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Allen Steinberg, *The Transformation of Criminal Justice: Philadelphia, 1800-1880*, Chapel Hill: The University of North Carolina Press, 1989. Pp. ix, 326. \$39.95 (ISBN: 0-8078-1844-5).

This book is a prizewinner. *The Transformation of Criminal Justice* brings well-deserved acclaim to its author, Allen Steinberg. Another volume in the distinguished series of legal history works from The University of North Carolina Press, the book has won the American Historical Association's Littleton-Griswold prize for 1990 and also the 1990 Alan Sharlin award of the Social Science History Association. Anyone interested in the history of the prosecution of crime in the United States should read Steinberg's book, as should those interested in more general topics in the history of American law. By virtue of its attention to broader historiographical concerns that span the nineteenth century, the book also serves as a fine introduction to legal historical themes, even for those historians who deny the fascination of legal history.

Steinberg describes the historical transit from a time when decidedly ordinary, private litigants dominated the initiation of criminal prosecution to a system in which salaried state agents predominated in the instigation, prosecution, and adjudication of criminal cases. Philadelphia between 1800 and 1880 provides the setting, and the story opens with a Hogarthian vision of poor and working-class Philadelphians litigating against one another in carnivalesque splendor and squalor. The relationship to state power of these private prosecutors and poor defendants was different than we might imagine; Steinberg argues that "the criminal court was dominated by the very people the criminal law was supposed to control" (78). He explains that "[t]he ordinary people of Philadelphia extensively used a system that could also be so oppressive to them because its oppressive features were balanced by the peoples' ability to control much of the course of the criminal justice process" (78). At the far end of the transformation, Philadelphians faced an administrative state; the new "dominant features of the criminal justice system represented a new passive relationship of the citizenry to the state, born out of the idea that there was a special, 'dangerous' class of citizens who were the proper objects of the system's punitive and benevolent activity" (222-23).

Steinberg ably addresses broader historiographical concerns. Particularly notable is his attention to the construction of public and private spheres of activity; as he notes, this issue has been a matter of special concern to legal historians interested in the nineteenth century. Other historians have defined the same topic differently, as a question of the nature of government or state power in the second part of the nineteenth century. However formulated, historians' discussions of the public/private dichotomy are often difficult to grasp—too abstract, too ethereal. But Steinberg's subject matter lends itself well to concrete illustration of the important conceptual issue: early nineteenth century arrests by police, constables, and city-hired night watchmen counted only marginally in the initiation of prosecutions; ordinary citizens, not police, began most criminal cases when they hauled the people with whom they lived, quarreled, and drank before their ward-level politicians. With time and waves of urban unrest and reform, this mixed pattern of private and public prosecution changed; public agents replaced private prosecutors, and the very nature of criminal justice changed. Steinberg's focus on the prosecution of crime nicely illustrates the new organizational forms of consolidated state power in the mid- to late nineteenth century.

Another particular strength is the richness of Steinberg's description, a richness born of hard work using archival sources that many legal historians would be inclined to avoid. Steinberg found and examined closely the records of a number of Philadelphia's aldermanic courts. He calls what he finds "primary justice" and the picture is a different one than if he had

read only published appellate cases. Indeed, he notes that few of the cases that litigants brought before their petty politicians for adjudication ever made it to any court of record (55), let alone to an appellate court that published its opinions. His research and method suggest full discontinuity between the primary justice of aldermanic courts and the tertiary or quaternary justice of appellate review.

The rich, close texture of Steinberg's vision sometimes obscures larger patterns of Philadelphia's history. He describes waves of antebellum nativist and racist rioting-in which politically active volunteer fire companies played prominent, violent roles-and swells of reform in response to urban disorder. Lost in this scary picture are some basic data. For example, although Steinberg notes at the book's beginning that between 1800 and 1875, Philadelphia's population grew from 67,000 to over 800,000 people, he never refers to the pace of this demographic change. One simple graph with decennial census figures would have been very helpful and suggestive; this graph would show that between 1840 and 1850-the most violent antebellum decade, one that concluded with the establishment of a countywide marshal's police in 1850- the aggregate population of the county grew from just over 258,000 to almost 409,000, a staggering 58.4 percent decennial growth rate, the fastest growth among the decades Steinberg studied. Small wonder all hell broke loose.

Historians of crime tend to overemphasize the centrality of crime in the legal system. Steinberg's book leaves one with the feeling that it was only, or at least principally, in regard to crime that working-class and poor people encountered law, but of course this is not true: their economic activities, to name one example, brought plenty of contact with courts and litigation.

Consider credit relationships: Louis Hartz, in his great book *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860* (1948), describes the intense campaign of reformers during the decades of the 1820s to 1840s to eliminate imprisonment for debt in Pennsylvania. Hartz reproduces Prison Discipline Society data for between 1827 and 1830, when at least one thousand Philadelphia debtors were jailed each year (Hartz, 219-35). Steinberg's data tables, which he includes in an appendix without fully integrating them into the text, do not allow for easy comparison of debt and crime jailings, but perhaps as much as one quarter of all prison commitments in 1830 were for debt. Steinberg mentions debt litigation at only one, unindexed point, but this brief mention suggests the great importance of debt litigation to the primary justice of aldermanic courts. In 1843, shortly after Pennsylvania eliminated imprisonment for debt, Alderman Houston Smith resigned his office. Litigation provided handsome fees to the aldermen who sat in judgment, but with decreased debt litigation, Smith said, the office of alderman had "become almost worthless, as a matter of profit, to all but a favored few" (108).

It is always easy and usually unfair to suggest ways that an able author might have spent another few years of research, so to say that Steinberg might have spent more time with the prosecution of debt cases may seem an unfair quibble. But, as Hartz pointed out, reformers of debtor imprisonment laws struggled with the redefinition of bankruptcy as non-criminal. The relationship of debt litigation to the criminal cases that interest Steinberg thus was constructed during the antebellum years. So, Steinberg's exclusion of debt from his consideration of crime is partly a projection onto the past of the clear division that now we see between civil and criminal litigation.

Despite these few quibbles, *The Transformation of Criminal Justice* offers able argument and rich detail on a well-researched foundation. Legal historians await a synthesis of the available histories of American criminal justice; when someone sets out to write that book, Steinberg's monograph and argument should figure prominently.