

Women and Crime in Sixteenth-Century Wales

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Summary

This thesis is the first full-length study of women and crime in sixteenth-century Wales. After the Acts of Union of 1536 and 1543, Wales fell under English legal jurisdiction. As such, Wales provides a key setting through which to question how a new system of criminal law could be developed and implemented. The sixteenth-century, however, has been somewhat neglected by historians of crime, as has the location of Wales. This study addresses this gap in research by utilising the detailed depositional evidence from the Welsh Great Sessions c.1542 to 1590. Further, this thesis draws especially on evidence from Montgomeryshire and Flintshire due to the richness of the surviving source material in these counties' gaol files, and the fact that these two counties were part of the same Great Sessions circuit.

Compared to the history of Welsh crime, the study of gender and crime has been much more vibrant. This thesis builds on previous research in this field by placing women's experience as perpetrators and victims of crime at the forefront of the investigation. Throughout, I examine the three main categories of offence that women experienced – theft, homicide, and witchcraft – and question how a woman's gender affected her treatment before the law. Indeed, the central arguments of these chapters expose the differences between criminal accusations made against women in their original formats and how these allegations could be modified and changed throughout the legal process.

While gender provides the central theme of this thesis, a secondary theory of space, place, and location has been used as framing tool through which to question how sixteenth-century Welsh people experienced and reacted to crime. This innovative approach, inspired by the work of gender historians such as Amanda Flather, has provided new insights into the contexts in which early modern crime was committed and experienced.

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Prefatory note

Dates follow old style, but the year is taken to begin on 1st January. Spelling and punctuation of quotations have been modernised throughout the thesis, though I have left the spelling and punctuation of book and pamphlet titles as they stand. I have used a variety of sources when checking the spelling of place names, including Murry Chapman's edited volumes of Great Sessions records from Montgomeryshire, Ellis Davies, *Flintshire Place Names* (Cardiff: University of Wales Press, 1959), Hywel Wyn Owen, *The Place-Names of East Flintshire* (Cardiff: University of Wales Press, 1994), and the database of Historic Welsh Place Names available at <https://historicplacenames.rcahmw.gov.uk/>.

Abbreviations

NLW GS National Library of Wales, Great Sessions

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1: Introduction

The Acts of Union of 1536 and 1543 were a major turning point in the history of Wales. The Acts re-drew boundaries within the country through the creation of English-style shires, changed the legal and administrative make-up of the regions, and brought the whole country fully under English jurisdiction. The impact these Acts had on Wales's cultural and national identity has been the subject of much commentary, however, the effect they had on the legal process and prosecution of crime has yet to be fully explored.¹ While there are some key works on the history of crime in Wales, there has not yet been a full-length study of the history of crime in Wales in the decades following the legal changes made by the Acts.² Moreover, the criminal history of the sixteenth century has also been overlooked in studies of crime in England, despite the fact that this area has consistently received more attention from historians of crime.³ In the case of England, the apparent neglect of sixteenth-century criminal history appears to be largely the result of the poor survival of records for this period.⁴ The somewhat patchy English records do not enable the types of textual analysis of depositional evidence that is often favoured by historians of crime.⁵ In Wales, however, the rich surviving evidence from the Great Sessions –

¹ The impact of the use of English in a Welsh legal setting has, however, received more commentary from historians. See, for example: John A. Andrews, *The Welsh Language in the Courts* (Aberystwyth: University College of Wales, 1984); J. G. Jones, 'The Welsh Language in Local Government: Justices of the Peace and the Court of Quarter Sessions, c. 1536-1800', in *The Welsh Language before the Industrial Revolution*, ed. by Geraint H. Jenkins (Cardiff: University of Wales Press, 1997) pp. 181-206.

² There has been one chapter on this subject: Nia Powell, 'Crime and the Community in Denbighshire during the 1590s: The Evidence of the Records of the Court of Great Sessions', in *Class, Community and Culture in Tudor Wales*, ed. by J. Gwynfor Jones (Cardiff: Cardiff University Press, 1989), pp. 261-94. Ben Howell also produced a calendar of Quarter Sessions records for this period, but aside from a short introduction, provided little analysis of the crimes detailed within. Ben Howell, *Law and Disorder in Tudor Monmouthshire* (Cardiff: Merton Priory Press, 1995).

³ A notable exception here is Joel Samaha, who argued that in Elizabethan Essex there was a notable rise in the number of felony cases from the 1590s, Joel Samaha, Joel B. Samaha, 'Hanging for Felony: The Rule of Law in Elizabethan Colchester', *The Historical Journal*, 21.4 (1978), 763-82 (p. 777).

⁴ For example, Samaha noted that in Essex, few records survive from the 1560s, Joel Samaha, *Law and Order in Historical Perspective: The Case of Elizabethan Essex*, (New York: Academic Press, 1974), p. 14.

⁵ A number of highly influential works of early modern crime history are centred on the analysis of depositional evidence and printed textual sources such as pamphlets, ballads and plays. See for example: Leanne Lieblein, 'The Context of Murder in English Domestic Plays, 1590-1610', *Studies in English Literature, 1500-1900*, 23.2 (1983), pp. 181-96; Garthine Walker, "'Demons in Female

the Welsh equivalent of the English assizes – means that the lack of in-depth study of sixteenth-century crime is difficult to justify.

There is a sense that Welsh crime (and Welsh history in general) should be left to its own historians. Works on Welsh history are often only found in Welsh historical journals or the journals of Welsh counties. For example, of eleven articles on early modern Welsh history published in 2011, only three were published in non-Welsh journals. In 2014 there were five early modern Welsh articles, all of which were published in Welsh-focused journals.⁶ Therefore, there is clear scope for more Welsh history to be considered within British historiography, and for more early modern Welsh sources to be considered within the field of criminal history.

While the Welsh sources have been largely underutilized, some key works on Welsh criminal history have emerged. The historiography of early modern Wales has often described the population of the country as either violent and lawless – thus crying out for reform - or cooperative and harmonious, with the Acts of Union imposed on the Welsh as part of Tudor state-building efforts.⁷ The impact of the Acts of Union on wider Welsh culture has been viewed by historians in an extremely negative light, and this, in some respects, led to concentrated efforts to identify unique cultural traditions such as the country's embracing of radical religion (such as Methodism) or the prevalence of popular protest (such as the 1839-1843 Rebecca Riots). D. V. J. Jones wrote several works on popular protest before producing his monograph on nineteenth-century crime.⁸ His work was also influenced by a broader

Form”: Representations of Women and Gender in Murder Pamphlets of the Late Sixteenth and Early Seventeenth Centuries’, in *Writing and the English Renaissance*, ed. by William Zunder and Suzanne Trill (London; New York: Longman, 1994), pp. 123–39; Francis E. Dolan, ‘Household Chastisements: Gender, Authority, and Domestic Violence’, in *Renaissance Culture and the Everyday*, ed. by Patricia Fumerton and Simon Hunt (Philadelphia: University of Pennsylvania Press, 1999), pp. 226–204; Martin J. Wiener, ‘Alice Arden to Bill Sikes: Changing Nightmares of Intimate Violence in England, 1558-1869’, *Journal of British Studies*, 40.2 (2001), 184–212.

⁶ The Welsh Historical Review publishes yearly bibliographies of articles on Welsh history.

⁷ For works emphasising the need for reform, see: J. Gwynfor Jones, *Concepts of Order and Gentility in Wales, 1540-1640* (Llandysul: Gomer Press, 1992), p. 150; Glanmor Williams, *Recovery, Reorientation and Reformation: Wales, c.1415-1642* (Oxford: Clarendon Press, 1987), p. 257. For the alternative view see, W. Rees, ‘The Union of England and Wales’, *Transactions of the Honourable Society of Cymmrodorion*, 1937, 27–100. Edward Rees’s work on Welsh Bandits contains extensive references to primary sources describing the dire condition of law and order in Wales before the Acts of Union as well as those that claimed the Council in the Marches was an effective source of order; Edward A. Rees, *Welsh Outlaws and Bandits: Political Rebellion and Lawlessness in Wales, 1400-1603* (Birmingham: Caterwen Press, 2001). pp. 191-197.

⁸ David J. V. Jones, *Before Rebecca: Popular Protests in Wales, 1793-1835* (London: Allen Lane, 1973); David J. V. Jones, *Chartism and the Chartists* (London: Allen Lane, 1975); David J. V. Jones, *Rebecca’s Children: A Study of Rural Society, Crime, and Protest* (Oxford: Clarendon, 1989); David J. V. Jones, *Crime in Nineteenth Century Wales* (Cardiff: University of Wales Press, 1992).

movement towards social histories of crime that considered the degree of popular participation in the law and the relationship between legal and popular values.⁹ These themes were also explored by Sharon Howard who emphasised the importance of discretionary elements of judgements in Wales, and also by Richard Ireland, whose study of Welsh crime ranging from the medieval period to the twentieth century identified that there was resistance to the criminal law and the continued use of custom.¹⁰ This thesis expands on the Welsh historiography by moving away from descriptions of crime which focus on collective actions as resistance to authority and instead focusing on the interpersonal dynamics and relationships between the parties involved in crime and its prosecution.¹¹

While both Welsh and Tudor crime have not yet generated much historical attention, the field of early modern women's criminal history has been much more vibrant in both English and wider European historiographies. John Beattie and Garthine Walker's pioneering works have inspired several other studies on this topic.¹² Walker's examination of gendered crime in Cheshire, especially of the crimes allegedly committed by women, challenged previous arguments that women

⁹ David J. V. Jones, *Crime in Nineteenth Century Wales* (Cardiff: University of Wales Press, 1992), pp. 239-250.

¹⁰ Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff: University of Wales Press, 2008), pp. 66-68, 135-136; Richard W. Ireland, *Land of White Gloves?: A History of Crime and Punishment in Wales* (London; New York: Routledge, 2015), p. 40. This theme of the continuation of customary law also appears as a central strand in the work of Sally Parkin; Sally Parkin, 'Witchcraft, Women's Honour and Customary Law in Early Modern Wales', *Social History*, 31.3 (2006), 295-318. The format of Ireland's book further demonstrates the perspective that the criminal history of Wales is less varied or interesting than other areas; the book is part of a series from Routledge entitled 'History of Crime in the UK and Ireland' where there are three monographs on English history (1688-1815, 1815-1880, 1880-1945 respectively) a monograph on Scottish history (dealing with the years 1660-1960) and Ireland's book (the middle ages to the twentieth century). The English works therefore deal with much smaller time frame than Ireland's, allowing for a very different approach to the topic, and emphasising that English criminal history appears to be regarded with much greater historiographical interest.

¹¹ For example, Howard's monograph contains a chapter on 'Contesting Authority: Governance, Politics, and Religion' in which she argues that even in periods of 'quiet' such as the 1720s which have been described by others as being periods of 'calm', still contained actions of political disturbances and localised tensions that were caused by political tensions; Howard, *Law and Disorder*, pp. 142-186.

¹² Beattie did not explicitly focus on gender in his study, but his findings have been hugely influential. J M Beattie, *Crime and the Courts in England 1660-1800* (Oxford: Clarendon Press, 1986); Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge: Cambridge University Press, 2003). See also, Sandra Clark, *Women and Crime in the Street Literature of Early Modern England* (Basingstoke: Palgrave Macmillan, 2003); Gregory Durston, *Victims and Viragos: Metropolitan Women, Crime and the Eighteenth-Century Justice System* (Bury St. Edmunds: Abramis, 2007); Jennine Hurl-Eamon, *Gender and Petty Violence in London, 1680-1720* (Columbus: Ohio State University Press, 2005); Randall Martin, *Women Murder and Equity in Early Modern England* (London; New York: Routledge, 2007).

were treated with leniency before the courts.¹³ Walker demonstrated that directly comparing the experiences of men and women before judges and juries without first considering the wider context of the alleged offences and the gendered legal mechanisms of the benefits of clergy and of belly is not the same as comparing like with like.¹⁴ Therefore, higher rates of partial verdicts among female thieves can be explained not by leniency, but rather an awareness on the part of jurors that a female offender was unable to claim benefit of clergy in the same way as a male counterpart.¹⁵

Other studies of early modern crime have commented on the higher rate of partial verdicts for female offenders.¹⁶ While the gender of the defendant has often been cited as the reason for a partial verdict, alternative explanations based on other social and legal factors have been explored. Cockburn argued that the altering of indictments was connected to the guilty pleas in the English assizes. He found that during the first thirty years of Elizabeth's reign, guilty pleas were a very rare occurrence in the English record. This then dramatically changed from 1587-90 where guilty became a routine plea thus rendering partial verdicts unnecessary.¹⁷ They did, however, continue to be used as Peter King's examination of partial verdicts in the Old Bailey during the late eighteenth century shows. His study revealed that the ethnicity of the defendant and the victim could dictate how likely the charge was to result in a partial verdict.¹⁸ Partial verdicts can, therefore, be approached from a variety of angles, and yield information that goes beyond

¹³ Frank McLynn also argued that juries and judges had an attitude of chivalry toward female offenders, F. J. McLynn, *Crime and Punishment in Eighteenth Century England* (Oxford England; New York: Oxford Paperbacks, 1991), pp. 128-129.

¹⁴ Walker, *Crime, Gender and Social Order*, pp. 177, 208-209.

¹⁵ Walker, *Crime, Gender and Social Order*, p. 113. See also, Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987), p. 143.

¹⁶ Beattie identified that women were more likely than men to receive partial verdicts and his findings were replicated by others: Beattie, *Crime and the Courts*, p. 182; J. M. Beattie, 'Crime and the Courts in Surrey, 1736-1753', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn, 4th Edition (Abingdon: Routledge, 2016), pp. 155-86 (p. 163). See also, Peter King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800', *The Historical Journal*, 27.1 (1984), 25-58 (p. 35). Studies have also shown that there are offences where partial verdicts were incredibly rare. See for example, Laurie Edelstein, 'An Accusation Easily to Be Made? Rape and Malicious Prosecution in Eighteenth-Century England', *The American Journal of Legal History*, 42.4 (1998), 351-90 (pp. 360-362).

¹⁷ J. S. Cockburn, 'Trial by the Book? Fact and Theory in the Criminal Process, 1558-1625', in *Legal Records and the Historian*, ed. by J. H. Baker (London: Royal Historical Society, 1978), pp. 60-80 (p. 73).

¹⁸ Peter King, 'Ethnicity, Prejudice, and Justice: The Treatment of the Irish at the Old Bailey, 1750-1825', *Journal of British Studies*, 52.2 (2013), 390-414, (pp. 396-7, 407).

statistics of the relative treatment of men and women before the court in order to engage with broader themes of changes in the legal process and wider society.

In this thesis, a close reading of partial verdicts reveals the ways in which decisions made by juries altered the overall gender ratio of who was accused and prosecuted for what crime. For example, in Chapter Two, which focuses on the crime of theft, I have argued that the differences between the original indictment and the eventual partial verdicts suggest that members of the Welsh public viewed women as more criminally dangerous than previous historians have described.¹⁹ While much of the evidence in this study for altered indictment and partial verdicts is found when examining cases of theft, this was an important technique available to grand juries in other types of offence too. The charge of manslaughter has been argued to be the result of a legal fiction created by juries and judges who recognised that a person convicted of murder might not always be as deserving of the death penalty as each other.²⁰ Alterations made to indictments against men accused of *maleficium* (that is, specifically harmful magic that was classified as a felony) also forms a key part of the investigation into gendered beliefs in witchcraft in Wales. This methodology of reading partial verdicts alongside the original charges and surrounding depositional evidence further nuances our understanding of the adjustments that juries and judges could make to a criminal charge as well as how these adjustments affected the overall patterns of female offending.

This thesis explores the impact of partial verdicts and the surrounding perceptions of the ways in which three key felony offences were understood by legal authorities to be specifically gendered. Chapter Two addresses the crime of theft, Chapter Three discusses women's experiences as the perpetrators and victims of lethal violence, and Chapter Four explores the crimes of slander and witchcraft. The decision to structure this study around these crimes has been largely in response to the evidence available; the majority of the crimes allegedly committed by women or that have female victims in this time period can be gathered under these headings. These terms are also deceptively narrow. For example, 'theft' covers a wide range of actions; housebreaking to burglary, robbery to pickpocketing, grand to petty larceny – all

¹⁹ See for example, McLynn, *Crime and Punishment*, p. 128.

²⁰ Samaha argued that there was a public and judicial acknowledgement that there was a 'need to temper the rigid felony laws' both in terms of the ways in which felonies were defined and the punishments ascribed to them, Samaha, 'Hanging for Felony', p. 775.

crimes that had different legal and gendered nuances. Chapter Two thus explores the ways in which the gender of the accused influenced the accusations made against them and their treatment in the Welsh legal process. This thesis's investigation into women and homicide in Chapter Three addresses the ways in which women used and experienced lethal force – the reasons and motivations for their involvement in these offences, and the settings in which female violence was and was not socially and legally acceptable. Both theft and homicide have been overwhelmingly gendered as male in the historical record and the historiography. This thesis refocuses on female perpetrators and argues that key themes associated with male offending – theft offences that were dangerous and required planning, homicides that were the result of sudden altercations – are also prominent when the accused was a woman.

Chapter Four takes a different approach by focusing on two crimes that have largely been found by previous historians to be gendered as female.²¹ As with Chapters Two and Three, this section argues that the gendered patterns of offending have been overemphasised in the historiography. Historians of Welsh witchcraft have focused on the female perpetrators of *maleficium*, but this study demonstrates that by looking at the alterations of indictments made by trial juries, a more prominent Welsh belief in male witches as being capable of *maleficium* becomes evident. This is important when considering the overall pattern of female offending in sixteenth-century Wales; female crimes should not be characterised as abnormal or extraordinary as this risks characterising women who appear in these records in ways that are problematically different to the characterisation of their male counterparts.

While this study is structured around gendered criminal offences, this thesis also argues that there is scope for historians of crime to use an analysis of space, place, and location to provide further insights into the nature of female crime and the motivations behind criminal offences in the early modern period. Amanda Flather's account of the ways in which space acted as a medium through which social ideas and practices were produced has been hugely influential for this study. Flather's

²¹ This is true for the British Isles, and for Europe as a whole, though there are a number of notable exceptions to this pattern. Anne Llewellyn Barstow's *Witchcraze* contains an appendix of numbers of male and female accused witches across several regions of Europe. From her figures, Finland, Estonia, Russia, and some regions of France and Italy all emerge as locations where 50% or more of the accused witches were male; Anne Llewellyn Barstow, *Witchcraze: New History of the European Witch Hunts* (San Francisco: Bravo, 1995).

highlighting of the ways in which human agency constructed spaces has inspired this thesis's focus on the interconnected ideas of gender and society that indicated whether or not a person could expect to be safe and free from harm in certain spaces, and how severe a criminal offence was when it violated that safety.²² Further, Flather's argument that people imposed their own meaning on space in response to the different ways in which they experienced it also provides important ideas through which witnesses and victims described the offence that had allegedly occurred.²³ This thesis argues that attention to the question of space in criminal proceedings – where and when the offence had occurred, how threatened the victim felt, whether they were in a location where they should have been protected – affected how the offence was understood and prosecuted. Sixteenth-century ideas that the home was to be regarded as a place of safety underlies the analysis in all three chapters, with offences committed in domestic areas appearing as particularly heinous, both in the way that they were described by the alleged victims and in the legal distinctions that meant that these offences carried harsher penalties. Further nuances specific to each crime have been explored, demonstrating that theories about gender and space formed part of the key ideological framework through which people experienced the world around them.²⁴

The thesis thus contributes to the study of early modern crime by considering an under-studied time period and location. It focusses on the relationships – community, familial, and spatial – between accusers and accused and uses the themes of gender and space to explore the ways in which the experience and prosecution of crime were gendered in Wales.

1.1: Gender, crime, and the law

When the history of crime first emerged as a field of historical interest most studies focused on quantitative analyses that examined what type of person was accused of committing what type of offence.²⁵ Generally, these studies found that, in the early

²² Amanda Flather, *Gender and Space in Early Modern England* (Woodbridge: Boydell Press, 2011), p. 3.

²³ Flather, *Gender and Space*, pp. 1-2.

²⁴ Flather, *Gender and Space*, p. 1.

²⁵ Melvin Humphreys, *The Crisis of Community: Montgomeryshire, 1680-1815* (Cardiff: University of Wales Press, 1996), pp. 233, 235. See also, J. S. Cockburn, 'The Nature and Incidence of Crime in England 1559-1625: A Preliminary Study', in *Crime in England 1550-1800* (London: Methuen & Co, 1977), pp. 49-71; Peter Lawson, 'Property Crime and Hard Times in England, 1559-1624', *Law and History Review*, 4.1 (1986), 95-127.

modern period, women were accused of committing only a small proportion of crimes. As a result, female criminals received far less attention than their male counterparts.²⁶ When women's crimes were analysed, they were either argued to be petty offences that were motivated by an immediate need, or abnormal deeds that marked the perpetrators as particularly unusual.²⁷ Male criminality was thus regarded as the norm, with female criminality described as being in some way deviant from it.

Feminist historians re-focused the issue of crime and criminality onto women by arguing that the law was geared especially towards punishing women who strayed from patriarchal power.²⁸ The key evidence for this argument was the fact that husband-murder was classified as petty treason. The wife who killed her husband not only committed the sin of murder but also challenged the patriarchal authority of both the household and the state. For this reason, women who were convicted of this crime were burned at the stake – rather than hanged, as other murderesses were.²⁹ The severity of this legal penalty led to Ruth Campbell's argument that women were legally disadvantaged and discriminated against due to the fact that they were convicted by all-male juries and using laws that had the specific purpose of subjugating women.³⁰ While it is tempting to view the laws surrounding petty treason as patriarchal authority gone wild, this type of analysis anachronistically

²⁶ For example, later editions of Sharpe's *Crime in Seventeenth-Century England: A County Study* (Cambridge: Cambridge University Press, 1983) inserted extra paragraphs on female crime and an additional chapter; J A Sharpe, *Crime in Early Modern England, 1550-1750*, 2nd Edition (London ; New York: Longman, 1999). Frank McLynn's study also relegated female experience of crime to independent chapters; McLynn, *Crime and Punishment in Eighteenth Century England*.

²⁷ For a critique of this approach see, Garthine Walker, 'The Strangeness of the Familiar: Witchcraft and the Law in Early Modern England', in *The Extraordinary and the Everyday in Early Modern England: Essays in Celebration of the Work of Bernard Capp*, ed. by Angela McShane and Garthine Walker (Basingstoke: Palgrave Macmillan, 2010), pp. 105–24.

²⁸ See for example, Ruth Campbell, 'Sentence of Death by Burning for Women', *The Journal of Legal History*, 5.1 (1984), 44–59 (p. 55).

²⁹ For contemporary perceptions of these crimes see for example; Thomas Kyd, *The Trueth of the Most Wicked and Secret Murthering of Iohn Brewen, Goldsmith of London Committed by His Owne Wife, through the Prouocation of One Iohn Parker Whom She Loued: For Which Fact She Was Burned, and He Hanged in Smithfield, on Wednesday, the 28 of Iune, 1592. Two Yeares after the Murther Was Committed*. (London: [T. Orwin?] for Iohn Kid, and are to be sold by Edward White, 1592); Anonymous, *A Compleat Narrative of the Tryal of Elizabeth Lillyman Found Guilty of Petty Treason and Condemned at the Sessions at the Old Bayly the 10th of This Instant Iuly, to Be Burned to Death, for the Barbarous and Bloody Murther of VVilliam Lillyman Her Late Husband : With Her Confession and Penitent Behaviour, since Such Her Condemnation*. (London: For Phillip Brooksby, 1675); Sarah Elestone, *The Last Speech and Confession of Sarah Elestone at the Place of Execution Who Was Burned for Killing Her Husband, April 24. 1678. With Her Deportment in Prison since Her Condemnation. With Allowance*. (London: For T.D., 1678); Anonymous, *A Cabinet of Grief, or, The French Midwife's Miserable Moan for the Barbarous Murther Committed upon the Body of Her Husband with the Manner of Her Conveying Away His Limbs and of Her Execution, She Being Burnt to Ashes on the 2d of March in Leicester-Fields*. (London, 1688).

³⁰ Campbell, 'Sentence of Death by Burning for Women', pp. 44–59.

applies more modern understandings of equality before the law to a time period where such understandings did not exist. This argument also ignores the discretionary powers of the jury and the alternative explanations that juries generally reacted with sympathy towards female defendants.³¹

Studies of female crime have also focused on women's experiences as *victims*, with domestic violence emerging as a key area of study. Elizabeth Foyster urged historians writing on the history of domestic violence to be cautious, arguing that theories about modern-day domestic violence lead to assumptions that domestic violence was 'a social 'problem' to be regulated and controlled'.³² Instead, Foyster emphasised that while male superiority and authority remained a consistent feature of discourse in the early modern period, this authority was limited and abuses of it were condemned. In this respect, women's experience of violence cannot be purely described as one of victimhood. Indeed, Jeannine Hurl-Eamon's investigation of the Westminster Quarter Sessions, 1685-1720, argued that women were not routinely legally disadvantaged in the courts because wives could and did prosecute men for even minor instances of violence.³³ Hurl-Eamon's argument here has been important for this study, as she demonstrated that women were active participants in the legal system who made complex choices about how to prosecute a wrong that they felt they had experienced.

A more direct comparison to Hurl-Eamon's findings has, however, not been possible; as we shall see, though the Great Sessions gaol files do contain recognizances, this legal document served a very different function in this court, meaning that Hurl-Eamon's approach to the investigation of domestic violence cannot be replicated in this present study. Foyster and Hurl-Eamon's work has instead provided important contexts for the study of domestic homicide in the third chapter of this thesis. I argue that sixteenth-century ideas about whether or not it was socially acceptable for a man to beat his wife (with any degree of severity) sit

³¹ See for example, McLynn, *Crime and Punishment*, pp. 128-9; Carol Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *Journal of Social History*, 8.4 (1975), 38-60 (pp. 39-40); Barbara Hanawalt, 'The Female Felon in Fourteenth-Century England', *Viator*, 5 (1974), 253-68 (p. 266).

³² Elizabeth A. Foyster, *Marital Violence: An English Family History, 1660-1875* (Cambridge: Cambridge University Press, 2005) p. 4.

³³ Instead, Hurl-Eamon argued that the disadvantaged group were the servants, who were only able to bring cases in instances of breach of contract. Jeannine Hurl-Eamon, 'Domestic Violence Prosecuted: Women Binding over Their Husbands for Assault at Westminster Quarter Sessions, 1685-1720', *Journal of Family History*, 26.4 (2001), 435-54 (pp. 439, 445).

uneasily with contemporary ideals of the home as a place of safety for all its occupants. This relationship between the home as a place of safety and the wider cultural ideas about female violence, both in terms of what could be committed by and on them, provide useful contextual backgrounds for the violent confrontations the women of sixteenth-century Montgomeryshire and Flintshire were involved in.

While studies of domestic violence examined women as victims, other approaches emphasised crimes in which women were the overwhelming majority of accused: infanticide, verbal offences such as slander and scolding, and witchcraft. These studies produced rich and informative analyses of early modern women in crime and society, but this narrow focus also reinforced the idea that ‘female’ crimes were unusual and subversive while the crimes committed by men were more common and ‘every day’.³⁴ The parameters of this study have meant that many of these female-gendered crimes cannot be addressed in any detail here. Scolding was a misdemeanour prosecuted at the assize courts, and I have not found enough cases of infanticide to justify an in-depth analysis of this offence. Only two women who were accused of killing young children appear in the sixteenth-century evidence from Flintshire and Montgomeryshire, while the Infanticide Act was not passed until 1624. To discuss these women as representative of wider trends or to draw any substantial conclusions on the basis of such slim evidence would be unwise. Consequently, there is no developed treatment of this crime in the thesis. The lack of scolding offences in this study is the result of the decision to focus on Great Sessions records; scolding was not prosecuted in this court. Slander, however, was prosecuted at the Welsh Great Sessions and this offence provides key evidence for my investigation into witchcraft in Chapter Four. Previous historians have argued that only women were slandered as witches in Wales, indicating that in early modern Welsh beliefs, only women were capable of *maleficium*.³⁵ I have challenged this view by pointing out that only female-gendered words referring to witchcraft were actionable in the Great Sessions. Instead of using this source as evidence of the

³⁴ On the one hand this contradicts previous assumptions that men were more daring in the crimes committed and re-characterises them as ‘normal’ and the crimes that were gendered feminine as the ones that were especially dangerous and threatening. For challenges to this perception of some crimes as ‘ordinary’ and others as ‘extra-ordinary’ see the articles in, *The Extraordinary and the Everyday in Early Modern England: Essays in Celebration of the Work of Bernard Capp*, ed. by Angela McShane and Garthine Walker (Basingstoke: Palgrave Macmillan, 2010).

³⁵ Parkin, ‘Witchcraft, Women’s Honour and Customary Law’, p. 297. See also, Richard Suggett, ‘Witchcraft Dynamics in Early Modern Wales’, in *Women and Gender in Early Modern Wales*, ed. by Michael Roberts and Simone Clarke (Cardiff: University of Wales Press, 2000), pp. 75–103, p. 84.

gendering of witchcraft belief – as others have done – I have instead used the details in these cases to provide further information about the specific offences Welsh witches were alleged to have committed.³⁶ The details provided in these cases challenges arguments that Welsh witches were not accused of witch-felonies, thus demonstrating that Welsh beliefs in early modern Wales were more diverse than has been previously argued.³⁷

This thesis also draws on, and aims to contribute to, other strands of scholarship on early modern female criminality. Other historians presented the crimes allegedly committed by women as part of a much broader pattern of criminal offending in which women accounted for a small but significant proportion of accused offenders. Beattie addressed the full range of criminal offences allegedly committed by women and men and argued that although women did commit fewer offences than men this could be largely attributed to their work and social patterns. For example, he found that variations in the types of theft offence committed by women can be attributed to the working lives of women whose roles as domestic servants gave them valuable knowledge for planning housebreaking and burglary offences.³⁸ Garthine Walker's hugely influential work further expanded upon Beattie's findings by emphasising the ways in which the social and cultural lives of women influenced their decisions about what to steal and why. For example, women did not steal lower value goods because they were motivated by immediate need or because they were less daring than their male counterparts, but because the markets in which they could dispose of these and other goods were specifically gendered. This theme has influenced many other studies of theft, including Nicholas Woodward's series of articles on theft offences in Wales.³⁹ These arguments shift away from explanations of female offending based on the characters and temperaments of women and instead highlight the specific opportunities for criminal activity that were dictated by a person's gender. I have followed this argumentative framework in this thesis by demonstrating that theft allegations from Montgomeryshire reveal details about

³⁶ See, Richard Suggett, *A History of Magic and Witchcraft in Wales* (Stroud: History Press, 2008); Parkin, 'Witchcraft, Women's Honour and Customary Law'.

³⁷ Parkin, 'Witchcraft, Women's Honour and Customary Law', p. 298.

³⁸ Beattie, 'The Criminality of Women', p. 82. See also, Beattie, *Crime and the Courts*, pp. 240-241.

³⁹ Nicholas Woodward, 'Burglary in Wales: Evidence from the Great Sessions', *The Welsh History Review*, 24.2 (2008), 60–91; Nicholas Woodward, 'Seasonality and Sheep-Stealing: Wales, 1730-1830', *Agricultural History Review*, 56.1 (2008), 25–47; Nicholas Woodward, 'Horse-Stealing in Wales', *Agricultural History Review*, 57.1 (2009), 70–108.

networks of borrowing and lending that women engaged in, as well evidence of the more formal types of buying and selling that women participated in.

The historiographical focus on gender in criminality has also exposed other factors that influenced the prosecution and punishment of crime. For example, Ulinka Rublack argued that in early modern Germany, class and social status were more significant factors in the sentencing process than the accused's gender.⁴⁰ This theme of social class has been less of a concern in this thesis, due to the fact that the Welsh society does not appear to have had the same class structures which influenced prosecutorial decisions. Other historians have used gender-based investigations to argue that the ways historians have characterised men's experiences under the law also require serious revision; for example, Karen Jones's study of late medieval Kent demonstrated that while women were often given more lenient sentences than those strictly prescribed under the law, this was also true for men.⁴¹ This is especially relevant for this thesis, as I have drawn on arguments that state that while women often received partial verdicts which altered the nature of their offence from a felony to a misdemeanour this was not the result of sympathetic attitudes towards women, but rather was a response to the fact that women could not receive Benefit of Clergy at this time, and thus could not avoid the noose in the same way as men.⁴²

Deirdre Palk also echoed Walker's argument that the comparison of the types of sentences ascribed to men and women is an unproductive avenue of historical investigation, due to the fact that men and women were not equal under the law in the first place.⁴³ While Rublack, Jones, and Palk all examined the sentences ascribed to female offenders, this thesis has generally avoided detailed examinations of the sentences that women received, aside from examples where partial verdicts were handed down. This has largely been a practical decision; in the material from the earlier parts of the sixteenth-century outcomes that were not in any way unusual often do not survive, whereas partial verdicts (perhaps because of the varied nature of the discretionary element that created these verdicts) are much more obvious

⁴⁰ Ulinka Rublack, *The Crimes of Women in Early Modern Germany*, Oxford Studies in Social History (Oxford ; New York: Clarendon Press, 1999).

⁴¹ Karen Jones, *Gender and Petty Crime in Late Medieval England : The Local Courts in Kent, 1460-1560* (Woodbridge, Suffolk: Boydell, 2006).

⁴² Walker, *Crime, Gender and Social Order*, pp. 197-201.

⁴³ Deirdre Palk, *Gender, Crime and Judicial Discretion, 1780-1830* (London: Royal Historical Society/Boydell Press, 2006), pp. 155-176; Walker, *Crime, Gender and Social Order*, p. 113.

within the gaol file. In the Flintshire records, the Calendar of Prisoners – one of the key sources for locating the final outcome of a trial – was regularly used as the outer-wrapping for the rest of the gaol file, meaning that they have been exposed to far more damage than the rest of the documents contained in the file.

This thesis attempts to avoid comparisons to male criminality by largely focusing on the crimes in Wales that had a female perpetrator or victim. Where necessary, male criminals have been considered in order to provide further nuance to the analysis of the female experience before the law. For example, the witchcraft chapter of this thesis especially analyses the men who were accused of *maleficium* to demonstrate that previous historians' assessment of Welsh witchcraft as gendered female has failed to consider the accusations made by ordinary Welsh people in favour of considering broader Welsh cultural or linguistic elements.

1.2: Space, place, and location.

'Space' has been a tool of analysis in many disciplines of history. In the last 25 years especially there has been a renewed interest in the 'shaping' role of environments and the use of place as a tool of historical change, not just an outcome.⁴⁴ This led to a special issue of *History and Theory* published in 2013.⁴⁵ The interest in space has been influential in the field of urban histories where a number of authors were influenced by Foucault's analysis of urban planning and Habermas's description of how new urban spaces created in eighteenth-century Britain 'created an oppositional counter-public'.⁴⁶ For example, Ralph Kingston's work on the design of office space in revolutionary France described the contrasts between the idealised virtues of government officials and the 'bricks and mortar' of their surroundings and argued that material considerations such as privacy and crowd management influenced the process of bureaucracy.⁴⁷ Beyond the field of urban history, Alexandra Walsham

⁴⁴ Kathryn Beebe, Angela Davis, and Kathryn Gleadle, 'Introduction: Space, Place and Gendered Identities: Feminist History and the Spatial Turn', *Women's History Review*, 21.4 (2012), 523–32 (p.523).

⁴⁵ A two-day international and interdisciplinary conference, organised by the Centre for Research in History and Theory, Roehampton University in cooperation with the German Historical Institute London. The conference programme is available here: https://www.ghil.ac.uk/events_and_conferences/conferences_and_workshops/2010/from_space_to_place.html [accessed 12th August 2018].

⁴⁶ Kathryn Beebe, Angela Davis, and Kathryn Gleadle, 'Introduction: Space, Place and Gendered Identities: Feminist History and the Spatial Turn', *Women's History Review*, 21.4 (2012), 523–32.

⁴⁷ Ralph Kingston, 'The Bricks and Mortar of Revolutionary Administration', *French History*, 20.4 (2001), 405–23 (p. 423).

also considered space as an important part of everyday life in her study of the Reformation's effect on the landscape of the British Isles. Walsham argued that a rigid distinction between natural and man-made elements of landscape is anachronistic due to the fact that contemporaries often described landscapes left behind by their ancestors as natural, mythical, or constructed by God. She also argued that 'the landscape is a surface upon which society successively lays down fresh sediments of meaning without being able to remove or conceal existing ones, which remain as powerful local presences'.⁴⁸

This theme of 'meaning and landscape' was also explored by Andy Wood in his study of customary rights. He argued that the memory of who had which rights to what land was a central feature of land disputes. This was exacerbated by the fact that rights could change over time and were often imprecise.⁴⁹ For example, a family might first be granted *informal* access when they first moved to an area, but then be considered to have legitimate claims to copyhold or freehold land after they had lived there for generations. These rights were thus fluid but also embedded in local history.⁵⁰ Customs varied from place-to-place, and it was the memories of local people that imbued these locations with specific and important meanings. Combined with Flather's research, the shaping role of environments has clearly provided an important tool through which to interpret the behaviours, perceptions, and values of people who interacted with different types of space. These approaches have influenced my view of the spaces in which crimes occurred in sixteenth-century Wales and the role that this had in shaping people's understandings of the crimes that they had experienced.

There has, as yet, been little discussion of how these theoretical tools can be applied to the issue of crime. Rachel Jones's recent monograph on crime in mid-Victorian Wales used landscape as one of its key investigative tools and argued that the nature of the Welsh countryside and the number of small towns affected patterns of offending in Montgomeryshire.⁵¹ The majority of Jones's conclusions, though,

⁴⁸ Alexandra Walsham, *The Reformation of the Landscape: Religion, Identity, and Memory in Early Modern Britain and Ireland* (Oxford: Oxford University Press, 2001) p. 564.

⁴⁹ Andy Wood, 'The Memory of the People': Custom and Popular Senses of the Past in Early Modern England (Cambridge, 2013), p. 156.

⁵⁰ Wood, 'The Memory of the People', p.166.

⁵¹ Rachael Jones, *Crime, Courts and Community in Mid-Victorian Wales: Montgomeryshire, People and Places* (Cardiff: University of Wales Press, 2018). Jones also discussed this issue in her 2016 article, in which she argued that the gendered nature of offending was dictated by different opportunities for crime in urban and rural settings – with women unlikely to have committed thefts in

focus on the contrast between urban and rural communities, focusing on elements of space, such as sewers and canals that mean her conclusions are specific to the mid-Victorian period and have limited application to the conditions of the same county in the sixteenth century.⁵² Katrina Navickas, in her article on popular protest on moors and fields in the nineteenth century, also argued for the importance of landscape as both a venue and a symbol of political discourse and everyday life.⁵³ This thesis responds to Navickas's work by also considering spaces, places, and locations as symbolic and expands on her work by examining the ways in which they provided both opportunities (as is the case of Jones's approach to this topic) and meanings to certain offences. This thesis also considers how these two issues were combined by the witnesses and prosecutors of a case in order to describe what had happened, to identify suspects, and to ascribe culpability to them. Though I do not argue that Welsh crime is particularly unique in this respect, or that Welsh places were imbued with different criminal and cultural meanings, I have emphasised that the uniqueness of the Welsh material – the richness of depositional evidence where it survives – allows us an insight into this thematic area that is less clear in other early modern locations.

For example, the alleged murder of Joan Knight exposes how space, place, and location provided key evidence that examiners and deponents used to describe a homicide and to assign culpability. One of these descriptions focused on Knight's alleged abuse at the hands of her husband, who supposedly beat her in their home because she did not make good bread.⁵⁴ On the other hand, an allegation from Knight's family accused the local butcher of causing her lethal injuries when they fought together over her attempt to graze cattle on lands he believed to be his.⁵⁵ The number of surviving depositions and examinations presents a clear attempt from both parties – the husband and the butcher – to blame each other for Joan's untimely death. Both of the narratives constructed by either side were based around the issue of where Knight had received her injuries. In the husband's case, his use of violence

isolated and rural settings in the same ways that their male counterparts did; Rachel Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', *Rural History*, 27.2 (2016), 169–85 (pp. 180–181).

⁵² Jones, *Crime, Courts and Community*, pp. 188–189.

⁵³ Katrina Navickas, 'Moors, Fields, and Popular Protest in South Lancashire and the West Riding of Yorkshire, 1800–1848', *Northern History*, 46.1 (2009), 93–111 (p. 111).

⁵⁴ NLW GS 4/131/1/1 Examination of Thomas Bromley (1583).

⁵⁵ NLW GS 4/131/1/2 Examination of Edward Knight (1583).

in the home – a complex issue which has been subject to much contemporary and historiographical debate – was framed as being unreasonable and excessive. In the case of the butcher, the conflict over the correct use of land was used to provide a motive for why these two parties would be involved in an incident of lethal violence. Space thus provided the central frame of reference through which other evidence – specifically the fights Knight had with her husband and the butcher – could be explained and understood. These themes are not exclusive to Joan’s case. Indeed, space appears as a central framing theme that witnesses and victims used to explain culpability in a variety of criminal offences. This approach thus contributes to the field of the history of crime by providing further frameworks through which decisions to prosecute, and motivations for assigning culpability, can be explored.

Part of the reason why ‘space’ can be a difficult tool to combine with historical analysis is that different definitions have been applied to this term. I have chosen to adopt the approach set out by Jerram in his 2013 article, which defined ‘space’ as ‘[t]he proximate position of things in relation to one another and to humans’.⁵⁶ Throughout this thesis, I have thus taken ‘space’ to mean the physical things contained within a boundary – be that physical such as within walls or fences, or imaginary such as the extent of commons land – and their position within it. For example, the home was a space that contained the occupants of the house and their goods. Likewise, I have used the phrase ‘contested spaces’ to refer to specific parcels of land that had either physical or mental boundaries evident to the people involved in conflicts over who had the right to use the land.

Jerram defined ‘place’ as the values, beliefs, codes, and practices that surround a space. For example, he pointed out that sleeping arrangements differ according to the values and beliefs of different cultures.⁵⁷ Likewise, gendered practices and values have, in the past, dictated that a woman’s place is ‘in the kitchen’. In this thesis, I have discussed the home as a ‘place’ of safety and security that was violently disrupted by the crimes of burglary, domestic murder, and *maleficium*. The fact that these crimes occurred in this place emphasised the violative nature of these crimes,

⁵⁶ Leif Jerram, ‘Space: A Useless Category for Historical Analysis?’, *History and Theory*, 52.3 (2013), 400–419 (p. 403).

⁵⁷ Jerram, ‘Space: A Useless Category for Historical Analysis?’, p. 404. Jerram’s definitions are different from others who consider ‘place’ to mean the physical setting and ‘space’ the theoretical ideas about gender and social behaviour associated with it. See for example, Flather, *Gender and Space*, p. 5-6. I have not selected Jerram’s definitions because I believe them to be more ‘correct’ than others, but rather because I found them clear and easy to apply to the Welsh material.

due to the way they disrupted the central value that a person and their goods contained within this place should be protected from harm. The perceived severity of this violation is also evident in the fact that these crimes were prescribed harsher punishments under law. Burglary, for example, was a non-clerigiable offence, and while there are many reasons why *petty treason* had the sentence of burning, a key motivation behind this was the belief that the murderess had attacked her victim in the home – the place where he was likened to the king – hence the ‘treasonous’ element of her offence.⁵⁸

The third and final term adopted in the analysis here, ‘location’, refers to the position of something in the landscape. In this thesis, ‘location’ describes the town or village in which a crime occurred and whether or not the alleged criminal had travelled to and/or from the location. For the crime of theft especially, whether or not a person belonged or did not in a particular ‘location’ was a key piece of evidence that helped assign culpability. For example, Anne ferch Griffith, Ethliw ferch Griffith of Pencarrag and their mother, Mauld ferch Rees were examined about their behaviour and the goods in their possession as they travelled from Carmarthenshire to Montgomeryshire in 1577.⁵⁹ Even though no theft had occurred, their presence as strangers in this location was suspicious enough for them to be indicted for allegedly stealing two hats.⁶⁰

The case of Jane ferch Lewis, accused of the theft of a pair of shoes in 1569, provides a useful example of how the three terms of spatial analysis adopted in the thesis can be used as tools to analyse early modern female criminality.⁶¹ Jane was accused of stealing the shoes from a stall belonging to George ap Rees and the key piece of evidence against her was that she had allegedly gone a distance of 24 feet with the shoes hidden under her cassock.⁶² By looking at the space in which this alleged offence took place – the stall belonging to George – we can see that the

⁵⁸ For examples of contemporary discourse of the patriarch as the king or monarch of the household see, Susan D. Amussen, “‘Being Stirred to Much Unquietness’: Violence and Domestic Violence in Early Modern England”, *Journal of Women’s History*, 6.2 (1994), 70–89 (p. 73).

⁵⁹ NLW GS 4/128/5/99 Indictment (1577).

⁶⁰ Samaha argued that strangers were often at examined in this way, even if their behaviours were not cause for suspicion; Samaha, ‘Hanging for felony’, p. 770.

⁶¹ There is no surviving indictment related to this case. There is, however, as set of examinations and depositions. NLW GS 4/126/3/30 Examination of Jane ferch Lewis (1569).

⁶² NLW GS 4/126/3/30 Examination of John ap Richard (1569); NLW GS 4/126/3/30 Examination of Hugh ap Hugh (1569). There was some discrepancy between these witnesses about exactly how far Jane had been able to travel with the hidden shoes.

proximity of Jane and the shoes to each other and to George's stall was a major factor in his and other witnesses' decisions to assign culpability for the theft to Jane. Indeed, Jane's defence of her actions in her examination also relied on notions of space; she argued that she had not moved away from George's stall at all and thus could not have stolen the shoes.⁶³ The place in this case also provided meanings to Jane's alleged actions. The public place where the offence occurred meant that Jane's attempt to show the shoes to her mother-in-law was interpreted as an effort to steal them. It was the code of behaviour, which was shaped by spatial considerations – that one should not take items from a stall without paying for them first – that had potentially been violated by Jane. Thirdly, the theme of location appears in this record as Jane was identified as someone who lived outside the community. She was from Tal-y-llyn, about ten miles away from Machynlleth where the alleged theft occurred. While she had not travelled a great distance, in the way that some accused female thieves had, Howard's argument that strangers were more keenly observed than local people indicates that Jane may have been accused because she did not live in the community.⁶⁴ Further, Howard also emphasised that the gestures of strangers might cause suspicion, an element that is clearly evident in Jane's case as her description of her movements – that she had 'turned her face to her mother-in-law' and *not* moved away from the stall – directly contrasts with the other witnesses' descriptions of her movements. Jane's relative location to the scene of the crime thus acted as a frame through which the witnesses to the theft ascribed culpability to her. Jane's case thus highlights the way in which space, place, and location can be used by the historian to highlight different elements of a criminal accusation.

Space, place, and location were thus important tools through which early modern people understood the world. Amanda Flather's approach of focusing on space in order to 'illuminate aspects of the often-opaque constructions and workings of gender' in early modern society has been a central insight underpinning the approach adopted in this thesis, albeit with a specific focus on gendered crime rather than on gender and society as a whole.⁶⁵ Throughout this thesis, I argue that space, place, and

⁶³ NLW GS 4/126/3/30 Examination of Jane ferch Lewis (1569).

⁶⁴ NLW 4/126/3/30 Examination of Jane ferch Lewis (1569). Howard, *Law and Disorder*, pp.107-108. See also Matt Neale, 'Making Crime Pay in Late Eighteenth-Century Bristol: Stolen Goods, the Informal Economy and the Negotiation of Risk', *Continuity and Change*, 26.3 (2011), 439-59 (p.451).

⁶⁵ Flather, *Gender and Space*, p.2.

location were not just important because of legal stipulations that indicted that such information had to be recorded on an indictment. Rather, they were, as Flather terms it ‘arenas of social action’ that had specific behaviours and interactions associated with them. Crimes occurred, it seems, when those behaviours were flouted, intentionally or otherwise.⁶⁶

1.3: Sources

The main source base used as evidence throughout this thesis is the gaol files of the court of Great Sessions. These courts were formed as a result of the ‘Second Act of Union’ of 1536.⁶⁷ This Act divided Wales into English style shires, incorporating the former areas of the Marches and the Principality of Wales.⁶⁸ These counties were then organised into circuits and placed under the jurisdiction of the courts of Great Sessions. This court had the same powers as the English courts of King’s Bench and Common Pleas.⁶⁹ The criminal side of the Great Sessions dealt primarily with felony cases. The county Quarter Sessions, which met more frequently than the twice-yearly Great Sessions, dealt with misdemeanours, although a more serious case could be removed to the Great Sessions by a writ of certiorari.⁷⁰

Utilising the Quarter Sessions alongside the Great Sessions would provide a richer view of the crimes that were prosecuted in early modern Wales. After all, studies centred on England have shown that the majority of incidents prosecuted as crimes in the early modern period were misdemeanours.⁷¹ As a result, only looking

⁶⁶ Flather, *Gender and Space*, p.2.

⁶⁷ Glyn Parry, *A Guide to the Records of Great Sessions in Wales* (Aberystwyth: National Library of Wales, 1995), p. iv

⁶⁸ The Great Sessions were organised into four circuits which moved around the new Welsh shires that were formed as part of the Acts of Union and sat twice a year – Chester (comprising of Flintshire, Montgomeryshire, and Denbighshire), North Wales (comprising Anglesey, Caernarfonshire, and Merionethshire), Brecon (comprising Breconshire, Radnorshire, and Glamorganshire), and Carmarthen (comprising Carmarthenshire, Pembrokeshire, and Cardiganshire). Monmouthshire was incorporated into the Oxford assize circuit, rather than being made part of one of the Welsh circuits.

⁶⁹ Parry, *A Guide to the Records*, p. v. The court also held commissions of assize, gaol delivery and *oyer and terminer*. But, while the court of Great Sessions was very powerful it did not have exclusive jurisdiction in Wales; the Council in the Marches continued to hold common law jurisdiction in this period, and the courts of Common Pleas and Exchequer also held this jurisdiction in Wales.

⁷⁰ Parry, *A Guide to the Great Sessions*, p. xxii. Parry also claimed that the division between capital and non-capital offences was adhered to in these courts. The number of cases where a case was removed from the Quarter Sessions and sent to the Great Sessions is relatively small. Lewis also pointed out that it’s quite difficult to tell exactly what the business of each court was as statutes frequently changed this; T. H. Lewis, ‘The Administration of Justice in the Welsh County in Its Relation to Other Organs of Justice, Higher and Lower’, *Transactions of the Honourable Society of Cymmrodorion*, 1945, 151–66 (p. 157).

⁷¹ For context, see: Jones, *Gender and Petty Crime*.

at felonies, as in this thesis, runs the risk of providing a very narrow view of how and why criminal offences were prosecuted in Wales and results in a tendency to describe early modern Welsh society as overly violent while obscuring the more mundane incidents of petty theft and assault that people were more likely to encounter in their day-to-day lives. Unfortunately, an approach that places these types of misdemeanour at the forefront of the investigation is not always possible for Wales, as the Quarter Sessions for most counties do not survive.

Nevertheless, the records of the Great Sessions can provide a diverse range of evidence through which to explore the key themes of gender, law, and space. Chapter Two of this thesis focuses solely on the gaol files of the great sessions of one county, Montgomeryshire. The depositions from this great sessions circuit is very rich and focusing on this county largely removes the possibility that variations in patterns of indictments and verdicts (especially partial verdicts) were caused by local tensions and customs.⁷² In Chapter Three, the records of homicide cases are compared to that of Flintshire in order to provide a broader base of evidence for this much less-frequently indicted crime. Flintshire has been selected for comparison to Montgomeryshire due to the fact that both these counties were on the same circuit and therefore had the same judges. Further, a calendar for the Quarter Sessions of Caernarvonshire 1541-1558 has been consulted to provide information of the assaults and violence that occurred in contested spaces to provide context for the lethally violent acts that appear in the Great Sessions. In Chapter Four, the indictments for witchcraft found by Suggett in the gaol files of the great sessions from all of the Welsh circuits are compared to the actions for slander which were recorded in the Prothonotary Files – records of the civil side of proceedings – to provide a comparative analysis of the specific allegations of *maleficium* found in these two different criminal allegations. This thesis thus focuses on the gaol files, but also incorporates material from other courts and sources in order to provide further contextualisation for specific offences.

The decision to use Montgomeryshire as a single county study of theft was influenced by the excellent survival of the gaol files from this county. While Flintshire has a slightly higher number of surviving files, the files from Montgomeryshire are generally much richer. A possible reason for this is that

⁷² This would, of course, be a very worthwhile study in and of itself.

Montgomeryshire experienced more crime than Flintshire. This was the view of those who worked in the Council of the Marches who perceived Flintshire as a tranquil county, and Montgomeryshire as particularly lawless. For example, in 1577 special orders were sent for use in certain parishes in Montgomeryshire in order to prevent suspected persons from marking, killing, or selling cattle without supervision.⁷³ In 1575 there was a commission from the Council in response to the failure to regulate alehouses in Montgomeryshire.⁷⁴ In *The Dialogue of the Government of Wales* contemporary commentator George Owen said that the people in Flintshire were very civil, whereas those who lived in Montgomeryshire experienced ‘much theft and other unruliness with troubles amongst themselves’.⁷⁵ On the other hand, conditions across the whole of Wales and England generally appear to have become more violent and prone to crime throughout the sixteenth century. Cockburn concluded that every decade from 1559 to 1600 saw a marked increase in crime.⁷⁶ Rees pointed out that there were widespread economic hardships over this period, as evident from the draconian 1572 vagrancy laws and the economic burdens caused by wars in Ireland.⁷⁷ Also, the counties of Denbigh, Merionethshire, and Monmouthshire also appear to have been seen as lawless or unruly, with Monmouth especially appearing as a place of concern.⁷⁸ There is, then, a danger that the conditions in Montgomeryshire could be overemphasised as being unique to that county when actually they are more representative of conditions across Wales and England. For this reason, this study has generally avoided seeking explanations for patterns of offending that specifically reflect the conditions of Montgomeryshire in the sixteenth century. Instead, I have followed the same approach as Walker in her study of Cheshire by asking conceptual questions that could be applied to sixteenth-century England and Wales as a whole.⁷⁹

Material from both Montgomeryshire and Flintshire has been used in Chapter Three of this thesis, which explores the ways in which the crime of manslaughter

⁷³ Penry Williams, *The Council in the Marches of Wales under Elizabeth I* (Cardiff: University of Wales Press, 1958), p. 195. Williams did not note specifically which parishes these were.

⁷⁴ Rees, *Welsh Outlaws and Bandits*, p. 196.

⁷⁵ Rees, *Welsh Outlaws and Bandits*, p. 205.

⁷⁶ J. S. Cockburn, ‘The Nature and Incidence of Crime in England 1559-1625: A Preliminary Study’, in *Crime in England 1550-1800* (London: Methuen & Co, 1977), 49–71 (p. 68).

⁷⁷ Rees, *Welsh Outlaws and Bandits*, p. 203.

⁷⁸ Howell pointed out that after 1573 the Council in the Marches mandated that there be more regular meeting of officials. Howell, *Law and Disorder in Tudor Monmouthshire*.

⁷⁹ Walker, *Crime, Gender and Social Order*, p. 13.

emerged as a gendered category of homicide. Flintshire was selected for comparison to Montgomeryshire due to the good survival of depositional evidence in this court, and the fact that it was on the same circuit as Montgomeryshire. This means that the same officials ran both of these great sessions.⁸⁰ The location of both of these counties on the border with England, and the fact that these two counties were in the Chester circuit with judges that heard cases in England as well as Wales, is important when considering the way that manslaughter emerged as a gendered offence. Manslaughter has mostly been explored with reference to English material, and its impact in Wales has not yet been considered, but the connexions to England in Montgomeryshire and Flintshire could indicate that any similar emergence of manslaughter as a gendered offence was influenced by the development of this offence in England.

The decision to consider the whole of Wales in Chapter Four of this thesis has been motivated by the fact that very few cases of witchcraft were ever recorded in Wales. For this reason, this chapter has also looked beyond the sixteenth century to the last prosecution for witch-felony in Wales in 1692 in order to consider all of the cases that appear as witch-felonies in the great sessions. This chapter also used a variety of different legal sources, likewise motivated by the patchy survival of records. While the gaol files group certain types of criminal records together, these documents are varied in the kind of information they record and the ways that they have been interpreted by previous historians. In cases such as Welsh witchcraft, the need to expand the parameters of the sources consulted in order to draw the fullest picture of Welsh witchcraft belief has also meant dealing with legal sources with a slightly different methodology to those of previous studies of this topic. It is to these sources and methodologies to which I now turn.

1.3.1: Depositions and examinations

One of the key areas of investigation for this thesis is the ways in which people interpreted events in order to describe what type of criminal offence had occurred, who was culpable for it, and why. For this reason, records of informal witness

⁸⁰ Each great session was assigned: a Justice a Prothonotary, a secondary, a marshal, a clerk of indictments, a King's attorney (who acted on behalf of the Crown in criminal prosecutions) barristers and attorney. Parry pp. iv-v. The Great Sessions started out with a single Justice but this number was raised to two in 1576 (18 Eliz. I, cap. 18.)

testimonies taken by JPs have are a crucial source for this investigation.⁸¹

‘Depositions’ refer to the statements given by those who had witnessed the alleged crime or who knew relevant information about the persons involved, and ‘examinations’ refer to the statements given by the alleged perpetrator.⁸² The terms were, however, often used interchangeably by the clerks of the court.⁸³ Where these documents do survive, they provide insights into important contextual information about the person who had been accused of an offence and *why* they had been suspected. For example, the depositions relating to the alleged murder of Marsely ferch John Thomas by William Lewis in Bach-y-Graig, Flintshire, 1584, demonstrate that his death was understood not as a random act of violence, but rather the result of a long-standing conflict between the victim and accused which started when he attempted to let his cattle drink from a pit in her husband’s lands.

At other times, the information revealed by the depositions and examinations is more mundane. It is often very difficult to tell from indictments what the personal relationships between co-accused persons were. Where depositions and examinations survive, they often expose these relationships. Katherine Llello, accused of theft in 1569, took the allegedly stolen coat to her sister to ask her to pawn it for money.⁸⁴ In the same year, Elizabeth ferch David had been persuaded by Mathew ap Rees ap Tudor to burgle the house of her aunt.⁸⁵ An accusation was made against both Ieuan ap David and Gwen Williams in 1570 because she was his mother and they lived together in the house where evidence of the alleged theft was found.⁸⁶ The details provided in this type of document are thus incredibly varied and can provide contextual information which aids in a deeper analysis of the cases in question.

⁸¹ These records were informal as they did not form part of the official record of the court – they were meant to be thrown out once the grand jury had decided whether there was a case to answer or not.

⁸² Some deponents did not witness the incident but were instead asked about the movements and relationships of the participants. For example, Marsely’s father described his daughter’s unsuccessful attempt to obtain a warrant for the peace but was not present during the fight where she was fatally injured. NLW GS 4/971/4/21 deposition of John Thomas (1586).

⁸³ Nearly all of the depositions and examinations from the Montgomeryshire and Flintshire gaol files were called examinations by the clerks who wrote them down. For this reason, I have used the correct terminology of deposition/examination when using these texts in the thesis but have cited them as ‘examinations’ as this is what is written on the actual documents themselves.

⁸⁴ NLW GS 4/126/3/32 Examination of Elizabeth Llello (1569).

⁸⁵ Elizabeth, who had previously been a maid in her aunt’s house was presumably asked to participate in the burglary, alongside Mathew’s daughter, Margaret, because she knew the layout of the house and the habits of the occupants; NLW GS 4/126/3/41-42 Examination of Elizabeth ferch David (1569).

⁸⁶ Ieuan later confessed to the theft and Gwen was acquitted; NLW GS 4/126/4/14 Examination of Ieuan ap David (1570); NLW GS 4/126/4/14 Examination of Gwen ferch Ieuan (1570); NLW GS 4/126/4/14 Indictment (1570).

Early studies of crime turned to examinations and depositions as a way of uncovering the ‘lost voices’ of people whose experiences are often difficult to access from the historical record.⁸⁷ This approach, however, has been largely revised by historians who have emphasised the ways in which this testimony could be manipulated both by the person giving it and by those recording it. Influenced by the studies of Natalie Zemon-Davies, more recent work has emphasised the ways in which examiners and deponents shaped the evidence they gave in order to explain the events they had witnessed and to express their interpretation of them, rather than being a calculated attempt to lie to the authorities.⁸⁸ Further issues with the reliability of these sources include the possible distortion of testimony that was given orally by one person and recorded in writing by a second person. In Wales, the possible mistakes and omissions that this could cause are further compounded by the fact that the majority of the population at this time was monoglot Welsh-speaking, but the business of the court was conducted in English and Latin. While witnesses often signed their testimony to indicate that they reflected the statement they had made, the low rates of literacy in this time period mean that it is possible that depositions and examinations were not always accurate reflections of the intention of the oral testimony.⁸⁹ On the other hand, the documents would have been read back to the examiner or deponent before they signed it. Ultimately, being conscious of the fact that these documents have been refracted through several lenses – the memory of the deponent, Welsh oral testimony recorded in written English, the fact that we cannot be sure that the deponent fully agreed that the document was an accurate record of what they had said – means that the historian can treat these documents with care while still being appreciative of the fact that they contain important information

⁸⁷ Frances Dolan has been critical of this approach by historians. She argued that seeking ‘authentic’ voices in the archives from this type of testimony is misguided and argued instead that historians should be considering more closely the relationships between participants, events, and audiences. Frances E. Dolan, *True Relations: Reading, Literature, and Evidence in Seventeenth-Century England* (Philadelphia: University of Pennsylvania Press, 2013).

⁸⁸ Although, of course, in cases such as those involving Marsely ferch John Thomas, Mary Owen, and Joan Knight – discussed extensively in Chapter Three of this thesis – two very different and impossible to reconcile versions of events may have been given by examiners, indicating that at least one party was being somewhat untruthful. Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Cambridge: Polity, 1987). See also: Lynda Boose, ‘The Priest, the Slanderer, the Historian and the Feminist’, *English Literary Renaissance*, 25.3 (1995), 320–40; Malcolm Gaskill, ‘Reporting Murder: Fiction in the Archives in Early Modern England’, *Social History*, 23.1 (1998), 1–30; Howard, *Law and Disorder in Early Modern Wales*, Shannon McSheffrey, ‘Detective Fiction in the Archives: Court Records and the Uses of Law in Late Medieval England’, *History Workshop Journal*, 65, 2008, 65–78.

⁸⁹ Low rates of literacy are not a particularly Welsh phenomenon in this time period.

about the interpretation of events and evidence made by both the deponents and the legal authorities.

Howard has also pointed out that these documents can be unreliable records of the facts of a case, due to the potential that examiners and deponents were asked leading questions.⁹⁰ On the other hand, there is evidence from the Welsh Great sessions that witnesses were aware that they could be manipulated into giving answers and took steps to avoid this. One example of this from the Flintshire cases is that of Gwennlian ferch Griffith who, during a second deposition about the suspicious death of her mistress said that she had not disclosed a conversation that implicated her master in his wife's death to her examiners because she had been 'unhappy and ungracious'.⁹¹ The implication here is that Gwennlian consciously chose to conceal something she had been asked about, and then changed her mind.⁹²

The missing first deposition in Gwen's case is not necessarily unusual. Indeed, depositions often do not survive as these documents were not officially meant to be kept as part of the legal record. Depositions and examinations were pre-trial documents used to help the investigating JPs and the Great Session's grand jury decide if there was a case to answer and if there was enough evidence for a prosecution to progress. After this decision had been made, depositions were no longer documents with any legal value as they were not used within the trial itself. The survival of so many of these types of documents in the Welsh sessions is therefore very significant as it allows us a window into the witness testimonies from years where this type of information is rarely available in the English courts. This also means that the loss of Gwennlian's first deposition is not particularly strange or significant, but rather a reflection of normal legal practice at this time.

Depositions and examinations are thus complex documents that can allow the historian a way into looking at several key aspects of the history of crime. While they may not allow us to 'hear' the direct truth of an incident, the way that testimony could be manipulated – both by the person giving the evidence and by the person recording it – provides rich evidence both for examining narrative strategies and legal interventions that enabled witnesses and jurors to assign culpability to suspects.

⁹⁰ Howard, *Law and Disorder*, pp. 59-60.

⁹¹ NLW GS 4/125/3a/7-8 Deposition of Gwennlian ferch Griffith (1564).

⁹² We do, however, know that the reason she withheld information in her first deposition was because she had been told what to say by (who). This case is examined in detail in Chapter 3 of this thesis.

Throughout this thesis, depositions and examinations have been used as evidence of communities and individuals assigning culpability for an incident to a secondary party. While some of this may have been a conscious attempt to shift blame away from one party onto another, other examples appear to simply be cases where a person was trying to explain what they saw both to the investigating JPs and to themselves.⁹³

1.3.2: *Indictments*

Indictments were the formal charge against the prisoner. Recorded in Latin and written to a formula, they contained the name, occupation and place of residence of the accused as well as the date, place and nature of the offence. In some cases, the clerk of the court noted the verdict and sentence on the indictment although in many of the earlier indictments such details are missing.

While indictments have been extensively utilized by historians, there are issues with these documents that can make their use problematic. For example, the occupation of males accused is most often ‘yeoman’ or ‘labourer’ even though checking against recognizances and examinations might reveal that the accused’s occupation was actually ‘miner’ or ‘iron worker’.⁹⁴ There may also have been errors with regard to the parish the accused lived in and the date of the offence or the location in which it happened - especially in cases where the offence was not prosecuted until a significant time after the event. This indicates that while indictments were meant to be accurate and could, indeed, be thrown out for court for even the most minor of errors, in the early years of the great sessions the formula of information that was meant to be contained was potentially less adhered to than in other regions.⁹⁵

Nevertheless, indictments are a hugely significant source from which the historian can extract significant information. In this thesis, indictments have mainly been used

⁹³ For example, see the cases of Joan Knight and Marsely ferch John Thomas. The deponents in Joan’s case either tried to blame Joan’s husband or the local butcher, with all involved having reasons to assign blame somewhere else. In contrast, the witnesses in Marsely’s case appear to be reluctant to assign blame to anyone with most of them saying that they did not see the incident leading up to her death.

⁹⁴ Glyn Parry has examined 51 indictments from 1827 and 1830 and found that sixteen of them contained errors. He also stated that this was probably an underestimate. Parry, ‘Great Sessions: Introduction’, p. 1xiii.

⁹⁵ Walker, *Crime, Gender and Social Order*, p. 25. Walker pointed out that each part of the indictment had to be found *billa vera* and that an ‘erroneous phrase of misspelt work’ could render the indictment void.

to provide statistical data about the number of crimes that were prosecuted and the gender of the accused and victim. For example, comparing the proportion of female burglaries and housebreaking offences against other forms of theft reveals that this was a very popular type of theft amongst this gender group, accounting for 23% of indictments for theft offences against women accused of acting alone. The proportion of indictments listing sole female thieves and those who worked in groups with men has also been addressed in this study and demonstrates that Welsh female thieves usually preferred to work alone.⁹⁶

Indictments have also been used to provide information about singular specific incidents of crime for cases that do not have surviving depositional evidence. For example, in Chapter Three of this thesis, it is evident from indictments for homicide involving women that women used weapons and took part in public confrontations, even though we sometimes lack the depositional evidence that would provide broader contexts for how and why these confrontations took place. In Chapter Two, the lack of surviving depositional evidence for thefts – fourteen sets of examinations and depositions compared to 108 indictments – has not prevented a close study of the settings the incidents occurred in or the alleged motivations that caused them. Indictments have been used to show when the cases described in examinations and depositions resulted in a formal charge and to explore any discrepancies between the crimes described when the initial investigation by the JPs occurred and the later formal charge. For example, when David ap Hugh and David ap Rees gave depositions about the death of John ap Ieuan, they both claimed that he had died from a wound allegedly caused by Gwen ferch David ap Thomas; they both said that Ieuan had died in the night.⁹⁷ The indictment against Gwen for Ieuan's murder says that she cause[d] a mortal wound from which he *immediately* died' seemingly contradicting the evidence given by the two deponents.⁹⁸

By reading these documents in conjunction with other legal documents a clearer picture of the legal process emerges. Indictments inform us which version of events was the one that was initially heard before the grand jury, something that is especially useful when the claims made in depositions and examinations don't match up, and how those events could then be reinterpreted to result in a partial verdict. For

⁹⁶ See Chapter Two for further.

⁹⁷ NLW 4/131/4/70 Examinations of David ap Hugh and David ap Rees (1584).

⁹⁸ My emphasis. NLW 4/131/4/57 Indictment (1584).

cases where indictments are the only surviving documents, the formulaic nature of these documents means that information can consistently be extracted and compared, making a quantitative approach for this part of the study the most appropriate approach.

1.3.3: Recognizances and prothonotary papers

While the main evidence in this study has been drawn from depositions, examinations, and indictments, other legal documents – recognizances and prothonotary papers – have been consulted in order to provide further contextualisation for individual crimes and the wider legal process. A recognizance is a legal bond that bound a person to behave according to a specific set of requirements. Like indictments, they are often short and formulaic, recording two features: the bond acknowledging the debt to the monarch, and a second section of conditions that had to be fulfilled for this bond to remain in place. Recognizances generally appear in two formats – the first is a bond that required a person to keep the peace or to be of good behaviour towards a person or a community for a specified amount of time. The main function of the second type of recognizance was to bind the accused to appear at the next Great or Quarter Sessions, either to answer for or to prosecute a crime.

It is the first type of document that has received the most attention from historians. This type of recognizance was, according to Joel Samaha, primarily used to ensure social order was maintained and to prevent crimes from happening, while the second type's legal purpose was used to ensure that a crime was prosecuted.⁹⁹ It is these types of recognizance that are found in the Great Sessions, serving the function of binding a person to answer for or to prosecute an alleged crime and to behave themselves until the next sessions. While Howard's study of Great and Quarter Sessions records revealed that there is a low number of these documents surviving in Wales, these documents can occasionally be used to provide important contextual information about the outcome of a case.¹⁰⁰ For example, in the case of Joan Knight's death, discussed above, the JPs who investigated this case recorded

⁹⁹ These documents were, according to Samaha, the most effective method of ensuring that prosecutors and witnesses were present at court. Joel B. Samaha, 'The Recognizance in Elizabethan Law Enforcement', *The American Journal of Legal History*, 25.3 (1981), 189–204 (p. 197).

¹⁰⁰ Howard found four examples from her source sample in the Quarter Sessions meaning that this type of document represents less than 1% of the recognizances Howard examined.

depositions and examinations from the accused and witnesses, but it appears that they were not able to decide who should be sent to the Great Sessions to be prosecuted for her death; the recognizance filed with the examinations and depositions state that Thomas Bromley and Edward Knight were to ‘appear at the next great sessions to prosecute felony against William Knight and David Philip’ with a surety of £20.¹⁰¹ Since there is not a surviving indictment, in this case, we do not know which one of these men (if either of them) ever went to trial for Joan’s death. We do, however, know that the JPs could not decide which of the narratives surrounding the death of Joan were the most persuasive, resulting in both of them being put under sureties to appear.

Thus, while the nature of these recognizances means that the approaches of other historians cannot be applied in this study, there is still useful information to be extracted from them. By considering all the documents produced as part of the prosecution process, rather than just focusing on a specific form of documents, a clearer picture of the process and outcome of criminal trials becomes evident.

Chapter Four of this thesis considers a different source to the other chapters – actions for slander recorded in the Prothonotary files of the Great Sessions. The Prothonotary was the chief clerk of the civil side of the great sessions and his role included systemising the records of the great sessions.¹⁰² Unfortunately, these records are not as well kept as the gaol files; these loose papers were often tied together with a string running straight through the centre of each page making the information recorded in the middle of these pages almost illegible.¹⁰³ Where these documents are legible, their formulaic nature reads very similarly to recognizances and indictments in that they record what the offence was and where it was alleged to have occurred, with some reference to the character of the plaintiff alongside with a statement that proved they were obviously not guilty of the offence they had been

¹⁰¹ NLW GS 4/131/1/6 Recognizance (1583). William and David appear on subsequent recognizances later in the same file NLW GS 4/131/1/134 Recognizance (1583). Neither William nor David appear in any further documents suggesting that either they failed to appear to be prosecuted or that the indictment was found to be *ignoramus* and thrown out in the next session.

¹⁰² W. R Williams, *The History of the Great Sessions in Wales, 1542-1830: Together with the Lives of the Welsh Judges, and Annotated Lists of the Chamberlains and Chancellors, Attorney Generals, and Prothonotaries of the Four Circuits of Chester and Wales...* (Brecknock: Edwin Davies, 1899), p.18. See also, R. W. Betham and J. M. Bennett, ‘The Office of Prothonotary’, *Sydney Law Review*, 3.1 (1959), 47–70.

¹⁰³ My thanks are due to the staff of the National Library of Wales who were very generous with handing me weights and other reading aids as I struggled with these files.

slandered for. For example, the opening of the action for witch-slander brought by Thomas David and Katherine his wife against Thomas Bevan in Carmarthenshire 1654, described Katherine as ‘a true, faithful, chaste, and honest person of this nation without any unchaste or ___ carriage of life, or witchcraft, or suspicion to the same’.¹⁰⁴ The implication here is clear; as Katherine had never before been accused of witchcraft, the accusation against her had no merit.

This study is not unique for suggesting that the slander records found in the Prothonotary papers can provide evidence of Welsh witchcraft belief. Indeed, this has formed a key part of the arguments of both Suggett and Parkin.¹⁰⁵ But while these authors referred to this source as ‘witchcraft as words’ I have argued that this approach actually obscures the specific allegations of *maleficium* that are contained within these actions. Instead, I have referred to these cases as witch-slanders and have argued that these cases are records of seriously intended allegations of witchcraft that lacked the necessary community support to instigate a full trial for witch-felonies (or *maleficium*).¹⁰⁶ Prothonotary papers thus provide a key source for this chapter of the thesis which I have addressed with a different methodology to previous historians by treating these sources as records of specific incidents of alleged *maleficium* that can be directly compared to the depositions and indictments found in the gaol files to expand our knowledge of the diversity of Welsh witchcraft belief.

1.4: Scope of this thesis

This thesis contributes to the field of the history of crime by considering both an under-studied time period and location. Examining the earlier part of the early modern period provides a stronger foundation for the arguments of historians whose work has focused more on the seventeenth century and beyond. This is especially true for ideas of honour and violence, which the historiography has described as particularly gendered masculine. The investigation in this thesis demonstrates that evidence for the slow process of these gendered patterns, whereby the offence of

¹⁰⁴ NLW GS 12/30/12 Prothonotary Papers (1657).

¹⁰⁵ Richard Suggett, ‘Slander in Early Modern Wales’, *The Bulletin of the Board of Celtic Studies*, 39 (1992), 119–54; Suggett, *A History of Magic and Witchcraft in Wales*, pp. 13, 48, 121; Parkin, ‘Witchcraft, Women’s Honour, and Customary Law’, pp. 295–296.

¹⁰⁶ Suggett did also suggest that the slander records represent serious allegations rather than mere insults, but his focus on the specific language of these accusations meant that the criminal allegations contained within had not been fully explored.

manslaughter was eventually gendered masculine over the course of the early modern period, appears in the Great Sessions, showing that narratives of female honour and aggression also appear in this earlier material.

My study approaches gendered experiences of crime in Wales from a variety of angles, highlighting different thematic elements. While gender has formed the central framework of this investigation, the themes of legal process and space have emerged as key tools through which to explore the criminal record. I do not seek to achieve broad conclusions about Welsh women's experiences of crime. Instead, this study provides new angles through which to question the criminal material that respond to the approaches of previous historians.

2: Female thieves in Montgomeryshire

Theft was the most common offence for which women were indicted in the Montgomeryshire Great Sessions between c.1542 and 1590. This corresponds with many other studies of early modern crime; as D. J. V. Jones found in his study of eighteenth-century crime in Wales, ‘larceny was by far the most popular female crime’.¹ This is not to say that theft was an especially female-gendered crime, but rather that it accounted for a particularly high proportion of offences prosecuted as felonies both across various time periods and locations. According to Walker’s findings in early modern Cheshire, more than three-quarters of felonies prosecuted were forms of theft.² The fact that this crime makes up such a high proportion of indicted offences means that it has received considerable attention from historians writing broad studies of crime across different locations and time periods.

While this crime has thus been subject to much historical attention, I argue that there are still new perspectives to explore. My methodology of reading altered indictments and partial verdicts against the original criminal charge indicates that arguments that women were more likely to commit petty thefts than men have not fully accounted for the importance of the discretionary powers of the jury in shaping statistical outcomes. Further, I argue that the use of ‘space’ and its associated terms can be expanded upon as categories of analysis to provide evidence of the ways in which witnesses and victims used space as a tool through which to explain the type of offence they believed had occurred, and the reasons for their suspicion of the alleged criminal.

The approach of historians in the 1970s and 1980s focused on quantitative methods and highlighted differences in patterns of prosecution. This led to arguments that women’s thefts were different in character to those committed by men. While these studies were not explicitly focused on gendered differences, the

¹ David J. V. Jones, ‘Life and Death in Eighteenth Century Wales: A Note’, *Welsh History Review*, 10.4 (1981), 570–82 (p. 593).

² ‘Various forms of theft – petty and grand larceny, housebreaking, burglary, pickpocketing, robbery including highway robbery, and horse-theft – together constituted some three-quarters of felonies prosecuted in early modern England’. Garthine Walker, *Crime, Gender and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003), p. 159.

frameworks adopted in these studies led to conclusions that viewed male criminality as the 'norm'. These approaches, such as Hanawalt's study of crime in medieval England, have been critiqued for emphasising women's subordinate roles in men's thefts.³ Statistical studies that showed that women were accused of committing far fewer thefts than men also lead to arguments that women were seen by their victims and by the legal authorities as less criminally inclined compared with their male counterparts.⁴ Broadly, then, studies of theft positioned male criminality as the norm with women acting in roles that were subordinate to the grander and more daring thefts committed by men.⁵

For example, one of McLynn's three categories of female offenders was women who acted as accomplices to men, with the other two categories being those who worked as professional pickpockets and shoplifters, and those who stole out of genuine need.⁶ This dichotomy between women who stole for immediate use and men who stole for a profit further emphasised the ways in which women were socially and legally perceived as being less 'dangerous' offenders than their male counterparts. This also led to arguments that women were treated with greater leniency by the courts.⁷ Walker, in her study of early modern Cheshire, found similar patterns to McLynn. Walker agreed that women were more likely than men to be acquitted on a capital charge of theft, but more likely than men to be convicted on a misdemeanour. However, Walker also corrected McLynn and Weiner's assumptions that this was due to leniency or "tenderness" on the part of prosecutors, pointing out that 'for larceny, the case for judicial leniency is poor'.⁸ Instead, Walker argued that the sex of an offender was only one variable that influenced juries' decisions.⁹

³ Barbara Hanawalt, *Crime and Conflict in English Communities, 1300-1348* (Cambridge: Harvard University Press, 1979), pp. 119-122. For a critique of this approach see Trevor Dean, 'Theft and Gender in Late Medieval Bologna', *Gender & History*, 20.2 (2008), 399-415 (p. 399).

⁴ Hanawalt, 'The Female Felon in Fourteenth-Century England', *Viator*, 5 (1974), 253-68 (p. 256); Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England*, (Cambridge: Cambridge University Press, 1987), pp. 149-57; see also Walker, *Crime, Gender and Social Order*, pp. 159, 176.

⁵ Carol Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *Journal of Social History*, 8.4 (1975), 38-60 (pp. 42, 45).

⁶ F. J. McLynn, *Crime and Punishment in Eighteenth Century England* (Oxford England; New York: Oxford Paperbacks, 1991), p. 125.

⁷ McLynn, *Crime and Punishment*, p. 125-126; Carol Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *Journal of Social History*, 8.4 (1975), 38-60 (p.40).

⁸ J. M. Beattie, 'The Criminality of Women in Eighteenth-Century England', *Journal of Social History*, 8.4 (1975), 80-116 (p. 96); McLynn, *Crime and Punishment*, p. 125-126; Wiener, 'Sex Roles', p. 39.

⁹ Walker, *Crime, Gender and Social Order*, pp. 206-209.

While many historians have used conviction rates for female theft to great effect, they are – as Howard pointed out – ‘only one index of attitudes towards a crime’.¹⁰ Rather than focusing on the different sentences handed to women and men as indicators of the different experience of female thieves before the law, this chapter instead focuses on the specific theft offences that women were accused of committing, the items that they were alleged to have stolen, and the locations in which they committed these thefts. The reason for this is largely a practical one – the rate at which outcomes are recorded is inconsistent, and trying to compare change over time is likely to result in false statistics that relate to a change in the reliability of available data rather than any specific cultural or legal shift in prosecutions.

In order to avoid making comparisons about male and female criminality that treat male thefts as the ‘norm’ of criminal experience, this study focuses exclusively on thefts committed by women, either acting alone or in groups with female and male accomplices. By considering female thefts in their own right, this chapter seeks explanations for patterns in the process of prosecutions for thefts which do not rely on male experiences before the law to provide contextualisation for female criminality. Following Walker’s approach, which examined female thefts in detail and emphasised the diversity of accusations made against women, this chapter first considers the different types of thefts women were indicted for.¹¹ By exploring the ways these indictments were altered (both by the grand jury and as a result of partial verdicts) and the effect that these alterations had on the ultimate charges these women faced, this chapter argues that the characterisation of female thefts as petty has been based on judicial processes rather than on the perceptions of persons who

¹⁰ Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff: University of Wales Press, 2008), p. 154. Howard argued this in relation to her findings that livestock thefts were treated in Wales with the same severity as Horse Thefts. It is also important to remember that executions are the result of a series of decisions made by many groups of people – from the prosecutor to the judge – who all has different cultural and legal reasons for characterising an offence as a capital one. In earlier cases, we also have fewer sources that can tell us about the attitudes of the people who witnessed thieves being executed. McLynn argued that female thieves were less likely to hang because people were more likely to see a hanged female as sympathetic (unless she had committed a truly heinous sin such as murder). See, McLynn, *Crime and Punishment*, pp. 128-129. Without the narrative sources that tell us about these attitudes, conclusions that rely on executions being a true reflection of a homogenous attitude to one type of crime will be unreliable.

¹¹ Walker’s approach to the issue of crime and gender has since been replicated in many other studies including, Gregory Durston, *Victims and Viragos: Metropolitan Women, Crime and the Eighteenth-Century Justice System* (Bury St. Edmonds: Abramis, 2007); Jones, *Gender and Petty Crime*; Deirdre Palk, *Gender, Crime and Judicial Discretion, 1780-1830* (London: Royal Historical Society/Boydell Press, 2006).

were the victims and prosecutors of female thieves. Secondly, this chapter considers the types of goods allegedly stolen by women and challenges the idea that women relied on male guidance when committing offences, supporting Walker's arguments that women were not dependent on men when they committed offences.¹² The physical size and monetary values of stolen goods are also considered in order to explore assumptions that thefts committed in groups are evidence of professionalised thefts in Wales. Thirdly, this chapter explores the spatial dynamics revealed in theft indictments as a preliminary study of how these sources can contribute to existing arguments about the ways in which early modern women's experience of space, place, and location provided both opportunities and motivations for the crimes that they were accused of committing. This section also emphasises the ways in which space, place and location influenced the judicial process by providing frameworks through which witnesses and victims could identify suspects and describe the category of theft that had occurred and its corresponding severity.

2.1: Gendered aspects of theft indictments in Montgomeryshire, c.1542-90

'Theft' as a term encompasses many different types of crimes in which personal property was taken from one person by another. These incidents were categorised in different ways under the early modern legal system with different penalties ascribed according to particular aspects of each offence. The most noticeable characteristic of this discretionary system of punishment is the cost of the stolen goods – an important piece of information that dictated that a theft offence was a felony if the stolen goods were worth over a shilling (regardless of what the goods were), and only a misdemeanour if they were below this value. Other conditions that determined whether the crime was a felony, not a misdemeanour, included particular categories of goods stolen (horse theft), the use of violence during the offence (robbery), and the location of the crime (burglary, housebreaking, highway robbery). The characterisation of these offences as more heinous than simple larceny is further evident through the fact that some offences were removed from benefit of clergy.¹³

¹² Walker, *Crime, Gender and Social Order*, pp. 160-162.

¹³ Walker, *Crime, Gender and Social Order*, p. 181. All burglaries and housebreaking offences where the goods stolen were valued at over five shillings were removed from benefit of clergy in the sixteenth century.

Arguments, such as Weiner's, that women were less daring than men when they committed thefts developed from quantitative studies which showed that early modern women were far less likely than men to commit felony thefts.¹⁴ Instead, thefts committed by women were characterised as being lower in value, opportunistic, and less serious than those committed by their male counterparts.¹⁵ With this in mind, we should expect that women indicted for theft in Montgomeryshire were indicted for thefts that were low-value and low-risk. The data from the Great Sessions, however, indicates that this is not the case. Instead, women in Montgomeryshire were indicted for a variety of serious offences, both in terms of the category of offence they were alleged to have committed, and the value of the goods allegedly stolen. While women may have been indicted for a smaller range of offences than their male counterparts – there were very few alleged female horse thieves in this county, for example – the proportion of women who were involved in burglaries and grand larcenies in this part of Wales appears to be much higher than previous historians who have examined other areas have accounted for. This indicates that comparisons to male thefts in quantitative studies have somewhat overshadowed the experiences of accused women by emphasising the small proportion of women contrasted to the total numbers of theft accusations. Instead, I argue that examining the experiences of women, without comparison to men, highlights the diverse range of offences that women were accused of – both in terms of the category of offence (for example, burglary or grand larceny) and in terms of the alleged monetary value of the goods stolen.

2.1.1: Indictments for theft offences

While 'theft' encompasses many types of property offences, the material from Montgomeryshire can be sorted into four main categories of offence. These are, burglary, housebreaking, grand larceny (for thefts over 12d.) and petty larceny (for thefts 11d. and less). The first three offences were all capital felonies, although burglary appears to have been regarded by legal theorists as a more serious offence, as this was non-clergiable. It is, however, worth noting that women could not claim

¹⁴ Beattie, *Crime and the Courts*, p.238); Wiener, 'Sex Roles and Crime', p. 40.

¹⁵ Hanawalt, 'Female Felon', p. 265; Robert Brink Shoemaker, *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c. 1660-1725* (Cambridge: University Press, 1991), pp. 212-213.

benefit of clergy at this time, and so they should have faced the same punishment for all three offences.¹⁶ Sometimes, these indictments were altered. The grand jury, who decided on whether a bill of indictment was ‘true’ or not, and therefore, if it could be prosecuted, could make adjustments to the original indictment if there was a mistake. More frequent, however, was the return of a partial verdict, where the petty (or trial) jury found the defendant guilty, but on a reduced charge.¹⁷ Thus, while the defendant was found guilty, the charge that they were sentenced for could be very different from the one that they were first accused of.

*Table 2.0-1: indictments of women acting alone or with other women before alterations, Montgomeryshire, c.1542-1590.*¹⁸

	<i>Number of indictments</i>	<i>% of total theft offences committed by women</i>
Burglary	14	13
Housebreaking	11	10
Grand larceny	60	55.5
Petty larceny	21	19.5
Cutpursing	2	2
<i>Total</i>	<i>108</i>	<i>100</i>

Of the thefts committed by women acting alone or with female accomplices, the majority of offences were originally recorded as grand larceny offences before an alteration was made or a partial verdict returned, with four-fifths of cases representing felony charges as opposed to the one-fifth that account for non-capital misdemeanours. This suggests that the Montgomeryshire public who brought these cases to the attention of the legal authorities were not influenced by perceptions of women as petty thieves. We should, however, be careful to not over-interpret the data here, as petty larceny was more likely to be prosecuted at the Quarter Sessions rather than at the Great Sessions.¹⁹ Unfortunately, it is not possible to compare the

¹⁶ Walker, *Crime, Gender and Social Order*, p. 138. Women did not have to read the neck verse; they were automatically burned in the hand.

¹⁷ Herrup, *The Common Peace*, p. 157.

¹⁸ All of the data presented in the tables in this thesis has been extracted from the Gaol Files of the Great Sessions in Wales unless otherwise stated. For a full list of documents consulted, see the ‘primary manuscript sources’ of the bibliography.

¹⁹ Karen Jones produced the most comprehensive study of petty larceny; Karen Jones, ‘Offences against Property’, in *Gender and Petty Crime in Late Medieval England: The Local Courts in Kent, 1460-1560* (Woodbridge: Boydell, 2006), pp. 32–60. Sharon Howard was also able to use Quarter

number of petty thefts prosecuted at these sessions to those consulted in this study as the Quarter Sessions records do not survive for this time period. This means that we are dealing with an incomplete picture, with petty thefts underrepresented in the data set. We must be careful to acknowledge, then, that the sources available only deal with the more serious offences.

The lack of comparative material is not the only issue encountered when dealing with indictments as a dataset; as Howard pointed out, it is difficult to identify patterns in this material as the datasets are small and survival rates irregular.²⁰ Woodward also argued that rates of indictment are likely to be a poor indicator of change over time and that patterns of prosecution were more likely to be affected by economic conditions rather than genuine changes in the rate of incidence of each offence.²¹ For this reason, this chapter does not attempt to analyse changes in prosecution patterns over time. Instead, I focus on the particular theft offences women were accused of committing, the differences between these allegations as they were originally written and the alterations and partial verdicts which changed the descriptions of these offences. Further, I question what these can tell us about the nature of female criminality in early modern Wales and the way this criminality was perceived by those who brought the criminal charge and those who judged it.

It is evident from the Great Sessions data that women acting alone or with other women were indicted for some quite serious offences. It is also evident, however, that this range of offences was somewhat restricted, with few female horse-thieves, robbers, or pickpockets and cutpurses appearing in the Montgomeryshire records. Historians have already devoted attention to the lack of female horse-thieves, with many studies of crime in different areas and time periods also finding low numbers of female horse-thieves.²² There was only one female horse thief accused in Montgomeryshire in this period; Anne ferch John, from Ynysgain in Caernarvonshire, who was indicted in 1578 for stealing a bay gelding worth 46s.

Sessions records in her study of early modern crime in Denbighshire; Howard, 'Investigating Theft', in *Law and Disorder*, pp. 97–141.

²⁰ Howard, *Law and Disorder*, p. 100.

²¹ Woodward, *Burglary in Wales*, pp. 78–79.

²² For example see, Lynn MacKay, 'Why They Stole: Women in the Old Bailey, 1779–1789', *Journal of Social History*, 32.3 (1999), 623–39 (p. 625); Walker, *Crime, Gender and Social Order*, pp. 160–167; Nicholas Woodward, 'Horse-Stealing in Wales', *Agricultural History Review*, 57.1 (2009), 70–108 (pp. 84–87). For further context of the horse trade see; P. R. Edwards, 'The Horse Trade of the Midlands in the Seventeenth Century', *Agricultural History Review*, 27.2, 90–100.

8d.²³ Three further indictments list women who were indicted for assisting male horse thieves.²⁴ Walker argued that one of the reasons why there were few women horse thieves was because the structure of the household and the gendered division of labour obscured women's roles in these thefts.²⁵ Women's roles within the horse trade centred on the care of the animal whilst the market for horses was an almost exclusively male domain. Woodward identified similar patterns to Walker's arguments that women were likely to raise suspicions when trying to sell a horse on, due to the fact that this trade was dominated by men. He also argued that the ways in which this trade operated also discouraged young men from attempting to sell on stolen horses as horse traders were nearly always older, well-established tradespeople.²⁶ While the material from Montgomeryshire does suggest that women did not engage in this type of theft, it is my argument that the number of burglaries and grand larcenies indicates that women, in general, did not avoid 'high risk' offences. Conclusions that women did not steal horses because they lacked the ambition of their male counterparts are thus insufficient explanations that do not consider the full social and economic contexts that surround this offence.

While the lack of female horse thieves can be attributed to gendered work experiences, the lack of female robbers and pickpockets can be attributed to the nature of the legal process in Tudor Wales. There are seven indictments against women who were alleged to have assaulted a person at the same time as stealing from them. However, none of these indictments, nor the documents associated with them – such as lists of offences or calendars of prisoners – describe these offences as robberies. As such, robbery does not appear to have been treated as a separate category of theft in Wales at this time. Robbery also does not have a particularly strong presence in Howard's study of later cases from Denbighshire, and this offence is not mentioned in Ireland's book or Powell's article.²⁷ It is unclear whether the reason for this is because there is no evidence of robbery as a separate offence in

²³ NLW GS 4/129/1/121 Indictment (1578). Ynysgain appears to be near Crickieth in Caernarvonshire. See; Thomas Nicholas, *Annals and Antiquities of the Counties and County Families of Wales* (Baltimore: Genealogical Publishing Company, 1991), pp. 353-354. The fact that Anne was a foreigner in Montgomeryshire will be addressed in the *Persons and Proximity* section of this chapter.

²⁴ NLW GS 4/125/2/55 Indictment (1563); NLW GS 24/34/11 Plea Roll (1565) – the indictment listed here cannot be found in the gaol file; NLW GS 4/125/4/54 (1566).

²⁵ Walker, *Crime, Gender and Social Order*, p. 168-169.

²⁶ Woodward, 'Horse-Stealing in Wales', pp. 84-87.

²⁷ Howard, *Law and Disorder*; Ireland, *Land of White Gloves*, Powel, 'Crime and the Community'.

Wales, or simply because these authors prioritised other aspects of their investigation. What is evident from my material, is that any conceptualisation of robbery as a separate theft in Wales occurred after the sixteenth century.

Offences involving cutting purses and picking pockets are a little more frequent within the dataset, with a number of references to this offence in examinations and calendars of prisoners. There are, however, few indictments for this offence involving women with only two indictments against women in total.²⁸ Studies such as Clayton's found that pickpocketing was one of the few offences where women were more likely than men to be indicted, but this pattern is not established for Wales at this time and the Welsh authorities were not particularly troubled by this offence.²⁹ Studies of this offence have often emphasised the fact that it usually occurred in urban areas, where large crowds enabled thieves to get close enough to their targets without their behaviour being viewed as suspicious.³⁰ Montgomeryshire did not yet have the sort of urban environments that would facilitate this crime. Another possible explanation for this is that, as with robberies, this category of theft has not yet been established as independent from other types of offence, meaning that incidents of cutpursing may have been charged as simple larcenies instead.

Burglary and housebreaking – both capital crimes though only burglary was non-clerigiable – make up 23% of theft indictments against women. Woodward's examination of burglary in Wales from 1730-1830 demonstrated that women also had a preference for burglary over other crimes in this period indicating that thefts of this nature remained popular for women in Wales beyond the time period addressed in this thesis.³¹ Woodward characterised this offence as requiring a low level of skill, that was rarely violent and enabled the thief to avoid confrontation with their victim. It was for these reasons, he argued, that burglary was a crime that was attractive to female offenders.³² On the other hand, Woodward's arguments appear to have been influenced by studies that emphasised women's thefts as low risk and unambitious rather than the data from indictments which shows that women were often accused of using violence during their thefts, and of committing types of theft offences that

²⁸ NLW GS 4/133/1/131 Indictment (1588); NLW GS 4/133/5/149 Indictment (1589).

²⁹ Beattie also made a similar discovery in his study, Beattie, *Crime and the Courts*, p.181. See also, Mary Clayton, 'The Life and Crimes of Charlotte Walker, Prostitute and Pickpocket', *The London Journal*, 33.1 (2008), 3–19 (p. 16).

³⁰ Beattie, *Crime and the Courts*, p. 180-181; Walker, *Crime, Gender and Social Order*, p. 185-190.

³¹ Woodward, *Burglary in Wales*, p. 75.

³² Woodward, *Burglary in Wales*, p. 72.

would result in a capital sentence if convicted. After all, avoiding detection must have required a considerable amount of stealth and premeditation. The possibility of confrontation with the house's occupants also meant that this was a relatively high-risk activity. In 1564, Tangolyst ferch Morris was accused of assaulting the occupants of a house as she was in the process of committing a burglary.³³ Ellen ferch Morris and Agnes ferch Morris were similarly accused in 1567 of assaulting the son of David ap Morris Guttyn ap Tudor as they stole a cauldron from his house.³⁴ These recorded incidents of violence indicate that burglars were confronted by their victims demonstrating that thieves were sometimes caught in the act.

Further, while we must be careful not to overstate the violence described by legal stock phrases such as 'with force and arms' or mentions of how the occupants were 'in great fear', it is notable that these phrases were associated with burglary. Indeed, when indictments for burglary were altered to simple larcenies, these phrases which referred to violence were also removed from the indictment, although it is unclear whether the grand juries did this before the accused's trial or if the indictment was altered as the result of the petty jury finding a partial verdict. Such was the case of Machalt ferch David ap Ieuan ap Rees, the indicted charge was changed from burglary to simple larceny as the words 'causing [the occupants] to be in great fear' were removed from her indictment.³⁵ This suggests that Woodward underestimated the ways in which burglary had the potential to be a daring, complex, and violent crime. In Wales, the legal record indicates that burglary was legally treated as a violent offence whether or not a physical altercation had occurred.

The altering of Machalt ferch David ap Ieuan ap Rees's indictment from burglary to simple larceny was not entirely unusual; indeed, other historians have commented on the use of partial verdicts, especially in cases involving women.³⁶ These alterations could change the type of offence by removing words associated with burglary or by changing the value of the stolen goods to change a grand larceny to a petty larceny. In total, just under a third (31%) of indictments for sole female

³³ NLW GS 4/125/3/25 Indictment (1564).

³⁴ NLW GS 4/125/5/37 Indictment (1567).

³⁵ NLW GS 4/129/1/167 Indictment (1578).

³⁶ NLW GS 4/129/1/167 Indictment (1578). Beattie, *Crime and the Courts*, p. 182; J. M. Beattie, 'Crime and the Courts in Surrey, 1736-1753', in *Crime in England, 1550-1800*, ed. by J. S. Cockburn, 4th Edition (Abingdon: Routledge, 2016), 155-86 (p. 163). See also, Peter King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800', *The Historical Journal*, 27.1 (1984), 25-58 (p. 35).

offenders was altered either on the indictment by the grand jury or as a partial verdict by the petty jury.³⁷

Table 2.0-2: female indictments altered to change the nature of the alleged offence, Montgomeryshire, c. 1542-1590.

	Alteration changed the offence	Alteration did not change the offence
Burglary	3	-
Housebreaking	-	1
Grand larceny	10	1

In most cases, the alterations on indictments changed the offence from a felony to a misdemeanour by either crossing out the words that indicated a burglary had taken place (i.e. references to the time of day or the breaking of property) or by changing the value of the stolen goods to under 12d. There are a few examples from Montgomeryshire where the alterations made as the result of partial verdicts did not change the nature of the offence. When Katherine ferch Hugh was indicted in 1561 for entering the house of Richard Davies and stealing several ducks, the birds were valued at 2s. 8d in total.³⁸ This value is an alteration of a crossed-out original that is now illegible. We cannot tell if this reduction in value was particularly drastic, but we can see that at 2s. 8d. this offence was still a grand larceny. In this case, I think it is possible that the alteration to Katherine's indictment was made because the cost of the ducks was written as a mistake, and was then altered to reflect their true value, rather than their value being altered as a legal strategy that would prevent Katherine from facing the death penalty. Ellen ferch Jenkin of Llanfihangel-y-Creuddyn in Cardigan was indicted in the Montgomeryshire Great Sessions for breaking and entering the house of Rees ap William. While the value of the goods she stole was altered, the house-breaking offence was not.³⁹ Ellen, however, was not convicted of

³⁷ For example, cases such as that of Elizabeth Jackson, who was indicted in 1573 for stealing 1s. 10d. worth of clothes. Her indictment was not altered but she was only convicted for 11d. worth of goods, resulting in her being sentenced to be whipped rather than hanged; NLW GS 4/127/4/29 Indictment (1573).

³⁸ NLW GS 4/124/4/22 Indictment (1561).

³⁹ It is possible that in this example the alteration was the result of a genuine mistake made in the process of drawing up the indictment, rather than a conscious attempt to alter the nature of the offence.

the housebreaking offence that was recorded on her indictment and was instead convicted for 10d. worth of goods.⁴⁰ The flexibility of partial verdicts here serves to highlight the discretionary powers of the jury in Wales. This was not a system that subjugated citizens but rather responded to the individual circumstances of each offence.⁴¹

This undervaluing of goods on indictments had a long historical precedent; Herrup demonstrated that this process of offences being ‘downgraded’ started in the twelfth century where thefts that were clearly the result of genuine need were most likely to be prosecuted as lesser offences.⁴² Because of this, thefts involving grain, bacon, and other foodstuffs were, according to Herrup, those most likely to be downgraded to lesser offences.⁴³ There are not many indictments for stealing such goods recorded in the Montgomeryshire Great Sessions, possibly because they were instead prosecuted in the Quarter Sessions. Of the offences where foodstuff was taken, many were not altered because they were already indictments for goods valued at under a shilling; such was the case of Gwen Hynton, accused in 1586 of stealing cheese worth 10d., and Katherine ferch Ieuan who was pardoned for stealing 7d. of sheep’s meat in 1587.⁴⁴ Walker and Samaha both found that juries frequently undervalued goods.⁴⁵ Samaha identified this as a technique available to the various parties involved in criminal prosecution in a society that saw a clear distinction between property offences and violent crime. As Samaha argued, ‘discretion in enforcing the law was a perfectly respectable practice in the 16th century’.⁴⁶ The number of partial verdicts, and the variations in these, suggests that each case was considered individually depending on the evidence given at trial suggests that this is also true for sixteenth-century Montgomeryshire.

⁴⁰ NLW GS 4/125/3/27 Indictment (1564). The goods Ellen was accused of stealing were two kerchiefs (2d. each) a russet apron (4d.) [price altered from 12d.] and a pair of sleeves (4d.) [price altered from an illegible amount].

⁴¹ The view that the law was an elite tool of oppression was argued by Marxists historians and has largely been revised. See, Manuel Eisner, ‘Long-Term Historical Trends in Violent Crime’, *Crime and Justice*, 30 (2003), 83–142 (p. 129).

⁴² C. B. Herrup, ‘Law and Morality in Seventeenth-Century England’, *Past & Present*, 106, (1985), 102–23 (p. 114).

⁴³ Herrup, ‘Law and Morality’, pp. 114–117.

⁴⁴ NLW GS 4/133/5/160 Indictment (1586); NLW GS 4/133/1/84 Indictment (1587).

⁴⁵ Samaha and Walker were writing about different areas and time periods – Samaha wrote on Elizabethan Colchester and Walker examined early modern Cheshire - showing that this undervaluing of goods was consistently used both during and after the period considered in this thesis.

⁴⁶ Samaha, *Hanging for felony*, pp. 775–777.

This is not to say that these findings are universal among studies of early modern crime. Karen Jones did not find any evidence of goods being undervalued in her study of the local courts of Kent 1460-1560. Jones argued instead that ‘in the absence of the practice of undervaluing of stolen goods it can be claimed with confidence that women’s thefts were on the whole less serious than men’s’.⁴⁷ On the other hand, Jones’s study used cases from local borough and manor courts that dealt mostly with misdemeanours. Jones found very few felony accusations in her study, and so it is possible that the reason she did not find any alterations was that, as most indictments were for offences that were already non-felonies, there would be no incentive to alter them. By looking at the Great Sessions and at charges that carried the death penalty, we can see a clear pattern of the undervaluing of goods to the extent that they altered the relevant charge from felony to misdemeanour. Indeed, of the sixty-two indictments for grand larceny without any burglary or housebreaking offence, twenty – just under a third of these cases – resulted in partial verdicts for amounts that altered the crime to petty larceny. The values of stolen goods were also altered in indictments for burglary and housebreaking. In two examples in Table 2.2 earlier in this chapter where the altered value was still a grand larceny amount. In these cases, unlike examples where partial verdicts changed grand to petty larceny, the cost of the stolen goods did not affect the sentence. It is also possible that these alterations that did not alter the category of crime were not attempts to lessen the charge but were rather the result of genuine mistakes in drawing up the indictment, as I suggested for the case of Katherine ferch Hugh and the ducks that she stole.⁴⁸ While some of the alterations on indictments could be the result of genuine error, the large differences between original and altered amounts in some indictments suggest a much more deliberate action.

⁴⁷ Jones also concluded that women were more likely than men to be charged for minor offences, such as hedge breaking, but on the whole, they received lower fines than men. That said, women who were accused of theft were *not* more likely to escape punishment than their male counterparts. Jones, *Gender and petty crime*, pp. 59-60.

⁴⁸ NLW GS 4/124/4/22 Indictment (1561).

Table 2.0-3: differences in value between original and altered amounts theft offences with a sole female indicted, Montgomeryshire c. 1542-1590.

	<i>Altered on indictment</i>	<i>Altered after indictment</i>	<i>Total alterations</i>
< 1s.	2	4	6
1s.-5s.	2	2	4
5s.-10s.	3	3	6
10s. +	2	3	5

This table shows that there are examples where large alterations of more than 10s. were made to some indictments. The most ‘dramatic’ alteration was in the case of Elizabeth ferch Ieuan ap Owen who was indicted in 1568 for stealing clothes worth a total of 13s. but was convicted to the value of only 10d.⁴⁹ Herrup argued that while juries were not inclined to be sympathetic to the accused, grand juries were reluctant to find true bills in indictments against youths, and petty juries considered a person’s age, motivation, and character.⁵⁰ Elizabeth’s age was not recorded on her indictment so it is possible that this may have been a factor in the decision to alter the charge against her so dramatically. While the alteration of the values of goods on indictments has been taken by some historians to show that women were treated with leniency by the criminal courts, the historical precedent of this practice and the range of circumstances in which these alterations took place, both during and after the drawing up of an indictment, suggests that the reasons for these alterations were more complex than a simple issue of gender, but, as Herrup argued the result of discretionary jury decisions about the overall character of the defendant and how well they presented themselves before the jury.⁵¹

It is also notable that considering alterations to indictments changes the overall pattern of female crime in Montgomeryshire; indictments that were altered from grand to petty larceny account for 65% of petty theft indictments. The characterisation of female thefts as largely petty, thus depends on whether we are investigating indictments as they were originally written or not, as petty thefts made up a much more significant proportion of women’s offending (39% of sole female

⁴⁹ NLW GS 4/126/1/76 Indictment (1568).

⁵⁰ Herrup, *The Common Peace*, pp. 129, 158.

⁵¹ Herrup, *The Common Peace*, p. 158.

theft indictments) in altered indictments than non-altered ones (14% of sole female theft indictments). The dissimilarity between the character of these offences at different stages of the trial process suggests that there were considerable variations between the perception of female thieves among the people that were their victims and the petty juries that tried them. This directly contrasts with McLynn who argued that 'women were generally perceived to be less dangerous to the community'.⁵² The frequency with which women were indicted for capital theft offences, that often involved threatening behaviours such as housebreaking or violence, indicates that there was no agreement in the population of Montgomeryshire that women were not dangerous. Indeed, Herrup emphasised that victims of crime made many decisions when bringing indictments as to precisely which sort of offence the accused should be charged with.⁵³ The contrast between the charges made by alleged victims and the eventual partial verdict which changed the offence to a less serious one suggests that if there was a view that women were less criminally dangerous than men, this view was held by Welsh juries, not by the population as a whole.

It is also possible that indictments were altered because women were not able to claim benefit of clergy in this time period. Walker's comparison of the benefits of clergy and of the belly corrected the view of some historians who viewed the benefit of belly as something that was roughly comparable to benefit of clergy and a strategy that was usually successful at saving the convicted woman from the gallows.⁵⁴ Instead, Walker demonstrated that women who successfully pleaded their belly were still likely to be sent to the gallows after they delivered their child.⁵⁵ Women may have had their indictments altered because there was an awareness that once convicted of the offence there were few strategies open to them to help them escape the gallows.⁵⁶ While this might be cited as evidence of a sympathetic attitude towards female offenders, it must also be remembered that two-thirds of the indictments for female thefts did not have any alterations. If there was a sympathetic attitude to female offenders in Montgomeryshire, then, it was limited.⁵⁷

⁵² McLynn, *Crime and Punishment*, p. 128.

⁵³ Herrup, *The Common Peace*, pp. 93-130.

⁵⁴ Walker, *Crime, Gender and Social Order*, pp. 197-198.

⁵⁵ Walker, *Crime, Gender and Social Order*, pp. 197-201.

⁵⁶ Convicted persons might benefit from a general pardon but these were not issued concurrent with assizes; Walker, *Crime, Gender and Social Order*, p. 199.

⁵⁷ Beattie pointed out that the majority of evidence for 'tender' prosecuted is found in the eighteenth century, where execution rates could be used to argue that women were treated in more sympathetic

2.1.2: *Dependent females?*

Generally, historians have assumed that women were more likely to act with men when committing property offences, leading to arguments that women sought the guidance of their male counterparts when taking part in large-scale or ‘ambitious’ thefts. Walker challenged this assumption by analysing the criminal associations of women and men and found that women were instead more likely to commit thefts with members of their own gender.⁵⁸ The extent to which women sought out and relied on the guidance of men can thus be challenged.

Table 2.0-4: indictments for theft offences comparing groups to sole females, Montgomeryshire, c. 1542-1590.

	<i>Male/female groups</i>	<i>Female groups</i>	<i>Female sole</i>
Burglary	2 (3%)	2 (14.25%)	14 (15%)
Housebreaking	3 (5%)	1 (7%)	13 (13.5%)
Grand	37 (62%)	9 (64.5%)	48 (50.5%)
Petty	2 (3%)	2 (14.25%)	17 (18%)
Horse	3 (5%)	-	1 (1%)
Unknown	6 (10%)	-	-
Robbery	6 (10%)	-	1 (1%)
Cutpurse	-	-	1 (1%)
Rescue	1 (2%)	-	-
<i>Total</i>	<i>60 (100%)</i>	<i>14 (100%)</i>	<i>95 (100%)</i>

This table shows that women who acted in groups with other women or on their own had a much higher preference for burglary and housebreaking offences (21.25% and 28.5% of offences committed by these groups, respectively) than women who committed theft offences in groups that included men (8% of offences committed by this group). Thus, we can see that not only were women frequently charged with this offence but also that when they committed these offences they rarely relied upon the

way than their male counterparts, Beattie, ‘The Criminality of Women in Eighteenth-Century England’, *Journal of Social History*, 8.4 (1975), 80–116 (p. 96 n. 57).

⁵⁸ Walker, *Crime, Gender and Social Order*, pp. 170, 171, n. 55.

support of men. The rates of grand larceny are similar across these demographics, with a slightly lower rate of this theft amongst sole women. Rather than this being the result of a lack of ambition among lone female thieves, however, this may be the result of more practical considerations. The larger the item, the more value it was likely to have, and so groups of people may have been needed to steal these higher value items.

Table 2.0-5: costs of stolen goods in un-altered indictments, Montgomeryshire c. 1542-1590.

	<i>Male/female groups</i>	<i>Female groups</i>	<i>Female sole</i>
<5s.	13 (24%)	7 (46.5%)	49 (53%)
5s.-10s.	6 (11%)	4 (26.5%)	23 (25%)
10s.-40s.	16 (30%)	3 (20.5%)	13 (14%)
40s.-£5	11 (20%)	1 (6.5%)	5 (5.5%)
£5+	3 (5.5%)	-	2 (2.5%)
Unknown	5 (9.5%)	-	-
<i>Totals</i>	<i>54 (100%)</i>	<i>15 (100%)</i>	<i>92 (100%)</i>

The larger-scale thefts committed by persons in mixed groups could be seen as supporting the hypothesis that women needed male support in order to carry out more ‘audacious’ types of offence. Certainly, groups of mixed genders were indicted for stealing items of much greater value than groups of women. There are fourteen indictments for thefts over £2 for mixed groups, whereas the costliest theft committed by women acting together was 6s. 8d.⁵⁹ These offences valued at over £2, however, were largely larcenies committed by groups of more than two people, suggesting that the reason why these larger-scale items were stolen by groups of mixed genders was not because women relied on male guidance when committing large-scale thefts, but rather because larger and costlier items needed more strength to move. For example, in 1564 Margaret, the wife of Thomas Highway along with fifteen other persons was indicted for breaking the house of William Lloyd, assaulting his wife, and stealing a coffer with iron locks, a bed-head and a bed worth a total of £5.⁶⁰ In 1563, Margaret the wife of John ap Rees Wyn was accused, along

⁵⁹ NLW GS 4/125/3/29 Indictment (1564).

⁶⁰ NLW GS 4/125/3/30 Indictment (1564).

with David ap John ap Rees Wyn, of assisting Ieuan ap David Vaughn in his theft of a bay gelding and two oxen totalling £6.⁶¹ Even items that were worth less could be difficult to move without assistance: in 1568 a group of five men and two women were indicted for cutting down and carrying away four oak trees worth 20s. in total.⁶²

The thefts committed by women acting in groups with men can, therefore, be characterised as generally being grand larcenies that involved items that were larger, heavier, and more expensive than those items stolen by women who acted alone or with other women. While this might lead us to conclude that thefts committed with men were more audacious and dangerous, the fact that women were more likely to commit burglary and housebreaking offences on their own or with other women suggests that this characterisation is incorrect. Further, while I have not studied male theft in any great detail in this thesis, comparable data from Cheshire suggests that even when men worked alone, they did not commit thefts of wildly different values to their female counterparts. Walker found that in cases of grand larceny, the values of stolen goods were roughly the same for both gender groups. At the smallest end of the scale, 21.2% of male thieves were accused of committing thefts of under 5s. with 19.0% of women accused of the same. In the most valuable thefts, 4.9% of male thieves were accused of thefts over £10 and 5.2% of female thieves were accused of the same.⁶³ The characterisation of women as petty thieves who needed the guidance of men, thus cannot be sustained.

Instead, the items stolen reflect the size and strength of the group, rather than a specific lack of ambition from female thieves. Focusing on the larger-scale thefts committed by mixed-gender groups also ignores the smaller-scale thefts committed by men and women acting together. For example, Ieuan ap David and Ellen ferch Ieuan ap Llewellyn ap Rees who were indicted in 1569 for stealing a goat worth 16d. or Jenkin ap Ieuan and Margaret ferch Meredydd indicted in 1559 for stealing a white sheep worth 2s.⁶⁴ Rather than emphasising the different scale of thefts committed by these groups then, it is perhaps better to acknowledge that women who committed offences with men were accused of a greater *range* of offences.

⁶¹ NLW GS 4/125/2/55 Indictment (1563). It is very possible that David was Margaret's son.

⁶² NLW GS 4/126/1/58 Indictment (1568).

⁶³ Walker, *Crime, Gender and Social Order*, p. 161.

⁶⁴ NLW GS 4/126/3/73 Indictment (1569); NLW GS 4/124/2/12 Indictment (1559).

2.1.3: *Criminal associates*

When examining indictments naming groups of people, it is tempting to look for evidence of familial relationships between participants. This approach can reveal information about gendered criminal associations, and the ways in which gender and household relationships affected who was indicted for what crime. As Walker argued, ‘household hierarchies rather than straightforward gender ones might determine who was most or equally implicated’.⁶⁵ Thus, familial relationships might affect prosecutors’ decisions of whom to prosecute and whom to leave off an indictment.⁶⁶

Exploring familial relationships within Welsh material from this time period is somewhat tricky, however, as Welsh naming customs often obscure these relationships. Examples such as the indictment against Ellen ferch Morris and Agnes ferch Morris both of Llanwnnog suggest that these two women could have been sisters, due to the fact that their fathers were both a man called Morris and they were from the same town.⁶⁷ But, Morris was a popular name early modern Montgomeryshire and there is no guarantee that there was only one Morris living in Llanwnnog at this time. In 1570, Ieuan ap David and Gwen ferch John were indicted for the theft of a sheep from a close belonging to Hugh ap Morris Gethyn, and six rye loaves from a woman over the border in Shropshire.⁶⁸ While their indictment does not mention any familial relationship between the two accused, and their names do not appear to be related, a surviving examination reveals that Gwen was Ieuan’s mother.⁶⁹ Without the detail provided by examinations and depositions, sibling and matrilineal relationships are thus hard to recover from Welsh indictments.

When these documents do survive, however, evidence of sibling relationships becomes visible – such as in the case of Katherine and Elizabeth Llello, indicted in 1569.⁷⁰ The examination of her sister, Elizabeth – who was accused of assisting Katherine after the theft – provides an example of how siblings and family members could help each other dispose of stolen goods. Elizabeth described how Katherine

⁶⁵ Walker, *Crime, Gender and Social Order*, p. 175.

⁶⁶ Depending on the prosecutor’s aims, indicting every guilty family member might not have been very effective – especially if cost was a consideration.

⁶⁷ NLW GS 4/125/5/37 Indictment (1567). Llanwnnog is also spelt Llanwnog.

⁶⁸ NLW GS 4/126/4/66 Indictment (1570).

⁶⁹ NLW GS 4/126/4/14 Examination of Ieuan ap David (1570); NLW GS 4/126/4/14 Examination of Gwen ferch John alias Williams (1570).

⁷⁰ NLW GS 4/126/3/74 Indictment (1569).

had visited her house with the stolen coat. Katherine had then asked Elizabeth to exchange the coats for money on her behalf, to which Elizabeth responded that she 'refused to meddle with the coat'.⁷¹ Elizabeth's strategy of claiming that she suspected that there was something wrong about the coat and that she wanted nothing to do with it clearly helped her prove her innocence; Elizabeth was acquitted and Katherine admitted that she had taken the coat from where it was hanging on a hedge. She was convicted to the value of 11d.⁷² This example reveals that siblings could be involved in the networks of exchange that enabled the profitable disposal of stolen goods (since Katherine had evidently assumed her sister would help her), as well as emphasising that the involvement of siblings or other family members in theft offences was not always consensual or conscious. Family members might also be the victims of crimes committed by family members. Anne Nichols, accused of a variety of thefts in 1566 confessed to stealing 'certain hemp' from her mother and selling it on.⁷³ Elizabeth ferch David was accused in 1569 of burgling the house of her aunt, Margaret ferch Llewellyn.⁷⁴ The relationships between family members involved in theft offences were therefore diverse and complicated. This does not imply that women were subordinate to or reliant on their male relatives for guidance. rather we see examples of women taking agency themselves in the acquisition and disposal of goods.

In some cases, married partners were indicted in small groups with people who may have been their friends or relatives. John ap Morgan and Alice ferch David, his wife, were indicted in 1566 alongside Roger ap William and George ap William for breaking the close of Thomas Penny and stealing twelve cartloads of hay worth 40s.⁷⁵ These four were all from the same place, Gwentriw, where the crime was allegedly committed. Roger and George might, therefore, have been brothers, but their relationship to John and Alice is uncertain. Similarly, the relationship between Oliver ap Richard, Jane, his wife, and William ap Richard, indicted in 1575 for stealing a wagon of rye worth 10d. is uncertain, though it is possible that Owen and

⁷¹ NLW GS 4/126/3/32 Examination of Elizabeth Llello (1569).

⁷² NLW GS 4/126/3/32 Examination of Katherine Llello (1569); NLW GS 4/126/3/74 Indictment (1569).

⁷³ NLW 4/125/4/35 Examination (1566). Anne was either not indicted or her indictments have been lost.

⁷⁴ NLW GS 4/126/3/41-42 Examination of Elizabeth ferch David (1569).

⁷⁵ NLW GS 4/125/4/15 Indictment (1566).

Richard were brothers, due to the fact that all of the accused were from the same place.⁷⁶

In another example, a husband and wife were accused of assisting another person in their theft offences. Ieuan ap David Vaughn of Llanwrin was indicted for stealing a bay gelding worth 40s. and two oxen also worth 40s.⁷⁷ David ap John ap Rees Wyn, John ap Rees Wyn of Penegoes and Margaret his wife, were indicted for assisting him. Again, the names suggest that the two men were brothers. A significant aspect of this case is the fact that the outcomes for three of those indicted are recorded. Further, they are all different, suggesting that these family members were not viewed as equally culpable. Ieuan ap David confessed to the crime. David ap John and John ap Rees both pleaded not guilty and while we know that John ap Rees was sentenced to hang, the sentence for David does not survive. Margaret, on the other hand, was acquitted. It appears from these verdicts and sentences then, that although there are close family ties featured in this case, the accused were treated as individuals rather than a homogenous family group of equal involvement and culpability.

There are further examples where married couples acted alone. Of these six indictments, only one was altered to remove the name of the wife: in 1573 the unnamed wife of Thomas Arrowsmith was crossed out of his indictment for stealing a sheep worth 3s.⁷⁸ This is also the only indictment out of the six where an outcome is known; Thomas pleaded not guilty and was acquitted. In this case, then, it is tempting to argue that the reason Thomas's wife was crossed out was not because she was seen as being less criminally responsible than her husband, but because the evidence, in this case, was already weak, as evidenced by her husband's eventual acquittal.

In the Montgomeryshire material, no women indicted with their husbands were indicted for assisting in a crime of theft. Instead, they were all indicted as co-accused. This raises questions about the perceived culpability of married partners and the ways in which coverture might shield some women from criminal prosecution. The basic notion of coverture, after all, 'covered' a wife's legal identify

⁷⁶ NLW GS 4/128/1/29 Indictment (1575).

⁷⁷ NLW GS 4/125/2/55 Indictment (1563).

⁷⁸ NLW GS 4/127/4/69 Indictment (1573).

with her husband's.⁷⁹ Thus, the prosecution of both a husband and wife for a criminal offence was presumably not strictly necessary. Caswell also pointed out that ideas surrounding coverture and the status of women within marriages emphasised the obedience of wives to their husband's will. She argued that 'legal authorities held that, for some crimes, married women acting in the presence of their spouses might not be held accountable, based not on a notion of unity but on subordination and coercion'.⁸⁰ Further, Caswell questioned how this notion of wives' limited liability and the perception of women as victims of coercion rather than culpable criminals might square with popular perceptions which Caswell argued demonstrated a limited belief that a woman's marital status made her less criminally responsible when she committed a theft offence.⁸¹ Wives' roles within the household often, as Caswell and Walker have argued, obscured women's involvement in crime – as they often had the role of preparing animals for the table but might not know of the food's provenance.⁸² This is true for other female members of the household, as in the case of Gwen ferch John who was accused alongside her son, Ieuan ap David, of stealing two wethers. Both Gwen and Ieuan claimed that her only involvement was in the killing of the animals and that she believed that the two sheep had been bought legitimately. Ieuan confessed to the theft, but Gwen did not, and she was later acquitted.⁸³

Caswell argued that while marital status influenced the ways in which people assigned criminal liability, there is little evidence of pre-trial coercion.⁸⁴ This also

⁷⁹ Stretton argued that 'unity of the person' acquired greater centrality in later years; Tim Stretton and K. J. Kesselring, 'Introduction: Coverture and Continuity', in *Married Women and the Law: Coverture in England and the Common Law World*, ed. by Tim Stretton and K. J. Kesselring (Montréal, Québec ; London: McGill-Queen's University Press, 2013), pp. 3–23; Tim Stretton, 'Coverture and Unity of a Person in Blackstone's Commentaries', in *Blackstone and His Commentaries*, ed. by Wilfrid Prest (Oxford ; Portland: Hart Publishing, 2009), pp. 111–28. Walker also examined coverture and concluded that 'marital unity was a fiction, not a description. The courts did not always treat husband and wife as one person. Yet the ambiguous status of married women and their responsibilities to their families meant that in practice the received better treatment before the courts than did single women, who were more often subjected to the full-force of the law'; Walker, *Crime, Gender and Social Order*, p. 206.

⁸⁰ Marisha Caswell, 'Coverture and the Criminal Law in England, 1640-1760', in *Married Women and the Law: Coverture in England and the Common Law World*, ed. by Tim Stretton and K. J. Kesselring (Montréal, Québec ; London: McGill-Queen's University Press, 2013), pp. 88–112 (p.88).

⁸¹ Caswell, 'Coverture and the Criminal Law in England', pp. 88, 106.

⁸² Caswell, 'Coverture and the Criminal Law in England', p. 93; Walker, *Crime, Gender and Social Order*,

⁸³ NLW GS 4/126/4/14 Examination of Ieuan ap David (1570); NLW GS 4/126/4/14 Examination of Gwen ferch Ieuan (1570); NLW GS 4/126/4/14 Indictment (1570). Ieuan was sentenced to hang.

⁸⁴ Caswell, 'Coverture and the Criminal Law in England', p. 90.

seems to be applicable to Wales. Though far fewer of the pre-trial records survive for Tudor Wales, the decision to indict married couples as equal partners, rather than to list women as (possibly unwilling) accomplices seems to support Caswell's argument that married women were held criminally responsible only when it was evident that they had taken an active part in the alleged theft.⁸⁵ It can, therefore, be hypothesised that coverture and 'unity of the person' meant that women were unlikely to be indicted when their involvement in crime centred on their roles within the household but were indicted as equally culpable co-accused when their involvement in the theft itself was clearly evident.⁸⁶

By examining the gendered aspects of indictments for thefts we can see that women committed a range of serious offences. While there may have been less variation in the type of offence allegedly committed by women – with few horse-thefts, robberies, or instances of pickpocketing – this can be explained by gendered access to markets and the development of robbery and cutpursing as distinct offences, rather than any lack of 'ambition' on women's parts. The alterations made to indictments against women could indicate a paternal and sympathetic attitude towards female thieves, but it is just as likely that this was a more practical consideration of the fact that benefit of clergy was unavailable to women. Coverture seems to have protected women from prosecution when they assisted their husbands in thefts, but the fact that wives were also prosecuted as equal partners suggests that, as Clayton argued, when there was evidence of active involvement of women in crimes involving their husbands they were prosecuted to the full extent of the law.

2.2: Types of goods stolen by women

The type of goods stolen by men and women have been used by historians as evidence to argue that female thieves were less ambitious than men. Assumptions about the prevalence of professional gangs have also influenced historians' explanations for differences in the types of goods stolen by male and female thieves – with female thefts categorised as being driven by need rather than a desire for profit. Contrasting petty female thefts to large-scale male ones meant that the thefts

⁸⁵ Caswell, 'Coverture and the Criminal Law in England', p. 97; Stretton and Kesselring, 'Introduction: Coverture and Continuity', p. 17.

⁸⁶ Caswell, 'Coverture and the Criminal Law in England', p. 97.

committed by women were also characterised as being opportunistic and unambitious.

Walker challenged these assumptions in two ways. Firstly, she argued that while women were more likely to steal clothes and men were more likely to steal livestock, these patterns were due to the gendered ways in which these markets operated, rather than because of any lack of ambition on the part of female thieves. Secondly, Walker argued that the structure of the family and the gendered division of labour obscures women's involvements in crimes such as horse theft.⁸⁷ Howard, Lemire, and Woodward also focused on the markets for specific goods to demonstrate the cultural and local significance of these goods and the reason why they were attractive to thieves, professional or otherwise.⁸⁸ The data from Montgomeryshire adds further evidence to support the arguments of Walker and Howard and demonstrates that in this location, there was little difference in the patterns of offending by women who committed thefts on their own or in partnership with men. Further, I argue that the Montgomeryshire data demonstrates that characterisations of female thefts as petty overlook the diverse range of offences that women were accused of committing, both in terms of the variety of goods they were alleged to have stolen, and the differences in the relative monetary values of each theft offence.

⁸⁷ Walker, *Crime, Gender and Social Order*, pp. 168, 175.

⁸⁸ Howard, *Law and Disorder*, pp. 114-124; Beverly Lemire, 'The Theft of Clothes and Popular Consumerism in Early Modern England', *Journal of Social History*, 24.2 (1990), 255-76; Nicholas Woodward, 'Seasonality and Sheep-Stealing: Wales, 1730-1830', *Agricultural History Review*, 56.1 (2008), 25-47; Nicholas Woodward, 'Horse-Stealing in Wales', *Agricultural History Review*, 57.1 (2009), 70-108.

Table 2.0-6: categories of goods in indictments against sole women, Montgomeryshire c. 1542-1590.

	<i>Number of indictments</i>	<i>% of sole female indictments</i>
Apparel (clothes, hats, shoes)	26	36.5
Linen (cloth and sheets)	8	11.25
Livestock	13	18.25
Horses	1	1.5
Household goods/ utensils	3	4.25
Money	6	8.5
Produce (grains, wool)	6	8.5
Various ⁸⁹	8	11.25
Of which:		
- Produce, linen	3	4.5
- Apparel, linen,	2	3
household	2	4.5
- Apparel, household		
<i>Totals</i>	<i>71</i>	<i>100</i>

The theft of apparel and linens made up just under half of all sole female thefts in this period (48%). Livestock theft is the next largest category at 18%. The theft of livestock was identified by Howard as a significant concern to legal authorities in Wales. Indeed, she argued that the theft of sheep and cattle in Wales ‘aroused at least as much concern’ as horse theft in eighteenth-century Denbighshire.⁹⁰ It is thus unsurprising that this type of theft should account for nearly a fifth of theft indictments against women.

⁸⁹ Rather than categorising these thefts within each category, I have chosen to show that when women stole multiple items at once, they still had a preference for certain types of goods.

⁹⁰ Howard, *Law and disorder in early modern Wales*, p. 114.

Table 2.0-7: types of livestock allegedly stolen by different gender groups, Montgomeryshire c. 1542-1590.⁹¹

	<i>Male and female group</i>	<i>Female sole and female group</i>
Poultry	-	5 (31.25%)
Cattle	8 (42%)	5 (31.25%)
Goats	2 (11%)	1 (6.25%)
Sheep	9 (47%)	5 (31.25%)
<i>Totals</i>	<i>19 (100%)</i>	<i>16 (100%)</i>

While the data does show that women stole different types of livestock when they acted alone than when they did when in groups with men, this is likely to be a result of the practical aspects of moving large livestock from one place to another.

Table 2.0-8: values of livestock allegedly stolen by different gender groups Montgomeryshire c. 1542-1590.

	Male and female group	Female sole and female group
<12d.	2 (11%)	5 (31%)
1s.-5s.	7 (37%)	1 (6%)
5s.-10s.	1 (5%)	3 (19%)
10s.-20s.	2 (11%)	3 (19%)
20s.-40s.	4 (21%)	1 (6%)
40s. +	3 (15%)	3 (19%)
<i>Totals</i>	<i>19 (100%)</i>	<i>16 (100%)</i>

On the other hand, these tables show that the assumption that groups committed larger and more high-value thefts is not necessarily true for Montgomeryshire. Mixed-gender groups were more likely to commit thefts of livestock worth 1s.-5s. This was evidently a high enough value to justify a capital sentence, but there was more valuable livestock available to be stolen in Wales at this time. Sole females, on the other hand, were just as likely to commit thefts of livestock worth more than 40s. (or £2) as they were to commit petty livestock thefts – with both categories

⁹¹ While some indictments record that lambs and sheep were stolen (NLW GS 4/26/2/73 Indictment (1568)) or cattle and calves (NLW GS 4/129/4/65 Indictment (1579)) there are no indictments for mixed animals.

accounting for nearly a quarter of cases (23%). Thus, while it is clearly true that women were more likely to be accused of committing petty thefts when they were on their own, working in groups does not automatically mean that their thefts became ‘larger’ – involving more numbers of higher value livestock.

Indeed, breaking these thefts down even further and examining how many animals each indictment recorded, demonstrates that single female actors were, in fact, more likely to steal larger numbers of animals than when they stole in groups with men. The high number of single-animal thefts suggests that, as Dean argued, male thieves were just as likely to steal for immediate consumption as their female counterparts were.⁹²

Table 2.0-9: numbers of animals on each indictment, Montgomeryshire c. 1542-1590.

	<i>Male and female group</i>	<i>Female sole and female group</i>
1 animal	11 (58%)	7 (44%)
2-3 animals	7 (37%)	6 (37%)
4 + animals	1 (5%)	3 (19%)
<i>Totals</i>	<i>19 (100%)</i>	<i>16 (100%)</i>

The sole example here of a theft offence of more than four animals by a group of mixed gender is an indictment from 1587 recording the theft of seven white sheep, totalling a value of 21s.⁹³ While seven is certainly a large number of sheep, the largest theft by a sole female was of nine lambs allegedly stolen by Dyddgy ferch David in 1584.⁹⁴ Combined with the relative value of livestock thefts by women acting in groups and as the sole perpetrators, the indication is that, at least in the theft of animals, women did not rely on the guidance of men to help them carry-out larger and more expensive crimes.

The theft of clothes, linens and apparel (that is, hats, gloves and shoes) by women has received substantial attention from historians. This is unsurprising, as the theft of

⁹² Dean, ‘Theft and Gender’, p. 405. Howard also pointed out that women and labourers who could not exist on their meagre wages would have easily been able to steal a small animal in order to cook and eat it; Howard, *Law and Disorder in Early Modern Wales*, p. 115.

⁹³ NLW GS 4/133/1/127 Indictment (1587).

⁹⁴ NLW GS 4/131/3/154 Indictment (1584).

these items makes up the largest proportion of female thefts in the early modern period. This category of item is made up of an incredibly diverse range of goods, from small kerchiefs worth a few pence each to the worsted kirtle worth 30s. allegedly stolen by Katherine ferch Howell, alias Katherine ferch Owen, in 1563.⁹⁵

Table 2.0-10: Values of clothes, linens and apparel allegedly stolen by sole female offenders, Montgomeryshire c. 1542-1590.

	<i>Number of indictments</i>	<i>% of indictments for clothes, linens and apparel theft.</i>
<12d.	6	13.3
1s.-5s.	21	46.5
5s.-10s.	12	26.7
10s.-20s.	3	6.5
20s.-40s.	2	4.5
40s.+	1	2
<i>Totals</i>	<i>45</i>	<i>99.5%</i>

Compared to livestock thefts, we can see that women who stole these items were far more likely to be accused of stealing goods worth less than 5s. when dealing with clothes, linen, and apparel. While thefts of this value only accounted for 31% of livestock thefts, here they account for 60% demonstrating that the category of goods that were stolen also affected their relative value. At the other end of the scale, thefts over 20s. only account for 6% of these thefts, whereas they accounted for 31% of livestock thefts. Again, this is far more likely to be the result of the relative value of these goods rather than any lack of ambition or skill on the part of women who chose to steal this category of item.

⁹⁵ NLW GS 4/125/2/79 Indictment (1563).

Table 2.0-11: Numbers of types of clothing stolen by single women, Montgomeryshire c. 1542-1590.⁹⁶

<i>Item</i>	<i>Numbers stolen</i>	<i>Item</i>	<i>Numbers stolen</i>
Kerchief	13	Sleeves	3
Petticoat	11	Band	3
Cloth/yarn	8	Cassock	2
Apron	6	Hat	2
Partlet	6	Cloak	2
Kirtle	5	Napkin	1
Smock	4	Gown	1
Shirt	3	Gloves	1
Tunic	3	Unknown	1
Shoes	3		

This table shows that women were accused of stealing a diverse range of clothing. But though it might be tempting to argue that the preference for stealing kerchiefs and petticoats shows that women stole small, lower value items, a closer examination of the indictments reveals that the value of each type of clothing could drastically vary. For example, in the indictments, the costs of the six kirtles alleged to have been stolen were 1d., 8d., 2s., 5s., 6s. and 30s.⁹⁷ Similarly, shoes were often valued at 12d., but one indictment in this set is for a pair of boots worth 5s. As with livestock, then, this was a very diverse category of theft.⁹⁸

While historians such as Sharpe characterised clothing thefts as opportunistic, Lemire critiqued this view, arguing that it ‘does not enquire sufficiently into the motivational environment in which these thefts took place’.⁹⁹ Instead, Lemire argued that the theft of clothes needs to be considered in a broader context of early modern consumerism. The trend of fashionable dressing created a market where clothes were

⁹⁶ The numbers in this table are higher than the numbers of indictments because each item has been counted individually.

⁹⁷ NLW GS 4/126/1/77 Indictment (1568); NLW GS 4/131/2/59 Indictment (1583); NLW GS 13/9/1/6 Prothonotary’s papers (1551); NLW GS 4/125/2/79 Indictment (1563).

⁹⁸ ‘Sheep stealing was also among the most diverse categories of theft to be recorded’, Howard, *Law and Disorder*, p. 115. Clothing had various characteristics that could affect its value. While the breed and age of an animal could affect its value, there were even more characteristics that could affect the piece’s value including the material, age, colour, condition, and quality of construction of items.

⁹⁹ Lemire, ‘The theft of clothes’ p. 258; J.A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge: Cambridge University Press, 1983), p. 101.

in high demand and there was a notable desire for people of lower social standing to be able to dress in a way that emulated their social betters.¹⁰⁰ This meant that the theft of clothes was particularly attractive for two reasons. Firstly, desirable clothes could be stolen by those who wished to have them for themselves, and, secondly, clothes were stolen in order to provide a profitable and expanding market with more goods.¹⁰¹ Kilday also suggested that poor women may have stolen clothes in order to conceal the fact that they were poor because ‘although to be poor was not necessarily stigmatizing in itself, to be seen as being poor (in the sense of being badly dressed) may well have been problematic’.¹⁰² This argument does much to emphasise the ways in which the theft of clothes was motivated by much broader considerations than immediate need, but there is still the possibility that these thefts that were motivated by the market and a desire for profit.

If women stole clothes for the purpose of selling them on, then we might expect to see large numbers of indictments alleging that multiple items had been stolen. Single items, on the other hand, could be used to suggest that the theft was motivated by opportunism or immediate need.

Table 2.0-12: Number of goods listed on indictments for the theft of clothing and apparel against single women, c. 1542-1590.

<i>Number of goods stolen</i>	<i>Indictments</i>	<i>% of clothes and apparel theft</i>
1	14	41
2-3	13	38
4+	7	21
<i>Totals</i>	<i>34</i>	<i>100</i>

¹⁰⁰ For works on clothing as emulation and self-manifestation see; David Waldstreicher, ‘Reading the Runaways: Self-Fashioning, Print Culture, and Confidence in Slavery in the Eighteenth-Century Mid-Atlantic’, in *Colonial America and the Early Republic*, ed. by Philip N. Mulder (London: Routledge, 2017), 137–67; Maxine Berg, ‘Women’s Consumption and the Industrial Classes of Eighteenth-Century England’, *Journal of Social History*, 30.2 (1996), 415–34; Iija Van Damme and Reinoud Vermoesen, ‘Second-Hand Consumption as a Way of Life: Public Auctions in the Surroundings of Alost in the Late Eighteenth Century’, *Continuity and Change*, 24.2 (2009), 275–305; Sophie White, ‘“Wearing Three or Four Handkerchiefs around His Collar, and Elsewhere about Him”’: Slaves’ Constructions of Masculinity and Ethnicity in French Colonial New Orleans’, *Gender & History*, 15.3 (2003), 528–49.

¹⁰¹ Lemire, ‘The theft of clothes’ p. 269.

¹⁰² Anne-Marie Kilday, ‘“Criminally Poor?”: Investigating the Link Between Crime and Poverty in Eighteenth Century England’, *Cultural and Social History*, 11.4 (2014), 507–26 (p. 524 n 40).

This table shows that while there were many indictments for the theft of a single item, indictments for stealing multiple pieces of clothing were more common. This data reveals, then, that thefts of clothing were very diverse and that there were many different types of goods that were attractive to the female thief. But whether or not these thefts were motivated by the demands of the market, or by women stealing items that they needed to clothe themselves or their family but could not afford, is very difficult to establish from the available evidence.

One of the reasons for the characterisation of this theft as motivated by need rather than a desire to sell the items on for profit is the fact that women were sometimes caught wearing the clothes that they were alleged to have stolen.¹⁰³ Certainly, there are examples from Montgomeryshire where it is evident that female thieves wore the clothes that they stole. When Gwenllian ferch Richard went looking for goods that she believed had been stolen from her house, she found Lucy Tailor, wearing some of the stolen goods a month after the alleged theft. Despite the fact that the goods had been stolen a month before, Gwenllian was able to recognise them as hers because ‘on the corner of the kerchief there were a few little knots wrought with a needle and thread’.¹⁰⁴ Gwenllian’s brother had also made enquiries as to Lucy Tailor’s movements and had found that she had taken ‘two yards of dowlas in one piece and a kerchief and three-quarters of dowlas in two pieces’ to a semper or seamstress.¹⁰⁵ Similarly, Hugh was able to identify the kerchief as belonging to his sister because he saw ‘the corner of the said kerchief whereupon certain knots were wrought’.¹⁰⁶ Four kerchiefs had allegedly been stolen from Gwenllian so it is possible that she had worked these knots on all of her possessions.¹⁰⁷ In another example, Katherine ferch John recognised that the petticoat which Machalt ferch David was wearing was the one stolen from her house a fortnight before.¹⁰⁸ Herrup noted that clothing was often personalised, and thus easy to recognize.¹⁰⁹ It is

¹⁰³ ‘Those who stole often wanted to wear and enjoy the best items of the pilfered attire in spite of the danger of identification’, Lemire, ‘The Theft of Clothes’, p. 264.

¹⁰⁴ NLW GS 4/128/5/15-20 Examination of Gwenllian ferch Richard (1577).

¹⁰⁵ NLW GS 4/128/5/15-20 Examination of Howell ap Richard (1577). The gender of the semper/seamstress is unclear, and this person is unnamed in the deposition.

¹⁰⁶ NLW GS 4/128/5/15-20 Examination of Howell ap Richard (1577).

¹⁰⁷ Rather than this being evidence of Gwen and her brother lying about finding the same kerchief in two different locations.

¹⁰⁸ NLW GS 4/131/2/31 Examination of Katherine ferch John (1583).

¹⁰⁹ Herrup, ‘New Shoes and Mutton Pies: Investigative Responses to Theft in Seventeenth-Century East Sussex’, *The Historical Journal*, 27.4 (1984), 811–30.

perhaps unsurprising, then, that Lucy Tailor wore the stolen clothing in a different location to the one they had been stolen from.¹¹⁰

While Lemire urged historians to show greater consideration of the markets that stolen goods were exchanged in, and the ways in which this created a ‘motivational environment’ for these thefts, Howard argued that Lemire’s approach ‘over glamorized’ the clothing trade.¹¹¹ The application of Lemire’s theories to places outside London and time periods other than the eighteenth century appears to be limited. There was a second-hand clothing market in Tudor Wales, but there is little evidence of a relationship between this market and London fashion culture. Instead, the trading of clothes, linen, and apparel by women in Wales appears to have been much more informal.

In a detailed case from Montgomeryshire, the exchange of an allegedly stolen tablecloth was described by several deponents. The cloth was sold by Margaret Humphry to Ellen Spenser ‘in the house of David ap John, in the presence of Margaret, the wife of the said David ap John for the price of two shillings’.¹¹² The fact that this exchange took place in David ap John’s house does not appear unusual; it was other behaviours that witnesses commented on as causing suspicion. Indeed, the process of the sale and the fact that it was witnessed by a third party was offered the cloth was offered by Ellen and Margaret as proof that their interactions had been legitimate.¹¹³ For example, both women were present in the location where the cloth was allegedly stolen (an alehouse belonging to Gwen ferch Lewis), Ellen’s nationality, and her immediate departure from the town after the sale. The Montgomeryshire examinations also reveal that women took part in wider networks of trade and exchange. When Katherine Llello delivered a coat to her sister, Elizabeth, she asked her to exchange it for money on her behalf, estimating that she could get ‘four or five groats’ (1s. 8d.) for it.¹¹⁴ The implication here was not that

¹¹⁰ Lucy Tailor was caught in Poole wearing clothes that were stolen from Lydham; NLW GS 4/128/5/15-20 Examination of Gwennlian ferch Richard (1577). In Margaret’s case, the location in which she was arrested is not recorded so it is not possible to say whether she wore the petticoat in the same location from which it was allegedly stolen.

¹¹¹ Howard, *Law and Disorder*, p. 128.

¹¹² NLW GS 4/132/2/7 Examination of Gwen ferch Lewis (1585).

¹¹³ NLW GS 4/132/2/7 Examination of Margaret ferch Hugh (1585); NLW GS 4/132/2/7 Examination of Ellen Spenser (1585); NLW 4/132/2/8 Examination of Margaret ferch Humphrey (1585).

¹¹⁴ NLW GS 4/126/3/32 Examination of Elizabeth Llello (1569). Katherine ‘denied requestion her sister to pledge the coat for any money’, NLW GS 4/126/3/32 Examination of Katherine Llello (1569).

Elizabeth or Katherine steal the coat themselves, but that they would pass it on to a third party.

These networks of exchange were not necessarily commercial ones. A number of Montgomeryshire examinations and depositions reveal that clothes were part of a complicated network of borrowing amongst Welsh women. Accused thieves sometimes argued that the allegedly stolen items had been loaned to them legitimately. When, in 1577, Mauld ferch Rees and her daughters, Ethiliw and Anne, were asked about the goods in their possession, Mauld claimed that a felt hat had been lent to her by her sister.¹¹⁵ Frances Gardiner's 1584 examination reveals that she had been accused of stealing a hat and cassock that her employer had previously offered to loan to her 'to do her good'.¹¹⁶ Frances appears to have been given the opportunity to claim that she had borrowed the items, and her examination recorded that she 'took the [hat and cassock] without the consent of the wife of John ap Robert [her mistress]'.¹¹⁷ Women also explained their presence in certain places through their engagement in such networks of borrowing. Machalt ferch David said that she was in the house of David ap Howell because she had gone there to fetch a doublet promised to her brother.¹¹⁸ Where available, then, the examinations relating to thefts committed by women reveal the diverse ways in which women bought, exchanged, and traded clothing in early modern Wales. This was not just a market economy but one that relied on borrowing and lending.¹¹⁹

While women may have attached more cultural significance to clothes and linens, there is also the more practical matter of their understanding the value of these items; what they were worth on the open market and how much they could be sold on for, without arousing suspicion. This was a crucial aspect for a thief to understand, as selling goods below the market value could easily arouse suspicion. This happened in the case of Mary ferch Llewellyn who was apprehended after trying to sell on 2s. worth of wool for 19d. Owen Gogh Jenkin's deposition states that he 'suspected the wool not to be well, since it was sold so cheaply, and went to the mayor and told him

¹¹⁵ NLW GS 4/128/5/43 Examination of Mauld ferch Rees (1577).

¹¹⁶ NLW GS 4/131/4/67 Examination of Frances Gardiner (1583).

¹¹⁷ NLW GS 4/131/4/67 Examination of Frances Gardiner (1583).

¹¹⁸ NLW GS 4/131/2/83 Examination of Machalt ferch David (1583).

¹¹⁹ It is, perhaps, surprising that while female networks of borrowing have been extensively explored in cases of witchcraft accusations the goods most often borrowed and lent in these cases are household items, such as bowls, and food, rather than clothes and apparel.

his suspicions, who was already making enquiries and searching for the same'.¹²⁰ In Mary's version of events, she had bought the wool for 19d. (not the 2s. that it was alleged to be worth) in Aberystwyth and she sold it on for that price because she was in need of the money.¹²¹ Mary's defence was evidently not believed as she was sentenced to hang.¹²²

The types of goods stolen thus reveals important aspects of female criminality in Wales. The livestock thefts committed by women in groups with men are broadly similar to those committed by women acting alone – suggesting that women did not seek or require the guidance of male criminals. Women's preference for stealing clothes, linen, and apparel, as evident from the proportion of indictments for this category of offence, can be explained by the fact that women stole items that they knew the marketable value of. They also stole items to wear, but rather than this being influenced by fashion and a desire to manifest a higher social status for themselves through dress, as Lemire argued, in Wales, the theft of clothes is much more likely to have been influenced by necessity due to the limited influence of the London fashion culture in this place and time. This contrast between stealing according to market values and stealing because of immediate need has sometimes been presented as part of a male/female, professional/opportunistic dichotomy that has led to the characterisation of female thefts as petty and less serious than thefts committed by men. Examining the thefts allegedly committed by women in sixteenth-century Montgomeryshire, however, has revealed that this was an incredibly diverse category of theft both in terms of the value and types of goods stolen, and the number of them that were stolen during each offence.

2.3: The spatial setting of theft

An anonymous author claimed in 1673 that burglary was a crime that the law 'most prudently punishe[d] with death since every man's house ought to be his castle'.¹²³

¹²⁰ NLW GS 4/131/1/17 Examination of Owen Gogh Jenkin (1583).

¹²¹ NLW GS 4/131/1/17 Examination of Mary ferch Llewyn (1583).

¹²² Mary was found to be pregnant and so was given a stay of execution. Mary received a general pardon a year later, NLW GS 4/131/4/101 Calendar of Prisoners (1584).

¹²³ *A Narrative of the sessions, or, an account of the notorious high-way-men and others, lately tryed and condemned at the Old-Bayly with all their particular crimes, manner of takeing, and behaviour since, to the time of their execution*, (London, 1673) pp. 5-6; Walker, *Crime, Gender and Social Order*, p. 181.

This emphasises the connexion between this offence, the place where it happened, and the level of severity with which it should be regarded at the law. While historians have acknowledged the importance of spatial violation when considering the particular crime of burglary, evidence from Montgomeryshire suggests that this spatial theme can be expanded to consider a variety of theft offences from sixteenth-century Wales.

The location of a crime – that is the town, village, or settlement in which a theft occurred – was an essential piece of information that had to be recorded on an indictment. Without it, an indictment could be thrown out, and therefore it was important that this information was accurate.¹²⁴ But the *place* in which a crime occurred was also an important consideration – not least because the place in which a crime occurred was a key element that determined whether a theft offence was also a burglary or only housebreaking.¹²⁵ Different places also required different skills or knowledge to access. For example, a former servant might burgle their employer's house with greater ease because they knew where goods were kept and what parts of the house to avoid at what time.¹²⁶ For the victim of a theft, the added violation of property and personal boundaries contributed to the perceived severity of the crime. As such, there are ways in which a study of the space, place and location in which a theft occurred can further nuance our understanding of the legal and cultural considerations that influenced the ways in which these offences were prosecuted.

Other studies of crime have touched upon the ways in which space, place, and location can be used to augment our analysis. Beattie's conclusions about the patterns of rural and urban female offending, though not explicitly related to the spatial turn, emphasised that urban women were far more likely to be prosecuted than those who lived in rural areas, suggesting that the location in which a crime happened or the suspect resided could influence indictments. Beattie attributed these differences both to the ways in which informal sanctions against members of the

¹²⁴ Beattie pointed out that indictments were not always accurate about the residence or occupation of the accused person; Beattie, *Crime and the Courts*, p. 237.

¹²⁵ Jeram defined place as 'the values, beliefs, codes, and practices that surround a particular location, whether that location is real or imagined', Leif Jerram, 'Space: A Useless Category for Historical Analysis?', *History and Theory*, 52.3 (2013), 400-419 (pp. 403-404). In this instance, place refers to spaces and locations that were experienced as more private and less dangerous than others. Thefts from these places were more heinous because of the values and practices associated with them.

¹²⁶ Beattie, 'The Criminality of Women', p. 92. It must be noted that in this instance Beattie argued that domestic servants were particularly useful as allies to burglars rather than being more likely or better placed to become burglars themselves.

community were likely to be more effective in rural areas, and a real difference in the number of offences committed in each area.¹²⁷ After all, as Semmes argued, criminal opportunities were created by the presence of goods worth stealing, and there were far fewer of these goods available in poor rural areas.¹²⁸

This theme of criminal opportunities informed by setting was addressed in Rachel Jones's study of landscape and crime in nineteenth-century Montgomeryshire.¹²⁹ While the landscape of the county was very different between the sixteenth and nineteenth centuries, with nineteenth-century Montgomeryshire becoming much more industrialised, Jones showed how a space-based approach to crime can illuminate patterns of offending. Jones categorised women's thefts as occurring in domestic spaces whereas men – with their greater opportunities for work-based travel – were more likely to commit thefts in isolated or disparate locations.¹³⁰ The locations in which a crime occurred were thus linked to the employment opportunities and spatial settings of male and female work. While this has been pointed out before, with studies showing that burglars and housebreakers were likely to be former-servants of the burgled household, Jones's study is notable for situating this as a spatial issue as well as a work-based one.¹³¹ Female servants who had been primarily tasked with domestic duties would have a far better knowledge of the goods stored in the house, their locations, and their estimated value, whereas male servants were more likely to have performed tasks focused outside the home, such as farm work.¹³²

Jones's analysis also demonstrated that arguments that women were less 'daring' than men in their thefts could be attributed to the fact that women were very rarely in or near spaces where such 'large-scale' thefts, such as stealing large numbers of

¹²⁷ Beattie, 'The Criminality of Women', p. 82; Beattie, *Crime and the Courts*, pp. 240-241.

¹²⁸ R. Semmes, *Crime and Punishment in Early Maryland* (Baltimore: Johns Hopkins University Press, 1996) pp. 41-58; see also, R. Jones, 'Gender, Criminal Opportunity and Landscape in Nineteenth-Century Wales', *Rural History*, 27.2 (2016), 169-85.

¹²⁹ Jones, 'Gender, Criminal Opportunity and Landscape', pp. 169-85. Jones's approach was influenced by that of landscape historian Brian Short; B. Short, 'Conservation, Class and Custom: Lifespace and Conflict in a Nineteenth-century Forest Environment', *Rural History*, 10 (1999), 127-54; B. Short 'Environmental Politics, Custom and Personal Testimony: Memory and Lifespace on the late Victorian Ashdown Forest, Sussex', *Journal of Historical Geography*, 30 (2004), 470-95. See also, p. King, 'The Impact of Urbanization on Murder Rates and on the Geography of Homicide in England and Wales, 1780-1850', *Historical Journal*, 53 (2010), 671-698.

¹³⁰ Jones, 'Gender, Criminal Opportunity and Landscape', p. 180.

¹³¹ Beattie, 'The Criminality of Women', p. 92; Semmes, *Crime and Punishment in Early Maryland*, pp. 41-58.

¹³² For more on the spatial division of labour see; A. Flather, 'The Spatial Division of Labour', in *Gender and Space in Early Modern England*, (Woodbridge: Boydell Press, 2011), pp. 75-93.

animals, could be committed unnoticed. Women did work with herds and large livestock, but they did not have the same mobility as men, and so they were less likely to be able to conceal such thefts.¹³³ For Jones, then, the thefts committed by women were dictated not by the perpetrator's ambition or daring, but rather by specific opportunities created by the spatial settings in which women lived their lives. Dean, in his article investigating the ways in which family and neighbourhood structures could support or hinder a life of crime, similarly argued that women's different access to work and resources left them with fewer opportunities to steal than men.¹³⁴ In this study, I have expanded the ways in which the theme of space, place, and location have been applied beyond considering the opportunities that spatial dynamics provided for people to commit thefts and have instead aimed to show how spaces also gave meanings to the thefts that occurred in them. To do this, I have considered the ways in which witnesses and victims used space as a way of describing what category of offence had taken place (i.e. a burglary) and how spatial relationships could be used to identify suspects.

Burglary is the offence where these spatial dynamics are most apparent. In simple terms, burglary is the breaking of another person's house at night, with 'at night' being the crucial defining feature between burglary and housebreaking. Dalton provides a list of circumstances where entering the home of another person was still to be considered burglary even if there was no damage to the property, such as: going down the chimney, using a key, and if a servant let the accused in.¹³⁵ Under the definitions provided by Dalton and other legal commentators, burglary does not automatically indicate that a theft has taken place, but refers to the time and place at which a felony was, or was intended to be, committed.¹³⁶ It was also necessary for there to be people present in the house as the goods were stolen. When goods were stolen 'from either houses or fields, in the absence of the owner, his family or servants' these thefts were only larcenies.¹³⁷ The presence of the person in the house

¹³³ Jones also noted that this changed over time, with women's access to spaces where this scale of theft could be committed ever more restricted throughout the nineteenth century.

¹³⁴ Dean, 'Theft and Gender', p. 412.

¹³⁵ M. Dalton, *The Country Justice: Containing the Practice of the Justices of the Peace out of their Sessions* (London, 1619), p. 359.

¹³⁶ Beattie points out that these terms can be vague: 'offences indicted as burglary and housebreaking covered a wide range of unlawful acts.' J. M. Beattie, *Crime and the Courts in England 1660-1800* (Oxford, 1986), p. 163.

¹³⁷ A. Macfarlane, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (Oxford: Blackwell, 1981), pp. 144-150.

when the theft occurred, however, did not guarantee that the thief would necessarily be convicted of burglary or housebreaking. Such is the case of Elizabeth ferch David who was accused of burgling the house of her aunt's husband in 1569.¹³⁸ Despite the fact that the aunt's deposition described how she had heard someone in the house and how she did not get up to investigate 'for fear of her body' Elizabeth was only convicted of theft to the value of 11d.¹³⁹ The same is true of Ellen ferch Morris and Agnes ferch Morris who were indicted in 1567 for burgling the house of David ap Morris Guttyn ap Tudor and assaulting his son as he slept. They were both found not guilty of the burglary but guilty of the theft to the value of 11d.¹⁴⁰

In twelve of the indictments found in the Montgomeryshire Great Sessions in this period, it is unclear if any person was present during a theft. A further indictment, that of Machalt ferch David in 1583, has examinations and depositions that reveal that the theft was initially described by the victim as a burglary for which she was present, but the offence was indicted as simple larceny.¹⁴¹ Katherine ferch John said in her deposition that some clothes had been 'stolen from her bed's feet, where she lay on the said night in the said house'.¹⁴² As we have seen already in this chapter, however, indictments were often altered to change the nature of the alleged offence. It is, therefore, possible that rather than being the result of a misremembered event by the victim, the spatial element of this offence was omitted, not because it was unimportant, but because of other legal considerations.

Burglaries and housebreaking offences did not only occur in houses. Indeed, outbuildings and barns were also covered by this term.¹⁴³ Accusations of offences occurring in these places, however, were not common. In a rare example, Margaret Paramore was indicted in 1554 for breaking into a barn belonging to Thomas Bebb and stealing two sheets worth 11d.¹⁴⁴ Further, the plea roll for this session records

¹³⁸ NLW GS 4/126/3 4/126/3/93 Indictment (1569).

¹³⁹ NLW GS 4/126/3/40 Examination of Margaret ferch Llewellyn (1569); NLW GS 4/126/3 4/126/3/93 Indictment (1569). Margaret said that the sounds she heard at night was 'a prick out of the roof of the house fall down upon a frying pan being upon the dishboard'.

¹⁴⁰ NLW GS 4/125/5/37 Indictment (1567). Ellen and Agnes were accused of stealing a cauldron worth 2s. so this was a substantial reduction. In a further case Tangolyst ferch Morris was accused of burgling the house of Ethliw ferch Rees ap Morgan and stealing 9s. 4d. worth of goods. Tangolyst was acquitted. NLW GS 4/125/3/25 Indictment (1564).

¹⁴¹ NLW GS 4/131/2/51 Indictment (1583).

¹⁴² NLW GS 4/131/2/29 Examination of Katherine ferch John (1583). The night in question was 'Thursday night following Easter last' 4th April 1583.

¹⁴³ As were shops, outhouses and warehouses; Woodward, 'Burglary in Wales', p. 62.

¹⁴⁴ NLW GS 4/124/1/22 Indictment (1554). Margaret was also indicted with a male accomplice, William Paramore, who was likely a male relative of hers. Margaret confessed and her sentences was

instead that she pleaded not guilty and was acquitted.¹⁴⁵ It is therefore difficult to know how seriously the association between the crimes of burglary and housebreaking and other private buildings were connected. Thefts from public spaces are more commonly found in the Great Sessions with a mill, an alehouse, and the courthouse in Poole all appearing as places in which a theft occurred.¹⁴⁶ There is also one example of a theft from a church – a particularly heinous category of offence that had been made non-clerigiable in 1532.¹⁴⁷ But while there is a range of public spaces in which theft offences were recorded as occurring, these cases only account for around three per cent of indictments.¹⁴⁸ Victims seem to have been far more likely to prosecute thefts from private property, suggesting that these acts were seen as more violative and serious.

Thefts from closes, however, were more frequent. There are twenty-two indictments where the accused allegedly ‘broke and entered’ a close or meadow belonging to the victim. Of these cases, fifteen were thefts of produce including rye, hay, oats, and grass.¹⁴⁹ There were some cases of livestock and horse theft in indictments from closes – five livestock thefts and one horse theft – but these appear to have been much more frequent in un-specified places. This suggests that the theft of livestock from a location so close to the dwelling of the owner may have been considered risky by the thief who would have a better chance of sneaking an animal away from the commons or another more public location. At an initial glance, the evidence from the Great Sessions does not support this theory; only one livestock theft allegedly occurred on the commons in the 1590 case of Margaret ferch Thomas alias Calcott.¹⁵⁰ The fact that this detail appears in the examination, and not the indictment, however, suggests that thefts from commons land happened more frequently than the indictments indicate. The lack of detail about thefts from common land also indicates that thefts from this place were less serious than thefts

recorded as ‘judgement’. This indicates that she received the sentence that was prescribed under the law, but it is not completely clear whether she was executed for the burglary or punished for the misdemeanour of stealing 11d. of goods. NLW GS 4/124/1/49 Calendar of Prisoners (1554).

¹⁴⁵ NLW GS 24/15/14 Plea Roll (1554).

¹⁴⁶ NLW GS 4/133/3/52 Indictment (1588); NLW GS 4/132/2/22 Indictment (1585); NLW GS 4/125/2/63 Indictment (1563).

¹⁴⁷ Jones, *Gender and Petty Theft*, p. 35; NLW GS 4/124/3/19 Indictment (1561).

¹⁴⁸ Of 168 indictments for theft against sole women, women indicted with other women, and women indicted with men only 5 were clearly alleged to have occurred in a public place.

¹⁴⁹ I have also categorised wood and trees within this group.

¹⁵⁰ NLW GS 4/134/2/140 Indictment (1590); NLW GS 4/134/2/93 Examination of Margaret ferch Thomas alias Calcott (1590).

from more ‘private’ property, despite the fact that these thefts were often of valuable items. Common land was an area of conflict and contention in early modern Wales; the right to use this land was largely based on customary rights, but these were increasingly challenged in the sixteenth century with a move toward new forms of open field cultivation.¹⁵¹ But while commons and contested land appear to have been significant sites of violence, as shall be explored in chapter three of this thesis this place seems to have been less culturally and legally significant in cases of theft. Herrup pointed out that people may have been reluctant to prosecute thefts that had occurred on commons land because of difficulties in proving that the stolen goods actually belonged to a specific owner.¹⁵² A person who had their goods taken from this location, however, received the same loss as one who had things taken from his own property. Therefore, a potential lack of evidence may have persuaded those who could afford the loss of stolen goods to decline to pursue a prosecution. The context of place and the cultural beliefs and codes of behaviour surrounding different places indicates that when people prosecuted for a theft they did not just prosecute for the value of the goods stolen but to also punish the violation of places that had specific meanings of security and safety for the occupants.

As we have seen with burglary and housebreaking, the severity of the offence did not depend on the value of the goods and chattels stolen alone but also in the violation of spatial boundaries. It is for this reason that burglary and housebreaking offences are found on indictments, even in cases where no theft was alleged. Such is the case of Elizabeth Myrick who was indicted in 1579 for breaking into the house of Reynald ap William Tailor at eleven o’clock at night and assaulting a man called Mathew Lewis.¹⁵³ The lack of specific information about the place in which thefts happened when they did not occur on personal property, the severity with which this crime was regarded, and the fact that burglary and housebreaking did not necessarily indicate that a theft had occurred, all serve to emphasise the fact that the violation of spatial boundaries in these cases was of specific cultural and legal significance.

¹⁵¹ Common land and conflicts over land are discussed in depth in the introduction of this thesis, and chapter two.

¹⁵² Herrup, *The Common Peace*, pp. 120-130.

¹⁵³ NLW GS Indictment (1579). Elizabeth was accused of hitting Mathew over the head with a bowl worth 2d. beating him so severely that he was knocked to the ground and was in fear for his life.

2.3.1: *Persons and proximity*

Howard, inspired by the work of criminologists, argued that when investigating a theft in early modern Wales there were different ‘cues’ of behaviour that could arouse suspicion, depending on whether the suspect was local to the community or not.¹⁵⁴ Many of these cues were ‘situational’, such as being observed in or near certain places, or with certain people, or of being ‘incompatible’ with the area. As Neal put it, a person who was in some way ‘out of place’ could quickly find themselves the object of suspicion.¹⁵⁵ The depositional material from Montgomeryshire also reveals ways in which witnesses used notions of location and proximity to explain why they thought that a person’s behaviour was suspicious and allows us some view into how people assigned culpability to suspects.

In some cases, the proximity of a person to the scene of a theft was taken to be an important indicator of guilt. The examinations and depositions relating to the accusation made against Jane ferch Lewis in 1569 that she had stolen a pair of shoes show how this could be used to argue for or against a person’s guilt.¹⁵⁶ Jane’s examination describes how she had gone with her mother-in-law to a stall belonging to George ap Rees, with the intention of buying some shoes for Lucy’s son. They looked at a pair of shoes together, but Jane’s mother-in-law thought that she could find a better pair than the ones offered by George, and so moved on from the stall. Lucy said that she had remained at the stall and had, according to her, only turned her head to call after her mother-in-law, when George accused her of trying to steal the pair of shoes that she held in her hands. In Lucy’s description, then, it was clear that she was not trying to steal the shoes as she had made no attempt to move away from the stall.¹⁵⁷ In George’s version of events, Jane had indeed moved away from his stall and had managed to go ‘twenty-four feet’ with the shoes before he noticed that she had taken them.¹⁵⁸ George’s version of events was also echoed by John and Richard and Hugh ap Hugh, both of whom also alleged that Jane had put the shoes

¹⁵⁴ Howard, *Law and Disorder*, pp.107-108.

¹⁵⁵ Matt Neale, ‘Making Crime Pay in Late Eighteenth-Century Bristol: Stolen Goods, the Informal Economy and the Negotiation of Risk’, *Continuity and Change*, 26.3 (2011), 439–59 (p.451).

¹⁵⁶ NLW GS 4/126/3/30 Examination of Jane ferch Lewis (1569).

¹⁵⁷ NLW GS 4/126/3/30 Examination of Jane ferch Lewis (1569). Janes also alleged that George had laid his hands on her and said to her ‘why did you turn your face except you had malice for to steal away the pair of shoes’. Jane denied that she had any malice.

¹⁵⁸ NLW GS 4/126/3/30 Examination of George ap Rees (1569).

under her cassock.¹⁵⁹ The proximity of Jane to the location where the theft had allegedly occurred was, therefore, an important piece of evidence that could be used to argue for her guilt or innocence, as all of the parties here examined attempted to do. This indicates that spatial considerations were important both to the witnesses who described an incident and to the legal authorities who recorded these statements.

When Gwennlian ferch Richard discovered that some goods were missing from her house she asked her neighbours if they ‘had seen any suspicious person near her said house in her absence’.¹⁶⁰ The reply from a man called Edward that he had seen ‘a woman about an arrow shot from the said house putting on apparel and dressing herself’ and, according to Gwennlian, Hugh ap David heard this and remarked to her that ‘surely that woman is Lucy Tailor, for I saw her on the same St John’s Day in the fair of Welshpool, from whence she went to Bishop’s Castle and so took your house in her way’.¹⁶¹ In this example, we can see how the spatial relationships between Gwennlian’s house, other nearby settlements, and a woman who was observed acting in a suspicious manner, were combined by the members of a community to provide a motive for accusing another person of theft. Therefore, space did not just provide Lucy with the opportunity (in this case, her travel past an empty house with valuable goods inside) but also a framing idea through which victims could explain why they thought that she was suspicious. As such, my approach here has moved beyond the work of previous historians by demonstrating that spatial dynamics appear in the depositional materials in multiple forms, rather than just being centred around the theme of opportunism.

Communities also identified suspects by whether or not they were strangers to the location in which the theft allegedly happened. Samaha found that strangers arriving in a place could expect to be examined about goods in their possessions, especially if they appeared to be worth more than the examined person could reasonably afford.¹⁶² This is likely what happened to Anne ferch Griffith, Ethliw ferch Griffith of Pencarrag and their mother, Mauld ferch Rees as they travelled from Carmarthenshire to Montgomeryshire in 1577.¹⁶³ There are forty further examples

¹⁵⁹ NLW GS 4/126/3/30 Examination of John ap Richard (1569); NLW GS 4/126/3/30 Examination of Hugh ap Hugh (1569). Hugh alleged that Jane had only been able to go 6 yards/18 feet.

¹⁶⁰ NLW GS 4/128/5/15-20 Examination of Gwennlian ferch Richard (1577).

¹⁶¹ NLW GS 4/128/5/15-20 Examination of Gwennlian ferch Richard (1577).

¹⁶² Samaha, ‘Hanging for felony’, p. 770.

¹⁶³ NLW GS 4/128/5/99 Indictment (1577).

where the accused person or group of people were from a different county. Only one of these indictments were for petty theft, suggesting that the non-local persons prosecuted in the Great Sessions were those who were thought to have travelled with the intent of committing a profitable theft. For example, Ellen ferch Morgan alias Elly Goch y Frendy from Llanbedr Pont Steffan in Cardiganshire was indicted for theft twice in 1586.¹⁶⁴ In both of these indictments, she was listed as part of a group involving other men and women from Cardiganshire and Breconshire. The thefts that this group allegedly committed were serious, and the fact that one of these was a robbery – the crime most commonly associated in historiography with groups of criminal gangs – suggest that this group can be characterised in this way too.¹⁶⁵ Another group of people, those accused of assisting Ellen Lewis from Lincoln, also appear to have been part of a gang of pickpockets.¹⁶⁶

Table 2.0-13: Location of origin of accused thieves compared to where the theft took place, Montgomeryshire c. 1542-1590.

	<i>Total</i>	<i>Groups</i>	<i>Sole female</i>
From outside Montgomeryshire	43 (24%)	11 (7%)	30 (18%)
From Montgomeryshire – theft from different place	53 (32%)	19 (11%)	34 (20%)
From Montgomeryshire – theft from place of origin	73 (42%)	39 (23%)	34 (20%)
Location unclear	2 (1%)	-	2 (1%)

On the other hand, many groups of persons indicted for theft were accused of committing offences in the same location as their place of origin. Indeed, it appears that sole women – both those from within and outside Montgomeryshire – were more likely to travel when committing thefts. Whether or not this is because women travelled with the specific intent of committing a theft offence, or if they were

¹⁶⁴ NLW GS 4/132/3/69 Indictment (1586); NLW GS 4/132/3/75 Indictment (1586).

¹⁶⁵ See for example, Anne-Marie Kilday, 'Hell-Raising and Hair-Razing: Violent Robbery in Nineteenth-Century Scotland', *The Scottish Historical Review*, 92.2 (2013), 255–74; Robert B. Shoemaker, 'The Street Robber and the Gentleman Highwayman: Changing Representations and Perceptions of Robbery in London, 1690–1800', *Cultural and Social History*, 3.4 (2006), 381–405.

¹⁶⁶ NLW GS 4/128/3/29 Indictment (1576).

travelling and committed an opportunistic theft is difficult to tell from the record, though the fact that none of these offences was a petty theft suggests the first explanation is more likely.

While local people's reputations were clearly scrutinised, for strangers the approach was different; 'the immediate behaviour and body language of strangers was the primary subject of scrutiny – because, by definition, nothing else was known about them' is also apparent in the earlier Montgomeryshire material.¹⁶⁷ For example, we have already seen how the combination of Lucy Tailor's proximity to a house from which goods were stolen and her behaviour of getting dressed was enough to cause suspicion that she was responsible for the thefts.¹⁶⁸ Howard's observation about the different cues of behaviour observed depending on whether the accused was local or not are combined in the case of Ellen Spenser and Margaret Humphrey who were accused in 1582 of stealing a tablecloth worth 6s from an alehouse.¹⁶⁹ In surviving depositions, Ellen was described as 'the strange English woman'.¹⁷⁰ Ellen's behaviour was also remarked upon – she stayed by the door of the alehouse as Margaret ordered their drinks. But it was the fact that she was seen with Margaret who was known to be 'a light woman of ill behaviours and conversation' that cemented the community's suspicion that they were responsible.¹⁷¹

¹⁶⁷ Howard, *Law and Disorder*, p.108.

¹⁶⁸ NLW GS 4/128/5/15-20 Examination of Gwenllian ferch Richard (1577).

¹⁶⁹ NLW GS 4/132/2/22 Indictment (1585).

¹⁷⁰ NLW GS 4/132/2/7 Examination of Margaret ferch Hugh (1585); NLW GS 4/132/2/7 Examination of Elizabeth Myrick (1585).

¹⁷¹ NLW GS 4/132/2/7 Examination of Gwen ferch Lewis (1585).

Table 2.0-14: Locations of origin of persons indicted, Montgomeryshire c. 1542-1590.

	<i>Female thieves in groups</i>	<i>Female thieves alone</i>
Breconshire	1	-
Cardiganshire	2	4
Carmarthenshire	1	1
Caernarvonshire	-	1
Denbighshire	2	-
Glamorganshire	1	-
Merionethshire	-	7
Radnorshire	1	2
Lincolnshire	1	-
Leicestershire	1	-
London		1
Shropshire	3	12

Ellen was not the only English woman accused of theft in Montgomeryshire. Indeed, the table above shows that the majority of accused, non-Montgomeryshire, women came from Shropshire – the English country just over the border. This demonstrates that while historians have emphasised the ways in which women’s work and economic lives limited their options for travel, those who intended to steal were able to travel across the country both alone and in groups, and committing thefts as part of their journey, whether that was the intended purpose of their travel or not.¹⁷² There are many localised themes apparent in this table that may become clearer in a study of theft that considers the material from all of Wales. For example, the presence of female thieves for Merionethshire suggests that these thefts may have been motivated by the reciprocal wool trade between this county and Montgomeryshire. As such, the material here has the potential to highlight both the mobility of female thieves and the place of Montgomeryshire as a location on a broader trading current.

¹⁷² Jones, ‘Gender, Criminal Opportunity, and Landscape’, pp. 177-178.

This section has shown that theft offences were often associated with specific places. From the legal definitions of burglary and housebreaking to the frequency with which other locations appear as the site of theft offences, we can see that certain places carried legal and cultural meanings. Similarly, the absence of places such as commons lands and town squares as the locations in which thefts were alleged to have occurred suggest that thefts from these places were perceived as less violative and invasive than thefts from private property. The issues of proximity and personhood have been explored in order to examine the ways in which witnesses assigned guilt, and how accused women might use the same strategies to prove their innocence. Finally, the places of origin of accused women show that while gendered experiences might restrict women's movements and opportunities for theft, the female thieves in Montgomeryshire often travelled long distances and were, in fact, more likely to do so on their own instead of in groups.

2.4: Conclusions

This chapter has attempted to view accused female thieves in their own right and to avoid making comparisons to the criminality of men.¹⁷³ Instead, this chapter has compared and contrasted the experiences of women who were accused of acting alone and those who were accused of acting in groups. Influenced by Walker's challenges to the idea that female thieves were less daring and criminally dangerous than men, this chapter has shown that women in Wales were accused of committing a range of serious theft offences, especially burglary and housebreaking. When women did commit theft offences with men, the nature of these offences did not drastically change but instead reflected the broader patterns of female offending. This then suggests that that women did not seek the guidance of or assistance from men when committing larger-scale thefts in Wales. Single female thieves were also more likely to travel when committing thefts whereas women who acted in groups were marginally more likely to commit offences in their place of origin.

Comparing the differences between indictments against women as they were originally written and the alterations made to these indictments before, during, and after the trial process has revealed that while single women were more likely to be

¹⁷³ Comparisons to male thieves has been made where this helps to contextualise female patterns of offending. For example -

accused of some form of petty theft then when they acted in groups, this characterisation does not reflect the original charge. This suggests that female thieves were perceived as more criminally dangerous by their victims than by the legal authorities. The victims of thefts appear to have shown no reluctance towards indicting women for serious offences. As Caswell argued, ‘people whose goods were stolen were less concerned with the gender or marital status of the accused than they were with describing her alleged actions to the magistrate’.¹⁷⁴ Instead, the partial verdicts given by petty juries during trials alter the overall pattern of female offending to reflect a higher proportion of petty thefts. It is possible, then, that previous historians who have argued that female thefts were characterised as being petty and less severe than those committed by their male counterparts failed to consider the impact that these partial verdicts and alterations to indictments had on patterns of accusations. The altering of indictment also has a long historical precedent, suggesting that historians have overemphasised the lenience of early modern judges and trial jurors towards female offenders. Subsequent chapters of this thesis also explore the question of judicial leniency towards women in greater depth.

This chapter has touched upon the ways in which women’s thefts have been characterised as being motivated by need compared to thefts by men who were motivated by the desire for profit. From the evidence here there appears to be little indication that ‘professionalised’ thieves were a concern to the Welsh authorities. The thefts committed by women acting in groups generally follow the same patterns as those by women acting alone – with little evidence of sustained large-scale thieving in Wales. Generally, this chapter has avoided making statements about the motivations of female thieves in Wales – largely due to the fact that very little depositional evidence exists from this time period. The range of possible motivations for the theft of items popular with female thieves has, however, been explored and their relevance to the Welsh experience of theft examined. Overall, the conclusion that female thieves were timid and sympathetic might be apparent when comparing female thefts to those committed by men – but examining them in their own right presents a much more varied and complex view of female thieves in Montgomeryshire.

¹⁷⁴ Caswell, ‘Coverture and the Criminal Law in England’, p. 106.

3: Homicide and (Lethal) Violence.

Joan Knight died the fortnight before Christmas 1582 in Llanlluhgan, Montgomeryshire.¹ Her death was apparently the result of several blows to her head, arms and belly.² When her family and neighbours were asked by the Justices of the Peace about what or who had caused these wounds, two possible explanations emerged. The first was that she had been beaten, and accidentally killed, by her husband during an argument. Indeed, the evidence presented in some of the depositions and examinations from this case indicates that Joan's marriage to William Knight had been an unhappy one, as William was accused of having beaten Joan before her death.³ While many historians have shown that women were subjected to physical violence in their homes, the extent to which this was socially acceptable has been the subject of much historical debate.⁴ In Joan's case, we can see that lethal injuries resulting from spousal violence were accepted by deponents and the JPs as a credible explanation for how Joan was killed, though the extent to which this might have absolved William of his alleged role in her death if he had been found guilty is much more uncertain.

There was, however, an alternative account of how Joan had received these lethal wounds. Joan's family claimed that Joan had been beaten by one David Philip, the local butcher, after an argument that started when Joan allowed her husband's cattle

¹ Also spelt "Llan Llughan".

² NLW GS 4/131/1/2 Examination of Edward Knight (1583).

³ When Joan's son-in-law was asked if there was any 'assaults, affrays or debates' between the Knights he admitted that there had been a 'debate' about why she did not make better bread; NLW GS 4/131/1/1 Examination of Thomas Bromley (1583). He also reported this incident to the couple's 23-year-old son, Edward. NLW GS 4/131/1/2 Examination of Edward Knight (1583). When William was asked about this, he admitted that 'he gave her 'a cheek' for that she did not make better bread': NLW GS 4/131/1/3 Examination of William Knight (1583).

⁴ See, Susan D. Amussen, "'Being Stirred to Much Unquietness": Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, 6.2 (1994), 70–89; Joanne Bailey, *Unquiet Lives: Marriage and Marriage Breakdown in England, 1660-1800*, Cambridge Studies in Early Modern British History (Cambridge; New York: Cambridge University Press, 2003); Joanne Begiato, 'Beyond the Rule of Thumb: The Materiality of Marital Violence in England c. 1700–1857', *Cultural and Social History - The Journal of the Social History Society*, 15.1 (2018), 39–59; Francis E. Dolan, 'Household Chastisements: Gender, Authority, and Domestic Violence', in *Renaissance Culture and the Everyday*, ed. by Patricia Fumerton and Simon Hunt (Philadelphia: University of Pennsylvania Press, 1999), pp. 226–204; Elizabeth Foyster, *Marital Violence: An English Family History, 1660–1857* (Cambridge; New York: Cambridge University Press, 2005); Jennine Hurl-Eamon, 'Domestic Violence Prosecuted: Women Binding over Their Husbands for Assault at Westminster Quarter Sessions 1685–1720', *Journal of Family History*, 26.4 (2001), 435–54.

to enter a field of barley and oats belonging to David.⁵ The examinants and deponents, in this case, were questioned about what they knew of both of these alternative explanations, indicating that both accounts were seen as plausible by the Justices of the Peace.⁶ Both men were put under recognizance to appear at the next Great Sessions to answer for Joan's death.⁷ Unfortunately, this recognizance is the last reference to this case, and it is not clear from the record whether the Grand Jury ever made a decision about who should answer for the death of Joan Knight.⁸

In this example, both accounts of how Joan came to be fatally injured and the location in which she received her injuries – either in her home or in contested land – touch upon the themes of space, place, and location. As with all homicides in this period, *where* the lethal violence occurred informed social and legal understandings of what category of crime had taken place. If Joan Knight was killed by her husband, her death raises important questions about the ways in which violence against women was situated within the domestic setting, places that were closed off from the outside world and in which occupants were meant to be protected from harm. Women, however, do not appear to have expected the same level of protection of safety as their male household members as spousal violence appears to have been very much situated within the home; there is very little discussion in trial documents, contemporary literature, or historiography about spousal violence that took place

⁵ NLW GS 4/131/1/2 Examination of Edward Knight (1583). The reluctance of Joan's family to blame her husband for her death might have been due to concerns over inheritance, rather than the result of family loyalty. Had William been convicted of feloniously killing his wife, their children would have been unable to inherit any of their father's lands, as these would have been forfeited to the crown. Speculating on the motives of deponents, especially in a case such as Joan's death, where no outcome is known, results in conjecture rather than evidence.

⁶ Justices of the Peace were instructed to take information about the 'fact, and circumstances of the felony', Michael Dalton, *The Country Justice Containing the Practice of the Justices of the Peace out of Their Sessions, Gathered for the Better Help of Such Justices of Peace as Have Not Been Much Conversant in the Study of the Laws of This Realm* (London: William Rawlins and Samuel Roycroft, 1690), p.21. On the other hand, Dalton also said that if two suspects 'inform against each other in a matter of felony and they vary in their tales (viz. in the day and place, when and where the felony was committed) such information is not to be much credited, *ibid*, p. 408. The presence of these two narratives about Joan's death in depositions from other witnesses, and the fact that both men were eventually bound by recognizance, indicates that there were no other explanations for Joan's death and there was no evidence that meant that one explanation was more credible to the examining JPs than the other.

⁷ NLW GS 4/131/1/6 Recognizance (1583).

⁸ Due to the fact that there is no formal conclusion to this case, we cannot say for certain that Joan was even murdered. In some cases, communities were reluctant to assign blame to a person who had beaten another, even if the victims' injuries were extensive. Such is the case of Katherine ferch John, discussed later in this chapter. Despite being wounded on the head and suffering a string of symptoms from the date of the fight between her and Margaret ferch Nicholas, all of the deponents claimed that they were unsure whether the wounds Margaret had caused resulted in Katherine's death.

outside the boundaries of the home.⁹ On the other hand, the explanation that Joan was killed because of a fight over land appears as a feature in other homicides involving women in early modern Montgomeryshire and Flintshire. This then raises questions about the roles of women in the defence of land and property, something that has, as yet, been underexplored by historians who have tended to focus on women's homicides that occurred within the four walls of the home.

This chapter addresses this gap in research by focussing on both homicides that occurred inside and outside the home and argues that the location in which a crime happened was a contributing factor to how examiners and deponents assigned culpability in cases. As we have already seen with the crime of burglary and housebreaking, the setting in which an offence took place was a crucial factor for determining what category of crime had occurred, and what the appropriate punishment should be.¹⁰ While recent historiographical trends have sought to expand the boundaries of domestic homicide beyond spousal murder to consider other forms of domestic dynamics within the home, this study expands the spatial boundaries of *where* violence involving women took place in order to examine a wider range of domestic contexts in which women encountered and used violence.¹¹

The previous chapter of this thesis was a sole county study which utilised the large number of surviving depositions from Montgomeryshire to provide a largely quantitative approach to the crime of theft. This chapter expands the research parameters to consider the neighbouring county of Flintshire. This county was on the same circuit, and had the same judges, indicating that discretionary judgements made by judges should be consistent across both counties. Generally, homicide cases provide far richer depositional evidence than other types of offence, possibly because – as Howard suggested – homicide cases required a higher standard of evidence, and therefore these documents are longer and more likely to be preserved in gaol files.¹²

⁹ There is no detailed description about where William's alleged violence took place. The fact that their argument stemmed from Joan's inadequate housewifery, and that she was found just outside their home, indicated that if she was indeed fatally wounded by her husband this took place within or nearby the domestic buildings, rather than in a public setting such as an ale house or in the street.

¹⁰ While the location of the crime was critical, the time of day in which a crime occurred was also an important factor with burglary specifically referring to incidents that happened at night.

¹¹ For a recent evaluation of non-spousal domestic homicides see Anna Louise Field, "'Intimate Crime' in Early Modern England and Wales, c. 1660-1760" (unpublished Ph.D. Thesis, Cardiff University, 2018), pp. 35-67.

¹² Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff: University of Wales Press, 2008), p. 59.

There is a discrepancy in the rate of survival for these two counties. In Montgomeryshire, there are five surviving sets of depositions and twenty surviving indictments for homicides involving women from 1542-1590. In Flintshire, far fewer indictments survive. I have, however, been able to identify seven cases of homicide and lethal violence involving women as both victims and perpetrators of homicide in Flintshire from depositions, examinations, and inquests. The richer depositional evidence here enables a more qualitative approach in order to question the ways in which gender, space, and honour provide contexts for women's experiences of lethal violence in Wales.

This chapter first considers domestic homicide and examines the different treatments of mariticides and uxoricides before the law. Arguments that have emphasised the ways in which the legal process was biased against women accused of uxoricide are challenged, as are ideas that men were able to be violent towards their wives with impunity. This chapter also questions how the domestic setting of these homicides created a potential conflict between expectations that the home should be a place of safety for all occupants, contrasted with sixteenth-century theorist's arguments about whether or not it was acceptable for a husband to use physical violence against his wife. These ideas, alongside notions of women's honour as situated within her ability to perform household tasks, provide underlying contexts for the motives that caused lethal violence, provided ways for deponents to assign culpability, and affected the legal treatment of spousal homicide in sixteenth-century Montgomeryshire and Flintshire.

The second section of this chapter considers lethal violence involving women that occurred outside the home. Contested land – locations that were used and misused by the parties involved in lethal violence in Montgomeryshire and Flintshire – is examined, and the crimes of disseisin and assault are explored alongside the homicide cases in order to provide context for the lethal violence that happened in these spaces. The theme of honour and the ways that it could inform positive models of female violence is examined in this section, providing evidence that manslaughter narratives which were gendered male in the later parts of the early modern period are found in cases involving women in sixteenth-century Wales. This chapter thus broadens our understanding of female domestic homicide to consider violence that happened outside the home and explores incidents of violence that can be considered as forming part of a woman's domestic role.

This chapter demonstrates that while notions of acceptable violence were dictated by a person's gender, the place and location in which a crime occurred were also critical factors in both dictating what level of violence was expected or deemed acceptable, what category of crime occurred in these spaces, and the ways in which these categories were gendered by witnesses and legal authorities. But first, a clearer picture of the different crimes encompassed by the term 'homicide' is needed.

3.1: Categories of homicide

Many different crimes fall under the wider category of 'homicide', with each crime encompassing complex and shifting notions of culpability. Henry de Bracton's (c.1210 – c.1268) treatise, *De legibus et consuetudinibus Angliae (On the Laws and Customs of England)*, written in the thirteenth century and published for the first time in 1569, described homicide as a killing 'done out of malice or from pleasure in the shedding of human blood'.¹³ The barrister and writer Michael Dalton (1564-1644) described the formation of the category as one that had evolved from considering all killing as murder to firstly defining the specific crime of 'secret killing'. This further developed into a term where premeditation, whether integral or implied, was key.¹⁴ In medieval England, there was an acknowledgement in legal settings that some forms of killing were deserving of lesser forms of punishment – especially in the case of homicides that were in some way judged to be 'justifiable'.¹⁵ Murders that were the result of malice and premeditation were removed from Benefit of Clergy by an Act of 1547, further emphasising that this type of homicide was considered by legal authorities to be more heinous than others.

The first of the new categories of homicide developed from *chaud melée*; a medieval category of homicide that referred to killings where there was a sudden affray and where the deceased had put themselves at risk; for example, by entering a

¹³ Henry de Bracton, 'Bracton: Thorne Edition: English. Volume 2, Page 340' <<http://bracton.law.harvard.edu/Unframed/English/v2/340.htm#TITLE298>> [accessed 11 September 2018].

¹⁴ Dalton, *The Country Justice*, p. 342.

¹⁵ Such as killing in self-defence. For further circumstances that counted as justifiable homicide see: J.M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford: Clarendon Press, 1986), pp. 79-91; Bernard Brown, 'The Demise of Chance Medley', pp. 311-313; Jeremy Horder, *Provocation and Responsibility* (Oxford: Clarendon Press, 1992), pp. 5-22; Howard, *Law and Disorder*, pp. 69-80; J.A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge: Cambridge University Press, 1983), p 123.; Walker, *Crime, Gender and Social Order*, pp. 114-116.

fight with their weapon drawn.¹⁶ After 1547 this was further developed into the categories of ‘murder under provocation’ and ‘excusable homicide’ – killings that resulted from genuine self-defence where the killer had made every reasonable attempt he could to get away from the violent situation.¹⁷ These categories were formed by the end of the sixteenth century, and by the 1660s there was a clear understanding amongst judges and legal theorists that murder was defined by the presence of ‘malice aforethought’ and that manslaughter was not premeditated and was instead characterised by previous friendship, or at least a lack of malice, between the participants.¹⁸

Legal commentators Dalton (1564-1644) and Hale (1609-1676) both used examples of interactions between men to explain how ‘sudden disputes’ could lead to non-malicious lethal violence.¹⁹ The categorisation of manslaughter as a crime that occurred because of the ‘hot-blood’ of the participant further gendered this crime as male, as contemporary understandings of Galenic theory showed men to be ‘hot’ and ‘dry’ while women were ‘cold’ and ‘wet’.²⁰ While men expressed their anger in sudden outbursts, women supposedly let theirs fester, resulting in the kinds of killings that were more likely to be characterised by legal authorities as malicious and murderous.²¹ Walker argued that the category of manslaughter was never intended to be applied to women, as the circumstances in which manslaughter most often occurred – fights over honour where the killer and victim were equally matched – developed in line with the majority of categories of homicide which were also gendered male. While there were models of ‘positive female force’ these roles

¹⁶ Brown, ‘The Demise of Chance Medley’, pp. 311-312; Walker, *Crime, Gender and Social Order*, p. 115.

¹⁷ Walker, *Crime, Gender and Social Order*, pp. 114-116; Bernard Brown, ‘The Demise of Chance Medley’, pp. 311-313. See also, K. J. Kesselring, ‘No Greater Provocation? Adultery and the Mitigation of Murder in English Law’, *Law and History Review*, 34.1 (2016), 199–225. Murder under provocation refers to murder committed as the result of understandable anger. Rather than occurring as a result of an act of parliament or from intervention from the state – these categories and understandings were developed by judges and legal theorists over a long process of time. See Brown, ‘The Demise of Chance Medley’, p. 313; Walker, *Crime, Gender and Social Order*, p. 115.

¹⁸ Howard, *Law and Disorder in Early Modern Wales*; p. 64-65; Walker, *Crime, Gender and Social Order*, p. 119.

¹⁹ Michael Dalton, *The Country Justice*; Matthew Hale, *Historia Placitorum Coronae* (London, 1736).

²⁰ For further information on how these understandings shaped homicide prosecutions see: K. J. Kesselring, ‘Bodies of Evidence: Sex and Murder (or Gender and Homicide) in Early Modern England, c.1500–1680’, *Gender & History*, 27.2 (2015), 245–62 (pp. 253-255).

²¹ Kesselring, ‘Bodies of Evidence’ p. 246.

clearly placed women as acting on the defensive, rather than the offensive.²² Walker also argued that female honour was not just connected to sexual honour, but could in fact also encompass many aspects of behaviour related to the household duties expected of a wife. But while there were multiple aspects of early modern female honour, and women were ‘no less sensitive’ about defending it than men, it appears that women could not use the same conventions of sociability, in which men were expected to react with anger to threats to their personal honour, to explain or defend their actions.²³

It is unsurprising, therefore, that none of the homicides with female victims in Flintshire and Montgomeryshire was categorised as manslaughter. Similarly, no women were accused of committing manslaughter on either male or female victims. This does not, however, mean that manslaughter or excusable homicide narratives are entirely absent from the depositions and examinations. Indeed, discussing cases from the early formation of these categories can help us further nuance our understanding of the ways in which categories of homicide were formed.²⁴ Welsh women were, as this chapter will show, taking part in violent conflicts over land that contained elements of manslaughter narratives; these fights were sudden, unplanned, involved the use of weapons, and happened in public locations such as public houses, streets, or commons land.

3.2: Homicide within the home

While historians have recently focused on expanding the boundaries of domestic homicide by considering non-spousal homicides, the evidence from Flintshire and Montgomeryshire shows that, for the sixteenth century at least, murders that occurred within the home were exclusively incidents of uxoricide or mariticide, with

²² Walker argued that depictions of the Amazons as a warrior tribe were, from the sixteenth century, also combined with depictions of warrior women as vicious man-haters. Women were legally able to react with violence in defence of their husbands or children. Walker, *Crime, Gender and Social Order* pp. 86-88.

²³ Howard, *Law and Disorder in Early Modern Wales*, p. 70; Kesselring, ‘Bodies of Evidence’, p. 254; Walker, *Crime, Gender and Social Order* pp. 115-116, p. 125, p. 132; Garthine Walker, ‘Keeping It in the Family: Crime and the Early Modern Household’, in *The Family in Early Modern England*, ed. by Helen Berry and Elizabeth Foyster (Cambridge: Cambridge University Press, 2007), pp. 67–95.

²⁴ Walker demonstrated that the two categories of culpable killing – murder and manslaughter- were established by the end of the sixteenth century; Walker, *Crime, Gender, and Social Order*, p. 155. The Stabbing Statute, under which those who had been the victim of an unprovoked attack, who had not had their weapon drawn, and who had died within six months of their injuries had been inflicted, were the victims of murder and not manslaughter, was introduced in 1604.

no alleged murders of children or servants appearing in the Flintshire or Montgomeryshire great sessions.²⁵ This study demonstrates that while the specific and explicit gendering of domestic violence has been well explored, further consideration of the places in which this violence occurred is needed in order to fully understand how the spatial setting of these offences framed the ways in which they were understood both by witnesses and by the legal authorities. This section considers the spaces in which lethal marital violence occurred and questions whether these cases can reveal sixteenth-century attitudes to the spatial dynamics of lethal domestic violence.

Legal, social, and religious attitudes towards early modern domestic violence have been widely explored by historians. While these studies largely agree that domestic violence in which a man was violent towards his wife was acceptable in early modern society, the *extent* to which this was true has been a matter of debate. The ‘pessimistic’ side of the debate has argued that evidence showing that women’s work was controlled by their husbands, and that women were subjected to a sexual double standard, provides the setting for a society that was tolerant of domestic violence against women.²⁶ On the other hand, the ‘optimists’ focused on the ways in which marriage was an equal partnership, with women’s economic contributions valued in a society where violence against wives was seen as unnatural.²⁷ Men who used excessive violence were also portrayed by some commentators such as William Whately (1583-1639) and William Gouge (1575-1653) as men whose need to

²⁵ For homicides that occurred between other household members see: Field, “‘Intimate Crime’ in Early Modern England and Wales”, pp. 35-67; Greg T. Smith, ‘Expanding the Compass of Domestic Violence in the Hanoverian Metropolis’, *Journal of Social History*, 41.1 (2007), 31–54; Garthine Walker, ‘Imagining the Unimaginable: Parricide in Early Modern England and Wales, c.1600–c.1760’, *Journal of Family History*, 41.3 (2016), 271–93. There were two indictments for the death of a child, but in both cases the death was alleged to have happened outside in the open, rather than inside a building; NLW GS 4/130/5/56 Indictment (1582); NLW GS 4/134/2/142 Indictment (1590).

²⁶ Bailey, *Unquiet Lives*, pp. 8-11. Medieval specialists have argued that while women’s work was different from men’s, it was still constrained by men; Judith M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock before the Plague* (Oxford; New York: Oxford University Press, 1987), pp.115-140; Mavis E. Mate, *Women in Medieval English Society* (Cambridge: Cambridge University Press, 1999), p. 100. For work on the sexual double standard and the difficulty of defining extreme cruelty see, Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Clarendon Press, 1996), pp. 180-183.

²⁷ For this ‘optimist’ school of thought see; Barbara A. Hanawalt, *The Ties That Bound: Peasant Families in Medieval England* (New York; Oxford: Oxford University Press, 1986); Ralph A. Houlebrooke, *The English Family 1450 - 1700* (London ; New York: Routledge, 1984); Amanda Vickery, *The Gentleman’s Daughter: Women’s Lives in Georgian England* (New Haven ; London: Yale University Press, 1998); Keith Wrightson, *English Society, 1580-1680* (London: Routledge, 2003).

impose their authority on their wives with violence revealed their weakness and lack of honour.²⁸ The Welsh material does not explicitly comment on the extent to which domestic violence against wives was deemed acceptable. But it does demonstrate that, in this period, domestic violence was a credible *explanation* for the death of women, but not necessarily an *excuse* for it.²⁹ This section first examines instances where male violence against women in domestic settings allegedly resulted in fatal consequences. This chapter will argue that while there were expectations that a man should be safe within his own home, the extent to which a woman might expect to be subjected to violence from her husband complicates the perception of the ‘home’ as a place of safety.

Gendered customs of inheritance meant that the only women who had the opportunity to own property outright were widows, however, it was not just the owners of property who could expect to be safe within their property. Evidence from cases where women were attacked in the houses belonging to their fathers and husbands were treated with the same severity before the law indicating that the idea that a person should be protected within their own property extended to occupants, not just property owners.³⁰ While contemporaries identified female poisoners as a particularly heinous type of criminal – due to the fact that they betrayed their roles as caregivers and used their domestic and control of household spaces role not to nourish but to kill – examples from Wales indicate that men had a similar duty to

²⁸ William Whately, *A Bride-Bush. Or, A Direction for Married Persons Plainely Describing the Duties Common to Both, and Peculiar to Each of Them. By Performing of Which, Marriage Shall Prooue a Great Helpe to Such, as Now for Want of Performing Them, Doe Finde It a Little Hell. Compiled and Published by William Whateley, Minister and Preacher of Gods Word, in Banbury in Oxford-Shiere.* (London: Bernard Alsop for Benjamin Fisher, 1623), p. 157; William Gouge, *Of Domesticall Duties Eight Treatises. I. An Exposition of That Part of Scripture out of Which Domesticall Duties Are Raised. ... VIII. Duties of Masters.* By William Gouge. (London: Iohn Haviland for William Bladen, 1622), pp. 389-392. Gouge especially questioned if a husband could ever justifiably beat his wife, arguing that there was no warrant for it in the scripture, and that a woman beaten by her husband would lose the respect of servants and children who were meant to be subordinate to her. Overall, ‘no fault should be so great as to compel a husband to beat his wife’, p. 392. See also, Baily, *Unquiet Lives*, p. 216.

²⁹ As Kerr pointed out, men in medieval England did not have the right to kill or seriously injure their wives: M.H. Kerr, ‘Husband and Wife in Criminal Proceedings in Medieval England’, in *Women, Marriage, and Family in Medieval Christendom: Essays in Memory of Michael M. Sheehan, C.S.B.*, ed. by Constance M. Rousseau and Joel T Rosenthal (Kalamazoo: Medieval Institute Publications, Western Michigan University, 1998), pp. 211–51.

³⁰ For example, Thomas ap Jenkin ap Howell Mawddy and Llewelyn ap Edward Morgan were indicted for breaking into the house of Ieuan ap David ap Morris y Glyn and putting Katherine ferch Ieuan and Angharad ferch David in fear; NLW GS 4/124/3/20 Indictment (1561). The use of phrases such as ‘in fear’ were part of legal language and do not necessarily indicate that an incident was particularly violent or terrifying. But this does emphasise that Katherine and Angharad were in a threatening situation.

protect their wives when they were within the home.³¹ When that duty was betrayed, their crimes were also treated as particularly severe.

Material from Flintshire and Montgomeryshire provides further evidence to support existing findings that women who were accused of murder were most often alleged to have killed their family members or close associates.³² Husband-murders have received significant attention from historians, some of whom have shown that the classification of mariticide as petty treason demonstrates the ways in which this crime was seen by the authorities to be particularly disruptive of ‘domestic, political, and social hierarchies’.³³ The lack of convictions for mariticide in Montgomeryshire and Flintshire, however, suggest that this offence did not particularly concern Welsh prosecutors. There are several possible explanations for the difference between these findings and that of other historians, with a key difference of this study being that it focuses on sixteenth-century rural Wales while the majority of studies of spousal murder focus on urban areas after 1590.³⁴ The Welsh material could be used to suggest that the familiar trope of female poisoners was still being formed in this period.

In this chapter, a broader range of homicides, including those that occurred outside the domestic space, will complicate the notion that female homicides subverted women’s domestic role. Homicides within the home can be linked to

³¹ Walker argued that historians have sometimes accepted views that the murdering woman had subverted their domestic roles at face value. For further work on women and poisoning see; See, for example; Jo Eldridge Carney, ‘Poisoning Queens in Early Modern Fact and Fiction’, in *Scholars and Poets Talk about Queens*, ed. by Christine Stewart-Nuez and Carole Levin, (Basingstoke: Palgrave Macmillan, 2015), pp. 269–84; Randall Martin, ‘Women and Poison’, in *Women Murder and Equity in Early Modern England* (New York: Routledge, 2007), pp. 123–54; Katherine D. Watson, ‘Medical and Clinical Expertise in English Trials for Criminal Poisoning 1750–1914’, *Medical History*, 50.3 (2006), 373–90. There is also a connexion between women, witchcraft, food, and poisoning; Diane Purkiss argued that the three witches from Shakespeare’s *Macbeth* used a recipe similar to the rhyming recipes often found in domestic manuals of the time. Purkiss also pointed out the continuing association of cauldrons – cooking vessels – and witchcraft. Diane Purkiss, *The Witch in History: Early Modern and Twentieth-Century Representations* (London; New York: Routledge, 1996), p. 212.

³² Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), p. 135.

³³ Frances E. Dolan, ‘The Subordinate(s) Plot: Petty Treason and the Forms of Domestic Rebellion.’ *Shakespeare Quarterly* 43, no. 3 (1992): 317–40 (p. 318). See also, Ruth Campbell, ‘Sentence of Death by Burning for Women’, *Journal of Legal History*, 5 (1984), 44–59.

³⁴ While a large number of studies focus on the early modern period, the availability of a greater variety of printed sources produced in the seventeenth and eighteenth century means that studies often focus on these later periods; Kathy Callahan, ‘Women Who Kill: An Analysis of Cases in Late Eighteenth- and Early Nineteenth-Century London’, *Journal of Social History*, 46.4 (2013), 1013–38; Sandra Clark, ‘Deeds against Nature: Women and Crime in Street Literature of Early Modern England’, *Sederi*, 12 (2002), 9–30; Frances E. Dolan, ‘Home-Rebels and House-Traitors: Murderous Wives in Early Modern England’, in *Dangerous Familiars: Representations of Domestic Crime in England 1550–1700*, ed. by her (Ithaca: Cornell University Press, 1992), pp. 1–32; Lockwood, ‘From Treason to Homicide’, pp. 31–45.

women's defence of their household honour, and those that occurred outside the home largely took place in contested land which formed part of a family's domestic and working space. These themes will be explored by closely examining the spaces and locations in which women experienced lethal violence – an aspect of women's experiences of crime which, as yet, has received less attention from historians who have instead tended to focus on the *means* women used to kill. This chapter focuses on the ways in which the spatial setting of domestic homicides provides additional contexts for these killings including the betrayal of conventions of safety within the home, a lack of lethal spousal violence outside of this place, and the household as the site of female honour.

3.2.1: Violence and betrayal: uxoricide

Homicide within the home was both a betrayal of domestic relationships and a violation of the domestic space in which a person could believe themselves to be protected from harm. In a similar way to burglaries, homicides that occurred within the home appear to have been regarded as more heinous by witnesses and legal professionals. As Sir Edward Coke (1552-1634) argued, 'the house of everyone is to him as his Castle and Fortress as well for defence against injury and violence'.³⁵ It is clear that breaching such a defence through the act of burglary or housebreaking was an especially grievous act. Dalton described how in 1594 an assembly of Justices decided that all housebreaking offences that occurred at night should be considered burglaries (and, therefore, be non-clerigiable) even if there was no person present because 'every man ought to be in security or safety in the night'.³⁶ With this in mind, spousal murder also violated the safety of the home thus making the offence all the more heinous.³⁷ The expectation that a person should be protected from

³⁵ Sir Edward Coke, *The Selected Writings and Speeches of Sir Edward Coke*, ed. by Steve Sheppard (Indianapolis, 2013).

³⁶ Dalton, *The Country Justice*, p. 360.

³⁷ For example, when Thomas Bromlow was allegedly killed by his wife and her lover, the inquest into his death explicitly recorded that he had been given fatal wounds 'in his own house'; NLW GS 4/124/1/45 Inquest (1554). Sixteenth and seventeenth century writing on murders sometimes emphasised that the victim was killed in their own home. See for example; Anon, *A True Report of the Horrible Murther, Which Was Committed in the House of Sir Ierome Bowes, Knight, on the 20. Day of February, Anno Dom. 1606 With the Apprehension, Detection, and Execution of the Offenders*. (London: By H[umphrey] L[ownes] for Mathew Lownes, 1607); Anon, *A Bloody New-Yeares Gift, or A True Declaration of the Most Cruell and Bloody Murther, of Maister Robert Heath, in His Owne House at High Holbourne, Being the Signe of the Fire-Brand Which Murther Was Committed by Rowland Cramphorne, Seruant and Tapster to the Said Heath: On New-Yearesday Last Past in the Morning, 1609. Whereunto Is Annexed, Sundry Exploits of Tendance, Otherwise Called*

coming to harm in their own home makes the question of discussing uxoricide somewhat difficult, as the extent to which men were able to use physical violence against their wives within the home without social or legal condemnation has been a matter of serious historiographical debate. What could be considered as acceptable violence within the home was thus very different for men and women. This is not to say, however, that men could be indiscriminately violent towards their wives without legal interference or prosecution. Indeed, two Montgomeryshire cases especially highlight aspects of betrayal and violence that resulted in severe penalties.³⁸

The murder of Isobel Golborne on 29 July 1563 at Ffynnonarthur occurred at a point where she was particularly vulnerable - in her house, in her own bed, at eleven o'clock at night, while she was asleep. Her death was also very violent, with the inquest on her body recording that she had been struck with an axe 'upon the head causing eight mortal wounds from which she instantly died'.³⁹ Isobel's killing had clearly been premeditated – an essential question for juries and judges to consider when deciding the severity of the crime.⁴⁰ She had also been killed when she could not defend herself and, being asleep, there was also no way that it could be argued that she had provoked her killer into a sudden rage. The inquest also records that she was wounded 'with malice aforethought', a legal phrase that indicates that the coroner had identified Isobel's death as a murder.⁴¹ Further, the indictment records that Isobel was killed on the orders of her husband, Richard Golborne who 'feloniously abetted, advised and procured' Ellen Golborne and Cadwaladr ap John

Double Diligence, Seruant Vnto Derricke the Hangman, Who with His Consort (Olde Dublets) Was Executed at Tyborne, in Ianuary Last Past 1609. (London: Printed [by Edward Allde] for B. S[utton]. & W. B[arrenger]., 1609).

See also, Walker, *Crime, Gender and Social Order*, p. 35; Dalton, *The Country Justice*, p. 187; Ferdinando Pulton, *De Pace Regis et Regni Viz. A Treatise Declaring Vvhich Be the Great and Generall Offences of the Realme, and the Chiefe Impediments of the Peace of the King and Kingdome, as Menaces, Assaults, Batteries, Treasons, Homicides, and Felonies ...* <<https://quod.lib.umich.edu/e/ebo2/A10218.0001.001?view=toc>> [accessed 11 September 2018].

³⁸ Beattie, Herrup, and Sharpe all found that the minority of offenders indicted for murder were actually convicted for that offence. The fact that both of these men who were accused of murdering their wives were sentenced to hang indicates that there were no mitigating circumstances that could possibly be applied to these cases. Beattie, *Crime and the Courts*, p. 83; Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge: Cambridge University Press, 1987). p.144; J.A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge: Cambridge University Press, 1983), p. 124.

³⁹ NLW GS 4/125/2/18 Inquest (1581).

⁴⁰ Premeditation, or lack thereof, was a crucial factor in deciding what category of homicide had occurred and whether the accused was eligible to plead benefit of clergy.

⁴¹ NLW GS 4/125/2/18 Inquest (1581). 'With malice aforethought' and similar were legal phrases phrase used to indicate that the offence that had been committed was murder, not manslaughter.

Wyn to kill his wife.⁴² Isobel's death thus involves several layers of betrayal, emphasised by the spatial setting in which her murder took place; she was violently murdered in her bed, with no opportunity to defend herself, by two people who had been invited into the house by her husband.⁴³ In this case, the spatial setting of this homicide provided key evidence that demonstrated that her death was a pre-meditated act with malice aforethought.

Another example of spousal and spatial betrayal comes from Bodaeoch in 1576. Cicely Castry was allegedly found dead in her bed by her husband, Nicolas Castry. Upon the discovery of her death, Nicholas was quick to allege that Cicely's friends disliked him and would accuse him of killing her, crying to an acquaintance that 'he was undone and that his wife's friends would charge him for her death'.⁴⁴ Nicholas certainly did have a motive for wanting his wife out of the way; he had spent the day of Cicely's death calling upon a woman called Alice Furde who Nicholas had recently put up in the house of one Richard Loton. Nicholas had told Richard that Alice was his 'kinswoman' but it is revealed in the depositions of Nicholas's neighbours that she was, in fact, his 'concubine' and that he had brought her to his friends to ask for 'favours for her'.⁴⁵ Indeed, the week after his wife's death Nicholas went with Alice to visit her parents, suggesting perhaps that they intended to start a more formal relationship once Cicely was dead.

In both of these cases, the betrayal of the victim was twofold. The two husbands betrayed their patriarchal marital obligations by causing their wives' deaths. Richard Golborne's betrayal is further heightened by the fact that he asked another person to commit the murder inside the household space, inviting someone who had malicious intent into a place where Isobel should have been protected from harm.⁴⁶ Nicholas

⁴² NLW GS 4/125/2/84 Indictment (1563). Thomas ap Hugh and Joan Davyson were also indicted for assisting in the murder. It is noteworthy that Ellen Golborne shared Richard and Isobel's surname. English-style surnames were still uncommon in Wales and it is therefore likely that she was related to both of them through Richard. The exact nature of their relationship, however, is never specified.

⁴³ There is no apparent explanation in the record for why Richard procured Ellen and Cadwaladr to commit the murder instead of doing it himself as there are no depositions or examinations related to this case that survive in the record.

⁴⁴ NLW GS 4/128/4/12 Examination of Randolph Botely (1577). Nicholas pleaded his innocence and claimed that Cicely had died of an illness.

⁴⁵ NLW GS 4/128/4/13 Examination of Richard Loton (1576). Nicholas also admitted in his examination that Alice was his 'concubine'; NLW GS 4/128/4/11 Examination of Nicholas Castry (1576).

⁴⁶ It is somewhat difficult to assess what Ellen Golborne's relationship to Richard and Isobel was. She could have been Richard's mother, his sister, or even his daughter. No age is given for her and her possible familial relationship to them indicates that she may have been living with Isobel and Richard

Castry's betrayal was apparently motivated by another sin – his adultery. Isobel and Cicely were both further betrayed by the breaking of their homes during the night and being attacked at their most defenceless.⁴⁷ Both of these murders, therefore, fit within the frameworks of betrayal and premeditation through which crimes were enshrined in law and understood by authorities and communities as being especially severe.⁴⁸

The men accused of these murders were found guilty and sentenced to hang but while it appears that Nicholas Castry accordingly went to the gallows the outcome of the Isobel Golborne murder is a little more complex.⁴⁹ Ellen Golborne, who was said in the indictment to have caused the wound from which Isobel died, confessed and was sent to the gallows along with an accomplice, Joan Davyson.⁵⁰ Cadwaladr ap John Wyn, who was said in the indictment to have caused 'a mortal wound from which [Isobel] ultimately died' was also sentenced to hang, as was Richard Golborne for procuring them to commit the murder, but both men were later pardoned.⁵¹ While it might be tempting to argue that this is evidence of a female murderer being treated in a much harsher manner than men found guilty of the same crime it is important to remember that unlike Ellen, neither of these men confessed. Additionally, the indictment also states that 'the wound caused by Cadwaladr ap John Wyn had not killed [Isobel].' Nevertheless, the wound he had given her was very severe as it was described as 'a mortal wound from which she ultimately died' in the same indictment. The implication here is that the wound Cadwaladr gave Isobel would have killed her, had the wounds Ellen gave her not killed her first.⁵² Richard Golborne was accused as a principal due to this role in procuring the murder even though he was not present at the time.⁵³

at the time of the murder. It is possible then, that she wasn't let into the house. There is, however, no suggestion that Cadwaladr was a member of the Golborne's household.

⁴⁷ As we have seen with the offence of burglary, offences that happened at night-time were regarded as being more severe than others. See Walker, *Crime, Gender and Social Order*, p. 183.

⁴⁸ Walker, *Crime, Gender and Social Order*, pp. 119, 272.

⁴⁹ NLW GS 4/128/4/96 Calendar of Prisoners (1577). It is difficult to confirm from the surviving records whether this sentence was actually carried out, but Nicholas's name does not appear again.

⁵⁰ Joan did not confess. NLW GS 4/125/2/93 Calendar of Prisoners (1563).

⁵¹ NLW GS 4/125/2/84 Indictment (1563).

⁵² NLW GS 4/125/2/84 Indictment (1563). Cadwaladr and Richard were both reprieved. Cadwaladr was listed as 'to hang' in the calendar of the 1567 session but appears to have been reprieved again: NLW GS 4/125/6/61 Calendar of Prisoners (1567). Cadwaladr and Richard were pardoned in 1579. Cadwaladr's last appearance for this crime is in the calendar of prisoners for the 1581 session, where his bail was set at 100 marks 'for good behaviour': NLW GS 4/130/3/72-73.

⁵³ Michael Dalton, *The Country Justice*, (London: William Rawlins and Samuel Roycroft, 1690) p. 395.

Even in cases where spouses lived separately, domestic violence occurred within the specific setting of the homes of the victims and perpetrators. Margaret ferch Gwilym alias Lloyd left her husband's house in Montgomeryshire in 1563 because of his alleged cruelty to her. A set of instructions sent to the coroner records that Margaret's mother-in-law (also called Margaret) had allegedly tried to poison her before.⁵⁴ Margaret had been so sick her hair and nails had fallen out, and she had needed to sell off some of her goods to pay for surgery.⁵⁵ This, and other evidence that Margaret's life with her in-laws had been unbearably unhappy, was used as motivation for an investigation after Margaret was found hanged in 1564. An instruction to the Chief Justice of Montgomeryshire from the coroners described how:

It is evidently proved by a number of witnesses that the said Ieuan ap Owen [Margaret's husband and alleged murderer] and the said Margret, his late wife, ever since they were married being about three years ago could not, nor did well agree neither lived together in amenity and mutual society as a man and wife should and ought to do, but would contend and strive with one another and be at continual discord and variance and dwelled in several houses the one from the other, and by a long time and space.⁵⁶

Indeed, the conflict between Margaret and her husband and mother-in-law appears to have been understandably exacerbated when they lived together. Multiple deponents, in this case, commented on the fact that Margaret felt she 'could not abide with her husband'.⁵⁷ The family's servant, Gwenllian ferch Griffith, was asked about Ieuan's violence against Margaret and she described seeing a bloody wound on Margaret's head that she claimed Ieuan had caused by hitting her with his dagger or glaive staff.⁵⁸ But in Margaret's case, the violence did not solely come from her husband – whose use of violence against her could be seen as legitimate – but also came from

⁵⁴ NLW GS 4/125/3a/3 Instructions (1564).

⁵⁵ NLW GS 4/125/3a/3 Instructions (1564).

⁵⁶ NLW GS 4/125/3a/3 Instructions (1564); 4/125/3a/5-6 – Examination of Ieuan ap Owen ap Ieuan ap Philip (1654).

⁵⁷ 4/125/3a/10 - Examination of Hugh ap Gwylim (1564); 4/125/3a/10 - Examination of John ap David ap Rees (1564); 4/125/3a/10 - Examination of John ap Ieuan Balney (1564); 4/125/3a/10 - Examination Watkin ap John (1564).

⁵⁸ 4/125/3a/7-8 Examination of Gwenillain ferch Griffith (1564).

her mother-in-law.⁵⁹ It was she who Margaret had alleged had poisoned her, not her husband, and evidence from Margaret's neighbour, Machalt ferch David, who claimed that she had seen Margaret Lloyd and Katherine ferch Griffith Glover, her mother-in-law, by her house 'pulling each other's hair off their heads'.⁶⁰ Ieuan had a sister and a niece called Katherine so it is possible that the Katherine who Machalt saw Margaret fighting with was another one of Ieuan's female relatives, or that she had the name of Margaret's mother-in-law wrong when she gave her evidence. Margaret's allegation that her in-laws had poisoned her demonstrated that she felt that she was not safe in the marital home and the violence against her that was witnessed by others also demonstrated that Ieuan was ignoring his responsibility to keep Margaret safe in their shared home.

As with Joan Knight's death, the case with which this chapter began, we see that domestic violence within the home was a credible explanation for how Margaret had died; Ieuan had already been violent towards Margaret and thus it was, therefore, possible that he had done so again. Margaret felt that she was no longer safe in her marital home, but she did not seek legal means of protection, such as binding her husband to keep the peace towards her.⁶¹ Gwenllian's deposition suggests a possible reason for this; the deposition that survives in the gaol file was the second one she had given, as the first was thought to be unsatisfactory. As the surviving deposition records:

She was asked why she did not confess upon her first examination the sayings and declarations of the said Margaret Lloyd made to this examinant of how she was beaten and hurt by the said Ieuan ap Owen, her husband, with his dagger or forest bill, and how she had showed this examinant the place where she was hurt and the blood upon her kerchief.⁶²

⁵⁹ Bailey and Giese pointed out that a man who wielded a weapon against his wife was abusive, not corrective; Joanne Bailey and Loreen Giese, 'Marital Cruelty: Reconsidering Lay Attitudes in England, c. 1580 to 1850', *The History of the Family*, 18.3 (2013), 289–305 (p. 291).

⁶⁰ 4/125/3a/9 Examination of Machalt ferch David (1564).

⁶¹ Jennine Hurl-Eamon, 'Domestic Violence Prosecuted: Women Binding over Their Husbands for Assault at Westminster Quarter Sessions, 1685-1720', *Journal of Family History*, 26.4 (2001), 435–54. Hurl-Eamon has looked at the ways in which this strategy was used by women in London. While this urban focused study is also outside the time scale of this study, the evidence presented after the killing of Maresley ferch John Thomas shows that Welsh women could and did seek protection from violent men. Maresley's case is discussed later in this chapter.

⁶² NLW GS 4/125/3a/7-8 Deposition of Gwenllian ferch Griffith (1564).

Gwenllian's reply was that she had withheld her evidence because Ieuan ap Morris, the sergeant of the town, had told her to say no more than what the other neighbours had said when she was examined before the coroners.⁶³ The intervention of the sergeant suggests a particular tension between the domestic and the public. The attempt to prevent Gwenllian from fully describing the violence Margaret suffered could be interpreted as an attempt to conceal private domestic matters. On the other hand, it is possible that Ieuan had powerful friends who wished to protect him from suspicion.⁶⁴ This could indicate that Margaret would have faced difficulty if trying to use legal methods to constrain her in-law's violence against her. Further, Ieuan ap Morris's attempt to stop Gwenllian disclosing what she knew of the domestic violence in Ieuan's home indicates that, as in the case of Joan Knight whose death this chapter opened with, domestic violence was a credible explanation for a woman's death and an indication of her husband's guilt. In this case, attempts to stop potentially incriminating evidence being heard by the JPs did not prove necessary – a second inquest into Margaret's death ruled that she had died by suicide.⁶⁵

The above cases reveal that Welsh deponents and examinants were able to draw on histories of domestic violence in order to assign culpability to husbands whose wives died suddenly or suspiciously. There is limited evidence of how *successful* a strategy this could be in Wales, mostly due to the inconsistent survival of records, but these examples do at least suggest that JPs and coroners were aware that women might be the victims of lethal violence within their own homes. It is also significant that there is no evidence of men beating, wounding, or killing their wives in public spaces suggesting that domestic violence was culturally situated as something that was meant to happen within the private household space.⁶⁶ The spatial setting of

⁶³ NLW GS 4/125/3a/7-8 Examination of Gwenllian ferch Griffith (1564). Gwenllian also called herself 'unhappy' and 'ungracious' for withholding this evidence.

⁶⁴ There is no indication of any personal or familial relationship between the two Ieuans apparent in the text.

⁶⁵ NLW GS 4/125/3a/13 Articles of Instruction (1564) and 4/125/3a/24 Inquest (1564).

⁶⁶ Joanne Bailey, "'I Dye by Inches": Locating Wife Beating in the Concept of a Privatization of Marriage and Violence in Eighteenth-Century England', *Social History*, 31.3 (2006), 273–94. For violence in public and private spaces see, Robert Shoemaker, 'Male Honour and the Decline of Public Violence in Eighteenth-Century London', *Social History*, 26.2 (2001), 190–208. For further on the development of private spaces Fiona Williamson, 'Public and Private Worlds? Social History, Gender and Space', *History Compass*, 10.9 (2012), 633–43. This article is a response to the seminal work, Michael McKeon, *The Secret History of Domesticity: Public, Private, and the Division of Knowledge* (Baltimore: Johns Hopkins University Press, 2007).

these crimes provided further context for the severity of these killings by emphasising the betrayals enacted by men who killed their wives in cold-blood.

3.2.2: *Petty treason: mariticide*

While spousal violence towards women might be explained, or even expected, by sixteenth-century commentators, there were no such cultural expectations that men would suffer the same, within their homes or outside of them. It has been suggested by some historians that homicides in which wives killed their husbands were seen as particularly severe by the authorities because this offence was legally classified as petty treason, instead of murder.⁶⁷ Petty treason was legally defined as the murder of a master by his servant, a prelate by his subordinate, or a man by his wife – all relationships in which a subordinate owed obedience to their superior.⁶⁸ This crime thus carried implications about the betrayal of a husband's natural authority and, potentially, a confrontation of the natural order of the state's authority.⁶⁹ Ruth Campbell's 1984 article emphasised the discriminatory nature of this charge, highlighting that women charged with petty treason faced all-male juries and would be burned at the stake if found guilty. Indeed, this sentence was only applied to women as men found guilty of petty treason were hanged, further highlighting the unequal treatment of women under the law.⁷⁰ Mathew Lockwood demonstrated that there were few 'positive defences' that an accused could make when charged with this type of homicide although historians have found that over the course of the seventeenth century there was a growing trend towards considering provocation as a defence in these types of cases.⁷¹

There are three examples of husband murder from Montgomeryshire, but none from Flintshire for this period. Only one of these cases was referred to as 'petit

⁶⁷ For example, see; Ruth Campbell, 'Sentence of Death by Burning for Women', *The Journal of Legal History*, 5.1 (1984), 44–59 (pp. 53–55).

⁶⁸ Blount, *Nomo-Lexikon: A Law-Dictionary*.

⁶⁹ For further work on Petty Treason see Ruth Campbell, 'Sentence of Death by Burning for Women', *The Journal of Legal History*, 5.1 (1984), 44–59; Frances E. Dolan, 'The Subordinate(s) Plot: Petty Treason and the Forms of Domestic Rebellion', in *Dangerous Familiars: Representations of Domestic Crime in England 1550–1700*, (Ithaca: Cornell University Press, 1992), pp. 317–340; Frances E. Dolan, 'Battered Women, Petty Traitors, and the Legacy of Coverture', *Feminist Studies*, 29.2 (2003), 249–77; Matthew Lockwood, 'From Treason to Homicide: Changing Conceptions of the Law of Petty Treason in Early Modern England', *The Journal of Legal History*, 34.1 (2013), 31–49.

⁷⁰ Campbell, 'Sentence of Death by Burning for Women', pp. 53–55; Lockwood, 'From Treason to Homicide', pp. 33–35.

⁷¹ Lockwood, 'From Treason to Homicide', p. 31. See also, Brown, 'The Demise of Chance Medley', Horder, *Provocation and Responsibility*; Kesselring, 'No Greater Provocation'.

treason' – Margery Peat of Poole was indicted for poisoning her husband, Edward ap William, with 'ratten bane' or arsenic.⁷² Edward was allegedly poisoned on 1st August 1570 and died twenty-four days later. Though she was accused of 'petit treason' this is a very short case that ended with Margery's acquittal.⁷³ Anne Bromlow, accused of assisting in the killing of her husband in Goetre in 1554, however, was not as fortunate. Bromlow's case explicitly records that Thomas, Anne's husband, was killed 'in his own house' suggesting that the specific location of his murder was of significance to this case.⁷⁴ This detail, along with descriptions of the means by which Thomas died – 'three wounds on Thomas's head penetrating as far as the brain' – highlights how violent Thomas's death was.⁷⁵ It was a man called Richard ap Mathew who was accused of delivering these fatal wounds, but Anne was indicted for assisting him.⁷⁶ Thus, as with the death of Isobel Golborne, the spouse was not accused of committing the murder, but rather of procuring someone else to commit it. Like Richard Golborne, Anne was treated as equally culpable for the murder and she was eventually sentenced to hang.⁷⁷ The sentence, in this case, indicates that Anne was sentenced for the crime of murder, rather than petty treason, despite the fact she was judged to be responsible for her husband's death. Bromlow's murder occurred seventeen years before Margery Peat was indicted for petty treason and so it is also possible that Anne escaped being burned at the stake because this legal category was not yet in use in Wales. The small data set available for Montgomeryshire and Flintshire make this difficult to argue with confidence, though further studies of the Welsh counties may indicate that the transmutation of the category of petty treason into Wales after the Acts of Union took longer than for other forms of homicide.

In these cases, there is insufficient evidence as to what the motives for the murders might have been, though the details provided in the Bromlow case mean

⁷² 'Petit treason' was used in the indictment against Margery Peat NLW GS 4/127/2/25 Indictment (1571). Anne Bromlow was accused of assisting in the murder of her husband and was executed. When a woman was involved in, or had knowledge of, her husband's murder she was treated as a principle. This was the same for Husbands who knew of plots to kill their wives.

⁷³ The indictment is the only document associated with this case that survives.

⁷⁴ NLW GS 4/124/1/45 Inquest (1554).

⁷⁵ NLW GS 4/124/1/45 Inquest (1554).

⁷⁶ NLW GS 4/124/1/15 Indictment (1554).

⁷⁷ Anne pleaded her belly but was found not to be pregnant. NLW GS 4/124/1/28 List of Jury of Matrons (1554). This document does not record the verdict, but all others related to Anne Bromlow show that she has been sentenced to hang so presumably she was not found to be pregnant.

that it is tempting to infer that she and her husband's killer had some prior relationship. There are no surviving details about the relationship between Margery and her husband, and the fact that this trial did not progress indicates that there was insufficient evidence that Margery had a motive for wanting him dead. She may also have been able to persuade the authorities that her husband's death was as the result of natural causes, or that the poisoning was an accident. Thomas Bromlow's murder is a little more complex; Anne was not just present in the house at the time her husband was killed but she also went with her husband's killer and they 'took a black horse from Gotre towards a place called Cefn-y-coed in the township of Weston'.⁷⁸ Anne can thus be seen as taking an active role in the murder of her husband, rather than simply being present in the house at the time of his death.

In another case, the suspected woman was alleged to have taken an even more active role in the death of her husband. In Machynlleth 1584 Owen ap Thomas ap Edward suspected that he was dying after being poisoned by his wife and was examined by a JP and the mayor of the town about this allegation. Owen said that 'he well knows that a year last March he was poisoned by his wife, Mary Owen' and that he knew that a man called Ieuan (sometimes Evan) ap Lewis 'used her at his pleasure'. He also said that she might have wanted to kill him 'so that she could have the said Evan to be her mate.'⁷⁹ Mary's behaviour during Owen's sickness certainly seems to support Owen's suspicion that she wanted to marry Ieuan; she moved out of the family home as soon as Owen fell sick and went to live with Ieuan instead. Mary and Ieuan also clearly had a sexual relationship before Owen's eventual death, as Ieuan admitted that Mary had a child by him during Christmas time in 1582.⁸⁰

This case, therefore, shares some similarities with the above murder of Cicely Castry who had allegedly been strangled in her bed. In both examples, the murderous spouse had taken another lover and was apparently taking steps to move closer to or live with them. There is a further similarity in that both Nicholas Castry and Mary Owen alleged that the indictments against them were malicious.⁸¹ In 1589 Mary and Ieuan, now married, issued a petition stating that Mary had been indicted 'without cause' and that they had been 'wrongly troubled' with the charge and the fact that

⁷⁸ NLW GS 4/124/1/45 Inquest (1554).

⁷⁹ NLW GS 4/131/3/40 Examination of Owen Thomas ap Edward (1584).

⁸⁰ NLW GS 4/131/3/22 Examination of Evan [Ieuan] ap Lewis (1584).

⁸¹ NLW GS 4/128/4/12 Examination of Randolph Botely (1577).

they had been continued to be bound to the common mainprize at ‘their great costs, charges and troubles’.⁸² Certainly, the names appearing on Mary’s indictments (she was indicted twice for the same offence) show that the men who charged her for the death of Owen were powerful and prominent local society members. John Thomas, cleric, the brother of the ‘murdered’ Owen Thomas was listed as the prosecutor on one indictment. These indictments also list Hugh ap John ap Hugh, gent, the former mayor of the town as a witness. As in the case of Margaret Lloyd discussed earlier in this chapter, powerful local men acted to influence the legal process – in Owen’s case by aggressively pursuing prosecution by indicting Mary twice, and in Margaret’s case by attempting to persuade a deponent to withhold evidence. The fact that neither of these strategies achieved the intended outcomes suggests that the JPs and Grand Jury in Wales were sensitive to these attempted manipulations of the legal process.

Sixteenth and seventeenth-century writings on murders often commented on how the adultery of a wife led her to desire the murder of her husband. For example, an anonymous author made a clear connexion between the sins of adultery, murder, and ambition in the title of a 1615 pamphlet, and warned readers not to follow the same path as one Mistress Turner who was executed in London for the poisoning of her husband.⁸³ The adultery of the wife of Thomas Best was described in detail by the anonymous author of *A briefe discourse of two most cruell and bloudie murthers, committed bothe in Worcestershire, and bothe happening vnhappily in the yeare 1583*.⁸⁴ Further adulterous wives provided the inspiration for stage plays – perhaps

⁸² NLW GS 4/134/1/11 Petition (1589).

⁸³ Anon, *The Bloody Dovvnfall of Adultery. Murder, Ambition at the End of Which Are Added Westons, and Mistris Turners Last Teares, Shed for the Murder of Sir Thomas Ouerbury Poysoned in the Tower; Who for the Fact, Suffered Deserued Execution at Tiburne the 14. of Nouember Last. 1615*. (London: [By George Eld] for R. H[iggenbotham], 1615).

⁸⁴ Anon, *A Briefe Discourse of Two Most Cruell and Bloudie Murthers, Committed Bothe in Worcestershire, and Bothe Happening Vnhappily in the Yeare 1583 The First Declaring, How One Unnaturally Murdered His Neighbour, and Afterward Buried Him in His Seller. The Other Sheweth, How a Woman Unlawfully Following the Deuillish Lusts of the Flesh with Her Seruant, Caused Him Very Cruelly to Kill Her Owne Husband* (London: Roger Warde, 1583). Other examples of a wife’s affair as motivation to kill husband include; Thomas Kyd, *The Trueth of the Most Wicked and Secret Murthering of Iohn Brewen, Goldsmith of London Committed by His Owne Wife, through the Prouocation of One Iohn Parker Whom She Loued: For Which Fact She Was Burned, and He Hanged in Smithfield, on Wednesday, the 28 of Iune, 1592. Two Yeares after the Murther Was Committed*. (London: [T. Orwin?] for Iohn Kid, 1592); Anon, *A True Relation of the Most Inhumane and Bloody Murther, of Master Iames Minister and Preacher of the Word of God at Rockland in Norfolke Committed by One Lowe His Curate, and Consented Vnto by His Wife, Who Both Were Executed for This Fact This Last Assises: He Being Drawne and Hanged, and Shee Burned, Who at His Death*

most famously, *Arden of Faversham*, first printed in 1592.⁸⁵ While extra-marital affairs were thus a common literary trope for explaining the motive for murder, two examples from Montgomery show how a spouse who was guilty of extramarital relations could attempt to use their affair as a way of discrediting the homicide charge against them by pointing out that such a charge was malicious. Mary Owen and Ieuan ap Lewis never attempted to deny that they were having some form of an extramarital affair. Instead, they constructed a narrative where Owen's suspicions about their behaviour, his litigation against Ieuan, and his allegations against Mary were all attempts to punish them for the adultery. From this point of view, Owen claimed that his sickness was the result of poison not because he genuinely believed it, but because he wanted them to be accused of a more severe crime than the one they had actually committed.⁸⁶ In these examples, it is the spouse's behaviour outside the home that influenced the accusations made against them. Cicely was alleged to have been sick a long time and therefore could have died from natural causes, and Owen was ill with his sickness for far longer than most other poisoning cases.⁸⁷ And although there was medical evidence that Owen had been poisoned, Owen actively sought this advice, travelling long distances to see different experts, and may have simply seen different doctors until he found one that told him what he wanted to hear. The notable locals involved as prosecutors in this case also suggest the possibility that the coroner's and doctor's reports about the condition of Owen's body (and the certainty that he had died as a result of poisoning) could have been manipulated. This case appears to be an example of a man constructing a believable narrative about his own death, based on criticism of his wife's domestic behaviour. This is somewhat similar to the uxoricide cases already discussed in this chapter where a man's previous violence towards his wife was referenced as an explanation for how she met her death – whether accidentally or on purpose. In Mary Owen's case, however, her bad-housewifery and adultery functioned as a motive for her to

Confessed the Murther of His Owne Child, Vnlawfully Begotten, and Buried It Him Selfe. (London: Printed for R. Bonian and H. Walley, and are to be sold [by R. Bonian], 1609).

⁸⁵ Anonymous, *Arden of Faversham*, ed. by Martin White (London: New Mermaids, 1993). See also, M.J. Wiener, 'Alice Arden to Bill Sikes: Changing Nightmares of Intimate Violence in England 1558–1869', *Journal of British Studies*, 40.2 (2001), 184–212.

⁸⁶ Adultery was not criminalized in this time period, though there were laws against 'buggery' and against bastard bearing; Faramerz Dabhoiwala, *The Origins of Sex: A History of the First Sexual Revolution* (London: Penguin, 2013) p. 5.

⁸⁷ Margery Peat allegedly poisoned her husband on 1st August 1571 and he languished until 25th August 1571 NLW GS 4/127/2/25 Indictment (1571).

commit violence, rather than as a provocation for Owen to commit violence against her.

The allegations that Mary Owen and Margery Peat poisoned their husbands with arsenic, and that Margaret ferch Howell had been involved in the poisoning of her daughter-in-law Margaret Lloyd, reflects arguments that the methods women used to kill subverted their role as domestic caregivers.⁸⁸ This view has been revised by other historians who have demonstrated that while the female poisoner appears frequently as a figure of suspicion in contemporary popular ballads and plays, this popular concern did not reach the law courts.⁸⁹ Certainly, two examples – of which neither resulted in a conviction – appears to indicate that the disruptive domestic woman who inverted her role as a caregiver and provider was not a particularly prevalent concern in these circuits.

Mary Owen claimed that her relationship with her husband was poor because he continually challenged her household abilities – something that Walker has argued was central to early modern concepts of female honour.⁹⁰ By pointing out that Owen ‘quarrelled with her on a number of occasions’ Mary may have also been emphasising her husband’s displeasure with her as a way of undermining Owen’s claim that he knew the drink she gave him the night he fell sick was the cause of his illness.⁹¹ If Mary and Owen had hated each other as much as the evidence implies, then Mary might well have guessed that her husband would try to emphasise how suspicious the drink was, and thus counteracted his claim by stating that he felt that way about every ‘happy drink’ she made him.⁹² Mary’s claim that Owen disliked her housewifery also implies that he had insulted her honour. Works on women’s honour have emphasised that women’s contributions to the household formed part of their identity and even their self-worth.⁹³ Walker has shown that a woman’s role as a

⁸⁸ Garthine Walker, ‘Expanding the Boundaries of Female Honour in Early Modern England’, *Transactions of the Royal Historical Society*, 6 (1996), 235–45.

⁸⁹ See: Dolan, ‘The Subordinate(s) Plot’; Walker, *Crime, Gender and Social Order*; Howard, *Law and Disorder*, p. 61-3; Randall Martin, ‘Women and Poison’, in *Women Murder and Equity in Early Modern England*, pp. 123-154.

(New York: Routledge, 2007), pp. 123–54.

⁹⁰ Walker, ‘Expanding the Boundaries of Female Honour’.

⁹¹ NLW GS 4/131/3/38 Examination of Mary Owen (1584).

⁹² NLW GS 4/131/3/38 Examination of Mary Owen (1584).

⁹³ Walker, *Crime, Gender and Social Order*, p. 236. See also, Walker, ‘Expanding the Boundaries of Female Honour’, pp. 235-45; Miranda Chaytor, ‘Husband(Ry): Narratives of Rape in the Seventeenth Century’, *Gender & History*, 7.3 (1995), 378–407; Richard Cust, ‘Honour and Politics in Early Stuart England: The Case of Beaumont v. Hastings’, *Past & Present*, 149 (1995), 57–94.

diligent housewife was central to the construction of female honour and that insults to a woman's skills as a housewife could be used by both other women and men to discredit a married woman. Owen's continual criticism of Mary's performance of household duties thus challenged her honour.

Likewise, Joan Knight's failings as a housewife were used as evidence of the discontent between husband and wife. The intention here is different, though, as the evidence about Joan and William's domestic relationship was used to cast suspicion on him. Joan's bad housewifery, in this case making bread that her husband did not like, could be seen as a possible reason for William to have used physical violence against her. In the Knight's case, then, it seems that someone (whether the JPs or members of the community) suspected that Joan's death was as a result of physical correction that had gone beyond the limits- while the motive for violence, bad housewifery, was acceptable the level of violence used against Joan was not.

The above examples provide some evidence through which to view the issues of honour, property, and spousal relations. The household was a site of female honour as well as places where they should have felt protected. But unlike their male counterparts, women also lived in a society where they might expect to be the victims of violence within these settings. There were no narratives in which women could exercise 'acceptable' or even expected violence on their husbands, which is one of the reasons that poison has been so often cited as a woman's method of murder, as it relies on situations in which women did have power and influence. This is not to say that there were no circumstances in which women could legitimately use violence against men. Indeed, an examination of homicides that occurred in public spaces demonstrates that women were involved in a wide variety of lethal confrontations outside the four walls of the home.

3.3: Homicide in contested places

The previous section has demonstrated that homicides that occurred within the home reflected complex cultural understandings associated with the household as a place. Homicides that occurred between spouses were particularly severe, not just because of gendered and religious ideals of relationships between men and women, but because they contravened expectations that the home should be a place of safety for both men and women. While ideas about the legitimacy of correctional violence against women appear to sit uneasily alongside this, my findings have demonstrated

that while narratives of domestic violence appear to offer an explanation for how lethal violence occurred, they were not an excuse. Indeed, in Montgomeryshire, a man was more likely to receive a sentence of capital punishment for killing his wife than a woman for the killing of her husband, though the number of cases of both mariticide and uxoricide in this study is small.⁹⁴ While it is tempting to argue that this indicates that the authorities in Wales took a much harsher view of male spousal violence than their English counterparts, the data set in this study is too small for any comparisons to be statistically significant.⁹⁵

In cases where a woman was accused, there is some indication that the motivations for these can be partially contextualised as conflicts arising from challenges to female domestic honour. The next section also considers female domestic honour as an underlying context that helps explain women's use of violence to defend contested land. This section first examines the particularly Welsh contexts of contested land and argues that while conflicts over land were not an exclusively Welsh concern there were specific cultural, legal and social issues that contributed to land rights and usage becoming a source of conflict in these communities. The chapter considers homicides that occurred in contested land, before then turning to those that happened in other public and non-household spaces in order to consider female experiences of lethal force beyond their experiences of spousal violence. This section argues that women were involved with the defence of contested land as part of their domestic roles and that the defence of land and household or personal honour was a motive for violence that could be ascribed to women in Wales.

⁹⁴ In Montgomeryshire, three men were accused of killing their wives and two, Richard Golborne and Nicholas Castry, were sentenced to hang (the third, William knight, was not indicted. Three women, Anne Bromlow, Margery Peat and Mary Owen were accused of killing their husbands of whom only Anne was convicted for the offence. These are very small numbers from which to draw conclusions and further Welsh studies will provide more statistical significance. I have not found any spousal homicides in Flintshire as Margaret Lloyd's death was eventually ruled a suicide.

⁹⁵ Data sets from other locations are also very small. Howard only found two cases of uxoricide in her study of Denbighshire, of which one case certainly resulted in an acquittal, Howard, *Law and Disorder in Early Modern Wales*, p. 92. Sharp and Dickinson found ten wives who had been allegedly killed by their husbands with two convictions, J. A. Sharpe and J. R. Dickinson, 'Homicide in Eighteenth-Century Cheshire', *Social History*, 41.2 (2016), 192–209 (p. 197). Walker's numbers for the same county were slightly different, with eight uxoricides and one conviction, Walker, *Crime, Gender, and Social Order*, p. 140. The low numbers here suggest that a study focused on uxoricide across a wider geographical scope or timeframe will produce data through which the treatment of men accused of uxoricide before the law could be usefully compared.

3.3.1: Contested land in a Welsh context

Conflict over land was not uncommon in early modern Wales.⁹⁶ Indeed, after theft, land offences such as trespass, eviction, and detainer were some of the most commonly indicted offences at the Great Sessions. The customs of land inheritance, ownership, and right of access had been subject to revision in Wales after the Acts of Union creating the potential for confusion over who had what rights in which piece of land.⁹⁷ Changes in migration and work patterns also led to changes in the Welsh landscape and settlements that had only been used in summer for migratory work became permanent and demesne land was leased to new settlers. There is evidence of tensions over land use in the Great Sessions for Montgomeryshire, where there are eleven indictments prosecuting people for erecting illegal dwellings on common land.⁹⁸ Such is the case of Marred ferch Howell, a spinster, who was indicted in the Montgomery Great Sessions in 1583 for entering a ‘waste and common land called “Gorordveth” used by the inhabitants of the township of Rhandir’ and erecting a cottage there.⁹⁹ The rights associated with these lands and the correct and proper use of them were, as Angus J. L. Winchester pointed out, a combination of the formal, legal ‘ancient rights’ and the ‘softer’ law of tradition that was ‘custom’ creating the potential for genuine confusion and potential conflict based on land rights.¹⁰⁰

Winchester also argued that ‘the concept of common land as communal land is missing from English legal practice’, and pointed out how ‘Gateward’s case, a legal ruling in 1607 stated that a person living in a house but not holding a legal interest in

⁹⁶ Conflict over land was also experienced in other locations. For examples, see; Joseph Bettey, ‘“Ancient Custom Time out of Mind”: Copyhold Tenure in the West Country in the Sixteenth and Seventeenth Centuries’, *The Antiquaries Journal*, 89 (2009), 307–22; John Langton, ‘Land and People in Late Sixteenth-Century Glyn Cothi and Pennant Forests’, *Welsh History Review*, 28.1 (2016), 55–86; Angus J. L. Winchester, ‘“By Ancient Right or Custom”: The Local History of Common Land in a European Context’, *Local Historian*, 45.4 (2015), 266–85.

⁹⁷ J. Gwynfor Jones, *Early Modern Wales, c.1525-1640* (Basingstoke: Macmillan, 1994), pp. 85-90; Frances Richardson, ‘The Enclosure of the Commons and Wastes in Nantconwy, North Wales, 1540 to 1900’, *Agricultural History Review*, 65.1 (2017), 49–73 (pp. 51-52).

⁹⁸ Angus J. L. Winchester, ‘“By Ancient Right or Custom”: The Local History of Common Land in a European Context’, *Local Historian*, 45.4 (2015), 266–85, examines the motivation behind the 1589 act against squatter cottages and the tensions that these dwellings caused in communities. Most cottages were leased from the Lord of the manor with some of these buildings turned over to be used by the community’s poor. In Wales there was the ‘tradition’ of the ‘one night house’ or ‘*tŷ unnos*’ where an illegally erected house became a legitimate dwelling once smoke emerged from the chimney.

⁹⁹ Wastes were unoccupied and uncultivated portions of land. NLW GS 4/131/1/95 Indictment (1583). There was also a 1589 act against squatter cottages on waste land. The fact that these cases appear in the record before this act was enforced suggests that this was a long-standing problem.

¹⁰⁰ Winchester, ‘“By Ancient Right or Custom”’, p. 266.

it did not have common rights'.¹⁰¹ Indeed, 'common land' did not imply that everyone had the same or equal rights on this land; instead, it was private property over which *some* third parties had some rights. Further, De Grazia and Hammons demonstrated that different people could have different property rights on the same piece of land.¹⁰² These factors all contribute to an environment where land rights were fluid, changing, and a mixture of formal and informal, with the potential to lead to confusion and conflicts.¹⁰³

This potential confusion over who had the right to what land provides context for the number of incidents of violence related to, or that took place in, contested land. This context then helps us to expose the motives of people who were involved in lethal violence in contested land, or who fought because of it. Offences related to the misuse of land and the eviction of legitimate tenants were indictable in both the Great Sessions and the Quarter Sessions. Though the Quarter Sessions Records for Flintshire and Montgomeryshire do not survive, the Quarter Sessions for Caernarvonshire 1541- 1558 reveal that there were 86 indictments for the land-based offences of breaking and entering, disseisin, and forcible and unlawful entries.¹⁰⁴ This is 14 more indictments than for assault which, along with theft, is the other most commonly indicted offence at this session.

¹⁰¹ Winchester, "By Ancient Right or Custom", pp. 268, 282.

¹⁰² M. De Grazia, 'Afterword', in *Women, Property, and the Letters of the Law*, ed. by N. E. Wright, M. W. Ferguson, and A.R. Buck (Buffalo: University of Toronto Press, 2004), pp. 296–304; Pamela Hammons, 'Rethinking Women and Property in Sixteenth- and Seventeenth-Century England', *Literature Compass*, 3.6 (2006), 1386–1407 (p. 1387).

¹⁰³ Andy Wood's work on customs and memory has shown how customs varied from place-to-place, and even those who lived in the same community might not have access to the same customary lands, Andy Wood, 'The Memory of the People': Custom and Popular Senses of the Past in Early Modern England (Cambridge, 2013), pp. 156-157.

¹⁰⁴ Disseisin was the wrongful dispossession of lands. The Quarter Sessions for Denbighshire, on the same circuit as Flintshire and Montgomeryshire, do survive. Further research in both the Great and Quarter Sessions of this county for these years could provide useful comparisons.

Table 3.0-1: Quarter Sessions Indictments for assaults and land offences, Caernarvonshire, 1541-1558.

<i>Offence</i>		<i>Number of indictments</i>	<i>Total</i>
Assault		72	72
Land-based	Breaking and entering	35	86
	Disseisin	15	
	Entries, forcible	24	
	Entries, unlawful	12	
Total			158

In the Montgomeryshire Great Sessions plea rolls for the same period, there are 187 records for breaking and entering a close and a further 29 for ejection out of lands.¹⁰⁵ There are also 28 incidences of non-lethal assault of which three mention a land offence and a further three cases mention either housebreaking or burglary. There was a rise in the number of indictments that mention both of these offences together in later sessions: of the 39 indictments for assault in the Montgomeryshire Great Sessions from 1581-1590 seven included a mention of land invasion or expulsion. This demonstrates that contested lands were often the site of violence – both lethal and non-lethal – and that these types of incidents were being prosecuted with greater frequency towards the latter end of the time period under consideration in this thesis.

¹⁰⁵ The Caernarvonshire plea rolls survive from 1550 do survive, but that would only enable 8 years of comparison. There is only one surviving gaol file from before 1558 for Montgomeryshire. Murray Chapman, *Montgomeryshire Court of Great Sessions: Calendar of Criminal Proceedings 1541-1570* (Aberystwyth, 2004).

Table 3.0-2: Assaults involving land offences in Caernarvonshire Quarter Sessions and Montgomeryshire Great Sessions 1541-1590.

<i>County</i>	<i>Assaults</i>	<i>Assault including land offence</i>	<i>% of assaults</i>
Caernarvonshire QS [1541-1558]	72	3	4%
Montgomeryshire GS [1541-1558]	28	3	10%
Montgomeryshire GS [1581- 1590]	39	7	18%

‘Assault’ covered a range of violence, including ‘fearful speech’. It is, therefore, possible to argue that the reason for the higher number of assaults in the Quarter Sessions was due to the fact that verbal assaults could be classed as a misdemeanour, whereas those assaults that were perceived as more serious by their victims appear in the Great Sessions.¹⁰⁶ The decision to prosecute in this court may explain why these dual offences account for a lower percentage of indictments in the Quarter Sessions. The data here does, however, show that contested land was the source of conflict that resulted in legal disputes and that these disputes were also the setting for non-lethal assaults.

The records of both non-lethal and lethal violence demonstrate that the defence of land rights was not explicitly gendered and that women were involved in the protection of land and familial rights throughout this time period, even though the land was rarely formally theirs alone.¹⁰⁷ Despite the potential evidence of gendered experience of violence, this offence has received little attention from historians, aside from a chapter by Walker and a recent thesis by Catherine Horler-

¹⁰⁶ Jennine Hurl-Eamon, *Gender and Petty Violence in London, 1680-1720* (Columbus: Ohio State University Press, 2005) p. 24. The inclusion of ‘fearful speech’ into this category mean that people could prosecute an incident even if the defendant had not hurt them physically. Hurl-Eamon does, however, point out that it was more difficult for those who had just been emotionally harmed to convince the JPs that the incident was worthy of prosecution.

¹⁰⁷ For example, see; Ian Doolittle, ‘Property Law and Practice in Seventeenth-Century London’, *Urban History*, 42.2 (2015), 204–24; Lindsay R. Moore, ‘Women and Property Litigation in Seventeenth-Century England and North America’, in *Married Women and the Law: Coverture in England and the Common Law World* (Montréal; Kingston: McGill-Queen’s University Press, 2013), pp. 113–38.

Underwood.¹⁰⁸ Walker's investigation of the involvement of wives in cases of land defence and disseisin in her study of early modern Cheshire revealed that 'married women were frequently the victims and perpetrators of forcible possession: wives allegedly took part in over half of all cases in which two or more deforciantes were prosecuted'.¹⁰⁹ According to Walker's findings, the women involved in this type of offence were overwhelmingly wives, with few single or widowed women accused of taking part in the defence of land. This is, as Walker explained, due to the fact that coverture did not eliminate married women's accountability in these offences.¹¹⁰ As Dalton advised in his 1690 handbook for Justices of the Peace, a married woman may commit forcible entry by her own act and without her husband present; for this offence, she should be punished independently of him.¹¹¹ Single and widowed women also rarely brought prosecutions for eviction or assaults after a fight over land in the Great Sessions.

Table 3.0-3: Gender of accused in indictments for assault with burglary, housebreaking or land offence, Montgomeryshire Great Sessions, 1541-1590.

	<i>Number of indictments</i>	<i>Percentage</i>
Male (sole and group) ¹¹²	3	20%
Female (sole and group) ¹¹³	3	20%
Mixed genders	7	47%
Married couple	2	13%
<i>Total</i>	<i>15</i>	<i>100%</i>

In Montgomeryshire, two indictments for assault with a land offence but no theft or burglary were against a married couple and another against a man and his female

¹⁰⁸ Garthine Walker, 'Keeping It in the Family: Crime and the Early Modern Household', in *The Family in Early Modern England*, ed. by Helen Berry and Elizabeth Foyster (Cambridge, 2007); Catherine Horler-Underwood, 'Aspects of Female Criminality in Wales, c.1730-1830: Evidence from the Court of Great Sessions' (unpublished Ph.D. Thesis, Cardiff University, 2014) pp. 156-183.

¹⁰⁹ Garthine Walker, 'Keeping It in the Family', p. 87.

¹¹⁰ Walker, 'Keeping it in the family' p. 87.

¹¹¹ Michael Dalton, *The Country Justice* (1690), p.80.

¹¹² Cases with female victims or mixed gender victims only. Indictments against men with male victims have not been examined in this thesis.

¹¹³ In one indictment, a man and women were named together but the indictment was then altered to just the woman's name. NLW GS 4/125/5/38 Indictment (1567).

servant.¹¹⁴ Four more indictments accused a mixed group of defendants, with one indictment altered to just one female accused.¹¹⁵ From the indictments alone the relationship between these persons is not possible to discern, though in three out of the four indictments there are enough shared names to indicate some form of familial connexion. Only one man was initially indicted alone for this sort of offence, but no women were.¹¹⁶ There is, however, an indictment for two women acting together to break into a parcel of land and assaulting the male owner.¹¹⁷ This demonstrates that women were active participants in these disputes over land and that it was not uncommon for them to be indicted for both the land dispute and any assault that occurred during the incident. The presence of women in these offences thus provides useful context for homicides that occurred in contested land as it demonstrates that women used violence to defend or obtain land for themselves and their households. While the previous section has focused on non-lethal assaults, the remainder of this chapter focuses on those incidents where women encountered or used lethal force.

3.3.2: Welsh Women, land offences, and lethal violence

A number of cases where lethal violence happened in or because of contested land occurred in Flintshire and Montgomeryshire indicating that Welsh women's homicides were not confined to the home, broadening the scope of female violence beyond murder within the family. The contested pieces of land in which these Welsh women encountered lethal violence range from domestic land used for farming, wastes rented by third parties, and highways that ran through or near other people's land. These lands could be seen as forming part of the household, due to their proximity to the home and their domestic use and function. Their location outside and the lack of physical boundaries, also made these spaces public. To this end, these contested lands in which conflicts occurred present something of a liminal space where they were both a place of private domestic use, and public location. This chapter has already touched upon the ways in which female honour was in part defined by a woman's ability to perform household duties, the cases in this section

¹¹⁴ NLW GS 4/129/4/72 Indictment (1579); NLW GS 4/133/4/34 Indictment (1588); NLW GS 4/127/3/64 Indictment (1572).

¹¹⁵ NLW GS 4/125/5/37 Indictment (1567); NLW GS 4/131/4/44 Indictment (1584); NLW GS 4/131/4/60 Indictment (1584); NLW GS 4/132/1/45 Indictment (1585).

¹¹⁶ NLW GS 4/132/2/27 Indictment (1585).

¹¹⁷ NLW GS 4/131/1/106 Indictment (1587).

reflect the ways in which feminine honour might also be formed around the defence of property, lands, and rights.¹¹⁸ It is also noteworthy that while ‘domestic’ homicides were most often between spousal partners whereas the homicides that occurred in contested land were between neighbours or strangers. These homicides demonstrate that women could be violent, angry, and used the weapons they had to hand when they attacked others – all features of developing manslaughter narratives.¹¹⁹

In Llangynyw, 1553, Matilda ferch Ieuan was killed during a fight with Morris ap Rees ap David ap Ieuan Vaughn and Morris ap David ap Rees. The inquest into Matilda’s death records how the two Morrises were renting a parcel of ‘enclosed waste’ adjacent to the house of Richard, Matilda’s husband. Richard and Matilda ‘came along and claimed the parcel of land and alleged that they had title to it’.¹²⁰ While there is no description of who started the physical altercation, the inquest does record that Matilda was attacked by Morris ap Rees, who, with a staff, ‘struck her on the left side of her head causing a mortal wound’.¹²¹ There is no record of whether or not her husband was injured or if he took part in the physical altercation. There is also no record of whether Matilda and Richard genuinely thought they had the right to the waste land adjacent to their house, or if they knowingly tried to evict legitimate tenants. While we do not know the precise reasons for Matilda’s attempt to remove Morris and Morris from the land they thought they had the right to, it is evident that arguments in these contested locations could be mortally violent, and that Matilda’s gender did not prevent or protect her from being involved in a lethal conflict over land.

Katherine ferch John was violently attacked by Margaret ferch Nicholas in “Skvioy” in 1582. While the deponents, in this case, focused on their description of the attack on the wounds that Katherine received in the attack, rather than Margaret’s

¹¹⁸ There has been a number of studies that have examined female honour from a different angle than sexually-based honour. Volume 6 (1996) of the Transactions of the Royal Historical Society contains several papers on this topic which were originally read at the University of Cambridge, 25th March 1996. There is more scope, however, to explore the ‘positive modes of female violence’ that Walker describes in *Crime, Gender and Social Order*, pp. 86-88.

¹¹⁹ This contrasts with the characterisation of female violence in Spierenburg’s study of female violence in early modern Amsterdam, in which he argued that female violence was constrained by cultural stereotypes. He also argued that in cases where women were violent, they imitated ‘male types of aggression’; Pieter Spierenburg, ‘How Violent Were Women? Court Cases in Amsterdam, 1650-1810’, *Crime, History & Societies*, 1.1 (1997), 9–28 (p. 26).

¹²⁰ NLW GS 4/124/1/44 Inquest on Matilda ferch Ieuan (1554).

¹²¹ NLW GS 4/124/1/44 Inquest on Matilda ferch Ieuan (1554).

possible motives for attacking her, descriptions from some examiners indicate that Margaret had been upset by people passing her house on the highway. For example, Edward ap John ap Rees, recalled that the day before Katherine had been attacked by Margaret he had passed by Margaret's husband's house 'being upon the highway'. Margaret 'standing by the door of her house demanded why [he] came so near her house', to which he replied that he 'may come the highway'. As Breen's study of Rights of Way in post-medieval Norfolk demonstrated, the right to highways and paths could shift from public to private and back again.¹²² It is possible, then, that Margaret's questioning of Edward's right to be there was connected to uncertainties about who had the right to be on land which she felt was rightfully hers. While we do not know exactly why Margaret attacked Katherine, as Margaret's examination does not survive and Katherine is not recorded as having explained what happened to anyone who gave a deposition in the period between the attack and her eventual death, the incident clearly was violent and involved improvised weapons. Ewan demonstrated that women in early modern Scotland were more likely to use stones as a weapon than men and the description of Margaret hitting Katherine with stones alongside other descriptions of the two women pulling each other's hair suggests that this violence had escalated.¹²³

In a non-lethal example of a similar incident, Margaret ferch John was wounded in an altercation in Flintshire in 1585, when she defended some land. John Thomas, a servant, said in his deposition that he had been told by his master to go and fetch some wood from a house that had burned down. There he met Margaret, the wife of the man whose house had been damaged, and she threatened him with a knife. He pushed her away 'violently' but claimed in his examination that he had not injured her, however, her two sons later found him and charged him with seriously wounding their mother.¹²⁴ In this case, Margaret's defence of her husband's property reflects a 'positive model of feminine force'.¹²⁵ Her violent defence here not only reflected the material concerns of stopping a thief but also drew on symbolic notions of female honour that connected female violence – when used for the purpose of

¹²² Tom Breen, 'Public or Private? An Analysis of the Legal Status of Rights of Way in Norfolk', *Landscapes*, 18.1 (2017), 55–70.

¹²³ Elizabeth Ewan, 'Disorderly Damsels? Women and Interpersonal Violence in Pre-Reformation Scotland', *The Scottish Historical Review*, 89.2 (2010), 153–71 (p. 165).

¹²⁴ NLW GS 4/971/5 Examination of John Thomas (1585).

¹²⁵ Walker, *Crime, Gender and Social Order*, p. 86.

defence – to the virtue of feminine sacrifice.¹²⁶ Combined with the death of Matilda ferch Ieuan, it is evident that women's involvement in lethal violence over land was not anomalous, and shows that women used violence in both an offensive and defensive role.¹²⁷

These three examples show women in a variety of roles in contested spaces. They acted as both defenders and invaders of land, and clearly suffered violence at the hands of both men and women. All three cases involve the use of weapons – a staff, stones, and a knife – and all of these incidents were violent. While these incidents alone cannot disprove Siedenburg's arguments that women were overall less violent than men, they show that when women were violent they were able to use considerable force.¹²⁸ Thus, Spierenburg's finding that women in Amsterdam did not use weapons is not reflected in Wales. Indeed, like the Cheshire women studied by Walker, women used whatever weapons they had to hand – as these Welsh cases show women using stones, knives, and hatchets.¹²⁹ As with the cases, Ewan and other historians examined, these Welsh examples challenge the notion that women's violence was primarily centred around oral assault rather than the physical.¹³⁰ While the lack of Quarter Sessions records for Montgomeryshire and Flintshire may skew this picture away from instances of female verbal assault, the number of incidents recorded here demonstrates a range of female violence – both in terms of the weapons, participants involved, and the motivation that started the violent incident. From these cases, it is evident that women encountered physical violence in settings beyond the boundaries of the home.

As Walker pointed out, women's honour could be tied up with the defence of customary rights – in these cases, the use of land. This is because 'women's honour resided in the fulfilment of a wife's household duties,' which included the defence of land and property necessary for household production.¹³¹ Women were attacked or

¹²⁶ Walker, *Crime, Gender and Social Order*, p. 88; Walker, 'Expanding the Boundaries of Female Honour', p. 241.

¹²⁷ There is too little data here to confidently state that female violence in these spaces was not extraordinary, but the variety of cases from these two counties in which lethal defence is a theme indicates that this was not an anomaly either.

¹²⁸ Spierenburg, 'How Violent Were Women?' p. 26. To fully test Spierenburg's theory a full examination of all violent incidents these counties is needed, which is beyond the scope of this thesis.

¹²⁹ 4/128/2/12 Inquest (1576); 4/128/2/73 Inquest (1576), NLW GS 4/131/4/57 Indictment (1584).

¹³⁰ Ewan, 'Disorderly Damsels', pp. 165-167.

¹³¹ Walker, 'Expanding the Boundaries of Female Honour', p. 241; Julian Pitt Rivers, 'Honour and Social Status', in *Honour and Shame: The Values of Mediterranean Society*, ed. by J. G. Peristiany (London: Weidenfeld and Nicolson, 1965), pp. 21-77. The defence of customary rights in Wales was

did the attacking when this honour was infringed upon. These fights were, sudden, un-planned, and the weapons that were used were those that were immediately to hand, rather than ones that had been taken to the place with the express intent of killing someone. Though none of the cases of homicide involving women in Flintshire and Montgomeryshire was categorised as manslaughters, elements of manslaughter narratives appear in these cases suggesting that this category of homicide was still forming in Wales.

There are further examples where lethal violence did not take place within contested land, but *because* of it. In Bach-y-Graig, Flintshire, 1586, Marsely ferch John Thomas and her husband, John Postarne, were engaged in a dispute with William Lewis that had started after William let his cattle drink water from a marl pit on John's land. When Marsely went to her brother to complain about William's behaviour she said that William had threatened her after she had stopped him from watering his cattle at the marl pit in a close belonging to her husband, John Postarne.¹³² Marsely was so worried that she went to her father and 'desired his aid and help to procure her a warrant of the peace' from the Justices of the Peace. When they found that the JPs were absent she was advised by her father that she 'ought not to come where the said William was' until the JPs returned.¹³³ John Thomas, Marsely's brother described how Marsely was, unfortunately, unable to avoid William as he had seen her winding hemp while sitting outside as a favour for another woman. William then called her a whore which caused Marsely to go over to the table that William and a man called Lewis ap John ap Robyn alias Banor were sitting at. After a 'falling out' William threw a pot or jug sitting on the table at Marsely, hitting her on the head, and giving her a 'bloody wound' from which she died.¹³⁴

also discussed by Howard, although her focus was on the defence of customary rights by groups of small and large landholders against major landowners, Howard, *Law and Disorder in Early Modern Wales*, pp. 187-206.

¹³² NLW GS 4/971/4/21 deposition of John Thomas (1586). A 'marle pit' was a form of quarry dug out of mudstone. For further information of marl pits see; W. M. Mathew, 'Marling in British Agriculture: A Case of Partial Identity', *Agricultural History Review*, 41.2 (1993), 97-110.

¹³³ NLW GS 4/971/4/20 Examination of John Thomas ap Thomas (1586). A warrant of the peace would have, as Steve Hindle has argued, functioned 'as a non-aggression pact' that allowed both parties to resolve their dispute once tempers had cooled: Steve Hindle, 'The keeping of the public peace', in Paul Griffiths, Adam Fox and Steve Hindle (eds.), *The Experience of Authority in Early Modern England* (Basingstoke, Macmillan Press; 1996), p. 217.

¹³⁴ NLW GS 4/971/4/20 Examination of John Thomas ap Thomas (1584). The original statement that William had 'gave her her death' was altered to read 'bloody wound' suggesting that there was a

The depositions from Marsely's family clearly link the assault to a dispute over her husband's lands and William's right to let his cattle drink there to her death by stating that he had pre-existing malice towards her before the incident that led to her death. Other deponents, however, painted a more complicated picture. Thomas ap Harry and Lewis ap John ap Robin both claimed that they did not know of any former malice between Marsely and William, and both claimed that Marsely had started the fight that resulted in her death.¹³⁵ In both of these depositions, Marsely is named as the equal aggressor who started the falling out that led to the violent outburst in which she died. Lewis Banor deposed that he saw Marsely 'in a rage or fury coming in haste from her work' to the place where he was drinking ale with William.¹³⁶ Lewis also said that he thought Marsely was going to strike William – introducing a narrative by which William could be seen as acting in self-defence. Another deponent, Marsely ferch Thomas also stated that she 'verily believeth in her conscious' that Marsely had gone over to William's table with the intent of striking him.¹³⁷ There were, therefore, two clear narratives of culpability. Marsely had clearly felt threatened by William and has sought legal redress against him, indicating malice, but on the other hand, descriptions of the incident that lead to her wounding and death placed Marsely as the aggressor and William as acting in self-defence. Regardless of who started the fight that caused Marsely's death, the motive for her dislike and fear of William was clearly motivated by their disagreement over land use. While Marsely was not killed in this contested space, her death – the violence she allegedly aimed to use, and the violence used against her – were contextualised by her prior attempt to defend her husband's land rights.

This case also touches upon several available manslaughter narratives. The fight between Marsely and William was unplanned and sudden. There was also confusion about who had instigated the fight and whether or not Marsely had intended to harm William when she went over to his table or, indeed, if he had been the one to go up

possibility that it could be argued that Marsely had not died from the wound itself but of some other cause.

¹³⁵ Thomas claimed that Marsely would have taken up the jug sitting on the table between her and William 'to strike the said William' had Thomas not 'stayed her of her purpose' and escorted her back to where he had been working 'nine or 10 yards' from where William was sat drinking. John likewise claimed that Marsely had approached William and they 'fell out at words' with each other: NLW GS 4/971/4/18 Examination of Thomas ap Harry (1584) and 4/971/4/18 Examination of Thomas ap Harry and Lewis ap John ap Robin (1584).

¹³⁶ NLW GS 4/971/4/18 Examination of Lewis ap John ap Robin (1584).

¹³⁷ NLW GS 4/971/4/18 Examination of Marsely ferch Thomas (1584).

to her as she sat winding hemp. On the other hand, the fight proved that there was pre-existing malice between them, and if Marsely's family was to be believed, she felt threatened enough by William's behaviour to seek legal protection.

Unfortunately, we do not know what the jury decided in this case; the indictment is badly damaged and does not appear to record the outcome, and William's name does not appear in the calendar of prisoners.¹³⁸ What this case does show is that lethal violence between men and women was not limited to domestic spaces and spousal relationships. While it is impossible to say for certain that the indictments in these cases provide a completely clear picture of the familiar relationships between parties, or a full description of the locations in which they happened, the various lethal assaults that do not fit the well-established pattern of domestic spousal murder help expand the picture of women's violence and touch upon gendered narratives of honour and manslaughter that were still being formed in the mid-sixteenth century.

Indeed, there are a number of other examples from Flintshire and Montgomeryshire involving violence between men and women in public settings, far more than examples of women killing other women.¹³⁹ In one particular case, the issues of gendered violence and honour are evident despite the brevity of the surviving sources. Gwen ferch David was indicted in Montgomeryshire 1584 for killing John ap Ieuan by hitting him on the head with a stake. The depositions imply that she used the stake because it was near to her – not because she had been armed when she confronted John.¹⁴⁰ There were also signs that some other physical confrontation had happened between Gwen and John before the fatal blow. Though neither of the two deponents, in this case, saw the whole confrontation, despite the fact that it happened in public viewing outside John's house, David ap Hugh said that he saw Gwen 'bare headed and still crying'.¹⁴¹ This is particularly noteworthy as

¹³⁸ NLW GS 4/971/4/28 Indictment and 4/971/4/59 Calendar of Prisoners (1584). Another notable absence in the record is Marsely's husband, John Postarne. He does not appear to have been present at the argument with William or during the incident that caused her death. There is also no deposition from him surviving in the record. It is tempting to argue that John may have felt that Marsely's death did not warrant judicial punishment but the presence of his father as a deponent that gave evidence in Marsely's favour indicates that the wider family felt that she had been unlawfully killed. It is also possible that John had died, and Marsely was his widow instead.

¹³⁹ In five indictments from Montgomeryshire, for killings either by or of women in public spaces, four were against men who had allegedly killed women (one of these indictments had a female accomplice crossed out), and only one was for a woman killing another man.

¹⁴⁰ NLW GS 4/131/4/70 Examination of David ap Hugh and David ap Rees (1584). David ap Hugh said that 'he saw Gwen take up a stake, which she held in her hands, and struck the said John ap Ieuan upon the head, that he immediately fell down to the ground'.

¹⁴¹ NLW GS 4/131/4/70 Examination of David ap Hugh (1584).

Ewan and Bartlett have argued that a woman's hair was culturally significant and attempts to uncover a married woman's hair were an assault on her honour.¹⁴² The indictment against Gwen records that she was accused of murdering John and that she did so 'with malice aforethought'.¹⁴³ Gwen absconded after the incident, and the indictment also featured an allegation that a man called Thomas ap Hugh had assisted her after the fact. The record shows that Gwen was pardoned, indicating that mitigating circumstances were considered in this case.¹⁴⁴ In some respects, Gwen's use of violence contains elements of manslaughter narratives that are also reflected in the cases of lethal violence that occurred in domestic spaces. Gwen used a weapon close at hand, acted with emotion (as indicated by her crying) and may have been responding to a threat to her honour (as evidenced by her uncovered hair). On the other hand, all of these elements are also gendered masculine in later cases, and John does not appear to have explicitly blamed or forgiven Gwen for his death during the time that it took him to die. The indictment also clearly indicates that Gwen was accused of murder, not manslaughter. Gendered violence, the location the violence took place in, and honour all provide contexts for Gwen's killing of John, but, in this example, it is evident that these contexts did not mitigate the offence for which she was charged. Thus, in this case, which occurred in the latter part of the sixteenth century, there is some indication that the narratives that we associate with manslaughter cases were beginning to become gendered in Wales.

These cases demonstrate that there was a variety of circumstances beyond uxoricide and mariticide in which a woman might be involved in lethal violence. By examining homicides that took place outside the physical confines of the home this section has demonstrated that contested spaces were sites of violence for women, as well as men. Indeed, women were often the defenders of customary rights, but could also be part of attempts to evict legitimate tenants. The incidents of violence, when situated within the particularly Welsh context of changing land and inheritance rights, create a picture where women's roles in protecting and defending property

¹⁴² Robert Bartlett, 'Symbolic Meanings of Hair in the Middle Ages', *Transactions of the Royal Historical Society*, 4 (1994), 43–60; Elizabeth Ewan, 'Disorderly Damsels? Women and Interpersonal Violence in Pre-Reformation Scotland', *The Scottish Historical Review*, 89.2 (2010), 153–71. Walker also makes similar arguments about assaults on men when their beard was pulled.

¹⁴³ NLW GS 4/131/4/57 Indictment (1584).

¹⁴⁴ NLW GS 4/131/4/90 Inquest (1584). The inquest states that Gwen was pardoned by a general pardon which judges could recommend for offenders at their discretion, Beattie, *Crime and the Courts*, p. 409.

were just as important as men's defensive roles. Further cases reveal aspects of manslaughter narratives centred on issues of honour, malice, and provocation. While in some cases, the brevity of the sources only offers hints of these complex themes, other sources contain detailed narratives constructed by witnesses and participants to explain women's involvement in lethal conflicts more characteristic of male manslaughter narratives than more well-known images of women's household-based killings.

3.4: Conclusion

This chapter has expanded the picture of female lethal violence by comparing and contrasting homicides that occurred inside the home with incidents that women were involved in a variety of contested and public spaces. In doing so, this chapter has examined the ways in which cultural and social ideas about honour and space were intertwined.

This chapter has questioned whether cultural notions of household safety applied to women in the same way as they did to men, and if so, how this cultural idea could exist within a society where domestic violence against women was, in some ways, socially acceptable. I have argued that while narratives of domestic violence do appear in homicide cases as a potential explanation for *how* lethal violence occurred, they were not used to provide the accused with an *excuse* for causing a woman's death. While I have found that men were more likely to be sentenced to death for killing their wives, the cases of uxoricide examined in this chapter also represent extreme acts of betrayal. This indicates that while there appears to have been an acknowledgement from the Welsh legal authorities that husbands may sometimes have been violent towards their spouses, the cultural expectations that the household should be a place of safety applied to women as much as they did to men.

This chapter has identified that early modern understandings of place and female honour were closely connected. Previous historians have identified that female honour was not just confined to a woman's sexual reputation, but also to her skill as a housewife and her ability to defend household property. Evidence that supports these theories has been found in both the household and non-household homicides examined in this chapter. Bad housewifery has appeared as a potential explanation for homicide both in cases where women were the victim, as was the case of Joan Knight, and the perpetrator, as in Mary Owen's case. Further, this chapter has shown

that the positive models of female violence that have been associated with the defence of land can be found in Wales. While the right to and use of land was a contentious issue across Europe at this time, there were particularly Welsh contexts associated with the Acts of Union and other economic and legal changes that give these incidents of violence particular contexts. By focusing on these cases, this chapter has demonstrated that women's lethal violence was often situated outside the home and demonstrates that women took part in violent actions that have been previously characterised as particularly masculine.

Indeed, the evidence examined here demonstrates that several elements of manslaughter narratives – including threats to honour, sudden violence, the lack or presence of malice, and the use of weapons – are evident in these Welsh cases. While no woman in this study was the victim of manslaughter or was accused of this type of homicide, the evidence from these cases that the explicit gendering of these elements and masculine that we see in later studies was not yet present in Wales. This opens the possibility that further study of these early female homicides will enable historians to more concretely characterise the period of transition where manslaughter narratives emerged as more specifically gendered male. Further study will also expose the elements that we see in the above cases of women acting with violence in public and contested spaces to defend their own or their household's honour began to be confined to the household space. For now, this study turns to two crimes that have always been gendered female: witchcraft and slander.

4: Slander and Witchcraft

The previous two chapters of this thesis have explored the gendered aspects of female theft and violence as they appear in the Welsh Great Sessions. In both chapters, pre-conceived notions of the ways in which women committed these offences have been challenged, though the fact remains that women remained the minority of offenders. This chapter takes a different approach by considering a crime that was overwhelmingly gendered female – witchcraft. The paucity of material about this offence in Wales means that in order to fully examine the Welsh legal and cultural experience of this crime the parameters of this study have been significantly expanded to consider both Wales as a whole and a much broader time period – 1560-c. 1700.

Welsh studies of witchcraft have made use of two different types of legal source – that of allegations of criminal witchcraft, or *maleficium*, and slander cases where a woman was slandered as a witch. For example, in Flintshire, in 1615 Jane, the wife of Roger Thomas uttered the words ‘the wife of John ap Rees is an old witch’ in the hearing of a number of ‘other good people’.¹ Clearly, these words were taken to be a grievous insult to John’s wife, Anne, as she and her husband demanded £100 in compensation from Jane and her husband in an action for slander lodged at the October 1615 Great Sessions. Slander cases could only be brought in this court when verbal abuse threatened the plaintiff’s life and liberty or had the potential to cause a breach of the peace.² These cases, therefore, represent incidents that the plaintiff felt threatened their life and liberty, rather than simple insults to their honour.

There are twenty-two other examples of such witch-slanders in the records of the Great Sessions for all Welsh counties from 1604-1660. The word *wits* or ‘witch’ appears as the only slanderous statement in some cases, but the majority of witch-slanders also contain either specific allegations of wrongdoing or a threat to prove that the slandered person was a witch. While previous historians of Welsh witchcraft have acknowledged that witch-slanders potentially contain information about ‘seriously-intended’ allegations of criminal offences, there has not yet been any

¹ NLW GS 13/39/14 Prothonotary Papers (1615).

² In other words, the slanderous words were believed to have the potential to result in another type of public disturbance, such as an affray or riot. See, Richard Suggett, ‘Slander in Early Modern Wales’, *The Bulletin of the Board of Celtic Studies*, 39 (1992), 119–54.

sustained attempt to compare the slander evidence to *maleficium* – or witch-felony – cases.³

This chapter proposes to fill this gap in research. Firstly, this chapter establishes a model which can be used to identify the specific allegations contained within witch-slander cases. Secondly, this chapter considers the reasons why the seriously intended allegations made in slander cases were not investigated as witch-felonies and argues that these cases represent allegations that lacked the support of the community necessary to peruse a trial for *maleficium*. Thirdly, the details found in witch-slanders is compared to witch-felony trials to highlight that the evidence found in the slander cases complements and expands the picture of Welsh witchcraft belief. Throughout this chapter, the thesis's main themes of gender and space, place, and location also reoccur, and provide tools through which to interpret the evidence and as new questions about the ways in which the crime of witchcraft was experienced in Wales. This thematic focus on gender and space further enables me to reassess, among other things, the gender ratio of those suspected of witchcraft in Wales.

Considering the witch-slanders as unsuccessful criminal allegations, rather than as simply insults of a woman's honour, adds further detail to existing studies of Welsh witchcraft. As this thesis has already shown, alterations to indictments made by Grand and Petty juries can reveal important distinctions between legal and popular perceptions of who committed what type of offence, and the severity with which that offence should be treated. Applying the same methods of investigation to the witch-felony and witch-slander cases challenges previous notions of Welsh witchcraft beliefs as overwhelmingly gendered female, and the result of acculturation with English beliefs in the *malefic* witch.⁴

4.1: The picture of Welsh witchcraft

In order to examine the ways in which witch slanders can reveal details about Welsh beliefs in criminal witchcraft we first need a clearer picture of the cases that were prosecuted as felonies at the Great Sessions. The first studies on Welsh witchcraft by C. L'Estrange Ewen and J. Gwynn Williams were greatly expanded by Richard

³ Richard Suggett, *A History of Magic and Witchcraft in Wales* (Stroud: History Press, 2008) p. 13.

⁴ Ronald Hutton, *The Witch: A History of Fear, from Ancient Times to the Present* (New Haven: Yale University Press, 2017), p. 260.

Suggett, and further work was carried out by Sally Parkin.⁵ Ronald Hutton also addressed Welsh witchcraft, although his focus was on the ‘Celticity’ of Welsh witchcraft rather than on experiences within Wales itself.⁶

Suggett found thirty-six surviving cases of witchcraft comprising of forty-two accused persons.⁷ Within this, there were three cases that resulted in a guilty verdict with five people sentenced to death: Gwen ferch Ellis sentenced in Denbighshire 1594; Rhydderch ap Evan, Lowri ferch Evan wife of Evan Vaughn, and Agnes ferch Evan, all sentenced as a group in Caernarvonshire 1622; and Margaret ferch Richard sentenced in Anglesey 1655.⁸ Aside from these cases, Suggett showed that in Welsh witchcraft trials acquittals were high and cases were also often thrown out by the grand jury.⁹ Parkin argued that all women accused of witchcraft in Wales confessed their guilt but then did not suffer any consequences for her acts of *maleficium*.¹⁰ According to Parkin, the only woman who did not confess her guilt was Margaret ferch Richard, who was tried for witch-felony in Anglesey, 1655.¹¹ The large number of cases where the indictment was found *ignoramus* or resulted in the accused person being discharged, however, indicates that many accused witches never had the chance to admit their guilt. Indeed, though Parkin claimed that ‘in every case, [the accused] was found guilty of practising witchcraft’ the table below

⁵ C. L’Estrange Ewen, *Witchcraft and Demonism* (London: Heath Cranton, 1933); J. Gwyn Williams, ‘Witchcraft in 17th-Century Flintshire, Part One’, *Journal of the Flintshire Historical Society*, 26 (1973), 16–33; J. Gwyn Williams, ‘Witchcraft in Seventeenth Century Flintshire, Part Two’, *Journal of the Flintshire Historical Society*, 27 (1975), 5–35; Richard Suggett, ‘Witchcraft Dynamics in Early Modern Wales’, in *Women and Gender in Early Modern Wales*, ed. by Michael Roberts and Simone Clarke (Cardiff: University of Wales Press, 2000), pp. 75–103; Suggett, *A History of Magic and Witchcraft in Wales*; Richard Suggett, *Welsh Witches: Narratives of Witchcraft and Magic from Sixteenth- and Seventeenth-Century Wales* (Atramentous Press, 2018); Sally Parkin, ‘Witchcraft, Women’s Honour and Customary Law’; Parkin, ‘Women, Witchcraft and the Law in Early Modern Wales (1536-1736): A Continuation of Customary Practice’ (unpublished Ph.D thesis, University of New England, 2002).

⁶ Ronald Hutton, ‘Witch-Hunting in Celtic Societies’, *Past & Present*, 212 (2011), 43–71; Ronald Hutton, *The Witch: A History of Fear, from Ancient Times to the Present* (New Haven: Yale University Press, 2017). Hutton’s more recent work is a synthesis of the work of Welsh historians in order to form narratives about the whole of the ‘Celtic’ region.

⁷ Suggett, *Welsh Witches*. These figures are slightly different from the ones presented in his early book which give the figures at thirty-four cases and forty-two individuals; Suggett, *A History of Magic and Witchcraft in Wales*, p. 12.

⁸ NLW GS 4/9/4/54-56 Indictments (1594); NLW GS 4/9/4/94 Gaol File (1594); NLW GS 4/270/1iii-iv/504-505 Indictments (1622); NLW GS 4/270/1iii-iv/509 Calendar of Prisoners (1622); NLW GS 16/7/gaol m. (1655).

⁹ Suggett, *A History of Magic and Witchcraft in Wales*, p. 12.

¹⁰ ‘Even when the verdict of guilty was brought against the woman whose *malefice* was thought to have caused death, the woman was not imprisoned, tortured, fined or executed’; Parkin, ‘Witchcraft, Women’s Honour and Customary Law’, p. 298; see also p. 296.

¹¹ NLW GS 16/7/gaol m. (1655).

indicates that less than one-fifth of cases (19%) resulted in some form of a guilty verdict.¹² Parkin claimed that an admission of guilt was necessary because of the continued use of Welsh customs such as *galanas* payments – money paid to a murdered person’s family instead of the murderer facing any severe legal punishment. On the other hand, the fact that her characterisation of all Welsh witches admitting their guilt appears to be incorrect means that the rest of her arguments about the continued use of customary law in Wales cannot be sustained. Instead, it is the English legal process – the use of the grand jury to decide if a bill was true or not and the specific acts of *maleficium* detailed in the witchcraft acts – that prevented Welsh women from being executed for witchcraft in large numbers or a witch hunt or panic occurring.¹³

Table 4.1: Outcomes of felony witchcraft cases across all Welsh Great Sessions, with both male and female accused, c. 1560-1700.

	<i>Number of cases¹⁴</i>	<i>% of cases</i>
Discharged/Ignoramus	15	42
Not Guilty/Acquitted	12	33
Guilty, execution	3	8
Guilty, other punishment	4	11
Absconded	1	3
Unknown	1	3
<i>Total</i>	<i>36</i>	<i>100</i>

Generally, historians of Welsh witchcraft have pointed to comparisons with English witch-trials to show that Wales had a very low rate of witchcraft even though, as Suggett argued, ‘the elements for making a witch hunt were certainly

¹² Parkin, ‘Witchcraft, Women’s Honour and Customary Law in Early Modern Wales’, p. 306.

¹³ It is prudent to point out that even if all 36 cases had resulted in executions, this would still not be a large number. Parkin, ‘Witchcraft, Women’s Honour and Customary Law in Early Modern Wales’, p. 308. For works on *galanas* payments and blood-feuds see, R. R. Davies, ‘The Survival of the Bloodfeud in Medieval Wales’, *History*, 54.182 (1969), 338–57. For works on Welsh arbitration see, Llinos Beverley Smith, ‘Disputes and Settlements in Medieval Wales: The Role of Arbitration’, *The English Historical Review*, 106.421 (1991), 835–60.

¹⁴ These numbers refer to the number of cases rather than the number of persons accused – for example, while there were three cases which resulted in a guilty verdict with capital punishment, the presence of three names on one indictment results in five persons being sentenced to hang.

present in early modern Wales'.¹⁵ These comparisons are apt, given that Wales was subject to English legal jurisdiction after the Acts of Union. Suggett and Hutton both claimed that the reason for the lack of any serious witch-hunt in Wales was a mixture of legal and cultural issues with the idea of a female *malefic* witch imported from England.¹⁶ According to these authors, the shift in popular imagination considering magic (such as the use of charms and cursing) as easily reversible, to maleficium resulting from the witch's use of malicious magic, happened too late in Wales to have had any real effect on the number of witch trials.¹⁷ Suggett also argued that the Welsh characterisation of witchcraft was a re-defined form of cursing that fitted within a pre-established 'logic' where the curse would only be effective if the target of the curse had committed some form of an infraction. This resulted in fewer witch trials because there were already pre-established methods for removing curses that did not require any form of legal intervention.¹⁸ Additionally, Hutton argued that Wales fits within a broader set of Celtic beliefs in which misfortune was blamed on the evil-eye and fairies, and that as a result of these traditions there was little belief in the witch as a 'natural killer of humans and livestock, implied by natural malevolence and abetted by cosmic forces of evil' such as the type of offender meant to be punished by the English and Welsh witchcraft acts.¹⁹ These historians have thus described the Welsh witchcraft trials as the result of traditional Welsh beliefs constraining the newly imported English characterisation of *maleficium* resulting in a low number of trials and no discernible witch-hunts.

This chapter does not seek to re-engage with arguments about the relative scarcity of Welsh witch trials and the possible explanations for this. Indeed, by treating the witch-slanders as evidence of genuinely intended *maleficium* accusations, this chapter argues that Welsh belief in this form of criminal magic was more diverse (and numerous) than first thought, with a stronger belief in *maleficium* in Wales than

¹⁵ Suggett, *A History of Magic and Witchcraft in Wales*, p. 41.

¹⁶ Suggett, *Magic and Witchcraft in Wales*, pp. 14-19.

¹⁷ Hutton, *The Witch: A History of Fear*, p. 260. Hutton's explanation here highlighted the shift in educated opinion about the potential harm witches were capable of infliction. In this case, it was the educated opinion of the elites in charge of the legal process that prevented witch hunts like those seen in Scotland, where the reverse was true. See, Stuart Macdonald, *The Witches of Fife: Witch-Hunting in a Scottish Shire, 1560-1710* (East Linton: Tuckwell, 2001), pp. 4-14.

¹⁸ Suggett, *A History of Magic and Witchcraft in Wales*, p. 63.

¹⁹ Ronald Hutton, 'Witch-Hunting in Celtic Societies', p. 65; see also, Hutton, 'Chapter Eight: Witches and Fairies' and 'Chapter Nine: Witches and Celticity' in *The Witch: A History of Fear*, pp. 215-261.

previous studies have considered. This chapter also avoids comparisons with English witchcraft trials, as this results in arguments where English witchcraft prosecutions are viewed as being the ‘norm’ and Welsh witchcraft cases as abnormal, instead of being part of a rich and diverse pan-European system of beliefs.²⁰ Instead, this chapter argues that by closely comparing the specific accusations made against alleged witches in both witch-felony and witch-slander cases, previous notions that Welsh *maleficium* was overwhelmingly gendered female can be challenged. Further, by closely examining the specific criminal allegations contained within witch-slanders a more detailed picture of the various types of *maleficium* that Welsh witches were thought to be responsible for emerges.

4.2: The picture of Welsh slander

Suggett and Parkin both identified that witch-slanders are a useful source for the study of Welsh witchcraft. However, their respective foci on the linguistic and customary elements of these cases have drawn attention away from the specific criminal allegations contained within these cases. This thesis addresses this by creating a tripartite model that highlights this evidence. But first, a clearer understanding of the nature of Welsh slander cases is needed.

Slander cases were by no means unique to Wales, but there are elements of the way that this offence appears in the Great Sessions that are individual to Wales.²¹ These Welsh features suggest that while the Acts of Union were largely successful in implementing the English legal system in Wales, features of Welsh practice continued to exist. One of the most crucial factors was the existence of the office of the Prothonotary, the chief clerk of the civil side of the Great Sessions.²² In Wales, the existence of this office meant that actions for slander could be heard in the Great

²⁰ This is similar to the ways in which historians have compared the significantly lower number of thefts committed by women than men and have described these crimes committed by women as somehow deviant from the male norm. For a critique of this approach see Chapter Two of this thesis.

²¹ For example, Robin Briggs made reference to witch-slanders in his study of Lorraine; Robin Briggs, *The Witches of Lorraine* (Oxford: Oxford University Press, 2007), pp. 276, 333. This is, however, the first study that uses slander as a record of genuinely believed allegations, rather than as part of a legal strategy used by women and their families to prevent a more serious charge being lodged against them.

²² All circuits had one Prothonotary, except for the Chester circuit, which had two: one served Denbighshire and Montgomeryshire and the other served Flintshire and Chester. Glyn Parry, *A Guide to the Records of Great Sessions in Wales* (Aberystwyth: National Library of Wales, 1995), p. iv.

Sessions and the requested amount in damages could be over 40 shillings.²³ Slander was only actionable when the objectionable words, often called ‘scandalous’ in the Welsh documents, were uttered within the hearing of others.²⁴ Objectionable words that were not heard by a third party were not actionable due to the fact that slander became criminal when it threatened someone’s ‘good fame’. If the words were not heard by others, then the plaintiff’s ‘good fame’ and reputation had not been challenged and they were not eligible for compensation.²⁵ The objectionable words could also have been alleged to have resulted in some form of financial loss, such as damage to a person’s financial credit or their business prospects. Particularly prominent in the Welsh slander examples were cases which threatened the plaintiff’s life and liberty, for example, when they had been accused of a crime that could see them imprisoned or hanged if the slanderous words were believed. Rather than being examples of ‘mere insult’, therefore, these slander cases should be regarded as providing evidence of seriously intended criminal accusations on the part of the slanderer.²⁶

Both Suggett and Parkin referred to these cases as ‘witchcraft as words’. Suggett pointed out that the slander cases represented ‘seriously-intended’ allegations of criminal behaviour, but his primary focus was instead on the language involved in slander cases and the ways in which this can be used to identify changes in the cultural and linguistic meanings of different insults.²⁷ For example, Suggett argued that some slanderous words became less severely wounding to a reputation over the course of the early modern period. The term ‘villein’ had been considered to be a serious insult ‘by the second half of the sixteenth century, villenigae was hardly considered to be a serious accusation although, without a doubt, to be called a villain was a serious insult’.²⁸ Though Suggett made a strong link between the seriousness of certain insults and the way this changed over time, the connexion between insults

²³ Requests for amounts that were under 40 shillings were lodged in the quarter sessions. The records from these sessions largely do not survive for this time period and so a comparison of the actions for slander lodged at these different courts is not possible.

²⁴ Slander cases were also actionable ‘when verbal abuse threatened to become breach of the peace’; Richard Suggett, ‘Slander in Early Modern Wales’, *The Bulletin of the Board of Celtic Studies*, 39 (1992), 119–54 (p. 119). In other words, the slander was believed to have the potential to result in another type of public disturbance, such as an affray or riot. Who it was who heard the slanderous words is not recorded in the majority of the examples in the Great Sessions.

²⁵ Suggett, ‘Slander in Early Modern Wales’, p. 119.

²⁶ Suggett, *A History of Magic and Witchcraft in Wales*, p. 13.

²⁷ Suggett, *A History of Magic and Witchcraft in Wales*, p. 13.

²⁸ Suggett, ‘Slander in Early Modern Wales’, p. 128.

and the specific crimes that words like ‘thief’ or ‘witch’ refer to has been less clear.

While Suggett used ‘witchcraft as words’ to focus on change, Parkin’s study focused on continuity with her arguments focusing on the ways in which witch-slanders can be used to show the Welsh’s continued adherence to customary laws beyond the Acts of Union and suggested that this might have been a form of social protest against English rule.²⁹ Parkin argued that the fact that Welsh witch-slander cases contained information about alleged pre-meditated harm, but did not become witch-felony cases, showed that the Welsh used slander cases as a way of continuing to adhere to their customary laws which emphasised reconciliation through arbitration.³⁰ Her focus was thus on the *process* of slander trials and what they could reveal about the status of Welsh customary law and women’s status within it. As such, though both of these historians gestured towards the fact that the slander cases contain accusations of criminal wrongdoing, the specific acts of *maleficium* that the slandered witch was alleged to have performed have yet to be explored. This study addresses this by proposing a new model with which to read these cases before directly comparing the allegations contained within the slander cases to the allegations made during the witch-felony cases. This provides further evidence of the nature of witchcraft belief in Wales that expands the picture already drawn by Suggett and Parkin.

4.3: A tripartite model for characterising slander

Rather than viewing slander records as being all of the same nature, as Suggett and Parkin’s categorisation of all slander cases as ‘witchcraft as words’ implies, a close-reading of these cases reveals that they can be divided into three distinct categories. These categories can then be used to fully expose the criminal allegations contained within, enabling the evidence from this source to be read constructively alongside the witch-felonies to provide further detail of Welsh beliefs in *maleficium*. The first of these categories is ‘simple insult’. These were slanders that only alleged that the

²⁹ ‘Perhaps, in some way, the Welsh reaction to witches can be construed as a form of social protest ‘guided by tradition and custom’, despite or in spite of the English legal system’ Parkin, ‘Witchcraft, Women’s Honour and Customary Law in Early Modern Wales’, p. 295. See also; Parkin, ‘Women, Witchcraft and the Law in Early Modern Wales’, p. 8.

³⁰ Other historians have pointed out that the English office of Justices of the Peace also had methods of arbitration that meant that cases which might have resulted in felony trials were instead settled through arbitration. Joan Kent, ‘The English Village Constable, 1580-1642: The Nature and Dilemmas of the Office’, *Journal of British Studies*, 20.2 (1981), 26–49.

slandered person was a witch and did not contain any allegation of criminal harm or a threat to prove a person's use of *maleficium*. These cases may indicate that witch and its allied terms were used as a specifically gendered insult against Welsh women. The second category is 'threats to prove'. These slanders contained some sort of statement that the slandered person was a witch and that this would be proved by the slanderer, usually in a legal setting. The final category is 'specific harm'. These slanders are detailed allegations that specified an incident of harm that the person slandered as a witch was believed to be responsible for.

Table 4.2: Different types of witchcraft slander all Welsh Great Sessions, c. 1560-1700.

	<i>Number of actions</i>	<i>% of witch-slanders</i>
Insult	5	23
Threat to prove	3	13.5
Specific harm	14	63.5
<i>Total</i>	<i>22</i>	<i>100</i>

The 'specific harm' slanders account for the largest proportion of Welsh witch slanders. It is also evident that 'insult' slanders were less than a quarter of witch-slanders. This emphasises the fact that 'witch' and its allied terms was not just being chosen as an insult because it was a word that threatened a woman's honour, but was instead said to the slandered person because there was a genuine belief that they had performed some form of *maleficium*.

4.3.1: Insults

In Flintshire 1615, Jane the wife of Roger Thomas said that the wife of John ap Rees was an old witch.³¹ Similarly, in the same county two years later, Anne the wife of William Starkie said to Katherine, the wife of William Banyon 'thou art a witch'.³² Simple insults like these could be counted as defamation and should have been heard in the church courts, rather than in the Great Sessions as these cases were.³³ The

³¹ NLW GS 13/39/4 Prothonotary Papers (1615).

³² NLW GS 13/40/4 Prothonotary Papers (1617).

³³ Slander is different from defamation as defamation was a spiritual wrong prosecuted in the church courts whereas slander accusations were connected with more temporal matters.

reason these cases were heard in this court was that the amount requested exceeded 40s. and only the Great Sessions could deal with requests of this amount and over. Parkin argued that the amount requested as damages in all ‘witchcraft as words’ cases were both a strategy used by the plaintiff to move her suit into this court and as a reflection of her *sarhaed* or ‘honour price’.³⁴ The use of *sarhaed* thus, according to Parkin, proved that the Welsh continued to abide by their customary laws after the Acts of Union. Parkin’s main evidence came from cases where the plaintiff bought actions for slander against different people and requested different sums of money from each defendant.³⁵ But while Parkin proved that the damages amount changed from defendant to defendant the connection between this and *sarhaed* value is less clear. Where the amount that was requested as damages is recorded it is evident that the majority of the women slandered as witches in this study asked for compensation of £100, suggesting that these compensation amounts were not closely dictated by the individual woman’s *sarhaed* as we would expect to see greater variations in the compensation amount.³⁶ These large sums of money requested were also not exclusive to witch slanders but were requested when a woman was called ‘thief’. For example, when Jane, the wife of Roger Griffiths of Beaumaris said to the sister of Jonet Lewis that Jonet was a thief, Jonet requested £100 in damages.³⁷ The same amount was requested when Edward ap Richard Williams said to Williams Spicer that his wife, Lowry, had stolen “flesh” and a towel from Anne Conway.³⁸

³⁴ Parkin, ‘Witchcraft, Women’s Honour and Customary Law in Early Modern Wales’, pp. 303-305.

³⁵ There is only one example of one person putting forwards multiple slander charges in the material found for the time period under study and so Parkin’s conclusions cannot be fully supported here.

³⁶ Just because these large sums were applied for does not mean that they were awarded. Indeed, it appears rare that a judgement was returned in favour of the plaintiff and when these judgements were returned they were often for a sum much lower than that applied for. There is only one example where a plaintiff who was called a witch was awarded damages; in Flintshire 1610 Eleanor Gravel damages were assed at 13s. 4d. though the amount she had sued for was £100; NLW GS 13/6/4 Prothonotary Papers (1610).

³⁷ NLW GS 13/12/5 Prothonotary Papers (1599).

³⁸ NLW GS 13/43/1 Prothonotary Papers (1622).

Table 4.3: amount in damages requested in theft, homicide, and witch slanders involving women c.1560-1700.

<i>Amount requested</i>	<i>Number of cases</i>	<i>Amount requested</i>	<i>Number of cases</i>
£20	5	£300	3
£30	1	£400	1
£40	18	£500	3
£60	1	£1000	1
£100	63	n/a	19
£200	10		

The amount of money requested in a slander allegation did not depend on the wrongdoing that had been alleged by the defendant – a woman could claim the same sum in compensation for being slandered as a thief as she could for being slandered as a witch.

Table 4.4: Ranges of compensation amounts requested in actions for slander lodged by and against women from all Welsh Great Sessions, c. 1560-1660.

	<i>Witchcraft</i>	<i>Theft</i>	<i>Homicide</i>
£20-£30	-	5	-
£40-£60	1	17	-
£100	10	50	6
£200-£400	2	9	1
£500-£1000	1	4	-
n/a	9	9	2
<i>Total</i>	23	94	9

The amounts requested in witchcraft slanders tend to be towards the higher end of the spectrum, with only one case lodged for an amount of less than £100, suggesting that being accused of being a witch was seen as particularly severe. On the other hand, all of the slanders in which a woman was accused, or accused someone, of homicide were also for amounts of £100 or over. Additionally, twenty-two theft slanders were lodged for amounts under £100 a significant proportion of these cases (67%) were for amounts of £100 or over. Thus, being slandered as a witch was certainly thought to be damaging to honour, but so were other types of insult, such as

thief and murderer – all allegations of specific criminal offences. Therefore, it appears that the amounts requested in damages reflect the seriousness of the criminal allegation contained within the slander, even if no further details about the accused witch's alleged activities were recorded within the legal documents. This also suggests that witchcraft was not seen as a *crimen exceptum* in Wales but rather a more everyday crime.³⁹

4.3.2: *Threats to prove*

In these cases, the slanderer claimed that the plaintiff was a witch *and* that they would prove this person's witchcraft. Such is the case of Jane, the wife of John Thomas ap John Howell, who allegedly said to Thomas Hughes and his wife, Elizabeth, 'Thy wife is a witch, and I will stand in it and prove that she is a witch' in Flintshire, 1605.⁴⁰ There is consequently a clear statement that Jane was prepared to prove Elizabeth's witchcraft and a direct threat to Elizabeth's life due to the fact that if it was proved that she was a witch, she could face a felony trial.⁴¹ As such, the slanders in this category were not just gendered insults as they contained an implication on the part of the slanderer that a crime had taken place. It is for this reason that the evidence found in witch-slander cases can be treated as an extension of *maleficium* belief.

This category of slander does not appear frequently; there are only three examples in the Great Sessions records of witch-slanders that contained a threat to prove with no information about what the alleged *maleficium* incident was. In addition to the case detailed above, there were two actions from the same woman, Margaret Collyns, who bought separate actions against John Mabb and David Mabb in the Pembrokeshire Great Sessions, 1634 alleging that they had both said to her 'Thou art and old witch and I will prove thee to be a witch'.⁴² While the small number of these

³⁹ A *crimen exceptum* crime was not subject to regular judicial processes or standards of proof. Garthine Walker, 'The Strangeness of the Familiar: Witchcraft and the Law in Early Modern England', in *The Extraordinary and the Everyday in Early Modern England: Essays in Celebration of the Work of Bernard Capp*, ed. by Angela McShane and Garthine Walker (Basingstoke: Palgrave Macmillan, 2010), 105–24 (p. 105).

⁴⁰ NLW GS 13/38/10 Prothonotary Papers (1605).

⁴¹ Though it may be the case that this phrase was alleged to have been constructed by the plaintiff as a way to prosecute the slander in the Great instead of quarter sessions, the existence of a handful of cases where only the insult of 'witch' was used indicates that this was not always a necessary part of the legal formula of slander prosecutions.

⁴² NLW GS 13/29/9 Prothonotary Papers (1634).

cases and the fact that none of these sanders records where or how the plaintiff's witchcraft would be proved could be interpreted as showing that the threat-to-prove was not serious, the fact that these threats also appear in slanders where allegations of *maleficium* were made indicates that there were seriously intended threats. For example, when Margaret, the wife of William Garons accused Margaret, the wife of Rice Mortimer of witchcraft and theft in Pembrokeshire 1638, she allegedly said to her 'thou art a witch and I will prove thee to be a witch, and thou didst steal my gold'.⁴³ The slanders against Margaret, the wife of John Eare and Maud the wife David ap Rees ap Owen also both contained a specific allegation and the threat to prove it.⁴⁴ It would, therefore, be inaccurate to characterise these threats as empty. By acknowledging that these slanders were of a different character to insult-slanders, it becomes apparent that witch-slanders of this type were not just a threat to a woman's honour, as Parkin's treatment of these cases implied, but were instead connected to criminal allegations that the slandered woman had performed an act of *maleficium*.

4.3.3: Specific allegations

The slanders in this category all contain several key points of information. They specify that an incident of witchcraft had occurred, they name the victim of witchcraft, and they provide some description of the type of offence that the accused witch was said to have committed.⁴⁵ These cases thus demonstrate that the person who was alleged to have spoken the slander was not using an allegation of 'witch' as a gendered insult, meant to harm the slandered person's honour, but rather they were alleging that the named person had performed a criminal act. The evidence provided in these slanders – though the level of detail is varied – can be treated as evidence of Welsh beliefs in the types of harm that witches could cause through *maleficium*.

Even in examples where there is not much detail about the alleged *maleficium*, there are still important conclusions that can be drawn from the available evidence. It

⁴³ NLW GS 13/29/14 Prothonotary Papers (1638). Clive Holmes discussed a few cases where thefts formed part of the anti-social behaviours that suspected witches were accused of. For example, the Pendle witches were accused of a number of petty thefts. Also, suspicious about Mary Smith from King's Lynn were aroused after an argument with her neighbours about a theft. Clive Holmes, 'Women: Witnesses and Witches', *Past & Present*, 140.1 (1993), 45–78 (p. 52, 57).

⁴⁴ NLW GS 13/8/13 Prothonotary Papers (1655); NLW GS 13/28/7 Prothonotary Papers (1623).

⁴⁵ There is a possibility that some details of the alleged witchcraft incident have been lost due to the fact that the Prothonotary papers only specify the actionable words which often amount to little more than a sentence or two.

is evident in cases such as the action brought against John Preson by Eleanor Gravel in Flintshire, 1610, that Eleanor was accused of being able to bewitch people. As John allegedly said, ‘she is a witch, she doth bewitch me upon the earth’.⁴⁶ While we do not know the specific nature of the bewitchment John allegedly suffered, we can see from his accusation that Elizabeth had been accused of *maleficium* against a man. Similarly, at the autumn session held in Denbigh 1627, John Thomas Wynne was prosecuted for allegedly saying: ‘Barbara Parry hath bewitched me’.⁴⁷ In 1655, Thomas William of Ruthin allegedly said that Margaret the wife of John Eare had bewitched him for four years.⁴⁸ Even though these allegations are incredibly short, it is evident that they refer to instances of *maleficium* that could result in criminal charges. These cases, therefore, should not be considered to be gendered insults chosen by the slanderer as a way of harming a woman’s honour. Rather, these were criminal allegations which, if believed by the wider community, could result in a felony trial.

Parkin argued that there were no efforts to investigate witch slanders as genuine allegations of *maleficium*.⁴⁹ Where Parkin claimed that ‘witchcraft as words’ cases were only ever matters of honour, I contend that the seriousness of the offences alleged in these slanders requires closer examination. If these were seriously intended allegations, we must also consider why these allegations do not appear as felony cases in the Great Sessions. There are two possible explanations for this. Firstly, the slander cases could represent cases that *were* investigated as criminal wrongs but resulted in the indictment for this case being found *ignoramus*. The slander cases could thus have been a process through which an accused witch could fully clear her name. Bearing in mind other historians’ arguments about the importance of good name and reputation it seems plausible that a suit for damages might be a natural conclusion for a criminal case.⁵⁰ This investigation has not,

⁴⁶ NLW GS 13/39/4 Prothonotary Papers (1610). Parkin, ‘Women, Witchcraft and the Law in Early Modern Wales’, p.8.

⁴⁷ NLW GS 13/7/2 Prothonotary Papers (1627).

⁴⁸ NLW GS 13/8/13 Prothonotary Papers (1655).

⁴⁹ Sally Parkin, ‘Women, Witchcraft and the Law in Early Modern Wales (1536-1736): A Continuation of Customary Practice’ (unpublished Ph.D. Thesis, University of New England, 2002), p. 304.

⁵⁰ For examples of the importance of reputation see, Faramerz Dabhoiwala, ‘The Construction of Honour, Reputation and Status in Late Seventeenth- and Early Eighteenth-Century England’, *Transactions of the Royal Historical Society*, 6 (1996), 201–13; Bronach C. Kane, ‘Defamation, Gender and Hierarchy in Late Medieval Yorkshire’, *Social History*, 43.3 (2018), 356–74; Laura Gowing, ‘Language, Power and the Law : Women’s Slander Litigation in Early-Modern London’, in

however, identified any plaintiffs in slander cases who also appeared as defendants in criminal cases. This is possibly due to the fact that most *ignoramus* indictments were not kept in the Gaol Files as, once this verdict had been found, they were no longer records of the court. The other types of court records that do survive, however, should make some mention of persons who were summoned to each Great Sessions. The fact that none of the women who brought actions for slander ever appear on the criminal side of the court means that it is unlikely that any woman who was slandered as a witch (or indeed a murderer, or thief) was ever investigated for the specific offence alleged in the slander.

The reason for this, I argue, is that rather than slander cases representing the conclusion of a criminal investigation, they represent the beginning. Robin Briggs and Mark Stoyle pointed out that in witchcraft investigations the Justices of the Peace (and other investigating authorities) were *reactive* rather than *proactive* when investigating cases.⁵¹ The implication here is that there would either need to be a large amount of evidence against a person or a strong community feeling that they should be prosecuted. Witch-slanders were often made by people closely associated with the alleged victim of *maleficium*, suggesting that though the allegation of criminal witchcraft was believed by those most directly affected by some form of misfortune, their allegation was not widely believed in the community.

Ursula Parry was accused by Magdalene, wife of John Jones in the September 1660 Great Session at Flint of bewitching her and her child of their legs.⁵² In Brecon 1635 John Griffin allegedly said to a clerk that Mrs Probert, the wife of Henry Probert esquire, had bewitched both his father-in-law and his uncle.⁵³ In Montgomeryshire 1651 Joan Mirris accused Jane Meredith of bewitching Joan's uncle by entering his house through the key-hole.⁵⁴ Despite the fact that these allegations were specifically detailed, there is no surviving evidence that the slandered women were ever investigated. In other cases, the alleged victim of a bewitching does not appear to have been related to the person who made the slander,

Women, Crime and the Courts in Early Modern England, ed. by Garthine Walker and Jennifer Kermode (London: University College, London, 1994), pp. 26–47.

⁵¹ Robin Briggs, *The Witches of Lorraine* (Oxford: Oxford University Press, 2007), pp. 59, 257; Mark Stoyle, “‘It Is But an Olde Wytche Gonne’: Prosecution and Execution for Witchcraft in Exeter, 1558–1610”, *History*, 96.322 (2011), 129–51 (p. 150).

⁵² NLW GS P324 Prothonotary Papers (1660).

⁵³ NLW GS 13/20/11 Prothonotary Papers (1635)

⁵⁴ NLW GS 13/16/1 Prothonotary Papers (1651).

suggesting that suspicions against the slandered witch were more widespread in the community than in cases where the allegation was made by family members. For example, Elizabeth, the wife of Rees Lewis was accused of bewitching a man, Owen Johns of Trecowne, by Maud David ap Rees ap Owen at the Pembrokeshire Great Sessions in 1623.⁵⁵ However, even though this case suggests a wider belief in Elizabeth's witchcraft, she does not appear to have been investigated for *maleficium*.

In another example, the slander was made as the result of rumours about the suspected witch. In Denbighshire 1610, David Jones and his wife Catherine both allegedly slandered the same Agnes ferch Madock as a witch.⁵⁶ In this case, the response of the slanderer to the action against them is recorded. Catherine's answer was that on the day the slander was allegedly spoken, she and Agnes had talked about a rumour amongst Agnes's neighbours that 'the said Agnes previously had offered 'bended silver' to a certain statue or idol called 'Llanelyan Kymyan' for intercession in that the curses of the aforesaid Agnes had prevailed against her enemies and adversaries and their goods and chattels.' There was also a rumour that a cow belonging to David Jones had died after Agnes had cursed him, and that the same thing had happened to a cow belonging to a neighbour called John Boodle. Agnes responded to these rumours by saying 'that she had the power to suddenly cause and subtly destroy her enemies and their goods and chattels' which prompted Catherine to say to her 'I *think* that you are a witch'.⁵⁷ David and Catherine did not call Agnes a witch because they wanted to insult her but because they had reasons to believe that she was a user of witchcraft.

These cases suggest that despite the allegations and rumours against suspected witches were detailed there needed to be considerable community support for the accusation before an investigation from the legal authorities was believed to be necessary or warranted. In Welsh witchcraft cases where depositions survive, it is clear that the JPs asked numerous deponents, all of whom had some form of allegation to make against the suspected witch. Fourteen persons gave depositions in the case against Gwenillian and Margaret Hir.⁵⁸ There are eight depositions against

⁵⁵ He also allegedly said of her that 'the woman of Pen y Gegin is an old witch, never came out of her country a chiefer witch'; NLW GS 13/28/7 Prothonotary Papers (1623).

⁵⁶ NLW GS 13/6/5 Prothonotary Papers (1610).

⁵⁷ NLW GS 13/6/5 Prothonotary Papers (1610). Catherine's defence was thus that she had not called Agnes a witch but had only said that she thought Agnes was one and that the only reason she did was that Agnes herself had given her cause to believe this.

⁵⁸ NLW GS 4/719/2/48-9, 55 Examinations, various (1656).

Anne Ellis, and a letter detailing the case of Olly Powell observes that there were fourteen deponents, although these documents have not survived.⁵⁹ While these large numbers of witnesses are not reflected in all cases, the number of people willing to assert that they believed a woman was a witch indicates that there needed to be a significant amount of support for an accusation of this nature to be investigated. The verbal accusations made by slanderers could, therefore, be a useful way for a person to find out if their allegations were believed by others in the community before making more formal legal allegations against them.

As such, even though the allegations made in the witch-slanders do not appear to have been investigated as witch-felony cases, their potential to contain important evidence of Welsh beliefs in *maleficium* should not be underestimated. This tripartite model both exposes the serious allegations contained within the witch-slanders so that it can be read alongside the evidence from witch-felony cases, and demonstrates that even though being slandered as a witch was a serious insult, the seriousness resulted from the fact that the plaintiff had been accused of a felony offence rather than as the result of cultural or customary notions of women's place in society.

4.4: Slander and Maleficium

The tripartite model described above highlights that many slanders contain information about acts of *maleficium* that were alleged to have been caused by Welsh women. The following section argues that this information can be usefully combined with the evidence from witch-felony cases to further expand our knowledge of criminal witchcraft belief in Wales. By being specific about what type of witchcraft offences were alleged to have occurred, this chapter challenges previous arguments that criminal witchcraft in Wales was perceived as exclusively gendered female. Instead, by examining the alterations made to indictments, it is argued that men were also accused of witch-felonies in Wales, but the outcomes of their cases suggest that legal practices meant that these charges were generally reduced. Secondly, this chapter challenges Parkin's claim that witches in Wales were rarely accused of harmful acts against their neighbours by combining the evidence from witch-slander cases with witch-felony cases in order to demonstrate that Welsh

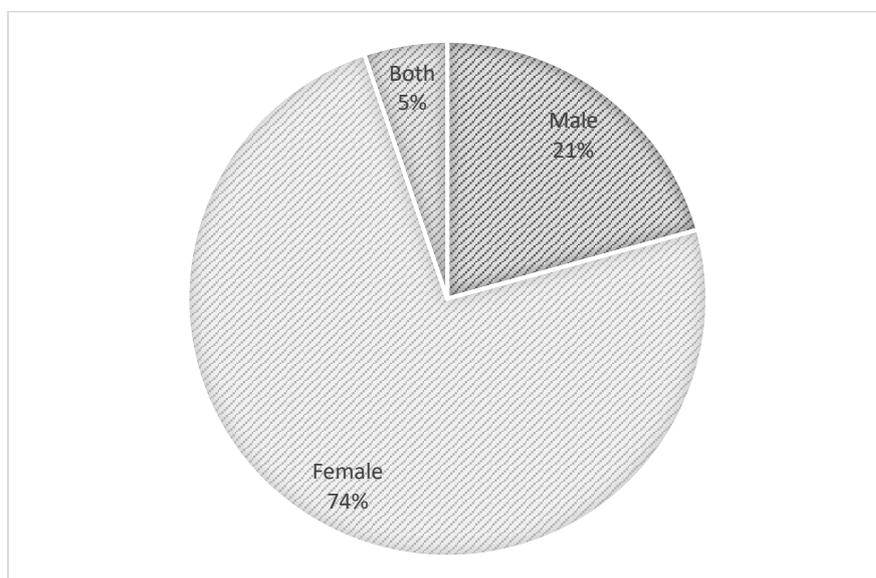
⁵⁹ University of Oxford, Bodleian Library, MS Ashmole 1815, fol.1. Large numbers of witnesses could also be used to prove a person's innocence – in the case of Dorothy Griffith of Flintshire, a petition from her protesting her innocence of a charge of witchcraft was signed by thirty-one men.

witches were accused of causing illness in livestock and people, as well as committing thefts through witchcraft. Finally, this chapter explores a new theme in witchcraft historiography, that of space, and argues that though Welsh witches were not accused of travelling or gathering in large groups, the spaces in which *maleficium* could occur are more varied than investigations into the witchcraft beliefs and prosecutions of other countries has thus shown.

4.4.1: Gender

Studies of different European locations have revealed that witches were overwhelmingly gendered female across most of the continent.⁶⁰ At first glance, Wales fits within this broad pattern, with 74% of people accused in witch-felony and witch-slander cases gendered female.⁶¹ Indeed, only one man was sentenced to death for witchcraft in Wales; Rhydderch ap Evan. He was with two women, possibly his sisters, in Caernarvonshire 1622.⁶²

Figure 4.1: The gender of persons accused of witchcraft in both witch-felonies and witch-slanders in all Welsh Great Sessions, c. 1560-1699.



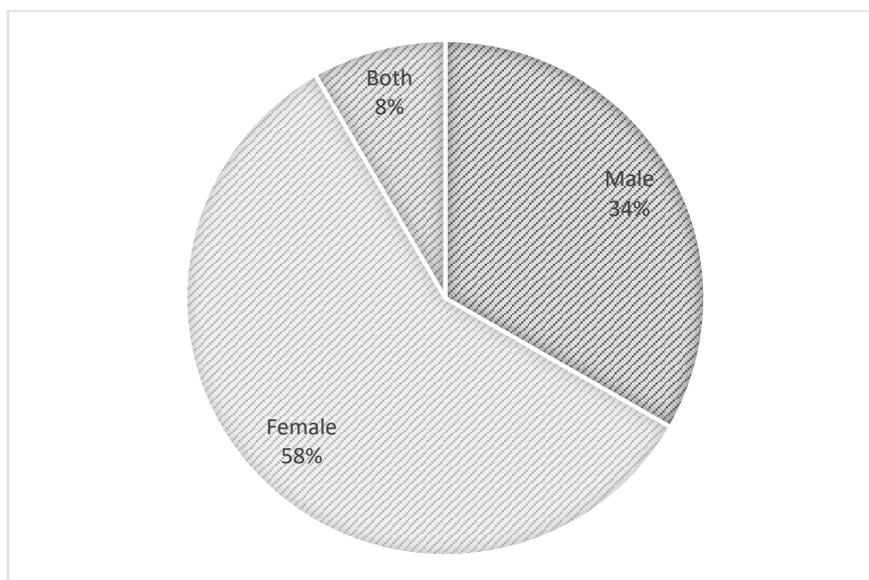
⁶⁰ Finland, Estonia, Russia, and some regions of France and Italy all emerge as locations where 50% or more of the accused witches were male; Anne Llewellyn Barstow, *Witchcraze: New History of the European Witch Hunts* (San Francisco: Bravo, 1995).

⁶¹ Another 5% were accusations against couples or groups of both genders.

⁶² NLW GS 4/270/1iii-iv/504-5 Indictments (1622).

While the figures above indicate that a clear majority of witchcraft accusations in Wales were gendered female, a very different picture of Welsh witchcraft emerges when the slander cases are removed from the data set. Without the witch-slanders included, female witches only account for 58% of cases. When dealing with the issue of gender in the Welsh witchcraft cases we must, therefore, be specific about whether or not the witch-slanders have been included within the data set. Male witches account for a third of witch-felony accusation, but their cases have not yet received any serious attention from historians; Suggett's interpretation of male forms of witchcraft focused on "conjurers" rather than male witches accused of *malefice* and Parkin's focus on the status of women in Wales meant that the men in her study were all but ignored.⁶³

Figure 4.2: The gender of persons accused of witchcraft as a felony or misdemeanour in all Welsh Great Sessions, c. 1560-1699.



By examining the accusations made against men accused of witchcraft in the Great Sessions it becomes clear that though men were initially accused of *maleficium* their offences were downgraded during the legal process. This then creates a clearly gendered division between male non-felony witchcraft and female felony witchcraft and throws light upon the ways in which the decisions of the grand jury in the Great Sessions differed from the accusations made by the original accusers in the

⁶³ Parkin's article on Welsh witchcraft makes no mention of any of the men accused of witchcraft; Parkin, 'Witchcraft, Women's Honour and Customary Law in Early Modern Wales'. See also, Suggett, 'Chapter Five: Conjurers and their Magic', *A History of Magic and Witchcraft in Wales*, pp. 84-115.

community. These non-felony offences that men's indictments were altered to reflect fit within the category of magical practice that Hutton described as 'service magic'.⁶⁴ These magic practitioners, or 'cunning-folk', worked magic for the benefit of others – sometimes specialising in one type of magical technique, such as healing people and livestock from illnesses.⁶⁵ While Kirsteen MacPherson Bardell claimed that these types of magic practitioner have been neglected in this historiography, Suggett provided substantial detail about the different language the Welsh had to describe very specific types of beneficial magic.⁶⁶ Suggett's definitions, based on the language used in the c.1595 Welsh witchcraft tract *Dau Gymro yn Taring* (Two Tarrying Welshmen), demonstrate that some forms of magic were perceived as being both distinctly male and explicitly helpful.⁶⁷ For example, the *brudiwr* or soothsayer was categorised with prophets and astrologers as having divine inspiration that was 'highly revered by the gentry'.⁶⁸ The *consuriwr* or wise-men learnt their magic from books, as did the *hudol* or enchanter although it appears that the importance of these roles was fading. Instead, the *synwir* (male) or *synwarig* (female), charmers that sourced their knowledge though knowledge of herbs and charms could do good to man and livestock.

In some of the Welsh witch-felony cases, the alleged witch was accused of a criminal offence, not because they had used these charms or enchantments, but because this magic had failed to work in the way it was supposed to. For example, the soothsayer Hugh Bryghan confessed in 1570 that his magical techniques were all 'illusion and deceit'.⁶⁹ In one of the few cases where a female witch was indicted for a witchcraft offence that did not involve *maleficium*, Anne Jones alias Ellen Gilbert was imprisoned in 1635 for claiming that she could communicate with 'fairies' and

⁶⁴ Hutton, *The Witch* p. xi.

⁶⁵ Suggett, *A History of Magic*, pp. 27-41.

⁶⁶ MacPherson Bardell claimed that further study is needed of these types of beneficial magic; Kirsteen MacPherson Bardell, 'Beyond Pendle: The "Lost" Lancashire Witches', in *The Lancashire Witches: Histories and Stories* (Manchester: Manchester University Press, 2002), 105–22 (p. 105).

⁶⁷ Suggett, 'Witchcraft dynamics in early modern Wales', p. 81. Suggett's monograph contains a detailed description of the personal connexions between the family of the author of *Dau Gymro yn Taring* and Gwen ferch Ellis, the first woman executed for witchcraft in Wales. See, Suggett, *A History of Magic and Witchcraft in Wales*, p. 33-38. A later, anonymous, witchcraft tract first published in 1711 has recently been translated and edited by Lisa Tallis. See, T. P., *Cas Gan Gythraul: Demonology, Witchcraft and Popular Magic in Eighteenth-Century Wales*, ed. by Lisa Tallis (Newport: South Wales Record Society, 2015).

⁶⁸ Suggett, 'Witchcraft dynamics in early modern Wales', p. 82 – Suggett's translation.

⁶⁹ NLW GS 4/3/4/12 Examination Hugh Bryghan (1570).

persuade them to cure a person of illness.⁷⁰ In order to do this, Ann would take silver or gold that the afflicted person had breathed on to show to the fairies, promising that it would be returned. Of course, it never was, and Anne was imprisoned for the fraud. It is possible, therefore, that these offenders were punished specifically for fraud, rather than offences related to magic. Without evidence of their malicious dishonesty, it is questionable whether Hugh and Anne would have been judicially punished at all.

While roughly the same proportion of men and women were initially indicted for misdemeanour witchcraft offences (such as enchantments or charming to find lost goods) a much higher proportion of men than women had their indictments altered to misdemeanour offences. This indicates that the popular perception of witchcraft as a criminal offence was different amongst the grand jury. Though the lay population appears to have accused men and women of similar witch-felonies, the alterations made by the Grand Jury indicate that they did not believe that men were capable of performing the types of *maleficium* for which judicial punishment was prescribed under the witchcraft acts.

Table 4.5: Comparison of the outcomes of indictments for men and women accused of witch-felonies from all Welsh Great Sessions, c. 1560-1699.

	<i>Male accused</i>	<i>Female accused</i>
True bill (felony)	-	8 (38%)
True bill (misdemeanour)	1 (8%)	2 (9.5%)
Altered to misdemeanour	3 (25%)	2 (9.5%)
Ignoramus	4 (33%)	6 (28.5%)
Not indicted	1 (8%)	2 (9.5%)
Unknown	3 (25%)	1 (4.5%)
<i>Total</i>	<i>12 (100%)</i>	<i>21 (99.5%)</i>

For example, William Morris jury for witchcraft in Pembrokeshire 1613.⁷¹ While he was initially prosecuted for witchcraft the indictment shows that the phrase ‘witchcraft, enchantments... and sorceries’ were struck out, presumably by the grand jury. William’s gaol calendar entry records that he was instead charged with non-

⁷⁰ NLW GS 4/21/3/32 Examination of Ann Jones (1634).

⁷¹ NLW GS 4/780/1/112 Indictment (1613).

felonious ‘magic’ and that he confessed and was released on bail.⁷² The original charge in this example clearly demonstrates that men were accused of *maleficium* by the Welsh population, and indicates that it was the actions of the grand jury that prevented them from facing the most severe punishments for these alleged offences.

In a further example, the word ‘feloniously’ was crossed off the indictment against Hugh Davies, a clerk from Radnorshire. Hugh was accused of using enchantments to cause the illness of one Anne Davies who had allegedly been made ‘dangerously sick’.⁷³ Given the appearance of similar cases to this in the witchcraft as felony category with a named victim and vague description of their affliction (i.e. sickness, lameness, bewitchment) it seems surprising that Hugh was charged with a misdemeanour, not a felony.⁷⁴ Further, two of the *ignoramus* indictments against men were for offences that would have been tried as felony witchcraft.⁷⁵ In another example, Roger Adams was accused of felony witchcraft, but even though he appears in two recognizances for this offence, there is no indictment for him and he was discharged.⁷⁶ If we add these cases to the altered offences it is evident that half the men accused of witchcraft in Wales initially came before the grand jury accused of a felony. This indicates that there must have been at least some belief in Wales that men were capable of *maleficium*.

It is possible to view the difference between elite (grand jury) and popular (the accusers) views of witchcraft as a conflict between English legal views of witchcraft and customary Welsh beliefs. Certainly, this is how previous historians of Welsh witchcraft have addressed this subject with Suggett persuasively showing that *wits* was an English loan word that described an English concept of a *malefic*, old, female witch.⁷⁷ But the presence of men in the record who were accused of causing sickness and death through witchcraft indicates that the spread of this English idea of witchcraft was less pervasive than first assumed. Two of the most uniquely ‘English’ features of early modern witch belief – the witch’s familiar and the witch’s mark –

⁷² NLW GS 7/10/8C Calendar Roll (1613).

⁷³ NLW GS 4/488/2/9 Indictment (1631).

⁷⁴ It is also possible that Hugh’s charge was altered due to his social status as a cleric. Another man who had ‘feloniously’ crossed out of his indictment for charming, Owen Jones, was also a cleric. While a study of the different social statuses of the accused in *maleficium* cases may reveal further information about the social dynamics of witchcraft allegations, the survival of occupational details in the Gaol Files from this time period is very patchy. NLW GS 4/495/4/27 Indictment (1685).

⁷⁵ NLW GS 4/330/3 Indictment (1592); NLW GS 4/347/3 Indictment (1639).

⁷⁶ Roger Adams has been counted in the ‘not indicted’ section of Table 4.

⁷⁷ Suggett, *A History of Magic*, pp. 24-25.

are nearly entirely absent from the Welsh record. Indeed, the English view that only women were capable of – and deserved judicial punishment for – *maleficium* appears to have been specifically confined to the Great Sessions where the indictments against men were far more likely to be either thrown out or altered than indictments against women.⁷⁸ The jurors who made the judgements about whether a bill was true or not, and whether to return a partial verdict of non-felonious witchcraft were all Welsh. This suggests that when they made their decisions about who to convict and what to convict them for, their decisions were subject to greater influence from the legal system they were working within, rather than any specific social or cultural belief about the gender of witches.

This different treatment of men and women in the Great Sessions could indicate that Welsh women were seriously disadvantaged compared to men. However, even though women were less likely than men to have their indictments found *ignoramus* and thrown out, this still happened in over a quarter of cases (28.5%). While witch-felony indictments passed through the Grand Jury stage and similar indictments against men did not – this did not automatically mean that the accused witch had been assumed to be guilty. Indeed, 70% of these cases resulted in the acquittal of the accused and the outcome is not known in a further 10% of cases. The inclusion of witch-slander in gender-focused studies of Welsh witchcraft has also created a picture of Welsh witchcraft that was overwhelmingly female. If we consider the specific legal requirements of this offence and the fact that it was only the female-gendered word *wits* that were actionable in the Great Sessions the fact that there were no men who claimed to have been the victims of witch-slanders can be described as the result of linguistic concerns, rather than a cultural belief that men were not capable of *maleficium*.

4.4.2: Harm to neighbours and livestock

Parkin observed that ‘Welsh malefice cases did not generally deal with bewitchment and the generation of illness, lost crops, milk and butter churnings: women were before the courts charged with *malefic* witchcraft because a person had died’.⁷⁹ Indeed, I have found no evidence of dairy-related offences in Welsh cases. Parkin’s

⁷⁸ As table 4.6 shows – 58% of men had their indictments found *ignoramus* or altered whereas the same is true for only 38% of indictments against women.

⁷⁹ Parkin, ‘Witchcraft, Women’s Honour and Customary Law’, p. 298.

statement that Welsh malefice cases did not generally deal with lost crops, spoiled milk, and disrupted butter churnings is thus supported by the evidence. I have, however, found her assertion that Welsh witchcraft cases did not feature the generation of illness or bewitchment does not hold true. Elements of this type of offence are found in the felony cases and reading them alongside witch-slanders confirms that a belief in the witch's ability to harm livestock and her neighbours was a fairly consistent element of Welsh accusations of witchcraft. By focusing on the criminal aspects contained within the witch-slanders, rather than just on the financial elements of slander prosecution, the specific harm that witches were thought to cause is clearer.

The presence of a belief that people and livestock could be made ill as the result of witchcraft in Wales is not surprising. One of the most common aspects of witchcraft trials across Europe is the witch's ability and willingness to harm the livestock or family members of those she felt had wronged her.⁸⁰ These abilities were not always harmful; a distinctly Manx witchcraft belief was that witches had the ability to take away or increase the *tarra* – the luck, good substance, or essence of an animal or crop. Jane Caesar, who was accused of witchcraft on the Isle of Man, was accused of various charming incidents relating to livestock.⁸¹ As with Manx witchcraft, Welsh people who were thought to have the ability to harm livestock could also be called upon to cure sick beasts, another common witchcraft belief. Gwen ferch Ellis, sentenced to hang for witchcraft in Denbighshire in 1594, appears to have been regularly consulted for assistance with ailing animals. Margaret ferch Morris said that people went to Gwen for help, with both man and beasts... but whether she did harm or good [she] knows not'.⁸² Thus, this Welsh witchcraft belief fits within a broader European context.

⁸⁰ *Early Modern European Witchcraft: Centres and Peripheries*, ed. by Bengt Ankarloo and Gustav Henningsen (Oxford: Clarendon Press, 1990); *Witchcraft in Early Modern Europe: Studies in Culture and Belief*, ed. by Jonathan Barry, Marianne Hester, and Gareth Roberts, Past and Present Publications (Cambridge; New York: Cambridge University Press, 1996); Wolfgang Behringer, *Witches and Witch-Hunts* (Cambridge: Polity, 2004); Julian Goodare, *The European Witch-Hunt* (London; New York: Routledge, 2016); Alan Macfarlane, *Witchcraft in Tudor and Stuart England: A Regional and Comparative Study*, 2nd Edition (London: Routledge, 1999).

⁸¹ J. A. Sharpe, 'Witchcraft in the Early Modern Isle of Man', *Cultural and Social History*, 4.1 (2007), 11–28.

⁸² NLW GS 4/9/4/13-15 Examination of Margaret ferch Morris (1594). Gwen also had the additional talent of being able to locate missing livestock.

An accusation that a suspected witch was able to harm livestock nearly always appears in combination with other witchcraft offences. The main accusation against Agnes Griffith, indicted for a felony in Pembrokeshire 1618, was that after a falling out with Harry James, she had bewitched some of his cows.⁸³ While the falling out had occurred some twelve months before the alleged crime, the nature of the cow's deaths, the strange condition of the corpses, and the other allegations against Agnes appears to have indicated, to her accusers, a connexion between the year-old argument and the death of the livestock.⁸⁴ According to Harry James the cows, 'all died suddenly and would be well overnight and dead in the morning'. The dead cows were flayed, revealing flesh that was said to be 'like jelly'.⁸⁵ Agnes was told of Harry's misfortune by Elizabeth Morris and she replied 'that his cattle but did begin to die as yet, and that she had a trick for them that would contradict or law with her, and that whosoever should do anything against her should not prosper long'.⁸⁶ She was accused by various other people of being 'a common night-walker' and was alleged to have caused 'great outcries and hoobehoobes'.⁸⁷ These allegations, combined with a particularly strange incident where Agnes was seen at her window with her hair about her ears, with five wax candles burning at the ends of her fingers as she stuck a pin into an unidentified object which she held in her hand, created a detailed and complex picture of the witchcraft acts Agnes was alleged to have committed.⁸⁸ Her *maleficium* evidently took many forms and the alleged harm she did to livestock was a distinct part of her repertoire of offences.

Similarly, Olly Powell, who had been accused of bewitching a man called Henry Phelps and his son was also accused of bewitching some ducklings so that they 'came out of the water and would not stand but turn[ed] on their backs and so died'.⁸⁹ Other examples of witches harming livestock come from the slanders allegedly made against Catherine, the wife of Morris Pryce; Maud ferch Hugh ap Hugh; and in the felony indictment against Katherine ferch Lewis.⁹⁰ Evidence from

⁸³ NLW GS 4/781/1/37 Examination of Harry James (1618).

⁸⁴ NLW GS 4/781/1/37 Examination of Harry James (1618).

⁸⁵ NLW GS 4/781/1/37 Examination of Harry James (1618).

⁸⁶ NLW GS 4/781/1/37 Examination of Elizabeth Morris (1618).

⁸⁷ NLW GS 4/781/1/37 Examination of Eynon Philips (1618).

⁸⁸ NLW GS 4/781/1/37 Examination of Harry James (1618).

⁸⁹ NLW GS 4/800/2/9 Examination of Henry Phelps (1693). Letter from John Edwards to Alexander Forde, 2nd March 1693/4, MS Ashmole 1815, fol. 1.

⁹⁰ NLW GS 24/164/m. 36 Plea Roll (1635); NLW GS 16/5/m.8 (1652); NLW GS 4/778/3/65 Indictment (1607). Richard Prees of Penmynydd proclaimed 'here is the witch that bewitched my

both witch-slanders and felony cases, therefore, indicates that harm to livestock was a fairly common theme in Welsh witchcraft cases. The type of livestock harmed (whether cows, pigs, or ducks) varied, as did the description of their bewitchment, demonstrating that this was a diverse belief. While historians of the Gaelic and Celtic regions have generally downplayed the types of harm that witches were thought to be able to cause to livestock – choosing instead to focus on beliefs in fairies and the evil eye – this evidence indicates that the Welsh had their own beliefs in this type of *maleficium* which have not yet been subject to serious historical scrutiny.

In the witch-slander cases, witches were sometimes accused of using magic to harm livestock *and* to steal goods. When Elizabeth Skarisbrig was slandered as a witch by William Moores he claimed that she had bewitched both his goods and his cattle.⁹¹ Though no details about the nature of this bewitchment survive, it is possible that he was accusing Elizabeth of stealing these goods through magic. David Jones claimed that he had been bewitched of twenty pounds of goods by Elizabeth, the wife of William Powell though again the nature of the ‘bewitchment’ is unclear.⁹² In other cases, the allegation is more specific. Margaret, the wife of William Garons said that she would prove that Margaret the wife of Rice Mortimer was a witch and that she had stolen her gold.⁹³ The implication here is that Margaret had used some means of witchcraft to steal the gold in question, though it is also possible in this case that the offences of theft and witchcraft were not connected.

The bewitching of neighbours, causing them illness or injury, is also a key feature that appears in both the witch-slanders and the felony cases of Wales. This feature of the witch-slander cases has not yet been fully explored; while Parkin acknowledged that the slander records were detailed, her arguments centred on the fact that they were not investigated as criminal cases, rather than on the allegations of criminal wrongdoing that are contained within this source. Six women were apparently accused in witch-slanders of bewitching their victims, although details of these bewitchments are largely missing from the record. Agnes ferch Madcok and Ursula Parry were both accused of causing illness, with Ursula Parry’s accuser, Magdalene, even stating that she had bewitched both her and her child of their legs,

cows and calves these two years passing by’. Katherine ferch Lewis was accused of bewitching two cows.

⁹¹ NLW GS 13/45/1 Prothonotary Papers (1653).

⁹² NLW GS 13/16/1 Prothonotary Papers (1651).

⁹³ NLW GS 13/29/2 Prothonotary Papers (1638)

suggesting that she had caused them some form of lameness.⁹⁴ Similar allegations are found in the witch-felony cases; Margaret David (alias Maggi Hir) was accused in 1656 of accidentally causing the lameness of Gwenllian Owen.⁹⁵ Gwenllian Owen was not the intended target, in this case, rather Margaret had given her some charmed seed to spread at a crossroad in the hope that Gwen's husband (who had beaten her) would step on it and be harmed. Gwenllian Owen – realising that she needed her husband to support their family – changed her mind, but in the process accidentally trod on the seed herself 'whereupon a great pain took her at the very instant in her toe and foot'.⁹⁶ The evidence that was given by Gwenllian, and those who made allegations of *maleficium* in witch-slander cases, hereby demonstrates complex ideas about the ways in which people could heal or harm through witchcraft. This indicates that unlike Parkin's assertion that Welsh witches were only accused of murder-through-witchcraft rather than other forms of *maleficium*, Welsh women were accused of a wide variety of *maleficium* offences.

This belief in the ability of witches to harm people and their livestock was also consistent over the time, as both the first woman accused of felony witchcraft in the Great Sessions, Gwen ferch Ellis and the last, Dorcas Heddin, allegedly caused illness in their victims. Gwen ferch Ellis was accused of causing the madness of Lewis ap John and the sickness of David ap Hugh.⁹⁷ Dorcas Heddin accused herself of causing the illness of two sailors who had been unkind to her.⁹⁸ In other cases, Margaret ferch David Wynn was accused of using an enchanted apple to cause Katherine ferch David to become unwell and 'distracted' so that a co-conspirator might abduct and marry her. Margaret's symptoms were particularly unpleasant; as soon as she ate the apple she 'began to feel an ache and giddiness in her head and also did feel a stitch rise in her right side and her teeth on the same side did begin to ache'.⁹⁹ The witch-slanders and felony cases thus expose a wide range of illness and ailments that witches were thought to be capable of causing.

We can, therefore, see that Parkin's argument that Welsh witchcraft cases do not deal with the generation of illness fails to consider evidence to the contrary which

⁹⁴ NLW GS 13/6/unnumbered Prothonotary Papers (1604); NLW GS P324 (1660).

⁹⁵ NLW GS 4/719/2 Examination of Gwenllian Owen (1656).

⁹⁶ NLW GS 4/719/2 Examination of Gwenllian Owen (1656).

⁹⁷ NLW GS 4/9/4/54-56 Indictments (1594).

⁹⁸ NLW GS 4/802/1/66 Indictment (1699).

⁹⁹ NLW GS 4/129/4/ 16-17 Examination of Margaret ferch David Lloyd (1579).

can be found in both witch-felony and witch-slander cases. The range of types of harm found in both of these types of case also suggests that this was a wide-ranging belief. It is clear that suspected witches in Wales were not only accused of homicide but of a variety of *maleficium* offences. This is significant when we consider the fact that the witchcraft act of 1604, under which most of these trials were prosecuted, mandated the death penalty for causing the death of a person through magic and for summoning or invoking evil-spirits.¹⁰⁰ Harming livestock, however, was not a capital offence at this time. This then also goes part-way to explaining why there were so few executions for witchcraft in Wales; even when people were indicted for a felony the accusations against suspected witches were not capital offences.

The characterisation of Welsh witchcraft beliefs as being the result of imported beliefs from England thus fails to address several key elements. Central and uniquely English features of belief – the witches’ marks and imps – do not appear in Wales, and the Welsh beliefs in *maleficium* were more diverse than the types of harm that were counted as felonies in the Witchcraft Act, suggesting that these beliefs were not purely imported from the English legal system. Further, the workings of the English legal system – specifically the role of the grand jury in deciding if there was a case to answer or not – decreased the number of witch-felony cases in Wales by discharging a significant proportion of accused persons. The evidence above indicates that this was a gendered process, with male accused witches more likely to benefit from having their indictments thrown out or altered, suggesting that men were treated with greater leniency by the grand jury. In some respects, this is the reverse of the claim that female thieves were treated with leniency by the courts addressed the theft chapter of this thesis. In this case, the different treatment of men and women appears to be the result of legal and cultural ideas about what type of criminal and *malefic* harm could be committed by what type of person.

4.4.3: *Space, place, and location*

The previous chapters of this thesis have argued that the space, place and location in which a crime took place was a vital component for determining what type of crime had occurred and how it should be prosecuted. Examining witchcraft through the theme of space, place and location, is a fairly novel approach to the subject; there are

¹⁰⁰ 1 Ja. I c. 12

only a handful of articles that address this theme with specific reference to witchcraft and none address the same location or time-period as this thesis.¹⁰¹ De Blécourt's article on this theme focused on twentieth-century Flemish witchcraft discourse, but although the setting of his study is very different to the one under consideration in this thesis his two main spatial issues provide useful points from which to discuss the relationship of space, place, and location to early modern Welsh witch belief. These two categories have, however, been slightly altered in order to better reflect the Welsh material. While De Blécourt discussed the alleged locations of the witches' meetings and the spatial settings of stories about repelling witches, this chapter divides the spatial themes into demonism and *maleficium*.

This novel approach to witchcraft reveals detailed beliefs about where the witch could perform acts of *maleficium*. As we have seen in the previous chapters of this thesis, the space, place, and location in which a crime happened were important pieces of evidence used by witnesses and victims to explain what type of offence had occurred and how severe the offence was. In witchcraft cases, the witchcraft's severity seems to have been connected to the boundaries that the witch crossed in order to perform their magic, and the means they used to breach those boundaries.

4.4.3.1: Space, place, and location: demonism

The first of the spatial issues highlighted by De Blécourt, that of the witches' travel to meetings with the Devil and each other, does not appear to be particularly relevant to Welsh witchcraft beliefs. While Maus de Rolley also argued that travel appeared as a central theme in De Lancre's work, through his descriptions of Sabbath meetings, frenzied dances, and airborne abductions, there are no such themes appearing either in the criminal records of Wales or in demonologies produced in or about the country. Indeed, there appears to be little evidence that Welsh witches were thought to meet in groups at all, let alone travel to exotic or far-flung locations

¹⁰¹ De Blécourt's article focused on space in twentieth-century Flemish witchcraft discourse while Rolley's article discussed Pierre de Lancre's neo-Stoic critique of travel in his *Tableau de l'inconstance des mauvais anges et demons*. Willem De Blécourt, "Keep That Woman Out!" Notions of Space in Twentieth-Century Flemish Witchcraft Discourse', *History and Theory*, 52.3 (2013), 361–79; Thibaut Maus de Rolley, 'Of Oysters, Witches, Birds, and Anchors: Conceptions of Space and Travel in Pierre de Lancre', *Renaissance Studies*, 32.4 (2018), 530–46.

as in the Basque or Swedish witch traditions.¹⁰² Welsh witchcraft was thus more localised than in other European traditions.

One of the possible reasons why Welsh witches were not perceived to travel was because they were not believed to be collaborating with each other, and thus had no need to meet in gatherings either in their communities or in locations further afield. This is different from what previous studies of Welsh witchcraft have argued. Suggett recently argued that the use of phrases like ‘chief witch’ in slander cases implied that the accuser thought that the slandered witch was the leader of a group of witches.¹⁰³ On the other hand, the slander against Agnes ferch Madcok – that she was ‘the chieftess witch that ever did tread the ground’ – could instead suggest that ‘chief’ and ‘chieftess’ were instead used as superlatives to describe the infamy of the accused, rather than any perceived status among witches.¹⁰⁴ Further, there are very few accusations featuring multiple people in both slander and maleficium trials. In a witch-slander from Cardigan 1694, Erasmus Thomas alleged that his neighbour Catherine Rees and two other unnamed women had ‘struggled with him all the night, carrying him from place to place, until day breaking next morning’ and that they ‘very much bruised him’.¹⁰⁵ A felony case that featured multiple witches occurred in Caernarvonshire 1622. Rhydderch ap Evan, Lowri ferch Evan and Agnes ferch Evan were all accused of causing the death of Margaret Hughes through witchcraft.¹⁰⁶ Gwenllian and Margaret David were likely sisters though their relationship to each other is not explicitly mentioned in the trial documents. In the range of offences they were alleged to have committed, they were most often accused of acting individually. In all of these examples, there is no mention of any hierarchy or meeting between the accused witches. Indeed, the three accused were almost certainly siblings and thus may have been accused as a group simply because they were often seen together, rather than due to any belief that they were members of a group of witches. This lack of supporting evidence from both witch-slanders and felony cases suggests that De Blécourt’s first spatial theme of the location of the

¹⁰² See for example, Gustav Henningsen, *The Witches’ Advocate: Basque Witchcraft and the Spanish Inquisition, 1609-1614*, The Basque Series (Reno: University of Nevada Press, 1980).

¹⁰³ Suggett, *Welsh Witches*, p. 22.

¹⁰⁴ For example, as in W. Dampier’s description of the Chinese as ‘the chiefest Merchants’; William Dampier, *A new voyage round the world*, (1st edition, 1697) p. 387.

¹⁰⁵ NLW GS 4/886/8/15 Examination of Erasmus Thomas (1694).

¹⁰⁶ Another woman called Mary Hughes was also allegedly bewitched so that she lost the use of her left arm, feet, tongue, and voice. NLW GS 4/270/1iii-iv/504-505 Indictments (1622).

witches' meetings and gatherings is, therefore, not applicable to Wales as Welsh witches do not appear to have gathered in groups at all.

4.4.3.2: Space, place, and location: maleficium

While De Blécourt's second category was based specifically on spaces in which the witch could be repelled it is also possible to consider the spaces in which the witch was thought to be capable of committing acts of maleficium. De Blécourt pointed out that in personal accounts of witchcraft events the witch was most often found in a place where she should not have been.¹⁰⁷ In some respects, this draws on the MacFarlane-Thomas 'charity refused' model.¹⁰⁸ A woman begging was free to move from house to house in order to beg for sustenance and thus could easily transgress the domestic spatial boundary – after all, to refuse entry was to refuse charity. To some extent, this might then explain the anxieties of people who gave the witch insufficient charity in a hurry to get rid of her.

Descriptions of the movements of begging women can be found in the Welsh material as in the case of Katherine Lewis who was accused of witchcraft after she had begged Elizabeth Bowning for some milk. Elizabeth had not given Katherine very much, claiming that the pot Katherine begged with was 'near full' and that, as a result of this, she could not give Katherine the amount she had originally intended to give her.¹⁰⁹ Elizabeth later attributed the subsequent illness of her sows and the loss of their piglets to Katherine, stating that she had only given her charity in the first place because 'she feared that the said Katherine would do her some hurt if she should deny her for that she was a woman suspected of witchcraft'.¹¹⁰ The connexion between Katherine's witchcraft and the pig's illness was not just due to Katherine's physical proximity to the house, but also her temporal proximity; the pigs became ill 'before she was gone a flight shot from the house' indicating that Katherine had only been gone from the house for a short amount of time. In this case, the suspected witch was able to enter the home of another woman (despite being under suspicion

¹⁰⁷ De Blécourt, "Keep that Woman Out!", p. 368.

¹⁰⁸ MacFarlane, *Witchcraft in Tudor and Stuart England*. This model has remained popular throughout the historiography though, as Sneddon points out, historians now generally acknowledge that this is only aspect of early modern witch accusations and there are many other possible models that can apply to certain areas and time periods: Andrew Sneddon, 'Witchcraft Belief and Trials in Early Modern Ireland', *Irish Economic and Social History*, 39.1 (2012), 1–25 (p. 3).

¹⁰⁹ NLW GS 33/6/6 Examination of Elizabeth Browning (1607).

¹¹⁰ NLW GS 33/6/6 Examination of Elizabeth Browning (1607).

of witchcraft), beg for charity there, and then leave as the effects of her witchcraft were felt.

Other more complex examples of witches transgressing boundaries appear in the witch slanders. In a particularly unusual case, Joan Mirris allegedly said to Jane Meredith that ‘I saw thou coming through a hole in the lock three or four times’ and accused her of bewitching her uncle.¹¹¹ Olly Powell from the parish Loveston was said to be able to transform herself into a hare and there was a further allegation that Olly, like Jane Meredith, could travel through closed doors.¹¹² An unnamed woman accused Olly of appearing by her bed at night despite the fact that she had bolted the door ‘in the inner side’.¹¹³ Welsh witches, thus, could easily traverse the boundaries of domestic space either by squeezing through small spaces, or simply suddenly appearing inside, crossing boundaries that should have been impenetrable – both in the sense that the locked door should have prevented entry, and because the home was meant to protect people from those who wished them ill.

The openings and entry points of households appear to have been seen as particularly vulnerable to witches, in both Wales and in other European locations. In the Flemish cases examined by De Blécourt there are accounts of people placing medallions given to them by the monks of Bornen in places where the house ‘opened’ to the outside.¹¹⁴ Further Flemish examples show how lay and clergy “unwitchers” ‘paid special attention to transitions and openings’.¹¹⁵ Indeed, places in which the house opened to the outside world appear to have been vulnerable points in other aspects of Welsh witchcraft belief. When Margaret Roger found a suspicious fungus growing on the door of her husband’s house, she told her neighbours. One of them, David John Rudderich, identified it as “witches’ butter”.¹¹⁶ He took out his knife, heated it on the fire until it was ‘red hot’, and then thrust it into the fungus, leaving his knife there for a fortnight. Meanwhile, Gwennllian David became sick, lying in bed and crying out ‘to take the knife out of her back’. When the knife was

¹¹¹ NLW GS 13/16/1 Prothonotary Papers (1651).

¹¹² ‘This deponent bid one of his fellow workmen go to the top of the bank near the pit and he would see the said Olivia run like a hare’. NLW GS 4/800/2/9 Examination of Henry Phelps (1693).

¹¹³ Letter from John Edwards to Alexander Forde, 2nd March 1693/4, MS Ashmole 1815, fol. 1. This letter details a number of statements from deponents in this case that have otherwise been lost.

¹¹⁴ De Blécourt, “Keep That Woman Out!”, p. 367.

¹¹⁵ De Blécourt, “Keep That Woman Out!”, p. 374.

¹¹⁶ It is likely that this refers to *Exidia Glandulosa*. This fungus is black and has a wart-like appearance.

removed from the doorpost of the house, Gwenllian began to recover.¹¹⁷ This incident thus describes a belief in ‘sympathetic’ magic, where harming something that represented the witch caused her to be harmed. The fact that this sign of the witch’s presence, that was clearly connected to her body, was found on a doorway suggests an element of threat or warning. These examples thus illustrate that there may have been certain anxieties in Wales about boundaries between the witch and her victims, with points of entry seen as particularly vulnerable areas.

While the household space appears to have been a location to which anxieties about the witch’s maleficium were attached, the Welsh materials also reveal that there were other locations in which the witch could do harm. In one of the slanders made against Agnes ferch Madock in Denbighshire 1604, the alleged victim was not harmed on her own property but rather in the accused witch’s home. As Margaret, the wife of Randal ap Robert of Wrexham alleged; ‘I never looked well since I have been in the house of Agnes ferch Madock for she hath bewitched me’.¹¹⁸ It is possible that Margaret and Agnes had an argument in Agnes’s house and a subsequent illness cause Margaret to believe she had been bewitched.¹¹⁹ Though the specific circumstances of this alleged bewitching are absent from the record, it is clear that the location of this incident is different from the others featured in the Welsh materials. In this case, it is the transgressing of the witch’s domestic space that caused the bewitchment, not the other way around. One case does not demonstrate that this was a widely held belief, this example still forms part of a wider pattern associating witchcraft belief with the transgressing of domestic boundaries.

In both cases, whether the witch transgressed the domestic space, or was the person who had her space invaded it can be argued that, as De Blécourt observed, ‘a bewitchment was understood as an invasion of either personal body space or household space’.¹²⁰ A further category of spaces in which a witch could be encountered in Wales were outside and public spaces. In these examples the witch was encountered in the dark, emphasising the vulnerability of those who encountered her. In Flintshire 1656 the sailor William Griffith was wondering near the harbour

¹¹⁷ NLW GS 4/719/2/48-49 Examination of Margaret Roger (1656).

¹¹⁸ NLW GS 13/6/unnumbered Prothonotary Papers (1604).

¹¹⁹ Due to the fact that this is a witch-slander case the exact details about what was alleged to have happened between these two women is missing.

¹²⁰ De Blécourt, ““Keep That Woman Out!””, p. 365.

where his ship was docked when he saw Dorothy Griffith surrounded by ‘lanterns’ of ‘fire and light’.¹²¹ Frightened, William believed himself to have been bewitched and fell into a swoon. Bearing in mind De Lancre’s views of sailors and the apparent connexion between a sea-faring life and a susceptibility to bewitchment it is notable that William’s bewitchment occurred in this place. Other similar cases include a case from Carmarthenshire when John Thomas 1654 became frightened after seeing ‘black things’ as he walked with his cousin after dark.¹²² In Cardiganshire 1694, Erasmus Thomas alleged that he had been abducted by three witches as he walked home at dusk.¹²³ A common theme across these three examples is that these incidents happened to men, in dusk or darkness, in places where they were travelling towards a well-known location and were in a place that was in-between points of safety and security, making the victims vulnerable to attack. The witch could, therefore, move across boundaries – she could enter the homes of other people, whether they let her in or locked her out, she could harm people that entered her own space, and she could bewitch people as they travelled.

Bewitchment can thus be seen as the transgressing of a boundary, and methods used to end a bewitchment can also be perceived in the same way. As De Blécourt argued, in order to end a bewitchment, the boundary between the bewitched person and the outside space in which witches could attack them must be rearticulated.¹²⁴ While in the twentieth-century Flemish examples this often meant that the afflicted person had to take a journey, usually to a monastery or some other form or religious house, in Wales the rearticulating of boundaries appears to have been more confrontational.¹²⁵ Instead of putting space between the witch and her victim, early modern Welsh beliefs dictated that the witch must be brought to the person she had harmed and she should bless them in order to make them well again. When the sailor William Griffith ‘fell into a swoon’ Dorothy was called for to make William well again.¹²⁶ She arrived at the inn where William had been taken ill and ‘offered good words’ to him, prayed with him, and told him that ‘she had done him no harm’.¹²⁷

¹²¹ NLW GS 4/985/2/18 Examination of William Griffith (1656).

¹²² NLW GS 4/719/2/48-9 Examination of John Thomas (1654).

¹²³ NLW GS 4/886/8/15 Examination of Erasmus Thomas (1694).

¹²⁴ De Blécourt, “Keep That Woman Out!”, p. 365.

¹²⁵ De Blécourt, “Keep That Woman Out!”, pp. 373-374.

¹²⁶ NLW GS 4/985/2/18 Examination of Edward Griffith (1656).

¹²⁷ NLW GS 4/985/2/1-2 Examination of Thomas Rogers (1656).

The prayers and reassurances from Dorothy were enough to make William recover himself and he became well again.

The ritual of asking for the witch's blessing could also go very wrong. When Elizabeth Browning called Katherine Lewis back to her house to ask her to lift the bewitchment she had placed on the Browning's sows, Katherine returned prepared to resist. Indeed, her husband accompanied her to the Browning's with his 'hay pick'. When Elizabeth asked for her blessing 'the said Katherine fell upon her knees, cursing and railing' and when Elizabeth threatened to draw some of her blood Katherine's husband stepped in to defend her.¹²⁸ Henry Phelps made Olly Powell lift the bewitchment she had placed on his body by forcing her onto her knees and making her bless him. This made Henry feel better, but when he returned home, he found that his child had been bewitched in his stead.¹²⁹

In other examples, the destruction of something belonging to the witch was thought to lift the witch's enchantments. When Anne Ellis refused to bless John Birch after she had allegedly bewitched him his family were advised to steal some thatch from her roof and burn it under his nose.¹³⁰ J. Gwynn Williams found that the burning of thatch was also practised in England and cited the example of Arthur Robinson, JP who aimed to discover if Elizabeth Sawyer of Edmonton in Middlesex was a witch by burning some of the thatch from Elizabeth's roof.¹³¹ In these incidents the burning of thatch was meant to achieve was different on each side of the border. In England, the burning of thatch was to confirm the witch's identity and guilt, proved by the suspected party appearing as her property was damaged. In Anne's case, however, the thatch was burned as a type of cure when the originally hoped for one, the blessing, was unavailable. In some respects, as with the Agnes ferch Madock slander where bewitchment occurred in the witch's house not the house of her victim, this flips the narrative of the invasion of domestic spaces and instead makes the suspected witch the persons whose spatial boundaries had been assaulted.

¹²⁸ NLW GS 33/6/6 Examination of Elizabeth Browning (1607).

¹²⁹ NLW GS 4/800/2/8 Examination of Henry Phelps (1693).

¹³⁰ The deposition refers to those who gave this advice only as 'some persons'. It is therefore difficult to know whether Birch's family sought the help of a cunning person or whether this was a suspicion held by members of their community.

¹³¹ J. Gwynn Williams, 'Witchcraft in Seventeenth-Century Flintshire: Part Two'. Williams claimed that this practice was 'widespread', but this is the only example that he cites.

Reading the witch-slanders and felony cases together thus reveals a range of different spatial relationships related to witchcraft and *maleficium*. The witch who moved from house to house begging is a figure that has been identified many times before, but while previous work on this subject has focused on the transgressing of particularly domestic spaces the picture that appears in Wales is much more complex. The witch in Wales could bewitch the persons who were in *her* home. Or she could bewitch them as they travelled. The witch left threatening signs in doorways but could also travel through locked doors and keyholes. In order to counteract witchcraft, the witch had to be brought into proximity with her victim, often meaning she had to be taken back inside the afflicted household. In some cases, the boundaries of the witch's space were violated by persons seeking to remedy their illness by staling something from her house. In theft and homicide cases, space has emerged as an important category through which witnesses and prosecutors decided what type of crime had occurred the relationship between witchcraft and space is more complex. In these examples, spatial transgression is both the means through which the bewitched victim is harmed and by which they are cured – willingly or otherwise.

4.5: Conclusion

This chapter has demonstrated that slander cases, though short, can still contain important information about serious allegations of criminal wrongdoing that were never prosecuted at court. Slander cases are thus rarely only synonymous with insult – instead, they were specific allegations that contained information about indictable offences. In the witchcraft examples, this evidence can be used to further explore a variety of themes and expose new ones for academic study.

By looking beyond the insulting words and focusing on the type of witchcraft offence the slanderer alleged, clearer pictures of the varieties of criminal witchcraft offences in Wales appears. Welsh witchcraft has always been characterised as largely female by historians and a closer examination of witch-slanders and felony cases reveals that men were brought to the Great Sessions for a felony but were more likely to have these felony-indictments rewritten as misdemeanours. As has also been argued in chapter two of this thesis, the differences between indictments as they were originally written and the alterations made by the grand jury demonstrate conflicts and contrasts between beliefs in the population about what types of crime

were committed by what types of person. In the case of witchcraft-felonies, the gendering of *maleficium* as a nearly exclusively female offence happened in the courts rather than in the wider Welsh population.

Additionally, while only women brought actions for witch-slanders this may be due to the fact that it was only the female-gendered words *wits* or witch which were actionable in the Great Sessions. If men were slandered for magic offences, their records would not appear here as the words associated with male forms of witchcraft did not imply a felony had been committed and, therefore, could not be prosecuted in the Great Sessions. This chapter has accordingly shown that instead of treating Welsh male witches as anomalies, their cases can instead be used to concretely argue that *maleficium* in Wales was an exclusively female crime by the grand jury, but not by the Welsh population who instigated witchcraft investigations.

This chapter has also argued that the belief in a witch's ability to cause physical harm to both humans and livestock was more prominent and varied than both Parkin and Hutton accounted for. The prevalence of livestock harm in both witch-slanders and felony cases demonstrates that this was a motif that appeared frequently in Welsh witch belief. This further demonstrates that slander cases can indeed be viewed as evidence of serious allegations of criminal wrongdoing, due to the fact that the information contained within these cases aligns so closely with the felony examples. Indeed, the major difference in these cases is the number of people involved, with felony cases usually producing many witnesses. It is for this reason that witch-slander cases could present examples of well-intended allegations of criminal wrongdoing that failed to lead to a prosecution for felony due to the lack of necessary community support from other witnesses. Reading the witch-slanders as evidence of *maleficium* also suggests that belief in *maleficium* was more prominent than previous historians have accounted for. On the other hand, even doubling the number of cases in Wales still doesn't alter the fact that Wales had a fairly low incidence of *maleficium* cases. Still, I would argue that this is true for England too, and Hutton's arguments that there was a vastly different witchcraft culture between English and Welsh (Celtic) beliefs cannot be sustained.

Space, place, and location remains a key theme within this investigation of women and crime in Wales and highlights a number of ways in which witchcraft beliefs reflected anxieties over spaces and boundaries. In Wales, there was little belief in the travelling witch who journeyed to attend Sabbaths with her fellows, but

there were specific beliefs about the space in which *maleficium* could both occur and be countered. While the witch's gender and the harm they could cause are both areas that have received extensive attention from historians, this thematic area of space and witchcraft is one that has the potential for further new explorations.

5: Conclusion

The main purpose of this thesis has been to investigate the crimes that Welsh women were prosecuted for in the Welsh Great Sessions. This thesis is the first full-length study of criminality in the period immediately following the Acts of Union in Wales and therefore has explored important issues centred on the functioning of the Great Sessions after this dramatic legislative change. This thesis has focused on the three main categories of offence that Welsh women were accused of committing in sixteenth-century Wales: theft, homicide, and witchcraft. While the majority of offences allegedly committed by women in sixteenth-century Wales fit within these broad categories, I have shown that these offences involve a diverse range of criminal activity of varying social and legal severity. For example, the thefts committed by women ranged from petty thefts of only a handful of pence, such as the 4d. worth of cheese allegedly stolen by Katherine ferch John in 1563, to the £1 10s. 8d. worth of goods allegedly burgled at midnight by Katherine ferch David ap Ieuan in 1551.¹ Indeed, throughout this thesis, I have contributed to the historiography of gender and crime that has challenged the characterisations of female crime as petty and less-serious than the offences committed by men.²

Additionally, this thesis has produced new challenges that deepen our understanding of the diverse ways in which women encountered crime as both perpetrators and victims in early modern Wales. I have shown that women's experiences of violence extended beyond the boundaries of the home and was often motivated by perceptions of, and challenges to, women's honour. My examination of Welsh slander and witchcraft also challenged previous historians' descriptions of Welsh beliefs in *maleficium* by demonstrating that they were not as strictly gendered as has previously been argued. I have also demonstrated that Welsh perceptions involved a far greater range of *maleficium* activities than previous historians have considered. These new perspectives on the crimes of theft, homicide, and witchcraft

¹ NLW GS 4/125/1/6 Indictment (1563); NLW GS 13/9/1/ Prothonotary Papers (1551).

² I have built on the critiques made by authors such as Garthine Walker, 'The Strangeness of the Familiar: Witchcraft and the Law in Early Modern England', in *The Extraordinary and the Everyday in Early Modern England: Essays in Celebration of the Work of Bernard Capp*, ed. by Angela McShane and Garthine Walker (Basingstoke: Palgrave Macmillan, 2010), pp. 105–24.

have highlighted the diversity of women's experiences before the law, both in terms of the allegations that were made against them, and the ways in which those allegations were dealt with by the legal authorities.

While gender has provided the main theoretical framework of this thesis, I have also argued that the themes of space, place, and location can be productively used to examine early modern crime. The 'spatial turn' has influenced historians since the works of the new cultural geographers were published in the 1980s.³ But while this category of analysis has been used in innovative ways by historians of urban experience, architecture, and politics, there have been far fewer that have considered this as an avenue of investigation for the history of crime.⁴ Where this theme has previously appeared in works of crime history, it has most often been used to explain the opportunities certain groups of people had to commit certain offences.⁵ I have argued that space, place, and location can also be conceptualised as providing social and cultural motivations behind criminal incidents. This is true for both the parties that committed the offence, such as in the cases of women who were involved in lethal violence in contested spaces, and the witnesses and victims, who used ideas of space, place, and location to describe what type of criminal offence had occurred and to assign culpability. I have thus expanded the use of this theme beyond a model that explains opportunism to one that helps to expose contextual meanings (i.e. the specific category of crime that had occurred and the social and legal meanings attached to that offence) and motivations (i.e. why different people used different levels of violence).

Further contributions made by this study have been uncovered through the methodological approach to indictments used throughout this thesis. By carefully examining the differences between indictments as they were originally written, and the alterations made to those indictments before, during, and after the trial, I have exposed key differences between the accusations made by the Welsh population and

³ Will Coster and Andrew Spicer, *Sacred Space in Early Modern Europe* (Cambridge ; New York: Cambridge University Press, 2005); Alexandra Walsham, *The Reformation of the Landscape: Religion, Identity, and Memory in Early Modern Britain and Ireland* (Oxford: Oxford University Press, 2001); Amanda Flather, *Gender and Space in Early Modern England* (Woodbridge: Boydell Press, 2011).

⁴ Rachael Jones, *Crime, Courts and Community in Mid-Victorian Wales: Montgomeryshire, People and Places* (Cardiff: University of Wales Press, 2018) is one of the few current works that takes this approach.

⁵ J. M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford: Clarendon Press, 1986); Jones, *Crime, Courts and Community*.

the reaction to those allegations by those persons acting within the English legal system. The different priorities of these parties could be seen as an indication of considerable tension between the ruling English elite and the Welsh population. Rather than interpreting this as evidence that the law was a tool of the ruling English elite, the fact that the jurors were Welsh gentlemen who were subject to a lower property qualification than their English counterparts has supported arguments that the Welsh jury had considerable discretionary powers.⁶ While these discretionary powers have been commented on by previous historians, I have rejected arguments that explain their use in cases with female defendants as evidence of chivalrous or lenient attitudes towards early modern women. Instead, I have followed Garthine Walker's model in which these powers were employed as a legal strategy in female cases because women did not have the same access to benefit of clergy as their male counterparts in this time period.

5.1: Gender, crime, and the law

Throughout the thesis, I have challenged previous perceptions of gendered experiences of crime and the law in Wales. In Chapter Two, I showed that the differences between original and altered indictments substantially changes the proportion of alleged petty thefts committed by women from 14% of total female theft offences (in indictments as they were originally written) to 39% (after alterations and partial verdicts). This indicates that characterisations of female thefts as largely petty have failed to consider the fact that this appears to have been the result of interventions by the jury rather than a genuine reflection of the patterns of female offending. The views of ordinary people who experienced crime are of course difficult to access from the record, and this is especially true for historians working on sixteenth-century materials who have less access to printed ballads, pamphlets and prescriptive literature than those who work on later time periods.⁷ To this end, the original charge made by the victim can act as an important record of what their, the witnesses around them, and the JPs involved with the early stages of prosecution believed had (or was likely to have) happened. In the case of theft, the difference between these perceptions of thefts committed by women, and the partial verdicts

⁶ Sharon Howard, *Law and Disorder in Early Modern Wales: Crime and Authority in the Denbighshire Courts, c.1660-1730* (Cardiff: University of Wales Press, 2008), pp. 66-68.

⁷ These sources, of course, come with their own sets of methodological issues and problems.

reached by the juries indicates that there was no widespread perception of female thieves – or indeed, female criminals in general – as less dangerous than their male counterparts.

This difference between the public and legal perceptions is also evident in Chapter Four where I have argued for major revisions to previous historians' arguments about the gendered nature of Welsh witchcraft allegations.⁸ By examining the indictments of men accused of witchcraft offences in Wales, I have shown they were charged with *maleficium* acts by their accusers. Further, I challenged previous arguments that witch-slander cases provide evidence that maleficium was a specifically female-gendered offence in Wales by showing that only female-gendered words for *witch* were actionable in the Great Sessions. Therefore, the reason there are no male victims of witch-slander in the record is not due to public perceptions that only women were capable of maleficium, but rather were the result of specific legal processes that prevented men from logging this type of allegation. Thus, this perception that Welsh criminal witchcraft was entirely gendered female in the Welsh popular imagination cannot be fully supported with the evidence from unaltered indictments or slander records.

Instead, the gendered patterns of witchcraft that other historians have commented on appear to be the results of interventions from the grand and petty jurors, who found witch-felony indictments against men to be *ignoramus* or who crossed out specific felony charges on indictment, thus rendering the allegations against men to be misdemeanours, rather than felonies. The focus on male experience in this chapter has been necessary to explain why the previous gendering of this offence as female is insufficient and to demonstrate that the legal processes that women experienced with their own altered indictments and partial verdicts were not specifically gendered to women but were, in fact, available to men as well. This thus provides further support to the arguments that the partial verdicts women received were not evidence of lenient attitudes to women but were rather a more generalised legal process.

⁸ Richard Suggett, *A History of Magic and Witchcraft in Wales* (Stroud: History Press, 2008); Richard Suggett, *Welsh Witches: Narratives of Witchcraft and Magic from Sixteenth- and Seventeenth-Century Wales* (Atramentous Press, 2018); Richard Suggett, 'Witchcraft Dynamics in Early Modern Wales', in *Women and Gender in Early Modern Wales*, ed. by Michael Roberts and Simone Clarke (Cardiff: University of Wales Press, 2000), pp. 75–103; Sally Parkin, 'Witchcraft, Women's Honour and Customary Law in Early Modern Wales', *Social History*, 31.3 (2006), 295–318. See also, Ronald Hutton, *The Witch: A History of Fear, from Ancient Times to the Present* (New Haven: Yale University Press, 2017).

Welsh women do not appear to have received special treatment in the Great Sessions.

Gendered legal processes have also been an important factor when considering women's experiences of homicide in sixteenth-century Wales. While studies of later periods of criminal history have found that men sometimes had indictments for murder altered to the lesser charge of manslaughter, this does not appear to have been possible for sixteenth-century women in Wales.⁹ Rather than this being evidence of the gendered nature of manslaughter offences, I have instead interpreted this as evidence for Sharon Howard's claim that the charge of manslaughter was still emerging in sixteenth-century Wales. Further, I have argued that the material from the Great Sessions of Montgomeryshire and Flintshire can be viewed as evidence that manslaughter did not initially emerge as a masculine gendered offence, but rather that homicides involving women as both perpetrators and victims of lethal violence in sixteenth-century Wales demonstrate that these narratives applied to women.

I have not suggested that women used manslaughter narratives before the court to mitigate their offences and plead for a lower sentence. Indeed, such an argument is not possible from the Flintshire and Montgomeryshire material as only one woman was convicted for homicide in this time period.¹⁰ This thesis instead focused on the ways in which manslaughter narratives helped witnesses describe the types of violence they had witnessed. The arguments of previous historians who emphasised that female honour extended beyond a woman's sexual honour to also encompass her ability to manage and defend a household have been utilised in order to explore the way in which this type of female honour could be confronted and defended in contested domestic spaces have been combined with depositional evidence to argue that the defence of contested land could be interpreted as a matter of feminine honour. Such is the case of Matilda ferch Ieuan killed in a fight over contested land in 1553. She allegedly started the fight that led to her death in an attempt to remove two legitimate tenants from land that she may have mistakenly believed belong to

⁹ Walker, *Crime, Gender and Social Order*, pp. 114-116; Bernard Brown, 'The Demise of Chance Medley', pp. 311-313. See also, K. J. Kesselring, 'No Greater Provocation? Adultery and the Mitigation of Murder in English Law', *Law and History Review*, 34.1 (2016), 199-225.

¹⁰ NLW GS 4/131/4/90 Inquest (1584). It is possible that Gwen did attempt to describe her killing of John ap Ieuan as manslaughter or self-defence, but there is no surviving examination from her in this case. If she did use a strategy to claim that she acted within acceptable reason, it was clearly successful as she later received a general pardon.

her and her husband.¹¹ The fight between Marsely ferch John Thomas and William Lewis was motivated by a long-standing dispute between the two of them over his improper use of her husband's lands.¹² Those who were on Marsely's side claimed that William had insulted her before causing her fatal wounds – further emphasising the fact that Marsely's honour had been challenged.¹³ This case also presents additional manslaughter narratives; on the other side of the narrative, William Lewis's friends claimed that Marsely had started the fatal fight and that she had confronted him, with his actions then framed as an understandable reaction to her behaviour.¹⁴ Accounts of the violence that women either experienced in these places or which were motivated by disputes over them thus have striking similarities to later materials associated with manslaughters involving men.¹⁵ Welsh women were evidently involved in unplanned and sudden altercations, they acted with considerable force, and used the weapons they had to hand. Women, however, did not have the same access to the codes and conventions of male sociability that are often found in explanations for the development of this category of homicide in the early modern courts. Still, their roles in public confrontations that resulted in lethal violence as described in the Welsh material strongly suggests that in the sixteenth-century Welsh courts, perceptions of manslaughter as a male-gendered crime were still being formed.

My research has thus challenged several arguments specific to the crimes of theft, homicide, and witchcraft. These offence-specific challenges broadly touch upon the ways in which these three crimes were gendered and have demonstrated that patterns of female offending were incredibly diverse. Though I have chosen to specifically focus on the crimes experienced by women, I have moved beyond those offences which have been gendered female in the historiography both to challenge the notion that some offences (specifically, witchcraft and petty theft) were largely gendered female and to identify that other crimes (theft and non-domestic homicide) should not be considered as having been gendered male.

¹¹ NLW GS 4/124/1/44 Inquest on Matilda ferch Ieuan (1554).

¹² NLW GS 4/971/4/21 deposition of John Thomas (1586).

¹³ NLW GS 4/971/4/18 Examination of Thomas ap Harry (1584); 4/971/4/18 Examination of Lewis ap John ap Robin (1584).

¹⁴ NLW GS 4/971/4/18 Examination of Thomas ap Harry (1584)

¹⁵ 4/128/2/12 Inquest (1576); 4/128/2/73 Inquest (1576), NLW GS 4/131/4/57 Indictment (1584); Elizabeth Ewan, 'Disorderly Damsels? Women and Interpersonal Violence in Pre-Reformation Scotland', *The Scottish Historical Review*, 89.2 (2010), 153–71, p. 165.

This thesis has thus challenged some of the previous conceptions of the gendering of specific types of crime. This work has built on arguments of historians such as Walker and Howard to provide further evidence that has been uncovered by a specifically focused reading of partial verdicts. New challenges to gendered arguments about Welsh witchcraft and manslaughter have been presented. While these arguments are specific to each crime, I have argued that they can be read in conjunction with each other to demonstrate that while there were gendered experiences of crime and its prosecution, the Welsh material indicates that evidence for the specific gendering of certain crimes and verdicts has been overstated.

5.2: Space, place, and location

While the ways in which gender structured the accused's experience before the law has been the central theme of this thesis, the secondary theme of space, place and location has also provided important evidence. Specifically, I have argued that the tools of space, place, and location provide insights into the ways in which witnesses and prosecutors described the crimes that allegedly had taken place. This theme has also provided useful evidence of the motivations behind specific offences and has shown how the social and cultural ideals attached to certain places influenced how people interpreted the severity of an alleged criminal offence.

While previous studies of crime have touched upon these issues, this is one of the first studies that argue specifically for the usefulness of the spatial turn for historians of crime.¹⁶ When historians of crime have considered such themes, they have tended towards using the 'spatial turn' as a tool through which to explain the different opportunities for offending that were specific to urban and rural settings. This thesis has built on such findings by focusing instead on the ways in which the spatial setting of crimes provided additional layers of meaning to the offence as experienced by witnesses and victims.¹⁷ This approach has been inspired by the arguments of historians of gender and space, especially Amanda Flather, who emphasised that space was an area of social interaction that helped construct gender relations. As

¹⁶ Jones, *Crime, Courts, and Community*; Katrina Navickas, 'Moors, Fields, and Popular Protest in South Lancashire and the West Riding of Yorkshire, 1800–1848', *Northern History*, 46.1 (2009), 93–111.

¹⁷ Amanda Flather, *Gender and Space in Early Modern England* (Woodbridge: Boydell Press, 2011).

such, I have argued that space also helped *construct* the meanings and reactions to criminal offences that occurred in a variety of settings in early modern Wales.

The home has been the most central of these settings of criminal offences across the three chapters of this thesis. While gendered histories of space have emphasised the ways in which women's spatial confinement to the house and domestic spaces restricted their opportunities to commit and witness crimes in other locations, I have instead chosen to question the ways in which these spatial settings of female criminal activity shaped and gave meaning to the experiences of perpetrators and victims. Across the three chapters, I have used contemporary discourse that described the home as a place of safety for all occupants to provide contextual meaning for the crimes that occurred in this setting. The crime of burglary obviously disrupted the values and beliefs associated with this place by transgressing vulnerable boundaries at a time when the occupants of this place were most vulnerable. Though other historians have pointed out that this crime was regarded with particular severity under the law, placing the issue of space at the forefront of the investigation highlights the theoretical framework through which the severity of this crime was conceptualised by both victims and legal theorists.

The implied safety of the home and anxieties over the transgression of its spatial boundaries has also emerged as a central theme in Chapter Four of this thesis. Questions centred on the issue of space have not yet been much utilised in the study of witchcraft, and where they have this has mostly been in reference to elements of demonism, such as the travel to sabbaths.¹⁸ I have emphasised that using space, place, and location as a tool enables the historian to ask detailed questions about where *maleficium* was believed to take place. Firstly, this approach has exposed specific methods that Welsh witches could use to enter and leave her victim's house. Key evidence for this – specifically the accusation made against Jane Meredith that she could pass through a 'hole in the lock' of a door – has been found in the witch-slander records, sources that have been identified but under-utilised by previous historians. Evidence from witch-slanders has also shown that Welsh witches were believed to be able to bewitch people who entered into their own homes. Secondly, evidence from the witch-felony cases also highlights other places in which people

¹⁸ For the key use of space as a tool to analyse witchcraft see, Willem De Blécourt, "Keep That Woman out!" Notions of Space in Twentieth-Century Flemish Witchcraft Discourse', *History and Theory*, 52.3 (2013), 361–79.

were vulnerable to attacks from witches. The victims of Welsh witchcraft were often harmed on their own property, especially in cases that reflect the ‘charity refused’ model. But Welsh witchcraft was also more complex and varied, with public and liminal places that were between two locations emerging as another key place in which bewitchments occurred. Such was the case of William Griffith, who believed himself bewitched as he walked by the berth where his ship was docked or John Thomas who was frightened by ‘black things’ that he believed had been caused by witches as he walked home after dusk.¹⁹ This evidence thus speaks to the wider issue of expectations of safety identified in the other chapters of this thesis.

Indeed, the implied safety of the home provided a key framework through which to explore the crime of domestic homicide. I have engaged with the historiographical debate that surrounds the social acceptability (or lack thereof) of domestic violence, but rather than claiming that the Welsh evidence contributes to either side of the debate, I have instead used the existence of this debate to highlight that women’s experiences of the expectation of safety were different from their husbands.²⁰ Taking account of this wider debate in conjunction with the Great Sessions evidence and contemporary literature that indicates that offences that took place within the home were more heinous than violent incidents that took place in other settings, I have argued that the domestic murder of women in their homes sits uneasily alongside a discourse of acceptable violence against women. In cases such as the murder of Joan Knight, her husband’s alleged violence provided the context to the allegation that he had caused the injuries that resulted in her death – but there is no evidence of any judgement on the part of the JPs who examined the case, or the grand and petty juries, that William’s violence had been unreasonable. This is not to suggest that Welsh men could kill their wives with impunity. Indeed, cases where the wife’s victimhood was clearly established resulted in capital sentences for their murderous husbands. But the two cases of this in the records I have examined, also contain further betrayals of the safe domestic space as both women were not only killed in their homes but in their beds as they slept.²¹ Combined with the anxieties over spaces

¹⁹ NLW GS 4/985/2/18 Examination of William Griffith (1656); NLW GS 4/719/2/48-9 Examination of John Thomas (1654).

²⁰ Part of the reason for this is that the types of evidence that historians have used to make these arguments, such as recognizances, do not appear in the sixteenth-century records for Flintshire and Montgomeryshire.

²¹ NLW GS 4/128/4/11 Examination of Nicholas Castry (1576); NLW GS 4/125/2/18 Inquest (1581).

and places of safety expressed in this thesis's arguments about the crimes of burglary, housebreaking, and witchcraft, I have argued that women's expectations of safety within the home were incredibly complex. Outright violations that also contained elements of betrayal were regarded as particularly severe under the law – as evidenced by the non-clerigable status of these offences. Other forms of violence within the domestic setting, though, could be justifiable. In some respects, this is similar to the manslaughter narratives also explored in this thesis, as my arguments about women's honour as constructed around the defence of domestic property and space. Women's deaths in these places do not appear to have been prosecuted to the full extent of the law, and neither was William Knight's alleged violence against his wife.²² It is possible, then, that women could not expect to be fully protected from violence in these settings.

This thesis has thus contributed several ideas for how space, place, and location can be useful tools through which to examine the history of crime. Using Flather's arguments that space helped construct gender relations, rather than simply functioning as a passive backdrop, I have attempted to show the ways in which space could also construct ideas about criminal activity and its relative severity. As with the examination of gender and the law, the conclusions from each chapter have been specific to the crimes examined. However, broader themes of safety in the home, and how the experience of crime was shaped by violations of this place of safety have emerged in all three chapters.

5.3: Women and crime in sixteenth-century Wales

In the introduction of this thesis, I argued that Welsh criminal history has been underexplored by historians. This investigation has gone some way to rectify this state of affairs through its focus on the rich and diverse sources that can be located in the records of the Welsh Great Sessions. But this thesis has also not presented a history of *Welsh* crime per se.²³ Instead of seeking explanations for patterns of female offending within local Welsh social and community relationships, I have focused on questions that have highlighted the more general experiences of women

²² Unfortunately, there are no surviving outcomes for these cases, but I hope I have demonstrated how useful they are to the historian.

²³ Walker made a similar comment about her work on early modern Cheshire: Walker, *Crime, Gender and Social Order*, p. 13.

before the law that are applicable to sixteenth-century crime across the English legal system, not just in Wales.

This study has thus been something of a departure from early modern Welsh historiography which has emphasised the continuation of Welsh customary practices beyond the Acts of Union. Instead, I have sought alternative explanations that have placed the issues of gender and legal process at the forefront of the investigation, rather than Welsh cultural traditions. My purpose in doing this was to emphasise the value of the Welsh Great Sessions material to broader histories of crime. As such, I have also avoided claiming that the conclusions I have reached in this thesis are exclusive to Wales. For example, while I have highlighted that while there were particular contextual reasons for land to be contested in Wales after the Acts of Union, the conclusions that I have drawn from this material – that contested space provided the motivation for lethal female violence – are not exclusive to the counties of Flintshire and Montgomeryshire.

I have argued that the differences between indictments as they were originally recorded and the subsequent alterations to these criminal charges expose differences between legal perceptions of who committed and should be punished for certain types of offences and the opinions of the victims of these alleged offences. However, I have avoided claiming that this demonstrates clear differences between the priorities of the imposed English legal system and the rest of the population by pointing out that the jurors in these cases were all Welsh. Additionally, I have emphasised the discretionary roles of the jury across both Welsh and English histories of crime and have pointed out that while the judges in the Welsh Great Sessions cases were English, their power to influence or persuade the Welsh juries was limited. As such, I believe the approaches and arguments that I have expressed in this thesis provide a useful foundation for future studies of both Welsh crime and for women's crime in early modern England and Wales.

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