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## Review of: Criminal Justice in the Old World and the New by Greg T. Smith, Allyson N. May, and Simon Devereaux

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Criminal Justice in the Old World and the New by Greg T. Smith; Allyson N. May; Simon Devereaux

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Hanoverian historians they would have ascribed it to an early modern and British theorist of state power, Sir Francis Bacon!

University of Alberta

RICHARD CONNORS

Greg T. Smith, Allyson N. May, and Simon Devereaux, eds. *Criminal Justice in the Old World and the New*. Toronto: University of Toronto Press. 1998. Pp. xviii, 311. ISBN 0-919584-86-1

This collection of articles, by former students and colleagues of John Beattie, provides a fitting *festschrift* in honor of a pioneer in the field of the history of criminal justice. Each author freely acknowledges his or her debt to John Beattie whose work has inspired and stimulated scholars since the 1970s. The articles follow the path of Beattie's detailed scholarship that always placed the complex operation of the criminal law in the broadest political and social context. Peter Lawson, building on Beattie's interest in gender and crime, examines how in seventeenth-century England women were treated differently by the courts. Women committed different offenses from men, which Lawson feels can be explained in reference to the operation of patriarchy in society. Women and crime are also the focus of Paula Humfrey's study of domestic servants and criminality. She argues that servants in eighteenth century London, freer from patriarchal control, produced a demand for the stricter regulation of domestic servants by male property owners. Theft by female servants was regarded by anxious property owners as part of the larger problem of having unmonitored and mobile young women flooding into the metropolitan area. Although it appears that juries in the seventeenth and eighteenth centuries were loath to condemn women to death for theft, they were more than willing to impose a range of other harsh punishments on them.

John Beattie's work on the role of the discretionary power of juries and the process of trials are the subjects of several contributions to this collection. Susan Lewthwaite, drawing from evidence from Upper Canada in the 1840s, shows that magistrates carried out pretrial hearings as if they were judicial hearings. Jerry Bannister proves that because of the particular social position of surgeons in eighteenth century Newfoundland, their testimony was crucial in shaping the verdicts delivered by juries. In a very detailed study of Halifax juries in eighteenth century Nova Scotia, Jim Phillips concludes that the property owning elite often had long experience serving on juries, and demonstrated little sympathy for those accused, whom they felt posed a social danger and needed severe punishment. These jurors, intent on preserving the social order, produced high prosecution and conviction rates on single women, blacks, and soldiers.

In a well argued and carefully researched article, Allyson May continues John Beattie's work on the evolution of the counsel of defense by examining the legal profession's opposition to the Prisoners Counsel Act of 1836. Lawyers opposed advocacy for the accused on a mixture of grounds; from a genuine belief that the interests of accused would be jeopardized to the assumption that process would be too time consuming and overtax lawyers. May argues that Charles Phillips became a leading opponent of the legislation because of his ambition to be appointed as the first public prosecutor in England at a time when most prosecutions were initiated by private individuals. The most substantial article in the collection comes from Simon Devereaux. He pays respect to John Beattie's detailed work on pardons and punishment in the eighteenth century by examining the development of the Criminal Branch of the Home Office. Devereaux makes the argument, that despite

the need to review a growing number of capital cases, the Home Secretary continued to exercise his personal decision whether to extend mercy to the convicted. The Criminal Branch of the Home Office was instituted in the late eighteenth century to help the Home Secretary in face a huge numerical increase of prisoners whose cases needed determination. Devereaux points out that this expansion defies the assumption that domestic bureaucracy before 1832 was a stagnant “still center.” The state is portrayed as proactive, but at the same time was able to preserve the discretionary and personalized decision making power in pardons.

Andrea McKenzie concentrates on the justifications offered by writers of criminal literature in England. Many authors claimed they were writing cautionary tales so their readers would resist temptation and be deterred from future criminal activity, while others freely admitted they were just providing entertainment for the public. McKenzie, however, notes that these authors, working in a very competitive market, wanted to prove that their account was the most authentic and accurate in order to combat imitations and unauthorized accounts. The relationship between the press and the law is pursued by Valerie Firth in her analysis of the Tuchin case in the early eighteenth century. John Tuchin launched an attack on the seditious libel laws that were employed to prosecute the press without the right to a jury trial. Tuchin, a precursor of Wilkes and Paine, appealed to the Common Law tradition, the rights of freeborn Englishmen and the Ancient Constitution for the existence of a free press. These arguments, Firth contends, were just notions in the early part of the century, but the rhetoric of a free press became well established by 1800.

Although the depth and scope of these essays are rather uneven, this volume is of interest to all scholars in criminal justice history and remains a fitting tribute to one of the leading scholars in the field.

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DAVID F. SMITH

Jenny Uglow. *Hogarth: A Life and World*. New York: Farrar, Straus and Giroux. 1997. Pp. xviii, 794. \$45.00. ISBN 0-374-17169-6.

Do we really need a new biography of William Hogarth? Can much be added to Ronald Paulson's exhaustive study of the artist's life? Jenny Uglow's book answers with an exuberant, even a pugnacious, yes. Her Hogarth is not so very different from Paulson's, but she presents him in his full human girth, against the teeming backdrop of London. Paulson has a finer-tuned perception of Hogarth the artist, but Uglow comprehends him better as a man and as an historical actor, rooted in the aspirations and anxieties of his own times. Jenny Uglow is a professional writer, who has published biographies of the novelists Elizabeth Gaskell and George Eliot. Her life of Hogarth resembles a massive Victorian novel, moving majestically through extended descriptions of locale and innumerable sub-plots towards a subtly delineated finale. As with *Middlemarch*, we have to immerse ourselves in this book fully to appreciate it properly. Happily, Uglow is a writer of wonderful skill, who guides us with a deft hand. While the abundance of detail may be overwhelming at times, none of her more than 700-pages is boring or repetitive.

Academic historians mistrust biographies by professional writers, with some reason. Even when they are factually reliable or psychologically acute, they tend to present their subjects in ways that are not historically grounded. This does not apply to Uglow's *Hogarth*. Not only has she digested enormous quantities of recent research, but she brings this expertise