

# Outlaws in Medieval and Early Modern England

Crime, Government and Society, c.1066–c.1600

*Edited by*  
**John C. Appleby and Paul Dalton**

ROUTLEDGE  


OUTLAWS IN MEDIEVAL AND  
EARLY MODERN ENGLAND

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*Edited by*

JOHN C. APPLEBY AND PAUL DALTON

*Liverpool Hope University and Canterbury Christ Church University UK*

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# Preface

This volume originated in discussions between the editors in the late 1990s, when they were colleagues at Liverpool Hope University. Both were agreed that, despite the considerable scholarly attention which has been devoted (for example) to individual outlaws such as Hereward ‘the Wake’ and Robin Hood, to English constitutional and legal history, and to some of the popular literature written about medieval and early modern criminals, as a whole the subject of outlaws and outlawry in the period *c.*1066–*c.*1600 has been, to some extent, comparatively neglected by historians and deserves fuller investigation. This volume is intended as a contribution to such an investigation. The editors are very grateful to the scholars who have written its chapters, not only for their valuable work but for their patience, courtesy and understanding. We offer them our warmest thanks. We are also very grateful to Ashgate Publishing for accepting the volume for publication, and in particular to Tom Gray, Nicholas Wain, Mary Murphy, Anne Keirby and their colleagues for their help and patience in seeing it through the press. Our thanks also go out to our employers, Liverpool Hope University and Canterbury Christ Church University, for their support and for recognising the value and importance of historical research; and to the Master and Fellows of Corpus Christi College, University of Cambridge, for permission to use the image of William de Marisco on the cover of the volume.

John C. Appleby and Paul Dalton  
Liverpool and Canterbury, June 2008

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# Abbreviations

- APC* *Acts of the Privy Council 1542–1604*, ed. J.R. Dasent (31 vols, London, 1890–1907)
- BL* The British Library, London
- CCR* *Calendar of the Charter Rolls 1226–1516* (6 vols, London, 1903–27)
- CFR* *Calendar of the Fine Rolls 1272–1347* (5 vols, London, 1911–15)
- CPR* *Calendar of the Patent Rolls 1258–1485* (49 vols, London, 1901–10)
- CR* *Close Rolls of the Reign of Henry III 1227–1251* (14 vols, London, 1902–38)
- CSPD* *Calendar of State Papers Domestic 1547–1603*, ed. R. Lemon et al. (7 vols, London, 1856–71)
- CSPF* *Calendar of State Papers, Foreign Series, of the Reign of Elizabeth 1558–89*, ed. J. Stevenson et al. (23 vols, London, 1863–1950)
- CSPI* *Calendar of State Papers Relating to Ireland 1509–1603*, ed. H.C. Hamilton et al. (11 vols, London, 1860–1912)
- EHR* *English Historical Review*  
n.s. new series
- ODNB* *Oxford Dictionary of National Biography*, ed. H.C.G. Matthew and B. Harrison (60 vols, Oxford, 2004)
- TNA* The National Archives, Kew
- VCH* *The Victoria History of the Counties of England*

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# Introduction

John C. Appleby and Paul Dalton

This volume addresses significant aspects of organised criminality and outlawry, and the governmental and social responses they provoked, during the period from *c.*1066 to *c.*1600. These activities were features of a complex problem that was legal, social and political in nature. They reveal the interplay between lawlessness and disorder which central and local institutions and their officials struggled to control. At various times, in different locations and in diverse ways, crime and outlawry powerfully influenced state, church and community attitudes, responses and policies. Collectively, the following chapters illuminate the extensive diversity of criminal activity and the responses to it during the period under consideration. Within varied contexts, and from different perspectives, they demonstrate the insecurity, vulnerability and limitations of the law and the government machinery that enforced it. These limitations were particularly evident in times of political and military crisis and tension, in remote or inaccessible regions, and in circumstances where the state was heavily dependent on local officials, had to compromise with the interests of local elites and the church, or was confronted by the activities of criminal gangs and predatory troops. The contributions to this volume also comment revealingly on the multi-faceted nature and purposes of criminality, and on the socially and politically charged representation of it in the rich tradition of outlaw stories and legends that endured throughout and beyond this period. Together, the chapters show that the boundaries between law and criminality, order and disorder, peace and violence, and lawlessness and civil conduct were frequently blurred and shifting, and could sometimes be inverted: a development reflected in the appearance of the ‘good outlaw’ and the ‘evil sheriff’ as stock figures in popular outlaw literature.

The most famous of these good outlaws was, of course, Robin Hood, whose activities are usually set within a thirteenth- or early fourteenth-century context. But Robin was foreshadowed, in some ways, by a late eleventh-century outlaw, Hereward ‘the Wake’, a real historical figure who has been described as ‘the lineal ancestor of the later English outlaws’.<sup>1</sup> Hereward, an Anglo-Saxon landholder who joined an English rebellion against William the Conqueror in 1071, became the focus in the twelfth century of literature, heavily influenced by romantic and heroic conventions, that did much to establish his legend. By investigating the companions and enemies of Hereward named in this literature, Paul Dalton

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<sup>1</sup> M. Keen, *The Outlaws of Medieval Legend* (London, 1977), p. 11, and see pp. 23–4, 37–8.

underlines in Chapter 1 that some of them were real historical people and had plausible historical connections with the outlaw. In the process Dalton reveals more about Hereward and his associates, reinforces the contention that some of the more questionable twelfth-century literature about Hereward contains important elements of truth, and suggests that some of it was influenced by political conflicts in King Stephen's reign (1135–54). Dalton's conclusions have implications for our knowledge and understanding of the Norman Conquest, the nature of political and tenurial conflict in the century after 1066, and the development and function of Hereward's legend.

According to some of the sources for Hereward's life, he was made an outlaw for unruly behaviour, forced to go into exile, and fled the country. He was a precursor of several of the thirteenth-century outlaws examined in Susan Stewart's essay (Chapter 2), which employs the rich and under-utilised judicial eyre records to consider the use of outlawry as a penalty for felony in this period. Stewart reveals that a significant number of those accused of felony absconded rather than appear before the royal courts to answer charges, and were declared outlaws by the justices. The chapter explores and elucidates the harsh personal and proprietorial implications of being branded an outlaw, and the legal consequences of harbouring or aiding outlaws. It also considers how those with influential patrons or who could claim benefit of clergy might escape, in some measure, the penalties imposed by the law. Stewart goes on to discuss what the judicial records reveal about the different status of women under the law and the limitations of their rights of appeal; and to examine what these records tell us about outlaws who sought sanctuary and subsequently abjured the realm. Stewart's contribution also includes a valuable assessment of the effectiveness of outlawry as a judicial tool, concluding that, 'while local communities remained stable and able to identify their wrongdoers, the penalty of exclusion through the process of outlawry was a reasonable solution'.<sup>2</sup> However, towards the end of the thirteenth century growing levels of crime, due in part to demographic changes and gangs of discharged soldiers, put increasing pressure on the system of judicial eyres. Consequently, the system was superseded by new and more financially productive structures of civil and criminal litigation, and finally abandoned. Concurrently, changes in attitudes towards outlawry and the difficulty of enforcing it, combined significantly to limit its effectiveness in dealing with criminal activity.

The efficacy of law enforcement and its local administration also features prominently in Chapter 3 where Richard Gorski appraises the subject within the context of the fourteenth century and provides an important complement to Stewart's contribution. Examining the evolution of shire government from the perspective of the sheriffs, Gorski reaches a cautious, but positive, conclusion concerning the critical relationship between the crown and its local agents, and shows that the potential void that threatened to emerge with the abandonment of the general eyre at the end of the thirteenth century was filled by sessions of

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<sup>2</sup> See p. 53 below.

assize and commissions of oyer and terminer. But these developments, while widening access to the law, were dependent on the cooperation of landowners who were willing to serve as local officials. Building on detailed research on the sheriffs, Gorski identifies the emergence of a core group of officials who grew accustomed to the responsibilities of office-holding during the fourteenth century. They formed part of a denser web of officialdom which opened up opportunities for fairly humble men as well as for the emerging gentry to participate in law enforcement and administration. Paradoxically, perhaps, the growing importance of local agents was accompanied by a lively literature of complaint directed against evil and corrupt sheriffs. As Gorski notes, such evidence is an uncertain guide to reality, but it can be supplemented by an extensive catalogue of persistent weaknesses and abuses in the administration of law and order. Gorski also suggests that despite this, the partnership between the monarchy and the political community was broadly effective. This was due, in part, to improvements in the quality of law and justice, which were reflected in the increasing scale of gentry participation in shire government.

Another area of the administration of law and order in which the crown was forced to compromise features in the contribution by Candace Gregory-Abbott (Chapter 4). This examines the application of the law to criminal clergy, and the refuge from the law that the church could provide, through sanctuary, to criminals. It also discusses key aspects of the interaction between the church and criminality, demonstrating in the process that some members of the clergy could be active participants in, or passive supporters of, criminal behaviour, including the activities of criminal gangs. Gregory-Abbott's contribution examines, over an extensive period of time, how clergy accused of criminality were dealt with by the law, what happened when they invoked the privilege of benefit of clergy, the meaning, complexity and administration of this privilege, and the nature and operation of ecclesiastical sanctuary rights utilised by some criminals to escape justice. In doing so, it also addresses important areas of legal jurisdiction that were major sources of tension between church and state. Under such conditions the state attempted, from at least as early as the twelfth century and with an increasing measure of success in the later Middle Ages, to shift the boundaries of control in its own favour.

Just as the state was troubled by and had difficulty asserting its jurisdiction over criminal clergy, it also had problems dealing with criminal soldiers. In Chapter 5, a wide-ranging essay that sets the English experience within a much broader European context, Neil Jamieson shows that medieval armies easily served as institutions for widespread and violent criminality. This was, moreover, an enduring and widespread problem. Jamieson provides evidence of the ways in which soldiers were frequently identified as criminals and violent thugs, and explores some of the consequences of their criminality. These included the subversion of the tradition of the virtuous aristocratic warrior, the associated cult of chivalry, and the church's concern to control or limit conflict and violence. The problem owed much to the failure of medieval states to provide adequate

solutions to the problems of supplying armies and dealing with demobilised and unemployed troops. Armies were often identified as the purveyors of trouble and criminal disorder. Soldiers plundered, abused or murdered civilians, who sometimes responded in kind. Nor did the growing professionalisation of armed forces necessarily lead to any improvement. Indeed, it may have reinforced a pre-existing perception that soldiers were outsiders, intent on violence and plunder. The confusion was compounded by the widespread practice of recruiting criminals and outlaws to serve in armies. Despite a rudimentary code of conduct, reflected in rules and regulations, armies remained a source of disorder, which only grew worse with their demobilisation. Jamieson suggests, however, that by the end of the fifteenth century European governments were beginning to bring soldiers under more effective state control.

In the late fifteenth century, as Anthony J. Pollard shows in Chapter 6, the English government had also to contend with the emerging, and sometimes disruptive, political aspirations of the 'middling sort' – yeomen, husbandmen, craftsmen and others in-between the gentry and the peasantry. The relationship between the crown and this increasingly influential element of the political community is examined by Pollard through the lens of the literature about Robin Hood that circulated widely at this time. He considers the political and social meaning of this literature, a subject which has been vigorously debated. Arguing that the social and political tensions of the thirteenth and early fourteenth centuries, in which the Robin Hood stories were set, were no longer relevant to the fifteenth-century audience who read and heard them, Pollard offers a significant challenge to predominant interpretations of these stories. Rejecting views that they represent either a peasant ideology or the outlook of landholders harbouring resentments against the crown, Pollard contends that the stories appealed particularly to, and represented the opinions of, people of the 'middling sort'. At the time, these people enjoyed increasing prosperity, engaged in national politics, participated in the local military, administrative, judicial and fiscal administration of the state, and bore arms. They also took part, on occasions, in protest and rebellion against governments they saw as subverting justice, their rights, the right order of society, and the common weal. Although the Robin Hood stories can be read, at one level, as affirming, through Robin's reconciliation with the king, the rule of law, the political order and royal authority, Pollard argues that they also celebrate the violent defence of justice by an outlaw. Not only is Robin Hood portrayed as defying the crown and rejecting royal authority, he is also depicted as returning to the greenwood, an 'alternative' kingdom with its own utopian social order. Robin can thus be interpreted as 'a social revolutionary envisaging an idealisation of anarchy as an alternative to monarchy'.<sup>3</sup> For Pollard, such an interpretation has serious implications for the 'new constitutional history' of the later Middle Ages, which has focused on the gentry and aristocracy to the exclusion of other 'classes'. The stories support other evidence suggesting that the commons had their own

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<sup>3</sup> See p. 126 below.

political ideology and perception of their role in the political world, in which they had the right to defend the proper order of society and the common good – though this was rejected by the crown and its apologists. It is possible, Pollard cautiously suggests, that those who actually resorted to armed rebellion for this purpose in the late fifteenth century were influenced by the hope of creating a world not unlike the greenwood kingdom to which Robin Hood returned.

The final two contributions focus more directly on the rough texture of crime and criminal behaviour. In a series of compelling and richly documented case studies (Chapter 7), Hannes Kleineke examines gentry lawlessness in south-west England, a remote, but strategically important, region where the weaknesses of royal authority provided an environment in which lawbreaking was almost commonplace. While acknowledging that some of this activity may have been a way of dealing with local or community rivalries, Kleineke emphasises the varied criminality of his selected wrong-doers from the gentry of Cornwall. Though the patterns of violence and brutality were extreme, he argues that they were representative of their class background, and of south-west aristocratic crime in general. Disputes over land were central to these cases, but they were also influenced by local conditions and opportunities. The Cornish tin industry provided a tempting target which fuelled lawlessness on land, while the importance of shipping created opportunities for robbery at sea. But gentlemen who were involved in piracy were also appointed to local commissions of inquiry investigating the problem. By examining a varied range of activity, which included necromancy, Kleineke illuminates the administration and weaknesses of the law in a vulnerable frontier region of the realm.

These weaknesses are one of the underlying themes of John Appleby's essay on the persistent problem of piracy, particularly during the 1570s and 1580s (Chapter 8). As a form of organised criminal enterprise, piracy varied in character and intensity. In some regions it flourished with widespread community support or tolerance, and became a business enterprise with extensive geographical and social links. As such, the conduct of piracy reveals the way in which crime and lawlessness could develop entrepreneurial dimensions, involving the redistribution of wealth through the disposal and dispersal of booty. At the same time the use of gift-giving and exchange enabled pirates to retain support ashore, while effectively buying the connivance of officials. The weakness and limited resources of the Tudor regime, as demonstrated (for example) in its naval capacity, created the conditions for the growth of piracy during the sixteenth century. But this growth was also facilitated by the mixed and uncertain response to the problem by local communities. Consequently, in some regions, piracy threatened to become a way of life. Moreover, as piracy was a crime open to contested interpretation, it led to repeated negotiation and compromise between pirates, communities and the state.

In sum, this volume presents a valuable collection of studies addressing the themes of outlawry and crime, and their relationship to government, from different perspectives over an extensive period of English history. One of the merits of studying such a broad span of time is the way in which it allows deep continuities

to emerge, such as the long tradition of outlaw stories, the persistence of serious and petty local disorder, and the continuing, but often only partially successful, struggle of the agencies of central and local government to deal with it. While the essays in this volume cannot, of course, comprehensively cover the theme of outlawry over such a broad period, they are important contributions to a rich but somewhat neglected field of study, not least because they point to opportunities for further exploration. The contrasts and comparisons between the individual contributions underline the varied and challenging nature of crime in this period, its deep-seated ambiguity and adaptability, and the intricate relationship between it and the power of the state. By its very nature criminality and outlawry confronted government and society with a myriad of challenges and opportunities. It provoked varied responses, ranging from outrage and complaint to tolerance and even popular or patriotic celebration. This lives on in the enduring appeal of the hero-outlaw, especially in the accretion of stories and legends around figures such as Robin Hood. These tales were as diverse as their criminal progenitors, could be used for varied purposes depending on context and audience, and were always much more than sources of entertainment. They expose some of the underlying notions about right and wrong, law and order, justice and injustice, property and liberty, as well as good and bad governance, that had a profound influence on the development of the English constitution and state.

# Chapter 1

## The Outlaw Hereward ‘the Wake’: His Companions and Enemies

Paul Dalton

Hereward ‘the Wake’, an enigmatic Anglo-Saxon landholder from Lincolnshire, was elevated by a historical novel written by Charles Kingsley, first published in book form in 1866, into one of the most romantic figures of English medieval history: an outlaw and national hero famous for his determined resistance to the Norman invaders of 1066, and a forerunner of the greatest outlaw of English popular mythology, Robin Hood.<sup>1</sup> Since Kingsley’s novel first appeared, Hereward has continued to attract considerable interest and is still the subject of many historical and fictional publications, despite the paucity and brevity of the reliable historical evidence for his life.<sup>2</sup> Contrastingly, the men who appear as Hereward’s companions and enemies in some of the more extensive but less trustworthy twelfth-century sources for his career, have received much less historical attention. These men repay further examination, and are central to this chapter. The discussion which follows builds on work by Cyril Hart and others which argues that some of the English companions of Hereward in these sources were real historical figures, linked with the outlaw in various ways. It also suggests that the roles of some of Hereward’s French companions and enemies, men whose historical existence are not in doubt, is quite plausible and supported by their connections with the outlaw and the regions where he was active, and by their administrative and military positions in post-Conquest England. In doing so, the discussion casts new light

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I would like to thank Dr Gaynor Williams for helpful advice which much improved this chapter.

<sup>1</sup> C. Kingsley, *Hereward the Wake* (London, 1866).

<sup>2</sup> For historical works see, for example, M. Keen, *The Outlaws of Medieval Legend* (London, 1977), pp. 6–38; J. Hayward, ‘Hereward the Outlaw’, *Journal of Medieval History*, 14 (1988): 293–304; C. Hart, ‘Hereward “the Wake” and His Companions’, in his *The Danelaw* (London, 1992), pp. 625–48; D. Roffe, ‘Hereward “the Wake” and the Barony of Bourne: A Reassessment of a Fenland Legend’, *Lincolnshire History and Archaeology*, 29 (1994): 7–10; V. Head, *Hereward* (Stroud, 1995) and D. Roffe’s review at <http://www.roffe.co.uk/reviews/head.htm>; E. van Houts, ‘Hereward and Flanders’, *Anglo-Saxon England*, 28 (2000): 201–23; D. Roffe, ‘Hereward [called Hereward the Wake] (fl. 1070–1071)’, in *ODNB*, vol. 26, pp. 767–8; P. Rex, *Hereward: The Last Englishman* (Stroud, 2005) and D. Roffe’s review in *Lincolnshire History and Archaeology*, 39 (2004): 74.