



STUDIES IN

Burke
AND HIS TIME

SAMUEL BURGESS

*Edmund Burke, the Common Lawyers,
and the Natural Law*

NOBUHIKO NAKAZAWA

*Reviewing Edmund Burke's Concept of 'Revolution':
An Overlooked Aspect of the Burke-Paine Controversy*

PAWEL HANCZEWSKI

*'When Liberty and Order Kiss': Edmund Burke
and the History Articles in the Annual Register*

REVIEWS OF

SAMUEL BURGESS, *Edmund Burke's Battle with Liberalism:
His Christian Philosophy and Why It Matters Today*

H. G. CALLAWAY, ed., *Edmund Burke, the Imperatives of Empire
and the American Revolution: An Interpretation*

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IAN CROWE

Editor's Introduction



MANY OF THE THEMES COVERED in the articles below, and in the books in our review section—the role of natural law in Burke's thought, for example, and the consistency of Burke's principles across the unfolding events of the American and French revolutions—are familiar ones, but they are reexamined here in refreshing ways. In part, the value of those reexaminations arises from the application of new methods of analyzing the influence of immediate, shifting historical contexts on the language of debate; but it also arises from the variety of national perspectives reflected in the contributions, from Japan through Poland to Great Britain.

In "Edmund Burke, the Common Lawyers, and the Natural Law," Samuel Burgess revisits an enduring conversation in Burke scholarship and builds a powerful case that Burke was heir to a broadly Thomistic tradition of natural law that informed his political thought. Burgess argues that the source of this Thomistic thought lies in the common law tradition where there exists a rich heritage of scholastic natural law which was consistently related to political and legal issues, and that it was this common law tradition, more than any other, which informed Burke's political opinions and provided, for Burke, a chronicle of the nation's character.

Nobuhiko Nakazawa offers a fresh perspective on the much-noted, imputed disjunction in Burke's use of the term "revolution" as applied to the events of 1776 and 1789. The author argues that it is in a thicker contextual appreciation of the development of the use of the word "revolutionary" that the underlying consistency, and therefore utility, of Burke's perspectives must be sought. Pavel Hanczewski's article is a welcome and important discussion of another, related facet of Burke's thought:

that is, Burke's concept of history and its value for apprehending principles of the human condition relating to political liberty and social order. In "'When liberty and order kiss'. Edmund Burke and the History articles in the *Annual Register*," Hanczewski addresses charges of inconsistency in Burke's thought by rejecting appropriation of his thought as "liberal" or "conservative" in favor of a focus on Burke's historiographical understanding as revealed in one of the lesser-known sources of his early intellectual development, Robert Dodsley's *Annual Register*.

Alongside their specific findings, these articles are illustrative of the breadth and vibrancy of interest in Burke's thought across the globe. Dr. Nakazawa's work reflects a flourishing interest in Burke in Japan, and those of our readers proficient in Japanese may be interested to note that Dr. Nakazawa has co-edited a collection of twelve essays (including the introduction) by Japanese scholars entitled *A Companion to Edmund Burke: Reexamining the Founding Father of Conservatism* [*Burke Dokuhon: Hoshushugi-no-Chichi Saiko no tame ni*]. To return to the question of Burke's historical imagination, one of the contributors to this volume, Sora Sato of Toyo University, has recently published in English *Edmund Burke as Historian: War, Order, and Civilisation* (Palgrave Macmillan, 2018), which will be reviewed in our next issue.

The two books reviewed below similarly return us to central, unresolved aspects of Burke's writings: the place of religion in his thought, and the long-term significance of his response to the revolutionary unrest in the American colonies. In each case, a powerful challenge is also presented to those who see his legacy as underpinning their political principles today.

The Edmund Burke Society is pleased to announce "Edmund Burke, Russell Kirk, and Revolution in the Modern Mind," a one-day conference to be held at Belmont Abbey College, near Charlotte, North Carolina, on Saturday, November 17, 2018. Our keynote speakers are Professor Wilfred McClay and Dr. Vigen Guroian. The event is co-sponsored by the History Department at Belmont Abbey College, and is part of the centennial commemoration of the birth of Russell Kirk.

For details, please go to: kirkcenter.org/burke

IAN CROWE

Notes on Contributors



SAMUEL BURGESS attended the University of Durham, where he received a first class degree in theology. He subsequently studied for an MPhil at the University of Cambridge and a PhD at the University of Oxford. He is a former Kluge Fellow at the Library of Congress. His book *Edmund Burke's Battle with Liberalism* was published in 2017 and is reviewed in this issue.

PAWEŁ HANCZEWSKI is Associate Professor at the Faculty of Political Sciences and International Studies, Nicolas Copernicus University Torun, Poland. He is the author of *Dyplomacja brytyjska w Europie Środkowo-Wschodniej w latach 1748–1756* [*British Diplomacy in Central Europe in the Years 1748–1756*] and *Patrioci i ludzie innego rodzaju. Szkockie spory o unię 1707 roku* [*'Patriots' and the 'other sort of men'. Scottish Debate over the Union of 1707*] as well as several articles on Edmund Burke, George Berkeley, and David Hume.

NOBUHIKO NAKAZAWA is Professor of History of Economic Thought at Kansai University, Osaka, Japan, where he has taught since 1998. His research interests lie in the fields of history of economic thought and methodology, particularly issues relating to Edmund Burke, Thomas Robert Malthus, and British conservatism. He is former president of the Japanese Society of Malthus (2009–2011). He has published papers in *Modern Age*, *History of Economics Review*, and *Erasmus Journal for Philosophy and Economics*, among other journals.

Edmund Burke, the Common Lawyers, and the Natural Law



SAMUEL BURGESS

As an orator and a man of letters Burke's lack of systematic writing has resulted in a diverse spectrum of interpretations. In 1857, Henry Buckle's *The History of Civilization in England* depicted Burke as first and foremost a pragmatist and a utilitarian. This trend continued in late Victorian Britain as Burke was portrayed by thinkers such as John Morley as a champion of the British constitution whose political expediency and pragmatism resisted the temptation of bringing normative moral values to bear upon politics.¹ Others in this line of scholarship include William Lecky and Sir Leslie Stephen.² This trend continued into the twentieth century with John MacCunn arguing in 1913 that Burke was at heart a utilitarian like Bentham.³ Elie Halévy, Henry Ogden, Lois Whitney, John Randall, and John Lester all articulated similar positions during the first half of the twentieth century.⁴ Peter Stanlis points out

¹ John Morley, *Edmund Burke: A Historical Study* (London, 1867).

² Leslie Stephen, *History of English Thought in the Eighteenth Century*, Vol. II (London, 1881); W. E. H. Lecky, *Democracy and Liberty* (Indianapolis: Liberty Fund, Inc., 1980).

³ John MacCunn, *The Political Philosophy of Burke* (New York, NY: Longmans Green and Company; London: Edward Arnold, 1913).

⁴ Elie Halévy, *The Growth of Philosophic Radicalism* (New York: Macmillan Company, 1928); Lois Whitney, *Primitivism and the Idea of Progress* (Baltimore: Johns

that the century of Burke scholarship which portrayed him as a utilitarian was premised on a bifurcation between utility and natural rights, by scholars who “interpreted Burke’s frequent attacks on metaphysical abstract rights as a rejection of belief in moral principles.”⁵ In short, those who interpreted Burke as a utilitarian were mistaken as to what it was that Burke was actually rejecting.

In the 1950s and 1960s, a fresh revision of Burke rejected this utilitarian understanding, arguing that it fundamentally misunderstood Burke. Thinkers such as Peter Stanlis and Francis Canavan envisaged Burke as a natural law thinker whose thought was underpinned by a Thomistic metaphysics. Such ideas were echoed by Leo Strauss in 1960, who argued that Burke harked back to a premodern tradition of natural law.⁶ In 1967, Burleigh Taylor Wilkins offered an account of Burke as a natural law theorist who at times exhibited utilitarian and historical appeals.⁷ In a similar vein, C. B. Macpherson proposed a synthesis of the two positions, citing Burke’s support for the free market as evidence that he was a bourgeois political economist, and arguing that Burke employed “a Natural Law brought again under the sway of Divine Law and freed of the temporal equalitarian implications that had been read into it in its seventeenth-century transformation.” He added that, “The old Natural Law, before Hobbes and Locke had got at it, had upheld hierarchy and subordination as natural and necessary principles of social organization. Burke saw that the old Natural Law was needed again.”⁸ The natural law line of Burkean scholarship was heavily influenced by Russell Kirk in the 1960s, during a time in which American conservative values were perceived to be threatened by the rising tides

Hopkins Press, 1934); John H. Randall, *The Making of the Modern Mind* (Boston, MA: Houghton Mifflin, 1940); John A. Lester, “An Analysis of the Conservative Thought of Edmund Burke,” Ph.D. Thesis, Harvard University, 1943. For more on Burke’s utilitarian interpreters, see Peter J. Stanlis, “The Basis of Burke’s Political Conservatism,” *Modern Age* (Summer 1961): 263–265.

5 Stanlis, “The Basis of Burke’s Political Conservatism,” 264.

6 Leo Strauss, *Natural Right and History* (Chicago, IL: University of Chicago Press, 1963).

7 Burleigh Taylor Wilkins, *The Problem of Burke’s Political Philosophy* (Oxford: Oxford University Press, 1967).

8 C. B. Macpherson, “Edmund Burke” in Iain Hampsher-Monk (ed.), *Edmund Burke* (Farnham: Ashgate, 2009), 66. See also C. B. Macpherson, *Burke* (Oxford: Oxford University Press, 1988).

of liberalism and socialism. More recently, Joseph Almeida has provided an account of the centrality of natural law in Burke's understanding of the British constitution.⁹

In more recent years, the interpretation of Burke as a Thomist natural lawyer has received less attention and has fallen out of favor with Burke scholars, in large part because a credible link between Burke and Aquinas has lacked clear explication. In this paper I will implicitly defend Stanlis and Canavan's reading of Burke, which I believe to be convincing. To be clear, this position does not profess that Burke thought of himself as a Thomist, but rather that his account of the natural law is premodern and directly influenced by Thomistic accounts of the natural law. I will attempt to add historical plausibility to this interpretation by showing that legal sources with which Burke was certainly familiar and to which he was self-confessedly indebted, were highly familiar with Aquinas's account of custom, law, and society. I will not attempt to marginalize the influence of classical sources such as Cicero and Aristotle, as such sources were certainly known to Burke and, furthermore, also influenced Aquinas and the common lawyers in their respective accounts of the natural law. The central contention of this paper is simply that, through the common lawyers, Burke would have been familiar with an account of law which was substantially indebted to Thomas Aquinas.

I: Entering the debate

In a journal article written in 2008 by Christopher Insole, we find a helpful point of entry into the ongoing debate regarding Burke's influences. In the article, Insole does not in fact attempt to claim Burke as a Thomist but rather pursues a more modest aim. Insole writes that he is not arguing that "Burke is a Thomist, in any straightforward way," but, rather, he provides a qualified account of Burke's understanding of constitutional liberalism, which he says "is compatible with, or even

9 Joseph Almeida, "Constitutionalism in Burke's *Reflections* as Critique of the Enlightenment Ideas of Originative Political Consent and the Social Compact," *The Catholic Social Science Review*, 17 (2012): 197–219.

illuminated by, the central claims of Thomism.”¹⁰ In the article, Thomism is defined as “a reconstruction, which understands itself to be derived from elements of Aquinas’s thought.” Insole provides a thorough summary of the recent academic work which has been undertaken to discern the influences that may have been acting upon Burke. Amongst others, the author notes Hampsher-Monk’s account of Anglican scepticism,¹¹ Clark’s and Lock’s respective accounts of Whig Latitudinarianism,¹² and Armitage’s account of classical influences and early modern natural law thinkers such as Vattel and Grotius.¹³ Insole is clear that “admirab[le]” historical work has been done “on a number of fronts” to trace the influences upon Burke.¹⁴ Yet, while he lauds such work, he lays down a “small gauntlet” to historians who would deny any scholastic influence in Burke’s thought.¹⁵ Insole notes the significant presumptions we must make if we are to believe that scholastic natural law thought had no significant impact upon Burke. Amongst these are the presumption that Burke was uninfluenced by the extensive presence of Scholastic theology on the Trinity College, Dublin, syllabus despite his writing to Shackleton at this time that he was “deep in metaphysics.” Second, the presumption that Burke’s devout Anglicanism was “uninformed by the Scholastic influence (some very Thomistic) which runs distinctively through Anglican theologians,” many of whom were in his personal library. As we shall see, this is a particularly weighty presumption when we consider that Burke professed to have read such Anglican Divines frequently and claimed to attribute great weight to their thought. Finally, Insole writes that we must presume to attribute no significance to Burke’s direct reference in the House of Commons to

10 Christopher Insole, “Two Conceptions of Liberalism,” *Journal of Religious Ethics*, 36, no. 3:447–489, 452.

11 Iain Hampsher-Monk, “Burke and the Religious Sources of Skeptical Conservatism,” in J. van der Zande and R. H. Popkin (eds.), *The Skeptical Tradition Around 1800* (Springer, 1998), 235–259.

12 J. C. D. Clark, “Religious Affiliation and Dynastic Allegiance in Eighteenth-Century England: Edmund Burke, Thomas Paine, and Samuel Johnson,” *English Literary History*, 64, no. 4: 1029–67; F. P. Lock, *Edmund Burke Volume II, 1784–1797* (Oxford: Oxford University Press, 2006).

13 David Armitage, “Edmund Burke and Reason of State,” *Journal of the History of Ideas*, 61, no. 4:617–34.

14 Insole, “Two Conceptions of Liberalism,” 451.

15 *Ibid.*, 453.

Thomas Aquinas's caution "against breaking the law of nature," in which Burke stated that the "darkness of the twelfth century rose against the light of the eighteenth."¹⁶ In short, Insole concludes, we must presume "Burke's heroic ignorance of the scholastic tradition."¹⁷ When faced with such presumptions, it is hard not to agree with Insole that, "One begins to suspect that the reluctance among historians even to re-open the question about the influence of scholasticism on Burke might be reflective of a wider prejudice in the treatment of early modern thought ... whereby commentators prefer to leap-frog over the medieval/scholastic period, focusing more on ancient classical sources."¹⁸

In this paper, I wish simply to add another presumption to the list of those we must make if we are indeed to presume Burke's heroic ignorance of the scholastic tradition. This presumption is that the common lawyers, of whom Burke was a serious scholar, exercised no significant influence upon his political thought. I shall make two substantial contentions: first, that Burke was intimately acquainted with, and influenced by, the common lawyers; second, that the leading lights of the common law tradition were well acquainted with scholastic, and specifically Thomist, natural law theology, which they explicitly referenced and related to legal and political affairs.

I will begin by looking at Burke's interaction with the common lawyers and assess the importance of their work in his intellectual life. I will then briefly outline which particular aspects of Aquinas's thought I believe to have been transmitted to Burke through the common lawyers. I will proceed towards an examination of three of the most influential common lawyers, looking in detail at John Fortescue, Christopher St. Germain and Edward Coke's work respectively, before offering a conclusion.

II: Burke and the common lawyers

What then was Burke's relationship with the common law tradition? The most well known of Burke's references to the common lawyers is perhaps

¹⁶ See *Hansard's Parliamentary History*, 21 (London: T. C. Hansard, 1814), 719.

¹⁷ Insole, "Two Conceptions of Liberalism," 454.

¹⁸ *Ibid.*

in the *Reflections* where he argues that, "Our oldest reformation is that of Magna Charta. You will see that Sir Edward Coke, that great oracle of our law, and indeed all the great men who follow him, to Blackstone, are industrious to prove the pedigree of our liberties."¹⁹ We need not lean too heavily on one statement, but it is at least significant that, in a passage in which Burke seeks to vindicate the fundamental rights of Englishmen and delineate the essence of the British constitution, it is the common lawyers to whom he turns as the authoritative sentinels of English liberty. The language he uses is plain and frank; in Burke's eyes the common lawyers were "great men" and an authority to be esteemed. He made a similar claim again in the *Reflections* when expounding upon the fundamental liberties of Englishmen established in the 1688 Bill of Rights. Burke contrasts the "great lawyers and statesmen" who drew up the Bill of Rights with the "warm and inexperienced enthusiasts" who were causing trouble in England.²⁰ Moreover in his "Letter to the Chairman of the Buckinghamshire Meeting," penned in 1780, Burke wrote: "I am now growing old. I have from my very early youth been conversant in reading and thinking upon the subject of our laws and Constitution, as well as upon those of other times and other countries."²¹ Indeed it was arguably the common law tradition which gave Burke his unshakeable conviction in the importance of conservation, the accommodation of principles to concrete circumstances and his rejection of unfettered individuality. In a passage in the *Reflections* Burke wrote:

And first of all the science of jurisprudence, the pride of the human intellect, which, with all its defects, redundancies, and errors, is the collected reason of ages, *combining the principles of original justice with the infinite variety of human concerns*, as a heap of old exploded errors, would be no longer studied. Personal self-sufficiency and arrogance (the certain attendants upon all those who have never experienced a wisdom greater than their own) would usurp the tribunal. Of course, no cer-

19 Edmund Burke, *Reflections on the Revolution in France*, ed. J. C. D. Clark (Stanford: Stanford University Press, 2001), 182.

20 Ibid., 163.

21 *Edmund Burke: Selected Writings and Speeches*, ed. Peter J. Stanlis (Washington D.C.: Regnery, 1963), 319.

tain laws, establishing invariable grounds of hope and fear, would keep the actions of men in a certain course, or direct them to a certain end ... and thus *the commonwealth itself would, in a few generations, crumble away, be disconnected into the dust and powder of individuality*, and at length dispersed to all the winds of heaven.²²

We might also note Peter Stanlis's observation that, "Between 1750 and 1765, when he was elected to the House of Commons, [Burke] had acquired a legal erudition as great as anyone in Britain ... A decade before his death, he said in Parliament that he 'had in the course of his life looked frequently into law books on different subjects.'"²³ In his capacity as editor at Dodsley's *Annual Register*, Burke had to review a variety of works on law and reviewed several more books on law after he stopped working for the *Annual Register*. A significant number of these books were concerned with the history of English and Scottish law. Stanlis notes that by the mid 1770s Burke had "acquired an encyclopaedic knowledge of civil, criminal, constitutional, and Natural Law," this knowledge of the law being "most clearly evident in his innumerable quotations and references to the ancient records, charters, legal treatises, statutes, procedures, and decisions which comprised the common law of England." We might also note Stanlis's observation that, "In 1773 [Burke] said in Parliament: 'I have studied ... God knows: hard have I studied, even to the making dog-ears of almost every statute book in the kingdom ... the letter as well as the spirit of the laws, the liberties, and the constitution of this country.'"²⁴ Burke made similar statements elsewhere, notably stating in the House of Commons: "No man here has a greater veneration than I have for the doctors of the law."²⁵ We should also be aware that among the books which Burke had read by the 1760s was Suarez's *Tractatus De Legibus*, which has numerous references to the *Summa Theologica* and specifically Aquinas's treatment of law, as well as regarding Richard Hooker's deeply Thomistic treatment of law in

²² Burke, *Reflections*, 259–60.

²³ Peter J. Stanlis, "Edmund Burke's Legal Erudition and Practical Politics: Ireland and the American Revolution," *The Political Science Reviewer*, 35, no. 1 (Fall 2006): 67.

²⁴ Stanlis, *Selected Writings and Speeches*, 5.

²⁵ Burke quoted in *ibid.*, 7.

the highest terms. Burke was familiar too with the work of Grotius and Pufendorf, often identified as transitional figures between medieval understandings of the natural law and more modern articulations of natural law thought. In short, Burke was highly erudite in the field of legal studies in general and in the common law tradition in particular. Furthermore, there can be little doubt that he held the common lawyers in the utmost esteem.

Not only was Burke steeped in a knowledge of the common law, but he was deeply interested in the sources of the common law. Indeed, Burke considered himself sufficiently expert in the laws of England and their origins that by 1757 he had embarked upon a project to compose an essay on a history of the laws of England as part of his "Abridgment of the English History." It is notable that in this incomplete project Burke demonstrated an extensive knowledge of the sources of the common law and he was obviously aware of the influence of continental canon law upon the development of the English common law. In "An Essay towards an History of the Laws of England," Burke lists "three capital sources" of the "Saxon laws" noting "[t]he second source" was "the canons of the church," writing that they "influenced considerably a people, over whom that order had an almost unbounded authority" before proceeding to state that the canon law "corrected, mitigated, and enriched those rough Northern institutions; and the clergy having once bent the stubborn necks of that people to the yoke of religion, they were the more easily susceptible of other changes introduced under the same sanction."²⁶ Significantly, he notes that, following the Norman Conquest, "English jurisprudence" was "as from a mighty flood, replenished with a vast body of foreign learning."²⁷ Burke was critical of instances of English legal historiography which elevated the purity of the common law to the detriment of historical fact and he was keenly attuned to the fact that the continental legal tradition exercised an influence upon the common lawyers from the time of the Norman Conquest onwards. There is much more that could be said about Burke's passionate pursuit of the common law, yet it is beyond the scope or ambition of this arti-

26 Edmund Burke, "An Essay towards an History of the Laws of England" in *The Works of Edmund Burke*, Vol. 5 (Boston, Charles C. Little & James Brown, 1839), 726.

27 Ibid.

cle to provide a full account of this interest as it has been detailed in substantial depth elsewhere.²⁸ We need simply note that there is ample evidence to suggest that Burke was an avid student of the common law tradition. In Burke's emphasis on organic growth, his adulation for the constitution, his attentiveness to concrete circumstance, and his esteem for time-honored customs, he proves himself a student of a well-established line of legal thought.

Burke's affinity for the common law tradition has not gone unnoticed in British scholarship. J. G. A. Pocock is the most influential commentator to have identified the arguments of the common lawyers in the work of Edmund Burke. Pocock writes, "There really did exist a habit of conducting political discussion in England 'upon the principle of reference to antiquity,' upon the assumption that there existed an ancient constitution which was the justification of all rights and was itself justified primarily by its antiquity."²⁹ Pocock is correct in arguing that we find in the common law a clearly articulated tradition which precedes Burke in arguing for conservation, the preservation of custom, and asserts that the immemorial liberties of Englishmen are secured by the ancient constitution. Pocock notes that, "The public and authorized theory of what had occurred in 1688–89—that on which the houses of the convention parliament had been able to agree and which was in contained in the public documents of the time—really did base its interpretation on the doctrine of the ancient constitution, more than on the doctrines of contract, natural right, and reason propounded by Sidney or Locke."³⁰ Pocock makes the point that Burke was explicitly defending the common lawyers' interpretation of historical events.

Whilst Pocock is correct to locate Burke's writings in this tradition his argument is too crude in stating that the tradition believed the constitution to be "justified primarily by its antiquity."³¹ In *The Cambridge Companion to Edmund Burke*, Hampsher-Monk rightly comments in a footnote that Pocock's common law interpretation of Burke "departs

²⁸ Stanlis, *Selected Writings and Speeches*, 4–7.

²⁹ J. G. A. Pocock, *Politics, Language, and Time: Essays on Political Thought and History* (Chicago: University of Chicago Press, 1971), 208.

³⁰ Ibid.

³¹ Ibid.

from interpretations of Burke as a neo-Thomist natural law thinker.”³² It is this curious fact to which I wish to draw attention. The common lawyers whom Burke referenced were not, as Pocock would have it, mere traditionalists. Pocock is swift to point out that, following the common lawyers “from Coke to Blackstone,” Burke defended the constitution on the basis that it was rooted in ancient laws such as Magna Carta, which were themselves rooted in ancient customs, but he ignores the fact that the leading lights of the tradition clearly and consistently link the immemorial law of England, established by custom and precedent, to the natural law.³³ When we look at the salient thinkers in the tradition, whom Burke himself referenced, we see that they consider antiquity penultimate to the natural law that informs healthy laws and customs; at the least, the immemorial law is conceptually conjoined to what is essentially a Thomistic understanding of the natural law. It would truly be odd, given that in his defence of the constitution Burke explicitly states he is following them, if he was not cognizant of this link either. As we will see, if Burke was as indebted to the common law tradition as Pocock has argued, then it is hard to see how he was *not* in some sense a Thomist in his legal thought.

III: Aquinas

It is worth sketching the salient strands of Aquinas’s thought which Burke would have found in the common lawyers. First, we should note Aquinas’s understanding of creation is grounded within the divine intellect; as such, all creation is teleological and rationally ordered. According to Aquinas, all creatures (as well as the creation more broadly) are directed towards distinctive natural ends ordained by the creator.³⁴ Human nature, as God created it, naturally seeks the good. Importantly, human beings, by the innate habit of *synderesis*, have an innate knowl-

32 Iain Hampsher-Monk, “Reflections on the Revolution in France,” in David Dwan and Christopher Insole (eds.), *The Cambridge Companion to Edmund Burke* (Cambridge: Cambridge University Press, 2012), 207.

33 Pocock, *Politics, Language, and Time*, 208.

34 Thomas Aquinas, *Summa Theologica: Prima Secundae Partis*, trans. Fathers of the English Dominican Province (Notre Dame, IN: Christian Classics, 1981) Q. 90, A. 1.

edge of the right course of action, which can be acted on according to conscience. Secondly, Aquinas understood the eternal law as emerging from the perfect harmony of the divine intellect and the divine will; as such, it is not a product of arbitrary will. As Aquinas put it, “All law proceeds from the reason and will of the lawgiver; the Divine and natural laws from the reasonable will of God; the human law from the will of man, regulated by reason.”³⁵ In earthly affairs this implies that the legitimacy of all power is contingent upon its conformity to the eternal law as revealed in the divine and natural law. Thirdly, Aquinas maintained the capacity for human beings to arrive at a knowledge of the eternal law through practical reason—“It is therefore evident that the natural law is nothing else than the rational creature’s participation of the eternal law”—yet insisted that to the extent that man is both spiritually fallen and epistemically limited in his creatureliness he can only partially attain a true knowledge of the created order.³⁶ Fourthly, Aquinas was clear that laws are not primarily the domain of speculative reason but are concerned with “practical matters, which are the object of the practical reason.”³⁷ Fifthly, he emphasised the importance of customary law and tradition in the *Summa* and *De Regno*, “for when a thing is done again and again, it seems to proceed from a deliberate judgment of reason. Accordingly, custom has the force of a law, abolishes law, and is the interpreter of the law” so long as it does not contravene the natural or divine law.³⁸ Sixthly, Aquinas accorded the divine law as revealed in Holy Scripture a substantial role in informing and judging human laws and customs, and human laws were only legitimate to the extent that they were congruent with the eternal law.³⁹ Finally, Aquinas understood the primary social function of law (and governance) as ordering society towards the common good—“A law, properly speaking, regards first and foremost the order to the common good.”⁴⁰

We should also remember that Aquinas himself was influenced by the great figures of philosophy. The name of Cicero appears in the

35 Ibid., Q. 97, A. 3.

36 Ibid., Q. 91, A. 2.

37 Ibid., Q. 90, A. 2.

38 Ibid., Q. 97 A. 2.

39 Ibid., Q. 91 A. 4.

40 Ibid., Q. 90 A. 3.

Summa half a dozen times and Aristotle is frequently referenced by Aquinas.⁴¹ Two areas in particular are worthy of note in this regard. First, in his definition of prudence Aquinas references Cicero and makes Cicero's definition of a virtue central to the discussion.⁴² As one commentator puts it, "the flowering of St. Thomas's thought" on this issue emerges "from a seed cast by Cicero."⁴³ Secondly, we might also note the influence of Cicero in Aquinas's understanding of custom, regulated by reason, as a desirable source of law. Besides Aristotle and Cicero, we can discern other voices in Aquinas's work: Seneca and Boethius are second only to Cicero in being referenced by Aquinas.⁴⁴ We should also be mindful of areas of Aquinas's thought which are not explicitly legal in nature but are inextricably tied to such discussions. Following Aristotle, Aquinas writes (in words echoed by Fortescue, Coke, and Burke) that "man is by nature a social animal." This basic presumption of anthropic sociality is not incidental but integral to the derivative vision of society held by Aquinas, the common lawyers, and Burke.⁴⁵

IV. Fortescue

John Fortescue was unarguably one of the most influential figures in the history of the common law tradition. Fortescue's life spanned the fifteenth century. A subject of King Henry VI, he was a loyal Lancastrian and Lord Chief Justice of England and Wales. His most notable work was *De laudibus legum Angliae*. As E. W. Ives writes, "Fortescue's authority on constitutional law was widely recognized in his own day and increasingly thereafter. This particularly applied to *De laudibus*, of which the first printed edition appeared in 1545–46 and eight further editions were published before the century was out."⁴⁶ It is significant

41 R. K. Rand, *Cicero in the Courtroom of St. Thomas Aquinas* (Milwaukee, WI: Marquette University Press, 1946), 4.

42 Ibid., 27.

43 Ibid., 28.

44 Ibid., 4.

45 Thomas Aquinas, *De Regno*, trans. Gerald B. Phelan, found at <http://dhspriority.org/thomas/DeRegno.htm> (accessed 12 March 2014), Book I, Ch. 1.

46 E. W. Ives, "Fortescue, Sir John (c. 1397–1479)," *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Oct 2005, <http://www.oxforddnb>.

then that Fortescue's work was greatly indebted to the thought of St. Thomas Aquinas. Oliver O'Donovan summarizes Fortescue's reception of Aquinas: "Fortescue's contribution testified to the profound impact of Thomistic thought across the spectrum of the law schools. His pages are replete with references not only to Thomas Aquinas's treatment of law in *Summa Theologiae* and to the discussion of political rule in that portion of *On the Government of Rulers* widely attributed to Ptolemy of Lucca, but also to the later treatise of the same name by Giles of Rome."⁴⁷ Similarly O'Sullivan writes, "In all his writings Fortescue appears as a diligent disciple of St. Thomas Aquinas."⁴⁸

Fortescue's work is filled with themes that we might, at the risk of being anachronistic, identify as proto-Burkean. Before turning to his major writings let us pause to survey the central motifs in his work. For Fortescue, the natural law was, "as St. Thomas says ... nothing else than the participation of eternal law in a rational creature."⁴⁹ Like Aquinas, Fortescue considered customs to be an important source of law and is quite clear in identifying, and subjugating, immemorial customs to the natural law: in a chapter entitled "As the moon is to the sun so are human laws to the divine law," Fortescue writes that "human customs and constitutions are subject to the rules of the law of nature, and having issued from its boundaries do so partake of its nature, that, if not ratified thereby, such customs and constitutions deserve not to be called laws, but rather corruptions."⁵⁰ Fortescue is unequivocal that the natural law informs and governs the laws of England.⁵¹ Like the common lawyers who follow him, he distinguishes three sources of law, custom, statute, and the natural law; yet importantly the former two emerge

com/view/article/9944 (accessed 17 December 2013).

47 Oliver O'Donovan, *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought* (Grand Rapids, MI: Eerdmans, 1999), 530.

48 Richard O'Sullivan, "Natural Law and Common Law," *Transaction of the Grotius Society*, Vol. 31 (1945): 117–138, 126.

49 John Fortescue, "De Natura Legis Naturae," in *The Works of Sir John Fortescue Knight, Chief Justice of England and Lord Chancellor to King Henry VI*. Vol. i. (London, 1869), 154.

50 *Ibid.*, 241.

51 For a full elaboration upon the natural law's sovereignty over political and royal rule in Fortescue's work see E. F. Jacob, "Sir John Fortescue and the Law of Nature," *Bulletin of the John Rylands Library*, 18, no. 2 (1934): 366–69.

from and are contingent upon the last. Furthermore, we shall see that statute is treated with a degree of caution by Fortescue, and that once statutes are created they must have the consent of a multitude.

A belief that a society's growth ought to be slow and organic is clearly present in Fortescue's work. Such organic and consensual growth is a staple theme in the common law tradition, which we will see repeated, and it is intimately bound to the importance of society's right ordering under the natural law. For Fortescue, the cohesive functioning of civil society and its relation to its ruling head are governed by the natural law, which is resident in the constitution. O'Donovan tells us that Fortescue "emphasizes the stable, interdependent, and independent functioning of the civil parts made possible by the persisting structure of law. The impression left by his praise of the English constitution, that it indeed approaches the rule of Christ over his saints, illustrates his prevailing inclination toward the hegemony of the law of nature."⁵² The purpose of all law, for Fortescue, is clear: "[A]ll human laws are, as it were, instruments whereby the Divine law developes its virtues in human actions, and that they stand related to the law of God as the moon to the sun," fitting us for our ultimate end, divine beatitude.⁵³

We can see at this early stage a clear articulation of the sovereignty of the natural law, its origin and purpose, as well as a clear assertion of the participation of immemorial customs and the English constitution within the natural law. As we trace the lines of Fortescue's arguments, we should not be surprised to find that they are deeply resonant with many of the motifs in the *Reflections*, given that Burke was himself clear that he was simply articulating themes which had a well-established pedigree in English law. Fortescue's view of law is captured by the historian Christopher Brooks:

According to Fortescue, the grounds of English law were the divine laws which permeate throughout the universe, natural law, and human laws in the form of statute and custom. Divine law and natural law were ideally discovered either by revelation or by a kind of divine light which illuminated the intuitions of man. But, for obvious reasons, man's knowledge of these sources

⁵² O'Donovan, *Sourcebook*, 532.

⁵³ Fortescue, "De Natura" in *The Works of Sir John Fortescue*, 243.

of law was bound to be imperfect. Consequently, although human (or positive) laws were supposed to conform to the higher laws of God and nature, there were inevitably going to be some areas in which such guidance was unclear. In these circumstances, Fortescue thought that the maxims of the human law (in England the maxims of the common law) should be used as the basis for judicial decision-making. However, human laws contrary to the laws of nature were invalid, and, if necessary, there was no reason why human laws should not be amendable in order to bring them into line with the higher laws⁵⁴

With this overview in mind, let us turn to look at two of Fortescue's major works.

Fortescue was exiled to the European continent between 1463 and 1471, during which period he published *De laudibus legum Angliae* (*A Treatise in Commendation of the laws of England*). In this work, he follows Aquinas and Aristotle in their metaphor of the body politic which is governed by a head. He tells us that a social body requires a head, "for, as in the body natural, the head being cut off, we no longer call it a body, but a trunk; so a community without a head to govern it, cannot in propriety of speech be called a body politic."⁵⁵

This metaphor offers a neat summary of how Fortescue perceived the relationship between law and society. The law, according to Fortescue, is the very nerves and sinews of the social body. Fortescue, like Burke, is quite clear that the origin and operation of all legitimate law is divine, telling us that "the laws which through the Divine occurrence work such good effects" ought to be "studied with the utmost application."⁵⁶ This recognition grounds Fortescue's conviction that the law in its ultimate origin has a common source and is binding upon all peoples: "The laws of England, as far as they agree with, and are deduced from the Law of Nature, are neither better nor worse in their decisions than

54 Christopher W. Brooks, "The Place of Magna Carta and the Ancient Constitution in Sixteenth-Century English Legal Thought," in Ellis Sandoz (ed.), *The Roots of Liberty*, 61.

55 John Fortescue, *De Laudibus Legum Angliae* (Cambridge, 1825), 37–38.

56 *Ibid.*, 12–13.

the laws of all other states or kingdoms in similar cases.”⁵⁷ Significantly, the implication of the natural law for the monarch is that “justice is the subject of the Royal care.”⁵⁸ Fortescue is equally clear that the great end of society is the common good, quoting Cicero (albeit mediated through Augustine) to tell us that “a people is a body of men joined together in society by a consent of right, by an union of interests, and for promoting the common good.”⁵⁹ The law’s purpose, then, is to direct men towards their divinely ordained natural ends, “since that justice which is taught and acquired by the law, is universal virtue, it follows, *that he who has attained this justice, is made happy by the laws*, consequently has attained the *summum bonum*, or beatitude.”⁶⁰

One of the most enduring distinctions in Fortescue’s work is his account of *dominium politicum et regale* or “political and royal rule” which, Fortescue was clear, “hath been taught in the doctrine of the said St. Thomas.”⁶¹ It is a highly significant distinction in the history of British politics insofar as it seeks to delimit the arbitrary will of a sovereign and it strikes at the heart of the common law’s concern for individual liberty under the natural law. Fortescue expounds upon it at some length in *De natura legis naturae* and in *De dominio regale et politico*, but seeks to give a historical account of such rule in *De Laudibus*.

We need not look far in Burke’s own writings before these themes, so prominent in Fortescue, and persistently reiterated in the common law tradition, are made apparent. Fortescue follows Aquinas in consistently rejecting any notions of legal voluntarism issued by the arbitrary will of a ruler. One such instance appears in *De Laudibus*, where Fortescue finds biblical precedent for this, writing that God told Samuel to show the Israelites that a king would govern according “to arbitrary will and pleasure.”⁶² In *De Laudibus* Fortescue also follows Aquinas in blurring the boundaries of the civil and the political, the political not being

⁵⁷ Ibid., 48.

⁵⁸ Ibid.

⁵⁹ Ibid., 37.

⁶⁰ Ibid., 12.

⁶¹ Fortescue, “De Natura,” in O’Donovan, *Sourcebook*, 533.

⁶² Fortescue, *De Laudibus*, 36.

a product of the fall but an aspect of Adam's marriage, an authority which Fortescue describes as natural.⁶³

By July 1443, Fortescue had produced one of his most notable publications, *De Natura Legis Naturae* (*On the Nature of the Law of Nature*), as well as nine other pro-Lancastrian works. In this work, which spans just over 330 pages, Fortescue is concerned with a king's right to rule and, in particular, he is precluding the possibility of Yorkist rule on the basis of the natural law. This text provides us with an extensive Thomistic account of the natural law in which we can see just how deeply Fortescue was indebted to Aquinas, who is consulted and referenced at every stage of the text. One commentator puts it well (notably, this historian also detects Burkean motifs in Fortescue's work):

The heart of the matter becomes apparent in *Nature* ... He is utterly clear on the point that ... the good [man] seeks is not exhausted by nature and the things of the world ... Rather, man seeks as his ultimate end the inexhaustible Good of the transcendent *summum Bonum*, supernatural Beatitude ... Fortescue's horizon of thought, in other words, is thoroughly Christian, classical, biblical, scholastic, and medieval Catholic, with elements of Renaissance humanism tending to modernize the whole ... There is a constant mindfulness of human limits, a sort of Burkean sense that the individual is ignorant, the species wise.⁶⁴

Given how concerned Burke was with constitutional precedent and the question of the succession of 1688, it would be very surprising if he had not read the seminal work of Fortescue on this precise issue.⁶⁵ For Fortescue, as for Burke, it is the constitution grounded in the natural law that morally binds the constituent members of society to one another and determines the relations between their appointed offices.

⁶³ Ibid.

⁶⁴ Ellis Sandoz, *The Politics of Truth and Other Untimely Essays: The Crisis of Civic Consciousness* (Columbia, MO: University of Missouri Press, 1999), 98.

⁶⁵ Note that John Somers, a leading architect of the 1689 Bill of Rights whom Burke explicitly references as an authority in the *Reflections* with regards to the succession of 1688, wrote that the right to petition "was justify'd by the Law of Nature, the Practice of all States in the World, and ... allow'd by the Laws of this Land."

The natural law, then, is seen to be intimately connected with the right ordering of society, and Fortescue makes a point of highlighting the presence of the natural law at the very conception of the polity. He tells us that “we cannot allow the kingly power to have been instituted at the first by any other law than the law of nature since ... there was no other law at the time of its institution.”⁶⁶

In *De Natura* the universality of the natural law is assumed. The laws of the English nation are thus necessarily aligned with the law of nations: “What else then is the *jus gentium* which our laws so highly extol, but those laws of nature’s code which all nations observe.”⁶⁷ Following Aquinas, reason becomes the bridge between the natural law and the civil customs which accord to the natural law, “that which natural reason establishes among all men is preserved among all nations ... And what is it which natural reason has established among all men but that natural equity which is nature’s law?”⁶⁸ Fortescue is equally clear that human law which accords to the natural law ought to direct us towards our created ends: “nations adopted for their own purposes certain laws of nature, which were so convenient for them that without them they could not live rightly.”⁶⁹ The discussion is concluded with an assertion of the sovereignty and immutability of the natural law, which is the eternal law made known to man, “the law of nature, which is a perpetual law, and as the canons above-mentioned say, began from the beginning of the rational creation, and varies not with time, but subsists unchangeable.”⁷⁰ Fortescue also offers an account of the relationship between justice and the law of nature in a passage that is striking in its resonance with Burke’s articulation of the immutable demands of justice. Fortescue tells us of the law’s “emanation from the depths of justice” that law and justice are “of one quality and accidental essence,” pronouncing that “as the lustre from the light, the heat from the fire, the gushing stream from its spring, so doth the law (jus) of nature come from justice.”⁷¹

66 Fortescue, “De Natura,” in O’Donovan, *Sourcebook*, 534.

67 Ibid.

68 Ibid.

69 Ibid.

70 Ibid., 535.

71 Fortescue, “De Natura,” in *The Works of Sir John Fortescue*, 231.

Not only is *De Natura* concerned with legal succession, but it is concerned with the right function of the ruler. Fortescue is clear in the text that English monarchs need “the consent of the three estates of the realm” if they are to make laws or raise taxes.⁷² Judges, too, are bound by the laws of the land and should not be compelled by the king’s arbitrary will. In *De Natura*, Fortescue consistently makes a link between unrestrained monarchical rule and the arbitrary (thus illegitimate) use of power. Like Burke, he is clear that such arbitrary power should necessarily be circumscribed as we are all born equally subject to a great pre-existent law: “the kingly power took its origin under and from the *law of nature*, and by it always was and is regulated.”⁷³ In making these arguments, Fortescue makes repeated reference to Thomas Aquinas as an authoritative figure. In short, there is a clear motif, recurrent from the outset of the common law tradition, which is utterly opposed to the arbitrary will of a ruler and is unequivocal about the sovereignty of the natural law. It is for this reason that, as for Coke after him, custom and the natural law are given precedent over statute; we might even say that there is a tone of caution towards the use of statute. Fortescue is clear that when statutes are made they “must be calculated for the good of the people: and they must needs be full of wisdom and prudence, since they are the result, not of one man’s wisdom only, or an hundred, but such an assembly as the Roman Senate was of old.” This is illustrated when, despite Edward IV’s rule being ratified by statute, Fortescue nevertheless opposes him on the basis of the natural law. E. F. Jacob writes “that the Law of Nature should have been employed to support a title based on an act of the estates shows that the authority of the statute was not thought to be of so fundamental a character as the principles from which all particular statutes were, in the last resort, supposed to be derived.”⁷⁴ Repeatedly we hear Fortescue extolling the natural law, identifying its function in regulating society, protecting the liberties of Englishmen and militating against the danger of arbitrary governance.

Fortescue’s concern with the arbitrary government of an individual is tethered to his anthropology. It is unsurprising that we find a Chris-

⁷² Fortescue, “De Natura,” in O’Donovan, *Sourcebook*, 534.

⁷³ *Ibid.*, 533.

⁷⁴ Jacob, “Sir John Fortescue,” 376.

tian anthropology in his work given the context in which he was writing, yet there are inevitably different accents and emphases within the canon of Christian anthropologies and, once again, Fortescue stands aligned with Aquinas.⁷⁵

In his discussion of man in his natural state, Fortescue writes that “everyone naturally provides and contrives for his private and particular interest” and therefore, “if [human society] were not ruled by some one who would take charge of it, [it] would waste away and perish, more especially since man’s nature has been spoilt by sin, by which it has been made prone to go wrong.”⁷⁶ In this passage, the author is highlighting the corruption of man’s reason and echoing Aquinas’s view that “when man turned his back on God, he fell under the influence of his sensual impulses” and was subject to “a deviation from the law of reason.”⁷⁷ Furthermore, Fortescue argues that without governance men would be subject to “violence and insults” and “continually exposed to the ravages of everyone who should take it in their heads to oppress them.”⁷⁸ Such passages are significant insofar as the patriarchs of the common law tradition were consistent in their anthropology; man is neither utterly depraved nor is he a noble savage. Crucially, if he is to attain his right ends, man requires the regulation of stable laws and just government, without which his worst impulses would be aroused. Fortescue’s anthropology is well summarised by Burke’s statement that “man is born to be governed by law.”⁷⁹ If Fortescue was anthropologically aligned with the Christian tradition in general, then he was aligned with Aquinas in particular. Man is seen as a creature ordered towards distinctive natural ends and aided to those ends by human laws partaking in the natural law. As Fortescue writes, “the law of nature can have no other operation than to dispose man to virtue ... as St. Thomas says, the highest charge of government ... is committed ... to make men virtuous,”⁸⁰ adding that “whatsoever that be which fulfils man’s longing, that assuredly is the ultimate end of human desire, and that is the end which we seek ...

75 Aquinas, *Summa Theologica: Prima Secundae Partis*, Q. 91 A. 6.

76 Fortescue, “De Natura,” in O’Donovan, *Sourcebook*, 534.

77 Aquinas, *Summa Theologica: Prima Secundae Partis*, Q. 91 A. 6.

78 Fortescue, *De Laudibus*, 35.

79 Burke, *Writings and Speeches*, 6:351.

80 John Fortescue, “De Natura,” in *The Works of Sir John Fortescue*, 243.

man hath been fashioned for such an end ... St. Thomas in the aforesaid 1st Book, says that beatitude is the ultimate end of desires. Is it not, then, that ultimate end of which we are in search, wherewith the lord fulfils all the longing of man?" In conclusion, he affirms Aquinas's statement that, "beatitude ... consists in the divine vision and that alone."⁸¹ Whilst this fact is not entirely surprising in the fifteenth century, it is nevertheless significant that these were the basic anthropological assumptions of the lawyers whose work would have been well known to Burke. We should not be surprised then that Burke's own anthropology reacted sharply against the French revolutionaries' sanguine view of man in the state of nature.

It is hard to overstate the impact of Fortescue as a legal and political thinker. Richard Hooker was deeply influenced by Fortescue, as was Edward Coke, who opined of Fortescue's treatise *In Commendation of the Laws of England* that it was "worthy to be written in Letters of Gold for the Weight and Worthiness thereof."⁸² To exercise a substantial influence over those two Englishmen alone is enough to shape England's intellectual landscape substantially and, as we shall see, there is an identifiable lineage between Fortescue and Edmund Burke. Yet Fortescue's influence was far more extensive: "With the possible exception of Sir Thomas More, Fortescue is the English common lawyer who, until the days of Coke and Bratton, had most to say of importance to a reading public outside his own profession."⁸³ Indeed, three hundred years later, in the seventeenth and eighteenth century, the Whigs employed Fortescue's notion of *dominium politicum et regale* in their defence of parliamentary and royal sovereignty,⁸⁴ and Fortescue was repeatedly referenced by some of the most influential common lawyers and politicians in the succeeding centuries. Sandoz sees a clear lineage running from Fortescue all the way to Burke: "In the history of liberty through rule of law, then, Fortescue stands in the line of celebrated English political, legal, and constitutional writers running from Henry de Bracton (d. ca. 1268) to Christopher St. Germain (d. 1540) to Richard Hooker

⁸¹ Ibid., 244.

⁸² Edward Coke, *Coke Report* 8, fol. xiv.

⁸³ Ives, op cit.

⁸⁴ Ibid.

through Sir Edward Coke (d. 1634) to Edmund Burke (d. 1797).⁸⁵ All of these thinkers are united in the conviction that true liberty is found under law (natural and thus constitutional) and, as such, the arbitrary will of a ruler violates the liberty of subjects.⁸⁶ Jacob similarly makes the point that Fortescue was acting in a well-established tradition of natural law reasoning: “[T]he history of reason and conscience in Chancery pleading is a lengthy one ... there is nothing particularly original in Fortescue’s treatise. The arguments from St. Thomas, the pleading of the parties, and even the appeal to the Law of Nature to decide the matter of succession, are in a good orthodox tradition.”⁸⁷

We can clearly see the effect Thomas Aquinas exercised upon Fortescue, specifically in regards to relating the natural law to political authority and the laws of the realm. Furthermore, Aquinas’s understanding of a mixed system of government, customary law, and his distinctly Christian anthropology are all clearly evident in Fortescue’s thought. Remarkably, at the dawn of a tradition that is still centuries away from Burke, we find many of the same motifs that animate Burke’s *Reflections*.

V. Christopher St. Germain

Christopher St. Germain was a preeminent common lawyer in the sixteenth century. In 1528, St. Germain published his *Doctor and Student*, a lengthy dialogue between a doctor of divinity and a student of the common law (notable in itself perhaps), which begins with the foundations of law and ultimately arrives at questions concerning particular issues of conscience within the common law tradition. Until Blackstone’s commentaries in the nineteenth century, it was an authoritative textbook for students of the common law. As such, it would be highly surprising if Burke was not well acquainted with its content; we can at least say that, given it was a primer for law students for well over two centuries, it exercised a tremendous influence over the common law tradition.⁸⁸

⁸⁵ Sandoz, *The Politics of Truth*, 96.

⁸⁶ For Fortescue’s account of freedom under the law see Fortescue, *De Laudibus*, Ch. IV.

⁸⁷ Jacob, “Sir John Fortescue,” 375–76.

⁸⁸ J. H. Baker, “St German, Christopher (c. 1460–1540/41),” *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edn, Jan 2008, <http://>

St. Germain's intentions were clearly to root the common law in the divine law and thus establish its parity with the canon law. J. H. Baker writes:

St German set out to refute the notions that equity and conscience were outside or above the law, that because of their association with the law of God they belonged to the spiritual courts, and that therefore the canon law was somehow higher than the law of England. English law, he held, had exactly the same foundations in divine law as the canon law; it took due account of conscience and equity; and it was necessary for churchmen and ecclesiastical judges to know its contents in order to be able to act conscientiously.⁸⁹

In his examination, St. Germain first offers an exposition of the eternal law, then the natural law and the divine law, before finally turning to human laws. If these divisions of law seem distinctly Thomistic, it is because they are. Michael Zuckert makes the point well: "[T]he *Doctor and Student* of Christopher St. Germain, [is] a sixteenth-century text seeking to investigate 'the very grounds of the law of England.' The doctor, clearly a student of Thomas Aquinas's *Treatise on Laws*, lays out 'four distinct kinds of law,' his typology taken directly from the *Summa* and presented often in Aquinas's very language."⁹⁰ "The doctor's definitions," E. F. Jacob adds, "are those of a philosophical canonist."⁹¹

Like Aquinas, St. Germain gives an account of the natural law as the rational participation of creatures in the eternal law. Like Fortescue, he follows Aquinas in viewing customs as a source of law, with the same caveat that Aquinas offers, namely that they do not conflict with the eternal or natural law, and, in a move that we shall see repeatedly, the immemorial law of England is identified as a derivative of the natural law.

St. Germain proceeds to elaborate at greater length upon the five grounds of the law of England. First, the natural law as derived from the divine law; second, the law of God as revealed in the Christian faith;

www.oxforddnb.com/view/article/24493 (accessed 17 December 2013).

89 Ibid.

90 Michael Zuckert, "The Fullness of Being: Thomas Aquinas and the Modern Critique of Natural Law," *The Review of Politics*, 69, no. 1 (Winter, 2007): 28–47, 29.

91 Jacob, "Sir John Fortescue," 364.

third, customs; fourth, ancient maxims of the realm; fifth, customs arising in specific localities; sixth, the statutes decreed by the king and the common council, so long as they do not contravene the natural law and the law of God.⁹² After differentiating between primary and secondary laws, St. Germain offers an account of the way in which some laws are the product of custom according to reason and thus suited to the particular circumstances of a nation: "The law of reason secondary particular is the law that is derived of divers customs general and particular, and of divers maxims and statutes ordained in this realm. And it is called the law of reason secondary particular, because the reason in that case is derived of such a law that is only holden for law in this realm, and in none other realm."⁹³ Such passages are clearly influenced by Aquinas's understanding of custom and are recurrent in the tradition.

Like Fortescue, St. Germain references Aristotle in his assertion that the law ought to direct society towards the common good. St. Germain proceeds to give an extensive Thomistic account of synderesis, reason, and conscience, and their relation to one another.⁹⁴ It is also significant that in such a seminal text we find such an explicit elaboration of the Thomistic division of reason into theoretical and practical branches and their respective functions. St. Germain writes:

[The] higher part of reason hath no regard to transitory things or temporal things, but that sometime, as it were by a manner of counsel, she bringeth forth heavenly reasons to order well temporal things. The lower part of reason worketh most to govern well temporal things and she groundeth her reasons much upon laws of man, and upon reason of man, whereby she concludeth that that is to be done that is honest and expedient to the commonwealth ... And though these two parts, that is to say, the higher part and the lower part, be one in deed and essence, yet they differ by reason of their working, and of their office; as it is of one self eye, that sometime looketh upward, and sometime downward.

⁹² Ibid., Dialogue I., Ch. 4.

⁹³ Ibid., Dialogue I., Ch. 5.

⁹⁴ Ibid., Dialogue I., Ch. 13.

Burke believed that the revolutionaries had misunderstood the right “office” of theoretical reason. To put it in his own words, “Pure metaphysical abstraction does not belong to these matters.”⁹⁵ Finally, we might note that, later on in the discourse, St. Germain interrogates the laws of the realm with questions from scholastic works such as the *summa angelica* and the *summa rosella*, deeming such theological inquiry to be the litmus test of the competency of the laws.

In summary, the first dialogue is an extensive exposition of Thomas Aquinas’s philosophy relating to sovereignty, law, conscience, and reason. This text was compulsory reading for over two centuries for common law students and was considered authoritative within the common law tradition.⁹⁶ We may also note in passing a contemporary of St. Germain’s, namely Sir Thomas More, of whom O’Sullivan writes “Like his contemporary St. Germain ... Sir Thomas More was a close student of the philosophy of the Schoolmen which was current at the Inns of Court and in the Inns of Chancery of those days. As a disciple of Augustine and Aquinas, and the biographer of Pico della Mirandola, Sir Thomas More affirmed his belief in the existence and the operation of the law of nature.”⁹⁷ In the work of both of these men we once more see the common law tradition drawing deeply and unabashedly from Thomas Aquinas’s account of custom, reason, and, above all, the natural law.

VI. *Edward Coke*

Edward Coke was born in 1552 and died in 1634. He was, notably, Chief Justice of the Common Pleas as well as Chief Justiceship of the King’s Bench, and his influence on the common law tradition can hardly be overstated. His most famous work is his *Institutes of the Lawes of England*, which are still referenced in judicial cases to this day. If for no other reason than that Burke himself opined that Coke was “that great oracle of our law” and was referencing him in his earliest works, his thought is of great significance to the present discussion.⁹⁸ As we have

⁹⁵ Burke, *Writings and Speeches*, 4:383.

⁹⁶ See Baker, *op cit*.

⁹⁷ O’Sullivan, “Natural Law and Common Law,” 128.

⁹⁸ Burke, *Reflections*, 182.

noted, Coke himself held the work of Fortescue to be of monumental importance to the common law tradition and the evidence of that intellectual debt is apparent in Coke's own work, particularly in his articulation of the relationship between kingly rule and the natural law. Like Fortescue and St. Germain, Coke "appeals to all the sources of law with the understanding that the ancient laws of England accord with eternal and natural law no less than with immemorial precedent."⁹⁹

One of Coke's most notable cases constituted a significant delimitation of the royal prerogative to legislate without the consent of parliament. In *The Case of Proclamations* (1610), Coke judged against the extension of James I's Royal Prerogative, arguing that "the King cannot change any part of the common law, nor create any offence by his proclamation, which was not an offence before, without Parliament," proceeding to reference Fortescue twice. Coke notably concludes "that the King hath no prerogative, but that which the law of the land allows him." In making this ruling, Coke explicitly references Fortescue's *De Laudibus* as the authoritative precedent.¹⁰⁰ In such a landmark case, it is surely significant that Coke's legal exemplar, John Fortescue, explicitly based his case for the limitation of sovereign authority on Aquinas's preference for a composite state of regal and political dominion, owing to the threat of despotism. We can certainly infer that Coke was aware of Aquinas's arguments on this matter and it is reasonable to think that he deemed them to be sound. It is also reasonable to assume that if Coke was as influenced by Fortescue's work as he professed then he was well aware of Fortescue's debt to Aquinas on the subject of the natural law. It is unsurprising, then, that, when we see Coke utilising natural law discourse, his language is that of Aquinas mediated through Fortescue.

Perhaps the most extensive elaboration of the law of nature's active role in the polity appears in the famous *Calvin's Case* (1608). Coke was concerned to defend the view that Robert Calvin was entitled to own property in England as well as Scotland due to the union of crowns in the person of James I. Coke sought recourse in the natural law in

⁹⁹ Sandoz, *Roots of Liberty*, 14.

¹⁰⁰ Edward Coke, "Case of Proclamations," found in "England and Wales High Court (King's Bench Division) Decisions," <http://www.bailii.org/ew/cases/EWHC/KB/1610/J22.html> (accessed 13 January 2014).

grounding the civil rights of Englishmen and the obligatory duties owed to the monarch. He writes: "That ligeance or obedience of the subject to the Sovereign is due by the law of nature: 2. That this law of nature is part of the laws of England: 3. That the law of nature was before any judicial or municipal law in the world: 4. That the law of nature is immutable, and cannot be changed." It is notable that each one of these points resonates with the statements that Burke himself made relating to the natural law. In this exposition of the natural law, Coke repeatedly cites Bramhall, St. Germain, Glanville, and Fortescue, not to mention Cicero, Aristotle, St. Paul, and Moses, notably in the belief that "[t]he law of nature is that which God at the time of creation infused into his heart, for his preservation and direction; and this is *lex æterna*, the moral law, called also the law of nature."¹⁰¹ *Calvin's Case* involves a sustained exposition and defence of the natural law as a basis of the common law. Importantly, in making arguments from the natural law Coke does not believe himself to be doing anything novel: quite to the contrary, he insists that he is not and repeatedly tells us that he is following well-established precedents in the tradition, referencing Fortescue and others; as Polly Price notes, "Coke, on the other hand, relied not on a general *jus feudale* pre-dating or underlying English common law but on natural law."¹⁰²

It is interesting that Coke also employs the natural law in *Calvin's Case* in arguing for the invisible relation between subjects of a kingdom: "Lastly, whosoever at his birth cannot be an alien to the King of England, cannot be an alien to any of his subjects of England: but the plaintiff at his birth could be no alien to the King of England; ergo the plaintiff cannot be an alien to any of the subjects of England."¹⁰³ As the sovereign is head of the body, so the members of the body are related to one another, these fraternal bonds ultimately originating in the natural law. Such an understanding of the relation between the social body and the sovereign is highly similar to the account of sovereign rule detailed by Aquinas in

¹⁰¹ Edward Coke, "Calvin's Case," found at "The Constitution Society," http://www.constitution.org/coke/Calvins_Case-7_Coke_Report_1a_77_ER_377.html (accessed 20 December 2013).

¹⁰² Polly J. Price, "Natural Law and Birthright Citizenship in Calvin's Case (1608)," *Yale Journal of Law and the Humanities*, 9, Issue 1, Article 2 (2013): 73–143, 75.

¹⁰³ Coke, "Calvin's Case."

De Regno, where he writes at length on the issue telling us that the social body “would disintegrate” without a ruling head to bind it together, the ruler is “the principal” which “moves all others,” therefore “a multitude of free men is ordered by the ruler towards the common good of the multitude,” making it clear that this truth is revealed by the natural law and the king if he is to be legitimate must operate under the auspices of God’s law.¹⁰⁴ As O’Donovan states, Aquinas believed in “the unification of the corporate body by the will of its royal head.”¹⁰⁵ Given that this is one of the key texts that Fortescue references in relation to kingship and the natural law, it is not surprising to see Coke’s arguments resonating with Aquinas’s. Whether Coke read Aquinas himself on this issue or whether he just read Fortescue is not known. What can be said is that the arguments are distinctly Thomistic and they reference Fortescue, who self-confessedly took them from Thomas. The clear emphasis upon custom, social bonds, and a hierarchy governed by the natural law is easily found in Burke’s writings. Indeed, it is the esteem which Burke attributes to the invisible bonds which unite the separate parts of the whole that caused him to fulminate against the atomistic individualism of the revolutionaries’ doctrines.

In *Calvin’s Case* we find that the common law of England was not framed simply in the terminology of precedent which harked back to an immemorial age but it was understood to accord to the natural law, and specifically the natural law described by Thomas Aquinas. Polly Price writes:

Further, according to Coke, Fortescue provided evidence that before there were any municipal laws, English kings had decided cases according to natural equity—more evidence that the law of nature existed before the development of much of what seventeenth-century lawyers considered to be the common or customary law of England. The critical result was that allegiance to the English sovereign, and for a time, acquisition of and rights associated with citizenship in the former American colonies, were considered not to be the subject of municipi-

¹⁰⁴ Aquinas, *De Regno*, in O’Donovan, *Sourcebook*, 331.

¹⁰⁵ O’Donovan, *Sourcebook*, 321.

pal or positive law-making ... More importantly, *Calvin's Case* also established by implication the rule of the jus soli itself as a divine institution, ordained by the laws of God and nature.¹⁰⁶

The point regarding the American colonies is worth remembering in relation to Burke's firm stance on the issue. The rights and duties of Englishmen were indeed detailed by the common law, but these rights and duties carried the authority of the law of nature whence they derived their legitimacy and, as such, were not to be denied. Coke states:

Seeing then that faith, obedience, and ligeance are due by the law of nature, it followeth that the same cannot be changed or taken away; for albeit judicial or municipal laws have inflicted and imposed in several places, or at several times, divers and several punishments and penalties, for breach or not observance of the law of nature, (for that law only consisted in commanding or prohibiting, without any certain punishment or penalty), yet the very law of nature itself never was nor could be altered or changed. And therefore it is certainly true, that *jura naturalia sunt immutabilia*.¹⁰⁷

Like Fortescue, it was owing to the immutable and enduring quality of the natural law that Coke was cautious with regard to legislative pronouncements, which smacked of arbitrary power and legal voluntarism. Notably in *Bonham's Case*, Coke seems to have argued for the precedent of common law over statute precisely because the common law was customary and accorded to reason, "[if] an act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it." Given his study of the common lawyers, it is unsurprising that Burke was suspicious of radical reform and had "no very exalted opinion of the virtue of Paper Government."¹⁰⁸ Whilst it would be wrong to say that Coke exhibited a prejudice against statute in itself, we can say that, if long-established custom was associated with the natural law, then statute smacked of arbitrary power, which is exactly why the common lawyers perceived the necessity of

¹⁰⁶ Price, *op cit.*, 116.

¹⁰⁷ Coke, *Calvin's Case*.

¹⁰⁸ Burke, *Writings and Speeches*, 3:107.

wedding statute to popular consent. The allergy to arbitrary power was again dramatically demonstrated in *Peacham's Case*, when Coke limited kingly authority, insisting that the king should not be able to influence the impartiality of a jury, and thereby endearing himself to neither Sir Francis Bacon nor James I.

Pocock rightly identified the stress on immemorial custom in Coke's thought, quoting a portion of Coke's appeal to the forefathers in the passage in which Coke tells us that "they followed the counsel given in God's book ... and diligently search out the judgments of our forefathers." In a passage that sounds remarkably similar to Burke's *Reflections*, Coke tells us: "[O]ur days upon the earth are but as a shadow, in respect of the old ancient days and times past, wherein the laws have been by the wisdom of the most excellent men, in many successions of ages, by long and continual experience, (the trial of right and truth) fined and refined, which no one man, (being of so short a time) albeit he had in his head the wisdom of all the men in the world, in any one age could ever have effected or attained unto."¹⁰⁹

Whilst Pocock is correct that such appeals to antiquity are the very substance of Burke's *Reflections*, he neglects to mention that Coke's eulogy to the wisdom of antiquity is explicitly prefaced by a reference to the precedent of scripture and immediately followed by an explicit statement that all the laws of England are informed by the natural law, the "law of nature is part of the laws of England" and "the law of nature was before any judicial or municipal law in the world," concluding that "the law of nature is immutable and cannot be changed."¹¹⁰ Again, we see a great father of the common law synthesising immemorial custom with the operation of the natural law. As O'Sullivan writes: "In [Coke's] enumeration of the laws in force in England in his time, Coke gives the *lex coronae* and the *lex et consuetudo parliamenti* and the *lex naturae et communis lex angliae*. The law of nature and of the common law are enumerated in one breath and represent in one whole a single combination."¹¹¹

The similarities with Burke's language in such passages are striking and the fact that, in legal thinkers as monumental as Fortescue, St. Ger-

¹⁰⁹ Coke, *Calvin's Case*.

¹¹⁰ Ibid.

¹¹¹ O'Sullivan, "Natural Law and Common Law," 128.

main, and Coke, Burke consistently saw such references to the immemorial customs of our forefathers coupled with an assertion of the natural law's sovereignty should not be taken lightly.

VII. The cohesiveness of the tradition

We can clearly see many of the same basic assumptions operating in continuity throughout the common law tradition. It is significant that the common lawyers were not radical innovators, but prided themselves on adhering to precedent, constantly referencing their predecessors. Not only did the common lawyers we have looked at hold the same basic suppositions regarding anthropology, the natural law, the value of precedent, and the importance of religion, but they also rehearsed the same arguments in particular legal cases relating to such issues as property, sovereign legitimacy, the nature of the constitution, citizenship, and the rights of Englishmen. Finally, as I have argued, their understanding of the natural law is remarkably indebted to Aquinas, at times explicitly referencing him as well as two of his great influences, Aristotle and Cicero. As Brooks puts it, "[S]cholastic Aristotelianism and a fundamental outlook which stressed natural law theory were aspects of English legal thinking which may be said to have been inherited from the medieval past."¹¹²

We have seen that Aquinas's understanding of custom as a source of law naturally resonated with the early English common lawyers, yet what we consistently see is the leading lights of the tradition synthesizing the discourse of immemorial law with that of the natural law. The sanctity and dignity attributed to the common law of the land which was uncovered by reason and was binding upon all men sat happily with a Thomistic conception of the natural law. As we have noted, Aquinas's influence was not simply restricted to Medieval English legal understandings of the natural law, but rather we see that through lawyers such as Fortescue, Coke, and St. Germain, a broadly Thomistic teleology, anthropology, and vision of society was incorporated into the basic presuppositions of the common law tradition and conveyed into the eighteenth century. By vir-

¹¹² Christopher W. Brooks, "The place of Magna Carta and the Ancient Constitution in Sixteenth-Century English Legal Thought," in Sandoz (ed.), *The Roots of Liberty*, 82.

tue of the tradition's high esteem for precedent the assumptions of earlier lawyers exercised a tremendous influence upon their successors. As a scholar of this tradition and a personal adherent, insofar as his political arguments and idiom demonstrably draw upon precedents within the tradition, Edmund Burke was no exception to this long lineage of common lawyers. Nor was he an exception in English politics. Considering the intimate relation between legislators and the law, it is unsurprising that politicians were well acquainted with the English legal tradition and were therefore acquainted with the works on the common law to which we have referred.

Unsurprisingly, we find that other important contemporary figures whose political influence was as great as their legal influence also offer explicit articulations of the natural law. To name a few, Rudolf de Glanvill, Thomas More, John Dodderidge, John Selden (whom Burke described as "a great ornament of the common law"¹¹³), Matthew Hale, John Holt, John Somers, and Lord Mansfield.¹¹⁴

In Burke's articulation of the social contract we find a perfect expression of the themes which we also see woven throughout the history of the common law: the belief that society is a corporate body in organic continuity with past generations and, crucially, the conviction that the ruler and the social body, past and present, are bound together by the natural law. Moreover, Burke tells us that there is a "moral and physical disposition of things to which man must be obedient by consent or force," and he argues that, if men refuse this natural order, then "the law is broken, nature is disobeyed, and the rebellious are outlawed, cast forth, and exiled, from this world of reason, and order, and peace, and virtue, and fruitful penitence, into the antagonist world of madness, discord, vice, confusion, and unavailing sorrow."¹¹⁵

¹¹³ Edmund Burke, "Reports from Committee Appointed to Inspect the Lord's Journal," in *The Works of the Right Honorable Edmund Burke Vol. II*. (London, 1834), 627.

¹¹⁴ Mansfield was personally known to Burke and much admired by him. Burke wrote of Mansfield: "his ideas go to the growing melioration of the law, by making its liberality keep pace with the demands of justice and the actual concerns of the world; not restricting the infinitely diversified occasions of men, and the rules of natural justice, within artificial circumscriptions, but conforming our jurisprudence to the growth of our commerce and of our empire." See "Edmund Burke," in W. N. Welsby (ed.), *Lives of Eminent English of the Seventeenth and Eighteenth Centuries* (London, 1846), 406-7.

¹¹⁵ Burke, *Reflections*, 261.

In the closing lines, Burke's description of those who would reject the dictates of reason found in the natural law sounds overtly Thomistic. In agreement with Fortescue, St. Germain, and Coke, Burke is perfectly clear that true freedom is found under law in the cultivation of those ends towards which we are naturally ordered. In concluding this section on the cohesiveness of the tradition, it is worth picking up the text of the *Reflections* at the exact point where Burke's description of the social contract ends and questioning to whom Burke is referring, bearing in mind that in the only other such similar reference in the *Reflections* he explicitly names the common lawyers. It is also worth noting that, for all the posthumous acclaim it has brought him, Burke did not regard himself as articulating anything novel in his description of the social contract. Burke writes (*italics added*):

These, my dear Sir, are, were, and I think long will be the sentiments of not the least learned and reflecting part of this kingdom. They who are included in this description, form their opinions on such grounds as such persons ought to form them. The less enquiring receive them from an authority which those whom Providence dooms to live on trust need not be ashamed to rely on. These two sorts of men move in the same direction, tho' in a different place. They both move with the order of the universe. They all know or feel this great ancient truth: 'Quod illi principi et praepotenti Deo qui omnem hunc mundum regit, nihil eorum quae quidem fiant in terris acceptius quam concilia et caetus hominum jure sociati quae civitates appellantur.' They take this tenet of the head and heart, not from the great name which it immediately bears [Scipio], nor from the greater from whence it is derived [Cicero]; but from that which alone can give true weight and sanction to any learned opinion, the common nature and common relation of men. Persuaded that all things ought to be done with reference, and referring all to the point of reference to which all should be directed, they think themselves bound, not only as individuals in the sanctuary of the heart, or as congregated in that personal capacity, to renew the memory of their high origin

and cast; but also in their corporate character to perform their national homage to the institutor, and author and protector of civil society; without which civil society man could not by any possibility arrive at the perfection of which his nature is capable, nor even make a remote and faint approach to it. They conceive that He who gave our nature to be perfected by our virtue, willed also the necessary means of its perfection—He willed therefore the state—He willed its connexion with the source and original archetype of all perfection. They who are convinced of this his will, which is the law of laws and the sovereign of sovereigns, cannot think it reprehensible, that this our corporate fealty and homage, that this our recognition of a signiory paramount, I had almost said this oblation of the state itself, as a worthy offering on the high altar of universal praise, should be performed as all publick solemn acts are performed, in buildings, in musick, in decoration, in speech, in the dignity of persons, according to the customs of mankind, taught by their nature; that is, with modest splendour, with unassuming state, with mild majesty and sober pomp ...

I assure you I do not aim at singularity. *I give you opinions which have been accepted amongst us, from very early times to this moment, with a continued and general approbation, and which indeed are so worked into my mind, that I am unable to distinguish what I have learned from others from the results of my own meditation.*¹¹⁶

In this passage, which can rightly be described as overtly Thomistic, Burke proceeds to assert that the views upon which he is drawing have been accepted since the earliest times, emphasizing the long continuity of these opinions and the influence which they wield over his own thought. Given how intimately acquainted with the common law he was, it is hard to believe that Burke is not referencing the long history of English legal thought, within which he expressly believed we can find charted the liberties of Englishmen.

116 Ibid., 261–63.

Conclusion

To say that Burke's thought was distinctly Thomistic is, on reflection, a far less remarkable claim than some have argued. Two intellectual traditions in which Burke was immersed, namely Anglicanism and the common law, were deeply indebted to the influence of Thomas Aquinas. In this respect, the assertion that Burke's thought was not to some substantial degree Thomistic would be the far more remarkable claim to make. Having reckoned himself capable of writing an essay on the history of the laws of England, being self-confessedly indebted in his political thought to the common lawyers, and being an Anglican who attributed a substantial weight to the thought of Hooker and the divines, it would truly be remarkable if Burke did not inherit many of the basic categories, lines of argument, and conceptual distinctions which these thinkers owed to Thomas Aquinas. Peter Stanlis and Francis Canavan have pointed out what these were and they have been elaborated upon at length in this essay.

From Burke's understanding of the relationship between natural law and immemorial precedent, to his veneration of ancestral and customary wisdom, his emphasis on civil society, belief in the subjugation of arbitrary power to law, his incessant assertion of the rights of Englishmen, to his anthropological assumptions, his distinction between the functions of speculative and practical reason and his understanding of the social body ordered towards the common good—in all these things he is a true son of the common law tradition. After traversing some of the most prominent peaks of the tradition we find that such themes are not idiosyncratic or anomalous ideas articulated by disparate individuals, but they are the recurrent motifs which unify the common law tradition.

I have demonstrated a clear intellectual genealogy which links Burke's thought to that of Thomas Aquinas. The link between Aquinas, Fortescue, Coke, and Burke is evident enough, each of the thinkers explicitly articulating an intellectual debt and a great admiration for the former. Yet we have also seen that a Thomistic understanding of the natural law was diffuse in the common law tradition more broadly. We find the same themes repeated by men who were responsible for decisive contributions to the constitution. The examples I have illustrated simply seek

to demonstrate a substantial Thomistic inheritance in the most prominent works of the most prominent thinkers of the common law tradition. The lawyers we have analyzed are not minor members of the tradition commenting on idiosyncratic cases, but rather they are seminal thinkers who shaped and informed the tradition providing direct references to the work of Thomas Aquinas. Importantly, the cases in which the common lawyers invoke Aquinas are cases which contain issues that were of great interest to Burke. In his language relating to custom, sovereign legitimacy, political authority, and the natural law itself, Burke's voice is closely aligned to the tradition in which he himself was an authority. To say that a Thomistic Burke is incredible, seems, at the very least, to be overstating the case.

Reviewing Edmund Burke's Concept of 'Revolution'

AN OVERLOOKED ASPECT OF
THE BURKE-PAINE CONTROVERSY



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I. Introduction

“The problem of consistency in Burke” has been a central theme in Burke research since it was first raised by Thomas Paine. Building on Paine’s contention, Charles James Fox severely criticized the discrepancy he perceived in Burke’s attitude towards the American and French revolutions. As a case in point, although Burke continually struggled to achieve reconciliation between the British government and the American colonies, he also called for military intervention against France. Because of the controversy generated by Paine and others, some commentators highlight Burke’s inconsistency, not only in his actions but also in his thoughts and philosophy. According to recent research trends, though, there remains a prevalent faction (which the author also generally supports) that believes that a multifaceted and unified reinterpretation of Burke’s actions, thoughts, and philosophy reveals that at the core there lies a firm consistency in the latter despite the apparent deviation of

his actions. For example, as Michael Freeman contends: "Burke was not against all revolution.... We must, therefore, examine closely what conception of revolution Burke had ..." Freeman adds that "Burke also implicitly distinguished between a conservative and a radical revolution."¹

Building on Freeman's account, Jennifer M. Welsh has argued that, "For Burke, both 1688 and 1776 are conservative revolutions.... Both were revolutions within a tradition: revolutions to conserve and correct, rather than to destroy. 1789, by contrast, is a radical revolution ..." ² However, as John Pocock and Donald Winch seem to suggest, some key facts have been overlooked in this understanding of Burke. For Pocock,

Burke had been parliamentary agent for the colony of New York and, in his speeches and actions during the American crisis, had attacked the ministry of Lord North for actions which drove the colonists to rebellion. This has given many readers the impression that he was in sympathy with the American Revolution and has led them to ask how he distinguished between it and the French, which he so utterly opposed.... But most of Burke's utterances on the American crisis antedate 1776, and whatever their significance for the structure and growth of his thought, are aimed at advancing the Rockingham interest and keeping the colonies within the empire by conciliation. He did not comment at any length on the Declaration of Independence, or at all on the processes leading to the Constitution of the United States. What he thought about the American revolutionary experience we hardly know, and the problem of how he distinguished it from the French may therefore be fictitious.³

And Winch has written:

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- 1 Michael Freeman, *Edmund Burke and the Critique of Political Radicalism* (Chicago: University of Chicago Press, 1980), 174, 175.
 - 2 Jennifer M. Welsh, *Edmund Burke and International Relations: The Commonwealth of Europe and the Crusade against the French Revolution* (New York: St. Martin's Press, 1995), 94-95.
 - 3 J. G. A. Pocock, "Editor's Introduction," in his edition of Burke's *Reflections on the Revolution in France* (Indianapolis: Hackett, 1987), xiv-xv.

[W]hile Paine and Price took a close interest in constitutional and other developments in *post*-revolutionary America, neither Burke, nor Smith commented at length on these subjects. Smith's opinions on the American dispute ... were not modified in the light of subsequent constitutional discussions in America. The evidence derived from his advice to various politicians shows that he was more concerned with the economic implications for Britain of the American separation. In the published texts at least, Smith treated constitutional questions as an extension of the analysis he gave to the commercial and fiscal burdens of empire. Similarly, though more mysteriously, with Burke: although he defended the consistency of his political principles in supporting the Americans while condemning the French, he left little by way of guidance to his views on post-revolutionary America.⁴

The fact is that Burke rarely referred to the independence of the American colonies as a "revolution." In fact, he made rare use of terms such as "the American Revolution," "the revolution of America," or "the revolution in America." Surprisingly, the majority of Burke researchers have overlooked this point.⁵ When one attempts to evaluate all that a thinker has conveyed, what is *not* said in a particular context can often provide more valuable clues as to his or her beliefs than that which is actually

4 Donald Winch, *Riches and Poverty: An Intellectual History of Political Economy in Britain, 1750–1834* (Cambridge: Cambridge University Press, 1996), 135.

5 For example, Peter J. Stanlis makes no mention of Burke's silence on the American Revolution, equating "the American affairs," "the American crisis," and "the American war" to the American Revolution and comparing them to Burke's outlook on the Glorious Revolution and the French Revolution (Peter J. Stanlis, *Edmund Burke: The Enlightenment and Revolution* [New Brunswick: Transaction Publishers, 1991], 203–204). Additionally, on the basis of *An Appeal from the New to the Old Whigs* (1791), Stanlis concludes that Burke attacked the French Revolution on the same principle he used to defend the Glorious Revolution and the American Revolution (*ibid.*, 229). If that is the case, then Stanlis does not explain why Burke used the term revolution for only one of two historical events that were based on the same principle. In another paper by Stanlis, "Edmund Burke and the American Revolution: A Conflict over Rights of Sovereignty," (in *Edmund Burke: His Life and Legacy*, ed. Ian Crowe [Dublin: Four Court Press, 1997]), he deals with the relationship between Burke and the American Revolution but, again, does not confront this issue.

uttered. If this is true, why did Burke so rarely make use of the term "American Revolution"?

According to one dictionary of political thought, "the achievement of independence by the American colonies only became widely known as the American Revolution after 1815. This change occurred in response to the French Revolution of 1789."⁶ If one were to fully accept this viewpoint, Burke's death in 1797 would explain his extremely limited use of the term "American Revolution." However, as discussed more fully in Section V below, Burke, in his *An Appeal from the New to the Old Whigs* (1791), attempts to refute Paine by citing a passage from Paine's *Rights of Man, Part One* (1791) that contains a reference to the American Revolution, as terms related to the American Revolution would certainly have attracted Burke's attention.⁷ Therefore, Burke's silence on the American Revolution can be interpreted as an intentional silence originating from his dispute with Paine. For this reason, there is fresh need for a comparison of Burke's and Paine's concept of revolution following the outbreak of the French Revolution.

The structure of this paper is as follows: Section II reviews historical shifts in the concept of revolution. Sections III and IV examine, respectively, Paine's and Burke's concept of revolution. Section V considers Burke's silence on the American Revolution. Section VI offers some conclusions in the light of these findings.

II. Historical shifts in the concept of revolution

Before comparing Burke's and Paine's notion of revolution, it is first important to outline the evolution of this concept.

The word "revolution" was originally a term associated with astronomy, referring to the regular rotational movement of celestial bodies. The nuances of originality and violence were therefore not found in the orig-

6 Stephen Davis, "Revolution," in *A Dictionary of Conservative and Libertarian Thought*, ed. Nigel Ashford and Stephen Davis (London and New York: Routledge, 1991), 230.

7 As far as is known, Paine's first use of the term American Revolution was in his *Letter to the Abbé Raynal* (1782). "Had the abbe said that the causes which produced the revolution in America were originally *different* from those which produced evolutions in other parts of the globe, he had been right." See Moncure Daniel Conway (ed), *The Writings of Thomas Paine*, 4 vols. (New York: G. P. Putnam's Sons, 1894), 2:76.

inal meaning. According to Polybius, a Greek historian from the Hellenistic period, this term was not limited to the movement of celestial bodies but was also used metaphorically to describe general things "revolving back" to an established order. Its status as a political term was established as a response to historical events in England in 1688. This was when King James II was deposed by his daughter Mary (later Mary II of England) and her husband William (later William III), Stadtholder of the Netherlands, in what was known as the "Glorious Revolution," and, since the crown had been restored to its previous justice and glory, the term was, therefore, being used in the sense that Polybius had intended. However, with the French Revolution of 1789, the term acquired a new meaning: "a fundamental change from the old order to a new order (often accompanied by violence)." Of course, an idea containing such historical necessity works as a metaphor derived from the inevitable movement of heavenly bodies, and so, in that regard, it contains traces of its use as an astronomical term. In that case, however, Polybius's idea of the restoration of movement falls out of favor. Since then, whenever revolution steps onto the political stage, it has come to be understood by drawing out an image of the process involved in the French Revolution.⁸ In this manner, without struggling with the fluidity and instability of the concept of revolution, Burke and Paine were unable accurately to communicate their view of revolution to their audience in their work in the latter half of the eighteenth century. On this point, Hannah Arendt claims that there remain indications related to Paine's *Rights of Man*:

Even ... when ... the very word 'revolution' had already acquired its new meaning, Thomas Paine could still, true to the spirit of a bygone age, propose in all earnestness to call the

8 In organizing the historical changes to the concept of revolution, the following references were used: J. R. Dinwiddy, *Radicalism and Reform in Britain, 1780–1850* (London: The Hambledon Press, 1992), 169–194; Felix Gilbert, "Revolution," in *Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas*, ed. Philip P. Wiener, 4 vols. (New York: Charles Scribner's Sons, 1973), 4:152–167; Jack A. Goldstone, "revolution, theories of," in *The Blackwell Encyclopedia of Political Thought*, ed. David Miller (Oxford: Blackwell, 1987), 436–441; Roger Scruton, *A Dictionary of Political Thought*, 2d ed. (London: Macmillan, 1996), 479–481; George Woodcock, "The Meaning of Revolution in Britain, 1770–1800," in *The French Revolution and British Culture*, ed. Ceri Crossley and Ian Small (Oxford: Oxford University Press, 1989), 1–30.

American and the French Revolutions by the name of 'counter-revolutions.' This proposition, odd indeed from the mouth of one of the most 'revolutionary' men of the time, shows in a nutshell how dear the idea of revolving back, of restoration, was to the hearts and minds of the revolutionaries.... Paine, we should remember, used the term 'counter-revolution' in reply to Burke's forceful defence of the rights of an Englishman, guaranteed by age-old custom and history, against the new-fangled idea of the rights of man.⁹

As is widely known, Arendt finds the degree to which a free political space is successfully established to be the criterion for determining the quality of a revolution, and, in light of this standard, the American Revolution was a success while the French Revolution was not. As Freeman and Welsh understand it, such a revolutionary outlook as Arendt's is, at first glance, similar to that of Burke's. However, we are left with Arendt's erroneous statement, "Burke so enthusiastically greeted the American Revolution."¹⁰ Following a thread indicated by Arendt, we will now compare Burke's and Paine's concepts of revolution.

9 Hannah Arendt, *On Revolution* (London: Penguin Books, 1990), 45. *Rights of Man, Part Two* (1792) includes a pioneering concept of the welfare state, and Gareth Stedman Jones has attempted to position this in the genealogy of the republican history of thought. Paine was certainly a thinker who was critical of monarchy, and, in this sense, Paine would undoubtedly be called a republican. However, we must be cautious of stating "Paine is a republican," because the intellectual tradition of republicanism is made up of a number of elements that are not critical of monarchy. For more on this topic, see *Republicanism: A Shared European Heritage*, ed. Martin van Gelderen and Quentin Skinner, 2 vols. (Cambridge: Cambridge University Press, 2002). Stedman Jones indicates that one of the components of the new form of republicanism is "a more confident belief in the control over chance and the future through the coming together of the collection of vital statistics and the mathematics of probability" and that this notion is included in Paine's pioneering concept of the welfare state. See Gareth Stedman Jones, *An End to Poverty: A Historical Debate* (London: Profile Books, 2004), 26. However, if viewed from Arendt's perspective, calling attention to physical production is inherently an *oikos* (economic) problem rather than a *polis* (political) problem, and Paine's concept of the welfare state as a political mechanism for controlling fate, now that we are carrying out the (forgetfulness of politics) crime of presenting the *oikos* problem of poverty to the *polis* domain, will be evaluated only negatively as distorting the tradition of republican thought. Arendt, however, did not always evaluate Paine from this point of view.

10 Arendt, *On Revolution*, 117.

III. Paine's concept of revolution

To the best of the author's knowledge, in the *Rights of Man* the term "counter-revolution" is used five times (three times in *Part One* and twice in *Part Two*). What type of passage was used as the basis for Arendt's conclusion that "Thomas Paine could still ... propose in all earnestness to call the American and the French Revolutions by the name of 'counter-revolutions'"? Although Arendt does not specify the source, it is an unquestionable fact that Paine defends two different revolutions, the American and French, and hence this means that the passage Arendt references should use counter-revolution in a positive sense. If we look at the following ordered listing of passages containing the term counter-revolution, only (d) contains a positive nuance, suggesting therefore, that it is almost certainly Arendt's referenced passage:

We are now to have in view the forming of the new ministry, which was to accomplish the overthrow of the National Assembly.... / There are some curious circumstances in the history of this short-lived ministry, and this short-lived attempt at a counter-revolution[a].¹¹

The Revolutions of America and France have thrown a beam of light over the world, which reaches into man.... The mind, in discovering truth, acts, in the same manner as it acts through the eye in discovering objects; when once any object has been seen, it is impossible to put the mind back to the same condition it was in before it saw it. Those who talk of a counter-revolution[b] in France, show how little they understand of man. There does not exist in the compass of language an arrangement of words to express so much as the means of effecting a counter-revolution[c]. The means must be an obliteration of knowledge; and it has never yet been discovered how to make man *unknow* his knowledge, or *unthink* his thoughts.¹²

The revolutions which formerly took place in the world had nothing in them that interested the bulk of mankind. They extended only to a change of persons and measures, but not

¹¹ Paine, *Rights of Man, Part One* in *Writings*, 2:348.

¹² *Ibid.*, 2:359–60. Italics in original.

of principles, and rose or fell among the common transactions of the moment. What we now behold may not improperly be called a "*counter-revolution*[d]." ¹³

Speaking of government, he [Burke] says, "It is better to have monarchy for its basis, and republicanism for its corrective, than republicanism for its basis, and monarchy for its corrective." ... / A regency is a mock species of republic ... Every succession is a revolution, and every regency a counter-revolution[e].... / ... certain it is, that what is called monarchy, always appears to me a silly, contemptible thing. ¹⁴

In Paine's (d) passage, he stresses the difference in quality between the revolution "we now behold" and the revolution(s) that "formerly took place in the world." The essential quality of the revolution "we now behold" (i.e., modern revolution), which Paine strove to defend, was a fundamental and principled shift from the old order to the new order, and that was a restorative rotational movement of the traditional view of revolution to this essential quality. On the other hand, four of Paine's five uses of counter-revolution (as defiant acts and thoughts towards modern revolution) contained a significant negative nuance. Of course, this type of inconsistency in terms was not a product of confusion in Paine's thinking. Instead, it was related to the use of an old apparatus of thought—restorative rotational movement as revolution—being used to explain the completely new phenomenon of modern revolution, and should be considered an indication of the efforts Paine took to achieve this. As evidence, Paine italicized counter-revolution in passage (d) so as to emphasize it. Paine himself strove to defend a new view of revolution in terms of counter-revolution precisely because he was sufficiently self-aware of his departure or divergence from the language conventions (i.e. the political vocabularies) of his day, and in order to make his readers reasonably receptive to this intentional deviation (or challenge to the language conventions), it is assumed that he therefore emphasized this term in italics.

¹³ Paine, *Rights of Man, Part Two*, in *Writings*, 2:404. Italics in original.

¹⁴ *Ibid.*, 2:425–426.

Paine's challenges to the conventions of language were not limited to his use of the word revolution. Observe, for example, his use of "renovation":

What were formerly called Revolutions, were little more than a change of persons, or an alteration of local circumstances. They rose and fell like things of course, and had nothing in their existence or their fate that could influence beyond the spot that produced them. But what we now see in the world, from the Revolutions of America and France, are a renovation of the natural order of things, a system of principles as universal as truth and the existence of man, and combining moral with political happiness and national prosperity.¹⁵

Originally, renovation meant "to repair," and cognitively, in terms of time, was past-oriented, projecting a positive nuance and image (for example, being firmly rooted in the soil). In contrast, innovation was related to the future and maintained a negative nuance and image (rootless grass, for instance, cut off from the past). In other words, as Jack P. Greene suggested, it is assumed that Paine used the familiar conceptual device of a positive image to describe an entirely new phenomenon of modern revolution and imbue the new phenomenon with the preferred nuance that he was cleverly attempting to justify.¹⁶

Today, the term counter-revolution is not used when referring to modern revolution; the new terminology promoted by Paine did not become widespread. It could be said that Paine was hemmed in by the thick, high walls of language convention. However, it must not be overlooked that Paine's notion of revolution's fluidity and instability was not factually challenged head on. If that is, indeed, the case, in order to fully evaluate both Burke's and Paine's concept of revolution, we must

¹⁵ Ibid., 2:386.

¹⁶ As cited below, the richly developed discernment of Jack P. Green has contributed greatly to the construction of this paper. "Paine helped even to transform the meaning of the word *revolution* itself.... The contribution of Paine ... was to redefine revolution as a phenomenon that looked to the future rather than to the past, stressed the need to 'establish a new social order' rather than 'return to a golden age in the past,' and emphasized innovation rather than renovation." (Jack P. Greene, "Paine, America, and the 'Modernization' of Political Consciousness," *Political Science Quarterly*, vol. 93, no. 1 (1978): 91.)

include in this analysis not only Burke's concept of revolution but also his ideas of renovation and innovation.

IV. Burke's concept of revolution

Burke differentiated, as did Paine, between traditional and modern revolutions, though, of course, Burke supported the former and Paine the latter. For Burke, a traditional "restorative rotational motion" revolution is the only true revolution, while a modern revolution, a "fundamental or principled change from the old to the new order," is counterfeit. This distinction is also paralleled in that between true reform (i.e. reform or reformation) and false reform. The Glorious Revolution is cited as an example of true revolution or reform, whereas an example of false revolution or reform would be the French Revolution or the Reformation. In *Thoughts on French Affairs* (1791), Burke states:

The present Revolution in France seems to me to be quite of another character and description; and to bear little resemblance or analogy to any of those which have been brought about in Europe, upon principles merely political. *It is a Revolution of doctrine and theoretick dogma.* It has a much greater resemblance to those changes which have been made upon religious grounds, in which a spirit of proselytism makes an essential part. / The last Revolution of doctrine and theory which has happened in Europe, is the Reformation. It is not for my purpose to take any notice here of the merits of that Revolution, but to state one only of its effects. / That effect was *to introduce other interests into all countries, than those which arose from their locality and natural circumstances.* The principle of the Reformation was such, as by its essence, could not be local or confined to the country in which it had its origin.... Neither are questions of theoretick truth and falsehood governed by circumstances any more than by places. On that occasion, therefore, the spirit of proselytism expanded itself

with great elasticity upon all sides; and great divisions were every where the result.¹⁷

The spirit of proselytism, which constitutes an essential part of false revolution or reform, can also be translated into innovation. The following is a quotation from *A Letter to William Elliot* (1795):

I wished to warn the people against the greatest of all evils: a blind and furious spirit of innovation, under the name of reform.¹⁸

The contrast between this type of reform and innovation can be found in his *Letter to a Noble Lord* (1796):

I knew that there is a manifest marked distinction ... between Change and Reformation. The former alters the substance of the objects themselves; and gets rid of all their essential good, as well as of all the accidental evil annexed to them. Change is novelty; ... Reform is, not a change in the substance, or in the primary modification of the object, but, a direct application of a remedy to the grievance complained of.... / ... *To innovate is not to reform*. The French revolutionists complained of

¹⁷ *The Writings and Speeches of Edmund Burke*, ed. Paul Langford *et al.*, 9 vols. (Oxford: Oxford University Press, 1981–2015), 8:341–342. Italics in original. In his *Speech at Bristol Previous to the Election* (1780), Burke stated, “The Reformation, one of the greatest periods of human improvement, was a time of trouble and confusion.... [T]he enthusiasm of religion threw a gloom over the politics; and political interests poisoned and perverted the spirit of religion upon all sides” (ibid., 3:639). In addition, although it did not come out of Reformation language, the French Revolution’s recognition as “a revolution of doctrine and theoretick dogma” had already been identified in *An Appeal from the New to the Old Whigs* (1791), when Burke wrote, “it is now obvious to the world, that a theory concerning government may become as much a cause of fanaticism as a *dogma* in religion” (ibid., 4:460; italics in original). These criticisms of the Reformation by Burke may seem to conflict with his (Anglican) religious views. However, the Reformation of England, which produced the Anglican religion, was not subject to Burke’s criticism, because it was only an incident within the confines of England and so differed from the Reformation of the continent that had been advocated by Martin Luther and John Calvin. On the other hand, if, in accordance with Burke’s doctrine of prescription, Lutheranism and Calvinism at the end of the eighteenth century also slowly abandoned their crude resistance to the test of time, they would win religious legitimacy on par with Catholicism and Anglicanism.

¹⁸ Ibid., 9:40.

every thing; they refused to reform any thing; ... [K]nowledge is rendered worse than ignorance, by the enormous evils of this dreadful innovation.... / It was then not my love, but my hatred to innovation, that produced my Plan of Reform.¹⁹

True revolution and reform is based on "the principle to antiquity," "a sure principle of conservation," and "a sure principle of transmission" that must "be carefully formed,"²⁰ whereas false revolution and reform "alters the substance of the objects themselves" and "gets rid of all their essential good, as well as of all the accidental evil, annexed to them."

For Burke, counterfeit revolution and reform are linked to words that contain negative imagery, such as innovation, novelty, and modern, while true revolution and reform are connected to renovation, a word with positive imagery. The following is a quote from *Reflections on the Revolution in France* (1790):

The science of constructing a commonwealth, or renovating it, or reforming it, is, like every other experimental science, not to be taught *a priori*. Nor is it a short experience that can instruct us in that practical science; ... The science of government being therefore so practical in itself, and intended for such practical purposes, a matter which requires experience, and even more experience than any person can gain in his whole life, however sagacious and observing he may be, it is with infinite caution that any man ought to venture upon pulling down an edifice, which has answered in any tolerable degree for ages the common purposes of society, or on building it up again, without having models and patterns of approved utility before his eyes.²¹

From this passage, it can be easily determined that, while Paine's renovation was future oriented, Burke's renovation was past oriented. Burke, in a different manner than Paine, clearly distinguished between the terminology of renovation and innovation, using the traditional meaning of "repair" in the former. It could be said, in other words, that Burke's

19 Ibid., 9:155-157. Italics in original.

20 Ibid., 8:81, 83.

21 Ibid., 8:III-III2.

terminology was, compared to Paine's, much more faithful to the traditional meanings. Therefore, it is natural to assume that Burke would adhere to a "restorative rotational motion" concept of revolution more so than would Paine. While a thread of reasoning has lead us to such speculation, in the next section we would like to consider Burke's silence on the American Revolution.

V. Burke's silence on the American Revolution

As *An Appeal from the New to the Old Whigs* (1791) was a work written after 1776, it was exceptional in containing not a few (although it could not be said many) mentions of the problems in America. To the best of our knowledge, however, the term "American Revolution" appears only once in Burke's post-1776 books, and that is in the *Appeal*. Even there it appears only once.²² The passage reads:

As the estimation of all things is by comparison, the Revolution of 1688, however from circumstances it may have been exalted beyond its value, will find its level. It is already on the wane, eclipsed by the enlarging orb of reason and the luminous revolutions of America and France.²³

In fact, this passage was taken from Paine's *Rights of Man, Part One*²⁴—Burke makes no specific mention of either the source work or its author—and so, really, he did not use the term originally even once. Nevertheless, I would like to clarify here that Burke, through Paine, did actually touch on the term American Revolution. Despite this, Burke did not, by his own pen, include this expression in any of his other

22 Prior to 1776, in Burke's *Speech on American Taxation* (1774), "this eventful history of the revolutions of America" is perceived as this type of example (ibid., 2:452). In this case, the term revolution is transitioning from a meaning of "restorative rotational movement" to one of a "fundamental change from the old order to the new order (often accompanied by violence)." That is, it appears to be used purely as a neutral descriptive word describing tumult. Therefore, I would like to affirm that the above passage should not be regarded as evidence of Burke being sympathetic to the American Revolution.

23 Ibid., 4:437.

24 Paine, *Writings*, 2:331.

writings. In other words, Burke's silence on the American Revolution can be explained as an intentional reticence based on his dispute with Paine. So why did Burke refuse to use the term American Revolution? I believe that the key to understanding this mystery can be found in the following passage from his *Appeal*. Referring to himself in the third person, he wrote:

He [Burke] considered the Americans as standing at that time, and in that controversy, in the same relation to England, as England did to king James the Second, in 1688.²⁵

Burke felt that the English public on the eve of 1688 and the American public on the eve of 1776 had witnessed the same phenomenon. While the former had been autocratically governed by James II, the latter had been similarly governed by the English Parliament. However, the English people attempted to recapture their freedom by replacing their king, while the Americans did not merely seek to regain their freedom by changing their government (i.e., through regime change), but sought further to reclaim freedom by establishing their independence. In the case of the English public, the (office of the) king and the people were seen to restore their harmonious state, but in the case of the American public, there was no—as Burke phrased it—“restoring the *former unsuspecting confidence of the Colonies in the Mother Country*.”²⁶ Burke had hoped for the revolution of 1776 to be as “true” as that of 1688; yet this was not to be the case. From Burke's perspective, remaining a member of the British Empire, rather than independence, was an event worthy of being called a revolution; for Burke, using the designation “revolution” to describe the independence of the American colonies was a discussion that absolutely could not be had. For the same reason, after the appearance of the *Reflections on the Revolution in France*, it was not Burke's true intention to refer to the ensuing chaos in France as a revolution. This is entirely consistent with Burke's silence on the American Revolution as hypothesized above.

²⁵ Burke, *Writings and Speeches*, 4:396.

²⁶ *Ibid.*, 3:108. Italics in original.

VI. Concluding remarks

Although, as Jennifer M. Welsh has stated, Burke “was attempting to address an entirely new phenomenon—social revolution—with old and inadequate concepts,” Paine was also known to have attempted the same.²⁷ That is, the Burke–Paine dispute was also a battle to name the unprecedented phenomenon of the change to the underlying social structure. Their debate, however, was infused with English-speaking language conventions of the 1790s, in which Burke’s were the more faithful and Paine’s were the more challenging. Throughout Burke’s lifetime, in regards to conservative conventions of both language and time, a single interpretation is suggested to resolve the charge of Burke’s inconsistency. For Burke, despite the deviation of his actions, there lies a firm consistency to his thoughts. Moreover, we can conclude that in not only the content of thought but also in the degree of reliance on language conventions through which the thoughts are expressed, Burke makes for an excellent conservative and Paine an excellent radical.

While these conclusions are important, they are provisional in nature and therefore need to be validated through further research. This paper has concentrated on Burke’s discussion of the English, American, and French revolutions. In doing so, it has given only brief attention to the wider issues, such as Burke’s application of the term “revolution(s)” to describe the events by which the British acquired authority over Bengal and their consequences,²⁸ and the degree of reliance on language conventions for which he used other terms (e.g., “labouring poor”) to express his thoughts.²⁹ More such research is needed to address these issues.

²⁷ Welsh, *Burke and International Relations*, 15.

²⁸ Frederick G. Whelan, “Burke on India,” in *The Cambridge Companion to Edmund Burke*, ed. David Dwan and Christopher J. Insole (Cambridge: Cambridge University Press, 2012), 175.

²⁹ For a preliminary study on this subject, see Emma Rothschild, “Adam Smith and Conservative Economics,” *The Economic History Review*, New Series, 45, no. 1 (1992):87; and Winch, *Riches and Poverty*, ch. 8.

‘When Liberty and Order Kiss’

EDMUND BURKE AND THE HISTORY ARTICLES IN THE
ANNUAL REGISTER



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Edmund Burke is one of the most profound and controversial political thinkers in modern history. Already during his lifetime his ideas were interpreted in different ways, especially after the publication of his famous work on the French Revolution.*¹ After his death, Burke became an even more controversial figure. In the nineteenth century, he was perceived as a prophet of the liberal constitution and one of the most influential ideologues of Whiggism. At the same time, he was admired by Tories, who stressed his criticism of the French Revolution and radical political changes. In the twentieth century, he was seen more as conservative, mainly because of his insistence, albeit often indirect, on the importance of natural law.² Some researchers, however, claimed

¹ F. P. Lock, *Burke's Reflections on the Revolution in France* (London: Allen & Unwin, 1985), 134.

² Peter J. Stanlis, *Edmund Burke and the Natural Law* (Ann Arbor: University of Michigan Press, 1958); Peter J. Stanlis (ed.), *The Relevance of Edmund Burke* (New York: P. J. Kenedy, 1964); Francis Canavan, *The Political Reason of Edmund Burke* (Durham, North Carolina: Duke University Press, 1960); Francis Canavan, *Edmund*

* I would like to express my deep gratitude to Professor Harry Dickinson of the University of Edinburgh for his encouragement and invaluable help in writing this article.

that Burke had been liberal throughout his entire life, including during the final stage of his career, after 1789, and stressed that, while “assigning different priorities in the light of the circumstances,” Burke had never altered his beliefs.³ In recent years, attitudes towards Burke have changed significantly, though some traditional views have persisted. The opinion that “no serious historian today would respect the commonplace that Burke was the father of modern conservatism” is questioned by those who hold exactly the opposite view.⁴ Despite the latter stance, there is a wave of new works that go beyond a simplistic liberal–conservative dichotomy.⁵ They try, instead, either to present Burke as “a moral psychologist concerned with the individual and society,” or to restore Burke to his original and intellectual context, thus escaping “anachronistic terminology or retrospective interpretations.”⁶

Burke and the Annual Register

An important feature of some recently published books is the stress placed on the opening stage of Burke’s public career and on his early historical works. Burke’s less familiar writings, especially *An Account of the European Settlements in America*, and *An Essay towards an Abridgment of the English History* were analyzed in concrete details, and this allowed readers to see his ideas in a new light.⁷ Most researchers, however, over-

Burke: Prescription and Providence (Durham, North Carolina: Carolina Academic Press, 1987).

3 Conor Cruise O’Brien, *The Great Melody. A thematic biography and commented anthology of Edmund Burke* (London: Sinclair-Stevenson, 1992), 602.

4 David Bromwich, *The Intellectual Life of Edmund Burke: From the Sublime and Beautiful to American Independence* (Cambridge, Massachusetts: Harvard University Press, 2014), 19; and compare, for example, Jesse Norman, *Edmund Burke: The First Conservative* (New York: Basic Books, 2013).

5 The concept of the “liberal” and “conservative” Burke was challenged in the early seventies by Frank O’Gorman, see F. O’Gorman, *Edmund Burke: His Political Philosophy* in G. Parry (ed.), *Political Thinkers*, Volume II (London: Routledge, 2004; first published in 1973), 172.

6 Bromwich, *Intellectual Life*, 16; Ian Crowe, *Patriotism and Public Spirit: Edmund Burke and the Role of the Critic in Mid-C18 Britain* (Stanford: Stanford University Press, 2012), 3, 186, 221; Richard Bourke, *Empire & Revolution: The Political Life of Edmund Burke* (Princeton and Oxford: Princeton University Press, 2015).

7 F. P. Lock, *Edmund Burke. Volume I: 1730–1784* (Oxford: Oxford University Press, 2008), 127–164; Crowe, *Patriotism and Public Spirit*, 174–217.

look an important body of work left by Burke, namely his contributions to the *Annual Register* magazine which, under contract with Robert and James Dodsley, he edited from 1758 onwards. Burke's role in its editing is presented as a relatively unimportant episode in his life, while the opinions he expressed in the history articles that were crucial for establishing the quality of the magazine are seldom mentioned.⁸ Historians are much more interested in establishing how long Burke edited the *Annual Register* than in what he wrote for the magazine.⁹ This attitude is reflected by one of Burke's biographers, who states: "The *Annual Register* is a rich but frustrating source," adding that Burke's ideas are best seen in the reviews of the books published in this magazine.¹⁰

The main problem with the *Annual Register* as a source of knowledge about Burke's ideas is the uncertainty concerning the authorship of the history articles published in every issue. In order to solve the problem of Burke's engagement in the preparation of the *Annual Register* after 1765, I propose a method adopted by Thomas O. McLoughlin. Through contextual and stylistic analysis of the first ten issues of the magazine (from 1758 to 1767), McLoughlin confirms the opinion that until the 1764 issue Burke was the only author of the history articles. From 1765, the *Annual Register* was co-edited by Burke's close associate, Thomas English; but his role was more that of junior assistant to Burke than that of an equal partner. In the issues from 1765 to 1767, English prepared the introductory section of the history article and those parts that were not of great interest to Burke, including relations between Turkey and Russia in the 1765 issue, and the internal condition of Spain two years later. English also made a compilation of material for the rest of the magazine, includ-

8 Lock, *Edmund Burke*, 1:188.

9 R. W. Seitz, "Goldsmith and the 'Annual Register'," *Modern Philology*, 31, no. 2 (Nov., 1933): 183-194; T. W. Copeland, "Burke and Dodsley's *Annual Register*," *PMLA*, 54, no. 1 (Mar., 1939): 223-245; W. B. Todd, "A Bibliographical Account of *The Annual Register*, 1758-1825," *The Library*, 5th series, 16 (1961): 104-120; B. D. Sarason, "Edmund Burke and the Two Annual Registers," *PMLA*, 68, no. 3 (Jun. 1953): 496-508; J. E. Tierney, "Edmund Burke, John Hawkesworth, the *Annual Register*, and the *Gentleman's Magazine*," *Huntington Library Quarterly*, 42, no. 1 (Winter, 1978): 57-72; T. W. Copeland, "Edmund Burke's Friends and *The Annual Register*," *The Library*, 5th series, 18 (1963): 29-39; T. W. Copeland, "Edmund Burke and the Book Reviews in Dodsley's *Annual Register*," *PMLA*, 57, no. 2 (Jun. 1942): 446-468.

10 Lock, *Edmund Burke*, 1:178-179. A similar opinion was formulated by other scholars. See O'Gorman, *Edmund Burke*, 18-19; Bromwich, *Intellectual Life*, 38-41.

ing work on the Chronicle, State Papers, or Natural History. For his part, Burke wrote most of the history article at least until the 1767 issue, including chapters on British internal affairs, the British colonies in America, India, Corsica, France, Spain (in the 1766 issue), and Poland.¹¹

Burke avoided any references to his role in editing the *Annual Register*, but the magazine occupied an important position in his life for several years.¹² Burke wrote the history articles in a period that preceded or witnessed the beginning of his parliamentary career. Between 1758 and 1767, he prepared several other works, but he never finished two major pieces begun in that period.¹³ The *Annual Register* was the only systematic and popular work of Burke's during that time. It was written from a unique perspective, from the point of view of his career. Burke is often presented as "a practical politician"; but before entering parliament his opportunities to influence the world of politics were limited.¹⁴ Free from political rivalries and unable to influence current events directly, he wrote the history articles from 1758 to 1765 more as a journalist than as a politician. After he was elected to parliament in December 1765, he became actively involved in politics, especially in attempting to find a solution to the American crisis.¹⁵ There remained, however, many issues in which neither he nor the British government were engaged, and on which he could still comment freely. This freedom resulted partly from the fact that, because of his two well-received philosophical books, Burke was already a figure of some importance in the literary world. The recognition he gained did not make him well off—Burke took the task of editing the *Annual Register* mainly out of financial necessity—but he could hardly be counted among Grub Street hack writers paid to write

11 T. O. McLoughlin, "Edmund Burke and the first ten years of the 'Annual Register' 1758–1767," *Series in Humanities*, Occasional Paper No. 1 (Salisbury, Southern Rhodesia, 1975), 32–52.

12 Isaac Kramnick, *The Rage of Edmund Burke: Portrait of an Ambivalent Conservative* (New York: Basic Books, 1977), 99; Lock, *Edmund Burke*, 1166.

13 Ian Harris (ed.), *Edmund Burke, Pre-Revolutionary Writings* (Cambridge: Cambridge University Press, 1993).

14 O'Gorman, *Edmund Burke*, 9.

15 Harry T. Dickinson, "Burke and the American Crisis," in *The Cambridge Companion to Burke*, ed. David Dwan and Christopher J. Insole (Cambridge: Cambridge University Press, 2012), 158.

low-quality articles or to serve the interests of private patrons.¹⁶ Burke belonged rather to the group of writers based in London such as Daniel Defoe, Samuel Johnson, and Oliver Goldsmith, who tried to build a reputation before their talents were recognized. Burke's relatively strong position was reflected in his contract with the Dodsley brothers. He was given a free hand as to the content of the magazine and his duty was described as "to write collect & compile ... a work entitled the *Annual Register*."¹⁷ Consequently, the *Annual Register* offers an opportunity to learn the opinions of Burke the intelligent outsider, rather than Burke the active politician. The *Annual Register* also makes it possible to be informed about Burke's opinions on topics he seldom mentioned in his other public writings and speeches. For most of his career, Burke concentrated on the internal and external aspects of British politics. To be sure, in the *Annual Register* he wrote about the domestic situation in Britain and in the British colonies in North America and India, but at the same time he devoted considerable attention to the political situation in such European countries as France, Spain, Poland, Russia, and Corsica.

Burke's early historical writings

In his early historical works, Burke adopted Montesquieu's method, which "sought to explain the course of history through the discovery of uniformly operating general causes."¹⁸ Consequently, he analyzed certain themes in a long historical perspective, going back as early as the Roman conquest of Britain. The aim of the first important historical work with which he was substantially involved, *An Account of the European Settlements in America*, was to show the importance of the colonies to British economic life and general prosperity, and to answer, with historical examples, the question of how overseas possessions should be governed in order to bring benefits both to the local population and the particular European colonial powers.¹⁹ In his second major historical work of that period, "An Essay towards an Abridgment of the English

¹⁶ Lock, *Edmund Burke* 1:165.

¹⁷ Quoted in Copeland, "Burke and Dodsley's *Annual Register*," 226.

¹⁸ Lock, *Edmund Burke*, 1:145.

¹⁹ Ibid., 129; Bourke, *Empire & Revolution*, 165, 168.

History," Burke concentrated on the gradual "emergence of liberty" in England from Roman times.²⁰ In both works, Burke presented his own concept of the past that not only questioned narrative, detailed history focusing on the description of events, but also history stripped of any religious dimension.²¹ He underlined the role of providence in human history, assuming that providence worked in indirect and, rather less often, direct ways alike.²² He stressed the positive role of religion and religious institutions in the gradual progress of liberty and civilization.²³ Gradual progress, however, did not equal a belief in linear history, to say nothing of a deterministic concept of history. Burke rejected the idea that the British constitution of the eighteenth century was the inevitable result of developments from Roman or Saxon times. There were numerous discontinuities in the past and, if Britain could enjoy blessings of liberty and civilization, this was the result of "conquest and pacification" and of the struggle between liberty and authority. The outcome of this struggle was in no way predetermined; history could have taken a very different path and history, because of its dynamic character, did not guarantee that once Britain became a "free country" it would remain so forever.²⁴ Burke's concept of history shows very well his "practical" method. He was not interested in the theoretical issues that attracted so much attention from his contemporaries, such as the origins of governments and societies. He did not judge governments through theories or abstract principles but by practical results. He gathered and analyzed information, and, on that basis, he formulated his conclusions. He did not aim to create a universal theory of political power. Instead, he emphasized the differences between countries and peoples, stressing that certain solutions cannot be copied under different conditions. He

20 Lock, *Edmund Burke*, 1:147–151; Crowe, *Patriotism and Public Spirit*, 197–198; Bromwich, *Intellectual Life*, 97; Bourke, *Empire & Revolution*, 177.

21 Lock, *Edmund Burke*, 1:143; Crowe, *Patriotism and Public Spirit*, 180, 184–185, 195–197, 205–206, 223.

22 Lock, *Edmund Burke*, 1:140, 152–153; Crowe, *Patriotism and Public Spirit*, 181–182, 200–201, 203–205; Bromwich, *Intellectual Life*, 99–101.

23 Lock, *Edmund Burke*, 1:155–156; Crowe, *Patriotism and Public Spirit*, 180, 201–202; Bourke, *Empire & Revolution*, 160–161, 180–183; Ian Crowe (ed), *An Imaginative Whig: Reassessing the Life and Thought of Edmund Burke* (Columbia and London: University of Missouri Press, 2005), 13.

24 Bourke, *Empire & Revolution*, 184, 186, 192.

praised the way the Jesuits ruled in Paraguay, but at the same time he ruled out any possibility of the British duplicating their system owing to the different conditions in their colonial possessions.²⁵

From his years at Trinity College, Dublin, Burke had much respect for those historians who mixed political and moral observations, and he adopted a similar attitude in his early works.²⁶ The most important conclusions Burke drew on that basis were that there existed universal moral values and that certain features of human nature, including an attachment to old customs and a reliance on feelings rather than reason, were unchangeable.²⁷ While it remains disputable whether Burke's concept of history placed him in the tradition of "moral historiography," moral and human aspects of his early histories can hardly be overstated.²⁸ According to one of Burke's biographers, they were the main reason for Burke's involvement in writing the *Account*; but even if we question this interpretation as too far-reaching, there can be no doubt that they formed a connection with his two early philosophical books.²⁹ Opinions among historians vary as to the detailed nature of such a connection, but there is general agreement that, both in *A Vindication of Natural Society* and *A Philosophical Enquiry into the Origin of our Ideas of the Sublime and Beautiful*, Burke, through his analysis of human motivations and reactions that were crucial to the existence of society and politics, stressed the complex and unchanging character of human nature, showed much respect for customs, rejected idea of changes that did not take into account tradition and history, reserved an important role for providence in human affairs, even if humans were unable to understand the connection between our passions and providential plans, and, finally, presented religion as a great civilizing force.³⁰ The analytical character of Burke's early historical works, a focus on selected main themes in a long historical perspective, and reflections on moral val-

25 Edmund Burke, *An Account of the European Settlements in America* (London, 1770), 1:278–286.

26 Lock, *Edmund Burke*, 1:42–43; Bourke, *Empire & Revolution*, 166.

27 Lock, *Edmund Burke*, 1:97, 154–155.

28 Ibid., 154; Crowe, *Patriotism and Public Spirit*, 184–185; Bromwich, *Intellectual Life*, 48–49.

29 Bourke, *Empire & Revolution*, 164.

30 Lock, *Edmund Burke*, 1:87, 98, 140, 154–155; Crowe, *Patriotism and Public Spirit*, 186, 206; Bourke, *Empire & Revolution*, 98, 119–121, 124, 131, 133–134, 143, 155, 159, 161.

ues and human nature, placed him among those authors who adopted the concept of philosophical history, that is, "history that rose above religious and political partisanship" and "history that generalized about human affairs."³¹ This did not mean that he followed such writers as Montesquieu, Voltaire, or Hume in every aspect; they rejected some of his key elements, especially the positive role played by institutionalized religion in the development of liberty and civilization as well as the role of providence in human affairs. What Burke shared with them was an acceptance of history as one of the fundamentals of his thought. He also shared with them, as with many other authors, a belief in the educational aim of history.³²

The history articles of the Annual Register and 'philosophical history.'

There is a tendency among historians to see the history articles of the *Annual Register* as a narrative, rather than as an analysis, of major events,³³ and this tendency is not without certain foundations. Each history article was divided into several relatively short chapters dealing with different events from various parts of the globe and, with a few exceptions, from a single year. This suggests a lack of the key component of Burke's other early historical writings, namely an analysis of selected themes in a long historical perspective. This impression is made even stronger by the fact that, as Burke underlined in the Preface to the first issue, the magazine did not aim at "the Learned" or "those who aspire to a solid erudition," but at "readers of another order" interested in "matters of a lighter nature" (A.R. 1758, p. III. References to the *Annual Register* are given in the text in the form A.R. year, page number). Remarks of this kind, however, were typical for the majority of magazines published in the eighteenth century, and should be accepted with some reservations.³⁴ In the Preface to the 1760 issue, Burke described the aim of the history article as more ambitious than providing a simple narrative: "These Annual Histories ... aid the memory, they connect in the

³¹ Bourke, *Empire & Revolution*, 4.

³² Lock, *Edmund Burke*, 1:153; Crowe, *Patriotism and Public Spirit*, 186, 188–192.

³³ Lock, *Edmund Burke*, 1:169; Bourke, *Empire & Revolution*, 203–208.

³⁴ Lock, *Edmund Burke*, 1:167–168; Crowe, *Patriotism and Public Spirit*, 189–190.

mind the scattered events; they shew their dependencies and relations; in short, they supply, for a time, the place of a solid and regular history, which is not to be expected in many years after the events" (A.R. 1760, Preface, no page number). This was more than just a single remark. The history articles of the *Annual Register* share with Burke's other early historical works a focus on a single dominant theme, though there was a clear difference between the magazine issues before and after 1763. Up to the end of the Seven Years' War, Burke, with certain exceptions, concentrated on providing a narrative of the military actions in and outside Europe. In the 1763 issue, the title of the history article was changed from "History of the present War" to "The History of Europe." Military actions, except for campaigns in India (A.R. 1764, pp. 34-44; 1765, pp. 8-16; 1766, pp. 20-25), were hardly mentioned, and this allowed him to voice his opinions on a wide range of topics.

Despite all the differences between the situation in distant parts of the world, there is a common and dominant motif in the history articles from 1763, and this motif is the conflict between the ruling and the ruled. Burke presented numerous conflicts, including conflicts between the East India Company and Indian rulers, the British government and colonists in North America, British authorities and colonists on the one hand and the Native Indians of North America on the other, parliament and monarchy in Britain, popular protests in Britain, conflicts between several parlements and the monarchy in France, between inhabitants of Madrid and a new monarch and his foreign advisors, religious conflicts in Poland between Christians of different denominations, as well as political conflicts between various political factions, struggles for independence between Corsicans and foreign rulers, and finally struggles for power in Russia. Concentration on the conflicts can be seen as a proof of Burke's editorial skills—the bad news is good news. Skills of this kind were certainly welcomed by the magazine's founder, Robert Dodsley, but for Burke it was much more than a means to attract readers.³⁵ Not only did he describe factors that led to political, social, economic, and religious conflicts, but he also proposed his own solutions to these conflicts. Together, the causes and the solutions point to a question present in Burke's mind not only during his cooperation with the

35 Crowe, *Patriotism and Public Spirit*, 186-188.

Annual Register, but, indeed, throughout his entire active life: how to create and safeguard a stable political system or, as Burke put it, how to reach a stage when "*liberty and order kiss*" (A.R. 1759, p. 7). Thus, Burke established some important links between the history articles and his other historical writings of that period. He concentrated on a single issue, and this issue was identical with the major theme of his other historical works and, indeed, his entire political career—how to achieve and safeguard ordered liberty.³⁶ This central theme, together with the aim of the history articles mentioned above, point to another similarity, the educational character of the history articles. Burke did not write about the conflicts or potential conflicts just to attract readers; his aim was to show how in his opinion states and societies should be governed in order to avoid such conflicts.

Things become more complicated with other key elements of Burke's philosophical history: the presentation of a major theme in a long historical perspective; the importance of religion to the progress of civilization; and the role of providence in human affairs. In contrast to his other early writings, the history articles of the *Annual Register* generally lack a long historical perspective. To be sure, Burke presented the dominant theme in historical perspective. With the conflicts in Britain's overseas possessions, in France and in Spain, he went just a few years back; but with Poland and Corsica, countries far less known in Britain, he presented much longer historical explanations going back as far as the ninth century (A.R. 1767, pp. 13–17, 34–38). In presenting the dramatic changes to the Russian throne in 1762, Burke found their origins in the reforms of Peter the Great in the early eighteenth century (A.R. 1762, p. 22). With the exceptions of the religious situation in Poland and the political condition of Corsica, however, Burke limited his historical perspective to a few sentences. This did not signal a change in his concept of history, but reflected the different perspective he adopted when presenting his dominant theme. In both the *Account* and the "Abridgment," Burke's aim was to analyze processes that had begun centuries before and had led, though in no predetermined way, to the present sit-

36 Edmund Burke, "Speech at Arrival at Bristol, 13 October 1774," in *The Writings and Speeches of Edmund Burke*, ed. Paul Langford *et al.*, 9 vols. (Oxford: Oxford University Press 1981–2015), 3:59.

uation. In the history articles of the *Annual Register*, the starting point was located not in a distant past, but in the present. Unlike Burke's other early works, the history articles focused on what we would call contemporary political history. This allowed Burke to use history in a different manner than in his other early works. Because of the large time gap between events described both in the *Account* and especially in the "Abridgment" on the one hand, and the present day on the other, as well as because of his non-linear and non-deterministic concept of history, Burke did not seek solutions to current problems in the past. The history articles of the *Annual Register*, however, did not treat of distant times with only a very loose connection with the present day. Nearly all the conflicts Burke wrote about began after the publication of the first issue of the magazine. In the colonies of British North America, they started with new laws passed by the British parliament in the final stage of the Seven Years' War (A.R. 1763, pp. 20–21; A.R. 1765, pp. 19, 22): in Spain, after a series of reforms introduced by a new king, Charles III (A.R. 1766, pp. 14–15). Even the religious strains in Poland, with a much longer history, were located not in mythical times, but in the verifiable past, starting at the turn of the sixteenth and seventeenth centuries (A.R. 1767, pp. 17–19). Consequently, Burke was in a position to seek solutions to the ongoing conflicts in the past, and this search indicates that one of his main aims in the history articles was to go beyond narrative history. Another reason why the history articles were not of a narrative character was that the absence of a long historical perspective was compensated for by a geographical perspective. In the history articles, Burke, as with his other writings, followed Montesquieu in paying attention to geographical factors, such as climate and landform; but he went beyond this slightly narrow understanding of a "geographical perspective." A geographical perspective was married with politics, and this meant that the dominant theme was presented and analyzed with examples from different parts of the world.

The focus on contemporary events and the significant role of the geographical factor help to show why we can find fewer and less direct references to religion as a civilizing force and to providence as an active factor in human affairs in the history articles of the *Annual Register* than in his other early writings. Burke did not change his opinion about

religion or providence. As the only way to civilize the native Indians of North America, described as "perfidious barbarians," and accused of a total lack of "faith and humanity" (A.R. 1760, pp. 61–62), he proposed the "gradual assimilation [of the Indians] to the English" (A.R. 1763, p. 32), which implied their conversion to Christianity.³⁷ In another corner of the world, in the Philippines, the natives were "of different degrees of savageness, according as they have been more or less subdued by religion" (A.R. 1763, p. 3). Remarks of this kind, however, were few and far between. A superficial reading of Burke leaves even less room for the role of providence. In the history articles there is not a single reference to providence of the kind that can be found in his other early works—such as when he wrote about "the hand of God ... by which, at certain periods, he so signally asserts his supreme dominion."³⁸ This picture changes when we search for indirect references of a general nature. Providence can be seen as a force that determines certain elements of nature and thus influences humans, and providence of this kind is present on numerous occasions in the history articles (A.R. 1760, pp. 5–6; A.R. 1761, p. 54; A.R. 1763, pp. 2–4).³⁹ Providence can be also seen as "the mysterious concurrence of events and associations through which ... the memory of an ordered liberty is sensed, articulated, and realized," leading eventually to the development of civilization.⁴⁰ Because of their focus on conflicts between the governing and the governed, the history articles from the 1762 issue present, in short historical perspective, struggles between liberty and order, central to the progress of civilization, that formed a part of "the providential scheme of nature."⁴¹ In this

37 Burke's description of the Native Indians of North America in the history articles of the *Annual Register* is very similar to their description in *An Account*, and this offers support for a view that Burke took an active role in writing certain passages of the book, see Lock, *Edmund Burke*, 1:129–130. It also resembles Burke's picture of the Britons, described in the "Abridgment" as "fierce, treacherous, and cruel"; see "An Essay towards an Abridgment of the English History," in *Writings and Speeches*, 1:338–552.

38 *Writings and Speeches*, 1:388. Burke made some direct references to providence in other parts of the *Annual Register*. In the 1758 issue, in a part entitled *Extraordinary Adventures*, he wrote about "a trust in Providence, which may enable us to act with resolution in the trying emergencies of life." See *Annual Register for the Year 1758*, 278.

39 Lock, *Edmund Burke*, 1:140.

40 Crowe, *Patriotism and Public Spirit*, 198.

41 Bourke, *Empire & Revolution*, 89.

context, providence played as important a role in the history articles of the *Annual Register* as in Burke's other early historical works, though as a force that provided a framework for human actions rather than as a directly intervening agent.⁴²

The same method of searching for indirect rather than direct references should be applied in the case of Burke's reflections on moral values and human nature—another key element of his “philosophical history.” As with his other early historical writings, Burke pursued the idea that politics and moral issues cannot be separated from one another and this led him to reject the concept of politics as a set of legal or political rules that referred to institutions or procedures. Instead, Burke believed in certain principles that referred to relations between the governing and the governed, stressing that what really matters in politics are people, not anonymous forces or legal issues. Consequently, his principles were of a universal character and, if followed, they could lead to the creation of a stable political system balancing liberty and order in such different countries as Britain with “a free constitution” and Russia with “a despotic sovereign” (A.R. 1762, p. 11). Burke did not place the political systems of all countries on the same level. Despite all the internal and external problems faced by Britain, he praised its constitution. He was highly critical of republics (A.R. 1767, pp. 34–35) and elective monarchies, presenting hereditary monarchy as the best form of government. He made a distinction between different elective monarchies, depending on the method of electing the monarchs. Thus, he complimented the Holy Roman Empire and criticized Poland (A.R. 1763, p. 44). He had such a low opinion of local rulers in India that he proposed replacing them with the rule of the East India Company. He criticized the French system of justice that sentenced to death one of its military commanders without specifying a particular crime, praising at the same time the British one, where “no sentence can pass, without some particular crime is fully proved” (A.R. 1766, p. 9).

Even then, Burke was far from claiming that there was only one path for different countries leading towards the establishment of ordered liberty. This stance resulted from Burke's belief that political systems were the products of history and, because each country has its own distinct

42 Lock, *Edmund Burke*, 1:98.

history, there could not be only one solution to their problems. Another reason was his belief that politics was a dynamic and ever-changing force. In the 1759 issue, he praised British political life (A.R. 1759, p. 7), but a few years later he was much less enthusiastic about it. In the 1762 issue, he wrote critically about the change of government and the rivalry between Whigs and Tories, concluding that "though peace is happily restored with foreign powers, our domestic quiet is still far from being securely established" (A.R. 1762, pp. 46–47, 63). Later, he blamed British governments for misconduct in India and North America as well as for creating internal difficulties. What was good in 1759 was not so good in 1762, or 1765. Burke's perception of current politics as a dynamic force reminds us of his concept of history as full of discontinuities and constant changes. This conceptual rejection of linear history, with its inevitable progress towards liberty and order and the belief that reaching certain stage of development guarantees stability forever, is also present in the history articles of the *Annual Register*, for example in his assessment of the political situation in Britain, where the constitution was under constant threat both from the monarch and parliament (A.R. 1763, pp. 41–42; A.R. 1764, pp. 30–31; A.R. 1765, pp. 39–41).

Burke's political principles

The most important of Burke's principles as presented in the history articles was that political power should be exercised in the interest of the people, not in the interest of any single group, to say nothing of individuals, including individuals with royal titles. It has been noted that the leading theme of the history articles was that of conflicts or potential conflicts between the rulers and the ruled. In Burke's opinion, their main source was the abuse of power by the governing elite. The abuse of power could assume various forms. Sometimes it consisted in a lack of "good government," sometimes in attempts to deprive subjects of their "old customs" (A.R. 1766, p. 14), sometimes in denying any rights to entire social classes, sometimes in wrong methods employed by the ruling elites, and sometimes it was a mixture of two or more factors. Regardless of the form, all these cases shared a common feature: the

ruling elite abused power because they did not take into consideration the particular situation, circumstances, and interests of the people they ruled, favoring instead the interests of individuals or certain groups. This could happen even when the governing elite were acting in a perfectly legitimate way, for example the British parliament passing the Stamp Act (A.R. 1765, p. 22). What really mattered was not the legal status of their actions, but whether they cared for the common good. Burke did not invent the principle that the state should serve the interests of all its inhabitants, regardless of all the differences between them. In the seventeenth century, to go no farther back, similar opinions were held by Grotius and Pufendorf;⁴³ and, closer to Burke's time, Bolingbroke believed that "governments exist for the sake of the public good."⁴⁴ In his student years in Dublin, Burke wrote about "Power of Kings ... for the Use of the People'," and a duty "of the Estates of Gentlemen ... for promoting the Public Good."⁴⁵ What Burke did in the magazine was to direct this principle to readers interested in "matters of a lighter nature," and to illustrate the consequences of breaking the principle with the current examples from different parts of the globe. The consequences were fatal indeed, as abuse of power could lead to tyranny, and tyranny, in a longer perspective, to the disintegration of entire political systems. This, in turn, could endanger the very existence of the state. Burke presented this threat in the most distinct manner, through the examples of India and Poland. In the former case, political power was exercised in the interest of local rulers who not only conspired and fought against each other and against the Great Mogul, but also neglected the interests of their subjects (A.R. 1764, pp. 34–36). This policy opened the door first to foreign influence and then to foreign domination (A.R. 1764, p. 34). In the case of Poland, political power was fully controlled by and exercised in the interests of the nobility (A.R. 1763, p. 45). Such power demoralized the noblemen, leading to a total lack of any sense of the common good and of their own responsibility towards it (A.R. 1763, p. 45). Consequently, Poland, while retaining the outward forms of independence, fell an easy prey to foreign countries: "[T]hey are, in effect, governed in

43 Bourke, *Empire & Revolution*, 629.

44 Bromwich, *Intellectual Life*, 50.

45 Lock, *Edmund Burke*, 1:58–59.

their most important concerns rather by their powerful and ambitious neighbors, than their own national councils" (A.R. 1763, p. 46). Another part of Europe where the nobility exercised power exclusively in their own interests was Corsica, and the consequences were equally disastrous. The noblemen, "who looked upon themselves as joint monarchs of an island," preferred "to keep the island desart and barbarous, in hope of security in the possessions," and this attitude helped foreign rulers, especially Genoa, to control the island (A.R. 1767, p. 35). In European overseas possessions, the abuse of power could lead to serious differences and even to an open conflict with the colonial power. This was the case in North America, where British politicians did not take into account the interests of the colonists, introducing economic changes that not only endangered the prosperity of the colonies, but led to a major constitutional crisis (A.R. 1763, pp. 20-21; A.R. 1765, pp. 18-19, 26, 33-34). Poland afforded one more example of the fatal consequences of a state which served interests of a single group, this time a religious group, the Roman Catholics, against the interests of Protestants and Greek Orthodox believers. Polish monarchs, preoccupied with religion, neglected the interests of the state, which "went accordingly to ruin" (A.R. 1767, pp. 17-18), and the condition of the dissidents gave foreign powers excellent opportunities to interfere in Poland's domestic affairs and this, in turn, led to an open civil conflict between members of different denominations (A.R. 1766, pp. 11-12; A.R. 1767, pp. 21-27).

Burke was reasoning within the framework of the "balanced constitution," but he perceived the "balanced constitution" in a broader sense than a balance between various branches of government. He accepted Montesquieu's concept that power should be distributed among different bodies and that these should be able to act independently.⁴⁶ He illustrated this with the examples of fatally weak Poland, where "the only real power of the state is vested in the gentry" and where "the power of the king is extremely limited" (A.R. 1763, p. 45), and of France, which remained a country "governed solely by known law" owing to the division of power between the monarch and the parlements (A.R. 1764, pp. 4-6). In the case of British domestic political life, he condemned any efforts by parliament during debates over the right of the crown to

46 Bourke, *Empire & Revolution*, 7, 23.

make ministerial appointments, and, over the Regency bill, to weaken the king's executive powers, as this would eventually lead to a total alteration of the constitution, while preserving all its outward forms (A.R. 1763, pp. 41–42; A.R. 1765, pp. 39–41). When, however, the opposite happened and the crown tried to upset the political equilibrium to its advantage, Burke stood firmly on the side of the legislature. During the debate over general warrants, he praised parliament for “its moderation, and its regard to strict constitutional principles,” and he condemned the practice of “dismissing military men for parliamentary conduct” as any increase in the number of government-controlled MPs would endanger “the freedom of parliament” (A.R. 1764, pp. 30, 33). What Burke added to Montesquieu's concept was a stress put on the importance of finding a balance between the different interests of all the inhabitants of the state. One of the consequences of such reasoning was the rejection of all extremes in politics, since they could endanger balance and ruin entire states and societies. Once more, Poland served as a warning: “Poland seems to be a country formed to give the most disadvantageous idea of liberty, by the extreme to which it is carried” (A.R. 1763, p. 45). Burke's rejection of political extremes was not confined to the single case of the Polish nobility. He criticized those British politicians and writers who, during the public debate over the North American colonies, either carried “the idea of liberty to the highest pitch of enthusiasm” or denied “every birthright and privilege of an Englishman” to people living in the colonies. At the same time, he praised those politicians who avoided extremes as, in his opinion, this was the only way to avoid “such acts as could not be forgiven” (A.R. 1766, pp. 33–34).

Burke's belief that power should be exercised in the interest of the people did not mean that he supported the idea of government controlled by the people, to say nothing of government by the people. He accepted the existing hierarchical social order, and, like many eighteenth-century political writers, he divided society into two basic groups, “the better sort of people” and “the lower sort” (A.R. 1765, pp. 49, 52).⁴⁷ Burke did not regard the former as superior to the latter. He was often critical of the human qualities of the ruling elites, especially

47 T. McInerney, “The Better Sort: Nobility and Human Variety in Eighteenth-Century Great Britain,” *Journal of Eighteenth-Century Studies*, 38, no. 1 (2015): 47–63.

extreme pride. He was also critical of the military abilities of noblemen (A.R. 1759, p. 6). At the same time, he praised the qualities of British seamen and military commanders of low origins (A.R. 1759, pp. 41, 53). Despite this, on no occasion did he challenge the right of "the better sort" to govern. He believed that they were best fitted to govern, but it did not make them automatically a good governing class. Men of the "better sort" should earn their right to govern. This required acceptance of the principle that power should be exercised for the benefit of the people at large but, at the same time, a readiness to oppose the people. Members of the ruling elites were the servants of the people in the sense that they should take into account the interests of all the people, but they were not their servants in the sense that they should fulfill the wishes of the people. Burke assumed that under certain conditions politicians had an obligation to oppose the people. This occurred when the political stability of the state was in danger. Burke illustrated this with the protests in the North American colonies that arose after the introduction of the Stamp Act, sparing no criticism for "those of a higher rank" who increased the "unruly passions" among "the vulgar" to their own political advantage (A.R. 1766, p. 31). In Burke's opinion, "the principal people" should have acted in exactly the opposite manner, trying to calm "the lower sort" and thus avoiding major political conflict (A.R. 1765, pp. 49, 52-54). The fact that Burke accepted the rule of "the better sort of people" derived not so much from his admiration for them, but from the lack of any reasonable or practical alternative. In this particular case, he was reasoning in "either-or" terms, with nothing in between. Either we have the rule of "the better sort of people" or we have anarchy symbolized by the "mobs." The latter perspective terrified him. He was very suspicious of "mobs" (A.R. 1766, p. 17), seeing them as a force always ready to resort to violence and as a threat to political and social stability. Even when "mobs" behaved reasonably well, as during protests in London or in Madrid, the mass character of this event "could not fail of creating the most alarming apprehensions for the public tranquility" (A.R. 1765, p. 41; A.R. 1766, p. 17).

The concept of "power for the people" was linked with the idea that there existed an interdependent relationship between rulers and ruled and that even the most arbitrary government was dependent on the sup-

port of its subjects or of certain groups of its subjects.⁴⁸ Governments which did not pay attention to their interests were powerless, risking popular protests or even destruction. An extreme example of such a government was Russia. Burke described the power of the tsars as "absolute and uncontrollable in its exercise," and yet as "extremely weak in its foundation" (A.R. 1762, p. 17). The ruler who experienced in the most painful manner the extent to which he depended on his subjects was Peter III. Burke judged his policies "extremely impolitic," criticizing him for actions which did not take into account the traditions and prejudices of the governed. Consequently, some of the most prominent noblemen and army officers formed a conspiracy which dethroned him. Thus, Burke presented the overthrow of the legal monarch of Russia as the logical consequence of his mistakes. Even his death, despite a hint that the tsar might have been murdered, was described in a very understated manner: "After he had signed this abdication ... [he] was conducted to prison, where in a short time, but according to what had been universally expected, he died" (A.R. 1762, p. 18-20). In sharp contrast to Peter III stood the policies of his wife Catherine who, though foreign-born like her husband, understood very well the relationship between ruler and ruled, and wisely "cultivated the affections of the Russian nation, and paid a respect to their manners and religion" (A.R. 1762, p. 19).

Positive opinions about the policies of a future empress of Russia reflected Burke's belief in certain liberties of the people that had to be respected by the ruling elites. He distinguished between what he called "birthright" (A.R. 1766, pp. 14, 34) and political rights. The first category concerned the right of the people to live according to their own customs and prejudices, or as Burke put it, "to wear their *beards their own way*" (A.R. 1766, p. 14). Governments should not interfere with these customs and prejudices, because this could lead to violent protests and, eventually, destabilize the state. As far as the political rights of the people were concerned, Burke concentrated exclusively on their right to voice their discontent and to resist the abuse of power. He believed that such a right belonged to all social groups, although there were limits both to the methods and the extent of the protests that he was willing to coun-

48 A similar opinion was formulated by Burke in his other early works; see Bourke, *Empire & Revolution*, 161.

tenance. Burke supported peaceful protests, but when they took violent forms he readily accepted tough measures to restore order including, as in the case of protests in London in 1766, the use of military force and the sentencing to death of several leaders of the riots (A.R. 1767, pp. 39–40). Burke supported the right of the people to protest against the abuse of power, but he never backed people who demanded constitutional changes. He believed that there existed an unwritten contract between the rulers and the ruled. The former had to respect the customs, traditions, practices, and prejudices of the latter. Rulers should also pay attention to the different interests of the people and to reconcile them with each other and with the interests of the state. For their part, the people, while retaining a right to voice their opinions and express their discontent, should respect the authority of the elite and accept the existing order.

Political power belonged to “the better sort of people,” but their tasks were extremely difficult. They had to protect order and preserve liberty, avoiding conflicts between both objectives. Achieving this aim was made all the more difficult because of the complexity of human nature. Despite his focus on current events, Burke made some serious comments on this issue, comments that form another important link between the history articles of the *Annual Register* and his other early historical writings. Burke believed that, psychologically, man was everywhere the same and that differences between people resulted from local conditions, not from varieties of human nature.⁴⁹ In the “Abridgment,” this belief was revealed in similarities between people living in different periods. Burke made parallels between the Saxons of the pre-Norman Conquest with “their freedom” and eighteenth-century Poland: “This [Saxon] polity, if so it may be called, subsists still in all its simplicity in Poland.”⁵⁰ In the history articles, this belief found its reflection in parallels between people belonging to different civilizations or living in different countries. The native Indians of North America, who were characterized as “savage” and “perfidious barbarians” (A.R. 1760, pp. 61–62), strongly resembled the native inhabitants of the Philippines, who were “ignorant of the laws of humanity and of arms” and distinguished by “savage cruelty” (A.R. 1763, p. 9). The noblemen of Poland-Lithuania,

49 Lock, *Edmund Burke*, 1:155.

50 *Writings and Speeches*, 1:429.

with their focus on self-interest and a near total lack of responsibility for the common good, resembled to a high degree the noblemen in Corsica and French aristocrats (A.R. 1759, p. 6).

The character of the history articles dictated that Burke concentrate on those features that were of importance in political life. As with his other early historical works, Burke believed in the basically unchanging character of human nature, manifested in a strong attachment to customs and all sorts of prejudices that often led to irrational behavior. Burke was ambivalent about this element, and he presented his stance most clearly in the opening passage of a chapter about popular protests in Madrid in 1766. On the one hand, he supported the rioters: on the other hand, he pointed out that their stance was to a high degree founded not on rational thought but on prejudice. "It has been observed," he writes, "that it is easier to conquer half the world, than to subdue a single prejudice or error; most nations have a degree of superstitious attachment to those habitudes which they derived from their ancestors" (A.R. 1766, p. 14). The complexity of human nature was also reflected in people's various motives. Presented with numerous examples that included the ruling class in India, Poland, and Corsica, with "people of better sort" in the British colonies in North America and the Spanish queen (A.R. 1759, p. 2), Burke noted that people desired political power and most often used it not for the common good but to serve their own particular interests. Some people, however, were driven by radically opposite motives. Roman Catholic noblemen in Poland, who signed the act of the Confederation of Warsaw of 1573, took into account the benefits of internal peace, not the interests of their religion. General James Wolfe, like many British commanders, was motivated not by personal gain, but by the love of his country and his sense of responsibility for his soldiers (A.R. 1759, pp. 41-42). Pasquale Paoli tried to free Corsica from foreign oppression, not because of his ambition, but because of his love of his country and his desire to improve the conditions of his compatriots (A.R. 1767, pp. 37-39). Burke praised such a stance; but he assumed that it was an exception to the rule, not the rule itself. He was quite pessimistic as far as human nature was concerned. The hearts and minds of men were easily corrupted by power. Burke had no illusions that this element could be changed by appeals to moral values or human feelings. The only way

was through finding a balance between the interests of various groups. Thus, he provided a psychological justification for his key political principle that the state should serve the interests of all its inhabitants.

The Past and the Present and the Future

The above analysis reveals the existence of certain important similarities between the history articles and Burke's early historical works, including the key concept of "philosophical history." Differences, such as they were, resulted from the fact that, in the history articles, unlike his other early writings, Burke concentrated on current issues rather than on the long development of European colonial possessions or the "emergence of liberty" in England from ancient times. Yet, exactly because of Burke's focus on contemporary events, the history articles provide us with an opportunity to see Burke's opinions about the links between the past and the present and also his attitudes towards the future. These opinions can be found in the solutions he proposed to ongoing crises, starting with his assessment of the relations between Britain and her colonies in North America.

Throughout the entire conflict, as described in the *Annual Register*, Burke stood firmly on the side of the British constitution. On no occasion did he challenge the right of the British parliament to legislate over the whole of the empire (A.R. 1765, pp. 34–36). What he did not accept were the methods employed by the British government and parliament, not the British constitution itself. First, British ministers and parliament imposed taxes on the colonists "instead of abiding by the good old methods heretofore pursued for that purpose [getting money from the colonists]." Second, ministers and parliament should have fully explained the reasons why they introduced these taxes, as this would deprive this decision of "an appearance of arbitrariness" and would confirm Britain's "absolute empire over her colonies" (A.R. 1765, p. 37). As an immediate remedy, he supported the repeal of the Stamp Act (A.R. 1766, p. 37). His long-term solution was a return to the "good old methods," since it was the development and expansion of trade between the colonies and Britain that would eventually increase the latter's tax revenues

(A.R. 1765, p. 25). Together with his support of the unlimited legislative power of the British parliament, this meant that Burke saw the solution to the conflict within the framework of the existing constitution and in turning back the clock to what he considered as the Golden Age in relations between Britain and her North America colonies before 1763.

Burke's attachment to the "good old days" is also seen in his defense of the British constitution mentioned above, as well as in his description of the disputes between the parlements and the monarchy in France. Initially, he supported the former, praising the stance taken by the parlement of Rouen when it refused to register royal edicts extending wartime taxes during peacetime and restricting the rights of crown creditors (A.R. 1764, p. 7). There were, however, limits to Burke's support. He accepted protests made by the parlements so long as they aimed "to prevent all abuse of the same kind [financial] in future" (A.R. 1764, p. 6). When the dispute reached constitutional matters, Burke's enthusiasm for the "spirit of liberty" evaporated. He quoted a statement of the parlement of Rouen to the effect that the king was bound by his coronation oath and, on that basis, there existed "a compact between the king and the people." Unlike the breaking of existing laws, however, Burke did not make any comments on this subject, praising the courage of the members of the parlement, but not their stance (A.R. 1766, pp. 7-8). This, in turn, suggests that he did not see the solution to the conflict in changes to the French constitution, but in a return to the situation prior to the disputed legislation.

The revolt in Spain in 1766 affords an example of Burke offering unlimited support for people protesting against policies of the monarch and this despite a much more violent course of events. In this case, however, the issue at stake was not the constitution understood as relations between different branches of political power, but rather as a question of whether the monarch and his advisors might rule the country contrary to the old customs accepted by the majority of his subjects (A.R. 1766, p. 17). The origins of the conflict were presented in terms of a "clash of civilizations." On the one hand, there was a new king, brought up and educated in Italy, and his foreign advisors. Resenting Spanish customs, they had an extremely ambitious plan "to metamorphose them [the Spaniards] into a new people, to make them Frenchmen or Italians" (A.R. 1766, p. 15). On the

other hand, there were the Spaniards trying to preserve their longstanding traditions. Burke stood firmly on the side of the rioters. The main reason for his support was his belief that rulers should not interfere with the customs and prejudices of their subjects, no matter how odd these customs and prejudices might seem. Burke saw the solution to the conflict in the king’s acceptance of the demands of the people, and they demanded the repeal of “the several offensive edicts lately passed” (A.R. 1766, p. 16).

Turning the clock back to a “Golden Age” was also presented as the solution to religious conflicts in Poland. The fact that, between 1763 and 1767, Burke wrote extensively about the internal situation of Poland may seem surprising, since this country rarely attracted any attention from the educated classes of Britain; but, from Burke’s perspective, the condition of dissidents in Poland was of great interest, since it gave him an excellent opportunity to stress the significance of religious toleration and the negative consequences of its absence.⁵¹ This concern, strongly influenced by the religious strains in his native Ireland, occupied him throughout his entire adult life. Burke presented in certain specific details the religious situation in Poland since the Reformation in the early sixteenth century (A.R. 1767, p. 14). He praised the act of the Warsaw Confederation of 1573, which guaranteed religious toleration (A.R. 1767, pp. 15–16), criticized a sharp change in religious policy at the turn of the sixteenth and seventeenth centuries, which he linked to the person of King Sigismundus III. Burke gave his support to Protestants and Greek Orthodox believers, but, through historical description, he did so, as in the case of the rioters in Spain and the parlements in France, in the name of “ancient rights.”

Another example of Burke’s defense of “ancient rights,” though this time against external, not internal, oppression, was Corsica. Burke presented the history of the island as a constant struggle for independence

⁵¹ In 1698, Doctor Bernard Connor (O’Connor) published in London his two volumes *The History of Poland in Several Letters to Persons of Quality*. For a very long time his book remained the best, albeit little known, description of Poland’s history, political system, society, and culture in the English language. In the second half of the eighteenth century, Poland was mentioned very rarely by British authors and in a highly unfavorable light. See, for example, David Hume, *Of Refinement in the Arts*, in D. Hume, *Essays Moral, Political, and Literary*, ed. E. F. Miller (Indianapolis: Liberty Fund, 1987), 276.

against foreign oppressors (A.R. 1767, p. 35). He praised the islanders' love of freedom and their "invincible spirit," giving as the main rationale for their long struggle for independence their wish to regain "their liberties, which they have so long and so resolutely maintained" (A.R. 1763, pp. 48–49; A.R. 1767, p. 36).

Even in those rare cases of India and the native Indians in North America, where Burke did not call for turning back of the clock to the "good old days," he was reasoning in terms of a "Golden Age." Burke fully accepted the British presence in India and he did so mainly because of the importance of India for Britain's international position and economic prosperity (A.R. 1766, pp. 20, 29–30). He did not, however, see the British presence there as beneficial to the local population. The main object of his criticism was the policy of some Indian rulers that pushed India into civil wars (A.R. 1761, p. 56), and the misconduct of India's affairs by the East India Company resulting from the wrong methods being adopted by the company, namely indirect rule based on cooperation with local rulers and the large-scale corruption among the officials of the company (A.R. 1764, p. 34; A.R. 1766, pp. 26–27). Burke welcomed the appointment of Robert Clive as Governor of Bengal (A.R. 1766, p. 25) and expressed some hopes that Clive would purify the East India Company of its most obvious vices (A.R. 1766, pp. 25–30), but his long-term proposal went far beyond this or any other mission. The general model for Burke was the policies of the French and the Dutch. The former tried to build a stable economic system in India through commercial treaties between the French Crown—not the French East India Company—and local rulers. The Dutch, for their part, ruled their empire directly, "so as to preclude all those inconveniences, which must attend an empire in an empire, or rather an empire against itself" (A.R. 1765, p. 15).⁵² Burke promoted the idea of the Mughal emperors granting the nabob-ship of Bengal to the British East India Company. This would give the company "a just claim to dominion," would eliminate the need to cooperate with Indian rulers, and consequently create a stable political situation. Together with the

52 In *An Account of the European Settlements*, Burke praised the French colonial system supervised strictly by the Crown; see *Account* (London, 1770), 2:40–49. At the same time, he strongly criticized the Dutch for their rule in a part of Brazil based not on direct control by the States, but by the rule of the Dutch West India Company; see *Account* 1:304–305.

proper use of power by the company’s servants, this would lead to the establishment of “good [i.e., good British] government” (A.R. 1765, pp. 15–16). The solution to the problems of the natives of North America was of a different character, as Burke called for a policy of assimilation (A.R. 1763, p. 32). In neither case did Burke seek solutions in a return to a “Golden Age,” not because he adopted radically new reasoning, but because he believed that the people of India and the native inhabitants of North America had never experienced a Golden Age. Instead, he found solutions to their problems in the introduction of direct British rule and absorption into British culture. Since both the British political system and its culture were the products of history it can be argued that, even when Burke rejected the history of states or groups of people, he wanted to replace them with the history of other, more fortunate, nations.

In the *Annual Register*, Burke adopted an historical method in the broadest possible sense. History was both the key to understanding the present situation of particular countries and the key to solving their problems. Such reasoning should be welcomed by scholars searching for a “conservative Burke,” but not so much the evidence that Burke married his historical method with the concept that politics was a dynamic force and that political systems should be flexible enough to adapt to change. There remain serious questions about the character of such change and the manner of its introduction, but Burke never denied that change would take place. At the same time, he approved only those changes which aimed at solving existing problems. On no occasion did he support changes that found their origins in abstract concepts or aimed at the introduction of such concepts. Reforms should be of a gradual nature and the task of introducing them belonged exclusively to the ruling elite who, as in all other aspects of political life, had to find a balance between the pressure emanating from various individuals or groups on the one hand and the need to ensure the stability of the state and society on the other. The only area where Burke supported radical changes was in the economy. In the case of food disturbances in Britain, Burke adopted a stance which could be described as a rejection of the “dead hand of the past,” characterizing the old corn trade laws as “dark in the construction” and “not well suited to the present system of our affairs” (A.R. 1767, p.

40). Political changes, however, belonged to a totally different category. They should not be introduced too hastily and they should be the result of well-prepared plans based on long experience (A.R. 1763, p. 44). The reforms of Peter III of Russia, "guided by a rash and irregular turn of mind" (A.R. 1762, p. 17), led to his overthrow and served as a warning of what could happen if too many changes were introduced in too short a time. Burke rejected the concept of radical change, praising instead slow and gradual reforms based on experience. His aim, however, was not the restoration of the order existing in the past. He wanted to solve current problems through a return to a situation prior to their occurrence, but this did not mean that he wanted to live by the old principles. A return to a more or less distant past was not an end in itself, it was a starting point to an unknown future. The repeal of the Stamp Act, a decision which he supported, was designed to remove an injustice done to the American colonists, but it did not mean that relations between them and Britain would return to the pre-1765 position and would remain unchanged thereafter. Sooner or later they would change. Burke did not try to predict the character of these changes, nor did he formulate a future ideal at which changes should be aimed.

While he did not present a vision of the future, Burke was open to the challenges the future might bring, always thinking about the possible consequences of change. To illustrate his reasoning, we might consider the example of religious toleration. Burke appreciated its importance and merits, but at the same time he asked questions about the results of its introduction. In Poland, he believed that they would be positive, not because they would restore the "good old days," but because the reintroduction of religious toleration would remove a major cause of internal conflicts and foreign intervention. In Russia, religious toleration could undermine the position of the Greek Orthodox church, one of the pillars of the state, and consequently pose a threat to political stability. Furthermore, Burke believed in progress understood as the human ability to avoid political conflicts through peaceful development, and he illustrated his belief with the examples of Denmark and Sweden. He praised both countries that had "very wisely abandoned ... the character of a military people; and turned their whole attention to their domestic improvement" (A.R. 1764, p. 2).

The lack of a future ideal in Burke's thinking was due to his very complex notion of politics. He often stressed that countries and nations differ from each other in many respects. He believed that every situation should be treated on its own merits and that the use of the same name for different events was often misleading. Popular protests described in the history articles did not belong to a single category. In Britain and in the North American colonies actions taken by "mobs" could not be justified because they posed a threat to a political order which was seeking to guarantee the most basic right to live according to one's own customs and traditions. Moreover, the existing political system offered a chance to solve at least some problems by peaceful methods. In the case of Spain, Burke supported people who resorted to rebellion because they were acting under very different conditions. The monarch was trying to strip them of their fundamental rights and they did not have a legal way to voice their discontent, to say nothing of solving their problems in a peaceful way. Religious toleration was a good thing for Poland, a country with several Christian denominations and a long tradition of toleration, but it was not advisable in Russia, a country dominated by a single religion, with no tradition of toleration. Politics, as described by Burke in the history articles of the *Annual Register*, was much more of an art than a science, and it was a highly complicated art that had to take into account many various elements, including long-standing local conditions, history, real experiences, customs, traditions, and prejudices.

The absence of a future ideal was also owing to the fact that people were often unable to understand the present or to foresee the results of their actions. Burke did not attribute the conflicts he wrote about to the ill will of the ruling elite. In most cases they had good intentions. The British government wished to improve relations with the native Indians in North America and to regulate trade with the colonies of other European nations (A.R. 1763, pp. 20–21; A.R. 1765, pp. 18–19), not to start a feud with its own colonists. The new king of Spain wanted to modernize his country, and some of his reforms were reasonable (A.R. 1766, p. 15). Polish noblemen wanted to protect their liberty. The conflicts resulted from their inability to see and understand links between various elements which, put together, formed the art of politics. If well-motivated people made serious mistakes that led to political unrest, what was the

point in formulating a vision of the future? Burke's reluctance to present any vision of the future points to his practical method, strongly present in his other early works. As we can see, this did not exclude a belief in certain principles, but he did not locate those principles in a theory understood as a set of ideas seeking to explain politics. To Burke, any political philosopher whose ambition was to create a coherent political system would appear suspicious. What can be perceived as a sign of intellectual weakness in the academic world, namely the fact that Burke paid little attention to theoretical issues and did not endeavor to create a systematic political philosophy, was, from Burke's perspective, proof of wisdom. In the history articles of the *Annual Register*, Burke consciously adopted a holistic view of politics that went far beyond a "conservative" or "liberal" stance, and this stemmed from his conviction that both human nature and politics were too complicated to be locked up in a single system.

Burke's view of politics as a highly complicated art was a characteristic that was present not only in his early works but also in those of his later years, and it helps to explain why he changed his opinions on certain issues and opened himself up to accusations of inconsistency. One of the examples of his changing attitudes concerned a tax on Irish absentee landlords. As a university student in Dublin, he perceived the opulent life-style of absentee landlords who spent their money outside of Ireland as one of the causes of economic hardship in the country.⁵³ In 1773, however, he vigorously opposed the absentee tax proposed by the Irish House of Commons. Burke's stance met with strong criticism, including from Oliver Goldsmith, who accused him of sacrificing his principles in order to serve the interests of his party.⁵⁴ It has been noted, however, that, for Burke, the issue at stake was not party politics or the economic condition of Ireland, but a question of who could authorize and collect taxes. The question was of great constitutional importance and in 1773, because of the conflict with the colonists in North America, its significance could hardly be overestimated. Burke believed that the

53 Thomas H. D. Mahoney, *Edmund Burke and Ireland* (Cambridge, Massachusetts: Harvard University Press, 1960), 51; Michael J. Griffin, "Burke, Goldsmith, and the Irish Absentees" in Seán Patrick Donlan (ed.), *Edmund Burke's Irish Identities* (Dublin: Irish Academic Press, 2007), 123.

54 Griffin, "Burke, Goldsmith," 117, 124.

only body that could exercise this power was the British parliament: if it lost its monopoly, the empire would inevitably fall to pieces.⁵⁵ Politics was a highly complicated art partly because it sometimes required making a clear choice and sacrificing a less important, but just, cause to a more important, and equally just, cause.

At the same time, however, Burke did hold certain views consistently throughout his entire public career, as can be observed with his hostility towards the French Revolution. From Burke's perspective, the evil of the French Revolution was not only that the revolution put an end to the ancien regime, but also that the revolutionaries, in their rejection of history and experience, created fatal and unbridgeable breaches between the past, the present, and the future—the link that featured predominantly in the world of Burke's political ideas. That Burke tried to preserve this link after 1789 can be seen in his *Reflections on the Revolution in France*, which was as much an attack on the revolutionaries in France as on their supporters in Britain, and also in his reaction to the Constitution of 3 May of 1791 in Poland.⁵⁶ His enthusiastic support for revolution in Poland fitted very well within the political ideas he expressed in the history articles of the *Annual Register*. He presented the conditions in Poland before 1791 in a bleak manner, pointing to the same weaknesses of that country and their sources as he had done nearly thirty years before: "[A] king without authority; nobles without union or subordination; ... no order within; no defence without; no effective publick force, but a foreign force, which entered a naked country at will, and disposed of every thing at pleasure."⁵⁷ Thus, the reforms introduced in 1791 were designed to answer the existing and pressing problems of the entire country and they did not proceed from abstract theory. The reforms in Poland were not confined to a particular group of people, but aimed to improve the conditions of all the inhabitants, including peasants and burghers. They were not granted equal rights with the nobility, but the noblemen, instead of being "rather an independent sovereign than a citizen" (A.R. 1763, p. 45) were now "arranged only in the foremost

55 Mahoney, *Edmund Burke and Ireland*, 52–58; Griffin, *Burke, Goldsmith*, 125.

56 Iain Hampsher-Monk, "Reflections on the Revolution in France" in Dwan and Insole (ed.), *Cambridge Companion to Burke*, 195; Bourke, *Empire & Revolution*, 677–78.

57 Edmund Burke, "Appeal from the New to the Old Whigs," in *Writings and Speeches*, 4:462.

rank of free and generous citizens.”⁵⁸ Thus, while retaining the existing political structure, the state was seeking to protect and serve the interests of all of its inhabitants, and noblemen or “the better sort of people” were made responsible not only for their own well-being, but for the well-being of the entire society. And finally, despite their importance, these changes were of a gradual and limited character and they neither broke with the past nor abolished the existing social order or political institutions. Indeed, the changes strengthened existing institutions through the removal of their weaknesses, something achieved through a return to the Golden Age. Such was the case of a monarchy which changed its character, this time from elective to hereditary.

Conclusion.

Burke’s political ideas as expressed in the history articles of the *Annual Register* correspond well with his other early historical writings, as well as with certain ideas expressed during the final period of his public career. This fact strongly supports the stance of those scholars who reject the concept of reading Burke backwards, through his later works, especially his *Reflections on the Revolution in France*, but it also reveals the richness of his thought that escapes any classification as “conservative” or “liberal.” From a negative standpoint, this inability to classify Burke in such a manner can be seen as a sign of Burke’s intellectual weakness; more positively, it can be seen as proof of the quality and depth of his thought that explains why it has remained an object of study for both past and future generations of scholars. I much prefer to stay on the positive side.

⁵⁸ Ibid., 463.

Book Reviews



Samuel Burgess, *Edmund Burke's Battle with Liberalism: His Christian Philosophy and Why It Matters Today*. London: Wilberforce Publications, 2017.

In *Edmund Burke's Battle With Liberalism*, Samuel Burgess identifies a distinctively Christian underpinning to Burke's political thought, and argues that Burke's ideas continue to serve as a cogent critique of modern liberal politics.

Published by Christian publishing house Wilberforce Publications, Burgess's study does not aim to articulate to scholars a new and innovative view of Burke, but to demonstrate to twenty-first-century conservatives the continuing relevance of Burke's ideas. (This focus may be gleaned easily by observing the back-cover blurbs by several heavyweights of contemporary British conservatism, including Jacob Rees-Mogg and Sir Edward Leigh.)

Burgess systematically contrasts Burke's political philosophy with that of "contract liberalism," whether of the eighteenth or twenty-first century variety. Burke's engagement with liberalism continues to resonate, despite modern political developments, because Burke targeted not only the immediate political manifestation of liberalism but also its core underlying assumptions about humanity, many of which remain unchanged in modern liberal thought: Human beings are, first and foremost, rights-bearing individuals, equal and morally independent of one another; the advancement of personal autonomy is the primary goal

of the polity; there is no human *telos*, or it is of no importance to politics; reason alone serves as a neutral arbiter of political questions.

Against these liberal assumptions, Burke put forward a conservatism based on an orthodox Christian view of human nature and social life. The individual must be seen as subordinate to the divine will; social and political institutions must be seen as part of a providential order; prudence grounded by circumstance, not abstract reason, is the means by which the natural law is reflected in the world. Burke's conservatism, Burgess effectively argues, cannot be viewed as simple pragmatism. Such an interpretation renders it a mere unthinking justification for the status quo. Rather, Burkean principles are pragmatic "because they are attuned to the true realities of the world which are explained by the Christian faith" (p. 107).

Burgess begins by contrasting Burke's political ideas with those of Locke, who serves, along with Rawls, as a spokesman for liberal thought. He situates Burke within the Christian tradition, emphasizing the importance of the natural law, providence, and the established church. Locke, by contrast, was animated by a desire to articulate political principles that transcended differences in religious belief. As such, he appealed to reason as a neutral arbiter of political questions, attempting to sever the realms of politics and religion. Important to Burgess's argument is the fact that these early iterations of liberal theory were not expressly irreligious. Rather, Locke derived his basic premises from a distinctive theological perspective. However, Burgess stresses that this perspective was profoundly unorthodox, regardless of whether Locke intended it to be so.

From these origins, Burgess then traces the development of liberal thought through Burke's primary interlocutors, the French Revolutionaries, who accepted Lockean premises, stripped them of their theological origins and expanded upon their irreligious implications which had laid dormant in Locke's thought. Here we also see how those principles tend to undermine and, in their most extreme form, destroy all forms of social order which fail to live up to their utopian expectations for personal autonomy. The evolution of liberalism is then traced through Rawls, where Burgess identifies what he sees as liberalism's most destructive lie: the myth of neutrality. While Rawls believed liberal societies establish a

neutral framework within which rival “comprehensive systems” are free to compete, in reality they merely establish the hegemony of one particular system. This philosophical-political hegemon is the inheritance of Locke and classical liberalism.

Throughout, Burgess demonstrates how Burke’s thought offers a response to all of these iterations of liberal theory. Burke saw that the Christian assessment of man as divinely-created but fallen required an acceptance of human limitations and a politics of humility. This discussion culminates in Burgess’s elaboration of six “theo-political principles” of Burke’s conservatism. First is the belief that politics must be grounded in the realities of the human condition, rather than hypothetical states of nature or veils of ignorance. Second, is the acceptance of the Christian doctrine of a fallen nature, which restrains the “excessive esteem for autonomy” (p. III) and emphasizes the essential necessity of social life. Third is a rejection of ideological simplifications which would elevate any individual or group to the level of societal architect. Fourth is the acceptance of the need for a balance of freedom and authority, and an understanding that true freedom only comes within a framework of duty and authority. Fifth is the elevation of custom, tradition, and institutions. Sixth is the importance of civil society and Burke’s famous “little platoons.”

Burgess concludes by demonstrating how the battle between liberalism and Burkean conservatism plays out in contemporary politics, critiquing, among other things, multiculturalism, unrestrained market capitalism, and liberalism’s inability to confront and respond to illiberal extremism.

Most of Burgess’s account will be familiar to Burke scholars. He emphasizes Burke’s conservatism, prudence, criticism of abstract natural rights, and his applicability to contemporary politics. While this view of Burke is not particularly groundbreaking, it is revealing to see how well it stands when presented as the outgrowth of Christian social thought. As noted above, Burgess presents religion not as just one element of Burke’s thought, but as the centerpiece. His presentation is clear and convincing, despite some scholarly disagreement on the nature of Burke’s religion. Burke regularly invoked the divine throughout his writings. Burgess demonstrates that such language cannot be dismissed as mere rhetoric without severely undermining the substance of Burke’s arguments.

Burgess's book also fits neatly into contemporary conservative criticism of secular liberalism and its focus on the rights-bearing individual. Conservatives are increasingly vocal in their rejection not only of the twentieth- and twenty-first-century evolutions of liberalism, but of its original core principles as well. Classical liberalism, they argue, was defective and self-defeating, fated to evolve into its modern form. Like other recent postliberal studies by Patrick Deneen, D. C. Schindler, John Milbank and Adrian Pabst, and (at a more popular level) Rod Dreher, Burgess argues that secular liberalism is a myth, and a particularly pernicious one at that. Despite its claims to a position of detached neutrality, especially when it comes to religion, liberalism actually embodies specific philosophical and theological assumptions which, when challenged, must be enforced at the expense of traditional (and particularly Christian) social views. The enforcement of this dogmatic ideology, he contends, leads to resentment and blowback, ultimately turning the tolerant liberal society into a boiling cauldron of factionalism and mutual distrust. Burgess's contribution to this literature would suggest that Burke may be of use to contemporary conservatives responding to this "crisis of liberalism" just as he was of use to a previous generation of conservatives responding to the rise of communism.

There are some lingering questions that Burgess does not fully address. He argues consistently that Burke put forward a distinctively Christian vision of society and suggests that only a Christian society could satisfy Burke's hope for good governance. He speaks of "God's active voice in the polity" (p. 112) and argues that Burke believed that "the church's message" (not just the natural law) was central to Burke's politics (p. 131). While this view is defensible, it may need clarification given that Burke often understated the political importance of doctrinal differences between Christian churches, and even lent support to non-Christian religions, including Hinduism and Islam in India, when they were a well-established part of the social order. Burgess recognizes this fact but does not thoroughly address its relationship to his overall view of Burke. This need not undermine the view that Burke's thought was distinctively Christian. It may simply reflect a traditional Christian distinction between political and religious life. A divine origin may be attributed to politics and society, even those not administered by true believers, given their reliance on justice and natural law.

Like other natural-law readings of Burke, the study must balance his insistence on universal moral standards with his skepticism of abstract conceptions of right. To achieve this balance, Burgess relies upon a distinction between a classical, “writ on their hearts” version of natural law, and the modern natural law of liberalism, which relies upon empirical observation and logic. While there is validity to such a distinction, Burgess does not fully examine how an “overtly metaphysical” conception of justice (p. 95) manifests itself in changeable customs and institutions. Seeing those customs and institutions as parts of a providential order begins to clarify the issue but does not explain how one might distinguish between better and worse regimes without direct reference to abstract ideals. Burke’s unique genius is revealed in his engagement with this difficult problem.

Burke scholars may also be disappointed that Burgess does not delve deeper into the religious context of Burke’s own day, incorporating more fully the historical insights of J. C. D. Clark, Nigel Aston, and others. Rather, he is content to show that Burke’s ideas spring from generally orthodox Christian principles, devoting limited attention to the specifics of Burke’s context. Allowances on this point ought to be made for Burgess’s wide audience.

Despite these limitations, Burgess’s book raises an important issue within Burke studies that deserves greater attention. Burgess clearly has a contemporary political agenda in mind, but there is serious engagement with Burke’s ideas as well. The book serves as an invitation to rigorous study of Burke’s religion in its historical context, and further investigation of the linkages between his religious belief and political thought.

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H. G. Callaway, ed., *Edmund Burke, the Imperatives of Empire and the American Revolution: An Interpretation*. Cambridge Scholars Publishing, 2016.

This volume, as the title indicates, offers a further contribution to the conversation about Edmund Burke's critique of the relationship between empire and liberty. As such, it joins a distinguished line of publications over the past several decades, from Conor Cruise O'Brien's *Great Melody*, through David Bromwich's anthology of Burke's writings *On Empire, Liberty, and Reform* and his later *Intellectual Life of Edmund Burke*, to Daniel O'Neill's *Edmund Burke and the Conservative Logic of Empire*, (reviewed in our previous issue). The editor, H. G. Callaway, promises an interpretation of that relationship focused on the fissure in the early modern Anglo-American world that was exposed by the American Revolution and consequent, contending interpretations of the legacy of the Glorious Revolution of 1688–89. What might Burke's writings on the former event, filtered through his perception of the Revolution Settlement, tell us nowadays about the "fate of commercial-military empire," and how might the dominant philosophical tenets of Burke's philosophy, extracted from those writings, guide an appropriate conservative response to "the tensions and conflicts of our contemporary, globalizing world and the role of commercial-military configurations within it" (p. x)?

The editor's challenge in this volume is to inject freshness into a largely familiar collection of Burke's writings relating to America. This he does with a textual analysis that appears to stand upon four main arguments: that the tension over the legacy of the Glorious Revolution was focused primarily on the relationship of liberty and representation; that Burke was a "liberal Whig" in his conception of that rela-

tionship; that the almost unforeseen consequences of the acquisition of an extensive continental empire—in 1763, but also in 1803—contorted that tension in challenging and unexpected ways; that there remains unplumbed contemporary value in grappling with these issues afresh—not least in comparing the thought of Burke and of Thomas Jefferson, a comparison that finds “poignant commonalties” to place beside the “well known contrasts” (p. xvi).

Callaway’s editorial commentary is contained in a lengthy but accessible introduction, and it shapes a collection in which the most famous texts of Burke’s American observations—the *Speech on American Taxation* (1774), the *Speech on Conciliation with the Colonies* (1775), and the *Letter to the Sheriffs of Bristol on American Affairs* (1777)—are bookended, as it were, by the *Thoughts on the Cause of the Present Discontents* (1770) and Jefferson’s *Summary View of the Rights of British America* (1774). The textual footnotes are numerous and informative, extending from Classical citations to translations of archaic words and terms—though, for close historical context, little use is made, it appears, of Burke’s correspondence, reflecting, perhaps, the author’s primary background in philosophy. There is a brief chronology from 1607 to 1797 and a more extensive, up-to-date bibliography of primary and secondary sources.

The first two of those main arguments listed above will be familiar and uncontentious to many readers: Callaway is in general agreement with the approach to Burke’s “liberal Whiggism” and latitudinarian religious stance explicated and developed most recently by commentators such as Bromwich and Richard Bourke, and the broad parameters of Burke’s Patriot sympathy with the protests of the American colonies, as described here, follow accordingly. The inclusion of the *Thoughts on the Cause of the Present Discontents* usefully serves to direct attention, within that familiar interpretative structure, to the issue of representation and liberty, and this is where the argument pivots, both for its freshness and for its contemporary agenda.

The concept of representation, in particular, is illuminated through the third and fourth of those main arguments: they involve a comparison between Burke’s historical approach to the problem and that of Thomas Jefferson, and comment on the new perspectives opened up by the acquisition of expansive and contiguous territories or colonies by

the United States and by European powers in the nineteenth century. While the differences between Burke and Jefferson are readily acknowledged, and are real enough (as the events in France after 1789 made plain), Callaway's introduction of the Ciceronian stress upon equity and "the temper and character" of societies evident in the thought of each (p. xvii), recovers a complexity and ambiguity usefully illustrated through the inclusion of the final text in the collection, Jefferson's *Summary View*. On the way, Callaway diverts to an examination of the term "universal benevolence," through brief reference to a cluster of other thinkers—Hutcheson, Witherspoon, and Jonathan Edwards—the better to expose how the experience of the American Revolution, coupled to the related events crystallizing across the Atlantic in France, failed to resolve the tension within the struggle for equitable representation, a tension only exacerbated by the expansion of American and French territorial power in the early nineteenth century.

As indicated above, this volume has an eye firmly on contemporary conservatism and its response to the impact on liberty and representation of global networks of economic and commercial power. In spanning the years from Burke's death to the present day, Callaway's interpretation takes a few diversions that are always engaging, if not always entirely clear. The extended comparison he draws with Ralph Waldo Emerson, for example, is illuminating to a point—"Emerson, like Burke, is no friend of tyranny, and both were lovers of virtue and convinced of the importance of religion" (p. xl), but, over several pages, and leaning heavily on short quotations that are widely separate in time and context, the conjectural comments, encompassing events from a visit to revolutionary Paris in 1848 to the American Civil War, might have been more firmly embedded. At the same time, the editor misses the opportunity to engage with material relating to Burke's period as agent of the New York assembly from 1770 to 1775 (Ross Hoffman's volume *Edmund Burke, New York Agent* does not receive a mention).

Ultimately, the present-day concern underlying Callaway's examination of these texts is that "historically based reforms, preserving continuity of diverse cultures and politics, but facilitating their mutual adaptations and improved relations" are constantly placed in jeopardy by "particular interests of high finance and international commerce,"

which, at the very best, promote the kind of *faux* “universal benevolence” that has undergirded some of the more costly policies of foreign intervention in recent decades. While this is not a novel interpretation or application of Burke’s relevance, the path by which it is reached here offers some strikingly new perspectives that make this volume a welcome addition to the literature on Burke, America, and empire.

IAN CROWE



УДМУРТСКИЙ ГОСУДАРСТВЕННЫЙ УНИВЕРСИТЕТ
ИНСТИТУТ ИСТОРИИ И СОЦИОЛОГИИ
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