

Any reader of these two books will be struck by the difference in their style and approaches to the history of sexual policing. But the authors also share an interest in the way that law is used to regulate and punish illicit sexuality and in the significance of patriarchy as a form of government in the household and a model for government outside of it. They also share the belief that the commitment of law to certain priorities or principles is constrained, either by the loyalties of competing families, or by the limited commitment of the general public to its professed ideals.

**Elizabeth H. Pleck**

University of Illinois, Urbana-Champaign

---

Christopher Frank, *Master and Servant Law: Chartists, Trade Unions, Radical Lawyers and the Magistracy in England, 1840–1865*, Farnham, Surrey, and Burlington, Vermont: Ashgate Publishing Limited, 2010. Pp. x + 283. \$124.95 (ISBN 978-0-7546-6830-5).  
doi:10.1017/S0738248013000515

As its title indicates, Christopher Frank's book examines the application of the statutes characterized as "master and servant law," and trade unions', Chartists', and radical lawyers' opposition to these laws. The book emphasizes two types of legal injustice inflicted on England's workers: the laws regulating employment, and the summary jurisdiction wielded by England's magistrates when they administered these laws.

*Master and Servant Law* focuses on the application of laws regulating employment in England's industrial areas from 1842 to 1851. The book shows, clearly and persuasively, that England's manufacturers and mine owners used these laws to: compel workers to work on terms arbitrarily dictated by their employers; prevent workers from seeking other work; and force workers to work in obviously unsafe conditions. As Frank demonstrates, some of the workers so abused were so valuable, and the master and servant laws so useful for abusing them, that their employers pursued these workers to Scotland in order to have them arrested and sent back to be tried under master and servant law. Solicitors defending workers prosecuted under these laws, and the Chartist press celebrating that defense, emphasized two inequities intrinsic to these laws. First, the laws bound employers and workers in an unequal contract. If workers broke the contract, they could be imprisoned. If employers broke the contract, they were merely fined, and even that penalty was rarely inflicted, because magistrates rarely acknowledged that an employer's alteration of the terms on which a worker had been hired amounted to a breach of contract. The second, particularly

galling inequity was the laws' virtual enslavement of worker to employer. Not only could a worker be imprisoned under these laws for breaching his contract, he could also, after he served his sentence, be forced to return to work for the employer who had had him convicted and imprisoned. If the worker refused to return to work, he could be imprisoned again and again, seemingly *ad infinitum*.

Although radical solicitors raised objections to these laws as inequitable, the success of the defenses they mounted depended upon exploitation of two varieties of uncertainty in the law. First, the laws' definition of the types of worker subject to the master and servant laws was ambiguous. Therefore, to eradicate this ambiguity, Sir James Graham, home secretary in 1844, promoted a bill that would have subjected all workers except domestic servants to the master and servant laws. Frank presents the unions' successful opposition to this bill as evidence for one of the book's major arguments: that, as early as the 1840s, unions were both effective in combating these laws and in raising the arguments that would eventually force repeal of these laws. This book is definitely a contribution to the history of labor.

The book does not establish its other major argument as firmly. That argument rests on analysis of Parliament's response to the second type of uncertainty in the law: uncertainty about what information the record of a conviction or commitment must contain to be legally valid. Convictions under the master and servant laws were summary convictions made before magistrates acting out of Quarter Sessions. Frank argues that the Summary Jurisdiction Act (one of the Jervis Acts) was the government's response to the unions' victories in Queen's Bench, victories that overturned convictions under master and servant laws and laid the foundations for suits against magistrates who made these convictions. As Frank shows, the Summary Jurisdiction Act made such challenges to convictions much more difficult, and another Jervis Act—the Vexatious Actions Act—made it more difficult to bring suit against a magistrate. Frank, therefore, argues that the unions' success in challenging convictions under the master and servant laws in the 1840s explains the timing and a significant portion of the content of the Jervis Acts, which were enacted in 1848 and 1849.

The Jervis Acts are the legal foundation of modern magistracy. They have been little studied. Frank's focus on the magistracy's administration of the master and servant laws, therefore, both illuminates and obscures the history of magistracy. On the one hand, Frank's focus on the master and servant laws is so intense that his argument does not allow for the possibility that changes then rippling through the judicial system could have affected magistracy and so both the Jervis Acts and their timing. On the other hand, this same intense focus has enabled Frank to reveal a clear connection between some sections of the Summary Jurisdiction Act and unions' successful challenges both to employers' use of the master and servant laws and to the

magistrates who gave legal sanction to such use. In so doing, Frank has made an important contribution to the legal history of nineteenth-century England.

**Norma Landau**

University of California at Davis

---

Paul Friedland, *Seeing Justice Done: The Age of Spectacular Capital Punishment in France*, Oxford: Oxford University Press, 2012. Pp. x + 334. \$65.00 cloth (ISBN 978-0-19-959269-2).

doi:10.1017/S0738248013000527

Paul Friedland's *Seeing Justice Done*, his account of capital punishment in France from medieval to modern times, is an ambitious contribution to the crowded field of books on the death penalty in Europe. His goal, he writes, is to draw upon a variety of approaches—anthropological, legal-historical, theoretical—in order better to untangle the dense layers of meaning and practice that constituted capital punishment. His initial insight, gained when he examined the execution of animals in the middle ages, taught him that punishment is not a monolithic institution. Rather it is “an agglomeration of theories, practices, and perceptions, each of which had its own separate historical trajectory” (15–16). From this starting point, he sets out to rewrite the history of capital punishment by closely examining several turning points when the ideas behind the execution changed and the relationship of various groups to the punishment altered.

Friedland's very long view permits him to identify a crucial moment in the transformation of punishment in France, the arrival of Roman Law in the twelfth century. If earlier forms of punishment had aimed at “payback” and expiation, it now became “corporeal and spectacular” (56). The ever more extravagant rituals aimed to produce “exemplary deterrence” (38). If the existence of such displays testifies to the belief of the authorities in the effectiveness of seeing justice done, Friedland suggests that in practice the goal was only partially realized at best. The crowds who attended the execution, even the elites, came for a variety of reasons having more to do with excitement or curiosity than with obedience. Over time, the spectacle became more entertainment than ceremony. “The sixteenth century witnessed the birth of an entirely new kind of spectator who, rather than participating in the traditional ritual of penance and communal redemption, instead purchased seats overlooking the scaffold in order to watch events unfold from a distance” (141).

Friedland's narrative enters more familiar territory when he describes the appearance of growing discontent with spectacular punishment in the eighteenth