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An Ungovernable People

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An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries. Edited by John Brewer and John Styles. New Brunswick, N.J.: Rutgers University Press, 1980. 400 pp., illustrations, appendices, maps, and charts. \$24.00.

William B. Jones, Jr. *

When *Albion's Fatal Tree*¹ appeared several years ago, it was heralded as a sturdy foundation upon which future studies of eighteenth century English law might build. The book, a collection of essays by a group of former colleagues at the University of Warwick's Centre for the Study of Social History, explored popular attitudes toward the criminal law as manifested in specific instances of resistance, acquiescence, or subversion.

A recent publication, *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries*, owes much in its methodology to the earlier work. Acknowledging the debt, the editors modestly present *An Ungovernable People* as an attempt "to extend the debate [initiated by *Albion's Fatal Tree*] about the indubitably crucial question of the nature of authority and the rule of law in seventeenth- and eighteenth-century England."²

Five of the six contributors to *An Ungovernable People* were once associates at the University of Cambridge, and the work of each neatly (albeit, on occasion, too neatly) complements that of the others. The result is a thematic unity that proves convincing, despite the wide range of subjects treated. *An Ungovernable People* deals with public responses to the law from the age of Lord Coke to the age of Lord Mansfield, but it also illuminates the extent to which social pressures, ideological assumptions, and economic realities play roles in the shaping of the law in any period.

One of the *leitmotifs* threading its way through the six essays is the concept of the "rule of law." Idealized among all classes in Stuart and Hanoverian England as a birthright, the fiction is shown by the authors to have affected nearly every relationship with the legal

* B.A., Southwestern At Memphis, 1972; M.A. in English Literature (emphasis in Restoration and Eighteenth Century), Vanderbilt University, 1975; J.D., University of Arkansas at Little Rock School of Law, 1981.

1. Douglas Hay, et al., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon Books, 1975).

2. "Introduction," *An Ungovernable People*, p. 12.

system. Accompanying the belief in the "rule of law" was the conviction that magistrate and miscreant alike were accountable before the law. While eighteenth century works such as Gay's *Beggar's Opera* and Fielding's *Jonathan Wild* suggest the acceptance of the notion of accountability among the educated classes of the era, *An Ungovernable People* demonstrates the potency of the idea among the less sophisticated, largely inarticulate classes, as well.

The participation of the powerless in the seventeenth and eighteenth century legal and political dialogue tended more toward actions than words; those actions could assume innumerable forms, depending upon the perception of the functioning of the law by a given community of interest at a given moment. Each of the essays in *An Ungovernable People* illustrates the ability of the competing elements in English society to manipulate the legal processes to further either the public good or (more often) a private advantage.

Limitations of space preclude any but the most impressionistic discussion of the merits of each well-documented study. Keith Wrightson's examination of the ambiguities inherent in the administration of local justice in Caroline and Commonwealth England makes good use of provincial court records. The capacity of authority to engage in a limited give-and-take with an aggrieved populace is displayed in John Walter's study of the Maldon Grain riots of 1629 and in Robert W. Malcomson's chronicle of the Kingswood colliers' protracted struggle against the creation of turnpikes in the 1730s. John Brewer shows how the radical Wilkes and his supporters employed a refined knowledge of legal procedure to champion political and judicial reform. In his essay on the Yorkshire "yellow trade," John Styles explains the success of eighteenth century counterfeiters as the consequence of the popular denial of the legitimacy of coining laws and the Mint Solicitor's self-imposed budgetary restraints on the prosecution of offenders. Finally, Joanna Innes provides a valuable view of the debtor and the law in the later eighteenth century in a study of the King's Bench Prison.

One-fourth of *An Ungovernable People* is comprised of appendices, notes, and an index. Had the voluminous notes been placed beneath the text rather than at the end, the reader's convenience and patience would have been better served. Otherwise, this volume is in every respect a worthy offspring of *Albion's Fatal Tree*. Its value to the student and the practitioner of the law may be summarized best in the admonition of Justice Holmes: "The rational study of law is still to a large extent the study of history. History must be a

part of the study, because without it we cannot know the precise scope of rules which it is our business to know.”³

3. Oliver Wendell Holmes, Jr., “The Path of the Law,” in *Collected Legal Papers* (New York: Harcourt, Brace and Howe, Inc., 1920), p. 186.