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Crime, Justice and Discretion in England 1740-1820

King, Pete (2000). *Crime, Justice and Discretion in England 1740-1820*. UK: Oxford University Press.

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Abstract

The criminal law has often been seen as central to the rule of the eighteenth-century landed élite in England. This detailed analysis of the judicial process - of victims' reactions, pretrial practices, policing, magistrates hearings, pardoning and punishment - using property offenders as its main focus. The period 1740-1820 - the final era before the new police and the repeal of the capital code - emerges as the great age of discretionary justice, and the book examines the vast discretionary powers held by many social groups. It reassesses both the relationship between crime rates and deprivation, and the many ways that vulnerability to prosecution varied widely across the lifecycle, in the light of the nature of pretrial negotiations.

More centrally, by asking at every stage - who used the law, for what purposes, in whose interests and with what consequences - it opens up a number of new perspectives on the role of the law in eighteenth-century social relations. The law is seen as an instrument of particular élite groups and more as an arena of struggle, of negotiation, and of compromise. Its rigidity is controllable and its merciful moments less manageable and less exclusively available to the gentry élite than has been suggested. Justice was vulnerable to power, but was also mobilised to constrain it. Despite the key functions that it fulfilled, courtroom crowds, the counter-theatre of the condemned, and the decisions of the victims from a variety of backgrounds had a role to play, and the criteria on which decisions were based were shaped as much by the broader social discourse which Fielding called the 'good mind' as by the instrumental needs of the propertied élites.

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