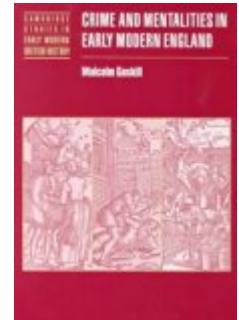


**Malcolm Gaskill.** *Crime and Mentalities in Early Modern England*. Cambridge: Cambridge University Press, 2000. xiii + 377 pp. \$64.95, cloth, ISBN 978-0-521-57275-0.



**Reviewed by** Louis Knafla

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The avowed purpose of the work is to uncover the changing mental world of the English people, 1550-1750, through crime and the criminal justice system. The crimes of witchcraft, coining, and murder are used to show how ordinary, working people perceived themselves, their social environment and universe in everyday life, and how those perceptions reflected and shaped popular beliefs and behavior over time. Gaskill's mission for the historian is to see "history from within" (p. 4), discovering both continuity and change. In surveying the themes and contexts of these centuries, he exhorts historians to see society and mentalities as dialectical: To understand people obliquely, in shades of gray, the meanings of the words they used, and the interaction between what they said and what they did in their normal habitat of marketplace, workshop, church, ale bench, fireside, and birthing room. Placing himself in the tradition of the French *Annales* school, and calling forth the mission of Lucien Febvre, he urges us to use microhistory to uncover the secrets of the past.

The salient feature of the book is the author's commitment to use the tools of the *Annales* school and the new social history, with its anthropological and linguistic influences, to write on the social history of the law in early modern England. Utilizing the sources of microhistory, and the concept of the *longue duree*, Gaskill strives to find a way into "the world we have lost." Citing Robert Darn-ton, reading documents where they are most opaque can "unravel an alien system of meaning" in a community by examining them within its structure and from outside -- "etic" and "emic" (p. 287). Or, as Clifford Geertz, one finds meaning in "subtlety, untidiness and diversity," where small facts speak to large issues (p. 288). In the end, Gaskill's *Crime and Mentalities* has its similarities to the world of Le Roy Ladurie's *Montaillou*. Focussing largely on small communities on the margin with a large dose of urban London, time and place gives way to mentalities.

Gaskill's position on crime and history is that we know HOW the criminal law operated, but not WHY. The law should be seen through religion and morality, and whether it served people or

protected the elite. This use of what has been called the "functional" and "conflict" schools of criminal justice history rests upon qualitative, and not quantitative sources. Gaskill, however, is a historian who leaves no stone unturned in his quest for qualitative history. He urges the use of both normative and impressionistic sources: public and private documents, published and unpublished, of church and state; and serious and popular literature, ballads, pamphlets, newsheets, diaries and letters. He contends, however, that the most valuable sources among these are the original court records of examinations and depositions. Thus he urges colleagues to travel more widely in their search for original artifacts, and to rummage in them more deeply. Backpack and laptop in hand, the historian should be seen as itinerant friar and holy woman.

Part One, on witchcraft, begins with a very comprehensive historiographical discussion of the literature for continental Europe and North America. Gaskill's command of the literature includes the most rare European and North American journals as well as the major ones, and he is fairly comprehensive down to works published through 1999. The first section examines contemporary perceptions of witchcraft in England largely from the 1580s to the 1680s, where he argues that there was no single stereotype but "a plurality of beliefs" (p. 45). The criminal law was brought to bear on female witches because they could be more easily criminalized in implementing a centralized criminal justice system and a Protestant nation. In this process, their stories were retold, distorted, and twisted over the decades to acquire a cultural life of their own.

The experience of witchcraft is told primarily from the records of church courts and the assizes. Gaskill raises important new evidence of historical facts. Many prosecutions of females were not the result of witchcraft or witch crazes, but of interpersonal conflicts. The latter prosecutions were often launched as part of wider conflicts over so-

cial superiors, religious ideology, compensation for work or services, land disputes, or forms of public engagement. They took place both within and between families and kin. Accused were often well defended, used counter-suits, and sued for damages for false accusations. In most cases, suits were due to disagreements that could not be easily settled by conventional means, particularly where evidence for other crimes could not be proved. The list of such crimes (pp. 66-70) is somewhat staggering. It strongly suggests that just as legal fictions governed many civil actions, they may also have been at the heart of criminal prosecutions.

Most of those who were prosecuted were fully integrated and productive men and women of the community, capable of conflict, who had breached customary rules of neighborliness. As ordinary people caught up in deadlocked disputes, they often confessed voluntarily, denying the commission of maleficium. In Gaskill's view, it is this framework of witchcraft prosecutions that is important to recognize: not the meaning of witchcraft, but its various "guises ...within the vast and varied framework of early modern mentalities" (p. 78). His use of church court records, especially of Canterbury and the Isle of Ely, is revealing of a larger number and wider range of witchcraft information than has been assumed to date.

A second section examines witchcraft from 1680 to 1750. Gaskill's thesis is that while the crime almost ceases to be prosecuted after 1680, it remained a very live subject in local communities afterwards. There is, for example, evidence of popular witch-hunts throughout rural England. He suggests that many claims were turned back by suspicious justices of the peace and grand juries as judges tried to protect the accused long before the witchcraft statute's abolition in 1736. Combing the local archives, Gaskill produces evidence of lynchings down to 1774, and the killing of witches in self-defence as alibis in cases of homicide and assault. This reinvention of witch-

craft among the lower classes in rural areas continued into the late-eighteenth century.

Using ecclesiastical visitations, pamphlets, and newspapers, Gaskill argues that the witchcraft statute was repealed by a Whig coalition who wanted to curtail the incursions of the church into the state. Witchcraft had become a political symbol as anti-popery and Jacobite. The most educated writers of the late-eighteenth century still believed in it as a possible phenomenon. Although it had vanished in legal treatises, it remained in dictionaries and encyclopedias. In religious works, highly exaggerated stories from the past were given the status of fairy tales; in literature, the image was used for escapism, romanticism, and satire. Thus, in the *longue duree*, the changing meaning of witchcraft illustrates the social history of the law in ways that should prove fruitful to future work in social and legal history.

Part Two is on "coiners": clipping and counterfeiting. Coining, unlike witchcraft, was a victimless crime with no biblical basis. Until the late-eighteenth century most people believed that clipping was not illegal, and many clippers became folk heroes. The lines of social status were blurred between thief and laborer, coiner and artisan. While counterfeiters were a profession, many believed that they assisted society by increasing the coinage in circulation. Few people saw coining as bearing the crime of high treason or the sanction of capital punishment, especially since every monarch through William III had failed to reform it. Since the state demanded prosecution, JPs had a difficult task in prosecuting and jurors in finding guilty verdicts. Gaskill provides a wide ranging discussion of these prosecutions from the local records of the activities of clippers and counterfeiters, the literature concerning them, and the evidence from JP, assize, and royal mint records.

In an engaging chapter on "Coining, State and People," Gaskill weaves an enlightening story of informers, double agents, and blackmailers. Because of popular resistance to official attitudes of

these crime, a cycle of subterfuge developed: Informers were threatened with physical violence to turn in suspects, suspects confessed and were reprieved for informing on others, and later recidivists who were coiners could end up with a job at the royal mint. The crucial period was the drain of bullion in the 1680s and the recoinage of the 1690s. The result was state policy that artificially generated and sustained public hostility towards coiners, while diluting the power of legal sanctions because of the corrupt and discretionary manner of enforcement. The public image was in constant change as clipping caused deterioration of the coinage, and recoinage, sparking riots that led to the cycle of prosecutions and reprieve that demeaned the image of the state which the crime of coining was designed to preserve (pp. 198-9).

Part Three is on murder ("crimes of blood") and its representation. Examining its meaning in religious and legal theory, cheap print, and sworn testimony, Gaskill organizes the historical evidence into layers in order to discern how the ideology of rulers, clergy, judges and JPs filtered down to the ordinary people who put those ideas into practice. Following the writing of James Sharpe, Peter Lake, and Thomas Laquer, he surveys the development of pre-meditated murder in the mid-sixteenth century, and the print culture which emerged from the trials. He makes the interesting suggestion, with some evidence, that JPs had stories of executed felons sensationalized and published in pamphlets in order to convey the twin message of God's providence (murders found through miracles) and deterrence (trial and execution). This led to a standardized version of murder fables.

Gaskill's contribution to the literature on this subject is his exploration of oral culture from depositions, JP diaries, correspondence, and legal handbooks. There are fascinating accounts of murderers discovered from deathbed cries, corpse-touching, and birds and ghosts appearing

in dreams as messengers of proof. Many of the examples come from the records of diocesan courts which legal historians have not examined for this kind of evidence. Gaskill also breaks new ground by suggesting that the testimony of witnesses can be seen as stories told for a local audience, and could be paraphrased and shaped by court officials to form a common stylistic ground that could secure conviction. Thus guilt was more important than fact. The change would come by the late-seventeenth century when the voices of the countryside were given less currency, and legal truth was determined by an "objective evaluation of empirical evidence" (p. 241).

Changes to "constructing justice" occurred by the late-seventeenth century because of changes in official structures and mentalities. Less reliance on community testimony, more detective policing and forensic work, and higher standards of evidence affected the prosecution of homicides. Gaskill provides some fascinating detective work of his own in chapter seven into the work of local law enforcement officials in New Romney, Kent, and the Isle of Ely. His plea for the study of their pre-trial work is badly needed (pp. 244-5). He demonstrates how individual communities and their officials transformed legal structures and popular mentalities to effect a more rigorous discovery and prosecution of violent killings, and to displace divine providence with a more secularized, professional, and scientific approach to criminal justice.

In a sense, however, many JPs and coroners were often inactive and corrupt, leaving the driving force of the transformation to senior judges, local governors, and jurors. Larger rewards for identifying suspects, advertisements for evidence, and judicial pardons for accessories increased in the course of the seventeenth century. Citing the work of G.E.R. Lloyd on *Demystifying Mentalities* (1990), Gaskill argues that the co-existing factors of passivity and intervention, amateur and professional, popular wisdom and formal learning,

rural myth and urban fact, oral and literary communication, and science and magic formed the boundaries of social contexts for murder (pp. 278-80). Statistical patterns can inform us about criminal prosecutions in the courts, but not of the deeper strata of human activity.

The study concludes with a rhetorical question: "From Belief to Certainty?" Gaskill's stance is on the ground of E.P. Thompson: social history is a central subject around which the rest of history should be organized. His mission is to do what G.R. Elton said could not be done: find sufficient archival sources to write the history of crime in the early modern era. Taking the larger social context of a shift from the "belief" in forces of the universe to a "certainty" of the ability of humans to influence the world around them, he finds that the history of crime in the areas of witchcraft, coining, and murder from 1550 to 1750 can be understood within the context of the same long-term changes. In all three crimes, critical periods were the mid-sixteenth, late-seventeenth, and late-eighteenth centuries. Laicization contributed heavily to changes in structures and mentalities. Self-control may have lessened the frequency of what other historians have called "the dark figure" of their commission. Written evidence superceded oral testimony, and fact became separated from opinion. Truth could be made and unmade in the courtroom, and a more questioning judiciary may have led to fewer grand jury true bills and trial jury guilty verdicts.

Apart from the social and cultural ambiance of the study, Gaskill brings into his conclusion an incisive assessment as to how the Reformation, Renaissance, Enlightenment, and modernity affected the Tudor and Stuart state, English society, and the history of crime and the criminal law (pp. 288-311). He examines the dynamic and diverse relations, and changing roles, of governors and judges, class consciousness, the middling sort, social bonds and frameworks, and communities. Time is couched in broad sweeps, not individual

years. Law courts are seen as the setting for these engagements, and crime as where they met and intersected. The intersection had two paradigms: that of community, custom, faith, rumor, and God; and state, law, certainty, proof, surveillance, and the intervention of man. Mentalities are frameworks where these competing paradigms coexist. Citing Keith Thomas, the difference in mentalities between the sixteenth and eighteenth centuries was not in achievement, but in aspiration. Experiencing a desacralization of their society, people lost a psychological experience of the sacred (S.S. Acquaviva, 1979). As they came to fear LESS nature and God, they came to fear MORE impersonal social and economic forces. Thus in law, as in history, "historical determinism filled the gap left by divine providentialism" (p. 311).

There are some minor problems and puzzling questions in this book. For example, the remains of depositions in the sixteenth and early-seventeenth centuries are far larger than has been posited (pp. 21-2, 205-6). The grounds for making accusations may not have been as broad to contemporaries as alleged (pp. 76-8). Quantitatively, confessions may not have been as large proportionately, and escapes not as infrequent (pp. 224-5). The diminishing role of benefit of clergy should be considered in discussions of the severity of the criminal law. Parliament was rarely concerned with repealing obsolete law because one never knew when it would be useful again (p. 98). Depositions may not have become part of communal thought (pp. 238-9). In more general terms, perhaps intermediate conclusions would be different (and more readable) if the author adhered to a more rigorous sense of chronology in digesting his evidence.

*Crime and Mentalities* will benefit students and scholars of history for years to come. Containing 1321 footnotes, an imposing bibliography of manuscript and printed primary sources, thirty-one pages of secondary sources, and a comprehensive index with excellent subject headings, it

is a book that will lead to controversy and repay both re-reading and extended discussion. Gaskill has set a new standard for the writing of socio-legal history. But it may take a decade before it is fulfilled. His command of the real sources and their language, of law and history, and of the wider context of social, anthropological, and cultural thought, will not be easy for others to match. In this age of instant publication, how many young scholars will have the time and patience to master complex subjects of law and history in such a broad cultural and intellectual context before they write upon it?

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