

Law, Crime and English Society, 1660–1830

This book examines how the law was made, defined, administered and used in eighteenth-century England. An international team of leading historians explore the ways in which legal concerns and procedures came to permeate society, and reflect on eighteenth-century concepts of corruption, oppression and institutional efficiency. These themes are pursued throughout in a broad range of contributions, which include studies of magistrates and courts, the forcible enlistment of soldiers and sailors, the eighteenth-century 'bloody code', the making of law basic to nineteenth-century social reform, the populace's extension of law's arena to newspapers, theologians' use of assumptions basic to English law, Lord Chief Justice Mansfield's concept of the liberty intrinsic to England and Blackstone's concept of the framework of English law. The result is an invaluable account of the legal bases of eighteenth-century society which is essential reading for historians at all levels.

NORMA LANDAU is the author of *The justices of the peace*, 1679–1760, published in 1984.



Law, Crime and English Society, 1660–1830

edited by

Norma Landau

University of California at Davis





PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS
The Edinburgh Building, Cambridge CB2 2RU, UK
40 West 20th Street, New York, NY 10011–4211, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
Ruiz de Alarcón 13, 28014 Madrid, Spain
Dock House, The Waterfront, Cape Town 8001, South Africa
http://www.cambridge.org

© Cambridge University Press 2002

This book is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2002

Printed in the United Kingdom at the University Press, Cambridge

Typeface Plantin 10/12 pt System L $\Delta T_E X 2_{\varepsilon}$ [TB]

A catalogue record for this book is available from the British Library

ISBN 0 521 64261 2 hardback



In honour of John M. Beattie

Mentor, scholar, friend



Contents

	List of figures Notes on contributors	page ix x
1	Introduction NORMA LANDAU	1
Paı	rt 1 Law	
2	Dread of the Crown Office: the English magistracy and King's Bench, 1740–1800 DOUGLAS HAY	19
3	The trading justice's trade NORMA LANDAU	46
4	Impressment and the law in eighteenth-century Britain NICHOLAS ROGERS	71
Par	rt 2 Crime	
5	War as a judicial resource. Press gangs and prosecution rates, 1740–1830 PETER KING	97
6	Making the 'bloody code'? Forgery legislation in eighteenth-century England RANDALL MCGOWEN	117
7	Mapping criminal law: Blackstone and the categories of English jurisprudence DAVID LIEBERMAN	139

vii



viii Contents

Part 3 Society

8	After <i>Somerset</i> : Mansfield, slavery and the law in England, 1772–1830 RUTH PALEY	165
9	Religion and the law: evidence, proof and 'matter of fact', 1660–1700 BARBARA SHAPIRO	185
10	The press and public apologies in eighteenth-century London DONNA T. ANDREW	208
11	Origins of the factory acts: the Health and Morals of Apprentices Act, 1802 JOANNA INNES	230
	John M. Beattie's publications Index	256 258



Figures

I	Age structure of male and female property offenders,	
	Lancashire, 1820–1822. pa	ge 100
2	Age structure of male and female property offenders,	
	Lancashire, 1801–1805.	101
3	Age structure of male property offenders, Lancashire,	
	1801–1805 and 1820–1822.	102
4	Ages of male and female property offenders, Gloucestershire,	
	1806–1811.	102
5	Ages of male property offenders, Gloucestershire, 1789–1793,	
	1806–1811 and 1817–1818.	103
6	Ages of male property offenders, Bristol, 1786–1793,	
	1794–1804 and 1817–1819.	104

ix



Contributors

DONNA T. ANDREW is a professor of modern British history at the University of Guelph in Canada. She is the author of *Philanthropy* and police: London charity in the eighteenth century (Princeton, 1989), the compiler of London debating societies 1776–1799 (London Record Society, 1994) and, with Randall McGowen, joint author of *The Perreaus and Mrs Rudd: forgery and betrayal in eighteenth-century London* (Berkeley, 2001). She is currently completing a book entitled *The attack on aristocratic vice: cultural skirmishes in eighteenth-century England*, and beginning a new project on eighteenth-century London newspaper advertisement.

DOUGLAS HAY holds a joint appointment in the History Department and Osgoode Hall Law School, York University, Toronto. He is a contributor to and an editor of *Albion's fatal tree* (London and New York, 1975), *Policing and prosecution in Britain 1750–1850* (Oxford, 1989) and *Labour, law and crime: an historical perspective* (London and New York, 1987); and is joint author with Nicholas Rogers of *Eighteenth-century English society: shuttles and swords* (Oxford and New York, 1997). He has also written numerous articles and chapters which have appeared in journals and other collections. He is currently working on a study of the court of King's Bench, and a collaborative project on master and servant law in the British Empire.

JOANNA INNES is a fellow of Somerville College, Oxford, where she has taught since 1982. She has published extensively on social problems and policy in the long eighteenth century, and is currently at work on two volumes of her collected essays.

PETER KING is Professor of Social History at University College Northampton. He has published more than a dozen articles on the history of crime, law and society, is joint editor of *Chronicling poverty: the voices and strategies of the labouring poor 1640–1820* (London, 1997) and



Notes on contributors

хi

author of Crime, justice and discretion in England 1740-1820 (Oxford, 2000).

NORMA LANDAU is a professor of history at the University of California at Davis. She is the author of *The justices of the peace*, 1679–1760 (Berkeley, 1984) and of articles on the political, social, and legal history of eighteenth-century England. She is now working on two studies: on the regulation of migration within early modern England; and on the justices of the peace and their courts in eighteenth-century metropolitan London.

DAVID LIEBERMAN is the Jefferson E. Peyser Professor of Law and the Chair and Associate Dean of the Jurisprudence and Social Policy Program at the University of California, Berkeley. He is the author of *The province of legislation determined: legal theory in eighteenth-century Britain* (Cambridge, 1989) and other studies in the history of legal ideas. He is currently preparing for publication a critical edition of Jean Louis De Lolme's *The constitution of England*.

RANDALL MCGOWEN, professor of history at the University of Oregon, has co-authored with Donna Andrew *The Perreaus and Mrs Rudd:* forgery and betrayal in eighteenth-century London (Berkeley, 2001). He is also the author of numerous articles on punishment and the criminal law, and is currently at work on a book on the debate over forgery and capital punishment in early nineteenth-century England.

RUTH PALEY works at the History of Parliament Trust where she is responsible for *The history of the House of Lords*, 1660–1832. She is the editor of *Justice in eighteenth-century Hackney: the justicing notebook of Henry Norris and the Hackney petty sessions book* (London Record Society, 1991), and has published articles on policing in eighteenth-and nineteenth-century London. She is currently preparing, in collaboration with Elaine A. Reynolds, to write about the history of policing London from 1700 to 1839, and is editing a volume of criminal cases that were tried in London from 1700 to 1875.

NICHOLAS ROGERS is a professor of history at York University, Toronto. He is the author of Whigs and cities: popular politics in the age of Walpole and Pitt (Oxford and New York, 1989); Crowds, culture and politics in Georgian Britain (Oxford and New York, 1998); and, with Douglas Hay, of Eighteenth-century English society: shuttles and swords (Oxford and New York, 1997). He is currently completing a book on naval impressment and its opponents in Georgian Britain and the Atlantic seaboard.



xii Notes on contributors

BARBARA SHAPIRO, professor in the Graduate School at the University of California, Berkeley, is the author of John Wilkins 1614–72: an intellectual biography (Berkeley, 1968), Probability and certainty in seventeenth-century England: a study of the relationships between natural science, religion, history, law, and literature (Princeton, 1983), 'Beyond reasonable doubt' and 'probable cause': historical perspectives on the Anglo-American law of evidence (Berkeley, 1991) and A culture of fact: England 1550–1720 (Ithaca, 2000). She is currently working on English political thought in the sixteenth and seventeenth centuries.