

THE BEST OF THE OLL #46

David Hume, “The Progress of English Liberty” (1761)
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“The first incident, which broke in upon this violent system of government, was the practice, begun in Italy, and imitated in France, of erecting communities and corporations, endowed with privileges and a separate municipal government, which gave them protection against the tyranny of the barons, and which the prince himself deemed it prudent to respect.”



David Hume (1711-1776)

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[June, 2013]

Editor's Introduction

David Hume (1711-1776) was a moral philosopher and historian and a leading member of the Scottish Enlightenment. In philosophy he was a skeptic. In his multi-volume *History of England* (1754–62) he showed how the rule of law and the creation of an independent judiciary created the foundation for liberty in England. Hume also wrote on economics, was a personal friend of Adam Smith, and was a proponent of free trade. His works highlighted the neutrality of money and the errors of the mercantilists (whose flawed theories in favor of increased exports in order to build up a stock of gold remain the foundations of many public policies even today).

The volumes of Hume's *History of England* were not written in the order of the events they describe, so that the materials in Volume II (1761) were actually the last to be published. After completing his historical account, which ends in Volume II with the reign of Richard III, Hume then steps back to survey the entire sweep of English constitutional development. His investigations now permit him confidently to reject the Whig view that England has enjoyed a single constitution whose original plan was laid by the ancient Saxons. In fact, Hume argues, English history brings to light a succession of diverse constitutional arrangements which led, in ways that were largely unplanned and unanticipated, to "the most perfect and most accurate system of liberty that was ever found compatible with government." Hume takes this opportunity not only to offer his final reflections on the successive English constitutions, but also to explain how the progress of the arts and sciences tied in with England's constitutional development so as to produce the nation's unique "system of liberty." This eight-page conclusion not only sums up Hume's historical account, but also stands as one of his most important philosophical statements on modern liberty and the forces that made it possible. This conclusion did not have a title and was not listed in the original table of contents, but was marked with a separator. In this online edition we have given it the following title: "The Progress of English Liberty."

“A commutation was therefore made of rents for services, and of money-rents for those in kind; and as men, in a subsequent age, discovered, that farms were better cultivated where the farmer enjoyed a security in his possession, the practice of granting leases to the peasant began to prevail, which entirely broke the bonds of servitude, already much relaxed from the former practices. After this manner, villenage went gradually into disuse throughout the more civilized parts of Europe: The interest of the master, as well as that of the slave, concurred in this alteration... Thus personal freedom became almost general in Europe; an advantage which paved the way for the encrease of political or civil liberty, and which, even where it was not attended with this salutary effect, served to give the members of the community some of the most considerable advantages of it.”

The Progress of English Liberty (1761)¹

Thus have we pursued the history of England through a series of many barbarous ages; till we have at last reached the dawn of civility and sciences, and have the prospect, both of greater certainty in our historical narrations, and of being able to present to the reader a spectacle more worthy of his attention. The want of certainty, however, and of circumstances, is not alike to be complained of throughout every period of this long narration. This island possesses many ancient historians of good credit; as well as many historical monuments; and it is rare, that the annals of so uncultivated a people, as were the English as well as the other European nations, after the decline of Roman learning, have been transmitted to posterity so complete, and with so little mixture of falsehood and of fable. This advantage we owe entirely to the clergy of the church of Rome; who, founding their authority on their superior knowledge, preserved the precious literature of antiquity from a total extinction; and under shelter of their numerous privileges and immunities, acquired a security, by means of the superstition, which they would in vain have claimed, from the justice and humanity of those turbulent and licentious ages. Nor is the spectacle altogether unentertaining and uninteresting, which the history of those times presents to us. The view of human manners, in all their variety of appearances, is both profitable and agreeable; and if the aspect in some periods seems horrid and deformed, we may thence learn to cherish with the greater anxiety that science and civility, which has so close a connexion with virtue and humanity, and which, as it is a sovereign antidote against superstition, is also the most effectual remedy against vice and disorders of every kind.

The rise, progress, perfection, and decline of art and science, are curious objects of contemplation, and intimately connected with a narration of civil transactions. The events of no particular period can be fully accounted for, but by considering the degrees of advancement, which men have reached in those particulars.

Those who cast their eye on the general revolutions of society, will find, that, as almost all

improvements of the human mind had reached nearly to their state of perfection about the age of Augustus, there was a sensible decline from that point or period; and man thenceforth relapsed gradually into ignorance and barbarism. The unlimited extent of the Roman empire, and the consequent despotism of its monarchs, extinguished all emulation, debased the generous spirits of men, and depressed that noble flame, by which all the refined arts must be cherished and enlivened. The military government, which soon succeeded, rendered even the lives and properties of men insecure and precarious; and proved destructive to those vulgar and more necessary arts of agriculture, manufactures, and commerce; and in the end, to the military art and genius itself, by which alone the immense fabric of the empire could be supported. The irruption of the barbarous nations, which soon followed, overwhelmed all human knowledge, which was already far in its decline; and men sunk every age deeper into ignorance, stupidity, and superstition; till the light of ancient science and history had very nearly suffered a total extinction in all the European nations.

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¹ Conclusion to Vol. 2. Chapter: XXIII: Edward V and Richard III. <<http://oll.libertyfund.org/title/789/67300/1644104>> in David Hume, *The History of England from the Invasion of Julius Caesar to the Revolution in 1688*, Foreword by William B. Todd, 6 vols. (Indianapolis: Liberty Fund 1983).

But there is a point of depression, as well as of exaltation, from which human affairs naturally return in a contrary direction, and beyond which they seldom pass either in their advancement or decline. The period, in which the people of Christendom were the lowest sunk in ignorance, and consequently in disorders of every kind, may justly be fixed at the eleventh century, about the age of William the Conqueror; and from that aera, the sun of science, beginning to re-ascend, threw out many gleams of light, which preceded the full morning, when letters were revived in the fifteenth century. The Danes and other northern people, who had so long infested all the coasts, and even the inland parts of Europe, by their depredations, having now learned the arts of tillage and agriculture, found a certain subsistence at home, and were no longer tempted to desert their industry, in order to seek a precarious livelihood by rapine and by the plunder of their neighbours. The feudal governments also, among the more southern nations, were reduced to a kind of system; and though that strange species of civil polity was ill fitted to ensure either liberty or tranquillity, it was preferable to the universal licence and disorder, which had every where preceded it. But perhaps there was no event, which tended farther to the improvement of the age, than one, which has not been much remarked, the accidental finding of a copy of Justinian's Pandects, about the year 1130, in the town of Amalfi in Italy.

The ecclesiastics, who had leisure, and some inclination of study, immediately adopted with zeal this excellent system of jurisprudence, and spread the knowledge of it throughout every part of Europe. Besides the intrinsic merit of the performance, it was recommended to them by its original connexion with the imperial city of Rome, which, being the seat of their religion, seemed to acquire a new lustre and authority, by the diffusion of its laws over the western world. In less than ten years after the discovery of the Pandects, Vacarius, under the protection of Theobald, archbishop of Canterbury, read public lectures of civil law in the university of Oxford; and the clergy every where, by their example as well as exhortation, were the means of diffusing the highest esteem for this new science. That order of men, having large possessions to defend, was, in a manner, necessitated to turn their studies towards the law; and their properties being often endangered by the violence of the princes and

barons, it became their interest to enforce the observance of general and equitable rules, from which alone they could receive protection. As they possessed all the knowledge of the age, and were alone acquainted with the habits of thinking, the practice, as well as science of the law, fell mostly into their hands: And though the close connexion, which without any necessity they formed between the canon and civil law, begat a jealousy in the laity of England, and prevented the Roman jurisprudence from becoming the municipal law of the country, as was the case in many states of Europe, a great part of it was secretly transferred into the practice of the courts of justice, and the imitation of their neighbours made the English gradually endeavour to raise their own law from its original state of rudeness and imperfection.

“For it is remarkable, that in the decline of Roman learning, when the philosophers were universally infected with superstition and sophistry, and the poets and historians with barbarism, the lawyers, who, in other countries, are seldom models of science or politeness, were yet able, by the constant study and close imitation of their predecessors, to maintain the same good sense in their decisions and reasonings, and the same purity in their language and expression.”

It is easy to see what advantages Europe must have reaped by its inheriting at once from the ancients, so complete an art, which was also so necessary for giving security to all other arts, and which, by refining, and still more, by bestowing solidity on the judgment, served as a model to farther improvements. The sensible utility of the Roman law both to public and private interest recommended the study of it, at a time when the more exalted and speculative sciences carried no charms with them; and thus the last branch of

ancient literature, which remained uncorrupted, was happily the first transmitted to the modern world. For it is remarkable, that in the decline of Roman learning, when the philosophers were universally infected with superstition and sophistry, and the poets and historians with barbarism, the lawyers, who, in other countries, are seldom models of science or politeness, were yet able, by the constant study and close imitation of their predecessors, to maintain the same good sense in their decisions and reasonings, and the same purity in their language and expression.

What bestowed an additional merit on the civil law, was the extreme imperfection of that jurisprudence, which preceded it among all the European nations, especially among the Saxons or ancient English. The absurdities which prevailed at that time in the administration of justice, may be conceived from the authentic monuments which remain of the ancient Saxon law; where a pecuniary commutation was received for every crime; where stated prices were fixed for men's lives and members; where private revenges were authorized for all injuries, where the use of the ordeal, corsnet, and afterwards of the duel, was the received method of proof, and where the judges were rustic freeholders, assembled of a sudden, and deciding a cause from one debate or altercation of the parties. Such a state of society was very little advanced beyond the rude state of nature: Violence universally prevailed, instead of general and equitable maxims: The pretended liberty of the times, was only an incapacity of submitting to government: And men, not protected by law in their lives and properties, sought shelter, by their personal servitude and attachments under some powerful chieftain, or by voluntary combinations.

The gradual progress of improvement raised the Europeans somewhat above this uncultivated state; and affairs, in this island particularly, took early a turn, which was more favourable to justice and to liberty. Civil employments and occupations soon became honourable among the English: The situation of that people rendered not the perpetual attention to wars so necessary as among their neighbours, and all regard was not confined to the military profession: The gentry, and even the nobility, began to deem an acquaintance with the law a necessary part of education: They were less diverted than afterwards from studies of this kind by other sciences; and in the age of Henry VI. as we are told by Fortescue, there were in the inns of court

about two thousand students, most of them men of honourable birth, who gave application to this branch of civil knowledge: A circumstance which proves, that a considerable progress was already made in the science of government, and which prognosticated a still greater.

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One chief advantage, which resulted from the introduction and progress of the arts, was the introduction and progress of freedom; and this consequence affected men both in their *personal* and *civil* capacities.

If we consider the ancient state of Europe, we shall find, that the far greater part of the society were every where bereaved of their *personal* liberty, and lived entirely at the will of their masters. Every one, that was not noble, was a slave: The peasants were sold along with the land: The few inhabitants of cities were not in a better condition: Even the gentry themselves were subjected to a long train of subordination under the greater barons or chief vassals of the crown; who, though seemingly placed in a high state of splendor, yet, having but a slender protection from law, were exposed to every tempest of the state, and by the precarious condition in which they lived, paid dearly for the power of oppressing and tyrannizing over their inferiors. The first incident, which broke in upon this violent system of government, was the practice, begun in Italy, and imitated in France, of erecting communities and corporations, endowed with privileges and a separate municipal government, which gave them protection against the tyranny of the barons, and which the prince himself deemed it prudent to respect. The relaxation of the feudal tenures, and an execution somewhat stricter, of the public law, bestowed an independance of vassals, which was unknown to their forefathers. And even the peasants

themselves, though later than other orders of the state, made their escape from those bonds of villenage or slavery, in which they had formerly been retained.

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It may appear strange, that the progress of the arts, which seems, among the Greeks and Romans, to have daily encreased the number of slaves, should, in later times, have proved so general a source of liberty; but this difference in the events proceeded from a great difference in the circumstances, which attended those institutions. The ancient barons, obliged to maintain themselves continually in a military posture, and little emulous of elegance or splendor, employed not their villains as domestic servants, much less as manufacturers; but composed their retinue of freemen, whose military spirit rendered the chieftain formidable to his neighbours, and who were ready to attend him in every warlike enterprize. The villains were entirely occupied in the cultivation of their master’s land, and paid their rents either in corn and cattle and other produce of the farm, or in servile offices, which they performed about the baron’s family, and upon the farms which he retained in his own possession. In proportion as agriculture improved, and

money encreased, it was found, that these services, though extremely burdensome to the villain, were of little advantage to the master; and that the produce of a large estate could be much more conveniently disposed of by the peasants themselves, who raised it, than by the landlord or his bailiff, who were formerly accustomed to receive it. A commutation was therefore made of rents for services, and of money-rents for those in kind; and as men, in a subsequent age, discovered, that farms were better cultivated where the farmer enjoyed a security in his possession, the practice of granting leases to the peasant began to prevail, which entirely broke the bonds of servitude, already much relaxed from the former practices. After this manner, villenage went gradually into disuse throughout the more civilized parts of Europe: The interest of the master, as well as that of the slave, concurred in this alteration. The latest laws which we find in England for enforcing or regulating this species of servitude, were enacted in the reign of Henry VII. And though the ancient statutes on this subject remain still unrepealed by parliament, it appears, that, before the end of Elizabeth, the distinction of villain and freeman was totally, though insensibly abolished, and that no person remained in the state, to whom the former laws could be applied.

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Thus *personal* freedom became almost general in Europe; an advantage which paved the way for the encrease of *political* or *civil* liberty, and which, even where it was not attended with this salutary effect, served to give the members of the community some of the most considerable advantages of it.

The constitution of the English government, ever since the invasion of this island by the Saxons, may boast of this preeminence, that in no age the will of the monarch was ever entirely absolute and uncontrouled: But in other respects the balance of power has extremely shifted among the several orders of the state; and this fabric has experienced the same mutability, that has attended all human institutions.

“It required the authority almost absolute of the sovereigns, which took place in the subsequent period, to pull down those disorderly and licentious tyrants, who were equally averse from peace and from freedom, and to establish that regular execution of the laws, which, in a following age, enabled the people to erect a regular and equitable plan of liberty.”

The ancient Saxons, like the other German nations, where each individual was enured to arms, and where the independance of men was secured by a great equality of possessions, seem to have admitted a considerable mixture of democracy into their form of government, and to have been one of the freest nations, of which there remains any account in the records of history. After this tribe was settled in England, especially after the dissolution of the Heptarchy, the great extent of the kingdom produced a great inequality in property; and the balance seems to have inclined to the side of aristocracy. The Norman conquest threw more authority into the hands of the sovereign, which, however, admitted of great controul; though derived less from the general forms of the consitution, which were inaccurate and irregular, than from the independant power enjoyed by each baron in his particular district or province. The establishment of the Great Charter exalted still higher the Aristocracy, imposed regular limits on royal power, and gradually introduced some mixture of Democracy into the constitution. But even during this period, from the accession of Edward I. to the death of Richard III. the

condition of the commons was nowise eligible; a kind of Polish Aristocracy prevailed; and though the kings were limited, the people were as yet far from being free. It required the authority almost absolute of the sovereigns, which took place in the subsequent period, to pull down those disorderly and licentious tyrants, who were equally averse from peace and from freedom, and to establish that regular execution of the laws, which, in a following age, enabled the people to erect a regular and equitable plan of liberty.

In each of these successive alterations, the only rule of government, which is intelligible or carries any authority with it, is the established practice of the age, and the maxims of administration, which are at that time prevalent, and universally assented to. Those who, from a pretended respect to antiquity, appeal at every turn to an original plan of the constitution, only cover their turbulent spirit and their private ambition under the appearance of venerable forms; and whatever period they pitch on for their model, they may still be carried back to a more ancient period, where they will find the measures of power entirely different, and where every circumstance, by reason of the greater barbarity of the times, will appear still less worthy of imitation. Above all, a civilized nation, like the English, who have happily established the most perfect and most accurate system of liberty that was ever found compatible with government, ought to be cautious in appealing to the practice of their ancestors, or regarding the maxims of uncultivated ages as certain rules for their present conduct. An acquaintance with the ancient periods of their government is chiefly *useful* by instructing them to cherish their present constitution, from a comparison or contrast with the condition of those distant times. And it is also *curious*, by shewing them the remote, and commonly faint and disfigured originals of the most finished and most noble institutions, and by instructing them in the great mixture of accident, which commonly concurs with a small ingredient of wisdom and foresight, in erecting the complicated fabric of the most perfect government.

Further Information

SOURCE

The edition used for this extract: Conclusion to Vol. 2. Chapter: XXIII: Edward V and Richard III. <<http://oll.libertyfund.org/title/789/67300/1644104>> in David Hume, *The History of England from the Invasion of Julius Caesar to the Revolution in 1688*, Foreword by William B. Todd, 6 vols. (Indianapolis: Liberty Fund 1983).

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FURTHER READING

Other works by David Hume (1711-1776) <oll.libertyfund.org/person/231>.

Subject Area: History <<http://oll.libertyfund.org/collection/48>>.

School of Thought: The Scottish Enlightenment <<http://oll.libertyfund.org/collection/19>>.

“The distinctive principle of Western social philosophy is individualism. It aims at the creation of a sphere in which the individual is free to think, to choose, and to act without being restrained by the interference of the social apparatus of coercion and oppression, the State.”
[Ludwig von Mises, “Liberty and Property” (1958)]



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