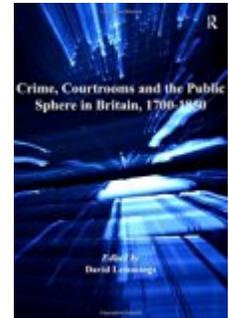




**David Lemmings.** *Crime, Courtrooms, and the Public Sphere in Britain, 1700-1850.* Farnham: Ashgate, 2012. xii + 234 pp. \$124.95, cloth, ISBN 978-1-4094-1803-0.



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The first decade of this century unleashed a number of major studies in the history of crime and criminal justice in eighteenth- and nineteenth-century England. Inspired by such writers as John Beattie, Clive Emsley, Victor Gatrell, John Langbein, and Peter King; by the mining of the London Metropolitan Archives; and by the digitization of the Old Bailey Sessions Papers (OBSP) by Robert Shoemaker and his research group, David Lemmings has organized this volume of collected essays which engages some of the principal questions of criminal law with regard to its reporting and reception in the public domain. It is an attribute of the collection that it contains chapters from a number of younger scholars who have published already significant work in the field and from whom much more can be expected.

The links between most of the chapters are the Old Bailey (OB) criminal court, the representations of its trials in the press, and its readership. Like most volumes of collected essays, however, not everything fits together neatly. There is a fine essay on Scotland that does not really engage the

subject matter of the others, and while the book is entitled with the years 1700-1850, most of the chapters engage the era of the 1760s through the 1840s. Nonetheless, the collection meets a very high standard. The chapters are well written and edited, they have a clear format that is followed throughout, and Lemmings writes an introduction that is a model for a book of essays. Indeed, his introduction alone not only sums up the contents of the book superbly, but also renders a reviewer's account as second class. Thus before providing a summary and critique of the individual chapters, I will begin with a summary of the book's themes that can be derived best from its introduction.

Lemmings depicts four themes that are contained in the eight chapter studies. The OB and its public proceedings, the role and representation of lawyers in the court, the reporting of its trials in the press, and lawyers in the courtroom in nineteenth-century popular literature. The OB reporting revealed a major change in the course of the eighteenth century, from a focus on character as-

assessment to more complex decision making where there was more credible evidence, and commercial crime becoming prominent with public justice “unforgiving.” The appearance of defense counsel in the reports reveals a spike in the late 1770s, earlier than others have noted. This was due to the City’s drive for more accurate and fuller reporting in pamphlets as publishers preferred the commercial prospects of exploiting counsel, such as William Garrow and Thomas Erskine, while the City feared their power in favoring the “wrong” side. Indeed, the best criminal advocates became storytellers as virtuoso performers long before the Prisoners’ Counsel Act (1836) allowed counsel to address juries. One of the useful features of the chapters is the attention given to the major organs of reporting, including the *Select Trials* of the era 1718-64, the OBSP from 1674, and the Sunday press reporting in *Lloyds Weekly Newspaper* from 1843. It is the OBSP under directors Emsley, Tim Hitchcock, and Shoemaker that has captured the imagination of the academic profession and is now reaching into popular television series. While it would have been useful to have an account and critique of this key source, readers will benefit from the insights throughout the work. The final theme is lawyers and the courtroom, where considerable attention is given to the pilloring of lawyers and the savage caricatures of London police magistrates. What is interesting here is that as the number of capital convictions and executions declined over the course of the era, press coverage increased to whet the appetite of readers as trials became reported as one-sided, culprits were depicted as obviously morally defective and guilty, jurors were shown as bystanders in the interplay between lawyers and judges, and broadsides encapsulated such stories that sold in the millions of copies.

These themes are concluded with an introspective on Jurgen Habermas and the public sphere, where its health depends on the quality of discourse and quantity of participation—in other words, productive argument that is heteroge-

neous and respects merit. Lemmings argues that public interest in trials after 1780 gave journalism a symbiotic relationship with popular theater. While the journalistic reports were better than those of an earlier age, the effects on public opinion were perhaps “deleterious” (p. 20). An appetite developed for real life. To borrow the phraseology of E. P. Thompson, to witness justice as the rule of law was an organic part of English popular culture, and it may well have reached its zenith in this period. If there is one overriding theme in the book, it is this interplay between the lives of the criminally accused and the rule of law that was sketched out in the London printing presses and absorbed by its readers with increasing interest that engaged conversation throughout the country.

Since few essay collections have all of their chapters reviewed, I am taking the liberty here of providing a succinct assessment of each in the order in which they occur in the book as each essay deserves mention. “Trials in Print” by Esther Snell examines narratives of rape trials in the OBSP 1720s-80s, with most from the 1760s-80s. The underlying theme is the conflict between the publicity of the crime needed by the court and the privacy needed by the prosecutor. The challenge was for the court to attain disclosure and to maintain the victim’s privacy, especially before an all-male jury. Cross-examinations were intimidating, and the courtroom environment for women was hostile with misogynist sentiment. Young girls were often not allowed to give evidence. The accounts in the OBSP were very personal and revealing (often “salacious”), and medical practitioners were often called in to testify to the anatomical evidence. The chapter is riveting, and begs one to question this century of “Enlightenment” where attention to the decline of capital punishment has obscured the victims.

“Useful and Entertaining to the Generality of Readers” by Andrea McKenzie provides an incisive analysis of the *Select Trials* 1718-64. Based on

the four-volume series of *Select Trials* published from 1718 to 1764, which highlighted some of the most notorious crimes of the era, this essay shows that over 81 percent of OB trials were for theft. As in prior centuries, the “character” of the accused was prominent in the trial, many of which took on the role of sentencing. But unlike earlier centuries, there were few partial verdicts. By 1764, the major interest was in capital crimes (89 percent), of which 73 percent of the criminals were executed (pp. 64-65). Unfortunately, a chart included in the essay has three barely distinguishable shades of grey, making it difficult for the reader to see the differences (p. 61). In addition, with a long tradition of broadsides from the late sixteenth and seventeenth centuries, it would be interesting to assess how different the portrayals of the eighteenth century were from those of the earlier era which often were set pieces borrowed from one another.

In “Representing the Adversary Criminal Trial,” Shoemaker offers a revealing digest of lawyers at the OB 1770-1800. Making effective use of major works by Beattie, Simon Devereaux, Stephen Landsman, and Langbein, Shoemaker shows what those responsible for the *Proceedings* (which were licensed by the City of London) determined what readers should be told, primarily cross-examining witnesses and marginalizing the roles of judges and juries. He documents how the editors, reluctant to report the participation of defense counsel at the height of radicalism in the City in the early 1780s, engaged the public fascination with the lawyer Garrow apart from a backlash in 1790-92. This was the golden age of defense counsel in the court their presence rising from about 5 percent in 1770 to over 25 percent in the 1790s (p. 81). The City’s later fear of what it had unleashed was tempered by the press in making subtle changes in language and “bleaching out” legal detail (p. 89).

Devereaux provides a fascinating account of the interplay of barristers and actors in the eigh-

teenth and early nineteenth centuries in “Arts of Public Performance.” Based on a wide and challenging array of primary and secondary works, the essay focuses on the concurrent and cross-fertilizing developments at the criminal bar and on the stage. By 1800, there was an interplay of actors and lawyers in the provincial assizes, and the author shows how the two professions studied and learned from one another at the OB in the early nineteenth century. Devereaux juxtaposes David Garrick’s popularization of the technique of “naturalistic performance” (making theater out of the courtroom) in the early nineteenth century (with Garrow’s representative of the real human being portrayed in the courtroom (p. 117). He also gives a fascinating discussion of the role of physiognomy. The interesting question is whether it was justifiable for a counsel to picture his accused as innocent when he knew he was guilty—a point highlighted in the TV Series *Garrow’s Law*.

“Negotiating Justice in the New Public Sphere” by Lemmings is a two-fold study of the courts and the press in the early eighteenth century. The first is of the trials presented in London newspapers between 1719 and 1720. He expands his law and order dialogue between the government and public opinion from his earlier work, including his coedited book with Claire Walker (*Moral Panics, the Media and the Law in Early Modern England* [2009]).[1] His major interest is in the representation of a trial “as a selective and emotional discourse of government” to legitimize its authority (p.120). Lemmings reveals how much more we learn of the crime, the alleged perpetrator, and the context from newspapers rather than the OBSP. His second study is of Scottish newspapers in the same period. Crime reporting in Scotland differed from reporting in England. Lemmings’s main contribution is his argument that while the press was deferential generally to the courts, its reporting (especially in England) enabled a public negotiation with government about the administration of criminal law, bringing a more informed general public into that conversa-

tion. It would have been useful to conclude this discussion with how the politicians of the era read the public in creating major criminal law reform. [2]

Anne-Marie Kilday's "Contemplating the Evil Within" is a general account of attitudes to criminality in Scotland between 1700 and 1840. Kilday's research base is some 6,500 criminal prosecutions at the Scottish Justiciary Court that she examined in her PhD thesis. Kilday argues that while there were few publication outlets in Scotland, offenders, and especially women, were treated with a "stringent attitude" for what the public saw as bad behavior (p. 165). Crime was relatively low by European standards, the accused were strongly encouraged to confess, and the media was used as a regulatory control to remind potential criminals of their outcomes. The rate of conviction was high, and only when cases were "effectively incontrovertible" were trials permitted to proceed (p. 154). A short chapter, it would have been useful for the author to provide a few charts or tables to provide readers with the tangible evidence, and perhaps some numbers that give us progressions (or regressions) over time.

"Fiction or 'Faction'" by Allyson N. May is an insightful analysis of literary representations of the early nineteenth-century criminal courtroom from the 1790s through the 1830s--principally through the novels of William Ainsworth, Edward Bulwer-Lytton, Charles Dickens, Thomas Gaspey, and Theodore Hook. Authors who novelized the news sustained, distorted, and exaggerated it. As the English criminal justice system had been questioned fundamentally, with some major changes initiated by legislation, dissatisfaction was rife with portrayals of the fictional criminal attorney highlighted by Hook's *Gilbert Gurney* (1836) and the OB--which May considers the most extended fictional and sarcastic portrayal of its courtroom in the 1830s (pp.183-90). Judges were presented as severe and corrupt, counsel as glib and amoral, and attorneys of base status. Such

representations contributed to public mistrust of the criminal trial which would deepen by the end of the nineteenth century.

The final essay, "Publishing Courtroom Drama for the Masses, 1820-1855" by Rosalind Crone, is a study of broadsides and pamphlets contemporary to the era that were published in *Lloyd's Weekly Newspaper*. These broadsides illuminate popular conceptions of the criminal justice process for primarily working-class audiences. Since these people became isolated from courtrooms, they eagerly sought knowledge of what they were missing. Crone concludes that there was little difference in the genres as they lifted texts directly from one another. Providing very useful charts of the evidence collected, she documents that while broadsides moved the working class further from the reality of justice, the new weekly newspapers, such as *Lloyd's Weekly*, provided "neatly packaged" columns of criminal court intelligence meant to be informative and not provocative (p. 216). The cheap short books that were published separately (few survive) demonstrates the reading public's appetite that runs so adeptly through most of the chapters of this book.

In the end, the essays in this collection are thoroughly researched, asking as many newer questions as resolving older ones. Attractively produced, the book contains an excellent index that provides useful subheadings of general entries in addition to the usual personal and place names. It will serve as a useful work for courses on crime and criminal administration in modern England, as well as for the numerous generalists and specialists in history, law, and literature who maintain our fascination with the world of crime in Georgian and Victorian England.

#### Notes

[1]. Also relevant is his recent monograph: David Lemmings, *Law and Government in England during the Long Eighteenth Century: From Consent to Command* (Basingstoke: Palgrave MacMillan, 2011).

[2]. Curiously the great reformer Robert Peel is never mentioned in the book; neither is Jeremy Bentham.

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