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Crown and Community: The Coroner in Early Modern England, 1580-1630

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Crown and Community: The Coroner in Early Modern England, 1580-1630

by

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Abstract

The role coroners played in English state formation between 1580 and 1630 is examined by looking at their relationship in the peripheries with other officials and by looking at their interactions with the state through the central court systems. Coroners were liminal figures who answered directly to the crown while maintaining loyalties to the local communities where they were elected and lived. Their role as a key interlocutor for both the crown and the community meant that they often had to deal with conflicting interests. Other government officials and courts oversaw their duties in order to bring the uniformity of operation to the office that was necessary for state formation and required coroners to alter their duties in accordance with particular needs of the state. This control of their office by the state complicated the performance of their duties in cases where the state or its officials had divergent interests.

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List of Abbreviations

SCI vol. I	*Sussex Coroners' Inquests 1558-1603*, ed. R.F. Hunnisett. Surrey: PRO Publications, 1996.
SCI vol. II	*Sussex Coroners' Inquests 1603-88,* ed. R.F. Hunnisett. Surrey: PRO Publications, 1998.
CSPD	*Calendar of State Papers Domestic Series of the Reign of James I,* ed. Mary Anne Everett Green. Burlington: TannerRitchie Publishing, 2005.

Chapter 1: Introduction

Background and Historiography

This thesis examines the role of coroners in England between 1580 and 1630, and in particular the relationship between the crown – the royal authority that employed the coroner – and the community in which he exercised his duties on behalf of the central government. Since the late medieval period, coroners had to be summoned by the constable or another trustworthy individual to investigate all deaths, regardless of the apparent cause. The qualifications for a man to become a coroner in this time were relatively modest and he did not require legal or medical training. Because of the largely-unpaid nature of his role, he needed to possess property, and he required sufficient wealth to be able to pay any fine levied due to his failure to perform his duties properly. He also required a working knowledge of Latin in order to prepare documents for the courts. The coroners were drawn from the landed gentry, albeit below the social level of those appointed to the offices of the sheriff, escheator, and justice of the peace (JP). Coroners were representatives of the crown and as such answered directly to the crown (*corona*) not to local JPs or communities. Coroners turned in their inquests to the Assizes so they could be used for trials during the sessions, but it was the centralized Court of King's Bench, rather than an official in the periphery, who oversaw and reviewed their work.

There were always two coroners in Sussex County – the region principally examined for this study – during this period. They were elected in the county court on a writ *de coronatore eligendo* ("to elect a coroner"). In theory, coroners could perform inquests anywhere within the county to which they were appointed, except liberties and

franchises (typically towns), which had their own coroners. In practice, however, as R. F. Hunnisett revealed, the coroners operated within well-established districts. During the seventeenth-century in Sussex, more than one third of the coroners held at least two jurisdictions concurrently. In the period Hunnisett covered, 1603 to 1688, many coroners performed their duties over a large area and eight coroners served more than twenty years. John Wilkinson, who wrote a manual for coroners, stated coroners were to remain in their office until "such time as the King hath otherwise determined his pleasure" or when the king died. Coroners were not elected yearly. Many coroners were most likely quite knowledgeable with respect to the duties and procedures of the office as they served for long periods and some held multiple jurisdictions.[1]

The coroner's primary responsibility was to hold an inquest into all deaths within his community. In the process of carrying out their inquests, coroners could bind over both suspects and witnesses to appear at an Assizes session, commit suspects to the gaols or issue recognizances, and take depositions. Beginning in 1487 a statute allowed coroners a fee of 13s 4d for an inquest brought to the next gaol delivery[2] which had been held over the body of a manslaughter or murder victim; they also received fees coming from the forfeited goods of *felo de se* ("felon for himself," or suicides). In 1554-55, a

[1] R.F. Hunnisett, "Introduction," in SCI vol. 1, xi, xix, xxv, xxx; R.F. Hunnisett, "Introduction," in SCI vol. II, xvi, xviii-xix; John A. Wilkinson, *A Treatise Collected Out of the Statutes of this Kingdom, and according to common experience of the Lawes, concerning the Office and Authorities of Coroners and Sheriffs…* (London: 1618), 4.

[2] Gaol delivery was one of the two commissions issued to royal judges during the Assizes. It required the judges to "deliver" or empty the gaols whether or not their crime was normally within the jurisdiction of the Assizes. It was intended to ensure accused parties did not spend longer in gaol than needed. The other commission was that of *Oyer et terminer*, which authorized them "to hear and determine" all causes within their jurisdiction, normally felonies. Frequently, the criminal side of the Assizes was simply referred to as "gaol delivery."

Marian statute, which introduced the well-known "Marian pre-trial procedure," made coroners, like JPs, responsible for examining witnesses and suspects for their inquests and they would be fined should they be negligent.[3] The statute also allowed for search and arrest warrants to be issued by JPs and, among other things, required the preparation of a formulaic indictment to be presented to presentment juries and coroners' inquests. These measures served to extend the controls of the crown over the actions of coroners. The fines were a way to elicit the compliance of coroners and were likely successful given that he received little monetary compensation. The fees received by coroners were not enough for him to have made a professional living from his post.

In the case of accidental death, also known as death by misadventure, the coroner was responsible for determining the deodand. The definition of the deodand was "*omnia quae movent ad mortem deodanda sunt,*" meaning "all things that moved at the time of the death were deodand."[4] The deodand consisted of the objects that caused the death: either what had fallen on the person; or what they had fallen off, such as a wagon, cart, or house; or objects that had directly caused their death, such as livestock that may have crushed or trampled them. The jury members had to determine the precise cause of death and therefore what, if any items should be the deodand and then appraise the value of those items. Deodands could be items ranging from arrows and firearms to horses and

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[3] J.A. Sharpe, *Crime in seventeenth-century England: a county study* (Cambridge, England: Cambridge University Press, 1983), 34; S. J. Stevenson, "The Rise of Suicide Verdicts in South-East England, 1530-1590: The Legal Process," *Continuity and Change* 2.1 (May 1987), 39; Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge: Cambridge University Press, 200), 246; Carol Loar, "Conflict and the Courts: Common Law, Star Chamber, Coroners' Inquests, and the King's almoner in Early Modern England," *Proceedings of the South Carolina Historical Association* (February 2005), 49.

[4] Carol Loar, "'Go and Seek the Crowner': Coroners' Inquests and the Pursuit of Justice in Early Modern England." (PhD diss., Northwestern University, USA, 1998), 39.

carriages. Technically the items could not be taken into custody until the case was decided. But in practice these items were entrusted to reliable individuals in the locality, such as a bailiff or deputy almoner, and their location and value were included in the inquest papers. These items could not, however, become the property of the king's almoner – a clergyman who liquidated the deodand and suicide forfeits, kept a portion for himself, and distributed the remainder as alms – or anyone else until the case had been decided. Completed inquests for suicides, natural death, or accidental death were then returned directly to the Court of King's Bench, or when ordered by writ, but during this period the inquests were largely turned in through the initiative of the coroners.[5]

Although not all of the coroner's duties were remunerated, he was entitled to receive a fee out of the chattels of the convicted felon[6] in cases when the inquest determined that death has been caused through criminal action, or out of the fine paid by the township if they allowed a murderer to escape. When the inquest found someone guilty of murder, petty treason, or any other offense punishable by death, the convict was required to forfeit all land and chattels to the crown. Once the king had taken all profit and waste from the land for a year, it was returned to the feudal landlord. Chattels, however, remained the property of the king. These could include leases on land, bonds and shares, and also livestock and household items. Property subject to forfeiture could

[5] R.F. Hunnisett, "Introduction," in SCI vol. II, xii.
[6] Technically, the definition of "felony" meant any crime for which a criminal was required to forfeit land and chattels upon conviction. More generally, it referred to a serious crime committed against the body or property of one of the king's subjects.

not be taken into custody until the offender had been found guilty by an Assizes jury, or had absconded (meaning they had escaped) or had been outlawed.[7]

Historians have debated the importance of the coroner's role in early modern England beyond his being a revenue collector for the crown. In *The Detection of Secret Homicide* (1960), J. D. J. Havard argued that the power of the office of the coroner declined after the thirteenth century and did not recover until the eighteenth-century, thus suggesting that the entire early modern period was an unimportant one for the coroner.[8] This decline came partially from the restriction of the *lex murdrum* (the fine levied upon a community when a foreigner was murdered there) to killings by murder and manslaughter, as this decreased the income of the coroner from fines levied for *murdrum*. Previously, deaths by misadventure had been included in *lex murdrum*. A further threat to their power and prominence was the creation of the JP in the fourteenth century, who now took on some of the responsibilities the coroner once held. Havard argues that the JPs were now conducting the preliminary investigation of homicide suspects and the coroners were expected to attend the sessions of the JPs. Havard's argument that JPs took away much of the coroner's pre-trail investigation responsibilities is not completely without warrant. William B. Robison in "Murder at Crowhurst: A Case Study in Early Tudor Law Enforcement," examines the murder of Robert Grame on 28 August 1532 and found that the Justice of the Peace Sir John Gaynesford went to great lengths to examine

[7] K. J. Kesselring, "Felony Forfeiture and the Profits of Crime in Early Modern England," *Historical Journal* 53 2 (2010), 273; K. J. Kesselring, "Felony Forfeiture in England, c. 1170-1870," *Journal of Legal History* 30 3 (2009), 202, 204.
[8] J. D. J. Havard, *The detection of secret homicide: a study of the medicolegal system of investigation of sudden and unexplained deaths* (London: Macmillan, 1960), 19.

suspects and witness without the aid of a coroner. Further, no coroner's inquest survives for Grame's death.[9]

Havard argues that by the end of the fifteenth century, the coroner's decline in importance was almost complete, with the final demotion coming from a 1483 statute stipulating that prior to attainder or conviction the chattels of suspected felons along with the goods of outlaws and suicides, should not be sought or seized.[10] Further, "it had become clear that the coroner, whose official status had fallen off considerably in the last two centuries, could no longer continue as an unpaid officer" and that the persons occupying the post were no longer appointed from the "important classes of the community."[11]

In 1487, therefore, an Act stated that a coroner should be paid 13s 4d for every inquest held on the view of a body and should pay a penalty of £5 for not performing his duties correctly. Havard argues that since the coroner was only paid for those who were "slain," investigations into sudden deaths ceased to be important unless evidence of criminality appeared to be present. In 1508, an Act prohibited coroners from collecting a fee for misadventure inquests and a fine of 40s was imposed if the coroner failed to view a dead body when requested, regardless of the apparent cause of death. For Havard, this statute implied that the inquest was mandatory due to the inconvenience of having a decomposing corpse lying around, rather than the need to determine formally that homicide was not the cause of death. Further, the Act stipulated that the justices of Assizes and JPs should examine the coroners' inquest for mistakes or omissions, which

[9] William B. Robison, "Murder at Crowhurst: A Case Study in Early Tudor Law Enforcement," *Criminal Justice History* 9 (1988).
[10] Havard, *Detection*, 28-32.
[11] Havard, *Detection*, 34.

he argues confirms the authority and importance of the JPs over the coroners. Havard goes on to argue that for nearly two and a half centuries following the passing of this Act, not only did no developments occur which affected the office of the coroner, but further that the coroner was of little importance in the investigation of homicide.[12]

R. F. Hunnisett and more recently Carol Loar have disputed Havard's central conclusion about the limited role of the early modern English coroner. Hunnisett's *Sussex Coroners' Inquests*, which will become a key source for this study and is discussed in greater detail below, follows the coroner's role from the inquest to the delivery of the inquest jury's decisions to the Court of King's Bench. Hunnisett's work is valuable for the thoroughness of his compilation of the inquests, his general analysis of the inquests, and for his demonstration that contrary to the argument of Havard, the office of the coroner served a larger purpose than just the collection of revenue.[13] His analysis of how effectively the coroners carried out their duties and how quickly the inquests were turned in at the Assizes, demonstrates that the coroner was still a valuable official in the English criminal justice system.

Carol Loar's dissertation and academic articles focus on the office of the coroner during the period from 1560 to 1640. She used coroners' inquests from Sussex along with other counties and Star Chamber cases as her key sources and her analysis focuses on the close relationship of the coroner's office and the King's almoner. Loar sees the almoner as a detriment to the operation of the coroner, as he pursued his own agenda of obtaining the highest amount for deodands and suicide's goods as possible, often going against the verdicts of the coroner and his juries to achieve this. Almoners challenged the

[12] Havard, *Detection*, 35-38.
[13] SCI vol. 1; SCI vol. II.

independence of the coroner's inquest and worked against the relationship the coroner had with the periphery through their right to sue in the Star Chamber, which caused interference with the inquest verdicts, the collections of witnesses, the composition of the jury, and the valuation of the deodand.[14] She posits that the almoner's motivation for suing in the Star Chamber could stem from responsibility to see the law upheld and to circumvent those, such as coroners and jurors, who attempted to distort or devalue a suicide's goods and the deodands. Another reason for suing could have been the desire to obtain more funds either for the augmentation of his salary – something she argues other early modern officials were also guilty of – or for the monarch's alms.[15]

Loar also discusses the importance of the coroner's jury, whom he personally selected. The jury members represented the locality and those affected by the deaths that the coroners were examining. The coroners and juries sought to maintain a balance between the living and dead by finding a verdict that worked in favour of justice and the law. Loar defines justice as something broader than the law, and something that included financial concerns as well as the concerns of those innocent parties such as widows and children who were not responsible for the death and who were liable to suffer the consequences of lost property. She consequently argues that the coroners and juries acted to maintain the law and apply justice as they defined it.[16] Increasingly by the middle of the seventeenth century, jurors were returning verdicts that stemmed from their consciences and were as a result decisions that felt correct to them. The laws surrounding forfeited goods were so unpopular that juries and coroners felt warranted in undervaluing

[14] Loar, "Crowner," ch. 4.
[15] Loar, "Conflict and the Courts," 50-51.
[16] Loar, "Crowner," 10-12.

goods or excluding goods to counter the perceived inequalities of the forfeiture laws. For this to be accomplished the verdict needed to be altered, so the jurors and coroner would have had to fabricate the events surrounding the death and ignored or altered the correct interpretation of events or evidence.[17] Loar's work on coroners was too narrowly defined to provide a proper understanding of the coroner's relationship with the central government due to her narrow focus on the coroner's relationship to the almoners.

Coroner, Crown, and Community

Although historians such as Havard and Loar have given some attention to the role of the coroner in the English criminal justice system, none have studied in any detail the coroners' important role as mediators between the centre (the crown) and the periphery (the local community). The operative phrase "centre and periphery" was developed by sociologist Edward Shils in *Center and Periphery: Essays in Macrosociology* (1975). Shils argued that as a particular society develops, the core institutions, which are both the largest and most powerful, establish a "central value system." The transmission of this system to the peripheries by these establishments occurred through various administrative and economic means. However, to quote Shils, "As we move from the centre … in which authority is possessed … to the periphery … over which authority is exercised, attachment to the central value system becomes attenuated." Moreover, "the further one moves territorially from the locus of authority,

[17] Coral Loar, "'Under Felt Hats and Worsted Stockings,'": The Uses of Conscience in Early Modern English Coroners' Inquests," *Sixteenth Century Journal* 41.2 (Summer 2010), 393, 347, 401-404.

the less one appreciates authority."[18] Shils argued that while the centre wields sizeable control and authority, the larger the state and the greater the distance the peripheries are from the controls of the centre, the more the centre must rely on a working system of subordinates for enforcement. This subsequent reliance on an extended system of power thereby created a "plurality of independent power holders." The multiplication of office holders, who were all carrying the powers and controls of the centre, could bring about conditions where the state was too weak to control the periphery because of limited administrative and coercive means.[19]

Although Shils's "centre and periphery" theory was developed for the use of sociologists, a number of historians have adapted his ideas to their studies of state and locality in England. For example, Keith Wrightson has shown that between 1580 and 1680 the economic, administrative, and culture of the national society and economy was increasingly extending and intensifying the state's involvement in the local communities; while at the same time the complexity and magnitude of social difference within the localities increased.[20] The effectiveness of the government in the peripheries depended on the local administration they had created and the diligence and competence of these essentially amateur, unpaid officers. In order to increase the efficiency and thereby decrease the deficiencies of the local administration they needed to gain the cooperation of different social groups necessary for the maintenance of order. As pressures and legislative efforts from the centre intensified and the Tudors began the circumvention of

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[18] Edward Shils, *Center and Periphery Essays in Macrosociology* (Chicago: The University of Chicago Press, 1975), 4-6, 10-11.
[19] Shils, *Center and Periphery*, 10-14.
[20] Keith Wrightson, *English Society 1580-1680* (London: Hutchinson, 1982), 13, 222-223.

aristocratic influences in the provinces, the institutions at the county level became a focal point and the foundation for the centre's administration of the periphery.[21] Wrightson argues that this pressure, originating in the centre for order and stability in the peripheries, could have only had any measure of success and accomplishment with the cooperation and conformity of the local efforts aiding them in meeting their requirements and responding to both needs and changes in the prescribed means of governance and order.[22] The officials in the peripheries, as a consequence of the centre's controls, became more cognizant of the purposes and responsibilities of government and their policies.

Michael Braddick, in his detailed examination of early modern state formation between 1550 and 1700, examined the relationship between the centre and periphery, the changing and modernization of the state, and the degree and uses of autonomy of state power. He argues that the composition of political power was "territorially based, functionally limited, and backed by the threat of legitimate force." The state was defined by its possession of power that was distinct to the state and held alone by the state. He concludes that in England in1550 there was a state, insofar as there was a network of officials holding political power originating from the centre. State policies were carried out by local officeholders, who acted as intermediaries or go-betweens, moderating and negotiating the policies to account for and incorporate local interests, beliefs, and practices.[23]

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[21] Wrightson, *English Society*, 150-51, 153.
[22] Wrightson, *English Society,* 155, 181. Here the changes are in both legislation, social alignment, and shifts in the social order.
[23] Michael J. Braddick, *State Formation in Early Modern England c. 1550-1700* (New York: Cambridge University Press, 2000), 6, 9, 14, 18-19.

The power of local office holders was both functionally specific and territorially bound, and within these bounds they possessed the legitimate force of state. The officials holding legal validity and power, together with courts in the peripheries formed a bureaucracy that managed the crown's resources and gave the monarchy authority and formality through their operation and their enforcement of the desires of the crown. The centre by making the state more bureaucratic, coupled with the development of increasingly specialized and distinguishable offices, aided in the enshrinement, predictability, and precision of the state. This in turn aided in the legitimization of the state by creating a more acceptable axis of authority. Included in this tightening of control was an emphasis on precision and regularity in the official activity. This discretionary reduction allowed for a more defined function, and more acceptance and cooperation from the members of the periphery. Patriarchy, being "a pattern of hierarchy and subordination with subsumed class, status, and gender relations," was a further necessary part of the legitimation of the power of officeholders in legitimating their authority. State officials in executing their political power needed to demonstrate that their actions were aligned with the formal limits.[24]

Braddick argues further that the centre and peripheries were not separate entities and were often intertwined at the behest of peripheries for settlement of a legal problem through the systems of authority operated by the centre, as in institutions such as the Assizes and parliament. The state's development was shaped "by the interrelationship between the available legal forms of office, patterns of participation, the available languages of legitimation and patterns in the uses to which these resources were put."

[24] Braddick, *State Formation*, 5-26, 43, 47, 77, 79, 102.

Changes to the state might have stemmed from individuals, and events taking place outside the central body of the government.[25] Braddick's arguments built on the loosely articulated ideas of what exactly entailed state power during this period and how offices were envisioned and carried out. His study focuses more on the office of justices and largely glosses over or negates the role played by coroners in state formation.

Steve Hindle's *The State and Social Change in Early Modern England, c. 1550-1640* (2000) examined the state formation by looking at cultural and institutional developments, personnel, political theory, economics, and the law, along with the government agencies as both agents of the centre and a resource for the people to utilize. To develop a clearer understanding of "the state" during the Tudor and Stuart regimes he goes through a highly detailed examination of the "centralising tendencies" of the crown, the increase in local administration, and the growth of civil and criminal litigation.[26] Centralization, insofar as litigation and magistrates were concerned, was an outgrowth of the extension of the role of the state during this period, yet the increases in the state's role in the localities were not always an intrusion and "new vertical ties and demands might well have fostered the incorporation of narrower into wider public identities."[27] Hindle stresses the level of complexity present in the relationship between the centre and localities. Their interests were not always divergent, or mutually exclusive, nor was it a case of all or nothing. Further adding to the complexity was that the state was multilateral. Popular legalism or litigation was an important indicator of the growth of the government, as this extension of the crown could be drawn on as a resource for subjects

[25] Braddick, *State Formation*, 90, 92-93, 96,162.
[26] Steve Hindle, *The State and Social Change in Early Modern England, c. 1550-1640* (New York: MacMillan Press Ltd., 2000), ix-x, 2, 3.
[27] Hindle, *State and Social Change*, 3, 12.

pursuing their own interests and not just those of the states. Hindle argues that the state's authority was found in both the initiatives of the central agencies for control, but was also a resource for the ordering of society by the populace at local levels and as such was a series of institutions they could interact with on multiple levels. The increase in state activity was not at the expense of the populace, rather the expansion was partially a result of social needs.[28]

Having the state imbue officials with authority had both advantages and disadvantages. The offices holders could have their own interests and the state had not codified or made certain their definitions of public versus private realm in terms of pursuing interests. This was further complicated by the reality that many administrators belonged to or had interests in several communities at once and therefore their loyalty could be divided and uncertain, which in turn affected their official duties, inhibiting them from performing their duties solely in accordance with the needs and requirements of the state. As such, Hindle argues that government should be thought of less as an institution than as an ongoing process: occurring multilaterally in that initiative originating in different physical locations existing outside of an envisioned centre and throughout different social orders via a multi-origin dialogue and reciprocity. Legalism was both central to English culture and the legal and administrative outlets of the state were interdependent, which is seen in the execution of public policy through the judiciary system and the incorporation of legal precedent within political discourse.[29]

In his conclusion, Hindle argues that the high level of participation in the government during this period, contrary to showing social consensus, articulates the lack

[28] Hindle, *State and Social Change*, 12-13, 16.
[29] Hindle, *State and Social Change*, 21-23, 30.

of harmony in perceptions of social ethics. In their participation in the legal system, the middling sort could use the authority for their own purposes, as not simply "demonstrating their respect for authority simply for authority's sake."[30] The legitimacy of the state was reinforced every time the institutions of the state were used to end social conflicts instead of pursuing means outside of the state such as reconciliation instead of litigation, or forgiveness instead of punishment, and at the same time the state depended on this participation. He stresses the reciprocity and mutual influences of the state, their power, and culture, and those of early modern men and women.[31] Hindle's arguments are useful for his discussion of this throughway of influence and communication, which occurs between the centre and the periphery.

K. J. Kesselring, in *Mercy and Authority in the Tudor State*, focused on the use of pardons by the Tudors as a means of legitimizing and centralizing the state and for the implementation and acceptance of an increased number of punishable offenses, expanded enforcement, and fewer means of evading punishment, such as the use of benefit of the clergy.[32] Kesselring argues that the crown's use of mercy or discretionary measures aided in the process of the territorial expansion of the state and the centralization and strengthening of the state in the early modern period. The expansion of laws and their

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[30] Hindle, *State and Social Change*, 232.
[31] Hindle, *State and Social Change*, 232-236.
[32] Benefit of Clergy was a way for first time offenders to avoid being hanged if they could read Psalm 51, which became known as the "neck verse." The provision was originally made for clergymen who claimed that they were outside the jurisdiction of the secular courts and instead should be tried in an ecclesiastical court. The fiction in this process was that the verse could be memorized, or was sometimes spoken by the judge and repeated by the convict. Non-clergy members could only claim this benefit once. After claiming benefit of clergy the person would be branded so if they came before the courts again for a clergyable offense the officials would know they had already claimed this benefit.

increased severity made the application of mercy by the crown, or agents of the crown, obligatory to help diminish or lessen the animosity that these extensions had the potential to cause. The crown's general pardons covered fewer offenses, yet increased in frequency, and thus allowed more people to benefit from the act of clemency.[33] Pardons allowed for room within the prescribed uniform punishments of crimes, for degrees of guilt and culpability, free will, malice, or intent. The process of the pardon not only helped in the strengthening of the state; pardons also allowed the elite to create and maintain dependence.[34] Kesselring's study is useful because it displays that even in the case of murder the state did not always forcefully adhere to laws and demonstrates the room for interpretation within the law at all levels of judicial systems.

Argument, Sources, and Structure

Building on the work of the historians discussed in this introduction, this thesis argues that, like many office-holders in early modern England, the coroner needed to command authority and achieve compliance or adherence to the demands of the centre, as embodied by the crown and the state, within the periphery. In this context, the "crown" was the king, who possessed the royal prerogative of pardon; his privy council and its Star Chamber; and the Court of King's Bench when it acted on behalf the king's prerogative rights. The "state" included the courts, parliament, and King's Bench when it enforced statutory legislation or reviewed legal decisions. As is well known, this was a particularly contentious period in crown-state relations, as both the king and parliament

[33] K. J. Kesselring, *Mercy and Authority in the Tudor State* (New York: Cambridge University Press, 2003), 2-3, 13, 16, 25, 55, 57.
[34] Kesselring, *Mercy and Authority*, 111, 118, 135.

endeavoured to assert authority over the other.[35] Nonetheless, both of these bodies which comprised the central government needed to ensure that the coroners were acting in accordance with the centre's understanding of their official duties.

Coroners' interactions with JPs, constables, and juries in carrying out their inquests and in reaching verdicts shows the complicated relationship between the central authorities and peripheral participants. Conversely, this also displayed their relationship with the centre as they acted upon the instructions of the centre to perform their duties as prescribed, and as the centre's principal means of discovering and punishing those who took their own life or the life of another. The centre provided feedback to the coroners regarding the correct performance of their posts and their framework for determining the correct verdict in any given case. As will be seen, a coroner and the centre could come to a different determination of deodands and the cause of death, and subsequently the verdict. The coroner's, the peripheries', and the centre's actions and motivations were not always overlapping, nor always at odds with one another. Rather, the interaction between them is a complex of interwoven actions and reactions, some at the impetus of the centre and others at the impetus of the periphery. The centre was not always intervening against the wishes of the locality nor was the locality intervening with the legal process in ways that went against the centre. By examining the office of the coroners, insight can be gained into how effective the central government was at executing the prerogatives of the state. The office of the coroner also highlights the problems of attempting to clearly

[35] For a discussion of the distinction between crown and state, see Ken MacMillan, *The Atlantic Imperial Constitution: Center and Periphery in the English Atlantic World* (New York: Palgrave Macmillan, 2011), chap. 1; and Braddick, *State Formation*, chap. 1. For a discussion of the role of King's Bench, see Paul Halliday, *Habeas Corpus: From England to Empire* (Cambridge, MA: Belknap Press of Harvard University Press, 2010), chaps. 1, 3.

separate the centre from the periphery since the relationship between the two, as demonstrated by Hindle in relation to magistrates, was both co-dependent and complex.

This study of early modern English coroners' relationship between the central government and the communities over which they presided is based on two main sets of primary sources. The first set is the coroners' inquests for Sussex, translated from Latin and published by Hunnisett, supplemented by some of the state papers for the period. These sources are valuable because they follow each case from the point where the inquest is held until the case makes its way to the Court of King's Bench, and thus takes the case from the periphery, where it was initiated, to the centre, where the process was reviewed for conformity to the expectations of the crown and its residual agencies. These sources have been examined closely for cases that demonstrate evidence of the coroner's relationship with local officials and King's Bench, in order to better understand the dynamics between the centre and the periphery.

Using primary sources from a single county, of course, may not be reflective of England as a whole. Sussex was part of the Assizes Home Circuit, which also included Essex, Surrey, Hertfordshire, and Kent, meaning that it was a short distance from the administration centre of London (approximately 75 kilometres). As such, the county is not far from the centre and possibly would have been more closely controlled and less autonomous than other counties and palatinates that are geographically farther from the centre. However, Cynthia Herrup argues that Sussex was an average county of "small market towns, not major boroughs; of ancient gentry families, not glittering courtiers; of

small-scale self-sufficiency, not large-scale agricultural commerce."[36] The county was a thickly wooded area known for having difficult and muddy highways, so the area was not always easily accessible. Herrup argues that the patterns seen in reported crime and the jurisdictional division between western and eastern Sussex suggest that there was a degree of resistance to the changes being implemented by the centre in the late sixteenth century, as the courts spent more time on violence and less on the reformation of manners. She argues that Sussex shared more in common with Cheshire than any other county regarding patterns in crime. J. A. Sharpe compared the allegations of violent deaths for Sussex, Middlesex, Hertfordshire, Essex, and Cheshire in the seventeenth century and found that only Cheshire had more court cases related to violent crime than Sussex.[37] Thus, although Sussex is not in all ways normative of England as a whole, it was nonetheless not an exceptional county and, therefore, is relied upon in this study as reflective of many trends that impacted the majority of the country, while also acknowledge, as Wrightson did, that significant variety existed among the many communities of England.

The second set of primary sources used is the important procedural manuals written by legal antiquaries and lawyers. In particular, this study examines William Lambarde's *Eirenarcha or the Office of Justice of Peace* (1581-2) and *The Dueties of Constables* (1602); John Wilkinson's *A Treatise … concerning the Office and Authorities of Coroners and Sheriffs* (1618); Michael Dalton's *The Countrey Justice* (1622); and

[36] Cynthia B. Herrup, *The Common Peace: participation and the criminal law in seventeenth-century England* (Cambridge: Cambridge University Press, 1987), 25.
[37] Herrup, *The Common Peace,* 9, 13, 57, 202; J.A. Sharpe, *Crime in early modern England, 1550-1750* (London: Longman, 1999), 55.

William Sheppard's *The Office and Duties of Constables* (1641).[38] These manuals underwent many editions in the decades since their first printings, demonstrating their value to office-holders during the early modern period. These manuals substantially improved upon earlier manuals by, for example, Anthony Fitzherbert (1538) and Ferdinando Pulton (1577), which did not extensively discuss the coroner's responsibilities. Wilkinson's manual was not published until 1618, which means that coroners had to make due with other less detailed sources of information until then. Lambarde, Wilkinson, and the others wrote during the period of the "Common Law Renaissance," when the English law began to be systematically recorded, and accordingly the role of coroners, as both central office-holders and peripheral officials, is described in greater detail. This is important because these manuals were likely the main resource for coroners as they learned about their office. An examination of these manuals is also useful because, when reconciled with the Hunnisett inquests, we can see the extent to which the theoretical role of the coroner as described in the manuals was carried out in practice.

The second chapter of this thesis examines the responsibilities of coroners in the peripheries as dictated by the procedures manuals and the extent to which they could follow central mandates while trying to incorporate the needs of the local community. The laws and statutes surrounding the classifications of deaths were open to interpretation

[38] William Lambarde, *Eirenarcha or the Office of Justices of Peace (1581/2),* ed. P.R. Glazebrook (London: Professional Books Limited, 1972); William Lambarde, *The Dueties of Constables, Borsholders, Tythingmen, and such other lowe and Lay Ministers of the Peace* (London: 1602); Wilkinson, *Treatise*; Michael Dalton, *The Countrey Justice containing the practice of the justices of the peace out of their sessions …* (London: Societie of Stationers, 1622); William Sheppard, *The Office and Duties of Constables, Borsholders, Tything-men …* (London: 1641).

and the coroner needed to mitigate and engage in a dialogue of discretion with the centre and while in the periphery when reaching a verdict. Importantly, the coroner needed to understand the legalities surrounding different forms of death – murder, manslaughter, misadventure, natural causes, suicide, and infanticide – and vital social norms – such as gender relations – in order to provide proper instruction and information to his inquest. The verdict on the cause of death determined which deaths would result in indictments and be brought to trial at the Assizes. A coroner also needed to know his role regarding securing and valuing the deodand and other forfeitures, so that the Court of King's Bench and the king's almoner were satisfied. Finally, he needed to work with local agents of the criminal justice process, especially JPs and constables. Chapter Three examines the relationship the coroners had with the centre as they returned their inquests to King's Bench and the almoner, addressed concerns raised by those bodies especially with regard to cases of special interest, and engaged with the centre regarding the king's prerogative of mercy, or pardon. The chapter further examines the disciplinary measures employed by the centre to control the behaviour of coroners. This chapter demonstrates that, regardless of the pressures the coroner felt from the peripheries, ultimately it was the centre that controlled his actions.

This examination of the coroner's office will deepen historians' understanding of how the centre and periphery interacted in dealing with deaths and the applications of the laws for homicide, suicides, and accidental deaths by misadventure. The dialogue between the centre and periphery with coroners was carried out in the framework of state formation. This was based on the state's ability to maintain a level of control and alter the operations of the coroners and was further based on the necessity of the cooperation of

members within the periphery for bringing evidence, suspects, and for reaching verdicts. When the verdicts of coroners' inquests and the correct adherence to their official duties were questioned by those in the peripheries, this allowed for stronger interaction between the crown and the community.

Chapter 2: The Coroner and the Periphery

The coroner was both a civil servant of the crown, acting as an agent in its interests, and an individual elected from the jurisdiction where he resided. He was, then, a link between the English central crown and the local community. As Braddick argues, local officeholders were intermediaries who had to find a balance in the negotiations between the implementation of the central policies and local interests.[1] A coroner needed to maintain the cooperation of those in the periphery in order to gather all the necessary information and arrive at a proper inquest verdict and valuation of the deodand. At the same time, he needed to follow the orders of the centre, the failure of which could see him reprimanded, fined, or replaced. This chapter examines the duties of a coroner and his relationship with members of the periphery, and demonstrates the delicate balance between following the correct procedures as mandated by the centre while simultaneously gaining the cooperation of officials and participants in the periphery.

The Coroner's Duties in the Periphery

It is unclear exactly how coroners learned their duties, since they had no formal legal or medical training specifically related to their post. However, there were coroners who did appear to have some legal training and held further offices after their appointment as coroner. This means that some coroners may have possessed an extensive knowledge of the law and the position for some might have increased their chances of appointment to another post based on experience or patronage gained while serving as coroner. Sir Nathanial Bacon, brother to Sir Francis Bacon, became the coroner of

[1] Braddick, *State Formation*, 27.

Norfolk in 1599. He was elevated to clerk of the market and was knighted in 1604, and became deputy lieutenant from 1605-22. He was educated at Trinity College, Cambridge, and Gray's Inn. Thomas Fanshawe, the son of government official, Sir Thomas Fanshawe, was a clerk of the crown in King's Bench, coroner, and an attorney of the king's remembrancer office. John Hawarde was a barrister admitted to the Inner Temple from Clifford's Inn in 1588 and called in 1598. This delay in being called was due to his avid attendance at cases presented in the Star Chamber but also the Surrey Assizes and King's Bench. He published an account of these cases covering January 1594 to February 1609. He served as both coroner and a JP of the quorum in Surrey and was made a bencher of the Inner Temple in 1613 and sat in the parliaments of 1621 and 1624.[2] Some coroners, then, did hold multiple offices, have a legal education, and went on to hold higher government appointments and official posts. Some coroners would have had a more than adequate understanding of the laws and statutes that governed the coronership due to their legal education. These various men who held the role of coroner prior to their advancement to more important state positions also demonstrates why men would be willing to undertake this position that was otherwise not particularly attractive.

Barring any legal training, most coroners likely relied on experience communicated either through manuals they had at their disposal or from other coroners. The most reliable of the print manuals was by John Wilkinson, *A Treatise ... Concerning the Office and authorities of Coroners and Sherifes*, first published in 1618. His manual

[2] See the following entries in Colin Matthew and Brian Harrison, eds., O*xford Dictionary of National Biography* (Oxford: Oxford University Press, 2004, online edn, Oct 2005), accessed 15 Dec. 2013: A. Hassell Smith, "Bacon, Sir Nathaniel (1546?-1622)"; Sybil M. Jack, "Fanshawe, Sir Thomas (1580–1631)"; Thomas G. Barnes, "Hawarde, John (*c.*1571–1631)".

used both statute law and case law to advice coroners, focusing particularly on outlining the different types of deaths and their classifications. He included not only case studies, but provided multiple sample inquest in Latin for murder, manslaughter, a suicide by hanging, a death by someone not of sound mind, a gaol death, and a death by misadventure. These were no doubt useful guidelines for the correct wording of the inquests and for demonstrating all the necessary information to be included within the reports.[3]

He included the oath the coroner took when entering his office, the oath the coroner gave to the witnesses and jurors, along with the forms of recognizances binding over to appear at the trial. The sheriff or undersheriff of the same county to which the coroner was elected had to swear him into office. The coroner had to renounce and forsake "all fogrein jurisdictions, powers, superiorities, and authorities." He was sworn to give his complete allegiance to "his highnesse, his heyres and lawfull successors, and to my power shall assist and defend all jurisdictions, priviledges, preheminences, and authorities graunted or belonging to the Kings Highnesse, his heires and successors, or united and annered to the Imperiall Crowne of this Realme."[4] In return the coroner had to swear that he would serve "our Sovereigne Lord the Kings Maiestie" and his people. He swore that he would complete all the tasks of his post and never take fees except as outlined and entitled by statutes and laws. His duties as a coroner were also outlined within the oath, that he must perform an inquest over the body of "any person slaine, or ther with his will, or against his will" and summon the constable to summon his jury.[5]

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[3] Wilkinson, *Treatise*, 41-48.
[4] Wilkinson, *Treatise*, 4-5.
[5] Wilkinson, *Treatise*, 5.

When the coroner was sworn in, he was swearing his complete allegiance to crown and to perform his duties exactly as determined by the laws and statutes of the land.

Other sources the coroners could have used were the manuals created for other offices, such as those for JPs and constables, which frequently mentioned the duties of the coroners in relation to the office for which the manual was intended. At the beginning of the period, William Lambarde published his *Eirenarcha*. This work provided some details of the classifications of death. Although the manual was published towards the end of the period in question, Michael Dalton's *The Countrey Justice*, first published in 1622, provided some information about the duties of the coroner. The manual provided information about the forfeiture of goods and chattels to the crown if someone killed him or herself. For example, Dalton stated that if someone gave themselves a deadly wound which proved fatal within a year and a day, then all goods and chattels held at the time the wound was inflicted, not at the time of death, must be forfeited. Nor could their goods be officially collected until the convict was executed but rather had to be kept in the possession of a responsible individual. He went into detail about deodands and wrote about the possession of forfeited goods, a topic in Chapter Three, which will be shown to have caused many officials to be called before King's Bench. After the felon was found guilty before the coroner, or even if the felon fled, the coroner, sheriff, undersheriff, JP, or other official could seize the goods of the felon, although the officer was not allowed to remove the goods; they had to be left in the custody of the felon's neighbors or the town. The goods were only to be taken into custody when the person was convicted, and at the request of the crown to be brought forward.[6]

[6] Dalton, *Countrey Justice*, 236-247, 293.

Once summoned, the coroner gave his warrant naming the date and location of the inquest to the constable for the gathering of twenty-four men who were to be drawn from the parish where the death occurred as well as three to four from the surrounding parishes. [7] The coroner and jurors took an oath *super visum corporis* ("upon view of the body"), and if possible in the place where death occurred. The deceased could not legally be buried until the coroner or other officials, such as a JP, had viewed the body. If witnesses either did not cooperate or could not attend, the coroner was required to adjourn the inquest and bind the jurors over to appear, and then issue warrants for the witnesses to reappear at the new inquest. Once the jury had provided its verdict and appraised all items they were then dismissed from their duties. If the jurors or witnesses failed to appear at the coroner's request there was no action that he could take against them.[8]

Interactions with Community Officials

In the course of carrying out his inquests, the coroner had to work with other local officials and sometimes the result was the crossing of jurisdictions, but the officials usually carried out their duties in concert, not in opposition. Each played his own role assigned by the centre in the due process of the law. The revision of the commission of

[7] In term of the composition of the jury, members were largely comprised of yeoman and husbandmen, with jurors also frequently being butchers, candlestick-makers, bakers, saddlers, sailors, and on occasion gentlemen. They were small landowners and tradesmen, meaning that they would have possessed a level of influence and importance within their communities of residence, and even perhaps slightly outside their immediate community. They were not drawn from the same class as coroners, but were affluent enough to have had wills. See Loar, "Go and Seek the Crown;" Loar, "Under Felt Hats and Worsted Stockings:" and Hunnisett, "Introduction," in SCI vol. I.
[8] Loar, "Crowner," 23, 25, 56-60, 68-69

the peace in 1590 required several important changes. Justices were directed to hold regular sessions, to use juries for more offences, and to try indictment cases personally.[9] Importantly, the 1590 legislation also *de jure* removed capital punishment from the JP (it had been *de facto* removed earlier in the sixteenth century), now requiring that all felons be tried in the Assizes by national judges. This measure placed the conviction of felons directly under the control of the centre. This increased the need for JPs and coroners to respect the centre and the peripheries, as now they were more accountable to the centre.

Lambarde and Dalton advised that when someone arrested for a felony was brought to the justice, before being committed to prison the JP should make an examination of the prisoner and those who brought the prisoner to the JP. Within three days of a prisoner's arrest, they had to be examined before a Justice; if they were not this could be considered false imprisonment. Further, the examination had to be written down within two days and a bond had to be taken for those who provided information to appear at the next Gaol Delivery and give evidence. The JPs could take recognizances and they could also record any sums of money to be forfeited to the crown. If someone delivered a man suspected of a felony before a JP and refused to provide evidence against the felon or would not be bound to give evidence at their trial, the JP could commit that person to prison for their refusal or bind them over for good behavior. Lambarde instructed that if someone was arrested for manslaughter or murder a JP could not grant them bail unless he was in open session, being during Quarter Sessions, Assizes or County Sessions, or alternatively by at least two JPs, one of whom must be a quorum, meaning the JP had received formal legal education. These measures abridged the authority of untrained

[9] Anthony Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven, Conn: Yale University Press, 1986), 3-4.

members of the county bench and thus limited opportunities for corruption. This measure was also part of the Marian Pre-Trail Procedure Statute.[10] They needed to work in close contiguity with coroners, as both offices were required by statute to take pre-trial depositions, were involved in gaol deliveries, and general gathering of information for trial. The many statutes the JPs were required to enforce meant that some of the enforcement needed to be completed by lesser officials, such as by constables.[11]

Alison Wall argues that despite the burdens the office held, qualified men wanted to be JPs and feared the dishonor that dismissal brought. This fear caused them to both desperately avoid dismissal and actively seek reinstatement if they were removed. The lists of JPs was revised up to ten times a year in efforts to form a commission that was religiously reliable or "politically acquiescent," and this led to competition amongst rival patrons or gentry to have men appointed and removed. This meant that eligible men maintained their appointment based on effective influence, aptitude, residence, religion, politics, and property with their initial assignment to the post only being the beginning of holding onto the post. Ten major purges took place during Elizabeth's reign and following each purge, those dismissed actively sought reappointed using their patronage

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[10] Lambarde, *Eirenarcha*, 205-206, 250-251; Dalton, *Countrey Justice*, 42, 55, 295; J.H. Baker, "Criminal Courts and Procedure at Common Law 1550-1800," in *Crime in England, 1550-1800,* ed. J.S Cockburn (London: Methuen, 1977), 32; Herrup, *The Common Peace,* 46; Baker, "Criminal Courts and Procedure," 33; Dalton, *Countrey Justice*, 42.

[11] Gaskill, *Crime and Mentalities*, 245-246; Keith Wrightson, "Two concepts of order: justices, constables and jurymen in seventeenth-century England," in *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries*, ed. John Brewer and John Styles (London: Hutchinson, 1980), 26; Hindle, *State and Social Change*, 10. By 1603 there were 309 statutes for which the justices were responsible for and 176 of these statutes had been passed since 1485.

networks.[12] Wall concludes "that there were advantages for governments in keeping it that way: dismissal always loomed as a sanction against inadequate enthusiasm for government policies - and dismissal and sometimes later reinstatement of JPs may have been a lesson in the benefits of loyalty." [13] We see similarities with the coroners, but their role was more mechanical and their appointment and dismissal was less of a threat.

The constable was another local official, but one whose jurisdiction did not overlap with the coroner's. In fact, some of the constable's responsibilities were important to the coroner for carrying out his own duties.[14] In *The Office and Duties of Constables* (1641), William Sheppard wrote extensively on keeping the peace. This was one of the key functions of a constable. If violence was suspected or openly threatened, the victim could seek out a constable, who would then order the aggressor(s) to keep the peace and then bring the aggressor(s) before a JP. Should the aggressor refuse, the constable could then bring the person to the gaol. If the persons involved still pursued violence then the constable could use force to stop them and request the help of other officials or persons nearby who might have been able to assist in mitigating the situation. It was also the duty of the constable to arrest felons if they found them in their

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[12] Alison Wall, "'The Greatest Disgrace': The Making and Unmaking of JPs in Elizabethan and Jacobean England," *English Historical Review* April 119 (2004), 312, 317-20, 327

[13] Wall, "The Greatest Disgrace," 332.

[14] Constables were usually literate, small property owners and commonly came from the same status as those who were petty jury members. This limited the number of eligible men for the job. The position was not held for long (typically one year), so, unlike coroners and some JPs, constables were generally amateurs. J.A. Sharpe, "Crime and Delinquency in an Essex Parish 1600-1640," in *Crime in England, 1550-1800,* ed. J.S. Cockburn (London: Methuen, 1977), 95; Alison Wall, *Power and Protest in England, 1525-1640* (New York: Oxford University Press, 2000), 120; Wrightson, "Two concepts of order," 28; Dalton, *Countrey Justice*, 46.

jurisdiction and commit them to the gaol.[15] If someone suspected of murder, or any other felony, was brought to an officer, such as a constable, then Lambarde recommended that the officer should bring the suspect, along with the accused, to a JP for apprehension and examination. The constable was also required to make presentments to the courts of those who had committed a crime.[16]

After 1585, it became a statutory obligation for constables to pursue fleeing murderers using the hue and cry. This was accomplished using a warrant issued by a coroner or a justice and then handed between constables. When the felon was apprehended, he or she was brought back by constables to the warrant's originating official.[17] This could be an effective means of obtaining a suspect. On 15 May 1611, for instance, Thomas Woolf murdered John Martin at Hastings using "a crabtree cudgel," which he had thrown at Martin, striking him on the back of the head and leaving an one and a half inches long by half inch deep wound. Woolf fled immediately after committing the crime but he was captured by the hue and cry on 22 May.[18] As two constables were appointed per parish and there were roughly 9,000 parishes in England, Alison Wall estimates that there were roughly 18,000 constables in office at once.[19] It seems probable that they would have a reasonably high rate of success.

The constables needed to compile jury members for the coroner and attend the coroner's inquests. In theory, the coroner's power and authority over the selection of his jury from those presented by the constable was absolute and final. However, the

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[15] Sheppard, *Office and Duties* 11, 40-42, 48.
[16] Lambarde, *Dueties of Constables*, 17; Gaskill, *Crime and Mentalities*, 33.
[17] Gaskill, *Crime and Mentalities*, 248.
[18] SCI vol. II, 24, entry 103.
[19] Alison Wall, *Power and Protest*, 120.

coroner's jury was slightly determined by the constable. The constable created the list of potential jurors, which meant that their selection of candidates could include those who could be swayed to interpret evidence in favour of either the accused or another person who might have a stake in the verdict.[20] This vested interest could be in relation to the valuation and inclusion of forfeiture goods and deodands.[21]

Constables, like coroners and JPs, experienced local pressures. Joan Kent argues that in the late Tudor and early Stuart period the constableship was both rooted in local custom and part of the central structure and authority. They were required, like other officials who operated at the local level, to represent the state's authority to the village and represent the village to the state. JPs operated within the area where they lived and therefore were politically and socially confined. Sometimes this close proximity between duty and personal life resulted in conflicts between self-interest and duty.[22] JPs and constables were necessary to the coroner to perform their duties both in terms of gathering information and as a part of the inquest procedure. Rather than having conflicted jurisdictions, their duties overlapped in ways that added to the centre's ability to gather information on felons and forfeitures and in a way that allowed the centre to better apprehend and try criminals.

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[20] Joan Kent, *The English village constable 1580-1642* (Oxford: Claredon Press, 1986), 23, 26.

[21] Felony forfeitures became increasingly privatized and politicized during the early modern period, as people could petition for particular grants or for farms of forfeiture. Officials such as sheriffs, undersheriffs, bailiffs, and other would sometimes either take the proceeds of seizure, undervalue them, or fail to report them. For a detailed discussion see Kesselring, "Felony Forfeiture."

[22] Kent, *English village constable*, 39, 233; Gaskill, *Crime and Mentalities*, 245-246; Wrightson, "Two concepts of order," 26; Hindle, *State and Social Change*, 10.

Performing the Inquest

To carry out an inquest within his jurisdiction the coroner had to use the authority of his position to bring together juries who helped determine the cause of death, the objects or persons involved in the death, and whether or not the accused should be indicted. Malcolm Gaskill argues that our knowledge of coroners is restricted to the inquest. Thus, our understanding of their engagement with the community is greatly limited. This assumption is largely untrue; some of this engagement with the community is recoverable by examining coroners' juries.

An inquest had to be held before a jury of at least twelve but as many as twenty-four men, drawn from the parish where the body was found and from three or four surrounding parishes.[23] Coroners were required to swear in their jury members as part of the inquest procedure. Wilkinson provided a sample of an oath coroners could have used to swear in their jury members where jury members were told to "truly observe and keepe on your parts." In the case of Coroner Magnus Fowle, the oath he claimed to have used to swear in jury members instructed them to "present nothing neither for malice or hatred nor conceal anything either for favour or affections, but you shall find the truth and nothing but the truth, so help you God."[24] Ideally then, the inquest was supposed to reflect the facts of the case as required by the centre without regard for the interests of the periphery. Coroners' relationships with the jury members provide insight into the difficulties coroners had in executing the demands of their office as dictated by the centre in the peripheries where they not only worked, but also resided. The most likely site of

[23] Carol Loar, "'Go and Seek the Crowner': Coroners' Inquests and the Pursuit of Justice in Early Modern England." (PhD diss., Northwestern University, USA, 1998), 3-8, 58-63.
[24] Wilkinson, *Treatise*, 6; SCI vol. I, 82.

serious conflict between the wishes of the community and the dictates of the crown was the valuation of the deodand, goods, and chattels, as their forfeiture to the crown could have a direct impact on the community of the deceased. During the inquests, coroners and their juries when reaching a verdict, could be required to find a balance between upholding the law and adhering to the statutes exactly as dictated or attempting to construct a compromise that upheld the law while mitigating its impact.[25]

The primary task of inquests was determining the cause of death. In determining the cause, coroners and their jury had to exercise discretion and make judgments based on both the available evidence, their understanding of the law, and consideration of what verdict the state required in accordance with their laws and statutes. Coroners and juries in reaching a verdict were able to engage with the dictated procedure of the centre by using moderation and their own understanding of what the appropriate verdict was. Coroners had to consider the motives of those involved, whether the death was an excusable accident or was the result of an unacceptable application of force (*vi et armis*). If the inquest found that the death had resulted from homicide (literally "man killing") then the inquest would indict the accused and the case would proceed to the Assizes for felony trial. If a death was determined to be natural, misadventure, or suicide, then the inquest would only be forwarded to the Court of King's Bench for review and no indictment was produced. Coroners, therefore, needed to have a good understanding of what constituted murder, manslaughter, excusable death, suicide, misadventure, petty treason, and infanticide. More than three quarters of John Wilkinson's manual for coroners was dedicated to explanations of the different types of death and how to

[25] Loar, "Under Felt Hats," 397.

evaluate the elements of each particular case, which reflects the importance of coroners' duty in ensuring the correct verdict was reached during their inquests. Michael Dalton, an English legal writer and barrister, provided information about the classification of different types of death in his *Countrey Justice* (1618). Coroners needed to provide their jury members with a basic understanding of the classifications. Wilkinson included in his manual a charge that coroners could have given to their juries. Included within the charge is a long and detailed description of the different causes of death. For example if the deceased person was "slaine in [a] fight, then you must inquire by whom, when, and where, and in what manner, and with what weapon, as neere as you can, and what goods, cattels, lands or tenements the offendor had at the time of the fact committed."[26]

Although a pardon could be obtained for any offence, this did not necessarily mean that the offence was justifiable. Culpability was a factor in the deliberations, as it created a distinction between which offenses were seen as justifiable and thus warranted an acquittal or a lesser charge than a culpable killing, and which were capital offenses and involved a greater degree of severity. *Mens rea* meant that an intentional mental component was present and therefore the degree of culpability was higher. Murder was not just a breach of the law; it went against the laws of God and as such was also a sin. Felony prosecutions were under the jurisdiction of the commonwealth, so the king or queen stood as a symbolic victim who deserved justice. Determining culpability was influenced by how evidence was framed and the decisions to pursue a case that lead to conviction and then punishment.[27] For example, in the case of Thomas Palmer and

[26] Dalton, *Countrey Justice*.; Wilkinson, *Treastice*, 6-8.
[27] Garthine Walker, *Crime, gender, and social order in early modern England* (New York: Cambridge University Press, 2003), 114-115; Herrup, *The common peace*, 2-3.

George Wilkenson, the men were having a discussion when the loaded handgun Palmer was carrying fired, striking Wilkenson in the chest, killing him immediately. In the inquest, the coroner Magnus Fowle concluded that the death was the result of misadventure and not malice aforethought. Palmer was held on bail to appear at the next Assizes on 27 June 1589, where he was then discharged because no evidence was brought against him. The discharge of the case might have resulted from lack of evidence. Another possibility is that the jury determined there was no evidence to bring against him due to lack of intent. If intent was lacking he had not committed murder, rather it was misadventure, or if there had been evidence brought forward, perhaps the lesser charge of manslaughter might have been considered.[28]

William Lambarde in his *Eirenarcha* (first published in 1581), provided details about the classification of death, and if malicious intent was not present when one person in the company of another person suddenly murdered the other then this was manslaughter. Manslaughter, or chance-medley, had no malicious aforethought and lacked premeditation, but was the result of a sudden quarrel or fight where one man in the course of the disagreement killed the other person in the disagreement. The aggressor had no prior intention of causing another person's death as the result of their actions. If two men found themselves witnessing a fight where one man broke out his weapon and a witness standing nearby provided the other man with a weapon, which he then used to kill his assailant, then both the one who delivered the blow and the witness who lent out his weapon would have committed manslaughter.[29] The Stabbing Statute formalized in 1604 stated that when a person died within six months of being stabbed as the result of an

[28] SCI vol. I, 94, entry 372.
[29] Lambarde *Eirenarcha*, 219, 243; Wilkinson, *Treatise*, 11

unprovoked attack or when they did not have a weapon drawn while being attacked, although this was technically manslaughter and the aggressor was convicted of manslaughter, but would receive a punishment dictated for murder.[30] This means that the convicted individual was not subject to benefit of clergy, and therefore would have been hanged unless the king elected to issue a pardon.

Some killings were considered justifiable, such as the taking of another's life in defense of one's own. It was justifiable to defend oneself, house, or goods against a thief or against an attempted murderer. [31] On 13 August 1580, John Sergeaunt and Richard Smyth were sitting on a bench between a table and wall quarrelling in Thomas Bacheler's home at Parham. Smyth struck Sergeaunt on the head with his fists. Sergeaunt retreated as far as he could to save himself from the assault, but Smyth pursued him to the corner between the wall and table, leaving Sergeaunt no way to escape the physical confrontation. Sergeaunt then killed Smyth after punching Smyth in the head.[32] The inquest emphasized repeatedly that there had been no recourse for Sergeaunt than to kill Smyth. For a killing to be determined self-defense under the law, the defendant had to have made every feasible attempt to evade their attacker and must have reached and gone beyond where they could no longer resist their attacker without using deadly violence. The coroner in composing the inquest needed to convey clearly that the case had in fact been self-defense, especially if the inquest would be the only indictment for the accused. Another excusable homicide was *per infortunium*, or death by misadventure, the accidental killing of someone where there was no malicious intention to have done so.

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[30] Walker, *Crime, gender*, 115.
[31] Dalton, *Countrey Justice*, 250; Wilkinson, *Treastise*, 15; Lambarde, *Eirenarcha*, 215-216.
[32] SCI vol. I, 55, entry 252.

Wilkinson wrote that if a man had without malice intent thrown a stone, or shot an arrow, whereby unwittingly this causes the death of another, this is homicide by misadventure. He advised that in this situation the unintentional killer could receive pardon and provided instruction on obtaining the pardon.[33]

If someone took his or her own life this was *felo de se* ("felon for himself"), or suicide and this was considered to be a premeditated murder. The person in the act of taking their own life forfeited to the crown all their goods and chattels and debts owed to them, but did not forfeit their lands. If the person did not immediately succumb to their wounds but died within a year and a day, they still forfeited all their goods and chattels to the crown. Dalton states that although the person could not be arrested for their own death, the finding of their death by the coroner or another authorized official, such as JP, was by law equivalent to being arrested for the crime. The forfeitures could not be collected until the death was found and properly recorded under the due process of the law. Lands only became forfeit following the official inquest and only after a judge had passed sentence.[34] Determining verdicts for suicides was nuanced, as the coroner and jury needed maintain the laws of the state but often found themselves considering the concerns of the periphery. In reaching such a verdict they may have considered the financial loss of the forfeitures.

If an infant or a man who was *non comps mentis*, not of sound mind, killed themselves then their goods were not forfeited. Further, if they took their life as a direct result of their mental illness, then this was not considered suicide. The exception to this

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[33] Kesselring, *Mercy and Authority*, 100; Dalton, *Countrey Justice*, 249; Walker, *Crime, Gender*, 116; Wilkinson, *Treatise*, 17-18.
[34] Dalton, *Countrey Justice*, 236; Wilkinson, *Treatise*, 18-19; Loar, "Crowner," 122; Kesselring, "Felony Forfeiture," 206-207.

was that if the mentally ill person did not kill himself or herself as a result of their mental health, then their goods were forfeited. If a person who was *non compos mentis* killed someone, this was not a felony as mentally ill person had no knowledge of good and evil, so it follows that they could not have possessed felonious intent to do harm to the person they killed. No murder could be committed without the presence of felonious intent; only manslaughter could lack intent.[35] On 16 November 1615, for example, Henry Colthurst stabbed Jane Thomas in the middle of her chest. The inquest identified Colthurst as a lunatic and determined that he attacked Thomas in a state of madness. When she died two days later, the jurors professed to be unsure whether Thomas had in fact died of the wound Colthurst had given her or if she had died of natural causes. Colthurst never stood trial for the killing.[36] Presumably Thomas had died from her wound, but the mental state of Colthurst raised doubt in the jurors' minds. According to Dalton and Lambarde, if a child above fourteen years committed a homicide, they could be punished if it was found that they had knowledge of good and evil. If the child was under fourteen and committed a murder, they could be seen as *non compos mentis*, as they could not fully understand their actions. Whereas Wilkinson listed the age as twelve and added further that if efforts were made to conceal the body, this showed that they understood what they had done and were therefore accountable.[37] In the case that an individual was drunk and killed someone, this was a felony, for this was voluntary madness unlike mental illness, which was involuntary.[38]

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[35] Dalton, *Countrey Justice*, 236, 244; Wilkinson, *Treatise*, 19; Lambarde, *Eirenarcha*, 218.
[36] SCI vol. II, 39-40, entry 166.
[37] Dalton, *Countrey Justice*, 243; Lambarde, *Eirenarcha*, 218; Wilkinson, *Treatise*, 11.
[38] Dalton, *Countrey Justice*, 245.

In determining the cause of death and culpability, the coroner was expected to do more than simply follow the laws to the letter. Cases involving women were particularly difficult as they were not treated equally under the law. Hunnisett found that the overwhelming majority of homicides had male perpetrators and victims, with the obvious exception of infanticide.[39] In her monograph *Crime, Gender and Social Order in Early Modern England* Garthine Walker focuses on gender differences in prosecutions. Crimes such as murder for self-defense and manslaughter, for example, were constructed and envisioned in a way that precluded women from being accused of anything but murder. Women and men could not be compared under the law in terms of their commission of homicide because the law only envisioned homicides outside of murder – that is, crimes committed without malice aforethought, commonly out of anger – to be crimes committed by men. She argues that male criminality was normalized, whereas female criminality was seen as a dysfunction.[40]

Manslaughter was, therefore, a "masculine" form of homicide and the death of women and children at the hands of a man were not viewed as resulting from manslaughter because manslaughter was something that happened between grown men. Coroners and their juries did not find women guilty of manslaughter, only murder. The legal and societal conception of manslaughter made this category only suitable for a death where both the victim and the killer were adult men. The words used to describe manslaughter assumed that the parties involved were equal in terms of status and ability, their participation in the fight was voluntary, and the commission of the act and the altercation resulted from a "sudden falling out between men." Excusable homicide was

[39] SCI vol. I, xxxv-xxxvi; SCI vol. II, xxi-xxii.
[40] Walker, *Crime, gender*, Introduction, 4, 113.

either an accident or self-defense and largely addressed male standards of behavior. Individuals were usually only charged with accidental death when the death completely lacked any intention, malice, or forethought. In most cases where men had been found guilty of misfortune, the victim was either a child or a woman. Walker argues that this resulted from homicide being founded on the masculine assumption of male-on-male violence and as such, the deaths of women and children at the hands of a male did not belong in this category. Walker argues that this absence of cultural or legal language allowing for righteous killings by women meant that the law did not and could not operate in the same way for both men and women.[41]

Interestingly, in the Sussex coroners' inquests for the period in question, no woman was found to have used justifiable force in killing an assailant. She was always charged with murder. This was true even when the situation suggested a different verdict. For instance, one case that might have been the result of a heated argument was on 17 November 1591. Katharine Hinton and Susan Roffe killed Jane Roffe after giving her several wounds on the crown of the head with a staff. On 28 December 1591, the coroner Magnus Fowle and his jury found Susan Roffe guilty of murder and Hinton guilty of aiding and abetting her.[42] The crime does not seem to display malicious aforethought and planning, rather the case seems like many within the inquests where men committed manslaughter during a social gathering after an argument arose. It seems quite probable that an argument broke out between the women that ended in violence, and malicious pretense was not present, since the implement used was a readily available item rather than a weapon. At the Assizes on 30 June 1592, both women were convicted and

[41] Walker, *Crime, gender*, 124,130-134,157.
[42] SCI vol. I, 105-106, entry 424.

requested benefit of the belly, meaning that a woman could not receive the punishment for her crime due to being pregnant. Roffe was pregnant, and was thus granted benefit of the belly; she later died in the gaol. Hilton was not pregnant and was hanged. Benefit of the belly was the only way a woman could avoid the noose after conviction unless she received a pardon, as women could not claim benefit of clergy. Here the actions of the coroners and their juries seem to align with the way the centre and the peripheries envisioned and defined female killings.

The unborn fetus of a woman was not viewed under the law as a life that could be taken by another. If a man hurt a pregnant woman and killed the infant the woman was bearing, this was not considered a murder and nothing was to be forfeited. And further, even if the baby died shortly after being born this was still not a felony. If the mother of the child died within a year and a day after being wounded by an aggressor, then her death was neither justifiable nor excusable, but was murder. Wilkinson argued that this was because the baby was not baptized or living in the world and it is hard to determine why the child had actually died. He provides an example where a man had beaten a woman who was carrying two children. One died right away and the other was born and baptized, but died two days later. This case was not seen as murder due to the difficulty in determining cause of death.[43] Infant deaths are revealing; they indicate that coroners were required to perform inquests into all deaths, regardless of possible forfeitures or potential felonies. When coroner William Playfere, for example, performed an inquest on 31 December 1591 over the body of a dead infant boy born at Burwash on 28 December,

[43] Dalton, *Countrey Justice*, 242; Wilkinson, *Treatise*, 21.

the death was classified as natural causes in King's Bench.[44] Playfere performed another inquest on 11 April 1594 for a dead infant boy born to Margarte Fuller of Westfield, who was listed as an unmarried woman on 8 April. Again, King's Bench classified this death as natural causes.[45]

Men's violation of the women's interior or private domestic spaces "frequently connected breaking the boundaries of their houses with sexual insult and physical violence on the bodies of wives and widows."[46] Walker argues that defining sexual violence against women in binary terms devalued women's accusations in general within juridical discourse.[47] On 15 January 1602, George Ardern performed an inquest into the death of Joan Barnes. Barnes was listed as an unmarried woman who was reported to have consented to have sexual intercourse with an unknown man at Arundel on 27 December 1601, during which time she was burned by him. She languished until 14 January 1602 and then died, which was classified as a natural death.[48] The inquest does not state or imply that the burning was accidental, but rather it states that he burnt her. Another aspect of this inquest was determining if the burn had been sufficient enough to have caused her death. The inquest describes her as having languished as a result of the burns, so it is possible that the burns might have been extensive enough to have caused her death. It seems that the verdict could have been misadventure if the burns were accidental.

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[44] SCI vol. I, 106, entry 425.
[45] SCI vol. I, 115, entry 468.
[46] Walker, *Crime, gender*, 53.
[47] Walker, *Crime, gender*, 55.
[48] SCI vol. I, 141, entry 566.

A coroner required a detailed understanding of the different types of death and their classification in order to evaluate each case and advise the jury correctly. A coroner would frame the inquest language around determining intent and use their discretion regarding the details of the case in their inquest report. If someone had acted in self-defense this would be evident from statements in the inquest detailing that the accused had made every possible attempt to evade their attacker. The way someone died further dictated if the parties involved or the deceased would have to forfeit goods or deodands to the crown or the almoner. In framing the case and deciding on a verdict, the coroner and his jury could exercise discretion and this displays the conversation that took place between the centre and the periphery in the determination of the cause of death.

Determining and Valuing the Deodand

Much of the interaction between a coroner and his jury was over the valuation of the deodand. Once the cause of death had been determined, if the death resulted from misadventure then a coroner and his jury knew it was necessary to define what would be the deodand for forfeiture to the almoner. The jury members further needed to appraise the items included in the deodand. Michael Dalton describes the deodand as the object that caused the person's death. If the almoner had no interest in this object, then the crown could grant them to another interested party. The deodand was defined by Dalton as based on the old rule of *Omnia quae movent ad mortem, Deodanda sunt*, or "that all things that moved at the time of the death are deodand."[49] Dalton and Wilkinson interpreted this to mean that the deodand could include something that moved over a

[49] Dalton, *Countrey Justice*, 227, 247; Wilkinson, *Treatise*, 33.

person or something they fall from, even if the item itself did not move. This could include, for example, a horse or carriage. If someone killed another with a weapon, such as a gun or sword, this item was forfeited as deodand. In practice after the coroner and jury appraised the deodand, the coroner would entrust the deodand to a reliable person, usually a bailiff or the deputy almoner, and then recorded their location in the inquest. Although according to the law the deodand was not to be taken into custody until the case had be tried and received a verdict. Deodands could be granted to a local lord who had the right to them, instead of the king's almoner.[50]

In deaths where there was a deodand there were fewer options for the representatives of the community to mitigate the law. In practice the laws surrounding the deodand could cause the same kind of financial strain as the forfeitures of a suicide case. Someone who had committed suicide made the choice to take their own life, but with misadventure, the death was an accident, and the deodand had no regard of intent nor was there culpability on the part of the owner of the goods who was not always the person who had died. Loar argues that the disparity between law and justice was greatest for coroners and their juries when dealing with deodands. It would have been much more difficult to reshape the scenario of someone's death to remove or alter the implication of any animals or objects involved. Jurors could attempt to alter the description of the death to minimize the deodand. Sometimes the coroner's consent was required to accomplish this during the conduction of the inventory and assessment of the property and on occasion, this could lead to conflict.[51]

[50] Dalton, *Countrey Justice*, 227; Loar, "Crowner," 62-63.
[51] Loar, "Crowner," 133-138, 147-149.

If the victim of a misadventure or murder was under 14 years old nothing was to be forfeited, but coroner's juries would nevertheless report and appraise a deodand in these cases.[52] In a typical case, Coroner Magnus Fowle performed an inquest on 20 June 1593 for an 11 year-old boy. The boy was Thomas Whyttur, who on 19 June had been driving 4 steers pulling a plough. By misadventure he fell in front of the plow, was run over, and received a wound that proved fatal within hours. The jurors and the coroner appraised the steers at 49s and the plough at 12d, and entrusted these items to Alice Tye.[53] On 20 December 1589, Fowle performed another inquest at Lamberhurst into the death of Joan Blackamore, an infant who died on 23 July 1588. Richard Smyth who was a hammerman, had been working in an iron-forge. Smyth in the course of his work had lifted the hammer gate, which was the wheel of the great hammer, the beam it was fastened to, and the fixtures fastened onto the beam, posts, and an upper beam. Joan had been playing by the stream, when she fell into the stream and was killed by the wheel. Smyth was found to have acted without malice and the death was the result of misadventure. The iron and wooden instruments were deemed by the jury to be worth £3 and were entrusted to the yeoman John Dunmo of Lamberhurst. King's Bench classified the death as misadventure and Dunmo was summoned to answer for the deodands and was licenced to imparl (that is, delay his presence in court) until Easter 1591.[54]

Two other cases where the deaths might have been avoided and were perhaps seen as negligent were in the deaths of Thomas Callowaye and Henry Wise. The coroners Thomas Greenefield and Anthony Smyth performed an inquest over Thomas' body on 22

[52] Dalton, *Countrey Justice*, 226.
[53] SCI vol. I, 114, entry 461.
[54] SCI. vol. I, 100, entry 397.

March 1620 when he was six months old. Elizabeth Maning, herself only 6 years old, was holding Thomas when by "weakness and against her will he fell by misadventure" into a tub of scalding water and died. The tub the baby fell into was appraised at 12d and was left with the coroners. The coroner Henry Peckham performed an inquest into the death of a 12 years old boy named Henry Wise on 2 January 1612. Henry was playing in the street when by chance a little cart came down the street and he was crushed. The cart was appraised at 2s 6d and was listed as deodand by the coroner and jury.[55] Loar argues that just as juries would return a verdict for homicide when someone had killed their child or a servant, they were also willing to punish the owner of the deodand for the hand they played in the child's death.[56] This might also be an example of the periphery interacting with the centre in state formation; in these situations making the statement that the law should be adjusted to include culpability for the deaths of children which resulted from negligence. The crown would inquire after the deodand, which could either have been the crown acknowledging these assessments to be just and lawful or simply refusing to turn away potential funds for the almoner being willingly offered by the periphery. Once the jury and the coroner had reached a verdict on the case and determined any forfeitures or deodand then the inquest was adjourned.

The Delivery of Coroners' Inquests

After performing their inquests coroners were required to return the completed inquests to the centre for review and for their use at Assizes if someone was indicted by the inquest. The preservation of coroners' inquests can be attributed to 3 Henry VII c 2,

[55] SCI vol. II, 52, entry 216; SCI vol. II, 24-25, entry 106
[56] Loar, *"Crowner,"* 148.

which stipulated that coroners were to bring all their records to the gaol deliveries. The goal deliveries were held twice annually, at which time the gaol delivery justices would send the inquests to King's Bench. The goal delivery was the criminal side of the Assizes when the judges "delivered" or emptied the goals of all the individuals in custody. The gaol delivery justices kept those inquests pertaining directly to a prisoner held within their gaols and those whom they would be trying for homicide at Assizes. William Lambarde notes that the coroner was required to appear at the gaol deliveries, which was necessary for the certification of their inquest and that he should attend Assizes to record the cases of outlawry.[57]

If a coroner's inquest returned a verdict of homicide, then he had to bring the accused to the gaol deliveries at the Assizes. In a characteristic example, the coroner Thomas Woodgate committed John Palmer to the gaol after Palmer murdered Oliver Mockett with a sword on 14 May 1604. At the Assizes on 13 July, Palmer pleaded not guilty, but he was still convicted for the murder.[58] Similarly, the coroner John Teynton, following his inquest on 28 June 1622, committed James Cooter and John Herring to the gaol for the killing of Roland Buckland. While transporting Buckland to the Horsham goal the two men ended up killing him with "a bearing staff." Ultimately, the two men were acquitted of their crime. On 12 December 1624, James Crowdson killed Richard Gregory at Steyning. Following the inquest conducted by John Teyton on 13 December 1624, the coroner and his jury found Crowdson guilty of murdering Steyning with a knife. Following the inquest, the coroner committed Crowdson to the gaol. At Assizes a grand jury also indicted him for murder, he pleaded not guilty to the indictment, and was

[57] Lambarde, *Eirenarcha,* 302-303.
[58] SCI vol. II, 3 entry 12.

convicted of manslaughter. He then attempted to plead benefit of the clergy, but failed and was hanged for his crime.[59]

Until cases came to Assizes, the coroner was responsible for giving recognizance, which was a bond where the recognizer owed a sum of money in agreement to attendance at Assizes in order to help ensure the return of an indictment.[60] The amount that was required for the recognizance could vary. A bondsman provided up to 10% of the recognizance and the remainder was owed by the witness if they did not appear at trial. By not appearing they became an "outlaw" and were pursued by bounty hunters. Magnus Fowle entered the amount of £10 for recognizances on 5 January 1582 at Lindfield to ensure three men who might have knowledge concerning the birth of a child to the unwed Bridget Standford would attend the trial. She had strangled the child shortly after its birth. Richard Shelley, a JP entered recognizances for others to attend Assizes ranging in amounts from £10-40. In 28 July 1600, George Ardern performed an inquest after John Monnery and Thomas Luff killed Edward Hills. Ardern had entered three recognizances.[61] Another coroner, Richard Lane performed an inquest on 28 May 1585 and as part of his inquest, he had to commit William Standege to the gaol after he shot Thomas Rudges by misadventure on 27 May 1585. On 18 March 1616, the coroner Albany Stoughton committed William and John Reggatt and Thomas Carde to the gaols for the felonious killing of Henry Tailor.[62] These cases and others demonstrate that the coroner was doing more towards the execution of justice than just relaying information on forfeiture and deodands to the crown.

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[59] SCI vol. II, 59 entry 239; SCI vol. II, 66 entry 264.
[60] SCI vol. I, xi; Sharpe, *Crime in seventeenth-century*, 11, 22.
[61] SCI vol. I, 60, entry 272; SCI vol. I, 135, entry 545.
[62] SCI vol. I, 71-72, entry 318; SCI vol. II, 40, entry 170.

Hunnisett argued that the efficiency of a coroner could be determined by an examination of two main indicators: firstly, the regularity and speed by which they handed in their inquest; secondly, the time that elapsed between when the body was found and when the inquest was held. He notes that the records suggest that coroners did regularly hand in their inquests to Assizes; in fact, it was unusual for the inquests not be delivered to the Assizes held immediately after the date at which they were taken. The few exceptions to this were never held for more than one Assizes. The majority of inquests were held by the coroner fewer than ten days after the deaths. Inquests for deaths in gaols were normally held rapidly after their occurrence since the body would have been evidence and the gaolers would want the deceased rapidly buried. Even in larger jurisdictional areas, long delays were the exception, not the norm. The average time was somewhat distorted by the small number of cases where a long period of time passed between the death and the inquest. These cases were largely the result of either a delay in finding the body or an inquest adjournment where we have no surviving records of the earlier inquests. The coroners must have also regularly attended the meeting of the county court, as their presence was necessary for entering outlawries. Hunnisett argues that coroners still performed their inquests even when the death had no clear administrative or financial ramifications for the coroner. This diligence implies an adherence to the duties of their office.[63]

Coroners were required to return their inquests to King's Bench for deaths by suicide, accidental death, or natural causes, but in the sixteenth century, coroners did not usually return their inquests into King's Bench unless they received an order by writ. In

[63] SCI vol. I, xxxviii-xxxix; SCI vol. II, xiii-xxiv.

the seventeenth century, the return of inquests was more often of their own enterprise. This could be the result of them either having been more aware that otherwise their inquests might not have reached King's Bench or they could have been trying to avoid receiving a writ. The statute of 1487 requiring the return of their inquests was slow to be implemented and unevenly integrated into the regular performance of their duties.[64] The efficiency of a coroner was not only important for the presentment of justice, but was further necessary for the extension of the centre's control; their efficiency further reflected the ability of the centre to control their officials. If coroners did not turn their inquests with any regularity the centre would have lost their ability to control the classifications of death and forfeiture goods. If the course of the law was not quickly adhered to this could have been interpreted in the periphery as the state's authority being weak concerning murder, suicide, and misadventure. The increase in efficiency reflected the increasing centralization of the state during this period.

It is clear that in order for the inquest to have been successfully carried out in accordance with the requirement of the centre the coroner needed the assistance of other official operating in the peripheries. The interplay between the three officials - the constable, JPs, and the coroner - is perceptible in the conduct of the following case even though the exact conclusion was unknown. The case exemplifies the complexity of the interactions between the officials who worked together, rather than at odds with each other, although of course it is difficult to determine if this was an exception or the norm. The case also articulates how local pressures could be exerted on an official carrying out his duties.

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[64] SCI vol. II, xii; Sharp, *Crime in seventeenth-century England*, 34.

Coroner Magnus Fowle and Richard Cheyney

The case of Coroner Magnus Fowle and Richard Cheyney provides an excellent extended example of the relationship between the coroner and other peripheral office holders. On 20 November 1585, the Sussex coroner in Lewes rape[65] named Magnus Fowle conducted an inquest before thirteen jurors regarding the death of Thomas Botcher in Lewes on 6 August 1585. The inquest indicates that Henry Younge, William Garlond, and Thomas Brewer, all yeoman and from Lewes killed Thomas Botcher. Younge had given Botcher a fatal wound on his right shoulder measuring seven inches deep and one and a half inches wide with his right hand using a sword valued by the jurors at five shillings. Garlond and Brewer were found to be feloniously present aiding and abetting Younge.[66] The inquest was delivered to King's Bench in the octave of Hilary, 20 January 1586. The three accused defendants were summoned and appeared at King's Bench on 24 January 1586, where all of them pleaded not guilty to the murder. The case seemed to conclude after one delay, whereby the jury members did not appear for the octave, then on 27 April 1586, the jury members attended court and the accused changed their plea from not guilty to manslaughter. The three ultimately avoided the death sentence, however; they successfully pleaded benefit of clergy and were branded rather than executed.[67]

What took place leading up to and following the murder shows the inner-workings of the various officials, courts, and the need for precise reporting by the coroner

[65] A "rape" was a geographical term used in some counties to represent a small administrative unit. Most counties used the more familiar term, "hundreds."
[66] SCI vol. I, 73, Entry 324.
[67] SCI vol. I, 73.

in the inquest, insofar as the local officials' performance of their duties, the delivery of the case to Assize, and then its presentment before King's Bench. The case illustrates the peripheries' level of involvement for cases of murder and the interactions of the local officials attempting to perform their required duties. On 12 February 1586, King's Bench requested that the Assizes justices and JPs return all indictments of Younge, Farlond, and Brewer in Easter. The indictments taken before the Assizes justices and three JPs at the Lent Assizes at East Grinstead on 25 February found that Younge, Garlong, and Brewer had assaulted Cheyney and Botcher, and murdered Botcher. Garlond had violently struck Botcher with an iron and steel sword giving him a fatal wound on the face and cut off his nose, a section of his lip and chin. Younge struck Botcher in the chest and shoulders, opening up another fatal wound with another iron and steel sword. Brewer was feloniously present aiding and abetting them. Upon receipt of the indictment King's Bench ordered the three accused to be arrested and brought before King's Bench on Trinity 30 May 1586. The three men appeared before the court on 20 April stating that the indictment was insufficient as it did not state in which part of Lewes county Garlond and Brewer lived, it did not state from which wound specifically Botcher had died or exactly which part of the body Younge's blow struck. The court accepted their plea due to the lack of details in the inquest.[68]

Roughly a few days following the inquest of 20 November, Richard Cheyney of Cralle filed a bill in Star Chamber. The bill charged the coroner and seven jurors with perjury and corrupt practice. The subsequent proceedings in the Star Chamber reveal a long and complex story. The murder of Botcher was preceded by an affray where

[68] SCI vol. I, 73.

Younge, Garlong, and Brewer first assaulted Abraham Edwards, then Cheyney, and finally killed Botcher. On 15 August 1585, Fowle had summoned and empanelled his jury of 15 for the inquest and then adjourned the inquest until 1 September. Prior to the resumption of the inquest, Cheyney had requested that the Privy Council require certain JPs to sit with the coroner to be his assistants: Richard Lewknor, Edmund Pelham, John Shirley, and Lord Buckhurst. Buckhurst examined Thomas Huggins, the Lewes constable who had been involved in the affray, and appointed four more JPs to the case. The inquest began again on 1 September, evidence was heard and the inquest then adjourned until 12 November.[69] In early October, members of the jury went to London in search of guidance because uncertainty and disagreement had arisen about key issues in the case. The jury members and the coroner were unsure whether or not the killing was murder or manslaughter and there was confusion over the particular details of the case. The Privy Council appointed the lord chief justice and the chief baron of the Exchequer to give their pronouncement on the matter. On 2 November, Fowle, Cheyney, some of the assistants, and several jurors went to the lord chief justice and chief baron at Serjeants' Inn. On 28 October, more examinations of witnesses were taken before the coroner and one of the JPs, which both men signed. The judges had advised them that if the evidence should agree that in fact, the constable had ordered Brewer, Garlond, and Younge to keep the queen's peace before the fight started but that the assault and death still happened, then this was willful murder. If it had been that Cheyney and all the other men were fighting together before the constable's order, then the correct ruling was manslaughter. The central issues of the case were at what point Constable Thomas Huggins had attempted to

[69] SCI vol. I, 73-74, 77-78.

keep the peace; what led to the inquest being held at an earlier date; why jury members had been replaced; and who had actually killed Botcher. Huggins was an older man and details of his attempts to keep the peace are unclear. There was little agreement on what exactly happened when, or if anything at all had happened, but this point was important because it meant the difference between manslaughter and murder. This is also where Huggin's age was relevant because it was unclear how quickly he could have followed or how close he could have gotten to affray. Huggins admitted himself that he had trouble seeing the fight, but did hear the blows.[70]

When the inquest resumed on 12 November the coroner again adjourned the proceedings until 12 January 1586, but then in an attempt to adhere to the advice Fowle was given at Serjeants' Inn he decided to reconvene again as soon as possible and rearranged the resumption of the inquest for 20 November. Upon the resumption of the inquest on 20 November, only eight of the original fifteen jurors appeared and the coroner found seven new jury members to replace the defecting jurors. There were thirteen members of the Lewes community who reported witnessing the events which led to the death of Botcher and the assault on Cheyney, and their reports varied significantly. Most of the witnesses deposed on 28 October agreed that Abraham Edwards was injured on 6 August. These witnesses further agreed that the trouble which resulted in Botcher's death began after the August assault and Cheyney's suit against the coroner and 7 jurors. Cheyney feared that Edwards was going to die as result of wound he received in assault and so he sought the constable to have the peace kept and Younge, Garlon, and Brewer

[70] SCI vol. I, 75-77.

arrested. The trio proceeded to challenge and fight Cheyney, although the exact sequence of events could not be determined.[71]

Some of Cheyney's primary complaints in Star Chamber were with the way the coroner conducted the 12 November inquest and involvement of jury members. Cheyney felt that Fowle did not allow the jurors to read their final verdict because Fowle had anticipated the verdict would be murder. Cheyney charged that the coroner had disregarded the proper execution of his office, the advisement of the Privy Council and the two judges, and finally plotted to clear the three accused of murder. Cheyney thought that Fowle had purposely held the inquest when he and many of the other jurors could not appear and that some of the jury members had bribed Fowle.[72]

In his defense, Fowle argued that he had received letters from the lord chief justice and the chief baron of the Exchequer as to the presentation of all the examinations to the jury and the importance of not allowing for a lengthy adjournment. Fowle argued that he had given Cheyney and the other jurors enough notice to appear but they chose not to. [73] They, to his understanding, had knowingly and willfully "committed the contempt of non-appearance," as he could prove that some of them had been specially warned and others had announced that they would no longer attend the inquest.[74] Cheyney of course denied this. When the jury members did not appear, the coroner ordered the bailiff to go and seek new members. The jurors who had been charged with perjury naturally agreed with Fowle's account of the events, and stated that had they

[71] SCI vol. I, 74-75, 78-79.
[72] SCI vol. I, 78-79.
[73] SCI vol. I, 80.
[74] SCI vol. I, 80.

known that they would be recruited to act as a juror they would not have gone to Lewes on that day.[75]

Another accusation Cheyney made against Fowle was that the coroner had not sworn the witnesses to the truthfulness of each examination as he read them to the jury. Fowle opposed this saying that he had properly opened the proceedings to the new jurors with an oath. He read to the jury the letter from the lord chief justice and the chief baron, the depositions were orally read, the twenty examinations were produced in court, and they were re-examined and passed on their written examinations. Cheyney maintained that firstly, the witnesses had not been sworn to the truthfulness of their examinations before the jury and coroner. Secondly, Cheyney argued that there was no order given that the examinations of witnesses present at the inquest were to be read to the jury. Instead, they should have orally recounted their understanding of the events under oath. Finally he contested that the witnesses were not deposed and if they were it ran contrary to previous depositions. Fowle countered that both reading and deposing had taken place at the inquest.[76] Cheyney further asserted as that Garlond, Brewer, and Younge had all been present and fought together, the jury had accordingly committed perjury by finding Younge guilty of manslaughter and Garlond and Brewer merely accessories. Fowle responded to this by saying that he and Shelley had advised the jurors that this was not a correct verdict. The jury defended themselves by saying that had their verdict been murder they would in fact be guilty of perjury, since all the evidence provided by the examinations and oral testimony indicated manslaughter. Further, it had taken the jury

[75] SCI vol. I, 80-81.
[76] For the oath see SCI vol. I, 82-83.

time to come to their verdict and they had not persuaded the other jury members to reach the verdict they had. The exact outcome of the case is unknown.[77]

This case highlights the problems that a coroner and constable faced in attempting to select a jury when there was conflicting local interest; here the relationship the accused and one of the victims had with the potential jury members. Cheyney, a victim of the affray, challenged some of the potential juror members because he thought they would rule in favour of the defendants. The coroner had problems getting the jury members to agree to return after each adjournment and there was nothing Fowle could do to remand or force the jury members to keep attending. Interestingly, the jury members charged with perjury argued, honestly or not, that financial concern was a factor in them not wanting to serve. They had business and work they needed to attend to and as such found the duties of a juror to be an economic disadvantage. The jury members who went to seek advice from London on how to proceed indicates that they took their duties seriously and tried to adhere to the law.

The case also provides a detailed description of the coroner performing his duties and his interactions with the periphery and the centre. Further the case demonstrates that if the need arose and a coroner was dedicated to his commission he would seek outside help – although some of the assistance Fowle sought in this case might have been partially at the urging of Cheyney, who had initiated the closer involvement of JPs. This case shows the coroner and JPs both taking depositions and performing examinations. A central point of the case was the involvement of a constable, who was an older man and perhaps may not have been able to move as fast as his office required in such scenarios.

[77] SCI vol. I, 82-84

The verdict rested on the question of when the constable had ordered the peace to be kept and if he had even successfully managed to make the order. That this remained such a lingering question for the jury, one which the coroner or the other local JPs could not answer prior to travelling to London, is interesting because this articulates a problem with having largely untrained officials. This lack of knowledge raised further questions of how often coroners and their juries were not adequately versed in the laws concerning felonies to make a proper judgment. Not all of the witnesses retold the sequence of events in the same fashion, which would indicate that there was no corruption on the part of those providing evidence for the case, or one would assume that their accounts of the event would have possessed a higher degree of consensus. Finally, this case shows how a local man, who at the time did not hold an office, attempted to alter and question the presentment of law. This provides evidence that even in the case of a felon, people in the peripheries who were not acting members of the state or crown could be and were part of state formation.

Conclusion

As this chapter has demonstrated, separating the periphery from the centre was difficult, since the two were intertwined and dependent on each other. Community members in the periphery feared the ramifications of not reporting murders and failing to apprehend fugitives. Sometimes the coroner's fee was an incentive not to summon him if the locality would be fined for *lex murdrum*. People confronted the dual fear of either attracting suspicion should they not raise the alarm and report the crime or not wanting to be the one who discovered the crime. The person who found the body would also have to

alert the constable to raise the hue and cry and summon the coroner. The accusatory nature of the justice system and the lack of a proper police force meant that the presentation of suspects for examination and witnesses' statements depended upon people volunteering information they had concerning the commission of a crime; without this there might not have been enough information or even a known crime for a case to proceed.[78]

The coroner represented the crown within the peripheries. He had to gain both the cooperation of other officials and of the members of the periphery who both provided them with evidence and served as jury members at his inquests. Coroners' inquests linked the local community (the jury members and witnesses, the county gentry as coroners, JPs) with the central government (justices of the Assizes, Gaol Delivery, King's Bench, and Court of Star Chamber). Coroners relayed information both towards the centre in the reporting of the case and away from the periphery in the verdicts. Coroners' inquests were not just rulings on the death of members of the county. They were also a visual reminder of royal power due to their very public presentation and involvement. Further, inquests underscored that the law, however much it might be invoked locally, was framed outside the community.[79]

The legal flexibility officials had regarding their discretionary judgments reserved for offenders allowed for some maneuverability, which could then lead to inefficiency or corruption.[80] The coroners and their juries had to interpret the case on behalf of the centre, but in this process there was room for interests outside the centre to be included,

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[78] Gaskill, *Crime and* Mentalities, 250, 286, 294.
[79] Loar, "Crowner," 5, 7.
[80] Gaskill, *Crime and* Mentalities, 249-250.

like those of the surviving relatives and those with a vested interest in the outcome of the case. This also meant that a coroner could include their own interests if they personally knew anyone involved in the case or had been swayed by a bribe. The problem for authorities then was in separating what was good and personally beneficial versus what was in the best interests of the people their duties required them to oversee. This ambiguity was further compounded by the fact that most men who held enough property to qualify for being appointed a justice, coroner, or constable belonged to more than one community and so their allegiance was not always clear.[81] But officials were representatives of the crown first and needed to adhere to their post as dictated by the centre and not the periphery. The state needed to articulate and govern the coroner's duties in as much detail as possible. Braddick argues that the state gained more control not only through the development of more specialized and separate offices, but through the reduction of discretion in exercising the offices. The reduction of discretionary measures coupled specifically the rewards of a post emphasized the stricter adherence to their duties as outlined by their position, and the regularity of the position helped to ensure that the peripheries would consent to their activities more readily.[82] People in the periphery were more inclined to follow the directions and accept the authority of coroners, constables, and JPs during inquest if the duties and goals of the officials were known. Officials then had to know and be willing to adhere to the correct procedures of their position. One of the only ways for coroners to do this was through the use of manuals. The coroner could then use the manuals to help them determine cause of death.

[81] Hindle, *State and Social Change*, 21-22.
[82] Braddick, *State Formation*, 43.

Sometimes inquest verdicts would go against the best interests of the people if coroners followed the law exactly, such as the case with deodands and forfeitures. In reporting their verdicts, coroners used language to frame and address the culpability of an individual. If the accused acted in self-defense the coroner needed to know the necessary requirements for that ruling and construct their inquest to convey this lack of intent and the need to have used violence in self-defense. Coroners and their juries could also interpret the laws of the centre and make adjustments for culpability, as was seen with deaths by misadventure where the victim was a child. The efficiency in coroners' performance of their duties was necessary for the extension and maintenance of state power. This review of coroners by the centre highlights this expansion of state power and will be examined in the next chapter.

Chapter 3: The Coroner and the Crown

This chapter examines the coroner's relationship with the judicial body charged with the review of coroners' inquests, the Court of King's Bench. This royal court not only reviewed the inquests for the correctness of the operational procedure but also increased its involvement with cases where it took a special interest, and exercised the crown's power to grant pardons and collect deodands. The review of coroners' inquests by King's Bench allowed the state and the coroners to interact on the particulars of deaths in the peripheries. Because, like JPs, the coroners were predominantly untrained office holders, this review process enabled the centre to correct inadequate or incorrect procedures. Evidence of this close interaction between the state, the crown, its coroners, and its peripheries is shown in several ways: through cases in which King's Bench reviewed and found fault with a coroner's inquest; through the coroner's relationship with the King's almoner; when the crown reviewed a case based on patronage or the involvement of crown officials; and finally in the process of considering pardons for felons convicted following a coroner's inquest.

Faults with Inquests

The state's issues with the way an inquest was completed could result from more than just the problems with deodands or corruption. The inquests were legal documents used in the trial at Assizes or in deaths where there was no trial; in the latter situation, the inquest report was the only official document for the case. This meant that it needed to include all the necessary information. If information was missing after King's Bench and Assizes reviewed the inquests then King's Bench summoned the coroner to answer for

defects and request corrections. While coroners were not required to have special training, they were required to have enough Latin in order to write the inquests in that language. Coroners would be brought before Assizes judges or King's Bench for errors in their Latin and this could result in an indictment being defeated. Their Latin had to report correctly the particulars of the case; misrepresenting the location, or failing to identify correctly the parties involved and their specific roles meant the coroner's verdicts could be successfully argued against.[1]

For example, John Teytnon the coroner of Lewes rape conducted an inquest into the death of Thomas Chambers in Southover on 28 June 1615, which brought him before King's Bench to answer for defects in his language. On 23 June 1615, Chambers had been driving "a brewer's carte" being drawn by four yoked horses belonging to his master, Henry Plommer. He had stopped and was trying to remove a "half-tun" of ale, which had been lying in front of the cart, when the shaft-horse twisted itself so it could graze. The horse's movement caused one of the wheels of the cart to by misadventure run over Chamber's body, crushing him. He died from his wounds two days later on 25 June 1615. The shaft-horse and cart, having killed him, were appraised by the jurors at 20s and remained with George Coles, the deputy almoner of Sussex. This case is interesting because the deputy almoner was called before King's Bench to answer for the horse and a wheel and he was discharged in Hilary of 1616 when the King's Deputy Almoner William Johnson acknowledged satisfaction. The coroner was also summoned to King's Bench, presumably for writing cart instead of wheel in his last sentence appraising the

[1] Loar, "Crowner," 45-47.

deodand, as the coroner wrote over an erasure on the inquest.[2] The state required the coroner to be more specific in his references to the details of the deodands and name exactly which object had run over the victim.

Judges could also nullify an inquest for not relaying the particulars of the exact location of the death and for the coroner's improper identification of his appointed county, as this could affect his jurisdiction over the case. Coroners could be fined for errors, so in order to ensure that their indictments stood and their suspects were properly prosecuted the coroners needed to be able to perform their job properly.[3] Usually if a coroner corrected any errors or omissions to their inquests then any processes begun against them by King's Bench ended. The coroner was required to include all the necessary information concerning the deodand and forfeitures, such as their value, location, and custody. For example on 24 October 1634, Edward Raynes, a gentleman and the coroner for the duchy of Lancaster in Pevensey rape, performed an inquest at Jevington into the cause of Nicholas Wheateley's death, who had been living in Hellingly. Wheateley died on 15 October 1634 while in the service of his master, Lawrence Ashborneham of Jevington. He was driving his master's cart from Jevington to Hailsham via the main road linking the two when by misadventure Wheateley suddenly fell off the cart and one of the wheels of the cart then ran over his neck, crushing it and causing his immediate death. The cart and two wheels were moving at the time of Wheateley's death making them deodands, which the jury appraised at 40s, and the items remained with Ashborneham. As Ashborneham was in possession of the deodand he was summoned to King's Bench to answer for the deodand and was discharged by the deputy

[2] SCI vol. II, 36-37, entry 153.
[3] Loar, " Crowner," 45-47.

almoner after the acknowledgement of satisfaction in Easter 1636. The coroner was also summoned to the bench for defects concerning the place of residence of Ashborneham, which appears to have been added not long after the completion of the inquest. Raynes was discharged in Trinity 1635 because he had made the necessary amendments to his inquest.[4] Again, this case shows that the coroner was expected to provide all necessary details about the deodand.

The coroner George Sarys performed an inquest into the death of John Aylwyn on 26 March 1611 that was missing so much information it required redrafting. Aylwyn had been killed by Jasper Tregose on 25 March. Tregose had assaulted him in the road with a sword and given him a wound on his left thigh 2 inches wide and 5 inches deep. When the inquest was delivered to East Grinstead Assizes on 24 June the inquest was declared void, most likely because the goods and chattels were not appraised, and the inquest was ordered to be redrafted. The redrafted inquest was delivered to Assizes on 24 February 1612 and then sent to King's Bench in Easter. This new inquest was similar to the original but included the valuation of the sword and that he had no goods and chattels, instead of them having been delivered to the bailiff.[5] For this inquest the coroner avoided being summoned to King's Bench by having been asked by the Assizes to redraft the inquest.

George Ardern, a gentleman and the coroner of the Westbourne hundred,[6] performed an inquest on 3 January 1587 at Prinsted in Westbourne following the death of John Burgis of Emsworth in Hampshire, that was missing all the necessary information

[4] SCI vol. II, 84, entry 340.
[5] SCI vol. II, 23-24, entry 102.
[6] A "hundred" is a geographical unit of measurement for the divisions of counties.

about the deodand. The inquest recorded that at around 1 pm on 2 January 1587 Burgis, with no others present, threw himself into the stream "Dytchmill," where he drowned. He had goods and chattels in his home at Emsworth worth 40s and these were in the custody of Richard Symons, bailiff of George Cotton an Esquire. The jurors' agreed that there were no other goods and chattels. Ardern was summoned before King's Bench because in the original inquest he had omitted the value of the goods and chattels, which was written over an erasure on the inquest. Once he made this addition to the inquest, thereby complying with the stipulations of King's Bench, the process against him ceased in Easter 1588.[7] This was not the first inquest for which Ardern had to answer for defects.

Another example of missing information was when George Ardern, the coroner for the Bury hundred, completed an inquest in Fernfold in Wisborough Green for the death of Lawrence Readd on 28 September 1585, which resulted in him being called before King's Bench for defects. Readd was at Fernfold on 6 September at about 4 am, when an unknown man murdered him with a dagger worth 2d. The man wounded Readd on his left side near his armpit with the dagger. He immediately died of his wound which was one inch wide by 2 ½ inches deep. At the time of Readd's death the unknown offender had no goods or chattels, tenements or lands known to the jury. He fled following the commission of the murder. The inquest was delivered to East Grinstead Assizes on 25 February and then to King's Bench in Easter 1586. Ardern was summoned to King's Bench due to defects found in the case and the process against him ended after the inquest was amended and brought up to the required standards. The amendments were the addition of information regarding the goods and chattels and the correction of the

[7] SCI vol. I, 87, entry 338.

victim's name from Frendd to Readd.[8] With this inquest, the problem was outside that of just the goods and chattels, rather the correct reporting of the victim's details. In the event that the murderer had not fled, this would have been grounds for the indictment to be overturned.

The inquest needed to provide all the necessary information regarding the accused. William Burnoppe, the coroner for the duchy of Lancaster in Pevensey rape in East Grinstead, performed an inquest on 29 July 1586 over the body of Matthew Clayton. Clayton was from St. Saviour's parish, Southwark, Surrey and was the servant of Arthur Bullman of Southwark. On 27 July 1586 Clayton was traveling in East Grinstead on business for his master on a road running between West Hoathly and East Grinstead, when Raply Lysney of East Grinstead murdered him using a pitch fork by delivering several fatal wounds to his head. The pitchfork was iron and worth 6d. Lysney then cut Clayton's throat with a knife worth 3d. Clayton died the same day at East Grinstead. At the time of the inquest to the best of the jurors' knowledge, Lysney had no goods or chattels, tenements or lands. Following the murder Lysney was promptly pursued by the inhabitants of East Grinstead, arrested, and committed to the county gaol. The accused, Lysney, died a natural death in Horsham gaol around 23 January 1587, but he was still ordered to be arrested and appear before King's Bench in East 1587. The sheriff returned to King's Bench that Lysney was outlawed at Chichester on 2 Nov 1587 under the name Richard Lysey. Burnoppe was summoned to King's Bench to answer for the defects in his inquest. The process against Burnoppe continued until Easter 1588, when the inquest was amended most likely by the addition of Lysney's delivery to the gaol and the time of

[8] SCI vol. I, 72, entry 321.

the murder.[9] Again, once the coroner provided the details of the suspect's arrest and an approximate time of death, the process against the coroner stopped because the deficiencies were corrected. This case is also important as it shows that the information and details the state required an inquest to include were more than just the particulars of deodands.

Another case where problems arose from a lack of details regarding a suspect was an inquest performed by the coroner Magnus Fowle at Newhaven on 6 August 1590, into the passing of Gawen Eloquens of Arundel. On 27 July 1590, John Treyfote and someone else whose name was unknown killed Eloquens at Newhaven by throwing him into the water of the port and drowning him. To the best of the jurors' knowledge at the time of the inquest, the two suspects had no goods or chattels, lands, or any other tenements. Neither of the two men fled after committing the felony. King's Bench summoned the coroner presumably for not including Eloquens's place of residence and the fact that the two felons had not fled following the commission of their crime; once these two additions were made to the inquest the process against him stopped.[10] The Assizes and King's Bench required that inquests be as detailed as possible on the whereabouts of the felons and whether they had cooperated. These details were necessary in order to ensure the validity of the inquest as a legal document and to ensure justice had been properly carried out. The Marian statute on Pre Trial Procedure required the addition of details of the suspects to be on the Bill of Indictment, as they should have been obtained during the pre-trial depositions. If these details were omitted then verdicts could be overturned because the correct process and procedures had not been adhered to.

[9] SCI vol. I, 85, entry 330.
[10] SCI vol. I, 101, entry 402.

In one case involving forfeitures, the coroner's mistake resulted in the crown losing the funds. Coroner Henry Peckham performed an inquest on 20 May 1616 over the body of Margaret Cowdry. She had committed suicide two days earlier by hanging herself with a halter. The jury and coroner determined she had good and chattels worth £14 at the time of her death, which remained with George Coles of Amberley. Coles was summoned to King's Bench regarding the forfeiture and he had licence to imparl in Easter 1617. A write of exigent dated 14 April 1619 detailed that he had been outlawed by judgment of two county coroners, John Bucher and John Williams. In Easter 1620, Coles appeared before the Court of King's Bench where he surrendered to the marshal and produced a writ of error dated 6 May 1620 for the revocation of his outlawry if the court could find error in the process and record. Coles entered a plea that they were four errors of omission on the inquest. First, the inquest had not stipulated that the jurors were in fact good and lawful men of Aldwick and the three neighbouring townships. Secondly, the inquest had not stated if the jury members had been empanelled and sworn to inquire into Cowdy's death. Thirdly, the inquest had not stated in which county or place she had taken her life. Finally, that Coles himself was not properly named in the inquest. He was called George Coles of Amberley in the inquest but George Coles of Amberley, deputy almoner of Sussex, in the writ of exigent, so therefore the writ was not correct and therefore not legally valid. His plea was upheld, his outlawry was revoked and annulled, and he was restored to the common law. In a writ dated 16 May 1620 George, bishop of Chichester, was ordered to return to Coles all the goods and chattels, lands and tenements which the bishop had seized as forfeiture following Coles' outlawry. Coles used this same method of evasion with the same writ of exigent another time. The inquest was

performed by John Teyton, the coroner of the Bramber rape on 16 June 1616 into the death of John Bridges who fell off a chestnut horse at Nuthurst. The mare was valued at 20s and remained with Coles. Once again, when he was summoned to King's Bench he followed the same procedure, except this time he questioned Teynton's jurisdiction. The faults he found in the inquest were over the lack of the exact county in Nuthurst, and that the inquest did not include Bridges' exact location of death.[11] In these inquests the mistakes of two coroners allowed for both cases against Coles to be overturned and forfeitures and deodands to be lost.

Hunnisett argues that King's Bench's interest in inquests was largely regarding the reporting on the status of the deodands and chattels of murders, suicides, and misadventures and the necessary steps that were taken to secure them.[12] As we have seen that was only one small part of why King's Bench reviewed the inquests. Since the coroners who were primary agents for reporting on death to the centre were untrained, the centre needed to be able to communicate problems in the performance of their prescribed duties. If the problems were to such an extent that the coroners were deemed to be wholly incompetent, perhaps a replacement should have been found. This is of course not to imply that defects in verdicts and the valuation of deodands were never the result of corruption. But, given that most coroners carried on with their duties even after being summoned before King's Bench, this indicates that the questions that brought them to court were not so much a lack of ability or a matter of corruption but the centre's need to correct their behavior. This allowed the centre to continue to define, alter, and correct the role of the coroner and ensure that the state had the necessary formal details for each case

[11] SCI vol. I, 41-42, entry 174; SCI vol. II, 42, entry 177.
[12] SCI vol. I, xlvii.

to either make a conviction for a wrongful death or ensure that the deodands and forfeitures were properly recorded. As demonstrated in the aforementioned examples often the problems were a simple omission of details required by Assizes in order to properly try a suspected felon. Some omissions were a lack of adherence to the Marian Pre Trial Procedure statute. Clearly, every coroner who was summoned for defects in their inquests had it within their best interests to comply or face the punishment of King's Bench.

Other Officials and Court Procedures for Deodands

The coroners were not the only officials whose behavior was controlled by the centre through the information reported on inquests. Bailiffs and constables also found themselves being called before King's Bench to answer for transgressions in the correct procedures for deodands. This can be demonstrated by John Burrell, the bailiff of Philip Earl of Arundel, Lord of Lewes rape, and his issues with King's Bench. Magnus Fowle, the coroner for Lewes rape performed an inquest at Barcombe on 6 June 1581 for the death of John Rede from Lewes. On 4 June 1581, Rede hanged himself from a beam in the barn of John (whose last name was omitted) using "a trayce rope" worth 1d at Barcombe. No one else was involved in his death. Rede had goods worth £3 1s 2d; the inquest provided a complete list of all the goods. The goods of Rede remained with John Burrell, who was summoned to King's Bench to answer for where Rede's goods were.[13] Coroner Fowle was not accused of any defects regarding this inquest nor was he summoned to give information regarding the deodand.

[13] SCI vol. I, 58, entry 263.

Again, John Burrell was summoned before King's Bench for another inquest performed by Fowle, Lewes rape coroner at Chailey on 19 June 1581. Richard Pollard late of Chailey, who was listed as a laborer employed by John Martyn, was putting away a wain (a farm wagon) belonging to Martyn worth 3s 4d when by misadventure the wain fell on Pollard. This severely wounded his head and he died immediately. The wain remained with John Burrell, who again was summoned to King's Bench to answer for the deodand. He was outlawed at Chichester on 28 March 1583 for his possession of the deodand in both this case and the aforementioned case.[14] Another bailiff who was also outlawed at Chichester on 28 March 1583 was Abraham Parker, the duchy bailiff in Pevensey rape. Magnus Fowle, duchy of Lancaster coroner in Pevensey rape performed an inquest on 24 June 1581 at Hellingly. On 19 June 1581, John Kelley of Hellingly, who was a horse keeper, drowned himself in a pond. At the time of his death he had goods worth 36s 10d, all of which remained with Abraham Parker, who was summoned to King's Bench to answer for the goods. This resulted in him being outlawed.[15]

Another bailiff found himself summoned before King's Bench following Magus Fowle's inquest. This time he was acting as the coroner for the Bramber rape. Fowle performed the inquest on 28 October 1581 at Botolphs into the death of Robert Turges from Botolphs. Turges had left his bed at about 3 am, gone to a ditch of water near his house, and committed suicide by throwing himself into the ditch and drowning. At the time of his death Turges had goods and chattels worth £6 1s 8d. The bailiff of Philip Earl of Arundel, lord of the liberty, Thomas Lewkenor maintained custody of the goods and chattels and as a result, he was summoned to King's Bench to answer for their

[14] SCI vol. I, 58, entry 265.
[15] SCI vol. I, 58, entry 266.

whereabouts. Once the deputy almoner acknowledged satisfaction, he was discharged in Hilary 1584. Bailiffs could not legally maintain the custody of a deodand. Once the case had been reviewed by King's Bench any custody issues concerning the deodand were promptly dealt with.

Constables could also find themselves before King's Bench answering for deodands and forfeited goods, like in the instance of Henry Lucas, constable to the Holmestrow hundred. On 15 June 1621 John Teyton, Lewes rape coroner, performed an inquest at Rodmell in Holmestrow hundred into the death of William Copperd. Two days before the inquest Copperd was standing near the funnel of a windmill in Rodmell, when by misadventure he was caught in a cogwheel, which twisted his left arm, badly crushing and tearing his arm and his chest. He eventually succumbed to his wounds around 2 am on 14 June. The moving parts of the windmill, which resulted in his death were appraised by the jurors to be worth 13s 4d and were left with Henry Lucas. He was summoned to King's Bench because he had retained the deodand and was discharged in Michaelmas 1621 after the deputy almoner had acknowledged satisfaction. Lucas still had to pay a fee due in the crown Office for not correctly following procedure.[16] The crown received information from coroners' inquests that enabled them to correct improper adherence to procedures of other officials. Constables and bailiffs were not always within their jurisdiction to take custody of deodands and forfeitures and once the case had been reviewed and was finalized the deodand now by law had to be turned over to the crown.

[16] SCI vol. II, 56, entry 228.

The Threat of Outlawry

In the event that coroners did not make the changes requested by King's Bench to their inquests they could be outlawed, which was the state's ultimate punishment for a coroner who neglected his duties. The coroner for the duchy of Lancaster in Pevensey rape, Abraham Parker, performed an inquest on 1 December 1584 at Hartfield, which resulted in him being outlawed. On 25 November at about 9 am, the deceased John Wooddie from Hartfield committed suicide by hanging himself with a rope worth ¼d tied around his neck and to a branch of an oak tree of no value growing in a field, which ran along where he lived. At the time of his death he had goods and chattels worth £49 5s, which remained in the custody of the coroner. Parker was summoned before King's Bench to answer for the goods and chattels; he was subsequently outlawed at Chichester on 3 October 1588, presumably after not turning the forfeited goods over to the almoner.[17]

Richard Lane was coroner who faced outlawry after two separate inquests had him called before King's Bench. The first inquest was held at Pagham on 11 March 1590 over the body of Thomas Allen who at Pagham on the morning of 9 March had committed suicide by throwing himself into a pond and drowning. He had goods and chattels worth 20s 8d at the time of his suicide, which Lane took into custody. The inquest was delivered to King's Bench in Michaelmas and Lane was summoned to appear. Again much like Parker, he must not have handed over the forfeiture to the almoner, which resulted in him being outlawed at Chichester on 8 October 1607.[18] Then, after performing an inquest at Broadwater on 18 June 1594 into the passing of Thomas

[17] SCI vol. I, 70, entry 313.
[18] SCI vol. I, 100, entry 399

Duke he was summoned to answer for defects in the inquest. On 16 June 1594 at about 8 pm, Duke was bringing his master's colt, the name of his master is not provided in the inquest, to water at Broadwater using a rope worth 2d. He had tied the other end of the rope around the middle of his torso. By misadventure he lost control of the colt causing him to be dragged for at least "100 perches" over the ground. The force of the colt and the speed of travel caused his neck to break and inflicted other damage to his body resulting in his death. The colt and rope were appraised by the jurors to be worth 10s, which remained with the coroner reportedly for use of the feoffees. Then he was called before King's Bench to answer for the colt. The sheriff reported in Hilary 1600 that Lane was outlawed.[19] The exact chronology of events and when he was first outlawed is unclear from the remaining records, but it seems clear that his outlawry stemmed from inadequate performance as a coroner.

The coroner Albany Stoughton, was also outlawed numerous times for defects in his inquests, as shown by the six extant inquests in which Stoughton made mistakes and was summoned to King's Bench. He performed an inquest at Pulborough on 29 December 1606, over the body of Edward Cooke of Pulborough. Cooke had been stabbed by Anthony Bright with a dagger during a card game. The inquest was delivered to King's Bench in Michaelmas 1607. Stoughton was summoned to answer for his defects, as he had omitted many details, and the inquest was amended, but he failed to include the exact location of the murder. He was outlawed at Lewes on 6 October 1608. The next inquest King's Bench found to be defective was performed on 2 July 1607. The deceased, Christopher Bridger, had died on 29 June 1607 after a riding accident where he fell off a

[19] SCI vol. I, 117, entry 473.

horse and broke his neck. The horse was determined to be a deodand since it was moving at the time of his death.[20] On 6 October 1607, he performed an inquest into the death of John Furder at Storrington in Arundel rape. Furder had died on 5 October after he fell into a well he was working on and wood fell in after him hitting him on the head and killing him. The wood was appraised to be worth 12d, as the wood was determined to be moving at the time of his death making it a deodand. For the last two cases, Stoughton was summoned to King's Bench to answer for defects in the inquest. These defects were likely that he had neglected to include the custody of the deodand. He had license to imparl, meaning to delay that matter, in Hilary 1610. Stoughton was later pardoned for his errors.[21]

On 20 July 1610 at Easebourne he performed another inquest into the accidental passing of Peter Middleton, who on 19 July was riding a gelding at Easebourne when by misadventure he fell off the horse, causing him to break his neck. Stoughton provided no valuation for the horse or any details as to the horse's custody, so he was called before King's Bench in reference to this inquest and was outlawed at Chichester on 10 August 1611. The same punishment was received for his inquest into the death of Abraham Baytes dated 27 July 1610 at Slinfold. Baytes was riding a stallion on 25 July in a river at Slinfold when by misadventure he fell off the horse and into the water where he drowned. The horse was a deodand and remained with John Peirse, the Arundel rape bailiff. For this inquest although he finally remembered or was attentive enough to include the custody of the deodand, however, he still failed to include the value of the horse and so

[20] SCI vol. II, 14, entry 60; SCI vol. II, 15, entry 63.
[21] SCI vol. II, 15, entry 63; SCI vol. II, 16, entry 68.

he was outlawed again.[22] The final inquest maintained in the records for Stoughton was performed on 30 June 1613 at Billingshurst over the body of Henry Wales who died on 1 or perhaps 8 June, but the inquest is damaged. Wales was walking past a windmill in Billingshurst when the sail of the mill by misadventure struck the right side of his head killing him. The sail was the cause of his death and was appraised by the jurors at 13s 4d. Stoughton had again left out the custody of the deodand and after being summoned to King 's Bench to answer for his defects and not complying, he was outlawed for the final time at Chichester on 27 October 1614, although he was later pardoned.[23]

Stoughton's lack of attention to details or rather the neglectful performance of his duties is an exception and he stands out amongst the inquest records for the number of inquests with mistakes and his lack of compliance in the requests to fix them. Most other coroners made the requisite corrections to their inquests in order to comply with the demands of their post as outlined and enforced by crown's Court of King's Bench. The definitions of the officeholder's role, in terms of both their social roles and their roles as outlined specifically by the state and crown, exerted pressure on individual officeholders. This pressure came from their audience, in this case those present at inquests, and from their superiors, the Assizes judges and King's Bench. Braddick and Wall speak of the prestige that could be garnered from the official status of a position in the government regarding justices and the terror that dismissal from that office could hold.[24] Although clearly coroners did not possess the same station that a justice did, they obviously did not want to be dishonorably dismissed from their positions by being outlawed. This likely

[22] SCI vol. II, 21, entry 93; SCI vol. II, 22, entry 96.
[23] SCI vol. II, 30-31, entry 131.
[24] Braddick, *State Formation*, 80-82; Wall, "The Greatest Disgrace," 312-332.

provided impetus for them to perform their duties as instructed by the centre. To see the defects in the inquests as solely a matter of corruption or negligence overlooked that defects were an exception and they were usually corrected to meet the stipulations of the centre.

The Coroner and the Almoner

One of the more complicated relationships the coroner had with the centre, in terms of carrying out their duties with little interference from other officials, was with the almoner. The almoner and his deputies received all the deodands and therefore cared greatly about the valuation of the deodands and the reporting of their custody. The almoner could sue the coroner in the Star Chamber if he disagreed with the coroner's valuation of the deodand. John Wilkinson in his treatise for coroners explained that the deodand was forfeited goods when someone died by misadventure. The deodand consisted of the objects that caused the person's death, meaning what fell on the person; or what they fell off, such as a cart or a house; or objects that directly caused their death. Items were excluded if they were not specifically being used by that person or did not directly result in their death. The deodands were to be forfeited to the almoner who would distribute the deodands as alms. Wilkinson also notes that the deodand was given as alms in benefit of the deceased person's soul. The purpose of the deodand by the thirteenth century had become linked to the fate of the dead's soul and as such the goods were given to the almoner. He stipulates that the inclusion of the phrase, all that is moving at the time of death, was not to be taken in the most literal meaning as something physically

moving, rather objects involved or directly related to the person's death.[25] Having to forfeit all that was moving at the time of death was problematic because there was no regard for intent or culpability on the part of the owner, or to any role that the actions of the decedent played in making the goods become part of the deodand. Since the forfeited goods were essentially going to the crown, the families of the victim did not generally receive much in the way of compensation.[26]

Beginning between 1520 and 1540, the almoner gained the right to sue in the Star Chamber for issues concerning the deodands, such as when the almoner believed that other items were involved in the death and should have been included in the deodand. Owners of franchises could sue coroners' juries in King's Bench if they held the rights to all forfeited goods for their franchise. During the mid-1580s, the almoner began to increase pressure on coroners and juries in an attempt to influence the procedures and the verdicts of the inquests. Carol Loar argues that just as the jury's interpretations of justice and the law led them to the verdicts and appraisement of deodands, the almoners too were led to interpret the law in such a narrow sense and examine as many likely cases as possible for their own interest in obtaining the maximum amount of alms. As such, the deodand was a point of contention between coroners, their juries, and the almoner. Town corporations, boroughs, and lords of liberties could, as part of their jurisdiction, own the right to forfeited goods. It was left to the interested parties to prove their claim against that of the almoner's in the Star Chamber, preferably by grants or charters.[27] On 12 August 1586, the coroner George Ardern performed an inquest into the death of Richard

[25] Wilkinson, *Treatise*, 19; Loar, "Crowner,"134.
[26] Loar, "Crowner,"135.
[27] Loar, "Crowner," 19, 39, 70, 152, 171-173.

Ludgater, who had been driving a dung cart pulled by 4 oxen and 4 bullocks. By misadventure Ludgater he fell off the cart, a wheel ran over his buttocks causing him to die at Poling. The jurors appraised the cart, its wheels, dung, oxen, and bullocks at £7. The goods were left with Thomas Cooper of Poling for the use of John Lumley, Lord Lumley, lord of the hundred. Cooper was called to appear before King's Bench for the deodands. When Cooper went to court in Easter 1588 he brought with him letters of patent dated 22 February 1554. These granted to Henry, who at that time was the earl of Arundel, and his heir thereafter all goods and chattels for suicides and deodands within the Poling hundred and all his other lands. This letter caused Cooper to be discharged and allowed him to maintain custody for Lord Lumley.[28]

Loar argues that families of the deceased and other officials' dissatisfaction with the almoner most likely mounted beginning after 1585 when the number of suits in the Star Chamber increased, alongside the interference in a growing number of aspects of the inquests. This interloping by the almoner went directly against the independence and primacy of the coroner and his responsibility in the conducting and reporting of his inquests. It was the jurisdiction of the Justice of Assizes and Gaol Delivery, not of the almoners to investigate, judge, and punish a coroner who incorrectly took a fee for suicides. For dealing with disputes with almoners over witnesses, adjournments, the collection of fees, and disputing a verdict, the coroner could appeal to Assizes judges, which Loar argues seems to have been a successful tactic as the almoner usually lost.[29] Although King's Bench had jurisdiction over coroners and their inquests, the almoners

[28] SCI vol. II, 85-86, entry 331. For more on letter of patent and writ for forfeitures please see K. J. Kesselring, "Felony Forfeiture in England."
[29] Loar, "Crowner," 174-175, 190-196; Havard, *Detection*, 35

could and did sue in the Star Chamber, which meant that clashes would be inevitable. This would have presented less of a problem if the almoners had actually waited to take up their disputes until the inquests had been filed; the conflicts would have been less pronounced and prominent. Almoners and their deputies intervened directly in coroners' inquests, an action for which they had no statutory or common-law power or authority, and this resulted in matters escalating and being brought before Assizes judges. The judges would mediate these disputes and this was necessary to enable coroners to complete the duties assigned to them by the crown.[30]

These disputes over jurisdiction between the common law courts, in particular King's Bench and the prerogative courts, mainly the Star Chamber, made the coroner's inquest a focal point of dispute within the central government. This exposes a tension existing outside the peripheries and within the centre's high courts over coroner's inquests, as the almoner was not a local official. Loar argues that the possibility should be considered that the almoner's actions and crossing of jurisdictional lines could have been the result of increased corruption with reference to the deodands and suicides' goods. King's Bench was the representative of the crown responsible for the punishment of the coroner's transgressions or errors in the performance of their duties.[31] When the almoners tried to intervene outside their legal bounds, this was an example of a push by a governmental player in state formations, who tried to legitimize their behavior and expand the bounds of their office, even if their push was not successful.

The almoners, in their challenge against coroners' official power and duties as dictated to them by the common law and statutes, were attempting to find legitimacy and

[30] Loar, "Crowner," 197-199.
[31] Loar, "Conflict and the Courts," 47, 52.

justification for their actions, thereby fostering an extension of their authority and setting a new legitimate course for their patterns of participation within the system. Michael Braddick argues that part of state formation was the emergence of patterns in both the form and use of state power, which consisted of how autonomous the state was, what the relationship between the centre and the locality was, and the chronology of developments within the state's formation. He argues that these pressures on the exercise of political power were "patterned by the kinds of end for which political power was characteristically found appropriate."[32] These challenges and prospects and the correct responses to them were characterized by the creations of patterns of participation within the system. Further, the limits of what could be legitimately done were partly determined by the ability of local officials to find words that conferred legitimacy on their actions: agents of the state needed to prove that their actions fit the formally prescribed limits of their office and to justify these actions in reference to the current beliefs or belief system held by the population.[33] The almoners failed in their attempt to extend and alter their powers at the expense of the coroner.

The Almoner's Relationship to Other Officials

The coroners were not the only ones who found themselves at odds with the almoner over deodands following an inquest verdict. On 26 December 1615, John Teynton the Bramber coroner performed an inquest, but he was not the one who was summoned to King's Bench to answer for the deodand. Three days earlier James Harding who was a servant of John Wood of Nuthurst, a yeoman, was riding a black horse that

[32] Braddick, *State Formation*, 47.
[33] Braddick, *State Formation*, 47.

belonged to Wood, when he decided to wash the horse in the pond near Wood's house in Nuthurst. But by misadventure Harding fell from the horse into the pond were he drowned. The jurors appraised the black horse to be worth 20s and the inquest details that the horse stayed with its master. Wood was summoned to King's Bench with regards to the horse, but he was discharged in Trinity 1618 after the deputy almoner acknowledged satisfaction.[34] What is interesting outside the fact that Wood was able to prove his case and keep his horse, is the passage of time between when the inquest initially took place and when the proceedings of the almoner against Woods finally concluded. Presumably, the delay was partially due to the almoner not having been immediately aware of the case.

A deodand dispute took place following Magnus Fowle's inquest at Ringmrer on 4 October 1590 over the body of Henry Holland. Holland had been in the queen's Broyle forest to capture a mare worth 30s. But after he captured the mare and the horse struggled and ended up dragging Holland through the woods, he died the next day. The jurors appraised the mare at 30s and the halter the mare had been wearing at 1d, which remained in the custody of John Saxpes of Southover. When the inquest was delivered to Assizes there was an attached note stating that Saxpes had reached a settlement with the almoner.[35]At Rustington on 4 August 1581 Coroner John Homfrey performed an inquest into the death of Alice Turner, who had committed suicide by drowning herself in a well. At the time of her death she had goods and chattels worth £6 16s 9¼ d which the inquest listed as remaining with John Woodes. This was because Alice's husband George Turner, in his will made on 19 June 1581, had bequeathed to Joan, the daughter of John Woodes,

[34] SCI vol. II, 40, entry167.
[35] SCI vol. I, 102, entry 406.

all his goods in a ship called "le Johns" of Arundel, appraised at £15 and he had left to Alice, his wife, a third of the rest of his goods and chattels. He had appointed John Woodes as his executor and Woodes claimed that the money remaining with Alice was the sum still owed to him in the will. Woodes lost this dispute after being summoned to King's Bench in Easter 1582; he was then outlawed at Chichester on 23 May 1583.[36] In this case the claim of Woodes did not hold up against the almoners.

On 12 June 1627, an inquest was performed where both the bailiff and coroner found themselves before King's Bench regarding forfeitures. John Lucke coroner to the Rotherfield hundred, relayed in his inquest that on 10 June 1626, Edmund Turnor of Frant hanged himself with "a halter" worth 2d. He tied one end of the halter around a branch and the other end around his own neck. The inquest states that Turnor at the time of death had goods and chattels that were unspecified in the inquest, but were determined to be worth 13s 4d and remained in the custody of John Weller of Rotherfield, the Rotherfield hundred bailiff. The bailiff, Weller, was summoned to King's Bench to answer for the goods and chattels. The deputy almoner did not acknowledge satisfaction and discharge Weller from the suit until Easter 1640. For this inquest the coroner was also summoned to King's Bench to answer for deficits, presumably that the branch was not specified as a tree branch and for the omission of details as to what the goods and chattels comprised of, but no further process against the coroner was recorded.[37] The almoner could have also proceeded with action against the coroner, but most likely selected to file a suit against the bailiff as he was the official in custody of the deodand, not the coroner.

[36] SCI vol. I, 58-59, entry 267.
[37] SCI vol. II, 70, entry 282.

A deodand dispute arose following an inquest performed by Edward Raynes, the duchy of Lancaster coroner in Pevensey rape, on 11 August 1634 for the death of John Pike, who died on 5 August 1634. Pike had been riding in a wagon at Laughton bearing a load of tree-trunks and wood, which was drawn by four oxen when by misadventure the wagon was suddenly overturned causing the trunks and wood to fall onto the front of Pike's face. Pike succumbed to his wounds on 9 August. The wagon, its wheels, the four oxen, the trunks, and the wood were all moving at the time of death and were worth £13 6s 8d, and all were left in the custody of David Foster of Berwick, a yeoman. Foster was summoned to King's Bench to answer for the whereabouts of the deodands and he was discharged in Trinity 1636, when the almoner acknowledged satisfaction. The coroner was also summoned to King's Bench to answer for defects in the inquest, he was discharged in Trinity 1635 after the inquest was amended by the coroner, although according to Hunnisett the only visible amendment was the addition of Foster being "of Berwick, yeoman," and the same words were also interlined in the Controlment Roll.[38] Here again the interests of the almoner were not in the actions of the coroner, but rather specifically in the actions of those who had the deodand, in this case Foster. This was a large deodand, so the almoner's interest and pursuit of the case is unsurprising.

The almoner's power extension was not solely aimed at coroners, but rather at any party they perceived to be interfering in their deodands. The almoner was not so much interested in the actions of coroners in particular, but rather in determining and claiming their deodands and chattels regardless of who was involved. Coroners were clearly not the only ones who faced questioning over their possession of the deodand and risked

[38] SCI vol. II, 82-83, entry 335.

outlawry – the threat of collecting the deodand was not exclusively aimed at coroners. King's Bench was a division of the state responsible for ensuring that coroners were performing their duties and preparing the inquests as stipulated by the common law and statutes and then for the punishment of coroners' transgression. As such, the intervention is just as great into the prerogatives and jurisdiction of King's Bench as into the jurisdiction of coroners.

The Coroner and the Pardon

The discussion of pardons is an important facet in the understanding of the coroner's duties, as a pardon was the way for an accused individual to avoid death themselves and a way for a coroner who had been outlawed for defects in his inquests to be absolved. The ability to give pardons was an important prerogative of the crown and was used to articulate and construct its authority, but also acted as a mediator for the increasing extension of control over the acting officials in the periphery.[39] Michael Dalton in his treatise advising JPs wrote that, "none have authority to pardon any treason, murder, or other felony, or any accessory to the same, save onely the king, it beeing one of his royall prerogatives."[40] Both nobles and commoners could and did sue for mercy. Coroners' inquests provided an accurate record of the details of the death, especially in the cases of manslaughter, self-defense, and murder when the accused sought a pardon.

Krista Kesselring in *Mercy and Authority in the Tudor State*, examines the relationship between the Tudor extension of power and the use of pardons to mitigate the burdening coverage of their control. She argues that there was a tier of responsibility

[39] Kesselring, *Mercy and Authority*, 2-7, 13.
[40] Dalton, *Countrey Justice*, 243.

among the guilty; some could be pardoned and for most people who received a pardon their guilt was never in question. In the determination of their potential for a pardon, their intentions and motivations were considered. For those who were mentally ill, very young, committed the murder in self-defense, or by accident, there existed laws and customs that provided for their pardon. She concludes that nearly half of all those who received a pardon during the Tudor period had committed a murder that was not excusable, justifiable, or deserving of mercy under the law or by social norms. The Tudors used the pardon to increase the perceptions of their legitimacy, to increase the obedience of their subjects, and perhaps most importantly to ease the extension of their power and control. She argues further that the prerogative of the pardon itself was so instrumental in Tudor intensification and centralization of government that it led to the prerogative itself becoming centralized, strengthened, and more rigid.[41]

Pardons could be awarded as general pardons, special pardons, or circuit pardons. General pardons were issued to cover specific crimes and specific periods, whereas special pardons were given when requested by suits and reviewed on a specific case-by-case basis by the crown, and finally there were circuit pardons, whereby the authorities actively sought potential recipients of mercy. The circuit pardons were issued in an attempt to limit the number of people who were executed and in order to present the crown as merciful, and helped ensure that the poor and petty offenders were not overly represented amongst those being executed following Assizes sessions. Justices were asked to make their suggestions for these pardons based on the character of the offender and the offense committed, and then to submit their completed list upon return from the

[41] Kesselring, *Mercy and Authority*, 3, 13, 95, 102.

counties. Pardons allowed room for divergent concerns regarding degrees of responsibility, guilt, intent, malice, and free will within the uniform punishments as prescribed by the law, thereby allowing for cases to be reviewed individually and allowances to be made for varying reasons.[42]

The case of Thomas Prynne is an example of someone suing for a pardon where intension was a factor in determining if the punishment of death was too harsh. In the domestic papers on 25 May 1630, there is an entry where John Prynne sought a pardon for his son Thomas. Thomas Prynne had assaulted and killed Thomas Adams both of Wembury. The entry stipulates that Thomas Prynne was found guilty of manslaughter by both the coroner's inquest and the grand jury. Both the coroner's inquest and indictment from the grand jury were reviewed by the attorney general to help determine if a pardon should be awarded. The parishioners of Wembury, including the minister Ewardus Elyott and the Mayor and Magistrates of Plympton all vouched for Thomas Prynne on certificates dated 22 March 1630, which stated that he was an honest, civil, and well behaved young man, while Thomas Adams was a lewd and idle person.[43] The character of the convicted was considered and the defense of Thomas Prynne's actions was supported by the fact that his victim was of lesser character. His standing in the community and the support of fellow locals was presented as evidence on his behalf.

Edward Boorde's motives contributed to his ability to obtain a pardon after he had killed Nicholas Gyrlinge. On 5 August 1589, the coroner Magnus Fowle performed an inquest into Gyrlinge's death. Gyrlinge and Boorde had quarreled and Gyrlinge had struck Boorde with a sword worth 6s, then Boorde fled to behind a hedge and was

[42] Kesselring, *Mercy and Authority*, 79-81, 111.
[43] CSPD, Vol. CLXII, 264.

trapped. The inquest stated that since Boorde had no other means of escape, he killed Gyrlinge with a rapier worth 5s across the throat without malice forethought. Gyrlinge died 3 days later. Boorde received a pardon for the excusable homicide on 5 February.[44] The coroner and his jury argued that the case was self-defense because Boorde had tried to flee but had no way out of the situation other than to take Gyrlinge's life.

Statutes pertaining to the duties of coroners and their inquest threatened punishment for negligent officials. Coroners, like some other officials, may have been more or less forced into their office and their participation was not always the result of full consent. Their duties, again like those of other officials were affected by the increasing number of statutes which required greater levels of enforcement.[45] Coroners could be on the receiving end of general pardons if the performance of their duties did not strictly adhere to the regulations of the state and crown. It was a form of moderation that coroners received pardons and served to ensure that they would continue to act on behalf of the crown within the state even though they were largely unpaid to do so. The coroner Thomas Welch, who was the duchy of Lancaster coroner in Pevensey rape in the summer and early fall of 1580 returned three inquests all of which had defects he would have been outlawed for. The first inquest, dated 13 July 1580 was for the suicide of husbandman John West, late of Withyham, who on 6 July hanged himself on a hazel tree at Withyham with a noose made of rope worth 1d. At the time of his death, West had goods and chattels worth 24s. Welch was called to King's Bench to answer for defects, most likely stemming from his omission of the custody of the goods and chattels.[46]

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[44] SCI vol. II, 98, entry 390.
[45] Kesselring, *Mercy and Authority*, 44.
[46] SCI vol. I, 55, entry 251.

The second inquest with defects for which Welch could have been outlawed was dated 24 August 1580 for the death of Thomas Iden late of Bexhill, on 22 August 1580. He was driving 6 oxen worth £12, which were drawing a wagon worth 8s in Bexhill, when he stumbled and fell to the ground, but the oxen continued to draw the wagon and Iden was crushed by a wheel going over his head. The jurors agreed that the oxen and wagon had killed him, so his death was the result of misadventure. Once again, Welch was called before King's Bench, presumably for the second time, for his omission of the custody of the deodand. Third was the Coroner's inquest dated 5 September 1580, for the inquest into the death of Daniel Hubberd late of West Hoathly, a laborer, on 2 September 1580. Hubberd was driving 8 oxen worth £16 drawing a wagon worth 10s on the road at East Grinstead. He stumbled and fell to the ground, but the oxen did not stop and one of the wheels ran over his head, killing him. The oxen and wagon had killed him so the jurors agreed that his death was misadventure. Welch had again neglected to include the custody of the deodands on the inquest.[47]

For the above three inquests, as had been previously mentioned, Welch would have needed to correct his omissions or he would have been outlawed by King's Bench. Instead, Welch was pardoned by the general pardon under the statute 23 Eliz., c. 16. In cases such as Welch's, clemency could help the crown and state mitigate their rigid laws and statutes in dealing with local officials and by helping to insure that officials such as coroners, who were largely unpaid, continued to serve the interests of the centre. The potential for mercy was necessary to help get eligible men to willingly fill the offices which otherwise afforded little stature and pay.

[47] SCI vol. I, 55-56, entry 253; SCI vol. I, 56, entry 254.

As time passed, the number of serious offences included in general pardons decreased, which Kesselring argues shows that the crown's indiscriminate showings of mercy were no longer correct or appropriate for more serious crimes.[48] The political, economic, and social conditions in which the new laws arose extended the regulatory powers of the state while restricting the traditional sources of mitigations, such as benefit of the clergy, which further served to limit the powers along with the "social interests and cultural assumptions that shaped and filtered the forms of state power."[49] Now, pardons obtained through petitions were more common than the general pardons.[50] Kesselring argues that the records do however show that the Tudors were committed to using special pardons in efforts to moderate the severity of the existing laws they had altered and other laws they had created and used them for every type of misdeed. They could pardon any crime in any court in which the crown was a party, as in this case with murder and problems surrounding the administration of justice by their officials.[51]

Steve Hindle argues that simply seeing the increase in the number of cases appearing before courts as a marker of the expansion of the government is incomplete, as this should also be seen as an enlargement of the number of the crown's subjects who were drawing upon its institutions as a resource for serving their own interests. He emphasizes two dynamic aspects of state formation, firstly, the extent of the state's status

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[48] Kesselring, *Mercy and Authority*, 56.
[49] Kesselring, *Mercy and Authority*, 56.
[50] Determining the exact number of people who received pardons is not possible due to the uneven survival of court records. Kesselring determined that between 1559 and 1603, in the surviving Assizes records for five counties of the Home Circuit, only six percent of people indicted or ten percent of those convicted were awarded a pardon. Determining if certain offences or broadly defined types of offenders were likely to receive a pardon is also not possible. See Kesselring, *Mercy and Authority*, 75.
[51] Kesselring, *Mercy and Authority*, 75.

as an integrated system of government and legal institution which operated with consistent practices and principles possessing depth. The second aspect of state formation was the scope of the state's expression of a clearly enunciated ideology, which conflated political and legal issues with both social and religious goals. As such, the state was a 'cultural creation,' wherein the state became both a resource and instrument of power and claim or symbol of authority.[52] The uses of pardons allowed for this navigation between the two dynamics, in that the crown could adhere to their static definitions of what constituted a case where killing someone else could be excused and a system which tried to treat all of the cases equally, while at the same time the social goals of the elite could be incorporated. This consistency of applying the law in the case of coroners who violated prescribed procedure by outlawing them, further served to reinforce their power while the pardons of these transgressions mitigated the strength of their power, thereby ensuring their compliance. Petitions themselves were an admission of guilt, making them public acknowledgments of the Assize's verdicts being just. The acceptance of the verdict as just served to legitimate the power that imposed the verdict. By the crown always maintaining the guilt of the person requesting the pardon they were not reneging on their laws and compromising the power and validity of their own courts.[53]

In some cases there were no extenuating circumstances or judgments of character that could be viewed as grounds for granting a pardon. In these cases the pardon may have been granted largely based on patronage. The coroner's inquest was still reviewed prior to the pardon being granted. Daniel Moore's petition to the king, entry dated 28 June 1630, on behalf of his son Thomas Moore of Aldgate, gentleman, who was 19, to

[52] Hindle, *State and Social Change,* 13, 21.
[53] Kesselring, *Mercy and Authority*, 118-119.

receive a pardon is a case in point. Thomas got into a scuffle with two carmens resulting in one of them being hurt on his thigh. He later died of this injury and the verdict of the coroner's inquest was manslaughter. Included with the petition was a copy of the inquisition held before Coroner Ralph Hastings in the liberties of the Tower of London, over the body of Files Owen, who died after Thomas Moore inflicted a mortal wound on Tower Hill to his right hip using a knife, dated 26 June 1630. The attorney general was requested to prepare a pardon on 28 June 1620.[54] It is not difficult to argue that the pardon was given based on the station of the accused. Thomas was a gentleman, and given that no other evidence was presented in reference to his character and there was no extenuating circumstance regarding the affray, the defendant's station could perhaps have been a contributing factor in his ability to gain a pardon. In this case, the coroner's inquest although not providing further details regarding why the accused should receive a pardon was still necessary for the due process in receiving a pardon.

Another case where a petition for a pardon may have played on patronage was Sir William Morgan's petition to the king for his "unfortunate" sons, Anthony and John Morgan, along with Thomas Throckmorton, dated 19 December 1630, who were found guilty at the Coroner's inquest of murdering John Minton in the street. After arraignment at the Session of the Verge of the Household, John Morgan and Thomas Throckmorton were found guilty of manslaughter and suffered the penalty, but Anthony Morgan had fled and would now spend his remaining days in exile unless he was pardoned. Included with the petition in the Domestic Papers was a letter from the Chief Justice of the Common Pleas certifying the nature of the offence on 29 July 1630; after the king viewed

[54] CSPD, Vol. CLVIII, 292

the letter he decided to have the attorney general prepare the pardon.[55] Anthony Morgan had fled justice and was still able to receive a pardon, which shows that in some cases even if the person had not followed the law and accepted their punishment they could still be pardoned.

On 28 October 1630, Edward Boys of Bunnington, county of Kent, petitioned to the king on behalf of his son, John Boys. Boys had been at Canterbury and Thomas Alcock, "an infirm person, resorting ordinarily to strangers' company," provoked Boys with language which Edwards Boys described as very vile and insufferable, causing John Boys to fatally strike Alcock on his head. The coroner's inquest found John Boys guilty of manslaughter and so Edward Boys requested the King's clemency. Included with the petition was a letter from the Mayor and Recorder of Canterbury to certify the truth of the events, dated 28 October 1630, and copies of the coroner's inquest and grand jury, which confirmed that he was indeed found guilty of manslaughter at Canterbury received on the 4 November 1630. On 15 November 1630, the Attorney General was requested to prepare the solicited pardon.[56]

In all of the above mentioned cases the petitions admitted the guilt of those seeking the pardon. Rather than arguing that the accused was innocent, they were requesting the understanding of the King after the facts of the case as presented at the coroner's inquest and the trial were reviewed. The political matrix of the period was built on personal relationships and hierarchical ties of obligations and as such often times whether or not someone received a pardon was necessitated by favors and the support of those occupying a station further up the social hierarchy, consequently pardons most

[55] CSPD, Vol. CLXXVII, 414.
[56] CSPD Vol. CLXXIV, 336.

often served the interests of the crown and the elite. Mediators were seen as a legitimate way to bring the cases to the attention of the crown, having been viewed as necessary for filling the bureaucratic gap which might have otherwise prevented some of these cases from being brought to the crowns' attention and were seen as the correct usages of the prerogative. The process of petitions further abetted both the cooperation of the elite with the crown and assisted in forging and solidifying the elite's network of dependence, which was a key factor in the consolidation of the state.[57] This need for cooperation has been shown to be instrumental both for crimes being brought to the attentions of the local authorities and in the collection of evidence to be presented before the courts in obtaining an indictment and subsequent conviction. According to Kesselring's calculations gentlemen and nobles acquired a more disproportionate number of pardons than the general populations, they comprised nineteen percent of the sample total, the number only dramatically changing in times of political transition in crisis.[58] The pardon was not absolving or overturning the verdict of the corner, grand jury, or in some cases the Star Chamber, rather it was an act of clemency.

Special Demands and Cases of Interest to the Centre

The coroners not only had to deal with the centre asking them to correct errors in their work but they also had to deal with cases where the state or crown took particular interest in the outcome of their inquests. Sometimes the centre's special interest in the outcome of a case resulted from the death having taken place on crown property or stemmed from the position of the accused or the victims' standing within the patronage

[57] Kesselring, *Mercy and Authority*, 121, 133-134.
[58] Kesselring, *Mercy and Authority*, 77.

system. These cases both reflect the importance of the coroners' inquests and show threats to their autonomy.

In 1615 in the Domestic Papers there is a case of much complexity, as the victim, Sir Thomas Overbury, was a famous poet who was thrown in the Tower of London by James I after a court intrigue and subsequently died in the Tower on 14 September 1613.[59] The first paper in the Domestic Papers is an account of Sir William Wade's dismissal from the lieutenancy of the Tower over the accusation of his misconduct with his prisoners, and in particular Sir Thomas Overbury. Wade had denied anyone access to Overbury, including the servants of the Earl of Somerset despite the fact that Overbury was clearly very ill. Eventually Sir Gervase Helwys, following the recommendation of Sir Thomas Monson, allowed Richard Weston to attend to Overbury. The prevailing belief or rumor in the tower was that Overbury had in fact been murdered and his brother-in-law was not admitted to see him when he was dying nor when his body was brought out of the Tower. Another entry in September was a memorandum by Sir Edward Coke containing questions which were directed to Robert Bright, the coroner presiding over the inquest, and to others who had seen the body of Overbury with regard to the specifics of the condition the body was found in. There were also questions directed at the Lieutenant of the Tower in reference to those in charge of Overbury, his food, and his physician. The memorandum also enquired as to what should be done with the Lieutenant and if his

[59] Sir Thomas Overbury was a famous poet whose death and a subsequent investigation into his death is a complicated and much debated case regarding who was involved in his death and the extent of those involved in the case and their motives. For further reading on the subject please see David Lindley, *The Trials of Frances Howard: fact and fiction at the court of King James* (London: Routledge, 1993) and Curtis Perry, *Literature and Favoritism in Early Modern England* (Cambridge; New York: Cambridge University Press, 2006).

actions involving the case were cause for suspicion. Further, there were questions regarding his actions and those of others who kept the condition and situation of Overbury secret for so long.

On 10 September 1615, there was a note from Sir Gervase Helwys, who replaced Wade as lieutenant of the Tower, to the king stating that Richard Weston was intending to poison Overbury and in Overbury's weakened state confused him. Weston confessed that he had convinced the apothecary's servant to poison him. To Helwys' knowledge, no one knew about this other than Weston and Mrs. Anne Turner who helped him and both were interviewed regarding the case in late July. The domestic papers continue like this, containing memorandums between Lord Chief Justice Sir Edward Coke and Attorney General Sir Francis Bacon, who presided over the trial, and include notes, and reports of examinations. The listed examinations are largely of the four people who were eventually found guilty and executed for the murder: Robert Weston, Anne Turner, Gervase Helwys, and Simon Franklin.[60]

One of the examinations is that of the coroner Robert Bright who related that the body of Overbury at the time of inquest was worn to skin and bone, and an ulcer and blister were found on the body. Bright reported that he had not been spoken to by anyone about this matter.[61] This case is interesting because it shows that the coroner was deemed to have expertise or could have useful information for a case in which the disputed details had nothing to do with deodands, but rather how Overbury had died and who was responsible for his death. Here the coroner became a witness for the case and was able to provide useful information about the state the body was in when it was found.

[60] CSPD, Vol LXXXI, LXXXL, LXXXIL, 307-311.
[61] CSPD, Vol LXXXI, LXXXL, LXXXIL, 307-311.

Furthermore this case is interesting in that the murder took place in the gaol, so on crown property, and was not a usual gaol related death stemming from natural causes, which most likely resulted from the poor conditions found within the gaols. And the case was of particular interest to the crown due to the patronage of those involved and that it was the King who had placed Overbury in the Tower after he refused to accept the King's offer of a political post in Russia.

Another case in which the centre took particular interest in the outcome was when Archbishop of Canterbury George Abbot was hunting at the house of Lord Zouch in Hampshire in July 1621. He shot an arrow at a deer and the arrow instead struck the deer-keeper.[62] The deer-keeper was hidden from plain sight behind the herd and had apparently been warned that morning that there would be a hunting party and not to go that way. An entry in the domestic papers dated 28 July 1621, stated that even the king would not blame Abbot for the accident and a similar error had almost happened to him. The coroner's inquest had returned a verdict of death by misfortune and his own fault, that is, the fault of the deer-keeper. On 5 August 1621, the archbishop had written to Lord Zouch that his counsel did not consider the verdict reached by the coroner's inquest and jury to be legally drawn up. So the archbishop requested the coroner and the jury to supply all defects, as he was nervous about his standing and what his enemies might do if they thought he had been treated differently. In another letter dated 7 August 1621, from Abbot to Lord Zouch, the archbishop had changed his mind about having the coroner and

[62] For more details on the case and the life of the Archbishop of Canterbury please see Gustavus Swift Paine, *The men behind the King James version* (Grand Rapids: Baker Book House, 1977).

his jury re-summoned for fear that this would be a mistake, as the archbishop had a clear conscience and wanted to do what was correct.[63]

In this situation with the archbishop, the law could be interpreted to include the characters of those involved and shows the interplay of politics and the law, as the Archbishop of Canterbury is an important aristocrat who worried about being seen as having been absolved of guilt based on his station and not the details of the situation. It is further interesting to note that he could have opposed the verdict of the coroner's inquest, but he himself chose not to intervene with the pronouncement of justice beyond what the coroner and his jury had decided. Braddick argues that officeholders gave administrative authority to the exercise of political power in reference to a wider belief and attitudes held within the state and population. While at the same time carrying out their duties, the officials were submitting political authority to a test, which could limit the power of those with a vested interest to affect particular activities of the state.[64] The officials in the case of the Archbishop are not just officials of the law, but also officials of the church. Here the Archbishop's limit was less felt by the church and more by concerns over what any political rivals might have made over the outcome of his case.

In the case of Francis Norris, Earl of Berkshire, it was recorded in the domestic papers on 16 February 1622 that the coroner should suppress the manner of his death. The Earl, following a political intrigue in the House of Lords on 16 February 1621, had insulted Lord Scrope while in the presence of the Prince of Wales, which resulted in him being sent to Fleet prison. Subsequently on 29 January 1622, Norris shot himself with a crossbow at his home and died two days later. The entry then mentions that his daughter,

[63] CSPD, Vol CXXII, 279-282.
[64] Braddick, *State Formation*, 85.

Elizabeth should marry Chris Villiers.[65] In Norris' case the coroner was asked not to modify or give further details on a case, instead he was asked to make a special allowance for the death as Norris was politically well connected as a member of parliament, a knight of the Bath, and was admitted to Gray's Inn, London. Norris had committed suicide, which was a felony and by requesting the coroner to suppress his death the crown was suppressing that he was guilty of committing a felony.

Malcolm Gaskill argues that in criminal prosecution in early modern England, part of what brought people together was concerns over power and class, creating a dynamic and divergent relationship between those representing the government and those outside the government. Crime in many ways was about power and as such was heavily intertwined in politics.[66] Those who sought out the law could use the law to their own advantage. In John Brewer and John Styles *Ungovernable People: The English and their law in the seventeenth and eighteenth centuries*, they argue that judicial process were a powerful tool outside of just being a method for the centre to control the populous. Although discretion within the law, and the voluntary nature of a common legal system, aided in patrician power, it was also able to be exploited by others of a lesser standing.[67] The law was the primary means of the centre to exercise authority and power, and due to

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[65] CSPD, Vol. CXXVII, 346; F. D. A. Burns, "Norris, Francis, earl of Berkshire (1579–1622),"*Oxford Dictionary of National Biography* (Oxford University Press, 2004) [http://www.oxforddnb.com.ezproxy.lib.ucalgary.ca/view/article/20269, accessed 8 Oct 2013]

[66] Gaskill, *Crime and Mentalities,* 307.

[67] John Brewer and John Styles, "Introduction," in *An Ungovernable People: The English and their law in the seventeenth and eighteenth centuries,* ed. John Brewer and John Styles (London: Hutchinson, 1980), 19-20.

the widespread acceptance of the rule of law, the law was an important measure for resolving disputes thereby being used to legitimize the initiatives of private individuals.[68]

Cynthia Herrup argues that the use of legal discretion and the relationship of this discretion to social power is extremely important in understanding legal history during this period, and the laws concerning wrongful death do not seem to take exception to this. The definitions of criminality, according to common law and legislation, were not strictly adhered to by those involved in law enforcement; instead they created and utilized a more practical working definition, although not completely uniform, that gave consideration to the circumstances of a crime and the status or condition of the one accused of the crime.[69] Interpretations of the law and their practical application encompassed not only "gentry values, but the common ground between the values of the legal elite, the gentry and the local men of middling status."[70] The intrigue surrounding the case of Overbury and the different parties involved shows this adaption and the manipulation of the law at the highest levels and how "gentry values" could be adapted to help a case receive more attention and perhaps even alter the outcome.

Conclusion

The dialogue between the centre and peripheries with coroners was carried out within the framework of state formation and was based the state's ability to maintain a level of control and alter the operations of the coroners. The centre, by both reviewing the work of coroners and through intervention in coroners' responsibilities, maintained the

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[68] Brewer and Styles, "Introduction," 20.
[69] Cynthia B. Herrup, "Law and morality in seventeenth-century England," *Past and Present* 106 (1985), 104, 106.
[70] Herrup, "Law and morality," 108.

primacy of the state's position as having legitimate control over the operation of the law concerning forfeited goods. The state further maintained their requisite of detailed and attentive reporting on inquests, the ability to punish coroners' transgressions and to influence coroners' verdicts. King's Bench exercised state and controls over the procedures of the coroner through the review of the completed inquest. If a coroner was found to be deficient in their reporting of details on their inquests he would first be summoned to answer for his omission or mistakes. Then if he did not make the necessary changes to his inquests as requested by either the justices at the Assizes or by King's Bench, he could be outlawed. Of course, it was in coroners' best interests to make the mandated changes to their inquests. Coroners were not the only officials whose actions were monitored through the inquests. King's Bench would summon bailiffs and constables who maintained the custody of a deodand that should have been handed over to the almoner or of other forfeitures that became the property of the crown following the conviction of the felon. The control over inquest was necessary for state formation and the increasing controls of the centre over the actions of their officials. The compliance of coroners was necessary to aid in validating state authority. The state needed to ensure that their laws were adhered to and for this to happen they needed to maintain the control and cooperation of their officials.

The almoner challenged the crown's jurisdiction over coroners. The Court of King's Bench and Assizes were the crown bodies charged with reviewing coroners' inquests and ensuring that they adhered to correct procedures of their office. When the almoner sued the coroners in the Star Chamber this fell within their jurisdictional rights. Problems arose when the almoner intervened in cases before King's Bench had reviewed

them. This was a push by the almoners to extend their jurisdiction over coroners, an attempt to influence the outcomes of inquests, and to set a new legitimate pattern for participation within the system. By the crown maintaining control over the jurisdiction of coroners, this also maintained their control over the almoners and held steady their position within the state.

The crown used their prerogative to grant pardons to mediate their extension of power accomplished through an intensification of the application of the law. Coroners themselves could receive pardons for not adhering to the Marian Pre Trial Procedure Statute and for incorrect procedure concerning deodands and forfeitures. Coroners' inquests were a necessary component in the review and verification of the details of cases brought before the crown for general pardons, special, or circuit pardons. The issuing of a pardon did not interfere with the verdict of the coroner, as pardons acknowledged that the verdict was correct but were used instead as an act of clemency.

A coroner's verdict needed to be upheld in order to maintain the legitimacy of the office. If verdicts were regularly overturned this would weakened the credibility and authority of coroners. The coroners were an embodiment of the state and crown's power and were expected to act in the interests of the centre and according to the statutes issued by the state. As such, overturned coroners' verdicts, due to incorrect reporting of details on the inquest, could weaken the controls and authority of the state. However, the coroners' verdict could be interfered with, as was seen in the case of Norris. He had committed a felony in killing himself, but during his lifetime was in a position of political authority and the crown requested that the verdict not be listed according to the facts of the case. This was the ultimate form of crown intervention into the duties of a coroner. If

the centre held interest in the case they could maneuver the officials involved to make adjustments and allowances.

Chapter 4: Conclusion

As this thesis has demonstrated, the coroner served as an important link within the structures of the state between the centre, as embodied by the crown (the king, Court of King's Bench, and residual crown officials), and the peripheries. Regardless of their function as reporters of the deodand, they were instrumental in the government's dictation of the different classifications of death, and how the state dealt with every death. The coroner and his jury had to review each case and determine the extent of the responsibility of those involved. If the death was deemed the result of natural causes, then their involvement ended there. In cases of unnatural death, they needed to determine if the death was misadventure, suicide, or murder. They had to assess the malicious intent of an individual, deciding whether the death had been the result of a sudden reaction to the circumstance that led up to the death and if there had been any prior forethought to end the victim's life. Forethought meant that there was malicious intent and the person had then committed murder. Someone convicted of manslaughter for the first time would likely not be hanged, whereas someone who committed murder, unless they received a pardon or acquittal, would be. Deciding intent was a judgment on the fate of another.

Inquests conducted by the coroner were, then, the centre's primary formal way of learning about the death of the king's subjects in the periphery. However, it is important to remember that changes in the scope of political power achieved by the centre, such as a greater adherence to the laws concerning homicide, suicide, and accidental death, were not always at the expense of localities, nor did these changes always derive from the centre. This authority, specifically the authority of local officials, depended to an extent on "reciprocity." The implication became that those being governed accepted and

acknowledged the legitimate claim to rule of the superiors.[1] The members of the periphery understood the possibility of both the legal system working for them in terms of dealing with felons and working against them in terms of their transgressions, and this meant they needed to accept the authority of the local officials. Communities had to report malfeasance and the watchful eye of the members of communities was critical for reporting crimes such as infanticide. Local opinion and cooperation was crucial for the shaping of the activities of the state and for the effectiveness of the government in these areas. By calling upon the law, people in the periphery invited the state in, which over time increased the government's authority. Legal authority was a significant resource and the localities in their reporting of murders often welcomed the state involvement. The peoples' responses to murder raise questions of their motivation in reporting the crimes; were murderers pursued out of obedience to authority, the state, and the law or were they pursued for local reasons such as custom and community, or a combination of the two?

Keith Wrightson argues that the pressure exerted over the peripheries by the central state to create more stability, control, and order would never have been accomplished with any measure of permanence without the "spontaneous" local efforts of both the officials and those who sought out the officials to meet their needs and respond to the problems that arose during the period.[2] The increased activity and presence of the government over a broader area, which penetrated into the farthest reaches of the country, brought the members of the local administration a greater knowledge of the responsibilities, goals, and purposes of the government, which in turn resulted in an

[1] Hindle, *State and Social Change*, 236.
[2] Wrightson, *English Society*, 155.

increase in their concern with the states' policies and procedures.[3] The legislation, statutes, royal proclamations, and conciliar orders were the beginning of the process of law-making and governance. The process extended further through litigations, indictments, and the application of the law as understood by officials, who themselves were not the end of the process of making disputes, but the beginning.[4] This was displayed by the case of Fowle and Cheyney. Cheyney took the verdict of the coroner, which was reached by the laws and statutes mandating homicide, as the beginning in his challenge to find justice for his own assault and the death of his servant. Fowle used his knowledge of how a coroner was supposed to conduct his inquest to defend himself against Cheyney's accusations.

Through the correction of the coroner's behavior the state and crown were able to control and adjust what was considered murder and what was considered manslaughter, as seen in Fowle's case. In presentment of that case to the jury and the subsequent involvement of Cheyney it becomes clear that determining culpability in a case, deciding who had been involved, and attempting to reconstruct the sequence of events could be a very difficult task. The jury members and Fowle clearly took their duties seriously. Even if Fowle had been guilty of misconduct, he did go all the way to London to obtain advice on the case. That Cheyney, as a member of the general populace, could sue and challenge the verdict of a coroner he felt was unjust or incorrect shows that the almoner and King's Bench were not the only ones who could challenge the actions of the coroner: those outside governmental structures could as well. Presumably, Cheyney would not have challenged the coroner if the office did not hold power outside of just reporting on

[3] Wrightson, *English Society*, 225
[4] Hindle, *State and Social Change*, 23.

forfeiture of goods. His grievances perhaps then would have been dealt with at the Assizes with the coroner's involvement.

This case further displays how difficult it could be for the jury under the advisement of the coroner to reach a verdict. The jurors were members of the periphery but during their time as jurors, they became representatives of the state, with a hand in deciding cause of death and forfeitures. The complicated interplay between the coroners and their juries in the decision on cause of death and in the decision of what to include in the forfeited goods and their value, articulates the problems of trying to separate the centre and peripheries from one another and viewing them as separate structures. Malcolm Gaskill argues that the divisions between the state and the popular response of the periphery were artificial constructs, as the successful operation of the purported official structures and mechanisms of the state depended on the voluntary participation of people who were largely uncompensated for their efforts.[5] That officials were not generally professionals serves to further indicate that their loyalties were divided as this was not their primary societal function. They were chosen by mechanisms of the centre to perform their duties and operated within the locality where they lived. The coroners potentially knew the people involved with any particular death and inquest, such as the victims or accused, extended families, or jury members. The victims or their family could perhaps have held no property and had very little at their disposal, and therefore forfeitures could have greatly impacted their lives. In the case of the jurors, who were members of the middling sort, they could mediate the law for the benefit of their inferiors to aid them by making their situation in terms of forfeited goods easier. The issue of the

[5] Gaskill, *Crime and Mentalities*, 250.

deodand was ambiguous and open to legal interpretation in the sense that the interests of the locality could differ and did not always intersect with the centralized policies of the state and so the ambiguity could be used to the advantage of those in the periphery. That suicide victims could be determined to be deaths by misadventure if the details of the case permitted that interpretation, goes against not only the legal definitions of excusable deaths but also goes against the church's definitions of excusable deaths.

The coroners were not really at odds with the other officials, nor were all their responsibilities taken over by the JPs, as Havard argues. Rather, they worked together on cases, from reporting on the deceased, apprehending suspects, examining suspects and witnesses, conducting inquests, reaching a verdict at Assize, and paying the coroner's fees. With the case of Cheyney and Fowle, Botcher's cause of death being murder or manslaughter came down to whether or not Constable Huggins had ordered those involved in the affray to keep the peace or not and at what point in the affray the order had been made. If Botcher's death came after Huggins had called for the peace to be kept, then this was murder, if before then it was manslaughter. Huggins was an older man and had trouble keeping up with the fight and then recalling the details after the fact. The coroner had to advise the jury of this and help them come to a verdict with this in mind. The JPs appointed to Cheyney assisted him in taking the depositions and in leading his inquest. It seems that each official was attempting to complete their duties and sometimes this may have left them at odds with one another, but they ultimately worked together to gather all the suspects and witnesses and their statements.

The official who seemed to present the most problems for the coroner was the almoner. This was because the almoner generally had the goal of obtaining as much

deodand as possible for each death by misadventure for their alms as the law would allow. The almoner attempted to use the ambiguity of the laws of the deodands, especially concerning debt and inheritance, and the subjectivity of interpretation. When the almoners challenged inquest verdicts in the Star Chamber and interfered with procedures of the coroners' inquests, they were attempting to legitimate and justify their actions under the law and extend their jurisdiction, setting a new course for participation within the system. King's Bench, Star Chamber, and the coroners pushed back against the almoners to control their own jurisdiction and limit the almoner's extension of power. The parameters of the coroner's office were maintained against the encroachment of the almoner with the aide of the Star Chamber, which was also protecting its own jurisdiction and that of King's Bench.

King's Bench reviewed coroners' inquests to control forfeiture goods. However, the state was interested in more than just forfeitures, as demonstrated by coroners being summoned to King's Bench to answer for other defects. It was necessary that the coroner include all the details of the death, including exactly where it happened and when. That the verdict held was necessary for the extension of state power and formation through an ever stricter adherence to what was permissible for those both outside and inside the states central structures. If the verdicts of the coroner were easy to overturn on technicalities this would weaken the peripheries' views as to how much power and authority the central state possessed, which would call into question the authority of the state's officials who were involved in the inquest process and the trial at Assizes. The normalization and standardization of the coroner's inquest through the review of the inquests and by the issuing of statutes was further necessary for the continuity of the

state's control and their validation to rule. To view defects as an outgrowth of corrupt practices or negligence ignores and simplifies the process of review that inquests went through. Most inquests were adjusted to the specifications of King's Bench and rarely resulted in outlawry. Further, the defects were found in completed inquests, which means that they were performing their duties enough for the inquest to be handed in at Assizes and then forwarded to King's Bench. This could be proven to be incorrect if more records survived which indicate exactly how many coroners' inquests should have been performed and what the ratio was between those inquests with defects and those without. Havard saw this review by the centre of coroners' inquests as showing that JPs at the Assizes had held more importance than a coroner.[6]

Quality control of the inquests by the justices can also been seen in light of the centre trying to exert more control. The Justices of the Assizes had more legal training and experience than the average coroner, so rather than taking power away from the coroner, this was a measure of control by the centre, showing their extending reach, and the increasing standardization of officials' duties. As the Tudors and Stuarts extended their area and tightened their sphere of control, the more the centre had to rely on the working of a subordinate system of officials. Within this subordinate system there needed to be systems of control over the other officials; the intervention of the justices in the review of the inquests did not remove the power from coroners to perform their inquests, it took away their ability to act outside the law. This tightening of controls was necessary to strengthen the extension and keep the system under the control of the centre.

[6] Harvard, *Detection,* 36.

In their extension of power, the crown needed to moderate the perceptions of interference into the lives of people in the peripheries by showing mercy. This was accomplished through the granting of pardons. Questions of guilt for those receiving circuit pardons, general pardons, or petitioning for pardons were never at issue, rather their standing in their communities, their character, and the character of the deceased were assessed. The coroner's inquest was necessary in the process of determining who should receive a pardon. In the domestic papers, every time someone petitioned for a pardon the coroner's inquest was requested and reviewed before the Attorney General was instructed to issue the pardon. Coroners were sometimes on the receiving end of general pardons, which absolved them of their defects that might have otherwise led to their outlawry. The crown pardons allowed coroners to adhere to state's definition of murder, manslaughter, and justifiable homicide, while at the same time allowing for the social goals of the elite and showings mercy to those who might have otherwise hanged for their crime, thereby strengthened their ties of loyalty.

The crown and state's ability to interfere with the verdict of a case highlights their extension of power while at the same time shows that in some cases patronage networks could be called upon to have a case dismissed or have the verdict altered. The status of the defendant could inform the movement of their case through the judicial channels after the coroner's inquest had been completed. The crown could request that a coroner alter the verdict of the case to absolve the soul and maintain the reputation of a member of the elite, such as was the case with Francis Norris, Earl of Berkshire. Without the interference of the crown, his death would have been deemed suicide, meaning he would have both broken the law and committed a sin. Further, the centre would take a special

interest in cases where the king was more than just a symbolic victim, for example Sir Overbury, who had been detained in the Tower of London at the request of the King. This detention resulted from Overbury not accepting the king's extension of patronage and the use of his right to appoint people to political posts and for not accepting the political post Overbury was offered.

The coroner having to answer to the Assizes and King's Bench was part of the bureaucratization of the state. That the coroner's office became increasingly governed by statutes and the performance of their duties became increasing predictable and with less discretionary measures was a necessary function of state formation, in that this helped legitimate the state and their "axis of authority."[7] The coroner's inquests played a pivotal role in ensuring that the laws of state concerning homicide, misadventure, infanticide, suicide, and manslaughter were followed. Their verdicts brought the accused before the Assizes to be tried for their felony and in the case of suicides, the performance of the inquest was equivalent to an arrest. Coroners' adherence to details on the inquest document was necessary for verdict to stand and not be overturned on technicalities. Coroners between 1580 and 1630 served as an important connection within the bureaucratization of the state, embodied by the crown and the peripheries. By the state extending their control over coroners and creating statutes that served to limited and more properly define coroners' function, this served to limit the legitimate powers of the office. This extension of control by the centre using the crown's courts and statutes was part of the centralizing tendency of the state during this period.

[7] Braddick, *State Formation*, 43.

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