Stephen Banks, *Informal Justice in England and Wales 1760-1914 : The Courts of Public Opinion*

Woodbridge, Boydell Press, 2014, 224 pp., ISBN 9 781843 839408

Clive Emsley

Electronic version

URL: <http://journals.openedition.org/chs/1568>

DOI: 10.4000/chs.1568

ISSN: 1663-4837

Publisher

Librairie Droz

Printed version

Date of publication: 1 June 2015

Number of pages: 129-131

ISBN: 978-2-600-01953-8

ISSN: 1422-0857

Electronic reference

Clive Emsley, « Stephen Banks, *Informal Justice in England and Wales 1760-1914 : The Courts of Public Opinion* », *Crime, Histoire & Sociétés / Crime, History & Societies* [Online], Vol. 19, n°1 | 2015, Online since 01 June 2017, connection on 24 September 2020. URL : <http://journals.openedition.org/chs/1568> ; DOI : <https://doi.org/10.4000/chs.1568>

This text was automatically generated on 24 September 2020.

© Droz

Stephen Banks, *Informal Justice in England and Wales 1760-1914 : The Courts of Public Opinion*

Woodbridge, Boydell Press, 2014, 224 pp., ISBN 9 781843 839408

Clive Emsley

REFERENCES

Stephen Banks, *Informal Justice in England and Wales 1760-1914 : The Courts of Public Opinion*, Woodbridge, Boydell Press, 2014, 224 pp., ISBN 9 781843 839408.

- 1 Stephen Banks teaches in the School of Law at the University of Reading, but this is not the kind of book that might be expected from a member of such a department. It is not so much the law itself that interests Banks, but rather the beliefs that people have, and have had about law and justice. The main focus in this book is public shaming rituals or charivaris, more commonly known as rough music or 'skimmington' in England and *ceffyl pren* in Wales. Bank's time span, a little elastic at both ends, is the period during which the general consensus is that this kind of rough, boisterous popular culture was largely tamed.
- 2 The book is divided into eight chapters. As his starting point Banks addresses the reasons why an individual was subjected to rough music ; these reasons, he concludes, ranged from inappropriate gender behaviour to informing on offenders such as smugglers, and from depriving communities of traditional work to strike-breaking. Banks progresses to an investigation of the rituals of rough music ; whether, for example, the offending individual was 'punished' in person or in effigy. He describes the way in which magistrates appear often to have been unsure as to whether the customary rights claimed by the participants in these assertions of popular justice were genuine. Many magistrates, who commonly lacked the means to deter a crowd anyway, allowed the demonstrators their head ; but on occasions they also had some sympathy

with the crowd. Other people of property were sometimes supportive of these rituals, though the number of such appears to have declined as the nineteenth century wore on. These topics have been researched and written about by social historians over several decades, but with his legal training Banks brings a slightly different perspective. Some of this tolerance of informal justice, he suggests, appears to have been the result of the nebulous nature of the understanding of the origins of the Common Law : was it, in fact, based on custom and popular usage dating back to the departure of the Romans ? Equally relevant here is the manner in which, on occasions, informal, popular justice aped the theatre of the monarch's courts and the punishment ordered by magistrates or a judge. A final point stressed by Banks is the importance of recognising that the targets of informal, popular justice needed to understand for themselves the community norms and the meaning of the demonstration. This is illustrated by an incident from the 1970s described towards the end of the book and involving a vicar and his wife who had moved from a suburban parish to a Devonshire village. In some fashion they offended the villagers of their new parish, but they were completely unaware of the reasons for the odd happenings that occurred to their house and to their property, and why the wife appeared to have been burned in effigy. They called in a folklorist for an explanation ; but since they did not understand the meanings of the rituals to which they were subjected, the behaviour did not have the apparently intended effect.

- 3 Banks has drawn on an impressive and wide variety of manuscript sources and newspapers. He has also done thorough job in scouring the back numbers of the journal *Folklore* ; yet there are one or two surprising omissions in his select bibliography which might have been consulted and considered. A 'skimmington', as Banks is at pains to explain, was a shaming ritual and shame is a central theme of Banks's informal justice ; as he rightly emphasises - "shame and public significations of shame, such as rough music ... have been used by groups to discipline individual conduct far longer than the latest fashions for process and the letter of the law." Yet in the book there is no mention, let alone engagement, with David Nash and Anne-Marie Kilday, *Cultures of Shame : Exploring Crime and Morality in Britain, 1600-1900* (London, Palgrave, 2010) which, in a different format and spreading into the Scottish experience as well as the English and Welsh, covers some of the same ground. For the more general argument about the emergence of 'civilised' views and its confrontation with violent behaviour including rough music, it might similarly have been worth engaging briefly with John Carter Wood, *Violence and crime in nineteenth-century England : The shadow of our refinement* (London, Routledge, 2004).
- 4 If, however, there is a failure to consider some of the more recent work in the area this still remains a useful book bringing together and analysing, as it does, such a wealth of incident across a long period. Perhaps most interesting and valuable is the way in which, particularly in the early chapters, he raises important questions about popular beliefs in the law and justice, and beliefs that clearly spread much wider through the different ranks of English society than simply the rural or poor urban communities from which came the crowds intent on the ritual shaming of one who had offended against their norms.

AUTHORS

CLIVE EMSLEY

The Open University