PART TWO

THE HISTORY OF AUTHORITY c.1770-1801
John Millar (1735-1801), practising lawyer, professor of law and political writer, was a patriot Whig. The denomination encapsulates his political creed, points out its provenance and prognosticates the ideological straddle of Millar’s later years. The ‘love of country’ was a compound of political concerns and historical claims. In the third and fourth decade of the eighteenth century, patriotism, bearing more or less the same connotations since at least the 1640s, was overwhelmingly the province of Whigs relegated to opposition. Those patriot Whigs were considered political dissidents but professed to be paragons of public virtue. They protested against the corruption of government which threatened to undermine the national pride of old, the mixed constitution. The mainstay of British patriotism, in most of its eighteenth-century varieties, was the glorification of liberty captured in the constitution (which, as far as Whigs in opposition were concerned, was endangered from the top down).\(^1\)

Opposition Whigs were far from being the sole trustees of what many politicians during the course of the eighteenth century came to see as a ‘strongly favourable evaluation’ of one’s political motives, and a ‘desirable commodity’.\(^2\) The contention to act out of patriotic motives was the subject of multiple appropriation. Hugh Cunningham writes: ‘If Bolingbroke had borrowed his ideological clothes from the Whigs, it was quite possible for Whigs to reclaim them, only to find that they had lost them again to radicals. Patriotism became more radical as the century progressed’.\(^3\) Radical patriots were not as convinced as patriot Whigs that sufficient liberty was currently enjoyed by enough people, but both invoked history to argue against corruption and for the constitutional nature of their protests.

It was not just to radicals, of which John Wilkes (1727-1797) was the most notorious, that patriotic fervour fell in the second half of the eighteenth century. Linda Colley argues that from about 1780 onwards radicals had to deal with ideological expropriation as ‘Britain’s rulers became more interested and more adept at using the language of patriotism as a conservative force’. Colley’s argument is that Wilkite peace petitions and other anti-war activities concerning the American War (1775-1783) caused radical patriots to be depicted as traitors by a government that prided itself on defending the national interest.\(^4\) Colley’s account of patriotism is part of her argument that the aristocracy managed to change its repertoire and imagery in order to reconstruct and reaffirm its leading role in British society.\(^5\) Wanting to portray themselves as defenders of the constitution, servants of their country and rulers of its people, the ruling class borrowed from the patriot palette the heroic virtues and honourability of medieval chivalry and the hierarchical implications of a natural order. Whereas for most of the century the British political establishment was the ‘modernist’ party, disparaging feudalism and defending commerce, around 1780 it began to make ‘traditionalist’ patriot language its own. At about the same time radicals began to reconsider...
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their patriotism. Linda Colley speaks of a ‘sea-change in the quality of English radicalism’, in the direction of ‘more politically specific’ demands (such as universal manhood suffrage), in search of a broader base, and away from intolerance and narrow chauvinism. Radical critics of the regime began to equate the nation with ‘the people’. That last was an elastic notion, as would be proven by the ‘popular’, but seldomly outright democratic, elaboration of new political programmes.

John Millar was a patriot Whig. He spoke out against the political establishment but he was certainly no radical. In the 1780s, when the other varieties of patriotism foreshadowed latter-day positions in politics (the establishment’s ‘conservatism’ and a ‘progressive’ radicalism), Whigs like Millar most resembled the patriots of half a century before. Patriot Whigs were overtaken by time. They clung to a *nobiliaire* discourse that had lost much of its strength from an oppositional point of view. The opposition Whigs were discursively enfeebled, partly because the political establishment itself had begun to wield the language of universal ranks, ancient liberty and medieval precedents, partly because the tone in which the establishment was censured began to be set by other groups. Whereas the patriot Whigs of the 1720s and 1730s, in terms of organisation and outspokenness, had been at the forefront of radical opinion, their successors at the closing decades of the century unconvincingly tried to patronise initiatives for parliamentary reform in an attempt to restrain activism they considered too extreme. More ‘specific’ demands were voiced from other quarters. The vocabulary of those opposition Whigs who radicalised, like Millar, lacked precision and above all radical potential to live up to the new standards of political animadversion that were being met. A major reason for failing to keep abreast of the times was the fact, illustrated below, that the Whigs in opposition were wedded to the view of parliament as the people’s last resort. This was a view that many people and popular societies, critical of the business and composition of parliament, had come to question. Patriot Whigs of the later eighteenth century were susceptible to criticisms from the other camps with patriotic aspirations. For the radical patriots they were fake reformers. For the political establishment they were fifth columnists, an imputation that became overwhelming when they took the lead in the movement for peace with revolutionary France. Patriot Whigs were also torn by dissent on the party level. In the 1780s and still more dramatically in the 1790s, the Whig party in opposition split over the issue of parliamentary reform and peace with France, losing many prize politicians and much of its popular appeal.

John Millar has been called a ‘zealous Whig’, a ‘decided Whig’, and an ‘advanced Whig’ by nineteenth-century commentators. More recent adjectives are a trifle more specific. Millar is now usually called a ‘scientific Whig’ or a ‘sceptical Whig’. Both terms, conveying more or less the same set of ideas, were first applied to Millar by Duncan Forbes. Forbes (‘using Marxist language as an insider joke’) speaks of ‘scientific
Whiggism’ to describe a Scottish ‘philosophical’ attitude towards political history that was everything that ‘vulgar Whiggism’ was not. Forbes holds that the first was a cosmopolitan (that is Europocentric) and comparative creed, constructed as civilisation-history, in answer to the Francophobic, insular and single-mindedly parochial preoccupations of the second. Dichotomy was replaced by dynamics, rigidity by open-mindedness. Forbes’s understanding of what he names ‘vulgar Whiggism’ and its relation to eighteenth-century Scottish Whig historians have rightly been called oversimplifications. A problem with Forbes’s widely accepted distinction is that it posits a contrast where a convergence to the point of confusion took place. The comparative and cosmopolitan aspects of Millar’s political history were taken from early eighteenth-century Whiggism where they served the same purpose, namely that of safeguarding the historical integrity and continuity of the British constitution. Insofar as Millar gave a more sophisticated account of European history than had been done before, that was mainly in reaction to (and borrowing from) David Hume who refurbished seventeenth-century arguments in his criticism of opposition history. Millar was neither much more ‘philosophical’ than his patriot Whig predecessors nor much more ‘vulgar’ than those critical of Whig commonplaces.

From the start of his academic career John Millar elaborated elements of patriot Whig discourse like Anglo-Saxon liberty, medieval precedents for parliamentary privileges, and the fate of unruly princes. Those elements were arranged in a historical framework of feudalism that was made to fit patriot purposes in the first decades of the eighteenth century. Ever since its ‘discovery’ by seventeenth-century English royalists, the history of feudal institutions posed a formidable threat to those who held that the legislative assembly had anciently been and still remained the conscience of the constitution of England. John Millar ‘Procrusteanised’ the history of the ‘feudal system’ to counter the threat.

The feudal system was a European phenomenon. It was to economical, legal, political and social developments on a European scale that Millar could turn to disprove that England’s feudalisation was the accidental outcome of royal willfulness or aristocratic anarchy, and to prove that his nation had run a natural course. Like many others, Millar started his history of the ‘modern states of Europe’ with the livelihood and political organisation of the German peoples described by Caesar and Tacitus. He meant to demonstrate that the feudal system had gradually evolved from the neo-sedentary and proto-parliamentary practices of the Germanic conquerors of the Roman Empire. This sequence of events and the comparisons made possible by the wide field of vision lent support to the thesis that England’s feudalisation was the continuation of Anglo-Saxon laws and regulations instead of their abrupt demise. Next, Millar wanted to demonstrate that, with the transition from feudal forms of government to what he called ‘commercial government’, the balance
of power shifted *within* the bounds of the Germanic constitutions that were still preserved intact. In this way Millar intended to show that the structure of English government as he saw it was of Anglo-Saxon descent and of unbroken lineage.

John Millar stressed *qualified continuity* throughout. That fifteen centuries of English and European history had gone by without change was impossible; from Millar's point of view it was undesirable as well. He had to convey that the ruling of small and undiversified communities was gradually tailored to the centralised management of a very large, differentiated and socially integrated nation like his own. To update the ancient constitution Millar employed an evolutionary scheme in which economics, law, politics and society developed simultaneously in successive phases. The governing principles of the past were shown to be transferred to the present and translated into terms of contemporary relevance in a process of natural growth of which each phase emanated from the foregoing. Looking back at Millar's achievements as political writer and party ideologist we may put on record that he missed out on the expansion of the political arena. Millar met with the boundaries to changeability and suitability of traditionalist arguments at a moment in time when the historical development of parliament lost out to the recent rise of the people out-of-doors.

The English Whig lexicon that was unremittingly consulted by Millar defined the Commons as a constant in the field of political forces. Reforms traditionally advocated by oppositional writers were aimed at shielding this part of parliament and its privileges from interference by the other political powers. As the eighteenth century progressed, however, patriotism became increasingly associated with the call for an intrinsic reform of parliament. Harry Dickinson speaks of the ' politicisation of the people', which he summarises as follows.

> In the earlier eighteenth century the people out-of-doors tended to react to issues which divided the governing elite, they adopted much of the ideology of the parliamentary opposition ... In the later eighteenth century a much more sophisticated and organised extra-parliamentary reform movement was created, and a radical ideology and a political programme were promoted, which sought to reform the constitution and to extend the political power of ordinary British subjects.  

At first the people (at least those that were politically enabled *and* outspoken) shared the parliamentary agenda as they considered themselves effectively included in their representatives' mandate, afterwards they began to exert influence of their own accord.

With the expansion of the political domain, many no longer considered the House of Commons to be the self-evident agent of their interests, or a true and just reflection of 'the people'. The threat of corruption was thought to be no longer confined to the dealings between king, ministers and parliament, but extended to the number of those entitled to vote, the distribution of the districts of voters, and the composition of the body of the elected. The
issue, from this point of view, was not the independent position of the Commons vis-à-vis
the other powers of state but its identification with, and dependence on the people. Already
in the 1750s radical patriots appealed to ‘the nation, the people and even a national
convention against a corrupt and minister-dominated parliament’. Those early expressions of
radical patriotism combined the admiration of the constitution with a ‘deep concern about its
contemporary state’. Next to the oppositional truism that parliament should be free from
undue influence exerted by the king and his ministers, it was stressed that parliament was one
but ‘not the only constitutional voice of the nation’.14 The newly gained political distinction
of the people, supported by a radical patriot press, bore heavily on oppositional Whig
convictions. It was hard being a patriot Whig when part of the nation took matters into its
own hands.

Calling John Millar a patriot Whig has the advantage of conveying the stable image that he
enjoyed among his political adversaries and that he fostered of himself. According to his
reactionary critics he always was an inveterate ‘republican’ or ‘democrat’. To radicals he was
an unfailing aide to the obstruction of improvement. And Millar thought of himself as a
steadfast adherent to opposition principles, as demonstrated when he turned down a ‘lucrative
place’ because his ‘acceptance might be construed into an engagement to support an
administration whose measures he condemned’.15 Yet Millar’s position on several issues
certainly did change, even though it was more of the same to some and far too little to the
taste of others. The next few paragraphs will show what were the circumstances that Millar
thought required a change of measures, and how his patriotism became caught between
‘progressive’ and ‘conservative’ alternatives.

Millar was elected for the Chair of Civil Law at the University of Glasgow in 1761,
a year after the accession of George III. George III and his first minister William Pitt the
elder were self-confessed patriots.16 In terms of patriotic appeal however, the 1760s were
the years of the radicalism of John Wilkes and his successful efforts to inspire what Edmund
Burke was much later to call the ‘swinish multitude’. The slogan ‘Wilkes and Liberty’
decried unreformed parliament as part of the corrupted British constitution. Wilkes got
elected on a jingoist programme and won great support for his quarrels with the authorities
while parliament disreputed itself by expelling Wilkes for seditious libel after he was elected
for Middlesex, ‘the most important county in England’17, in 1768. John Millar was no
Wil kite. Though dismissing the servility displayed by the parliament in keeping Wilkes out,
he did not endorse the latter’s populism and demagoguery. Nor did he subscribe to Wilkes’s
rather explosive mix of radical reformism and rabid chauvinism. In Millar’s celebration of
the British constitution of those years both elements were proportionally absent. Millar’s
classes on politics were nevertheless too questioning for some. In the diary of an influential
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contemporary, the ‘moderate literator’ Alexander Carlyle (1722-1805), we read under the year 1768 that John Millar had ‘begun to distinguish himself by his democratical principles’. That comment was followed by a remark of a cousin of Carlyle (and colleague and reported friend of Millar) who feared few of Millar’s pupils would ‘find antidotes to [the poison of his teachings] before they went out into the world, and see in the British constitution all that is valuable in a democracy, without its defects and faults’.18

Those fears must have had more to do with Wilkite disturbances than with the actual contents of Millar’s lectures. In 1772 Millar is reported to have taught that due to frequent elections the House of Commons depended ‘sufficiently upon the people’, and that with an extension of the right to vote the franchise descended ‘too low to the dregs of the people’. He even took a clearly anti-Wilkite stance by stressing the right of parliament to dispel members, and the need for a standing army to disperse rebellious crowds.19 In all these particulars Millar’s position would change, although not impressively for about a decade and never unrestrained (which admittedly meant little to those for whom moderate reformism set one sliding down the slippery slope of radical opinion). Five years after Millar’s death, in 1806, his nephew and biographer John Craig attested that Millar never took a radical position on the subject of the extension of the electorate. ‘While he became more and more favourable to a wider extension of the elective franchise, Mr Millar was ever decidedly hostile to the system of universal suffrage, conceiving it altogether impossible that the lowest of the people can ever be independent in their circumstances, or so enlightened as to prefer the public good to their immediate pecuniary interest’.20

Millar’s political outlook in his later years cannot be understood without knowledge of the constitutional crisis of the years 1783 and 1784. In 1782, Charles James Fox succeeded the deceased marquess of Rockingham (1730-1782) as leader of the greatest part of the Whig party. Fox (1749-1806) was a colourful person. He was much given to gambling and a very gifted orator. The puritanical George III hated him, for always being in opposition and for inheriting ‘Rockingham’s aristocratic dislike of kingly power’.21 Those two traits went together well in a time when the opposition’s main theme was corruption through the influence of the crown. In March 1783 Fox coalesced with Frederick North (1732-1792), who had been prime minister from 1770 to 1782. The Fox-North ministry did not have the king’s approval. Fox dug his own ministerial grave by devising and moving the India Bill, the implementation of which would place the East India Company under governmental restraint. The committee to be erected to that purpose would be appointed by the Foreign Secretary (Fox himself) and not, as was usually the case with state-appointments, by the king. Fox induced exactly the sort of comments that he had been making for the last decade: that the executive power, through the creation of functions of state, added to the undue influence that it already exerted with placemen and pensioners. The opportunity was not lost
on the Company’s proprietors or on Fox’s critics, among whom the king was the first. George III summoned the Lords to defeat the bill after it passed the Commons, and he dismissed both Fox and North in December 1783. The rest of the ministry followed suit. Parliament, roused by Fox, petitioned in January 1784 for the removal of the new ministry headed by William Pitt the younger (1759-1806). Instead of removing his protégé Pitt and thereby acknowledging the right of parliament to determine the composition of the cabinet, the king dissolved parliament and called snap elections.\textsuperscript{22}

‘The king’s strength’, Paul Langford writes,

was that he was able to identify the cause of his government with integrity in public life, and that of his opponents with oligarchy and corruption. This was positively revolutionary in terms of traditional eighteenth-century politics; the Whigs themselves were staggered by the way their rhetoric was turned against them.\textsuperscript{23}

The king’s ‘coup d’état’ was backed up by corruption as much it was legitimated by arguing against corruption. At the general election of 1784, the coalition lost 160 of its 305 members on a total of 558 seats chiefly through skilful bribing. Pitt’s election agents calculated that Welsh and Scottish constituencies needed to be worked next to the English rotten boroughs in order to secure a majority for the ministerial party.\textsuperscript{24} What we see here complements Linda Colley’s account of how government, without going out of its way, began to dispute patriotism in the 1780s. According to Colley, radicals like Wilkes were said to act unpatriotically in opposing the American war. In the year that Britain lost the war and America, government also managed to ideologically unsettle the Whig trustees of patriotism, as we saw, by hurling typical opposition language back at them. Colley stresses the different routes that were taken afterwards by radicals and government, by documenting how the first envisioned a more open-minded and broadly based politics. Foxite Whigs, on the contrary, took up opposition exactly where they left it in 1783. His party reduced to a parliamentary minority of about 60, Fox saw his greatest anxiety confirmed by what for years to come was the great trauma of Whigs in opposition. The constitution, undermined by corruption, was exploded by the king. Instead of giving way to the establishment’s patriot claims, Fox and his party reclaimed what they thought was their heritage. Embittered they kept on taking issue with corruption and the influence of the crown. The present study shows that this ideological obstinacy did much to further weaken their position.

The development of John Millar’s thought was intimately connected with the political demeanour of Charles James Fox. Foxites were the ‘chief inheritors of opposition doctrines’.\textsuperscript{25} Like their leader they moved along the spectrum of oppositional strategies as time went by. The Rockingham Fox was politically speaking a different man from the Fox
who famously broke with Edmund Burke in an early stage of the French Revolution. Along
the way Fox rather suddenly became ‘a man of the people’. After 1784 the Foxite agenda
was mostly fixed due to what Millar called a ‘fatal blow to the British constitution’. Although
of all the king’s actions breaking in on the India Bill when it lay before the Lords would
seem least permitted by the constitution, Millar (as indeed almost every Foxite) was shocked
most by the overpowering of the Commons upon their petition to remove Pitt. Millar
considered the first interposition ‘highly illegal’, but the second an act of fatal proportions.
In the words of his biographer, Millar

held it to be the duty of the king to exercise all his prerogatives for the good of his people, and
according to the advice of his parliament. He, in an especial manner, considered it as important
that he should act by such advice in dismissing ministers who had rendered themselves obnoxious
or suspected, and he viewed a dissolution [of parliament] on account of a petition for the removal
of ministers as an attempt not only to evade all practicable control, but to influence and overawe
future parliaments.

Millar’s diagnosis that the king’s influence was now even extended to an indefinite future
settled his priorities once and for all. From then on Millar was an unwavering reformer, even
though his repertoire allowed for some variation.

John Millar’s politics changed or rather hardened in 1784. He had warned for
corruption before, but not exclusively so, and he did not always draw the same conclusions.
From 1784 onwards corruption was Millar’s main theme, and its conclusions were invariably
more reformist than the earlier ones. Yet Millar saw little change. His praise for Fox’s
steady patriotism in the dedication of his second book tells us how Millar liked to see
himself. In a letter of 16 August 1784 to Edmund Burke, who was rector of Glasgow
University, Millar took the blame for the lasting complaint that pernicious political doctrines
were being taught. He knew that his classes were held to be dangerously ‘democratical’ from
the start, but he thought that his explanation of the ‘principles of our own government’ was
unvaryingly harmless (or even positively wholesome, as he instructed his pupils to respect
what no one could seriously question: the wisdom of 1688).

if we are charged with lecturing upon politics, I am afraid the charge must fall principally upon
myself, as lecturing upon public law, I certainly am guilty of endeavouring to explain the
principles of our own government. I know that I have been accused of inculcating republican
doctrines, but I am not conscious of having given ever just ground for such an imputation. It has
always been my endeavour to recommend that system of limited monarchy which was introduced
at the [Glorious] Revolution.
By the time of his letter to Burke, Millar’s hardened outlook had already led him to permanently add a few lectures, dealing with corruption and parliamentary reform, to his classes on politics. It is historical irony that Millar took up the theme of Whig uprightness with Burke shortly after the constitutional upset which, up to the French Revolution, was the political event that did most to estrange the Foxite Whigs and Burke from each other. After their separation, inconstancy was a sore subject and 1688 the object of antagonistic interpretations. Before ten years were over, Burke was the last man that Millar would consult on any of those matters.

In 1770 Edmund Burke published *Thoughts on the Cause of the Present Discontents*. The discontents he had in mind were demonstrations of public dissatisfaction with internal and colonial policies; their one cause was the undue influence of the king. The solution to both undesirable phenomena, Burke wrote, was party discipline under Rockingham. He reasoned that George III managed to steer parliament as he saw fit because parliament’s critical mass (the Whig party) was disorganised and divided and therefore easily outwitted and played off against itself. The reforms that Burke thought should be put through were aimed at untightening the grip the king had on the Commons, so that the latter could perform its historic task for the good of the people. Burke’s pamphlet was intended to lend the notion of party patriot credibility. The integrity of Burke’s plea for party was questioned by radicals who contested Whig patriotism.

Catharine Macaulay, a radical patriot historian who frequented Wilkite circles, responded promptly to Burke with her *Observations on Thoughts on the Cause of the Present Discontents* (1770). Macaulay (1731-1791) accused Burke of trying to win the reading public for a cause that was solely his and his party’s. Quite rightly she insisted that Burke carved out a space at the cost of the king and nominally in favour of the people mainly to prove the indispensability and priority of the aristocratic interest. His ‘pernicious work’, Macaulay wrote, was intended ‘to mislead the people on the subject of the ... dangerous manoeuvres of aristocratic faction and party, founded on and supported by the corrupt principle of self-interest’. Macaulay reasoned that Burke’s unpatriotic factionalism was intended to cover up the corruption with which the British constitution was infested since 1688. Tories were ‘more generous, because more avowed adversaries’ of ‘public liberty’. Macaulay enumerated the ‘moral and political evils’ in which the Whigs were involved. Besides the public debt there were

> a strong military standing force, contrary to the very existence of real liberty; an army of placemen and pensioners, whose private interest is repugnant to the welfare of the public weal; septennial parliaments, in violation of the firmest principles in the constitution; and heavy taxes imposed for the advantage and emolument of individuals, a grievance never submitted to by any
Macaulay implicated the party for which Burke spoke out in the entire list that was traditionally rehearsed by the parliamentary opposition. And she inculpated the opposition party of trying to conceal that it was compromised with the ‘sinister views of the court’ by resolving the evils into the omnipresent influence of the omnipotent crown. Catharine Macaulay opined that, to keep the aristocratic interest at bay, parliament and its parties should be more answerable to the nation. To reach that goal a ‘more extended and equal power of election’ was needed, and a frequent ‘rotation of representatives’ which would minimise the opportunity to serve mainly their own interests.

In the 1770s Edmund Burke was one of the main targets for radicals who disputed the patriot creed of the Rockingham Whigs. In the later 1780s and especially in the 1790s Burke personified the fervour with which patriotism was made to suit outright establishment purposes. He became one of the most formidable opponents of the party of which he once was the principal spokesman. Burke’s path from opposition to establishment led through office. As Paymaster General in the shortlived Rockingham ministry of 1782 Burke enacted economical reform, that is the nominations and sinecures at the disposal of the king were significantly limited. Thus Burke, as soon as he got the chance, made good on what he on behalf of his party had promised for a dozen years, to contain the influence of the crown. Fairly soon Burke made clear that that was as far as he wished to go and that a continued call for reform was unwise. He speeched and wrote against radicals as well as members of his own party who favoured further reform. The constitutional upset of 1783 and 1784, which, to the Foxite mind, was a ‘fatal blow’ dealt by the king, left Burke untouched. In the same year that the Foxite agenda was fixed, Burke made known that he saw no reason to continue the struggle against the influence of the crown. His party and its formula were the only things that Burke left behind. In his approaches to Pitt’s government he took the way of writing history as approved by the opposition with him. With its help, he depicted all attempts at parliamentary reform as innovations that threatened the natural order of society and feudal values like valour and honour. Burke depicted himself as an honest patriot, who did what his country required by resting content with *faits accomplis* and reacting adequately to changing circumstances, most notably the French Revolution. Burke’s *Reflections on the Revolution in France* (1790), provoked by what he considered a false protestation of love of country, impressed the aristocratic part of the nation and the loyal part of the public with the idea that an invaluable and irreplaceable bequest was at risk. By painting the crimes committed against French royalty and nobility as the extinction of chivalry and of other feudal excellence, Edmund Burke magnified the *nobiliaire* tendency of feudalist scholarship and made that scholarship serviceable for reactionary politics.
In 1771, the year of John Millar's first book, Obadiah Hulme's *Historical Essay on the English Constitution* appeared. Hulme, who died in 1791, was a London radical about whom little is known with certainty. The occasion for his Essay was presented by the publication of Edmund Burke's *Thoughts on the Cause of the Present Discontents* the year before. The 'true cause of the present general discontent', Obadiah Hulme wrote in the preface of his book, were some 'modern laws, which, though they have preserved the outward form and face of the legislative authority, have caused a total change in the spirit and temper of our government'. Public disquiet was produced by the disappointment of expectations that were naturally raised by parliament that seemed to be up to its task. In this respect, as in several others, Hulme's flaying of Burke's pamphlet closely resembled Catharine Macaulay's *Observations on the Cause of the Present Discontents*, which contained the statement that the legislative assembly lately 'preserved its forms, [while it] annihilated its spirit'.

Macaulay and Hulme accused Burke of doing what Burke would later accuse the Foxites of: to represent and justify as preservation what was in fact dangerous innovation. But whereas Burke stuck to the argument of the ancient constitution in order to kill reform, the radical patriot Hulme employed a different traditional and traditionalist argument, according to which the dangerous innovations were all on the 'conservative' side. That argument (later also employed against Burke by Macaulay) is known as the 'Norman Yoke'.

The Norman Yoke must be distinguished from the argument from constitutional continuity that is central to this study. The two ways of historical reasoning on politics are easier told apart analytically than historically, however. According to John Pocock, for whom 'no two attitudes of mind could have been more deeply opposed', the Norman Yoke was a 'phrase designating the radical proposition that the laws [were] unjust, Norman and still in force'. Idealtypically this argument accepted exactly that what the argument from continuity needed to overcome: the Norman Conquest (with a capital C) understood as an event putting an end to Anglo-Saxon politics. Whereas a 'constitutionalist' posture in the eighteenth century would usually involve an elaborate historiographic assurance that such an event never took place, the Norman Yoke position agreed with the seventeenth-century royalist assertion that William of Normandy was a conqueror, only to draw the conclusion that the laws imposed by him and his immediate successors still pressed heavily on British shoulders.

The main point of Obadiah Hulme's *Historical Essay on the English Constitution* was contained in its motto, 'Where annual election ends, there slavery begins'. In Hulme's version of history that meant that slavery had begun in 1066, when William the Conqueror put an end to Saxon rule. The Saxons had 'made the elective power of the people the first
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principle of our constitution, and delegated that power to such men as they had most reason
to confide in’. They were not so gullible, however, to delegate ‘their power of making laws,
to any man, for a longer time than one year’. ‘The annual exercise of elective power, under
the Saxon government’, Hulme thought, ‘was the quintessence, the life and soul of their
constitution’. That ‘their’ constitution was no longer ‘ours’ was the work of William of
Normandy, his sons and their heirs. In this line William stood first.

William I destroyed all the elective power, constitutionally placed in the people of England, and
reversed the Saxon form of government, which was founded upon the common rights of mankind,
and established an arbitrary power in himself. Consequently, from this time all power, authority
and honour in state descended from the king, and the lives and property of the subject were at his
mercy.

Contemporary British politics was not just slavery, according to Hulme. Thanks to the public
spirited barons who forced Magna Charta on king John (1199-1216), constitutional
government could begin to be restored. When their charters came into effect under John’s
heir, Henry III (whose reign lasted to 1272), the first step was to return the ‘elective power’
to the people. Although this was a ‘great deliverance’, royal authority remained excessive
and a succession of monarchs saw fit to reduce the electorate and to extend the duration of
parliaments.

Hulme’s disqualification of contemporary political practices was founded on his appeal
to pre-Conquest history. The distance of the polity that Hulme wanted to see revived paved
the way for drastic measures in the present. Whilst writers of a constitutionalist persuasion
always needed to adapt history to present-day politics and to the historiographical finds of
their antagonists, those raising the Norman Yoke could more easily impose their will upon
history for the loss of which the rulers of state should make amends. Hulme projected a
virtuous parliament, composed of ‘THE WISE MEN OF ENGLAND’, on the Anglo-Saxon
past to be able to draw a contrast with the corrupt parliament of his day, composed of ‘THE
RICH MEN OF ENGLAND’. The ‘great barrier of our constitutional liberty’ had always
consisted in an ‘unseparable union of interests between the House of Commons and the
people’. To repair the breach and unite the separate interests Hulme not only wanted to go
back to an extended franchise and annual parliaments but also introduce the secret vote or
ballot. ‘A House of Commons’ elected by ballot, Hulme concluded, ‘would soon rectify all
grievances and repeal with indignation every unconstitutional act’.

The Norman Yoke was a favourite tool in radical patriot vocabulary for years to
come. In 1790 Catharine Macaulay used the argument in her swift reply to Burke’s
Reflections on the Revolution in France, called Observations on the Reflections of Burke.
Although very different in historical logic and in radical potential, the Norman Yoke was often employed next to arguments that supported the view of unbroken constitutional history. The Norman Yoke’s most renowned proponents, the mid-seventeenth-century Levellers, had recourse to both arguments at the same time. Christopher Hill, the first to single out the Norman Yoke as an instrument of political radicalism, is not always able to tell it apart from a constitutionalist position. Now there is nothing strange in finding that different arguments are being used together. Rare are political writers that fail to employ such ideas as their ingenuity permits and the ideological climate requires. In the case of the Norman Yoke and the argument from continuity there is the additional fact that both types of argument criticised an oligarchy, idolised Anglo-Saxon politics, and were fixated on William of Normandy. Another look at Obadiah Hulme’s *Historical Essay on the English Constitution* tells us how the two could go together. Hulme spoke of the Norman conquest as a caesura in constitutional history but at the same time he casted doubt on its being a conquest at all, constantly referring to it as the event ‘commonly called the Norman conquest’. Equally double was his insistence on the conqueror’s undoubted accomplishment of trampling under foot Saxon liberties while calling him ‘William the bastard’ and the man ‘commonly called the conqueror’. Belittling William’s deeds and making an exhibition of his pedigree were approved ways of negating the conquest and questioning the legitimacy of William’s claim to England’s throne. At first sight those utterances contradicted Hulme’s main line of thought, or were irrelevant. On second thoughts they added to the meanness and discreditability of William’s reign. Another dualistic presence in Hulme’s *Essay* was the medieval nobility that patriotically forced several charters on William’s successors. It seems odd to find a Whig nobiliaire commonplace in an anti-aristocratic radical patriot tract. Yet that commonplace enabled Hulme to show that kings could not resist public-spirited subjects.

Sometimes it is harder to see why a certain argument was not being used than to find grounds for an argument that one encounters. The Norman Yoke is a case in point. The contradiction between the Norman Yoke and constitutionalist arguments was much more compelling from a Whig point of view than from a radical perspective. For a radical patriot like Obadiah Hulme it was simply convenient to back up his story with moderate constitutionalist conceptions and conclusions. He might have thought that the use of some well-known and widely accepted arguments enhanced the credibility or respectability of his work. For a patriot Whig like John Millar it was not that simple to accept the Norman conquest. He would lose instead of gain credit for giving in to what was seen as a royalist invention. It would upset a continuity that was carefully argued, and open the door for radical recommendations with which Millar wanted nothing to do. That is probably why there was not a trace of the Norman Yoke in Millar. The Norman Yoke was also absent from the work of James Mill. Reasons for that absence are harder to guess. As a Whig he was not
over-anxious about the Norman conquest. Later, Mill echoed most radical patriot demands without invoking their arguments once. That is why the Norman Yoke is left out of this study.

NOTES


5. Linda Colley, Britons: Forging the Nation 1707-1837 (New Haven, 1992), 164-93. David Eastwood ('Patriotism and the English State in the 1790s', in The French Revolution and British Popular Politics, ed. Mark Philp (Cambridge, 1991), 167) writes that it were 'voluntary initiatives' flowing from 'tides of patriotic enthusiasm' that released a 'greater public energy on the part of the social elite' which, consequently, saw little need for reform.


