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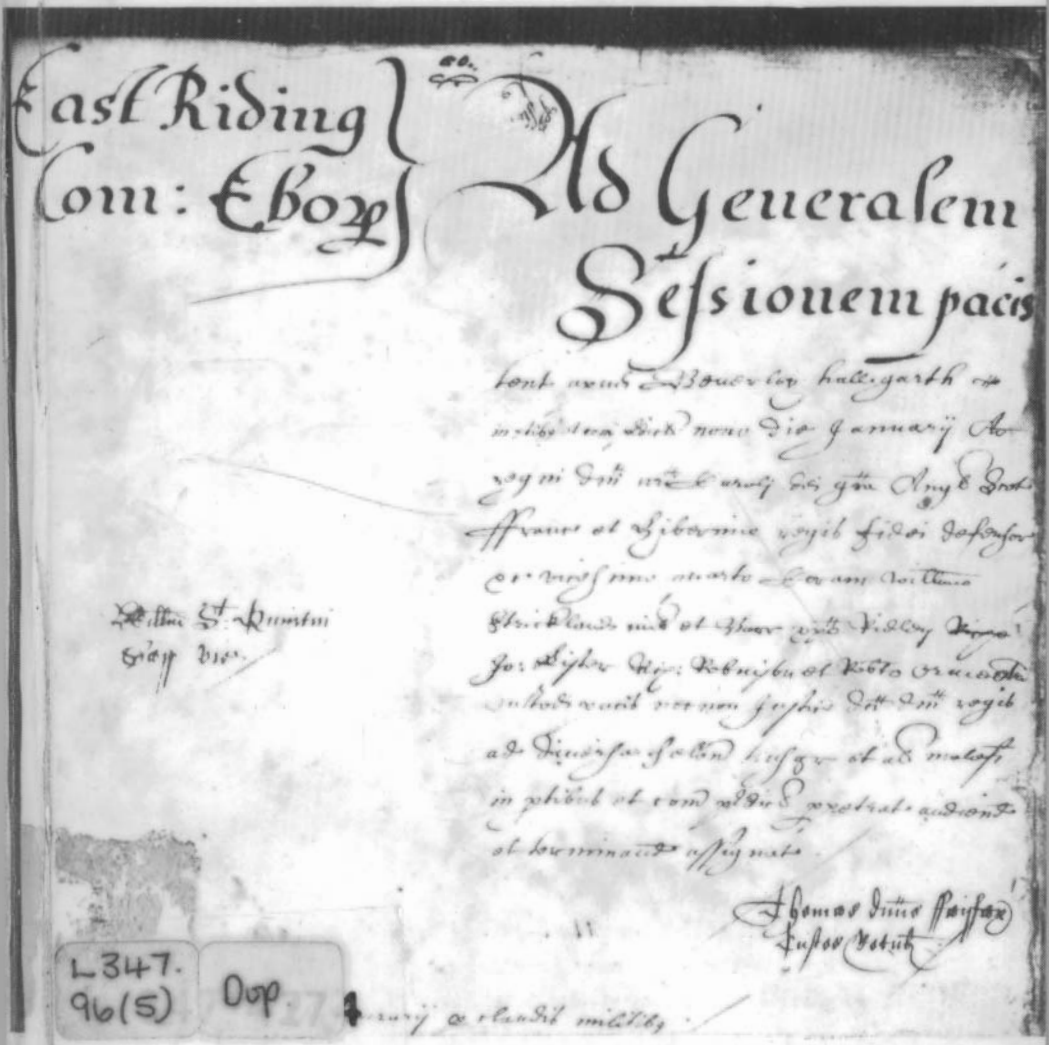

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INTRODUCTION

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

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

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

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

I

The Framework of Local Government

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II

The Origins and Powers of the Justices of the Peace

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III

The East Yorkshire Justices of the Peace

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV

The East Riding Court of Quarter Sessions

i *Organisation*

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

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

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

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

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

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

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

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

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

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