

The crying Murther:

Contayning the cruell and most horrible Butcherie
of Mr. T R A T, Curate of olde *Cleave*; who was first murthered
as he trauailed vpon the high way, then was brought home to his house
and there was quartered and imboweld: his quarters and bowels being
terwards perboyld and salted vp, in a most strange and fearefull manner. For this fact
the Iudgement of my Lord chiefe Baron T A N F I E L D, young *Peter Smethwicke*,
drew Baker, *Cyrill Austen*, and *Alice Walker*, were executed this last Summer
Assizes, the 24. of Iuly, at Stone Gallowes, neere Taunton
in Summerfet-shire.



AT LONDON:
Printed by *Edm: Alde* for *Nathaniell Butter*.

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ON THE COVER:

IN LIEU OF LAW REPORTS

The pamphlet reproduced on the cover is one of several dozen so-called "chap-books" from Tudor-Stuart times which have been located and employed in recent work by Law School Professor John H. Langbein. They constitute a genre of source material which has not been used in prior legal historical research.

Langbein's problem was to find evidence of the criminal process for a period in which no law reports were produced. "Except for the celebrated political trials, lawyers were not usually involved either in prosecuting or defending cases of serious crime," Langbein explains. "Consequently, law reports—which are lawyers' literature—did not develop. The political trials reported in the *State Trials* are misleading in a number of respects when we want to trace the history of ordinary criminal procedure at common law. Some records do survive in the archives, and the practical legal literature of the period can shed light on particular problems. But the chap-books are the only narrative sources I know for the ordinary criminal process in the decisive period under Elizabeth and James I when the outline of modern criminal procedure began to take shape."

In his forthcoming book^o Mr. Langbein says:

These pamphlets were written by non-lawyers for sale to the general public. The authors are generally anonymous or identified by initials only. In the era before newspapers the chap-books held the place of the sensation-mongering element of the modern press. They were almost all published in London and offered for sale there, even when the events being reported occurred distantly. The crimes which the pamphlets narrate break down into three somewhat overlapping categories, each having a manifest appeal to sensation-seeking readers: (1) especially gruesome murders, often involving dismemberment or the burning of the corpse; (2) crimes of witchcraft (easily the most numerous); and (3) crimes of betrayal against a spouse or a master. Persons of gentle status appear as culprits and victims in a surprising proportion of the pamphlets, especially in non-witchcraft cases; perhaps it excited the readership when felony overflowed its normal course within the lower orders. Not infrequently the pamphlets feature crude drawings on the title page, for example, the witch with her demons, the dismembered corpse, or the hanged felons dangling in their nooses. Timeliness aids sensation; the pamphlets appeared quite rapidly after the events—occasionally even before execution of sentence. The risk of being scooped by a competitor may also have pressured the entrepreneurs of the trade into producing their pamphlets promptly after the events. Their timeliness is one of the factors which enhances the reliability of the chap-books as a legal historical source. These crimes were not legends embellished over long years of retelling. What really interested the author and his audience, and occasionally did produce exaggeration, was the gore of the crime and the drama of the culprit's downfall. The witchcraft pamphlets, the only ones to have attracted much scholarly attention, have been regularly verified when checked against surviving legal records.

^o*Prosecuting Crime in the Renaissance: England, Germany, France* (American Society for Legal History: Studies in Legal History. Cambridge, Mass.: Harvard University Press (1974).