toward our forbears who worked within the boundaries of their imaginations with the difficult nineteenth-century social situation. Like Scott and Clark, I find it crucial to demonstrate some of the dynamics by which limited professionals form and are formed by sets of relationships with other active members of the wider culture in which they live, to explore the full nature, limits, aspirations and all, of the founders of modern professions.

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JOHN BELLAMY. — *The Tudor Law of Treason. An Introduction*. London: Routledge & Kegan Paul; Toronto and Buffalo: University of Toronto Press, 1979. Pp. 305.

The Tudor crown, embodiment of the people, was wedded to all society. At least after Henry VII, it was divine. Cranmer once tried to convince an audience that rebellion had never succeeded, and later Sir John Harington put it better when he said that if ever treason prospered none dare call it treason. The familiar frontispiece to a seventeenth-century work, *Leviathan*, adequately represents an Elizabethan image. If authorities were tireless in the hunt for suspects, reports about them were freely given and not just from the malicious or professional informers. For treason was the primary crime, not merely against an individual sovereign but against the commonweal.

> Then I, and you, and all of us fell down, Whilst bloody treason flourish'd over us.

This period, phenomenal for its state building, changing relationship with the Church, and dynastic complexities, spawned about sixty-eight statutes dealing with treason, an average of nearly one a year from 1534. There had been a few lesser statutes in the fifteenth century, but in 1534 the need was to extend that of 1352 — Coke called it a "blessed act" — which had embraced bringing about or imagining the death of the sovereign, consort or heir, adhering to his enemies, engaging in war against him, coining, and so on. Indeed there had already been expansions in the courts, particularly with respect to treason by words which was now given a statutory basis. This was specifically so with regard to malicious speech against the king's title or declarations that he was a heretic, schismatic or tyrant. One witness was specified, but this did not give exceptional scope to the prosecution since the medieval statute, which remained in force, had said nothing about witnesses. In any case governments, whatever the statutes proceeded upon, preferred to produce as many witnesses as possible. In 1534, perhaps, the Church was a prime consideration. Professor Bellamy describes this statute as "a specific response to a specific problem" (p. 32), but he pays attention to the often ignored clause about forfeiture and to other legislation sponsored by new marriages and the changing line of succession. Forging the great and privy seals was already covered, but a separate act protected the signet and sign manual, and the 1539 statute of proclamations also introduced a treason provision. Thereafter there were "periodic contractions and expansions" (p. 47). The main Henrician statute was criticized for severity by the act of 1547 which repealed it. Written denial of the supremacy was retained, but for words it had to be the third offence. An act of 1549 closed some gaps, making it treason for twelve or more men to band together to imprison a member of the Privy Council or to alter the laws by force. This was a reaction to recent uprisings, but in truth it came close to describing what Warwick was soon to do successfully. The mood, if not the detail, of 1534 was largely restored in 1552, when two witnesses were specified. Mary in 1553 more or less resurrected 1352, but subsequently — the Parliament of 1554-55

produced three treason acts — had to protect her marriage, the person of Philip, and the restored Roman church. The rules were adapted by Elizabeth in 1559 and 1563, defence of her church became a stimulus, and in 1571 there were two acts: one added new offences, but was to be mishandled by prosecution lawyers; the other, supported by further legislation, applied to those who obtained papal bulls. Jesuits were embraced by statutes of 1581 and 1585, and of course there was much other law making.

As Professor Bellamy appreciates, a weakness in Tudor studies has been the neglect of the statute book. However, he does not limit himself to statutes of the famous cases, but pays due attention to lesser cases and to the traitors, the seditious, and the suspected, while affirming modestly that this is but an introduction and cannot be exhaustive. Wherever possible, as in the compromise of 1571, he examines parliamentary debates. There is information on extradition and sanctuary, attainder and forfeiture, construction of sexual crimes as treason, and an appendix on martial law. There are details on imprisonment and prisons, where suspects were held for days or years and a few never charged. This is real legal history because it is social history, though one wonders if there is not more literary evidence.

A detailed account is given of the progress from arrest to custody and then examination, this by interrogatories and increasingly by torture: revolting cells or starvation might be the means, but a variety of instruments lay to hand. One suspect was said to have been pulled a foot "longer than ever God made him" (p. 112). As Thomas Smith surmised, it was difficult to make recompense if the victim was acquitted. In the 1590s, the manacles began to match the popularity of the rack. One imaginative exercise involved boots filled with oil and a hot fire. Torture and examination were usually intermingled, with breaks for recovery and encouragement. One is reminded of the Jacobean enquiry into Peacham, when Attorney General Francis Bacon's questions were to be administered, it was said, "before torture, during torture, between torture, and after torture". The various forms and procedures of trials are described, from indictment to the behaviour of spectators. As in trials for felony, counsel were not allowed although they might be admitted if the defendant alleged error in procedure. In theory, as Chief Justice Popham very occasionally tried to do in Raleigh's hearing, the court acted as counsel for the accused.

A jolly chapter centres on the gallows, which Maitland once said was the only true English word in the language of the law. Usually death came quickly after conviction — the government feared escape or suicide — but there might be a few more days of inferior prison conditions, torture, and other searches for new information. Execution had a great symbolic and propaganda value and was popular with spectators, but it was a fine art for which few artists were available. Executioners — perhaps hired cooks or butchers — were often clumsy in beheading (reserved for the nobility and favoured) and downright incompetent at disembowelling. Yet the honest fellows persevered, one slashing hopefully away at the neck of the uncooperative Countess of Salisbury, or plodded through the required ritual: partial hanging, evisceration of the genitals (to show corruption of blood), slitting the stomach, pulling out of the entrails, and burning or boiling the heart, the very seat of foul ideas.

What are we to think? Perhaps Professor Bellamy is a little equivocal. He grants that this is not an edifying story and feels that by the standards of the time the legislation of Henry VIII was arbitrary and severe. For this he indicts the king, but concludes that there was little in the trials of the 1530s that was unfair in interpretation of the scope of treason. It may be that this period is often seen out of context. Certainly the 1590s were intense with suspicion. If one works with Attorney General Coke the odour of a police state without a police is pervasive, and his success in getting assemblies and riots during that disastrous economic decade classified as levying war had and has frightening connotations. Professor Bellamy notes that contemporaries were particularly critical of petty juries, but overall

concludes that "the process of trial in treason cases had much to recommend it" and that "few were found guilty when, under the laws as they then stood, they should have been acquitted" (pp. 178-79). He is right to say that the matter was not controversial, but all this raises the familiar question about an establishment which can make legality by making law. Perhaps there should also be a more incisive attempt to confront the changing nature of statute in the sixteenth century and its relationship with common law.

However, all was not hopeless. It is concluded that evidence was rarely fabricated. As Coke remarked, somewhat idealistically, the proofs ought to be so clear that no defence was possible. In fact a number were acquitted — although some jurors found themselves punished in consequence — and others pardoned, for example on the grounds of "simple nature" or youth. Indeed when an example had been made of leaders, there was always some hope of clemency for lesser but equally guilty followers. Others were accused of seditious words, a lesser offence, and escaped with a whipping, the pillory, or the cucking-stool. Incidentally, the latter was not entirely confined to women and some advocated its extended use. One character, not cited here, was eventually pardoned although he had greeted the accession of James I, whom he called "Shamy Jamey", with a flourished dagger, a declaration for the Duc de Bourbon, and a public pronouncement that he defied "the Scot and a fart for him". As always, some were lucky whereas others suffered disproportionately for drunken utterances.

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EDWARD BRITTON. — *The Community of the Vill*. Toronto: Macmillan of Canada, 1977. Pp. *xvii*, 291.

ALAN MACFARLANE. — *The Origins of English Individualism*. Oxford: Basil Blackwell, 1978. Pp. *xv*, 216.

Modern historical scholarship on medieval English agrarian society is now into its second century. Although the flashpoints of debate, and with them the proximate stimuli of inquiry, have shifted over the years, much careful research has resulted in a cumulative broadening and deepening of our knowledge of rural life. During the past several decades no branch of this subject has commanded more sustained or creative attention than the life of the husbandman. To the earlier concentration on the countryman as he played out his manorial role or as the common law meagrely defined his status and privileges has been added the complementary and corrective approach to the husbandman as villager, as member of a community shaped and dominated not from without and above but from within and by his own fellows. Attention has shifted to the husbandman as a creator and not merely a creature of the society in which he had his being.

Edward Britton in *The Community of the Vill* takes these inquiries a significant step further. Employing a famous archive and concentrating on one well-documented village, Broughton, over the two generations between 1288 and 1340, Britton sets out to investigate the "internal structures" (p. 4) of 128 village families, to discover what was the status of wives and the treatment of children, whether delinquency and infidelity were problems, how village hierarchy affected family structure and the means by which dominant village families attempted to maintain their dominance from generation to generation. According to the extent of their village office-holding Britton divides Broughton's families