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Judging a Hereford hanging: *Agnes Glover v. Walter Devereux, William Herbert and others* (1457)

Biographical note

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Judging a Hereford hanging: *Agnes Glover v. Walter Devereux, William Herbert and others* (1457)

Abstract

This article considers an appeal of homicide brought by the widow of a hanged Hereford man, the background to which was what R.A. Griffiths calls the ‘forcible arrangement’ by powerful men of Herefordshire and the Welsh marches of the trial and execution of those said to have been guilty of murdering Watkin Vaughan of Bredwardine. While this incident has been considered in the context of disorder perpetrated in England, Wales and the Marches by particular families and affinities, and the efficiency or otherwise of royal justice in the mid-fifteenth century, the detail of its legal aspects have not been explored, and, in particular, it has generally been overlooked that the case was deemed worthy of a report, so that its essentials could be preserved for the instruction of common lawyers (YB Pasch. 35 Hen. VI f. 57b). Both the information from this Year Book report and the records of the King’s Bench are drawn on, and it is shown that limitations on existing legal processes should form part of historians’ consideration of criminal justice in the mid-fifteenth century.

Keywords: Hereford, medieval criminal law, execution, Welsh borders

Judging a Hereford hanging: *Agnes Glover v. Walter Devereux, William Herbert and others* (1457)

King's Bench plea rolls of 1457 record that Agnes, widow of John Glover, junior, dyer, of Hereford, brought an appeal of homicide (a 'private', or individually-instigated, prosecution) against Walter Devereux, William Herbert and others, accusing them of the felonious killing of her husband, in Hereford, on 15th March 1456.¹ Her appeal was one part of a body of litigation concerning this death, and related disorder, which has left traces in several different manuscript sources.

The death of John Glover was part of an episode of particular disorder in Hereford, as the city was, for a short period, taken over by a faction based around Herbert, Devereux and their associates, the Vaughans. This local civic context, as well as the importance of some of the defendants in national politics, has drawn the case to the attention of historians interested in the politics of Hereford and the border region, and in the governance of the realm and the effectiveness or otherwise of royal justice in these years of growing difficulty for 'the centre'.² Less attention has been paid to the legal

¹ TNA KB 27/784 m. 85; see also KB 27/781 Rex mm. 1d and 26d and KB 27/782 Rex m.22. Scans of these documents can be found via the Anglo-American Legal Tradition website: <http://aalt.law.uh.edu/>

² See, e.g., A. Herbert, 'Herefordshire, 1413–61: some aspects of society and public order', *Patronage, the Crown and the Provinces in Later Medieval England*, ed. By in R. A. Griffiths (Gloucester: A. Sutton, 1981), pp. 103–22; A. E. Herbert, 'Public Order and Private Violence in Herefordshire, 1413–61', M.A. Thesis, University of Wales, Swansea 1978 (hereafter, *HMA*), pp. 2–3; R.L. Storey, *The End of the House of Lancaster* (New York: Stein and Day, 1967), pp. 99, 181 and App V; R.A. Griffiths, 'After Glyn Dŵr: an age of reconciliation?', in *Proceedings of the British Academy* 117, ed. by F.M.L. Thompson (Oxford, 2001) pp. 139–64; R.A. Griffiths, 'Wales and the Marches' in *Fifteenth Century England 1399–1509* ed. by S.B. Chrimes, C.D. Ross and R.A Griffiths (Manchester, 1972), pp. 145–172; T. Thornton, 'Wales and the crisis of the Lancastrian monarchy 1456–9', *Welsh History Review* 27 (2015) pp. 456–9; H. Fulton, 'Guto'r Glyn and the Wars of the Roses', in '*Gwalch Cywyddau Gwŷr*' *Ysgrifau ar Guto'r Glyn a Chymru'r bymthegfed ganrif; essays on Guto'r Glyn and Fifteenth-Century Wales*, ed. D. Foster Evans, B.J. Lewis, A. Parry Owen (Aberystwyth, 2013), c.2; D. Foster Evans, 'William Herbert of Raglan (d. 1469) family history and personal identity', same volume, c. 4; D. Foster Evans, 'Murder in the marches: poetry and the legitimisation of revenge in fifteenth century Wales', *Proceedings of the Harvard Celtic Colloquium* 18/19 (1998–9), pp. 42–72.

context of Agnes Glover's case, however. It is the legal context which will be the focus of this article. Looking closely at King's Bench records relating to the case, and integrating into discussion a previously ignored source (a connected Year Book report), it will explore the light which the case sheds on the ways in which criminal justice worked, and did not work, for individuals attempting to use the legal system to obtain some measure of redress and/or justice following a serious offence.³ It is clear that the limitations of the appeal and other mechanisms provided by the common law weakened the position of those seeking to hold offenders to account, and that this should be considered alongside questions of the shortcomings of royal government, corruption or bias of those engaged in enforcement of justice, the excessive might of certain subjects, and the particular disorder of certain areas, when assessing problems with the maintenance of order, locally and throughout the realm, at this time.⁴

The appeal was one of the mechanisms used to bring felonies - serious 'criminal' cases - into the legal system, alongside the group-initiated indictment or presentment process.⁵ Although the number of appeals had declined as a proportion of criminal prosecutions, as compared to indictments, over the medieval period, the individual action remained

³ YB Pasch. 35 Hen. VI f. 57b; *Seipp* 1457.022 (summary and translation accessible in 'Seipp's Abridgement', the catalogue of Year Book reports by Professor D.J. Seipp of Boston University, at <http://www.bu.edu/law/faculty-scholarship/legal-history-the-year-books/>). On these reports, see J.H. Baker, *Introduction to English Legal History*, 4th edn (London, 2002), 179-81.

⁴ For debate on levels of fifteenth century violence and lawlessness, see, in particular, Storey, *The End of the House of Lancaster*; M. Hicks, *Richard III and his Rivals: magnates and their motives in the Wars of the Roses*. (London: Hambledon, 1991), p. 16; R. Horrox, 'The State of Research: local and national politics in fifteenth-century England' *Journal of Medieval History* 18 (1992) 399; E. Powell, *Kingship, Law and Society: criminal justice in the reign of Henry V* (Oxford: Oxford University Press, 1989); S.J. Payling, 'Murder, Motive and Punishment in Fifteenth Century England: two gentry case-studies', *EHR* cxiii (1998) pp. 1-17, 12; P.C. Maddern, *Violence and Social Order: East Anglia 1422-1442* (Oxford: Oxford University Press, 1992) pp. 2, 9-10, 14.

⁵ *Felony*, as used in the fifteenth century is best, but not perfectly, defined as a serious offence, to which the common law responded with capital punishment and forfeiture of the convict's property. For etymological issues and earlier medieval usage, see, e.g. E. Papp Kamali, *Felony and the Guilty Mind in Medieval England* (Cambridge: Cambridge University Press, 2019).

important in the fifteenth century and beyond, allowing impetus to come from one assumed to be closely affected by the offence.⁶ It was very well-established that the widow of a male victim of homicide had the right to bring an appeal before the king's courts.⁷ For Agnes Glover, it was the only way in which she could ensure that proceedings were commenced in this case, since, as a woman, she was not eligible to participate in presentment or indictment of alleged offenders: these were male-only processes.⁸

The entry on the King's Bench plea roll (an official, 'governmental' record) for Easter term 1457, narrates the formal steps of the appeal case, with detail on parties, dates, locations and the accusation made by Agnes. The record tells us that she appealed fourteen men for the death of her late husband: Walter Devereux of Weobley, Herefordshire, esquire,⁹ Sir William Herbert of 'Ragland' (Raglan) in the march of Wales, Herbert's brother Richard Herbert esquire, of Abergavenny (in the march of Wales), the Herberts' half brothers, Roger and Thomas ap Roger Vaughan, of Tretower (in the march of Wales) and Hergest (Herefordshire) respectively, and nine others, some of whose names suggest an English and some a Welsh cultural background.¹⁰

⁶ Powell, *Kingship, Law and Society*, 71; C. Whittick, 'The Role of the Criminal Appeal'. in *Law and Social Change in British History*, ed. by J.A. Guy and H.G. Beale, (London: Royal Historical Society, 1984), pp. 55-72.

⁷ See, e.g. D. Klerman, 'Women prosecutors in thirteenth century England', *Yale Journal of Law and the Humanities*, 14 (2002), pp. 271-319, 317; Whittick, 'The Role of the Criminal Appeal'; D.R. Ernst, 'The Moribund Appeal of Death: compensating survivors and controlling jurors in early modern England', *American Journal of Legal History*, 28 (1984) pp. 164-188.

⁸ The importance of appeals to women, and of women to appeals, is explored in, e.g.,: Klerman, 'Women prosecutors', Whittick 'The Role of the Criminal Appeal', PR Orr, 'Non potest appellum facere: criminal charges women could not, but did, bring in thirteenth century English royal courts of justice', in *The Final Argument: the imprint of violence on soc in medieval and early modern Europe*, ed. by D.J. Kagay and L.J.A. Villalon (Boydell, Woodbridge, 1998) pp. 141-62.

⁹ There were two men, father and son, named Walter Devereux, who were prominent in Herefordshire at this point. This is Walter Devereux the younger, later first Baron Ferrers of Chartley (c. 1432-1485).

¹⁰ KB 27/784 m. 85; KB 27/781 Rex mm. 1d and 26d and KB 27/782 Rex m.22. John ap Harry recently of Hay in the march of Wales, John Lyngen of Sutton in Herefordshire, Thomas Bromwich of Sarnesfield, Herefordshire, senior, esq., Philip Vaughan of Hay in the march of Wales, esq., John ap

Agnes's story, as set out in the record, was that John Glover had been 'in the peace of God and the lord king', in Hereford, on 15th March 1456, at around six o'clock in the evening, when he encountered Walter Devereux,¹¹ William Herbert, John ap Harry, John Lyngen, Thomas Bromwich, Thomas ap Roger Vaughan, Roger ap Roger Vaughan, Richard Herbert, Philip Vaughan, John ap Gwilym ap Thomas, Thomas Monyngton, Ralph Bromwich, John Kene and William Mody, who had been lying in wait (feloniously), 'planning to insult the king's crown and dignity'. William Herbert, John ap Harry, Thomas ap Roger Vaughan, Roger ap Roger Vaughan and William Mody had (feloniously) placed a rope (worth 1d) around John Glover's neck, and secured it (feloniously), and then forcibly (and feloniously) led John Glover to a field called 'Waryterfeld' in the city of Hereford.¹² In this field, they made John Glover climb up a ladder to the beam of the gallows (feloniously), by the threat of death; and put the rope, which was still around his neck, over the beam of the gallows (feloniously), (feloniously) secured the rope around the beam, and then threw the ladder away from the gallows (feloniously), and (feloniously) hanged him with that rope on those gallows, and left him to hang there on the gallows so long, (*i.e.* from 6 p.m. until 8 p.m.) that he died that day. Thus, alleged Agnes's appeal, William Herbert, John ap Harry, Thomas ap Roger Vaughan, Roger ap Roger Vaughan and William Mody feloniously killed and murdered John Glover, and Walter Devereux, John Lyngen, Thomas Bromwich,

Gwilym ap Thomas of Chepstow in the march of Wales, gent., Thomas Monyngton of Sarnesield, Herefordshire, esq., Ralph Bromwich of Staunton, Herefordshire, esq., John Kene of Bodenham Moor, Herefordshire, gent., William Mody of the parish of Holmer, Herefordshire, husbandman.

¹¹ The Year Book account suggests that the appeal was against the elder Walter, but the plea roll makes it clear that it was Walter the son who was appealed by Agnes.

¹² This location has not been identified. It is, however, made clear that the *furcas* (gallows) were already in this place, so that it seems to have been a usual place of execution, not a newly erected set of gallows, or something more *ad hoc*: see, e.g. KB 27/791 Rex m.1.

Richard Herbert, Philip Vaughan, John ap Gwilym ap Thomas, Thomas Monyngton, Ralph Bromwich and John Kene, feloniously, helped, comforted and abetted them in carrying out this ‘felony of death and murder’. The record noted that not all of the accused were present in court. Agnes’s case also stated, in standard form, that, as soon as the accused had committed the offence, they had fled, that she had pursued them at once, from vill to vill as far as the four nearest villis and beyond, and declared that, if they should wish to deny the felony of death and murder, she was ready to prove it against them as the court should direct.

The highly formalised plea roll account of Agnes Glover’s appeal might well give the impression that, if the accusation was justified, John Glover was the victim of an unprovoked (if slightly odd and rather over-manned) attack. The selection and presentation of the alleged facts – all in accordance with the ‘rules of the game’ for bringing an appeal – encourages this impression. External evidence, however, shows that the apparent facts were not quite so simple. Rather than coming ‘out of the blue’, the killing of John Glover junior was the culmination of a rather more complex series of events. Behind his death lay another recent killing, and, in all likelihood, deeper and wider enmities.

The relevant recent death was that of Walter ‘Watkin’ Vaughan of Bredwardine, killed on 13th March, 1456, by an arrow to the heart.¹³ Several of the main figures accused by Agnes in her appeal were close relations and associates of Watkin. The Herberts, Vaughans and Devereux family formed an inter-related group, linked by blood and

¹³ HMA 122; B 9/282 m. 31; R.A. Griffiths, ‘Vaughan family, c. 1400-1504, gentry’, *Oxford Dictionary of National Biography* (references are to the online edition, at <https://www.oxforddnb.com/>).

politics, with influence and property interests across a significant portion of Herefordshire and the south-eastern part of Wales.¹⁴ The two men, father and son, bearing the name Walter Devereux, as well as Sir William Herbert of Raglan and Watkin Vaughan, were associated with the Duke of York and his interests.¹⁵ What appears clear is that William Herbert led the swift action in response to the death of his half-brother, Watkin Vaughan, and that the killing of John Glover junior was conceived of by Herbert and his associates as justice, revenge or retribution for that earlier killing. Further King's Bench records indicate that, on 15th March 1456, Herbert and associates had pressured the justices of the peace in the city to try and to condemn Glover, his father and four other Hereford men (John Bosy, Richard Burgeys, William Predy and John Warner, servant of John Glover senior) for the death of Watkin, and proceeded to hang them, more or less at once. Additional shaming practices were said to have been employed, the hanged men's bodies being left up for some time, rather than being released for burial, and at least some of their moveable property was allegedly taken: John Glover senior's house allegedly being broken into and robbed of cloth after the trial and hanging, and some of 'John Glover, dyer's goods were allegedly taken, on 13th May 1456, by one of those accused of killing him.¹⁶ It is difficult to know whether these men were responsible for Watkin's death, or were genuinely regarded as being responsible. The matter is made murkier by the fact that several different individuals

¹⁴ For inter-marriages between Herbert and Devereux, Herbert and Vaughan, Devereux and Vaughan, see *HMA* 51, 86; Fulton, 'Guto'r Glyn', 65; W.L. Richards, *Gwaith Dafydd Llwyd o Fathafarn* (Cardiff: University of Wales Press, 1964). William Herbert's brother, Richard, was another of the accused: the Herberts were half-brothers to Watkin Vaughan, who had been brought up with them, and to his two brothers, Roger and Thomas, who were accused with them.

¹⁵ See R.A. Griffiths, 'Devereux, Walter, first Baron Ferrers of Chartley (c. 1432–1485)', *Oxford Dictionary of National Biography*.

¹⁶ KB 9/35 mm. 44, 70, 72, 61, 63.; KB 27/784 m.55.

(including Agnes herself) were suggested, at different times, to have been principals and accessories to his death.¹⁷

Prior enmity between the Glovers and the Herbert-Devereux-Vaughan group may also have been a factor in the episode. Hereford had for some time been affected by disorder and ill-feeling between factions which came to be labelled ‘English’ and ‘Welsh’ (though not representing a complete or simple ‘national’ division).¹⁸ The Glovers may have been on the opposite (‘English’) side of this divide from Devereux and his associates, who were aligned with the ‘Welsh’ tendency. A man called John Glover appears on jury lists for hearings in August-September 1452 commission into some disorder in which Walter Devereux (the elder) and associates were said to have been involved.¹⁹ It is unclear whether this juror is John Glover junior, or his father (who also appears in the events of 1456), or, indeed, neither.²⁰ The factional rivalry is said to have played its part in events immediately before the killing of John Glover junior, as Herbert and Devereux exploited it to assist their take-over of the city’s government and judicial functions on 15th – 17th March 1456.²¹

None of this contextual material – neither the accusations relating to Watkin Vaughan’s death, nor the likely prior enmity – appears in Agnes’s appeal, and nor would the

¹⁷ A Thomas Glover also appears in some relevant records: KB 9/35 m. 65 – Miles Scull’s order for the arrest of Richard Grene, implicating him as an accessory to the killing of Watkin, here said to have been by Thomas Glover. Thomas Glover’s relationship to John Glover junior and senior is unclear.

¹⁸ *HMA* p. 124; Foster Evans, ‘William Herbert’, p. 88; Herbert, ‘Herefordshire’, pp. 109-10, emphasises the connection of the groupings with the city government (‘English’) and those, particularly newcomers, who felt themselves shut out from it (‘Welsh’), and allegations of corruption against certain ‘English’ officials.

¹⁹ *HMA* pp. 46, 49, 59, 121; *CPR 1446-52*, p. 580; KB 9/34/1 m. 5d (includes ‘John Glover, dyer’, m. 48 (1452).

²⁰ Sometimes ‘Dyer’ is used as a surname, rather than ‘Glover, dyer’.

²¹ Griffiths, ‘Vaughan family’. It is the younger Walter Devereux, rather than his father, who is to the fore in the 1456 episode; KB 9/35 mm. 61, 65, 72.

standard formula for such action require or allow it to be included. The legal formula appears significantly to distort the factual matrix. Agnes's formal allegations portrayed this complicated series of events as closely to a 'standard' felonious killing of one individual as was possible: people were stated to have acted feloniously, there is no hint of any possible justification for what happened, no suggestion of any guilt or suspicion of John Glover (who is, on the contrary, alleged in the usual way to be 'within the king's peace'), and there is certainly no mention of the prior 'legal' proceedings. We are led to concentrate on the physical steps leading to John Glover's death, presented in a somewhat artificial manner, and attention is focused on his death alone, despite the fact that several men seem to have been despatched at the same time. It may be that John Glover was in fact involved in the killing of Watkin Vaughan, so that Agnes would have been glad to concentrate on the immediate circumstances of his death, without going into the preceding events. The constraints of the appeal meant, however, that, if it was her contention that he was not involved at all, and she had wished to include the aggravating matter of the forced trial in her accusation against Herbert, Devereux and their associates, she would not have been able to do so.

The reporting of lawyers, consolidated in the 'black-letter' printed Year Book report, gives an important additional perspective on this matter. Writing not for the purposes of the immediate administration of justice, but as a contribution to the education and memory of the legal profession, law reports include different material to that seen in the King's Bench records. Reports concentrated upon fellow-lawyers and their arguments as they engaged with the task of identifying a single issue to put to proof. They are often vague about details such as names. In this case, the report does identify 'Devers' and 'Herbert', but it does not include the name of the widow bringing the appeal, and other

relevant names and roles are mangled: for example Watkin Vaughan, becomes ‘John Vowant’, the principal killer is ‘J.W.’, and the widow bringing the appeal is said to be the wife of an accessory rather than the principal offender.²² It seems likely that this report relates to Agnes Glover’s appeal, and John Glover’s death, however, since only Agnes is recorded in the rolls of the King’s Bench as having brought an appeal against Herbert and Devereux in relation to such a case in this term - or at all.

This report assigns to the lawyers and judges of the King’s Bench (serjeants Thomas Littleton, William Wangford, William Laicon: and justices Richard Bingham, William Yelverton, John Markham, Ralph Pole) statements and arguments on technical points of pleading of the appeal. There are two main strands to the reported discussion, one concerning the existence of a record of conviction from the peace session in Hereford, and the other concerning the right of the wife of a convicted felon to bring an appeal relating to his death.

The report shows that, while the appeal had alleged that the widow’s late husband had been killed feloniously, the defendants wished to plead that the killing was not felonious, because there was a record of judicial process before the death. In this context, the defence case mentions that there had been sessions of the peace, an accusation and finding of guilt against the deceased (apparently with documentary support), so that he had been hanged as a result of this procedure. In particular, the stages of judgment and execution were separated, and care was taken not to suggest direct involvement of the Devereux-Herberts in the hanging. The suggestion was that

²² There is a ‘J.W.’ amongst the hanged men – John Warner – but he appears to have been found to be an accessory, not the principal offender.

‘due process’ had been demonstrated, that this was not a valid appeal (because what was being objected to was a lawful execution of a convict, proved by the record of the peace session). That was the ground on which the defendants wanted to fight, rather than being forced to plead not guilty in a more general way, and shutting down discussion of the questionable legitimacy of their actions in carrying out the hanging.

In support of their argument that the matter could be disposed of in this way, the defence tried to assimilate the situation of the accused to that of a sheriff or marshall of the King’s Bench, who is ordered to execute a man, and does so. While it was accepted that such a sheriff or marshall could bring along a record demonstrating that he had authority to execute the man, and this would be enough to ‘justify’ the killing, however, it was argued that there was a difference between that case and the situation in which a stranger killed the condemned man. The implication was that, in the case of the sheriff killing the condemned man, there was both written authority for the killing and also authority to the person who carried it out, but in the ‘stranger’ case, while there might be authority for a killing, it was not vested in the person who actually carried it out, and so it would not be appropriate for him to be allowed to rely on documents condemning the deceased to death. There was close examination of the wording of what seems to have been the peace session record to see whether there was such authority for the defendant, and the consensus seems to have been that there was not. It is part of the charm and frustration of Year Book reports that they have a tendency to show discussions which may appear to the modern lawyer to wander off the point, and, in line with this tendency, we are treated to a consideration of how they would have handled a somewhat different situation, in which the deceased had been condemned and killed by the ‘right’ person, but by the wrong method: for example, what if a defendant had authority to hang a person but beheaded him instead? Would that be a felony? The

relevance of the ‘wrong method’ discussion to this case is something of a stretch, requiring an analogy between the means of execution and the executioners themselves. It might be argued that the use of such an analogy suggests a degree of uncertainty as to how common law structures and pleading should deal with more complex facts, located on the borderline between legality and illegality.

The law on execution was in the process of development over the medieval period, and, as discussion in the Year Book report shows, in the mid-fifteenth century, important aspects of it remained to be settled. Although it was clear that executing a lawful sentence of death, if one had the authority to do so, was, in modern terms, a justifiable homicide, and it was also reasonably clear that one could commit an offence by despatching a convict or alleged convict without any authority, there was, clearly some question as to what it was appropriate to do about killings with some of the characteristics of lawful execution, but with flaws in terms of lawful authority.²³ An ‘execution’ which was not carried out as it should be could be conceived of as a wrong against two people: the person whose authority was usurped or wrongly exercised in carrying out the killing, and the person who was killed. Although it is the latter which seems, from a modern perspective, to be the more immediate issue, it was the former which has greater prominence in medieval legal records.²⁴ As the king brought punishment for felony ever more clearly under royal control, improper execution was

²³ F. Pollock and F.W. Maitland, *The History of English Law Before the Time of Edward I* (second edition, Cambridge: Cambridge University Press, 1899) II, 478. ‘Wrongful mode of execution’ problems had been mentioned by the thirteenth-century treatise *Bracton*, borrowing from Roman law, and that work favoured a strict construction of the authority to execute, but did not spell out the consequences of failing to stick to one’s instruction in terms of method of despatch: S.E. Thorne (ed.) *Bracton on the Laws and Customs of England* (Cambridge MA and London: Harvard University Press, 1977) II, p. 299.

²⁴ See, e.g. Powell, *Kingship, Law and Society*, p. 76; JUST 3/188 mm. 47, 49, 49d (unauthorised beheading with concern for the usurpation of royal rights, and pardons for offenders); *CPR 1405-8*, p. 435.

increasingly a wrong against the king, and a concern for royal justice in this respect.²⁵ This case sees lawyers debating whether questionable execution was also a matter which could be dealt with by appeal, as a wrong against the individual. Medieval widows had occasionally brought such appeals.²⁶ This case, however, shows that there remained some disquiet and disagreement as to the use of appeals in the context of a killing which looked something like an officially sanctioned execution, and had some documentation apparently showing this.²⁷ The point about the forced, and surely questionable, nature of the peace session conviction does not seem to have been discussed, or, at any rate, discussion of it did not capture the attention of law reporters. It would appear that, although the ‘veneer of legality’ might have been ‘very thin’,²⁸ there does not seem to have been a plausible way, within the framework of the appeal, and its restrictive pleading rules, to bring into question the forced verdict: it was necessary for the accusation to focus on the events immediately before death only.²⁹

²⁵ On the move from wider rights to execute to a conception in which this was something for royal power, only appropriate after ‘due process’, over the thirteenth century, see: K.J. Kesselring, *Making Murder Public* (Oxford: Oxford University Press) pp. 123, 153; K. Duggan, ‘The Ritualistic Importance of Gallows in Thirteenth Century England’ in *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain*, ed. by S.M. Butler and K.J. Kesselring (Leiden: Brill, 2018), pp. 195-215; H. Summerson, ‘Attitudes to Capital Punishment’, in *Thirteenth Century England VIII*, ed. by M. Prestwich et al. (Woodbridge: Boydell and Brewer, 2001), pp. 123-33, 130; *Seipp* 1328.017; 1328.140 ass; 1353.166; J.B. Post, ‘Local Jurisdictions and Judgment of Death in Later Medieval England’, *Criminal Justice History* 4 (1983), pp. 1-21. For irregular ‘execution’ of a felon who had confessed and was waiting to leave the realm, see JUST 1/1043 m.7 (1231); Duggan, ‘Ritualistic importance’, p. 195. From the twelfth century to at least the fourteenth century, there are examples of improper executions being punished with a financial penalty, or a rebuke, rather than attracting the logical consequences of regarding them as fully felonious homicides. See Post, ‘Local Jurisdictions’, p. 11; *CPR 1388-92*, p. 253.

²⁶ For a discontinued appeal by a widow whose husband had been executed as a thief, having been taken with the mainour, and without a trial, see Post, ‘Local Jurisdictions’, p. 8; KB 27/1 m.23.

²⁷ For an objection to an ‘unauthorised execution’ outside regular common law procedures, see TNA C 1/26/616. It should be borne in mind that drawing a clear distinction between legitimate and illegitimate ‘execution’ might not be entirely straightforward in medieval England, since even legitimate hangings might be done without much ceremony or evident official pomp: Kesselring, *Making Murder Public*, p. 123, Summerson, ‘Attitudes to Capital Punishment’, p. 130.

²⁸ Foster Evans, ‘Murder’, p. 52.

²⁹ The matter of executions which were in some way improper continued to be a source of concern to common lawyers into the Tudor period, thus the notebook of Sir John Port (c. 1472-distinguishes between a judge who orders a type of execution not allowed by law (which, perhaps conveniently, is an error in the judgment, rather than being murder) and a sheriff performing an execution other than in accordance

In the end, the court did not allow the document from the peace session to justify the hanging by Herbert and associates, and argument moved on to another point, with the defence reported to have attempted to frame the issue as being concerned with the widow's lack of right to bring the appeal at all. In this strand of the argument, it was suggested that a widow in the position of the appellor had no standing to bring the appeal. This was argued by using analogies with (i) an action of dower brought by the widow of a convict, and (ii) an appeal of death brought by the heir rather than the widow. The point being made was that a man's status as a convicted felon would be fatal both to his widow's dower action and to his heir's appeal. It was the case that the widow of a convict would not be entitled to claim dower, though there was not clear agreement as to why that was so. Bingham JKB's view was recorded as being that it was because a felon would be punished 'in his blood, in his wife, in his land and chattels'. This could be read as barring the dower action on account of punishment 'in his wife' or 'in his land'. It seems to have been taken as the latter, *i.e.* the barring of the dower action could be explained by the husband's felony having as a consequence the forfeiture of the land he had held (including the land which would otherwise have been dower land) to the king, removing the widow's right to it, and therefore ending the possibility that she could sue to obtain the land. The idea that the heir of a convicted man would be barred from bringing an appeal in relation to his ancestor's death could be attributed to the idea of the felon being punished 'in his blood', and, specifically, to the idea, growing in the fifteenth century, of serious offences causing 'corruption of the blood'. Felony was constructed here as 'corrupting the blood between' the felon and his

with his warrant (which is 'otherwise', *i.e.* it is indeed murder): J.H. Baker (ed.), *The Notebook of Sir John Port* (London: Selden Society, 1986), p. 86 no. 22.

heir. The defence argued that the wife was affected by this, since ‘blood between’ the wife and husband would also be corrupted, resulting in her appeal in this matter not being countenanced. The similarity of the position of heir and wife, and the application of the blood and corruption metaphor to the marital relationship was not, however, accepted by all. In the speech attributed to Markham, it was asserted that, while the heir (or perhaps, properly, the ‘heir’) might not have an appeal in relation to a convicted ancestor, because corruption of the blood operated here to the extent that when the ancestor was attainted, he no longer had an heir, the same did not apply between the man and wife. The wife’s right to bring an appeal of homicide was not based on ‘blood’ but on ‘the fact of marriage’, and this was not destroyed by a finding of felony. This distinction is interesting from the point of view of judicial attitudes to the appeals of widows in general, and from the point of view of medieval ideas about blood and relationship, neither of which can be pursued here: for the purposes of this article, the important point is that there was a debate on the question of the appeal-right of the widow in the homicide-by-‘execution’ context. Such debate suggests a degree of uncertainty which could inhibit widows from bringing appeals in such circumstances.

Taken together, the plea roll record and report show some of the limitations in what could be pleaded by a widow in the circumstances in which Agnes Glover found herself, and, in particular, the difficulty of using this mechanism to hold to account those whose influence or misconduct could be argued to have caused another to be sentenced to death. The other limitations revealed by the records of the King’s Bench are somewhat more familiar, and concern the difficulties of securing the defendant’s appearance in court, and the ways in which the appeal, once commenced, could be derailed.

The King's Bench plea roll record goes on through the lengthy legal process: Devereux, appearing in person, denied force, wrong and all felony. A series of delays and recallings to court followed, with Agnes and a varying cast of the accused being present each time. Those defendants who appeared denied everything, and there were delays in putting the case to a jury to obtain a resolution. Finally, on an occasion in January 1459, William Herbert, Richard Herbert, John ap Gwilym, Thomas Bromwich senior and Thomas Monyngton came in person, but Agnes did not come. Because of her non-appearance, these five men were acquitted in relation to her suit, and the first three produced a royal pardon, by letters patent, to deal with the potential suit of the king.³⁰ Pardons were awarded to the key players at different times in the late 1450s.³¹ There is no further trace of Agnes's action.

The ending of a long case with withdrawal of the prosecutor and pardons is an outcome familiar to anyone who has looked at late-medieval criminal proceedings. Assessing the reason for such an ending, and evaluating its ramifications for criminal justice more widely, is, however, not straightforward. To the extent that Agnes had been determined to obtain convictions, via this appeal, for some of those who had hanged her husband, she had failed. To the extent that the king, and the legal system, aimed to identify and punish offenders, there may have been another failure, since nobody was in fact convicted or executed for the killing of John Glover junior. Accounts of criminal justice

³⁰ The pardon covered this offence and 'all other felonies, murders, trespasses and offences committed before 1st May 1457: *CPR 1452-61*, p. 367.

³¹ *CPR 1452-61*, pp. 353, 360, 367, 538, 539, 594; KB 27/784 rex m 18, 21, 22, 9d; KB 27/786 rex m. 13, 15, 23, 36; KB 27/790 rex m 18; KB 27/791 (1459) rex m 1 – 2d, 4-5. Acquittals relating to matters presented against them in the 1457 commission session: KB 27/784 mm. 6,7, 22; *CCR 1454-61*, pp. 222-3.

in this period have, however, shown that staying the course, seeing through legal actions and securing conviction and punishment was not the only aim, perhaps not even the priority, of either individuals or authorities. Powerful arguments have been made for seeing legal proceedings before common law courts as only one strand of a broader approach employed by those involved in disputes, who might also engage in self help, arbitration and other strategies, and might use an appeal to force a settlement, and also for seeing royal objectives in dealing with offences as extending beyond doing justice on the individual level, and including reconciling and reintegrating within local and national structures of power those who had previously acted in a disruptive manner.³² Settlement, arbitration and royal pardoning have been shown not necessarily to have been antithetical to contemporary ideas of justice, though the ready use of pardons in the mid-fifteenth century in particular has been seen by some as undermining the efficacy and authority of royal justice.³³ In general, views have moved somewhat, from a construction of fifteenth century criminal justice as central authorities, attempting to enforce the letter of royal law, pitched in an antagonistic relationship with rival powers seeking to undermine their efforts, to a conception of the perceived function of criminal justice as embodying a range of potential responses to offending behaviour, from capital

³² Whittick, 'The Role of the Criminal Appeal', p. 57; Powell, *Kingship, Law and Society* pp. 97-107. On the acceptance of the appropriateness of compensation in 'criminal' cases, in and beyond the medieval period, see, e.g. Kesselring, *Making Murder Public*, p.78; E. Powell, 'Arbitration and the Law in Medieval England', *TRHS* 33 (1983) pp. 49-67; E. Powell, 'Settlement of Disputes by Arbitration in Fifteenth Century England', *Law and History Review* 2 (1984), pp. 21-43; J.T. Rosenthal, 'Feuds and Private Peace Making: a Fifteenth Century Example' *Nottingham Medieval Studies*, 14 (1970) pp. 84-90; Powell, *Kingship, Law and Society* cc.7 and 9.

³³ On pardons in general, see, N. D. Hurnard, *The King's Pardon for Homicide before A.D. 1307* (Oxford: Oxford University Press, 1969); H. Lacey, *The Royal Pardon: access to mercy in fourteenth-century England* (York: York Medieval Press, 2009). On the fifteenth century situation, see S.J. Payling, 'Murder, Motive and Punishment in Fifteenth Century England: two gentry case-studies', *EHR* cxiii (1998) pp. 15-16; J. Ross, "'Mischievously Slew': John, Lord Scrope, the Dukes of Norfolk and Suffolk, and the murder of Henry Howard in 1446', in *Fifteenth Century X: parliament, personalities and power: papers presented to Linda S. Clark*, ed. H. Kleineke, (Woodbridge: Boydell and Brewer, 2011) pp. 75-96.

punishment, to settlement, and of the criminal justice system as reliant on the power and actions of prominent local figures.³⁴

It is important to bear these system-level insights in mind when considering an individual case like this. Nevertheless, they can only take us so far. While we should not discount the idea that a medieval ‘private prosecutor’ might have been motivated less by the wish for conviction and punishment of wrongdoers, and more by a more generalised desire for some vindication and satisfaction, there are signs that Agnes Glover was serious in her pursuit of the appeal. It is not, of course, possible to know what was Agnes’s purpose in bringing the appeal, nor can we tell why she did not pursue the case to the bitter end, but the fact that she did bring an appeal, despite the combined power and local threat of those she accused, and that she pursued it for a considerable period, may suggest that, in comparison with others bringing appeals, she was relatively attached to the legal route towards punishment, rather than the route of settlement and financial compensation. It is possible that there was, in the end, a favourable settlement and that it was this which caused Agnes to stop prosecuting, but some doubt may be cast upon this idea by a consideration of related proceedings. First, indictment files and plea rolls show that there was an attempt to implicate Agnes in the killing of Watkin Vaughan. Secondly, after her appeal ended, some of her opponents took action against her, alleging that she was part of a conspiracy to bring proceedings against them in relation to the killing of her husband. This suggests a relatively long-sustained enmity,

³⁴ See, e.g. E. Powell, *Kingship, Law and Society: criminal justice in the reign of Henry V* (Oxford, 1989), 20; R. Horrox, ‘The state of research: local and national politics in fifteenth-century England’ *Journal of Medieval History* 18 (1992) 399, and references in note 4.

rather than the instrumental use of legal proceedings to encourage settlement and reconciliation, and perhaps makes it less likely that she was paid off and more likely that she was intimidated into dropping the case by her powerful opponents, now rehabilitated in royal favour. Any criminal prosecution might be vulnerable to pressure or inducement by the defendant, but one brought by an individual against particularly powerful men with a record of disruptive violence might be more than usually vulnerable to intimidation.³⁵

Another refinement which needs to be added to the emerging model of a multi-strand approach to dealing with grievances and disputes which was mentioned above is that ‘legal proceedings’ should not be conceived of as one strand, but as, in themselves complex, with a range of modes of action to deal with grievances. This is well-illustrated by the case under consideration here, which shows the use of a series of different legal proceedings and routes. As noted above, and as referred to in the Year Book report, there had been a (forced) peace session on 15th March 1456, at which John Glover junior and others were tried and convicted. In addition, two different coroners appear to have been involved in proceedings relating to Watkin Vaughan’s death. According to the document deriving from the peace session on 15th March, John Haukyns, one of the Hereford coroners, reported that Watkin Vaughan’s widow had begun, then quickly discontinued an appeal before him, naming John Glover junior and the others who would be hanged on 15th March.³⁶ There is some corroboration in literary evidence of the fact that she did take such action.³⁷ King’s Bench documents also state

³⁵ See, e.g., TNA C 1/4/128; KB 27/632 (1419) mm 5d, 7d; KB 27/634 m 110.

³⁶ KB 9/285 m. 22, Vaughan’s wife is called Eleanor here.

³⁷ See further below.

that there was an inquest (by a different coroner) on the body of Watkin Vaughan, at Bredwardine, on a date over which they disagree. Some documents assign it to 1st April (thus well after the killing of both Watkin Vaughan and John Glover junior), but others dated it 15th March.³⁸ Bredwardine was an area of Vaughan influence, indeed, it was Watkin's own home territory – and records state that the participants – William Brace, one of the county coroners, and the jurors - were unwilling, complaining that they had no knowledge about the circumstances of Watkin's death, but were forced by physical intimidation to act. Those forcing them (William Herbert, Roger and Thomas Vaughan and John ap Harry 'and others') were painted in a particularly poor light by the inclusion of the detail that some of them (Roger Vaughan and John ap Harry) had assaulted a clergyman who tried to intervene, spilling his blood in the parish church.³⁹ The result of the Bredwardine proceeding was the accusation of a different group of men to those hanged with John Glover junior. It was stated that John Glover junior had killed Watkin Vaughan, aided by Richard Grene, John Daniell, Laurence Llewelyn, Henry Brasier, Richard Falk, John Baker and John More, prominent men of the 'English' faction in Hereford. The indictment of this group of alleged accessories came before the King's Bench in Trinity term, 1456.⁴⁰ A third variant on the cast of accessories to the killing of Watkin Vaughan included Agnes Glover herself.⁴¹ In addition, one Thomas Glover, dyer, also seems to have been regarded as the principal

³⁸ KB 27/791 Rex m.1d; *HMA*, 123; KB 9/281 m. 4; KB 27/781 Rex m. 1d.. KB 9/35 m. 60 Bredwardine inquest 1st April.

³⁹ KB 9/35 m 60. They had acted 'in the manner of sons of the devil, and tyrants, fearing neither God nor the Church'.

⁴⁰ KB 27/781 Rex m. 1d; See also KB 9/281 m.4 (Easter 1457), KB 9/35 m. 60, 65.

⁴¹ Peace session record stating that John Glover junior killed Watkin Vaughan; Agnes his wife is mentioned as an accessory: KB 9/282 m. 31. Agnes was in Westminster in Trinity term 1456, accused of aiding and abetting John Glover junior in his killing of Watkin Vaughan, and managed to secure an acquittal on the ground that the indictment was insufficient in law, in that it did not mention her vill or hamlet: KB 27/781 Rex m. 22d.

killer in some sources.⁴² After 1457, there were attempts to brand the accusations against Walter Devereux (the younger) and associates as false and the result of a conspiracy (here, again, Agnes was implicated).⁴³

There was, therefore, use of several legal processes, sometimes in inconsistent ways. Different processes did not ‘talk to’ each other, so that, for example, we have four entirely inconsistent stories, explicit or implicit, about the death of John Glover junior. The Herbert-Devereux-Vaughan actions were geared towards showing it to be a just execution, following the killing of Watkin Vaughan. The men accused in the Bredwardine inquest described Glover’s death in so euphemistic a fashion that it appears they were saying he died of disease.⁴⁴ It is not clear why they did this, but one explanation would be that they wished to avoid antagonising the Herbert-Devereux group by accusing them of misconduct in relation to John Glover’s death. Agnes Glover, of course, portrayed her husband’s death as a felonious homicide. Finally, a prosecutor in Trinity term 1456 (i.e. the summer, and certainly some time after the date given for the hangings) insisted that it had not happened at all, and that John Glover was still alive and amenable to common law justice.⁴⁵ The idea that people might not tell the truth in legal proceedings is hardly a new one, and it has been pointed out in the past that the common law provided different modes of prosecution, and struggled, at times,

⁴² KB 9/35 mm. 60, 65. There is a pardon to Thomas Glover late of Hereford, ‘dier’ of all felonies, murders, trespasses and other misdeeds, and any consequent outlawries: *CPR 1452-61* 354 (29th June, 1457).

⁴³ KB 27/790 m.68d; KB 27/798 m. 40d (1460 - includes ‘Agnes Glover wedowe’); KB 27/802 m. 35d (including Agnes Dyer, widow – Michaelmas, 1461) and m. 68. Some of the conspiracy charges were dismissed as malicious in 1459: Herbert, ‘Herefordshire’, 116: TNA PSO 1/20/1067.

⁴⁴ In KB 27/781 Rex m. 1d, the plea roll for Trinity 1456, the defendants claimed that John Dyer junior died [on 15th March], at Hereford, ‘of various infirmities with which he was fatally afflicted’.

⁴⁵ Thomas Greswold, prosecuting for the king, stated in Trinity 1456 that John Glover junior was alive at that point: KB 27/781 Rex m. 1d.

to work out the best way for them to co-exist,⁴⁶ but this ‘heap of litigation’ with all of its contradictions seems a particularly strong illustration of these points, and, for Agnes Glover, the multiple strands of legal activity, casting her in different roles, caused additional difficulties.

An additional perspective which must be borne in mind when considering this case and the circumstances surrounding it is that of the Welsh cultural background of some of the participants. Both contemporary English comments, and also the work of some modern historians make some reference to the Welsh-led and partly Welsh-manned nature of the force involved in the 1456 seizure of Hereford and hanging of John Glover and others. Welsh difference, lawlessness and violence are emphasised.⁴⁷ The construction of the Devereux-Herbert group by one scholar of Hereford and the Welsh marches as ‘the Devereux-Herbert gang’,⁴⁸ suggests lawlessness, or disrespect for law,⁴⁹ chiming in with the idea of South Wales as a particular problem for royal justice in the 1450s and with the figure of the lawless and murderous Welshman marauding in England seen elsewhere.⁵⁰ The petition of the widow of William Tresham, for example, singled out the behaviour of a Welshman, Evan Aprice, as a principal in her husband’s death and as behaving in an insulting manner afterwards, parading around on Tresham’s stolen horse, and mentioned other Welshmen in the group of assailants.⁵¹ Alongside these negative

⁴⁶ For the relationship between appeals and indictments, and the changes in that relationship in the later fifteenth century, see J.H. Baker, *Oxford History of the Laws of England* vol. VI (Oxford: Oxford University Press, 2003) p. 514.

⁴⁷ For contemporary ridicule of Welsh customs, see HMA 88; N. Davis (ed) *Paston Letters and Papers of the Fifteenth Century* vol. II (Oxford: Oxford University Press, 1976), p. 172.

⁴⁸ Herbert, ‘Herefordshire’, p. 106.

⁴⁹ Herbert, ‘Herefordshire’, p. 116, mentions the ‘lawlessness’ in Herefordshire caused, in part by the ‘criminally-inclined Welshmen who strayed over the border’.

⁵⁰ Storey, *End of the House of Lancaster*, 96, 98, 178. For complaints of cross-border raiding in the early fifteenth century, see *RP* III, pp. 615, 663-4; IV, pp. 52, 254; 421; V, pp. 53, 106, 151, 367-8; *SR* II, 318, 351; *HMA* 24. *CPR* 1422-9, 546-7; *CPR* 1429-36, 177.

⁵¹ *Parl. R.* v, pp. 211-12.

suggestions, there are, however, significant opposing voices, from Welsh literature and literary scholarship, which have a bearing on ideas about law and justice with regard to this episode.

Literary scholars have pointed out the treatment of Herbert and other leading players in the episode in the Welsh literary works of this, the ‘great century’ of (praise) poetry.⁵² The approach of the Welsh praise-poets to the Herbert-Vaughan group was positive.⁵³ It is, of course, hardly surprising that those setting out to praise patrons should see the best in their conduct and motives, but the possibility, supported by the words of the poets, of differing perspectives on legal rules and authority, on the part of participants and observers from a Welsh background, is one which should not be ignored. By the mid-fifteenth century, Wales was a long-since conquered land, subject to the common law or its Marcher variants, but older ideas, from the tradition of *Cyfraith Hywel*, the ‘Laws of Hywel the Good’, might still be influential.⁵⁴ Despite its proximity to England, the March of Wales was an important site of Welsh law scholarship and preservation in the fifteenth century.⁵⁵ One of the clear features of the Welsh legal tradition was the recognition of the right of kin-groups to be involved in legal resolutions following a

⁵² J. Saunders Lewis, *Braslun o Hanes Llenyddiaeth Gymraeg* (Cardiff, 1932), ch. 7. On the literary involvement and treatment of Herbert and Vaughan families in particular, see H. Fulton, ‘Guto’r Glyn and the Wars of the Roses’, in D. Foster Evans, B.J. Lewis, A. Parry Owen (eds), ‘*Gwalch Cywyddau Gwŷr’ Ysgrifau ar Guto’r Glyn a Chymru’r bymthegfed ganrif; essays on Guto’r Glyn and Fifteenth-Century Wales* (Aberystwyth, 2013), c.2; D. Foster Evans, ‘William Herbert of Raglan (d. 1469) family history and personal identity’, c. 4, same volume; D. Foster Evans, ‘Murder in the marches: poetry and the legitimisation of revenge in fifteenth century Wales’, *Proceedings of the Harvard Celtic Colloquium* 18/19 (1998-9), pp. 42-72.

⁵³ See, e.g., J. Jones, *Gwaith: Poetical Works of Lewis Glyn Cothi* (Oxford: Cymmrodorion, 1837), p. 31, 34; Fulton, ‘Guto’r Glyn’, p. 65; W.L. Richards, *Gwaith Dafydd Llwyd o Fathafarn* (Cardiff: University of Wales Press, 1964), poems 5, 49, 28, and 48; Foster Evans, ‘William Herbert’, pp. 86, 100.

⁵⁴ Ll. B. Smith, ‘The Statute of Wales 1284’, *WHR* 10 (2) (1980-1), pp. 127-54; R.R. Davies, ‘The Law of the March’ *Welsh Historical Review* 5 (1970) pp. 1-30; H. Owen, ‘English Law in Wales and the Marches’, *Y Cymmrodor* 14 (1901) p. 1041; R.R. Davies, ‘The Survival of the Blood Feud in Medieval Wales’, *History* 54 (1969) pp. 338-57; ‘The Twilight of Welsh Law’, *History* 51 (1966) pp. 143-64.

⁵⁵ See S.E. Roberts, ‘Plaints in Medieval Welsh Law’, *Journal of Celtic Studies* 4 (2004), pp. 219-61, 220; S.E. Roberts, ‘Legal Practice in Fifteenth Century Brycheiniog’, *Studia Celtica* 35 (2001), 307-23.

serious offence.⁵⁶ Treatments in Welsh poetry of the death of Watkin Vaughan and appropriate responses to it suggest the possibility that such ideas still held some sway, alongside an acceptance of the use of English common law, meaning that the presumed actions of Herbert and associates were not seen by all as wholly illegitimate, and might, indeed, have been regarded as dutiful and righteous. The poet Ieuan ap Hywel Swrddwal, in his contemporary elegy to Watkin Vaughan, countenanced the use by the widow of the English common law system,⁵⁷ but also approved a more active and vengeance-seeking response by Watkin's male kin, suggesting that it would be appropriate for the perpetrator to be hanged. Furthermore, he assigned some responsibility for the offence to the city of Hereford.⁵⁸ This appears to show an acceptance of the correctness of family-based retribution, perhaps extending liability beyond the perpetrator himself, in a way which bore some resemblance to older Welsh legal ideas.⁵⁹ It is quite feasible to argue for differing ideas in relation to appropriate responses to homicide, in England and Wales. In fact, holding out against central English royal dictation of the appropriate consequences for homicide was still evident in south-eastern Wales, the old stamping-ground of the Herberts, even in the later Tudor period.⁶⁰ Wholly to exclude the continued influence of such ideas upon those like the Herberts and Vaughans, steeped in

⁵⁶ See, e.g., T. G. Watkin, *The Legal History of Wales*, (Cardiff: University of Wales Press, 2007), pp. 65-7, S.E. Roberts, *The Legal Triads of Medieval Wales*, (Cardiff: University of Wales Press, 2011), pp. 46-7, 57; D. Jenkins (ed.), *The Laws of Hywel Dda* (Llandysul: Gomer Press, 1986), pp. 144-54.

⁵⁷ Compare the limited role given to women in a medieval Welsh legal text: their wailing was noted as something which would incite men to take revenge for an offence: Roberts, *Legal Triads*, p. 57.

⁵⁸ Foster Evans, 'Murder', *Elegy to Watkin Vaughan of Bredwardine*. Foster Evans, 'William Herbert of Raglan', p. 100; D. Foster Evans (ed.), *Gwaith Hywel Swrddwal a'i Deulu* (Aberystwyth 2000), poem 23.

⁵⁹ On kin vengeance in cases of homicide in medieval Welsh law, see, e.g., T. G. Watkin, *The Legal History of Wales*, (Cardiff, 2007), pp. 65-7, S.E. Roberts, *The Legal Triads of Medieval Wales*, (Cardiff, 2011), 46-7, 57; Jenkins, *Hywel Dda, The Law*, pp. 144-54; Foster Evans, 'Murder', pp. 54, 60; H. Owen, 'English Law in Wales and the Marches', *Y Cymmrodor* 14 (1901) 1041; Davies, 'The Survival of the Blood Feud in Medieval Wales', *History* 54 (1969), pp.338-57; 'The Twilight of Welsh Law'. *History* 51 (1966), pp. 143-64.

⁶⁰ Kesselring, *Making Murder Public*, 83; st. 26 Henry VIII, c. 6. For the complexity of the interaction between Welsh and English law in the minds of Welsh political and cultural leaders at this point, see G.A. Elias and M.E. Owen, 'Lawmen and Lawbooks', *Welsh Legal History Society vol. 11* (2011), pp. 106-150.

Welsh culture as they were, when taking action in relation to the death of a kinsman, would be an oversight.

There is, nevertheless, a need for caution in ascribing influence to Welsh legal and cultural ideas on the behaviour of the defendants in this case, since it could also be fitted into patterns of violence and revenge common to different parts of the realm. The events in Hereford in 1456 echo some aspects of the killings of William Tresham (1450) and Nicholas Radford (1455), for example. Tresham, lawyer and Speaker in Parliament, was ambushed by armed men and transfixed by a lance in 1450, in Northamptonshire. His wife reported significant interference with justice by those who had ordered the killing, including pressure on an inquest to say that Tresham had killed himself, and difficulties in bringing an appeal.⁶¹ The conduct of the Courtenays of Devon and their affinity in relation to the murder of Nicholas Radford in 1455 also bears some similarities to the Glover case, with an attack by an armed group, misuse by the powerful of institutions of royal criminal justice, and a demonstration of the lack of royal will or ability to oppose the powerful in their criminality. Radford was stabbed to death by associates of Sir Thomas Courtenay. The aftermath of this killing included a forced, coroner's inquest, to generate a finding that he had killed himself, then a grisly, disrespectful burial, and then armed seizure of his wealth by the Courtenays. Action was taken afterwards, in the King's Bench and by petition, but the Courtenays and those who stabbed Radford were pardoned.⁶²

⁶¹ *Parl. R.* v, 211–12; TNA C 65/101 m. 2-3.

⁶² M. Kowaleski, Radford, Nicholas (*d.* 1455), *lawyer*, *Oxford Dictionary of National Biography*; M. Cherry, 'The Struggle for Power in Mid-Fifteenth Century Devonshire', in Griffiths (ed.) *Patronage, the Crown and the Provinces*, pp. 123-44; *CCR* 1429-35, p. 164; 301; Storey, *End of the House of Lancaster*, pp. 168, 169; SC 8/138/6864. For other examples of executions following trials of questionable or no legitimacy, see Cherry, 138; J. Ross, "'Mischievously Slew': John, Lord Scrope, the Dukes of Norfolk and Suffolk, and the murder of Henry Howard in 1446", in H. Kleineke (ed.), *Fifteenth Century X*, pp.

The question of the ideas of Herbert and his associates with regard to law and justice remains open, but adds another layer of interest and complexity to the story of events in Hereford in the troubled spring of 1456. Nuances of the motivations of some of the men she accused of being her husband's killer were, of course, of little moment to Agnes Glover.

Conclusion

Some of the events surrounding and underlying Agnes Glover's appeal are tolerably clear. There seems no real reason to doubt that Glover and others were hanged by members of the Herbert-Devereux-Vaughan group. There is, however, much less clarity elsewhere, in particular, as to responsibility for, and the circumstances of the death of Watkin Vaughan. Were John Glover junior and the varying cast of those accused of being his accessories in this killing actually involved, or were they politically convenient scapegoats? Despite these gaps in 'the facts', however, the wealth of documentation relating to this complex and extended drama has much to tell us about the capacities and incapacities of the law in this place and time, contributing to existing debates and opening up new avenues for exploration.

Debates about the strength or weakness of royal criminal justice in the fifteenth century should not overlook the limitations of common law legal mechanisms themselves. As has been demonstrated, particularly by consideration of the arguments and statements in

75-96; S.J. Payling, 'Murder, Motive and Punishment', 12; P.C. Maddern, *Violence and Social Order: East Anglia 1422-1442* (Oxford: Oxford University Press, 1992), p. 207; I. M. W. Harvey, *Jack Cade's Rebellion of 1450* (Oxford: Clarendon Press, 1991) pp. 3, 18.

the 1457 Year Book report, there were debates and uncertainty surrounding a widow's appeal of homicide-by-‘execution’, when a killing had been accomplished through the use of legal proceedings, but in an irregular, illegitimate manner. Furthermore, the existence of different modes of prosecution, at times telling inconsistent stories, and the possibility of long chains of challenges to the legitimacy of prosecutions and proceedings, left considerable room for questionably legal and outright illegal behaviour to interfere with the enforcement of royal justice.⁶³ It should be remembered that the legal proceedings route was not the only way to deal with grievances, but, equally, problems with the mechanisms available to bring legal proceedings for a grievance narrowed the range of options available to an aggrieved party and weakened her position, whether in terms of obtaining a successful outcome from the legal proceedings themselves, or in terms of using legal proceedings to force a favourable settlement outside such proceedings.

A final matter to note is the ‘afterlife’ of one of the sources discussed here. The 1457 Year Book report mentioned above was preserved in the collections of such material which were circulated in manuscript, then printed, and referred to by generations of common lawyers. A particular characteristic of Year Book reports is that their longevity as sources of knowledge and common learning: while the strict idea of precedent is a much later development, late-medieval and early modern common lawyers did refer to the arguments and decisions of their predecessors. This case report became a key authority the right of wives of attainted felons to bring an appeal, and on the

⁶³ Maddern, *Violence and Social Order*, p. 14; B. McLane, ‘A Case Study of Violence and Litigation in the Early Fourteenth Century: the disputes of Robert Godsfield of Sutton-le-Marsh’, *Nottingham Medieval Studies* 18 (1984) pp. 22-44.

consequences of executioners departing from instructions and inflicting ‘the wrong sort of death’, matters which continued to exercise the minds of common lawyers.⁶⁴ In this process of preservation and summary, however, it became cut adrift from its factual moorings. The common lawyers, never especially interested in the particular individuals involved in a case, were equally uninterested in the geographical location of the original events. Indeed, so divorced from geographical context were they that the place used in the appellation of the killer of ‘John Vowant’ (presumably Watkin Vaughan) became mutated in the printed ‘black letter’ report from ‘Hereford’ to ‘Hertford’. Thus the facts were anonymised or mis-attributed, and uprooted, so that both the trials of Agnes Glover and the borderland context of the events surrounding this case were almost effaced. Fortunately, collation of the different surviving documents, allows a degree of reconstruction of Agnes’s involvement with the common law and local ‘justice’, even if it leaves many questions to tantalise scholars of law and history, national and local.

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⁶⁴ See, e.g., A. Fitzherbert, *La Graunde Abridgement* (London, 1565), f. 245 no. 21; C.Viner (ed.), *General Abridgment of Law and Equity, Alphabetically Digested under Proper Titles; with Notes and References to the Whole* (2nd ed.) 24 v. (London, Dublin, 1791-95), vol. 15, p. 503; *R v Anon.* (1538); J.H. Baker (ed.) *The Reports of Sir John Selden part 1* (London: Selden Society, 1977), p. 60 pl. 40.