

# Rabbits, Whigs and Hunters: Women and Protest in Mary Toft's monstrous births of 1726

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DOI:

[10.1093/pastj/gtx063](https://doi.org/10.1093/pastj/gtx063)

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*Document Version*

Peer reviewed version

*Citation for published version (Harvard):*

Harvey, K 2018, 'Rabbits, Whigs and Hunters: Women and Protest in Mary Toft's monstrous births of 1726', *Past & Present*, vol. 238, no. 1, pp. 43–83. <https://doi.org/10.1093/pastj/gtx063>

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## **‘Rabbits, Whigs and Hunters: Women and Protest in Mary Toft’s monstrous births of 1726’**

[Word count: main text: 10, 776; footnotes: 6, 218]

Following a prolonged miscarriage in the spring, Mary Toft – a poor woman from the Surrey town of Godalming – began giving birth to parts of animals in the autumn of 1726. Reportedly beginning with initial deliveries of parts of cats, pigs and rabbits in September, Toft’s deliveries were soon exclusively of rabbits and these continued to appear until mid-November. The births attracted the interest of a number of doctors who travelled from London to visit her, first in Godalming and then subsequently in Guildford. These doctors were instrumental in moving Toft to London in November 1726, where the hoax unravelled and Toft was taken into custody in early December. Under interrogation, Toft admitted that the monstrous births were fabricated. Yet throughout she remained unwavering in her explanation of the context for the initial miscarriage. In April of 1726, she reported, she and two women had run after a rabbit whilst working in a hop garden, not once but twice.<sup>1</sup> Later that night, ‘she dreamt that she was in a Field with those two Rabbets in the Lap, and awaked with a sick Fit, which lasted till Morning; from that time, for above three Months, she had a constant and strong desire to eat Rabbets, but being very poor and indigent cou’d not procure any’.<sup>2</sup>

Mary Toft became notorious for her rabbit births. The case prompted a short but sharp pamphlet debate in which doctors debated the theory of the maternal imagination, a classical idea that women’s thoughts, often their thwarted desires, could affect their unborn child.<sup>3</sup> Learned gentlemen and leading physicians heralded the case as a medical wonder: evidence – finally – that the classical theory was correct. When the case was subsequently exposed as a hoax, a new wave of newspaper reports, pamphlets and satires ridiculed these men for their credulity in the face of a poor day labourer

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<sup>1</sup> Nathaniel St Andrè, *A Short Narrative of an Extraordinary Delivery of Rabbets* (London, 1727), pp. 23-4.

<sup>2</sup> St Andrè, *A Short Narrative*, p. 24.

<sup>3</sup> See Cyriacus Ahlers, *Some observations concerning the woman of Godlyman in Surrey* (London, 1726), James Blondel, *The Strength of Imagination in Pregnant Women Examin'd* (London, 1727), Thomas Braithewaite, *Remarks on a Short Narrative of an extraordinary deliver of rabbets: performed by John Howard* (London, 1726), James Douglas, *An advertisement occasion'd by some passages in Sir R. Manningham's diary lately publish'd* (London, 1727) and Richard Manningham, *An Exact Diary of What was Observ'd during a Close Attendance upon Mary Toft* (London, 1726).

from Godalming. Throughout these events, the case was discussed in over 140 books or pamphlets. In the process, Toft was cast increasingly as a scheming woman who had set out to hoodwink these men. Most recently, historians have attended to the medical and wider cultural context of the episode, focussing in particular on changing attitudes towards reproduction. As Lisa Cody notes, ‘the arguments that Mary Toft’s doctors made marked a fundamental shift in both the medical epistemology and the cultural meaning of reproduction’: the reality of monstrous births was debunked, now ‘superstitious’ beliefs in such events were increasingly associated with women and men gradually assumed medical authority over knowledge about reproduction and the female body.<sup>4</sup> Other scholars have explored what this case reveals about contemporary ideas about frauds, monstrosity and the self, with particular attention being given to contemporary understandings of the limits of the human and its differentiation from the monstrous.<sup>5</sup> Mary Toft and her rabbit births have, in sum, become an exemplary case in cultural history.

If the ambition of cultural history is, in the words of Robert Darnton, not to answer the question ‘what happened?’ but instead ‘what a happening actually meant?’, a social history that examines a range of contexts – economic, political and social – nonetheless remains crucial to the endeavour.<sup>6</sup> Indeed, the reliance of cultural explanations on social history was precisely what Darnton demonstrated so effectively in his classic essay of cultural history, ‘The Great Cat Massacre’, where the reconstitution of the economic and social world of the French printing houses was the necessary foundation of Darnton’s reading of the symbolism of cats and his argument about why their massacre was quite so funny to contemporaries.<sup>7</sup> This necessary interdependence of cultural and social history

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<sup>4</sup> Lisa Forman Cody, *Birthing the Nation: Sex, Science, and the Conception of Eighteenth-Century Britons* (Oxford, Oxford University Press, 2005), p. 121. See also Mary Fissell and Roger Cooter, ‘Exploring Natural Knowledge: Science and the Popular’, in Roy Porter, David C. Lindberg, and Ronald Numbers (eds), *The Cambridge History of Science: Vol. 4: Eighteenth-Century Science* (Cambridge University Press, 2003).

<sup>5</sup> See especially Dennis Todd, *Imagining Monsters: Miscreations of the Self in Eighteenth Century England* (1995) and Jack Lynch, *Deception and Detection in Eighteenth-Century Britain* (Ashgate, Aldershot, 2008), pp. 97, 142-4. On monstrosity in this period see Julia V. Douthwaite, *The Wild Girl, Natural Man and the Monster: Dangerous Experiments in the Age of Enlightenment* (University of Chicago Press, Chicago, 2002) and Marie-Hélène Huet, *Monstrous Imagination* (Harvard University Press, Cambridge, Mass., London, 1993).

<sup>6</sup> Robert Darnton, ‘The symbolic element in history’, *Journal of Modern History* (1986) 58 (1), p. 227.

<sup>7</sup> Robert Darnton, *The Great Cat Massacre and other episodes in French Cultural History* (Basic Books, New York, 1984), pp. 75-143.

has become obscure in two decades of work that emphasizes meanings and discourse rather than happenings. In response, the practice of cultural history and the theoretical foundations on which it rests have recently been challenged for their refusal of real power, a lack of engagement with theory and an inability to cope sufficiently with change.<sup>8</sup> This essay is part of this recent reassessment of cultural history and the renewed emphasis on its relationship with the study of social and material relations of power. I will situate Mary Toft and her rabbits not in the context of eighteenth-century ideas about the body, monsters or human identity, but instead in the economic, social and political contexts of family, neighbourhood, parish, town, county and metropolis. The first part of this essay situates the Toft family in the social and political networks of Godalming, adopting a micro-historical approach to expose the stark inequities and quotidian exclusions that shaped the hoax and responses to it. My argument is that the case was a product of the tense social relations in and around Godalming and was shaped by the politics of social conflict and disaffection amongst the poor. The article then views the case within the social and political context of the 1720s, showing why it was of interest not just to doctors, but to lawmakers and law enforcers. The case developed amidst considerable fears about unrest, disorder and crime amongst the local and county elite and particularly tense social and political relations in south-east England. I examine the evidence that the hoax may have been connected – if only in the minds of governors – to wider disorder in Surrey and London. Much of the evidence is circumstantial, but a connection between Toft's family and a collective protest at a fishpond, as well as a longer history of protest around rabbits and warrens, suggests a dividend in viewing the case in the context of Whig responses to the 'Blacks'. The motives of the Blacks and the nature of the threat they were believed to pose are subject to debate. E. P. Thompson's *Whigs and Hunters* (1975) argued that the actions of the Blacks – groups of armed men who stole deer and threatened violence in this area of south-east England – caused the Whig elite to seek to protect their

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<sup>8</sup> Important recent discussions include Peter Burke, *What Is Cultural History?*, 2<sup>nd</sup> ed. (Cambridge, 2008), pp. 114–17; Geoff Eley, *A Crooked Line: From Cultural History to the History of Society* (Ann Arbor, MI, 2005); Patrick Joyce, 'What is the Social in Social History?', *Past and Present*, 2010, 206 (1), pp.213-248; Peter Mandler, 'The Problem with Cultural History', *Cultural and Social History*, 1, 1 (2004), pp. 94-117; Dror Wahrman, 'Change and the Corporeal in Seventeenth- and Eighteenth-Century Gender History: Or, Can Cultural History Be Rigorous?', *Gender & History*, 20, 2008, pp.584-602.

own property by extending the list of capital crimes with the Waltham Act (or ‘Black Act’) of 1723.<sup>9</sup> Viewed in this context, Toft’s case invites consideration of how accounts of protest such as Thompson’s – one exclusively about men – might be adjusted to take account of the practices of women and the family within the domestic environment. Parallel historiographical developments in early modern social and women’s history have sought to identify political activity outside formal politics in social and cultural life, to credit the rational motivations behind such action and to thereby accord agency to both the poor and women. This article places Toft’s hoax rabbit births at the intersection of this work to engage questions about the continuum of social disaffection to political protest and the possibilities and challenges of identifying women’s roles in this. This case drew in people from a very wide social spectrum, from the provincial urban poor to the King; to understand why it did so we need to approach the hoax not just as a medical and cultural curiosity but instead as a social and political event.

### The Tofts and the Communities of Godalming

Mary Toft’s town of birth and residence was Godalming in the county of Surrey. Godalming was incorporated in 1575, out of a desire to ‘promote ye Towne to a better State’, then ‘being in moste extreme ruine and decay’.<sup>10</sup> By 1725, Godalming was estimated as having a population of 2-3,000.<sup>11</sup> The woollen industry that had bought prosperity to the town was already in decline by the early eighteenth century.<sup>12</sup> Godalming was a poor area within the county of Surrey and indeed nationally. In 1664 the town had one of the highest rates of exemption from the Hearth Tax in Surrey – 48% of

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<sup>9</sup> E. P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (1975; Penguin, Harmondsworth, 1977). An important counter argument can be found in John Broad, ‘Whigs and deer-stealers in other guises: a return to the origins of the Black Act’, *Past and Present*, 119 (1988), pp. 56-72.

<sup>10</sup> Quoted in Ralph Nevill, ‘The Corporation of Godalming’, *Surrey Archaeological Collections*, vol 19 (London, 1906), p. 106.

<sup>11</sup> H. E. Malden, ‘Answers made to the visitation articles of Dr. Willis, The Bishop of Winchester. From the parishes of Surrey, excluding the peculiars of Canterbury, 1724-25’, *Surrey Archaeological Collections*, vol. 39 (London, 1931), p. 92.

<sup>12</sup> H. E. Malden, *A History of the County of Surrey: Volume 3* (Victoria County History, 1911). Via British History Online, accessed 4/12/2013.

occupied households – with a high proportion of small and relatively poor households in the town.<sup>13</sup> Mary Toft was born in Godalming on 21 February 1703 to John and Jane Denyer. In 1720, aged 17, she married the 18-year-old Joshua Toft, a wool cloth-worker; both were very young for marriage. Their first child was born on 27 March 1723, though appears to have died in July of that year. The birth of their son James followed on 8 July 1724. Mary was the second, and the eldest girl, of the couples' five surviving children.<sup>14</sup> Her maternal family is largely absent from the narrative of the case, which mentions only her brother, John Denyer, with whom she and Joshua were reported to be living at the time of the hoax.<sup>15</sup> Mary's husband's family was important to the case, in contrast. Joshua Toft, just 2 or 3 months older than Mary, was the sixth of 12 children. His mother, Ann Toft, was a key figure in the whole affair and particularly prominent in Mary Toft's three confessions or statements, taken down in early December 1726. These documents disclose the critical role of networks of kin and neighbours and in particular of the many women gathered around Mary Toft at every stage of the hoax.<sup>16</sup> The Tofts themselves were numbered amongst Godalming's labouring poor. As a young worker in the woollen industry, Joshua Toft would have been directly affected by the depression in

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<sup>13</sup> See 'Hearth Tax Online' [<http://www.hearthtax.org.uk/communities/surrey/>]. Calculation based on the data provided in [http://www.hearthtax.org.uk/communities/surrey/surrey\\_1664L\\_tables.pdf](http://www.hearthtax.org.uk/communities/surrey/surrey_1664L_tables.pdf) [accessed 17/10/14] and based on C.A.F. Meekings, 'Surrey hearth tax 1664', *Surrey Record Society*, vol. 17 (1940). Of the 74 households deemed exempt, twenty nine had one and forty had two hearths. This compares, for example, to the 32.8% of householders exempt in Terling in 1671, which Wrightson and Levine use as an indicator of a 'severe' problem of poverty in the village. See Keith Wrightson and David Levine, *Poverty and Piety in and English Village: Terling, 1525-1700* (Academic, New York and London, 1979), p. 35. Nationally, between one third and half of households were exempt from the hearth tax, though this rate may overestimate poverty. See A. L. Beier, in A. L. Beier and David Cannadine (eds), *The First Industrial Society: Essays in English History in Honour of Lawrence Stone*, p. 204. Julian Hoppit estimates that about 30% of the population was assessed as exempt from the hearth tax. See *A Land of Liberty? England 1689-1727* (Oxford University Press, Oxford, 2000), p. 81. The rate of exemption in Godalming was high for an urban area and was indeed as high as some industrial areas (such as Birmingham in 1673-4 at 46.8% and the Warwickshire coalfields in 1669-70 at 49.8%). It is also significant that of the households in Godalming town, 97.6% had one or two hearths. This is the highest proportion of small households in any of the areas compared by David Levine and Keith Wrightson in *The Making of an Industrial Society: Wickham, 1560-1765* (Clarendon, Oxford, 1991), p. 157. See also T. Arkell, 'Identifying Regional Variations from the Hearth Tax', *Local Historian*, 33 (3) (2001). See Tom Arkell, 'The Incidence of Poverty in England in the Later Seventeenth Century', *Social History*, Vol. 12, No. 1 (Jan., 1987), pp. 23-47, on the use of the hearth tax for poverty rates. The rates of exemption in Godalming were on a par with those in the cloth parishes in Essex, which had experienced a similar decline in manufacturing. See Henry French, *The Middle Sort of People in Provincial England, 1600-1750* (Oxford : Oxford University Press, 2007), pp. 36-8.

<sup>14</sup> Surrey History Centre (SHC): Parish Registers for Godalming (St Peter and St Paul). See also Godalming Museum: *The Parish Registers of Godalming: Indexes*.

<sup>15</sup> Glasgow University Special Collections (GUSC): MS Hunter D324 (confession 1), 7<sup>th</sup> December 1726, f5.

<sup>16</sup> Karen Harvey, 'What Mary Toft Felt: Language, Emotions and the Body', *History Workshop Journal*, 80, Autumn 2015, pp. 31-51.

the trade, leaving him vulnerable to under- and unemployment. Mary herself was working in a hop field as a day labourer at the time that the affair began, despite having one young child at home.<sup>17</sup> When she started to miscarry in April 1726, she subsequently explained that her walk home from the hop field took two hours, though it was less than a quarter of a mile as the crow flies.<sup>18</sup> This was because Mary had to walk through the commercial centre of the town past the Market House and towards the tenements in Bridge Street, where the poorer tenants appear to have lived.<sup>19</sup>

Poor families such as the Tofts were increasingly subject to the regulation and intervention of local governors. The local governors in Godalming came from a relatively small and interconnected group that excluded families like the Tofts, reflecting growing divisions between the poor and the middling-sort office-holders. Life was regulated in Godalming through no less than four formal systems of governance. First, life in Godalming was regulated by the Corporation and its office-holders (such as warden and bailiff), the self-styled ‘principal Inhabitants’.<sup>20</sup> The oath for those newly elected into the Corporation bound these men ‘to uphold and maintaine every Lawfull Liberty & constitution made for the benefit of the corporation’.<sup>21</sup> These mens’ governance took different forms. Christopher Friedrichs singles out Godalming’s town clock as typical of the way in which towns regulated the everyday life of their labouring inhabitants: the clock was so ‘apprentices, servants and workmen’ could keep ‘fit hours’.<sup>22</sup> The Corporation also upheld strict rules of conduct through its several meetings and its court, as in other European towns, all recorded carefully.<sup>23</sup> Intersecting with the Corporation was the second form of governance, the Manor in the family of More and More-

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<sup>17</sup> On women’s agricultural work see Michael Roberts, ‘Sickles and Scythes: Women’s Work and men’s Work at Harvest Time’, *History Workshop Journal*, (1979) 7 (1), pp. 3-28. See Steve Hindle, ‘Work, Reward and Labor Discipline in Late Seventeenth-Century England’ in Steve Hindle, Alexandra Shepard, John Walter (eds), *Remaking English Society: Social Relations and Social Change in Early Modern England* (Boydell, Woodbridge, 2013), pp. 225-79, for a detailed reconstruction of the agricultural labour (including seasonal) on one estate.

<sup>18</sup> MS Hunter D324 (confession 1), f2.

<sup>19</sup> SHC: LM/S/9: Volume recording references in 18th and 19th cent Godalming manor court records to freehold and leasehold property, f31; SHC: LM/1397/35A: Rentals for Godalming, f4-5.

<sup>20</sup> SHC: 2253/3/1 Minute book of Godalming Corporation, c. 1671-1771, f74.

<sup>21</sup> 2253/3/1 Minute book of Godalming Corporation, f186.

<sup>22</sup> Quoted from Robert Tittler, *Architecture and power: the town hall and the English urban community, c.1500-1640* (Clarendon, Oxford, 1991), in Christopher R. Friedrichs, *The Early Modern City, 1450-1750* (Longman, London and New York, 1995), p. 247.

<sup>23</sup> 2253/3/1 Minute book of Godalming Corporation. See Friedrichs, *Early Modern City*, p. 257.

Molyneux of Loseley.<sup>24</sup> The Manor also had its own courts: the court leet or frankpledge (for peace-keeping in the jurisdiction of the Sheriff) and the court baron (which included free and customary tenants of the manor as well as civil disputes). These courts comprised tenant jurors who enforced by-laws relating to rent, property and petty crime, but also regulated the behaviour of the tenants which might disturb the peace of the manor or bring the reputation of the Lord into disrepute. As Brodie Waddell has recently shown, these courts were still playing an important role in monitoring community behaviour well into the eighteenth century; indeed, urban manor courts were more active in policing unruly behaviour than rural courts.<sup>25</sup> Lastly, there was the court of the Godalming Hundred. Godalming was divided into nine tithings, each consisting of a group of 10 householders governed by tithingmen who sought to maintain good conduct. The court of the Hundred comprised these tithingmen (and this overlapped with the Manor by the eighteenth century).<sup>26</sup>

The fourth and final form of regulation was through poor relief from the parish and other sources. Toft resided in the parish of Godalming Urban. The parish provided relief for the poor in the form of regular cash pensions or irregular dole (often in kind), but receipt of such relief required parishioners' conformity not just to formal rules (about settlement, for example) but also to expectations of appropriate behaviour. Unfortunately, no records survive for the overseers of the poor or the parish vestry for Godalming. However, just prior to the hoax, and following the 1723 Workhouse Test Act, in August 1726 there had been, 'lately Erected ... a Workhouse and Dwelling place for the poor'.<sup>27</sup> A preferable option for poor people was the Godalming Hospital or almshouses, run by the Company of Carpenters for poor men of the town. A John Denyer, perhaps Mary Toft's brother, was admitted to the almshouse on 2<sup>nd</sup> February 1725, after the Company of Carpenter's had

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<sup>24</sup> Malden, *History of the County of Surrey*, vol. 2, 1-2.

<sup>25</sup> Brodie Waddell, 'Governing England through the Manor courts, 1550-1850', *The Historical Journal*, 55, 2, June 2012, pp. 279-315.

<sup>26</sup> SHC: G70/68/1 'Godalming Court Book', 1710-52, includes the records of courts of the Hundred and the Manor.

<sup>27</sup> SHC: Deed 1942/3/6(2). See Tim Hitchcock, 'Paupers and Preachers: The SPCK and the Parochial Workhouse Movement', in L. Davison, T. Hitchcock, T. Keim, and R.B. Shoemaker (eds), *Stilling the Grumbling Hive: The Response to Social and Economic Problems in England, 1689-1750* (1992), pp. 145-66. Dennis Todd has noted that the number of Tofts who died in the workhouse between 1729 and 1757 totalled seven, though it is difficult to know how significant this number is. See Todd, *Imagining Monsters*, n.7, pp. 270-271.

received a letter from the Minister and Churchwardens of the town.<sup>28</sup> Yet almshouse relief was also limited. In 1734, the residents of the almshouses complained to the Company that they ‘could not subsist without having further releife And that the parishes would not maintaine them without going into the Workhouse’. The Company answered that the men would get no more ‘subsistance’ and if they could not subsist then they should leave and enter the workhouse, to be replaced by others nominated by the parish.<sup>29</sup> In such circumstances, the poor had little option but to rely on the support of kin and neighbours.<sup>30</sup>

By the 1720s, a complex web of institutions governed the intimate lives of poor families in small towns like Godalming. Each of these structures of governance was focussed on particular issues but they converged on the issues of maintaining the peace and punishing disorderly behaviour. The men who staffed these institutions also governed informally and sought to invoke forms of regulation external to the town in order to discipline disorderly residents and disorderly households. A petition sent by several of these ‘inhabitants’ to the Surrey Quarter Sessions in 1724 illustrates some of their values and the processes they used to uphold them. The petition complained that one Stephen Boxall of Godalming had ‘threatened to Indite or otherwise trouble & molest Severall persons ... as disorderly and abusive to him’. The 42 signatories attested that Boxall’s antagonists were in fact ‘quiet & peaceable’ and that Boxall himself was an ‘Envious, Turbulent, disorderly man’. The ‘peaceable neighbours ... are willing to live quietly’ if Boxall ‘would let them alone’.<sup>31</sup> One important aspect of the actions of such chief inhabitants, and parish Overseers in particular, is that they sought to

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<sup>28</sup> Carpenters’ Company Minute Book, 3rd January 1721 - 3rd October 1727, 2<sup>nd</sup> February 1725. Accessed via Tim Hitchcock, Robert Shoemaker, Sharon Howard and Jamie McLaughlin, et al., *London Lives, 1690-1800* (hereafter ‘LL’) (www.londonlives.org, version 1.1, 24 April 2012) [Accessed 26 October 2014], LL refs. GLCCMC251040219 and GLCCMC251050088, Guildhall Library, Ms. 4329/14. At this point John took the room of Thomas Denyer. He chose to move into another room, of a deceased man, on 7th June 1726: GLCCMC251040287. His room became available when he died on 2nd June 1730: See Carpenters’ Company Minute Book, LL ref. GLCCMC251050250. Unfortunately, *The Parish Registers of Godalming: Indexes* do not clarify if this is Mary Toft’s brother, as they show burials of John Denyers in 1727, 1730 and 1731.

<sup>29</sup> Carpenters’ Company Minutes Books, 5<sup>th</sup> March 1734. LL ref: GLCCMC251050358.

<sup>30</sup> See Steve Hindle, *On the Parish? The Micro-Politics of Poor Relief in Rural England, c. 1550-1750* (Clarendon Press, Oxford, 2004), on the processes of negotiation involved in acquiring formal, semi-formal and informal relief, from parish authorities, family, kin and neighbours.

<sup>31</sup> SHC: QS2/6 Sessions Papers, Easter 1724 (84), Petition of the inhabitants of Godalming, against Stephen Boxall of Godalming.

control households, marriage and reproduction. Women were a key target for this regulation, and as parish overseers and vestries sought to manage the growing burden of poor relief, the policing of poor women's behaviour and reproductive role, alongside their work, became a principal strategy.<sup>32</sup> The social divisions expressed through the exclusion of poor families from the networks of power in Godalming therefore had a significant gendered component.

The degree of overlap between the groups of men holding office in each of these ostensibly separate institutions in Godalming is striking. An analysis of detailed lists of office holders and jurymen from the Corporation, the Manor and Hundred show that governance in Godalming was concentrated into the hands of a relatively few men.<sup>33</sup> A supplementary analysis of other lists of significant residents – including rate payers and subscribers to the Market House in 1729 – shows that this group of governors was drawn from a broader group of 'chief inhabitants' in the town – a larger and more informal group who contributed both to the town's finances and status.<sup>34</sup> The repetition of names across the lists of governance and lists of chief inhabitants is frequent. The correlation is least strong for the manor courts but very strong for the Hundred and the Corporation. A clear picture emerges of a network of rate-paying householding men amongst whom the various town offices rotated and who played a public role in upholding the order of the town. By analyzing probate

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<sup>32</sup> See Steve Hindle, "Without the cry of any neighbours": A Cumbrian family and the poor law authorities, c. 1690-1730', in Helen Berry and Elizabeth Foyster, *The Family in Early Modern England* (Cambridge, 2007), pp. 126-57; Naomi Tadmor, paper to Sheffield History Department, 17 April 2013; Tadmor, 'Where was Mrs Turner?'; Tim Wales, "Living at their own hands": policing poor households and the young in early modern rural England', *Agricultural History Review*, 61 (1), pp. 19-39.

<sup>33</sup> To reconstruct the network of governors I have used the following lists as samples: (1) 'The jury for the town of Godalming 1726' (SHC: LM/267/231-250 1724-1726, f248), (2) Jurors for the Court Baron 1726 (SHC: G70/68/1 Godalming Court Book, f51), (3) Jurors for the Godalming Frank Pledge Court 1726 (SHC: G70/68/1 Godalming Court Book, f56), (4) Jurors for the Godalming Enyton 1726 (SHC: G70/68/1 Godalming Court Book, f57), (5) those elected warden and bailiff for the Corporation in 1725 (SHC: 2253/3/1 Minute book of Godalming Corporation, f73), (6) the 'principal Inhabitants' of the Corporation summoned to consider the case of William Chitty in January 1727 (SHC: 2253/3/1 Minute book of Godalming Corporation, f74), (7) SHC: LM/615/2: The names of those to serve upon the Jury (3 October 1733) [all SHC], and (8) Wardens of Godalming between 1717 – 1734 (see Nevill, 'Corporation of Godalming', p. 137).

<sup>34</sup> To reconstruct the chief inhabitants, I have used four lists: (1) SHC: LM/615/1: 'A List of the inhabitants of Godalming or town tithing', early c18th, (2) SHC: LM/615/3: 'A List of Inhabitants of the town of Godalming of all under ye years of sixty and above ye years of sixteen', 3 October 1733, (3) a list of the 'principal inhabitants' who signed the petition against the Godalming resident (Stephen Boxall) presented to the Surrey Quarter Sessions in 1724, SHC: QS2/6 Sessions Papers, Easter 1724 (84), and (4) a list of subscribers to the market place repairs in 1729, SHC: G70/68/1 Godalming Court Book, f77v.

material, we can see that this institutional network was further consolidated by marriage.<sup>35</sup> Nicholas Edsal, on the manor court leet, and Abraham Toft, frameworkknitter and signatory to the petition against Boxall, were married to the sisters Margaret and Elizabeth Toft.<sup>36</sup> Toft's son, the clothier Abraham Toft the younger, was son-in-law of the vicar of Godalming, Anthony Warton.<sup>37</sup> John Chitty, on the Corporation jury in 1733, subscribed to the new Market House alongside his brother-in-law, John Shrubb.<sup>38</sup> The network of governors and chief inhabitants was social and familial, as well as political. The wills also identify some of these chief inhabitants as members of the less substantial middling sorts from the trades and crafts and not just from the very wealthy land-owning or professional middling sorts. George Hart, signatory to the petition against Boxall, was a butcher and Richard Balchin, a member of the town tithing, a husbandman.<sup>39</sup> Yet these chief inhabitants sometimes left considerable sums of money to the poor of Godalming. Margaret Shrub, sister of James, signatory to the petition against Boxall, left £40 to the poor of Godalming.<sup>40</sup> On his death in 1725, Shrubb, a clothier, left land and buildings in several parishes, as well as paying to the poor of Godalming £20, 'to such of them as me Executors shall think fitt'.<sup>41</sup> The clothiers of Godalming, like the framework knitters, were comfortably off.

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<sup>35</sup> 81 wills have been considered for this article: 25 the Prerogative Court of Canterbury, primarily for the wealthy who had property in more than one diocese in the southern province and selected for Godalming for the period 1700-1740, held at The National Archives (TNA); 35 from the Archdeaconry Court and 21 from the Commissary Court selected for the period 1697-1733, held at the London Metropolitan Archive (LMA). The excellent series of indexes to the LMA wills produced by Cliff Webb have been used; these give summaries of the details of the wills.

<sup>36</sup> Will of Joan Barton of Godalming, widow 20 May 1713. Proved 20 Feb 1724/5, LMA: DW/PA/7/19 ff. 377-8; DW/PA/5/1725/7. See Cliff Webb, 'Surrey Will Abstracts Archdeaconry Court of Surrey, Registered and Unregistered Wills, 1722-1725' (vol. 30). Barton is sister to Margaret Edsal and Elizabeth Toft. She left a guinea in gold and £1 1s 6d in silver to each. For Thomas Edsal/Edsall see G70/68/1 'Godalming Court Book' for 1721. For Abraham Toft see petition against Boxall, QS2/6 Sessions Papers, Easter 1724 (84). Note that this branch of the Toft family was quite separate from Mary and Joshua Toft's family.

<sup>37</sup> Will of Mary Warton, Widow of Godalming, Surrey, 22 December 1719, TNA: PROB 11/571/484.

<sup>38</sup> George Chitty of Godalming, mason, weak 30 Mar 1728. Proved 13 May 1728, LMA: DW/PC/5/1728/7, leaves to his son John Chitty a field and houses in Ockford Lane. His son in law is John Shrubb. See Cliff Webb, 'Commissary Court of Surrey. Surrey Will Abstracts Unregistered Wills, 1697-1728' (vol. 27).

<sup>39</sup> SHC: LM/615/1, 'A List of the inhabitants of Godalming or town tithing', early c18th; Will of Caleb Hart of Godalming, shopkeeper, 13 Jan 1719/20. Proved 5 Feb 1719/20, LMA: DW/PA/5/1720/48. See Cliff Webb, 'Surrey Will Abstracts Archdeaconry Court of Surrey Unregistered Wills, 1716-1721' (vol. 29).

<sup>40</sup> A codicil to the the will of Margaret Shrubb of Godalming, sp., 30 Apr 1711. Proved 7 Apr 1714, LMA: DW/PA/5/1714/91. See Cliff Webb, 'Surrey Will Abstracts. Archdeaconry Court of Surrey Unregistered Wills, 1709-1715' (vol. 28).

<sup>41</sup> Will of James Shrubb, Clothier of Godalming, Surrey, 26 January 1725, TNA: PROB 11/601/185.

The Toft network was almost entirely separate from this tightly knit network of governors and chief inhabitants. Whilst we are severely limited in our efforts to reconstruct the Toft's family and local community, two documents are suggestive.<sup>42</sup> The first is a list of men who appeared to answer for trespass on the pond of one James Stringer at the Guildford Sessions in July 1726. This list, drawn up in the period between Mary Toft's miscarriage and the 'birth' of her rabbit, also includes her husband Joshua.<sup>43</sup> The document establishes that the Tofts were close to those accused of law-breaking.<sup>44</sup> It also allows the reconstruction of an occupational network for Mary Toft's husband and provides some indication of the family's broad social situation. Only six of the names on this 1726 recognizance for trespass appear in any of the other lists. Just one of these appear on the lists of governance: Thomas Underwood, noted as stockingmaker on the recognizance, serving as juror on the Court Baron for 1726 and signatory to the 1724 Petition against Boxall, where he was identified as churchwarden. Parish registers for Godalming give only one baptism of a boy by this name between 1650 and 1710 and the office of churchwarden was typically fulfilled by someone of middling rank, often a craftsman.<sup>45</sup> Of the other five names: Caleb Tickner is listed as a subscriber to the Market House repairs in 1729;<sup>46</sup> Timothy Grover, Jonathan Painter, William Pincot and Richard Stedman (in the recognizance, cordwainer, clothier, clothier and weaver respectively) also appear on the lists of householders or rate payers.<sup>47</sup> Even if these are the same men, the correlation of those charged with

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<sup>42</sup> There is only one consistory court case from eighteenth-century Godalming, a testamentary case between Dorothy Macharell (plaintiff from Godalming) and Dorothy Piggott (alias Camish, from Empshott), a case of 1735. J. Willis, *Diocese of Winchester Consistory Court Cause Papers from 1700 (Index), Willis II* (in Hampshire Record Office, Winchester).

<sup>43</sup> SHC: QS2/5/1726, Surrey Quarter Sessions Roll, no. 23. See also SHC: QS2/2/4 Surrey Quarter Sessions Minute book, 12th July 1726, no. 23, where it is recorded that Joshua Toft agrees to keep the peace.

<sup>44</sup> It is also possible that Mary Toft's older brother, John Denyer, had already been brought before the Surrey Sessions accused of fathering the bastard child of the servant Sarah Petoe (a 17-year-old) in the summer of 1720. SHC: QS2/6/1720/Midsummer/12. The description of the incident in the examination implies that Denyer was also a servant.

<sup>45</sup> Ref GOD/1/4. *Anglican Parish Registers, Woking, Surrey*: Surrey History Centre. [www.Ancestry.com](http://www.Ancestry.com). *Surrey, England, Baptisms, Marriages and Burials, 1538-1812* [database online]. Provo, UT, USA: Ancestry.com Operations, Inc., 2013. [Accessed October 2014] Hereafter, Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com). John Craig's 'Co-operation and Initiatives: Elizabethan Churchwardens and the Parish Accounts of Mildenhall', *Social History*, October 1993, Vol.18 (3), pp.357-380, also notes that in one clothing parish, 14 of the 27 men who served as churchwarden were clothiers or weavers. See p. 363.

<sup>46</sup> There are two boys of this name with baptisms in Godalming. Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com).

<sup>47</sup> Painter and Stedman are listed in LM/615/1: 'A List of the inhabitants of Godalming or town tithing', early c18th. Grover, Painter and Pincot are listed in LM/615/3: A List of Inhabitants of the town of Godalming (16-60) 3 Oct 1733. I have been able to find no parish records of a Timothy Grover or William Pincot and only one

trespass with the lists of governance (one likely), chief inhabitants (one possible) householders (four possible) is very weak when compared with the correlation between the other lists. Whilst 43.2% of those listed as chief inhabitants appear in the governance lists and 25% of those from the group of chief inhabitants and rate payers together, only 4 out of 38 (or 10.5%) of the names in the recognizance appear in one of the two lists of rate payers and just one (or 2.6%) appears in the list of governors and the two lists representing the chief inhabitants. The group of men with whom Joshua Toft appeared at the Sessions were relatively unconnected to the networks of power in the town and relatively less represented in the town's governance. We can also confirm their relative lack of wealth using probate material. Just six of the men listed on the recognizance for trespass appear in wills from the Archdeaconry or the Commissary Court of the Bishop of Winchester in the Archdeaconry of Surrey, though not in those from the Prerogative Court of Canterbury, the court which dealt with wills of the relatively wealthy.<sup>48</sup> Yet none of these men left a will or received any bequests themselves. Three were mentioned only in passing: Timothy Grover (cordwainer in the recognizance) was released from his debt to his brother in law to James Finch;<sup>49</sup> James Toft (stockingmaker in the recognizance) and Thomas Pinkett (clothier) may have rented property owned by the clothier Abraham Toft of Godalming.<sup>50</sup> Three others appear to have been witnesses: Caleb Tickner

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record each for Painter and Stedman: Jonathan Painter: bap. 20 Nov 1709; Richard Stedman: bap. [no day] Feb 1677: Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com).

<sup>48</sup> The names of Thomas Woods and George Chitty (labourer and joiner in the recognizance) are also found in Godalming wills, but the occupations do not match. For Woods (farmer) see Will of George Constable, carpenter, 26 Jun 1716, LMA: DW/PA/5/1716/38. See Webb, 'Archdeaconry Court ... Unregistered Wills, 1716-1721'. For Chitty as a child, a witness and a mason, see Will of Margaret Shrubbs of Godalming, sp., 30 Apr 1711. Proved 7 Apr 1714, LMA: DW/PA/5/1714/91 and Webb, 'Archdeaconry Court ... Unregistered Wills, 1709-1715'; Will of Elizabeth Hart of Godalming widow of George Hart 4 Sep 1717. Proved 9 Jul 1719, LMA: DW/PC/5/1719/13 and Cliff Webb, 'Commissary Court of Surrey ... Unregistered Wills, 1697-1728'; Will of George Chitty of Godalming, mason, weak 30 Mar 1728. Proved 13 May 1728, LMA: DW/PC/5/1728/7 and Webb, 'Commissary Court of Surrey ... 1697-1728'. George Chitty the mason was father in law of John Shrubbs (the Market House subscriber). There are two George Chitty births recorded in Godalming: 27 Dec 1700 son of William and Jeane, Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com), and 21 Dec 1707 son of Thomas and Frances. FHL Film Number 814231, England, Births and Christenings, 1538-1975. Salt Lake City, Utah: Family Search, 2013, [www.Ancestry.com](http://www.Ancestry.com).

<sup>49</sup> Will of James Finch on Godalming, dyer 9 Nov 1730, LMA: DW/PA/7/21; DW/PA/5/1731/42. See Cliff Webb, 'Surrey Will Abstracts Archdeaconry Court of Surrey, Registered Wills, 1726-1733'. There are no Timothy Grovers in the parish records for Godalming.

<sup>50</sup> Tickner was Costen's tenant in the house next door (and therefore presumably a handy witness). Will of Abraham Toft of Godalming, clothier 31 Jan 1727/8. Proved 1 Jun 1728, LMA: DW/PC/5/1728/25. See Webb, 'Commissary Court of Surrey ... Unregistered Wills, 1697-1728'. Parish registers for the period show two James Tofts and one Thomas Pinkett born in Godalming. James Toft: 26 Dec 1681, son of Joshua Toft and

(stockingmaker) to the will of the carpenter, John Costen, in 1709 (proved in 1723);<sup>51</sup> John Hayes and Richard Stedman (stockingmaker and weaver in the recognizance) left their mark as witnesses to the will of Edward Bonner, a labourer of Godalming, in 1701.<sup>52</sup> Edward Bonner's daughter in law was Margaret Edsall, wife of Thomas Edsall of Godalming, linen weaver, and perhaps the Thomas Edsall who served in the Manor Court Leet in 1721. If so, then this is only the second – and very tenuous – link between the network of Joshua Toft as suggested in the recognizance and the network of governors.

A second document allows the reconstruction of a narrower network of the Tofts' neighbours, and this further underlines how Mary and Joshua Toft were excluded from the networks of both wealth and governance in the town. This second document is the published set of depositions given by six individuals before Baron Onslow, local landowner, as he investigated the hoax. These six were called upon because they knew or lived nearby the Tofts or had been involved in caring for Toft during the affair. I have found no evidence concerning either Mrs. Mason (at whose house Toft lodged in Guildford) or Mary Peytoe (wife, of John, husbandman, from whom Joshua Toft also allegedly bought rabbits).<sup>53</sup> The third female deponent was Mary Costen, widow, who reported that she was nurse to Toft until she went to London; Costen may have inherited the rents and profits of the two

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Anne [Bridger] and 5 May 1699. Son of Abraham Tofte and Elizabeth his wife. Thomas Pinkett: baptized 3 Nov 1700 at Godalming. Father Thomas Pinkatt and mother Mary. Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com).

<sup>51</sup> Will of carpenter, John Costen, in 1709. Proved 11 Sep 1723, LMA: DW/PA/7/19 ff/169-71; DW/PA/5/1723/32. See Webb, 'Archdeaconry Court ... Registered and Unregistered Wills, 1722-1725'. This is likely to be the Caleb Tickner in the recognizance as there is only one noted in the parish records for Godalming: Caleb Tickner: Caleb son of Richard Tickner 14 Jan 1666; Caleb Ticknar, son of Thomas Ticknar and Darling [Darling May], 5 Dec 1700. Ref GOD/1/4, [www.Ancestry.com](http://www.Ancestry.com).

<sup>52</sup> Will of Edward Bonner of Godalming, labourer 26 Mar 1701. Proved 5 Jul 1708, LMA: DW/PC/5/1708/5. See Webb, 'Commissary Court of Surrey ... Unregistered Wills, 1697-1728'. Stedman was able to sign his deposition in 1726. See *The Several Depositions of Edward Costen, Richard Stedman, John Sweetapple, Mary Peytoe, Elizaneth Mason, and Mary Costen; relating to the Affair of Mary Toft* (London, 1727), p. 8. Those who do not sign – all the women – are noted as leaving their mark. This is likely to be the same Stedman, given that the parish registers show only one in these decades: Richard son of John Stedman and Elizabeth born in Godalming Feb 1677, Anglican Parish Registers, Woking, [www.Ancestry.com](http://www.Ancestry.com).

<sup>53</sup> A John Peytoe is listed in the trespass recognizance, but his occupation is given as cordwainer not husbandman.

houses in the will of her husband, the carpenter John Costen.<sup>54</sup> The three male deponents were Edward Costen (a framework-knitter), Richard Stedman (a weaver) and John Sweetapple (a currier and Quaker). They, along with Mary Peytoe, deposed that they had provided Joshua Toft with rabbits, though they did not say where they had obtained them.<sup>55</sup> Connected to the Tofts' and their neighbours, the men who trespassed at Stringer's pond, the chief inhabitants as a rate payer and as witness to a will, the weaver Richard Stedman is the single thread connecting the Tofts and the local governors.

Amongst the three male deponents to Onslow it is perhaps significant that one was a Quaker and two were clothing artisans, as both communities were associated with dissent. John Sweetapple was likely to have been related to Benjamin Sweetapple, also a currier and a Quaker of Godalming; Benjamin later apologized to the Friends' Monthly meeting at Guildford in 1729 for marrying in the presence of a priest.<sup>56</sup> Another local Quaker family was the Gills; Mary Toft mentioned a Mary Gill in her confessions several times.<sup>57</sup> There is no evidence that the Tofts were themselves Quakers, though the record of Mary and Joshua's marriage has never been found. Nevertheless, the number and integration of Quakers in Godalming town, combined with the heavy presence of the cloth trade, may well have been significant for the town and in particular the attitude of the governors to them and their neighbours. Quakers were a significant minority in Godalming. Under Charles II the population was 'very largely nonconformist', somewhere around a half.<sup>58</sup> By 1725, the number of Dissenters was relatively few.<sup>59</sup> Quakers now comprised a cross-section of the social hierarchy and were well

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<sup>54</sup> Will of John Costen, carpenter, in 1709. Proved 11 Sep 1723, LMA: DW/PA/7/19 ff/169-71; DW/PA/5/1723/32. See Webb, 'Archdeaconry ... Registered and Unregistered Wills, 1722-1725'. There are no parish records for a Mary Costen in Godalming, which makes it more likely it is the same woman.

<sup>55</sup> *Several Depositions*, pp. 4, 6-8, 10.

<sup>56</sup> Library of the Religious Society of Friends, London (LRSF): Benjamin Sweetapple's paper of Acknowledgement on marrying by a Priest, 1728, in TEMP MSS 30/1/12, Papers & Certificates relating to marriages, 1673-1780.

<sup>57</sup> LRSF: Certificate of Mary Gill's consent to her Son Ezra Gill's proposal of marriage with Mary Woods, 1729, in TEMP MSS 30/1/12, Papers & Certificates relating to marriages, 1673-1780. Ezra Gill's will left three pounds to the poor of Godalming and 50 shillings to 'the poor people called Quakers of the Meeting of Godalming'. See Will of Ezra Gill of Godalming, Surrey, 6 December 1736, TNA: PROB 11/680/281.

<sup>58</sup> Malden, *A History of the County of Surrey*, vol. 2, pp. 39-40.

<sup>59</sup> Malden, 'Answers made to the visitation articles of Dr. Willis', p.82.

integrated into local communities.<sup>60</sup> Benjamin Sweetapple was himself one of four witnesses to the will of Henry Woods in 1714, for example.<sup>61</sup> Whilst the Godalming Quakers do appear to have been well integrated in the town, their status remained somewhat marginal. Moreover, Quakerism and its antecedents have long been associated with industrializing or proto-industrial areas, and specifically the spread of radical ideas through areas of the clothing industry.<sup>62</sup> The decline of the clothing industry was well in swing in 1726.<sup>63</sup> The connections between clothing and Quakerism in this group of deponents – as well as between the Tofts – suggests that these links may have continued into the early eighteenth century.

### Social tensions, motivations and protest

These two relatively unconnected networks of the Tofts on the one hand and the governors and chief inhabitants on the other reinforce the increasingly marked divisions between the poor and an emerging ‘middling sort’ of office-holders found for other small towns and parishes.<sup>64</sup> This is not to say that the governors of Godalming presented a continuous and coherent group: the disorderly Stephen Boxall was apparently welcomed back into the governing fold as a juror on the Frank Pledge court in 1726, for example, and William Chitty, a name that recurs across the lists of governance, was fined twice by the Corporation, in 1727 and 1729.<sup>65</sup> In both cases the town governors were reinforcing

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<sup>60</sup> Bill Stevenson, ‘The status of post-Restoration dissenters, 1660-1725’, in Margaret Spufford (ed.), *The World of Rural Dissenters, 1520-1725* (Cambridge, Cambridge University Press, 1995), p. 354; Bill Stevenson, ‘The social integration of post-Restoration dissenters’, in Spufford (ed.), *World of Rural Dissenters*, pp. 382-3.

<sup>61</sup> Will of Henry Woods of Godalming, malster, snr., sick and weak, exec. 8 June 1714, proved 9 Feb 1726/7, LMA: DW/PA/7/20; DW/PA/5/1727/116. See Webb, ‘Archdeaconry Court ... Registered Wills, 1726-1733’.

<sup>62</sup> Margaret Spufford, ‘The importance of religion in the sixteenth and seventeenth centuries’, in Spufford (ed.), *World of Rural Dissenters*, pp. 40-47, 51.

<sup>63</sup> See Brian M. Short, ‘The South-East: Kent, Surrey, and Sussex’, *The Agrarian History of England and Wales*, general editor Joan Thirsk, 1967-, Vol. V, no. I, pp. 308-9.

<sup>64</sup> See, for example, J. A. Sharpe, *Crime in Early Modern England*, p. 75; Shani D’Cruze, ‘The middling sort in eighteenth-century Colchester: independence, social relations and the community broker’, in Jonathan Barry and Christopher Brooks (eds), *The middling sort of people: culture, society and politics in England, 1550-1800* (Basingstoke and London: Macmillan and St Martin’s Press, 1994), pp. 181-207; Naomi Tadmor, ‘Where was Mrs Turner? Governance and Gender in an Eighteenth-Century Village’, in Steve Hindle, Alexandra Shepard and John Walter (eds), *Remaking English Society: Social Relations and Social Change in Early Modern England* (Woodbridge, Boydell and Brewer, 2013), pp. 89-111.

<sup>65</sup> Jurors for the Godalming Frank Pledge Court 1726 (G70/68/1 Godalming Court Book, f56); 2253/3/1 Minute book of Godalming Corporation, f74, 78.

what Christopher Friedrichs has called ‘the dignity of civic office’ amongst office holders themselves.<sup>66</sup> Some sources suggest how the fragile nature authority of office-holders amongst those outside the governing network, though. In 1725, the Corporation sent a letter to the Surrey Quarter Sessions calling for two men to be bound over for not recognizing the authority of the current High Constable of the town, John Garrald, gentleman.<sup>67</sup> John Chitty and Thomas Keen, labourers of Godalming, were accused of, ‘scandalizing Jo:<sup>n</sup> Garrald of Godalming & threatning to do him some bodily Harme’.<sup>68</sup> Keen was a bricklayer who the Corporation had paid to carry out work in the town.<sup>69</sup> But it was Chitty in particular who seems to have made the error of judgement. A letter was soon sent to the Sessions, explaining that Chitty ‘has an unfortunate differrance [sic] with John Garard high Constable of the same town wherein he is no offender [...] for he only refused to take Thomas Keen into custody without any Just reason as he conceived nither did he no [sic] John Garard was any peace officer’.<sup>70</sup> Given Chitty’s familiarity with the Corporation, however, it seems odd that he did not recognize Garrald as a town office-holder.

Tensions in the town are certainly indicated by the Quarter Sessions’ case for which Joshua Toft was bound over in the summer of 1726. The case involved thirty-eight men charged ‘for a trespass in entering the ground or pond of James Stringer Covered with water with an intent to steale fish’.<sup>71</sup> James Stringer, the proprietor of this particular fishpond, had previously been an appraiser for the Hundred of Godalming.<sup>72</sup> Given the scale of the action, this was almost certainly an act of premeditated collective protest; village ponds were certainly one of the sites where anti-enclosure

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<sup>66</sup> Friedrichs, *Early Modern City*, p. 257.

<sup>67</sup> SHC: QS2/6/1725/Mid/ Midsummer 1725, f. 8, A list of names high constables Godalming. Richard Firknell and Caleb Firknar respectively.

<sup>68</sup> SHC: QS2/6/1725/Mic/ Michaelmas 1725, Number 38.

<sup>69</sup> SHC: 2253/3/1 Minute book of Godalming Corporation, f36: accounts for the Warden inc. payment of 6s to Keen for four days work.

<sup>70</sup> SHC: QS2/6/1725/Mic/ Michaelmas 1725, Number 45..

<sup>71</sup> SHC: QS2/5/1726, 23. The wrapper of the recognizance lists only the second group as bound over to appear and this might indicate that the two groups listed inside had different roles to play: QS2/5/1726, 23. Joshua Toft is listed in the first list and not on the wrapper. Nevertheless, at the Sessions, Joshua Toft agreed to keep the peace QS2/2/4 Sessions Minute book, 12<sup>th</sup> July 1726, no. 23. There are no further records of the case.

<sup>72</sup> Letter from John Netley to Thomas Molyneux, dated 15 April 1710, SHC: LM/620/1-21, 620/A.

protests might take place.<sup>73</sup> Whilst these men were unconnected to the governors or chief inhabitants of the town, neither were they drawn primarily from the labouring poor. Alongside Joshua Toft ‘clothworker’, the trespassers included bricklayers, gardeners and a carpenter. Listed separately are another group of men with occupations such as clothier, fishmonger, cordwainer, weaver, malster, carpenter and gardener. Both groups include labourers.<sup>74</sup> The case thus involved a relatively diverse occupational group infringing the property rights of a local landowner. Straddling the River Wey, Godalming had many ponds and their owners were determined to protect their contents from depredations. Another case of poaching from a Godalming pond also reached the Sessions the following year. In November 1727 John Balchin confessed that he and John Charriot had stolen nineteen carp from the pond of John Walter, Esq., that they had divided them between them, and that he intended ‘to eat [them] in his family’.<sup>75</sup> For his part, Charriott confessed to having stolen twenty carp, taking his share and selling on five.<sup>76</sup> The history of thefts of fish in the town suggests a black economy of animal produce in which the Tofts were engaged.

The case of attempted trespass of July 1726 occurred between Mary’s reported attempt to catch the rabbit and her rabbit births. It also took place in the midst of tensions focussed on the activities of the Blacks. The close proximity of these events warrants further scrutiny. The theft of fish, if not rabbits, was a significant minority of the Black actions during the 1720s. Although almost 60% of offences committed by Blacks in Windsor Forest between 1722-24 were for poaching deer, 14.9% were for stealing fish.<sup>77</sup> Such activity crossed the border between Hampshire and Surrey and it was in fact at this intersection of Berkshire, Hampshire and Surrey – at places such as Guildford, Crondall, Dogmersfield and Farnham, just a few miles from Godalming – that Thompson saw the

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<sup>73</sup> Briony McDonagh and Stephen Daniels, ‘Enclosure stories: narratives from Northamptonshire’, *cultural geographies*, 19, 1, p. 115.

<sup>74</sup> One of these, William Musgrove, is listed as receiving charity in another document. See SHC: LM/616/2 [c.1689x 1719] A List of the names of the severall poor people [in Godalming], flr

<sup>75</sup> SHC: QS2/6/1725/Xmas CHRISTMAS 1727, 43 examination of John Balchin of Godalming – robbing Mr Walters’s fishponds.

<sup>76</sup> SHC: QS2/6/1725/Xmas CHRISTMAS 1727, 44 examination of John Charriott.

<sup>77</sup> Thompson, *Whigs and Hunters*, p. 83.

origins of the Blacks.<sup>78</sup> So whilst outside the Royal Forests the actions and treatment of Blacks was significantly different and more ‘conciliatory’, Godalming was at the heart of the area where tensions between the Blacks and the Whig landowners were at their sharpest.<sup>79</sup> There is no evidence that there were Blacks in Godalming; nor were there forests on which the Crown or Whigs were encroaching (Bagshot and Windsor were to the north, Alice Holt and Woolmer were to the West). The trespass on Stringer’s pond is undoubtedly very different from the organized and repeated actions of the men in Thompson’s account. Indeed, Thompson’s account of the Waltham Act was challenged in a subsequent intervention by Eveline Cruickshanks and Howard Erskine-Hill. They argued that the Blacks and Jacobite sympathizers were on ‘a social continuum’, suggesting that it was a threat to the political regime rather than private property that agitated the Whigs.<sup>80</sup> Yet, regardless of whether the Whig regime response was driven by fears of attacks on their property or alleged Jacobite links of the Blacks, unrest at this time must have made this attempted trespass a provocative action.

There is no evidence of a direct connection between Joshua Toft’s action and Mary Toft’s hoax, yet perhaps we should not expect one. Whether direct protests, acts of resistance or expressions of disaffection, the political actions of the poor – and of poor women in particular – rarely enter the historical record as such. As James C. Scott has pointed out, ‘subordinate groups have typically won a reputation for subtlety’ in political life, their actions often being ‘cryptic and opaque’.<sup>81</sup> Whilst we might debate whether the birth of rabbits could be reasonably described as ‘subtle’, it is possible to observe in these events some of the qualities of disguise, euphemism and ‘rituals of insult’ by which Scott characterized the political resistance of subordinate groups.<sup>82</sup> Mary Toft’s hoax, for example, can be situated in the context of a history of social tensions in agricultural communities focussed on

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<sup>78</sup> Thompson, *Whigs and Hunters*, pp. 68, 105.

<sup>79</sup> Broad, ‘Whigs and deer-stealers’, p.71.

<sup>80</sup> Eveline Cruickshanks and Howard Erskine-Hill, ‘The Waltham Black Act and Jacobitism’, *Journal of British Studies*, 24, 3 (July, 1985), p. 365.

<sup>81</sup> James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (Yale University Press, New Haven, 1990), p. 136. See also Wayne Te Brake, *Shaping History: Ordinary People in European Politics, 1500-1700* (University of California Press, 1998), pp. 1-13; Michael J. Braddick and John Walter (eds), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge University Press, Cambridge, 2001).

<sup>82</sup> Scott, *Domination and the Arts of Resistance*, pp. 136-182. Quote at p. 137.

the farming of rabbits. These tensions arose from three issues. First, rabbits had traditionally been an elite item (both the meat and the fur), though after the fifteenth century they became cheaper and more widely available.<sup>83</sup> This association was not just about fashion or price. Warrens were always traditionally owned by the local landowner. Despite the construction of high walls and other methods of deterring poachers, though, the rabbits encroached on common land to eat the food of the sheep and cattle upon which commoners and tenants livelihood depended. In the medieval period, the rabbit was ‘undoubtedly a very tangible embodiment of seigneurial privilege and status, and therefore an ideal medium for social protest’.<sup>84</sup> Tensions remained in the early modern period, too: one writer of 1650 described how landowners enclosed land and rabbits, “letting them increase, that they may eat up the labours of poor men, to their great hinderance and discouragement at length”.<sup>85</sup> By the early eighteenth century, warrens were increasingly rented out to tenants or had become thriving commercial enterprises.<sup>86</sup> In the second half of the eighteenth century there is evidence that in towns there was smaller-scale domestic production of rabbits for both the commercial market and private use – reared in hutches wash-houses, cellars and attics – and in which the poor were sometimes themselves engaged.<sup>87</sup> As early as 1695, Londoners were entering alehouses with their own rabbits in hand, asking for them to be cooked.<sup>88</sup> In London, rich and poor could now enjoy rabbit meat and this weakened the earlier association between the elite and rabbit.

Yet particularly in agricultural areas, rabbits persisted as a focus for social tensions into the eighteenth century for two principal reasons. First, an expansion in rabbit farming in some areas was a

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<sup>83</sup> Petra J. E. M. Van Dam, ‘Status Loss Due to Ecological Success. Landscape Change and the Spread of the Rabbit’, *Innovation*, vol. 14, no. 2, 2001, pp. 162-4. Thirsk says warrens were increasingly set up by gentlemen warreners and rented from the landowners. Thirsk, *Alternative Agriculture*, p. 54

<sup>84</sup> Mark Bailey, ‘The Rabbit and the Medieval East Anglian Economy’, *The Agricultural History Review*, Vol. 36, No. 1 (1988), p. 18.

<sup>85</sup> Henry Halhead, *Incllosures thrown open* (1650), p. 8. Quoted in Sheail, ‘Rabbits and agriculture’, p. 353.

<sup>86</sup> *London Gazette*, July 20, 1725 - July 24, 1725. It was not until the Ground Game Act of 1880 that granted tenant farmers shared ownership with their landlords in the rabbits on their land. See Joan Thirsk, *Alternative Agriculture. A History: From the Black Death to the Present Day* (Oxford UP, 1997), p. 163; John Sheail, ‘Rabbits and agriculture in post-medieval England’, *Journal of Historical Geography*, 4, 4, October 1978, pp. 349, 350, 353. On the commercialization of rabbit production in urban locations see, Malcolm Thick, ‘Intensive Rabbit Production in London and nearby counties in the sixteenth, seventeenth, and eighteenth centuries: an Alternative to Alternative Agriculture?’, *Agricultural History Review*, 64, 1, pp. 1-16.

<sup>87</sup> Thick, ‘Intensive Rabbit Production’, p. 6.

<sup>88</sup> Thick, ‘Intensive Rabbit Production’, pp. 14-15.

direct replacement for both dairy and arable farming. As the prices of wool and grain declined between 1660-1750, farmers in the sandy areas suited to warrens turned to rabbits.<sup>89</sup> The decline of the clothing trade in some areas thus went hand in hand with the growth of commercial warrening. Secondly, the legal status of rabbits changed from wild game to enclosed animals. The Game Act of 1605 established a considerable property or wealth qualification for the taking of rabbits (and deer). These animals were increasingly enclosed on land, however, which rendered them a form of private property. As a result, deer were dropped from the list of game in 1671 and rabbits in 1692.<sup>90</sup> The taking of game was poaching, but the taking of property was theft and therefore subject to much harsher punishment.<sup>91</sup> As Douglas Hay showed in the case of eighteenth-century Cannock Chase, disputes about warren rights could be violent and longstanding.<sup>92</sup> Despite the commercialization of rabbit production, then, in agricultural areas rabbits remained a focus for disputes between landowners and the community throughout the eighteenth century. In and around Godalming there was a long history of rabbit farming. Guildford had been the site of one of the first warrens laid out for breeding in 1241, then owned by the King.<sup>93</sup> There were also large warrens in Godalming, the town possessing the deep sandy soil necessary for rabbit warrens.<sup>94</sup> A large new commercial warren was laid out in Godalming in 1671-73, on a 260-acre site that had previously been used for sheep pasture.<sup>95</sup> Yet large warrens in the area were still in the hands of the local landowner: Thomas Onslow had acquired two warrens in nearby Guildford as part of his marriage settlement in 1708.<sup>96</sup>

Social relations amongst the Godalming community, Joshua Toft's participation in a large-scale trespass mid-way through the rabbit hoax, the wider context of unrest in this part of south-east

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<sup>89</sup> Sheail, 'Rabbits and agriculture', p. 348.

<sup>90</sup> P. B. Munsche, *Gentlemen and Poachers: The English Game Laws 1671-1831* (Cambridge University Press, Cambridge, 1981), pp. 4-5.

<sup>91</sup> Munsche, *Gentlemen and Poachers*, p. 114.

<sup>92</sup> Douglas Hay, 'Poaching the Game Laws on Cannock Chase', Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson and Cal Winslow, *Albion's fatal tree: crime and society in eighteenth century England* (Penguin, Harmondsworth, 1975), pp. 189-253.

<sup>93</sup> Thirsk, *Alternative Agriculture*, p. 10.

<sup>94</sup> See Malcolm Thick, 'Market Gardening in England and Wales', in J. Thirsk (ed.), *The Agrarian History of England and Wales, vol. 5 1640-1750. II. Agrarian Change* General editor, Joan Thirsk (CUP, 1985), p. 511.

<sup>95</sup> Thirsk, *Alternative Agriculture*, p. 53-4.

<sup>96</sup> Attested copy of marriage settlement between Thomas Onslow and Elizabeth Knight, 8 November 1708, SHC: 1427/8/2.

England, the place of rabbits in the history of tense social relations and changes in the criminal law on property all invite a reading of the hoax as an act that appropriated the rabbit as a traditional symbol of elite privilege. What more eloquent way to respond to such privilege – and the exclusion of the poor from it – than a labouring woman producing her own rabbits? We need to be cautious, here. Local records do not reveal any other disputes relating to rabbits or warrens in early-eighteenth-century Godalming. Whilst the rabbits used in the hoax may have been obtained through the black market, again linking directly the Toft family and the women involved in the hoax to local networks of poachers, the sources give no indication that this was the case; indeed, the admission to the local landowner of several of the Tofts' neighbours that they had sold rabbits to Joshua suggests legitimate domestic rabbit breeding.<sup>97</sup> An additional caution is that the early animals parts delivered by Toft reportedly included those of pigs and cats, though very quickly Mary Toft's deliveries were of rabbits exclusively.

Nonetheless, Mary Toft's own explanation of her generation of rabbits cast the hoax as an instance of disorderly reproduction that upturned economic and social relations. Her claim that she was trying to take rabbits because she could not afford to pay market prices was highly provocative in this agricultural context.<sup>98</sup> The performative force of her statement is increased given that her husband could, in fact, afford rabbits, buying them from four of his neighbours for three and two pence each.<sup>99</sup> A labouring woman's admission that she tried to take a rabbit off the land without paying was, in the legal context, tantamount to an admission of attempted theft borne of poverty. The rural poor certainly challenged authority (and the concept of property ownership enshrined in the law) through poaching.<sup>100</sup> Toft's hoax could therefore be likened to 'social crime' – an act of law-breaking linked to socio-political discontent, arising from traditional customs and with popular condonation – although in the end no crime was found to have been committed.<sup>101</sup> Alternatively, we might interpret the hoax

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<sup>97</sup> See *Several Depositions*, *passim*.

<sup>98</sup> St André, *A Short Narrative*, p. 24.

<sup>99</sup> *Several Depositions*, pp. 4, 7-8.

<sup>100</sup> Griffin, *Protest, Politics and Work*, pp. 49-54.

<sup>101</sup> Eric Hobsbawm, 'Social Criminality: Distinctions between socio-political and other forms of crime', *Bulletin*

as a form of protest or direct political action. Since the 1970s, historians have sought to underline the political nature of popular action, casting ‘ordinary people seriously as political actors long before the creation of stable parliamentary democracies’.<sup>102</sup> For Thompson, for example, eighteenth-century food riots were ‘not an involuntary spasm, but a pattern of behaviour’ and as such could be interpreted as protests, neither political nor non-political.<sup>103</sup> For Rogers, plebeian crowd protests on the streets of early-Hanoverian London were articulate and engaged political actions.<sup>104</sup>

Historians of women have travelled a similar journey, seeking to acknowledge some of the words and actions of women as rational and political, according women agency and deciphering the infrastructure of thought and legitimizing notions from which their actions arose. Women’s involvement in the public political culture of early-modern England is now thoroughly established. Women engaged in politics as petitioners to Parliament, as producers of print, in debating, writing, networking, patronage and philanthropy.<sup>105</sup> Much of women’s public political activity arose from their familial roles.<sup>106</sup> Elaine Chalus has underscored the familial springboard of elite women’s participation in electoral politics; the informal nature of eighteenth-century political culture facilitated elite women’s political activity in both public and private.<sup>107</sup> We should also recognize not just the

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*of the Society for the Study of Labour History*, 25 (1972), pp. 5-6; John Rule, ‘Social crime in the rural south in the eighteenth and nineteenth centuries’, *Southern History*, 1 (1979), pp. 135-53. On approaches to social crime in this period see, Joanna Innes and John Styles, ‘The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England’, *Journal of British Studies*, 24, 4 (1986), pp. 395-402.

<sup>102</sup> Quote from Wayne Te Brake, *Shaping History: Ordinary People in European Politics, 1500-1700* (University of California Press, Berkeley and Los Angeles, 1998), p. 2. See Heather Falvey, ‘Voices and Faces in the Rioting Crowd: Identifying Seventeenth-Century Enclosure Rioters’, *The Local Historian*, 9, 2, May 2009, p. 137, for a useful summary.

<sup>103</sup> E. P. Thompson, ‘The Moral Economy of the English Crowd in the Eighteenth Century’, *Past and Present*, 50 (1971), p. 79. Quote at p. 131.

<sup>104</sup> Nicholas Rogers, ‘Popular Protest in early Hanoverian London’, *Past and Present*, 79 (1978), p. 100.

<sup>105</sup> Amanda Jane Whiting, *Women and Petitioning in the Seventeenth-Century English Revolution* (Brepols, Turnhout, Belgium, 2015); Paula McDowell, *The Women of Grub Street: Press, Politics and Gender in the London Literary Marketplace, 1678–1730* (Oxford, 1998). See also James Daybell (ed.), *Women and Politics in Early Modern England, 1450-1700* (Ashgate, Aldershot, 2004); Kathryn Gleadle and Sarah Richardson (eds), *Women in British Politics, 1760-1860: The Power of the Petticoat* (Macmillan, Basingstoke, 2000); Karen Green, *A History of Women’s Political Thought in Europe, 1700-1800* (Cambridge University Press, Cambridge, 2014).

<sup>106</sup> Barbara J. Harris, ‘Women and Politics in Early Tudor England’, *Historical Journal*, 33 (1990), pp. 259-81.

<sup>107</sup> Elaine Chalus, ‘“My Minerva at My Elbow”: The Political Roles of Women in Eighteenth-Century England’, in Stephen Taylor, Richard Connors and Clyve Jones (eds), *Hanoverian Britain and Empire: Essays in Memory of Philip Lawson* (Woodbridge, 1998), pp. 210–28; Elaine Chalus, *Elite Women in English Political Life, c.1754–1790* (Oxford, 2005); Ingrid Tague, *Women of Quality: Accepting and Contesting Ideals of Femininity*

range of spaces in which women's political expression took place, but also its form, from ritualized performance to the use of fans, feathers and embroidery.<sup>108</sup> The political currency of such practices was assured in an eighteenth-century context in which spectacle, theatre and symbol were an integral part of early-eighteenth-century political action, including that of plebeians.<sup>109</sup> The body might also be used as a tool of political expression. Hostility to enclosure was enacted as men and women retraced old travelling routes across the newly enclosed landscape, for example.<sup>110</sup> Given that the female body was an object of control and discipline by a range of authorities as well as women themselves, it could also become a site of resistance.<sup>111</sup> Identifying some of the actions by the poor and women as political expressions, let alone self-conscious protests, can be a fraught exercise but we know they had a wide range of tools at their disposal should they wish to articulate disaffection from or direct challenge to the social and political order. We can be assured that the hoax was a product of tense social relations in Godalming, but we should pause before despatching entirely the notion that Mary Toft's rabbit births were an expression of a breakdown in social relations and perhaps even an imaginative female-centred expression of disaffection.

#### Politics and responses to the hoax

Yet situating the case in the context of both specific social protests and broader tensions in social relations shifts the view that the affair was regarded as either medical wonder or prodigy and instead opens up the possibility that attitudes to the case were shaped by more prosaic and immediate

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*in England, 1690–1760* (Woodbridge, 2002).

<sup>108</sup> Elaine Chalus, "'Ladies are often very good scaffoldings': Women and Politics in the Age of Anne", *Parliamentary History*, p. 158; Caitlin Blackwell, "'The Feather'd Fair in a Fright': The Emblem of the Feather in Graphic Satire of 1776", *Journal for Eighteenth-Century Studies*, 36, 3, 2013, pp. 353-376; Peter Stallybrass and Rosalind Jones, 'The needle and the pen: needlework and the appropriation of printed texts', *Renaissance Clothing and the Materials of Memory* (Cambridge University Press, Cambridge, 2000), pp. 134-71.

<sup>109</sup> Nicholas Rogers, 'Popular Protest in early Hanoverian London', *Past and Present*, 79 (1978), p. 87 and passim.

<sup>110</sup> Briony McDonagh and Stephen Daniels, 'Enclosure stories: narratives from Northamptonshire', *cultural geographies*, 19, 1, p. 115.

<sup>111</sup> Laura Gowing, 'Ordering the Body: Illegitimacy and Female Authority in seventeenth-century England', in Michael J. Braddick and John Walter (eds), *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland* (Cambridge University Press, Cambridge, 2001), pp. 43-62.

social and political concerns. In the light of Toft's claim that the hoax began with her trying to take the rabbits from the land, it has been apposite to situate the hoax not just in the context of (sometimes acute) social tensions but in the specific local political context in which a large trespass involving Toft's husband in the summer of 1726 took place at precisely the time of the Blacks' activity in surrounding areas. We cannot safely conclude that Mary Toft's hoax was a protest to mirror that of her husband's just three months earlier; the motivations of Toft and her family are elusive. Yet turning to the responses to the case, there is certainly circumstantial evidence that those responsible for law and order might have viewed the case in a social and political – rather than medical – context. Thompson characterized the Black Act as a response to 'humiliation' on the part of the 'authorities' in the face of an apparent shift in social relations.<sup>112</sup> A "crime wave" in the 1720s was 'an emergency acting upon the sensibility of such men', he wrote, and the Act 'could only have been drawn up and enacted by men who had formed habits of mental distance and moral levity towards human life – or, more particularly, towards the lives of the "loose and disorderly sort of people"'.<sup>113</sup> This distance was built not upon unfamiliarity but the regular business of the local and county governors of Surrey who policed crime and social order. Coming to the attention of these county governors in 1726 were other cases which might have consolidated their fears of the poor. In addition to the trespass case of summer 1726, particularly notable is the case of Mary Cossens, committed to the Guildford House of Correction in March 1726. Mary had confessed, 'to have made it her business to Go about from Parish to Parish in the S<sup>d</sup>. County' extracting 'Greate Summs of Mony from y<sup>e</sup> S<sup>d</sup>. Parishes under Prentence[sic] of her being near Labor of Child bearing'. Another prisoner in Guildford prison at this time (Easter 1727) included a man who had been 'a Loose and Disorderly Person and Dangerous to the Nighborhood[sic]' from Godalming.<sup>114</sup> These cases had been committed by Anthony Allen, one of the three signatories to the recognizance for poaching which brought Joshua Toft to the Surrey Sessions in July 1726. Anthony Allen, of Guildford (4 miles from Godalming), was not only familiar with the disorderly and criminal actions of the town and county, he had also been their victim. In 1721

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<sup>112</sup> Thompson, *Whigs and Hunters*, p. 190.

<sup>113</sup> Thompson, *Whigs and Hunters*, pp. 196, 197.

<sup>114</sup> SHC: QS2/6/1727/Eas/ EASTER 1727, f31 - Calendar of prisoners from the House of Correction, Guildford.

he had been disturbed in his home by two men trying to steal his wig (presumably the wig he wore when the court was in session) – perhaps in defiance of his authority.<sup>115</sup> The legal wig, like all male wigs, represented the power of men to govern; loss of a man’s wig in art and literature connoted a loss of potency, social disorder and chaos.<sup>116</sup> Later that year, whilst in the Guildford pub the Rose & Crown, one Francis Weston had accused the singlewoman Sarah Jones of having had an illegitimate child by Allen, adding that Allen was ‘an asse and a fool’.<sup>117</sup> One could forgive Allen for feeling he was under threat.

Other men engaged in county law enforcement had every reason to feel under threat. A second signatory to the July 1726 recognizance for trespass was Thomas 2<sup>nd</sup> Baron Onslow, who had investigated the hoax in Godalming and Guildford, interviewing witnesses at his house, Clandon Park, on the 3<sup>rd</sup> and 4<sup>th</sup> December 1726 in his capacity as Lord Lieutenant for Surrey. He was proud of his role, reporting to Hans Sloane, ‘I have been at some pains to Discover the Affair, and think I have Conquer’d My poynt’.<sup>118</sup> Onslow was from a powerful Surrey Whig family: his father had been Speaker of the House of Commons under Queen Anne and his cousin was Arthur Onslow, Whig M.P. for Guildford from 1722 and the future Speaker of the House. Powerful as they were, their representative – along with that of the More-Molyneux’s – had failed to win the nearby Haslemere seats in Parliament in 1722, these going instead to James Oglethorpe, a Tory from a strongly Jacobite family, and Peter Burrell, a merchant Whig.<sup>119</sup> Indeed, Onslow was one of those Whig landowners in the southern counties who had ‘suffered in their own parks, their deer, their fish or their family dignity at the hands of the Blacks’.<sup>120</sup> He had been Ranger for the Surrey Walks of Windsor forest.<sup>121</sup> And he

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<sup>115</sup> SHC: QS2/6/1721/Eas/42.

<sup>116</sup> Marcia Pointon, *Hanging the Head: Portraiture and Social Formation in Eighteenth-Century England* (Paul Mellon Centre for Studies in British Art, Yale University Press, New Haven and London, 1993), pp. 117-121.

<sup>117</sup> SHC: QS2/6/1721/Xms/30.

<sup>118</sup> Letter from Thomas Onslow, 2<sup>nd</sup> Baron Onslow to Sir H. Sloane, 4<sup>th</sup> Dec 1726, British Library: Sloane MS 4048, f. 227.

<sup>119</sup> *The History of Parliament: the House of Commons 1715-1754*, ed. R. Sedgwick, 1970. Accessed via <http://www.historyofparliamentonline.org/research> [last accessed 11 September 2015]. Surrey was also a contested seat in 1722.

<sup>120</sup> Thompson, *Whigs and Hunters*, p. 205.

<sup>121</sup> See Letter book of Charles Wither 1720-22, f?? [to add] Hampshire RO: 87A09/2/2a/1. I am grateful to John Broad for this reference.

had personal experience of attacks taking place on his lands. In September 1723, an attempt had been made on his life, ‘by a Fellow with a Gun on his Shoulder, ready cock’d’.<sup>122</sup> The case was tried and Edward Arnold, the defendant, found guilty and sentenced to death, though Onslow interceded and had his execution respited. The Arnold case certainly had a huge impact on the application of the Black Act. The Act had initially pertained to men being both armed and in disguise, but Arnold’s prosecution under the Act – when he had not been in disguise – widened its application.<sup>123</sup> An equally significant detail of the case for this present essay is that Edward Arnold claimed he was using the gun to shoot rabbits, but had instead accidentally shot at the Lord. Arnold reportedly explained that, ‘Lord Onslow and King George had got all the money, so that he could get none’.<sup>124</sup> The echo of Mary Toft’s claim in her report to St. André, that she had chased the rabbits because she, ‘being very poor and indigent cou’d not procure any’, is striking.<sup>125</sup> Rabbits were already a feature of protest on Onslow’s land and as the hoax case emerged he already had first-hand knowledge of the dangerous – and dangerously self-aware – poor.

Neither the action of Joshua Toft in the attempted trespass nor the hoax were linked directly to the activity of the Blacks. Nor is it the case that the concerns of the political elite in London or parliament with the Blacks were driving responses to the Toft case. The Whig elite in Parliament were not noticeably concerned with Toft. If, as Cruickshank and Erskine-Hill suggest, they were concerned with the Blacks’ possible links to Jacobitism rather than their threats to property, then Toft would certainly have held little interest to them.<sup>126</sup> Yet their concerns about unrest in this particular area of the south west may have informed specifically local concerns about disorder. For local and county governors, Mary Toft’s monstrous births highlighted ongoing social tensions in Godalming and the region at precisely the time when there was a wider national concern with disorder, crime and unrest. Alongside threats to property and Jacobite attempts to restore the Stuart line, other historians have

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<sup>122</sup> *London Journal*, Saturday, September 7, 1723. All newspapers have been accessed via the 17<sup>th</sup> - 18<sup>th</sup> Century Burney Collection of Newspapers.

<sup>123</sup> Thompson, *Whigs and Hunters*, pp. 209-10.

<sup>124</sup> Quoted in Thompson, *Whigs and Hunters*, p. 209.

<sup>125</sup> St André, *A Short Narrative*, p. 24.

<sup>126</sup> Cruickshanks and Erskine-Hill, ‘Waltham Black Act’, pp. 358-365.

pointed to more general fears of crime and unrest during the 1720s.<sup>127</sup> The period under first minister Robert Walpole may have seen considerable parliamentary stability but there had been several years of popular public disaffection with the Whig regime, ten years of regular riots in London and an aggressive legislative government response.<sup>128</sup> Threats to the regime were connected to the actions of the Blacks but also other crimes in Walpole's own newspaper, *The London Journal*. David Lemmings' conclusion is that newspapers were deployed to create anxieties, 'to turn events into moral panic and "law and order" legislation'.<sup>129</sup> John Beattie has suggested that this is why, in Surrey in particular the sample period 1722-24 saw the highest proportion of hangings to convictions.<sup>130</sup> According to Beattie, these years were 'particularly vindictive' ones in the criminal justice system.<sup>131</sup> The 1720s appear to have seen something of a perfect storm in terms of concerns about disorder, crime and unrest. This was the context for the examination of and interrogation of Mary Toft in Leicester-Fields in London late November and early December 1726. The case was already a cause célèbre and once Toft was under suspicion, Onslow's determined activities in Surrey were mirrored by those of other elite men in London. Joining the J.P. Thomas Clarges as he extracted Mary Toft's first two confessions were not only several doctors but also the sixth Baron Baltimore and the dukes of Montagu and Richmond. Montagu was Master of the Great Wardrobe, a sub-department of the Royal Household with considerable autonomy for its Master) and had perhaps been sent by the King.<sup>132</sup> Baltimore's house was at Epsom and he had contested the seats of Surrey in 1722 and Guildford in 1728 (against a candidate of Arthur Onslow), both unsuccessfully, before gaining the

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<sup>127</sup> Broad, 'Whigs and deer-stealers in other guises', pp. 67-72.

<sup>128</sup> Eveline Cruickshanks, 'Religion and Royal Succession – The Rage of Party', in Clyve Holmes (ed.), *Britain in the First Age of Party, 1680-1750* (Hambledon, London, 1987), p. 41; Nicholas Rogers, *Whigs and Cities: Popular Politics in the Age of Walpole and Pitt* (Clarendon Press, Oxford, 1989), pp. 13-45; Tim Hitchcock and Robert B. Shoemaker, *London Lives: Poverty, Crime and the Making of a Modern City, 1690-1800* (Cambridge University Press, Cambridge, 2015), pp. 70-135.

<sup>129</sup> David Lemmings, 'The Dark Side of the Enlightenment: *The London Journal*, Moral Panics, and the Law in the Eighteenth Century', in David Lemmings and Claire Walker (eds), *Moral Panics, the Media and the Law in Early Modern England* (Palgrave Macmillan, Basingstoke, 2009), p. 153.

<sup>130</sup> John Beattie, *Crime and the Courts in England 1660-1800* (Oxford University Press, Oxford, 1986), p.517.

<sup>131</sup> Beattie, *Crime and the Courts*, p. 518.

<sup>132</sup> Beattie, *English Court*, pp. 121-27; Edward Charles Metzger, 'Montagu, John, second duke of Montagu (1690–1749)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/19025>, accessed 14 May 2013]. See Manningham, *Exact Diary*, p. 32.

seat of Surrey in 1741.<sup>133</sup> He was in London at this time petitioning the Privy Council with the nomination of his brother to the Governship of Maryland.<sup>134</sup> The Duke of Richmond, Charles Lennox, was most likely to be affected by the case. Duke since 1723 and just made a Knight of the Garter, Richmond had a house in Godalming (a convenient stopping off point between London and his country seat in West Sussex). In 1724 his steward recruited the services of Joshua Keene (carpenter) for 17 days to undertake a large number of repairs, many of which were concerned with house security, including gates, window bars and doors.<sup>135</sup> These men all had connections to the local area.

In November 1726, Mary Toft was moved from Guildford to a bagnio in Leicester-Fields. Leicester-Fields was the site of the Prince of Wales' residence and the move brought the affair to Westminster, 'the very centre of national politics'.<sup>136</sup> It also brought the case to the jurisdiction of Thomas Clarges, a London J.P.. Clarges played a critical role in bringing the case to its legal climax.<sup>137</sup> J.P.s had increasing wide-ranging summary powers that could be exercised at their discretion.<sup>138</sup> They were also at the forefront of the regulation of the poor by local government.<sup>139</sup> Clarges set in train the intensive few days of questioning that led to her confessions. Newspapers report that Toft was initially put under the care of the High Constable of Westminster for two weeks, because of the 'leniency' of Clarges, though as was reported in the newspapers, Manningham

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<sup>133</sup> *The History of Parliament: the House of Commons 1715-1754*, ed. R. Sedgwick, 1970. Accessed via <http://www.historyofparliamentonline.org/research> [last accessed 3 September 2015] See also Troy O. Bickham, 'Calvert, Charles, fifth Baron Baltimore (1699–1751)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [http://www.oxforddnb.com/view/article/75619, accessed 3 Sept 2015]. See Todd, *Imagining Monsters*, p. 32, on Baltimore's presence.

<sup>134</sup> 'Report for the Lords Comm<sup>r</sup> of Trade for his Ma<sup>ys</sup> Approbation of M<sup>r</sup> Calvert to be Governor of Maryland', Privy Council, Colonial Papers, PC 1/48/22, TNA. Accessed via [www.AALT.law.uh.edu](http://www.AALT.law.uh.edu) [last accessed 3 September 2015].

<sup>135</sup> Bills and vouchers of the 2nd Duke and Duchess of Richmond paid between July 1723 and Michaelmas 1732. 1723-1732, West Sussex County Archive: Goodwood Mss 120, f61.

<sup>136</sup> Rogers, *Whigs and Cities*, p. 168.

<sup>137</sup> Clarges was a Tory, though favoured by the Whigs. He was made a gentleman of the privy chamber under George II (in Nov. 1728), having already served in the Middlesex lieutenancy since 1716. Source: <http://www.historyofparliamentonline.org/volume/1690-1715/member/clarges-sir-thomas-1688-1759>

<sup>138</sup> Norma Landau, *The Jutsices of the Peace, 1679-1760* (University of California Press, Berkeley, 1984); Sharpe, *Crime in Early Modern England*, pp. 28-9. On summary justice see Faramerz Dabhoiwala, 'Summary Justice in Early Modern London', *The English Historical Review*, Vol. 121, No. 492 (Jun., 2006), pp. 796-822.

<sup>139</sup> *Stilling the Grumbling Hive*, pp. xxxv-xxxvi.

explained that he had interceded on Toft's behalf to ensure this.<sup>140</sup> But just the following day, Clarges committed Mary to the Tothill-Fields bridewell house of correction, where she was reportedly kept at hard labour.<sup>141</sup> The three surviving confessions of Mary Toft suggest that Clarges was sceptical of the very idea of a 'genuine' monstrous birth; he interrupted Mary during her second confession when she used the word 'monster', for example.<sup>142</sup> In characterizing Clarges' involvement in the case, it is worth noting that he was steeped in the prosecution of crime in Surrey and London and would have been highly sensitive to the possibility of endemic social disorder on large and small scales. He had been involved in a notorious case of deer-hunting in Surrey in July 1725, serving as one of the two JPs who took the evidence that incriminated Richard Gibbs and William Gates (or 'Vulcan') for killing two deer and shooting at three keepers on the King's 'Endfield Chase' in Middlesex.<sup>143</sup> Thompson identifies Gates as one of a small number of known serial poachers.<sup>144</sup> An order for the men to surrender themselves within forty days was duly printed and proclaimed Gates' failure to appear invoked a clause in the 1723 which made this itself a felony and sixty foot guards were duly sent to find them; Gates was executed.<sup>145</sup> As Thompson put it, men like Vulcan Gates were 'a nuisance' who could be despatched with the Waltham Act.<sup>146</sup> The following year, it was Clarges who committed to Newgate prison a man who had entertained the crowds of 'several thousand' in Leicester-Fields, 'near the Prince's Palace', as he eluded capture for a shooting by running over the rooftops of houses for an afternoon in March 1726.<sup>147</sup> Clarges' actions towards Mary Toft must also be situated in the context of a particular concern with female crime, reflected in prosecutions for prostitution and the unusually high proportion of women prosecuted for property crimes in London in the quarter century after 1689.<sup>148</sup> This 'female crime wave' also saw a new visibility of female

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<sup>140</sup> See *Parker's Penny Post*, Wednesday, December 7, 1726; *London Journal*, Saturday, December 17, 1726.

<sup>141</sup> *Daily Journal*, Saturday, December 10, 1726; *Brice's Weekly Journal*, Friday, December 16, 1726.

<sup>142</sup> GSC: MS Hunter D327 (confession 2), 8<sup>th</sup> December 1726, 6r.

<sup>143</sup> *London Gazette*, July 20, 1725 - July 24, 1725.

<sup>144</sup> Thompson, *Whigs and Hunters*, p. 172

<sup>145</sup> Thompson, *Whigs and Hunters*, p. 174; *London Journal*, Saturday 14 August, 1725.

<sup>146</sup> Thompson, *Whigs and Hunters*, p. 189.

<sup>147</sup> *Daily Journal*, Thursday, March 10, 1726.

<sup>148</sup> J. M. Beattie, *Policing and punishment in London 1660-1750: urban crime and the limits of terror* (Oxford University Press, 2001), p. 65.

criminals in print.<sup>149</sup> Beattie has gone so far as to say that ‘men of the propertied classes were becoming particularly alarmed about women’s crime and were anxious to bring women under control.’<sup>150</sup> As we have seen, Toft’s reproduction of rabbits associated her with a new form of property crime. Certainly, Clarges’ aggression during his interrogations of Toft is commented upon by contemporaries. Richard Manningham, himself not particularly sympathetic to her extreme physical pain and emotional distress, reported that he was forced to intercede Toft was so ‘strictly examined’ by Clarges.<sup>151</sup> Manningham gives a euphemistic account of Clarges’ violent treatment of her: ‘Sir Thomas threaten’d her severly, and began to appear the most properest Physician in her Case, and his Remedies took Place, and seem’d to promise a perfect Cure; for we heard no more of her former Labour-like Pains’.<sup>152</sup>

It is worth pausing to reflect on this remarkable scene of Toft in the bagnio, surrounded and examined by up to ten men (three of them titled) at a time and threatened into making not one but three confessions. One theme of existing work on the case that emphasize the medical context is Toft’s appropriation of the theory of the maternal imagination in order to manipulate a number of medical professionals; but this unduly emphasizes her agency. From the perspective of a social history of crime, too, we might see in the bagnio a scene of ‘ordinary folk’ engaging with a legal system.<sup>153</sup> Yet in my view this case instead highlights the objectification of the poor female body and a disregard for its sufferings. The summary justice experienced by Toft was characterized by the ‘fundamental clashes of interest between different social groups’ that shaped the actions of the magistracy as they sought to protect property and control the poor, even as the summary courts were used by a very wide

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<sup>149</sup> Robert B. Shoemaker, *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex* (Cambridge University Press, 1991), pp. 185-6; Robert B. Shoemaker, ‘Print and the Female Voice: Representations of Women’s Crime in London, 1690-1735’, *Gender & History*, vol. 22, no. 1, April 2012, pp. 75-91.

<sup>150</sup> John Beattie, “‘Hard-pressed to make ends meet’: Women and Crime in Augustan London”, pp. 103-115. in Valerie Frith (ed.), *Women and History: Voices of Early Modern England* (Coach House Press, Toronto, 1995), p.105.

<sup>151</sup> Manningham, *Exact Diary*, p. 26.

<sup>152</sup> Manningham, *Exact Diary*, p. 31.

<sup>153</sup> Dana Rabin, ‘Searching for the Self in Eighteenth-Century English Criminal Trials’, *Eighteenth-Century Life*, 2003, Vol.27 (1), p. 88.

range of social groups.<sup>154</sup> As Brewer and Styles were clear, the law was ‘a limited multiple-use right available to most Englishmen, apart (a big caveat this) from the labouring poor’.<sup>155</sup> It is not my intention to overlook the agency that Toft and her family possessed. They managed to orchestrate a hoax which – for three months – managed to fool men in power, even if ultimately this backfired. Exploring ‘how it felt “from below”’ is important.<sup>156</sup> Yet descriptions of Toft as a labouring poor woman situated her within ‘a discourse of risk and social problems’ associated with the poor as a social group.<sup>157</sup> It is perhaps suggestive that the volume of newspaper articles about the case grew in volume once the case was exposed.<sup>158</sup> The public – or at least the press – was most interested not in the hoax and the possibility of a medical wonder but in the punishment of Mary Toft and John Howard.

#### The progress of the legal case

The local and political contexts of the case indicate that key individuals may have regarded the case not as a medical mystery but as an example of pressing social problems relating to crime, order and protest. These contexts may have driven the case once it entered the business of the Westminster Sessions, though the progress of the case through the criminal justice system was determined as much by detailed points of law. Having already extracted two confessions from Toft on 7<sup>th</sup> and 8<sup>th</sup> December, Thomas Clarges committed her to the local bridewell, the Westminster house of correction, on the 8<sup>th</sup> December. Clarges (along with Nicholas Paxton, Esq.) wasted no time and visited her there on the afternoon of Friday 9<sup>th</sup> December ‘to examine her farther about that wicked

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<sup>154</sup> Peter King, ‘The Summary Courts and Social Relations in Eighteenth-Century England’, *Past & Present*, No. 183 (May, 2004), p. 156.

<sup>155</sup> John Brewer and John Styles, *An ungovernable people: the English and their law in the seventeenth and eighteenth centuries* (New Brunswick, N.J.: Rutgers University Press, 1980), p. 20.

<sup>156</sup> See Harvey, ‘What Mary Toft Felt’ for an example of this approach to the case. Quote from Tim Hitchcock, Peter King and Pamela Sharpe, ‘Introduction: Chronicling Poverty – The Voices and Strategies of the Poor, 1640-1840’, in Tim Hitchcock, Peter King and Pamela Sharpe (eds), *Chronicling Poverty – The Voices and Strategies of the Poor, 1640-1840* (Macmillan, Basingstoke 1997), p. 4.

<sup>157</sup> David Lemmings, ‘Conclusion: Moral Panics, Law and the Transformation of the Public Sphere in Early Modern England’, in David Lemmings and Claire Walker (eds), *Moral Panics, the Media and the Law in Early Modern England* (Palgrave Macmillan, Basingstoke, 2009), pp. 255, 263.

<sup>158</sup> 11 were published after the hoax was revealed and 4 before. This is only for those published in 1726. Another 17 were published in the spring of 1727.

Imposture'.<sup>159</sup> Following the weekend, he returned on Monday 12<sup>th</sup> December, when the final confession was taken down. Mary Toft was charged with an 'Abominable Cheat & Imposture'; the calendar shows that she was joined in the Westminster house of correction by her husband, Joshua, possibly because she was so unwell.<sup>160</sup> There must certainly have been a pressing reason for his presence given that Joshua was also a witness against Howard.<sup>161</sup> Elizabeth Williams (Joshua Toft's elder sister) was initially bound over to appear 'to give Evidence ag[ains]t Mary Toft for a Cheat and Imposture'.<sup>162</sup> She was later bound to appear at King's Bench to give evidence against Toft for a 'conspiracy and misdemeanor'.<sup>163</sup> A fourth person, Thomas Howard, the bagnio servant where Mary Toft was being kept in London and who had called time on the hoax, was bound over to give evidence against Mary Toft.<sup>164</sup> The Sessions records are sparse. Having been in custody since 8<sup>th</sup> December, newspapers reported that Toft was brought before the Westminster Sessions on Saturday 7<sup>th</sup> January, that Toft and Howard entered the court to give their pleas and that Toft was remanded back in custody at the Bridewell.<sup>165</sup> The case was referred to Clarges 'to continue, Bail, or Discharge'.<sup>166</sup> An information was to be preferred against her and she was reportedly due to be tried at the Surrey Assize, though this does not appear to have happened as she remained in the Sessions' prison until April 1727, when she was finally released without charge.<sup>167</sup> John Howard, the Guildford doctor, was the fifth person bound over to appear at the Westminster sessions, for conspiring with Toft 'to impose upon the World the said Mary Toft's being delivered of Seventeen / Rabbets [sic] at Seventeen Severall times'.<sup>168</sup> On 7<sup>th</sup> January, he was entered into a fresh recognizance.<sup>169</sup> He was subsequently bound over to appear again at King's Bench for the huge sum of £400 (one newspaper

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<sup>159</sup> *Daily Journal*, Saturday, December 10, 1726

<sup>160</sup> LMA: MJ/SR/2475 January 1727 'Calendar of y<sup>e</sup> names together with a Copy of y<sup>e</sup> Causes of Committals' for the house of correction held since the last sessions until present sessions, dated 5<sup>th</sup> January 1726/7. See Joanna Innes, 'Prisons for the poor: English bridewells, 1555–1800', in Francis Snyder and Douglas Hay, eds., *Labour, Law, and Crime: a Historical Perspective* (Oxford, 1987), pp. 42–122.

<sup>161</sup> LMA: MJ/SR/2475 January 1727, Number 160.

<sup>162</sup> LMA: MJ/SR/2475 January 1727, Number 161.

<sup>163</sup> LMA: MJ/SB/B/0084, 847/27.

<sup>164</sup> LMA: MJ/SR/2475 January 1727, Number 162.

<sup>165</sup> *Mist's Weekly Journal*, Saturday, January 14, 1727;

<sup>166</sup> *London Journal*, Saturday, January 14, 1727

<sup>167</sup> *British Journal*, Saturday, January 14, 1727.

<sup>168</sup> LMA: MJ/SR/2475 January 1727, Number 37.

<sup>169</sup> *Mist's Weekly Journal*, Saturday, January 14, 1727.

reported the sum to be £800) in contrast to the customary £20, itself suggesting not just Howard's wealth but the seriousness of the case and quite considerable determination on someone's part to prosecute.<sup>170</sup>

There are several uncertainties about the criminal history of the case. First, it is not clear how the case first reached the Westminster Sessions. We know that neighbours in these tight-knit early-modern communities policed themselves, often in collaboration with officers of the law, and often focussing on women's behavior.<sup>171</sup> The sources do not give any clues as to who is prosecuting the case.<sup>172</sup> The most likely explanation is that Clarges was the prime mover in advancing the case – or had been encouraged to do so by someone else. This was a case of an officer of the state being proactive, not reactive.<sup>173</sup> Certainly, a newspaper report that a prosecution at King's Bench had been 'ordered to be carried on' might suggest that in what was a system of private prosecution, there was nevertheless some institutional or state involvement.<sup>174</sup> There were concrete links between the Toft case and the Royal Family, as others have noted.<sup>175</sup> Dennis Todd notes that in November 1726, most of the key players were associated with the German group surrounding the Royal household.<sup>176</sup> Cyriacus Ahlers was surgeon to the King's German household and Nathaniel St. Andre was surgeon and anatomist to the Royal Household; James Douglas was to become physician to Queen Caroline,

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<sup>170</sup> LMA: MJ/SB/B/0084, 847/46; *Daily Journal (London, England)*, Wednesday, January 11, 1727.

<sup>171</sup> Paul Griffiths, *Lost Londons: change, crime, and control in the capital city, 1550-1660* (Cambridge: Cambridge University Press, 2008). See also Tadmor, 'Where was Mrs Turner', and *Family and Friends in eighteenth-century England: Household, Kinship and Patronage* (Cambridge University Press, Cambridge, 2001), chapter 5.

<sup>172</sup> Four recognizances survive (three for witnesses to give evidence and one for John Howard to appear before the court to 'Answer what shall be objected against him on Suspicion of / Conspiring with one Mary Toft'. See LMA: MJ/SR/2475 January 1727, 37, 160, 161 and 162. No recognizance can be found for Mary Toft herself. On the use of recognizances in cases of petty crime in London see Shoemaker, *Prosecution and Punishment*, pp. 25-35.

<sup>173</sup> For a debate about this term see Davison et al, 'The Reactive State', pp. xi-liv and Joanna Innes, 'Introduction', in Joanna Innes, *Inferior Politics: Social Problems and Social Policies in Eighteenth-century Britain* (Oxford University Press, Oxford, 2009), p. 8. On the extent of summary justice in the eighteenth century see King, 'Summary Courts and Social Relations', pp. 125-172. Clarges' actions are a contrast to the widespread use of summary justice that King finds in his study. See esp. pp. 139-147.

<sup>174</sup> *Daily Journal*, 20 December 1726. There is no record of any actions relating to this case in the records of the Privy Council. The Attorney General or Solicitor General could bring an information 'ex officio' for a criminal prosecution in King's Bench, though these were supposed to be used for serious misdemeanours. See Douglas Hay (ed.), *Criminal Cases on the Crown Side of King's Bench: Staffordshire, 1740-1800, Collections for a History of Staffordshire*, fourth series, vol 24 (Staffordshire Record Society, 2010), p. 277.

<sup>175</sup> Cody, *Birthing the Nation*, pp. 130-2.

<sup>176</sup> Todd, *Imagining Monsters*, fn. 28, p. 275.

who was pregnant at the time of the hoax. Samuel Molyneux, who also attended, was secretary to the Prince of Wales. Ahlers' pamphlet reported that on returning to London from seeing Toft at Guildford, he had immediately made a report to the King and showed him part of a rabbit taken from Toft.<sup>177</sup> St. Andre included copies of the two letters that Mr. Howard sent to Mr Henry Davenant, a courtier of George I.<sup>178</sup> Newspapers were clear that when Toft was brought to London, this was 'by Order of his Majesty'.<sup>179</sup> Once the hoax was revealed as such, the apparent humiliation of the Royal Family may have been a driver in rooting out the truth of the case.

If the start of the criminal case is difficult to reconstruct, the ending is even more obscure. The case against Howard was removed from the Westminster Sessions and taken to the court of King's Bench, the highest court of common law in England and Wales, presumably by writ of *certiorari*. The expense of both the writ and a King's Bench case suggests that it was most likely John Howard who removed the case.<sup>180</sup> John Howard is listed in the records of the Court of King's Bench.<sup>181</sup> Yet the lack of other information in the records of King's Bench and certainly the absence of any published accounts of a trial confirms that, as was very common, the case did not get very far. On 13 April, the *Daily Post* announced that Toft had been discharged from the Westminster Quarter Sessions, and thus released from the house of correction, 'there being no Prosecution'.<sup>182</sup> It was not the case that Mary Toft had been let off without punishment; she had, after all, already spent several months at hard labour. Yet given the involvement of so many high-ranking individuals, is somewhat surprising that she was not sentenced. Early-eighteenth-century impostors were successfully

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<sup>177</sup> Ahlers, *Some Observations*, pp. ii, v.

<sup>178</sup> St André, *A Short Narrative*, p. 5.

<sup>179</sup> *Daily Journal*, Friday, December 2, 1726

<sup>180</sup> See Ruth Paley, 'The kings bench (crown side) in the long eighteenth century', in Christopher Dyer, Andrew Hoper, Evelyn Lord and Nigel Tringham (eds), *New Directions in Local History Since Hoskins* (University of Hertfordshire Press, Hatfield, 2011), p. 232. Defendants could remove convictions to King's Bench from lower courts in order to quash them. See Hay (ed.), *Criminal Cases on the Crown*, pp. 6, 7-9. King's Bench also had jurisdiction over Westminster during term time and the Sessions sat during vacation. See Paley, 'The kings bench (crown side)', p. 238. The Toft case was being handled by the Sessions in the vacation between Michaelmas and Hilary 1726/7.

<sup>181</sup> TNA: KB29/386, Index to Plea Roll, 13 Geo. I, f557; KB 36/42, Draft rule book, 13 Geo. I, f1.

<sup>182</sup> *Daily Post*, Thursday, April 13, 1727.

prosecuted for various offences, including that of common nuisance.<sup>183</sup> Indeed, the period allegedly saw intense scrutiny of deceptions of all kinds.<sup>184</sup> The conditions were surely ripe for the prosecution of either Toft or Howard, or both.

Precisely why the various courts decided not to prosecute is obscure but it appears that there was found to be no charge to answer by either Toft or Howard. As one newspaper reported, ‘’tis said there’s a difficulty in the Case, viz. What Statute she and her Confederates shall be try’d upon’.<sup>185</sup> Toft was accused of committing a fraud or a cheat and imposture. Fraud meant ‘any fraudulent practice against which a man of common prudence could not reasonably defend himself’.<sup>186</sup> Fraud also required a false token, such as a false weights or dice. Other than the rabbits, there was no clear false token in this affair. Toft was impersonating a rabbit-breeding woman, though this particular form of imposture was not listed in any statute. The law on cheats involved ‘defrauding or endeavouring to defraud another of his known Right by means of some artful Device, contrary to the plain Rules of common Honesty.’<sup>187</sup> The case includes several mentions of imagined gains for Toft and others but there is no confirmed record of money ever changing hands. It was far from obvious who were the winners and losers in the affair. There was another fundamental problem. Even if a crime could be agreed upon, it was difficult to identify the criminal. The affair began with a prolonged miscarriage, took shape in the context of a group of female kin and neighbours and was increasingly limited to just a few family members and women.<sup>188</sup> This was a team effort and identifying the perpetrator was not going to be straightforward.

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<sup>183</sup> William Hawkins, *A treatise of the pleas of the Crown: or a system of the principal matters relating to that subject, digested under their proper heads*, 2nd. edn, vol. 1 (London, 1724), p. 197. See Jennine Hurl-Eamon, ‘The Westminster Impostors: Impersonating Law Enforcement in Early Eighteenth-Century London’, *Eighteenth-Century Studies*, 38, 3 (Spring, 2005), pp. 461-483, p. 473.

<sup>184</sup> Lynch, *Detection and Deception*, *passim*.

<sup>185</sup> *Daily Post*, Monday, March 27, 1727.

<sup>186</sup> Tom Hadden, ‘The Origin and Development of Conspiracy to Defraud’, *The American Journal of Legal History*, 11, 1 (Jan., 1967), pp. 25-40. P. 26

<sup>187</sup> William Hawkins, *A treatise of the pleas of the Crown: or a system of the principal matters relating to that subject, digested under their proper heads*, 2nd. edn, vol. 1 (London, 1724), p. 187.

<sup>188</sup> Harvey, ‘What Mary Toft Felt’.

Mary Toft was involved in an exceptional series of events in autumn 1726. The parish registers of Godalming acknowledged this exceptionalism. On 4 February 1728 they record the christening of her daughter Elizabeth, ‘being her first child after her pretended rabbit-breeding’. On 12 June 1745, they registered ‘Joshua Toft, rabbit man, buried’. Finally on 13 January 1763 the record of her death preserved forever her notoriety: ‘Mary Toft, widow, buried, The Impostress Rabbit breeder’.<sup>189</sup> Historians and literary scholars have also understood the case through its peculiarities, and these are of course undeniable. But contrary to previous studies that dwell on the case’s exceptionalism and in particular the changes to medical knowledge wrought by this, this essay has situated the case in the context of the social relations and social tensions of early-eighteenth-century Britain. In understanding what the case meant to contemporaries, particularly those who investigated the case for the Westminster Sessions, the medical context of monsters and the maternal imagination seem relatively insignificant. The Enlightenment held the promise to sweep away the limits to man’s knowledge of the natural world and elite readers were gripped by the possibility that this was a genuinely ground-breaking medical discovery. But the case must also be read in the context of sensitivities and fears about the unruly poor and their potential for social and political subversion. The hoax was borne within a poor family in a town experiencing economic and social divisions and in which the poor were closely governed by a small group of chief inhabitants. The husband of Mary Toft had very recently been part of a group accused of trespass at precisely the moment when local and county elite in that area were dealing with threats to their property and social order. As a labouring woman, Mary Toft’s generation of rabbits exploited the reproductive power of women just as law enforcers increasingly sought to bring that power under their control. Once the affair was exposed as a hoax and the doctors discredited, the affair centred on the punishment of a poor woman from Surrey. Indeed, a wealth of scholarship on the creative political expressions of the poor and women invites – though cannot underwrite – an interpretation of the hoax itself as an expression of disaffection with social and political relations. In contrast to earlier allegorical stories of monstrous

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<sup>189</sup> SHC: *The Parish Registers of Godalming: Baptisms 1688-1840*.

births as prodigies, the poor protagonists in this story – Mary Toft, her family and community – were now regarded as real threats in a social world in which the people (and the poor and women in particular) were seen as a tangible and organized threat to the social order. If the case had a deeper meaning it was chaos: in the reproducing female body, in medical knowledge but perhaps particularly in social relations. The monstrous of which the ruling elite was so fearful in 1726 was not the rabbit births, but the potential disorder of – in Mary Toft’s own words – the ‘very poor and indigent’.