be found in the continued interest and success of television programmes fronted by Hugh Fearnley Whittingstall and Ray Mears, and the immense volume of related publications.<sup>38</sup> Similarly, the opposition and conflicts relating to accessing open spaces has remained. Not primarily for the collecting of food but as an expected right for recreation and leisure. New and modern concerns have evolved over time to add to the impetus to protect and conserve open spaces. But as Richard Mabey noted, on the surface these seem like practical problems, for example, how to manage and sustain landscapes and wildlife, yet underneath there are still ‘fundamental and less easily resolved conflicts of values – about who can legitimately be said to ‘own’ natural resources, about the rights of humans and animals, about the relative importance of present livelihoods and past traditions – conflicts which involve deeply held personal beliefs and meanings’.<sup>39</sup> Therefore the historical analysis of popular attitudes is an essential element in the understanding of opinion formation and attitude change today.<sup>40</sup> Popular culture is indeed, as Peter Burke observed, ‘extremely resilient.’<sup>41</sup> However nineteenth-century cultural mentalities did change and evolve, at varying rates across the regions but the underlying belief that everyone has a right to access parts of the countryside remains with us today.

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<sup>36</sup> A.Howkins, *Reshaping Rural England*, p. 293.

<sup>37</sup> Even though the majority of the population reside in towns and cities and would not have necessarily had access to very much common land in the past.

<sup>38</sup> R.Mears and G.Hillman, *Wild Food*, (London, 2007); N.Fletcher, *Easy Wild Food* (London, 2007); J.Hilton, *Wild Food for Free* (London, 2007); and R.Mabey, *Food for Free* (London, 1996) to name but a few.

<sup>39</sup> R.Mabey, *The Common Ground*, p. 8.

<sup>40</sup> D.Katz, ‘The Functional Approach to the Study of Attitudes’, p. 163.

<sup>41</sup> P.Burke, ‘Popular Culture between History and Ethnology’, p. 7.



Appendix 1  
Map 1

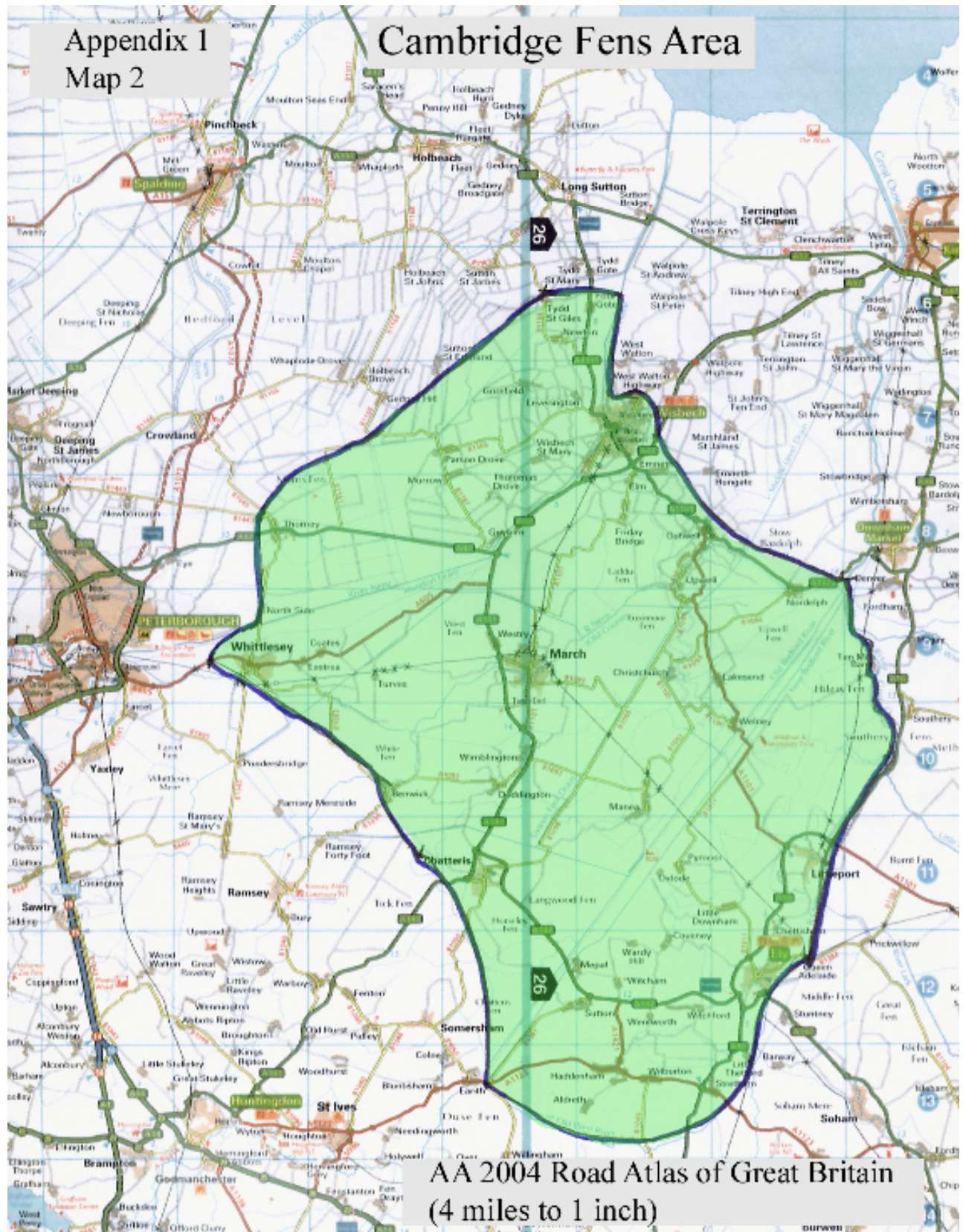


Taylor, C., 'The Cambridgeshire Landscape', (London, 1973)



Appendix 1  
Map 2

# Cambridge Fens Area

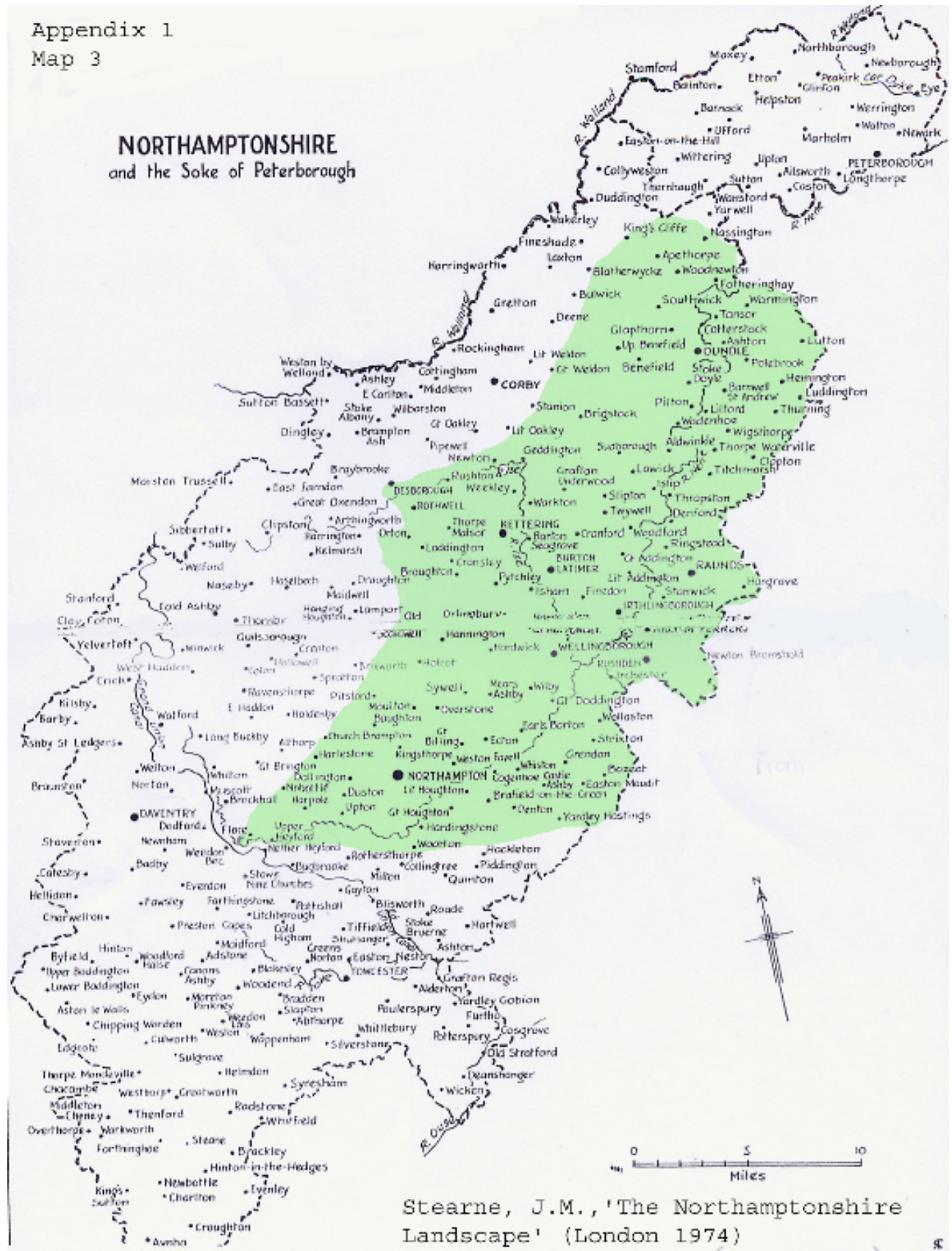


AA 2004 Road Atlas of Great Britain  
(4 miles to 1 inch)



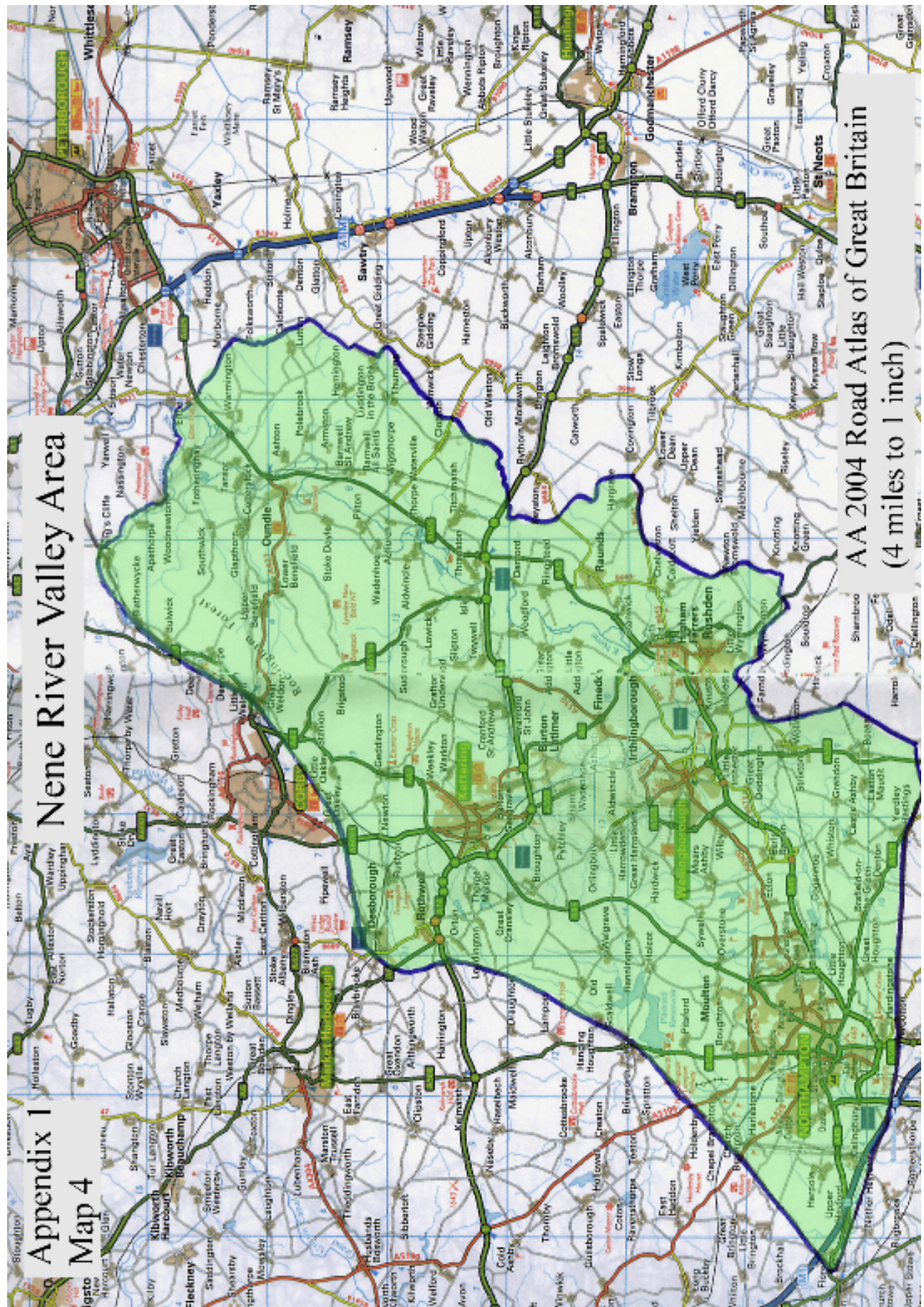
Appendix 1  
Map 3

**NORTHAMPTONSHIRE**  
and the Soke of Peterborough



Stearne, J.M., 'The Northamptonshire Landscape' (London 1974)

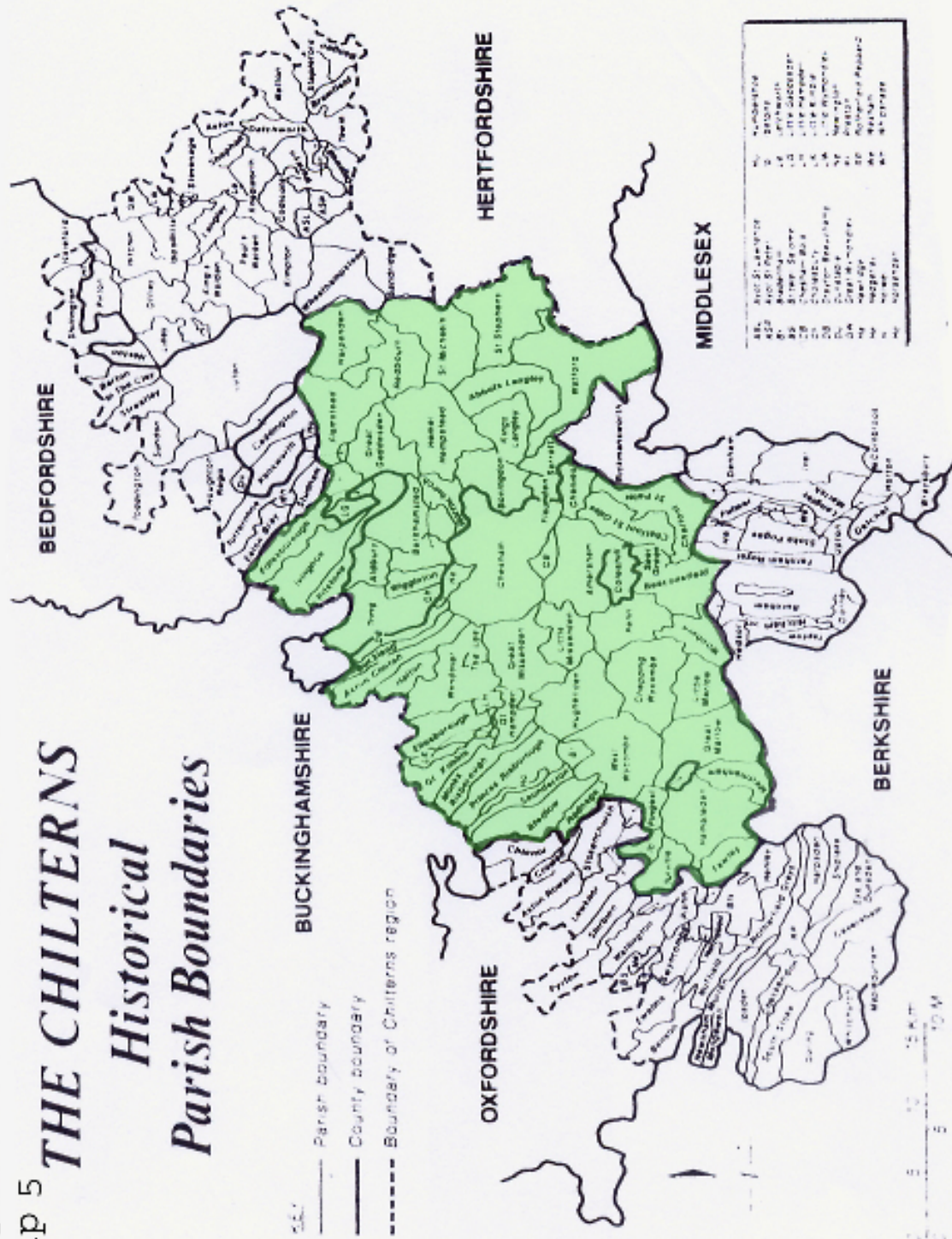






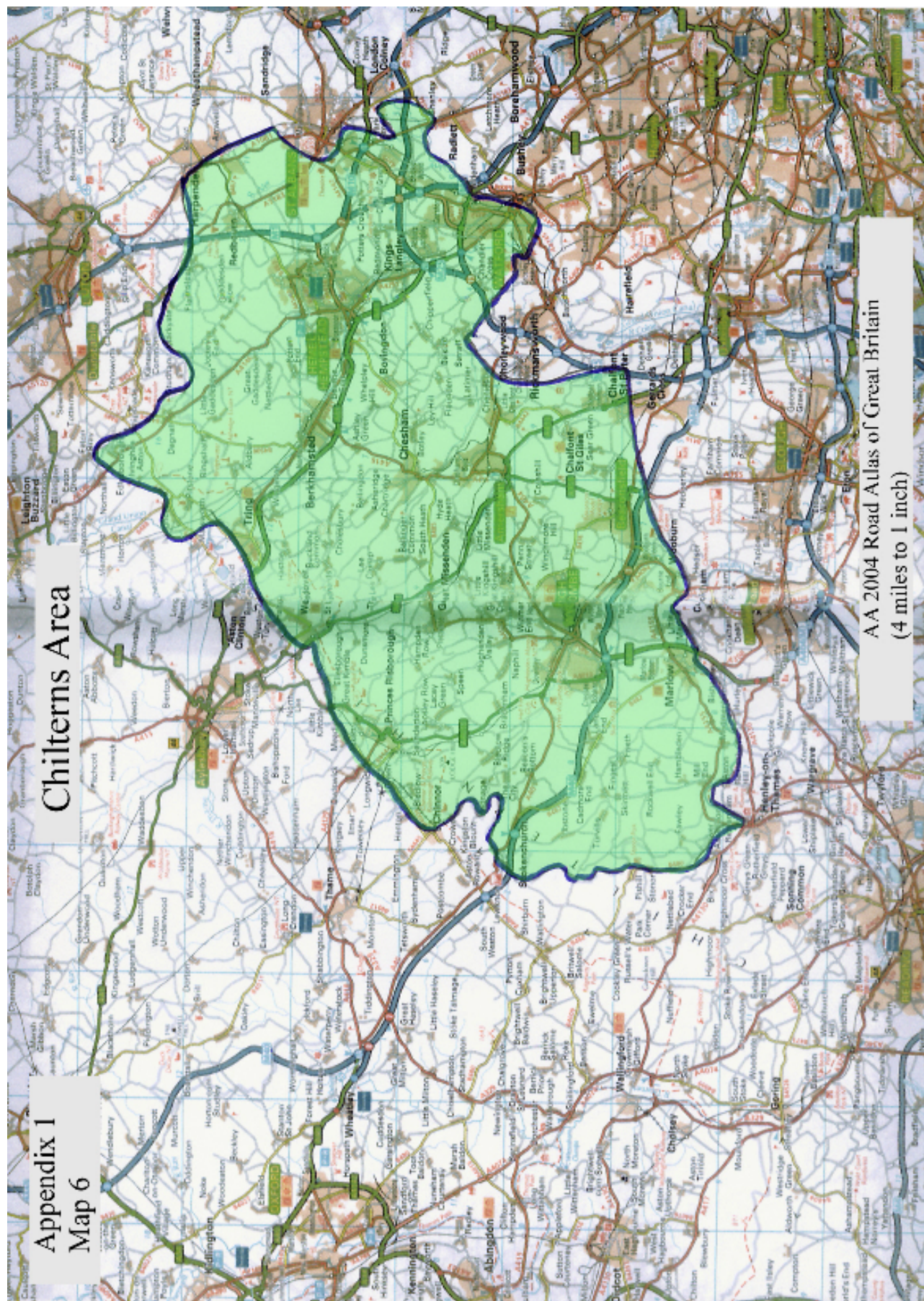
Appendix 1

Map 5 **THE CHILTERNS**  
*Historical Parish Boundaries*



Hepple, L.W., & Doggett, A.M., 'The Chilterns',  
(London, 1999)





Chilterns Area

Appendix 1  
Map 6

AA 2004 Road Atlas of Great Britain  
(4 miles to 1 inch)

## **Appendix 2**

‘Commons were not the common property of a community. Since the early Middle Ages they had been owned by someone – usually the lord of the manor within which they lay. They were called ‘commons’ because certain defined groups of individuals had rights to their use. Such rights were usually attached to specific properties, frequently those which fronted directly onto the common.’<sup>1</sup>

### **COMMON RIGHTS**

A right of common is generally taken to mean ‘a right which one or more persons may have, to take or to use some portion of that which another man’s soil produces’.<sup>2</sup>

A right of pasture was a right to turn stock on to the common to graze. \*A right of estovers was a right to take tree loppings, furze (or gorse), bracken (or fern), deadwood, and sticks from bushes or underwood. \*

A right of turbary was a right to dig and take turf or peat \* (turf used for fires, sand for cleaning, reeds and weeds for fodder and litter, and for firing ovens.

A right of piscary was a right to take fish from another person’s lakes, pond or stream. \*

A right to pannage was a right to turn out pigs to eat acorns and beechmast.<sup>3</sup>

A right to take animals *ferae naturae*.<sup>4</sup>

### **WILDFOODS FREQUENTLY COLLECTED**

Nuts: hazelnuts and chestnuts.

Herbs: wild chervil, fennel, mint, wild thyme, marjoram, borage, wild basil, tansy.

Various medicinal herbs.

Salads and vegetables: young hawthorn, wild sorrel, nettles, watercress, chicory, dandelion leaves, salad burnet, carsear, goatsbeard, greater prickly lettuce, corn, sow thistle, fat hen and chickweed.

Mushrooms.

For wine and tea: Crab apples, bilberries, dandelions and primroses.

Berries: elderberries, barberries, blackberries, raspberries, wild strawberries, rosehip and haws, cranberries and sloes.<sup>5</sup>

### **MISCELLANEOUS**

Fish and fowl caught during winter floods on the Fens.

Reeds, rushes and grasses for thatch and basketry, mats and hats.

Grass, furze and leaves for animal bedding.

Holly as animal fodder.

<sup>1</sup> T. Williamson, ‘Enclosure and the English Hedgerow’, in B. Ford, *The Romantic Age in Britain* (Cambridge, 1992), p. 64.

<sup>2</sup> Halsbury, *Laws of England* (4<sup>th</sup> Edition) Vol 6 (1985), p. 177.

<sup>3</sup> P. G. Langdon-Davies, *Commons Registration* (Butterworths, London, 1967), p. 87.

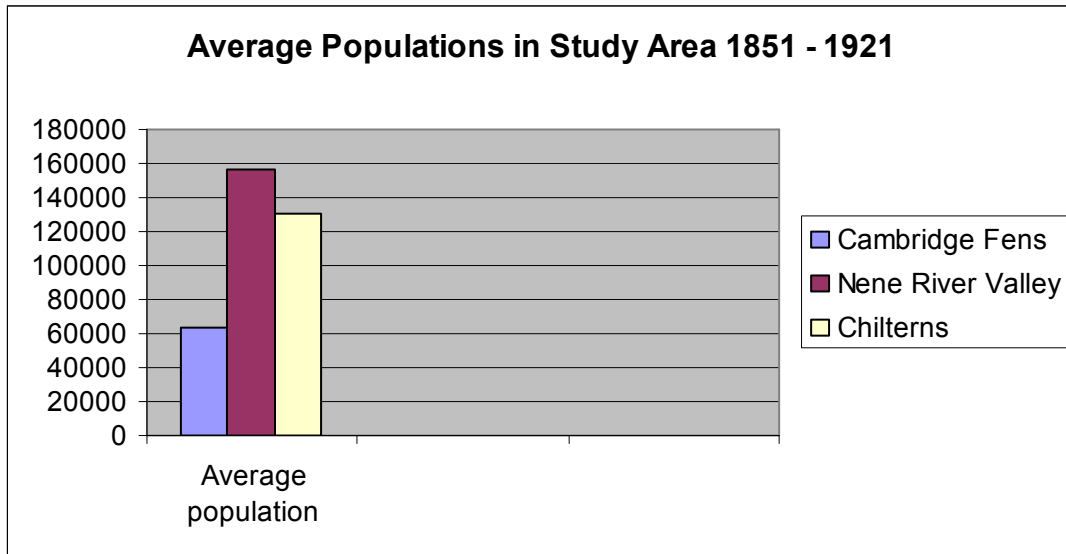
<sup>4</sup> G. D. Gadsden, *Law of Commons* (London, 1988), p. 77.

\* P. Clayden, *Our Common Land: The Law and History of Commons and Village Greens* (Oxford, 1985), p. 10.

<sup>5</sup> V. Bell, *To Meet Mr Ellis* (London, 1956), p. 39; R. Mabey, *Food for Free* (London, 1996); J. Neeson, ‘An Eighteenth-Century Peasantry’, in J. Rule and R. Malcomson, (eds), *Protest and Survival: The Historical Experience* (London, 1993), p. 41.

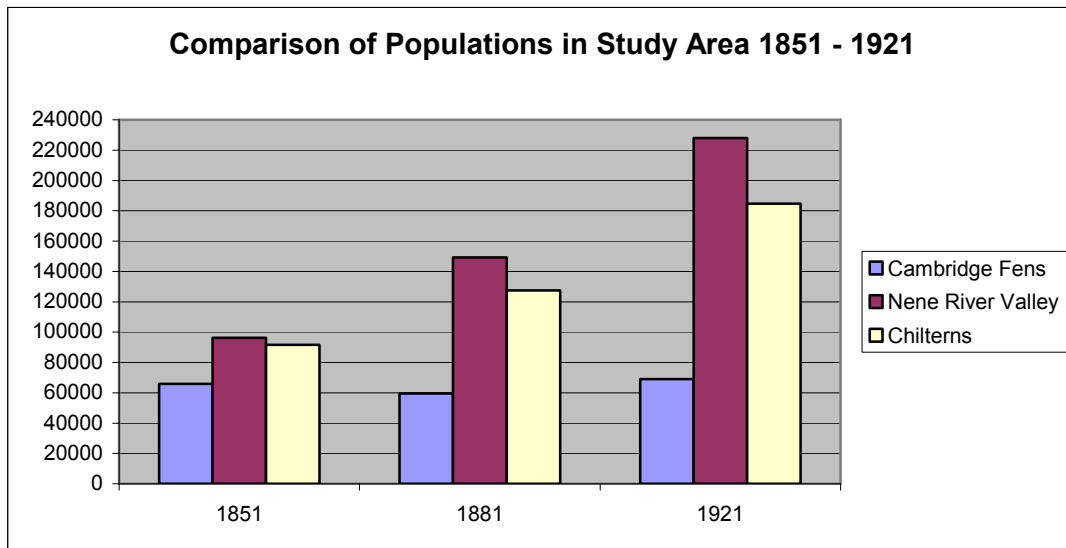


### Appendix 3



Approximate ratios – Cambridge: Chilterns: Nene = 2:4:5  
 Therefore Cambridge population is approx. 40% of Nene  
 and Chilterns population is approx. 80% of Nene

| Average population |        |
|--------------------|--------|
| Cambridge Fens     | 63096  |
| Nene River Valley  | 156223 |
| Chilterns          | 130101 |

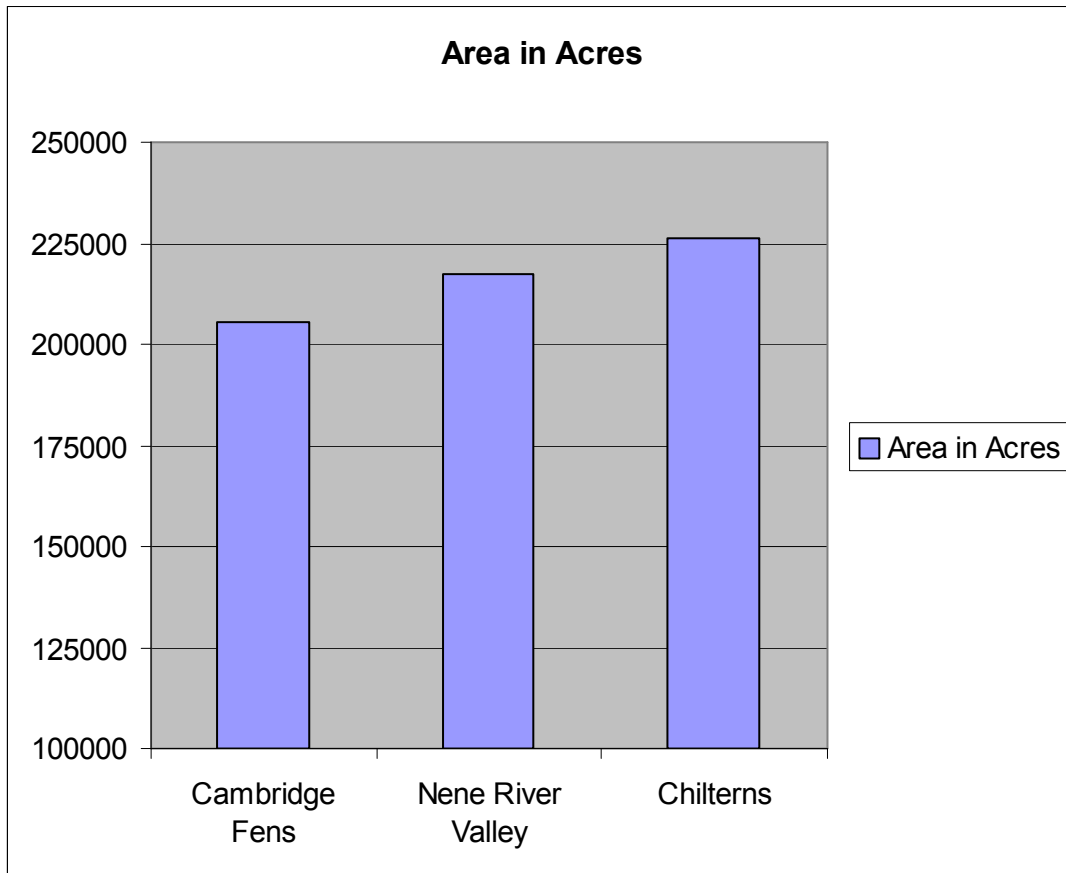


|                   | 1851  | 1881   | 1921   |
|-------------------|-------|--------|--------|
| Cambridge Fens    | 65831 | 59613  | 68974  |
| Nene River Valley | 96321 | 149208 | 228052 |
| Chilterns         | 91641 | 127557 | 184758 |

Sources:

- Census 1851: Population tables 1: Number of inhabitants vol 1* (Her Majesty's Stationery Office, London, 1852)
- Census 1881: Population tables* (Her Majesty's Stationery Office, London, 1882)
- Census of England and Wales 1921: General tables* (Her Majesty's Stationery Office, London, 1925)

## Appendix 4



|               | Cambridge Fens | Nene River Valley | Chilterns |
|---------------|----------------|-------------------|-----------|
| Area in Acres | 205579         | 217389            | 226301    |

Sources:

*Census 1881: Population tables* (Her Majesty's Stationery Office, London, 1882)



## **Appendix 5**

### **NEWSPAPERS VIEWED FOR DATABASE**

The newspapers were chosen for their physical and periodical coverage, as the principal information was gleaned from petty session reports, which covered specific environmental landscapes.

#### Cambridge Chronicle

25 years

1860, 1862, 1864, 1867, 1870, 1872, 1875, 1877, 1880, 1882, 1885, 1887, 1890, 1892, 1895, 1898, 1900, 1903, 1905, 1907, 1910, 1914, 1915, 1918, 1920.

#### Northampton Mercury

25 years

1860, 1864, 1866, 1868, 1869, 1873, 1875, 1877, 1880, 1883, 1885, 1887, 1889, 1893, 1894, 1897, 1900, 1903, 1905, 1907, 1910, 1914, 1915, 1918, 1920.

#### Bucks Herald

25 years

1860, 1863, 1865, 1868, 1870, 1873, 1875, 1878, 1880, 1883, 1885, 1888, 1890, 1893, 1895, 1897, 1900, 1903, 1905, 1907, 1910, 1914, 1915, 1918, 1920.

#### Hertfordshire Mercury

25yrs

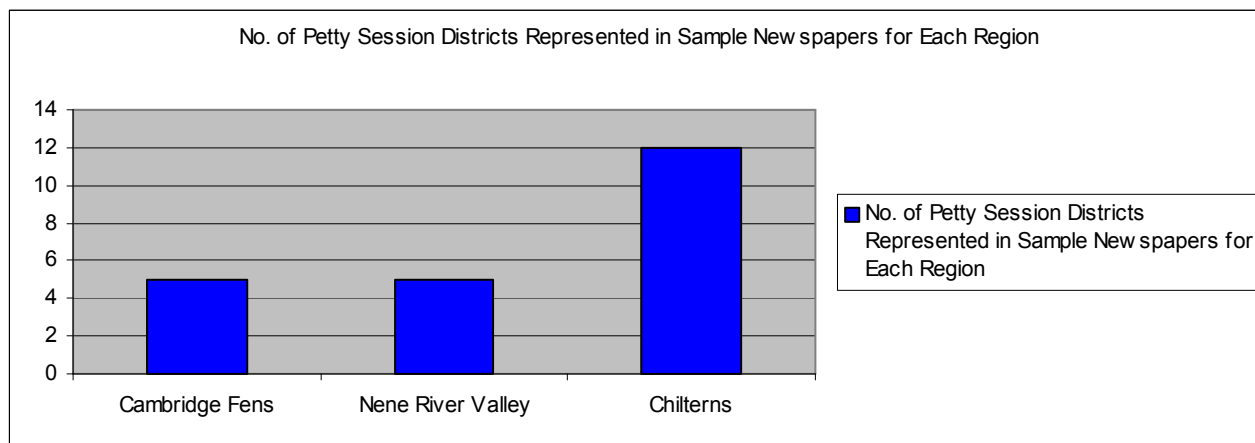
1860, 1863, 1865, 1868, 1870, 1873, 1875, 1878, 1880, 1883, 1885, 1888, 1890, 1893, 1895, 1898, 1900, 1903, 1905, 1907, 1910, 1914, 1915, 1918, 1920.

100 years worth of newspapers altogether.  
=5200 newspapers read for entry into database

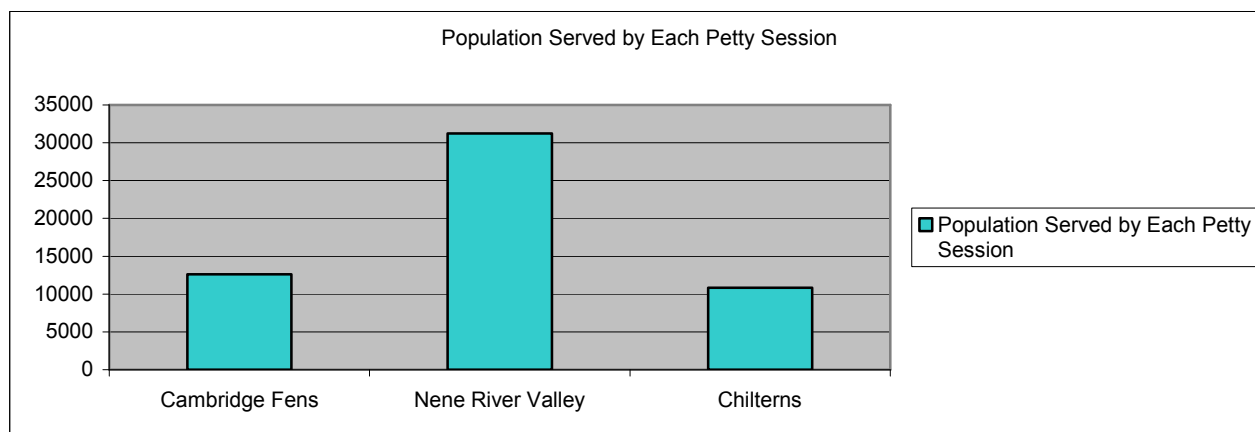
NB. Cases 266, 267, 268, 269, 270 pertaining to Ivinghoe Petty Session were in fact found in the *Northampton Mercury* in 1869 (not in the *Bucks Herald*). To facilitate the correct filtering to take place, using the access database, this entry has been changed to '1868' and '*Bucks Herald*' in order for these cases to be included in the Chiltern totals.

## Appendix 6

|   | Cambridge Fens | Nene River Valley | Chilterns |
|---|----------------|-------------------|-----------|
| No. of Petty Session Districts Represented in Sample Newspapers for Each Region | 5              | 5                 | 12        |



|   | Cambridge Fens | Nene River Valley | Chilterns |
|---|----------------|-------------------|-----------|
| Population Served by Each Petty Session | 12619.24       | 31244.6           | 10841.75  |



### Calculations

|                           | Cambridge Fens | Nene River Valley | Chilterns |
|---------------------------|----------------|-------------------|-----------|
| Population                | 63096.2        | 156223            | 130101    |
| No. of Sessions           | 5              | 5                 | 12        |
| People Served by Sessions | 12619.24       | 31244.6           | 10841.75  |

#### Sources:

Cambridge Chronicle 1860 – 1920

Northampton Mercury 1860 – 1920

Bucks Herald 1860 – 1920

Hertfordshire Mercury 1860 – 1920

*Census 1851: Population tables 1: Number of inhabitants vol 1* (Her Majesty's Stationery Office, London, 1852)

*Census 1881: Population tables* (Her Majesty's Stationery Office, London, 1882)

*Census of England and Wales 1921: General tables* (Her Majesty's Stationery Office, London, 1925)

## **Appendix 7**

### **Database information**

#### Purpose of designing a database

After initial sampling and surveying of local and regional newspapers, it was apparent that the only way such a large quantity of data could be effectively managed, would be within a specifically designed database.

#### Method of collecting information

Four regional newspapers<sup>1</sup> were used to survey the three research regions:<sup>2</sup> one hundred years worth, equating to five thousand, two hundred individual newspapers.<sup>3</sup> These newspapers were mostly viewed at Colindale newspaper archives<sup>4</sup>, either in their original form or as copies on microfilm. Relevant information was recorded by hand on prepared sheets in readiness for transferral to the database.

#### How was it done

The database was constructed by using 'Microsoft Access'.<sup>5</sup> It was not clear at this stage how much information would prove to be relevant to the research, so a form was built to ease the entry of data and the recovery of so much information.<sup>6</sup> Two thousand, seven hundred and thirty two entries were submitted to the database.<sup>7</sup>

#### How it was used

The database was never designed to produce precise and wholly accurate statistical data. It was created to show patterns and stress trends in the type and frequency of crimes associated with the continued assertion of subsistence rights.

#### What it achieved

The filters in the programme gave the database the capacity to rapidly search specific information, enabling it to answer far more questions than it was originally anticipated. The database proved very successful. Data was easily transferred to microsoft excel spreadsheets, which in turn produced basic graphs. The comparison of the data was simplified by these visual representations of the information.

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<sup>1</sup> *Cambridge Chronicle, Northampton Mercury, Bucks Herald and the Hertfordshire Mercury.*

<sup>2</sup> Cambridge Fens, the Nene River Valley in Northamptonshire and parts of the Chilterns in Hertfordshire and Buckinghamshire.

<sup>3</sup> See appendix 5 for information on which newspapers were used.

<sup>4</sup> Some viewed at Buckinghamshire local archives and Hertfordshire local archives.

<sup>5</sup> 2000 (9.0.3821SR-1)

<sup>6</sup> Asking questions such as: name(s) of offender(s), offence, occupation, sex, place of residence, where offence took place, amount of fine if any, previous convictions, who brought prosecution, witnesses.

<sup>7</sup> 193 for the Cambridge Fens, 1373 for the Nene River Valley and 1166 for the Chilterns.

### Potential

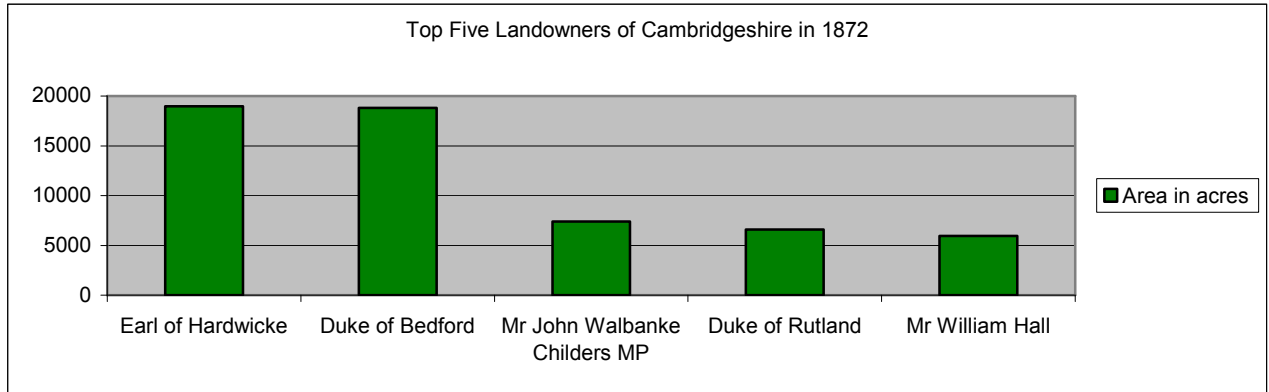
Potentially the size of the database could be enlarged by inserting information from other newspapers in the region or by adding other regions to the study.

### Conclusion

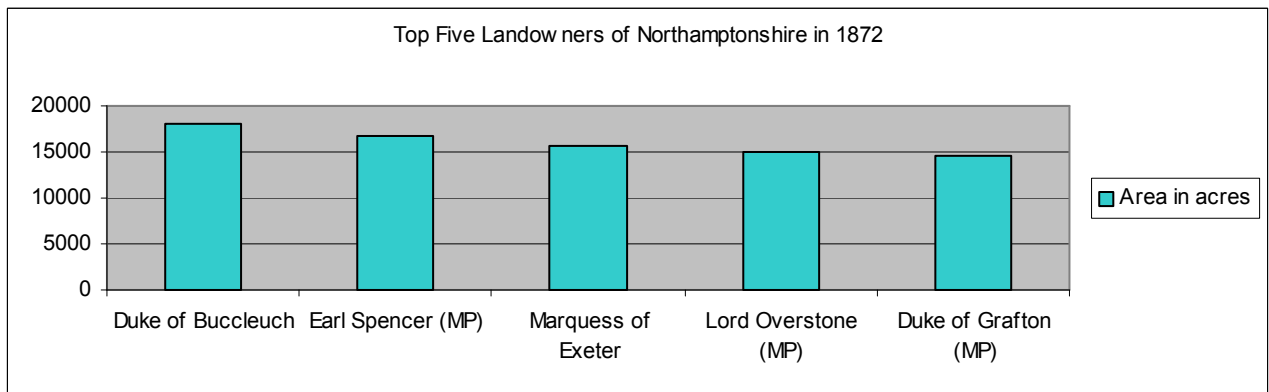
The source material and data comparisons would have been greatly reduced without the aid of the access database. Displaying the data into graphs and tables simplified the process of identifying the strength and spread of public feeling, and the forms in which local tensions and conflict were expressed.

## Appendix 8

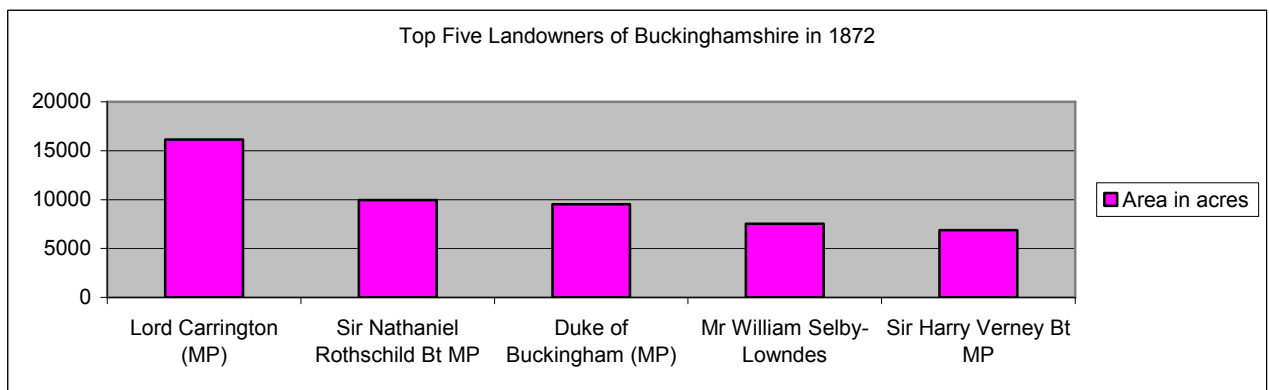
| Name of Landowner | Earl of Hardwicke | Duke of Bedford | Mr John Walbanke Childers MP | Duke of Rutland | Mr William Hall |
|-------------------|-------------------|-----------------|------------------------------|-----------------|-----------------|
| Area in acres     | 18978             | 18800           | 7402                         | 6585            | 5956            |



| Name of Landowner | Duke of Buccleuch | Earl Spencer (MP) | Marquess of Exeter | Lord Overstone | Duke of Grafton (MP) |
|-------------------|-------------------|-------------------|--------------------|----------------|----------------------|
| Area in acres     | 17965             | 16800             | 15625              | 15045          | 14507                |



| Name of Landowner | Lord Carrington (MP) | Sir Nathaniel Rothschild Bt MP | Duke of Buckingham (MP) | Mr William Selby-Lowndes | Sir Harry Verney Bt MP |
|-------------------|----------------------|--------------------------------|-------------------------|--------------------------|------------------------|
| Area in acres     | 16128                | 9959                           | 9511                    | 7537                     | 6890                   |



Source:  
Kevin Cahill, *Who Owns Britain* (Edinburgh, 2001)

## **Appendix 9**

### **John Linnell on Parks and Nature**

‘Parks are to me the most desolate. There seems to be a dearth of intelligence and sympathy with Nature, or rather with design of the Creator, whose thoughts or intentions are not perceived because men seek to bend Nature to express their sense of their own importance, their riches and powers: and they put Nature as far as they can into a kind of livery, as they do their servants, degrading both with what pretends to be ornament. The landscape is reduced to a toy shop sentiment on a large scale: everything is denuded of those accompaniments, which give the true expression of grandeur or beauty to the scene.

It is true the trees are left to grow unrestrained, looking like aristocratic ‘swells’, isolated from all the undergrowth; and, with the ground shaved under them, they look like large toy trees placed upon a green board. It is not until one gets upon the common, near a forest, or into farmlands, that one begins to breathe again, and feel out of the influence of man’s despotism. Man stamps his own thoughts and character upon everything he meddles with, and, unhappily in most cases, he obliterates the work of God and substitutes his own.’<sup>1</sup>

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<sup>1</sup> A.T.Story, *The Life of John Linnell* (Richard Bentley and Son, 1892), pp. 50-51.

**Appendix 10**

John Clare's poems

**The Mores**

'Far spread the moorey ground a level scene  
 Bespread with rush and one eternal green  
 That never felt the rage of blundering plough  
 Though centurys wreathed spring's blossoms on its brow  
 Still meeting plains that stretched them far away  
 In uncheckt shadows of green, brown and grey

Unbounded freedom ruled the wandering scene  
 Nor fence of ownership crept in between  
 To hide the prospect of the following eye  
 Its only bondage was the circling sky  
 One mighty flat undwarfed by bush and tree  
 Spread its faint shadow of immensity'  
 And lost itself which seemed to eke its bounds  
 In the blue mist the orisons edge surrounds

Now this sweet vision of my blyish hours  
 Free as spring clouds and wild as summer flowers  
 Is faded all-a hope that blossomed free  
 And hathbeen once no more shall ever be  
 Inclosure came and trampled on the grave  
 Of labours rights and left the poor a slave  
 And memorys pride ere want to wealth did bow  
 Is both the shadow and the substance now  
 The sheep and cows were free to range as then  
 Where change might prompt nor felt the bonds of men  
 Cows went and came with evening morn and night  
 To the wild pasture as their common right  
 And sheep unfolded with the rising sun  
 Heard the swains shout and felt their freedom won  
 Tracked the red fallow field and heath and plain  
 Then met the brook and drank and roamed again  
 The brook that dribbled on as clear as glass  
 Beneath the roots they hid among the grass  
 While the glad shepherd traced their tracks along  
 Free as the lark and happy as her song  
 But now alls fled and flats of manya dye  
 That seemed to lengthen with the following eye  
 Moors lososing from the sight far smooth and blea  
 Where swopt the plover in its pleasure free

Are vanished now with commons wild and gay  
 As poets visions of lifes early day  
 Mulberry bushes where the boys would run  
 To fill his hands with fruit are grubbed and done  
 And hedgrowbriars-flower lovers overjoyed  
 Came and got flower pots- these are all destroyed  
 And sky bound mores in mangled garbs are left  
 Like mighty giants of their limbs bereft  
 Fence now meets fence in owners little bounds  
 Of field and meadow large as garden grounds  
 In little parcels little minds to please  
 With men and flocks imprisoned ill at ease  
 Each little path that led its pleasant way  
 As sweet as morning leading night astray  
 Where little flowers bloomed round a varied host  
 That travel felt delighted to be lost  
 Nor grudged the steps that he had taen as vain  
 When right roads traced his journeys and again  
 Nay on a broken tree hed sit awhile  
 To see the more and field and meadows smile  
 Sometimes with cowslaps smothered-then all white  
 With daises-then the smmers splendid sight  
 Of corn fields crimson oer the headach bloomed  
 Like splendid armys for the battle plumed  
 He gazed upon them with wild fancys eye  
 As fallen landscapes from an evening sky  
 These paths are stopt-the rude philistines thrall  
 Is laid upon them and destroyed them all  
 Each little tyrant with his little sign  
 Shows where man claims eart glows no more devine  
 But paths to freedom and to childhood dear  
 A board sticks up to notice 'no road here'  
 And on the tree with ivy overhaung  
 The hated sign by vulgar taste is hung  
 And tho the very birds should learn to know  
 When they go there they must no further go  
 This with the poor scared freedom bade good bye  
 And much they feel it in the smothered sigh  
 And birds and trees and flowers without a name  
 All sighed when lawless laws enclosure came  
 And dreams of plunder in such rebel schemes  
 Have found too truly that they were but dreams<sup>1</sup>

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<sup>1</sup> J.Clare, *The Mores*, 1822 from E.Robinson, and G.Summerfield, *Selected Poems and Prose of John Clare* (London, 1967), p. 169.



## The Parish

Born with the changes time and chance dothe bring,  
 A shadow reigns, yclept a woodland king,  
 Enthroned mid thorns and briers, a clownish wight,  
 My Lord's chief woodman in his title's height.  
 The bugbeat devil of the boys is he,  
 Who once for the swine picked acorns 'neath the tree,  
 Who gleaned their scraps of fuel from the wood;  
 When parish charity was vainly tried  
 'Twas their last refuge – which is now denied.  
 Small hurt was done by such intrusions there,  
 Claiming rotten as their harmless share,  
 Which might be thought in reason's candid eye  
 As sent by providence for such supply;  
 But Turks imperial of the woodland bough  
 Forbid their trespass in such trifles now,  
 Threatening the dithering wretch that hence proceeds  
 With jail and whipping for his shameless deeds,  
 Well pleased to bid their feeblest hopes decay,  
 Driving them empty from the woods away,  
 Cheating scant comfort of its pilfered blaze,  
 That doubtless warmed him in his beggar days.  
 Thus knaves in office love to show their power  
 And unoffending helplessness devour,  
 Sure on the weak to give thei fury vent  
 Where there's no strength injustice to resent;  
 As dogs let loose on harmless flocks at night,  
 Such feel no mercy where they fear no bite.<sup>2</sup>

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<sup>2</sup> J.Clare, *The Parish* from Waller, 'Enclosure and the Ecological significance of a poem by John Clare', *Journal of the Soil Association : Mother Earth*, July, 1964, pp. 231-237.

## **Appendix 11**

### **ACTS OF PARLIAMENT**

#### Statute of Merton 1235

Made provision for land to be provided for commoners to exercise their rights. But also stated that the Lord of the Manor had a right to make a profit from the common or waste providing he left sufficient pasture for the commoners.<sup>1</sup>

#### Malicious Trespass Act 1820

Provided for the summary punishment of ‘persons wilfully or maliciously damaging or committing trespasses on public or private property’.<sup>2</sup>

#### Prescription Act 1832

‘No claim which may lawfully be made at the common law, by custom, prescription, or grant, to any way or other easement...when such way or other matter...shall have been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years, shall be defeated or destroyed only that such way or other matter was first enjoyed at any time prior to such period of twenty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated and where such way or other matter as herein last before mentioned shall have been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefensible, unless it shall appear that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing.’<sup>3</sup>

‘Rights of common in gross (i.e. not attached to ownership of land) cannot be claimed under the Act.’<sup>4</sup>

#### Game Act 1831

Eased and simplified earlier punishments for day time poaching, night poaching still carried with it imprisonment or transportation ‘without option of a fine’. Two basic daytime offences. Killing game without a certificate (not rabbits), punishable by a fine of £5 and trespass in search of game, rabbits, snipe, woodcock, quail or landrail, maximum fine £2. Fine could be increased to £5 for poaching in an armed gang of five or more.<sup>5</sup>

#### Night Poaching Act 1844

Could face imprisonment or transportation.<sup>6</sup>

<sup>1</sup> ‘An End to Unlawful Enclosure’, *The Times*, 23 September, 1893.

<sup>2</sup> T.Shakesheff, ‘Wood and Crop Theft in Rural Herefordshire, 1800-60’, *Rural History* 13 (2002) 5.

<sup>3</sup> <http://www.swarb.co.uk/acts/1832PrescriptionAct.shtml>.

<sup>4</sup> I.Campbell and P.Clayden, *The Law of Commons and Village Greens* (Oxon, 1980), p. 11.

<sup>5</sup> P.Horn, *Labouring Life in the Victorian Countryside* (Dublin, 1976), p. 229.

<sup>6</sup> P.Horn, *Pleasures and Pastimes in Victorian Britain* (Gloucestershire, 1999), p. 118.

### General Enclosure Act 1845

Consent of those representing one-third in value of interests in the land necessary for an application of enclosure. Approval of two thirds necessary for sanction of enclosure. Where commons or wasteland was enclosed, land to be set aside for recreation according to the size of the local population.<sup>7</sup>

### The Recreation Grounds Act 1859

Land not exceeding £1,000 could be bequeathed for the purpose of providing public recreation grounds.<sup>8</sup>

### The Public Improvements Act 1860

This Act gave local authorities powers to acquire, hold and manage open spaces with money raised from the rates.<sup>9</sup>

### Poaching Prevention Act 1862

Allowed the police to search any person on the road or in a public place whom they suspected of poaching or having in their possession a gun, nets, or snares for the purpose of killing or taking game Magistrates could order the confiscation of a convicted poacher's nets, snare or gun. It gave them the power to stop and search in any public place 'any person whom [they] have good cause to suspect coming from any land where he shall have been unlawfully in search or pursuit of Game' (25 & 26 Vict., c.114).<sup>10</sup>

### Metropolitan Commons Act 1866 and Commons Act 1876

To protect and manage common land primarily for the public, rather than for the agricultural interests involved.<sup>11</sup> Forbade the enclosure (1876 Act) of any common unless it could be shown that enclosure was for the benefit of the neighbourhood – but this did not give a right of public access.<sup>12</sup> 'The Metropolitan Commons Act 1866 forbade any further inclosure of the common lands situated in the Metropolitan Police District and they have remained frozen to the present day.'<sup>13</sup>

### Public Health Act 1875

Broadened and reinforced the park movement.<sup>14</sup>

<sup>7</sup> H.Conway, *People's Park* (Cambridge, 1991), p. 224.

<sup>8</sup> H.Conway, *People's Park*, p. 225.

<sup>9</sup> H.Conway, *People's Park*, p. 63.

<sup>10</sup> P.Horn, *Labouring Life*, p. 230.

<sup>11</sup> I.Campbell and P.Clayden, *The Law of Commons*, p. 29.

<sup>12</sup> L.Dudley Stamp, 'The Common Lands and Village Greens of England and Wales', *The Geographical Journal*, 130 (1964), p. 460.

<sup>13</sup> G.D.Gadsden, *Law of Commons* (London, 1988), p. 5.

<sup>14</sup> H.Conway, *People's Park*, p. 70.

### Ground Game Act 1880

Entitled farmers to shoot rabbits and hares over their land, without the permission of their landlord. Every occupier of the land shall have, as incident to and inseparable from his occupation of the land, the right to kill and take ground game thereon. (43 & 44 Vict., c.47).<sup>15</sup>

### Local Government Act 1894

A district council may with the consent of the county council for the county, within which any common land is situate, aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district.<sup>16</sup>

### Commons Act 1899

The council of a district may make a scheme for the regulation and management of any common within their district with a view to the expenditure of money on the drainage, levelling, and improvement of the common, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order on the common.<sup>17</sup>

### Open Spaces Act 1906

Empowered local authorities – county, district and parish councils – to manage village greens. Byelaws to control public behaviour may be made and areas set aside for cricket, football or similar games.<sup>18</sup>

### Wildlife and Countryside Act, 1981

Concerned with the conservation of European wildlife and natural habitats. Also required authorities to maintain up to date definitive maps and statements for the purpose of clarifying public rights of way.<sup>19</sup>

### Commons Registration Act 1965

Established a system of registration authorities in England and Wales to record and maintain registers of boundaries of common land and village greens, rights of common and owners of common land.<sup>20</sup>

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<sup>15</sup> P. Horn, *Pleasures and Pastimes*, p. 111.

<sup>16</sup> P. Clayden, *Our Common land: the law and history of commons and village greens* (Oxford, 1985), p. 81.

<sup>17</sup> P. Clayden, *Our Common land*, p. 81.

<sup>18</sup> P. Clayden, *Our Common land*, p. 69.

<sup>19</sup> <http://www.jncc.gov.uk>

<sup>20</sup> I. Campbell and P. Clayden, *The Law of Commons*.

**Appendix 12****LANDOWNERS IN THE UK (2001)<sup>1</sup>**

|   |                 |
|---|-----------------|
| 1 The Forestry Commission                     | 2,400,000 acres |
| 2 The Ministry of Defence                     | 750,000 acres   |
| 3 The National Trust of England and Wales     | 550,000 acres   |
| 4 The Pension Funds                           | 500,000 acres   |
| 5 The Utilities: water, electricity, railways | 500,000 acres   |
| 6 The Crown Estate                            | 384,000 acres   |
| 7 The Duke of Buccleuch                       | 277,000 acres   |
| 8 The National Trust For Scotland             | 176,000 acres   |
| 9 The Duke of Atholl's trusts                 | 148,000 acres   |
| 10 The Duchy of Cornwall                      | 141,000 acres   |

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<sup>1</sup> K.Cahill, *Who Owns Britain* (Edinburgh, 2001), p. 18.

### **Appendix 13**

Numbers of night poaching cases:

In 1862 there were 888 prosecutions for night poaching and destroying game in England and Wales out of a total of 10,187 game law prosecutions; in 1870 the totals were 522 out of a total of 10,580.<sup>1</sup>

Even in 1892, when the number of game law prosecutions had fallen to around eight and a half thousand, nearly seven eighths of them were for the daytime pursuit of game.<sup>2</sup>

In East Anglia between 1888-92 inclusive there were, for instance, 123 persons charged with setting fire to crops, plantations or heaths, or attempting to do so. Over the five year period 1865-69 there had been 73, and 1855-59 there had been only 66.<sup>3</sup>

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<sup>1</sup> Statistics on Game Law cases in the *Report of the Select Committee on Game Laws*, vii; and the *Returns of Prosecution in England under the Game Laws 1857-62*, 2.

<sup>2</sup> Judicial Statistics, *Parliamentary Papers*, 1893-94, CIII.

All quoted in P.Horn, *Labouring Life in the Victorian Countryside* (Dublin, 1976), pp. 232-3.

<sup>3</sup> Judicial Statistics, *Parliamentary Papers*, 1893-94 CIII.

All quoted in P.Horn, *Labouring Life*, pp. 224-233.

## Appendix 14



Source:  
Sign outside Northamptonshire's County Court.

**Appendix 15****AGRICULTURAL LABOURERS' WEEKLY EARNINGS****Buckinghamshire**

1867-70: 14s. 3d.

1898: 15s. 2d.

1907: 16s. 11d.

**Cambridgeshire**

1867-70: 14s. 3d.

1898: 16s. 5d.

1907: 16s. 3d.

**Hertfordshire**

1867-70: 13s. 6d.

1898: 16s. 1d.

1907: 16s. 10d.

**Northamptonshire**

1867-70: 15s. 3d.

1898: 16s. 8d.

1907: 16s. 9d.<sup>1</sup>

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<sup>1</sup> All figures from E.H.Hunt, *Regional Wage Variations in Britain 1850-1914* (Oxford, 1973), p. 62.



**Appendix 16****THE EIGHT CLASSES OF LANDOWNERS IN EACH COUNTY (1870S)**Buckinghamshire

|                   |      |
|-------------------|------|
| Peers             | 5    |
| Great Landowners  | 17   |
| Squires           | 29   |
| Greater Yeoman    | 132  |
| Lesser Yeoman     | 357  |
| Small Proprietors | 2672 |
| Cottagers         | 6420 |
| Public Bodies     | 276  |

Cambridgeshire

|                   |      |
|-------------------|------|
| Peers             | 1    |
| Great Landowners  | 13   |
| Squires           | 39   |
| Greater Yeoman    | 216  |
| Lesser Yeoman     | 505  |
| Small Proprietors | 5373 |
| Cottagers         | 6677 |
| Public Bodies     | 350  |

Hertfordshire

|                   |      |
|-------------------|------|
| Peers             | 10   |
| Great Landowners  | 15   |
| Squires           | 39   |
| Greater Yeoman    | 138  |
| Lesser Yeoman     | 237  |
| Small Proprietors | 2184 |
| Cottagers         | 9556 |
| Public Bodies     | 208  |

Northamptonshire

|                   |       |
|-------------------|-------|
| Peers             | 13    |
| Great Landowners  | 23    |
| Squires           | 31    |
| Greater Yeoman    | 156   |
| Lesser Yeoman     | 444   |
| Small Proprietors | 3287  |
| Cottagers         | 10010 |
| Public Bodies     | 501   |

All data from J.Bateman, *The Great Landowners of Great Britain and Ireland* (Leicester, 1971), pp. 501- 507.

## Appendix 17

| National Game Law Convictions |  |                |
|-------------------------------|--|----------------|
| Years                         | Trespassing in pursuit of Game (daytime) | Night Poaching |
| 1870                          | 9089                                     | 522            |
| 1878-82                       | 9458                                     | 548            |
| 1883-87                       | 9123                                     | 525            |
| 1888-92                       | 7351                                     | 430            |
| 1893-97                       | 7077                                     | 465            |
| 1895-99                       | 6348                                     | 386            |

Source:

P.Horn, *The Changing Countryside* (London, 1984), p. 105.

## Appendix 18

| <b>Percentage of Defendants with Previous Convictions*</b> |                |             |            |
|--|----------------|-------------|------------|
| * Noted as the 1st named offender in the sample newspapers |                |             |            |
|  | Cambridge Fens | Nene Valley | Chilterns  |
| <b>Previous offence</b>                                    | 0              | 102         | 112        |
| <b>No. of cases</b>  | 107            | 1095        | 905        |
| <b>Percentage</b>  | 0              | 9.315068493 | 12.3756906 |

Sources:

Cambridge Chronicle 1860 – 1920  
 Northampton Mercury 1860 – 1920  
 Bucks Herald 1860 – 1920  
 Hertfordshire Mercury 1860 – 1920

## Appendix 19

| Occupation of Poaching Defendants* |                |                   |           |
|------------------------------------|----------------|-------------------|-----------|
| Occupation                         | Cambridge Fens | Nene River Valley | Chilterns |
| Baker                              |                | 3                 |           |
| Beerhouse keeper                   |                | 3                 |           |
| Black smith                        |                | 2                 | 1         |
| Bookmaker                          |                | 4                 |           |
| Boat man                           |                |                   | 2         |
| Brick layer                        |                | 2                 | 6         |
| Brick maker                        |                |                   | 1         |
| Butcher                            | 5              | 8                 | 1         |
| Cab driver                         |                | 1                 |           |
| Carpenter                          | 1              | 3                 | 1         |
| Carrier                            |                | 5                 |           |
| Carter                             |                | 1                 | 1         |
| Chair maker                        |                |                   | 7         |
| Chair turner                       |                |                   | 2         |
| Chemist                            |                |                   | 1         |
| Collier                            |                |                   | 1         |
| Gas stocker                        |                | 2                 |           |
| Discharged soldier                 |                | 2                 |           |
| Draper                             |                | 1                 |           |
| Drover                             |                | 4                 |           |
| Elderly man                        |                |                   | 1         |
| Engine driver                      |                | 2                 |           |
| Enginer                            | 2              |                   |           |
| Ex gamekeeper                      |                | 1                 |           |
| Farmer                             | 10             | 5                 |           |
| Fish monger                        |                | 2                 |           |
| Foundry man                        |                | 3                 |           |
| Fruittier                          |                | 1                 |           |
| Gardener                           |                | 2                 |           |
| General dealer                     | 2              | 1                 |           |
| Grocer                             |                | 1                 |           |
| Hay trusser                        |                | 1                 |           |
| Higgler                            | 1              | 1                 |           |
| Horse breaker                      |                | 1                 |           |
| Horse dealer                       | 1              | 1                 |           |
| House keeper                       |                | 1                 |           |
| Inn keeper                         |                | 1                 | 1         |
| Invalided soldier                  |                |                   | 1         |
| Ironstone worker                   |                | 9                 |           |
| Labourer                           |                | 339               | 139       |
| Lime worker                        |                | 1                 |           |
| Militiaman                         |                |                   | 1         |
| Married woman                      |                | 1                 |           |
| Mason                              |                | 2                 |           |
| Navvy                              |                | 4                 | 4         |
| Nursery man                        |                |                   | 2         |
| Old shepherd                       |                | 1                 |           |
| Plate layer                        | 2              |                   |           |
| Publican                           | 2              | 1                 |           |
| Press man                          |                | 1                 |           |
| Railway fireman                    | 1              |                   |           |
| Railway servant                    | 1              |                   |           |
| Reeve carrier                      |                | 1                 |           |
| Retired Farmer                     |                | 1                 |           |
| Riveter                            |                | 19                |           |
| Saddlers                           |                | 1                 |           |
| Sawyer                             |                | 1                 | 1         |
| Shepherd                           |                | 2                 | 5         |
| Shoe finisher                      |                | 25                |           |
| Shoe hand                          |                | 124               |           |
| Shoe maker                         |                | 61                | 2         |
| Shoe operative                     |                | 43                |           |
| Shop keeper                        | 1              |                   |           |
| Shunter                            |                | 1                 |           |
| Soldier                            |                | 1                 |           |
| Solicitors articled clerk          |                | 1                 |           |
| Stable man                         |                | 1                 |           |
| Tailor                             | 2              |                   |           |
| Wood dealer                        |                | 1                 | 1         |
| Youth                              | 7              | 36                | 36        |

\* Where recorded in newspapers

Sources:

Cambridge Chronicle 1860 – 1920

Northampton Mercury 1860 – 1920

Bucks Herald 1860 – 1920

Hertfordshire Mercury 1860 – 1920

## Appendix 20

| <b>Occupation of Fish Poaching Defendants*</b> |                       |                          |                  |
|--|-----------------------|--------------------------|------------------|
| <b>Occupation</b>                              | <b>Cambridge Fens</b> | <b>Nene River Valley</b> | <b>Chilterns</b> |
| Actor  |                       |                          | 1                |
| Bird Catcher (formerly a fisherman)            | 1                     |                          |                  |
| Boot closer                                    |                       |                          | 1                |
| Brick layer                                    |                       | 1                        |                  |
| Butcher  | 1                     |                          |                  |
| Carpenter                                      |                       | 1                        | 1                |
| Dealer   |                       |                          | 1                |
| Fisherman                                      | 2                     |                          |                  |
| Gamekeeper                                     |                       |                          | 5                |
| Gypsy  |                       |                          | 1                |
| Labourer                                       | 18                    | 4                        |                  |
| Laster   |                       | 1                        |                  |
| Manager  |                       | 1                        |                  |
| Masons Labourer                                |                       | 1                        |                  |
| Picture framer                                 |                       | 1                        |                  |
| Shoe finisher                                  |                       | 1                        |                  |
| shoe hand                                      |                       | 12                       |                  |
| Shoe maker                                     |                       | 3                        | 2                |
| Shoe operative                                 |                       | 2                        |                  |
| Stone mason                                    |                       | 1                        |                  |
| Tollgate keeper                                | 1                     |                          |                  |
| White smith                                    |                       | 1                        |                  |
| wood turner                                    |                       | 1                        |                  |

\* Where recorded in newspapers

Sources:

Cambridge Chronicle 1860 – 1920

Northampton Mercury 1860 – 1920

Bucks Herald 1860 – 1920

Hertfordshire Mercury 1860 – 1920

## Appendix 21

| Occupation of Wood Stealing Defendants* |                |                   |           |
|---|----------------|-------------------|-----------|
| Occupation                              | Cambridge Fens | Nene River Valley | Chilterns |
| A young girl                            |                | 1                 |           |
| Butcher                                 |                | 2                 |           |
| Brewery hand                            |                | 1                 |           |
| Carter                                  |                |                   | 1         |
| Collector                               |                | 1                 |           |
| Drover                                  |                | 1                 |           |
| Farmer                                  | 1              |                   |           |
| Furnace man                             |                | 1                 |           |
| Gardener                                |                | 1                 |           |
| Groom                                   | 1              |                   |           |
| Gypsy                                   | 1              | 1                 | 1         |
| Ironstone labourer                      |                | 1                 |           |
| Labourer                                | 13             | 11                | 10        |
| Married women                           |                | 11                | 2         |
| Militiaman                              |                | 1                 |           |
| Moulder                                 |                | 2                 |           |
| Pauper                                  |                | 1                 |           |
| Road man                                |                | 1                 |           |
| Sawyer                                  |                |                   | 2         |
| School boy                              | 1              |                   |           |
| Shoe hand                               |                | 3                 |           |
| Shoe maker                              |                | 6                 |           |
| Shoe rivetter                           |                |                   |           |
| Shoe room man                           |                | 1                 | 1         |
| Single woman                            | 1              |                   |           |
| Twister                                 |                |                   | 1         |
| Van driver                              |                | 1                 |           |
| Water man                               | 3              |                   |           |
| Youth                                   |                | 10                | 18        |

\* Where recorded in newspapers

Sources:

Cambridge Chronicle 1860 – 1920

Northampton Mercury 1860 – 1920

Bucks Herald 1860 – 1920

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