

In This Issue

This issue focuses on policing in England, Canada, Scotland, and the United States from the beginning of the eighteenth century through the mid-twentieth century. Collectively, the seven articles canvass a wide range of topics, while simultaneously showcasing different methods for studying how the state and its representatives defined and responded to illegality. The topics studied by our authors include the censorship of non-political speech, the significance of record keeping, the jurisprudence of assault, the development of modern police forces, the use of deadly force by police officers, the politics of prostitution reform, and contextualizing infanticide.

Our first article, by Laura Weinrib, examines the interwar expansion of the American Civil Liberties Union (ACLU) agenda to incorporate nonpolitical speech. In the early 1920s, it was ACLU policy to contest an obscenity regulation only if its underlying motivation was the suppression of disfavored political or economic views. By 1931, however, the ACLU was an aggressive advocate of artistic freedom and birth control and the undisputed leader of the anticensorship campaign. The catalyst for change, Weinrib shows, was a postal censorship dispute involving a sex education pamphlet, *The Sex Side of Life: An Explanation for Young People*, written by the former suffragist and outspoken birth control activist Mary Ware Dennett. Postal authorities declared the pamphlet obscene despite its many endorsements from medical practitioners, religious groups, and government agencies. ACLU board members agreed to defend *The Sex Side of Life* because they believed that liberalizing access to scientific knowledge promoted the public interest in a familiar progressive fashion and would highlight the dangers of suppressing subversive ideas. Unexpectedly, however, the litigation precipitated a far more sweeping anticensorship campaign. Dennett's heavily publicized conviction, overturned by the Second Circuit on appeal, generated popular hostility toward obscenity laws and convinced ACLU attorneys that speech should be protected regardless of its social value. With that shift, Weinrib concludes, the

ACLU had inched closer toward a new model of civil liberties premised on individual expressive freedom.

Our second article, by Carolyn Steedman, explores the dissemination, reception and appropriation of legal thought, among high and low in the English eighteenth century. Using the administrative notebooks of the magistrate Sir Gervase Clifton and the diaries of his framework knitter (stocking maker) Nottinghamshire neighbor, Joseph Woolley, Steedman explores how these two men recorded their uses of the law. She draws on their records to address current arguments between legal and social historians, about the salience of “crime” and “criminality” for interpreting the historical record, the supposed dominance of statute (parliamentary) law by the turn of the nineteenth century, and understandings of “high,” “low,” and “common” law. She argues that the law—legal thought and language—entered the framework knitter’s consciousness and conversation, and inscribed some part of his identity. These records allow her to interrogate E. P. Thompson’s 1970s assertion that the law “was at every bloody level” in eighteenth-century England.

Our third article, by Joshua Stein, also examines changing assumptions about crime and criminality. As the population of American cities grew and the scale and severity of violence worsened in the nineteenth century, Stein reveals that authorities turned scores of victims away from increasingly overburdened courts, leaving them to fend for themselves. American jurists, who observed this trend, became to describe violence in new ways. Unlike their English counterparts, they embraced a new legal regime of self-defense, one without a duty to “retreat,” and extolled violence as a key to a better, stronger, and, paradoxically, safer society. American jurists thus deviated from the mother country, rejecting Blackstone and British law. As Stein argues, they embraced private violence as a key component of the Americanizing of the law.

Our fourth article, by David Barrie, builds on the theme of continuity and divergence from English practices. Portrayed in some histories as a symbol of civic identity and autonomy, and in others as an offshoot of English innovation and direction, Barrie examines how Scottish policing evolved, emphasizing that police legislation gave communities scope for self-direction, which did much to ensure that the Scottish model retained its distinct identity. He also contends, however, that the creation of a new machinery of law enforcement was more significant in extending the influence of the state and its impact upon traditional power structures. In charting the role local elites and lord advocates played in key aspects of police affairs, he shows that the boundaries between provincial authorities and government figures were often blurred and interwoven.

Our fifth article, by Jeffrey Adler, focuses on modern police practices in New Orleans. Drawing from unusually rich police records, as well as a range of other sources, he analyzes police homicide in the city from 1925 to 1945. Local law enforcers, he contends, were quick to use deadly force against suspects during this period, although they did so in race-specific ways. The police shot white residents as a tool of crime control, and most victims were robbery or burglary suspects. The New Orleans police killed African-American residents, he demonstrates, as a mechanism of racial control, and these victims were more often suspected of disorderly conduct and killed when they resisted arrest, were perceived to have resisted arrest, or were otherwise considered to be noncompliant and therefore dangerous. In these lethal encounters, local law enforcers, who were largely untrained, feared African-Americans, anticipated resistance, and often responded to these expectations in ways that incited resistance, hence reinforcing police perceptions, confirming their decision to shoot to kill, and fueling a cycle of self-perpetuating police homicide.

Our sixth article, by Stefan Slater, moves from street level policing to explaining why historians need to study legislative failures. Slater notes that the subject of prostitution law reform may appear insignificant, especially as Nancy Astor's campaign in the House of Commons for legislative change during the 1920s failed. He contends, however, that an analysis of the process of law reform sheds a great deal of light on contemporary politics and public administration. As he reveals, differences among groups united behind the principle of reform materialized over practical policy. In particular, the tactics of the Association for Moral and Social Hygiene were somewhat naive, because this group failed to appreciate the intricate workings of the political process, in particular the considerations of the Home Office and the Metropolitan Police. Despite the practical legal difficulties in implementing prostitution law reform, Slater concludes that bureaucrats and senior police officers were concerned more with corruption and the need for administrative reform within the "Met" and rising crime across London.

Our final article, by Ian Pilarczyk, examines the phenomenon of infanticide and the legal responses to in Montreal from 1825 to 1850, a period marked by significant economic, social, political, and legal flux. Working with thirty-one unpublished case files of infanticide, he illustrates that the legal and social ramifications of this heavily gendered crime were characterized by complexity, compromise, and conflict. He finds that the Canadian response largely mirrored that of other nineteenth-century Western jurisdictions. This finding suggests that local context matters, but should also remind scholars to consider the significance of transnational patterns in policing.

As always, this issue concludes with a comprehensive selection of book reviews. We also invite readers to explore and contribute to the ASLH's electronic discussion list, H-Law, and visit the society's website at <http://www.legalhistorian.org/>. Readers are also encouraged to investigate the *LHR* on the web, at <http://journals.cambridge.org/LHR>, where they may read and search issues, including this one.

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