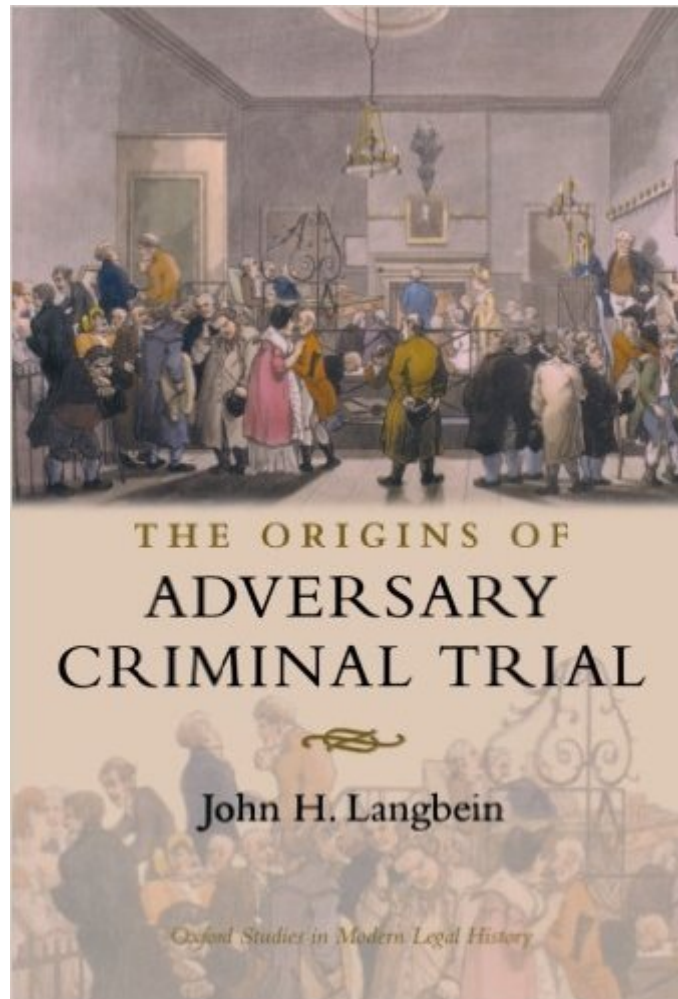


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The Origins Of Adversary Criminal Trial (Oxford Studies In Modern Legal History)



Synopsis

The adversary system of trial, the defining feature of the Anglo-American legal procedure, developed late in English legal history. For centuries defendants were forbidden to have legal counsel, and lawyers seldom appeared for the prosecution either. Trial was meant to be an occasion for the defendant to answer the charges in person. The transformation from lawyer-free to lawyer-dominated criminal trial happened within the space of about a century, from the 1690's to the 1780's. This book explains how the lawyers captured the trial. In addition to conventional legal sources, Professor Langbein draws upon a rich vein of contemporary pamphlet accounts about trials in London's Old Bailey. The book also mines these novel sources to provide the first detailed account of the formation of the law of criminal evidence. Responding to menacing prosecutorial initiatives (including reward-seeking thief takers and crown witnesses induced to testify in order to save their own necks) the judges of the 1730's decided to allow the defendant to have counsel to cross-examine accusing witnesses. By restricting counsel to the work of examining and cross-examining witnesses, the judges intended that the accused would still need to respond in person to the charges against him. Professor Langbein shows how counsel manipulated the dynamics of adversary procedure to defeat the judges design, ultimately silencing the accused and transforming the very purpose of the criminal trial. Trial ceased to be an opportunity for the accused to speak, and instead became an occasion for defense counsel to test the prosecution case.

Book Information

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Customer Reviews

This a really terrific explanation of the history of our modern adversarial system and would be particularly useful to trial lawyers who work within the adversarial criminal system. (It's one thing to know that one CAN object to hearsay...but haven't you ever wondered how that particular rule evolved?)

Langbein's work is revolutionary in its use of the Old Bailey Sessions papers as a tool for scholarly research. For all who are interested in criminal trials in the Britain in the 18th Century, this work is absolutely fundamental.

Oliver Wendell Holmes, Jr. noted the importance of considering history and experience when understanding the law. In *The Common Law* (1881), Mr. Holmes noted "The life of the law has not been logic; it has been experience." And, in a Supreme Court decision (*New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921)), Justice Holmes stated "Upon this point a page of history is worth a volume of logic." Professor Langbein's book provides a good illustration of how an examination of legal history can provide important factual context to better understand some of the strengths and weaknesses of the adversary system of criminal justice. Although the book is not for casual reading, it is written in a style that can be understandable for a conscientious reader who is not a lawyer or professional historian. Anyone interested in better understanding of the origins of American criminal trials should consider reading this book.

It's a great book about the history of adversary criminal trial. It's very well written. Good book for those who are interested origins and causes of the criminal trial.

Whole chapters of this book are frankly boring. Moreover, the cost is somewhat high. On the other hand, those sections dealing with Old Bailey procedure I found invaluable.

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