

Crime, Police and the Courts in British History

Edited by
Louis A. Knafla

Readings from Criminal Justice History, No. 1

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Historiographical Introduction

The transition of British criminal justice from medieval to modern times--from the restitutive justice of the community to the punitive justice of the state--has effected profound changes in the criminal law, in methods of apprehension and crime control, in the organization and development of courts and jurisdictions, in the growth of procedures and processes, and in the transformation of attitudes to and forms of punishments. The historical literature on these subjects, beginning with crime and criminous behavior which institutions of justice were created to prosecute, has reached nothing short of a revolution since the late 1970s. The present volume comprises a selection of some of that historical writing which has appeared in *Criminal Justice History* since its inception in 1980, and in particular on the history of crime, police, and the courts in British criminal justice from the fourteenth to the late nineteenth century that has been based on original historical records. The articles reprinted here make that writing available in a convenient and useful format,¹ and shed light on five general subjects: (1) crime rates and the problem of recorded crime; (2) violence and violent crimes in society; (3) criminal trials, judges and juries; (4) punishments, including executions and transportation; and (5) forms of investigation and the modern police. The purpose of this short introduction is to outline the general contributions of the authors to these subjects, and to refer the reader to the historiographical context and recent work. Since any collection of this nature will contain considerable information on a wide range of general and specific matters, a full and comprehensive index has been made to guide the user to discussions of particular criminal courts, crimes and offences, judges and officials, procedures and processes, gaols, prisons and punishments, and records and treatises, in addition to the particular as well as related matters which appear in this collection.

The field of criminal justice history has been unusually well served by general collections and overviews, and this volume on Britain follows a

relatively well-worn path. Perhaps the first really significant collection of essays on the subject was *Albion's Fatal Tree*, published in 1975, which still occupies the intellectual high ground in academic debate.² Devoted to the eighteenth century, Douglas Hay's interpretation of the administration of English criminal law is still a seminal historical essay, and the other essays in the volume on 'social' crimes are informative reading. This collection was followed by James Cockburn's on *Crime in England 1500-1800*, published in 1977, which sought to eschew controversy and base its credit in a cluster of short and concise studies of crime in local communities from a wide array of judicial records in the late sixteenth and seventeenth centuries, and some new contributions to the game laws, infanticide, and Newgate prison in the eighteenth century.³ In the meantime, E. P. Thompson's *Whigs and Hunters* (1975), whose work was the inspiration behind *Albion's Fatal Tree*, had helped to set the mark of the 'Warwick School' upon British historiography with its analysis of the Waltham Black Act of 1723.⁴

The appearance of these works drew a host of historians into the field, and in the years 1980-82 at least four collections appeared. The most prominent of these were two books published in 1980: *An Ungovernable People*, the Brewer-Styles volume which sought to improve upon and advance the interpretations of the Warwick School for the seventeenth and eighteenth centuries;⁵ and *Crime & the Law*, the Gatrell-Lenman-Parker volume which brought a European and a longitudinal perspective to the area.⁶ The long case studies in the former book were concerned with power and authority--how the rule of law was both exercised and perceived by different classes and social groups; while those in the latter book looked at the very mixed pattern of criminal legal practice across Europe from medieval to modern times, and explored this problem by examining the interaction and conflict of 'community' and 'state' law, and the varied interests of landlords, commercial classes, Church, and state in the prosecutorial system. More recent collections, due to the enthusiasm generated by conferences and sessions on special topics, have continued the case study approach: a sharply focussed one in the Cockburn-Green volume on the history of the criminal trial jury,⁷ and an attempt to place case studies on different subjects in a larger comparative focus (European and African) in the new Hay-Snyder collection.⁸

The development of a significant specialist literature has now spawned scholarly textbooks and reviews of that literature. The publication of modern texts based on specialist studies in addition to the researches of its authors began with James Sharpe's history of crime in early modern England in 1984, which has been continued with Clive Emsley's history of crime in modern England in 1987.⁹ In between these works we have had the massive studies of John Beattie (crime and the courts) and Leon Radzinowicz-Roger Hood (penal institutions), studies which must also be regarded as essential texts.¹⁰

There has also been more than a casual approach by scholars to keep up with the large and growing literature in books and periodicals by reviewing work in the field. Such work includes the annotated bibliographies and critical overviews of the research and writing which have appeared since 1977;¹¹ the annotations and notes in the up-to-date textbooks of Sharpe and Emsley since 1984;¹² and culminating with the recent popular series in *History Today* which summarizes the current state of the discipline.¹³ Moreover, these will soon be joined by an annotated bibliography of almost everything that has been written.¹⁴ Therefore, the purpose of this introduction will not attempt to survey the literature, but simply to refer to those works which are contemporaneous to the articles in this collection while introducing and outlining the major subjects which they address.

Crime Rates and the Problems of Recorded Crime

The use of indictments to make a long-range study of trends in the prosecution of felonies, convictions, and executions, has had a relatively short and controversial history. The publication of calendars of assize indictments from the commissions of gaol delivery for the Home counties 1558-1625,¹⁵ and the collection of the Old Bailey Sessions Papers for the 1670s to the late nineteenth centuries,¹⁶ have provided students and professional researchers with a base for the quantitative study of prosecutions, convictions, and executions from the sixteenth century to the nineteenth--when the system of modern criminal statistics was inaugurated in 1805.¹⁷ This 'records' base has proved tantalizing to historians of crime and criminal justice, and has led to debate over the "crime wave" that has featured a number of prominent social historians.¹⁸ The debate, however, has been marked with disagreement because the records base on which it has been waged has its own internal difficulties. For example, the extant Assize indictments are incomplete, they cover only the south-east counties excluding London, and they may not have been recorded with accuracy in certain important details.¹⁹ *The Old Bailey Sessions Papers* may be more reliable, but even these more modern records have gaps and difficulties.²⁰ Finally, not even modern statistics can be used with ease.²¹ Thus historians have been turning to other court records: records from courts in other parts of the country, of borough, special sessions, and other active local and ecclesiastical jurisdictions.²² At the dawn of an era of such local studies of crime and criminal justice, it is too early to make any definitive comments on the crime wave debate, but the studies of Timothy Curtis, Philip Jenkins, Stephen Wilson, and Robert Sindall provide important evidence and commentary relevant to the debate from several different perspectives.

The general scenario that has now come down to us is something like the following on a *per capita* basis. Recorded capital felonies (serious crimes) rose sharply from the 1560s to the 1620s, perhaps peaking at the turn of the century; they then declined significantly in the 1640s, and remained relatively stable while continuing to drift lower to 1700. The decline of capital felonies accelerated significantly again to the mid-eighteenth century, where they began a gradual rise to 1800 and increased sharply to the early 1840s. They then resumed a general decline to the end of the century.²³ These generalizations, however, exclude very sharp short-term swings, and local and regional variations, and hide important factors such as changes in the criminal law and enforcement, in courts and jurisdictions, and in public and official attitudes. The debate waged by Lawrence Stone and James Sharpe on this subject concerns both the evidentiary base and the qualitative meaning. How one defines "crime" is a crucial factor, and definitions including all felonies, or all crimes and offences--as shown for the heart of the crime wave of 1580-1620, would produce very different figures.²⁴ The work of Philip Jenkins on felony indictments in Cheshire, Devonshire, Essex, London, and Middlesex, 1580-1620, confirms the high rates of recorded felonies in that era documented by Cockburn and Sharpe. And the work of Wilson on felonies and misdemeanors in Sussex, 1775-1810, confirms the increase in recorded crime in that period, but attributes nearly all of the increase to a tripling in prosecutions for petty larceny, assault, vagrancy, and bastardy. Thus apart from problems of quantification, the meaning of the statistics is variable.²⁵

Curtis' examination of the vast archival material available for Cheshire and the palatine counties, although restricted in this study to some 14,000 cases for Cheshire and Middlesex for the years 1610-19 and 1680-84, concludes that high crime rates did not mean a highly criminous society. He suggests that the cases reveal no criminal class, no deviant subculture, and no professional criminals. And he argues that increases in prosecutions were due more to the prosecutorial directives of the local judges than to general social or economic forces, and that those who were prosecuted reflected the particular concerns of the local status groups represented by Justices of the Peace, constables, and grand jurors. He also denies the critical role of the central state in this period, demonstrating by example of laws on vagrancy and religious offences that local authorities would not enforce legislation that they did not deem relevant to their community. In the end, he argues that the study of crime should be done through local communities across time, and that crime rates in a community reflect and are determined by the working out of "boundary maintaining"--the maintenance, adjustments, and interactions of human behavior within the boundaries of the community.²⁶

Wilson's examination of larceny trials in Sussex, 1775-1810, complements the conclusions of John Beattie.²⁷ Using more local records from

the sessions of the peace, Wilson explores these property offences in the context of the weekly and seasonal prices of grain. With a close study of the indictment trends, he concludes that prosecutions did not track grain prices in this rural county, unlike the evidence which Douglas Hay has obtained for the industrial county of Staffordshire.²⁸ The main factor affecting prosecutions in Sussex was the unemployment level, and the figures for expenditures on poor relief proved a more useful guide to the seasonal and annual trends of larceny indictments. Other important factors discussed include the increased role of prosecuting societies which enabled farmers to meet collectively in this, as in other counties,²⁹ the costs of prosecution. Wilson, however, as Beattie, sees the increase in recorded crime as reflecting the state of real crime in this county community.

Another question in the meaning of the statistical evidence concerns the decline of recorded crime in the second half of the nineteenth century. Sindall uses both the Assize and Quarter Sessions records in sample years of 1855-1900 for the counties of Middlesex and Surrey, and the cities of Birmingham and Manchester, to evaluate the appearance of the 'middle class' (as defined by the occupational designations of the Registrar-General) as culprits in criminal prosecutions.³⁰ Going against the general trend, the number of indictments against men in these occupations increased fifty percent in the era. Locating perhaps the British origins of Sutherland's white-collar crime,³¹ he attributes their criminous activities to rising expectations, and explores the concepts of differential association, social disorganization, non-shareable problems, and occupationally determined crime. Given common perceptions of the middle class in Victorian England, Sindall shows how their moral, social, and economic environment encouraged their resort to crime in the age of imperialism. And given the attempt of contemporaries to label the non-industrious people amongst the workers as a 'criminal class',³² he provides an alternative group from those middle class contemporaries who threw the first stones. This also provides a useful context to the study of Jennifer Davis on the artificiality of the London 'crime wave' of the 1860s, where a garotting was made the occasion of a wave of arrests as part of a strategy of the city's ruling elite.³³

The situation in England was not unlike that of Wales, where the figures for indictable offences revealed an even greater decline in the course of the nineteenth century. Here, too, the meaning of the figures does not seem to support the supposition that real crime was decreasing. Its coal fields were described by some contemporaries as penal colonies, and the large number of summary arrests and convictions--with gaol sentences, together with a low rate of crime reporting for family, drink, and economic related offences, suggests that real crime perhaps even increased in the course of the century.³⁴ While the police have usually been assumed to be a positive factor in contrib-

uting to arrests and indictments, they could also withhold their law enforcement services to large sections of society, leading to low crime statistics as Davis again has shown for London.³⁵ Therefore, the problem of distinctions between indictable and non-indictable offences, and of prosecutorial energy, are especially important for the study of violent crime.

Violence and Violent Crimes

Indictments from Eyre and Gaol Delivery rolls have also been used recently to sketch the long-term trend of homicides in order to interpret the history of violence in English society. Since the law of homicide was relatively consistent over the centuries, with exceptions such as witchcraft and infanticides in certain periods, the statistical analysis of homicides has contributed more directly to the debate over serious crime and violence from the thirteenth century--when the routine of criminal circuits was well established--to the twentieth. The general scenario that has come down to us is as follows based on homicides per one hundred thousand population.³⁶ Fixed at approximately twenty in the thirteenth century, a gradual decline began in the fourteenth, which accelerated in the fifteenth and sixteenth centuries until it fell to ten by 1600. This rapid decline continued to six or five in mid-century, and to two and a half by 1720. From there the decline began to slow, but continued to one and a half by 1800 and one by 1950, from where the seven-century secular decline has now been reversed and is speeding back to the middle ages. Moreover, the only short-term developments offered in this scene were upward shifts in the early fourteenth, and late sixteenth-early seventeenth centuries. While it may be some time before someone has the courage to test this scenario with a more rigorous analysis of the extant evidence,³⁷ the articles of John Post, William Jones, and Ralph England provide some interesting comments on the role and nature of violence in the late medieval, early modern, and industrial eras.

Dr. Post explores the complex world of medieval jurisdictions for the trial of felons from the thirteenth through the fifteenth centuries, beginning with local and private jurisdictions, and ending with the ascendancy of Quarter Sessions and Assizes.³⁸ In a sense, the hundred or wapentake law-day, held twice a year, foreshadowed the commission of gaol delivery. In the thirteenth and fourteenth centuries--where towns, abbeys, lords, and bishops had their own gallows, but lacked prosecutorial energy, gaols, record-keeping, and standard judicial procedures--the growth in the authority of the crown brought assize circuits to indict culprits, county gaols under the authority of the sheriff to hold them, and keepers of the peace with local jurors to try them. Gradually, depending on the strength of individual hundredal juris-

dictions, the gaol delivery took over the trial of most felons for homicides in the fourteenth and fifteenth centuries. In a sense, the evolution of this judicial machinery for felonies accords with the decline of homicide prosecutions in the late medieval era as the quick judgments and hangings of local and private courts became superceded by the more lengthy and procedural processes of the royal circuits.³⁹

There were areas of the British Isles, however, where the evolution was not as straight-forward. As Professor Jones explains, the borderland areas of the late medieval (and, it could be added, the early modern) era were often pervaded with lawlessness, ranging from vandalism and brigandage to war and murder.⁴⁰ Comprised of 'no-go' areas where formal institutions of justice were not effective, people took the law into their own hands. In situations such as this, the processes of arbitration, negotiation, and composition under the control of a mediator were often the only effective ways of dealing with violent crimes, just as they often were in England itself; hence few homicide records emanated from the archdiocese of Armagh.⁴¹ Nor can many be found from the considerable areas of forest, marsh, and moor in medieval and early modern England which did not have large settlements, and where few writs ran. The records base for violent crime may not approach the figure of real crime, nor the progressive humanization which has been attributed to the devolution of British culture from the upper to the lower orders of society. If one accepts the fact that there was a transition in modern Britain from personal to property crimes, and that there was little knowledge or wherewithal to prosecute the greatest property crimes which involved the aristocracy and the middle class,⁴² then the subject of violent crime is one that may have a different scale in the modern era than it had in earlier ones, and the decline of indicted felonies may not reflect reality.

The nineteenth century has not been well served by the disposition schedules of modern times, and few good runs of court records are extant. Professor England's study of the almost unbroken files of coroner and JP inquests and examinations for the Northern Circuit, 1801-1824, provides an interesting account of homicide investigations and trials in the midst of the commercial and industrial revolutions.⁴³ His conclusions on the work of not only coroners and JPs, but also constables and grand jurors, are insightful for the judicial administration in an era where many have been quick to criticize. Given the recent interest in infanticide,⁴⁴ his work corroborates that of his contemporaries on the details of the killings, the role of women investigators, and the use of medical experts.

On a different level of violent crimes, Professor Parker examines some of the few reported cases of bestiality in the nineteenth century.⁴⁵ The contrast he establishes between the common practices which men had with animals, and the indignant and moral outrage which erupted when one of

these common practices was prosecuted, highlights the dilemma of Victorian morality.⁴⁶ Even learned judges eschewed legal precision and resorted to moral revulsion in their written judgments. When one compares the reporting of this violent crime with other 'social' crimes in the era such as counterfeiting, gleaning, poaching, rioting, and smuggling,⁴⁷ the comments of social historians that the history of criminal litigation is much more complex than many have assumed may repay thought and study.⁴⁸

Criminal Trials, Judges and Juries

Legal historians have made major inroads into the history of the criminal courts since the mid-1970s, notably the work of John Beattie and James Cockburn on the Assizes,⁴⁹ Tim Curtis, Cynthia Herrup, Peter Lawson, Stephen Roberts, Jim Sharpe, and Stephen Wilson on Quarter Sessions,⁵⁰ R. W. England, R. F. Hunnisett and Thomas Forbes on coroners,⁵¹ and Douglas Hay on Assizes, Quarter Sessions, and King's Bench,⁵² to mention only some of the current scholars whose work has reached formal publication. The articles in this volume represent a cross-section of that scholarship from the early seventeenth through the early nineteenth centuries. Assessing them chronologically, John Post explores the early history of the relationships between local and central authorities, and sessions of the peace and the assizes, in the late medieval era where little scholarly work has been done on these institutions apart from the happy conclusion of Bertha Putnam's project on the JPs which has spanned a generation.⁵³ Post's comments on how sessions of the peace superseded local hundredal and wapentake jurisdictions, and how assizes and commissions of gaol delivery superseded commissions of trailbastion, are informative for the later history of these respective local and central authorities for the trial of felonies.

Curtis, as Herrup afterwards, found the JPs exercising a critical and independent role in guiding the prosecutorial system in both rural and industrial hinterlands, Cheshire and Middlesex in 1611-19 and 1680-84, as well as initiating what he calls "new prosecutorial directives."⁵⁴ He also places emphasis on the role of constables and grand jurors in addition to established men on the community. In a sense, his concept of "boundary maintenance" in the administration of the criminal law has been advanced methodologically by Herrup's "common peace."⁵⁵ And his analysis of the positive work of the constables complements that of Joan Kent's recent study for the seventeenth century,⁵⁶ and Lowe's for the early nineteenth.

Turning to the late eighteenth and early nineteenth centuries, Dr. Wilson's work on Sussex is interesting because it shows how important courts of Quarter Sessions were in this late period in their history.⁵⁷ The fact that

they began to hear more cases of serious crime, and more cases than the as-sizes--thereby revealing an increase in criminal prosecutions which statistics used by other scholars ignore--demonstrates the importance of a total records approach to the study of crime, let alone of criminal trials, in modern as well as early times. England's study of the complete examination files of JPs and coroners for the Northern circuit in the first quarter of the nineteenth century reveals again the careful and meticulous work by constables, JPs, and coroners in the investigation of more than 2000 homicides. The role which women exerted in the investigatory process, and the speed with which the investigations were done in a large and rough region, are important findings for the history of the criminal courts and administration.

The last few years in particular have brought a wealth of scholarship on the history of the jury in criminal trials, emanating from the earlier series of articles on the history of juries in the eighteenth century by John Langbein.⁵⁸ Thomas Green's *Verdict According to Conscience* provided a thoughtful history of jury nullification of the rules of law, assessing the effects of jury behavior on the criminal law and its administration.⁵⁹ And the more recently collected essays edited by Green and Cockburn on *Twelve Good Men and True* provide a series of thoroughly researched studies on the composition and behavior of trial jurors, the roles of judge and jury in criminal trials, and popular and official attitudes towards them from the thirteenth through the eighteenth centuries.⁶⁰ Another scholar who has been studying the history of the jury is James Oldham, who has published several articles on special juries,⁶¹ and his history of the jury of matrons is a seminal work.⁶²

The purpose of the jury of matrons was to serve the special purpose of determining whether a female party to litigation was "quick with child of a quick child." The woman would "plead her belly," and matrons recruited as experts on pregnancy and childbirth would be impanelled in civil cases to determine matters such as inheritance, and in criminal ones to obtain a pardon for a guilty verdict on a capital felony. Focussing on the criminal cases obtained from the gaol delivery files and the Old Bailey Sessions Papers, he explores its origins and development, discussing variations in its usage, procedural questions, abuses, and its decline in the nineteenth century with the development of medical expertise on pregnancy. He also shows how it could be used in bastardy and witchcraft cases, and makes analogies to European and American usages. The summoning of these female juries, their procedures and customs, examinations and verdicts, and consequences, provide interesting comparisons with male grand and trial juries, and Oldham's tables and appendices summarizing the evidence provide sources for future research. These special juries reflected many of the elements leading to the growth of jury trials in the sixteenth century, and of their decline in the nineteenth.

Punishments

Stocks, workhouses, gaols, prisons, hulks, and gallows have long been the hallmarks of British criminal justice, and there has been considerable scholarly literature lately on the history of capital punishments, prisons, and transportation. The general trend that has come to us could read something like this: the execution rate per 100,000 was twenty in the 1580s, twenty-five to thirty in 1595-1605, ten by the 1630s, five by 1700, one and a half by 1750, less than one by 1800, and .03 by 1850. It has been suggested that more people were hanged in the years 1580-1630 than in all the years since then.⁶³ The shift from execution to transportation occurred from the late seventeenth to the mid-eighteenth centuries, spurred by the Transportation Act of 1718; and the final shift to prisons occurred from the late eighteenth to the mid-nineteenth centuries. Recent literature on these subjects includes major research on transportation by John Beattie and Roger Ekirch,⁶⁴ and on prisons by Michael Ignatieff and Philip Priestley with a useful text by the Christopher Harding team.⁶⁵ Philip Jenkins, writing in the midst of this work, provides a useful summary and interpretation of the history of executions in the early modern era.⁶⁶

Jenkins summarizes the evidence for executions in various counties and jurisdictions, central and local, and primarily for Quarter Sessions and Assizes. He explores the problems in identifying how many executions actually took place, accounts for why executions became so prevalent in the sixteenth century, and for the sharp, short-term fluctuations--which are attributed to factors such as economic and political crises, religious unrest, witchcraft, and riots. One of his major reasons for the atypicality of the late Tudor and early Stuart era concerns demographics: most crimes historically have been committed by persons in their teens and twenties, and the age structure of England in this period is suspected to have been one of the youngest in its history. These and other suggestions will repay further study. He argues that the precipitous decline in executions from the 1620s to the 1660s was actually foreshadowed by what happened in London and Middlesex. The creation of the British Empire, changing conceptions of labor, changing perceptions of trial jurors, and alternative forms of punishment all contributed to the decline of executions in the seventeenth and eighteenth centuries.⁶⁷ One might add that after the demise of the threat of the ideology of the English Revolution (of "The World Turned Upside Down"), perhaps the symbol of "the majesty of the law" proved as equal a deterrent as its application was perceived to have done in earlier times.⁶⁸

The end of transportation came just as quickly as the end of executions as a regular and persistent form of punishment. David Smith assesses

what happened to imprisonment in the years that transportation was abolished, 1848-63.⁶⁹ The general histories argue that the prison system entered a new age of brutality with the end of transportation, and Smith questions this assertion. Concentrating on the work of the Home Secretary, Sir George Grey, and the chairman of the directors of prisons, Sir Joshua Jebb, Smith sees Grey and Jebb as evangelicals sympathetic to a liberal view of imprisonment, but unable to agree on questions of confinement, education, discipline, public works, and remission, and on the wider issues of colonial policy and national defence which informed policy making. Jebb's reservations, once the prison construction projects were underway, did not have their intended influence, however, on the harried and ill Home Secretary. Therefore, the harsh era of DuCane may not have been as predetermined, nor as clear-cut, as it has been portrayed.⁷⁰ The second half of the nineteenth century has puzzled more than one historian for its dilemmas and dichotomies. And the issues of the moral and physical architecture of the prison in Victorian England are still prevalent.⁷¹

The Police

The 1980s has been a particularly rich period in the historiography of the police, from the perspective of both the pre- and post-Metropolitan Police. For the early modern era, there has been some work on the constables such as Joan Kent's composite study for the seventeenth century,⁷² and John Styles' studies of John Fielding and Samuel Lister in the eighteenth.⁷³ The late eighteenth and early nineteenth centuries have had the work of David Philips on policing the communities,⁷⁴ to which Professor England's article provides another interesting perspective. The transition from the old police to the new is evidenced in the colloquium put together by the Past and Present Society,⁷⁵ and Stanley Palmer's massive comparative history of the police in England and Ireland 1780-1850, with its detail on Peel's Irish Preventive Police of 1814 and his London Metropolitan Police of 1829.⁷⁶ With regards to the Metropolitan Police themselves, there is a pioneering study of the early history by Ruth Paley in the current volume of *Criminal Justice History*,⁷⁷ and Phillip Thurmond Smith has written a detailed picture of its responses to London riots in the 1850s and '60s.⁷⁸ The domestic role of the police has been shrewdly interpreted by Robert Storch,⁷⁹ and a useful survey of our current knowledge of the subject in the nineteenth century has been made by Clive Emsley in two different books.⁸⁰

Emsley's study of police violence in the middle decades of the nineteenth century reveals how the police applied their ample discretionary authority to use force and violence in their work, and how the public reacted to

them.⁸¹ Serving originally their local masters in the parishes, by the 1860s they had come to play a more important part in handling disturbances and maintaining the public order, as taking the place of troops in dealing with rioters. While some of them were issued pistols for particular occasions, and others could brandish sabres, their common instrument was the truncheon, which they came to use with regularity across the country along with their capes and boots. Packing a real whallop which could maim and even kill, Emsley narrates the encounters of these "Swedish turnips" with youngsters, citizens, and rioters to the end of the century. It certainly was less important for a policeman to charge a suspect with a crime when he could issue his own punishment summarily.

The history of the Metropolitan Police in London has encouraged the study of the police in other localities in the last century. The studies of Victor Bailey, B. J. Davey, and Carolyn Steedman have brought the policing of the localities into clearer focus.⁸² And the article of W. J. Lowe provides a fine portrait of the Lancashire police in the third quarter of the nineteenth century.⁸³ The largest uniformed, full-time police force in the country, Lowe builds his portrait from their personnel files and explores their social, demographic, and occupational background; their wages, working conditions, and career problems; local and family relationships; and their motivations within the context of how they were viewed by their working class compatriots. The police in industrial Lancashire in this period stand in sharp contrast to those who have been studied in Metropolitan London, particularly in the innovative research of Jennifer Davis which is just now appearing in print.⁸⁴ These broader issues of the relationship between police and society, and between police chiefs and their governments, are now being explored in the twentieth century as the work of Jane Morgan and Barbara Weinberger cogently illustrates.⁸⁵

As a subject, the history of the modern police promises to be one of the new and perhaps dynamic areas of British historiography. To date, its history has been primarily London oriented. One reason perhaps is that since the Metropolitan Police was the first of England's 'new police', it has been assumed that this force automatically provided the model for others in the boroughs and the counties even if we should know better. The focus on the Metropolitan Police has also been helped by the fact that it is the only force which has always been directly responsible to a government--the Home Office, and consequently many of its records have found their way into the Public Record Office at Kew. Seldom have the archives of local police forces been used, and the sources which have been tapped are those which have been handed over to county record offices. The material which has remained in police hands is fragmentary, but nonetheless much of it is very rich. Recruitment registers and personnel files provide information on their back-

ground, occurrence books have detailed investigations of all levels of crime and disorder, report books give invaluable insight into day to day policing on the beat, and registers of cab drivers, street sellers, publicans, and brothels provide a hitherto unused source for the exploration of English social history.⁸⁶ Thus recent writing on the history of the police has left a rich and varied landscape whose contours are still in the process of being formed.

Conclusion

As in most typical subjects of British history, the broad sweep of continuity and change is often informed and countered by prescient local studies, and the history of crime, police, and the courts has served to be no exception. The broad and detailed surveys of Luke Owen Pike and Sir James Fitzjames Stephen--which heralded the early dawn of English historical scholarship on these subjects--are still interesting reading. And so too are their late twentieth-century successors such as Leon Radzinowicz and Roger Hood. But perhaps the future lies in the hands of those historians and criminologists who can establish the life of institutions in the localities, and use that to inform the larger mosaic which will always, with its anecdotes, remain paramount in the minds of readers.

Notes

1. The articles are reprinted here with permission of the authors without change, but each author has submitted references and suggestions which have been incorporated into this introduction. The authors are, however, saved from anything written here, for which I accept sole responsibility. I wish to thank both the authors and the editors of the publisher for their grateful assistance.

2. *Albion's Fatal Tree; Crime & Society in Eighteenth Century England*, edited by Douglas Hay *et al* (Harmondsworth, 1975); including the major essay by Hay on property and authority, and his essay on poaching, P. Linebaugh on the Tyburn riot, Cal Winslow on Sussex smugglers, John Rule on wreck and coastal plunder, E. P. Thompson on the crime of anonymity.

3. *Crime in England 1550-1800*, edited by J. S. Cockburn (London, 1977). The local studies are those of A. D. J. Macfarlane and J. A. Sharpe on Essex, M. J. Ingram and P. B. Munsche on Wiltshire, T. C. Curtis on Cheshire, J. M. Beattie on Surrey; those on Newgate of W. J. Sheehan and P. Linebaugh. Still useful is J. H. Baker's survey of the criminal courts and procedure at common law, 1550-1800.

4. E. P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (London, 1975).

5. *An Ungovernable People: The English and their law in the seventeenth and eighteenth centuries*, edited by John Brewer and John Styles (London, 1980). This features Brewer on the Wilkites, Styles on the Yorkshire coiners, John Walter on the Maldon grain riots, Robert Malcolmson on the Kingswood colliers, Joanna Innes on King's Bench prison, and Keith Wrightson with an interpretive essay on two parallel concepts of order.

6. *Crime and the Law: The Social History of Crime in Western Europe Since 1500*, edited by V. A. C. Gatrell, Bruce Lenman and Geoffrey Parker (London, 1980). Includes essays by Christina Lerner on witchcraft, James Sharpe on English villagers and law enforcement, Stephen Davies on the courts of Stirlingshire 1600-1747, David Philips on the institutionalization of law enforcement 1780-1830, Jennifer Davis on the garotting panic of 1862, and Gatrell on the decline of theft and violence in the 19th century; and the editors provide an interpretive framework in an essay on the state, community, and criminal law in early modern Europe.

7. *Twelve Good Men and True: The Criminal Trial Jury in England, 1200-1800*, edited by J. S. Cockburn and Thomas A. Green (Princeton, 1988), comprises a series of case studies by Roger Groot, Bernard McLane, J. B. Post, and Edward Powell on medieval juries, and P. G. Lawson, Stephen Roberts, John Beattie, and P. J. R. King on early modern; with general essays by Cockburn on the 16th-17th and Douglas Hay on the 18th centuries; and a lengthy revised survey, 1200-1800, by Green.

8. *Labour, Law, and Crime: An Historical Perspective*, edited by Francis Snyder and Douglas Hay (London, 1987); and *Policing and Prosecutions in Britain, 1750-1850*, edited by Douglas Hay and Francis Snyder (Oxford, 1989). The first volume concerns Europe and the developing countries, and includes for Britain essays by Joanna Innes on the history of bridewells 1555-1800, and John Orth on the Combination Laws. The second one includes essays by Ruth Paley on London thief-takers 1745-54, Robert Storch on policing rural southern England 1830-50, Jennifer Davis on prosecutions in late-19th century London, Barbara Weinberger on policing miners and the unemployed in the inter-war years, and an introduction by the editors on "Using the Criminal Law, 1750-1850."

9. J. A. Sharpe, *Crime in Early Modern England 1550-1750* (London & New York, 1984); and Clive Emsley, *Crime and Society in England, 1750-1900* (London, 1987).

10. J. M. Beattie, *Crime and the Courts in England 1660-1800* (Princeton, 1986); and Leon Radzinowicz and Roger Hood, *A History of English Criminal Law*, Vol. 5: *The Emergence of Penal Policy* (London, 1986).

11. The surveys, for example, of L. A. Knafla, "Crime and Criminal Justice: A Critical Bibliography," in Cockburn, *Crime in England* (1977), 270-98; Douglas Hay, "Crime and Justice in Eighteenth and Nineteenth Century England," *Crime and Justice: An Annual Review of Research*; Victor Bailey, "Bibliographical Essay: crime,