

A JUSTICE'S DIARY

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AN interesting and uncommon manuscript was temporarily deposited in the County Record Office at Aylesbury recently. This was a diary of a Buckinghamshire justice of the peace during the second half of the seventeenth century.¹

The publication in recent years, in Bucks. as elsewhere, of the records of Quarter Sessions has illustrated the multifarious activities of the justices at these meetings, but little authentic information seems to have survived of their work outside Sessions. A large proportion of a justice's time was spent in his own home, where he dealt with matters brought before him. Parish officers attended to take the oath of office, to have their accounts approved or to obtain warrants and orders. Here, perhaps in his parlour, he heard evidence and settled disputes between inhabitants in his district. Occasionally he acted with another justice when the law required and sat with his colleagues at Petty and Special Sessions for the local Hundred or Division of the county.

However, it is not really surprising that records of such proceedings have not been kept. Business was informal and the local magistrate received no professional help.² Probably a copy of one of the many legal works published during the sixteenth and seventeenth centuries served as his only guide.³ Such volumes included chapters on the powers and duties of the justice acting alone, the "single justice" as the Webbs call him in their standard work on English local government.⁴ On him fell responsibility for the peace and good government of his neighbourhood. A justice of the peace had powers to issue warrants of arrest, to commit offenders to the county gaol, and to order suspected persons to find sureties for good behaviour. Most common offences—drunkenness, swearing, non-attendance at church, rioting, quarrels between neighbours and between master and servant—came under his jurisdiction, while the central government imposed upon him duties dealing with highways, vagrants and the supervision of parish officials.⁵

Some behaved like Fielding's Squire Western, but conscientious justices were advised by most writers "to enter into a Paper Book to be kept for that purpose" the details of complaints brought before them; "the use would outweigh the labour" of such foresight, especially by the "new Beginner, who is concern'd to be more careful".⁶ The few such books that survive offer glimpses of the day-to-day work of a justice of the peace. The diary of Sir Roger Hill of Denham is the only known example in Buckinghamshire.⁷

Sir Roger Hill was the son of a former Protectorate official and Baron of the Exchequer. Knighted in 1668, he purchased an estate at Denham two years later from Sir William Bowyer, and proceeded to live the life of a country

gentleman of his day at Denham Place, becoming High Sheriff in 1674 and representing the borough of Wendover in Parliament.⁸ His diary or notebook is a parchment-covered volume measuring 7 in × 6 in., perhaps small enough to go into the pocket. Entries in his own handwriting date between 18th May, 1689, and 11th October, 1705. At the back are six pages of recognizances binding offenders to keep the peace and to appear at the next Quarter Sessions which were acknowledged before him between 24th May, 1689, and 3rd April, 1704.

The diary begins with the details of his swearing in as a justice by the clerk of the peace for the county on 18th May, 1689. The following day he received the Sacrament at Denham church “& of my soe doing I had a certificate under the hands of John Lister curat & John Gaylor Junr churchwarden of the said parish signed by them in the presence of Wm Osman my coachman & Henry Crippell my Butler”. He took the oaths of Allegiance and Supremacy and subscribed the Declaration against Transubstantiation at the Court of Kings Bench on 18th June although he had already begun to act. The first entry notes his committing Thomas Butterfeild of Denham to Aylesbury gaol on 24th May charged with “stealing and killing a tame brockett”.

From this date, Sir Roger kept a diary of his activities as a justice. Several entries each week record details of the warrants and orders he issued and the administrative business in which he was involved. Certainly the position of a J.P. in those times was no sinecure and he was kept busy. Cases were brought to him from as far as Amersham and Eton. A few found their way to Quarter Sessions, the remainder were dealt with by himself, sometimes with a fellow justice. Nicholas Salter of Stoke Court, Stoke Poges, and after Salter's death in 1693, Robert Tash of Delaford Manor, Iver, acted with him on several occasions and sat at the Petty Sessions to deal with the licensing of alehouses.⁹ Thus the diary contains much interesting information, supplementing the published Quarter Sessions records for the period, and throwing light on social conditions and parish life in the second half of the seventeenth century. A representative selection of entries has been included at the end of this note.

It is evident that his service as a justice was interrupted at one point for he records on 28th March, 1693, the receipt of a letter from the clerk of the peace:

“by which he gave me notice that I was left out of the Comission of ye Peace; which was noe unwelcome news to me, the rather because I was turned out for doing my duty, viz. because att last Easter Sessions I opposed Mr. Thomas Wharton's turning out of Henry Munday from his place as Master of ye House of Correction, unless he were proved guilty of those crimes which Mr. Wharton accused him of, viz. of his being an enemy to ye Government & his being a drunkard whore Master & Swearer, I moved that he might have leave to clear himselfe, or else till he was proved guilty I must thinke him innocent, but upon conviction of any one of those crimes I was ready to remove him or any other that was in my power nota att Mr. Whartons directions it was put to the vote, not halfe the company voted against Munday but noe one except Capt Salter haveing courage to second me (though the same day they severall of them thanked me for what I said,) Munday was declared out

& one . . . Reade was att Mr. Whartons nomination declared his successor: nota alsoe all this proceeding was extrajudiciall it being done out of Sessions, it was done in the chamber after diner, the Sessions haveing been adjourned att ye rising of the court to be holden again att ye publique Hall after diner.”¹⁰

The account is revealing as to the way county business was transacted in more leisurely days. Thomas Wharton, who resided at Upper Winchendon, was a prominent Whig supporter of William III and the virtual ruler of Bucks. at the time,¹¹ so that it was unlikely that such independent action would be successful. A further attempt to obtain Munday’s reinstatement¹² was narrowly defeated at the Midsummer Sessions with the result, as Sir Roger records, that “from the Easter Sessions aforesd Mr. Wharton would never speake to me, & as I heare he & Mr. Hamden¹³ have reported I should be turned out of Comission and accordingly this lent Assises I was left out and fower new ones put in viz. Coll Godfrey: Mr. Fleetwood Dormer: Mr. Francis Ligoe and Joseph Sumner which confirms me in ye beleife that if Henry Munday was guilty of whoreing Swearing and Drinking he was not turned out for any of those Crimes.”¹⁴

He remained out of the Commission for nine years, perhaps occupying himself in the interval with supervising the building of Denham Place.¹⁵ Meanwhile Wharton had told him that his removal had been effected “at ye desire of Mr. Henry Paget who was very angry because I would not humour him in his tax at Iver there being no reason for it”.¹⁶ There can be no doubt, however, that Hill, the Tory squire, was in opposition to Wharton, the “blasphemous libertine aristocrat”, and his party in the county. Although again “put into Commission in King Williams time”, he delayed taking the necessary justice’s oath until the Whigs had been displaced from office following the accession of Queen Anne in March 1702. A new Commission of the Peace for the county was issued on 25th June.¹⁷ Wharton himself was deprived of his post as Lord Lieutenant of Bucks. to which he had been appointed in January of that year, his successor being William, Lord Cheyne, Viscount Newhaven, a former duelling opponent and a leader of the Tory opposition in the county.¹⁸ Cheyne, who had supported the Denham squire’s unsuccessful parliamentary candidature at Amersham in 1698, made his first appearance as *Custos Rotulorum* at the Midsummer Quarter Session at Aylesbury in July 1702 which Sir Roger also attended in order to take the oath once more to act as a justice of the peace.¹⁹

He resumed entries in his diary, but these cease abruptly on 11th October, 1705, although he continued to be named in successive Commissions of the Peace until his death in December 1729.

NOTE

In transcribing extracts from the diary, the many abbreviations have been extended, but the original spelling, wherever possible, has been preserved.

1689

f.2 Buriall
0-1-0

June 17 I granted a warrant to the constables of Iver & ye overseers of Fulmer to levy £5 upon Tho Tredway of Iver who did bury his daughter Ann in Fulmer churchyard ye 5th instant &

had not caused any certificate to be carried to ye minister of her being buried in woollen as per Mr. Litler's (the minister) certificate bearing date this 17 June appeares, ye one moity to be paid for ye use of the poore of Iver the other moity to Thomas Tredway who was the first informer.²⁰

- f.3 Chesham 0-1-0 poore rate—June 21 I sett my hand thereto by way of allowance it being allowed before under ye hands of divers of the inhabitants as alsoe of the overseers of ye poore etc.
- f.4 Unlicensed Ale house 0-1-0 July the 15th I granted a warrant to the constables & churchwardens of Denham to levy 20s upon Edw Benet of Denham for selling ale without licence.
- f.5 Buriall 0-0-6 July 22 Margaret Wheeler made oath that Wm Bowyer (a nurse child from London) was buryed in Woollen att Denham.
- f.7 Hedgebreakers 0-1-0 Sept 16 I granted a warrant to ye constable of Chalfont St. Peters att ye suit of Henry Monke of that Parish Labourer against Edward Ives Labourer James Burrough clothyer: Nath Edwards servant to Edw Oakley & Edw Redding servant to Henry Scudamore, for breaking ye hedges of ye said Henry Monke on Sunday the 15 instant at a wrestling meeting—nota they appeard next day & paid Monke each of them 1s.
- f.8 Overseers Accompt 0-1-0 Sept 20 I granted a warrant for Fr Price & Jo Oliver last years Overseers of Iver to shew cause why they should not pay to Philip Butterfeild constable of Iver £3 part of ye money remaining in their hands pursuant to ye order of Iver Vestry and ye present overseers.²¹
- f.8 High ways 0-1-0 Oct ye 2d I granted a warrant upon ye complaint and oath of James Stiles one of the Surveyors of ye high ways of ye parish of Langly against Francis Hartwell for not serving with his Team for 6 days: Wm Stockly for not serving with his team 3 days; Jo Weyman & Stephen Gilbert each for not sending labourers 6 days each.²²
- f.10 Constable 0-1-0 Nov 11 Mr. Salter and I granted our warrant for the bringing in of Wm Durt to be sworn constable of Horton.
- f.11 Buriall 0-1-0 Dec 13 Upon certificate of Wm Rolls minister of Chalfont St Giles dated ye 6th instant that the child of Wm Pen Esq late of Rickmansworth com Hartford was buryed in a feild neer Jordans in ye said parish of Chalfont St. Giles & noe affidavit etc. brought though more than 8 days were passed I granted a warrant to distreyne for £5 nota ye childs name was Gulielma Maria & was buryed ye 23rd of Nov last.²³
- f.12 Drunkenness 0-1-0 Dec ye 30th I granted a warrant to the constables of Denham to levy 5s of John Osmond of that Parish Labourer for being drunke in that parish & for want of distress to sett him in ye stocks for 6 houers.
- f.12 Profane Swearing 0-1-0 Dec ye 30th I granted a warrant to the constables of Denham to levy 12s of Richd Kedge of that Parish for 12 oaths.

1690

- f.12 Misdemeanor 0-1-0 Jan ye 21^t I granted a warrant against Mary Baldwin of the parish of Agmondesham for harbouring her son that ran from his Master.

- f.13 Whore
0-1-0
Feb 6th I granted my warrant against Mary the daughter of Thomas Smith of Chalfont St. Peters, & Samuell Turner of the same parish the said Mary being with child by him.
Feb ye 8th the constables brought ye said Mary Smith, but said that Sam Turner, who was a Hosteler att the Greyhound was fled . . .²⁴
- f.13 Cheat
0-0-6
Feb 22 Mr Salter & I being att Fulmer upon complaint that a passenger indeavoured to cheat severall with counterfeit rings granted our warrant to apprehend him, ye constable thereupon attended but the pretended offender was gon.
- f.20 Misdemeanor
0-1-0
Aug 25 I granted a warrant att ye suite of Wm Barns of Chesham against Dan Timberlake of Chenis for leaving his service.
- f.23 Parish rate
0-1-0
Nov 24 I allowed the rate of Colnebrooke made for repaire of their bridges.
- 1691
- f.24 Alehouse
0-1-0
Feb 2d att ye complaint of Mr. Ed Longville the churchwarden of Iver & of Robt Davy & Edw Tring constables I granted a warrant to Levy 10s upon Peter Horton for selling beere to company tipling in his house ye first instant (being Sunday) in time of divine service.
- f.26 Waggoner
0-1-0
March 5th I granted a warrant to ye constables etc. of Denham (upon ye oath of Tho Jeffryes of ye same parish) for ye levying of 40s upon Edw Bartlet of Oxford whose waggon was drawne with 6 horse beasts att length etc. ye 12 Feb last.²⁵
- f.31 Watch
0-1-0
May 26 I granted a warrant to Robt Hodson constable of Chesham vs Ed Holt Labourer Sam Warr Weaver Humph Osborn Labourer & John Goodwin Labourer for departing from ye watch.
- 1692
- f.35 Peace
0-1-0
Jan 4 to Ann Loomer of Horton vs Joana Philpot of Langley who scratched her as a witch.
- f.35 Poore
0-0-6
Jan 4 to Overseers of Chesham to provide for Elz wife of Robt Hayns (run away) dureing her lyeing Inn.
- f.41 Servant
0-1-0
Apr 18 I granted a warrant for Rob Kengham of Farnham Royall to shew cause why he turned away Wm Mitchel without wages.
- f.43 Robbery
0-1-0
July 6 Huy & Cry upon a Robbery said to be comitted last night neer Gerrards Cross heath upon Robt Lord of Little Tue Com Oxon yeoman by 2 men one a young man in a brown wig on a bay horse with a sprig tayle, ye other a short thick man on foot, both in blewish cloths, he swore he lost about 20s in silver, a pair of lead coloured stokins a sad coloured cloth riding coate, severall neckcloths & handkerchifes & his silver sleeve buttons & his horse being bay with a blase in his face, the neer foot behind white, 15 hands high.
- f.45 Apprentice
0-2-6
Oct 11 Mr. Salter & I allowed ye binding of John Hussey a parish boy of Langley Marish to Alex Durkin of ye same.
- f.45 Madman
0-1-0
Nov 22 for Tho Fermer of Chenys miller to shew cause why he suffers Ri Ingoldesby his apprentice to disturb & threaten ye Inhabitants of Chesham.

- f.46 Removall
0-1-0 Dec 20 I joyned in an order for removall of John & Robt Clarke from Eton to Burnham where they were born they haveing been with their mother now ye wife of Rob Burgis to nurse care etc.²⁶
- 1693
- f.48 Felony
0-1-0 Jan 26 to constables of Langly to search for 2 fitches of Bacon & a sacke of meale stolen from Tho Lewin.
- 1703
- f.53 Vagrant Augt 3 Eliz Tipping & 2 children were passed July 31 from St. George's Southwark to London by Robt Hartley Esq—through London Augt 1^t directed to noe place by Robt Geffery Esq—through Midx Aug 2 directed to noe place by Jo Pery Esq; I now passed them to Stokenchurch cart & two horses allowed ye constable Tho Smith 15s.²⁷
- 1704
- f.65 Vagrant Mar 2 the constable of Chalfont St. Peter brought George Yeomans a vagrant who would not tell the place of his birth or habitation; I sent him to ye house of Correction att Wicombe & allowed ye constable 9s.
- f.70 Swearing May 22 I convicted Charles Palmer Esq for swearing in my hearing.²⁸
- f.72 Carriage Sept 16 I granted a warrant for a horse to carry a weake soldier in ye Ld Henry Scots Regiment . . . Tovey serjeant.

¹ It belongs to Mr. Lewis Way of Gerrards Cross, to whom I am indebted for permission to make this note and to quote from the diary. It will remain in his possession, but a microfilm copy is available in the Record Office for use by students. My thanks are also due to the County Archivist, Mr. E. J. Davis, for his helpful advice on several points.

² Some justices employed a clerk to do the written work.

³ William Lambard's *Eirenarcha* (1581) and M. Dalton's *Countray Justice* (1618) were popular books of instruction for the J.P. and went through several editions during this period.

⁴ S. and B. Webb, *The Parish and the County* (1924), pp. 387-92.

⁵ The activities of the individual justice working in his own home were "discouraged at the end of the eighteenth century in favour of Petty Sessions". S. and B. Webb, *op. cit.*, p. 406.

⁶ E. Bohun, *The Justice of the Peace* (1693), pp. 150-3. Bohun's first of several reasons advanced for keeping such a book—"that it inables a Man to answer for his Actions many years after"—probably had most weight with justices. *Vide* also M. Dalton, *The Countray Justice* (1635), p. 154.

⁷ Justices' note books in print for other counties include Lancs. (Notes of Proceedings . . . before Mosley family and other magistrates 1616-1622/3, edit. E. Axon in *Record Soc. for Lancs. and Cheshire*, Vol. XLII, 1901), Yorks. (Justices Note Book of Capt. John Pickering, 1656-60, *Thoresby Society Trans.*, Vol. 11 (1904) and Vol. 15 (1909), and Surrey (Note Book of a Surrey Justice, edit. G. Leveson-Gower, in *Surrey Arch. Coll.*, Vol. IX).

⁸ R. Gibbs, *Worthies of Buckinghamshire* (1888), pp. 210-11.

⁹ It seems evident that Petty Sessions were well established in the county and details of proceedings are noted in the diary. Meetings for Stoke Hundred were held usually in April of each year. The justices met at Fulmer on several occasions, Slough (The Reindeer), and at Iver (widow Russell's house), to appoint Overseers of the Poor and to license alehouses. The names of innkeepers and their sureties are given at each session. In 1690 Iver is listed having 15 alehouses, Langley Marish 11, Denham 4, Fulmer 1, Stoke Poges 5, Horton 5, Upton 3, Wraysbury 1, Eton 7 and Datchet 2. The numbers fluctuate from year to year.

¹⁰ ff. 50-1.

¹¹ R. Gibbs, *op. cit.*, pp. 401-2; *D.N.B.*, Vol. XX, pp. 1329-33.

¹² Munday, an Aylesbury innholder, was later charged before Quarter Sessions in 1694 with "drinking King James's health". The case was sent to the Assizes. However, he was reappointed keeper of the Bridewell in 1696. *Bucks. Sessions Records*, Vol. II, pp. 13 and 83.

¹³ Probably Richard Hampden (1631-1695), the son of John Hampden, the Patriot. *D.N.B.*, VIII, pp. 1150-1.

¹⁴ f. 52. Godfrey and Dormer helped to maintain Wharton's influence in Wycombe borough affairs. L. J. Ashford, *History of High Wycombe to 1880* (1960), pp. 167-72.

¹⁵ *Records of Bucks.*, Vol. XVI, pp. 193-7.

¹⁶ f. 52. 5th December, 1700.

¹⁷ Bucks. Record Office, Q/CP/2.

¹⁸ *D.N.B.*, IV, p. 217; G. Lipscomb, *History of Bucks.*, Vol. 1, pp. 550-1; J. Vernon, *Letters to the Duke of Shrewsbury*, Vol. II, p. 324.

¹⁹ Diary f. 53 (16th July); *Records of Bucks.*, Vol. XIV, p. 291; M. Verney, *Verney Letters of the 18th Century*, Vol. 1, p. 155; *Bucks. Sessions Records*, Vol. II, pp. 329-30.

²⁰ An act of 1678, with the intention of helping the woollen industry, stipulated burial to be in "suit, sheet or shroud" made of sheep's wool only. Affidavits were to be sworn before the magistrate to this effect. W. E. Tate, *The Parish Chest* (1960), pp. 66-8. The sum in the margin of each entry is the fee exacted by the justice for the order or warrant issued.

²¹ Both had been presented at an earlier Quarter Sessions for neglect of duty. *Bucks. Sessions Records*, Vol. 1, p. 279.

²² Legislation required work on the upkeep of the highways from every inhabitant in the parish (Tate, *op. cit.*, p. 241).

²³ W. H. Summers, *Memories of Jordans and the Chalfonts* (1904), p. 208. The burial ground is attached to the Jordans Meeting House (built 1688). William Penn himself and many members of his family are buried there.

²⁴ She was later sent to the house of correction for a year, the penalty under an act of 1609/10 for bearing an illegitimate child (f. 24).

²⁵ By an act of 1670, loaded carts were not to be drawn by more than "five horse beasts at length", unless in pairs. W. Nelson, *The Office and Authority of a Justice of the Peace* (1718), pp. 337-8.

²⁶ Both children were under ten years of age. Details of removal orders and settlement certificates are noted by Sir Roger Hill in his diary together with the many passes he signed to convey vagrants, sometimes by cart, to the county boundary on their way to their parish of settlement. As Denham was situated on one of the main roads out of London, there was continual traffic through the parish.

²⁷ Presumably no parish was willing to accept them as legal inhabitants.

²⁸ *Bucks. Sessions Records*, Vol. II, p. 426. Charles Palmer, M.D., of Dorney was a fellow justice of the peace.