

## IV. ROBERT BRADY, 1627–1700. A CAMBRIDGE HISTORIAN OF THE RESTORATION

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IN the first great age of English scholarship, to write history was to write polemics. England was a legal, not a geographical expression; to write her history was to interpret her law, or the relation of that law to the Crown, and so to take sides in the battle of parties. The law was timeless; its principles were the same in all ages; the past was a storehouse, not of mere examples, but of authoritative precedents. A statute whose making was ‘beyond memory’ was of greater authority than one whose beginnings were known. What the constitution was it had always been and to define its past was to define its true nature in the present. No scholar wrote more openly to support a cause than Dr Robert Brady, who was Master of Caius College from 1660 to 1700 and defended the Stuart monarchy with his learning in the last ten years of its existence; but the paradox of his career is that no man did more to bring to an end the climate of thought in which his work had been born. An interpreter of history in an age remembered rather for great textual scholars, he was a principal agent in bringing English historical method out of its medieval and into its modern period. For the student of English historiography in its peculiar and intimate connexions with legal and political thought he is, therefore, a notable figure.

The purpose of this essay is to present the main facts concerning a remarkable and neglected man<sup>1</sup> and to see something of how history was written in Restoration England. Our knowledge of his life is limited; although he passed his days in the compact and highly articulate society of contemporary learning, we have no document in which any man writes to him, or of him, with any real intimacy. Even casual references are not many, and since his own papers are lost through the mischance of an executor’s senility,<sup>2</sup> his private life and even his outward personality remain unknown. The individual man cannot be portrayed, but we are left the study of a varied public career

<sup>1</sup> A debt must be acknowledged here to a chapter in Prof. D. C. Douglas’s *English Scholars* (1939) and to passages in Prof. Butterfield’s *The Englishman and his History* (1944); these appear to be the only serious notices of Brady written in modern times.

<sup>2</sup> ‘Mr Lightwin(e), Fellow of Caius College, Executor to Dr Brady, possessor of his papers, died here this week, after he had liv’d some years an animal life. I will enquire after his Papers, but I am told, he us’d to entertain his vacant houres in burning Papers, and had burnt a Bond of 500 l., had he not been accidentally prevented. This makes me afraid of living too long.’ Thomas Baker to Thomas Hearne, June 14, 1729, Bodleian Library, Rawlinson Letters, 23, 47 (and Hearne’s *Collections*, x, 149). The story told Hearne (*Collections*, x, 85), that Brady’s widow burnt an unpublished volume of his *History*, is presumably a distorted fragment of gossip concerning Lightwin; Brady died a widower.

and in his works the experience of a vigorous intellect, vehement and active in the issues of the day.

Brady<sup>3</sup> was born in 1627 at Denver near Downham Market in Norfolk, a younger son of an attorney-at-law; the family owned land and bore arms, but were apparently of no great consequence. After a schooling ‘litteris grammaticis’ at Downham, he was admitted sizar of Caius College on the 20th February, 1643–4, under the surety of the Master, Dr Bachcroft, his countryman (as of course were many of this East Anglian college) and his patron in early life. He studied medicine and was about to take his medical degree (having graduated B.A. in 1647–8) when a family tragedy drove him into partial outlawry. In an account of his record in the civil wars and interregnum, he speaks of a ‘brother murdered’ in upholding the king’s rights, and it seems safe to identify this brother with Edmund Brady, who was hanged at Norwich in December 1650 by order of the High Court of Justice commissioned to quell an abortive royalist conspiracy.<sup>4</sup> Robert himself was declared traitor, his goods were sequestered and he fled by way of the Low Countries to join the king’s garrison in the Scilly Isles. Here he remained until that force surrendered on terms in May 1651 and he obtained articles giving him leave to return to England. He did not avail himself of these until an attempt to settle in France had failed because ‘the Expedition friggatt under Capt. Wallis of Wapping’ looted his possessions. Returning to Cambridge in 1652, he led no very secure existence. Though he was allowed to take the degree of Bachelor of Medicine, he was prevented by some authority not clearly defined from proceeding Doctor in 1658; he was once imprisoned at Yarmouth for nearly six months and had to give ‘unreasonable security at St Edmunds Bury for his abidinge in the Country’. In these circumstances he maintained himself by practice and in the closing years of the Commonwealth acted as agent for the Norfolk royalists ‘in many services tendenge to his Majesty’s Restauration’.<sup>5</sup>

Whether on account of his work for the royal cause or in consequence of Dr Bachcroft’s continued interest, Brady enjoyed exceptional royal favour in the hour of deliverance. It was by virtue of a special patent from the king that he was admitted M.D. in September 1660. He had prepared his exercises in 1658 but had not been allowed to deliver them, and this patent may have been

<sup>3</sup> There are three biographical sources for Brady: (1) Baker to Hearne, Rawlinson Letters 22, 22; (2) Brady’s account of his life under the Commonwealth, [Public Record Office] S[tate] P[apers] D[omestic], Car. II, 287, 204 (1); (3) Venn, *Biographical History of Gonville and Caius College*, III, 105 f., 351. The *D.N.B.* account is not very reliable. The quotations in the following passage are all from the State Papers document.

<sup>4</sup> Blomefield, *History of Norfolk* (2nd. ed.), III, 400–401 n.

<sup>5</sup> His account of his war record is certified by the hands of Sir Horatio Townshend, Sir Thomas Hare (with whom he seems to have been in close relations), Sir Ralph Skipwith and other Norfolk notables. The *Cal[endar] of S[tate] P[apers] D[omestic]*, 1671, p. 78, tentatively dates this document in February 1671, when Brady applied for the Professorship of Physic; but internal evidence places it decisively in the Restoration year and earlier than September.

no more than a routine waiving of formalities; but his rather enigmatic good fortune was now preparing his elevation to the post in which he passed the rest of his life. Bachcroft, who had been restored after ejection to the mastership of Caius, was aged and wished to retire. Brady, on his own account, had 'at the Request of Dr Bachcroft privately managed the affayres of the Colledge' for two years (evidently 1658–60). When Bachcroft told the king of his desire to resign he asked that Brady should succeed him, and it actually appears that Brady informed the Fellows of Bachcroft's vacation of his post and produced a royal mandate enjoining them to elect himself.<sup>6</sup> He entered upon his mastership in December 1660, three months after taking his doctor's degree and without having held a fellowship.

For the next fifteen years his story is obscure. There is remarkably little to connect him with Cambridge life in four active decades,<sup>7</sup> and his career in medicine, though respectable, is not eminent.<sup>8</sup> In 1671 he made arrangements to succeed Glisson as Professor of Physic,<sup>9</sup> and replaced him in the Chair in 1677. The turning-point of his life, however, will be found in his decision to enter seriously upon historical writing; and of how this interest grew there seems to be no trace. In April 1675 he wrote<sup>10</sup> to Sir Joseph Williamson, Secretary of State—himself a scholar and active in promoting government publicity—to ask some unspecified assistance in writing a full-length history of England which would begett in farre the greater and most considerable part of the people a Cheerfull submission and Obedience, as also a firm adherence to the present Government both in the support and defence of it, Notwithstandinge the suggestions and insinuations of any sort of men whatever to the contrary.

By this time, then, he knew what he meant to do; but we hear nothing of the progress of his plans for the next five years.<sup>11</sup>

<sup>6</sup> Venn is the authority for the episode of Brady's election. The royal letter is in Caius College MSS. 602, fol. 19.

<sup>7</sup> A letter concerning a Caius election, dated 17 January 1678, survives in *Cal. S.P.D.*, 1677–78, p. 580; and a royal letter to the Vice-chancellor and Senate, dated 8 April 1681, (*ibid.* 1680–81, p. 234) shows him concerned in modifying the mode of admission to the degree of M.B. An obscure letter to Arthur Charlett(?) (signed by St Gardiner, respecting the resistance of Sidney Sussex College to the imposition of a master, May 3, 1687, Bodleian Library, Ballard Letters, xxiii, 28) shows Brady involved in what seems to have been an academic-political intrigue. Venn (*loc. cit.*) says that his mastership was uneventful. It can only occasion speculation that Henry Wharton and Jeremy Collier, two of the most brilliant historians of the next generation—in ecclesiastical rather than constitutional studies—were undergraduates at Caius in his time.

<sup>8</sup> Thomas Sydenham's *Epistolae responsoriae duae* records a discussion with Brady on the incidence of epidemic disease between 1675 and 1680.

<sup>9</sup> Correspondence (involving John Carr, Glisson's deputy, who thought he had a prior claim) in *Cal. S.P.D.* 1671, p. 78 (February 11).

<sup>10</sup> There are three documents in this correspondence: Brady to Williamson, 3 April 1675, *S.P.D. Car. II*, 369, 155 (printed in *Cal. S.P.D.*, under date); and two drafts of 'The Designe of the Historie to be presented to Sir Joseph Williamson', *S.P.D. Car. II*, 442, 2, 3, from the second of which the quotation just following is taken.

<sup>11</sup> All that is known of his life in these years is that his wife Jane, daughter of Luke Constable of Swaffham, died without surviving children in 1679. A copy of her epitaph in St Michael's Church is in *Brit. Mus. Harleian MS.* 6121.

The interpretation of history according to Sir Edward Coke held the field at this time, and was a powerful forensic weapon against 'the present Government'. What Coke had done, by pursuing the precedents of existing institutions into the distant past, had been to identify the liberties of parliament, the rights of the common-law courts, and in general the whole constitution as the opposition presented it, with that ancient law which—as Fortescue had authoritatively declared, though the tradition was long established in his time—was older than Normans, Saxons or Romans, was indeed of no known origin and had suffered no change in the course of history. In this way had been built up the doctrine of the 'ancient' or 'fundamental' constitution which owed its being to no man, which it was treason to subvert, and in whose name Strafford had been executed and the High Courts of Justice that sat at Westminster and Norwich had justified such legitimate authority as they claimed. When Brady wrote to Williamson:

Some brave men and such as have done [the Crown] and their country eminent service have perished by fragments and partial story (picked out of mouldy parchments and obscure authors which perhaps they never knew of), improved by the artifice of cunning abettors of popular envy, malice, fury or mistake,

his king, his king's minister and his own brother could all have been in his mind, and he was entitled to see the distance separating false interpretations of history from judicial murder and civil war as short and easily bridged. A few years after this letter the policy of Exclusion was to be justified, not merely by rationalist theories of popular sovereignty, but, if anything, rather more by appeal to the fundamental constitution and the interpretation of history which it implied.

Brady was no less convinced of the intellectual falsity of Cokean historiography than of its political wickedness; and in his day, indeed, it had become not simply a wrong account of the facts, but an obstruction to historical thought. The Restoration Whigs interpreted it with an ideological narrowness which is not to be found in Coke. Their insistence on the law's antiquity was simply a refusal to admit that law or parliament could have been created by kings; for if such was the case, they felt that there would be no defence against the crown's decision to resume at will what had been granted by will. In a few years Charles II's proceedings against the charters were to justify their fears, but the unhistorical nature of their thought could not be concealed. They had carried the doctrine of an immemorial law to the length of denying that it had originated by any human action or at any fixed time, lest it should be subject to a sovereign. Their theory of antiquity concealed a refusal to treat the law as part of human history, and they had evolved a theory of the law's unchanging continuity of which the same might be said. There must on no account have been a conquest by the Normans, for if all the laws of England had for one moment hung upon a conqueror's unrestricted will,

they lived for ever afterwards by his permission and England was an absolute monarchy to this day.<sup>12</sup> William I had ascended the throne in virtue of his oath to observe the *leges Edwardi Confessoris*—themselves surpassing in antiquity the remotest Saxon lawgiver, who had done no more than codify them—and ‘the Conqueror’s Magna Carta’ was the first of a series which the kings of England had issued, freely or at the demand of an aroused people, to confirm a law whose substance never changed. The conflicts of the seventeenth century conformed precisely to this pattern. English history was thus reduced to the repeated affirmation of an immutable principle. The task of the historian, to expound the antiquity of the law and its triumph over wrongdoing, differed little from that of a Reader in the Inns of Court where most Whig historians had been trained. Law, set free from history, had absorbed it.<sup>13</sup>

The theories of Coke, in his day of genuine value as pointing out the real continuity of English history, had in this way imposed an intolerable strait-jacket on his countrymen’s historical intelligence; but influences of greater strength than party doctrine bound it in place. Every Englishman who thought about the constitution thought in some degree as a lawyer, and Coke’s doctrines merely stated with the force of genius the lawyer’s view of history. The practice of regarding the past as a storehouse of precedents for existing institutions, led naturally to the view that the law was immemorial, and the belief in a law older than the Romans and unchanging had the approval of every great student of common law from Fortescue to Selden; it was one of the most cherished traditions of the English people. More than any other deterrent, this had prevented the emergence of any royalist historiography until Brady’s own time; for royalist lawyers like Clarendon<sup>14</sup> could not help conceding the Whigs’ main point of an immemorial law—the best they could do was so to interpret it as to leave room for the free exercise of the prerogative and add that it was the monarchy’s chief glory to rest on so sacred a foundation. If Brady meant to construct a royalist interpretation of history he must find an alternative to the lawyer’s way of thinking, and this, together with the fact that it was to his interest to treat the law as part of human history in order to lessen its importance in the constitution, impelled him towards a scientific and critical historiography. But to achieve this it was necessary to repudiate almost all that the great men of the law had said about English

<sup>12</sup> ‘Admit a *Conquest*, and the Inheritance which every one claims in the Laws will be maintainable only as a *naked Right*, and *naked Rights* are thin and metaphysical Notions, which few are Masters or Judges of.’ William Atwood, *The Lord Holles his Remains* (1681), p. 293. It was rare for Whigs of this school to admit that rights, if their antiquity was denied, could find other justification; cf. Petyt, *Miscellanea Parliamentaria* (1681), passim.

<sup>13</sup> This version of history is chiefly to be found in the works of Brady’s adversaries, William Petyt, William Atwood and James Tyrrell; for a statement written under the Commonwealth see Nathaniel Bacon’s *Historical Discourse of the Uniformity of the Government of England* (1647–51).

<sup>14</sup> In his *Survey of Leviathan* (1676), pp. 109–110, 148–9. For a later statement of the same view, see *Antidotum Britannicum*, by ‘W.W.’ (1681).

history and assist in the dethronement of the common law from its domination of intellectual life.

What I have here delivered upon this subject [i.e. that the law of England was revolutionized by the introduction of Norman customs], may probably meet with great prejudice, from such especially who have, or may read *Sir Edward Coke's* Prefaces to his third, sixth, eighth and ninth parts of his Reports, his reading upon the Statute of Fines, or other parts of his Works: *Sir John Davis* his Preface to his *Irish Reports*; *Mr. Nathan, Bacon's Semper Idem*.<sup>15</sup> The late learned Lord Chancellor's Survey of *Hobbs* his *Leviathan*, p. 109, 110. And many other works of eminent Persons of the long Robe, or indeed any of our *English* Historians, and therefore I am necessitated to dwell the longer upon it. . . . And beyond them all, *Sir Edward Coke* concurs in opinion with *Sir John Fortescue*. . . .<sup>16</sup>

Brady was a loyalist compelled by circumstances to be a destroyer of myths and in a sense to lessen the reverence of Englishmen for the past. His work contributed to the rationalization of English thought.

A new critical historiography was already in the making and its growth presents marked affinities with the scientific revolution. When Maitland gave *Sir Henry Spelman* the credit for introducing the feudal system into England, he showed that *Spelman* reduced much hitherto unintelligible English law to order on fixed principles by assuming that it was of the same nature as the feudal law expounded by the Continental jurists.<sup>17</sup> Here is a clear case of the comparative and inductive method applied to the study of law, and *Spelman's* work went beyond mere systematization. Acquaintance with the feudal law showed that law could be reduced from its half-mythical status to a simple question of men and their relations in a system of land-tenure; and further comparison with the Continental law-books revealed that feudal law in England rested on a particular form of tenure introduced at a fixed moment, namely the Conquest, while the political experience of the century, culminating from this point of view in the formal abolition of the tenures in 1660, convinced scholars that what they were distinguishing as English feudal law rested on institutions which had departed from English life. Feudal learning placed law in both the context of society and the perspective of history, and the historical treatment of English political institutions takes its rise from this fact. If the king had been lord of all the land, could not the relations of all men to the Crown, the law that regulated those relations and the courts and councils that enforced the law, be explained in terms of men holding land of their king? By a steady growth of understanding, Baconian in its expanding use of a generalization, scholars became prepared to employ the principle of tenure in order to establish in the English past the existence of a political society based on feudalism. If we may vary the comparison, this worked

<sup>15</sup> The sub-title of the *Historical Discourse*.

<sup>16</sup> *Complete History of England*, I, 182; cf. pp. vi and 180.

<sup>17</sup> Maitland, *Constitutional History*, pp. 142-3.

a Copernican revolution in English historiography, replacing the lawyer's conception of a uniform past, explicable by mere extension of the observer's experience, with a method of discovering new worlds, each intelligible only on its own principles. The history of this change of outlook culminates in the work of Brady.

The decisive step was taken by Spelman when, in the article 'Parliamentum' which he wrote for his *Glossarium Archaiologium*,<sup>18</sup> he applied the conception of feudal tenure to the history of parliament. William I, he said, had divided all the land among his companions to hold 'in capite per servitium plerumque baroniae', and just as the feudal lord dispensed justice in the court of his vassals, so the king, who held all the land 'tam in personis baronum suorum, quam e subditorum ligeantia', had given laws for all the kingdom by advice and assent of his barons. After the first summoning of the commons, by a long and gradual decay—'labefactata, sensim decerpitur'—the power of the lords over their tenants had declined, and the commons had risen to wealth and predominance. The revolutionary suggestions here were three: that the essence of the Conquest was feudalization of the land; that parliament had once been unconnected with shire, borough or even peerage, but had been a court of tenants serving their lord; and that the rise of the Commons was attributable, not to legislation or conscious reform, but to gradual economic change. It was from this article, alone among Spelman's works, that the next generation learnt these lessons, and there was a delay of some forty years before they did so.

'Parliamentum' was part of the second section of the *Glossarium* which Spelman left unpublished at his death, and it was not given to the public until Sir William Dugdale edited a complete text in 1664. It seems to have aroused no interest at that time. Prynne had worked out from his own studies of records that there had been a time when only tenants *in capite* were summoned to council, but he appears never to have realized that they had attended just because their tenures involved them in a certain relation to their lord; and he regarded his researches as proving rather that the House of Lords was of greater antiquity than the Commons.<sup>19</sup> As for Dugdale, in his *Origines Juridiciales* (1666), he proposed to combine the tenurial council with the ancient right of every free man to a voice in parliament by supposing that the tenants *in capite* had represented their free sub-tenants.<sup>20</sup> Because neither man was prepared to generalize from tenure to the nature of political life, they could not, in this respect at least, reconstruct the past on its own terms, and continued to seek there the old age of the present.

<sup>18</sup> The text employed here is that of Dugdale's edition of 1664.

<sup>19</sup> Prynne's opinions on this subject are to be found chiefly in the four parts (1658–1664) of his *Brief Register of Parliamentary Writs*; in the last he cites the complete edition of the *Glossarium* without referring to 'Parliamentum'.

<sup>20</sup> *Origines*, pp. 14–19. Spelman had used language suggestive of this—'quisque inferior consentire visus est'—but Dugdale employed it to restore ideas which Spelman had abandoned.

So far the school of Coke had raised no objections, but when in 1675 Dugdale, in the introduction to the first volume of his *Baronage*, declared that until the commons were summoned in the time of Montfort's rebellion the council had been confined to tenants *in capite*, William Petyt, reputed the most learned of Whig scholars, thought that the suggestion of a late origin for the Commons warranted a protest, which, however, he did not then publish. But in 1679 or 1679–80 appeared Sir Robert Filmer's *The Freeholder's Grand Inquest*, where it was argued that because the Commons were of late origin they had been instituted by the king for his own ends and had only those powers which he granted them in the writ of summons. Filmer had little or no knowledge of feudalism, but from the republication of his books the whole historical question was treated as part of the Filmerian controversy and to assert the existence of a tenurial council was treated as support for the theory of the Commons' late origin and so for the doctrine of patriarchal absolutism. Petyt<sup>21</sup> revised his tract against Dugdale and issued it about March 1680 with the title *The Antient Right of the Commons of England Asserted*, a general defence of the antiquity of law and parliament in which due attention was paid to the problem of the Norman invasion.

It is not without significance that only at the height of the Exclusion crisis, when Filmer had nerved the royalists to uncompromising assertions of the king's sovereignty over the law, was the first systematic criticism of the law's antiquity published. Both Dugdale and Brady prepared replies to Petyt; but Archbishop Sancroft, a zealous if unproductive student of history who had perhaps been concerned in the republication of Filmer, arranged a meeting between them and, no doubt as a result, Dugdale's reply remained in manuscript and is now in the Bodleian Library, while Brady's went to the printer with the warning that Petyt was not to be allowed sight of the proof-sheets—a revealing glimpse of the manners of seventeenth-century controversy.<sup>22</sup> *A Full and Clear Answer to a Book lately written by Mr Petyt*, was published—probably by design—on the eve of the Oxford Parliament, in February 1681.<sup>23</sup>

<sup>21</sup> The genesis of Petyt's work may be traced in his correspondence; Inner Temple MSS. 583 (17), *passim*. As early as 1676 he was endeavouring to prove that Dugdale, and not Spelman, had written 'Parliamentum'. Prof. Douglas seems to be mistaken in treating this question (*English Scholars*, pp. 54–5) in connexion with Dugdale's tendency to claim other men's work as his own; forgery, not plagiarism, was the charge against him, and he was entirely innocent. See Hamper, *Life and Writings of Sir William Dugdale*, p. 16 and elsewhere.

<sup>22</sup> Brady's correspondence with Sancroft comprises two letters, dated 11 May and 17 June 1680, Bodleian Library, Tanner MS. 37, fols. 22, 70. The possibility that Sancroft was behind the republication of Filmer is mentioned by Mr Laslett in his edition of *Patriarcha* (1949), p. 36. Petyt added an appendix to his work controverting the possible objection that the sub-tenants were represented by their overlords; Dugdale intended to make this suggestion, and we may have here the explanation both of the withholding of Dugdale's work from the press and of Brady's anxiety that Petyt should not anticipate his arguments.

<sup>23</sup> Brady had promised to be guided by Sancroft in choosing a date for publication, but there may have been delay due to his decision to add an appendix in reply to Atwood's *Jani Anglorum Facies Nova*.



Comparison of these replies—Dugdale's is complete<sup>24</sup>—reveals the distance that separated a mind in which the historical revolution had matured from one—that of the most distinguished textual scholar of his age—in which it had not. Both men dealt extensively with Petyt's theory of the constitutional character of the Norman kingship; but the limit of Dugdale's ambition was to remove William from the category of 'ruler according to law' and place him in that of 'arbitrary ruler'. He gave instances of bloodshed, treachery and oppression and asked if this was the behaviour of a man anxious to maintain the law; and even when he wrote—as he did at length, for he knew the evidence well—of the seizure of land for division among military tenants, it meant no more to him than the final proof of William's arbitrary conduct. Dugdale, in short, had not escaped the lawyer's view of the past and the Conquest to him was a problem in *jus gentium*, in abstract classification.

When Brady insisted upon William's arbitrary rule, it was merely in order to introduce the subject of feudalization of the land. To him the Conquest consisted in the introduction of military tenures, and all that followed was the consequence of this. For centuries after, he said, the land had been held and the law administered by men of Norman stock who held of the king *in capite*; the king's councils had been gatherings of his tenants and it was they, not the English people, who had risen against him to demand liberties which had nothing in common with Saxon or with modern law, but were mere relaxations of the conditions of feudal service. Until subdivision of the knight's fee had brought about their decline, they had attended the hundred and county courts as 'a Service incident to their Tenures', and the law there administered, and the law of the land generally, could only have been Norman feudal law.

For from whence we received our TENURES, and the Manner of holding our Estates in every respect, from thence also we received the CUSTOMS incident to those *Estates*. And likewise the quality of them, being most of them *Feudal*, and enjoyed under several MILITARY CONDITIONS and SERVICES, and of necessary consequence from thence, we must receive the *Laws* also by which these TENURES, and the CUSTOMS incident to them were regulated, and by which every man's right in such Estates was secur'd according to the nature of them.<sup>25</sup>

Brady's realism, his ability to treat the Conquest as a concrete question of men and lands, is the consequence of his complete and apparently unique understanding of the meaning of Spelman's 'Parliamentum'. Spelman's was the original genius, but Brady was the first to understand him and explain, not only the councils, but the law and the political conflicts of Anglo-Norman society, on the sole basis of feudal tenure. He excelled men of the great learning of Prynne and Dugdale in his capacity to generalize, and as a result

<sup>24</sup> Bodleian Library (Ashmole MSS.), Dugdale MS. 10, fol. 94.

<sup>25</sup> *Introduction to the Old English History*, pp. 14, 16, 18–20 and passim. References are given to the 1684 text of the *Answer to Petyt* (which formed part of the *Introduction*) rather than to that of 1681, because of the latter's rarity. The revisions of 1684 do not affect the main argument.

he built up the first thorough reconstruction of feudal society as a thing existing wholly in the past and intelligible only on its own principles. He had now a simple, forcible and consistent means of refuting every argument brought by the school of Coke; he could show that all their precedents and ancient instances must be interpreted as belonging to a completely different social system, so that they were wrong not so much on the facts as in their methods. Those of their arguments, he told the Whigs, which were not attributable to common dishonesty were the result of treating words like *populus*, *communitas regni*, *libere tenentes*, occurring in a feudal context, as if they meant what their literal translations would mean in contemporary England; and three years later he could make the interpretation of events in their proper context the principal theme of his work:

as to the *Matter* here treated of, whoever reads our Old Historians, and hath not a true understanding and Apprehension of it, neither can he truly, and as he ought, understand them, nor will he ever be able to *arrive* at the knowledge of our *Ancient Government*, or of what Import and Signification the Men were that lived under it according to their several Denominations; of what Power, and Interest they were, what they did, and how they behaved themselves; nor who, nor what they were that *contended* with our Ancient Kings about *Liberty*, and Relaxation of the Government, nor indeed what truly the Liberties were they contended for.<sup>26</sup>

Brady's critical historiography was a propagandist weapon, employed to unseat the opposition's constitutional theory by factual disproof. To the Whigs it seemed designed to support naked absolutism. Brady represented his university in the Oxford Parliament<sup>27</sup> and heard the Whig Sir William Jones declare, apropos of Sir Leoline Jenkins's refusal to carry the impeachment of Fitzharris to the Lords:

This confirms me in the opinion of the design some men have to depress the honour of this house. A book has been written by a member of this house which in time I hope you will consider of: that the house of commons in Henry III's time sprang out of rebellion.<sup>28</sup>

Brady wisely refrained from answering and a day or so later must have noted with satisfaction that Jones was interrupted in a discourse on Magna Carta by the knocking of Black Rod with his message of dissolution. He was to work on the full flood of the royalist reaction. Petyt made no attempt to answer him, and though Petyt's pupil William Atwood issued two books

<sup>26</sup> *Introduction* (1684), 'Epistle to the Candid Reader'.

<sup>27</sup> Perhaps this is why the notice of the Brady family in the Harleian Society's edition of the *Visitation of Norfolk* describes him as representing Oxford University, an error which has somehow found its way into the pages of Venn. He was the junior representative; Sir William Temple the first.

<sup>28</sup> Cobbett's *Parliamentary History*, sub 25 March 1680–81; cf. Anthony Wood, *Life and Times*, II, 533, for the opinion that had the House sat longer, it would have ordered the burning of both Brady's book and Dugdale's Civil War history, *A Short View of the Late Troubles*. Prof. Douglas, however, is perhaps a little dramatic in telling us (p. 368) that Brady, 'faced the ire of parliament', for the records of debate show no references to the matter except Jones's.

attacking Brady,<sup>29</sup> he too was silent after 1682, perhaps for reasons not unconnected with the fate of Sidney—Brady constantly asserted that the theory of fundamental law must lead to that of elective monarchy—and the suicide of Essex, to whom Petyt had dedicated *The Antient Right of the Commons*<sup>30</sup>. Brady ignored Atwood and published only one more separate pamphlet: *A True and Exact History of the Succession* (late 1681), in vindication of hereditary monarchy.<sup>31</sup> He devoted himself to the preparation of his two principal works, *The Introduction to the Old English History* (published in 1684), a collection of tracts in refutation of the theories advanced by what he believed to be a conspiracy of seditious historians,<sup>32</sup> and the first volume of his long-projected *Complete History of England*, which appeared in the following year. The theme of both was the feudal interpretation of medieval history and both were designed against the doctrine of antiquity.

There is evidence to show that both were prepared under government auspices and to tell us something of the manner of Brady's life during his most active years. A series of letters<sup>33</sup> addressed to him between 1680 and 1684 by Lawrence Halsted, chief clerk of the records in the Tower of London, reveals that Brady enjoyed privileges and, it seems, authority in that office, though he was certainly not yet Keeper. He would write to Halsted, naming records he wanted to have copied or topics on which he wanted the evidence collected. On one occasion Halsted reports that Petyt has been looking at records; shall he put a stop to his researches by demanding a prohibitive fee or content himself with reporting what documents Petyt has seen, so that Brady may be forewarned of his probable arguments? This reliance on clerks for what must have been an important side of his researches, though it would have been unthinkable if Brady had not had a very extensive knowledge of the records, is below the best standards of the age: but it has to be remembered that, in an age of great editors and antiquarians, Brady was endeavouring to interpret the general course of English history. He could not afford to become involved in the enormous mechanical tasks which awaited any man who undertook the serious exploration of records; a certain degree of detachment

<sup>29</sup> *The Lord Holles his Remains* (1681) and *Jus Anglorum ab Antiquo* (1682). Their principal theme is an alleged distinction between the king's council of feudal tenants and the council of the realm, consisting of non-feudal freemen or 'barones regni'.

<sup>30</sup> See Brady's *Introduction*, p. 326: 'not without suspicion, that . . . one of these Popular, Seditious Pieces . . . did mightily contribute to the Seduction, and Rebellious and Traiterous Practises of a great Man, who laid violent hands upon himself, to prevent the Hand and Stroke of Justice.'

<sup>31</sup> This is sometimes confused with *The Great Point of Succession Truly Stated*, a Filmerian work published in the same year. Both were replies to *The Brief History of the Succession*, now ascribed to Somers but at the time thought by some to be the work of Sir William Jones.

<sup>32</sup> 'And like to this Piece, are *Jani Anglorum facies Nova*, *Jus Anglorum ab Antiquo*, Reflections upon *Antidotum Britannicum* [part of *The Lord Holles his Remains*], *Londinum Triumphans*, etc., with many others of the same Batch. All written and tim'd, with design to promote Sedition, and in expectation of Rebellion, and the destruction of the Established Government.' *Introduction*, p. 326.

<sup>33</sup> Caius College MSS. 580, passim.

from his sources was necessary to him. He found it possible to seek and accept in 1682 an appointment as physician to Charles II and to spend, in the years when his principal works were nearing completion, periods totalling nearly five months in 1683 and seven in 1684 in attendance on the Court at Windsor, Newmarket and elsewhere.<sup>34</sup> It is curious that so varied a life should have brought him so little mention in the private papers of the time.

There is evidence, too, that ministers knew him as a man to be trusted. When William Hone, most inconsiderable of the Rye House plotters, was arrested on the Newmarket road and brought into Cambridge on 25 or 26 June 1683, those (including Brady) who examined him found that they had transgressed their instructions in doing so, and Brady reported Hone's depositions to Secretary Jenkins and made his colleagues' apologies in the language of informal relations; Jenkins, in a communication to the vice-chancellor, spoke of 'my friend Dr Brady'.<sup>35</sup> In the next year his name completes a list, drawn up by Sunderland, of local notables to whom a semi-official denial of intention to call a parliament may be circulated: he was no doubt to make the government's attitude known in the university.<sup>36</sup> He sat in James II's parliament of 1685 and was on two committees for work which he must have found congenial: one to expunge seditious resolutions from the journals of the House, the other to prepare a clause forbidding any member to propose altering the succession of the Crown;<sup>37</sup> but if he spoke in either parliament which he attended, the fact is not recorded.

The last stage in the public career of this Crown historian was reached in July 1686, when he was granted a salary of £300 'for his care and paines in and about the records in the Tower of London'.<sup>38</sup> It has been usual to state positively that he was appointed Keeper of the Records, and the *Dictionary of National Biography* expresses doubt as to whether this took place in 1670 or 1685;<sup>39</sup> but in point of fact the Keeper appointed to succeed Prynne in 1669–70 was Sir Algernon May, a person deservedly obscure, who was in

<sup>34</sup> His warrants for payments covering these periods (signed by Arlington) are in Caius College MSS. 602, fols. 13–18. For his appointment at a salary of £100 a year, see *Cal. S.P.D.*, 1682, pp. 546–7 (tentatively dated November). He had been a member of the College of Physicians since November 1680.

<sup>35</sup> *Cal. S.P.D.*, 1683 (1), pp. 350, 351, 365 (June 26 and 28).

<sup>36</sup> *Ibid.* May 1684–Feb. 1685, p. 23 (17 May 1684). The full list runs: 'Dukes of Norfolk, Newcastle, Albemarle; Archbishop of York; Earls of Peterborough, Gainsborough, Bristol, Bath and Ailesbury; Bishops of Durham, Exeter and Bath and Wells; Lord Stawell; Sir William Portman, Sir Roger Norris, Sir Peter Shakerley; Dr Brady; the Lord Great Chamberlain.'

<sup>37</sup> *Commons Journals*, 26 May and 26 June 1685. He was on other committees of a routine nature.

<sup>38</sup> Public Record Office, Signet Office Docquet Book for July 1686. It may be observed that Brady was now drawing salaries from four sources, as Master of Caius, as Professor of Physic, as Court Physician and as records administrator; while his papers contain (Caius College MSS. 707) a list of precedents to show that the Master of Caius may discharge the office and enjoy the emoluments of bursar.

<sup>39</sup> See also Douglas, *op. cit.* p. 156.

1686 residing in Ireland but still entitled to his salary.<sup>40</sup> Since no document definitely appoints Brady to the post it is probable that he was Keeper only *de facto*. No details survive of the affairs of the office under his charge, but it is unlikely that he was appointed as an administrator of records: the salary may have been intended rather to recognize and encourage his work. He was by now something not unlike the acknowledged chief among Crown historians. Dugdale's last work, *A Perfect Copy of all Summons of the Nobility to Parliament . . . since the XLIX of King Henry III*, was designed, as its preface shows, to support with documentary evidence that part of Brady's theory of parliamentary origins which dated the regular summons from the end of the thirteenth century.<sup>41</sup> Fabian Philipps, that most quixotic of scholars, who passed the last thirty years of his life in campaigning for the restoration of the military tenures, wrote to congratulate Brady on the manner in which the *Introduction* had 'baffled and banged' his adversaries and added that he had himself a work in preparation 'wherein though sometimes in a different method our designs will meet in one and the same centre'.<sup>42</sup> He alluded to his magnum opus, *Investigatio Jurium Antiquorum* or *The Established Government of England*, published in 1686 and 1687, at once a history and a vindication of the feudal foundations of monarchy, in which the eccentricities of his earlier works are so much lessened and the historical sense so much heightened as to suggest Brady's influence. There was no concerted campaign of scholars against the Whigs—Brady's octogenarian<sup>43</sup> colleagues designed their works in his support without consultation or direction—but we are entitled to speak of a school of royalist historians who, in the brief interval between Exclusion and Revolution, aimed to buttress the monarchy by emphasizing its feudal origins.

If feudal learning formed part of the royalist campaign for the reconquest of English thought, it is necessary to enquire how far Brady supported the historical myths of Filmer. No less than Petyt, Filmer believed that if the Crown were older than parliament or law, these could only be derived from the king's will and permission. He made the Crown what the Whigs had made the law, something aboriginal and outside history, unchanging while all else changed, and making or sanctioning all changes that took place. There can be no doubt that many or most of Brady's readers thought that in disproving the antiquity of parliament and law he was arguing for Filmerian absolutism. Furthermore, in feudalism Brady and his friends depicted what appeared to be a patriarchal society, in which the king had given his people

<sup>40</sup> For May's appointment see *Cal. S.P.D.*, 1670, p. 36 (Jan. 26, 1669–70); for his later career a note in vol. 1 of the Nicholson MSS (Carlisle Cathedral).

<sup>41</sup> Letters from Dugdale congratulating Brady on the *Introduction* and the *Complete History* have been printed by Hamper, *op. cit.*; they are dated 6 October 1684 and late in 1685. Their tone is friendly but not intimate; Dugdale calls the *Introduction* 'a high piece of service to his Majesty and the Government'.

<sup>42</sup> Caius College MSS. 607, fol. 5; 2 August 1684.

<sup>43</sup> Philipps was 82 or 83 in 1685, Dugdale 80.

land on condition of service to himself and could not therefore be bound by the obligation to respect contract or original rights of property; and it could be argued that the people's liberties in 1685 were derived from the feudal sovereignty which the king had possessed at the time when they came into being. In this sense, the feudal scholars were labouring to reinforce Filmer's doctrine at its weakest point, to establish a natural and non-contractual authority in English society, not by the unconvincing route of descent by primogeniture from the patriarchs, but by discovering it in the solid realities of English land and English charters.

Brady never distinguished the Filmerian from the Spelmanist element in his thought. It was not apparent to him that Spelman's last lesson must be that since feudal society is intelligible only in its own terms, all argument from the past direct to the present is illegitimate. Only an age of settled political institutions could afford such reflexions, and in Restoration England none but the most robust or irresponsible sceptics declared history irrelevant.<sup>44</sup> Brady had a controversialist's, not a rationalist's, approach to history; in pleading his case, he had established certain principles of historical objectivity, but he did not pause to re-examine his whole position in their light. He was not the man to subject the monarchy to the same scrutiny as parliament and the law, and reduce it to the historical flux with all the other works of men. He was therefore always inclined to treat everything as finite and historical except the Crown and, by leaving its historical role unstated and unexamined, to allow his readers to infer its unchanging absolutism. He planned the *Complete History* as a single narrative, constructed by conflation of all the chronicles available to him, and interspersed with 'prefaces'<sup>45</sup> analysing the laws and institutions among which, at various times, the *res gestae* of the chronicles had been conducted; and he used these 'prefaces' to build up Saxon law and society on the basis of Germanic land-tenure, and feudal law and society on the basis of military tenure, insisting that neither could provide the common law or the representative parliament with the antiquity they claimed. In what must be the first study of the 'Whig interpretation' as a factor in English history, he wrote<sup>46</sup> that the rebellious barons had learnt from the Roman clergy to dress their feudal demands in the language of general liberty and ancient right, which, surviving out of its context, had deluded the common lawyers of his time into believing that the liberties they

<sup>44</sup> Only two contributors to historical argument in these years did so: Marchmont Needham in *Second Pacquet to the Men of Shaftesbury* (1677) and Thomas Hunt in *Argument for the Bishops' Right in Judging in Capital Causes in Parliament* (1682). It is a curious fact that both were political turncoats.

<sup>45</sup> 'The Preface to the Reader'; 'The General Preface'; 'The First Part of the Saxon History' (pp. 51–91); 'The Preface to the Norman History' (pp. 139–184). There are some seven hundred pages in the whole volume.

<sup>46</sup> *Introduction*, 'Epistle to the Reader'; *Complete History*, 'Preface to the Reader', 'General Preface', pp. xxx, liii and lxiii.

claimed had immemorial sanction. But near the opening of the book he could declare:

there is a clear *Demonstration*, That all the *Liberties* and *Priviledges* the People can pretend to, were the *Grants* and *Concessions* of the *Kings* of this Nation, and were Derived from the Crown.

He could argue that only the king could grant (and thereafter interpret) the charters in which the feudal liberties were expressed, and that only the king could carry out the surrenders of feudal prerogative on which the modern liberties were based.<sup>47</sup>

But this passage should not be too hastily taken as characteristic of the book as a whole. The first volume ends with the death of Henry III, the second (published in 1700) with the deposition of Richard II, so that we have not his detailed study of the rise of post-feudal institutions. But from various passages we can infer that he derived these institutions less from the will of the king than from that gradual and uncontrolled economic change which Spelman had said brought the feudal world to an end. The subdivision of the knight's fee caused the lesser tenants to pass their duty of attending county courts on to the poorer freemen and transformed the knights of the shire into representatives of the forty-shilling freeholders; the most general cause of the emancipation of villeins was the increase in trade and in the circulation of money. Most interesting of all, when Brady revised the *Answer to Petyt* for inclusion in the *Introduction* he altered his account of the first summoning of knights of the shire.<sup>48</sup> Instead of making this a deliberate piece of statecraft aimed at counterbalancing the power of the barons, he emphasized that Edward I had the right to summon whom he chose for advice and therefore called on knights of the shire at such times and in such a manner as he needed them. Brady's very belief in the inviolability of prerogative enabled him to see that the king need not be a conscious Solon, but might build up a new procedure by the cumulative effect of particular acts. At the same time he argued that the knights at their first summoning were military tenants serving the king on their allegiance and only at a much later date became representatives of the county freeholders.<sup>49</sup> The more he stressed that the medieval king's authority was feudal, the clearer it became that only gradual and unforeseen change could have brought that elaborate system to an end. His mind worked upon two levels; as a controversialist asking how rights were related to authority, he insisted that they must be derived from a patriarchal will; but he did not construct his history to fit this thesis by showing the king as a legislator and creator of liberties. He contradicted himself, but he did not fabricate myths to answer the myths of his opponents.

<sup>47</sup> In the 'Preface to the Reader'.

<sup>48</sup> Compare the *Answer to Petyt* (1681), pp. 225-9, with the *Introduction*, pp. 144-51. See also the General Preface to the *Complete History*.

<sup>49</sup> *Introduction*, pp. 19-20.

In one respect, his anxiety to establish the monarchy on a feudal foundation led him to weaken it unduly as a historical force. Perhaps naturally, he thought of the common law as an anti-monarchical influence, begotten by canonists on feudal discontent to hedge the king round with quasi-contractual ideas,<sup>50</sup> and in consequence had no notion of all that we associate with the name of Henry II, or of the monarchy as something positive and dominant, moulding and ordering feudalism with tools and ideas foreign to it and so capable of surviving its decline. This reflects the deepest weakness in his historical thought. The inductive method—that of building up a society from its basis on the land—raised the problem of change but did not provide the means of solving it. Brady wrote of change imposed by tyrannical will—the introduction of tenures at the Conquest—or of change uncontrolled and unforeseen by any man—the gradual decline of these tenures—but of no mean between these extremes. Spelmanist historiography was too much confined to the analysis of laws; it contained no philosophy of man's experience in history and could not show how king and barons were confronted with problems arising from the working of feudal institutions, and bequeathed these to their successors, more or less modified by their attempts to solve them. For this reason Brady could not unify his history in a single narrative or bridge the gap that separated records from chronicles. His *Complete History* remains a constellation of brilliant analyses studding a waste of annalistic narrative. It was his misfortune that this latter was to be rendered obsolete in many respects by the criticism of old chronicles, and the publication of new ones, which the scholars of the next generation carried out.

It was probably in the three years separating the publication of the *Complete History* from the fall of the cause he served that Brady wrote his last book, the *Treatise of Cities and Boroughs*, which, though not published till 1690, has an obvious connexion with Charles II's revision of the charters.<sup>51</sup> It is his least valuable book; his partisan instincts found no formula, such as that of military tenure, which could transform them into historical criticism and there is little to the book but the assertion that all borough charters came by grant of the king or some great lord. Perhaps at this time, too, he collected the notes which survive in the Stowe MSS.,<sup>52</sup> they prefigure a history of parliaments from 1580 to 1621, tracing the steady expansion of claims to

<sup>50</sup> See especially a curious passage (*Complete History*, 'General Preface', lv) contrasting the natural simplicity of Glanvill with the canonist sophistications of Bracton. The interpolations to Bracton brought his whole work under some royalist suspicions at this time.

<sup>51</sup> The Halsted correspondence shows that Brady was collecting material on this subject as early as 1682. This is the only one of Brady's works to have been republished (in 1704 and 1777). Merryweather and Stephens, 'On Boroughs', show that it was regarded as a standard if unsatisfactory work as late as 1835.

<sup>52</sup> Brit. Mus. Stowe MSS. 360. This once formed part of the Ashburnham collection made by Thomas Astle, an eighteenth-century Keeper of Records, from miscellaneous documents he found at the Tower, and was probably left behind by Brady when he quitted the Office of Records in 1689.



privilege and liberty of discussion, with special attention to Coke's historical theories as he expressed them in debates. It is a book one may be permitted to regret.

Brady visited Oxford in James's train at the time of the king's attempt upon Magdalen and had the use of Dr Charlett's rooms at University College. A correspondent tells Charlett that he and Brady have been drinking his health and 'he tells me he thinks the progress does not turn to account'.<sup>53</sup> It is our one informal glimpse of the man. Whatever his doubts—and his own views were surely nearer those of Sancroft than of James—he assisted Nathaniel Johnston in writing *The King's Visitation Power Asserted*, the government account of the affair, supplying him with precedents touching Emmanuel and King's Colleges.<sup>54</sup> He was one of those who attested the birth of the Prince of Wales and we next hear of him at Rochester in December 1688, making a last-minute attempt at the instance of Bishop Turner of Ely to dissuade James from flight.<sup>55</sup> He spoke to his master, we may conjecture, as an authority upon the succession to the Crown; but with no effect.

On 12 March 1689, a warrant<sup>56</sup> ordered Brady, Halsted and others concerned with the Tower records to deliver them to William Petyt, whose appointment as Keeper followed in July. Petyt had already enjoyed the opportunity of expounding his historical views to the Lords, in committee on the problems of regency and abdication,<sup>57</sup> and his appointment reveals the Whig determination that the materials for historical justification should be in safe hands. Brady returned to Cambridge; Lord Dartmouth hoped he might seek re-election to parliament in 1691,<sup>58</sup> but in October of that year he certified that all Fellows of Caius had taken the oaths of allegiance.<sup>59</sup> Non-juring tradition apparently bore him no ill-will for this,<sup>60</sup> but the step cut him off from the only cause on whose behalf he might have undertaken further scholarly work. It is doubtful if he enjoyed any further access to the Tower records; even if there was no official prohibition against him, it is as improbable that he asked leave of Petyt as that Petyt would have granted it if asked. The Whig historiographical *revanche*, expressed in speeches and pamphlets without

<sup>53</sup> Ballard Letters, XXI, 4, 5; Sykes to Charlett, 28 August and 4 September 1687. The sentence is heavily underlined.

<sup>54</sup> Brady's letter to Johnston may be found in the Johnston MSS., now at Magdalen College, Oxford, dated 6 July 1688. Johnston's *The Excellency of Monarchical Government* (1686) openly follows Brady and is a good illustration of how every idea he expressed might be taken by a royalist reader for an expression of simple absolutism.

<sup>55</sup> *Diary of the Second Earl of Clarendon* (in *Clarendon Correspondence*, 1828) for 21 December; Clarke, *Life of James II* (1816), II, p. 270.

<sup>56</sup> *Cal. S.P.D.* February 1689–April 1690, p. 22 (S.P. Dom. Warrant Book 34, p. 216) Petyt's formal appointment dated 25 July, *ibid.* p. 198.

<sup>57</sup> Notes of his speech as one of the Assistants are in H[istorical] M[anuscripts] C[ommission] *Twelfth Report*, Appendix VI, p. 14.

<sup>58</sup> H.M.C. *Eleventh Report*, pt. V, p. 253. <sup>59</sup> Caius College MSS. 602, fol. 9.

<sup>60</sup> Thomas Hearne, whose nose for apostasy was notoriously keen, repeatedly calls him 'an honest man', a term which he always uses in the special sense of a legitimist and enemy of the Revolution.

number, but especially in James Tyrrell's *Bibliotheca Politica*—a simultaneous attack on Filmer and Brady—went unanswered by the chief of royalist historians. It is improbable that he was in danger of actual persecution<sup>61</sup>—though the fates of Edmund Bohun in 1692 and of Hilckiah Bedford in 1713<sup>62</sup> remind us that ill-judged historical argument still had its perils—but the failure of the cause he served must have seemed complete. He issued the *Treatise of Boroughs* in 1690, but the second volume of the *Complete History*, published in the year of his death, contains chronicle matter only without interpretative comment. The only hint of his personal opinion is the bishop of Carlisle's protest against the deposition of Richard II, which, printed in full, closes the narrative part of the volume. This is Brady's rather unheroic last word to rebels and alterers of the succession.<sup>63</sup>

A few details survive of Brady's closing years. He gave some assistance to Edmund Gibson in 1694, when the latter was preparing his catalogue of British manuscripts.<sup>64</sup> In January 1694–5, he was involved in a dispute with the elder Robert Walpole, co-executor with him of the will of Sir Thomas Hare, who accused him of entrusting the education of Sir Thomas's heir to a non-juror of St John's—which, said Walpole, Brady should not countenance, having himself taken the oaths.<sup>65</sup> It is also said that he nursed the younger Robert when he had the smallpox and on his recovery declared that he was reserved for higher things.<sup>66</sup> In September 1699 Humphrey Wanley, visiting Cambridge, reported to Charlett: 'the Dr. is extremely sick; but yet on the

<sup>61</sup> The remark of Dr Smith, one of Hearne's correspondents (*Collections*, II, 225), that he told Tyrrell 'on his publishing his *Bibliotheca Politica* that neither Dr Brady nor himself had a mind to be hanged' for answering him, need not be taken very seriously.

<sup>62</sup> Bohun was dismissed from the office of censor of books for allowing the publication of an argument that William and Mary ruled by right of conquest; Bedford was imprisoned for the supposed authorship of a non-juring work, *The Hereditary Succession to the Crown of England*.

<sup>63</sup> An anonymous work of non-juring character, entitled *An Inquiry into the Remarkable Instances of History and Parliamentary Records used by the Author of the Unreasonableness of a New Separation* (i.e. Stillingfleet), published in 1690 or 1691, is widely attributed to Brady (see *D.N.B.* and Douglas, op. cit. p. 164). The only contemporary authority for the attribution so far discovered is a marginal note in Theophilus Downes's preface to Joseph Harbin's *Hereditary Succession to the Crown of England* (1713; Downes lost an Oxford fellowship for refusing the oaths in 1690); but *A Vindication of the Discourse Concerning the Unreasonableness*, etc. (said to be by Williams, bishop of Chichester) says that the author of the *Inquiry* is 'a down-right Plagiary from Dr Brady's Writings'. Such language is often a means of hinting at a concealed authorship. The work may well be by Brady; most of the arguments and material, and one or two turns of phrase, are consistent with his authorship; but the ascription does not appear entirely certain. The tract is not printed by Brady's usual bookseller (Samuel Lowndes), but if he wished to remain anonymous—and intended, despite his arguments, to take the oaths himself—this is intelligible.

<sup>64</sup> Ballard Letters, v, 20–36; Gibson's letters to Charlett between May and August 1694, recording his difficulties in keeping in touch with Brady, who was moving between Cambridge and London, and the ultimate delivery of a catalogue of Caius manuscripts whose 'fairness, largeness and exactness' he praises.

<sup>65</sup> H.M.C. *Thirteenth Report*, Appendix v, pp. 429–32, House of Lords MSS. 9 January 1694–5.

<sup>66</sup> *D.N.B.* 'Robert Walpole'.

mending hand'.<sup>67</sup> He died on 19 August 1700, and is buried at Denver, where an inscription records the variety of his learning.

The Tory dilemma may be detected in Brady's thought. There was no royalist interpretation of English history which he could assert, beyond the doctrine that the king himself had surrendered his own powers. Other than that, he must fall back on asseverations of hereditary right which have little connexion with his historical thinking. He could not repudiate Coke without throwing over Clarendon and Fortescue as well, and virtually acknowledging that he could draw on no tradition in English thought but that of critical scholarship. It is not his loyalism, but the scepticism to which it gave birth, that distinguishes his work. The English tradition requires constant challenge if its health is to be maintained; and just as Filmer reminded the rationalist believers in free association that society and subjection might be part of man's physical nature, Brady reminded Englishmen, who saw nothing in their past but their rights, that their history was the prisoner of remote forms of society, 'strange and uncouth' in Spelman's phrase, and of change slower and more complex than contract, sovereign or legislation could account for. This was to enlarge the bounds of knowledge; Brady's understanding of feudal society was not equalled till late in the nineteenth century;<sup>68</sup> but it was no doctrine for the Whig supremacy, and the historical thought of the Augustans combined a contempt for antiquarian detail with an unthinking repetition of all the legends of Petyt. Every age rediscovers history in terms of its own experience, and it would be wrong to conclude that the eighteenth century was no more than an age of retrogression in scholarship or that the work of medievalists in the nineteenth century was the laborious recovery of conclusions reached in the seventeenth. But the Whig reaction against Brady resulted in a real loss of knowledge and if we except Thomas Madox—a greater scholar, but aware of his debt to his Restoration predecessor<sup>69</sup>—the epitaph found for Brady by Hearne may justly be repeated: he was 'omnibus sequioris aevi historicis nostris Anglicanis antefereendus'.

<sup>67</sup> Wanley to Charlett, Ballard Letters, XIII, 47.

<sup>68</sup> Douglas (op. cit. pp. 158–9) compares Brady's views on different topics with those of Chadwick, G. B. Adams and Bigelow.

<sup>69</sup> Madox's posthumous *Baronia Anglica* (1736) refers to Brady as having proved the Norman descent of the medieval aristocracy.