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978-0-521-78199-2 - Crime and Law in England, 1750-1840: Remaking Justice from the Margins

Peter King

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Crime and Law in England, 1750–1840

How was law made in England in the eighteenth and early nineteenth centuries? Through detailed studies of what the courts actually did, Peter King argues that parliament and the Westminster courts played a less important role in the process of lawmaking than is usually assumed. Justice was often remade from the margins by magistrates, judges and others at the local level. His book also focuses on four specific themes – gender, youth, violent crime and the attack on customary rights. In doing so it highlights a variety of important changes – the relatively lenient treatment meted out to women by the late eighteenth century, the early development of the juvenile reformatory in England before 1825, i.e. before similar changes on the continent or in America, and the growing intolerance of the courts towards everyday violence. This study will prove invaluable to any one interested in British social, political or legal history.

PETER KING is Professor of History at the Open University, Milton Keynes. His previous publications include *Crime, Justice and Discretion: Law and Social Relations in England, 1740–1820* (2000).

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This volume is dedicated to
my parents Gwen and Trevor Holmes

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Preface

This book is the product of three major periods of writing. The opening chapter draws together threads from all the other work in the volume, old and new, and then presents some major new research findings on the summary courts as part of a broader project designed to provide fresh approaches to the analysis of law and justice in the period from the mid-eighteenth century to the 1840s. The first three major parts of the book – those on juvenile crime, gender, and non-lethal violence – then bring together four new chapters and three past essays, and are designed to explore a number of themes that have emerged from the research on these topics I have undertaken during the last ten years. The final part is the product of a longer project on gleaning and customary right. I am thankful to *Past and Present* for permission to republish chapters 2 and 10 – originally published in number 125 (1989), 116–50 and Number 160 (1998), 116–60; to *The Journal of Interdisciplinary History* for similar permission in relation to Chapter 7 originally published in Volume 27:1 (1996), 43–74; to UCL Press as it then was, for permission in relation to the reproduction of chapter 5 which was originally published in M. Arnot and C. Osborne (eds.), *Gender and Crime in Modern Europe* (London, 1999), 44–74; to *Law and History Review* for permission to republish chapter 9, originally published in Volume 10:1 (1992), 1–31. I owe particular thanks to the ESRC for the funding I received as part of its Crime and Social Order Initiative (L210252020), to the AHRB for research-leave funding, to University College Northampton for matching that funding and to the Open University who have given me the time to complete a longer and fuller introduction to the volume. It is not possible to thank all the diverse record repositories I have visited whilst doing this project but I am particularly grateful to the National Archives, the British Library, the Hackney Archives Office, the Essex Record Offices, the Suffolk Record Offices, the Lancashire Record Office, the London Metropolitan Archives, and the Cornwall Record Office.

I would like to offer particular thanks to my old friends – both staff and students – from the History Department at University College Northampton (as it

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was then) where I spent all but the last year of the time when I was writing the various parts of this volume. I particularly enjoyed working with Elizabeth Hurren and being regularly brought to book and kept in order by Cathy Smith. My thanks also to Julia Bush and Sally Sokoloff for their leadership of the school and the department through the many changes in the sector and in the institution – and of course for their friendship. I especially appreciated the sense of humour and support of all the staff of the Nene Centre for Research over the years and particularly for the laughter, advice and kindness offered by Charlotte Spokes and Maria Isaac. I would also like to thank my new colleagues at the Open University where it has been great to begin working with a group of stimulating historians of crime. My particular thanks go to Clive Emsley. A very wide range of people have very kindly read one or more of the chapters in this book and many are mentioned in individual pieces. I am grateful for the excellent research assistance given to me at various points in the preparation of this material by Cris Gostlow, Joan Noel and Esther Snell. Particular thanks for kindness massively beyond the bounds of duty or reciprocity go to Joanna Innes, Randy McGowen and John Beattie. I have also been very grateful for comments on the opening chapter given by Simon Devereaux, Nic Rogers, Drew Gray, Ruth Paley, Steve Hindle, Clive Emsley, John Carter Wood, Michael Lobban, Tom Nutt, Peter Rushton, Norma Landau, David Lieberman, Bruce Smith, Doug Hay and Steve King. I am thankful also for comments on an earlier version given by various participants in the American Society for Legal History Conference in Austin Texas in October 2004, in the North American Conference on British Studies in Denver 2005 and in the Legal History Seminar at University of Illinois. I would like to thank the Past and Present series for inviting me to do a volume which included older work alongside the new. This opportunity to draw that work together in one place has enabled me to reflect on it and add to it in new ways which I hope have born fruit in the opening chapter in particular. I have chosen not to alter the five chapters that are reproduced here but to leave them as they were originally printed mainly because three of the four parts of this book had new pieces in them which indicated any new work that had come out since the reproduced work was completed.

I cannot thank my wife Lee and my son Josh sufficiently for their love and support while I wrote up this work. It is great to share my life with them and I am sorry for the times that I have not been as present as I would like to have been because I have been working on, or thinking about, this stuff. My thanks also go to my wonderful parents Gwen and Trevor who have always been so kind, generous and interested. I would also like to thank the Greenbelt festival, the community of Christians at St Giles Northampton and particularly the CoT emerging church group for many insights and so many good friendships. Thanks to Mark and Jane Dowson especially and to the late James Linnell. I miss you James. For different kinds of inspiration I have also looked to a number of other

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sources. For chapters 9 and 10 in particular I owe a huge amount to the late E. P. Thompson; and more generally for the heart to keep going to Henri Nouwen, Richard Rohr, Philip Yancey and Bruce Cockburn. I thank God for all these people, for their writing, and most of all for their commitment to love, mercy and justice.

Peter King,
Pitsford, Northamptonshire

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