Men of Blood

This book examines far more thoroughly than ever before the treatment of serious violence by men against women in nineteenth-century England. During Victoria’s reign the criminal law came to punish such violence more systematically and heavily, while propagating a new, more pacific ideal of manliness. Yet this apparently progressive legal development called forth strong resistance, not only from violent men themselves but from others who drew upon discourses of democracy, humanitarianism, and patriarchy to establish sympathy with “men of blood.”

In exploring this development and the contest it generated, Professor Wiener, author of several important works in British history, analyzes the cultural logic underlying shifting practices in nineteenth-century courts and Whitehall and locates competing cultural discourses in the everyday life of criminal justice. The tensions and dilemmas highlighted by this book are more than simply “Victorian” ones; to an important degree they remain with us. Consequently this work speaks not only to historians and to students of gender but also to criminologists and legal theorists.

Martin J. Wiener is the Mary Gibbs Jones Professor of History at Rice University. His previous books include Between Two Worlds: The Political Thought of Graham Wallas (1971), English Culture and the Decline of the Industrial Spirit (1980; 2nd ed., 2004), and Reconstructing the Criminal (1990).
Men of Blood
Violence, Manliness and Criminal Justice in Victorian England

Martin J. Wiener
Rice University
for Rebecca and Vivian
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of Figures and Tables</td>
<td>ix</td>
</tr>
<tr>
<td>Preface</td>
<td>xi</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>xv</td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>1 Violence and Law, Gender and Law</td>
<td>9</td>
</tr>
<tr>
<td>2 When Men Killed Men</td>
<td>40</td>
</tr>
<tr>
<td>3 Sexual Violence</td>
<td>76</td>
</tr>
<tr>
<td>4 Homicidal Women and Homicidal Men: A Growing Contrast</td>
<td>123</td>
</tr>
<tr>
<td>5 Bad Wives: Drunkenness and Other Provocations</td>
<td>170</td>
</tr>
<tr>
<td>6 Bad Wives II: Adultery and the Unwritten Law</td>
<td>201</td>
</tr>
<tr>
<td>7 Establishing Intention: Probing the Mind of a Wife Killer</td>
<td>240</td>
</tr>
<tr>
<td>Conclusion: The New “Reasonable Man” and Twentieth-Century Britain</td>
<td>289</td>
</tr>
<tr>
<td>Index</td>
<td>293</td>
</tr>
</tbody>
</table>
Figures and Tables

Figures

1: Victorian Era: Justice
2: The ‘Satisfaction’ of a ‘Gentleman’
3: Cruel Treatment of a Boy on Board the Ship Magera
4: The full account and latest parts of the awful, inhuman and barbarous MURDER OF A FEMALE . . .
5: Apprehension of Good for the Barbarous Murder of Jane Jones
6: Sorrowful Lamentation of William Lees, Now Under Sentence of Death at Newgate
7: A Wife Beater Lynched Near Rotherham
8: Dreadful Murder Near Bolton
9: Domestic Tragedy in Manchester
10: Wife Murder at Wolverhampton
11: The Finsbury Murder
12: The Stockwell Tragedy

Tables

1: (Virtually) All Wife Murder Prosecutions, England and Wales
2: Disposition of Wife Murder v. of Husband Murder
3: Disposition of All Murder Other Than of Wives
4: Unfaithful Wife Murder Trials – Legally Married
5: Murder Trials with Unsupported Claim of Unfaithful Wife – Legally Married
6: Percentage of Murder Charges Resulting in Murder Convictions
7: Percentage of Murder Charges Resulting in Executions
Preface

This book is located in the imprecise but vital realm in society where cultural representations and public actions meet; more exactly, the space in the life of the criminal law where discourse and dispositions come together. In exploring this space, I hope to bring cultural and criminal justice history closer together, and to demonstrate how much each can contribute to the other. In recent years historians have begun to appreciate how intertwined representations and actions are, how discourse is not just talk but structures action, is a mode of action; how, conversely, action always happens within some discursive frame. Yet it is one thing to appreciate this in principle, quite another to carry it through in practice, without privileging one or the other. How well I succeed in this challenging task will be for readers to judge.

In a previous work I attempted a cultural history of criminal policy in Victorian and Edwardian Britain, describing patterns of thought surrounding and helping to shape the central government’s construction and treatment of criminal offenders. In one sense, this book extends that enterprise, moving from the general to the more particular – from crime in general to homicide (and rape) in particular – and from national policymaking to the disposition of particular cases; in locale, from Parliament, the Home Office, and the organs of the national “intelligentsia” to the assize courtrooms of England, and to the popular reporting and discussing of what went on there, in newspapers, periodicals, pamphlets, and broadsides, as well as, again, the rooms of the Home Office. The present work is chiefly based on two “archives”: one of them public – newspaper and other published accounts of killings and the legal proceedings that followed them – and one private – discussions between Home Secretaries, their civil servants, and judges, together with appeals from condemned prisoners and others for mercy. The first archive was immediately and widely known to contemporaries, the second confidential and closed, presumably forever. The hundred-year, then seventy-five-, and finally fifty-year rule has opened this second archive. Taken together, both with their own specific agendas and biases, they afford a fuller view than has previously been possible of what was thought and what was done about men committing major violence in Victorian England.

In this sphere, as others, what was thought and what was done were, as already suggested, not neatly separable, and they are not treated separately
here. The law was at the same time both precise and compelling, and open (even by judges devoted to precedent) to interpretation, especially in questions of “crimes against the person,” and most especially when strong feelings were roused, as was almost always the case when charges of homicide and rape were raised.

One aim of this work is simply to better understand the meaning and treatment of serious violence by men, especially against women, in Victorian England. Another, more general, is to more closely connect cultural and criminal justice history. Yet a third aim is to contribute to the understanding of the roles played by gender in criminal justice history and by criminal justice in gender history. Even as scholarly work has begun to link the two fields, it has suffered from a marked imbalance: nearly all of it has been focused on the treatment and experiences of women; the other half of the population has only just begun to be examined as a gender. Scholarly work on the relations of men, as men, to the criminal justice system is much needed, particularly for the nineteenth century, which formed a watershed not only in criminal justice but in gender constructions and relations, and the two watersheds were in fact, as I will argue, closely connected. “Masculine criminality” was undergoing significant reconstruction in this era.

As such an observation suggests, this work has a thesis. Simply put, it is that men’s violence, particularly against women, became in this period a matter of greater import than ever before, evoking strong but complex and often conflicting sentiments and legal actions and that in the end, for all the complexity, contradiction, and conflict that went on around it, such violence was viewed with ever-greater disapproval and treated with ever-greater severity. The story told here is one of both contestation and change, and both facets have their place. Yet, ultimately, it is argued, the most important thing about the story is the change that took place, in the way such violence was understood and, inseparable from this, in the way in which it was dealt with by the organs of the law.

To highlight change in this realm, in particular change in the direction of diminished tolerance of men’s violence against women, is to risk being accused of glossing over the continuing mistreatment of women in this era. This would be a serious misreading. This book does not seek to evaluate the Victorians by the standards of the early twenty-first century. It attempts to understand them, not to judge them, and to understand them more in relation to their predecessors than to their successors. How did they differ, in both their contradictions and their changes, from the generations that went before them? What kind of legacy did they leave the twentieth century?

Within the field of criminal justice history, this book is unusual in that rather than examining one county or one judicial circuit over a more limited period of time, it ambitiously (or foolhardily) takes the entire nation, over nearly a century, for its subject. In so doing, of course, it must sacrifice some degree of thoroughness and “definitiveness.” At the same time, it does not attempt, even
superficially, to cover all aspects of male violence and the law, but confines itself to the crimes of homicide and rape. Nor does it examine all levels of the system, but confines itself to the highest courts of original jurisdiction, the assizes, where such serious charges were tried. It draws, as noted, upon both published and unpublished sources, some of which have never been made use of before. It is both quantitative and qualitative, making general statements based on wide and in one area virtually complete data while closely reading texts from both archives to elucidate the contours and complexities of what might be called “discourses of male violence.” It is built upon a unique database of detailed information on several thousand Victorian criminal cases, including virtually every case of spouse murder that went to trial, a large sample of spouse manslaughter, and other homicide and rape cases from this period and for some years earlier and later. Of course, cases officially noted and dealt with did not include all cases of “actual” homicide and certainly not of “actual” rape, as we (or even Victorians) would define them. Contemporaries were well aware of this: as the Times noted in 1876, “the absolute numbers of murders tells us nothing. It only says how many murderers have been brought to justice.” Therefore, quantification can only take us part of the way. Much of this work is “qualitative,” closely examining discourses and dispositions that defined and interpreted men’s violence. The sources for such examination are vast, very much more extensive than for earlier periods, and far beyond the ability of any one person, or group of persons, to fully read. The Victorian era saw an explosive growth in both the public and private archives – newspapers grew in number and multiplied their circulation, and after an 1836 Act allowing time after murder convictions for consideration of appeals the relevant Home Office files greatly expanded. Selectivity and discrimination are inevitable, as in most scholarship that attempts to address significant issues. Certainly the patterns uncovered here, both of change and of conflict, are not the only ones that can be found in this material, nor are they immune from challenge. They are, however, patterns that have for the most part not hitherto been noted, or much examined. They need to be.
Acknowledgments

Over the decade of its composition, parts of this argument were tried out in many venues: American Society for Legal History; Australian Victorian Studies Association; Australian Modern British History Association; Balliol College, Oxford; British Criminology Association; Third Carleton Conference on the History of the Family; Catholic University of America; First European Social Science History Conference, Amsterdam; European University Institute, Florence; George Washington University; Georgetown University Law Center; Hebrew University of Jerusalem; Institute for Crime and Policing at the Open University; International Conference on the History of Violence, Liverpool; Keele University; Leeds Centre for Victorian Studies; Maison des Sciences de l’Homme, Paris; North American Conference on British Studies; Princeton University; University College, Northampton; Victorian Studies Association of Western Canada; Victorians Institute; and the Western Conference on British Studies. I am greatly in the debt of those who hosted me, listened to my thoughts-in-process, and most of all to those whose responses led me to revise them to the point where I can send them into the world on their own. In particular I greatly profited from the advice, assistance, and criticism of John Archer, Roger Chadwick, Carolyn Conley, Joel Eigen, Clive Emsley, Vic Gatrell, Jim Hammerton, Tom Haskell, Martin Hewitt, Peter King, Helena Michie, Randy McGowen, David Philips, George Robb, Gail Savage, Greg Smith and Michael Willrich. I wish also to thank Carolyn Conley, Barry Godfrey and Stephen Farrall, Peter King, Louis Knafla, Greg Smith, Howard Taylor, and John Carter Wood for allowing me access to as-yet unpublished work.

For support at a critical time, and encouragement that what I was doing was indeed social science history, I am deeply grateful to Erik Monkkonen, James Q. Wilson and Harmon Hosch, the open-minded director of the National Science Foundation’s Law and Social Sciences Division. I am also most appreciative of the faith the Woodrow Wilson International Center for Scholars and its former director, Charles Blitzer, placed in my capacity to say something worthwhile about such an “eccentric” subject.

A number of my students over the years have rendered invaluable assistance: Jim Good, Susan Hanssen, Bill Jahnel, Melissa Kean, Krisztina Robert, Kim Sztakowski, Elaine Thompson, Martin Wauck, Katie Wells
Acknowledgments

and Tammy Whitlock. I would have been at sea without the computing knowledge of Katy McKinin and Carolynne White and the editing skills of Catherine Howard. I am greatly indebted to the staff of the Fondren Library at Rice, most of all those in the Interlibrary Loan office, who dealt with my numerous requests with friendly efficiency. Two Deans of Humanities – Judith Brown and Gale Stokes – steadily supported my work, as did my departmental chairs, Tom Haskell and Jack Zammito. In the members of my department I have always found collegiality and comfort. I am also in the debt of former Rice President George Rupp, for giving strong backing when it was most needed to research in the humanities.

Some of the material in chapter 4 has appeared in the *Journal of British Studies* vol. 40, no. 2; in chapter 6 in *Social History* vol. 24, no. 2; in chapter 7 in *Law and History Review*, vol. 17, no. 3.

My wife, Meredith Skura, has given me steadfast advice, support, and understanding, and our daughters, to whom this work is dedicated, have ensured that in my absorption with dreadful family crimes in the nineteenth century I did not forget the happier world of family love and warmth.