

of the puritan Covenant). Service was for fixed terms under clearly stated conditions. These could not be altered and conferred rights and obligations on both parties. Soldiers were essentially contracted workers paid to bear arms against the French and Indians. They expected the authorities to deliver on their promises of food, shelter and the like and saw no reason to honour their commitments if the government defaulted on its. Mutiny and desertion were thus merely means of exacting rights or expressing grievances. Such attitudes were utterly foreign to the British (both officers and other ranks), who consequently saw the provincials as an undisciplined, overpaid, querulous rabble. Thus the scene was set for later misjudgments.

For most provincials, contact with the regular army often provided their first close dealings with the British. They found the officers merciless and haughty; the soldiers profane, crude, lewd and uncouth. The system of military justice appalled them; but left a clear image of the substance of tyranny that was to haunt them throughout the next decade.

The colonials unlike the British, saw the war itself in terms of the covenant; this was no great war for earthly empire, merely part of the providential plan. Massachusetts was a highly literate society and the Jeremiad was a constant theme not only of sermons but the musings of private journals and letters. Victory was the reward of virtue, defeat of moral offense; indeed the profanity of the red coats could imperil victory by inviting divine reproof. Men as well as officers kept diaries, wrote letters, and these are skillfully used to portray not only their state of mind but also their reaction to the physical conditions of military service. Here was an almost total gulf between the British and the colonials. Anderson goes well beyond military, or even social history here. What we get is a very rare portrait of the popular mind. We can see just how deeply ingrained into Massachusetts thinking traditional puritan notions were; the providential model was the only intellectual framework available to account for human experience.

This is an excellent book. It is clear the militia played a significant role in mid-eighteenth century Massachusetts and this study gives a vivid picture of many facets of provincial life: the working of an almost cashless society, the nexus of credit and debt relationships, the popular mind. The Keeganesque approach with its concern for ordinary men is particularly instructive. The more general thesis of a generation of shared experience that shaped future actions is more problematical. Certainly the divergent perceptions of the colonials and British are brilliantly accounted for; the fear of tyranny and the spectre of a standing army take on new meaning. No evidence is presented that this "generation" existed in 1773. It is made very clear that for *homo massachusettensis* the bible via Calvin and Ames meant far more than the Roman Republic via Machiavelli and Harrington. Yet the overall ideological framework, the more general fear of tyranny has to be accounted for. Even if it were, it would not be a purely Massachusetts phenomenon; the fear of tyranny and the army extended far beyond. Similar militia experiences would have to be established for Pennsylvania and Virginia or else other factors have to be taken into account. The shared experiences of the Seven Years War may explain why some citizens of the Bay Colony thought and acted as they did; but it is hardly a *deus ex machina* for the American Revolution.

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J.M. BEATTIE — *Crime and the Courts in England, 1660-1800*. Princeton: Princeton University Press, 1986. Pp. xxiv, 663.

The history of crime and punishment in eighteenth century England has a long-standing fascination, from the days of literary hero-worship of Henry Fielding, to the early scientific research of the Webbs, on to the most recent school of social analysis of crime and criminals. In this work, J.M. Beattie has given us a thoroughly-documented study which revisits many of the old questions,

places the subject in a fresh narrative framework, and affords a depth of evidence and analysis seldom found, at least for his chosen counties of Surrey and Sussex.

Beattie set out to "uncover the links" between crimes and criminal justice (p. 3). The book is divided in two main sections: "Offenses and Offenders Before the Courts" and "The Administration of Justice." These present interesting contrasts of method, the first being a "modern" survey of crime as social history, the second being a more conventional study of legal history. The divisions between the two are not, nor can they be totally clear. Moreover, the author is anxious to show their connections, and thus this organization might have presented problems in a less-travelled subject area or in the hands of a less-skilful practitioner. What results is a stimulating survey in which multiple methods coexist and reinforce each other.

The offenses tried in quarter sessions and at the assizes are not all included, but only those where "some real harm was done to a specific victim" (p. 6). While this may seem an arbitrary definition of crime, it is perhaps the only way to screen out large amounts of social regulation, especially in quarter sessions. The opposite problem lurks offstage: many serious crimes were committed where there were no trials, and so the indictments and other formal court records provide a pre-selected sample. Beattie acknowledges this, plus the further fact that the English system in which the victim was the prosecutor also had to affect the ultimate display of crime in the courts.

Beattie divided his survey of offenses and offenders into an introductory chapter, a view of prosecution, a survey of violent offenses and two chapters on property offenses. The incidence of prosecution was affected to some degree by changes in administration in the eighteenth century, but Beattie suggests that "crime" figures were also an accurate gauge of public attitudes and apprehensions. These are detailed first in the chapter on "violent offenses." Beattie restricts these to homicide, infanticide and rape (p. 76), leaving assault and riot to one side as being too difficult to define and to quantify.

The rather longer section on property crime is justified on the grounds of the interest the subject has generated in recent years and the sheer dominance of that category in the combined enumeration of violent crime and crime against property. Beattie gives a good explanation of the evolving statutory treatment of crime, placing it in a long perspective dating from the first Tudor removal of crimes from benefit of clergy. That topic is clearly and fully examined, down to the removal of the literacy test in 1706. Looking at "patterns of prosecution," Beattie sees "real" crime rates reflected in the numbers of indictments (p. 201). Those numbers, in turn, seem to follow economic conditions, and particularly the periods of stress at the end of wars. As he admits, "indictments are a fragile guide to criminality" (p. 263), but Beattie correctly concludes that they show a "changing pool of offenses." How those offenses were dealt with is the subject of part two.

In treating the "administration of justice", Beattie gives lengthy and careful treatment of pre-trial process, takes on through the trial itself, noting the changes in procedure in the eighteenth century, and then analyzes the verdicts, pardons and punishments in three chapters. While the data pertain directly to Surrey and Sussex, Beattie connects those communities to a larger view of developing judicial procedure. The trial actually began with presentation of the prosecutor's evidence to the grand jury. In 1660 this step was regarded as something close to a presumption of guilt; by 1800, the modern presumption of innocence had begun to appear, with the entry of defence counsel, greater publicity of proceedings and the evolution of rules of evidence. The trial *per se*, explained here in admirable detail, involved the heart of the English system, the grand jury and the trial jury. These bodies were of course pieces of social machinery as well as legal instruments. Beattie gives interesting accounts of the selection and composition of juries, and then he explains how they functioned. The grand juries were an active part of the process, not merely a rubber stamp; the trial juries were influenced by judges, but more often than not, they were in agreement with the judicial view. In both cases, the distaste for capital punishment (for lesser crimes) was unmistakable, while the readiness to use it, or other corporal punishment, for certain crimes was equally clear.

After the guilty verdict, sentencing of felons was, in 1660, a simple choice between branding and the gallows. By 1800, through a course of erratic development, the penal options extended to

imprisonment or transportation. While the latter was interrupted by the American Revolution, it had been unsuccessful in its earlier phase, and revival in the 1780s depended upon government financing. Transportation may have eased the way for the extension of other forms of incarceration. Beattie has good sections on the houses of correction, county jails and the notorious hulks. As he says, prisons and their conditions were for long a subject of concern, if only in the fears incited by the pitiful diseased prisoners at trial. By the last quarter of the eighteenth century, when Hanway and Howard "exposed" prison conditions, there was in fact a developed consciousness which those men articulated, a consciousness which was prepared to see healthier prisons as houses of (moral) correction; which was offended by the pillory and the whip and wanted to administer those punishments in private; which was allowing the accused legal counsel and deliberately understating property values to evade capital punishment. This consciousness was a necessary precondition to penal reform, and one very clear theme of Beattie's book is the awkward and prolonged manner in which that attitude developed.

Beattie says that he is "concerned with the character and social meaning of prosecuted offenses" and "the way those accused of committing them were dealt with by the courts" (p. 4). The second task is accomplished in an impressive manner; the first may in fact be too much to ask of the evidence, but it is as well done as it can be here. To bring these two parts together, with the extensive research on which they rest, provides an excellent addition to the social and legal history of the eighteenth century.

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HERBERT J. BIX — *Peasant Protest in Japan, 1590-1884*. New Haven: Yale University Press, 1986. Pp. xxxviii, 296.

WILLIAM W. KELLY, — *Deference and Defiance in Nineteenth-Century Japan*. Princeton: Princeton University Press, 1985. Pp. xvi, 322.

Western studies of Japan traditionally have followed the consensus model. There are reasons for this. Consensus and harmony on all levels of human activity have throughout the centuries been an ideal Japanese society aspired to. Here as in other societies practice fell short of the ideal. But this did not stop traditional Japanese scholars from writing history in accordance with the ideal, nor Westerners from taking note of the for them extraordinary stress upon harmony in the society they studied.

The spread of Marxism amongst Japanese scholars in the 1920s resulted in a shift to research on social conflict and its victims. The radical suppression of the left in pre-war Japan, however, meant that such research could only come into its own in the post-war period.

Amongst Westerners one scholar stands out amongst those turning to the conflict model in the pre-war period: the Canadian E.H. Norman. Norman, now generally considered to have been the preeminent interpreter of modern Japan in his day, committed suicide in 1957 while serving as diplomat overseas. In the inquisition-charged atmosphere of the 50s, the Marxist-orientated approach of his writings had made him the subject of political persecution. Rather than fight for his reputation and job, Norman, who had been brought up in Japan, chose the traditional Japanese method to resolve the dilemma.

Only during the last few years has the consensus approach come under attack. Conflict is being rediscovered as a much neglected aspect of Japanese history, resulting in a re-evaluation of Norman's works and a number of publications dealing with conflict topics.

The two books under review cover perhaps the most important manifestation of conflict in pre-industrial Japan: peasant protest.