

# HIGHWAYS, LAW AND GOVERNANCE

Parish of Halifax, c.1550-1700

A dissertation submitted in partial fulfilment of the degree of

Ph.D. in history

by

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For Tatyana and Anna

## Abstract

Transport historians have made an increasingly strong case for connectivity and mobility in Stuart England even before the introduction of turnpike trusts in the eighteenth century. There has, however, been little explanation of how this was achieved at local level, nor has the broader historiography of government in this period given infrastructure the attention it merits, since the painstaking, but dated, research, of the Webbs. This study explores the diversity of approaches to the administration of highway infrastructure by the townships of Halifax parish in addressing a range of travel and transport needs on foot and horseback in an upland area largely inaccessible to wheeled vehicles. The research is concerned with how townships managed their highways, who the officeholders were, how they negotiated relationships with other agents and institutions, and the implications of a reconceptualisation of the highways function for current debates on state formation.

Exploiting excellent manorial and township records, the analysis takes advantage of GIS mapping techniques to re-evaluate the governance of highways, as townships in the parish responded to statutory, political and socio-economic change. A review of the legal framework shows how the Tudor co-option of manorial courts for monitoring statutory compliance resulted in a hybrid system of tenurial liability and communal obligation. Broad-based participation was subject to increasing middling-sort assertiveness, and records from Sowerby township testify to precocious funding of maintenance from the constables' rates, supervised by a powerful vestry. Economic activities, such as pastoral agriculture, textile manufacturing, mining and quarrying, and the service sector were significant drivers of road management priorities.

The research argues that manorial and township institutions deserve more recognition for creative and effective solutions to problems of access and connectivity through presentment routines. Success in managing highways in the parish depended on the participation of better-off landholders both as officeholders and in discharging individual and collective obligations for maintenance and cleansing. The institutions of manor and vestry provided legitimacy to the governance of the highways function, and thereby contributed to the resilience of the seventeenth-century state.

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# Abbreviations

CRO	County Record Office
ECHR	Economic History Review
EHR	The English Historical Review
HJ	The Historical Journal
JEH	Journal of Economic History
JTH	Journal of Transport History
NH	Northern History
OED	Oxford English Dictionary
ODNB	Oxford Dictionary of National Biography
OS	Ordnance Survey
SCA	Sowerby constables' accounts
SH	Social History
THAS	Transactions of the Halifax Antiquarian Society
TNA	The National Archives
WCR	Wakefield (manorial) Court Rolls
WRQS	West Riding Quarter Sessions
WYAS	West Yorkshire Archive Service
	WYAS (B) WYAS Bradford
	WYAS (C) WYAS Calderdale
	WYAS (L) WYAS Leeds
	WYAS (W) WYAS Wakefield
YA(H)S	Yorkshire Archaeological (and Historical) Society
YAJ	Yorkshire Archaeological Journal

# Conventions

## Dates

Dates have been modernised, where necessary, to start each calendar year on January 1<sup>st</sup>.

## Spelling

Original spelling in documentary extracts has generally been retained with glosses where appropriate, but note:

‘ff’, ‘u’ and ‘v’ have been altered to modern usage

‘y’ has been converted to ‘th’, where appropriate, e.g., ‘the’ for ‘ye’

Variant spellings of personal and place names are retained as in the original texts. In discussions of officeholding, variant spellings are generally grouped under a single name, cited in the form most commonly found for each individual.

## Transcriptions from documentary text

Capitals have been changed to modern practice, for example, with capitals for personal and place names. Road names still in use are capitalised, but not those which have fallen into disuse: for example, Shelf Hall Lane, but Sow lane.

Palaeographical abbreviations have been converted into full words, except for ampersand and monetary values (£ s d; pounds, shillings, pence).

Latin text is italicised.

Latin or arabic numerals are retained as used in the original texts.

Punctuation has been modernised, where necessary, to avoid unintended ambiguities.

Deletions in the original text are marked by strikethrough, as in ~~Hipperholme~~.

Insertions are represented by <diamond brackets>.

Any words in [square brackets] have been added to clarify meaning.

Query marks within brackets (?) indicate uncertainty.

# Chapter One Introduction

Forasmuch as this court is informed that a payne was imposed upon the inhabitants of Rastrick by Thomas Thornehill Esquire one of his majesties justices of peace within this Westriding for the repaireing of a certaine layne lyeing betwixt Rastrick and Bradley ... and ... that the inhabitants of Fixby were formerly presented in the court leete for the mannour of Brighthouse and a payne imposed upon them to repaire the said way which still dependinge there, this court doth therefore order that ... they proceed upon the paine aforesaid in the courte leete because it had the prioritie.

*Order at West Riding Quarter Sessions, October 1638<sup>1</sup>*

When four West Riding justices, meeting at Halifax in October 1638, insisted on ‘the prioritie’ of the court leet, they were, at one level, merely stating a chronological fact. The dispute between Fixby and Rastrick over the repair of Hey Lane, which constituted the boundary between two townships, had indeed rumbled on for the previous two years, and the manorial jury at Brighthouse had attempted a £2 amercement (fine) against Rastrick for non-compliance twelve months earlier.<sup>2</sup> Evidently encouraged by the Quarter Sessions order, they raised the stakes to a £10 amercement in 1639, after which the bench tried arbitration by two justices – the unpopular Laudian vicar of Halifax, Richard Marsh, and Sir John Ramsden of Elland.<sup>3</sup> Their ruling in 1640 to allocate repair on a four-year cycle (three years by Rastrick and one year by much smaller Fixby) fell foul of civil war, and Rastrick repeatedly brought the same complaint back to the leet.<sup>4</sup> The attempt by Thomas Thornhill, justice and squire of Fixby, to use the Sessions to bounce liability onto neighbouring Rastrick indicates this squabble between neighbouring townships reached into the circles of power. Indeed, the 1638 Sessions had been chaired by Sir William Savile of Thornhill, who, at the age of 26, had become lord of ten sub-manors within the parish of Halifax and deputy lieutenant of the West Riding.<sup>5</sup> Savile’s uncle and patron was no less a figure than Thomas Wentworth, at this point Lord Deputy of Ireland. If a connection with the high politics of ‘Thorough’

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<sup>1</sup> West Riding Quarter Sessions (WRQS) Orders, WYAS (Wakefield), QS/10/1, accessed via <https://www.ancestry.co.uk/> in November 2019. The ‘Mannour of Brighthouse’ refers incorrectly to the Wakefield court leet convening at Brighthouse.

<sup>2</sup> Leeds University Special Collections, Wakefield Manor Court Rolls, YAS/MD225/1/362A, Michaelmas 1636 & Easter 1637; YAS/MD225/1/363A, Michaelmas 1637.

<sup>3</sup> For Marsh, see J.A. Hargreaves, *Halifax* (3rd ed., Lancaster, 2020), pp.74,79; YAS/MD225/1/365A, Michaelmas 1639; WRQS, Order, October 1640, accessed as above.

<sup>4</sup> YAS/MD225/1/374A, Michaelmas 1648; YAS/MD225/1/375A, Michaelmas 1649; YAS/MD225/1/376A, Easter 1651.

<sup>5</sup> J.T. Cliffe, *The Yorkshire Gentry from the Reformation to the Civil War* (London, 1969), p.238.

would be laboured, the importance of the route is beyond doubt. Hey Lane connected carriers and travellers into the standard route between Halifax and London.

The dispute illustrates themes of central importance to this study. It will be shown that the management of highways in the parish of Halifax was subject to the competing claims of customary obligation, statutory procedure and local improvisation. A central focus of the analysis concerns the primacy ('priority') of the courts leet at Halifax and Brighouse in ensuring road repairs and street cleansing prior to the Civil Wars and their retention, thereafter, of considerable authority for much of the network across the sprawling parish, albeit with considerable diversity of administrative practice between townships. Fractious jostling between the Riding's gentry was a mere sideshow to the arrogation of township leadership by men of middling status who used the leet proactively to manage social and infrastructural problems. Moreover, the study offers a fresh perspective on the timing of a later switch in the parish to governance of highways through magistrates, vestries and taxation, which was barely consolidated by the end of the century. Still more ambitiously, the study will suggest linkages between the modalities of local highway management and larger processes of economic development and state formation. A fuller understanding of local road management in the early modern period is only possible, therefore, by bringing related fields of historical research – persistent manorialism, local governance and state formation – to bear on the topic of roads and communications.

A new consensus among economic historians of the period emphasises significant progress in communications and inland trade within England even before the proliferation of turnpikes after 1700.<sup>6</sup> An important historiographical turning-point came with a 1977 article by John Chartres that used carrier schedules on routes between London and the provinces to challenge the myth that inland trade by road was severely constrained before turnpiking.<sup>7</sup> His line of argument has been taken much further by Dorian Gerhold who has demonstrated the effectiveness of the road network in supporting scheduled waggon, packhorse and coach services, albeit with longer journey

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<sup>6</sup> K.E. Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain, 1470-1750* (New Haven, 2000), pp.93-8.

<sup>7</sup> J.A. Chartres, 'Road carrying in England in the Seventeenth Century: myth and reality', *ECHR*, NS, 30, 1 (1977), pp.73-94.

times in winter.<sup>8</sup> Mark Brayshay has highlighted the mobility of both elite and ‘ordinary’ travellers and more efficient postal services across ‘a joined-up realm’ before 1688.<sup>9</sup> While these historians tend to give more attention to connections to the metropolis than on road management at local level, they agree that provincial high roads were usually good enough to support growing traffic albeit in uncomfortable conditions. The geographical imbalance is partly addressed by a well-researched ‘official’ history of Lancashire’s roads and by David Hey’s book on packhorse roads, both of which suggest arrangements for highway maintenance that met requirements in northern counties.<sup>10</sup> The second edition of Hey’s *Packmen, Carriers & Packhorse Roads*, with its attractive photographs of waymarks, stone causeys, and packhorse bridges, is an outspoken celebration of the effectiveness of pre-turnpike highway management. Hey points out that, since packhorses could negotiate even quite poor roads in all weathers, it would have been a waste of resources to have improved roads to the standards of later turnpikes.<sup>11</sup> A similar topographical and economic context applies in large measure to routes in the case study area.

There is, however, a disjuncture between this ‘optimistic’ view of pre-turnpike connectivity and more ‘pessimistic’ perceptions of road maintenance that speak of administrative ineptitude and neglect. To take a recent example:

In 1726, the roads of Britain were mire and muck. A few cobblestoned streets in well-off villages punctuated long stretches of dirt track between towns. Rain-soaked wheel ruts and eroding banks made long-distance travel impossible for considerable periods of the year. Occasionally a peasant dug a hole in the middle of the road to obtain mud to make bricks. If the hole was disguised by rainwater, a traveler’s horse could disappear into it. The courts had only recently declared this practice remediable.<sup>12</sup>

Literary and journalistic accounts of long journeys on rutted or waterlogged roads pepper the enduringly popular works of writers as disparate as Bunyan, Defoe, Fielding

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<sup>8</sup> D. Gerhold, *Carriers and Coachmasters: Trade and Travel before the Turnpikes* (Chichester, 2005), pp.165-6.

<sup>9</sup> M. Brayshay, *Land Travel and Communication in Tudor and Stuart England: Achieving a Joined-up Realm* (Liverpool, 2015).

<sup>10</sup> D. Hey, *Packmen, Carriers & Packhorse Roads: Trade and Communications in North Derbyshire and South Yorkshire* (Leicester, 1980; Ashbourne, 2001); A.G. Crosby (ed.), *Leading the Way: A History of Lancashire’s Roads* (Preston, 1998).

<sup>11</sup> Hey, *Packmen*, p.160, citing T.S. Willan, *The Inland Trade: Studies in English Internal Trade in the Sixteenth and Seventeenth Centuries* (Manchester, 1976), p.4.

<sup>12</sup> J. Guldi, *Roads to Power: Britain Invents the Infrastructure State* (Cambridge, MA, 2012), p.1.

and Dickens.<sup>13</sup> Opinions cited in the single most influential historical work, *The Story of the King's Highway*, part of the Webbs' nine-volume series on English local government, agree on the 'badness of the roads'.<sup>14</sup> Quotations come from Defoe (c.1721), an unnamed projector (1753), Fielding in *Tom Jones* (1749), a letter from Lord Hervey (1736), correspondents to the *Gentleman's Magazine* (1753) and a number of post-1800 sources.<sup>15</sup> The Webbs' research on roads is undoubtedly ground-breaking for its assessment of legislation and data collected from a range of sources. Nevertheless, historians need to appreciate the complexity of seventeenth-century legislation and the overlapping lines of accountability between parishes and regulatory authorities. Nuance and a sensitivity to regional differences have long remained in short supply. A standard textbook from 1965 characterised maintenance arrangements as 'inherently weak ... neither the parishioners nor the Surveyor could be made to give good service ... and the Surveyor himself, who normally had no technical qualifications for the job, was all too vulnerable to selfish pressures.'<sup>16</sup> For Albert, the turnpike chronicler, parish 'repair methods were crude' and 'frequently carried out in a haphazard and ineffectual manner.'<sup>17</sup> A caricature of inefficiency and resistance to statutory procedures ('the utmost remissness') has stuck, serving as a convenient contrast to the excitements of later transport innovations.<sup>18</sup>

Since road management records from parish surveyors and relevant reports by, or for, justices are in short supply before 1700, it is odd that, hitherto, more note has not been taken of the abundance of regulatory action in the lower courts. Emily Cockayne has rightly picked out the role of urban community courts in street cleansing and nuisance control.<sup>19</sup> Her citation of published records from London, Manchester and Southampton alert us to the numerous, and often detailed, cases of individuals being ordered to sweep

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<sup>13</sup> John Bunyan, *The Pilgrim's Progress* (1678); Daniel Defoe, *A Tour Through the Whole Island of Great Britain* (3 vols., 1724-6); Henry Fielding, *The History of Tom Jones, a Foundling* (1749); Charles Dickens, *The Posthumous Papers of the Pickwick Club* (1837).

<sup>14</sup> S. & B. Webb, *The Story of the King's Highway* (London, 1913).

<sup>15</sup> *Ibid.*, p.80 (note to p.71).

<sup>16</sup> H.J. Dyos & D.H. Aldcroft, *British Transport: An Economic Survey from the Seventeenth century to the Twentieth* (Leicester, 1965), p.30.

<sup>17</sup> W. Albert, *The Turnpike Road System in England, 1663-1840* (Cambridge, 1972), p.15.

<sup>18</sup> *Ibid.*, p.15-17; P.S. Bagwell, *The Transport Revolution* (London, 1988).

<sup>19</sup> E. Cockayne, *Hubbub: Filth, Noise & Stench in England 1600-1770* (New Haven, 2007), esp. pp.182-205.

and repair streets and lanes in front of their property or land.<sup>20</sup> Leet jurisdiction is similarly now accepted as a much more significant element within early modern government in rural areas. Research by Walter King, Angus Winchester, Brodie Waddell and John Cruickshank has demonstrated that courts leet, especially but not exclusively in northern counties, were still ‘useful and needful’ into the eighteenth, and even nineteenth, century.<sup>21</sup> Waddell’s survey of English manor courts found that the rate of their ‘decay’, as claimed by the Webbs, ‘may have been considerably overstated’.<sup>22</sup> Total manorial presentments, far from decreasing, remained broadly stable in the early modern period, before falling substantially after 1800. Of particular importance to this study is the change he noted in categories of cases.<sup>23</sup> In broad terms, most crimes against the person and against property had indeed transferred to justices during the sixteenth century, although minor cases of affray were still regularly dealt with at the leet in the study period.<sup>24</sup> The regulation of markets and social behaviour also became less common in leet courts. However, Waddell found that cases of infrastructure increased steadily as a proportion of presentments from just over twenty per cent to nearly sixty per cent between 1550-99 and 1800-49, a fifth of these relating to ‘ways, lanes and paths’.<sup>25</sup> This chimes with Marjorie McIntosh’s earlier work in Havering (Essex) showing a similar trend with ‘roads paths and bridges’ rising from two per cent in 1490-9 to more than fifteen per cent in 1607-17.<sup>26</sup> This study offers an opportunity to explore whether the assiduous attention paid by seventeenth-century

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<sup>20</sup> J.P. Earwaker (ed.), *The Court Leet Records of the Manor of Manchester* (12 vols., Manchester, 1884-90).

<sup>21</sup> For example, W.J. King, ‘Leet jurors and the search for law and order in seventeenth-century England: “Galling persecution” or reasonable justice?’, *Histoire sociale/ Social History*, 13 (1980) pp.305-23; W.J. King, ‘Early Stuart courts leet: still needful and useful’, *Histoire sociale/ Social History*, 23 (1990), pp.271-99; A.J.L. Winchester, *The Harvest of the Hills: Rural Life in Northern England and the Scottish Borders, 1400-1700* (Edinburgh, 2000); C.W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2010); B. Waddell, ‘Governing England through the manor courts, 1550-1850’, *HJ*, 55, 2 (2012), pp.279-315; J. Healey, ‘The northern manor and the politics of neighbourhood: Dilston, Northumberland, 1558-1640’, *NH*, (2014) 5, 2, pp.221-41; J.L. Cruickshank (2017) ‘Courts leet, constables and the township structure in the West Riding, 1540-1842’, *NH*, 54:1, pp.59-78.

<sup>22</sup> S. Webb & B. Webb, *The Manor and the Borough*, Pt.1 (London, 1908), p.31; Waddell, ‘Governing England’, p.300.

<sup>23</sup> Waddell, ‘Governing England’, pp.301-6.

<sup>24</sup> Brooks, *Law, Politics and Society*, p.269; C. Harrison, ‘Manor courts and the governance of Tudor England’ in C.W. Brooks & M. Lobban (eds.), *Communities and Courts in Britain 1150–1900* (London, 1997), pp.43–59 (pp.43-4).

<sup>25</sup> Brooks, *Law, Politics and Society*, pp.291, 302-6.

<sup>26</sup> M.K. McIntosh, *A Community Transformed: The Manor and Liberty of Havering, 1500-1620* (Cambridge, 1991), Table 5.2, pp.306-7. The figures for roads, etc. are: 1490-9, 1.9 cases per session out of 94.1 (2.0%); 1607-17, 1.6 out of 10.4 (15.4%).

manorial courts to local highways should be seen as a negative or positive influence on maintenance and connectivity.

An underlying problem for integrating these fields of enquiry may be the challenge of placing highway governance within the mainstream of early modern government. While all roads and streets are of local concern, rather fewer have regional, let alone national, significance, and it is therefore tempting in any era (and in any country) to relegate their upkeep to the backwaters of ‘local history’. Nevertheless, such an assumption needs to be revisited in the light of more subtle theories of the state in recent years. Patrick Collinson’s tripartite typology of what ‘may be called ... village republics, gentry republics and ... the commonwealth of England’ elegantly expressed dissatisfaction with excessive emphasis on central institutions.<sup>27</sup> He spoke of ‘overlapping, superimposed communities which were also semi-autonomous, self-governing political cultures.’ Phil Withington has written compellingly of ‘the politics of commonwealth’ within the context of chartered towns, raising questions about the extent and nature of political discourse in unincorporated, industrialising areas.<sup>28</sup> Political agency was by no means limited to towns: Goldie’s essay on the ‘unacknowledged republic’ of officeholders in parish, town and county is crucial for the discussion of manorial participation in Chapter Four.<sup>29</sup> The work of Steve Hindle and Michael Braddick has transformed the theoretical underpinnings of the early modern English state.<sup>30</sup> Both eschew the idea of ‘state-building’, a process imposed on localities by the political centre, for the more elastic concept of state formation.

Hindle’s aims, set out in the preface to *The State and Social Change*, are to discuss ‘the development of the English state as a matrix of institutions, personnel, political theory and culture, in which the law functioned at both the centre and at the periphery not only as an agency of government but also as a resource on which the populace might draw.’<sup>31</sup> The emphasis is on the flexibility of governance and the agency of local people and

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<sup>27</sup> P. Collinson, ‘*De Republica Anglorum*: Or, history with the politics put back’, reprinted in *Elizabethan Essays* (London, 1994), p.16.

<sup>28</sup> P. Withington, ‘Two Renaissances: urban political culture in Post-Reformation England reconsidered’, *HJ*, 44, 1, (2001), pp. 239-67; P. Withington, ‘Public discourse, corporate citizenship, and state formation in Early Modern England’, *The American Historical Review*, 112, 4 (2007), pp.1016-38.

<sup>29</sup> M. Goldie, ‘The unacknowledged republic: officeholding in early modern England’, in T. Harris (ed.), *The Politics of the Excluded, c.1500-1850* (Basingstoke, 2001), pp.153-94.

<sup>30</sup> Hindle, *State and Social Change*; M.J. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge, 2000).

<sup>31</sup> Hindle, *State and Social Change*, pp. ix-x.

institutions, thereby referencing his debt to Wrightson's work on middling-sort officeholders in the localities.<sup>32</sup> Hindle memorably suggests that the state and society 'interpenetrated' each other, that there was continuous restructuring of the state and that governance should be conceived as 'a process, a series of multilateral initiatives to be negotiated across space and through the social order'.<sup>33</sup> His emphasis is both experiential and performative: 'the state was a claim to authority' which reflected three 'social and political characteristics of the empowered community': widespread participation, incorporation into the state and internalisation of its values, and respect for the 'forms and rhetoric of the law'.

Braddick's endpoint of 1700 (compared with 1640 for Hindle) enables him to include the acceleration of administrative change under the later Stuarts, especially in relation to military power, taxation and imperial expansion. His focus on the nature of political power and its response to political and social challenges employs a definition of the state as 'a coordinated and territorially bounded network of agencies exercising political power'.<sup>34</sup> He argues that 'the early modern polity' differs from the modern one not through the absence of a state but through the 'specific forms of political power embodied in the state'; local officeholders exercised political power and were, therefore, part of a territorially bounded, centrally co-ordinated network of offices.<sup>35</sup> Braddick set three yardsticks with which to measure legitimacy in exercising political power: legal validity, the 'justifiability of the regime in terms of the beliefs and values current in the given society; and the evidence of consent derived from actions taken to be expressive of it'.<sup>36</sup> It will be argued here that action taken to secure road repairs can indeed be studied as aspects of governance on the part of vibrant social, political and economic communities, exploiting a manorial institution which was wired into the 'network' of the state.

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<sup>32</sup> K.E. Wrightson, *English Society 1580-1680* (London, 1982); K.E. Wrightson, 'Estates, Degrees, and Sorts: Changing Perceptions of Society in Tudor and Stuart England' in P.J. Corfield (ed.), *Language, History and Class* (Oxford, 1991), pp.30-52; K.E. Wrightson, 'The politics of the parish in early modern England', in P. Griffiths, A. Fox, & S. Hindle (eds.), *The Experience of Authority in Early Modern England* (Basingstoke, 1996), pp.10-46.

<sup>33</sup> Hindle, *State and Social Change*, pp.19-23.

<sup>34</sup> Braddick, *State Formation*, p.9.

<sup>35</sup> *Ibid.*, p.17.

<sup>36</sup> *Ibid.*, p.69.

The upkeep of roads and communications (whose separate historiography has been surveyed above) had been the responsibility of local government since medieval times but has rarely taken centre stage in studies of the development of government in early modern England. There has been no study on a national scale of the office of surveyor to match that for constables and few integrated accounts to match the vibrant scholarly and local literature on social welfare and overseers of the poor.<sup>37</sup> Fletcher's discussion of petty sessions in Lancashire lends some credence to the possibility that justices may have been proactive about highway matters from the later seventeenth century, but infrastructure is not selected for deeper analysis under the heading of 'enforcement of policy'.<sup>38</sup> Joan Kent observed perceptively that successive legislation in the later seventeenth and early eighteenth centuries transformed the role and powers of surveyors and the system of accountability to justices.<sup>39</sup> This thesis will, therefore, provide new perspectives, drawing on a large corpus of seventeenth-century data to clarify the interplay between manorial courts, township officeholders and justices in managing local roads. The findings will suggest the leet's role was much more significant and multi-faceted than previously appreciated. The manorial courts leet for the parish held, and further developed, their authority for this function, at least in the study area, until the later seventeenth century, when control through township vestries became the norm. Since no study of comparable scope has been carried out, these findings remain to be tested against research in other regions and localities. But it is argued that, in themselves, they offer significant contributions in more than one field of historical enquiry. As the analytical chapters will attempt to show, the workings of this local system bear witness to important processes of change in addition to increasing our knowledge of transport infrastructure. Developments in the law, the assertion of middling-sort identity and changes in local governance in a period of great social,

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<sup>37</sup> J.R. Kent, *The English Village Constable, 1580-1642: A Social and Administrative Study* (Oxford, 1986). The most comprehensive accounts of poor relief in this period are: S. Hindle, *On the Parish?: the Micro-Politics of Poor Relief in Rural England, c.1550-1750* (Oxford, 2004) and K.D.M. Snell, *Parish and Belonging: Community, Identity and Welfare in England and Wales, 1700-1950* (Cambridge, 2006). An overview of the historiography of poor relief is given in N. Tadmor, 'The settlement of the poor and the rise of the form in England, c.1662-1780', *Past & Present*, 236 (2017), pp.43-96 (p.46, n.8).

<sup>38</sup> A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven, 1986), pp.125-6; Fletcher focuses on poor relief, behaviour and the militia, chs.6-8.

<sup>39</sup> J.R. Kent, 'The centre and the localities: state formation and parish government in England, circa 1640-1740', *HJ*, 38, 2 (1995), pp.363-404 (pp.379-80).

economic, and political change demand a more sophisticated understanding of the delivery of the highways function through a network of state agencies.

The analysis combines elements of micro-history, especially in its concern with the experience of social and economic change in a single area over an extended period, with the sharper focus of a single function within local governance. Thematic colour is added by the varied economic, social and topographical characteristics of the townships that shaped the practices adopted. The choice of Halifax parish as a study area and of the stated time parameters is based principally on the survival of surprisingly generous seventeenth-century documentary sources, owing much to the work of learned societies and the antiquarian instincts of successive local historians, ever since the pioneering history of the parish by Rev. John Watson.<sup>40</sup> Of overriding importance to this study is the Wakefield court rolls series, whose paper records between 1561 and 1700 (almost continuously from 1605) include some 6,000 highway presentments on ‘bills’ submitted by no less than nineteen of the twenty-one parish townships attending the Halifax and Brighouse courts leet.<sup>41</sup> The concurrence of parchment and paper records is unrivalled in this period for condition, continuity and jurisdictional extent. The seven volumes of transcribed Wakefield court rolls for the seventeenth century, published between 1977 and 2015, broke new ground by incorporating material from paper ‘bills’ submitted by township constables, recording not just cases where penalties (‘ameracements’) were imposed, but the much more numerous orders and bylaws (‘pains’) lodged against individuals, groups and townships.<sup>42</sup> The second important source is the constables’ account book for Sowerby, a large township within the parish stretching westwards to

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<sup>40</sup> John Watson, *The History and Antiquities of the Parish of Halifax in Yorkshire* (London, 1775).

<sup>41</sup> Paper ‘drafts’ of Manor of Wakefield court rolls, Leeds University Special Collections, YAS/MD225/1/287A (1561) to YAS/MD225/1/425A (1699). In the study period, Soyland was a ‘quarter’ within Sowerby and Rishworth-cum-Norland was a single township. Southowram and Elland-cum-Greetland were outside the manor: M.L. Faull, & S.A. Moorhouse (eds.), *West Yorkshire: An Archaeological Survey to A.D. 1500* (Wakefield, 1981).

<sup>42</sup> The more inclusive format was first adopted in C.M. Fraser & K. Emsley, *The Court Rolls of the Manor of Wakefield, from October 1639 to September 1640* (Leeds, 1977), see pp. xxiii-xxvii. For convenience, when cited in this thesis, the published books are cited in the format WCR [dates], e.g. WCR 1639/40. The other seventeenth-century Wakefield court rolls transcribed and published by the Yorkshire Archaeological & Historical Society are: Vol.5 C.M. Fraser & K. Emsley (eds.), *The Court Rolls of the Manor of Wakefield, from October 1664 to September 1665* (Leeds, 1986); Vol.8 L. Robinson (ed.), *The Court Rolls of the Manor of Wakefield from 1651 to 1652* (Leeds 1990); Vol.11 C.M. Fraser (ed.), *The Court Rolls of the Manor of Wakefield for 1608/9* (Leeds, 1996); Vol.13 C.M. Fraser & K. Emsley (eds.), *The Court Rolls of the Manor of Wakefield from September 1687 to September 1688* (Leeds, 2002); Vol.14 C.M. Fraser (ed.), *The Court Rolls of the Manor of Wakefield from October 1688 to September 1689* (Leeds, 2004); Vol.18 D. Asquith (ed.), *The Court Roll of the Manor of Wakefield from 15 October 1658 to 16 September 1659* (Leeds, 2015).

the important Pennine pass at Blackstone Edge; these run intermittently from 1628 to the end of the century, including some wartime years in the 1640s when the manorial courts were interrupted.<sup>43</sup> Still in its original leather binding, the book has lost some data to damaged page edges and constables vary in the level of detail they record, but only one other comparable set survives from any Yorkshire Riding before 1650.<sup>44</sup> The unusual concurrence of these two sources provides profuse details of manorial office holders, people and stretches of road in need of repair and, in Sowerby, the amounts spent on road maintenance. Names can be cross-referenced with more familiar data series such as hearth taxpayer lists and probate inventories to place individual officeholders within their social milieu. By happy circumstance, these two data sources shed considerable light on maintenance arrangements from the late sixteenth century and continue through to 1700, thus covering the impacts of both the initial Tudor legislation and statutory revision under the later Stuarts.

The scarcity of contemporary local records for many counties is not unique to highway management in this period but is particularly frustrating given decentralisation of the responsibility. Itemised surveyors' accounts at parish or township level are rare before 1700 in any part of England and, in the parish of Halifax, remain sparse until 1750.<sup>45</sup> Quarter Sessions highway records (petitions, indictments and orders) survive in some counties before the Civil Wars, but only become common from the Restoration. For the West Riding, an isolated Quarter Sessions roll for the years 1597 to 1602 was transcribed and published by the Yorkshire Archaeological and Historical Society, as well as some orders and indictments between 1611 and 1632.<sup>46</sup> From 1637, Quarter Sessions documentation survives continuously for the West Riding apart from the years of the First Civil War. The records contain numerous references to townships and individuals for highways in disrepair, but, intriguingly, only a handful concern the large parish of Halifax. Systematic study of highway matters raised in Quarter Sessions in

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<sup>43</sup> WYAS(C) SPL:143 Sowerby constables' accounts (SCA, 1628-1715), discussed at length in Ch.5.

<sup>44</sup> The other set, Borthwick Institute, Millington (East Riding) PR/MIL/10 (1618-1713), is continuous but records no highway maintenance expenditure.

<sup>45</sup> The earliest itemised surveyors' accounts from the parish are from Heptonstall (WYAS (C), HPC/A:1, Town book, 1716-37) and Langfield (WYAS (C), TT:101-9, Surveyors' accounts, 1723-61).

<sup>46</sup> *West Riding Sessions Rolls, 1597/8-1602, Prefaced by Certain Proceedings in the Court of the Lord President and Council of the North, in 1595*, ed., J. Lister, (YAS Record Series, 3, 1888); *West Riding Sessions Records, Vol.II: Orders, 1611-1642, Indictments, 1637-1642*, ed., J. Lister (YAS Record Series, 54, 1915); West Riding Quarter Sessions (WRQS), Orders & Indictments (1637-1700), accessed via <https://www.ancestry.co.uk> in 2017-21.

any county is still awaited: David Lemmings noted roads and bridges fell within ‘the unexciting (and relatively understudied) administration’ by justices of local infrastructure.<sup>47</sup> The diaries of travellers such as Fiennes and Defoe are useful as both record journeys on horseback through the parish via Blackstone Edge, but it is only in the second half of the eighteenth century that more ‘plebeian’ diarists mention statutory labour on roads in the turnpike era.<sup>48</sup> Only a few notebooks from individual magistrates actively involved in administration survive from the mid-eighteenth century.<sup>49</sup> It is, therefore, fortunate that the formal and paper manorial records for the manor of Wakefield have been safeguarded so well, first by the Yorkshire Archaeological and Historical Society and latterly by the University of Leeds.

The time parameters encompass the first statute of 1555 and the significant standardisation of the 1692 Highway Act, which reformulated the duties of surveyors and regularised highway rates and special sessions. While an end date of c.1700 coincides happily with the two main documentary series, it necessarily excludes the impacts of pioneering transport initiatives for the area such as the Aire and Calder Navigation, first mooted in a failed parliamentary petition in 1621, approved by statute in 1699 and opened to Leeds and Wakefield in 1700; the first Transpennine turnpike act in 1735 for the route linking Rochdale with Halifax and Elland; the first Transpennine canal, the Rochdale canal, completed in 1804; and the first Transpennine railway from Rochdale to Normanton in 1839.<sup>50</sup> The most distinctive works of relevance to the study’s period and economic focus are the micro-histories by Tupling for Rossendale

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<sup>47</sup> D. Lemmings, *Law and Government in England During the Long Eighteenth Century: From Consent to Command* (London, 2011), p.25.

<sup>48</sup> Celia Fiennes, *The Illustrated Journeys of Celia Fiennes 1685-c.1712* (2<sup>nd</sup> ed., C. Morris, Stroud, 1995), p.183; Daniel Defoe, *A Tour Through the Whole Island of Great Britain* (1724-6), eds., G.D.H. Cole & D.C. Browning (London, 1962, repr. 1983), Vol.3, pp.63-7. For later diaries, see: *The Diary of Isaac Fletcher of Underwood, Cumberland 1756-1781* (A.J.L. Winchester (ed.), Kendal, 2001); M. Hartley et al. (eds.), *Alexander Fothergill and the Richmond to Lancaster Turnpike Road: the diary and other documents* (Northallerton, 1985); *The Diaries of Cornelius Ashworth 1782-1816* (R. Davies, A. Petford & J. Senior (eds.), Hebden Bridge, 2011).

<sup>49</sup> Walter Calverley, ‘Memorandum Book’ in S. Margerison (ed.), *Yorkshire Diaries & Autobiographies in the Seventeenth and Eighteenth Centuries*, (Surtees Society, 77, 1883); *Justice in Eighteenth-Century Hackney: The Justicing Notebook of Henry Norris and the Hackney Petty Sessions book 1730-53* (R. Paley (ed.), London, 1991), accessed on line March 2019, via <https://www-british-history-ac-uk.ezproxy.lancs.ac.uk/london-record-soc/vol28>; *The Justicing Notebook (1750-64) of Edmund Tew, Rector of Boldon* (G. Morgan & P. Rushton, eds., Woodbridge, 2000).

<sup>50</sup> R.W. Unwin, ‘Aire and Calder Navigation, Pt.1: the beginning of the navigation’, *The Bradford Antiquary*, NS, 9 (1976), pp.53-85; 8 Geo. II c.7; W. Albert, *The Turnpike Road System in England, 1663-1840* (Cambridge, 1972), p.47; C. Hadfield, *The Canals of Yorkshire and North East England*, Vol.1, (Newton Abbot, 1972); D.N. Taylor, *Hebden Bridge and the Railway in the Nineteenth Century* (Hebden Bridge, 2019), p.9ff.

(Lancashire), Hey for Hallamshire (West Riding), and, most relevantly, John Swain for north-east Lancashire, which all connect patterns of land tenure and economic development.<sup>51</sup> Also to the point are Wrightson and Levine's studies of Whickham (Northumberland) and arable Terling (Essex), the first for its detailed contextualisation of coal mining and the second for its thoroughness in identifying the rise of the middling sort and the effects on local governance of puritan activism.<sup>52</sup> An important question for this study is the extent to which the social restructuring evident in Whickham and Terling is applicable to Halifax and how that may have shaped approaches to highway administration.

The study gains depth from diversity of geology and economic activity and the scale of the study area.<sup>53</sup> The parish stretches across the Pennine gritstone uplands, the town being sited close to a fault to the east of which are the coal-bearing measures of the Yorkshire coalfield. The parish was criss-crossed by routes linking Halifax with towns in north-east and south-east Lancashire as well as other parts of the West Riding (Map 1.1). The route from Halifax through Rochdale and Manchester to the Atlantic ports was of particular importance, linking the town to one of Ogilby's roads and becoming the first turnpiked route across the Pennines in 1735; a second route ran north-south from Craven through the town and onwards to Barnsley and London.<sup>54</sup> Most roads in the parish provided mobility by horse and on foot, but not for the wagons and coaches that had, by the 1650s, become increasingly common on roads radiating from London, reaching both York and, possibly, Wakefield.<sup>55</sup> The development of a vigorous textile industry by 1600 was a remarkable success for an area that relied on packhorse transport for wool supplies and carriage of finished 'kersies' to market.<sup>56</sup> The

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<sup>51</sup> G.H. Tupling, *The Economic History of Rossendale* (Manchester, 1927); J.T. Swain, *Industry before the Industrial Revolution: North-east Lancashire, c.1500-1640* (Manchester, 1986); D. Hey, *The Fiery Blades of Hallamshire: Sheffield and its Neighbourhood, 1660-1740* (Leicester, 1991).

<sup>52</sup> D. Levine & K.E. Wrightson, *The Making of an Industrial Society: Whickham 1560-1765* (Oxford, 1991); K.E. Wrightson & D. Levine, *Poverty and Piety in an English Village, Terling 1525-1700* (2nd ed., Oxford, 1995).

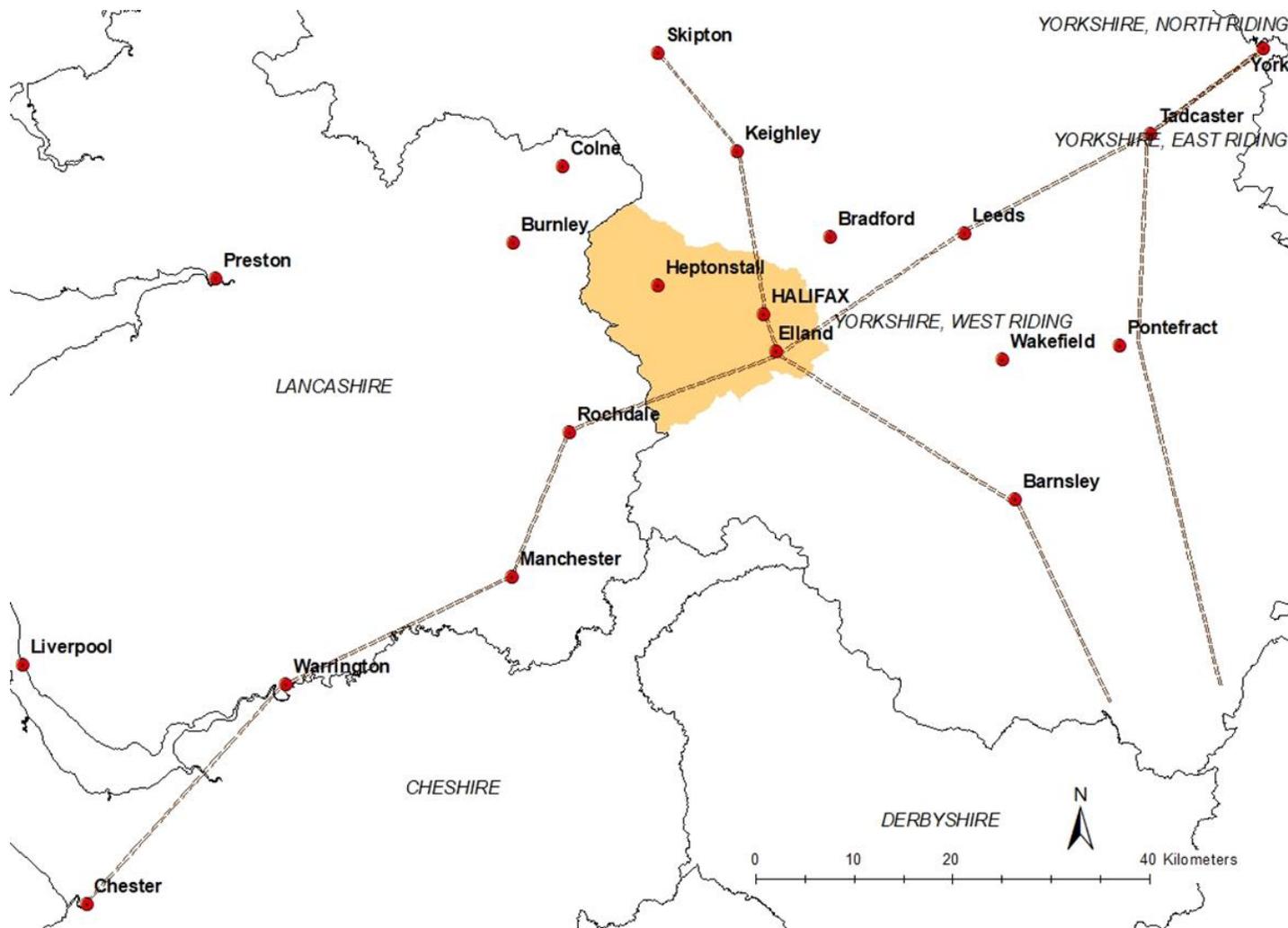
<sup>53</sup> The landscape and geology of the area are discussed in Faull & Moorhouse (eds.), *Archaeological Survey*; M.T. Wild, 'The Yorkshire Wool Textile Industry' in J.G. Jenkins (ed.), *The Wool Textile Industry in Great Britain* (London, 1972), pp. 185-234; N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, Oxford, 2014).

<sup>54</sup> John Ogilby, *Britannia* (London, 1675), pl.89, 'The road from York to West-Chester'.

<sup>55</sup> W.B. Crump, 'Ancient Highways of the Parish of Halifax', Pts. I-IX, *THAS* (1924-8); Gerhold, *Carriers and Coachmasters*, pp.197-8.

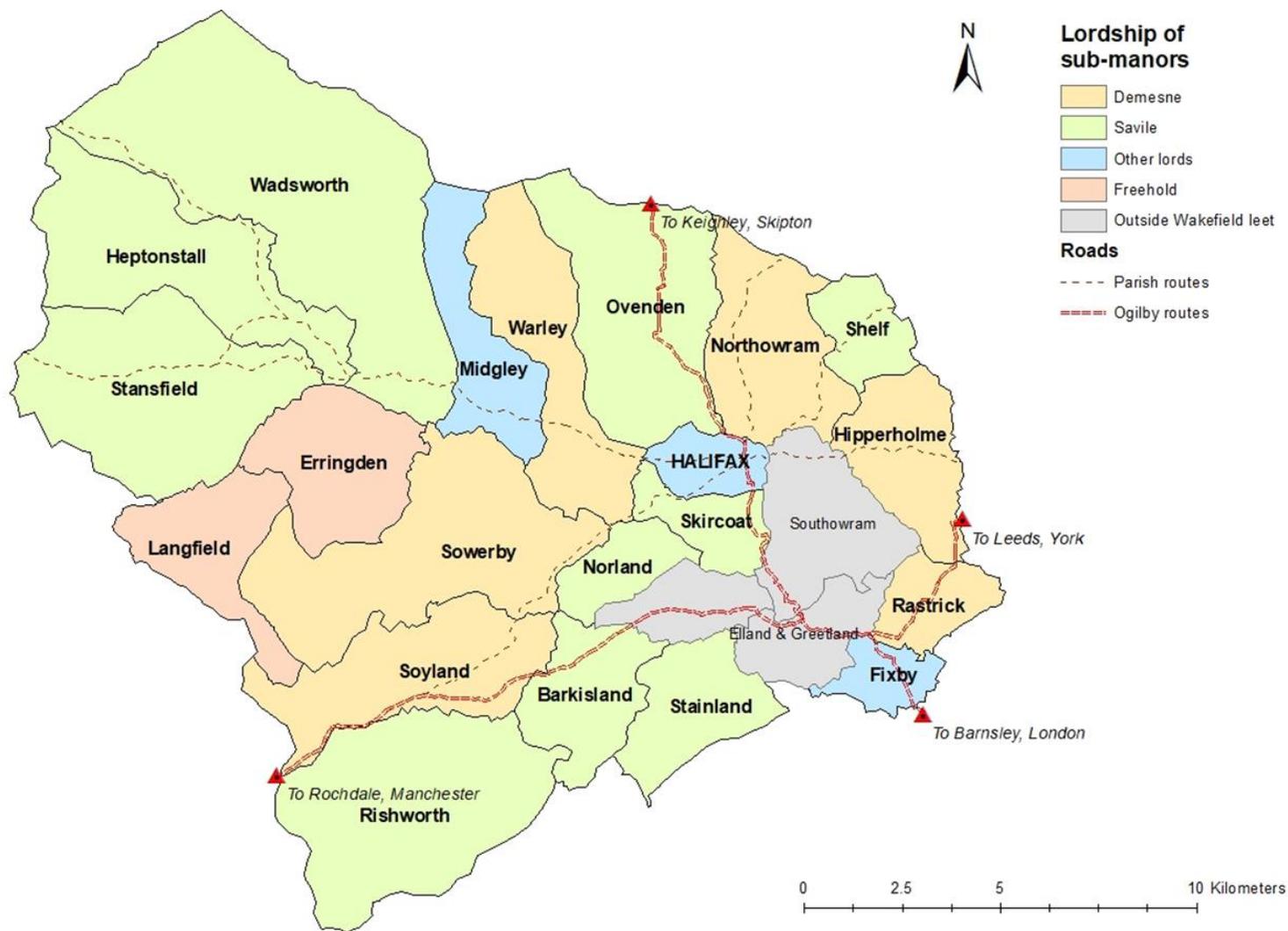
<sup>56</sup> H. Heaton, *The Yorkshire Woollen and Worsted Industries: From the Earliest Times up to the Industrial Revolution* (Oxford, 1920); Gerhold, *Carriers and Coachmasters*.

Map 1.1 *Halifax parish, major towns in northern England and Ogilby's roads, c.1675.*



Note: Ogilby roads through the parish are shown schematically, as well as the section of the Great North Road from York to Tadcaster and the south.

Map 1.2 *Halifax parish, showing sub-manor lordship, the court leet boundary and selected main routes, c.1650.*



River Calder and its tributaries cut through steep-sided, wooded and marshy valleys; much of the earliest and best agricultural land lay on gently-shelving terraces between 150-250m a.s.l. Settlements were generally scattered but with moderate clustering (50-100 housing units, 200-500 inhabitants) at Heptonstall, Sowerby, Ovenden, Northowram, Brighouse and (outside the manor of Wakefield) the small market centre of Elland.<sup>57</sup> Halifax was the only town, its population peaking at more than 4,000 inhabitants in the 1630s, providing markets, cloth finishing, the parish church, alms houses and the Moot Hall where the court leet met.<sup>58</sup>

The parish of Halifax fell almost entirely within the large manor of Wakefield, which had been granted to the Warenne family in the twelfth century, before reverting to crown control after the failure of the male line in the fourteenth century (Map 1.2).<sup>59</sup> It was administered by the Duchy of Lancaster from 1558 to 1629.<sup>60</sup> The manor then passed to the earl of Holland in settlement of a debt owed by Charles I and a succession of landlords thereafter. These rentier landlords had no seat in the parish and exerted no discernible influence at the courts leet in Halifax and Brighouse. Two townships in the Honor of Pontefract, Southowram and Elland-cum-Greetland, were originally held by the Lacy family, rivals of the Warennes. Parts of the Wakefield lordship had long been sub-infeudated to inferior lords. The Saviles of Thornhill, near Dewsbury, owned fourteen 'sub-manors' by the mid-seventeenth century, eleven of these being within the parish of Halifax. The sub-manors of Halifax, Midgley and Fixby belonged respectively to the non-resident Ingrams of Temple Newsam, and the resident Farrers and Thornhills. Halifax-cum-Heptonstall was sold by the Waterhouse family to Sir Arthur Ingram in 1609, who sold Heptonstall to Charles Greenwood, rector of Thornhill in 1616, from whom it, too, passed to the Saviles in 1643. Rather less than half of the manor's extent

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<sup>57</sup> Smith, *Patterns in the Landscape*, pp.10ff.

<sup>58</sup> The town's population was estimated at 4,750 in 1630, declining to 3,000 by 1650, in B. Atack, I. Bailey, J. Page & C. Ray, 'The people of the parish of Halifax, 1539 to 1670: parish registers and the reconstruction of the population' in N. Smith (ed.), *History in the South Pennines: the Legacy of Alan Petford* (Hebden Bridge, 2017).

<sup>59</sup> M.J. Ellis, 'A study in the manorial history of Halifax parish in the Sixteenth and Early Seventeenth Centuries', Pt.1, *YAJ*, 40 (1960), pp.250-64 (pp.253-4).

<sup>60</sup> R. Somerville, *History of the Duchy of Lancaster* (Vol.1, London, 1953), p.302.

was held in demesne, divided into twelve unequal ‘graveships’.<sup>61</sup> Graves for Sowerby, Hipperholme and Rastrick supported land management in the five demesne townships in the parish of Halifax.<sup>62</sup> The land in two western townships, Langfield and Erringden, was owned almost entirely by freeholders during the study period and held no courts baron.<sup>63</sup> Lordship control outside the demesne lands was relatively weak with extensive freeholds and subtenancies. The court leet was, therefore, much less susceptible to direct seigneurial control and better able to express the concerns and rivalries of independently minded yeomen, holding combinations of freehold, copyhold and leased land. The parish was never monochromatic, and the palette of colours lent a richness to the range of matters brought to leet and to the strategies used to manage resources and infrastructure.

While the current research is the first modern scholarly study of the development of highway management in the parish before 1700, acknowledgement is due to local and regional historians who have recognised important stages in the development of parish roads. The series of articles by William Bunting Crump on roads in the parish, supplemented by other local historians, was a *tour de force*, identifying with reasonable certainty the course of its ‘ancient’ roads.<sup>64</sup> He was the first to appreciate the value of the Sowerby constables’ accounts in terms of road maintenance, noting the replacement of statute labour by payments for labour and materials.<sup>65</sup> Recognition of the leet’s role in managing highways was also explored in two late twentieth-century history projects led by Bernard Jennings for the WEA in the Upper Calder Valley and Todmorden.<sup>66</sup> These, together with the research of Martha (Ellis) Francois, Alan Betteridge, Alan Petford, and John Hargreaves, the modern historian of Halifax, made important breakthroughs in highlighting the connections between manor and county, church and

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<sup>61</sup> ‘Graveship’, the area administered by a ‘grave’ or greave, an officer serving by rote to assist in land administration: *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013).

<sup>62</sup> Sowerby graveship included Warley; Hipperholme included Northowram.

<sup>63</sup> M. & F. Heywood & B. Jennings, *History of Todmorden* (Otley, 1996), p.19; *The Wakefield Manor Book 1709* (J. Charlesworth (ed.), Leeds, 1939, reprinted Cambridge, 2013); B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Otley, 1992), esp. chs.3 & 6.

<sup>64</sup> W.B. Crump, ‘Ancient Highways of the Parish of Halifax’, Pts. I-IX, *THAS* (1924-8); see also articles in *THAS* by B. Gledhill, E.W. Watson and D. Haigh (listed in the bibliography).

<sup>65</sup> Crump, ‘Sowerby Highways’, pp.13-15.

<sup>66</sup> Jennings, *Pennine Valley*, pp.59-61; Heywood et al., *Todmorden*, p.38.

chapel, yeoman and clothier that inform the distinctive character of the area.<sup>67</sup> More recently, there have been excellent doctoral studies by Nigel Smith on landscape and settlement and Hywel Lewis on woodlands and associated trades.<sup>68</sup> Ronan Bennett's dissertation on the control of law and order in 'revolutionary' Halifax is close in topic and period to the current study but much of his focus is on crime and punishment, Quarter Sessions and Assizes. His framing of leet jurisdiction as 'almost feudal' is at odds with the participative nature of manorial regulation in more recent research.<sup>69</sup> Painstaking work by local history groups has produced transcriptions of probate documents at the end of the century for many townships (see Chapter Six), while John Cruickshank has clarified jurisdictional complexities across the Riding of critical importance to a study of governance.<sup>70</sup>

The first step in the study is a fresh review of the evolving legal framework for highways during the study period (Chapter Two). The underlying theme is the intersection of manorial custom and statutory procedure. The analysis constitutes a critical re-assessment of the requirements of successive statutes between 1555 and 1697, highlighting the delegation to courts leet of statutory duties for highway repairs, while retaining long-established routines for managing nuisances and free passage on streets and roads. It will be shown that the principle of township responsibility, exercised through the constable and accountable to the leet, both predated the Tudor statutes and remained potent, even where highway surveyors were appointed. Evidence from the court leet is used to question the assumption that the appointment of highway surveyors and unpaid workdays on the highways ('statute labour') determined the quality of road management. While the legislative chronology has been examined before, notably by the Webbs and, more recently, by Mark Brayshay, this part of the study draws together evidence that individual and collective obligation, embedded in tenure of land and property, may have had as much significance for local highway

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<sup>67</sup> Ellis, 'Manorial History'; M. (Ellis) Francois, 'The social and economic development of Halifax 1558-1640', 11, *Proceedings of the Leeds Philosophical & Literary Society* (1966), pp.217-80; A. Betteridge, 'Halifax before the Industrial Revolution: A study of local administrative records', Pts 1-2, in *THAS* (1978-9); J.A. Hargreaves, *Halifax* (3rd ed., Lancaster, 2020).

<sup>68</sup> N. Smith, 'Settlement and field patterns in the South Pennines: a critique of morphological approaches to landscape history in upland environments', (PhD thesis, Lancaster, 2013, published by BAR, 2014); H. Lewis, 'Interactions between human industry and woodland ecology in the South Pennines (unpublished Ph.D. thesis, Bradford, 2019).

<sup>69</sup> Bennett, 'Enforcing the law', p.72.

<sup>70</sup> For probate documents, see Ch 6; Cruickshank, 'Courts leet'; J.L. Cruickshank, 'Sheriff's tourns, wapentakes and the liberties of the West Riding', *NH*, 57:1 (2020), pp.1-21.

management as statutory conformity.<sup>71</sup> Responsiveness to the concerns of small communities may explain not only the initial co-option of manorial courts to police the Tudor statutes but also their ability to retain skin in the game long after parishes and turnpike trusts had boosted levels of investment on most major, and many minor, highways.

After clarification of the hybrid nature of the legal framework and patchy implementation of the statutes, Chapter Three focuses on regulatory matters brought by townships to the courts leet at Halifax and Brighouse. The leet's role was to register presentments brought by township constables in the form of 'pains' (bylaws and orders) and to impose 'ameracements' (fines) for nuisances and failures to repair. Statistical analysis uncovers fluctuations in levels of highway presentments and shifts in the categories of action over time in order to characterise the priorities and management strategies adopted by different townships. Similarities of approach serve to define clusters in each court besides the special case of Halifax town itself, and these clusters are then used in the following chapters for comparison in terms of social participation, literacy and economic development. The study will explore characteristic highway management practices brought by townships to the leet, such as announcing executive action on roads inside the township and demanding roads repairs by neighbouring townships. Practice in the Wakefield leet was often transactional, rather different to the standing bylaw lists for seasonal hedging and managing stock found by Winchester in manorial courts further to the north.<sup>72</sup> The leet could be used to mandate minor or major bridge repairs and for allocating repairs of specified sections of road to individual householders. The executive dimension of leet activity, underplayed (outside the agricultural sphere) by historians of rural manorialism, resembles the approach taken in Manchester, where 'bylawemen' and other officers reported to the jury on specific action needed for paving, conduits and drains.<sup>73</sup>

Statistical analysis of manorial court records has involved careful methodological steps and innovative use of ArcGIS software to map location and frequency in maintenance

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<sup>71</sup> Webbs, *King's Highway*, pp.14-26; Brayshay, *Land Travel*, pp.29-43; A. Cooper, *Bridges, Law and Power in Medieval England, 700-1400* (Woodbridge, 2006); A. Cooper, 'Once a highway, always a highway: roads and English law, c.1150-1300' in V. Allen & M. Evans (eds.), *Roadworks: Medieval Britain, Medieval Roads* (Manchester, 2016).

<sup>72</sup> Winchester, *Harvest of the Hills*, Appendix 1, pp.152-75.

<sup>73</sup> Earwaker, *Courts Leet Records*, passim.

by type of action taken.<sup>74</sup> The categorisation of manorial offences uses a more inclusive definition of highway-related offences than that of Waddell by including in statistical counts nuisances on, or adjacent to, roads and orders to prevent people making a way over enclosed ground.<sup>75</sup> If this tends to inflate totals for highway cases at the leet, it should be noted that many orders to repair drains and gates have been excluded because they make no mention of a highway, even though highway protection may have been the underlying motive. Categorisation was carried out logging presentments onto spreadsheets, a process which was inevitably skewed to the catch-all ‘repair’ category for cases where the only linguistic clue given is an instruction to ‘repair’ or ‘amend’. The use of GIS mapping to convey both location and frequency adds depth to the presentment profiles of township clusters, most especially in the contrast between the cloth-making areas to the west of the town and the mining and quarrying townships to the east. Continuity of place names between the manorial records and the 1850s First Series Ordnance Survey maps is a boon which, together with township polygons from Kain and Oliver, facilitates mapping in ArcGIS to draw out geographical changes in priority.<sup>76</sup> Less than ten per cent of locations used in the maps are speculative or uncertain, even when allowance has been made for unstable spelling in the records and name changes over time. Inevitably, a longitudinal analysis of voluminous material is vulnerable to errors of assumption, fact and identification, although iterations of error checking have altered few of the main findings. Nevertheless, the conjunction of source materials and GIS techniques offers a rare chance to combine geographical precision and individual agency within a network of social, economic and administrative relationships.

The next three chapters focus on changes to highway governance at a time of political turbulence and economic change. Chapter Four discusses the role of participation and township leadership, Chapter Five is a case study of the early use of taxation for highway repairs, and Chapter Six uncovers the economic rationale behind different patterns of road management in the townships studied. Wrightson, Hindle and others

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<sup>74</sup> ArcGIS 10.8 (2020), ESRI corporation.

<sup>75</sup> Waddell, ‘Governing England’, pp.291-2.

<sup>76</sup> R.J.P. Kain & R.R. Oliver, *Historic Parishes of England and Wales: An Electronic Map of Boundaries before 1850 with a Gazetteer and Metadata* (Data collection, 2001); Ordnance Survey, County Series, First edition, Yorkshire: 214-6, 229-31, 244-6, 259; accessed online either through Calderdale MBC, <https://www.calderdale.gov.uk/v2/maps/historic> or, for individual sheets, from the National Library of Scotland <https://maps.nls.uk/os/6inch-england-and-wales/index.html>, 2016-22.

have highlighted the impacts of social differentiation, the increasing profile of the ‘middling sort’, and the growth of vestry governance on strategies for managing poor relief.<sup>77</sup> Far from being a southern phenomenon, Healey has shown that social welfare measures were introduced in Lancashire at the same time as elsewhere with strong input from the county bench.<sup>78</sup> This raises the question of whether pressure from magistrates had a decisive impact on highway administration despite the court leet’s retention of function and authority. Wrightson’s essay on ‘two concepts of order’ is an important discussion of how early modern communities often preferred informal measures to the penalties stipulated in statute law.<sup>79</sup> This supports the proposition inherent in the study that pressures ‘from below’ may have been at least as potent as those from county justices. Hindle noted that the workings of the manorial court ‘expressed the medieval ‘ascending’ nature of political authority’ to ‘hint at the self-reliance and potential for independence’ among ‘those with standing.’<sup>80</sup> Tenants and freeholders came together to agree by-laws and make presentments for breach of obligation and were also able to moderate any penalties exacted through the process of ‘affeerment’.<sup>81</sup> Manorial stewards were concerned with harvesting income from ameracements within the framework of a royal franchise but left the direction of communal regulation to township officers and tenants.<sup>82</sup> Consequently, commentators have noted the participative and quasi-democratic nature of the courts, which appointed men as jurors, constables and, in towns such as Southampton and Manchester, to a range of other useful roles.<sup>83</sup> Nevertheless, the exact relationship between manorial juries and vestries, both of which were concerned with social control achieved through a mixture of deference and political power, is seen by Hindle as complex, even where the personnel were the same.<sup>84</sup> These are important and intersecting strands of historiographical

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<sup>77</sup> For example, Wrightson, *English Society*, pp.222-8; Hindle, *State and Social Change*, pp.204-30; S. Hindle, ‘The political culture of the middling sort in English rural communities, c.1550-1750’, in T. Harris (ed.), *The Politics of the Excluded, c.1500-1850* (Basingstoke, 2001), pp.125-52.

<sup>78</sup> J. Healey, ‘The development of poor relief in Lancashire, c. 1598 –1680’, *HJ*, 53, 3 (2010), pp.551–72; J. Healey, *The First Century of Welfare: Poverty and Poor Relief in Lancashire, 1620–1730* (Woodbridge, 2014).

<sup>79</sup> Wrightson, ‘Two concepts’, p.30.

<sup>80</sup> Hindle, *State and Social Change*, p.208.

<sup>81</sup> King, ‘Early Stuart courts leet’, pp.291-3.

<sup>82</sup> Brooks, *Law, Politics and Society*, pp.248-51.

<sup>83</sup> J.F.C. Hearnshaw, *Leet Jurisdiction in England* (Southampton, 1908); A. Redford, *History of Local Government in Manchester* (3 vols., London, 1939-40).

<sup>84</sup> Hindle, *State and Social Change*, p.209.

research and debate which throw up critical questions for understanding the development of the highway function. This study, both in its functional and regional settings, aims to contribute a new dimension to such discussions.

In Chapter Four, the objective is to explore the depth and character of participation at the manorial court and its significance within processes of governance. King briefly examined the hearth tax status of jurors in Lancashire, and Joan Kent carried out an intensive examination of the social status of constables before 1640, but research into the nature of participation at seventeenth-century courts leet is uncommon.<sup>85</sup> Mark Goldie's essay on officeholding in 'the unacknowledged republic' collated data from local urban and rural studies to highlight the social depth of participation in parish governance (around half of adult males in any one decade).<sup>86</sup> In passing, he also made links between unpaid public office and the obligation on landholders and householders to pave and cleanse adjacent sections of highway.<sup>87</sup> The most revealing enquiries into office-holding were conducted at very different scales. Jan Pitman's study of pre-Civil-War participation in a group of rural parishes in Norfolk is intriguing not least for inclusion of a role with some resemblance to that of township 'presenters' at the Wakefield court.<sup>88</sup> Pitman argued that appointments to the minor office of 'questmen', who shared responsibility for presentments at the Archdeaconry court with churchwardens, reached further into the social structure and was connected to 'deeply-held ideals of participation and community', placing 'considerable constraints upon the action of parish elites.'<sup>89</sup> Henry French's study of the 'middle sort of people' is the most exhaustive, finding convincing evidence that office-holding became an ever stronger marker of middling identity between 1600 and 1800, the indicators being greater-than-average wealth, coalescence into a group of the more active, development of ad hoc 'vestries' and development of a common language of 'worth'.<sup>90</sup> This chapter examines profiles of participation in the community courts in terms of wealth, literacy and social standing. Office-holding lists from the Wakefield court rolls are correlated with tax, copyholder and freeholder data, to underpin an exploration of patterns of participation

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<sup>85</sup> King, 'Leet jurors', p.310; Kent, *Village Constable*, pp.80-151.

<sup>86</sup> Goldie, 'Unacknowledged republic', p.161.

<sup>87</sup> *Ibid.*, p.169.

<sup>88</sup> J. Pitman 'Tradition and exclusion: parochial officeholding in Early Modern England, a case study from North Norfolk, 1580-1640', *Rural History*, 15, 1, pp.27-45 (p.30).

<sup>89</sup> *Ibid.*, p.42.

<sup>90</sup> H.R. French, *The Middle Sort of People in Provincial England 1600-1750* (Oxford, 2007), pp.138-9.

in officeholding and the social profile of individuals presented for repairs. The analysis sheds light on the social positioning of the ‘middling sort’ in terms of the socio-economic characteristics of the parish and on the degree to which manorial governance encouraged participation below the level of township elites.

Chapter Five is a micro-history of highway management in one of the largest and most populous townships in the parish, Sowerby, for which constables’ expenditure accounts survive, revealing a very different approach to road maintenance. The accounts are investigated to track the growth in Sowerby of maintenance spending funded from constables’ rates and to map (with the assistance of Geographical Information Systems, GIS) how spending was allocated across the township. While local taxation for military, social welfare and other purposes grew exponentially during the mid-century crisis and achieved considerable political legitimacy, the timing and significance of its use for financing road maintenance is less certain.<sup>91</sup> Measurable financial investment in roads has conventionally been seen as stemming from turnpike trusts, and their expansion in the following century was clearly a breakthrough for inland carriage and travel.<sup>92</sup> Conversely, taxation at parish or township level even in the eighteenth century is usually assessed as grudging and insignificant.<sup>93</sup> This chapter suggests that the roots of tax-funded infrastructure investment may lie in initiatives taken at local level before 1700. Patterns of office holding in Sowerby are investigated to pinpoint how a wealthy elite of property owners and clothiers steered the township through the crisis years of the Civil Wars, Interregnum and Restoration. These ad hoc arrangements evolved into a vestry in all but name, controlling the budgets and activities of constables, including highway maintenance until the surveyor’s office was introduced under new statutory arrangements in 1694. Explanations for the township’s effective withdrawal from the leet are sought in terms of a burgeoning relationship with local justices that opened the way to tax-funded road repairs.

Chapter Six turns to the economic stimuli that led to the changes identified in preceding chapters. It is argued that key administrative features can be linked to the logistical complexity of woollen textile manufacture which was the dominant source of livelihood

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<sup>91</sup> M.J. Braddick, *Parliamentary Taxation in Seventeenth-Century England* (Woodbridge, 1994), pp.278-9.

<sup>92</sup> Albert, *Turnpike Road System*, pp.93-119; D. Bogart, ‘Did turnpike trusts increase transportation investment in eighteenth-century England?’, *JEH*, 65.02 (2005), pp.439-68.

<sup>93</sup> Webbs, *King’s Highway*, pp.19-24; Bogart, ‘Transportation investment’, pp.448-9.

across the parish during the study period. Such an analysis of transport needs is unusual for studies of seventeenth-century industry. Levine and Wrightson devoted space to the transport of coal from pit to staithe (especially by purpose-built waggon ways) in Whickham.<sup>94</sup> Hey's study of road transport in the Peak District mapped a wide range of industrial, mineral, agricultural and retail activities onto the carrier and road network of the period.<sup>95</sup> The current study goes further by collating data from marriage registers and probate inventories with scattered references in leet presentments to tease out the balance of activities in different townships. The results are then used to investigate how highway governance was shaped and reshaped by highly localised economic objectives which became more urgent as the pace of economic development accelerated in the last quarter-century. The chapter examines four spheres of economic activity: pastoral agriculture, textiles, mining and the service-based economy of Halifax town. It will be suggested that, although the impacts and demands of these different activities were rarely explicit in presentments, they are crucial for understanding the road management priorities of the township clusters outlined in Chapter Three. GIS mapping is particularly effective for showing maintenance hotspots in the east, where mining and quarrying operations required close attention, and in the western townships, where cloth-making processes required a complex network of routes for packhorses. It will be argued that the connectivity of an industrialising parish with sources of supply and markets is inextricable from social polarisation and more assertive control of administrative processes by township elites, such as those seen in Sowerby.

The findings of the study are drawn together to locate highway management within larger processes of economic development and state formation. It is argued that judgements about the effectiveness of infrastructure management in this period can only be made by examining the creative responses of a range of local agencies and agents to changes in statutory requirements and economic objectives. The evidence from the parish helps build a case to recast the seventeenth century as a crucial period of innovation in highway governance, engendered as much by initiatives from below as by statutory and administrative reform from the centre.

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<sup>94</sup> Levine & Wrightson, *Whickham*, pp.44-76.

<sup>95</sup> Hey, *Packmen*, chs.6-9, pp.84-156.

## Chapter Two Legal frameworks

The interaction of legal principles, procedures and institutions is of fundamental importance to this study of local highway management. A review of the legal frameworks will call into question commonly held views about lines of accountability before 1700. The monitoring role of justices for road administration in early modern government has been highlighted ever since Sidney and Beatrice Webb's account as a weakness in the relationship between the county bench and parishes.<sup>1</sup> In crude terms, as discussed in Chapter One, justices throughout the early modern period have been seen as all too often failing in their duty to make sure parish surveyors were appointed, maintenance work carried out and accounts kept of money expended. While evidence for rutted and waterlogged roads is not hard to find, charges of negligence against justices and parish officials tend to be suspiciously whiggish and broad-brush.

Research into relevant administrative records is negligible compared with work on social welfare. For example, discussion of highways in Anthony Fletcher's work on provincial government in Stuart England is fleeting at best.<sup>2</sup> Yet county-level records, especially those for Quarter Sessions, survive in most counties from the mid-seventeenth century. Those from the West Riding feature frequent indictments of township roads by justices 'on their own view', resolution of disputes between parishes or townships and scattered references to new bureaucratic procedures for highway rating approval and tax assessments.<sup>3</sup> Petty sessions may also have involved attention to roads which escapes the written record. The Webbs' suggestion that 'the vast majority of justices never realised that they had any administrative responsibility at all for the management of roads' seems unduly harsh.<sup>4</sup> There is, however, a more fundamental objection to assumptions of an anaemic governance structure generating neglect and inefficiency. In this chapter, it is argued that the regulatory framework for highways involved not just the much-vilified axis of surveyor and justice, but a range of actors

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<sup>1</sup> S. Webb & B. Webb, *The Story of the King's Highway* (London, 1908), pp.38-42; *The Parish and the County* (London, 1906), pp.319-420; W.T. Jackman, *The Development of Transportation in England* (3rd ed., London, 1966), pp.52-61.

<sup>2</sup> A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven, 1986).

<sup>3</sup> West Riding Quarter Sessions (WRQS), Orders, WYAS (W) QS/10, commencing 1637, accessed via <https://www.ancestry.co.uk/> between 2015 and 2018.

<sup>4</sup> Webbs, *King's Highway*, p.41.

and agencies who drew heavily on customary norms and obligations in addition to, and sometimes instead of, statutory processes and structures.

The rationale for a fresh assessment of the legal frameworks has several dimensions. First, and perhaps most importantly, apart from the invaluable work of the Webbs, there has been a lacuna in research into how road maintenance measured up against the legal requirements in the seventeenth century. Secondly, complications within the initial Tudor legislation have not been fully recognised, a key issue being that the task of monitoring compliance was split between two institutions: both the manorial court leet and the county bench acquired new responsibilities and powers. Thirdly, there has been insufficient appreciation of the implications of destabilising elements in statutory changes between 1654 and 1692 stemming from a short-lived Protectorate ordinance and two partial revisions after the Restoration prior to a more comprehensive overhaul in 1692.<sup>5</sup> Documentary records at parish or township level before 1700 are scant, and the evidence for the *modus operandi* of parish officers and county justices in relation to highways before 1700 has usually been restricted to Quarter Sessions petitions, indictments and orders. As Lemmings has pointed out, there is still no large-scale evaluation of this material and the work of local officers and individual justices on which to base an assessment of performance and outcomes.<sup>6</sup> As will become clear from this study, caution should be exercised over using individual Quarter Sessions cases to project a broader pattern of neglect. Fourthly, counter to the impression given, whatever systems were in place in the English provinces, the outcome was positive in overall terms. For Mark Brayshay, ‘it is clear that Tudor and Stuart thoroughfares were only rarely completely impassable and in fact carried ever-increasing volumes of pedestrian, equine and wheeled traffic ... the revolution in travel and communications that occurred between 1500 and 1700 was fundamental and profound’.<sup>7</sup>

Fortunately, manorial records from Halifax provide a rich body of data and a ground-level vantage point from which to test received views on road management. It will be argued that the manorial court offered a way of using tried and tested routines to meet statutory objectives. Successive studies have concluded that manorial courts remained

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<sup>5</sup> 3 Will. & Mar. c.12 (1692).

<sup>6</sup> D. Lemmings, *Law and Government in England During the Long Eighteenth Century: From Consent to Command* (London, 2011), p.25.

<sup>7</sup> M. Brayshay, *Land Travel and Communication in Tudor and Stuart England: Achieving a Joined-up Realm* (Liverpool, 2015), p.351.

‘useful and needful’ into the study period and encouraged participation not least in regard to roads and other infrastructure.<sup>8</sup> Brodie Waddell’s statistical survey suggested infrastructure management became an ever more important item of business, rising from 21.3% of all presentments in 1550-99 to 41.9% in 1650-99, the rise reflecting the replacement of other types of business, especially crime and misbehaviour, by infrastructure cases.<sup>9</sup> Emily Cockayne has recently highlighted the work of a range of customary courts in urban areas, including London, Southampton, Oxford and Manchester to enforce street cleansing, free passage and paving repairs by occupants in front of their properties.<sup>10</sup> A powerful manorial court such as Wakefield that included two medium-sized towns (Halifax and Wakefield) had every chance to do the same across a large industrialising area. It is, therefore, essential that this reassessment of the legal framework gives due weight to manorial mechanisms and jurisdiction for highways alongside the chronology of legislative development. The chapter starts by exploring the complex inheritance of medieval law and manorial practice before turning to the Tudor statutes and the amending acts between 1654 and 1697, in which an emphasis is deliberately placed on the extent to which they duplicated or modified manorial approaches. The analysis then uses presentments brought to the Halifax and Brighouse sessions of the Wakefield court leet to measure the impact of selected statutory innovations by reviewing appointments to the office of surveyor, the prevalence of statute labour and the concept of ‘collective’ responsibility, as exercised within, and between, townships.

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<sup>8</sup> W.J. King, ‘Leet jurors and the search for law and order in Seventeenth-Century England: “Galling persecution” or reasonable justice?’, *Histoire sociale/ Social History*, 13 (1980) pp.305-23; W.J. King, ‘Early Stuart courts leet: still needful and useful’, *Histoire sociale/ Social History*, 23 (1990), pp.271-99.

<sup>9</sup> B. Waddell, ‘Governing England through the manor courts, 1550-1850’, *HJ*, 55, 2 (2012), pp.279-315 (pp.303-4).

<sup>10</sup> E. Cockayne, *Hubbub: Filth, Noise & Stench in England 1600-1770* (New Haven, 2007), pp.181-205.

## 1 Highway regulation through the court leet

The origins of the jurisdiction of the Wakefield court leet are to be found in practices well established by the thirteenth century.<sup>11</sup> The court was operated as a franchise in the name of the king.<sup>12</sup> The title traditionally used in Wakefield was *curia cum turno* ('court with tourn'), and it was only in 1625 that this was elaborated as the 'view of frankpledge and court leet of the king with tourn'.<sup>13</sup> Frankpledge in the Wakefield context was no more than a rhetorical flourish, borrowed from an older tradition in southern England, to emphasise the obligation of the township constable to declare crimes and misdemeanours to the court and manage policing functions such as watch and ward and hue and cry.<sup>14</sup> Documents submitted to the court often use the term 'sheriff's tourn', a term alluding to the exemption of the manor from the sheriff's wapentake courts and responses to certain writs.<sup>15</sup> The leet offered continuity of practice and longstanding legal principles, derived from medieval statute and customary law.

The jurisdictional parameters of the leet, while formalised in the fourteenth-century Statute for View of Frankpledge, were subject to local variation and changes over time.<sup>16</sup> The Statute formalised matters for enquiry appearing in the thirteenth-century legal tract known as Britton and others cited by Maitland and Baildon and by Hearnshaw (Table 2.1).<sup>17</sup> From later in the fourteenth century, specialist manuals were circulated to help manorial stewards distinguish matters for enquiry at the seigneurial court baron and the royal court leet, the first of which to be printed was that of Wynkyn

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<sup>11</sup> M. O'Regan, *The Medieval Manor Court of Wakefield* (Leeds, 1994), pp.10-16.

<sup>12</sup> C.W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2010), p.265.

<sup>13</sup> Leeds University Special Collections, WCR, YAS/MD225/1/350A, Easter 1625 (four weeks after Charles I's accession).

<sup>14</sup> W.A. Morris, *The Frankpledge System* (New York, 1910).

<sup>15</sup> For 'Sheriff's tourn', see the Sowerby constables' accounts, WYAS (C), SPL:143: first occurrence, October 15 1629; *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013), pp. 39-40. For jurisdictional complexities in the West Riding, see J.L. Cruickshank, 'Sheriff's tourns, wapentakes and the liberties of the West Riding', *NH*, 57:2 (2020), pp.177-97.

<sup>16</sup> The Statute for View of Frankpledge, uncertainly dated 1325.

<sup>17</sup> *Britton, An English Translation and Notes*, trans. F.M. Nichols (Washington, 1901); F.W. Maitland & W.P. Baildon, *The Court Baron* (Selden Society, London, 1891), pp.79-92; F.J.C. Hearnshaw, *Leet Jurisdiction in England* (Southampton, 1908), pp.43-71..

Table 2.1. *Comparison of articles of enquiry, as relevant to highways, at customary courts.*<sup>18</sup>

<b>Britton (c.1290)</b>	<b>Statute for Frank-pledge (c.1325)</b>	<b>Articles of presentment (c.1400)</b>	<b>De Worde, <i>Modus tenendi curiam</i> (1508)</b>	<b>Kitchin, <i>Jurisdictions</i> (1651) 'Matters inquirable and presentable'</b>
<p>Of walls, houses, marlpits, or ditches, made near the common road ('communs chemins') to the nuisance of passers by, and those guilty of such nuisances</p> <p>Concerning waters and highways stopped or straitened or in other manner appropriated or turned from their course</p> <p>Of highways not widened, and of those who have neglected to watch according to the ordinance of our statutes of Winchester</p>	<p>5. Of *purprestures made in lands, and waters to annoyance</p> <p>6. Of walls, houses, dikes, and hedges set up or beaten down to annoyance</p> <p>8. Of ways and paths opened or stopped</p> <p>9. Of waters turned or stopped, or brought from their right course</p>	<p>Of purprestures</p> <p>3if oni man hath streitid oni comoun pathe or oni comoune mare [mere] longing to chirche or to market; tel us both the lengthe and brede</p> <p>3if ony man hath mad oni gutter rennyng out of his encloos in to the kynges waie to noisaunce of the comounte</p> <p>3if oni man maintene oni dongehull' liande in the comoune wai oni sesoun of the 3eer unto noiaunce of the poeuple</p>	<p>Of all purprasture made upon lande or water or with blockes or with stockes in the hyghe way</p> <p>Yf there be any house or hedge or dyche areysed or caste doune to the noysaunce of the kyngge people</p> <p>Yf there be any ways waters dyches or paths streyted or stopped or tourned out of the ryghte cours in to the wronge cours unto the noysaunce of the kyngge people</p>	<p>6. If any annoyances be made upon the land, wood, and water, that blocks, stocks, ditches, hedges made, or a ditch made or filled to the annoyance of the people ...</p> <p>7. If any walls, houses, pales, or hedges be made or erected to the noyance of the people</p> <p>8. If any common wayes, waters, ditches, or pathes are turned out of their right course</p> <p>10. If any lay-stalls<sup>19</sup> are made in highe wayes to the noyance of the people, or if any carrion be cast into the high way to the noyance of the people</p> <p>11. If any make encroachment on the king's high way</p>

<sup>18</sup> For documentary sources, see main text.

<sup>19</sup> Lay stalls, a place where refuse and dung are laid (*OED*).

de Worde in 1508.<sup>20</sup> They show differences of emphasis, substance and editorial competence, and, consequently, jurisdiction remained a matter of some debate. Through its role in swearing constables, the leet was key to the maintenance of the king's peace, and the felonies of treason, murder, rape and theft remained 'inquirable and presentable' at the leet into the sixteenth century, but were only punishable at the higher courts.<sup>21</sup> Wakefield manor maintained its own gaol in Halifax and, through the right of 'return of writs', was exempt from intervention by the sheriff.<sup>22</sup> The sixteenth- and seventeenth-century manuals disagree on the range of offences punishable at the leet. These ranged through minor criminal offences and disorder, trading offences, obligations to the court or king, nuisances and infrastructural regulations. The manuals cite case (common) law precedents and statutes relating to trade, housing, land use, watercourses and, of course, highways.

In relation to highways, demarcation between the authority of different jurisdictions was never easy to define. Both roads connecting into towns and streets variously labelled as *regia* (royal) or *alta* (high) and many other publicly used roads, often called *viae communes* were dealt with at the leet; the expressions seem interchangeable in the manuals, and the Statute for Frankpledge simply uses 'ways' (Table 2.1). This still left the status of many minor roads, tracks and paths susceptible to dispute as being private or concessionary, matters which might be seen as properly within the purview of the court baron. Even in legalistic Wakefield, the allocation of highway responsibilities between the court leet and the sub-manor courts baron was not clear-cut in the early seventeenth century. A 1625 presentment to the court baron of Stansfield (a sub-manor within Wakefield) instructed 'Raphe Barnes ov[er]seer of the hyewaye ... [to] call in the inhabitants of Stansfeild ... to amend the hyewaye', a category of order more

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<sup>20</sup> Wynkyn de Worde (ed.), *Modus tenendi curiam baroni, cum visu franem plegii* (London, 1508); J.S. Beckerman, 'The Articles of Presentment of a Court Leet and Court Baron, in English, c.1400', *Bulletin of the Institute of Historical Research*, 47, 116 (1974), pp.230–34; Anon., *The maner of keypyng a courte baron and a lete with diuers fourmes of entreis playntes processis presentmentes and other matters determinable there* (London, 1538); John Kitchin, *Le court leete et court Baron*, (London, 1580), translated as *Jurisdictions: or, the lawful authority of Courts Leet, Courts Baron, Court of Marshallseys, Court of Pypowder, and Ancient Demesne* (London, 1657), as cited extensively by Brooks, *Law, Politics and Society*, pp.241-77; Jonas Adams, *The order of keeping a Courte Leete, and Court Baron: with the charges appertaining to the same* (London, 1593); all sources accessed through Early English Books Online, February-April 2019.

<sup>21</sup> Brooks, *Law, Politics and Society*, pp.255-6.

<sup>22</sup> *Wakefield Manor Book*, p.40; Cruickshank, 'Sheriff's tourns', pp.2-3.

typically construed as the leet's business.<sup>23</sup> Nevertheless, the leet came to dominate the management of problematic ways of all kinds by providing pragmatic solutions. Cases fell into two categories: reactive action to remove nuisances and obstructions and proactive management through bylaws and orders for repairs, in both cases carrying the threat of monetary sanctions for non-compliance.

John Kitchin's influential legal manual included five 'inquirable and presentable' offences related to highways and footpaths with supplementary sections for precedents and the Tudor statutes.<sup>24</sup> These are similar to four clauses in the Statute for Frankpledge, showing how enquiries into fences, drains and 'ways' had coalesced into a general concern for infrastructure. The legal principles are those of encroachment, diversion and nuisance, all of which affected the right of free passage on either the king's highway, defined by Kitchin as 'that which leadeth from town to town', or common ways, 'which leadeth from town to their fields to their lands.'<sup>25</sup> Kitchin's extensive citations of common law cases and legal authorities are poorly organised, which, together with translating errors in the English edition, cannot have helped stewards to offer clear and consistent guidance to jurors. An obligation to keep roads and paths in serviceable condition, as opposed to actions to remedy obstructions and nuisances, is missing from all five sources in Table 2.1 with the exception of the early tract known as Britton, which cites road-widening measures in the Statute of Winchester designed to protect travellers from robbery.<sup>26</sup> Kitchin adds a common law duty on those holding land adjacent to the King's highway to cleanse and scour ditches and cites precedents from the reigns of Edward IV and Henry VIII that failure to repair a common way 'by him which ought to do it' is presentable in a leet, 'if there is a losse'.<sup>27</sup> Repair obligations were dealt with by Kitchin in the separate section for the Tudor statutes.

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<sup>23</sup> Notts CRO, DD/SR/1/15/5, November 1625.

<sup>24</sup> Kitchin, *Jurisdictions*, pp.19-20: items 6, 7, 8, 10, 11 in Table 2.1.

<sup>25</sup> *Ibid.*, p.68.

<sup>26</sup> 13 Edw. I (1285), 'The Statute of Winchester'.

<sup>27</sup> Kitchin, *Jurisdictions*, p.68.

Enforcement of repairs prior to these statutes was rooted in legal principles whose evolution has been unravelled by Alan Cooper, working primarily from Bracton and Britton.<sup>28</sup> Britton's wording is couched in terms of general legal principles:

Of bridges and causeways, and of common highways destroyed, or otherwise in bad repair, who is bound to repair and amend them; and [if] such as are named in the presentment ... hold tenements of us, let the said tenements be taken into our hand, and the sheriff be charged to answer us for the issues, and to cause the repairs to be done; and where there is no tenement held of us by the performing of such services, our will is, that the persons who are bound to repair the ways, and have not done what they ought, shall be in our mercy, and the sheriff shall be commanded that he cause them to be distrained by their beasts and chattels, and detain the distresses until they have amended the defects, and this as often as it shall be needful<sup>29</sup>

The principle is that highway repair obligations were a condition of tenancy and that, in Cooper's words, 'there was someone responsible for the repair of all roads and bridges until it was discovered otherwise.'<sup>30</sup> While the sheriff was responsible for enforcement action on royal lands, this responsibility was discharged in franchised courts through the court leet. Failures of service, which were ordinarily managed for the lord in the court baron, could, therefore, be presented to the leet, alongside obstruction and nuisance, if there was harm to the community as a whole or conflict between different groups and interests. The flaw in this tenurial formula, cases where obligation for a section of road could not be traced to a landholder, seems to have been addressed by a concept of communal liability: a fine paid by local people through a levy or the compulsory sale of their property (distrain) for unattributable repair is found in medieval royal court verdicts on 'public works'.<sup>31</sup> There was, however, a more straightforward procedure available to leet jurors and township representatives, that of setting orders or bylaws by the consent of the homage.<sup>32</sup> Kitchin's discussion of precedents for bylaws identified infrastructure as a matter for the 'commonwealth', bringing it into the purview of the leet:

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<sup>28</sup> A. Cooper, 'Once a highway, always a highway: roads and English law, c.1150-1300' in V.J.G Allen & R. Evans, eds., *Roadworks: Medieval Roads, Medieval Britain* (Oxford, 2016), pp.50-73.

<sup>29</sup> *Ibid.*, pp.64, 73n, citing *Britton*, trans. Nichols, pp.78-9.

<sup>30</sup> Cooper, 'Once a highway', pp.63-4.

<sup>31</sup> Examples of such verdicts within Yorkshire before 1450 can be found in C.T. Flower (ed.), *Public Works in Mediaeval Law* (Vol.2, Selden Society, 1923).

<sup>32</sup> A.J.L. Winchester, *The Harvest of the Hills: Rural Life in Northern England and the Scottish Borders 1400-1700* (Edinburgh, 2000), p.4; Brooks, *Law, Politics and Society*, pp.259-60.

Where a by-law is for a commonwealth, it is good to bind all, though all do not agree, as to make a causey, way or bridge; but by-law to reparaire a church is a charge, for that it shall not bind but those that assent<sup>33</sup>

Standing 'pains' binding on townsfolk were a mainstay of medieval and early modern agrarian life in both pastoral and arable contexts, but the application of bylaws to items of infrastructure, including roads and paths, has not been studied in depth.<sup>34</sup>

There were, thus, two longstanding procedures available for dealing with ways of all shapes and sizes at the court: by instruction to repair or remove a nuisance in the form of a 'pain' or bylaw and by presentment for failure to comply with such an order or, where the offence was regarded as against a statute, for summary punishment. In both cases the penalty was a monetary value, usually no more than forty shillings. Court process in Wakefield allowed for presentment both by the jury and, as became the norm in the study area, by the constable and sworn representatives from each township. It was for the jury to confirm, modify or dismiss orders and bylaws submitted and pronounce presentments of offences or breaches as *vera* [true] or *non vera*. A feature of the Halifax and Brighouse courts is the rarity of standing bylaws ('pain lists') of the type discussed by Winchester.<sup>35</sup> A list of thirteen pains for Rastrick in 1630, signed by over thirty townsmen, is unique for the court at such a late date and includes penalties both for not attending statutory work on the roads and to discourage inmates and new cottages.<sup>36</sup> Bylaws relating to agricultural and communal resources, such as the ringing and yoking of swine, rights of turbary, and seasonal fencing were repeated year after year. The highway presentments analysed in detail in Chapter Three are overwhelmingly one-off orders targeting individuals, groups, or townships for particular sections of road or street. While such arrangements may have been somewhat opaque to the manual writers trained at the inns of court, they were clear and of practical value to manorial stewards, constables, and householders across the parish. The exploitation of leet jurisdiction in the three highway statutes of 1555-76 was, therefore, at least in part, an elaboration of existing arrangements, albeit encased in procedural rules and the threat of more significant penalties for non-compliance.

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<sup>33</sup> Kitchin, *Jurisdictions*, pp.89-90, citing a precedent from 1370: the English word 'commonwealth' is also used in the original legal French of 1580.

<sup>34</sup> Winchester, *Harvest of the Hills*, pp.26-48.

<sup>35</sup> *Ibid.*, pp.153-175

<sup>36</sup> Leeds University Library, Wakefield court rolls, YAS/MD225/1/356A, Brighouse jury, Michaelmas 1630.

## II Highway legislation, c.1550-1700

Highway legislation within the study falls into three stages: the initial mid-sixteenth century statutes, three partial revisions in the later seventeenth century and more fundamental reform under William III.<sup>37</sup> A significant limitation is that later acts were accumulative, revising existing provisions and adding new ones and only rarely repealing them. Indeed, consolidating legislation was not attempted until two acts of 1766 and 1773.<sup>38</sup> The account of road development given by Sidney and Beatrice Webb in *The Story of the King's Highway* and, especially, of Tudor and Stuart legislation has remained standard reading, a testament to their painstaking research.<sup>39</sup> Nevertheless, this study finds caricatures of unwilling surveyors, work-shy villagers and negligent justices inapplicable to the study area. The Webbs framed all highway administration from 1550 to 1850 within the whiggish notion of a prolonged 'struggle' between what they term 'the old method' and the Victorian innovation of 'a specialised organ of administration, alimeted by compulsory taxation, and having, as its express object, the satisfying of the increasing needs of a progressive society'.<sup>40</sup> Appreciation of the continuing role played by the court leet after the Tudor legislation has been rare.<sup>41</sup> Yet, it is to these traditional courts that the parliamentary draftsmen turned first in 1555.

### *The Tudor Statutes*

The Tudor statutes themselves appear straightforward and mercifully brief by later standards, albeit incorporating unstable features (Table 2.2). The main provisions stipulated in the 1555, 1562 and 1576 Acts were for appointing highway surveyors in parishes, requiring four (raised to six in 1562) unpaid days' labour for repairs (known as 'statute labour' or 'statute duty') on dates stipulated by constables and churchwardens; and powers for court leet stewards and justices to punish defaults and negligence and for the latter to intervene directly at Quarter Sessions to present a road 'on their own

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<sup>37</sup> For a full list of statute references and titles, see Bibliography.

<sup>38</sup> 6 Geo. III c.43 (1766), 13 Geo. III c.78 (1773).

<sup>39</sup> Webbs, *King's Highway*, ch.2.

<sup>40</sup> *Ibid.*, pp.1-2.

<sup>41</sup> A rare, local exception is B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Hebden Bridge WEA Local History Group, Otley, 1992), pp.59-61.

Table 2.2. *Main provisions of the Tudor highway statutes (1555, 1562, 1576).*

	<b>1555</b>	<b>1562</b>	<b>1576</b>
Scope	Highways leading to any market town	Any highway Any common fairing way (applied to ditches and hedges provision)	
Highway surveyors	Constable & c/wardens to call together a number of parishioners on Easter Tuesday or Wednesday to choose 2 honest persons to serve as surveyors & orderers of works	Supervisors and orderers	Surveyors liable for neglect
Statute duty	Constables & c/wardens to appoint 4 days for work before June 24, 8 hours per day, to bring spades etc., or to send a substitute Specifies cart, horses and two men (draughts) for anyone holding a 'ploughland' or 2 men if carts not needed	Increased to 6 days	If assessed to £5 (but no land), to send 2 men Such men liable in each parish where they qualify
Enforcement	10s fine for default of draughts, 12d for labourers – both per day Stewards in court leet to enquire and to 'assess such reasonable fines' for default – Justices to enquire 'in default of such' [i.e. leet] enquiry All fines shall be to the churchwardens to be bestowed on the highways (after steward & high constable fees)	All defaults to be presented by supervisors to a Justice within 1 month Justices can present an unrepaired highway on their own view Fines by justices on own view to be bestowed on the highways	Justices and court leet stewards can determine all offences from this statute
Materials		Supervisors able to obtain materials from private ground	
Nuisances		Supervisors able to have water courses turned; owners to ensure hedges and fences do not obstruct	Penalties set for not scouring ditches or cutting hedges Surveyors able to levy nuisance penalties directly

view' (1562).<sup>42</sup> Although the 1555 wording indicates an obligation to appoint a surveyor, no penalty was set for failure to do so, an omission that was compounded for larger northern parishes by not defining whether the post should apply to individual townships. Moreover, the prime role of constables and churchwardens in appointing surveyors, setting days for obligatory labour and managing the proceeds of fines downgraded the standing of appointees. This is reflected in the alternative titles in the second statute (supervisor or 'orderer'), neither of which was a badge of prestige. More fundamental still were blurred lines of accountability. The first statute clearly identified the primacy of the court leet for enforcement with justices as a fall-back option 'in default of suche enquiry'. The second compelled presentments to a justice by surveyors within a month, while the third, perhaps in recognition of the contradiction, assigned equal enforcement authority to both. The uncertainty is exacerbated in relation to fines for statute labour offences: the first Act specifies monetary penalties *per diem* but also concedes authority to court leet stewards to assess 'suche reasonable fynes & amertiamentes ... as shalbee thought meete'. The statutes created a challenge for stewards, constables and surveyors who, as discussed above, relied on long-established precedents for determining and enforcing repair responsibility: how were they to reconcile customary arrangements with the requirement for a new officer and fixed repair days between Easter and midsummer? These ambiguities gave the statutes a permissive effect, intended or otherwise. Attempts to resolve some of these uncertainties through three revising statutes and the comprehensive overhaul under William III are shown in Table 2.3.

### *The 1654 Ordinance*

The 1654 Ordinance has long been recognised for its radical approach and contains provisions that anticipated later legislation.<sup>43</sup> These included moving the surveyor appointment date to the Tuesday after the start of the New Year on March 25, a property qualification for surveyors, the ability to set a highway rate up to one shilling in the pound of land rental value to fund paid labour, justice control of charitable funds for road repairs and a power to inspect surveyors' accounts. Neither the Webbs nor

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<sup>42</sup> 2&3 Phil. & Mar. c.8 (1555); 5 Eliz. c.12 (1562); 18 Eliz. c.10 (1576).

<sup>43</sup> *An ordinance for the better amending and keeping in repair the common highways within the nation* (31 March 1654); see Webbs, *King's Highway*, pp.20-1; Brayshay, *Land Travel*, p.39.

Table 2.3. *Main provisions of seventeenth-century highway legislation, (1654-97).*

	<b>1654</b>	<b>1662</b>	<b>1670</b>	<b>1692</b> (unless stated otherwise), <b>1695</b> , <b>1697</b>
Duration	Ordinance lapsed in 1660	Rating powers until 1665; other provisions to the end of next parliament [1679]	Rating powers until 1673	<i>Not time limited</i>
Scope	All common and publique highways and roads ... parish bridges, water courses, & streets	All the common highways and bridges	Highways ... causeys and bridges	The highways and common roads
Highway surveyors	In every parish, two or more chosen Tues after March 25; property qualification (£20 land/ £100 personal estate); penalty of £20 if none elected, overseer to act in default; To be sworn by Justices within 10 days To 'take a view' of highways within 10 days of oath	Chosen Easter 2 or more 'sufficient and able' persons from every town parish village or hamlett Penalty of £5 if none elected To view within 20 days	Chosen Christmas Constables and surveyors responsible for ensuring acts put into execution Penalty of 40s for resisting officers executing highway acts	Officers and inhabitants to meet December 26/ 27 and make a list of people with prop qual (£10 freehold, £30 occupied land, £100 personal estate) or 'the most sufficient people Justices in Special Sessions on Jan 3/4 or within 15 days to nominate 1/2 surveyors & notify by warrant; can also appoint in cases of refusal or neglect Surveyors to take a view within 14 days
Statute duty/ rating assessment	No effect on 'any law or custom now in force' Rates allowed up to 12d /£ Paid labour allowed	Statute duty restated, labourer fines increased by 50% (but not draughts) Rates, if necessary, allowed up to 6d/ £ subject to justice approval for <b>3 years only</b> Paid labour and draughts rates set	6 days at any time of year, man and horse if 'teams' not necessary Rates, if necessary, allowed up to 6d/£ subject to justice approval <b>3 years only</b>	Statute duty continued ( <i>previous laws confirmed</i> ) Surveyors can raise rate subject to Justice approval at Special Sessions to cover cost of materials Justices at QS can approve a rate up to 6d/£ 6d limit can be exceeded with Justice approval at Special Sessions (1695)

	<b>1654</b>	<b>1662</b>	<b>1670</b>	<b>1692</b> (unless stated otherwise), <b>1695, 1697</b>
Enforcement	Accounts to parishioners within a month – Justices able to inspect Justice to determine use of charitable funds for highways	Written accounts to inhabitants at a public meeting Any two justices can examine failure to account – penalties of gaol until delivered	Repair deadline extended to Oct 18 Justices to enquire into management of land granted for highway maintenance	Surveyor to take a view of the highways every 4 months and report to a Justices; at Special sessions to render accounts and give notice of defaults & annoyances, to be amended within 30 days; if not done, surveyor can charge expense back to the defaulter
Materials/ specifications	Payments allowed for damage on private ground	Payments as in 1654 Bridges to have rails, walls or posts 4ft high by Michaelmas 1662 Justices at QS can order widening up to 8 yards		Cartways to be min, 8 ft wide and ‘as near as can be even and level’ Horse causeys to be min. 3ft wide Justices at QS could order road widening up to 8 yds by imposing rates and erection of guide posts (1697)
Nuisances	Limits on number of draught animals set	Limit of draught animals increased Surveyors able to reclaim expenses of prosecution for nuisances	Limit of draught animals decreased	Obligations on occupiers of land adjoining roads to clear obstructions and nuisances and prune hedges;  Revised limits on draught animals and penalties for removal of roadside posts and banks(1695)

Brayshay found more than scattered evidence of implementation, but it looks at least possible that the measure may have reflected practices in northern counties, especially in relation to the use of rating.<sup>44</sup> One of the men charged with drafting the Ordinance was Francis Thorpe, recorder of Hull (East Riding) and the ‘recruiter’ MP for Richmond (North Riding).<sup>45</sup> The bill was also ‘committed’ to a four-man sub-committee of the Council of State that included another Yorkshireman, Walter Strickland, the member for Yorkshire in Barebones’ Parliament.<sup>46</sup> The Ordinance itself was deemed void at the Restoration, albeit that orders made under its provisions by justices were confirmed.<sup>47</sup>

### *The 1662 Highway Act*

The 1662 Act had somewhat more enduring effects.<sup>48</sup> The office title was henceforth fixed as ‘surveyor of the highways’ and a penalty was set for failure to appoint two or more. The status required for the office was upgraded (‘sufficient and able’), even if the Protectorate’s property qualification was not revived. The act offered the option of appointing surveyors to townships within larger parishes, although this contrasted with the mandatory appointment of township overseers of the poor in the Poor Relief Act of the same year.<sup>49</sup> There were punitive aspects: a hefty £5 penalty was set for failing to elect a surveyor, and the fines for non-performance of statute duty set in the Tudor statutes were increased by fifty per cent. Technical improvements included a requirement for bridges to have rails, walls or posts at least four foot high and a new power for justices to order highway widening up to eight yards. While justices were thus encouraged to become more interventionist the statute made no specific reference to courts leet, whose powers, therefore, remained unchanged, possibly because leet jurisdiction was known to be functioning effectively in some counties. A printed manual

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<sup>44</sup> See Chs.4 & 5.

<sup>45</sup> HCJ, January 30 1654, accessed via British History Online <https://www.british-history.ac.uk/cal-state-papers/domestic/interregnum/1653-4/pp344-380> December 2021; ODNB, ‘Francis Thorpe (bap. 1594, d. 1665)’; *King’s Highway*, p.20.

<sup>46</sup> HCJ, March 4 1654, accessed as above, <https://www.british-history.ac.uk/cal-state-papers/domestic/interregnum/1654/pp1-37>; ODNB, ‘Walter Strickland (1598?–1671)’.

<sup>47</sup> By virtue of 12 Cha. II c.10 (1660).

<sup>48</sup> 14 Cha. II c.6 (1662).

<sup>49</sup> 14 Cha. II c.12 (1662).

by Powel in 1668 continued to include highways, surveyors and statute duty within the leet articles of enquiry.<sup>50</sup>

The parliamentary journals carry signs of dissension in the bill's prolonged passage through the two houses between July 1661 and May 1662.<sup>51</sup> At the outset, the Commons insisted that a Lords' bill for taxing inhabitants in Westminster to have the streets paved infringed their own constitutional rights and replaced it with a new bill to cover all of England.<sup>52</sup> The most significant move of the resulting Act introduced temporary rating powers up to 6d in the pound, a significant nod towards the Protectorate Ordinance, especially in repeating the requirement for justice approval and the presentation of written accounts to 'inhabitants'. At one point the three-year window was reduced to two years, although the longer period was reinstated.<sup>53</sup> Limiting the powers to the three years up to 1665 may have postponed a decision on rating to a later date, but weakened the credibility of the legislation. Sunset clauses were characteristic of Acts in the Cavalier Parliament, and the phrasing of the 1662 Poor Relief and 1662 Highways Acts is similar:

That this act shall extend ... and stay in force untill the nine and twentieth day of May one thousand six hundred sixty five and the end of the first session of the next parliament then next ensuing and no longer'. (*Poor Relief Act*)

... that the power of raising and levying money by vertue of this Act shall continue in force for three yeares only from the five and twentieth day of March one thousand six hundred sixty and two ... but that all other powers and clauses in this Act shall continue and stand in force until the end of the first session of the next Parliament and no longer. (*Highways Act*)

The Act duly expired when Parliament was dissolved during the Exclusion Crisis in 1679. Expiry placed the authors of popular law books in some difficulty. Editions of Dalton's *Countray Justice* in 1666 and Lambarde's *Compleat Justice* in 1677 both limited their inclusion of the 1662 Highways Act to justices' power to determine

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<sup>50</sup> Robert Powel, *A Treatise of the Antiquity, Authority, Uses and Jurisdiction of the Ancient Courts of Leet* (London, 1668); Kitchin, *Jurisdictions*.

<sup>51</sup> HCJ / HLJ, July 1661 to May 1662, accessed via <http://www.british-history.ac.uk/commons-jrnl/vol8/pp309-311> in November 2019.

<sup>52</sup> HCJ, 24 July 1661.

<sup>53</sup> HCJ, 14 April 1662.

charitable gifts and the application of *certiorari*.<sup>54</sup> When the 1662 Poor Relief Act was formally continued in 1685, the legal morass over highways was not addressed.<sup>55</sup>

### *The 1670 Highways Act*

The 1670 Act was less far-reaching, missing the chance to remove the sunset clause in the 1662 Act, although it opened a second three-year tax window until 1673.<sup>56</sup> The shift in 1670 of the surveyor appointments from Easter to Christmas is somewhat puzzling, breaking the convenient linkage of the post to the start of the ‘repairing season’ just after the Easter, but may have been intended to give the new officeholder preparation time during the winter. More flexibility was offered over the timing of repairs: the six days’ labour could take place any time up to October 18. While a penalty of forty shillings was introduced for resisting officers executing highway acts, doubts over the line of accountability may have been exacerbated by making constables and surveyors jointly responsible for legal compliance. No further legislation was passed for over twenty years. The impact on justices working in the shires is hard to measure, but attempts to enforce these two statutes cannot have been helped by internal inconsistencies, resolution of which lost priority in the face of the contemporary crises over the succession, non-conformism, and papist conspiracy.

### *The Williamite Highway Acts*

The preamble to the 1692 act is disarmingly frank about prior legislative shortcomings:

... divers good and necessary laws have been heretofore made for the enlarging repairing and amending the highways and common roads of this kingdom notwithstanding which laws the same are not in many parts sufficiently amended and repaired but remain almost impassible all which is occasioned not only by reason of some ambiguities in the said laws but by want of a sufficient provision to compel the execution of the same

An important objective in 1692 was to remove uncertainty, and the three Acts under William III, taken together, reset the regulatory framework for many years to come.<sup>57</sup> Justices could now choose surveyors themselves from a shortlist according to a fixed timetable, making it easier to ensure that appointments took place. This also removed

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<sup>54</sup> Michael Dalton, *The Countrey Justice* (London, 1666), p.79; William Lambarde, *The Compleat Justice* (London, 1667), pp.145-6; both accessed through Early English Books Online <https://proquest.libguides.com/eebopqp/home> in April 2019.

<sup>55</sup> 1 Jas. II c.17 (1685).

<sup>56</sup> 22 Cha. II c.12 (1670).

<sup>57</sup> 3 Will. & Mar. c.12 (1692); 7&8 Will. III c.29 (1695); 8&9 Will. III c.16 (1697).

the residual ambiguity over whether surveyors should operate at township level: justices would henceforth decide. They could now inspect surveyors' accounts and query outstanding repairs at new 'special sessions' for highways held every four months. Although statute duty remained in force, two routes became available for levying a highway rate up to 6d per pound: either townships and parishes could themselves apply to justices in special sessions for reimbursing material costs or justices could impose a tax assessment at Quarter Sessions if dissatisfied with local repairs. In 1695, further flexibility allowed justices to exceed the 6d limit at special sessions. Minimum widths were set for horse causeys and cartways, and from 1697 justices could order widening and guide posts at road junctions, improvements that are, as Hey and Crump found, reflected in West Riding Quarter Sessions orders and the guide stoops that survive to this day.<sup>58</sup> Leet powers and duties were, however, protected through a general provision that all previous legislation continued unless specifically repealed: clearly, presentment at leet courts was still too useful in relation to nuisances, obstructions and footpaths to be abandoned. Nevertheless, the line of accountability through surveyors to justices now took precedence.

This review of statutory developments has shown that the authority of manorial stewards and juries for implementation was a key feature of the Tudor legislation left untouched in Stuart revisions, before being overshadowed (but not entirely lost) by the institution of special sessions in the transformative provisions of 1692. Traditional responsibilities for presenting nuisances and ordering work on surfaces, hedges and drainage were echoed in statutory provisions, albeit with a greater emphasis on road widening. If this duality of legal frameworks posed challenges for the legal manual compilers, the choice of practical options available at the leet to constables and surveyors at township level may have been more obvious. The first stage in examining practice at township level is to use records from the Halifax and Brighouse courts leet to assess the implementation of two components of the statutory framework (the appointment of surveyors and the procedure for statute duty).

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<sup>58</sup> D. Hey, *Packmen, Carriers & Packhorse Roads: Trade and Communications in North Derbyshire and South Yorkshire* (2nd ed., Ashbourne, 2001), pp.25-35; W.B. Crump, 'Introduction', ('Ancient highways of the parish of Halifax,' Pt. I), *THAS* (1924), p.84.

### III Highway surveyors

The introduction of a new parish officer for highways in the Act of 1555 posed a potential jurisdictional problem for the courts leet in Wakefield, where the established unit of local government was the township, not the parish. The solution of township-based surveyors seems to have provoked little opposition: constables' reports to the Wakefield court leet bear witness to the appointment of highway surveyors for individual townships just after the second Tudor statute. Despite there being no requirement for swearing in surveyors at the leet, the prescribed procedure for selecting a surveyor was referenced by Hipperholme at the Brighthouse court leet in 1564: 'Thies be the foure me[n] appoynted by the church warden & constable for common dayes this yer.'<sup>59</sup> The declaration of the names of surveyors (usually called 'overseers of the highways' or 'overseers of the common days work') may even have been stipulated in the steward's charge. An announcement in court legitimated the authority of the appointees as a curtain-raiser to the repairing season. A happy coincidence of dates encouraged these declarations to the court convening a few days after their election on Hock Tuesday or Wednesday (until switched to Christmas in 1670). In 1564 all eleven townships in the Brighthouse court volunteered the names of surveyors on their 'bills' of presentments.<sup>60</sup> The highest number across the parish came in 1607, when sixteen of the nineteen townships attending the leet declared.<sup>61</sup> The exceptions in that year were all in the Halifax court area: Sowerby, which never declared at all; Midgley (once, 1610); and Halifax town (twice, 1606 and 1608).<sup>62</sup> Analysis of the records shows there was considerable variation between townships and over time. The declining percentage of years in which surveyors were declared to the court are indicated by lighter colouring in Maps 2.1a-d.

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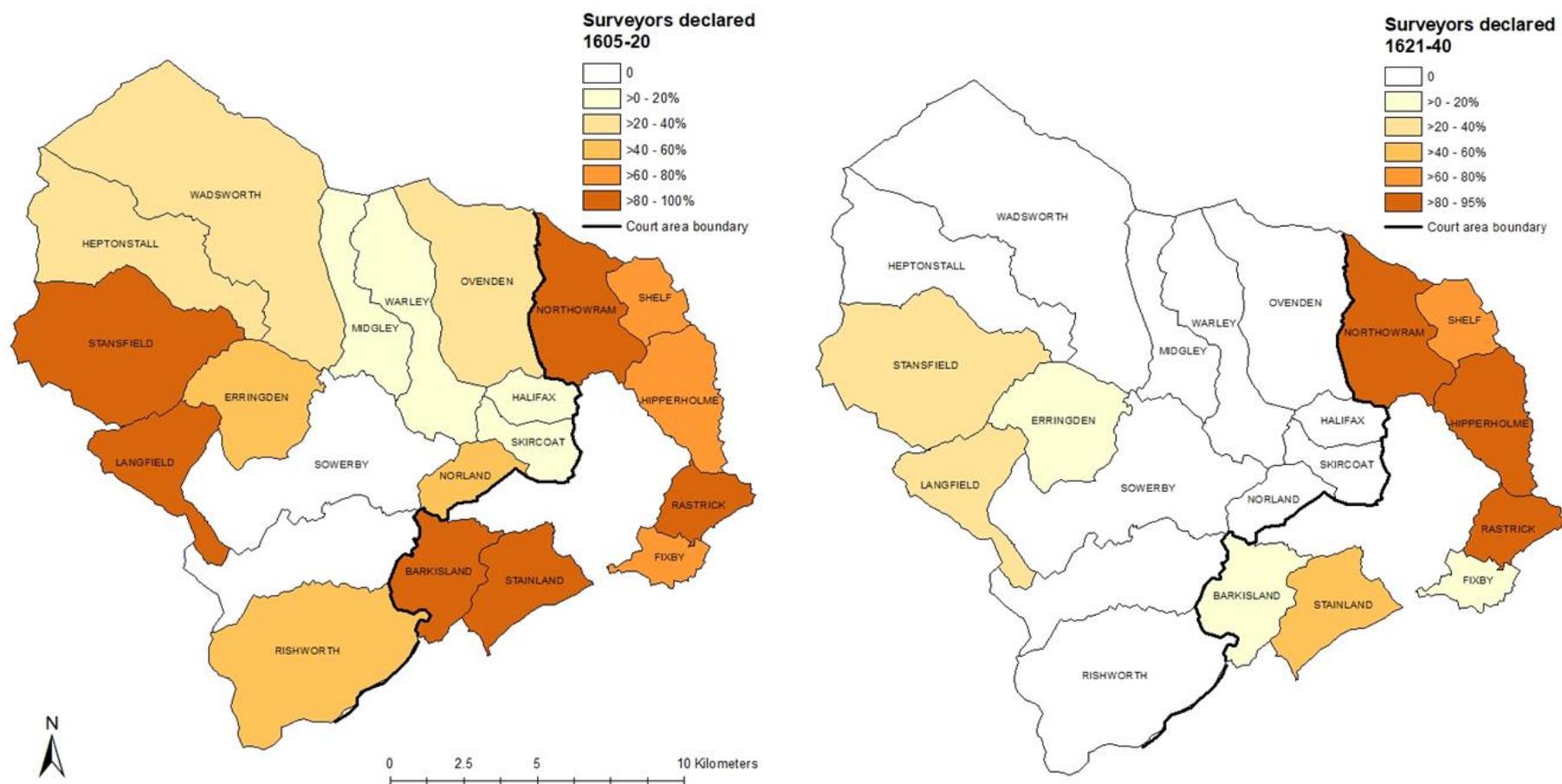
<sup>59</sup> Leeds University Special Collections, Wakefield manor court rolls, YAS/MD225/1/289A, Hipperholme, Easter 1564.

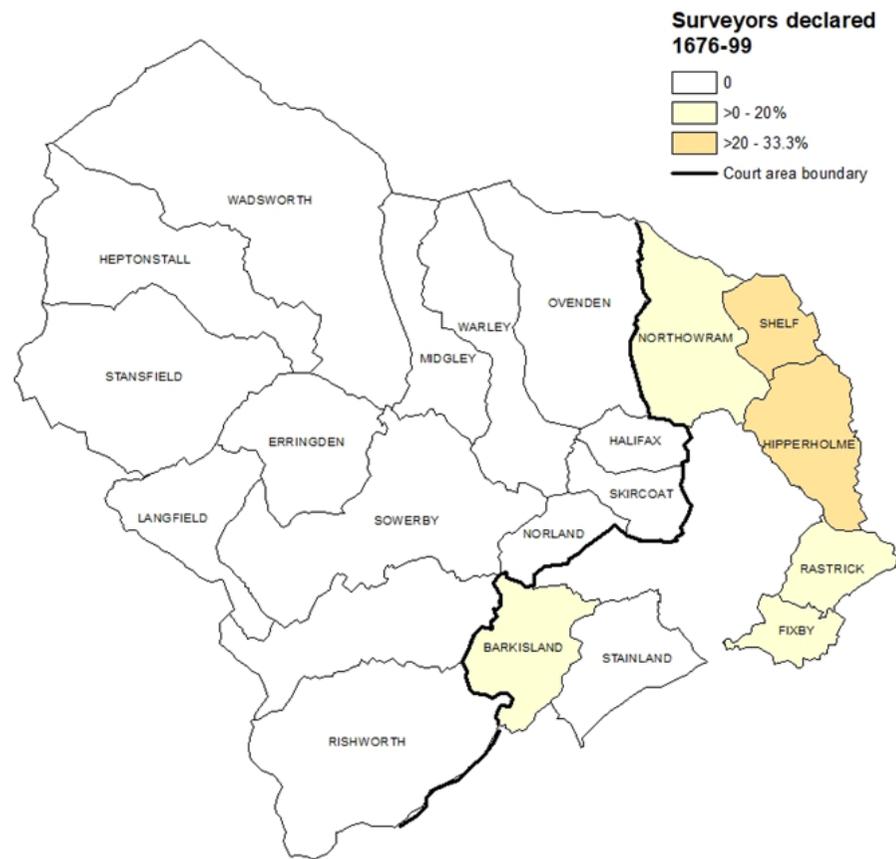
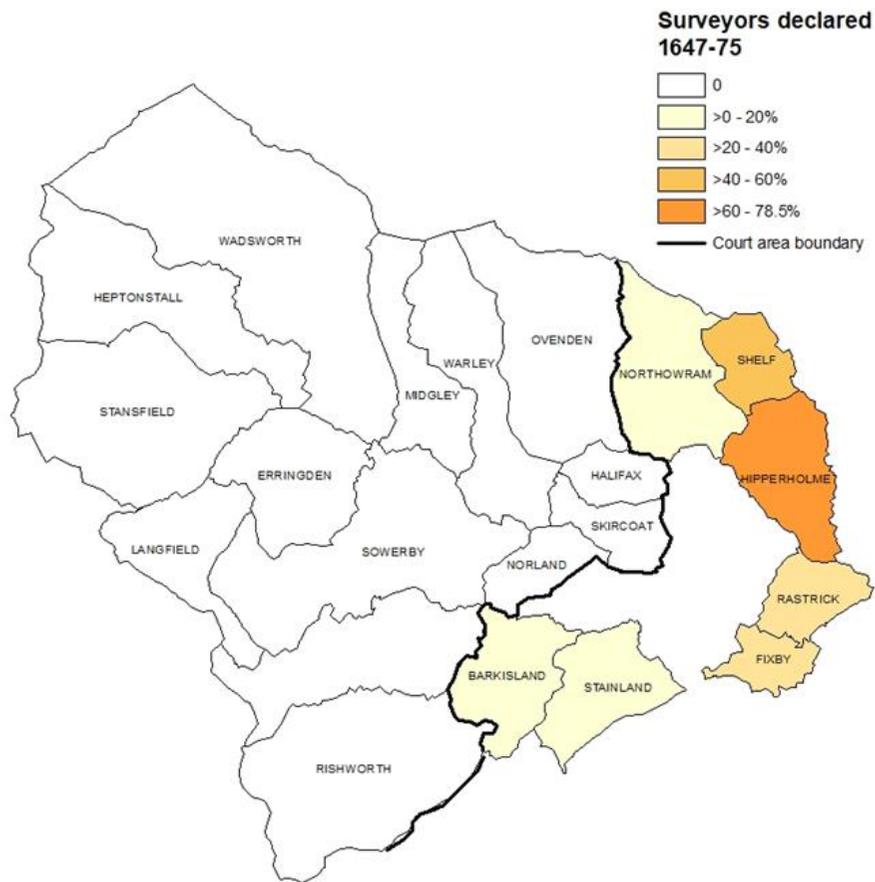
<sup>60</sup> YAS/MD225/1/289A, Easter 1564.

<sup>61</sup> YAS/MD225/1/332A, Easter 1607.

<sup>62</sup> YAS/MD225/1/335A, Midgley, Easter 1610; YAS/MD225/1/331A, Halifax, Easter 1605, YAS/MD225/1/333A, Halifax, Easter 1607. A surveyor for Soyland is mentioned in the Sowerby constables' accounts in 1652. See Ch.5.

Maps 2.1a-d. *Surveyor appointments declared to the court leet, Halifax parish, (percentage of years with a declaration): a) 1605-20; b) 1621-40; overleaf: c) 1647-75; d) 1676-99.*





Declarations of surveyors to the court persisted longer in the Upper Calder valley but, even here, only three townships continued the practice after 1616, and that of Erringden in 1631 proved to be the last.<sup>63</sup> Declarations further east in the Brighouse court area were consistently high before 1641. By the 1680s, however, only Hipperholme and Shelf in the north-east continued to declare, and it seems possible that, prior to the 1692 statute, the office was restricted to the north-eastern part of the parish. Township books list a surveyor for Ovenden in 1692, Skircoat in 1693, and the constable accounts for Sowerby mention warrants for surveyors (probably for both Sowerby and Soyland) in 1694.<sup>64</sup> The close timing of these appointments after the 1692 Act make it almost certain that they result from the new routine of special highway sessions every four months (Table 2.3). These maps may, for a number of reasons, understate the prevalence of surveyors, especially where gaps appear in an otherwise continuous series of declarations. Slips with declarations may have been lost or may be obscured by stitching at the top of membranes. Some surveyors may simply have rolled over into a second term. It is also possible that court officials or constables realised that declarations to the manor court were not a statutory requirement. It is, therefore, unsafe to assume no surveyors were chosen unless declared. Nevertheless, the absence of any mention of surveyors by constables attending the Halifax court between 1630 and 1690, despite a significant volume of highway orders, strongly suggests the office had disappeared from this part of the parish and been subsumed into the constable's role. The geographical disparity reflects differences in governance and social structure that are explored in Chapters Three and Four.

Townships usually appointed at least two surveyors each, following the two-per-parish norm, set in the 1555 Act. Exceptionally, diminutive Fixby (Brighouse court) never chose more than one. Appointing more than two was widespread. Rishworth & Norland (a township with two discrete parts), Stansfield, Hipperholme and Northowram declared four or even five each, reflecting their scattered settlement patterns; Quarmby, a township outside the parish attending the Brighouse court, sprawling across Almondbury and Huddersfield parishes, named between five and ten surveyors for the

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<sup>63</sup> YAS/MD225/1/356A, Erringden, Easter 1631.

<sup>64</sup> WYAS (C): HAS:70 (200) Ovenden vestry account book (1690-1759); HAS:142 (770) Skircoat township book (1674-1835); SPL:143 Sowerby constables' accounts (1628-1715).

five areas of which it was formed.<sup>65</sup> Stansfield (Halifax court) allocated surveyors to different segments of the township demarcated by cloughs on four occasions, while their final declaration in 1629 allocated one of four surveyors to ‘the highe way between Blackshayhead and Earneshay watter’.<sup>66</sup> These divisions appear to foreshadow the eighteenth-century division of Stansfield into ‘thirds’, documented in a 1751 list of householders contributing to the salary of the minister at Cross Stone and for which three surveyors presented separate accounts in the 1780s.<sup>67</sup> At Brighouse, Hipperholme typically allocated four surveyors to the ‘quarters’ of Hipperholme, Lightcliffe, Norwood Green and Brighouse.<sup>68</sup> For Northowram, two surveyors were allocated to the ‘west and east of our town’ in 1647 and 1660.<sup>69</sup> Stainland repeatedly appointed one surveyor for the hamlet of Old Lindley and two for the rest of the township.<sup>70</sup> In these pragmatic divisions of responsibility appear to lie the origins of the later ‘townships for highway purposes’ noted by Winchester and Cruickshank, also an aspect of administrative development in Sowerby (Chapter Five).<sup>71</sup>

The leet records throw up a further puzzle relevant to this discussion. An Erringden bill of 1638 lists two names as ‘presenters for the highways’, thereby conflating the separate roles of surveyor and ‘sworn men’ or ‘presenters’ at the court.<sup>72</sup> Men sworn as presenters were termed ‘highway presenters’ or ‘highway overseers’ six times for the Brighouse townships of Barkisland, Shelf and Stainland;<sup>73</sup> and sixteen times at Halifax for Halifax, Erringden, Ovenden, Rishworth, Skircoat, and Sowerby.<sup>74</sup> As eighteen of

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<sup>65</sup> For Quarmby, see YAS/MD225/1/372A, Easter 1647; the township is discussed in G. Redmonds, *Names and History: People, Places and Things* (London, 2004), pp.56-8.

<sup>66</sup> Stansfield, Easter: YAS/MD225/1/332A (1607), YAS/MD225/1/337A (1612), YAS/MD225/1/344A (1619), YAS/MD225/1/345A (1620); YAS/MD225/1/354A (1629, only one surveyor allocated an area).

<sup>67</sup> WYAS (W), WDP41/30, Cross Stone salary cost book, May 1751; WYAS (C), TT:148, Stansfield surveyor of the highways account book (1784-1836).

<sup>68</sup> YAS/MD225/1/382A, Hipperholme, Easter 1657.

<sup>69</sup> Northowram, Easter: YAS/MD225/1/372A (1647), YAS/MD225/1/385A (1660).

<sup>70</sup> YAS/MD225/1/337A, Stainland, Easter 1612.

<sup>71</sup> A.J.L. Winchester, ‘Parish, Township and Tithing’, *The Local Historian*, 27 (1997), pp.3-17 (p.15); J.L. Cruickshank, ‘Surveying the administrative boundaries of Lancashire and Yorkshire after the 1841 Ordnance Survey Act’, *Sheetlines* 92 (2011), pp.16-19; J.L. Cruickshank, *Headingley-cum-Burley, c.1540–c.1784* (Leeds, 2012), p.143; J.L. Cruickshank, ‘Courts leet, constables and the township structure in the West Riding, 1540–1842’, *NH*, 54 (2017), pp.59-78 (pp.61-2).

<sup>72</sup> YAS/MD225/1/364A, Erringden, Michaelmas 1638; see also Ch.4 for officer role descriptions.

<sup>73</sup> Brighouse Easter courts. Barkisland: YAS/MD225/1/380A (1655), YAS/MD225/1/401A (1676), YAS/MD225/1/408A (1683); YAS/MD225/1/402A; Shelf & Stainland, YAS/MD225/1/392A (1667).

<sup>74</sup> Halifax Michaelmas courts (unless stated otherwise). Erringden: YAS/MD225/1/364A, 1638; YAS/MD225/1/366A (1640); Halifax: YAS/MD225/1/410A (Easter 1686), YAS/MD225/1/412A (Easter 1687); Ovenden: YAS/MD225/1/410A (1684), YAS/MD225/1/411A (Easter 1686),

these instances post-date the change in 1662 imposing a penalty for not appointing a surveyor, it is tempting to see the variation in title as deflecting the risk of a £5 fine by combining two roles of very different provenance. This must remain conjectural, but the absence of fines for the offence at the West Riding Quarter Sessions before 1692 suggests that, despite legislative prompts in 1654, 1662 and 1670, an understanding existed between justices and townships that the office of surveyor was less important than an effective system for repairs, which, in the Halifax court area, was ultimately managed by constables.

It appears likely that, in much of the parish, constables took executive responsibility for highways, more obviously so in the Halifax court area. That constables were considered accountable to the leet is evident from a jury order of 1563/4:

Item it is payned to evere constabill within this turne that theye shall give warninge for the mendynge of heye ways accordynge to the vertu of the statute upon payne of x s <sup>75</sup>

For Sowerby township on the important Blackstone Edge route between Halifax and Rochdale, there are no signs of surveyor appointments until a constable reports going ‘to the sesions with the oversears of the high wayes’ in 1694.<sup>76</sup> The court leet records indicate constable control in 1622, when the Sowerby constable was amerced for not ‘apointing the commonday works this yeare’.<sup>77</sup> The Sowerby constables’ accounts imply they took direct control of highway maintenance until 1692, including increasing levels of paid labour financed through constable assessments, as discussed in Chapter Five. Elsewhere, a bill from Heptonstall claims that ‘as many [highways] as oughte to be repaired by the cunstable are in good reparaire’.<sup>78</sup> Constable responsibility is recorded in Ovenden (concerning a bridge shared with Northowram), Stansfield, and Wadsworth.<sup>79</sup> Ovenden presented the ‘constables and towne of Halifax’ for not amending a highway between the two townships.<sup>80</sup> The most straightforward

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YAS/MD225/1/414A (1688); Rishworth: YAS/MD225/1/397A (1671), YAS/MD225/1/405A (1679), YAS/MD225/1/412A (1686); Skircoat: YAS/MD225/1/401A (Easter 1676), YAS/MD225/1/411A (1685); Sowerby: YAS/MD225/1/397A (1671), YAS/MD225/1/399A (1673), YAS/MD225/1/400A (Easter 1675), YAS/MD225/1/410A (1684).

<sup>75</sup> YAS/MD225/1/289A (1563) is in poor condition; details in two other items on this membrane indicate a Halifax court area origin.

<sup>76</sup> WYAS (C), SPL:143, Sowerby constables’ accounts. A surveyor is mentioned in Soyland (1652).

<sup>77</sup> YAS/MD225/1/348A, Sowerby, Michaelmas 1622.

<sup>78</sup> YAS/MD225/1/358A, Heptonstall, Michaelmas 1632.

<sup>79</sup> YAS/MD225/1/381A, Ovenden, Easter 1656; YAS/MD225/1/389A, Stansfield, Michaelmas, 1663; YAS/MD225/1/402A, Wadsworth, Michaelmas, 1676.

<sup>80</sup> YAS/MD225/1/348A, Ovenden, Easter 1623; YAS/MD225/1/394A, Northowram, Easter 1668.

explanation is that the duties of the surveyor were widely (but not universally) incorporated into the more substantial status and executive role of the constable, a tendency perhaps accelerated by the development of petty sessions in the West Riding, as discussed in Chapter Five. The constable was an obvious conduit for communicating information about highways to and from county officials, irrespective of whether surveyors were in post. The conjunction of these administrative routines and constables' central role at the court leet gave township leaders little incentive to appoint highway surveyors before the 1692 Act mandated accountability of surveyors at the four-monthly special sessions.

## IV Statute duty

Apart from the office of surveyor, the most significant innovation in the Tudor statutes was the procedure for unpaid work for the repair of roads, which became more detailed and carried greater penalties in the revising statutes. With the leet serving as a monitoring body, one might expect repeated cases of neglect or refusal by individuals and surveyors and orders or bylaws regarding the dates and location of work to be done. The formal statutory procedure of setting up to six working days for adult male householders to work on highways is indeed specified in some orders to the Brighthouse court. Barkisland (six times) and Hipperholme (once) used their Easter bills of presentments to name surveyors and fix the number of days, but not the location of work to be done, as in this example from Barkisland in 1615:<sup>81</sup>

We present to be overseers of the commondayworks John Ramsden of Bowers & Thomas Preisley

And whereas it hath <bene> accustomedly used within oer towne to have vj several commondayeworks in one yeare we lay in paine that if any householder shall not send to every of the said commondayworkes a sufficient & able workeman every one so offending shall forfeit for every day making default herein xij d

Specifying six days and the statutory fine is expected. Of more interest is the word ‘several’, suggesting that the surveyors designated separate days during the year, a practice not put into statutory law until 1670.<sup>82</sup> Both Barkisland and Rastrick set bylaw penalties for anyone refusing to work statute duty.<sup>83</sup> In 1630 the Brighthouse jury confirmed Rastrick’s penalties in an unusual bylaw list but without extending the arrangement to any other township.<sup>84</sup> The penalties amerced in the 1630s for failure to work statute duty in Hipperholme, Rastrick and Shelf tended to follow manorial rather than statutory norms.<sup>85</sup> In 1631, five men and one woman were fined just 6d in Shelf for not sending a man, and three residents of Rastrick 3s 4d for not sending a ‘draught’ [a cart, horse(s) and a man], rather than the respective penalties of 12d and 10s set in the 1555 Act.

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<sup>81</sup> Brighthouse Easter courts. Barkisland: YAS/MD225/1/334A (1609), YAS/MD225/1/336A-40A (1611-5); Hipperholme: YAS/MD225/1/374A (1649).

<sup>82</sup> OED, ‘Qualifying a plural noun: Individually separate; different’.

<sup>83</sup> Easter courts. Barkisland, YAS/MD225/1/334A (1609), YAS/MD225/1/340A (1615); Rastrick: YAS/MD225/1/351A-3A (1626-8), YAS/MD225/1/396A (1671).

<sup>84</sup> YAS/MD225/1/356A, Brighthouse jury, Michaelmas 1630.

<sup>85</sup> Brighthouse, Michaelmas courts: Hipperholme: YAS/MD225/1/348A (1622); Rastrick: YAS/MD225/1/357 (1631), YAS/MD225/1/361A (1635); Shelf: YAS/MD225/1/357A (1631).

In the Halifax court area, references to statute labour are rare and less formal, preceding the disappearance of surveyor declarations from their records. In 1584, Skircoat reported ‘common days works we have well furnyshed’.<sup>86</sup> In 1615, Wadsworth’s penalty at the statutory rate of 12d for sending an able man is linked to ‘amending of the hye ways [towards Colne] above the brooke’, and Warley claimed that ‘our highways [are] repiered according to the statter’ [statute].<sup>87</sup> Miles Stansfeild was amerced 12d by Stansfield in 1627 for ‘denying to come & work at the commaund of the overseer’, and a Sowerby constable was fined in 1622 for not setting any statute work at all.<sup>88</sup> While it is possible that justices could have intervened to impose statute duty through petty sessions, cases of statute labour defaults at Quarter Sessions before 1700 are altogether absent from Halifax parish. In a rare example from elsewhere in the West Riding, Sir William Lowther, the member for Pontefract, secured a fine for statute duty failure in Rothwell in 1670.<sup>89</sup> A few similar orders in this period outside Halifax parish hardly suggest concerted action to reactivate the statutory process. If there had been, Francis Whyte might be expected to have figured prominently. Whyte became recorder of Leeds in 1662 and combined this with the High Stewardship of the manor of Wakefield for thirty years.<sup>90</sup> He, therefore, had both the power and the legal knowledge to force the reinstatement of statute labour but never saw fit to make such an intervention.

While bylaws were used, albeit rarely, for announcing statute duty and setting penalties for non-attendance, the principle of the procedure may be concealed within orders specifying a collective duty to repair without fixed days. In Hipperholme, where references to formal statute duty persisted, a pain set by the Brighouse jury assigned township responsibility to the entire 3km stretch of the major highway between Halifax and Wakefield through the township in 1615:

We of the jurye do laye in payne that the towne of Hipperholme repaire the hye waye from the Place broke [brook] unto Balye [Bailiff] brigg before the next sheriff turne in payne of xx s<sup>91</sup>

Whether statute duty was invoked is unclear, but a cursory note in the following October reports that ‘all the ould pains layd ... at the last sheraturn [sheriff’s tourn] they

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<sup>86</sup> YAS/MD225/1/308, Skircoat, Easter 1583.

<sup>87</sup> Easter court. Wadsworth: YAS/MD225/1/337A (1612); Warley: YAS/MD225/1/340A (1615).

<sup>88</sup> Michaelmas courts, Stansfield: YAS/MD225/1/353A (1627); Sowerby: YAS/MD225/1/348A (1622).

<sup>89</sup> WRQS, Order, January 1670, accessed via <https://www.ancestry.co.uk/> in 2018.

<sup>90</sup> *WCR 1664/5*, p. xv.

<sup>91</sup> YAS/MD225/1/340A, Brighouse jury, Easter 1615.

are amended'.<sup>92</sup> Also in Hipperholme, a series of eight bylaws between 1674 and 1691 instructed inhabitants to 'switch' hedges and scour ditches to protect highways, as had been made a statutory obligation in 1562.<sup>93</sup> The most significant use of by-laws in Halifax town addressed both nuisances (butchers' waste, cellar hole coverings, middens) and, on three occasions, orders for street repairs specifying a penalty for landlords and tenants per yard of street frontage.<sup>94</sup> This ambitious system failed to take hold and long lists of separate orders and amercements against individuals were more typical of the town (see Chapter Six). Another type of presentment may conceal a form of collective labour – where a constable submitted a pain on his own 'town' or the 'inhabitants' of his township. These are more commonly found within the western area prior to 1641 (Table 2.4).

Table 2.4. *Presentments of the constable's home township, selected townships.*

	<b>1605-40</b>	<b>1647-99</b>	<i>Notes</i>
Halifax	17	1	
Heptonstall	11	12	
Sowerby/ Soyland	6	20	Split between Sowerby and Soyland; none after 1672
Stansfield	8	3	
Wadsworth	16	10	

With the notable exceptions of Sowerby (where tensions between parts of the township are explored in Chapter Five) and Heptonstall, internal 'township pains' *per se* tended to decrease over time.<sup>95</sup> Many orders from the Restoration onwards named no one, merely stating 'whom it doth concern', the owners and occupiers of adjacent land next to the road, or even just the stretch of road itself. It seems likely that, in some townships, the communal obligation of statute labour was absorbed into longstanding manorial practice in the form of individualised responsibility for sections of highway. Agreed allocations of individual responsibility may have been made when surveyors were assigned parts of the township, such as in Stansfield and Wadsworth. Legal

<sup>92</sup> YAS/MD225/1/341A, Hipperholme, Michaelmas 1615.

<sup>93</sup> Michaelmas courts (unless otherwise stated): YAS/MD225/1/399A, Easter 1674; YAS/MD225/1/401A, (1675); YAS/MD225/1/405A (1679); YAS/MD225/1/407A-8A (1681-2); YAS/MD225/1/411A (1685); YAS/MD225/1/416A (1690, Easter 1691).

<sup>94</sup> YAS/MD225/1/382, Easter 1657; YAS/MD225/1/385A, Michaelmas 1659; YAS/MD225/1/398A, Michaelmas 1672.

<sup>95</sup> See Ch.5.

precedent on enclosures may have assisted this approach. An Assize case cited by Dalton in every edition of his magistrate's guide from 1626 would have had particular resonance for an area where enclosure of commons or 'waste' was a regular occurrence in this period:

At Lent Assises at Cambridge, Anno 1622, Sir James Ley delivered it in his charge, that if any person hath made, or shall make, any inclosure next the King's highway, that such person shall be charged to amend the highway adioyning to his said enclosure. And if one man hath inclosed on the oneside or part, and another man of the other side, they shall be both charged to amend the same way.<sup>96</sup>

An unexpected effect, therefore, of regulating statutory requirements for road repairs through the court leet was to reinforce individual obligation through *ratione tenurae*. Disregard for the statutory procedure was not so much a matter of resisting the principle of communal obligation as a preference for discharging the obligation in an area of scattered settlements through more flexible arrangements, where title to land as tenant or freeholder was the determining factor.

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<sup>96</sup> Dalton, *Country Justice*, p.68. For enclosure in the South Pennines, see N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, 604, 2014), esp. pp.132-44.

## V The chronology of administrative change

One of the most frequently discussed aspects of the Tudor legislation is that it represents an early and decisive shift of administration from the manor to the secular parish and county, a precursor to the responsibilities of parishes for poor relief, as codified under the Elizabethan poor law legislation.<sup>97</sup> The inclusion of a power of intervention by justices where the leet failed to supervise (1555), where justices themselves perceived disrepair (1562) and for defaults to be presented to justices within a month (1562) certainly opened up a new avenue for dealing with persistent problems (Table 2.2). This line of argument is also supported by the absence in the 1631 Book of Orders of a reminder in Direction II that highways was a responsibility of leet stewards; Direction XII solely highlighted the opportunity for justices to intervene through their monthly meetings (Petty Sessions).<sup>98</sup> The importance of the justice-surveyor relationship was also a major feature of the 1654 Ordinance (Table 2.3). However, the pace of change was limited thereafter to the confirmation in 1662 of the township as a choice of jurisdictional unit for highway surveyors; temporary powers to raise highway rates; and inspection of accounts by ‘the inhabitants at a public meeting’. The township’s authority for highways received a much firmer stamp of statutory approval in the overhaul of 1692 (Table 2.3). A property qualification for the surveyor’s office and justice control of their selection raised its status within township governance and brought the post into line with the status of the township offices of churchwarden, constable and overseer of the poor. This sequence of hesitant changes suggests that the administrative shift to parish and county should be seen as barely complete by the end of the seventeenth century rather than a game-changing ‘event’ in the mid-sixteenth.

The chronology in northern counties is especially doubtful for two reasons. At one level, we have already seen how, in 1563/4, the Wakefield manorial court had at its disposal townships as experienced base units of administration to implement new highway procedures. As will be seen in Chapter Three and as shown by Waddell’s study, highway responsibilities had the potential to strengthen manorial institutions rather than weaken them.<sup>99</sup> A related and even more interesting possibility is that the

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<sup>97</sup> Webbs, *King’s Highway*, p.14; S. Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke, 2000), p.216.

<sup>98</sup> B.W. Quintrell, ‘The making of Charles I’s Book of Orders’, *EHR*, 95, 376 (1980), pp.553-72; the text circulated to justices is from John Rushworth, *Historical Collections* (London, 1659-80).

<sup>99</sup> Waddell, ‘Governing England’.

unknown lawyers drafting the 1555 statute offered statutory authority for highways to courts leet in the first instance precisely because manors had abundant experience of managing local issues of nuisance, obstruction and repair. Manorial arrangements for unpaid labour on the roads, with a ‘repairing season’ between Easter and Midsummer timed to accommodate the needs of arable cultivation in southern counties, provided a convenient template.

The Wakefield court leet records show townships using regulatory techniques that predate the first Marian statute but clearly state township liability for the condition of their roads.<sup>100</sup> For example, seven orders were issued at four court leet sessions in 1537 and 1538 in Halifax for townships to make highways repairs, an example being this order submitted by Heptonstall in 1538:<sup>101</sup>

that the township of Warley was enjoined to repair the highway between Milecrosse [in Halifax township] and Luddyngden before Martinmas, pain 20s

This prefigures a distinctive feature in the seventeenth-century records of the Halifax court leet, discussed in Chapter Three, the regular submission of presentments by one township of a highway in a neighbouring township, actions that secured routes across township boundaries and onwards to key destinations. Midgley township used the court to authorise repairs on roads within and outside its own boundaries:<sup>102</sup>

Myggelay complayns off the hye way betwyxt the chapell and Myggelay town that every man make anenth [against] hys awn lands before owr lady day the next, pain 2s 8d; also Mygelay complens off Warlay that thay can not com to Halyfax with no cors [corpse] then to the markt sumtym for frost and sumtym for clay and that the way ys not suffycyent, to be amended, pain 20s

This presentment even prescribed how the work was to be organised, namely by the occupants of adjoining land, just as was later practised in the parish (Chapter Three).<sup>103</sup> Traditions of obligation and participation within townships were clearly reinforced by the bi-annual process of presenting offences and nuisances and orders to repair infrastructure, such as roads and drains, or to protect common resources of pasture or timber crucial to the economic and social wellbeing of the township. These are processes and methods which persisted after statutory reforms of parish and township governance.

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<sup>100</sup> A. Weikel (ed.), *The Court Rolls of the Manor of Wakefield from 1537 to 1539* (Leeds, 1993).

<sup>101</sup> Heptonstall, Michaelmas 1537, in *WCR 1537-9*, p.73.

<sup>102</sup> Midgley, Easter 1538, in *WCR 1537-9*, pp.88-9.

<sup>103</sup> See Ch.3 for ‘inter-township’ presentments.

The townships of the parish had, long before the Tudor statutes, become established as a civil authority with responsibilities that included highway maintenance enforced through the authority of the leet. This system included the participation of townsfolk as jurors and presenters with executive authority vested in either a highway surveyor, or, more usually, the township constable. The concept of collective labour based on adjacency of land holdings was already established and made the formal procedures of statute labour largely superfluous. The townships attending the Wakefield leet were active in terms of civic governance and developing as ‘self-governing commonwealth[s]’.<sup>104</sup> There are, nevertheless, signs that provisions in the highway legislation drew upon, and further strengthened, township identity and governance capacity. Townships were prepared to cover large lawyer disputes over liability between townships, as was the case in Sowerby (Chapter Five). New powers opened the possibility of a more interventionist agenda for widening roads and clearing obstructions and nuisances. It is the very hybridity of township governance of highways in this period that makes the surviving records such a productive field of study.

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<sup>104</sup> P. Collinson, ‘*De República Anglorum*: Or, history with the politics put back’, in *Elizabethan Essays* (London, 1994), pp.1-29 (p.24).

## Conclusions

This prefatory review of the legal framework and the evidence for implementation of selected statutory requirements, suggests that townships worked within a hybrid system that retained the familiarity and authority of the court leet for delivering statutory objectives, leaving the Quarter Sessions to deal with more intractable disputes and cases that had provoked individual justices' attention. From the mid-sixteenth century printed guidance manuals offered remedies at the leet for dealing with obstruction and nuisances through procedures of enquiry and presentment and enforced obligations for repair vested in tenants and householders. This was underpinned by the duty of the township to address communal problems by collective action, when needed. The Tudor statutes superimposed a pro-active duty to repair, using a fixed procedure, onto reactive provisions concerned with nuisances and obstruction of free passage. Data from the Halifax and Brighouse courts suggest an initial drive to introduce surveyors and statutory workdays giving way in much of the case study area to executive action by constables and extensive application of repair *ratione tenurae*. The statutes reinforced the practices and authority of the court leet, and the governance capacity of townships attending was clearly enhanced as they negotiated delegated responsibilities within their boundaries and commonality of approach with their neighbours, especially in the Halifax court area.

The exploration of these two traditions of law and administration – statutory and manorial – has also highlighted an important political constraint for the delivery of this aspect of state policy in early modern England. If sixteenth-century legislators were to be successful in delivering the improvements in mobility and commercial transport required by an assertive political centre, they had little option but to pursue a policy for implementation in the localities that relied heavily on the existing manorial machinery. There was, however, a price paid for the co-option of manorial stewards and their gentry masters who populated the county benches. Firstly, it was not until 1662 that parliament felt able to use the force of law to compel compliance in the election of highway surveyors, by which time many townships in Halifax parish had long managed their roads without surveyors and showed little immediate appetite for bringing them back. Secondly, the leets' tradition of jurisdiction over nuisances and negotiation between the interests of individuals offered elites an opportunity to eschew the process-driven duty of statute labour for the more palatable exercise of neighbourliness based on

individualised obligation. At root this was a rebuff for coercive communal procedures, the ‘common day works’, in favour of the more organic exercise of mutual obligations between individuals and between social groups, which had deep roots in both urban Halifax and its more remote upland townships.<sup>105</sup> Individualisation by means of *ratione tenurae* intrinsically linked the level of obligation for repairs to the extent of land held, as those with larger holding would have more acreage alongside which, or through which, highways ran. The result was an extraordinary surge and diversity across the parish in the use of the leet for highway maintenance in the seventeenth century that is explored in the next chapter.

In this first step of the argument, we have noted the evidence for variable rates of statutory compliance. The manorial system functioned with constables or surveyors as lead officers, with tenorial obligations deeply embedded, and with a system of township accountability through the leet that meant fewer calls on local justices. There is a strong sense that both manorial stewards and township notables would have been aware of the ‘rules’ but chose to continue with tried and tested practices until well into the Restoration period. Statutory compliance, therefore, cannot constitute a measure of performance in managing highways. For that, evidence is next required of how the townships used the toolkit of manorial regulation, and, fortunately, there is evidence aplenty for the parish of Halifax to analyse in Chapter Three.

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<sup>105</sup> Ideas of mutual obligation are explored extensively in C. Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1998).

## Chapter Three Presenting the highways

By the end of Monday October 19 1635 the deputy steward of the manor of Wakefield must have been exhausted. He had presided over the twice-yearly court leet at Halifax moot hall, swearing in just under a hundred individuals: fourteen jurors, thirteen new, and thirteen retiring, constables, three deputy constables, and fifty-three ‘presenters’ (representatives from the townships).<sup>1</sup> Several turned up late and two were fined for non-attendance. He had checked the validity of copyhold surrenders, brought to the leet rather than the court baron at Wakefield for the convenience of tenants.<sup>2</sup> Next came punishment for seventy-four cases of affray and bloodshed, five women and ‘a maide’ guilty of polluting the town’s water supply, and allegations of houses being illegally subdivided to accommodate migrant labourers.<sup>3</sup> As well as orders for drainage and fencing outside the town, no fewer than forty-eight cases concerned streets, roads and footpaths, a mix of nuisances, obstruction and failure to repair. In one case, the jurors had quashed a penalty of 10s on Halifax township for an alleged failure to ensure ‘that corp[se]s which are brought oute of Ovenden may be carried on the cawsay and not in the horse way w[hi]ch is so sore worne & deepe, that men canot passe on foote there with the said corp[se]s’.<sup>4</sup> Highway cases always took time: in this session, they accounted for just 10 of 113 penalties issued, but 30 of 39 administrative orders from the twelve townships attending.

A slew of manorial orders related to roads in Halifax parish should not of itself cause surprise. Brodie Waddell’s statistical survey of English manorial courts showed that the proportion of ‘infrastructure’ cases increased from just over a fifth of all presentments in 1550-99 to more than half in 1700-49.<sup>5</sup> He found the proportion in Yorkshire was twice as high for lowland (56.1%) as for upland manors (26.1%) over the entire survey period of 1550-1850. His suggestion that one in five of these was related to ‘ways, paths and lanes’ may even underestimate the priority given to roads, if some fencing, hedges and

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<sup>1</sup> Leeds University Special Collections, Wakefield Court Rolls, YAS/MD225/1/361A, Halifax jury, Michaelmas 1635.

<sup>2</sup> C.M. Fraser, ‘Introduction’ to *WCR 1639/40*, pp. x, xvi.

<sup>3</sup> By dipping ‘cloathes’, possibly manufactured cloth pieces rather than laundry.

<sup>4</sup> YAS/MD225/1/361A, Halifax jury, Michaelmas 1635.

<sup>5</sup> B. Waddell, ‘Governing England through the Manor Courts, 1550-1850’, *HJ*, 55, 2 (2012), pp.279-315’ (pp.294, 303-4); Waddell excluded Wakefield manorial data, p.295n.

drainage orders were, as in the case study area, designed primarily to prevent damage to highways. As he rightly observes, ‘local infrastructure [is] an issue unlikely to stir the hearts of many historians but one that has long been a crucial element in the lives of ordinary people’. Nevertheless, the highway records from the Halifax and Brighouse courts are revelatory in terms of quantity and scope, despite the proportion of amerancements (fines) in such cases at the Halifax court in 1633-5 being lower than Waddell’s findings: just 38 out of 529 (7.2%). The crucial difference is the disproportionately high number of highway ‘pains’ (orders): 170 out of 214 (79.4%) at Halifax and 91 out of 160 (56.9%) at Brighouse in 1633-5. Of a total of 5,939 highway presentments from the nineteen Halifax parish townships, only 724 (12.2%) were amerancements, whilst 5,215 (87.8%) were highway-related orders binding on individuals, groups and whole townships. The discrepancy stems directly from the kind of the documents used for this study. Waddell’s survey was broad-ranging across England but necessarily drew mainly from the more numerous parchment rolls on which amerancements predominate over bylaws and orders.<sup>6</sup> This study uses the original ‘bills’ of presentments, written on paper and submitted by township constables, which were subsequently filed, stitched and rolled in parchment covers as part of the court’s records. Bylaws lasting more than one year were uncommon in Wakefield, and only one ‘pain list’ of the type described by Winchester for upland manors further north survives in the documents examined.<sup>7</sup>

No previous study has exploited such a large seventeenth-century data series to study the role of manorial courts in managing highway problems. There were four stages to the methodology used to manage this large corpus of presentment data. First, the surviving paper documents for the court leet sittings at Halifax and Brighouse between 1561 and 1699 were photographed. Secondly, details of each township’s bills were entered onto an individual Excel worksheet for each court session, to include juror and officeholder names and highway presentment details, categorised as pain or amerancement, by defect type<sup>8</sup>, person(s) or township(s) stated as liable, location, penalty and deadline. Counts of non-highway presentments, classified within Waddell’s

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<sup>6</sup> *Ibid.*, pp.284-5.

<sup>7</sup> A.J.L. Winchester, *The Harvest of the Hills: Rural Life in Northern England and the Scottish Borders 1400-1700* (Edinburgh, 2000), pp.26ff; the 1631 pain list for Rastrick was discussed in Ch.2 above.

<sup>8</sup> See Table 3.2 below.

categories, were logged for comparison.<sup>9</sup> Thirdly, categorised presentment totals were calculated for each township in five-year periods. Finally, these totals were used to produce graphs or mapping, as required. An image of a typical constable's bill from Heptonstall for Easter 1654 appears as Fig. 3.1.

It is rare in this period to have sufficient, high-quality place-name data to enable GIS mapping of frequencies by township and by category with which to reveal complex and shifting patterns of highway management across the parish. The bills disclose a steady stream of orders ('pains') concerning highways, streets and paths in the parish, demonstrating township responsiveness to the problems of travel and transport in pre-turnpike England of remarkable consistency and sophistication. Most remarkable within these is the phenomenon of repeated challenges between townships in the western part of the parish, focused on regional routes over the Pennine watershed to Lancashire and eastwards to Halifax and other West Riding towns. The awareness of space and connectivity is at times breath-taking. Nevertheless, the risk of over-interpretation is ever-present. First, the study relies on judgement to categorise highway problems couched in seventeenth-century language which may be poorly expressed or difficult to read. Secondly, there can be some difficulty in locating place names securely: names may be illegible, may have changed or may have been lost by the time of the first series OS six-inch maps of the 1850s.<sup>10</sup>

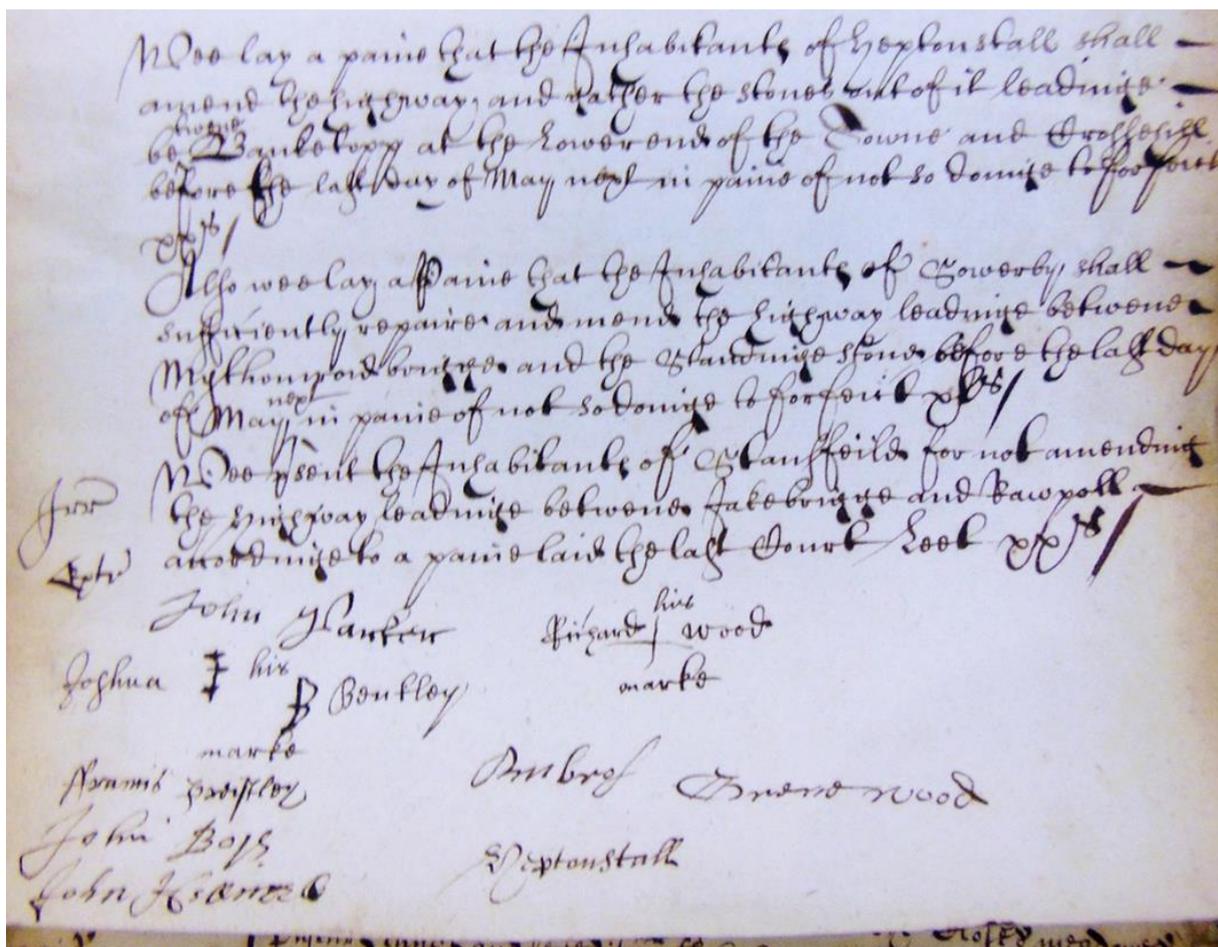
After categorisation, quantification and location, the interpretation of such data remains challenging, especially concerning the extent to which court activity can be taken as a proxy for road maintenance activity. One of the differences in approach discussed in this chapter is between townships that used the court to deal with failures of obligation and others that submitted annual schedules of work allocated to people with land or housing adjoining the road. The finding that the latter group of townships submitted more presentments is primarily an indication of administrative practice, not of the scale of road maintenance. While statistical differences in presentments should, therefore, not be used to rank townships as more or less efficient in managing their roads, the records

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<sup>9</sup> Sampled years only, Fig. 3.2.

<sup>10</sup> Ordnance Survey, *County Series, Six-inch, First edition, Yorkshire*: 214-6, 229-31, 244-6, 259 (1851-5); accessed online from the National Library of Scotland <https://maps.nls.uk/os/6inch-england-and-wales/index.html> or via Calderdale Council <https://www.calderdale.gov.uk/v2/maps/historic> between 2016 and 2021.

Fig. 3.1. *Image of a constable bill from Heptonstall (Halifax court), Easter 1654.*<sup>11</sup>



Notes : 1) The image shows:

one highway order, internal to Heptonstall, penalty of 20s; one highway order targeting Sowerby, 40s; both with a May 31 deadline

one amercement against Stansfield (20s, confirmed by the notations *jur'* and *extr'*) for failure to mend the road stipulated at the Michaelmas court

two presenters' signatures (John Parker, Ambros Grenewood) and two presenters' marks (Joshua Bentley, Richard Wood)

three jurors' signatures (Francis Preistley, John Boys, John Helliwell)

2) The names of the jurors, constables and presenters attending were also recorded separately by manorial staff.

*The image is reproduced by kind permission of the Yorkshire Archaeological and History Society and the Brotherton Library (Special Collections) at Leeds University.*

<sup>11</sup> YAS/MD225/1/379A.

remain a valuable resource for assessing variations in strategy and the considerations facing those charged with keeping them in repair.

After an introduction to the manor court's procedures, quantitative analysis is employed to assess the importance of different categories of highway presentment, geographical variation and chronological change. The findings highlight two clusters of 'activist' townships, a scattering of less active townships, and the uniquely complex data for Halifax town itself. The two more active areas (in the west and east of the parish) are then analysed to tease out their distinctive administrative practices and strategies in bringing cases to the court leet: planned maintenance and allocation of responsibility in Hipperholme, Northowram and Shelf to the east; enforcement of obligation and a fixation with connectivity in the cloth-working townships of the upper Calder valley. These are contrasted with the unique challenges of street management in the town centre of Halifax. The different priorities and strategies thus identified provide an evidential platform in the following three chapters for exploring broader themes of participation in local governance, the role taken by Sowerby's vestrymen and the underlying dynamics of economic development.

## I Court leet organisation and procedures

Documentary evidence for the manorial courts of Wakefield dates back to 1274, in which period the ‘tourn’ or court leet, the lowest tier of royal justice in the West Riding, was administered under franchise through the Warennes, lords of Wakefield.<sup>12</sup> The court convened twice a year at four centres (Wakefield, Halifax, Brighouse and Kirkburton, Map 3.1). Twelve of the parish’s twenty-one townships attended the Halifax court leet, seven attended the Brighouse court, and two were outside the manor (Map 3.2).<sup>13</sup> The Halifax court area was more compact and topographically coherent, comprising the moorland and catchment areas of the upper Calder and its tributaries, and was entirely inside the parish boundaries. In contrast, the Brighouse court area was more diffuse, split by the two Pontefract townships, and served four townships from three other parishes.<sup>14</sup> Reporting to the leet was structured through constables from each township, and the term ‘constabulary’ is often used in their reports. In some cases, a constable covered two areas which might mistakenly be described as separate townships if subdivided for different administrative purposes. For example, Sowerby was the largest and most complex township in the parish of Halifax, comprising four ‘quarters’ and a narrow strip of land, later known as the ‘Sowerby Ramble’, surrounding the former medieval park of Erringden.<sup>15</sup> One of Sowerby’s quarters, Soyland, fell within Elland chapelry and managed its poor relief separately from Sowerby, which may explain why the justices termed it a township in an internal rating wrangle in 1667.<sup>16</sup> Rishworth and Norland fell within a single township, separated from each other by Barkisland, although Norland was sometimes also called a township in presentments to the leet.<sup>17</sup> ‘Hipperholme-cum-Brighouse’ was so called to include the (then) small settlement of Brighouse whose residents attended a chapel-of-ease across the River

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<sup>12</sup> *Court Rolls of the Manor of Wakefield, Vol. I, 1274 to 1297*, ed. W.P. Baildon (YAS Record Series, Vol. 29, 1901); D.J.H. Michelmore & M.K.E. Edwards, ‘The records of the manor of Wakefield’, *Journal of the Society of Archivists*, 5, 4 (1975), pp.245-50.

<sup>13</sup> During the study period Norland and Soyland, later townships in their own right, were constituent parts of Rishworth and Sowerby townships respectively.

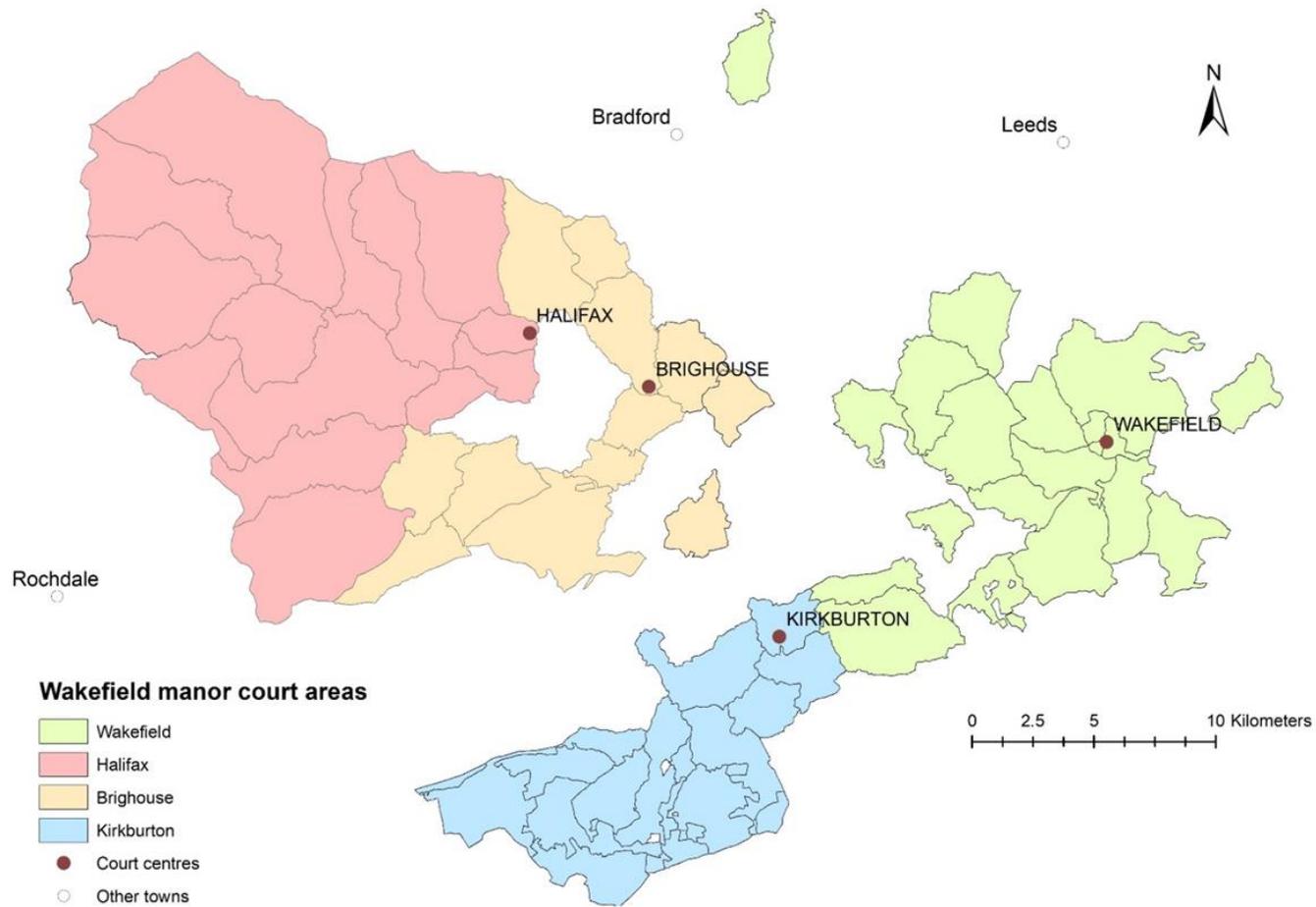
<sup>14</sup> Quarmby (split between Huddersfield and Almondbury); Dalton (Huddersfield); Hartshead and Clifton (Dewsbury); presentment data from these townships was excluded from study.

<sup>15</sup> N. Smith, *The Medieval Park of Erringden* (Hebden Bridge, 2021); WYAS (C), SU/D:57, Conveyance of land, (1835) appears to be the earliest documentary reference to the Ramble.

<sup>16</sup> WRQS Orders (July 1667), accessed online via [www.ancestry.co.uk](http://www.ancestry.co.uk) in November 2018.

<sup>17</sup> Rishworth: YAS/MD225/1/351A, Easter 1626; YAS/MD225/1/412A, Michaelmas 1686. Sowerby: YAS/MD225/1/361A, Easter, 1636.

Map 3.1. *The four court leet areas of the manor of Wakefield, c.1650.*



Map 3.2. *Halifax: jurisdictional boundaries of parish, manor and leet, c.1650.*



Calder in Rastrick in the chapelry of Elland.<sup>18</sup> The minutiae of township boundaries gave rise to intermittent disputes over liability and costs, such as bridge maintenance at Mytholmroyd where the peculiarity of the Ramble required a three-way split between Sowerby, Erringden and Wadsworth.<sup>19</sup>

Exemption of the manor from the county sheriff's control persisted through the study period. A passage from a 1709 survey asserts the special status of the manor: 'the sheriff of the county of Yorke ... nor his officers have any authority to infringe it, except in criminall cases.'<sup>20</sup> An independence of structure bred an independent mindset that, with the passage of time, extended to the four individual court venues, which developed their own customary procedures and approaches to highways. For example, as noted in Chapter Two, the election and declaration of highway surveyors by townships attending the court at Brighouse contrasts with their apparent disappearance by 1630 at the Halifax court. Co-ordination by manorial officers of fifty-two townships attending four venues over eight days a year would never have been easy. Alterations and corrections made to documents suggests guidance by manorial staff to ensure procedural compliance, but, with no surviving charges to the jury, there is little to challenge the impression that, providing township officials attended and submitted reports and respected the lord's property rights, they were able to shape their own priorities for the leet, including setting a lower or higher priority for highway management and other matters within the court's jurisdiction.

Continuity of court organisation and administration was prized: the progression of the 'tourn' twice a year from Wakefield to Halifax, Brighouse and Kirkburton had been in place since at least 1331.<sup>21</sup> In the study period, the court leet sat in Halifax on the Monday after the two 'Great Courts' (baron) of the manor at Michaelmas and Easter. This typically meant Hock Monday (in the week following Easter week) in Halifax and Hock Tuesday in Brighouse, and consecutive days in early to mid-October.<sup>22</sup> The business of the Michaelmas court started with swearing in constables for the ensuing year, the office serving as a channel of communication between manor, township(s),

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<sup>18</sup> John Watson, *The History and Antiquities of the Parish of Halifax in Yorkshire* (London, 1775), p.400.

<sup>19</sup> WRYQS Orders (July 1684), accessed online via <http://www.ancestry.co.uk> in November 2018.

<sup>20</sup> *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013), p.16.

<sup>21</sup> *The Court Rolls of the Manor of Wakefield from October 1331 to September 1333*, ed., S.S. Walker (Leeds, 1983).

<sup>22</sup> Fraser, 'Introduction' to *WCR 1639/40*, pp. x, xvi.

justices and, through the high constable, to the county sheriff and judges on circuit.<sup>23</sup> At both sittings, the oaths of jurors, constables and ‘sworn men’ for each township preceded confirmation of pains, bylaws and orders to address or prevent nuisances and misdemeanours, and presentment of offenders for breaches of pains or relevant statutes. In the large jurisdiction of Wakefield, each constable and either two or four ‘presenters’ on behalf of the township submitted a written ‘bill’ of presentments, which were then accepted or rejected by a jury whose numbers varied between twelve and fifteen. Amercements, normally limited to £2, were confirmed, rejected or varied by the jury. ‘Traversing’ or challenging a decision is occasionally documented through the cursory notation *Tr(aversum) infect(um) est* on a bill to indicate a rejected presentment.<sup>24</sup> Township constables’ bills of presentments, together with less frequent presentments by jurors, provide the data used in this analysis. Alterations to some bills suggest that the matters coming to the court may have been triaged in advance, especially for the numerous cases of law and order and street repairs in Halifax town. Constables’ bills occasionally read as checklists of items, such as this from Sowerby:

Concerning cloth it was never better and more substansially made within the memory of man in our towne  
For treasons fellonyes bloods and frayes we know none  
Our [archery] butts are not in full repayre but shall be fully within this fortnight  
Our stocks is in good repayre  
Our high ways is in good repayre exepthing these following ... [*three highway pains follow*]<sup>25</sup>

Another Sowerby constable ends a list of five highway orders in 1672 by declaring ‘[a]s for other particulers given in charge wee have noe presentments’.<sup>26</sup> It seems likely that the townships may have been called in the order that papers were filed; this would have placed those coming from nearby townships first (Halifax, Skircoat and Sowerby at Halifax court; Hipperholme, Rastrick and Fixby at Brighouse). The five remote western townships were last in the filing order for the Halifax court, giving them extra time to arrive in town. In other respects, the records shed little light on courtroom procedure, timing or level of formality, in line with findings by Brooks.<sup>27</sup>

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<sup>23</sup> J.R. Kent, *The English Village Constable, 1580-1642: A Social and Administrative Study* (Oxford, 1986); M. Goldie, ‘The unacknowledged republic: officeholding in early modern England’, in T. Harris (ed.), *The Politics of the Excluded*, c.1500-1850 (Basingstoke, 2001), pp.153-94.

<sup>24</sup> R.E. Latham, *Revised Medieval Latin Word-list* (London, 1983). See Ch.4 for juries and traverses.

<sup>25</sup> YAS/MD225/1/379A, Easter 1654.

<sup>26</sup> YAS/MD225/1/397A, Easter 1672.

<sup>27</sup> C.W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2010), pp.245-6.

Table 3.1. *Attendees at court leet sessions.*

	Halifax		Brighouse		Annual total
	Michaelmas	Easter	Michaelmas	Easter	
Manorial officers	10	10	10	10	15
Jurors	14	14	14	14	56
Constables	26	13	22	11	48
Presenters	46	46	40	40	150
Total	96	83	86	75	248

Note: 1) typically, around a quarter of presenters attending at Michaelmas would have first officiated at Easter; 2) the Brighouse totals include attendees from four townships outside the parish; 3) the numbers could be higher depending on the number of deputy constables sworn.

The court offered a regular opportunity for social networking and displays of status beyond the confines of individual townships, as explored in Chapter Four.<sup>28</sup> The average number of men attending the Halifax and Brighouse court could have been around 250 in a year (Table 3.1). Besides officeholders from the townships, there were court officials, most likely the presiding deputy steward, a scribe and an usher; the manorial bailiff of Halifax, the ‘graves’ for Sowerby (Halifax court), Hipperholme and Rastrick (Brighouse); and new copyhold tenants and others involved in presentments.<sup>29</sup> The documents make no mention of ‘affeerors’, men appointed elsewhere to adjust penalties according to personal circumstances, probably because penalties were set individually rather than being drawn from a pain list.

In summary, the leet operated in line with long-established procedures that placed the constables and presenters of each township centre stage in reporting offences and making orders for communal resources and infrastructure. There is scant trace of control by manorial officials beyond a consistent requirement for reports in writing and procedural correctness in relation to orders, bylaws and amercements. The ability of the court to function and respond to pressures through successive episodes of war, dearth, epidemic and economic depression is remarkable and bears witness to the usefulness of the court to townships and the opportunities for their leaders to develop their standing through public office.

<sup>28</sup> Goldie, ‘Unacknowledged republic’, p.156.

<sup>29</sup>M. O’Regan, *The Medieval Manor Court of Wakefield (Leeds, 1994)*, pp.39-44.

## II Measuring activity

The utility of quantitative measures of regulatory activity is clearly subject to the definitions and assumptions made at the outset. The presentment categories used in Waddell's survey provide a useful point of reference for comparative purposes.<sup>30</sup> This study, however, required more precision on the scope of 'highways presentments'; this necessarily goes beyond Waddell's grouping of 'ways, lanes, paths' which he subsumed within a broader category of 'infrastructure'.<sup>31</sup> In Wakefield there was no consistent use of terminology for different types of 'way', which range from the 'king's highway' (routes between market towns) through common ways (other public routes), town streets, horseways, footpaths to 'turfways' for conveying peat turves on carts or sleds. The rare instances of 'cartway' may indicate either two-wheeled cart or four-wheeled waggon usage. In this research the terms 'highway' and 'road' are used in an inclusive sense and do not imply usage by wheeled vehicles. The scope of highway cases for this study embraces all such ways and has been further flexed to include nuisances and drainage repairs where the wording on the bill locates them on, or adjacent to, a highway. A presentment is a single pain or amercement irrespective of the number of people named. This leads to an unavoidable discrepancy in the town of Halifax, where presentments almost always named a single householder, even when several people were liable for parts of the same street. Any estimate of total highway presentments will almost certainly be understated for two reasons. Firstly, items will have been missed when obscured by stitching, bleedthrough or fungal damage. Secondly, many other presentments of drains, fences or pit workings have been excluded for not stating an explicit highway context; a proportion of these are likely to have been primarily intended to protect a highway or footway.

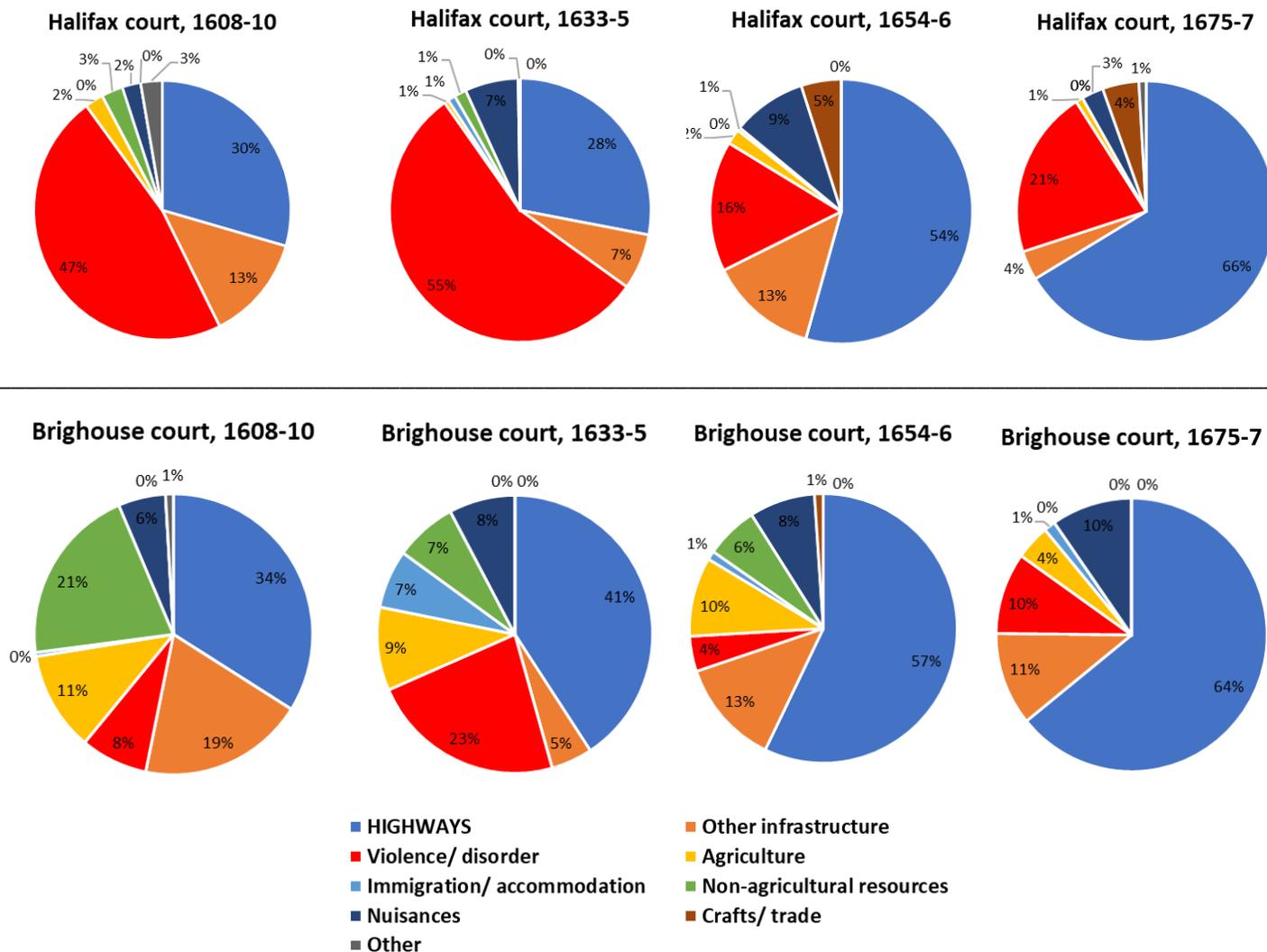
The first task is to assess how the relative importance of highway issues at the two courts changed over time. Nine categories (seven as described by Waddell, with infrastructure split into highways and 'other infrastructure') have been used to derive pie charts for the proportions of presentments in four sample periods of three years (six court sittings) for townships attending the leet at Halifax and Brighouse (Fig. 3.2). The results are highly dependent on the approach of presenting townships: for example, the

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<sup>30</sup> Waddell 'Governing England', pp.286-92.

<sup>31</sup> *Ibid.*, p.291.

Fig. 3.2. Pie charts showing breakdown of presentments at Halifax and Brighthouse courts leet by category, sampled years.



Note: presentments from townships outside the parish have been excluded from the Brighthouse totals.

administrative practice of making a separate presentment for each individual liable for a street frontage in Halifax town contrasts with the practice elsewhere of naming groups of up to twenty people on a single presentment. Another skew factor is the number of cases of affray and bloodshed in urban Halifax which was always higher, noticeably so in the 1630s. 367 of 411 cases of violence or disorder in that sample for the Halifax court area occurred in the town. The highest totals for the Brighthouse court are those reported in the same period by the jury (sixteen) and by Barkisland (twelve). The charts show clearly how highways (coloured blue) increasingly dominated the caseload, surpassing 70% when combined with other infrastructure cases (orange), such as cases of drainage and water supply, some of which may themselves have been highway-related. Cases about agriculture (yellow) and rules for the use of commons for peat, stone and coal (green) were more common at Brighthouse, and trade offences (brown) were, unsurprisingly, more prominent in Halifax. The use of the leet to control immigration and construction of new houses (light blue), as reported by Chris Watson for Lancashire, is comparatively rare except in Brighthouse in the 1630s.<sup>32</sup> This reflects the manufacturing culture of the parish, which made township leaders less keen to present clothiers for building or partitioning housing for textile workers that breached the statutory four-acre land requirement.<sup>33</sup>

To see how highway presentments were distributed across townships and over time, totals were calculated across the parish diachronically for the four quarter-centuries, using the measure of ‘presentments per session’ to allow for disparities between townships in the number of surviving records (Maps 3.3a-d). Several townships used the courts far less often, showing up in lighter colours. Erringden, Rishworth-cum-Norland, and Skircoat (Halifax court) and Stainland, Fixby and Rastrick (Brighthouse court) generally had smaller acreage extents, smaller populations and less main route mileage, as identified from Ogilby’s maps of 1675 and Crump’s work on the ‘ancient highways’ of the parish (termed here as ‘parish roads’).<sup>34</sup> In general terms, the court area

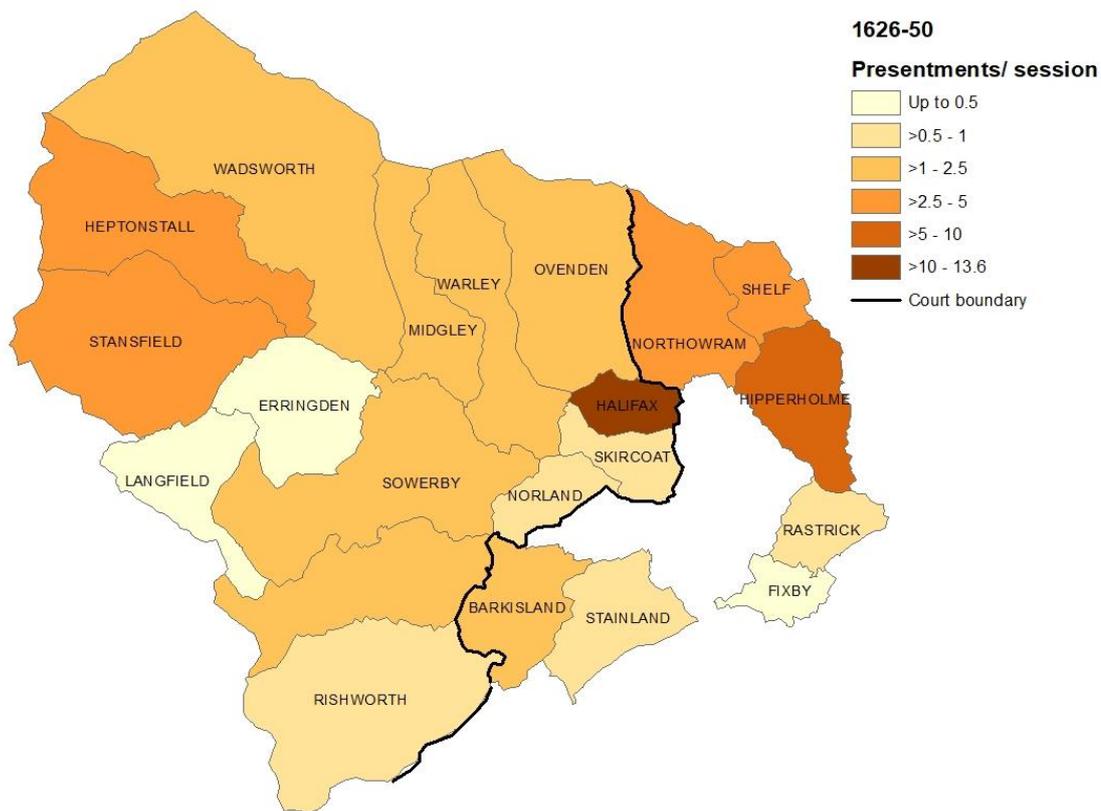
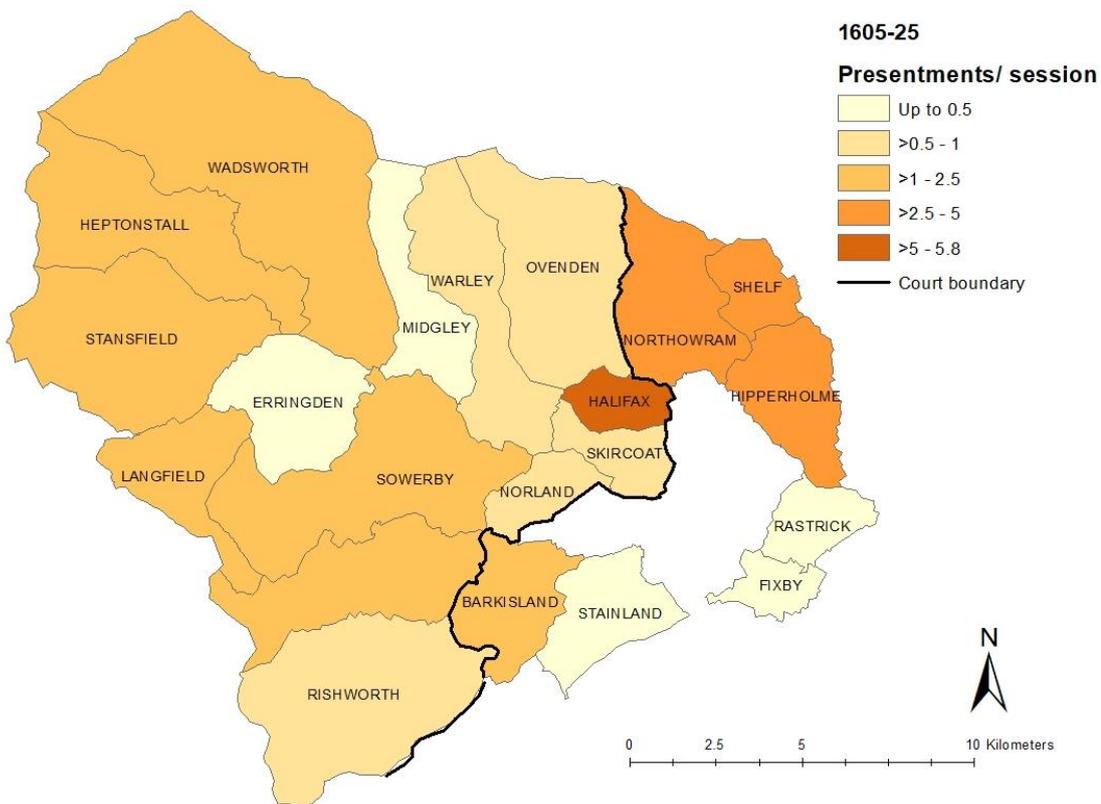
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<sup>32</sup> C. Watson, “‘To Beare the Town Harmles’: Manorial regulation of mobility and settlement in Early Modern Lancashire”, *Rural History*, 28 (2017), pp.119-135; C. Watson, ‘The early administration of the old poor law in Leyland Hundred, Lancashire: the importance of the township’, *The Local Historian*, 40 (2010), pp.266-280.

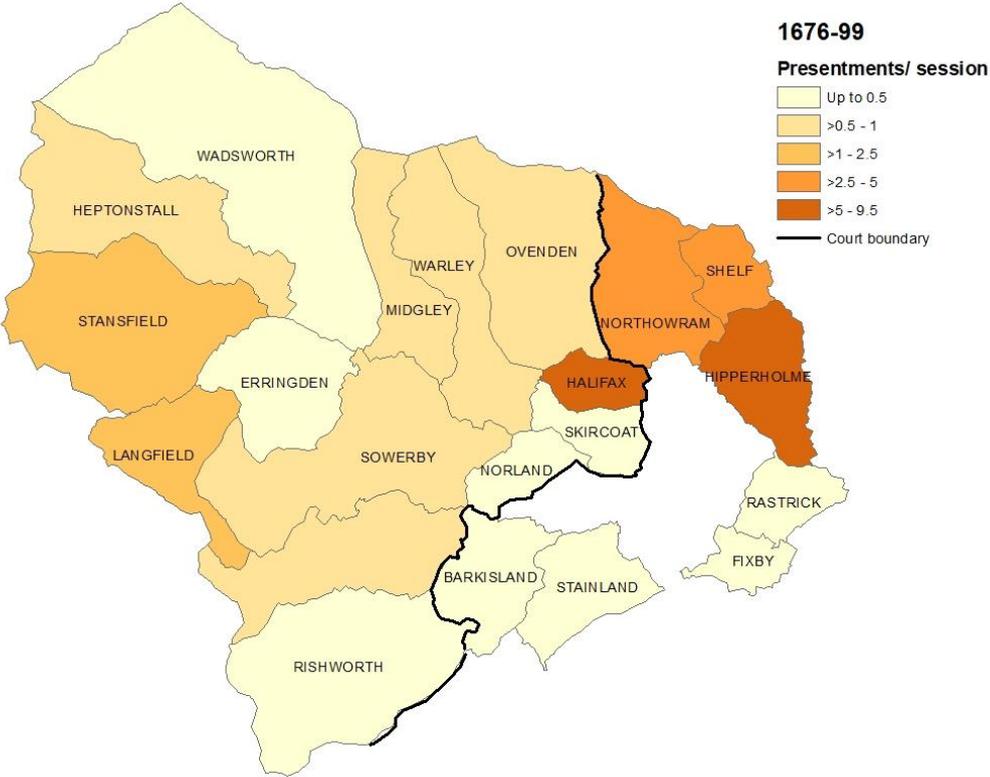
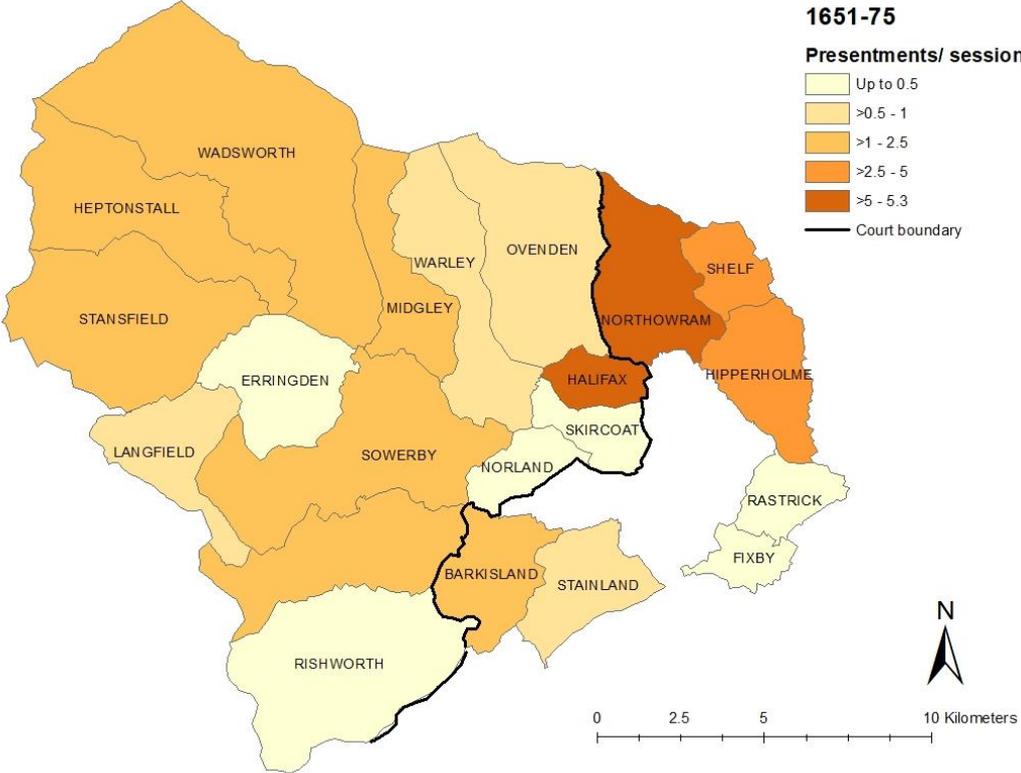
<sup>33</sup> 31 Eliz. c.7 (1588).

<sup>34</sup> John Ogilby, *Britannia* (London, 1675): ‘York to West-Chester’, ‘Oakham to Richmond’; W.B. Crump, ‘Ancient highways of the parish of Halifax’, Pts. I-IX, *THAS* (1924-8).

Maps 3.3a-b. *Highway presentments (pains and amercements) per session, by township: a) 1605-25 (l); and b) 1626-50.*



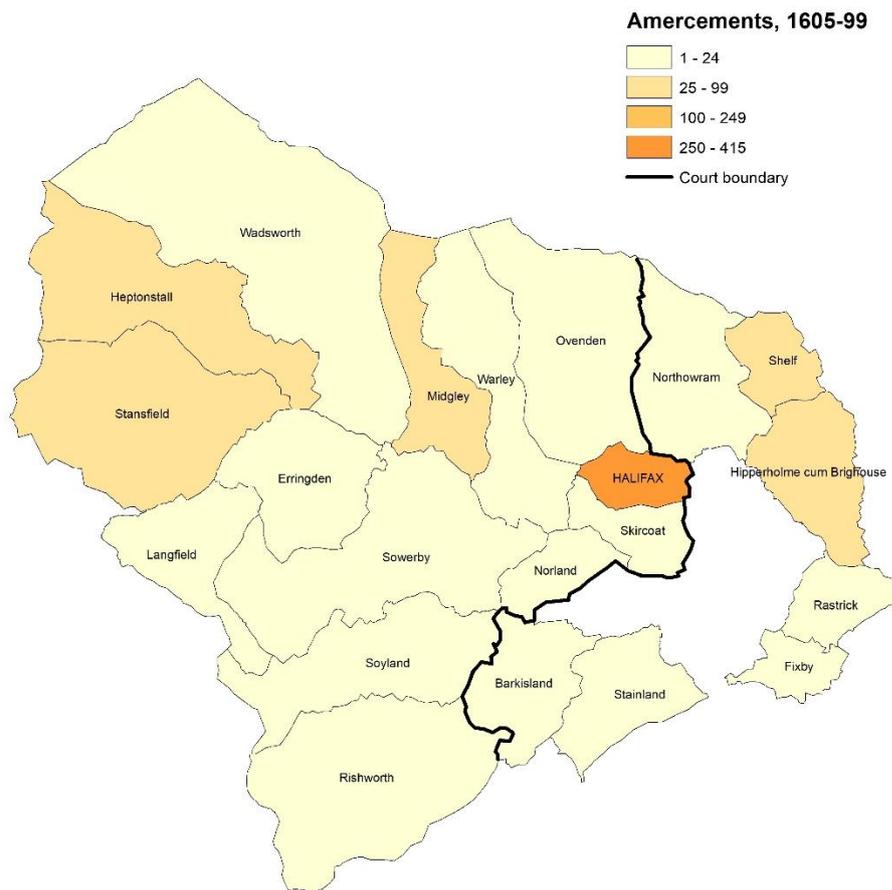
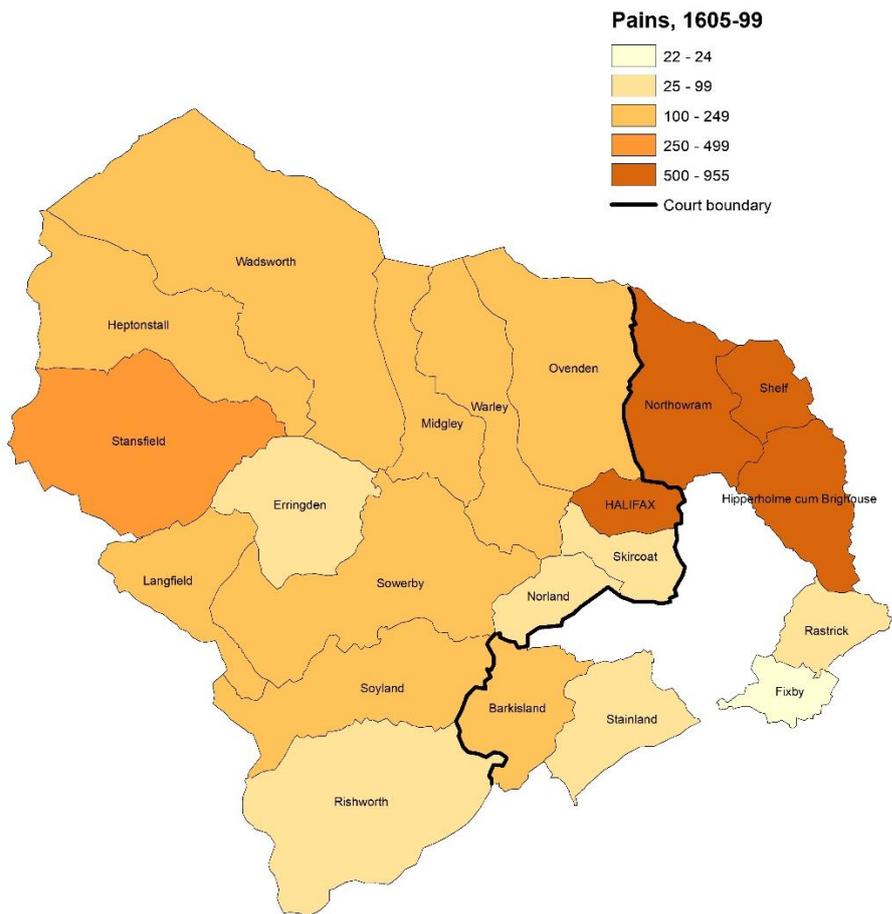
Maps 3.3c-d. *Highway presentments per session, by township: c) 1651-75; and d) 1676-99 (r).*



boundary (shown in black) marks a distinction between two tendencies. In the Halifax court to the west, presentments remained at moderate levels until the last quarter of the century when they dropped to less than one per session. The exceptions were Halifax and (to a lesser extent) Stansfield and Langfield, two townships which were aligned with major routes towards Lancashire, westwards towards Todmorden and Rochdale and north-westwards to Burnley and Colne. Even more striking is the intensity of presentments in three townships to the east (Hipperholme, Northowram and Shelf), which was sustained at high levels throughout the century. There is, thus, already a hint of differences in emphasis that seems to be attributable to jurisdiction (between the two court centres) and geography (in terms of clusters of townships in the east and west).

Presentments were either ‘pains’ (orders for specific work to be carried out or bylaws) or ‘ameracements’ (monetary penalties imposed for statutory offences or failure to observe pains), although the linguistic distinction was often misunderstood by those writing bills. In some cases, the only distinguishing feature of an ameracement is a marginal *extr*’ (*extractum*, Latin, extracted) recorded by a clerk for copying onto the parchment roll. The disparity within the parish for the whole period between highway-related pains and ameracements (Maps 3.4a-b) is striking. The preponderance of orders over fines is graphically clear for every township except Halifax town itself, whose 415 ameracements across the century amount to nearly a third (30.3%) of the town’s highway presentments and more than two thirds (67.4%) of all highway ameracements at the Halifax court. In terms of the two court areas, ameracements in the town lift the proportion of highway presentments to 18.1% at the Halifax court, compared with just 4.4% at Brighouse. This reflects the context and administrative practice of the town (of which more later) but also underlines the point that ameracements, while an important part of enforcement, are a less sure guide to the approaches taken by townships to managing their roads. The next highest proportion of ameracement actions after Halifax town is for Stansfield in the far west (Halifax court, 6.9%) followed by Hipperholme (Brighouse court, 4.7%). This statistical result demonstrates once again that any analysis of manorial presentments based solely on bylaws and ameracements recorded on parchment rolls risks seriously understating the intensity and scope of local highway administration through the manor courts. This problem would be compounded by uncritical use of Quarter Sessions material: there were just four orders and eleven indictments by justices at Quarter

Maps 3.4a-b. *Highway presentments by township, 1605-99: a) pains, b) amerancements.*



sessions between 1637 and 1700 of roads in parish townships that attended the two courts.<sup>35</sup> Our data series shows that manorial maintenance action outside the town largely consisted of orders and warnings. The objective is transactional, to get the roads fixed rather than to exert social control by punishing defaulters. A further consequence of this finding is that, except where stated otherwise, pains and amercements have been aggregated in the analyses that follow into combined totals of presentments to identify geographical hotspots and chronological trends.

Definitions for seven categories of highway presentment, developed to help distinguish the priorities set by different townships, are detailed in Table 3.2. Each presentment was only counted under one category: where presentments record faults in more than one category, the most prominent was counted. A breakdown by category of all presentments within the parish shows that general repairs within the presenting township were the most frequent, accounting for around six out of ten presentments in both court areas (Table 3.3). The incidence of nuisance and repair cases was similar at both courts. There are, however, conspicuous geographical differences between, and within, the court areas for four categories (Maps 3.5a-d).

Table 3.2. *Categories of highway presentment.*

Category	Short description
Repair	Action to repair, amend or mend a way (the default category, if no other indications are given)
Nuisance	Action to remove any type of a nuisance or obstruction from a way
Inter-township	Action taken by one township against another
Prohibition	Bylaw to prevent passage over enclosed ground other than by an accepted way
Footpath	Action where a footway is specified
Bridge	Action specifying repairs to a bridge or stepping stones
Statute duty	Action citing the statutory procedure for annual labour on highways

Notes: 1) repairs comprise presentments of all types of ways except those where a reference is made to a footway or bridge; 2) drainage and overgrown hedges are counted as nuisances unless bundled up with a generalised term such as ‘repair’, ‘amend’ or ‘mend’; 3) inter-township presentments are overwhelmingly for general repairs; 4) the distinction between a footway and highway in the parish was less rigid in the seventeenth century.

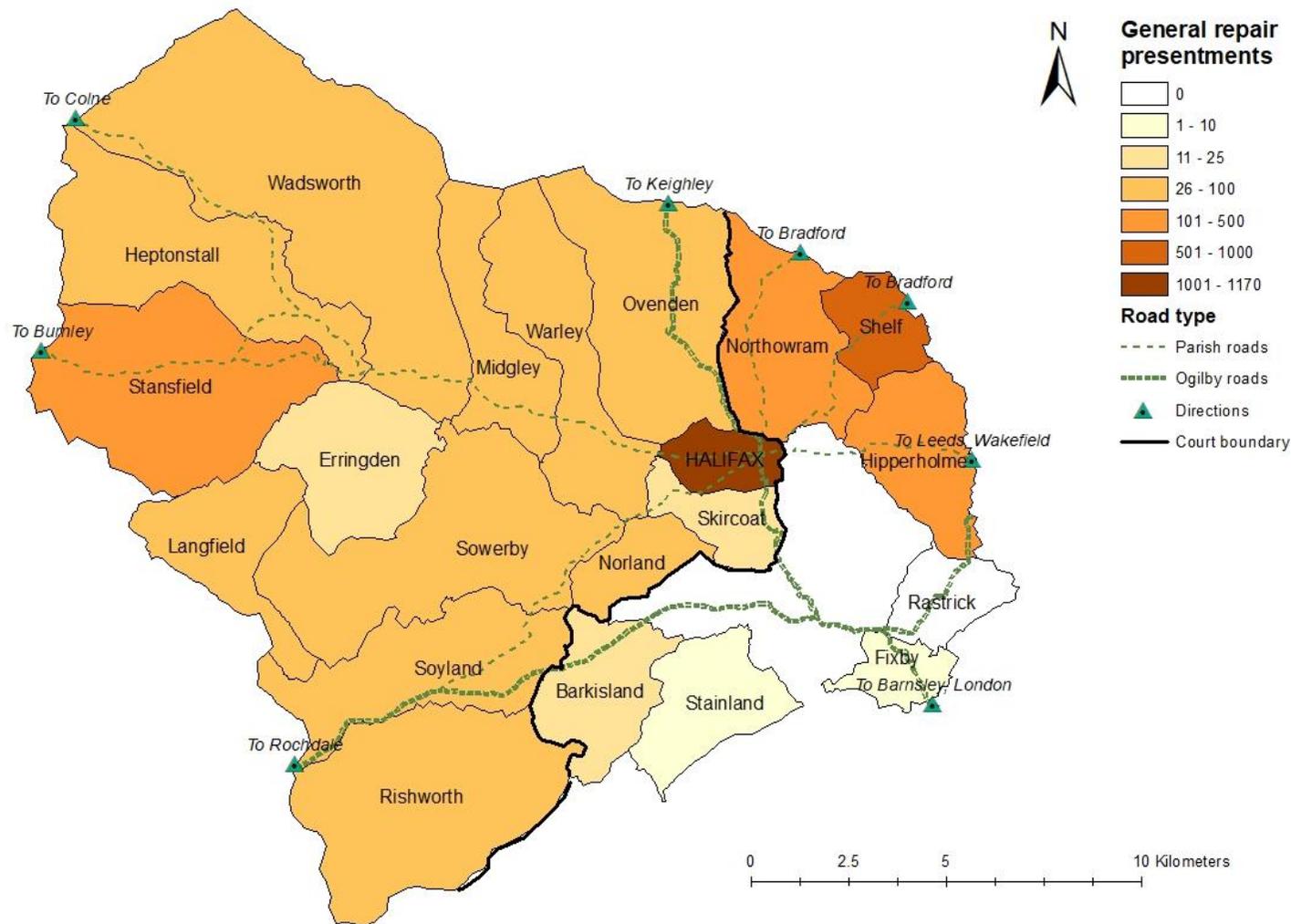
<sup>35</sup> WRYQS records, inspected via <http://www.ancestry.co.uk> February-May 2017.

Table 3.3. *Percentages of highway presentments, by category and court area, 1605-99.*

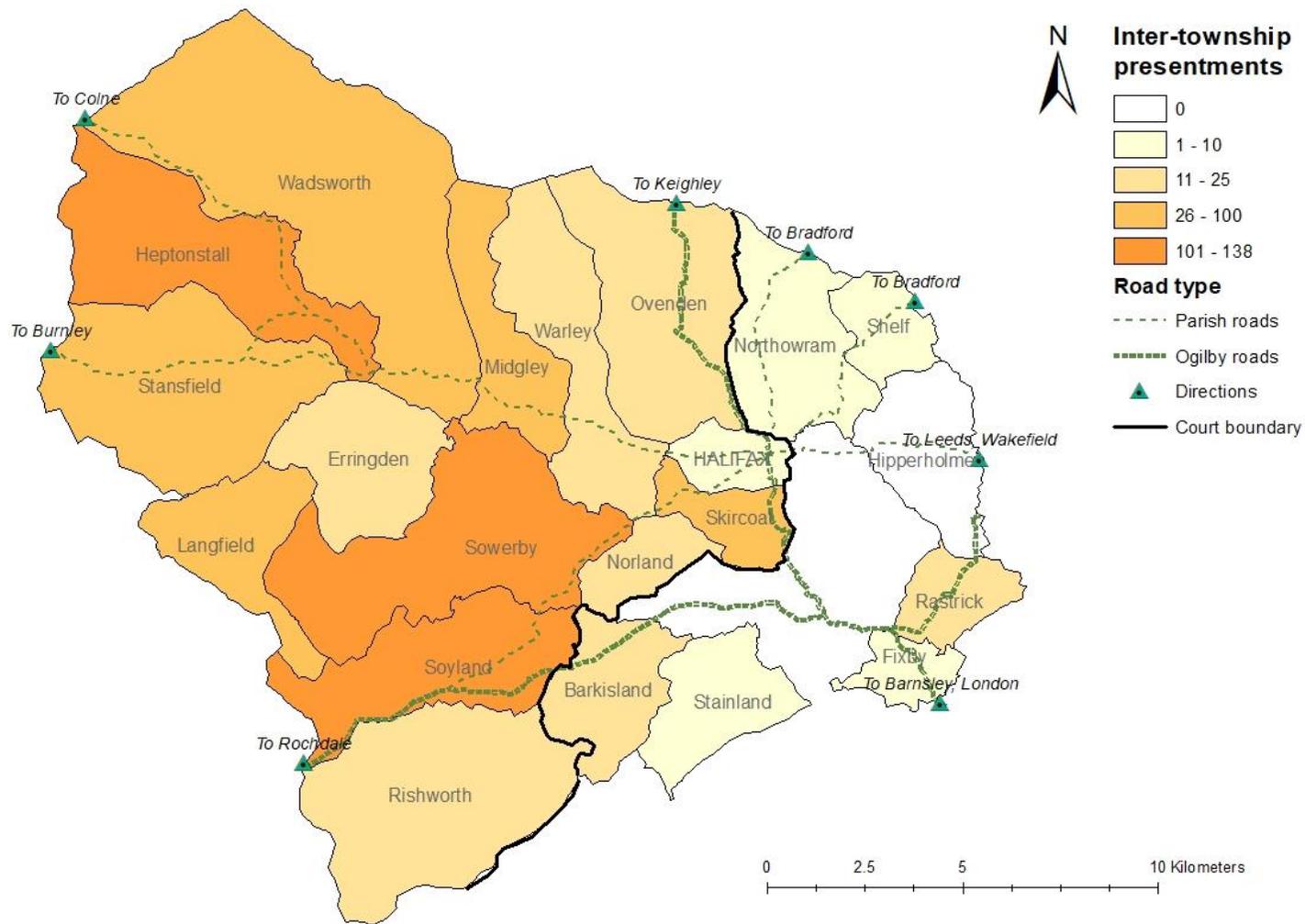
	<b>Halifax court area</b>		<b>Brighouse court area</b>	
		%		%
Repairs	1,999	58.6	1,557	61.6
Nuisances	532	15.6	305	12.1
Inter-township	768	22.5	41	1.6
Prohibitions	29	0.9	440	17.4
Footpaths	27	0.8	127	5.0
Bridges	52	1.5	28	1.1
Statute duty	3	0.1	30	1.2
	3,410	100.0	2,528	100.0

For general repairs, activity is generally even across the Halifax court area, apart from Halifax town, while, at Brighouse, intensity is high in the north-east but low in the south-east, despite the presence of two roads recognised by Ogilby (Map 3.5a). Only Rastrick, a small township attending Brighouse, submitted no repair pains which may be explained by its unique tally of fourteen statute duty presentments, nearly half of all those lodged at the Brighouse court (see Chapter Two). Actions taken by townships to enforce repairs in neighbouring townships, designated in this study as ‘inter-township’ presentments, were fourteen times more frequent in the Halifax court, with the notable exception of Halifax itself (Map 3.5b). Inter-township presentments were especially common in townships aligned to key routes to the north-west (for Burnley and Colne), to the south-west (for Rochdale) and east to Halifax and, therefore, seem to be associated with safeguarding access to textile supplies and markets. This type of action is rare in the Brighouse court in the study period, which may be linked to its more diverse economic base (see Chapter Six). Conversely, presentments of footways were six times more frequent in the three Brighouse townships to the north-east, Hipperholme, Northowram and Shelf, suggesting that the distinction between ways solely for pedestrians and those for other purposes was more meaningful in these townships (Map 3.5c). The totals are still more disproportionate for ‘prohibitions’ against walking or riding over enclosed ground which were almost twenty times more common at Brighouse (Map 3.5d). Prohibitions occur throughout the Brighouse court area but most frequently in Hipperholme, a township with low-lying agricultural land more suited to arable crops.

Map 3.5a. *General repair presentments, by township, 1605-99.*



Map 3.5b. *Inter-township presentments, by township, 1605-99.*



Maps 3.5c-d. *Presentments by township: c) prohibitions, d) footways, 1605-99.*

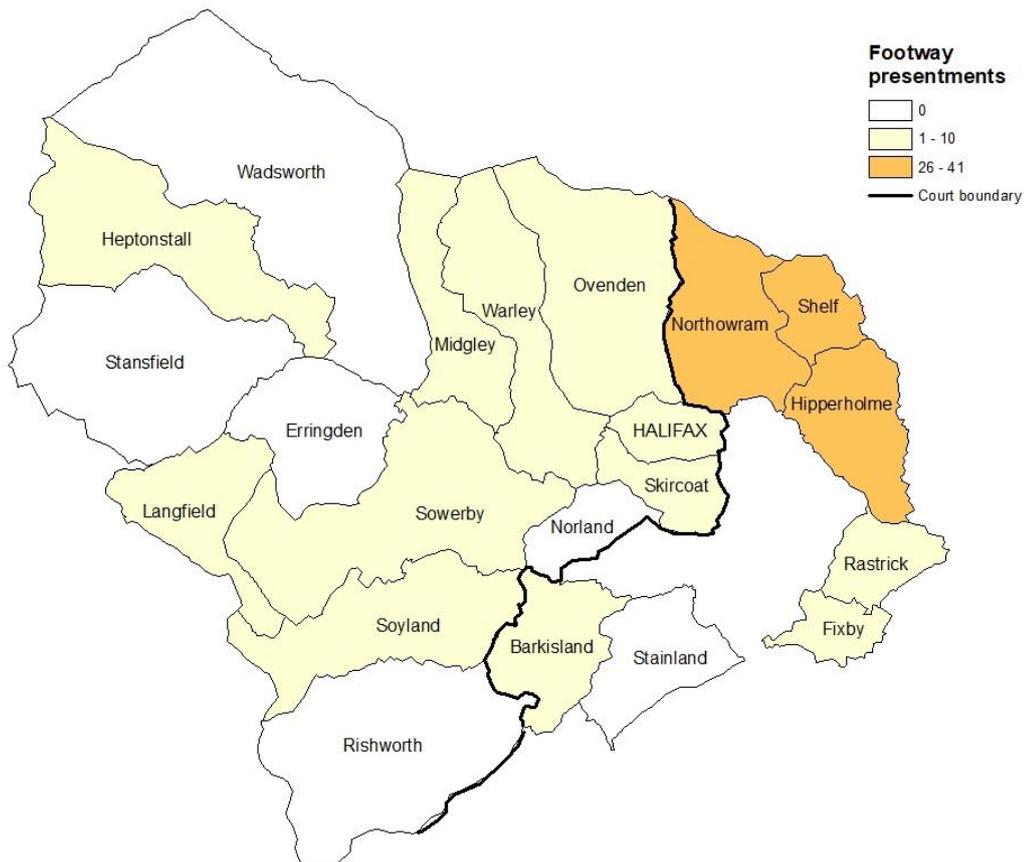
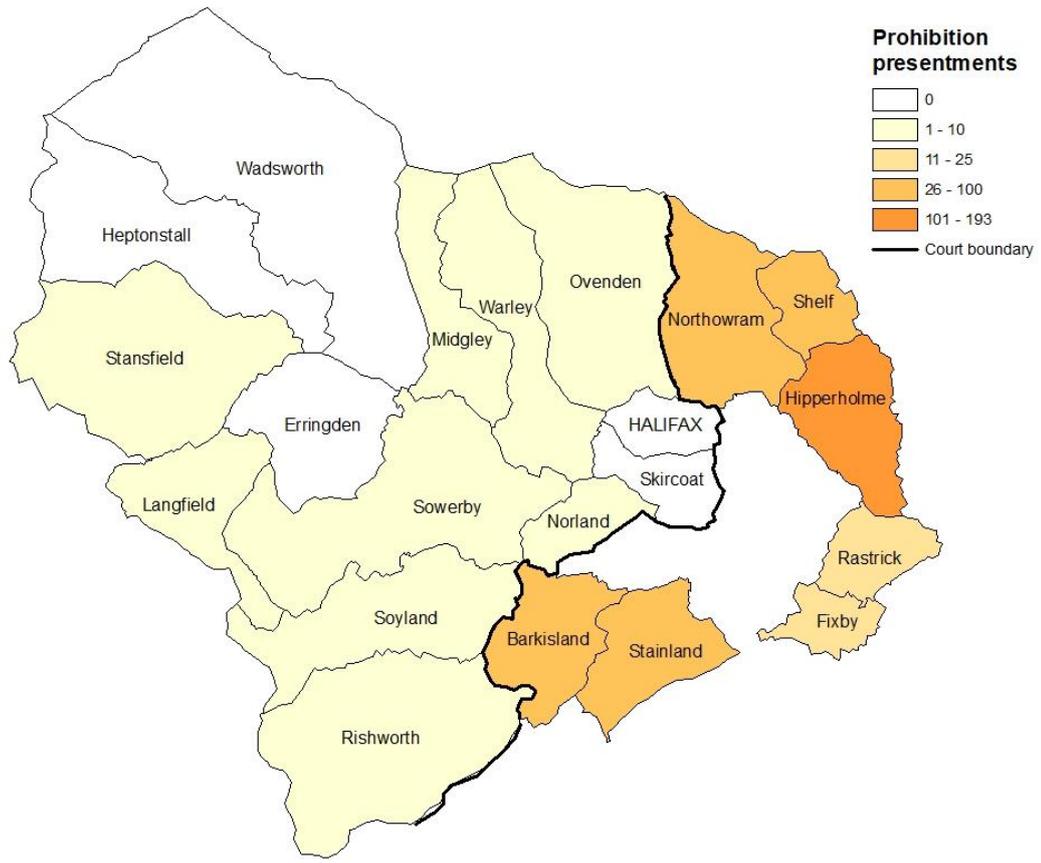


Table 3.4. *Amercements as a proportion of highway presentments by category, 1605-99.*

	Halifax area			Halifax out-townships (omitting the town)			Brighouse area		
	All	Amerced	%	All	Amerced	%	All	Amerced	%
Repair	1,999	429	21.5	829	78	9.4	1,557	56	3.6
Nuisance	532	97	18.2	346	33	9.5	305	30	9.8
Inter-township	768	82	10.7	761	82	10.8	41	2	4.9
Prohibition	29	1	3.4	29	1	3.4	440	3	0.7
Footpath	27	4	14.8	25	4	16.0	128	5	3.9
Bridges	52	3	5.8	47	3	6.4	28	0	0.0
Statute duty	3	2	66.7	3	2	66.7	30	10	33.3
Total	3,410	618	18.1	2040	203	10.0	2,529	106	4.2

Differences of economic activity and land use may also explain the variation between categories in the rates of amercement in the two courts (Table 3.4). As already mentioned, there was clearly a much greater propensity to amerce in the Halifax court, even when the town itself is omitted. In terms of categories, while the number of general repairs for the seven Brighouse townships is nearly double that of the eleven Halifax out-townships, the rate of amercement for this category at the Halifax court is far higher, indicating an emphasis on using the court to enforce obligation. There was a bite to the actions taken against neighbouring townships: more than one in ten inter-township presentments were amercements for failure to carry out repairs, similar to the rate of amercement against individuals in cases of disrepair or nuisance. In Brighouse, fewer instances of amercement for repairs and the negligible number of such presentments for trespass over agricultural land strongly suggest orders were intended to set rules for land use and define annual schedules of work. Prohibition by-laws at Brighouse, despite a penalty commonly set at a shilling, almost never resulted in amercement (4 out of 465). Obstructions and nuisances were a pressing problem in Halifax town: the proportion of amercements at Halifax and Brighouse were almost identical. The equivalent numbers for footways and bridges are too low to be statistically significant.

Quantitative variations in presentments by category and the proportions of pains and presentments serve to identify commonalities and differences between townships attending the two courts (Table 3.5). Activism in using the manorial court was concentrated in Halifax and township clusters to the east and west, while others to the south and north of the town made less use of the leet to secure highways, access and mobility. Characteristics such as positioning on major routes and types of economic activity were formative for the administrative approach adopted. Three eastern

Table 3.5. *Township clusters: presentment patterns and contexts.*

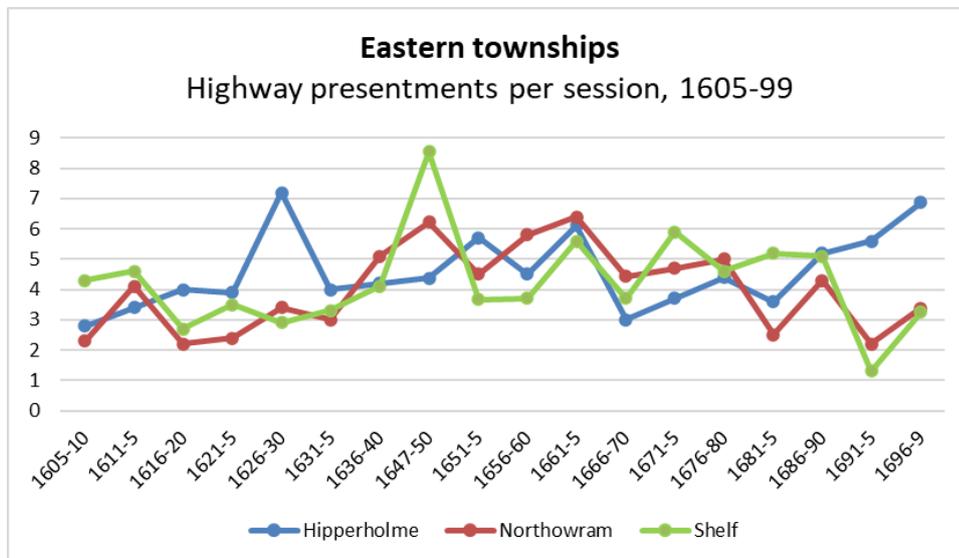
<b>Township/ cluster</b>	<b>Court area</b>	<b>Category characteristics</b>	<b>Other characteristics</b>
Eastern  Hipperholme, Northowram, Shelf	Brighouse	Very high on general repairs; highest rates of prohibition orders (especially Hipperholme); some statute duty offences  Very few inter-township presentments; ameracements rare	Mixed pastoral & arable; coal, clay and stone extraction  Positioned on routes between Halifax and Wakefield, Leeds & Bradford
Upper Valley  Stansfield, Heptonstall, Wadsworth	Halifax	High inter-township (all), high general repairs (Stansfield)  Low general repairs (Heptonstall, Wadsworth)	Pasture & high moorland; water power, cloth production; linked through Heptonstall chapelry  Remote position on cross- boundary routes to Burnley, Colne & Todmorden
Halifax township	Halifax	Highest in overall pains and (uniquely) ameracements  Mainly town centre street repairs and nuisances, few inter-township pains, no prohibitions	Only town in the parish, very little agricultural land; markets, cloth finishing; ecclesiastical/ administrative centre

townships, Hipperholme, Northowram and Shelf, where mining and quarrying was a major activity, had the highest rates of repair and prohibition orders. The cluster of Heptonstall, Stansfield and Wadsworth in the upper Calder valley stands out for a shared concern, expressed in inter-township orders, especially for the high-level routes to the adjacent textile areas of Burnley, Colne and Todmorden in Lancashire. Halifax was clearly unique for its dense population and in having streets, markets, the parochial centre and administrative functions. The management approaches taken in these clusters are now examined in more detail.

### III The Eastern townships

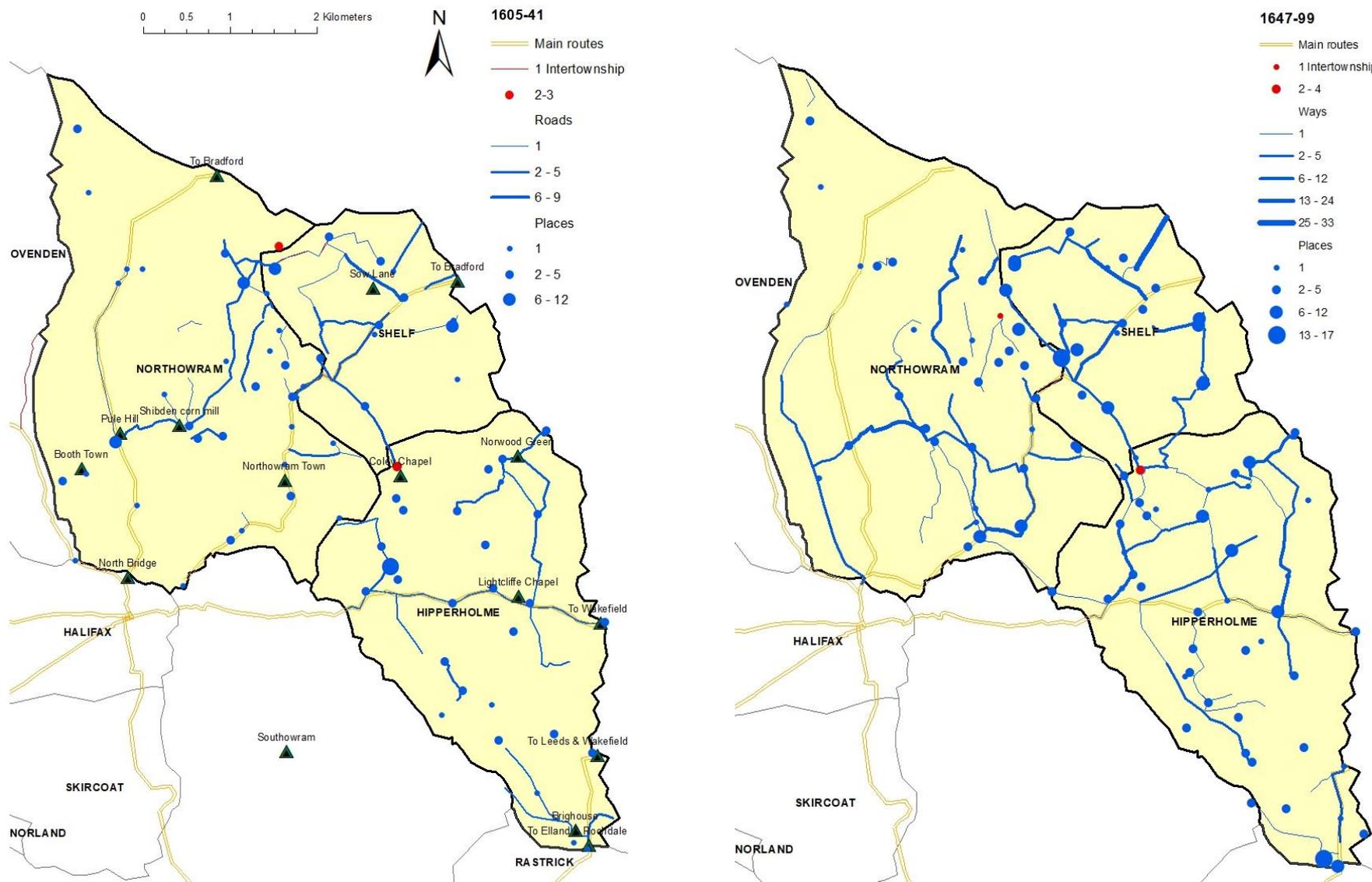
The three Brighouse area townships to the north-east of Halifax, Hipperholme, Northowram and Shelf, formed a distinctive group in terms of road connections to the north and east and economic activities. They were crossed by roads leading eastwards from Halifax to Leeds, Wakefield, and Bradford. While the ground exceeds 200 m (above sea level) in northern parts of Northowram and Shelf, the land in Hipperholme to the south of the Halifax-Wakefield road shelves gently from 140 m to 55 m at Brighouse. This was the best arable land in the parish, and four of the eighteen surviving inventories from Hipperholme (1688-90) listed ploughs, a contrast to the mainly pastoral area west of Halifax.<sup>36</sup> The area lay on the westernmost beds of the Yorkshire coalfield, interspersed with strata of clay and sandstone suited to building, walling and paving. Leet pains to enforce the fencing or covering of pit shafts bear witness to mineral extraction as an important adjunct to agriculture, as explored further in Chapter Six. The pattern of cases brought to the court is broadly similar across the three townships, usually between three and six cases per session, predominantly ordering repairs with a smaller number of nuisance cases and bylaws against trespass (Fig. 3.3). Hipperholme's activism at the court (shown in blue) jumped in the late 1620s and again in the 1690s, while presentments in Shelf spiked immediately after the first Civil War.

Fig. 3.3. *Graph of highway presentments, Eastern townships, 1605-1700.*



<sup>36</sup> D. Cant & A. Petford (eds.), *Life and Death in the Calder Valley: Probate Records from Brighouse and District 1688-1700* (Halifax, 2016), pp.18, 26, 33, 42.

Maps 3.6a-b. *Highway presentments, Eastern townships, 1605-41 (l) and 1647-99 (r).*



Note: lines are used where a place at each end is identified in the presentment; discs are used where only one place is mentioned.

Mapping highway presentments through GIS points up three important similarities of practice in the three townships. First, there were fewer orders than might be expected to maintain four main routes identified by Crump, leading via Pule Hill (Northowram) and Shelf to Bradford, through Brighouse to Leeds and York and through Hipperholme from the Southowram boundary via Bailey Bridge to Wakefield (Maps 3.6a-b).<sup>37</sup> A rare exception is the order targeting the township (rather than a group of householders) laid by the Brighouse jury in 1615:

We of the Jurye do laye in payne that the towne of Hipperholme shall reaire the hie way from the ... place brook unto ... Balye brigg before the next Sheriff Turne in payne of 20 s<sup>38</sup>

This order covered the entire length of the east/ west Halifax-Wakefield highway through Hipperholme township (3.4km) and is of a piece with scattered orders for statute duty in Hipperholme. With the possible exception of orders for Shelf Hall Lane on the route between Northowram and Bradford, major route maintenance is missing from bills taken to the court by all three townships. Secondly, the constables typically focus on submitting orders allocating householders to repair minor roads and footways by virtue of holding land adjacent to them (*ratione tenurae*). The bills sometimes called on a considerable part of the population: thirty-four individuals were named in Shelf in orders at the two leet sessions in 1673, some of them liable for sections of two or three different highways.<sup>39</sup> As elsewhere, orders may refer to sections of highway only by unidentified field names of houses, and these may conceal more activity on main routes. Nevertheless, the plethora of action on secondary roads leaves open the possibility of a triage process, whereby designated major routes were repaired by statute labour or taxation, as discussed in Chapter Two. Thirdly, in the second half of the century concentrations of presented highways to the north of the area suggest a degree of co-ordination between the townships which may explain the near absence of inter-township orders (marked in red), a sharp contrast to the townships west of Halifax. With the better land to the south, this is almost certainly related to the growth of mineral extraction and the need for routes for carrying coal from pits, as explored in Chapter Six. Actions

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<sup>37</sup> See W.B. Crump, 'The Wakefield Gate', *THAS* (1924), pp.89-106; Crump, 'Early maps and road surveys', *THAS* (1925), pp. 189-256; Crump, 'The Road Surveys of John Warburton', *THAS* (1926), pp.13-48.

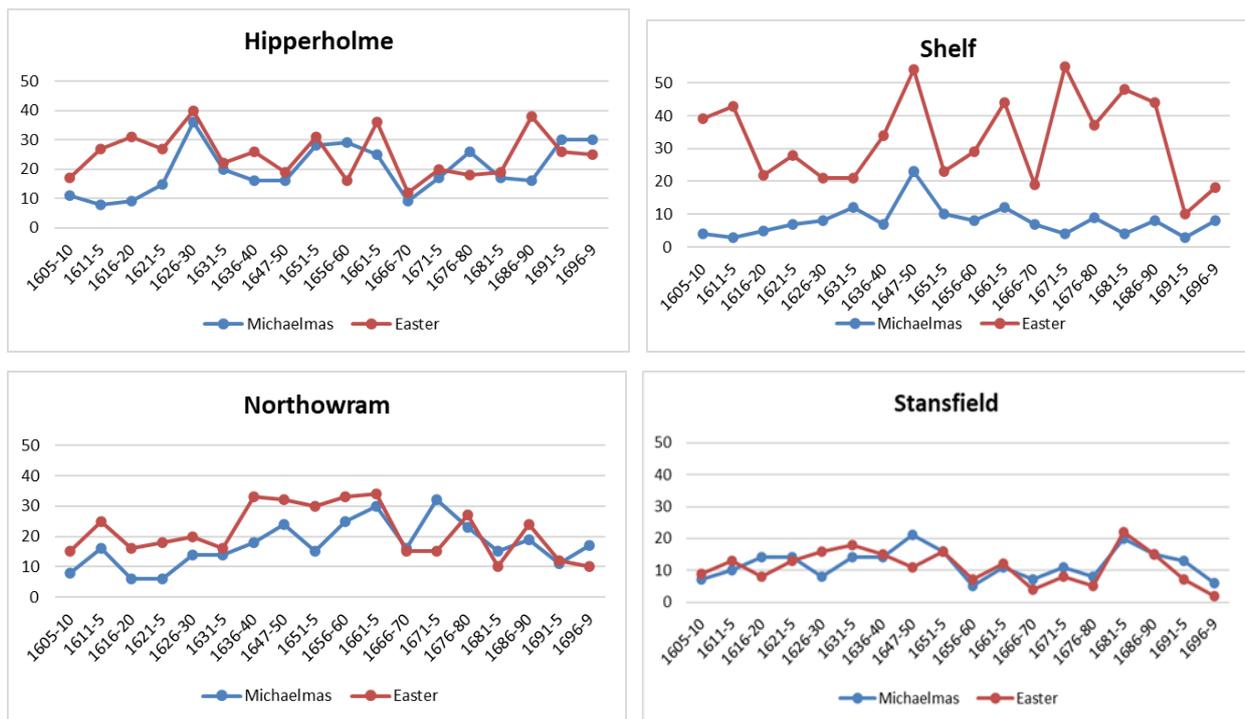
<sup>38</sup> YAS/MD225/1/340A, Brighouse jury, Easter 1615.

<sup>39</sup> YAS/MD225/1/398A-9A, Shelf, Easter & Michaelmas 1673.

concerned with routes orientated on a south-west/ north-east axis are prominent, thus connecting Halifax and the coal mining area that extended into the parish of Bradford.

Seasonality and consensus show clearly in these townships. Maintenance orders occurred disproportionately at Easter, as shown in red on Figs. 3.4a-d, which include a chart for the Halifax township of Stansfield, where the balance between the two courts is almost even. The significance of the Easter court is especially prominent in Shelf, where only 181 of 701 orders were laid at Michaelmas. The Easter session was used by constables and highway surveyors (who continued to be declared in these townships throughout the record series) to specify the work needed for the new season. The deadline for completion was usually midsummer (St John’s day, June 24), the same day specified in the 1555 Act and applied in the manorial context to roads repairable by tenure.<sup>40</sup> The balance between the two sessions reverses in relation to punishment for default: twenty-two of just thirty cases of amercement for Shelf came to the Michaelmas sitting. The Michaelmas session still included repairing pains and was used in Hipperholme to enforce cutting back summer hedge growth (typically by

Figs. 3.4a-d. *Comparison of highway presentments of the Eastern townships and Stansfield, 1605-99.*



<sup>40</sup> See Ch.2, Table 2.3.

Martinmas, November 11).<sup>41</sup> Thus, the dominant pattern is one of seasonal maintenance scheduled at Easter and then reviewed in early autumn with rather fewer presentments at Michaelmas for non-compliance. Consent to obligations is clear from the rarity of amerancements, especially considering the high totals of highway orders across the three eastern townships. Indeed consent deepened further during the century: amerancements dropped from 8.1% of maintenance presentments (50 out of 671) before 1641 to just 2.8% (35 out of 1234) thereafter.

Finally, another distinctive feature of bills from the eastern townships is the greater level of detail included in presentments. Although most are formulaic, reflecting the words used in court leet guidance, for example ‘turning water into its right course’ or scouring ditches, descriptive information was sometimes included that illuminates the nature of the problem or of work to be carried out. In two sample periods of ten years for the three eastern townships, considerable detail is offered, as set out in Table 3.6 (which again includes data from Stansfield, a Halifax township with numerous repair orders, for comparison). The most interesting feature is the repeated specification of ‘causeys’ and the mending or making of paved stretches of way by Shelf and Northowram, using stone from local quarries.<sup>42</sup> The distinction between foot causeys and horse causeys may simply be a matter of size and position; the 1692 Act specified that horse causeys should be three feet wide. Surviving causeys often abut stone walls, slightly elevated. Oliver Heywood, the Northowram non-conformist minister, described an accident in 1680 involving one packhorse dislodging another to which it was tied on an elevated causey near Brighouse.<sup>43</sup> Causeys had been a feature of roads in the parish as early as 1412, when the term was used for the road approaching Blackstone Edge in Sowerby township.<sup>44</sup> The earliest references to a causey in the paper records occurs in 1613, when Warley was presented by Heptonstall for a section of the Halifax-Burnley road.<sup>45</sup> The

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<sup>41</sup> Michaelmas courts, Hipperholme: YAS/MD225/1/407A (1681), YAS/MD225/1/408A (1682), YAS/MD225/1/411A (1685).

<sup>42</sup> For the characteristic causeys of the Pennines, see W.B. Crump, ‘Introduction’ to ‘Ancient highways of the parish of Halifax’ THAS (1924), pp.67-70; D. Hey, *Packmen, Carriers & Packhorse Roads: Trade and Communications in North Derbyshire and South Yorkshire* (2nd ed., Ashbourne, 2001), pp.45-51; see Ch.6 for mining and quarrying in the area.

<sup>43</sup> Hey, *Packmen*, p.47-8, quoting from *The Rev. Oliver Heywood, 1630-1702: His Autobiography, Diaries, Anecdotes and Event Books*, ed., J. Horsfall Turner (Bingley, 1885).

<sup>44</sup> Cited by Crump, ‘Introduction’, pp.67-8.

<sup>45</sup> YAS/MD225/1/339A, Heptonstall Michaelmas 1613.

Table 3.6. *Material details included in highway presentments, Eastern townships and Stansfield, 1626-35 and 1664-74.*<sup>46</sup>

Details of repair or improvement	Hipperholme	Northowram	Shelf	Stansfield
<i>Capacity for traffic</i>				
Mend a way that either pack or truss may pass		1		
Repair sufficiently for wain, cart or load to pass	3	1		1
<i>Mending</i>				
Mend/ make good the causey	1	12	9	
Amend the horse and foot way			1	
Mend the horse way			1	
Mend the foot causey		2		
Mend/ make footway passable	1	1		
<i>Upgrading</i>				
Make a good/ sufficient way		1	1	
Make a sufficient causey			2	1
Make a sufficient horse causey			5	
Make a foot causey			1	
Make a sufficient footway	1	2		
Open/ set stiles	5	1	2	
Lay bridge stones		1		1
Make sufficient sough, gutter (drains)		4		
<i>Nuisances (selected)</i>				
Fill or fence pits in the highway (coal or stone)			5	1
Dress away the (quarry) rubbish			1	
Pull down garden wall in the highway (4 yds by 7 yds)			1	

Note: each sample period comprises 20 court sittings.

earliest occurrences of the term in presentments from the eastern townships are of a slightly later date: 1621 in Hipperholme, 1623 in Northowram and 1625 in Shelf.<sup>47</sup> While some were doubtless repairs of older causeys, these presentments suggest an intensification of causey repairs and construction during the early seventeenth century, contemporaneous with evidence of increased stone housing construction (the so-called Great Rebuilding) and most likely resourced by inexpensive surplus material from coal mines and stone quarries.<sup>48</sup> This characteristic of eastern townships' presentments strengthens the impression that they were co-ordinated schedules of repair, probably

<sup>46</sup> YAS/MD225/1/352A-361A (1626-35); YAS/MD225/1/390A-401A (1664-74).

<sup>47</sup> YAS/MD225/1/347A, Hipperholme Michaelmas 1621; YAS/MD225/1/348A, Northowram, Easter 1623; YAS/MD225/1/350A, Shelf, Easter 1625.

<sup>48</sup> W.G. Hoskins, 'The Rebuilding of Rural England, 1570-1640', *Past & Present*, 4, 1 (1953), pp.44-59.

passed to the constables by the ten surveyors usually appointed for the three townships. The court was being used to prescribe work to be done and even the type of surface required, not just to crack down on those who failed to meet their obligations.

## IV The Upper Valley (western townships)

The western townships of Heptonstall, Stansfield and Wadsworth in the upper Calder valley, exhibit important geographical and socio-economic differences from those in the east of the parish. Settlements were predominantly dispersed across terraces between 150m and 250m above sea level between the deep-cut valleys and the extensive peat moorlands. The only mineral extracted locally was gritstone for building, walling and causeys, and the soil was generally too acidic for any agriculture other than stock grazing and dairy. Since at least the late fifteenth century, many households supplemented their meagre income with woollen cloth working.<sup>49</sup> Two trading routes between north-east Lancashire and the parish converged on the only significant settlement of Heptonstall, continuing to Halifax, thirteen kilometres to the east across Hepton (Hebden) Bridge. Heptonstall is believed to have had its own cloth hall before 1562, although it had apparently ceased trading by the time the building was sold off in the 1620s.<sup>50</sup> The manufacturing economy, discussed more fully in Chapter Six, required long-distance connectivity and collaboration between townships on maintenance standards.

Patterns in the quantity of highway presentments sent to the leet are not, at first sight, easy to discern (Figs 3.5a-c). Stansfield exhibits particularly volatile rates of internal presentments (shown in blue) and was the only township attending the Halifax court that continued regular use of the leet for presenting its own highways after the Restoration, reaching a peak in the 1680s. All three townships submitted fewer internal presentments at different points mid-century, Stansfield and Wadsworth both declining spectacularly for the five years in which the Protectorate Ordinance was in place (1655-60). The number of highway presentment dwindled in the final decade, ceasing altogether in Wadsworth shortly after the 1692 Act.<sup>51</sup> Of particular interest is the balance between highway presentments inside (blue) and outside (brown) each presenting township. The

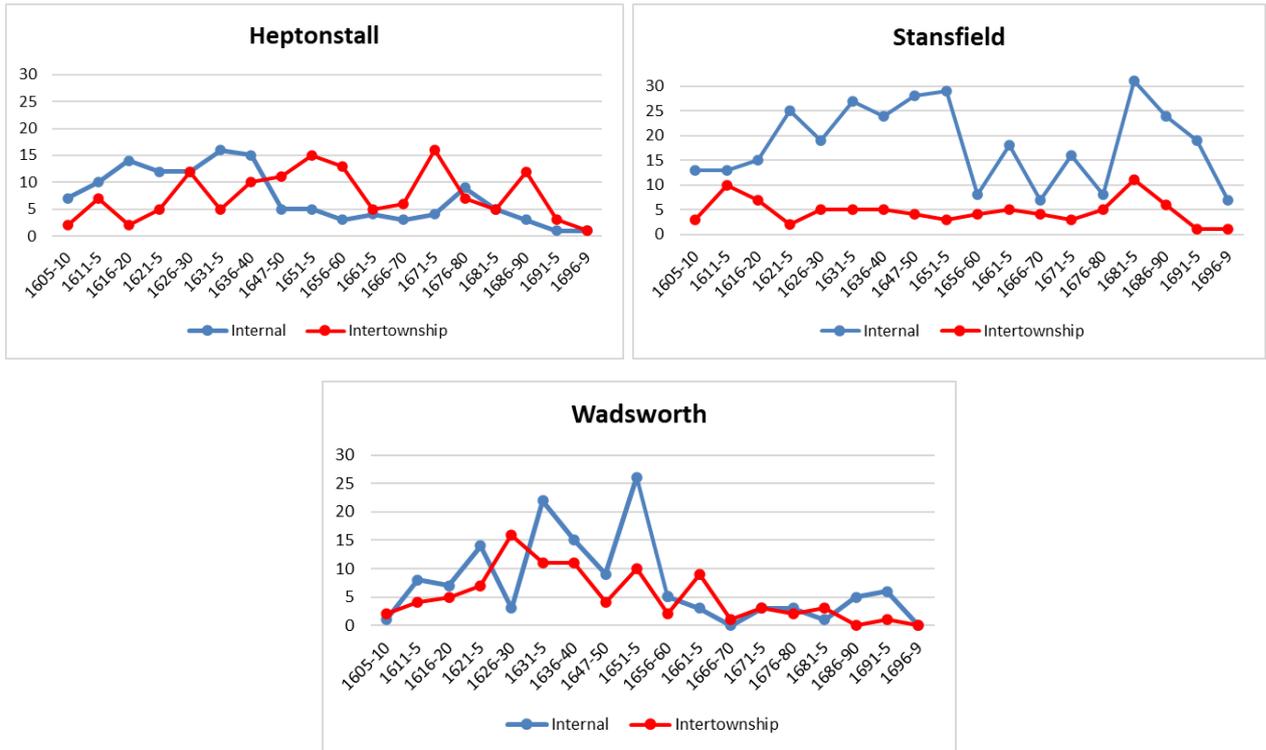
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<sup>49</sup> M.E (Ellis) Francois, 'The social and economic development of Halifax 1558-1640', 11, *Proceedings of the Leeds Philosophical & Literary Society* (1966), pp.217-80; B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Hebden Bridge WEA Local History Group, Otley, 1992), pp.52-7; N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, 604, 2014), pp.8-20.

<sup>50</sup> WYAS (L), WYL100/HX/A/55, Lease of property, including 'Blakwelhall' (1562); Watson, *Antiquities*, p.232.

<sup>51</sup> The last highway presentments are: Wadsworth, YAS/MD225/1/419A, Easter 1694; Sowerby YAS/MD225/1/420A, Easter 1695; Heptonstall, YAS/MD225/1/422A, Easter 1697.

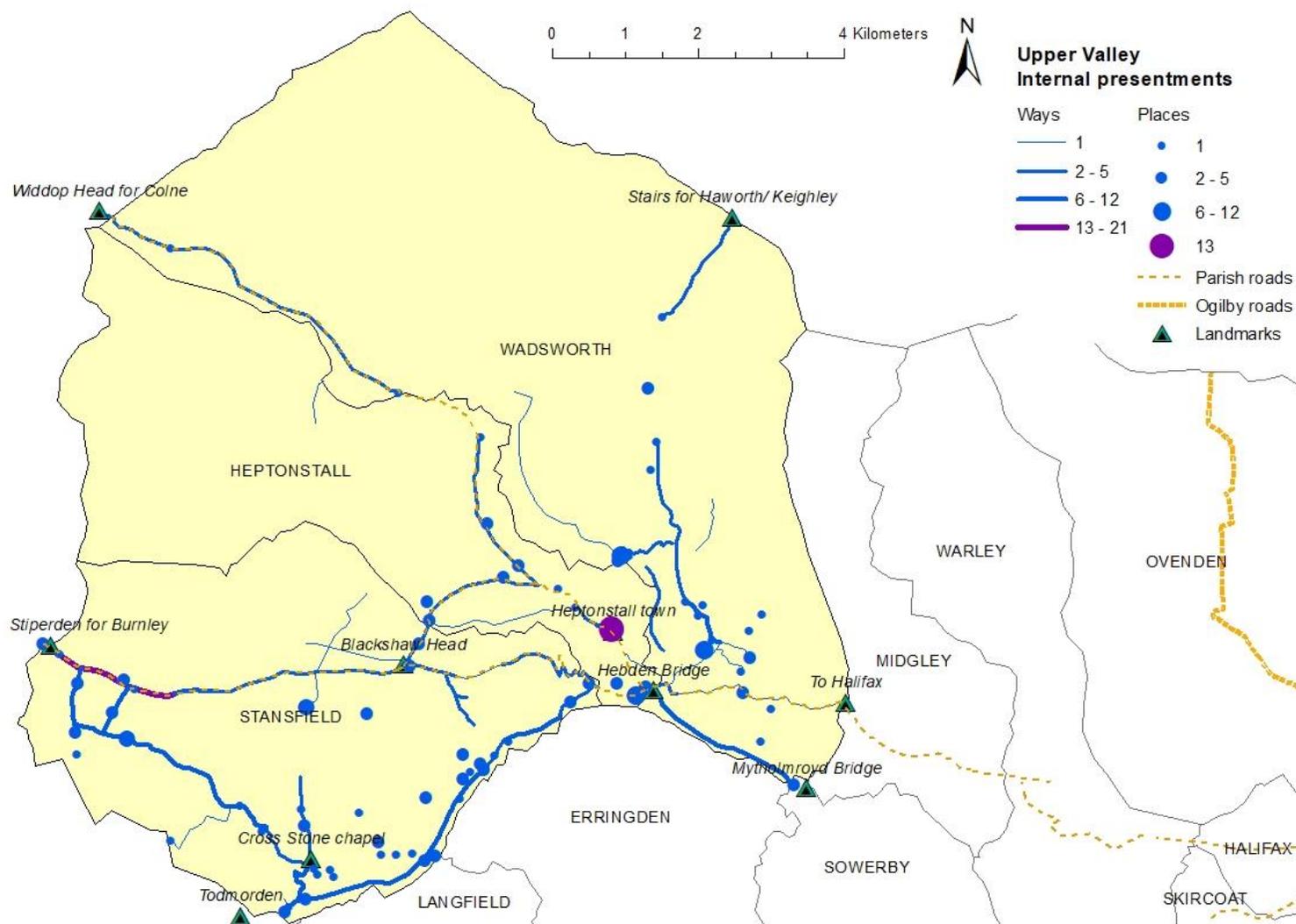
Figs. 3.5a-c. *Graphs of internal and inter-township highway presentments, Upper Valley, 1605-99.*



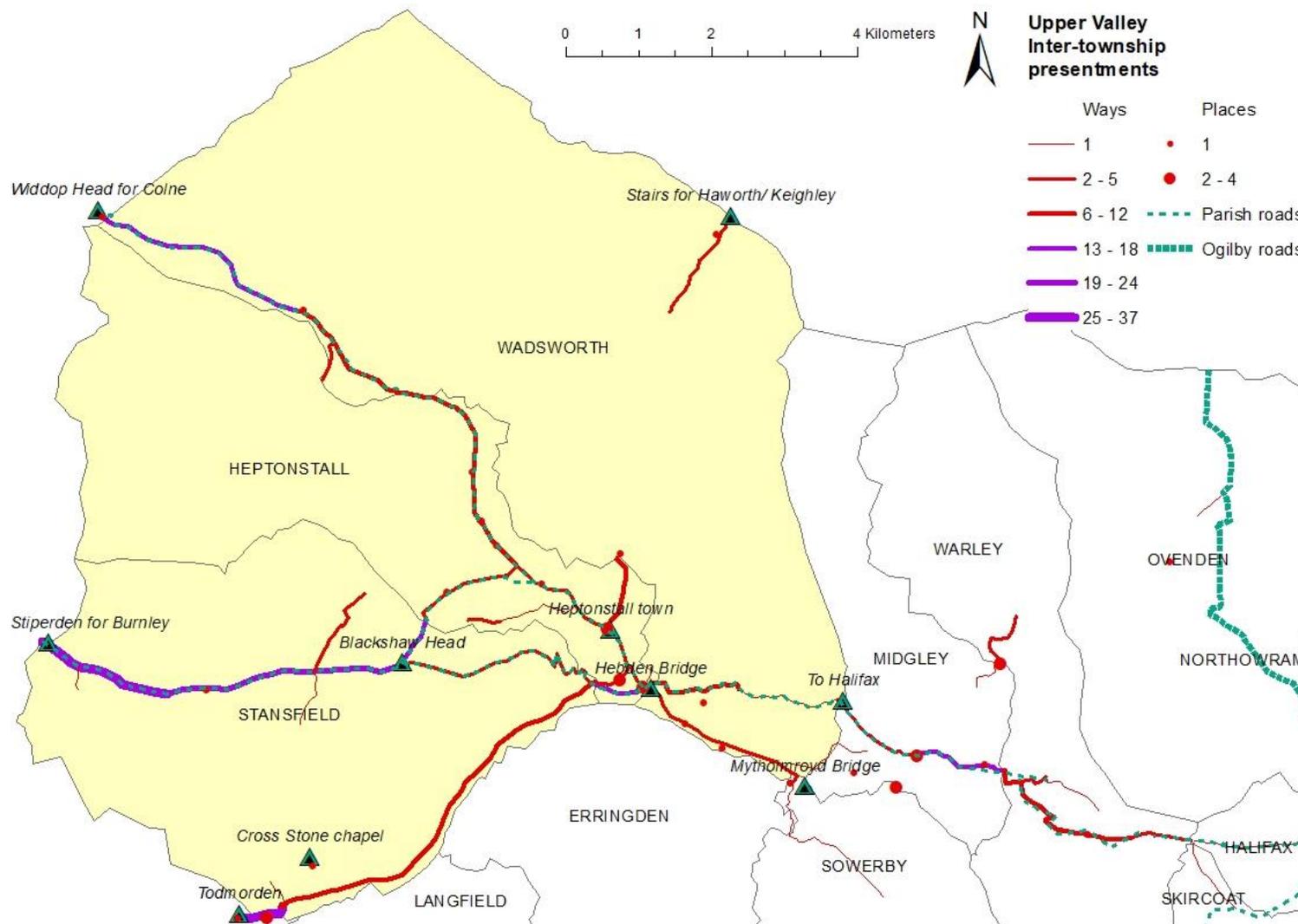
scale of inter-township presentments is eye-catching and included an element of coercion. 54 of 428 (12.6%) of inter-township presentments before 1641 and 48 out of 475 (10.1%) after 1647 were amerancements. This was an administrative culture of cross-boundary obligation, but one in which townships were prepared to act to protect their own access and mobility.

Mapped using GIS techniques, the internal highway orders laid by the three townships leave a stronger spatial signal on secondary roads, especially the valley bottom route from Todmorden (Rochdale parish) through the edges of all three townships to Mytholmroyd bridge, from Cross Stone chapel in Stansfield north-west along a lane called Broadgate to join the road to Burnley near Stiperden and also Haworth Old Road heading north from Hebden Bridge through Wadsworth (Map 3.7). On the main route to Colne through Heptonstall up to the Wadsworth boundary, internal action is less frequent, and there were no internal orders at all for repair of the ascent from Hebden Bridge to Heptonstall, known as the Buttress. As in the east, there is a probability that certain stretches of more important highways were reserved as a township responsibility, discharged through statute duty or taxation. The Halifax-to-Burnley route in Stansfield was, however, subject to regular orders at the leet. The sequence of actions on this route exemplifies the centrality of landholding to local administrative practice in areas of

Map 3.7. *Internal highway presentments, Upper Valley (Heptonstall, Stansfield and Wadsworth), 1605-99.*



Map 3.8. *Inter-township presentments laid by Heptonstall, Stansfield and Wadsworth, 1605-99.*



dispersed settlements. In 1607 one of five Stansfield surveyors was allocated the 2km section from Hartley Clough to the county border at Stiperden. Eighteen months later a penalty of 20s was set on the ‘inhabitans of the Shore if they mend nott’ this stretch of road. The liability had devolved to the nearest settlement (Shore), and a smaller penalty of 3s 4d was imposed on the same community in 1610.<sup>52</sup> The route attracted no further action by Stansfield until an attempt in 1636 to pain John Feildin for ‘takeing in & turning the hyway that nether waine nor charte [?cart] nor loads can pass’ near Stiperden was traversed.<sup>53</sup> In 1640, John Fielden was among a group of ten landholders (three of them resident in Lancashire) pained 39s each to ‘sufficiently amend the highway between Stiperden and [H]artley Clough ... by 24<sup>th</sup> of June next’, a use of the statutory deadline for a customary liability.<sup>54</sup> The amount amerced on Fielden and three others for failure to repair the highway ‘adoyning to their respective grounds’ was pointedly raised from 13s to 20s at the same court. After the First Civil War, further fines followed, featuring John Fielden once again in 1647 and 1648 (‘for not repaireinge his parte of the highway’), and another order against the inhabitants of Shore in 1649.<sup>55</sup> By the later seventeenth century, a lower, middle and upper route fanned out across the hillside at Shore and a different John Fielding, acting as constable, signed off a presentment to fix the ‘lower hy way’ near Stiperden in 1699 without mentioning the names of those responsible.<sup>56</sup> Successive presentments to the leet confirmed those living in this isolated community as responsible and liable to penalties if they failed. The principle of landholder responsibility may be similar in the west and east of the parish, but episodes of enforcement through the leet contrast with the apparently consensual scheduling routines used in the east.

The crossing into Lancashire at Stiperden was as important to other western townships as it was to Stansfield itself (Map 3.8). The Halifax court remained a lively forum for actions between townships after the Restoration, even after its use for internal repairs had declined, helping to consolidate a network of obligation and shared administrative understanding. The deeper colours on the maps testify to the frequency of this category of presentments lodged by the three western townships, all of which shared

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<sup>52</sup> Stansfield: YAS/MD225/1/332A, Easter 1607; *WCR 1608/9*, p.122; YAS/MD225/1/335A, Easter 1610.

<sup>53</sup> Note of traverse, YAS/MD225/1/362A, Michaelmas 1636.

<sup>54</sup> *WCR 1639/40*, p.149.

<sup>55</sup> YAS/MD225/1/373A, Michaelmas 1647; YAS/MD225/1/373A, Michaelmas 1648, Easter 1649.

<sup>56</sup> YAS/MD225/1/425A, Michaelmas 1699.

responsibility for cross-boundary routes to and from north-east Lancashire. Their constables took care to identify stretches of unsatisfactory road through well-known place names and landmarks, making their identification for GIS mapping straightforward. The routes to Burnley, Colne and Todmorden – all in Lancashire – also appear on the internal maintenance map (Map 3.6), but the frequency of inter-township presentments is greater and concern for the route eastwards to Halifax is also prominent. Stiperden and Widdop on the high moorland routes, the marshy bottlenecks through Langfield to Todmorden and near Hebden Bridge at Mytholm, and the abrupt drop into Luddenden between Midgley and Warley on the Halifax road all attracted repeated calls for repair and improvement (some shown in purple to emphasise intensity). Wadsworth had no compunction in naming the squire of Todmorden and two others in 1627:

We lay a paine of Mr Seavell Ratcliffe Esquire Edward Sutcliffe and Richard Sutcliffe that they shall sufficiently amende the highway betwixt Stansfeild Milne and Todmerden water before candlemasse next in payne of xxx s<sup>57</sup>

At times, the mood turned unpleasant, such as the salvo of five orders fired by Heptonstall against Wadsworth in 1659 for three sections of the Colne road at Widdop, the ‘Stairs’ road to Haworth, and the steep pull up from Hebden Bridge towards Halifax.<sup>58</sup> All target ‘the townesmen’ without mentioning the name of Wadsworth. Three carried a penalty of 39s 11d, and the first two on the bill added another halfpenny, a halfpenny short of the maximum. Even harsher is the demand for completion by November 11, just a month after the orders were laid. The Wadsworth bill six months later laconically notes previous pains ‘are amended within the time apoin[t]ed’.<sup>59</sup>

Responses to inter-township orders are a barometer of administrative anxiety about road connections before 1642, and orders were progressed to amercement with some regularity (Table 3.7). Clearly, Heptonstall’s links through Wadsworth for both Colne and Halifax and through Stansfield for Burnley remained sensitive throughout the century. Heptonstall’s leadership on routes in the Upper Valley may have been forged in chapelwarden meetings in the village, which all three townships attended. After 1641, Stansfield found fewer grounds to amerce, and Wadsworth ceased doing so altogether, conveying the impression that, while the leet remained useful for declarations of poor

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<sup>57</sup> YAS/MD225/1/353A, Wadsworth, Michaelmas 1627.

<sup>58</sup> YAS/MD225/1/385A, Heptonstall, Michaelmas 1659.

<sup>59</sup> As above, Wadsworth, Easter 1660, partly obscured.

Table 3.7. *Amercements, as a percentage of all inter-township presentments, 1605-40 and 1647-99.*

	1605-40			1647-99		
	Pres	Amerce	%	Pres	Amerce	%
Heptonstall	43	5	<b>11.6</b>	94	12	<b>12.8</b>
Stansfield	37	5	<b>13.5</b>	47	4	<b>8.5</b>
Wadsworth	56	6	<b>10.7</b>	35	0	<b>0.0</b>
	136	16	<b>11.8</b>	176	16	<b>9.1</b>

maintenance, Wadsworth may have been looking elsewhere – perhaps to the magistracy – for the big stick. At the same time, townships had become used to confirming their maintenance standards in a statement on the bill: for Wadsworth in 1672 ‘our highways are well amended and are in mending’.<sup>60</sup> It is noteworthy that over 90% of inter-township pains did not go to amercement, which bears witness to the underlying strength of mutual obligation between townships across the parish.

Herein lies the distinctiveness of highway management in the upper Calder valley before the re-introduction of surveyors in 1692. By the later seventeenth century, obligation on individuals and neighbouring townships to repair minor ways had become deeply embedded, needing only occasional warning at the leet to ensure compliance or to resolve disputes. For this purpose, constables rather than surveyors were a natural choice of lead officer. Allocation of responsibility to landholders and the scattered settlements along sections of the major highway appears to have been standard, leaving a small number of locations where action at the leet is undocumented and which were probably maintained by charitable money, communal action or a monetary charge; the most obvious of these are the steep climbs from Hebden Bridge to Heptonstall, Blackshawhead and towards Halifax.<sup>61</sup> Inter-township action demonstrates an understanding, shared across township boundaries, of the ‘rules’ and shared social values and economic objectives, although how deeply these penetrated within the social structure remains to be investigated in Chapter Four.

<sup>60</sup> YAS/MD225/1/397A, Easter 1672.

<sup>61</sup> Jack Bridge was named ‘Clark Brige’ in Easter 1609, *WCR 1608/9*, p.167; this, as with the same bridge name in Halifax, makes funding from a church source a possibility.

## V Halifax township

The challenges of communal regulation in the seventeenth-century town of Halifax were unique. The only town in the parish, its population had doubled to more than 2,000 between 1550 and 1600 and then doubled again by 1620 as it became a hub for the finishing and marketing of ‘kersey’ cloths.<sup>62</sup> Cycles of boom-and-bust in the textile industry and associated fluctuations of migrant labour created tensions over food supply and exacerbated the town’s reputation for lawlessness.<sup>63</sup> To manage this two constables served yearly terms, supported at the leet by six, rather than the usual four, presenters. To explore the administration of highways and streets in the town, account must be taken of the township’s geography. Halifax was, despite its awkward location on a modest tributary of the Calder (Hebble Brook), the communication hub of the parish, where routes from the Lancashire towns of Rochdale, Manchester, Burnley and Colne converged and from which others branched out to across the West Riding towards York, Wakefield, Leeds and Bradford. The two main routes into town to the west came over relatively high ground at Highroad Well (from Heptonstall and Burnley) and at King Cross (from Sowerby, Rochdale and Manchester), while the entry-exit points to the Yorkshire towns to the north and east were Lee Bridge, North Bridge and Clark Bridge over Hebble brook. To the south lay Elland and the packhorse route via Barnsley to London (see Map 3.8).<sup>64</sup>

The presentments made by the town to the leet convey a vivid sense of administrative anxiety, especially in the two decades before the First Civil War. Long lists of (mostly) men punished for petty violence (affray and bloodshed), orders and amercements for street repairs and for ‘defiling’ the water supply (the latter exclusively targeting women and girls), and other public nuisances evoke the rough vitality of the town. The only years in which surveyors were declared for the town’s streets and highways in the surviving records were 1605 and 1608, in which period an order was lodged against the constable of the extra-jurisdictional township of Southowram ‘for their hyeways’.<sup>65</sup>

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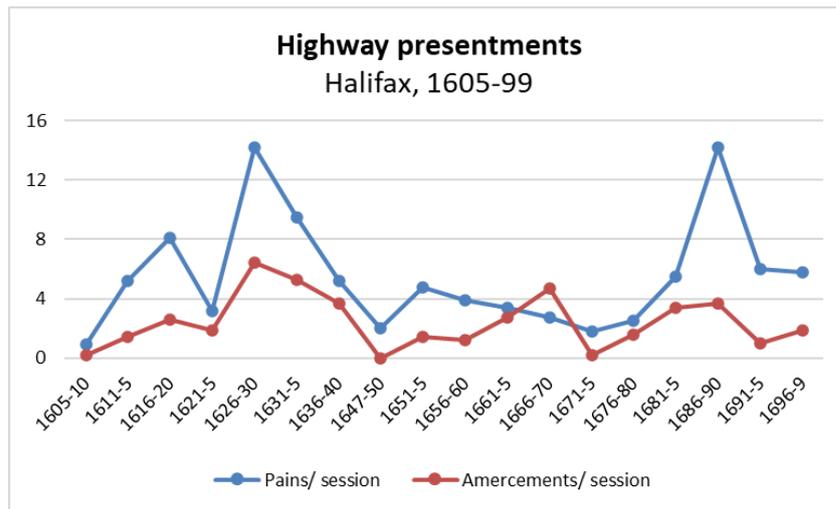
<sup>62</sup> Population estimates based on B. Atack et al., ‘The people of the parish of Halifax, 1539 to 1670: parish registers and the reconstruction of the population’, in N. Smith (ed.), *History in the South Pennines: The Legacy of Alan Petford* (Hebden Bridge, 2017), pp.33-66; J.A. Hargreaves, *Halifax* (3<sup>rd</sup> ed., Lancaster, 2020), p.53ff.

<sup>63</sup> Hargreaves, *Halifax*, p.57.

<sup>64</sup> Crump, ‘Ancient Highways’.

<sup>65</sup> *WCR 1608/9*, p.118.

Fig. 3.6. *Graph of highway presentments (pains, ameracements), Halifax township, 1605-99.*



Thereafter, presentments increased at both Easter and Michaelmas courts with a surge in activity in the depths of a trade recession between 1625 and 1635. By 1625 at the latest the two constables were clearly responsible for highway maintenance as well as law and order. In 1626, the ‘constables and the town’ were paid 20s for ‘not mending the high way from shay syke to the tope of the hunger hill’.<sup>66</sup> Manorial administration was dislocated in the 1640s by the combined effects of military activity, plague and population loss in the civil wars, and some leet competences may have transferred to the justices: the only surviving township bill between 1641 and 1650 records that ‘our presentments have been called at every privie sessions (*sic*)’.<sup>67</sup> The peaks in highway presentment before the Civil Wars (and again in the 1680s) and the troughs of the early 1620s, late 1640s and 1670s strongly suggest instability in the administration of the town (Fig. 3.6). The numbers are inflated to some extent by the practice in Halifax of making separate presentments of individuals in the same street; in other townships people are more commonly grouped within a single presentment for a stretch of road. The balance between orders and ameracements is also unique. It is noticeable that the peaks in ameracements, while broadly following those of pains, are less pronounced. Nevertheless, a consistently high rate of ameracement (415 out of 1,370 highway and street presentments) shows greater readiness to impose penalties. Clearly, acquiescence in matters of communal obligation, so apparent outside the town, was more difficult to achieve in a different context, where turnover of landlords and tenants was high, and at a

<sup>66</sup> Halifax: YAS/MD225/1/351A, Easter 1626.

<sup>67</sup> YAS/MD225/1/373A, Michaelmas 1647.

time when, as Bennett has shown in the context of law and order, governance was riven by factionalism.<sup>68</sup>

Mapping leet presentments through GIS shows a distinctive, tri-partite partitioning of liability between numerous presentment of individuals or groups on the basis of tenure (coloured blue on Map 3.9), orders for the township constables (green), and a very small number of inter-township actions (red). The town seems not to have sought an overt leadership role in monitoring maintenances on routes through the parish, and, after the debacle of the attempt to corral them into pooled poor relief arrangements for the Halifax workhouse in 1635-9, any such move would have provoked suspicion.<sup>69</sup> Township responsibility was centred on entry/ exit roads into the town centre and some streets near the almshouses, workhouse and Moot Hall close to the parish church. Both categories were, however, heavily outnumbered by repeated repair orders for landlords (and for their tenants in the decades after the Restoration) in the cramped cluster of residential streets and market areas of the town centre, especially Market Place, Woolshops, Northgate and Southgate. This ‘zoning’ of township responsibility may have its origins in the 1555 Act which directed statute labour to be applied to highways between market towns. In the case of Halifax, these were the main routes radiating from the town centre towards other towns. Observance of statutory procedures is, however, impossible to verify in the absence of any orders appointing statutory days and penalties for non-attendance. The lack of leet records for 1644-6 and of any presentments from Halifax between 1642 and 1650, together with the 1655 Ordinance make use of taxation a possibility, but one that lacks the corroboration available in Sowerby (Chapter Five). The last order against the constables for a repair on the road to the church was laid in 1664, and no amerancements were suffered from action by neighbouring townships.<sup>70</sup> This trickle of presentments against neighbouring townships, in sharp contrast to the crowded sheets of individuals presented for street repairs, demonstrates an inward-looking approach to the leet.

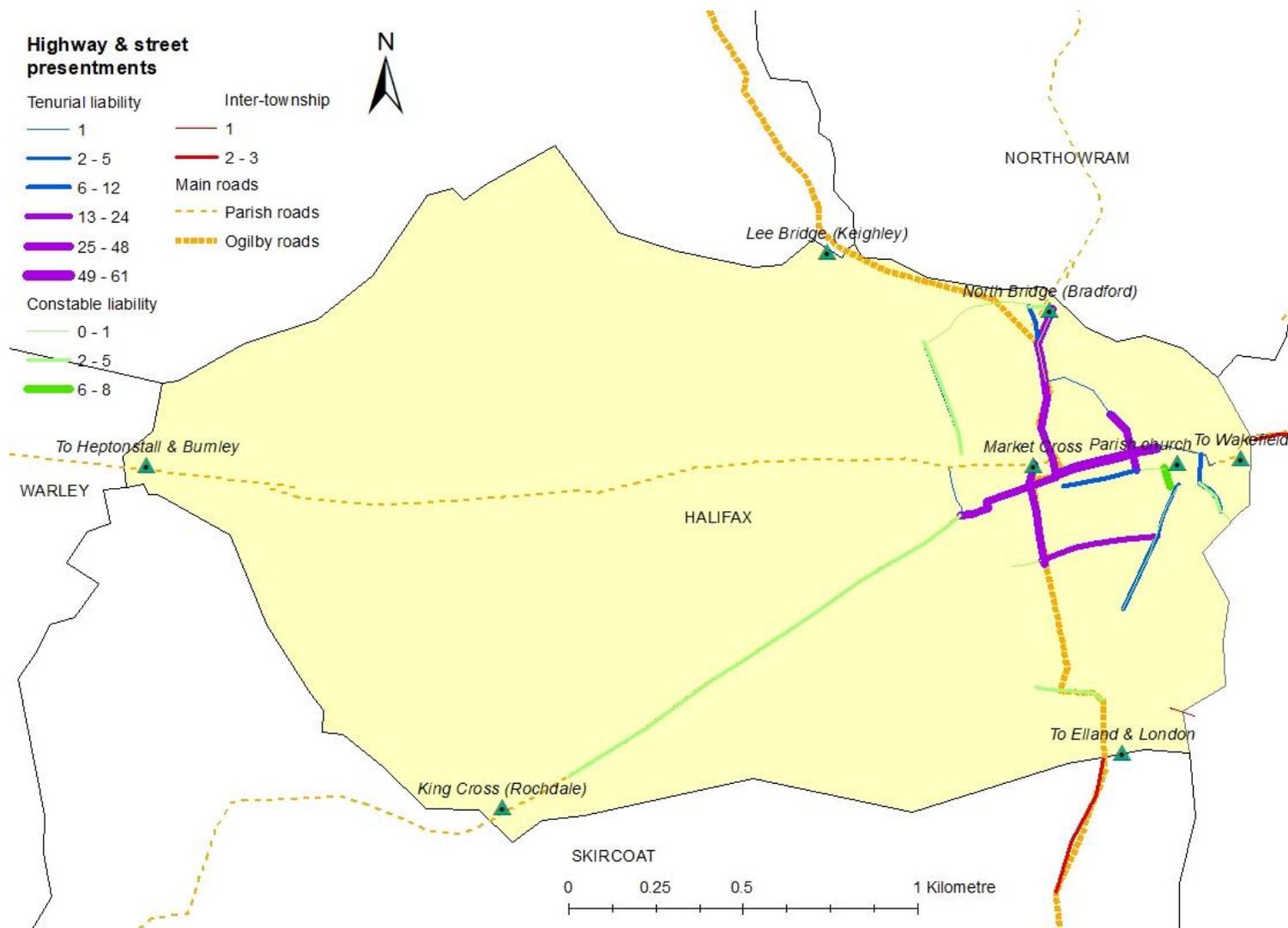
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<sup>68</sup> R.A.H. Bennett, ‘Enforcing the Law in Revolutionary England: Yorkshire, c1640-c.1660’ (Unpublished Ph.D. thesis, King’s College London, 1987), pp.56ff.

<sup>69</sup> *Ibid.*, pp.95ff.

<sup>70</sup> *WCR 1664/5*, p.132.

Map 3.8. *Halifax township highway presentments, showing zones of liability, 1605-99.*



The ratio of ameracements to pains was not as consistent in Halifax as that found in the out-townships. Outside the town, strict rules distinguished between offences, usually statutory offences within leet jurisdiction, that could be amerced summarily and those that required a bylaw or prior order which determined the penalty imposed. Sampling of two five-year periods suggests that the town's constables worked more flexibly (and, therefore, less consistently) in managing offences in the town (Table 3.8). It is clear that imposing the stated penalty was comparatively common in the first sample but less so later in the century. Ameracements were almost twice as likely to be reduced from the sum stated in the pain as raised. This could indicate that the penalty was adjusted in line with ability to pay but just as likely, given the high status of the landlords that were typically amerced, is recognition that some, but inadequate, repairs had been carried out. It is also probable that cases attracting smaller penalties, especially those expressed in traditional manorial multipliers (3s 4d, 6s 8d, 13s 4d) were, in effect, standard penalties for nuisances or lack of cleansing. This leaves a large number of ameracements which cannot be associated with a specific order or bylaw. At Easter 1681, only one of those amerced was named at the previous court, and the proceeds from eight ameracements were £11 10s, a sizeable total, which, if invested in street-mending, could have been used for paid labour and paving stone.<sup>71</sup> Four years later, an explanation in terms of revenue-raising is again tempting when nine ameracements raised £12 4s 9d, mostly from men of wealth and status, who may have supported improvements.<sup>72</sup> The ameracements give little idea of the nature of repairs; in the urban context, even mention of the word 'causey' was ambiguous, referring either to the street or a foot causey (in modern terms, a 'pavement').

Table 3.8. *Amercement levels, Halifax township, sample years.*

	<b>1626-30</b>	<b>%</b>	<b>1681-5</b>	<b>%</b>
As stated in the pain	27	40.3	7	17.5
Lower than pain	16	23.9	10	25.0
Higher than pain	9	13.4	5	12.5
Nuisance (standard penalty)	6	9.0	1	2.5
No pain extant	9	13.4	17	42.5
Total	67	100.0	40	100.0

<sup>71</sup> YAS/MD225/1/406A.

<sup>72</sup> YAS/MD225/1/411A, Easter 1685: includes Joseph Ramsden gent, Mrs Richardson, Mr Foxcroft (all 39s 11d), Mr William Powre (35s), Mr John Lister (20s).

Table 3.9. *Street bylaws in Halifax, 1617-33 and 1657-73.*

Year	Details	Penalty
1617/8 <sup>73</sup>	Butchers to remove sheep's horns from the street	3s 4d
	Remove muck on the same day	3s 4d
	Cover or rail tavern [cellar] holes in the street	3s 4d
1629 <sup>74</sup>	Laying 'straw ... carrion, or any other filthy thing in Northgate' unless removed the same day	10s
1630 <sup>75</sup>	Dung not to stay more than 6 days	3s 4d
1631 <sup>76</sup>	Dunghill not to stay in Swinemarket more than 10 days	3s 4d
1631/2 <sup>77</sup>	Letting swine troughs stay in the streets	3s 4d
	Couled [raked] dunghills if remaining after 1 night	2s 6d
1632/3 <sup>78</sup>	Leaving straw from streets	5s
	Dung not to stay more than 2 days	5s
1657 <sup>79</sup>	'every owner or occupier of houseinge or shopps in Halifax do reparaire against their severall partes of the street before the next court leet'	5s for every yard 'sware [square]
1658 <sup>80</sup>	All owners and occupiers of housings in Halifax to repair their part of the street sufficiently before the next court	40s
1659 <sup>81</sup>	All owners/ tenants to 'repair their severall partes of the streets or townegate' by the next court leet ... and that they keep streets couled and clean [Another highway bylaw obscured by paper damage]	6d by next court, 6d/ each month after; 6d/ week if uncleaned
1672/3 <sup>82</sup>	All persons now inhabiting or the owners of the houses towards the streete & streetes in this towne sufficiently repayre and amend the said respective streetes ag[ains]t the said houses betwixt [now] & Christmas Presentment at Easter of all those breaking 1672 Michaelmas by-law (no names listed)	1s/ yard  12d a peece

<sup>73</sup> YAS/MD225/1/343A, Michaelmas/Easter.

<sup>74</sup> YAS/MD225/1/354A, Easter.

<sup>75</sup> YAS/MD225/1/355A, Easter.

<sup>76</sup> YAS/MD225/1/356A, Easter.

<sup>77</sup> YAS/MD225/1/357A, Michaelmas/Easter.

<sup>78</sup> YAS/MD225/1/358A, Michaelmas/Easter.

<sup>79</sup> YAS/MD225/1/382A, Easter.

<sup>80</sup> YAS/MD225/1/384A, Michaelmas.

<sup>81</sup> YAS/MD225/1/385A, Michaelmas.

<sup>82</sup> YAS/MD225/1/398A, Michaelmas/Easter.

While presentment of individuals was prolific, an alternative approach used in some years in Halifax was to issue bylaws to prevent nuisances and order repairs, a practice unparalleled elsewhere in the parish. These are set out in Table 3.9 to emphasise the shift in focus after the mid-century crisis. The earlier bylaws set standard penalties of ten groats (3s 4d) or five shillings to keep the town centre streets cleansed, and the emphasis on dung clearance bears witness to the horse traffic generated on market days. Fourteen such orders between 1617 and 1633 to prevent street nuisances showed little consensus on the necessary rules. After mid-century four bylaws set different penalties for owners, occupiers, tenants or inhabitants to repair their street frontages. The timing here may not be accidental; the dates of 1657-9 and 1672-3 fell within ‘windows’ of statutory taxation, and, therefore, they could represent attempts to reinforce the principle of tenurial repair to reduce the scale of highway rates.<sup>83</sup> The efficacy of bylaws was transitory at best: four of six amercements at Michaelmas 1658 were expressed in standard manorial terms, as multiples of 3s 4d, as were the nine amercements imposed in 1661.<sup>84</sup> After Easter 1673, the constables reverted to pains against individuals for sums of 10s and 20s, round numbers at odds with penalties calculated in shillings per yard. Standing bylaws were clearly difficult to sustain for a regime of annual constabships, and appear never to have become an accepted approach to administration apart from street nuisances.

The wording of these bylaws highlights an important problem for understanding tenurial liability in the town: did responsibility lie with the owner or occupier? Copyhold was fast disappearing from the township by the mid-seventeenth century, as Arthur Ingram sold freeholds to raise cash.<sup>85</sup> In a buoyant property market, landlords were keen to maximise profits from letting commercial and residential housing, which made management of the town’s streets an administrative hot potato. Sampling across a decade of intensive street presentments indicates that the number of different individuals named for repairs was surprisingly low. In 1626-35, of the 93 people named in 316 presentments, the nine most frequently presented individuals account for almost a third of all such cases in the town (97, see Table 3.10). Five of these were presented for

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<sup>83</sup> See Ch.2.

<sup>84</sup> *WCR 1658/9*, p.82; YAS/MD225/1/387A, Michaelmas 1661.

<sup>85</sup> Watson, *Antiquities*, p.134; A. Betteridge, ‘Halifax before the Industrial Revolution: A study of local administrative records’, Pt.1, *THAS* (1978), pp.17-41 (p.22).

Table 3.10. *Nine individuals most frequently presented for street repairs, Halifax township, 1626-35.*

	<b>Pains</b>	<b>Amercements</b>	<b>Places</b>	<b>Notes</b>
Jasper Blythman	9	5	Southgate	Squire, of Elland Hall <sup>86</sup> , 1625 distraint of knighthood <sup>87</sup>
John Smithson	9	4	Cloth Hall, Market Place, Smithystake	Gent., constable 1627 <sup>88</sup> , notary public, bought Woollen & Linen Halls <sup>89</sup>
Edward Slater	8	5	Church Lane, Southgate, Woolshops	Gent. <sup>90</sup>
Robert Exley	7	4	Woolshops	Mercer, 1625 distraint of knighthood <sup>91</sup>
Anthony Foxcroft	5	5	Northgate, Rattenrawe, Shambles	Gent., <sup>92</sup> 1625 distraint of knighthood
Thomas Ward	6	3	Lovelesse lane, Lower end, Shambles, Southgate	?Chapman <sup>93</sup>
Robert Pollard	5	4	Woolshops	Of Wyke <sup>94</sup>
Thomas Whiteley	5	4	Woolshops	Of Hipperholme, 1625 distraint of knighthood
John Crosland	4	5	The Crowne, Market Place, Shambles	Constable, 1632 <sup>95</sup>
	58	39		

more than one location, indicating ownership of multiple properties. Data from a variety of sources noted in the right-hand column, shows that those with greater wealth and status were more likely to have been held liable at the leet, almost certainly in their capacity as landlords. One was the squire of Elland, three were styled gentlemen, and no less than four paid money for avoiding knighthoods after Charles I's coronation.<sup>96</sup> Three are associated with other townships, while Robert Pollard hailed from Wyke in the

<sup>86</sup> J. Horsfall Turner, *The History of Rastrick, Brighouse and Hipperholme* (Bingley, 1893), p.235.

<sup>87</sup> W.P. Baildon, 'Compositions for not taking knighthood at the coronation of Charles I', *YAS Record Series*, 61 (1920), pp.84-107.

<sup>88</sup> YAS/MD225/1/352A, Easter 1627.

<sup>89</sup> Lease to Smithson, WYAS (L), WYL100/HX/A/214b (1622).

<sup>90</sup> Receipt for £58, WYAS (C), WYC:1484/3/1/8/3 (1629).

<sup>91</sup> Release, WYAS (C), WYC:1484/3/1/1/9 (1619).

<sup>92</sup> Feoffment, WYAS (C), HAS:721b (721b)/1/1 (1647).

<sup>93</sup> Acquittance, WYAS (C), SH:3/L/7 (1624).

<sup>94</sup> YAS/MD225/1/353A, Easter 1628.

<sup>95</sup> YAS/MD225/1/357A, Easter 1631.

<sup>96</sup> Baildon, 'Compositions'.

parish of Birstall; absentee landlords may have been easy targets for amercement. The formal liability of the town's grandees does little to clarify who did the digging and sweeping. Mention of tenants is rare before 1641: the presentment of 'Alice Greenwood & the occupiers' in 1633 stands out partly because the name of John Crosland, a landlord who features in the table, has been struck out.<sup>97</sup> In 1650 four of the six pains named tenants, while still formally charging the landlord.<sup>98</sup> Thereafter, presentments frequently name both parties, for example: 'We present Henry Crowther landlord & John Batley tenant for neglecting to repair the highway before their housing in the Swine Market.'<sup>99</sup> The most likely explanation is that targeting landlords with formal liability allowed orders to stick despite tenant turnover, as landlords had the wherewithal to pay, if amerced. Naming and shaming may also have played into the factional politics of the town.<sup>100</sup>

What stands out is the discontinuity of practice in the town, leaving an impression that no settled view emerged on how best to use manorial mechanisms to maintain the streets of a busy trading town. The apparent lack of surveyors (after 1611) and of orders for statute duty is in keeping with practice in the out-townships. Yet in Halifax, too, it seems unlikely that the main roads into town were not repaired at all, since neighbouring townships repeatedly submitted orders for the town to do so.<sup>101</sup> Three practices appear to have been adopted by the two constables and their deputies at different times. First, responsibility for repair and cleansing by virtue of property frontages applied equally in the town with penalties for non-compliance, thus resembling street orders for towns such as Manchester, Oxford and Southampton, noted by Emily Cockayne.<sup>102</sup> Secondly, substantial amercements for landlords may have been used to force compliance by their tenants or to fund street improvement, in which case introduction of taxation, though not documented in the town for this period, may have been the obvious next step.<sup>103</sup> Finally,

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<sup>97</sup> YAS/MD225/1/359A, Michaelmas, 1633.

<sup>98</sup> YAS/MD225/1/376A, Michaelmas, 1650.

<sup>99</sup> YAS/MD225/1/394A, Michaelmas, 1668.

<sup>100</sup> Bennett, 'Enforcing the law', p.119.

<sup>101</sup> For example Skircoat; YAS/MD225/1/358A, Michaelmas 1632 (three orders); YAS/MD225/1/360A, Michaelmas 1634 (2 orders, 1 amercement), Easter 1635 (1 order); YAS/MD225/1/363A, Easter 1638.

<sup>102</sup> E. Cockayne, *Hubbub: Filth, Noise & Stench in England 1600-1770* (New Haven, 2007), pp.182-4.

<sup>103</sup> Documentation of street management by Halifax township (other than the court leet) is largely missing until 1800.

abortive attempts were made to use bylaws to reduce street nuisances and, less successfully, to enforce repairs along house and commercial frontages.

## Conclusions

From this analysis of the procedures, volumes and patterns of manorial highway regulation at the Wakefield courts leet, repairs by reason of tenure (*ratione tenurae*) has emerged as a durable, flexible and largely accepted principle of liability. The rule was applied, in different ways in different townships, to those who occupied land or housing adjoining a road or street. For minor footways and minor roads, the obligation was an unchallenged norm. In the Upper Valley area it was also employed to meet the statutory requirement to maintain major routes in more remote parts of the parish, such as the roads to Colne at Widdop (Wadsworth) and to Burnley at Stiperden (Stansfield), where the obligation devolved onto particular settlements or farmsteads. It seems at least possible that, during the period between the first statute of 1555 and 1630, in which highway surveyors were appointed in both court areas, repairing responsibilities were divided up between the occupiers of properties and land. Some presentments bluntly state ‘to whom it doth belong’: in 1623 Wadsworth presented ‘the way betwixt widdop yate and stones haey yate ... if it be not mended by them belonging to it befoure next sheratourne’.<sup>104</sup> Once an unwritten ‘map’ of responsibility was established, it was left to designated individuals and groups to carry out the work with only occasional resort to the leet by the constable when either circumstances changed (for example, through land enclosure or sale) or an individual could not or would not comply. Almost universal acceptance of the obligation kept the number of presentments low in the western townships, especially after the Restoration. While the tenorial principle also operated in the eastern townships attending the court at Brighouse, an alternative practice developed of using the court to announce annual schedules of maintenance, based once again on tenure. Sheer repetition seems to have embedded acceptance and episodes of non-compliance diminished, even as the annual workload of repairs, for example, in Shelf, steadily increased.

Mapping maintenance activity through GIS has proved crucial not only by showing the routes and streets prioritised by constables and surveyors in their orders, as discussed, but also by raising questions about others that are under-represented in the manorial records. Some roads between Halifax and connecting market towns, identified by Crump, that must have been heavily used by pack-horses, riders, pedestrians, animals

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<sup>104</sup> YAS/MD225/1/349A, Michaelmas 1623.

and, perhaps, in some places, carts and small waggons, are less frequently subject to action at the court than might be expected.<sup>105</sup> This is particularly true of the busy highway south-west through Soyland towards Rochdale and Manchester and two roads eastwards through Hipperholme township towards Wakefield and Leeds. The dearth of action is too conspicuous to be ignored. The conventional assumption, that unrecorded statute duty must have played the prime role, cannot be entirely ruled out, and there are a few presentments in the eastern townships that indicate a continuation of the principle of collective labour and cart provision for paving materials, as noted in the previous chapter. Nevertheless, there is only the flimsiest evidence for either surveyors or statute labour in the Halifax court area between 1630 and the 1690s. The alternative possibility that the decline in manorial presentments can reasonably be ascribed to the early adoption of taxation on key routes is explored in relation to Sowerby in Chapter Five. Certainly, such a proposition is supported by the proliferation of inter-township presentments that emphasised western township leaders' expectations of longer-distance connectivity.

Uncertainty remains about the strategies adopted in the town of Halifax, where the volume of amercements, bylaws, and orders and the size of penalties fluctuated widely from session to session, year to year and decade to decade. If the story in many townships is one of precociously confident self-government, the experience of urban Halifax indicates that similar success eluded the town. It seems probable that the explosive growth of the town between 1550 and 1620 exacerbated problems of infrastructure and social order that were largely unsolved before the cataclysm of the 1640s. Even with economic recovery from the mid-1650s, the failure to achieve incorporation as a borough in 1654 and the growth of property ownership by non-residents posed problems for infrastructure management that were never satisfactorily resolved in the study period.<sup>106</sup> It seems quite possible that the benefits in terms of citizenship and economic development that accrued, for example, to Leeds on its incorporation in 1626 may have been choked off at a point when the leet's authority for maintaining infrastructure was also in decline.<sup>107</sup>

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<sup>105</sup> Crump, 'Ancient Highways'.

<sup>106</sup> Failure of municipal charter: Bennett, 'Enforcing the law', p.114; Hargreaves, *Halifax*, p.79.

<sup>107</sup> P. Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), p.160.

Nevertheless, this chapter has demonstrated the range of options open to most townships working within the mechanisms and procedures of the court leet, but, as yet, the choices made lack an explanation in social or economic terms. Chapter Four seeks to understand how the social standing and participation of individual officeholders shaped priorities and strategies pursued at the leet. In Chapter Five, the analysis is sharpened by focusing on the single township of Sowerby, where the evidence shows a decisive move away from use of the leet towards a policy of tax-and-spend later in the seventeenth century. In Chapter Six, it is suggested that different economic priorities within the parish led to very different approaches with greater or lesser reliance on the institution of the leet.

## Chapter Four Participation and power

Discussion of participation in early modern English localities is central to three interrelated fields of enquiry: citizenship within a ‘monarchical republic’; vestry governance, oligarchy and ‘middling sort; and state formation.<sup>1</sup> The first of these, the current of Platonic republicanism within the Tudor polity, was developed from Collinson’s notion of ‘localised self-government’ through Mark Goldie’s celebrated essay on the social depth of local (and predominantly rural) governance and Phil Withington’s exploration of active citizenship in chartered towns and cities.<sup>2</sup> Manorial courts had long offered an opportunity for men of standing to exercise power and authority. Brooks observed that those attending the courts ‘expressed a sense of collective identity that is one of the most striking features of cases that came from manors into the central courts of law’.<sup>3</sup> He also points out the double-sided character of participation in manorial courts, which meant that it was ‘not unusual for men who served as jurors to be amongst those who came before the court for misdemeanours’.<sup>4</sup> The significance of seventeenth-century local governance should not be seen in terms of unidirectional processes of transition in the delivery of social welfare, taxation, the militia and policing (important though these are).<sup>5</sup> The requirements of Tudor highway laws opened up space at the leet for participation and innovation in the management of local roads. The proposition explored in this chapter is that local manorial courts were inherently structured to encourage township participation by men of standing for roles in leadership, planning, delivery, monitoring and arbitration, which made for a smoother transition to new institutions and routines later in the century.

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<sup>1</sup> Secondary sources for this chapter’s theme include: P. Collinson, ‘The monarchical republic of Queen Elizabeth I’ in *Elizabethan Essays* (London, 1994), pp.31-57; K.E. Wrightson, *English Society 1580-1680* (London, 1982); S. Hindle, *The State and Social Change in Early Modern England, c.1550-1640* (Basingstoke, 2000); M.J. Braddick, *State Formation in Early Modern England c.1500-1700* (Cambridge, 2000); C.W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008).

<sup>2</sup> Collinson, ‘Monarchical republic’, p.33); M. Goldie, ‘The unacknowledged republic: officeholding in early modern England’, in T. Harris (ed.), *The Politics of the Excluded, c.1500-1850* (Basingstoke, 2001), pp.153-94; P. Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005).

<sup>3</sup> Brooks, *Law, Politics and Society*, pp.241-77.

<sup>4</sup> *Ibid.*, p.254.

<sup>5</sup> See, for example: S. Hindle, *On the Parish? The Micro-politics of Poor Relief in Rural England c.1550-1750* (Oxford, 2004); M.J. Braddick, *Parliamentary Taxation in Seventeenth-Century England: Local Administration and Response* (Woodbridge, 1994); J.A. Sharpe, *Crime in Early Modern England 1550-1750* (2<sup>nd</sup> ed., London, 1999).

For the second, somewhat contrary, notion of narrowing participation, we need to take account of meticulous research in the form of longitudinal micro-histories, most notably those of Keith Wrightson and David Levine in puritan Terling and industrialising Whickham as well, for this study area, but towards the end of our study period, by Pat Hudson and John Smail on Halifax and the West Riding clothmaking region.<sup>6</sup> Integral to all these is the challenge of using empirical data to track social polarisation, changing ‘cultural horizons’ and the growing assertiveness of the ‘middling sort’ in the localities.<sup>7</sup> French’s exhaustive survey highlighted that performance of local offices was the single most important indicator of middling-sort status in local societies.<sup>8</sup> All such studies reflect the influence of Wrightson’s *English Society* and associated articles which linked social polarisation to a concentration of authority in the localities, singling out ‘the parish notables who represented them as presentment jurymen and governed them as vestrymen and overseers’.<sup>9</sup> Steve Hindle made a crucial distinction for the current study of an administrative system in transition:

‘The manorial court classically expressed the medieval ‘ascending’ concept of political authority, and the activities of homagers hint at ... self-reliance ... and potential for independence ... The vestry, by contrast, embodied a ‘descending’ theory of governance, and the status of vestrymen was enhanced precisely because they wielded authority on behalf of external powers ...’<sup>10</sup>

While Hindle conceded that the chronology of this transition was complicated, he argued that membership of the vestry was more likely to be ‘oligarchic’, increasing the power of the ‘middling sort’. This elaborated Wrightson’s remark that those over whom

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<sup>6</sup> D. Levine, D. & K.E. Wrightson, *The Making of an Industrial Society: Whickham 1560-1765* (Oxford, 1991); K.E. Wrightson & D. Levine, *Poverty and Piety in an English Village, Terling 1525-1700* (2nd ed., Oxford, 1995); P. Hudson, *The Genesis of Industrial Capital: A Study of the West Riding Wool Textile Industry, c.1750-1850* (Cambridge, 1986), esp. pp.61-75; J. Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1780* (Ithaca, 1994), esp. pp.19-43; P. Hudson & S. King, ‘Two textile townships, c 1660-1820: a comparative demographic analysis’, *EcHR*, 53, 4 (2000), pp.706-41.

<sup>7</sup> Wrightson & Levine, *Terling*, ch. 6, ‘Changing Cultural Horizons’.

<sup>8</sup> H.R French, *The Middle Sort of People in Provincial England 1600-1750* (Oxford, 2007), pp.90-140.

<sup>9</sup> Wrightson, *English Society*, p.225; see also K.E. Wrightson, ‘Two concepts of order: justices, constables and jurymen in seventeenth-century England’, in J. Brewer, & J. Styles (eds.), *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick, 1980), pp.21-46; id., ‘Estates, degrees, and sorts: Changing perceptions of society in Tudor and Stuart England’, in P.J. Corfield (ed.), *Language, History and Class* (Oxford, 1991), pp.30-52.

<sup>10</sup> Hindle, *State and Social Change*, pp.208-9, citing W. Ullman, *A History of Political Thought: The Middle Ages* (Harmondsworth, 1965), pp.12-13.

the middling sort exercised their powers ‘were less participants than objects of a regenerated and extended system of social control’.<sup>11</sup>

A third stream of thinking, in which Hindle and Braddick are especially prominent, explicitly links local governance to ideas about state formation, and thus goes some way to resolving the tensions between inclusive and exclusive participation. Within this discussion, local officers derived legitimacy for governance in the localities not only from institutions and laws but also from the values and beliefs current in local communities. This duality of legitimacy offers an opportunity to reconcile the apparently conflicting values of self-governing homagers at the manorial court with the oligarchical characteristics of vestry government. This chapter, accordingly, uses a mix of manorial and taxation records to explore the dualities implicit in participation by ‘notables’ in a period marked by institutional change and civil conflict.

The analysis adds substance and depth to a modest body of research into local officeholding in the context of seventeenth-century manor courts. Walter King analysed those attending the leet at Prescott, Lancashire, 1657-60 for their average hearth numbers to argue for social stratification. Jurors had an average of four hearths, while ‘presentment officers’ (termed presenters in this study), had under three (2.7).<sup>12</sup> He found jurors usually had freehold land and none were ‘renters only’; two thirds were styled yeomen, gentlemen or squires. Presenters were overwhelmingly renters (85.1%), and only 15.4% were yeomen or gentlemen. A significant difference found in Halifax is the absence of gentry involvement. For the sixteenth-century courts of Cumberland and Westmorland, Winchester was more circumspect: jurors ‘tend to be the more substantial members of the manorial community’, predominantly freeholders or ‘members of families that remained as yeoman dynasties’.<sup>13</sup> Two other studies provide precedents for this chapter. Jan Pitman’s study of parish office in north Norfolk, 1580-1640, used field books and taxation records to place churchwardens, ‘questmen’ and overseers of the poor (but not surveyors) within a scheme of economic ranks’ (wealthier/ poorer gentry,

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<sup>11</sup> Wrightson, *English Society*, pp.225-6.

<sup>12</sup> W.J. King, ‘Leet jurors and the search for law and order in seventeenth-century England: “Galling persecution” or reasonable justice?’, *Histoire sociale/ Social History*, 13 (1980), pp.305-23 (pp.309-12).

<sup>13</sup> A.J.L. Winchester, *The Harvest of the Hills: Rural Life in Northern England and the Scottish Borders 1400-1700* (Edinburgh, 2000), p.41.

yeomen and husbandmen).<sup>14</sup> Henry French's exhaustive enquiry into the nature and identity of the middling sort includes analyses designed to tease out criteria for qualifying as 'parish rulers' or 'chief inhabitants'.<sup>15</sup> His post-1650 rating lists and hearth tax data show officeholders to be at levels above the median in both rural parishes and boroughs. He also used rating lists from Dorset and Essex to calculate that 37% of male ratepayers served as officers or vestrymen. The current study suggests that townships were subject to two contrary forces that were formative factors in the evolution of highway management strategies across townships. During the study period, the social depth that was a longstanding feature of participation in manorial government was increasingly overtaken by a more overtly oligarchic style of vestry governance that privileged the most substantial townsfolk, in effect the highest ratepayers. For highways, this meant a fusion of older traditions of governance with procedures operated by township officers under the watchful eye of local justices, culminating in procedures within the 1692 Act that diminished the highways role of courts leet (see Chapter Two).

The hypothesis implicit in this chapter is that close attention to the management of highways and streets in the seventeenth century court leet was conditional on the depth and quality of participation in townships. Participation was subject to tensions, not least the impact of polarisation within communities, as discussed by Wrightson, that tended to concentrate power within township elites. Other pressures intruded from outside, most obviously, the dislocating effects of civil conflict, but also major changes to township responsibilities forced by new legislation in respect of taxation, poor relief and highways. This chapter links levels of participation through officeholding to different approaches to highway management in Halifax parish and contextualizes the succeeding chapter in which the Sowerby constables' accounts are used to track administrative migration from manorial highway regulation to taxation and control by an exclusive group of wealthy men. The chapter starts by identifying and describing the three township offices and two court roles of most relevance to the regulation of highways by the leet.<sup>16</sup> Next, patterns of officeholding are examined for the three township clusters

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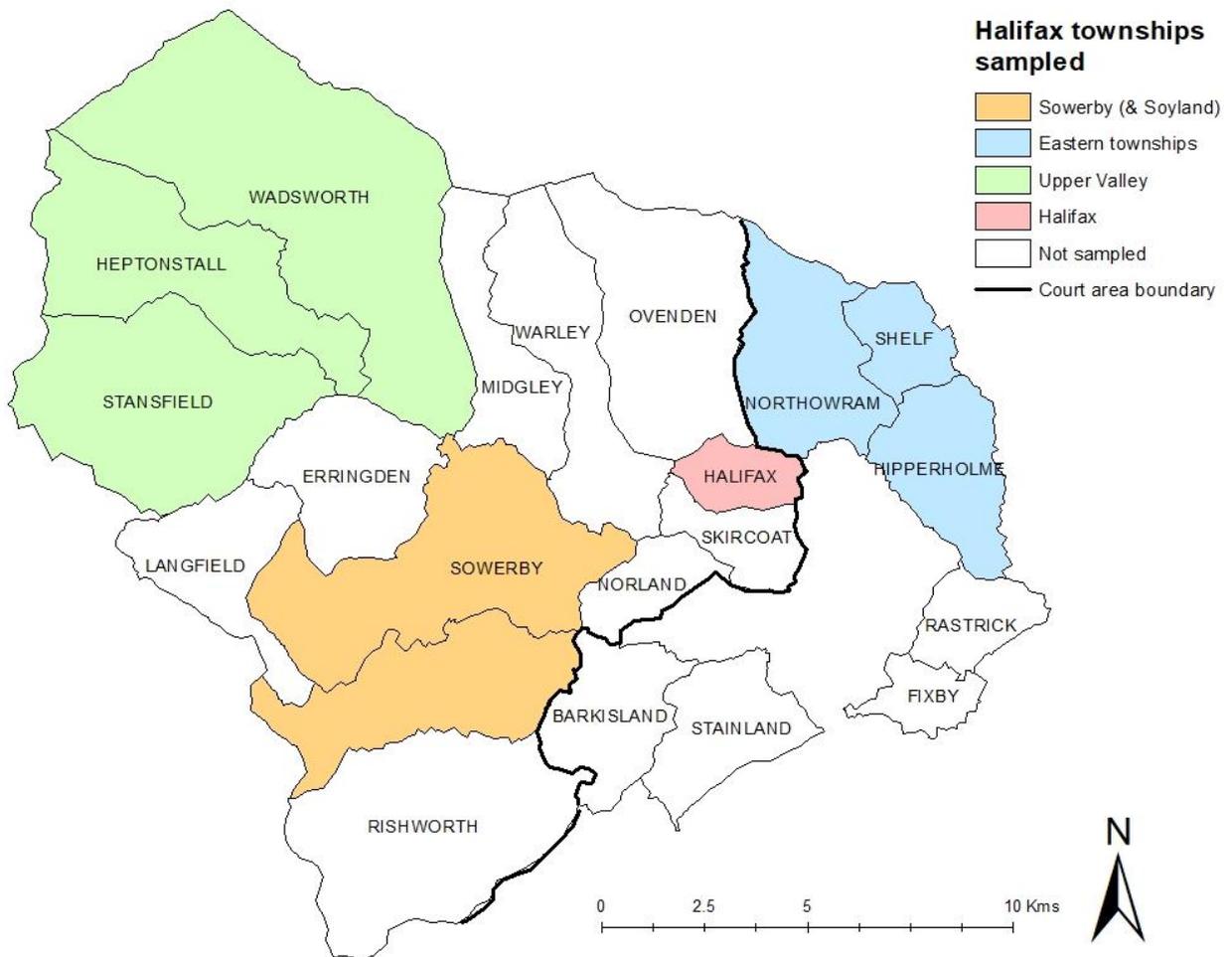
<sup>14</sup> J. Pitman, 'Tradition and exclusion: Parochial officeholding in early modern England, a case study from North Norfolk, 1580-1640', *Rural History*, 15, 1 (2004), pp.27-45. For the similarity between 'questmen' and presenters, see s.1 below.

<sup>15</sup> French, *Middle Sort*, pp.114-8.

<sup>16</sup> For convenience, in this chapter, the annual offices (constable, deputy constable, highway surveyor) and court roles (juror, presenter) are all termed 'offices'.

identified in Chapter Three for their high levels of presentment activity, together with Sowerby, the complex township that is studied in depth in Chapter Five (Map 4.1, below). The leet records provide the names both of officeholders and those presented for highway repairs and nuisances. These are then correlated, where possible, with freeholder and tax lists to place both officeholders and ‘offenders’ according to levels of wealth, literacy and status across the adult male population. This leads into a discussion of the power of jurors to lodge their own presentments and amend or strike out those from the townships. The final step is to explore how levels of participation diverged later in the century, accentuating the difference between the Upper Calder Valley, where individual presentment gave way to a more ‘corporate’, defensive posture, and the eastern townships where use of manorial presentments intensified, notwithstanding signs of a vestry structure and the beginnings of highway taxation.

Map. 4.1. *Halifax parish townships selected for the analysis of officeholding.*



## I Posts and appointments

The administrative transfer of Wakefield manor to the Duchy of Lancaster in 1558 was followed by a series of enhancements to court record-keeping procedures. By 1564 the paper records methodically listed jurors, constables and the ‘sworn men’ or presenters who testified to presentments.<sup>17</sup> Written ‘bills’ of presentments, of which a few survive from 1534, had become obligatory at both Halifax and Brighouse before 1582, the first year for which a complete set survives.<sup>18</sup> The number of sworn men for each township was fixed at four, except for six in Halifax itself and two in some smaller ones. Also by 1582, the town was electing a second constable and Erringden had one of its own, confirming its separation from Sowerby. Township presentment bills, many signed or marked by jurors and presenters, were filed in a standard order, stitched and rolled, to allow orders and bylaws to be checked more easily without being entered on the formal parchment rolls. The lists of appointees offer an opportunity to measure participation in local governance in the four offices of most relevance to highway management at the leet – jurors, constables, ‘presenters’ and highway surveyors.

Twelve or more jurors were empanelled at sessions of the Wakefield courts leet no later than 1350.<sup>19</sup> Between 1550 and 1622, jury numbers varied at both Halifax and Brighouse between thirteen and twenty before settling at thirteen for most sittings. Neither court had a limit on juror terms, and service in consecutive courts was especially common at Brighouse. Juror representation for the townships attending the Halifax court was on an equitable basis: two places for Halifax township, one each for the other eleven townships. This was verified by court officials in Michaelmas 1617, when the domiciles of fifteen jurors were noted in the record, including one each from Rishworth and Norland and also from Sowerby and Soyland.<sup>20</sup> The location of thirteen jurors was recorded six times between 1630, 1632, 1633 and 1640, thus dropping the extra places for Norland and Soyland.<sup>21</sup> The allocations were stable thereafter, and, as jurors were often (but not always) listed in standard ‘filing order’, it is possible to

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<sup>17</sup> Leeds University Special Collections, Wakefield manor court rolls, YAS/MD225/1/289A, Easter 1564.

<sup>18</sup> YAS/MD225/1/308A.

<sup>19</sup> M. O’Regan, *The Medieval Manor Court of Wakefield* (Leeds, 1994), p.40.

<sup>20</sup> YAS/MD225/1/343A.

<sup>21</sup> YAS/MD225/1/355A, Easter 1630; YAS/MD225/1/357A, Easter 1632; YAS/MD225/1/358A, Michaelmas 1632; YAS/MD225/1/359A, Michaelmas 1633; YAS/MD225/1/361A, Easter 1636; YAS/MD225/1/366A, Michaelmas 1640.

Table 4.1. *Juror allocations, Brighouse court.*<sup>22</sup>

	1616	1623	1633
Barkisland	1		
Clifton			
Dalton		2	1
Fixby			
Hartshead			
Hipperholme	3	3	4
Northowram	3	3	3
Quarmby	2	1	2
Rastrick	1	1	2
Shelf		1	1
Stainland			
<i>Unknown</i>	3	1	0
Total	12	12	13

Notes: 1) in 1616, only one juror was stated for Northowram, but the names of two other jurors are attested in other roles for Northowram; 2) the five townships absent in 1616-33 are shaded cream; 3) townships outside Halifax parish are shaded orange.

identify the home township of many Halifax court jurors with reasonable confidence, especially if the name is not common across different townships. At Brighouse, only three panel lists state the domiciles of jurors and these are far from being equitably representative (Table 4.1). A 1616 list has three jurors from both Hipperholme and Northowram, and, therefore, at least three townships cannot have had a juror. The disruption caused in that year by the departure of five townships to the Elland leet strengthened the position of Hipperholme and Northowram, which had a majority of places in 1633.<sup>23</sup> Assigning juror names to Brighouse townships is less certain, as the allocation of places was subject to variation and the names were rarely listed in standard filing order, as at Halifax. The regular incidence, however, of jurors that match the names of men holding other offices in Northowram and Hipperholme indicates that both townships may still have had at least two jurors, giving them a significant measure of influence.

The jurors' role was to confirm the truthfulness of presentments and, in the absence of affeerors (men chosen to adjust financial penalties), to settle the penalty for ameracements. In 1661, a formal statement was signed by the Halifax jurors: 'We whose

<sup>22</sup> YAS/MD225/1/342A, Michaelmas 1616; YAS/MD225/1/349A, Michaelmas 1623; YAS/MD225/1/358A, Easter 1633.

<sup>23</sup> Some formal and draft rolls survive for Stainland, Barkisland and Fixby attending the court leet at Elland of Sir Henry Savile of Methley MP (Yorkshire): WYAS (L), WYL/156, MX/M3/1-4 between 1616 and 1631.

names are subscribed doe verdict [*sic*] acordinge to the perticulars above written and the severall bills upon the file ...'<sup>24</sup> Jurors could also make their own presentments or could strike others out. Some appeals (traverses) may have been accepted by the jury on the court day itself. Others were sent for formal 'trial' at a later date before a special jury drawn from townships close to, but not party to, the dispute. Jury service was not without perks. Between 1634 and 1639 the Sowerby constables paid a penny fee to the foreman for entering their bill of presentments; in 1647 the fee rose to 4d and, in 1653, to 6d, at which rate it remained late into the eighteenth century.<sup>25</sup> If similar payments were made by other townships, the foreman may have had a budget of up to 6s for incidental expenses and hospitality. Foremen had to combine sensitivity to different interests with the need to work with manorial staff to manage formal business efficiently.

The origin of attendances by 'sworn men' from each township lies in the medieval sheriff's tourn, at which four men from each 'vill' were required to vouch for the keeping of the king's peace.<sup>26</sup> Often simply called the 'four men' or 'four sworn men' on early bills, they were increasingly termed 'presenters'. Although practice no doubt varied, they almost certainly had a chance to contribute items for the constable's bill: orders were invariably expressed in the first-person plural ['we lay in pain ...']. Moreover, the cachet of confirming items on oath was strengthened by an expectation from the 1620s that they should individually sign or add their mark. Benefits flowed in both directions: the authority of the court was legitimated by verifying locations within the jurisdiction that were likely to be unfamiliar to stewards and jurors, and the role of presenters was more attractive to men with a measure of reading or writing. Allocations of presenters were stable across both courts for most of the seventeenth century and account for half of all attendances recorded in the paper records. Attendance at two consecutive sessions was customary in many townships which sometimes designated two 'old presenters' and two 'new presenters', thereby maintaining continuity between court days. For the more populous town of Halifax, attendance numbers fluctuated between multiples of three (three, six or nine) or four (four or eight). Some may have

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<sup>24</sup> YAS/MD225/1/387A, Michaelmas 1661.

<sup>25</sup> WYAS (C), SPL:143, Sowerby constables' accounts (1628-1715, henceforth, 'SCA'); SPL:144 (1715-1867).

<sup>26</sup> A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), p.95; J.L. Cruickshank, 'Sheriff's tourns, wapentakes and the liberties of the West Riding', *NH*, 57:2 (2020), pp.177-97.

taken responsibility for particular matters, as indicated on a Halifax bill in 1641 when three of the eight men signing the bill were labelled ‘overseres for the hywayes’, an office not declared by the town since 1609.<sup>27</sup> Later in the century presenter numbers diminished in smaller townships. At Brighouse, Fixby’s quota of two presenters was adopted by Barkisland, Stainland, Rastrick and Shelf, albeit on an inconsistent basis. At Halifax, similar reductions happened with Skircoat and Ovenden, although the small Upper Valley township of Erringden always managed four. The failure by manorial staff to record presenters on eight occasions between 1680 and 1693 suggests a more lax regime in the final months of Francis Whyte’s lengthy tenure as high steward.<sup>28</sup>

One man served the office of constable for each township in the parish for a year, except in Halifax, which had two. A second constable was appointed in Heptonstall in 1631 during an outbreak of plague and again in Hipperholme in 1665, possibly for the same reason.<sup>29</sup> It appears from the records that, within the parish in the study period, the office was normally served only once in an individual’s lifetime, perhaps unsurprisingly, given the burdens of the office in this period.<sup>30</sup> Where the same name recurs as constable, duplication of name (especially by father and son) is the likely explanation, as in the case of consecutive one-year terms for ‘John Eastwood’ in Stansfield in 1631 and 1632, followed by juror attendances for John Eastwood in 1632 and ‘John Eastwood junior’ in 1633.<sup>31</sup> A rare exception was John Foster of Heptonstall whose signature as constable in 1677 was repeated at both courts in 1678.<sup>32</sup> Each constable had to attend the Michaelmas court when he was sworn into office and both courts in the twelve months that followed, at which he submitted a bill of presentments (or nil return). Many bills from later in the century were evidently written by the constable himself who was, therefore, able to adjust, modify or add presentments, even if initiated by others. Failure to take the oath, attend or submit a bill was punishable by

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<sup>27</sup> Halifax: YAS/MD225/1/366A, Easter 1641; *WCR 1608/9*, p.163.

<sup>28</sup> Whyte, barrister of Gray’s Inn, justice and recorder of Leeds, was High Steward at Wakefield from c.1662 until his death in 1693: *WCR 1664/5*, p. xv; YAS/MD225/1/406A, Michaelmas 1680, Easter 1681; YAS/MD225/1/407A, Michaelmas 1681; YAS/MD225/1/408A, Michaelmas 1682; YAS/MD225/1/411A, Michaelmas 1685; *WCR 1688/9*, p.139; YAS/MD225/1/418A, Easter 1693; YAS/MD225/1/419A, Michaelmas 1693.

<sup>29</sup> YAS/MD225/1/357A, Heptonstall, Michaelmas 1631; YAS/MD225/1/391A, Hipperholme, Michaelmas 1665.

<sup>30</sup> See also Ch.5.

<sup>31</sup> Stansfield, YAS/MD225/1/356A (1630) - YAS/MD225/1/358A (1632).

<sup>32</sup> YAS/MD225/1/402A, Easter 1678; YAS/MD225/1/403A, Michaelmas 1678.

amercement, and constables could be punished for neglect or for leaving the court without permission. In 1630, the court ordered the elected but absent Wadsworth constable, William Hellywell, to forfeit £5 ‘if he goes not before a justice to be sworne within x daies’.<sup>33</sup>

The role of the constable, in many ways the ‘chief executive’ of the township, is examined at greater length in Chapter Five.<sup>34</sup> His statutory duties were maintenance of law and order (policing), compliance with social and economic regulations, including aspects of poor relief (whipping of beggars and removal of those without settlement status), alehouse licensing, tax collection and distraint of goods for refusing payment, and support for the militia.<sup>35</sup> Although the burden of the job may have reduced later in the century, balancing the demands of justices in or out of petty sessions, high constables, excise collectors and militia officers with manorial routines remained a pressure on constables. The continuation of petty crime offences late into the century, albeit at a lower level than in the two decades before 1641, suggests that justices expected constables to take cases of affray and minor bloodshed to the leet, as well as street and road repairs, infrastructural and drainage problems, and assorted nuisances. After each session constables had to monitor compliance with leet orders for highways and other matters against deadlines (including, where relevant, those laid by or against other townships) so as to report to the next court. This reporting function probably explains the preference in the Halifax court area for tasking the constable with highway repairs in place of surveyors. The lack of any references to amerancements in the Sowerby constables’ accounts makes it likely that the manorial bailiff rather than the constable was responsible for securing payment for amerancements, as indicated in the 1709 Manor Book.<sup>36</sup> The passing of responsibility for highways to surveyors after the 1692 Highways Act may well have been welcome to constables in the Halifax court area. The consequence, noted in Chapter Two, was an abrupt 56.2% fall in highway cases at the Halifax court leet in 1691-5.

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<sup>33</sup> YAS/MD225/1/356A, Michaelmas 1630.

<sup>34</sup> J.L. Cruickshank, ‘Wapentake courts of the Honour of Pontefract, 1427-1877’, *NH*, 57:1 (2020), pp.20-42 (p.27).

<sup>35</sup> J.R. Kent, *The English Village Constable 1580-1642: A Social and Administrative Study* (Oxford, 1986), chs.5 & 6; see also Chapter 5.

<sup>36</sup> *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013), p.40.

The option to insert a deputy was available to those reluctant or unable to serve as constable, this being the only office for which deputies were sworn at the leet. Combining data from the leet and constable accounts indicates that a deputy served in Sowerby in thirty-five years of seventy-two years (38.9%) between 1629 and 1700, including four years in which a deputy was not listed in the leet records, but may have been sworn by a justice.<sup>37</sup> As three deputies had the same surname as the constable, duties may have been informally shared by members of a single family. While this is a much higher rate of deputisation than reported by Joan Kent, Sowerby was a particularly large and complex township, as becomes clear in Chapter Five.<sup>38</sup> Across seven other townships between 1621 and 1640, just twenty-eight deputies served single terms.<sup>39</sup> Only one documented instance has been found in the study area of a man (John Bothomley) deputising for a woman, his mother, appointed to the post in Sowerby in 1538.<sup>40</sup> In the politically-charged Halifax township of the pre-war years, Isaac Lee was constable in 1627 and then deputy continuously from 1629 to 1634, followed by William Parkin as deputy from 1635 to 1637 and again in 1639.<sup>41</sup> Consecutive years of service as a deputy were more frequent in the out-townships during the civil wars and Interregnum: John Mitchell was Sowerby's constable in 1645 and deputised four times between 1647 and 1651.<sup>42</sup> John Widdop was deputy in Stansfield continuously from 1649 to 1653.<sup>43</sup> These were difficult and sometimes dangerous years, and it seems probable that it may have suited township leaders to appoint a deputy, possibly waged.

Fluctuations in the number of highway surveyors were discussed in Chapter Two, which found a reduction in their numbers over time at the Brighthouse court and the abandonment of the office in the Halifax court area between 1630 and 1692. Their appointments were not recorded formally by the leet and there was no requirement for them to appear or be sworn at the court. Between two and four were allocated to subdivisions of larger townships, thus boosting the total number of officeholders in Brighthouse townships.<sup>44</sup> There is a broad correlation between the declaration of

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<sup>37</sup> SCA (1643, 1646, 1655, 1685).

<sup>38</sup> Kent, *Village Constable*, p.74; Pattingham (Staffs) appointed 3 deputies in 1582-1640 (5.1%).

<sup>39</sup> Halifax, Heptonstall, Stansfield, Wadsworth, Hipperholme, Northowram, Shelf.

<sup>40</sup> WCR 1537-9, p.146.

<sup>41</sup> YAS/MD225/1/352A-365A (1626-39).

<sup>42</sup> SCA (1645/6); YAS/MD225/1/373A-376A (1647-51).

<sup>43</sup> Stansfield deputy constables listed, YAS/MD225/1/374A-379A (1648-53).

<sup>44</sup> See Table 4.2 below.

surveyors by Hipperholme, Northowram and Shelf at Brighthouse and higher numbers of highway-related presentments to the leet, which suggests their involvement in deciding which presentments to make and the deadlines and penalties governing them. Although this aspect of their role, therefore, overlapped with that of presenters and constables, men rarely acted in more than one capacity at the same court: between 1630 and 1640, in Shelf and Hipperholme, there were only seven co-occurrences of a name as presenter and surveyor, and only one where two serving surveyors attended as presenters at the same court.<sup>45</sup>

### *Selection for office*

The processes for appointments to offices and positions at manorial courts remain frustratingly obscure. Three possibilities are generally canvassed. The first of these, selection by the manorial steward based on suit of court or homage, is most obviously applicable to jurors. King claimed that the role was restricted to ‘resident and non-resident owners of landed property’ at Prescott (Lancashire).<sup>46</sup> Harrison observes that ‘[i]n theory they should have been freeholders [but] in reality they were often copyholders’, and Brooks cites Kitchen’s leet manual for the suggestion ‘that in most cases the steward selected jurors from lists of tenants who owed suit’.<sup>47</sup> This begs the question of what ‘suit’ might mean in the thirteen sub-manors of the parish. Tenures included free tenants (freeholders paying a nominal lord’s rent), copyholders and tenants at will, while subtenants of the above could also be men of some standing.<sup>48</sup> Larger holdings were often made up of different types of tenure which could also cross township boundaries, creating a particular challenge in the Halifax court with its strict allocation of jurors to townships. The jury selection process came under stress in 1617 when fifteen jurors were sworn after five other names had been deleted from a draft list,

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<sup>45</sup> YAS/MD225/1/355A-366A. Two surveyors and presenters: William Booth, William Haldesworth, Shelf 1636. Presenter and surveyor: James Lawe, Hipperholme 1631; William Holmes, Shelf 1631; George Wilson, Hipperholme 1637; John Sunderland, Shelf 1639; Robert Barraclough, Hipperholme 1640.

<sup>46</sup> King, ‘Leet jurors’, p.309; C. Harrison, ‘Manor courts and the governance of Tudor England’, in C.W Brooks & M. Lobban (eds.), *Communities and Courts in Britain 1150–1900* (London, 1997), pp.43-59 (p.52).

<sup>47</sup> Brooks, *Law, Politics and Society*, pp.252-4, quoting John Kitchin, *Le Court leete, et court Baron*, (London, 1580).

<sup>48</sup> B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Hebden Bridge WEA Local History Group, Otley, 1992), pp.52-3.

three of whom were fined 12d for non-attendance.<sup>49</sup> The frequency of juror terms for some individuals (especially as foremen) suggests manorial staff may have developed close working relationships with township ‘notables’ to fill juror places and avoid friction.

A second method was rotating appointment by household or ‘house row’, as was the case with the manorial office of grave, for which an early eighteenth-century order of rotation survives.<sup>50</sup> For appointments to the constableness, note should be taken of Kent’s comments that this was common in her sampled parishes before 1640 and King’s finding from seventeenth-century Lancashire that sixty-eight out of seventy-eight townships appointed constables by house-row.<sup>51</sup> In 1671, Thomas Horton, a Barkisland landowner and justice from 1673, was the first signatory on a petition to the Brighthouse leet to reinstate ‘the ancient custom of our towne to have our constableness to go by house-row w[hi]ch was never violated till these late tymes of unhappy confusion’.<sup>52</sup> There is no way of verifying this claim, but the absence of regular patterns in the surnames among parish constables argues against widespread usage in the study period. Rotation in Rastrick may or may not be implied by a marginal note to the appointment of a deputy in 1631 to ‘dispair him the said Timothy for being constable when it cometh to his turne’.<sup>53</sup> The only incontrovertible evidence for geographic equity is the practice in Sowerby of a constable from Soyland quarter serving every fourth year (Chapter Five).

The third and most likely possibility is agreement between residents, probably based on burden-sharing rather than competitive election, for which there is no evidence in the records. A bill of 1582 that states ‘we dowe p[re]sent unto you Henri Murgitroyd to be constable of Mydglay to serf [serve] the peynes for this yeare’.<sup>54</sup> The most demanding year-round job was that of the constable, but surveyors, where appointed, needed to set aside time over the summer months. The statutory process for surveyors is closest to the democratic spirit, which called for ‘constables and churchwardens ... to call together on Tuesday or Wednesday in Easter week a number of parochians to electe & choose two

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<sup>49</sup> YAS/MD225/1/343A, Halifax, Michaelmas 1617.

<sup>50</sup> *Manor Book 1709*, pp.53ff

<sup>51</sup> Kent, *Village Constable*, pp.58-72; King, ‘Leet jurors’, p.310.

<sup>52</sup> YAS/MD225/1/397A, Michaelmas 1671.

<sup>53</sup> YAS/MD225/1/357A, Michaelmas 1631.

<sup>54</sup> YAS/MD225/1/308A, Midgley, Michaelmas 1582.

honest persons to be surveyors and orderers, for one year' (Chapter Two). It also seems probable that presenters were chosen locally in each township: on some lists written by manorial staff, the constables' names were written in advance, leaving a space for those of the presenters to be added in a different hand, presumably as they arrived in court.<sup>55</sup>

Whatever method was used, as Goldie suggested, men with standing in the community were expected by their neighbours to serve.<sup>56</sup> The lists in the leet records, cross-referenced with taxation records, are an opportunity to gauge the social depth of participation and the consequences for highway governance.

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<sup>55</sup> For example, YAS/MD225/1/407-8A, Michaelmas 1681, 1682.

<sup>56</sup> Goldie, 'Unacknowledged republic', pp.164-6); French, *Middle Sort*, pp.90-1.

## II Participation levels

Participation levels in officeholding were largely determined by the number of posts available in the township and population size. The number of posts for each township was either fixed (constables, presenters, jurors at Halifax) or variable (jurors at Brighouse, surveyors). The consequence was considerable variability in the ratio of officeholders to township population. This is easiest to measure in terms of households as a proxy for population, using the 1664 Hearth Tax return (which included both taxpayers and those exempted) to calculate the number of households in each township.<sup>57</sup> A profile of posts available, shows the significance of area and population variables for the eight townships (Table 4.2). As instances of men serving in more than one capacity at the same court session were rare, nearly one in six male householders in Shelf could expect to serve an office every year, while only one in forty would officiate in Sowerby. Officers were thicker on the ground in Halifax and the three small eastern townships, while those of Wadsworth and Sowerby were obliged to operate in the two most far-flung territories. Retention of surveyors, higher allocations of jurors and smaller townships all helped to raise proportions of office holders in the east. Both Hipperholme and Northowram had more officers in a year than the parochial and market centre of Halifax itself, which may have boosted buy-in to manorial routines and procedures. A further measure of particular relevance to the discussion of governance,

Table 4.2. *Available office posts in proportion to households and township extent, c.1630.*

	<b>Jur</b>	<b>Con</b>	<b>Pre</b>	<b>Sur</b>	<b>All</b>	<b>Area (ha)</b>	<b>Ha/ officer</b>	<b>H/holds</b>	<b>% h/holds</b>
Heptonstall	2	1	8	0	<b>11</b>	2,153	195.7	160	<b>6.9</b>
Stansfield	2	1	8	0	<b>11</b>	2,396	217.8	211	<b>5.2</b>
Wadsworth	2	1	8	0	<b>11</b>	4,079	370.8	179	<b>6.1</b>
Sowerby	2	1	8	0	<b>11</b>	3,493	317.5	468	<b>2.4</b>
Halifax town	4	2	12	0	<b>18</b>	453	25.2	502	<b>3.6</b>
Hipperholme	8	1	8	4	<b>21</b>	1,032	49.1	199	<b>10.6</b>
Northowram	6	1	8	4	<b>19</b>	1,376	72.4	328	<b>5.8</b>
Shelf	2	1	8	2	<b>13</b>	546	42.0	83	<b>15.7</b>
Total	28	9	68	10	<b>115</b>	15,528	135.0	2,130	<b>5.4</b>

Note: 1) Con, Constable; Jur, juror; Pre, presenter; Sur, highway surveyor; 2) household totals derived from the 1664 hearth tax lists; 3) township extent in hectares calculated from acreages on the 1850s OS maps.

<sup>57</sup> TNA E179/210/393, Hearth Tax returns (West Riding, 1664/5); see Appendix 2, Hearth Tax data.

the average number of office terms per person, is at least partly dependent on the size of each township's population and the size of the officeholding 'pool'.

Subject to these considerations and to inevitable problems of identification, overall participation levels for 1621 to 1640 are shown in Table 4.3, which includes both a measure of participation (the percentage of householders serving at least one term) and of distribution (terms per name). The results must be taken as indicative: some households would have contained only ineligible women, while others may have had several adult men. Nevertheless, an overall officeholding rate of nearly one in five householders (18.9%) and a relatively low rate of terms per individual (2.9 terms per man over 20 years) are signs of social inclusiveness, at least among adult males. In more populous Halifax participation was actually deeper because of the extra offices available and a low average number of terms served by each individual (2.0). The large township of Sowerby also shared out posts inclusively (average, 2.2 terms per officer) but, because of a lower number of places available, had the lowest participation rate in the sample of just over one in nine (11.4%). These contrast with noticeably higher participation rates in Hipperholme and Shelf, which had the highest number of posts per officeholder. Goldie's rough calculation of participation rates in 1700 suggested that, if 'about one-twentieth of adult males were governing in parish in any year that might mean one half were governing in any decade'.<sup>58</sup> As Halifax township populations were

Table 4.3. *Participation rates for officeholding, 1621-40.*

	<b>Terms</b>	<b>Names</b>	<b>Terms/ name</b>	<b>House/ holders</b>	<b>+5% p.a.</b>	<b>% serving one term +</b>
Heptonstall	207	69	<b>3.0</b>	160	320	<b>21.6</b>
Stansfield	223	84	<b>2.7</b>	211	422	<b>19.9</b>
Wadsworth	210	74	<b>2.8</b>	179	358	<b>20.7</b>
Sowerby	213	107	<b>2.0</b>	468	936	<b>11.4</b>
Halifax town	439	196	<b>2.2</b>	502	1,004	<b>19.5</b>
Hipperholme	391	101	<b>3.9</b>	199	398	<b>25.4</b>
Northowram	351	117	<b>3.0</b>	328	656	<b>17.8</b>
Shelf	260	56	<b>4.6</b>	83	166	<b>33.7</b>
Total	<b>2,294</b>	<b>804</b>	<b>2.9</b>	<b>2,130</b>	<b>4,260</b>	<b>18.9</b>

Notes: 1) Data from Stansfield and Wadsworth courts baron suggests population churn through coming of age, death and in- and out-migration may have been 5% per year, doubling the number of householders in 20 years; 2) a 'term' covers both each instance of an annual role as constable or surveyor and each court attendance as juror or presenter; 3) terms of office before or after each sample period were excluded.

<sup>58</sup> Goldie, 'Unacknowledged republic', pp.161-2.

large and subject to significant householder turnover (perhaps 5% per year), a participation of rate of nearly one in five (18.9%) is in the same ballpark, especially since this analysis omits churchwardens, manorial graves, and men serving at county level (Quarter Sessions jurors, justices, high constables).

So far, the analysis has aggregated participation levels across the different offices, and found that, over twenty years, each officeholder served an average of nearly three terms. However, this is a crude measure, shedding no light on how many men served just once. Analysis of these ‘single officeholders’ shows concentrations in terms of both geography and role (Table 4.4). Across the eight townships, more than six in ten of those holding an office (62.2%) served in only one capacity, albeit they may have served on more than one occasion. Officeholders were least likely to serve a single role in Shelf, and most likely to do so in Halifax, a finding that seems to relate directly to the disparity in population size. In terms of roles, 370 out of 500 of this group attended the court only as presenters. This qualifies the earlier finding of broad inclusiveness: the presenter role was less likely to offer opportunities for real power or enhancement of status, being subject to control by the constable and local juror(s), when the bill was being prepared, and by the jury in the courtroom.

Table 4.4. *Single officeholders, 1621-40.*

	<b>All officers</b>	<b>Jur</b>	<b>Con</b>	<b>Dep</b>	<b>Pre</b>	<b>Sur</b>	<b>Single o/holders</b>	<b>%</b>
Heptonstall	69	1	6	1	40	0	48	<b>69.6</b>
Stansfield	84	4	5	0	39	4	52	<b>61.9</b>
Wadsworth	74	2	2	1	44	0	49	<b>66.2</b>
Sowerby	107	5	5	3	58	0	71	<b>66.4</b>
Halifax town	196	11	22	2	132	0	167	<b>85.2</b>
Hipperholme	101	2	3	2	21	14	42	<b>41.6</b>
Northowram	117	5	3	2	19	21	50	<b>42.7</b>
Shelf	56	0	1	2	17	1	21	<b>37.5</b>
Total	804	30	47	13	370	40	500	<b>62.2</b>

Table. 4.5. *Ten most prolific jurors, 1621-40.*

Name	Township	Jur	Con	Dep	Pre	Sur	Total
Samuel Hoyle	Hipperholme	19	1	0	3	2	25
Thomas Flather	Hipperholme	10	1	0	4	1	16
Roger Boulton	Halifax	10	1	0	0	0	11
John Lombe	Northowram	10	0	1	2	0	13
William Mitchell	Heptonstall	8	2	0	0	0	10
John Wilton	Hipperholme	8	0	0	2	2	12
John Drake	Northowram	8	2	0	0	0	10
Andrew Marshall	Hipperholme	7	1	0	10	0	18
John Crosland	Halifax	7	1	1	0	0	9
James Otes	Northowram	7	0	0	0	0	7

Note: both 'Samuel Hoyle' and 'William Mitchell' were common names in their local areas and could denote more than one individual.

Jury service (outside Halifax) seems to have been particularly dependent on experience of, or suitability to serve in, other roles. Examination of the ten names appearing most frequently on juror lists, in Table 4.5, shows a stronger association with a term as constable (served by seven) than as presenter (five) or surveyor (three). Only one on this list, James Otes of Northowram, served no other office: it seems likely that he was the wealthy landowner of that name who paid composition money in 1625 to avoid a knighthood.<sup>59</sup> Samuel Hoyle of Hipperholme, William Mitchell of Heptonstall and John Drake of Northowram also paid the composition. Seven are from Hipperholme or Northowram, where more jurors' places were available, which gave greater scope for consecutive terms and concentration of control. By contrast, in this period no juror served more than six times in Shelf, five times in Stansfield, four times in Wadsworth and no one managed more than three terms for Sowerby.

Analysis of officeholder lists suggests, therefore, that there should be some caution in characterising patterns of officeholding as 'egalitarian' in this early period, a term applied by Smail within the third of the population he describes as 'the middling sort' of Halifax parish.<sup>60</sup> While service in at least one office was spread widely across households, the statistics are skewed by the sheer number of those who attended the manorial court as presenters and in no other capacity; this accounted for 370 of the 804 men (46.0%, Table 4.4). Only just over a third of the sample (304, 37.8%) served more than one office in this earlier period. While the presenter post was important for the

<sup>59</sup> W P. Baildon, 'Compositions for not taking knighthood at the coronation of Charles I', in *YAS Record Series*, 61 (1920), pp.84-107 (pp.93-7).

<sup>60</sup> Smail, *Middle-Class Culture*, p.28.

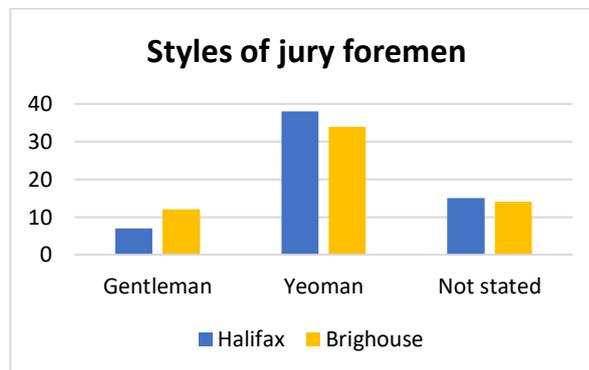
wider credibility of the leet, the sharing of other posts within a smaller pool of men indicates an underlying concentration of power.

### III Wealth, literacy and officeholding

As in other studies of the period, the key to understanding the patterns of early modern officeholding is generally found in differences arising from socio-economic stratification.<sup>61</sup> Data, however, for occupational structure in this period for the parish are only sparingly available from references in wills (testators, executors), the Protectorate marriage registers (1653-8) and scattered elsewhere through archival documents, such as leases and conveyances.<sup>62</sup> Use of the terms ‘clothier’ and ‘yeoman’ to cover a range of more specialised single and dual occupations in agriculture and textile manufacture limits the usefulness of the registers for the analysis of officeholding, although we will return to them in Chapter Six. The leet officeholder lists are similarly unproductive for data about occupations, except for when an occupation was added to distinguish two people: two John Wilsons were jurors for Halifax in 1622 and 1624, the first a badger and the second a mercer.<sup>63</sup> Nor were those presented for highways identified by occupation. This section and the next, therefore, concentrate on non-occupational data for status, wealth, tenure and literacy before and after the mid-century crisis.

A quirk of the early seventeenth century leet records was adding the style of ‘gentleman’ or ‘yeoman’ to the foreman of the leet jury (Fig. 4.1). The distinction

Fig. 4.1. 1610-40.<sup>64</sup>



<sup>61</sup> Wrightson & Levine, *Terling*, pp.19-42, 103-9; see also Levine & Wrightson, *Whickham*.

<sup>62</sup> WYAS (W), Baptisms, marriages, burials: WDP53/1/1/6-7, Halifax St John the Baptist (1644-67); WDP149/1/1/2, Heptonstall St Thomas the Apostle (1653-86), accessed via <https://www.ancestry.co.uk/> in August 2019.

<sup>63</sup> YAS/MD225/1/348A, Michaelmas 1622, YAS/MD225/1/350A, Michaelmas 1624.

<sup>64</sup> YAS/MD225/1/336A-336A (1610-40), sixty-two sessions.

between the two was hardly clear cut. Richard Ramsden of Rastrick, jury foreman at Brighouse eleven times, was styled gentleman on his first jury appearance in 1629 and four times thereafter, yeoman in 1637 and 1639, while neither was stated on five occasions, including his final appearance in 1640. In 1617, the style of gentleman for another Ramsden, Henry, was later deleted. Three jurors with the Lacy surname were styled gentlemen at the Halifax court in 1621-4 even though the Lacy family's lordship of Midgley had passed through marriage to Henry Farrer in 1590.<sup>65</sup> Indeed, there is scant evidence for participation in office by any men of gentle status in the leet records. While members of the Savile family acted as high stewards of the manor from early in the century until late in the Interregnum, they are understood to have sent a deputy steward to preside at Halifax and Brighouse.<sup>66</sup> Few records reference the Saviles, the Farrers of Midgley, Thornhills of Fixby, Sir Arthur Ingham, lord of Halifax, or Charles Greenwood, lord of Heptonstall, other than for liability for road repairs next to land, houses or mills they owned. No members of their close families appear to have served as jurors in Brighouse or Halifax. Overwhelmingly, it was 'yeomen' of the parish that sat as jurors, albeit yeomen that could have agricultural, cloth-making, mining and other business interests, as discussed in Chapter Six.

Differences in land tenure have explanatory potential. The mix of tenure in Halifax parish was complex, reflecting different phases of land settlement, medieval assarts and subdivisions of holdings.<sup>67</sup> In the study period, copyhold tenure predominated in the demesne townships of Sowerby, Hipperholme and Northowram; no freeholder lists have been found for this first period nor for Halifax and Heptonstall. Walter King's proposition that ownership of freehold property was *de rigueur* for jury service can be tested in three Savile manors, Stansfield, Wadsworth and Shelf, where court baron records distinguish between 'free tenants', freeholders paying a nominal rent, and tenants of the lord 'by indenture and at will'.<sup>68</sup> A breakdown of households by tenure shows how freehold tenure in these townships was considerably more prevalent than

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<sup>65</sup> M.J. Ellis, 'A study in the manorial history of Halifax parish in the Sixteenth and early Seventeenth Centuries', Pt.I, *YAJ*, 40 (1960), pp.250-64 (p.256).

<sup>66</sup> *WCR 1639/40*, p. xvii.

<sup>67</sup> N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, 604, 2014), esp. pp.78-87.

<sup>68</sup> Data inspected: Notts CRO, Savile courts baron.: Stansfield, DD/SR/1/15/2 (1623), DD/SR/1/15/7 (1633); Wadsworth, DD/SR/1/19/7 (1623), DD/SR/1/19/10 (1634); Shelf, DD/SR/1/14/7-10 (1623, 1634).

Table 4.6. *Estimates of freeholders, tenants and sub-tenants, Savile sub-manors, 1621-40.*

	1623		1633/4		1664	(Est.)
	FH	Tenants	FH	Tenants	Households	Subtenants
Stansfield	82	14	96	12	211	103
Wadsworth	86	23	68	27	179	84
Shelf	43	0	57	0	83	26

Note: 1) FH, freeholders; 2) for Wadsworth, a 1634 court baron list was used, for Stansfield and Shelf, 1633; 3) total households were taken from the 1664 hearth tax lists to provide an estimate of subtenancies; 4) the estimates for subtenants would be too high, if house subdivision into cottages occurred on a significant scale during the intervening years.

copyhold, but that the number of subtenants was larger still, as estimated from the total households on the 1664 Hearth Tax list (Table 4.6). Many property holders sublet to others who must have been smallholders or cottagers with minimal amounts of land, subsisting through employment in cloth processing, agricultural or domestic service.

It is perhaps unsurprising that officer posts should be disproportionately taken by freeholders (Table 4.7). Freehold tenure is associated most closely with jury service, reaching nearly 80% in Wadsworth, giving some support to the finding of King and Harrison that preference was given to selecting freeholders for the leet jury.<sup>69</sup> There are also strong freeholder showings for constables and surveyors. None of these townships had a majority of freeholders as presenters, and there seems to have been a greater call on tenants to fill these more numerous posts. Seven of nineteen names listed as ‘tenants by indenture and at will’ also appeared in juror lists, indicating that they could also be accepted as men of sufficient standing for the jury. With land often of low agricultural

Table 4.7. *Percentages of freeholders serving township offices, Savile sub-manors, 1621-40.*

	All OH	FH+ OH	Jurors			Constables			Presenters			Surveyors		
			No.	FH	%	No.	FH	%	No.	FH	%	No.	FH	%
Stansfield	84	40	22	14	<b>63.6</b>	20	13	65.0	66	29	<b>43.9</b>	15	10	<b>66.7</b>
Wadsworth	74	38	19	15	<b>78.9</b>	20	13	65.0	66	33	<b>50.0</b>			
Shelf	56	23	21	14	<b>66.7</b>	20	11	55.0	51	23	<b>45.1</b>	20	11	<b>55.0</b>
<i>Totals</i>			62	43	<b>69.4</b>	60	37	<b>61.7</b>	183	85	<b>46.4</b>	35	21	<b>60.0</b>

Notes: 1) Freehold tenure changed frequently; 2) OH, Officeholders; FH, freeholders; FH+OH, freeholders serving at least one office.

<sup>69</sup> See the introductory discussion to this chapter.

value and sometimes held on the basis of two or even three tenures, freeholder status in the parish was a desirable, but never an absolute, qualification for township office.

The wealth of parish officeholders is difficult to measure in this first period in default of comprehensive tax lists such as the later hearth tax and land-value assessments.

Nevertheless, lists of 1625 subsidy payers show how a small group of established families could dominate officeholding in the Upper Valley (Table 4.8).<sup>70</sup> Most subsidy payers (62.7%) served terms of office in the five years before and after the 1625 subsidy, the proportion in Wadsworth reaching 77.8% after excluding three female taxpayers. Thirty-two subsidy payers constituted just over a fifth of all officeholders in the three townships. Moreover, there is a clannish reality behind the statistics. The fifty subsidy payers shared just twenty-six surnames: Subsidy payers named Mitchell and Sutcliffe served in all three townships, while Eastwoods, Greenwoods and Horsfalls served in two. Competition between leading families may have added the spice of personal antipathy to some highway presentments at the court leet, such as the paining of Luke Horsfall by his neighbour, the Stansfield constable, John Eastwood, in 1631.<sup>71</sup> This small pool of subsidy payers served in all five posts and scooped nearly half the available juror and constable places for the period (Table 4.9). The same picture

Table 4.8. *Upper Valley subsidy taxpayers (1625) and officeholding (1621-30).*

	Taxpayers	Surnames	No. holding office	% of t/payers	All office-holders	T/payers as %
Heptonstall	13	6	8	<b>61.5</b>	48	<b>16.7</b>
Stansfield	17	12	10	<b>58.8</b>	61	<b>16.4</b>
Wadsworth	20	14	14	<b>66.7</b>	47	<b>29.8</b>
<i>Totals</i>	50	26	32	<b>62.7</b>	156	<b>20.5</b>

Table 4.9. *Subsidy taxpayer in township offices, 1621-30.*

	Jur	Con	Dep	Pre	Sur	All
Heptonstall	9	4	1	13	0	27
Stansfield	2	4	0	10	2	18
Wadsworth	9	8	0	31	0	48
<i>Totals</i>	20	16	1	54	2	93
All terms	44	33	4	235	15	331
<i>Taxpayers as %</i>	<b>45.5</b>	<b>48.5</b>	<b>25.0</b>	<b>23.0</b>	<b>13.3</b>	<b>28.1</b>

<sup>70</sup> TNA E179/209/330, Assessments (individuals), royal subsidy (1625).

<sup>71</sup> YAS/MD225/1/356A, Easter 1631.

emerges from the much smaller group of those fined for distraint of knighthood after Charles I's coronation: of thirty-four men distrained in the eight townships, twenty-three served as jurors (seven of them at five or more sessions) and seventeen took a turn as constable between 1621 and 1640.<sup>72</sup> The tie-up with the constableness is particularly relevant to highway management in these townships, as this was the decade in which constables became the officer responsible for highways across the Halifax court area (Chapter Two). The dominance of the two most important offices by wealthy individuals has further implications: however deeply the position of presenter may have reached into the social structure, larger landholders were favoured for jury service and could, therefore, exert more influence over how highway cases were managed both inside and outside their own townships.

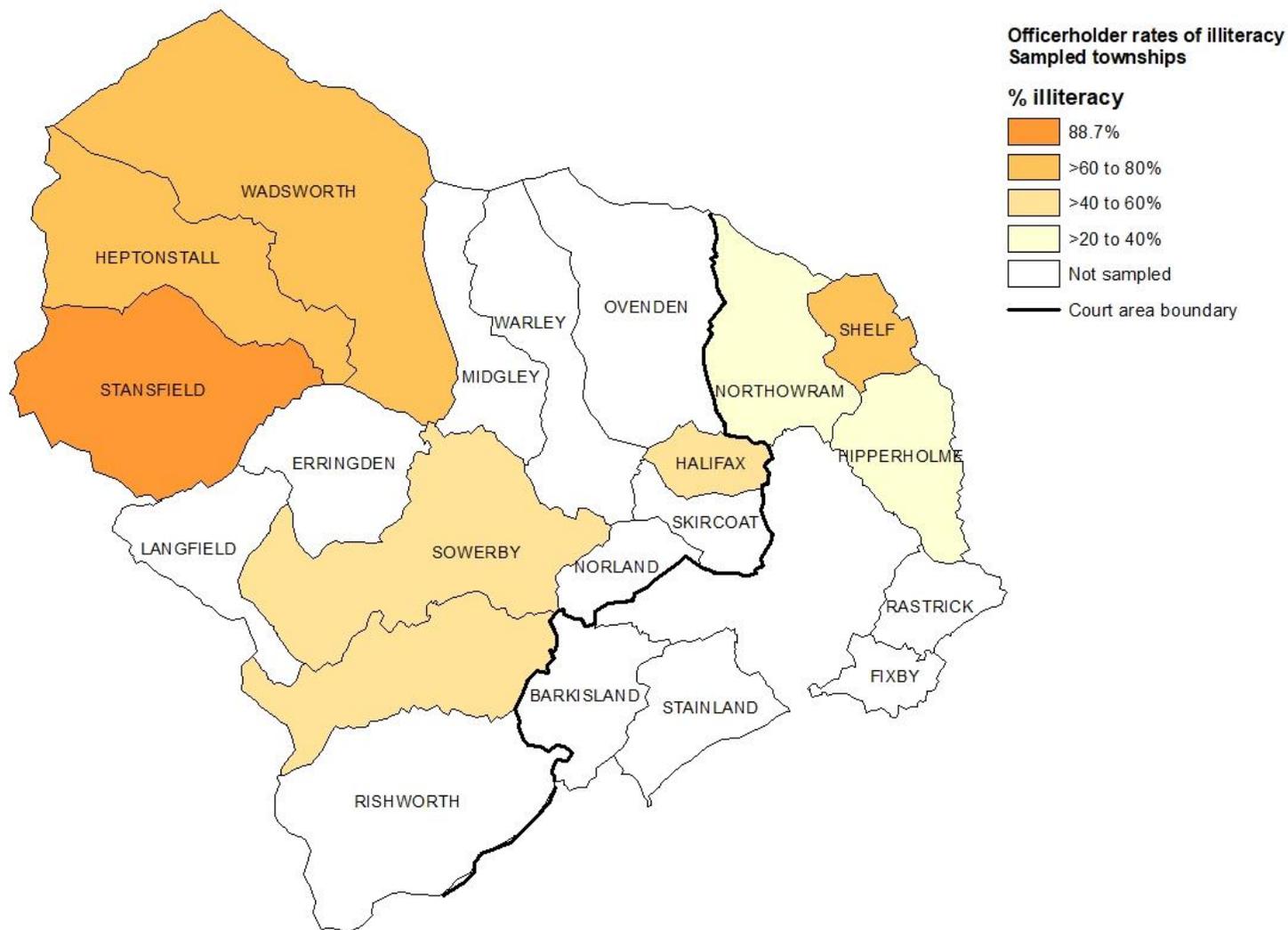
As well as attributes of family, land and wealth, the evidence suggests a preference for literacy skills, where possible. A sample of twenty-two sessions (1630-40) shows that the custom in the Wakefield courts leet of adding presenters' marks and signatures to confirm presentments was stronger in the Halifax court: Stansfield applied them at every session. Juror endorsements on the bills varied between one and four juror signatures, constables' marks and signatures appear sporadically, while surveyors never signed. The absence of both cannot be taken as evidence either way. Signs or marks can be attributed with reasonable safety to over half of all officeholders (437 out of 804), with an overall illiteracy rate of 55.5%. This is significantly lower than the rates calculated in the 1640s for Pontefract males drawn from Protestation returns (75%) or

Table 4.10. *Officeholder illiteracy rates, 1621-40.*

	<b>All officeholders</b>			<b>Illiteracy</b>
	No.	Sigs	Marks	%
Heptonstall	69	19	34	<b>64.2</b>
Stansfield	84	16	45	<b>73.8</b>
Wadsworth	74	19	33	<b>63.5</b>
Sowerby	107	36	23	<b>39.0</b>
Halifax town	196	37	57	<b>60.6</b>
Hipperholme	101	28	17	<b>37.8</b>
Northowram	117	21	25	<b>54.3</b>
Shelf	56	19	8	<b>29.6</b>
<i>Totals</i>	804	195	242	<b>55.4</b>

<sup>72</sup> Baildon, 'Compositions', pp.93-7.

Map 4.2. *Variations in literacy, sampled townships, 1621-40.*



for male deponents at the Northern Assizes circuit (65%).<sup>73</sup> Furthermore, while marks in these years were mostly of one or two initials, the more elaborate efforts seem to express an aspiration to literacy. The statistical range (from 29.6% illiteracy in Shelf to 73.8% in Stansfield) may owe something to whether townships insisted on marks and signatures but, nevertheless, the lower number of marks in the Eastern area and Sowerby broadly supports the assumption of greater participation by men using the written word for public and private business (Map 4.2).

A breakdown of illiteracy rates by office reinforces this view, but also reveals differences between townships (Table 4.11). In Halifax town, a combination of mostly literate jurors and constables and mostly illiterate presenters suggests a pronounced stratification within the town's officeholding group. This stands in contrast to the homogeneity of Sowerby, Northowram and Hipperholme, where illiteracy rates were similar for all three offices. The proportion of marks attesting the low literacy of Upper Valley presenters is particularly clear. Variable levels may derive from the shortage of elementary schooling: only the free school in Halifax had a secure endowment by 1600.<sup>74</sup> Elementary provision probably existed in the chapels of Sowerby, Heptonstall and Coley (Hipperholme), predating the endowment of grammar schools in Heptonstall

Table 4.11. *Illiteracy rates for jurors, constables and presenters, 1621-40.*

	Jurors				Constables				Presenters			
	No.	Sigs	Marks	%	No.	Sigs	Marks	%	No.	Sigs	Marks	%
Heptonstall	15	5	4	44.4	18	7	3	30.0	58	16	33	67.3
Stansfield	22	8	6	42.9	20	10	5	33.3	66	11	44	80.0
Wadsworth	19	6	7	53.8	20	6	6	50.0	66	19	31	62.0
Sowerby	26	10	5	33.3	22	9	6	40.0	89	34	21	38.2
Halifax town	34	18	5	21.7	41	14	2	12.5	145	18	54	75.0
Hipperholme	46	22	8	26.7	21	11	5	31.3	67	22	15	40.5
Northowram	41	9	9	50.0	20	6	3	33.3	66	17	23	57.5
Shelf	21	10	2	16.7	20	8	4	33.3	51	19	8	29.6
	<b>224</b>	<b>88</b>	<b>46</b>	<b>34.3</b>	<b>182</b>	<b>71</b>	<b>34</b>	<b>32.4</b>	<b>608</b>	<b>156</b>	<b>229</b>	<b>59.5</b>

Note: the evidence for jurors and constables often derives from attendances at other court sessions as presenters.

<sup>73</sup> D. Cressy, *Literacy and the Social Order: Reading and Writing in Tudor and Stuart England* (Cambridge, 1980), Appendix, p.201; R.A. Houston, 'The development of literacy: Northern England, 1640-1750', *EcHR*, 35, 2, (1982), p.204.

<sup>74</sup> J.A. Hargreaves, *Halifax* (3rd ed., Lancaster, 2020), pp.91-2.

in 1642 and Hipperholme in 1647.<sup>75</sup> A push factor for early insistence on literacy may have been the spread of written contracts and accounting records in the cloth industry.<sup>76</sup>

The analysis has identified moderate social differentiation, varying between townships, indicated by markers of wealth and literacy among the men that served offices through the manorial court system. A wealthier group (especially, but by no means exclusively, freeholders) dominated the more prestigious offices of juror and constable. These were men for whom serviceable roads were just one aspect of communal regulation that also included law and order, poor relief, maintenance of the church, and control of resources. Literacy offered those with ambition and diverse business interests the whip hand in court processes structured through written records, such as bills of presentments, land transfers, officer appointments, and dispute verdicts. The role of presenters allowed a deeper reach into the social structure and included men with little or no literacy. Highway surveyors in the east spanned the social spectrum, even including, in Hipperholme, the township elite. Manorial governance, therefore, before 1642, encouraged the participation of a broad middling sort of inhabitants relative to the diverse social structures within the parish, within which many men had experience of two or more positions. The pool was smaller in more sparsely-populated townships such as Shelf, Heptonstall and Wadsworth, while the governance of more populous Sowerby and Halifax town was conditioned by greater social polarisation.

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<sup>75</sup> Jennings, *Pennine Valley*, p.134; A. Smith, 'Sowerby Endowed School', *THAS* (1961), pp.55-66; A. Petford, 'Hipperholme Grammar School: Origins', *THAS* (1998), pp.30-5.

<sup>76</sup> Cressy, *Literacy*, p.131.

## IV Officeholding and highway presentments

As submission of presentments was the central process of the court leet's regulatory process, an important question arises as to whether the presentment patterns for officeholders were typical or atypical among those presented for road repairs and nuisances. Presentment records between 1621 and 1640 provide evidence that officeholders were more likely to be presented than would be expected by reading across from the percentages of households they comprised in each township (Table 4.12). Officeholders were held liable in exactly half (746) of all cases in this period, despite accounting for just 260 of 628 people (41.4%) presented and only 18.9% of households. In every township except Wadsworth, they attracted a higher number of cases per person than non-officeholders, most conspicuously in Halifax, Hipperholme and Shelf. Indeed the proportions could have been higher, were it not for two groups of non-officeholders regularly presented for highways. First, 45 of the 368 non-officeholders presented (12.2%) were women, who were excluded from office: many of these were styled as widows, whose tenurial liability for road and street repairs would normally end as soon as either their eldest son came of age or they remarried. Secondly, those liable for repairs by owning or occupying land next to highways but who were non-resident account for 9.8% of non-officeholders presented, based on cases where their domicile is stated in the presentment or can be inferred; it seems probable that there were many more. These cases accounted for nearly one in five in Halifax township

Table 4.12. *Comparison of highway presentments between those holding and not holding office, 1621-40.*

	OH as % of h/holds	Officeholders presented			Non-officeholders presented		
		No.	Cases	Cases per OH	No.	Cases	Cases per NOH
Heptonstall	21.6	19	42	<b>2.2</b>	24	36	<b>1.5</b>
Stansfield	19.9	30	82	<b>2.7</b>	31	52	<b>1.7</b>
Wadsworth	20.7	10	12	<b>1.2</b>	21	26	<b>1.2</b>
Sowerby	11.4	17	23	<b>1.4</b>	20	22	<b>1.1</b>
Halifax town	19.5	41	162	<b>4.0</b>	106	298	<b>2.8</b>
Hipperholme	25.4	49	160	<b>3.3</b>	70	127	<b>1.8</b>
Northowram	17.8	57	132	<b>2.3</b>	69	132	<b>1.9</b>
Shelf	33.7	37	133	<b>3.6</b>	27	53	<b>2.0</b>
All sample	<b>18.9</b>	260	746	<b>2.9</b>	368	746	<b>2.0</b>

Note: OH, officeholder; NOH, non-officeholder.

(20 out of 106 presentments), probably because of its lively rental market and the attractions for wealthier clothiers from the out-townships of having a base in the town.

Table 4.13. *Percentage of officeholders presented for highways, by office and township, 1621-40.*

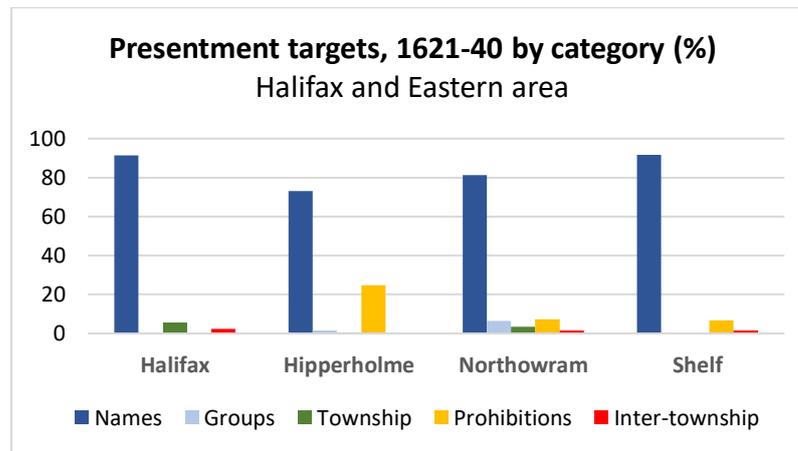
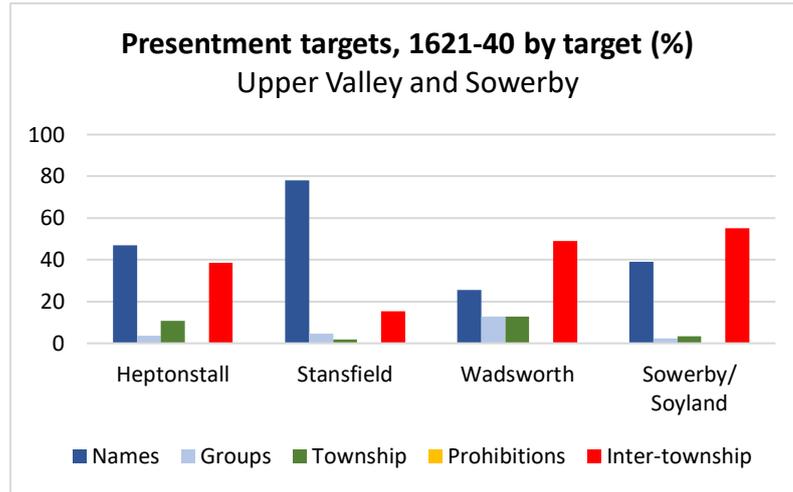
	<b>Jur</b>	<b>Con</b>	<b>Pre</b>	<b>Sur</b>	<b>All</b>
Heptonstall	46.7	44.4	29.3		27.5
Stansfield	27.3	50.0	39.4	40.0	35.7
Wadsworth	50.0	39.0	12.1		13.5
Sowerby	23.1	13.6	15.7		15.9
Halifax town	50.0	39.0	15.2		20.9
Hipperholme	54.3	66.7	52.2	55.2	48.5
Northowram	70.7	75.0	50.0	50.8	51.3
Shelf	85.7	75.0	58.8	75.0	66.1
All sample	<b>51.0</b>	<b>50.3</b>	<b>34.1</b>	<b>55.3</b>	

Notes: the numbers are the percentages of officeholders presented for a highway (pain or amercement) at least once.

Clear differences arise in presentment rates between the different offices and also between the two court areas (Table 4.13). Taken across all eight townships, highway surveyors were most clearly associated with liability for repairs (55.3%), closely followed by jurors and constables. Just over half of these officeholders were themselves presented at the court in the twenty-year period. For presenters, the proportion is lower, just over a third. The association between office and presentments was weaker in Sowerby and Wadsworth but stronger in the Eastern townships and in Stansfield. The strength of the link between office and liability for repairs underlines how a highway repair regime based substantially on tenure was essentially a system for partitioning obligation within the officeholding (and landholding) stratum in each township.

Variation in the proportion of officeholders named in highway presentments was closely connected to the different strategies adopted in framing and targeting highway presentments explored in Chapter Three, specifically in relation to the inclusion of individual names on presentments. Practice in Sowerby and the Upper Valley townships contrasts with the more personalised approach in Halifax town and the Eastern townships (Figs. 4.2a/b). While more than three quarters of presentments identified individuals (marked in dark blue on the graphs) in most townships, this dropped to less than a half in Heptonstall and Sowerby and barely a quarter in Wadsworth. In these three townships a majority of presentments were applied to the township as a whole

Figs. 4.2a/b. *Graphs of presentment targets: a) Upper Valley/Sowerby and b) Halifax/Eastern area, 1621-40.*



(green), to a neighbouring township (red) or to groups of unnamed people in an area within a township (light blue). The salient characteristic to the west of Halifax was an emphasis on collective liability for whole townships or sub-groups of land holders. This usually occurred without naming the individuals responsible, perhaps hiding the relationship between holding office and being presented at the leet. The tendency towards more collective, almost corporate presentments echoes Brooks’ insight noted earlier on the development of ‘collective identity’ through manorial courts.<sup>77</sup>

In summary, the use of depersonalised, outward-looking presentments in the early seventeenth-century within the Halifax court area contrasts with inward-looking tendencies in the town and further east where surveyors were retained, annual work programmes organised and bylaws made to keep travellers off farmland (Chapter

<sup>77</sup> Brooks, *Law, Politics and Society*, p.253.

Three). The officeholders of the Eastern area acted as ‘rulers’, announcing annual schedules of highway maintenance for named individuals almost always within their own boundaries. Within this framework, the higher frequency of presentments for officeholders makes sense as a way of binding neighbours into collective action. For example, Peter Lee, Hipperholme’s constable in 1635, was named in three of the six repair orders at the following Easter court, along with seven of his neighbours, as well as an order to prevent passage over his own ground in return for a new ‘peatway’.<sup>78</sup> This appears to exemplify micro-management of a kind only seen in the Halifax court in regard to the town itself and demonstrates a divergence of administrative culture between the two groups of out-townships. The three Eastern townships used their weight in officer numbers to concentrate the focus on matters of most relevance to them. The more clannish leaders in the Upper Valley behaved more as ‘leaders’, expecting communal obligation to be performed within and outside their boundaries and rarely taking individuals to court.

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<sup>78</sup> YAS/MD225/1/361A, Hipperholme, Easter 1636.

## V The court leet jury

The similarities of status and land tenure between leet jurors and vestrymen, noted by Levine and Wrightson in *Whickham* were used by Hindle to preface an important discussion about the nature of power and authority in the two institutions.<sup>79</sup> He contrasted the homagers' potential for self-reliance and independence with the vestry whose status was enhanced by acting on behalf of external powers. The two-tier structure of head manor and townships at the Wakefield courts, however, complicated the balance of authority. Jurors could, potentially, assert control and leadership in relation to highway regulation across each court area. Alternatively, they could confine themselves, as township representatives, to the more limited remit of arbitration and appeal, thus enhancing the self-reliance of individual townships. Examination of the leet records suggests that jurors at Halifax and Brighouse almost invariably adopted the latter course.

Jurors at both courts could submit their own presentments, not unlike the provision in the 1562 Act for justices to present highways 'on their own view'.<sup>80</sup> The Halifax and Brighouse juries, however, used this facility sparingly in the study period – just eighty-nine highway cases (both pains and amercements) at the Halifax court and ninety-eight at Brighouse, an average of little more than one per year in each court (Fig. 4.3). The categories of presentments were similar to those from the townships in each court: presentments of townships at Halifax, prohibitions (to prevent trespass over agricultural land) and cases of individual repair liability at Brighouse. The Brighouse orders, for example, were inflated by thirty prohibition orders between 1651 and 1699, fourteen from Hipperholme and Northowram, townships which tended to dominate jury places. External influence may have been in play during the Personal Rule in the 1630s, which saw nearly half the Halifax court jury amercements. A second spike in jury activity in 1671-80 included an unusual order for Ovenden to repair a mile of causey leading to Mixenden corn mill.<sup>81</sup> This and four orders by the Brighouse jury for repairs near Thornhill Bridge on the road to Leeds in the 1660s may indicate heightened concern

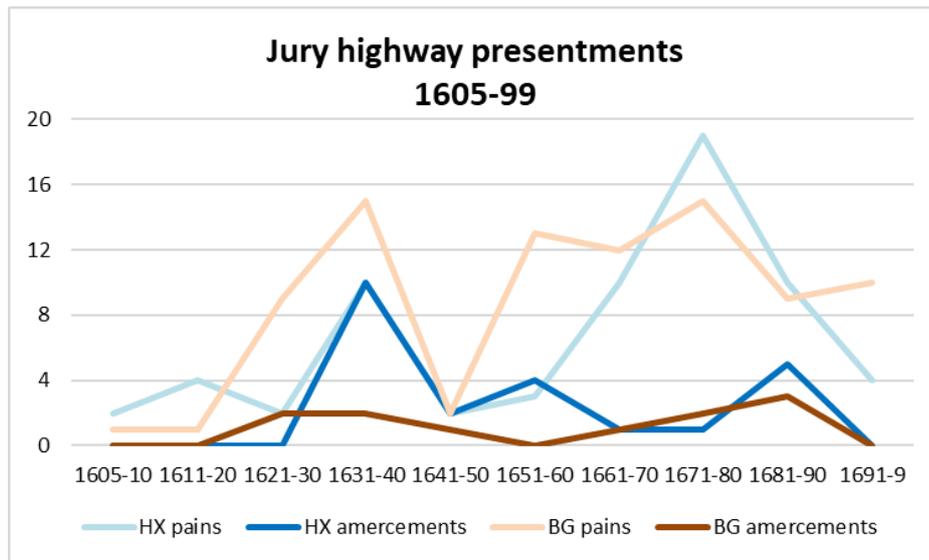
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<sup>79</sup> Hindle, *State and Social Change*, pp.208-9, citing Levine & Wrightson, *Whickham*, p.345, n.148.

<sup>80</sup> See Ch.2.

<sup>81</sup> YAS/MD225/1/405A, Easter 1680.

Fig. 4.3. *Graph showing highway presentments by the juries at Halifax and Brighouse, 1605-99.*



for the road network as economic development picked up.<sup>82</sup> At Brighouse, presentments usually concerned roads in Hipperholme, Northowram and Shelf (forty-nine cases), reflecting the greater number of jurors from those townships. At the Halifax court, jury presentments relating to the five townships in the Upper Valley were low (nine) compared to forty-one for Midgley, Warley, Skircoat and Ovenden, townships which tended to submit fewer highway presentments on their own account. This suggests the Halifax jury acted in a limited sense to cajole these townships into more activity.

If jury presentments were rarely of more than localised, transient significance, only a faint signal of interest from the magistrates' bench can be detected. The unusually high penalties of £20 set on the inhabitants of Midgley to repair their end of a bridge in 1631 and of £10 in 1638 to correct the diversion of the road to Rochdale at Mile Cross on the edge of Halifax may reflect justices' concerns with major highways.<sup>83</sup> In broad terms, the parish was of limited importance to the interests of the landed gentry in the West Riding and it was largely left to townships to safeguard connections to trade and food networks as best they could.<sup>84</sup> Of more concern to justices who were themselves landowners or manorial lords were disputes over manorial responsibility such as the protracted wrangle between Fixby and Rastrick on maintaining Hey Lane, a route into

<sup>82</sup> YAS/MD225/1/386A, Easter 1661; YAS/MD225/1/387A, Easter 1662; YAS/MD225/1/392A, Michaelmas 1666; YAS/MD225/1/395A, Michaelmas 1669.

<sup>83</sup> YAS/MD225/1/357A, Michaelmas 1631; YAS/MD225/1/363A, Easter 1638.

<sup>84</sup> An exception may be the Transpennine road through Sowerby; see Ch.5.

Huddersfield parish and south towards London.<sup>85</sup> A mark of the leet's status was that, when justice and lord of Fixby, Thomas Thornhill, tried to impose a penalty in 1638, it was initially referred back at Quarter Sessions to the leet 'because it had the prioritie', as discussed in Chapter Two.<sup>86</sup> A year later a presentment to the Brighthouse leet jury attempting a £10 amercement on Fixby was never endorsed with a juror signature.<sup>87</sup> The impasse continued until the matter was pushed back to Quarter Sessions in 1640 for arbitration by two justices.<sup>88</sup>

Occasionally, jurors could play a decisive role in blocking presentments, noticeably where property rights were at stake. The documentary evidence is often thin, merely a note of traverse cancelling the pain or amercement. Some of these concern encroachments on the highway by men who appear on juror panels, showing how jury service could benefit the individual. A cluster of encroachment cases in Hipperholme in the 1620s illustrates the point. The opening salvo came in 1625 with an order for Robert Nowell (a Hipperholme juror in 1624) 'to laye open so much of the kings waste as was taken in by his wife in her widdowhood in Hipperholme towne gate' with a high penalty of 39s.<sup>89</sup> At the next court, an amercement of 39s was imposed on the couple and a further pain of 39s to 'cast the same out' by midsummer.<sup>90</sup> In 1626, however, a second presentment to amerce them for 39s was struck out with the note *die et a[nn]o huius cur[iae] infect[um] tra[aversum]* and four other encroachment cases were also marked as traversed.<sup>91</sup> On April 3 1627 Thomas Sugden (a juror three times and constable in 1628) and William Thorpe (constable, 1633) were also cleared of the same offence by trial at the leet, as was Robert Hemingway despite being presented by the jury.<sup>92</sup> Three weeks later at the Easter court, Robert Hemingway was a juror and Robert Nowell both presenter and juror, perhaps a precaution after his acquittal six months earlier.<sup>93</sup> On October 2 1627 Nowell was pained again for turning a footway, an offence for which he

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<sup>85</sup> W.B. Crump, 'Ancient highways of the parish of Halifax', Pts. I-IX, *THAS* (1924-8).

<sup>86</sup> WRQS, Indictments, January 1638; Orders, October 1638, both accessed online via <http://www.ancestry.co.uk> in April 2019.

<sup>87</sup> YAS/MD225/1/364A, Easter 1639, Fixby.

<sup>88</sup> WRQS, Orders, October 1640, accessed as above.

<sup>89</sup> YAS/MD225/1/351A, Michaelmas 1625.

<sup>90</sup> *Ibid.*, Easter 1626.

<sup>91</sup> YAS/MD225/1/352A, Michaelmas 1626.

<sup>92</sup> *Ibid.*, marginal note.

<sup>93</sup> *Ibid.*, Easter 1627.

was amerced 20s at Easter 1628.<sup>94</sup> The row over Towngate was still not settled in 1632, when the rhetoric of the presentment and the size of penalty reached new heights:

Wee laye in payne Mr Robte Nowell gent' & his wife for takeinge in of the kings ma'tis waste & street in Hipperholme towne gate to the annoyance of his ma'tis league (*sic*) people w'th free passage wth their hay & their corne & their cattell to the water to laie it forth againe ... in paine of twentie pounds<sup>95</sup>

The amercement of the Nowells was attempted once again the following October, with an additional 39s for every month of non-compliance, but the accusation had already been traversed on June 8 and the penalty lifted.<sup>96</sup> Details about the case are inevitably lost, such as whether the encroachment was a significant obstruction of the road, a seasonal blockage or merely a case of fractious neighbours. Nevertheless, while the court could allow challenges to higher status individuals to protect customary rights of free passage, a shrewd mix of time in office and social networking brought opportunities for the wealthy men involved to come out on top.<sup>97</sup>

Jurors were involved before 1640 in Halifax town in campaigns to crack down on petty violence, protect the town's water supply and prevent the housing of 'inmates'.<sup>98</sup>

Highways could also attract their attention. In Michaelmas 1620, after fifteen years of only intermittent focus on its streets, Halifax township submitted forty-seven names to the two courts for street and highway repairs, mostly with high penalties up to the forty-shillings limit.<sup>99</sup> This was followed in 1621 by presentments from the jury that amerced fourteen individuals pained six months earlier, including the lord of the manor, with discounted penalties: seven were amerced 10s while the penalty for five was a shilling (the statutory penalty for missing one day's statute labour). Both bills are encrusted with amendments and deletions made before or during the court hearing, although whether these meant that the repairs were complete is unclear. One reason may be deference by the jury to wealthy men such as Nathaniel Waterhouse, Robert Exley, Samuel Mitchell and Thomas Binns, all of whom were to be named as trustees for the town's workhouse

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<sup>94</sup> YAS/MD225/1/352A, Michaelmas 1626, marginal note; YAS/MD225/1/353A, Easter 1628.

<sup>95</sup> YAS/MD225/1/357A, Easter 1632.

<sup>96</sup> YAS/MD225/1/358A, Michaelmas, 1632.

<sup>97</sup> Samuel Hoyle and Robert Hemingway were both sufficiently wealthy to be distrained for refusing a knighthood: Baildon, 'Compositions', p.94.

<sup>98</sup> Halifax jury: water, YAS/MD225/1/349A, Easter 1624; inmates: YAS/MD225/1/350A, Michaelmas 1624.

<sup>99</sup> YAS/MD225/1/345A-6A, Easter/ Michaelmas 1620.

experiment of 1635.<sup>100</sup> The workhouse was secured by letters patent which gave two trustees justice powers within the town. While Bennett has argued the case for a struggle for authority between the workhouse and the leet, the workhouse minutes suggest that the two justices restricted themselves to punishments for vagrants and workhouse inmates before the scheme collapsed in 1639 most likely as the result of out-township opposition to its funding. Roads and streets were never raised in the workhouse minutes, and the township's constables and presenters continued with erratic campaigns at the leet for street mending and cleansing up to the outbreak of civil war. In the years after the Civil War there were fewer signs of jury involvement in Halifax street management (or elsewhere in the parish); the last significant presentments were bylaws for the town in 1667 for street repairs and to prevent the dumping of ashes or manure.<sup>101</sup> It may be significant that the jury foreman on this occasion was John Richardson, perhaps the gentlemen scrivener and steward of that name for the sub-manor of Halifax.<sup>102</sup>

The evidence suggests that jurors used their powers only fitfully and reactively and took no interest in developing a consistent policy on streets and highways. Their presentments were markedly less strategic than the bills submitted by individual townships. Jurors and manorial staff shared a concern for due process, adding notes to constables' bills, changing wording to distinguish pains from amercements and occasionally altering the size of penalties. The overriding concern was for equity between townships, which was particularly relevant when townships shared responsibility for repairs, such as bridges that straddled township boundaries. The effects of jury intervention were localised and temporary. The manorial juries of Halifax and Brighouse never developed into effective organs of governance at supra-township level: the failure to secure a borough charter in 1655 to challenge the growth of Leeds, incorporated since 1626, apparently put paid to the idea of multiple-township governance thereafter.<sup>103</sup>

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<sup>100</sup> John Watson, *The History and Antiquities of the Parish of Halifax in Yorkshire* (London, 1775), p.600; R.A.H. Bennett, 'Enforcing the Law in Revolutionary England: Yorkshire, c.1640-c.1660' (Unpublished Ph.D., King's College London, 1987), pp.95-107.

<sup>101</sup> YAS/MD225/1/393A, Michaelmas 1667.

<sup>102</sup> WYAS (L) WYL100/HX/D, Temple Newsam estate, correspondence (1606-1771).

<sup>103</sup> See 'Conclusions' to Ch.3.

## VI Post-Restoration changes

Post-Restoration hearth tax lists offer an opportunity to measure more precisely how relative levels of poverty and wealth affected officeholding patterns and highway management strategies in the parish. The method used has been to combine taxpayer lists from 1664 and 1672 and integrate these with the names listed in the leet records as officeholders or liable for repairs for a second sample period of forty court sessions between 1660 and 1681.<sup>104</sup> (The two taxation lists, eight years apart, suggest sluggish economic growth with average hearth numbers increasing in the eight townships and taxpayer numbers rising from 1,362 to 1,422.) Map 4.3a shows clear differences in the structure of wealth and poverty between the eight sampled townships. Of particular relevance are significantly higher average hearth counts in the eastern townships and Halifax than in the Upper Valley and Sowerby. Poorer, exempt households were more numerous in Halifax and Northowram, while the three Upper Valley townships had low hearth-count averages between 1.33 and 1.55. The second map (4.3b) illustrates hearth averages for officeholders. In the three Upper Valley townships, there is little difference between overall hearth averages for all taxpayers and those for officeholders, although this may be exaggerated through the suppression of replicated names from the officeholder average. In the Eastern area and in the two most populous townships, Sowerby and Halifax, officeholders were significantly wealthier than the average for their own township. Liability to the tax was closely related to officeholding, even for those paying for a single hearth. In the Upper Valley and Northowram, between a quarter and a third of taxpayers served as officers, 35.1% in Hipperholme (which had more posts available) and 42.5% in much smaller Shelf.

Jurors and constables generally had more hearths than presenters and surveyors, confirming the link between wealth and these offices seen with the pre-war sample. Indeed, it appears that constables may have been a more significant post than service on the jury in Stansfield, Sowerby and Shelf (Table 4.14). The high hearth average for surveyors in Hipperholme indicates an exceptional interest in road maintenance among the middling sort in an area where busy main roads ran cheek by jowl with mines,

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<sup>104</sup> D. Hey, C. Giles, M. Spufford & A. Wareham (eds.), *Yorkshire West Riding Hearth Tax Assessment Lady Day 1672* (British Record Society, 2007), TNA E179/210/413 (Agbrigg & Morley); the 1664 data for townships in the parish was tabulated in Smail, *Middle-Class Culture*, p.25, using TNA E179/210/393. For details of the methodology used, see Appendix 2, Hearth Tax data.

Map 4.3a. Average number of hearths for a) all taxpayers, b) officeholders, sampled townships, 1664.

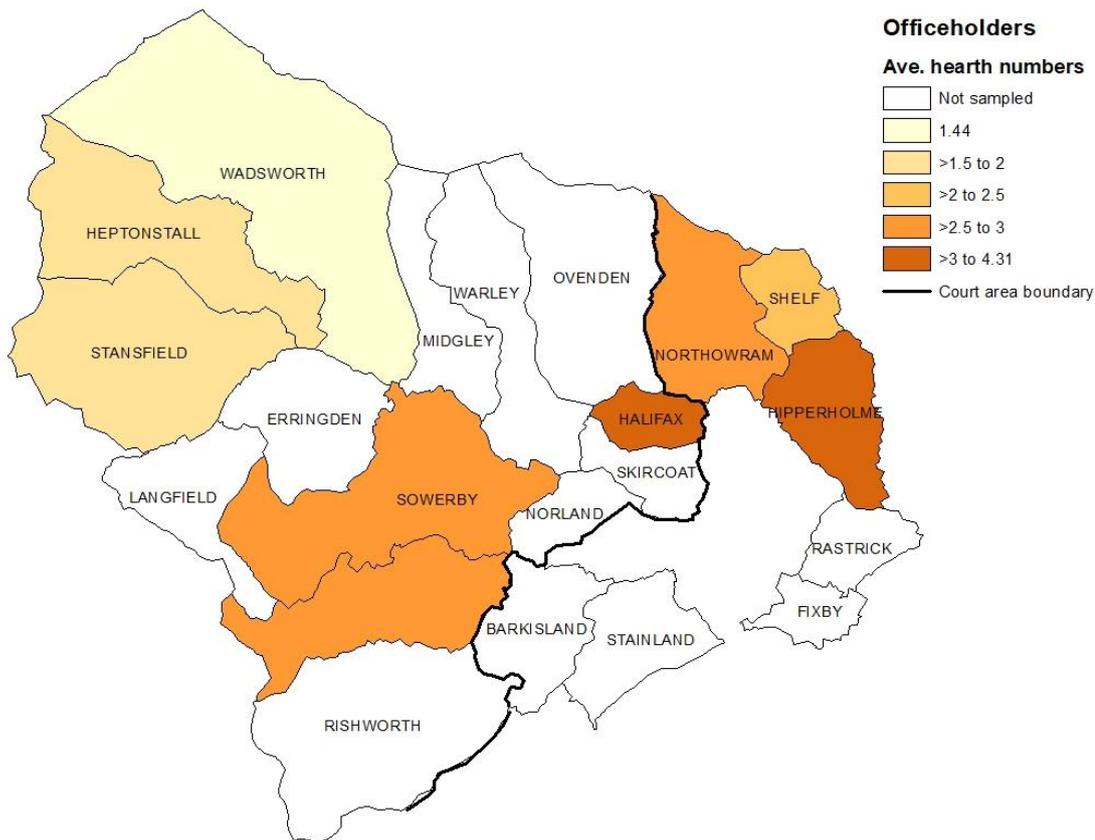
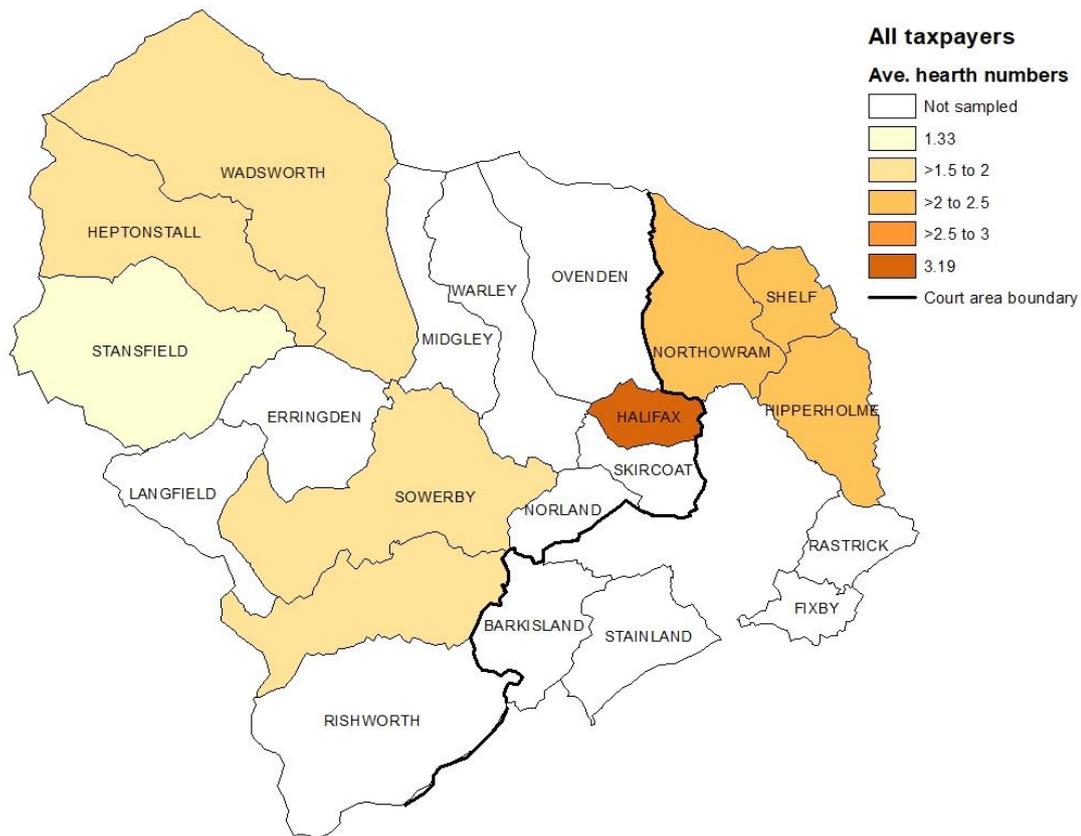


Table 4.14. *Average hearth tax numbers, by office, 1660-81.*

	<b>Jur</b>	Ave hearth	<b>Con</b>	Ave. hearth	<b>Pre</b>	Ave. hearth	<b>Sur</b>	Ave. hearth
Heptonstall	12	1.75	12	1.58	23	1.35		
Stansfield	15	1.67	14	2.14	47	1.34		
Wadsworth	9	1.56	11	1.55	39	1.46		
Sowerby	17	3.59	12	3.67	52	2.19		
Halifax	19	5.79	29	5.31	50	3.68		
Hipperholme	16	4.00	17	3.30	33	2.91	30	3.10
Northowram	20	4.10	14	3.86	57	2.63	7	2.43
Shelf	9	3.13	16	3.25	33	2.18	13	1.92

quarries and valuable agricultural land (Chapter Six). At the opposite end of the spectrum, a modest number of officeholder names show up as exempt in the 1664 hearth tax returns. Eight names on the exempt list for Heptonstall and five in Wadsworth were presenters, officiating on a total of forty-one occasions. Three exempt householders from Heptonstall and one from Wadsworth were presenters in 1663, while another from Heptonstall was a presenter in 1665, although no exempt householders served office in 1664 itself. The figures suggest that even the poorest householders could occasionally be drafted into service at the court leet. Any assumption that poverty was a bar to a role at the court must therefore be treated with caution: the difference in wealth and status between those paying for one hearth (52.6% of taxpayers in Wadsworth) and those exempted may have been vanishingly small. The conclusions are twofold: a strong connection between higher tax liability and the offices of constable and juror leavened with inclusiveness that could occasionally extend to poorer people – even to those exempt from the hearth tax.

If the ‘middling sort’ who served terms of office were using these positions to impose highway obligations on poorer non-officeholders, this should show up in a comparison of hearth status between the two groups presented in the later sample period, 1660-80 (Table 4.15). The results are mixed. In Halifax, Hipperholme, Shelf and especially Stansfield, the average hearth-count of non-officeholders was indeed significantly lower, and yet, presented non-officeholders in Sowerby and Northowram had a higher score. It appears that, once again, the two groups may have had much in common. The attenuation of presentment activity at both ends of the social scale accentuated the role of the middling sort. 768 of 2,130 householders (35.4%) in the eight townships were

Table. 4.15. *Average hearth tax status of officeholders and non-officeholders presented for highways, 1660-80.*

	<b>All 1672</b>	<b>All OH</b>	<b>OHS presented</b>	<b>NOHS presented</b>
Stansfield	1.38	1.52	2.80	1.10
Sowerby	1.98	2.51	2.33	2.80
Halifax	3.37	4.31	5.37	3.97
Hipperholme	2.79	3.05	3.18	2.45
Northowram	2.42	2.79	2.67	2.95
Shelf	2.32	2.36	2.29	1.93

Note: people named on presentments in Heptonstall and Wadsworth are too few to be statistically significant.

exempted from the tax in 1664, but only twenty of these were presented, of whom eleven were named jointly with their landlords for street repairs in Halifax. In these cases the lid is lifted on the landlord-tenant relationship: while the landlord might be held liable, it was still the poorer tenants who were tasked with the actual work. At the other end of the social scale, larger-scale freeholders or copyholders who tenanted parcels of their land are also largely missing from presentment lists, because their tenants were increasingly held liable as occupiers. Twenty-eight of the seventy-nine men with six or more hearths in the sample townships neither served office nor suffered highway presentments, and only twenty-six generated presentments. The important conclusion is that the court was primarily a forum for men of middling status and worth (relative to levels of wealth in the townships) to negotiate mutual obligations within a framework that allocated liability in line with the road or street frontages of occupied property.

#### *Later changes: the Halifax court area*

On May 7 1660, as the Convention Parliament voted to proclaim Charles Stuart as king, the Wakefield manorial court leet sat in Halifax with thirteen jurors ‘impanelled for the Commonwealth’.<sup>105</sup> At some point this draft, the last to be written in English, was untidily amended to read ‘impanelled for our Sovereigne Lord the kinge’. The court had been functioning without interruption since 1650, and the records contain few overt signs of the turbulent years after 1642 nor, bar the return to Latin, of the Restoration itself. Under the surface, however, much had changed. The fortified mansion of the

<sup>105</sup> *House of Commons Journal*, May 7 1660, accessed via *British History Online* <https://www-british-history-ac-uk> in April 2021; YAS/MD225/1/385A, Easter 1660.

Saviles at Thornhill, near Dewsbury, had been destroyed in 1644; with the family seat now at Rufford in Nottinghamshire, Sir George Savile, the fourth baronet, never took his place on the West Riding justices' bench and derived only the rents and his new title (Viscount Halifax) from the area.<sup>106</sup> Halifax town had submitted just one bill to the leet between Easter 1641 and Michaelmas 1650, a nil return in 1647 stating that presentments had been sent to petty sessions.<sup>107</sup> This rare reference suggests that justices may have personally taken charge of social order before the Quarter Sessions recommenced in April 1647.<sup>108</sup> If so, it might explain the downturn in presentments to the leet from most townships in the Halifax court area, perhaps accelerated by the Cromwellian highways Ordinance of 1654, which encouraged the use of taxation to finance repairs (Chapter Two). Between 1660 and 1681, in Halifax, Sowerby and the Upper Valley, presentments against both officeholders and non-officeholders dropped sharply, almost disappearing in Wadsworth and Heptonstall (Table 4.16). The statistics are more mixed in Halifax: presentment of officeholders also fell, but the number of non-officeholders presented rose by over 20%, albeit involving fewer cases. The growth in the number of non-officeholders presented in Halifax is largely explicable by the

Table 4.16. *Changes in highway presentments, Halifax court area, 1660-81 (compared to 1621-40).*

	Officeholders		Non-officeholders	
	No.	Cases	No.	Cases
Heptonstall	4	4	0	0
Stansfield	9	12	14	16
Wadsworth	1	2	2	2
<b>Upper Valley</b>	14	18	16	18
+/- %	<b>-76.3%</b>	<b>-86.8%</b>	<b>-78.9%</b>	<b>-84.2%</b>
<b>Sowerby</b>	6	7	8	8
+/- %	<b>-64.7%</b>	<b>-69.6%</b>	<b>-60.0%</b>	<b>-63.6%</b>
<b>Halifax town</b>	23	32	129	213
+/- %	<b>-43.9%</b>	<b>-80.2%</b>	<b>+21.7%</b>	<b>-28.5%</b>

Note: 1) the comparative data appear in Table 4.12, above; 2) 'No.' is the number of individuals presented at least once; 3) these statistics exclude presentments of townships, unnamed groups and roads.

<sup>106</sup> Watson, *Antiquities*, p.191; <https://www.historyofparliamentonline.org/volume/1660-1690/member/savile-sir-george-1633-95> accessed October 2020.

<sup>107</sup> YAS/MD225/1/373A, Michaelmas 1647.

<sup>108</sup> G.C.F. Forster, 'County government in Yorkshire during the Interregnum', *NH*, 12 (1) (1976), pp.84-104.

presentment of forty tenants (in addition to their nineteen landlords) without which the number of non-officeholders would also have dropped by 16%.

The collapse in officeholder presentments, by more than 80% in the Upper Valley and Halifax and by two thirds in Sowerby, weakened the links seen earlier across these townships between landholding, office and liability for repairs in favour of a more collective, almost corporate, exercise of township responsibility. In the Upper Valley and Sowerby, this was an extension of the depersonalised presentments already in evidence in the earlier period (Chapter Three). For example, in Stansfield, an increasingly common ploy was to address the presentment to ‘whom it doth concern/belong’ or to the ‘owners or occupiers’ of land adjoining the way or simply to present the way itself. After 1680, fifty-four roads in the township were presented without stating who was responsible, compared to just six where people were named. The court had become a way of registering problems which were then addressed internally or externally. In 1663, for example, Stansfield laid a ‘paine upon the Constable of Wadsworth (or whom it concerns) that the high way between the great stable at Heptonbridge and Wilkin clough be sufficiently repaired’.<sup>109</sup> In twenty-one Heptonstall presentments over five years (Table 4.17), only one man was named, Rychard Sutcliffe, who served no offices in Heptonstall and may have been the freeholder of that name with two hearths resident in Stansfield in 1672.<sup>110</sup> The only other reference to personal responsibility comes in the amercement, later traversed, for non-compliance imposed at Easter 1672 on ‘the occapiers or the owners theirof or whome it may consearne’. These orders for road repair had become depersonalised, almost ‘institutional’: seventeen were focused on neighbouring townships and only four had a penalty below £1. The four townships targeted were all part of Heptonstall chapelry and shared responsibility for maintaining the routes connecting them to Todmorden, Burnley, Colne and Halifax that were of particular importance to the clothiers. The approach is transactional, a web of obligation and credit, reminiscent of the ledgers kept by clothiers or testators of debtors and creditors. The emphasis on impersonal liability occurs at the same time as the townships acquired taxation powers and responsibility for poor relief (1662). As will be seen in the next chapter, it also coincides with a period when the Sowerby constables

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<sup>109</sup> YAS/MD225/1/389A, Michaelmas 1663.

<sup>110</sup> YAS/MD225/1/397A-401A, Michaelmas 1671 to Easter 1676; Notts CRO, DDSR/1/14/10a, Savile of Rufford, Tenants’ list (1667).

Table 4.17. *Highway presentments, Heptonstall, 1671-5.*

Session	Target	Highway	Outcome
1671	Inhabitants (HP)	HP to Colne	Pain, 30s
M/mas	Inhabitants (ST)	Road to Burnley	Pain, 30s
1672 Easter	Owners/ occupiers (HP)	Road to Colne	Amerced, £2 traversed
	Owners/ occupiers (ST)	Road to Burnley	Amerced, £1 respited
	'one hie way' (ST)	Mytholm Br to Todmorden	Pain, 39s
1672 M/mas	Township (WD)	Road to Colne	Pain, 30s
1673 Easter	Inhabitants (ST)	Road to Burnley	Pain, 15s
	Inhabitants (WD)	Road to Colne	Amerced, 30s, traversed
1674 Easter	Inhabitants (LA)	Stansfield Br to Todmorden	Pain, 39s
	Inhabitants (ST)	Mytholm Br to Stansfield Br	Pain, 39s
	Inhabitants (HP)	Road to Burnley	Pain, 10s
	Inhabitants (ST)	Mytholm Br to Stansfield Br	Amerced, 39s
1674 M/mas	Inhabitants (ST)	Road to Burnley	Pain, 39s
	Inhabitants (WD)	Road to Colne	Pain, 39s
	Inhabitants (ST)	Mytholm Br to Stansfield Br	Amerced, 39s
1675 M/mas	Inhabitants (ST)	Road to Burnley (2 places)	Pains, 30s, 20s
	Inhabitants (LA)	Stansfield Br to Todmorden	Pain, 20s
	Inhabitants (ST)	Stansfield Br to Stansfield Hall	Pain, 20s
1676 Easter	Inhabitants (HP)	Road to Burnley	Pain, 10s
	Rychard Sutcliffe (?ST)	Digging in the highway	Pain, 19s
	Inhabitants (WD)	Road to Colne	Pain, 39s

Note: HP – Heptonstall, ST – Stansfield, WD – Wadsworth, LA – Langfield; Br – Bridge

increased spending on highways, funded through taxation. If, as seems possible, this also occurred in the Upper Valley, the development of a less personalised, more corporate approach to presentments at the leet becomes understandable. Change was, however, of a less abrupt kind in the eastern townships.

### *Brighouse court area*

The overall increase in highway cases at the Brighouse leet was concentrated in the sampled townships, but even between these three townships there were significant differences (Table 4.18). In Hipperholme, the rates of presentments and the number of officeholders and non-officeholders presented were broadly similar in the two sample periods, but both Northowram and Shelf experienced increased caseloads affecting both groups. This demonstrates the continuing centrality of officeholders in submitting

Table 4.18. *Increases in highway presentments, Eastern townships, 1660-81 (compared to 1621-40).*

	Officeholders				Non-officeholders			
	No.		Cases		No.		Cases	
	P1	P2	P1	P2	P1	P2	P1	P2
Hipperholme	49	59	160	169	70	74	127	114
Northowram	57	51	132	193	69	106	132	208
Shelf	37	38	133	224	27	62	53	166
Total	143	148	425	586	166	242	312	488
+/- %		+3.5%		+37.9%		+45.8%		+56.4%

Note: 1) 'No.' of people presented at least once; 2) P(eriod)1, 1621-40; P(eriod)2, 1660-81.

Table 4.19. *Changes in highway presentments, by office, Eastern townships, 1660-81.*

	Jurors		Constables		Presenters		Surveyors	
	No.	Cases	No.	Cases	No.	Cases	No.	Cases
Hipperholme	23	66	13	33	35	112	35	102
Northowram	16	67	12	42	45	167	5	21
Shelf	9	55	15	86	35	214	14	118
Totals	<b>48</b>	<b>188</b>	<b>40</b>	<b>161</b>	<b>115</b>	<b>493</b>	<b>54</b>	<b>241</b>
		-4.1%		+37.6%		+62.2%		+1.7%

presentments and accepting their own liabilities. It also reinforces the impression of a more interventionist administrative culture to counter the risk of disruption from coal and stone extraction in both townships (Chapter Six). Growth of officer presentments in the three eastern townships was concentrated in the positions of constable and, more especially, presenter (Table 4.19). The much smaller rise in surveyors' presentments would probably have been larger but for the dwindling number of surveyors declared to the court by Northowram in this period. The small decrease in juror presentments is at least partly explained by fewer juror places for Hipperholme and Northowram, whereas in Shelf, nine men who served as jurors generated fifty-five presentments, three times as many as in 1621-40.<sup>111</sup> It is clear that officeholders in the Brighouse court area were still actively using the leet for road management and naming the individual householders (including themselves) liable, with a subtle shift towards lower-status presenters.

A sample of highway orders in Northowram (1661-5) show an intimate connection between highway management and office (Table 4.20). The naming of Robert Bairstow

<sup>111</sup> See Table 4.1; juror numbers for Hipperholme and Northowram had risen when four Brighouse townships were temporarily absent between 1616 and 1636.

and Nathaniel Crowther in presentment orders at sessions where they sat as jurors catches the eye. These were men of substantial status for the township (three and five hearths respectively), disproportionately powerful because they regularly filled the two jury places for the township, serving a total of eleven and seventeen times respectively. Far from using his authority to suppress presentments against himself, Crowther confirmed his own share of joint responsibility for highway work on the Hough, part of a key route from Halifax to Bradford and ‘proportionably’ at Tan House Lane just north of Northowram. No doubt, the spadework was done by his employees, but this public acceptance of liability bespeaks a measure of paternalistic concern. Presenters also acted in this way, for example, obliging James Jagger, possibly a quarryman or miner given the spread of three locations, living in a single-hearth house and serving no offices, to join with them in repair work. Notable, too, is the shared concern with lopping hedges, presumably to prevent damage to cloth packs and obstructions to riders.

Table 4.20. *Highway presentments and terms of office, Northowram, 1661-5.*<sup>112</sup>

	<b>Name(s), office</b>	<b>Hearths</b>	<b>Details</b>	<b>Actions</b>
Easter 1661	Robert Bairstow, Juror	3	RB & ‘occupiers’ @ Howey Shrogs	Joint repair
	William Gill, Presenter	2	WG & James Jagger @ Barmes Hill	Joint repair
	Isaac Smith, Presenter	3	IS with Michael Woodhead @ Pitt hill	Joint repair + Prohibition
M/mas 1663	Nathaniel Crowther, Juror	5	NC & James Jagger, Tan House la, as ‘proportionably’ belonging	Joint repair of horseway
	Abraham Shaw, Presenter	(5?)	AS & 7 others near the Hough	Switch [cut] hedges
Easter 1664	Edward Nicholl, Presenter	2	EN & James Jagger @ Earl lane	Joint repair
M/mas 1664	Nathaniel Crowther, Juror, Abraham Shaw, Presenter	As above	JS, AS & 2 others @ Hough to Stump Cross	Switch hedges
	Gilbert Sturdie, Presenter	6	GS + 3 others @ Mytholm	Joint repair
	Samuel Craven & Jeremy Baxter, Presenters	3 4	SC, JB with 3 others, near Shibden mill	Joint repair
M/mas 1665	Nat Crowther, Juror	As above	NC + William Gill @ Tan House Lane	Joint repair

Note: 1) The hearth numbers are from 1664; 2) ‘Abraham Shaw’ was taxed on 5 hearths in 1672, but not listed in 1664.

<sup>112</sup> YAS/MD225/1/386A-391A, Easter 1661-Michaelmas 1665.

Isaac Smith, presenter in 1661, also managed to obtain a prohibition order to prevent damage from pedestrians taking a short cut across his close.

If this demonstrates continuity of practice from earlier decades in the century, the ‘township book’ for Hipperholme used to sign off officer accounts alerts us to a development of governance towards more oligarchical control.<sup>113</sup> On the first page nine signatories staked their claim to township leadership by setting a control procedure for tax-based township governance:

The foureteinthe daye of February in the xviii<sup>th</sup> yeare of his Ma'ties reigne, viz., Anno Dom[ino] 166[6]<sup>114</sup>

It is agreed amongst the inhabitants of Hipperholme cum Brighouse that no officer whatsoever shall hereaf[ter] have an assessm't made until he or they cause an accompts of the former assessm'ts to be given in

The dating formula explicitly declares the signatories' alignment with the Restoration regime. By implication, the delegation of poor relief responsibilities to the township in 1662 had concentrated their attention on taxation procedures, since they, as wealthy men, were having to pay most: indeed, as early as 1675, the annual expenditure in Hipperholme on poor relief reached £72 16s 5d.<sup>115</sup> No later than 1680, taxation was also adopted for highway purposes through an assessment of £4 10s 10d spent by the surveyors over two years, although, sadly, the expenditure is not itemised.<sup>116</sup> All but one of the initial signatories served as a juror at Brighouse (Table 4.21). Henry Brighouse served sixteen times in twenty years, fifteen as jury foreman, perhaps an appointment of convenience, as he lived near the court venue in Brighouse.<sup>117</sup> William Wilton served five times, four as foreman; James Mitchell served four times, twice as foreman; Joshua Whitley was foreman twice and Stephen Ellis once. Ellis, Langley and Wilton were styled in the lists as gentlemen. In effect, this group were assuming the role of what was known elsewhere as a vestry although the term, as Cruickshank points out, is not properly applicable in the West Riding, where meetings appear to have taken in public houses.<sup>118</sup> The politics of the period are clearly visible in the absence from the list of

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<sup>113</sup> WYAS (C), HAS:65 (767), Hipperholme-cum-Brighouse township book (1665-1785).

<sup>114</sup> Date written old style, 1665.

<sup>115</sup> Hipperholme township book, overseers' account, 2 Aug 1675.

<sup>116</sup> *Ibid.*, surveyors' account, 30 Jan 1682.

<sup>117</sup> A datestone inscribed 'HB 1635' survives on the site of his house, Bonegate Hall (author's visit).

<sup>118</sup> J.L. Cruickshank, 'Courts leet, constables and the township structure in the West Riding, 1540-1842', *NH*, 54:1, (2017), pp.59-78 (p.64).

Table 4.21. *Participation of vestry signatories in highway management, Hipperholme, 1660-81.*

	Vestry signatures	Hearths	Offices	Surveyor	Pains (ameracements)	Notes
Henry Brighthouse	1 (once)	4	Jur (16)	1672	4	Bonegate, Brighthouse; wife (Susan, d. 1696) left estate of £201 <sup>119</sup>
Stephen Ellis	14	5	Jur (1)		2 (1)	Gentleman of Langley Hall, Hipperholme; estate of £492 (d.1689) <sup>120</sup>
Robert Gibson	10	5	Jur (2) Pre (3)		3	Slead Hall, Hove Edge <sup>121</sup>
Richard Langley	26	7	Jur (2)	1676 1677	5	Gentleman of Priestley Green <sup>122</sup>
Joseph Lister	13	3				?Related to Listers of Shibden Hall
James Mitchell	7	5	Jur (4)	1666	3	Crow Nest, Lightcliffe <sup>123</sup>
William Thorpe	2	2	Jur (1) Pre (6)	1664 1674	3	Slead Syke, Hove Edge <sup>124</sup>
Joshua Whitley	24	6	Jur (3) Pre (1)	1676	1	Rooks Hall, Lightcliffe; paid delinquency fee (1651) <sup>125</sup>
William Wilton	12	3	Jur (5) Con (1)	1662 1676 1677	2	Slead Syke, Hove Edge <sup>126</sup>

Notes: 1) 'Signatures' are the number of times each man signs an officer account, 1660-81.

two ex-parliamentary officers, Thomas Taylor, a Quaker with six hearths, and John Hodgson, a justice between 1657 and 1660, tenant of Coley Hall and the highest Hipperholme taxpayer of 1664 with eight hearths.<sup>127</sup> No fewer than six signatories served as highway surveyors, three of them twice and William Wilton three times. All four of the surveyors in 1676 and 1677 were ostentatiously styled 'Mr' on the constable's bill – the only such occurrence in the leet records – and their time as

<sup>119</sup> D. Cant & A. Petford, (eds.), *Life and Death in the Calder Valley: Probate Records from Brighthouse and District 1688-1700* (Halifax, 2016), p.18.

<sup>120</sup> *Ibid.*, p.110.

<sup>121</sup> Epitaph, Halifax church (d.1691).

<sup>122</sup> WYAS (C), 68D82/6/6/q/58, Feoffment (1659).

<sup>123</sup> Epitaph in Halifax church (d.1679).

<sup>124</sup> WYAS (C), SH:1/SP/1641 Mar 31, Conveyance.

<sup>125</sup> J.W. Clay (ed.), *Yorkshire Royalist Composition Papers* (1893, repr. Cambridge, 2013), p.52.

<sup>126</sup> WYAS (C), HAS:725-745 (500/8-9) (1671), Sale of Netherhouse,.

<sup>127</sup> *Autobiography of Captain John Hodgson*, ed., J. Horsfall Turner (Brighthouse, 1882), p.74.

surveyors may have eased the introduction of highway rates around 1680. Eight of them were themselves presented for highways, including an unsuccessful attempt to amerce ‘Mr Stephen Ellis’ in 1668 for a pain laid by Joseph Crowther of Northowram.<sup>128</sup>

The differences in highway presentments between Brighouse and Halifax townships became more pronounced in the latter years of the century. Eastern township constables and surveyors continued to exploit the leet to schedule repairs and the court continued as a focus for establishing status through officeholding and managing road repairs proactively in a context of competing economic interests. Further west, there are signs of diminishing use of the leet except for a growing recognition of quasi-corporate township responsibility. At the same time, common currents of political and social change can be seen in both court areas – in particular the growing wealth and assertiveness of the township ‘notables’.

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<sup>128</sup> YAS/MD225/1/394A, Michaelmas 1668.

## Conclusions

The importance of social relationships and township politics to the style and impact of highway maintenance demonstrates the flexibility of manorial arrangements in Wakefield and does much to explain the court's vibrancy.<sup>129</sup> The system of devolved leet courts was a stable institutional framework which penetrated into the social structure for its officers, especially in smaller townships such as Shelf and those in the Upper Valley. The requirements of the leet for presenters extended the depth of participation and heightened the legitimacy of the leet. Nevertheless, the court's credentials were scarcely democratic. The offices were dominated by those with land tenure, relatively higher levels of wealth and literacy skills. The identity and aspirations of a higher social stratum in each township was shaped and consolidated through performative processes such as appointment to office, court attendance, presentment and traverse. Social and cultural identity, as explored in depth by French, included attributes of tenure, wealth, family and literacy skills, but was most sharply defined by the rituals and duties of officeholding, especially the two most prestigious posts of leet juror and constable.<sup>130</sup> The role of a local 'middling sort' is, accordingly, discernible in the parish, albeit one located further down the socio-economic scale in poorer townships than in relatively prosperous Halifax and the eastern townships.

Tenure of land provided the key to effective highway management at the leet, governing the apportionment of liability between those holding property, including officeholders, through or alongside which streets, highways and paths ran. Throughout the parish in the first part of the century, participation at the leet helped middling groups elaborate and enforce obligations to repair ways, maintain free passage and protect agricultural land. The offices of juror, constable and surveyor were all valued as a way of safeguarding their agricultural and other business interests and negotiating conflict. The success of the system rested on the inherently progressive premise that the wealthiest men had more land and should accordingly incur more repair liabilities. They were also more likely to have freehold land, to pay towards the pre-war subsidies and to be distrained for knighthood at Charles I's coronation. If there was a democratic element to the leet's highway caseload, it was one hedged about by the minutiae of land tenure that

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<sup>129</sup> K.E. Wrightson, 'The politics of the parish in Early Modern England', in P. Griffiths, A. Fox, & S. Hindle (eds.), *The Experience of Authority in Early Modern England* (Basingstoke, 1996), pp.10-46.

<sup>130</sup> French, *Middle Sort*, esp. ch.2, 'Parish office and social identity', pp.90-140.

had little to offer to landless labourers and the poor. Statute labour may have been rare, but highway repairs at a time that suited the masters were no doubt an annual seasonal chore for those in service. Social polarities are plainly visible in the numbers exempt from the hearth tax and the significant number of men with six or more hearths in both Halifax and Northowram. For different reasons both the very poor and the very rich were less likely to attend the leet or serve office and were, therefore, distanced from decision-making on road repairs.

The markers of social status (taxation, officeholding, literacy) for the offices surveyed show that, by the later decades of the century, the officeholding groups across the parish had much in common. The signs of social polarisation apparent from larger houses and wealth indicators and the pressures on township leaders to govern in line with national and county priorities differed in scale but not substance. The post-Restoration period brings evidence of officeholders becoming more aware of outside influences and new options for road management. A small coterie in Hipperholme (and perhaps elsewhere), who had shown a degree of royalist allegiance, superimposed a new control mechanism (the ‘vestry’) over taxation and expenditure after the devolution of poor relief to townships in 1662. Meanwhile the flatter social structure and combination of freeholders and subtenants in the poorer townships of the Upper Valley amplified an earlier existing tendency to use the leet less often but in a way that enhanced township identity and the leaderships’ interests. Both approaches epitomise powerful legitimation that combined widely held beliefs in obligation and neighbourliness with the aspirations of the state expressed through revised highway legislation.<sup>131</sup> This, in turn, strengthened the tendency for the incorporation of township vestries into the state.<sup>132</sup> Nowhere is this as clear, however, as in the large and complex township of Sowerby, the focus of Chapter Five.

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<sup>131</sup> Braddick, *State Formation*, pp.76-85.

<sup>132</sup> Hindle, *State and Social Change*, p.28-9.

## Chapter Five Sowerby: ‘charges for mending’

The set of constables’ accounts from Sowerby (Halifax court area) provide exceptional data on spending on road maintenance funded through the constables’ ‘lays’ (land-value taxes).<sup>1</sup> The authority of statute law for highway rates, as discussed in Chapter Two, was intermittent, at best, and was tied to the appointment of a highway surveyor, a post not established in Sowerby until 1694.<sup>2</sup> Given the demands of national tax assessments, especially during crisis years, and the rising costs of poor relief, a township policy that opted for tax-and-spend for highways is unexpected. The chronology and causes underlying this phenomenon are central to a chapter that takes the form of a micro-study of seventeenth-century township administration of highways. Such an approach is made possible by records of maintenance practice and costs in the constables’ accounts, unmatched elsewhere in the parish before the spending accounts of highway surveyors in Heptonstall and Langfield in the early eighteenth century.<sup>3</sup> No other itemised constables’ accounts survive from the parish before 1700, and indeed they are rare anywhere in Lancashire or Yorkshire in this period.<sup>4</sup> The book contains one larger gap (seven years, 1665-1671) and several smaller ones. The records are somewhat fuller for an earlier period of thirty-six years (1629-64) for which twenty-eight years survive than for a second period of twenty-three years (1672-94), for which only fourteen were itemised in detail.<sup>5</sup>

In Chapters Two and Three, it was noted that many of the leet’s orders were ascribed either as personal liabilities through tenure or under the more nebulous category of ‘township responsibility’ with which this chapter is primarily concerned. Leet orders listed the location of nuisances and unrepaired roads, the person or township responsible, the deadline for repair and a penalty for non-compliance. Occasionally,

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<sup>1</sup> WYAS (C), SPL:143, Sowerby constables’ accounts (1628-1715), hereafter ‘SCA’. The accounts are written in a bound book. The condition is generally good, but some details have been lost from damage to page edges. The accounts were first discussed by H.P. Kendall, ‘Sowerby Constables’ Accounts’, Pts. I-V, in *THAS* (1902-6). For the chapter title, see SCA 1691.

<sup>2</sup> Table 2.3.

<sup>3</sup> WYAS (C), HPC/A:1, Heptonstall town book, (1716-37); WYAS (C), TT101-9 Langfield surveyors’ accounts, (1723-61).

<sup>4</sup> The most complete Yorkshire set from the much smaller, agrarian parish of Millington in the East Riding, Borthwick Institute, PR/MIL/10-11, Constables’ account books (1618-1713), contains almost no highway references in this period.

<sup>5</sup> See Tables 5.4 and 5.5 for expenditure summaries.

township repair orders specified causeys, drainage or bridges, but usually without quantifying the scale of work needed nor how it should actually be carried out. This absence of detail is particularly acute in the Halifax court area, where statute duty had apparently given way to an increasing tendency to ascribe township liability to the constable or inhabitants without further explanation (Chapter Four). Scattered through the Sowerby constables' accounts are costs for labour, materials, administration and legal advocacy, as well as other expenses that serve to contextualise roads policy within the constable's other duties, such as policing, social welfare and the militia. The township had responsibility for a major route between the West Riding and Lancashire, crossing the Pennine watershed at Blackstone Edge, which gave Sowerby strategic, political and administrative importance in the turbulent middle years of the seventeenth century and again at the time of William III's 1690 campaign in Ireland. The accounts, in conjunction with data from the court leet and other sources, illuminate the agency of officeholders drawn from a coterie of aspiring gentlemen and 'yeoman clothiers'. This enables a micro-history approach that places highway governance within the socio-economic context of an industrialising township, integrating road maintenance with the high and low politics of the period.

Inevitable questions arise over how a policy of tax-and-spend on roads, casually reported in 1629, but growing in scope and ambition from the 1670s, should have become so firmly embedded, when statute labour and tenorial responsibility were both available. The problem is best seen in the seventeenth-century context of the rise of the 'tax state', as outdated royal subsidies gave way to a mix of assessments based on land value, excise duties, the Restoration hearth tax and, eventually, the land tax.<sup>6</sup> Michael Braddick has demonstrated that the efficiency of land-based taxation was achieved with remarkably little resistance, as local commissioners acted as brokers to assess individual liabilities within non-negotiable county quotas.<sup>7</sup> Chronologically, he traces this success to the weekly and monthly parliamentary taxes of the First Civil War, in which context it should be noted that the parish was a stronghold for parliament and under its control for all but seven months between the battles of Adwalton Moor in 1643 and

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<sup>6</sup> M.J. Braddick, *Parliamentary Taxation in Seventeenth-Century England: Local Administration and Response* (Woodbridge, 1994); M.J. Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714* (Manchester, 1996), pp.12-16.

<sup>7</sup> Braddick, *Parliamentary Taxation*, pp.126-67, 290-1.

Marston Moor in 1644.<sup>8</sup> Stephen Pierpoint has suggested that Interregnum tax targets may have been assisted not only by administrative efficiencies but also by tapping rent flows due to mainly royalist landlords.<sup>9</sup> The ballooning of national taxation at mid-century (especially during military conflict) might be seen as creating difficulties for the collection of locally assessed taxes for county purposes, for churchwardens, constables and above all for poor relief. However, the evidence is that the middling sort, who were often the brokers for national taxation, were also involved as parish and township leaders in checking annual assessments of land value and auditing the accounts of township officeholders.<sup>10</sup> More tangibly, they were often the highest payers.<sup>11</sup> The largest and most sensitive of these local taxes was for poor relief, and it is likely that implementation may have been similar to neighbouring Lancashire, where Healey found that significant levels of assessment for poor relief were widespread by 1650 and rose further in the later seventeenth century.<sup>12</sup> A key aim in this chapter is to explore how taxation for highway repairs developed, the role of the township's leadership in shaping policy and how it was legitimised in the context of an unstable statutory framework.

The chapter has to assess the extent to which developments in Sowerby's administration of highways sprang from central or county government initiatives. Anthony Fletcher has argued that reform impulses emanating from the Privy Council delegated delivery of social policy to localities with justices taking a lead role in monitoring parish officers in and out of sessions, issuing general and specific orders and arbitrating disputes.<sup>13</sup> His chapters on policy enforcement by justices examines activity in relation to poverty, behaviour and the militia but not roads.<sup>14</sup> The dearth of parish (or township) records has meant that studies of seventeenth-century county administration tend to be more

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<sup>8</sup> J. Binns, *Yorkshire in the Civil Wars: Origins, Impact and Outcome* (Pickering, 2004), pp.78-96.

<sup>9</sup> S J. Pierpoint, 'The importance of direct taxation to the fiscal-military state in early modern Britain', *Structural Change and Economic Dynamics*, 41, (2017), pp.13-28; see also J.S. Morrill, *Cheshire 1630-1660: County Government and Society during the 'English Revolution'* (Oxford, 1974), p.97; A. Hughes, *Politics, Society and Civil War in Warwickshire, 1620-1660* (Cambridge, 1987), p.262.

<sup>10</sup> Braddick, *Parliamentary Taxation*, pp.271-93.

<sup>11</sup> J.R. Kent, 'The centre and the localities: state formation and parish government in England, circa 1640-1740', *HJ*, 38, 2 (1995), pp.363-404 (366); H.R. French, *The Middle Sort of People in Provincial England 1600-1750* (Oxford, 2007), pp.90-140.

<sup>12</sup> J. Healey, *The First Century of Welfare: Poverty and Poor Relief in Lancashire, 1620-1730* (Woodbridge, 2014), pp.66-70; M.J. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge, 2000), p.104.

<sup>13</sup> A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven, 1986), pp.87-179.

<sup>14</sup> *Ibid.*, chs.7-9.

focused on the levels of justice activity than the responses of parish and township.<sup>15</sup> Healey's work on social welfare in Lancashire demonstrated that poor relief was largely due to the magistrates' drive to implement legal norms across parishes and townships.<sup>16</sup> Joan Kent's study of village constables before 1640 primarily adopts a parish (or township) perspective.<sup>17</sup> She covers arrangements for election through the court leet in depth.<sup>18</sup> Of most importance for this study are sections on constables' duties, their relatively high social status and literacy levels, and lines of accountability, although continuity of reporting to the leet is underplayed, perhaps because her data was from the midlands and south. Her analysis extends beyond 1640 in a perceptive article on the relationship between the centre and localities, in which she observes that 'the mid-seventeenth century does seem to have marked a significant turning point in the formation of the English state, at least as it was manifested at the parish level'.<sup>19</sup> This could involve 'the inhabitants ... voluntarily and spontaneously initiating action' and, even more appositely, 'in areas like tax assessment and highway repair ... parish records leave one with the strong impression that administrative routines had become well established and familiar'.<sup>20</sup> The Sowerby constables' accounts are an opportunity to explore how constables' involvement in administrative routines such as petty ('private') sessions, articles of enquiry and written accounts laid the foundations for new highway management practices.

Pivotal to the argument in this chapter is the proposition that a change in social relations occurred within Sowerby, supercharged by the exigencies of the mid-century crisis, empowering a leadership elite with the functions, if not yet the name, of a vestry. The analysis, therefore, draws on the work of Wrightson and Hindle that identifies markers of status, wealth and values among officeholders and vestrymen.<sup>21</sup> Of particular

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<sup>15</sup> For Yorkshire, see G.C.F. Forster, *The East Riding Justices of the Peace in the Seventeenth Century* (York, 1973); G.C.F. Forster, 'County government in Yorkshire during the Interregnum', *NH*, 12 (1) (1976), pp.84-104; G.C.F. Forster, 'Government in provincial England under the later Stuarts', *Transactions of the Royal Historical Society*, 33 (1983), pp.29-48.

<sup>16</sup> J. Healey, 'The development of poor relief in Lancashire, c.1598 -1680', *HJ*, 53, 3 (2010), pp.570-2.

<sup>17</sup> J.R. Kent, *The English Village Constable 1580-1642: A Social and Administrative Study* (Oxford, 1986).

<sup>18</sup> For elections: Kent, *Village Constable*, pp.57-79; for presentments: *ibid.*, pp.34-5.

<sup>19</sup> Kent, 'Centre and the localities', p.404.

<sup>20</sup> *Ibid.*, pp.402-3.

<sup>21</sup> K.E. Wrightson & D. Levine, *Poverty and Piety in an English Village, Terling 1525-1700* (2nd ed., Oxford, 1995), pp.103-9; S. Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke, 2000), pp.18-19, 204-30.

relevance to Sowerby are the interconnected patterns described by Wrightson of social polarisation, literacy and godliness that strengthened governing elites.<sup>22</sup> Hindle detects a change from ascending to descending concepts of political authority and the consolidation of control by the middling sort, especially in relation to the assessment, collection and distribution of poor rates, although he notes that the chronology of such a change varied.<sup>23</sup> In Sowerby's case, details of political stance, wealth and officeholding help to portray the character of men for whom infrastructure and connectivity were of more-than-ordinary importance. The enquiry reaches into the nature of the English state: was the complaisance of Restoration justices with extra-statutory tax-funded spending on Sowerby's roads part of a deal in which the township's chief inhabitants enjoyed local autonomy in exchange for political soundness and, perhaps, a guarantee of serviceable highways?

The chapter is prefaced by a review of Sowerby's manorial history, its socio-economic characteristics, problems of jurisdiction and cohesion posed by complex external and internal boundaries and the prominent role of individuals from the township during, and after, the mid-century crisis. The next two sections use court leet data and the constables' accounts to track chronological development in regulation and road maintenance. The centrepiece is the phenomenon of investment through taxation that eventually displaced routines of presentments to the manorial court. Two lines of enquiry are followed to explain this development. First, the constables' accounts bear witness to procedures that ratcheted up the accountability of the township's constables to justices through attendance at Petty Sessions and responses to articles of enquiry. Secondly, building on findings in Chapter Four, tax and literacy data are combined to trace the ascendancy of a cohort of wealthy gentlemen and clothiers who exercised power as a 'vestry' through annual assessment for taxes, decisions on rating levels and audit. Finally, there is a more speculative look at indications in the patterns of court leet presentments that other townships (for which constables' accounts do not survive) may have made similar moves towards taxation.

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<sup>22</sup> K.E. Wrightson, *English Society, 1580-1680* (London, 1982), pp.222-6.

<sup>23</sup> Hindle, *State and Social Change*, pp.208-9; S. Hindle, 'The Political Culture of the Middling Sort in English Rural Communities, c.1550-1750', in T. Harris (ed.), *The Politics of the Excluded, c.1500-1850* (Basingstoke, 2001), pp.125-52 (pp.137-41); see also French, *Middle Sort*, pp.109-10.

## I Sowerby township

... it is therefore now further ordered that the said inhabitants of Sowerby doe ... asseesse themselves three parts of the assessment ... and that the inhabitants of Soyland themselves asseesse and pay the fourth parte of all such assessments, and in case of disobedience of this order by the inhabitants of Sowerby ... (whose contempt for the breach of the said orders is sufficiently apparent) such inhabitants ... are to bee apprehended and conveyed before Sr John Armitage Bart and John Thornhill Esq two of his Majesty's Justices of Peace for this Ryding, to the end they may be bound over to the next sessions to answer their several contempts (1667)<sup>24</sup>

Memorandum that there was payd at the giving up of the accounts ... to the inhabitants of Soyland the sum of eleven shillings nine pence out of the 3 quarters asseasments to make up their foure part wch is there proportion & to pay them in full satisfaction of all accounts reckonings and demands whatsoever betwixt Sowerby & Soyland from the beginning of the world to the day of the date expressed (1698)<sup>25</sup>

These colourful highlights from a long-running dispute over rates give some idea of the tensions of local identity and jurisdiction underlying Sowerby's management of roads. The root of the trouble was a decision reached at Quarter Sessions in 1641 (and copied into the Sowerby constables' account book) that confirmed the customary apportionment of constable rates (to be divided 75%, 25% between the two parts of the township, Sowerby and Soyland) while deciding that 'all manner of new charges as poll money or other legal payments' were 'to be equally assessed & rated upon the whole constabulary according to lawe'.<sup>26</sup> Nevertheless, a bad-tempered squabble between neighbours about rates also speaks to discussions of the changing nature of local governance in the later seventeenth century and the delicacies of political allegiance. The Riding's power to settle the dispute was represented by two justices, a baronet and a squire, assigned to deal with Sowerby. The township had been staunchly parliamentarian during the 1640s and 1650s, at which time the leadership may have sidestepped the customary apportionment in a rush to maximise tax revenue for the regime. The 1667 dispute, therefore, has a strong whiff of Cavalier triumphalism, feeding an edginess still evident in the memorandum twenty years later. This argument placed the politics of local taxation at the heart of governance across a large township fractured by geographical and administrative fault lines.

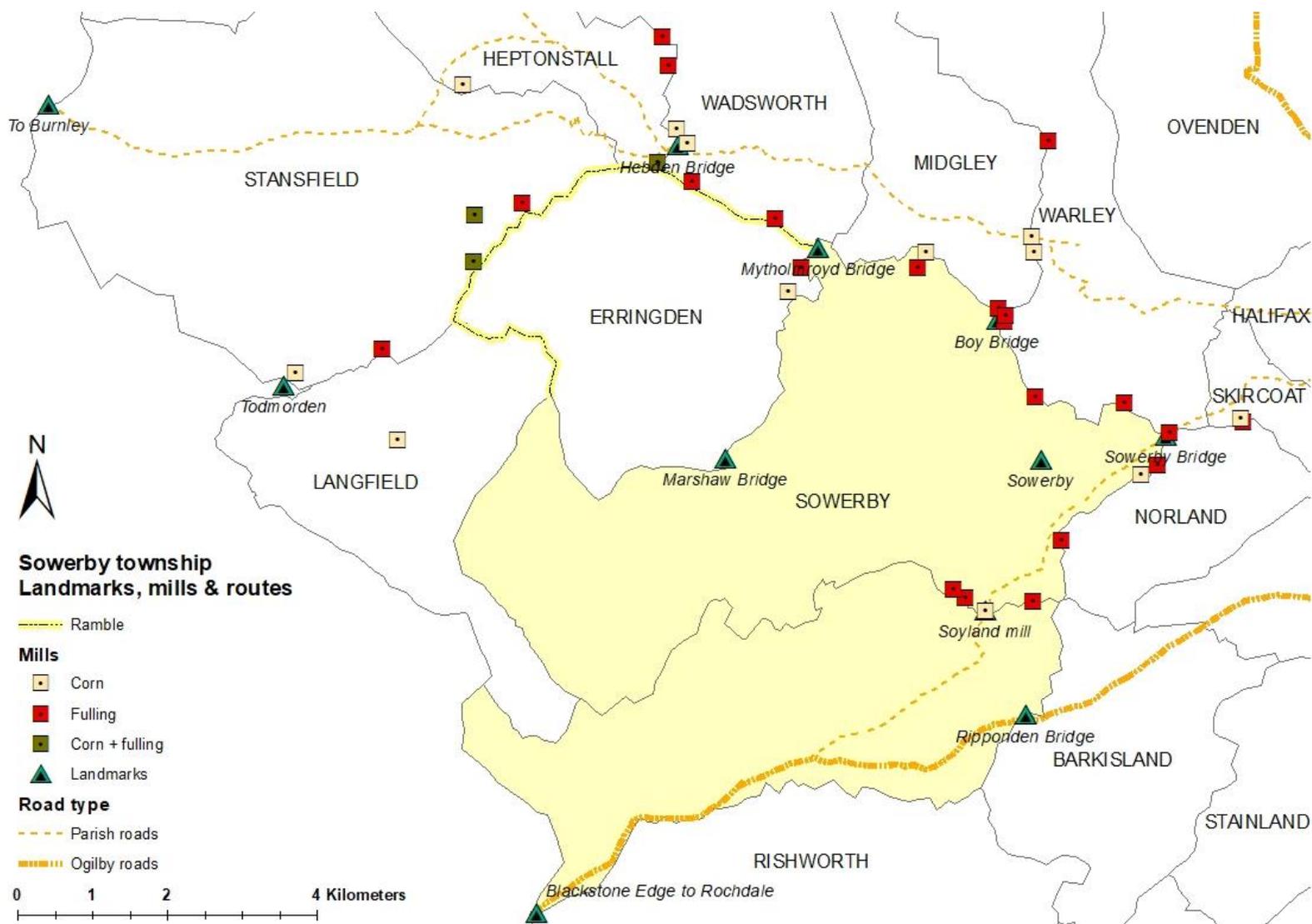
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<sup>24</sup> WRQS, July 1667, accessed via <http://www.ancestry.co.uk> in March 2019.

<sup>25</sup> SCA, 1698.

<sup>26</sup> WRQS, October, 1641; SCA, copy of QS order, August 1644.

Map 5.1. *Sowerby township: through routes, bridges and mills, c.1650.*



Notes: 1) The 'Sowerby Ramble', here represented schematically, was located west and north of the Erringden boundary; 2) mill locations and purposes are based on index card data compiled by Sheila Wade and the Hebden Bridge WEA Local History Group (c.1980-2009), WYAS (C), WYC:1528.

The township of Sowerby (in cream, Map 5.1) owed its jurisdictional singularity to the ancient ‘Forest of Sowerbyshire’, which embraced all of the upper Calder valley west of Halifax. The earliest documentary references are a thirteenth-century claim by the Warenne family to the area as a chase.<sup>27</sup> The extent of demesne lands in this part of the manor of Wakefield gradually shrunk, mainly through subinfeudation of estates on the north bank of the Calder.<sup>28</sup> Sowerby gave its name to a ‘graveship’, an administrative division comprising the large and revenue-rich townships of Sowerby and Warley; the rotating post of ‘grave’ (greave) was responsible for collecting rents and executing manorial orders.<sup>29</sup> Sowerby carried weight within the manor of Wakefield, hosting some court baron sittings between 1403 and 1445.<sup>30</sup> In 1451 the hunting park of Erringden was dismantled and parcelled into freeholdings, becoming a separate township around 1566.<sup>31</sup> Four ‘quarters’ of the township, Sowerby, Westfield, Blackwood and Soyland were distinguished in a survey of 1608 and in two highway presentments to the leet in 1619.<sup>32</sup> The creation of Erringden township left the township with a strip of land (typically around 100-250m in width, in yellow on Map 5.1) surrounding the park limits, the ‘Sowerby Ramble’, as a result of which Sowerby adjoined nine other townships as well as Rochdale parish to the west.<sup>33</sup> Apart from being the second largest and most populous township in the parish with an important communication route into Lancashire, the township had an ecclesiastical complication. Soyland belonged to the parochial chapelry of Elland and shared a chapel-of-ease at Ripponden (founded in the late fifteenth century) with Barkisland, a township attending the court leet at Brighouse. Sowerby had its own chapel-of-ease before 1600 (see Map 5.1), which meant separate arrangements for poor relief. Soyland’s customary right to assess and levy constables’

<sup>27</sup> *Yorkshire Hundred and Quo Warranto Rolls*, ed., B. English (YAS Record Series, 151, 1996), pp.96, 176-7, cited by N. Smith, *The Medieval Park of Erringden* (Hebden Bridge, 2021), p.5.

<sup>28</sup> B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Hebden Bridge WEA Local History Group, Otley, 1992), pp.18-19.

<sup>29</sup> *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013), p.53; M.J. Ellis, ‘A study in the manorial history of Halifax parish in the Sixteenth and early Seventeenth Centuries’, Pt.I, *YAJ*, 40 (1960), pp.250-64; Jennings, *Pennine Valley*; N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, 604, 2014), pp.10-16.

<sup>30</sup> See, for example, *WCR 1433-6*, pp.129-33, 199-201.

<sup>31</sup> Smith, *Erringden*, p.97-114; M.L. Faull & S.A. Moorhouse (eds.), *West Yorkshire: An Archaeological Survey to A.D. 1500* (Wakefield, 1981), pp.367-8.

<sup>32</sup> TNA, DL 43/11/23 (1607/8), Duchy of Lancaster: Survey of copyhold lands, cited in *WCR 1608/9*; YAS/MD225/1/344A, Easter 1619.

<sup>33</sup> The adjoining townships were: Erringden, Langfield, Stansfield, Heptonstall, Wadsworth, Midgley, Warley, Rishworth & Norland (all Halifax court area), and Barkisland (Brighouse).

rates as a quarter share of the whole was clearly advantageous, as it was as large as the other three quarters put together and had a third of the township's population in 1630.<sup>34</sup> The friction evident from protracted rating disputes in 1639-41 and 1666-8 derived directly from this fissure in ecclesiastical and administrative jurisdiction.<sup>35</sup> By the time the 1850s OS map was surveyed, Soyland had become a separate township for most purposes, including highways, while still sharing a constable.

In the seventeenth century, rather more than half Sowerby's area of 3,492 ha was unenclosed moorland grazing on high ground to the west and north. Pastoral agriculture and some cultivation of oats, rye and legumes took place on terraces between 150 m and 300 m (above sea level).<sup>36</sup> Housing was scattered across this better land with limited nucleation in Sowerby 'town' and close to mills and bridges at Mytholmroyd, Sowerby Bridge, and Ripponden. Research based on parish registers suggests that the population reached a peak of 2,550 in 1610, then fell as a result of depressed trade, epidemics and outward migration before recovering to 2,150 by 1670.<sup>37</sup> A manorial survey (c.1600) lists predominantly copyhold tenancies at customary rents of 4d per acre, the rights confirmed in a 'composition' agreement with the crown in 1608.<sup>38</sup> Small parcels of freehold land had also been granted in 1563-4 at a 'lord's rent' of similar value.<sup>39</sup> Altogether, the survey for Sowerby lists 9 freeholders, 140 copyholders and 33 people with both tenures. More freeholdings may, however, have been outside the scope of the survey, as a survey of 1709 lists sixty-two names as freeholders, despite there being little evidence of enfranchisement during the seventeenth century.<sup>40</sup> Extrapolation from a population of 2,550 suggests a further 300 households in small subtenancies or landless cottages.<sup>41</sup> The township was bounded by the River Calder to the east and

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<sup>34</sup> Size: Sowerby (3 quarters), 1485 ha, 42.5%, Soyland, 2007 ha, 57.5%, based on acreages in the 1831 census, given in John Crabtree, *Concise History of the Parish and Vicarage of Halifax, in the County of York* (Halifax, 1836), p.312; population: B. Atack et al., 'The people of the parish of Halifax, 1539 to 1670: parish registers and the reconstruction of the population' in N. Smith (ed.), *History in the South Pennines: The Legacy of Alan Petford* (Hebden Bridge, 2017), pp.33-66 (p.44).

<sup>35</sup> WRQS, April 1666, July 1667, October 1668, accessed via <http://www.ancestry.co.uk> in November 2019.

<sup>36</sup> M. Francois, 'The social and economic development of Halifax 1558-1640', 11, *Proceedings of the Leeds Philosophical & Literary Society* (1966), pp.217-80 (pp.252ff); Jennings, *Pennine Valley*, pp.76-85.

<sup>37</sup> Atack et al., 'People of the parish', p.44.

<sup>38</sup> TNA, DL 43.11.25, Sowerby survey (c.1600); *WCR 1608/9*, 'Introduction'; *Manor Book 1709*.

<sup>39</sup> Jennings, *Pennine Valley*, p.53.

<sup>40</sup> *Manor Book 1709*, p.11.

<sup>41</sup> Atack et al., 'People of the parish', p.44; calculation based on average household size of 4.75.

north, the Ryburn to the south and Turvin brook to the north-west (Map 5.1). Fast-flowing water was key to the development of woollen cloth manufacture, driving at least eight fulling mills, two corn mills, and one of mixed use within the township. The Calder between Mytholmroyd and Todmorden powered another four fulling, and two mixed-use, mills, which could be accessed from the ‘Sowerby Ramble’ over bridges whose maintenance was subject to periodic dispute with other townships. The small section of county boundary to the west included the important Transpennine pass at Blackstone Edge (450 m), marked prominently on Ogilby’s 1675 map as the main route from Chester, Manchester and Rochdale to York.<sup>42</sup>

The sequence of major events in Sowerby in the seventeenth century can be seen as a small-scale enactment of larger social, economic, religious and political changes, and its impacts on governance require a narrative of some detail. Copyholder composition agreements with the crown in 1608/9 confirmed the tenurial strength of Sowerby’s copyholders whose manorial rents were standardised at fourpence per acre, far below a commercial rate of up to 10s that could be achieved through subtenancies.<sup>43</sup> The sale of the manor of Wakefield into private hands in 1629 may have increased the self-confidence of land holders. By the early decades of the century, the township was already known for cloth-making and for the godliness promoted by the vicar of Halifax, John Favour.<sup>44</sup> The curacy at Sowerby’s chapel was held from 1603 to 1625 by John Broadley, whose evangelical ministry necessitated enlargement and redesign in 1622 into a square shape best suited to preaching.<sup>45</sup> As a teacher earlier in his career, he may also have promoted literacy, a distinctive feature of township.<sup>46</sup> A literate culture (at least among its officeholders) prized written records, and in 1629 a payment of four pence was recorded ‘for this booke att Yorke’ to record the township constables’ accounts.<sup>47</sup> The accounts suggest increasing assertiveness, such as the legal expenses of £6 14s in 1635 ‘layde downe about the hie way in Erinden neare Elenbrough Hall’.<sup>48</sup> As

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<sup>42</sup> John Ogilby, *Britannia, Part the First* (London, 1675), Plate 89, ‘The road from York to West-Chester’.

<sup>43</sup> *WCR 1608/9*, p. xlii-xliv; Jennings, *Pennine Valley*, p.53.

<sup>44</sup> J.A. Hargreaves, *Halifax* (3rd ed., Lancaster, 2020), p.74.

<sup>45</sup> M.E. Bullett, ‘Post-Reformation Preaching in the Pennines: Space, Identity and Affectivity’ (PhD, Univ. of Huddersfield, 2016, available on open access <http://eprints.hud.ac.uk/id/eprint/28714>), pp.41-3.

<sup>46</sup> *Ibid.*, p.200.

<sup>47</sup> SCA, 1628-9.

<sup>48</sup> SCA, 1634-5; YAS/MD225/1/363A, Erringden, Michaelmas 1636, referencing YAS/MD225/1/361A, Sowerby, Michaelmas 1635 & Easter 1636.

already discussed, strains between Sowerby and Soyland over unequal tax assessments reached Quarter Sessions in 1638-41 and again in 1666-8. From an agreement between townships in the Halifax parochial division, Sowerby is known to have been managing its own poor relief by 1636, although no records of expenditure survive before 1727.<sup>49</sup>

The First Civil War had shorter and longer term impacts on administration. Despite widespread support for the parliamentary cause in the parish (two parliamentary captains hailed from Sowerby), the whole parish came under royalist military occupation between August 1643 and January 1644, during which time parliamentary forces from Lancashire fortified a defensive position on the township's boundary at Blackstone Edge.<sup>50</sup> As in other counties, the West Riding Quarter Sessions ceased in mid-1642 and, although there is some evidence for justices operating in and out of sessions, the formal records only recommence in April 1647.<sup>51</sup> The county faced multiple problems from food shortages, interruptions to trade and epidemics in the later 1640s; in August 1645 a chain and watch house was erected at Sowerby Bridge to prevent people travelling into the township from plague-struck Halifax.<sup>52</sup> The office of constable continued, and John Smith made a claim at Quarter Sessions for an assessment to be made for his expenses as Sowerby constable and for 'horses and provision ... for the parliament's service' in 1644.<sup>53</sup> (The order names four Sowerby men as sequestrators to be responsible for enforcing the order, although the constables' account carries no details of the outcome.) Normality was returning by early 1646 when the Sowerby constable accounts record an expense of £1 for three named men and the constable 'goeing to the sessions att Wakefeild ... for orders'.<sup>54</sup> The court leet recommenced at Easter 1647, and constable elections recommenced six months later.<sup>55</sup> As elsewhere, county administration recovered relatively well from 1650, and new justices of lower status, introduced in Interregnum commissions of the peace to replace royalist gentry, succeeded in restoring order and stable local government, including

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<sup>49</sup> WYAS (C), Agreement, SH:4/T.HX/1636.

<sup>50</sup> Binns, *Yorkshire in the Civil Wars*, pp.67-8, 78-80, 207-8; John Rosworm, *An Historical Relation of Eight Yeeres Services for King and Parliament* (London, 1649), p.16.

<sup>51</sup> Forster, 'County government', pp.86.

<sup>52</sup> SCA, August 1645.

<sup>53</sup> WRQS, October 1647.

<sup>54</sup> SCA, January 1646.

<sup>55</sup> YAS/MD225/1/372A.

further development of poor relief.<sup>56</sup> Substantial sums were raised in army and other assessments, and the constables' accounts show the strains of billeting Scottish army attachments.<sup>57</sup> Despite its political sympathies, taxation was a cause of contention, as when, in 1646, 'a souldier that came from the highe Constable ... did arrest mee [the constable] concerning the money that was demanded of Halifax'.<sup>58</sup>

In this period, individual agency becomes more discernible, not least through details in the accounts. One notable career was that of Joshua Horton, the puritan younger son of a landowning family in Barkisland, appointed a divisional high constable in 1649, the year he apparently finished building Sowerby Hall.<sup>59</sup> He also served on the Commission for Pious Uses (1651), an enquiry into Halifax charitable trusts, before becoming a justice in 1656 during the major-generals' experiment.<sup>60</sup> His name appeared among seven from Sowerby on a list of fifty-nine voters over the property threshold of £200 for Halifax' first MP, Jeremy Bentley, in 1654, along with eight other men from Sowerby.<sup>61</sup> He also supported the first 'gathered church' in Yorkshire under Sowerby's curate, Henry Root, in 1645 and was later to fund a licensed independent chapel in Sowerby in 1672 before being buried at the parish church in Halifax in 1679.<sup>62</sup> His was almost always the first name on the list of those approving the Sowerby's constables' accounts from 1645, a practice that marks the beginnings of vestry government. At the Restoration Horton was one of sixty-two justices purged from the West Riding bench and, in 1662, Root was ejected as Sowerby's minister. Amid accusations in these dangerous years of plotting against the regime at his house, Horton continued to combine a leading role in the township with support for independency of religion.<sup>63</sup> Realignment of Sowerby's 'middling sort' of clothiers and property owners to county priorities was not secure until the 1670s, when Thomas Horton of Barkisland, Joshua's

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<sup>56</sup> Forster, 'County government', pp.89-95; R.A.H. Bennett, 'Enforcing the Law in Revolutionary England: Yorkshire, c1640-c.1660' (Unpublished Ph.D., King's College London, 1987), pp.108-18.

<sup>57</sup> SCA, 1645-9.

<sup>58</sup> SCA, 1649.

<sup>59</sup> WRQS, April, October 1648 & April 1649 (discharged); SCA, January 1649; Sowerby Hall date stone, 1649, see H.P. Kendall, 'Sowerby Hall', *THAS* (1910), pp.169-200.

<sup>60</sup> WYAS (B), 53D77, John Brearcliffe's enquiry into gifts for pious uses (1651); T.W. Hanson, 'John Brearcliffe, The antiquary' Pts 1-3, *THAS* (1907-9); WRQS, 8 attendances, 1656-59.

<sup>61</sup> T.W. Hanson, 'Jeremy Bentley, first MP for Halifax', *THAS* (1929), pp.353-60.

<sup>62</sup> J.G. Miall, *Congregationalism in Yorkshire: A Chapter of Modern Church History* (London, 1868), pp.50-2.

<sup>63</sup> *Autobiography of Captain John Hodgson*, ed., J. Horsfall Turner (Brighouse, 1882), p.55.

nephew, was appointed to the bench.<sup>64</sup> Significantly, county funding of £200 for the repair of Sowerby Bridge was first championed by Thomas, but then paid over to Joshua Horton as a supervisor.<sup>65</sup> The constables' accounts attest how, later in the century, the township's position next to a Transpennine pass brought national attention. During William III's Irish campaign of 1689-91 the crossing at Blackstone Edge was the focus of steady military and traveller traffic to and from the Irish Sea ports.<sup>66</sup> While the township kept its nonconformist character, the energies of the leading men were channelled into textile manufacture as trade recovered later in the century, prefiguring a shift by clothiers into worsted production and the consequent boom years of the following century.<sup>67</sup> At a time of improved trading, the constables' expenses of the 1670s and 1680s contain more expenditure on road repairs than at any other point in the century.

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<sup>64</sup> WRQS, attended 20 times, 1673-93.

<sup>65</sup> WRQS, April 1673 & July 1674; orders copied into SCA.

<sup>66</sup> SCA, 1689-91.

<sup>67</sup> H. Heaton, *The Yorkshire Woollen and Worsted Industries: From the Earliest Times up to the Industrial Revolution* (Oxford, 1920), pp.263ff; J. Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1780* (Ithaca, 1994), pp.52-81.

## II Leet presentments: patterns and characteristics

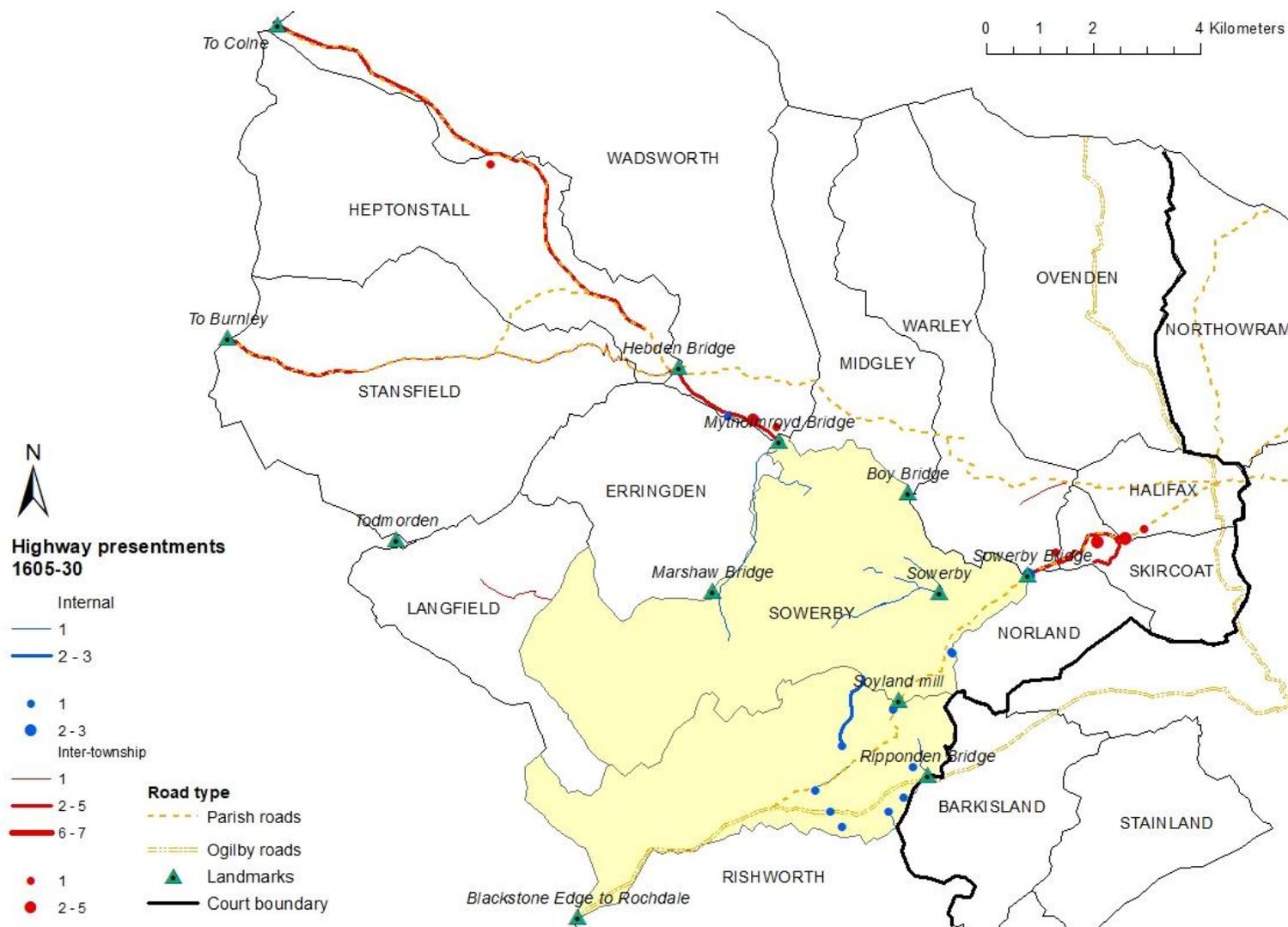
A brief review of the township's presentment activity at the leet is important for highlighting changing priorities as the use of taxation developed. Up to 1630, the only data source from Sowerby for highway management consists of presentments made by constables to the court leet at Halifax. These show patterns similar to townships in the Upper Valley (Table 5.1). While there were cases of affray, bloodshed and restrictions on 'inmates', over two thirds of Sowerby's presentments were related to highways in a three-year sample, second only to Wadsworth, both of these being large townships with significant highways. The volume of highway presentments was the third highest of the townships attending the Halifax court. Nevertheless, the rate of presentments (40.9 per 1,000 in population) was low. GIS mapping suggests a reluctance to use the court leet for internal highway problems, as marked by the contrast between cases within Sowerby (marked in blue on Map 5.2) and more numerous inter-township presentments (in red) of major routes towards the cloth and market towns of Halifax and north-east Lancashire. While nineteen internal presentments addressed nuisances, especially drainage problems, just thirteen concerned internal road repairs – only one every two years. Nine of these targeted individuals, two applied to the 'inhabitants of Soyland', while two bridge cases divided responsibility between Soyland and Sowerby. These

Table 5.1. *Halifax court townships: highway presentments per 1,000 people and per 100 hectares, 1605-30.*

	Highway presentments	As % of all cases	Est. population		Area	
			1620	Pres/ 1000	ha	Pres/ 100 ha
Halifax	441	16.4	4,100	107.6	453	97.3
Stansfield	112	48.0	650	172.3	2,396	4.7
<b>Sowerby</b>	<b>96</b>	<b>68.2</b>	<b>2,350</b>	<b>40.9</b>	<b>3,493</b>	<b>2.7</b>
Heptonstall	83	50.0	900	92.2	2,153	3.9
Wadsworth	67	80.0	800	83.8	4,079	1.6
Warley	54	52.9	1,350	40.0	1,611	3.4
Skircoat	50	<i>n/a</i>	400	125.0	542	9.2
Langfield	49	58.3	250	196.0	1,060	4.6
Rishworth	42	50.0	600	70.0	2,966	1.4
Midgley	29	50.0	250	116.0	854	3.4
Ovenden	28	37.5	1,300	21.5	2,023	1.4
Erringden	9	25.0	550	16.4	1,206	0.7

Notes: 1) The 'percentage of all cases' is based on a sample from 1608-10; 2) Population estimates are drawn from Atack et al. 'People of the parish' p.44; 3) areas calculated in hectares from township acreages in the 1831 census return.

Map 5.2. *Internal and inter-township highway presentments, Sowerby, 1605-30.*



presentments can only, however, have constituted one element of total maintenance activity within the township. Four neighbouring townships secured twenty-five orders against Sowerby, fourteen of which relate to the route from Todmorden in Lancashire, entering Sowerby through Langfield and Erringden and continuing to Halifax. Sowerby was fined three times for failure to respond to an external order, but most cases must have been amicably resolved either by individuals through tenure or statute labour.<sup>68</sup> Statutory work was explicitly stated in a fine of 5s on Sowerby's constable in 1622 for 'not apointing the commonday worke this yere'.<sup>69</sup> This suggests the possibility that liability had been apportioned (as in the Upper Valley and Halifax), differentiating those highways repairable by individuals from those whose repair was a communal liability. According to the Tudor statutes, repair using statutory labour was applicable to any route between market towns, which, for Sowerby, meant the routes linking Rochdale with Halifax through Sowerby Bridge and with Elland through Ripponden. The rarity of presentments in this period on the thirteen kilometres between Sowerby Bridge and Blackstone Edge submitted by either Sowerby (none) or other townships (three) only makes sense if the presumption is made of maintenance delivered by the constable, averting the need for court action.

Most striking of all on Map 5.2 is that over two thirds of the highway presentments lodged by Sowerby were for roads in other townships. This practice was well established before 1600: Sowerby paid Warley and Skircoat to amend the road to Halifax between Sowerby Bridge and 'the Kinge crose' in 1582.<sup>70</sup> There were five inter-township cases on two occasions, affecting four different townships in 1609 and five in 1629.<sup>71</sup> Altogether Sowerby submitted sixty-five inter-township presentments in this first period, of which sixty were orders and five ameracements. The targets included roads on Sowerby's immediate borders, especially the approaches to Halifax, as well as those leading north-westwards to Burnley and Colne (Map 5.2). In Chapter Six, it will be suggested that economic priorities were of over-riding concern for inter-township action involving routes connecting the woollen cloth towns of Lancashire with the West Riding.

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<sup>68</sup> YAS/MD225/1/338A, Langfield, Michaelmas 1612; YAS/MD225/1/348A, Rishworth, Michaelmas 1622; YAS/MD225/1/349A, Erringden, Easter 1624.

<sup>69</sup> YAS/MD225/1/348A, Michaelmas 1622.

<sup>70</sup> YAS/MD225/1/308A, Michaelmas 1582.

<sup>71</sup> YAS/MD225/1/334A, Easter 1609; YAS/MD225/1/354A, Easter 1629.

During a second period, following the sale of the manor of Wakefield by the crown in 1629, assertions of local identity and interests increased, as events and processes outside the manorial context had an increasing impact on Sowerby's highway management practices. The constables' accounts in Sowerby reveal a second line of accountability to the justices at petty sessions, as discussed below, which appears to have dampened the intensity of Sowerby's presentments at the court leet. Regular reporting of crimes of violence by Sowerby to the manorial court effectively ended in 1636 with an amercement for an assault on the deputy constable and churchwarden, while the last case concerning unauthorised 'inmates' occurred in 1637.<sup>72</sup> Total highway cases were similar to those in the first period (allowing for more court sessions) but Sowerby dropped to fourth after Wadsworth, and the proportion of presentments relating to highways also dropped below 60% (Table 5.2). Presentment volumes rose marginally in proportion to area and population, but dried up altogether between 1657 and 1661, except for one isolated amercement for removing bridge stones from a cartway in 1659.<sup>73</sup> Cases of obstruction and nuisance predominated (twenty-two in Sowerby, seven in Soyland). There was, however, a new phenomenon: ten orders-to-repair named either Sowerby or Soyland rather than individuals between 1647 and 1655, which probably

Table 5.2. *Halifax court townships: highway presentments, by area and estimated population, 1631-65.*

Township	Highway Presentments	As % of all cases	Est. population		Pres/ 100 ha
	1631-65		1650	Pres/ 1,000	
Halifax	417	71.4	2,950	141.4	92.0
Stansfield	160	88.9	650	246.2	6.7
Wadsworth	127	91.7	900	141.1	3.1
<b>Sowerby</b>	<b>114</b>	<b>59.1</b>	<b>1,250</b>	<b>91.2</b>	<b>3.3</b>
Heptonstall	107	35.3	750	142.7	5.0
Midgley	102	71.4	250	408.0	11.9
Ovenden	71	40.9	500	142.0	3.5
Warley	55	50.0	1,150	47.8	3.4
Rishworth	38	80.0	400	95.0	1.3
Langfield	35	85.7	100	350.0	3.3
Skircoat	26	50.0	400	65.0	4.8
Erringden	20	100.0	450	44.4	1.7

Notes: 1) Population estimates are drawn from Atack et al. 'People of the parish' p. 44; 2) percentage of all cases based on a sample for 1654-6.

<sup>72</sup> YAS/MD225/1/362A, Michaelmas 1636; YAS/MD225/1/363A, Michaelmas 1637.

<sup>73</sup> YAS/MD225/1/385A, Michaelmas 1659.

Map 5.3. *Internal and inter-township highway presentments, Sowerby, 1631-65.*



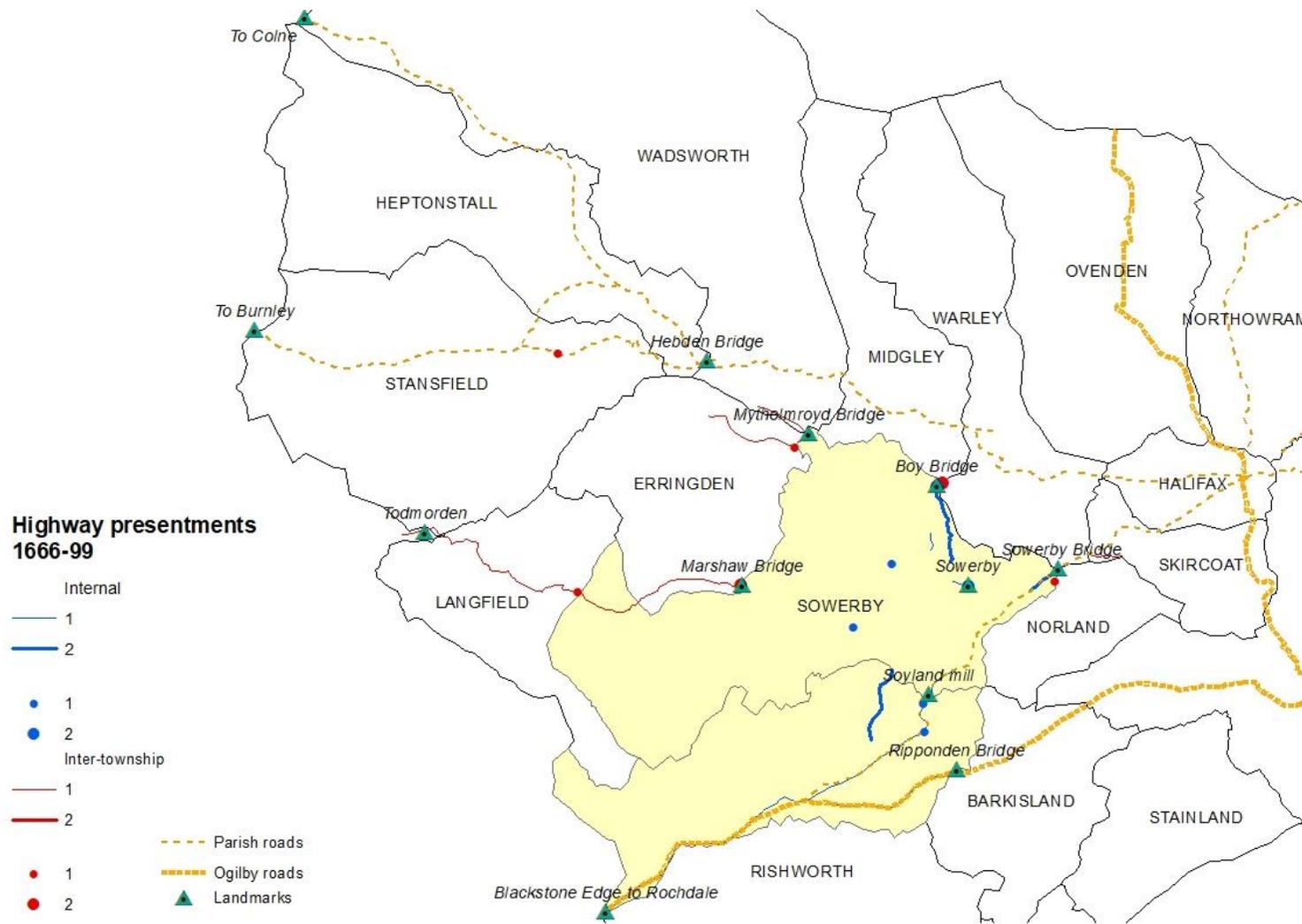
reflects the scale of damage from the war and, perhaps, a move away from customary repair by tenure by individuals. Mapping of highway presentments (Map 5.3) highlights a switch in the focus of inter-township actions away from routes to north-east Lancashire to the local route through Erringden and Langfield to Todmorden as well as greater use of the court within the township (thirteen). Attention continued on secondary routes from Sowerby town northwards to Mytholmroyd. The most prominent route is the main Rochdale-Halifax route from Blackstone Edge which bifurcates at Baitings near Ripponden towards Elland and Leeds. This road straddled the front line in 1644 and, as Sowerby's spending on military billeting and logistics shows, was in regular military use in this period. This new concentration of attention within the township's boundaries is striking: the possibility that Sowerby provided leadership to other townships in earlier decades had largely been replaced by a preoccupation with liabilities closer to home.

This change of focus, however, pales in comparison with the collapse in internal highway presentments for the last third of the century from 1666, rarely amounting to more than one per year. The township fell to seventh place for highway cases brought to the Halifax court and shared bottom place in proportion to population, a far cry from its earlier prominence (Table 5.3). The caseload is too small to discern distinctive patterns. The thirty-four years to the end of the century (excluding the two courts of 1672) brought just eight internal orders for repairs by tenure, eight cases of nuisance or

Table 5.3. *Halifax court leet: highway presentments, by area and population, 1666-99.*

Township	Highway presentments	Est. population		Pres/00 ha
	1666-99	1670	Pres/ 1,000	
Halifax	512	3,200	160.0	113.0
Stansfield	143	1,050	136.2	6.0
Heptonstall	76	1,000	76.0	3.5
Langfield	76	250	304.0	7.2
Midgley	59	250	236.0	6.9
Warley	51	1,150	44.3	3.2
<b>Sowerby</b>	<b>43</b>	<b>2,150</b>	<b>20.0</b>	<b>1.2</b>
Ovenden	35	1,100	31.8	1.7
Wadsworth	28	1,100	25.5	0.7
Skircoat	19	450	42.2	3.5
Erringden	19	400	47.5	1.6
Rishworth	13	650	20.0	0.4

Map 5.4. *Internal and inter-township highway presentments, Sowerby, 1666-99.*



obstruction, two bridge orders and two bylaws prohibiting passage over private land. There were seventeen inter-township orders, one for every four sessions of the court. Typical for these later decades were ‘nil’ declarations such as a bill in 1682 which roundly declared that ‘as for the high way, part his [sic] repaired and the rest must be done in a convenient time’.<sup>74</sup> (Sadly, the 1682 constable’s accounts do not survive to verify this claim.) An order of 1671 for ‘the town’ to repair the road between Higgin Chamber and Boulder Clough in Sowerby carried the rider ‘in case the way be not amended’, suggesting a doubt over customary responsibility by tenure.<sup>75</sup> The only exception to this low level of activity was the energetic work of Josiah Stansfield, in whose constableness six presentments for repair in 1672 (four for Soyland and two in Sowerby) included both branches of the highway to Blackstone Edge, adding some colour to an otherwise largely blank map (Map 5.4).<sup>76</sup> The twenty-five actions brought by other townships against Sowerby in this later period represented an increase over earlier decades. Erringden was now the most active in pushing for access at Mytholmroyd and through Sowerby to Halifax (thirteen times, 1678-94); they acknowledged completion of repairs by Sowerby in 1682 and 1688.<sup>77</sup> While two of these orders can be linked to spending items in Sowerby’s constables’ accounts, undocumented repairs were clearly still continuing at a significant level.

The sparseness of presentments from Sowerby in later years shows that the leet, for Sowerby at least, was losing its potency for solving highway problems inside or outside the township. Bennett claimed ‘the leet’s decline was the most long-lasting impact of the Civil War on policing’.<sup>78</sup> The current study qualifies this view by emphasising increasing highway orders in the Brighouse court even in the later decades of the century, but finds merit in his suggestion that ‘the better sort’ may have seen political opportunity in the ‘newly emerged vestry’ as ‘an alternative instrument of authority’.<sup>79</sup> One of the key concerns of vestry members was the setting of rates and control of expenditure, the next focus for enquiry.

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<sup>74</sup> YAS/MD225/1/407A, Easter 1682.

<sup>75</sup> YAS/MD225/1/397A, Michaelmas 1671.

<sup>76</sup> YAS/MD225/1/397A, Easter 1672; YAS/MD225/1/398A, Michaelmas 1672.

<sup>77</sup> Erringden: YAS/MD225/1/407A, Easter 1682; YAS/MD225/1/413A, Easter 1688.

<sup>78</sup> Bennett, ‘Enforcing the law’, p.116.

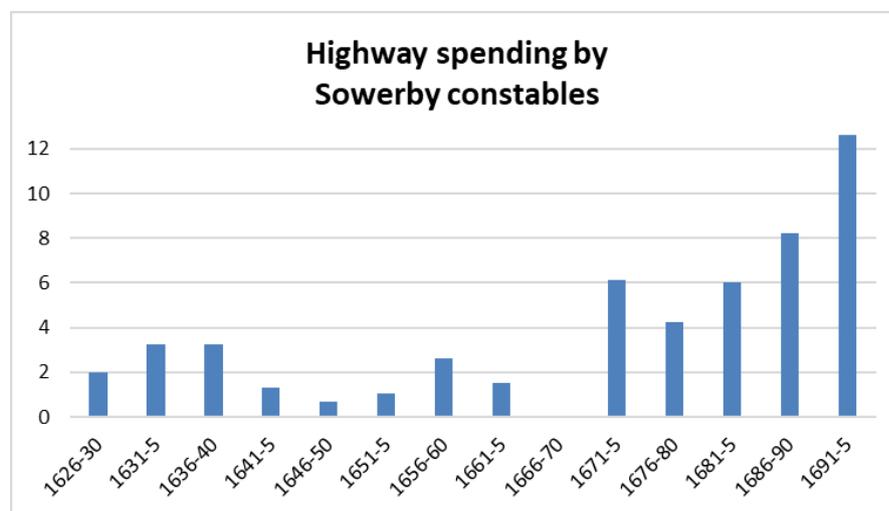
<sup>79</sup> Bennett, ‘Enforcing the law’, pp.117-8.

### III Tax-and-spend on road repairs

Use of taxation to maintain roads is rarely documented in this period: the Webbs cite just two cases of applications to Quarter Sessions for assessments to reimburse surveyors' expenses in Derbyshire in 1649/50 that 'draughts might be hired according to law and custom'.<sup>80</sup> The accounts from Sowerby are exceptional for sustained use of constables' rates in a highway context, demonstrating growing investment in road repairs, lines of accountability to high constables and justices and new governance arrangements within the township. Figures for the constables' spending on roads are summarised in Fig. 5.1 and shown in more detail for two phases in Tables 5.4 (1629-64) and 5.5 (1672-94).

In the first phase, spending on repairs was modest, especially when compared with the outlay on other aspects of the constables' duties. The largest single item was for a legal dispute with Erringden in 1634-5 over a highway near Mytholmroyd Bridge, on the boundary of the Sowerby 'Ramble'. The accounts itemise a total of £6 14s 10d in 1634, mostly legal expenses incurred at Quarter Sessions at Leeds and Wakefield, as well as £1 15s for purchase of stone. Further costs of £15 12s 4d were incurred on 'Erenden & our hye wayes' the following year. In both cases, Soyland quarter was excused a contribution.<sup>81</sup> Small sums of highway spending by constables persisted throughout the mid-century crisis when the receipts for all taxation exceeded £200 three times, peaking

Fig. 5.1. *Graph showing average annual spending by Sowerby constables, 1628-91.*



<sup>80</sup> See S. & B. Webb, *The Story of the King's Highway* (London, 1913), pp.20f.

<sup>81</sup> SCA, 1634, 1635.

Table 5.4. *Highway spending by Sowerby constables, 1629-64.*

Year ending	Total constable expenditure			Sowerby highways			Soyland highways			Bridges			Legal expenses		
1629	26	13	6	1	0	0									
				Missing 2 years											
1632	16	14	2	1	15	6									
1633	21	13	7	2	14	10									
1634	21	9	0	0	2	0				0	1	0	2	0	0
1635	33	13	7										6	14	0
1636	38	8	5	2	3	7									
1637	23	0	0	3	17	0									
1638	35	3	6	2	18	3				2	14	2			
1639	74	2	0	0	10	0	0	3	2						
1640	71	4	2	2	7	2	0	15	6						
1641	30	6	0	3	0	0									
				Missing 3 years											
1645	229	16	0												
1646	n/a			1	14	4									
1647	180	7	4	0	4	0									
1648	273	0	10	2	6	6									
1649	382	9	1	0	16	10									
				Missing 2 years											
1652	70	19	7	2	6	0	0	9	0	1	10	0			
1653	116	3	0	0	16	2	0	2	0						
1654	13	11	1	0	8	10									
1655	51	4	0	1	5	6	0	3	0						
1656	91	0	0	2	2	6									
1657	10	7	7	1	2	0									
1658	11	13	0	3	19	8									
1659	20	6	0	1	3	0	0	14	0	1	1	0			
1660	17	18	7	1	10	8				1	9	0			
1661	109	5	0	2	5	4									
1662	114	6	0		16	8									
				Missing 1 year											
1664	8	9	1	3	3	2									
<i>Total</i>	<b>2,092</b>	<b>19</b>	<b>1</b>	<b>45</b>	<b>10</b>	<b>14</b>	<b>2</b>	<b>6</b>	<b>8</b>	<b>6</b>	<b>15</b>	<b>2</b>	<b>8</b>	<b>14</b>	<b>0</b>

Notes: 1) The year cited is that in which the term of office ended; 2) years in red are those served by a man from Soyland (every fourth year); 3) where the location of spending on highways is not specified, spending within Sowerby has been assumed: further spending in Soyland may be hidden within these totals.

at £382 in 1649. Payments referring to work on ‘the highway’ probably relate to the main Rochdale-Halifax road, such as the payment of 2s to George Fairbanke and Henry Stanworth ‘wch they had pd out more than they hath collected for the repayre of the highway’; these were not listed as officeholders in that year, suggesting that this may have been covering a shortfall on a localised subscription.<sup>82</sup> About a third of total constable spending (£42 10s 6d) may have been on this road (but cannot be safely mapped), while just under half was recorded baldly as ‘for the highways’. The criteria for expenditure from constable funds rather than action at the court leet were neither stated nor implied. In the case of repairs to Mytholmroyd Bridge in 1652, a manorial penalty of 30s on each of Sowerby, Erringden and Wadsworth, ‘every towne their proportionable part’, matches a payment of 30s in the Sowerby constable accounts in the accounts.<sup>83</sup> Such correspondence is, however, rare, and throughout this period constable repair payments were generally independent of manorial orders laid either by neighbouring townships or by Sowerby itself. Locational data show spending heavily weighted towards the three quarters of Sowerby; the two branches of the Rochdale road were the only repairs funded in Soyland (Map 5.5). Immediately after the Restoration, and, perhaps an indication of disengagement in a Parliamentary stronghold, both spending and presentments to the leet were subdued. There was also no visible response to the statute of 1662 that authorised temporary rating powers for highway surveyors.<sup>84</sup> The legislation formalising township authority under the Poor Relief Act of that year may have been a more urgent and time-consuming challenge. As noted earlier, more maintenance in these years undoubtedly took place than is documented, not least in response to the seventeen orders laid by other townships: nine of these were issued by Langfield in the north-west of the parish in this period, once again showing the sensitivity of the local route through Erringden and Sowerby between Todmorden and Halifax.

The scale of repairs funded through the constables’ rates from the 1670s is still more impressive, and parallels have not been found in published historical work or record transcriptions. Although only fourteen years’ accounts are available, they document a surge in annual highway spending levels in 1672 and 1674, more than double that of

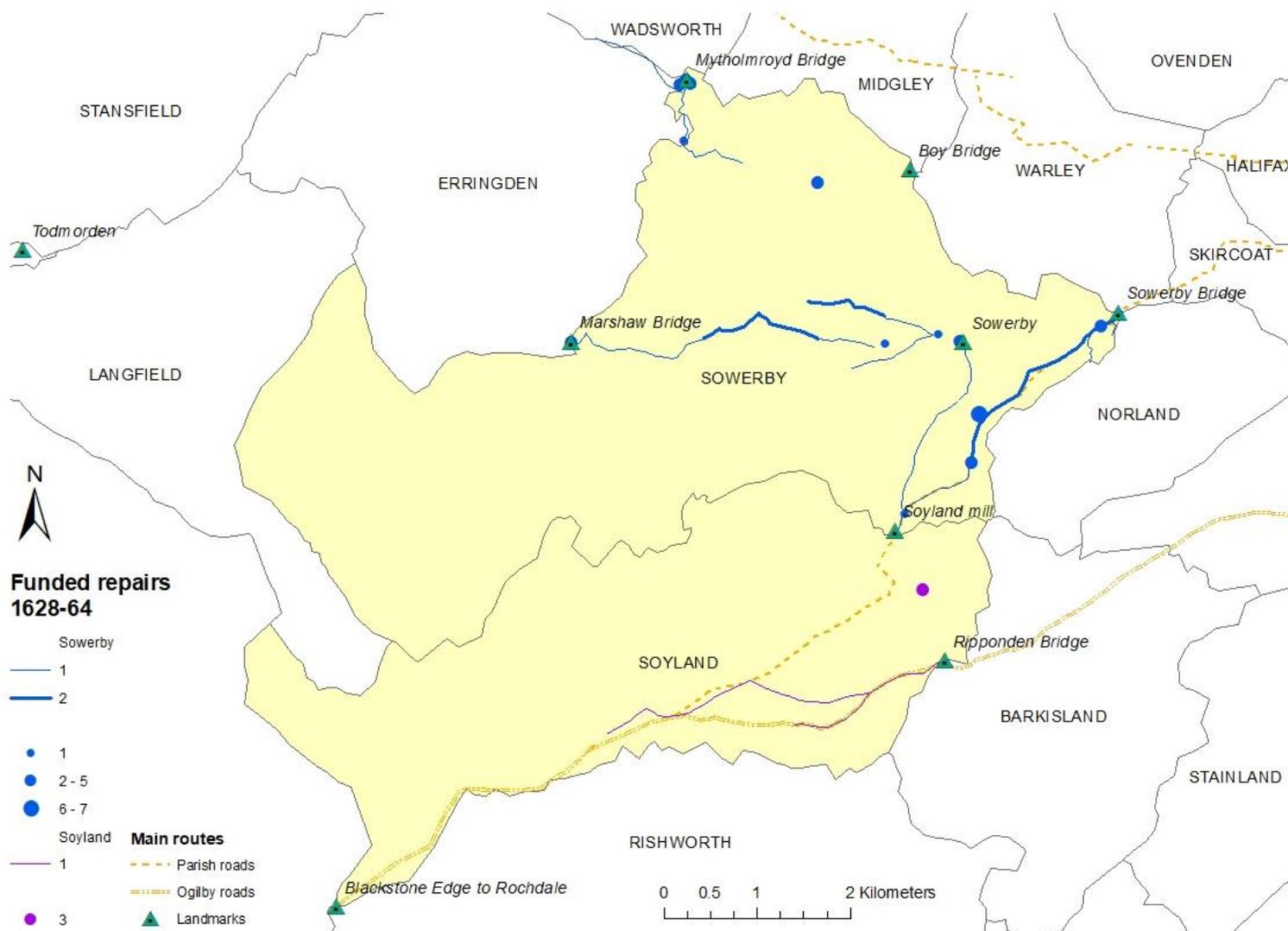
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<sup>82</sup> SCA, 1638.

<sup>83</sup> YAS/MD225/1/378A, Michaelmas 1652; SCA, October 1652.

<sup>84</sup> Table 2.1, 14 Cha. II c.6.

Map 5.5. *Frequency and location of constable spending, Sowerby, 1629-64.*



any previous year, which may have been spurred by the 1670 statute's three-year 'window' for highway rates that closed in March 1673 (Table 5.5).<sup>85</sup> As in 1662, these temporary provisions were tied to the appointment of surveyors, and it seems just possible that a lexical sleight of hand underlay the labelling of Sowerby's court leet presenters as 'overseers' three times (1671, 1673, 1675); the term 'overseer of the highways' was used in the accounts of 1684.<sup>86</sup> Certainly, it is difficult to see how William Farrer of nearby Midgley, an experienced local justice, could have been

Table 5.5. *Highway spending by Sowerby constables, 1672-94.*

Year	Total spend	Sowerby	Soyland	Bridges	Legal
1672	18 1 3½	8 10 4			
(1673)	[32 6 4]	Missing 1 year			
1674	51 10 7	7 8 3		4 11 4	
(1675)	[49 11 3]	Missing 1 year			
1676	23 10 0	2 10 5			
1677	12 1 3	2 19 4		11 0	
1678	11 10 2	3 17 0			
		Missing 2 years			
1681	20 11 0	4 9 3			
		Missing 2 years			
1684	87 12 9			57 2 9	
		Missing 1 year			
1686	27 3 9	7 12 6			
1687	17 7 2½	8 0 4			
1688	22 2 7	6 19 10			
1689	26 15 10	6 11 7	1 15 9		
1690	39 3 9¾	7 16 5			
1691	42 8 1	6 5 2	5 12 4		
1692 *	29 19 1	12 11 10			
		Missing 1 year			
1694		1 0 0			
<i>Total</i>	429 17 4¾	81 13 10	7 8 1	62 5 1	0 0 0

<sup>85</sup> 22 Cha. II c.12 (1670).

<sup>86</sup> YAS/MD225/1/397A, Michaelmas 1671; YAS/MD225/1/399A, Michaelmas 1673; YAS/MD225/1/400A, Easter 1675; SCA, October 1684; see also Ch.2.

of tax-funded spending when the Sowerby constable paid his clerk 1s for ‘a certificate about the hywayes’ in 1677.<sup>87</sup>

Within the three quarters of Sowerby, annual spend fluctuated between £6 and £8, more than double that of the earlier phase. In 1684, expenditure was restricted to the exceptional cost (shared with Erringden and Wadsworth) of £57 2s 9d towards building a new bridge at Mytholmroyd.<sup>88</sup> The proportion of highway spending within the constables’ budget rose from 2.2% in 1631-65 to 20.7% in 1671-92. In the final two years, joint payments between Soyland and Sowerby lifted the highways budget share further, reaching 42% in 1692.<sup>89</sup> The repairs in Soyland identified in the constable accounts were £1 15s 9d for ‘reparing brooken places & stoning the highwaies in Soyland’ and £3 19s 3d in 1690-1 for work which included ‘62 daies between blackstone Edg & Soyland Millnes’.<sup>90</sup> This moorland section of the road seldom features in the repair records; co-ordination between the two parts of the township coincided with unusually heavy military traffic over Blackstone Edge recorded by Sowerby constables at the time of William III’s war with the Jacobites in Ireland (1689-90).<sup>91</sup> Mapped in GIS, the contrast in spending between the two parts of the township is unmistakable (Map 5.6). Apart from 1690-2, the bulk of investment was within the three quarters of Sowerby on the main highway from Sowerby Bridge to Soyland mill and on secondary roads radiating from Sowerby town to the north and west. No spending in Soyland quarter was recorded between 1659 and 1689. The divide in governance between the two parts of the township was hardening.

Higher expenditure was used to upgrade the quality of some roads using stone ‘setts’, thus increasing the extent of roads usable by carts and enabling access to stone quarries on the high ground to the west of Sowerby town (Table 5.6).<sup>92</sup> The approach was now not merely one of repair (‘reparing broken places’) but also of improvement. Casual payments were partly replaced by contracts. In 1672 Joshua Rattcliff won three repair contracts ‘at the rate of 1½d per yrd’, added to which was 2s 2d in ale to two men at ‘1d

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<sup>87</sup> SCA, July 1677.

<sup>88</sup> SCA, October 1684.

<sup>89</sup> SCA, 1691, 1692.

<sup>90</sup> SCA, August 1689, 1691.

<sup>91</sup> W.B. Crump, ‘Sowerby highways’ (1928), pp.1-42 (pp.36-9).

<sup>92</sup> Stone quarries marked near Bowerslack on the 1851 OS map (see also Ch.6); ‘cetting’ from ‘setts’, dialect: small block-shaped paving stones.

Map 5.6. *Frequency and location of constable spending, 1671-94.*

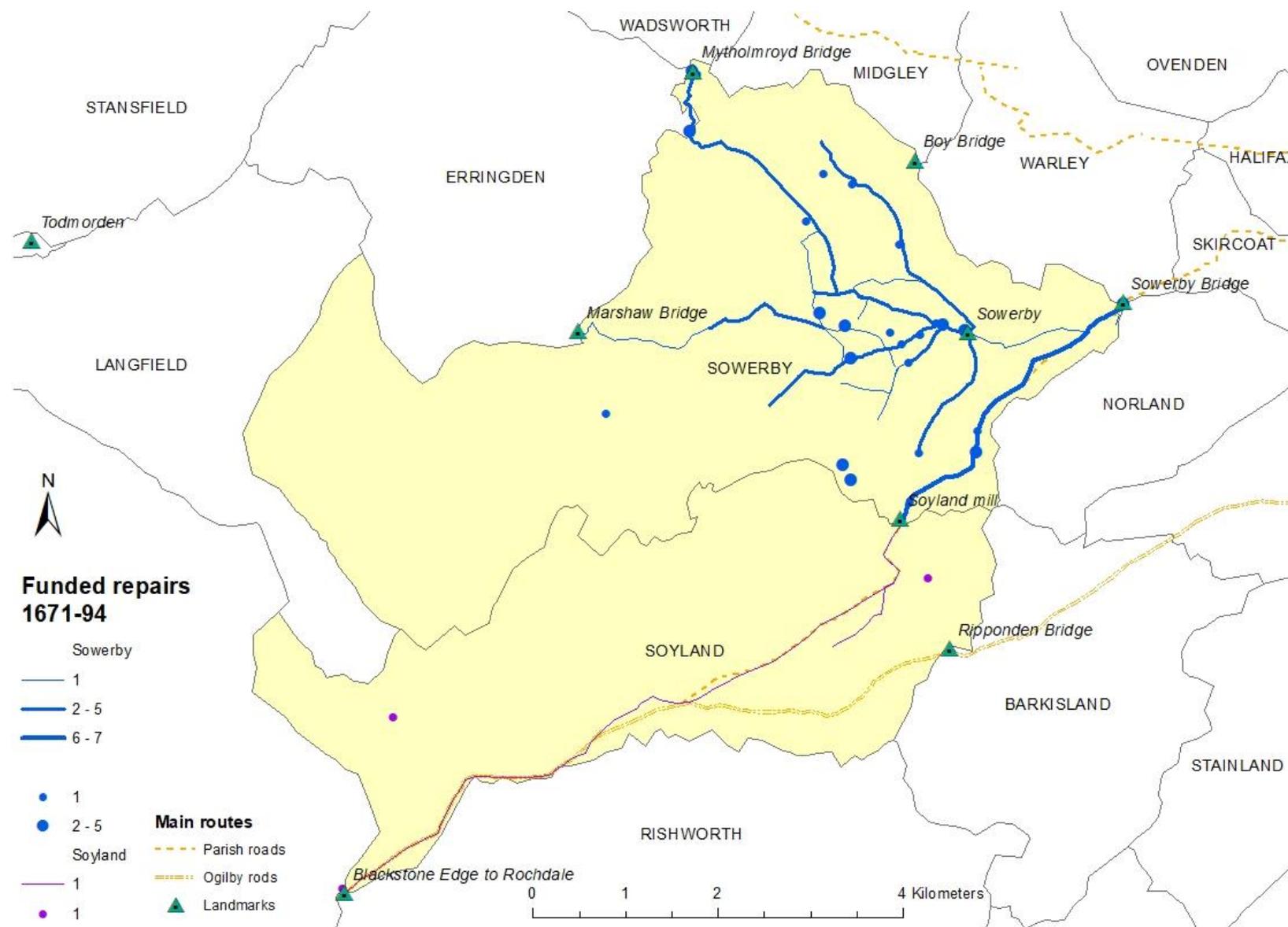


Table 5.6. *Details of repairs and improvements, Sowerby, 1672-9.*

<b>Date</b>	<b>Details</b>	<b>Amount</b>
Feb 1672	Setting the highway ... a man bearing stones 5 daies ... in ale to two menn	18s 2d
Jun 7	Setting the highway	8s 0d
Aug 9	Setting the highway ... a man & horse to lead stones ... in ale	16s 0d
Oct 13 1674	Leading stones into the cartt way ...	4s 0d
Apr 6 1676	Cetting & repaireing highway ... getting of stones	9s 11d
Jul 15	Repaireing & cetting the highway ... man for leading stones	4s 6d
May 5 1677	8 dayes mending the highwayes & 2 dayes leading stones with a horse and a cart	£1 3s 6d
Jul 22 1678	Setting the highway	13s 6d
Jul 29 1679	18 daies & ½ in Sowerby Townegate & getting stones	£1 ?s ?d
Aug 24	33 daies in reparing brooken places & stoning the highwaies in Soyland	£1 15s 9d
Sep 20	32 daies in repairing brocken places & stoning the high waies in Sowerby	£1 14s 10d

per diem a man'.<sup>93</sup> The daily rate in 1679 appears to have been around 12d per day, a good rate for northern England, suggesting stone-working skills. The scale and nature of the work indicate that governance of highways had become more confident, more 'businesslike'. These changes in the style and substance of highway maintenance signal a shift of fundamental significance for township governance, almost certainly the result of the vestry's influence.

The years of high maintenance spending through constables' rates ended abruptly with the transfer of highway duties to a highway surveyor after the 1692 highways statute: the office was mentioned in an accounting entry in 1694 recording a payment by the constable 'at the special sessions for the new oversears'.<sup>94</sup> The almost simultaneous allocation of assessment for the new land tax to designated collectors at township level in 1692-3 degraded the status of the constableness.<sup>95</sup> Although attendance at the leet continued and the constable was still elected at the Michaelmas session into the nineteenth century, Sowerby brought ever fewer highway presentments and none between 1695 and the end of paper records in 1699. For the leading townsmen of

<sup>93</sup> SCA, February, April & August 1672.

<sup>94</sup> SCA, April 1694.

<sup>95</sup> 4 Will. & Mar. c.1 (1692), the Land Tax Act.

Sowerby, the constableness had been a core element of governance throughout the century, one which was able to deploy both the mechanisms of manorial regulation and, increasingly after 1660, locally assessed taxes to manage road maintenance.

Documentation for the phenomenon is focused almost entirely on the three quarters of Sowerby, and Soyland appears to have developed, in effect, a separate administrative status for highways, just as it already had for their churchwarden and overseer of the poor. This is implied by the isolated grant in 1652 of 5s to ‘the ouerseers in Soyland to ward repaireing of high ways.’<sup>96</sup> To some extent the memorandum cited earlier in this chapter was a valediction.

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<sup>96</sup> SCA, undated, 1652.

## IV Repairing and reporting

The intensification of requirements by parish officeholders to report and liaise with county officials is at the heart of Fletcher's analysis of the reform of provincial Stuart government.<sup>97</sup> The local relationships of most significance in the seventeenth century were those between parish or township officeholders, justices and high constables, which developed into the regular routines of petty and special sessions, reporting against articles of enquiry and tax collection.<sup>98</sup> Duties related to the provisioning and training of the militia and logistical support for the army fluctuated according to political pressures, but were of more sensitivity in strategically important Sowerby. Liaison with commissioners and assessors for different tax assessments and excise duties built comprehensive awareness of land holdings and levels of wealth. Coroners regularly requested Sowerby's constables to attend inquests in neighbouring townships.<sup>99</sup> External pressures also necessitated internal meetings of the leading townsmen within Sowerby to set taxation rates, monitor spending and represent township interests. It is argued here that the shift of highway maintenance policy towards township (rather than tenurial) responsibility and the use of taxation for maintenance was concomitant with intensified routines of accountability to justices.

The key indicators used for measuring accountability through justices and high constables in the accounts are attendance at Quarter and Petty Sessions ('private sessions' in the accounts) and reporting to the high constable on the 'fourteen articles'. The Sowerby accounts commenced in the late 1620s at a time of acute political and economic tension. They vividly document local experience during the Personal Rule of Charles I, when the Privy Council looked to county administrators to take action to contain the risks of social unrest, of which the 1631 Book of Orders, whatever its long gestation, is the celebrated example.<sup>100</sup> Attention to highway repairs was specifically flagged in Direction XII, an instruction that fits somewhat oddly with the chief focus on poor relief, employment and control of vagrancy:

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<sup>97</sup> Fletcher, *Reform*, pp.116-42.

<sup>98</sup> Kent, *Village Constable*, pp.35-8.

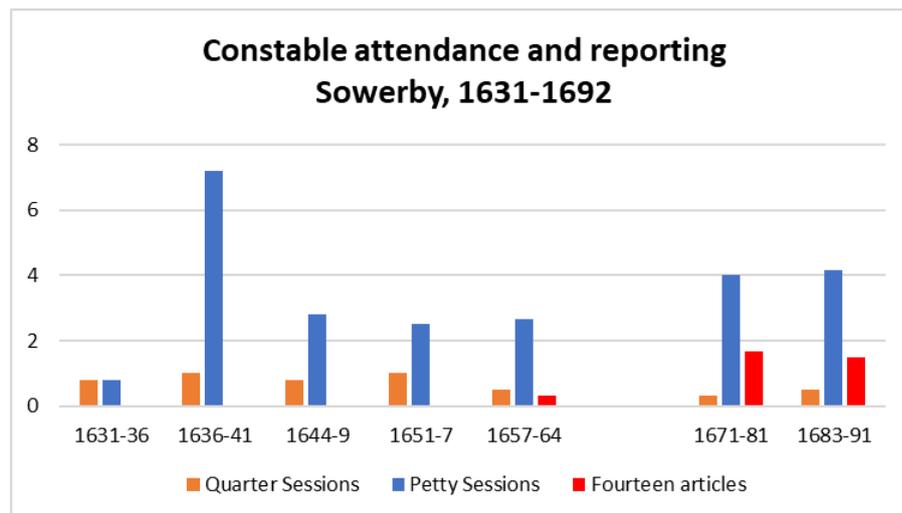
<sup>99</sup> For example, inquests at Ripponden (Soyland), October 1677; Midgley, October 1680; Erringden, January 1681; Rishworth, February 1681 (all SCA).

<sup>100</sup> B.W. Quintrell, 'The making of Charles I's Book of Orders', *EHR*, 95, 376 (1980), pp.553-72; Fletcher, *Reform*, pp.56-60.

And because the high-ways in all counties of England are in great decay, partly so grown for that men think there is no course by the common law, or order from the state to amend the same: and the work-days appointed by the statute are so omitted or idly performed, that there comes little good by them; therefore the justices of peace at these monthly meetings are to take special care of: and not only to cause the surveyers of the high-ways to present the same, but by their own view to inform themselves, that at the next quarter sessions after every meeting they may present all such neglects and offences, (as upon their own view) and the offenders there to be punished according to the law.<sup>101</sup>

The Direction, the only formal guidance on highways issued by central government between the statute of 1576 and the ordinance of 1654, was added at a late stage before publication in an awkward fit with the emphasis on social welfare.<sup>102</sup> In addition to the criticisms levied by Quintrell of the initiative as a whole, there must have been little appreciation at Westminster of the reality of tenurial road-repair arrangements that flourished, for example, in the parish of Halifax. Notwithstanding these weaknesses, the 1630s saw a peak in highway presentments at the Halifax leet, which may have been encouraged through county reporting cycles (Chapter Three). Attendance at petty sessions, usually at Halifax, was first documented in the constable's expenses of 1s 'paid att sessions at Yeland' [Elland] in 1629, becoming more frequent after 1635.<sup>103</sup> They could be numerous, but the evidence for their regularity and for whether

Fig. 5.2. *Graph showing average expense claims per year for reporting to justices and high constables, 1631-92.*



Note: 1) as no Quarter Sessions were held in Halifax between 1639 and 1707, references to 'the sessions in Halifax' are interpreted as petty sessions; 2) if constables chose not to claim expenses for trips to nearby Halifax, petty sessions attendance would be understated.

<sup>101</sup> John Rushworth, *Historical Collections* (London, 1659-80), ii, part 2, appendix, pp.82-9.

<sup>102</sup> See Quintrell, 'Book of Orders', pp.561, 568.

<sup>103</sup> SCA, 1629.

constables attended on request or by default is less clear (Fig. 5.2). In contrast, attendance by Sowerby's constables at Quarter Sessions was rarely more than once per year in response to particular disputes. The Michaelmas Quarter Sessions took place in Halifax in 1638 and 1639, but were thereafter held at Wakefield; in 1638 the accounts record 6d spent in Halifax on a petition and 'staying all night about cottages of a pint of wine'.<sup>104</sup> There was also a telling addendum to a demand for financial support for the main road from Halifax to Wakefield through Southowram (a township in the Honor of Pontefract):

Pd to Thomis Holdsworth and Thomis Lister ased upon our constabrey Aprell 18 1637 at  
Ponmpret [Pontefract] at the quarter seshons towards the repeire of Clarke bridge & hieways in  
Southourom with a resevance [reservance] in their order that they are never to have any more out  
of the parish £1 7s 4d

The importance of this unusual order is not just its recognition of the economically critical, but famously steep, 'Wakefield gate' out of Halifax through Southowram, but that the magistrates themselves were willing to spread the costs across townships. The other townships were no doubt upset at having to pay, but the justices themselves had legitimated taxes for unrepaired roads in a lesson not lost on the men of Sowerby.

In many parts of England, reporting was reinforced by the control procedure of making returns against articles of enquiry. Hindle reports an 'apogee' in 1615 of articles 'used on most circuits throughout the seventeenth century' for head constables to enquire into specified matters, although highways were not on the list.<sup>105</sup> Joan Kent found examples including the 'decay of highways' as early as 1623 in Salwarpe, Worcestershire.<sup>106</sup> In Sowerby, expenses for responding to 'the fourteen articles' are first documented in the 1662 Sowerby accounts with 1s paid to the 'Cheife Constable clarke for a warrant of 14 articles given in charge to execute in his office'.<sup>107</sup> No written responses have been found for the parish, but a surviving set for the Morley division of the West Riding in 1694 supports the supposition that they included an article on highway repair:

10 You shall inquire what bridges causeyes & hyghwayes are in decaye in everie several parishe & through whose default the same hath happened and whoe ought to repaire them if you doubt whether [which side] present both<sup>108</sup>

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<sup>104</sup> SCA, 1638.

<sup>105</sup> Hindle, *State and Social Change*, pp.148-9.

<sup>106</sup> Kent, *Village Constable*, p.37; Hindle, *State and Social Change*, p.7.

<sup>107</sup> SCA, n.d., 1662.

<sup>108</sup> The list of articles is included within orders to the constable of Haworth in the parish of Bradford, WYAS (B) HEA/B/55 (1694). The high constable was Joshua Dearden of Sowerby.

The routine generally took place twice a year and followed the process reported by Fletcher in Lancashire, usually timed in advance of the Assizes, giving justices the chance *inter alia* to review highway and bridge problems before they met the judges at York.<sup>109</sup> In this context, payments to repair contractors would have been a simple solution for constables to solve problems quickly. It may, thus, be no accident that this post-Restoration routine coincided with higher spending by constables on Sowerby's roads.

Equally important was the frequency of *ad hoc* contact between justices, high constables and Sowerby constables outside sessions. The records are peppered with visits to justices for arrest warrants and vagrant removals. A comparison of expense claims in three sample years shows that contact with justices and county administration was particularly intense during the Personal Rule (Table 5.7). The constables' responsibilities for tax collection throughout the seventeenth century included precepted contributions paid to the high constable for the Riding's bridges, house of correction and prisoners at York Castle. The location of magistrates was, therefore, important for constables in discharging their duties and for justices in supervising officeholders. In the seventeenth century, Joshua Horton of Sowerby Hall was the only justice resident in the

Table 5.7 *Constable contacts with justices and county administration, sample years.*

	<b>1636-7</b>	<b>1680-1</b>	<b>1693-4</b>
Petty Sessions	Nov, Dec, Jan, Apr (2), Jun, Jul, Aug, Sep	Dec, Apr (2), Jul, Oct	Nov, Jan, Mar (2), Apr (2), May, Jun, Sep
Quarter Sessions	Jul (3 days), Oct	Jan	
Justice acting alone	Dec, Jan, Feb, Mar, May, Jul (2), Sep (2)	Feb, May (2)	Oct
Warrant from justices to search for vagrants	Nov, Jan, Sep		
Fourteen articles (High constable)		Mar, Jun	Mar, Jul
High constable (Payments)	Nov, Apr, May, Jun, Sep	Jun, Jul	Nov, Apr, Jun, Aug, Sep
Court leet	May, Oct	Oct, Apr, Oct	Apr
Road maintenance operations	Nov, Apr, May, Oct	Mar-May, Jul, Sep-Oct	Aug

<sup>109</sup> Fletcher, *Reform*, pp.138-9.

township (attending Quarter Sessions nine times, 1656-9), and his authority during the Protectorate may have caused a shift of attention to county administration and a sharp drop in presentments to the court leet.<sup>110</sup>

Linked to the intensification of external supervision was the formalisation of lines of accountability within the township. Starting in 1645, Sowerby's audit procedure for the constables' accounts helps to identify a cohesive group of literate clothiers and landholders in Sowerby managing the township's affairs, a vestry in all but name.<sup>111</sup> Significantly, the group was headed by men with experience at county level in the Interregnum, such as Joshua Horton (high constable and justice). Horton signed first on eleven out of fifteen lists between 1645 and 1676. After successfully navigating the hefty tax demands of the Civil War years the assured tone of those signing off the 1655 accounts comes across in a note appearing to allow Sowerby's deputy constable James Hopkinson a modest fee for his labours:

Memorandum: that itt was condescended to by those who were present at <the receiving of> the accounts abovesaid that the said sume of £2 10s 0d shall bee allowed him towards his chamber wch was bought of him remaineing in the ould schoole house<sup>112</sup>

The evidence from the accounts and cases at Quarter Sessions is that suspicion of Sowerby's leaders, who had been prominent during the Protectorate, continued long after the Restoration. When, in 1666, Soyland revived its rating grievance with Sowerby in a petition to Quarter Sessions, the dispute ended in apparent defeat for Sowerby after an appeal 'with learned counsel' in 1668 in which the pre-war percentage split was confirmed.<sup>113</sup> It may be too fanciful to interpret this incident and a seven-year gap in Sowerby's constables' accounts (1665-71) as a breakdown of the vestry system, but alignment of Joshua Horton and Sowerby's other leaders with the interests of the county bench was not secure until the 1670s, a timeline that coincides with a transformation in administrative practice to regular financial investment in local highways. A strong indication of the turnaround is the brash self-confidence pervading records from the 1672 constableness of Josias Stansfield. Stansfield had inherited the eponymous family fulling mill from a prominent Presbyterian father and used his term to double highway

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<sup>110</sup> Justices listed, WRQS (Orders and Indictments), accessed via <http://www.ancestry.co.uk> November 2019.

<sup>111</sup> The word 'vestry' does not appear in surviving documents until the last decade of the century: see J.L. Cruickshank, 'Courts leet, constables and the township structure in the West Riding, 1540-1842', *NH*, 54:1, (2017), pp.59-78 (p.64); Hindle, *State and Social Change*, Ch.8.

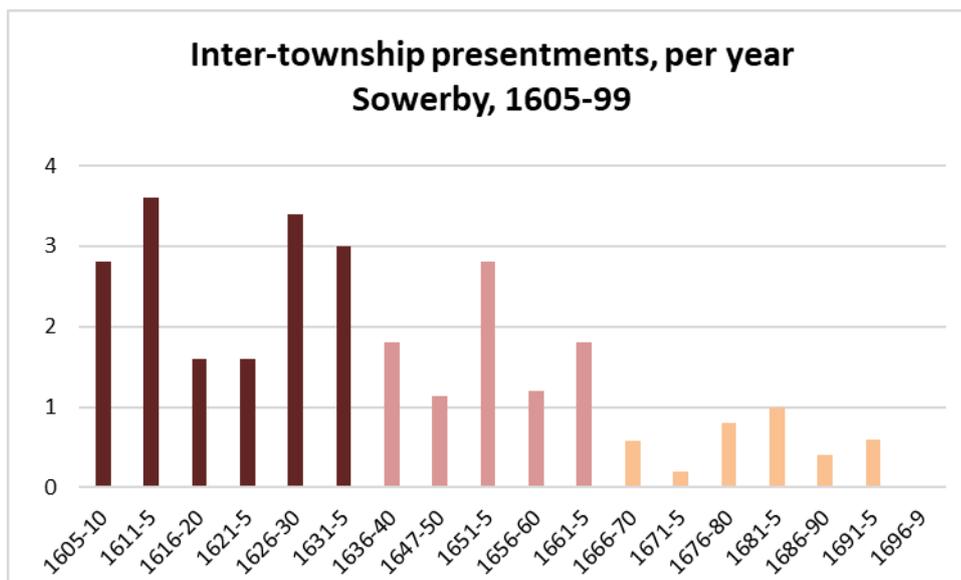
<sup>112</sup> SCA, 1655.

<sup>113</sup> WRQS Order, May 1668, accessed via <http://www.ancestry.co.uk> in November 2019.

spending amid a flurry of presentments at the court leet.<sup>114</sup> The hostility of county justices finally receded with the appointment to the bench in 1673 of Joshua Horton's nephew, Thomas Horton, the principal landowner in neighbouring Barkisland, and was symbolically sealed by a £200 allocation from Riding funds for the reconstruction of Sowerby Bridge in 1674.<sup>115</sup>

A fall in Sowerby's inter-township presentments correlates closely with increased reporting obligations for their constables (Fig. 5.3). The steady level of such presentments (brown, 1605-35, around 2-3 per year) reflects the township's anxiety about routes into Halifax and across to Lancashire in the first three decades of the century. They subsided (pink, 1636-65) when Petty Sessions offered a mechanism for enforcing repairs elsewhere in the parish to be enforced, although a spike in the early 1650s may represent a continuing maintenance backlog from the war years. The introduction of articling in 1661 (orange) coincided with a further decline to fewer than one every two years. For roads presented within Sowerby, the dynamics were somewhat different (Fig 5.4). The onset of meetings with justices at Petty Sessions in the 1630s

Fig. 5.3. *Graph highlighting the decline in average inter-township presentments per year in the later seventeenth century.*

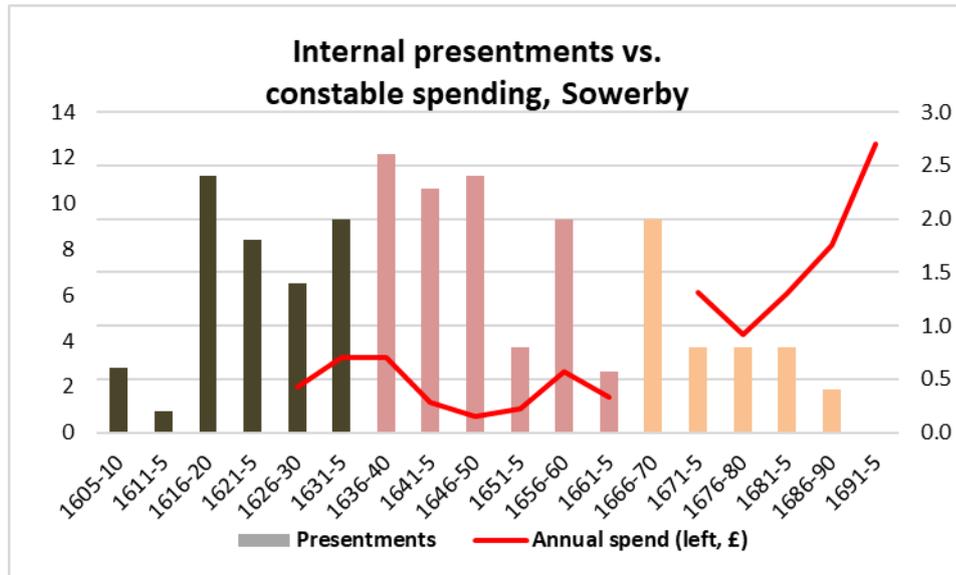


Notes on colours: brown - Petty Sessions (PS) attendance not documented  
pink - attending PS  
orange - attending PS and responding to 14 articles

<sup>114</sup> SCA, 1672; YAS/MD225/1/397-8A, Easter & Michaelmas 1672.

<sup>115</sup> WRQS Order, January 1674, accessed via <http://www.ancestry.co.uk> in November 2019.

Fig. 5.4. *Graph showing the relationship between average annual highway spending and internal manorial presentments per session, 1626-95.*



Note: Left axis – annual spending in £; Right axis – average no. of presentments per year

had a smaller impact on the level of presentments to the leet, although there were fewer internal actions in the early 1650s and early 1660s. The collapse in presentments after 1670 was much sharper and proved irreversible: this is the very period in which ‘tax and spend’ accelerated in Sowerby (red line) and is clear evidence that the new approach was taking hold.

Collation of the two sets of records supports the supposition of a gradual process of disengagement from the leet and adoption of tax-funded maintenance rather than a more dramatic severance of jurisdiction associated by Bennett (in relation to the control of crime) with the First Civil War and its aftermath.<sup>116</sup> In Sowerby, the first stage was a scaling down of inter-town presentments to the leet from the mid-1630s, which suggests greater confidence in the arrangements in place by the respective townships. Events in the middle of the century accelerated the concentration of power within a relatively small group of leading parishioners with shared property and textile interests who, at least initially, continued use of leet presentments alongside modest spending from the rates. The potential of the new ‘vestry’ to manage many of its highways through taxation is more confident from the 1670s, at which time the emphasis appeared to change from reactive repair to proactive investment. Externally, the key factor was the quality of the relationship with county administration through local justices (first

<sup>116</sup> Bennett, ‘Enforcing the law’, pp.413-4.

Joshua, and then Thomas, Horton), attendance at justices' Petty Sessions and the process of answering the fourteen articles. Internally, momentum for administrative control came from the process of social restructuring explored in the next section.

## V Masters and labourers

The homogeneity of the middling sort in Sowerby before 1700 was an important starting point for John Smail's use of hearth tax and probate data in charting the origins of middle-class culture in the parish.<sup>117</sup> Chronologically, Smail assigned a shift in social structure to technological changes in the early eighteenth century and the development of capitalistic forms of production for woollen cloth and (especially) worsted.<sup>118</sup> He contrasted increasing later differentiation with the flatter and egalitarian social structure of the seventeenth century, which he saw as embodied in a large office-holding middling sort. His remarks about 'vestries' buttress this contrast:

The vestries that approved the officers' accounts and allowed them assessments were open to all rate payers, and there is no evidence that small groups of select individuals dominated local government in this period.<sup>119</sup>

While the current study also emphasises the importance of changes in the social structure, it questions whether such a neat correlation with changes in textile manufacture is tenable. Largely on the basis of the constables' accounts, a chronology is proposed that places social restructuring further back into the mid-seventeenth century, when a small group of wealthy supporters in Sowerby led the drive to generate funds for the parliamentary regime.

There is, to be sure, evidence that most copyhold tenancies were small at the beginning of the study period (Table 5.8). An early seventeenth-century survey of manorial tenants shows typical landholdings in Sowerby of around twelve acres, held by 138

Table 5.8. *Officeholders by acre holdings, Sowerby, 1605-15.*

Acre holdings	1600 Survey	Office-holders	Jur	Con	Dep	Pre
> 40	4	4	3	1	0	3
25 to <40	14	11	5	3	0	8
10 to <25	42	13	4	3	0	12
<10	112	14	3	4	1	11
Unlisted	250	16	3	0	4	12

Note: 1) Officeholders, men serving at least one term of office; 2) Jur – Juror, Con – constable, Dep – deputy constable, Pre – presenter; 3) the figure of 250 is an estimate of unlisted subtenancies and landless households.

<sup>117</sup> Smail, *Middle-Class Culture*, esp. chs.2,3, pp.19-81; see also P. Hudson & S. King, 'Two textile townships, c.1660-1820: a comparative demographic analysis', *EcHR*, 53, 4 (2000), pp.706-41.

<sup>118</sup> Smail, *Middle-Class Culture*, pp.56-68.

<sup>119</sup> *Ibid.*, pp.36-7.

copyholders, 9 mostly non-resident freeholders and 34 who had a mix of both.<sup>120</sup> More than a third held ten or more acres from the manor in Sowerby, but only four were recorded as holding forty-five acres or more.<sup>121</sup> Office in the years closest to the survey (1605-15) was entrenched in manorial tenure. Fifty-eight men held office in this period, of whom forty-two were listed in the survey. Most of these had copyhold land, while fifteen also had some freehold land. All ten men serving as constables were manorial copyholders. Jury service was weighted to the small group with higher acreages, while those serving as presenters had smaller holdings. Analysis in Chapter Four suggested that, across 1621-40, only 11.4% of Sowerby householders participated in office, the lowest rate of the eight townships analysed, hardly surprising given the large population, but emphasising that power was already concentrated within a relatively tight social circle.<sup>122</sup> An illiteracy rate of 39.0% across all officeholders in 1621-40 was low, (Wadsworth, 63.5%, Northowram 53.4%), and especially low for presenters (38.2%, compared to Wadsworth, 62.0%, and Northowram, 57.5%).<sup>123</sup> Sowerby's overall hearth average was similar to the Upper Valley townships (1.89, compared to 1.55 in Wadsworth in 1664), but the average for officeholders were significantly higher at 2.51 and closer to those found in the Eastern townships (Northowram, 2.79).<sup>124</sup> The sheer number of householders (477 in 1664, compared to 179 in Wadsworth and 328 in Northowram) gave Sowerby less incentive to involve men from poorer households.<sup>125</sup>

The keeping of constables' accounts from 1629 and the process for inspecting them at year end from 1645 were significant stages in the development of the township's governance. Taxation lists together with paper systems for brewing licences, tax payment receipts ('acquittances' in the accounts) placed a premium on literacy and numeracy skills and advantaged those who had attended the grammar school in Halifax (endowed from 1600) or the school in Sowerby itself.<sup>126</sup> Only three of the twenty-six

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<sup>120</sup> TNA, DL 43/11/25, Sowerby: Survey of copyhold land (ascribed to the reign of James I).

<sup>121</sup> Wadsworth and Stansfield used customary acres, equivalent to 1.62 and 2.16 statute acres respectively, Jennings, *Pennine Valley*, p.56; the acre measure used in Sowerby is unknown.

<sup>122</sup> Table 4.3.

<sup>123</sup> Tables 4.10, 4.11.

<sup>124</sup> Table 4.14.

<sup>125</sup> Table 4.12.

<sup>126</sup> A. Smith, 'Sowerby Endowed School', *THAS* (1961), pp.55-66; an 'old school house' is mentioned in SCA., 1655; £1 4s 1d was spent on building materials for 'the school house', SCA October 1681.

Table 5.9. *Sowerby vestrymen and officeholding, 1655-84.*

Name occurrences	69
Separate individuals	26
Service as constable	11
Service as juror	8
Service as a presenter	5
Service in no other capacity	6

Note: 1) vestry lists appear for 15 years within this period; 2) a 'name occurrence' is each separate appearance of a name in a list of those approving accounts; 3) 'service' is one or more terms of office

men who witnessed the accounts in fifteen years (1655-1684) signed with a mark. The association of this group with a term as constable is even stronger than for jury service (Table 5.9). This suggests lower levels of participation at the court leet for township notables than was the case, for example, in the Eastern townships, where more juror places were available and commitment to manorial regulation of highways remained strong into the later decades of the century (Chapter Four). Constable service in Sowerby often preceded a place in the vestry, suggesting the office was recognised as a route into the leaders' group (possibly on a par with service as overseer of the poor, for which few records survive from Sowerby until 1737).<sup>127</sup>

A breakdown of the hearth status of officeholders and vestrymen is consistent with increasing consolidation of control by a small, relatively wealthy elite later in the century (Table 5.10). The unstated hearth minimum for vestrymen seems to have been three hearths, and half of those taxed on six or more hearths participated. By the time of the later sample, more jurors and constables appear to be men with only two hearths,

Table 5.10. *Comparison of hearth tax data for vestrymen and officeholders, Sowerby, 1655-70, 1671-85.*

Hearths	1655-70					1671-85				
	All	Ves	Jur	Con	Pre	All	Ves	Jur	Con	Pre
6+	6	3	1		1	8	4	1	1	
3-5	66	6	6	6	14	80	5	4	4	8
2	69		1	2	9	68		3	3	7
1	194		2		8	182		1		13

Notes: 1) Ves – Vestrymen; 2) office terms/ attendances before or after the time period are not counted; 3) the hearth tax data is 1664 for 1655-70, 1672 for 1671-85.<sup>128</sup>

<sup>127</sup> WYAS (C), SPL:31, Account books for poor relief monies paid out (1737-1758).

<sup>128</sup> Appendix 2, Hearth Tax data.

while almost half the presenters were now men with single-hearthed houses. This seems to indicate a lower threshold for leet attendance in the later decades of the century. It is also noticeable that the most assiduous vestrymen had larger houses in Sowerby ‘quarter’ itself: the Protectorate justice Joshua Horton of Sowerby Hall (nine hearths, eleven vestry attendances, 1645-76); John Dearden of Wood Lane Hall (eight hearths, nine attendances, 1656-81); and ‘Isaac Farrer’ of Ball Green (nine hearths, fourteen attendances, 1660-98, split between father and son of the same name).<sup>129</sup> Higher status was also flagged by position in the lists of signatories: these were headed by Horton on each occasion on which he signs, by Dearden twice and by another Sowerby man, James Robinson (six hearths), also twice; the four years in which Horton did not sign were years in which he was a serving justice.<sup>130</sup> Such were the men setting priorities and approving maintenance arrangements.

These same trends are apparent in indicators of literacy (Table 5.11). The prevalence of signatures by Sowerby’s vestrymen, constables and deputies confirms a continuing high level of literacy. Kent’s discussion of literacy levels among constables in her sample of parishes before 1640 indicates considerable variation.<sup>131</sup> She gives some support to a link between Puritanism and the promotion of literacy, a link apparently echoed in Sowerby. In terms of national literacy trends, Cressy’s identification of stagnation in seventeenth-century rates of literacy was qualified by Houston’s study in north-east England in which illiteracy declined across all groups, albeit at a faster rate for craftsmen and tradesmen than yeomen and husbandmen.<sup>132</sup> The abrupt decline,

Table 5.11. *Literacy indicators, Sowerby, 1655-85.*

	1655-1670		1671-85	
	Marks	Signatures	Marks	Signatures
Vestrymen	3	10	1	7
Jurors	1	7	2	6
Constables	0	5	2	7
Presenters	14	23	22	9

<sup>129</sup> Farrer and Dearden are both mentioned in John Watson, *The History and Antiquities of the Parish of Halifax in Yorkshire* (London, 1775), p.300.

<sup>130</sup> Robinson met the £200 threshold for voting in 1654.

<sup>131</sup> Kent, *Village Constable*, pp.130-9.

<sup>132</sup> D. Cressy, *Literacy and the Social Order: Reading and Writing in Tudor and Stuart England* (Cambridge, 1980), ch.7; R.A. Houston, ‘The development of literacy: Northern England, 1640-1750’, *ECHR*, 35, 2, (1982), pp.199-216.

therefore, in the literacy skills of presenters in the later period, as measured by increased use of marks, is striking. Mid-century disruption to schooling in the 1640s may have been a factor in Sowerby, but, equally, marks may have been a bureaucratic time-saver (just as modern lawyers sometimes specify initials). Nevertheless, both the tax and literacy data make the hypothesis of continuing, possibly accelerating, social polarisation hard to resist. In crude terms, the presenter role at the manorial court was delegated to men of lesser status and educational attainment because the role now mattered less to the leading group. This is not to say that the politics of the manor were completely disregarded: after 1680, two of their number, Isaac Farrer and George Holgate, each served as leet juror seven times, thus strengthening ties with their peers in Halifax. The main priorities of the ruling group, however, were internal to the township, especially social control and tax assessments, including those for highways.

The social dynamics of the later phase of planned road maintenance reflect a sharper social distinction between the elite and the men carrying out the work, whose hearth status was low (Table 5.12). Altogether twenty-four men received payment for roadmending in the ten years with surviving itemised accounts between 1660 and 1681. Seventeen of these received only one payment of less than 10s. A few were vestrymen, including ‘Mr [John] Dearden’, who charged 1s 6d for supplying stone in 1681.<sup>133</sup> Much more typical were Jonas and Nicholas Wilde who were exempt from the hearth tax in 1664 and who earned over £17 in successive roadmending contracts; there is no

Table 5.12 *Social profile of top seven road maintenance contractors, 1660-81.*

	<b>Tax status</b>	<b>Contract value</b>	<b>Years paid</b>	<b>Offices held</b>
Jonas Wilde	Exempt	£13 5s 9d	1660-78 (7)	
Joshua Ratcliffe		£7 5s 8d	1672 only	
Nicholas Wilde	Exempt	£3 14s 7d	1661-74 (4)	
James Balme		£3 4s 6d	1677-81 (3)	
Matthew Wadsworth	1	£1 0s 0d	1678 only	Presenter (2)
John Willman	2	£0 15s 6d	1672-81 (3)	Juror (2), Dep Constable, Presenter (2)
Samuel Crabtree		£0 11s 0d	1662-78 (2)	

Note: the number of years in which a payment was received is indicated in brackets.

<sup>133</sup> SCA, May 1681.

evidence they ever held office. Six of the seven men may have been borderline cases for poor relief, in which case paying them to mend roads could have been a more attractive option for the vestry than the weekly dole. John Willman was the exception: a literate householder with two hearths in 1672, he may have been the unnamed recipient of £2 15s 8d for carting and mending during his term as deputy constable in 1677, besides smaller payments in 1672, 1674 and 1681. He was a manorial juror in 1675 and 1678 and a presenter four times between 1659 and 1681, though never a full constable nor vestryman. Mention of specialist ‘contractors’ is a further sign of economic polarisation in the last third of the century and one that foreshadows more capitalistic labour relations in the next century.

The emerging profile of township vestrymen is that they were older men, notable for wealth and property, higher literacy skills and more experience of township office, as was also found by Levine and Wrightson in both Whickham and Terling.<sup>134</sup> In political terms, many were associated with public or military service in the Interregnum and Presbyterian or Independent preferences of worship. They and their equally wealthy (but less politically tainted) successors were men who recognised structures of power at county level and showed less regard for highway regulation at the leet. Tax levels for highways, even at the levels of the 1690s, were bundled up with other expenditure items and, anyway, general taxation was far below the levels seen at mid-century.<sup>135</sup> The experience of supporting servants and labourers made the employment of men of the ‘poorer sort’ to mend roads and tracks attractive, especially if, as is possible, it substituted a wage for poor relief.

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<sup>134</sup> Wrightson & Levine, *Terling*, pp.103-6; D. Levine & K.E. Wrightson, *The Making of an Industrial Society: Whickham 1560-1765* (Oxford, 1991), pp.153-61, 324-7, 346-51.

<sup>135</sup> Table 5.5.

## VI Tax-and-spend outside Sowerby?

Crump's admiration for 'systematic repair' by Sowerby's constables and the absence of statute duty led him to claim for Sowerby 'a niche by itself in the history of English highway administration'.<sup>136</sup> He ascribed this to 'local independence and enterprise', although he thought it likely to have had parallels elsewhere in the area if records had survived. Fluctuations in the presentments of other townships to the leet offer an opportunity to test his hypothesis, reading across from the pattern of presentments in Sowerby. Two earlier graphs (Figs. 5.3 and 5.4) showed an unstable, but gradually declining, rate of leet presentments from Sowerby for internal repairs, plummeting to under one case per year at the same time as a pronounced jump in constable spending (c.1670). Similar drops in internal repair orders later in the century elsewhere in the parish might be suggestive of a more general turn to tax-funded repairs.

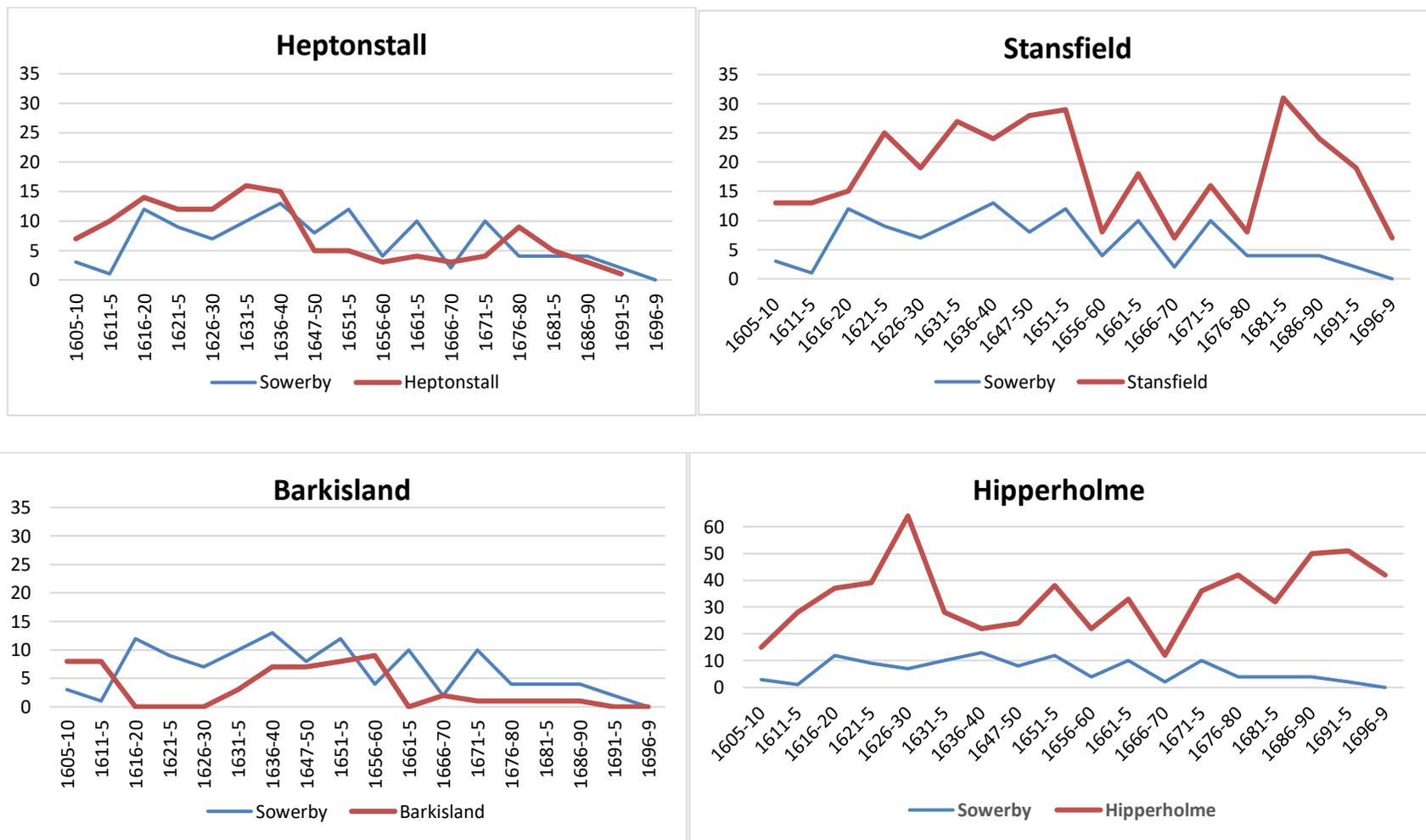
Figs. 5.5a-d are graphs of five-yearly totals of internal presentments for two townships from each court area with a trendline for Sowerby superimposed in blue for comparison. All four townships show signs of mid-century disruption to presentment activity, albeit the timing of changes to highway presentment patterns varies. Of the two Halifax court townships, Heptonstall's pattern is closer to that of Sowerby, and its presentment decline from the 1640s is even more pronounced. Presentments from Stansfield drop later, during the 1655-60 tax window, before rising again in the 1680s. This appearance of a revival in Stansfield after 1680 may be illusory: forty-nine of the fifty-seven Stansfield orders simply name the roads concerned without stating responsibility, which could also indicate township responsibility discharged through statute labour, tenure or, as in Sowerby, taxation.

The two Brighouse townships were from very different parts of the court area. Barkisland is particularly interesting for its location on the southern bank of the Ryburn river opposite Sowerby, making it responsible for the section of Ogilby's road from Lancashire through Ripponden and Elland towards Leeds and York (see Map 5.1). The township was noted early in the century for announcements of statute labour, although there is no evidence of the procedure after 1615 (Chapter Two). Later in the century, the dynamics of the Horton family may have been important when Joshua Horton's

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<sup>136</sup> Crump, 'Sowerby highways', pp.57-9.

Figs. 5.5a-d. *Graphs comparing internal highway presentments for Sowerby (in blue) and selected townships, 1605-99.*



Notes: Halifax court area: Heptonstall and Stansfield; Brighouse: Barkisland and Hipperholme.

Thomas, a gentleman resident in Barkisland, joined the county bench in 1672. While Barkisland's use of the leet was always low-key and mainly limited to prohibitions against trespass, presentments all but disappeared after 1660. Given the proximity of Sowerby, use of taxation seems plausible for maintaining the three-kilometre stretch of major highway between Ripponden and Elland. Finally, there is the case of Hipperholme where some years of relatively modest tax-and-spend by surveyors were subject to vestry inspection in a 'township book' from 1680, as discussed in Chapter Four. The relative scarcity of orders on the township's main roads suggest either the survival of some form of statute labour or taxation. The town book shows that an annual spend of 10s through Nathaniel Waterhouse's trust on these roads was also a minor feature of Hipperholme's road maintenance.<sup>137</sup> This was supplemented by tax assessments after 1680 that varied between £4 and £10 with revenue reaching £14 5s 5d in 1694. In Hipperholme, there was no diminution of presentments to the leet, which point to a continued reliance on traditional tenurial obligation on minor ways, but supplemented with taxation on the major highways.

The evidence remains, however, frustratingly inconclusive. Even though a fall in highway presentments for roads within townships is evident across the Halifax court area in later decades, Upper Valley townships continued to use the court for exchanging presentments between townships. The overall decline broadly coincides with the intensification of reporting cycles that must have applied to all townships, even if the pressures may have been more intense for Sowerby because of its exceptional size and strategic position. While increasing use of taxation across the parish prior to the 1692 Act is a reasonable conjecture, stronger evidence for its use in this period is still needed to rule out the possibility that Sowerby's policy was a purely localised phenomenon.

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<sup>137</sup> WYAS (C), HAS:65 (767), Hipperholme-cum-Brighouse township book (1665-1785); for the Waterhouse Trust, see W.B. Crump, 'The Wakefield Gate', *THAS* (1924), pp.89-108 (pp.99-106).

## Conclusion

Sowerby's position within the manor of Wakefield was not only geographically and jurisdictionally complex, but also of strategic importance in a highly militarised period. Township officers would have been intensely aware of the need for connectivity across boundaries of township, parish, and county. Constables also had the unenviable task of working across a fissure within the township caused by separate arrangements for Soyland in terms of chapel affiliation, poor relief and, incrementally, for highways, too. Local tensions over jurisdiction and authority were spiced with divergent political and confessional affiliations. Internal pressures and external events triggered increasing awareness and assertion of the two areas' separate identities, leaving the constable to navigate the unpredictable demands of county administration in the middle decades of the century. This chapter has used the fortuitous survival of diachronic data sources for a single township to attempt a micro-history tracing the causes and timing of processes of administrative change in managing highways at a formative stage for local governance. Crucial to this has been the mapping of presentments and funded road repairs through GIS to tease out changes in the geography of maintenance priorities.

The politics of the constableness in Sowerby were transformed by the emergence of a strong leadership in response to the mid-century emergency. The accounts show the officers consulting every year with 'the men of' Sowerby and Soyland when setting annual rates of taxation, and, from the 1670s, allowance was routinely made for a share of the budget towards road maintenance in Sowerby. The vestry, as such meetings became in all but name, then worked with constables on what seems to have been a consensual approach to signing off the year's expenses. The nature of that group is important: it contained the three elements of entitlement through wealth and property, connections at county level (Justice Horton) and sufficient social mobility to admit men of lower status but relevant experience. This provided a stable platform not only to make sure county requirements could be met but also to exert control over a complicated township, whose highways were of disproportionate importance.

The question of how much weight to give justices in this transformation is important but admits no easy answer. The routines of petty sessions and the resulting intensification of governance from above during the Personal Rule appear to have had a significant impact across the parish, but one that was initially most apparent in a greater volume of

presentments at Halifax leet.<sup>138</sup> New procedures at Petty Sessions seem to have diminished the worries of Sowerby about road management performance in other townships and switched attention to problems within its own road network. There is little of the overt use of magisterial power at Quarter Sessions highlighted by Healey for poor relief in Lancashire.<sup>139</sup> Quarter Sessions cases about highways relating to Sowerby, except for bridges, are entirely absent between 1637 and 1700. The overriding impression is that the justices played a lower-profile role which recognised a continuing place for the leet in terms of tenurial obligation while unobtrusively permitting Sowerby's use of taxation in the post-war period despite uncertain statutory authority (Chapter Two). The key issue seems to have been the quality of the relationship between the bench and township leaders at any one time. The immediate post-Restoration years, when Joshua Horton and others were under suspicion of disaffection contrast strongly with earlier self-confidence during the Protectorate and the free spending of later decades.

This seems, therefore, to have been an instance of the inhabitants acting 'voluntarily and spontaneously', to use Joan Kent's phrase, allowing virement of funds raised for social control towards highway management.<sup>140</sup> The early normalisation of contracted repairs, funded by taxes controlled and, in large measure, payable by the governing propertied elite of the township, was distinctive and anticipated the legislative reforms of 1692. The effect was to sideline manorial regulation in favour of regular investment focused on communications and trading routes between Lancashire and Yorkshire. A number of factors created the conditions for a movement by Sowerby towards taxation even before the 1692 Act finally authorised its regular application. The delegation of poor relief responsibility to the township in 1662, regular routines of tax assessment for national, county and local purposes, the sheer scale of national taxation in the crisis years, and the highway tax 'windows' of 1655-60, 1662-5 and 1670-3 may all have played a normalising role. Even without surveyors' accounts in Sowerby before 1805, there is little reason to doubt that seventeenth-century constables passed on a road maintenance system that could address the requirements of a pre-industrial economy with little wheeled-vehicle traffic through a modest annual budget for investment. The repair and

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<sup>138</sup> See Ch.3 and Figs. 5.5a-d above.

<sup>139</sup> Healey, 'Poor relief in Lancashire', p.571.

<sup>140</sup> Kent, 'Centre and localities', p.403.

improvement of roads added substance to the role of the township (or parish, in other areas) as an effective institution of governance and ‘a local expression of state power’.<sup>141</sup>

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<sup>141</sup> Hindle, *State and Social Change*, p.216.

## Chapter Six Driving a trade

Whereas the free and easie intercourse and means of conveying and carrying goods and merchandizes from one markt towne to another contributes very much to the advancement of trade increase of wealth and raisinge the value of lands as well as to the ease and convenience of the subject in general ...<sup>1</sup>

*Preamble to the Highways Act (1692)*

[My proposal for highways] is useful, and that as it is convenient for carriages, which in a trading country is a great help to negotiation, and promotes universal correspondence, without which our inland trade could not be managed.<sup>2</sup>

Daniel Defoe, *Essay upon Projects* (1697)

The importance of travel and communications for the promotion of trade and economic growth is so familiar a theme of economic history that it is something of a surprise that it was only in the later seventeenth century that the connection became firmly established in parliamentary legislation and English political discourse.<sup>3</sup> The language and arguments used in successive highway acts indicate a significant evolution in thinking since the 1555 Act simply condemned the roads as ‘verie noisome to travel in & dangerous to all passengers and carriages’.<sup>4</sup> Similarly, the 1562 revision was promoted as ‘verye beneficiall and most necessary to bee continued for the ease and common weale of the people of this lande’. A push for improvement only emerges in the title of the 1662 Act ‘for *enlarging* (my italics) and repairing of common high wayes’, authorising highway surveyors to make ‘common and publique highways eight yards wide’, subject to justice approval. The first turnpike act of 1663 for a section of the Great North Road between Wadesmill and Stilton, although conceived, as Albert pointed out, as ‘a modified version of the parish repair system’ was a response to economic growth, to the ‘great and many loades, which are weekly drawne in waggons through the said places’.<sup>5</sup> The 1692 highways act broke new ground with a preamble declaring its economic objectives openly and by shrewdly including an appeal to men of property that better highways could bring higher rents. There was provision for new

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<sup>1</sup> 3 Will. & Mar. c.12 (1692).

<sup>2</sup> Daniel Defoe, *An Essay Upon Projects*, ‘Of the Highways’ (London, 1697).

<sup>3</sup> A. Houston & S. Pincus (eds.), *A Nation Transformed: England after the Restoration* (Cambridge, 2001), especially S. Pincus, ‘From holy cause to economic interest: the study of population and the invention of the state’, pp.272-98.

<sup>4</sup> See Ch.2, Tables 2.2, 2.3.

<sup>5</sup> 15 Cha. II c.1 (1663), *An act for repairing the highwayes within the Countyes of Hertford Cambridge and Huntingdon*; W. Albert, *The Turnpike Road System in England, 1663-1840* (Cambridge, 1972), p.20.

legal minimum widths for ‘every cartway to a market town’ (eight feet) and every ‘horse causey on any public highway’ (three feet). Justices were also given powers to set carrier rates annually, a routine zealously adopted by the West Riding justices.<sup>6</sup>

This shift in emphasis and rhetoric should not be surprising. Steve Pincus has argued that ‘over the course of the seventeenth century the notion of economics or, more properly, political economy, does in fact become a central and publicly acknowledged object of the English state’.<sup>7</sup> Something analogous happened to the language used of highways. The 1630 Book of Orders had directed justices to compel surveyors to present failures in statute duty and to punish ‘offenders’ for ‘neglects and offences’; the roads were in decay because ‘men think there is no course by the common law or order from the state to amend [them].’<sup>8</sup> This harsh language of hierarchy and morality betrays an anxiety that ‘the work-days appointed by the statute are so omitted or idly performed, that there comes little good by them’. Pincus traces the post-Restoration change in public sentiment to the failure to achieve a political settlement and inability to conclude war with the Dutch during the Interregnum: ‘Englishmen and women now appealed to reason rather than inspiration, moderation rather than enthusiasm.’<sup>9</sup> The objectives for highway legislation were similarly changing from nuisance removal and repair to a policy of improvement that promoted use of wheeled vehicles. Defoe’s *Essay Upon Projects* (1697) proposed a grandiose scheme for a national tiered road network of post roads (forty-four feet wide), ‘cross-roads’ (twenty feet) and ‘byelanes’, to be created and maintained by taxation, employment of the poor and ‘an agreement with the Guinea Company to furnish ... negroes’ for labour.<sup>10</sup> He claimed to have been working on the *Essay* for five years before publication, placing its genesis close to the 1692 Act. This was also a time of river improvement schemes, such as the Aire and Calder Navigation, and toll roads on a larger scale through four acts establishing new turnpike trusts

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<sup>6</sup> D. Gerhold, *Carriers and Coachmasters: Trade and Travel before the Turnpikes* (Chichester, 2005), pp.34, 190.

<sup>7</sup> Pincus, ‘From holy cause’, p.274.

<sup>8</sup> Book of Orders (1630), ‘Direction XII’, in John Rushworth, *Historical Collections* (London, 1659-80).

<sup>9</sup> Pincus, ‘From holy cause’, p.283.

<sup>10</sup> Defoe, *Essay Upon Projects*, pp.68-112; see also P. Rogers, ‘Road-testing the first turnpikes: The enduring value of Daniel Defoe’s account of English highways’, *JTH*, 40(2) (2019), pp.211-31.

between 1696 and 1698.<sup>11</sup> By 1700, the links between communication and trade were a commonplace of parliamentary discourse.

Economic concerns have been a mainstay of historical analysis of transport development, most pertinently in relation to turnpikes. Albert prefaced his account of turnpikes with a short review of late seventeenth-century coastal and road transport that concluded ‘that the transport system was ... unable to fulfil its function efficiently’, invoking Adam Smith’s dictum that ‘good roads, canals and rivers... are ... the greatest of all improvements’.<sup>12</sup> Albert saw the economic benefit of turnpikes as a lowering of transport costs in the late 1750s at a time of rising prices and accelerating growth.<sup>13</sup> Pawson developed a more sophisticated ‘dynamic model’ linking population increase, economic development, increased traffic and innovation.<sup>14</sup> He highlighted time savings and the growth of wheeled-carriage services.<sup>15</sup> More recently, economic historians have questioned whether the national network at the end of the seventeenth century was as dysfunctional as the turnpike projectors made out. John Chartres’ avowedly myth-busting article on seventeenth-century road carrying argued that turnpikes were only viable to investors on the assumptions of pre-existing demand from commercial goods traffic which he demonstrated by studying the growth of scheduled carrier services between London and provincial towns between 1637 and 1715.<sup>16</sup>

This line of argument has been exhaustively pursued by Dorian Gerhold, who argues that cost savings were not due solely to turnpiking and were more impressive for stagecoaches than longer-distance goods carriage.<sup>17</sup> He credits pre-turnpike goods transport as contributing ‘to a more efficient economy’ and gives as an example the rise of the packhorse-based Yorkshire worsted industry in the late seventeenth and early

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<sup>11</sup> Aire & Calder Navigation: 10 Will. III c.25 (1698); C. Hadfield, *The Canals of Yorkshire and North East England*, Vol.1, (Newton Abbot, 1972); for turnpikes, see E. Pawson, *Transport and Economy: The Turnpike Roads of Eighteenth Century Britain* (London, 1977), Appendix 1, pp.341ff.

<sup>12</sup> Albert, *Turnpike System*, p.9, citing Adam Smith, *An Enquiry into the Nature and Causes of the Wealth of Nations* (London, 1776).

<sup>13</sup> Albert, *Turnpike System*, p.186.

<sup>14</sup> Pawson, *Transport and Economy*, pp.10-13.

<sup>15</sup> *Ibid.*, pp.281-300.

<sup>16</sup> J.A. Chartres, ‘Road carrying in England in the seventeenth century: myth and reality’, *ECHR*, NS, 30, 1 (1977), pp.73-94; John Taylor, *The Carriers Cosmographie* (London, 1637); Thomas De Laune, *The Present State of London* (London, 1681); Anon., *The Merchants and Traders Necessary Companion* (London, 1715).

<sup>17</sup> D. Gerhold, ‘Productivity change in road transport before and after turnpiking, 1690-1840’, *ECHR*, NS, 49, 3 (1996), pp.491-515.

eighteenth centuries.<sup>18</sup> To him we owe the rare testamentary evidence of a carrier in the case study area, John Frost of Hipperholme, whose 1713 inventory listed twenty-five packhorses used on a thrice-weekly service from Halifax to London, taking seven days each way.<sup>19</sup> He concludes that the roads were good enough for reliable services to and from London in all seasons, but poor enough to keep carriers' costs high until the mid-eighteenth century. This judgement is shared by Brayshay who bases his assessment 'of what roads were really like' on an analysis of road usage and postal services to conclude that the realm was 'joined-up' by 1688.<sup>20</sup> His typology of traffic included economic functions (markets and fairs, carriers, suppliers, craftsmen, pedlars and chapmen, servants and apprentices) and non-economic purposes (justices, judges, and jurors, and the clergy). Bogart has pushed back against these arguments by using nineteenth-century parliamentary data to project low levels of parish highway taxation in contrast to the surge in investment by turnpike trusts from the mid-eighteenth century.<sup>21</sup> The current study showcases highway taxation in Sowerby and Hipperholme before 1692 and many other townships shortly thereafter; unless this is a purely local phenomenon in an industrialising area, it suggests a need to modify Bogart's assumptions of inadequate pre-turnpike investment, as suggested in the previous chapter. The view that the network was serviceable for mobility and economic activity at later seventeenth-century levels presupposes effective maintenance. Nevertheless, how, and how well, provincial localities dealt with rising levels of traffic are questions that have not yet been addressed.

This chapter teases out variations in the balance of economic activities to shed light on why, as discussed in earlier chapters, Sowerby and other western townships increasingly accentuated township responsibility, while the three eastern townships vigorously upheld traditions of highway repair by individual landholders. The legal and cultural frameworks governing medieval infrastructure, as discussed in a recent collection of essays on medieval road and street management, may still have had significant purchase as late as our period.<sup>22</sup> Seeing the medieval road as a right of way through usage rather

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<sup>18</sup> Gerhold, *Carriers and Coachmasters*, p.168.

<sup>19</sup> *Ibid.*, p.192.

<sup>20</sup> M. Brayshay, *Land Travel and Communication in Tudor and Stuart England: Achieving a Joined-up Realm* (Liverpool, 2015).

<sup>21</sup> D. Bogart, 'Did turnpike trusts increase transportation investment in eighteenth-century England?', *JEH*, 65.02 (2005), pp.439-68.

<sup>22</sup> V. Allen & R. Evans (eds.), *Roadworks: Medieval Britain, Medieval Roads* (Manchester, 2016).

than as a physical object is, of course, a familiar concept highlighted by the Webbs and Hoskyns.<sup>23</sup> Valerie Allen cites Paul Hindle on the resulting openness of the medieval landscape which allowed diversion around blockages.<sup>24</sup> Highway problems were, therefore, construed in terms of removing nuisances and blockages that could not be sidestepped, just as was found in Chapter Three in cases brought to the leet. The late seventeenth century marks a threshold in conceptualisations of highways before which principles of medieval origin – free passage, removal of nuisance, mutuality of obligation – may, for those charged with maintenance, have carried more weight than commercial advantage. The discussion must, therefore, tread carefully to avoid the teleological assumption that an acceleration of economic activity is the sole or prime factor in changes in the scale or approach of highway management.

The starting point is a survey of the three principal economic activities of Halifax out-townships in the seventeenth century – pastoral agriculture, textile manufacture, and mineral extraction. A fourth is the service sector centred on the food and cloth markets of Halifax serving the surrounding out-townships that brings the study closer to the networks of credit and obligation explored by Craig Muldrew.<sup>25</sup> A sense of their relative importance can be gained from contemporary documentation such as the Protectorate parish registers (1655-7) and the excellent series of published probate records for the parish starting from the late 1680s. The inventories contain useful details of occupations, work tools, wheeled vehicles and sleds, textile stocks, animals and retail merchandise.<sup>26</sup> The survey tackles the extent to which the volume of highway cases in the court leet can be linked to stages in the national economic cycle, mainly through the fluctuating

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<sup>23</sup> S. Webb & B. Webb, *The Story of the King's Highway* (London, 1913), p.5; W.G. Hoskins, *The Making of the English Landscape* (3<sup>rd</sup> ed., London, 1988), p.161.

<sup>24</sup> V. Allen, 'When things break: mending roads, being social' in Allen & Evans, *Roadworks*, pp.74-98, citing B.P. Hindle, *Medieval Roads*, (Princes Risborough, 1989), p.21.

<sup>25</sup> C. Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1998).

<sup>26</sup> Published transcriptions: I. Bailey & A. Petford (eds.), *Midgley Probate Records: Household and Family in the Upper Calder Valley 1531-1731* (Midgley, 2007, repr. Hebden Bridge 2012); D. Cant & A. Petford (eds.), *Sowerby Probate Records: Household and Family in the Upper Calder Valley 1688-1700* (Hebden Bridge, 2013); M. Crawford & S. Richardson (eds.), *Erringden, Langfield and Stansfield Probate Records 1688-1700* (Hebden Bridge, 2015); D. Cant & A. Petford (eds.), *Northowram Probate Records 1688-1700* (Halifax, 2015); D. Cant & A. Petford (eds.), *Life and Death in the Calder Valley: Probate Records from Brighouse and district 1688-1700* (Halifax, 2016); R. Heywood (ed.), *'People All Full of Business': The Inhabitants of Halifax from Probate Records 1688-1700* (Halifax, 2018); M. Crawford & S. Richardson (eds.), *Heptonstall and Wadsworth Probate Records 1688-1700* (Hebden Bridge, 2020); R. Heywood (ed.), *Skircoat, Southowram and Ovenden: Three Halifax Townships at the End of the 17<sup>th</sup> Century, from Probate Records* (Halifax, 2021); M. Crawford & S. Richardson (eds.), *Midgley and Warley Probate Records 1688-1700* (Hebden Bridge, 2022).

fortunes of the cloth trade. Estimates of distance, frequency, and mode (foot, horse, cart, or sled) have been developed for different activities with GIS mapping of maintenance records to inform discussion of administrative challenges and solutions. Features in the records that relate uniquely to the particular economic activity, such as bylaws to protect agricultural land from passing traffic, are distinguished from those that are common across sectors. As this chapter will show, the manorial institutions were uniquely adaptable to accommodate the connectivity and communication needs of different, and occasionally conflicting, economic interests, especially within a topographical context where most movement of goods and people was best accommodated on foot or horseback.

## I The parish economy

The outstanding social and economic characteristic of the central West Riding in the study period was the dual economy of pastoral agriculture and woollen cloth manufacture.<sup>27</sup> The acid soils and climate of the upland areas to the west of Halifax town made stock grazing the standard farming activity with cultivation of oats, rye and legumes limited to sheltered places and, more especially, to the lower-lying southeast of the parish. Investigation of land tenure and pre-industrial economic growth was pioneered by Tupling for Rossendale in Lancashire's western Pennines.<sup>28</sup> Rural settlement processes in the upper Calder valley have been meticulously studied by Nigel Smith, including analysis of recurrent phases of enclosure from waste throughout the medieval and early modern periods.<sup>29</sup> What is still missing, as Smith wryly notes, is a body of work that integrates the landscape history of the area with its agricultural and industrial development into a coherent narrative.<sup>30</sup>

The area's limited agricultural potential was compensated by plentiful waterpower for fulling mills to support 'kersey' making, a relatively cheap woollen cloth one yard wide and of varying length. From unlikely beginnings in the southern Pennines sprang the remarkable success story of the West Riding textile industry, celebrated for its domination of the woollen and worsted trades by the eighteenth century and adoption of factory-based processing and steam power in the nineteenth.<sup>31</sup> Nevertheless, knowledge of the early structure of the industry relies on the preamble to the 1555 'Halifax Act', which exempted the parish from the prohibition on wool sales by middlemen,

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<sup>27</sup> M.E. Francois, 'The social and economic development of Halifax 1558-1640', 11, *Proceedings of the Leeds Philosophical & Literary Society* (1966), pp.217-80; B. Jennings (ed.), *Pennine Valley: A History of Upper Calderdale* (Hebden Bridge WEA Local History Group, Otley, 1992); D. Hey, *A History of Yorkshire: County of the Broad Acres* (Lancaster, 2005), p.248; J.A. Hargreaves, *Halifax* (3rd ed., Lancaster, 2020).

<sup>28</sup> G.H. Tupling, *The Economic History of Rossendale* (Manchester, 1927).

<sup>29</sup> N. Smith, *Patterns in the Landscape: Evaluating Characterisation of the Historic Landscape in the South Pennines* (BAR British Series, 604, 2014). Of particular note among local studies are: Hargreaves, *Halifax*; I. Bailey, D. Cant, A. Petford & N. Smith (eds.), *Pennine Perspectives: Aspects of the History of Midgley* (Midgley, 2007); M. Beecham & G. Bowers (eds.), *A History of Northowram Township from 1800* (Northowram, 2014); N. Smith (ed.), *History in the South Pennines: The Legacy of Alan Petford* (Hebden Bridge, 2017).

<sup>30</sup> Smith, *Patterns in the Landscape*, pp.4-6; see also Hargreaves, *Halifax* and Jennings, *Pennine Valley*.

<sup>31</sup> H. Heaton, *The Yorkshire Woollen and Worsted Industries: From the Earliest Times up to the Industrial Revolution* (Oxford, 1920); M.T. Wild, 'The Yorkshire wool textile industry' in J.G. Jenkins (ed.), *The Wool Textile Industry in Great Britain* (London, 1972), pp.185-234; P. Hudson, *The Genesis of Industrial Capital: A Study of the West Riding Wool Textile Industry, c. 1750-1850* (Cambridge, 1986).

depositions from four cases heard in the Court of Exchequer relating to aulnage (a penny duty on woven cloths), aulnage returns, export data (especially from Hull), and a scattering of references in wills, estate documents and deeds.<sup>32</sup> There is, however, one outstanding body of economic research relevant to the study, Swain's study of north-east Lancashire in the 140 years before the Civil Wars.<sup>33</sup> To a thorough analysis of land tenure, lordship, agriculture, and woollen cloth manufacture, Swain added coal mining and a range of minor, mostly service-orientated activities (limestone quarrying, building, clothing, food).<sup>34</sup> Mineral extraction and the service economy also featured prominently in the Halifax parish of our period, and indeed Swain lists numerous ways in which the two areas were economically linked, for example, using the same suppliers ('broggers') of wool as well as sales of finished pieces through the Halifax cloth halls.<sup>35</sup>

Unfortunately, his exhaustive use of probate records before 1640 for assessing phases of growth and contraction in textile manufacture cannot be replicated for Halifax, as inventories do not survive in the diocesan archives at York until the late 1680s.<sup>36</sup> The logistics of woollen cloth processing in the parish remain under-researched, as most published work has focused on the switch to worsted production and attendant moves towards mechanisation, fixed capital and waged labour.<sup>37</sup>

The attempt to gauge the balance between different types of economic activity and use this to project flows of traffic is constrained by the limited nature of the data sources, such as the parochial registers for Halifax and Heptonstall during the Protectorate which record 'styles' for bridegrooms, indicating either status (gentleman, yeoman) or

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<sup>32</sup> 2&3 Phil. & Mar. c.13 (1555) *An acte for th inhabitants of Halyfaxe touching the byeng of woolles*; for other sources, see s.3 below.

<sup>33</sup> J.T. Swain, *Industry Before the Industrial Revolution: North-east Lancashire, c. 1500-1640*, (Manchester, 1986), based on his PhD dissertation, 'Industry and Economy in north east Lancashire circa 1500-1640' (Cambridge, 1983).

<sup>34</sup> Swain, *Industry*, ch.8, pp.182-95.

<sup>35</sup> *Ibid.*, pp.114-6, 124-5.

<sup>36</sup> *Ibid.*, pp.10-12.

<sup>37</sup> P. Hudson, 'Landholding and the organization of textile manufacture in Yorkshire rural townships, c.1660-1810' in M. Berg, *Markets and Manufacture in Early Industrial Europe* (London, 1991), pp.261-91; J. Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire, 1660-1780* (Ithaca, 1994); D. Hey, 'The Domestic Economy of the Seventeenth- and Eighteenth-Century Holmfirth Textile Industry', *YAJ*, 85:1 (2013), pp.160-74.

Map 6.1 *Halifax parish: townships and connections, c.1650.*

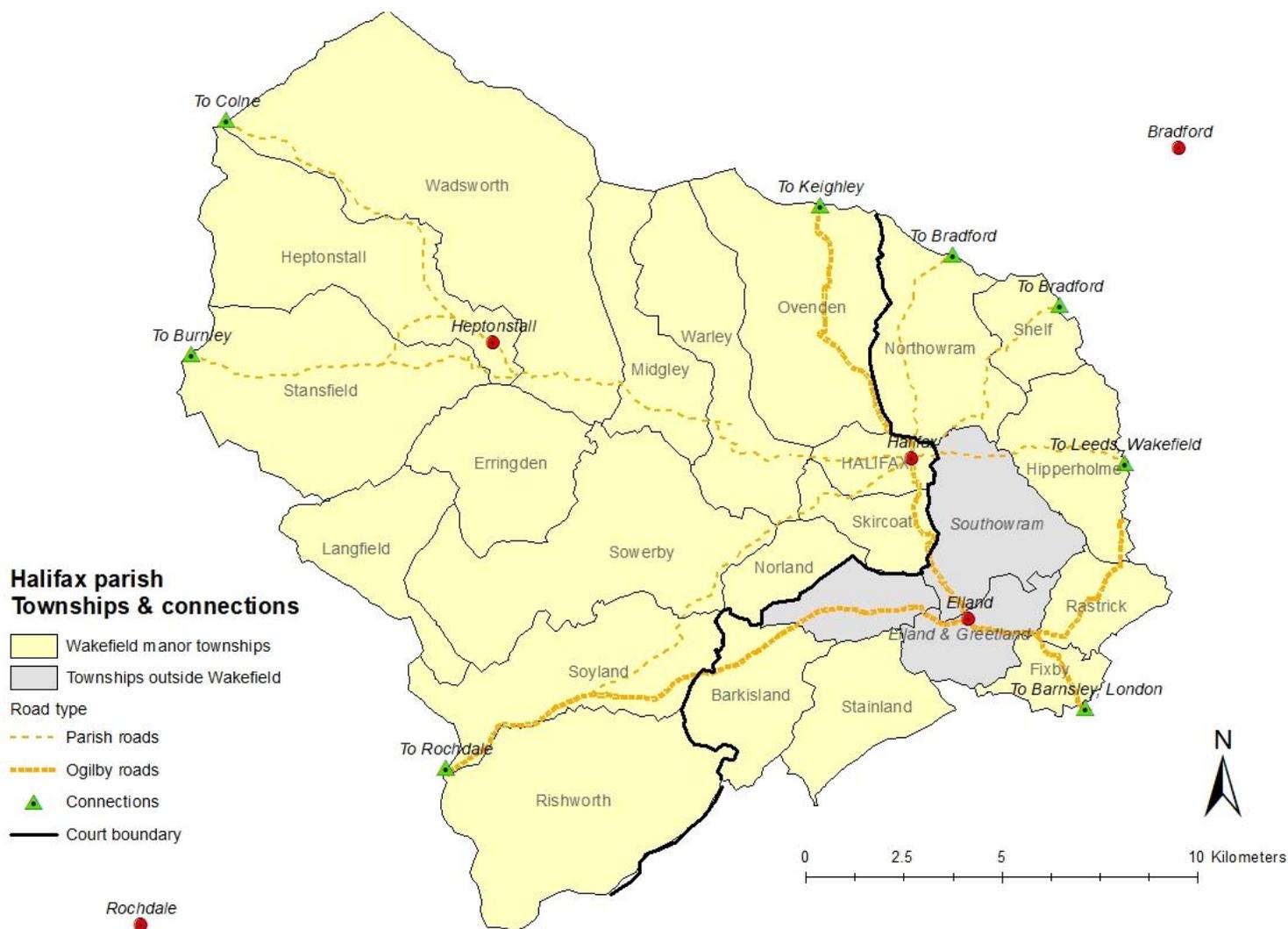
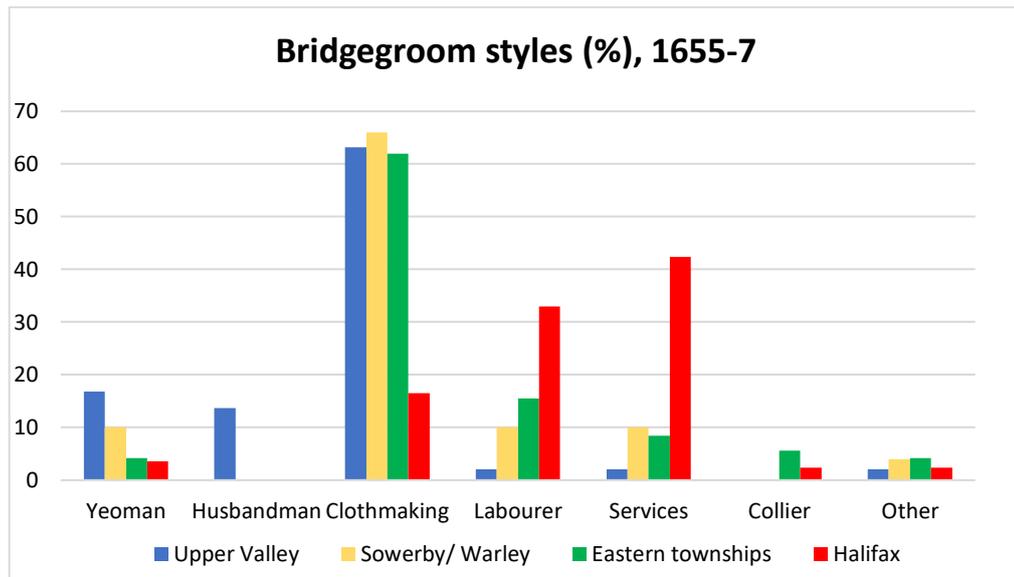


Fig. 6.1. *Styles of bridegrooms, Halifax parish and Heptonstall chapelry registers, by percentage, 1655-7.*



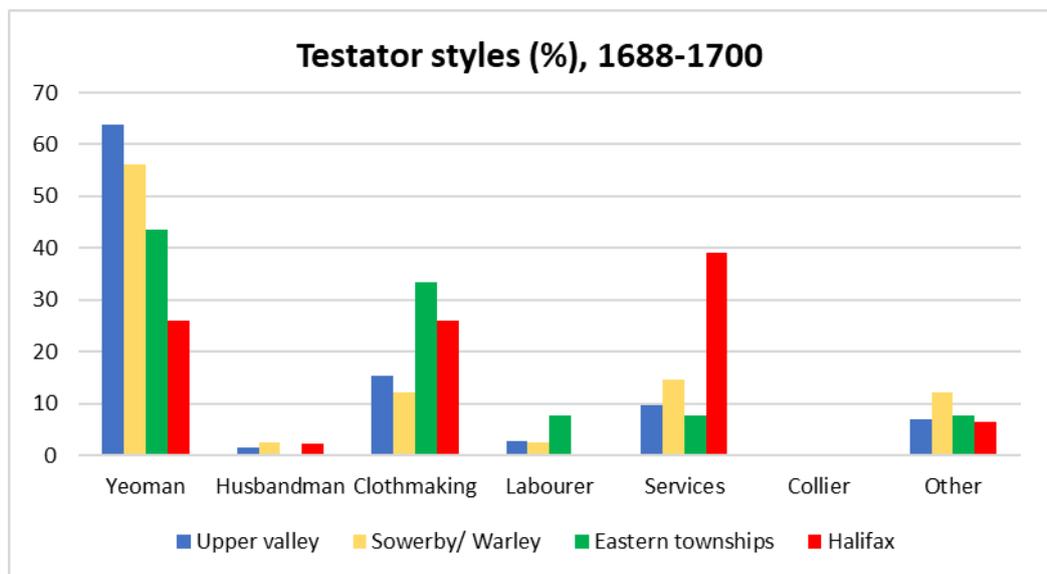
Notes: 1) Number of grooms sampled: Upper Valley (Erringden, Heptonstall, Langfield, Stansfield, Wadsworth – blue), 95; Sowerby & Warley (orange), 51; Eastern townships (Hipperholme, Northowram, Shelf – green), 71; Halifax township (red), 85; the townships are shown on Map 6.1; 2) 13 tailors were counted as service workers in Halifax.

occupation (clothier, collier).<sup>38</sup> The analysis compares the results for three townships clusters identified in Chapter Three and a fourth comparator group, combining Warley with Sowerby. They show a similar dominance of clothmaking occupations (clothier, clothmaker or cloth-dresser) for the out-townships east and west of Halifax, surpassing 60%, compared with under 17% in Halifax town (Fig. 6.1). Over 30% of bridegrooms were styled yeomen or husbandmen in the Upper Valley, suggesting a more agrarian identity than elsewhere. Service workers were especially strong in Halifax town, a third of whom were tailors, as were labourers. There were some service workers and labourers in other parts of the parish, but very few in the Upper Valley. Colliers were restricted to Halifax and the Eastern townships. None of the 315 bridegrooms were recorded as carriers, badgers or wool dealers, but those styled chapmen could have been carrying commercial goods. Horse usage is implied by the inclusion of seven blacksmiths and a spurrier, while tradesmen such as woodworkers (five) and a single plasterer may also have been itinerant.

<sup>38</sup> WYAS (W) WDP53/1/1/6, Baptisms, marriages, burials, Halifax St John the Baptist (1644-57), used in A. Betteridge, 'Halifax before the Industrial Revolution: A study of local administrative records', Pt. 1, in *THAS* (1978), pp.17-41; WYAS (W) WDP149/1/1/2, Baptisms, marriages and burials register, Heptonstall St Thomas the Apostle (1653-86); registers accessed online June 2020 via <http://www.ancestry.co.uk>.

Use of the same style categories for the published series of later probate records underscores the service-based economy of Halifax town but raises questions about the balance of economic activity in the out-townships (Fig. 6.2). Problematically, probate records were weighted heavily towards men of substance at a later stage in life, where yeoman status was a statement of social success only loosely linked to land tenure, as pointed out by Swain.<sup>39</sup> The numbers of men listed as labourers, husbandmen, colliers and even clothmakers are well below levels seen in the earlier registers, while those of yeomen and tradesmen are much higher. This, together with the disproportionate presence of men in the ‘other’ category whose wills style them as gentlemen, may reflect further polarisation and changing social attitudes in the later decades of the century. Fortunately, the items listed in probate inventories add more details to the balance of occupations across the parish (Fig. 6.3). The method used has been to count testator inventories listing looms, spinning wheels (but not linen wheels), finishing equipment, or stocks of wool, yarn, or cloth for the cloth-making category and those with ploughs, harrows and stock animals (excluding horses) for agriculture. The results indicate that the ‘middling’ male testators of urban Halifax were more likely to have an agricultural interest than the earlier cohort of bridegrooms, but that, in many cases, this

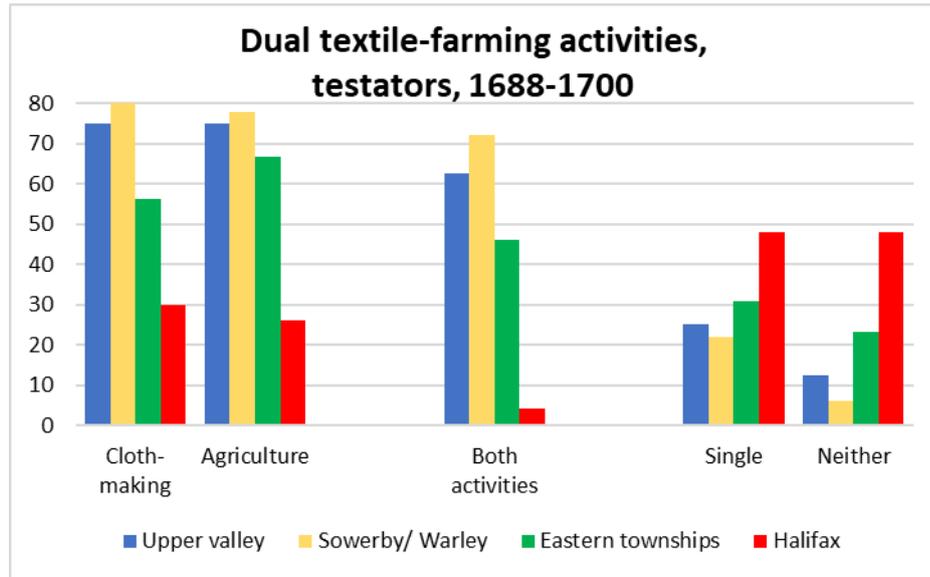
Fig 6.2. *Styles of male testators, Halifax parish, by percentage, 1688-1700.*



Notes: 1) Township groups and colours as in Fig. 6.1; 2) number of testators with style stated: Upper Valley 44; Sowerby/ Warley, 41; Eastern townships 39; Halifax 46

<sup>39</sup> Swain, *Industry*, pp.130-6.

Fig 6.3. *Textile and agricultural activities of male testators (%)*,  
*Halifax parish, 1688-1700.*



Notes: 1) township clusters and colours as for Fig. 6.1; 2) number of inventories with activity data: Upper Valley 48; Sowerby/ Warley, 50; Eastern 39; Halifax 50.

consisted of a single pig or cow. Dual textile and agricultural activity ('both') took place outside the town, applying to just under half of testators in the eastern townships, but two thirds or more in the townships west of Halifax. Conversely, a single occupation was much more common in the town, as were inventories of men whose house contents were unconnected to a livelihood. For this exercise, Hipperholme testators were included within the eastern sample, despite sharp differences with Northowram or Shelf: of eleven Hipperholme testators, only four show signs of textile activity and only three show dual activity. Four had harrows and six had farm carts, the soils and lower altitude of Hipperholme being more suited to arable crops than the townships further west or north. The dominance of dual occupations outside Halifax town has implications for perceptions of the importance of roads among the 'yeoman clothiers' who served as officeholders: they would appreciate the transport needs of both sectors and would naturally favour a maintenance regime that gave equal weight to both interests.

While the probate data show how people of middling status in the out-townships made a reasonable living by combining activities, they were clearly unrepresentative of general wealth levels in the parish, for which a comparison of 1664 hearth tax data for the same townships is informative (Table 6.1).<sup>40</sup> The Upper Valley area was significantly poorer,

<sup>40</sup> Appendix 2, Hearth Tax data.

with just under three quarters of the population either single-hearth or exempt (reaching 83.3% in Stansfield).<sup>41</sup> The equivalent figure is 54.9% for Halifax and 64.0% in the Eastern townships. The structure of poverty is also different: fewer of the Upper Valley poor were exempt from the tax than further east with the exception of Heptonstall (37.5%). Halifax (41.6%) and Northowram (47.9%) had significantly more exempt households. Patterns of tenure and agriculture for people of middling status are evident in the strong showing of those with two to six hearths in Erringden (38.2%), where freehold landholdings were a legacy of the dismantling of the hunting park in 1451.<sup>42</sup> Hipperholme with its extensive arable acreage scores even higher in this category (42.2%). Larger houses ('over 6 hearths') were rare outside Halifax, except in Northowram, favoured by men of property, such as the Mitchells of Scout Hall, and successive gentleman tenants of Coley Hall and High Sunderland. Halifax had even more households in the highest tax category, inflated by professionals (attorneys and

Table 6.1. *Households subject to, and exempt from, hearth tax, by number of hearths, 1664.*

	Total	Over 6	%	2 to 6	%	1	%	Exempt	%
Erringden	76	0	0.0	29	38.2	31	40.8	16	21.1
Heptonstall	160	2	1.3	28	17.5	70	43.8	60	37.5
Langfield	61	1	1.6	16	26.2	33	54.1	11	18.0
Stansfield	211	3	1.4	33	15.6	112	53.1	63	29.9
Wadsworth	179	2	1.1	40	22.3	94	52.5	43	24.0
<b>Western townships</b>	<b>1155</b>	<b>13</b>	<b>1.1</b>	<b>284</b>	<b>24.6</b>	<b>525</b>	<b>45.5</b>	<b>333</b>	<b>28.8</b>
Sowerby	468	5	1.1	138	29.5	185	39.5	140	29.9
Warley	256	3	1.2	68	26.5	102	39.8	83	32.5
<b>Sowerby/ Warley</b>	<b>724</b>	<b>8</b>	<b>1.1</b>	<b>206</b>	<b>28.5</b>	<b>287</b>	<b>39.6</b>	<b>223</b>	<b>30.8</b>
Shelf	83	1	1.2	25	30.1	28	33.7	29	34.9
Hipperholme	199	5	2.5	84	42.2	43	21.6	67	33.7
Northowram	328	9	2.7	96	29.3	66	20.1	157	47.9
<b>Eastern townships</b>	<b>610</b>	<b>15</b>	<b>2.5</b>	<b>205</b>	<b>33.6</b>	<b>137</b>	<b>22.5</b>	<b>253</b>	<b>41.5</b>
<b>Halifax township</b>	<b>502</b>	<b>36</b>	<b>7.2</b>	<b>190</b>	<b>37.8</b>	<b>67</b>	<b>13.3</b>	<b>209</b>	<b>41.6</b>

Note: 1) categories of hearth tax as in K. E. Wrightson & D. Levine, *Poverty and Piety in an English Village 1525-1700* (2<sup>nd</sup> ed., Oxford, 1995), except for merging the categories of 2 and 3-6 hearths; 2) percentages may not add up to 100% owing to rounding errors.

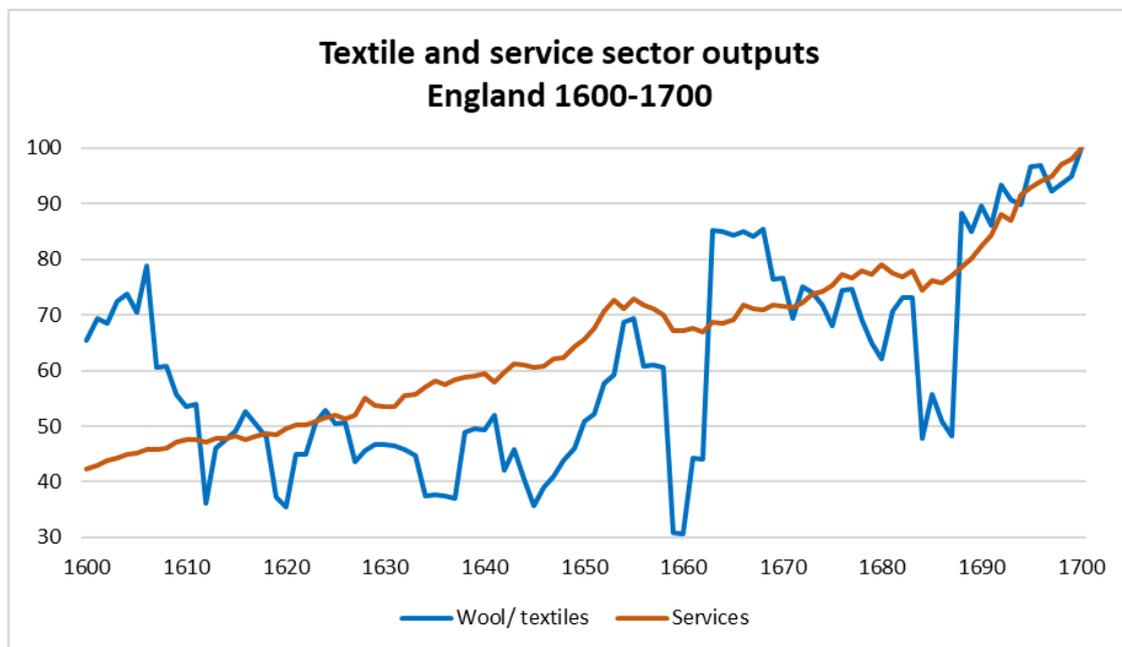
<sup>41</sup> Exemptions were available for those not paying church or poor rates and those occupying a house or land with a rental value under 20s and with personal property under £10: K. Schurer & T. Arkell (eds.), *Surveying the People: The Interpretation and Use of Document Sources for the Study of Population in the Later Seventeenth Century* (Oxford, 1992), pp.39-41.

<sup>42</sup> By 1546/7, the original nine land parcels had been subdivided into fifty smaller holdings: Smith, *Patterns in the Landscape*, p.135; N. Smith, *The Medieval Park of Erringden* (Hebden Bridge, 2021), pp.97-107.

doctors) and the presence of at least six inns.<sup>43</sup> One implication for transport, as confirmed in the probate inventories, is that the working poor were less likely to own horses or carts and more likely to have to carry their own goods on foot or depend on the horse capacity of others.

The three data sources provide snapshots in time that inevitably miss fluctuations in the economic cycle across the century. While markets for the agricultural, mining and service sectors were local, living standards were disproportionately dependent on the fortunes of textile manufacturing. By 1600, the woollen cloth trade of the parish had become well connected with both domestic and export markets, susceptible to cyclical fluctuation caused by monetary debasement or military and political conflict. Supple used data from before the Civil War to indicate periods in which English exports via London were disrupted, interspersed with periods of partial recovery.<sup>44</sup> As is clear from the data series compiled by Stephen Broadberry et al., plotted as Fig. 6.4, English

Fig. 6.4. *Graph showing changes in textile and service sector outputs, England, 1600-1700.*



Notes: 1) Data from S. Broadberry, B.M.S. Campbell, A. Klein, M. Overton, & B. van Leeuwen, *British Economic Growth, 1270–1870* (Cambridge, 2015), A4, Output of key industries; A5, Service sector; 2) the sector measures are percentages based on an index of 100 at 1700.

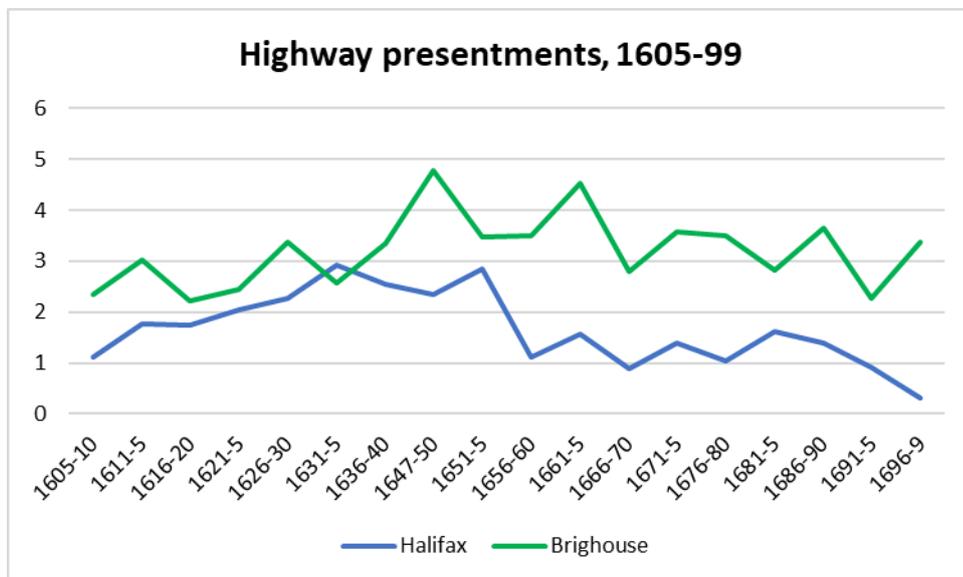
<sup>43</sup> Francois, 'Development of Halifax', p.222.

<sup>44</sup> B.E. Supple, *Commercial Crisis and Change in England 1600-1642: A Study in the Instability of a Mercantile Economy* (Cambridge, 1959).

textile output was in a prolonged slump until the Interregnum, at which point the dominant trend changed to growth with peaks in the 1650s, 1660s and 1690s. This contrasts strongly with steadier growth in the service sector, although this was interrupted by political anxieties in 1660 and the late 1680s. It is reasonable to assume that these trends applied broadly to growth in the parish, albeit that the capture of textile market share from other regions may have reduced volatility.

A comparison of economic trends with the volume of manorial presentments shows a weak inverse correlation with the three booms in textile output (Fig 6.5). Masters of textile businesses may have been reluctant to lose labour to road repairs when business improved after the Restoration. Conversely, it is conceivable that peaks in presentments in the west may have included some work-substitution measures for textile workers at times when the cloth trade was depressed. Nevertheless, the dissimilarities between patterns of activity in the two courts suggest that the national economic cycle was rarely significant in determining the level of action at the leet and certainly not as persuasive as the correlation between higher constable spending in Sowerby and economic growth in the last quarter century, discussed in Chapter Five. Regulatory action initiated by townships at the leet may have been driven by underlying economic imperatives, but linkage to macro-economic indicators is largely untenable.

Fig. 6.5. *Halifax and Brighouse court leet highway presentments, 1605-99.*



Notes: 1) Halifax townships: Heptonstall, Sowerby, Stansfield, Wadsworth; Brighouse townships: Hipperholme, Northowram, Shelf; 2) Halifax township excluded to avoid distortion.

Table 6.2. *Household and average hearth count increases between 1664 and 1672.*

	Households			Ave. hearths		
	1664	1672	+%	1664	1672	+%
Heptonstall	100	101	<b>1.0</b>	1.53	1.66	<b>7.8</b>
Stansfield	148	164	<b>10.8</b>	1.33	1.38	<b>3.6</b>
Wadsworth	136	136	<b>0.0</b>	1.55	1.65	<b>6.1</b>
Sowerby	328	338	<b>3.0</b>	1.89	1.99	<b>5.0</b>
Halifax	293	314	<b>7.2</b>	3.19	3.37	<b>5.3</b>
Hipperholme	132	134	<b>1.5</b>	2.42	2.79	<b>13.3</b>
Northowram	171	179	<b>4.7</b>	2.20	2.42	<b>9.1</b>
Shelf	54	56	<b>3.7</b>	2.15	2.32	<b>7.3</b>

Hearth tax data sources: 1) for 1664, as for Table 6.1; 2) for 1672, *Yorkshire West Riding Hearth Tax Assessment Lady Day 1672*, eds., D. Hey, C. Giles, M. Spufford & A. Wareham (British Record Society, 2007).

An increase in average hearth numbers between 1664 and 1672 is the clearest evidence of an improvement in relative wealth after the Restoration in line with national growth indicators (Table 6.2). Better living standards, together with a move away from burning peat, may also have encouraged the local coal mining industry. The number of households increased in all townships (except Wadsworth, which remained static) over eight years at a time when English population growth had stalled. Both this and the increase in hearth numbers suggest economic growth in step with the sharp recovery in national textile outputs (Fig. 6.4). The eastern townships that combined textiles with mineral extraction and arable agriculture seemed to have benefited more.

A key consideration is whether the combination of economic and technological developments that drove changes to coach and waggon services and the innovation of turnpikes in more southern areas is applicable to northern counties. The topography of the South Pennines – steep-sided valleys, flood-prone rivers, blanket peat bogs – has been central to a continuing debate by local and regional historians over whether wheeled vehicles supported the local economy in this period. Crump became convinced that this was the case in the parish largely through a small number of entries in the Sowerby constables' accounts:

- a) Charges about a laime caytive that came to me in a cart from Litlebrugh who had a passe to travel to Rippon ...<sup>45</sup> (1658)
- b) For viewing the way over the Edge and goinge into Barkisland for gettinge the way made for the souldgers carriages 1s  
For 13 horses and 2 carts charged to goe to Ratchdale 8d

<sup>45</sup> WYAS (C), SPL:143, Sowerby constables' accounts (SCA), June 1658.

For mending Joshua Stenton cart and fetching it home 9s 6d; Paid for Nathan Whitley cart being broken 2s 2d; For John Wilkinson cart being broken over the Edge 2s 2d <sup>46</sup> (1690)

Crump thought that ‘the wheel ruts in the pavement [on Blackstone Edge] ... may have been worn in any century down even to the early 18<sup>th</sup>’ and that this was evidence of wider cart usage.<sup>47</sup> Much more likely is that these were isolated events, the second occurring just before William III’s Battle of the Boyne campaign when the Sowerby men were instructed to take loaded carts down the notoriously steep descent towards Rochdale. The result was damage to at least one and probably all three carts. David Hey cites seventeenth-century probate records for carts and even four-wheeled wains in the east of the Peak district but ‘largely restricted to the summer months’ and not used for large loads of stone or coal until the eighteenth century.<sup>48</sup> John Cruickshank finds more evidence of carts than packhorses in probate inventories in Headingley-cum-Burley north of Leeds; the crucial factor for Headingley may have been that farming was mixed arable-pastoral on rather flatter land close to the markets of Leeds.<sup>49</sup> The constraints on wheeled-vehicle usage in Halifax parish are fundamental for interpreting bland references to ‘repair’ or ‘amendment’ in the records. If almost all of these relate to highways used by pedestrians and horses carrying riders or goods, then the maintenance and paving required was much more basic than that needed for roads used by waggons and coaches. Paving was restricted to lines of causey stones across difficult ground, and the costs, skills and labour requirements were consequently of a much lower order. The successful application of what would now be called ‘appropriate technology’ complicates monetary comparisons of investment in infrastructure before and after the introduction of turnpikes.<sup>50</sup>

This economic survey of the selected townships has identified characteristics that help to contextualise the different patterns of highways presentments identified in Chapter Three. In our period, the viability of arable agriculture through better soil quality, climate and holding size, shaped a distinctive social structure, for example, in

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<sup>46</sup> SCA, February-March 1690.

<sup>47</sup> W.B. Crump, ‘The York and Chester highway through Sowerby’, *THAS* (1927), p.32.

<sup>48</sup> D. Hey, *Packmen, Carriers & Packhorse Roads: Trade and Communications in North Derbyshire and South Yorkshire* (2nd ed., Ashbourne, 2001), pp.68-73.

<sup>49</sup> J.L. Cruickshank, *Headingley-cum-Burley, c.1540-c.1784* (Thoresby Society, Leeds, 2012), pp.133-42, 176-80.

<sup>50</sup> ‘Intermediate technology’ was propounded in E.F. Schumacher, *Small is Beautiful: A Study of Economics as if People Mattered I* (London, 1973); the term was altered to ‘appropriate technology’ by the Intermediate Technology Group.

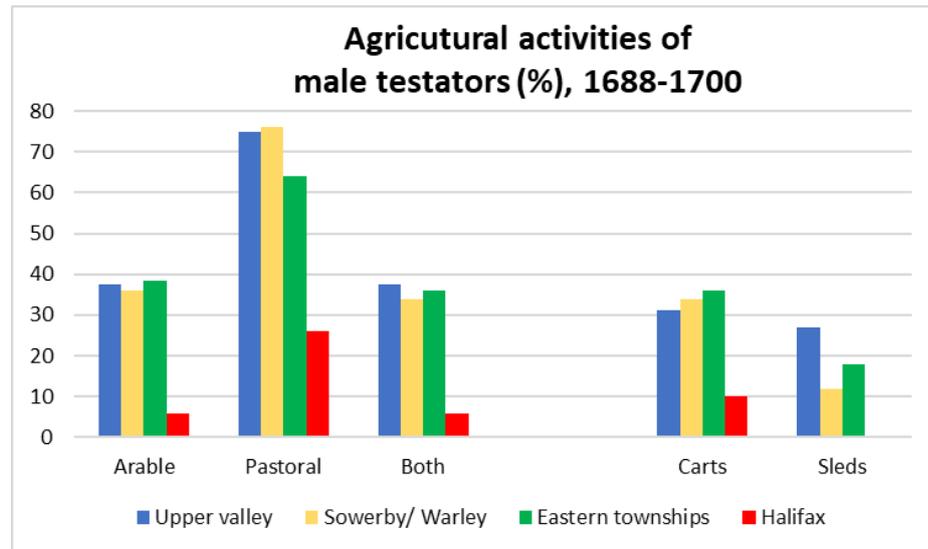
Hipperholme that contrasts with the dominance of clothier-pastoralists further west. The woollen cloth-making industry was strongest in the townships of the Upper Valley but mineral extraction was important to the eastern townships. Halifax township lacked the land for commercial farming and had a distinctly urban, services-led profile of the type discussed by Nigel Goose.<sup>51</sup> The next stage is to examine in more detail the extent to which agriculture, cloth manufacture and mineral extraction influenced approaches to managing highways before assessing the special transport role of Halifax town as a market and services hub.

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<sup>51</sup> N. Goose, 'English pre-industrial urban economies' in J. Barry (ed.), *The Tudor and Stuart Town: A Reader in English Urban History 1530-1688* (London, 1990), pp.63-73.

## II Agriculture

Fig 6.6. *Farming activities and ownership of carts and sleds by male testators, Halifax parish, 1688-1700.*



Note: 1) township clusters and colours as for Fig. 6.1; 2) probate data drawn from published sources, see bibliography.

The records of late-century testators provide the earliest statistical evidence available for the balance of agricultural activities of townships in the parish. They demonstrate the dominance of pastoral farming, carried on by over three quarters of testators in the western area and nearly two thirds in the eastern townships (Fig. 6.6). Animal numbers listed in inventories across the parish are similar to the profile identified by Smith in Midgley: cattle (for dairy, meat and leather) predominated over pigs and sheep, although the number of beasts was typically small.<sup>52</sup> Bylaws at both courts baron and leet throughout the case study area enforced ‘out-fences’ for summer pastures and ringing and yoking of pigs to regulate grazing on common land. Just under four in ten testators showed evidence of arable farming, nearly all of whom had pastoral interests. Most held between two and ten hectares, and such arable activity as was possible on acidic upland soils was typically for oats with wheat confined to sheltered, low-lying areas. Lime-burning at Boulsworth Hill on the Lancashire border near Widdop was noted by Ralph Thoresby in 1702.<sup>53</sup> Transport of lime or marl by horse load from deposits of glacial

<sup>52</sup> N. Smith, ‘Farming before the Nineteenth Century’ in I. Bailey, D. Cant, A. Petford & N. Smith (eds.), *Pennine Perspectives: Aspects of the History of Midgley* (Midgley, 2007). Among others, Smith references W.B. Crump, *The Little Hill Farm* (London, 1951) and A.J.L. Winchester, *The Harvest of the Hills: Rural Life in Northern England and the Scottish Borders 1400-1700* (Edinburgh, 2000).

<sup>53</sup> Crump, *Little Hill Farm*, pp.151-2.

drift or from quarries at Clitheroe and Lothersdale to sweeten the land was almost certainly taking place before 1700, although the scale of such traffic is difficult to determine. The ‘2 load of limes’ in the inventory of wealthy Nathan Kershaw of Soyland is the only instance in the transcribed probate records before 1700.<sup>54</sup>

Highway cases referring to pastoralism are uncommon in the leet records. In 1630, the Brighthouse jury demanded the unblocking of a way in Hipperholme ‘leading between Lightcliffe & Norwoodgreene ... [which] is & hath bene dureing mans memorie an ancient & accustomed way for drift of cattell & laden horses at all tymes of the year’.<sup>55</sup> In 1656 Mathew Houldsworth of Hipperholme was ordered ‘to make & lay open a sufficient way for beasts to goe to the running water in ... deane bank’.<sup>56</sup> Both cases concerned a threat to movement of livestock. It must be assumed, however, that beasts were moved significant distances from pasture to market and between pastures, given the mosaic of holdings both within and across township boundaries.<sup>57</sup> Crump notes a report in 1673 from the diary of Oliver Heywood of cattle being brought back about 30 km from Craven to Coley Hall in Hipperholme.<sup>58</sup> John Feilden of Todmorden paid 14s ‘for our 2 oxen sumuring [summering] at Airton’ (near Malham in Craven) in 1723.<sup>59</sup>

Generally, transport and travel requirements for farmers were shorter-range on tracks and highways (Table 6.3). Probate inventories suggest carts and sleds were used for haymaking, dairy, and arable purposes, as well as gathering wood, fuel and other natural resources. Inventories attest the wide distribution of carts and sleds across all townships, except for more urban Halifax township (Fig. 6.6).<sup>60</sup> Carting functions stated in inventories relate to agriculture, domestic fuel and construction (peat, corn, harvest, milk, dung, and stone); sleds or sledges were used to haul peat, hay and stone. Some materials were moved by horses with panniers (‘hookseams’, ‘hotts’ for manure) or

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<sup>54</sup> *Sowerby Probate Records*, p.124.

<sup>55</sup> Leeds University Special Collections, Wakefield court rolls, YAS/MD225/1/356A, Michaelmas 1630.

<sup>56</sup> YAS/MD225/1/381A, Easter 1656.

<sup>57</sup> See, for example, the complex holdings in Stansfield mapped by Smith, *Patterns in the Landscape*, Fig. 9.14, p.119.

<sup>58</sup> Crump, *Little Hill Farm*, p.63.

<sup>59</sup> *John Feilden: His Day Book 1723-1734*, transcribed J.S. Chadwick (Cleckheaton, 2012), Sep 4 1723.

<sup>60</sup> ‘Sleds’ also includes ‘sledges’; these terms may indicate different sizes or construction, *Sowerby Probate Records*, p.151.

Table 6.3. *Estimates of traffic and transport generated by agricultural activity, c.1650.*

Activity	Mode	Ways used	Frequency	Distance
<b>Stock rearing/ dairy</b>				
Buying & selling beasts	On the hoof, led on foot/ horse	Any (not footways)	Occasional	Up to 15 km
Hay harvest	Cart, sled	Any	Seasonal	Up to 5 km
Pasture changes/ watering	On the hoof, led on foot/ horse	Any (not footways)	Seasonal	
Access for milking	On the hoof, foot	Any	Daily	Under 2 km
Summering, breeding	On the hoof, led on foot/ horse	Any (not footways)	Seasonal	2 to 30 km (Craven)
<b>Arable</b>				
Ploughing	On the hoof (oxen, horses),	Any (not footways)	Seasonal	Up to 5 km
Planting	Horse, foot			
Arable harvest	Cart, foot	Cartways	Seasonal	Up to 15 km
Buying & selling produce & supplies	Horse, foot	Highways (to/from markets)	1-4 weeks (badgers)	
<b>Land management</b>				
Lime supply	Horse	Highways	Low	Up to 25 km (NE Lancs)
Liming, marling, manuring of land	Cart, horse	Any (not footways)	Seasonal	Up to 5 km
Fencing & walling	Cart, sled, horse	Any (not footways)	Seasonal	
Turf (fuel)	Cart, sled, horse	Turfways, cartways, horseways	Seasonal	
Bracken, wood, stone	Cart, sled, horse	Cartways, horseways	Seasonal	

simply by drag hooks.<sup>61</sup> ‘Cartways’ and ‘turf gates’ could be subject to leet presentment: for example, in 1621, Abraham Earnshae of Stansfield was presented for turning ‘watter down a hygh waie & spoling [spoiling] their sled gate’.<sup>62</sup> In Sowerby, Henry Smith was lucky to escape a charge of theft.<sup>63</sup>

Wee present Henry Smith for leading [taking away] 4 brigg stones the 12<sup>th</sup> of Jully last 1659: being in breadth 3 quartrs & in length a yeard & a halfe <forth of a way> being a cart way for the whole towne being annoyance £1 6s 8d

In cases where cartways can be located for the western townships, they appear not to be main roads: Sowerby to Bowerslack and Blackshawhead to Three Gates End (Stansfield) suggest quarrying and agricultural usage respectively.<sup>64</sup> An action by Northowram in 1605 directed Ovenden to make the highway near Lee Bridge ‘lawfull for all waynes carts & carriages as it hath been in old & former tymes past’, which makes a cartway into Halifax from the north a possibility.<sup>65</sup> Cart usage is more certain and more extensive in the leet records for the flatter Brighthouse court area. In Rastrick, penalties exacted in the 1630s for not providing a ‘draught’ (two beasts and a cart or wain) for the ‘common days work’ on highways.<sup>66</sup> Hipperholme laid an order in 1681 to prevent damage to causeys from carts or wains in ‘Brighthouse towne’.<sup>67</sup> The inventories provide no evidence for usage of carts or wains for textiles.

Two categories of highway presentment at the leet have an explicit agricultural origin. The first of these is the practice of issuing bylaws or ‘prohibitions’ against ‘making a way over’ land identified either by field name or by owner or occupier. In Chapter Three, it was noted that these bylaws, usually setting a penalty of 1s or ten groats (3s 4d), were much more common in the Brighthouse court, especially in Hipperholme. Mapping of the distribution of prohibitions across the Eastern townships reveals some clustering, represented by larger crossed circles in separate colours for the three townships (Map 6.2). Prohibitions straddle routes radiating eastwards from Halifax and, most noticeably, on a south-east/ north-west axis between Hipperholme and Brighthouse

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<sup>61</sup> The glossaries in the Halifax parish probate record transcriptions are well-referenced; see Bibliography.

<sup>62</sup> YAS/MD225/1/347A, Michaelmas 1621.

<sup>63</sup> YAS/MD225/1/385A, Michaelmas 1659.

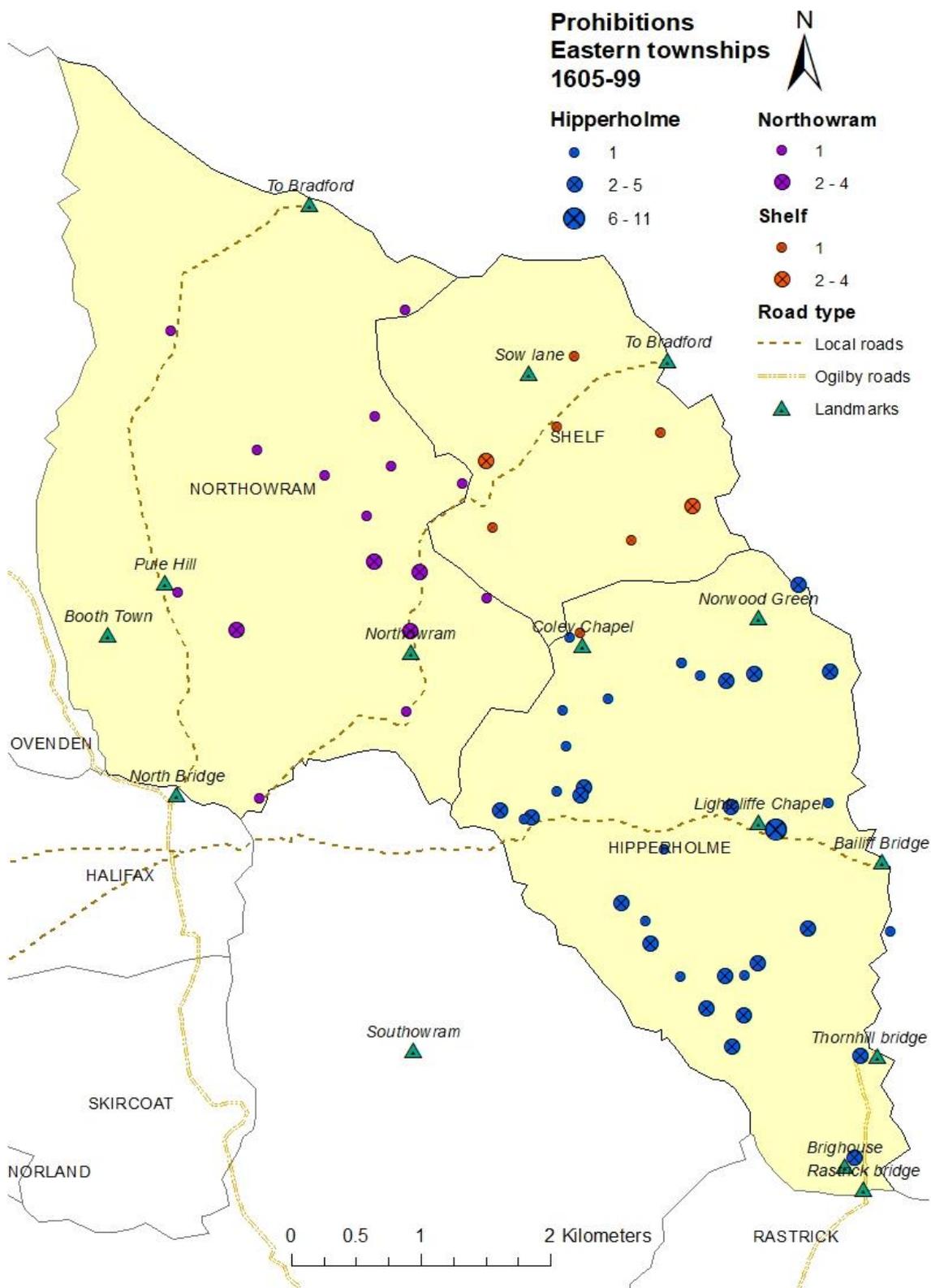
<sup>64</sup> YAS/MD225/1/363A, Sowerby, Michaelmas 1637; YAS/MD225/1/392A, Stansfield, Michaelmas 1666.

<sup>65</sup> YAS/MD225/1/331A, Michaelmas 1605.

<sup>66</sup> YAS/MD225/1/357A, Michaelmas 1631; YAS/MD225/1/361A, Michaelmas 1635.

<sup>67</sup> YAS/MD225/1/406A, Easter 1681.

Map 6.2. *Distribution of prohibition bylaws, Eastern townships, 1605-99.*



and, perhaps, onwards to the market at Elland.<sup>68</sup> The root cause was the common practice of road users deviating to the left or right to avoid obstructed or muddy stretches, risking damage to fences, hayfields and arable crops. The density of these orders is greatest in the southern part of Hipperholme where arable agriculture was more prevalent.

Significantly, farmers of the middling sort regularly attended the leet from this area as constables or presenters. An analysis of six years (twelve sessions, 1662-8) of court leet presentments laid by Hipperholme suggests the possible dynamics at play.<sup>69</sup> Richard Hanson was named as the occupier of a close called ‘Gom ing’ that was protected by a prohibition order at Michaelmas 1664, the same year that he attended court as a presenter and served as one of four highway surveyors. He was the likely beneficiary of an earlier prohibition of the same close in 1662 and of a third prohibition in 1666 when he attended as a presenter. On the third occasion its location is given (‘between Abraham Hemingway and Hoyle House’, between Lightcliffe and Brighouse, Map 6.2), the same as that given for a stretch of a highway which he was also responsible for repairing. The obvious interpretation is that Hanson pledged to repair this road on the *quid pro quo* that Gom ing and another close nearby, Hoyle House croft, were protected against damage. Two terms of service as highway surveyor and seven as presenter between 1656 and 1669 helped Hanson keep a watchful eye on his agricultural interests.<sup>70</sup> Prohibitions essentially had a deterrent purpose: only one set of amercements of 10s each was issued to Richard Richardson, styled a ‘gentleman,’ and three other men for riding over the land of John Hoyle in Lightcliffe in 1652, possibly reflecting the politics of the time.<sup>71</sup> The frequency of prohibitions in Hipperholme appears to be in inverse proportion to the number of repair orders at the leet (Fig 6.7). The peak in prohibitive bylaws (1631-65) was bookended by two periods in which repair orders were dominant, 1611-30 and, even more strikingly, after 1670. More systematic scheduling of

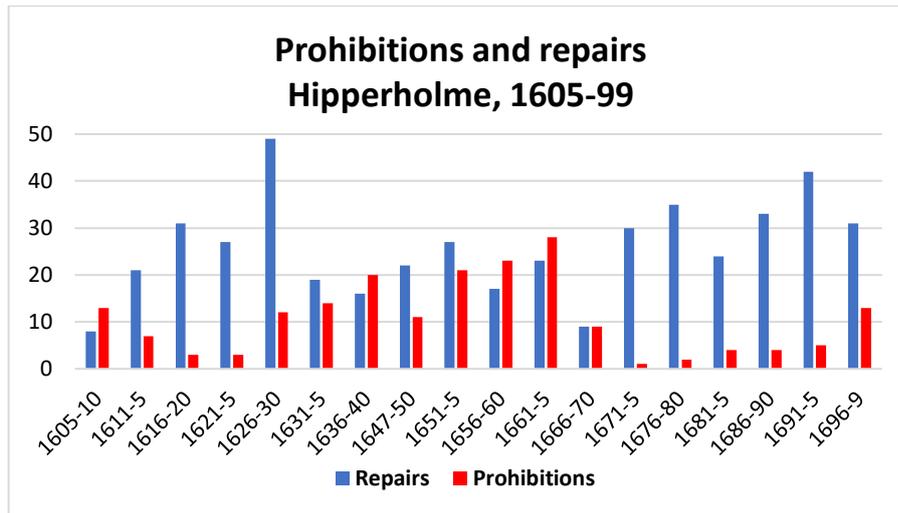
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<sup>68</sup> John Watson, *The History and Antiquities of the Parish of Halifax in Yorkshire* (London, 1775), p.165, claims Elland market was overshadowed by the Halifax market.

<sup>69</sup> YAS/MD225/1/388A-393A, Michaelmas 1662 – Easter 1668.

<sup>70</sup> Surveyor: 1656, 1664; presenter: Michaelmas 1662, 1664, Easter & Michaelmas 1666, Easter & Michaelmas 1668, Easter 1669.

<sup>71</sup> *WCR 1651-2*, pp.216, 220.

Fig. 6.7. *Prohibitions and road repair presentments, Hipperholme, 1605-99.*

Note: the totals for 1666-70 are reduced by the absence of paper records for 3 court sessions.

road repairs and hedge management through the leet apparently served to keep travellers and packhorses on the road and out of the land on either side.

A second form of highway presentment linked to agriculture stems from incidents of encroachment and enclosure. Landholder encroachment and obstruction of roads attracted leet attention throughout the parish, and could give rise to protracted disputes. In 1637 Willyam Mydgley of Midgley was amerced 3s 4d ‘for straytnyng [narrowing] the way betwixt Booth yeat in Bradford lane side and Holmehouse brigg which wanteth repaire’. Repeating the fine a year later was to no avail, and at Easter 1639, William and Samuell Midgley were each amerced 10s for ‘Bradford lane not being in repayre’.<sup>72</sup>

Problems persisted into the next generation:

Wee present Richard Midgley of Broadfould for incloseing on both sides ... Bradford lane whereby the lane is so straitened that passengers cannot passe without being annoyed in x s and wee laye a paine that hee shall enlarge it as it ought ...<sup>73</sup>

This shows how encroachment by individual landholders could threaten wider communal objectives, in this case on a commercial route to the market town of Bradford. Even legitimate enclosure of waste had the potential for long term obstruction on some routes. Enclosure or ‘taking in’ of land was a continuous and complex strand of early modern upland social change that increased the land available for new

<sup>72</sup> YAS/MD225/1/363A, Michaelmas 1637.

<sup>73</sup> YAS/MD225/1/379A, Easter 1654.

smallholdings, thereby also assisting growth of cloth manufacturing capacity.<sup>74</sup> Sowerby expressed anxiety over the highway to Burnley in 1616 with a maximum penalty of 39s on each of six Stansfield men named:

... for incloseinge parte of Rattonstalle comon wherein lyeth one <hye> waye from Heptonn Bridge to Stiperden to the great annoyance of all that have acacionn to use that ways putinge us into the mosses and mores places not lyke to bee passable ...<sup>75</sup>

Warley joined in with a penalty of 30s for the same highway at the same session on eight men ‘being inclosers of playne ground & turning the kings way out of his ordinarie course, not passable without great danger ... that it be suffitiently repayred or els the ordinary way allowed’. The vulnerability of this road underlies an even more forceful order of 1656 from Stansfield township itself:

Wee lay a paine that the tenants of Sir George Savile do make the fences and hedges sufficiently between one rough pasture called Rattonstall hey and the common of Stansfeild to the same belonging ... and so keepe the said fence sufficiently made one yeard and halfe high upon paine of not so doeing ... to forfeit 39s 11d and for every moneth [month] after it shall be unmade to forfeit 39s 11d<sup>76</sup>

Early action at the leet could also prevent encroachment: Thomas Cockcroft of Stansfield was ordered in 1655 to ‘suffitiently amend that parte of the highway (leading from Crosstone to Stiperden) ... which hee is now about to inclose’.<sup>77</sup>

This examination of the agricultural context for leet presentments suggests three conclusions. First, farmers to the east of Halifax countered a perceived threat to their meadows and fields from passing traffic by lodging prohibition orders at the leet. Offenders were rarely punished, and a more energetic repair regime appears to have reduced the demand for such bylaws later in the century. Secondly, agricultural enclosure, walling and fencing could obstruct roads, provoking tensions between different interest groups and disputes in the court leet. Here again, these may have faded when road surfaces, drains and boundaries (walls or fences) were adequately maintained. Thirdly, the conjectural matrix of agricultural traffic and transport (Table 6.3) hints at lines of explanation for the rarity of demand from farmers for highway improvements in the leet records. The first is the probability that traffic from outlying

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<sup>74</sup> Smith, *Patterns in the Landscape*, ch.2, especially pp.16-20. See also, Tupling, *Rosendale*, chs.2-3, pp.42-97; Swain, *Industry*, ch.5, pp.70-107.

<sup>75</sup> YAS/MD225/1/342A, Michaelmas 1616.

<sup>76</sup> YAS/MD225/1/382A, Michaelmas 1656.

<sup>77</sup> YAS/MD225/1/380A, Easter 1655; for successful traverses against presentments related to enclosure, see Ch.4.

areas to the markets of Halifax and Elland may have been reduced by corn badgers and other itinerant suppliers serving more remote settlements. The second is that, while carts and sleds were certainly used for accessing pastures, fields and commons, the bulk of agricultural traffic was on foot, by horse and on the hoof along multi-purpose highways. Maintaining access and removing nuisances and obstructions was a more obvious priority than spending time or money on widening, paving or other improvements that brought marginal benefits to pastoral farmers.

### III Woollen cloth manufacture

... the same inhabitants do altogether live by cloth making, and the great part of them neither getteth corn, nor is able to keep a horse to carry wools, nor yet to buy much wooll at once, but hath ever used to repair to the town of Halifax, and some other nigh thereunto, and there to buy upon the wooll-driver, some a stone, some two, some three and four, according to their ability, and to carry the same to their houses, some three, four, five, and six miles off, upon their heads and back, and so to make and convert the same either into yarn or cloth, and to sell the same, and so to buy more wooll of the wool-driver, by means of which industry, the barren grounds in those parts be now much inhabited, and above five hundred households there newly increased within these fourty years past, which are now are like to be undone, and driven to beggary, by reason of the late statute made, that taketh away the wooll-driver, so they cannot have their wooll by such small portions as they were wont to have ...<sup>78</sup>

The 1555 ‘Act for the inhabitants of Halifax to buy woolls’ is notable not only for its protection of what was then a relatively minor textile area, but also because justification for an exemption rested entirely on a claim that the logistics of wool supply and cloth sales in the parish consisted of carriage on men’s backs without the aid of horses. A weekly or fortnightly cycle in which individual cloth-makers made journeys on foot of up to three hours each way to carry woven cloth to sell and buy wool for the next piece has proved long-lasting but difficult to corroborate.<sup>79</sup> Halifax narrow cloth would not have been an easy carry, being typically one yard wide, eighteen yards long and weighing eleven or twelve kilograms.<sup>80</sup> Witness accounts of manual carriage post-date the study period. The diary of Cornelius Ashworth of Ovenden for 1782-5 records several instances of ‘carrying my piece’, but the cloth market in Halifax was never mentioned, suggesting the destination was a local finisher or trader.<sup>81</sup> Men carrying cloth were also depicted in J.M.W. Turner’s 1816 painting, ‘Leeds from Beeston Hill’.<sup>82</sup> Nevertheless, any presumption that wool and cloth were carried over long distances without horses needs to take into account the rhetorical context of the preamble. This emotive appeal was not voiced by inhabitants ‘driven to beggary’, but almost certainly by a coalition of wealthy merchants and landowners, probably championed by Sir Henry Savile of Thornhill, lord of several cloth-making sub-manors in the parish and a member

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<sup>78</sup> 2&3 Phil. & Mar. c.13 (1555), the ‘Halifax Act’.

<sup>79</sup> Heaton, *Woollen Industry*, pp.93ff; Wild, ‘Yorkshire industry’, pp.199-202.

<sup>80</sup> Heaton, *Woollen Industry*, pp.132-8.

<sup>81</sup> *The Diaries of Cornelius Ashworth, 1782-1816*, eds., R. Davies, A. Petford & J. Senior (Hebden Bridge, 2011), esp. ‘Introduction’, pp.57-68, citing evidence of a woman in the 1840s carrying pieces 10 miles (16 km) between Heptonstall and Denholme.

<sup>82</sup> Watercolour in the Yale Center for British Art, viewable online at <https://collections.britishart.yale.edu/vufind/Record/1669784>; reproduced in *Cornelius Ashworth*, p.58.

of both parliament and the Council of the North.<sup>83</sup> If the act is a dubious guide to the industry's logistics, it remains indicative of the explosive growth of the Halifax textile industry at the beginning of the study period. The scale of growth from the 'five hundred households' of 1555 is impressive. In 1638, Ambrose Grenewood of Warley estimated that 3,000 parishioners were 'dayly sett on worke and mantayned by the said trade of clothing', an expression that implies waged or contract employment; Martin Feilden of Sowerby suggested 7,000; for James Cooper of Warley the total was 'past this deponents numbringe'.<sup>84</sup> The exact number is less important than the high proportion of the population involved, as reflected in the occupations of bridegrooms and testators, discussed earlier (Figs. 6.1, 6.2).

Only a few direct references to the industry surface in the seventeenth-century highway leet records. In 1651, Abraham Heape of Stansfield was ordered to rebuild a wall on Streate Lane 'so as men may passe with chattels wooll packs and loades as it hath bene accustomed'.<sup>85</sup> In 1690 John Eastwood of Midgley was presented for obstruction 'in a place called greave tenter croft ... for seting two tenteres crose over [across] the way'.<sup>86</sup> A 1656 bylaw in Barkisland forbade passage over 'a parcel of ground betwene William Pole garden end & the fulling mill at Firth house'.<sup>87</sup> The records for the Halifax town feature regular presentments of the 'highe street before the woollen & lining [linen] halls' and in the nearby street known as Woolshops.<sup>88</sup> Nevertheless, to appreciate the scale and logistics of the seventeenth-century industry, the main sources are interrogatories from two Court of Exchequer cases over the aulnage duty payable on kerseys manufactured in Halifax and surrounding parishes, supplemented by later probate inventories.<sup>89</sup>

The dispute depositions in 1638 and 1676 describe a sophisticated and geographically dispersed industry with interlocking supply chains of wool, yarn and cloth in successive

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<sup>83</sup> <https://www.historyofparliamentonline.org/volume/1509-1558/member/savile-sir-henry-149899-1558>, accessed in June 2020.

<sup>84</sup> TNA, E134/14 Chas1/Mich21, Court of the Exchequer, Depositions (1638).

<sup>85</sup> *WCR 1651-2*, p.163.

<sup>86</sup> YAS/MD225/1/415A, Easter 1690; tenter, a wooden framework with hooks on which cloth is stretched after being milled (*OED*).

<sup>87</sup> YAS/MD225/1/381A, Easter 1656.

<sup>88</sup> YAS/MD225/1/357A, Michaelmas 1631.

<sup>89</sup> Heaton, *Woollen Industry*, ch.3, citing TNA, E134/14Chas1/Mich21 (1638); TNA, E134/28 Chas 2/ Mich29 (1676).

manufacturing processes that imply complex transport arrangements. The similarities to research findings in Lancashire are strong. In his analysis of Lancashire probate inventories for 1601-1640, John Swain detected a trend towards specialisation between the Burnley and Padiham chapeltries; these data bear comparison with equivalent data from Halifax parish for 1688-1700. Swain speculated that Colne may have specialised in weaving, relying on extra yarn from spinners in Burnley and Padiham, where the count of looms in *supra* inventories was lower (Table 6.4a).<sup>90</sup> These tendencies are strengthened in the Lancashire *infra* inventories which list no looms at all in Burnley chapeltry (Table 6.4b). Carding capacity is attested in under 15% of inventories across Halifax parish fifty years later, much lower than in Lancashire, suggesting the possibility that Halifax clothiers may also have imported yarn across the county boundary. The evidence indicates a concentration of loom capacity in the Upper Valley on the Yorkshire side using Lancashire yarn to meet extra demand. For the process of spinning yarn, deponents in the aulnage cases confirmed this as a waged (3d/ day) or piece-rate

Table 6.4a/b. *Clothmaking instruments in supra/infra inventories, NE Lancs (1601-40) and ultra/infra inventories in Halifax parish (1688-1700).*

a) <i>Supra/ ultra</i>	Inventories	Cards or	Spinning	Looms
	No.	combs	wheels	
		%	%	%
Upper Calder valley	35	8.6	60.0	65.7
Sowerby/ Warley	35	11.4	42.9	45.7
Eastern townships	31	3.2	38.7	19.4
Halifax	37	5.4	2.7	0.0
Colne & Pendle forest	159	49.4	57.9	47.6
Burnley & Padiham	91	53.3	58.2	17.8

b) <i>Infra</i>	Inventories	Cards or	Spinning	Looms
	No.	combs	wheels	
		%	%	%
Upper Calder valley	21	4.8	52.4	42.9
Sowerby/ Warley	22	13.6	63.6	54.5
Eastern townships	20	10.0	15.0	25.0
Halifax	28	0.0	7.1	0.0
Colne & Pendle forest	21	23.8	47.6	23.8
Burnley & Padiham	17	52.9	52.9	0.0

Notes: 1) Lancashire probate data, Lancs Archives, WCW, as cited in Swain, 'Industry & economy'; 2) for published Halifax parish probate records, see Bibliography; the terms *supra* used in Lancashire and *ultra* in Yorkshire both indicate estates with a value higher than £40.

<sup>90</sup> Swain, 'Industry and Economy', p.220.

(around 2s 6d/ stone) occupation, reduced if the spinner was given food. Waged spinners suggests specialisation between, as well as within, households. In the 1638 case, the term ‘webster’ was not used, although this is the occupation attributed to five bridegrooms in the Interregnum parish registers.<sup>91</sup> By 1676 the wages of spinners and clothiers (the term perhaps used here for weavers) remained at 1d and 3d per day with food provided, 3d and 6d without. Such low wage rates indicate the dependency of labour outside the master clothier’s household and imply batched carriage of material between processes from house to house. The Exchequer Court depositions also suggest that kersies woven in Colne and Burnley may have been cheaper than those of Halifax, which would make for a profitable source of supply for Halifax entrepreneurs to top up large orders for the London and export markets. With this level of cross-border integration of textile production, maintenance of the routes to both Burnley and Colne through Heptonstall was a commercial imperative quite as much as those within the parish itself.

A key requirement was for cloths to be taken for fulling (using water-powered hammers to ‘felt’ the cloth) in mills sited on the rivers Calder, Ryburn and smaller tributaries. Watson listed thirty-eight fulling mills in the parish in 1775, many of which are attested before 1700.<sup>92</sup> Transport on foot down to riverside mills of one or two cloths from hilltop clothier houses was clearly straightforward, but return journeys with heavier, damp pieces could be avoided either by sharing horses or collection by larger-scale clothiers or dealers from the mill for finishing processes (such as tentering, dyeing and dressing). In the 1638 depositions, George Towne, a dyer in Norland, claimed ‘he doth usually buy about three hundredth kersies in a year ... and further saith that he doth dye the said whites into several coloers before he sell the same’. John Cellbeck of Warley bought kerseys and sold them ‘died coloured & dressed’. As for getting cloth to market, John Hopkinson of Sowerby described how he acted as an agent for ‘Mr Thompson of Yorke’ buying kerseys while also delivering seals ‘from one house to another within Sowerby’. Another Sowerby man, Edward Firth deposed he was ‘by calling a chapman’ buying and selling ‘Kighley kersies’ and other cloths from as far afield as Wakefield and Huddersfield. In 1676, Abraham Crabtree of Heptonstall stated he ‘hath dressed five

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<sup>91</sup> Heptonstall chapelry register, as cited earlier.

<sup>92</sup> Watson, *Antiquities*; details on index cards for Upper Calder Valley Mills were compiled by Sheila Wade/ Hebden Bridge WEA, c.1980-2009, WYAS (C), WYC:1528; many are marked on Map 5.1.

hundred ... kerseys in a yeare and Henry Murgatroyd, gentleman of Midgley, claimed his father would order 'four times a hundred' cloth seals (for aulnage) at a time. They were trumped by octogenarian Lawrence Spencer of Warley, who claimed to have bought over 1,000 kerseys in a year. A 'putting-out' approach is implicit in this evidence and even more obviously in that of Joell Somerscales, clothier, and James Dodson, cloth dresser, who both say that their master, John Radcliffe of Sowerby Deane, 'did usually make or cause to be made fifteene or twenty kerseys ... weekly'. 'Robert Tillison', 83, yeoman of Sowerby and almost certainly Robert Tillotson of Haugh End, the puritan father of Archbishop John Tillotson, claimed:<sup>93</sup>

... [he] traded in kersey cloath for fifty years together & sayth he did during that time frequently sell to London the same kerseyes ten packes a weeke one weeke with another every packe conteyning eleaven peeces ...

Indications of consolidation and specialisation in the cloth trade are a feature of late-century probate records (Table 6.5). A concentration of wool and cloth stocks in wealthy finishers' inventories was linked to possession of tenters, presses and shears for finishing cloth. Importantly, large cloth stocks coincided in some cases with capacity for onward carriage in the form of horses, pack cloths or both. This raises questions over the extent to which longer-distance carriage to markets in the West Riding, London or direct

Table 6.5. *Finisher/clothier inventories, 1688-1700: wool and cloth stocks, transport capacity.*

Name	Style/township	Gross estate	Wool stock	Finishing gear	Transport
Richard Thomas	Yeoman Erringden	£269 0s 8d	£101 wool/ yarn £13 10s pieces	Cloth presses shears 2 tenters	1 horse Pack cloths
James Radcliffe	Yeoman Sowerby	£488 16s 6d	£260 white kerseys and money	4 cloth presses 8 pair shears 10 tenters	2 mares 1 horse 3 pack cloths
Charles Greenwood	(none) Midgley	£381 17s 4d	£11 15s yarn 35 long pieces £70 80 short pieces £120	4 cloth presses 4 pair shears 4 tenters	1 mare
John Hanson	Clothier Warley	£290 1s 10d	£176 12s 6d cloth	2 cloth presses 5 pairs shears 5 tenters	2 horses
Thomas Longbothome	Clothier Northowram	£361 0s 0d	164 pieces £206 (includes 3 presses)	5 cloth presses 4 pairs shears Tenters	1 mare Packcloths

Note: for Halifax parish probate data sources, see Bibliography.

<sup>93</sup> Oxford Dictionary of National Biography online: <https://www.oxforddnb.com/>, accessed in June 2020.

to ports was operated by clothiers themselves. The diaries of Jonathan Priestley of Sowerby claimed frequent contact with merchants at London's Blackwell Hall and the insouciant continuation of the trade 'all the time of the Civil Wars' by Thomas Priestley, who was said to have made £20 on each of twenty journeys with '8 or 9 horses', carrying up to eleven cloths each.<sup>94</sup> Personal journeys seem less likely in the case of Robert Tillotson, and the 1638 aulnage case centred on the impounding of cloths in Barnsley being taken by carriers to London. One possibility is that carrier businesses may have been sited just inside or outside the parish closer to major thoroughfares; John Frost of Hipperholme, a London carrier, was conveniently located to the east of Halifax in the direction of Wakefield.<sup>95</sup> Carrier capacity may alternatively be concealed within other occupations, such as the six horses inventoried for Juda Hoyle, a badger of Brighouse, and the 'eight horses with their furniture' listed for Thomas Johnson, another badger, from Fixby, whose estate of £248 0s 10½d included £177 10s 4½d in credit to customers.<sup>96</sup> The selling of corn by badgers to clothiers and farmers could be profitably combined with backloads of cloth. While arrangements for transporting materials for the processes of the seventeenth-century cloth trade would have varied, neither the leet records nor any other source point to the use of wheeled carriages (carts or waggons) for carrying wool, cloth or associated materials within the parish. Gerhold's exhaustive work on the spread of waggon services to London records no such services for Halifax, Leeds and Wakefield before the six West Riding turnpikes of 1741.<sup>97</sup>

The scarcity of specific references in highway presentments to the textile industry is reminiscent of earlier findings for agriculture. Generalised references to packs are more typical, such as this from Stansfield in 1631:

... that Luke Horsfall of Underbancke do sufficiently repaire, & make the hyeway ... leading from Rawtonstall wood aforesaid to Stansfeild [corn] milne, both in wydenes, and wth a good causey before the xxiiijth of June next, & ever after keepe the same passable, & sufficyent for travellers with packes ...

Despite the paucity of mentions in the court leet records, it is reasonable to conjecture a matrix of local, parish-based and longer-distance movements of materials and cloth to

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<sup>94</sup> 'Priestley Family Memoirs', ed., C. Jackson, *Yorkshire Diaries & Autobiographies in the Seventeenth and Eighteenth Centuries* (Surtees Society, 77, 1883), p.23.

<sup>95</sup> Gerhold, *Carriers and Coachmasters*, pp.9, 184.

<sup>96</sup> *Brighouse Probate Records*, pp.8, 26.

<sup>97</sup> Gerhold, *Carriers and Coachmasters*, Map 8, p.70; the 1741 turnpikes included Halifax-Leeds and Halifax-Wakefield.

Table 6.6. *Estimates of traffic/ transport generated by cloth manufacture, c.1650.*

<b>Activity</b>	<b>Mode</b>	<b>Ways used</b>	<b>Frequency</b>	<b>Max. distance</b>
<b>Obtaining supply</b>				
Raw wool (outside West Riding)	Horse (clothier, brogger, carrier)	Mostly highways	2-4 weeks, seasonal	Up to 200 km
Raw wool (inc. itinerant dealers)	Horse, foot	Any	1-4 weeks	Up to 40 km (Halifax/ other market towns)
Other manufacturing supplies	Horse/ foot	Any	Occasional	
<b>Processing</b>				
Spinning (outside clothier house)	Horse, foot	Mostly footways	1-2 weeks	Up to 5 km
Spun yarn supplies	Horse	Any	2-4 weeks	Up to 25 km (Lancs)
Fulling, tentering	Horse, foot	Footways, horseways	1-4 weeks	Up to 10 km
Dyeing, finishing	Horse, foot	Any	1-4 weeks	
<b>Marketing</b>				
Selling (Halifax)	Horse, foot	Any	1-4 weeks	Up to 8 km (foot) Up to 15 km (horse)
Selling (York/ West Riding)	Horse	Any	1-4 weeks	Leeds (25 km) Wakefield (30 km) York (65 km)
Selling via London markets/ direct exports	Horse	Mostly highways, some waterways	1-4 weeks	Liverpool (90 km) Hull (115 km) London (310 km)

meet the requirements of specialised production processes and carriage to market (Table 6.6). The modes used by Halifax clothiers were on foot and on horseback, both of which were practicable on either paved or unpaved roads in most weathers. Gerhold's work demonstrates that the speed of packhorse services ensured their long survival, giving the West Riding clothiers the competitive advantage of responsiveness to fluctuations in demand.<sup>98</sup> Consequently, most journeys arising from the trade took place on all-purpose roads, maintained with causey stones, ditches, walls and bridges, using local materials.

Use of GIS to map place-name frequencies in the leet presentments is one of the few tools available to shed light on the relationship between the textile industry and highway management. The analysis here concentrates on the townships of Stansfield, which issued the most presentments in the Upper Valley cloth-making district, and of Heptonstall, over half of whose presentments were actions against other townships (137 out of 266). Stansfield's internal orders indicate particular priorities (marked in darker blue on Map 6.3) on a route running north-west from the Todmorden/ Cross Stone area to Stiperden, between Blackshaw Head and Stiperden and also on parts of a valley bottom road between Todmorden and Hebden Bridge which served the manorial corn mill and several fulling mills. The orders on the valley bottom route name Luke Horsfall, owner of Callis fulling mill, seven times between 1631 and 1639, including two amercements.<sup>99</sup> An order in 1631 emphasised the economic benefits of the valley bottom route, and instructed Horsfall to take maintenance responsibility for traffic passing his mill:

Luke Horsfall of Underbancke do suffyciently repaire, & make the hyeway lying along by the southside of his grounds leading from Rawtonstall wood aforesaid to Stansfeild milne, both in wydenes, and wth a good causey before the xxiiijth of June next, & ever after keepe the same passable, & sufficyent for travellers with packes in paine of x s

Three orders relating to Marsh Lane also suggest some traffic from a point east of Blackshaw Head downhill towards three fulling mills (Callis, Spa and Wood mills).<sup>100</sup> The other strong emphasis is for roads towards Burnley both from Todmorden and Hebden Bridge. It is likely that much of the traffic was textile-related, probably

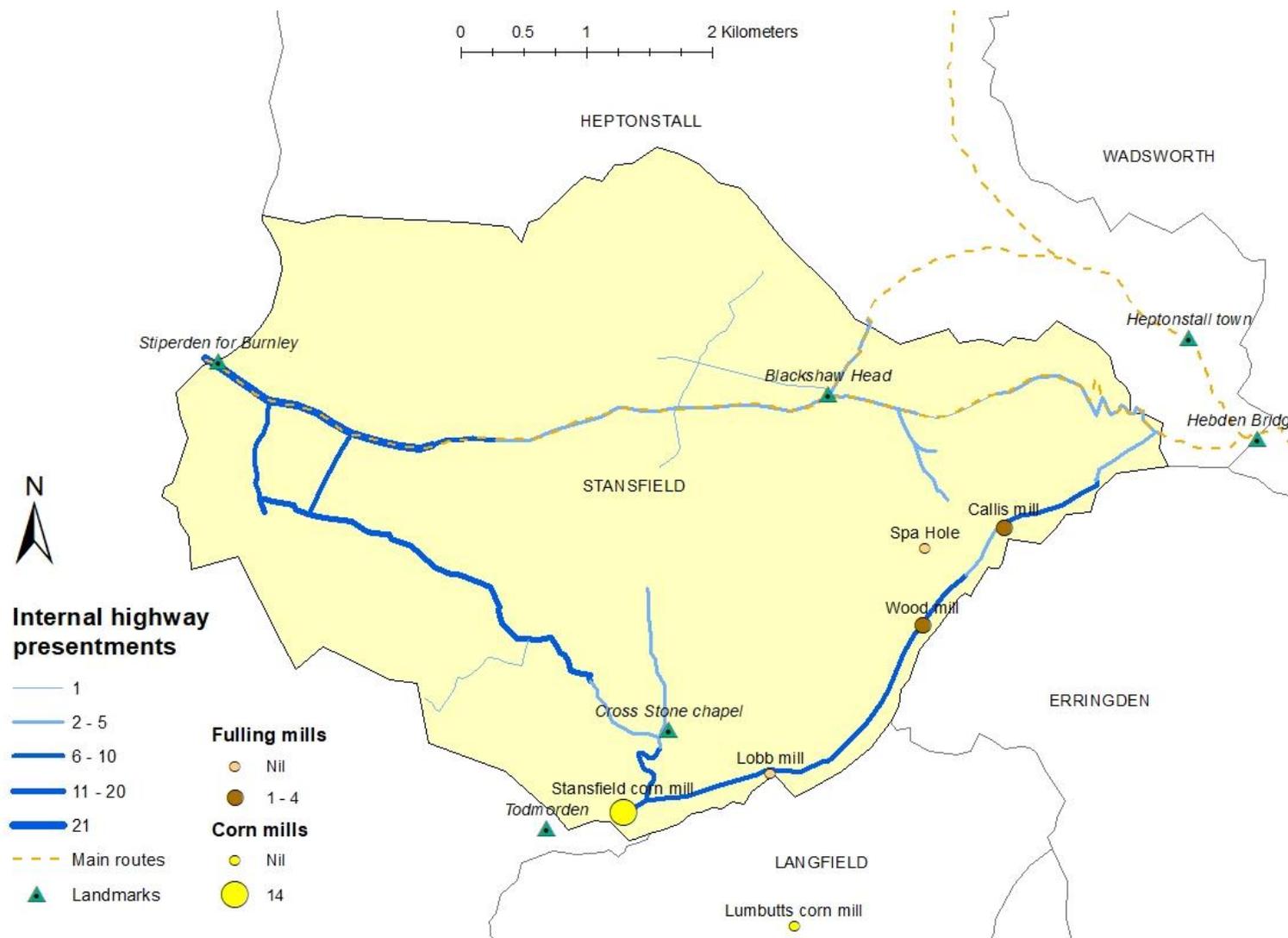
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<sup>98</sup> D. Gerhold, 'Packhorses and wheeled vehicles in England, 1550-1800', *JTH*, 3<sup>rd</sup> Series, 14 (1993), pp.1-26.

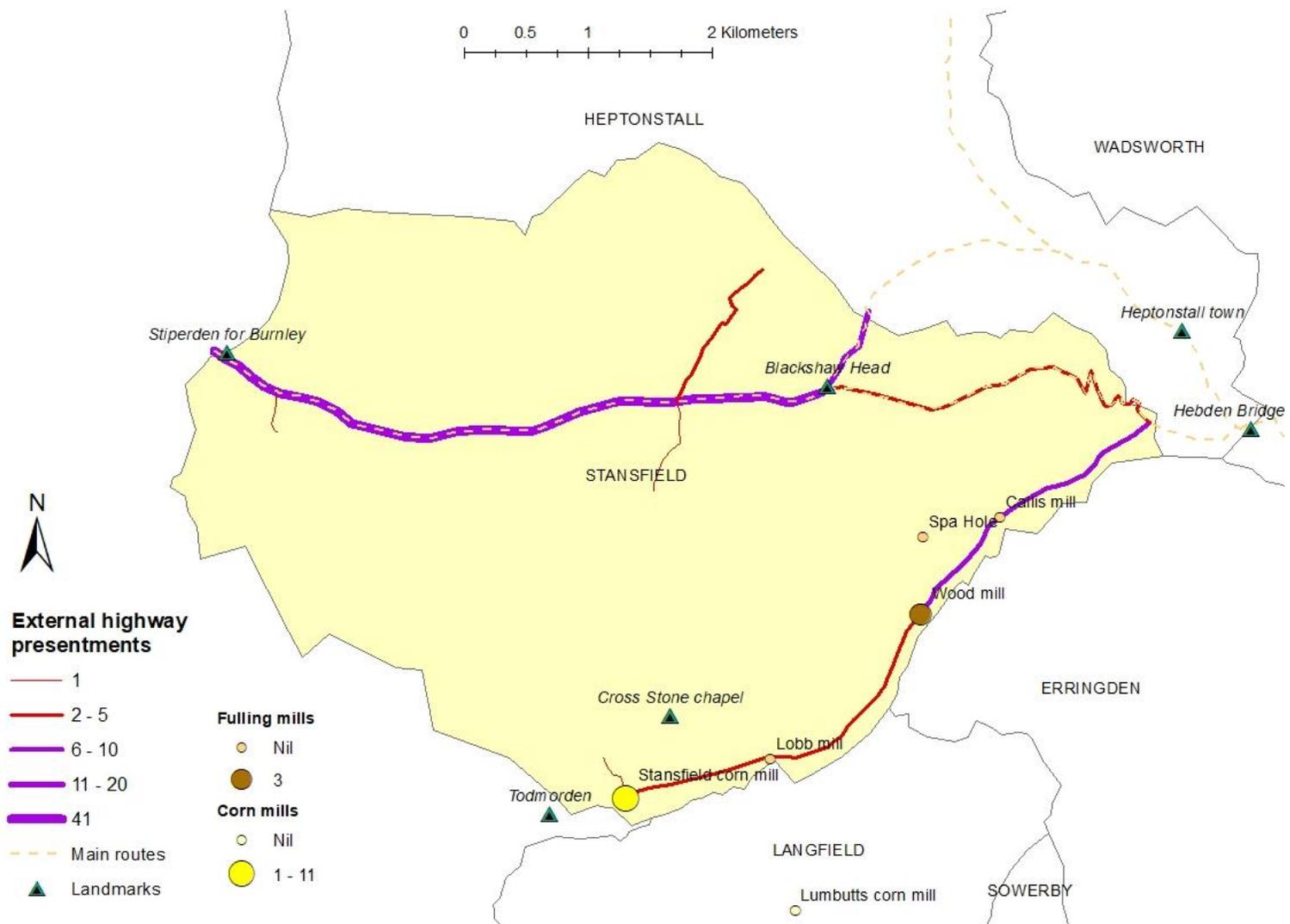
<sup>99</sup> YAS/MD227/1/354A-365A: Easter 1631; Michaelmas 1634 (twice), Easter/ Michaelmas 1635, Easter 1636, Michaelmas 1639.

<sup>100</sup> YAS/MD225/1/355A, Easter 1630; YAS/MD225/1/392A, Michaelmas 1666; YAS/MD225/1/421A, Michaelmas 1695.

Map 6.3. *Internal highway repair presentments, Stansfield, 1605-99.*



Map 6.4. *Presentments of Stansfield highways submitted by other townships, 1605-99.*



including supplies of spun yarn and consignments of cloth.

While this valley bottom route was also cited in inter-township presentments brought against Stansfield by neighbouring townships, the importance of the Burnley highway is even more emphatic (marked in purple, Map 6.4). The county-boundary section of the Halifax-Burnley route at Stiperden, one of the most cited roads in the parish (sixty-two instances), was especially vulnerable to encroachment or obstruction through ‘taking in’: repeated enclosures of waste were noted by Smith on, or close to, the road between Stiperden and Blackshaw Head between 1656 and 1682.<sup>101</sup> Probate inventories suggest a line of explanation by detailing social connections across the county border: ten of the twenty-five testators in Stansfield had bondsmen, executors or beneficiaries in Lancashire.<sup>102</sup> The market at Burnley was closer than Halifax for the people of Stansfield, and the fairs at Burnley (seven annually by 1674, mostly cattle-orientated) must have attracted Yorkshire graziers.<sup>103</sup> The Lancashire coalfield outcropped close to Stiperden, and a ‘collpitt way’ between Stiperden and Hartley clough was subject to three Stansfield repairs orders at Michaelmas 1650.<sup>104</sup> As the route dipped to Cliviger, it also passed limestone ‘hushings’ at Shedden Clough, the closest supply of lime for sweetening acid soil and for construction.<sup>105</sup> Despite the variety of traffic using the route, its significance must have been shaped principally by inter-county commerce in the woollen cloth trade that north-east Lancashire shared so closely with the West Riding.

The importance of the Stiperden and Widdop routes to western townships derived from the mid-sixteenth century cloth hall at Heptonstall, built by the lord of the sub-manor, John Waterhouse.<sup>106</sup> Heptonstall was ideally located just east of the junction of roads

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<sup>101</sup> Smith, *Patterns in the Landscape*, Appendix 10, pp.177-82: 1656, John Feilden, Abraham, James & Miles Stansfeild, Lawrence Ashworth; 1670-1, Richard Wadsworth & Thomas Lister, Edmond Ashworth & Thomas Lister; 1681-2, Paul Greenwood; 1684-5, William Cockcroft; 1692-3, Henry Cockcroft.

<sup>102</sup> *Erringden, Langfield and Stansfield Probate Records*: Edmund Barker (Todmorden, bondsman), p.54; John Feilden (Hundersfield, beneficiary), p.66; James Bancoft of Trawden/ William Foster of Worsthorpe (executors), p.75; William Foster of Cliviger (bondsman), pp.81, 113; Nicholas Feilding of Rochdale (bondsman), p.84; Robert Ormeroyd of Lancashire, (bondsman), p.101); Hugh Whittaker of Padiham/ Nicholas Whittaker of Simonstone (beneficiaries), p.103; Henry Wood of Habergham Eaves webster (bondsman), p.106; John & Richard Sutcliffe of Trawden (beneficiaries), p.114; Thomas Whiteaker of Cliviger (executor), p.122; Samuel Laycock of Todmorden (bondsman), p.142.

<sup>103</sup> W. King, ‘The public fairs of Blackburn hundred 1580-1870’, *Transactions of the Historic Society of Lancashire and Cheshire*, 138, 2 (1988), pp.1-38 (p.6).

<sup>104</sup> YAS/MD225/1/376A, Michaelmas 1650.

<sup>105</sup> T. Thornber, *A Pennine Parish, The History of Cliviger* (Burnley, 1987), pp.57-60.

<sup>106</sup> A. & P.W. Robinson, ‘Hall End and its cloth halls, c.1557-1719’, *THAS* (2012), pp.27-99 (pp.79-80).

from the Lancashire cloth towns of Colne and Burnley into the parish. Heptonstall's cloth hall fits with other references to the early strength of the trade in the upper Calder valley. In 1518, William Hardy of Heptonstall bequeathed a booth at St Bartholomew's cloth fair in London, and in 1533, sixty men from Heptonstall chapelry were named for 'flocking' offences in London, the second highest in the West Riding after Halifax (180).<sup>107</sup> Swain reports a packhorse loaded with wool was driven from 'Heptonstall parish' to Pendle in 1574 and a law suit of 1575, in which it was claimed that Colne kersey manufacturers 'were of long time ... constrained to their great charges to carry the said pieces into Heptonstall parish ... to certain fulling mills'.<sup>108</sup> The hall could capture business from across the county boundary and channel Lancashire cloth to West Riding merchants. No records survive of cloth hall transactions, and it is not cited in any surviving highway presentments to the leet or court baron. According to Watson, its fate was sealed by a manorial late lord, Sir Arthur Ingram, who sold it off in 1612, 'rather than suffer[ing] it to sink down into unprofitable ruins', a move that no doubt optimised the leasehold value of Ingram's cloth halls and commercial interests in Halifax itself.<sup>109</sup> Nevertheless, a lasting legacy of Heptonstall's hall was a lively trade in wool, yarn, and cloth with Burnley and Colne across the county boundary, guaranteeing supply for the dyers, finishers and merchants of Halifax parish. These clothier connections seem to have survived 'a series of events of a more or less catastrophic nature' – the Cockaigne fiasco of 1614-17, trade depression, and outbreaks of famine and plague in both counties.<sup>110</sup> Indeed, the plague in Heptonstall of 1631, which first infected a clothier's wife in Erringden before killing 106 others in the chapelry, may even have spread from Lancashire through the trade.<sup>111</sup> The integration of the economy across the Pennines is also the likely motivation for the succession of presentments submitted by Heptonstall against neighbouring townships. These show repeated concerns (marked in purple, Map 6.5) with the routes from north-east Lancashire converging on Heptonstall, as well as the main highway running south-east towards Halifax, a low-level route besides the Calder

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<sup>107</sup> Heaton, *Woollen Industry*, pp.134-5; flocking was use of waste wool or yarn to bulk out the cloth cheaply.

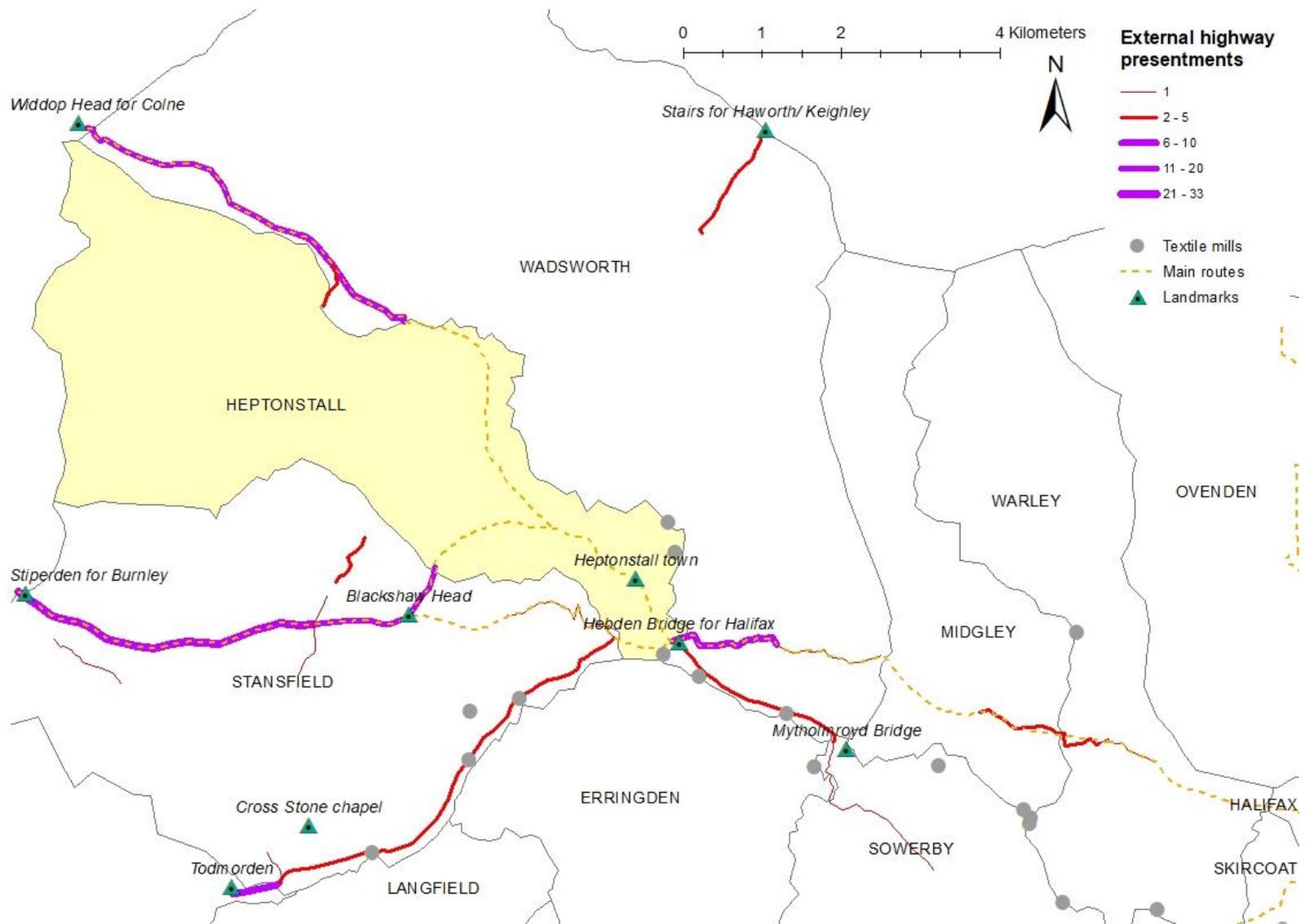
<sup>108</sup> Swain, *Industry*, p.116.

<sup>109</sup> Watson, *Antiquities*, p.132.

<sup>110</sup> Heaton, *Woollen Industry*, pp.177-96; Supple, *Crisis*; Swain, *Industry*, pp.22-4, 127-46.

<sup>111</sup> B. Atack, I. Bailey, J. Page & C. Ray, 'The people of the parish of Halifax, 1539 to 1670: parish registers and the reconstruction of the population', in N. Smith (ed.), *History in the South Pennines: The Legacy of Alan Petford* (Hebden Bridge, 2017), pp.33-66 (p.60).

Map 6.5. *Presentments submitted by Heptonstall against other townships, 1605-99.*



to Mytholmroyd and a less certain transverse route from Todmorden to Haworth and Craven. While the loads being carried may well have been diverse, the sheer scale of activity can only be ascribed to the supply, processing and market stages of textile manufacturing.

In summary, linkages between the cloth trade and highway maintenance, conjectured from locational data for road presentments in the west of the parish, are reinforced by evidence from Court of Exchequer cases and late-century testamentary data. The discussion has argued for increasing specialisation and integration between clothiers and merchants both within the parish and across the Lancashire boundary. Serviceable routes for carrying textiles manually and by packhorse were essential to large and small clothiers, merchants and carriers. Unlike the case of agricultural ‘cartways’ and ‘peatways’, there is little evidence that particular roads or ways were prioritised for the trade aside from the occasional presentment in Stansfield of otherwise obscure roads to access fulling mills along the Calder. Travellers and packhorses shared the same bridges, highways, common ways, or footways, to carry loads of wool, yarn, cloth, lime and coal. The Halifax court area practice of presentments between townships, possibly supplemented by tax-funded investment later in the century as in Sowerby, seems to have performed satisfactorily in guaranteeing continuity of supply and trading between textile producers and merchants.

## IV Mineral extraction

We lay in payne that no person or persons dwelling or having anie lands wthin the townshippe of Northowram or graveshippe of Hipperholme shall sell or cause to be sould anie slate paveing or other stones ... upon payne to forfeit ... for every waineload £10 each load – £5 horseload – 2s each mans load <sup>112</sup>

Wee lay in paine the occupiers of the land of Richard Barracloughe and the openeres of a sowe [drain] in the said landes that they ... doe make a sufficient dytche or sluice to convey the said sow watter from the annoya[n]ce of one way called the old lane ... in the paine of xxx s <sup>113</sup>

We lay in payne that neither the inhabitants of Hallyfax nor any other parson [person] shall digge up any clay which is a great annoyance to the kings highway leading from the North Bridge to the Pule Slack in payne of digging or conveying every mans lode a shilling, every horse lode two shillings <sup>114</sup>

The bylaws set by Northowram township at the Brighthouse court leet in the 1630s flag the importance of mineral extraction to the townships immediately to the east of a north/south geological fault separating the coal measures from gritstone to the west.<sup>115</sup> The first bylaw asserts control of slates (for roofing and paving) across both Northowram and neighbouring Hipperholme. The second demands repair of a ‘sow’ or drain, almost certainly from a pit, on a lane lower down the hillside, while a third seeks to prevent damage to a nearby route to Bradford from extraction of clay, pointing an accusatory finger at Halifax town. Coal, slate and clay were all found in abundance at different levels in the same pits in the case study area.<sup>116</sup> Extraction of mineral and turbary resources is mentioned frequently in leet presentments, much more so than cloth-making and across the whole parish. Quarrying for building and paving stone could be closely linked: the Sowerby constable who presented Nichollas Wilde in 1675 ‘if he do not fill up a great hole or delfe he hath opened in the way leading betwixt Hogeh end and Sowerby Street’ would have been well aware that the Wild family were regular contractors for road repairs for the township.<sup>117</sup> A frequent accusation was the danger posed to travellers through open pit workings, as in this unusually specific order in 1610 from Shelf:

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<sup>112</sup> YAS/MD225/1/357A, Michaelmas 1631.

<sup>113</sup> YAS/MD225/1/360A, Michaelmas 1634.

<sup>114</sup> YAS/MD225/1/362A, Michaelmas 1636.

<sup>115</sup> R.E. Yarwood, ‘The natural environment’ in M.L. Faull & S.A. Moorhouse (eds.), *West Yorkshire: An Archaeological Survey to A.D. 1500* (Wakefield, 1981), pp.34-45, cited by Smith, *Patterns in the Landscape*, p.8.

<sup>116</sup> J.C. Bateman, ‘Coal mining in Calderdale from the 13th Century to 1964’, *THAS* (2016), pp.32-45.

<sup>117</sup> YAS/MD225/1/401A, Sowerby, Michaelmas 1675; Wilde was paid for highway repairs in 1674 and 1676, (SCA).

We payne theirs [the heirs] of Edward Slater William Hird and John Crowther that they eyther fill or wall with a wall of five quarters hy all the sowe pytts on the common of Shelfe ...<sup>118</sup>

Drainage problems were common near pit workings with consequent damage to roads, as mentioned in the second bylaw. Road repairs in the mining area occurred in much higher volumes than anywhere else in the parish; the three townships generated more than a third of all highway presentments in the parish, as noted in Chapter Three. Township surveyors had to ensure roads were suitable not just for the pedestrian and horse traffic seen elsewhere but for the specific task of carrying regular loads of coal to consumers. Onward transport of coal was a key element in the seventeenth-century development of the Tyneside coalfields, as analysed in some detail by Nef and then by Levine and Wrightson.<sup>119</sup> The innovation of building railed waggonways to cut costs was, however, suited to a specific where coal could be drawn downslope to staites on the coast, replacing haulage by wains, oxen and horses.

The mining industry in the parish was far from navigable water, relatively small-scale in terms of capital investment and served a purely local market. Workings in the study area required access from the pithead to major roads especially those leading through Northowram to Halifax. Mapping shows that the ways in Northowram and Shelf subjected to most frequent repair orders (with thicker colours) tended to be close to coal mines (black circles) or stone quarries (brown), as identified from the same records (Map 6.6). The most prominent of these were the coal pit at Staups in Northowram (eight highway-related orders) and, in Shelf, the ‘Stocks pit’ (eleven) and ‘Sow pits’ (thirty-seven). The Sow pits area in Shelf was labelled Coalpit Hills on the first series OS map and sited next to South Lane, an apparent bowdlerisation of ‘Sow lane’, presumably named for a drain serving the mining area north of the road between Halifax and Bradford.<sup>120</sup> Moorland in the north of Shelf township had been enclosed and leased out by the manorial lord, the Saviles, in the late sixteenth century to generate profits from coal.<sup>121</sup> The Stocks pit was also located in this area. Based on an initial concession in 1582, the mining concession for the demesne township of Northowram was let to the Farrer family before 1600 and then in 1633 to Abraham Shaw of Shelf before passing

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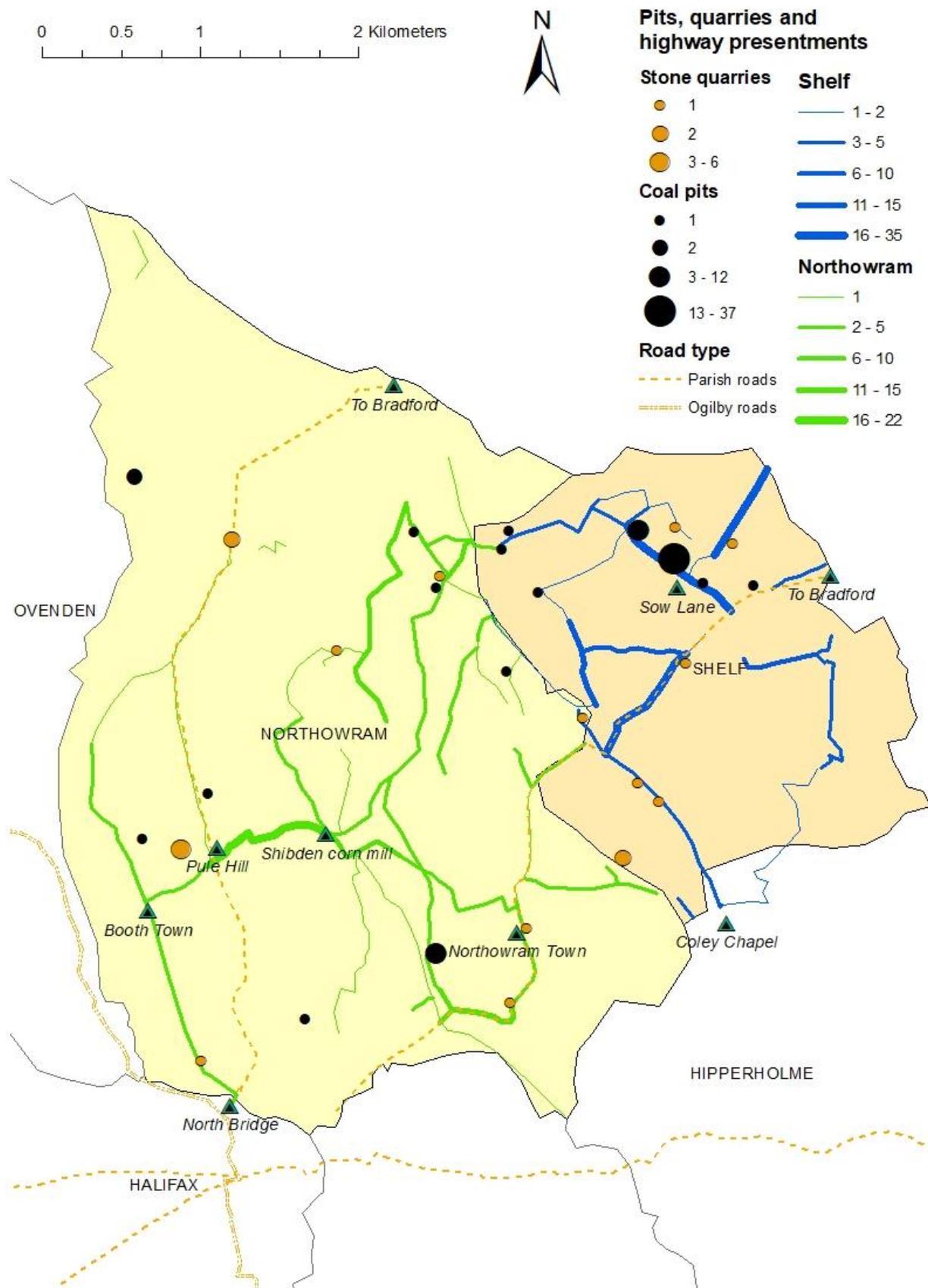
<sup>118</sup> YAS/MD225/1/336A, Michaelmas 1610; five quarters = 1 ell, 3 ft 9 ins, 1 m 14.3 cm.

<sup>119</sup> J.U. Nef, *The Rise of the British Coal Industry* (2 vols., London, 1932); D. Levine & K. E. Wrightson, *The Making of an Industrial Society: Whickham 1560-1765* (Oxford, 1991), pp.48-55.

<sup>120</sup> B. Stables, *The Early History of Shelf: A West Yorkshire Village Before 1700* (private, 2018), p.9n.

<sup>121</sup> Stables, *Shelf*, pp.40-5.

Map 6.6. *Coal pits, stone quarries and highway repair orders, Northowram and Shelf, 1605-99.*



into the control of the Listers of Shibden Hall. In the Restoration period, Staups pit, ‘Mr Horton’s pit’, was controlled by the wealthy family of that name. While many of the roads and paths on the map undoubtedly served agricultural and textile purposes, the alignment of repairable roads from the coal mines in the north and east of the two townships towards Halifax is striking.

Links between mining, officeholding and highway administration are particularly vivid in Shelf. Men who worked pits or quarries or held land near them attended the court leet in various capacities, sometimes serving as highway surveyors (Table 6.7). John Stocks and Robert Sunderland are both recorded in a 1610 manorial rental as holding coal pits.<sup>122</sup> Nicholas Woodhead was ordered to ‘fill & mack playne places where he hath gotten stones’ in 1613.<sup>123</sup> The frequent orders among the office holders suggest an approach combining personal responsibility and co-operation, as in an unusual order at the same court for ‘every householder in Shelf to send the 9 day of may evry one an aball man to the fil[I]ng of a pit betwixt Nicholas Wodhead ground & Robert Sunderland in paine of evry one that sendeth not 1s’, a re-purposing of statutory labour on roads with the standard penalty for non-attendance. Characteristic in these townships – and even more so in neighbouring Hipperholme – is the use of the leet to prohibit

Table 6.7. *Correlation between Shelf officeholders and highway presentments associated with mining and quarrying, 1605-15.*<sup>124</sup>

	<b>Highway presentments</b>	<b>Mines cited</b>	<b>Offices held</b>
Edward Slater	7	Sow pits	Juror 1605, 1615 Constable 1612 Presenter 1605 1614 1615
Nicholas Woodhead	5	‘Urdghouse’ pit [Wade House?]	Juror 1615 Surveyor 1607 Presenter 1606 1611 1613
John Stocks elder/ younger	4	Stocks pit	Constable 1605 Surveyor 1610, 1615 Presenter 1615
William Hyrd	3	Sow pits	Constable 1608 Presenter 1612(2) 1613
Richard Waterhouse	3	Cockhill	Juror 1609 Constable 1611 Presenter 1606 1609(2) 1610(2)
Robert Sunderland	3	Cockhill	Presenter 1606 1607 1608 1609 1615

<sup>122</sup> Notts CRO, DD/SR/233/6, cited in Stables, *Shelf*, p.51.

<sup>123</sup> YAS/MD225/1/338A, Easter 1613.

<sup>124</sup> YAS/MD225/1/331A-341A.

passage over enclosed land. In 1612, a Shelf presenter, William Hurd, secured an order against ‘everie person that goeth overquarts [across] Wm Hird haies [hedges] by the waie’.<sup>125</sup> Two Northowram prohibition orders in 1658 target ‘going over the dry soil either with coals or without’ and ‘going over Edmond Hopkin[‘s] mowing ground with burdens of coals or breaking down the fence’.<sup>126</sup> These prohibitions were clearly intended to channel movements of coal and stone between fields to protect pasture land. The seasonality of highway repair orders, particularly noticeable in Shelf but also apparent in Northowram and Hipperholme, was aligned to patterns of agriculture and coal mining. Extraction followed heating demand upwards in winter and downwards in the spring, the sowing season, just before the appointment of new surveyors in Easter week and the court leet shortly afterwards. 546 (81.7%) of 668 highway presentments in Shelf township were submitted at the Easter court, many dealing with ground disturbance.

There is a hint of road improvement in the two mining townships. Later presentments include explicit references to types of road surface: between 1661 and 1690 ‘causey’ or ‘horseway’ appears 131 times in presentment wording (67 in Northowram, 64 in Shelf). The seven orders to repair horseways and horse causeys laid by Shelf at Easter 1685 and a further five in 1688 demonstrate a determination to upgrade roads for horse transport and protect farmland at a time of economic upswing.<sup>127</sup> Packhorse rather than waggon transport of coal was dominant: output from pits at nearby Shibden Hall (Southowram) in 1714 was recorded as 14,000 horse loads at 3d per load.<sup>128</sup> Almost certainly, coal extraction (and disturbance to highways) accelerated in later decades as the number of domestic hearths increased across the parish.

It has, thus, proved possible to use leet presentments to show ways in which mineral extraction was bound up with a more intensive approach to managing highways to the east of Halifax. First, mining and quarrying disrupted natural watercourses and land drains and caused hazards if shafts went unfenced or unfilled: court leet orders were a straightforward way of dealing with these nuisances or, where possible, preventing them. Secondly, the traffic generated by the sector, especially trains of horses laden with

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<sup>125</sup> YAS/MD225/1/337A, Easter 1612.

<sup>126</sup> *WCR 1658/9*, p.96; ‘Dry Soil’ is mentioned as a field name at Michaelmas 1660.

<sup>127</sup> YAS/MD225/1/410A, Easter 1685; *WCR 1688/9*, pp.153-4.

<sup>128</sup> W.R. Trigg, ‘The Halifax coalfield’, *THAS* (1930), pp.118-54 (p. 147).

coal, clay or stone, caused additional wear and tear on routeways, requiring more frequent maintenance and diversion round temporary workings. Thirdly, many officeholders themselves had a stake in both mineral exploitation and agriculture. Unlike cloth working, which operated throughout the year, mining, agriculture and road maintenance worked to an annual cycle. Officeholders in Shelf and Northowram could use the two meetings of the leet to organise the annual repair programme in a way that supported mining and other business ventures while protecting pastoral and arable production.

## V Halifax: markets and services

John Feilden of Todmorden Hall, a Lancastrian yeoman clothier, visited Halifax every Monday in June 1723, making four of his thirty-six trips to the town in that year (alongside thirty-four more to Rochdale). The personal expenses for Halifax listed in his day book reflect the business and retail opportunities available in the town.<sup>129</sup> First, there were his cloth-making transactions: contracting carriers to take twenty pieces to Leeds on the 3<sup>rd</sup>, for which he was paid on the 10<sup>th</sup>, and buying two packs of wool from Newark and teasels (for raising the nap) on the 17<sup>th</sup>. He met a millwright on the 3<sup>rd</sup>, and paid Abraham Gibson for milling twenty-four pieces on the 10<sup>th</sup> and John Caygill, a merchant, £15 on the 24<sup>th</sup>.<sup>130</sup> He found time to pick up household items such as butter, loaves, ‘Hungary watter’, and a ‘quiar’ of paper, paid for two letters, and even had a trim at the ‘barbry’.<sup>131</sup> Feilden seems to have avoided the main cloth market on Saturdays and other markets on Tuesdays and Thursday for wool and provisions.<sup>132</sup>

The Halifax that Feilden knew was a place of business, a market and a social centre. The parish registers and probate inventories, despite the different dates and social profiles involved, share some patterns in the occupations given for Halifax, falling into six groups (Table 6.8).<sup>133</sup> Within the textile group, some were predominantly associated with processing cloth and others with retailing and tailoring. Clearly, there was a lively trade passing through the cloth halls and around the Woolshops area, which were the focus of repeated street repair orders and amercements. Manure heaps were a constant problem throughout the study period, indicating the level of traffic in the town. The profile of butchers is equally visible with frequent references to the Shambles and Swinemarket; this fits with the area’s emphasis on stock grazing, especially in the west of the parish, and gave rise to a number of leet orders for nuisances caused. In 1617, an unusually evocative order targeted the butchers:<sup>134</sup>

The butchers of Hallifax doe annoy the streets in Hallifax wth casteinge sheep hornes & other filthy excrements ... for it is a common nuisance to travellers as well as townsmen their horses feet being indangered & sometimes hurte with the hornes besides the filtheie smell of intrailles there casten

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<sup>129</sup> *John Feilden Day Book*, dates as specified.

<sup>130</sup> For the Caygills, see Hargreaves, *Halifax*, p.186.

<sup>131</sup> Hungary water, a perfume made primarily from rosemary, also used as a tonic (*OED*).

<sup>132</sup> Samuel Midgley & William Bentley (disputed), *The History of the Town and Parish of Halifax* (Halifax, c.1708).

<sup>133</sup> Sources as for Figs. 6.1 & 6.2.

<sup>134</sup> YAS/MD225/1/343A, Michaelmas 1617.

Leather was a significant product of the trade, and three searchers of leather were appointed in 1651.<sup>135</sup> A variety of metalworkers made a living in the town, headed by blacksmiths. Amidst the reek of urban life, the signs of more genteel occupations are muted, but the appearance among the testators of a Lancashire squire, two gentlemen, three apothecaries, a chandler and a scrivener, as well as three innkeepers, suggest that the town was fulfilling social functions in addition to shopping, business and administration.<sup>136</sup> A mixture of industrial, market, administrative and religious functions were all typical for a seventeenth-century town serving a rural hinterland with an economy of agriculture, textile manufacture, and mining.<sup>137</sup> They suggest a wide range of travel and transport requirements (Table 6.9). Most inward and outward travel was on foot or by horse. Access to the town by cart from some townships (Skircoat, Ovenden, Warley and Northowram) was possible for haulage of building materials, mill gear and perhaps some agricultural produce. Evidence is missing on how grain was supplied for such a large market which included not just the town's population but the large number of rural workers who depended on the corn market at Halifax. It is, however, once again noticeable that there are no references to carts in the township's presentments for conveying bulk provisions, wool or cloth.

Table 6.8. *Occupations in Halifax township.*

<b>Occupation group</b>	<b>Bridegrooms (Registers, 1655-7)</b>	<b>Probate documents (1688-1700)</b>
Textile	14 clothiers, 13 tailors, salter, 'lanier'	3 linen drapers, 3 salters, 2 clothiers, 2 mercers, 2 tailors, draper, dyer, stapler
Meat/ leather	5 butchers, 2 corvisors, shoemaker	Butcher, cordwainer, shoemaker
Metalworkers	3 blacksmiths, plumber, spurrier, whitesmith	Nailsmith, pewterer
Household	Chandler, chapman, cooper, grocer	3 apothecaries, 3 carpenters, chandler, chapman, grocer
Other	28 labourers, 2 colliers	3 innkeepers, scrivener, 'tradesman', husbandman
Status only	3 yeomen	6 yeomen, 2 gentlemen, squire

<sup>135</sup> *WCR 1651/2*, p.160.

<sup>136</sup> Gilbert Rigby, squire and Lancashire justice died in Halifax, but was buried in Preston: *Halifax Probate Records*, xv-xvi.

<sup>137</sup> P. Glennie & I.D. Whyte, 'Towns in an agrarian economy 1540-1700' in M. Daunton (ed.), *The Cambridge Urban History of Britain*, vol.2, 1540-1840 (Cambridge, 2000), pp.167-93.

Table 6.9. *Estimates of transport and travel to/from Halifax town, c.1650.*

Activity	Mode	Ways used	Frequency	Distance
<b>Household</b>				
Corn supply	Waggons(?), horse, badgers	Highways/ waterways	Weekly	From up to 150 km (Flour milled locally)
Farm produce	Horse/ foot/ badgers	Any	Weekly (seasonal)	Catchment area of Halifax markets, up to 15 km
Livestock	On the hoof; led on foot/ horse	Any (not footways for larger beasts)	Weekly (seasonal)	
Coal, fuel	Horse	Any	Seasonal	
Household goods	Horse, foot, chapmen	Any	As required	
Clothes & shoes	Horse, foot, chapmen			
Horseshoes, brass, ironmongery	Horse, foot or on site			
<b>Textiles</b>				
Wool, linen supply	Horse, foot	Any	1-4 weeks	From up to 250 km
Cloth-making/ dyeing materials/ equipment			Occasional	Variable (including some imports)
Cloth for finishing				
Finished cloth carriage (longer distance)	Carrier (horses)	Highways, waterways	1-4 weeks	Wakefield (30 km) York (65 km) Liverpool (90 km) Hull (115 km) London (310 km)
<b>Administration</b>				
Finance & legal	Horse, foot	Any	As required	Up to 40 km
Religious ceremonies & administration			Occasional	Up to 15 km (Halifax parish church)
Courts & administration			2-4 times per year	Halifax, up to 15 km Quarter Sessions* up to 40 km (Pontefract) York (65 km)
Militia training			Summer	Almondbury (16 km) Wakefield (30 km)

Note: Halifax hosted some Quarter Sessions before the Civil War.

Mapping of highway presentments lodged by Halifax town exposes clear zonal divisions of responsibility (Maps 6.7). Forty-five presentments (3.3%, shown in green) stated the township or constables of Halifax as responsible or simply indicated the location without ascribing liability. The town was also deemed responsible for the area around the parish church and charitable almshouses, a few roads indicated outside the town centre and, with Ovenden, Northowram and Southowram, for a series of bridges over Hebble brook to the north and east. Nevertheless, it almost certainly understates the constables' span of responsibility. The main road towards Heptonstall and Burnley (Gibbet Lane) was presented by Midgley, King Cross Lane towards Rochdale was a frequent target of Skircoat, and the Lee Bridge area towards Keighley was found wanting by Ovenden.<sup>138</sup> These highways were only rarely mentioned in Halifax orders, but must presumably have been maintained without notification to the leet. As for the external presentments (in red) that are so common further west, Halifax presented only three other townships: Skircoat for a road leading south towards Elland, Northowram for North Bridge and Southowram for the important bridges and roads leading east towards Wakefield, an intriguing move that attempted to project the influence of the Halifax leet into a neighbouring manor.<sup>139</sup> There were just seven external presentments (marked in red, 0.5% of the township's presentments). After the Civil War, zonal division was less obvious, notification to the leet of 'public' bridges and roads was uncommon and action against other townships stopped in 1636. A possible explanation is that the town's 'public sphere' was being managed through taxation, as seen in Chapter Five for Sowerby.

Outside this modest 'public' domain, presentments of streets in the commercial core predominated, stretching uphill and westwards from the parish church to the 'Green', as detailed in Watson's 1775 map of the town (Map 6.8).<sup>140</sup> This space for provisions,

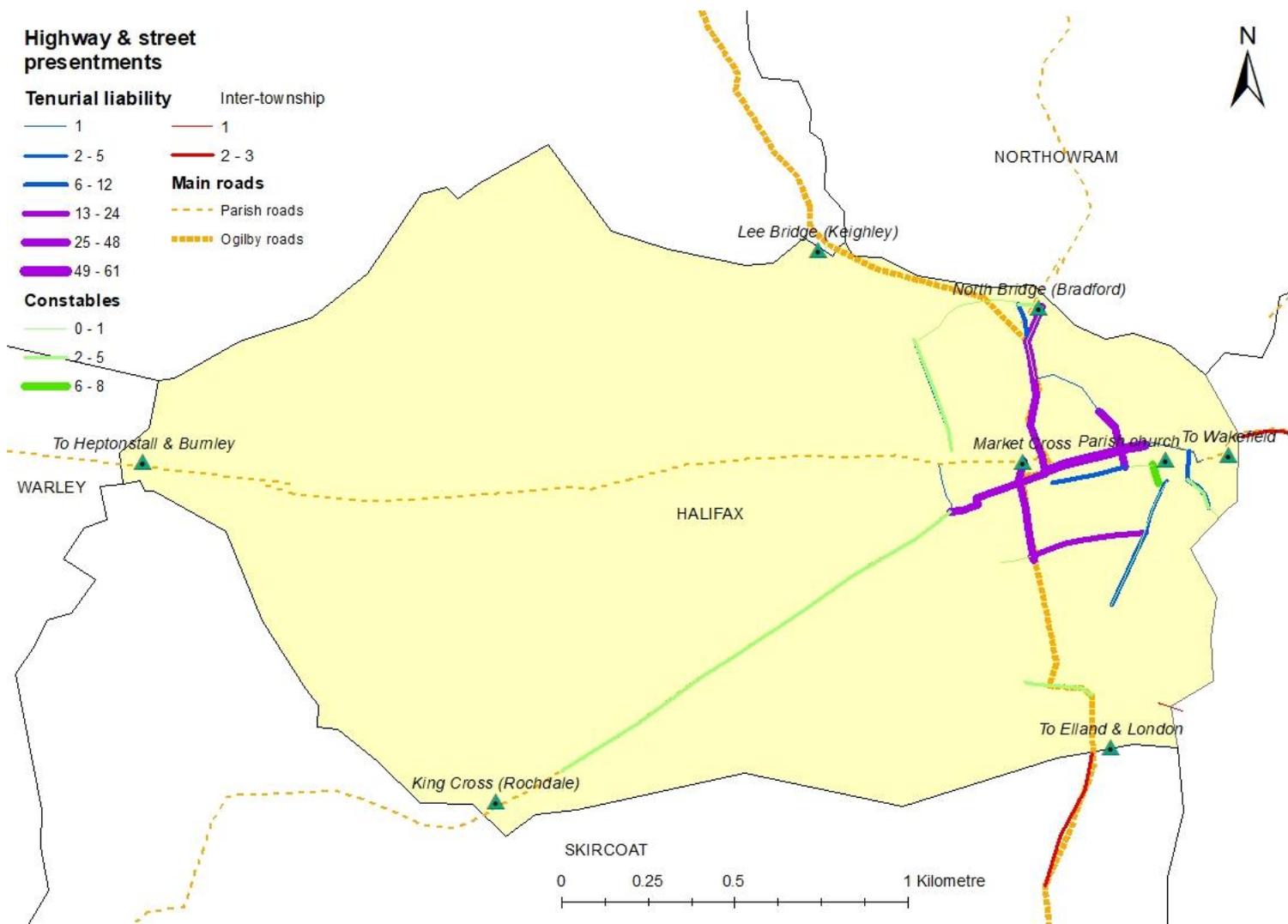
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<sup>138</sup> Gibbet St by Midgley: YAS/MD225/1/344A, Easter 1619; YAS/MD225/1/355A, Easter 1629 (tenurial, traversed). King Cross Lane by Skircoat: YAS/MD225/1/360A, Michaelmas 1634; YAS/MD225/1/363A, Easter 1638; YAS/MD225/1/379A, Easter 1654; YAS/MD225/1/391A, Easter 1666; YAS/MD225/1/408A, Michaelmas 1682. Lee Bridge/ Dean Clough by Ovenden: YAS/MD225/1/337A, Easter, 1612; YAS/MD225/1/346A, Michaelmas 1620; YAS/MD225/1/347A, Michaelmas 1621; YAS/MD225/1/348A, Easter 1623; YAS/MD225/1/363A, Michaelmas 1637; YAS/MD225/1/372A, Easter 1647; YAS/MD225/1/373A, Michaelmas 1647; YAS/MD225/1/379A, Michaelmas 1653; *WCR 165/9*, p. 90; YAS/MD225/1/394A, Michaelmas 1668, Easter 1669; S/MD225/1/399A, Michaelmas 1673.

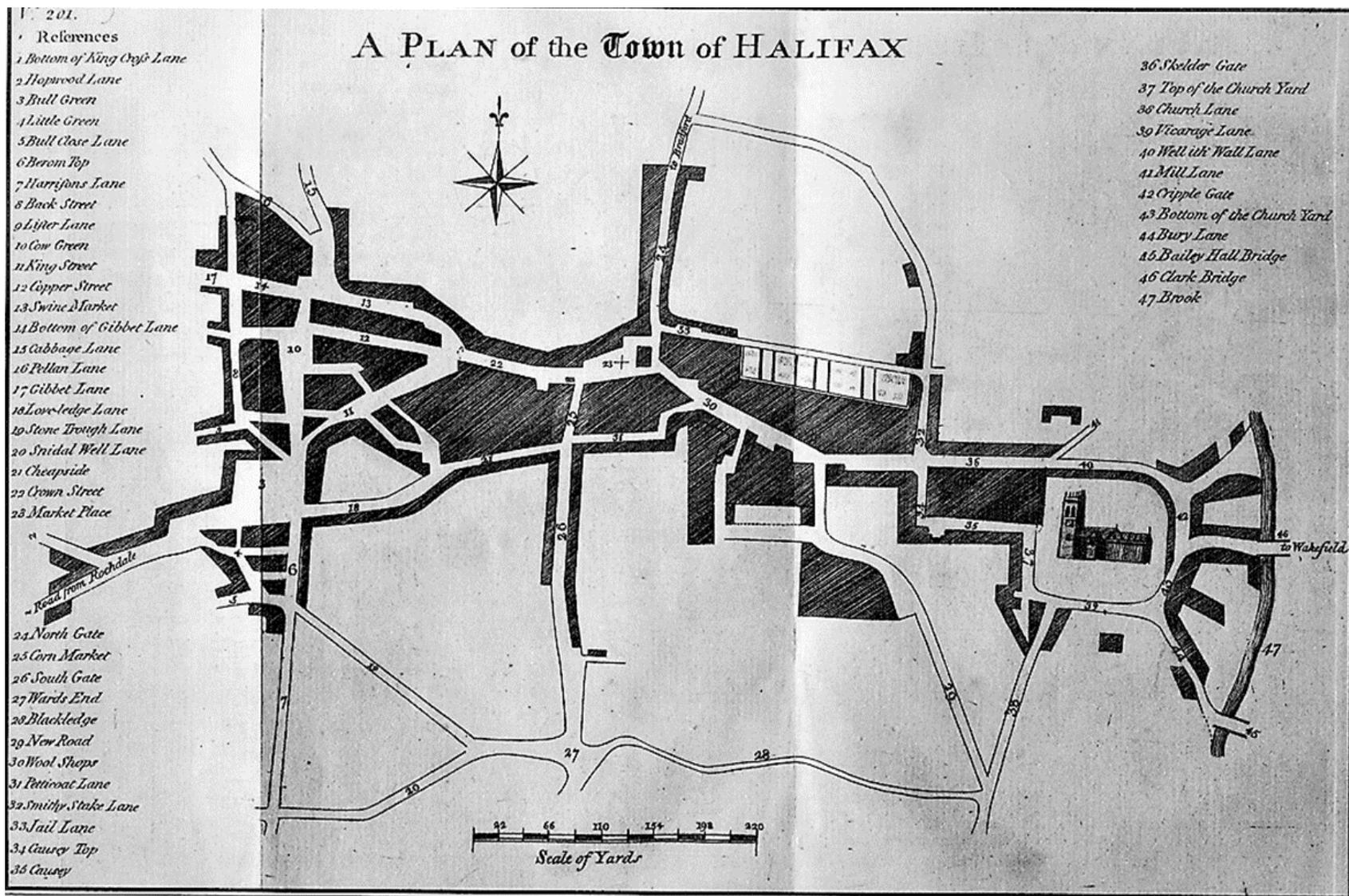
<sup>139</sup> Southowram; YAS/MD225/1/334A, Michaelmas 1608; YAS/MD225/1/354A Michaelmas 1628, Easter 1629. Skircoat, YAS/MD225/1/338A, Michaelmas 1612, Easter 1613; YAS/MD225/1/357A, Michaelmas 1631. Northowram, YAS/MD225/1/349A, Easter 1624.

<sup>140</sup> Bull Green and Cow Green appear separately in later seventeenth-century records.

Map. 6.7. *Halifax presentments by tenorial, township and external township liability, 1605-99.*



Map 6.8. *Halifax town centre, c.1775, from John Watson, Antiquities.*



textile and household transactions, also prominent in the analysis of township traffic (Table 6.10), was clearly treated as an extension of the private sphere with individual landlords held liable to ensure cleansing and repairs to the street in front of their property. Personal allocation of responsibility for street cleaning and maintenance in the

Table 6.10. *Individuals named most frequently in highway presentments, Halifax township, 1621-40.*

	Status/ interests	Amercements	Pains	Streets
John Crosland	Landlord <sup>141</sup>	7	10	Near the Crowne, Market Place, Northgate, Woolshops
Samuel Mitchell	Draper <i>Compounded/</i> <i>Trustee</i>	3	13	Back Lane, Northgate, Woolshops
Anthony Foxcroft	Gentleman, sequestered <sup>142</sup> <i>Trustee</i>	6	8	Northgate, Ratton Raw end, Shambles
Mr Jasper Blythman	Esq., of Elland Hall <sup>143</sup>	5	9	Smithystake lane, Southgate,
Robert Exley	Landlord <sup>144</sup> , mercer; tenant of cloth hall, etc. <i>Compounded/</i> <i>Trustee</i>	5	9	Back Lane, Hall End, Market Place, Petticoat lane
Mr Edward Slater	Gentleman <sup>145</sup> , freeholder <sup>146</sup>	5	9	Southgate, Woolshops
John Smithson	Gentleman, leased Halifax cloth halls, corn market <sup>147</sup>	5	9	Cornmarket, near woollen and linen halls
Thomas Ward	Mercer Freeholder <sup>148</sup>	4	8	Lovelace Lane, Shambles, Southgate,
Thomas Whitley	Of Hipperholme; manorial co-lord, Southowram <sup>149</sup> <i>Compounded</i>	4	5	Woolshops

Notes: 1) *Trustees* indicate those on the board of Halifax workhouse, 1635-9, listed in Watson, *Antiquities*, p.600; 2) *Compounded* indicates listing in Baildon, W.P., 'Compositions for not taking knighthood at the coronation of Charles I', *YAS Record Series*, 61 (1920), pp.84-107.

<sup>141</sup> YAS/MD225/1/364A, Easter 1639, reference to croft adjoining his houses.

<sup>142</sup> YAS/MD225/1/358A, Easter 1633; WYAS (C), SH:6/LD/45, Foxcroft (subject to Royalist sequestration).

<sup>143</sup> J. Horsfall Turner, *The History of Rastrick, Brighouse and Hipperholme* (Bingley, 1893), p.235.

<sup>144</sup> WYAS (L), WYL100/HX/A/144c, copyhold purchase (1609).

<sup>145</sup> YAS/MD225/1/357A, Michaelmas 1631.

<sup>146</sup> WYAS (C) WYC:1484/3/1/8/3, Receipt for land purchase (1629).

<sup>147</sup> Robinson & Robinson, 'Hall End', p.82.

<sup>148</sup> WYAS (L) WYL100/HX/A/195, land purchase (1614).

<sup>149</sup> WYAS (B), HOR/A/73, Lease (1622).

court leet continued despite, or possibly because of, sales of freehold property by Sir Arthur Ingram, lord of the sub-manor of Halifax from 1609.<sup>150</sup> In the town centre lists of individuals presented for ‘not repairing the street before his housing’ or for not clearing dunghills or nuisances from the town’s streets were a frequent, if erratic, feature of the court’s agenda. A list of those most frequently presented over a twenty-year period shows how constables assigned liability to wealthy property owners, even if tenants or servants were almost certainly obliged to carry out the work (Table 6.10). Several were styled gentlemen. Robert Exley and John Smithson were both lessees of the cloth halls, the corn market and mills, valued at an annual rent of £346 10s.<sup>151</sup> Edward Slater and Thomas Whitley were probably resident outside the town, as were a further 20 of 148 people presented, reflecting the social and economic integration of the parish. In 1641, the presentments recorded ten of those presented as living in Halifax, four elsewhere in the parish, and four more outside.<sup>152</sup> Turnover of landlord and tenant in Halifax almost certainly exacerbated difficulties of enforcement that were less applicable to the slower population churn in rural out-townships.

Bylaws at the leet for street cleansing and repairs were attempted as an alternative to lists of names.<sup>153</sup> In 1617, three bylaws to prohibit butchers’ waste, to remove muck the same day and to cover ‘tavern holes’ [cellar openings] preceded a directive to repair the paving in the Shambles that implied the butchers were responsible.<sup>154</sup> In 1641 a street repair bylaw set by the court jury ordered that ‘all and every the inhabitants [sic] ... shall well and sufficiently reparaire the street before his owne housing in Halifax to the middle of the street.’<sup>155</sup> In 1657, the penalty for non-performance was determined by yardage:

Wee lay a paine that every owner or occupyer of housing or shoppes in Halifax do reparaire their severall partes of the street before the next court leet in paine of everyone offending herein to forfeit for every yeard sware [square] five shillings and so after that rate for any greater or lesser quantity left undone<sup>156</sup>

In 1658, a flat-rate penalty was set at the maximum 40s, changing again in 1659 to a rate of 6d/ yard plus 6d/ yd per month after the deadline and a further 6d/ week to ‘keep the

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<sup>150</sup> A.F. Upton, *Sir Arthur Ingram, c.1565-1642: A Study of the Origins of an English Landed Family* (Oxford, 1961); Betteridge, ‘Halifax before the Industrial Revolution’, I, pp.21-2.

<sup>151</sup> Robinson & Robinson, ‘Hall End’, pp.27-99.

<sup>152</sup> YAS/MD225/1/366A, Easter 1641.

<sup>153</sup> See Ch.3, Table 3.8.

<sup>154</sup> YAS/MD225/1/343A, Michaelmas 1617.

<sup>155</sup> YAS/MD225/1/366A, Easter 1641.

<sup>156</sup> *WCR 1658/9*, p.89.

same from time to time couled [raked for dung] and cleansed'.<sup>157</sup> The last bylaw in 1672, with a penalty of 1s, was picked up for amercement the following year, but without the names of those to be fined.<sup>158</sup> Generalised bylaws clearly never took hold, replaced by a return to presentment of individuals, albeit that the inclusion of tenants' names suggests that, in later decades, they may have been the real targets. Unlike the out-townships, fines paid in Halifax were rarely at the level set in the pain, being revised upwards more than downwards. Some fines cannot be related to a preceding order but, even so, were rarely appealed. There is no evidence from the records of payment being accepted in lieu of obligation with the proceeds being 'bestowed' on the town, as envisaged in Tudor legislation.<sup>159</sup> Indeed, the 1709 Manor Book suggests that the proceeds from fines may have accrued to the bailiff of the town as part of his farm of the office.<sup>160</sup>

The apparent lack of strategy behind presentments in the town is problematic not just in understanding practices during the century, but also in contrast to the more consistent and ambitious approaches in other parts of the parish. The impression of alternating periods of laissez-faire and hyperactivity may be attributable in part to the unpredictable effects of annual officeholding. More importantly, our reliance on the leet for evidence may miss undocumented activity by the two constables in response to the demands of local justices that supplemented or displaced action at the leet. Magisterial intervention is, for example, glimpsed in the laconic line of a nil return to the court in 1647: 'Our presentmts have been called by warrant at every privie sessions' (sic).<sup>161</sup> If funding from taxation was also in play, it might explain why the lack of a consistent policy at the leet apparently made little difference to the development of Halifax as a commercial hub.

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<sup>157</sup> YAS/MD225/1/385A, Michaelmas 1659.

<sup>158</sup> YAS/MD225/1/398A, Michaelmas 1672, Easter 1673.

<sup>159</sup> See Table 2.2.

<sup>160</sup> *The Wakefield Manor Book 1709*, ed., J. Charlesworth, (Leeds, 1939, reprinted Cambridge, 2013), pp.39-40.

<sup>161</sup> YAS/MD225/1/373A, Michaelmas 1647.

## Conclusion

The evidence for economic objectives underlying the volume and variety of highway presentments to the courts leet at Halifax and Brighouse has been hard won but has pointed up the economic motivations underlying highway maintenance strategies in the parish. The exercise of projecting transport requirements for different sectors of the local economy suggests significant traffic flows, varying according to the season, both within townships and between the out-townships and the market hub of Halifax.<sup>162</sup> Further afield were links between the parish, sources of grain, wool, dyes and chemical agents, and the domestic and export markets for manufactured cloth. While references in presentments to specific trades and industries in the records are rare and often oblique, the collocation (through GIS mapping) of places and routes with agricultural, textile and mining activity enables connections to be made on several levels between livelihoods and approaches to maintaining infrastructure. The clearest of these are direct causal connections between economic activities and road management priorities. The outstanding examples are mainly found in the Brighouse court area, especially Hipperholme, Northowram and Shelf, such as orders prohibiting trespass across enclosed land to reduce risk to farmers from passing traffic and removing the nuisances to road users of unfenced or unfilled pit workings close to roads. Similarly, but less successfully, orders and bylaws concerned with keeping the streets in Halifax clear of a range of nuisances and obstructions were a response to the town's busy markets.

There are two ways in which more indirect connections can be established. The first of these is that the principles of landholder rights and obligations, long recognised in terms of shaping tenorial and agricultural practices, were readily adapted to meet the transport needs of pre-industrial commerce and manufacturing. Those using land to mine coal, to full cloth or to sell goods became as responsible as other landholders for repairing the section of highways that 'belonged' to them, maintaining ease of passage for all users, irrespective of economic or social purposes. Concerns across the parish with bridges and steep gradients on either side of them and with routes westward to Lancashire and eastward to other Yorkshire towns were shared across interest groups. The most imaginative tool was the inter-township presentment, used with some gusto on routes westwards to Lancashire. While the main rationale must lie in the commercial ties of the

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<sup>162</sup> Tables 6.3, 6.6, 6.9.

woollen cloth trade, the same routes served agricultural purposes and carriage of lime, coal and household supplies. Transport and travel remained integrated at this period: the same routes served personal, social and economic purposes. The distinctive accomplishment of the Halifax leet was to utilise the extent and cohesiveness of its jurisdiction to safeguard connectivity not just within individual townships, but across both court areas and further afield. In doing so, the leet secured levels of township participation and legitimacy not achieved by the clunky procedures of indictment at Quarter Sessions.<sup>163</sup>

The second, more pervasive, way in which the commercial culture of the parish influenced infrastructure management was the structuring of processes of pain and amercement in terms of financial transactions. A person, group of persons, or township would forfeit a given sum of money unless they removed a nuisance or repaired a stretch of highway. Problems of community obligation were thus monetised and annexed to the sphere of credit, debt and obligation examined by Craig Muldrew.<sup>164</sup> The success of the leet rested on a calculus of obligation and benefit, enabling constables and surveyors in the out-townships to secure compliance. Landholders were left to manage their part of the communal obligation, and the penalties set were only extracted as a last resort. The frequency of fines in Halifax township (415 out of 1370 presentments) demonstrates how the same process was far more problematic in the town, which was subject to political and economic turbulence, a high turnover of landlords and tenants and intensity of usage by outsiders.

The evidence, however, of 'improvements' to highways overtly linked to economic change development is scant. One possibility is that the more frequent mention of road surfaces (causeys, pavements) in later decades in both Halifax and the eastern townships, as discussed in Chapter Three, may represent early signs of new social attitudes that privileged wealth generation and pushed for improved access and connectivity. For the most part, however, it seems probable that commercial travel and transport needs in the parish before 1750 were met straightforwardly on existing roads and tracks without the use of waggons and coaches. This network for pedestrians, riders and packhorses could accommodate sufficient economic headroom up to the second

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<sup>163</sup> Webbs, *King's Highway*, pp.51-61.

<sup>164</sup> Muldrew, *Economy of Obligation*, pp.315-33.

quarter of the eighteenth century without large-scale road widening and minimal surface improvement. The obvious caution is the shortage of township-level evidence for most townships comparable to the exploitation of tax revenue in Sowerby. If that could be found, it might suggest that limits to what was achievable at the leet were reached when the West Riding manufacturing economy gathered pace. The turning point may very well have been the later decades of the seventeenth century.

## Chapter Seven      Conclusions

This study has developed propositions and arguments about seventeenth-century highway management by townships in Halifax parish across three fields of historical enquiry. First, it has re-examined the Tudor highway statutes and found that manorial governance was much more central than generally appreciated to the legal framework and supported a range of practices in addition to, and even instead of, statutory requirements and procedures (Chapters Two and Three). Secondly, it has recovered individual and collective agency by analysing the participation of the ‘middling sort’ as office holders with road repair liabilities (Chapter Four,) and has revealed a transition to more oligarchic leadership and the precocious usage by Sowerby’s constables of taxation for road repairs (Chapter Five). Thirdly, the transport needs of textile manufacturing and other economic activities for particular localities have been reconstructed to assess their significance for road management (Chapter Six).

The richness of detail about highway management in seventeenth-century Halifax parish examined in this study has come to light via the outstanding quality of two documentary sources and a blending of methodologies for their interpretation. The so-called ‘paper drafts’ of the Wakefield court rolls survived precisely because constables needed orders for road repairs and other matters to be filed and available for inspection to support enforcement and minimise disputes. The records for the parish cover nineteen townships of different sizes and socio-economic characteristics during a period of political and administrative turbulence. The initial stage consisted of photographing, sifting and logging nearly 6,000 highway presentments. The vast majority were pains (orders and bylaws); instances of amercement for highway offences copied to formal parchment rolls constitute only twelve per cent of highway cases, over half of which occurred in Halifax town. This corpus of data has enabled a depth and breadth of analysis unparalleled for this function of local governance in this period. By happy coincidence, a second set of contemporaneous data, a rare book of constables’ accounts for Sowerby, has survived that records the beginnings of vestry oversight and investment through taxation.<sup>1</sup> In both cases, the names listed have made it possible to correlate lists of officeholders and people liable for repairs with tax records to locate

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<sup>1</sup> WYAS (C) SPL:143, Sowerby constables’ accounts (1628-1715, SCA); see Ch.5.

key players in terms of social status, wealth and literacy. The study has also been blessed with sufficient geographic data in the documents to map (through GIS) the location of highway priorities highways and show how frequencies of action at the leet and of funded repairs in Sowerby fluctuated over time and between different parts of the parish, reflecting economic imperatives such as the interconnection of woollen textile manufacturing between Lancashire and the West Riding.

The records examined in this study have demonstrated that the function of the court leet for regulating highways was widely understood and valued by townships in the parish of Halifax. The decision by parliamentary draftsmen in 1555 to designate the courts leet, where operating, as the lead agency for highway repairs is not usually highlighted in discussions of the first three highway statutes.<sup>2</sup> The analysis of the legal framework in Chapter Two suggests that this, together with drafting ambiguities that may have been designed to accommodate diversity of practice, had long-term implications for road management. As a result, formal statute duty and highway surveyors gained only a temporary foothold in the townships of Halifax. In 1563, the requirements were referenced in an order at the Halifax court for constables to ‘give warning for the mendynge of heye ways accordynge to the vertu of the statute’, the earliest such evidence in the parish.<sup>3</sup> The widespread declaration of highway surveyors at Easter 1583 shows the leet’s early success in making townships accountable for highways.<sup>4</sup> The full procedure for statute duty, however, was documented at the leet only in the Brighouse townships of Barkisland, Rastrick and Hipperholme, and, even in these townships, the references dwindled over time. Rastrick was the only township known to have included statute duty requirements in a standing pain list of 1630, signed by thirty-eight householders and approved by the leet jury.<sup>5</sup> It is telling that the administrative habit of declaring appointments of highway surveyors had stopped in the Halifax court area by 1631 and was only retained by a handful of Brighouse townships before the 1692 reforms. Other legislative problems included inconsistent definitions of the roads subject to parish responsibility, the absence of a statutory penalty for non-appointment

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<sup>2</sup> 2&3 Phil. & Mar. c.8 (1555); for legislation, see Ch.2, Tables 2.2 & 2.3.

<sup>3</sup> YAS/MD225/1/288A, (probably) Easter 1563.

<sup>4</sup> YAS/MD225/1/308A, Easter 1583; 14 Cha. II c.6 (1662).

<sup>5</sup> YAS/MD225/1/356A, Brighouse jury, Michaelmas 1630.

of surveyors until 1662, and legislative dithering in the later seventeenth century over introducing highway rates.

The leet had the advantage of tried and tested mechanisms for presenting highway defaults against individuals and even, in Halifax parish, against other townships. As seen in Chapter Three, by the mid-seventeenth century, highways accounted for three-quarters of all cases in the Halifax court area and two-thirds at Brighouse, even as overall business declined and other types of business moved to Petty or Quarter Sessions. These figures, based on the paper leet records, are even higher than the findings for the period by Brodie Waddell, who calculated that between forty and fifty per cent of manorial offences related to infrastructure, of which a fifth directly concerned 'ways, lanes and paths'.<sup>6</sup> The study has shown that any attempt to evaluate seventeenth-century highway management in terms of how strictly the triad of statute duty, highway surveyors and justice oversight requirements were implemented is bound to fall short, as has been a temptation for Whiggish transport historians from the Webbs onwards.<sup>7</sup> The ambiguous nature of the Tudor legislation, effectively untouched until the 1692 Act, almost certainly prolonged acceptance across the parish of customary approaches to maintenance based on tenurial responsibility for the road or streets frontages adjacent to land or housing. Officeholders used a range of different types of presentment and bylaw in different contexts; the mechanisms of the leet were flexible, pragmatic and transactional. The study has exposed the confident and creative agency of township leaders in using their positions to agree highway priorities, exploiting the tenacious bonds of inter-personal and inter-township obligation. The experience of participation in manorial routines and vestry controls in respect of highways was formative for becoming, in Collinson's and Goldie's terms, a 'village republic', governed by the rural equivalents of Withington's 'corporate citizens'.<sup>8</sup> It can be argued that the interdependence fostered in the court leet helped prepare townships for the

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<sup>6</sup> B. Waddell, 'Governing England through the manor courts, 1550-1850', *HJ*, 55, 2 (2012), pp.279-315 (Tables 1,5,6, pp.291-2, 303-4).

<sup>7</sup> The historiography of roads is discussed in Ch.1; see especially S. Webb & B. Webb, *The Story of the King's Highway* (London, 1913), pp.14-26.

<sup>8</sup> P. Collinson, 'De Republica Anglorum: Or, history with the politics put back', reprinted in *Elizabethan Essays* (London, 1994), p.16; M. Goldie, 'The unacknowledged republic: officeholding in early modern England', in T. Harris (ed.), *The Politics of the Excluded, c.1500-1850* (Basingstoke, 2001); P. Withington, 'Public discourse, corporate citizenship, and state formation in Early Modern England', *The American Historical Review*, 112, 4 (2007), pp.1016-38.

improvement opportunities inherent in greater powers for road infrastructure after the reforming statutes of the 1690s.

The presentment frequencies of roads and footways, mapped for the first time with the support of GIS in Chapters Three, Five and Six, constituted a moral and spatial network of infrastructural obligations and expectations, continuously renegotiated by acts of maintenance to gates, hedges and walls, ditches and drains. The court leet data has revealed a diversity of administrative responses that fused statutory objectives with tenurial and township obligation. A modest customary principle of road repair (*ratione tenurae*) was raised to the status of legal duty. This provided legitimation for publicly tasking successive tenants with repairs and bound them into shared responsibility for roads to meet statutory objectives. Constables in the western townships increasingly submitted orders phrased simply in terms of ‘to whom it doth belong’, while those further east developed a distinctive routine by which the tenants of adjacent land or housing were named at the Easter leet in schedules of work for the summer. The successes of leet management came through townships using presentments to solve problems of nuisance, obstruction, disputed land use, drainage and road surfacing that supported a range of economic activities. An especially noteworthy extension of manorial regulation was highlighted in Chapter Three. ‘Inter-township’ orders accounted for nearly a quarter of ‘pains’ (orders) and over thirteen per cent of ‘ameracements’ (fines) at the Halifax court leet. Mapping through GIS has made it vividly clear that cross-boundary actions sprang from sophisticated awareness of the geography of the area and an appreciation that the utility of a road – its function in connecting people and places – depended on year-round minimum levels of road maintenance, especially on steep hills, over moorland, agricultural land, rivers and bridges, and not least across administrative boundaries. Action between townships was more frequent in the hillier and more remote Upper Valley both because of the interconnected nature of its cloth-making economy and the crucial need to preserve access to supply and sales markets in Halifax and elsewhere (as shown in Chapter Six). The striking aspect is that these actions were inherently integrative, a contrast with statutory requirements prior to the turnpike era which effectively limited co-operation between parishes and townships to bridge repairs.

The longevity of the manorial function for highways made the leet a significant setting for the exercise and development of local political power, and the study has revealed the complexity of social and political relations within the parish. The ‘democratic’ credentials of leet jurisdiction lay in its role in appointing officers and framing of bylaws at the behest of tenants, as is borne out by the social analysis in Chapter Four of roles relevant to the courts.<sup>9</sup> The naming of presenters on the paper records, the swearing-in of constables and jurors and the declaration of surveyor appointments in some townships has confirmed widespread participation across townships. The need for four presenters in most townships entailed reaching more deeply into the social structure, especially in smaller townships, which helped to extend and strengthen the web of obligation and the legitimacy of road maintenance orders. Variation in township population and in the posts available at Halifax and Brighouse meant that participation from 1621 to 1640 varied between one in nine householders in Sowerby, one in five in Halifax town and one in three in Shelf, figures lower than the ‘one half ... in any decade’ estimated by Mark Goldie but impressive for the populous townships of Halifax.<sup>10</sup>

The leet also provided a context for displaying status and exercising power. Leet jury service carried (some) social cachet, and wealthier, largely literate townsmen were able to set priorities through terms of the more prestigious offices such as constables and jurors. Before 1641, six in ten of all officeholders had freehold land in some townships, and those paying the subsidy in the 1620s dominated the positions of juror and constable. After 1660 men with at least three hearths monopolised the roles of leet juror, constable and (in Eastern townships) highway surveyor, findings that accord with Henry French’s ranking of officeholders above median hearth tax assessment.<sup>11</sup> The illiteracy levels of officeholders were also found to be as low as 30% in some townships. Relatively few instances have been noted where status and power were instrumental in heading off accusations of encroachment through use of ‘traverse’, although other embarrassing cases may have been discreetly deleted from constables’ bills. Far from

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<sup>9</sup> W. King, ‘Early Stuart courts leet: still needful and useful’, *Histoire sociale/ Social History*, 23 (1990), pp.271-99; S. Hindle, *The State and Social Change in Early Modern England, 1550-1640* (Basingstoke, 2000), p.208; C.W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2010), pp.258-61.

<sup>10</sup> Goldie, ‘Unacknowledged republic’, p.161.

<sup>11</sup> H.R. French, *The Middle Sort of People in Provincial England 1600-1750* (Oxford, 2007), Table 2.2, pp.114-6.

providing a mechanism for avoiding maintenance liabilities, the leet's emphasis on repair by tenure bound the men who served as jurors and constables into responsibility *ratione tenurae* for repairs to roads and streets next to their own land or property. Thus, as long as the statutory rules remained unintrusive, the leet provided an effective forum for dividing road-repair obligations between middling-sort landholders. Moreover, the frequency of inter-township actions has emphasised that townships, or, more precisely, the 'chief inhabitants' of each township, could appeal to a supra-township norm of shared responsibility for minimum requirements of free passage and timely removal of nuisances.<sup>12</sup> The challenge-and-response character of inter-township presentment resembled the web of credit for both personal and commercial transactions permeating a 'contractual society', to use Craig Muldrew's phrase.<sup>13</sup>

In Chapter Five, a micro-study of highway governance in the large and complex township of Sowerby has shown how the assertiveness of men of middling status, already characteristic at the manorial court, became even more evident in the 'oligarchic' institution of the vestry.<sup>14</sup> The experience of emergency government in the 1640s followed by formal delegation of highway and poor relief responsibilities to townships in two acts of 1662 confirmed township 'sovereignty' and accelerated the move to a vestry, a committee of the 'better sort' that assessed tax liabilities and monitored officer expenditure.<sup>15</sup> The findings are remarkable testimony to the growing confidence of township leaders in Sowerby, who sidestepped statute duty and the post of surveyor by using the constables' budget to contract out maintenance operations outside the provisions of Restoration statutes. It was a development that implicitly downgraded manorial regulation and required the tacit consent of local justices, who may well have been keen to ensure maintenance on the strategically important route over Blackstone Edge from Sowerby Bridge towards Manchester and the Atlantic ports.

In common with manorial allocations of liability according to the extent of land held, tax assessments for highways based on the value of landholding assigned the greatest burden to more substantial landholders. However, in Halifax parish, it further incentivised small-scale sublets to clothiers, thereby increasing the number of marginal

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<sup>12</sup> For 'chief inhabitants', see Hindle, *State and Social Change*, pp.209-10.

<sup>13</sup> C. Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1998), pp.315-33.

<sup>14</sup> Hindle, *State and Social Change*, pp.213-5.

<sup>15</sup> Highways: 14 Cha. II c.6 (1662); poor relief: 14 Cha. II c.12 (1662, The Settlement Act).

taxpayers, a feature of tax assessment lists from the later seventeenth century. This leaves the intriguing proposition that ‘old-style’ manorial governance in Halifax parish, far from being a drag on administrative reform, acted as a catalyst for the successor model of investment in communal infrastructure by relatively broad-based local taxation. Sowerby’s early adoption of taxation is a fine example of administrative change forced from below, in this case, by the special interests of textile manufacturers and property owners. Further research, where comparable records survive, might help to establish whether the township’s approach was a unique, home-grown solution that skirted round the time-limited provisions for highway rates in 1654, 1662 and 1670 or whether it was more ‘typical’ of early modern communities, to use Wrightson’s term.<sup>16</sup> If so, it is intriguing to speculate what social and economic features might be shared by such communities.

The crucial role of economic values in legitimating regulation through leet and vestry was explored in Chapter Six. Presentment and probate data were combined to explore four sectors of economic activity in the parish: pastoral agriculture; woollen clothmaking; mining and quarrying; markets and distribution.<sup>17</sup> It was noted that the predominance of pastoral agriculture in hilly terrain meant that wheeled-vehicle traffic other than farm carts was minimal; routes for animals, sleds and carts were seasonal and largely self-maintaining. The textile manufacturing industry was powered by packhorse trains, for which paved roads in the form of narrow stone causeys were an optimal solution.<sup>18</sup> Manorial highway regulation was highly successful in terms of safeguarding free passage for laden horses at township boundaries, up and down steep inclines, over bridges and moorland. Connectivity for textile manufacturing was safeguarded by removing nuisances and obstructions, clearing drains, reinstating diverted watercourses, lopping hedges in the autumn, and removing gates, wrongly positioned walls and a whole variety of unpleasant waste. This study has shown that the more intensive regulatory regime in the eastern townships was directly attributable to a different combination of economic activities. The extractive industries (coal and stone) disrupted drainage and caused hazards if pits were unfenced or unfilled, when finished. There was

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<sup>16</sup> K.E. Wrightson, ‘Terling revisited’ in K.E. Wrightson & D. Levine, *Poverty and Piety in an English Village, Terling 1525-1700* (2nd ed., Oxford, 1995), pp.211-8.

<sup>17</sup> See Ch.6 for matrices of traffic and transport, Tables 6.3, 6.6 & 6.9.

<sup>18</sup> D. Hey, *Packmen, Carriers & Packhorse Roads: Trade and Communications in North Derbyshire and South Yorkshire* (2nd ed., Ashbourne, 2001), pp.64-7.

also a need to segregate passing traffic from arable crops, especially in Hipperholme, first by setting prohibitive bylaws to deter deviating off poor roads and later through road improvements. Indeed, there is some evidence in these areas of a synergy between increased construction as economic growth gathered pace and greater use of stone to extend road paving.

Examination of the Sowerby constables' accounts (Chapter Five) has indicated the pre-eminence of economic values in the last quarter of a century, as manifested most obviously in a greater emphasis in Sowerby on the westward route over Blackstone Edge towards Manchester and the Atlantic ports. The decision of a close-knit vestry of clothiers and property owners to inject investment in the infrastructure for commercial activity brought road management into the mainstream of state activity. Economic prosperity through trade expanded the tax base needed by the 'fiscal-military state' of the Lord Protector, William III and his eighteenth-century successors.<sup>19</sup> The work of the men of Sowerby in 1690 on the same route to support army logistics for William III's expedition to Ireland was also a local performance supporting the 'dynastic state'. That the motor of the local economy consisted largely of trains of diminutive Galloway ponies pacing doggedly across stone causeys until well into the next century was a function of topography and the limitations to civil engineering before the boom in new turnpike roads in the next century. This should not diminish the contribution made by Pennine townships to the mercantile economy and the ambitions of the state for *imperium* in Ireland and across the Atlantic.

The dynamics and chronology of local highway maintenance explored in this study have thus revealed a hidden story of growth in the state's domestic capacity, made possible by co-opting local institutions of leet and, later, vestry to maintain local infrastructure and support economic activity. In the Introduction, it was noted that the discussions of authority and power by Hindle and Braddick distinguished the characteristics of an 'extensive' state at a time when central institutions were relatively weak.<sup>20</sup> Their recognition of the potential for local agency and political capacity opens the way to re-evaluating highway management practices within a broader framework of

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<sup>19</sup> J. Brewer, *The Sinews of Power: War, Money and the English State* (London, 1989), pp.73-108; M.J. Braddick, *Parliamentary Taxation in Seventeenth-Century England: Local Administration and Response* (Woodbridge, 1994); K. Yamamoto, *Taming Capitalism before its Triumph* (Cambridge, 2018), pp.52-3.

<sup>20</sup> Hindle, *State and Social Change*, p.21; M.J. Braddick, *State Formation in Early Modern England, c.1550-1700* (Cambridge, 2000).

social, economic and political development in early modern England. The final challenge, therefore, for this project is to place the role of highway management within the discourse of state formation.

Hindle identified three characteristics of empowerment, as outlined in Chapter One: widespread participation; incorporation into the state and internalisation of its values; and respect for the ‘forms and rhetoric of the law’.<sup>21</sup> All three are discernible in highway presentments to the courts leet. It has already been noted that, for the size of population, an overall participation rate of one in five household heads bears comparisons to Goldie’s estimate, allowing for the population size of townships.<sup>22</sup> Leet presentments invoking highway and other statutes show how the work of constables was pivotal, spanning both manorial and magisterial contexts, providing a channel of communication with county administration.<sup>23</sup> The Sowerby constables’ accounts have added evidence for accelerating incorporation into the Restoration state and its values. Finally, legal rhetoric and processes were intrinsic to the Wakefield courts leet, a court of record held on behalf of the king, protector or Commonwealth, including a facility of traverse (appeal) and scrupulous documentary retention of orders, bylaws and amercements.<sup>24</sup> Hindle’s suggestion that the definition of the early modern English state could ‘perhaps’ be expanded to include manorial courts is surely too tentative: there is every sign that the courts at Halifax and Brighouse were the primary focus of highway administration until well after the Restoration, leaving Quarter Sessions and the Assizes as resources for resolving disputes and appeals.<sup>25</sup>

Braddick’s three yardsticks to measure legitimacy in exercising political power – legal validity, the justifiability of the regime in terms of current beliefs, and the evidence of consent derived from actions taken – prove equally useful in thinking about the links between local governance of highways and wider political engagement.<sup>26</sup> Legal validity is clearly unproblematic for the function. The designation of courts leet for enforcement of statutory requirements constituted an expansion of jurisdictional competence that

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<sup>21</sup> Hindle, *State and Social Change*, pp.19-23.

<sup>22</sup> Ch.4, Table 4.3.

<sup>23</sup> J.R. Kent, *The English Village Constable 1580-1642: A Social and Administrative Study* (Oxford, 1986), pp.225-33; A. Fletcher, *Reform in the Provinces: The Government of Stuart England* (New Haven, 1986), pp.122-42.

<sup>24</sup> Brooks, *Law, Politics and Society*, pp.249-50.

<sup>25</sup> Hindle, *State and Social Change*, p.21.

<sup>26</sup> *Ibid.*, p.69.

thrived in much of the parish until the concentration of legal process in special and quarter sessions after the 1692 reforms (as examined in Chapter Two). While the main finding of this research is the development of a hybrid legal framework fusing manorial mechanisms to statutory objectives, specific features such as statute duty, statutory penalties and the deadline of midsummer's day, June 24<sup>th</sup>, for completion, are all found in the leet records. In Chapter Five, the analysis even detected some correspondence between legislative taxation 'windows' and the early adoption of tax-and-spend policies by Sowerby's constables. The importance of legal validity in the Restoration period was exposed when Sowerby's vulnerability to charges of illegitimate use of taxes was addressed by passing off the township's presenters as 'presenters for the highways' (surveyors, if you will) four times between 1671 and 1684.<sup>27</sup>

Evidence is also clear cut in terms of Braddick's second yardstick of legitimacy, the appeal to commonly held beliefs and values. Customary repair orders applied to individuals, bylaws binding on the whole community and inter-township presentments all constituted a remarkably successful extension of state activity, legitimated through the widespread acceptance of personal and township obligation. Whole-township responsibility, which appears closer to the statutory framework, was restricted to critical sections of particular routes and more important bridges, leaving surveyors or constables the job of securing maintenance of other routes through allocations of specific responsibility measured by land held (*ratione tenurae*). Township liability predated the Tudor statutes in the two courts leet and appealed to a strong framework of obligations shared between neighbours. His third yardstick, consent expressed through action, is most easily measured in terms of the quality of performance by officeholders and the level of resistance or neglect to their orders.<sup>28</sup> The scattering of cases of outright resistance to highway presentments in the leet records generally occurred when the 'resister' was not so much opposing the principle of liability as disputing the facts of tenure or occupancy used to apportion liability. The only significant exceptions were the traverses brought by more affluent landholders against ameracements for obstructing highways by enclosure or encroachment. Much more typical of the townships examined in Chapter Four was willingness to participate in officeholding combined with co-operation as landholders in carrying out seasonal maintenance and removing

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<sup>27</sup> See Ch.5, s.3.

<sup>28</sup> Braddick, *State Formation*, p.21.

obstructions, behaviour which is incontrovertibly ‘expressive’ of consent. This is of a piece with the rarity, except in the troubled mid-century years, of jurors and presenters being penalised for failure to attend the leet or serve a turn as constable. Nor are there many examples of office being abused for personal gain. The Eastwood family could almost certainly expect higher tenant rents when they forced passage along the valley bottom in Stansfield in 1631-2, but they could also point up the benefits to their neighbours of not having to use much longer routes over the hilltops.<sup>29</sup> While the annual ritual of assessing the ‘constable lay’ in Sowerby often involved multiple meetings, the undoubted tensions noted in Chapter Five focused on the balance of contributions and expenditure between Soyland and the other three ‘quarters’ of Sowerby, not opposition to the principle of taxation. By the 1670s, the policy of funding road repairs through the Sowerby constables’ rates had embedded road maintenance within township governance as an issue of local political importance, if never costing as much as poor relief. Highway maintenance activity was clearly an extension of state activity into the localities which could attain high levels of legitimacy.

While local institutions undoubtedly fostered an independency of spirit and action, the arguments in this study militate against accepting highway management strategies in the parish as a colourful case of local exceptionalism, such as conveyed by Crump’s remark that Sowerby should have a ‘niche by itself in the history of English highway administration’.<sup>30</sup> Nor should a positive, almost laudatory, evaluation of road repairs in the parish be seen as an act of scholarly whimsy, but rather as an overdue affirmation of a not insignificant contribution made to English state formation in the northern counties. As has been noted in other studies, a flourishing of manorial institutions preceded or coincided with pre-industrial economic development across the north of England from which the role of communications is inseparable.<sup>31</sup> The northern uplands present obvious climatic and topographical challenges to road builders and road menders, but this study suggests a concomitant reservoir of community co-operation and resilience that gave extra root room for innovation in administration and delivery. An economically diverse, but culturally cohesive, parish such as Halifax should, therefore,

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<sup>29</sup> YAS/MD225/1/356A-358A, Stansfield, Easter 1631 to Michaelmas 1632; see Ch.6.

<sup>30</sup> W.B. Crump, ‘Sowerby Highways’, *THAS* (1928), p.14.

<sup>31</sup> See, for example: G.H. Tupling, *The Economic History of Rossendale* (Chetham Society, Manchester, 1927); J.T. Swain, *Industry Before the Industrial Revolution: North-East Lancashire, c. 1500-1640* (Chetham Society, Manchester, 1986).

be seen as a prime site for excavating the administrative past of its roads to set alongside the pioneering waggonways of Whickham and the cutlery forges of Hallamshire.<sup>32</sup> Nor indeed should the subject matter be relegated to a footnote or sidebar. Roads should surely enjoy a position of esteem as an integral aspect of community life that cuts across divisions between rich and poor, urban and rural, men and women. Roads are the very stuff of politics in any period.

The significance of highway regulation in Halifax, therefore, has been shown to embrace the twin dimensions of economy and governance. The routines of challenge and response between townships at the court leet and incremental investment through taxation by Sowerby should be recognised as pragmatic solutions at a time when the ‘revolutions’ of turnpike, canal and railway were, at least for the packhorse economy of the West Riding, far beyond the horizon. Township leaders were early to absorb a surprisingly sophisticated appreciation of infrastructural practice and politics, especially how an appropriately managed road network underpinned the development of the region’s property, textile manufacturing and other business interests. They knew that they required consent from the community and approval from the county’s justices. The Sowerby men who submitted their bill to the Halifax leet in 1690 were demonstrably proud of their current maintenance performance and, even more impressively, had confidence in the continuation of good governance into the future:

... as for our highwayes in our towne of Sowerby they are and shalbe made in good repaire without complaine and all other matters are in good order to the best of our knowledge<sup>33</sup> (1690)

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<sup>32</sup> D. Levine & K.E. Wrightson, *The Making of an Industrial Society: Whickham 1560-1765* (Oxford, 1991); D. Hey, *The Fiery Blades of Hallamshire: Sheffield and its Neighbourhood, 1660-1740* (Leicester, 1991).

<sup>33</sup> YAS/MD225/1/415A, Sowerby, Easter 1690.

## Appendix One Place name data

The analysis makes extensive use of place names as base data for mapping as lines or points in ArcGIS, thus identifying stretches of road and places. The main source of locational data was the First Series OS maps, but names have also been recovered from later OS series, from the Myers' map of the parish and, occasionally, from a modern road atlas.<sup>1</sup> The success rate for identifying place names inevitably varies between townships and between different categories of presentment. Two samples were taken in order to estimate the success rate in geolocating presentments through place names (Table A1.1) The 100% success rate in locating inter-township presentments is striking: it reflects an overriding need for clarity and the knowledge of major landmarks and locations shared between townships. For repairs within townships, the rates were lower, but still robust (between 71.5% and 93.8%), the main reason being that officeholders were more likely to cite occupier names. Place name data were much weaker for prohibitions on passage across farmland which were typically identified by field names or occupiers' names (see Chapter Six).

Table A1.1. *Percentage of presentments located, by category, sampled townships, 1626-30, 1671-5.*

	<b>Repairs</b>	<b>%</b>	<b>Inter- township</b>	<b>%</b>	<b>Prohibition</b>	<b>%</b>
Heptonstall Stansfield Wadsworth	41	80.5	23	100.0	n/a	
Sowerby	16	93.8	17	100.0	n/a	
Halifax	158	71.5	2	100.0	n/a	
Hipperholme Northowram Shelf	167	74.3	2	100.0	21	23.8
Total	382	74.6	44	100.0	21	23.8

<sup>1</sup> Ordnance Survey (OS), County Series, First edition, Yorkshire: sheets 214-6, 229-31, 244-6, 259; accessed through the National Library of Scotland, <https://maps.nls.uk/os/6inch-england-and-wales/index.html> 2016-2021; extensive use has been made of <https://www.calderdale.gov.uk/v2/maps/historic>, an open resource of Calderdale MBC, which allows the user to switch between OS maps from 1851-5, 1894-6, 1908-12, 1934-48, and 2014; J.F. Myers, *Map of the Parish of Halifax in the West Riding, showing the township, borough and manorial boundaries, from an actual survey made in the years 1834 and 1835* (Digital Archives of Warrington, 2003); West Yorkshire Geographers' A-Z Street Atlas (Dunton Green, 2014)

A common practice in presentments in this period was to indicate points on highways by reference to the name(s) of house or land occupier(s). Identifying further names by cross-reference to property deeds and other records was not feasible within the timescales of the current project. Names given for roads in the records are not always helpful: the names may have changed or disappeared, they may be too vague ('Brighthouse lane'), or they may simply reference surnames or field names. In some townships, a reference is made simply to 'the highway'; in Sowerby, the context implies this was a major route, probably the Halifax-Rochdale. Where there is substantial doubt over the locations of roads, they have been omitted from the mapped data.

Finally, while most places and sections of road targeted can be identified with confidence, the maps must be taken as indicative of priorities. Many orders, especially inter-township presentments, cite a section of road between two points which may be short or may be many kilometres long. There is usually no way of knowing whether a single place along the route or its entire length needs repair. The argument is, therefore, generally couched in terms of frequencies and degrees of concern.

## Appendix Two   Hearth Tax data

At an early stage of the analysis it was noted that use of a single Hearth Tax (HT) return for social analysis would be restrictive, as population turnover indicated that up to half the heads of households might change every ten years. Two HT returns, five to ten years apart, would improve the chances of identifying more individuals from the townships sampled for analysis in Chapters Four to Six. HT data, therefore, derives from two returns, eight years apart. TNA E179/210/393 is thought to be that of either Michaelmas 1664 or Lady Day 1665.<sup>2</sup> This is referred to as the ‘1664 return’; digital images of this return for the parish were secured from the National Archives. The published transcription of TNA E179/210/413 (Lady Day 1672) for the West Riding has also been used, the ‘1672 return’.<sup>3</sup>

### *Discrepancy over exemptions*

The 1664 return distinguished those ‘chargeable’ and ‘not chargeable’ (exempt); the number of hearths of some of the non-chargeable were recorded but most are blank. It is impossible to know exactly how many of the non-chargeable in 1664 were exempt by certificate or through poverty and how many through empty property. The 1672 return included taxpayers and the names of some householders as ‘Empty and no distress’ or ‘Discharged by certificate’; bare totals were also given for those ‘Omitted by reason of poverty’ without names or HT values. Given that there is no evidence of significant population loss in these years, the disparity in numbers of the exempt in every township (except Halifax) indicates that more than 500 householders were almost certainly exempted in 1672 without being listed as such (Table A4.1).<sup>4</sup> The number of empty properties in 1672 is small. It has, therefore, been decided to treat all such names in both returns within a single ‘Exempt’ category. Evidence of officeholding by people recorded as exempt is discussed briefly in Chapter Four. Excluding exempt households from average calculations is unavoidable, but may understate poverty levels.

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<sup>2</sup> See notes to the database entry: <http://www.nationalarchives.gov.uk/e179/details.asp?direct=1> (enter: 210/393).

<sup>3</sup> D. Hey, C. Giles, M. Spufford & A. Wareham (eds.), *Yorkshire West Riding Hearth Tax Assessment Lady Day 1672* (British Record Society, 2007).

<sup>4</sup> The discrepancy is discussed in David Hey’s ‘Introduction’ to the 1672 records, pp.15-17.

Table A2.1 *Total names for selected townships, 1664 and 1672 Hearth Tax returns.*

			1664					1672
	Payers	Exempt	<b>TOTAL</b>	Payers	Cert.	Poor	Empty	<b>TOTAL</b>
Halifax	293	209	<b>502</b>	313	39	111	17	<b>480</b>
Heptonstall	100	60	<b>160</b>	102				<b>102</b>
Hipperholme	132	67	<b>199</b>	136		7		<b>143</b>
Northowram	171	157	<b>328</b>	179		13		<b>192</b>
Shelf	54	29	<b>83</b>	57		6		<b>63</b>
Sowerby	328	140	<b>468</b>	338		12	1	<b>351</b>
Stansfield	148	63	<b>211</b>	164		16		<b>180</b>
Wadsworth	136	43	<b>179</b>	136				<b>136</b>
Total	1,362	768	<b>2,130</b>	1,425	39	165	18	<b>1,647</b>

*Names within HT returns*

The following rules have been followed in using HT returns from 1664 and 1672 to identify individuals in terms of the relative wealth for the period of 1660-1681:

1. Where the same name occurs once in both returns, it is assumed to refer to the same householder (see 'Identification' below).
2. Where a name appears once in each return, but with a different HT value (number of hearths), the value in the 1672 return has been preferred as being closer to the centre point (1670) of the sample period.
3. The 1664 value is used if the name is not repeated in 1672.
5. Where a name appears more than once in the same return with different HT values, it is excluded from the statistical analyses. The value is included if the name appears twice or more with the same HT value.
6. All those classed as 'not chargeable' in 1664 and those discharged by certificate, omitted by reason of poverty or marked 'Empty and no distress' in 1672 are categorised as Exempt, even where a number of hearths is given.
7. Exempt householders are excluded from calculations of averages.
8. The small number of institutional taxpayers have been excluded from average calculations, such as the feoffees of the free school and alms houses in Halifax.

### *Identification of names in HT returns and court leet lists*

The spelling of names was not fixed at this date, and, therefore, identifying names that appear on HT returns and the lists of officeholders in manorial records as belonging to the same individuals is necessarily conjectural. Judgement has been exercised in assuming a single person in these circumstances:

- a) where any difference in name in separate lists is deemed purely orthographical: Hoile for Hoyle, Michill for Mitchell, Horsefeild for Horsfall
- b) where the name difference is more significant, but single identity is still almost certain: Joshua Horton, nine hearths in Sowerby in 1664 and a prominent justice during the Protectorate, must surely be the same man as Joseph Harton, listed in Sowerby for nine hearths in 1672 (see Chapter Five)
- c) where a first name is used in one listing, but not in another; this is relatively common in the case of widows, and titles such as 'Mr', 'Mrs', 'Dr'; in these cases, a single identity is conjectured only where the HT value is the same in both returns

### *Names replicated within a single township*

Some full names (forename plus surname) are replicated in a single township, raising problems of identification. Many will relate to different individuals that happen to have identical names, while other instances may indicate the landlords of temporarily untenanted houses. HT data for replicated names have necessarily been excluded from the analysis of officeholders (Chapter Four). The exclusion of replicated names has a disproportionate effect in the three Upper Valley townships (Heptonstall, Stansfield and Wadsworth), where the pool of surnames was more restricted: name replication was common in these townships, such as the Greenwoods, Sutcliffes, Shackletons, Cockcrofts and Horsfalls. Their exclusion from the analysis may have affected aggregate HT scores and averages in Chapter Four, especially as these names appear regularly in leading roles such as constable and juror. As the identity of names appearing in manorial records and hearth taxpayer lists cannot be certain, totals and average numbers in the analysis must contain a margin of error. The margin of error may be under 1% in most townships, but could be 2% or more in townships with more name replication, such as those in the Upper Calder Valley.

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HPC/A:1 Heptonstall town book (1716-1737)

SH Lister family of Shibden Hall, family and estate records

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### 4) INTERNET RESOURCES

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