

COURTROOMS, THE PUBLIC SPHERE AND CONVICTS

An International Symposium,

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This symposium, organised by Professor Barry Godfrey (Research Institute for Law, Politics and Justice, University of Keele), was intended to bring together experts from a seemingly disparate field of disciplines: crime historians, legal scholars, criminologists, medical historians, and social scientists. It aimed to identify, discuss and strengthen common themes, methodologies and associated problems amongst the disciplines and also to promote future interdisciplinary research and collaboration between researchers.

The Conference was held over two days; the first day being devoted to Courtrooms, Lawyers and the Public Sphere, 1700-1914, and the second concentrating on Welfare in the Penal Realm, 1700-1914, with a number of contributors giving papers on both days. The symposium was organised with the assistance of the British Academy, Australian Research Council, Wellcome Trust and Keele University, and attracted a wide range of British and international participants.

Courtrooms, Lawyers and the Public Sphere, 1700-1914

Papers on Day One addressed the changing culture of the court in the late eighteenth and early nineteenth centuries, together with the role played by transportation. A common theme in several of the papers was that the growth in the usage of lawyers together with the general public's increasing access to newspaper and other print media significantly altered the ways in which the drama of the trial was both conducted and reported. David Lemmings' (Adelaide) introductory remarks drew our attention to the increasing professionalization of the court, especially with the growing role of defence lawyers, and he was to deal more thoroughly with this theme in his main paper 'Crime, the Courts and the Press in Early-Eighteenth-Century England', he examined the ways in which lawyers and the Press interacted with particular regard to the case of Captain Thomas Green, who was executed in April 1705 following a trial for piracy and murder.

Deb Oxley and David Meredith (both All Souls College, Oxford), in their paper 'Thoughtful Transportation' drew our attention to the form of labour management employed in Van

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Diemen's Land (Tasmania) in the 1840s, in which a newly created system of contract transportee labour was developed in order to better control both the supply of labour and the quality of work extracted from the convicts. We learned that the system, in its earliest form, provided guaranteed labour rates and fixed-term contracts that either convict or employer could walk away from. There was also a form of rudimentary health insurance by which sick convicts would receive medical assistance. The structure of such contract employment was closely linked to the wider economic climate, with contracted convicts suffering when the demand for their labour fell.

Hamish Maxwell-Stewart (Tasmania) then introduced us to his fascinating and innovative project that aims to provide the most comprehensive study of Tasmanian convict records yet attempted. In his first paper he concentrated on the collective experience of convicts who received further punishment following their transportation to Van Diemen's Land. His paper 'Convicts, Masters and Courts in 19th-century Van Diemen's Land' utilised a wide range of contemporary sources to illustrate the relationship between punishment strategies and the experience of the convicts before their eventual granting of a Ticket of Leave, a Conditional Pardon, or most sought-after of all, a Free Pardon.'

After the two papers that dealt primarily with Antipodean post-trial experiences, we returned (unlike most of the transported convicts) to the British mainland, when David Cox's (Plymouth) paper 'The use of Bow Street Runners as prosecution witnesses, 1792-1839' investigated their role as prosecution witnesses in metropolitan trials at the Old Bailey, where they gave evidence in several hundred court cases. The paper examined the extent to which their professionalism in investigating often complex and complicated crimes was utilized by prosecutors in the form of 'expert' testimony, and suggested that their presence in the courtroom had an impact on the verdict of the numerous juries to whom they supplied evidence for the prosecution; David argued that statistical analysis showed that juries were more likely to convict in cases in which Bow Street senior officers were used by the prosecution. It also argued that far from being regarded by their contemporaries as incompetent and untrustworthy, they were by contrast often respected for their competence and composure both whilst on investigations and in the court often being used in role of 'expert witness'.

Kate Bates (Keele) presented a fascinating synthesis into her research into over 600 broadsides from the early nineteenth-century. In her paper 'Representations of Criminal Justice in early-19th-century Broadsides' she argued that far from being simply cheaply produced sensationalist literature, such publications fulfilled a crucial role in educating their

readers (mainly the labouring classes) in the criminal justice process, and that they also did not shy away from discussing and interpreting the courts' verdicts. Kate opined that contrary to the oft-assumed content of blood-curdling and gory invention, the majority of such broadsides provided a succinct but accurate summary of the trial and the events leading up to it. In the discussion that followed, she also revealed that despite the advent of increasingly cheap newspapers (following the reduction and eventual abolition of stamp duty) such broadsides continued to enjoy healthy sales throughout the remainder of the nineteenth century.

Continuing the printed media theme, Judith Rowbotham (Nottingham Trent) then explored the role of the press in helping to detect and prevent crime in nineteenth-century Britain in her paper 'Newspaper Depictions of the Criminal Justice Process'. She argued that mass support for the prevailing criminal justice system was promulgated and sustained by the increasing readership of popular newspapers such as the *Daily Telegraph*, in which one detective stated in 1870 that it was not unknown for wanted individuals to be 'detected through the publicity given to the case in the press', further adding that 'for the prevention and detection of crime, and the exposure of frauds and villainies of every description, English newspapers were worth more than all the police in Europe'. Judith also drew attention to the fact that newspapers, both provincial and metropolitan, were not above shamelessly lifting court reports from each other in order to provide their respective readerships with the criminal justice news that they eagerly devoured.

Ros Crone's (Open University) paper continued with the theme of print media and court reporting; she touched on the role of broadsides (being somewhat more sceptical of their role in educating the masses with regard to criminal trial proceedings), before discussing the growing exchange of ideas in publishing trial narratives that occurred between the new popular press and the established and so-called respectable press. She challenged the oft-repeated assertion that the popular press concentrated more on the sensational and gory aspects of the courtroom trial than did the more highbrow newspapers, suggesting that for both readerships, the unfolding drama of the courtroom trial (which due to the involvement of lawyers and other professionals was becoming more extended and verbose) was an increasing source of fascination and interest, especially in the case of many high-profile trials held at the Old Bailey.

The last paper of Day One neatly concluded the theme of courtroom drama and the print media; Bob Shoemaker (Sheffield) discussed the development of the printing and publication of the Old Bailey *Proceedings* in his paper 'Lawyers in the Old Bailey *Proceedings*, 1730-

1800'. He examined how representations of trials in the Old Bailey *Proceedings* changed in response to the changing nature of such trials, especially with regard to the growing involvement of lawyers. The publishers of the *Proceedings* (the City of London) responded to such developments by changing the nature of the publication from a largely sensationalist nature to a more sober and detailed account of trial procedure, including, for a regrettably brief period during the 1780s and early 1790s, reports of the legal arguments and polemics utilized by the lawyers in order to influence both judge and jury.

The day concluded with a Symposium Dinner, held in the rather grand and imposing Library at Keele Hall, with participants enjoying both an excellent dinner and the chance to continue discussion about the day's papers.

Welfare in the Penal Realm, 1700-1914

Day Two focused on Welfare in the Penal Realm, 1700-1914, and began with a detailed and fascinating account of 'Health and Convict Transportation'. Hamish's second paper drew on research resulting from the aforementioned large-scale study into surviving Tasmanian convict records, and provided a detailed digest of the health statistics of the convicts transported on the 340 voyages from Britain to Tasmania. Some of the results of the research were in striking contrast to expectations; 25% of the voyages suffered no deaths, due in part to ever-increasingly strict hygiene regimes imposed by the surgeons on board the convict ships, the post-landing death rate of those transported (both male and female) was often lower than that experienced by free contemporaries such as soldiers or labourers.

Continuing the theme of transportees' health, Kat Foxhall (Manchester) introduced her detailed epidemiological study of surviving surgeons' journals in her paper 'Naval Surgeons, Convicts and the voyage to Australia'. She convincingly argued that such sources had been under-utilised, and showed how changes to prison regimes in Britain had a concomitant effect on the health of transported convicts. She described how the effects of the separate system introduced at Pentonville led to mass outbreaks of convulsive fits among the convicts when they embarked upon the ship that was to transport them to Australia. Such outbreaks were thought to be linked to the cholera epidemic then sweeping through Britain. Kat argued that these outbreaks illustrate that the maritime journeys of such convicts should not be treated as completely separate from their terrestrial experience.

Tim Causer (Menzies Centre, King's College) then presented his paper 'Health and Mortality at the Norfolk Island penal settlement, 1825-1855', in which he challenged the prevailing view of Norfolk Island as a 'hell on earth'. From his detailed study of the surviving records of

the settlement, he demonstrated that the regime endured by convicts, whilst unremittingly harsh and bleak, was not quite as bad as many present-day commentators have suggested. He stated that during the 30 years he studied, only one man died as a result of being flogged, and that during an outbreak of dysentery (by far the biggest killer on the island) the resident surgeons' response was humane and reasonably enlightened. He revealed that his research had also thrown up other surprising results, including the fact that two-thirds of the convicts on the island were non/violent property offenders, and that the death rate of convicts due to medical conditions was lower than previously assumed, at 12 per 1,000.

Deb Oxley and David Meredith then presented their second paper, 'Convicts, body mass, gender and health inequalities', in which they demonstrated through an inspired and innovative use of anthropometry that historical height and weight records from Wandsworth Prison could be used to convincingly reconstruct the body mass index (BMI) of each recorded convict, in order to assess several aspects of their medical lives. Deb and David showed that females in particular put on weight while in prison, showing that their pre-prison lives were grossly deficient in terms of diet (despite the fact that the prison diet had been specifically designed to provide the bare minimum thought to be necessary), and also suggested that with regard to female prisoners who had young children, there was a strong causal relationship between the mothers' punishment and the health of the child.

The final paper, entitled 'Defendant critiques of law, procedure and power, 1817-1840' was presented by David Nash (Oxford Brookes), who detailed the efforts of prominent republican and atheist polemicists such as Richard and Mary Ann Carlile to promote their views while standing trial for blasphemy. He argued that following the Hale Judgement of 1676, in which Matthew Hale, Lord Chief Justice, stated 'that to say religion is a cheat, is to dissolve all those obligations whereby civil societies are preserved; and Christianity being parcel of the laws of England, therefore to reproach Christian religion is to speak in subversion of the law', polemicists such as Carlile gained a way in which to agitate against the State by appearing as defendants in blasphemy trials and then proceeding to quote long passages from radical pamphlets or tracts. These speeches were then reported in the trial reports and reprinted in the growing Press, thereby giving the defendants a voice otherwise denied by English law.

The symposium was drawn to a close after a roundtable discussion on the use of electronic and digital convict/crime/court databases, in which a number of problems and suggested solutions to the collection, input, usage and storage of such data was debated. In conclusion, the symposium was highly successful in providing a stimulating mix of qualitative and quantitative research, together with numerous examples of how interdisciplinary study

such as legal history, epidemiology, anthropometry and criminology can be used to further research into many disparate areas of criminal justice history. Despite at first glance appearing to be somewhat disparate in nature, the varied papers and subsequent discussions largely coalesced to form a coherent whole, bringing together a panoply of disciplines in order to showcase how different approaches and research methods can lead to a satisfying and validated outcome.