Introduction

Courtroom Culture

In 1891, George P. Ingersoll traveled to London to gather material for the Yale Law Journal. Ingersoll belonged to one of Connecticut’s most illustrious political families. Like his father, the state’s Adjutant General, and his uncle, a former governor, Ingersoll was an alumnus of Yale Law School and a member of the Connecticut Bar Association.\(^1\) When this scion of Connecticut’s legal and political elite described England’s “temples of justice” in one of the nation’s premier law journals, he was not referring to the Old Bailey, the Queen’s Bench, or any of England’s other renowned judicial venues.\(^2\) Instead, he offered readers a detailed description of the Bow Street Magistrates’ Court. The magistrates’ courts – or “police courts,” as they were commonly called – were the bottom rung of England’s criminal justice hierarchy. Their personnel spent much of their time adjudicating petty crime, mediating interpersonal conflicts, and issuing small fines for infractions of various municipal regulations. Lacking high cachet, Bow Street was, nonetheless, the chief venue in London’s largest and most prolific court system. Its courtroom, along with the Old Bailey (the Central Criminal Court), was the one most broadly depicted in journalism and popular culture. It was the judicial institution that metropolitan men and women were most likely to

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\(^1\) New York Times, September 14, 1903, 7.
encounter during their daily lives. It was therefore no contradiction for
Ingersoll to declare that this locale epitomized English justice even as it
constituted the most modest venue of English law. “There is no better
place to see the English reverence for the majesty of the law than in
a London police court,” he wrote, “and this is the more remarkable for
the lowest specimens of humanity that one can conceive of are daily
brought there to be weighed in the scales of justice.”

What is revealing from the perspective of a legal historian is not just
what Ingersoll discussed in detail, but also what was altogether absent
from his account. At no point did the author mention a single statute or
regulation, nor did he outline the limits of the court’s purview or of the
magistrate’s authority. Ingersoll focused instead on the appearance of
the courtroom itself, the character of courtroom dialogue, how trial
participants approached the proceedings, the bench, the demeanor of
the magistrate, and the overall impression conveyed about the nature
of law and justice in England. Whatever the issue was at hand and
whatever laws might apply, the importance of these elements was
readily apparent in the behavior and attitude of plaintiffs,
defendants, the audience and, most especially, the adjudicators.
“English magistrates,” Ingersoll declared, “generally seem to aim to
conduct their trials not only to do justice, but also to convince those in
attendance that justice is done.”

Ingersoll was hardly alone in
observing that what we would today call the social and cultural
aspects of courtrooms were essential to their daily operation. The
same opinion was expressed by English magistrates, courtroom
journalists, the authors of popular fiction, ancillary agents of the
court, and by the legions of ordinary men and women who found
themselves before the bench. Much surviving evidence suggests that
for all of them, the importance of what was said and done in court, and
how those words and actions were portrayed to a broader audience,
often matched the significance of formal decisions. Unlike official
verdicts, the broader meanings of these social and cultural aspects of
the courtroom were often a matter of debate. The interpretations of
courtroom events were as diverse as their participants and observers
were, and contestation was as common as consensus was from the mid-
nineteenth century, when the courts first rose to prominence in public

3 Ibid., 55. 4 Ibid.
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discourse, well into the first decades of the twentieth. In contrast to Ingersoll’s admiration for the London police courts and for the deeply respectful demeanor he ascribed to working-class participants, since mid-century, the burgeoning labor press had, for example, been openly contemptuous of magistrates whose decisions seemed counter to the interests of respectable workingmen. In 1865, the editors of the Bee-Hive, a prominent trades-unionist newspaper, even dubbed a magistrate of the Lambeth Police Court a “just-ass” in a column bluntly titled “The Stupidity of a Magistrate.” Magistrates and other judicial officials themselves often held conflicted views of their roles and the function of their courtrooms in everyday society, praising them as the “poor man’s court of justice” at one moment and deriding them as burlesque or grotesque the next.

Although contemporaries articulated widely varying interpretations of the police courts, the surviving evidence attests to three core features: their engagement with everyday life, their depiction in a broad variety of media, and their significance as one of the primary points of contact between the state and the individual. In 1831, the London magistrates delivered one summary verdict for approximately every sixty-five people recorded in that year’s metropolitan census. Between 1834 and 1845, they dealt with an average of 64,500 cases a year. This deluge of adjudications would continue to increase in tandem with the growth of urban society in England and the expansion of the modern state. By the second half of the nineteenth century, across the country, there would be one summary trial annually for roughly every fifty men.

5 Bee-Hive, April 8, 1865, 2.

6 Cecil Chapman designated them as such in the title of his interwar memoir, The Poor Man’s Court of Justice: Twenty-Five Years as a Metropolitan Magistrate (London: Hodder and Stoughton, 1925). The significance of the burlesque and the grotesque as nineteenth-century genres was brought to my attention by Kurt Newman at the May 2010 Columbia Law and Humanities Interdisciplinary Junior Scholar Workshop.

7 In 1831, London magistrates “summarily disposed of or held to bail” defendants in 21,843 cases. Joseph Fletcher, “Statistical Account of the Constitution and Operation of the Criminal Courts of the Metropolis,” Journal of the Statistical Society of London 9, no. 4 (Dec. 1846), 303 (information originally from the Returns of the Metropolitan Police for 1842). The 1831 census recorded a London population of 1,474,069. It should be noted, however, that this latter statistic included the population of the City of London, over which the police courts did not have jurisdiction, hence the approximation.

and women counted in the census. In 1880, summary justice in England and Wales accounted for over 660,000 cases, with nearly 126,000 in London alone. These official tabulations, striking though they are, represented merely the tip of the iceberg. Hundreds of thousands more men and women appeared every year in court to apply for summonses, to give witness testimony, or simply to observe the proceedings. And greater still were the multitudes who encountered these courtrooms vicariously through the writings of flâneurs, memoirists, popular literary authors, and the ubiquitous “Police Intelligence” columns that became a central feature of both local and national newspapers. As Charles Dickens Jr. observed in 1890, “to make the acquaintance of a police-court is, at some time or other, the common lot of most of those who bear the burden of life within the limits of the great metropolis.”

Magistrates’ courts intersected the everyday life of their local communities at more points, and with greater frequency, than any other legal venue in England did. The only comparable institution in terms of scale were the County Courts, which issued almost as many judgments yearly, but held far fewer full hearings. Whereas the latter dealt primarily with civil matters, most commonly the recovery of debt, the magistrates’ courts engaged a wide variety of concerns both civil and criminal, including family relations, employment, property, sexual reputation, child-rearing, citizenship,

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9 This does not, however, mean that 1 out of every 50 individuals recorded in the census faced a summary trial, since with certain violations (drunk and disorderly most especially), it was not uncommon for the same individual to be charged twice or more in the same year.


11 Charles Dickens Jr., “A London Police-Court,” All the Year Round: A Weekly Journal 4 (3rd series) (Jan.–Jun. 1859), 349. Peter King has made a similar assertion with regards to the eighteenth century and summary justice nationwide, asserting that “summary courts were the arena in which the vast majority of the population experienced the law.” Peter King, “The Summary Courts and Social Relations in Nineteenth-Century England,” Past & Present 183 (May 2004), 128.

12 In 1880, the County Courts across England and Wales determined actions in 658,695 instances, but only half of these instances required a full hearing, the remainder being decided by consent, admission, or default. Judicial Statistics, 1880, xli.
social competition, interpersonal violence, and public safety. Of equal importance, with their discretionary powers, magistrates helped set the standards of public morality. They determined which violations and which offenders were dangerous to the community and therefore to be treated severely, and which actors and acts deserved leniency. The London police courts were also among the most widely portrayed of all legal venues in Britain. The drama, tragedy, and farce that typified much of their newspaper reports made them a popular topic across a broad readership, and particularly among the growing cohort of working-class and lower-middle-class readers. Editors and journalists alike commented on the public’s hunger for courtroom stories, and their success in attracting readers helped make them a staple of the popular press that developed following the reduction of the Stamp Tax in the mid-1830s. In the words of newspaper pioneer and Radical politician Henry Heatherington, who co-founded the **Twopenny Dispatch** in 1834, they were “the sort of devilment that will make it sell.” By the second half of the nineteenth century, magistrates’ courtrooms were being depicted daily in newspapers from the venerable *Times* to sensationalist broadsheets and local borough papers. In all of these functions and in all of these portrayals, whether any given defendant was deemed guilty or innocent was only one of many considerations. The experience of a courtroom was far more than the verdict of a trial, and the public portrayals of trials were far more than a catalog of punishments. Courtrooms offered opportunities for all involved to make public statements about some of the most important issues of the time. Even those who had no official role in the proceedings could contribute to ongoing dialogues about morality, public order, and

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13 As Margot Finn observes, “magistrates were the day-to-day face of criminal law in the Victorian era.” Margot Finn, “The Authority of the Law,” in Peter Mandler, ed., *Liberty and Authority in Victorian Britain* (Oxford: Oxford University Press, 2006), 162.

14 The tax on British newspapers was reduced from fourpence to one penny in 1836, prompting a nearly fourfold increase in newspaper circulation in the subsequent two decades. Brian Lake, *British Newspapers: A History and Guide* (London: Sheppard Press, 1984), 213.

social norms well beyond the boundaries that law officially defined. Courtroom events and their public depictions, in short, did not just reflect social relations and express the authority of the state over the individual, they also helped constitute their very nature.

Magistrates’ courtrooms were part of a constellation of state entities that, across the nineteenth century, were playing an increasingly prominent role in everyday life, and in the lives of London’s working class in particular. They joined public health inspectors, Poor Law Guardians, London School Board Visitors (i.e. truant officers), child protection agents, the Metropolitan Police, and the various iterations of London municipal governance to constitute the “everyday state” in the metropolis. This was a state that changed significantly across the nineteenth century as two traditional institutions of English governance, the Anglican Church and the Monarchy, continued their steady, albeit uneven, retreat in power and influence. The Church of England lost its near-monopoly on education and the provision of charity and social welfare with Nonconformist interests, especially strong in London, engineering a transfer of these responsibilities to ostensibly secular municipal bodies under elected or appointed leadership. Ecclesiastical courts, which had once adjudicated a wide variety of morally inflected legal issues, from sexual slander to divorce, likewise ceded such matters to secular jurisdiction. Nineteenth-century municipal governance in London underwent a series of iterations, the most important of which were the Metropolitan Board of Works (MBW) and the London County Council (LCC), that reflected the changing social, political and demographic character of the city. The MBW constituted the metropole’s primary instrument of governance from 1855 to 1889 and consisted of members nominated by local vestries (which themselves were not democratically elected until 1894). In 1889, the MBW was succeeded by the LCC, an elected body that assumed all of its predecessor’s duties and more besides.

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The transformation of metropolitan government reflected the changing character of national politics. Successive expansions of the franchise in 1834, 1867, and 1884 brought more political power to the middle-class and Nonconformists, accelerating the secularization of law and social welfare, but did little to satisfy the growing demands for working-class votes. For the failure of Chartism after the turbulence of the 1840s ushered in a period of relative political stability where the rivalry between Tories and Liberals, who alternated terms in power, was tempered by the long reign of Queen Victoria and Britain’s preeminent position in industry, trade, finance, and imperial dominion. This lasted well into the last quarter of the century, when the economic depression of the 1880s and the growing influence of the working-class leaders and moderate Socialists, expressed most visibly through the wide membership of the Trades Union Congress, culminated in the foundation of Labour Party in 1900. Even on the eve of the First World War, however, the British franchise included less than half of all adults, excluding many men and all the women of the working class. Throughout this period of transition at both the metropolitan and national levels, the magistrates’ court operated as arguably the most democratic and inclusive venues of the local state, open to all men and women for the price of a summons (set at two shillings by mid-century).


The “Age of Equipoise,” as assessed in W. L. Burns, The Age of Equipoise: A Study of the Mid-Victorian Generation (London: George Allen & Unwin, 1964) was not without its own serious internal tensions and disruptions, however, as recent scholars have emphasized. See Martin Hewitt, An Age of Equipoise: Reassessing Mid-Victorian Britain (Aldershot and Burlington: Ashgate, 2000).


the hands of the Metropolitan Police, municipal agents, or magistrates themselves; empower workers to claim unpaid wages from their employer; and be harnessed by a local housewife to seek relief from an abusive husband goes far in explaining why they came to occupy such prominent roles in both their communities and the popular imagination.

In contrast with the new institutions of municipal governance such as the MBW and LCC, courts of summary justice, where minor trials were adjudicated by magistrates without a jury, enjoyed well-established precedents. Although the exponential growth of the magistrates’ courts and their legal remit in the nineteenth century was accompanied by a commensurate expansion of their impact on their community’s daily affairs, this type of court had existed for centuries already in the guise of that presided over by the unpaid Justices of the Peace (JPs).24 The most important elements that distinguished the London police courts from those of the JPs were the legal qualifications of the respective benches, the former’s rise in tandem with the regulatory state and the popular press, and the rapid expansion of the police courts’ involvement in the everyday life of their communities.25 The ranks of JPs, so central to rural governance in the seventeenth and eighteenth centuries, experienced a transition in social composition similar to that of magistrates in the late eighteenth century as landed gentlemen were replaced by middle-class professionals, manufacturers, and even tradesmen.26 In contrast to


their professionalized successors, however, JPs arrived at the bench without specialized training in law and typically handled a few hundred cases each year in local, ad hoc courts. Their proceedings were not widely reported in the metropolitan press, and their interface with the burgeoning edifice of municipal governance was limited. The passage of 1792 Middlesex Justice Act, which replaced the unpaid JPs throughout the metropolis with stipendiary magistrates, was a watershed moment in the transition from an amateur, decentralized system to a centralized and professionalized one. The exceptions to this judicial overhaul were the two summary courts of the City of London, Guildhall and Mansion House. With their relative accessibility and array of modest petitioners, the City courts foreshadowed the roles that the police courts would play in the nineteenth century. The City of London Justices, who have been examined closely by Daniel Grey, reached their heyday in the late eighteenth century, however, and never enjoyed the broad social and cultural influence that the magistrates’ courts did in nineteenth-century London.27

The argument made here is not that the magistrates’ dispensation of justice to the lower orders and popular interest in the courtroom were entirely new phenomena in nineteenth-century London. Rather, it is that the considerable increase in the scale and impact of magistrates’ work in the metropolis was a crucial aspect of the changing relationship between the government and the governed and of modern urban culture more generally in this period. Storied figures such as Henry and John Fielding, Patrick Colquhoun, Claud Mullins, J. A. R. Cairns, Montagu Williams, and a host of other magistrates became synonymous with popular justice. Their venues would achieve renown and attract equally vociferous criticism. Bow Street Police Court, home to London’s Chief Magistrate, reigned as the most prominent and influential magistrates’ court in England for much of its existence.28 London magistrates were sought after by the Home Office for their legal expertise, consulted closely in national reforms of the criminal justice system, and praised (or condemned) by name in

Parliament. Allen S. Laing, of the Hatton Garden Police Court, was even immortalized by Charles Dickens as the infamous “Mr. Fang,” the epitome of cruel and arbitrary justice in *Oliver Twist*. The police-court columns were instrumental in the rise of the popular newspapers, helping shape the tastes of a burgeoning mass readership for “real life” stories from the courtroom.\(^{59}\) And the London magistrates were influential in the practices of summary justice throughout Britain.\(^{30}\) They were even the source of significant commentary and consideration from across the Atlantic by both journalists and their North American corollaries, the police-court magistrates of Canada and the United States.\(^{31}\) All of these elements lent the London magistrates a national and international significance exceeding that of the Justices of the Peace. Police courts assumed the former remits of the JPs in both criminal and civil affairs, and expanded upon them. While sustaining some of the key traditions established by their rural predecessors – paternalism, moral authority, and responsiveness to community need most especially – the police courts were distinctly modern institutions. They were staffed with the legal expertise and ancillary agents necessary to handle the array of increasingly complex and numerous statutes that characterized urban governance in the nineteenth century. The County Courts, established in the mid-Victorian period (1846), matched the police courts in their prolific activity and wide press coverage, but were limited in scope to civil and commercial concerns such as debt recovery.\(^{32}\) Although they played a crucial role regulating economic matters, they never achieved the cultural prominence, integration into working-class social relations, or role in mediating the relationship between the state and the individual that the police courts – as the lynchpins of criminal justice, public order, morality, and regulatory measures – did.


\(^{30}\) Much of this influence was informal, with the chief professional journal, the *Justice of the Peace*, frequently citing London magistrates’ decisions as guidance for similar cases in other locales.


\(^{32}\) Margot Finn, “Working-Class Women and the Contest for Consumer Control in Victorian County Courts,” *Past and Present* 161, no. 1 (Nov. 1998), 120–21, 144. Among the other issues initially handled in the County Courts were claims for damages, claims for the administration of estates, and foreclosures.