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Peter King. *Crime and Law in England, 1750-1840: Remaking Justice from the Margins.* Cambridge: Cambridge University Press, 2006. xvi + 248 pp. $99.00 (cloth), ISBN 978-0-521-78199-2.

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Finding the Law's Center

A great theme in the legal history of modern England–indeed in modern history generally–is Parliamentary repudiation of England's "bloody code" in the late eighteenth and early nineteenth centuries. The strict application of severe laws on crime in England in the 1700s is well known among both scholars and the wider public. The severity of sentences for pickpocketing and purse-cutting in London during the Georgian period is a stock feature of literary accounts by Daniel Defoe and Henry Fielding. The most popular street song of the whole period of 1600-1800 was "Paggington's Pound." That ditty reflected the public and the authorities being obsessed with "dying above ground" and the criminal activities that could lead to such a fate. Visitors to London during the Age of Reason often commented on the gruesome quality of English justice, to the chagrin of apologists such as William Blackstone.

Historians like V. A. C. Gattrell have built on the work of scholars including Peter Linebaugh and E. P. Thompson, to describe the administration of the eighteenth-century criminal law. They make a compelling case for the predominance of the hanging tree within English society in the 1700s. And so to contemporaries and historians, the scaffold epitomizes not only the English judicial system, but also England at the dawn of the nineteenth century–its social divisions, its political cronyism, its self-congratulatory rhetoric all at odds with the gory reality.

In the first quarter of the nineteenth century, Parliament revised the English criminal law to rid it of many of the punishments that had bespattered eighteenth-century justice. Legislators abolished the death penalty for certain petty crimes, for example, and they no longer countenanced spectacles such as whipping women, burning people at the stake, and allowing claimants to engage in trial by battle. The list of those reforms is well known thanks to eminent scholars of the judicial system such as Leon Radzinowicz and William Holdsworth. But what impetus lay behind the abandonment of the bloody code?

In the late 1700s and early 1800s new voices prevailed. The great landlords that had been so energetic in effecting the Waltham Black Act (so memorably castigated by Thompson in *Whigs and Hunters*, 1975) did not seem to hold sway during the abolition of the bloody laws in the 1810s and 1820s. Newer historians have tried to uncover motives behind reformist impulses of that era. In doing so they have posited a variety of reasons why individuals or groups might sponsor reforms of the law. Quakers, for example, maintained that the justice system ought to cause an offender to reflect upon and repent of misdeeds rather than to suffer physical discomfort for them. Contemporaneously, Benthamites called for justice to be rational and orderly rather than vicious and untidy. Meanwhile there arose well-connected critics of the criminal law such as Samuel Romilly and William Wilberforce, whose drive for social justice was impelled by evangelical religion. And members of Parliament such as Henry Brougham were as much politically astute in calling for law reform (i.e., pandering to a potentially broader electorate) as they were inspired by compassion.

In any case, it is reforms "at the center" that scholars long have emphasized. The assumption prevailing among historians has been that legislation changed due to pressure on Parliament from various and somewhat unconnected sources, and the law then was enforced throughout England. It was a trickling down of reform from the legislature to local venues (the courtrooms and the streets of the nation). Implicit in such an explanation is the idea that these reforms "trickled out," as well. The law was changed at Westminster. Subsequently it became known in widening circles until it reached the hinterlands through local courts and the police.

In *Crime and Law in England, 1750-1840*, Peter King begs to differ. At least he wishes to revise those assumptions with regard to certain areas of law that he has studied. King is especially concerned with English law from 1750 through 1840 as it relates to juvenile offenders, women, the rural poor, and violent but non-lethal criminals. In the book's subtitle, King calls localities physically removed from London and far from the locus of national power "the margins." He contends it was from the margins that key legal changes radiated: "It was the informal practices, and not infrequently the decisive reforms, adopted by court judges, juries, local magistrates and other local decision makers that played the most important role" (p. 4).

Indeed, King identifies some alterations in the criminal law–changes emanating locally and distant from London–that did not correlate with what Parliament was doing at the time. In certain instances the margins were not even acting parallel to the law courts or the legislature in London. Rather, law at ground level was foreshadowing and inspiring the central authorities. But according to King, the changes that occurred from the margins were not invariably moderations in the law. The law did not always become more lenient with time, as a focus on the courts in London and the Parliamentary legislation might suggest.

King is looking at areas of the law that have been understudied, even by scholars who want to examine local courts and the playing out of justice away from Westminster. He writes that most scholars who have studied that category of offenses called assault, for example, have been concerned with other types of cases than he has examined. Others have looked at capital crimes, offenses where class bias is suspected (such as crimes by tenants against landlords), or assaults where gender is a factor (notably rape), while he zeroes in on non-lethal, non-sexual assaults between private individuals. King reminds the reader here that "assault" was difficult to define precisely. In this portion of the book, as in others, his task is made more daunting by terms that had different meanings than in a twenty-first century context. Still he forges on, convinced that an understanding of courts' responses to what in modern parlance would be termed interpersonal violence is of great interest to historians beyond legal specialists. King maintains that grasping how legal institutions acted to punish non-lethal violence is pivotal to an appreciation of whether the early nineteenth century saw a reformation in manners. His arguments therefore are applicable to debates about culture and class even as they speak to questions of law.

In regard to the meting out of punishments for assault by local magistrates, what does King make of his finding, that in Essex, during the years 1748-52, individuals convicted of assault (almost to a person) paid a small fine, while between 1819 and 1821 the majority of convicted people faced prison? First of all, he notes that there was no policy direction from Parliament. It appears from the evidence in Essex that the judges and juries there in the later period were not responding to any changes in legislation. Instead they showed a more general sense that imprisonment was now preferable to a much milder case settlement. Fifty years prior, non-lethal assault cases had been resolved with a fine, if that.

The increasing resort to imprisonment, despite a lack of direction from Parliament, is apparent in another area King studies: the sentencing of juvenile offenders. In this section of the book, again, King is keen to note the complexities of defining his subject in a way that a more modern audience can grasp. There was little agreement in the law books and in practice, for example, as to what age demarcated "youth" for legal purposes. King argues that the late eighteenth and early nineteenth centuries were a period of concern over crime among young people, yet that there was no clear legal solution–certainly not from national policymakers. With respect to the law's treatment of juveniles, it should be noted that King does believe that legal practice spread outward from London to more faraway counties. Still he argues that those changes in the legal treatment of juveniles were not due to Parliamentary enactments. Instead, there were more diffuse forces at work, in particular an increasingly urgent sense that youthful convicts should be placed in reformatories rather than being punished corporally, let off, or thrown in with adult prisoners.

King is not afraid to take on evidence that is slippery and that might undercut his own arguments. In exam-

ining the punishments inflicted for assault in courts in Cornwall, for example, King concludes that Cornish authorities were more likely than those in London to order public whippings well into the late 1700s. On the basis of that Cornish evidence, King has to wonder: "did an older set of 'customary' notions, which accepted the positive role of violence in certain situations, hold its power as a discursive framework and as a basis for action longer amongst the magistrates and jurors of courts on the periphery than it did nearer the centre" (p. 278). And yet there is part of the data from Cornwall that works well with another aspect of King's argument: that public whipping of Cornish women was very much on the decrease long before Parliament acted to abolish women's corporal punishment through its famous enactments in the early 1800s. The data on women's whipping in Cornwall also fits in nicely with King's contention in chapters 5 and 6–his section on gender and justice–that women were the first to benefit from a widespread, public revulsion to hanging for property crimes. The excepting of women from the most savage penalties, he shows, certainly appeared on the margins long before Parliamentary revocation of that part of the bloody code.

There is not much with which to quibble in this beautifully researched book. King's references show a mastery of historical writings relevant to his work as well as an understanding of the literature in several related fields such as criminology. Despite the absence of a formal, separate bibliography, the book's footnotes provide a working guide to key authors that King has utilized or with whom he has disagreed. Within each chapter are discussions of historiography; one can find recent writings on the history of the police or the most current studies on petty crime in the Metropolis, for example, simply through the notes. The book is rife with tables. It is easy to follow King's mining of a variety of sources. The reader accustomed to the rich storytelling of some of King's models, such as (of course) E. P. Thompson, however, may find King's examples concerning particular lawbreakers to be spare. His descriptions of the circumstances under which Cornish miners were to be publicly punished on market days are tantalizingly brief, for example, as are the other individual cases he cites by name–and there are not a lot of those. He deals mostly in the aggregate, which is helpful as one negotiates a mass of material, yet also impersonal.

At times the reader might wish that King were less modest about the implications of his work, for his study is undeniably important. It forces a consideration of the timing, pace, and motivations behind changes in the law. The reforms of the late eighteenth and early nineteenth centuries have been much discussed by scholars even beyond the ranks of legal historians, for they seem to represent a fundamental shift in thinking about crime and punishment. Considering the key position that the law reforms of this period long have held in legal, political, and social history, it is of great moment that King locates the center of the law not in Parliament but in more distant places.

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