

Alan Wharam. *Treason: Famous English Treason Trials*. Thrupp, Stroud, Gloucestershire, UK: Sutton Publishing Limited, 2005. xviii + 263 pp. + 47 illus. paper £8.99. Review by ELLEN J. JENKINS, ARKANSAS TECH UNIVERSITY.

Alan Wharam's books are excellent sources on the history of English law. Even the appendices to his books are fascinating reading. For *Treason: Famous English Treason Trials*, originally published in 1997 and now appearing as a revised edition in paperback, Wharam culled through transcripts of court proceedings to offer accounts ranging from the 1601 treason trial of the Earl of Essex to the 1916 trial of Sir Roger Casement and the 1945 trial of William Joyce, "Lord Haw-Haw." In doing so, Wharam demonstrates the way in which treason was addressed in the English courts and explains the logic behind the laws applied to these crimes. As with his work, *Murder in the Tower: And Other Tales from the State Trials* (2001), Wharam provides clear, common-sense explanations to the reader, thus elucidating the workings of English jurisprudence while offering the next-best thing to a seat in these historical courtrooms. The thirty-three volumes of Howell's *State Trials* (1816-1826) provided much of the material for Wharam's current work, as well as the four volumes of Sir William Blackstone's *Commentaries on the Laws of England* (1765-1776); Sir Edward Coke's four-volume *Institutes* (1628-1644); and Sir Michael Frost's *Discourse on Treason: Crown Cases* (1762).

As an infringement of the duty a subject owes to his monarch, High Treason was punishable in England by death until the passage of the 1998 Law and Disorder Act. As recently as the eighteenth century, Wharam explains, a convicted traitor also forfeited all possessions to the Crown, which penalized his family, as well.

In the case of Robert Devereux, Earl of Essex, the case for treason began in his repeated failure to obey the orders of Queen Elizabeth I. He had been sent to Ireland to put down a rebellion and, instead, opened negotiations with the rebellious Earl of Tyrone. On February 8, 1601, Essex led a failed attempt at a coup against the queen, apparently assuming that he would be supported by a number of lords and others. When this support did not materialize, he took refuge in his own house, where he was captured. His treason trial began on February 19 in Westminster Hall, under the prosecution of Sir Edward Coke, Attorney-General.

Interestingly, as Wharam points out, most evidence was presented at the time in the form of written statements read by the prosecutors, who also answered any cross-examination questions, and the defendant was able to interject his or her own questions or statements. Essex's defense, that he had been threatened and undermined by the machinations of his enemies, including Robert Cecil and Sir Walter Raleigh, did him little good. He was condemned and was executed on February 25, only seventeen days after his failed coup.

Raleigh, himself, was tried for treason at Winchester in 1603 after the death of Elizabeth, accused of having taken part in a muddled plot to put Arabella Stuart on the throne instead of James VI of Scotland and of having plotted against the king in favor of Spain and Catholicism. Elizabeth's successor, now James I of England, was predisposed to distrust Raleigh, having given credence to rumors spread by Raleigh's enemies. Wharam points out that none of the evidence against Raleigh would have been admitted into evidence under modern rules, but despite the defendant's requests, he was not even allowed to face or question his accusers. Repeatedly called "an odious man" and "a spider of hell" (30) by Coke, who was still Attorney-General, Raleigh finally pointed out that, had the actions of which he was accused taken place, they would not have constituted treason against James I but against Elizabeth, who was still alive at the time. Nonetheless, Raleigh was found guilty after only fifteen minutes of jury deliberation. After fourteen years of imprisonment in the Tower of London, he was released to lead an expedition to Guiana. Instead of bringing back the gold James I expected from the expedition, Raleigh returned in disgrace for having shed Spanish blood in a clash. The Spanish ambassador demanded that he be punished, and, apprehensive about having to deal with Raleigh's national popularity, James decreed that the 1603 judgment be carried out immediately. Raleigh was executed by beheading on October 29, 1618. Ironically, Raleigh was convicted of the treason of aiding the Spanish but was ultimately executed for fighting against them.

The treason trial of Lady Alice Lisle took place at Winchester in 1685 during the "Bloody Assizes" of Chief Justice Sir George Jeffries. Lisle's crime was having allowed two outlaws from the Duke of Monmouth's defeated army to shelter overnight at her house two weeks after the battle of Sedgemoor. Lisle was convicted of having given aid to traitors, but only after

the jury returned verdicts of “Not Guilty” three times. Jeffries refused to accept this verdict and “in a great fury and a transport of rage,” he threatened the jurors with “attaint of treason” (86-7) unless they returned a Guilty verdict. Alice Lisle was granted the request of beheading instead of burning, but as Wharam points out, the alleged traitors she had sheltered had not been tried or convicted of treason at the time of her conviction—so technically, the basis for her conviction did not exist.

Alan Wharam, born in 1928, was educated at Christ’s College, Cambridge. He is a retired barrister and was a professor at Leeds College of Commerce and Leeds Polytechnic Law School before his retirement in 1988. His other works include *The Treason Trials, 1794* (1992) and *Murder in the Tower: And Other Tales from the State Trials* (2001).

Ross Harrison. *Hobbes, Locke, and Confusion’s Masterpiece: An Examination of Seventeenth-Century Political Philosophy*. Cambridge: Cambridge University Press, 2003. 281 pp. Review by S.-J. SAVONIUS, CLARE HALL, UNIVERSITY OF CAMBRIDGE.

It is commonplace to assume that the language of subjective natural rights is a key innovation of the seventeenth-century theorists Hugo Grotius, Thomas Hobbes, Samuel Pufendorf, and John Locke. Another feature of the familiar picture of their theorizing is that there is something distinctly modern about their natural jurisprudence. Allegedly, our modern languages of human rights and individualist politics are grounded in a tradition which stretches back to their “masterpieces.” Their major works are important and should be studied, it is often assumed, because they provided the foundations of modern political theory and because their ideas can still be conscripted into our own contemporary debates about rights, freedom, toleration, and the relation between individuals and political communities.

It is best to suspend any doubt about the historical validity of this commonly accepted picture if one wishes to enjoy Ross Harrison’s examination of “the great works of Hobbes and Locke” (1). Hobbes and Locke are Harrison’s main players, but Grotius and Pufendorf also enter the stage. The preamble to his analysis of these pioneers’ thought is a rapid and impressionistic sketch (chapter 1) of the sixteenth-century strains and political problems