

Winfield, Percy H., The Chief Sources of English Legal History, Harvard University Press, 1925, xviii, 374 p., (reprint: New York: Burt Franklin, 1972)

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(5) SIR MICHAEL FOSTER. *Discourses upon a Few Branches of the Crown Law*. Foster, who was born in 1689, came of a family of lawyers. From Exeter College, Oxford, he passed to the Middle Temple, and was called to the Bar in 1713. In 1735, he was appointed Recorder of Bristol and in that capacity had to decide several very important questions. In 1745, he was created a judge of the King's Bench, and was knighted. His judicial career was distinguished by his learning, integrity, firmness, and independence. Blackstone describes him as "a very great master of the Crown Law," and he earned encomiums from both De Grey, C. J. C. P., and Lord Thurlow. He died in 1763.<sup>2</sup> His chief work, which is noticed above, is of the highest merit. Its scope is narrow, for it is limited to high treason, homicide, accomplices in high treason and other capital offenses, and observations on some passages in Sir Matthew Hale's writings relative to the principles on which the Revolution was founded; but within those limits it is very valuable. Foster freely discusses the principles of our criminal law on their merits with a complete mastery of the masses of case law on the topic and a steady avoidance of being overwhelmed by his material. His exposition is clear and remarkable for common sense and, on the whole, common humanity.<sup>3</sup> It is often cited in Court at the present day.

*Printed editions.* The preface to the first edition is dated February 27, 1762. Its title is *A Report of Some Proceedings on the Commission for the Trial of the Rebels in the Year 1746, in the County of Surry; and of other Crown Cases: to which are added Discourses upon a Few Branches of the Crown Law*. There was a second edition in 1776 by MICHAEL DODSON, his nephew, who was also responsible for the third in 1792. The fourth, in 1809, is a reprint of the third.<sup>4</sup>

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<sup>2</sup> Foss, *Biographia juridica*.

<sup>3</sup> Sir J. F. Stephen, *History of Criminal Law*, ii, 213, 214.

<sup>4</sup> W. Reed, *Bibliotheca nova legum Angliae*, p. 281.