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# Sovereignty, opinion and revolution in Edmund Burke

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## 1. Introduction

Edmund Burke's involvement in the politics of empire during the mid-1760s obliged him to confront the practical significance of the doctrine of sovereignty at the very outset of his parliamentary career. This confrontation was to recur throughout his published writings over the next 30 years. It took the form of a sustained attempt to elucidate the relationship between liberty and authority both in Britain and between it and the extended empire [1]. The defence of liberty as it appears in Burke's commentaries on the American crisis, on Ireland and on the Indian sub-continent had been a defence of moderate government. There was a connection in his mind between moderation in government and the security of property in modern states, but ultimately moderation implied a kind of commerce and compatibility between the designs of rulers and the aspirations of the ruled. It had always, however, been part of Burke's case that moderate government had to be founded on an absolute and unified sovereignty. As he put it in 1765, the 'unlimited Nature of the supreme legislative authority' was 'very clear and very undeniable' [2]. Supremacy implied that ultimate authority within a state, a confederation or an empire knew no bounds. It could not therefore be divided, although its powers could be shared.

The 'unlimited' nature of sovereignty had been formulated with particular force and clarity by Thomas Hobbes in the 1640s. Part of his purpose had been to show that a people had no natural right of appeal against established political authority and by 1791 Burke was not only mounting the same argument, but he was doing so in the same language. In the *Appeal from the New to the Old Whigs*, Burke was to insist that a 'number of men in themselves' have no 'collective capacity'. They have therefore no collective rights which belong to them as a matter of natural entitlement and they have in particular no natural right of rebellion. Rights pertain to 'a people' as

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established by political society, not to individuals as imagined in a state of nature. The ‘idea of a people’, as Burke put it, ‘is the idea of a corporation’. A corporation is to be understood as a unity of individuals in a single body, as precisely a corporate entity. Their unity, however, is the product of human contrivance. It is for that reason ‘wholly artificial’ and cannot reasonably be used as a means of securing the putatively ‘natural’ obligations of public authority to its incorporated members [3].

According to Burke, the failure to grasp the implications of this argument could be observed not only among French revolutionary theorists, but also among significant sections of British Whigs in the 1790s: ‘These new whigs hold, that the sovereignty, whether exercised by one or many, did not only originate *from* the people ... but that, in the people the same sovereignty constantly and unalienably resides’ [4]. It has been a common assumption in accounts of 18th-century political thought that the doctrine of sovereignty somehow disappeared or became confused after the 17th century. In the words of one commentator, it became ‘blunted or obscured’ under the influence of Montesquieu [5, but see also for example 6,7]. In this article, I want to argue that it is 20th-century scholarship rather than Montesquieu, or Rousseau, or Hume, or Burke that has distorted the issue. In F.H. Hinsley’s account, Montesquieu, together with the American Founding Fathers, conflated the doctrine of sovereignty with the principle of mixed government and thereby justified ‘the deliberate division of sovereignty itself among several different owners’ [5]. In fact neither Montesquieu nor the Federalists wrote in defence of a division of sovereignty, although they did write in defence of a division of the powers of government. The distinction is of course crucial. I want to argue that similarly Burke’s defence of moderate government, which in Britain implied a partition of civil powers, was part of a defence of the absolute and indivisible character of sovereign authority. That involves showing how he was committed to a version of limited government which was entirely compatible with a commitment to a supreme and unitary arbiter in the affairs of the state.

On Burke’s understanding government could be limited not by the rights of popular resistance but by the practical reality of its dependence upon the consent of the ruled. Consent took the form of at least implied social acclamation. It was therefore not a legal entitlement, but a practical requirement in the interest of peace and prosperity. This amounted to saying that government depended on the opinion of the governed. In the 17th-century, that argument had been given detailed exposition by William Temple, but it was taken up in the 18th by David Hume and Adam Smith. It was also adopted by Edmund Burke.<sup>1</sup> The realisation that government rests upon opinion supplies the key to his understanding of how moderate governments function in the context of an absolute sovereignty, and it supplies the terms in which he sought to disarm the impact of revolutionary doctrine through the 1790s. The alliance of government and opinion was best enhanced through a simultaneous separation and co-ordination of the powers of the state, not by a parcelling out of sovereignty into various discrete compartments.

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<sup>1</sup>David Hume supplies his own estimate of Temple in Ref. [8]. Burke’s indebtedness to Hume is discussed by Paul Lucas [9]. On Burke’s debt to Smith, see Donald Winch [10].

## 2. War and sovereignty

In February 1790, on the floor of the House of Commons, Edmund Burke drew attention to the situation of France as a divided sovereignty which stood on the brink of political anarchy. The military power of the state had been encouraged to pursue a multitude of purposes in excess of its more regular duty of defence. But more disturbingly, a municipal army confronted the forces of the Louis XVI, with either faction commanded in accordance with divergent principles of national allegiance. Under these circumstances, with all regular ties of subordination in a condition of terminal decline, political anarchy was liable to resolve itself into a military despotism. ‘States may, and they will best, exist with a partition of civil powers’, Burke is reported to have proclaimed. But, in stark contrast to this, ‘Armies cannot exist under a divided command’. Where this division does obtain, we are confronted with what amounts to ‘a state of war, or, at best, but a truce instead of peace, in the country’ [11].

In England in the 17th century, and even up to the 1750s, controversy had raged over both the control of the militia and the permissibility of a permanent standing army. Speaking to his peers in 1790, Burke was acutely conscious of the nature and scope of this protracted controversy which had come to a crescendo after the Peace of Ryswick between 1697 and 1699 (for a discussion, see [12]). But to him Article VI of the Declaration of Right, establishing the requirement of parliamentary consent for the maintenance of an army in peace-time, could be presented as having effectively resolved the issue for good. From the perspective of a mounting crisis in France, Old Whig and Tory opposition to a permanent military force retrospectively acquired the status of a comparative trifle: ‘We have’, as Burke declared, ‘in such a difficulty as that of fitting a standing army to the state... done much better’ [11, p. 18]. But having ‘done much better’, and remembering the ‘difficulty’ experienced in achieving this fit, Burke felt obliged to alert political opinion to the substantial threat to the tranquillity of Europe posed by a major player in the power politics of the continent whose military competence was being mobilised under conditions of divided allegiance.

On one side of that divide, the doctrine of the ‘Rights of Man’ stood ready to eliminate spontaneous obedience as a legitimate principle of government. The successful alignment of military force with executive and legislative power in Britain after 1688 had been part of a process in which, in Burke’s words, ‘a revolution, [was] not made, but prevented’ [11, p. 20]. That process had involved at once the eviction of an aspiring monarch and the restoration of a constitution. The constitutional settlement had entrenched judicial independence and brought Britain’s social ranks into harmony with the organs of public power. It was that harmony which secured the state against a military monarchy. Armed revolutionary doctrine in France, by contrast, was proceeding to treat the state ‘like a country of conquest’ [13]. From Burke’s point of view, the destructive intent of this conquest could be discovered in the pronouncements made by leading members of the National Assembly. A declaration made in 1789 by Rabaud de St. Etienne, a prominent member of the Constitutional Committee, is cited by Burke as a case in point: “‘Tous les établissements en France

couronnent le malheur du peuple: pour le rendre heureux il faut le renouveler; changer ses idées; changer ses loix; changer ses moeurs; ... changer les hommes; changer les choses; changer les mots ... tout détruire; oui, tout détruire; puisque tout est à recréer” [13, p. 216]. It is part of Burke’s purpose in the *Reflections* to chart the probable stages of this programme of ‘total destruction’ leading to a military dictatorship.

In Burke’s eyes, work on this programme had begun with the division and subdivision of France into Departments, Communes and Cantons, out of which the representation of the state was to be constructed by setting the size of the population in a notionally proportionate relation to a contributory tax within each division. By this process of political geometry, the French had embarked upon the destruction of the bonds of their political union. Each Canton, Commune and Department, electing deputies to their, respectively, superordinate bodies on the way to sending representatives to the National Assembly, effectively constituted autonomous political bodies within the state, cobbled together in haphazard fashion as a federal association rather than a sovereign entity. ‘You cannot but perceive in this scheme’, Burke commented, ‘that it has a direct and immediate tendency to sever France into a variety of republics, and to render them totally independent of each other, without any direct constitutional means of coherence, connection, or subordination’ [13, p. 230].

Burke’s analysis of the constitutional organisation of post-Revolutionary France is significantly indebted to Calonne’s *De l’état de la France présent et à venir*, published in London in 1790. But his sense of the means necessary for holding the discrete republican units comprising what had been the French monarchy together as a single structure proceeded from his awareness of what to him was the evident constitutional integrity of Britain. In France, with the interposition of two sets of magistracy between the primary elective assemblies and the National Assembly itself, any meaningful connection between constituents and the representatives of the state had been severed. At the same time, deputies participating in the sovereign representative assembly would inevitably see themselves as independent authorities acting as ambassadors from nominally subordinate Departmental ‘states’.

France had been transformed into a loose confederation of units. In regard to national power, the business of government and the system of representation had become mutually incompatible. In regard to the people, representation itself was little more than an impractical fiction. Substantive interests deriving from the primary electoral base of the country could make no impact on the government of the territory while an assortment of political bodies intervened between the constituencies and the established public authority. At the same time, government itself could not function while the state was being decomposed into discrete and competing sovereignties. Surveying this morass of precipitous experimentation, Burke took some pleasure in reminding his readers of the fact that ‘With us it is totally different’:

With us the representative, separated from the other parts, can have no action and no existence. The government is the point of reference of the several members and districts of our representation. This is the centre of our unity. This government of reference is a trustee for the *whole*, and not for the parts [13, pp. 234–235].

But in France, now splintered into discordant pockets of power, coherence could only be achieved by an unholy alliance between local oligarchies representing the monied interest collaborating with the unchecked prerogatives concentrated in the city of Paris.

These prerogative powers would open the way to a conquest of the country. The National Assembly had successfully re-fashioned itself as a legislative and executive power in the state freed of all judicial restraint. The king had been relegated to the status of impotent notary while judicial independence had been happily aborted. Military force would in the end become the final arbiter of all disputes fomented in the various fragmentary districts currently presided over by what could only be described as a legislative, judicial and executive tyranny. In theory there existed an independent judiciary. But as things actually stood, judges chosen by popular election, and forced to operate without reference to any established body of law, had little option but to erect themselves into dispensers of an arbitrary justice. Moreover, beyond this, a tribunal of justice in the hands of the state could override the competence of all judicial administration. Justice was effectively in the hands of an unaccountable body empowered to promulgate arbitrary decrees. Under the circumstances, Burke concluded, control of the army would in due course become synonymous with control of the state.

However, the final acquisition of control was situated on the far side of a bloody struggle. At the point where democracy infected the structures of military command, the disposition of the army would become 'the true constitution of the state' [13, p. 259]. Soldiers, on the evidence supplied by minister du Pin, were acting in defiance of all principles of seniority and obedience. But their defiance would shortly be compounded by the solution being offered with royal approval: the military were instructed to join in their several corps with municipal clubs and confederations which were themselves in the process of arrogating to themselves an authority over the troops which theoretically belonged to the king. But of course it was precisely these municipal assemblies which were set against the survival of royal authority. Faced with this spectacle of constitutional chaos and military confusion, Burke concluded that the 'military lays open the civil, and the civil betrays the military anarchy' [13, p. 263]. Civil society was collapsing into a mayhem of mutiny and faction. Only time would redeem the wreckage. But even then, redemption would scarcely come in a form conducive to constitutional liberty. It would come, instead, when 'some popular general, who understands the art of conciliating the soldiery, and who possesses the true spirit of command, shall draw the eyes of all men upon himself' [13, p. 266]. Doubtless recalling to himself the English example of Oliver Cromwell and the Roman example of Gaius Marius, as Adam Smith had explicitly done in his Glasgow Lectures on jurisprudence of 1762, (see [14]) Burke recounts the lesson to be drawn from the existence of a standing army in a popular state, predicting that 'the person who really commands the army' will emerge as 'the master... of your king, the master of your assembly, the master of your whole republic' [13, p. 266].

By 1796 the image of a military monarchy that would be created by the designs of monied men in association with irreligious *philosophes* had been replaced by that of

a conquering republic masterminded by men of letters in league with Machiavellian politicians. These shady politicians who had seized the state in 1789 were held to be the direct descendants of ambitious ministers lurking in the Court of Louis XV. As Burke sets out his case in the *Second Letter on a Regicide Peace*, a secret cabal, armed with Machiavelli's *Discorsi* and Montesquieu's *Grandeur et décadence des Romains*, and disaffected by their negligible political advance under Louis XIV, plotted to achieve Universal Empire in Europe: 'The different effects of a great military and ambitious republic, and of a monarchy of the same description were constantly in their mouths', [15] and the comparison seduced them into preparing for the introduction of a martial republic. It is clear that Burke's political intelligence is not most easily discovered in the succession of conspiratorial alliances which appear in his writings on France as the cause of the Revolution. What is impressive is his sense of the volatility of a state struggling to come to terms with the unmanageable energy unleashed by its attempt to give political effect to the principle of popular sovereignty.<sup>2</sup> To him events in France were explicable as a '*Revolution of doctrine and theoretick dogma*' which, in finding political embodiment, resulted in civil war [17]. In endeavouring to transport its doctrine beyond its frontiers, the French state threatened to awaken in Europe factional hostilities more intense than any of its historic divisions — more intense than those between Sparta and Athens, between the Guelfs and the Ghibellines, or between Catholics and Protestants: 'The treaty of Westphalia is, with France, an antiquated fable' [17, p. 352].

Burke's assessment of the import of Revolutionary dogma is most carefully set out, in 1791, in his *Thoughts on French Affairs*, where he takes Condorcet's ideas about "L'égalité naturelle des Hommes, et la Souveraineté du Peuple" as encapsulating the essential danger presented by Revolutionary ideology:

All former attempts grounded on these Rights of Men, had proved unfortunate. The success of this last makes a mighty difference in the effect of the doctrine. Here is a principle of a nature, to the multitude, the most seductive, always existing before their eyes, *as a thing feasible in practice* [17, p. 371].

Burke had already cited the opinion of David Hume on the position of John Ball, presented in *The History of England*, as "conformable to the ideas of primitive equality, which are engraven in the hearts of men" [17, p. 369; 8, vol. II, pp. 289–290].<sup>3</sup>

<sup>2</sup> The general problem of popular sovereignty is discussed extensively by I. Hont [16].

<sup>3</sup> On John Ball, fellow traveller of Wat Tyler and Jack Straw, preaching revolt against new taxes introduced under Richard II: 'One John Ball also, a seditious preacher, who affected low popularity, went about the country and inculcated on his audience the principles of the first origin of mankind from one common stock, their equal right to liberty and to all the goods of nature, the tyranny of artificial distinctions, and the abuses which had arisen from the degradation of the more considerable parts of the species, and the aggrandizement of a few insolent rulers. These doctrines, so agreeable to the populace, and so comfortable to the ideas of primitive equality, which are engraven in the hearts of all men, were greedily received by the multitude; and scattered the sparks of that sedition, which the present tax raised into a conflagration'.

Equality here entailed the absence of established subordination. It entailed an assertion of natural liberty, and natural liberty amounted to a radical freedom to exercise power: an ‘equal right’, in Hume’s sense, to dominion. ‘Egalité’ now meant each person’s easy empire over their own individual destinies in the world of human circumstance and it was being held out ‘as a thing feasible in practice’. The ‘Souveraineté du Peuple’ carried with it the promise of realising the desire for glory secretly ‘engraven in the hearts of all men’.

Two years after the publication of *Thoughts on French Affairs*, in the *Observations on the Conduct of the Minority*, Burke came to elaborate on his earlier attempt to expose the principle of popular sovereignty as it had been celebrated by Revolutionary activists and originally formulated, we are now told, by Rousseau. To make his point, Burke focuses on *Titre III, article i*, of the Constitution drawn up in 1791, condensed into the following form: “‘La Souveraineté est une, indivisible, inaliénable, et imprescriptible: — Elle Appartient a la Nation: — Aucune Section du peuple, ni aucune Individu ne peut s’en attribuer l’exercice’” [18]. The *Observations* was circulated by Burke in 1793 in an effort to damage the political credibility of Charles James Fox in the eyes of Whig grandees, principally the Duke of Portland and Earl Fitzwilliam. It was, in other words, a bid to diminish the impact of putatively Jacobin principles upon Burke’s former political associates. The implication of the piece is that Fox too is committed to a sovereignty ‘une, indivisible, inaliénable, et imprescriptible’ residing in the nation.

But in seeking to tarnish Fox’s reputation, Burke significantly rebuts the claim embodied in the 1791 Constitution for its tendency to confound ‘in a manner equally mischievous and stupid, the origin of a Government from the people with its continuance in their hands’ [18]. A multitude, Burke goes on to argue, can scarcely be said to constitute a ‘people’ prior to the establishment of the state:

Before society, in a multitude of men, it is obvious, that sovereignty and subjection are ideas which cannot exist. It is the compact on which society is formed that makes both. But to suppose the people, contrary to their compacts, both to give away and retain the same thing, is altogether absurd. It is worse, for it supposes in any strong combination of men a power and right of always dissolving the social union; which power, however, if it exists, renders them again as little sovereigns as subjects, but a mere unconnected multitude [18, pp. 438–439].

To presuppose the existence of rights legitimately claimed by a collection of individuals against an established sovereignty is to assume the viability of an ascendancy of principle over the concrete reality of political power. In practice, this assumption serves to vindicate the continuance in civil society of an equality of right which, properly understood, defines the condition of natural liberty. Burke is here taking this supposition to constitute the essence of Revolutionary ideology at its most dangerous: it acts as an invitation to dissolve and recreate the ‘social union’ at will. But the invitation betrays a catastrophic disengagement from the circumstantial limitations imposed upon human interaction by the demands of public authority. It betrays

a preparedness to sacrifice prudence to a set of political arrangements which are rhetorically irresistible but practically redundant. The ‘theoretick dogma’ which defined the project of the Revolution amounted to a piece of destructive demagoguery incapable of fulfilling the expectations it aroused.

### 3. Passion and prudence

In all this, Burke is re-tracing the argument supplied by Thomas Hobbes in 1640 against the ‘power and rights’ then claimed by Parliament in opposition to the ‘sovereignty’ to which they were ‘inseparably annexed’ (see [19]).<sup>4</sup> What Burke appreciated in Hobbes argument was his demonstration of the absurdity of pleading liberty as an absolute right against an authority absolutely sovereign. The logical absurdity anatomised in 1640 had become, in Burke’s eyes, an anarchic reality in 1790. This reality had made possible by the triumph of speculative enthusiasm over practical wisdom,<sup>5</sup> and Hobbes, once again, had diagnosed this condition in the critical circumstances of the 1640s as deriving from the fatal predominance of eloquence over reason.<sup>6</sup>

In the *Elements of Law* he informs his readership at a crucial stage in the argument of the dangers which can proceed from the practice of deliberative oratory. These dangers, however, are not to be understood as inherent in public speech *per se* — *oratio*, after all, is only *ratio* become habit by the repeated ‘discourse of words’ [24]. Instead they intervene at the point where speech commands agreement as a result of figurative enhancement rather than rigorous demonstration. But it is precisely figurative speech, or eloquence, which has the power to direct belief and, as such, is capable of distorting an auditor’s perception of moral qualities: by means of ‘aggravations and extenuations’ it can ‘make good and bad, right and wrong, appear great or less’ [24, II, viii, 14; pp. 140–141]. This aptitude for manipulation verges on recklessness where persuasion is deployed in the absence of appropriate moderation. Moderation here is

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<sup>4</sup> ‘When the Parliament sat, that began in April 1640, and was dissolved in May following, and in which many points of the regal power, which were necessary for the peace of the kingdom, and the safety of his Majesty’s person, were disputed and denied, Mr. Hobbes wrote a little treatise in English [i.e. *The Elements of Law*], wherein he did set forth and demonstrate, that the said power and rights were inseparably annexed to the sovereignty; which sovereignty they did not then deny to be in the King; but it seems understood not, or would not understand that inseparability’.

<sup>5</sup> For a discussion of Burke’s attack on Revolutionary ideology as a resurgence of 17th-century ‘enthusiasm’, see [20]. ‘The defenders of religious and social structure in 18th-century Britain ... were capable of identifying as enthusiasm any attempt to establish the reasoning mind’s ascendancy over the contexts in which it reasoned’.

<sup>6</sup> For a discussion of Hobbes on rhetoric, see [21]. For the suggestion that Hobbes’s thinking on the subject decisively shifts between *De Cive* and *Leviathan*, see [22]. See also his somewhat earlier Thomas Hobbes [23].



supplied by either ‘prudence’ or ‘sapience’,<sup>7</sup> by the appraisal of consequences, and Hobbes’s point is that the indulgence of oratory at the expense of these virtues is a matter of serious concern where oratorical skill is marshalled by a seditious intent: ‘It was noted by Sallust, that in Catiline (who was the author of the greatest sedition that ever was in Rome) there was *Eloquentiæ satis, sapientiæ paruum*; eloquence sufficient, but little wisdom’ [25, II, viii, 13; p. 139].<sup>8</sup>

It is Hobbes’s purpose in *The Elements of Law* to diagnose the relation between demagoguery and civil unrest. As part of that purpose, he is anxious to demonstrate that the suspension of consequential reasoning allows figurative speech to enjoy the kind of freedom which can be prejudicial to public safety:

So when eloquence and want of judgement go together, want of judgement, like the daughters of Pelias, consenteth, through eloquence, which is as the witchcraft of Medea, to cut the commonwealth in pieces, upon pretence or hope of reformation, which when things are in combustion, they are not able to effect [25, II, viii, 15; p. 141].<sup>9</sup>

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<sup>7</sup> The distinction between the two is drawn by Hobbes in [25]. ‘As, much Experience, is *Prudence*; so, is much Science, *Sapience*. For though wee usually have one name of Wisdome for them both; yet the Latines did alwayes distinguish between *Prudentia* and *Sapientia*; ascribing the former to Experience, the latter to Science’. For clarification, see I, iii, 22: ‘by how much one man has more experience of things past, than another; by so much also he is more Prudent, and his expectations the seldomer faile him. The *Present* onely has a being in Nature; things *Past* have a being in the Memory onely, but things *to come* have no being at all; the *Future* being but a fiction of the mind, applying the sequels of actions Past, to actions that are Present; which with most certainty is done by him that has most Experience; but not with certainty enough. And though it be called Prudence, when the Event answereth our Expectation; yet in its own nature, it is but Presumption’ and compare with III, v, 35: ‘it appears that Reason is not as Sense, and Memory, borne with us; nor gotten by Experience onely, as Prudence is; but attained by Industry; first in apt imposing of Names; and secondly by getting a good and orderly Method in proceeding from the Elements, which are Names, to Assertions made by Connexion of one of them to another; and so to Syllogismes, which are the Connexions of one Assertion to another; and that is it, we call SCIENCE. And whereas Sense and Memory are but knowledge of Fact, which is a thing Past, and irrevocable; Science is the knowledge of Consequences, and dependance of one Fact on another [ ... ]. But, of course, political science must be brought to bear upon the world of human experience and will therefore be subject to the same perilous vicissitudes as prudence.

<sup>8</sup> The same point is made in T. Hobbes [26]. ‘*Salust* his Character of *Catiline*, (then whom there never was a greater Artist in raising seditions) is this, *That he had great eloquence, and little wisdom*; he separates *wisdome* from *eloquence*, attributing this as necessary to a man born for commotions, adjudging that as an intractresse of Peace’.

<sup>9</sup> Hobbes obviously had a fondness for the extended simile employed here which also appears in *Leviathan*, II, xxx, 177: ‘And they that go about by disobedience, to doe no more than reforme the Common-wealth, shall find they do thereby destroy it; like the foolish daughters of *Peleus* (in the Fable;) which desiring to renew the youth of their decrepit Father, did by the Counsell of *Medea*, cut him in pieces, and boyle him, together with strange herbs, but made not of him a new man’. The same fabular caveat appears in Burke’s *Reflections* as part of a general argument against reforming the state ‘by its subversion’. See p. 146: ‘By this wise prejudice we are taught to look with horror on those children of their country who are prompt rashly to hack that aged parent in pieces, and put him into the kettle of magicians, in hopes that by their poisonous weeds, and wild incantations, they may regenerate the paternal constitution, and renovate their father’s life’.

It is clear that Hobbes's dramatic presentation here is designed to convince us that rhetoric without reason condemns us to error and that, as a political corollary to this, eloquence without judgement may enjoin us to treason. Of course the suggestion that intellectual mismanagement is potentially so dangerous does seem somewhat improbable unless we come to recognise that, in the larger scheme of things, Hobbes is attempting specifically to describe the nature of political authority and, in that context, to argue that the failure to accord authority its due right proceeds from the failure to grasp the character of bodies politic as such:

The error concerning mixed government hath proceeded from want of understanding of what is meant by this word *body politic*, and how it signifieth not the concord, but the union of many men. And though in the charters of subordinate corporations, a corporation be declared to be one person in law, yet the same hath not been taken notice of in the body of a commonwealth or city, nor have any of those innumerable writers of politics observed any such union [24, II, viii, 7; p. 137–138].

Hobbes's point here is that a harmonious concord or partnership between powers in a commonwealth is in reality no more than a temporary respite from hostilities. Where mixed government is taken to imply a plurality of jurisdictions it leads to the creation of competing dominions, each encouraged to regard the other with jealousy and suspicion and liable, in the end, to come to blows.

Philosophical and political opinion in the 18th century, from Hume and Smith to Blackstone and Paley, clearly rejected this conclusion and variously pointed to 1688 as its most consummate refutation. The decades succeeding the Revolution, while they bore witness to the precariousness which attended a partition of civil powers, also demonstrated the possibility of partnership. The supposed 'error concerning mixed government' had in fact proved to be a workable antidote, however fraught and uncertain in its operation, to the excesses which were sometimes taken to accompany both republican and monarchical governments in their purer forms. As Samuel Squire put it in the middle of the century, 'a true and consistent Whig is a Balancer, a Mediator ... Under a *Henry VIII*th, a *Charles*, or a *James*, he is a Countryman; under a *William*, or a *George*, he is a Courtier' [27]. Hume regarded Old Whig polemicists as Countrymen while Burke considered George III's Whigs as Courtiers. In each case they were promoting the virtues of a mixed system of government. A division of legislative and executive competences implied versatility and balance. That balance, however, was a human contrivance and it was therefore prone to corruption. But it was not incompatible, as it is in Hobbes's account, with the political unity of the state.

Nonetheless the core implication contained in Hobbes's statement regarding the essential integrity of the body politic caused little difficulty for a whole range of constitutional commentators. For them as for Hobbes, that unity proceeded from the finality of sovereign authority. But against Hobbes it was realised that while the sovereign's will had to remain single and entire its competences could be distributed among different hands. Beyond that, even Paley appreciated how

An act of parliament, in England, can never be unconstitutional, in the strict and proper acceptation of the term; in a lower sense it may, viz. where it militates with the spirit, contradicts the analogy, or defeats the provision of other laws, made to regulate the form of government. Even the flagitious abuse of their trust, by which a prominent Henry the Eighth conferred upon the king's proclamation the authority of law, was unconstitutional only in this latter sense [28].

Like Hobbes, Paley is happy to concede that the 'body of a commonwealth' is 'one person in law' against which no subordinate corporation or person can plead its own authority as a matter of right. In his *Lectures on Jurisprudence*, Smith came to the same conclusion: 'In whatever place there is a sovereign, from the very nature of things the power must be absolute' [14, vol. V, p. 114]. And Burke, contending against Fox that a multitude of individuals entering into a social compact may not legitimately 'give away and retain the same thing', that they may not invoke rights already alienated, is advocating sovereignty on the same absolute and unitary basis. There can be little doubt that the customary wisdom which has developed in this century, from Carl Schmitt to Collingwood and beyond, to the effect that the doctrine of sovereignty as it had been rigorously formulated in the 17th century became blunted or simply 'lost' in the 18th, has been the product of a persistent confusion about what was a perfectly distinct set of observations regarding the separation of civil powers on the one hand, and the integrity of sovereignty on the other.

As far as sovereignty was concerned, then, Burke had little cause to dissent from Hobbes's position. Their disagreement concerned the distribution of functions within the sovereign body. However, both could recognise that empire, in the sense of *imperium*, in any form of government is by definition absolute and indivisible. As Hobbes points out in *De Cive*, 'A popular state openly challengeth absolute dominion, and the Citizens oppose it not. For, in the gathering together of many men, they acknowledge the face of a City' [26, part II, Chapter VI, 13n]. The act of acknowledging the face (*facies*) of a city amounts to ascribing to a sovereign ultimate authority over the state. It amounts to recognising the establishment a *terminus ultimus*, a final will, as the sole means of eliminating contention and war: 'the City', as Hobbes puts it, 'which is *one Person*, cannot take up Arms against it selfe' [26, part II, Chapter VI, 1]. That city, however, which is a popular state is more prone to commotion and strife than, for instance, a monarchy since it is in the very nature of democratic assemblies that business is transacted through the medium of eloquence and that members of those assemblies, under these conditions, can readily be persuaded against their better judgement to organise into factions. But of course the formation of a faction involves a bid for *imperium* being made by what under these circumstances would constitute a 'multitude'. It involves a collection of individuals, a conspiracy, claiming an implicit right of judgement over the fate of a 'people' understood in this instance as a unified body invested with supreme command [26, part II, vii, 7].<sup>10</sup> A faction, in this sense, is

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<sup>10</sup> But the *People* is not in being before the constitution of government, as not being any Person, but a multitude of single Persons'.

a ‘City in a City’ [26, part II, xiii, 13]<sup>11</sup> But two cities contending for power in one commonwealth, which is equivalent to two bodies at liberty to compete for ascendancy, is clearly a recipe for disaster.

It is clear, therefore, that on Hobbes’s analysis there can be only one body in possession of significant liberty in the civil state and that this liberty, or freedom from obligation, goes by the name of dominion [26, part II, x, 8].<sup>12</sup> Nonetheless, the liberty of the subject, the realm of private right or what Hobbes terms ‘harmlesse liberty’ (*libertas innoxia*) [26, part II, xiii, 15]<sup>13</sup> survives as the remnant of natural liberty granted by the civil laws. But of course interaction in the realm of harmless liberty, however innocuous it might be, is never exactly benevolent: ‘All Society’, Hobbes commented, ‘is either for Gain, or for Glory’ [26, part I, i, 2]. Coming into the company of others, we bring with us the desire for profit or for honour. It is in this sense that interest — the desire for profit — and passion — the desire for esteem — are mutually reinforcing. Gain can be maximised by power and the acknowledgement of power is honour. As Hobbes put it in the *Elements of Law*, ‘to honour a man (inwardly in the mind) is to conceive or acknowledge that that man hath the odds or excess of power over him that contendeth or compareth himself’ [24, I, viii, 5; p. 26]. And later in the work, in a similar vein, Hobbes argues that ‘Glory, or internal gloriation or triumph of the mind, is that passion which proceedeth from the imagination or conception of our own power, above the power of him that contendeth with us’ [24, I, ix, 1; p. 28].

The pursuit of glory and the pursuit of gain might therefore be deemed to be mutually co-ordinated activities since ease of profit inevitably stands in some kind of ratio with degree of power. Unless of course, and this is the crucial point, one fails properly to estimate the degree in question.<sup>14</sup> It is this kind of miscalculation, the effect of which is to scupper the alliance of the passions and the interests, which repeatedly draws the attention of Hobbes throughout his corpus. And it is upon this preparedness to abandon prudent reckoning that philosophers have, in the words of *De Cive*, ‘built a *morall Philosophy* wholly estranged from the *morall Law*’ [26, I, iii, 32].<sup>15</sup> What we are looking at, in short, is a failure to found conjecture on the basis of

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<sup>11</sup> ‘A *faction*, therefore, is as it were a City in a City’. As Hobbes himself put it, in the *Elementorum Philosophiae Sectio Tertia De Cive*, printed in the Clarendon Edition, Volume II; Part II, xiii, 13: ‘Est itaque *factio* tanquam *ciuitas* in *ciuitate*’.

<sup>12</sup> ‘When private men or subjects demand liberty, under the name of *liberty*, they ask not for *liberty* but *dominion*, which yet for want of understanding, they little consider’.

<sup>13</sup> ‘Where there are more Lawes then can easily be remembered, and whereby such things are forbidden, as reason of it selfe prohibites not of necessity, they must through ignorance, without the least evill intention, fall within the compasse of Lawes, as gins [i.e. snares] laid to entrap their harmlesse liberty [*libertatem innoxiam*], which supreme Commanders are bound to preserve for their subjects by the Lawes of nature’. See also *ibid.*, Part II, xiii, 16: ‘It is a great part of that *liberty* which is harmlesse to civill government ... that there be no penalties dreaded, but what they may both foresee, and look for’.

<sup>14</sup> On the history of attempts to provide a convincing theoretical framework for the government of the passions, see [29].

<sup>15</sup> On Hobbesian scepticism in relation to his moral and political philosophy, see [30].

past experience and this failure, we are coming to recognise, has afflicted not only the pedagogical competence of moral philosophy. It also stands more generally at the root of vain-glorious behaviour: ‘men cannot’, Hobbes insists, ‘put off this same irracionall appetite, whereby they greedily prefer the present good (to which by strict consequence, many unfore-seen evils doe adhere) before the future’ [26]. It is Hobbes’s contention that this preference for the present good, the dominance of immoderate passions over projected ends, testifies to the absence of any restraint in the form of fear. After all it is fear which Hobbes, in a footnote to the opening chapter of *De Cive*, glosses as ‘a certain foresight of future evill’ [26, I, i, 2]. Fear promotes attentiveness toward the future as prudence inclines us toward the memory of the past.

It is in this context that Hobbes, considering self-aggrandisement to be the true motor of social intercourse, writes:

And these are indeed the true delights of Society, unto which we are carried by nature, (i.e.) by those passions which are incident to all Creatures, until either by sad experience, or good precepts, it so fall out (which in many never happens) that the Appetite, of present matters, be dul’d with the memory of things past, without which, the discourse of most quick and nimble men, on this subject, is but cold and hungry [26, I, i, 2].

It is clear from this why Hobbes takes the study of history to be the parent of wisdom. As he put it in the Epistle to his readers accompanying his translation of Thucydides’s *Peloponnesian War*, ‘the principal and proper work of history’ is ‘to instruct and enable men, by the knowledge of actions past, to bear themselves prudently in the present and providently towards the future’ [31]. In this way vain-glory, or the improvident will to be esteemed above another, can be educated through memory and fear; it can be disciplined by the recollection of the past in anxious anticipation of a future. But, in the final analysis, the achievement of security cannot reliably be entrusted to the vagaries of human experience and insight: the united will of the commonwealth is required to harmonise the judgements of a disbanded multitude.

The misalliance of the passions and the interests results in the inability to harness means to ends. It results in the continual failure to unite appetite with its object, a failure to calculate appropriate strategies for the realisation of determinate goals. To Burke, examining events in France in the 1790s, this misalliance had been engineered by a cabal of deluded Revolutionaries prepared to sacrifice both peace and prosperity to the desperate projects of uninhibited ambition. ‘The world of contingency and political combination is much larger’, Burke wrote, ‘than we are apt to imagine’. It must consequently be engaged by a ‘constant vigilance and attention to the train of things as they successively emerge’ [17, p. 364]. But vigilance and attention are themselves values of negligible significance where political intelligence has been co-opted, as it had been in France, by the exclusive design of naked power: ‘Everything depends upon the army in such a government as yours; for you have industriously destroyed all the opinions, and prejudices, and, as far as in you lay, all the instincts which support government’ [13, p. 268].

The conquest of opinion in the interest of rational politics was therefore taken to represent the betrayal of prudent political management. Prudence is the watchword of governments which recognise their dependence on reliable ‘opinion’, and opinion comes to be reliably constituted in the process of its historical construction. Without this dependence, sovereignty can know no practical bounds and is free to conduct itself without regard for that ‘harmless liberty’ upon which civil society thrives. But where opinion assumes the character of speculative ‘enthusiasm’ and seizes the state as a vehicle for its expression, the sovereignty of the people will come to connote the triumphal will of the strongest indulging its energy as a matter of sheer natural right against any competing initiative. In 1782, in his Speech on the ‘Reform of Representation’ delivered in the Commons on May 7, Burke had already put his case in the starkest of terms: ‘As all government stands upon opinion... the way utterly to destroy it is to remove that opinion, to take away all reverence, all confidence from it; and then, at the first blast of public discontent and popular tumult, it tumbles to the ground’ [32].<sup>16</sup> Opinion here is founded upon reverence, upon a regard for settled practices inherited from the past. It effectively binds the constitution in what Paley was to term its ‘lower sense’. The constitution, in short, is preserved and animated by the action of prescription. The prescriptive basis of government is supported, moreover, by popular presumption in its favour. While prescription guarantees the title to government, that title is affirmed by the consolidating interest of presumption. Together these constitute the grounds of authority in government and succeed in keeping that authority within customary limits [32, X, pp. 96–97].<sup>17</sup>

#### 4. Opinion and authority

We have come to recognise that while Burke could accept the Hobbesian stricture that sovereignty knows no *legal* obligation, he was also keen to argue that the executors of the public will in modern states were *practically* obliged to broker their decisions with reference to customary opinion. This practical obligation appeared entirely salutary since, in the real world, power freed from the restraining influence of

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<sup>16</sup> Burke goes on to affirm that ‘our Constitution is a prescriptive constitution, whose sole authority is, that it has existed time out of mind’ (X, p. 96). This is of course a piece of studiously deployed political rhetoric: Burke had already come, in his *Essay Towards an Abridgement of the English History in Works*, X, p. 551, to consider as a ‘defect’ that ‘persuasion hardly to be eradicated from the minds of our lawyers, that the English Law has continued in very much the same state from antiquity, to which they will allow hardly any sort of bounds’. The chief culprit in this was Hale in whose *History of the Common Law* ‘the great changes and remarkable revolutions in the law, together with their courses down to this time, are scarcely mentioned’. For a discussion of Burke’s *Essay*, see [33].

<sup>17</sup> Prescription is the most solid of all titles, not only to property, but, which is to secure that property, to Government. They harmonize with each other, and give mutual aid to one another. It is accompanied with another ground of authority in the constitution of the human mind, presumption. It is a presumption in favour of any settled scheme of government against any untried project that a nation has long existed and flourished under it’. For discussions of the Burkean doctrine of prescription, see P. Lucas, [9, pp. 555–565] and [34].

custom is not usually found to acknowledge any limit to its sphere of political competence. This sphere of assumed competence contracts, by contrast, in proportion to the dependence of governments upon the habits and customs of society. Social habits and customs are themselves derived from the accumulated dispositions of human intercourse and these in turn come to constitute the world of ‘opinion’. In Burke’s scheme of things, this world of opinion as it effected the established social protocols of modern European manners had its roots in an historic culture of honour stretching back into the feudal past and still recognisable in the dynamic interaction between such passions as self-regard and deference, esteem and emulation.

Throughout the history of European politics prior to 1789 it was the quiet operation of this culture of honour which had steadily moderated authority in the interest of justice, security and the common good. Opinion, thus understood, civilises power. But where the state abandons civilisation, politics, indeed war itself, is barbarised and degraded:

The new school of murder and barbarism, set up in Paris, having destroyed (so far as in it lies) all the other manners and principles which have hitherto civilized Europe, will destroy also the mode of civilized war, which, much more than anything else, has distinguished the Christian world [35].

It is important to recognise that the culture of honour upon which modern civilisation had been built is seen by Burke to be materially dependent upon an unequal division of property amongst the ranks of society. In this way, the interest of property and the dispositions of honour act in alliance so as to curtail the pretensions of political power. Government was indeed invented for the protection of property, but accumulated property is itself a power which stands as a dependable guarantee against the encroachment of government upon the liberties of society. From this perspective Burke can argue that the distinction of ranks, rooted in the division of property and sustained by a culture of honour, constitutes an effective security against tyranny in defence of liberty and property.

By extension, the revolutionary doctrine of natural equality threatened at once the security of property, moderation in government, and manners in general. Armed with this perception Burke, in the *Appeal from the New to the Old Whigs*, could number ‘an habitual regard to commutative justice’ among the values inevitably cherished by a ‘natural aristocracy’. ‘Natural’ here in effect means social — ‘Art is nature’, Burke went on to declare — and society naturally generates distinctions between persons and groups. Such distinctions may be softened and ameliorated, but they may not be eliminated: ‘The state of civil society, which necessarily generates this aristocracy, is a state of nature’ [3, VI, pp. 217–218]. And so it transpires that a regard for commutative justice is nothing other than a regard for the differential parcelling out of property. Differentiation of this kind, however, could only win the support of society at large to the extent that the impulse to imitate one’s betters won out over the impulse to visit violence upon them: to the extent, in other words, that emulation fell short of envy.

In Burke’s view, such an arrangement could only be secured with the assistance of the principle of honour acting as a moral force. Honour, however, was a creature

of human sociability and its moral force was derived from the continuous action of manners and mores on society's members. For this reason the French revolution against property could be taken to be indistinguishable from its revolution against manners. Hence Burke's reference in the *First Letter on a Regicide Peace* to the 'systematick unsociability of this new-invented species of republick'. Human sociability simply was not possible on the basis of a theory of natural equality imported into civil society. It depended, in the last instance, on concession, and therefore upon deference. But deference, whatever else it might mean, implies something other than complete equality and, in modern Europe, inequality was inextricably linked to the division of property. But Jacobinism, consisting in 'the revolt of the enterprising talents of a country against its property', [36] had introduced into the world a form of government which was radically indifferent to the restraining impulses of all civilised opinion in its pursuit of total dominion.

It is for this reason that Burke saw fit to defend the war against France in the mid-1790s as a contest between established property and unadulterated militarism: 'It is a question', he wrote, 'between property and force' [36, p. 252]. In the *Second Letter on a Regicide Peace* he went on to elaborate upon this theme:

Individuality is left out of their scheme of Government. The state is all in all. Everything is referred to the production of force; afterwards everything is trusted to the use of it. It is military in it's principle, in it's maxims, in it's spirit, and in all it's movements. The state has dominion and conquest for it's sole object; dominion over minds by proselytism, over bodies by arms ... We have not considered as we ought the dreadful energy of a State, in which the property has nothing to do with the government... [in France] the property is in complete subjection, and ... nothing rules but the minds of desperate men [15, pp. 288–289, p. 293].<sup>18</sup>

France was in the process of giving the lie to the habitual assumption of a necessary connection between property and power. Modern republicanism stood as a hideous example of political force freed from the influence of settled habits and opinions yet galvanised by a proselytising purpose. The state had been converted into a pure instrument of domination, and had consequently come to display an inexhaustible appetite for conquest. Its energy was on that account being mobilised without the least consideration for that habitual regard for commutative justice upon which the health of society depended. James Harrington's equation of the balance of property with the balance of power was not simply being updated in the light of historical developments. History was in the process of confronting the old Harringtonian equation with a new reality that would have been unimaginable in the terms of any political philosophy prepared to set the government of a commonwealth in relation to the state of its property: 'The condition of a commonwealth not governed by its property was a combination of things, which the learned and ingenious speculator Harrington, who has tossed about society into all forms, never could imagine to be

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<sup>18</sup> 'The whole is a body of ways and means for the supply of dominion, without one heterogeneous particle in it'.



possible' [15, p. 289]. But the representation of the state without reference to its property was, in post-Feudal Europe, the political equivalent of insulating power from the influence of opinion: it entailed collapsing society into civil government. Under these circumstances, the obligations of public authority would still have to make themselves felt despite the absence of any kind of loyalty on the part of citizens to their state. In the end, executive action would have to supply the deficit left by the demise of unforced allegiance.

Burke's point here was that the reality of allegiance could not be explained simply by reference to abstract principles of political right. Revolutionary doctrine had failed to realise that obedience did not result from a formal obligation to comply. Compliance was a form of social subordination and not a form of rational assent. In this vein, Burke accepted with Hume and Smith that Hobbes, in founding the state upon the elimination of total war by the establishment of a supreme and legally irreproachable authority, had left unexplained how government could win the positive allegiance of its subjects: how wisdom amongst individuals eager for profit and honour would effectively prevail in such a way as to inculcate an habitual deference to the interest of their state. But earlier, in 1672, in *An Essay Upon the Original and Nature of Government*, it was Sir William Temple who had set about addressing this question as part of a conjectural inquiry into the affective ties of obligation: 'Nor do I know', he asserted, 'if men are like sheep, why they need any government; or, if they are like wolves, how they can suffer it' [37].

Temple was happy to accept that human creatures are defined by a 'restlessness of mind and thought' which inclines them toward faction, rebellion and division [38].<sup>19</sup> But while discord and dissension are evident facts of life, so too are civil concord and obedience. While authority can interpose itself between opposing factions, the question of how it can win the kind of cohesive assent which lays public dissidence to rest still remains. A civil union requires a 'common bottom' which harmonises individual passions in relation to some common interest under the management of an agreed authority:

in a state, division of opinion, though upon points of common interest or safety, yet, if pursued to the height, and with heat or obstinacy enough on both sides, must end in blows and civil arms... But nothing, besides the uniting of parties upon one common bottom, can save a state in a tempestuous season [38, III, p. 64].

In submitting to the common interest, a people do so in deference to a government whose authority is founded, not upon some juridical formula or compact, but upon opinion. All government is a restraint upon liberty and 'dominion is equally absolute' whatever constitutional form it assumes [38, I, p. 5].

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<sup>19</sup>'No civil or politic constitutions can be perfect or secure, whilst they are composed of men, that are for the most part passionate, interested, unjust, or unthinking, but generally and naturally restless or unquiet; discontented with the present, and what they have, raving after the future, or something they want, and thereby ever disposed and desirous to change'.

However, contention for liberty within a state, where the contest takes the shape of a bid for supremacy, can only be superseded when the competitors arrive at a harmonious acknowledgement of the right of public power. This acknowledgement is not achieved by the contractual transfer of legitimate authority; it is achieved by force of opinion:

Nor can it be... that when vast numbers of men submit their lives and fortunes absolutely to the will of one, it should be want of heart, but must be force of custom, or opinion, the true ground and foundation of all government, and that which subjects power to authority. For power, arising from strength, is always in those that are governed, who are many: but authority, arising from opinion, is in those that govern, who are few [38, I, p. 6].<sup>20</sup>

Opinion in favour of authority may spring from respect for the wisdom, valour or goodness of those who hold it. It may equally arise from the presumption of divine designation. But it is confirmed by custom [37, I, p. 8]. At the beginning of political time, individuals did not find themselves conversing and interacting with one another as interested equals in search of advantage. Instead, they first met as purposive beings accustomed to paternal authority. They came into this world as members of families, accustomed to respect the virtues of courage or wisdom spontaneously invested in the *paterfamilias*. The first authoritative assembly of persons was a meeting of heads of households: political society was originally convened by the bearers of natural authority who presided over their people through an assumed display of valour, prudence and piety, or whatever was taken naturally to be annexed to paternal right.

By the same token, the first governor was a species of *pater patriæ* who sat at the head of a little kingdom which with time increased in size and extent [37, I, pp. 11–13]. As the administration of the household expanded with the succession of paternal jurisdictions through generations, servants became necessary for the efficient running of the *familia*, and they fell under the patriarch's common care. In a paternal kingdom, where the father tyrannically rules over his kin, he will be forced to arm his servants for the subjection of his blood relatives. Here, the *seruus* is kept under command and in pay and thereby transformed into a primitive guard protecting the welfare of a petty monarch. But where paternal authority is overturned by familial defection, aristocracy is instituted, while the decline of an aboriginal aristocracy in wealth ushers in the rule of democracy [37, I, pp. 14–18]. What is clear is that in all these instances of political descent fancifully supplied by Temple, authority is founded upon a customary attachment necessarily antecedent to any system of contractual obligation.

Governments which may be said to have been founded upon contract were the product of conquest, with a conquering prince demanding the allegiance of a subject people in return for safety and protection. But here again where obedience is offered specifically to authority — where power is transacted through the medium of trust — *potestas* is confirmed through the mechanism of opinion [37, I, pp. 18–19]. Even

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<sup>20</sup> An almost identical formulation appears in [39] 'as FORCE is always on the side of the governed, the governors have nothing to support them but opinion'.

where public opinion has regard for the public interest alone, as is the case in free cities, assembled for defence, or in commonwealths established by the wisdom of some great legislator, the opinion of public utility is confirmed by trust in authority: 'Yet are none of these forms to be raised or upheld without the influence of authority, acquired by the force of opinion of those virtues above mentioned' [37, I, pp. 20–22]. Government is indeed founded on consent, but consent arises from a sense of common welfare secured by a virtuous leader or from a general acquiescence in the abilities of one or a few outstanding individuals. In either case opinion, fortified by custom, puts its trust in the right of authority. Without this trust, power — held by the few — is nakedly pitted against the disaffection of the governed, 'who are many'.

This was an argument which Hume, in his essay on the 'First Principles of Government', was to make his own and one which, after the French Revolution, was to acquire a new significance for Edmund Burke and John Millar alike. Hume, for his part, extended Temple's point by maintaining that 'Opinion is of two kinds, to wit, opinion of INTEREST, and opinion of RIGHT', with opinion of right — or authority — acting as a perpetual and necessary guarantor to opinion of interest — or the sense of general advantage [39, p. 33, 41].<sup>21</sup> However, in Hume's formulation, opinion of right comprises both the right to property and the right to power, and on this score he concurs with what he takes to be the common view — 'It is sufficiently understood, that the opinion of right to property is of moment in all matters of government' — and he proceeds to point out how

A noted author has made property the foundation of all government; and most of our political writers seem inclined to follow him in that particular. This is carrying the matter too far; but still it must be owned, that the opinion of right to property has a great influence in this subject [39, pp. 33–34].

The 'noted author' is of course James Harrington. And having made it clear that he carried 'the matter too far', Hume proceeds to tell us in what direction the exaggeration ought to be corrected. 'A Government', he writes, 'may endure for several ages, though the balance of power and the balance of property do not coincide' [39, p. 35]. Ample historical evidence could be summoned in support of such a thesis as the researches of Lord Kames and Adam Smith had demonstrated (see [42,43]). Burke's claim was that the French Revolution marked the point at which a disequilibrium between property and power challenged the durability of government as a *civil* power altogether, and through the 1790s he set out to show how power comes to be deprived of all balance when property falls prey to the arbitrary will of a revolutionary state.

Authority can only be peaceably assumed under the auspices of an accepted title to rule, whatever the distribution of property, and balancing the right of political authority in relation to the rights of ownership requires an equilibrium rather than an

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<sup>21</sup> 'Liberty is the perfection of civil society; but still authority must be acknowledged essential to its very existence'. For a discussion of this Humean precept in operation, in relation to voluntary state bankruptcy see [41].

equality of interests. It calls for circumstantial adjustment rather than revolutionary realignment. It is in this context that one needs to understand Burke's remark that 'The property of the nation is the nation' [36, IX, p. 252]. Equally, it is in this context that Burke's defence of the principles of sovereignty, property and moderate government are more generally to be understood. They should be seen as part of an enlightenment defence of European civilisation against what appeared to him to be a resurgent and highly politicised kind of fanaticism. This fanaticism displayed a political voraciousness that was at the same time politically uncomprehending in the extreme. And so the *Reflections* must at least in the first instance be understood as an assault upon a species of political fundamentalism, and not as a Jeremiad against liberty, against progress or against human prosperity generally. Its trenchancy derives from an understanding of political urgency and crisis which Coleridge, for instance — or Fox, or Wollstonecraft, or Thelwall — rather lacked than transcended in the early 1790s. Revolutions divide one world of political habit and perception from another, the French Revolution more perhaps than any other.

From this vantage point, Burke's comparative proximity to John Millar and distance from William Paley becomes apparent. To Millar it was clear that the balance of property in Britain had radically shifted away from the nobility, a development which promised a gradual change in the balance of power [44].<sup>22</sup> But in France, the enthusiasm for correcting political abuses was accompanied by an abandonment of all habitual regard for authority. With public attention focused on the general advantage of society, an equalisation of ranks and a diffusion of popular privileges was rapidly sought. A revolution in the 'opinion of interest' swept aside the regular machinery of government, levelling all inherited institutional bulwarks and extinguishing all affection for established authority: 'enthusiasm ... overthrew those banks and landmarks, which while they defended the civil rights of the inhabitants, might have contributed to direct and regulate the new establishment' [44, IV, p. 308]. A revolution in the perception of public interest had generated a crisis in the assumed legitimacy of public right. Such a crisis, Burke argued, threatened to set at nought everything which could be said to have contributed to the improvement of human welfare over the preceding half millennium.

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<sup>22</sup> 'The rank of nobility being connected with political distinction, has hitherto maintained the ground, and continues to be the object of ambition; but when separated from the estate which gave it support, so far from being of service to the owner, it operates as an exclusion from almost all the paths of industry, and seems to confer a mock-dignity upon real and hopeless indigence and servility ... As the advancement of commerce and manufactures in Britain, has produced a state of property highly favourable to liberty, so it has contributed to collect and arrange the inhabitants in a manner which enables them, with great facility to combine in asserting their privileges'.

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