

CHARLES DARWIN  
JUSTICE OF THE PEACE

THE COMPLETE RECORDS (1857-1882)

John van Wyhe & Christine Chua





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Front cover illustration: Charles Darwin in 1857, the year he became a justice of the peace. Photograph by Maull & Polyblank. This photograph is always attributed to “Maull & Fox” (after the name of the firm on later prints) but their partnership was 1879-1885.

Back cover illustration: Copper engraving of Darwin’s new study at Down House in 1882, after Darwin’s death, by Axel H. Haig.



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“Perhaps no student since man first began to speculate on the world which surrounds him ever attained ideas so far in advance of what had been deemed true, and saw these ideas find acceptance with his contemporaries.” *Daily News*, 21 Apr. 1882.

## INTRODUCTION

THE epigraph above from the London *Daily News* aptly encapsulates the way Charles Darwin was seen by the public, at home, abroad and by posterity, as the man of science who revolutionized our understanding of life on Earth. This makes it all the more surprising for many readers to learn about the more mundane, familial and social activities he engaged in during his life apart from his science and sometimes together with his science.

Darwin has long been one of the most intensively studied men of science in history. One might easily assume that there were no significant aspects of his life that had not already been revealed. And yet there is a fascinating side to Darwin’s *public* life that is still almost completely unknown. From July 1857 until he died in April 1882, Darwin was a justice of the peace (JP). Although the bare fact that he was a JP has been known and mentioned in the literature on Darwin from the very beginning, so far only brief mentions or summaries have ever appeared.<sup>1</sup> The reason for this brevity and vagueness is that the official case records are lost.

But press reports in provincial newspapers have been found that enable us to reconstruct the full story of Darwin as a justice of the peace. This lost record contains many surprises and not a few amusing episodes with which the great naturalist was involved in his local community. For example, the very day that his revolutionary *Origin of species* was published on 24 November 1859, a crime and “riot” occurred in his own sleepy village of Down that he would later pass judgement on from the bench. It will come as a surprise to any reader interested in Darwin to discover just how much his life was taken up with acting as a justice of the peace at one of the most important and analysed parts of his life, the years bracketing the publication of *Origin of species*. Rediscovering Darwin’s activities as

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<sup>1</sup> For example, Anon. 1882; F. Darwin 1887, vol. 1, p. 143; Holder 1892; Marsh 1983, Burkhardt & Smith 1985: 7306 & 13029; Bowlby 1990, p. 249; Bowler 1990 and Browne 2002, pp. 6, 332. Richard Milner, in Milner 1994, pp. 91-95 and Milner 2009a, pp. 97-98, gave the earliest accounts specifically about Darwin as JP, citing details of c.9 cases (1860-1862) and reproducing three facsimile press reports of petty sessions from the *Bromley Record*.

a justice of the peace helps bring to life a more vivid and nuanced picture of his real original historical and social contexts. He was not an isolated thinker concerned only with evolution or corresponding with the great scientific minds of the day. His complete life included also more parochial concerns. And his local context included not just other wealthy landowners and their many dependent staff but shopkeepers, publicans, police constables, labourers, coachmen, poachers, brawlers and petty thieves. Who would ever think that Charles Darwin, while writing the most influential book of science in history was at the same time fining petty thieves for stealing plums?

A more careful study of the rules, roles and duties of JPs in the mid-nineteenth century also reveals that the few mentions we do have of his activities in this role in the existing literature are very often mistaken and misinformed. For example, Darwin was not, as sometimes described, a “judge” and he did not preside at a “police court”.

After returning home from the voyage of the *Beagle* in October 1836, Darwin stayed briefly in Cambridge and then took a house in London to be close to the scientific experts and societies that were describing and discussing his many specimens from the voyage. It was during this fruitful time that his theory of evolution began to develop and he “thought much upon religion.”<sup>2</sup> He soon began “giving up revelation” and gradually concluded that Christianity was not supported by evidence.<sup>3</sup> And, of course, he concluded that species must change over time—they evolve.

The other major change in his life was that he sought the hand of his cousin Emma Wedgwood (1808-1896). They were married on 29 January 1839. The young couple settled in a rented house in London where their first two children were born. Growing weary of busy, noisy, smoky and filthy London, in September 1842 the Darwins purchased Down House just outside the tiny village of Down (later spelled Downe) with eighteen acres of land in rural Kent for £2,020. It was only about two hours by carriage and train to central London yet quiet and

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<sup>2</sup> van Wyhe ed. 2006. [Darwin's 'Journal'](#).

<sup>3</sup> van Wyhe. 2007. [\[Emma Darwin's memo about Darwin's religious doubts\] \(c.2.1839\) CUL-DAR210.8.14](#). The mid-20<sup>th</sup>-century idea that Darwin lost his faith or the last shreds of it due to the tragic death of his daughter Anne Elizabeth “Annie” in 1851 is incorrect. Darwin's discussion of his religious views in his autobiography is unequivocally about his gradual appreciation in 1836-1839 that there was no evidence to support Christianity. See *Autobiography*, pp. 85-96 (Barlow 1958) and [van Wyhe & Pallen 2012](#).

quintessentially rural. Here Darwin would live and work for the rest of his life.

In later years, a friend and neighbour would recall the look and feel of Down in those days.

The neat little houses, no two or three alike, stood near together, but with trim gardens fronting the clean street, each with picket fence and wicket gate, and gay with old-fashioned flowers all the summer time. Some of these cottages were old-time houses, built of unbaked clay bricks, set in transverse frames of timber, which had held up the old thatched roofs for hundreds of years. ...

But these old whitewashed houses had mostly given place to the warm red brick, with slate roofs that brighten and silver in the sunshine. Three little stores had been made, by the enterprising tradesman building out over his front garden to the village street. At the head of the village it branched out into two more roads, widening at the branching point into an open space. On one side of this stood the old parish church, and had stood for eight hundred years,—restored, as the parson called it, spoiled as some of the rest of us thought, at a recent date. Still the solitary yew tree stood its sentinel at the churchyard gate, and had stood for the same eight hundred years<sup>4</sup>

Not quite the recluse as he is often depicted, as one of the wealthiest gentlemen in the neighbourhood, Darwin soon became a respected and integral part of the community.<sup>5</sup> His patronage provided jobs, stimulated the village economy and the family's charitable gifts and donations to the poor soon earned them great admiration and respect from the villagers and those living in the neighbourhood. At this stage of his life Darwin was forty-eight years old and head of a large family, the owner of a large house and modest estate, a landlord, a prodigious portfolio of stocks and investments and employer of numerous domestic servants including a butler, footmen, coachmen, cooks, gardeners, a governess, a housekeeper and various maids. Darwin spent about £120 a year on menservants' wages. Over the years many tradesmen and others would also work in his employ. For example, a boy named William Baxter (1860-1934) used to work for Darwin as an errand boy and delivered chemicals and medicines to Down House.<sup>6</sup> There were very many more.<sup>7</sup>

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<sup>4</sup> Nash 1890.

<sup>5</sup> van Helvert & van Wyhe, 2021, provides a list of more than 400 visitors (excluding family and close neighbours) to the Darwins at Down House.

<sup>6</sup> Bromley Local Studies Biography Collection BIO/BAX/11. See also Browne 2002, p. 150.

<sup>7</sup> The most complete list of staff/servants at Down House is in van Helvert & van Wyhe 2021, pp. 234ff.

The Darwins' estate was not just a fine house, but more a farm. Indeed Darwin was listed as "farmer" in *Bagshaw's Directory for Kent* in 1847.<sup>8</sup> There were cows for milk, a horse to help in the haytime and for pulling the phaeton or tax-cart and a donkey which pulled the lawn mowing machine. These were kept in the stables and grazed in the paddock. There were chickens for eggs which his daughter Henrietta could remember taming until they would eat out of her hand. Sometimes there were also ducks and geese. The family usually had a dog or two and some cats.

For his research on artificial selection as an analogous process to natural selection in nature, Darwin kept every breed of domesticated pigeon he could procure. In 1855 he had an elevated hexagonal wooden pigeon house built near the well and later the "principal wooden pigeon house" was built above the tool house behind the kitchen garden wall. His daughter Henrietta could remember "A cross old fantail who in taking food from my hand liked to give a good peck & hurt me if he could. The pouter pigeon was good natured but not clever, and I remember a hen jacobin which I considered rather feeble minded."<sup>9</sup> Darwin's son George could remember "A good large aviary was erected on a patch of ground near the well, & near where the douche stood. Everyday there used to be an inspection of the pigeons before starting for a walk".<sup>10</sup> By mid-1858 Darwin's researches on pigeons had been completed and the aviary was abandoned. Eventually it became completely smothered in ivy. It finally blew down in heavy winds a few days after Darwin's death in 1882.

Always methodical, Darwin kept very detailed household accounts from the time of his marriage onwards. He had columns for all the staples: meat, fish and game, poultry, bacon, butter, cheese, sugar, bread, butter, tea and coffee.<sup>11</sup> There was a large kitchen garden beyond the ornamental area by the house and an orchard at the north end of the property with several varieties of pears, apples, cherries, apricots and oranges.<sup>12</sup>

Darwin's home and garden were also where he carried out his scientific research

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<sup>8</sup> See also Worsley 2017.

<sup>9</sup> Henrietta Litchfield, 1926. [Autobiographical fragment.] [CUL-DAR246.-.](#)

<sup>10</sup> George Darwin, 5.1882. [Recollections of Charles Darwin]. [CUL-DAR112.B9-B23.](#)

<sup>11</sup> The accounts can be found in van Helvert and van Wyhe, 2021, p. 227.

<sup>12</sup> There is an important and previously unrecorded 11-page manuscript by Darwin, in a private collection in California, which is reproduced and transcribed in *Darwin Online*, that records the trees and other plants chosen by Darwin shortly after moving to Down House. [Private collection, California.](#)

into all manner of previously unimagined evolutionary puzzles. As a neighbour recalled: “Home was his experiment station, his laboratory, his workshop.”<sup>13</sup> His servants were utterly baffled by Darwin’s scientific activities. His neighbour and friend John Lubbock (1834-1913) recollected the words of one of the gardeners.

One of his friends once asked Mr. Darwin’s gardener about his master’s health, and how he had been lately. “Oh!”, he said, “my poor master has been very sadly. I often wish he had something to do. He moons about in the garden, and I have seen him stand doing nothing before a flower for ten minutes at a time. If he only had something to do I really believe he would be better.”<sup>14</sup>

Darwin was very methodical and unvarying in his daily routine. He got up early, took a bath, and went for a short walk along the roads before breakfast, sometimes accompanied by one of his children. By 7.30 he would have a light breakfast of an egg and tea. His son George recalled: “He was particularly attached to a very old cup, the last remaining one of an old set which had once been blue & gold. But as I remember it, the blue was partly worn off & blotched to a dirty brown & the gold nearly all gone.”<sup>15</sup>

After breakfast he retired to his study to work from 8 to 9.30am. He regarded this as his best working time. At 9.30 he would emerge and walk over to the drawing room to collect his letters from the first post. Looking at the envelopes was often accompanied by muttered expressions such as “‘Oh dear, here’s this bothering fellow again’, or ‘there’s a letter from old Hooker’”. He would then take the letters back to his study. Afterwards he would listen to a novel read aloud until 10.30. George recalled that “He often astonished us what trash he wd tolerate in the way of novels. The chief requisites were a pretty girl & a good ending.”<sup>16</sup> Darwin then went back to his study. At 12 or 12.30 he would go for a walk on the sandwalk accompanied by his dog. The sandwalk was a circular path through a small wood at the south side of the property, originally the path was dressed with red sand, hence its name. The little wood through which it wound was planted with a variety of trees including oak, elm, beech, hornbeam, birch, alder, hazel, lime and an old ash tree.

After his midday walk he would find the second post of the day waiting shortly

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<sup>13</sup> Nash 1890, p. 405.

<sup>14</sup> Lubbock 1908.

<sup>15</sup> George Darwin, ‘Description of my father’s ordinary habits during the latter years of his life.’ CUL-DAR112.B30-B35.

<sup>16</sup> George Darwin, ‘Description of my father’s ordinary habits during the latter years of his life.’ CUL-DAR112.B30-B35.

before 1pm. Then it was time for lunch followed by reading the newspaper on the drawing room sofa. With this relaxation concluded, it was time to answer his letters. Many he would dictate to a member of the family. When this was finished he would go upstairs to his bedroom for a rest. Emma would read a novel and he would often fall asleep and miss part of the story. She kept reading to avoid waking him. At 4pm he could be heard coming downstairs to re-enter his study for more work and a cup of coffee. At 5.30 he would return to the drawing room to visit with his family until 6 when he would go upstairs for another rest. Dinner was at 7.30 although he ate little. Afterwards he and Emma would play two games of backgammon and they kept score for many years. After the games he would read a scientific book before going to bed at 10.30. The children could remember that he would always blow his nose loudly as he undressed. Perhaps this had something to do with the snuff he habitually took.

Even before his famous *Origin of species*, Darwin already had an impeccable reputation in the scientific community from his voyage on the *Beagle* as naturalist and best-selling book of travels about it, his major geological, paleontological, zoological and botanical discoveries, his revolutionary coral reef theory his ongoing comprehensive taxonomy of barnacles and a large variety of other original work and discoveries.

The very day he packed up the last of his barnacle specimens at the conclusion of his eight-year project, he noted down: "Sept. 9th. [1854] began sorting notes for Species Theory."<sup>17</sup> From that moment on his theory of evolution was his full-time occupation and no longer worked on in the background and inbetween other projects on his list of things to do. For the succeeding years he had worked at research and experimentation with this in view. In May 1856 he began writing up his theory for publication. By mid-July 1857 he had completed seven and a half chapters. He probably had another two to three years ahead of him to complete what he saw as the great work of his life. It was at this stage in his life that, on 3 July 1857, that Darwin was appointed a justice of the peace.

Some modern writers describe Darwin being a justice of the peace as part of an oppressive regime determined to keep down the poor. Although there is more than a grain of truth to such a perspective, nowadays such interpretations are still common if wearing their age and Marxist origins not very loosely. Others think Darwin becoming a justice of the peace was to gain respectability, something such a wealthy, upper-class and well-educated public figure could not possibly worry about or

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<sup>17</sup> van Wyhe ed. 2006. *Darwin's 'Journal'*.

require in his local community or beyond it. This is a notion only late twentieth-century authors have imagined. Equally modern and imaginary are stories that purport that Darwin feared losing his respectability because of his evolution theory. Darwin was so utterly part of wealthy, respectable society that, evolutionary theorizing notwithstanding, this was never an issue for him and never entered his mind. Even at the height of the controversies over Darwin's theories, his social respectability was never in doubt or at issue in the slightest. After all, the debate over evolution was a debate within the intellectual and scientific elite, not one of the socially respectable vs. a socially insignificant handful of radical ruffians. Historian of science James Secord suggested we see it as more of a palace coup within the scientific elite rather than a popular revolt.<sup>18</sup>

If Darwin took up the office of justice of the peace as respectable camouflage for his evolutionary theorizing, then how shall we explain all the other gentlemen of almost identical background, social class, education and wealth who did so? Were they also seeking respectability cover? And if it was a shield of respectability, what good was that when no one apart from people in Kent knew about it? And after his theory had gone public and his respectability was not attacked, why stick with the considerable trouble of working as a justice of the peace? Writing with a more even hand, Darwin biographer Janet Browne described it as "an occupation at the heart of provincial life in which law-abiding, landowning gentlemen like himself imposed fines on poachers or issued licenses for keeping pigs."<sup>19</sup> Quite so. Yet the need to look more closely at this facet of Darwin's life remains. As it turns out, justices of the peace, including Darwin, did not issue licenses to keep pigs.

Contemporary sources and the recollections of those who knew him described Darwin being a justice of the peace (or magistrate) as civic-minded volunteering. He may have seen it as one of the obligatory responsibilities of a man of his means and social position. And abhorrence of theft, violence and animal cruelty were some of Darwin's most deeply felt passions. As his third son Francis wrote of the latter, "It was indeed one of the strongest feelings in his nature."<sup>20</sup> Darwin's eldest son, William, in a speech given at the Darwin Celebration banquet in Cambridge in 1909, said:

There was living very near us at Down a gentleman farmer...this man had allowed some sheep to die of starvation. My father heard of it and at once took

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<sup>18</sup> Secord 1989, p. 166.

<sup>19</sup> Browne 2002, p. 6.

<sup>20</sup> F. Darwin 1887, vol. 3, p. 199.

up the matter, and though he was ill and weak and it was most painful to attack a near neighbour, he went round the whole parish, collected all the evidence himself, and had the case brought before the magistrates, and as far as I can recollect he got the man convicted. This, I remember, as a boy impressed me immensely; he took it so seriously and devoted himself to it, though his health was in such a bad state.<sup>21</sup>

The science writer and anthropologist Richard Milner wrote in 2009: “Once [Darwin] witnessed a man cruelly whipping his horse on the road. Pulling to a stop in his own carriage, Darwin angrily told the driver that he was a magistrate in the district and that if he caught the man abusing an animal again, he would personally haul him into court and throw the lawbook at him.”<sup>22</sup> As vivid as this account appears, there is no such record of Darwin wielding his title of magistrate like this. Milner’s story seems to be based on this passage from Francis Darwin’s published recollections:

In smaller matters, where he could interfere, he did so vigorously. He returned one day from his walk pale and faint from having seen a horse ill-used, and from the agitation of violently remonstrating with the man. On another occasion he saw a horse-breaker teaching his son to ride, the little boy was frightened and the man was rough; my father stopped, and jumping out of the carriage reproved the man in no measured terms.

One other little incident may be mentioned, showing that his humanity to animals was well known in his own neighbourhood. A visitor, driving from Orpington to Down, told the cabman to go faster. “Why,” said the man, “if I had whipped the horse *this* much, driving Mr. Darwin, he would have got out of the carriage and abused me well.”<sup>23</sup>

Milner quoted another amusing though much later recollection: “I remember how troubled [Darwin] was once when he had to punish some boys who had robbed his orchard. ‘I do wish the police hadn’t caught them,’ he said to me.” This is credited to: “George Sales, 1939”.<sup>24</sup> There is no reference given and this quotation could not be traced. The name Sales is however that of the family of the long-term grocer and publican of Down, William Sales (1808-1880) and his son Sydney Sales

<sup>21</sup> Darwin & Darwin 1909, p. 11. Reprinted in Litchfield 1915, vol. 2, p. 168. A report of such a case has not been found.

<sup>22</sup> Milner 2009b, p. 112.

<sup>23</sup> F. Darwin 1887, vol. 3, p. 200.

<sup>24</sup> Milner 2009b, p. 110.



(c.1844-?) who was listed as a retired grocer in the 1881 census. In 1937 a George Edward Sales was living in Myrtle Villa, Downe.<sup>25</sup> However, no record of a theft from Darwin's orchard has been found.

In 1852 Darwin remonstrated in vain by letter with a neighbour, the Rev. Robert Ainslie (1803-1876), a fellow Cambridge graduate, Methodist minister and writer who lived (1845-1858) at the grand Tromer Lodge, along Luxted Road just on the southern edge of the village. Ainslie was even then having a fifty-one-foot tower added to his home.<sup>26</sup> It had been reported that Ainslie was working his horses even though they had sores on their necks (i.e. his farmhands were doing so.) When this letter didn't work, Darwin took matters into his own hands. His wife Emma wrote to their son William: "Papa is in hopes that Mr Ainslie will be punished for working his horses with sore places on their necks. An officer of the Society for preventing cruelty to animals was sent for by your father to see what state his horses were in & he is going to have him up before a magistrate & his ploughman also, but he is afraid that only the man may be punished & not the master."<sup>27</sup> Darwin did report Ainslie to the local magistrates and as Darwin later wrote to another local landowner working injured horses: "M<sup>r</sup> Ainslie was fined by the Magistrates at the Bromley Session."<sup>28</sup> Apparently a troublemaker, Ainslie was strongly disliked by the Darwins. As far back as 1845 Darwin had written to his sister Susan complaining about Ainslie altering the road illegally.<sup>29</sup>

In his biography of his father, Francis Darwin recorded Darwin's social mindedness:

He was also treasurer of the [village] Coal Club, which gave him some work, and he acted for some years as a County Magistrate.

With regard to my father's interest in the affairs of the village, Mr. Brodie Innes has been so good as to give me his recollections:—

"On my becoming Vicar of Down in 1846, we became friends, and so continued till his death. ...In all parish matters he was an active assistant; in matters connected with the schools, charities, and other business, his liberal contribution

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<sup>25</sup> *Kelleys directory for 1937* for Downe, p. 521.

<sup>26</sup> Laxton 1854 (with engraving of the tower). Now called Trowmers Lodge.

<sup>27</sup> Emma Darwin to William Darwin [23 Apr. 1852?], CUL-DAR219.1.4. A record of this case has not be found.

<sup>28</sup> Darwin to a local landowner [1866?], Burkhardt et al eds. 1985-, vol. 14, p. 1.

<sup>29</sup> *Ibid.*, vol. 3, p. 247.

was ever ready.<sup>30</sup>

Similarly, another son, Leonard, recalled it was a “civic duty” as seen by Darwin’s role in the “Down Coal club...and his having sat for some few years as a magistrate, [which] are worth recording as showing that he certainly would have been active in his civic duties had his health permitted.”<sup>31</sup>

The American anarchist and journalist Elbert Hubbard (1856-1915) wrote fourteen books in the series *Little journeys to homes of the great*. The volume on Darwin has a section on him as a magistrate which has sometimes been quoted as it has details found nowhere else.

For several years Darwin was village [sic] magistrate. Most of the cases brought before him were for poaching or drunkenness. “He always seemed to be trying to find an excuse for the prisoner, and usually succeeded,” says his son. Once when a prosecuting attorney [sic] complained because Darwin had discharged a prisoner, the magistrate, who might have fined the impudent attorney for contempt of court [sic], merely said, “Why, he’s as good as we are. If tempted in the same way I am sure that I would have done as he has done. We can’t blame a man for doing what he has to do!” This was poor reasoning from a legal point of view. Darwin afterward admitted that he didn’t hear much of the evidence, as his mind was full of orchids, but the fellow looked sorry and he really couldn’t punish anybody who had simply made a mistake. The local legal lights gradually lost faith in Magistrate Darwin’s peculiar brand of justice—he hadn’t much respect for law, and once when a lawyer [sic] cited him the criminal code, he said, “Tut, tut, that was made a hundred years ago!” Then he fined the man five shillings, and paid the fine himself, when he should have sent him to the workhouse for six months.”<sup>32</sup>

These anecdotes are certainly charming but there are serious inaccuracies which cast doubt on the reliability of the rest. Obviously Hubbard used Francis Darwin’s *Life and letters* (1887) as a source, as did all writers on Darwin. Hubbard never travelled to Britain to research this book nor did he interview any of Darwin’s sons and no correspondence between them and him is in the Darwin Archive at Cambridge University Library.<sup>33</sup> In fact, Hubbard’s words “says his son” may not be meant to

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<sup>30</sup> F. Darwin 1887, vol. 1, p. 143.

<sup>31</sup> L. Darwin 1929, p. 122.

<sup>32</sup> Hubbard 1905, pp. 176-177. Cited by Milner 2009a, 2009b and other writers.

<sup>33</sup> The best way to search the contents of the Darwin Archive is with the [Darwin Online Manuscript Catalogue](#).

suggest that he spoke to or corresponded with one of the Darwins because the identical language was used at that time by writers who were merely referring to what Francis Darwin wrote in *Life and letters*, except in this case Francis did not write any of these things. The cases Hubbard describes are not found in any of the reports of the petty sessions Darwin attended and there were no lawyers and magistrates could not fine anyone for contempt of court. Nevertheless, *Life and letters* does not mention poaching, which was indeed one of the more frequent crimes as we will see below. Still, Hubbard's account is so unreliable that his stories should be considered at best vague third-hand memories and at worst, apocryphal.

A lenient magistrate Darwin certainly sounds like what we know of his character. But a recollection by his daughter Henrietta shows how mistaken that might be.

For some years he acted as magistrate. He thought when first he went on that no doubt he shd be all for moderating the harsher views of the other magistrates but quite the contrary the very first time he sat on the Bench some sentence was passed which he thought far too lenient. I have the impression that he thought his fellow magistrates were upon the whole inclined to err in that direction, but that they were generally very fair & took a g[rea]t deal of trouble.<sup>34</sup>

We need to understand Darwin serving as a magistrate not in isolation but as one of very many acts he performed in his community as a gentleman of his social station. Serving as a magistrate was not only not unusual for someone of his place in society, but actually rather typical. Several members of Darwin's family also did so. His half uncle Francis Sacheverel Darwin (1786-1859) was JP and deputy lieutenant of Derbyshire from 1837. Darwin's half-cousin Reginald Darwin (1818-1892) was a highly respected magistrate at Buxton in Derbyshire from 1861. His obituary noted that "as a magistrate, his was an example to be followed. Instances have been known of his having paid the fine rather than the convicted should go to the gaol."<sup>35</sup> He was also remembered as "always taking great pain in the discharge of his duty."<sup>36</sup>

Francis Rhodes (1825-1920) married Charlotte Maria Cooper Darwin in 1849 and changed his name to Darwin in 1850 when he inherited Elston Hall under the will of his brother-in-law, Robert Alvey Darwin. Francis was a very active JP for Nottinghamshire and Yorkshire from 1858. In 1882 he attended Darwin's funeral as head of the senior branch of the Darwin family. Robert Gerard Fox (1849-1909), the son of Darwin's second cousin William Darwin Fox, was a JP for Hampshire.

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<sup>34</sup> Henrietta Litchfield, 'Sketches for a biography'. [CUL-DAR262.23.1](#).

<sup>35</sup> *Derbyshire Advertiser & Journal*, 12 Feb. 1892, p. 3.

<sup>36</sup> *Sheffield Independent*, 25 Feb. 1892, p. 2.

His grandfather, Samuel Fox (1765-1851), had been a JP in Derbyshire. Darwin's half-cousin Erasmus Galton (1815-1909) was JP and deputy lieutenant of Somerset. Darwin's half-first cousin, Darwin Galton (1814-1903), the brother of Francis Galton, was JP and deputy lieutenant of Warwickshire as early as 1858. And Darwin's son Horace was a JP for Cambridgeshire from 1906.<sup>37</sup>

In addition to family, many of Darwin's friends and correspondents also served as magistrates. They include C. R. Barton, J. W. Broderip, C. J. F. Bunbury, C. W. Dilke Jr, W. H. Dixon, J. B. Dunbar-Brander, T. C. Eyton, J. G. Fenwick, J. Higgins, J. W. Lubbock, J. Lubbock, W. H. John, M. H. Massy, Cecil Smith, and his old shipmate John Clements Wickham.<sup>38</sup> So there is nothing unusual about Darwin serving as a magistrate too, and we don't need any idiosyncratic theories regarding him being an evolutionist to understand this.

Almost as soon as he moved to Down, Darwin began to take an active role in village affairs. For example, he established the Down Friendly Society (or Friendly Club) in 1850, which provided insurance for the villagers who lost their work, fell ill or needed funeral expenses. He managed the accounts for decades.<sup>39</sup> He did the same for the Coal and Clothing Club which he also established for the villagers. Members contributed a few pennies and the local gentry made "honorary" contributions. Darwin regularly contributed £5. He kept the accounts in a small notebook from 1848-1869. His son Leonard later recalled:

Each Whit Monday a small group of men marched on to the lawn with a banner flying. This was the Down coal and clothing club, which my father, as treasurer, then came out to address. After a little I generally heard a laugh run through the whole gathering, and I have often since wished that I had had courage enough to have gone sufficiently near to have been able to hear and record my father's jokes.<sup>40</sup>

Darwin sat on the Down church Vestry [committee] from 1844-1871; he was appointed, with Sir John William Lubbock (1803-1865), Surveyor of Roads for 1844-1846, pushed for the founding of a parish library and a village reading room and sat on the village School Management Committee until 1874 when he resigned because of poor health.<sup>41</sup> Together with the vicar and his wealthy neighbour,

<sup>37</sup> *Cambridge Independent Press*, 16 Nov. 1906, p. 5.

<sup>38</sup> See the biographical registers in Burkhardt et al, 1985-.

<sup>39</sup> These accounts are preserved today at Down House.

<sup>40</sup> [Darwin 1929, p. 122.](#)

<sup>41</sup> Darwin to Down School Board, 16 Nov. 1874, Burkhardt et al eds. 1985-, vol. 22, p.

Lubbock of High Elms and others, he set up the “National” non-denominational day school in the centre of the village. He would see to it that the large schoolroom would later be made available as a reading room for working men in the evening. Anything to keep them from staying too much in the pub.

For decades, Darwin signed memorials and wrote letters of recommendation for worthy causes or individuals. In this he was no doubt hardly distinguishable from other wealthy gentlemen of his class. Many of Darwin’s donations were not previously known. In 1858, for example, he donated £3 to the Field Lane refuge, a charitable housing and London Christian mission centre for the poor and unemployed. In 1860 he gave £50 for the formation of a Bromley volunteer rifles corps. In 1861 he gave annual subscriptions of £5 to the Coventry Relief Fund and the Indian Famine Relief Fund, in 1862 £10 to the Lancashire and Cheshire Operatives Relief Fund, in 1864 £5 to the Ladies’ Polish Relief Fund for sick and wounded Poles, in 1867 £5 to the East-End Central Relief Committee, in 1871 he supported the Voysey Establishment Fund on behalf of liberal theist preacher Charles Voysey and gave £50 to the Cresy Memorial Fund, in 1872 £3 to the Medical Education of Women Fund. Despite expecting to make a loss, in 1871 he purchased ten shares worth or £100 in the Artizans, Labourers, and General Dwellings Company which was dedicated to building affordable housing for the working classes.<sup>42</sup> In 1875 he donated £5 to “the children’s meal” soup kitchen in Merthyr, Wales, for relief during a protracted strike. Also in 1875 he gave £100 to the Stazione Zoologica in Naples, in 1876 £15 to Viscountess Strangford’s Bulgarian Peasant Relief Fund, in 1877 £10 for the building of a new infant Sunday school in Frankenwell and £2 2s to the secular Sunday Lecture Society. For years he subscribed to the RSPCA (1854-1861, 1863-1864, 1871-1875, 1878 and 1880). And in 1881 he subscribed to the Carlyle Memorial Fund.

For years near the end of his life, Darwin paid an annual subscription to the South American Missionary Society for the orphanage at the Mission Station in Tierra del Fuego where he had travelled during the voyage of the *Beagle*. In 1881 he gave 5 guineas to the women’s Cambridge colleges, Girton and Newnham, for a physical and biological laboratory. Many more donations are recorded under “Gifts and annual subscriptions” in his Classed account books at Down House, now a museum and property maintained by English Heritage.<sup>43</sup>

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536.

<sup>42</sup> See Burkhardt et al eds. 1985-, vols. 19 & 20.

<sup>43</sup> These are taken from the list in van Helvert & van Wyhe 2021, p. 48.

Darwin also contributed to all manner of other activities in the area. On 21 January 1861 his young neighbour John Lubbock gave a talk on Coral Islands at the Bromley Literary Institute. The local newspaper noted that the “naturalist” Charles Darwin had lent “Several beautiful varieties of coral” to illustrate the talk.<sup>44</sup> Darwin even made a field available for local cricket matches.<sup>45</sup>

In these benevolently paternalist activities promoting self-help and thrift, he was not alone. Emma Darwin was active as well. She paid regular visits to some of the poorer ladies in the village and brought food, old clothes and small cash donations. From home she would give away “penny bread-tickets” which could be redeemed for bread at the village baker.<sup>46</sup> It was reckoned that over the course of fifty years she must have dispensed thousands of tickets.

Together with other ladies of the gentry, Emma Darwin oversaw the village Sunday School and helped children to learn to read and write. To aid this endeavour, she lent books to village children. Her daughter Henrietta recalled:

They were given out in a little dismal room where she used to interview her many clients for help of one sort or another, flannel, money, cough mixture, etc. On Sunday afternoon the children could come to exchange the books & there was sometimes quite a little crowd. The only rule was that no child should have more than one book. This they evaded, if they wished, by inventing demands from the elders of the family, or at least so we thought. If a book was much enjoyed the proof was that it was stolen however often it was replaced. This was the fate of my beloved Little Servant Maids, and at last it was not able to be procured & is now no longer existent.<sup>47</sup>

One of the gardeners, Henry Wheeler, later recollected Emma Darwin’s activities: “Mrs Darwin frequently paid visits to the village, of which her famous husband was the squire, and she was very kind indeed to some of the more needy villagers. She was a very sweet woman, and always had a smile and a joke for everyone.”<sup>48</sup>

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<sup>44</sup> *Bromley Record*, 1 Feb. 1861, p. 11.

<sup>45</sup> Anon. 1870. [Cricket matches at Down House.] *Maidstone Journal and Kentish Advertiser*, 6 Aug., p. 2.

<sup>46</sup> *Litchfield 1915*, vol. 2, p. 309.

<sup>47</sup> Henrietta Litchfield, ‘Sketches for a biography’. [CUL-DAR262.23.1](#). *Little Servant Maids* (1848) was by Charlotte Adams and published by the Society for promoting Christian Knowledge.

<sup>48</sup> Anon. 1927.



Photographic postcard of Down by G. W. Smith, c.1900.

Darwin seems also to have been on good terms with the village constables. In his book *Annie's Box* (2001), Darwin descendant Randal Keynes claimed that because of the tragic early death of his daughter Annie in 1851, Darwin “set the Christian faith firmly behind him. He did not attend church services with the family; he walked with them to the church door, but left them to enter on their own and stood talking with the village constable or walked along the lanes around the parish.” Keynes cited a 1889 interview by the leading secularist and publisher George William Foote (1850-1915) with “the late head constable of Devonport”. Foote said that the unnamed constable “was himself an open Atheist, [and] that he had once been on duty for a considerable time at Down. He had often seen Darwin escort his family to church, and enjoyed many a conversation with the great man, who used to enjoy a walk through the country lanes while the devotions were in progress”.<sup>49</sup>

Keynes suggested that perhaps “The constable who told Foote about his conversations with Mr Darwin may have been William Soper, who served at Down between 1858 and the mid-1860s. He did, though, still firmly believe”.<sup>50</sup> But how could the recollection of someone who came to Down seven years after Annie’s

<sup>49</sup> Foote 1889, p. 20.

<sup>50</sup> Keynes 2001, p. 222.

death suggest that Darwin's church attendance ceased because of her death in 1851?<sup>51</sup> At any rate, the constable was not Soper, but a man named John Lynn (1822-1889) from Stirling in Scotland and the head constable of Devonport. He joined the new London metropolitan police force as a young man when the police were still called "Metropolitan". He left that position after fifteen years. He was then stationed at Chatham and Woolwich and somewhere about this time at Down. But we don't know when. He is not in the 1851 census. After Down he became the Superintendent at Neath and from that position he retired (after an unknown duration) in June 1860. So the date he was at Down could presumably have been around 1855. His obituary also describes: "While stationed in Down, Kent, he made the acquaintance of Charles Darwin, the eminent naturalist. The acquaintance ripened into a warm friendship, and Darwin presented him with several of his works, on which Mr. Lynn set great value."<sup>52</sup> It's difficult to know how much this second-hand and far-removed account can be trusted, but at the very least constable Lynn did chat with Darwin from time to time on friendly terms. But this was likely before Darwin became a magistrate and long after Annie's death.

After Brodie Innes left Down, he and Darwin kept in touch about parish affairs by letter. Darwin continued an active and important patron in church affairs, even though he did not himself attend religious services. Just when he stopped going we don't know.

There is one possible though not very conclusive clue. In 1881 the Darwins were visited for lunch by the radical atheist agitator Edward B. Aveling and the German philosopher and freethinker Ludwig Büchner. After lunch the gentlemen retired to another room to talk about religion. In that conversation, Aveling asked Darwin why he had abandoned Christianity: "the reply, simple and all-sufficient, was: 'It is not supported by evidence.'"<sup>53</sup> This was music to Aveling's ears. Darwin went on to say "I never gave up Christianity until I was forty years of age." That would put it at about 1849.

Despite the fact that such a round number may not have been meant to have absolutely precise, this still does not seem to square with what Darwin recorded in late 1838 that he "thought much upon religion". Before getting engaged in 1839, his father urged him to "conceal carefully my doubts" from a future bride. We know

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<sup>51</sup> See [van Wyhe and Pallen 2012](#).

<sup>52</sup> Anon. 1889. Death of the head constable of Devonport. *Western Morning News*, 14 Jan., p. 5.

<sup>53</sup> [Aveling 1883](#), p. 6.



he didn't and Emma's letters to him show that he told her that he was giving up on belief in revelation, which caused her considerable distress.<sup>54</sup> And many years later, in his autobiography, he wrote that in "October 1836 to January 1839...I was led to think much about religion". He gave a list of reasons that led him to doubt and abandon Christianity. And they are indeed about evidence as he had said to Emma.

But I had gradually come, by this time, to see that the Old Testament from its manifestly false history of the world, with the Tower of Babel, the rainbow as a sign, etc., etc., and from its attributing to God the feelings of a revengeful tyrant, was no more to be trusted than the sacred books of the Hindoos, or the beliefs of any barbarian. The question then continually rose before my mind and would not be banished,—is it credible that if God were now to make a revelation to the Hindoos, would he permit it to be connected with the belief in Vishnu, Siva, &c., as Christianity is connected with the Old Testament. This appeared to me utterly incredible.

By further reflecting that the clearest evidence would be requisite to make any sane man believe in the miracles by which Christianity is supported,—that the more we know of the fixed laws of nature the more incredible do miracles become,—that the men at that time were ignorant and credulous to a degree almost incomprehensible by us,—that the Gospels cannot be proved to have been written simultaneously with the events,—that they differ in many important details, far too important as it seemed to me to be admitted as the usual inaccuracies of eye-witnesses;—by such reflections as these, which I give not as having the least novelty or value, but as they influenced me, I gradually came to disbelieve in Christianity as a divine revelation. The fact that many false religions have spread over large portions of the earth like wild-fire had some weight with me. Beautiful as is the morality of the New Testament, it can hardly be denied that its perfection depends in part on the interpretation which we now put on metaphors and allegories.

But I was very unwilling to give up my belief;—I feel sure of this for I can well remember often and often inventing day-dreams of old letters between distinguished Romans and manuscripts being discovered at Pompeii or elsewhere which confirmed in the most striking manner all that was written in the Gospels. But I found it more and more difficult, with free scope given to my imagination, to invent evidence which would suffice to convince me. Thus disbelief crept over me at a very slow rate, but was at last complete. The rate was so slow that I felt

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<sup>54</sup> Emma Darwin to Darwin [c. Feb. 1839], Burkhardt et al eds. 1985-, vol. 2, pp. 171-2.

no distress, and have never since doubted even for a single second that my conclusion was correct.<sup>55</sup>

Losing his faith was slow, gradual and without distress. The death of Annie was the most distressing event in his life.

In 1873 when answering his half-cousin Francis Galton's questionnaire for a study "on the dispositions of original workers in science", Darwin answered as evidence that he had "Independence of Judgment" by writing: "I think fairly independent; but I can give no instances. I gave up common religious belief almost independently from my own reflections." This is a curious remark and hard to interpret. It seems to suggest that his apostasy was not intentional.

At any rate, all of the evidence from Darwin himself points to giving up on Christianity around 1839. So what could he have meant by telling Aveling that he was 40 rather than 30 when he gave up Christianity? It could have been a lapse of memory (which would not be surprising) or a detail just not very important to Darwin. Or could he have meant, speaking to a total stranger, rather than his internal private beliefs, his outward and public observance? That would mean attending church services.

Two decades later the relationship with the village church soured with the appointment of a new vicar, George Ffinden, in 1871. Ffinden was less easy-going than Brodie Innes and tried to foist his sanctimonious take on the Anglican faith onto the parish. Not surprisingly, he and Darwin did not get along. At all. In 1909, the centenary of Darwin's birth, a journalist visited Down to interview those who had known him. Ffinden was still there and said: "I confess that, perhaps, I am a bit sour over Darwin and his works. You see, I'm a Churchman first and foremost. He never came to church, and it was such a bad business for the parish, a bad example."<sup>56</sup> That was the point. A man of Darwin's social position was expected to set an example by outwardly conforming, as well as contributing to a fund for repairing the roof of the church.

## JUSTICES OF THE PEACE

In the literature on Darwin, virtually nothing has been written about what a justice of the peace actually was and what it meant in Victorian Britain. Indeed much of what has been written about the subject turns out to be inaccurate. A justice of the

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<sup>55</sup> Darwin, *Autobiography*, pp. 86-87.

<sup>56</sup> Anon. 1909, p. 4. See Browne 2002, pp. 455ff.

peace was defined in the *Rural Cyclopaedia* in 1857 as:

a judicial magistrate....The justice of the peace, though not high in rank, is an officer of great importance, as the first judicial proceedings are had before him in regard to arresting persons accused of grave offences; and his jurisdiction extends to trial and adjudication for small offences. In case of the commission of a crime or a breach of the peace, a complaint is made to one of these magistrates. If he is satisfied with the evidence...he issues a warrant directed to a constable...ordering the person complained of to be brought before him, and he thereupon tries the party, if the offence be within his jurisdiction, and acquits him or awards punishment....in general, the appointment is by commission...It is evidently of the greatest importance to the peace and good order of a community, that the justices should be discreet, honest and intelligent.<sup>57</sup>

Hence justice of the peace and magistrate are synonymous for Darwin's office. Some earlier writers on Darwin have referred to him and fellow magistrates as "judges". But justices of the peace were not judges. A magistracy was an unpaid public office active in the lowest level of the judiciary from which attorneys were excluded. Judges presided over higher courts with juries and so forth and were able to interpret statutes and the common law. Similarly, some writers have referred to Darwin sitting on "the police court".<sup>58</sup> But police courts were something completely different. Darwin sat on a court of summary jurisdiction, a distinction that is part of the arcane and vast world of the English legal system that modern readers naturally know little about. One should not, for example, imagine Darwin wearing a wig or robes. He didn't. Four nineteenth-century caricatures of magistrates are given below from *Punch* which, among other things, show that they simply wore their normal clothing.

Formally speaking, justices of the peace were assigned a branch of summary process. One authority at the time described it as follows.

The process is extremely brief: after summoning the offender, the magistrate proceeds to examine one or more witnesses, as the statute may require, upon oath: he then makes his conviction in writing, upon which he usually issues his warrant, either to apprehend the party, in case corporal punishment is to be inflicted on him, or else to levy the penalty incurred, by distress and sale of goods.<sup>59</sup>

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<sup>57</sup> Wilson 1857, p. 879.

<sup>58</sup> Milner 1994, p. 91.

<sup>59</sup> Wade 1852, p. 50.

Magistrates had the power to impose a fine up to £20, enforce the payment of adequate compensation, remit fees and to commit to periods of imprisonment with or without hard labour.<sup>60</sup> There was no right of appeal to these decisions (with a few exceptions). Magistrates could not convict for felonies, blasphemy, unlawful oaths, abduction and so on, or sentence to transportation for life.<sup>61</sup> The next higher level courts were the quarter sessions, held at least quarterly by at least two justices of the peace “for the trial of misdemeanors and other matters touching the breach of the peace.”<sup>62</sup>

Convicted criminals from the West of Kent were sent to Maidstone County Prison (usually called Maidstone gaol/jail) which had space for 541 prisoners (424 male, 117 female). The majority of the prisoners held there were in for less than two months, and often for only a week or two, no doubt sent there for minor offences by zealous magistrates. It cost the prison 1s 11d to feed a prisoner for a week and the food was usually a very unappetizing gruel or mash. Hard labour consisted of four hours a day on either “the tread-wheel, loom weaving, making mats on a frame with a beater of 5 lbs. weight, work at shearing machines, beating oakum and rope, stone-breaking, and [rotating a] capstan”. Four hours on the treadmill was the equivalent of climbing 7,680 feet.<sup>63</sup>

The magistrates of this period were usually, and intentionally, gentry. About one eighth were clergymen in 1842.<sup>64</sup> The gentry were a small minority of landed people of “good breeding”, socially below the nobility, but above tradesmen and the common people. The gentry were gradually coming to call themselves middle class in this period.<sup>65</sup> But rural Kent was rather old-fashioned and the traditional notion of gentry continued. In a village such as Orpington (population 1,203 in 1851), there were ten people listed in the local directory as gentry and about forty traders (tradesmen) in 1858. These lists only named the head of the household and not his entire family. In Darwin’s village of Down (population 437 in 1851), five gentry

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<sup>60</sup> The duties and responsibilities of justices of the peace are detailed in Hodgson 1857, pp. 314-377, Wade 1852, Saunders 1852 and Glen 1861. Another guide to being a magistrate along with a lengthy list of crimes and cases as a guide is Greenwood & Martin 1874.

<sup>61</sup> Wade 1852, p. 51.

<sup>62</sup> Wade 1852, p. 31.

<sup>63</sup> Briscoe 1877, pp. 219-226.

<sup>64</sup> Zangerl 1971.

<sup>65</sup> The complex story of how the English came to believe in and describe their society as revolving around a “middle class”, rather than it just being a simple reflection of changing social reality, is detailed in Wahrman 1995.

were listed and twenty-three traders in the same year. Thus these two villages had the same ratio of gentry to traders listed.<sup>66</sup>

Although unquestionably gentry, the Darwins did not derive the majority of their income from land and rents but investments, particularly in the new industrial technology of the railways as well as government bonds. After 1859, Darwin also made about £500 a year from his books.

As suggested by the *Rural Cyclopaedia*, above, it was believed that in order to ensure respectability, competence and unassailable independence of judgment, a justice of the peace had to be a landholder earning at least £100 a year and one had to swear the oath of qualification to that effect. One also had to take the oath of office, the oath of allegiance and the oath of supremacy. The former was a denunciation of the notion that an excommunicated English sovereign might be deposed or murdered and that no foreign power had any jurisdiction or authority in the kingdom. The oath of supremacy ensured the supremacy of the English crown in ecclesiastical, spiritual and temporal affairs. Both are obviously Elizabethan in origin as was much of the legal system. The oath of office is rather lengthy but boils down to “do equal right to the poor and to the rich”; do not be an interested party in any decision, follow the law and do not take bribes.<sup>67</sup>

Historians of science Adrian Desmond and James Moore cited a different oath: “Keep the Peace of one said Lady Queen in the said County, and to hear and determine divers felonies and also trespasses and other misdemeanours in the same County perpetrated.”<sup>68</sup> This dramatic wording seemed to suit their assertion that, because Darwin was working on unorthodox evolutionary views, he was somehow betraying this oath, society or at least living a double life, something they frequently claimed. “He was living a double life with double standards, unable to broach his species work with anyone except [his brother] Eras, for fear he be branded irresponsible, irreligious, or worse.”<sup>69</sup>

It is difficult to understand how any writer familiar with the original sources could say this. Contemporary evidence demonstrates unequivocally that Darwin spoke to, as he wrote, “very many” people about evolution. In one of his so-called transmutation notebooks he wrote in 1838 “State broadly scarcely any novelty in my

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<sup>66</sup> Melville 1858.

<sup>67</sup> Hodgson 1857, p. 319.

<sup>68</sup> Desmond & Moore 1992, p. 461, following Marsh 1983, p. 636.

<sup>69</sup> Desmond & Moore 1992, p. 232. They go on to claim, without evidence, that this supposed “double life” was the cause of Darwin’s illness.

theory, only slight differences” he inserted above this line as evidence for this view: “the opinion of many people in conversation.”<sup>70</sup> In the sixth edition of *Origin of species* (1872) he stated: “I formerly spoke to *very many naturalists* on the subject of evolution, and never once met with any sympathetic agreement.”<sup>71</sup> In his autobiography written in 1876, Darwin recalled, “I occasionally sounded *not a few naturalists*, and never happened to come across a single one who seemed to doubt about the permanence of species”.<sup>72</sup> When answering Galton’s questionnaire in 1873, one of the questions was, did he have “Energy of mind?” Darwin replied that he did, and to prove it, wrote: “Shown by rigorous and long-continued work on same subject, as 20 years on the ‘Origin of Species’ and 9 years on *Cirripedia*.” Darwin always described the years after first conceiving of his theory as the time he was working on it, never a hint that it was held back because the times made it difficult or impossible then to talk about his now triumphant views. And as the quotations all say, he talked with “many” people about it.

Milner quoted the same “oath” of office as Desmond and Moore in 1994 and twice again in 2009. He followed them in suggesting that there is at least an irony and at most a secret contradiction in Darwin’s oath while being at the same time an evolutionist. But this was not the oath Darwin swore upon becoming a justice of the peace.<sup>73</sup> It could not be. As noted above, justices of the peace did not and could not try felonies in petty sessions. Furthermore, this quotation is not the oath of office at all but the wording used in written depositions in the *higher* criminal court of appeal.<sup>74</sup>

Milner 1994 and Milner 2009b gave an additional quotation: “In the same document, [Darwin] was also enjoined from doing ‘anything to upset the religious values of the country.’”<sup>75</sup> In Milner 2009a the identical sentence is given again, but the sentence now beginning with “Ironically”.<sup>76</sup> These remarks further the dramatic tension of Darwin embodying some sort of secret contradiction. It cannot be

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<sup>70</sup> Barrett et al, 1987, C177.

<sup>71</sup> Darwin, 1872, p. 424. Emphasis added.

<sup>72</sup> Darwin, *Autobiography*. Italics added (Barlow 1958); van Wyhe, *Dispelling*, pp. 250-251 lists c.60 people, family, friends, neighbours and colleagues whom we know Darwin discussed evolution with before he published his theory.

<sup>73</sup> The oaths are given in full in Hodgson 1857 just summarized

<sup>74</sup> See for example the verbatim statement in Temple & Mew 1852, p. 579.

<sup>75</sup> Milner 1994, p. 92 and Milner 2009b, p. 110.

<sup>76</sup> Milner 2009a, p. 107.

stressed enough that this is a mid-twentieth century re-interpretation of Darwin, absent in his own writings and of all those who knew him and a generation of writers after them.

As regards the second quotation by Milner, it cannot be located in any nineteenth-century publication and is not part of the oath of office of English justices of the peace. Indeed, any historian of the period ought to pause at reading it. This sounds very much like mid- to late- twentieth-century English, and not at all the (already by then) antiquated language used in mid-nineteenth century legal documents. The phrase “religious values” was not used in this sense at that time. Indeed, according to the OED, the plural “values” in this sense was not recorded in English until 1918. The quotation is therefore spurious and was presumably meant as a paraphrase. The oaths were not so ominous or indeed even meaningful or interesting. They were just a dull old-fashioned formality- a tradition- that was already centuries out of date.

In fact, we know from a recollection by Darwin’s daughter Henrietta that the ceremony of swearing in was more laughable than solemn.

He was sworn in ? at Canterbury on the 8th day of some month & after swearing all kinds of oaths he had to write on ‘this eighth day’ over & over again & always spelt it eighth, as he remembered with disgust afterwards. ...along w[ith] a country Sqr. a g[en]t[l] man who slurred over the words & whenever this happened the clerk gravely reproved my f.[ather] saying speak up or some such words.<sup>77</sup>

Far from trembling at the thought of swearing an oath that felt uncomfortable, Darwin instead told jokes about his spelling and how the country squire with him kept slurring the words.

Darwin was, to use the most exact term, a county magistrate, which was distinct from justices of the peace of boroughs and *ex officio* justices of the peace.<sup>78</sup> County magistrates met monthly for a court of petty sessions. A “session” is the sitting together of a number of persons to adjudicate. A court of petty sessions was specific to the subdivision of a county. In Kent there were sixteen divisions. Darwin’s division was Bromley. In 1861 there were twenty-two acting magistrates in the Bromley division. The Bromley petty sessions met on the third Monday of each month at 11am at the Bromley Court House about 10km from Down House or at

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<sup>77</sup> Henrietta Litchfield, ‘Sketches for a biography’. [CUL-DAR262.23.1](#). The records show that Darwin qualified as a magistrate on 3 July 1857.

<sup>78</sup> Stone 1844, p. 5.

The White Lion Inn (now Ye Olde Whyte Lyon), Locksbottom, near Farnborough Common, about 6 ½km from Down.<sup>79</sup>



The White Lion Inn in 1865. Courtesy of [Dover Kent Archives](#).

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<sup>79</sup> Petty sessions were also held at the White Hart Inn and the Bell Inn, Bromley, during the nineteenth century but no evidence has been found to indicate that Darwin sat there.





A caricature of magistrates from *Punch*, 1861.

## DARWIN'S FELLOW MAGISTRATES

Each of Darwin's petty sessions was presided over by two to five magistrates. During his years of attendance, ten other magistrates, men of particularly high status and wealth, sat with Darwin at one time or another. Their names and details are given below.

**Richard Benyon Berens** (1834-1916). MA, MD and Lord of the manor of Kevington, St. Mary Cray. Chairman of the Royal Veterinary College Association. Held a commission in the West Kent Yeomanry Cavalry, a magistrate from 1855 and Deputy Lieutenant for Kent. He served as High Sheriff for Kent in 1893.<sup>80</sup>

**Col. John Farnaby Cator** (1861, Lennard), (1816-1899). Seat Wickham Court, Beckenham, Kent. Educated at the Royal Academy, Woolwich. Received a commission in the Royal Artillery in 1835. JP 1854. 1880 Baronet, 1881 Chairman of the Bromley and Beckenham Joint Hospital Board, 1882 Chairman of the Kent County Council, senior JP for Kent. Bart 1880.

**James Chapman** (1797-1878). St Paul's Cray-Hill. Earliest record as JP 1830. 1871 nominated as Sheriff of England and Wales for the county of Kent.

<sup>80</sup> *Kent & Sussex Courier*, 3 Nov. 1916, p. 5.

**Joseph Jackson** (1778-1860). Mayfield Place, Orpington. Deputy Lieutenant and magistrate for the county of Kent. Earliest record as JP 1826. Remembered by the late Lord Sidney as “one of the best magistrates on the Bench.”<sup>81</sup>

**Frederick Mortimer Lewin** (1798-1877). Halfway-street, Bexley, Kent. Appointed 1855 as JP. Register to the Zillah Court of Calicut Assistant judge and joint criminal judge of Salem. High Court Civil Service.<sup>82</sup>

**George Warde Norman** (1793-1882). Merchant, 1821-1872 a director of the Bank of England, Chairman of the Bromley Poor Law Union. A Utilitarian and Unitarian who later became active in the Church of England. Lived at The Rookery, Bromley Common, near Down. Much more detail is given on him below.

**John Robert Townshend** (1805-1890). MA, GCB, 1st Earl Sydney and third Viscount between 1831-1874. Of Foot’s Cray, Kent. Captain of the Yeomen of the Guard and Lord Chamberlain to the Queen 1859-1866 and 1868-1874. Owner of Matson House and estate near Gloucester.<sup>83</sup>

**William Waring** (1818-1904). Lived at Woodlands, on Hawstead Lane, Orpington. Lord of Chelsfield Manor and Hewitts for fifty-three years, two of the four estates in the parish. Appointed JP in 1859.

**Ford Wilson** (1797-1863). Of Blackhurst, Tunbridge Wells. From a family of silk weavers with origins in Coventry. Earliest record as JP 1843. 1851 High sheriff of Kent.

**John Joseph Wells** (1804-1858). Of Southborough Lodge, Bromley. Landowner owner. JP from 1852.

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<sup>81</sup> *Bromley & District Times*, 23 Mar. 1894, p. 3

<sup>82</sup> *Bombay Gazette*, 22 Aug. 1827, p. 4; *Bombay Gazette*, 26 Dec. 1827, p. 4; *The Atlas*, 23 Oct. 1847, p. 14.

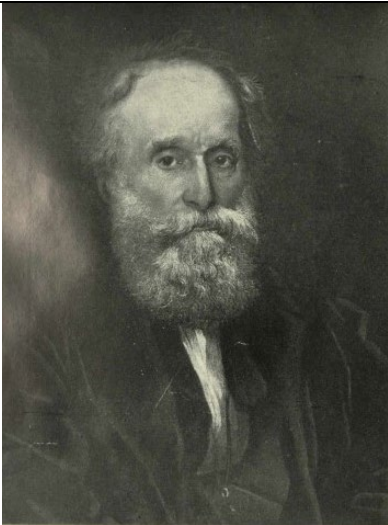
<sup>83</sup> *London Evening Standard*, 15 Feb. 1890, p. 5.



Oil painting of Col. John Farnaby (Cator) Lennard, c.1890. Maidstone County Hall.  
[ARTUK](#)



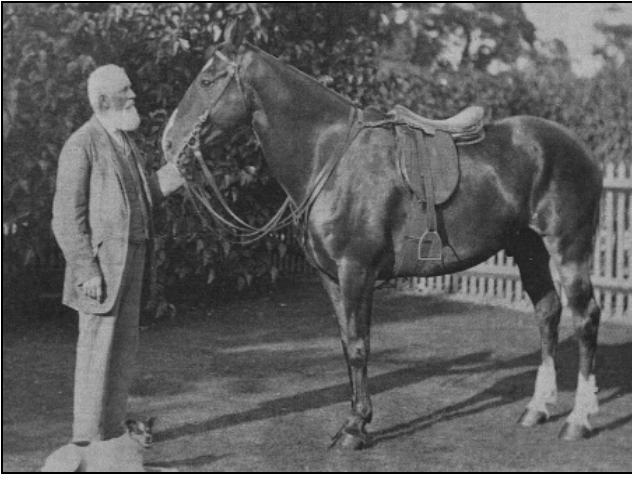
Carte de visite of John Robert Townshend, Viscount Sydney. [Royal Trust Collection](#).



Darwin's "clever neighbour" George Warde Norman. Engraving after an oil painting by G. F. Watts.



Richard Benyon Berens.  
 © National Portrait Gallery, London.



William Waring. Bromley Borough Local History Society.

**FRIDAY, JULY 3.**

**Before the Earl of Romney (chairman), the Earl Amherst, D. Scratton, Esq., W. C. Morland, Esq., Captain Robinson, and the Rev. J. J. Marsham.**

**Charles Robert Darwin, Esq., Dover, William Alexander Mackinnon, Esq., M.P. (St. Peter's Thanet), and Harry Eyres, Esq. (Tenterden), qualified as magistrates for the County of Kent.**

Report of Darwin qualifying as a magistrate. *Maidstone Journal and Kentish Advertiser*, 7 July 1857.

## DARWIN AT THE BENCH

On 3 July 1857 Darwin and two others “qualified as magistrates for the County of Kent.”<sup>84</sup> The journalist or the typesetters mistakenly gave Darwin’s residence as “Dover” rather than Down. But then Darwin couldn’t even spell ‘eighth’. He was purportedly provided with testimonials from the Rev. John Brodie Innes (1817-1894), perpetual curate of Down (c.1860-1869), and Sir John W. Lubbock, the wealthiest landowner in his neighbourhood and Sheriff of Kent in 1852.<sup>85</sup> Milner

<sup>84</sup> *Maidstone Journal and Kentish Advertiser*, 7 July 1857, p. 8.

<sup>85</sup> According to Desmond & Moore 1992, p. 460 who, however, cite no source for this. There is no evidence in Burkhardt et al eds. 1985-, vol. 6 for 1856-1857.

wrote that Lubbock “had talked [Darwin] into accepting...as part of a gentleman’s duty to ‘help maintain order in the neighborhood.’”<sup>86</sup> This purported quotation appears nowhere in the Darwin correspondence and is clearly not contemporary in its language or meaning. It is misleading to attribute imagined ideas of social control to Lubbock and Darwin for which we have no evidence.

Although one would not see it on his publications, becoming a justice of the peace entitled Darwin to use more letters after his name in addition to MA, FRS, FLS and FGS. Now a JP, the census survey interviewers habitually recorded such information. Thus the census records for Darwin show:

1861 “Justice of P. M.A. Author of scientific works...land & shareholder”.

1871 “Shareholder...& J.P.”

1881 “M.A., L.L.D.(Cambs), F.R.S., J.P.”<sup>87</sup>

Incidentally, it seems never to have been pointed out before that Darwin stated his profession as “shareholder”. Which, indeed, he was. Asked by Francis Galton in 1873 on a questionnaire if he had any “special talents” Darwin replied: “None, except for business as evinced by keeping accounts, replies to correspondence, and investing money very well.”<sup>88</sup> ‘Darwin the shareholder’ would make an interesting and important study.

Darwin clearly took pride in being a JP and would single it out as one of his principal titles. In 1866 he drafted a biographical entry about himself in third person for Reeve and Walford’s *Portraits of men of eminence in literature, science, and art*. Darwin wrote: “He has lived ~~for the last 25 years~~ since 1842 at Down ~~near Farnborough Beckenham~~ in Kent; & is a magistrate for that county”.<sup>89</sup> In *The Bromley directory for 1869*, p. 11, he was listed under Down as: “Darwin Chas. R. esq. J.P. Down House”. He was still listed like this in the 1876 directory, although by then the directory spelled both the name of the village and Darwin’s house as “Downe”.<sup>90</sup>

There are several references in the press reports below to the “Union-house”, “Bromley Union” or “Union clothes”. The Poor Law Amendment Act of 1834 saw

<sup>86</sup> Milner 2009a, pp. 106-107 and Milner 2009b, p. 111.

<sup>87</sup> [Rookmaaker 2008](#).

<sup>88</sup> Cited in [F. Darwin 1887](#), vol. 3, p. 179.

<sup>89</sup> Darwin, ‘a sketch of the principal events in my life’. [CUL-DAR91.102-104](#) and [Reeve and Walford 1866](#).

<sup>90</sup> During the 1850s the Post Office changed the spelling of the village name from ‘Down’ to ‘Downe’. Actual usage varied though Darwin always used ‘Down’.

the amalgamation of the older vestry and parish units for the responsibility for the poor. The new union workhouses were an attempt to supersede the traditional “outdoor relief” of payments to the poor. These amalgamated districts required larger centralized workhouses to house the poor. The Bromley Union comprised sixteen parishes, including Down, with a total population of about 7,000. The Bromley Union workhouse was built in 1844 at Locksbottom. There were 220 residents in 1861. By the 1930s the building had been demolished.<sup>91</sup>

When it comes to workhouses, modern readers tend to think of the image painted by Charles Dickens in *Oliver Twist* (1838) where Oliver famously asked “Please, sir, I want some more”. But that was a parish workhouse before the new poor law and its supposedly more modern workhouses. Life in the new workhouses was not quite so bleak, but it was not a pleasant place either. They were explicitly designed to discourage able-bodied workers from shirking and to ensure that only the absolutely destitute sought refuge there. On entering a workhouse, one had to give up one’s own clothing to be disinfected and stored. Residents were given standard Union clothing, colloquially called a uniform. Men might be given a striped cotton shirt, jacket, trousers and a cloth cap. Women were often given a blue-and-white striped dress and smock. Men, women and children were housed separately in the workhouses. Residents were provided with a healthy, if not very interesting diet.

Able-bodied residents were also expected to work, sometimes justified as giving them useful skills but in some workhouses it was just an attempt to turn a profit from the free labour by the organizers. Men often worked at stone-breaking and oakum picking and females too did oakum picking as well as domestic work to maintain the workhouse such as mopping the floors. Discipline was strictly enforced. For swearing or pretending to be sick one’s food ration could be cut for up to two days. Insubordination or violence could lead to confinement for a day.

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<sup>91</sup> Higginbotham 2019.



## DARWIN'S PETTY SESSIONS

We have found records which explicitly name Darwin as on the bench or judging criminal cases on at least twenty-eight occasions between 1857 and 1862.<sup>92</sup>

1857 Sept. 21 Bromley.  
 1857 Nov. 16 Bromley.  
 1858 Jan. 18 Farnborough.  
 1858 Feb. 15 Bromley.  
 1858 Mar. 15 Bromley.  
 1858 Apr. 19 Bromley.  
 1858 May 17 Bromley.  
 1858 Jun. 21 Bromley.  
 1858 Aug. 16 Bromley.  
 1858 Sept. 20 Bromley.  
 1858 Oct. 18 Bromley.  
 1858 Dec. 20 Bromley.  
 1859 Jan. 17 Chelsfield.  
 1859 Feb. 21 Bromley.  
 1859 Mar. 21 Bromley.

1859 Apr. 18 Bromley.  
 1859 May 16 Bromley.  
 1859 Jun. 20 Chelsfield.  
 1859 Aug. 15 Bromley.  
 1859 Sept. 19 Farnborough.  
 1859 Dec. 19 Bromley.  
 1860 Jan. 16 Farnborough.  
 1860 Feb. 20 Bromley.  
 1860 Mar. 19 Farnborough.  
 1860 Aug. 20 Farnborough.  
 1860 Sept. 17 Farnborough.  
 1861 Dec. 16 Farnborough.  
 1861 Dec. 20 Down.  
 1862 Jan. 20 Locksbottom.  
 1862 Feb. 17 Farnborough.

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<sup>92</sup> As the records demonstrate, Darwin was not active on the bench only from 1859 as per Burkhardt et al eds. 1985-, vol. 18 [2010], p. 233, note 8: "CD was active as a magistrate in Bromley between 1859 and 1862. Randal Keynes and Richard Milner, personal communication."



Being a magistrate was sometimes very taxing for Darwin. Emma Darwin wrote to their son William who was then at Rugby: “The other day when Papa was doing some justice work in the dining room [eight-year-old] Lenny went upstairs to [the governess] Miss Pugh saying ‘There is Papa being Judge, jury & policeman all himself.’”<sup>93</sup> In the same year, Darwin cut short a visit to London because, as he wrote to William: “On Monday 20th I have to attend Magistrates meeting”.<sup>94</sup> Clearly he attended when he could, his notorious ill health permitting.

In 1848 he had asked to be excused from jury duty on grounds of ill health. Can we conclude, as is so often claimed, that he was shirking and using his health as an excuse when he spent so much time working as a magistrate?<sup>95</sup> On 24 June 1858 Darwin, as magistrate, certified the “Declaration by William Stow of Farnborough, yeoman, about brothers’ marriages”.<sup>96</sup> In 1864 Darwin gave advice to John Scott (1838-1880), a young Scottish botanist, who wished to seek employment in India. A character reference from a magistrate was one possibility Darwin recommended. “If you decide to try the plan and run such risk as there is of not getting employment, can you get a character for probity, sobriety and energy, from Professor Balfour, Mr Macnab, or any clergyman or magistrate of the district in which you reside. These would be of important service.”<sup>97</sup> Scott did secure a post at the Royal Botanic Gardens in Calcutta. On 9 October 1869 Darwin wrote to the secretary of the Friendly Club in the neighbouring village of Westerham.

Sir

Mr W. Reeves in this place has called on me as a County Magistrate to consult me on the best means of obtaining the payment which he states is due to him from the Westerham Club.—

I can testify that the condition of his hand shows that he is unable [to] work, & as he cannot at present write, he has asked me to address you on the subject,— before he takes any further steps.— His case seems a hard one, I am informed that some of your members still receive payment, & if this be correct it wd be difficult to justify, any one member who may have a just claim being refused.

Hoping that you will be able to satisfy W Reeves’ claim. I beg leave to remain

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<sup>93</sup> Emma Darwin to William Darwin, 11 Mar. 1858? [CUL-DAR 210.6.32](#).

<sup>94</sup> Darwin to W. E. Darwin [9 Dec. 1858], Burkhardt et al eds. 1985-, vol. 7, p. 215.

<sup>95</sup> See Darwin to George Warde Norman [1848], *Ibid.*, vol. 4, p. 103.

<sup>96</sup> Property of the Richardson Family in Bromley & Beckenham, London Borough of Bromley Archives ref no. 42/1/21.

<sup>97</sup> Darwin to John Scott 21 May [1864], Burkhardt et al eds. 1985-, vol. 12, p. 202.

Sir I Your obed sert

Ch. R. Darwin.<sup>98</sup>

The key line here being “I can testify”. This was one of the functions of a magistrate, they were a trustworthy authority and had the “power to administer oaths”.<sup>99</sup>

The final record that survives of Darwin acting as magistrate comes from 28 January 1881 when he wrote to his protégé George John Romanes (1848-1894): “I am daily bothered to give orders as a magistrate for animals to cross from one field to another on the same farm, if across any road!”<sup>100</sup> This was only necessary because of a recent outbreak of swine flu which had caused the authorities to restrict the movement of livestock in the southern counties.

## THE PETTY SESSIONS REPORTS

### Rates

Magistrates set the local rates (similar to taxes). Darwin oversaw all of the following. There was a district gas-rate to pay the local gas company but only for properties that had gas lighting. The lighting-rate was to pay for public street lighting. These gas lamps were likely lit only eight months of the year from sunset to 2am. The poor-rate was a tax on property levied in each parish to provide poor relief. Magistrates also had the power to renew, or deny, the licenses of public houses.

On 14 May 1858 Darwin wrote to his son William about Ainslie again: “I have this minute returned from a Vestry [meeting at Down church] to compel that beast, M<sup>r</sup> Ainslie, to pay a Church-rate; but he has floored us.— I have great hopes that the beast is ruined & will soon be clear of the village.”<sup>101</sup> The editors of Darwin’s correspondence noted: “The church rate was a tax levied on landowners in each parish for the benefit of the parish church. The church rates were set by the churchwardens, together with parishioners in the vestry. Although it was a compulsory personal charge, collecting the tax often proved problematic, particularly from nonconformists who objected to supporting the established church”.<sup>102</sup> And Ainslie was a nonconformist.

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<sup>98</sup> Burkhardt et al eds. 1985-, vol. 17, p. 425.

<sup>99</sup> Hodgson 1857, p. 334.

<sup>100</sup> Burkhardt & Smith 1985: 13029. With thanks to Jim Secord for providing a transcript of the letter. Original letter in the American Philosophical Society, APS 581.

<sup>101</sup> Burkhardt et al eds. 1985-, vol. 7, p. 92.

<sup>102</sup> *Ibid.*

As the records below reveal, Darwin was amongst the magistrates who met on 19 April 1858 when Ainslie was summoned on this matter. It was reported that: “Mr. Ainslie still disputing the validity of the rate, an arrangement was come to, by which the churchwardens will call a vestry meeting to consider the subject, and they will be guided by the decision of the meeting in any further steps it may be necessary to take.”<sup>103</sup>

The vestry book at St Mary’s church in Downe records “1858 Apr./May: Mr Darwin and Mr Parslow involved in a dispute between the churchwardens and Robert Ainslie about his non-payment of the church rate. Mr Darwin moved that ‘no further legal proceedings be taken in the matter of the Church rate which Mr Ainslie refuses to pay’”.<sup>104</sup> Mr Parslow was, of course, Joseph Parslow (1812-1898), Darwin’s manservant and then loyal butler from c.1840-1875.

Darwin suggested letting Ainslie off, but this is not what ultimately transpired. On 27 September 1858 Ainslie was “summoned [before the Bromley magistrates] for non-payment of poor-rate for the parish of Down. The amount was 1*l.* 18*s.* 10*d.* The defendant complained of being summoned without having received any notice requiring him to pay the amount. - The bench told Mr. Ainslie the rate must be paid, and ordered him also to pay the costs.”<sup>105</sup> Ainslie would have been compelled to pay or face imprisonment by default. By October 1858 he had left Down and Emma Darwin hoped to buy some of his furniture if suitable.<sup>106</sup> Ainslie was mentioned once more by Darwin, in 1876, as having once been a trustee of the Down Friendly Society, but having left many years before, his whereabouts were unknown to Darwin.<sup>107</sup> The Society met at the George Inn in Down from 1850 until 1882, the year Darwin died.

### **Crime & punishment**

Theft was the most common crime brought before Darwin as a magistrate.<sup>108</sup> Defendants before him were charged with stealing potatoes, hazel nuts, plums, apples, beer, pieces of wood, parts of fences, trusses of hay, an iron hurdle, a coat

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<sup>103</sup> *South Eastern Gazette*, 27 Apr. 1858, p. 4.

<sup>104</sup> Vestry book, St Mary’s church, Downe, Kent.

<sup>105</sup> *Bromley Record*, 1 Oct. 1858, p. 28.

<sup>106</sup> Burkhardt et al eds. 1985-, vol. 7, p. 92, note 5.

<sup>107</sup> Burkhardt et al eds. 1985-, vol. 24, p. 47.

<sup>108</sup> Milner 2009b, p. 110, stated that poaching was the most common crime brought before Darwin. However, see the table below.

and ash poles. Other common crimes were disorderliness, drunkenness and mischief. There was one case of a deserter from the army being caught and one case of illegal gambling. More frequent were cases of assault. These were usually very minor and in only one case involved a man making a threat with a knife. Others were charged with damaging property such as breaking windows or fences, especially the latter. Trespassing was also fairly common.

Poaching was the next most common crime. It was at the time an escalating trend. There were around 9,000 convictions for poaching in 1860.<sup>109</sup> When one case was assessed with Darwin present, one of the other magistrates, Mr. Berens, had the right of sport over the property in question. He therefore excused himself from taking part in that particular decision, as in law “interested justices should not act”.<sup>110</sup> Another case of a magistrate having a possible interest in a case was that of a lad accused of setting his dog to worry some sheep on the land of Col. Cator, who was one of the magistrates at the bench that day. The lad was fined 5s and costs. It was not recorded whether Cator excused himself from the judgment.<sup>111</sup>

We have a rare glimpse of the private view of one of Darwin’s fellow magistrates on a case of poaching from December 1859. George Warde Norman wrote in his diary:

Smith caught three men shooting in Barnet & was able to recognize 2 of them & of whom proceedings will be taken. They threw away 5 Pheasants. I shall also have to summon 9 men who persist in shooting on my alders every Sunday. I would willingly overlook the latter offence, as I do not attempt to preserve the alders, but the [process] of opinion on all sides, prosecution.

The Poaching prosecutions are very disagreeable, but how can they be avoided? All the offenders in the above cases are old Hands, who habitually violate the Law, without the least excuse from poverty & infringe upon rights of Property—<sup>112</sup>

Darwin’s daughter Henrietta recalled that he once encountered a poacher during his morning walk.

But he kept up the very early morning walk for years. It used to be almost in the dark in winter & he had a story of how he had surprised old Duke poaching out

<sup>109</sup> Osborne & Winstanley 2006.

<sup>110</sup> Steer 1857, p. 330.

<sup>111</sup> *South Eastern Gazette*, 1 Mar. 1859, p. 6. This is the same case mentioned above, on the land of Col. Cator.

<sup>112</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 251.

by the big woods & was offered the pheasant he had just seen shot as a bribe to make him say nothing.<sup>113</sup>

Whether Darwin took the pheasant let off old Duke was not recorded.

Others were fined for disobeying the laws of the public roads such as riding without reins or recklessly driving a horse and cart and one man was charged for exceeding the speed limit, which was 4 miles an hour! Others were charged with evading tolls on toll roads by going through fields to avoid them. There were several cases of men fined for allowing ferocious unmuzzled dogs to run loose. It appears from the reports that being attacked or bitten by a dog was not uncommon in the district.

In 1858, Johanne Spellard, a blind Irishwoman, was charged with tearing up her clothes in the Bromley Union workhouse. In her defence, she said she was ashamed to go out in her old clothes and that she had been “very ‘tossicated’” at the time.”<sup>114</sup> She was sentenced to one month’s hard labour. In 1861 Darwin sentenced a man (a serial offender) to fourteen days hard labour for absconding from the Bromley Union workhouse in Union clothes.<sup>115</sup>

Most recorded cases reveal that the magistrates tried to act fairly, letting off those with no previous convictions with only a nominal fine or only court costs. In another case, a man accused a woman of using abusive language against him on the high-road. However, the magistrates were told that the accuser had got the woman pregnant whereby she “had been brought to utter ruin”. Hearing this the magistrates “severely rebuked the complainant for his heartless conduct, and dismissed the case, leaving him to pay the costs.”<sup>116</sup>

Magistrates were not always forgiving and lenient. In August 1870, after Darwin had ceased to attend petty sessions, Stephen Holder, a carter from Orpington, was charged with illegal gambling, specifically, playing pitch-and-toss on the 13<sup>th</sup>. Pitch-and-toss is a game in which the player who throws a coin nearest to the mark gets the first chance at tossing up all the coins so far played and winning all those that fall heads up. Holder pleaded not guilty, stating that he had merely stopped to watch the game after feeding his master’s horse. When the police constable was spotted, all of the assembled men ran away. Only Holder was apprehended. Despite

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<sup>113</sup> Henrietta Litchfield, ‘Sketches for a biography’. [CUL-DAR262.23.1](#). ‘Big woods’ was the Darwins’ name for Cudham Lodge Woods.

<sup>114</sup> *South Eastern Gazette*, 29 Jun. 1858, p. 4.

<sup>115</sup> *Maidstone Journal and Kentish Advertiser*, 31 Dec. 1861, p. 5.

<sup>116</sup> *South Eastern Gazette*, 29 Jun. 1858, p. 4.

his plea that he had only been a spectator and didn't even have a penny on him, and the policeman even said he was of good character, the Bromley magistrates committed him to two months' hard labour. The chairman, Col. John Lennard, warned "if you come before us again we will give you three months." The newspaper reporter noted: "Prisoner appeared overwhelmed at the decision, and begged the chairman not to send him to prison, but the chairman directed the police to remove him to the cells."<sup>117</sup> All those present were shocked. Several London newspapers later took up the story, outraged by what they saw as the incommensurate severity of the sentence for such a minor infraction.<sup>118</sup>

The next day, Holder's employer, George Groombridge, wrote to the editor of the *Daily Telegraph & Courier*: "I, as the employer of Stephen Holder, beg to express the astonishment of myself and every one else at such an outrageous sentence as two months' hard labour without the option of a fine; and that on the evidence of a single policeman. I can add my testimony to the sergeant's, and give the man a good character."<sup>119</sup> The conservative *Pall Mall Gazette* pointed out that sending a man of good character to prison might see him come out with a bad character and that this might be cause for alarm for the country magistrates' "partridges and pheasants, if not of their forks and spoons".<sup>120</sup>

Poaching was not always for the pot as there were in many areas intricate networks for the sale and redistribution of the booty.<sup>121</sup> On 20 August the *Daily Telegraph & Courier* also cast aspersions on the magistrates as "the great unpaid". This was a common derogatory nickname for country magistrates because they were unpaid amateurs who had no legal training or qualifications. Indeed, practising lawyers and solicitors were ineligible to become magistrates in England and Wales. It was a common stereotype by newspaper journalists and the satirical magazine *Punch* to lampoon and chastise country magistrates as primarily motivated to preserve their game from poachers.<sup>122</sup> Judging from the prevalence of cases of poaching and

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<sup>117</sup> *Daily Telegraph & Courier*, 17 Aug. 1870, p. 2; *London Daily News*, 17 Aug. 1870 and *Bromley Telegraph*, 20 Aug. 1870.

<sup>118</sup> *Pall Mall Gazette*, 18 Aug. 1870, p. 4 and *Daily Telegraph & Courier*, 17 Aug. 1870, p. 2.

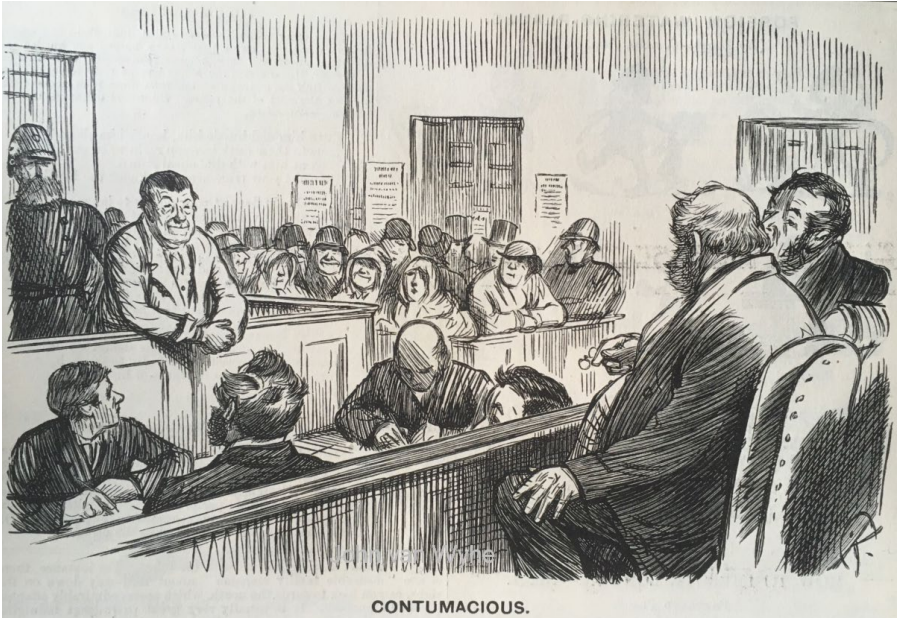
<sup>119</sup> *Daily Telegraph & Courier*, 18 Aug. 1870, p. 5.

<sup>120</sup> *Pall Mall Gazette*, 18 Aug. 1870, p. 4.

<sup>121</sup> For an introduction to the literature on poaching in Victorian England see Jones 1979, Hopkins 1985 and Osborne & Winstanley 2006.

<sup>122</sup> *Punch*, 5 Dec. 1857, pp. 228-229.

trespassing, this does not seem to have been entirely unfounded. Even fifty years later, magistrates were still sometimes an object of ridicule. P. G. Wodehouse once described the reputation of magistrates in the 1920s through the voice of his character Bertie Wooster: “Well, you know what magistrates are. The lowest form of pond life. When a fellow hasn’t the brains and initiative to sell jellied eels, they make him a magistrate.”<sup>123</sup>



“*Magistrate* (in an undertone to his colleague). ‘This man has been so often before us for poaching, I think we should fine five pounds’.

*Prisoner* (overhearing). ‘You needna pench yourselves, gen’lemen!—For deil a penny ye’ll get!’” *Punch*, 1 Oct. 1881.

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<sup>123</sup> Wodehouse 1954.



“Squire Bobbins, with a view to grouse driving later in the season, employs the country boys to shy turnips over the wall for him to practise at. Sometimes the young rascals take a better aim than the old gentleman!” *Punch*, 16 Sept. 1882.



“*Short-sighted Swell* (to Gamekeeper, who has been told off to see that he ‘makes a bag’). ‘Another hit,



Wiggins! By the way—rum thing—always seem to hear a shot somewhere *behind* me, just after I fire!’ Wiggins (stolidly). ‘Yes, Sir, ‘zactly so, Sir. Wunnerfle place for echos this ‘ere, Sir!’” *Punch*, 19 Nov. 1881.

The same day that Groombridge’s letter was published, at a meeting of the Greenwich Advanced Liberal Association, a resolution was passed expressing indignation at the severity of the punishment by the Bromley magistrates and expressed the hope that the Home Secretary (Henry Bruce, Lord Aberdare) would get Holder released.<sup>124</sup> Also on the same day, Frances Power Cobbe (1822-1904), the Anglo-Irish journalist and founder of the Anti-Vivisection Society in 1875, published an article in the daily halfpenny London newspaper the *Echo* condemning Holder’s sentence.

On the same day, Darwin wrote in a postscript to a letter to Cobbe: “I forgot to say that I wrote as J.P: for Kent to Home Secretary, calling his attention to Holder’s case.”<sup>125</sup> The letter to the home secretary does not survive. Surprisingly, Cobbe then published a modified letter from Darwin and addressed it to the editor of the *Echo* (where she was a staff writer from 1868 to 1875):

Sir,

I have read your admirable and most just article on “Even-handed Justice,” [the one by Cobbe] and beg to say that if anyone who sympathises with the case be disposed to open a subscription for the benefit of Stephen Holder, I should be happy to contribute to it £ 1.—

I am, Sir, yours &c.

Charles Darwin

Down, Beckenham, Kent.<sup>126</sup>

The modification was done without Darwin’s knowledge or consent. Darwin’s daughter Henrietta later wrote:

He had written to her expressing strong sympathy with the victims of a supposed case of harshness on the part of his colleagues, the magistrates of our division of Kent. The case had been brought forward in the *Echo*, of which Miss Cobbe was then the editor. Without asking for permission, she changed the opening of this letter from “dear Miss Cobbe” into “Sir,” cut out, without putting marks of omission, all those sentences which would show that it was a private letter to a friend, and then published this travesty of it in the *Echo* above his signature. All

<sup>124</sup> *Daily Telegraph & Courier*, 23 Aug. 1870, p. 3.

<sup>125</sup> Darwin to F. P. Cobbe 20 Aug. [1870], Burkhardt et al eds. 1985-, vol. 18, p. 233.

<sup>126</sup> *The Echo*, 25 Aug. 1870, p. 2.

readers would suppose that my father had addressed it expressly to that paper for publication. He took no steps in the matter, though on further enquiry he found that there had been no harshness, and that there was no miscarriage of justice.<sup>127</sup>

Emma Darwin wrote to Henrietta that her father thought it was “unjustifiable” that Cobbe had done this and that he was depressed to hear that Holder had been previously imprisoned.<sup>128</sup> No evidence has been found that Holder was previously imprisoned and this would seem to be contradicted by the good character granted him by the policeman and his employer.

There was, however, a happy ending for Holder. On 3 September Groombridge wrote again to the *Daily Telegraph & Courier* to report that the Queen herself had remitted the remainder of Holder’s imprisonment in Maidstone County Prison. And Groombridge appended a message from Holder who sent “his best thanks to all who have so kindly interested themselves on his behalf.”

Much more serious was the case of “a miserable looking young woman” of nineteen who attempted suicide by jumping down the well on Farnborough Common in 1859. She was from Hackney and identified as “one of the class of ‘unfortunates’, a euphemism for prostitute. The magistrates took pity on her. She was “discharged with a serious admonition, and was taken at once to the union-house”, the only institution at the time that could care for her.<sup>129</sup>

Previously unknown and of greater relevance to those interested in Charles Darwin was a crime that took place in his village of Down the very day that the *Origin of species* was published. Three labourers were “charged with disorderly and riotous conduct” for causing a riot by “putting a squib under the door” where a public amusement was being held.<sup>130</sup> When Darwin returned to Down from his water cure in Ilkley, he was amongst the magistrates to hear the case. The accused were fined 5s each, inclusive of costs. On 21 December 1859, just as the world was starting to debate his *Origin of species*, Darwin wrote to his friend Joseph Dalton Hooker (1817-1911) about this particular petty session: “I attended the Bench on Monday & was detained in adjudicating some troublesome cases 1 ½ hour longer than usual, & came home utterly knocked up & cannot rally.”<sup>131</sup> The complete

<sup>127</sup> Litchfield 1915, vol. 2, p. 302.

<sup>128</sup> Emma Darwin to H. E. Darwin [18 Aug. 1870], [CUL-DAR219.9.91](#) and Burkhardt et al eds. 1985-, vol. 18, p. 233.

<sup>129</sup> *South Eastern Gazette*, 24 May 1859, p. 4.

<sup>130</sup> *Maidstone Journal and Kentish Advertiser*, 27 Dec. 1859, p. 3.

<sup>131</sup> Burkhardt et al eds. 1985-, vol. 7, p. 441.

press report on these “troublesome cases” is given below.<sup>132</sup>

In 1860 a man was charged with “furious driving” of a horse-drawn cart. Although he pleaded guilty and was charged 10s, the newspaper added about his horse:

if the little fat beast could have been examined in the matter, he would probably have exonerated his master from the charge of furious driving, and taken the blame on himself: it appears he has a great objection to his master being out late at night, and when an opportunity serves, he starts off at a dangerous speed, regardless of police regulations and all efforts to stop him; he is probably encouraged to do this by the kind treatment he receives on arriving home safe with his master.<sup>133</sup>

In 1866, after he had ceased to attend the bench, Darwin wrote to an unnamed local landowner to tell him that “the necks of your horses are badly galled”, that this needed to be attended to and the horses should not be worked in this condition. Darwin wrote that “as a magistrate I must attend to this”, but he crossed this out and softened his wording somewhat, making it more a question of humane treatment of animals rather than his duty or authority. “I must for the sake of humanity attend to this.” He went on, sternly, “A conviction for working Horses with galled necks is easily obtainable, on sufficient evidence being produced”, as he had done with Ainslie in 1852.<sup>134</sup>

### **Fines and jail sentences**

Of the eighty-five cases for which we have found reports, only seven were dismissed. In the fifty-two instances when people were fined, the fines imposed by Darwin and his fellow magistrates ranged from 5s to £5, a very severe penalty for a labourer. Almost half the instances carried a fine of 10s. The total fines imposed came to £45 12s 2d. For readers not familiar with old money, there were 12 pence (*d*) in a shilling and 20 shillings (*s*) in a pound (£). Thus a fine of 40s = £2. Court costs were also generally charged on top of a fine and, although varying from 4s to as much as £1 1s, were almost always 10s or very near.

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<sup>132</sup> *Maidstone Journal and Kentish Advertiser*, 27 Dec. 1859, p. 3.

<sup>133</sup> *Bromley Record*, 1 Oct. 1860, pp. 262-63.

<sup>134</sup> Darwin to a local landowner [1866?], Burkhardt et al eds. 1985-, vol. 14, p. 1. For more on Darwin’s reactions to animal cruelty see [Atkins 1976, pp. 78-84](#) and the unsigned pamphlet he wrote with Emma against the use of cruel animal traps, [E. Darwin & C. Darwin 1863](#). No record of a case involving horses worked with galled necks has been found.

To a modern reader some of the fines seem excessive, especially when the value of the property stolen or damaged was so small. For example, one man was fined 10s plus 10s court costs, i.e. £1 for stealing five turnips worth 6d, or face two weeks in jail if he could not pay. Another man was sentenced to one month's hard labour for stealing 9s worth of potatoes. The magistrates fined a man "40s. and costs 14s., [and] said that there had been a great deal of juggling and disinclination to speak the truth on the matter, and that was the reason the Bench had inflicted full penalty. [He was] Committed [to jail] for one month in default of payment."<sup>135</sup> The accused in this case was the owner of "an unmuzzled and ferocious dog" that seriously mauled a police constable while he was in a pub and bit several others.

Fines had a rough equivalence to jail time and if a convicted person was unable to pay the fine, then a period of jail time would be imposed instead. For example, failure to pay a 10s fine could get one ten days, but, in another case, fourteen. Yet another case saw a 16s fine equal to a month with hard labour. A £2 fine could equal thirty days in some cases and forty-two in others. The longest period of imprisonment handed out while Darwin was on the bench was sixty-three days. In twelve cases the convicted were sentenced to a term in prison with hard labour. These sentences amounted to a total of 14 months and 14 days of hard labour dispensed. Although they were meant to be instruments of impartiality, adjudicating and enforcing the law, magistrates wielded real power, if only on a small scale.

#### **Cases before Darwin and fellow magistrates**

Desertion from the army	1
Assault / Fighting	18
Carriage violations (Speeding, reckless driving / riding without reins)	5
Church rate violations	3
Disorderliness / Drunkenness / Mischief	21
Domestic incidents / Attempted suicide	3
Gambling	1
Licensing (public houses)	3
Poaching	6
Public House violations	4
Theft / Cheating	21
Evasion of tolls / Trespassing / Bad roads	7
Poor rates / Gas rates / Highway rates / Church rates	10
Swearing in of parochial constables	1

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<sup>135</sup> *South Eastern Gazette*, 24 Aug. 1858, p. 5.

### MAGISTRATE DARWIN IN THE NEWS

No records for the petty sessions for Darwin's tenure have been found in the courthouse in Bromley<sup>136</sup> or the National Archives, Kew, so they appear to be lost. However, petty sessions were regularly and thoroughly reported in local newspapers. Combining these published records reveals a surprising and fascinating side of Darwin's life and activities which has never been fully visible or documented. The complete text of each report is given below.

Darwin first attended the petty sessions at Bromley on Monday 21 September 1857. Although not mentioned in his correspondence or his 'Journal', according to *Emma Darwin's diary*, the family seems to have left for a four-day stay at the hydropathic establishment at Moor Park on the 24<sup>th</sup>.<sup>137</sup> Darwin had been taking the 'water cure' there since April and he was convinced that being slapped with wet towels and having an explosive high-pressure gravity shower (a douche) blast him with cold water made him feel better.<sup>138</sup> Maybe the family wanted to get away from building work on the house. Isaac Laslett (1830-1887), general builder and bricklayer in Down, was making a new dining room (later the drawing room) with two bedrooms above it on the north end of the house.

A few days after Darwin returned from Moor Park he completed drafting chapters 7 and 8 on the "Laws of variation: varieties and species compared" and "Difficulties on the theory of natural selection in relation to passages from form to form" of his so-called big book on his theory of evolution.<sup>139</sup> He was getting closer

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<sup>136</sup> The Bromley, London Borough of Bromley Archives Historic Collections retains the Bromley Petty Sessions, court minutes and registers for 1747-1831 and 1890-1940 and another series 189-1984.

<sup>137</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

<sup>138</sup> See Whincup in press.

<sup>139</sup> The portions of this so-called big book which were left unpublished by Darwin were edited and published by R. C. Stauffer as *Natural selection*, [Stauffer 1975](#). As for the phrase 'big book', see van Helvert & van Wyhe 2021, p. 26: "This term is used very often in the literature on CD for his unpublished work-in-progress on his theory of evolution interrupted by Wallace in 1858. Although constantly quoted, a source is never given. There are even misquotations such as "Big Species Book" in Glick & Kohn, *On evolution*, 1996, p. xvi, a phrase CD never used, despite the quotation marks. There seem to be only two sources. CD to W.D. Fox 3 Oct. [1856] "I find to my sorrow it will run to quite a big Book." CCD6:238 and CD to Lyell 10 Nov. [1856] "my big Book". CCD6:256. CD later used the

and closer to completing the book on his theory of evolution, the culmination of twenty years of research and experimentation.

***South Eastern Gazette, 29 September 1857, p. 5.***

BROMLEY. PETTY SESSIONS, MONDAY. [21 September] (Before Viscount Sydney, R. B. Berens, Esq., Col. Cator, J. J. Wells and C. R. Darwin, Eqrs.)

This was the adjourned day of the annual licensing meeting of the Bromley Division.<sup>140</sup> The renewal of licence of the King's Arms at Leavers-green was refused, on the ground of the improper manner in which the house had been conducted. The license of the Harrow, at Knoltholt, was transferred from Mrs. Martin to Mr. Henry Whitehead.

Smith v. Wood, sen. and jun. Complainant, who is the well-known sheep salesman, charged the defendants with having violently assaulted him at Southborough, on the 8th September, and defendants were each convicted in the penalty of 20s. and costs.

Gregory v. Wood, sen. This case arose out of the last, in which the complainant, Mr. Smith, had called Gregory to his assistance. Fined 20s. and costs.

Handley, Superintendent K.C.C.,<sup>141</sup> v. Jackson. This was a complaint against the defendant, the driver of a carriage on the highway at Green-street-green, Chelsfield, for riding without reins. Fined £1 and costs.

Darwin next attended the bench at The White Lion Inn on 16 November 1857. One of the cases was a man charged with stealing five turnips worth only 6*d*. For this he was fined 10*s* and costs or "be committed for fourteen days". Darwin had returned home from Moor Park four days before and continued working on his chapter on hybridism. After the petty sessions he took the train to London where he returned some books borrowed from his friend Joseph Dalton Hooker relevant to his interest in whether or not species vary more in large genera. He was convinced that they did. This was all adding to his vast and varied evidence that living things have changed over geological time and that their present distribution and numbers were clues to this fact. Only in this way could the living world be explained. With his mind on life in aeons past and the multitudes of millions of species alive today, he performed another one of his abrupt shifts of focus and returned to the bench for

phrase to refer to *Variation*, which was by far his longest book."

<sup>140</sup> Alehouse keepers were usually licensed in September.

<sup>141</sup> KCC stands for the Kent County Constabulary which was established on 14 January 1857 with a force of 222 constables under Chief Constable John Henry Hay Ruxton. In the petty sessions reports the constables are referred to by their number such as 313 R.

more mundane matters.

***South Eastern Gazette, 24 November 1857, p. 4.***

The petty sessions were held at Locksbottom, on Monday [16 November], before G. W. Norman, Esq., in the chair, Colonel Cator, and R. B. Berens, C. Darwin, W. F. Lewin [F. M. Lewin], and J. Wells, Esqrs.

William Inkpen was charged with stealing from Mr. Mile's turnip field, at Cudham, five turnips, value 6d. Fined 10s. and costs, or to be committed for fourteen days.

Edward Burrows was charged with having in his possession, at Plaistow, in his parish, on the previous Sunday, a quantity of turnips and some wood, for the possession of which he could not satisfactorily account. Fined 10s. 6d. and costs.

James Wyatt was charged with stealing a quantity of potatoes at St. Mary Cray, on the preceding day. The prisoner was found by the police-sergeant of the district in Mr. Spearing's garden, with a well-filled bag. One month's hard labour.

Charlotte Mills, an inmate of the Union-house, was committed for 14 days, for assaulting Charlotte Steer, also an inmate, on the 12th inst.



The Bromley Union workhouse in 1908. Photograph: Peter Higginbotham / [workhouses.org.uk](http://workhouses.org.uk).

In January 1858 Darwin was working on his chapter on instinct. On the 15<sup>th</sup> his brother-in-law Josiah Wedgwood [III] and sister Caroline came to stay at Down House for five days.<sup>142</sup> Three days later, on the 18<sup>th</sup>, Darwin attended the petty

<sup>142</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

sessions in Locksbottom again. Two reports are given below.

***Kentish Mercury, 23 January 1858, p. 5.***

FARNBOROUGH. PETTY SESSIONS, MONDAY [18 January]. (Before G. W. Norman, Esq., and T. Darwin, Esq.) [sic]

CONVICTIONS OF NOTORIOUS POACHERS. Charles Taylor, of Beckenham, and who has often been convicted of poaching, was again charged on summons with his old offence. From the evidence of Abel Smith, of Keston, it appeared that he found the defendant in his woods at Keston, having just previously sent a ferret into a hole. He asked the defendant what he was doing, on which he replied he was only catching a rabbit. Witness said he would then have the ferret, on which defendant took up a spud (a three-prong fork) and threatened him if he attempted to do so, and then ran off. The defendant, in default of paying a penalty of 30s. was committed to Maidstone jail for six weeks.

Alfred Chandler, another noted character of Beckenham, was charged on a summons for the eighth time with poaching. The defendant was seen by Mr. Fossey, keeper to Chas. Goodhart, Esq., of Beckenham, beating about his master's wood, and on searching the place two nets were found to have been recently set, one of which contained a cock pheasant. The defendant, finding he was detected, struck the keeper a most violent blow, occasioning a blackened and considerably bruised eye.

The Bench inflicted a penalty of 40s. for the poaching, and 20s. for the assault; and in default of payment six weeks and three weeks imprisonment respectively. The defendant was also conveyed to jail.

***South Eastern Gazette, 26 January 1858, p. 4.***

PETTY SESSIONS [18 January]. (Before G. W. Norman, Esq., chairman, and C. R. Darwin, Esq.)

Alfred Chandler, a notorious poacher, was charged on an information with trespassing on the lands of J. Caird, Esq., at Beckenham, in search of game and conies. Wm. Fossey, gamekeeper to C. Goodhart, Esq., of Langley Park, stated that on the 12 inst. he saw the defendant "beating up the wood," and that near to the spot where he saw the defendant he found two nets, in one of which was a cock pheasant.

The magistrates considered the case proved, and a list of six or seven previous convictions against the defendant having been handed in, he was fined in the full penalty of £2 and costs, and in default committed for six weeks' hard labour.

Chandler was next charged with an assault, arising out of the last case. Henry Heath, gardener to C. Goodhart, Esq., having directed by Fossey to stop the defendant on his master's land, did so, and in consequence of his refusal to allow Chandler to go until the gamekeeper came up, received a violent blow on the eye from that irate person. – Fined £1 and 9s. costs; committed in default.

On 13 February 1858 Emma Darwin recorded in her diary that their son



Leonard was “not quite well”.<sup>143</sup> Two days later his father would again attend the petty sessions at Locksbottom. The following day Darwin, Emma and their daughter Henrietta went up to London where the latter had a tooth extracted by dentist Dr. James Robinson (1813-1862).<sup>144</sup> In the evening her parents attended a concert at St Martins. On the 17<sup>th</sup> the rest of the children joined them. The following day, Darwin attended a meeting of the Philosophical Club of the Royal Society. The family returned to Down on the 20<sup>th</sup>.

***South Eastern Gazette, 23 February 1858, pp. 4-5.***

BROMLEY. The Petty Sessions for this division were held at Locksbottom on Monday [15 February], before J. Chapman, Esq., chairman, R. B. Berens, C. Darwin, and F. Wilson, Esqrs.

Mr. James Riddell, of Chelsfield, was summoned by the churchwarden of Farnborough for a church-rate, amounting to 12s. 10d. It appeared that the defendant refused to pay the rate because he could not have a seat in Farnborough church for himself, although he resided in the parish of Chelsfield. He, however, paid the rate at once, and 4s. costs in addition.

Several persons in the parish of Bromley were summoned for poor-rates and orders were made for payment in a week.

A SEXTON IN TROUBLE. George James was charged with stealing a piece of wood, value 2d., from the churchyard at Chislehurst, the property of the churchwardens. It appeared that the church tower, which was burnt some time ago, had been restored, and that certain articles had of necessity to be left in the churchyard. In consequence of a great deal of valuable property being missed, information was given to the police, and a watch was set.

At about half-past eight on the previous Wednesday evening, the prisoner, who has been employed as a sexton, &c., for more than twenty years, was seen to leave the church-yard with a piece of wood which had formed part of the flooring of the old tower.

The bench considered that the prisoner being in trust made it an aggravation of the offence, but, from the representation of the churchwardens, ordered the prisoner to be imprisoned for one month without hard labour.

<sup>143</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

<sup>144</sup> On Darwin's dentists see [Hayman & van Wyhe 2018](#).



Market place, Bromley. Edward Strong, *History of Bromley*, 1858.

On 9 March 1858 Darwin finished his chapter on instinct. On the 15<sup>th</sup> he received a long letter from his friend Hooker. Darwin would reply the following day. That same day he would also attend the bench at Bromley again.

***South Eastern Gazette*, 23 March 1858, p. 5.**

BROMLEY. PETTY SESSIONS, MONDAY [15 March]. (Before G. W. Norman, Esq., chairman, and C. R. Darwin, Esq.)

A poor-rate of 1s in the £ was signed for the parish of Chislehurst, and a district gas rate for the parish of Bromley.

Oliver Ribbons was charged with stealing about three bushels of potatoes, value 9s., the property of Mr. Allen, farmer, North Cray. Mr. Allen's bailiff stated that about a week ago he missed potatoes from a clamp in the field.

On the previous Friday night he marked one of the clamps, and early on the following morning he discovered that some one had been to the potatoes. He saw footmarks and went into a plantation, where he found the tracks of a wheelbarrow, which he followed to the turnpike-gate, and shortly after he overtook the prisoner on the road to Paul's Cray, with the potatoes in a barrow. Prisoner pleaded guilty, and Mr. Clement, the bailiff, said that his master wished the law to take its course; and it was not the first time the prisoner had taken potatoes; he had sold them about the place. The Chairman said that it seemed a very bad case, and therefore they would sentence him to one month's hard labour, and they hoped it would be a lesson towards him.

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Darwin next attended the petty sessions on 19 April 1858. At this time he was continuing his work on species in large and small genera as well as his principle of divergence. That day "Allen" came to stay with the Darwins, presumably Johnny

Allen (1818-1868), son of Uncle John H. Allen (1769-1843).<sup>145</sup> The following day, Darwin headed alone to Moor Park for his hydropathic treatment although he took his work with him and corrected the 6<sup>th</sup> chapter of his big book.

***South Eastern Gazette, 27 April 1858, p. 4.***

BROMLEY. PETTY SESSIONS [19 April], (Before J. Chapman, Esq., chairman, G. W. Norman, R. B., Berens, C. R. Darwin, and J. Jackson, Esqrs.)

ASSAULT ON A POLICE-CONSTABLE. Richard Martin, late of Knockholt and now of London, was charged with assaulting George Mannering, of the Kent County Constabulary, at Chelsfield, on the 8th inst. Defendant said that he was on the road on the night in question, and that the complainant suddenly turned his "Bull's-eye" upon him, which alarmed him, and he simply pushed the complainant away. Sergeant Jenner, K.C.C., however, stated that the defendant admitted that he had struck Mannering, although at first he denied having done so. Fined 1s., costs £1 1s; a week allowed for payment.

John Everest and William Bristow were severally charged with having stolen part of a fence, the property of their master, Joseph Jackson, Esq., of Orpington. The case was proved by James Richards. Fined £1 and costs.

ALLEGED ASSAULT AT KNOCKHOLT. Charles Gant, of Knockholt, was charged with assaulting Mary Ann Staples, on the 26th March. From the evidence of the complainant it appeared that she went to Mr. Holmes to receive some money which was due to her, but on arriving there, Mr. Holmes refused to pay her, and ordered the defendant to put her out of the house, in doing which the complainant alleged the defendant had used much violence, which was the assault complained of. The defence was that the complainant was the first offender in the fray, and a witness was called, who proved that the complainant struck the first blow. Case dismissed.

HEARTLESS CASE. Ellen Stevens and Catherine Morgan were charged by John Last, a baker living at St. Mary Cray, with using abusive language towards him on the High-road, on the 14th inst. In answer to the charge the defendants denied having committed the offence, and called Jane Thompson to prove that the complainant was the aggressor, and it appearing that Stevens had had a child by the complainant, whereby as she stated she had been brought to utter ruin, the magistrates severely rebuked the complainant for his heartless conduct, and dismissed the case, leaving him to pay the costs.

CHURCH RATES. The Rev. Robert Ainslie, of Down, was summoned by the churchwardens of that parish for £4 7s. 41/2d., the amount of a church-rate due to the parish. Mr. Ainslie addressed the magistrates from a written paper, in which he complained that an inspection of the vestry minutes book and church-rate book of the parish had been denied him; and he disputed the validity of the rate, of which he had given the churchwarden due notice, and a copy of the notice was produced.

Mr. Ainslie still disputing the validity of the rate, an arrangement was come to, by which the churchwardens will call a vestry meeting to consider the subject, and they

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<sup>145</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

will be guided by the decision of the meeting in any further steps it may be necessary to take.

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Darwin returned from Moor Park on 4 May. His next appointment as magistrate was the 17<sup>th</sup>. On the same day his sister Susan arrived to stay and his son George left for Clapham Grammar School. Darwin's health had continued to be troublesome. The following day he wrote to his former *Beagle* servant Syms Covington in Australia:

I have for some years been preparing a work for publication which I commenced 20 years ago, and for which I sometimes find extracts in your handwriting! This work will be my biggest; it treats on the origin of varieties of our domestic animals and plants, and on the origin of species in a state of nature. I have to discuss every branch of natural history, and the work is beyond my strength and tries me sorely. I have just returned from staying a fortnight at a water-cure establishment, where I bathe thrice a day, and loiter about all day long doing nothing, and for the time it does me wonderful good.<sup>146</sup>

Once again Darwin referred to his species book as the conclusion of a project begun long before (not one put aside for any reason) and its size and scope were very demanding and exhausting, not stress over what people would say. He never said or even alluded to delaying or holding back his theory. He also never suggested that anticipated negative reactions in any way deterred him or held him back. In fact he said quite the opposite, as he wrote to Hooker in 1845 "though I shall get more kicks than half-pennies, I will, life serving, attempt my work."<sup>147</sup> Although these ideas of a frightened and delaying Darwin have become so widespread, they first appeared in the writings of mid-twentieth century authors preoccupied with Freudian interpretations and are absent from the original sources.<sup>148</sup>

***South Eastern Gazette, 25 May 1858, p. 4.***

BROMLEY. At the Petty Sessions [17 May] at Locksbottom, on Monday, before G. W. Norman and C. R. Darwin, Esqrs., James Gregory, of Hayes, was charged on the information of James Johnson, an ex P. C. [police constable], with having, on the 9th inst., broken a fence, the property of John Dudin, Esq., of Hayes. The defendant pleaded guilty, but inasmuch as the damage done to the fence appeared to have been rather the result of accident than design, the case was dismissed on payment of the

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<sup>146</sup> Darwin to Syms Covington 18 May [1858], Burkhardt et al eds. 1985-, vol. 7, p. 95.

<sup>147</sup> Darwin to J. D. Hooker, [10 Sept. 1845], *Ibid.*, vol. 3, pp. 252-253.

<sup>148</sup> See [van Wyhe 2007](#) and van Wyhe 2013, chapter 10.

costs.

PAROCHIAL CONSTABLES. George Alwen and John Ancell, the parochial constables of Cudham, attended to be sworn in. It appeared that the handcuffs and staves which had originally been in use by them had, by an order of General Session, been taken by the constables of the county constabulary but as the parochial constables may still be required to act in cases where the production of the insignia of office might be of very important service, the magistrates directed the clerk to communicate with the Court of General Session on the subject.

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On 14 June 1858 Darwin commenced his chapter on pigeons, the culmination of so much research including breeding all the pigeon varieties he could acquire. On 18 June Henrietta came down with scarlet fever and would remain seriously ill for some time. On that same day Darwin received the famous letter and essay by Alfred Russel Wallace (1823-1913) outlining a strikingly similar theory of evolution by natural selection.<sup>149</sup> As requested by Wallace, Darwin forwarded the essay to his friend, the geologist Charles Lyell (1797-1875). As is well known, this historic convergence of the thinking of Darwin and Wallace would culminate in the reading of theoretical writings by both men at a meeting of the Linnean Society of London on 1 July. The papers were published together in the Society's journal on 20 August.<sup>150</sup> These papers had very little effect and, in fact, as far as is known from the

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<sup>149</sup> This date of receipt, for decades disputed and even dismissed, particularly by conspiracy theorists, is validated in [van Wyhe & Rookmaaker 2012](#). See also van Wyhe 2013, pp. 221-227 and p. 358, note 692 which disproves the claim that the mail connection route published in van Wyhe & Rookmaaker 2012 did not connect on that occasion between Batavia and Singapore. The Singapore *Straits Times* of 8 May 1858, p. 2, reported on the *Sourabaya Cour* of 17 April, a newspaper that could only have been carried on the same ship as the mail from the Moluccas with Wallace's letter. This proves that the mails (including Wallace's letter) were not withheld in Batavia for a later mail ship (an astonishing suggestion that mail bags would be thrown off the ship about to proceed to Singapore to await the following mail ship. All fortuitously faster mail connections were routinely taken advantage of throughout the century).

<sup>150</sup> There has been much confusion about whether it is correct to refer to a 'joint paper' or 'papers' etc. The wording depends on whether one is referring more to the original manuscripts or the printed publication. Obviously Darwin and Wallace composed separate, autonomous, hand-written documents that were in no way a jointly composed piece. These could be referred to as their respective "papers". However, bibliographically speaking, the pages 45-50 of volume 3 of the *Journal of the Proceedings of the Linnean Society of London. Zoology*, constitute a single co-authored article in this publication.

surviving evidence, were too brief to make a single convert.

Some might point to the words of ornithologist Alfred Newton (1829-1907) who, thirty years later, in 1888, recalled how he reacted to the Darwin-Wallace Linnean publication feeling convinced of its revolutionary truth:

I sat up late that night to read it; and never shall I forget the impression it made upon me. Herein was contained a perfectly simple solution of all the difficulties which had been troubling me for months past. I hardly know whether I at first felt more vexed at the solution not having occurred to me, than pleased that it had been found at all. However, after reading these papers more than once, I went to bed satisfied that a solution had been found. All personal feeling apart, it came to me like the direct revelation of a higher power; and I awoke next morning with the consciousness that there was an end of all the mystery in the simple phrase, "Natural Selection."<sup>151</sup>

However, in 1858 itself, Newton wrote: "I am not quite sure that I altogether agree with them [Darwin and Wallace], but there is very much in it that is very good, and most of the ideas propounded are original."<sup>152</sup> And even after reading the *Origin of species*, Newton wrote to the same friend in March 1860 "The more I read it the more I am inclined to believe in it." How could he be "inclined to believe" by the *Origin of species* if he had been converted by the 1858 paper? We must always be cautious in trusting too much to later recollections. In later years the event would be imbued with such enormous historical significance and gravitas that 'memories' came to reflect this.

The reading and publication would prompt friends and colleagues to encourage Darwin to publish a shorter overview of his theory of evolution rather than make them wait for him to complete the big book. The shorter overview, what Darwin called "an abstract" was published in November 1859 as the *Origin of species*. Virtually every writer in recent times who mentions this episode says that Darwin "rushed" this work after the Linnean meeting— almost always this word. Despite this having become the received version of the story, Darwin in fact spent thirteen months condensing his larger work into a single volume. He did not "rush" it.

Three days after receiving Wallace's letter and before Lyell had bothered to reply, Darwin was back on the bench as magistrate. June 1858 was eventful but also tragic. The Darwin's tenth and last child, eighteen-month-old Charles Waring, fell ill with

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<sup>151</sup> Newton 1888, p. 244.

<sup>152</sup> Newton to Tristram 24 August 1858 in Wollaston 1921, p. 115. Quoted in Smith 2014. With thanks to Jim Secord.

scarlet fever on the 23<sup>rd</sup> and died on 28 June 1858. Darwin penned a private memorial to affectionately and mournfully record details of his dead son.<sup>153</sup>

***South Eastern Gazette, 29 June 1858, p. 4.***

BROMLEY. PETTY SESSIONS, MONDAY [21 June]. (Before G. W. Norman, Esq., chairman, J. J. Wells, J. Jackson, and C. R. Darwin, Esqrs.)

Johanne Spellard, a blind Irishwoman, was charged with tearing up her clothes in the Bromley Union. The prisoner, in defence, said she was ashamed to go about in her old clothes, and she did tear them, but she was very “tossicated” at the time. One month’s hard labour.

James Gray, of Bromley-common, was charged with turning cattle loose on the high road, on the 13th inst. The defendant did not appear until some time after the case was decided, and in his absence the service of the summons and the information was proved by police-constable 73 (R.) who stated that there were four calves and three heifers grazing on the road. Fined 10s., and costs 10s.

Poor rates were signed for the parishes of Hayes and Keston.

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From 9 July to 12 August 1858 the Darwins were away, for most of it on holiday on the Isle of Wight. This was prompted by a desire to escape the scarlet fever that was then ravaging the district. Six children died in the village of Down. As he was away, Darwin did not attend that month’s petty sessions which were conducted by George Warde Norman and Col. Cator. It was during this time on the Isle of Wight that Darwin began to draft what would become the *Origin of species*. After returning to Down in August, Darwin attended the petty sessions in Bromley on the 16<sup>th</sup>. The next day he recorded in his ‘Journal’: Aug 17<sup>th</sup>. recommenced skeleton & Pigeon M.S.”<sup>154</sup>

***South Eastern Gazette, 24 August 1858, p. 5.***

BROMLEY. PETTY SESSIONS, AUG. 16. (Before R. B. Berens, Esq., chairman, C. R. Darwin, Esq., J. Jackson, Esq., and Col. Cator)

George Laslett was charged with suffering an unmuzzled and ferocious dog to be at large, on the 16th August, at Orpington, by which several persons were bitten. Joseph Beeson, a constable in the Metropolitan police, stationed at Orpington, stated that on the above day he was in the Coach and Horses, and the defendant’s father was there with the dog. He (Beeson) played with the dog for a short time, after which it caught his hand in its mouth biting it severely, and fixing its teeth in his breast, as if it was attempting to get at his throat. He got his hand away, but the dog again flew at

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<sup>153</sup> van Wyhe ed. 2015.

<sup>154</sup> van Wyhe ed. 2006. Darwin’s ‘Journal’.

him, and bit him through the right hand.

A medical certificate was put in, stating that Beeson was suffering from laceration of both hands, and he was still unfit for duty. A boy was also called, who proved that on the day in question the dog flew at him and tore his shirt. The defendant and his father both denied the ownership of the dog, but stated that they did not know to whom the dog belonged, as it was sold. Witnesses proved the biting of the policeman, and also that the dog was as ferocious as had been described, and Mr. Jackson added that the dog had jumped over his gates twice and had bitten his servants. The only defense was that the dog would not have bitten any one who did not touch him, and that it was not the defendants' dog.

The Chairman, in inflicting a penalty of 40s. and costs 14s., said that there had been a great deal of juggling and disinclination to speak the truth on the matter, and that was the reason the Bench had inflicted full penalty. Committed for one month in default of payment.

Thomas Elgar, in the employ of Mr. Park, a fruit-grower at Bexley, was charged with riding without reins at Bexley, on the 7th August, and the case being proved, the defendant, in reply to Mr. Jackson, said that he had been up for nine consecutive nights, to which the worthy magistrate replied that there was really no crime in it, and he could not understand how a man could send a lad so often; he never sent a man more than two nights running.

The other magistrates, however, were of opinion there was a crime, and inflicted a penalty of 1s. and 10s. costs, but thought the money should be paid by the employer.

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The Coach and Horses, Beckenham, by E. M. Clark, where Constable Beeson was attacked by a dog.  
© V&A collections.

In mid-September 1858 Darwin recorded of his work “Recommended Abstract. Sect III & IV” just two days after a visit from his friend the pigeon expert William Bernhard Tegetmeier (1816-1912).<sup>155</sup> The Darwins daughter Elizabeth was again unwell as Emma methodically recorded the ebb and flow of the health of the family in her diary.<sup>156</sup> On the 20<sup>th</sup> Darwin returned to his duties as a magistrate in Bromley.

***South Eastern Gazette, 28 September 1858, p. 4.***

BROMLEY. PETTY SESSIONS, MONDAY [20 September]. (Before G. W. Norman, Esq., chairman, and R. B. Berens and C. Darwin, Esqrs.)

Peter Tibbs, a carpenter residing at St. Mary Cray, was charged with indecently assaulting Julia Spooner, a married woman, shortly after midnight on the 4th instant. The husband, who was a short distance behind his wife hearing her cry out, came up and knocked Tibbs down. The complainant admitted that no proceedings would have been taken against defendant had he not stated that he would pull her husband for

<sup>155</sup> van Wyhe ed. 2006. *Darwin’s ‘Journal’* and Burkhardt et al eds. 1985-, vol. 7, p. 160.

<sup>156</sup> Chua and van Wyhe eds. *Emma Darwin’s diary*.

striking him. Defendant, in answer to the charge, said it was totally false; he was going home, when he saw a woman, who was drunk, and he said "Good night" out of curiosity; no sooner, however, had he done so, than the complainant used vile language, and then accused him of the above offence, and on her husband coming along, they both fell on him like tigers, and he had not been able to eat since.

It was stated that the defendant was convicted of a similar offence twelve months ago, and Mr. Berens remarked that that appeared to be rather his habit of conducting himself. Fined £1. with 12s. costs, or a fortnight's imprisonment.

Mr. Berens read an extract from a recent Act, showing that if it were proved he had committed an assault upon any woman, he was liable to be committed for six calendar months; as he had already been before them twice, a third offence would be visited with a very severe punishment.

A spirit licence was granted to Mr. James Kemp, of the Wheatsheaf, West Wickham.

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At the start of October 1858 Darwin began his section (later chapter) V "on Laws of Variation" of *Origin of species*. Ten days later, on the 18<sup>th</sup>, he was again on the bench in Bromley adjudicating on poachers. The following day he visited London where he met his old friend and fellow naturalist Hugh Falconer (1808-1865). He was one of the more than fifty people whom we know for certain was told about Darwin's belief in evolution in the long years before he published his views.<sup>157</sup> A week later Darwin returned to Moor Park for a week.

***South Eastern Gazette, 26 October 1858, p. 4.***

BROMLEY. PETTY SESSIONS, Oct. 18. (Before G. W. Norman, Esq., chairman, C. R. Darwin and R. B. Berens, Esqrs.)

POACHING CASE. James Inglefield was charged with trespassing on lands at St. Mary Cray, on the 10th inst., over which Mr. Berens has the right of sport, in search of game. Mr. Berens retired from the bench during the hearing of the case.

William Clements stated that on Sunday morning, about eight o'clock, he heard the report of a gun, and on looking he saw a partridge fall, which had been shot. In about four minutes the defendant came along and picked up the bird, but he had no gun. The keeper did not search the defendant, but he subsequently admitted that he had put the bird into his pocket. Inglefield, in defence, said that he was going across the fields for some turnips for his dinner when he heard a shot, and in a few minutes a partridge flew over his head and fell to the ground. He took it up, as he thought there was no harm in it. Fined 9s. 6d. and 10s. 6d. costs.

GAMEKEEPERS AT VARIANCE. William Cook, a gamekeeper in the employ of Mr. Skeggs, of Chelsfield, appeared to answer a charge laid against him for

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<sup>157</sup> A list of c.40 people was published in [van Wyhe 2007](#). This was increased to c.60 people in [van Wyhe 2013](#), pp. 250-251.

committing a trespass on the 20th September, on land in the occupation of Mr. George Veale, at Chelsfield, over which Mr. Norton, of Knockholt, has the right of shooting. Barret, keeper to Mr. Norton, said that he was at Claygate farm on the 20th September, and heard the defendant, who was in his own cover, call to the dogs; they came into Mr. Veale's field and pointed, and the defendant shot a partridge, picked it up, and put it in his pocket. The defendant said that he shot the bird from the cover, and only went off his own shooting to pick up the bird. He subsequently admitted, however, that he shot the bird on the land over which Mr. Norton had the right of shooting. Fined 11s. and 9s. costs.

**BEER-HOUSE INFORMATION.** John Gilbert, a beerhouse keeper at Bexley, was charged by the metropolitan police with having his house open for the sale of beer at ten minutes past twelve on the night of the 6th inst. It appearing that he had been cautioned on the previous Sunday, when seven persons were seen leaving his back premises, he was fined 11s. and 9s. costs, and told by the chairman that if brought before them again, a much heavier penalty would be inflicted.

Ann Spooner was charged with stealing, on the 13 inst., at St. Mary Cray, some potatoes, value 2d., the property of Mr. Bath, of Crocken-hill Eynsford. Mr. Bath saw the defendant in the field picking the potatoes out of the ground with her hands. The prisoner, who was committed in June last for stealing from a shop, was now committed for fourteen days' hard labour. In reply to the chairman, who warned her of her proceedings, she said she was a married woman and the mother of 19 children.

Joanna Connor and Elizabeth Connor, who were evidently mother and daughter, and Irishwomen, were charged with stealing potatoes from complainant in the last case, by whom they were employed. Police-constable Twyman stated that as he was going to serve the summons on the defendant in the last case, he passed the two women, and on his asking them what they had in the baskets they were carrying, they said they had nothing. On the baskets being examined, however, there appeared a great quantity of potatoes. There being no actual proof that the potatoes were taken from Mr. Bath's field, the case was taken under the Metropolitan Act, for having property in their possession for which they could not account, and they were fined 2s. 6d. each, with costs to the amount of 2s. 3d. each, which they paid.

Darwin returned from Moor Park on 1 November 1858. No reports for petty sessions on the 15<sup>th</sup> have been found. He did not attend the sessions on the 22<sup>nd</sup> which were presided over by Col. Long and F. M. Lewin. During the rest of the month Darwin was working steadily away at his discussion of "instinct" which would be chapter VII of *Origin of species*.

In his 9 December letter to William, who was then at Christ's College, Cambridge, Darwin wrote: "On Monday 20th I have to attend Magistrates meeting & Georgy comes home, so will you sleep that night in London & bring Etty home

next day.”<sup>158</sup> By 11 December Darwin had commenced his tenth chapter, on “the geological succession of organic beings”, something that had intrigued him as far back as the voyage of the *Beagle* when he had discovered the remains of ancient extinct mammals strikingly like mammals that lived exclusively in the same territory today. On the 20<sup>th</sup> his thinking was again interrupted by assessing cases which might have seemed petty indeed to the magistrate who was composing a book that would become an instant international sensation and, to some, scandalous. Three different reports are given below of the same petty sessions because each report provides different details.

***Maidstone Journal and Kentish Advertiser, 25 December 1858, p. 6.***

BROMLEY. MONDAY, DEC. 20. Present: G. W. Norman, Esq., and C. R. Darwin, Esq.

An information was preferred by Superintendent Coleman, of the K.C.C. [Kent County Constabulary], against Joseph Comfort, landlord of the Crown, at Knockholt, for harbouring police constables at a time when they should be on duty. The Superintendent stated that he visited the defendant’s house at about a quarter to ten on the evening of the 17th of November, and saw police-constables Wilmot and Mannering. They were standing up. He believed they had been there ten minutes.

The defendant stated he was not aware the men were on duty. They had been in the house but a few minutes, and he was not at all aware that he had committed an offence.

The Bench decided not to convict in the present instance, but thought it desirable that the superintendent should give the innkeepers within his district notice that by allowing constables to remain in their house at the time when they should be on duty they would be committing a breach of the law.

<sup>158</sup> Burkhardt et al eds. 1985-, vol. 7, p. 235.



St. Mary Cray, a village about 10km northeast of Down. Site of some of the cases brought before Darwin and fellow magistrates. Bromley Borough Local History Society.

***South Eastern Gazette, 28 December 1858, p. 4.***

**BROMLEY. PETTY SESSIONS, MONDAY [20 December].** (Before G. W. Norman and C. R. Darwin, Esqrs.)

Eliza Darling, married woman, was charged with damaging a fence at Cudham, the property of Mary Solomon. Henry Solomon, the son, said that on the afternoon of the 11th instant he saw the defendant on the way side, pulling stakes out of the hedge. She went across to Mr. Taylor's hedge, but not being able to do anything there, on account of its strength, she returned and pulled out more stakes. The damage done was 4s. or 5s., at the least.

Defendant – It is all false; I was not pulling stakes at all. He has a great spite against me. The witness Solomon then called a lad to corroborate his statement, but as he could neither read nor write, and did not know the meaning of an oath, Mr. Norman said it was impossible to swear him. Defendant, however, was ordered to pay the damage, 4s., and 9s. costs; Mr. Norman observing that a great deal of mischief was done in that way about Cudham.

**IMPORTANT TO PUBLICANS. HARBOURING POLICE-CONSTABLES WHEN ON DUTY.** Mr. Joseph Comfort, of the Crown public-house, Knockholt, pleaded not guilty to a charge of harbouring two police-constables of the Kent County Constabulary, at Knockholt, on the 17th November. George Colman, superintendent of police for the Sevenoaks division, said that at about a quarter before ten on the night in question he visited the Crown public-house, and found two constables of the Kent constabulary in the bar parlour. The constables were at the time equipped for night duty. He spoke to the defendant, and told him he was liable to be fined, and the reply was that he was not aware of it, and the men had only been in a few minutes, and had not touched the beer he had drawn for them.

By the Bench – He preferred the complaint by instructions from the Chief Constable. He had never told Mr. Comfort he was liable to be fined, and he believed he was quite ignorant that he was committing any offence. The house was a very respectable one, and well kept. Defendant said that he thought it no more harm to draw the constable a glass of beer than any one else. He did not know the men were on duty. Under the circumstances, the Chairman observed they would inflict no penalty, but, of course, he would take care not to do the thing again. It was the first case of the kind ever brought before them, and it would be desirable for the superintendent to let the publicans know.

ALLEGED EVASION OF TOLL. Mr. Charles Sawyers, of Down, was charged with passing over certain lands in the occupation of Mr. Thomas Wheatley and Abraham Smith, for the purpose of evading the toll on the Westerham Trust. John Jackson, a labourer employed on the road, said that on the morning of the 26th October he saw the defendant's cart and horse pass down Shot's Lands, in the occupation of Mr. Smith, to evade the toll. He came off Mr. Wheatley's lands on to Mr. Smith's, through which there was no public thoroughfare.

It appeared that on Mr. Wheatley's farm there was a land-way from the house to a road extending over 48 acres, the latter joining a road on one of Mr. Smith's fields, which led into the high road, and over which Mr. Wheatley had a right of way; but Mr. Sanderson said it was used by a great many to evade the toll, and they wished to put a stop to it. The information, however, being taken out against the wrong person, Mr. Sawyer's man having been with the cart at the time, the case was dismissed.

OBTAINING GOODS UNDER FALSE PRETENCES. Alphonso Butcher, the son of a respectable builder residing at Hayes, was charged with obtaining a piece of bacon, value 7s. 2d., from Mr. Isaac Wridge, a grocer at Bromley, under false pretences. The prosecutor stated that on the evening of the 13th inst. the prisoner came in to his shop with a written order, purporting to be signed by Mrs. S. Butcher, of Hayes (prisoner's step-mother,) for a piece of bacon. The order was as follows:

“Sir, please to send by the bearer a nice ham; send the weight with it and the bill, and I will send the money back in the morning by the bearer.

Yours, &c., S Butler”

In consequence of that order, he supplied him with a cushion of bacon, or ham. Had received orders from Mrs. Butcher before signed in a similar way. The note was enclosed, and prisoner said he had brought it from his father's. Witness sent the bill for the money on Friday morning, and the answer brought back was that they know nothing of it. Sergeant Kent, of the Metropolitan police, stationed at Bromley, said that he apprehended the prisoner at his own house on the previous night. Prisoner denied all knowledge of the prosecutor, but at last said that he had been at work for his father, who owed him some money, and he had given him permission to get a piece of meat. The prisoner was remanded.

(The prisoner Butcher was taken before R. Boyd, Esq., at the magistrates' clerk office on Wednesday, when, the case against him being completed, he was committed for trial at the next Quarter Sessions, bail being accepted for his appearance)

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“Magistrate. ‘Do you know the nature of an oath, my boy?’

Witness (promptly). ‘Yess, Sir. ‘Must take it, Sir—’relse I can’t be ‘Memb’r o’ Parl’ment, Sir!’” *Punch*, 11 Mar. 1882.

As the new year 1859 opened, Darwin continued to progress with his book. On 15 January he began to work on his discussion of geographical distribution (Chapters XI and XII). Two days later he was again serving as magistrate, this time meeting at Chelsfield, 10km northeast of Down. Three reports are given below of the petty sessions of 17 January.

***Maidstone Journal and Kentish Advertiser*, 22 January 1859, p. 3.**

Chelsfield. GAMBLING AT A BEERSHOP. At Lock’s Bottom, on Monday last [17 January], before J. Jackson, Esq. (chairman), G. W. Norman, Esq., F. M. Lewin, Esq., and R. Darwin, Esq. [sic]

George Dunwell [sic], beerhouse-keeper, as charged by Sergeant Jenner, K.C.C. (stationed at Halstead) with having, on the night of the 11th ult., allowed gaming in his house. Jenner went to the house and saw men gambling with dice, and also overheard the remark from one

“That’s another to me,” meaning, of course, another game. Jenner spoke to defendant about it, and he admitted the fact. On account of the good character which Dunwell bears, to which Mr. Crowhurst, of Crockhurst Farm, bore testimony, the penalty was mitigated to 7s. and 8s. costs.

***South Eastern Gazette, 25 January 1859, p. 4.***

BROMLEY. ILLEGAL GAMING. At the Petty Sessions on Monday [17 January] (before J. Jackson, Esq., chairman, and C. R. Darwin, F. M. Lewin, and G. W. Norman, Esqrs.,)

George Dunmell, the keeper of a beer-house at Well-hill, Chelsfield, was charged on an information by Superintendent Colman, of the Sevenoaks division, with permitting gaming in his house, on the night of the 11th December last. Sergeant Jenner, K.C.C., visited the defendant's house on the night in question, and found a number of persons raffling for farthings, in the presence of the defendant, who admitted they were playing for money. The defendant pleaded guilty, but in consequence of Mr. E. Crowhurst testifying to the very orderly manner in which the house was generally conducted, the magistrates inflicted the mitigated penalty of 7s. and 8s. costs.

***The Bromley Record, 1 February 1859, p. 58.***

FARNBOROUGH PETTY SESSIONS. Monday January 17 1859. Present: Joseph Jackson, Esq., F. M. Lewin, Esq., G. W. Norman, Esq., and C. R. Darwin, Esq.

The only case which came before the Bench to-day was one at the instance of Superintendent Coleman against George Dunmall [sic], a retailer of beer, for permitting gaming in his house at Chelsfield.

The defendant pleaded Guilty, but in consideration of his previous good character, he was fined only the sum of 7s. and costs.

While Darwin continued drafting his two-chapter discussion of geographical distribution, he took another regular recuperative break at Moor Park from 5-18 February 1859. He returned to Down on the evening of the 20<sup>th</sup>. The following day he wrote very different letters to Maria Hooker (1797-1872), the wife of William Jackson Hooker (1785-1865), the director of the Royal Botanic Gardens, Kew, and father of his friend Joseph Dalton, and another letter to the pigeon fancier Tegetmeier.<sup>159</sup> And the same day he had to attend the petty sessions at the White Lion Inn. Two press reports for are given below.

***South Eastern Gazette, 1 March 1859, p. 6.***

BROMLEY PETTY SESSIONS. The weekly sitting of the magistrates was held on Monday [21 February], at the White Lion Inn, Locksbottom. Present: Joseph Jackson, Esq., chairman, Col. Cator, C. R. Darwin, F. M. Lewin, and G. W. Norman, Esqrs.

A poor-rate of 1s. in the £ was allowed for the parish of Farnborough, and of the same amount for Cudham. Highway rates of 6d. in the £ were also allowed for Cudham and Down, and a lighting-rate of 3d. for Bromley.

<sup>159</sup> Burkhardt et al eds. 1985-, vol. 7, pp. 250-251.



**A MISCHIEVOUS TRICK.** A lad about fifteen years of age was charged with having, on the 6th Feb., at West Wickham, urged a dog to worry sheep belonging to Colonel Cator. From the statement of James Tucknel, a boy who was engaged in minding the flock of ewe sheep, it appeared that on the Sunday in question, between 3 and 4 o'clock in the afternoon, the defendant, who was on the road with a number of other lads, entered the field in which the sheep were, and set a dog he had with him on the sheep, spitting his hands and urging him to worry them. Mr. A. Sellicombe, bailiff to Col. Cator, had no hesitation in saying that they had lost three lambs through the ewes being disturbed by the dog. The defendant said he only spat his hands for the dog to go after the crows, and when he started after the sheep he tried to call it back.

Col. Cator, who took no part in the proceedings, said his only object in bringing the case before the court was to show the defendant that he could be punished for it, and to deter others from doing the same; and as the expenses appeared to be heavy, he would be glad if the magistrates would inflict only a nominal fine. The Chairman told the defendant the full penalty was 40s., but as it appeared to be his first offence a fine only of 5s. would be inflicted with 10s. costs.

**A FEROCIOUS DOG.** Mr. James Poulter, a fishmonger, residing at Sevenoaks, was charged with having, on the 13th February, at Farnborough, within the limits of the metropolitan district, suffered a large and ferocious dog to be at large unmuzzled. No. 152 of the Metropolitan police said that he was crossing Farnborough-common at about half-past two o'clock on the morning in question, when he was attacked by a large dog belonging to the defendant, and but for a stick which he had in his hand he could not have prevented the dog from biting him. He had been previously attacked by the dog, and had informed the defendant of it. Inspector Wilson also spoke to the dog's ferocity; he had himself been attacked by it. The defendant said that two years before he had lost his horse and van, which contained about £9 worth of property, in London, and he had been advised by his friends to keep a dog for his protection. When the policeman spoke to him about it, he had it chained up, and he only allowed it to run loose when there was no one in the road. Fined 11s. and 9s. costs.

**AN ASSAULT UNDER PECULIAR CIRCUMSTANCES.** Thomas Wood, sen., and Thomas Wood, jun., father and son residing at Bromley, were charged with assaulting Frederick Costin, on the 17th Feb. It appeared that the elder defendant owed some assessed taxes, and Mr. Hodges, the collector, having to distrain for it, put Costin in possession. The defendants were absent at the time, but on their return he was ejected, which constituted the assault in question.

Mr. Hodges said he had no wish to press the charge, as he considered it was through ignorance that Costin had been turned out of the house. They supposed he ought to have had a warrant with him, for which, however, there was no necessity. Mr. Norman said that it was a very grave offence and might have been sent to the quarter sessions for trial; but as it appeared there had been nothing like violence used and as neither Mr. Hodges nor complainant wished to press the charge, defendant would be dismissed on payment of the costs, 5s. 6d.; the money was at once paid.

**BAD FOOTPATHS.** The Rev. E. Curtis, of Farnborough, appeared to complain of the footpaths from Crofton Hall, in the parish of Orpington, to Farnborough. He complained, he said, on behalf of Miss Perceval and her household, who had been

unable to get to church in consequence of the state of the footpaths across the fields, which had been ploughed up. The farmers seemed to have an impression that they were justified in doing so, the convenience of the public not being thought of. He had seen Mr. Whiffin, of Hart's Hill farm, who remarked that they might go round the road, a distance of four or five miles, instead of two across the fields. He would call their attention to the 94th section of the 5th and 6th William 4th, which in his opinion provided for the case.

Mr. Norman observed that the state of the law with reference to footpaths was most uncertain, and Mr. Lewin suggested that they should seize on some opportunity and try and have the question settled. He had very often to complain of the footpaths being ploughed up, but had refrained from complaining publicly. After some further consideration, a summons was directed to be taken out against the surveyor of the parish of Orpington, and to be made returnable for a special session of the magistrates, when most of them would be present.

***The Bromley Record, 1 March 1859, p. 73.***

FARNBOROUGH PETTY SESSIONS. FEBRUARY 21. Present, Joseph Jackson, Esq., G. W. Norman, Esq., C. R. Darwin, Esq., F. M. Lewin, Esq., and Col. Cator.

A FEROCIOUS DOG. John Poulter, a fishmonger, residing at Sevenoaks, was charged with having suffered to be at large a ferocious unmuzzled dog, on the 3rd February, inst., at Farnborough. The case was clearly proved by the evidence of P. C. James Cheeseman, who had been violently attacked by the dog, a most powerful and savage animal, and but for a large stick he had with him at the time would probably have been seriously injured. Convicted the penalty of 11s. and costs.

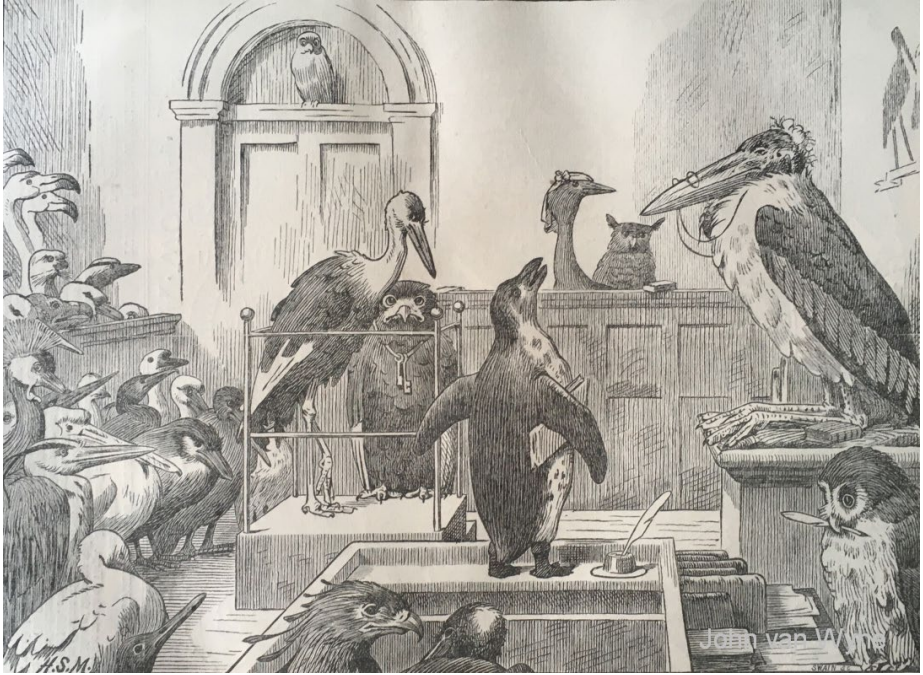
WORRYING SHEEP AT WEST WICKHAM. Thomas Boatbridge, of Shirley Common, was charged with having on Sunday the 6th February, set on a dog to worry some sheep, in a field at Coney Hall, in the occupation of Colonel Cator. The case was proved on the evidence of the Colonel's Bailiff, and a lad named Tucknought. The defendant was fined in the penalty of 5s. and costs.

On 19 March 1859 Darwin recorded that he began re-reading his first draft chapters of *Origin of species*. He later brought his final chapter to a close.<sup>160</sup> On the 21<sup>st</sup> he wrote to his young neighbour John Lubbock about similarities and differences between embryonic and adult organisms, part of this last chapter. But Darwin's thoughts on these abstruse topics would be interrupted again by his attendance at the bench that day which included testimony by the delightfully titled "inspector of nuisances".

Nuisances were not confined to petty sessions. In the same month the family had troubles with their newly employed German governess, Mrs Grut, who was rude and

<sup>160</sup> van Wyhe ed. 2006. *Darwin's 'Journal'*.

insolent. After once again snapping at Henrietta during her lesson, Darwin and Emma decided that Mrs Grut must go. Darwin carried her dismissal letter upstairs and was received by a white-faced screaming fury. She left a few days later.<sup>161</sup>



“UP BEFORE THE BEAK.” *Punch*, 6 Dec. 1882.

‘Beak’ was slang for “a magistrate or justice of the peace.” OED. William Darwin used the term in a letter to his father referring to John Lubbock who was a JP: “I suppose you could hardly send it to Sir John as he is called a ‘Beak’”.<sup>162</sup>

***Maidstone Journal and Kentish Advertiser*, 26 March 1859, p. 2.**

BROMLEY. PETTY SESSIONS, MONDAY. MARCH 21. Before J. Jackson, Esq. (Chairman), C. F. Darwin, [sic] Esq., and G. W. Norman, Esq.

Charge of Assault. A man named Smith, a railway labourer, was charged with having assaulted a lad named William Martin, near Sidcup, on Saturday, the 19th inst. On that day the lad was coming along the road (a rather lonely place) with two bottles containing beer. The defendant, who appeared to have been drinking, took hold of the lad round the neck, drank some of the beer, and then walked away; and upon the boy following him, the defendant drew a knife out of his pocket and threatened to use it if

<sup>161</sup> See Burkhardt et al eds. 1985-, vol. 7, pp. 263-264

<sup>162</sup> W. E. Darwin to Darwin [1869-1875], Burkhardt et al eds. 1985-, vol. 24, p. 489.

the boy continued to pursue him. In corroboration of this evidence a boy named Moses Crouch was called, who also proved the assault. The magistrates commented with just severity on the conduct of the defendant, and sentenced him to one month's hard labour in default of his paying 40s. and costs.

Nuisance at St. Paul's Cray. In this case, adjourned from the last court, the inspector of nuisances attended and reported that the nuisance had been wholly abated.

The Overseers of West Wickham v. James Wingate. This was a summons for £4 19s. due to the overseers of West Wickham for poor-rate. The defence was that the rate had been paid to the overseer. Mr. Bourne, the collector of the rates, stated that the amount had not been paid to him as it should have been, and not to the overseer; and in support of his views he produced his appointment from the Poor Law Board. The magistrates concurred in these views, and made an order for immediate payment.

Trespass in Search of Game. Thomas Wallis [sic] was charged by James Staples, gamekeeper to John Christy, Esq., of Aperfield, in the parish of Cudham, with having, on the 14th May last, committed to trespass on the ground of Mr. Alwen, of Cudham, in search of game and rabbits. It appeared that the defendant had absconded since the proceedings had commenced, until within the last few days, when the summons was served. He did not appear to answer the charge, and in consequence of a slight informality a fresh summons was directed to be issued.

On 18 April 1859 Darwin again put his *Origin of species* manuscript aside for a few hours to attend the petty sessions at the White Lion Inn at Locksbottom. Fatigued, he left later that day for another stay at Moor Park to recuperate.<sup>163</sup> Two reports of the busy meeting are given below.

***South Eastern Gazette, 26 April 1859, p. 4.***

BROMLEY. PETTY SESSIONS. The weekly meeting of the magistrates was held at the White Lion Inn at Locksbottom on Monday [18 April]. Present, J. Chapman, Esq., chairman, J. Jackson, C. R. Darwin, and G. W. Norman, Esqrs.

CAUGHT AT LAST. Thomas Wallis [sic], of Cudham, was charged with being on lands in the occupant of Mr. Alwyn, in search of game, on the 18th May last.<sup>164</sup> The defendant absconded at the time. The case being put by Beadle, keeper to A. Christ, Esqr., Wallis was committed to Maidstone for fourteen days,<sup>165</sup> in default of paying the fine and costs.

AN UNPROVOKED ASSAULT. Wm. Waters was charged with violently assaulting a person named Dennis from Bromley New Town, on the previous Saturday evening. It appeared from Dennis' statement that he was going home, when

<sup>163</sup> According to *Emma Darwin's diary*; he did not record such a visit in his own 'Journal'.

<sup>164</sup> The *Maidstone Journal and Kentish Advertiser* report above gives the 14th.

<sup>165</sup> The *Bromley Record* report above gives ten days.

the defendant, who was accompanied by two other persons, stopped him and asked him for a light. On telling them he had no light, he was assaulted in the most violent manner, and his face, which was much disfigured, bore testimony to the barbarous treatment he had received. The magistrates, considering that no provocation whatever was given and the violence of the assault, inflicted the full penalty of £5, with costs. In default the prisoner was committed for two months' hard labour.

RECOVERY OF STOLEN PROPERTY. A quantity of property stolen from the residence of Mr. Baldwin, of [Widmore] lane, last week, has been recovered. A cruet stand was dragged from a hedge on the premises by a dog, and one police, after a diligent search, succeeded in finding whole of the property secreted in various parts of the grounds. At present they have not been able to put guilt on any one, but the fact of the articles being secreted so near the house, confirms the suspicion that the robbery was not perpetrated by persons from [nearby] who would have had sufficient time to have removed the booty.

***The Bromley Record, 2 May 1859 p. 88.***

BROMLEY PETTY SESSIONS. April 18 1859. Present: Joseph Jackson, Esq., J. Chapman, Esq., Geo. W. Norman, Esq., C. R. Darwin, Esq.

Trespassing in search of game. Thomas Wallace was charged on information, with having committed a trespass on the lands of Mr Henry Alwen, of Cudham, on the 14th May 1858 in search of game and conies. The proceedings in the case were duly originated within the time prescribed by the statute, but the defendant had absconded, and had only very lately returned when summons was served. The case was proved on the evidence of John Beadle (Mr. Christy's game-keeper) and defendant was fined in a penalty of 10s. and costs, and in default was committed to the House of Correction for 10 days.<sup>166</sup>

Violent Assault at New Bromley. Richard<sup>167</sup> Waters and John Marshall, were severally charged with having committed a violent assault on John Dennis, on the morning of Sunday, the 17th April. The complainant stated, that at about half-past twelve on Sunday morning, he was proceeding to his home in New Bromley. On his way he was accosted by the defendant Waters, and several others who requested him to give them a light – nothing further passed as it appeared, but an attack was immediately commenced on the complainant, who was kicked and knocked about in a fearful way. The evidence not affecting Marshall, he was discharged; but the defendant Waters, was clearly identified as the first who struck the complainant, and the magistrates considering the assaults to be as bad as it could well be, inflicted the full penalty of £5, and in default, the defendant was committed for 2 calendar months.

<sup>166</sup> The *South Eastern Gazette* reported fourteen days.

<sup>167</sup> The previous report recorded his name as William.



The White Lion Inn, c.1930. Where most of Darwin's petty sessions were held.

[Courtesy of Dover Kent Archives.](#)

On 10 May 1859 Darwin sent the first six chapters of *Origin of species* to the printers William Clowes in London. Two weeks later he would begin work on the proof sheets. In the meantime, there were more cases to be heard at the White Lion Inn on 16 May including the tragic case of Augusta Shaw. This case was also described in the *Bromley Record* on 1 June, p. 107, where it was reported that the chairman, Norman, had spoken very kindly to Miss Shaw and made her promise not to repeat the offence. Her case was not mentioned in the petty sessions report in the *Bromley Record* below.

On 16 May 1859 Darwin attended the next petty sessions at Locksbottom when his mind was full of the corrections of proofs and letters to his publisher. Five days later he returned to Moor Park for more water cure and rest.

***South Eastern Gazette, 24 May 1859, p. 4.***

**BROMLEY.** The weekly meeting of the magistrates was held at the White Lion Inn, Locksbottom, on Monday [16 May], (present, G. W. Norman, Esq., chairman, Col. Cator and C. R. Darwin, Esq.) W. Warin, [Waring] Esq., of Chelsfield, one of the newly-appointed magistrates, took his seat for the first time.

**ATTEMPTED SUICIDE.** Augusta Shaw, a miserable looking young woman, aged 19, who said she came from Hackney, was charged with attempting to commit suicide on the previous evening, under the following painful circumstances: On the previous

evening, at about half-past six, Mrs. Johnson, who lives near the well on Farnborough-common, saw the prisoner walking up and down by the well, and on returning to look at her, after a few minutes absence, she had disappeared. She went to the well and saw the prisoner floating on the water, and with the assistance of two men whom she called the unfortunate girl was extricated from her perilous position. There were about eight feet of water in the well at the time. The prisoner, one of the class of “unfortunates,” appeared to be in a wretched state from disease and want, and having expressed her penitence for attempting self-destruction, and promising not to repeat it, she was discharged with a serious admonition, and was taken at once to the union-house.

**OBSTRUCTING A PARISH CONSTABLE.** Richard Mitchell and Charles Ingrams were charged with obstructing William Crafter, the parish constable of Chelsfield, in the execution of his duty. The case was adjourned from the Bromley bench on the 2nd inst., at the request of the defendants, who wished to produce evidence to refute the charge. It appeared that there was a quarrel going on outside the public-house at Green-street-green, Chelsfield, and Crafter, as parish constable, attempted to put an end to it, but having no staff his authority was called in question and the fight proceeded. He then borrowed a staff from the publican, and the defendants, who went out to witness the row, said that anybody could borrow a staff, and interrupted him. A witness was called for the defence, but the magistrates inflicted a fine of 10s. each and costs, which was paid.



The pub at Green-street Green, Chelsfield, about 10km northeast of Down. Mitchell and Ingrams were fined for obstructing Constable Crafter here. [Courtesy of Dover Kent Archive.](#)

***The Bromley Record, 1 June 1859, p. 100.***

FARNBOROUGH, May 16. Present: G. W. Norman, Esq.; C. R. Darwin, Esq.; Col.

Cator; W. Waring, Esq. (W. Waring, Esq., of Woodlands, Chelsfield, took his seat on the Bench to-day for the first time since his appointment as a Magistrate for the Bromley Division)

GAME TRESPASS AT HOLWOOD. Buckle vs. Stevens. The defendant was charged on information with having committed a trespass, on the 13th April last, on the grounds of Lord Cranworth, at Holwood, in search of rabbits. The case was fully proved on the evidence of Mr. Buckle, his lordship's bailiff, and defendant was convicted in the mitigated penalty of 10s. and costs.

CRAFTER V. INGRAM AND MITCHELL. In this case, which had been preferred by the complainant, who is one of the parochial constables for the parish of Chelsfield, against the defendant for assault and obstruction in the discharge of his duties, and which had been adjourned to this day, both defendants were fined 10s. and costs.

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In late June Darwin sent a short note to the *Entomologist's Weekly Intelligencer* signed not by him but by three of his sons: Francis, Leonard and Horace who were 10, 8 and 7 years old: "Coleoptera at Down.—We three very young collectors have lately taken, in the parish of Down, six miles from Bromley, Kent, the following beetles, which we believe to be rare..." Francis Darwin later wrote of this: "I have a vivid recollection of the pleasure of turning out my bottle of dead beetles for my father to name, and the excitement, in which he fully shared, when any of them proved to be uncommon ones."<sup>168</sup>

The next petty sessions on 20 June were held at Chelsfield but the reports in the newspapers do not name the magistrates. Presumably Darwin attended on that cold and rainy Monday as he was then at Down although *Emma Darwin's Diary* records "Crystal Palace with Etty" on that day. But there is no indication that Darwin went with them.

***South Eastern Gazette, 28 June 1859, p. 4.***

CHELSEFIELD.—ASSAULT. At the meeting of magistrates held at Locksbottom on Monday [20 June], William and Catherine Staples were charged with assaulting Stephen Jackson, on the night of the 11th inst. It appears that the complainant had drawn down on himself the ire of the defendant and his wife, for summoning him a short time before to the County Court at Bromley, and shortly after that the defendant was heard to say that the first time he met Jackson he would "put his head where his heels ought to be." On the night in question the parties were drinking at the Bull at Pratts-bottom, and Staples left for home about 11 o'clock. Shortly afterwards the complainant and his son also left, and when they got a little distance Staples came up

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<sup>168</sup> [Darwin 1859]; F. Darwin 1887, vol. 2, p. 140.



and knocked Jackson, senior, down, and Mrs Staples rushed to a wood stack to get a stake to assist her husband. Failing to do that, she took up a large flint and struck Jackson a violent blow on the head. Sergeant Jenner witnessed a portion of the assault. The Bench inflicted a penalty of 5s. each, with 16s. costs, and in default committed for a fortnight's hard labour.

***Maidstone Journal and Kentish Advertiser, 28 June 1859, p. 2.***

Chelsfield. - At the Petty Sessions at Lock's Bottom on Monday last, William and Catherine Staples were charged with assaulting Stephen Jackson, on the evening of 11th inst. From the complainant's evidence, it appeared that the defendants were exasperated with him for summoning them to the County Court at Bromley a short time since, and that they had threatened to thrash him at the first opportunity. On the evening named the parties had been drinking together at the Bull, at Pratt's Bottom, and Staples left for home about eleven o'clock. Shortly afterwards the complainant and his son left together, and the defendant, who had evidently lain up for the complainant, came up and knocked him down, and the woman ran to a faggot-stack for a stick, with which to assist. Not being able to get one, she picked up a stone, with which she struck complainant violently on the head and body. Sergeant Jenner corroborated part of complainant's statement. Fined 5s. each, and 6s. costs. In default, to be committed for a fortnight with hard labour.

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In his study, Darwin continued to work hard on the proof sheets of *Origin of species*. On 2 July 1859 he apologized to Hooker for not attending carefully enough to a draft sent to him, "my head being confounded with my own book".<sup>169</sup> The report of the petty sessions for 11 July does not name the magistrates. This was the second Monday of the month rather than the usual third.

***South Eastern Gazette, 19 July 1859, p. 4.***

Bromley.—Overseers' Difficulties.—The overseers of the parishes of Chislehurst, Orpington, St. Mary Cray, and Farnborough, were summoned before the Magistrates on Monday [11 July], at the instance of the guardians<sup>170</sup> of the Bromley Union, for the non-payment of certain sums of money due for the relief of the poor of their respective parishes. In the parish of St. Mary Cray it appeared that there was a dispute with the railway company about the assessment, but in every case a portion of the money had been paid to the treasurer of the union. The cause of the deficiency was attributable to the illness of Mr. Harris, the collector of the district.—The Bench made an order for payment in a week and the costs.

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<sup>169</sup> Darwin to Hooker 2 July [1859] CCD7:315.

<sup>170</sup> The "guardians" were the members of the committee in charge of the Union workhouse.

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No reports have been found of what ought to have been the next petty sessions on 18 July. Darwin left the Tuesday after for Moor Park hydropathic establishment. As far as has been found, Darwin next attended the petty sessions on 15 August 1859. The *Origin of species* was almost ready to appear. With all that was on his mind, Darwin had to concern himself with cases of stealing nuts and plums worth 3s.

***South Eastern Gazette, 23 August 1859, p. 4.***

BROMLEY. PETTY SESSIONS, MONDAY [15 August]. (Before Joseph Jackson, Esq., chairman), C. R. Darwin, and W. Waring, Esqrs)

THE BLIND IRISH WOMAN AGAIN. Johanna Spellana [Johanne Spellard], whose case we have repeatedly given, was again brought before the magistrates. It will be remembered that when last brought before the bench she stated that the removal officer left her desolate in the streets of Skibbereen, Ireland, and her lamentable story finding sympathy with the magistrates, she was remanded to find what truth was in her story. Evidence was, however, given to prove that she had been taken to the Irish union-house, but she refused to enter and was left in the hands of the police.

It further appeared that when she left Skibbereen she decoyed a young girl, about fourteen years of age, to follow her, and at Cork she imposed upon authorities, and represented the girl as her daughter, when free passes were given them to England. The defendant conducted herself in a most violent manner, and the magistrates committed her for one month's hard labour, after which she will be again removed to Ireland.

NUT STEALING. Abraham Pearce, a costermonger, who said he resided at Peckham, were charged with stealing a bushel of hazel nuts, value 1s. from a wood, the property of Viscount Sydney, on the previous day. The keeper found the prisoner in the wood with the bag of nuts in his possession. Nothing was known of the prisoner, and the magistrates inflicted a penalty of 1s., the value of the nuts, with 4s, 6d. costs; a week allowed for payment.

PLUM STEALING. Augustus Peto and Joseph Perkins, two labourers, of Bexleyheath, was charged with stealing a quantity of plums and apples, value 2s., the property of Mr. Henry Stevens, of Chelsfield. John Walton said that the lads had been working for him, and seeing them on Saturday with the plums, &c., in their possession he took them away. The defendants pleaded guilty, and the prosecutor urged the bench to let them off as lightly as possible. Fined 10s. each, including costs, and the value of the fruit. The magistrates informed the defendants that they were liable for such an offence to be fined £20, or six months' imprisonment, and for a second such offence to be indicted for simple larceny; he cautioned them as to their future conduct.

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On 19 September 1859 Darwin received a very encouraging (but sadly now lost) letter from Charles Lyell about his species book. As keen as Darwin was to convince his old and famously anti-evolutionary friend, Darwin once again attended the bench at Locksbottom as magistrate to hear about the theft of plums. The juxtaposition of lofty theoretical and detailed scientific discussions and mundane local matters such as sentencing men 10s for stealing plums worth 1s must have been surreal.

***The Bromley Record, 1 October 1859, p. 146.***

FARNBOROUGH PETTY SESSIONS. September 19th. Present: G. W. Norman, Esq., W. Waring, Esq., C. R. Darwin, Esq., Col. Cator, and F. M. Lening [Lewin], Esq.

John Hollander and George Edmonds were severally charged with stealing plums growing in a garden in Beckenham, of the value of 1. The defendants both pleaded guilty, and were fined 10s. each, and costs 5s.

A longer report appeared in another newspaper.

***Maidstone Journal and Kentish Advertiser, 24 September 1859, p. 3.***

Farnborough.—At the police station on Monday last [19 September], before G. W. Norman, Esq., James Cutbash, aged 21, a labourer, of Bastedgreen, was brought up in the custody of P.C. [police constable] S. Bennett, 253 R., charged with being drunk on the previous Saturday evening, and with assaulting Mr. James Sessions, at the New Inn. He pleaded guilty, and was fined 10s., and 3s. 6d. costs, which were paid. John Hollander and George Edmonds, labourers, residing in the parish of Wickham, were charged with stealing a quantity of plums, valued at 1s., the property of J. Caird, Esq., of Langley Park, Beckenham, on the 15th inst. They both pleaded guilty, and each was fined 12s. 3d., including costs, which were paid.

Five days after the above petty sessions, the Darwins visited Josiah and Caroline Wedgwood at their home, Leith Hill Place, near Dorking, Surrey. With the help of Emma, by 1 October 1859 Darwin finished the proofs of *Origin of species* and sent them to John Murray.<sup>171</sup> The next day Darwin set off for the hydropathic establishment at Ilkley in Yorkshire to recuperate from the strain of completing the book, eczema on his face and stomach troubles. As Janet Browne has written

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<sup>171</sup> “My Mother corrected the proofs of the Origin”. Henrietta Litchfield, ‘Sketches for a biography’. [CUL-DAR262.23.1](#).

“Edward Lane and Moor Park were not doing him so much good as usual. This time he decided he needed dramatic intervention.”<sup>172</sup> It was while Darwin was at Ilkley that *Origin of species* was published on 24 November 1859. What was previously unknown is the strange event that happened in Darwin’s village of Down on that day, and that is revealed in the next petty sessions report. Darwin returned to Down on 9 December and ten days later he was back on the bench to hear this case. It was these petty sessions that Darwin wrote to Hooker about as “troublesome cases” that took “1 ½ hour longer than usual, & came home utterly knocked up & cannot rally.”<sup>173</sup>

***Maidstone Journal and Kentish Advertiser, 27 December 1859, p. 3.***

FARNBOROUGH. PETTY SESSIONS, MONDAY, DEC. 19. Before G. W. Norman, Esq. (in the chair), Col. Cator, Joseph Jackson, Esq., C. Darwin, Esq., W. Waring, Esq.

John Chapman, labourer, was brought up under a warrant, charged with assaulting William Young, market gardener, Hayes-common, on the 12th inst., at Weston. The parties met accidentally on the road, near the Red Cross Inn, when defendant felled complainant to the ground by a violent blow on the head with his fist, repeating the blow on complainant’s rising again, from the effects of which treatment he was confined to his bed for two days, and was unable to resume work for a week. The defendant pleaded guilty, and acknowledged that he could allege no provocation to account for his conduct. The Bench animadverted severely on his behaviour, characterising it as brutal and savage, defendant being a powerful man, in his prime of life, while the complainant is enfeebled with age, and fined him 50s., and 5s. costs or one month in default. Two pounds were paid down, and a week allowed within which to pay the remainder.

William Percival and Ambrose Whitehead, of Down, and Thomas Lewis, of Cudham, labourers, were charged with disorderly and riotous conduct on the 24th of November last, at Down. On the evening of that day a ventriloquist was giving an entertainment in the National [schoolroom], [3 words illeg] outside, and by putting a squib under the door and creating a riot, very much annoyed those within. Fined 5s. each, inclusive of costs.

Henry Whitehead, carrier, Knockholt, was charged with exceeding the pace of four miles within the hour with his van on the 21st of Nov. Mr. Gibbon, solicitor, Dartford appeared for defendant.

It appeared that complaints had been frequently made to Supervisor Barber by the proprietors of licensed omnibuses running between Sevenoaks and Bromley, that carriers not licensed to carry passengers frequently did so on the same road, to the detriment of their interests. The supervisor therefore directed Mr. Hector Munro, of

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<sup>172</sup> Browne 2002, p. 81.

<sup>173</sup> Burkhardt et al eds. 1985-, vol. 7, p. 441.

the Inland Revenue Service, St Mary's Cray, to take the necessary steps to detect such parties so acting.

Accordingly, Mr. Munro applied to Mr. Whitehead, about a month ago, to give him a "lift" as far as Bromley, from Locksbottom. Mr. Whitehead remarked that there was not room, but Mr. Munro importuned him further, as it rained, and rather unceremoniously got in. On arriving at the Railway Tavern, Bromley, he asked what he had got to pay, and was told "Nothing for that short distance." He thrust a shilling, however, into Mr. Whitehead's hand, and told him to get a glass of grog. A few days after Mr. Whitehead received a summons, which charged him as above. Fined £5.

Henry Morley, carrier, Seal, was summoned for a similar offence, committed on the same road, on the 7th of Oct. last; detected in the same manner, and by the same party. Fined £5.

George Packman, of St Mary Cray, who earns his livelihood with a donkey and cart about the surrounding villages, collecting rags, bones, rabbit skins, &c., was charged with having in his possession two trusses of hay for which he could give no satisfactory account. Defendant who is paralysed, is usually accompanied in his peregrinations by another man, who performs the active duties. Of this man he alleged he bought the hay for 6s., and that he has since absconded. Fined 20s. and 5s. 6d. costs, which was paid.

Some other unimportant business was transacted.

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What private conversations may have passed between Darwin and George Warde Norman at this meeting we will never know. Darwin once called him "My clever neighbour".<sup>174</sup> Darwin had already given Norman a copy of the freshly printed *Origin of species*. Norman kept a diary that reveals some fascinating historical details that have never been published before. This is not surprising given that Norman's handwriting is very difficult to decipher and the diary has in places deteriorated to the point of making many words illegible.

A political liberal, Norman was a supporter of the Poor Law Amendment Bill of 1834 and the benefits of workhouses. For almost forty years he was Vice-Chairman of the Bromley Union. For almost the same number of years he was President of the Bromley Literary Institute and President of the West Kent Agricultural Association. He was sincerely interested in society being so organised that "a People should be really free".<sup>175</sup> He could even imagine circumstances where "I should be delighted to stand Shoulder to Shoulder in the ranks with a [respectable] Tradesman or

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<sup>174</sup> Darwin to J. D. Hooker 18 [April 1860], Burkhardt et al eds. 1985-, vol. 8, p. 162.

<sup>175</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 219.

Labourer— The blood is all noble, that is & had from the Fatherland”.<sup>176</sup> He was also a hunting man and sometimes recorded how good the sport was on a particular day and the number of rabbits, hares and pheasants he had shot.<sup>177</sup> Norman was also a religious man, a church-goer and was instrumental in establishing Holy Trinity church in Bromley Common in 1842. After reflecting on his health complaints he wrote in his diary that he had “reason to be grateful to my beneficent Maker for the many comforts and blessings I enjoy”.<sup>178</sup> Norman was obsessed with his health, symptoms and the medicines he took. In this he was remarkably similar to the Darwins. And Norman shared with Darwin a passion for snuff.<sup>179</sup>

On 1 December 1859 Norman recorded in his diary:

Have lately been reading Darwin on ‘The Origin of Species’ which he sent me. I am disposed to go some distance with him. How far I cannot yet say. He intimates, what I am sure is his real opinion, that like species, Genera have had common ancestors & perhaps that a single Germ has produced all animated nature.

Two weeks later he wrote again in his diary:

I go on reading Darwin’s book. It is a wonderful Production & goes far to make one Convert. Still I do not think myself in a condition to make up my mind until I shall have heard the arguments & facts, that I doubt not will be brought forward on the other side of the question<sup>180</sup>

Norman’s private remarks notes are a remarkable snapshot of the so-called Darwinian revolution at the very cusp of unfolding. He is unwilling to accept evolution, but Darwin’s book is extremely impressive and persuasive, so Norman decided to wait and see. Amidst all the excitement over his book, Darwin continued to observe his duties as magistrate, attending the petty sessions on 16 January.

**Bromley; *Maidstone Journal and Kentish Advertiser*, 24 January 1860, p. 2.**

PETTY SESSIONS, MONDAY, JAN 15. [16th]. These sessions were held at Locksbottom, before the following magistrates: G. W. Norman, Esq. (chairman), W.

<sup>176</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 250.

<sup>177</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 250.

<sup>178</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 219.

<sup>179</sup> F. Darwin 1887, vol. 2, p. 304. On Norman see O’Brien & Creedy 2010 (this work contains nothing on Darwin, despite the title ‘Darwin’s clever neighbour’). On snuff see Romanes 1896, p. 129.

<sup>180</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, pp. 245-6, 251.

Waring, Esq., C. R. Darwin, Esq., and F. M. Lewin, Esq.

Two women named Skinner and Stevens pleaded guilty to damaging a fence, the property of Mr. Shepherd, of Cudham, and were each fined 1s. and 5s. costs. The money was paid.

Thomas Wells, of Knockholt, for night poaching on the property of D. Norton, Esq., was sentenced to two months' hard labour, and to find at the expiration of that term sureties for good behavior for six months, himself in £10 and another in £5.

The case of George Marks, who has been summoned by Mr. R. Wilson, the relieving officer of the Bromley Union for refusing to support his wife, was in consequence of defendant's ill health, remanded for 14 days. Mr. C. J. Cartier has been engaged for the defence.

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As the debates over Darwin's theory continued, the main objection and main excitement would become, and remain, its implications for humanity. Although *Origin of species* was not about humans and did not discuss the derivation of any particular species, few readers could have read or discussed it without humans in mind. Darwin had written his book to explain the general process of how types of living things change over time and how they become adapted to their environments in a changing world. In Thomas Vernon Wollaston's anonymous review of the book in the popular *Annals and Magazine of Natural History*, the point was made very explicit. What would theologians think,

when told that, in spite of their honest convictions (convictions which they had supposed to be coeval with our race), it has been lately discovered that man, with all his lofty endowments and future hopes, was, in point of fact, never "created" at all, but was merely, in the fullness of time, a development from an ape; and not merely from an ape, but that he was originally derived from the same source as bears, cats, rats, mice, geese, mussels, periwinkles, beetles, worms, and sponges...<sup>181</sup>

Darwin called this "an attack" and in a letter to Hooker on 20 February said "The stones are beginning to fly."<sup>182</sup> Although caught in a tight spot, Darwin still attended the petty sessions that same day to hear about a poacher who caught a hare.

***Maidstone Journal and Kentish Advertiser, 25 February 1860, p. 2.***<sup>183</sup>

Bromley. At the Bench on Monday [20 February], held a Locksbottom, before J. J.

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<sup>181</sup> [Wollaston] 1860, pp. 141-142.

<sup>182</sup> Darwin to J. D. Hooker [20 Feb. 1860], Burkhardt et al eds. 1985-, vol. 8, p. 96.

<sup>183</sup> The identical text was published in the *Bromley Record*, 1 Mar. 1860), p. 197.

Jackson, Esq., chairman, Col. Cator, Darwin, Lewin, Esq., W. Waring, Esq., and G. W. Norman, Esq.,

A man named Wood, in the employ of Mr. T. Smith, of Bromley Common, summoned a man named Reeves, under-gamekeeper to Mr. Norman, of Bromley Common, for detaining a wire belonging to him; but it came out that Wood had not asked the defendant for it, and the summons was dismissed by complainant having to pay the costs.

One of Mr. Christie's keepers summoned a lad named George Dawbree, of Cudham, for catching a hare in a wire, which he had set for the purpose of catching a rabbit on his father's plantation. Fined 15s. 6d., including costs.

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Despite what might seem like a life of turmoil in retrospect to modern readers, the Darwins carried on as usual with visits from family and friends and occasional trips to London. The Lyells, Tollets and Catherine Darwin all visited in turn. On 10 March, Norman called on Darwin and later recorded in his diary a fascinating and thoughtful reaction to his conversations with Darwin and Lyell who happened then to be visiting. This has never been published before:

Yesterday rode to Down, & called on Darwin. Found Sir Charles & Lady Lyell. She altho' 50 still very handsome. I should think the best-preserved & /respected/ in England—

Had /pleasant/ talk upon the Darwinian theory to which Lyell is a professed Convert. I don't altogether yield to it but allow to probability up to a certain point. How far I shall go will depend upon the /arguments/ which Darwin no doubt will speedily receive—

I must say that I ~~feel~~ am pained in feeling doubt as to the [*illeg*] creation of organized Beings. It was pleasurable to imagine that the Almighty had called to life by a distinct fiat, successive eras of animals, of varied properties, as the Earth became fit for the residence of each in his turn until man had appeared, & closed, so far as we know the great work—

Yet perhaps this feeling is a mere prejudice. It may be alleged that the /proof/ /however/ & benevolence is even stronger upon the new than upon the old Hypothesis. Suppose two Mechanics, one of whom had invented a succession of simple tools, which finally fashioned some raw materials into a rich & complicated fabric, while another Artizan had contrived to arrive at the same result by the invention of a single machine, so contrived, that when once put in motion, it was calculated to transform the [*exotic*] materials into the finished production without the necessity of any manual interference.



To which of the Contrivers should we assign the [patent] of ingenuity? Which of the two should we [illeg] to admire as having exhibited the greatest amount of mental power & manual skill? Surely to the 2<sup>nd</sup>, & is not this a fair illustration of the point of view under which we ought to regard the great Creation under the Darwinian, as opposed to the [revered] hypothesis? I think so yet still I cannot repress some uncomfortable feelings. However the truth must be followed, wherever it leads—<sup>184</sup>

This is not only a fascinating but a very important contemporary reaction to Darwin's evolutionary theory. At the start we see that Norman is an educated man and knows that geology had established there had never been a single creation of life but that many eras of living things had come and gone in an almost endless succession in the history of the earth. And the pre- or non-evolutionists of the first half of the nineteenth century took this fossil record to be proof of the great wisdom and benevolence of God. Norman, a deeply religious man, does not see Darwin's views as impossibly incompatible with his own, but as an alternative way that God may have devised to change and adapt life on earth—but by an even cleverer method than by just zapping new species to life by fiat as had been previously thought be many (but not all). Norman's is the only known reaction to the *Origin of species* by one of Darwin's fellow magistrates to survive. The two would remain on friendly terms to the end of their lives.<sup>185</sup>

By January 1860 Darwin's book was a publishing success and a second edition with many changes was published on the 7<sup>th</sup>.<sup>186</sup> Everywhere the book was being reviewed, sometimes reviled, but irresistibly discussed. There were endless critics and criticisms to answer. And yet, as with other routines, Darwin returned to the bench at Locksbottom on 19 March to hear cases of drunkenness and brawling.

***Maidstone Journal and Kentish Advertiser, 24 March 1860, p. 3.***

Farnborough. LOCKSBOTTOM PETTY SESSIONS. MONDAY, MARCH 19.  
Before G. W. Norman, Esq. (chairman), W. Waring, Esq., and C. R. Darwin.

A Drunken Row. Thomas M'Vaugh and John Luck, labourers, were charged with being drunk on Saturday evening at St. Mary Cray, with breaking two panes of glass

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<sup>184</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, pp. 294-296.

<sup>185</sup> George Warde Norman Diary, 766 - Diaries, letters, & papers of George Warde Norman, Bromley, London Borough of Bromley Archives, ref no. 766/1/2.

<sup>186</sup> The changes to the six editions of *Origin of species* can be tracked in the [Online variorum edition](#) by Barbara Bordalejo.

at the shop of Mr. Kelsey, and with assaulting Police constable 313 R., in the execution of his duty. The case was fully proved, and they were each ordered to pay a fine of 10s. for assault, 6s. the half value of the glass, and 4s. costs, or in default one month's hard labour.

Another Drunken Case. Henry Best, another labourer, was charged with being drunk and assaulting his host, Philip Townsend, at St. Mary Cray, on the same evening. Fined 7s. 6d and 10s. 9d. costs, or in default 10 days.

Assault at Southborough. Thomas Moore, a bricklayer's labourer working at a new house at Southborough, was charged with assaulting William Lepard, and using abusive language towards him. From the complainant's statement it appears that the defendant called him a "document" man,<sup>187</sup> and used language quite unfit for publication. Fined 10s. and 18s. costs, which were paid.

*Emma Darwin's diary* recorded that Darwin was ill from May to August 1860.<sup>188</sup> On 22 July he vomited six times until three in the morning. Nevertheless, he carried on working and writing as much as he could. He did not attend any petty sessions until 20 August. On the same day Emma recorded that Henrietta, becoming a perpetual invalid, had managed a feat of healthful vigour: "Etty sat in garden".<sup>189</sup>

***The Bromley Record, 1 September 1860, p. 253.***

PETTY SESSIONS. FARNBOROUGH 20th August, 1860. Present: Jas. Chapman, Esq., C. R. Darwin, Esq., Wm. Waring, Esq.

Suspected Felony. William Jordan, a man residing near Mill Lane, Bromley, was charged on Police Sheet, with stealing an Iron Hurdle, the property of A. Malim, Esq., and with having on his premises, about 8 trusses of Hay, and 9 Ash Poles – and not satisfactorily accounting for their possession. With reference to the first part of the charge, in relation to the hurdle, the defendant made an ingenious defence – viz., that he took the hurdle to stop a gap in the hedge, and it appearing on the admission of the witness that the fence was in the state referred to, the bench did not consider the felonious intent sufficiently proved, and gave the defendant the "benefit of the doubt." As to that part of the charge related to the poles, the defendant called a witness (a person employed on the East Kent Railway, at Southborough) who proved having given the defendant several poles similar to those produced, which the magistrates considered sufficiently accounted for the lawful possession – but inasmuch as defendant had given two or three different versions in respect of his possession of the

<sup>187</sup> A document man was a strike-breaker (or blackleg or docky) as opposed to those on strike, usually as members of a "society" (a union). A worker not part of a union was known as a non-society man.

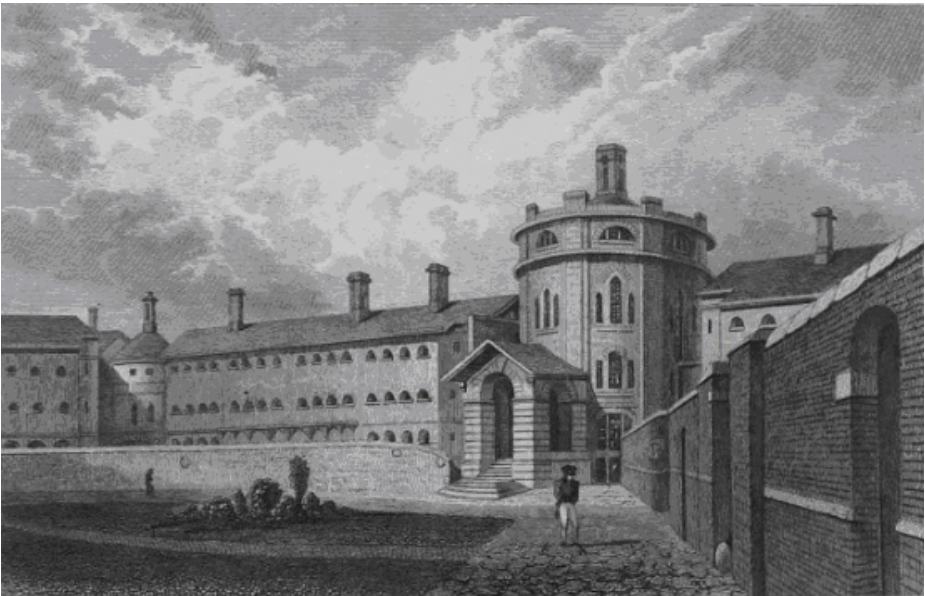
<sup>188</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

<sup>189</sup> Chua and van Wyhe eds. *Emma Darwin's diary*.

hay, the bench was not satisfied with his explanation, and convicted him of the unlawful possession in the penalty of 10s. and costs.

Larceny at St. Paul's Cray. Robert Rose – who had been remanded to Maidstone Gaol, on a charge of stealing, and afterwards disposing of a Pilot Coat, the property of William Hook, a Railway laborer, on the 10th ult., was this day brought up for re-examination. The case was proved on the evidence of Mr. Tyrer, the landlord of the "Anchor," at Paul's Cray, and others and the prisoner, who elected to have the case disposed of summarily was convicted and sentenced to one month's hard labour.

Mitchell v. Sawtell. This was a dispute between the parties as to the sum of 12s. 4d. which the complainant alleged was due to him for picking Peas, on defendant's farm, at Southborough and the case furnished an apt confirmation of the old adage – that "one story's good till the other's told." The whole question turned on the terms of the contract. Mr Sawtell contending that 2d. per bushel was to be retained in his hands until the peas were picked the second time, this statement was denied by the complainant, but the defendant called evidence which went distinctly to prove that his version of the story was the correct one, and so the summons was dismissed. The defendant who had brought a great number of witnesses to prove his case, applied for his costs which the Bench however declined to order.



Maidstone Gaol. W. H. Ireland, 1830, where some of those sentenced by Darwin and fellow magistrates were sent.

In the first half of September 1860 the Darwins continued to entertain visitors,

including Hensleigh and Fanny Wedgwood, Darwin's brother Erasmus, Sarah Elizabeth Wedgwood (the children's aunt Bessy) and the architect Edward Cressy and his wife. On the morning of the 17<sup>th</sup> Darwin was dissecting orchids, part of his new project, and then travelled to Locksbottom for the petty sessions to hear about assault and dangerous driving. Two days later the family went to Hartfield to stay with aunt Bessy. Henrietta was very unwell. On the 22<sup>nd</sup> they went to the seaside town of Eastbourne in the hopes that the sea air would be good for her. They stayed seven weeks in hopes she would recover her strength. Darwin's health too was not good and Emma came down with a fever. During these times away, Darwin entertained himself by observing how the common sundew captured insects. This was the beginning of another of his fifteen-year research projects that would culminate in another seminal book, *Insectivorous plants* in 1875. Two reports for these petty sessions are given below.

***Maidstone Journal and Kentish Advertiser, 22 September, 1860, p. 3.***

Farnborough. ASSAULT. At the petty sessions on Monday last [17 September], before G. W. Norman, Esq., Colonel Cator, W. Waring, Esq., and Darwin, Esq.,

Robert Brooker, a labourer, of Beckenham, and John Newell, private in the Military Train Corps, who wore three medals on his breast, were charged with assaulting James Escott, of Kent-street, Borough, in the George public house, Beckenham, on Sunday evening last. It appeared that Escott and his wife went into the taproom to have some ale, and while there the defendants commenced larking with the wife, which Escott resented, and at last it ended in a fight, in which complainant got terribly mauled. Brooker stated that he struck him in self-defense. Newell said that he aggravated him so, abused the Queen shamefully, and, wearing her uniform, he could not stand it, and struck him. The magistrates fined them 10s. and 6s. costs each, or ten days.

John Bennett, of Hayes, Bromley, was summoned by the authority of the Commissioners of Police for furiously driving a horse and cart in Hayes-lane, on the 30th August. He pleaded guilty, and, having been convicted previously for a similar offence, he was fined 10s. and 8s. costs, and cautioned as to his future conduct.

***The Bromley Record, 1 October 1860, pp. 262-63.***

FARNBOROUGH, September 17th. Present – George Warde Norman, Esq., C. F. Darwin, [sic], Esq., W. Waring, Esq., Col. Cator.

Assault at Beckenham. Richard Brooker and John Newell (the latter a Soldier, with three medals), were charged with assaulting James Escott, in the Tap-room of George Inn, at Beckenham, on the Evening of Saturday the 15 ult. The complainant's face exhibited unmistakable evidence of great violence having been used, and the defendants were fined 10s. each and costs, and the Chairman told Newell that he was sorry to see a soldier, wearing three silver medals, charged with the commission of

such an offence.

Furious Driving at Hayes. Grey Sergeant of Police v. Bennett. The defendant who resides at Hayes, was charged with having on the 20th of August furiously driven a horse drawing a cart, in the public thoroughfare, to the common danger of the passengers, in the said thoroughfare. To this charge defendant pleaded guilty, and was convicted in 10s. and costs, this was the second conviction for a similar offence. Subsequent information induces us to add that if the little fat beast could have been examined in the matter, he would probably have exonerated his master from the charge of furious driving, and taken the blame on himself: it appears he has a great objection to his master being out late at night, and when an opportunity serves, he starts off at a dangerous speed, regardless of police regulations and all efforts to stop him; he is probably encouraged to do this by the kind treatment he receives on arriving home safe with his master.

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The Darwins spent eight weeks in Torquay from July to the end of August 1861. Darwin was now obsessed with orchids and convinced that only his theory of evolution by natural selection could explain why they were shaped just the way they were. They were exquisitely adapted to ensure they were pollinated by insects with pollen from another individual plant. They were not, as conventional wisdom held, perpetually self-fertilized. His next book, *Orchids*, was well under way. The frequency of Darwin's vomiting caused the family much distress leading Emma to jot down a rare emotional state in her diary "girls wept". Darwin did not attend the petty sessions again on account of ill-health until 16 December 1861.

***The Bromley Record, 1 January 1862, p. 117.***

PETTY SESSIONS. FARNBOROUGH 16 DECEMBER [1861]. Present – Col. LENNARD (chairman); W. M. WARING, Esq.; C. DARWIN, Esq.; and F. M. Lewin, Esq.

ELIZABETH BEADLE, an old lady residing at Keston, charged her daughter-in-law, Mary Ann Beadle, with an assault at Keston, on the 3rd ult. The case was proved on the evidence of the complainant and her daughter, and the defendant was fined 1s. and costs. The parties were strongly recommended by the bench to avoid such discreditable family disputes for the future.

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The front of Down House.

O. J. Vignoles, 1893. *The home of a naturalist. Good Words*, 34, pp. 95-101.

On Friday 20 December 1861 there was an unusual event in Darwin's career as a county magistrate. He tried a case alone at Down. This is the first case seen where Darwin acted as sole magistrate and the first he conducted at Down. It might be that the capture of a deserter from the army did not correspond with the usual petty sessions or perhaps other magistrates were unavailable so close to Christmas. But six days later a poor man who ran away from the workhouse in workhouse clothes was brought before Darwin at Down. The man had a bad record so Darwin sentenced him to two weeks hard labour.

**DOWN.**—On the 20th December, Thos. Jones, 25, was charged before C. R. Darwin, Esq., by Police-constable Bennett, with being a deserter from the 2nd Battalion of her Majesty's 19th Regiment of Foot. He pleaded guilty, and was committed to Maidstone gaol until the military authorities should be communicated with.

**REFRACTORY PAUPER.**—Before C. R. Darwin, Esq., on Thursday last, James Skinner, 23, was charged by Mr. Lukey, the governor of Bromley Union-house, with absconding from the Workhouse with the Union clothes on. He pleaded guilty, and was committed for fourteen days' hard labour. Skinner, whose bad conduct in the Workhouse has been notorious for some time past, had at the time of his last commitment been only a few days returned from Maidstone gaol, where he had been sent for creating a disturbance during divine service in the house.

Two cases overseen by Darwin at Down. *Maidstone Journal and Kentish Advertiser*, 31 Dec. 1861.

***Maidstone Journal and Kentish Advertiser*, 31 December 1861, p. 5.**

Down. On the 20th December, Thos. Jones, 25, was charged before C. R. Darwin, Esq., by Police-constable Bennett, with being a deserter from the 2nd Battalion of her Majesty's 19th Regiment of Foot. He pleaded guilty, and was committed to Maidstone gaol until the military authorities should be communicated with.

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Down village children in the late nineteenth century.

Darwin was feeling better in 1862 and his botanical writing and research reflects this. He published two botanical papers, numerous shorter publications and his book on orchids in April.<sup>190</sup> That spring he had printed a single page “[Query to Army Surgeons](#)“. No copy is known to survive but the text is reproduced in the *Descent of man*, vol. 1, pp. 244-5. On 18 April he communicated a “Notice on the

<sup>190</sup> Darwin 1862.

habits of the “Agricultural ant’ of Texas” to the *Linnean Society*.<sup>191</sup> In January 1862 he received the proofs of his short memoir of his friend and Cambridge mentor, John Stevens Henslow (1796-1861).<sup>192</sup> On 20 January Darwin wrote to his old friend Charles Cardale Babington (1808-1895), recently appointed professor of botany at Cambridge and director of the University Botanic Garden. He would send Darwin many seeds for his experiments. The same day that Darwin wrote to Babington, he once again apparently pulled himself away from his private researches in order to carry out his public duties as magistrate. Although he and none of the other magistrates except the chairman are specifically named in the press report, it does record “a full bench of magistrates”. The chairman was his friend Norman who recorded a rare comment on the day’s proceedings in his private diary: “A long Bench at Locks bottom. A Game Case, in which an elaborate attempt to prove an alibi failed. It was made up of some rather harsh swearing, & an imperfect attempt to account for times.”<sup>193</sup>

***South Eastern Gazette, 28 January 1862, p. 4.***

Bromley. Assault. At the petty sessions on Monday [20 January], before G. W. Norman, Esq., and a full bench of magistrates, George Stone, carpenter, was charged with assaulting John Howe on the 15th inst., under the following circumstances. The complainant was the tenant of a piece of ground, in the New Town, Romney, which had been purchased by a gentleman named Fitz, and who employed the defendant to stump it out. Whilst he was so engaged the complainant came up to him and ordered him off, and followed up the order by throwing the axe the defendant was using, and also a piece of wood, into the road. Words followed, and the defendant shook his fist in Howe’s face. The bench considered the assault proved, but it being of a very trifling character, a penalty of 1s. only was inflicted and 10s. costs.

Trespassing for game. Two men, named Smith and Reeves, were charged with trespassing in pursuit of game, on the lands of Mr. Charles Dobson, on the 19th inst. Mr. Gibson appeared for the defendants, who were fined 10s. each, and the costs.

Wood stealing at Orpington. Edward Levett charged with stealing a faggot, value 2d., the property of Mr. Tillet, of Orpington, was sentenced to fourteen days’ hard labour.

On 17 February 1862 Darwin sat at the bench as magistrate for the last time. There was yet another case of poaching. Norman wrote of this particular case, and

<sup>191</sup> [Lincecum 1862](#). See Burkhardt et al eds. 1985-, vol. 9, pp. 39-48.

<sup>192</sup> [Darwin 1862](#).

<sup>193</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 80.



Darwin, in his diary on that day:

To the Bench at Locks Bottom. A case of night Poach<sup>s</sup> at Sundridge — The Men pleaded Guilty. One had been caught in the act. The other ran away, & was taken subsequently. Had he not pleaded guilty, there would have been some doubt as to the Evidence ag<sup>st</sup> him — Darwin & I were for 10 Weeks imprisonment however Colleagues 3 to 2 voted for the highest punishment viz 3 m<sup>s</sup>. I hate these poaching Cases, from which, however, we have seen very few this Winter—<sup>194</sup>

In his summary of the issue of the *Bromley Record* that recorded this petty session, Richard Milner wrote of a “case that apparently amused Darwin and the other judges[sic]”, i.e. that of McFarland and his coat.<sup>195</sup> However, the petty sessions attended by Darwin saw only the case of Wakeling and Jeffery. The one described after that, Mitchell’s, was one at “the Magistrates’ Clerk’s office” and “was charged before [magistrates] R. Boyd and S. Long, Esqrs.” who were not present at Darwin’s last petty sessions. This was a subsequent judicial matter. And so too is the one of McFarland and his coat. As the *Bromley Record* report states, “On the following day (Tuesday), the 18<sup>th</sup> ult.” three men were charged “on police sheet”. The “magistrates”, who are not named, would have been those who lived near the Magistrates’ Clerk’s office, such as Robert Boyd (1796-1863) and Col. Samuel Long (1799-1881).

The day of Darwin’s last attendance at the petty sessions, Emma Darwin recorded in her diary, apparently referring to Darwin’s health as so often, “very good day / some slight att[ack]”.<sup>196</sup>

***The Bromley Record, 1 March 1862, p. 138.***

PETTY SESSIONS. FARNBOROUGH, 17 FEBRUARY. Present – G. W. Norman, Esq. (Chairman), F. W. Lewin [F. M. Lewin], C. R. Darwin, William Waring, and R. B. Berens, Esqrs.

NIGHT POACHING.—*George Wakeling*, of Bromley and *Edward Jeffery* (residence unknown) were brought up in custody of the Police, charged with entering the preserves of Samuel Scott, Esq., of Sundridge Park on the night of the 16 ult, with a gun, and destroying three Pheasants.

From the evidence it appeared that on the night in question, Pickett, the keeper, Ford, his assistant, and a man named Amos Kennard, were on the “look out,” and saw

<sup>194</sup> G. W. Norman, Diary. London Borough of Bromley Archives, ref no. 766/1/2, p. 96.

<sup>195</sup> The identical wording appears in Milner 1994, p. 94 and Milner 2009a, p. 108 although the later mis-dates the case to 1864 (as does Milner 2009b, p. 112) and cites the *Bromley Record* of 1 Oct. 1860.

<sup>196</sup> Chua and van Wyhe eds. *Emma Darwin’s diary*.

the defendants enter Elmstead Wood, very shortly afterwards firing commenced, and carried on until they were interrupted by the keeper and his assistants, when the man ran away and escaped, except Jeffery, who was caught by Ford, between whom a violent scuffle ensued, until Pickett came up to Ford's assistance. In Jefferey's pockets were found the three pheasants and a quantity of large stones, so that no doubt serious mischief was contemplated.

Wakeling was subsequently apprehended and both defendants were convicted and sentenced to three months imprisonment with hard labour, and required at the expiration of the term of their imprisonment, to find sureties by recognizance not to offend again for the space of one year, or in default, to further imprisoned and kept to hard labour for the space of six months.

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Two days later, Darwin travelled up to London to see the family dentist, Alfred James Woodhouse. As the years went by, and especially after the publication of his hugely provocative *Descent of man* in 1871, Darwin had become such an international celebrity, that he was plagued by autograph collectors writing to him and even unannounced visitors calling, hoping to get a glimpse of the notorious 'monkey man'.

One of his neighbours, Louisa A'hmuty Nash (1838-1922), later recalled some unwanted visitors to Darwin.

He would tell how a strange German got into his study one day, sat down, and said, "Now tell me all about your theory," — and so sat for two mortal hours, spoiling one whole day's work. A contrast to an American brother, who drove all the way from London in a hansom cab, sent his card in, and on seeing Mr. Darwin said, "Now, sir, shake hands," shook, and was off again."<sup>197</sup>

An even stranger visitor was remembered by George Darwin.

One day about 6 o'clk my father was upstairs resting as usual, when there was a ring at the door. The servant came presently to report that a strange rough looking fellow wanted to speak to him. He asked me to go down to see what he wanted. I found the sort of man one sees in the Western States of America, with a slouch hat, flannel shirt with no collar or waistcoat. He had come he said from British Columbia or California (I forget which) & was in England to see about perfecting a flying machine which he had invented, and thought he wouldn't go back until he had seen Mr Darwin...I went up to report this to my father, & he came down & had some talk with him. He offered him some refreshment, as he had walked from Beckenham seven miles but as far as I can remember he would

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<sup>197</sup> Nash 1890, p. 405.

not take anything. After some five minutes more he left.<sup>198</sup>

Henry Wheeler (b.1861), a young gardener at Down House, recalled a story about another unwelcome visitor.

One day the great man was working in the woods at the job of collecting some plants for experimental purposes. He was just about to return home when he was accosted by a particularly ugly-looking stranger, who, seeing the scientist's old working clothes, mistook him for a labourer, and asked—'Doesn't Charles Darwin live about here somewhere?'

'Yes,' Darwin replied, pointing towards his home, 'over there.'

'He thinks we has originated from an ape, doesn't he?' was the next impertinent question.

Darwin considered for a moment, and then, looking straight at the man, answered, 'Well, he was not quite certain, but he's pretty sure now.'<sup>199</sup>

Despite his fame, Darwin's family life, work and support for local and worthy causes would go on, but his time on the bench had come to an end. He would remain a county magistrate until his death in 1882.

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<sup>198</sup> George Darwin, [Recollections of Charles Darwin]. [CUL-DAR112.B24-B29](#).

<sup>199</sup> Anon. 1927. Darwin at home: a crusty, snuff-taking recluse. *Sunday Post*, 4 Sept., p. 3.

## AFTERWORD

Darwin would have one last and rather macabre connection to Farnborough where he had sat so many times as magistrate. As is well known, after Darwin's death in April 1882 some of his scientific colleagues requested that he be buried not in the quiet churchyard at Down, but in Westminster Abbey. A coffin was made by the village carpenter, John Lewis (c.1834-1915), who said in a 1909 interview "I made his coffin just as he wanted it: all rough, just as it left the bench, no polish, no nothing".<sup>200</sup> After the Westminster Abbey funeral was arranged, a hearse arrived with an expensive white oak coffin. Darwin's body was transferred from the locally-made coffin where it had lain for about thirty hours to the highly-polished white oak coffin from London. Lewis kept the coffin in his cottage for "a long time" and often showed it to visitors. He recalled: "I thought I might sell it. I got several bids of fifty poun', but didn't part with it. One gentleman I told about it said, 'Ask two hundred, you'll get it easy.' But I never did. I can show you letters from America and Germany about it." Eventually Lewis sold the coffin for £10 to John Goodchild, owner of an inn at Locksbottom.<sup>201</sup> There is no indication that it was ever put on public display. Ultimately it was stored in the coach house of the inn until it and its brief occupant's name were forgotten. By the early twentieth century "customers used to 'complain humorously of the shock [of seeing a coffin] every time they entered the place, which is now used as a garage.'" In 1925 a new licensee of the New Inn, a Mr Seeley, had the heavily-tarnish brass name plate on the coffin cleaned and was surprised to find that it read "CHARLES ROBERT DARWIN, / Died 19 April, / 1882, / Aged 73 years." The re-discovery of Darwin's coffin was widely reported in the newspapers. The bio-statistician Karl Pearson (1857-1936) offered to buy it for the museum of University College London where he was a professor. He wrote: "It seems a pity that the coffin should be made a show for idle crowds."<sup>202</sup> Darwin scholar Ralph Colp wrote an important article about the coffin and its maker in 1980. But the trail ran cold and he concluded that the "whereabouts of the coffin became unknown".<sup>203</sup> In fact, as a result of the 1925 press reports, Leonard Darwin purchased the coffin and it was burned at the wishes of the family.<sup>204</sup>

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<sup>200</sup> Anon. 1909.

<sup>201</sup> Ibid.

<sup>202</sup> *Daily Herald*, 15 Apr., p. 5.

<sup>203</sup> Colp 1980, p. 63.

<sup>204</sup> *Daily Herald*, 29 Jun., p. 9. A previously unknown 1896 photograph of the coffin is

## ACKNOWLEDGEMENTS

We are grateful to Bromley Historic Collections, Bromley Central Library for permission to quote from passages from G. W. Norman's diary, with special thanks to Kate Bond of Bromley Historic Collections, to Paul Skelton and the website Dover Kent Archives (<http://www.dover-kent.com/1pubs-list.html>) for illustrations, Peter Higginbotham, [workhouses.org.uk](http://workhouses.org.uk). and Deborah Collins (Kent Workhouses and Poorhouses), Michael D. Barton and Rebekah Higgitt. We are very grateful to Samantha Evans and Paul White of the Darwin Correspondence Project for the transcription of Emma Darwin's letter to William Darwin [23 April 1852?] CUL-DAR219.1.4. Gordon Chancellor read an earlier draft and made helpful suggestions. Christine Chua wishes to thank her daughter, Ashley Toh, for her unwavering support of this work and the many projects done for *Darwin Online* etc.

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