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# THE PEOPLE'S COURTS? SUMMARY JUSTICE AND SOCIAL RELATIONS IN THE CITY OF LONDON, c.1760–1800\*

BY DREW GRAY

*Using the records of the Guildhall and Mansion House justice rooms, this article explores the summary justice process in the City of London in the second half of the eighteenth century. It suggests that there is much to learn about the way most Londoners experienced and used the law in this period. These courts were arguably more accessible to more people than the jury courts of Assize and Quarter Sessions that have remained the focus for most studies of the history of crime and criminality. This article will provide an introduction to the nature of these courts and to the sorts of offences and offenders that were brought to them.*

## *Introduction*

On New Year's Eve 1789 John Northey, a watchmaker from Spitalfields, was making his way home along Bishopsgate Street in the City of London, perhaps a little the worse for drink, when the call of nature overtook him. As he paused to relieve himself a young woman approached him from behind and, taking advantage of his situation, dipped her hand into his breeches and removed four shillings. Before the unfortunate Northey could react she had run away with her victim in hot pursuit. The watchmaker tracked her to a nearby house, which turned out to be a brothel, and arrested her. This was the story he told at the Mansion House justicing room when the woman, Elizabeth Crawford, was brought before the Lord Mayor to be examined for the theft.

However, Elizabeth told a slightly different tale. On New Year's Eve 1789 Elizabeth, one of London's many prostitutes, was working in a brothel close to Bishopsgate Street when John Northey, perhaps a little the worse for drink, decided that he wanted some late night entertainment to round off his evening. The watchmaker bought two women for the night and asked them to tie him up and flog him while they cavorted on the bed. The truth of this encounter is impossible to unpack from the fleeting record left by the hearing at the Mansion House but we do know that, unfortunately for Elizabeth, the Lord Mayor chose to believe Northey's account and committed her for trial. However, Elizabeth never appeared before the petty jury at the Old Bailey for this offence, possibly because the Grand jury felt the case lacked enough evidence to secure a conviction or because Northey chose not to turn up to prosecute — perhaps not wishing for an even more public airing of Crawford's account of their encounter.<sup>1</sup> Although it is difficult

to get at the truth of this case from the records that survive it is possible make some useful observations about the role and importance of the summary courts of the City of London.

This article will show how vital the summary courts at Guildhall and Mansion House were to the regulation of everyday life in the metropolis. The courtrooms and the magistracy that sat in judgement offered Londoners a fast, inexpensive and community based arena in which to air their grievances. Second it will suggest that historians need to be wary of overestimating the value of the Old Bailey as a source for the history of crime as only a relatively small amount of criminal activity was prosecuted there. Many more cases were heard at the lower, summary level of the criminal justice system. Finally it will argue that the summary courts of the City dealt with a wide range of complaints from a broad cross-section of the City's population and, as a result, they must be seen as a vital factor in negotiating and regulating social relations in the eighteenth-century capital. Thus this article will give a brief overview of the nature and scope of the activities of this rather neglected stage of the criminal justice system.

### *The Nature of Eighteenth-Century Summary Courts*

Summary proceedings have been neglected for a number of reasons. Historians of crime have traditionally been more interested in analyzing criminal activity that resulted in the potential award of a death sentence as this was felt to have more to say about power relationships in the long eighteenth century. Summary records are also scarce and difficult to understand, there is little uniformity about them and qualitative data is often brief and fairly cryptic. Nevertheless, the study of summary proceedings offers considerable insights into the criminal justice system and the way in which most people experienced the law in the past and increasingly new studies are revealing more about the process. Before moving on to consider the City of London's summary justice courts in particular it is necessary to briefly review what is known about the process of summary justice in the late eighteenth century. The key figures in the Hanoverian criminal justice system at local level were the justices of the peace. These men dispensed advice, settled disputes, administered the poor law and punished minor offenders. They sat in their parlours or in local inns, singly or as a bench of magistrates at petty sessions. In rural areas justices were usually wealthy landowning aristocrats, powerful leaders of their communities from whose ranks the county MPs and members of the Grand Jury at the quarter sessions and assizes were drawn. A lack of willing volunteers to serve as justices in the eighteenth century meant that the position was sometimes filled by 'minor gentry, clergy, and professional men' (King 2000:117). Justices were essentially unpaid amateurs and had no legal training or obligation to carry out their duties. Some were very diligent while others were largely inactive, meaning that prosecutors could sometimes travel considerable distances to seek out a magistrate only to be disappointed to find that he was not at home.

In urban areas and particularly in London the situation was slightly different. Many of the Middlesex justices were rather more entrepreneurial in character being more likely to be drawn from the ranks of professionals and middling men. They were able to earn a living by selling legal services such as the issuing of warrants and by extracting fines. As Norma Landau has written, 'throughout England justices conducted judicial

business, (while) in metropolitan London, justice was a business' (Landau 2002: 60). In the City of London, things were different again. By the 1750s all City aldermen were sworn in as justices. Every alderman therefore had to perform his judicial duties in turn if he wanted to retain his position in civic government. Thus the City had a semi-compulsory system for the summary process that was essentially different to most of the rest of the country, and indeed the capital.

The summary process in the City of London was also more structured than elsewhere, and this may well have had important consequences for the way it was used for the population of the square mile. By the middle of the eighteenth century the City of London was served by two summary courts. The City's 26 aldermen developed a rotation system to ensure attendance at the Guildhall between 11 o'clock in the morning and two o'clock in the afternoon while the Lord Mayor held similar hours at the Mansion House.<sup>2</sup> Thus Londoners, unlike their rural counterparts, could hope to find a regular and continuous system of summary justice, one that operated all year round and one that took place in a well-defined public space.

At both courts a wide range of business was conducted, not all of it criminal. The City justices issued warrants, they signed certificates and swore in affidavits, they dealt with everyday squabbles and assaults, and examined those suspected of a range of petty and more serious thefts, and they reprimanded and punished those who broke City regulations relating to the streets and pavements and heard complaints about employment and wages. On average these courts were dealing with over 700 cases each month. This represents a staggering workload for the City magistracy. The Old Bailey heard far fewer cases than this, somewhere in the region of 250 for the City of London (Gray 2006:121). Thus it is evident that many more Londoners would have had experience of the criminal justice system at the summary level than ever found themselves in the more formal setting of the Old Bailey court.

### *The Work of the City Summary Courts*

The workload of the City summary courts can usefully be broken down into three categories: property offending, interpersonal violence and the regulation of daily life. We can take these broad headings in turn to explore the ways in which the magistracy served the City's population.

#### *Property Offending*

A great many thieves and pilferers were prosecuted in the two City courtrooms. Here the role of the courts as a filter for the jury courts above is very much in evidence. While many of the thefts that were prosecuted at the summary level were trifling or petty some more serious cases were examined here. Justices were obliged, if the justicing manuals of the day are correct, to send all cases of felonious theft (those of goods valued at over a shilling) on to be heard before a jury. In reality the City of London justices chose to deal with around 70 percent of property offenders themselves, only forwarding just over a quarter to the jury courts. These pretrial examinations were therefore crucial to the wider application of the criminal justice system in London, reducing, as it must have

done, the strain on an already overloaded jury court process. Once again it is possible to turn to the records of the summary courts for an example of this. In June 1784 Robert Wilson charged Mary Saunders at the Guildhall court with stealing two guineas.<sup>3</sup> There were two witnesses who appeared in court to say that they had seen Mary take the gold coins, enough evidence if sworn to for Mary to face a trial for her life at the Old Bailey. In this instance that trial never took place because Mary promised to return the coins to their owner and she was then released with no more than a reprimand. Mary had a lucky escape, the theft of coins could have brought a much more serious punishment. However, the prosecutor was probably more interested in recovering his property than in pursuing an expensive and time consuming prosecution to a jury trial which may not have recovered his coins and may well have ended in Mary's death. The quick and relatively easy option of the summary process allowed for a more effective solution.

There were plenty of other minor property crimes that were dealt with at the summary level involving small amounts of goods stolen from warehouses, lodgings and City stalls and shop fronts. Approximately 1,000 property offenders appeared before the City magistracy annually, most of whom (80 percent) were male, and were charged with common theft, pilfering, picking pockets, burglary and a range of other similar crimes (Gray 2006:119). Many of those dragged in to the courts had been picked up by the watch or City patrols as 'suspicious' characters, discovered hanging around places of work such as warehouses or the quays. James Peck was found 'lurking' in a stable in Bishopsgate Street at midnight when he was arrested. He was held overnight before being sent to Bridewell, the City's house of correction.<sup>4</sup> He may simply have been seeking shelter and there was little corroborative evidence that he was intent on committing a crime. The summary process allowed for such individuals to be dealt with on the loosest of grounds.

The south border of the City was bounded by the river Thames and peppered with quays and warehouses which offered ample opportunity for larceny. When Matthew White decided to help himself to a small amount of Spanish wool as it was being landed at Smarts Quay, he was caught, examined by the lord mayor and sent to Bridewell.<sup>5</sup> The records of the summary courts are filled with cases like these. Sides of ham were lifted from street stalls, handkerchiefs stolen by pickpockets, landladies complained that their tenants had run off with their linen and travellers that their landladies had stolen their clothes while they slept and shoplifting from the numerous retail outlets of the City was rife. These courts are therefore rich and rewarding sources for the study of property crime in the City.

### *The Prosecution of Interpersonal Violence*

However, while property offending is perhaps the most well documented area of criminal justice history, the study of the summary process in London can also provide an interesting window into the nature of interpersonal violence and its prosecution in this period. Approximately one third of the business of the summary courts in the City was concerned with cases of assault, a situation that is replicated elsewhere in parallel studies of the work of Justices.<sup>6</sup>

Once again much of the violence that was prosecuted at the Guildhall and Mansion House justice rooms was fairly petty, this is not usually the place to look for murders

and rapes, although some may have been heard here in the first instance. Many are instead cases of assault cases arising from everyday disputes that got out of hand. In most of these the role played by City Justice was that of a mediator. John Anderton's attempt at bargaining with Ann Jefferys about the price of her fish went badly. They quarreled and he ended up punching her, cutting her lip 'thru' and thru' as a result. Lipsey Hyams was prosecuted because she emptied a quart of water over her neighbour and then struck him with the empty pot.<sup>7</sup> In both cases the Justice managed to broker some kind of reconciliation and settlement between them. Such arguments were a feature of City life, when communities lived so close together and small incidents mattered in people's lives. There were more than twenty separate assault cases being brought to the courts each week in this period, over 1,000 annually, thus in a City population of around 80,000 many individuals would have been involved in or have known someone involved in an assault hearing. Assaults were often public and not infrequently involved other members of the community and came as the result of long standing disputes and rivalries. When Elizabeth Hemmings complained that Sarah Pipkin had thrown a chamber pot out of her window that had narrowly missed her it unveiled an ongoing feud between the two neighbours. Witnesses appeared for both women to say that Pipkin had abused Hemmings and had called her a thief at which point Hemmings responded by fetching her chamber pot and 'emptying a quantity of her reverence over her'.<sup>8</sup>

Many assaults were the result of drunkenness, with men the main combatants in arguments that escalated and ended in fights and brawls. Domestic violence was a regular feature of life and City justices were frequently called upon to mediate disputes between husbands and wives, because of accusations of beatings. Some women, such as Ann Hands in 1776, were successful in using the courts to gain a separation from a particularly abusive husband. Ann prosecuted her husband for beating her and requested a separation. The magistrate helped smooth the way to a settlement with her husband, William, paying her a regular allowance.<sup>9</sup> It is undoubtedly the case that the eighteenth-century courts far from a sympathetic arena for female victims of male violence, but the evidence of the summary process in the City indicates that plenty of women were prepared to use the courts to try to seek justice and arbitration and that they met with some success when they did.

Recently, research has shown that victims of assault periodically tried to use the quarter sessions and the King's Bench courts to get some form of compensation from those that attacked or abused them.<sup>10</sup> This is also true of those using the summary process in the City. Plaintiffs here were interested in gaining some form of apology or compensation, pecuniary or otherwise, for the hurt they had received. Crucially they were using the public court and the authority of the City elite, represented by the magistracy, to air their grievances and thus in some way to involve the wider community in their disputes. The evidence from the summary courts supports the work of Landau and Paley in suggesting that assault was treated as a *civil* rather than a *criminal* offence in this period. The overwhelming majority of assault prosecutions were settled by negotiation, and these settlements could take a variety of forms.

Naturally many individuals would have chosen to resolve their differences without recourse to the courts. That so many did is testimony to the centrality and accessibility of the summary courts and to the perception that they were places where disputes could be satisfactorily aired and resolved. Once again this places the study of summary courts

and the summary process at the forefront of our understanding of crime and punishment and social relations in the long eighteenth century.

*The Regulation of Everyday Life*

Having looked in turn at property crime and interpersonal violence, two areas which brought many Londoners into the summary courts as prosecutors, victims aiming at some form of restorative justice or a simple apology, we can now turn to the courts' role in regulating the other areas of everyday life. The Guildhall and Mansion House justice rooms also regulated local trade, tackled social problems such as drunkenness, vice and gambling, mediated in disputes between masters and servants, and punished dangerous driving and unruly popular pastimes.

London in the long eighteenth century was a busy, vibrant city, its streets teeming with people, animals and vehicles all competing for space and business. The pages of the courtroom minute books reflect this with the numerous prosecutions of dangerous drivers and carters and other deliverymen that blocked the pavements and streets of the square mile. Hackney coach drivers, the taxi service of the day, were prosecuted by street keepers and constables for plying for trade in restricted areas, by customers they had overcharged, while occasionally they themselves complained about fares that had failed to settle their bills. Most were fairly petty and routine incidents that infringed City by-laws but some were more serious. In 1784 a hackney coachman was prosecuted for crashing his vehicle into a funeral cortege that was making its way through the City.

Other misuses of the City streets brought a variety of complaints before the magistracy. In the north west of the City lay the cattle market of Smithfield. Every year thousands of animals were driven through the streets of London to be sold at the market and then driven out again to the slaughterhouses of Bethnal Green and beyond. Smithfield was synonymous with crime and depravity as whores mingled with drunken drovers, butchers and farmers and pickpockets preyed on the crowds that gathered on market days. In addition the mere fact that all this livestock had to pass through the already crowded streets of the capital frequently resulted in chaos on some of the thoroughfares and every year the courtrooms at Guildhall and Mansion House heard several prosecutions of young men for 'bullock hunting' on the City streets. While the minute books provide relatively limited information about this activity it is clear from related sources that the practice of 'bullock hunting' was similar to the bull runs popular in Spain and involved a mob of sometimes hundreds of people chasing an enraged animal through the City streets, scattering passers by in the process. The magistracy punished most offenders with fines and short periods of imprisonment.

This regulation of the streets helped ensure the smooth running of commerce and attempted to protect polite society from the excesses of plebeian culture and was in some ways supported by an attempt to regulate the pavements and other urban spaces. This brought other sorts of offenders into the City courtrooms.

Large numbers 'disorderly' persons appeared in the courts, many of them evidently for drunken and generally antisocial behaviour. Offenders such as these were routinely described as being 'abusive' or 'riotous' in the streets, and were arrested when they refused the requests or orders of watchmen and constables to 'move along' or had been thrown out of one of the City's many public houses by landlords who believed they had



had too much to drink. Many are thus described as 'very drunk', 'in liquor', 'drunk and riotous', and several were too drunk to appear before the courts and had to be remanded until the following day when they had slept it off. The City watch and constables brought them in and the magistrates reprimanded them, fined them or imprisoned them in Bridewell.

The term 'disorderly' could also be a euphemism for prostitution, and the courts regularly dealt with scores of women that had been arrested at night. Prostitution was a perennial problem for the authorities and not something that any proclamation or policing initiative could ever hope to solve. However, it seems that periodically the magistracy and policing networks of the old City had a go at ridding the streets of these 'disorderly women'.<sup>11</sup> While prostitution in itself was a not illegal those making a nuisance of themselves on the streets could be arrested under the vagrancy laws and were brought into court accused of 'strolling' around and 'picking up men'. This appropriation of the pavements for soliciting brought London's sex workers into direct confrontation with the demands of civic government for order and politeness (Ogborn 1998:49). Some particularly keen and public spirited City constables took it upon themselves to bring in large numbers of women, sometimes as many as a dozen or more at a time, and charged them with picking up men on the streets. However, most street walkers were released by the courts with merely a reprimand, after spending an uncomfortable night in one of the City's compters or gaols.

Other forms of unwelcome behaviour were also prosecuted at the summary level. These courts dealt with refractory paupers (those misbehaving in the workhouse for example or selling the clothes the parish had provided them with). Significant numbers of vagrants and beggars were brought in by the watch and ward constables for the magistrates to process. Invariably they were punished by a spell in Bridewell where they were subject to a whipping and forced to work unpicking oakum before being passed back to their place of last settlement. The summary courts seem to have been a part of a diverse selection of institutions that operated to assist, punish and deter mendicants in the late eighteenth-century City.

### *Concluding Remarks*

The summary courts acted, in effect, to *deliver* the holding gaols of the City. Each morning the Poultry and Wood Street compters, as well as Bridewell and later the Giltspur, emptied their contents for the aldermen and Lord Mayor to sift through. The detritus of the previous night's trawling by the watch contained many that had been found drunk and disorderly. Most were reminded to behave better in the future and released by the magistracy. In this the courts served the City reasonably effectively as a well organized system of public discipline, never too harsh but nevertheless allowing the authorities to maintain a patriarchal grasp on its population. Perhaps this is the key to understanding the place of these courts in City life. If one spends time reading through the daily minutes of summary business one quickly finds that 'all human life was here'.

The courts at Guildhall and Mansion House allowed victims to bring their complaints swiftly and inexpensively, to prosecute those that had stolen from or assaulted them. In addition they acted as an important filter to the jury courts, easing pressure on the



Old Bailey. In doing so they probably exceeded their authority especially in case of property offending. It is also clear that those using the courts were drawn from a wide social background and that considerable numbers of lower class Londoners were using these courts to bring charges or seek compensation or help in solving their interpersonal disputes. Many of these same classes of people also appeared on the other side of the courtroom. The summary courts had an important role to play in regulating the use of the streets and other urban spaces of the metropolis.

It would be stretching things too far to describe the Guildhall and Mansion House justice rooms as ‘people’s courts’ but they were certainly courts that most or many people could use and it is evident that Londoners were using them in considerable numbers. The Guildhall and Mansion House courts were situated at the geographical heart of the old City of London and the Lord Mayor and aldermen who sat in judgement there were served by a tight body of policing agents who watched, patrolled and policed the city streets and the long reaches of the Thames’ northern bank. Uppermost in the minds of these patrician guardians was the need to reconcile the many different needs of London’s population, to mediate in disputes and to help preserve the security of Europe’s richest and most populous City. It is hard to assess how effective this level of justice was but we can be clear that many more people would have had experience of the summary process than ever crossed the threshold of the Sessions House at Old Bailey. The court records of the Guildhall and Mansion House justicing rooms therefore have plenty to teach us not only about social relations in the City of London but also about the criminal justice system in the age of the bloody code and the shadow of the hanging court.

### Notes

\* This article is derived from a paper given at the University of Northampton in July 2007. For a wider discussion of the summary courts of the City of London please see D. Gray, *Crime, Prosecution and Social Relations in London, 1750–1800* (Palgrave, forthcoming 2009).

<sup>1</sup> Corporation of London Archives (hereafter CLA) CLA/004/02/054 31 December 1789.

<sup>2</sup> See J. Beattie, *Policing and Punishment in England, 1660–1750. Urban Crime and the Limits of Terror*, (Oxford, 2001) p108. The Mayor’s court heard civil cases of debt and appeals relating to apprentice and master/servant business, we should not confuse it with the lord mayor’s justicing room at Mansion House. Additionally it seems clear that as the century progressed the length of sittings was extended until later in the afternoon and that the court sat on a Saturday as well.

<sup>3</sup> CLA/005/01/026 June 1784.

<sup>4</sup> CLA/005/01/002 October 1761.

<sup>5</sup> CLA/004/02/054 January 1790.

<sup>6</sup> See King, P: ‘The Summary Courts and Social Relations in Eighteenth-Century England’, *Past & Present*, 183, (2004); Morgan, G and Rushton, P. ‘The Magistrate, the Community and the Maintenance of an Orderly Society in Eighteenth-Century England’, *Historical Research*, 76, (2003); Paley, R. (Ed): *Justice in Eighteenth-century Hackney: The Justicing Notebook of Henry Norris and the Hackney Petty Sessions Book*, (London Record Society, 1991).

<sup>7</sup> CLA/005/01/003 May 6 1762.

<sup>8</sup> CLA/005/01/055 February 2 1796.

<sup>9</sup> CLA/005/01/004 December 5 1775.

<sup>10</sup> Landau, N: ‘Indictment for Fun and Profit: A Prosecutor’s Reward at the Eighteenth-Century Quarter Sessions’, *Law and History Review*, (Fall, 1999); Paley, R ‘Power, Participation and the Criminal Law: Restorative Justice Hanoverian Style’, (unpublished conference paper 2007).

<sup>11</sup> The term ‘prostitute’ is not commonly used before the middle of the eighteenth century. F. Dabhoiwala, ‘The Pattern of Sexual Immorality in Seventeenth and Eighteenth-Century London’ in P. Griffiths and M. Jenner (Eds), *Londinopolis Essays in the Cultural and Social History of Early Modern London*, (Manchester, 2000) p.88.

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## Biographical Note

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