

Peter King, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins*, Cambridge: Cambridge University Press, 2006. Pp. 348. \$99.00 (ISBN 978-0-521-78199-2).

This book brings together the author's new and previously published scholarship on the history of English crime and criminal procedure. Five of the ten chapters appear for the first time and are the focus of this review.

Chapter One ("Shaping and Remaking Justice from the Margins") articulates the book's overarching thesis: changes in English criminal justice in the late eighteenth and early nineteenth centuries resulted more from the informal practices of local magistrates and judges than from policies emanating from Parliament and the Westminster courts. Understanding the criminal law "in action"—as opposed to the "law on the books"—requires the historian to shift attention from traditional centers of authority toward the margins. The shift also requires the historian to look beyond the period's prototypical offender: adult, male, accused of felony. The author's new chapters illustrate his thesis by examining, respectively, juveniles, women, and non-capital crime.

Chapters Three and Four ("The Punishment of Juvenile Offenders" and "The Making of the Reformatory") concern young defendants. The latter of the two chapters is superbly researched and important in its conclusions, using newly available archives to reveal what the Old Bailey Sessions Papers and Home Office criminal registers do not—namely, that Old Bailey judges in the early nineteenth century, acting on their own initiative, regularly sent juvenile offenders to the London Refuge for the Destitute, an early and experimental reformatory. This exciting discovery highlights the creative role of judges in shaping the practice of criminal justice. (For creative approaches to young offenders outside London, see George Fisher, "The Birth of the Prison Retold," *Yale Law Journal* 104 [1995]: 1235, 1308–24.) The first chapter on juveniles is not quite as successful, employing statistical analysis to compare the verdicts and sentences of juvenile offenders in the late eighteenth century versus the early nineteenth century and concluding that young offenders grew less likely to be acquitted yet more likely to be spared capital punishment. The decline in death is persuasively linked to the changing attitudes of "respectable society . . . and even that of the monarch" (123), but not much is said about the reason for the drop in acquittals other than being "difficult to unravel" (120). It must also be noted that the sample sizes are dangerously small, as the author acknowledges (119, 133).

Chapter Six ("Gender and Recorded Crime") concerns women. The author ingeniously uses quantitative data from regions across England, including London, to rebut the argument advanced by Feeley and Little that the proportion of female offenders dramatically declined from the late seventeenth to late nineteenth centuries (M. Feeley and D. Little, "The Vanishing Female: The Decline of Women in the Criminal Process, 1687–1912," *Law and Society Review* 25 [1991]: 719–57). The author demonstrates, instead, that the decades on either side of 1700 saw an unusually high proportion of female offenders, caused in part by the relative absence of men, fighting abroad, and that it is from the starting point of this atypical

peak that the otherwise reasonably steady percentages throughout the eighteenth and nineteenth centuries appear to be vanishing.

The final new chapter, Chapter Eight (“Changing Attitudes to Violence in the Cornish Courts, 1730–1830”) focuses on non-lethal violence. Relying on the minute books of the Cornish quarter sessions, which survive from 1737, the author examines the changing treatment of assault in a county geographically remote from London. The author shows, convincingly, that assault cases in Cornwall shifted from being fundamentally about victim compensation to protecting public order; the predominant use of nominal fines to secure re-payment to the victim gave way to the imposition of large fines and/or imprisonment, especially against the “targeted groups whose behavior the magistrates and middling jurors were particularly concerned to control” (268). The chapter also examines changes in the use of whipping as a punishment for petty larceny, comparing the data from Cornwall to statistics from London and Essex. Necessarily tentative, the comparison reveals that public whipping remained a punishment in Cornwall longer than near the nation’s legal center, suggesting that the Cornish judges “responded less quickly to the new sensibilities about violence” (278).

Taken together, the chapters underscore the need for historians of criminal justice to be sensitive to the prisoner’s gender and age and to the broad discretion of local judges and jurors. The “law in action” was often not the same for adult male felons at the Old Bailey as for young or female offenders, or those at a considerable distance from London.

The *New York Times* published a revealing series of articles in 2006 on the small-town courts in rural New York, guided more by custom and discretion than law, innovative yet perilously free from oversight (Sept. 25 at A5, Sept. 26 at A1, Sept. 27 at A1). The late eighteenth century is closer than we think.

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Allyson N. May, *The Bar and the Old Bailey, 1750–1850*, Chapel Hill: University of North Carolina Press. Pp. 242. \$55.00 (ISBN 0-8078-2608-8).

Allyson May’s *The Bar and the Old Bailey* explores a previously neglected corner of the history of the legal profession and, in the process, uncovers the unpredictable relationship between legal reform, professional exigencies, and the history of the criminal trial. By focusing on an unlikely group of protagonists—the barristers who practiced in London’s main criminal court, known as the Old Bailey—May produces what amounts to three independent, yet overlapping, historical narratives. The first traces the evolution of the much-criticized group of British barristers that practiced at the Old Bailey. The second details changes in criminal trial procedure during an era of law reform. The third skillfully charts the professional and public debate on trial advocacy. Each of the narratives alone would be well worth the price of admission; having all three is an unprecedented delight. May’s work offers