

Department of Humanities, Northumbria University

Honours Dissertation

Gender and 'Crimes of Speech' in Seventeenth-Century York

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Abbreviations

c. *contra.*

CP. Cause Papers

DC.CP. Dean & Chapter's court

Introduction

Original sin came first out at the mouth by speaking, before it entered in by eating.¹

Today's modern and fast moving society does not embrace the same harmful and detrimental effects that gossip produced in the early modern period, in particular for women. Hence a modern audience cannot comprehend the level of importance accusation, rumour and slander held in the seventeenth century. Although not the most severe of crimes, the effects brought immense consequences. Cases of 'offensive or threatening speech', which could constitute a 'criminal breach of the peace', could be heard in the secular courts however by 1583 it was agreed that cases involving slanderous words and immoral conduct should be tried in church courts as they were primarily spiritual and moral offences.² This change in legislation opened up opportunities for women, particularly married women, who were victims of defamation by providing a stage in which they could now defend their reputation.³ Historian Elizabeth Horodowich explains how gossip was not simply a pastime but was also used as a method of entertainment, sociability, education, information and most worryingly for contemporaries- a weapon.⁴ Hence, church courts during this period are described as 'women's courts'.⁵

Existing works from historians including Laura Gowing, James Sharpe and Bernard Capp have emphasised and focused on the language used to argue why women dominated the church courts with defamation suits in the early modern period. This dissertation will draw upon the findings of the above academics, and many more, yet will differ in its approach by alternatively looking at the social

¹ Richard Allestree, *The government of the tongue* 1677, (Wing 2nd ed., A1138), available via Early English Books Online.

² Garthine Walker, *Crime, gender and social order in early modern England*, (Cambridge, Cambridge University Press, 2003), pp.99-100 ; Martin Ingram, *Church courts, sex and marriage in England 1570-1640*, (Cambridge, Cambridge University Press, 1994), p.296.

³Ingram, *Church Courts*, p.302.

⁴ Elizabeth Horodowich, 'The gossiping tongue: oral networks, public life and political culture in early modern Venice', *Renaissance Studies*, Vol.19, No. 1, pp.22-45, p.44.

⁵ Sharon Howard, 'Gender and Defamation in York, 1661-1700: Reputation, authority and the power of words', M.A Dissertation, University of York, Department of History, 1999, p.7.

position of the women involved rather than focusing on the effect of the language. It will consider the importance of marital status, class and gender and determine which, if any, were the most significant in effecting or impacting their involvement in such disputes. This study will take a statistical approach examining 135 cases from the York church courts as evidence and will select particular cases, which are representative of the sample, to support the argument throughout.⁶

York, as an ecclesiastical centre with a large diocese encompassing 29 parishes within the city alone, enabled an in depth study due to the abundance of primary material. Although its population of 10,000 was dwarfed by that of London, the city had a growing social culture with the emergence of tobacco and coffeehouses by 1670.⁷ Such facilities provided space for social interaction, discussion and debate which afforded individuals the opportunity to embark in conversations of rumour, gossip and slander which in turn led to a high number of defamation claims within the courts.

Chapter one of this dissertation will address the dominating element of gender. It will show the distinction between the number of women and men as both plaintiffs and defendants and will use the concepts of reputation and patriarchy to explain this. It will address the existing historiography and will use cases involving women and men to provide examples of male dominance and female interactions in the courts. Ultimately, it will argue that gender played a significant role in female involvement of defamation suits, as their reputation unlike their male counterparts, was a fragile and integral part of a woman's being therefore it was vital that it remained unblemished.

The second chapter will statistically analyse the marital status of each woman in the York cases referenced. It will assess the plaintiffs and defendants individually and argue why married women tended to dominate both rolls. It will look at the possible implications of a tainted reputation

⁶ All cases available via <http://www.hrionline.ac.uk/causepapers/index.jsp>.

⁷ 'The seventeenth century: Social and religious life,' in *A History of the County of York: the City of York*, ed. P M Tillott (London: Victoria County History, 1961), pp. 198-206, accessed March 28, 2015, <http://www.british-history.ac.uk/vch/yorks/city-of-york/pp198-206>.

and will demonstrate that their marital status was more likely to affect the outcome of the case over any other factor. It will evidence the opinion of contemporaries that married women were of a higher social standing and carried a greater amount of credibility. Finally, it will briefly address female witnesses and again determine whether their marital status was significant in their role as witnesses and character references. Overall, this chapter will prove that marital status appeared to be the most important factor in determining the outcome of defamation suits as having a husband provided emotional and economic support as well as presenting a woman in a positive image.

Finally, chapter three will attempt to classify the women involved. While it appears to be generally accepted that the women who dominated the courts were of the 'middling sort', court records cannot ascertain this as they were noted and distinguished using their marital status rather than their class. This chapter will embark on two methods to define the class of the women involved; it will classify the provided occupational data of witnesses and using an analysis of Hearth Tax records from 1672 will determine the wealth of individual parishes the women belong to. It will ultimately show that class did not appear to be a determining factor in the outcome of the suits.

Overall, this dissertation will accept that gender was a crucial explanation as to why women dominated the church courts so heavily with defamation cases but it will also highlight the significance of marital status. It will explain why married women were the most prominent group as both plaintiffs and defendants and provide possible explanations as to why. It will also argue, using both primary and secondary material that marriage appeared to be an effective tool in determining the outcome of the suits.

Chapter 1: Gender

Gossip, whether simply informative or, more especially, judgemental, was overwhelmingly regarded by contemporaries as a female activity, and reconstruction of the dynamics of gossip enables us to hear at least the whispers of that half of human-kind who have too often been rendered historically silent.⁸

By the late seventeenth century, church courts across the country could have been described as the 'women's courts'.⁹ This was as a result of two fundamental concepts: the importance of female reputation and the significance of patriarchy. David Underdown argued that unruly females, whether witches, scolds or innocent, masterless women were 'victims of a crisis in gender relations in the years around 1600.' He attributed this crisis to a 'larger scale socio-economic dislocation and decline in neighbourliness and social harmony.'¹⁰ History has shown that any form of social-economic upheaval often led to the male oppression of women in their attempts to reassert their control and dominance within society. As a result it may be expected that, in relation to defamation suits, men would feature more heavily in the role of the plaintiff and women the defendant. The statistics however prove that the church courts were dominated by women in these roles. In York, as demonstrated in appendices 1 and 2, the presence of females in the role of the plaintiffs doubled that of men and similarly female defendants outnumbered also men. Laura Gowing's study of defamation in London, see appendix 3, demonstrates the same pattern of female domination with over 75% of cases brought by women and almost 60% acting as defendants.¹¹ While men were also subjected to slanderous words such as 'scoundrel', 'rogue' or 'dirty fellow', it was the social norm

⁸ Steve Hindle, 'The shaming of Margaret Knowsley: gossip, gender and the experience of authority in early modern England', *Continuity and Change*, Vol.9, No.3, 1994, pp.391-419, p.393.

⁹ Howard, 'Gender and Defamation', p.7.

¹⁰ Walker, *Crime, Gender and Social Order*, p.101.

¹¹ Laura Gowing, *Domestic dangers: women, words and sex in early modern London*, (New York: Oxford University Press, 1998), p.60.

that they settled any form of dispute with physical violence.¹² As Robert Shoemaker explains, society perceived men complaining to the courts as weak, submissive and unmanly.¹³ Female stereotypes on the other hand encouraged women to settle disputes in court as violence was deemed unfeminine. The gender split amongst participants in defamation suits is something which cannot be ignored and has been the topic of numerous historical studies on the subject, however it can be disputed whether this was a result of female reputation or the threat they posed to patriarchy. This chapter will assess the female motivation for turning to the church courts and demonstrate the effects of reputation and patriarchy and how they were detrimental to women in the seventeenth century resulting in their need to embark on defamation suits.

The first and most significant element to address is reputation. It was the most important concept for women in the early modern period as it played such a substantial role in developing their level of acceptance into society. Male and female reputation differed considerably; while male reputation was founded on wealth, occupation and commercial honesty, a woman's reputation was established, and continually influenced, by her sexual conduct, therefore women were more susceptible to slander.¹⁴ The use of the word 'whore', for example, had the ability to demote a woman and other members of her family to the lowest level of society therefore attacking a woman's purity or intention was a highly effective strategy. From the York sample, shown in appendix 4, over 91% of the cases tried for defamation in the seventeenth century were for sexual slander or an assault on character. This number encompasses the true significance of contemporary opinion regarding reputation. Defamation suits could be lengthy and of high expense thus women required the means as well as the desire to rid her name of 'untruths'. After 1600 the volume of female litigants bringing defamation suits increased in both York, and the capital, to such an extent

¹² Robert Shoemaker, *The London mob: violence and disorder in eighteenth-century England*, (London, Hambledon Continuum, 2007), p.155.

¹³ *Ibid*, p.156.

¹⁴ Howard, 'Gender and Defamation', p.16; Ingram, *Church courts*, p.302.

that sexual slander accounted for the majority of the court's business.¹⁵ In London, 1633, 70% of cases were concerned with defamation with 85% of those having been brought by women.¹⁶ The dispute between Elizabeth Addison and Susan Hartnes, in York, provides an example of the most common slanderous term used in disputes; Addison titled Hartnes a 'whore and a pocky whore and a burnt whore, and Mr George Lamplough's whore'.¹⁷ Similarly, the case brought by Alice Robinson against Helen Topham in 1610 after she denounced her 'a proud queane' and a 'jade' demonstrated that other terms were equally as damaging to a females reputation.¹⁸ Such terms implied disreputable, unfeminine and immoral behaviour; being deemed a 'whore', or any variation of it, held connotations of infection, pollution and danger and was seen by contemporaries as a threat to society hence the rationale for bringing disputes to court.¹⁹

Research has shown a clear distinction in the treatment of males and females following accusations of sexual wrongdoing. The case brought by Mary Brocket, wife of Philip Brocket, against Anne and Michael Hall after they accused her of engaging in adulterous sex with Francis Harrison highlights the level of shame that could be placed solely on the female by such allegations. Mr and Mrs Hall provided specific details expressing how Anne saw Mary lying with the said Francis Harrison 'three nights of the week'.²⁰ Similarly a case involving Rowland Wood of Horsham, 1612, whereby he told his neighbours that while drinking with Joan Sammeway he had taken advantage of her in her tipsy state. He stated he had 'put his hands into her clothes to feel her privities and she was so filthy and foul that he had defiled his fingers with doing so'.²¹ As both of these cases show, women were vilified for their actions and required to prove their innocence, on the contrary acts such as these

¹⁵ Laura Gowing, 'Language, power and the law: Women's slander litigation in early modern London' in Getherine Walker and J.I Kermod (Eds), *Women, crime and the courts in early modern England* (Cambridge: Cambridge University Press, 2003), p.26.

¹⁶ Ibid.

¹⁷ Elizabeth Addison and Susan Hartnes, (1661), DC.CP.1661/2, in Sharon Howard 'Gender and defamation in York', p.14.

¹⁸ Alice Robinson *c.* Helen Topham, (1610), CP.H.591.

¹⁹ Howard, 'Gender and defamation', p.35.

²⁰ Mary Brocket *c.* Anne Hall; Mary Brocket *c.* Michael Hall, (1678), CP.H.3443.

²¹ Rowland Wood *c.* Joan Sammeway in Bernard Capp, *When gossips meet, family and neighbourhood in early modern England*, (Oxford: Oxford University Press, 2004), p. 225.

had little effect on a male reputation. This is evident in the fact that Wood could openly and proudly boast of his involvement while Sammeway and Brocket were forced to 'purge [themselves] of [their] scandal or redeem [their] good name'.²²

The ease at which a slanderous comment could ruin a woman's reputation may be one explanation as to why the use of 'whore' became common place in society during the period and why women felt the need to challenge such allegations in the courts to clear their name. The accusation and stigma alone had far reaching connotations for women and their families and could have easily reduced her standing in society to that of a common prostitute. Accusations from men in particular required very little, if any, evidence or support from witnesses to corroborate such allegations. This is evident in the case of *Foster vs. Peck*. Juliana Foster litigated John Peck after he alleged, 'thou art a whoore...and I could have made thee my whoore severall tymes' and that she was 'a more common whoore than ever Pegg Beilbie was'.²³ The allegation of being called a 'whore' became a common term used to add weight to other criminal allegations such as theft. To be regarded as a thief and a whore was far more damning than to be branded a thief alone. Thomas Moxon said he could prove Mary Edwards 'both a whoore and a thief'.²⁴ It is interesting to note that Moxon used the term 'whoore' before 'thief' in an effort to add gravity to his allegation; it was thought that sexually dishonest woman had a higher potential of dishonesty in other areas.

Not only were women the subject of defamation, they could also be taken to court for their defamatory words against both men and women. It was not deemed acceptable for women to speak out or report any incidents of sexual assault or rape as it also meant bringing their honesty into dispute. Garthine Walker and Karen Harvey both emphasise the difficulty for women articulating these concerns as doing so showed an awareness of sexual knowledge and in turn a lack of chastity. It can be argued that this lack of expression implied female consent and subordination in cases of

²² Ibid.

²³ *Juliana Foster c. John Peck*, (1674), CP.H.3170.

²⁴ *Mary Edwards c. Thomas Moxon*, (1684), CP.H.3644.

rape and seduction. Jenny Skipp argues that 'this empowered men by feminising the blame... [and] became an effective device for wielding control over women and their identity.'²⁵ Laura Gowing demonstrates this in the case of Gould vs Burroughes in 1582. William Gould, a London merchant, took his servant Isabel Burroughes and a friend of her mothers, Katherine Socklyn, to court after Katherine, Isobel's mother and other women had spoken of news that Isobel was being abused so they brought a midwife and other women to investigate the said girl. One witness explained how Isobel refused to speak to her mother 'as Gould hath made her a whore... so let hym take her and hang her upp att his dore for the signe of a whore'. After multiple efforts to get Isobel to speak of her experiences, she eventually confided in her landlady, whom she went on to board with, that he had followed her up to Mrs. Burnette's chambers during an 'arrant' and 'had to deale with her'. Mr. Gould sued Isobel for defamation against his character in the consistory court but she was also brought before the masters of Bridewell where she was required to repeat the confession she gave to her landlady; this provided another item for Gould to bring against her.²⁶ This case demonstrates the ease at which women could be accused of defamation with very little evidence required at all. It shows the gendered nature of the courts as they allow Burroughes to be branded a 'whore of the tongue' despite the medical evidence and support she had to substantiate her claim. While it can be argued that the class of Gould was imperative to this trial, it will be demonstrated in further chapters that this was not always applicable; however his gender meant he held more respect, credibility and rational, unlike an erratic, hot headed female. For Isabel, her worries of being branded a 'whore' were second only to the additional label of being called a 'scold,' which in the 1580's changed its legal image and became a definitively female slanderous term.²⁷

The use of language also had a major impact on how male and females were perceived in society and why women dominated the court rooms. Accusations of 'whore', 'queane' and 'scold',

²⁵ Jenny Skipp, 'Violence, aggression and masculinity during the eighteenth century', *Cultural and social history*, Vol.4, No.4, pp.567-573, p.569.

²⁶ William Gould c. Katherine Socklyn ; William Gould c. Isabel Burroughes in Laura Gowing, *Domestic dangers*, pp.75-76.

²⁷ Walker, *Crime, Gender and Social Order*, p.103.

for example, had no male equivalent and had far more damaging and long term consequences. Even the limited number of derogatory terms aimed at men such as ‘whoremonger’ or ‘cuckold’ by definition implicated and brought into questions the acts and vulnerability of women. The limitations and legal definitions of the language used in cases of slander demonstrated how men received a higher level of protection in the courts than women due to the concept of patriarchy.

England between 1588 and 1714 can loosely be described as a ‘patriarchal society’ in the sense that political, social, religious and cultural life was dominated by men while women were subordinated, marginalised or excluded.²⁸ There was no official patriarchal system but male domination was so established that it was difficult for contemporaries to imagine a society based on any other principles.²⁹ While most accepted this, some found other various methods of limiting male domination. While any form of physical violence or resistance was characterised as unfeminine, women utilised ‘their member’ (tongue) to great effect. A scold became known as any women offering an opinion, ‘who verbally resisted or flouted authority publically and was stubborn enough to challenge the underlying dictum of male rule’.³⁰ Gossip and women’s talk, although stigmatised as the ‘subversive behaviour of subordinates’, still held the power to shape honour and reputation.³¹ This perception identifies why women felt it necessary to involve and defend themselves in defamation suits.

The shaming of Margaret Knowsley is the most infamous case of defamation in England during this period. Although it is similar to the Gould/ Burrogues case, Steve Hindle expresses his research on the case in a way which emphasises the power and protection men had as a result of patriarchy. Ultimately, Knowsley was shamed for publicising the truth about her attack by Stephen Jerome in the late 1620s and in turn defying patriarchy and order. It was believed that her ‘information, opinions and judgements were deemed fit only for the private, more feminine, sphere

²⁸ Capp, *When gossips meet*, p.1.

²⁹ Ibid.

³⁰ Walker, *Crime, Gender and Social Order* p.102.

³¹ Cappe, *When gossips meet*, pp.62-63; Horodowich, ‘The Gossiping Tongue’, p.32.

of knitting and laundry, of water fetching and hay raking' not the public and political sphere of Nantwich.³² Knowsley and her family lived a life of poverty and hardship; she was a married woman with multiple children and relied on her employment in the house of John Bradwell hence her husband 'even insisting that she go to the preacher's house in the middle of the night if required.'³³ She had already been characterised in the town as 'prettiface' even before Jerome's arrival and was known for her alleged miscarriage of an illegitimate child some years before.³⁴ These allegations and suspicions obviously played into Jerome's favour during the forthcoming trial despite the level of evidence produced against him. According to Knowsley she was a victim of harassment; Jerome 'allegedly propositioned her several times, soliciting sexual favours in a variety of circumstances: when she brought rushes into his bed chamber; at the stile behind the church; on her doorstep; while she did the laundry.'³⁵ After she had refused gifts and enticements multiple times, Jerome allegedly grew more frustrated and reckless and began to threaten her; "take heed that you never speak of any of these for if thou doest I will have thy bloud and I care not if I leave Nantwich tomorrow."³⁶ The affair unfortunately ended in the attempted rape of Knowsley by Jerome.³⁷

Knowsley did not intend for the incident to become a public scandal as she confided in her cousin, Alice Powell and neighbour Margaret Howard. However, 'utterances became mutterings' and it soon grew into a scandal.³⁸ Jerome blamed Knowsley for spreading the rumours; "thou false faced Queane did'st thou never swaere upon this book that thou would never do me this wrong."³⁹ Knowsley and twenty-eight others provided evidence but ultimately it was a matter of her accusing and Mr. Jerome's denying. Knowsley was confident, 'eloquent and forceful' in her claims whereas Jerome stayed entirely silent.⁴⁰ This infers that he was aware that he held an advantage with the

³² Hindle, S., 'The shaming of Margaret Knowsley, p.392.

³³ Ibid, pp.396-397.

³⁴ Ibid, p.397.

³⁵ Ibid, pp.399-400.

³⁶ Ibid, p.400.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid, p.399.

protection of patriarchy. Despite her efforts, Knowsley was committed to Chester jail for at least six weeks for slander.⁴¹ Meanwhile, Nantwich magistrates contacted Jerome's previous employer in Newcastle and they explained how he was dismissed from his post at St Nicholas' due to similar behaviour; it was believed he had 'solicited the favours of a married woman' and had been caught by her husband. He again attempted her chastity six months later and there was suspicion that he had committed 'fowler matter with his own maidservant.'⁴² The involvement of a husband was crucial in the incident in Newcastle as it meant Jerome's victim had the support, credibility and character witness to testify and verify her statement whereas Knowsley was alone. Regardless of this information, the Nantwich bench continued to make an example of Knowsley rather than Jerome and she was sentenced to shaming and corporal punishment:

she was sentenced to shaming and corporal punishment on the following three market days. First, she was to be whipped through Nantwich at the cart's tail; second, she was to stand 'on high in the open market' for two hours 'in the cage with papers on her behind and before containing the inscription "for unjustly slandering Mr Jerome a preacher of God's word"'; third, she was to be carted through the town with papers.⁴³

Although this case was not solely a personal offence against Jerome, it 'undermined public decency, good order and the credibility of protestant discipline.'⁴⁴ Again, it does show elements of class priority but the fact that the courts ignored Jerome's previous encounters with women and proceed to convict Knowsley with very little to no evidence, proves the gender discrimination within defamation suits. This case holds multiple similarities with the Burroughes. They both show that charges against women were minimal yet the most effective whereas a woman could only be proven innocent with a high level detail and the support of another man.⁴⁵ To those in authority, Knowsley's 'gossip' was 'defamatory' because it contradicted the dominant ideology of sexual blame; from the

⁴¹ Ibid, p.403.

⁴² Ibid, p.404.

⁴³ Ibid, p.405.

⁴⁴ Ibid, p.406.

⁴⁵ Susan Dwyer Amussen, *An Ordered Society, Gender and Class in Early Modern England* (Oxford, Basil Blackwell, 1988), p.104.

creation women were seen as the temptress and the sinners. Knowsley's allegations counteracted this, and was therefore seen as threat particularly because it involved a man of God.⁴⁶

Although the majority of cases used so far demonstrate important elements of defamation and the multiple reasons why cases could arise, they are not wholly representative. While the above examples show cases between men and women, this was not the reality. The vast majority of defamation suits were brought by women against women. As shown in appendices 3 and 5, virtually half of the cases brought to church courts in London were disputes between women and likewise, almost 43% in York were of the same nature. These figures support the importance of female reputation as so many women are taking disputes to court but it also acknowledges the depiction by Renaissance writers that 'gossip [was] a feminine problem' and that 'women were incessant babblers who whiled away their days chattering and sharing secrets'.⁴⁷ As previously mentioned cases brought to the York church courts doubled that of men and similarly in London 966 of the 1258 cases sampled by Gowing were brought by women.⁴⁸ From those, over 64% in York and 65% in London, were brought against other women. While it is likely that neighbourly tensions were rife in seventeenth century communities, it could also be argued that women were aware of the difficulties of challenging men in court hence they chose their battles carefully. As demonstrate in the Knowsley and Burroughes cases, women could enter court as a victim of male dominance and exit being branded a 'whore' as well as a 'scold', therefore it was safer and preferable for women to sue other women rather than men. From the 135 cases considered, there were only 8 cases which resulted in success for the defence; of these, 6 were female and only 2 male. However, the 6 cases involving female defendants were all cases against other females whereas the 2 involving a male defendant were brought by women. Additionally, men were also statistically more successful as plaintiffs than their female counterparts. Although they initiated half the amount of claims, they had a higher percentage of success (appendix 6). Both figures highlight the patriarchal influence of men.

⁴⁶ Hindle, 'The shaming of Margaret Knowsley', p.410.

⁴⁷ Horodowich, 'The gossiping tongue', p.25.

⁴⁸ Gowing, *Domestic Dangers*, p.60.

While it is plausible to argue that women were fearful to take men to court, the most likely explanation for female dominance was the high level of female gossips. Spreading of community knowledge and general news had the potential to easily slip into a game of Chinese whispers ultimately turning into rumour and slander. Unlike Chris Wickham who argues the productive use of gossip, Elizabeth Horodowich argued that women often appeared to 'employ gossip as a means of revenge and community control' over heretic or neighbourhood misbehaviour.⁴⁹ Speech and utterances was known by contemporaries as the female weapon of choice – whether that be a method of policing or revenge - but it was 'commonly seen that the stroke of the tongue [was] more dangerous than the dent of a spear.'⁵⁰ Policing of the community was an activity women, particularly married women took upon themselves.⁵¹ Their desire for a safe, clean and honest society meant they denounced immoral or dangerous people.

Although sexual slander was the most common technique, women were also victims of revengeful witchcraft allegations. 'Witchcraft accusations uncover issues of competition between women and of women's disputes over reputation and the control of social space as well as conflicts engendered by what the period would have seen as that most female of concerns, child care.'⁵² When Dorothy Cook, wife of George Cook, claimed that Catherine Greatham, with of Robert Greatham, had defamed her by accusing her publically of witchcraft she had no other option than to defend her reputation in court. The libel stated that '[C]atherine Greatham ... reported that the said Dorothy was a witch and that she had murdered [C]atherine's child by bewitching it to death'.⁵³ Accusations of witchcraft were significantly more important than accusations of sexual scandal or scolding purely because the penalty if found guilty was death hence the involvement of men as character references was crucial. The case concluded with 'no sentence', a verdict which infers that there was a lack of evidence to brand Cook a witch. It can also be argued that the outcome was

⁴⁹ Horodowich, 'The gossiping tongue', p.32.

⁵⁰ Walker, *Crime, gender and social order*, pp.100-101.

⁵¹ Ulinka Rublack, *Crimes of women in early modern Germany*, (Oxford, Oxford University Press, 1999), p.16.

⁵² James A. Sharpe, *Crime in early modern England, 1550-1750*, (Essex, Pearson Education Limited, 1999), p.157.

⁵³ Dorothy Cook *c.* Catherine Greatham, (1678), CP.H.3335.

partially as a result of the marital status of both participants and the fact that both women were likely to have been assessed on an equal footing. The importance of marital status for women involved will be assessed in the following chapter of this dissertation.

Overall, it is impossible to dispute that gender played a significant role in the defamation suits brought to the church courts during the seventeenth century. It appeared to be a common theme throughout the country as the result from York aligned with Gowing's finding from London. Not only did female plaintiffs dominate the stand, but female defendants also; this can be attributed to the approach that women were seen to be 'easy targets' for allegations of sexual immorality and defamation. It is fair to argue that this is due to a combination of heightened importance of female reputation, the dominance of patriarchy in society and the female characteristic of being a 'gossip'. While men often settled their disputes using physical violence, women used the courts. Although this chapter has assessed multiple possibilities to answer why women appeared the dominant sex in the church courts, it is fair to suggest that it was ultimately due to the importance of their reputation and as argued by Patricia Mayer Spacks, 'reputation [was] social currency' and 'rumour of unchastity in females... might [have] shave[d] thousands from an estimate.'⁵⁴

⁵⁴ Harold Love, 'Gossip and Biography' in Kevin Sharpe and Steven N. Zwicker, *Writing Lives, Biography and Textuality, Identity and Representation in Early Modern England* (Oxford, Oxford University Press, 2008), p.98.

Chapter 2: Marital Status

A husband's weapon was his hands while a wife's was her tongue.⁵⁵

Henry Smith, 1591

Married women made up the largest percentage of females involved in defamation suits. It is interesting to note that of the 58 cases that solely involve women, 56% were married female plaintiffs bringing cases against married female defendants (appendix 6a). This can be attributed to the emphasis and dependence on reputation which meant that married women had significantly more to lose should it be brought into question. Not only would she have been labelled a 'whore' and an 'adulterer', her husband would be branded a 'cuckold', the most shameful and derogatory accusation a man could have levelled at him. This chapter will statistically analyse the marital status of the women involved in the defamation suits through the use of a number of cases sampled from the York records. It will further identify the probable motives behind why married women dominated the courts in both the positions of plaintiff and defendant and will determine whether their marital status had any disabling impact on the outcome of the cases brought.

William Gouge, a clergyman and author of the time, argued that that the majority of defendants in court proceedings for crimes such as defamation and sexual slander were most likely to be married women. He argued that gossip was as a tool used by women to reveal secrets of marriage and that 'when rattling gossips [met], their usual prat [was] about their husbands, complaining of some vice or other in them'.⁵⁶ However, harmless gossip of this kind was not viewed as a major factor in the increase in female court proceedings at that time. Women were more inclined to be involved in disputes which involved accusations of whoredom, adultery and other forms of sexual slander against other women. Although court cases involving single and widowed

⁵⁵ Capp, *When gossips meet*, p.10.

⁵⁶ James. A. Sharpe, *Defamation and Sexual Slander in Early Modern England: The Church Courts at York* (Borthwick Papers No.58, University of York , Borthwick Institute of Historical Research), p.20.

women exist, appendices 7 and 8 show that approximately three times as many married women were involved, either as plaintiff or defendant, in cases of defamation than that of single or widowed women. These figures should not suggest that reputation of single/widowed women was any less important than that of a married woman however it does reflect that married females were more proactive in defending their reputation. Accusing a married woman of adultery was the most effective insult used to discredit her reputation in society. It not only brought her reputation in to question but also that of her husband. This is demonstrated in the quarrel between Jane Carter and Isabell Thompson whereby Carter called Thompson a 'whore and a common whore' and a theife, saying that 'she had severall times [played] the whoore in her former husbands time' and that her husband was a 'cuckold'.⁵⁷ It was therefore common place for a husband to support and encourage his wife to formally challenge any accusation of wrongdoing not only to clear her name but also his own. Of the 135 cases used to evidence this dissertation, 90 were brought by women of which, 70% were married (see appendix 7). This may have purely been down to financial reasons due to the fact that a standard defamation case had an average cost of 8 pounds and could have taken anything from several days, to months, to even years to reach its ultimate conclusion.⁵⁸ With accusations implicating a husband as much as his wife, married women were in the advantageous position of being able to draw upon the joint financial resources of the marital household.⁵⁹ This financial luxury was something that many single women did not have access to hence this may be one reason to explain why a limited number of cases were initiated by them.

Returning to the concept of patriarchy, it was significantly more damaging for a female to be accused of committing adultery than it was for her male counterpart. A married women was seen to have 'defiled her body, damned her soul, robbed her husband of his 'right' and potentially imposed an illegitimate line upon his property, dishonoured her family and destroyed her sex's prime virtue:

⁵⁷ Isabell Thompson *c.* Jane Carter, (1692), CP.H.4301.

⁵⁸ Sharpe, 'Defamation and Sexual Slander', p.24.

⁵⁹ Howard, 'Gender and defamation', pp.21-22.

honesty.’⁶⁰ There are two cases which highlight this inequality, the first being that of Hester Beeforth, wife of Robert Beeforth, who sued Thomas Thurnham for saying that she ‘was a whore, and Timothy Harlands whore, and that the said Timothy Harlands had had as much knowledge of the said Esther Beeforth’s body, as of his owne wife.’⁶¹ This case required numerous witnesses in support of her defence unlike the following case brought by Richard Ingram whereby Elizabeth Knowles accused him of being a ‘whore, whoremaster, a harlot’ and an adulterer and said ‘that he the said Richard did lye in bedd wf another man’s wyffe or another man’s maid’.⁶² This case, although similar to that above, shows that the courts did not require the same level of proof for a man to prove his innocence as it did for a woman. This is supported by the fact that Beeforth was required to provide multiple witnesses and countless character references whereas Ingram was not required to produce any at all in the defence of the allegation. One argument for this may be that family life was viewed as an imperative element of society and, should a man be accused of adultery it had the possibility of splitting families and diluting the concept of patriarchy.⁶³

Due to the impact that a scurrilous accusation could have on a family, it was not uncommon for disputes between males to boil over and for one, or both, to allege allegations of wrongdoing against a female family member. To brand a woman a ‘whore’ by definition would define the husband to be a ‘cuckold’; and vice-versa. This was the most insulting term a man could encounter as it bled him of his masculinity. A cuckold was characterised as a passive and weak figure with an inability to control his wife and maintain social order.⁶⁴ The stigma of this label had far reaching consequences for the family as a whole as it had the potential to affect the patriarch both socially and economically. Not only was there a risk of illegitimacy, such connotations of incompetency

⁶⁰ Barry Reay, *Popular cultures in England 1550-1750*, (New York, Addison Wesley Longman, 1998), pp.15-16.

⁶¹ Hester Beeforth *c.* Thomas Thurnham, (1685), DC.CP.1685/1 in Sharon Howard, ‘Gender and defamation in York’, p.30.

⁶² Elizabeth Knowles *c.* Richard Ingram, (1593), CP.G.2718.

⁶³ Capp, *When gossips meet*, p.101.

⁶⁴ Howard, ‘Gender and defamation’, p.33-34.

within the household may have spilled over to his sphere of employment.⁶⁵ Although there may have been many motives why married women brought cases of defamation to court, it can be argued that the most fundamental reason was that men encourage- nay forced- their wives to take such action to not only clear her own name but also to maintain his social standing and reputation within society. It is clear from the records considered that there are a lot more cases of 'whoredom' as opposed to 'cuckoldry' therefore it can be inferred that wives were encouraged to pursue allegations more vigorously. Although there are multiple cases involving the accusation of cuckoldry, an exception to this is evident in the case of Henry Hunter which was defined specifically as such. In 1666, Hunter sued James Young for calling him a cuckold and saying he had raised another man's child.⁶⁶ However, this case then shifted the blame and the interrogation onto Hunters wife Anne as it is documented that 'Anne Hunter wife of the said Henry Hunter was a dishonest woman of her body, and had her committed the detestable crime of adultery ...who had begotten a child of her body'.⁶⁷ This deemphasised the male shame of being a cuckold and maintained social order by reiterating the blame of the wife. Although it did not rid the man of his title, it lessened its impact. Evidence would indicate that female adultery cases went hand in hand with accusations of cuckoldry ultimately bringing the reputation of the couple into dispute rather than that of a single gender. Therefore, it can be argued that cases brought by married women for sexual slander not only highlight the relationships, interactions and qualms of seventeenth century women, but could also show that of men as they were able to mask male attempts of regaining their honour and masculinity.

Despite Shoemaker's argument that it was unmanly and weak for men to take their disputes to court, the York sample suggests that this was not entirely accurate as it does in fact show that 33.3% of cases were initiated by men however, 90% fell within the category of assault on character rather than sexual slander.⁶⁸ An example of this can be seen in the case of Robert Hewet and William

⁶⁵ Cissie Fairchilds, *Women in early modern Europe*, (New York, Pearson/Longman, 2007), pp.67-68.

⁶⁶ Henry Hunter *c.* James Young, (1666), CP.H.2507.

⁶⁷ Ibid.

⁶⁸ Shoemaker, *The London mob*, p.156.

Sargeantson whereby Sargeantson branded him a 'common pickpocket', 'rogue' and a 'dishonest man'.⁶⁹ Such accusations were not distinctly connected to a man's sexual reputation but could have still impacted their employment and social standing amongst other men.

Whilst it is vital to assess why married women dominated the role of plaintiff, it is equally important to understand the reason why defamation dominated the courts. Although it is understandable as to why men were accused of sexual slander, women still heavily feature as defendants in the reports. The cases considered show 75 of the 135 to have been brought against women, with almost 75% of those being married (appendices 8 and 9). As discussed in the previous chapter, this supports the contemporary belief that gossiping was a female pastime and hence their heavy involvement in the crime. However, in actual fact, married women saw gossip, moral evaluation and slanderous talk as the sole method of empowerment whilst under the control of their husbands.⁷⁰ Their words had the potential to destroy the reputation of any other woman in an instant while at the same time policing society, and reiterating their own moral stance and behaviour. Due to the fact that there was no official police force at this time, married women tended to take it upon themselves to maintain order within their community and parish ensuring it was free of crime, disease and illegitimate children.⁷¹ The records indicate that 80% of cases involving married female defendants resulted in no sentencing and 7% won their disputes (appendix 10). This high percentage of 'successes' infers that a husband acted as a 'deterrent' to sentencing as he provided a level of credibility to her word and hence married women were seen to be the most appropriate individuals to undertake this role of social policing.⁷²

While married women dominated the stands as plaintiffs and defendants, they did not have a central role as witnesses. Although not all documentation reviewed provides detailed accounts of witnesses, those which do, show men to make up almost two thirds of the total number.

⁶⁹ Robert Hewet *c.* William Sargeantson, (1664), CP.H.4958.

⁷⁰ Reay, *Popular cultures in England*, p.17.

⁷¹ Rublack, *Crimes of women*, p.16.

⁷² Capp, *When gossips meet* p.235.

Interestingly in 21 of the cases, all of the identified witnesses were male. The law promoted that a man's word carried considerably more weight than that of his female counterpart, therefore if women were to testify multiple were required to balance the gender bias and consolidate any given opinion or statement.⁷³ Women were believed to have weaker and more volatile minds and bodies hence their testimonies were considered unreliable and therefore two women were required to testify to balance one male testimony.⁷⁴ It is here that the strength of a woman's 'gossip circle' was tested as friends and husbands acted as character witnesses for those women involved. When a servant of Ethelbert Thorne gave birth to his child she claimed he had forced sex on her twice within a week of her arrival.⁷⁵ However, it was only when her testimony was reinforced by a married neighbour who proclaimed that Thorne had also tried to rape her that her accusation was considered to house some element of truth.⁷⁶ The servant's word alone would have been insufficient but the two together resulted in his punishment. This case supports the claim made above and demonstrates the need for multiple women to act as witnesses to obtain a more balanced hearing. Additionally, it appears that the marital status of the witness was also an important aspect in securing his punishment. As was the case for defendants, being married was as an important factor for female witnesses as it contributed considerably to their level of credibility and standing. This is supported by the figures in appendix 10 which show 65% of female witnesses were either married or widowed. Therefore, one can conclude that the vast majority of female plaintiffs and defendants turned to their husband or male acquaintances and to their married female friends to support and testify in cases to affirm their good character and standing within the community.

Although married women tended to dominate the courts they were not the sole participants as single women made up almost 20% of all female plaintiffs (appendix 7). However, this number

⁷³ Ibid, pp.5-6.

⁷⁴ Horodwich, 'The gossiping tongue', p.28.

⁷⁵ Capp, *When Gossips meet*, p.249.

⁷⁶ Ibid.

may not be wholly representative of the number of single women who encountered sexual defamation as embarking on cases was costly and was likely to have been outside the financial means of a young, single woman of the period. Characteristically, high numbers of single women were employed within the domestic sphere; this number was intensified within cities. Ann Kussmaul's study in London estimated that 60% of 15-24 year olds female migrants were living as servants under an employer's roof.⁷⁷ It is fair to suggest that as York was a significantly smaller city, the levels of population and opportunity would be smaller, however, domestic service continued to play a significant role in the employment of single women. Although these women were considered to be under the control of their masters, they still aroused a high level of suspicion as they brought the risk of fornication and prostitution and threatened the community with bastard children which had the potential to drain the parish poor rates.⁷⁸ Therefore it was not uncommon for married women to keep the threats posed by single women under control. Bridget Hodgson, wife of Phineus Hodgson, highlighted this when she was brought to the church courts in 1664 for telling multiple citizens that their neighbours waiting maid, Hester Browne, had secretly given birth to a bastard child.⁷⁹ For contemporaries, this case was seen to humanise people's fears and beliefs surrounding single women. As was the case for husbands, the attack on Browne also brought into question the ability of her masters to control and supervise their servant which said as much about the moral standing of the household as it did about Browne herself.

However, Hodgson's friends and clients asserted that she had not spoken with any intent to defame but that her occupation as a midwife meant she was in a privileged position to know this kind of information.⁸⁰ This case confirms the pre-existing generalisations, that married women were more credible, as Hodgson's witnesses credited her as being a trustworthy individual due to her social position as a married woman in an honest profession. It again demonstrates the importance of

⁷⁷ Ibid, p.127.

⁷⁸ Amussen, *An ordered society*, p.102.

⁷⁹ Hester Browne c. Bridget Hodgson, (1664), CP.H.2560.

⁸⁰ Ibid.

friends and witnesses testifying to their good character. However, for young unmarried females in service, especially migrant workers, 'gossip networks' were not common place and the likelihood of those friends they had being single was high. This could have been seen as a significant disadvantage for single women acting in defamation suits as her character witnesses would have been considered, as argued by Cissie Fairchilds, as 'perpetual adolescents' making them unreliable and uncredible.⁸¹

There are numerous cases involving single women, particularly domestic servants, which originate as accusations of sexual assault before being overridden by counterclaims of slander. This has been identified in multiple cases used to stress other arguments throughout and is again present in Susan Turton's complaint to her Justice of the Peace in 1624 in the Parish of St Benet Fink. She reported the behaviour of her master, William Holmes, towards her and her fellow servants stating, 'he would be tousing and mousing of them and urging them to follie and did take upp their clothes and would have had the carnall knowledg of their bodies.' Three months later Holmes sued his servant for abusing him and his character.⁸² Turton must have been of the opinion that she had a strong enough case to stand scrutiny in a court as the case against her master had the ability to render her unemployed following such accusations. Tim Meldrum stresses this level of sexual vulnerability was applicable to all female servants with male masters holding a dominant role over the household and the individual.⁸³

Therefore, it can be argued that just because single women do appear to as greater an extent as married women in the records researched does not mean they held their reputation in any less stature. Single women simply lacked the support and more often the financial means of taking their cases to court as well as having to consider their employability should they make allegations that were deemed to be unfounded by the courts thereby brandishing them a scold.

⁸¹ Fairchilds, *Women in early modern Europe*, p.65.

⁸² Gowing, *Domestic dangers*, p.75.

⁸³ Capp, *When gossips meet*, p.228.

Similarly, as shown in appendix 7, widows appeared on fewer occasions in the records bringing only one ninth of cases, 10 in total, through the York courts. Of the 10 cases, 7 were categorised as 'sexual slander' however it can be argued that the use of 'whore' in these cases was intended more as an insult rather than an actual attack on reputation. Fairchilds argued this was because,

Women's life stages were tied to their reproductive capacities, women who could no longer bear children were viewed as no longer women, no longer sexual beings with sexual needs and a sexually defined identity. When they grew old, women were seen as androgynous, sexless beings or even, like celibate nuns, as 'honorary men.'⁸⁴

Society appeared to be less threatened by widows predominantly because of their age and the fact that due to their social position in society, they did not feel the need to exert their power by use of the tongue as legally and financially they were in an unusually strong position for women of the time. This was because following the death of a husband, women were named guardians of children, regained control of property and even inherited substantial holdings from the deceased; hence widows were often the richest women in their communities.⁸⁵ This may account for the lack of widowed defendants shown across the sample. A 'feme sole' widow, legally, had the exact same rights and obligations as a single man including all ownership and control of bodily and marital property therefore it could be argued that taking a widow to court was as dangerous as suing a man.⁸⁶ Although this was not likely to be the case, the fact that widows had a sense of legal power meant that they, unlike married women, did not have to find an alternative method of having some sense of control.

Overall, it is apparent that marital status was a significant factor in explaining why such high numbers of women brought their defamation suits to the courts and did not attempt to settle them otherwise. Married women dominated as plaintiffs due to their reliance on reputation. Sexual

⁸⁴ Fairchilds, *Women in early modern Europe*, p.103.

⁸⁵ Ibid.

⁸⁶ Amanda Capern, *The historical study of women: England 1500-1700*, (Basingstoke: Palgrave, 2010), p.94.

slander not only affected them but their husbands and families as well, therefore they were more likely to have the support and means to file their disputes. Additionally, it could be argued that a high number of cases brought by married women were in fact male disputes involving accusations of 'cuckoldry' but masked as female sexual slander, however significantly more research would be required to prove this theory effectively. However, simply because married women dominated the courts does not mean that reputation was not of any importance to single women and widows. Single women were in a vulnerable position not having any male support or means of funding disputes whereas widowed women held power legally and therefore did not feel the need to demonstrate it otherwise. As far as impacting cases, it is fair to argue that being married was an advantage to women as the sample shows high numbers of 'successes' for married female defendants. This implies that a woman's husband was crucial in supporting any allegation of wrongdoing made against her and appears to have acted as a deterrent from sentencing therefore it is understandable why married women were proactive in appealing to the church courts to clear their reputation and standing.

Chapter 3: Class

Theories of social morality are always the product of a dominant group which identifies itself with the community as a whole, and which possesses facilities denied to subordinate groups or individuals for imposing its view of life on the community.⁸⁷

E.H.Carr, *The Twenty Tears Crisis*.

While gender and marital status are vital in understanding the motives of women involved in defamation suits, historians tend to brush over the social class of participants. This is most likely to be as a result of the lack of specific evidence available which enables definitive statements; as demonstrated in the previous chapter, women were primarily categorised due to their marital status and not class. Historians agree that the vast majority of participants in defamation suits were those from which were commonly termed the 'middling sort', some from the lower classes and very few, if any, from the gentry. Although it can never be wholly accurate, this chapter will use two methods to demonstrate that the participants in the York cases fit the stereotype and were primarily from the 'middling classes'. The first method will utilise the employment information provided within the researched documents of the witnesses involved. While it can be argued that using the witnesses' social status to determine that of the participants is questionable, James Sharpe argues that it is fair to suggest that the plaintiffs and/or defendants were usually of the same social class as the witnesses.⁸⁸ The second approach will look in depth at the parishes the participants belonged to. This information will be used in conjunction with statistical analysis of the Hearth Tax records from 1672 and distinguish the wealth of particular areas across the city of York. As with the first identified method, this approach will not provide indisputable evidence but will highlight a general representation of the class of women involved in defamation suits during the seventeenth century. This chapter will therefore examine both methods equally but will ultimately argue that examining the cause papers within the parish records and using the information from the Hearth Tax (1672) is

⁸⁷ E.H.Carr, *The Twenty Tears Crisis* in Christopher Hill, *Change and Continuity in 17th Century England*, (New Haven, Yale University Press, 1991), p.205.

⁸⁸ James A. Sharpe, 'Defamation and Sexual Slander', p.17.

the most effective method to demonstrate that York conforms to the general perception that the 'middling sort' dominated the courts. From this analysis, it is intended to additionally assess whether class played a significant role in affecting the outcome of the said trials.

As shown in the previous chapter, the overall majority of women who fought defamation claims were married. Records would indicate that it was very rare for members of the lower or upper classes to bring defamation suits hence most accusers were the wives, daughters or widows of the middle status tradesmen and craftsmen.⁸⁹ While there are multiple reasons as to why the middling sort dominated the courts, which will be explored in more detail throughout this chapter, the practical and financial reasons which limited the lower classes from pursuing cases was equally as important in explaining the lack of evidential data. Gowing and Meldrum argued that most cases in London were fought between middling women affirming their status and reassuring credit- this can equally be said for York as it was seen as the currency to improve the opportunity of upward social mobility.⁹⁰

As emphasised previously, reputation and 'credit' were vital to the economic and social buoyancy of the middling classes during the seventeenth century. Additionally, with the beginnings of class emulation, the middling sorts were determined to retain an untarnished reputation that would be beneficial to them in their upper class future which may account for the high numbers of cases during this time. Harold Perkin emphasises the competitive urge to 'out-earn' and 'out-spend' one's neighbour as a means 'to make ones way into the ranks of England's relatively open landed elite'.⁹¹ Similarly, this concept could be applied to defamation suits. Many may have defamed neighbours or rivals in an effort to heighten their moral and social position while simultaneously risking that of their rivals. Ulinka Rublack's concept of 'moral policing' could also be applied to class

⁸⁹ Laura Gowing, 'Language, power and the law', p.27.

⁹⁰ Tim Meldrum, *Domestic service and gender 1660-1750: life and work in the London household*, (Essex, Pearson Education Limited, 2000), pp.98-99.

⁹¹ Margaret R Hunt, *The Middling sort: commerce, gender, and the family in England 1680-1780*, (California, The University of California Press, 1996), p.2.

as it was to that of marital status.⁹² The upper and middling classes saw it as their social responsibility to set standards of acceptable behaviour. With the middling sort making up a significant element of city populations, they often formed and engaged in 'mobs' and moral or evangelical vigilantism therefore their involvement and presence in the church courts was not unexpected.⁹³ However, when necessary, the middling sort 'enjoyed a high degree of sophistication' when it came to dealing with legal bureaucracies; while settlements could be resolved away from the legalities, a high percentage resorted to the court to resolve their disputes to show an element of refinement, class and wealth.⁹⁴

It is vital to define the 'middling sort' and the class system of the seventeenth century in order to understand the people involved in disputes and why they came to dominate the courts. With the emergence of mobility, the economic boundary of the 'middle class' was blurred; some members had the means and the potential to go onto buy land and stately homes while at the same time, members of the skilled working class could earn as much as some members of the lower middling-class.⁹⁵ This example demonstrates the difficulty of classifying seventeenth century people due to the higher level of mobility available to them. Hence the use of the terms 'middling sort' or the 'middling classes' will refer to those people below the level of the gentry but above that of the labouring classes- i.e. those who worked for a living in honourable occupations such as shopkeepers, yeomen, professionals and artisans.⁹⁶ Margaret Hunt argues that the middling sort was a unified group of individuals connected on a political level, by their neighbourhood or because of family ties.⁹⁷ However for the purpose of analysing the female participants, the following study will unify the 'middling sort' using the details of occupation supplied for the men acting as witnesses within the cases identified.

⁹² Rublack, *Crimes of women*, p.16.

⁹³ Hunt, *The middling sort*, p.6.

⁹⁴ *Ibid*, p.9.

⁹⁵ Donna Loftus, 'The rise of the Victorian middle class, the middling sort', accessed May 4th, 2015, http://www.bbc.co.uk/history/british/victorians/middle_classes_01.shtml#one.

⁹⁶ Hunt, *The middling sort*, p. 15.

⁹⁷ *Ibid*, p.14.

As women were determined by their marital status rather than their class or occupation, if they had one, the cause papers limit the assessment of their class instantly. While it could be possible to classify the married women using their husband's occupation it would not be a possible to do so using solely the court records as such details were not always present and would therefore make the analysis inconsistent.⁹⁸ Although this poses complications, the occupation of witnesses is a more consistent way of determining their class due to a higher degree of information being available. This information appears more frequently as it was used as a tool to assist and determine the witness' credibility. From the 530 witnesses noted across the 135 cases, 176 (33.2%) had their occupations noted, with 67 registered as unknown. Although this percentage is not significantly high, it is a more substantial figure than relying on the few participants noted for their domestic service or for their husband's employment history. From the 243 witnesses noted, 176 have occupations recorded, with the rest denoted as 'unknown', with their occupations noted, appendix 11 identifies that almost 62% of witnesses were from the 'middling sort' with varying occupations ranging from tailors, to cordwainers, to merchants and to yeomen. While their employment was fundamental to their reliability, it was not uncommon for the witnesses to need their own character references to determine or confirm their standing. This is demonstrated using Katherine Walker in the case between Elizabeth Sellar and Margaret Pape. Walker was called as a witness to give evidence in the case against Sellar however before her testimony was believed it was necessary for her to have two character witnesses after George Dickinson, validated by his wife Maria, explained that Walker had been an apprentice to him but she had ran away and that he had suspected her of theft. It took the two witnesses, Rebecca Holmes and Elizabeth Abbatt, to defend her, explaining how they had known her since childhood and that she was 'of good life... and a very honest labourious..., not poor' girl and 'maintains herself very handsomely and credibly.'⁹⁹ Similarly John and Elizabeth Stephenson, witnesses for Elizabeth Ballard, were scrutinised as it emerged that they were 'very poore' and that they were employed by John and Elizabeth Ballars therefore casting doubt on their independence as

⁹⁸ Sharpe, 'Defamation and Sexual Slander', p.23.

⁹⁹ Margaret Pape *c.* Elizabeth Penrose, (1697), CP.H.4491.

valid witnesses.¹⁰⁰ However, Elizabeth Ballard went on to explain that the Stephensons were ‘very honest laborious and industrious people of good...repute’ and were ‘not to be prevailed with to swear or depose an untruth in this [case] or any other.’¹⁰¹ This case resulted in the defendant, Thomas Penrose, winning and it can be argued that this was due to the doubt placed on both John and Elizabeth Stephenson as unreliable and non-credible witnesses. The element of dependency was used in a number of cases to suggest the vulnerability and pressure placed on witnesses to lie under oath in defence of their employer. A further case involving defendants Jane Young and her husband Theophilus, supported this when they complained that ‘Mary Graisons partie agent in this suite for some time by past hath been and now is housekeeper of Mr Marmaduke Butler... of the said Castle of Yorke’, under whom Mary was employed as a housekeeper, hence they argued that ‘by reason therefore [she] hath great power... and influence over [them]’.¹⁰² All of the above cases demonstrate the importance of witnesses and how their credibility could have played an important role in influencing the outcome of a trial. Witnesses were usually inspected for any possible element of compromise hence people of a higher status were seen as more independent and dependable as they were unlikely to have any allegiances or economic issues affecting their judgement. However the witnesses provided in the above cases were deemed to be of a lower social class therefore countering the argument that they were chosen based on their occupation as a means of proving their credibility and instead for their level of loyalty to either the plaintiff or defendant.

Although this method highlights a number of weaknesses, it can be argued that it provides a good foundation for future research. However, by applying this to the York sample, it appears to confirm the idea that the ‘middling sort’ was predominant in the use of the courts in the seventeenth century. This becomes apparent when taken into account the start of emulation and the heightening standards of the ‘middling sorts’. They were reliant on their reputation and employability as a way of enhancing their social position. A higher disposable income meant they

¹⁰⁰ Elizabeth Ballard *c.* Thomas Penrose, (1697), CP.H.3692.

¹⁰¹ *Ibid.*

¹⁰² Mary Grayson *c.* Theophilus Young, CP.H.4456; Mary Grayson *c.* Jane Tockets, (1696), CP.H.4548.

had the opportunity to enjoy the luxuries of leisure time and material goods which contributed to their ascendancy to the 'upper classes'.

A further avenue open to research in helping identify the class of women is the use of geography. Seventeenth century York was divided into twenty-nine parishes. Using data, such as the Hearth Tax records, this chapter will categorise each parish depending on its wealth and will utilise this information to determine the class of the women involved in defamation suits. The Hearth Tax 'was levied between 1662 and 1689 on each householder according to the number of hearths in his or her dwelling.'¹⁰³ The basic principal was that people with more hearths paid a higher level of tax. Such information provides a concise and highly effective method of measuring class. Key hearth tax documents provided information such as names of individual householders (sometimes with status or title) and the number of chargeable hearths- often with the amount payable.¹⁰⁴ Additionally, they documented the individuals who did or did not pay tax. The 'non-taxable' were exempt due to insufficient funds to pay the tax or because their house was worth less than twenty shillings per annum.¹⁰⁵ Therefore, by taking details from the hearth records of each parish in York and cross examining them with the parishes recorded in the court records, it is possible to make an informed decision upon the class of the participants, particularly female participants, in defamation cases.

Hearth tax documents from seventeenth century show that approximately one fifth of the cities households were poverty stricken and therefore non-taxable. Of the households identified, 33% had one hearth and while some households were taxed, others were classed as poor and therefore exempt. A further 37% had 2 - 3 hearths which implied the homes were owned by 'better grades of workmen, small shopkeepers, journeymen, and humbler craftsmen enjoying higher standard of living'. The remaining 30% had 4 or more hearths and inhabited families of wealthier

¹⁰³ 'About the hearth tax', accessed April 05, 2015, <http://www.hearthtax.org.uk/about/>.

¹⁰⁴ 'Hearth tax 1662-1689', accessed April 05, 2015, <http://www.nationalarchives.gov.uk/records/research-guides/taxation-before-1689.htm#17533>.

¹⁰⁵ 'The seventeenth century: Topography and population,' in *A History of the County of York: the City of York*, ed. P M Tillott (London: Victoria County History, 1961), 160-165, accessed March 30, 2015, <http://www.british-history.ac.uk/vch/yorks/city-of-york/pp160-165>.

craftsmen, prosperous shopkeepers, merchants, professional men and gentry- 'those whose living standards ranged from modest comfort to a high degree of affluence.'¹⁰⁶

Appendix 12 provides information of 2,124 households across the 29 parishes in York in 1672 regarding the number of hearths and how many paid the tax. Such information allows the parishes to be split into three distinct categories depending on wealth. Parishes 1 to 8, St. Martin, Coney Street to St. Michael, Spurriergate (category 1), appear to be the wealthier of the parishes while the eight parishes concluding the list, St Lawrence with St Peter-le Willows to St Andrew (category 3), demonstrate themselves as the poorer parishes of the city. The remaining parishes, 9-21 (category 2) had a cross section of class within them.

With the average number of hearths per household across the city totalling 3.2, the eight parishes in category 1, demonstrate a comfortable standard of living. The average number of hearths per household in this category range from 3.2 to 5.8 in St Martin's Parish which almost doubled the total average. It holds the three most prosperous parishes with 61.45% of households in St Martin's parish, 54% in St Wilfrid and 51% in St Martin-cum Gregory owning 4 or more hearths. Across these eight parishes on average almost 47% of households had 4 or more hearths- this figure dwarfs that of the other parishes with category 2 reaching nearly 25% while category 3 only having 16%. These statistics emphasise the class distinction apparent in category 1. Such people were highly unlikely to embark upon, or even be involved, in the throwing of insults as it was deemed to be uncouth and impolite with many influential contemporaries understanding the dangers of such action; Sir Walter Raleigh explained how 'every unbridled tongue shall in the end find itself unfortunate' and Lord Halifax warned his daughter 'against any given occasion to gossip as the world at large would be only too willing to make use of such occasion'.¹⁰⁷

The second category of parishes had an average number of hearths ranging from 2.5-3.1. These parishes show a varying level of prosperity as over 65% of households had 2 or more hearths

¹⁰⁶ Ibid.

¹⁰⁷ Sharpe, *Defamation and sexual slander*, p. 19.

whereas approximately 33% only had one or less. This implies that the dominant class throughout these parishes were the 'middling sort' of shopkeepers and craftsmen, whose wives made up the majority of York's plaintiffs and defendants during the seventeenth century.¹⁰⁸ Martin Ingram argued that slander actions brought to the church courts were characteristically the result of brewing tensions amongst 'neighbours of medium substance, living cheek by jowl in the small scale communities which made up the fabric of early modern English society.'¹⁰⁹ This may provide a possible explanation as to why most participants were sourced from these parishes due to the fact that they were made up of a mixture of the poorer and middling classes. Hence they were likely to have retained the same characteristics as the poorer parishes making gossip and slander rife. However, each parish included people from the middling sort who had the means of refuting any such allegations.

Finally, the parishes within category 3 averaged less than 2.5 hearths per household, 0.7 less than the total average across all parishes, and had the highest average percentage of households, 55.33%, having only one hearth. Additionally St Andrew's parish had the highest percentage of properties, 33.4% exempt from the tax due to poverty. These parishes were 'fairly small outer parishes', which contained around one third of the city's households.¹¹⁰ The closeness of dwellings made the households much less private and less self-contained which generated a breeding ground for gossip and backbiting which was seen to be an activity of the lower classes.¹¹¹ As previously identified as an issue for single women, poorer citizens were also restricted from bringing claims to court due to financial constraints. While this class of individuals do not commonly appear across the evidence used in this study it does not mean that the lower classes were excluded from accusations of deformation or that their character was questioned.

¹⁰⁸ 'The seventeenth century: Topography and population', pp160-165.

¹⁰⁹ Ingram, *Church Courts, Sex and Marriage*, p.304.

¹¹⁰ 'The seventeenth century: Topography and population', pp160-165.

¹¹¹ Gowing, *Domestic dangers*, p.98.

Therefore, due to the information available from the court cases that have been analysed, it is possible to place a large percentage of the participants in distinctive parishes. This information allows a more reliable and precise, although not wholly accurate, measurement of class. The same restrictions limit this analysis as it did the previous study as the data available is not wholly complete for all cases; however it does provide precise and exact details for 110 plaintiffs and defendants. Although this data is still restrictive, it provides more information on the class of the participants rather than making a generalisation using the witnesses occupation as did occur in the previous method. This indicates that the biggest proportion of plaintiffs and defendants, over 56%, and over 68% of witnesses belonged to parishes within the middling sort, with a high proportion coming from St Crux, St Sampson and St Mary, Castlegate. This again verifies that the majority of people involved in defamation suits were from the middling sort. The case between Anne Mitchel and Grace Tennant located in Castlegate, demonstrates this as it shows the class of participants using both elements of the methods previously discussed, namely occupation and geography; Mary Hutchinson, a witness, told the court how just as she was about to leave Grace Tennant's bake house she was recalled to look at the passing Anne Mitchel as Tennant saying 'see thou this brazen faced whore'. When Hutchinson questioned whom she was speaking of, Tennant said 'Nanny Mitchell... 'yes...she's with barne, and she said that Dalking... was very kind with her... and she alsoe said that... Thomas Dalking was a rancke whoremaster and that he had got one bastard already'.¹¹² This case provides a prime example of how both occupation and geography of the middling sorts were successful methods of identifying them as the most common frequent users of the court system.

The aforementioned cases discussed in chapters 1 and 2 have proven marriage to be the most influential factor in determining the outcome of female defamation disputes in the period. Despite expectations that class would play the most significant role, the research conducted does not provide sufficient evidence to establish that this was the case. This could be attributed to the fact that on the most part, it was the women of the middling sort who pursued these cases therefore

¹¹² Anne Mitchel *c.* Grace Tennant, (1682), CP.H.4988.

it cannot be concluded that class was a deciding factor. The case between Elizabeth Rayner and Lady Dorothy White in 1622 demonstrates this finding. Despite her class Elizabeth Rayner was successful in defending her reputation against allegations of French pox made by Lady Dorothy White, wife of Sir John White after stating 'she...seemed to be of good understandinge say that the said disease may come to persons of good honest life...as by lying in bed with some that have or have had such disease, or by drinkinge with them, or lying in sheets where such persons.'¹¹³

Although it is difficult to provide an in depth representation of the class of those involved in defamation suits, it can be argued that York conformed to the general trend of providing a platform for the middling sorts to air their grievances. Due to the fact that women were defined by their marital status, it may prove beneficial to understand their position in society by analysing the information provided by witnesses or assessing the wealth of the parishes and areas in which they reside, although this is not wholly representative. While historians such as Sharpe and Ingram do write about class, they give very little indication of how it can be measured and whether it had an impact on the trial. However evidence, particularly from York suggests that the majority of plaintiffs and defendants were of a similar status and that it was highly uncommon for women of differing classes to be involved in defamation suits. However, in the case of Rayner and White where differing classes were involved, the divide did not appear to be a contributing factor to the outcome. However it must be noted that the severity of the accusations was also taken into consideration before a verdict was reached. Therefore, it can be concluded that the vast majority of women embarking upon defamation suits during this period were more likely to be the wives of men of the middling classes. As their dependence on status and reputation was paramount in their desire to climb the social ladder, they had the means and desire to pursue a case until its conclusion in the church courts.

¹¹³ Dorothy White *c.* Elizabeth Rayner, (1622), CP.H.1507.

Conclusion

Taking into account the numerous arguments presented across this dissertation, it is fair to suggest that the social position of women in seventeenth century York was a key factor in their level of involvement in 'crimes of speech'. Although the research does not appear to indicate that class played a significant role in a woman's involvement in and outcome of defamation suits, her gender and marital status feature more heavily. This can be argued to be as a result of the heightened importance which reputation had within early modern society, particularly for women.

The gender distinction in defining reputation meant that women were more susceptible to accusation of sexual slander and other forms of defamation. Society's ideals of women being gentle, domesticated, polite and chaste meant an accusation of wrongdoing or misconduct had a damning impact on how she was perceived by her peers, therefore women felt compelled to challenge these accusations in the church courts. In addition to this, women also featured heavily as defendants, again in an attempt to maintain their reputation and not be branded a scold.

The overarching theme of gender can be subdivided into other areas which should be taken into consideration when addressing this question. Marital status has proved to be a key factor in determining the reasons for women's involvement in crimes of speech. Although reputation was a concept all women were conscious of, accusations of immorality were significantly more damaging for married women as it brought into question the female reputation but also that of her family- particularly the husband. Accusations of female adultery by definition implied cuckoldry hence it was likely that married women were encouraged to pursue the issue in court. They received emotional and financial support from their husbands which was a luxury single women did not have access to, hence married women were more likely to take their disputes to the courts as evidenced in the findings of this dissertation. Another factor to note is that men appeared to act as a deterrent for female sentencing as it was believed they could punish their own wives effectively, without

interference from the courts. In addition, widowed women appeared less concerned with slanderous talk as it did not have the same implications on their reputation as it did for a married woman. Following the death of her husband, a widow received more legal power and was no longer considered a sexual being with desires but more as a celibate nun or an honorary man.¹¹⁴ As a result, they did not feel it necessary to exert power using their tongue as their weapon.

Another area addressed in this dissertation was that of class. This was complicated by the fact that women were distinguished by their marital status. Therefore, to assess whether historians were correct in generalising plaintiffs and defendants as members of the middling sort this chapter applied two distinct methods of classifying the women involved in disputes; one using the details of witness occupations and the other by determining the level of wealth within each parish in York during this period. The results from study of the York records are concurrent with the general trend across the country as was demonstrated in the works of Gowing, Ingram and Walker. The main motive for the middling sorts pursuing defamation cases was to preserve their reputation in an attempt to break into and be accepted within the higher ranks of society. Due to this level of competitiveness, disputes between the middling sorts were the most common. However, of the few examples where this was not the case, class does not appear to have been a factor in the outcome of trials of slander and defamation in the church courts.

The use of church records is vital to piecing together the history of women in the early modern period. They provide an insight into the lives and relationships of the lower class people, who until recently were overlooked. Cases demonstrate relationships not only between men and women but also neighbourhoods and societies, beliefs and the daily battles and concerns faced by early modern women. As church courts were based on moral and spiritual matters, records allow historians to gain an understanding of contemporary morals. However due to the fact that cases were often only heard in court when they were brought by individuals therefore, they, unlike secular

¹¹⁴ Fairchild, *Women in early modern Europe*, p.103.

courts, do not provide a rigid interpretation of what was wrong and right. Despite what can be gained from these cases, it is important to recognise their limitations. Margaret Hunt argued that in fact court testimony was more 'manufactured' than personal diary entries as they emphasise conflict and were often recorded by 'less enthusiastic court clerks'- however she does acknowledge that these records are the closest historians will ever get to the voices of the middling people.¹¹⁵ It can also be argued that society as a whole was not as concerned as it initially appears by the use of slander and defamation. Although there are high numbers of cases relating to this, the lack of sentencing implies they were pursued for personal gains rather than as a method to maintain order and patriarchy within society.

Overall, when weighing up the arguments presented, it is fair to argue that it was the gender distinction which resulted in the high levels of female involvement in cases of spoken crimes in seventeenth century York. However, once pursued it appeared that the outcome was heavily influenced by the presence of a man- particularly a husband- within the life of the females involved.

¹¹⁵ Hunt, *The middling sort*, p.10.

Appendix

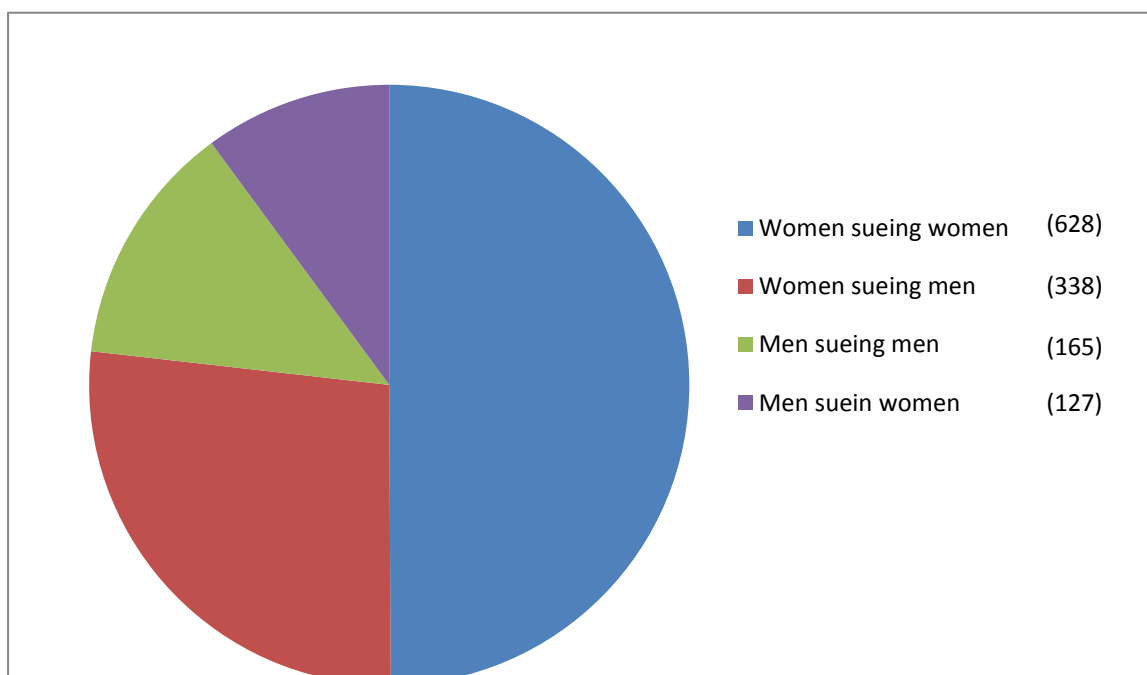
Appendix 1: Gender of plaintiffs in York church courts

Gender	No. of plaintiffs	Percentage (%)
Male	45	33.3
Female	90	66.7
Total	135	100

Appendix 2: Gender of defendants in York church courts

Gender	No. of defendants	Percentage (%)
Male	60	44.4
Female	75	55.6
Total	135	100

Appendix 3: Gender of plaintiffs and defendants in defamation suits in London¹¹⁶



¹¹⁶ Gowing, *Domestic Dangers*, p.60.

Appendix 4: **Subject of cases in York church courts**

Case Type	No. of cases	Percentage (%)
Sexual Slander/Character	123	91.1
Parentage	3	2.2
Witchcraft	2	1.5
Undefined	7	5.2
Total	135	100

Appendix 5: **Gender of participants in York church courts**

Female Plaintiff		Male Plaintiff		Total
Female Defendant	58	Female Defendant	17	75
Male Defendant	32	Male Defendant	28	60
Total	90		45	

Appendix 6: **Gender of the plaintiffs who won their case in York**

Gender	No. of cases	Percentage in relation to the number brought by their sex
Male	9	20
Female	12	13.3

Appendix 6a: Marital status of female plaintiffs and defendants in York church courts

Marital status of plaintiff vs marital status of defendant	Number of cases
Single/ Single	3
Single/Married	5
Single/Widow	0
Married/Single	9
Married/Married	33
Married/Widow	1
Widow/Single	1
Widow/Married	6
Widow/Widow	0
Total	58

Appendix 7: Marital status of female plaintiffs in York

Marital Status	No. of cases	Percentage
Single/Unknown	17	19
Married	63	70
Widow	10	11
Total	90	100

Appendix 8: Gender of Defendants in York

Gender	Number of cases	Percentage (%)
Male	60	44.4
Female	75	55.6
Total	135	100

Appendix 9: Marital Status of female defendants in York

Marital Status	Number of cases	Percentage (%)
Single/Unknown	17	22.7
Married	56	74.6
Widow	2	2.7
Total	75	100

Appendix 10: **Marital status of the female witnesses**

Marital Status	Number of female witnesses	Percentage %
Single/Unknown	50	35
Married	80	56
Widow	13	9
Total	143	100

Appendix 11: **Table showing the class of witnesses in the York cases**

Class	No. of witnesses	Percentage (%)
Lower	11	4.5
Middling	149	61.3
Upper/Gentry	16	6.6
Unknown	67	27.6
Total no. of witnesses with occupation	243	100

Appendix 12: *Hearth Tax, 1672: Analysis of Hearths in the parishes of York*¹¹⁷

<i>Parish</i>	<i>Hearths paying</i>	<i>Hearths exempt</i>	<i>Total hearths</i>	<i>Total households</i>	<i>Average no. of hearths per household</i>	<i>Households with 1 hearth</i>	<i>Households with 2 or 3 hearths</i>	<i>Households with 4 or more hearths</i>
1. St. Martin, Coney St	472	8	480	83	5.8	12	20	51
2. St. Wilfrid	188	3	191	37	5.1	4	13	20
3. St. Martin-cum-Gregory	228	4	232	51	4.5	8	17	26
4. Minster Yard	375	7	382	82	4.4	23	23	36
5. St. Michael-le-Belfrey	644	12	656	155	4.2	21	62	72
6. All Saints, Pavement	295	19	314	83	3.8	34	17	32
7. St. Helen, Stonegate	366	20	386	109	3.5	29	33	47
8. St. Michael, Spurriergate	344	17	361	113	3.2	31	41	41
9. St. John, Ouse Bridge End	279	15	294	94	3.1	28	40	26
10. St. Crux	377	16	393	130	3.0	38	57	35
11. Holy Trinity, King's Court	346	9	355	118	3.0	17	68	33
12. St. Sampson	307	10	317	108	2.9	26	52	30
13. Holy Trinity, Micklegate	206	12	218	73	2.9	24	31	18

¹¹⁷ 'The seventeenth century: Topography and population,' in A History of the County of York: the City of York, ed. P M Tillott (London: Victoria County History, 1961), 160-165, accessed March 30, 2015, <http://www.british-history.ac.uk/vch/yorks/city-of-york/pp160-165>.

14. St. Mary, Bishophill, Senior	108	21	129	44	2.9	20	15	9
15. Holy Trinity, Goodramgate	162	14	176	63	2.8	21	25	17
16. All Saints, North St.	158	4	162	61	2.6	17	29	15
17. St. Denys	175	20	195	75	2.6	30	25	20
18. St. Maurice	89	12	101	38	2.6	13	16	9
19. St. Mary, Castlegate	264	52	316	124	2.5	57	40	27
20. St. Olave	78	7	85	34	2.5	12	17	5
21. St. Saviour ^c	149	34	183	74	2.5	40	21	13
22. St. Lawrence with St. Peter-le-Willows	78	8	86	35	2.4	15	13	7
23. St. John-del-Pyke	99	16	115	48	2.4	25	13	10
24. St. Helen with St. Cuthbert	82	21	103	44	2.4	26	11	7
25. St. Margaret	107	20	127	55	2.2	23	21	11
26. All Saints, Peaseholme	33	7	40	18	2.2	11	5	2
27. St. Peter-the-Little	138	23	161	78	2.1	35	32	11
28. St. Mary, Bishophill, Junior	80	20	100	55	1.8	32	16	7
29. St. Andrew	50	25	75	42	1.7	28	8	6
Total	6,277	456	6,733	2,124	3.2	700	781	643

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