

The Scottish Enlightenment's Reflection on Mixed Government

CRAIG SMITH

The nature and supposed excellence of Britain's mixed constitution was a popular theme of Eighteenth-Century political thought. It is perhaps surprising then that one of the major groupings of social and political thinkers produced by eighteenth-century Britain – what has become known as the Scottish Enlightenment – devotes relatively little attention to this matter. The current paper seeks to examine some of the little that they do have to say on this topic and demonstrate that it fits neatly into the broader approach to social science developed in Scotland at this time. Figures such as David Hume, Adam Smith, Adam Ferguson and John Millar are now widely recognised as among the founding fathers of social science. Their innovative approach to what Hume called 'the science of man'¹ was grounded in a desire to provide a detached and theoretical explanation of the development and operation of political institutions in general. This meant that they were predisposed to see the development of the mixed form of government in Brit-

ain as part of a wider projected explanation of government as a general phenomenon. One consequence of this is that, regardless of their personal recognition of the benefits of the British Constitution, their commitment to the philosophical examination of government in general leads them to adopt a detached and academic voice in what was otherwise a highly partisan discussion.

David Hume identifies the materials of the science of man as lying in a «cautious observation of human life»² as it is and has been lived. Such 'experimental' data will, after careful collation and corroboration, act as evidence from which generalisations of a scientific nature can be made³. This mode of comparative analysis is also deployed by Smith, Millar, Ferguson, Robertson and Kames. It is theoretical rather than narrative history. The histories written by Scottish thinkers of this period are intended to serve as a basis for what we would regard as social theoretical generalisations or explanations. As a result they have a particular bee in their bonnet about

the accuracy of the historical materials that they would then build their generalisations upon. It is this stress on historical evidence as a grounding for social theory that characterises the enlightened Scots' approach to the issue of the mixed constitution.

1. *Whig History and the Mixed Constitution*

Throughout the eighteenth-century the importance of the balanced or mixed nature of the British Constitution was a key element in Whig political thought. From the Glorious Revolution of 1688-90 until the French Revolution, the British Constitution was hailed as the epitome of stability and the foremost guarantor of liberty yet devised by man. The «stable excellency of a British Constitution»⁴ was held up as a national achievement to be envied by the rest of the world: what Voltaire called the «happy mixture in the government of England»⁵. Whig thinkers argued that the British Civil Wars and the replacement of the Stewart line with the Hanoverian line represented necessary reforms wrought to maintain the balance of the constitution in the face of imbalance introduced by the acts of an over-ambitious executive branch⁶. The balance of the constitution was identified with the defence of liberty and security from tyranny, or as Richard Price would have it: the British settlement secured: «a degree of liberty, civil and religious, which has seldom been paralleled among mankind»⁷.

Whig thinkers placed much of their praise for the constitution on its mixed nature. Political cartoons of the time frequently portray the constitution as a set of scales, or a tripod, threatened with imbal-

ance by the machinations of politicians⁸. The terminology of a 'mixed' constitution was everywhere during this time. It's historical origins in the work of Aristotle and Polybius lent authority to a Whig history that saw the mixed constitution as a gradually evolved balance that was likely to be the most stable whilst providing the greatest degree of liberty. This achievement represented a long historical struggle for liberty by the British people. Invocations of the 'ancient' constitution and its mixed nature form a constant thread in English political rhetoric from the Civil War onwards⁹.

We should be clear here though exactly what the elements in the balance or mixture were believed to be. For the ancients the mixture was between the three forms of government distinguished along lines of social class – monarchy, aristocracy and democracy (or some variant thereof in a pure/corrupted schema as provided by Aristotle). This form of mixture was alluded to by the Whig martyr Algernon Sidney who declared that: «the best governments in the world have been composed of Monarchy, Aristocracy, and Democracy»¹⁰. Each of the components of the constitution was held to check the excesses of the others and to bring with it its own virtues – swift decision-making from the Monarch, wisdom from the Aristocracy and strength from the people.

More recently the work of Locke and Montesquieu had introduced a new notion of mixed government. Here the division was applied in a more technical sense to the functional operations, or powers of government. The judicial, the legislative, the executive and the federative (or treaty making) functions of government are distinguished in Locke's *Treatises*. In the case of Mon-

tesquieu this allowed a clear distinction to be made between a constitutional monarch who ruled in line with established law and a despot who ruled without restraint¹¹. In Montesquieu the focus on functions leads away from framing the discussion in terms of personnel or institutions. This more sociological approach clearly colours the thinking of the Scottish Enlightenment.

Another major influence on the Scottish approach to the constitution was the work of James Harrington. Harrington held that despotism was a product of a faulty constitution unbalanced by the corruption of the citizenry. For Harrington the key to preventing corruption and keeping the form of government in a balanced state was to pay particular attention to the distribution of property. While the Scots do not adopt the constitutional model of agrarian democracy that Harrington recommends, they nonetheless take very seriously his claim that the balance of property must be reflected in the form of government¹². Perhaps even more significantly this points us to the Scots' signature mode of reflection on government in general – political economy. The Scots' attempts to understand the nature and operation of mixed government are characterised by a marked distaste for the idea that constitutional forms can be understood through a detached discipline of constitutional studies. The mixed forms of government are nested within a wider social system and other political, and especially economic, factors have to be understood if the nature of the constitution is adequately to be captured.

Both the ancient and the modern forms of the mixed government argument were brought to bear in support of a Whig history of the British Polity which saw the struggle

for the restitution of the ancient liberties of the people as realised in the post-1690 constitution. The technical high point in this analysis was reached in Blackstone's writings on the nature of the constitution and in Burke's defence of the stability offered by an evolved and balanced settlement where: «the whole scheme of our mixed government is to prevent any one of its principles from being carried as far, as taken by itself, and theoretically, it would go»¹³.

The thinkers of the Scottish Enlightenment lived through this period of Whig supremacy and glorification of the constitution but, while broadly supportive of the Protestant settlement and the Hanoverian succession, they nonetheless turned their distinctive social scientific approach to constitutional matters. The result is a less partisan, but more sophisticated, support for the established system of government. David Hume argued that the Glorious Revolution was «the firmest foundation of British liberty»¹⁴ as it brought an end to confusion about the succession and removed the threat of a Stewart dynasty apparently easily attracted by the allure of arbitrary power. But Hume did not enter into the enthusiastic lauding of the mixed constitution with quite the fervour of many of his contemporaries. This cooler Scottish attitude to Constitution and 'vulgar' Whig thought more generally led Duncan Forbes to refer to the 'sceptical' or 'scientific' Whiggism of figures such as Hume, Adam Smith and John Millar¹⁵. The project is to provide a clear understanding of the nature of government in general and, having this in place, to be able to assess the operation of institutions.

The Scottish project of building a 'science of man', or as Hume would have it in



Edmund Burke, lithography by a painting by Joshua Reynolds

an essay title to 'reduce politics to a science', clearly demanded that they lay aside partisan politics in favour of cool reflection. The Scots' philosophical history would reject the over-enthusiastic Whig treatments of Britain's constitutional history in favour of a calm and objective analysis of the historical evolution and everyday operation of the constitution. Following Montesquieu, the Scots updated the classical analysis of government found in Aristotle and Polybius, clarifying the typologies, reconceptualising them in terms of the functions of government, and assessing the nature of the mixture or balance purported to hold in the British Constitution. Like Montesquieu they disapproved of despotism, but they were not as easily swayed into applying that

term to the political actors around them, as the more enthusiastic or doctrinaire Whigs would prove to be. The Whig worry that the accretion of power by the executive would lead to despotism, or at the very least to an unbalancing of the constitution, does indeed feature in the background of the Scots' analysis, but it is not allowed to move with urgency to the foreground.

It seems clear that the Scots commitment to a detached social scientific approach sat comfortably with their general distrust of political radicalism. Time and again the Scottish thinkers deprecate the possibility of sweeping and idealistic political change. It seems more than plausible that this is a result of the recent historical experience of Britain. Indeed many of the leading figures of the Scottish Enlightenment have little directly to say on the British constitution. Some, like Francis Hutcheson, adopt a natural law framework where the British constitution serves as one instance in a more abstract discussion. Others who do speak on the matter, are careful to frame their views within a historical or jurisprudential analyses (For example Lord Kames in his *Historical Law Tracts*). Adam Ferguson, in his *Essay on the History of Civil Society*, provides us with a detached sociological account of the gradual evolution of mixed forms of government. The story, despite Ferguson's other republican enthusiasms such as the citizen militia, seldom becomes laudatory or overly politicised. Instead the detached tone of enquiry is maintained as Ferguson explains how «a government properly mixed»¹⁶ emerges gradually as the unintended consequence of what «contending parties have forced one another to adopt»¹⁷. The tone here is largely academic rather than ideological¹⁸.

In the case of Adam Smith the discussion of mixed government occurs in his *Lectures on Jurisprudence* and is conducted almost wholly within the social scientific language of comparative constitutionalism. Perhaps the most detailed aspect of Smith's account is his set piece analysis of the decline of the feudal constitution told as a story of the unintended consequences of a changing political economy. Here the 'revolution' that occurs is clearly not the result of deliberate political agitation. Instead the balance of property within a nation shifts and so, gradually, the political constitution adjusts itself to the new balance of power that has developed.

Of particular interest in Smith's account is his explanation of the gradual introduction of the division of labour into the political system. Smith clearly regards it as desirable that the functions of the executive and the judiciary are separated, arguing that unless they are matters of political expediency will infect the legal process¹⁹. But he explains how this division initially came about through an unintended consequence of the division of labour²⁰. Early rulers hived off the judicial function to reduce their own workload. Thus one of the most important constitutional developments for the protection of liberty is the result of a process of unintended consequences, not a battle for freedom²¹.

2. David Hume

From much of what has gone before it will be obvious that the theme of the mixed constitution is not absolutely central to the Scots' thought. However one area where it

does move to the fore is in the philosophical histories of David Hume and John Millar. Hume's *History of England* and Millar's *Historical View of English Government* are both in their way sustained engagements with the Whig history of the Constitution.

In his historical writing and political essays Hume engages with the notion of a mixed constitution in a detached and deflationary manner. His view is that the type of mixture involved is often of more significance than the bare fact that a constitution is mixed. The wrong sort of mixture can lead to tyranny, and even more importantly different mixtures can tend towards one or other of the mixed elements. This observation is not new, indeed it forms part of Aristotle's analysis in *The Politics*, but in Hume's hands it becomes a cautionary warning to the Whigs that their pretensions are perhaps less sophisticated than they think. In his essay *Whether the British Government inclines more to Absolute Monarchy, or to a Republic* Hume worries that a powerful monarch may not necessarily be any worse than an extreme form of republicanism when it comes to inviting despotism. The excessive influence of any one branch of government may unbalance the whole system. So far this is standardly Whig in its view, but Hume goes on to observe that under the present settlement the balance was heavily inclined towards Parliament and that this needed to be checked by a forceful executive if the balance were to be preserved. The question of the nature of the mixture of powers in the British Constitution is too easily sold, in Hume's view, as scaremongering about the power of the executive, when precisely the opposite may be the case. Hume concludes by attempting to deflate Whig enthusiasm by arguing that

a «civilized European Monarchy»²² can secure many of the political ideals claimed by the more republican minded Whigs²³.

This deflationary tactic is continued in *Of the Parties of Great Britain* where Hume engages with the rhetoric of Whigs and the broader Country party position developed by Bolingbroke²⁴. Hume's point here is that either the threat to the constitution from a powerful executive such as Walpole's administration is not so great as feared, or the constitution is more fragile, and consequently less admirable, than maintained. Hume's interest in political stability appears at other points in his work – notably in *Of The Original Contract*, which is an attack on the founding myths of the Tories (divine right) and the Whigs (social contract). Hume seems to want to tread a fine line between broadly agreeing with the Whig view on the importance of mixed government while keeping in mind the criterion of assessment that guides his thought, namely the importance of the rule of law and political stability²⁵.

The next step in Hume's consideration of the mixed nature of British government occurs in his *History of England*. Here the target is the sort of historical distortion produced by Whig and Tory partisans. Both factions appeal to some model of the ancient constitution as a part of the justificatory strategy. Recent events were then painted in terms of restoring or perverting the ancient fabric of Britain's gothic constitution²⁶. Hume's particular ire is directed at enthusiastic Whig historians keen to damn their opponents as vandalising the ancient liberties of Britons. *The History of England* with its careful and elegantly written relation of the political evolution of British government is a systematic de-bunking of the sort of over-

blown claims for the virtue and authority of the ancient constitution. Hume's approach to this sort of biased narrative is twofold. First he takes care to paint the development of the British monarchy through the Tudor period in such a way as to question the Whig claims of an unbroken inheritance of freedom. Most clearly here we see the marginalisation of parliaments and the tendency to autocracy in Henry VIII and Elizabeth. Hume then compares these to wider European instances of the same phenomenon and notes that these innovations formed the basis of continental absolutism.

Hume's second strategy is to paint many of the heroes of the Whig interpretation of history as bigoted fanatics. The Puritans, Cromwell and the Rye House Plotters are all painted as religious enthusiasts whose desire to secure power was not backed by any desire for religious liberty, but was instead pursued with the intention of suppressing rivals. These negative character portraits of Whig icons are matched by sympathetic portrayals of the usually demonised Stewarts and their supporters. Hume seems to go out of his way to offend Whig sensibilities in his portrayal of Charles I and II. But he ends with a clear criticism of James II and an acceptance of the necessity of the glorious revolution.

Of James II he writes: «So lofty was the idea, which he had entertained of his legal authority, that it left his subjects little or no right to liberty, but what was dependent on his sovereign will and pleasure»²⁷. The glorious revolution marked the «triumph of law over prerogative»²⁸ producing a form of mixed government where: «King and people were finally taught to know their proper boundaries»²⁹.

Hume then continues his policy of broad agreement with Whig principles while rejecting the forms of argument advanced to support them and gently mocking the more enthusiastic partisans. Hume takes especial care in dissecting the nature of the shifting party structure in Britain. In the essay *The Parties of Great Britain* he describes the factions in the following wry terms: «A Tory, therefore, since the revolution, may be defined in a few words, to be a lover of monarchy, though without abandoning liberty; and a partisan of the family of Stuart. As a Whig may be defined to be a lover of liberty though without renouncing monarchy; and a friend to the settlement in the Protestant line». These different views, with regard to the settlement of the crown, were accidental, but natural additions to the principles of the court and country parties, which are the genuine divisions in the British government³⁰.

The intention is to question the argumentative strategies of Whig historians and philosophers. Yes, the mixed form of government that has evolved in Britain secures the liberty of the people, but this is not the result of the deliberate pursuit of this mixture inspired by the philosophically committed Whigs. Instead of being a long historical triumph of freedom the present British settlement is better understood as a result of more general trends of social change which have brought about modern commercial nations across Europe. Moreover, for Hume the tendency to lionise liberty may itself be a danger. In his view part of the usefulness of the present settlement was that its liberty was liberty under the rule of law.

For Hume the key feature in this process was the gradual reduction of arbitrary

power and the increasing respect for the rule of law. The triumph of law over prerogative represents a step in the evolution of commercial modernity and for Hume it may very well have been an accidental by-product of conflicts between individuals who had little or no inkling of this. In his political essays *Of the Origin of Government* Hume is quite explicit that many of the positive features provided by governments were completely unintended. All governments have their origins in fraud or violence, and it is only later that beneficial effects begin to become apparent. In Hume's *History* it is the gradual evolution of the rule of law and the subsequent stabilisation of expectations that persuades him to favour of the Revolution and not a commitment to the philosophical principle of liberty or of integrity of the ancient constitution.

3. John Millar

John Millar's *An Historical View of English Government* is clearly intended as an exercise in the Scottish genre of philosophical history which has the distinct purpose of refuting Hume's analysis. Millar's problem is not with Hume's methodology, but rather with the extent to which his de-bunking exercise involves him in what Millar regards as a historical distortion every bit as unfortunate as that of the more enthusiastic Whigs. Millar sets about his task by attacking the two main threads of Hume's strategy. In the first place he criticises Hume's analysis of the Tudor monarchs. Millar's point is that, contra Hume's depiction of the all but absolute powers of the later Tudors, the English Parliament still remained

in existence. Moreover, even at their most absolutist, the Tudors continued to rule through Parliament³¹. Millar directly contradicts Hume here³². While he accepts that there have been periods in English history where the mixed constitution is dominated by one branch, it remains the case that at no time did its form ever approach the sort of absolute rule apparent in many continental systems³³. Parliaments continued, and continued to provide the main means for legislation and for authorising the raising of revenue³⁴. Whatever their pretensions to extend their power none of the Tudors developed a notion akin to the theory of absolutism that developed under the Stuarts.

Millar seeks to reinforce this point in his discussion of James VI and I. He invites us to compare James's writings on absolutism with his practice in power. One clear case he presents is that of the early reforms of the Scottish parliament. Millar considered the Scottish Parliament to be a far weaker institution than its English equivalent, but notes that James VI and I continued to rule through it even as he sought to control it. Millar points to James's practice of appointing ministers to decide what legislation was to be presented to the Lords of the Articles who then determined the order of business for the Parliament³⁵. Millar argues that when he became King of Great Britain James continued his attempts to impose absolutism, but his need to call Parliaments in order to secure funds³⁶ demonstrated that he never enjoyed the sort of absolute power that he believed Hume attributes to the Tudors.

The focus on taxation and money is another example of the Scottish preoccupation with political economy. Millar frequently couches his analysis of political change and

conflict in terms of financial dispute³⁷. He also operates with the same set of underlying assumptions as Hume and Smith. That is to say, he regards the balance of political power as being, to a large extent, a reflection of the balance of property or wealth in a society. Changes in property distribution produce changes in the balance of government³⁸, a point particularly emphasised in the eighteenth-century by the rise of the middle class³⁹. This line of argument is made explicit by Millar when he accuses the Stuarts of failing to appreciate the extent to which the balance of property, and thus power, had shifted away from the Monarch and towards the middle class and their representatives in parliament⁴⁰.

The Stuarts, in Millar's view, tried to become absolute monarchs, but the very fact that they had to try to do this, and frequently found themselves obliged to attempt to manipulate parliament, demonstrates that the mixed constitution persisted and that Hume's analysis went too far. Millar reinforces this view in his discussion of the Restoration. In this setting he observes that the initial period after the restoration allowed Charles II extensive domination of government, but that this was achieved through a supine parliament. Gradually as the memory of the civil war receded the parliament became more assertive⁴¹ forcing Charles into «abuses» such as attempts to raise extra-parliamentary revenue and the extensive use of dispensing powers⁴². According to Millar the Stuarts, despite their protestations in favour of prerogative, must have been aware of the «great charters», and if so they must have been conscious that they were acting against the ancient structure of mixed government that they implied⁴³. Indeed Millar regards

the behaviour of Charles II in seeking to rule without parliament as a worse form of 'unconstitutional' behaviour than anything from the Tudor era⁴⁴.

With this analysis in place Millar turns to Hume's defence of Charles II's character and accuses him of providing a «laboured apology»⁴⁵ which becomes untenable in the light of the failure of Hume's analysis of the Tudors. The 'unconstitutional' actions of James II, which Hume agrees with Millar in condemning, become part of an extension of this argument and a manifestation of tendencies apparent in all the Stewart Kings rather than the weakness of character that Hume suggests.

Millar approaches the second of Hume's themes in a similar manner. While he seems to accept Hume's desire to deflate the hero worship that some of the 'vulgar' Whigs display for the Puritans and Cromwell, he is unwilling to damn them as ignorant and fanatical bigots. Republican thinkers went too far for Millar's taste⁴⁶, but they possessed a genuine commitment to the principle of liberty. As he puts it: «However much they might be tinctured by enthusiasm and religious prejudices, they seem to have acted from pure and disinterested motives; and were neither seduced nor intimidated, upon any occasion, to swerve from those patriotic principles by which they professed to be guided»⁴⁷. The Puritans held a genuine political commitment to liberty in Millar's view⁴⁸. He seems to be accusing Hume of allowing his dislike of religious enthusiasm to blind him to the other commitments of many of the Puritans. This distorted view of Hume's leads him to paint too favourable a picture of monarchical power in his *History*.



Portrait of David Hume; the 1778 edition of *The history of England*

Millar closes the *Historical View* with a direct engagement with Hume's project of deflating 'vulgar' Whig history. He accepts that some Whigs have allowed themselves to get carried away in their writing. They have allowed their political principles to distort their depiction of events. But this does not warrant the level of corrective response found in Hume's work. Whig history was not a total fabrication, nor even was it a distortion of the magnitude suggested by Hume. Millar believes that he has shown that the notion of an ancient mixed constitution is grounded in the real-

ity of the form of government in England. To this extent the Whigs are right to see the behaviour of the Stewarts as an innovation that could be regarded as contrary to established practice⁴⁹. Parliamentary authority over taxation in particular is a constant thread in English government for Millar and this demonstrates that Hume's deflation lets too much air of the Whig position.

This image is continued in Millar's later, unpublished sections, on the Post-1688 form of government. The «commercial Government of England»⁵⁰ represented a «judicious and moderate correction of the ancient limited monarchy»⁵¹. This necessary reform was invited by the attempted subversion of the mixed constitution⁵² and was achieved by a Prince with a strong commitment to Whiggish principles⁵³. A strong parliament was needed to control and balance the executive and judicial branches of government and this had become increasingly the case under William and Mary. Parliament now possessed legislative power and secure control of taxation⁵⁴, but like many Whigs Millar had become concerned about the actions of the executive as potential threats to the balance of the mixed constitution. Among the concerns were the level of national debt contracted to fund warfare⁵⁵ and the extent of patronage and the number of placemen created by the expansion of executive functions⁵⁶. However, Millar's main concern was with the «secret influence of the crown»⁵⁷. This influence was depicted in terms of the theory of mixed government. The Crown and its ministers were now in a position to dominate the proposal of legislation⁵⁸ in a way that threatened the principle of mixed government. This concern, which Millar shares with Adam Smith⁵⁹ demonstrates

that the settlement might require further reform in order to secure liberty through a proper mixture. Moreover, it also bore worrying similarities to James VI and I's attempts to manage the old Scottish Parliament. This return of an old concern nudged Millar towards a reformist rather than a conservative position.

One related feature of the mixed constitution discourse that, perhaps surprisingly, does not seem to have greatly concerned the Scots is the Union of Parliaments. It is interesting to note that one of the later doubts about the security of the mixed constitution arose as a result of this union. Popular English fears about the stealthy encroachment of Royal influence through patronage were directed at the Bute administration and the supposed Scottish gravy train that had accompanied the union of parliaments. For the enlightened Scots like Hume the benefits of the union for both the Scots and the English were clear⁶⁰. However, true to form, his endorsement of Union was in the sceptical Whig manner⁶¹. Hume's reasons for favouring Union relate to the resulting political stability and the entrenchment of the rule of law that came with it. That the Union also gave Scots access to English markets and encouraged economic development was even more of a reason to be happy with the settlement. Hume's unionism was pragmatic and, once again, based on the evidence of its beneficial effects.

4. Conclusion

What we have noted throughout the previous discussion is a commitment to philosophical history being brought to bear

against ideological or biased histories. The Scottish impulse to generalise in social theory leads them to adopt an approach that favours justification from a utilitarian perspective. That is to say that the value or otherwise of the mixed constitution of Britain does not lie in its historical ancestry, but rather in its effects at the present time. Hume in particular goes to great lengths to deflate the pretensions of partisan history in the hope that clearer understanding will allow calmer judgment of the operation and success of a constitution however mixed and to whatever degree balanced. John

Millar's response is to seek to moderate Hume's corrective strategy in the interests of historical accuracy, but to continue the wider approach of philosophical history. If we are to seek an appropriate description of the Scottish Enlightenment's reflections on mixed government then we might best understand them as calm, unpartisan and social scientific.

¹ D. Hume, *The History of England* (1778), 6 voll; Indianapolis, Liberty Fund, 1983, p. XV.

² Hume, *The History of England*, cit., p. XIX.

³ See the discussion in Ch. J. Berry, *Social Theory of the Scottish Enlightenment*, Edinburgh, Edinburgh University Press, 1997.

⁴ E. Burke, *Appeal from the New to the Old Whigs* (1791) in *Burke's Works*, London, Henry Bohn, 1864, vol. III, pp. 1–115, p. 83.

⁵ F.M. A. Voltaire, *Philosophical Letters* (1734); translated by E. Dilworth, Mineola, New York, Dover Publications, 2002, p. 31. The high point of this Anglo-philia in constitutional matters is De Lolme's *The Constitution of England*.

⁶ One preliminary observation that we should note is that the meaning of the term constitution shifts through the eighteenth-century. As Bernard Bailyn memorably noted the term begins the century as a descriptor applied to the institutional order of a polity, but, by the end of the century, and especially after the American revolution, the term had shifted

its meaning to refer to a fundamental law or set of principles that underwrote the political institutions of a society. The 'constitution' becomes a normative ideal that embodies the political ideals of a society. This development seems to flow naturally from the Whig lionising of the British Constitution as a bulwark against tyranny. Cfr. B. Bailyn, *The Ideological Origins of the American Revolution*, enlarged edition, Cambridge Mass, The Belknap Press, 1992.

⁷ Political pamphlets of the time often portrayed the constitution as an ideal under threat from the supposed machinations of politicians. James Burgh's influential *Political Disquisitions* (1774) had the subtitle «to draw the timely attention of government and people to a due consideration of the necessity, and the means, of reforming those errors, defects, and abuses; of restoring the constitution, and saving the state». J. Burgh, *Political Disquisitions*, London, 1774.

⁸ Popular caricatures of the day often portray the constitution as

a temple held up by three pillars monarchy, lords and commons. Cfr. H. T. Dickinson, *Caricatures and the Constitution 1760–1832*, Cambridge, Chadwyck-Healey, 1986.

⁹ See the discussion in R.J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought 1688–1863*, Cambridge, Cambridge University Press, 1987.

¹⁰ A. Sidney, *Discourses Concerning Government* (1698); edited by T.G. West, Indianapolis, Liberty Fund, 1996, p. 166.

¹¹ Ch. L. de S. Montesquieu, *The Spirit of the Laws* (1748); edited by A.M. Cohler, B.C. Miller & H.S. Stone, Cambridge, Cambridge University Press, 1989, p. 10.

¹² Hume takes inspiration from Harrington's *Oceana* in his essay *The Idea of a Perfect Commonwealth*. The crucial distinction is that Hume and his fellow Scots all reject the idea of developing ideal constitutional plans with the expectation that they could be implemented. Hume observes that: «To balance a large state or society, whether monarchical or republican, on general laws, is

a work of so great difficulty, that no human genius, however comprehensive, is able, by mere dint of reason and reflection to effect it»: D. Hume, *Essays Moral, Political, and Literary* (1777); edited by Eugene F. Miller, Indianapolis, Liberty Fund, 1985, p. 124. Instead they see it as their task to produce general observations that can guide responses to specific real world circumstances by increasing our understanding of the nature of political life. This in itself may be slightly ironic given Hume's obvious influence on James Madison and the American founders. As Adam Ferguson would have it: «No constitution is formed by concert, no government is copied from a plan»; cfr. A. Ferguson, *An Essay on the History of Civil Society* (1767); edited by Fania Oz-Salzberger, Cambridge, Cambridge University Press, 1995, p. 120. For wider discussion of the political thought of the time and the Scottish contribution to it see D. Wooton (edited by), *Republicanism, Liberty, and Commercial Society 1649-1776*, Stanford, Stanford University Press, 1994 and J. G.A. Pocock, *Virtue, Commerce, and History: Essays on Political Thought and History, Chiefly in the Eighteenth Century*, Cambridge, Cambridge University Press, 1985.

¹³ Burke, *Appeal from the New to the Old Whigs*, cit., p. 89.

¹⁴ Hume, *Essays* cit., p. 70.

¹⁵ D. Forbes, *Scientific Whiggism: Adam Smith and John Millar*, in «The Cambridge Journal», n. 7, 1954, pp. 643-670.

¹⁶ Ferguson, *An Essay on the History of Civil Society*, cit., p. 158.

¹⁷ Ivi, p. 125.

¹⁸ Ferguson extends his unintended consequences analysis further when he notes that Liberty itself is an unintended consequence: «Amidst the contentions of party, the interests of the public, even the maxims of justice and candour, are sometimes forgotten; and yet those fatal conse-

quences which such a measure of corruption seems to portend, do not unavoidably follow. The public interest is often secure, not because individuals are disposed to regard it as the end of their conduct, but because each, in his place, is determined to preserve his own. Liberty is maintained by the continued differences and oppositions of numbers, not by their concurring zeal in behalf of equitable government»; ivi, pp. 124-125. On Ferguson's place as a skeptical voice in the 'wealth and virtue' debate see Ch. J. Berry, *The Idea of Luxury: A Conceptual and Historical Investigation*, Cambridge, Cambridge University Press, 1994 and I. Hont, M. Ignatieff (edited by), *Wealth and Virtue: The Shaping of Political Economy in the Scottish Enlightenment*, Cambridge, Cambridge University Press, 1983.

¹⁹ A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), edited by R.H. Campbell, A.S. Skinner, W.B. Todd, Oxford, Oxford University Press, 1976, p. 722.

²⁰ Ivi, p. 721.

²¹ See the discussion of unintended consequences in J. Otteson, *Adam Smith's Marketplace of Life*, Cambridge, Cambridge University Press, 2002.

²² Hume, *Essays* cit., p. 93.

²³ In *Cato's Letters* Trenchard and Gordon observed: «Parties like or dislike our constitution, just as they are out of power, or in it»; J. Trenchard, T. Gordon, *Cato's Letter or Essays on Liberty, Civil and Religious, and other Important Issues*, 4 Voll in 2, edited by Ronald Hamowy, Indianapolis, Liberty Fund, 1995 p. 689. For a collection of original pamphlet material see J.A.W. Gunn, *Factions no More: Attitudes to Party in Government and opposition in Eighteenth Century England*, London, Frank Cass, 1971.

²⁴ For a discussion of the development of the British party system in the eighteenth-century see F.

O'Gorman, *The Emergence of the Two-Party System*, London, Edward Arnold, 1982 and Id., *The Long Eighteenth Century: British Political and Social History 1688-1832*, London, Arnold, 1997.

²⁵ These principles of Hume's are linked to his larger principle of usefulness or utility. The success of a constitutional form can be judged in terms of its functionality in providing the stability that allows the pursuit of individual goals.

²⁶ See C. Weston, *England: Ancient Constitution and Common Law*, in J.H. Burns, M. Goldie (edited by) *The Cambridge History of Political Thought 1450-1700*, Cambridge, Cambridge University Press, 1991, pp. 374-411.

²⁷ Hume, *The history of England*, cit., p. 520.

²⁸ Ivi, p. 482.

²⁹ Ivi, p. 476.

³⁰ Hume, *Essays* cit., p. 71. The best recent discussion of Hume's views on mixed government is D. Lieberman, *The Mixed Constitution and the Common Law*, in M. Goldie, R. Wokler (edited by) *The Cambridge History of Eighteenth-Century Political Thought*, Cambridge, Cambridge University Press, 2008, pp. 317-346.

³¹ J. Millar, *An Historical View of English Government* (1787); edited by M. Salber Phillips, Indianapolis, Liberty Fund, 2006, p. 410.

³² The two also enter into a direct dispute about the status of the House of Commons and the question of when it came to be recognised as an integral part of the British system.

³³ Millar, *An Historical View* cit., p. 513.

³⁴ Ivi, p. 540.

³⁵ Ivi, p. 478.

³⁶ Ivi, p. 497.

³⁷ Financial analysis is also a feature of Hume's *History* where he frequently breaks off to describe the state of the Exchequer.

³⁸ J. Millar, *An Historical View* cit., p. 488.

³⁹ Ivi, p. 491.

- ⁴⁰ Ivi, p. 511.
- ⁴¹ Ivi, p. 616.
- ⁴² Ivi, p. 630.
- ⁴³ Ivi, p. 583.
- ⁴⁴ Ivi, p. 584.
- ⁴⁵ Ivi, p. 582.
- ⁴⁶ Ivi, p. 568.
- ⁴⁷ Ivi, p. 565.
- ⁴⁸ Ivi, p. 591.
- ⁴⁹ Ivi, pp. 662-663.
- ⁵⁰ Ivi, p. 437.
- ⁵¹ Ivi, p. 439.
- ⁵² Ivi, p. 638.
- ⁵³ Ivi, p. 660.
- ⁵⁴ Ivi, p. 513.
- ⁵⁵ Ivi, p. 657.
- ⁵⁶ Ivi, p. 701.
- ⁵⁷ Ivi, p. 707.
- ⁵⁸ Ivi, p. 711.

- ⁵⁹ A. Smith, *Lectures on Jurisprudence*, edited by R.L. Meek, D.D. Raphael, P.G. Stein, Oxford, Oxford University Press, 1978, p. 269, pp. 421-422.
- ⁶⁰ Hume, *The History of England*, cit., vol. VI, p. 223.
- ⁶¹ See Colin Kidd's discussion on the extension of Whig History into the relationship between Scotland and England in C. Kidd, *Subverting Scotland's Past: Scottish Whig Historians and the Creation of an Anglo-British Identity 1689-1830*, Cambridge, Cambridge University Press, 1993 and his recent survey of Scottish Unionism in *Id.*, *Union and Unionisms: Political thought in Scotland 1500-*

2000, Cambridge, Cambridge University Press, 2008.