

# Symposium: Controlling (Mis)Behavior

## Introduction

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Marjorie McIntosh's *Controlling Misbehavior in England, 1370–1600* is novel in its principal theme, more novel than perhaps it ought to be at this late date. It is as well innovative in its methodology and illuminating in its findings. As such it merits the attention of this symposium. Most of what we write as professional historians is written within well-established if largely unexamined frames of reference, periodizations, and problems, which define the larger context within which we situate our work. We may hope to find hitherto unexploited documents that offer new insights; we may ask new questions or offer new interpretations of old problems; but we rarely question the larger framework which provides the context of our investigations or invade the scholarly turf of our colleagues in other fields. And the fact that our discipline is defined by balkanized “fields” is significant, for it rarely occurs to us to throw down hedges and ditches and plow and sow in neighboring fields, an act of aggressive daring that few of us are willing to undertake even assuming that our training equipped us to do so.

The dates of McIntosh's present study are a direct and deliberate challenge to a well-established tradition, and although her earlier studies of the manor and liberty of Havering in Essex obviously anticipate the present work, the fact that her two volumes on Havering were divided by the year 1500 to some degree disguised what she was about.<sup>1</sup> Certainly the boundary, however vague, between medieval and early modern England has been defining, at least for the past several generations of historians. If the dynastic periodization of a generation ago now seems naive and outdated, if the “new monarchy” of Henry VII sketched by Stanley

EDITOR'S NOTE.—This is the introduction to a symposium consisting of reviews of Marjorie McIntosh, *Controlling Misbehavior in England, 1370–1600* (Cambridge, 1998), followed by a response from the author.

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<sup>1</sup>Marjorie Keniston McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200–1500* (Cambridge, 1986), and *A Community Transformed: The Manor and Liberty of Havering, 1500–1620* (Cambridge, 1991).

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Bindoff in his small gem in the Penguin series was almost immediately challenged by Geoffrey Elton's "Tudor Revolution" of the 1530s, nevertheless there seemed little question that what eventuated in the Tudor century was in some important respects no longer medieval.<sup>2</sup> Hans Holbein the Younger's cartoon of Henry VII and Henry VIII for a wall painting in the privy chamber of Whitehall provides one illustration of this transition in its portrayal of the gaunt, ascetic, clerkly Henry Tudor in his long medieval gown, and to his right his broad-shouldered son, resplendent in renaissance cap and codpiece. Elton's revolution in government was promptly challenged in turn by the medievalist G. L. Harris and by Penry Williams, a Tudor historian, who argued for medieval anticipations and a more evolutionary process of change, but the centrality of the 1530s was in a sense reaffirmed by church historians who saw the English Reformation as beginning with Henry VIII's removal of the English church from its Roman obedience, perhaps the one thing on which such different historians as A. G. Dickens and Eamon Duffy would agree.<sup>3</sup> The very change in the types of available evidence, ranging from the Acts of the Privy Council and the State Paper series, to vestry minutes and parish registers, and to printed books and broadsheets encouraged early modern historians not to stray too far before 1500, if indeed we ventured that far into the past.

On the other hand, the fifteenth century was viewed, for all its heroic beginnings in the brief reign of Henry V, as the scene of a political pathology, of a mad, if possibly saintly Henry VI, and of an irresponsible nobility who reduced the realm to chaos in a prolonged struggle to control the crown. After all, it was the fifteenth century's system of aristocratic clientage which medievalists dubbed "bastard feudalism" and the threat of the return of factional warfare which the Tudors used to justify their ruthless way with traitors, real or imagined. However, by the 1960s, even those among us early modernists all too willing to dismiss the fifteenth century as a time of declension could not ignore the renewed interest created by K. B. McFarlane, J. R. Lander, R. L. Storey, and others, and the recovery of monarchy was pushed back from the reign of the first Tudor to that of the first Yorkist king.<sup>4</sup>

<sup>2</sup> S. T. Bindoff, *Tudor England* (Harmondsworth, 1950); G. R. Elton, *The Tudor Revolution in Government* (Cambridge, 1953).

<sup>3</sup> Penry Williams and G. L. Harriss, "A Revolution in Tudor History?" *Past and Present*, no. 25 (1963): 3–58; to which Elton replied in "The Tudor Revolution: A Reply," *Past and Present*, no. 29 (1964): 26–49; A. G. Dickens, *The English Reformation* (London, 1964); and Eamon Duffy, *The Stripping of the Altars* (New Haven, Conn., 1992).

<sup>4</sup> K. B. McFarlane, *The Nobility of Later Medieval England* (Oxford, 1973); J. R. Lander, *Conflict and Stability in Fifteenth-Century England* (London, 1969); R. L. Storey, *The End of the House of Lancaster* (London, 1966).

Fundamentally, periodization depends on what aspect of human experience the historian has under examination: a study of high politics may justify dynastic periodization, at least in the late medieval and early modern era, but social and economic change, to say nothing of intellectual styles, owe little directly to the descent of princes. A generation ago Peter Laslett argued for a simple division of English society between traditional and modern, the traditional being a world that vanished with the onset of industrialization and the movement of work from household to factory, and while few historians have been willing to adopt such a radical erasure of significant intervening change, it is nevertheless the case that it is in the realm of society and the economy, rather than politics, that one finds anticipations of McIntosh's scheme.<sup>5</sup> For a consideration of the economy of England in the fifteenth century and beyond, it makes sense, as John Hatcher has shown, to trace the interactions of demographic catastrophe and economic change, from the Black Death in 1348–49 until the 1480–1530 era, when the first signs of recovery become evident.<sup>6</sup> The state of the economy in late medieval England is a vexed question, which has pitted optimists, such as A. R. Bridbury, against the pessimists, principally urban historians, and has called for significantly different periodizations. In the case of Coventry, for instance, Charles Phythian-Adams found that the declining fortunes of that town continued through the fifteenth century and past the general recovery of the 1480–1530 era into the early years of Elizabeth's reign, and it was only in the 1570s that the recovery of population and the local economy seems to have begun.<sup>7</sup> Again, it made sense for Christopher Dyer to end his magisterial study of the bishop of Worcester's estates, not in 1480 or 1530, but in 1540, when that great agglomeration of estates, acquired from Anglo-Saxon times, began to break up.<sup>8</sup> And while some great medieval magnates, like the bishop of Worcester, faced hard times in the mid-sixteenth century, other smaller men, like the descendants of John Townsend, yeoman, were to thrust their way into the ranks of the prominent county families of Norfolk between the 1440s and the 1540s, by which time the Townsends had surpassed the Heydons and

<sup>5</sup> Peter Laslett, *The World We Have Lost* (London, 1965).

<sup>6</sup> John Hatcher, *Plague, Population and the English Economy, 1348–1530* (London, 1977).

<sup>7</sup> A. R. Bridbury, *Economic Growth: England in the Later Middle Ages* (London, 1962); Charles Phythian-Adams, *Desolation of a City* (Cambridge, 1979); the literature on the urban decline debate is too considerable to go into here, but see Alan Dyer, *Decline and Growth in English Towns, 1400–1640* (London, 1991) for a fair summary of the literature so far.

<sup>8</sup> Christopher Dyer, *Lords and Peasants in a Changing Society: The Estates of the Bishop of Worcester, 680–1540* (Cambridge, 1980).

Pastons in wealth.<sup>9</sup> In short, historians have increasingly come to see the boundary between late medieval and early modern England as shifting and permeable, and the fate of individuals and communities as dependent upon a myriad of forces and opportunities which escape our attempts to subsume them in our traditional categories.

McIntosh's study, then, is novel, not so much because it crosses that traditional divide between late medieval and early modern but, rather, because it sets out deliberately to challenge such categories. One of her principal aims is to suggest why it is legitimate to view the whole period between the demographic catastrophe marked by the appearance of the Black Death and the late seventeenth century, not, certainly, as unchanging but, rather, as a period of transition during which a largely rural society underwent a series of transformations that cannot be categorized easily or usefully as either late medieval or early modern. Obviously the 90 percent of the population who lived in villages and small market towns were not immune to the larger changes that we call the Reformation or the Tudor inflation or the rapid growth of London in the later sixteenth century which was to transform that small city into the largest metropolis in Western Europe. Nevertheless, that rural—small town world had an integrity of its own, and it is this world that is the focus of McIntosh's study.

McIntosh's investigation is novel in a second sense. Misbehavior of one kind or another has been the subject of increasing study, not least because of the growing sophistication of legal history as a field but also because of the incomparable riches of court records. However, most of the work done in recent years has focused on what McIntosh calls "intermediate courts"—quarter sessions and assizes, which took cognizance of those kinds of misbehaviors that have come to be defined as "crime," those acts classified as felonies and misdemeanors, and the various church courts of the archdeacon and bishop, which besides dealing with probate and certain administrative matters also had a jurisdiction over manners and morals.<sup>10</sup> McIntosh has not ignored the intermediate courts,

<sup>9</sup> C. E. Moreton, *The Townsends and Their World: Gentry, Law, and Land in Norfolk, c. 1450–1551* (Oxford, 1992).

<sup>10</sup> See, e.g., Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987), which deals with sessions and assize courts in Sussex between 1594 and 1640; J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983), which deals principally with assize and sessions courts in Essex, between 1620 and 1680. The only work to focus exclusively on misdemeanor crime, and therefore the closest to the kinds of issues found in McIntosh's study, is nevertheless dependent on sessions records and concerns a later period: Robert B. Shoemaker, *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c. 1660–1725* (Cambridge, 1991). For examples of the studies of the church courts, see Ralph Houlbrooke, *Church Courts and the People during the English*

and a comparison between the concerns of local jurors and those articulated by their social superiors in the intermediate courts forms part of the analysis of chapter 4. However, her study is focused not on these but on the most local of public courts, those held in villages, small market towns and hundreds, exercising what was called a “leet” jurisdiction.

These courts emerged in the high middle ages from the view of frankpledge and the policing jurisdiction attached to the view, which was coordinate with that of the sheriff’s tourn, but whereas the sheriff’s tourn in the hundred courts disappeared, the leet courts emerged clearly in the thirteenth century and persisted at least into the seventeenth century, although their vitality was gradually sapped by the justices of the peace meeting in quarter and petty sessions. When a lay or ecclesiastical manorial lord, or a small borough, claimed the right to view the frankpledge for a manor, a group of manors, or a borough, the manorial or borough court sitting for that purpose became a leet court, in which the jurors registering complaints also rendered judgment. In a few instances an ancient hundred court, no longer presided over by the sheriff, survived as a leet court. Most of these courts apparently rested on no more than ancient prescription, although some, like other franchisal courts, rested on an explicit royal grant, but all of them, regardless of origin, were apparently recognized by the Crown and in the fifteenth and sixteenth centuries by Parliamentary statute.<sup>11</sup>

These local courts are not unknown; most historians who have worked in local archives have come across them; and they have been employed usefully in the study of witchcraft accusations.<sup>12</sup> However, they have not hitherto been subjected to systematic study. The first surprise produced by McIntosh’s pursuit of these local courts is the number for which records survive for a long chronological run of years. Her analysis is based on the records of 267 courts from 255 localities across the length and breadth of England, which, if not exhaustive (and no such claim is made), is surely a formidable and exhausting troll through local archives.

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*Reformation, 1520–1570* (Oxford, 1979); Ronald A. Marchant, *The Church under the Law: Justice Administration and Discipline in the Diocese of York, 1560–1640* (Cambridge, 1969); and Martin Ingram, *Church Courts, Sex and Marriage in England, 1570–1640* (Cambridge, 1987).

<sup>11</sup> See, e.g., Frederick Pollock and Frederic William Maitland, *The History of the English Law before the Time of Edward I*, 2d ed., reissued and introduced by S. F. C. Milsom (Cambridge, 1968), 1:532, 568–71; J. H. Baker, *An Introduction to English Legal History* (London, 1971), pp. 17–18.

<sup>12</sup> See, e.g., Martin Ingram, “‘Scolding Women Cucked or Washed’: A Crisis in Gender Relations in Early Modern England?” in *Women, Crime and the Courts in Early Modern England*, ed. Jennifer Kermode and Garthine Walker (Chapel Hill, N.C., and London, 1994), pp. 48–80.

These records have been examined in terms of eleven kinds of misconduct presented by these courts: scolding, backbiting, eavesdropping, and nightwalking (grouped under the general rubric of “disharmony”), sexual misconduct, unruly alehouses, and the accused person described generally as ill-governed or of evil reputation (grouped under the category of “disorder”), and finally hedgebreaking, living idly, sheltering vagabonds, and subleasing to tenants without apparent economic means of support (grouped under the category of “poverty”).

The groupings are by no means arbitrary. Scolding and backbiting represented a direct verbal assault on a neighbor, undermining reputations and setting neighbors at variance. Eavesdropping, deliberately listening to conversations meant to be private, was obviously an act preparatory to spreading tales. And nightwalkers were frequently seen as members of the local community wandering where they should not be at night, preparatory to eavesdropping, if not worse. All were calculated to spread contention. Much of sexual misconduct was associated with unruly alehouses and with drunken behavior, and much unruliness was associated with gaming, gambling at cards or tables, for instance, which in turn was associated with drinking and alehouses. Finally, idleness and consequent poverty were seen as spread by giving shelter to vagabonds and worse, by providing subtenancies for people without obvious means of economic support. Hedgebreaking followed, for those village tenants without common rights had no easy way of obtaining fuel and so were readily believed to remedy their situation by harvesting the hedges surrounding the fields of the village. For the historian familiar with seventeenth-century usage, McIntosh’s terminology itself proves unexpected. “Nightwalking” by the later seventeenth century had come to denote those suspected of visiting bawdy houses or the company of thieves or, in the case of unaccompanied women at night, of those willing to sell sexual favors, whereas in the fifteenth century the term was associated with wandering about at night, presumably to see or hear what were meant to be the private affairs of one’s neighbors.<sup>13</sup> “Hedgebreaking” was at least by the mid-sixteenth century used to describe the literal action of those forcefully destroying the quickset hedges newly planted around an enclosed field, not, as in these records, as a description of collecting wood for fuel.

<sup>13</sup> For the later use of “nightwalking,” see Shoemaker, *Prosecution and Punishment*, p. 26, n. 29, where Shoemaker quotes a seventeenth-century description as describing those who slept all day and frequented bawdy houses or the company of thieves at night. But it was a term also used about women suspected of prostitution (see Shoemaker, *Prosecution and Punishment*, p. 61).

McIntosh enters several significant caveats about her data. First of all, the appearance of a record of misbehavior or of the passage by a court of a by-law defining such misbehavior as reprehensible does not permit one to quantify the prevalence of that misbehavior in the community in question. The appearance of a court record is an indication of concern about certain behaviors but cannot be taken as a measure of the occurrence of that behavior. A drowning recorded in a coroner's records may be reported either as misadventure, as murder, or as a suicide, but in any case there is a record of a tangible body found. The prosecution of a scold indicates a level of concern that has led to concrete action, but one cannot tell whether the person prosecuted was the exceptional or the first or only the most notorious scold in the village. Second, not all leet courts give evidence of a concern for misbehavior of one kind or another. Even in the 1580s and 1590s, when local concern was at its peak, 41 percent of the sample of courts did not report any of the eleven kinds of misbehavior under study here. Third, the number of local courts that did take some kind of disciplinary action changed over time: in the first twenty-year period studied, from 1370 to 1399, only 14 percent of the courts under observation reported any kind of misbehavior, a figure which had risen to 40 percent by the 1460s and 1470s, to 54 percent in the 1520s and 1530s, and to 59 percent in the terrible 1580s and 1590s.

In questioning the traditional late medieval–early modern periodization, which posits a transition occurring around 1500, McIntosh is not suggesting that rural England between 1370 and 1600 was a world of unchanging villages in which happy peasants vegetated peacefully. Quite the contrary, and one of the interesting findings of the study is that despite the increasing involvement of local justices of the peace in various aspects of local law and order, the pressures of population growth, the disruption caused by an unprecedented inflation, and the development of rural capitalism all seem to have increased the incentives for small communities to strive for local communal peace and order on their own terms.

In fact McIntosh insists repeatedly that her evidence points to the activity and agency of local communities. This was manifest in two ways. First, there is no evidence that local leet courts waited for higher authority to authorize action in some way. Although statutes occasionally recognized the existence of such courts, many of their actions rested on no authority beyond their local, if vague, prescriptive right to policing measures inherited from the frankpledge and the sheriff's tourn. Certainly their actions against adulterers and fornicators were a clear invasion of the jurisdiction of the church courts. Second, much of the local action

anticipates or parallels the actions of the rulers of the realm. It is suggested that the upsurge of activity by these local courts in the 1460s and 1470s was of a piece with Yorkist attempts to restore good order, that of the 1520s and 1530s with the apparent increase of heresy and the disruption of traditional arrangements by the Henrician Reformation and the multiple rebellions of the mid-1530s, and that of the 1580s and 1590s with the consequences of war, inflation, and in the 1590s of a series of bad harvests. Despite these obvious connections between local concerns and those of the community of the realm, it is reiterated at a number of points that these local courts acted on their own initiative, without either official sanction or as a consequence of orders from the center; even where statutes sanctioned pains and penalties, she found that the local courts imposed their own by-laws. In fact, it is suggested that to a degree initiative came from these local communities, from those village worthies who appeared in the “intermediate courts” on grand and petty juries, whose decisions on those juries reflected local understandings and concerns, and whose complaints would have been heard by the local court on the bench at sessions and assizes. In the rhetoric these local courts used in the 1460–1539 years, for example, she finds anticipations and resemblances to “the idealistic view of society and political control” (p. 69) later advocated by the mid-sixteenth-century commonwealthsmen.

Equally counterintuitive are McIntosh’s findings about the gendered aspect of the concerns and punishments of these local courts. We have assumed that scolding, like witchcraft, was a highly gendered activity, at least as seen by male courts, but McIntosh finds not only that men were reported for scolding but what is more surprising that the percentage of local courts reporting only women scolds declines in the sixteenth century, so that by the 1580s and 1590s only 32 percent of the courts which hauled scolds before them for punishment reported only women. However, the cuck or cucking stool or tumbrel in which the scold was confined or carted increasingly came to be used only as a punishment for women, not that men escaped punishment but rather that such local courts tended to place delinquent males in the village stocks or pillory.<sup>14</sup> Again, although much has been made of what has appeared to be a six-

<sup>14</sup> One of McIntosh’s more curious findings is that the cucking stool, which we know from seventeenth-century illustrations, and which shows the offending women strapped into a chair at the end of a pole being lowered into the village pond or mill stream as punishment, occurs only once in a sixteenth-century record and seems to have become common only in the later seventeenth century: see the illustration which is dated ca. 1700 in Kermode and Walker, eds., *Women, Crime and the Courts*, between pp. 88 and 89.



teenth-century anxiety about uncontrolled female sexuality, McIntosh finds that a majority of the courts which dealt with sexual misconduct at all presented both men and women. In other areas gender distinctions were consequential. For many communities young people, not surprisingly, were a major concern, but whereas local courts worried that young male servants and apprentices might gamble away their masters' substance, spinsters evidently posed different problems. In 1582 the Southampton jurors complained that "within this town there be sundry maid servants that take chambers and so live by themselves masterless and are called by the name of char women, which we think not meet nor sufferable" (p. 111). Charwomen, unlike ordinary maid servants, hired themselves out for the day and therefore had no certain master or regular employment. A few years later in 1589 the Manchester jurors complained that "great inconveniences is in this town, in that single women being unmarried be at their own hands, and do bake bread and exercise other trades, to the great hurt of the poor inhabitants having wife and children" (p. 111). As an afterthought they added that such women also offend "in abusing themselves with young men and others, having not any in control of them, to the great dishonor of God and evil examples of others" (p. 111). Complaints about economic competition came first, and only then did the court allude to the potential for sexual misconduct.

Some of the most interesting of her findings concern what McIntosh analyzes as the social ecology of these small communities: the factors that appear to have a strong correlation with activity aimed at curbing one or another kind of misbehavior. First of all, she found that in the fifteenth century no community that lacked institutions of local self-government and association—religious fraternities, craft guilds, bridgewardens, trustees of charities, etc.—reported misbehavior to their local courts, whereas one-third of those communities which possessed such institutions did concern themselves with local wrongdoings, a pattern which suggests that comparatively well-developed communities with one or another of a variety of institutions of association were also prone to attempt to discipline their inhabitants. This sharp distinction appears to break down in the course of the sixteenth century, presumably because even relatively passive local communities were subjected to the dislocation and disruption of unprecedented inflation and rising population and came under the increasing supervision of the justices of the peace.

Second, if communities with leet courts are divided between those which never reported any kind of misbehavior and those which reported four or more kinds at one time or another, a number of significant differences appear. Only 59 (23 percent) of the 255 places under observation

fall into the “broad response” category, but these do display a number of salient characteristics. Furthermore, the number of broadly active courts increased over time. Only one community concerned itself with four or more types of misbehavior before 1420, but the percentage rose to 8 percent by the late fifteenth century and to 12 percent during the 1520s and 1530s. Broad response communities on the whole were larger in population and wealthier than those that never engaged in disciplining their own community; further, the lordship of such active communities was much more likely to be the crown or a bishop, in other words, a distant landlord who was unlikely to intervene in any systematic way in local affairs. Such communities were more likely than others to be located on a main road, a navigable river, or on the coast and, given a location open to long-distance commerce, were much more likely to have some degree of industrialization, usually in cloth-making. Employing what might be called a modified Underdownian scheme of dividing the landscape between chalk and cheese country, between, roughly speaking, arable and wood pasture, she finds, as one might anticipate, that arable villages were less likely to be concerned with a variety of misbehaviors than open pasture or forest communities; presumably, as has been found in studies of modern communities, where values are widely shared and where life is lived constantly exposed to the scrutiny of neighbors and their subtle demands for conformity, public action by local courts is less in demand. Wood-pasture communities, on the other hand, were much more open to immigration and the introduction of new crafts. However, even in these active communities, a broad response shows up in more than two-thirds of them for only one twenty-year period between 1420 and 1599. As David Underdown found in the case of Dorchester, even a catastrophic fire and the presence of a charismatic minister who interpreted it as a sign of God’s displeasure, and even when such a ministry came to be supported by a determined Puritan magistracy, the period of zealous reform that brooked no opposition was comparatively short lived.<sup>15</sup> McIntosh suggests that such periods of high concern with a variety of misbehaviors rarely last more than a score of years, possibly because intermediate courts—sessions and the church courts—come to take greater cognizance of them, or perhaps more plausibly because the initial concern was triggered by change—by immigration, a growth of industry, etc.—which the community eventually learns to live with and consequently finds less threatening to the social order.

<sup>15</sup> David Underdown, *Fire from Heaven: Life in an English Town in the Seventeenth Century* (New Haven, Conn., and London, 1992).

Within these large patterns McIntosh found change over time. Whereas many of the fifteenth-century broad response communities were market centers, those in the first half of the sixteenth century were much more likely to be small villages, of which “82% had not reported such varied concern at any time during the fifteenth century” (p. 164). Further, where there was a decided concentration of such active communities in the southeast and East Anglia in the fifteenth century, the pattern in the 1500–1559 period shows a decided shift to the north and northwest of England. What these communities seem to have in common with those active centers in the previous century was a growing population, the presence in many cases of industrial activity (64 percent), and, if fewer were located on navigable rivers or principal roads, more were located in wood-pasture regions. Finally, in the 1560–99 period she finds local court activity to shift to the west and southwest, to open pasture communities, and to communities which experienced rising population without in the majority of cases an introduction of industrial production: hence, they tended to be communities where poverty was increasing. In fact one of her more surprising finds has been that by the end of the sixteenth century “a more diverse array of places” (p. 210) was acting against perceived misbehavior than ever before and this despite the increasing activity of local justices of the peace. At every level communities evidently desired more policing.

Less surprising is her discovery that certain kinds of misbehavior were of greater concern in certain periods and in particular kinds of communities than in others. Surely it is only to be expected that those issues associated with poverty—living idly, hedgebreaking, sheltering vagabonds, and subleasing to immigrant inmates—would be of rising concern in the 1580s and 1590s, but why also in the 1460s and 1470s? The answer seems to lie in the fact that the 1460s and 1470s were also decades in which scolding and backbiting, eavesdropping and nightwalking were also of rising concern, particularly in market towns subject to rising immigration. Sexual misconduct, ill-regulated alehouses, and badly governed individuals (the “disorder cluster”) also appeared to have been of rising concern in the 1460s, a concern which appears to peak in the 1520s and 1530s, and was again found mainly in larger communities which had a growing population of the poor; evidently it was a period in which political instability and insecurity were accompanied by signs of an economic recovery and in the latter part of the period by signs of a growing population after a long period of stagnation, all of which may have disrupted traditional communal arrangements or put them under unaccustomed stress. These correlations are suggestive, and McIntosh does not

pretend that they are more than that. To a degree this study is meant to serve as a prolegomenon to what should be a raft of local studies which will confirm or modify her suggestive conclusions.

Although the bulk of this study constitutes an attempt to interpret the correlations discovered in the course of analyzing data from court records, McIntosh does not ignore ideas and ideology. Beliefs about what constitutes moral behavior and a desirable community obviously have an impact on how a community defines deviant behavior which it desires to punish. What she does insist on is that there is "no indication that changes in the ideological setting were contributors to the specific patterns that we observed locally" (p. 187). On issues concerning behavior which contributed to disrupting harmonious social relations among neighbors or which created communal disorder, it is suggested that both intellectuals and local communities drew on the same set of traditional ideas and attitudes. For example, scolding was widely punished as socially disruptive; sowing discord was regarded in at least one fifteenth-century, widely distributed tract as a deadly sin, but what McIntosh does stress is that the rising concern with scolding found in local court records is not accompanied by any corresponding rising concern among clerical moralists, at least as manifest in their publications. What she does find is that, while injunctions against backbiting and carrying tales appear in fifteenth-century tracts aimed at both young men and women, in fact in local court records women far outnumbered men among those punished as scolds, whereas by the late sixteenth century both sexes were among those punished for scolding, while by that time most tracts identified scolding as highly gendered: the scold was almost invariably conceived to be female. Even at a time of rising literacy, there was a clear disjunction between elite perceptions and local behavior. McIntosh notes the well-known fact that English humanists in the troubled middle decades of the sixteenth century particularly stressed "commonwealth" ideals, but she notes that when Sir Thomas Smith, a well-known Edwardian and early Elizabethan humanist and royal servant, came to draft ordinances for the newly incorporated borough of Saffron Walden, the values explicitly appealed to were quite traditional: the community was to be knit together by mutual love and good will and everyone was to work diligently at his calling.

On the issue of poverty and the problems created by growing numbers of the poor, both the educated elite and local communities held ideas and attitudes which were at the same time in conflict with each other, and neither had any compelling solution to what all perceived as a growing social problem. On the one hand, both the traditional teachings of the church at one end of the period and the Elizabethan homilies at the

other taught the obligation to deal charitably with the poor. On the other hand, both local communities and Parliament wished to punish vagabonds and the idle. In practice both local and parochial communities and the central government wanted to distinguish between the deserving, "impotent" poor to whom succor was owed, and the "sturdy beggars" and vagabonds, whose poverty was believed to be self-induced and who therefore merited punishment for their idleness and the short, sharp shock of a trip to the local Bridewell. The realization that some of the able-bodied unemployed were not work shy but simply unable to find gainful employment was slow in coming.

What role, if any, lay and clerical Puritans played in their efforts to establish a godly discipline has become a vexed question, but McIntosh does not dodge it. On the one hand, it has been argued that the ideas that underpin Puritan notions of a godly discipline are simply humanist ideas of the generation of Erasmus and More in a Protestant setting; on the other hand, evidence has been adduced that the propagation of these ideas in the household advice books and catechisms published from the 1570s and 1580s on were the product of the Puritan wing of the established church.<sup>16</sup> As McIntosh points out, the connection that Keith Wrightson found at Terling, Essex, between Puritanism and the attempts by the more respectable members of that small town to impose a godly discipline, was real enough but not universally the case where such attempts at imposing communal discipline occurred; Cynthia Herrup, for example, found a similar attempt to reform conduct in East Sussex in the absence of Puritan communal leadership, and Martin Ingram has made much the same point in a telling comparison of Terling and Keevil, Wiltshire, a small clothing town similar to Terling, where similar reforms took place in the late Elizabethan and early Stuart periods in the absence of much evidence of a substantial Puritan presence.<sup>17</sup> Margaret Spufford

<sup>16</sup> See Margo Todd, *Christian Humanism and the Puritan Social Order* (Cambridge, 1987), who argues reasonably that Puritan social ethics were largely unoriginal and based on humanist sources, but she does concede (p. 116, n. 85) that "to say this . . . is not to suggest that humanism was the only transformative influence on the puritan household." "Puritans added their own peculiar accretions to the humanist intellectual tradition of which they were a part." On the other hand, Paul Marshall has recently challenged these views, at least as they relate particularly to work and the calling, in *A Kind of Life Imposed on Man: Vocation and Social Order from Tyndale to Locke* (Toronto and London, 1996), pp. 37–53.

<sup>17</sup> Keith Wrightson and David Levine, *Poverty and Piety in an English Village: Terling, 1525–1700* (New York and London, 1979; 2d ed., Oxford, 1995), in particular pp. 186–220, where the postscript of the 2d edition deals explicitly and extensively with the controversy surrounding the initial claim; Herrup, *The Common Peace*; and Martin Ingram, "Religion, Communities and Moral Discipline in Late Sixteenth- and Early Seventeenth-Century England," in *Religion and Society in Early Modern Europe, 1500–*

has undermined the nexus of Puritanism and the reform of morals and manners still further by suggesting that similar social and economic problems produced similar reform attempts around 1300, a period in which, needless to say, Puritans played no part.<sup>18</sup>

Marjorie McIntosh makes three commonsensical observations about this controversy. First, while such reform efforts may not be unprecedented and may have additional nonideological motivations, there is no question that the godly in Elizabeth's reign did press for a moral reform of their communities, where and when they had the opportunity to do so. Most such efforts date from after 1580, but she notes that in Kingston upon Hull in 1563 the Town Book orders that "for as much as in every well ordered commonwealth most principally is sought out the heinous offenders and insensible persons which be delighted in drunkenness, excess, riot, whoredom, wantonness, lightness, idleness and scolding . . . that they by reasonable and politic laws and ordinances may be corrected, made sensible and brought to good order," and it is therefore proper for the mayor, aldermen and burgesses "to redress, supplant, or pluck up these great infections and enormities" (pp. 204–5).<sup>19</sup> Second, McIntosh notes that, like such reform efforts in earlier decades, there was a tendency for such efforts to be short lived: "when . . . these ideologically-driven leaders moved away, died, or became discouraged about moral reform, the level of enthusiasm left among the others was often revealed to be far lower. This reinforced the well-established pattern whereby efforts at reform were quietly dropped within a few decades after their inception" (p. 205). Third, she suggests that the social costs of aggressive regulation were high: "Strenuous and often intrusive local campaigns to curtail misbehavior . . . led in nearly all cases by Puritans, were disruptive of precisely those values that had previously lain at the core of the social thinking of local communities: harmony, order, and some accommodation to the needs of the poor were all shattered at least temporarily by aggressive social regulation" (p. 206). If social reform

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1800, ed. Kaspar von Greyerz (London, 1984), pp. 177–93; see also Ingram, *Church Courts, Sex and Marriage*, pp. 166–67, 233–37.

<sup>18</sup> Margaret Spufford, "Puritanism and Social Control?" in *Order and Disorder in Early Modern England*, ed. Anthony Fletcher and John Stevenson (Cambridge, 1985), pp. 41–57.

<sup>19</sup> Kingston upon Hull was by no means unique in the Elizabethan period. Northampton instituted a similar town reform in 1571; the "godly party" at Lincoln attempted a similar reform in the 1580s; and the Dedham godly agreed on reform orders in 1585: J. Charles Cox, ed., *The Records of the Borough of Northampton* (London, 1898), 2:386–87; J. W. F. Hill, *Tudor and Stuart Lincoln* (Cambridge, 1956), pp. 101–5; and Roland Usher, ed., *The Presbyterian Movement in the Reign of Queen Elizabeth*, Camden Society, 3d ser. (London, 1905), 8:xxix–xliii.

was by no means unique to the Elizabethan Puritans, if as McIntosh has demonstrated, villages and small towns had attempted to promulgate and enforce various kinds of moral behavior far back into the fifteenth century, it appears, nevertheless, that those Puritan efforts were at once the most rigorous, wide-reaching, and contentious.

*Controlling Misbehavior* is not intended to be definitive. Rather Marjorie McIntosh has attempted to move the ongoing discussion about social control in three directions. First, she has demonstrated beyond any possible doubt that local communities through their leet courts attempted over two centuries to control the behavior of the village and small town inhabitants so as to preserve the communal values of harmony, good order, and charity toward their worthy poor. Few studies have established so convincingly the independent agency of these small communities of quite ordinary Englishmen and women. Second, by the same token she has demonstrated that such attempts at instituting reform were prompted by local conditions and represented a local response to local conditions rather than to elite ideas or to the initiatives of social elites. Finally, she has pointed to the existence of what must surely be one of the least exploited of historical sources and by so doing has cast two centuries of English social history in a new light. If many questions remain, and she points to many unresolved issues in her text, the main outlines seem firm and beyond dispute. The fifteenth and sixteenth centuries ought never to look quite the same again.