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# "Many-Coloured Scenes of Life"

## *The Police Courts in Metropolitan Culture and Society, 1758–1860*

This first chapter traces the early development of the London magistrates' courtroom during the second half of the eighteenth century and the first half of the nineteenth. In this period, local courtrooms of summary justice became one of the key institutions for maintaining public order in the metropolis, and essential to the propagation of a distinct vision of social order and morality. For the early magistrates and reformers, the practice of law and its public portrayals were intended to operate in tandem, reinforcing one another in metropolitan society. Those with authority in the courtroom were just as keen to control the latter as they were the former. The reform and expansion of the police-court system, however, opened the door for a widened array of portrayals and much greater access by both reporters and the local community. The more public and accessible courtrooms became, the more difficult it was for magistrates to control their depictions. By the early nineteenth century, the reciprocal influence of courtroom practice, public representation, and personal participation had been firmly established.

This entanglement of public dialogue, dissemination through newspapers and other media, and courtroom practice constituted the core of courtroom culture. The origins of it lie in the simultaneous expansion of the latter's role in criminal justice administration in the late eighteenth century, on the one hand, and in the popularization of courtroom scenes in late eighteenth and early nineteenth-century newspapers, on the other. The first development was largely the work

of two sibling magistrates, the Fieldings. Building on the efforts of his older brother, the famed novelist and playwright Henry Fielding, John Fielding worked in the 1750s and 1760s to make his Bow Street "public office" the most important venue for the daily prosecution of crime in the metropolis.[1] His program of reforming the magistrates' role and the Bow Street court's remit had three main goals. First, he wished to see Bow Street and its staff, be they magistrates or the newly inaugurated "runners" (the prototype of the modern detective), become the centerpiece of the state's response to crime and disorder in the metropolis.[2] Secondly, John Fielding wanted to widen the availability and increase the affordability of the courts. He would dispense with expensive fees and replace privately funded pursuit and arrest with a system of publicly funded investigation by his runners and prosecution by a permanent, rotating staff of magistrates. The latter would convene their trials and examinations in spaces dedicated specifically to that purpose (in contrast to the part-time court spaces more typical of England in that period).[3] Lastly, both Fieldings were committed to a wide public dissemination of the courts' activities. They would accomplish this via their own publications, by encouraging an audience to witness the magistrates conducting their various duties, and by making special arrangements for the attendance of newspaper reporters at trials.[4]

The Bow Street public office, in addition to being among the earliest locales in Britain to be devoted solely to the administration of justice, was also among the first where trials and other public judicial processes took place continuously and at set times. John Fielding reorganized his court temporally as well as spatially by ensuring that at least one magistrate was on duty for both a morning session that ran from 10 a.m. to 2 p.m. and an afternoon session that was conducted from

[1] J. M. Beattie, *The First English Detectives: The Bow Street Runners and the Policing of London, 1750–1840* (Oxford: Oxford University Press, 2012), 96. The Fieldings came from the ranks of the Somerset gentry, their father being Lt. Gen. Edmund Fielding.

[2] For a comprehensive account of the Bow Street Runners, see ibid.

[3] J. M. Beattie, "Sir John Fielding and Public Justice: The Bow Street Magistrates' Court, 1754–1780," *Law and History Review* 25, no. 1 (Apr. 2007), 63; Anthony Babbington, *A House in Bow Street* (London: Macdonald, 1969), 93.

[4] Beattie, "Public Justice," 70. This "public" character of English courtrooms in the eighteenth century is also discussed by James Epstein in "Spatial Practices/Democratic Vistas," *Social History* 24, no. 3 (Oct. 1999), 299.

5 to 9 p.m.[5] This was justice that, like the new rhythms of industrial labor, ran according to specific allotments of time.[6] Thus Fielding's "public office," which was depicted repeatedly across a significant range of publications in the last half of the eighteenth century, helped introduce and popularize the modern conception of a courtroom as a space specifically designed for, and permanently dedicated to, the conduct of justice, where trials are held on a regular basis, and where the public is encouraged to witness (and legitimize) important decisions. The formal ordering of the courtroom in both space and time was integral to John Fielding's stated purpose of maintaining good order among the metropolitan populace. He well aware of the increasing value of time in his society, and argued that a primary goal of law should be to ensure that the "lower orders" did not waste their time in idleness and vice, but rather that they dedicated it to useful pursuits.[7] The magistrate, like his brother and many of his contemporaries, was deeply concerned with the apparent breakdown of deference among the lower orders (in which Fielding included shopkeepers, artisans, and laborers).[8] The elder Fielding was particularly alarmed by the unwonted assertiveness of this cohort in the face of local judicial authority. His solution to such "wild Notions of Liberty," was to increase the power of the metropolitan magistrates, and it was to address the fears of those who opposed such a measure that Fielding directed much of his initial arguments in his famous 1751 public treatise, *Enquiry into the Causes of the Late Increase of Robbers*.[9]

John Fielding took a similar tack in his own 1758 treatise supporting his brother's plan to introduce formal policing in London.[10] Like their contemporary, Edmund Burke, both Fieldings espoused a view of society that only functioned in an orderly and moral fashion when those lower

[5] Babbington, *Bow Street*, 123.
[6] Clare Graham, *Ordering Law: The Architectural and Social History of the English Law Court* (Aldershot: Ashgate, 2003), 106.
[7] John Fielding, *Account of the Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle in the Year 1753, upon a Plan Presented to His Grace by the Late Henry Fielding* [hereafter *Account of the Origins and Effects of a Police*] (London: A. Millar, 1758), viii.
[8] V. A. C. Gatrell, "Crime, Authority, and the Policeman-State," in F. M. L. Thompson, ed., *The Cambridge Social History of Britain 1750–1950*, vol. 3: *Social Agencies and Institutions* (Cambridge: Cambridge University Press, 1990), 248–50.
[9] H. Fielding, *Enquiry into the Causes*, xxvlii.
[10] J. Fielding, *Account of the Origins and Effects of a Police*, viii.

down on the social scale expressed deference and respect, and when those with rank and authority exercised their power sternly but responsibly. The late 1760s and 1770s were a particularly crucial period for those who wished to mold society in this hierarchical, patriarchal vision. In addition to rising concerns about crime in the metropolis and its region, which seemed to be overrun with highwaymen and robbers, the city was alive with Radical agitation by John Wilkes and his allies.[11] In an atmosphere of license and profligacy by both the high and the low of Hanoverian England, with agrarian riots, a weavers' strike, and Wilkesite disturbances abounding, the magistracy was to be "an Object worthy of the Acceptance, nay, meriting the Study of the Best of Men."[12] John Fielding reorganized his court to both embody a stable social order – through its spatial and temporal organization along clearly demarcations of rank, role, and purpose – and to maintain public order directly through the administration of criminal law. The Bow Street courtroom, under Fielding's direction, was meant to epitomize an orderly society that contrasted with the disruption and antagonism that allegedly pervaded outside its walls. Fielding's reforms and the portrayals of Bow Street also articulated a vision of order based on the interaction between categories specific to the courtroom and its attendant legal parameters rather than being wholly predicated on divisions in the preexisting social hierarchy.

The Fieldings' goal was a courtroom that combined coercion with mediation, bringing order both through imposed authority and through voluntary co-optation. On the one hand, the brothers supported the Bow Street public office as a mechanism for, quite literally, policing the "lower orders." And the typical cases of larceny and other property felonies reported in the papers were in accord with this. In these instances, stern civic authority was the order of the day. On the other hand, they also desired a courtroom where decisions were not tainted by mercenary proclivities to make "Gain of the paltry Quarrels of the Poor," as had been the case with the so-called "trading justices" who demanded fees for adjudication.[13] Their broader vision of a courtroom accessible to the public, where the

[11] Frank McLynn, *Crime and Punishment in Eighteenth-Century England* (Oxford: Oxford University Press, 1989), 231.
[12] J. Fielding, *Account of the Origins and Effects of a Police*, 37. [13] Ibid., 36.

lower orders could also find advice and affordable justice, offered a much wider segment of society an opportunity to engage the court's resources rather than merely becoming its targets. This was true at least in theory if not necessarily in practice.[14] The Fieldings' changes to the conduct and character of the police courts in the metropolis left a profound legacy. They set the precedent for the magistrates' expanded discretion in summary justice, while at the same time incorporating a broader segment of the metropolitan population into legal processes.[15] By the last quarter of the eighteenth century, what was once an obscure, informal venue of minor criminal administration now occupied a much larger space in the consciousness, and the conscience, of politicians, journalists, newspaper readers, and the men and women who found themselves before "the beak" at Bow Street.

In creating a courtroom that was public and accessible, and one that could only remain so with the constant involvement and attention of the community, the Fieldings simultaneously enhanced and undercut their own authority within it. Public justice was not justice at all if it was not perceived to be such by observers. This change required a magistracy that was in tune with the moral expectations and social circumstances of its audience.[16] As with the dissemination of Bow Street newspaper reports beyond the direct control of the Fieldings, opening up the court to public use and observation made the orderly courtroom world they envisioned more vulnerable to interference and criticism. This could originate from the local community, the London press, or the magistrates' own superiors in government. Maintaining

[14] Again, the paucity of magistrates' court records from this period makes it impossible to determine, with any degree of accuracy, the social composition of Bow Street complainants. Judging this from the character of published reports is, for reasons already described, quite problematic. The accessibility of the Essex Quarter Sessions to Fielding's "lower orders" in assault cases, on the other hand, is certainly apparent. From 1760 to 1799, tradesmen and artisans comprised 36–46% of all assault prosecutors there, and laborers comprised 24–30%. Peter King, *Crime and Law in England, 1750–1840: Remaking Justice from the Margins* (Cambridge: Cambridge University Press, 2006), 239.

[15] Much of John Fielding's reforms, it should be noted, concerned pretrial proceedings such as preliminary hearings.

[16] This awareness was similarly crucial among Justices of the Peace in the same period. Douglas Hay, "The Criminal Prosecution in England and its Historians," *Modern Law Review* 47, no. 1 (Jan. 1984), 15–16.

the delicate balance between a court that enforced the law in a manner approved of by the Home Office, administered "justice" in the public's eye, and made itself responsive to the needs and expectations of the community would remain a perennial issue for the next century and a half. The frequency with which men and women on the lower end of the social scale would find themselves on both the giving and receiving end of summary justice, as prisoners and petitioners, would make this task even more challenging. The result was an urban magistracy that, far from becoming "disinterested and distanced," was instead becoming increasingly enmeshed in the culture of courtroom practice and portrayal that they themselves were helping to fashion, but could not entirely control.[17]

Summing up the first three decades after Henry Fielding's death, Bow Street's success in his stated goals of embodying and maintaining public order, encouraging deference to social hierarchy, and fostering respect for magistrates and the "civil power" they wielded was mixed. John Fielding was able to reconstruct his courtroom as a permanent space for the conduct of justice, and one in which a visible order prevailed. There, law was administered in the public eye, and the magistrates' knowledge and discretion were paramount. With these reforms, the Bow Street "public office" joined the Guildhall and the Old Bailey as prototypes of courtrooms that occupied a distinct and permanent space in the legal landscape of the metropolis. The Fieldings' legacy would loom large in the dialogue of their successors, and in the general discussion of metropolitan summary justice across the decades that followed. Successive magistrates would frequently frame their roles and their courts in the context of their illustrious predecessors, albeit in ways that suited their own purposes. But this legacy was not without blemish. The Fieldings' bequest to judicial posterity was colored by controversy, which those who later

[17] Peter King, *Crime, Justice, and Discretion in England, 1740–1820* (Oxford: Oxford University Press, 2000), 122 (citing Norma Landau, *The Justices of the Peace, 1679–1760* (Berkeley and Los Angeles: University of California Press, 1992), 3–5, 328–62). Landau, in turn, is building on E. P. Thompson's arguments about the alleged transition from patriarchal to patrician rule, "Patrician Society, Plebian Culture," *Journal of Social History* 7, no. 4 (Summer 1974), 382–405. As King points out, this "was not a sudden or complete transformation … the two models overlapped and the change in judicial styles did not occur by the simple displacement of one model by another," (King, *Crime, Justice, and Discretion*, 122).

referenced them either did not know of or chose not to mention. John Fielding had encountered strong opposition, and the Lord Chief Justice (William Murray, the Earl of Mansfield) himself had publicly condemned his practices for undermining respect for the law and perverting the very justice that the magistrate had claimed to promote.[18] This harangue and the warnings that accompanied it had been enough to drive would-be chroniclers from Bow Street, at least temporarily. Such opposition to the court's methods was hardly confined to official channels. Bow Street soon became the target of a direct assault by displeased members of the local community. At the height of the Gordon Riots, on June 5, 1780, a crowd of demonstrators turned their fury on the Bow Street house, wrecking and pillaging it for several hours.[19] It was one of several prominent London homes, some which were similarly connected to the administration of law in the metropolis, to be looted and partially destroyed over the course of the next few days. Just as press attention and magistrates' commitment to a particular vision of order would remain perennial aspects of summary justice in the metropolis, so too would controversy, public opposition, and communal anger. Notoriety has its price, and this would not be the last time that magistrates and their courts bore the brunt of public outrage.

The destruction wrought in June of 1780 was a setback for John Fielding and his fellow magistrates, and Mansfield's fierce chastisement pushed the court out of the public eye for a short while. Fame (or infamy) wide enough to make Bow Street a target for rioters, however, was not to be undone by evanescent mayhem, nor by a Lord Chief Justice beating the tocsin of judicial misconduct and newspaper mischief. The court's importance in the metropolitan legal landscape was too great, and its appeal too broad for it to languish long. Bow Street's continued evolution as a forum for legal administration would occur in tandem with its rising popularity as a didactic amusement for newspaper readers. Less than a decade after the Gordon Riots, these

[18] John Beattie, *The First English Detectives: The Bow Street Runners and the Policing of London, 1750–1840* (Oxford: Oxford University Press, 2012), 102. Lord Mansfield was hardly alone in such criticisms. Lance Bertelsen, "Committed by Justice Fielding: Judicial and Journalistic Representation in the Bow Street Magistrates' Office, January 3–November 24, 1752," *Eighteenth-Century Studies* 40, no. 4 (1997), 342.

[19] Babbington, *Bow Street*, 160–61.

columns began to multiply once again. *The Times* began covering Bow Street in 1787, and added Hatton Garden (Clerkenwell) to its purview in 1792. By 1810, the paper had devoted more than 750 columns to trials at Bow Street, and a few dozen to trials at Hatton Garden.[20] Other papers with notable coverage of the "public offices," as the magistrates courts were called at the time, included the *Morning Post*, *The Oracle*, *The Argus*, the *London Chronicle*, and several papers that had reported on the courts in the 1750s and 1760s, among them *The Gazetteer* and *The Advertiser*. The *Morning Herald*, whose columns would be instrumental in the next major development of courtroom journalism, began its courtroom coverage in the late 1780s. This period of revived press interest in the late eighteenth and early nineteenth century encompassed several important milestones in the development of the magistrates' courts as legal and literary terrain. It culminated in a powerful reframing, via the most popular and extensive series of courtroom press vignettes yet, of the relationship between the courts, their depictions, and their communities.

The Middlesex Justices Act 1792 was the first of these major milestones. It employed Bow Street as a model for a city-wide system of public offices, which were to be administered by a rotation of professional magistrates under the direct supervision of the Home Secretary. Henceforth, the metropolis would have, in addition to Bow Street, seven public offices – two in Westminster (Queen's Square and Great Marlborough Street), and one each in Hatton Garden, Shoreditch, Whitechapel, Shadwell, and Southwark.[21] Two years later, another court was established at Wapping. In succeeding decades, all of them would either be renamed or succeeded as the Westminster, Marylebone (which replaced the Shadwell court in 1821), Clerkenwell, Old Street, Tower Bridge, Lambeth, and Thames Magistrates' courts, with only the Marlborough Street Court remaining on its original site into the twentieth century, albeit in rebuilt form.[22] Four additional "junior" courts – North London, West London, Hammersmith, and South-

[20] These numbers are based on a survey of the Gale Digital Archives, *Eighteenth-Century British Newspapers* and *Nineteenth-Century British Newspapers*.

[21] Middlesex Justices Act 1792 (32 Geo. 3 c. 53 ss. 15, 16). Beattie, *First English Detectives*, 165. Henry Turner Waddy, *The Police Court and Its Work* (London: Butterworth, 1925), 199.

[22] Waddy, *Police Court*, 200.

Western (the latter a fusion of the Greenwich and Woolwich courts) – would eventually follow in 1840. Each of the original courts would be staffed by three stipendiary magistrates and six constables.[23] The former would receive an annual salary of £400. The constables would be paid twelve shillings weekly plus expenses for their duties of investigation and arrest. The eightfold expansion of the system, which now officially combined the powers of policing and prosecution in a single locale, exponentially increased its significance in the judicial landscape of the metropolis. Four decades after the Fieldings first began their project to put Bow Street at the center of the state's response to daily crime and disorder in London, few would argue that the newly expanded system of magistrates' courts had not become just that. The explicit constraint of each office's jurisdiction to a specific area further increased their local impact and notoriety.

But what of the Fieldings' broader goals? Specifically, what of their vision of a courtroom whose activities were disseminated to a wide audience, where the magistrates' authority and discretion were paramount, and where members of the community could seek redress for grievances both great and small? It was in the early nineteenth century that we first find evidence that local magistrates' courtrooms, following the precedents of rural Justices of the Peace and the Guildhall and Mansion House sessions, were becoming more integrated into the daily life of the metropolis.[24] As they were employed on a wider scale by the lower-middle class and working class of the metropolis, the social dimensions of courtroom culture would become exponentially wider. Local courtrooms would become places where social relations between individuals, and between individuals and the state, were negotiated and contested through legal processes. They would also become the means by which, through frequent public portrayals, the growing cohort of middle-class newspaper readers would learn about the law's daily duties in London's teeming districts. Lastly, local courtrooms would continue, in the vision of the Fieldings, to convey distinct moral messages to those who experienced and observed them, though how the intended audience

[23] Clive Emsley, *Crime and Society in England, 1750–1900* (London and New York: Longman, 1986), 176.

[24] Drew Gray, *Crime, Prosecution and Social Relations: The Summary Courts of the City of London in the Late Eighteenth Century* (Basingstoke and New York: Palgrave Macmillan, 2009), 29–31.

interpreted those messages is difficult to determine. Parliamentary inquiries offer some insight into how and when these developments progressed. The most typical method of assessing the impact of the magistrates' courts' operation and the potential or observable consequences of proposed or implemented reforms was through parliamentary committees, which were sub-legislative bodies composed of small numbers of MPs and Peers. Organized by the governing party to meet across a set timescale and concluding with a formal report and recommendations, such committees were tasked with considering policy issues, evaluating government conduct and expenditure and examining proposed legislation. Their deliberations could extend over days, weeks. or even months. They were empowered to seek extensive and detailed testimony from any individuals they deemed relevant to the matter at hand, and their list of witnesses, ranging in size from a handful to scores, could encompass the most modest of local residents and the highest officials in government. Over the course of the nineteenth century, the workings of the magistrates' courts and the role of summary justice in British society would be a common topic of investigation in parliamentary committees as they considered the broad impact that even minor changes in law and procedure there had brought or might bring to the communities they served.

During one such inquiry in 1816, magistrates and clerks from police offices across the city testified that, in the two decades since the expansion of the system, the new courts of summary justice had become an oft-employed resource by their local communities. The private prosecutions that had prompted so many trials prior to the Middlesex Justices Act remained common, but the reduced cost of warrants had made them feasible for a much broader segment of the population. Thomas Evance, a magistrate at Union Hall in south London, had the unenviable task of trying to maintain public order with a mere seven constables overseeing a population estimated at 127,000.[25] The dearth of policing personnel, however, was more than made up for by the zeal with which those under his jurisdiction employed his court. The "lower orders" in his district were so eager to

[25] Testimony of Thomas Evance, *Minutes of Evidence Taken Before a Select Committee Appointed by the House of Commons to Inquire into the State of the Police of the Metropolis* (London: Sherwood *et al.*, 1816), 110.

access his courtroom, he told the committee, that they would "pawn their clothes to take out warrants."[26] Such "parochial work," Evance estimated, in which he included cases brought by local authorities against delinquent rate-payers, took up "as much time as felonies and other criminal matters."[27] Workplace disputes "between masters and labourers, labourers and apprentices" also appeared in local courtrooms in great number.[28]

In the absence of reliable court records, we cannot verify that London magistrates were responding to local initiative and practicing such mercy as they preached in the 1816 inquiry. Such lacunae notwithstanding, magistrates of the early nineteenth century, like the Fieldings before them, continued to insist that their courts were responsive to the local community. In these duties, they were guided by their moral precepts and their vision of justice as much, if not more so, as they were by the demands of policymakers and the general climate of anxiety about crime and immorality in the metropolis. Magistrates were generally unwilling to admit that the latter was justified, and when asked directly about the alleged increases in crime and vice, either equivocated or responded to the contrary.[29] The degree to which the needs of the local community, particularly members of the shopkeeping and laboring classes, and the magistrates' vision of their courts were shaping the public character of courtroom interactions was even more evident in the next major parliamentary commission on justice and policing in the metropolis, which issued its report in 1828. Maurice Swabey, a magistrate at the Union Hall public office, explained to the committee that much of the work in that court consisted of hearing "hackney-coach disputes, pawnbrokers cases, apprentice cases, summonses about the engines, disputes between man and wife, which we endeavor to settle without warrants, applications for summonses of all descriptions for the detention of property where it does not amount to a felony."[30] Were they not

[26] Ibid., 112. [27] Ibid. [28] Ibid., 109.

[29] Testimony of Sir Nathanial Conant, ibid., 40.

[30] Testimony of Maurice Swabey, *Report from the Select Committee on the Police in the Metropolis 1828* (PP 1828 (533) VI), 148. Union Hall was responsible for adjudicating cases in a district that encompassed much of Lambeth and Southwark. In 1845, the responsibility for summary justice in this area was split between two courts, Lambeth PC and Southwark PC. In 1905, the latter was relocated and again renamed, this time to Tower Bridge PC (PS/TOW) (LMA).

given considerable aid by the county magistrates, he continued "those particular cases I have mentioned would take up our time fully, without attending to one single instance of criminal business." But on the state of crime in the metropolis, the general tone of the magistrates' evidence in the 1828 inquiry was very different from 1818. In their testimony, Chief Magistrate Sir Richard Birnie and other London magistrates insisted that serious crime against persons and property had indeed been increasing steadily in the preceding years.[31] Birnie, like his predecessor had in 1816, went on to assert that much of the rise in commitments to prison was attributable to the greater willingness of individuals to prosecute "since there has been greater liberality in allowing expenses."[32] On the eve of the reforms that would create London's first centrally administered police force and would permanently segregate magistrates' duties of adjudication from the supervision of policing, the "public offices" of the city were a popular resource employed by a wide spectrum of residents for a vast array of purposes. They were courtrooms whose roles were indeed shaped by magistrates' visions of morality and justice and by the needs of local authorities in the enforcement of key regulations. But the demands of the local population for convenient and speedy redress of their common grievances had also played a crucial role in their development.

By the 1820s, three key groups were involved in constructing the daily roles of magistrates' courtrooms in their communities. Contributing to both their concrete character and their public interpretations, these cohorts were setting the foundations of courtroom culture as it would develop across the following decades. John Wight and other courtroom reporters formed one group, the magistrates a second, and the

[31] Testimony of Sir Richard Birnie, Chief Magistrate of the Bow Street Police Office, in *Report from the Select Committee on the Police in the Metropolis 1828*, 34. Birnie, a native of Scotland, had begun his professional life as a saddler's apprentice. He was appointed to succeed Sir Arthur Conant as Chief Magistrate, and remained a respected and oft-consulted figure by government ministers until his death in 1821. T. F. Henderson, "Birnie, Sir Richard (*c.*1760–1832)," rev. Catherine Pease-Watkin, *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004).

[32] *Report from the Select Committee on the Police in the Metropolis 1828*, 48. Peter King has proposed a similar explanation for the apparent rise in juvenile crime during the same period. Peter King, "The Rise of Juvenile Delinquency in England 1780–1840: Changing Patterns of Perception and Prosecution," *Past and Present* 160, no. 1 (1998), 151.

courtroom clientele a third. Of these, only the first two had the means to shape public portrayals. The magistrates possessed, by far, the greatest authority to realize their visions in daily courtroom practice. Despite this power, however, they could neither dictate legal policy nor force the community to employ their venues and their attendant personnel. Even as the Fieldings and their successors sought greater authority and wider publicity, they also became more accountable in the eyes of policymakers and middle-class newspaper readers. With the issue of crime and public order becoming increasingly prevalent in the press and in parliamentary debates, and with the explosion of courtroom coverage in national newspapers, the *image* of justice in the courtroom was more important in the 1820s than it ever had been before.[33] The inauguration of regular courtroom columns in the early nineteenth century, however, cost magistrates' their ability to directly manage the portrayals of their venues. Gone were the days when men like John Fielding or Patrick Colquhoun could issue bold tracts on the meaning of justice, the role of magistrates in preserving social hierarchy, and the nature of public order both within and beyond the courtroom. Having lost control of the avenues of dissemination, accommodating local expectations of justice and what the courts could do to address individual grievances on a daily basis became increasingly important.

The public image of their courtrooms was certainly in the minds of the London magistrates who testified in the 1828 inquiry, where they asserted that this maintenance of legitimacy in the eyes of the local community was absolutely essential to the courts' continued viability. Henry Merton Dyer, a magistrate of the Marlborough Street court, explained to the committee that this could be accomplished by three complementary efforts. The first was making operation of the courts more comprehensible, and their employment more feasible, to the community (and to the poor in particular). The second was managing the expectations of the community with regards to what the courts could and could not do. And the last was bringing the visible operation of the courts more in line with the expectations of those who sought

[33] Whereas *The Times*, for example, had only carried a little more than a 100 Bow Street columns in the period 1811–20, they printed nearly six times that many in the subsequent decade, and nearly 300 more from the Marlborough Street court.

their aid. Dyer proposed one relatively simple reform that would further all three goals. This was to dispense with the submission of formal "written information" to initiate a case, and instead substitute a simpler summons process relying on a verbal attestation. This would provide complainants with the relatively speedy and straightforward prosecutions that they desired. As things stood, Dyer explained, the detailed legal requirements of written informations caused many cases to either "fail for want of form," or to simply not proceed at all past the initial complaint.[34] The result was that justice was being denied to many of those whom the courts were meant to serve.[35] Dyer proposed that this change be applied across the board, to every case covered by summary jurisdiction, excepting those that already proceeded (by current statute) on the basis of summonses rather than written informations. The simple change of protocol advocated by the magistrate would have amounted to a fundamental transformation of summary justice from a documentary process that often required considerable familiarity with the law, a solicitor, or both, into a verbal process that required neither. Dyer's proposal was included prominently among the committee's suggested reforms, though it would be some time before it became official policy.[36] As much as Dyer and other magistrates sought to make the courts both accessible and comprehensible to a wide audience, it is clear from their statements that, like their famous predecessors, they still saw themselves as the arbiters of justice and the ultimate determiners of the courts' roles.[37] On the other hand, the same testimony suggests that many who sought the courts' intervention proceeded from the *other* direction. They came to the courtroom seeking their own vision of justice and expected it to be met. Dyer used the frequent cases brought by the "poor and ignorant persons" against pawnbrokers as one prominent example the distance

[34] Testimony of Henry Merton Dyer, March 28, 1828, *Report from the Select Committee on the Police in the Metropolis 1828*, 173.

[35] Ibid., 174.

[36] Ibid. It is unclear exactly when the requirement of written information was officially dispensed with, but it was certainly no later than the Summary Jurisdiction Act 1848. Thomas William Saunders, *The Practice of the Magistrates' Courts*, 2nd ed. (London: The Law Times Office, 1858), 10–12.

[37] As Sir Richard Birnie, the chief Bow Street magistrate, put it bluntly, "magistrates are not in the habit of being controlled." Testimony of Sir Richard Birnie, March 10, 1828, *Report from the Select Committee on the Police in the Metropolis 1828*, 46.

between expectations and experience.[38] Poor petitioners' inability to properly assemble written informations (e.g. by hiring a solicitor to aid them) "wholly precludes them from taking any benefit from the law," he wrote.[39] This discrepancy was part a much more fundamental problem, in Dyer's view. The current protocols used in the London courts, he declared, "amounts to an absolute denial of justice to the poorer or the busy classes of life." His proposed reform, the wholesale replacement of written informations with summonses, was therefore imperative if the summary justice system was to provide for the "just rights and attainable remedies of the public."[40] Where the expectations and needs of the public for justice conflicted with the law, Dyer insisted, it was the latter that required adjustment.

The 1828 inquiry offered several other insights into how members of the local community employed the magistrates' courtrooms and what they perceived to be justice. In addition to the abovementioned cases against pawnbrokers, Chief Magistrate Birnie told the committee that assault cases, mainly attributable to drunkenness, occupied a considerable portion of the courts' time.[41] In response, the committee member conducting the interview suggested that this was due not to a general rise in violence, but rather to an increased willingness of the public to employ the courts instead of resolving disputes on their own.[42] Assault cases had become so common, one East End resident (Richard Gregory) told the committee, that some magistrates in the area, instead of incarcerating otherwise respectable and orderly men, were resorting to an informal system of recognizances. In such cases, a defendant released under the conditions that he not commit a breach of the peace in the following months was held "*in terrorem* by the warrant hanging over his head," and could still support his family.[43] This system served the goals of all involved. The victim received justice, the magistrates maintained order, respectable men were not degraded by incarceration with common criminals, and families were not thrown onto the parish for relief. In the absence of court records, it is impossible to determine how frequently magistrates across London adopted this course, but there are indicators that it was quite common in other jurisdictions where records

[38] Testimony of Henry Merton Dyer, March 28, 1828, ibid., 174.
[39] Ibid. [40] Ibid., 173. [41] Testimony of Sir Richard Birnie, March 10, 1828, ibid., 45.
[42] Ibid. [43] Testimony of Richard Gregory, March 17, 1828, ibid., 98.

are accessible. By the later nineteenth century, when registers of metropolitan summary jurisdiction become available, binding over one or both parties on their own recognizance had become among the most frequent outcomes of assault cases proceeding from summonses.

Beyond the tendency of the local community to bring various petty cases before the magistrates, witnesses testified that London residents were, in general, becoming more adept at employing courtroom protocols to their advantage. Opposing parties, one magistrate explained, commonly employed a progressive series of summonses, convictions, and appeals as a pathway to a negotiated compromise, with no fines ever being collected by the court at all.[44] Many of these strategies, recognizances and courtroom mediation in particular, had long been common in the courts of county justices and in the Middlesex Sessions.[45] Their increasing employment in London PCs represented a change in the scale of implementation and the breadth of usage rather than a novel innovation in courtroom practice. The expansion of the police-court system and the reduced cost of employing it, along with the rising familiarity of local residents with its operation, made the adoption of such tactics more popular. The local court could be used, quickly and relatively cheaply, by a wider socioeconomic range of residents in a broader number of circumstances. Would-be court clientele were further encouraged by magistrates who saw the value in providing justice that met the expectations of participants and observers alike. Seventy-five years after Henry Fielding first took his seat in the magistrate's chair, Bow Street and its sister courts had gone from relative obscurity to center stage in the daily execution of law in London. Exactly what part the magistrates' courts would play in the legal and social canvas of the metropolis remained a matter of debate. There was no consensus even among magistrates, let alone between magistrates, parliamentary authorities, and the myriad men and women who found themselves before the bench, by the tens of thousands, each year. The contest over what roles courtrooms would occupy in their local communities and how they would be portrayed to the public would continue throughout the nineteenth century.

[44] Testimony of Henry Merton Dyer, March 28, 1828, ibid., 178.
[45] Robert Shoemaker, *Prosecution and Punishment: Petty Crime in London and Rural Middlesex, c.1660–1725* (Cambridge: Cambridge University Press, 1991), 25–27, 55.

## "The Public Are the Jury": The Evolving Social and Cultural Roles of Local Courtrooms in London, 1829–57

The proliferation and popularization of courtroom events in regular newspaper columns, serialized fiction, popular journalistic accounts of London, and other venues coincided with two fundamental changes in the authority and role of the London magistrates' courts. The first, driven by Robert Peel's reforms as Home Secretary, was the inauguration of the Metropolitan Police and the subsequent transfer of almost all executive powers of policing from the magistrates to this new institution. The courts retained a few constables on staff, and they continued to work in close cooperation with "the Met." In the years that followed the passage of the Metropolitan Police Act 1829, however, London magistrates, often against their expressed desire, conceded their previous supervision over daily law enforcement to the new professional force. The latter operated under the auspices of the Metropolitan Police Commissioners and the Home Office. The summary justice system, and the London magistrates' courts in particular, would remain a key focus in Parliament's ongoing campaign to rationalize and consolidate the criminal justice system in the 1830s. Even as London magistrates lost their power to dispatch constables and were forced share the legal limelight with the new police, their roles in courtrooms, and the roles of their courts in their communities, became broader and more powerful. New legislation, along with the magistrates' adaptation of older regulations, brought an increasing number of criminal and civil issues within their purview.[46] Police-court judges also secured the ability to inflict longer terms of imprisonment and higher fines. The inception of the new police force and the enhanced authority of the magistrates' courts brought ever-greater numbers of Londoners into contact with both institutions. An

[46] Ruth Paley, "An Imperfect, Inadequate and Wretched System? Policing London before Peel," *Criminal Justice History* 10 (1989), 95–130; Stefan Petrow, "The Rise of the Detectives in London, 1869–1914," *Criminal Justice History* 14 (1993), 91–108; David Philips, "A New Engine of Power and Authority: The Institutionalization of Law Enforcement in England, 1780–1830," in V. A. C. Gatrell, Bruce Lenman, and Geoffrey Parker, eds., *Crime and the Law: The Social History of Crime in Western Europe since* 1500 (London: Europa Publications, 1980); Elaine Reynolds, *Before the Bobbies: The Night Watch and Police Reform in Metropolitan London, 1720–1830* (Stanford: Stanford University Press, 1998).

appearance before the magistrate, by coercion or by choice, became an increasingly common occurrence, particularly among those at the lower end of the socioeconomic spectrum. These developments, along with the tremendous multiplication of newspapers and their audiences, are the keys to comprehending how the social and cultural roles of the police courts in London changed in the three decades following the passage of the 1829 Act.

The general procedure of the magistrates' courts was largely standardized by the mid-Victorian period. There were several overlapping circumstances that determined how a defendant was first brought to court and their treatment subsequently. The first was whether or not they were appearing on a summons or a charge. A summons was the most flexible and broadly employed means by which one individual, either as a private person or as a representative of a larger organization, could compel someone to appear in court. A magistrate could grant a summons during a court sitting, in his private chambers, or even in his own home. He could also refuse to grant one, but only on judicial grounds (i.e. the complaint made did not constitute a legal violation), not on his personal views of the matter.[47] The process of requesting a summons was known as an "application," the individual seeking it was designated as the "complainant," and the justification they offered for their request was "the information." Prior to the mid-Victorian period, the information had to be written, which severely hampered the accessibility of summonses. The allowance of verbal information removed this obstacle.

A summons, once granted, was delivered to the address of the putative defendant by special constables seconded to the courts. The document indicated a court date and location, and on what grounds they were being summonsed. Summonses were the primary means by which individuals brought one another to court. Over time, summonses increasingly became the prerogative of municipal institutions such as the London School Board, the Metropolitan Board of Works, and the London Country Council. The police also became frequent employers of summonses beginning in the prewar years, as they found them to be a less intrusive means for bringing minor offenders to court. Regardless of this slow incorporation into the remit of state authorities, private

[47] F. T. Giles, *The Criminal Law* (Harmondsworth: Penguin, 1954), 74.

summonses for marital issues remained a key aspect of London courts' activity well into the mid-twentieth century. Such summonses, which the magistrates' clerk F. T. Giles described as "a more gentlemanly weapon," were hardly without a coercive aspect.[48] In instances where the summons was "served" (i.e. reliably delivered) to the defendant and they nonetheless failed to appear on the appointed court date, the case was typically adjourned and a second summons issued. If this next measure failed, magistrates' general recourse was to issue a warrant to compel their attendance on pain of arrest.[49]

The bringing of charges in court, regardless of who lodged the initial complaint, was a more puissant measure. The prosecution of a charge was preceded by an arrest, and the latter could be the result either of a constable witnessing the commission of a crime or of a magistrate's issuance – and the ensuing police execution – of a warrant. In the latter case, private initiative still played an important role, since the alleged victim of the crime in question had to make a sworn statement before a magistrate to justify the warrant and subsequent arrest, and the relevant information had to be written and signed.[50] Summonses, the lesser measure, required no such affirmation.[51] As discussed in more detail in Chapter 6, one of the most common ways by which a defendant found themselves facing a charge was when, subsequent to an alleged assault, the victim fetched a constable to effect an arrest. The prosecutor (or prosecutrix), would then need to visit the court and make their sworn statement ("the information") before a magistrate so that the charge could be leveled and the defendant tried in court on a subsequent date. In the interim, the defendant would either be held in the cells attached to the court (which was almost invariably adjacent to the police station) or released on a surety (i.e. bail) to appear later.[52]

Once charged, the next major procedural question was whether the offense was indictable or non-indictable. For an offense to be classified as non-indictable, it had to be one for which the relevant Act of

[48] F. T. Giles, *The Magistrates' Courts* (London: Pelican Books, 1949), 58. [49] Ibid., 59.

[50] Constables used warrants to make arrests, but this had been the law for centuries prior to the creation of the new police, when constables were typically private citizens serving for a year. Even after the reforms of the 1830s, the police were not granted any prosecutorial powers that were not already held by private citizens.

[51] Ibid., 54; Giles, *Criminal Law*, 76–77.

[52] Although typically the defendant had to provide a surety, the Bail Act 1898 permitted magistrates to grant bail without it, at their discretion. Giles, *Magistrates' Courts*, 67.

Parliament expressly directed summary trial. The overwhelming majority of criminal offenses across the second half of the nineteenth century fell into this category. Indictable offenses, on the other hand, consisted of felonies, treasons, and other serious criminal offenses. Murder, abduction, manslaughter, burglary, and robbery with violence were all prominent examples. In the initial decades of the nineteenth century, cases where defendants were charged with an indictable offense could not be resolved by the magistrates. Following a preliminary hearing in the police court, where the charges were read and the evidence summarized, they had to be committed for trial ("remanded") in a higher court such as the Assizes, Quarter Sessions, or (most commonly) the Central Criminal Court (i.e. The Old Bailey).[53] And yet, despite this stipulation, by the prewar decades, more than three-quarters of all defendants charged with indictable offenses would be tried summarily.[54] Among the most common indictable offenses dealt with in this manner were assault, larceny, and malicious damage. This was possible because successive reforms from the 1820s onwards permitted an increasingly wide array of offenses to be tried summarily if the defendant consented.

These circumstances gave defendants a considerable amount of leeway to determine, in the broadest strokes, their own potential fate when charged with an indictable offense. Faced with the choice of either a longer sojourn in prison and the possibility of much heavier punishment in a jury trial, or a speedy summary trial with a much milder range of consequences upon conviction, small wonder that so many defendants opted for the latter.[55] Considering the expense of long-term, pretrial imprisonment and jury proceedings, the flexibility afforded by summary justice found favor with magistrates, legislators, and judicial reformers alike. From the perspective of courtroom culture in London, the steady shift of prosecutions for indictable crimes from jury trials to summary proceedings increased the significance of public

[53] Ibid., 47.

[54] 80% from 1911 to 1913, by V. A. C. Gatrell's estimate. V. A. C. Gatrell, "The Decline of Theft and Violence in Victorian and Edwardian England," in V. A. C. Gatrell, Bruce Lenman, and Geoffrey Parker, eds., *Crime and the Law: The Social History of Crime in Western Europe since 1500* (London: Europa Publications, 1980), 274.

[55] The list of indictable offenses that, by consent of the defendant, could be tried summarily continued to grow across the first half of the twentieth century. Giles, *Criminal Law*, 92.

interactions between defendants and police-court magistrates in the public discourse on crime and punishment. By the early twentieth century, this trend was visible enough to attract the attention of legal experts across the Atlantic, prompting one prominent American scholar of jurisprudence to assert that the rise of summary jurisdiction was the single most significant change to occur thus far in modern English criminal law administration.[56]

The increasing popularity of the courts for the resolution of minor local conflicts and the implications of their growing visibility in the community were both major issues in the first official inquiry into law and policing that followed the Metropolitan Police Act 1829. Appearing before a parliamentary committee in 1833, magistrates and police officials argued that the establishment of the Metropolitan Police and the hiring of full-time constables who worked under police superintendents rather than the authority of the magistrates had not fundamentally transformed the daily operation of the courts. Rather, according to the Commissioners of the Metropolitan Police, the local population was employing this new policing infrastructure largely as a mechanism for engaging the magistrates' courts, and was doing so for the purposes that had taken them directly to the courts themselves in the past.[57] Since police station houses were open for longer hours than the courts were, and constables were much more frequently at hand, the number of individuals attempting to "bring a charge" had increased substantially. The statistical information available, albeit incomplete, attested this continued importance of private initiative in triggering police involvement.[58] In 1830s Lambeth, private citizens brought roughly 20 percent of all charges that resulted in a prisoner being taken into custody, the balance being made up largely of charges brought by constables, and a smaller proportion of those brought by representatives of various municipal bodies. In 1833, the former

[56] Pendleton Howard, "The Rise of Summary Jurisdiction in English Criminal Law Administration," *California Law Review* 19, no. 5 (Jul. 1931), 486.

[57] Testimony of Lt. Col. Rowan and R. Mayne, July 2, 1833, *Report from the Select Committee on the Police of the Metropolis 1834*, 302.

[58] In contrast, Bruce Smith has argued that public officials in the Old Bailey were playing an increasingly important role in prosecution during this period. Bruce Smith, "The Myth of Private Prosecution in England, 1750–1850," in Drew Gray, ed., *Crime, Prosecution and Social Relations: The Summary Courts of the City of London in the Late Eighteenth Century* (Basingstoke: Palgrave Macmillan, 2009), 153.

("private" charges) amounted to roughly thirty-five cases a month.[59] Although hardly a massive caseload overall, this number did not include attempts to bring charges that were refused, charges brought that did not result in detention of the accused, or charges brought in the sixteen other police divisions. Nor was one of the most common circumstances of police involvement through private initiative, the number of people detained on charges brought by a constable *after* the latter's intervention was requested by the alleged victim (e.g. by fetching a constable), specifically recorded.[60]

In the midst of this increased usage, C. K. Murray, a magistrate at the busy Union Hall court, argued that the needs of working-class petitioners must take precedence over other considerations. If the law did not accommodate their current practices, it must be changed to suit. In this context, Murray insisted, the magistrates must be prepared to inhabit a diverse and influential set of roles. "The value of his office does not consist more in the strict legal performance of his judicial duties," he asserted, "than in his exercise of sound discretion, and in the considerate application of his feelings of humanity, as an advisor, an arbitrator, and a mediator."[61] Here, the magistrate offered a formulation of the local courtroom's role similar to that articulated by the Fieldings in the middle of the eighteenth century. It was a mechanism for influencing the morality and behavior of the community, certainly through the punishment of specific transgressions, but more so through the judicious application of a magistrate's experience and authority in a wide variety of capacities. According to Murray and others, this vision of the courtroom's function, the magistrate's role, and the relationship of both to the people in the community was not merely imposed upon a recalcitrant populace with no morality of their own and no agency in the process. Murray and his colleagues recognized that those who used local courtrooms brought to them their own ideals and opinions on matters legal and moral, ideals that had to be accommodated both visibly and substantively if the courts were

[59] Letter from James Traill, Magistrate of the Union Hall court, *Report from the Select Committee on Metropolis Police Offices 1838* [hereafter *Metropolis Police Offices 1838*], 217.

[60] For the prevalence of this, see Chapter 6.

[61] Testimony of C. K. Murray, Magistrate of the Union Hall Police Office, June 4, 1833, *Report from Select Committee on Metropolitan Police 1833* [hereafter *Metropolitan Police 1833*], 189.

to maintain any degree of influence at all.[62] The courtroom itself, insisted the magistrates, was where this accommodation must take place.

This could all be read as nothing more than the magistrates' attempt to protect their own authority and discretion in the midst of encroachment by the powerful new institution of legal enforcement, the Metropolitan Police. More broadly, it could be interpreted in the same way that historians have previously assessed the operation of daily justice in the eighteenth and early nineteenth century. Scholars working in this context have argued that the *appearance* of being a forum open to the working class was merely a tool to further the impression of the rule of law and to secure the cooperation of the majority with a system that maintained the social status quo and protected the power and property of the elite.[63] And the need to preserve their discretion over the daily administration of justice was a strong motivator for the magistrates' statements. Nonetheless, there was more at stake here than who had the authority to determine what charges were legitimate and where the line was to be drawn between police initiative and magisterial oversight. In these discussions and those that followed, the meaning of "the public," justice, morality, and a host of other concepts central to Victorian society were being shaped and deployed either within the courtroom itself or through reference to the courtroom as the site of their composition. The timing of the public discussions came at a crucial period in the history of the Victorian state as it attempted to deal with the impetus for reform from a number of quarters, the need to maintain public order in Britain's growing cities, and concerns over the costs of government and the concurrent burden on ratepayers. The expansion of summary justice was an integral part of wider wave of law reform.[64]

[62] They arrived with a "sense of justice or shame," according to Murray. Ibid., 189. See also Testimony of R. E. Broughton, Magistrate of the Worship-Street Police Office, May 20, 1833, ibid., 116.

[63] John Brewer and John Styles, "Popular Attitudes to the Law in the Eighteenth Century," in Mike Fitzgerald, Gregor McLennan, and Jennie Pawson, eds., *Crime and Society: Readings in History and Theory* (London: Routledge, 1981), 32–35; Jennifer Davis, "A Poor Man's System of Justice: The London Police Courts in the Second Half of the Nineteenth Century," *The Historical Journal* 27 (1984), 315.

[64] Michael Lobban, "Old Wine in New Bottles': The Concept and Practice of Law Reform, *c.*1780–1830," in Arthur Burns and Joanna Innes, eds., *Rethinking the Age of Reform: Britain 1780–1850* (Cambridge: Cambridge University Press, 2003), 133.

It coincided with a widening of the franchise, a move prompted, in part, by the desire on the part of the political elite for a Parliament that was more responsive to its constituency.[65] The 1830s also witnessed the rise of the Chartist movement and the demands by its adherents that the working-class receive a greater voice in their own governance. In the midst of debates over the role and responsiveness of the state, the magistrates' courts offered the benefits of being receptive to the needs of local clientele, adaptable to legal reforms and, despite the costs of expansion and operation, affordable on a per-case basis when compared to the more protracted proceedings of the higher courts.

Although magistrates were in the most advantageous position to define the courts' purpose in the years following the expansion of the system, the growing social and cultural role of their courtrooms was not merely imposed from above. The local users of these venues, through both direct action and the impact of their expectations and demands, were shaping their development as well. The significance of local agency in the courtroom was increasing in tandem with the legal power and range of matters with which they dealt. As frequent employers of the courts and keen observers of them, the local community was a key concern for the witnesses called by the parliamentary committees convened in 1837 and 1838 to inquire into the operation of summary justice in the metropolis. The impact of local initiative was particularly evident in magistrates' articulations of their roles. Although they retained the moralizing paternalism of their eighteen-century predecessors, community accountability and responsiveness to local demand was a much greater concern for them than it had been for the Fieldings and their immediate successors. The magistrates who testified in 1837 and 1838, like their colleagues who appeared in the 1833 committee proceedings, argued that their courts must set a moral example for their communities. But they also insisted that they were acutely answerable to those whom their courts served, and that the public's view of *justice* was constantly on their minds. This consideration, according to both witnesses and the committee members, who included Robert Peel himself, had to remain central in any reform of current practices in magistrates' courtrooms and of the laws themselves. The most serious and potentially controversial of the

[65] Arthur Burns and Joanna Innes, "Introduction," ibid., 46.

changes under consideration were the extension of summary jurisdiction to cover a wide variety of lesser offenses, chief among them petty larceny; whether magistrates could preside singly, rather than in pairs (as was the current practice); and the overall merits of summary jurisdiction as compared to trial by jury. James Traill, a magistrate of the Union Hall court, whose testimony would be quoted extensively by the committee in their recommendations, was questioned closely on what, if any, objection there would be "in the public mind" to the extension of summary jurisdiction in cases where the accused party either pled guilty or consented to be tried in this manner. Traill was unequivocal in his response. For the magistrate, the central issue was not a legal one, but rather one of principle and the public perception of fairness.[66] Traill's colleagues were likewise questioned repeatedly on issues of "the public feeling" and what the general response would be to proposed changes. They replied, to almost every inquiry, that the public favored the proposed extensions of summary jurisdiction and that such changes would bring the authority of the courts more in line with the expectations of those who brought cases or were tried there.

Although the focus on public perceptions of justice and the broad roles of the magistrates' courts were a common thread in parliamentary inquiries across the decade, on several important points, the testimony magistrates offered in 1837 formed a striking contrast with the discussions of policing that had taken place in 1833. The first of these contrasts concerned the role of class in the administration of criminal justice. The 1833 witness testimony on policing emphasized the dangers to publicorder posed by the immoral and indigent elements of the lower orders. This concern prompted extensive discussion of how to best prosecute juvenile delinquency, drunk and disorderly behavior, and various dimensions of vagrancy (e.g. begging and sleeping out of doors).[67] The claims by police

[66] Testimony of James Traill, Magistrate of the Union Hall Police Office, *Report from the Select Committee on Metropolis Police Offices 1837* [hereafter *Metropolis Police Offices 1837*], 39.

[67] The identification of "juvenile delinquency" as a key issue in English law and culture has prompted considerable historical debate. John Gillis, "The Evolution of Juvenile Delinquency in England, 1890–1914," *Past and Present* 67, no. 1 (1975), 96–126; Peter King, "The Rise of Juvenile Delinquency in England, 1780–1840: Changing Patterns of Perception and Prosecution," *Past and Present* 160 (Aug. 1998), 116–66; Heather Shore, *Artful Dodgers: Youth and Crime in Early Nineteenth-Century London* (Rochester: Royal Historical Society, 1999).

officials that these were escalating problems in the metropolis were supported with the growing panoply of statistical evidence available on arrests, prosecutions, and imprisonment.[68] In police efforts to address these issues, a moral hierarchy based on class was an explicit guiding principle – the poor were the problem, and therefore, to combat crime and disorder, efforts must be concentrated there.[69] This line of reasoning, that immorality among the working class nurtured crime, had been propounded in the eighteenth century by both John Fielding and Patrick Colquhoun. By the middle of the nineteenth century, it would evolve into the theory that a hardened "criminal class" embedded in this social stratum was to blame for much of the serious crime in the metropolis.[70] In this formulation, the working class was divided into the "rough" and the "respectable." The latter were largely law-abiding, while the former were an inherently immoral and disorderly group who required policing to prevent more dangerous disorder and a firm, authoritative judicial system that clearly delineated specific punishments for specific acts. A combination of policing and punishment, according to policymakers, would both keep the criminal class in check and help foster moral accountability among the working class more generally.[71] The public discourse on crime and responses to it in this period has prompted modern historians of the "social control" model to integrate the expansion of summary justice into the larger "civilizing mission" of Victorian social reform.[72] Chief among these interpretations has been V. A. C. Gatrell's argument that the new regimes of law and policing constituted a "disciplinary state" that "was not only an earlier but a more

[68] King, *Crime and Law in England*, 73. See also Margaret May, "Innocence and Experience: the Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century," *Victorian Studies* 17 (Sep. 1973), 7–29; Susan Magarey, "The Invention of Juvenile Delinquency in Early Nineteenth-Century England," *Labour History* 34 (May 1978), 11–27.

[69] For a more detailed assessment of the Metropolitan Police's role in social control and moral reform, see Robert Storch, "The Policeman as Domestic Missionary: Urban Discipline and Popular Culture in Northern England, 1850–1880," *Journal of Social History* IX (1975–76), 481–509.

[70] Clive Emsley, *Crime and Society in England, 1750–1900* (London and New York: Longman, 1986), 54–57.

[71] Martin J. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England, 1834–1914* (Cambridge: Cambridge University Press, 1990), 61–67.

[72] Barry Godfrey, *Crime in England, 1880–1945: The Rough and the Criminal, the Police and the Incarcerated* (Abingdon and New York: Routledge, 2014), 34.

power powerful presence in working-class life" than the institutions of reform that followed by mid-century would become.[73] Recent historiography, in contrast, has posited a more ambiguous relationship between judicial institutions and the working class in the Victorian period, despite the apparent hostility of the latter towards the police. In this revised assessment, as the reach of the criminal law extended into more social spaces, its moral power to stigmatize lessened.[74] The increase in regulatory offenses, which could fall on the shoulders of rough and respectable alike, meant that a courtroom appearance was hardly a reliable indicator of membership in the former, regardless of the sustained association between the police courts and general moral turpitude. The increasing numbers of working-class petitioners to the court, particularly for assault cases, also undermines any argument that magistrates' justice was imposed from above with the goal of social control.[75]

Although these developments were more characteristic of the second half of the nineteenth century, examining the debates over summary justice in the 1830s can help clarify why the relationship between the working class and the magistrates' courts evolved along its own unique path. Mid-Victorian magistrates were certainly committed to the moral uplift of their charges, but they lacked the Progressive zeal and self-assurance that would animate subsequent cohorts of municipal reformers. London magistrates were acutely aware that the expansion of summary justice was an experiment that could fail for lack of popular support and community engagement. One clear path to success that they identified was the expansion of voluntary court usage to a broad swath of the working class. In this, distinctions of "rough" and "respectable" were less important than a willingness to employ the courts and to respect their authority and the magistrates' decisions. Both this awareness of their courts' entanglement with the local community and their, at best, ambivalent relationship with Progressivism helps explain why magistrates would clash so frequently with the agents of social reform in final decades of the century. Whereas the latter predicated much of their effort on the assumption that their targets required

[73] Gatrell, "Crime, Authority, and the Policeman-State," 259.
[74] Wiener, *Reconstructing the Criminal*, 263.
[75] Jennifer Davis, "Prosecutions and Their Context: The Use of the Criminal Law in Later Nineteenth-Century London," in Douglas Hay and Francis Snyder, eds., *Policing and Prosecution in Britain* (Oxford: Clarendon, 1989), 417.

coercive intervention to achieve any moral or social progress, magistrates asserted from early on the working class already possessed a sense of justice that could be harnessed for mutual benefit through careful cultivation in local courtrooms.

This picture of the evolving relationship between local courtrooms and the working class accords with the one presented by many magistrates and other judicial authorities to Parliament in the late 1830s. For them, the local working-class community formed an essential aspect of the public to whom they were accountable in their venues. Their inherent "sense of justice or shame," as one prominent magistrate put it, was integral to the operation of the expanding metropolitan court system.[76] Maintaining public order and moral development was not primarily a matter of policing and punishment, but of moving the conduct and resolution of conflicts from the street to the courtroom, fostering respect for courts and magistrates in the eyes of the community, and bringing the decisions made therein closer to accord with popular ideas of justice and fairness. The extension of summary jurisdiction, explained William Empson, a professor of law and one of the first witnesses called by the 1838 committee, was suited to meet popular needs because it was both affordable and speedy.[77] Securing public approval was also essential, he asserted, because the law "will not work well if there is a strong prejudice against it."[78] The key to effectiveness, contrary to the advice of police officials and the Home Office, was not more reliable convictions accompanied by stern and consistent sentences, but rather a lighter sentencing policy. In Empson's arguments, trust in the mechanisms of justice would come from bringing courtroom decisions in line with popular expectations, rather than through strict adherence to formal statutes or an abstract vision of morality and order. This accountability to public opinion, and the necessity of accommodating the public's vision of justice, was stated even more plainly by Sir Peter Laurie, a City magistrate, who told the committee simply that "the public are the jury."[79]

[76] Testimony of C. K. Murray, Magistrate of the Union Hall Police Office, June 4, 1833, *Metropolitan Police* 1833, 189.

[77] Testimony of William Empson, Professor of Law at East India College, December 7, 1837, *Metropolis Police Offices* 1838, 16.

[78] Ibid., 17.

[79] Testimony of Peter Laurie, Magistrate of Mansion-House and Guildhall, March 19, 1838, ibid., 122.

Was this approach merely an attempt by magistrates to preserve their autonomy and co-opt the working class into the fiction of a legal system that accommodated some of their needs (as defined by the magistrates themselves)? There are good reasons to believe otherwise. Magistrates were acutely aware that they were being observed and reported on, and were sensitive to public opinion. Their strongest concern, however, was with a newspaper-reading audience that was largely middle and upper class. This cohort was most closely informed about the magistrates and their affairs both within the court and beyond it, and wielded influence in municipal affairs thanks to their income and social position. Magistrates, given their public prominence, could hardly avoid entanglement in municipal politics, with all the attendant risks. They were appointed by the Home Secretary and, should they fall out of favor, they could be removed by him as well. Such instances were rare, but at no time was the hazard more obvious than in June 1837, while testimony was still underway for the first of the two parliamentary commissions discussed above. It was then that the Hatton Garden magistrate Allan S. Laing became embroiled in a scandal over a physical confrontation with well-connected doctor (Paine) on the Strand.[80] The messy affair finally concluded in January of 1838, when, shortly before the trial was due to commence, Laing agreed to pay Paine £50 and cover his legal costs.[81] Although it was far from certain that a jury would have found for the complainant, and Laing claimed he had been a deliberate target of Paine's antipathy from the outset, the damage to the magistrate's public reputation was irreparable. Laing's vituperation against defendants was already well-known around London, and he had done little to further the positive image of his profession. This was, after all, a magistrate whose vitriol and harsh treatment of defendants had earned him public opprobrium in the press and portrayal as an exemplar of judicial tyranny in Parliament. In 1832, one newspaper report of Laing's courtroom bullying had even prompted the "Great Liberator," Irish MP Daniel O'Connell, to raise the issue before the House of

[80] Allyson May, "Fiction or 'Faction'? Literary Representations of the Early Nineteenth-Century Criminal Courtroom," in David Lemmings, ed., *Crime, Courtrooms and the Public Sphere in Britain, 1700–1850* (London: Ashgate, 2012), 175.

[81] *The Times*, January 16, 1838, 4.

Commons.[82] Adding further fuel to the flame of scandal was the publication, in the July 1837 issue of *Bentley's Miscellany*, of Charles Dickens's *Oliver Twist* chapter introducing Laing's literary *doppelganger*, the infamous "Mr. Fang." This was the only known occasion on which Dickens explicitly modeled a character on a real-life individual.[83] As he had on previous occasions, despite this raft of negative commentary and growing public clamor, Laing remained steadfast in his declarations that he was beyond reproach. Lord John Russell, the Home Secretary, was unconvinced. He removed Laing from the magistracy, and the unabridged correspondence on the issue was subsequently published in *The Times*.

The dismissal of Laing was a nadir in the magistrates' campaign to improve their public image. There could have been no better object lesson on the precipitous use of judicial authority or the consequences of a sustained reputation for spleen in the courtroom.[84] Laing may have been the first metropolitan magistrate brought down by scandal and negative press, but he would not be the last.[85] The timing could not have been worse, since his removal coincided with the expansion of press coverage, Parliament's consideration of widening the courts' civil and criminal authority, and their prospective authorization of magistrates to preside alone (rather than in pairs, as had been the established practice). Small wonder, then, that the magistrates who testified before successive parliamentary committees were eager to emphasize their responsiveness to public opinion, their concern with working-class grievances, their accommodation with popular notions of justice and fairness, and their positive engagement in the roles of "an advisor, an arbitrator, and a mediator" in their local communities.

Magistrates' apprehension about the opinions of newspaper readers formed a compelling backdrop to the more pressing concern of their standing in their respective communities, where the impact of local opinion was more immediately visible. Their attention to the local

[82] House of Commons, Jun. 15, 1832, *Hansard's Parliamentary Debates*, Third Series, vol. XIII (London, 1833), 738.

[83] John Forster, *The Life of Charles Dickens*, vol. III (Boston, 1876), 25.

[84] See also the brief discussion of Laing in Marjorie Jones, *Justice and Journalism* (London: Barry Rose, 1974), 27–28.

[85] According to the journalist James Greenwood, this was the first instance in recent memory of a London magistrate being removed from office (James Grant, *Sketches in London* (1838), 195). Joan Lock, *Tales from Bow Street* (London: Hale, 1982), 94–99.

reputation of their courts emerged from the increasing integration of their courtrooms with everyday affairs rather than as a response to the political power of their most common court clientele. The ranks of workers, artisans, and shopkeepers, still lacking the franchise, could not directly influence municipal politics. Both popular literacy and the press that catered to it and would shape public opinion in these quarters remained decades in the future. This did not mean, however, that their views could be ignored if public order was the goal. Amidst increasing popular political discontent, in a city known for social tension and disorder, and with some of the busiest courts located in what were, historically, the most turbulent districts, magistrates were anything but dismissive of working-class needs and expectations with regards to their local courtrooms.[86] In order to support this distinct view of local, consensual justice that emphasized the working-class employment of, and respect for, the courtroom, magistrates offered alternative statistics to those measuring arrests, prosecutions, and convictions. The 1837 committee drew particular attention to those provided by Mr. James Traill of the Union Hall court, who estimated that there were 12,000–15,000 applications each year for matters over which the courts currently had no jurisdiction.[87] Chief among them were "unlawful detention of property," "masters and servants," "abusive language or insulting behavior," "injuries by the bite of dogs," and "complaints between landlords, tenants and [pawn] brokers." Traill supported his claim with the unofficial record he had kept of such complaints in his own court across a three-month period. Even taking into account the hazy nature of the magistrate's extrapolations from his monthly totals, the implied scale of local demand for the courts' services in these instances was staggering.[88] They exceeded, by a significant margin, many of the most common causes of police charges. In

[86] For how such discontent played out in the metropolitan context in this period, see David Goodway, *London Chartism, 1838–1848* (Cambridge: Cambridge University Press, 1982), 12–53; Edward Royle, *Chartism*, 3rd ed. (London: Routledge, 1996 [1980]), 23–30.

[87] *Metropolis Police Offices 1838*, 28.

[88] Traill arrived at this total by calculating that each of the three magistrates at Union Hall received between 200 and 800 such applications yearly, and that his court, estimating by its comparative number of trials to others in the metropolis (along with Worship Street, it was one of the most-used), encompassed between a fifth and a sixth of the total business conducted by all nine courts each year (Letter from James Trail, *Metropolis Police Offices 1838*, 217).

comparison to Traill's estimate of 12,000–15,000 applications annually by working-class petitioners, there were just over 3,100 arrests for disorderly prostitution in the metropolis and just under 4,000 for vagrancy in 1837.[89] The case made by C. K. Murray in 1834, Traill in 1837, and by their colleagues throughout the 1830s found a receptive audience in the 1838 committee. The latter argued vociferously that the authority of the magistrates' courts must encompass the multitude of small grievances brought by plaintiffs of modest means. In this, they repeated with even greater urgency the call of the 1837 committee to introduce "that which has long been required in this country . . . a system of poor man's justice."[90] They also affirmed the crucial role that the magistrates' courts had played, and would continue to, in the lives, minds, and moral compasses of the common people. It was essential that these venues address the profound need for affordable justice, and that they fulfill the absolute requirement of "good government" to protect the "civil rights" of the lower classes.[91] Failure to do so, the committee asserted, would undermine the moral legitimacy of the state and threaten the very stability of the nation.

Although magistrates' desire to co-opt their local communities into their vision of law and order was evident, there were other, equally powerful dynamics at work. Members of the 1838 Committee, presenting their report just a few weeks after the first publication of *The People's Charter*, put their recommendations in a particularly dire context by employing the rising tide of Radicalism to justify the urgent

[89] *Returns from the Commissioners of Metropolitan Police*, excerpted in the *Journal of the Statistical Society of London*, vol. 1 (London: Charles Knight, 1839), 96–97.

[90] Appendix 1, *Metropolis Police Offices 1837*, 186. NB: this passage, ubiquitously cited in studies of nineteenth-century summary justice and criminal procedure, has been repeatedly mislabeled as appearing in "Appendix 5." No such appendix exists in the actual report, which contains only three appendices. Appendix 1, where it does appear, consists of the specific recommendations made by the committee, and is divided into "proposed clauses" and "reasons for clauses." The longer section in which this passage appeared stands out because it is the sole section that does not appear in this format, and is offered rather as a context for the five proposed clauses that followed, which were expressly aimed at facilitating "a great part of the community" in "obtaining redress for many petty grievances which, though trifling in value of money, are of vital importance to a poor man" (ibid., 185). The cases specifically enumerated were those dealing with landlords and tenants, willful damage to property, unlawful detention of goods, disputes between masters and servants, and injuries incurred by dog bites.

[91] *Metropolis Police Offices 1838*, 28.

need for reform.[92] Speaking ominously of alienation, disaffection, and discontent, they elevated the police courts from legal venues to locales "closely allied with the happiness and morality" of an entire class.[93] In their arguments, the much-needed expansion of these courts' purview to define and dispense justice provided an opportunity to reshape the relationship of the working class to the law, to the courtrooms in which it was executed, and to the nation whose stability rested upon both. By accommodating their demands for accessible justice and recompense in a multitude of small matters, they could be shown that the local magistrate's court was a far better resort than taking "the law into their own hands."[94] The latter often led, through "penal consequences or litigation, to the ruin of their property or their prospects."[95] The assumption was that working-class men and women would accept both the rule of law and the authority of courtrooms in their daily life, and that the moral standards of the magistrates would spread accordingly. As subsequent chapters will discuss, however, this would prove a two-way street. Just as the demands and expectations of the local community had shaped the reform of the courts and the expansion of summary justice from the outset, their vision of justice, morality, and the courtrooms' roles would continue to exert a powerful influence on courtroom practice in the decades that followed. So, too, would the threat of public disorder.

With the case for reform so convincingly made, Parliament was quick to respond. The Metropolitan Police Act and the Metropolitan Police Courts Act, both passed in August 1839, implemented almost all of the major changes advocated by the 1837 and 1838 committees.[96] These statutes authorized the magistrates, sitting singly, to give summary judgments in a broad variety of civil and criminal issues, including assaults, willful damage, prostitution, unlawful detention of goods, insulting or threatening words, illegal pawning, furious (i.e.

[92] These concerns, much evident among the propertied classes, had been instrumental in animating the earlier overhaul of policing in the metropolis orchestrated by Robert Peel in 1829. Philips, "A New Engine," 182–83.

[93] Similar arguments were being made by reformers with regards to the prosecution of criminal offenses in the higher courts as well. Randall McGowen, "Images of Justice and Reform of the Criminal Law in Early Nineteenth-Century England," *Buffalo Law Review* 32, no. 1 (1983), 113.

[94] *Metropolis Police Offices 1838*, 28. [95] Ibid.

[96] 2 & 3 Vict. c. 47 and 71, respectively.

reckless) driving, drunk and disorderly behavior, loitering, and dog bites. They also widened magistrates' discretion to issue summonses and warrants based on the accounts of complainants, and to release on their own recognizance those taken into custody by constables, with or without sureties for their subsequent appearance to stand trial. In addition, the Metropolitan Police Court Act 1839 delineated the formal parameters for the courts' personnel and practice. It established the magistrates as a professional class to be drawn from the cohort of experienced barristers, with a salary befitting their status (£1,200 per annum).[97] In the decades that followed, the bench would fill with men of high professional standing who would enjoy a significant voice in the legal and political affairs of the metropolis.[98] The 1839 Act also set the standard hours of the courts operation (10 a.m.–5 p.m.) and provided for the retention of an administrative structure consisting of a receiver, and two clerks (chief and secondary) at each of the courts (paid £500 and £300 per annum, respectively). Finally, by standardizing the fees for the most common court actions, the Act made summary justice affordable if not to all, then to a much wider array of would-be participants. The cost of a summons to court was fixed at two shillings, as was that of a warrant and of a recognizance to keep the peace or for good behavior.[99]

The Metropolitan Police Act 1839 also significantly enhanced the powers of the police, most especially by granting them authority to arrest, without a warrant, anyone they personally witnessed committing a wide array of common offenses (including the aforementioned insulting or threatening words, public prostitution, and furious driving). Beyond that, they could take into custody "all loose, idle, and disorderly Persons whom he shall find disturbing the public Peace, or whom he shall have good cause to suspect of having committed or being about to commit any Felony, Misdemeanour, or Breach of the Peace."[100] Much hay has been

[97] Solicitors would not become eligible as candidates until more than a century later. J. R. Spencer, ed. *Jackson's Machinery of Justice*, 6th ed. (Cambridge: Cambridge University Press, 1972), 232.

[98] Davis, "Poor Man's System," 311.

[99] The fee for a recognizance to appear before a magistrate was set slightly higher, at two shillings and sixpence.

[100] An Act for Further Improving the Police in and Near the Metropolis 1839, 2 & 3 Vict. c. 41 (aka the "Metropolitan Police Act 1839"), 516.

made of the latter in previous analyses of the growth of Metropolitan Police authority, but the magistrates' courts remained the lynchpin of the system, as policemen quickly learned. In the case of "disorderly persons," for example, after a brief apex from 1840 to 1843, in which arrests exceeded 12,000 yearly, the numbers dropped rapidly to under 5,500 by 1844.[101] The new contingent of professional magistrates ensured high discharge rates for these and other social or moral crimes, serving as a brake on more aggressive policing.[102] For magistrates keen to maintain an image of a court that was not wholly unsympathetic to the needs of working-class residents, it was a sensible move. The range of common activities forbidden by the 1839 was so impractical that it prompted the law's public mockery in two 1841 George Cruikshank cartoons (see Figs. 1 and 2). Whether the very small police force of mid-Victorian London could have ever effectively policed such ubiquitous practices remains a matter of considerable debate.[103]

Neither the frequency with which those of modest means employed the courts, nor the magistrates' strong emphasis on the influence of "the public" and the need to accommodate working-class views of justice, nor the 1838 committee's elevation of the courts as a locale where the relationship between the working class and the state could be defined, nor the passage of the 1839 Act directly contradict the widely accepted historical interpretations of metropolitan justice and society in the 1830s. These either posit a new Metropolitan Police that was coercive in its methods and keen on moral regulation (with varying degrees of success), or portray magistrates as committed to maintaining social status quo by winning working-class acceptance of the law.[104] These

[101] Stephen Inwood, "Policing London's Morals: The Metropolitan Police and Popular Culture, 1829–1850," *London Journal* 15, no. 2 (1990), 136. This highpoint coincided with the depression of 1842. The decline that followed tracked with the ebbing of the first wave of Chartist demonstrations.

[102] Ibid., 143. [103] Inwood, "Policing London's Morals," 129–30.

[104] See Gatrell, "Crime, Authority, and the Policeman-State," 282–84 and Stefan Petrow, *Policing Morals: The Metropolitan Police and the Home Office, 1870–1914* (New York: Clarendon Press, 1994) for the former; and Davis, "Poor Man's System," 315 for the latter. This second argument suggests continuity between the ideological function of eighteenth-century criminal justice and its nineteenth-century developments (see John Brewer and John Styles, eds., *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick: Rutgers University Press, 1980), 35).

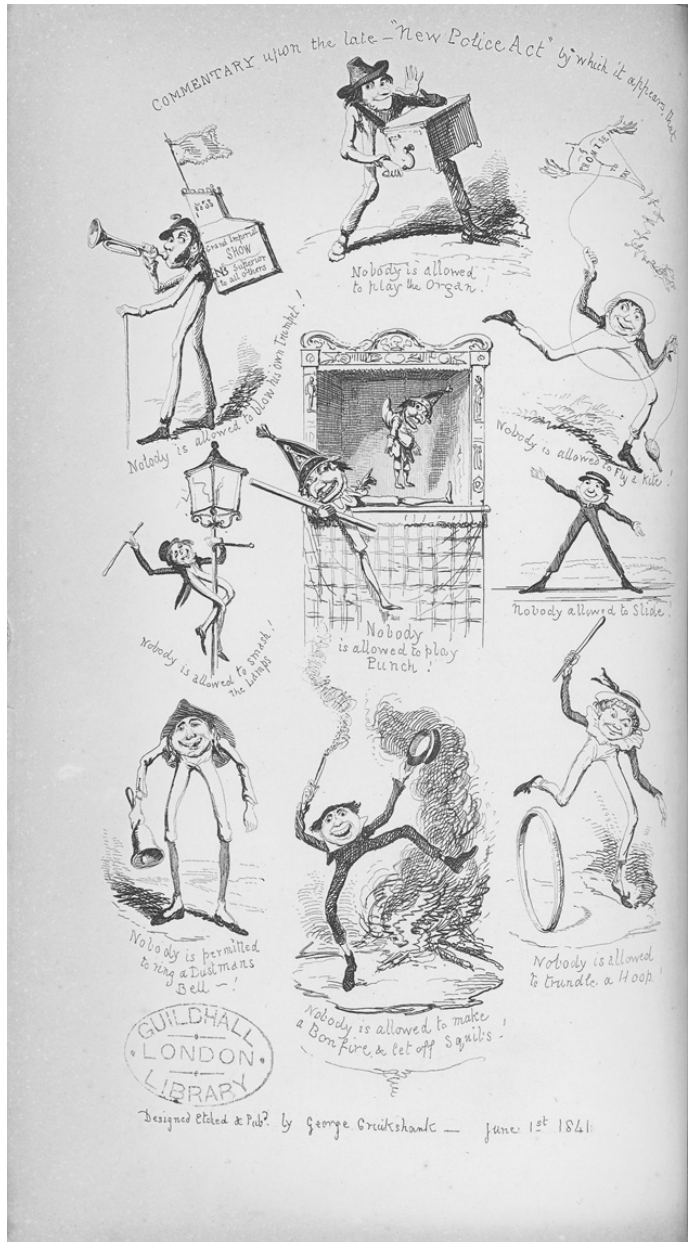


FIGURE 1.1 "Commentary upon the late 'New Police Act.'" George Cruikshank, 1841 (*George Cruikshank Collected Plates*, vol. II: *Collection of Prints from Drawings by George Cruikshank c.1841–1843, Nos. 2130–2239*. ISG AF741.942 CRU. *George Cruikshank's Omnibus* (1842). Courtesy of the Guildhall Library.)

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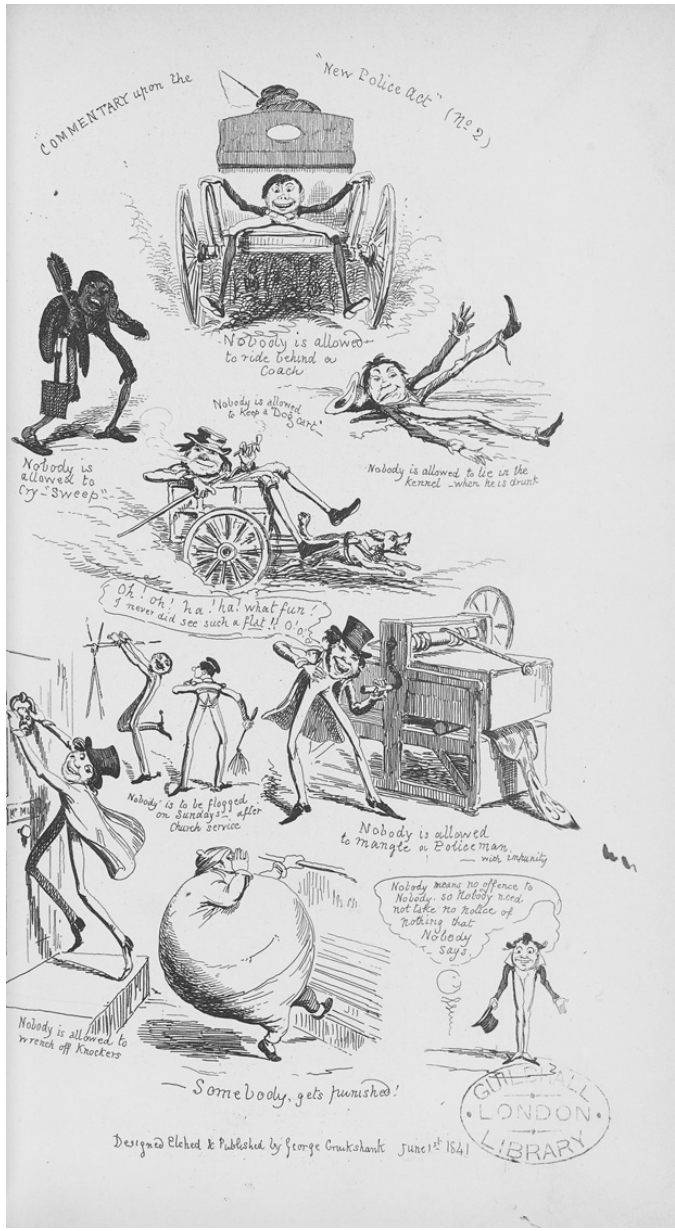


FIGURE 1.2 "Commentary upon the 'New Police Act'" (no. 2). George Cruikshank, 1841 (*George Cruikshank Collected Plates*, vol. II: *Collection of Prints from Drawings by George Cruikshank c.1841–1843, Nos. 2130–2239*. ISG AF741.942 CRU. *George Cruikshank's Omnibus* (1842). Courtesy of the Guildhall Library.)

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latter interpretations are compatible with a process of expansion and reform that took careful account of public opinion, local demand, and popular expectations. The debates and reforms of the 1830s nonetheless reveal important divergences between magistrates and the prevailing attitudes of the municipal institutions that would develop in subsequent decades. The first, discussed earlier, was magistrates' belief that the popular vision of justice and their own views of law and order had be reconciled if the expanded police-court system was to survive the harsh light of public scrutiny. The magistrates had to be seen as stern and impartial enforcers of law and order to justify the costs of their venues and satisfy the demands of judicial reformers. This prioritization of effectiveness and value would be shared with late Victorian municipal bodies such as the London School Board and the London County Council. The latter, as "experiments" in governance, would be much more subject to the vagaries of urban politics than magistrates were, and would face the daunting task of having to satisfy both Liberals and Conservatives.[105] In contrast with the municipal institutions whose regulatory prosecutions they handled, however, magistrates would face increasing pressure from below as well as from above. Tradition, practicality, and their overriding concern with reputation all required them to maintain an image as sympathetic purveyors of fair and speedy justice in line with the popular expectations of their local clientele. The public character of summary proceedings was therefore of paramount importance to their continued support from both their superiors and their communities, since it was through the lens of the courtroom that the magistrates would themselves be judged by an increasingly broad array of observers and critics. Thanks to the growth of newspaper coverage and general interest in the courts, this audience now included a public comprised, at least in part, of the local community whose participation in and respect for the courts were essential to their success.

Observation and accountability were also integral to the second important difference between the magistrates' courts and other

[105] John Davis, *Reforming London: The London Government Problem, 1855–1900* (Cambridge: Clarendon Press, 1988).

institutions of Victorian governance – the courtroom itself. More so than any other state entity at the time, magistrates' courtrooms operated simultaneously in the social space of the neighborhood, the legal space of statutes, and the cultural space of public observation and newspaper portrayals. Other elements of metropolitan governance only operated in the third context to a limited degree, and even then most commonly by bringing cases to the courts. Some level of negotiation was almost always possible between reformers, both state and private, and their charges, but it was very rarely public and when it was, the courtroom was the typical venue.[106] The character of magistrates' justice, on the other hand, required, in principle if not always in practice, that *all* voices must be heard and acknowledged, even if they were hardly accorded equal weight in either the final legal judgments or the public's assessment.[107] As such, local courtrooms were uniquely suited to reconciling (or exacerbating) competing ideas about of justice and morality, whether they were held by magistrates, local petitioners, police, or other agents of the Victorian state. They fulfilled this function both in the immediacy of courtroom interactions and subsequently in the construction of official and unofficial courtroom stories. Courtroom events, whether in court records, newspaper accounts, parliamentary debates and inquiries, or personal memoirs, were continually reconstituted as *narratives* of justice that helped define the relationship between law and morality and between the state and the individual for an increasingly literate and, by century's end, enfranchised population. The coercive elements of London's new police notwithstanding, the relationship that evolved between courtrooms and local communities was thus characterized by the integration of competing ideals and demands. The local clientele, both as individual court-users and a more nebulous "public," exerted a significant influence on the evolution of the police courts, and their sense of justice and expectations of courtroom redress were keenly observed and incorporated by legal reformers in their policies and by local magistrates in their practices.

In these courts, as the committee of 1838 had insisted, the relationship between the "lower orders" and the state was being personally

[106] On private negotiations between paupers and Poor Law Guardians, see Lynn Hollen Lees, *The Solidarities of Strangers: The English Poor Laws and the People, 1700–1948* (Cambridge: Cambridge University Press, 1998), 166–69.

[107] Magistrates then, as now, routinely cut off defendants and plaintiffs when their speech was deemed irrelevant.

experienced and publicly fashioned.[108] They were the very stuff of justice for shopkeepers, artisans, and laborers. In this light, we can revise the statement made by V. A. C. Gatrell in his seminal 1990 article on the "policeman-state." In Victorian London, it was often specifically through the magistrates' courts that "the expansion and meaning of the modern state was first made palpable" to the lower classes.[109]

## "Justice Doled Out in Small Parcels": Portrayals of Local Courtrooms and Their Communities in the Mid-Victorian Period

Given the magistrates' courts' key roles in mediating between local communities and the expanding state, it is vital to determine what meanings were communicated through their activities, as well as how and by whom they were constructed and construed. The most revealing insights were not to be found in the realm of parliamentary committees and legal reform but rather in how courtrooms were portrayed in newspapers and literary media. The key relationship here was that between the local courtroom as a conceptual space in metropolitan culture – as a publicly depicted stage on which the tension between the state and the individual played out and where the law was made manifest – and the concrete operation of the local courtroom as a space where individuals encountered the state on a daily basis. In this equation, the goals of those with legal authority to govern courtrooms and those with the cultural authority to portray them were often at cross-purposes. Even as reformers and legislators were, with magistrates' support, attempting to rationalize the law and through it, to foster public order and collective recognition of legal authority, journalistic accounts were promoting the dramatic and emotional dimensions of courtrooms.[110] This contrast between how

[108] This was more recently asserted by Peter King with regards to the eighteenth century as well, "The Summary Courts and Social Relations in Eighteenth-Century England," *Past and Present* 183, no. 1 (2004), 128.

[109] Gatrell, "Crime, Authority, and the Policeman-State," 259.

[110] For the rationalization of criminal justice, see Emsley, *Crime and Society*, 157; Wiener, *Reconstructing the Criminal*, 64–67; R. McGowan, "The Image of Justice and Reform of the Criminal Law in Early Nineteenth-Century England," *Buffalo Law Review* 32 (1983), 89–125, 116. For the significance of emotion in the administration of capital punishment, see V. A. C. Gatrell, *The Hanging Tree: Execution and the English People* (Oxford: Oxford University Press, 1996), v–vii.

courts were portrayed and how they were being reformed, between depictions and experiences, would remain a central feature of courtroom culture well into the early twentieth century. It would be a source of frustration to magistrates and complainants alike, as courtroom accounts, over time, would reach an ever-wider audience and were far more comprehensible to the laymen than law and courtroom procedure were.[111]

The reforms of 1839 fed into the dramatization of courtroom events by making the decisions therein more immediate and crucial, and by incorporating into summary justice a much broader scope of behaviors. With the advent of cheap, summary jurisdiction over a wide range of issues, many more cases could be decided in a single sitting, by a lone magistrate in dialogue with the principals, and without legal representation or recourse to complex legal technicalities. The broad and informal adjudication of summary trials was easily translated into emotional and impressionistic tales for a public audience. The latter could assess "justice" in any given instance through loaded language and carefully selected dialogue rather than through the technical and procedural aspects of law, which were described sparsely, if at all. Despite the ongoing standardization of punishments, what happened every day in local courtrooms *besides the sentence* became less predictable and regularized as the types of cases and courtroom clientele diversified.[112] This combination of unpredictable dialogue, moral implications, and rich social detail made the police court a setting highly amenable to entertaining reconstruction in the burgeoning popular press. Scholars have consistently placed the rapid increase and broad dissemination of courtroom reporting in the context of perceptions of crime and its relation to popular morality, policing, and criminal policy.[113] That these stories were based largely on reporters' observation of police-court trials (and trials in the Old Bailey) has rarely been

[111] Magistrates, in their attempts to "rebuild respect for the law" in the 1830s and 1840s, played their own part as well in encouraging the hopes of working-class complainants that they would find justice in their local courtrooms. Hay, "The Criminal Prosecution in England and Its Historians," 10–11. See also King, *Crime, Justice, and Discretion*, 109.

[112] Weiner, *Reconstructing the Criminal*, 61.

[113] Most recently, one sees this approach in the SOLON volume of essays edited by Judith Rowbotham and Kim Stevenson, *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage* (Columbus: Ohio State University Press, 2005).

acknowledged. More importantly, no serious attention has been given to what this evolution reveals about the changing roles of local courtrooms in Victorian society and culture. It is crucial to recognize that the demand for courtrooms and the demand for their portrayals were related phenomena. Just as courtroom practice had expanded to accommodate a popular demand as framed by the magistrates, so too did the widespread portrayal of them adapt to popular demand as it was interpreted by courtroom reporters and newspaper editors.[114]

Seen through this relationship between operation and depiction, the picture of the courtrooms' evolution that emerges is one different from the focus on rising judicial and police authority that has predominated in historical interpretations of nineteenth-century summary justice. From this perspective, the portrayal of courtrooms, much like the initiation of criminal prosecutions, appears as an arena in which the ideals and authority of different groups, both elite and non-elite, have to be taken into historical account.[115] In contrast to their authority in the framing and execution of summary justice, magistrates and policymakers exercised very limited authority over the reporting of it. The authority of law was tangential in shaping these depictions – there is no indication that reporters frequenting the police courts were drawn from the legal profession, as those who penned stories of the higher courts for *The Times* sometimes were.[116] There were many instances, no doubt, where magistrates and reporters shared moral norms in their interpretations of courtroom events, norms held in common with middle-class newspaper readers as well. The idea of "respectability," a key issue in cases involving sexual and marital issues, had resonance across class boundaries, encompassing readers of the *Morning*

[114] Judith Rowbotham and Kim Stevenson, "Introduction," ibid., xxvi.

[115] Whether criminal law and summary jurisdiction served the interests of the property-holding elite or whether plebeians to could harness its power effectively and undermine elite authority in the process remains one of the most hotly contested issues among historians of criminal justice in the late eighteenth and nineteenth centuries. Bruce P. Smith, "English Criminal Justice Administration, 1650–1850: A Historiographic Essay," *Law and History Review* 25, no. 3, 609–15.

[116] Judith Rowbotham and Kim Stevenson, "Causing a Sensation," in Judith Rowbotham and Kim Stevenson, eds., *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels* (Aldershot, Hants, and Burlington, VA: Ashgate, 2003), 42.

*Chronicle*, *Lloyd's Weekly*, and *Cleave's* alike.[117] Beyond these shared norms, however, the commentary and criticism of magistrates, the selective reporting of cases, the diversity of issues covered, and the variety of papers in which they appeared all suggest that the possible interpretations of courtroom portrayals were indeed broad.[118] The combination of the considerable dialogue excerpted in these early court columns and their focus on privately initiated prosecutions also offered an image of the courtroom in which individual men and women, even those of the most modest means, played significant roles.

Whereas the cases were personally experienced by very few, these reports could be read by hundreds or even thousands of individual readers and shared, through the tradition of communal reading and recounting, with many more.[119] Examining, in these constructed accounts, who was given a voice and how this either illuminated or occluded the changing legal and social roles of the courts in their communities reveals much about the historical development of London courtrooms. From looking at these portrayals, we can also divine the general tenor of public discourse on the changing relationship between the state, the community, and the individual in early Victorian London. 1811–12 was an early milestone. It witnessed the *Morning Herald*'s inauguration of John Wight's Bow Street Police Court reports. Following the introduction of Wight's tales of farce and folly, sales of the *Herald* rose exponentially. According to one account, the paper became one of the most widely circulated of its time.[120]

[117] Kim Stevenson, "The Respectability Imperative: A Golden Rule in Cases of Sexual Assault?" in Ian Inkster, Judith Rowbotham, and Colin Griffin, eds., *The Golden Age: Essays in British Social and Economic History, 1850–1870* (Aldershot and Burlington, VT: Ashgate, 2000), 237–48. Rowbotham and Stevenson, "Causing a Sensation," 38.

[118] Peter King, "Newspaper Reporting and Attitudes to Crime and Justice in Late-Nineteenth- and Early-Twentieth-Century London," *Continuity and Change* 22, no. 1 (2007), 76.

[119] For evidence of this latter practice, which had a long tradition, see Rosalind Crone, *Violent Victorians: Popular Entertainment in Nineteenth-Century London* (Manchester: Manchester University Press, 2012), 246; Shani D'Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women* (Dekalb: Northern Illinois University Press, 1998), 177; Robert K. Webb, *Higher Education Quarterly* 12, no. 1 (Nov. 1957), 24–44.

[120] The circulation of the paper reportedly rose from 600 before the introduction of Wight's columns to over 7,000 subsequently (J. Passmore, *Lives of the Illustrious (the Biographical Magazine)*, vol. 3 (London: Partridge, 1856), 110). Helen Hughes, in contrast, reports that the circulation of the paper merely tripled. Helen MacGill Hughes, *News and the Human Interest Story* (Chicago: University of

A collected edition of Wight's columns, published in 1824 under the title *Mornings at Bow Street*, was accompanied by illustrations from the realm's foremost caricaturist, George Cruikshank. *Mornings at Bow Street* was replete with the altercations of drunken working-class men, the comically exaggerated accents of Irish immigrants, fickle women and their hapless suitors, the misadventures of rakes and the petty presumptions of the lower-middle class. These stereotypes were conveyed and reinforced with a particular attention to dialect and idioms of speech, which often resulted in amusing contradictions or unintentional witticisms. Wight also asserted that the stories articulated basic truths about British society and, in particular, about its amusing side, which was "genuine only among the uncultivated."[121] These claims, that the courtroom scenes described were genuine, that they offered a window into the "real life" of the city, and that, in doing so, they revealed a fundamentally authentic picture of British society that was unavailable elsewhere, would remain the cornerstones of courtroom reporting throughout the century. Like the accounts penned by the Fieldings and Patrick Colquhoun, Wight's descriptions of the magistrates' courts were intrinsically linked with the author's view of their key role in the social and moral order of the metropolis.[122]

John Wight's success was profoundly influential in shaping the dynamics of the British newspaper industry, the character of future police-court journalism, and how comic newswriting was defined as a whole. His impact even extended to the USA, where editors of the burgeoning penny dailies of New York, Boston, and Philadelphia all inaugurated police-court columns as a central feature.[123] By the 1830s, newspaper coverage of the London police courts was substantial,

Chicago Press, 1940; reprinted New Brunswick: Transaction, 1981), 188. The *Herald* was the first paper for which Charles Dickens obtained regular work as a reporter.

[121] John Wight, *Mornings at Bow Street: A Selection of the Most Humourous and Entertaining Reports Which Have Appeared in the Morning Herald* (London: Charles Baldwyn, 1824), iv.

[122] Those who read his stories, Wight insisted, should "rightly appreciate the advantages they enjoy, and the value and importance of these particular institutions of their country." Ibid., v.

[123] As new papers were founded in US cities, their staff often consisted of only three members, one of which was the police reporter (Hughes, *News and the Human Interest Story*, 10).

though still nowhere near as pervasive as it would become later in the century. The same papers that had devoted considerable column space to them in the 1820s – principally *The Times*, *Morning Post*, and *Morning Chronicle* – continued to do so, publishing thousands of individual case accounts across the course of the decade. Bow Street, Marlborough Street, and Hatton Garden remained the primary foci of courtroom reporting. The circumstances of the courts' most prominent coverage give further weight to the 1838 Committee's warning that the conduct of justice in the magistrates' courts had significant implications for popular politics and public attitudes towards law and governance. The only paper that devoted its front page to police-court coverage, *Cleave's Weekly Police Gazette*, was also the most popular of the penny newspapers that were so central to the articulation of Radicalism. After leaving his work on the *Poor Man's Guardian*, the London printer John Cleave would go on to found (along with William Lovett and Henry Hetherington), the London Working-Man's Association, and would play an active role in the National Charter Association, serving briefly as its treasurer.[124] In the turbulent political climate of the 1830s, the editorial staff he led during brief but prolific publication run of *Cleave's* (1834–36, circulation of 40,000 at its peak) vehemently declared their commitment to exposing any abuse of power by magistrates. This, they insisted, was one of the most significant roles occupied by the "public press," and it was most effective when such reporting was specific to the paper's own local community.[125]

Such interest in the courts and the doings of magistrates was hardly confined to the Radical penny press. As was clear from sustained coverage in *The Times* and a host of other newspapers, courtroom accounts maintained a wide appeal across the political and social spectrum. Shortly after *Cleave's* ceased its run, James Grant, a prolific columnist for the *Morning Chronicle,* published his fourth book. Like the *Chronicle*, which was a Whig paper, Grant's book, *Sketches in London* (1838), was aimed largely at a reading audience of the merchant and professional classes, along with the propertied elite.[126] In it, he devoted one of the most substantial chapters to the

[124] Goodway, *London Chartism*, 21–22. [125] *Cleave's*, May 14, 1836.
[126] Dennis Griffiths, ed., *The Encyclopedia of the British Press: 1422–1992* (London: Macmillan, 1992), 422.

London police courts. Throughout this period, the *Morning Herald* also continued to publish its popular courtroom accounts. In 1845, George Hodder, who had inherited John Wight's mantle as the *Herald*'s chronicler of the London police courts, published an expanded anthology of his columns under the title *Sketches of Life and Character Taken at the Police Court, Bow Street*. These three sources demonstrate the range of ways that police-court accounts could portray identity, morality, justice and the role of courtrooms in their local communities. Despite their contrasts, their content and structure reveal underlying congruencies in portraying everyday life among the lower end of the metropolitan social spectrum. In these depictions, courtroom accounts helped set the precedents for the next generation of urban journalists and social investigators, the "flâneurs." The writings of the latter would, in turn, publicly portray the laws and social policies that would preoccupy magistrates' and their courtrooms in the second half of the nineteenth century.

*Cleave's* offered police-court affairs front and center in every issue, and its coverage elevated the dialogue of courtroom participants to unprecedented prominence. The accounts therein gave much the same impression of the courtrooms' typical affairs as magistrates themselves had in their parliamentary testimony. Most of the cases described involved disputes over small amounts of property, petty larceny, minor assaults between familiars, landlord and tenant disputes, vagrancy, drunkenness, and workplace quarrels.[127] When the police were involved, it was almost always at the initiative of the principals, and the crimes were rarely serious ones. This had also been true of reports from the earlier decades of the nineteenth century that appeared in the *Chronicle*, *Times*, *Post*, and elsewhere. These similarities aside, the *Cleave's* accounts were distinct in several significant ways. For one thing, they were considerably longer and more detailed, often running to several paragraphs or substantial columns that took up half a page. Whereas earlier police-court columns had been largely narrative and, in the case of the *Herald*, highly stylized narrative at

[127] On the prosecution of vagrancy in this period, see M. J. D. Roberts, "Public and Private in Early Nineteenth-Century London: The Vagrant Act of 1822 and Its Enforcement," *Social History* 13, no. 3 (1988), 273–94.

that, at least half of the typical *Cleave's* courtroom account consisted of directly quoted testimony from the cases themselves. It was the voices of the principals, witnesses, and magistrates that constituted the bulk of the reports, and their words were clearly distinguished from the background narrative. Unlike Wight's original stories for the *Herald*, this dialogue was not colored with comically exaggerated accents or peppered with authorial *bon mots* attributed to the participants' (often unintentional) wit. Lastly, *Cleave's* occasionally provided the gallery's reaction to testimony in the form of single-word parenthetical statements (e.g. "A laugh").[128]

The courtroom accounts printed in *Cleave's* constituted one of the earliest sustained attempts in British culture to portray the voice and behavior of working-class men and women to a substantial reading audience not as caricature or satire, but in a more realistic fashion.[129] They were also one of few instances where the poorest of the London poor were publicly depicted as distinct individuals and identified by their real names. This might seem, at face value, to have been close to the authenticity claimed by John Wight in his Bow Street columns for the *Morning Herald*. In the sense that the *Cleave's* accounts presented courtroom events and dialogue in a relatively unadorned fashion and with minimal narrative embellishments, this was true. These stories were detailed but somewhat austere, they consisted largely of testimony, they recounted the types of trials that magistrates had claimed were common in this period, and they did not openly replicate the stereotypes of class, gender, and ethnicity that earlier courtroom columns had.[130] So, were the *Cleave's* stories what they implicitly claimed to be, accurate reports of what had happened in London courtrooms? This is an essential question to answer, since courtroom reporting in the mid-Victorian period, as it became a pervasive feature in local and national newspapers, would tend to follow the model set by *Cleave's*.

[128] The inclusion of this element likely originated with parliamentary reporting, which followed a similar convention.

[129] The other most prominent early example is, of course, Charles Dickens's writing, though it should be remembered that his training and original employment was as a courtroom reporter (Jones, *Justice and Journalism*, 25).

[130] They did occasionally include accents to indicate ethnicity or class, but not to the level of ridicule practiced by Wight.

The simple answer is no. They were certainly *more* representative than any type of courtroom reporting that had preceded them. But they remained thoroughly and deliberately constructed, although not to the same degree as the Fieldings' or Wight's accounts had been. *Cleave's* courtroom stories were condensed versions of events, the magistrates' voices often predominated over those of the principals and the witnesses, and certain groups of people and types of cases were drastically overrepresented. To read *Cleave's*, one would think the entire metropolis was overrun by begging widows, uproariously drunken Irishmen, con artists of various sorts, and litigious Jews. In contrast, the great number of requests for magistrates' intervention in minor everyday conflicts, which had been a key issue in parliamentary inquiries throughout the decade, received very limited coverage. The deliberate construction of these courtroom stories was amplified by the editor's addition of titles to each report. Such designations could range from the poignant (e.g. "Melancholy Case of Seduction") to the humorous (e.g. "A Dog-Day Rumpus") to the shocking and sensational (e.g. "Horrors of Gin Palaces").[131] Regardless of their diverse subject matter, they shared elements that made them suitable for presentation as dramas, comedies, tragedies, or morality tales. Which of those genres any given story belonged to was clearly indicated by the title, and often reinforced by the first line, which typically gave a physical description of the principle character. One could predict, from the title "The Poor Law Bill. Distressing Case" that what followed would be a sympathetic account of a vagrancy case. And the first line, which described "Bridget M'Carthy, a wretched-looking young female, with a squalid infant in her arms that appeared in a starving and dying state," removed all doubt.[132] Readers could rightly anticipate a demonstration of ethnic peculiarities from the stories titled "Paddy in a Dilemma" and "MacBeth in Trouble," an impression confirmed by the initial description of the first defendant as "a tall, slovenly-looking Irishman," and the second as an "ugly, big-whiskered Scotchman."[133] Though, happily, the mayhem was confined to mere drunkenness in the latter's version of "the Scottish

[131] These titles appeared in *Cleave's Weekly Police Gazette*, August 13, 20, and 30, 1836, respectively.
[132] *Cleave's*, July 30, 1836. [133] *Cleave's*, December 26, 1835 and May 14, 1836.

play." The titles, descriptions of the defendants, and selectively excerpted dialogue, in conjunction with the verdicts, all conveyed the impression that those who appeared in court were treated fairly. This fairness was to be assessed relative to the individual and their particular circumstances, as described in the column, and not to the technicalities of applicable statutes, which were never discussed. So the piteous young widow M'Carthy was let off with a warning, and "a repentant thief" who sought advice was given a shilling by the magistrates and some money by courtroom onlookers.[134] The defiant urchin who stole an egg and then lied about it, in contrast, was sent to the house of corrections for six weeks.[135]

The reports of trials that filled the front page of *Cleave's* were thus concerned not with law, but with *justice*. In this, they were of the same vein as magistrates' statements to Parliament. In the latter, magistrates had insisted that what mattered in the local community was justice far more so than the law, and the key to increasing the courtroom's influence on the public was to bring the two closer in accord.[136] Such arguments about justice had dealt with specific complaints to be addressed and the convenience of obtaining redress. *Cleave's* columns, on the other hand, portrayed justice as something defined through the genre of a courtroom tale, the depiction of its characters, and the emotional congruence of both with the final verdict. Justice, in its pages, meant the violent or immoral receiving serious punishment, the amusing and colorful being patiently chastised, and the sympathetic or piteous being treated with compassion. In the pages of *Cleave's*, justice was dependent on individual character and morality, not legality. The increasing prominence of such courtroom portrayals as a mechanism by which the growing newspaper readership encountered images of justice, morality, and the relationship between the state and the individual came at a crucial time for Victorian society. The 1830s and 1840s witnessed a rising concern among the middle class, who formed the bulk of these papers' readership, with the conditions of life among the metropolitan multitudes. The 1832

[134] *Cleave's*, July 2, 1836. [135] *Cleave's*, June 4, 1836.

[136] Carolyn Conley, in her discussion of summary justice in rural Kent in the 1860s–1880s, has similarly argued that, in *informal* practice, a similar dynamic applies. Carolyn Conley, *The Unwritten Law: Criminal Justice in Victorian Kent* (Oxford: Oxford University Press, 1991), 41.

Royal Commission into the Operation of the Poor Laws, and the reform of the system catalyzed by its findings, was the beginning of a trend towards philanthropic intervention. This trend would continue, albeit somewhat unevenly, until various state institutions claimed this role in the last quarter of the nineteenth century.[137] Although the principles of economic Liberalism, individual moral accountability, and limited government encouraged the replacement of traditional paternalism with private philanthropy and voluntarism in the first half of the century, some institutions of state nonetheless expanded their purview over life in Britain's rapidly growing cities. The inauguration of the Metropolitan Police, prompted by growing fears of public disorder, was one aspect of this trend.[138] The expansion of the summary jurisdiction system, partly in the hopes of channeling the grievances of the poor into local courtrooms, was another.

In an environment of growing interest in the lives of poor Londoners, it should come as no surprise that courtroom reporting, which promised readers accessible and entertaining windows into this world, multiplied exponentially. In the 1840s, the *Morning Post* alone printed nearly 3,000 reports on cases heard in London's courts of summary justice, and the *Morning Chronicle* nearly as many. Other papers that carried considerable numbers of courtroom reports, though on nowhere near the scale of the *Post* or the *Chronicle*, included *The Times*, *John Bull*, *Lloyd's Illustrated Newspaper*, *Reynolds's Weekly Newspaper*, and *The Standard*, to name but a few. Such reports appeared alongside the accounts from social investigators, most notably those of Henry Mayhew, whose work was also distributed primarily through the *Morning Chronicle*. Like

[137] The growth of Victorian social reform, a major topic of Victorian historiography, has been assessed in works too numerous to list in full. Some seminal titles include Mary Poovey, *Making a Social Body: British Cultural Formation 1830–1864* (Chicago: University of Chicago Press, 1995); Lynn Hollen Lees, *The Solidarity of Strangers: the English Poor Laws and the People, 1700–1948* (Cambridge: Cambridge University Press, 1998); George K. Behlmer, *Friends of the Family: the English Home and Its Guardians, 1850–1940* (Stanford: Stanford University Press, 1998); F. David Roberts, *The Social Conscience of the Early Victorians* (Stanford: Stanford University Press, 2002).

[138] V. A. C. Gatrell, "The Decline of Theft and Violence in Victorian and Edwardian England," in V. A. C. Gatrell, Bruce Lenman, and Geoffrey Parker, eds., *Crime and the Law: The Social History of Crime in Western Europe since 1500* (London: Europa Publications, 1980), 271.

Mayhew's investigations into the intimate details of everyday life among the poor, courtroom stories offered a constantly varying tableau of conflict, crime, and drama in London's teeming districts.

At the same time that both public interest in the daily life of the poor and the reporting of their courtroom encounters were expanding, the purview of the courts themselves continued to widen. Acts in 1848, 1850, and 1855 brought a range of new offenses and new offenders into the milieu.[139] Both juvenile crime and larceny figured largely in these new reforms, and they were covered in courtroom columns with great frequency. The overall congruency between reporting and practice, however, remained questionable. "Police Intelligence" sections could often take up a full broadsheet page in the *Chronicle*, *Post*, *Lloyd's*, or *Reynolds's*, constituting the largest coherent news space in some of the most widely circulating papers of the time. They continued, however, to correspond poorly with the incidence of any given crime in the metropolis. Compared to its frequency as a charge in police courts themselves during the 1850s, murder occupied a vastly disproportionate space in court columns, as did attempted suicides, elaborate frauds, false marriage proposals, and indecent assaults on women.[140] Open defiance by defendants in the courtroom, which had been a favorite topic of police-court chroniclers since their beginnings, was much-reported. So, too, were sexual peccadillos, from licentious women to working-class Don Juans to hapless, cuckolded husbands.

There was even less correspondence between what was printed in newspapers and what magistrates, policymakers, and police officials considered to be important cases. Magistrates' frequently expressed frustration with the daily parade of personal squabbles, tangential testimonies, and personal summonses for non-existent offenses – all

[139] The Juvenile Offenders Act 1847, Summary Jurisdiction Act 1848, Juvenile Offenders Act 1850, Larceny Act 1850, and Criminal Justice Act 1855.

[140] The most thorough assessment of the stark contrast between the incidence of violent crime, and murder in particular, and its disproportionate reporting in Victorian newspapers can be found in Christopher A. Casey, "Common Misperceptions: The Press and Victorian Views of Crime," *Journal of Interdisciplinary History* 41, no. 3 (Winter, 2011), 376–81. Rosalind Crone has provided some welcome statistical analysis on newspaper coverage of crime and its correspondence with trials in the Central Criminal Court. But it is of limited utility in assessing police-court coverage and the two newspapers, the *Post* and the *Chronicle*, that provided it most extensively. Crone, *Violent Victorians*, 223–31.

great fodder for newspaper columns – attested to this. In contrast, prosecutions for drunkenness, disorderly behavior, vagrancy, and disorderly prostitution, which collectively constituted roughly half of all arrests by mid-century, and which were widely considered to be essential to public order and morality in the metropolis, occupied only a small fraction of the "Police Intelligence" columns in these papers.[141] Taken as an aggregate, the patterns of policing and prosecution bore very little correspondence to the content of courtroom reporting. The latter catered to the tastes of the readers, and were composed by reporters who were either assigned specifically by a newspaper for that purpose, or belonged to a roving coterie that produced pieces "on spec" for whatever paper chose to print them.[142] Courtroom reporters, like many others in their profession, were paid by the line, hence their nickname of "penny-a-liners." Exaggeration and embellishment were intrinsic to their writing.[143] So, to the various dimensions courtroom culture already established, we must add another by the mid-Victorian period, that of providing a daily stream of entertainment to the burgeoning audience of newspaper readers across a broad political and social spectrum. These reports, embellished and selective as they were, offered a highly skewed picture of courtroom practice. They remain very useful, nonetheless, for understanding the expectations and tastes of readers and the relationship between courtrooms as legal venues, courtrooms as a lens into "real life," and courtrooms as spaces constructed in cultural milieu.

The Fieldings' original goal with the admission of reporters to Bow Street had been to emphasize the authority of the law and, in doing so, to help foster a more moral and orderly society. According to James Richie, one of the most prolific chroniclers of Victorian life in the metropolis, however, by mid-century, the intimate access to the courtroom afforded by these columns was undermining the courts'

[141] Inwood, "Policing London's Morals," 136.

[142] By mid-century, *Reynolds's Newspaper* alone had assigned eight to ten reporters in "the various courts of justice" on a daily basis. *Reynolds's Newspaper*, February 23, 1851.

[143] James Ewing Richie, *The Night Side of London*, 2nd ed. (London: William Tweedie, 1858), 209–10. Richie authored some three-dozen books between 1847 and 1898, including biographies and travelogues. London was, by far, his most common topic, and the focus of nine of his titles.

authority instead. "In such matters," he asserted, "it is especially true [that] familiarity breeds contempt."[144] Regardless of its overall effect on increasing or decreasing respect for the law in London, the growth and development of newspaper coverage represented another vital evolution of magistrates' courtrooms as public spaces accessible to an ever-broader range of participants and observers. The legal reforms of mid-century made the courts available to a wider social spectrum, and in doing so, narrowed the distance between daily conflict and contest outside the courtroom and that within it. The expansion of police-court columns, by broadcasting a wide range of courtroom tales to a growing readership, further weakened that boundary and made what happened in the courtroom even more relevant beyond it, breaking down the barrier between participation and observation, and between courtrooms and everyday life in general.

The rapid expansion of police-court columns and their particular appeal for working-class and lower-middle-class readers, as evidenced by their proliferation in the weekly Sunday papers and the Radical press, also offers at least a partial answer to a vital question in the study of nineteenth-century law and society. Namely, how did the metropolitan population develop their own understandings of law and the courts, and their definitions of justice? Although it would be impossible to prove definitively that they emerged from engagement with police-court columns, such accounts were, by far, the most extensive, compelling, and readily available sources on the subjects of law, courts, and justice.[145] This had been the case since the late eighteenth century.[146] The popularity of police-court columns by mid-century, however, does not imply a consensus among either their writers or their readers on the lessons to be learned from them. "Justice" remained among the most contested of all the words that could be heard in a police court. The power of different individuals to define it depended upon their authority in the courtroom, their ability to disseminate their views, and the circumstances in which they deployed the concept. Newspaper reporters could frame certain cases as being just or unjust through a variety of methods, and most

[144] Through seeing the courts in action, he wrote, "the criminal class get an initiation in the secrets of the law, which robs it of its terrors." Ibid., 217.
[145] Rowbotham and Stevenson, "Causing a Sensation," 41.
[146] King, "Newspaper Reporting," 73–74.

frequently did so through the use of column titles, the selective quoting of testimony or dialogue, the evocation of particular emotions, or the adherence to particular narrative genres (e.g. comedy, tragedy, or melodrama). The multiplication and rising prominence of courtroom columns invited a growing reading public to witness the presence, or absence, of justice in the courtroom. Despite magistrates' comments to the contrary, however, the public did not become the jury that was so conspicuously absent from summary proceedings. Beyond the limited class of those with political influence, readers of courtroom columns had power only to the degree that magistrates and other legal reformers granted it in their consciousness of an amorphous cohort of vicarious observers who could be moved to condemnation by negative reporting. Instead, police-court columns offered readers the opportunity to join the audience of the courtrooms, and to witness the conduct of trials without the authority and accountability that accompanied adjudication.

It would seem, then, that middle-class readers were largely content to interpret courtroom events through their portrayals rather than visiting them in person. This boundary was both desirable and, in most instances, easily maintained. The mid-Victorian police court, described as crowded, dirty, and thoroughly disrespectable, a haunt of the debauched, the criminal, and the hopeless, was not a locale that a typical middle-class reader would wish to frequent in person.[147] For those of the working class and lower middle class, the circumstances were different. As the primary targets of the Metropolitan Police, the intended clientele for the newly affordable and expanded powers of summary justice, and the majority of local courtroom audiences, the barrier for them was much more porous. The new penny press eagerly courted their readership by publishing dramatic or humorous police court tales. In contrast to middle-class readers, what the working class and lower middle class read about had more direct relevance to their lives – they were much more likely to find themselves crossing the line into participation through a summons, facing a charge leveled by a constable,

[147] Fear of contagion, attributable to the cholera epidemics of 1831 and 1849, as well as the rising awareness of epidemic diseases more generally, was a "dominant theme and organizing impulse of urban description." Deborah Epstein Nord, "The City as Theater: From Georgian to Early Victorian London," *Victorian Studies* 31, no. 2 (Winter, 1988), 185.

or giving witness testimony in either instance. The Old Bailey, where more serious crimes were tried, may have received much greater press coverage for individual cases, but largely addressed acts well outside the norm of ordinary experience. The lessons of justice they taught and image of the law and the state they offered were much less immediately relevant than the more modest fare of police-court columns. Trials for murder and other felonies were unlikely to provide information that would be helpful in harnessing the courts to deal with a troublesome tenant, and rent-racking landlord, an abusive husband, a larcenous servant, an employer who withheld wages, or the host of other daily tribulations faced by the growing readership of the popular press.[148]

Although the development of summary justice and newspaper coverage were opening courtrooms up to broader participation and observation, and even softening the boundary between the two, the same cannot be said of the police courts' physical reorganization in the mid-Victorian period. Segregation and hierarchy were increasingly the order of the day. The relatively open courts that had crowded audiences and petitioners together in the late eighteenth and early nineteenth century were becoming a thing of the past. Just as the second half of the eighteenth century had witnessed the creation of venues permanently dedicated to the hearing of summary cases (e.g. the Bow Street Police Office), the mid-nineteenth century saw the further subdivision and specialization of summary courtrooms and of the larger court buildings that contained them. The courtroom of the new Clerkenwell Police Court, built in 1841–42 to replace Hatton Garden, incorporated all the elements that, according to one reporter for the *Illustrated Police News*, constituted the "usual Police Court arrangements." These consisted of "the judicial armchair" which was "faced and flanked" by a series of "particular boxes" that accommodated, separately, "Clerks, Police, Inspectors, Reporters, Barristers, and, not least, Culprits."[149] There was also a separate space for the public. In the surrounding building, even greater effort was made to segregate the various cohorts who came within the police

[148] For the Victorian interest in the former, see Martin Wiener, *Men of Blood: Violence, Manliness and Criminal Justice in Victorian England* (Cambridge: Cambridge University Press, 2004), 154–55.

[149] Angus Reach, "The Police Offices of London," *Illustrated London News*, May 22, 1847.

court's remit, either voluntarily or involuntarily. A separate room, adjacent to the courtroom, was assigned to deal with the processing of warrants and summonses. Defendants were kept apart from all others present throughout their trial process. They could be led directly from the courtyard or the cells into the courtroom without passing through any of the spaces reserved for the magistrates, the clerks, witnesses, or the public.[150] The spaces that defendants occupied, before, during, and after their trial were even organized so that they moved on the same plane throughout, with no requirement to go up or down steps. The intention was to enable a trial process as smooth and free from interruption as possible, and to better accommodate the increasingly busy schedule of the courts.[151]

The Clerkenwell model would be replicated in even more detailed and monumental fashion in the flagship of London's summary justice system, the new Bow Street Police Court. Planned and built in the period 1876–81 at an estimated cost of over £100,000, the imposing edifice was described in *The Graphic* as "a model institution," even though the courtroom's acoustic properties were less than ideal.[152] The courtroom itself was meticulously subdivided into areas for the magistrates, witnesses, police witnesses, solicitors, chief clerk, subsidiary clerks, counsellors, inspectors, public, and prisoners (Figure 1.3). There were no less than five discrete entrances, one each for magistrates, police and prisoners, solicitors, witnesses, and the public. These entrances also corresponded with four separate routes of access that connected the courts to the appropriate offices (for officials) or waiting rooms (for the prisoners and public) of those who would be occupying the courtroom. The principle of gender segregation operated as well, with separate waiting rooms for male and female prisoners. The courtroom and its various offices, waiting rooms, and passages formed half of the court complex, the other being a police station. The latter was similarly divided into the offices of various police officials and a suite of cells for prisoners (Figure 1.4).

The physical space of the courts had been a longstanding concern among policymakers, magistrates, and journalists. Their disquiet

[150] Clare Graham, *Ordering Law: The Architectural and Social History of the English Law Court to 1914* (Aldershot: Ashgate, 2003), 179.
[151] Ibid. [152] Ibid., 183.

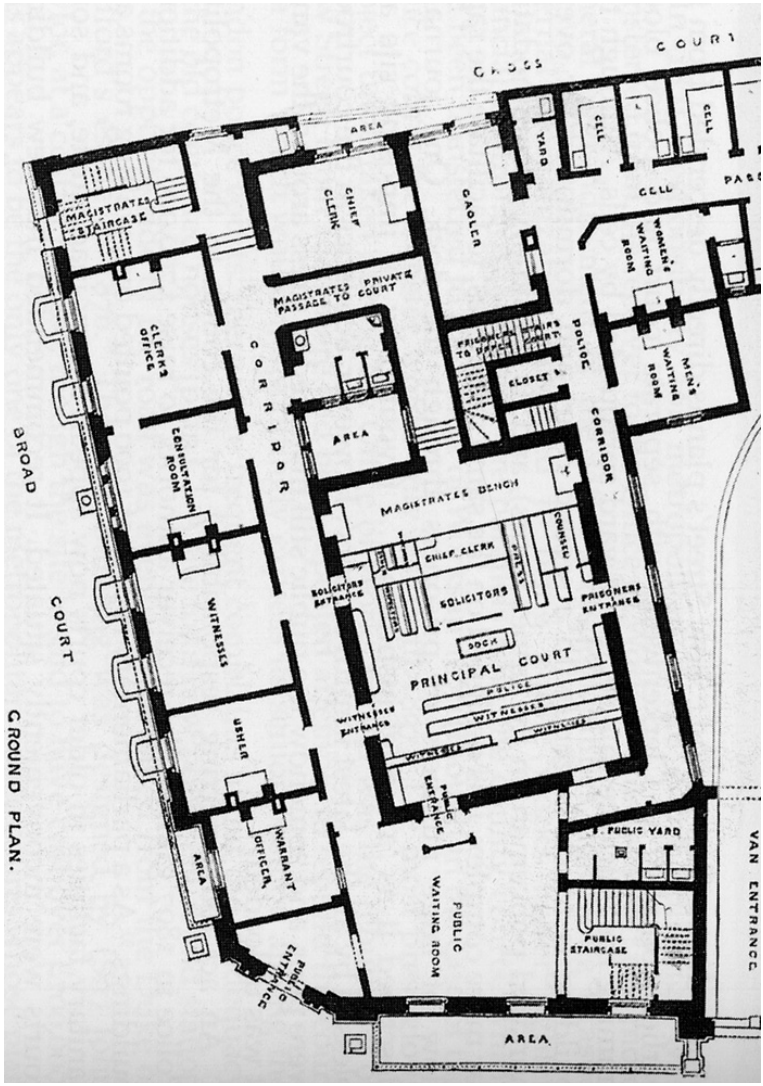


FIGURE 1.3 Bow Street Police Court – detail of courtroom and offices, *The Builder*, 1879, 689 (From Clare Graham, *Ordering Law: The Architectural and Social History of the English Law Court to 1914* (London and New York: Routledge Press, 2003). Courtesy of Routledge Press.)

https://doi.org/10.1017/9781108863711.002 Published online by Cambridge University Press

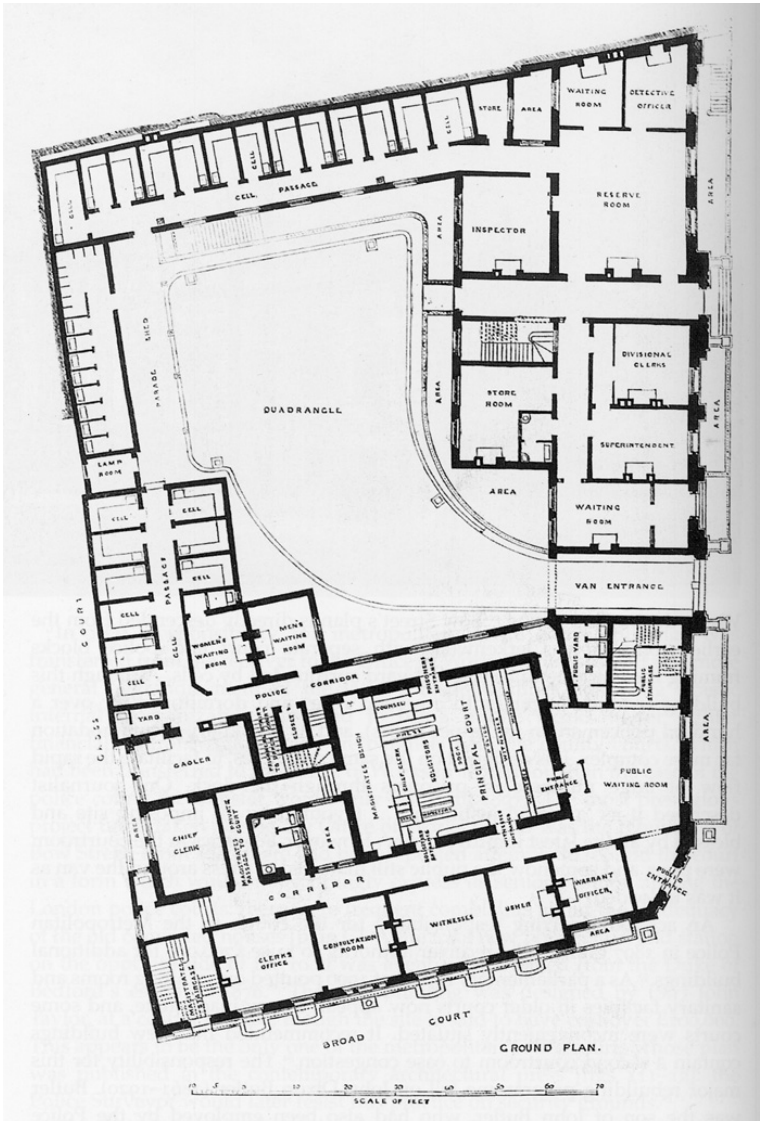


FIGURE 1.4 Ground plan of the Bow Street Police Court, *The Builder*, 1879, 689 (From Graham, *Ordering Law*. Courtesy of Routledge Press.)

became even more acute as the courtrooms rose in popularity and had to accommodate more trials covering a wider array of complaints and offenses, as well as a public eager to observe them. The focus of

https://doi.org/10.1017/9781108863711.002 Published online by Cambridge University Press

attention was almost invariably on the interior space of the courts.[153] The filth of the public waiting room and passages was a frequent source of commentary among journalists, as was crowding, the mixing of genders, and the co-mingling of the demoralized and respectable. These matters were raised by magistrates and other officials in their testimonies before Parliament as well.[154] One noticeable trend in the mid-Victorian period, as courtrooms and court buildings became more modernized and specialized, was a growing distance between descriptions of the areas that the public frequented – the passages and waiting rooms – and the courtrooms proper. Angus Reach, describing the new Clerkenwell court for readers of the *Illustrated London News*, contrasted the passages traversed by the "disreputable public of the Police Court" with the courtroom itself.[155] The former, he wrote, was "a long dirty passage: the passages leading to Police Courts are always dirty – the walls are always greasy – glazed, so to speak, by the constant friction of frowsy rags." While the courtroom, in comparison, was "a handsome, airy, wainscoted apartment."

Like the police-court columns, such descriptions engaged police courts from the perspective of the reporters. Ignored was the vast majority of space in both court annexes and the larger buildings around them, which reporters either did not have access to or chose not to portray. Even though a great deal of vital information was exchanged and decisions made in the various offices that comprised the bulk of the court annexes, and most of the prisoners' time was spent in the cells rather than in the court itself, the courtroom remained the overwhelming focus of attention.[156] As with the decisions about which cases to report and which to ignore, reporters' focus reflected the desires of a reading public whose taste was for the courtroom contest, not for the organizational minutiae that underpinned it.

[153] On the state's organization of space and light to make subjects more amenable to governance, see Patrick Joyce, *The Rule of Freedom: Liberalism and the Modern City* (London and New York: Verso, 2003), 128–37.

[154] Testimony of John Hardwick, Magistrate of the Lambeth Street Court, *Metropolis Police Offices 1838*, 18; Testimony of James Traill, Magistrate, *Metropolis Police Offices 1837*, 40.

[155] *Illustrated London News*, May 22, 1847, 322.

[156] Julienne Hanson, "The Architecture of Justice: Iconography and Space Configuration in the English Law Court Building," *Architectural Research Quarterly* 1, no. 4 (Summer 1996), 55–56.

Intentionally or not, this further heightened the public significance of the courtroom by conveying the impression that it was there and there alone where a defendant's fate was determined. This tendency served largely to conceal the operation of authority from the reader, while emphasizing both the magistrates' discretion and the public's role in witnessing and legitimizing justice in the courtroom.

The segregation of courtrooms and court buildings into specialized subspaces and reporters' continued focus on action and dialogue in the courtroom itself were in accord with broader trends in Victorian criminal justice. The former fit with the desire of policymakers to rationalize and depersonalize the trial process. Both tendencies accentuated individuals' moral accountability for their actions and the social isolation they incurred through immoral choices.[157] Courtrooms and their rapidly multiplying portrayals, however, were more than merely reflections of policy goals, Liberal-individualist ideology, or the tastes of newspaper readers. Like the evolution of summary justice, courtroom space and police-court columns evolved in constant dialogue and interaction with the men and women that experienced courtrooms, read about them, wrote about them, and expressed their ideas and demands through a number of avenues. The reform and specialization of courtroom space certainly reflected the priorities of magistrates and other officials who sought more efficient processing of cases and a strict segregation of prisoners from the public. This was at the same time a response to the increasing demand of the public for employment of the courts and their interest in its activities – hence the specialized warrant and summons room of the Clerkenwell Court, the substantial public waiting room of the Bow Street Police Court, and the frequent descriptions of individuals and crowds gathered outside the courtroom doors either seeking justice or a glimpse of the latest occupants.[158]

Indications of the increasing participation of the local population in shaping the courtroom and its operation multiplied across the mid-Victorian period. They could be found in magistrates' reports of the widening range of petty complaints brought before them. They were

[157] For the reform of criminal policy in this direction, see Weiner, *Reconstructing the Criminal*, 64–65.

[158] William Pitt Byrne, *Undercurrents Overlooked* (London: Richard Bentley, 1860), 52.

also apparent in magistrates' frustration with "idle charges" brought by complainants merely to temporarily rid themselves of a troublesome person, charges that were "abandoned immediately after the person is taken into custody."[159] The growing number of onlookers who attended court, and the rapid proliferation of courtroom stories in newspapers across the political and social spectrum similarly demonstrated a rising interest in and awareness of the courts.[160] In police-court columns themselves, albeit through a highly distorted lens of reporters' priorities and editors' interpretations, we find, over and over again, signs that individuals entered local courtrooms not just to receive what was offered, but to declare their intentions and demand accommodation. We cannot know exactly how Bridget Donovan, "a tall big-boned Irishwoman of decent appearance," learned that she could apply in the Clerkenwell Police Court for a warrant to arrest her unnamed adversary, which she did in October 1848.[161] Her belief in the rightness of her cause was strong enough that, when she was refused, she hurled a brick at the recalcitrant magistrate, Mr. Tyrwhitt. Charged with assault at the Worship Street Police Court – due to the obvious conflict of interest that prevented her being tried in Clerkenwell – Donovan remained steadfast in her convictions. When asked by the presiding magistrate if she had anything to say for herself, she responded emphatically, "well, I did throw the brick at him because he would not give me law and justice, and he sneered at me, and so do you." Donovan could have familiarized herself with warrants through the "Police Intelligence" columns. If she was illiterate, such knowledge could just as easily have been acquired through conversations with friends, family, and neighbors who either read about or experienced the local courtroom. She herself could conceivably have attended another trial as a witness, defendant, complainant, or an audience member. What is clear is that she was at least passingly familiar with her local courtroom, and that she entered it with some consciousness of law, justice, and her rights.

The diversity of roles and portrayals that characterized magistrates' courtrooms in the mid-Victorian period suggests that they were not

[159] *Metropolis Police Offices 1837*, 37.
[160] Rowbotham and Stevenson, "Causing a Sensation."
[161] *Morning Post*, October 28, 1848.

merely reflective of broader ideas about law, morality, and everyday life in the metropolis. The expansion of summary justice and the proliferation of police-court columns helped fashion the courtrooms as locales where these concepts were generated and disseminated for a growing cohort of participants and observers. The desires of magistrates and policymakers that the courts expand their role in the resolution of minor neighborhood conflict intersected with a growing local demand for the prompt address of a variety of minor grievances. The popular "Police Intelligence" reports, while providing a skewed vision of daily justice, not only brought the courtroom into the purview of a broad audience, but weakened the barrier between observation and participation. A self-reinforcing cycle of demand for courtroom services, readers' tastes, popular expectations, and magistrates and officials' consciousness of an observing public had a powerful impact on the reform of summary justice and the daily operation of courtrooms. These effects were readily apparent in a variety of milieus, from parliamentary reports to journalistic accounts to the language of those who attended the courts themselves.

Neither the provision of detailed court reports that allowed for multiple interpretations by readers nor the portrayal of police courtrooms as locales where ordinary individuals could influence the meaning of events, however, persisted long past mid-century. As the purview of summary justice expanded to a broader range of laws and a greater spectrum of activities, the content of public portrayals would contract. Newspaper reporters and editors, contending with a changing commercial and legal landscape, would increasingly adopt a style of court reporting that was concise rather than detailed, that emphasized the authority of magistrates and the state over individuals, and that discarded humor and satire for realism and a coherent moral message. As police-court columns, through the popular press, became an element of mass culture for an enfranchised and literate public, the images they offered about law, the state, and morality would change significantly. Once tales meant to amuse and divert, courtroom stories were about to become "news."