### Execution, State and Society in England, 1660-1900

This book provides the first comprehensive account of execution practices in England and their extraordinary transformation from 1660 to 1900. Agonizing execution rituals were once common. Male traitors were hanged, disembowelled while still alive, then decapitated and quartered. Female traitors were burned alive. And common criminals slowly choked to death beneath wooden crossbeams erected at the margins of towns. Some of their bodies were either left to rot on roadside gibbets or dissected by anatomy instructors. Two centuries later, only murderers and traitors were executed – both by hanging – and they died alone, usually quickly, and behind prison walls. In this major contribution to the history of crime and punishment in England, Simon Devereaux reveals how urban growth, and the unique public culture it produced, challenged and largely displaced those traditional elites who valued the old "Bloody Code" as an instrument of their rule.

Simon Devereaux is Associate Professor of History at the University of Victoria.

# CAMBRIDGE

Cambridge University Press & Assessment 978-1-009-39215-0 — Execution, State and Society in England, 1660–1900 Simon Devereaux Frontmatter <u>More Information</u>



See the Studies in Legal History series website at http://studiesinlegalhistory.org/

## Studies in Legal History

#### EDITORS

Lisa Ford, University of New South Wales Thomas McSweeney, William & Mary Law School Reuel Schiller, University of California, Hastings College of the Law Taisu Zhang, Yale Law School

#### Other books in the series:

Giuliana Perrone, Nothing More Than Freedom: The Failure of Abolition in American Law

Christian G. Fritz, Monitoring American Federalism: The History of State Legislative Resistance

Ada Maria Kuskowski, Vernacular Law: Writing and the Reinvention of Customary Law in Medieval France

- E. Claire Cage, The Science of Proof: Forensic Medicine in Modern France
- Kristin A. Olbertson, *The Dreadful Word: Speech Crime and Polite Gentlemen in Massachusetts*, 1690–1776
- Edgardo Pérez Morales, Unraveling Abolition: Legal Culture and Slave Emancipation in Colombia

Lyndsay Campbell, *Truth and Privilege: Libel Law in Massachusetts and Nova Scotia*, 1820–1840

- Sara M. Butler, Pain, Penance, and Protest: Peine Forte et Dure in Medieval England
- Michael Lobban, Imperial Incarceration: Detention without Trial in the Making of British Colonial Africa
- Stefan Jurasinski and Lisi Oliver, The Laws of Alfred: The Domboc and the Making of Anglo-Saxon Law
- Sascha Auerbach, Armed with Sword and Scales: Law, Culture, and Local Courtrooms in London, 1860–1913
- Alejandro de La Fuente and Ariela J. Gross, Becoming Free, Becoming Black: Race, Freedom, and the Law in Cuba, Virginia, and Louisiana

Elizabeth Papp Kamali, Felony and the Guilty Mind in Medieval England

- Jessica K. Lowe, Murder in the Shenandoah: Making Law Sovereign in Revolutionary Virginia
- Michael A. Schoeppner, Moral Contagion: Black Atlantic Sailors, Citizenship, and Diplomacy in Antebellum America
- Sam Erman, Almost Citizens: Puerto Rico, the U.S. Constitution, and Empire
- Martha S. Jones, Birthright Citizens: A History of Race and Rights in Antebellum America
- Julia Moses, The First Modern Risk: Workplace Accidents and the Origins of European Social States
- Cynthia Nicoletti, Secession on Trial: The Treason Prosecution of Jefferson Davis
- Edward James Kolla, Sovereignty, International Law, and the French Revolution
- Assaf Likhovski, Tax Law and Social Norms in Mandatory Palestine and Israel
- Robert W. Gordon, Taming the Past: Essays on Law and History and History in Law
- Paul Garfinkel, Criminal Law in Liberal and Fascist Italy
- Michelle A. McKinley, Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700
- Karen M. Tani, States of Dependency: Welfare, Rights, and American Governance, 1935–1972
- Stefan Jurasinski, The Old English Penitentials and Anglo-Saxon Law
- Felice Batlan, Women and Justice for the Poor: A History of Legal Aid, 1863–1945
- Sophia Z. Lee, The Workplace Constitution from the New Deal to the New Right
- Mitra Sharafi, Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947
- Michael A. Livingston, *The Fascists and the Jews of Italy: Mussolini's Race Laws*, 1938–1943

# Execution, State and Society in England, 1660–1900

**SIMON DEVEREAUX** *University of Victoria, British Columbia* 





Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment, a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org Information on this title: www.cambridge.org/9781009392150

DOI: 10.1017/9781009392129

© Simon Devereaux 2023

This publication 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 & Assessment.

First published 2023

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data NAMES: Devereaux, Simon, 1966– author. TITLE: Execution, state, and society in England, 1660–1900 / Simon Devereaux, University of Victoria, British Columbia. DESCRIPTION: Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2024. | Series: Studies in legal history | Includes bibliographical references and index. IDENTIFIERS: LCCN 2023018210 | ISBN 9781009392150 (hardback) | ISBN 9781009392105 (paperback) | ISBN 9781009392129 (ebook) SUBJECTS: LCSH: Capital punishment – England – History. | Criminal justice, Administration of – Social aspects – England – History. | Executions and executioners – England – History. | Crime – England – History. CLASSIFICATION: LCC KD7885.C3 D48 2024 | DDC 364.660941–dc23/eng/20230724 LC record available at https://lccn.loc.gov/2023018210

ISBN 978-1-009-39215-0 Hardback

Cambridge University Press & Assessment has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

For Andrea

## Contents

List of Figures pag	ge xi
List of Images	xii
List of Tables	xiv
Acknowledgments	XV
List of Abbreviations	xvii
I Introduction	I
Overview	4
Contexts	9
2 Executions for Treason, 1660–1820	30
Enemies of the State: High Treason	31
Common Treasons: Coining and Petty Treason	45
Conclusion	55
Appendix: Executions for Treason in London, 1660–1760	59
3 Changing Cultures of Execution: Religion and Feeling,	
1660–1770	63
God's Tribunal: The Meaning of the Early Modern Execution	
Ritual	66
Transformative Forces: Secularization	76
Transformative Forces: Feeling	84
Conclusion	92
4 Changing Cultures of Execution: Reason and Reforms,	
1770-1808	94
The Emerging Problem of the Execution Crowd	95
Transformative Forces: Reason	107
A New, Urban Execution Ritual	115

ix

# CAMBRIDGE

Cambridge University Press & Assessment
978-1-009-39215-0 — Execution, State and Society in England, 1660–1900
Simon Devereaux
Frontmatter
More Information

x		Contents
	The Crisis of the "Bloody Code," 1782–1808 Conclusion	126
_		137
5	The Murder Act: Anatomization, 1752–1832 The Problem of Murder	141 143
	Executions and Anatomy in London before 1752	143
	Aiding Anatomists: Ending Tyburn Riots against the	- ) -
	Surgeons	161
	Aiding Anatomists: Supplying Bodies	167
	Dissection as Punishment	171
	From Grave Robbery to Murder	180
	Conclusion	194
6	The Murder Act: Hanging in Chains, 1660–1834	197
	Before the Murder Act, 1660–1752	198
	The Varied Impacts of the Murder Act, 1752–1799 From Abeyance to Abolition, 1800–1834	213 228
	Conclusion	220
	Appendix: Hanging in Chains near London, 1700–1799	239
7	The "Bloody Code" Debated, 1808–1821	244
/	Stern English Exceptionalism	248
	The Parliamentary Struggle	258
	The Substance of the Debate	270
	Conclusion	278
8	The "Bloody Code" Diminished, 1822–1830	284
	Reformers Resurgent	287
	Preoccupying the Ground, Engaging Public Opinion	292
	Condemning and Feeling: The Sentence of Death Act 182 Constraining the Gallows, Consolidating the Law	
	London: From Punishment to Policing	305 314
	Conclusion	318
9	The Vicissitudes of Public Execution, 1830–1900	321
9	The Counties: The Whigs and the Last "Bloody Code,"	521
	1830–1837	322
	The Unswerving Victorian Commitment to Execution	
	for Murder Minimizing the Victorian Execution Crowd	337
	Minimizing the Victorian Execution Crowd "Public" Executions after 1868	347
	Conclusion	355 364
10	Conclusion	367
Δ	chival and Digital Sources	270
	_	379
IN	dex	382

## Figures

1.1	Petition cases as a percentage of all pardon cases:	
	Home and Western Circuits, 1750–1830	
	(five-year intervals).	ge 12
4.1	Old Bailey (London) executions, 1760–1810	-
	(excluding murder).	III
4.2	Total numbers hanged in provincial England	
	and Wales, 1770–1810 by cohort size	
	(excluding murder).	128
5.1	Old Bailey trials for homicide, 1720–1800.	143
5.2	Hanging in chains for murder in England, 1700-52	
	(four-year groups).	145
5.3(a)	Murder and violent theft: capital convictions at	
	the Old Bailey.	148
5.3(b)	Murder and violent theft: accounts in the Select Trials, etc.	148
5.4	Number of execution days in London, 1720–52.	155
5.5	Annual convictions for murder at the Old Bailey,	
	1752–1832.	162
5.6	Old Bailey trials for homicide, 1750–1850.	187
6.1	Hanging in chains for murder in England, 1702–1832	
	(by decade).	203
8.1	Total numbers hanged in provincial England and Wales,	
	1800–37: by cohort size (excluding murder).	304
8.2(a)	Criminal committals and capital sentences, 1821-30:	
	London and Middlesex (Old Bailey).	309
8.2(b)	Criminal committals and capital sentences, 1821-30:	
	rest of England and Wales.	309
8.3	Old Bailey executions (excluding murder), 1815–35.	312

xi

# Images

2.1	Allegory of the Glorious Revolution, by Adriaan	
	Schoonebeek (c. 1689) (© The Trustees of the British	
	Museum) t	age 40
3.1	Cover illustration of the Ordinary's Account,	
-	8 February 1722 (© The John Rylands Library,	
	Manchester University)	73
3.2	Portrait of Theophila Palmer, reading CLARISSA,	
	by an unknown artist (attributed to Sir Joshua	
	Reynolds) (© Museums Collections, University	
	of Delaware, gift of an anonymous donor)	81
4.1(a)	John Seller, <i>The Manner of Execution at Tyburn</i>	
	(1678) (© Alamy)	99
4.1(b)	William Hogarth, The Idle 'Prentice Executed	
	at Tyburn (1747) (© The Trustees of the British	
	Museum)	99
4.2	View of an Execution before the Debtors Door	
	of Newgate (c. 1809) (© Museum of London)	119
4.3	Thomas Rowlandson, An Execution Outside Newgate	
	Prison (© Museum of London)	125
5.1	<i>The Tyburn Chronicle</i> (1768), frontispiece to volume	
	one (© The British Library)	150
5.2	William Hogarth, <i>The Reward of Cruelty</i> (1751)	
	(© The Trustees of the British Museum)	160
6.1	Thomas Rowlandson, A Gibbet (Yale Center for	
	British Art, Paul Mellon Collection)	199
7.1	Sir Samuel Romilly (c. 1818), by Samuel William	
	Reynolds Jr, after Martin Cregan (© National Portrait	
	Gallery D5835)	245

xii

List of Images		xiii
7.2	William Paley (c. 1789–91), by George Romney	
	(© National Portrait Gallery 3659)	252
7.3	The House of Commons (c. 1808–11), by Thomas	
	Rowlandson (© The British Library)	279
8.1	Robert Peel (1828), by Charles Turner, after Sir	
	Thomas Lawrence (© National Portrait Gallery	
	D39588)	285
8.2	Lord Chancellor Eldon (c. 1826–8), studio of Sir	-
	Thomas Lawrence (© National Portrait Gallery 464)	310

# Tables

Men executed in London for coining, 1670–1830	page 46
Women burnt at the stake in England, 1660–1790	48
Number of execution days per year in London (Old Bail-	ey),
1720–1839 (annual averages by decade)	114
Adoption of the "new drop" outside English County	
gaols, 1783–1850	118
Number of execution days (by numbers hanged): Londo	n
(Old Bailey), 1780–90	129
Execution rates in England and Wales, 1806-30	140
Old Bailey felons' bodies dissected, 1720–1832	156
Tyburn executions at which surgeons tried to claim the	
bodies of non-murderers, 1752–83	162
Criminals hung in chains in England and Wales,	
1700-1834	202
Individual gibbetings in England, 1700–1832	221
Chronology of parliamentary activity on criminal law,	
1808-21	259
The enforcement of Romilly's three crimes at the Old	
Bailey, 1730–1819	261
Chronology of parliamentary activity on criminal law,	
1822-30	290
Mackintosh's nine reform resolutions (22 May 1823)	294
The residual "Bloody Code" of the 1830s: the counties	
versus London (Old Bailey), 1820–36	323
Chronology of parliamentary activity on criminal law,	
1830-7	326
Chronology of parliamentary activity on criminal law,	
1840-81	342
	Women burnt at the stake in England, 1660–1790 Number of execution days per year in London (Old Bail 1720–1839 (annual averages by decade) Adoption of the "new drop" outside English County gaols, 1783–1850 Number of execution days (by numbers hanged): Londo (Old Bailey), 1780–90 Execution rates in England and Wales, 1806–30 Old Bailey felons' bodies dissected, 1720–1832 Tyburn executions at which surgeons tried to claim the bodies of non-murderers, 1752–83 Criminals hung in chains in England and Wales, 1700–1834 Individual gibbetings in England, 1700–1832 Chronology of parliamentary activity on criminal law, 1808–21 The enforcement of Romilly's three crimes at the Old Bailey, 1730–1819 Chronology of parliamentary activity on criminal law, 1822–30 Mackintosh's nine reform resolutions (22 May 1823) The residual "Bloody Code" of the 1830s: the counties versus London (Old Bailey), 1820–36 Chronology of parliamentary activity on criminal law, 1830–7 Chronology of parliamentary activity on criminal law,

xiv

## Acknowledgments

Like life, this book happened while I was busy making other plans. In 2015 Pascal Bastien invited me to contribute a chapter to a volume of historiographic surveys of execution in various countries. I rashly believed that I could keep such a project within a relatively short span of words, and I am grateful to Pascal for his patience and enthusiasm as my draft kept bursting each set of bounds set for it. In the end 35,000 words were written, and the desire of the "chapter" to be a book had become apparent even to me. Nevertheless, some readers may feel that, in trying to cover so broad a timespan, this account sometimes oversimplifies complex subjects and entirely omits other important ones. One of my objectives, indeed, is to draw attention to aspects of the subject that demand deeper consideration.

I am grateful to the Social Sciences and Humanities Research Council of Canada for the award of a Standard Research Grant in 2008–10, as well as the University of Victoria for several Internal Research Grants and funding under the Work Study Program. These funds enabled me to employ students to help with detailed surveys of digitized newspapers. My thanks to Brishti Basu, Chantelle de Montmorency, Emily Hansen, Patricia Kidd, Marri Knadle, Lindy Marks and Erin Travers for their contributions. I am especially grateful to Christine Fritze and Ashley Vandepol for their particularly intensive work.

I owe a joyous debt to our dear friends in London, Presley Warner and Berna Hudson. For two decades now, they have refused to allow us to stay anywhere during our research trips except in their beautiful home in Highgate, where we have had the added pleasure of seeing their wonderful children – Scott, Alexia, Christina and Katya – grow up.

# CAMBRIDGE

Cambridge University Press & Assessment 978-1-009-39215-0 — Execution, State and Society in England, 1660–1900 Simon Devereaux Frontmatter <u>More Information</u>

xvi

Acknowledgments

Research in archives is the most exciting and pleasurable part of a historian's work: but not always perhaps for the many people who make such glories of civilization function, sometimes under difficult circumstances. I am particularly grateful to the staff of the National Archives of the United Kingdom and the British Library for their unfailing assistance during the many happy months I have worked in their collections over three decades.

I am delighted that this book is appearing in the ASLH Studies in Legal History series. Michael Lobban has been constantly encouraging and supportive from the moment I first contacted him. Lisa Ford made many helpful comments and suggestions, particularly for putting the earlier chapters in order. For similarly helpful comments, I am grateful to the two anonymous readers of the manuscript. At the press, Cecelia Cancellaro, Victoria Phillips, Preethika Ramalingam and Steven Holt have seen the manuscript through production with unfailing patience and consideration. And a big thank you to Molly Robson for compiling the index.

Early drafts were not inflicted upon my many friends and colleagues in the field. My obligations to them and their insights are, I hope, properly acknowledged in the notes. This book would surely have been better had John Beattie been here to read it: I will always regret that he was not. Every page of it has been improved by Andrea McKenzie's sharp analytical and editorial insights. My debts to her work will be apparent in the notes. What I owe her for everything else that makes life worthwhile is acknowledged on another page.

# Abbreviations

Unless otherwise indicated, the place of publication is London.

Add MS	Additional Manuscript
AHR	American Historical Review
AJLH	American Journal of Legal History
BCN	Seventeenth- and Eighteenth-Century Burney
	Newspapers Collection (Gale)
BJC	British Journal of Criminology
BL	The British Library
BLN	British Library Newspapers (Gale)
ССОВ	Capital Convictions at the Old Bailey https://hcmc
	.uvic.ca/project/oldbailey/index.php
CPUK	Capital Punishment UK www
	.capitalpunishmentuk.org
CJH	Criminal Justice History
ĊŚPD	Robert Lemon et al. (eds.), Calendar of State
	Papers: Domestic Series, 1547-1706 (94 vols.,
	London and Woodbridge, 1856–2006)
ECCO	Eighteenth Century Collections Online (Gale)
EEBO	Early English Books Online (ProQuest)
Eng Rpts	The English Reports (Edinburgh and London, 176
	vols.)
Gatrell	V. A. C. Gatrell, The Hanging Tree: Execution and
	the English People, 1770–1868 (Oxford, 1994)
Hansard	T. C. Hansard <i>et al.</i> (eds.), <i>The Parliamentary</i>
110000000	Debates, from the Year 1803 to the Present Time
	(5 series to date)
HeinOnline	HeinOnline (legal history database)
. tem o mine	remember (legar motor) autabase,

xvii

xviii	List of Abbreviations
HCSP	House of Commons Sessional Papers
HJ	Historical Journal
HMC	Reports of the Royal Commission on Historical
	Manuscripts
HPC	The History of Parliament: The House of
	Commons (text available online at www
	.historyofparliamentonline.org)
JBS	Journal of British Studies
JHC/JHL	Journal of the House of Commons/Lords
JLH	Journal of Legal History
LCH	Law, Crime and History
LHR	Law and History Review
LJ	London Journal
LMA	London Metropolitan Archives
London Lives	London Lives, 1690–1800: Crime, Poverty and Social
	Policy in the Metropolis www.londonlives.org
OBPO	The Proceedings of the Old Bailey, 1674-1913
	www.oldbaileyonline.org
ODNB	Oxford Dictionary of National Biography (database)
OED	Oxford English Dictionary (database)
Ρ&P	Past & Present
Parl. History	William Cobbett (ed.), The Parliamentary History
	of England, from the Earliest Period to the Year
- 1	1803 (36 vols., 1806–20)
Radzinowicz	Leon Radzinowicz, A History of English Criminal
	Law and Its Administration from 1750 (5 vols.,
0	1948–86; fifth volume co-authored with Roger Hood)
State Trials	T. B. Howell (ed.), A Complete Collection of State
	Trials and Proceedings for High Treason and Other
	Crimes and Misdemeanours (34 vols., 1809–26)
The Times TNA	The Times of London (newspaper)
	The National Archives (UK)
E HO	Exchequer Papers
PC	Home Office Papers
	· ·
rnu	-
SD	-
	÷
PC PRO SP T	Privy Council Papers Domestic Records: Gifts, Deposits, Notes and Transcripts State Papers Treasury Papers