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REVIEW ARTICLES

REVISIONISM AND THE ANCIENT HISTORICISM

Absolute monarchy and the Stuart constitution. By Glenn Burgess. New Haven, Conn.: Yale University Press, 1996. Pp. ix + 229. £25.00.

Henry Parker and the English civil war. By Michael Mendle. Cambridge: Cambridge University Press, 1995. Pp. xix + 204. £35.00.

Classical humanism and English political thought, 1550–1640. By Markku Peltonen. Cambridge: Cambridge University Press, 1996. Pp. xii + 356. £35.00.

Republicanism, liberty, and commercial society, 1649–1776. Ed. David Wootton. Stanford, Ca.: Stanford University Press, 1995. Pp. ix + 497. £40.00.

In *The politics of the ancient constitution* (Basingstoke, 1992), Glenn Burgess attempted to portray the language of ancient constitutionalism as shared and accepted by all parties before the civil war, an event which was the result of Charles I's misunderstanding and mishandling of his opponents. In his latest book, Burgess attempts to take these ideas further by showing that there was no such thing as absolutism in Stuart Britain, and if there had been, that it was of no significance in the great political upheavals of the century. He regards the historiography of the political thought of the period as having been affected by something called the 'parliamentary hermeneutic' (p. 19), which causes scholars to divide pre civil war writers into constitutionalists and absolutists, categories Burgess believes to be misleading. Although he does not discuss the propagandists of the civil war, he regards the parliamentarians as attempting to blacken the Stuart regime with a label of absolutism, while presenting themselves as defending something called the ancient constitution. They associate with this the sovereignty of parliament and the right to resist, notions Burgess believes to be alien to even the most trenchant opponents of the Stuart regime before the civil war. The history hitherto written has therefore been tainted with this 'whig' prejudice and terminology, and so been unable to take advantage of the revisionist perspectives as have other histories of the period.

His main target is the work of Johann Sommerville, whom he criticises for employing a 'Bodinian conceptual framework', by which he seems to mean that Sommerville believes that absolutists can be defined by a belief that the monarch can only be limited by recourse to a necessarily unenforceable divine law. This criticism has some value, as Sommerville does seem to imply that a belief that resistance was immoral amounted to a theory of absolutism.[1] Burgess wishes to take this further, however, and make the logical leap to ask whether, if non-resistance did not imply absolutism, did a theory of limited monarchy imply resistance? His answer is that confusion has arisen from the conflation of the ideas of limitation and resistance, and *Absolute monarchy and the Stuart constitution* is his attempt to show how Englishmen believed that they had a limited and irresistible monarch, giving them a 'pacified politics' (p. 161) before the outbreak of the

[1] See Johann Sommerville, *Politics and ideology in England, 1603–1640* (London, 1982), pp. 39–46.

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civil war. He has noticed two things: that after the glorious revolution the political power of monarchs (or anyone else) was not limited by resistance but circumstance, and that discussions of political theory in the late sixteenth and early seventeenth centuries often seem to concentrate on resistance theories as significant for the development of political theory in general.[2] He therefore seeks to establish a continuity between the peaceful politics either side of a civil war, in the process destroying the whig idea of the great political progress made through those events, and showing their hero, John Locke, while never discussed in detail, as having 'failed to see the correct answer to the problem' (p. 161) and consequently engaged upon the 'depacification' and 'deconstitutionalisation' (p. 222) of British politics.

His thesis is however also dependent upon an essential discontinuity between perceptions before and after the civil war, a shift that created the 'parliamentary hermeneutic', which has supposedly led historians to misconceive the earlier period. It may be that only the events of the civil war could make the politics of John Locke intelligible. If something happened that so changed how the early Stuarts could be viewed, then surely the political reactions of the whigs were not the result of a failure to recognize the pacified nature of the pre-civil war period, but of a recognition that innovation, combining some aspects of resistance theory with constitutionalism and a theory of natural rights, was necessary. Burgess's picture of pacified politics before the civil war is weak because it moves from a denial of the equivalence of a rejection of resistance and absolutism to a theory of a pacified and entirely consensual politics. In doing this, he commits two methodological errors.

First, he sets out to find something – absolutism – which he believes not to be there. In his first four chapters he examines the evidence for absolutist theory before the civil war, and finds it wanting. He defines absolutism in a way that ensures that it would be very hard to find early modern writers expressing such an idea, and then searches for that position. He argues that the king should be thought of as 'fully superior' to all laws, and be able to act without reference to the positive laws of the land (p. 28). He then examines various authors, including James I, and is surprised to find them shy of saying such a thing. In fact, it would not only have served no purpose for James or any of his supporters to make such a claim, but in the context of any controversy, manifestly idiotic to do so, as it would only infuriate and make resolution impossible.

In the context of debate and conflict rife in early Stuart England, it is therefore unsurprising to find theories put into the context of received wisdom about the nation's legal structure. Burgess's analysis of Francis Kynaston's *True presentation of forepast parliaments* is a good example of his methodology. He places it in the context of the imposition debates of the late 1620s, and notes Kynaston's claim that kings alone make law, and make laws binding. However he regards this as a defensive rather than an aggressive claim, because of what Kynaston does *not* say: that kings could make laws without the subjects' consent. However in the context of a controversy between the crown and a nervous parliament, such a claim would have been pointless and counter productive. Texts should be approached with some idea of what the author could have been trying to achieve, of at least what problems they could have been addressing, such that the ideological moves they make can be intelligible. Thus the theories which upon 'close examination appear to be something different' (p. 40), only appear so in the light of unrealistic expectations, which go beyond a defence of monarchy against what was

[2] For instance, J. H. Burns and Mark Goldie, eds., *Cambridge history of political thought, 1450–1700* (Cambridge, 1991), and Quentin Skinner, *The foundations of modern political thought* (Cambridge, 1978), although he criticises neither of these works.

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from a royal perspective an aggressive parliament. It may be plausible to criticise Johann Sommerville for assuming the existence of bodies of cohesive opinion that never existed, but Burgess commits a worse error in applying a false definition to prove those opinions never existed.

His second error is his writing of the history of political thought of the period as if it just contained one dominant and all pervading discourse, by which all writings should be judged: namely that of the common law and ancient constitution. In *The politics of the ancient constitution*, Burgess assumed that this was a creation of the late sixteenth century (as an 'antidote to Calvinist resistance theory' (p. 18)), but if this is the case why should it be assumed that it dominated the entire political spectrum: he has no right to ignore or marginalize other ways of discussing politics. Richard Tuck has among others written a great deal of a phenomenon he describes as 'new humanism', which he links to the rise of new powerful, unitary states in early modern Europe. For Tuck, it is characterized by a concern not with public ethics, but with the business of politics and the art of control necessary to a modern monarchic state.[3] It also provided an account of the power of the state to act which is related to classical notions of necessity and modern notions of policy, which was entirely independent of a real or imagined legal framework. Burgess takes this as justification for dismissing its influence, it being 'not concerned so much with the legal–constitutional question of sovereignty and limitation as with the techniques of political manipulation' (p. 53). Burgess accepts Salmon's argument that in England the new humanism was the preserve of anti-court writers, and thus was a 'discourse of the court', and from this digresses into a discussion of counsel in which he argues that as Francis Bacon kept separate his constitutional reflections and his discussions of counsel, the new humanism was an irrelevance.

However, through frequent translation and publication of original works, the British were amply provided with the intellectual resources to construct a theory of state action that entirely bypassed common law or an ancient constitution. To argue this was irrelevant because of Bacon's clarity of mind is misguided. From the 1630s onwards the importance of the idea of the state, and 'reason of state' associated with new humanism, threatened to render irrelevant the politics of the ancient constitution rather than vice versa. Tuck has argued that the new humanism provides a context that makes comprehensible the philosophy of Hobbes and others who rejected ancient constitutionalism, and whatever the flaws of his story – Burgess only hints at possible criticisms – it is an important one because it tries to make sense of the fluid developments in early modern political thought. Burgess's attempt to sideline one of the most important of these currents of thought is clumsy, and shows that his thesis only works within a narrow frame of reference, which he has to work a little too hard to preserve.

In his chapter on the civil lawyers, Burgess applies his methodology to prove that their theories could not amount to absolutism. Charles Merbury, previously thought of as a disciple of Bodin, could not have been an absolutist because he 'seems to be saying that rulers had a duty to govern legally' (p. 69). Similarly, John Hayward is not absolutist not because of what he said, but what he failed to say; 'that sovereign power was chiefly the right to give laws without consent, or that sovereigns could override human law (however made) as they wished' (p. 72). This apparently overrides all his statements that seem absolutist, even if there is no conceivable reason why Hayward should have wished to argue such a point. Absolutism need not be the claim that rulers can do absolutely as they like, or have no duty to rule according to accepted laws, as to

[3] Richard Tuck, *Philosophy and government* (Cambridge, 1994), pp. 31–119.

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argue this would be to argue for arbitrary and tyrannical government. Hayward's discussion of parliamentary power to settle succession disputes, as Burgess quotes it, is clear: that such parliaments must be summoned by the incumbent sovereign, and failure to do this has led to 'the inestimable both weakening and waste of all the Realme' (p. 73). This is interpreted as arguing that settling disputes by parliament 'preserves the rights of the crown and maintains the commonwealth in peace' (p. 74), almost exactly the opposite of his point. Burgess also fails to mention that Hayward wrote an account of just such a parliament deposing Richard II and starting the Wars of the Roses, widely agreed to have caused the weakening and waste of the realm.

Religious divine right theories are dealt with in the same fashion. As these writers did not espouse a theory close to Burgess's definition of absolutism, reiterated as the claim 'that proclamations should have a force superior to that of statute or common law' (p. 98), he maintains they were 'working on a different plane' (p. 99). Should the implications of their statements be therefore dismissed? He argues that the several sermons he discusses, which seem to support the monarch's right to tax, but do not contain his version of absolutism, were 'not intended to provoke' (p. 108),[4] but does not explain why their authors should have wished to do so. Those who did provoke, such as Sibthorpe and Manwaring, become untypical, rather than officially sponsored supporters of royal policy. The fact that others, such as Calybute Downing, attempted to 'maintain a consensual position', and referred to the law with respect does not necessarily mitigate their more absolutist statements.

In his last two chapters, on constitutionalism in general and Sir Edward Coke in particular, Burgess is on surer ground as he does not have such a polemical axe to grind. He rejects the idea of a constitution as something equivalent to a set of public or fundamental laws (to use the Roman and Bodinian terms). Instead, he regards it as a set of entirely specific private laws, which together define appropriate spheres of action for various public authorities such as the monarch or the law courts. The 'absolute' power of a monarch describes not a type of power, but a particular set of powers that are limited in scope by the common law, which defines where the boundaries lie, thus ensuring a 'pacified politics'. Unfortunately the writings of his two clearest sources for this thesis, Sir Matthew Hale and Sir Roger Twysden, post-date the outbreak of the civil war, a period during which Burgess has previously noted the operation of a 'parliamentary hermeneutic'. He is commendably aware of this problem, and treats the constitutional opinions of lawyers before the civil war, such as Whitlocke and Dodderidge, with far more sensitivity than the supposed absolutists. It is, however, hard to escape the suspicion that this was one particular position, taken up by those concerned to ensure that the king's prerogative remained limited. The evidence that it was a common opinion, that ancient constitutionalism was a universal creed within which could be found all mainstream political opinion, is weak. James I's statements during the jurisdictional crisis of 1616 are taken as evidence of his essential agreement, because of his *failure* to claim the right to interfere with particular private cases at law. Just because he accepted that common law was the appropriate place to determine inheritance, it is by no means certain that James would have accepted common law as limiting his capacity for action.

In discussing Sir Edward Coke, Burgess does not repeat the claim made in *The politics of the ancient constitution* that he was essentially untypical. He attempts to navigate the sometimes contradictory ideas about the relationship between law and reason, and

[4] This phrase he borrows from Patrick Collinson's discussion of the relationship of monarchy and episcopacy in an attempt to link their arguments, although it is hard to see the connection.

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between common and statute law, that characterise Coke's thought. He makes sense of Coke's claims – mostly isolated in judgements or accounts of judgements – by arguing that he thought of parliament as essentially a court of law, so that the boundary between judgement and legislation is blurred. On weaker ground, he extends this analysis to include the parliamentarian Henry Parker, thus claiming that his supposed innovation in defence of parliamentary sovereignty was nothing more than a restatement of an accepted principle. Thus, he extends his revisionist analysis to include some of the innovations thought to be a product of the civil war itself, if not the period before the war. This revisionist story that Burgess wishes to tell is in part undermined by his own account of Coke's changing opinions during the 1620s and 30s. He argues that Coke became gradually more hostile to the discretionary power of the king, and more and more keen to hedge around that power using the common law in areas such as impositions and imprisonment. His arguments are sound, yet they seem to indicate an intellectual climate that exhibited an increasing fear of the absolutist tendencies of the crown, and an increasing tendency to regard the common law as an effective weapon against such developments, rather than the basis of a consensus upon which everyone could agree.

As he emphasises in his conclusion, Burgess's book fits in well with the revisionist oeuvre. But it also exhibits the dangers of taking that historical impulse too far. Instead of taking the whig bias out of the story, he has declined to tell a story at all, in favour of debunking a term of analysis which he believes to be counter productive. In doing so, he is obliged to ignore large parts of the story that do not fit in with the thesis he has constructed out of the ruins of the old. The personal rule of the 1630s is not even mentioned, though one might think it had some relevance to a discussion of potential absolutist tendencies in early Stuart Britain. Despite the fact that Hobbes produced a work of absolutist theory before the civil war and the advent of the parliamentary hermeneutic, and one based upon an analysis of the idea of contract (another discourse that Burgess attempts to sideline), *De Cive* is never mentioned. The developments in political thought that make Hobbes and Locke significant are ignored; a move which could be justified if he did not at the same time provide ample evidence of their importance. Resistance theory was not important because of its immediate application in a peaceful realm, but because it provided the basis of any theory which locates authority as originated in the people, such as parliamentary rule, representation, or Locke's ideas of political individualism which are so significant for a modern and liberal understanding of politics. It was employed, in different forms, against the real or imagined threat of royal absolutism, throughout the seventeenth century. If absolutism is a redundant way of thinking about pre-civil war political theory, then Burgess should not have constructed his book around it.

In attempting to include Henry Parker in his consensual view of ancient constitutionalism, Burgess contradicts the verdict of Michael Mendle, who in *Henry Parker and the English civil war* strongly argues the opposite point of view. For him, Parker was in some ways a 'strikingly brutal critic of the common law mind' whose writings responded to a new necessity created by the breakdown of a hitherto peaceful politics. Mendle's book aims to redress the neglect that has settled on Parker, and show him throughout his working life, not just as the author of the *Observations upon some of his majesties late answers and expresses*. In the introduction he says that he will 'situate Parker within the broader linguistic conceptual matrices of his day and in a biographical conceptual space peculiar to him' (p. xiv–xv), but thankfully he abandons such jargon and tells us what Parker said and what he did.

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In examining Parker's life as the 'public's privado', or favourite, Mendle gives a good impression of what it was like to be a parliamentarian phamphleteer during the civil war, especially in recounting his struggle for patronage and office. He gives a chronological account of Parker's career and writing, as he moved from concerns about shipmoney to being one of the central figures in the struggle for parliamentary legitimation during the early 1640s. His work for more commercial causes is not ignored, nor his work during the engagement crisis, but the most interesting part of the book remains Mendle's account of the debates which followed the publication of the *Observations*. He places each of Parker's publications within the context both of the contemporary political situation and of the pamphlet debates, and in doing so gives a good impression of the different modes of expression and argument open to writers on both sides faced with a novel situation.

Some few observations is put in the context of the gradual assumption by parliament of executive power after the issuing of a series of five ordinances when the king was in Scotland, and the militia ordinance to which Charles so objected, and which opened them to charges of acting illegally. Parker replied that parliament could act as a council, and had a right to act, and to judge, according to 'necessity of state'. He was forced to go further by the king's answer to the remonstrance of 26 May; and in the *Observations upon some of his Majesties late answers and expresses* he developed fully his theory of parliamentary sovereignty. This was dependent, Mendle argues, on the observation that the cause of power was originally the people, and that parliament represented the people, and so became the 'state it self' (p. 86; *Observations*, p. 34); the king and the constitution were irrelevant. Such a decisive break with tradition had obvious and important antecedents, and it is a flaw of this work that it is placed in a narrow context of Parker's career and immediate contemporaries. Thus while Mendle is accurate and interesting about Parker's work, his inability to provide a wider and deeper background to his innovations is somewhat frustrating.

Mendle's account of the debate over the *Observations* shows how other parliamentarians tried to make their case within existing law, Marsh for instance finding necessity within the common law itself. He also shows how it was royalist writers such as Ferne and Digges who introduced the idea of *resistance* in order to descry rebellion, but he fails to observe that by his own account Parker's own writing did draw on such ideas, while attempting to avoid the stigma attached. He also gives the context for Parker's *Contra-replicant*, showing how in that text Parker believed it was necessary to privilege a sovereign parliament above a theory of sacred law. Mendle could be seen as describing how Parker set up the 'parliamentary hermeneutic', but what he in fact does is to show why Parker saw the necessity of abandoning the ancient constitution, and using the resources of other arguments and discourses to adapt to a less than peaceful politics. This book will be of great interest to any student of the politics of this period of great change.

A way of thinking and writing about politics that is not mentioned in either of these two books, yet had a great impact on seventeenth-century England, was republicanism. Much has been written of the British republicans who emerged during the interregnum, and their possible impact on the political thought and action of the subsequent two centuries. Two books have come out that are destined to have an impact on debates about the nature and significance of this phenomenon. Markku Peltonen, in *Classical humanism and English political thought, 1550–1640*, discusses the impact of key republican ideas upon English thought before the civil war. He argues that historians such as Zagorin and Pocock have ignored the fact that republican ideas had a substantial impact before the flowering of systematic republican tracts during the interregnum, as

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English humanists followed the Italian example of adapting their ideas to monarchic rule.

Peltonen's method is first of all to describe the restatement of republican ideals in Tudor texts, being ideas of active citizenship and the exercise of virtue, as well as the idea of a balanced mixed constitution. He then shows how republicanism was important for early Stuart Englishmen by tracing republican themes through the political and intellectual history of the period. This has the disadvantage of making the book read somewhat like a list, as instead of a sustained argument the reader is presented with a series of snapshots where Peltonen has discovered evidence of republican thought. Nevertheless, some very interesting material is uncovered. He shows how at the level of town government, republican ideas could be very effective, and how republicanism could give the effective criteria for success in the thought of Francis Bacon and others. What Peltonen shows is that before the civil war, citizenship and power were both discussed in the republican idiom, and the concept of mixed government intruded upon constitutional discussions, although this of course could have older Aristotelian origins.

A book that takes a far longer perspective on republican thought is *Republicanism, liberty and commercial society, 1649–1776*, edited by David Wootton. In his masterful introduction he introduces the work of the contributors by giving a historiographical context of discussions of the republican trajectory between the English revolution and the American. He does this from two major perspectives; that of Pocock's *Machiavellian moment*, and Franco Venturi's *Utopia and reform*. He outlines the thesis of the former, and shows how there are various problems such as representation, godliness, commerce, and most significantly technological and social progress, in the way Pocock links the eighteenth century with the fifteenth by way of Harrington and his fellow republicans. Then, he addresses the problem of the invention of a new republicanism in the eighteenth century through the work of Venturi and the claims of Tom Paine to be an uneducated idiot savant. This is an important introduction to a body of work which does not often itself indulge in speculation, but contents itself with good scholarship.

The first half of the book is taken up by four chapters by Blair Worden, who places the mid-century republicans into their context of opposition to the Cromwellian and parliamentary regimes, and an ideological context of the history of republicanism. He shows that ideas of interest and self interest, and interaction with the ideas of the ancient (or gothic to use Harrington's word) constitution, modified the inheritance. His work reveals a sensitivity to the complexities of political theory which is not apparent in the other books reviewed, and moreover the skill to carry out the injunction which despite its simplicity is very difficult to follow: to examine the past on its own terms. The rest of the book concerns itself with considerations of the impact of the eighteenth century upon republicanism in terms of ideals of virtue, the relationship with ancient republicanism and more modern ideas of commercial society. This book is invaluable for anyone wishing to understand the American revolution, or eighteenth-century political thought as a whole. Republicanism emerges, despite its complexities, as absolutism does not, to be a useful heuristic tool for students of the early modern period.

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