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Norma Landau, ed.. *Law, Crime and English Society 1660-1830.* Cambridge: Cambridge University Press, 2002. xii + 264 pp. $75.00, cloth, ISBN 978-0-521-64261-3.

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In drawing together the eleven essays in *Law, Crime and English Society 1660-1830*, Norma Landau has produced a second festschrift to honor John M. Beattie, whose pioneering work on the social history of crime in early modern England has had a profound effect on the field of criminal justice history. In their own way, each author acknowledges his or her own debt to Beattie--as Norma Landau puts it in the book's dedication--as "mentor, scholar, friend" and many pieces build directly or indirectly upon points or suggestions made by Beattie himself. The contributors--all distinguished scholars in their own right--continue in this volume their substantial contributions to the social, legal, political and cultural history of early modern Britain. Arranged around themes that have been central to Beattie's own scholarship--law, crime, society--the essays touch on familiar topics but each from a fresh angle or else presenting a new twist based on new archival research. Douglas Hay's article, for example, draws from the still relatively unexploited records of the Court of King's Bench. Besides its role as a court of appeal and of first instance in both criminal and civil matters, the King's Bench also exercised the sole judicial power to review the behavior of lesser judges and magistrates. It is this role that Hay examines in this essay and it is through a case study of one particularly impudent Staffordshire justice of the peace (JP) that Hay traces some of the complexities of criminal procedure (and there were many) in the nation's highest court.

Hay argues that the judges at Westminster Hall were willing to grant considerable latitude to magistrates acting at the bottom of the judicial pyramid, even when those magistrates' actions revealed their ignorance about the law or their own personal grievances with one of the prosecuting parties. Hay shows that though bad JPs didn't get away with everything, they very nearly did. Over a sixty-year period, twenty-four JPs saw their professional conduct scrutinized by the King's Bench, an average of about one in every three years. But even when those who felt they had been hard done by when seeking justice from their local magistrate sought some recompense, the procedural obstacles inherent in King's Bench prosecutions, and the substantial costs, meant that charges of misconduct rarely proceeded beyond

just that--charges. Only the thoroughly detestable and litigious JP John Gough, whom Hay paints in all of his full, cantankerous detail, could attract the kind of collective financial might needed to pursue a successful prosecution at King's Bench.

Landau's own essay similarly considers the unique steps taken to control the so-called trading justices of Middlesex. Based on detailed study of the Middlesex and Westminster quarter sessions, Landau finds that the bad reputation that eighteenth-century JPs acquired for their vigorous pursuit of business was founded on not necessarily illegal activity, and certainly not criminogenic activity as contemporary critics charged, but on actions that did raise hackles and initiated a number of investigations. It was the entrepreneurial zeal that encouraged magistrates to wring as many fees as possible from those involved in criminal prosecutions that drove the magistrates into conflict with one another by poaching judicial business from their colleagues. But contemporaries went further in their concerns, claiming that the trading justices actually promoted criminal activity in order to expand the market judicial business. Landau concludes that this latter claim, which so tarnished the reputation of Middlesex magistrates in particular, was not without some merit, as justices found ways to exploit minor regulatory offenses which carried fines by encouraging or perhaps soliciting prosecutions for minor offenses and then pocketing a portion of those fines that they shared with trusted informers.

The essays by Peter King and Nicholas Rogers both consider the issue of impressment and the connections between the need for soldiers and sailors and the operation of the criminal justice system. Rogers looks at the way the law was used by people to resist impressment or to punish the violence and disorder that often accompanied its practice while King considers the role of impressment and enlistment as an alternative to prosecution in times of war. Rogers has scoured the Admiralty Solicitor's reports as well as newspapers and contemporary periodicals for evidence of resistance to impressment drives. While a good many potential tars stood up to the press gang, literally resorting to fisticuffs, others sought protection from press gangs in the law. Although it was difficult to challenge the legality of impressments as an issue of rights, Rogers shows that it was possible to limit or subvert the powers of naval impressment through other legal channels or through careful exploitation of available legal loopholes. His work demonstrates a surprisingly high level of legal literacy and a network of community-based tactics to divert, avoid, or delay the removal of important workers from their communities in order to top up the ranks of the navy. But on the other side too, the Admiralty used its power and prestige to force its views on local magistrates or municipal officials who were slow to condone the actions of press gangs and accept the legality of their warrants. The Admiralty was not shy about employing legal counsel either, challenging obstinate local and city authorities, and coming to the aid of press-gangsmen.

King's piece takes a closer look at the use of forced enlistment as an option for judges in controlling crime in times of war. As King points out, the connections between property crime rates and war were first spelled out by Doug Hay and John Beattie in the 1980s, but the specific details of who was most affected by these trends and how the process of diverting accused offenders from the courts to the army and navy has not been much explored. King finds that the practice of skimming indicted property offenders off of the court calendars removed a significant proportion of young men from the records. King turns the tables on the issue of fluctuating crime rates between wartime and peacetime, away from the issue of explaining the rise of crime following demobilization to the problem of explaining the decrease in indicted crimes during times of war, a fact which he suggests may have underrepresented the number of offenses during peacetime, and overrepresented the number of offenses following

demobilization. In short, King proves that the manipulation of the pre-trial process by magistrates at the summary stages of a criminal prosecution diverted large numbers of young men from the formal trial process. His essay raises important new questions about the evidentiary base for much of the scholarship that underpinned the earlier work of criminal justice historians, including that of Beattie and King himself. He also offers further evidence of the fruitful new questions that might emerge from the growing interest among historians of crime and the law in the operation of summary justice.

The essays by Randall McGowen and David Lieberman are concerned, in their own ways, with the making and re-making of the law. McGowen focuses his attention on the so-called "bloody code" using the laws against forgery as a prism through which to examine the process by which capital offenses were piled high on the existing laws. In the case of forgery, he argues, legislators took something of an ad hoc attitude towards repression, introducing a range of statutes with a range on penalties, depending on the perceived severity of the fraud that the forgery would permit. Those actions involving forgery which threatened most to undermine the emerging confidence in public finance were met with the harshest penalties. But lawmakers were not always careful about retracting clauses from previous Acts that dealt with similar though not precisely the same sorts of offense. And surprisingly few prosecutions proceeded from those statutes that carried the most severe penalties. For this reason, McGowen encourages a more carefully contextualized use of the term "bloody code" to characterize what was not nearly as much the product of a uniform "spirit" over the course of the eighteenth century as early nineteenth-century reformers would like us to believe.

Lieberman's subject is the difficult process by which English criminal law was further disentangled and distinguished from civil law. William Blackstone in particular pushed this thinking forward with considerable effect through his broad distinction of the law into public and private wrongs in his major work, ***Commentaries on the Laws of England***. Lieberman reminds us that in the eighteenth century and well into the nineteenth, the technical distinctions between "wrongs" and "torts," or "felonies" and "trespasses" were still being worked out as the law in theory and in practice moved towards more modern categories of "civil" and "criminal" process. Though building on the traditional jurisprudential literature, the jurists and legal scholars of the eighteenth century were collectively engaged in an ongoing dialog that saw a new and significant re-ordering and re-conceptualization of English law. If Blackstone's "map of criminal law" (p. 140)--as Lieberman styles the overall framework of the ***Commentaries***--did not lead to jurisprudential peace (Jeremy Bentham and other critics saw to that), Blackstone at least set the course of the debate for later eighteenth- and nineteenth-century theorists.

Part 3 of the collection, entitled "Society," includes essays by Ruth Paley, Barbara Shapiro, Donna Andrew, and Joanna Innes. These pieces pursue the questions of how far and in what ways the law was able to reach into various corners of everyday life. The daily operation of the courts, of course, had a direct bearing on the lives of certain individuals, especially those who were charged with one of numerous capital offenses on the books in the eighteenth century. But the law operated in and through popular culture and the rhythms of everyday life in other ways too. Andrew reveals how the press was co-opted by the courts and litigants in order to satisfy the needs of public justice. Andrew has scoured the newspapers of the mid- to late-eighteenth century for public apologies which she finds cropping up with growing regularity in the middle of the eighteenth century before trailing off near its end. The apologies came from both sexes, though overwhelmingly from men of the middling sort--artisans, shop-

keepers, publicans, followed by men of the "transport" trade. Their apologies for a wide range of offenses, slights, slanders, and wrongs, were published in daily papers such as London's ***Daily Advertiser***. Andrew spins from these brief, contrived, and in some cases judicially compelled acts of contrition a fascinating picture of the hurly burly of London life, while also suggesting how these pseudo-punishments helped to restore social order, reconfirm social hierarchies, and "promote regularity and decorum" (p. 228). Saying sorry was not only the right thing to do, it was, at some deeper social level, necessary and the newspapers were happy to sell the public space in which to make the apology "heard."

Paley's essay reconsiders the immediate impact of the ***Somerset*** case, in which Lord Mansfield ruled that masters did not exercise unlimited control over their servants. Since the servant in this case was in fact a slave who had fled from his master while they were in England, many judges and scholars interpreted Mansfield's decision in the broadest terms, arguing that it had in essence ended slavery in England. Through a close examination of two subsequent, little known cases of slaves being detained in English waters, Paley shows that ***Somerset*** was not in fact the landmark case that abolitionists and others made it out to be, and judges continued to pursue extremely narrow readings of the law when it came to cases involving fugitive slaves, even more than 40 years after ***Somerset***.

Shapiro traces the connections between legal conceptions of fact and religious discourse over the course of the sixteenth and seventeenth centuries. Shapiro is interested in how the concept of the "matter of fact"--central to forming a basis for legal judgments--was similarly applied by Restoration theologians in order to provide a rational basis for believing the key events described in the Bible. She argues that the Restoration age witnessed the most intense deployment of arguments from "fact" to support scripture. By the 1670s, rational argument had supplanted authority or divine revelation as the strongest grounds for believing in both the truth of scripture, and in the existence of God. That much of the language employed in these theological debates borrowed from concepts inherent in the English common law reveals the extensive and deep shared epistemological roots of both the law and religion.

Innes examines the historical background of the nineteenth-century factory acts with a careful telling of the circumstances that helped an earlier act emerge. Innes's essay details the process by which an attempt to redress a specific or local concern transforms into a general prohibition. The 1802 Health and Morals of Apprentices Act, she argues, was designed to deal with problems with work conditions in the cotton manufacture industry. But the act merits careful scrutiny because it framed an influential "idea": that the state did indeed have a role to play in the surveillance and maintenance of factory conditions. Innes shows how the 1802 Act was born out of contemporary concerns over the moral reform of children and apprentices which had taken firmer root in the 1780s, and how those concerns were played to advantage by MPs such as Robert Peel Sr. As manufacturers themselves, such men were yet unwilling as MPs to allow humanitarian sentiments to drive legislation that might also place unwanted restrictions upon the supply of young, cheap labor. As MPs, these manufacturers were coming to realize that there was a larger social concern over a large and vulnerable sector of the population at play, who needed some measure of protection imposed by the state.

All of the essays in this fine collection remind us of the messiness and historical contingency of the law, as well as its social and cultural significance. And all echo Beattie's argument that the eighteenth century is a particularly fruitful period for the historical study of such issues. Every author makes direct or indirect reference to the scholarship of the book's honoree and for those

who may yet be unfamiliar with Beattie's opus to date, the book concludes with a bibliography of his work. Specialists in the field will find in many of the contributions fine examples of how criminal justice historians are breaking new ground in a field which might have looked to some to have addressed most of the big questions already. And yet each author presents his or her findings in a most accessible and engaging manner, which should not deter non-specialists from dipping in to the various topics. Landau has done a splendid job in bringing these essays together and this volume is bound to take its place among the distinguished essay collections that seem to predominate in the field of English criminal justice history.