

REVIEW ESSAY
Measure for Measure:
Social and Legal Thought in Early Modern England

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Of government the properties to unfold
Would seem in me to affect speech and discourse,
Since I am put to know that your own science
Exceeds, in that, the lists of all advice
My strength can give you: then no more remains
But that, to your sufficiency, as your worth is able,
And let them work. The nature of our people,
Our city's institutions, and the terms
For common justice, you're as pregnant in,
As art and practice hath enriched any
That we remember.

—*Measure for Measure*, 1.1.3–13

WITH THESE WORDS VINCENTIO, the Duke of Vienna, admits to his confidant Escalus, a judge, that dispensing justice is a challenging art, one seemingly beyond his current capabilities. His solution is to allow others—in the short term the enthusiastic and flawed jurist Angelo—to take his place and impose order and discipline upon the wayward subjects of Vienna. For Jacobean men and women in the audience of Shakespeare’s *Measure for Measure*, the themes of law, order, and justice, and the undertones of corruption, hypocrisy, and irony could hardly have gone unnoticed.¹ Since it was first performed at Christmas 1604, the motifs of vice and folly, of arbitrary legal license and sexual and moral depravity have branded the play as one of Shakespeare’s darkest comedies, one that dramatizes “the unquenchability of demotic irreverence and subcultural independence.”² Indeed, in the play a heroine, Isabella, challenges the conceit of those in power when she asserts that they are “but man, proud man, / Dressed in a little brief authority” (2.2.117–18). As Shakespeare’s contemporaries understood, and as much recent historical scholarship has shown, the nature of power and of people’s relationships to it, in their multifarious forms and contexts, were necessarily negotiated and renegotiated by patricians and plebeians alike throughout the early modern period.³ Shakespeare certainly explored and drew upon the paradoxes of interpersonal and institutional power relations in *Measure for Measure*, but he routinely did so throughout his plays—in his comedies for entertainment, in his history plays for edification, and in his tragedies for exemplary

1. On the dating of *Measure for Measure*, see William Shakespeare, *Measure for Measure*, ed. Brian Gibbons (Cambridge, 1991), 22; and Katherine Duncan-Jones, *Shakespeare: An Ungentle Life* (London, 2010), 196. For a broader discussion of the play’s historical, legal, religious, and intellectual contexts, see Debora K. Shuger, *Political Theologies in Shakespeare’s England: The Sacred and the State in “Measure for Measure”* (New York, 2001); Peter Lake and Michael Questier, *The Antichrist’s Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (New Haven, Conn., 2002), 621–700; Daniel Cadman, “‘Constant in Any Undertaking’: Writing the Lipsian States in *Measure for Measure*,” in *Shakespeare and Authority: Citations, Conceptions and Constructions*, ed. Katie Halsey and Angus Vine (New York, 2018), 195–212; Conal Condren, “Unfolding ‘the Properties of Government’: The Case of *Measure for Measure* and the History of Political Thought,” in *Shakespeare and Early Modern Political Thought*, ed. David Armitage, Conal Condren, and Andrew Fitzmaurice (Cambridge, 2009), 157–75; Constance Jordan, “Interpreting Statute in *Measure for Measure*,” in *Shakespeare and the Law: A Conversation among Disciplines and Professions*, ed. Bradin Cormack, Martha C. Nussbaum, and Richard Strier (Chicago, 2013), 101–20; and Theodore Leinwand, “Shakespeare Against Doctrine,” *Literature Compass* 3, no. 3 (2006): 513–28.

2. Chris Fitter, “Introduction: Rethinking Shakespeare in the Social Depth of Politics,” in *Shakespeare and the Politics of the Commoner: Digesting the New Social History*, ed. Fitter (Oxford, 2017), 1–39 at 28.

3. On this voluminous subject, see *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*, ed. Michael J. Braddick and John Walter (Cambridge, 2001); *The Experience of Authority in Early Modern England*, ed. Paul Griffiths, Adam Fox, and Steve Hindle (Basingstoke, U.K., 1996); *The Politics of the Excluded, c. 1500–1850*, ed. Tim Harris (New York, 2001); and John Walter, *Crowds and Popular Politics in Early Modern England* (Manchester, 2006).

explication and, at times, expiation.⁴ And as legal and literary scholars have shown, Shakespeare regularly seized upon the law and “Jacobethan” legal culture not only to expose and to comment upon the social world and social order in which he lived but also to elicit reflection and responses from his astute audiences.⁵ Indeed, Shakespeare’s patrons and punters appreciated that order and stability, like life itself, was tenuous, transient, provisional, and prone to sudden change. As readers of this journal recognize, the social lives of early modern English people and the society they inhabited have been the subject of intensive historical research for the last three or four decades. The fruits of that research and the complex historiography it has created have been summarized by numerous scholars toiling in the field, and thankfully the broad subject remains very much a “hard hat area,” as it was characterized in 1990: much has been written and accomplished but extensive scholarly research continues apace.⁶ This essay explores aspects of current work, seeking to reflect upon recent publications in the field and integrate their findings into broader historiographical understandings of the early modern English world. As one of its preeminent scholars has recently noted, decades of archival research have revealed a thoroughly dynamic society that between 1500 and 1750 became “more defined, institutionally, ideologically and culturally; better known geographically and socially; more integrated and connected.”⁷ These changes were uneven and paradoxical, for England also became

4. See the various essays in *Shakespeare and the Politics of the Commoner*, ed. Fitter; in *The Oxford Handbook of the Age of Shakespeare*, ed. R. Malcolm Smuts (Oxford, 2016); and Peter Lake, *How Shakespeare Put Politics on the Stage: Power and Succession in the History Plays* (New Haven, Conn., 2016); Lisa Jardine, *Reading Shakespeare Historically* (London, 1996); and also Stephen Greenblatt, *Shakespearean Negotiations: The Circulation of Social Energy in Renaissance England* (Berkeley, Calif., 1988).

5. On this subject, see *Shakespeare and the Law*, ed. Paul Raffield and Gary Watt (Oxford, 2008); Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama* (Oxford, 2007); Amelia Zurcher, *Shakespeare and the Law* (London, 2010); Paul Raffield, *Images and Cultures of Law in Early Modern England: Justice and Political Power, 1558–1560* (Cambridge, 2004); Quentin Skinner, *Forensic Shakespeare* (Oxford, 2014), 161–225; and *Shakespeare and the Law*, ed. Cormack, Nussbaum, and Strier. Also see Bradin Cormack, *A Power to Do Justice: Jurisdiction, English Literature, and the Rise of Common Law, 1509–1625* (Chicago, 2007); Paul Raffield, *Shakespeare’s Imaginary Constitution: Late Elizabethan Politics and the Theatre of Law* (Oxford, 2010); and the essays in *The Oxford Handbook of English Law and Literature, 1500–1700*, ed. Lorna Hutson (Oxford, 2017).

6. For discussion of the period as a “hard hat area,” see Patrick Collinson, *De Republica Anglorum. Or, History with the Politics Put Back* (Cambridge, 1990), 10. For a more optimistic and constructive consideration of the early modern English social history, see Keith Wrightson, “The Enclosure of English Social History,” in *Rethinking Social History: English Society 1570–1920 and Its Interpretation*, ed. Adrian Wilson (Manchester, 1993), 59–77 at 73. On the historiography of the period and the relationship between the political and the social, see John Walter, “Kissing Cousins? Social History/Political History before and after the Revisionist Moment,” *Huntington Library Quarterly* 78, no. 4 (Winter 2015): 703–22; and Michael Braddick, “State Formation and the Historiography of Early Modern England,” *History Compass* 2 (2004): 1–17.

7. Keith Wrightson, “Introduction: Framing Early Modern England,” *A Social History of England, 1500–1750*, ed. Wrightson (Cambridge, 2017), 1–16 at 11–12. References to this essay are given hereafter in the text.

more regionally and socially diverse, and the processes of change, which Keith Wrightson calls “multiplex quickening” (9), influenced everyone to some degree. Furthermore, as Wrightson observes, these changes “entailed generally heightened levels of interaction and involvement of a myriad of individual actors: a participation that enhanced the social depth of governance, politics, religious initiatives, engagement with the law, access to knowledge and opinion, and the consumption of goods” (11–12). However, he also notes, “such opportunity and agency were massively circumscribed by relative social position and by gender. From the mid sixteenth century social inequality was growing. Differentials of wealth, the fundamental criterion of social status, became more pronounced . . . and where change provoked resentment it might be challenged, disputed and arbitrated” (12). Thus for Jacobethans, as they and Shakespeare understood all too well, their capacity to negotiate and renegotiate matters and outcomes within their households, communities, or the realm or commonwealth were restricted by “inherited structures of power and authority” (12).⁸

For many early modern English people, these profound if immediately indiscernible processes were experienced through their encounters and interactions with the law, with legal authorities, and with the dispensation of justice in their communities.⁹ Indeed, as Tim Stretton has recently noted, “it is difficult to overemphasize the law’s influence on the nation in the decades and centuries following 1500 . . . [and] historians are beginning to realize the astonishing extent to which law in all its varied forms permeated early modern society and acted as a key determinant of change.”¹⁰ Recent scholarship also reminds us that “the legal system was unequal, and was a key aspect of the state’s apparatus of power and control” and reflective of the “real imbal-

8. On these themes, see also the essays in *Remaking English Society: Social Relations and Social Change in Early Modern England*, ed. Steve Hindle, Alexandra Shepard, and John Walter (Woodbridge, U.K., 2013); in *Communities in Early Modern England*, ed. Alexandra Shepard and Phil Withington (Manchester, 2000); and in *Locating Agency: Space, Power and Popular Politics*, ed. Fiona Williamson (Newcastle, U.K., 2010). Also see Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013); Paul Griffiths, *Lost Londons: Change, Crime and Control in the Capital City, 1550–1660* (Cambridge, 2008); and Steve Hindle, *On the Parish? The Micro-Politics of Poor Relief in Rural England c. 1550–1750* (Oxford, 2004).

9. Wrightson notes that “if contemporaries were aware that their times witnessed a succession of breaks with the past, the past still stood over them” (12). On the theme of history and memory in this period as it relates to popular perceptions of the past, consult Andy Wood, “Coda: History, Time and Social Memory,” in *A Social History of England, 1500–1750*, ed. Wrightson, 373–91; Keith Thomas, *The Perception of the Past in Early Modern England* (London, 1983); Andy Wood, “Deference, Paternalism and Popular Memory in Early Modern England,” in *Remaking English Society*, ed. Hindle, Shepard, and Walter, 233–53; and Daniel Woolf, *The Social Circulation of the Past: English Historical Culture 1500–1730* (Oxford, 2003), 19–70, 259–400.

10. Tim Stretton, “The People and the Law,” in *A Social History of England 1500–1750*, ed. Wrightson, 197–220 at 199–200. Also see Christopher W. Brooks, *Law, Politics and Society in Early Modern England* (Cambridge, 2008).

ances of power as well as the totalizing nature of exploitation and repression in all its forms.”¹¹

Each of the books under review illustrates in its own way the significance of changes in legal culture and social mores on early modern English society while making key contributions to its specialist field. Moreover, each also provides valuable insights into the processes by which power and authority were debated and determined, created or re-created, kept or scrapped, embraced or evaded, and accepted or opposed by early modern Jacobethans. These volumes and the discrete subjects they consider collectively reinforce the awareness among historians laboring in Tudor and Stuart fields of certain paradoxes: that efforts to maintain stability and order never fully succeeded and that “order” was the subject of ongoing, fitful, and contested negotiations. These negotiations not only involved more early modern Britons than we once recognized but also took place within a bewildering variety of social, cultural, religious, economic, and political arenas and institutions.¹² This scholarship also reminds us that popular and customary perceptions of right and wrong, lawful and unlawful, just and unjust embodied so much more than the “strict statutes and most biting laws” (1.3.19) acknowledged by Shakespeare’s *Vincenzio* in *Measure for Measure*. Popular understandings were essential elements of the early modern political, legal, and social order even as it was being buffeted by the winds of unremitting and incremental change.¹³



In *Martial Law and English Laws, c. 1500–c. 1700*, John Collins convincingly argues that the creation and commission of martial law “was a new thing made out of old things” (33); that is to say, it was fashioned from commissions of oyer and terminer courts, from the Court of the Verge (the ambulatory court that accompanied medieval monarchs), and from the many medieval laws relating to war. Contentious as this legal innovation was, it did not lie beyond the pale, for it was *in* the “English pale” and

11. Matthew Lockwood, *The Conquest of Death: Violence and the Birth of the Modern English State* (New Haven, Conn., 2017), 8.

12. On this vast subject, see, for example, Steve Hindle, *The State and Social Change in Early Modern England, 1550–1640* (Basingstoke, U.K., 2000); Keith Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain* (New Haven, Conn., 2000); Wrightson, *English Society 1580–1680*, rev. ed. (New York, 2003); Andy Wood, *The Memory of the People*; John Walter, “Gesturing at Authority: Deciphering the Gestural Code of Early Modern England” in *The Politics of Gesture: Historical Perspectives*, ed. Michael Braddick (Oxford, 2009), 96–127; Ethan Shagan, *The Rule of Moderation: Violence, Religion and the Politics of Restraint in Early Modern England* (Cambridge, 2011); Lockwood, *The Conquest of Death*; and the essays in *Negotiating Power in Early Modern Society*, ed. Braddick and Walter.

13. Stretton, “The People and the Law,” 199–220 at 216–18; Brooks, *Law, Politics and Society in Early Modern England*, 423–32; and Hindle, *The State and Social Change in Early Modern England*, 225–38.

other parts of Ireland itself that martial law was substantially developed, crafted, and routinized. From the mid-sixteenth century onward, Tudor governments adopted a legal process by which a judge marshal could pass sentence and authorize executions without the need for a jury trial; courts-martial proved appealing and effective in the eyes of Crown commissioners, particularly in rebellious parts of the realm. While such brutal approaches to maintaining order elicited rebellious responses in Ireland, Collins also reveals that over time the adoption of martial law proved appealing elsewhere—in England and in its fledgling colonies. Throughout the seventeenth century Crown authorities drew upon classical and medieval law codes from England and the Continent. They experimented with and refashioned martial law for their immediate purposes, whether it was dealing with soldiers and sailors, with rebellious subjects, or with those deemed criminal, such as vagrants or suspected felons. Collins examines in impressive detail how, in the middle of discussions and debate over the Petition of Right (1628), jurists sought to qualify and circumscribe the use of martial law and its unique provisions of proof and trial without jury; it was agreed that it could only be adopted in times of war when other courts and their legal procedures were unavailable (135–68). This emerging consensus was shattered, like so much else, within the three kingdoms by the midcentury civil wars. Ironically, in that moment Parliament embraced martial law and jurists, including members of Parliament, extended it beyond the armed forces to be used with enemy combatants, traitors, spies, printers, propagandists, and polemicists accused of anything considered a betrayal of the Parliamentary cause (178). This logic and the procedures it spawned were used not only to validate property seizures during the civil wars but also to dignify, in part, the High Court of Justice in 1649 and the execution of Charles I himself (192–94). Collins carefully notes that Parliament embraced and expanded the use of martial law “not to enable arbitrary power but instead to ensure that discretion remained in the hands of those willing to execute the Commonwealth’s, and later the Protectorate’s, laws” (205). Fair enough perhaps, but in reading these lines I was reminded of Lord Chief Justice John Holt’s telling observation in the 1690s that “discretionary . . . is but a softer word for arbitrary.”¹⁴

While these innovative courts came to an end in England with the Restoration, martial law procedure did not: it found use in colonial contexts for decades to come. In the colonies, as in England, martial law became, Collins argues, one of many laws and part of what he concludes was a “complex, multi-jurisdictional, and multi-procedural legal order” (281). Arguing that “England’s laws were dynamic, its legal culture politicized, and that its growing empire shaped both domestic and imperial legal practice” (281), Collins explores the adoption of martial law by planters in Jamaica (1660s–80s), by the East India Company in St. Helena (1680s), and during the Bacon Rebellion in Virginia (1676–77). In these colonial circumstances gover-

14. Holt KB 680, quoted in *Lord Nottingham’s Chancery Cases*, vol. 1, ed. D. E. C. Yale, Selden Society 73 (London, 1954), xlvi.

nors and officials seized upon martial law to impose authority and maintain power, revealing as they did that “dynamic” martial law could be “durable and flexible” (9) and therefore ideal for dealing with colonial rebels and miscreants, “Spanish and French invaders, hostile maroons, and conspiratorial slaves” (247).

Finally, Collins explains how martial law was yet again refashioned in the post-1688 period to meet the needs of an emerging fiscal-military state and its polite and commercial inhabitants.¹⁵ Alongside courts-martial, post-revolution parliaments augmented the prerogative and statutory power of the Crown and state with the Mutiny Acts and later, in 1715, with the Riot Act, which collectively ensured that Augustan and Hanoverian Britain could, if necessary, use force to preserve itself and maintain peace among soldiers and civilians alike. Paradoxically, in the wake of the Glorious Revolution and the Bill of Rights, Parliament thus reconfigured martial law for the growing jurisdictional and discretionary requirements of what Lawrence Stone deemed an increasingly ambitious eighteenth-century imperial “warfare-welfare state.”¹⁶



Collins provides a groundbreaking understanding of the legal formation of martial law in the period and measured and valuable insights into the legal underpinnings of the emerging *warfare* state. For an extended consideration of the meaning and nature of *welfare*, it is helpful to turn to A. L. Beier’s *Social Thought in England, 1480–1730: From Body Social to Worldly Wealth*. For Beier, who will be known to readers for his work on poverty, vagrancy, and incarceration in Tudor, Stuart, and Augustan England,¹⁷ our understanding of the period requires an appreciation of changing attitudes toward hierarchy from 1500 onward, when medieval perceptions of rank, status, and the body social were inevitably supplanted by social and political theories by which people were ranked according to “their accumulation of worldly wealth and position” (4). Informed by established and more recent scholarship in the social sciences—by Michel Foucault, Jean Baudrillard, Michael Mann, and William Sewell, among others—Beier’s volume offers a detailed and wide-ranging analysis of social thought, broadly conceived and liberally cited, over nearly three centuries, to convey how over time English people defined and redefined their social and political order and, more ambitiously perhaps, their evolving culture. Reaffirming the arguments

15. John Brewer, *The Sinews of Power: War, Money and the English State, 1688–1783* (London, 1989); Paul Langford, *A Polite and Commercial People: England 1727–1783* (Oxford, 1989).

16. Lawrence Stone, “The New Eighteenth Century,” *The Past and Present Revisited*, ed. Stone (London, 1987), 240; and Stone, introduction to *An Imperial State at War: Britain from 1689–1815*, ed. Stone (London, 1994), 21.

17. A. L. Beier, *Masterless Men: The Vagrancy Problem in England, 1560–1640* (London, 1985).

of others about the changes to the late medieval social order founded upon birth, rank, status, estates, and degrees, he charts texts and the language employed within them to reveal a late seventeenth-century world of “sorts” based upon wealth and social class.¹⁸ For Beier the origins of this transformation lay in forms of humanist “social” thought, which “sought to improve the moral and intellectual character of its students and practitioners, to contribute to the health and wealth of the state and its subjects, even to improve their table manners” (6). Echoing recent interpretations about improvement, society, and change by such scholars as Paul Slack, David Rollison, and Phil Withington, Beier explores affirmations of the value of work and of wealth, and of obligations to persons, families, the commonweal, and, eventually, an expanding, powerful, and omnipresent state.¹⁹ Along with these new social principles came an authority that routinely distinguished between the worthy and the unworthy, increasingly criminalized the able-bodied unemployed, and drew more and more upon institutional regimes of surveillance and correction. Therefore, this was an age of “improvement” in the Foucauldian sense too.²⁰

Not all, including perhaps Shakespeare, agreed on the trajectory these social and cultural ideas took. The utterance of Claudio, the condemned young gentleman in *Measure for Measure*, comes to mind here, for he denounces what he calls “demi-god authority” (1.2.116). Perhaps Beier could have illustrated more fully, as he has done in his earlier work, the importance of power and its negotiation in the social thought and the social change it anticipated or accelerated.²¹ Nevertheless, in exploring and

18. This theme has been explored in detail by Keith Wrightson, among others. See, for example, Wrightson, “Estates, Degrees and Sorts: Changing Perceptions of Society in Tudor and Stuart England,” in *Language, History and Class*, ed. P. J. Corfield (Oxford, 1991), 30–52; Wrightson, “The Social Order of Early Modern England: Three Approaches,” in *The World We Have Gained: Histories of Population and Social Structure*, ed. Lloyd Bonfield, Richard Smith, and Wrightson (Oxford, 1986), 177–202; and Wrightson, “Sorts of People in Tudor and Stuart England,” in *The Middling Sort of People: Culture, Society and Politics in England, 1550–1800*, ed. Jonathan Barry and Christopher Brooks (Basingstoke, U.K., 1994), 28–51.

19. Paul Slack, *From Reformation to Improvement: Public Welfare in Early Modern England* (Oxford, 1999); Slack, *The Invention of Improvement: Information and Material Progress in Seventeenth-Century England* (Oxford, 2015); David Rollison, *A Commonwealth of the People: Popular Politics and England’s Long Social Revolution, 1066–1649* (Cambridge, 2010); and Phil Withington, *Society in Early Modern England: The Vernacular Origins of Some Powerful Ideas* (Cambridge, 2010).

20. For a full expression of this Foucauldian approach to the period, see Stephen Greenblatt, *Renaissance Self-Fashioning: From More to Shakespeare* (Chicago, 2005), particularly 222–57. For alternative interpretations that privilege agency, see James Holstun, *Ehud’s Dagger: Class Struggle in the English Revolution* (London, 2000), 46–86; Andy Wood, *Riot, Rebellion and Popular Politics in Early Modern England* (Basingstoke, U.K., 2002); and David Norbrook, *Poetry and Politics in the English Renaissance*, rev. ed. (Oxford, 2002).

21. See A. L. Beier, “Foucault Redux?: The Role of Humanism, Protestantism, and the Urban Elite in Creating the London Bridewell, 1500–1560,” in *Crime, Gender, and Sexuality in Criminal Prosecutions*, ed. Louis A. Knafla, *Criminal Justice History* 17 (Westport, Conn., 2001), 33–60; A. L. Beier, “A New Serfdom: Labor Laws, Vagrancy Statutes, and Labor Discipline in

charting the changing language, meanings, and ideas behind this metamorphosis, Beier considers the writings and thought not only of some usual suspects—John of Salisbury, John Fortescue, Thomas More, Thomas Hobbes, James Harrington, and John Locke—but also of the more obscure voices of Edmund Dudley, Clement Armstrong, Thomas Smith, Thomas Lever, Henry Medwall, John Heywood, Richard Morison, Thomas Starkey, and the collective opinions and views of Levellers and Diggers as embodied in the pamphlets and prose of John Lilburne and Gerard Winstanley, respectively. Ambitiously, Beier examines in detail these collectively vast literary and philosophical writings and considers the often paradoxical and sometimes contradictory ideas they encompassed. His goal is to explore how Tudor and Stuart social commentary explains, among other things, the origins of capitalism and the rise of the state—by dissecting the “body social” in the sixteenth century; social humanist thinking and debates over labor, trade, and property in the sixteenth and seventeenth centuries; and the importance of writings on the political and social order from More’s *Utopia* (1516) to Locke’s *Two Treatises Of Government* (1679–80). For Beier, Locke’s ideas on property and poverty provide the logical conclusion to these centuries of social thought. Here he echoes and confirms the views of others who have considered the relationship between philosophical arguments about poverty and property rights, but what he does very well and uniquely is show the breadth and depth of discussions of the body social and their implications for all English people.²² Locke explored and articulated a powerful and reciprocal relationship among property, society, and government, provided insight into patriarchy and order, and wrote optimistically about the role of labor, education, production, criminal justice, and the rule of law. Thus, Beier argues, “Locke captures the quintessential modernity of social thought” at the end of the seventeenth century. Whiggish as this conclusion may sound, there is much in *Social Thought in England, 1480–1730* that students and specialists alike will find valuable and worthy of further reflection.



Those who experienced, disputed, debated, and frequently confronted and challenged the implications of this social thought and the social engineering it sought to legitimize are impressively explored in *Popular Culture and Political Agency in Early Modern England and Ireland*. Appropriately for a festschrift that celebrates

England, 1350–1800,” in *Cast Out: Vagrancy and Homelessness in Global and Historical Perspective*, ed. A. L. Beier and Paul Ocobock (Athens, Ohio, 2008), 35–66; and A. L. Beier, “Utter Strangers to Industry, Morality and Religion: John Locke on the Poor,” *Eighteenth Century Life* 12, no. 3 (1988): 28–41.

22. See for example Paul Slack, *Poverty and Policy in Tudor and Stuart England* (London, 1988); Paul A. Fideler, *Social Welfare in Pre-Industrial England* (Basingstoke, U.K., 2006); and Thomas A. Horne, *Property Rights and Poverty: Political Argument in Britain, 1605–1834* (Chapel Hill, N.C., 1990), 3–72.

the research and career of John Walter, some of the essays adopt a microhistorical approach to examine the early modern period, while others reflect on subjects such as power, protest, political economy, dearth, community, continuity, change, resistance, and popular agency. As such the contributors cast light on themes or approaches associated with Walter's impressive scholarship, and all have produced fine essays.²³ In surveying Walter's scholarship, Keith Thomas privileges his "archival research and historical craftsmanship" and microhistorical analysis of the parish, localities, the halls of state, and the courts (33). While Thomas doubts the aptness of Walter's adopting from James Scott the concepts of public and hidden transcripts, he acknowledges that in the hands of such a skilled and capable historian, these tools can teach us much about popular political agitation and plebeian attitudes to order, governance, and authority, providing us with not only a deeper understanding of crowd behavior but also of the mentalities, both complex and coarse, of the early modern commoner.²⁴

On dearth, a subject that perennially preoccupied many Jacobethan commoners, Richard Smith compares the consequences of harvest failures in 1315–17 with those of the 1690s made familiar to us by Walter (35–54).²⁵ Smith reveals that mortality crises were far more grievous during the reign of Edward II than even in the darkest and final decade of Elizabeth I's rule. Key to survival rates during the harrowing 1590s was local and political elites' fear of popular political and collective agitation. This foreboding led them to encourage parish authorities to intervene in corn markets and in "the social economy of dearth" to mitigate harvest failures. Perhaps the magistrates Smith considers were aware of famished crowds like those depicted at

23. I had the very good fortune to work with John Walter at the University of Essex in the early 1990s and benefitted directly and considerably from his encouraging academic advice, his scholarly example, and his generosity—always an early modernist, he graciously gave me "use-rights" of his office for three terms. For his scholarship, see John Walter, *Covenanting Citizens: The Protestation Oath and Popular Political Culture in the English Revolution* (Oxford, 2016); Walter, *Crowds and Popular Politics in Early Modern England*; Walter, *Understanding Popular Violence in the English Revolution: The Colchester Plunderers* (Cambridge, 1999); and Walter, "The Commons and their Mental Worlds," in *The Oxford Illustrated History of Tudor and Stuart Britain*, ed. John Morrill (Oxford, 1996), 191–218.

24. James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, Conn., 1990); and John Walter, "Public Transcripts, Popular Agency, and the Politics of Subsistence in Early Modern England," in *Negotiating Power in Early Modern Society*, 123–48.

25. For Walter's important contributions to this subject, see John Walter and Keith Wrightson, "Dearth and the Social Order in Early Modern England," *Past and Present* 71 (1976): 22–42; Walter, "Grain Riots and Popular Attitudes to the Law: Maldon and the Crisis of 1629," in *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries*, ed. John Brewer and John Styles (London, 1980); Walter, "A 'Rising of the People'? The Oxfordshire Rising of 1596," *Past and Present* 107 (1985): 90–143; Walter, "The Social Economy of Dearth in Early Modern England," in *Famine, Disease and the Social Order in Early Modern Society*, ed. Walter and Roger Schofield (Cambridge, 1989), 75–128; and Walter, "Subsistence Strategies, Social Economy and the Politics of Subsistence in Early Modern England," in *Just a Sack of Potatoes? Crisis Experiences in European Societies, Past and Present*, ed. Antti Hakkinen (Helsinki, 1992), 53–85.

the outset of Shakespeare's *Coriolanus*, who "enter [as] a company of mutinous Citizens armed with staves, clubs and other weapons" (1.1 stage direction).²⁶ As Smith confirms, the "politics of subsistence" was as imperative in Elizabethan London as it was in ancient Rome, while other contributors to the festschrift show how important the underlying ideologies of paternalism, mutuality, and obligation were within the parishes and counties of early modern England. Steve Hindle examines the paternalist sensibilities of the magistrate and "public man" Sir John Newdigate and his estate at Arbury. From protracted disputes with his neighbors and tenants and Star Chamber appearances as a protagonist in a seditious libel case and as a defendant in one concerning depopulating enclosure, it seems Newdigate may not have been as benevolent a landowner and landlord as he sought to portray himself in his will. Yet, he seemingly took his pastoral and paternal interests in his tenants seriously at the end. Whether motivated by altruism or atonement, Newdigate recognized that obligations forged in life needed to be acknowledged in death: he left £10 "to the true honest and paynefull decayed poor" of the Warwickshire parishes of Harefield, Nuneaton, and Chilvers Coton (142).

Like Hindle, J. C. Davis explores ways in which elites' power was dignified and legitimized by recourse to the Golden Rule, which articulated the obligations they had to their subordinates. Concepts of *noblesse oblige* were woven into a "public transcript" that routinely professed the words of Christ, "Therefore all things whatsoever ye would that men should do to you, do ye even so to them" (Matthew 7:12 [AV]). Although John Lilburne among others found it condescending, the Golden Rule could nevertheless be appealed to by both patricians and plebeians in contesting unequal social relationships. It informed and perhaps even mediated and mitigated broader discussions of negotiated power. Finally, it lived on, as Davis shows, in the thought of such diverse writers as John Lilburne, Thomas Hobbes, John Locke, and Hannah More; as Davis suggests, "its universal reach, its simplicity and its applicability in all conceivable situations meant that it was an indispensable legitimating benchmark for those wishing to reach the widest possible audience in the defense of any political or social course of action" (176).

Although the Golden Rule continued throughout the early modern period to provide moral and spiritual guidance on social relationships, Paul Slack argues that traditional rules that governed the marketplace gave way in the 1620s. In the middle of an economic crisis, a new mode of political economy emerged in which the

26. On *Coriolanus*, see Stephen Greenblatt, *Tyrant: Shakespeare on Politics* (New York, 2018), 155–82; Greenblatt, *Shakespeare's Freedom* (Chicago, 2010), 106–11; David Norbrook, "Rehearsing the Plebeians: *Coriolanus* and the Reading of Roman History," in *Shakespeare and the Politics of Commoners: Digesting the New Social History*, ed. Chris Fitter (Oxford, 2017), 180–216; Oliver Arnold, *The Third Citizen: Shakespeare's Theatre and the Early Modern House of Commons* (Baltimore, 2007), 192–221; Annabel Patterson, *Shakespeare and the Popular Voice* (Oxford, 1989), 121–53; and David Rollison, "'The First Pace that Is Sick': The Revolution in Politics in Shakespeare's *Coriolanus*," chap. 8 in Rollison, *A Commonwealth of the People*, 397–415.

landed aristocracy, who were already actively “engaged in commercial and industrial enterprises . . . were compelled to engage in a discourse about coin, commodities and commerce which concluded that royal command could do little to counter the logic of the market” (72). These considerations were as much political as economic considerations for authorities faced with the challenges created by inflation and dearth, among other things. Yet in abandoning to some degree traditional economic interventions such as the regulation of the corn trade to the vagaries of the market, Jacobean and Caroline officials undermined perceptions of paternal responsibility, cast doubt on a “moral economy of provision,” and ultimately, as Slack shows, reinforced “the great divergence between the attitudes of the people in authority and participants in the crowd” (56).²⁷

If the likes of Sir John Newdigate were concerned with their self-image, so too were more modest English people, as Alex Shepard shows in an impressive essay on how women described themselves in legal proceedings. Emphasizing neighborliness and family, women who appeared before Church and Cambridge University courts also hoped to confirm their “worth,” their “moral authority as providers,” their reputations, and their testimony’s validity. Although they worked within “the intersection of social with gender hierarchies,” these wives still had “a sense of entitlement to their household’s property, alongside a commitment to their children’s prospects, which informed expectations of just treatment in the marketplace” (76–77). No doubt these expectations were amplified by the changing economic attitudes outlined by Paul Slack in his contribution to this collection. That so many women displayed what Shepard describes as “maternal activism” (89) confirms the importance of reputation for families’ social and economic credit in the face-to-face world in which many Jacobethans lived. How women responded to Laudian innovations within the Church offers Amanda Flather the opportunity to examine the gendered dimensions of confessional politics in the decades before the civil wars. Her research reveals that “Godly” women denounced not only the doctrinal innovations of Laudian/Arminian theology but also the changes it wrought to sacred, seasonal, and life-cycle rituals—matters such as vestments, christening, and burial, measures of respectability for commoners and clergy. Women were offended by, and objected to, these changes not only because they affected them and their families but also because “Laudianism increased and altered the power, authority and the ability to influence of women in their own religious lives as well as those of others” (163).

While women vigorously voiced their views about the Church and about their place within the Godly community, plebeian critiques also focused on local elite power, as Andy Wood’s analysis of the “boggart of Townley Hall” illustrates. Sir John Townley seems to have been cut from the same cloth as Sir John Newdigate, for he too lorded his authority over his tenants and his Lancashire community by

27. For the moral economy, see E. P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past and Present* 50 (1971): 76–136.

enforcing pew orders in the parish church and by a number of aggressive enclosure schemes that remained hotly contested for generations. As a result he and his ghost were condemned in folkloric tales by local inhabitants who “loaded him with curses and excrements” to cry at the moon thereafter (121). As Wood argues, the memory of enclosure haunted the community long term, for Townley’s story and his boggart were well remembered by the Victorian antiquarians who captured the tale in print. Wood’s narrative is a ghost story, perhaps, but one that he skillfully uses to cut across our historical and historiographical understandings of enclosure, plebeian agency, resistance, and memory.

If early modern ghost stories stood the test of time, it is worth asking: What was the essence of time itself in the period? In a remarkable essay on northern England in the early seventeenth century, Keith Wrightson explores that question and concludes that a plethora of factors shaped early modern perceptions of time. Before the advent of what E. P. Thompson famously characterized as “time-work discipline,” Wrightson finds that the ritual calendar of the Church, the seasonal cycle and “agricultural referents,” landmark events, and dates offered contemporaries a sense of time and lifetimes. Moreover, reflective of the diversity in experience during the period, communities understood time in their own ways and according to their own traditional and customary manners. Most importantly, his research suggests that gradually changing perceptions of time

reflect forms of social and cultural differentiation that carried political implications for the society of mixed forms that emerged from a “Jacobethan” watershed that involved change in religious identity, rapid commercialisation, a restructuring of society, state formation, and the normalisation of new communicative technologies and capacities. Such quiet shifts matter. (107)²⁸

Wrightson reminds us that sometimes change could be deafening in its silence, while Clodagh Tait’s chapter in the festschrift shows that in other circumstances it could be brutal, bloody, and deafeningly loud to those who witnessed it. Tait draws attention to the influence of violence and emotions on the collective actions and memories of those who experienced the carnage of war that gripped Ireland in the 1640s. Torture, violence, shame, humiliation, fear, hatred, insult, injury, and death not only claimed thousands of lives during the midcentury civil wars but also scarred the bodies, hearts, and minds of countless others who survived the traumatic events with which historians have made us painfully aware.²⁹ But the power of grief,

28. Also see E. P. Thompson, “Time, Work-Discipline and Industrial Capitalism,” *Past and Present*, no. 38 (1967): 56–97.

29. See, for example, Nicholas Canny, *Making Ireland British, 1580–1650* (Oxford, 2001); Inga Jones, “A Sea of Blood? Massacres During the Wars of the Three Kingdoms, 1641–1653,” in

fear, and suffering imprinted in the depositions Tait has researched enables her to reflect on recollections of civil war and the nature and power of emotions for perpetrators and victims in the period too. Finally, she suggests that memories of 1641 “had very real consequences in intensifying the violence of subsequent decades”—offering a familiar and all too common tragic twist to the Golden Rule of “doing unto others” (284). Such conclusions confirm what Francis Bacon already understood, that “revenge is a kind of wild justice,” and as he warned, “a man that studieth revenge keeps his own wounds green.”³⁰ The year 1641 cast a long shadow, thereafter, over the minds and over the peoples of Ireland and the British Isles.

For John Morrill, subsequent events in Ireland offer the opportunity to consider the Irish Catholic Oath of Association in the later 1640s and how multiple versions of the Oath sought to unify Catholics’ interests while at the same time proffering “completely unconditional loyalty to the Protestant King” (248). Drawing on a political discourse that was ironically similar to that used by Protestant English communities, Morrill concludes that the Irish Oath “looked to overlay the ethnic, social fissures within Irish Catholicism . . . and to reach out to a distant King who would not allow them personal access to him” (265). He notes in language ominously similar to that examined by Clodagh Tait that these Irish Catholic efforts were “a doomed project” (265).

Political discourse also occupies the interest of Phil Withington and Mark Knights in their essays in the Walter collection. Withington explores the meaning of “democracy,” which he suggests is not an anachronistic term; he contends rather that Aristotelian definitions of the word entered into English vernacular use and popular political discourse and shaped the development of urban commonwealths in the early modern period. Withington argues that this was an “Aristotelian moment” that featured animated debates over the nature of authority and governance and over the virtues and vices of aristocracy and democracy. The concept of democracy became deeply embedded in the political consciousness, debates, and practices of early modern England, since “it encompassed commonweal, litigation, and orderly and just modes of participatory and electoral governance” (222). Yet, whether this discourse ultimately influenced popular politics or lent the early modern plebeian agency remains open to discussion. The language of corruption, by contrast, clearly proved itself a powerful weapon in the political and religious discourse of the period, as Mark Knights shows. Corruption was inextricably linked to popery, and the word

Theatres of Violence: Massacre, Mass Killing and Atrocity through History, ed. Philip G. Dwyer and Lyndall Ryan (Oxford, 2012), 63–78; Eamon Darcy, *The Irish Rebellion of 1641 and the Wars of the Three Kingdoms* (London, 2013); and the essays in *Ireland from Independence to Occupation, 1641–1660*, ed. Jane H. Ohlmeyer (Cambridge, 1995); in *Age of Atrocity: Violence and Political Conflict in Early Modern Ireland*, ed., David Edwards, Padraig Lenihan, and Clodagh Tait (Dublin, 2007); and in *Ireland, 1641: Contexts and Reactions*, ed. Micheál Ó Siochrú and Jane Ohlmeyer (Manchester, 2013).

30. Francis Bacon, “Of Revenge” (1625), in *Francis Bacon: The Major Works*, ed. Brian Vickers (Oxford, 1996), 347.

could be adopted for religious and political criticism and to delegitimize individuals, communities, and practices. For Jacobethans, *corruption* reeked especially of sin but the term could, and was, routinely applied by contemporaries to various sorts of social, political, and legal activities. Flexible and multifaceted, the word was to take on additional meanings with the growth of the fiscal-military state, but older religious associations remained: early modern and eighteenth-century understandings of the word were “inherently bound up with venality, greed and self enrichment at the expense of the public good” (200).

As for the nature of the public good in the period, the chapter by Michael Braddick introduces arguments about not only John Lilburne’s thought but also political engagement and participation in the 1640s. Through Lilburne’s turbulent political career, Braddick suggests, we can see the power of popular mobilization, the growing influence of the press, the use of petitions, the lobbying of parliamentarians, and the adoption of a political discourse that emboldened both the Leveller movement and Lilburne’s own description of the rights of English people. But political agency and opportunity were double-edged swords for Lilburne, as he twice faced the prospect of death in court trials and was ultimately ostracized for his unorthodox thought. Yet, as Braddick demonstrates, “the particular and distinctive form of political agency [Lilburne] achieved, considered as a kind of social practice, reveals something not just about the English Revolution but also about an important moment in the longer history of political agency” (242).

This collection is a fitting tribute to John Walter, a scholar who has done so much to explain political agency and popular political consciousness and, in Thomas’s words, “to broaden our understanding of crowd behavior, to probe the mentality of the common people, [and] to reconstruct the politics of social relations” (33).



Each of the volumes considered in this essay in its own way reveals the profound yet often subtle influences change, in all its guises, wrought upon the early modern period. They remind readers that in moments of crises and disruption, and amid the anxieties that such processes produced, Jacobethans sought out innovative strategies (to deal with dearth, enclosure, or challenges to customary practices); they adapted law and legal culture (martial and civil law); they embraced new, old, and ancient ideas (about time, the body social, God and religion, political economy, corruption, use-rights and democracy); and they fashioned and refashioned gendered and social relationships, altered their ideas of power, defended rights against perceived wrongs, and at times resorted to resistance, violence, and war. Change, subtle or striking, seemingly animated the early modern age, as these three important books demonstrate in a myriad of ways.

Indeed, Shannon McSheffrey has recently argued that the sixteenth-century use, and then sudden disuse, of the law of sanctuary demonstrates not only the fact of changes in politics, law, and religion but also the frequent “untidiness” of law and

legal processes at the time. McSheffrey reminds us that to understand law in the sixteenth century “we must allow for contradiction and inconsistency, for unevenness and variegation, for flexibility and pragmatism rather than strict interpretations,” not in order to dismiss the importance of early modern social and legal thinking and legal culture but to “acknowledge how deeply embedded law was in the messiness of human life itself.”³¹ The searching and valuable books by John Collins, Lee Beier, and the editors of and contributors to the *Walter festschrift* categorically confirm the verdict McSheffrey reaches.

At the same time, some of the findings in the works discussed in this review reveal overarching continuities during the early modern period, whether in the dispensations of law or in the nature of the social order: the maintenance of customary practices and attempts to preserve traditional social relations and expectations within communities. Furthermore, the vision of the period made famous by E. P. Thompson in his “field of force” thesis may continue to have merit here.³² Thompson emphasized the importance of deference and paternalism for understanding the construction of relationships between rich and poor, between rulers and the ruled, between patricians and plebeians, and across a social order structured and shot through with inequality. He also observed that negotiation and discretion were key values in social, economic, political, and legal systems so tilted to the advantage of the elites, but that both parties, patricians and plebeians, “were constrained within a common field of force.”³³ Recent research has shown that more needed to be made of middling sorts of people throughout the seventeenth and eighteenth centuries, for they complicate the stark, dichotomous, and polarized model of patricians versus plebeians that Thompson embraced. But the tensions in English society that Thompson revealed remain apparent in the images of early modern society found in these and other recent contributions to the early modern field.³⁴

31. Shannon McSheffrey, *Seeking Sanctuary: Crime, Mercy, and Politics in English Courts, 1400–1550* (Oxford, 2017), 198.

32. See E. P. Thompson, “The Moral Economy Reviewed,” in his *Customs in Common* (London, 1993), 259–351 at 261. Also see E. P. Thompson, “Eighteenth-Century English Society: Class Struggle without Class?,” *Social History* 2, vol. 2 (1978): 150.

33. E. P. Thompson, “The Patricians and the Plebs,” in *Customs in Common*, 16–96 at 85. For his views on law, see E. P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (London, 1975); and E. P. Thompson, “The Crime of Anonymity,” in *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (London, 1975), 255–344.

34. On this voluminous subject, see, for example, Andy Wood, “‘Poore Men Woll Speke One Daye’: Plebeian Languages of Deference and Defiance in England, c. 1520–1640,” in *The Politics of the Excluded, c. 1500–1850*, ed. Harris, 67–98; Wood, “Fear, Hatred and the Hidden Injuries of Class in Early Modern England,” *Journal of Social History* 39 (2006): 803–26; Wood, *Riot, Rebellion and Popular Politics in Early Modern England*; Rollison, *A Commonwealth of the People*; Holstun, *Ehud’s Dagger*; Wood, “Brave Minds and Hard Hands: Work, Drama, and Social Relations in the Hungry 1590s,” in *Shakespeare and the Politics of the Commoner*, ed. Fitter, 84–101; Wood, “Deference, Paternalism and Popular Memory in Early Modern England,” in *Remaking English Society: Social Relations and Social Change in Early Modern England*, 233–53; Wood,

Moreover, both *noblesse oblige* and order meant different things to different authorities in the early modern period, as the pieces reviewed here reveal in a wide variety of ways, whether through the Golden Rule or a sense of responsibility or obligation. One seemingly cynical manifestation of these awkward concepts can be found in the dispensation of law and the use of mercy by the Crown.³⁵ As historians have shown, the dispensation of mercy was indeed a reflection of the unrivaled power of the state to take, and to give back, life.³⁶ It reflected the unequal and discretionary or arbitrary nature of authority evident in Collins's discussion of martial law, in Beier's consideration of the social body and social thought, and in many of the essays in the festschrift for John Walter. But the discretionary use of law and of mercy itself also found a place in Shakespeare's *Measure for Measure*, for in the last scene a brace of pardons are granted to all those found guilty by the corrupt, strident, and hypocritical magistrate Angelo. Shakespeare is careful not to confuse clemency with pity, for his wise jurist Escalus also observes, "Mercy is not itself, that oft looks so; / Pardon is still the nurse of second woe" (2.1.292–93). Not surprisingly then, as these texts and *Measure for Measure* reveal, and as Shakespeare and Chief Justice Holt knew all too well, discretionary mercy itself could not and would not be accepted by early modern English people if, when measured, it was deemed arbitrary.

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"Collective Violence, Social Drama and Rituals of Rebellion in Late Medieval and Early Modern England," in *Cultures of Violence: Interpersonal Violence in Historical Perspective*, ed. Stuart Carroll (Basingstoke, U.K., 2007), 99–116; John Walter, "Authority and Protest," in *A Social History of England, 1500–1750*, ed. Wrightson, 221–41; and David Levine and Keith Wrightson, *The Making of an Industrial Society: Whickham, 1560–1765* (Oxford, 1991), 375–427.

35. See Krista Kesselring, *Mercy and Authority in the Tudor State* (Cambridge, 2003), 203, where she reminds her readers that "the pardon [was] a cultural form inseparable from routines of rule and spectacles of power, a cultural form that most often served the state in both its guises: the orderly commonwealth and the repressive regime."

36. See Douglas Hay, "Property, Authority and the Criminal Law," in *Albion's Fatal Tree*, ed. Hay et al., 17–63; John M. Beattie, *Crime and the Courts in England 1660–1800* (Princeton, 1986); Beattie, "The Royal Pardon and Criminal Procedure in Early Modern England," *Historical Papers / Communications historiques* (Canadian Historical Association) 22 (1987): 9–22; Stretton, "The People and the Law," 212–16; Cynthia Herrup, "Negotiating Grace," in *Politics, Religion and Popularity in Early Stuart Britain*, ed. Tom Cogswell, Richard Cust, and Peter Lake (Cambridge, 2002), 125–32, 124–40; and Herrup, "Law and Morality in Seventeenth-Century England," *Past and Present*, no. 106 (1985): 102–23. For a later period, also see Peter King, *Crime, Justice and Discretion, 1740–1820* (Oxford, 2000).

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