

Bad conversation? Gender and social control in a Kentish borough, c. 1450–c. 1570

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INTRODUCTION

The image of the nagging woman being ducked as a scold is firmly ensconced among popular images of women in the past, but the historical phenomenon of prosecutions for scolding, though it has been briefly touched on in many studies, has been the subject of only two substantial contributions, those of David Underdown and Martin Ingram.¹ Underdown has maintained that from the 1560s there was increasing concern with scolds, which he links with the rise in witchcraft prosecutions and growing anxiety about domineering and unfaithful wives. Accepting the notion of a ‘crisis of order’ in the decades around 1600, he postulates as an aspect of this a ‘crisis in gender relations’ which he attributes to a decline in neighbourliness and social harmony resulting from the spread of capitalism. He bases his argument partly on literary sources, including plays, sermons and popular pamphlets (though conceding that literary evidence is not conclusive and that the misogynistic tradition in literature is a long one) and partly on a somewhat impressionistic survey of court records from around 1560 to around 1640. This period, he claims, witnessed an intense preoccupation with women perceived as threatening the patriarchal order, manifested by greater numbers of prosecutions of scolds and other disorderly women than in the preceding and subsequent periods, and by more severe punishments, notably the cucking-stool. Women accused as scolds, he maintains, were usually poor, widows, newcomers, social outcasts or ‘those lacking the protection of a family’,

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and were likely to vent their frustration on local notables as the nearest symbols of authority. He suggests that both the prosecution of scolds and their punishment by ducking were more common in towns and wood-pasture villages than in arable areas (such as that around Fordwich in Kent, the borough we will be looking at); however, he admits that rural records have survived less well than urban, and gives no quantified evidence for the alleged lenience of the authorities in arable villages towards 'disorderly' women.

This hypothesis has met with some favour. For example, Fletcher, though considering Underdown's court evidence insufficient to be entirely convincing, has agreed that literary evidence shows 'considerable anxiety about the gender order at this time'.² Others have laid more emphasis on a wider 'crisis of order', involving increased levels of prosecution not only of women but also of 'disorderly' men, brawlers, drunkards, vagrants, illegal games-players and sexual offenders.³ However, there has been some doubt whether this was an unprecedented development in the Elizabethan and early Stuart periods. Richard Wunderli and Marjorie McIntosh have shown that concern with what has been variously termed 'social control' and 'reformation of manners' – including scolding, hedgebreaking (probably to steal firewood), barratry, gaming, nightwalking and sexual offences – was apparent, at least sporadically, in ecclesiastical and secular jurisdictions in London and Essex in the later fifteenth and early sixteenth centuries. Margaret Spufford has demonstrated similar preoccupations in the years around 1300, while Ingram has suggested that such concerns may have been 'almost continually persistent' over several centuries.⁴

Ingram has taken issue with Underdown specifically on the question of indictments for scolding, claiming that it cannot be shown that they became much more numerous during Elizabeth's reign. Prosecutions of scolds took place from the late fourteenth century onwards, and hardly amounted to an epidemic in the late sixteenth and early seventeenth centuries. He points out that evidence so far examined for the latter period indicates that such cases were sporadic in terms of both locality and chronology and that, anyway, the nature and survival of court records, shifts in jurisdictional patterns and changes in population before and after about 1560 would make it difficult to demonstrate an upsurge in such charges even if there had been one.⁵

Ingram also discusses what constituted a legal definition of scolding in early modern England, what kind of behaviour might have resulted in prosecution as a scold and the social background of those who were prosecuted. He concludes that to result in a court case, 'scolding' had to involve 'continuously disturbing the neighbours by contentious behaviour', and that this was generally so severe as to be 'seriously hurtful

to the immediate victims and likely to disrupt the whole neighbourhood'; the most extreme individuals, he suggests, were probably suffering from mental disorders. Most convicted scolds, he finds, were married women from the lower-middling ranks, and some of them had long histories of troublesome behaviour, or delinquent husbands or other relatives. His examples are all taken from the late sixteenth century onwards: he does not investigate whether earlier cases were similar or whether the nature of the offence may have changed over time. He is impatient with certain 'popularizers of feminist theory' who have presented the prosecution of scolds as a manifestation of patriarchal oppression: women, he claims, were not 'prosecuted for behaviour that men could indulge in without penalty'. He argues that women characteristically used verbal abuse in situations where men were more likely to use physical violence; thus an accusation of scolding against a woman was more or less the equivalent of a charge of assault against a man. Pointing out that men were also occasionally indicted for scolding, barratry (meaning quarrelsomeness, or instigating vexatious litigation) or 'railing', he concludes that verbal aggression had come to be particularly associated with women and, when perpetrated by them, labelled as a specifically female offence with peculiar modes of punishment. While agreeing with Underdown that use of the cucking-stool for scolds became more frequent in the late sixteenth century, he suggests that it was less common than is popularity believed, and adds that penalties for most offences became more severe at this time.⁶

We are presented, therefore, with a 'crisis of order' in general, of which a crisis in gender relations may have been part, between about 1560 and 1640, which may or may not have been unprecedented in its proportions. On scolds in particular, there is disagreement about whether they were prosecuted more often from the late sixteenth century onwards, about the nature of their punishment and on whether or not their prosecution can reasonably be viewed as an example of patriarchal oppression. The only consensus that has been reached is that concern with scolds, like the preoccupation with witchcraft, dwindled rapidly in the courts after the Restoration and had virtually disappeared from them by the early eighteenth century. It is, perhaps, hardly surprising that the evidence for the supposed 'crisis' has been so variously interpreted. The literary sources relied on by Underdown and Fletcher are surely problematic. There are far fewer surviving texts for the period before about 1580 than thereafter, and misogyny and anxiety about gender relations can be found in medieval literature; indeed a great deal of literature in any period is concerned with gender relations. Any convincing demonstration of a significant growth in concern with insubordinate women, or with disorder in its wider manifestations, would require far fuller evidence from court

records for the century or so *before* Elizabeth's accession than has been presented so far.

I. FORDWICH FRANKPLEDGE PRESENTMENTS: 1451–1570

Although evidence for the later fifteenth and earlier sixteenth centuries is sparse compared to that for the subsequent period, some material has survived which it may be profitable to examine. Court records for the small Kent borough of Fordwich survive in sufficient quantity to reveal the levels of concern of local decision-makers with the social behaviour of men and women from mid-fifteenth century to the late 1560s.⁷ (Despite the designation 'borough', the area covered by the court cannot be categorized as urban: Fordwich itself comprised only one small parish, and the court's jurisdiction extended over some of the surrounding countryside). What follows is an investigation of these records in the light of the debates outlined above. First, the chronology of 'social control' presentments between 1451 and 1570 will be examined. This will be followed by a more detailed examination of the presentments for scolding and closely related offences in the same period.

Table 1 lists all the presentments at the Fordwich 'view of frankpledge' (here meaning a local court with limited criminal jurisdiction) that can be categorized as showing concern with disorder of the kind discussed above. The table first shows the number of view of frankpledge records which have survived for each decade, the maximum number being 20. It then gives the number of presentments for scolding: the total of 37 comprises 23 individuals (some having been presented more than once), 20 women and 3 men. The closely related offences of barratry and eavesdropping are shown next: only 5 individuals feature in the 7 cases, 4 men and a woman. Hedgebreaking, which follows, is perhaps less obviously a 'social control' offence, but it is mentioned by both McIntosh and Ingram. For Fordwich in this period it is noteworthy as the commonest reason for women to be presented at the view of frankpledge, though hedgebreakers were not as overwhelmingly female as scolds. The table then shows the assault cases, each of which involved at least 2 individuals, almost all men. 'Illegal gaming' includes both men presented for playing illegal games and those whose offence was allowing others to play in their houses. The penultimate column indicates a heterogeneous collection of other presentments occurring in small numbers, including explicit sexual offences (excluding rape), not attending church, Sabbath-breaking, vagabondage and vaguely worded charges of 'living suspiciously' or being 'of bad conversation', which may refer to sexual misdemeanours or other forms of unacceptable behaviour. Some at least of the 'vagabonds' were clearly members of

TABLE 1
 'Social control' presentments in Fordwich, 1451-1570

Decade	No. of surviving frankpledge records	Scolds	Barrators and eaves-droppers	Hedgebreakers	Assaults	Illegal gaming	Miscellaneous	Totals
1451-1460	12	1	0	0	12	0	1	14
1461-1470	17	3	0	0	7	10	0	20
1471-1480	15	0	0	7	23	0	2	32
1481-1490	17	4	1	14	14	2	2	37
1491-1500	20	9	1	22	40	0	10	82
1501-1510	19	12	1	8	24	4	7	56
1511-1520	20	3	3	9	32	1	3	51
1521-1530	18	1	1	26	7	0	3	38
1531-1540	10	1	0	0	9	0	5	15
1541-1550	16	0	0	0	0	1	1	2
1551-1560	19	0	0	0	1	0	5	6
1561-1570	15 ^a	3	0	0	2	3	0	8
Totals	198	37	7	86	171	21	39	361

^a Including two nil returns.

Source: Views of frankpledge from the Fordwich Court records, Canterbury Cathedral Archives, U4/2, 3, 6A, 8, 20 (see note 7).

TABLE 2
 ‘Social control’ presentments in Fordwich, 1451–1570, by gender

<i>Gender</i>	<i>Scolds</i>	<i>Barrators, etc.</i>	<i>Hedgebreakers</i>	<i>Assaults</i>	<i>Gaming</i>	<i>Miscellaneous</i>	<i>Totals</i>
Male	4	6	16	160	21	28	235
Female	33	1	66	11	0	11	122
Unclear	0	0	4	0	0	0	4
Totals	37	7	86	171	21	39	361

Source: As in Table 1.

established local families, whose offence was not vagrancy in its later sense, but having no visible means of subsistence; the charge of being a vagabond was sometimes accompanied by that of ‘living suspiciously’ or not being in service.⁸ The 5 cases in the 1550s in this column were all men who used their boats for commercial purposes on Sundays, an offence which did not appear until 1556.

Ingram has noted similar activity in a variety of jurisdictions in the late fifteenth century and at the beginning of the sixteenth.⁹ It can be seen that in Fordwich presentments in all these categories similarly increased towards the end of the fifteenth century and then gradually declined to practically negligible levels. This holds good for scolds (predominantly female) as well as for exclusively or predominantly male offences. Hedgebreakers, again mainly female, differ only in that there was a large number of them presented in the early 1520s: the last hedgebreaking presentments were in 1524. Table 2 shows the extent to which the offences under consideration were gender-specific.

The only discernible difference between the treatment of ‘male’ and ‘female’ offences is that in the years around 1500 more severe penalties were threatened for reoffending scolds and hedgebreakers, but not for those committing ‘male’ crimes like assault.¹⁰ Presentments for the more obviously criminal offence of theft were spread much more evenly over the decades. So if there was a ‘crisis of order’ here, it seems to have taken place in the years around 1500 and to have been characterized by rather more anxiety about women than about men. The court records for Queenborough, also in Kent, though much less complete than those for Fordwich, suggest a similar pattern: here six scolds were presented between 1498 and 1504 and none from 1505 to 1511 or from 1542 (when the record resumes) to 1570.¹¹

Of course it is possible that the local elite did not lose interest in regulating the morals of women and men in the middle decades of the

sixteenth century, but that the offences under consideration were at that time being tried in another jurisdiction. However, a preliminary survey of the archdeaconry court records for 1487 to 1504 and 1523 to 1531 does not indicate that social control had passed into the hands of the church courts in the latter period.¹² The possibility that a resident or nearby Justice of the Peace might have taken over from the leet court cannot be entirely discounted, though there is no evidence of a JP resident in Fordwich at the relevant time.

The chronology of these cases in Fordwich is strikingly similar to that found by McIntosh in the manor court of Havering. She shows that, by 1560, the duty of regulating social misbehaviour had passed from the presenting jury at the manor court to the churchwardens, and thus to the archdeaconry court, but is unable to pinpoint when this happened.¹³ Wunderli assumes, however, that the opposite was the case in London: he accounts for the decline in the level of prosecutions in the London commissary court from a peak in 1490 by suggesting that Londoners began to make more use of the city courts and less of the commissary court.¹⁴ All these hypotheses may be correct, but as more and more evidence accumulates for a marked concern with regulation of morals around the end of the fifteenth century, it seems to be becoming less plausible to argue that the lack of indications of its continuance into the 1520s and beyond is due only to the chance absence of surviving records for the courts to which it was supposedly transferred.

It seems unlikely that either in the years around 1500 or a century later there was a 'crisis' specifically in gender relations, as opposed to a wave of concern about disorder and immorality amongst those whom *men* of the local elites expected to behave in a suitably subservient and respectful manner, namely women, youths and men of the lower orders. But the form this concern took towards women was largely specific to them, and is epitomized by the prosecution of scolds. We now turn, therefore, to the scolds in Fordwich.

II. THE SOCIAL STATUS OF FORDWICH SCOLDS

Contrary to what might be expected on the basis of Ingram's model of prosecution as a scold, multiple presentments of the same individual were fairly rare. Of the 23 people who were accused of this offence in our period, 17 including 2 men, were charged only once. One man and a woman were presented twice, two women three times, one woman four times and one six times. The totals over 12 decades are not large, but the area over which the court had jurisdiction was not heavily populated. Very little quantification of scolding cases in other jurisdictions has been done as yet,

but Sheila Sweetinburgh found five women scolds in the fragmentary surviving records for Hythe between 1407 and 1445. In the period alleged to have witnessed an 'epidemic' of prosecutions, Carol Wiener found only 9 women scolds in St Albans parish between 1560 and 1602 (with 2 men in the archdeaconry court within the same period), while 19 scolds were prosecuted at the Nottinghamshire Quarter Sessions between 1603 and 1625, but only 1 at the Staffordshire sessions in the same period.¹⁵ While it is possible that more prosecutions were taking place in other courts in the later period, these figures do not suggest a marked upturn in the late sixteenth and early seventeenth centuries.

The near-completeness of the Fordwich records for much of the earlier period makes possible some assessment of the status and circumstances of many of the accused, and in some cases even enables an informed guess to be made as to what precipitated the charge of being a scold. Of the 20 women, 16 were unequivocally described as the wives of named men, while one was almost certainly a deserted wife. The remaining 3 women were also quite possibly married: in each case there was a man of the same surname in Fordwich at the time, and none is described as a widow. Thus a large majority of the women charged as scolds were wives living with their husbands at the time of their presentment. Most were married to men who can be traced in Fordwich over quite long periods, though some of these wives may have been outsiders who married local men. Others were themselves members of long-established local families. Only 3 of the 20 women seem to have formed part of a transient population whose surnames appear in the records only for a very short time; 2 more may have been recent arrivals at the time of their presentment, but subsequently remained local residents for several years. All the remaining 15 had husbands or other presumed family members in Fordwich for at least three years before their presentment, and at least 10 of these can be shown in all probability to have come from families which had been established there for a considerable time. Of course, positive identification of individuals cannot in most cases be established with absolute certainty, but allowing for the likelihood that some of the wives were daughters of local families who had married newcomers, it seems reasonable to conclude that the proportion of newcomers among women presented as scolds was probably no greater than the proportion of such people among the population at large. None of the 3 male scolds was a newcomer, one being from a local family and the others having been several years in Fordwich. While it remains possible, as McIntosh suggests, that behaviour which was tolerated in members of local families was punished in outsiders, it does not look as though the presenting jury in Fordwich was unduly ready to condemn new arrivals.

The fact that so few 'scolds' seem to have been outsiders may also be relevant to the nature of the offence. Of the 23, 17 were presented only once for scolding, as far as we can tell. If many of these could be shown to have spent only a short time in Fordwich, it might be concluded that this was why they never reappeared charged with the same offence. But since most were long-term residents, it seems that being presented as a scold was something that happened only once to most of these individuals. This casts some doubt (at least for this period) on the claim that a scold was someone who habitually sowed discord, or even was mentally disturbed. A habitual troublemaker might be expected to reappear regularly, unless perhaps the scolding presentment came only after years of informal communal pressure to desist, and a fine for scolding would not be an effective deterrent to a mentally disturbed person.¹⁶

With the exception of a few described as gentry, or whose wills have survived, individuals' wealth and social standing can only be assessed indirectly.¹⁷ Holding office as mayor or jurat (the Cinque Ports equivalent of an alderman) can be taken as evidence of a fair degree of prosperity and high status within the local community. These offices rotated among a small group of families. Over the whole period, only 5 of these were classed as gentry, with the remainder clearly being quite well off. Of the female scolds, 3 were connected to the latter group: one was the wife of a jurat and former mayor, and 2 others were close relatives of another. At a lower level in the local hierarchy, the status of freeman can be taken to indicate men who were generally considered respectable and solvent, if only because they had to pay 11d for the privilege of admission and to have four existing freemen as pledges for their good behaviour. One male scold and the husbands or assumed husbands of 6 of the women were freemen, though not all at the time of the scolding presentment. As a rough guide to the proportion of adult men who enjoyed this privilege, between 1444 and 1563 the records show 78 admissions of freemen. This can be compared with 392 men who served as jurors during the same period and 527 youths or new arrivals who swore allegiance as 'new entrants'. So the proportion of freemen's families represented among the scolds was almost certainly higher than the ratio of freemen to the total adult male population.

None of the scolds was from the gentry, nor were most of them connected to wealthy, high-office-holding or even freemen's families, but these were minorities and some scolds were connected to them. Underdown claims that most scolds were poor women and McIntosh that jurors were more likely to report misbehaviour by the 'shiftless poor' and by outsiders.¹⁸ The exceptionally poor and rootless are harder to identify than the prosperous, but it is unlikely that such people would ever have

been jurymen. Indeed, both Ingram and McIntosh describe leet jurors as coming from the middling to prosperous sections of local communities.¹⁹ The records of the husbands and presumed husbands of the scolding women in Fordwich and those of the male scolds reveal that only 2 were never jurors, and neither of these men seems to have been in the borough for long. By the criterion of jury membership, therefore, at most 2 of the 23 scolds, male and female, are likely to have belonged to an underclass of shiftless and transient poor, while the social background of most of them was perhaps marginally above the 'lower-middling ranks' which Ingram considers provided the majority of scolds.²⁰

Ingram has also remarked that accusations of scolding often coincided with accusations against the same individual for another offence and that, where records are complete enough for individuals to be traced over long periods, some scolds or their families can be shown to have had quite long histories of delinquency. This applies only to a limited extent to the Fordwich scolds. In only 13 of the 37 presentments for scolding was the 'scold' accused of another offence at the same view, excluding routine appearances for regrating (here meaning the retail selling of ale, beer and bread), brewing and baking and minor 'nuisance' offences. In 6 cases the scold's husband was presented at the same view. The most interesting aspect of this pattern of prosecution is that 8 of the 'other' offences appear to have been related to the charge of scolding. The number of cases of multiple prosecution warrants attention because it looks as though the accusation of scolding was related to a single troublemaking incident, rather than a habitual tendency to antisocial behaviour. Close examination of these cases may shed some light on what exactly it meant to be a 'common scold' in this period.

III. THE CONTEXT OF SCOLDS IN FORDWICH: CASE STUDIES

In December 1452, Margaret, the wife of William Bridge, was presented for having committed a verbal assault on John Gye on 18 November, and her husband for doing the same 'in full court' on 21 November. This is followed immediately by the presentment that Margaret was a common scold.²¹ Gye was a member of the local elite and may have been mayor at the time the dispute took place. At the same view it was ordained by the mayor and jurats that anyone addressing malicious words to the mayor would be fined 3s 4d. It appears that Margaret Bridge had a quarrel with John Gye, in the course of which she insulted him. Three days later, in court, William Bridge stood up for his wife by using 'opprobrious words' to Gye. This case differs from Ingram's paradigm of the scold as a habitual troublemaker: Margaret Bridge appears to have verbally abused only one

person, but he was an authority figure, and as far as we can tell she had done it only once. While William Bridge probably had to pay a large fine (though none has been recorded), he was not labelled a scold and his wife was. In other words, Margaret seems to have been punished twice for the same incident, suggesting that verbal aggression from women was considered more serious than the same behaviour from men.

The circumstances surrounding the presentment of Rose Peny in October 1495 are quite similar. She was presented along with the rector, John Bailey, for having rebuked the jury at the last view of frankpledge, thereby showing contempt for the law and setting a bad example. The rector was fined 20d for this offence, and Rose Peny 12d. Later in the course of the same view, Rose was presented as a scold and fined a further 4d, with the threat of the mortar if she did not reform.²² (Carrying a 'mortar' through the town, preceded by a minstrel, was the penalty prescribed for scolding women in the Fordwich Customal.²³) It cannot be proved that her disagreement with the jury was the sole cause of Rose's being charged as a scold, but the records for the 1490s are very full, and she made no other appearance. Like Margaret Bridge, Rose Peny had been involved in a brush with authority, in association with a man, and this seems to have resulted in her – but not him – being presented as a scold.

In September 1499 Anne Cook and Alice Byker were presented jointly, both as scolds and for keeping a night vigil and living suspiciously. Each was fined 20d and warned not to reoffend, on pain of a 20s fine or banishment. Anne Cook was then fined 12d for assault and affray on John Dorant, while he was amerced 6d for assaulting her, indicating presumably that his was the lesser offence. Alice Byker was fined 3s 4d for rebuking the jury at the last view and the one before (those in November 1498 and January 1499). Three other women were presented simply as scolds. One of these was Margaret, the wife of John Dorant, Anne Cook's victim and assailant. The other two, Katherine Large and Margaret Millon, are among the small minority with multiple presentments for scolding, but in this case it may be relevant that Katherine's husband, John Large, had been on the jury in November 1498, as had John Dorant, while Margaret Millon's husband, Peter, had been a juryman in January 1499. These were the two juries which Alice Byker had 'rebuked'.²⁴

It seems likely that all these cases were connected. During the previous winter Alice Byker had verbally attacked the jury, at or after the view of frankpledge. She and Anne Cook were probably friends; both were almost certainly young and from more affluent backgrounds than most of the scolds.²⁵ Anne Cook may have sided with Alice in her dispute with the juries, and this led to her fight with the juryman John Dorant. Robert

Cook, Anne's husband, was plaintiff in a trespass plea against Dorant in July 1499 for the alleged assault on his wife. Margaret Dorant, perhaps justifiably angry that her husband was being unfairly accused, verbally attacked Cook (a former mayor) or his wife. Katherine Large and Margaret Millon, both quarrelsome (or assertive) women, whose husbands were also involved, may have weighed in. The jury in September 1499, which presented all five women as scolds, did not include Dorant, Large or Millon, but it did contain several other men who had been part of the two earlier juries attacked by Alice Byker. To get their revenge on the latter, and on her supporter Anne Cook, they seem to have decided to focus on the unseemly nocturnal goings-on of the two young women, whether these were real or imagined. To put all five quarrelsome women in their place, they were all presented as scolds. Whether or not this is exactly what happened, what is beyond dispute is that at least part of the disturbance originated with a woman's rebuking the jury, and in addition to two women having their sexual reputations impugned, five women were charged as scolds and no men were, even though several men were involved.

Disputes arising from proceedings at the view of frankpledge may also lie behind the presentments of Katherine Large and Rose Serlys as scolds in October 1501. The accusation against Katherine is recorded immediately below her husband's presentment for disclosing the deliberations of the jury, of which he had been a member, at the preceding view.²⁶ John Large had indeed been a juror at the view of frankpledge in June 1501, which was noteworthy for the three heavy fines imposed on Richard Serlys, husband of Rose. He was amerced 10s for each of two offences of assault and affray, and also presented for the possession of a dangerous dog. On top of this was the demand that his 'leprous' wife should leave the town.²⁷ John Large's offence probably consisted of warning his neighbour in advance of the unpleasantness in store for him, and the two wives became involved in the resulting furore. As Ingram has pointed out, in another context, the operation of the law could itself be a form of disorder.²⁸ It seems likely that several of the Fordwich scolding presentments were manifestations of the same phenomenon.

In the fifteenth century and the first decade of the sixteenth, only women were charged as scolds, even though in the cases noted above men also were implicated in the quarrels which seem to have led to the accusations. In the second decade of the sixteenth century, male scolds begin to appear, albeit in very small numbers. Men seem usually to have preferred physical violence to verbal assaults. However, William Clark, the first known male scold in Fordwich, when physically assaulted in August 1517, responded not in kind but by attacking his assailant with

‘bad words’. Both men were amerced 4d, and Clark was then presented as a scold and barrator, the sort of double accusation heretofore reserved for women. Clark, at least as a young man, was involved in many assaults and had used verbal abuse before: he had been presented in 1515 for using threats and opprobrious words to a juror who had presented him for his bad conduct at the previous view. Again the theme of showing disrespect for the law recurs. William Clark was presented for a physical assault and again as a scold, barrator and disturber of the peace in October 1518: here the wording of the presentment suggests habitual stirring up of trouble.²⁹ When William Jackson was presented as a scold in 1533, he was also charged with assault and affray against three men, of whom at least two were his social superiors.³⁰ Jackson, who must have been of mature years by this time and who did not have a record of troublemaking, had perhaps used verbal as well as physical violence against his ‘betters’. There is no clue as to why the only other male scold, John Undy, was presented in 1563, and it remains obscure why only three men in the course of over a century should have been accused of this overwhelmingly female offence, when many other men had used ‘bad words’.

IV. SCOLDING AND PRESENTMENTS FOR OTHER OFFENCES

It is harder to attach any significance to the cases where a presentment for scolding coincided with an accusation of some other, apparently unrelated, offence, or to the presentments made against the ‘scolds’ on other occasions. As a group, the 23 do not stand out as spectacularly delinquent. Altogether 8 of the women scolds, and 2 of the 3 men, were presented as hedgebreakers at some time, but since at least 36 other women and at least 14 other men had convictions for hedgebreaking, it cannot be claimed that the correlation between the two offences is very marked. There is no very conspicuous linkage between scolds and thieves either. Theft was alleged in numerous private suits, but these can seldom be traced to a conclusion, and defendants frequently denied the charge, so these have not been counted here among the cases of theft. A presentment for thieving, on the other hand, is tantamount to a conviction. Only 3 of the scolds, all women, were ever presented for any form of theft apart from hedgebreaking, while a total of 14 women altogether were presented for various thefts. However, since there are no surviving assize or quarter sessions records for this period it is possible that some scolds committed serious crimes of which no trace survives.

Only 9 women altogether are recorded as having been presented explicitly for sexual offences: these include 3, or possibly 4, scolds. This is perhaps a large enough proportion to suggest that there was sometimes

a connection between the two offences, and as chastity, silence and obedience were the virtues on which a woman's reputation overwhelmingly depended, the possible linkage is interesting.³¹ However, the sample is too small to prove a connection, and 16 or 17 of the women scolds were never, as far as we know, accused of sexual misbehaviour. With 2 exceptions, the only other known offence of any of the women scolds was fouling the communal well.³² The exceptions are Agnes Giles and Agnes Tropham, both of whom feature more prominently than most women in the court records.

Agnes Giles is the 'scold' whose profile most nearly fits that of an habitual criminal. In addition to one presentment for scolding, between 1467 and 1500 she was accused of receiving stolen goods, hedgebreaking (twice), breaking and entering and theft, always in company with other women. She seems to have been a bad influence, liable to get others into trouble. But her six known offences were spread over many years, and she cannot have been considered entirely beyond the pale by the respectable classes, as she was left a small bequest by a wealthy widow in 1477.³³

Agnes Tropham may have inherited a propensity to quarrel: her prosperous family of origin appears over three generations to have been exceptionally litigious. Most unusually for a woman, she was implicated in two assault cases, one also involving her parents and the other her daughter. In addition to three presentments as a scold and one for hedgebreaking, she was co-defendant with her husband in three or more trespass suits. In the course of the hearings of these he unchivalrously failed to appear in court on two occasions, leaving Agnes to cope on her own. In 1484 she was arrested on 'divers charges', and rescued from custody by her mother, aided and abetted by John Large, whose lack of respect for the law has already been observed.³⁴ Unfortunately the records for 1484 are missing, so we cannot tell what charges Agnes had to answer. Although evidence from wills cannot be regarded as conclusive, the testamentary arrangements made by her parents are not suggestive of a happy family relationship. Her father left extensive lands to his other daughter and her husband, with the proviso that if they died without heirs the lands were to be sold. Her mother left Agnes and her husband the tenement they were living in, but although she made copious bequests of personal effects to other relatives and friends, Agnes was to receive nothing else.³⁵ She seems one of the very few candidates for Ingram's description of scolds as 'dismal negotiators of social relationships'.³⁶

Although the Fordwich evidence reveals that some scolds and their families were quite regularly in trouble, it does not demonstrate that scolds came from particularly delinquent families. Only one of the scolds' husbands had a substantial history of presentments, mostly for assault, in

relation to the length of time he appears in the records. There were other individuals with comparable or longer histories of misdemeanours who were neither accused of scolding nor had spouses who were. Besides, as we have seen, several of the scolding presentments seem to have arisen because of an accusation by the jury for some other offence, against the scold or her husband. In these cases it may be not so much that the 'scold' was an habitually quarrelsome person as that she was angered by the presentment, which would inevitably incur a fine. The only three cases where a woman was specifically accused of having rebuked the jury or the mayor all resulted in her being charged as a scold. The same thing happened to William Clark, although he was by no means the only man to quarrel with the mayor or jury. Christopher Elsted attacked the jurors with 'opprobrious words' after the view of frankpledge in October 1518, and at the next view was amerced 20d for this and another 20d for being an eavesdropper, which seems to amount to much the same as a scold (see below).³⁷ A tendency to be argumentative and disrespectful towards authority seems to be what the accused in question have in common.

The only woman before the mid-sixteenth century who demonstrably fits the stereotype of the habitual scold is Margaret Millon, presented six times for scolding. She annoyed her neighbours so much that in 1507 the jury asked that she be forbidden to run her retail business unless she should find sureties for her good behaviour.³⁸ Until 1563 the formula of a presentment was simply as 'a common scold' or 'a common scold to the annoyance of her neighbours'. However, Alice Offam in 1507 was charged with being a common scold 'and carries rumours among her neighbours and sows discord among her neighbours'.³⁹ This may suggest that her offence was rather different in kind from those discussed so far, and that she, like Margaret Millon, was closer to Ingram's definition of a scold, the conventional later-sixteenth- and seventeenth-century model. The wording of the presentment of two women and a man in 1563 is similar, that 'they do use to rail and scold against other of their neighbours'.⁴⁰ But it looks as though the late-medieval scold was not so often the continually nagging woman of popular literature as the woman, and occasionally the man, who had given vent to an outburst of temper on a particular occasion, and often against a representative of authority.

The offences of barratry and eavesdropping seem to be closely related to scolding, but occur only rarely in the Fordwich records. One woman and two men were accused of eavesdropping. The accusation of barratry, used only in the case of three men, was never applied on its own. Edward Hills in 1509 was described as a barrator, disturber of the peace and of bad conversation, William Clark in 1517 as a scold and barrator, and the following year as scold, barrator and disturber of the peace, and

Christopher Elsted in 1523 as an eavesdropper, barrator, disturber of the peace and of bad conversation. Such multiple expressions of disapprobation could clearly be serious: Hills's punishment was banishment or a £5 fine, and Elsted was to be banished unless he found sureties for his good behaviour, though Clark was only ordered to amend on pain of 3s 4d.⁴¹ Hills was also convicted of two cases of breaking and entering and assaulting the wives of two householders, and his employer was ordered to dismiss him.⁴² His behaviour was evidently considered to be beyond the limits of acceptability, and it looks as though the charge of barratry in his case was thrown in for good measure, to express the community's disapproval and perhaps to give additional justification for his punishment. Ingram defines barratry as having much in common with scolding, but applying mainly to men and often carrying stronger connotations of legal chicanery and stirring up of unjust lawsuits.⁴³ There is little evidence of this here: in the cases of Clark and Elsted, 'barrator' seems to have been used as the male equivalent of scold, while for Hills it looks like a catch-all term for someone whose misdemeanours had caused outrage. Eavesdropping, from the wording of the presentments, seems to imply not merely listening to private conversations but repeating what has been heard and thereby stirring up discord. In short, both these terms appear to have been used to designate forms of antisocial behaviour which did not quite fit into any of the conventional categories of crime, much as the term 'scold' was used before 1560.

V. PUNISHMENT OF SCOLDS

Barrators and eavesdroppers, however, did not apparently risk humiliating public punishment, while scolds did. The Fordwich evidence seems to confirm Underdown's conclusion that punishment of scolds became more severe after 1550. But well before this public humiliation was the legally prescribed penalty for women guilty of scolding in various jurisdictions, even if it was rarely or never used. In the late-fifteenth-century versions of the Fordwich and Sandwich Customals, any woman who scolded or quarrelled in public was to carry a mortar through the town, preceded by a 'piper or other minstrel making sport', and pay a penny to the piper, though Sandwich made the concession that a woman willing to pay 21d could be excused. In Hereford the use of the cucking-stool was prescribed in 1486. In all three customals the possibility of a man being so punished was not envisaged.⁴⁴ In Fordwich the practice of scolds carrying or wearing the mortar through the town does not seem to have been enforced within the period 1450–1560. Most often they were punished by a small fine. What determined the amount is unclear: on some occasions

the accused was also being amerced for another offence, but the fine fluctuated even if the presentment was only for scolding. Repeated offences did not necessarily incur a larger fine, nor were people presented in a group always amerced the same amount. Between 1492 and 1508, however, larger fines, and in 10 out of the 21 cases, the mortar as an alternative or additional punishment were threatened if the offence was repeated, though even in the case of women who were repeatedly convicted as scolds there is no evidence the mortar was actually used until 1563. Nor were the threatened larger fines actually imposed for a repeated offence. Until 1563, these threats seem to have been used in the hope that they would act as deterrents; when they failed to do so they were still not implemented. All the same, the fact that more draconian punishments were being threatened during the two decades when presentments for scolding were most numerous does make it look as though the authorities were more concerned about scolds then than at any other time till much later. For a comparison with other offences, hedgebreakers were also threatened with larger fines for repeated offences, or in one case a day in the stocks, between 1497 and 1507; the actual fines for hedgebreaking varied as inexplicably as those for scolding. No such trend is apparent in the assault cases, and the other categories of 'social control' presentments are too few to permit any conclusions to be drawn.

There is no surviving record of anyone being presented as a scold between 1533 and 1563, when two women and a man were charged. The punishment of these was referred to the discretion of the mayor and jurats, who ordered that they were to 'wear the mortar through the town and to have a whistler or other minstrel going before the said party and the said offender to pay 1d to the whistler or minstrel'.⁴⁵ A similar referral to the mayor and jurats' discretion occurred in 1571 when another scold was presented, but this time their decision was not recorded.⁴⁶ There is no indication that any of these later-sixteenth-century scolds had offended before in any way, which makes their punishment all the more striking. However, punishments for all kinds of offences became more severe around this time, and the fact that one of the scolds in 1563 was a man makes it difficult to use these cases as evidence for growing misogyny in the Elizabethan period. Even if the presentment of a man was an aberration, the lapse of eight years before anyone else was charged with scolding suggests that the Fordwich authorities were less worried about scolds in the 1560s than their predecessors had been 70 years earlier, unless of course such cases were being tried elsewhere. Unfortunately the absence of frankpledge records for the rest of the 1570s leaves the question of what happened next unresolved.

CONCLUSION

While any conclusions based on the Fordwich presentments alone must be regarded as provisional and speculative, they do suggest exceptional concern about social behaviour around the end of the fifteenth century, with predominantly female offences apparently giving rise to greater anxiety than the misdeeds of men. Since so many of the accused were themselves regular jurors or their wives, it may be inappropriate to classify this concern as emanating from the local elite, although perhaps the latter put pressure on the presenting jury to enforce policies of 'social control'. Whatever the origins of this 'crisis of order', if it can be dignified with so grandiose a designation, the timing of the peak of the Fordwich court activity coincides remarkably with the findings of McIntosh and is only a year or two behind the peak found by Wunderli in London. Although Ingram warns against too ready acceptance of the idea of a marked contrast between this and the immediately subsequent period, a picture does seem to be emerging of a campaign for moral regulation in the reign of Henry VII.⁴⁷

McIntosh attributes the concern shown about social behaviour in Havering in the late fifteenth century to the area's precocious economic and demographic development.⁴⁸ The same claim could be made for London and possibly for East Kent, though the evidence for the latter is ambiguous and has been variously interpreted.⁴⁹ It is beyond the scope of this article to enter into these debates, and Ingram may well be right when he suggests that bursts of moral regulation were not necessarily contingent on rising population and poverty.⁵⁰ A possible alternative explanation might be that campaigns of moral regulation were responses to mortality crises. Paul Slack has noted how, despite awareness of the possibility of contagion or infection, epidemic disease was assumed to have a supernatural origin, and that the association of sin with disease could be used as a sanction by those concerned about social control.⁵¹ Pinpointing the chronology of epidemics in particular places in this period is notoriously difficult, but in Canterbury, less than three miles from Fordwich, there was sweating sickness in 1485 and plague in 1487 and 1501, which might account for the upsurge of determination to wage war on sin in Fordwich in the last years of the fifteenth century and the first years of the sixteenth.⁵² The inclusion of the word 'infection' in eight presentments between 1492 and 1508, and at no other time, might also suggest that public health was a particular concern in these years.⁵³

As for the Fordwich scolds of this period, they seem to have been mainly married women from established local families not noted for general delinquency or extreme poverty, indeed perhaps slightly more

comfortably situated than average. Most of them were presented only once as scolds and, where evidence is available about the exact nature of the offence, it looks likely that it was often a ‘one-off’ incident arising from a previous presentment in court, or from an outburst of anger on the scold’s part against someone in a position of authority.⁵⁴ Ingram has noted the predominance of scolds who were married women and has also suggested that women were more likely than men to resort to verbal violence because they had less access to the legal system. Curiously, though, he has not linked these two facts: it was only married women who were debarred from initiating actions in the secular courts. He contends that the prosecution of scolds was not an aspect of patriarchal oppression, yet if married women gave vent to verbal abuse because, unlike men, they were denied the alternative of litigation, then surely prosecuting them for doing so was indicative of a strongly patriarchal culture, not to say of male oppression? And if acts of verbal aggression, when committed by a woman, were punishable by public humiliation (even if in practice this rarely happened) while the more characteristically male offences of assault and barratry did not, this too has a whiff of misogyny about it. While Ingram is quite correct in saying that men were also punished for verbal abuse, should not some significance be attached to cases like those of Margaret Bridge and Rose Peny, who like the men associated with them were punished for speaking their minds but, unlike the men, were then punished again as scolds?

ENDNOTES

- 1 D. E. Underdown, ‘The taming of the scold: the enforcement of patriarchal authority in early modern England’, in A. Fletcher and J. Stevenson eds., *Order and disorder in early modern England* (Cambridge, 1985), 116–136; M. Ingram, ‘“Scolding women cucked or washed”: a crisis in gender relations in early modern England?’, in J. Kermode and G. Walker eds., *Women, crime and the courts in Early Modern England* (London, 1994), 48–80.
- 2 A. Fletcher, *Gender, sex and subordination in England, 1500–1800* (London, 1995), 28.
- 3 For example, S. D. Amussen, ‘Gender, family and the social order’, in Fletcher and Stevenson eds., *Order and disorder*, 196–217.
- 4 R. M. Wunderli, *London church courts and society on the eve of the Reformation* (Cambridge, Mass., 1981), 2 and *passim*; M. K. McIntosh, ‘Local change and community control in England, 1465–1500’, *Huntington Library Quarterly* XLIX (1986), 219–42; McIntosh, *Autonomy and community: the Royal Manor of Havering, 1200–1500* (Cambridge, 1986), 255–61; McIntosh, *A community transformed: the manor and liberty of Havering, 1500–1620* (Cambridge, 1991), 250–1; M. Spufford, ‘Puritanism and social control?’ in Fletcher and Stevenson eds., *Order and disorder*, 41–47; M. Ingram, ‘Reformation of manners in early modern England’, in P. Griffiths, A. Fox and S. Hindle eds., *The experience of authority in early modern England* (London, 1996), 47–88.

- 5 The Southampton records, from which Underdown quotes to support his case, survive for only 11 of the years between 1550 and 1579; see F. J. C. and D. M. Hearnshaw eds., *Southampton Court Leet Records*, vol. I (Southampton, 1905–1908).
- 6 Ingram, ‘Scolding women’.
- 7 Canterbury Cathedral Archives (hereafter CCA), U4/2, 3, 6A, 8, 20; the only years between 1450 and 1569 for which there is no surviving record are 1457, 1484, 1535 and 1538–1540.
- 8 For example, see CCA U4/3/118 verso, the two sons of John Greneham.
- 9 Ingram, ‘Reformation of manners’.
- 10 See below, Section V.
- 11 Centre for Kentish Studies, Maidstone (hereafter CKS), Qb JMs 1 and 2.
- 12 CKS, PRC 3/1 and 3/6.
- 13 McIntosh, *A community transformed*, 256–7. The absence of manor court records for Havering from 1530 to 1553 and of church court records till 1560, makes it impossible to tell precisely when the change occurred.
- 14 Wunderli, *London church courts*, page 2 and *passim*.
- 15 S. M. Sweetinburgh, ‘Women, household and community: Appledore and Hythe, c. 1400–1470’ (MA dissertation, University of Kent, 1993), 87; C. Z. Wiener, ‘Sex roles and crime in late Elizabethan Hertfordshire’, *Journal of Social History* VIII (1975), 38–60. Thanks to Linda Lees for the information on Nottinghamshire and Staffordshire.
- 16 One scold may have been mentally ill: Alice Stokes, apparently a deserted wife, committed suicide in 1493, within a year of being presented for scolding (CCA U4/6A/2).
- 17 Eighteen men are described as ‘gentleman’, and two as ‘knight’ in the Fordwich records over the period studied. However, only eight ‘gentlemen’ can be identified positively as resident in Fordwich, and at least two were clearly not resident. Wills survive for 47 Fordwich residents from 1460 to 1577.
- 18 Underdown, ‘The taming of the scold’, 120; McIntosh, ‘Local change’, 232–3.
- 19 Ingram, ‘Reformation of manners’, 74; McIntosh, ‘Local change’, 231.
- 20 Ingram, ‘Scolding women’, 65.
- 21 CCA U4/6A/2 (9).
- 22 CCA U4/3/67 verso. In January 1495 the rector had been presented for obstructing a watercourse and moving boundary markers. He was threatened with large fines if he did not amend. Presumably he had objected to this and Rose Peny had supported him.
- 23 The Custumal survives in a late-fifteenth-century copy, probably from an earlier version; see C. E. Woodruff, *A history of the town and port of Fordwich* (Canterbury, 1895), 213–14. The ‘mortar’ referred to is the sort of vessel in which ingredients such as spices are pounded with a pestle. Carrying it around the town was considered humiliating.
- 24 CCA U4/3/86, 88, 90.
- 25 The will of Thomas Byker, Alice’s husband dated 1502 (CCA, PRC 17/13/377 – microfilm) shows he was quite well off. Probate of the will was contested in 1503 by two women (one of whom was certainly his cousin) on the grounds that he had been under 21 when he made it, and that (according to the plaintiffs) the child Margaret Byker, supposed to be his heir, was a bastard. It is very unlikely his wife was much older than he was. Robert Cook was an old man but Anne was not his first wife.
- 26 CCA U4/3/103 verso.
- 27 CCA U4/3/101 verso, 102.
- 28 Ingram, ‘Communities and courts: law and disorder in early seventeenth century

- Wiltshire', in J. S. Cockburn ed., *Crime in England, 1500–1800* (London, 1977), 110, 118.
- 29 CCA U4/3/184, 192, 196 and 196 verso. In his first scolding presentment the feminine form, 'garrulatrix', is used.
- 30 CCA U4/3/237 verso and 238.
- 31 For links between scolds and sexual offenders, see R. M. Karras, *Common women: prostitution and sexuality in medieval England* (Oxford, 1996), 138–9.
- 32 CCA U4/3/220 verso.
- 33 CCA U4/3/27 verso, 32 verso, 35 verso, 36, 52 verso, 94 verso; PRC 17/3/128.
- 34 CCA U4/3/45, 47 verso, 50 verso, 60, 60 verso, 61, 6A/1/1 and verso. For John Large, see above (in Section III).
- 35 CCA PRC 17/3/408 and U4/3/63, wills of Thomas and Alice Southland.
- 36 Ingram, 'Scolding women', 72.
- 37 CCA U4/3/200.
- 38 CCA U4/3/140.
- 39 CCA U4/3/139 verso.
- 40 CCA U4/20/1/64.
- 41 CCA U4/3/149, 192, 196 verso, and 211ii.
- 42 CCA U4/3/148, 149.
- 43 Ingram, 'Scolding women', 51.
- 44 Woodruff, *History of Fordwich*, 217, 241; W. Boys, *Collections for an history of Sandwich in Kent* (Canterbury, 1792), 500–2; M. Bateson ed., *Borough customs*, vol. 1, Selden Society, XVIII (London, 1904), 79–80. In Latin the verb 'partare' is used, which could mean 'carry' or 'wear', but in the Fordwich records, the sole English reference to it clearly says 'wear' (spelt 'were'). It would be much more humiliating for it to be worn (presumably on the head).
- 45 CCA U4/20/1/64.
- 46 CCA U4/20/1/120.
- 47 Ingram, 'Reformation of manners', 58.
- 48 McIntosh, 'Local change', 219–21, 230.
- 49 A. F. Butcher, 'Origins of Romney freemen', *Economic History Review*, 2nd series **XXVII** (1974), 16–27, and 'Rent and the urban economy: Oxford and Canterbury in the later Middle Ages', *Southern History I* (1979), 11–43; D. M. Palliser, 'Urban decay revisited', in J. A. F. Thomson, *Towns and townspeople in the fifteenth century* (Gloucester, 1988), 1–21.
- 50 Ingram, 'Reformation of manners', 57.
- 51 P. Slack, *The impact of plague in Tudor and Stuart England* (London, 1985), 26, 29.
- 52 J. Hatcher, 'Mortality in the fifteenth century: some new evidence', *Economic History Review*, 2nd series **XXXIX** (1986), 19–39.
- 53 For example, CCA U4/3/137, a drain flowing from the tenement of Thomas Boyes into King Street, 'to the common annoyance and infection of the Lord King's liege people'.
- 54 As Underdown suggests ('The taming of the scold', 120).