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The Ideological Genesis of Canadian
Confederation

University — Université

Carleton University

Degree for which thesis was presented — Grade pour lequel cette thèse fut présentée

Ph.D.

Year this degree conferred — Année d'obtention de ce grade

1984

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THE IDEOLOGICAL GENESIS OF CANADIAN CONFEDERATION

by

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A thesis submitted to the Faculty of
Graduate Studies and Research in partial
fulfillment of the requirements for the degree of

Doctor of Philosophy

Department of Political Science

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Ottawa, Ontario

December 1983

Three
Ph.D.
1984
63

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ABSTRACT

This thesis challenges the prevailing view that Canadian Confederation was the product of a purely pragmatic exercise. The ideological roots of Canadian Confederation are linked, rather to earlier notions of the mixed constitution and the Court—Country debate of eighteenth century British Whig thought.

A careful analysis of Loyalist and Canadian Tory ideas combining secondary sources, an extensive review of eighteenth and nineteenth century pamphlet literature, and the debates on Confederation reveals the extent to which federalism was seen as a method of enhancing centralized state authority and promoting economic development. This also challenges Carl Friedrich's argument regarding the role of federal constitutions as restraints on authority.

Because the Court—Country debate was not grounded in the thought of John Locke, the thesis calls into question the validity of the fragment theory of Louis Hartz and the primary role given to it in shaping Canadian political culture.

ACKNOWLEDGEMENTS

There are many people whom I would like to thank for their assistance and encouragement in writing this thesis. First, I am deeply indebted to my thesis supervisor, Dr. Jill McCalla Vickers for the support she gave me. Professor Vickers not only helped focus my intellectual interests on this particular topic, she carefully read and commented on all my submissions to her. I can only hope that I justify her time and effort.

I would like to thank as well the staffs of the Public Archives of Canada; the Ontario Archives; the Metropolitan Toronto Public Library, Carleton University, University of Western Ontario, Guelph University, and the University of Alberta. I appreciate their patience and kind assistance in locating and photocopying much of the material used in my research.

Thanks goes to Lloydene Moore for typing the final draft of this thesis. Her skills with the word processor and laser beam printer give her work a special touch.

I must also express my gratitude to my mother for her constant encouragement, support, and understanding during all my years of education.

Finally, I owe the greatest debt to my wife, Elizabeth Smythe. Her meticulous reading of the manuscript, comments, and suggestions were invaluable. Her encouragement and sacrifice of time are immensely appreciated but can never be fully repaid.

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CHAPTER I INTRODUCTION

Introduction

This thesis is a study of the ideas that formed the basis of Canadian Confederation. As such it directly challenges the prevailing interpretation of the Canadian Confederation which has argued that no discernible ideology or system of values underlies the creation of the federal state in Canada. The primary objective of this thesis is to demonstrate that, indeed, the creation of Canadian Confederation was expressive of a coherent system of values. In so doing it will become clear that Canadian thinking on federalism up to and including Confederation also challenges arguments made on its behalf by modern constitutional thinkers such as Carl Friedrich. Friedrich argues that federal constitutions, like all constitutions, express a distrust of power and that this distrust dictates that formal restraints be put on governmental action.¹ All this being necessary for the purpose of protecting freedom. As a second, subsidiary objective this thesis will demonstrate that, while most of those Canadians proposing a federal state in the first half of the nineteenth century were constitutionalists and valued freedom, they had no desire to restrain governmental authority but rather wished to strengthen it.

I shall begin with a consideration of the first objective of uncovering the ideological roots of Canadian federalism. The analysis will begin by examining the main claims of the prevailing interpretation of Canadian Constitution. Following that I will discuss what is wrong with this interpretation. Only then can an alternative be offered.

Canadian Confederation: Pragmatism or Theory?

One of the more common claims made about the founding of Canadian Confederation is that it was a pragmatic exercise. Edwin Black, for example, argues that "Confederation was born in pragmatism without the attendance of a readily definable philosophic rationale."² Pragmatic is usually taken to mean the treatment of a particular subject from a practical point of view. "Practical" in turn is customarily defined as "involving activity as distinct from study or theory."³ That is, to be practical seems to commonly mean to be engaged in atheoretical activity. The Fathers of Confederation, it might be said, were engaged in empirical atheoretical activity. Peter Waite, for example, argues that Confederation had a "fundamentally empirical character" about it and was essentially a practical exercise.⁴ This makes it, others claim, radically different from the United States where the Founding Fathers were said to be consciously motivated by philosophical concerns. Donald Smiley writes that "Unlike Americans...in the eighteenth century...Canadians have never experienced the kind of decisive break with their political past which would have impelled them to debate and resolve fundamental political questions."⁵ In sum, there is a stream of opinion that asserts that no system of values can be found to be shaping Canadian Confederation.

I contend that this claim is intellectually unsound. Such a contention would mean, for example, that one must conclude that theory and practical activity are mutually exclusive. Arguing on this basis one is led to say, by definition, that the American Founding Fathers were impractical because they were theoretical.

What American historian has made such a claim? Similarly, in a more contemporary context, it is commonly agreed that Lenin was a noteworthy political theoretician. Does this mean that Lenin was not a practical man?

On the other hand can it be reasonably claimed that any individual ever engages in purely atheoretical activity? On the face of it this assertion is nonsensical. Can one take courses of action, contradictory or consistent, without making choices? No, as students of decision-making tell us, any course of action means making a selection from a hierarchy of values.⁶ When someone makes such a decision he/she has made a choice about how one *ought* to behave in that particular instance. All political activity is, then, normative activity and thereby ideological activity.⁷ With this Michael Oakeshott, for example, concurs. Oakeshott maintains that politics cannot be understood as purely empirical activity. He claims that "politics without policy" is an impossibility.⁸

If it is impossible to have political activity that does not have a normative character then the argument that the activity of creating Canadian Confederation was purely practical and non ideological crumbles. There are, however, a number of alternative positions one can take on the roles of ideas at Confederation. One is to assert that the Fathers of Confederation were "muddling through", that they were incrementalists. Incremental decision-makers are said to be those who, when faced with a problem, only consider some of the alternatives and only those which differ marginally from current practices.⁹ Incrementalists are still involved in value selection, but the values are not fully articulated or necessarily thought out. Because the process is one of give and take it is said to

lack coherence. This position at least concedes that values do play a role. On the contrary, however, I argue that there was coherence to the values that guided the Fathers of Confederation.

One can also assert as Arthur Lower does that Canadian Confederation possesses no "ideological foundation in writing."¹⁰ This is different from saying that no theoretical foundation exists. An ideology, for example, can be immanent in activity and can express itself in the actual operating institutions of a society. This is the type of hidden wisdom theorists such as Edmund Burke extolled. In fact, this was a common argument in nineteenth century Canada. The British constitution, it was said, represented theory in practice. This argument will be examined more closely in later chapters.

While it is claimed that the practice of nineteenth century Canadian politics reflects a discernible ideological pattern it is not necessary to extract evidence solely from practice. Rather Canadians left enough written material from which one can make definitive statements about the nature of their ideological character. In particular, there is enough evidence to suggest that there was a coherent ideological pattern underlying pre-Confederation and Confederation proposals for federation.

To recapitulate, then, this thesis argues that the creation of Canadian Confederation was an expression of a coherent system of values. It is evident that the primary proponents of federalism in pre-Confederation Canada were by and large Tories and that the ideology of Canadian Toryism can be traced to what has been described as the Court ideology of eighteenth century Britain. The

ideology of the Court, in turn, has been opposed to the Country ideology of the same period in Britain.

Before going further, however, it is necessary to address a number of questions. To this point theory and ideology have been used interchangeably. Do they mean the same thing? If not, how do they differ and how are they related to political culture? After resolving these questions it will be necessary to briefly discuss the values of the Court and Country ideologies and suggest how the Court ideology may be identified with Canadian Toryism and proposals for federal union.

Theory, Ideology and Political Culture

First, what is the relationship between theory, ideology and political culture? The approach taken by William Bluhm on this subject is very helpful and will be employed here.¹¹ Bluhm argues that these three concepts are not mutually exclusive, that they differ in degree and not in kind. Bluhm insists, for example, that we are all "philosophers or theorists of sorts." That is, says Bluhm,

we all use political theories, if we have any conscious political life at all, if we think at all about politics. For a political theory is an explanation of what politics is all about, a general understanding of the political world, a frame of reference. Without one we should be unable to recognize an event as political, decide anything about why it happened, judge whether it was good or bad, or decide what was likely to happen next.¹²

For Bluhm, in theorising individuals are attempting to 1) describe and explain the political world and 2) prescribe rules of conduct and the ends of political action. This is activity that everyone engages in. Political theorizing is not limited to the traditional intelligentsia or the greats of the Western classical trad-

ition. Bluhm admits, however, that there is a difference between the theorizing of the ordinary person and the political philosopher (or political theorist, for Bluhm the two are synonymous.) The theorizing of the ordinary person is commonly more rudimentary, less accurate, and not as elaborate, consistent, or parsimonious as that of the political philosopher. Bluhm, while insisting that the political philosopher and ordinary person are engaged in the same type of intellectual activity, classifies the thought of the ordinary person as ideological in nature. That is, ideologies are rough forms, variants, of political theory. They are usually much more fragmentary and unsophisticated than the theory of the political philosopher.

Bluhm sees ideologies as existing in two different forms, one self-conscious and explicit, the other ingrained in habit and generally unarticulated. As overt, explicit, well-developed ideational expressions ideologies offer "an explanation of the nature of man in the universe, a critique of existing society from the standpoint thus established, and a description of the good or legitimate political and social order."¹³ Eighteenth century liberalism in France is one example, the conservative defences of the old regime another.

In the other form ideologies are ingrained in a person's habits and behaviour. That is, they serve as unquestioned assumptions underlying political action which have achieved a broad social basis of support. Ideas have become immanent in everyday life. This can be likened to what Mannheim has described as the "conservative mentality" in which "the idea has become completely congruous with concretely existing reality, i.e. has been assimilated into it."¹⁴

This unarticulated expression of ideology Bluhm equates with political culture. Political culture, like the more self-conscious form of ideology and formal political theory, has both normative and descriptive components. Normatively, political culture is concerned with "how government ought to be conducted and what it should try to do." Descriptively, political culture is composed of the values, beliefs and attitudes held by the population.¹⁵

In this study I contend that the Fathers of Confederation were theorists of sorts but not formal political theorists or philosophers. That is, they possessed ideologies, evidences of which can be found in political debates and in the political struggles and activities of the period.

As was indicated previously, I argue that the ideology of nineteenth century Canadian Tories closely resembles the Court ideology of eighteenth century Britain and that Canadian Tories were the strongest proponents of federal union. In turn Court ideology may be opposed to the Country ideology, evidences of which may be found in Canadian Reformism.

Court versus Country

In brief, the debate between Court and Country was part of a trans-atlantic debate in the eighteenth century which included England, France and the American colonies.¹⁶ It was in many ways, although not exclusively so, a debate between two elements (in England and America at least) of the Whig spectrum. It was not an exclusive debate within Whiggism because Tories such as Lord Bolingbroke tended to ally with Country Whigs. The debate centered around the ideal of the independent landed property owner (reinforced in England by the

independent lineage of the peer) with its emphasis on virtue and simplicity and fear of corruption versus the man of moveable wealth and finance with his acceptance of complexity and luxury and his belief in the ultimate triumph of commercial society. The Country party (an amalgam of Tories and Whigs) represented the first group, the Court the second. Each of these groups can, in turn, be linked to a distinct intellectual tradition. On the one hand the Country party spokesmen and pamphleteers often quoted Machiavelli, Harrington, Bolingbroke and even Montesquieu. The ideas of the Court, on the other hand, were best exemplified in works of the Scottish litterati, particularly David Hume, but also Adam Smith. William Blackstone was also frequently quoted. The ideology of the Court stressed all the elements that twentieth-century Canadian scholars claim are atheoretical. It emphasized what was empirical, practical and useful over abstract political ideas, i.e. ideas not grounded in experience and reality.

There were a significant number of divisions between Court and Country ideologies and their adherents. The Country party in political terms was liberal, in economic terms, conservative. Politically, for example, it tended to favour the democratic branch of the legislature (i.e. House of Commons) and the political participation of independent men of property. It also favoured government that was "close to the people." Economically it feared the emergence and power of a commercial society. On the other hand, the Court party was politically conservative but economically liberal. Politically its proponents argued that only monarchies, that is, governments possessing strong executive authority, could govern commercial societies and large territories. In sum, the adherents to Court ideology were centralizers. They feared that society was becoming unbalanced, i.e.

more egalitarian and democratic, and believed that monarchs and their advisers were entitled to use their patronage powers to control the legislature. This was necessary to counterbalance the democratic element with its turbulence and factionousness and prevent liberty from degenerating into licentiousness. Economically, however, Court ideologists were liberal. That is, they believed in the inevitable triumph of a commercial society in which the principal mechanism of exchange was the market. They also believed that a strong, well-organized administrative state was needed to foster the growth of commerce and protect it from its enemies, foreign and domestic, the latter being principally those with little or no property.

There were, then, a number of values that divided the two groups. For example, where the Country party valued land, republic, frugality, simplicity, virtue, and independence, the Court valued commerce, empire, luxury, speciality (i.e. the division of labour), passion, and dependence. (Appended at the end of this chapter is a list of some of these opposing values.)

While the "Court" and "Country" parties faded away at the end of the eighteenth century the seminal ideas of each group continued to play an important role in nineteenth century political debate. Court ideas, for example, reappear in the Loyalist and Tory traditions of Canada and in the British Tory tradition. Likewise, elements of the Country tradition abound in Jeffersonian and Jacksonian America and can be found in the thought of William Cobbett of England and the Chartists and, in Canada, in Canadian Reformism. Much of the debate in nineteenth century Canadian politics centered, for example, on concerns that divided Court and Country in the eighteenth century. These included

the role that patronage and corruption should play in politics.

Only by recognizing the characteristics of the Court—Country debate, then, can one more fully appreciate the debate between Toryism and Reformism in Canada and understand why Tories rather than Reformers made the first calls for federal union. Federal union, I argue, represented an attempt to centralize, to bring more order and authority to Canadian politics to ensure that liberty was protected and economic development took place.

Constitutionalism and Canadian Confederation

This emphasis of Canadian constitution makers on linking enhanced authority and freedom challenges the prevailing view of such constitutional thinkers as Carl Friedrich.¹⁷ Friedrich contends that there is a negative correlation between freedom and power, i.e. the more power possessed by government the less freedom for individuals. In Friedrich's words, "the idea of constitutionalism...rests upon the distrust of power."¹⁸ A fundamental function of a constitution, he argues, is to render government responsible by establishing and maintaining effective regularized *restraints* upon political, and more especially, upon governmental action.¹⁹ "A constitution", or for Friedrich what is the equivalent, a "division of power provides a system of effective restraints upon governmental action."²⁰ This is done is because the leaders of the community prize one value more highly than any other—"That value is freedom. Because they value freedom they distrust all power."²¹

Furthermore, Friedrich contends, federalism represents a special type of division of power, "a spatial or territorial separation and division of power."²² In

Friedrich's opinion "such a separation provides a rather effective restraint upon the abuse or misuse of governmental power."²³ In Canada, similar sentiments are echoed by Pierre Elliot Trudeau in his book, *Federalism and the French Canadians*.²⁴ In it Trudeau argues that federalism, with its territorial division of powers, provides an intergovernmental system of checks and balances which helps to prevent the concentration and possible abuse of governmental power. Trudeau writes:

The theory of checks and balances has always had my full support. It translates into practical terms the concept of equilibrium that is inseparable from freedom in the realm of ideas. It incorporates a corrective for abuses and excesses into the very functioning of political institutions.²⁵

In brief, a claim that is often made on behalf of a federal government is that its constitutional/legal structure and territorial division of powers puts effective restraints on the action of government and thereby serves to preserve freedom.

Clearly, however, when it comes to Canadian federalism, Friedrich and Trudeau are only partially correct. As this thesis will demonstrate, while the Fathers of Confederation and their predecessors no doubt valued freedom, they did not distrust power nor did they seek to restrain it. It was the lack of authority that concerned them. As D'arcy McGee stated in the Confederation Debates, "We need in these provinces, we can bear, a large infusion of authority."²⁶ Yet it was not to be at the price of liberty. Greater authority in a democratic age was needed to prevent liberty from degenerating into licentiousness.

Re-examining the Roots of North American Political Thought

The decision to employ the Court-Country framework as a basis for helping to understanding nineteenth century Canadian Toryism and Reformism was made after consulting recent research on the political ideas of eighteenth-century England and America. This research, conducted by such scholars as Clinton Rossiter, John Dunn, Bernard Bailyn, Gordon S. Wood, H.T. Dickinson, Reed Browning and J.G.A. Pocock, indicates that Locke, the supposed colossus of eighteenth century political thought and founder of modern liberalism, never really played more than a minimal role in it, at least in the realm of political ideas.²⁷ In particular, in the United States, Bernard Bailyn and Gordon Wood have documented the extent to which the ideals of the Country party permeated Revolutionary thought. In England, J.G.A. Pocock and H.T. Dickinson, after extensive examination of primary sources, have concluded that it was not Locke, but the Country-Court traditions that dominated eighteenth century political debate. Reed Browning, reviewing the weight of evidence in the first half the century comments, "The contention that Locke was far from the most influential Whig thinker in the first half of the eighteenth century I now take to be proved."²⁸ The same was true in the second half of the eighteenth century.

The upshot of all of this is that eighteenth century Whig thought was clearly not hegemonic. While Whigs and to some extent even Tories agreed, for instance, on the nature of the constitution (that is, that it was a mixed and balanced constitution) they disagreed in other areas. For example, there were sharp differences on how it should operate and on the role of commerce in society. The

differences are indicative of the dialectic within Whiggism.

The conclusions of this research pose a severe challenge to what has been the dominant interpretation of American and Canadian political culture for the past twenty years, that is, the fragment theory of Louis Hartz.²⁹ This thesis, perforce, must address this question.

An Alternative To The Hartzian Thesis

In brief, Hartz argued in *The Founding of New Societies* that the creation of colonial settlements by European immigrants represented a process of fragmentation, that is, a slicing off of a particular portion of European society endowed with certain ideological characteristics. In their new setting these ideological fragments became wholes, unchallenged by other values, thereby establishing ideological hegemony. Absent, therefore, was the dialectical process that marked political debate in Europe. In Hartz's words, "Bossuet, Locke, and Cobbet, miserable men abroad, all wake up in worlds finer than any they have known."³⁰ In the case of American colonial settlements, it was a Lockean fragment that predominated to the exclusion of other values and formed the basis of American liberalism. The Loyalist exodus, Hartz, Kenneth McRae and David Bell assert implanted the Lockean fragment in English Canada, with French Canada remaining a feudal fragment.³¹ Now all this raises the obvious question, if Whiggism itself possessed a dialectic and Locke's political ideas were of minor importance can fragment theory really be monolithic, or even be said to exist, and can it really be Lockean? The answer, it would appear, is no. The Loyalists, I maintain, can be more readily classified as being in the Court tradition defending the

Crown and authority and consequently liberty from the licentiousness and factionalism of American democracy.

The Court-Country debate offers a new starting point, then, for understanding Loyalism and Canadian Toryism and also, I contend, Reformism. Besides giving us new insight into nineteenth century Canadian political ideas it also permits us to draw closer linkages between these ideas and Canadian political institutions. The fragment theory, for example, has never been employed in a rigorous fashion to explain Canadian federalism. Given that it is hardly unusual to make a connection between political ideas and political institutions, it is surprising that this has not been done. As David Apter has remarked, "institutionalism is a concern with *how* political ideals that evolved in the history of Western politics are embodied in particular connections between rulers and ruled."³² In this thesis the linkage between political ideals and political institutions will be emphasized.

Economic Interpretations of Canadian Confederation

Finally, it should be noted that our approach to understanding nineteenth century Canadian political ideas is entirely compatible with, and in fact complements, what Professor McRae describes as a contending interpretation to the Hartzian thesis, that is, the economic interpretation offered in the works of Innis, Creighton, and others.³³ For example, Innis and Creighton contend that the enormous costs of transportation development in pre-confederation Canada resulted in an enormous public debt.³⁴ The necessity for capital expenditures by the state was not only responsible for the act of union in 1840, Innis claims, it

was also responsible for Confederation and its railway expenditures.³⁵ In brief, union, particularly confederation, may be seen as a credit instrument. A survey of the Court-Country ideologies of the eighteenth century reveals that the use of the state as a credit instrument to promote and protect commercial interests and the great public debt that resulted were of critical ideological importance. Those of the Country persuasion feared that land would be more heavily taxed and their vaunted independence destroyed because the Court Whigs controlled Parliament. Court Whigs, on the other hand, believed that the public debt was justifiably incurred and defended it. What may come as a surprise to some is that Adam Smith, whom Dickinson links to the Court tradition, believed that the public debt, while too large, had been reasonably accrued.³⁶ In addition Smith, in the *Wealth of Nations*, recommended an Imperial union between the American colonies and Great Britain. This union, much like Canadian Confederation, would have served both as a credit instrument alleviating the public debt and also as a means of enhancing the authority of the Crown and promoting political stability.³⁷ These ideas shall be examined in greater detail in chapters IV and V.

The importance of public debt in both ideological and economic terms serves to underscore the fact that while this study focuses on political ideas it is not examination of ideas *per se*. Rather I argue that political ideas must be related to the historical and socioeconomic context of which they are a part. Ideological debate always reflects and confronts the socioeconomic reality of its day. Therefore, wherever possible, I compare what was said about the nature of man,

civil society and civil government with what actually occurred in a particular period. For instance, I compare the role envisaged by nineteenth century Canadian Toryism for the Canadian state and how this was legitimated by the Court tradition with what economic historians such as Innis, Aitken and Creighton have said was actually the role of the state. Court ideology and Canadian Toryism, I contend, legitimated the use of the state in fostering economic development. That the state was used for such purposes has been well established by historians.

In addition, the fact that political ideas always reflect and confront the socioeconomic reality of particular historical periods should warn the student of political ideas of the danger of attributing too much influence to the ideas of great political theorists. Fragment theory, I believe, commits this error. It gives the impression to the reader that somehow Locke, himself, influenced the American founders and the Canadian Loyalists and their heirs. Gordon Wood sees the attribution of influence as a common error of intellectual historians who have assumed that "ideas, emanating from great thinkers, are more or less poured into the empty vessels that apparently are the minds of more ordinary people."³⁸ Great thinkers are only recognized as great because in their time they were able to say more precisely, clearly and persuasively what so many others were trying to say. If great thinkers had not articulated the common assumptions of their period they would have been ignored. On the other hand this also means that one can think like Marx without ever having read Marx. One can think like David Hume, Adam Smith or Edmund Burke without having read any of their works. Great men are not the only ones that think, their ideas are not

unique. William Bluhm, as has been noted, expressed it another way remarking that "We are all philosophers or theorists of sorts."

In a study of this type this is very important to understand. While one may certainly be tempted to say that great political thinker "X" influenced political actor "Y" because what "Y" has said and done is similar to what "X" prescribed, a more modest and, perhaps, realistic claim would be to say that "X" and "Y" share the same political tradition. For example, while a person might claim that Canadian Toryism and Loyalism share many of the characteristics of the Court ideology and that the ideas of the Scottish thinkers, Hutcheson, Hume, and Smith best articulate and in many ways gave coherence to this ideology, it would be very difficult to prove that Hume or Smith influenced particular individuals. We will, however, indicate how similar their ideas were to others. Only in those instances when a piece of political literature quotes or in some other way indicates its indebtedness to a political thinker can direct influence be attributed.

Sources

The ideas and arguments examined in this thesis are not merely those of great thinkers and philosophers, although these are taken into account. Where possible attention was paid to those who were participants in the debates of their time whether as political activists, pamphleteers, commentators or journalists. In so doing a variety of political literature was consulted—recorded political debates, pamphlets, novels, letters, sermons, articles and newspapers. The ideas and arguments presented were not always clear and well reasoned. On the contrary they were at times rambling, revealing frustration and deep-seated preju-

dices. At other times authors, either unable or unwilling to formulate their own arguments, borrowed liberally from other sources, occasionally without attribution. This, however, might be expected. Those actively engaged in the political process often simply do not have the time or education to produce the reflective, abstract articulations of highly educated philosophers. Nonetheless, the literature does reveal common concerns, problems, responses and solutions to these problems that allow the reader to discern common patterns and modes of thinking. From here the reader can begin to classify and group the literature according to particular political ideologies, e.g. Country, Court, Canadian Tory, Reform etc.

At other times, however, it was not sensible or possible to consult only these primary sources. For example, many of the constitutional ideas of the eighteenth and nineteenth century had their origins in Greek and Roman antiquity. In examining the ideas of classical antiquity I relied upon the works of the greats, Aristotle, Polybius, Cicero for discussions of these ideas. In addition when I examine how these ideas reappear in the modern period I consult the work of Machiavelli and Montesquieu for example. Time constraints meant it was impossible to examine the hundreds of pamphlets churned out by Court and Country propagandists. The work of specialists in the field such as H.T. Dickinson and J.G.A. Pocock was consulted. Secondary sources were referred to not only as sources of summaries of political ideas but also as a means of putting these ideas into a proper historical context.

Chapter Summaries

This study begins not with an examination of the ideas of eighteenth and nineteenth century England, America and Canada but with their roots in classical antiquity. The eighteenth century, in particular, was a period in which the ideas of ancient Greece and Rome enjoyed a renaissance and were employed in political debate. The operation of the British constitution, often at the centre of these debates, for example, was said to be that of a mixed constitution based on the Roman constitution as exemplified in the works of Polybius and Cicero. A title of one pamphlet, obviously a Country pamphlet, indicates how these ideas had become commonplace. It is entitled: *A Parallel between the Roman and British Constitution: Comprehending Polybius's Curious Discourse of the Roman Senate; with a Copious Reference wherein His Principles are Applied to Our Government. The Whole Calculated to Restore the True Spirit of Liberty and to Explode Dependency and Corruption.*³⁹ The Court, as well, provided its own defence of how the British Constitution should operate based on the writings of the ancients. (Their titles were shorter, however!) Chapter II then will summarize the thought not only of the ancients on the mixed constitution, but also that of such moderns as Machiavelli and Montesquieu who popularized and added to it. I conclude that the mixed constitution was seen primarily by these thinkers as a means of managing conflict.

Chapter III is concerned with how the ideas of the previous chapter and the debate between Country and Court figured in American revolutionary and constitutional thinking and the creation of the first federal constitution. The evi-

dence of the Federal convention indicates a widespread desire to create a strong central government with little of the distrust of power Friedrich implies should have been present. This suggests American thought on federalism might be closer to Canadian than has been previously believed. Included in Chapter III is a comparison of eighteenth century American conceptions of federalism with conceptions of the nineteenth century (John C. Calhoun and A. de Tocqueville) and twentieth century (W. Riker, K.C. Wheare and W.S. Livingstone.) I conclude that contemporary analysts do not adequately explain the nature of the first federal constitution and suggest that alternative approaches should be developed, stressing that federalism be viewed as a means of managing conflict.

Chapter IV argues that Canadian Confederation too has a discernible ideological basis one not derived from Locke nor explained by fragment theory, but rooted originally in the Court ideology. Court ideology and Loyalist ideas are compared along with Loyalist proposals for federal union. These indicate a uniform desire to create a strong central government to counter the centrifugal nature and factiousness of democracy.

Chapter V argues that Canadian Toryism in the first half of the nineteenth century can best be likened to a Court ideology adapted to Canadian circumstances. Its thinking on federalism (up to Confederation) is in the Loyalist tradition reflecting a desire for a strong central government but with a greater emphasis put on the state as an instrument of economic development. An examination of the ideas of the Reform movement indicates not only its connection to the Country and republican ideals of the past but also that Reformers in general were not that interested in federalism.

Chapter VI is concerned only with the creation of Canadian Confederation and emphasizes the themes developed in Chapters IV and V. Like their predecessors in the Court tradition, the Fathers of Confederation were concerned with developing a strong stable government but not at the price of liberty. This government would be used to alleviate the public debt and as an instrument of economic development. Confederation as a means of defence and as a means of protecting French-Canadian culture are seen to be secondary considerations, the latter of concern only to French-Canadian politicians.

Chapter VII summarizes our findings and suggests potential new areas of research.

Conclusion

The conclusions reached in this study challenge many of the cherished interpretations of Canadian federalism generally offered by historians and political scientists. To begin with they indicate the extent to which Canadian intellectual history has been neglected. To claim that the creation of political institutions is not a reflection of political values is an intellectually bankrupt statement. Political institutions can never be merely technical, value-free, administrative devices. They must be studied for their normative and ideological character, however consistent or inconsistent. This study demonstrates that an ideology does indeed underlie Canadian Confederation. This ideology, the ideology of Canadian Toryism, also poses a challenge to modern constitutionalists who assert that those who advocate federalism do so because they wish to restrain authority and protect freedom. In making this claim, they have conveniently overlooked the fact

that the first proponents of federalism, in the eighteenth and nineteenth-centuries, not only Loyalists and Canadian Tories, but also Americans in the 1780's, desperately wanted to centralize and strengthen authority not restrain it. Without this enhanced authority so necessary to manage conflict ensuing from freedom, freedom could not be guaranteed.

Part of the problem underlying the failure to understand the nature of political ideas and constitution making in nineteenth century Canada stems from the confusing use of basic terms. That is why the next section is devoted to a brief exposition of this problem and why the first chapter is almost entirely concerned with one term, the mixed-constitution.

A Note on Terms

One of the difficulties posed for the student of eighteenth and nineteenth century English, American and Canadian political ideas is the bewildering usage of basic terms. The word, "Tory" for example is used in such a great variety of ways that the reader can be easily misled as to what it means in any particular context. In one context, a Tory might be a person who is strongly opposed to Whigs and Whiggism. In another context, Tory becomes just another label for a particular type of Whig. The term "Whig" is also confusing. Although it has been customary to think of Whigs as all Whigs of one type, i.e. Lockean Whigs, there were, as was noted earlier, divisions within the Whig spectrum, Court and Country, which, while sharing common values also possessed ideas that differentiated them. Even those who were close students of politics in the period had difficulty understanding how these terms were used. David Hume, for example, wrote an essay entitled "Of the parties of Great Britain" in which he attempted to define Tory and Whig and Court and Country.⁴⁰ The following comment, written tongue in cheek, indicates his exasperation at differentiating Whig and Tory parties. "To determine the nature of these parties is, perhaps, one of the most difficult problems, that can be met with, and is a proof that history may contain questions, as uncertain as any to be found in the most abstract science."⁴¹

In an attempt to assist the reader of this study a glossary of terms has been appended to this chapter in which the changing meaning of these and other terms are clarified. The reader is urged to consult the glossary both before and

during a reading of the thesis. In addition, I have juxtaposed a list of characteristics that served to differentiate the Court and Country traditions. For instance there is the Country association with simplicity, republic, frugality, and de-centralized government (i.e. government that was close to the people) versus the Court association with complexity, empire, luxury and centralized government. Other terms can and will be added to the list.

Footnotes

1. Carl J. Friedrich, *Limited Government: a Comparison* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1974), Chapter 2.
2. E.R. Black, *Divided Loyalties: Canadian Concepts of Federalism* (Montreal: McGill-Queen's University Press, 1975), p. 4.
3. Definition taken from *The Oxford Paperback Dictionary* (Oxford: Oxford University Press, 1979).
4. Peter B. Waite, *The Life and Times of Confederation 1864-1867: Politics, Newspapers and the Union of British North America* (Toronto: University of Toronto Press, 1962), p. 325. Waite's interpretation is shared by others. J.K. Johnson, for example, makes the following observation on one of the leading Fathers of Confederation, John A. Macdonald. "John A. Macdonald's political 'ideas' or 'beliefs' have been subjected to more learned scrutiny than those of almost any other Canadian leader, a fact which is more than a little surprising, considering that the scholarly consensus has been that he was not a man of ideas at all." Johnson also maintains that "it is true he was essentially pragmatic, even opportunistic by nature. He did not disguise his pragmatism with political rhetoric; he positively boasted of it." The image of "John A." was that of "the plain, no-nonsense practical man of 'good sense.'" J.K. Johnson, "John A. Macdonald," in J.M.S. Careless, ed., *The Pre-Confederation Premiers: Ontario Government Leaders, 1841-1867* (Toronto: University of Toronto Press, 1980) pp. 223, 224. It should be noted that Johnson qualifies this common perception of MacDonald by a discussion of his basic values and attitudes towards government drawing upon many of the same sources used in this thesis. The limitation of Johnson's work is that he does not discuss Macdonald's ideas within a larger framework. The work of Bruce W. Hodgins also serves to counterbalance, to some extent, the common perception of the Fathers of Confederation as men without political ideas. It is important to note, however, Hodgins views himself as discussing the political attitudes of politicians, not their political ideas. See, for example, Bruce W. Hodgins, "The Canadian Political Elite's Attitudes Toward the Nature of the Plan of Union," in B.W. Hodgins, D. Wright, W.H. Heck, eds., *Federalism in Canada and Australia: The Early Years* (Waterloo: Wilfrid Laurier University Press, 1978) Hodgins' article is a continuation of the work begun with his master's thesis at Queen's University, "Attitudes Toward Democracy During the Pre-Confederation Decade," 1955. While illuminating Hodgins' work is limited in that it is also not linked to a larger framework of political ideas.
5. Donald V. Smiley, *Canada in Question: Federalism in the Eighties*, Third Edition, (Toronto: McGraw-Hill Ryerson Ltd., 1980), p. 285.
6. See for example, Herbert A. Simon., *Administrative Behavior: A Study of Decision-Making in Administrative Organization*, Second Edition, (New York: Free Press, 1957); Charles Lindblom, "The Science of 'Muddling Through'," *Public Administration Review*, XIX (1959), pp. 79-88; James G.

Anderson, *Public Policy-Making*, Second Edition, (New York: Holt, Rinehart and Winston, 1979)

7. The relationship between theory and ideology will be spelled out shortly.
8. Michael Oakeshott, "Political Education," in Oakeshott, *Rationalism in Politics and other Essays* (London: Methuen and Co. Ltd., 1974), p. 114.
9. See Lindblom *op. cit.*
10. Arthur Lower, *et. al.*, *Evolving Canadian Federalism* (Durham, N.C., 1958) as quoted in Black, *op. cit.*
11. William T. Bluhm, *Theories of the Political System*, Third Edition, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1978) and William T. Bluhm, *Ideologies and Attitudes: Modern Political Culture* (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1974).
12. Bluhm, *Theories*, *ibid.*, p. 1.
13. Bluhm, *Ideologies op. cit.*, p. 5.
14. Karl Mannheim, *Ideology and Utopia* (New York: Harvest, 1958), p. 232.
15. Bluhm, *Ideologies*, *op. cit.*, p. 7.
16. There are number of good summaries of the Court and Country ideologies. See H.T. Dickinson, *Liberty and Property: Political Ideology in Eighteenth Century Britain* (London: Weidenfeld and Nicolson, 1977); J.G.A. Pocock, *The Machiavellian Moment* (Princeton: Princeton University Press, 1975); Reed Browning, *Political and Constitutional Ideas of the Court Whigs* (Baton Rouge: Louisiana State University Press, 1982).
17. See also Charles H. McIlwain, *Constitutionalism: Ancient and Modern* (Ithaca, N.Y.: Cornell University Press, 1940); K.C. Wheare, *Modern Constitutions* (Oxford: Oxford University Press, 1980); P.E. Trudeau, *Federalism and the French Canadians*, (Toronto: McMillan, 1968).
18. Friedrich, *op. cit.*, p. 19.
19. *Ibid.*, p. 22.
20. *Ibid.*, p. 20.
21. *Ibid.*, p. 23.
22. *Ibid.*, p. 21.
23. *Ibid.*, p. 63.
24. Trudeau, *op. cit.*
25. Trudeau, *ibid.*, xxiii.
26. D'arcy McGee, *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces*, (Quebec: Hunter and Rose and Co., 1865), p. 146.
27. See Clinton Rossiter, *Seedtime of the Republic* (New York: Harcourt, Brace and Co., 1953); John Dunn, "The Politics of Locke in England and America in the Eighteenth Century," from John W. Yolton, Ed., *John Locke: Problems and Perspectives* (Cambridge: Cambridge University Press, 1969); Ber-

- nard Bailyn, *The Ideological Origins of the American Revolution*, (Cambridge, Mass.: Belknap Press, 1967); Gordon S. Wood, *The Creation of the American Republic 1776-1787* (Chapel Hill: University of North Carolina Press, 1969); Dickinson, *op. cit.*, Browning *op. cit.*, Pocock, *op. cit.*
28. Browning, *op. cit.*, p. 225.
 29. See Louis Hartz, *et. al.*, *The Founding of New Societies* (New York: Harcourt Brace, 1964)
 30. *Ibid.*, p. 9.
 31. See Kenneth D. McRae, "The Structure of Canadian History," in Hartz, *et. al.*, *op. cit.*
 32. David E. Apter, *Introduction to Political Analysis*. (Cambridge, Mass.: Winthrop Publishers, Inc. 1977), p. 140.
 33. Kenneth D. McRae, "Louis Hartz's Concept of the Fragment Society and Its Applications to Canada," *Etudes Canadiennes*, 5(1978), pp. 17-30.
 34. See Harold Innis, *The Fur Trade in Canada*, (Toronto: University of Toronto Press, 1973) and Innis, "Significant Factors in Canadian Economic Development," in *Essays in Canadian Economic History* (Toronto: University of Toronto Press, 1973); Donald Creighton, *British North America at Confederation, A Study*-Prepared for the Royal Commission on Dominion-Provincial Relations, (Ottawa: Queen's printer, 1963), p. 67.
 35. Innis, *Fur Trade* and "Significant Factors".
 36. Adam Smith, *Wealth of Nations*, Edwin Cannan ed. (New York: Modern Library, 1937) Book V, Chapter III, Of Public Debts.
 37. *Ibid.*
 38. Gordon S. Wood, "Heroics" a review of Garry Wills, *Explaining America*, *New York Review of Books*, vol. xxviii, No. 5, April 2, 1982, p. 17.
 39. Edward Spelman, *A Parallel...*, from Stanley Pargellis, "The Theory of Balanced Government," in C. Read, *The Constitution Reconsidered* (New York: Harper and Row, 1968).
 40. David Hume, "Of the Parties of Great Britain," *Essays Moral, Political and Literary*, Vol. 1, T.H. Green and T.H. Grose eds. (London: Longmans, Green, and Co., 1875).
 41. *Ibid.*, pp. 137, 138.

APPENDIX I GLOSSARY OF TERMS

Country Party or Country Opposition

The origins of the *Country party* or *Country opposition* can be traced to the emergence of a distinct Whig opposition in Parliament to those Whigs holding office under the Crown (see Court Whigs) soon after the Glorious Revolution of 1688. *Opposition Whigs*, known as *Country Whigs*, shared many principles with Court Whigs but differed in two important respects: 1) Economically most were landowners, and feared the social pluralism and perceived degenerative effects of commerce and finance; 2) Politically they feared the growing centralization of power in the Crown and its ministers.

In the late 1720's *Opposition Whigs* were joined by the Hanoverian Tories under Lord Bolingbroke once the Tories had become less politically tainted by accepting the Revolution settlement of 1701, the Hanoverian succession, and limited and mixed monarchy. As landowners Tories had similar fears of a rising commercial civilization. They also distrusted the Whigs in power.

Together the united opposition formed the basis of the *Country party*. As an opposition, they described themselves as Patriotic. There were, however, a number of significant differences which prevented Whigs and Tories from working effectively together. For example, Tories strongly supported the Church of England and longed for a strong constitutional monarch undefiled by the corrupt office holders surrounding him. Whigs on the other hand supported the rights of Dissenters and feared more the effect of corruption upon the House of Commons.

Despite their differences they shared a number of beliefs for which they were greatly indebted to the republican tradition of Machiavelli and James Harrington. First, they assumed in terms of human nature that man was a political animal. They also believed, however, that man was selfish and lusted for power. Power, in turn, was an ever present threat to liberty and had to be checked or liberty would be destroyed. In addition it was believed that all political regimes were subject to corruption, i.e. the decay and degeneration of spirit and institution that threatened all political orders. Changes in the ownership of property and luxury were signs of decay and corruption. As men of landed property, the basis of independence and civic virtue, they particularly feared, therefore, the rise of commerce with its luxury and new forms of property.

As a result of these beliefs members of the *Country party* argued that the only possible healthy regime was one in which landowners actively participated. In this regime to prevent the destruction of liberty men had to be pitted against men, power against power, and principle against principle. In terms of political issues Whigs and Tories united in attacking the national debt, standing armies, and the use of political patronage.

The *Country-Party* as a mixture of Whigs and Tories never survived politically in Britain much beyond 1770 but elements of its ideology were appropriated in varying degrees by American revolutionaries, by the Whig opposition in Britain in the 1780's and beyond by Jeffersonian and Jacksonian Democrats, Canadian Reformers, Chartists and even modern liberalism.

Country Whigs

Country Whigs, also referred to as Real Whigs, Commonwealthmen, Old Whigs, and Opposition Whigs, emerged as a distinct group in Britain not long after the Glorious Revolution of 1688. Economically and politically they can be differentiated from their Court-Whig counterparts.

Being more closely identified with landed interests, big and small, they feared the rise of a commercial pluralistic society motivated by the love of money and personal gain. Such a society was a direct threat, it was thought, to the landowners personal independence which, in turn, was seen as the basis of civic virtue, patriotism, and the ability to put the public good before personal interest. In these beliefs and others they borrowed liberally from the republican tradition of Machiavelli and James Harrington.

Politically, they differed from their Court Whig counterparts in a number of respects. They emphasized, for example, the power and independence of the House of Commons believing the patronage power of the Crown and its ministers was corrupting members of parliament. Fearing centralization of power they advocated a separation of powers to protect their independence and liberty. Standing armies and the national debt were also denounced as threats to their liberty and independence. All their measures were being promoted by Court Whigs, who it was felt, had betrayed the principles of the Glorious Revolution.

Within the *Country Whigs* two groups may be differentiated. The first smaller and more radical than the second were known as Real Whigs or Commonwealthmen. They identified with John Trenchard and Thomas Gordon.

They supported greater liberties for Protestant dissenters, perhaps a greater franchise and a more powerful House of Commons. It was this element of Country Whiggism that became very strong in the American colonies. The majority of *Country Whigs* preferred that the accomplishments of the Glorious Revolution be maintained as is, i.e. working with their more radical counterparts to prevent the perceived erosion of the gains by Court Whigs and the Crown.

Country Whigs joined forces with those Tories under Bolingbroke in the 1720's who also feared Court Whigs (but not the Crown) to form what became known as the Country party or Country Opposition. As the old Tories faded away in the 1760's large numbers of opposition Whigs began to coalesce as a distinct party under Edmund Burke and the Rockingham Whigs in the 1770's. Charles Fox gave the Whigs greater organizational coherence in the 1780's. In the 1790's Burke who had been edging away from Country ideals (e.g. Burke now saw the greatest political threat coming not from above, but from below, democracy) split with Fox and his followers many of whom welcomed the French Revolution as a replica of the Glorious Revolution. Burke instead saw it as an example of democratic excess and a threat to liberty and authority. Eventually over half of the opposition Whigs under the Duke of Portland deserted Fox and joined the Whigs in power bringing their ideas of party with them. These Whigs eventually became the Tory party of the nineteenth century and Fox's opposition Whigs, the nineteenth century Whig Party.

Court Whigs

Court Whigs were those Whigs who held office as ministers of the crown or supported those who did in the late seventeenth and also eighteenth centuries. While all Whigs shared common political values, e.g. a belief in limited and mixed government, *Court Whigs* differed both in their economic and political outlook from Country Whigs. Representative *Court Whigs* politicians include the first Earl of Halifax; Robert Walpole and Lord North.

Economically the fact that many *Court Whigs* were men of landed property did not prevent them from accepting that the financial and commercial revolutions of the period had created new forms of property that had to be accommodated. Consequently, they were willing to share power with this new class as long as it was agreed that a hierarchical society was maintained. The *Court Whigs* went beyond mere recognition to actively promote and protect commerce accumulating a massive public debt to expand trade and the growth of credit. Both the public debt and the use of a standing army to protect commercial interests were issues that divided *Court* from Country Whigs.

Politically, *Court Whigs* were more conservative than their Country Whig counterparts. They accepted, for example, the need to concentrate more power in the hands of the executive, believing this was necessary for political stability and good government. They rejected, therefore, such notions as a separation of powers arguing instead that their duties as representatives and executors of the public will could be combined in the same hands. In addition while they prized liberty they insisted that it had to be bounded, restrained by authority or it

would degenerate into licentiousness. In sum, *Court Whigs* contended that they held the middle ground between a potentially authoritarian monarch and an all powerful House of Commons.

Court Whigs also possessed other beliefs that distinguish them from Country Whigs. (See Country Whigs, Country party). *Court Whigs*, for example, believed that man was a sociable animal, considerate of others and could be trusted with power. They also eschewed utopian views of politics that stressed abstract, ideal forms of government valuing instead utility and expediency as a means of assessing political institutions and political actions. That is, institutions had to be measured against experience and the constraints of reality, not abstract theory. Finally, they insisted that the state had to have a proper religious and Protestant foundation best exemplified in a devout monarch. Hence their common usage of the scriptural injunction, "To fear God and honour the King; are our indispensable duty." (For more on *Court Whig* ideology see Chapter IV)

Court Whigs dominated eighteenth century British politics. While they failed to rule as a distinct group after the end of the eighteenth century having accepted the opposition Whigs that broke from Fox in the 1790's their conservative political beliefs were clearly evident in the Tory party that soon emerged. I argue as well that Loyalism and Canadian Toryism owe a great intellectual debt to Court Whiggism.

Tory

If any general statement can be made about the term *Tory* it would be that it was used in such a variety of contexts from the seventeenth to the eighteenth centuries that it possesses no continuity of meaning. It was used during this period in no less than seven different ways. *Tory* was first used as a description of Irish brigands. In 1679 the term was employed again to describe the King's supporters use of Irish troops to secure the succession of James II in that year. *Tory* was meant then to be an insult, a connotation it kept until the nineteenth century.

The supporters of James II were mainly large landowners, peers and members of the gentry. They believed in absolute monarchy, divine ordination, indefeasible hereditary succession, non-resistance to governments and passive obedience an ideology best expressed in Robert Filmer's *Patriarcha* published in 1680.

After the Glorious Revolution of 1688 Tories divided into two groups, Jacobites and Hanoverian Tories. Despite their differences they had a number of common characteristics. Socially, most continued to be men of landed property, peers and gentry. They shared as well a belief in a highly deferential, unified stratified society. They both opposed recognition of the rights of Protestant dissenters, and the growing power of moveable wealth, money, trade, finance etc. Likewise they glorified the crown but not unlimited power.

Jacobites, much the smaller of the two groups, remained loyal to James II and the Stuarts believing the Glorious Revolution had been a mistake. As a par-

liamentary force, however, they virtually disappeared after 1725. The Hanoverian Tories, more moderate politically, accepted the replacement of James II by William III and also the Protestant succession. They also agreed that they were to be governed by a mixed and limited constitution. Under Bolingbroke the Hanoverian Tories emerged as a significant opposition force in Parliament in 1714 ceasing to be so only in about 1770. Hanoverian Tories feared the power of ambitious politicians surrounding the monarch and denounced them as corrupt. In the 1720's they formed an alliance with Whigs who also feared corruption and the growing power of money. (See Country Whigs). This alliance became known as the Country party or Country opposition.

The term *Tory* was used again in a different context as the Hanoverian Tories died out in Britain. It was used in a derogatory manner to describe those Whigs in power or their supporters. (See Court Whigs) Lord North, for example, was labelled as a *Tory*. So were the American Loyalists, although most professed to be, and were, Whigs.

In the late eighteenth and early nineteenth centuries in the aftermath of the French Revolution the term *Tory* was used favourably for the first time by those Whigs identified with the Crown and the government. They insisted, however, that they were true defenders of the Revolution principles of 1688. These Tories consisted of an amalgam of Court Whigs and members of the Whig opposition such as Edmund Burke and the Duke of Portland who had broken ranks with Charles Fox during the French Revolution to support King and Country. A primary difference between these and earlier Court Whigs was a willingness to recognize the importance of party and the fact that they had to rely on Parlia-

ment not the monarch to stay in office. Unlike the Whig opposition they continued to believe that the greatest threat to the British Constitution and liberty came not from the Crown but from the people, democracy. Canadian Tories thought likewise. Eventually the *Tory* party of the early nineteenth century Britain became the basis of the Conservative party.

Whig

Unlike the term "Tory", "Whig" has a somewhat less complicated history. There was, for example, continuity in the belief system of Whiggism. At the same time there were significant differences which will be pointed out.

As a term "Whig" was taken in about 1680 from a group of Scottish Presbyterian rebels known as the "Whiggamores". Since Whig triumphed over Tory in the Glorious Revolution of 1688 the term retained a favourable connotation.

Both economically and politically in the late seventeenth and eighteenth centuries Whigs differed from Tories. Economically, Whigs tended to identify with different forms of property not only land but also moveable property—trade and finance. Similar to Tories, however, they believed in a hierarchical society.

Politically, all Whigs shared the opinion that the power of the Crown could not be arbitrary and should be limited by Parliament. Government had to be based on the rule of law not men. All were proud, then, to be the enthusiastic heirs of the Glorious Revolution of 1688 believing the revolution to be a legitimate act of resistance against a monarch who was ruling arbitrarily and subverting liberties. Whigs commonly espoused the cause of liberty and the rights of the subject and defended the mixed constitution in its tripartite sharing of power, Kings, Lords, and Commons. In addition, most accepted an established church while at the same time accepting the need for religious toleration and the rights of Protestant dissenters.

While *Whigs* shared a common body of beliefs there were sharp differences between them. These differences which emerged soon after 1688, centered on the roles commerce and the Crown should play in economic and political life. One group known as Court Whigs were politically more conservative arguing that the authority of the monarch and his ministers had to be strengthened not only to protect liberty but to promote commerce. Robert Walpole, chief minister of the government from 1721 to 1742, was a good example of this type of *Whig*.

Another group of *Whigs* known as Country *Whigs* were economically more conservative, committed to the landed interests. Politically, they were more liberal defending the power of ~~the~~ House of Commons from the "corrupt" influence of Court *Whigs* who were seen to be concentrating power in the hands of government ministers. These *Whigs* joined with Tories to form the Country party or Country opposition in the 1720's. John Trenchard and Thomas Gordon were the more radical leaders of the Country Whigs during this period. Later in the century even Edmund Burke, for a time, identified with many of the goals of the Country opposition. In the 1780's and 1790's the Country opposition, under Charles Fox became known as the *Whig* opposition as the Tories ceased to be of political significance. When these Whigs adopted a platform advocating Parliamentary reform and greater democratic participation along with support for the French Revolution many Opposition *Whigs* such as Burke, who had been moving away from country ideals, and the Duke of Portland broke ranks to support the government. Fox was left with a rump element that became the basis of the nineteenth century *Whig* party which retained a monopoly over the term *Whig* but not *Whig* principles an honour they shared with their Tory opponents.

In the new world, in the American colonies the Country *Whig* tradition emerged to form the basis of Revolutionary thought. In Canada echoes of the Country *Whig* tradition were heard in the nineteenth century in the Reform movement but they were to be counterbalanced by the strong Court *Whig* tradition of Loyalism and Canadian Toryism.

Some of the Dialectics of the
Country and Court Whig Traditions.

Country	Court
Man is a political animal, <i>homo politicus</i>	Man is a commercial animal, <i>homo mercator</i>
Economic conservatism—defence of landed property, antagonism to money, finance, banking etc.	Economic liberalism—commerce and the market represent the highest form of social development.
Politically liberal—insistence on an active role for popular assemblies (House of Commons) in government.	Politically conservative—emphasis on a strong executive and authority.
Dispersal of political power—emphasis on separation of powers and local autonomy.	Centralization of political power—powers of executive and legislative must be linked to have effective government.
Personal Independence	Personal Dependence
Liberty	Liberty and authority
Short parliaments	Long parliaments
Civic virtue	Passion
Simplicity of men, manners, society and government—rejection of division of labour.	Complexity of men, manners, society and government—acceptance of division of labour.
Citizen militia	Standing army
Frugality	Luxury
Republic	Empire
Public debt is destructive—desire for cheap government.	Public debt necessary to protect and expand commerce—good government and administration are expensive.

Country	Court
Conflict is healthy and acceptable if the people are virtuous.	Conflict is equated with the destructiveness of faction and a threat to political stability.
Identification with rights of Protestant dissenters.	Identification with Established Church but some tolerance of dissenters.

Sources for Glossary: H.T. Dickinson, *Liberty and Property*, op. cit., J.G.A. Pocock, *The Machiavellian Moment*, op. cit., Reed Browning, *Political and Constitutional Ideas of the Court Whigs*, op. cit., B.W. Hill, "Executive Monarchy and the Challenge of Parties, 1689-1832: Two Concepts of Government and Two Historiographical Interpretations," *The Historical Journal*, Vol. XHI, No. 3, 1970.

CHAPTER II

THE MIXED CONSTITUTION AND EIGHTEENTH CENTURY CONSTITUTIONAL THOUGHT: THE DEVELOPMENT OF A CONCEPT

Introduction

"All reasonable men agree in general to preserve our mixed government."¹ Such was the observation of the eighteenth century Scottish philosopher, David Hume. But, Hume conceded, while members of the political nation might be willing to agree they were governed by mixed government, they disagreed over how it should operate. Hume was aware that this had been an old debate, one that had begun in the previous century. It was to rage on both sides of the Atlantic until almost midway through the nineteenth century.

The debate over mixed government was, in fact, a debate over constitutional government and had its antecedents in the constitutional theory of antiquity. Understanding the constitutional debates of the eighteenth and nineteenth centuries means, then, that one has to return and find out what the ancients meant by mixed government, or the mixed constitution as I will call it.

Seldom mentioned today the mixed constitution in the ancient and modern periods (at least until the mid-nineteenth century) was among the most famous, if not the most famous, theories of government. It was, for example, praised by the Greeks, claimed to have been adopted by Republican Rome, popularized as a theory of government by Machiavelli in the early sixteenth century, used by the English to explain their limited monarchy, and extolled by Montesquieu. Lessons were also drawn from it not only by the American Founding Fathers but also by

the Canadian Fathers of Confederation. The mixed constitution survived in large part because it was so elastic. Its elasticity was based in part on the fact that it could be used as a means of justifying the distribution of power among a variety of social constituencies. For example, in seventeenth and eighteenth century England it was used from time to time by the monarch, the landed aristocracy and the commons as a means of justifying their entry or continuing participation in the political process.

Grouped around the idea of the mixed constitution were other ideas developed in antiquity and seized upon by thinkers from the sixteenth century forward. These ideas included the concepts of balanced government and checks and balances. To all this the adherents of one side of the debate in England, the Country party, were to add the idea of a separation of powers. These four ideas, mixed constitution, balanced government, checks and balances and separation of powers, received their most well known summary in the work of Montesquieu whose authority on constitutional questions was frequently invoked by opposing sides.

Montesquieu's work is particularly important because it also reflected the additional concerns modern thinkers had with the relationship between the nature of society (e.g. commercial vs. agrarian), size of territory, and form of government, (e.g. monarchy vs. republic). Once these concerns of eighteenth century political science are added to those of the ancients concerning the mixed constitution the constitutional debates in Britain and the process of constitution making in eighteenth century America and nineteenth century Canada become more explicable.

The purpose of this chapter then is, threefold: 1) To summarize the contribution of the ancients to the theory of the mixed constitution; 2) To discuss its acceptance and subsequent development in the modern era; and 3) To indicate how the concerns of eighteenth century political science about the relationship between the nature of society, size of territory, and form of government became intertwined with the theory of the mixed constitution.

Plato and the Mixed Constitution

One could, if one wished, trace the theory of the mixed constitution back to Plato. In the *Laws* Plato had argued that there were two mother constitutions, monarchy and democracy, which gave birth to all the rest. It was imperative for the stability of a state that the two be combined. Plato, in effect, was advocating what subsequently came to be known as the mixed constitution. He summarized his position as follows:

We said that a lawgiver should frame his code with an eye on three things: the freedom, unity and wisdom of the city for which he legislates. That was why we selected two political systems, one authoritarian in the highest degree, the other representing an extreme of liberty; and the question is now, which of these two constitutes correct government? We reviewed a moderate authoritarianism and a moderate freedom, and saw the result: tremendous progress in each case.²

Intimated in Plato's brief excursion into the mixed constitution is a principal concern of later theorists—the necessity for moderating freedom—particularly the freedom of the *demos*, the many, and at the same time moderating the authoritarianism felt to be implicit in monarchical forms of government. Of the Greeks, though, it was Aristotle rather than Plato who was to give the fullest expression to the theory of the mixed constitution. Aristotle's interpretation of the mixed constitution and his method of analysis had considerable influence and

merit careful attention.

The Constitutionalism of Aristotle

Before any discussion of Aristotle's theory of the mixed constitution can begin, however, a few words must be said about Aristotle's methodology. Aristotle has been described as the first political sociologist.³ The political sociologist, it is claimed, bases his/her analysis on the assumption that a political system cannot be understood if it is viewed solely as a set of legal rules and institutions. Rather, it must be seen as the entire social order functioning in one of its many dimensions. It was commonly accepted in ancient Greece that the legal and political order could only be understood in the context of that society's value system, and way of life, and only in relation to the other institutions and groups which composed that society. Indeed, as William Bluhm argues, "Aristotle...takes...as a fundamental premise, that a government can be understood only in relation to the social whole of which it forms an aspect."⁴ The approach, then, is a very systemic or organic one. Aristotle felt government (form) could only be understood in relation to the particular class structure and character, (i.e., values, habits, virtues, vices) of the citizens of the polis. To Aristotle the matter (material cause) of the polis, that is, the type of citizenry it had, limited what form of government could be placed upon it. In his *Politics* Aristotle sharply criticized Plato for not taking this into account. Aristotle's method of analysis was, as we shall see, to be adopted by later theorists such as Machiavelli and Montesquieu. The questions Aristotle raised, classic questions concerning government, became not only their questions but the questions commonly asked

of governments through at least the first half of the nineteenth century. "What are the essential types of human groupings? How can they be preserved? What laws and institutions are appropriate to each? What are some of the common errors that lead to the downfall of each type? What are the true explanations of decline and fall, and how may they be applied before deterioration has proceeded too far? With this in mind one can better understand Aristotle's analysis of the mixed constitution.

At the heart of Aristotle's concern with the mixed constitution is his desire to eliminate conflict within the polis. Class conflict, so common in the ancient polis, could not be eliminated Aristotle felt, if either the two main social forces in the polis, the wealthy few—particularly the commercial minority—or the free-born majority tried to exclude the other from power. This point can be better understood if what Aristotle meant by three terms—constitution, equality and justice—is taken into account.

As Aristotle and the Greeks understood it "constitution" meant something very different from what it means today. Today a constitution tends to be envisaged as a legalistic framework concerned with the operation and relationships of the institutions of a state that are superimposed on a particular society. This, at least, is the way K.C. Wheare sees it. Wheare, for example, defines a constitution only as those legal rules that govern a country and which have been embodied in a document.⁵ The constitution of a state may be examined separately from the society of which it is a part. There is, in other words, a clear distinction between the state, with its various institutions and spheres of activity

as defined by its constitution, on the one hand and society on the other. The Greeks and Aristotle had a different perspective. They did not conceive of a distinction between state and society or an opposition between the individual and the state. Rather state and society were virtually synonymous. A constitution, therefore, was concerned with the total fabric and shape of a society and not merely the legal rules that governed it. For Aristotle, a constitution was the recognition of a claim to supreme political power advanced by a body or class of people within the polis. He defined a constitution as

the organization of a state with regard to its offices, especially to that which is supreme in all matters. The civic body is everywhere sovereign in the state, and *the civic body is in fact the constitution* [my emphasis]. In democracies, for example, the people are supreme, but in oligarchies the few; therefore, we say that these two forms of government differ from one another, and so in other cases.⁶

Unfortunately, the two cited examples, democracy and oligarchy, are perverted forms of government as the rulers do not rule for the common good; the criteria of a good constitution, but for the selfish ends of a particular class.⁷

Ideally, according to Aristotle, those who should be sovereign are the people (or in some instances, an individual) with virtue and education—those with merit, the aristocracy. Aristocracy, to Aristotle, meant rule of the best which in turn was linked to the hereditary landed aristocracy who were viewed as producing offspring of great merit and noble character. But unfortunately, there were other rival claims to office based upon the differing social components of the polis. Consequently, not only men of noble descent, but also men of free birth and men of wealth had a right to lay claim to office. There was no problem, no conflict, as long as these claims came forth separately and uncontested. But, as

Aristotle acknowledges, the "problem, however, is to decide who shall govern when the different groups advance their claims simultaneously."⁸

Aristotle felt that those with merit, those with the best claim, seldom attempted or could even successfully attempt to lay claim to power in most states. In ordinary circumstances there were actually only two main claims to power in most states—those of wealth and freedom, oligarchy and democracy. But, as stated previously, these were deviate forms of government ruling in their own interest. As such, they were undesirable because they tended to be unstable since they continuously contested one another's claims. Democracies tended to become demagogic and tyrannical preying upon the fortune and property of the oligarchy. The oligarchy, in turn, tended to oppress the masses.

At the root of this conflict between the two dominant classes and their claims to power were their respective desires for equality and inequality. This desire for equality and inequality was the main-spring of sedition and revolution. Aristotle believed that if some men (in this case the freeborn majority) thought they were equals in one respect, i.e., free birth, they should be equal in all respects. Others thought if they were superior in one respect, i.e., wealth, they were superior in all things.⁹ Experience, Aristotle thought, had demonstrated that no form of government could exist when based exclusively on either the democratic or the oligarchical notions of equality or inequality.

It is important to point out that Aristotle felt that revolution was a product of attitude. It was not equality or inequality *per se* that caused revolution but a "desire" for equality or inequality. Revolutions were promoted by widespread

feelings of injustice, by feelings that the existing order violates principles of right and is, hence, illegitimate. Yet, it also must be pointed out that these feelings were almost entirely correlated with a particular social class. It would be more accurate then, in modern terminology, to see attitude as an intervening variable and class as an independent variable.

The problem, then, was to find a constitution that would recognize both claims to power and yet be a good form of government. This constitution would have to strike a mean between the two extremes of oligarchy and democracy. Aristotle found such a form of government in the polity. The polity was the middle constitution in which the middle class would rule—not an ideal constitution perhaps, but one that was best under the actual conditions of the day.

Aristotle described a polity as a fusion of oligarchy and democracy, a fusion of rich and poor. The term fusion must be stressed. Aristotle was not attempting to mitigate conflict or balance opposing factions but to rid the polis of both conflict and faction. Aristotle wanted stability and equilibrium. His idea of the mixed constitution was a static, not a dynamic one. His view of the polis was similar to his view of matter. Matter was natural when at rest—instead of in motion. The polis, likewise, was natural when at rest instead of in motion.¹⁰

When all is said and done the test of a satisfactory fusion "is the possibility of describing a single constitution both 1) as a democracy and 2) as an oligarchy. Those who do evidently feel that the fusion is a good one."¹¹ This, too, is very important. All elements of the polis must see the constitution as embodying their interests or else it will not remain stable. The polity with the middle class

serving as a buffer between rich and poor could transcend the interests of a particular class and be seen as representing the common interest. The polity owed its stability to its intrinsic strength and not to any external support.

While Aristotle stressed the importance of mixture for stability, he reminded his reader of the most important stabilizing element in regimes—"the education of citizens in the spirit of the constitution under which they live."¹² Again, a constitution represented not only an arrangement of offices but a way of life. Every constitution had certain values which supported it. There had to be institutions for the political socialization of the population in the "spirit" or values (i.e., political culture) of the constitution. This is a theme that is to be taken up among others, by Montesquieu in his *Spirit of the Laws* and by de Tocqueville in his *Democracy in America*.

In summary, Aristotle's mixed constitution, the polity, fused two constitutions representing two social classes and ways of life into a new and distinct constitution dominated by the middle class all for the purpose of eliminating conflict within the polts. Aristotle's analysis came to serve as the starting point for most theorizing on the mixed constitution but subsequent theorists were to make significant amendments and alterations.

Polybius and The Mixed Constitution in the Roman Republic

The theory of the mixed constitution received its next formulation and defence in the writings of the Greek historian, Polybius (202-122 B.C.), himself a political prisoner of the Romans. Most likely Polybius was influenced by the Stoic thinker, Panaetius, who had modified the abstract and other worldly Greek

Stoicism so that it more adequately fit the interests of the Romans who by and large had failed to develop any original political philosophy of their own.

Panaetius had promoted the theory of the mixed constitution as the best possible constitution. Polybius, in his version, borrowed liberally from the Stoics and his theory of the mixed constitution "accepted by government circles, soon became the official theory."¹³ It was taken to be a theory of the Roman constitution in both a descriptive and normative sense. It was descriptive in that it was seen to be an account of the constitution the Romans did have and normative in that it was seen to be the constitution they should have. In the seventeenth, eighteenth, and nineteenth centuries the British were to make a similar claim for their constitution insisting that in practice, it too, embodied the theory of the mixed constitution. Polybius not only influenced the thought of his period but he also influenced the thinking of such luminaries as Machiavelli, Montesquieu and the framers of the American Constitution.¹⁴ Canadian political commentators in the nineteenth century also indicate that they had learned many of the lessons of Polybian political science.

While both Polybius and Aristotle had the same basic objective in mind, stability, their conceptions of the mixed constitution were different in important respects. To begin with Aristotle aimed at synthesis while Polybius recognized antithesis. That is, Aristotle's mixed constitution was dominated by one class, the middle class, while Polybius' mixed constitution recognized the existence of two classes, the patricians and the plebians. His constitution added the element of checks and balances—both in an institutional sense and in a social sense.

Implicit also in Polybius' theory is the recognition of the existence of conflict. Aristotle tried to eliminate it and promoted a static equilibrium while Polybius with his system of checks and balances tried to mitigate and manage conflict so that it produced a dynamic equilibrium. The mixed constitution of Polybius is one in which conflict is kept within acceptable boundaries.

Polybius' theory of the mixed constitution can be found in Book VI of his *Histories*, the objective of which was to enable students "to know and fully realize in what manner, and under what kind of constitution, it came about that nearly the whole world fell under the power of Rome in somewhat less than fifty-three years."¹⁵ Polybius prefaced his analysis of the mixed constitution with a description of simple or pure constitutions. He took his classification of governments from the Greeks without modification. There were, then, six basic constitutions, three good—kingship (the one), aristocracy (the few), and democracy (the many) and their degenerate forms—tyranny, oligarchy and mob rule. Each of these simple forms of government were perceived to be unstable. Each, Polybius thought, possessed a vice inseparable from it and there was a continual cycle of change and instability. Kingship, the initial constitution, would turn into tyranny—tyranny in turn would degenerate and be overthrown by aristocracy. The cycle would continue until the mob ruled and then the cycle would begin anew with kingship.

The cycle, fortunately, could be broken, thought Polybius, but only by a constitution which mixed the three elements of kingship, aristocracy and democracy. This constitution could be realized either through reason or by historical

experience. As for the first means, reason, Polybius used the popular example of Lycurgus, the legendary founder of Sparta. For the second, historical experience, Rome itself was the best example.

It is in the citation of Lycurgus that one sees the elements of the Roman formulation of the mixed constitution—its combination of constitutions, checks and balances, stability and dynamic equilibrium. Lycurgus, as the legend goes, created this constitution after witnessing the instability of all other constitutions.

He combined together all the excellences and distinctive features of the best constitutions that no part should become unduly predominant, and be perverted into its kindred vice; and that, each power being checked by the others, no one part should turn the scale or decisively outbalance the others; but that, by being accurately adjusted and in exact equilibrium, the whole might remain long steady like a ship sailing close to the wind.¹⁶

The monarchical element was represented by the king but the people, the democratic element, also had a share in the constitution, while a third body the Gerusia, which represented the aristocratic element, "were certain to throw their influence on the side of justice in every question that arose"¹⁷ thus preserving the stability and equilibrium of the constitution.

Polybius, though, was perfectly aware that the Roman constitution, while it was a mixed constitution, was not a product of abstract reason. It had come into being, gradually, "through many struggles and difficulties, and by continually adopting reforms from knowledge gained in disaster."¹⁸ In eighteenth and nineteenth centuries similar utilitarian claims were to be made for the British Constitution. It, too, was not a product of abstract reason but rather one of experience.

However it may have come into being the Roman constitution did possess, according to Polybius, the same features that he had extolled earlier in Lycurgus' Sparta. Polybius' mixed constitution, unlike Aristotle's, was a mixture of both social orders (the aristocracy and the people) and political institutions. Polybius saw the Roman Senate as representing the element of the aristocracy (the few), and the assembly or tribunes as representing the people, the democracy (the many). Each social order, including the monarchial order, had been given institutional means of checking and balancing the other so that the interests of each could be preserved. The tribunes, for example, representing the people had the power to veto acts of the Senate. Polybius explained how the interests of each were protected and abuses of power prevented in the following manner.

When anyone of the three classes becomes puffed up, and manifests an inclination to be contentious and unduly encroaching, the mutual interdependency of all the three, and the possibility of the pretensions of anyone being checked and thwarted by the others, must plainly check this tendency, and so the proper equilibrium is maintained by the impulsiveness of the one part being checked by the other.¹⁹

As the passage indicates the equilibrium is a dynamic, not a static one. The passage also implies that each of the parts of the constitution is, to a certain extent, separate from the others as well. Much of Montesquieu, then is foreshadowed in Polybius. When all is said and done, argued Polybius, and the constitution is functioning properly, no one can tell whether or not it is an aristocracy, democracy or monarchy.

While Polybius' theory of the mixed constitution became the "official theory" of the Roman ruling classes it must be noted that it diverged markedly from the reality of Rome itself. As one noted observer of Roman history, Frank

Adcock, argues, Polybius' version of the Roman constitution may itself be mixed or composite.²⁰ According to Adcock Polybius mixed practical observation, traditional explanations of Roman history, and philosophical speculation.

This, however, is not to say that the mixed constitution was a total fiction but that Polybius' version of it must be qualified. The equal weighting Polybius gave to the three elements at the time he wrote was not historically accurate. For instance, the claim made by Polybius that the power of the tribunes was evidence of a democratic element was denied by actual practice in that the Senate had absorbed the tribunate. Instead of challenging the Senate's authority as it had in the past the tribunate, in Polybius' time, had become one of its most effective instruments. The claim that the consuls were evidence of a monarchical element was belied by the fact that they were elected for one year periods without possibility of re-election and that they, too, acted as agents of the Senate.²¹ In so far as the constitution was mixed it worked to check the political expression of the plebians, the democratic element, keeping it within acceptable boundaries. The Roman state, then, was not, as Polybius implied it was, neutral. Polybius' theory of the mixed constitution was probably most useful not as a means of explaining the operation of the Roman constitution but as a means of legitimizing and justifying the domination of the patrician class.

Cicero and the Mixed Constitution

While Polybius was the vehicle by which the theory of the mixed constitution entered Roman political thought, his account of it was brief and one must turn to Cicero to find it in a more embellished and somewhat altered form.

Cicero wrote his most famous political work, *De Re Publica*, in a vain effort to revive the traditional constitution which had been severely eroded by sharp class conflict and military turbulence and disorder. In large measure Cicero accepted Polybius' theory of the mixed constitution modifying it only slightly in order to make it accord more with Roman history. Cicero, for instance, realized that in historical terms the people, not the aristocrats as Polybius' cycle called for, had expelled the tyrant Tarquinius. Cicero, then, replaced the cycle with the analogy of the constitution as a ball. Tyrants received it from kings and in turn passed it either to the aristocrats or to the people.²²

Like Polybius, however, Cicero was concerned with bringing stability to the body politic. Cicero, though, much more so than Polybius displayed a strong aversion to factionalism and conflict that was reminiscent of Plato and Aristotle. Conflict was a vice to be removed from politics. Polybius, to a degree, had recognized conflict and felt that in time of external threat the elements of the mixed constitution would cooperate and in time of peace prevent one another from becoming too strong. Cicero, on the other hand, emphasized harmony, concord, and cooperation. Only a mixed constitution was capable of producing this harmony and concord. All simple constitutions were unstable but this instability would cease whenever a composite state was formed by an equal balancing and blending of three unmixed types. The blending of the dissimilar constitutions was likened to musical harmony. Just as a "melody is made concordant and harmonious in spite of the dissimilar sounds of which it is composed, so the state achieved harmony by the agreement of the unlike individuals, when there is a wise blending of the highest, the lowest, and the intervening middle classes in the

manner of tones. And what musicians call harmony in song is concord in a state."²³

Cicero's stress on social and political harmony or *concordia ordinum*, as it has been termed, is in marked contrast to the acceptance of social and political conflict as good (*concordia discors*)²⁴ by such thinkers as Machiavelli and Montesquieu. Cicero desired a state in which the people, generally abstaining from political acts, followed the lead of the Senate.²⁵ While the people were the ultimate source of all law, i.e., sovereign, and possessed the right to participate in state affairs and while government was to be for the people it did not mean government by the people. For Cicero the people were to be no more than a negative medium through which law passed. That is, the people never initiated legislation, they passed judgment on requests brought before them by a senatorial magistrate. Sovereignty of the people was not to be equated with democratic government.

Law, to Cicero, was the bond that held political society together. Without it the state could not exist for "what, indeed, is a state, if it is not an association of citizens united by law."²⁶ From the law came liberty. Genuine political liberty, the freedom from arbitrary action by the state could only be secured by the law. This notion of liberty as the security from arbitrary state action guaranteed by law was to become a common one in the seventeenth and eighteenth centuries particularly in the thought of Montesquieu. The mixed constitution for Cicero, then, promoted liberty as well as stability.

But while the mixed constitution promoted liberty, liberty was not equated with complete equality as it was in Athens. The Athenians had stressed complete equality—the equality of rights and parity of social standing interpreted in terms of extreme democracy. The Romans, on the other hand, stressed equality before the law. Men could be free and equal in Rome but only before the law. As Wirzubski writes, "The plebians knew from experience that one could be free and yet discriminated against and therefore they attached great importance to equality before the law and to the fundamental rights of citizenship."²⁷ Only through equality before the law they felt could they be protected from citizens stranger than themselves and their freedom secured.

The Roman Republic, then, was not a democracy of the Athenian variety. Rather, it was a complex affair in which the various social orders were given institutional means of protecting themselves from one another. The source of oppression was not so much the state but other citizens. Cicero, for example, believed that the people of his social order had to be protected from democracy, the unchecked power of the people. It was necessary to guard "against giving power to mere numbers."²⁸ Wealth, for example, also had to be considered. Cicero's clear preference for rule, as indicated earlier, lay with the Senate—the rule of few rather than the rule of the one or the many. Wirzubski argues that

the whole tenor of the *De Re Publica* seems to suggest that Cicero's true motive in advocating what he believed to be a mixed constitution was the realization that that form of government was the only practical compromise, which, on the one hand, allowed for a strong government while keeping absolutism at bay, and, on the other, made it possible to keep the people satisfied while it precluded democracy. In fact, democracy is to be eliminated at all costs, for behind the rule of the sovereign people lurks the would be tyrant.²⁹

V Cicero's ideal then was an aristocratic republic. For much of the history of the Republic this is what it had been. Yet, as much as he feared the prospect, this period was passing.

Machiavelli and the Mixed Constitution

With the collapse of the Roman republic the mixed state went into eclipse but the theory of the mixed constitution was to survive. References to it can be found after the fall of the Republic and throughout the middle ages. Thomas Aquinas, for example, viewed sympathetically the idea of the mixed constitution as a means of limiting the power of the monarch. He thought that "all should take some share in the government"³⁰ and therefore monarchy should be supplemented by aristocratic and popular elements of participation in government. It was Machiavelli, though, who was to make the greatest contribution to the theory of the mixed constitution since the Romans. Machiavelli's thought was to have an immense influence on such figures as James Harrington, Algernon Sidney and Montesquieu.

Although Machiavelli borrowed heavily from the Romans, he had somewhat different motives for promoting the mixed constitution. The Romans had advocated the mixed constitution primarily because they thought it would mitigate or eliminate conflict and thereby promote stability. While Cicero may have added a concern for liberty his primary emphasis was on stability. Machiavelli, on the other hand, promoted the mixed constitution because he thought it would help preserve liberty. Furthermore, conflict was seen in a positive light in that Machiavelli believed conflict was necessary for the preservation of liberty. This

emphasis on the *concordia discors* versus the *concordia ordinum* of the ancients is extremely important and reoccurs in the works of Montesquieu and James Madison.

At first glance Machiavelli's theory of constitutions appears to be largely borrowed from Polybius. Each constitution is defective and turns into its opposite and a cycle begins. Machiavelli, however, did not believe that a mixed constitution could break the cycle and produce any long-lasting stability. On the contrary, he states that as "all human things are kept in a perpetual movement and never can remain stable, states naturally rise or decline."³¹ Any equilibrium that is produced, desirable as it might be, will be temporary and will be the result of a balance between contending social classes. Politics in Machiavelli's thought is, as Neal Wood explains, "a dynamic, dialectical process involving the clash of opposites, a momentary synthesis or equilibrium, the breakdown of the synthesis through new conflict *ad seriatum*."³² Where rest was foremost in the thought of Aristotle, conflict and motion is foremost in the thought of Machiavelli.

Machiavelli, as stated previously, believed that social conflict and the mixed constitution promoted freedom. He was, in fact, one of the first modern partisans of freedom. His reading of Roman history told him that the clashes between the patricians and the plebians were necessary to a free state. He asserts that those who criticize the quarrels of the people of Rome

condemn that which was the very origin of liberty...and they do not consider that in every republic there are two parties, that of the nobles and that of the people; and all the laws that are favourable to liberty result from the opposition of these parties to each other, as may easily be seen from the events that oc-

curred in Rome.³³

From this clash and conflict of the two social classes in a republic came good laws and from good laws came balance, order and equilibrium—however temporary. To be beneficial to a free state and also to be kept within bounds, every well-ordered state should provide a variety of institutional outlets for social conflict. "Every free state," he writes, "ought to afford the people the opportunity of giving vent to their ambition" and "nothing renders a republic more firm and stable, than to organize it in such a way that the excitement of the ill-humours that agitate a state may have a way prescribed for venting itself."³⁴ If the people have no institutional means for venting their antagonism towards other citizens, or for protecting themselves, the danger is that they will resort to other means producing much more harmful effects than might have otherwise occurred. Machiavelli cites as institutional means the assemblies and tribunes of Rome.

It should be noted that although Machiavelli's strong emphasis on the utility of conflict differs from Polybius' they are alike in seeing the mixed constitution as a form of conflict management. That is, while Machiavelli extols freedom, he is not a proponent of chaos. He wants stability and order, particularly in his native Italy, but believes that they can never be longlasting.

Machiavelli, however he may have advocated conflict, was careful to point out that it could only produce good results under certain conditions. To be beneficial to the public good conflict must occur only in a healthy state where the matter of society, the citizenry, are not corrupt and are in possession of civic vir-

tue. Machiavelli, as can be seen, has adopted Aristotelian categories in his analysis of state and society. This is made clear in the *Discourses* where he argues "that...where the mass [la materia] of the people is sound, disturbances and tumults do no serious harm; but where corruption has penetrated the people, the best laws are of no avail, unless they are administered by a man of such supreme power that he may cause the laws to be observed until the mass has been restored to a healthy condition."³⁵ This passage is important in that it indicates that for Machiavelli as for Aristotle form (laws and constitutions) varies with the matter of the republic and that furthermore the relationship between matter and form is reciprocal. The rigorous enforcement of the laws (form) can help restore a corrupt matter to health thus permitting the reintroduction of republican government.

Republican institutions, then, are very much dependent on moral or cultural factors, but what does Machiavelli mean by virtue and corruption and how are virtue and corruption in a republic produced? These are rather ambiguous terms in Machiavelli's thought and never precisely defined. Virtue, it appears, is composed of a number of components, among them a public spiritedness and selfless dedication to the public good which is reinforced by the military discipline of a citizen army and by a civic religion much as the Romans possessed. Virtue in a republic is also composed of a love of liberty and of a widespread desire to be self governing.³⁶ Corruption, too, is a moral condition represented by a gradual, often irresistible process of moral decay. Both corruption and virtue, in turn, are produced by certain economic and social conditions principally the distribution of property. In Book I, Chapter XVII of the *Discourses* Machiavelli writes,

"corruption and incapacity to maintain free institutions result from a great inequality that exists in such a state."³⁷ Virtue is best produced in a society where the many have a moderate income and there is widespread equality. Machiavelli's analysis, as can be seen, is clearly indebted to Aristotle.

In Rome, which by and large, was a healthy republic, the friction of the patricians and plebians was conducive to the reinforcement of virtue and hence freedom. In espousing the value of freedom, it should be noted Machiavelli was really espousing freedom of the many, the bourgeoisie of the Italian city state, whom he equated with the people. The liberty of the people lay in their desire to escape the oppression and domination of the nobility. The people simply wanted to be left alone, not to be dominated and would rest content with the security of their persons and property. As Machiavelli expresses it, "the nobility desire to dominate, the common people not to be dominated."³⁸ While the people are not without ambition and a desire for power that desire will generally only be provoked by the excessive desire for power and domination of the nobility. When the people are provoked or exploited they will demand institutions that will protect them from the nobility and help preserve their freedom. What is more "the demands of a free people are rarely pernicious to their liberty, they are generally inspired by oppressions, experienced or apprehended."³⁹ The people, therefore, are the best guardians of freedom and whenever "the people are entrusted with the care of any privilege or liberty, being less disposed to encroach upon it, they will of necessity take better care of it, and being unable to take it away themselves, will prevent others from doing so."⁴⁰ Machiavelli clearly puts his faith in

the people. "The voice of the people," he writes, "is the voice of God."⁴¹ It seems that Machiavelli would like to have disposed of the nobility who are often depicted as parasites and great corrupters but until that time the institutionalized conflict of a mixed constitution helps keep the people virtuous and free.

The Mixed Constitution in England

Machiavelli's thought on republican government was to have a great influence outside of Italy particularly in England.⁴² His thought became the vehicle by which the theory of the mixed constitution was introduced into England and Englishmen became familiar with its original formulation by Aristotle and Polybius.⁴³ The English were quick to see its potential uses. The theory first appeared in England in the mid-sixteenth century and was to last until midway through the nineteenth century. One reason for its durability was that the theory was so elastic and could fit many purposes. At one time it was used by Charles I against Parliament, at other times by the Whigs against the Stuarts, and in its last and most vigorous use as a defence against democracy, radical reform and the tyranny of the majority in the late eighteenth and early nineteenth centuries. The English, like the Romans, came to see their constitution in its everyday operation and practice as embodying a classic theory of government, one that had gradually come into being and was, in Burkean terms, not the product of abstract reason but of experience.

In the English formulation the government of King, Lords and Commons came to represent a combination and blend of the simple forms of government—monarchy, aristocracy and democracy. One of the first statements of the theory

was offered by John Aylmer in 1559. "The things in dede, is to be sene in the parliamet hous, wherein you shall find these 3 estates. The king or Queen, which representeth the Monarche. The noble men, which be the Aristocratie and the Burgesses and Knights the Democratie."⁴⁴ Similar declarations can be found in the writings of other Tudor Englishmen such as Sir Thomas Smith who also saw the constitution as being a threefold mixture—England being "governed, administered, and manured by three sortes of persons—the Prince, Gentlemen and yeomanry."⁴⁵

It was not until the English Civil War, however, that the theory of the mixed constitution or mixed monarchy became widely, although not fully, accepted in England. In large part its acceptance was due to its endorsement by King Charles I on the eve of the Civil War. Charles had not been, of course, a long standing advocate of the mixed constitution but rather had quickly converted to it in order to save a portion of power for the monarchy. He was responding to the nineteen propositions put forward by the Long Parliament. In brief, if accepted, they would have made the two houses of Parliament supreme and left Charles I only the "shadow and empty name of king."⁴⁶ Charles I responded not by insisting upon his right of supremacy but by insisting upon a coordinate share in the government for the crown. In the defence of this position, the framers of the King's response to the nineteen propositions, Viscount Falkland and Sir John Colepepper, borrowed from the theory of the mixed constitution. In the response one can see both Polybian and Machiavellian influences.

There being three kinds of government amongst men, absolute monarchy, aristocracy and democracy, and all these having their particular conveniences and inconveniences. The experience and wisdom of your ancestors hath so moulded this [government] out of a mixture of these, as to give to this kingdom...the conveniences of all three, without the inconveniences of any one, as long as the balance hangs even between the three estates, and they run joyntly on in their proper channel...The ill of absolute monarchy is tyranny, the ill of aristocracy is faction and division, the ills of democracy are tumults, violence and licentiousness. The good of monarchy is the uniting a nation under one head, to resist invasion from abroad, and insurrection at home; the good of aristocracy is the conjunction of counsell in the ablest persons of a state for the public benefit: the good of democracy is liberty, and the courage and industry which liberty begets.⁴⁷

Each portion of the mixture, King, Lords and Commons participated in the making of law. Furthermore, the answer continued, each of the three estates possessed sufficient independent power to check and restrain the encroachments of the other two. The king, for example, could make treaties of war and peace, select peers and chooses officers and councillors of state. Such power would command the respect of "the great ones" and fear and reverence from the people. The House of Commons was to have the power to raise money and to impeach transgressors of the law. The House of Lords, the equipoise of the balanced constitution, through the means of its judiciary power, was to serve as "an excellent Screen and Bank between the Prince and People [and] to assist each against any Encroachments of the other, and by just Judgements to preserve that Law, which ought to be the rule of every one of the three."⁴⁸

Through this brief exposition one can readily see that Charles I's answer possessed many of the attributes of the mixed constitution. There were three kinds of government, monarchy, aristocracy and democracy (the one, the few, and the many) each with their "conveniences" and "inconveniences". Like Rome, through "experience and wisdom", England's ancestors had fashioned a

mixture that offered the conveniences of each without the inconveniences of any. This mixture worked so long as the balance was maintained and to maintain this balance each of the estates possessed sufficient power to check the encroachments of the other. The fear, then, was not so much of the abuse of power by the state but from the other estates. Two of the estates represented social classes and both possessed institutions to protect themselves from the other and from the monarch. Similarly, the state was seen as being non-partisan and capable of protecting the interests of the dominant forces in society. Conflict between any of the three estates could be managed within the institutions of the state.

Charles I's version of the constitution met with an unusually receptive public and soon became the leading explanation and defence of the English constitution. It was a public that had become increasingly accustomed to the uses of the classical accounts of the ancient constitutions to explain English political and constitutional matters and Charles I's use of it legitimated the theory in everyday practice. During the Civil War there were two main strands of interpretation to Charles' answer—one offered by the Royalists, the other by Parliament. The Royalists argued that Charles' definition was not made with "any intent of diminution to his Supremacy or Headship [and] properly the Prelates, Lords and Commons are the three Estates of this Kingdome, under His Majesty as their Head."⁴⁰ The Parliamentarians, on the other hand, emphasized the coordinate aspect of the mixture, the monarch being one of three.

The extent to which the theory of mixed monarchy pervaded English political life at this time is born out in the writings of Thomas Hobbes and Robert Fil-

mer. Hobbes argued that "if there had not first been an opinion received of the greatest part of England that these [sovereign] powers were divided between the King and the Lords and the House of Commons, the people had never divided and fallen into this Civil War."⁵⁰ Another testimonial to its dominance is offered by Sir Robert Filmer in his *Anarchy of a Limited or Mixed Monarchy*. In it Filmer declared "There is scarce the meanest man of the multitude but can in these days tell us, that the government of the kingdom of England is a limited and mixed monarchy."⁵¹

From this period, with the notable exception of the Civil War and the reign of James II with its absolutist overtones, until the mid-nineteenth century the theory of mixed monarchy reigned supreme in English constitutional thought. During this period it was the intellectual property of many different groups and served a variety of purposes. In 1660 it was used as the basis of the Restoration. The King's constitution of 1642, not divine right monarchy, was to be restored. As one seventeenth-century publicist wrote, "the supreme power personal of England, is in King, Lords and Commons: and so it was in Effect agreed to, by King Charles the First, in his answer to the nineteen Propositions; and resolved by the Convention of Lords and Commons in the year 1660."⁵²

In 1688 the theory of the mixed monarchy was used for another purpose, to justify Whig action against the absolutist James II. Contrary to the common assumption of most modern scholars the Glorious Revolution was defended not so much by the contract theory of Locke as by appeals to the ancient or mixed constitution in which power was shared by King, Lords and Commons. H.T. Dic-

kinson argues that

Most Whigs when they spoke of the contract, meant the relationship between King and Parliament which they took to be an essential feature of the ancient constitution rather than the contract theory which Locke expounded. While Locke ignored the ancient constitution and wrote only of rights which were inherent in man qua man, the vast majority of Whigs preferred to appeal to the ancient constitution in order to justify their opposition to James II. They chose to appeal to historical evidence about the English constitution rather than base their case on a rational theory about the nature of civil society and the rights of man.⁵³

While Locke himself was not a radical there were radical portents in his theory that made many Whigs nervous. That civil society was an artificial creation and that implicitly the people were sovereign and could resist established authority were dangerous notions. If civil society was artificial and the people sovereign then the mixed constitution could be transformed into a democracy and the position of the propertied classes threatened.

The eighteenth century in England saw the ruling classes largely accepting the mixed nature of the constitution.⁵⁴ Although there was agreement that the constitution was mixed and balanced there was considerable disagreement over how the balance could best be maintained and the process of constitutional degeneration arrested. These differences served to divide the Country opposition from Court Whiggism.⁵⁵ The Country opposition, that amalgam of opposition Whigs and Country Tories such as Bolingbroke, insisted that constitutional balance could only be preserved if the parts of the government, that is Crown and Parliament, were as independent as possible from one another. Court Whigs, on the other hand, argued that the balance depended on parts that were interdependent. While both sides realized that constitutional degeneration, or corruption,

was a possible danger, it was the Country opposition that saw the danger near at hand.

There were good reasons, as will be evident shortly, for the Country opposition to think this way. Like all members of the ruling classes they believed that political power depended upon the possession of property. In the minds of the Country opposition, though, that property preferably had to be landed property, although trade in material goods was acceptable. It was landed property that gave a person independence, a vital requisite for citizenship. That landed property formed an essential material basis for citizenship was an ideal as old as Athens and Rome. In the England of the seventeenth and eighteenth centuries it was James Harrington who best articulated this ideal. The other requisite for citizenship depended on the right to bear arms, a point also stressed by Machiavelli. Together, the right to bear arms and ownership of landed property conferred that necessary independence and sense of responsibility to act for the public good, or *la patria* or *res publica*. The ideal of citizenship, then, for the Country opposition was very much a classical one. Man, in Aristotelian terms, was a political animal.

In institutional terms Parliament represented the Country values of property and independence. Opposed to Parliament was the Crown which represented administration and governing, accepted as a perfectly legitimate activity. Together the English constitution consisted of an ideal balance between the powers of the Crown and Parliament. The problem in Country eyes, however, was that to govern was to exercise power and power had a natural tendency to encroach.

In the eighteenth century it became painfully obvious to Country spokesmen such as Lord Bolingbroke, John Trenchard and Thomas Gordon that the Crown not only had the tendency to encroach but also the means to do so. This means, "influence" to supporters of the Crown, was styled as "corruption" by the Country opposition. The meaning assigned to corruption was Machiavellian, referring to decay, not only decay in the balance of the constitution, but also to the moral decay of public men. The source of this corruption was the commercial and financial revolution sweeping seventeenth and eighteenth century England. This revolution had created a new class of monied men and a vast expansion not only of state administration, including a standing army, but also public credit. Altogether they provided the places and pensions which were used to "entice" members of Parliament into supporting the ministers of the Crown. With this support measures of vital concern to the Crown, e.g., the expansion of the national debt, passed Parliament and the administration ("Court" in Country eyes) grew even stronger. The only constitutional remedy for this threat was some kind of separation of powers. Parliament and administration had to be kept as distinct and separate as possible. From here it was but a short step to the constitutional thought of Montesquieu which will be examined in the next section.

Court Whigs, on the other hand, saw matters much differently than the Country opposition.⁵⁶ In many ways they had a better grasp of history than the Country opposition who yearned for simpler times. Court Whigs were aware that the economic base of Country political power was being steadily eroded by the irreversible rise of commercial and financial power. Society no longer

retained a republican simplicity but reflected a commercial complexity. No longer, for example, was it possible to defend England by the use of citizen militias or "patriotic" armies. Rather modern technology meant that fighting necessitated a specially skilled and standing army, part of a vast societal division of labour, and this army required money, a lot of it. To pay for a permanent military establishment in turn required a system of public finance. This system of public finance was also used to underwrite the costs of commercial expansion and the growth of the British Empire.

In the opinion of Court ideologists, such as David Hume, the growth of commerce had vastly increased not only the size and power of the middle classes but also their political organ, the House of Commons, while at the same time reducing the power of the nobility and their political organ, the House of Lords.⁵⁷ Political stability and good government now necessitated that the Crown use its patronage, its "influence", to counteract the power of the House of Commons and thus preserve the balance of the constitution. The balanced constitution, then, in the eyes of the Court, necessitated an interdependence of political institutions, not their separation. Because the balance was being preserved the actions of the Crown could not possibly be considered corrupt. Yet, however Court and Country might have disagreed about the operation of the mixed constitution, it was agreed that it served to secure liberty. Liberty, to the seventeenth and eighteenth century Englishman had a very specific meaning. It had come to be equated with security—the security in one's life and possessions which was threatened by the arbitrariness of the tyrant⁵⁸ whether of the one or many. Liberty, it was felt, could only be enjoyed under the rule of law, a law made by

the concurrence of the three estates and not by one estate alone. As is evident the identification of law with liberty and security from arbitrary action differed little from Cicero's concept of law and liberty. But above all it was the possession of property, the right to keep it and the right to dispose of it that had to be secured. Indeed both Country opposition and Court Whigs "were clearly concerned to make the world safe for men of property."⁵⁹

During its existence the mixed constitution underwent a great deal of development and refinement—adding as has been noted such elements as the separation of power. In the eighteenth century it received its most famous exposition in the works of Montesquieu. Montesquieu's writings deserve to be considered in some detail for his thought brought together many strands of thought which have already considered and he had a profound and acknowledged effect and on many eighteenth century thinkers—from Madison to Burke.

Montesquieu and the English Constitution

It is difficult to trace all the influences upon Montesquieu's thought. He was a keen student of Roman history and familiar with the works of the ancients, Aristotle, Polybius and Cicero. He also demonstrated his familiarity with the revival of that tradition in Machiavelli and its subsequent popularity among Englishmen—non-republican and republican alike. He followed the latest developments in English thought through his association with such notables as Bolingbroke in the Country party and he was a constant observer of English social and political reality. His primary work, *The Spirit of the Laws* is, in many ways, a synopsis of the Country—Court debate, the debate between land and

commerce and he was proclaimed as an authority by both sides.

Montesquieu's thought and means of analyzing society were extremely subtle and complex. Contemporary writers have often dismissed him for being a mechanist, an institutionalist, or for holding crude and erroneous views on the impact of climate on society. These characterizations are themselves rather crude and simple. One finds upon examination that his work was in many ways modern and sophisticated; what Melvin Richter describes as a "political sociology both comparative and historical, based on the conscious analogy between the aspects of a society and the qualities of a system."⁶⁰ In fact, his use of the word system is one the modern scholar should recognize as being familiar. For example, in his comparison of English and French laws punishing false evidence Montesquieu wrote, "The three French laws form a system whose parts are closely interrelated and mutually dependent; the same is no less true of English laws on the same question."⁶¹ Montesquieu also saw the parts of society as being interrelated, interdependent and reciprocal. While his thought may be described as organic because he was particularly fond of complexity, difference, and the veiled wisdom of custom his work is imbued with a "scientific spirit of analysis applied to all phenomena as susceptible to comparative investigation of a sort that will produce general laws."⁶² His means of analysis is at the same time both old and new. New, in the sense of its scientific spirit, old in the sense that his method of analysis had its roots in Machiavelli and Aristotle. The basic questions asked are often the same. "What are the basic types of human groupings? By what means are they preserved? What laws and institutions are appropriate to each of

them?" With this in mind Montesquieu's thought and analysis of the English constitution can better be understood.

At the centre of Montesquieu's thought was his overriding concern for liberty and his fear of tyranny and absolute government. In this sense he differed little from his English counterparts. Likewise his definition of liberty was also similar. Liberty was linked to security. Montesquieu wrote, "For a citizen, political liberty is that tranquillity of mind which derives from his sense of security."⁶³ In his own particular threefold classification of governments—republics, monarchies and despotism—the first two are alike in that power was not absolute but moderated or checked and because of this liberty was protected. On the other hand despotism was characterized by absolute, i.e., unchecked power and an absence of freedom.

Montesquieu, then, devoted a considerable portion of his efforts to specifying how the use of power could be restrained and liberty preserved. He was a proponent of "moderate" or "limited government". What today would be called Montesquieu's constitutionalism meant more than the establishment of effective legal rules and institutional procedures concerning the exercise of government power. To the contrary Montesquieu's constitutionalism included more than just these superstructural elements. To protect liberty one had to take into account the entire nature of society and see what attitudes, manners, habits, economic and class structure might restrain absolutism. Montesquieu's constitutionalism, then, took into account the total fabric of society and state which, he saw as closely linked and interacting.

The question Montesquieu asked was in what types of society and with what institutional arrangements could liberty flourish? Early in his career, Montesquieu gave an indication of his later thought on the subject. In *Persian Letter* 136 he had written: "Here are the historians of England, where again and again liberty can be seen arising from the fires of discord and sedition the prince always tottering on an immovable throne."⁶⁴ In other words, conflict was necessary to liberty.

This theme Montesquieu further developed in his *Considerations*. Politics in a free society required a certain amount of disunion and conflict. Conflict, for example, was common in Roman politics. We find that "during the time that Rome was conquering the universe, a hidden war was going on within its walls. This resembled volcanic fire, which bursts out as soon as something is added to its usual activity."⁶⁵ This view of politics closely resembles that of Machiavelli's in its emphasis of *concordia discors* rather than *concordi ordinum*. Conflict adds vigour and boldness to the life of a republic and ensures freedom. Montesquieu wrote:

The historians never tire of repeating that internal divisions ruined Rome. What they fail to see is that these divisions were necessary, that they had always existed, and should have continued to exist...To demand that the citizens of a free state be audacious in war and timid in peace is to ask for the impossible. As a general rule, it may be assumed that whenever everyone is tranquil in a state that calls itself a republic, that state is no longer free. ⁶⁶

While political life in a republic may be turbulent and conflictual, it is all part of a necessary process for a society based on the conciliation of recognized groups and classes each with their own objectives. Somehow, in this process of antagonism the general good is realized.⁶⁷ This Montesquieu makes clear in a

passage in which he adapts the familiar analogy of musical harmony from Cicero and uses it for his own purpose. "What constitutes union in a political body," he writes, "is difficult to determine. True union is a harmony in which all the parts, however opposed they may appear, concur in attaining the general good of the society, just as dissonances in music are necessary so that it may be resolved in an ultimate harmony."⁶⁸ Such a harmony produces happiness and security for its citizens. In Rome while there may have been opposition between various classes such opposition served to check and prevent the abuse of power. Its constitution was such that any abuse of power could be corrected. In short, "free government, that is, one always in a state of agitation, cannot survive if it cannot correct its faults by its own laws."⁶⁹

In his later work, the *Spirit of the Laws*, Montesquieu returns to his analysis of conflict in a free society. He restates his argument that a healthy democratic republic thrives on conflict. A healthy democratic republic is characterized by the principle of virtue consisting of that love of patrie which puts the well-being of the republic before one's self and by a love of equality and frugality. Once a republic's virtue is lost it becomes corrupt. In a corrupt republic even the best laws are useless and defective. In a republic that has become corrupted, "none of the resultant evils can be put right except by getting rid of the corruption, and restoring the original principles."⁷⁰ That is, there must be a return to the first principles. The parallels to Machiavelli here are obvious. The theme of corruption by the eighteenth century had become commonplace not only in England and America but also in France. The call for a return to first principles was also

equally common. Montesquieu's concern with these themes indicates his acceptance of the Aristotelian categories of "form" and "matter". Like Machiavelli and Aristotle before him, Montesquieu is concerned with how the "matter" of a particular society is constituted. As with Machiavelli, if the "matter" of a society is corrupt it will limit the superstructure that can be erected upon it. A proper constitution for a country must take into account the entire social fabric and way of living of a society. To what extent the Americans of the revolutionary era used a similar method of analysis will be considered in the next chapter.

Montesquieu next addressed the question of how the principle of a healthy republic is best preserved and corruption prevented. He also asks the same question of the principles of monarchy and despotism, honor and fear respectively. Montesquieu's response was surprisingly simple and one that would be generally accepted in the eighteenth century. The preservation of the ruling principle of government and, therefore, the form of government itself, can be discussed in terms of its scale. In Montesquieu's words:

It is natural that small states be governed as republics; those of moderate size, as monarchies, and that great empires be dominated by despots. Thus it follows that if the principles of the existing government are to be preserved, its territorial limits must be limited to its present dimensions. To the extent that the state contracts or expands itself, its spirit will change as well.⁷¹

According to Montesquieu there are good reasons for this answer. In a small republic, for example, political participation is easier to effect, the public good is more readily perceived, more widely known and is closer to every citizen. When a republic becomes larger inequality is introduced, there are men of large fortunes whose interests are not the common good but individual. There are, it

should be noted, means by which the defects of large republics may be overcome.

In Book IX he discusses one possible remedy, a federative republic. A federative republic is formed by an agreement in which a number of political units (*plusieurs corps politiques*) consent to become members of a larger state they desire to create. Comments Montesquieu, "This is a society of societies, which constitutes a new one capable of increasing even further by addition of any others that may care to join this union."⁷² Such a union not only provides for an excellent means of expansion, but as the example of Greece and Rome indicate, also for defence. At the same time each unit, remaining small, avoids internal corruption.

Monarchies, unlike republics, are better fit to govern areas of larger extent particularly the larger commercial societies of modern Europe.⁷³ These societies are characterized by "distinctions, ranks, and even a nobility based on birth."⁷⁴ In other words monarchies, unlike republics, are characterized by inequality, luxury, and hierarchy. Because the nature of honour is such that it requires privileges and distinctions it is thereby associated with monarchy. Societies characterized by hierarchy and honour are societies in which men are guided by their selfish interests and their passions. Each man and group hopes to add to their own honour. The competition of selfish groups and individuals works to good effect in that each checks the power of the other and prevents anyone from wielding despotic power thereby promoting respect for individual interests:

In a republic, ambition is pernicious. In a monarchy it has good effects; it gives life to that type of government. Its advantage lies in that it is not dangerous, because a monarchy can continue to restrain it.⁷⁵

Monarchies, in other words, do not require the virtues of the republic rather "every individual moves toward the public good, while he has been thinking only of promoting his own interests."⁷⁶ Furthermore, in a monarchy law and its vigorous enforcement replace virtue. Monarchy depends more on institutional restraint and authority rather than on human restraint.

As Melvin Richter has noted, Montesquieu was very much indebted to Bernard Mandeville of England for his concept of monarchy, and its principle, honour.⁷⁷ In the early part of the eighteenth century Mandeville, who was to also have a great influence on the development of classical political economy, wrote a work entitled, *The Fable of the Bees: or, Private Vices, Publick Benefits. Containing Several Discourses to demonstrate, that Human Facilities, during the degeneracy of Mankind, may be turn'd to the advantage of the Civil Society, and made to supply the Place of Moral Virtues*. Mandeville, in effect, was attacking those advocates of the Country ideology and the republican tradition that maintained that a society's well-being depended upon public virtue.⁷⁸ In Mandeville's opinion this was so much bunk. It was impossible, he said, to enjoy "all the most elegant comforts of life that are to be met within in an industrious, wealthy and powerful nation, at the same time, to be blessed with all the virtue and innocence that can be wished for in a golden age."⁷⁹

It was clear in Mandeville's mind that it was the pursuit of individual interest, not public virtue, that led to England's well-being. While the country may be filled with individuals who work only for their own self-interest somehow it all worked for the public benefit.

Thus every Part was full of vice,
Yet the whole Mass a Paradise.⁸⁰

The very crimes of the bees contributed to their prosperity and the state's power which also balanced that of other states and served to create a public harmony out of the cacophony of private interests:

The worst of all the multitude
Did something for the common good.
This was the state's craft, that maintain'd
The whole of which each part complain'd:
This, as in music harmony
Made jarrings in the main agree.⁸¹

Not only did Montesquieu borrow from Mandeville the notion that satisfactory outcomes, in Montesquieu's case constitutional outcomes, may result from morally indifferent or selfish motives he also shared Mandeville's notion of modern monarchy. In the *Fable of the Bees* Mandeville wrote: "...it is evident, from what is said of the laws and constitution of it, the glory, wealth, power, and industry of its inhabitants, that it must be a large, rich and warlike nation that is happily governed by a limited monarchy."⁸²

Large and rich nations, commercial nations, needed the vigor and authority of monarchy not only to police against domestic dangers but also to defend against foreign enemies. Other tasks related to the provision of security by the state included the management of the economy and population growth and the administration of poor relief.

A commercial monarchy, however, must avoid becoming overly large. If it does so the danger is that countervailing sources of powers in outlying regions, such as state officials or wealthy persons, will challenge the monarch and the

state will dissolve. Only a despot, possessing unlimited power, could rule great empires. Under a despotic government speed in executing decisions must substitute for distance and fear must be used to ensure the loyalty to the state of far flung governors and officials.

No sooner than Montesquieu outlines these principles and forms of government than he begins to qualify and shift his arguments in the case of England. England to Montesquieu was a "republic disguised in the form of a monarchy."⁸³ Montesquieu does not go to any length to specify what he means by this statement, clearly England was not a republic in the stipulated sense with its ruling principle of virtue and a love of equality and patrie. His meaning only begins to be known in Book IX, Chapter 6 where he outlines his particular interpretation of the English Constitution. There he indicates that the constitution tends toward republicanism because of the comparative weakness of the nobility vis-a-vis the people. The nobility has sufficient power to protect themselves and exercise influence but not enough to predominate. In addition England is republican or democratic because, in Montesquieu's opinion, the people are self-governing.

While the people are self-governing their power is diluted and moderated by a variety of factors. First, England's system of representative government ensures that the people do not rule directly something of which Montesquieu believes they are quite incapable. They are capable however of choosing representatives who are more informed, thoughtful and less narrow than themselves. Given that England is of a relatively large size and a commercial society

the popular will will also be divided by a number of competing interests.⁸⁴ Montesquieu's thought here clearly anticipates James Madison's on this subject. In addition, the institutional competition of selfish interests and factions, including a vigorous monarch and the legislative body of nobles, ensures that no one portion of society or government becomes too powerful.

England, in effect, represents to Montesquieu a synthesis of monarchy and republic. Montesquieu's image of its constitution also appears to represent a composite of the Country and Court positions. On the one hand he argues for a strong executive to counteract the representative branch of the legislature because the nobility is weak, on the other he borrows from the Country party the idea of a separation of powers because of the need to guarantee political liberty.⁸⁵ Furthermore, while England may be a commercial nation in which individuals are motivated primarily by passion and self-interest Montesquieu concedes that when the time comes the nation has enough love of country and liberty "to sacrifice its wealth, its comfort, its interests" in its defence.⁸⁶

Montesquieu's interpretation of the English Constitution is, then, very much his own, the constitution and its operation not so much as it was, but how it should be if liberty was to be secured in a commercial society possessing little public virtue. In his analysis of the English Constitution he combines four related but distinguishable theories, three of which have been discussed previously: mixed constitution, balanced government, checks and balances, and separation of powers. In his treatment of these theories Montesquieu once again indicates the premium he put on division and conflict as requisite for a free

society. The English constitution was particularly able to channel and keep conflict, both societal and institutional, within acceptable bounds.

At first glance Montesquieu's treatment of the English Constitution in Book XI, chapter 6 does seem quite simple and straightforward. It seems apparent that constitutional mechanisms such as the famous separation of powers are all that is necessary to keep a people free. Yet this is only the surface. More than institutional devices are needed to ensure the rule of law and political liberty.

The theory of the separation of powers is the most famous part of Montesquieu's exposition. Yet as famous as Montesquieu made it, it hardly originated with him. The theory of the separation of powers has been detected in Locke and also in Bolingbroke who was the first to combine it with the theory of mixed government.⁸⁷ Montesquieu, however, gave it its most precise and analytical treatment and he added to it the judicial function. Montesquieu advocated the separation of power—the distinction of the executive, legislative and judicial functions of government—primarily because he thought they would ensure the rule of law, prevent arbitrary government and guarantee political liberty. In order to do this it was necessary that these three functions, or powers be exercised by different bodies of men. He summarized his separation of powers doctrine in the following manner: "all would be lost if the same man, or the same body, whether composed of notables, nobles, or the people, were to exercise these three powers: that of making laws, that of executing public decisions, and that of judging crimes or disputes arising among individuals."⁸⁸

The separation of powers doctrine should now be compared to Montesquieu's summary of the English Constitution:

Here, then, is the fundamental constitution of the government being discussed. Since the legislative body is made up of two parts, each is made dependent upon the other by their mutual power to reject legislation. Both will be connected by the executive power, which itself will be connected to the legislative.

These three powers ought to produce response, or inaction. But since the nature of things requires movement, all three powers are obliged to act, and to act together.

Although Montesquieu is referring to three powers in the above passage he clearly does not mean powers solely in the functional sense. Instead, we see a formulation of the mixed constitution—with the two houses of Parliament and the King balancing one another. Two of the powers represent social classes, the aristocracy and the common people, who have been given a mutual share in lawmaking so that each may be able to protect their interests from the other. Incorporated also into the above passage is the notion of checks and balances. The passage resembles Montesquieu's previous allusion to musical harmony. While there may be dissonance and antagonism "since the nature of things requires movement, all three powers are obliged to act, and to act together." Such an arrangement is necessary for liberty in society.

Absent from the above quotation is, of course, the judicial function. It does not play a part in the equilibrium of the constitution. In Montesquieu's account of the judicial power he did not envisage it as being a permanent court but rather as being transient and taking place in a succession of juries. The judicial power up to this time had never been exercised by a distinct branch of government and for Montesquieu to have advocated this would have been a radical

departure from the prevailing view.

However, while the balance of power imbedded in the mixed constitution is distinct in principle from the separation of powers they do serve to support one another and protect political liberty. Experience had taught Montesquieu that those possessing power would constantly seek to obtain more power unless prevented from doing so by other power holders. Therefore, a system of checks and balances was needed to maintain the separation of powers. He argued that "the executive power ought to take part in legislation through its power to veto, without which it would soon be stripped of its prerogatives"⁹⁰ by a legislature that would become despotic. Likewise, if the executive should attempt to monopolize power, the legislature could check the executive by holding to account all members of the executive branch except the monarch himself. To keep themselves separate the two branches to some extent have to share the power of the other. In other words, practical interdependence via checks and balances serves to maintain the integrity of each.

Just as the balance of powers serves to maintain the separation of powers so, too, does the separation of powers work to maintain the balance. For example, in order to guarantee the independent exercise of the legislative and executive functions, the executive's role in the process is limited to the power of vetoing acts of the legislature. If the executive could pass legislation on its own, liberty would cease to exist for there would be no separation of powers. Similarly Montesquieu permitted the impeachment of all executive officers except the chief executive by the legislature since he felt this could result in a concentration of

power in the hands of the legislature.

In an often overlooked portion of the *Spirit of the Laws*, Book XIX, chapter 27, Montesquieu proceeds to demonstrate the impact a constitution has on cultural factors such as the moeurs and manières of a people and how moeurs and manières in turn reinforce the operation of the constitution. He states in Book XIX referring to Book XI, "I spoke of a free people, I stated the principles of its constitution. Let us now see what effects have necessarily followed from it, the character which emerged, and the manières functions that result from it."⁹¹

The English Constitution, Montesquieu writes, has two visible powers, the legislative and executive—the judiciary being less significant because it draws its juries from the public. Because the English are free and their passions have free rein, there is a tendency for the two different political parties to align themselves with either of the two leading branches. While the executive has such resources as public employment to garner support, if it becomes too strong, the English, as a free people, will switch allegiance and support the legislative branch. In a free society, citizens "raise up the weaker side."⁹² The existence of competing parties in England (presumably Court and Country) with their changing allegiances, makes it unlikely that either branch will be able to control the other. Thus, the existence and nature of the constitution promotes changes in party allegiance and in turn the existence and nature of parties and the attitudes of the populace support the constitution. In this Montesquieu has made one of the first attempts to analyze a party system and relate it to governmental structures. Montesquieu fully supported the existence of parties for they were coincident with his belief

that conflict within bounds was not only necessary for the existence of a free government and a free society but unavoidable as well. The constant shift of citizens from one party to the other implies that freedom requires balance and counterweights, both societal and political. In sum, Montesquieu, like Machiavelli, is saying that freedom is promoted by division, conflict, and balance. Unlike Machiavelli, public virtue is not a vital requisite for a free society. Virtue can be dispensed with and a society yet remain free. Furthermore, freedom requires a certain type of constitution, a populace with certain dispositions, and their mutual interaction.

The next chapter will demonstrate that leading figures in the creation of the first federal system used similar arguments. They too were concerned about preserving freedom in a society that lacked homogeneity and a people whose public virtue was questionable. They realized that the substitute for virtue was more institutional restraints, more authority.

Footnotes

1. David Hume. "Of the Parties of Great Britain.", *Essays Moral, Political, and Literary* Vol. I ed. by T.H. Green and T.H. Grose (London: Longmans, Green, and Co., 1875), p. 134.
2. Plato, *The Laws*, Book 3, 693d, translated by A.E. Taylor, (London: Everyman's Library, 1934).
3. For an account of Aristotle as a political sociologist see William T. Bluhm, *Theories of the Political System* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1978) (Third edition).
4. *Ibid.*, p. 113.
5. K.C. Wheare, *Modern Constitutions* (Oxford: Oxford University Press, 1980), p. 2.
6. Aristotle, *The Politics*, ed. by John Warrington, (London: J.M. Dent and Sons Ltd., 1961) p. 76 (section 1279). My emphasis.
7. According to Aristotle there were six forms of government, three good; three bad; monarchy (the one), aristocracy (the few) and polity (the many) and their counterparts tyranny, oligarchy and democracy.
8. Aristotle, *op. cit.*, p. 88 (section 1283b).
9. For Aristotle on sedition and revolution see Book 5, *Politics*.
10. For more on this point see, Neal Wood, "The Value of Asocial Sociability: Contributions of Machiavelli, Sidney and Montesquieu," pp. 283-285 in Martin Fleisher, ed. *Machiavelli and the Nature of Political Thought* (New York: Atheneum, 1972).
11. Aristotle, *op. cit.*, p. 115 (1294b).
12. *Ibid.*, p. 156 (1310a).
13. Leon Homo, *Roman Political Institutions* (New York: Barnes and Noble, Inc., 1962) p. 118.
14. Both Machiavelli and Montesquieu acknowledge Polybius. For one of the first accounts of the influence of the classical theorists in America see Gilbert Chinard, "Polybius and the American Constitution", *Journal of the History of Ideas*, vol. 1, January 1940.
15. Polybius, *The Histories of Polybius*, trans. by E.S. Shuckburgh, (Bloomington: Indian University Press) Book VI, Chapter I.
16. *Ibid.*
17. *Ibid.*
18. *Ibid.*
19. *Ibid.*
20. Frank E. Adcock, *Roman Political Ideas and Practice* (Ann Arbor: University of Michigan Press, 1964) p. 45.
21. See for example, L. Homo, *op. cit.*, F.E. Adcock, *Ibid.*, and Perry Anderson, *Passages from Antiquity to Feudalism* (London: NLB, 1974).

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22. Cicero, *On The Commonwealth*, trans. by G.H. Sabine, S.B. Smith (New York: Bobs-Merrill, Inc., 1960) Book II.
23. *Ibid.*, Book II, p. 193.
24. The useful distinction, *concordia ordinum* and *concordia discors*, is discussed at length in Wood, *op. cit.*
25. Cicero, *op. cit.*, book II, Section 32.
26. *Ibid.*, Book I, Section 32, p. 137.

It should be noted that in speaking of the Republic and its laws and freedom we are speaking of public law and political liberty. There was, in fact, a considerable sphere of activity not regulated by the state. While the state was not limited in terms of its power over its citizens it seldom interfered in the relations between them. Rather "a sharp distinction was always made between public law, which regulated the structure and powers of public authorities and their relations to the individual citizen, and, on the other hand, private law, which regulated the relations of citizen *inter se*."

Charles H. McIlwain, *Constitutionalism, Ancient and Modern* (Ithaca, N.Y.: Cornell University Press, 1947) p. 40.

27. C.L. Wirszubski, *Libertas* (Cambridge: at the University Press, 1950) p. 14.
28. Cicero, *op. cit.*, p. 43.
29. Wirszubski, *op. cit.*, p. 43.
30. From W. Ebenstein, *Introduction to Political Philosophy*, (no publishing place listed: Rinehart and Co., Inc., 1952) p. 76.
31. Niccolo Machiavelli, *The Discourses*, (New York: The Modern Library, 1950) Book I, Chapter VI, p. 129.
32. Wood, *op. cit.*, p. 289.
33. Machiavelli, *op. cit.*, Book I, Chapter IV, p. 119.
34. *Ibid.*, Book I, Chapter V, p. 122.
35. *Ibid.*, Book I, Chapter XVII, p. 166.
36. On virtue in a republic see Book I, Chapters IV, XI, XII, XIII, XIV.
37. *Ibid.*, Book, Chapter XVII, p. 137.
38. *Ibid.*, Book I, Chapter V, p. 122.
39. *Ibid.*, Book I, Chapter IV, p. 120.
40. *Ibid.*, Book I, Chapter IV, p. 122.
41. *Ibid.*, Book I, Chapter LVIII, p. 263.
42. Machiavelli's thought had a profound influence on both republican and non-republican thought. For those who credit Machiavelli as the primary source for the British on the mixed constitution and republicanism see J.G.A. Pocock, *op. cit.* and Felix Raab, *The English Face of Machiavelli*

(London: Routledge and Kegan Paul, 1968).

43. The references were often explicit as the title of a pamphlet by Edward Spelman demonstrates: *A Parallel between the Roman and British Constitution: Comprehending Polibus's Curious Discourse of the Roman Senate; with a Copious Reference wherein His Principles are Applied to Our Government. The Whole Calculated to Restore the True Spirit of Liberty, and to Explode Dependency and Corruption.* (London, 1747) Taken from Stanley Pargellis, "The Theory of Balanced Government: in C. Read, *The Constitution Reconsidered* (New York: Harper and Row, 1968).
44. John Aylmer "An Harborowe for Faithful and Trewe Subjects". (Strasbourg, 1759) as quoted in Corrine Comstock Weston, "The Theory of Mixed Monarchy Under Charles I and After", *English Historical Review*, Vol. 75, July 1960, p. 427.
45. Sir Thomas Smith as quoted in M.J.C. Vile, *Constitutionalism and the Separation of Powers* (Oxford: Oxford University Press, 1967) p. 37.
46. From Pargellis, *op. cit.*, p. 40.
47. V. Falkland, Sir John Colepepper, *The Nineteenth Propositions* in R.L. Schuyler and C.C. Weston eds., *British Constitutional History Since 1832* (Princeton, New Jersey: D. Van Nostrand Co. Inc., 1957) pp. 98, 99.
48. *Ibid.*
49. Henry Ferne, *A Reply Unto Severall Treatises* (Oxford, 1643) as quoted in Weston, "The Theory of Mixed Monarchy", *op. cit.*, p. 434.
50. Thomas Hobbes, *The Leviathan*, (New York: Bobbs Merrill) Part II, Chapter 18, p. 50.
51. Robert Filmer, *Anarchy of a Limited or Mixed Monarchy* ed. by P. Laslett (Oxford: B. Blackwell, 1949) p. 279.
52. Anon. *Some Short Considerations Relating to the Settling of the Government of England* (London, 1689) p. 4, as quoted in Corrine Comstock Weston, *English Constitutional Theory and the House of Lords 1556-1832* (London: Routledge and Kegan Paul, 1965) p. 89.
53. H.T. Dickinson, *Liberty and Property* (London: Weidenfeld and Nicolson, 1977) p. 72.
54. See Dickinson, *Ibid.*
55. For this section I have relied upon the following two works by J.G.A. Pocock, *The Machiavellian Moment* (Princeton: Princeton University, 1975) and "Machiavelli, Harrington and English Political Ideologies in the Eighteenth Century" *William and Mary Quarterly*, 22 (1965), 549-583. H.T. Dickinson's book, *op. cit.*, was invaluable as well.
56. This is but a brief summary of the Court position. For a lengthier analysis of Court ideology see Chapter IV.
57. Hume, however, differed with most Court Whigs on the National Debt seeing it as a possible future danger to the state.

58. See W.B. Gwyn, *The Meaning of the Separation of Powers* (New Orleans: Tulane University, 1965) p. 18.
59. Dickinson, *op. cit.*, p. 69.
60. Melvin Richter, "Comparative Political Analysis in Montesquieu and Tocqueville" *Comparative Politics*, Vol. 1, Jan. 1969, p. 138.
61. Montesquieu, *De l'Esprit des Lois* in Roger Callois, ed., *Oeuvres Completes de Montesquieu* II (Paris, 1949) p. 872. as quoted in Richter, *Ibid.*
62. Richter, *Ibid.*, p. 151.
63. Montesquieu, Book XI, Chapter VI, *Spirit of the Laws* from Melvin Richter, ed. *The Political Theory of Montesquieu* (Cambridge: University Press, 1977) p. 245.
64. Montesquieu, *The Persian Letters*, ed. and trans. by J. Robert Loy (New York: Meridian Books, Inc., 1961). A debt is owed to the work of N. Wood and M. Richter on this point.
65. Montesquieu, *The Considerations* in M. Richter, *op. cit.*, p. 154.
66. *Ibid.*, p. 161.
67. Montesquieu, it should be noted, was perfectly aware of some of the early formulations of the "invisible hand".
68. *Ibid.*, p. 161.
69. *Ibid.*, p. 158.
70. *The Spirit of the Laws*, Book VIII, Chapter XII, *ibid.*, p. 231.
71. *Ibid.*, Book IX, Chapter XX, p. 235.
72. *Ibid.*, Book IX, Chapter 1, *ibid.*, p. 237.
73. For more on this point see Melvin Richter, "Introduction", *ibid.*, p. 44.
74. *The Spirit of the Laws*, Book III, Chapter VII, *ibid.*, p. 193.
75. *ibid.*
76. *ibid.*
77. Richter, "Introduction", *ibid.*, p. 43.
78. For more on this point see M.M. Goldsmith, "Public Virtue and Private Vices: Bernard Mandeville and English Political Ideologies in the Early Eighteenth Century", *Eighteenth Century Studies*, Vol. 9, 1976, pp. 477-510.
79. Bernard Mandeville, *The Fable of the Bees*, ed. by Irwin Primer (New York: Capricorn Books, 1962), p. 22.
80. *ibid.*, p. 31.
81. *ibid.*, p. 31.
82. *ibid.*, p. 22.
83. *Spirit of the Laws*, Book V, Chapter XIX, Richter *op. cit.*, p. 223.

84. *Ibid.*, Book XI, Chapter VI; Book XIX, Chapter XXVII.
85. This interpretation is reinforced by Lance Banning's observation that Montesquieu's constitutional formulations "may have required an appreciation of both sides of the Court-Country debate he witnessed while in England. Only the Country contribution has been recognized." Lance Banning, *The Jeffersonian Persuasion* (Ithaca: Cornell University Press, 1978) p. 131.
86. *Spirit of the Laws*, Book XIX, Chapter XXVII, Richter, *op. cit.*, p. 285.
87. Gwyn, *op. cit.*
88. *Spirit of the Laws*, Book XI, Chapter VI, p. 245, Richter *op. cit.*
89. *Ibid.*, p. 253.
90. *Ibid.*, p. 252.
91. *Ibid.*, Book XIX, Chapter XXVII, p. 283.
92. *Ibid.*, Book XI, Chapter VI, p. 245.

CHAPTER III

THE AMERICAN EXPERIENCE AND THE CONVENTIONAL NOTION OF FEDERALISM

Introduction

In the previous chapter I noted that while Montesquieu wrote with a scientific spirit, the questions he asked were basic questions—ones familiar to Machiavelli and Aristotle. "What are the basic types of human groupings? By what means may they be preserved? What laws and institutions are appropriate to each of them? What are the true explanations of decline and fall, and how may they be applied before deterioration has proceeded too far?"

Yet, such questions were not asked only by isolated political theorists. In the eighteenth century they were commonly asked—the American colonies were no exception. The colonists in asking these questions drew from a vast intellectual heritage. That they often drew directly from the ancients, Aristotle, Polybius, Cicero has been well established.¹ Of the modern thinkers, though, it has been usually Locke that has been singled out as being of primary importance. Yet, as was noted in the introductory chapter, in recent decades Locke's pre-eminent position in American political life has been thrown into doubt. Clinton Rossiter was among the first to seriously question Locke's import. In 1953 he wrote that "Locke has always been considered the supreme if not indeed exclusive source of Revolutionary ideas." "But," he asked, "is this true?" Rossiter answered his own question saying that "the unmistakable impression one gets from roaming through the entire range of Revolutionary literature is that he was

definitely not so important a figure as we have hitherto assumed."²

The question then becomes, if Locke was not that important, who was?

Rossiter suggests that while Locke was esteemed, others including

Bolingbroke, Sidney, Addison, and Gordon and Trenchard were, so far as the colonists were concerned, the great men of this tradition, and the greatest of these were Gordon and Trenchard. No one can spend any time in the newspapers, library inventories, and pamphlets of colonial America without realizing that *Cato's Letters* rather than Locke's *Civil Government* was the most popular, quotable, esteemed source of political ideas in the colonial period.³

Rossiter's insistence on the importance of Gordon and Trenchard, the authors of *Cato's Letters*, was confirmed by Bernard Bailyn's survey of the political literature of the period.⁴ Bailyn also stressed the importance of Bolingbroke and added other names such as Robert Viscount Molesworth. Generally, today, these names have been forgotten. They were a varied assortment of writers, politicians, and publicists who formed what has been described as an opposition view of English politics. The opposition view was embodied in the Country party—a loose coalition of independent politicians, both Whig and Tory, commonly opposed to the influence of the Crown in English political life. Their more conservative Tory leaders, such as Bolingbroke, represented the large landowners. The more "radical" Whig leaders such as Trenchard and Gordon preferred a more equitable distribution of property although they did not advocate any redistribution by government. While many in the Country party were Whigs along with the Court party in that they accepted the Revolution Settlement and believed in the virtues of the mixed and balanced constitution, they did possess a different perspective on English politics.

This perspective centered on the distrust of Crown patronage with its elements of money, power and place that were thought to be undermining the balanced constitution. Writers such as Trenchard had previously argued that in the past the constitution had protected the independence of the House of Commons by forbidding "a mercenary army to frighten them into a Compliance, nor Place or Revenues great enough to bribe them into it."⁵ To prevent this perceived abuse of power, opposition writers, including Trenchard and Bolingbroke, recommended a separation of powers which it was felt could prevent corruption, tyranny and the arbitrary use of power.

More than anything else it was the common fear of corruption that was the ideological thread running through the Country opposition.⁶ By corruption they meant not only the manipulation of elections and voting in the House of Commons but also in the sense of pervasive moral and social decay. They promoted an ethic of civic virtue which emphasized the need for patriotism, integrity, regeneration and self-sacrifice. They felt that in order to preserve the balance of the constitution and protect liberty it was necessary to change both the manners of men and the institutions of the country. The immediate derivatives of this thought, from which they had borrowed to suit their own needs, lie in the republican thought of the seventeenth century—embodied in the works of Harrington, Milton and Sidney—which, in turn, was linked to Machiavelli. It was also this tradition, both republican and Country opposition, which can be detected in the writings of Montesquieu.

On the reception of opposition thought in the colonies Bailyn writes:

To say simply that this tradition of opposition thought was quickly transmitted to America and widely appreciated there is to understate the fact. Opposition thought in the form it acquired at the turn of the seventeenth century and in the early eighteenth century was devoured by the colonists.⁷

In America suspicion ran deep concerning the use of imperial power. To many every perceived accumulation of power by the Crown was depicted as being tyrannical and a threat to the security of life and property—the epitome of liberty. The English constitution and nation were increasingly depicted as being corrupt and when Americans used the term “corruption” they were perfectly aware of its meaning. Many felt, there “was a pervasive corruption, not only dissolving the original political principles by which the constitution was balanced, but, more alarming, sapping the very spirit of the people by which the constitution was ultimately sustained.”⁸

To many Americans opposition thought represented those qualities the English had lost. The classical world that had inspired Machiavelli and his seventeenth and eighteenth century heirs also inspired them. Republicanism embodied civic virtue and the values of equality, frugality, industry, temperance and simplicity. Republicanism meant not only a particular form of government but also a particular way of living and associating. Independence when it came then had a highly moral significance representing not only a call to revolution but also a call for moral regeneration. Gordon Wood makes the following point about the republican governments that were declared:

The new republican governments were to be more than beacons to the oppressed of the world, more than the consequences of revolution. They were themselves

to be the agencies of the revolution. There was, the eighteenth century believed, a reciprocating relationship between the structure of the government and the spirit of its people. It was this belief in the mutual influence, the feedback and interplay, between government and society that makes eighteenth century thinkers like Montesquieu so subtle and elusive. On the one hand, there was no doubt that the nature of the government must be adapted to the customs and habits of the people. 'A good form of government may hold the rotten materials together for some time, but beyond a certain pitch even the best constitution will be ineffectual and slavery must ensue.' Yet, on the other hand, politics was not regarded simply as a matter of social determinism; the form of government was not merely a passive expression of what the spirit of the people dictated. The scheme of government itself had a natural and powerful bias, both upon those who rule, and upon those who are ruled. Republicanism was therefore not only a response to the character of the American people but as well an instrument of reform.

Wood's quotation is noteworthy for several reasons. First of all, it underscores the importance of thinkers like Montesquieu over Locke. While Locke was well known, his fame came generally for his *Essay on Human Understanding*—as a political thinker he was less popular than Montesquieu.¹⁰ Secondly, while the type of analysis is linked to Montesquieu it is essentially Aristotelian. In this instance the form a polity took was intimately connected with its "matter" (the "people"). The matter limited the form that could be placed upon it. In the above quotation Wood's citation of Jonathan Witherspoon, Madison's tutor at Princeton, illustrates the point. 'A good form of government may hold the rotten materials together for some time, but beyond a certain pitch even the best constitution will be ineffectual and slavery must ensue.' Even the opponents of Revolution were to adopt this analysis to suit their particular purposes. Bishop Charles Inglis, for example, a Loyalist who eventually found his way to Nova Scotia, was particularly fond of Montesquieu. In his rebuttal of Thomas Paine he argued that "in nothing is the wisdom of a legislator more conspicuous than in adapting his form of government to the genius, manners, dispositions and other

circumstances of the peoples with whom he is concerned." The point was made, that the colonies were too large to support republican government (Montesquieu, it was noted in Chapter II, had argued that republican governments could work only in a small area) and furthermore, the colonists were Britons and "limited monarchy is the form of government which is most favourable to liberty...[and] which is best adapted to the genius and temper of Britons."¹¹

As James Wilson argued, however, the form was consequential—form and matter were reciprocal. The best example of this interrelation can be found in the relationship between government, education and civic virtue. One colonist in 1775 wrote: "The strength and spring of every free government is the virtue of the people, virtue grows on knowledge, and knowledge on education."¹² Education in turn should be a responsibility and an instrument of any republican government. The circle then would continue. It was important for the revolutionaries that the values they adhered to and the philosophy they took stock in be universalized and permeate the entire society. Republicanism, again, represented a way of living. It was the business of political philosophers to discover the virtues that led to free government and the form of government that led men to virtue. John Adams summarized matters for many when he drafted the following clause of the Massachusetts Constitution of 1780:

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties, and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislators and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, com-

merce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings, sincerity, good humour and all social affection and generous sentiments among the people. ¹³

While the values of republican society may have been widely held, however, there was no clear consensus on their meaning. Virtue, for example, was often a rather vague moral standard and hopelessly subjective as well; "one man's notion of public virtue was another's example of private vice."¹⁴ It was commonly argued, however, that an agrarian economy rather than a manufacturing or commercial economy would best produce virtue. A South Carolinian asked the following question: "Would you extinguish luxury?" Answering his own question he responded: "Give a singular protection to agriculture which engages men to live in temperance and frugality."¹⁵ Others such as Josiah Quincy, Jr., praised "the FREEHOLDERS and YEOMANRY of my country...the LANDED INTEREST" as "the virtue, strength, and fortitude" of the state.¹⁶

In addition, it was widely agreed that a virtuous people was indispensable for a free and republican government and that the antithesis of virtue-corruption was its mortal foe. In the pre-Revolutionary era and for most of the Revolutionary period there was great optimism that Americans were a virtuous people capable of sustaining a free society and a free government. However, by the later years of the Revolution and during the period of the Confederation, a pervasive fear arose among men of substance that the American people were not as virtuous as once thought.¹⁷ John Jay, for example, argued that "too much has been expected from the Virtue and good Sense of the people."¹⁸ William Livingstone

concurred. Americans he felt, "do not exhibit the virtue that is necessary to support a republican government."¹⁹ George Washington insisted that virtue had "in a great degree taken its departure from our land."²⁰ This perception by the elite of fleeing virtue was prompted by the recognition that American society was losing that social homogeneity upon which republican virtue depended. The evidence of growing social pluralism was everywhere. American society was becoming increasingly fractured as new groups of farmers, merchants, mechanics and religious interests emerged politically.²¹ Signs of luxury were also appearing. Americans, correspondents wrote Jefferson, were becoming "a Luxurious Voluptuous indolent expensive people without Economy or Industry."²² Inequality was increasingly evident. Wrote Jeremy Belknap, "If Equality is the soul of a republic then we have no soul."²³

Such social tendencies worried America's ruling elite. They saw society becoming unbalanced with the masses, such as the debt-ridden farmers, acting in their own self-interest and not the public good. This, in turn, was being reflected politically in the balance of the state legislatures which were seen to be sliding into the grips of the Houses of Representatives, the democratic branch of government. No longer was the Crown the threat, it was the people. If not arrested a cycle of degeneration would begin. As Professor Banning writes Americans commonly thought that "only a balanced government offered a release. With its devices for pitting power against power and interest against interest in such a way that each group in a society would be guarded against the rapacity of the rest, a balanced government might offer a period of constitutional peace."²⁴

Even those strict republicans who never lost faith in the people were alarmed by the social changes they saw around them. Samuel Adams, for example, felt Boston was wallowing in luxury and amusement. He expressed regret and anger over "the Equipage, the Furniture and expensive Living of too many, the Pride and Vanity of Dress which pervades thro every Class, confounding every Distinction between the Poor and the Rich."²⁵ In particular, writes Gordon Wood, "By the early 1780's many New Englanders saw themselves as the last bastion of devout republicanism standing against the torrent of aristocratic vice and luxury that was sweeping America."²⁶ Vice and luxury, it must be said, that were occasioned by an increasingly commercial society.

A critical difference arose during this period between those who still possessed faith in the virtuous capacities of Americans and those who did not. Those who did cling to the ideal of moral regeneration. Those who did not searched, much as Montesquieu had done, for institutional devices that could manage the self-seeking passions of an unvirtuous people.²⁷ For those who sought refuge in institutional reform it was evident "that so extensive a territory as that of the United States, including such a variety of climates, productions, interests, and so great differences of manners, habits, and customs" could not form a single republican state.²⁸ This was consistent with Montesquieu's political science. Even small states were now too socially diverse to support a virtuous people.²⁹ These observations were to lead the advocates of institutional change, Federalists, to conclude that they were no longer bound by all the strictures of republicanism. They felt freer to entertain the notion that, in reality, conflicting social

interests might be better balanced in an extensive republic. Extended territory was, in reality, a source of strength in moderating democratic excess. James Madison, in particular, was to seize upon this . Some have ascribed this turn about to Hume's observations on republican government.³⁰ Yet, this is difficult to prove. Montesquieu, it was noted in the previous chapter, also saw the advantages of a large territory and a diverse society in moderating the effects of the popular will.

On the other hand, as I will demonstrate shortly, there were those who clung to the belief that Americans were still a virtuous people and put their faith in local government. Gordon Wood has written that the adoption of the American constitution symbolizes the denouement of this element of American political culture. It would be better to say, in light of more recent evidence, that the adoption of the constitution was to represent a setback to the strict republican faith of the Country opposition.³¹ In the 1790's and early 1800's this element of American political culture was to reassert itself in the republican faith of Thomas Jefferson and the growing power of the states.

Localism in the mid 1780's, though, was to be challenged, particularly by men of wealth who were anxious to find a means of counteracting the weight of the democratic masses in society and in the state legislatures. This concern is reflected in the thought of the leading nationalists of the period such as James Madison and is abundant in the debates of the Constitutional Convention of 1787. An appraisal of these sources will demonstrate the shift in thinking about republicanism and how much of the traditional reasoning on the mixed and bal-

anced constitution can still be applied to the Constitution of the United States. I will examine first the arguments of Madison made before and during the convention, compare them with the contribution of some of the leading participants at the convention and finally return to Madison's defense of the Constitution in the *Federalist Papers*. Following this I will discuss the revival of opposition thought in Jeffersonian republicanism and its expression in a decentralized concept of federalism. Elements of opposition thought reappear in the work of John C. Calhoun and Alexis de Tocqueville. Their work and those of the Founding Fathers will be contrasted to twentieth-century interpretations of federalism.

James Madison and the Vices of the Political System

James Madison, without doubt, was one of the most sophisticated social and political thinkers of the period. He was akin to many of the most literate men of the time in that he was continually searching for generalizations and scientific principles in history that would be useful in the present. He tried continually to find the connectedness of things, particularly the relations between governmental institutions and society and what determined their changes over time. Experience, he felt, rather than reason was a better guide to follow.³² "Experience", Madison once wrote, "is the oracle of truth and where its responses are unequivocal, they ought to be conclusive and sacred."³³ If there is any key word that gives insight into Madison's thinking, it is that of "balance"—balance in society and in government—but a balance preserved by division.

In the 1780's Madison, like many others, had become increasingly concerned that the various confederated republics of the United States were about to be torn apart by internal faction. In 1786 he conducted a study entitled "Ancient and Modern Confederacies".³⁴ He sketched the history of six confederacies along with the "vices" of each. The primary lesson he drew from this study was that confederacies tended to be fragile, repeatedly breaking apart or being generally ineffectual and powerless. He believed that the American Confederation had the same fate in store unless something drastic was done. The creation of a strong central authority was now an imperative.

He then followed this study with another entitled "Notes on the Confederacy". He subtitled it "Vices of the Political System".³⁵ In it he analyzed the various ills of the Confederacy. The Confederacy, he believed, was about to be dissolved in chaos. The democratic parts of the state legislatures were encroaching upon the other parts. States were encroaching upon one another and upon the confederate government, and many states were wracked by internal violence. Madison wondered about the validity of "the fundamental principle of republican Government, that the majority who rule in such governments are the safest Guardians both of public Good and private rights."³⁶ The majority, although not corrupt, were not as virtuous as previously believed. Furthermore, if the majority determined the law and "if an apparent interest or common passion unites a majority, what is to restrain them from unjust violations of the rights and interests of the minority or of individuals?"³⁷

Madison's studies led him to the conclusion that equality of condition was impossible in America and that the propertied classes, the minority, had to be protected from the majority. Madison, aware of the principles that Malthus was to later make famous, came to this conclusion because he feared America, too, would suffer the spectre of overpopulation.³⁸ America, he felt, was undergoing what might be termed a "Europeanization" of its society. That is, it would eventually suffer from a surplus population and the great majority would have little or no property. This posed obvious problems to the men of property. In 1786 he had written to Jefferson remarking "No problem in political economy has appeared to me more puzzling than that which relates to the most proper distribution of the habitants of a Country fully peopled."³⁹

Madison was convinced that the danger was immediate. His feelings on the matter were best articulated in the Constitutional Convention of 1787:

We cannot however be regarded even at this time, as one homogeneous mass, in which everything that affects part will affect in the same manner the whole. In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will, under the hardships of life and security, sigh for a more equal distribution of its blessings. They may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this Country, but *symptoms of a levelling spirit*, as we have understood [it], *have sufficiently appeared in certain quarters to give notice of the future danger.*⁴⁰

The symptoms of an unbalanced polity were not hard to find. Everywhere insufficient respect was being given men of property. The state senates, composed of men with a higher property qualification, were no longer able to "give wisdom and steadiness to legislation."⁴¹ Among the more alarming symptoms that Madison alluded to was debtor legislation favouring the mass of America's

debt-ridden farmers and the issuance of paper money.⁴² Their measures favoured the poor over the rich. The popular branch of government, the various state houses of representatives, had, thought Madison, no proper counterweights. As the popular house often elected the governor, the chief executive of each state, that independent balancing factor was also missing.

The disturbing power of encroaching state legislatures lead Madison, like other Federalists, to articulate a new purpose for the separation of powers. Whereas in 1776 Americans, in the tradition of the Country opposition, had attempted to isolate the legislature and judiciary from the corrupting influence of the executive the constitutional reformers of the 1780's were to advocate separation of powers to protect the executive from legislative encroachment. It was necessary to have a strong executive independent of state legislatures. Included in the reinvigoration of executive power were demands that the appointive power of governors be restored.⁴³ In Madison's opinion, "The power of the Legislature to appoint any other than their own officers departs too far from the Theory which requires a separation of the great Departments of Government."⁴⁴ Clearly by the 1780's, then, the proponents of institutional reform were edging towards Montesquieu's position on the separation of powers. American governments too, were in need of a more powerful and independent executive to counteract the growing weight of popular government. This attempt to protect and strengthen the executive was part and parcel of an attempt to circumscribe the power of popular assemblies and state governments.

Madison felt one means of counteracting the power of state governments was through the creation of a national government. He speculated on the type of government that he wanted. He wrote

The great desideratum in Government is such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions, to *control one part of the society from invading the rights of another*, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the whole Society. ⁴⁵

The Madisonian Analysis and American Historians

Madison, typified the concerns of the propertied classes in America. The question that arises, though, is whether or not his analysis was accurate. At first it would seem that his fear of overpopulation and domestic conflict was not in accordance with historical fact. Eighteenth century America has historically had the image of a society with ample land and sufficient opportunity to all who might desire it. Robert E. Brown, often cited as knowledgeable on this point, has argued that at the time of the writing of the Constitution, America was largely a 'middle-class democracy'. Of one thing we can be certain he wrote "is that the Constitution was not written for nor adopted by, an undemocratic society."⁴⁶ Colonial America he contended was a prosperous, satisfied society in which land and wealth were distributed widely and the suffrage widely held as well, since suffrage was tied to property holdings. Such social conditions meant that the Revolutionary era involved little social antagonism.

In the two decades since Brown first made his analysis, however, historians in the United States have been led to question Brown's conclusions. Their evidence largely substantiates Madison's analysis. Research seems to indicate that

American society was becoming Europeanized, that is, becoming more socially diverse and hierarchical and undergoing considerable stress. This, perhaps, should not be as surprising as it sounds. Americans only gradually moved out to clear the western wilderness. Before 1800 they remained huddled along the eastern seaboard. Since space does not permit a full review of the literature on the subject, only some of the leading studies will be cited.

In New England, for example, the problems created by overpopulation and the limited availability of land were particularly acute. Charles Grant's study of Kent, Connecticut indicates this:

Economic opportunity, bright in 1751, had turned relatively dark by 1796...society, predominantly middle class in 1751, included a growing class of propertyless men in 1796...increased poverty stemmed from the pressure of a population swollen by a fantastic birthrate against a limited amount of land. 47

The studies conducted by Kenneth Lockridge demonstrate that such a phenomenon was probably occurring in the eighteenth century throughout all of New England both urban and rural. A limited supply of land and a growing population that was reluctant to emigrate westward were acting to divide and reduce landholdings. This brought marginal lands increasingly into cultivation and raised land prices. Lockridge feels this very well may have led to a polarizing of societal structure and the creation of an agricultural 'proletariat' and maybe even a corresponding 'rural gentry'. While Brown's analysis may have been accurate for a certain period of eighteenth century America, Lockridge feels the problem is that "Brown treated eighteenth century colonial society as relatively static." Evidence, however, "shows the flaw in this conception and points to a society moving from decades of rosy 'middle-class' existence toward years of

economic polarization and potential class conflict." Furthermore, Lockridge argues grounds exist to say that there was a pervasive fear of a gradual "Europeanization" of American society among Revolutionary leaders.⁴⁸

Finally, in 1976 in a review of recent research on the subject, Jerome H. Wood was led to conclude that:

in major urban centres, in minor ones, and in the rural sections, the picture is slowly emerging of growing economic and social stratification, as measured by the distribution of wealth and property and the appearance, for the first time in some places, of designations calculated to set those at the apex of their societies part from the rest.⁴⁹

It would appear then, that Madison's fears of an overcrowded, class-divided America in the late eighteenth century, has a substantial basis in fact. America, it seems, was not to be exempted from the fate of European nations with their vast surplus populations and all the problems that accompanied them. America was increasingly becoming a socially differentiated and hierarchical society as Madison had perceived.

What is more, Madison's fear of the growing power of state legislatures does have some factual basis. The legislatures, particularly the lower houses, emerged more powerful than they had ever been before. After 1776 state legislatures were freed from the control of the executive and judicial branches of government and they could pass any laws they wished without interference from anyone except the electorate.⁵⁰

Increasingly in many states those elements of society which had never participated in the political process demanded a right to participate. In their eyes the poor were just as capable, if not more capable, of virtue than the propertied

classes. In response to those who urged a property qualification for office holding one pamphleteer wrote that

social virtue and knowledge were the best and only necessary qualification. This notion of an estate has the directest tendency to set up the avaricious over the heads of the poor, though the latter are ever so virtuous. Let it not be said in future generations, that money was made by the founders of the American states, an essential qualification in the rulers of a free people.⁵¹

Many states did, in fact, lower the property qualifications for voting and for holding office, although the latter qualification was kept higher. The more conservative and wealthy leaders looked upon such innovations with great trepidation. They attempted to, and sometimes succeeded in, obtaining control of state governments but annual elections made such control uncertain. No longer was there any imperial authority to disallow the decisions of legislative majorities that threatened minorities. Furthermore, certain events in particular gave them great cause for alarm. By 1786 parties demanding paper money had managed to gain control of seven states, were making progress in others, and where they had not, had threatened violence. "The rhetoric of both sides," writes Merrill Jensen, "was couched in terms of a struggle between the rich and poor."⁵²

In what appears to be the final straw for the propertied classes and the symbol of all that had gone wrong—Shays' rebellion occurred in Western Massachusetts in 1786. There, under the leadership of Captain Daniel Shays, inhabitants began to shut down the courts in order to protect their property from sale for default on mortgage and taxation payments. The government, they argued, was tyrannical and they had a right to resist it.

In the eyes of Henry Knox who reported the affair to George Washington, heavy taxes were not to blame for Shays' Rebellion. Rather the rebels were only poor men who wanted to divide up the property of the rich.

Their creed is 'that the property of the United States has been protected from the confiscations of Britain by the joint exertions of all, and therefore ought to be the common property of all.' In a word, they are determined to annihilate all debts public and private and have agrarian laws which are easily effected by the means of unfunded paper money.⁵³

The Federal Convention of 1786

This, then, was the atmosphere in which James Madison and the Founding Fathers gathered in Philadelphia in 1786—an atmosphere of tension and crisis. Most shared the fears of Madison. They were, it is clear, an elite, highly unrepresentative of American society as a whole. That they possessed a high degree of class identity is succinctly demonstrated in the following comment of a noted French observer of eighteenth century American politics who reported that while admittedly there were no nobles in America, there was a class of men called gentlemen who:

by reason of their wealth, their talents, their education, their families, or the offices they hold, aspire to a pre-eminence which the people refuse to grant them; and, although many of these men have betrayed the interests of their order to gain popularity, there reigns among them a connection so much the more intimate as they almost all of them dread the efforts of the people to despoil them of their possessions, and, moreover, they are creditors, and therefore interested in strengthening the government, and watching over the execution of the laws. ⁵⁴

Strengthening the government was indeed a priority at the Federal Convention. There was a widespread desire to circumscribe and limit the power of the state governments. Nevertheless, while there was mutual fear of the poor, there were severe divisions of interests among the Founding Fathers. These interests,

too, had to be balanced. Balance, then, is a key concept to understanding the constitution. The national government, for example, would balance the local governments. Its senate would help balance both large states against small states and also regions, North versus South. But, above all, the few had to be balanced against the many. In Gordon Wood's opinion, the constitution that the Founding Fathers ultimately produced "was intrinsically an aristocratic document designed to check the democratic tendencies of the period."⁵⁵

The records of the Federal Convention demonstrate the pervasive fear among delegates of democracy and state legislatures. This concern was expressed very early in the debates by Governor Randolph of Virginia who in speaking on the defects of the Confederation stated:

Our chief danger arises from the democratic parts of our Constitutions. It is a maxim which I hold incontrovertible, that the powers of governments exercised by the people swallows up the other branches. None of the constitutions have provided sufficient checks against democracy. ⁵⁶

Elbridge Gerry concurred with Randolph. He felt, "the evils we experience flow from the excess of democracy" and experience had taught him "the danger of the levelling spirit."⁵⁷

The Founding Fathers, Gordon Wood claims, solved the problem of democratic excess in a manner they thought was consistent with democratic principles and republicanism. They did this by making the people sovereign and the ultimate source of authority for the creation and operation of political institutions. In the opinion of James Wilson of Pennsylvania the federal constitution was "purely democratical" because "all authority of every kind is derived by

REPRESENTATION *from the PEOPLE and the DEMOCRATICAL principle is carried into every part of the government.*"⁵⁸

This is a critical statement for it is said by Gordon Wood, among others, to represent the "end of classical politics" and traditional eighteenth century thinking on government.⁵⁹ It is said to do so in a variety of ways. First, by founding government on the authority of the sovereign people who remain the source of power for its constituent parts the Founding Fathers are said to have rejected the notion that fixed social estates were to be represented and balanced in the organs of government. In Lance Banning's opinion, "The Federalist's great achievement... was to separate the idea of a balance of government functions from the idea of a balance of social estates, with which it had long been joined."⁶⁰ The American constitution, then, was not to be a mixed constitution in the classical sense.

Political power in America was not to be exercised directly by social estates or even the people themselves but by individuals whose right to exercise authority was legitimated by the fact that they represented the people. All power was entrusted to the people's representatives and every mode of exercising power—the legislature, the executive, the judiciary—was a mode of representing the people.

The fact that the people were not to govern directly symbolized as well "the decline of virtue" as a principle said to be governing republics. This had immense consequences. According to J.G.A. Pocock, "It permitted the overcoming of the widely accepted limitation which enjoined republics to be of finite size

if they would escape corruption; the new federation could be both republic and empire, continental in its initial dimensions and capable of further expansion by means of simple extensions of the federative principle."⁶¹

Immensely important as these developments were, it would be too much to claim that they represented a complete abandonment or end of classical politics. Professor Banning, whose work on American political thought in the 1790's and early 1800's confirms this, insists "the idea of a balance of social estates, which Federalists rejected, was only part of a larger universe of classical republican thought. Its passing did not invalidate the large structure of inherited ideas in terms of which Anglo-Americans had long perceived and formulated their social and political concerns."⁶² The theory of balanced government, with its checks and balances for example, was retained. Human nature was still selfish, power still encroached and had to be pitted against power if liberty was to be preserved.⁶³ Furthermore, while the Founding Fathers may have lost faith in the virtue of the American people the American people never lost faith in their own virtue. It was on the basis that the people were virtuous that the attack on the centralizing tendencies of Alexander Hamilton's economic policies in the 1790's was, in part, intellectually justified.

In addition, an examination of the records of the Federal Convention indicates just how much the rhetoric of classical politics remained. While the Founding Fathers may have rejected the idea that social estates could be represented in government it is also evident that they intended that government be capable of representing men such as themselves—men of wealth or worth, concepts that

were not divorced in their minds. In the eighteenth and even the nineteenth century wealthy men viewed wealth and merit as being synonymous.⁶⁴ Gordon Wood tends to divorce the two seeing the social struggle as being one of "The Worthy against the Licentious" and not one of rich versus poor as does Merrill Jensen. Wood also underplays statements in the convention which emphasize the place men of wealth had to have in government. No less a figure than James Madison insisted during the debates that "the Senate ought to come from and represent the wealth of the nation."⁶⁵ Hamilton similarly stated that

All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second..."⁶⁶

While Hamilton did not get a Senate for life it is clear that he and others still linked institutions of government to social constituencies, not individuals. In a later statement Hamilton reinforced this notion saying that he "rose to remark that...one branch of the proposed Government was so formed, as to render it particularly the guardians of the poorer orders of citizens."⁶⁷

The federal Constitution, I argue, was intended to represent America's social differences not in the same sense of fixed social estates but in the sense of its most prominent class-fractions. It would represent, for example, not only the wealthy but their internal class differences. The Constitution simply would not have been accepted if it had not finely balanced the slave economy of the South against that of the North. It was the threat of the growing power of the North that later led John C. Calhoun to search for means to keep the two regions and

economies balanced.

In countering the excess of democracy the primary objective became one of creating a national government strong enough to counter the power of local governments. What, though, was needed to give the national government sufficient strength for this purpose? To begin with its authority would have to be derived directly from the people (and not the state governments). If the national government was dependent upon the state governments they might very well claim that it was their agent and independently pass judgments on their obligation to obey federal acts. This was a commonly perceived weakness of the present arrangement. The confederal congress depended on the dubious goodwill of the states in carrying out its acts.⁶⁸ By making the people the ultimate source of authority the states could be bypassed. The national government was just as representative of the people as the states. Its laws, too, could be applied directly to the people without the mediation of state government. This was to be part of the uniquely American contribution to government. Power had been divided before between institutions of the same government but never divided between different levels of government each legally able to apply laws directly to its citizens.

But while the federal government was to act as a counterweight to the states this did not imply that in the minds of the Founding Fathers the two levels of government were to be equal in power and status. To the contrary, the federal government was given the most critical powers of government. The federal government was granted such crucial financial powers as the power to tax

people directly instead of through the unpredictable states, the power to regulate commerce, the power to make bankruptcy laws and the power to coin money and regulate its value. It was also given powers dealing with military affairs such as the raising and maintenance of standing armies an indication of just how far the Founding Fathers had moved away from the position of the Country opposition.

The intention of the Founding Fathers was clearly not to create a weak central government but rather a strong one with the states subordinated to the national government. The records of the Convention make this abundantly clear. Summarizing the arguments of the Convention on this point Rufus Davis states:

From the very outset, and almost the very end of the convention, the attempt to explain the relationship of the national government to the states, even by those most ready to compromise on almost everything but the idea of a national government, was translated in the language and analogies of hierarchy: primacy/subordinacy, supremacy/inferiority, independence/dependence, general power/limited power; the states in the union were to be like 'towns', 'corporations', 'counties', 'local governments', 'subordinate areas of jurisdiction in the existing states....' Rarely, if at all, were they spoken of as 'co-ordinate', or 'co-equal', or 'co-sovereign' in status of authority. Indeed the more erudite champions of national government, like Madison and Hamilton, supported a simple thesis: effective, strong and coherent rule for a nation requires a national government; a national government is inconsistent with claims to equality by any other government within the nation; if equality is conceded, there can be no effective, strong, and coherent rule for the nation!⁶⁹

Madison went so far as to argue numerous times during the debates that in order to secure the dominance of the national government the Constitution should include a requirement that before becoming legally valid, all state legislation must be reviewed by the National Congress which could impose a veto.⁷⁰ In the end, the Constitution was only to provide the check to be imposed by the judiciary under the supremacy clause. The effort to create a strong central government demonstrated not so much a fear of the abuse of power by government.

institutions *per se* but a fear of the unrestrained exercise of its power by the people. In this regard it was to differ little from Canadian Confederation eighty years later. Only after the Convention when debate became public did Federalists begin to speak of "co-ordinate" and "co-equal governments."

This desire to limit the power of the many dominated much of the Convention. However, the debate on the division of powers between the federal and the state governments did not take the lion's share of time. Rather, much of the discussion centered on the institutions of the national government. The debates indicate the degree to which the language of the mixed constitution still provided a model for the Convention participants.

In the discussions concerning the nature of the national government fear was expressed of its domination by any popularly elected house. The intent was after all to create a system of government that would protect the minority, and why undermine it with insufficient safeguards against the majority. While democracy was distrusted, however, there was little sentiment that the new government should not give vent to democratic expression. The people, though, were not to directly control the government—only a portion of it. George Mason of Virginia for instance strongly supported "an election of the large branch by the people. It was to be the grand depository of the democratic principle of Government. It was, so to speak, to be our House of Commons." It was necessary that the rights of every class of the people be attended to. He even admonished the "superior classes of society for their indifference to the people." He warned them that they should not be too shortsighted. Downward mobility was always a potential threat and in a few years their descendants might, and almost certainly

would, be found throughout the "lowest classes of society." He recommended, therefore, a system of policies [that] would provide no less carefully for the rights and happiness of the lowest than of the highest orders of citizens."⁷¹

While the House of Representatives would serve as an outlet for the "lowest orders of citizens", it was vital that its power be restrained by other institutions. Specifically, its power would be balanced by another institution, the Senate, which would pass judgment on its legislation. The Senate was undoubtedly the critical institution of the new government. It is imperative, though, not to see the Senate as simply one institution acting as a counterweight to another institution, the House of Representatives. The Senate was much more than this. It was to be one means of protecting the propertied classes (the few) from the poorer classes. It was also to serve as a means of protecting the smaller states from the larger states and the sectional interests of the slave-holding and agricultural South against the commercial and manufacturing North. It would represent the oligarchical principle of wealth and the classical principle of virtue— the virtue of those with talent, wisdom and a sense of the public good, the natural aristocracy.

In a remark typical of many at the Convention, Governor Randolph of Virginia declared that "the object of this second branch [i.e., Senate] is to controul the democratic branch of the national Legislature."⁷² However, in checking the first branch, the Senate had to have a personal interest in doing so. Interest had to be opposed to interest. John Dickinson, for example, "wished the Senate to consist of the most distinguished characters, distinguished for their rank in life

and their weight of property."⁷³ As stated previously, James Madison thought that "the Senate ought to come from and represent the wealth of the nation."⁷⁴ The wealthy, it is necessary to point out, represented for Madison the most worthy as well. Gouverneur Morris insisted that the excesses of the first branch could be "checked by ability and virtue in the second branch."⁷⁵ Hamilton, I noted, also wanted the Senate to represent the wealthiest citizens.

It was to be primarily the task of the men of ability and virtue in the Senate to perceive and act for the public good. In order to do this members of the Senate had to enjoy long tenure of office. Longer terms of office would free Senators from narrow parochial concerns, giving them more independence and time to learn the public business. Some such as Alexander Hamilton wanted lifetime appointments but it was decided that Senators should be appointed for six years. The appointment of the Senate is particularly important in that it illustrates another means by which the popular voice was to be limited. In principle, the authority of the Senate was grounded in the people as was every institution of government. Through Madison's policy of "refining the popular appointments by successive filtrations" men of merit and not incidentally, wealth, would tend to be chosen.⁷⁶

That is, by indirect election of Senators via state legislatures the chances were improved that persons of greater social substance and merit would be selected. State legislatures, it was assumed, would not want narrow-minded individuals to represent them. Rather they would prefer individuals capable of representing broader interests. After all Senators represented an entire state not

obscure and small electoral districts. Extent of territory, therefore, served as a means of refining the popular voice.

According to Douglas Adair the source of Madison's insight into the relationship between representation, virtue and extent of territory is David Hume's essay, "Idea of a Perfect Commonwealth."⁷⁷ In his essay Hume had argued:

In a large government, which is modelled with masterly skill, there is compass and room enough to refine the democracy, from the lower people, who may be admitted into the first elections or first concoction of the commonwealth, to the higher magistrates, who direct all the movements. At the same time, the parts are so distant and remote, that it is very difficult, either by intrigue, prejudice or passion, to hurry them into any measures against the public interest.⁷⁸

What is being refined is virtue. Virtue is present in the people but it is mixed with local bias and self-interest. The further one is removed from the people, that is, the more refined the choice of representative, the better the chance for distilled virtue, the ability to act for the public good. The people do not exercise their virtue directly, rather others exercise their virtue on behalf of the entire society.

By making Hume, who was often depicted as a villain in the minds of the Country opposition, the source of Federalist thinking on the new constitution, Adair is indicating the immense changes that had occurred in American political thought. Madison, though, does not credit Hume himself. While Adair's claim is becoming widely accepted it is still important to point out that Hume was not the only one who made the correlation between representation, virtue and size of territory. Montesquieu, as I noted earlier, made a much similar claim.

Finally it was thought that since the property requirements for holding office were much greater in most states than for voting the state legislatures

would tend to select men of greater personal wealth.⁷⁹ Madison also deliberately proposed that the Senate be small in order that the power of each Senator would be greater and therefore more prestigious thus making it a greater attraction for men of talent and wealth.

The Senate, though, would not simply serve to protect merit and property against the majority, it would serve other purposes as well. First, by allowing the state legislatures to select Senators, the chances of enlisting the support of the states behind the Constitution were greatly increased. Secondly, by deciding upon an equality of delegation to the Senate, the hostility of the small states to the scheme was reduced. Thirdly, while the Senate was to be united in its determination to protect property—there were within the Senate different types of property that had to be protected. The primary division in the propertied classes was between the commercial and manufacturing interests on the one hand, and the landed and slave-owning interests on the other. According to Madison:

The States were divided into different interests, not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from [the effects of] their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large and small States; it lay between the Northern and Southern.⁸⁰

The delegates to the Convention while united against the democratic majority, were divided among themselves. It was the Senate that was to provide the means by which these various sectional and class divisions would be mediated at the federal level.

If, somehow, intemperate legislation were to make it beyond the Senate two other barriers to democratic excess remained, the President and the judiciary. Accentuating the importance of a functional separation of powers they were to be independent of other branches of government but with the ability to check the power of other branches if they exceeded their limits. Performing the executive function the President was given the right to veto legislation, the judiciary a final check under the supremacy clause.

The President, in particular, was granted an extraordinary amount of power.⁸¹ In the Aristotelian classification, the President represented monarchy, the one, the source of energy and authority in government. One of the primary sources of the President's power came from his veto power and ability to appoint officials. Some delegates even went so far as to justify "influence" by the President, i.e. the right to appoint legislative members to executive offices. Alexander Hamilton, for example, took a decidedly Court position on the matter. "By *influence*," he said, "I mean the regular weight and support it [government] will receive from those who will find it their interest to support a government intended to preserve the peace and happiness of the community of the whole."⁸² The appointment of legislators to government offices would help insure support. Speaking against those who saw this as a source of corruption Hamilton argued, "We have been taught to reprobate the danger of influence in the British government, without duly reflecting how far it was necessary to support a good government. ... It was well known that <one> of the ablest politicians (Mr. Hume) had pronounced all that influence on the side of the Crown, which went under the name of corruption, an essential part of the weight which maintained the

equilibrium of a constitution."⁸³

Hamilton's suggestion was not rejected out of hand for the Convention divided on the issue. While, without doubt, legislative influence over the executive had to be contained it was by no means certain how far the executive was to be separated from the legislature. In the end a compromise was reached. The Constitution does allow the President to appoint members of Congress to executive positions whose salaries are fixed by Congress but no Congressman can "be appointed to any Civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time...for which he was elected."⁸⁴ Furthermore, once appointed no Congressman may remain in the legislative branch.

The efforts to strengthen the executive powers of government not only indicate movement away from the position of the Country opposition with its fear of executive power they are also indicative of the fear convention members had of unrestrained democratic power. It was necessary first to move beyond the divisive politics of small states if the public good and stability were to be achieved. While another level of government was critical for checking democratic excess, democracy at that level had to be curbed by the other organs of government. They had to have the necessary strength and means to check the popular house, the House of Representatives. It was still necessary to pit power against power, institution against institution. Freedom could still be preserved by division, *concordia discors*, though it was realized that conflict would occur in a society where the virtue of the people, though not of the few, was in considerable doubt.

James Madison - The Constitution and

Conflict Management

The extent to which federalism represented a system of conflict management based on a view of politics espoused by Machiavelli and Montesquieu with their endorsement of *concordia discors* can most clearly be understood in Madison's defense of the Constitution in the *Federalist Papers*. Madison felt, as did Machiavelli and Montesquieu, that politics in a free society necessitated a certain amount of division and conflict, albeit managed conflict. Madison viewed federalism and the society in which it would exist largely in conflictual terms. The federal system, to Madison, recognizes that conflict exists but tries to manage it and keep it within acceptable boundaries. The conflict that exists, it should be noted, is *both* institutional and societal. The societal conflict can be expressed, contained and mediated by government institutions.

Society, thought Madison, was marked by faction and division. Factions, he defined, as a "number of citizens...who are united and activated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or the permanent and aggregate interests of the community."⁸⁵ These factions can be of many types, religious, political, etc. but *most* are economic in origin. In *Federalist 10* Madison reiterated sentiments that he had expressed previously in the Convention—that social-political action has fundamentally an economic basis. He wrote:

But the most common and durable source of factions has been the various [sp.] and unequal division of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors,

and those who are debtors, fall under a like discrimination, a landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, activated by different sentiments and views. ⁸⁶

The question that Madison was trying to answer was how do you cure the "mischief", the excess of faction. One could, he felt, either remove its causes or control its effects. The causes could be removed by destroying the liberty that was essential to diversity and conflict or by instituting uniformity, "by giving every citizen the same opinions, the same passions, and the same interests." The latter remedy, thought Madison, was impossible, the former "remedy...was worse than the disease" since civilized society necessitated liberty. "Liberty," Madison tells us,

is to faction what air is to fire; an ailment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential animal life, because it imparts to fire its destructive agency. ⁸⁷

Since the price of abolishing faction was too high, the only other recourse was to recognize its existence and attempt to control its effects. It was up to government to harmonize societal faction and this could only be done if government supplied the means by which the various interests could be protected from one another. In Madison's words "the regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government." ⁸⁸

This last sentence cannot be stressed enough for it indicates that Madison did not conceive of government as being clearly separated from society. One finds that in government the various factions and parties are involved in making deci-

sions that affect their rights as bodies of citizens. This is the point Madison makes in the following passage:

And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be the judges.⁸⁹

Government, then, had to be constructed so that the various factions (primarily the majority faction) did not in their deliberations invade the rights of the other factions. The federal system with its separation of powers and checks and balances would assure that this would be done. Madison in *Federalist 51* succinctly described the nature of the new government. First he wrote:

In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpation are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments; and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will controul each other at the same time each will be controlled by itself.⁹⁰

While, indeed, there may be dissonance and antagonism in society, government will operate so as to channel this antagonism for the public good.

Some commentators, such as Robert Dahl, have inferred from statements by Madison, such as the one just quoted, that Madison's argument "exaggerates the importance, in preventing tyranny, of specified checks to governmental officials, it underestimates the importance of inherent social checks and balances existing in every pluralistic society."⁹¹ Hopefully, this analysis has demonstrated that Madison is not guilty of the charge. Madison's writings clearly demonstrate a

need for social as well as institutional balances. As indicated earlier Madison insisted that the Senate be composed of men of wealth to counteract the influence of the House. This is just one example of Madison's emphasis on social checks and balances in preventing majority tyranny. Later, in *Federalist 51*, as in *Number 10*, his recognition of the importance of a heterogeneous social structure is inescapable. For Madison it was not enough to fragment political power to prevent majority tyranny. Majority tyranny could also be thwarted by "comprehending in society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable." If this is not clear enough Madison proceeds to tell us that

Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken down into so many parts, interests and classes of citizens, that the rights of individuals, or the minority, will be in little danger from interested combinations of the majority.⁹²

Madison saw in an extended territory with its resulting societal diversity and heterogeneity a natural complement to a fragmented political structure. In Aristotelian terms, Madison displays his keen awareness of the relationship between matter and form. Both a diverse society and a complicated system of government will make it difficult for the majority to combine and threaten the interests of the minority. With this in mind one can more fully understand Madison's comment to Jefferson that "Divide et impera the reprobated axiom of tyranny, is under certain qualifications, the only policy, by which a republic can be administered on just principles."⁹³

As one can see, the new government that was created was immensely complicated. It was fully expected, furthermore, that it would exist in a conflictual

society. Hopefully, though, the diverse nature of society and the complexity of government would operate so as to keep conflict within bounds thereby promoting a free and stable government working for the public good. Madison felt, however, that such means were necessary but not sufficient conditions for maintaining good popular government. The character of the people also had to be taken into account. While they should not exercise public virtue directly public virtue was still necessary for a self-governing people. He stated this most clearly at the Virginia Convention:

I go on this great republican principle, that the people will have virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea. ⁹⁴

The virtue, though, of the people was to be largely confined to choosing men of virtue and wisdom as their representatives. Government, while building upon virtue, had to promote it by such institutions as the Senate which would encourage men to put the long term and public interest before their immediate self-interest. Virtue could also be sustained, Madison thought, by public education in the states and by a national university, which had as one of its tasks, the moral training of citizens and potential statesmen.⁹⁵ Citizens, thought Madison, like Aristotle, had to be educated "in the spirit of the constitution under which they live." This particular point insufficiently developed by Madison was to be made over and over again by Thomas Jefferson who was to later make the case for a much more decentralized government. Finally, Madison like Montesquieu before him, thought that virtue could be promoted by a pervasive religious ethic among the people.

Madison, the Founding Fathers and the American Constitution—Some Concluding Remarks

Government, in Madison's opinion, still rested on the virtue of the people however contaminated it may have become by local bias and the self-interestedness of faction. Rather than call for moral regeneration Madison's political science, like that of most of his Convention colleagues, recognized that the changing nature of society made this impossible. Government, in turn, had to take this account. Public virtue had to be culled out of the diversity of American society by a compound republic spread over a large territory.

The recognition that society was becoming more socially pluralistic, that men were motivated increasingly less by public virtue than by passion and interest, that faction (the action of self-interested men) existed and could not be eliminated, that in a democratic age the authority of government had to be enhanced in order to control and restrain men's passions, particularly their ambition, is indicative of the extent to which elements of the formerly detested "Court" ideology had reappeared in Federalist thought.

There were, however, as J.G.A. Pocock has pointed out, some very major differences with the Court ideology.⁹⁶ The fact that the Founding Fathers located sovereignty in the people and not in parliament as did the Court as well as the fact that constitutional balance would be maintained by a separation of powers and not by the system of "court" influence indicates an adherence to the republican and, to some extent, the Country tradition. The Federalists still adhered to the idea of *concordia discors*, the idea that social and political conflict were a necessary price to pay for liberty. The "Court" though its system of influence

tried to overwhelm the opposition and co-opt it, not incorporate it into the operation of conflicting institutions as did the Americans. Finally, although the Americans realized that their society was changing, there is little indication that they thought America was to be governed by monied and commercial interests, the intense fear of the Country party of eighteenth century England. According to Pocock, "There was no American Court--as yet; the confrontation between virtue and commerce was not absolute."⁹⁷

Indeed, the fact that the rhetoric of virtue and the debate over corruption vigorously reappears in the 1790's and even in the work of John C. Calhoun makes one wary of accepting Wood's contention that the 1780's represented the "end of classical politics" and civic humanism in American thought. There is strong evidence to the contrary suggesting that the struggle between virtue and corruption remained of great importance in American politics. Because this debate is so important in understanding American political and constitutional development it must be discussed briefly. The debate also serves to underscore the point that the Lockean paradigm had not replaced the republican paradigm in American political culture.

The Survival of the Politics of Virtue

In recent years a number of studies have been published illustrating the extent to which the rhetoric of the Country opposition flourished in the fledgling new nation of the 1790's. In encountering the rhetoric of Country one also frequently finds its antithesis, the ideas of Court. In this latter case they were embodied in Alexander Hamilton and the financial system he was proposing for

the United States. Hamilton, in the Country rhetoric of Thomas Jefferson and his Republican supporters, which now included that former Hamilton political ally, James Madison, was without a doubt a Court figure operating on Court assumptions and threatening to implement Court policies.

Among those who have made this claim is Lance Banning. He argues that "intellectually, the Republicans of the 1790's were the country party of the United States. Their quarrel with Federalism was much more systematically ideological than has been seen. It rested on a complete and consistent Americanization of English opposition thought."⁹⁸ In the tradition of English opposition thought Hamilton's policies were seen as corrupt and a source of degeneration to America's balanced constitution.

Included in Hamilton's programme was a vision of America as a great commercial and military empire held together by public credit, British investment, a healthy system of public finance, a standing army and a powerful executive.⁹⁹ Such a political compound would cement the elements of a strong national government that would serve as a counterweight against the centrifugal tendencies of American localism. In a revealing passage Hamilton states the political intent of his economic programme:

If all the public creditors receive their dues from one source...their interests will be the same. And having the same interests, they will unite in support of the fiscal arrangements of the government. [If state and federal obligations are provided for separately,] there will be distinct interests, drawing different ways. That union and concert of views among the creditors, which in every government is of great importance to their security and to that of public credit, will not only exist, but will be likely to give place to jealousy and opposition."¹⁰⁰

It was, however, Hamilton's proposal for a national bank and his governing by public debt that were seen as most insidious by Jefferson and other Republicans. Hamilton's justification for a national bank was very similar to his justification of his economic programme:

An attentive consideration of the tendency of an institution immediately connected with the national government, which will interweave itself into the monied interest of every state, which will by its notes insinuate itself into every branch of industry and will affect the interests of all classes of the community, ought to produce strong prepossessions in its favor in all who consider the firm establishment of the national government as necessary to the safety and happiness of the country and who believe that it stands in need of additional props.¹⁰¹

The public debt would have similar effects. While underwriting much of America's commercial and manufacturing expansion it would also bind the nation's creditors to the continued health and strength of the national government.

All this, to Republicans, smacked of the system of Court influence and corruption of Walpole and George III. Hamilton and the Federalists were seen as attempting to reinstitute the system of parliamentary monarchy which, it was agreed, could not govern without influence.¹⁰² Hamilton's politics lead Madison to break with his former political ally. While Madison shared Hamilton's concerns with democratic excess in the 1780's he now feared even more the expansion of a strong federal government wedded to commercial interests and a northern majority. Both Madison and Jefferson saw the landed sectional interests of the South as being threatened much as the Country party of England feared commerce because they believed it was the landed interests that would pay for the system. It was now necessary to uphold the rights of the states.

Such concerns were reflected in the contentious debates of the United States Congress in the 1790s on funding and the bank. One of the first sources of opposition to Hamilton's policies came not unexpectedly from the legislature of Jefferson's and Madison's Virginia in December, 1790. The Virginia legislators claimed that they were able to

discern a striking resemblance between this system and that which was introduced in England at the Revolution—a system which has perpetuated upon that nation an enormous debt and has, moreover, insinuated into the hands of the executive an unbounded influence which pervading every branch of the government, bears down all opposition and daily threatens the destruction of everything that appertains to English liberty...

To erect and concentrate and perpetuate a large monied interest is a measure which...must, in the course of human events, produce one or other of two evils: the prostration of agriculture at the feet of commerce or a change in the present form of federal government fatal to the existence of American liberty.¹⁰³

The concerns of the Virginians were echoed throughout the land wherever there was a fear of commerce. Republicans possessed the same types of worries not only about government corruption but also about the effects of changes in the nature and distribution of property and the loss of classical republican virtues. The Republican disdain of commercial capitalism and the urban life had become a fundamental component of the American psyche. It is best personified in the antipathy of Thomas Jefferson towards David Hume, the foremost Court figure. What Hume extolled, Jefferson denounced. While the English may once have been a wise and virtuous people,

commerce and a corrupt government have rotted them to the core. Every generous, nay, every just sentiment, is absorbed in the thirst for gold. I speak of their cities, which we may certainly pronounce to be ripe for despotism, and fitted for no other government. Whether the leaven of the agricultural body is sufficient to regenerate the residuary mass, and maintain it in a sound state, under any reformation of government, may well be doubted.¹⁰⁴

Blackstone and Hume, Jefferson felt, had made Tories of all England. Hume's works by far were the most pernicious. His works and English prejudices and manners were a threat to liberty itself. Jefferson felt that only the yeoman farmer served as a barrier against such a similar threat in America. He wrote:

When I look around me for security against these seductions, I find it in the widespread of our agricultural citizens, in their unsophisticated minds, their independence and their power, if called upon to crush the Humists of our cities, and to maintain the principles which severed us from England.¹⁰⁶

Nineteenth Century Perspectives on Federalism

The rise of the agrarian democracy of Thomas Jefferson with its emphasis on citizen participation and state's rights signaled the shift to a decentralized or centrifugal federalism very distinct from the centralized federalism of 1787 and Alexander Hamilton. This shift was to be reflected in the work of two of the greatest nineteenth century commentators on American democracy and federalism, John C. Calhoun and Alexis de Tocqueville. Although the perspectives of Calhoun and Tocqueville differ in many ways, both operated within the classical republican tradition. Calhoun was, for example, influenced by Aristotle and Machiavelli, Tocqueville by Montesquieu's political sociology and observations on republican government. Both possessed a common concern of how one restrains the authority of the majority, protects the rights of the minority, and preserves freedom. These were concerns of the Founding Fathers too, but instead of emphasizing the national or federal level of government they emphasized state or local governments. The threat of democracy was now perceived to be greatest at the national level. State and local governments, Calhoun and Tocqueville believed, would serve as buffers breaking the controlling power of democratic

majorities. But while political institutions were of critical importance in preserving freedom, by themselves they were insufficient, the public virtue and spirit of the people had to be taken into account as well.

An examination of their ideals is important for they not only illustrate the changing emphasis in federal thought but they also contradict the assertion of Professor Wood that classical political science died in 1787. The works of Calhoun and Tocqueville were to be widely read and quoted in nineteenth century debates on the nature of republicanism, democracy and federalism.

John C. Calhoun

I begin first with a brief examination of the political thought of John C. Calhoun. It was Calhoun, more than anyone else, who constructed a strong philosophical justification of the states rights theory of federalism. An examination of his thought reveals just how clearly he followed in the republican tradition as shaped by Aristotle, Polybius, Cicero, Machiavelli, Montesquieu and Madison, particularly Madison. Calhoun, however, mixed his republican ideas with the eighteenth century utilitarianism of Edmund Burke and Adam Smith giving his thought its own particular hue.

When Calhoun wrote it was often in passionate defence of the slave-owning South, which outnumbered in the House of Representatives, was in danger of being outnumbered in the Senate, and fearful of the growing might of the Presidency, desperately searched for a means of defending its interests. Somehow the American political system had to be made to work for the South as well as the North. In order for this to occur democratic government could not be based

on simple majorities for this led to absolute government and the tyranny of the majority, in this instance the tyranny of a commercial and industrial northern majority, that would threaten the interests of Southern plantation owners.

If the rule of the numerical majority prevailed it would also lead to degeneration in government and society corrupting and debasing the most patriotic and virtuous of people. Government based on the concurrent majority, however, one that took the sense of differing interests of the community would have the opposite effect. "So powerful, indeed," wrote Calhoun, "is the operation of the concurrent majority in this respect that, if it were possible for a corrupt and degenerate community to establish and maintain a well-organized government of this kind, it would of itself purify and regenerate them."¹⁰⁶ Calhoun's concept of corruption and moral regeneration are, without a doubt, Machiavellian in nature.

Calhoun incorporated into his political theory distinct assumptions about the nature of man and society that were utilitarian. Man, thought Calhoun, was a sociable creature. This assumption allowed Calhoun to put a primary emphasis on communities, not individuals. But also like the utilitarian thinkers of his day, Calhoun thought man's social feelings were weaker than his individual feelings. The strength of man's individual feelings led him to pursue his own interests, often at the expense of others. This, in turn, led "to a universal state of conflict between individual and individual" and also to conflict of group against group and interest against interest. In addition, in all societies there was a tendency for the various interests to manipulate the powers of government in pursuit of their particular interests. The danger was especially acute in a democratic society

where

the right of suffrage, by placing the control of the government in the community must, from the same constitution of our nature which makes government necessary to preserve society, lead to conflict among its different interests—each striving to obtain possession of its powers as the means of protecting itself against the others or of advancing its respective interests regardless of the interests of others. For this purpose a struggle will take place between the various interests to obtain a majority in order to control the government. ¹⁰⁷

So while government may be needed to preserve and perfect society and man, it does have a strong tendency to disorder and abuse of its powers. If left unguarded and unchecked those interests administering the powers of government will use these powers to oppress the rest of the community. The question which Calhoun, therefore, tried to answer is "By what means can government, without being divested of the full command of the resources of the community, be prevented from abusing its powers?" ¹⁰⁸

It can only be done, he argues, by means of its constitution which structures and orders the parts of government so that the ruled will have a means of successfully resisting the tendency by rulers to oppress and abuse power. In a phrase laden with Madisonian overtones Calhoun states "Power can only be resisted by power—and tendency by tendency." ¹⁰⁹ In this case it was the power of the central government that had to be resisted.

Unfortunately, thought, Calhoun there were no effective means by which the class interests of the South could be protected from Northern numerical majorities. This was in part due to the fact that political parties, the vehicles to power of majority interests, were able to override the division or separation of powers which the Founding Fathers had hoped would protect minority interests.

Unless a viable means were found to check the power of the majority the path would lead to corrupt and absolute government.

Part of the solution, thought Calhoun, lay in distinguishing between the two different modes of taking the sense of the community, the numerical and concurrent majorities:

Each collects the sense of the majority. But one regards numbers only, and considers the whole community as a unit, having but one common interest throughout, and collects the sense of the greater number of the whole, as that of the community. The other regards interests as well as numbers; considering the community as made up of different and conflicting interests, as far as the action of the government is concerned; and takes the sense of each, through its majority or appropriate organ, and the united sense of all as the sense of the entire government. The former of these I shall call the numerical, or absolute majority, and the latter, the concurrent, or constitutional majority.¹¹⁰

Only in governments where the concurrent majority is recognized, in Calhoun's estimation the mixed constitutions of the Roman Republic and Great Britain, does each interest or section of the community possess the means by which it can negate the detrimental actions of other interests and thereby protect itself. For Calhoun "it is this negative power—the power of preventing or arresting the action of the government—be it called by what term it may—veto, interposition, nullification, check or balance of power—which, in fact, forms the constitution."¹¹¹ Calhoun felt that all constitutional governments, in order to be classified as constitutional, had to take the sense of the community by its parts and regard the sense of all its parts, as the sense of the whole; absolute governments, on the other hand, tended to concentrate power in an uncontrolled and irresponsible individual or body who mistook its interest as the interest of all.

It was Calhoun's belief that although the principle of the concurrent majority was sufficiently embodied in the constitution the procedure for putting it into action had to be pointed out. That procedure was nullification. Nullification was based on Calhoun's perception that in framing the new government in 1787, the states had, in fact, retained their sovereignty and only delegated powers to the central government. It was, therefore, their creature, their agent. Subsequently, if the central government encroached upon the rights reserved to the states, that state, in order to protect its interests, could veto or nullify that act. The act would remain null and void in that state unless three-quarters of the other states passed a constitutional amendment granting the federal government the power to enact the law that had been nullified. Since both the North and South each had fifteen states at this time Calhoun doubted that a sufficient number of Southern states would acquiesce in overriding the fundamental interests of a fellow state--the protection of a slave-based economy.

Calhoun was extremely optimistic that government by the concurrent majority would be able to unite the country. By uniting the country Calhoun meant two things. First, and foremost, the interests of plantation owners and northern capitalists would be united against the poor.¹¹² Calhoun's proposal is not unlike the alliance struck in 1787 between the North and the South, this time within a highly decentralized union. By now, however, Southern plantation owners could no longer count on Jefferson's independent western farmers as allies. With the advent of commercial farming an alliance had been struck between many farmers and the formerly detested commercial and manufacturing North.¹¹³ Second, Calhoun was referring to an alliance of all Southern whites,

rich and poor, in support of the slave economy. With the interests of North and South now secure and having a means of protection, the struggle for ascendancy would be prevented and harmony would prevail. Each would see and feel that it could,

best promote its own prosperity by conciliating the goodwill and promoting the prosperity of the others. Instead of faction, strife and struggle for party ascendancy, there would be patriotism, nationality, harmony, and a struggle only for supremacy in promoting the common good of the whole.¹¹⁴

Once again, societal conflict appropriately mediated and managed by the institutions of government, leads to harmony and stability.

Such a government would provide the liberty and security needed to perfect society. To perfect society it was necessary that men develop their intellectual and moral faculties. "Liberty", he wrote,

permits a person to pursue the course he may deem best to promote his interest and happiness, as far as it may be compatible with the primary end for which government is ordained, while security gives assurance to each, that he shall not be deprived of the fruits of his exertions to better his condition.¹¹⁵

Calhoun, however, living in a slave society, stressed that no one must make the mistake that liberty and equality are linked—that liberty is only possible with perfect equality. Rather, it is because men do have differential capabilities, position and opportunity that the "necessary effect of leaving all free to exert themselves sufficient to better their condition, must be a corresponding inequality between those who may possess these qualities and advantages in a high degree, and those who may be deficient in them."¹¹⁶ Liberty, in Calhoun's opinion, was very much a social reward dependent primarily upon the intelligence, virtue, and patriotism of the mass of the people and their knowledge of self-government. In

Calhoun's opinion:

A community may possess all the necessary moral qualifications in so high a degree as to be capable of self-government under the most adverse circumstances; while, on the other hand, another may be so sunk in ignorance and vice as to be incapable of forming a conception of liberty or of living, even when most favored by circumstances, under any other than an absolute and despotic government.¹¹⁷

Calhoun's reasoning is very revealing. It is first very much in the tradition of opposition thought. Second, with its emphasis on community it is deliberately non-Lockean. In Calhoun's opinion there were no such things as natural rights or a state of nature.¹¹⁸ Men are not born free, rather freedom is a social product, a reward bestowed by one's community to the worthy and the virtuous.

It was vital, Calhoun thought, that the principle of the concurrent majority be recognized and the union preserved for it would preserve both liberty and virtue. Was it also not a principle embodied in the operation of those two great mixed constitutions—the Roman Republic and the British Constitution? Having worked there—it would surely work in America.

Alexis de Tocqueville and American Democracy

At approximately the same time Calhoun was formulating his principle of the concurrent majority Alexis de Tocqueville was visiting America. The product of that visit, Tocqueville's *Democracy in America* was to have a profound and lasting impact on European and American political thought. It was one of the last great products of the republican tradition of civic humanism that began with Aristotle and continued through Montesquieu. Such luminaries as J.S. Mill, Lord Acton, Richard Cobden, Gladstone, Goldwin Smith and others were influenced by what he wrote. Today, it is Tocqueville's interpretation of life in the

Jacksonian era which continues to command wide support rather than Calhoun's with its focus on sectional and class conflict.

Although Tocqueville's thought does have notable differences with that of Calhoun's, it should be noted that both were concerned with many of the same questions and drew upon a similar intellectual tradition. Above all they shared a mutual fear for liberty and the minority if power were to be concentrated in the same set of hands. Strong centralized government and the authority of the majority had to be resisted for there the power of democracy was the greatest and the most ominous. Both were astute enough to realize, though, that institutions, particularly decentralized federal institutions, as important as they might be, were not of themselves sufficient to restrain democratic majorities. Tocqueville was to rely upon a variety of factors, the foremost of which were cultural, in curbing democracy and preserving freedom.

While Tocqueville's primary object of analysis was America his primary audience was his native France. Tocqueville was attempting to prepare his French audience for the coming wave of democracy which he felt was destined to sweep over Europe. But although he foresaw the inevitable rise of democracy he feared it as well. He believed that if democracy brought with it a highly centralized state, it would endanger his liberty. The question, then, was by what means could democracy be made safe for liberty? Tocqueville was to see American society with its federal system as providing some possible answers.

Tocqueville's *Democracy in America* as Melvin Richter has pointed out was the work of a comparative political sociologist.¹¹⁰ Tocqueville like Montesquieu

refused to consider government apart from society or to see politics as merely epiphenomenal. He viewed society as an organic whole and believed that institutions could not be understood apart from their cultural and social environment. Tocqueville's analysis of American democracy, then, is much more than an analysis of its institutions and how they work to protect liberty; it is an analysis of an entire way of life, an analysis of American civilization.

What struck Tocqueville most about America was the general equality of condition among the American people.¹²⁰ This egalitarianism was both social and political. The generality of condition, he believed, offered little opportunity for individuals to acquire vast sums of wealth. The logic of democracy, he argued, was that of a classless society. Class barriers were crumbling. The few who were rich were generally self-made individuals who came from very poor families and what wealth they did accumulate they did not hold very long.¹²¹ In America the divisions and antagonism between rich and poor that had marked the life and history of other societies were fading. As most had some possession to defend, the right to property was generally recognized. This was an observation very much in the classical republican tradition where it had always been argued that the stability and longevity of democratic republics depended on the widespread distribution of property.

Now, with important restrictions to suffrage being swept aside, the role of the masses was apparent—they composed and controlled the institutions of government. There seemed to be few limits to the power of the majority. The masses controlled not only the legislatures of both levels of government but also

the executive, the police and in some states, the judiciary. Mixed government, therefore, was a chimera—it did not exist in America. But while it was omnipresent and omnipotent the power of the majority was not always correct and just—there were possibilities for abuse. In Tocqueville's words "If you admit that a man vested with omnipotence can abuse it against his adversaries, why not admit the same concerning a majority? Have men, by joining together, changed their character?"¹²²

As to what minority or what majority Tocqueville is referring to we are not told. Neither are we told what he meant by liberty. Tocqueville had the unfortunate habit of using important concepts without defining them. This conceptual vagueness has bedevilled analysts, one being none other than John Stuart Mill. Mill complained that what Tocqueville wrote occasionally had the "air of mere abstract speculations." For instance, Mill wrote,

He [Tocqueville] speaks of the tyranny of the majority in general phrases, but gives hardly any instances of it, nor much information as to the mode in which it is practically exemplified. ...It is not easy to surmise any inducements of interest, by which, in a country like America, the greater number could be led to oppress the smaller. When the majority and the minority are spoken of as conflicting interests, the rich and the poor are generally meant.¹²³

Tocqueville, though, was not referring to the rich and poor in discussing the minority and majority for American democracy was essentially classless. This marks an important departure in political thinking from that of the Founding Fathers and John C. Calhoun. No longer are the "minority" and "majority" viewed in class terms. This shift in interpretation was to have immense ramifications for later political thinking. For the first time, the federal system of government is not viewed as a means of protecting class interests. But while he

did not specify what it meant, minorities did need security from the abuse of political power.

In truth, though, it was not the tyranny of the majority that flowed from political democracy that Tocqueville feared most. Rather it was a tyranny of the mind that Tocqueville saw as the principal danger and which he dreaded. There was in America a stifling intellectual conformism. Tocqueville wrote that he knew of

no country in which speaking generally, there is no less independence of mind and true freedom of discussion than in America...In America the majority has enclosed thought within a formidable fence. A writer is free inside that area, but woe to the man who goes beyond it. ¹²⁴

The uniformity of passion and opinion that Madison thought was an impossibility was now a possibility. This critique by Tocqueville is essentially Aristotelian. As Aristotle pointed out when men are treated as being alike, they fail to take account of those respects in which they are not alike. ¹²⁵

Just as the problem of majority tyranny is both political and social so, too, are the factors which tend to mitigate and restrain it. It is Tocqueville's analysis of the means by which tyranny is tempered and freedom preserved that the influence of Montesquieu is most pronounced. Institutional factors, as stated previously, are just one restraint upon majority power—there are others that must be considered.

What were the factors that restrained the majority—both social and political? To begin with Tocqueville, like Montesquieu, believed that freedom could not exist where there were no intermediary groups between the government and the citizen. Tocqueville took heart that America was a diverse, dynamic, often

conflictual society, characterized in other words by *concordia discors*, and that Americans enjoyed a wide variety of voluntary associations.¹²⁶ Diversity of association worked to prevent the over-concentration of state authority. The existence of voluntary associations, for example, enhanced political participation and meant that the state did not have to take on many additional tasks therefore allowing the power of the state over society to remain limited. Furthermore, these voluntary associations, especially political parties, promoted a variety and diversity of opinion which mitigated uniformity of outlook. Political parties were particularly important in that they gave minorities a means of political expression which they could use to try and persuade a majority over to their views. These activities were further abetted by a free and vibrant press.

But there were other factors that served to restrain the tyranny of the majority. Among these were legal and constitutional arrangements.¹²⁷ Of these it was the power of local government and decentralization implicit in the federal system that he saw as tempering the tyranny of the majority. Tocqueville saw the layers of government that came between the citizenry and the national government as a complement to the buffer provided by voluntary associations. The federal system had promoted a highly decentralized form of administration at the state and local levels. While a centralized government could make overall policy its commands in many instances had to be carried out by agents over whom it had little control. According to Tocqueville,

these agents, these municipal bodies and county administrations are like so many hidden reefs retarding or dividing the flood of the popular will. If [a] law were oppressive, liberty would still find some shelter from the way the law is carried into execution, and the majority would not know how to enter in the details...and the puerilities of administrative tyranny.¹²⁸

Tocqueville was also of the opinion that the federal system with its strong municipal and county governments gave citizens more opportunity to participate in the affairs of government and thereby receive a political education. Federalism accustomed Americans to the use of freedom in small concerns thereby conditioning them to use it temperately in great ones. Tocqueville's stress on local government as the best training ground for democracy is also very much in the civic republican tradition.

There were other legal and constitutional means such as the legal profession, juries, and the judiciary which served to restrain the majority but none were so important as their *Esprit*. It was the culture of Americans, their mores, which in his view were of paramount importance in maintaining their political system and preventing democratic excess. Tocqueville gave an example of what he was talking about. The Mexicans, he said, had adopted a federal system but it had not produced the same favourable results. This was due to the fact that while "they borrowed the letter of the law, they could not at the same time transfer the spirit that gave it life."¹²⁹ Tocqueville defined mores "to cover the whole moral and intellectual state of a people"—their habits, opinions and beliefs. It was his intent to look "for the elements in them which help to support political institutions."¹³⁰

Principally, he was looking for elements of American mores that helped moderate the excess of democracy. Foremost among these was religion.¹³¹ Religion, Tocqueville thought, provided moral boundaries on one's behaviour. Religion taught Americans to have respect for one another and to restrain their baser

instincts. No American, for example, ever claimed that everything was allowed in the interests of society. Tocqueville writes, "while law allows the American people to do everything, there are things which religion prevents them from imagining and forbids them to dare."¹³² Religion thus promotes freedom by putting restraints upon human actions. The spirit of religion complemented the Americans' spirit of freedom. Religion also served as a counterweight to the agitations of American democracy by providing citizens with guiding principles amidst social change thereby lending a modicum of stability to the political process.

Two other factors contributed to the formation of mores which helped restrain democratic excess. These were the political education provided by participation in free institutions which has already been mentioned and the commercial nature of American society.¹³³ Through political participation Americans become aware that their private interests are better served by sacrificing some of these interests in favour of interests that are long-term and collective. The commercial nature of American society, while it develops a taste for freedom, operates as a restraint in that it stimulates a cool and rational calculation of long-term advantage. This is a conclusion most likely drawn from Montesquieu in which he argued that under certain conditions commerce and republicanism could be joined.¹³⁴

On, political education and America's commercial ethos thus all served to discipline the individualism, self-interestedness, and impulsive nature of Americans. This was necessary if a system of free self-government was to flourish. While Americans did not fully possess the disinterestedness and concern for the

common good that Machiavelli and Montesquieu thought were part of the civic virtue supporting democratic republics, their mores contributed to an acceptable substitute. Tocqueville believed that Americans had managed to produce a civic spirit that reconciled self-interest with the common good. This civic spirit was built upon the "principle of self-interest rightly understood" which can be compared to the utilitarian belief in the theory of the invisible hand. "The Americans", Tocqueville argued,

...enjoy explaining almost every act of their lives on the principle of self-interest properly understood. It gives them pleasure to point out how an enlightened self-love continually leads them to help one another and disposes them freely to give part of their time and wealth for the good of the state... Every American has the sense to sacrifice some of his private interests to save the rest. ¹³⁵

The principle of self-interest rightly understood, then, while not the equivalent of virtue, performed a similar function. Tocqueville writes,

The Americans are not a virtuous people, and nevertheless they are free. This does not constitute a decisive refutation of Montesquieu's belief that virtue is essential to the existence of republics. Montesquieu's idea must not be understood in a narrow sense. What that great man wished to assert was that republics may be sustained only through the operation of society upon itself. What he meant by 'virtue' is that moral power which each individual exercises over himself, and which keeps him from violating the right of others. In the eyes of the moralist, there is nothing virtuous about such a triumph of a man over temptation if it should be the case that either temptation is slight, or that the decision is made as a result of calculating the agent's personal interest. But Montesquieu was concerned more with the result than with the cause, and so any such triumph over temptation is relevant to his theory. In America, it is not that virtue is great, but that temptation is small, which comes down to the same point. It is not disinterestedness that is great, but it is interest, properly understood [in the long run] which again comes to almost the same thing. Montesquieu, then, was right, although he discussed virtue in the ancient world, and what he said in connection with the Greeks and Romans still applied to the Americans. ¹³⁶

In sum, one can say that for Tocqueville, institutions *per se*, while they might have been necessary to check and restrain democracy and preserve freedom, were not sufficient. Other factors had to be considered. Some such as

Madison and Calhoun while recognizing cultural factors, such as the people's virtue, emphasized the checks and balances of class interests along with institutional checks and balances. Federalism with its territorial division of powers was only one means of restraining democracy but one suited to the circumstances of America. Tocqueville, unlike Calhoun and Madison, believed that class politics were no longer important in America. He shared, though, their belief that social checks and balances, such as those provided by voluntary associations, were needed, along with federal institutions in restraining democratic majorities. It cannot be stressed too much, that in the case of Calhoun and Tocqueville, the emphasis was on a decentralized federal system in countering democratic control at the centre. This is a remarkable difference from 1787 when a strong central government was needed to counteract the democratic excess and centrifugal tendencies of local government. Of paramount importance for Tocqueville were cultural factors in restraining democratic authority and supporting political institutions. Madison, Calhoun and Tocqueville all tended to see society and politics very much as a complex web. They did not elevate political variables such as political institutions to a separate object of study. Their political sociology gave their analysis a richness and subtlety that is only now beginning to be fully appreciated.

Twentieth Century Perspectives on Federalism

The debates over federalism in the eighteenth and nineteenth centuries were conducted within the framework of a larger debate—the appropriateness of the civic humanistic tradition of Machiavelli and his successors to American society.

Twentieth century interpretations of federalism reflect the extent to which this debate has been abandoned thus impoverishing contemporary understanding of the original intent of the Founding Fathers. In the pages remaining, three of the more influential twentieth century studies of federalism—one political; the second institutional, and the third sociological—will be discussed. These studies by William Riker, K.C. Wheare and W.S. Livingstone, have each been recognized as classics. I will first summarize the essentials of their arguments on the nature of federalism and then offer a brief critique keeping in mind the arguments that were made earlier on the first federal constitution.

William Riker

I shall begin with a discussion of William Riker's major work on the subject, *Federalism: Origin, Operation, Significance*.¹³⁷ Riker's study has particular significance. It is presented first because it was considered a major effort in demystifying previous ideas about federalism. (e.g., How did it originate? What was the actual relationship between federalism and freedom?)

Riker's analysis, is as he admits, "confined to the political level entirely."¹³⁸ This immediately differentiates it from the analyses just considered. It is essentially a comparative study of federal systems. Riker defines federalism in institutional terms. It consists of a "government of the federation and a set of governments of the member units, in which both kinds of governments rule over the same territory and people and each kind has the authority to make some decisions independently of the other."¹³⁹ The constitution which spells out this arrangement, is, for Riker, always the product of a political bargain which takes

place in a historically unique situation. Within this situation there must be at least two conditions which combine to create willingness to strike the federal bargain. First, "the politicians who offer the bargain desire to expand their territorial control, usually either to meet an external military or diplomatic threat or to prepare for military or diplomatic aggression and aggrandizement."¹⁴⁰ Secondly, "the politicians who accept the bargain, giving up some independence for the sake of union, are willing to do so because of some external military-diplomatic threat or opportunity."¹⁴¹ Federalism then, is "a bargain between prospective national leaders and officials of constituent governments for the purpose of aggregating territory, the better to lay taxes and raise armies."¹⁴² As such it "is the main alternative to empire as a technique of aggregating large areas under one government."¹⁴³

A secondary, but important consideration of Riker's study is his attempt to expose what he considers to be an "ideological fallacy...the assertion that federal forms are a device to guarantee freedom."¹⁴⁴ Numerous writers on federalism he insists have committed this fallacy. It is Riker contends, "objectively false that federalism preserves freedom."¹⁴⁵

In what follows I am not so much concerned with the general applicability of Riker's analysis but its particular appropriateness as an explanation of the U.S. federal constitution—its origins and its relationship to freedom. Riker's analysis of the origins of federalism, in this case, the United States, is particularly noteworthy in that it contradicts the arguments made earlier in the chapter. Riker emphasizes, not internal variables, but external variables—most notably

external military threat and opportunity—in his explanation of the origins of U.S. federalism. In fact he wonders how one could ever put credence in the argument that domestic economic conflict was the most important factor in the creation of American federalism.

The emphasis on domestic conflict has, he feels, been discredited. Riker, in this regard, uses as evidence Robert Brown's critique of Charles Beard's classic, *An Economic Interpretation of the Constitution of the United States*, in which Beard viewed the Constitution as the product of an anti-democratic movement by the wealthy to protect themselves.¹⁴⁶

Brown cited many errors in Beard's work and maintained that his facts did not support his conclusions. Brown argued, as we have already pointed out, that America was, at the time of the writing of the Constitution, a 'middle-class democracy'. The Constitution was not written for, nor adopted by, an undemocratic society.

Yet, as I have indicated Brown's analysis of American society in the eighteenth century is itself faulty and suspect. The most recent research seems to reconfirm the primacy of domestic concerns rather than external ones in writing the Constitution.¹⁴⁷ Gordon Wood's book, for example, which emphasizes domestic concerns has been described "as the single most important work in the entire corpus of Revolutionary historiography."¹⁴⁸

It would also appear that in significant ways Brown misinterpreted the debates of the Constitutional Convention. Brown contended that the debates portrayed America as an egalitarian society. He cites as an example the following

quotation by Charles Pinckney of South Carolina?

The people of the United States are perhaps the most singular of any we are acquainted with. Among them are few distinctions of fortune and less of rank, than among the inhabitants of any other nation. Every freeman has a right to the same protection and security and a very moderate share of property entitles them to the possession of all the honors and privileges the public can bestow: hence arises a greater equality, than is to be found among the people of any other country, and an equality which is more likely to continue.¹⁴⁹

This quotation found in Madison's notes of the Convention, was an unfortunate choice for Pinckney was not making an argument for an egalitarian society. As Irving Brant tells us,

It is one of the ironies of history that Madison's recording of Pinckney's speech has given the Convention's leading opponent of political rights a lasting reputation for equalitarianism. Unfortunately Madison relied on Pinckney for a text which was cut off a few sentences before the end. Only from Yates does one learn that the Carolinian was arguing for ultraconservative Senate to protect the three groups which he regarded as the people.¹⁵⁰

Yates notes show that Pinckney considered the people to be 1) the professional class (e.g., lawyers), 2) the commercial class (e.g., merchants), and 3) the landed class (planters).¹⁵¹ In brief, Pinckney contradicts rather than supports Brown's interpretation. Pinckney, like most delegates to the Convention, feared and distrusted majority rule and wanted to curb it.

All this serves to indicate that as Brown's argument becomes weaker so does Riker's. It appears that domestic conflict did play a fundamental role in the creation of the Constitution. This becomes even clearer when Riker's arguments on the primacy of military-diplomatic factors are analyzed.

Riker, for example, argued that military-diplomatic factors such as the fear of Spain and Britain in the Southwest and Northwest were primary concerns in

1787.¹⁵² Yet, the debates which were held in utmost secrecy with no official record kept—something one feels should be more conducive to frank expression—reflect little or no concern with military threats or opportunity. It is true that in the months previous Madison had written a number of letters concerning navigation on the Mississippi which was controlled by Spain.¹⁵³ This, however, reflects a domestic concern more than a fear of Spanish intervention. On the opening or closing of the Mississippi depended the balance of power between the North and South.¹⁵⁴ In 1786 Northern Congressmen led efforts to close the Mississippi. The South opposed these efforts for they feared that "if the Mississippi was yielded to Spain, the migration to the Western country would be stopped, and the northern states would, not only retain their inhabitants, but preserve their superiority and influence over that of the southern."¹⁵⁵

Riker also cites George Washington in support of his position, saying Washington in his semi-annual political surveys to Lafayette emphasized the military weakness of government under the Articles of Confederation.¹⁵⁶ However, in his letters to Lafayette, Washington shows his deep concern with domestic matters. In one letter that Riker cites to prove his point it is actually internal affairs that are uppermost in Washington's mind. He writes,

The disturbances in Massachusetts have subsided; but there are seeds of discontent in every part of this Union; ready to produce other disorders if the wisdom of the present Convention should not be able to devise, and the good sense of the people be found ready to adopt a more vigorous and energetic government, than the one under which we now live.¹⁵⁷

Indeed, the thrust of his correspondence is on internal disorder. On ratifying the Constitution, for example, he did not urge its adoption primarily on the basis of

a military threat. Rather, he writes, "My decided opinion of the matter is that there is no alternative between the adoption of it and anarchy."¹⁵⁸

Finally, Riker uses another argument to support his case—the fact that the *Federalist Papers* emphasize the military—diplomatic advantages of centralized federalism. Riker contends that "the first five papers—and presumably the first papers were regarded by its authors as of primary importance—are concerned with military and foreign affairs and written by John Jay, who was regarded as the great specialist on diplomacy."¹⁵⁹ First, a minor point of fact, Jay did not write the first five papers—he wrote four, numbers 2 through 5—Hamilton wrote the first. True, Jay does stress the need for defence, yet the critical argument he is making is that internal divisions lead to external conflicts. A strong America can only be produced by a united America. At the end of number 5 he concludes with this statement:

Let candid men judge, then, whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.¹⁶⁰

Riker might have come to a different conclusion if he had analysed the first ten papers for they reflect an overwhelming concern with domestic instability. The titles of the papers reflect this concern. Number 6 by Hamilton is entitled "Concerning Dangers from War Between the States." Number 7 continues this theme. Number 8, also by Hamilton, is concerned with "The Effects of Internal War in Producing Standing Armies and Other Institutions Unfriendly to Liberty." Number 9 (Hamilton) argues the case for "The Utility of the Union as a Safeguard against Domestic Faction and Insurrection." The famous Number 10

by Madison makes a brilliant analysis of the causes of internal faction and how a federal union might mitigate them. With the possible exception of Jay's number 64, the rest of the *Federalist* is taken up with domestic considerations.

In sum, the weight of the evidence does not support Riker's arguments as to the origins of U.S. federalism. Rather, it suggests the primacy of domestic concerns, i.e., domestic conflict, and not external ones in writing the Constitution. Riker is correct, however, in arguing that federalism was seen as an effective means to "aggregating territory, the better to lay taxes and raise armies."¹⁶¹ Alexander Hamilton's financial system of the 1790's did necessitate both a better tax base and a standing army. This was not so much of the result of an immediate military threat as Riker infers, but the result of a desire to build internal loyalty to the new government and to finance and protect the future economic development of the United States. Others, such as Thomas Jefferson, vehemently disagreed with Hamilton. For these individuals federalism allowed the government to expand and yet keep the small governments necessary to promote virtue and prevent corruption. This without high taxes and standing armies.¹⁶²

In conclusion, a few words should be said about Riker's insistence that there is no relationship at all between federalism and freedom. The argument that federalism is a device to prevent absolute power and therefore to prevent tyranny, he says, comes from the *Federalist Papers* and need not be taken seriously. To begin with, it should be noted that Madison *et al* did not rely solely on institutional devices to prevent tyranny. Secondly, their arguments about freedom are not the same as Riker's. For example Riker maintains that the Consti-

tution cannot be taken as a guarantor of majoritarian freedom.¹⁶³ While others might have made this point the Founding Fathers were concerned about minority freedom. However, neither is his argument about minoritarian freedom the same as theirs. He considers minoritarian freedom "as the freedom of a minority to preserve its civil rights against a tyrannical majority."¹⁶⁴ For this kind of freedom federalism is irrelevant. But this was not the minority freedom being considered at all. The Founding Fathers were speaking primarily of the freedom of property owners to acquire, hold, and dispose of property as they saw fit. Liberty in society led to inequality and in protecting liberty one was also protecting property. As Hamilton said,

It was certainly true that nothing like an equality existed and that it would unavoidably result from that very liberty itself. This inequality of property constituted the great and fundamental distinction in Society.¹⁶⁵

Governments existed to secure liberty and the rights of property. While subsequent analysts may have linked freedom with civil rights the Founding Fathers did not do so. The arguments of the Founding Fathers must be considered on their own terms.

K.C. Wheare and W.S. Livingstone

Two other persons that have had a great impact on the study of federalism are K.C. Wheare and W.S. Livingstone. The main arguments can be briefly summarized and critiqued.

K.C. Wheare's analysis is part of what may be called the legal, institutional approach to federalism. The emphasis is not on the relationship between society and government but on constitutional and institutional arrangements. This

again, is very different from the analysis that Madison offers.

Wheare defines federalism as a form of government which embodies the "federal principle...the method of dividing powers so that the general and regional governments are each within a sphere, co-ordinate and independent."¹⁶⁶

A federal government exists

when the powers of government for a community are divided substantially according to the principle that there is a single independent authority for the whole in respect of some matters and that there are independent regional authorities for other matters, each set of authorities being co-ordinate with and not sub-ordinate to the others within its own prescribed sphere.¹⁶⁷

This conception of federalism is very much at variance with the one discussed in Philadelphia by the Founding Fathers. I have mentioned one difference. Another difference is that Wheare sees the two levels of government as being co-ordinate whereas the intention of the Founding Fathers was to ensure that within the most important areas of concern, e.g., economic matters, the states would be subordinate.¹⁶⁸ A third difference is that Wheare views the two levels as ideally being within their spheres and independent of one another whereas Madison saw that they would interact and differ. Separation of powers could not work, Madison thought, unless there were means by which institutions could check one another. In the American federal system Madison wrote, "the different governments will control each other, at the same time that each will be controlled by itself." Madison hardly expected harmony between the two levels of government, rather he expected conflict and thought that the Constitution provided means for its amelioration. Madison's federalism is a politics of counter-vailing antagonisms interacting in a state of dynamic equilibrium.

Wheare's approach differs also from that of W.S. Livingstone. Livingstone contends that "the essence of federalism lies not in the institutional or constitutional structure but society itself."¹⁶⁹ Livingstone's approach, then, is a sociological one. What primarily should be studied is not the institutions of government but the forces in society that have made outward forms of federalism necessary.

Livingstone sees the stimuli for the outward forms of federalism coming from what he calls the "federal quality of the society."¹⁷⁰ The federal quality of a society lies in its diversity. This diversity—economic, religious, racial, linguistic, etc.—produces federalism only when the diversity is grouped territorially. Federal government is merely "a device by which the federal qualities are articulated and protected."¹⁷¹ A federal constitution will draw the line of the compromise between the demands of centralization and autonomy.

Livingstone's analysis of federalism is akin to that of Madison and the Founding Fathers in that he attempts to link social structures and political institutions. This, however, is as far as the comparison goes. The Founding Fathers clearly did not see the federal constitution as a response to territorial diversity as Livingstone has suggested. The social diversity they feared was not grouped on a territorial basis. As Samuel Beer rightly says, "The great mass of utterances at Philadelphia and ratifying conventions display remarkably little concern with this fact. Even the most ardent champions of greater powers for the states gave little or no weight to the argument from territorial diversity."¹⁷²

In sum, one can say that however appropriate they might be elsewhere and at other times, the approaches of Riker, Wheare and Livingstone have problems

in explaining the nature of the first federal constitution. These problems seem to suggest that alternative approaches to federalism should be explored, building perhaps on the idea that federalism is one means of managing different types of social conflict which, as I have contended, was its original purpose.

In the following chapter I note how the Loyalists had anticipated the Fathers of Confederation in advancing their proposal for federal union—all for the purposes of mitigating conflict and factionalism in the American colonies and preventing the same in the remaining part of the empire in British North America. Their ideology is, I argue, compatible with the Court ideology of England and will be considered in detail.

Footnotes

1. One of the first modern scholars to make this case was Gilbert Chinard in "Polybius and the American Constitution", *Journal of the History of Ideas*, Vol. 1, January 1940.
2. Clinton Rossiter, *Seedtime of the Republic* (New York: Harcourt, Brace and Co., 1953) p. 358.
3. *Ibid.*, p. 141.
4. Bernard Bailyn, *The Ideological Origin of the American Revolution* (Cambridge, Mass: Belknap Press, 1967).
5. John Trenchard, *A Short History of Standing Armies in England, 1698, as quoted in* W.B. Gwyn, *The Meaning of the Separation of Powers* (New Orleans: Tulane University, 1965) p. 82.
6. For a summary of the opposition view see Bailyn, *ibid.*, and H.T. Dickinson, *Liberty and Property* (London: Weidenfeld and Nicholson, 1977).
7. Bailyn, *op. cit.*, p. 42.
8. Gordon Wood, *The Creation of the American Revolution 1776-1787* (Chapel Hill: University of North Carolina Press, 1969) p. 83.
9. *Ibid.*, p. 119.
10. One the relevance of Locke in 18th century America see John Dunn, "The Politics of Locke in England and America in the Eighteenth Century", from John W. Yolton, ed. (Cambridge: Cambridge University Press, 1969). David Lundberg and Henry F. May indicate that in a survey of major works found in 18th century American libraries Montesquieu's works were far more available than Locke's. Comparatively over the period 1700-1813 Locke's *Two Treatises* were found in nine percent of 291 libraries while Montesquieu's *Spirit of the Laws* was found in 34%. See Lundberg and May, "The Enlightened Reader in America", *American Quarterly*, vol. 28, 1976.
11. Bishop Charles Inglis, *True Interest of America* (Philadelphia, 1776) pp. 49, 52-53.
12. Moses Mather, *America's Appeal*, in Wood *op. cit.*, p. 120.
13. *The Federal and State Constitutions* Vol. III (Washington, 1909), as quoted in Rossiter *op. cit.*, p. 434.
14. Paul Goodman, "Elbridge Gerry, The Founding Fathers, and the Republic of Virtue", *Reviews in American History*, vol. 5, Dec. 1977, p. 498.
15. South Carolina Gazette and Country Journal (Charleston), as quoted in Rossiter *op. cit.*, p. 434.
16. Josiah Quincy, jr. "Observations on...The Boston Port-Bill." (Boston, 1774) as quoted in Rossiter, p. 434.
17. On this point see Wood *op. cit.*, and Lance Banning "Republican Ideology and the Triumph of the Constitution, 1789-1793", *William and Mary Quarterly*, Vol. 31, 1974.

18. John Jay to Jefferson, Feb. 9, 1787, Boyd, ed., *Jefferson Papers*, XI, p. 129; as quoted in Gordon S. Wood, *The Creation of the American Republic, 1776-1787*, (Chapel Hill: University of North Carolina Press, 1969), p. 424.
19. Theodore Sedgwick, *A Memoir in the Life of William Livingston* (N.Y., 1833), p. 403 as quoted in Wood, *ibid.*, p. 424.
20. George Washington to John Jay, May 18, 1786, Johnston, Ed., *Papers of Jay*, III, p. 196 as quoted in Wood, *ibid.*, p. 475.
21. Wood, *ibid.*, p. 501.
22. James Currie to Jefferson, Mar. 19, 1787, Boyd, ed., *Jefferson Papers*, XI, p. 219 as quoted in Wood, *ibid.*, p. 424.
23. Jeremy Belknap to Ebenezer Howard, Mar. 3, 1784, *Belknap Papers*, pp. 312-14 as quoted in Wood, *ibid.*, p. 425.
24. Banning, *op. cit.*, p. 174.
25. Samuel Adams to John Adams, July 2, 1785, Cushing, ed., *Writings of Samuel Adams*, IV, pp. 315-316, as quoted in Wood, *op. cit.*, p. 421.
26. Wood, *ibid.*, p. 421.
27. *Ibid.*, p. 428.
28. "Philadelphiensis", Mar. 8, 1788, Kenyon, Ed., *Antifederalists*, p. 84 as quoted in Wood, *ibid.*, pp. 499, 500.
29. Wood, *ibid.*, p. 502.
30. Hume had observed, "Though it is more difficult to form a republican government in an extensive country than in a city; there is more facility, when once it is formed, of preserving it steady and uniform, without tumult and turmoil." David Hume, "Idea of a Perfect Commonwealth", *Essays Moral, Political, and Literary* Vol. I ed. by T.H. Green and T.H. Grose (London: Longmans, Green, and Co., 1875) p. 492. For more on Hume's influence see Douglas Adair, "That Politics May Be Reduced to a Science": David Hume, James Madison and the Tenth *Federalist*, *Huntington Library Quarterly*, Vol. 30, 1966-67, pp. 343-60.
31. See Banning, *op. cit.*, and also his *The Jeffersonian Persuasion* (Ithaca: Cornell University Press, 1978).
32. On the use of history by the Founding Fathers see Douglas C. Adair, "Experience must be our Only Guide: History, Democratic Theory, and the United States Constitution", in Jack P. Greene, ed., *The Reinterpretation of the American Revolution* (New York: Harper and Row, 1968).
33. James Madison, *The Federalist Papers*, No. 20, (intro. by Clinton Rossiter) (New York: Mentor Books, 1961) p. 138.
34. James Madison, "Of Ancient and Modern Confederacies", in Marvin Meyers ed. *The Mind of the Founder: James Madison* (New York: Bobbs-Merrill, Inc., 1973).
35. James Madison in Meyers, *ibid.*

36. *Ibid.*, p. 80.
37. *Ibid.*, p. 89.
38. Madison often returned to comments on Malthus and the problem of over-population. In a letter to Edward Everett in Nov. 1823 Madison with some reservations endorsed the theories of Malthus but he said Malthus "has not all the merit of originality which has been allowed him." In G. Hunt *The Writings of James Madison* Vol. IX 1819-1836 (New York: G.P. Putnam's Sons, 1910) p. 169. In 1829 he wrote "It must not be supposed that a crowded state of population...is too remote to claim attention." In fact he calculated that given the current rate of population growth the U.S. would have 192 million people by 1929. In generations to come a vast redundant population would pose a very real threat to the men of property. *Ibid.*, pp. 359, 360.
39. James Madison, Letter to Thomas Jefferson, June 19, 1786, in Saul K. Padover, ed. *The Complete Madison* (New York: Harper & Brothers, 1971) p. 76.
40. James Madison in Max Farrand, ed. *The Records of the Federal Convention of 1787* (New Haven: Yale University Press, 1966) Vol. I, p. 422.
41. James Madison, "Observations on Jefferson's Draught of a Constitution" (1788), Boyd, ed., *Jefferson Papers*, Vol. VI, p. 308. as quoted in Wood *op. cit.*, p. 216.
42. J.G.A. Pocock discusses the reasons for the universal desire for paper credit in American colonies in *Machiavellian Moment*, *op. cit.*, p. 507.
43. Wood, *op. cit.*, p. 452.
44. Madison's observations, Boyd, ed., *Jefferson Papers*, VI, p. 311. as quoted in Wood, *ibid.*, p. 452.
45. James Madison as quoted in Meyer, *op. cit.*, p. 58.
46. R.E. Brown, "The Beard Thesis Attacked: A Political Approach", in L.W. Levy ed. *Essays on the Making of the Constitution* (New York: Oxford University Press, 1969) p. 101.
47. Charles Grant as quoted in Kenneth Lockridge, "Land, Population and the Evolution of New England Society, 1630-1790" in Gary B. Nash, *Class and Society in Early America* (Englewood Cliffs, N.J.: Prentice-Hall, 1970) p. 160. Original citation not given.
48. *Ibid.*, p. 162.
49. Jerome H. Wood, Jr., "There Ought to be no Distinction: The American Revolution and the Powerless", in *West Georgia College Studies in the Social Sciences* vol. XV, June 1976, p. 95. See in same, Bruce E. Daniels, "Emerging Urbanism and Increasing Social Stratification in the Era of the American Revolution". See also James Henretta, *The Evolution of American Society* (Lexington, Mass.: D.C. Heath & Co., 1973).
50. See Merrill Jensen, *The American Revolution Within America* (New York: New York University Press, 1974).

51. "The People—the Best Governors," *Magazine of History*, Vol. XXI, 1922 as quoted in Jensen *Ibid.*, p. 62.
52. Jensen *Ibid.*, p. 81.
53. Henry Knox "Report to George Washington, Oct. 23, 1786" as quoted in *Ibid.*, p. 82.
54. Louis-Guillaume Otto "Letter to the Count de Vergennes, Oct. 10, 1786" as quoted in Jensen, *Ibid.*, p. 160.
55. Wood, *op. cit.*, p. 513.
56. Governor Randolph in Max Farrand *op. cit.*, Vol. I, p. 27.
57. Elbridge Gerry *Ibid.*, Vol. I, p. 48.
58. James Wilson, "Lectures on Law," Wilson, Ed., *Works of Wilson*, I, pp. 416-17, as quoted in Wood, *ibid.*, p. 603.
59. Wood, *ibid.*, p. 606.
60. Banning, "Republican Ideology," *op. cit.*, p. 173.
61. J.G.A. Pocock, *op. cit.*, p. 173.
62. Banning, *op. cit.*, p. 173.
63. *Ibid.*, p. 174.
64. John Stuart Mill, for example, searching for a measure to indicate superior intelligence in an individual settled upon a person's occupation. Employers, businessmen and professional people were seen as more intelligence than ordinary workers. This was not a novel approach, there was no other accepted measure. For more on this point see C.B. Macpherson, *The Life and Times of Liberal Democracy*, (Oxford: Oxford University Press, 1979), p. 58.
65. Madison, in Farrand, *op. cit.*, Vol. I, p. 150.
66. Hamilton, *ibid.*, p. 299.
67. *Ibid.*, p. 424.
68. Madison made this point clearly earlier in his "Notes on the Confederacy" in Meyer *op. cit.*
69. S. Rufus Davis, *The Federal Principle*. (Berkeley: University of California Press; 1978), pp. 85-6.
70. See Madison in Farrand, *op. cit.*, vol. I, pp. 162, 168-171, 318-319.
71. George Mason in Farrand, *Ibid.*, p. 48.
72. Randolph in Farrand, *Ibid.*, p. 218.
73. John Dickinson, in Farrand, *Ibid.*, p. 150.
74. Madison, in Farrand, *Ibid.*, p. 150.
75. Gouverneur Morris in Farrand *Ibid.*, p. 26.
76. Madison, *Ibid.*, p. 50.

77. Adair, *op. cit.*
78. Hume, *op. cit.*, p. 492.
79. For more detail on this point see Paul Eidelberg, *The Philosophy of the American Constitution* (New York: The Free Press, 1968).
80. Madison in Farrand *op. cit.*, Vol. I, p. 486.
81. Wood, *op. cit.*, p. 551.
82. Hamilton, in Farrand, *op. cit.*, Vol. I, p. 296.
83. *Ibid.*, pp. 381, 376.
84. Article I, Section 6, The Constitution of the United States.
85. Madison, *Federalist Paper No. 10*, Rossiter ed., p. 78.
86. *Ibid.*, p. 79.
87. *Ibid.*, p. 78.
88. *Ibid.*, p. 79.
89. *Ibid.*, p. 79, 80.
90. *Ibid.*, p. 51, p. 323.
91. Robert Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956) p. 22. Dahl continues on the same page to argue "without these social checks and balances, it is doubtful that the intragovernmental checks on officials would in fact operate to prevent tyranny". With this Madison could not have agreed more.
92. Madison, *Federalist Paper No. 51*, *op. cit.*, pp. 323, 324.
93. James Madison, *Letter to Thomas Jefferson*, Oct. 24, 1787 in Padover *op. cit.*, p. 42.
94. James Madison, *In Virginia Convention*, June 20, 1788, in *Ibid.*, p. 48. He expresses, if somewhat less precisely, similar sentiments in the *Federalist Papers No. 55*, p. 346.
95. On this point see Alexander Landi, "Madison's Political Theory", *Political Science Reviewer*, vol. VI, Fall 1976, p. 109.
96. Pocock, *op. cit.*, p. 525.
97. *Ibid.*
98. Banning, "Republican Ideology, *op. cit.*, p. 172.
99. For more on this point see Pocock, *op. cit.*, p. 528-29 and Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford: Stanford University Press, 1970), p. 140.
100. Alexander Hamilton, *Hamilton Papers*, Vol. III, 246-247, 293, as quoted in Banning, *The Jeffersonian Persuasion*, *op. cit.*, p. 136.
101. Alexander Hamilton, *Hamilton Papers*, Vol. VI, pp. 80-81 as quoted in Banning, *ibid.*
102. Pocock, *op. cit.*, p. 528.

103. *American State Papers: Finance*, Vol. I, pp. 90-91 as quoted in Banning, *The Jeffersonian Persuasion*, *op. cit.*, p. 150.
104. Thomas Jefferson, "Letter of Ogilvie, 1811", in Saul K. Padover, *Thomas Jefferson on Democracy* (New York: Mentor Books, 1939) p. 136.
105. *Ibid.*
106. John C. Calhoun, *A Disquisition on Government* (New York: Bobbs-Merrill Co. Inc., 1953), p. 39.
107. *Ibid.*, p. 14.
108. *Ibid.*, p. 9.
109. *Ibid.*, p. 10.
110. *Ibid.*, p. 22.
111. *Ibid.*, p. 28.
112. On this point see Richard N. Current, *John C. Calhoun* (New York: Washington Square Press, 1963), pp. 93, 94.
113. Barrington Moore, Jr., *Social Origins of Dictatorship and Democracy* (Boston: Beacon Press, 1966), p. 129.
114. *Ibid.*, p. 38.
115. *Ibid.*, p. 40.
116. *Ibid.*
117. *The Works of John C. Calhoun*, ed. Richard Crallé (New York: Walker and James, 1851-1856), Vol. I, pp. 56-57.
118. Calhoun, *Disquisitions*, *op. cit.*, p. 45.
119. See Melvin Richter, "Comparative Political Analysis in Montesquieu and Tocqueville", *Comparative Politics*, Vol. 1, January 1969, and also Melvin Richter, "The Uses of Theory: Tocqueville's Adaptation of Montesquieu", in M. Richter ed. *Essays in Theory and History* (Cambridge, Mass.: Harvard University Press, 1970).
120. Alexis de Tocqueville, *Democracy in America* ed. by J.P. Mayer (Garden City, New York: Anchor Books, 1969) p. 9.
121. Tocqueville's portrait of 19th Century America as being essentially egalitarian has been severely criticized. American society was not as egalitarian as he made it out to be. Edward Pessen writes:

all of the chief assumptions underlying the egalitarian thesis appear to be undermined by the evidence for 1825-1850. Great fortunes did exist in this country, and many hundreds of American families lived opulently even by European standards. An inequality that was marked at the beginning of the era became even more glaring as its end, as the share owned by the wealthies on percent rose from roughly one-quarter to one-half. Nor was opportunity more equal than material condition. Although legend claimed they were mostly self-made men born to poverty, the rich with few exceptions had been born the wealth and comfort, owing their worldly success mostly to inheritance and family support. Instead of rising and falling at a mercurial rate, fortunes usually remained in the hands

of their accumulators, whether in the long run or short,

Edward Pessen, *Riches, Class and Power Before the Civil War* (Lexington, Mass: W.C. Heath, 1973) p. 303.

122. Tocqueville in Mayer *op. cit.*, p. 251.

123. John Stuart Mill, *Collected Works* Vol. 18 ed. by J.M. Robson (Toronto: University of Toronto Press, 1965) p. 75.

124. Tocqueville, Mayer *op. cit.*, p. 255

125. For more discussion on this point see J.G.A. Pocock, *The Machavellian Moment op. cit.*, p. 538.

126. Tocqueville, Mayer *op. cit.*, Part II, Chapter 4. Tocqueville's analysis is not so much different from Madison's although Madison emphasizes the diversity of economic groups, Tocqueville voluntary associations.

127. *Ibid.*, Part II, Chapter 8.

128. *Ibid.*, p. 263.

129. *Ibid.*, p. 165.

130. *Ibid.*, p. 287.

131. *Ibid.*, Part II, Chapter 9.

132. *Ibid.*, p. 292.

133. For a detailed discussion on this point see Richter, "The Uses of Theory" *op. cit.*, p. 101.

134. *Ibid.*

135. Tocqueville, Mayer *op. cit.*, pp. 526, 527.

136. Tocqueville In Richter *op. cit.*, pp. 100, 101.

137. William H. Riker, *Federalism: Origin, Operation, Significance* (Boston: Little, Brown and Company, 1964).

138. *Ibid.*, p. 16.

139. *Ibid.*, p. 5.

140. *Ibid.*, p. 12.

141. *Ibid.*, p. 12.

142. *Ibid.*

143. *Ibid.*, p. 5.

144. *Ibid.*, p. 13.

145. *Ibid.*, p. 14.

146. See Robert Brown "The Beard Thesis Attacked" *op. cit.*, and Charles Beard and the Constitution (Princeton: Princeton University Press, 1956).

147. Refer especially to the earlier part of the chapter and also to Jesse Lemisch, "The American Revolution seen from the Bottom Up", in *Towards a New Past*, Barton J. Bernstein, ed. (New York: Vintage Books, 1969) for additional criticism of Brown.

148. John R. Howe Jr., *Journal of Southern History*, Vol. 33, 1970. p. 90.
149. Charles Pinckney in Farrand *op. cit.*, Vol. I, p. 398, as quoted in Brown, *op. cit.*
150. Irving Brant, *James Madison* Vol. 3 (New York: Bobbs-Merrill Co. Inc., 1950) pp. 79,80.
151. See Yates' record of Pinckney in Farrand *op. cit.*, Vol. I, pp. 409-410.
152. Riker, *op. cit.*, p. 18.
153. On this point see Staughton Lynd, *Class Conflict, Slavery and the United States Constitution* (Indianapolis: Bobbs-Merrill Co. Inc., 1968).
154. See Lynd, *Ibid.*, and M. Jensen *op. cit.*
155. William Grayson "Speech of June 12, 1788", *The Debates in the Several State Conventions* ed. Jonathan Elliot (Washington, D.C., 1836), Vol. III, p. 281 as quoted in Lynd, p. 195.
156. Riker, *op. cit.*, p. 19.
157. J. Fitzpatrick *Writings of George Washington* (Washington, D.C.: Government Printing Office) Vol. 29, pp. 260-61 (August 15 to Lafayette).
158. *Ibid.*, p. 341 (Dec. 22, 1787 to David Stuart).
159. Riker, *op. cit.*,
160. John Jay in *Federalist Papers*, *op. cit.*, p. 53.
161. Riker, *op. cit.*, p. 12.
162. Pocock, *op. cit.*, p. 524.
163. Riker, *op. cit.*, p. 142.
164. *Ibid.*, p. 42.
165. Alexander Hamilton, Farrand *op. cit.*, Vol. I, p. 424.
166. Kenneth C. Wheare, *Federal Government* (New York: Oxford University Press, 1963) p. 11.
167. *Ibid.*
168. On this point see Rufus Davis, *op. cit.*
169. William S. Livingstone, *Federalism and Constitutional Change* (Oxford: At the Clarendon Press, 1956) p. 1.
170. *Ibid.*, p. 2.
171. *Ibid.*
172. Samuel H. Beer, "Federalism, Nationalism and Democracy in America", *American Political Science Review*, March 1978, p. 15.

CHAPTER IV

THE ORIGINS OF COMMERCIAL WHIGGISM, LOYALISM, AND THE FEDERAL IDEAS

Introduction

I described the ideology of the Country party in the previous chapter and noted how it dominated American revolutionary thinking. Thomas Jefferson is, I argue, the best exponent of this ideology in late eighteenth and early nineteenth century America. The creation of the American Constitution represented a reversal for the proponents of opposition thought but in the early nineteenth century, the forces of the Country emerged stronger than ever while those of the Court, in its American embodiment of Alexander Hamilton and his followers, went into decline. In Canada the tradition of the Country party was to linger on in the Reform and Liberal Parties. The social base of support for these parties tended to be agrarian, small, independent commodity producers who espoused the rural virtues first articulated by the Country party. While a vibrant political force, they had nowhere near the political clout of their American cousins, who had the additional support of Southern plantation owners, and were as often as not overshadowed by the advocates of Toryism. Nineteenth century Canadian Tories, on the other hand, were greatly indebted to the ideological tradition of the English Court and Tory parties. More than any other group, it was to be Canadian Tories, and their Loyalist forbears, who promoted schemes of political union in British North America, especially Canadian federalism.

In Canada, as initially in the United States, the most fervent advocates of federal union tended to be politically conservative. During the Revolutionary

War Loyalist after Loyalist proposed larger forms of union, most federal, in the hopes of countering revolutionary ferment. There arose during the war a belief, to be explored later in this chapter, that the fragmented nature of colonial politics was a causal factor in the outbreak of the revolution. This belief was taken as given by most Canadian proponents of federalism. Only greater centralization would provide the political stability so desperately needed. After the war there were numerous proposals for federal union of the British North American provinces put forward by Loyalists. These were always dismissed as premature but throughout the first half of the nineteenth century whenever the British North American colonies faced a crisis proposals for union, most advocating a centralized federal state, would come forward. One sees, then, proposals in 1822, in 1838 and 1839, in 1849 and throughout the 1850's. There was an occasional proposal for federal union put forward by the Reform party but these were, on the whole, infrequent.

The ideology of Canadian Tories, then, was conducive to union. Why was this the case? I will address this question in the remainder of this chapter. I will begin with an examination of the Court ideology as exemplified by the Scottish philosophers, particularly David Hume, indicating its connection to nineteenth century English Toryism. I will then compare this ideology to that of the American Loyalists and examine their proposals for federal union. Following this the next chapter will discuss Canadian Toryism and the various proposals Tories advanced for union.

This chapter and the ones following also challenge the arguments of those who maintain that no discernible ideology or set of values underlies the creation

of the federal state in Canada. Those who advance such claims, I argue, tend to have a narrow understanding of political ideas and the means by which they can be expressed. Political ideas, they imply, are limited to abstract, formal explicit statements that are too often divorced from actual political experience. According to this approach, if no written statements of abstract 'speculative' principles can be found then it logically follows that the founding of Canadian Confederation had no ideological underpinning and must be understood only as practical activity.

Yet, as I noted in the first chapter, ideologies need not be stated self-consciously and explicitly. They may, as William Bluhm indicates, be ingrained in habit and generally unarticulated, serving as unquestioned assumptions underlying political action. Ideas that have become immanent in everyday life are comparable to what Mannheim has described as "the conservative mentality", the assimilation of ideas into concretely existing reality.

This distinction between "explicit" and "implicit" political ideologies is, I argue, a valuable key to understanding Canadian political ideas, particularly the ideas of Canadian Loyalists and Tories who demonstrated a hostility to abstract, speculative ideas arguing instead that ideas had to be grounded in experience. Because ideologies may be expressed in two different modes, one explicit and one implicit, students of ideas must be prepared to utilize different methods of revealing them. Explicit statements of ideologies, in most instances, are not difficult to find. One can examine the writings of political theorists or the speeches of political figures. The problem with examining only these sources is that they can give the impression that political institutions and political behaviour are the products

of independently mediated ideologies. They also foster the impression, insists Michael Oakeshott, that this is the only means by which ideologies may be expressed. According to Oakeshott political ideology

purports to be an abstract principle, or set of related abstract principles, which has been independently premeditated. It supplies in advance of the activity of attending to the arrangements of a society a formulated end to be pursued, and in so doing it provides a means of distinguishing between those desires which ought to be encouraged and those which ought to be suppressed or redirected.¹

Viewing political ideology only as explicit, abstract principles guiding political activity leads to another difficulty. In the cases where no premeditated ideological statements can be found one can only conclude that politics must be understood as empirical, and consequently, non-ideological, activity.

This is the pitfall into which many students of Canadian politics have fallen into. Not finding explicit ideological statements at Confederation they concluded that the founding of the federal state in Canada must have been only practical, that is, non-ideological activity. Yet, as I indicated in Chapter I, the absence of ideological statements cannot infer the absence of philosophical or ideological principles. Oakeshott, in fact, rejects both the independent premeditated approach to ideology and the understanding of politics as pure empirical activity. The latter understanding is nonsensical, lowering politics to the chaos of impulse and desire. The former understanding, ideology as independent and premeditated, is also an imperfect understanding of political activity. Rather Oakeshott argues, instead of seeing political ideology as "an independently premeditated scheme of ends to be pursued, we should see it as a system of ideas abstracted from the manner in which people have been accustomed to go about the business of

attending to the arrangements of their societies."² In sum, political activity precedes political ideology. Ideas, in other words, follow from activity. Once abstracted from activity ideas, of course, may be used to guide activity. The important thing to remember, though, is that someone's activity precedes ideology.

Ideologies that are immanent in activity and that are expressed in the actual operating institutions of a society pose a challenge to the student of political ideas who wishes to reveal and understand them. One method political scientists may use is attitudinal surveys in which specific questions are employed to probe and discover underlying political values. Another method is the use of descriptive accounts of political behaviour by political scientists and historians. Using these accounts the student of political ideas may compare and see to what extent they conform to particular value systems.

One person that has used such an approach is Frank Coleman. In his *Hobbes and America: Exploring the Constitutional Foundation*³ Coleman analyses the political ideas underlying American political life. These political ideas, Coleman feels constitute a "constitutional philosophy."⁴ In other words they represent "an imperial political ideology shaping the consciousness of a whole people through their national inheritance." More explicitly, the "philosophy embodies the tradition of ideas which create the institutions of a national society and, so long as that philosophy continues to animate the minds of successive generations, sustains them."⁵ It is necessary to point out that this constitutional philosophy is not explicitly formulated but found implicitly in the "operative reali-

ties of politics", in "the ways which the political process empirically goes on."⁶

Coleman's work suggest an alternate but perfectly valid method of discovering the philosophical roots of American politics—one that can be used elsewhere. In this case Coleman asserts the unstated constitutional philosophy underlying American political behaviour is embodied in the political philosophy of Thomas Hobbes. Hobbes, according to Coleman, was the source of a new philosophy of constitutionalism, conflict management. "In its simplest form," Coleman argues, "the constituent principles of political association in Hobbes philosophy and American life are the same."⁷

For information concerning the operative realities of American politics Coleman turned to the accounts provided by the pluralist school of which Robert Dahl is one exponent. In Coleman's words:

This position states...that the purpose of American politics, from the original of the republic to the present day, is the management of conflict. This purpose is operationalized in a political process involving extensive bargaining and negotiation between independently situated political actors. Public order is created and sustained so long as it is able to accommodate the diverse needs of independently situated political actors bargaining for short term gains through the political process. The special merit of American political institutions is that they provide an efficient means of managing social conflict, a contribution not to be despised if one values government stability.⁸

Coleman admits his interpretation is a departure from previous interpretations; all of which, he claims, have mistakenly conveyed the impression that America's constitutional philosophy existed as an abstraction apart from the actual experience of society. These abstract interpretations had been gleaned from a limited range of sources, public addresses, court decisions, and the works of selected theorists. While useful they are too narrow. Rather Coleman asserts,

"the true manner in which a national society is constituted is through the historical enthusiasm of its people for a particular tradition of ideas."⁹ In the American case, the culture shaped its selected values—radical individualism and minimal government—into a total ideology which could not be questioned or dislodged. This ideology, Hobbesian in nature, constitutes the basis of America's constitutional philosophy.

This philosophy can be seen at work in the operative realities of American politics and manifested in a variety of idioms. While the idiom of expression may change the basic philosophy remains constant in terms of its controlling ideas. For example, Coleman argues that social Darwinism and civil disobedience are different manifestations of America's constitutional philosophy.

While one may or may not agree with Coleman's assessment that the roots of America's constitutional philosophy are basically Hobbesian, this is not the point. My concern is with the methods used for establishing the existence of a constitutional philosophy. First, one may examine the values implicit in the empirical accounts of a particular tradition or one may examine its "idioms of expression," its political culture as Coleman describes it.

To a certain extent the means suggested by Coleman for ascertaining the underlying ideology or constitutional philosophy of Canadian federalism are the only ones possible in Canada. This view is reinforced by S.F. Wise's contention that

since no connected history of formal thought in Canada is possible, the Canadian intellectual historian must be concerned primarily with the interrelationship between ideas and actions, and therefore, the intellectual commonplaces of an age, its root notions, assumptions and images, will be of more significance to him

than the the coherent bodies of abstract thought.¹⁰

In other words, Canada's political tradition, in particular the political culture of Canadian federalism, must be pieced together from a myriad of sources. These sources may include the works of political theorists. Coleman, for example, found Thomas Hobbes to be a useful source in understanding the philosophy underlying American political institutions. On the other hand, I found, for example, that the works of the Scottish philosophers helped me to better understand the descriptive accounts by historians and political economists of the role of the Canadian state in promoting economic development—particularly the great public debt the state was permitted to accumulate in doing so. Wise, suggests other sources that can be used to establish the political culture of nineteenth century Canada. One source he recommends is sermon literature which has been fruitfully used elsewhere to reconstruct broad intellectual movements. Wise cites, for example, Christopher Morris's use of sermon literature as a source of political ideas in his *Political Thought in England: Tyndale to Hooker*.¹¹ In actuality sermons represent only one species of political literature. Pamphlets, letters, articles, newspapers and analyses of educational curricula may be used to reconstruct the political culture of a period.¹²

To some extent, I have relied upon on all the above methods including the works of political literature available in Canadian archives and descriptive accounts of Canadian politics by historians and political economists. I turn now to an account of the ideology of the Court Whigs and its appropriation by Loyalists and, later, Canadian Tories.

From Tory vs Whig to Court vs Country

Understanding Court Whiggism means understanding how the conflict between Court and Country in the eighteenth century came to overshadow that between Whigs and Tories.¹³ By Tories, I refer here, to those who still adhered to a belief in absolute monarchy, divine ordination, non-resistance and passive obedience with Robert Filmer as their intellectual mentor. The Tories of the late seventeenth and early eighteenth century, it must be emphasized, were definitely not the same as their namesakes in the nineteenth century.¹⁴ Tories divided from their Whig opponents in the early eighteenth century over the Revolution Settlement and the Protestant succession. However, once Tories began to shed Filmerian beliefs and accept the Revolution Settlement and Protestant succession the gulf between themselves and the Whigs greatly narrowed. Increasingly Tories and Whigs came to share certain assumptions, symbols, and political objectives. The movement, though, was just not in one direction, from Tories to Whigs. The Whigs changed too and became more politically conservative. H.T. Dickinson has summarized these changes:

In the decades after 1688 the Whigs became less radical and the Tories grew less authoritarian. The Whigs in general preferred not to endorse the more revolutionary theories of John Locke, while the Tories gradually abandoned their loyalty to direct divine ordination and infeasible hereditary succession. Increasingly both parties put their trust in the ancient constitution, recognized the legislative sovereignty of Crown, Lords and Commons and urged subjects to submit to the post-Revolution establishment in which political power was still confined to the property owning elite.¹⁵

Even as Tories and Whigs in England forged an ideological consensus on the basic nature of the constitution and the state another ideological division was emerging. This division was to centre on the Crown's use of patronage and

influence to control Parliament. That is, the division centred not on the nature of the constitution but on how it operated. These differences served as an important basis of ideological division between Court and Country Whigs. The Country opposition believed the Court's policies and methods would, if not challenged, destroy the balance and virtues of the British constitution. The Court, on the other hand, believed that their policies and methods were necessary to make the constitution work. In the eyes of Country Whigs the willingness of any Whig to support the Crown made them a Tory. The name stuck and so one sees such Whigs as Walpole, Lord North and Hume identified as Tories. Only in the nineteenth century did "Tory" lose its odium and Whig supporters of the Crown willingly identify themselves as Tories. Nineteenth century Tories insisted, however, that they were the true supporters of the principles of the Revolution of 1688. Their ideological relationship to late seventeenth and early eighteenth century Toryism is negligible.

The differences between Court and Country are critical for an understanding of eighteenth and early nineteenth century politics in England, America and Canada. In the American colonies the belief arose that the Court was corrupting the British Constitution. Revolution represented, in part, an attempt to preserve the virtues of the constitution. The writing of the American Constitution, in turn, represented a partial revival of Court beliefs in its wish for a strong executive and its centralizing tendencies. In England and later Canada, as well, politics centred on the use of patronage and influence by the Crown. In both England and Canada, then, constitutional debates also represented critical ideological debates. In Canada, for example, Reformers feared government by influence,

which they styled corruption believing as the Country opposition believed that it deformed governments and debased public morals. Tories, on the other hand, argued that influence was necessary for good government.

The debate between Court and Country did not represent solely constitutional and ideological differences, but reflected the differences between class fractions. Proponents of the Country ideology tended to be men of landed property, large and small. The Court or establishment Whigs on the other hand represented the commercial and financial classes of England who appreciated the political and social value of moveable wealth. Unlike the Country Whigs who feared the corrosive effects of a money economy, credit, luxury and public debt the Court Whigs had no such fears. In England Court Whigs came to associate national prosperity with the expanding functions of government and the successful prosecution of war. In the late seventeenth century a financial revolution had begun that was to greatly change the nature of eighteenth century English political economy. The primary institutions of this financial revolution, the Bank of England and the National Debt, were in essence a means of raising capital from both small and large investors. Those who lent money to the state not only had made a financial investment but also a political investment for the return on their money depended on the financial health and political stability of the state. The state, in turn, used this capital to strengthen itself by building and maintaining standing armies and bureaucracies. With capital, armies and bureaucracies came not only political patronage—the ability to secure loyalty to the government—but also the means to attract more investment, fight more wars and build and direct a commercial empire.¹⁶

In the interests of promoting and protecting commerce, trade and the empire Court Whigs, desired, then, a strong executive and a strong military. Their arguments led in the direction of centralizing power while the Country opposition favoured its institutional dispersal and thus fought for the rights of an independent parliament. In their efforts to uphold the interests of the Crown the Court Whigs consistently defended the monarch's use of the royal prerogative, and patronage, including government appointments and the granting of places and pensions — all this for the purpose of managing Parliament, the state and its economic programme.

While the Court Whigs may have been enormously wealthy and powerful politically, in the first half of the eighteenth century they needed an ideological justification to legitimize their place in the social and political order. Their Country opponents had recourse to the powerful arguments of the classical republican or Commonwealth tradition. One potential source of Court ideas could be found in the political works of John Locke. Yet many Court Whigs were apprehensive about the employment of Lockean ideas. Not that Locke didn't have a conservative side to his political thought. He did. Locke had justified private property and defended inequalities of wealth. There were, though, the Court Whigs believed, unacceptable elements in Locke's thought, elements that the propertyless masses could turn against them. Hadn't he justified an extensive right of resistance? Hadn't he argued for religious toleration and against the authority of the established Church thus giving comfort to Dissenters?

While the Court Whigs, like all Whigs, never abandoned the right of resistance, they were in power now and certainly didn't need an ideology to attack those in power. Rather they needed an ideology to defend authority and legitimize the status quo. Blackstone, a Court favorite, spelled out some of the unease Court Whigs had about Locke:

It must be owned that Mr. Locke and other theoretical writers, have held, that there remains still inherent in the people a supreme power to remove or alter the legislative, when they find the legislative acts contrary to the trust reposed in them: for, when such trust is abused, it is thereby forfeited, and devolves to those who gave it. But however just this conclusion may be in theory, we cannot adopt it, nor argue from it, under any dispensation of government at present actually existing. No human laws will, therefore, suppose a case, which at one must destroy all law, and compel men to build afresh upon a new foundation; nor will they make provision for so desperate an event, as must render all legal provisions ineffectual.¹⁷

As esteemed as Blackstone may have been by the Court Whigs he was not to furnish the ideological justification they were seeking. Rather, asserts H.T. Dickinson, they were to be profoundly influenced by the thinkers of the Scottish Enlightenment, in particular David Hume.¹⁸ The ideas of the Scottish Philosophers helped to provide the intellectual means for the Court Whigs not only to counter the arguments of their Country opponents but any adherents to Filmer and Locke. From the Scots the Court Whigs were to take a number of ideas that they put together to form a powerful ideology. For example, where the Country opposition used such concepts as land, republic, frugality, simplicity, virtue, and independence, the Court was to use commerce, empire, luxury, speciality, passion, and dependence.¹⁹ Where the Country stressed the power of the Commons and liberty, the Court stressed the rights of the Crown and executive authority. Against Lockean contract theory, the state of nature and natural rights they

were to pose prescription, society and duty.

The Contribution of the Scots to the Court Ideology

The importance of the Scottish thinkers should not be surprising for in the eighteenth century it was Scotland, not England, that was at the forefront of British intellectual life. Their predominance lasted for a good part of the nineteenth century as well.²⁰ In the study of science, philosophy and law, Scotland clearly outshone neighbouring England.²¹ Particularly in the 1740's and 50's Scotland had a group of thinkers unrivalled anywhere in Europe. In the last half of the eighteenth century, the ideas of the Scottish Enlightenment along with their common oracle, Montesquieu, whose summary of the debate on land and commerce influenced opposing sides, "were in the air."²²

Hume was just one of a number of well-known Scottish thinkers in the eighteenth century. Others included Adam Smith, Thomas Reid, Lord Kames, Dugald Stewart, Francis Hutcheson and Adam Ferguson.²³ Unfortunately, the diversity and richness of their thought cannot be captured here.

Of all the Scots, though, Hume made the most outstanding contribution to the Court ideology. It was Hume's intention to supply an ideology of government that would be acceptable to all "moderate" men of the period. Hume was particularly aware of the radical implications of Locke's thought. The Whigs were established now and it was seen as dangerous to promote Locke as the theorist of the establishment. Hume's approach was too new to be accepted in 1740, but by 1760 this was no longer so as the major thinkers of the Scottish school began to incorporate his ideas into their works.

Hume's thinking reflects many of the changes that occurred in the Court perspective in the latter part of the eighteenth century. Rather than accept the divine right theory or the social contract of Locke as the basis of a government's legitimacy, Hume argued that the legitimacy of a government, like an individual's right to property, depended on prescription, that is, a government's authority becomes established, sanctioned, and legitimized by the fact of present possession reinforced by long possession.

Time alone gives solidity to their right; and operating gradually on the minds of men, reconciles them to any authority and makes it seem just and reasonable....Right to authority is nothing but the constant possession of authority.²⁴

"We obey out of habit and because it is obvious that government is useful and necessary. "Obedience or subjection becomes so familiar that most men never make any inquiry about its origin and cause."²⁵

The thought of Hume and the Scots, following in the tradition of Bacon and Newton, was predisposed to empiricism, eschewed abstract thought, and favoured use of the scientific method. The Scots went beyond Bacon and Newton, though, to develop a science of man and society. Their studies, they felt, proved to them that man was naturally social and that society itself was natural as opposed to the artificial nature of society asserted by the contract theorists.

The first to make this claim was Francis Hutcheson. The subject of his inaugural lectures at the University of Glasgow in 1730 was, *The Natural Sociability of Man*. As he wrote elsewhere:

One can scarcely deny to mankind a natural impulse to society with their fellows, as an intermediate principle, when we see the like in many species of animals; nor should we ascribe all associating to their indigence. Their other prin-

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ciples, their curiosity, communicativeness, desire of action, their sense of honour, their compassion, benevolence, gaiety, and the moral faculty, could have little or no exercise in solitude, and therefore might lead them to haunt together, even without an immediate or ultimate impulse, or a sense of their indigence.²⁶

Other Scottish thinkers echoed Hutcheson. Thomas Reid stated "The author of our being intended us to be social beings, and has for that end, given us social intellectual powers as well as social affections. Both are original parts of our constitution, and the exertions of both no less natural than the exertions of those powers that are solitary and selfish."²⁷ Adam Ferguson, a great admirer of Montesquieu, borrowed the following quote from him: "Man is born in society and there he remains."²⁸ Hume claimed that "Men cannot live without society."²⁹ Adam Smith wrote: "Nature, when she formed man for society, endowed him with an original desire to please, and an original aversion to offend his brethren."³⁰

This again distinguished their thinking from the contract theorists. In addition, Scottish thinkers claimed, men did not possess natural rights as Locke and Hobbes had envisaged them; some of which they bartered away, some of which they retained as property, in setting up the social contract. The perspective of Hobbes and Locke, they claimed, tended to establish a rigid dichotomy and opposition between the individual and the state, and the state and society. This perspective the Scots did not share. Rather, for them, the individual, society and state were tightly interwoven and part of a complete fabric. The boundary between state and society was particularly blurred. The state of nature, if it existed, was equivalent to civil society and not an *a priori*, asocial state

antecedent to society itself. Furthermore, the rights men possessed arose from and because of society and the test of a right was the public good. Hutcheson, for example, defined right in the following manner:

Whenever it appears to us that a faculty of doing, demanding, or possessing anything universally allowed in certain circumstances, would in the whole tend to the general good, we say that any person in such circumstances has a right to do, possess, or demand that thing, and according as this tendency to the public good is greater or less.³¹

In addition, men had duties as well as rights. Hutcheson considered duty as simply a person's right viewed from another perspective. Life was a right, but it was also a duty. As much as we have a right to live, we also have a duty to live. The Scots in general felt the contract theorists had erred by putting too much emphasis on rights and not enough on duties. Rejecting the validity of any original contract they saw society as a product of slow historical growth. Men did not come suddenly into society from a state of nature, but rather the complex and refined society they possessed had come gradually into being. In words that echo Burke, Adam Ferguson wrote: "No constitution is formed by concert, no government is copied from a plan....The seeds of government are lodged in human nature; they spring up and ripen with the season."³² Improvement, progress and change were possible and desirable, but only through the accepted institutions of society. One could rise and one could fall from his place, but wholesale movement, levelling was impossible — a threat to society itself. Radical reform or revolution was greatly feared. Adam Smith put such a premium on stability that he insisted "the peace and order of society is of more importance than even the relief of the miserable" — a sentiment that was not uncommon among the ruling classes.³³ Finally, most accepted Hume's notion of prescription.

Over time, the form of government has stamped itself on the manners, morals, and opinions of a people and they no longer question it.

The Scots, then, moderated considerably the radical individualism of the contract theorists. Man and society, they felt, were inter-woven in a complex and fragile web of interdependence. They had a profound sense of community and history and attempted to reconcile the good of the individual with the good of the whole. Some scholars, such as Gladys Bryson, have described their thought as organic.³⁴ The term organic is misleading, however, and casts a medieval hue over their thought. Systemic is a better word expressing much the same thing and systemic, not organic, was a word the Scots employed. Furthermore, the Scots, like Hobbes employed mechanistic analogies not organic ones.

Adam Smith wrote:

Systems in many respects resemble machines. A machine is a little system, created to perform, as well as to connect together, in reality, those different movements and effects which the artist has occasion for. A system is an imaginary machine invented to connect together in the fancy those different movements and effects which are already in reality performed.³⁵

While man and society were interdependent, not all was sweetness and light. Men, for the Scots, were not pre-eminently reasonable creatures. Rather, they accentuated the passionate, sensate, feeling and affective side of man's nature. These passions, as often as not, were contradictory. While men possessed fellow-feeling, sympathy, and benevolence, which seemed to bind them together — they were also creatures that acted in their self-interest, sometimes to the detriment of society and, therefore, needed to be restrained. This was one of the primary functions of government — imposing order.

On the question of government, however, the Scots were akin to all Whigs, including Locke. The paramount purpose of government was to guarantee the security of property which, they believed, formed the very basis of society. On it everything was dependent — including government. Adam Smith, whose voice on this matter can be considered representative, put it this way: "Till there be property there can be no government, and the very end of which is to secure wealth and defend the rich from the poor."³⁶ It was the possession of property that distinguished civilized societies from primitive and barbarous ones where all men were equal in their poverty.

Property, then, was a critical component in the thought of the Scots which emphasized the importance of economic factors in determining and shaping social and political structures. The history of man was divided into four economic phases — the primitive, pastoral, agrarian, and the commercial — each progressing from the other. Like the republican thinkers they recognized the influence modes of production had on man's culture, his institutions and his manners. The change from each economic phase was coincident with extensive societal changes. However, unlike the republican thinkers who were convinced that an agriculturally-based economy represented the best possible basis for society that had to be conserved, the Scots looked upon agriculture as just one phase, the penultimate phase, in man's development which was destined to be superseded by commerce.

John Millar, one of the Scottish literatti succinctly described the systemic social and political effects of the changing modes in the following manner:

[man's] first efforts are naturally calculated to increase the means of subsistence, by catching or ensnaring wild animals, or by gathering the spontaneous fruits of the earth; and the experience, acquired in the exercise of these employments, is apt, successfully, to point out the methods of taming and rearing cattle, and of cultivating the ground. According as men have been successful in these great improvements, and find less difficulty in the attainment of bare necessities, their prospects are gradually enlarged, their appetites and desires are more and more awakened and called forth in pursuit of the several conveniences of life; and the various branches of manufacture, together with commerce, its inseparable attendant, and with science and literature, the natural offspring of ease and affluence are introduced, and brought to maturity. By such gradual advances in rendering their condition more comfortable, the most important alterations are produced in the states and conditions of a people: their numbers are increased; the connections of society are extended; and men, being less oppressed with their own wants, are more at liberty to cultivate the feelings of humanity; property the great source of distinction among individuals, is established; and the various rights of mankind, arising from their multiplied connections, are recognized and protected: the laws of a country are thereby rendered numerous; and a more complex form of government becomes necessary, for distributing justice, and for preventing the disorders which proceed from the jarring interests and passions of a large and opulent community.³⁷

Commercial societies, the Scots realized, were those societies most conducive to the creation of wealth and luxury. But unlike the Country opposition the Scottish philosophers did not regard luxury as socially and politically destructive. Hume, for instance, believed luxury represented a boon to society. He criticized those "men of severe morals [who] blame even the most innocent luxury, and represent it as the source of all the corruptions...incident to civil government."³⁸

Hume's arguments on luxury are reminiscent of those made earlier in the century by Bernard Mandeville.³⁹ Mandeville's insistence that "private vices...may lead to public benefits" represents an earlier version of a utilitarian attack on the moral claims of opposition thought.⁴⁰ Hume, though, did take exception to some of what Mandeville wrote, insisting that excessive or vicious luxury was not acceptable and furthermore, according to "any system of morality" it seemed "little less than a contradiction in terms, to talk of vice, which is

in general beneficial to society."⁴¹

So too does Adam Smith's work resemble Mandeville's. According to Edwin Canaan the primary difference between the two is that "Smith put [Mandeville's] doggerl into prose."⁴² Although Smith had a few bones to pick with Mandeville he felt that the "system of Dr. Mandeville...could never have imposed upon a great number of persons, nor have occasioned so general an alarm among those who are friends of better principles, had it not in some respects bordered upon the truth."⁴³

Luxury and refinement, then, had positive social and political effects. In Hume's opinion as societies advanced growing wealthier and more complex so, too, men became more refined. As they did they became more sociable, flocking to cities where they became active in the giving and taking of knowledge. They formed clubs, societies engaged in conversation, sought pleasures and entertainment — all of which led to a general increase in humanity. Hume summarized the cultural advantages that followed economic advances in the following manner:

Another advantage of industry and of refinements in the mechanical arts, is that they commonly produce some refinements in the liberal; nor can one be carried to perfection without being accompanied, in some degree with the other. The same age, which produces great philosophers and politicians, renowned generals and poets, usually abounds with skilled weavers, and ship-carpentars. We can not reasonably expect, that a piece of woolen cloth will be brought to perfection in a nation, which is ignorant of astronomy, or where ethics are neglected. The spirit of the age affects all the arts; and the minds of men, being roused from their lethargy, and put into a fermentation, turn themselves on all sides, and carry improvements into every art and science.⁴⁴

Politically too, Hume saw advantages to luxury which, he believed, could strengthen the state. The growing abundance of commodities not only improved

men's lives but in the act of producing them men acquired good working habits which could be turned to military or public service:

Manufacturers increase the power of the state only as they store up so much labour, and that of a kind to which the public may lay claim without depriving anyone of the necessities of life. The more labour, therefore, is employed beyond mere necessities, the more powerful is any state; since the persons engaged in that labor may be easily converted to the public service.⁴⁵

These were not the only political effects of luxury. Luxury had also affected the balance of power within the state by increasing the size and strength of the middle classes who, Hume believed, served as a bulwark against tyranny whether it stemmed from the aristocracy or the nobility. In a broadside directed at the Country Whigs Hume wrote:

The lower house is the support of our popular government; and all the world acknowledges, that it owed its chief influence and consideration to the increase of commerce, which threw such a balance of property into the hands of the commons. How inconsistent then is it to blame so violently a refinement in the arts, and to represent it as the bane of liberty and public spirit.⁴⁶

It was precisely because the middle classes had grown so strong as a result of the growth of commerce and the relative strength of the aristocracy had declined that Hume favoured the use of patronage by the Crown. Without the use of Crown patronage the balance of the mixed constitution was endangered. By itself, the House of Lords was not a sufficient counterweight to the commons. Influence or patronage, corruption to the Country opposition, was the necessary grease that made the constitution work. Without it the Crown would not be able to elicit Parliamentary support. Hume saw that the Crown, by the adroit use of the power of appointment, could appeal to men's ambitions and their interests, bind them to close to the interests of the state, and strengthen the

hand of authority. This was necessary Hume thought because liberty, a product of commercial and market society, had to be restrained and balanced by authority to maintain order, enforce contracts and protect property. Only in this manner could men's long term interests and the public good prevail over their short term selfish interests. This was, indeed, a radical departure from the Country party for Hume defended the use of the very system of influence and dependence they despised.

Most Court Whigs accepted Hume's contention that the power of the Crown had to be preserved and even strengthened. The Crown was a powerful counterweight in a constitution grown too democratic. It also served as a means of controlling men's passions particularly those of the unpropertied labouring classes, the "mob", the "giddy multitude" whose factiousness and instability posed an ever-present threat to the propertied classes. There was clearly in the Court ideology a recognition of the dangers of class warfare and the need for a strong state to contain it. The purpose of government after all was "to secure wealth and defend the rich from the poor."⁴⁷ A strong state was also needed to guide and promote economic development.

Commercial societies not only produced factions amongst the poor their very nature was factious and disorderly. Most Court Whigs, though, only saw the dangers of faction and party and the need for its containment. Hume, too, believed that factions and parties were not desirable but he believed that they could not be eliminated. In fact Hume believed, long before it became fashionable amongst the ruling classes, that parties could help preserve the balance of

liberty and authority in the constitution. He wrote that:

Though all reasonable men agree in general to preserve our mixed government; yet, when they come to particulars, some will incline to trust greater powers to the Crown, to bestow on it more influence, and to guard against its encroachments with less caution, than others who are terrified at the most distant approaches of tyranny and despotic power. Thus are there parties of PRINCIPLE involved in the very nature of our constitution, which may be properly enough be denominated those of COURT and COUNTRY.... But, however the nation may fluctuate between them, the parties themselves will always subsist, so long as we are governed by a legitimate monarchy.⁴⁸

Not only did Parliament represent parties of principle who helped preserve the delicate balance of liberty and authority in the constitution it represented the leading interests of the nation, primarily trade and land as well. Hume, though, did not attempt an intellectual justification of the place of interests in Parliament, that was left to Burke who insisted that Parliament should not represent individuals but the major interests of society and the State.⁴⁹ It also became an accepted part of Court ideology that Parliament and the interests it represented were to be supreme. In so doing the constitution, it was believed, protected the major interests of the various class fractions, land and commerce, not only from the mob but also from one another.

While the major interests represented by Parliament were primarily economic, religious interests had to be incorporated into and supported by the state — the religious interests of the Church of England, that is. One of the major functions of the state was the production of social harmony. Religion, it was believed, was conducive to that end. Again the stoutest defense of the alignment between Church and State (with the State dominating) was left not to Hume, who had little regard for religion, but to Burke.⁵⁰

Finally, as part of their willingness to use state power the financial and trade interests represented in Parliament had little fear of contracting a large public debt. This willingness to tolerate public debt and use the State as an instrument of public credit became an important part of Court and Tory ideology including Canadian Tory ideology. Indeed, one of the important characteristics of the Canadian state in the nineteenth century was the readiness with which it accepted the idea of public debt. Public debt was seen as an indicator of constitutional stability for the wealthy would not lend money to a government they did not trust. Furthermore, once lent the lenders had an additional interest in the state's stability and survival. Hume, though, warned his contemporaries that the public debt had to be contained otherwise it could lead to national bankruptcy and even foreign conquest.⁵¹ Most Court Whigs, though, did not share Hume's pessimism on public debt. One political pamphlet, entitled, *Some Considerations on Public Credit* put it this way:

The national debt was contracted in defense of our liberties and properties and for the preservation of our most excellent constitution from popery and slavery. This encouraged the best subjects at the Revolution to venture their lives and fortunes in maintaining a long and expensive war in a firm dependence on parliamentary faith and that public credit which arose from the force and unconfined liberty, so wisely given to every subject to dispose of his property and interest in the public funds.... This commerce, this freedom for every subject to attach his property in the Funds, as occasion or convenience required, may undoubtedly be affirmed to be the support of public credit. It is in a great measure to this liberty that we owe the happy effects of the revolution, the blessings of peace, and the succession of the present royal family.⁵²

Adam Smith was one of those who did not share Hume's dire pessimism on the question of public debt.⁵³ Unlike Hume, Smith endorsed such financial instruments as the sinking fund, a special fund set aside for the purpose of gradually wiping out the national debt. Like the political pamphlet cited above Smith

praised the sinking fund as an indication of English liberty and constitutional stability. The funds mortgaged to service the debt were not under the king's control rather they were paid to an independent body operating under rules set out by Parliament.

The surplus of the mortgages goes into what is called the sinking fund for paying the public debt, which secures the government in the present family, because if a revolution were to happen, the public creditors, who are men of interest, would lose both principal and interest. Thus the nation is quite secure in the management of the public revenue, and in this manner a rational system of liberty has been introduced into Britain.⁵⁴

Smith's position, then, leans toward that of the Court. In his later years Hume reversed himself accepting the fund as a means of maintaining public order. In Hume's opinion the fund would now improve the government's ability to deal with "Jacobitical violence and democratic frenzy."⁵⁵

In the *Wealth of Nations* Smith elaborated on his earlier comments made in public debt and public spending in his *Lectures on Jurisprudence*. In Book II of the *Wealth of Nations* Smith projects a view of public expenditure that appears to reinforce the nineteenth and twentieth century view of Smith as an advocate laissez-faire and friend of cheap government.

Great nations are never impoverished by private, though they sometimes are by public prodigality and misconduct. The Whole, or almost the whole public revenue, is in most countries employed in maintaining unproductive hands. Such are the people who compose a numerous and splendid court, a great ecclesiastical establishment, great fleets and armies, who in time of peace produce nothing,....such people...are all maintained by the produce of other men's labour.⁵⁶

Such a statement leaves the reader unprepared for other statements by Smith in the *Lectures on Jurisprudence* and in Book V of the *Wealth of Nations* where Smith takes a more permissive and positive attitude toward government spend-

ing. In the lectures Smith comes close to the Court position which argued that good government in a commercial society was costly:

We may observe that the government in a civilized country is much more expensive than in a barbarous one; and when we say that one government is more expensive than another, it is the same as if we said that the one country is further advanced in improvement than another. To say that the government is expensive and the people not oppressed is to say that the people are rich. There are many expenses necessary in a civilized country for which there is no occasion in one that is barbarous. Armies, fleets, fortified palaces, and public buildings, judges, and officers of the revenue must be supported, and if they be neglected, disorder will ensure.⁵⁷

Despite his protestations about "public prodigality" in Book II in the very same book Smith acknowledges that: "Noble palaces, magnificent villas, great collections of books, statues, pictures, and other curiosities, are frequently both an ornament and an honour, not only to the neighbourhood, but to the whole country to which they belong. Versailles is an ornament and an honour, to France, Stowe and Wilton to England."⁵⁸ Here Smith portrays a side of his thought at variance with his image as only an upholder of acquisitive values. Palaces and ornaments are symbols of aggregate wealth and a credit to the community.

Book V. makes similar statements admitting that government in civilized states was expensive and that republican as well as monarchical governments had acquired a taste for "splendid...public ornaments."⁵⁹ It was public spending on such adornments, as well as expenditures on necessary services, that forced the state to contract a large national debt in times of war. It was partially because the public debt was "contracted in the defence, not of Great Britain alone, but of all the different provinces of the empire" that Smith advocated a union with Ireland and America "to discharge the public debt."⁶⁰ Smith's thought on union as

a credit instrument to alleviate public debt is a forerunner to Canadian thinking on the subject and will be considered again shortly.

All this belies the image of Smith as an apostle of laissez-faire economics. Jacob Viner and Andrew Skinner, two leading Smith scholars share Donald Winch's view that "the principles put forward by Smith to guide [state] intervention, allowed wider scope for the state than the nineteenth century *laissez-faire* image suggest."⁶¹ Smith argued the state had to provide for the administration of justice, defence, and such public works that may be necessary to facilitate economic activity. Provision of public works was only permissible in those instances when an individual or group of individuals could not afford to do so. The administration of justice would have involved the state in enforcing contracts, protecting property and resolving the inevitable clashes of interests that occur in a commercial society. As Jacob Viner points out, the administration of justice, "if broadly interpreted, would assign to government the task of a major reconstruction of the economic order."⁶² The provision of defence and the needs of standing armies in the eighteenth century were not small tasks either and required Smith to be listed as a friend, at least in his day, not a foe, of government activity. Similarly, the provision of public works including roads, bridges, and harbours entailed considerable public expense. In nineteenth century Canada the debt load incurred by the state for these activities alone makes the current debate over public debt in Canada appear rather petty.

The point of all this is that Smith's attitudes must be understood in the context of his time. If Smith is situated within the debate between land and

commerce then the activities and public expenditure permitted the state are very large indeed. The provision of standing armies with its implicit division of labour had been fought by landed interests. Defence, they believed was costly and the building of public works only meant that the state would incur a larger debt that they would have to pay for.

In the latter part of the eighteenth century, the thinkers of the Scottish Enlightenment were to provide a needed intellectual boost for established Whiggism. Like the Court Whigs they were politically conservative but looked upon themselves as economically and, to a degree, socially liberal. Politically, their image of politics as Plamenatz tells us was remarkably Hobbesian.⁶³ They recognized the need for a strong state, one that could restrain the passions and ambitions of men operating in the turbulence and factiousness of a market economy. Furthermore, the relationship between the state and commerce was symbiotic. Growing commercial wealth served to enhance the power of the state which in turn could serve the interests of commerce. At the same time, however, the "mixed constitution" the British possessed was fragile. Hume's conservatism and historical utilitarianism told him, like other Scottish thinkers, that governments were not the products of "speculative philosophy" but of experience, had withstood tests of time, and also served man's changing needs. Yet, at anytime, the balance of liberty and authority could be upset and political power slip into the hands of the mob.

But while they favoured a stable, orderly hierarchical society that could defend wealth and privilege they were constitutionalists. Their objectives were

only realizable under a mixed regime, one that promoted a judicious mixture of liberty and authority. Although they increasingly stressed order, obedience and authority, they never abandoned the cause of liberty and the rights of subjects which they based not on an original contract but on prescription and history.

Burke, the Defense of the British Constitution and the Ideas of the Scottish Enlightenment

During the aftershocks of the French Revolution which threw terror into the hearts of the English ruling classes many propagandists were to borrow liberally from the ideas of the Scottish Philosophers to defend the British constitution and the established order.⁶⁴ Led by Edmund Burke, who had now broken with Foxe's Whigs, their arguments were used to set back the cause of reform and radicalism for a generation. Foremost among their arguments was that the contract theory was a mere abstraction, civil society like man was natural, a product of man's wants and needs and the constitution, a prescriptive one, could not trace its origins to rational first principles. To anyone who claimed it could be done Burke retorted:

On what grounds do we go to restore our constitution to what it has been at one definite period, or to reform and reconstruct it upon principles more conformable to a sound theory or government? A prescriptive government, such as ours, never was the work of any legislator, never was made upon any foregone theory. It seems to me a preposterous way of reasoning, and a perfect confusion of ideas to take the theories which learned and speculative men have made from that government, and then supposing it made on those theories, which were made from it, to accuse the government as not corresponding with them.⁶⁵

In place of the abstract, speculative, contract theory Burke offered another in its stead, one that was organic and historical, but yet at the same time somewhat mysterious:

Society is indeed a contract...but the state ought not to be considered as nothing better than a partnership in a trade of pepper and coffee, calico or tobacco, or some other such low concern....It is a partnership in all science; a partnership in all art; a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, those who are dead, and those who are to be born.⁶⁶

However, as C.B. Macpherson has pointed out to see Burke's organicism as a mere defence of precapitalist social relations and a rejection of the market place is a mistake.⁶⁷ Once Burke's economic ideas are examined, says Macpherson, "there can be no further question about his intellectual kinship with Adam Smith."⁶⁸

Burke's image of civil society, one dominated by the market, was also akin to the Scottish thinkers and somewhat Hobbesian. Men's appetites and passions were such that they would lead men into perpetual strife thus endangering property unless they were restrained. Wrote Burke:

Society requires not only that the passions of individuals should be subjected, but that even in the mass and body as well as in the individuals, the inclinations of men should frequently be thwarted, their will controlled, and their passions brought into subjection. This can only be done by a power out of themselves; and not in; the exercise of the function, subject to that will and to those passions which it is its office to bridle and subdue.⁶⁹

That "power out of themselves", the state is, claims Macpherson, the Leviathan state of Hobbes,⁷⁰ one that had to be strong enough to enforce contracts and protect property rights along with performing other needed functions in education and religion.⁷¹

Burke's defence of the British Constitution, especially his defence of the Crown, would appear to contradict some of his earlier statements as a leader of

the Rockingham Whigs. There, at least in political terms, he had advocated a moderate Country platform in which a primary emphasis was put on reducing the excessive influence of the Crown. In one of his earlier pamphlets, *Thoughts on the Cause of the Present Discontents*, Burke condemned the "system of favoritism" and the attempt by a Court cabal to reduce Parliament to impotence.⁷² In 1779 in a speech introducing a measure that would curb the spending power of the Crown Burke warned the House of Commons:

I cannot help observing, that the whole of our grievances are owing to the fatal and overgrown influence of the Crown; and that influence itself to our enormous prodigality...Formerly the operation of the influence of the Crown only touched the highest orders of the state. It has now insinuated itself into every creek and cranny in the kingdom...What is worst of all, it soon surrounds a supine and inattentive minister with the designing, confident, rapacious, and unprincipled men of all descriptions.⁷³

Burke and the Rockinghams, however, stopped short of calling for more frequent elections or rejection of all placemen from the House of Commons. To the contrary it was excessive influence the Rockinghams fought against, particularly the influence they saw barring them from power. Neither Burke nor the Rockinghams favoured the abolition of rotten boroughs many of which they controlled.

In his *An Appeal from the New to the Old Whigs* published in 1791 he defended himself against the charge that he had deserted his party's principles. To those who suggested his current defence of the Crown was a "logical fallacy" Burke retorted:

If no man can propose any elimination of influence or modification of an invidious or dangerous power or influence in government, without entitling friends turned into adversaries to argue him into the destruction of all prerogative, and to a spoilation of the whole patronage of royalty, I do not know what can more effectually deter persons of sober minds from engaging in any reform, nor how the worst enemies to the liberty of the subject could contrive any method more fit to bring all correctives on the power of the crown into suspicion and

disrepute.⁷⁴

Burke was clear in his own mind that he was a true defender of the Revolution of 1688, the mixed constitution, monarchy and parliamentary sovereignty while the position of the Foxites was much less certain.

Whether or not Burke was consistent in his arguments is a matter of considerable controversy which cannot be resolved here.⁷⁵ It is certainly difficult to safely put his thought firmly into either the Court or Country positions. Pocock claims Burke was "neither Court nor Country."⁷⁶ Rather he was *sui generis* molding his own particular brand of thought. To be sure much of it closely resembles the Scots with its utilitarianism and commercial emphasis. Yet politically Burke took the position that men of virtue possessing a disinterested view of the common good should rule. Michael Freeman claims that, however ambivalent, what Burke desired was "government largely in the hands of the landed aristocracy; commerce in the hands of an entrepreneurial bourgeoisie; and for the poor, the consolation of religion."⁷⁷

Burke, in brief, supplied a powerful and much needed ideological defence of the established order. The concepts he adhered to; "virtual representation", "nation", "prescription" and others were incorporated into the thought of early nineteenth century Toryism, both English and Canadian. Yet Burke in turn, was heavily indebted to his Scottish predecessors. His thought, though, like that of the Scottish philosophers was to have an influence beyond his time and the confines of England. The new world, particularly the British North American colonies, were to provide fertile soils in which to grow.

Loyalism, Federalism and the Court Ideology

Considerable space has been devoted to the ideology of the Court for four main reasons: 1) Its affinity to the thinking of the Loyalists and their interpretations of the American revolution, 2) The fact that this ideology appears to have solid nineteenth century Canadian foundations, 3) Thinkers of this school were historically the staunchest supports of federal union and 4) Confederation, as will be seen in our next Chapter, has its roots in this tradition of thinking.

In making the argument that Loyalism is probably closest to the ideology of the Court I am going against the grain of contemporary analysis. Most analyses tend to view the Loyalists as they do their American counterparts — as Lockean, albeit defeated Lockean.⁷⁸ All Whigs together, it is argued, they differed not in their ideology but in the fact that some won while others lost. One group was gripped by moral passion, idealism and a love of liberty while the other was not.

For most scholars this perspective has sufficed. Yet, it was noted earlier that in recent years, the position of Locke as the pre-eminent theorist of eighteenth century England and America has been challenged.⁷⁹ While Locke retains his lustre as a profound philosopher his status as the eighteenth century political theorist is much less certain. Rather than view American revolutionary thought as Lockean the tendency now is to view it in the language of the Country opposition.⁸⁰ Furthermore, while it is clear that the American Constitution was constructed in an atmosphere that questioned the high ideals of the Country opposition there is no evidence that they were replaced by Lockean ideals. After

the 1787 opposition thought vigorously reestablished itself to counter what were perceived as the centralizing Court policies of Alexander Hamilton. In all of this there is very little room for John Locke.

I have already indicated that in England the primary political debate was between the Court and Country Opposition. So far, though, the possibility that Loyalist ideology might also be viewed from within this perspective has not been given the consideration it deserves. Yet the logic of analysis suggests that it should. Does it make sense to portray the American revolutionaries as the proponents of the oppositionist, Country ideology and the Loyalists, the sole bearers of Lockean ideas? I contend that it does not.

Using the Court vs Country framework to examine Loyalist ideas means that the fragment theory of Louis Hartz must be rejected. Hartz had claimed that the new societies created by European migration embodied a particular slice, a fragment of the great ideological divisions of the old World—feudalism, liberalism and radicalism. In the case of the American colonies, for instance, the immigrants brought with them the liberal fragment of John Locke. There, unimpeded by its feudal counterpart, Lockean liberalism established hegemony. The result was that the fragment froze culturally and America was spared the dialectical clashes and tensions of European political debate. The Loyalists, it is claimed, brought Lockean ideas to English Canada and the process was repeated.

While intellectually tidy the fragment theory is no longer historically accurate. First, it has been well established that Locke's thought was not used to justify the Revolution of 1688. Second, eighteenth century Whiggism was not

Lockean and far from hegemonic. There were very real ideological and political divisions within Whiggism that reflected the serious social divisions of Britain. These differences did not terminate at the end of the eighteenth century, they spilled over into the nineteenth. At the heart of these divisions was the debate between land and commerce, virtue and passion. Locke fits poorly into this debate, much of his thought out of place in both the Country and Court traditions. The former built on Aristotle and Machiavelli and quarrelled with modernity, the latter deliberately rejected Locke and contract theory fearing the radical implications of his thought in an age growing increasingly democratic. Yet both Court Whigs and most of the Country opposition insisted that they were Whigs and defenders of freedom, the mixed constitution and the Revolution of 1688.

There was, then, within Whiggism both ideological consensus and the clash of ideological opposites, land and commerce, virtue and passion, frugality and luxury, republic and empire. One should expect, then, ideological differences in the new societies founded in the eighteenth and early nineteenth centuries by British immigrants. I argue that this is the case. While in revolutionary America the Country may have been strong the Court was not non-existent. Court ideas appear in Loyalism and even in that great federalist, Alexander Hamilton. These ideas emerged strongly in the Tory tradition of Canada to combat the Country tendencies of Reformers. Nineteenth century Canada was to be marked by the clash of ideas and classes and not by their harmony. Unlike the United States, however, it was the ideas of Court and commerce that were to dominate politically.

The use of the Court vs Country framework allows us, then, to look at Loyalist ideas in a fresh way. It allows us to see how the Loyalists and their nineteenth century intellectual heirs were committed to a different mode of development on the North American continent. One person that has challenged the prevailing interpretation of Loyalism, especially its pessimism and defeatism, is Ann Gorman Condón. Ms Condón queries:

How is it that the Loyalist political leaders — men who were not only among the most sophisticated, knowledgeable and involved members of their own colonies, but who were often conversant as well with the intricate political and commercial operations of the British empire...should prove so utterly barren when it came to positive beliefs or aspirations for the future?⁸¹

Condón's response is that they were not and that "our inability to identify a positive Loyalist political philosophy arises because we have not yet discovered a suitable frame of reference for comprehending the Loyalist experience."⁸² However, if one stops to consider Loyalist and later Canadian conservative attitudes towards such concepts as authority, liberty, the mixed constitution, passion, faction, duties, the origins and purposes of government and the nature of man and society an ideological pattern emerges that is of the same genus as the Court and nineteenth century Burkean conservatism.

Probably the most appropriate place to begin any analysis of the attitudes of the Loyalists is with an examination of their attitudes toward the related concepts of authority, liberty and the mixed constitution. Here one finds that their position is essentially the same as the Court Whigs. The Court, and later the Tories, perceived that the primary threat to liberty and the mixed constitution came not from the Crown but from below, from the people and the democratic

portion of the constitution. The Country Whigs, on the other hand, took the opposite tack, believing that the greatest threat to liberty came from the Crown and its use of corruption — influence, patronage.

The Loyalist Critique of American Society

In the American colonies Loyalists agreed that the gravest threat to liberty and social and political stability came from below. American society and, consequently, the constitutional order had become unbalanced. The people were becoming too powerful and there was not an aristocracy to counter popular encroachments on the Crown. Joseph Galloway, for example, who later proposed a federal union as a solution to the colonies' ills, was alarmed at the increasing power of the democratic branch of government in the New England colonies which was threatening to destroy the balance of the constitution. There were not sufficient checks against "the licentious power of the people" so necessary under a mixed government. In Massachusetts, "the executive power is bound in the chain of democratical influence in such manner that it cannot appoint a single officer of the Government without the assent of a popular assembly." The second branch, the aristocratic branch, was similarly weak. In sum, the two highest branches, had become "dependent on the lowest and meanest."⁸³

Ten years before, the governor of Massachusetts had made virtually the same point stating: "There is no Government in *America* at present, whose powers are properly balanced; there not being in any of them a real and distinct third-legislative power mediating between the *King* and the *People*, which is the peculiar excellence of the *British* Constitution."⁸⁴ As a consequence in his view

the scales had tipped in favour of the democratic branch and against the royal branch.

Other Loyalist writers argued in much the same way. Much to his horror, Charles Inglis, who later became an Anglican bishop in Nova Scotia, found that the Congressional Congress had united the power of Kings, Lords and Commons. Individuals and bodies of men, have a tendency to encroach on the rights of others, he wrote, because "ambition and a thirst of power are naturally inherent in man." "Unless," he said, "there is some power to restrain these encroachments, liberty must vanish."⁸⁵

In this case, the encroachments came from below, not from above. Jonathan Boucher, also an Anglican minister, agreed. "Too much weight," he said, "was from the beginning...thrown into the popular scale."⁸⁶ Executive government in America, Boucher felt, lacked "Pith and Energy." There was he said "nothing...so naked, so wholly without form or comeliness, as government in America; it neither had strength, nor the appearance of strength."⁸⁷ In Boucher's opinion the lack of strength came from the fact that in too many colonial governments the people had too much patronage and the governors, too little. This was no small matter for "a man has, or has not, influence, only as he has, or has not, the power of conferring favours."⁸⁸ James Chalmers, another Loyalist pamphleteer, agreed. "It is often said," he wrote, "that the Sovereign, by honour and appointments, influences the Commons."⁸⁹ There is nothing wrong with this he maintained. To the contrary it was a laudable activity. Chalmers continues,

the profound and elegant Hume agitating this question, thinks, to this circumstance, we are in part indebted for our supreme felicity; since without such

control in the Crown, our Constitution would immediately degenerate into Democracy, a Government, which in the sequel, I hope to prove ineligible.⁹⁰

In sum, there was a widespread consensus that America's social and political institutions had become unbalanced. This unbalance was particularly noticeable in the weakness of the Crown, the symbol of authority. Without authority, without due restraint to men's passions and their ambitions, the people would be led astray by the leaders of factions and parties. Jonathan Sewell, who like his son, later proposed a federal union of the British North American colonies, insisted that the demagogic leaders of the people wanted an unrestrained kind of freedom:

a liberty consisting in freedom of speech, freedom of the press, uncontrolled by the unmanly, slavish ties [sic] of duty and decency, and boldly bid defiance to good government, good breeding, and common sense: a liberty for every dabbler in politics to say and print whatever his shallow understanding or vicious passions may suggest, against the wisest and best men — a liberty for fools and madmen to spit and throw firebrands at those of the most respectable and amiable characters.⁹¹

Sewell, like many of his contemporaries, was all too aware of the darker side of man's nature. While he believed that "true self love and social love are one and the same thing,"⁹² men possessed selfish, anti-social impulses which, if followed, would lead to the dissolution of society. There was, therefore, an imperative need for order and the rule of law. Liberty had to be bounded by authority.

It was in their inability to maintain law and order that Sewell and others felt that democracies and republican governments were weakest. They accepted the arguments of the ancients that told them that a properly balanced constitution was necessary to maintain the equipoise of liberty and authority. A democratic, republican government was destined to end in chaos, and the rule of one

man. In England, Inglis wrote, "once, indeed, republicanism triumphed over the constitution; the despotism of one person ensued; both were finally expelled."⁹³

Moreover, the most sophisticated political science of the century as expressed best, but not exclusively by Montesquieu, told Inglis that the republican form of government could not be applied to the entire scope of America. America, he said, was "too extensive for it." While the republican form might do well enough for a single city, or small territory, America was "too unwieldy for the feeble dilatory administration of democracy."⁹⁴

Loyalist Views of the Sources of Political Disorder

Inglis' analysis was very typical for the period. Most Loyalists, and nineteenth century Canadian Tories came to associate small governments with political disorders. Governor Bernard of Massachusetts had written in the 1760's that "the more it is examined, the truer it will be found — that the splitting [of] America into many small governments weakened the governing power, and strengthened that of the people; and thereby made revolting more practicable and more probable."⁹⁵ After the war, writing in England, Sewell speculated on the future course of events in America. It was Sewell's opinion that,

Dr. Price's fantastical scheme of *self-government* will be the leading principle with every man, woman and child throughout the 13 states; and what this can produce time alone can evince — possibly 13 or possibly 1300 states, truly anarchical, and this will undoubtedly terminate in absolute Monarchy.⁹⁶

The Loyalists, then, concluded that small governments were weak and feeble and only limited monarchies with a strong executive could give the requisite authority and energy to government; only monarchies were suited to govern large

expanses of territory. The forces of democracy, in Humean fashion, would find their strength diluted in territorially large governments. Given this lesson in political science it is not difficult to understand how so many Loyalists could come to the conclusion that a federal government with strong executive powers was perfectly compatible with a monarchical form of government.

But however much they advocated the need for more energy and authority in government the Loyalists, with the possible exception of Jonathan Boucher, were no less advocates of liberty than their revolutionary counterparts.⁹⁷ To suggest that one side, the revolutionaries were made the sole partisans of freedom would be erroneous. The Loyalists only insisted that liberty had to be balanced by authority and restraints. In an America where violence continually lurked just beneath the surface authority, restraint and order were precious commodities. Loyalists shared with Inglis the opinion that "limited monarchy is the form of government which is most favourable to liberty — which is best adapted to the genius and temper of Britons."⁹⁸

Contributing greatly to the disorders in America the Loyalists believed were "the current libertarian ideas imported from Europe."⁹⁹ Like the Court Whigs and Burke, they feared the power of "abstract speculative" ideas. Ann Condon, for example, claims that the danger of utopianism was a central theme in Sewell's writings. Sewell, she wrote, "feared that his well meaning countrymen, carried away by an idealistic yet simplistic notion of liberty and virtue, might throw away the social peace and solid traditions of constitutional government which they actually enjoyed in Massachusetts."¹⁰⁰

Boucher believed likewise saying "it was the fashion, at the period...to speculate, philosophize, and project Utopian schemes of reformation."¹⁰¹ Abstract, speculative reason failed to take into account the complexity and intricacies of human nature. Using this reason the rebels were attempting to erect political systems on false and unexamined premises. The following passage from Charles Inglis is particularly illustrative of their concerns. Inglis states:

Writers on politics, like those on philosophy, are very apt to be warped by prejudice, and the systems they have previously adopted. They often draw general conclusions from particular premises, and form their judgments of human nature, not from a general view of mankind in their various situations; but from the conduct of a few individuals, and the particular state of things at the time they wrote. While some of them pretend to delineate the true state of human nature, perhaps they only give us a disgusting picture of their own dark nature and gloomy minds. Moreover, those writers are charged with founding their principles, not on nature and fact, but on their prejudices, on improbable suppositions, and imaginary cases, which never had an existence. Hence that variety of visionary political fabricks that have been raised, contradictory to each other and repugnant to common sense, and which will not bear the trust of sober examination. Some of them indeed may do very well on paper; but can never be reduced to practice, unless a race of beings, very different from men, can be found for the purpose.¹⁰²

Inglis then says that if these writers only "amuse themselves with Utopian systems, and go no further" they can be tolerated. "But", he notes,

if they presume to loose the bonds of society, and overturn governments that have been formed by the wisdom of ages, to make way for their own crude systems, and thereby entail misery and ruin upon millions; it is then absolutely necessary to examine those systems, point out their destructive tendency, to unmask the deceivers that propose them.¹⁰³

These passages are notable in several respects. First of all, they reveal the critical, empirical bent of Inglis' approach to analysing political phenomena. He shared with the Scots and Burke a distrust of *a priori* reasoning and like them he believed that fundamental principles could only be generalized from experience. Indeed, Inglis believed, like the Scots, that a "knowledge of human nature," was

a "most necessary branch of science."¹⁰⁴ Second, Inglis makes it clear that social and political institutions cannot be constructed from men's imaginations, but rather they evolve slowly over time reflecting the reason and experience of many generations.

It is worthwhile, at this point, to juxtapose the comments of the Loyalists, particularly those of Charles Inglis, against those of Adam Smith for Smith had also attacked the utopian system of reformers in very similar terms.

Amidst the turbulence and disorder of faction, a certain spirit of system is apt to mix itself with that public spirit which is founded upon the love of humanity, upon a real fellow-feeling with the inconvenience and distresses to which some of our fellow-citizens may be exposed. This spirit of system takes the direction of that more gentle spirit; always animates it, and often inflames it even to the madness of fanaticism. The leaders of the discontented party seldom fail to hold out some plausible plan of reformation, which, they pretend, will not only remove the inconveniences and relieve the distresses immediately complained of, but will prevent, in all time coming, any return of the like inconveniences and distresses. They often propose, upon this account, to new-model the constitution, and to alter, in some of its most essential parts, that system of government under which the subjects of a great empire have enjoyed, perhaps, peace, security, and even glory, during the course of several centuries together. The great body of the party are commonly intoxicated with the imaginary beauty of this ideal system, of which they have no experience, but which has been represented to them in all the most dazzling colours in which the eloquence of their leaders could paint it. The man of system is apt to be very wise in his own conceit; and is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard to the great interests, or to the strong prejudices which may oppose it. He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranged the different pieces upon a chess-board.¹⁰⁵

Loyalism, Empiricism and the Origins of Governments

The empirical nature of Loyalist thought, led them, like it did the Scots to reject the social contract theorists concept of a "state of nature" believing instead that man was naturally social. According to Boucher, Hobbe's state of nature was "not flattering."¹⁰⁶ Sewell thought that man in solitary isolation was

weak and fallible, prey to be enslaved by his own passions or the forces of nature."¹⁰⁷ Daniel Leonard, a wealthy Massachusetts lawyer, believed "a 'state of nature' was a condition of darkness where...man had to conceal himself from his fellow men, inhabit his own cave and seek his own prey."¹⁰⁸ William Nelson in his book, the *American Tory*, contends that "they [Tories] saw little that was noble in man, except his civilized attainments, and these they regarded as social products, maintained by the institutions of society of which government was one."¹⁰⁹ This, it should be noted, was precisely the position of David Hume.¹¹⁰

Of the Loyalists Inglis probably gave the most pointed rebuttal to those adhering to contract theory. His analysis had a decidedly utilitarian flavour. Man was a social creature, society was natural, and government was not a source of tyranny and evil, but a means of guaranteeing liberty and order and promoting happiness. History, moreover, told us that the origins of government were dependent on a variety of causes. Wrote Inglis:

a state of society is the natural state of man; and by the constitution of his mind and frame he is fitted for it. Not only his wants and weaknesses require it, but his inclinations, his noblest faculties impel him to it; and the more perfect these faculties are, the better is he fitted for society. As nature has thus made us members of society, without any choice or will of ours; so, whatever happiness or perfection we are capable of, can only be attained in society.

It is well known to all who are conversant in history, that the different states, the different forms of government which have subsisted in the world, and of which we have any records, had their origins from a variety of causes, peculiar to each.¹¹¹

While Inglis asserted that there was a "divine right of government" he also asserted that there was no divine preference for any particular form. He concurred with Hume and the Scots that wherever you found large societies "with a variety of states and conditions...governments will be indispensably necessary."

Moreover, governments were the "only effectual way to obtain happiness" bringing us "numberless blessings." Inglis also insisted that his principles were drawn "from nature and fact, without recourse to system — the never failing refuge of weak minds and party writers."¹¹²

After all this Inglis took great pains to stress his beliefs were entirely compatible with Whiggism. He declared, and the emphasis is his, that "I am none of your *passive obedience* and *non-resistance* men. The principles on which the glorious Revolution in 1688 was brought about, constitute the article of my political creed."¹¹³

In sum, then, the views we have just described are consistent with those of eighteenth century Court Whiggism. This is clearly evidenced in the attitudes expressed towards liberty, authority, man's social nature, the naturalness of society and the origins of government. Most of all, government and strong executive authority should not be feared, but welcomed. The work of William Nelson on American toryism, in part, confirms our analysis. Nelson has told us of the importance Tories (Loyalists) placed upon habit, custom, restraints, duties, and corporate authority. Yet Nelson mistakenly has linked their thought to a medieval social organicism. For example, because Inglis quotes Hooker, and claims that Providence formed man for society it is assumed that Inglis had escaped the "shadow of Locke" to glimpse "the last catholic world of Hooker" where he had "rediscovered medieval social theory."¹¹⁴ Nelson, it can be argued, has drawn an incorrect conclusion. Locke, too, quoted Hooker but this does not make his theory medieval. Rather Inglis correctly insisted that his thought was

basically Whiggish, albeit Court Whig, in nature. Nelson's confusion stems, in part, from the pervasive notion that Locke was the only thinker who personified eighteenth century Whiggism. He did not. If it is accepted that eighteenth century Whiggism was much more complex than this and was informed by the ideas of the Scottish Enlightenment, one can more readily see that the systematic views of the Loyalists, rather than being medieval, were in tune with the most advanced social and political thinking of the time.

Loyalist Attitudes Toward Federal Union

In the preceding pages I discussed the basic elements of Loyalist ideology noting what it had in common with Court and Scottish ideas. Here I shall discuss the proposals for federal union advanced by Loyalist thinkers. Indeed virtually all of the Loyalist thinkers I surveyed believed that a union of the colonies would have counteracted the strength of popular assemblies and prevented revolution.¹¹⁵ Nineteenth century Canadian Tories also saw federal union as a means of transcending the petty politics of colonial governments which, it was believed, were impeding the growth of commerce. This, in effect, represented a rejection of the eighteenth and nineteenth century British imperial strategy of divide and rule used to govern colonies.¹¹⁶

In the pages that follow I will trace the development of the federal idea as it was first expounded by eighteenth century Loyalists — in particular by Joseph Galloway, William Smith and Jonathan Sewell. Galloway, in particular, wrote several proposals for union during the Revolutionary War. Smith advocated union during the war as well and like Sewell, after the war, suggested a federal

union for the British North American colonies. These men's ideas, however, represented only some of the proposals that came forward.¹¹⁷

While Sewell's proposal indicated a much more pervasive distrust of democracy than those of Galloway and Smith there are some basic similarities to all three proposals. All indicated their affinity with the Court ideology and that they had accepted the basic lessons of eighteenth century political science as taught by Montesquieu, Hume, Adam Smith and others. These include:

- (1) a common belief in the virtues and necessity of mixed government including the wisdom of balancing both social and political forces.
- (2) a belief that democracy and republics were associated with extent of territory. In the American colonies democracy tended to be seen as stronger and most associated with local areas of government. Sewell, for example, was convinced that the worst democratic excesses occurred at town meetings, then at local assemblies and would be least at a general union of all the colonial governments. That is, as one moved to higher levels of government over wider areas of territory there were fewer problems with democracy.
- (3) a shared belief that democracies and republics were given to excess, were inherently unstable, and would, according to the Polybian cycle, end in the despotism of one man.

It followed from this that the solutions to democratic excess were rather obvious: 1) Strengthen the powers of the Crown and if possible create an aristocratic class. 2) Create another level of government over a larger area of territory to counterbalance and dilute the power of democracy thus giving representative

institutions more room to work, a point made by Hume. It is clear from the schemes that I shall shortly examine that Loyalists were most comfortable with an expanded state and felt that the more power that was concentrated in the hands of the executive, the better.

In attempting to limit the power of democratic bodies the Loyalists advocated the use of one of the key strategies of Court thinking. Ambitious men, it was reasoned, were a threat to authority. One means that could be used to control (or better to say co-opt) them was to use influence and award them places, high appointments thus taming their ambition and frustration by additional responsibility. Offices at a higher level of government could be manipulated to achieve this end. This was a theme echoed not only by Loyalists but by virtually every Canadian Tory proponent of union.

The immediate source for Loyalist thinking on this subject is, according to L.F.S. Upton and William Nelson, Adam Smith's *Essay on Colonies*.¹¹⁸ The assumption underlying Smith's argument was that it was necessary to structure political life such that individuals acting in their self interest would act at the same time in the interest of the common good. In detail Smith's argument went as follows: Men desire to participate in the management of government largely because of the importance it gives them. The stability and durability of free government rest on the power of the leading men, "the natural aristocracy of every country," have to defend their importance. In Smith's opinion, the "whole play of domestic faction and ambition" in the American colonies stemmed from the attacks leading men made on one another's importance and in the defence of

their own. They were most tenacious in defence of the power of local assemblies. Smith then claimed that: "Almost every individual of the governing party in America fills...a station superior, not only to what he had ever filled before, but to what he had ever expected to fill; and unless some new object of ambition is presented either to him or to his leaders, if he has the ordinary spirit of a man, he will die in defense of that station."¹¹⁹ That new object of ambition, Smith suggested, should be representation in the Parliament of Great Britain. Instead of quarreling over the small prizes of colonial faction, "they might then hope, from the presumption which men naturally have in their own ability and good fortune, to draw some of the great prizes which sometimes come from the wheel of the great state lottery of British politics."¹²⁰

Smith, in essence, had accepted Hume's argument that "influence" or "corruption" was necessary to preserve the British Constitution. This is confirmed by Smith's comments on the difficulties of "managing" the legislative branch of government:

It was a long time before even the parliament of England, though placed immediately under the eyes of the sovereign, could be brought under such a system of management, or could be rendered sufficiently liberal in their grants for supporting the civil and military establishments even of their own country. It was only by distributing among the particular members of parliament, a great part either of the offices, or the disposal of the offices arising from this civil and military establishment, that such a system of management could be established even with regard to the parliament of England.¹²¹

The root of the political problem in America was that the assemblies were strong and the executives weak, lacking as they did, influence. It was clear to Smith that in the government of an American colony, "the authority of [the] assembly over-awes the executive power." Furthermore, "the executive power has not the

means to corrupt" the colonial legislatures.¹²²

Union, however, would mean that the most ambitious men would be attracted to the mother Parliament. The combination of distance and skillful management of Parliament would mean that the factionalism of the colonies would subside. Smith believed that in all great countries under one uniform government, factionalism prevailed less in remote provinces than it did in the centre of the empire. In Smith's opinion, "the distance of those provinces from the capital, from the principal seat of the great scramble of faction and ambition, makes them enter less into the views of any of the contending parties, and renders them more indifferent and impartial spectators of the conduct of all."¹²³

The influx of American representatives to the centre could be managed and the balance of the constitution preserved only if the American colonies were taxed. Through American taxation, "the number of people to be managed would increase exactly in proportion to the means of managing them; and the means of managing, to the number of people to be managed."¹²⁴

Finally, Smith saw union as an instrument of public credit which would alleviate Britain's massive public debt thereby adding to the faith lenders had in government's ability to pay. This increased or renewed support would mean that the authority of government would be enhanced. Union and American taxation, then, were vital not only to the stability of the colonies but also to government at home.

In an observation made in 1778, two years after the commencement of the revolution, Smith displayed his anxiety about the ramifications of its possible

outcome.

...if this rebellion in America proves successful, it will be the consequence of republican principles of the most levelling kind; and the victors will no doubt aim, with the assistance of their restless friends in England, to overturn that happy limited monarchy, which experience has taught us is best suited to a realm so extensive as ours, and which has been long the glory of Britain and the envy of all the world.¹²⁶

Smith's thoughts on union parallel those not only of the Loyalists but also those of Canadian Tories. If Donald Winch is correct there are also parallels with Madison's thoughts on federal union.¹²⁶ By keeping Smith's ideas in mind one is better able to understand the proposals for federal union offered by Galloway, William Smith and Sewell. While Sewell made his proposal for federal union of the British North America colonies before William Smith, Smith, in fact, had developed his ideas on the subject during the revolution but only made his most detailed proposal some years later. I will, therefore, discuss William Smith's before that of Sewell's, starting first, though, with the proposals of Joseph Galloway.

It should also be kept in mind that while all three advanced proposals for union they were, like Adam Smith, hardly the first to make suggestions for union of the British provinces. Both Galloway and William Smith, for instance, drew inspiration from Benjamin Franklin's Albany Plan in 1754 which recommended a federal union of sorts for the American colonies.¹²⁷ All three were also undoubtedly familiar with Governor Bernard's 1764 analysis of the ills of colonial government. At that time Bernard had sharply criticized the existing policy of dividing the American colonies into many governments in order to prevent revolt. As I indicated previously, according to Bernard, precisely the opposite was true, "the

splitting America into many small governments, weakens governing power, and strengthens that of the people; and thereby makes revolting more probable and more practicable."¹²⁸ In order to prevent revolution, Bernard argued, governments should be made larger and more respectable. A believer in mixed government, Bernard also insisted that these governments should be better balanced providing for a hereditary nobility and if that wasn't possible the upper legislative branch should have its members appointed for life.

Joseph Galloway's Proposal for Federal Union

Of the three figures I am discussing, Galloway's proposals were the most elaborate. In many ways his thought also presages that of the American Founders in 1787. Critical to Galloway's thinking were his belief in the mixed constitution and his belief in parliamentary supremacy — i.e. that "there must be in every state a supreme legislative authority universal in its extent, over every member."¹²⁹ Nevertheless, while there could be only one supreme legislative authority in the state the power of this legislative authority could be divided and shared amongst a number of distinct bodies and levels of government.

Galloway's observations of colonial politics had told him, as noted earlier, that the democratic part of the colonial legislatures had become too powerful and "the powers and Energy of Government....enfeebled."¹³⁰ To remedy the situation Galloway first suggested a permanent union between Great Britain and America. The colonies had to be treated as integral parts of the Empire. This, he asserted, could be done in either of two ways: 1) through American representation in the British Parliament or 2) by establishing a branch of the British legislature in

America.

Underlying Galloway's thought was Adam Smith's assumption that the ambitions of the colonists could be tamed by adding to their responsibilities and by enlarging the opportunities open to them. In his arguments supporting representation in the British Parliament Galloway recalled the lessons of history. The history of Rome, for example, told him that the Roman colonies had revolted "because they were bound by the Laws and Orders of the Senate in which they were not represented." Once their rights as citizens were granted, however, "a perfect Union and Harmony took place which lasted as long as the Empire continued."¹³¹ This, incidentally, is precisely the same historical example Smith had used to justify American representation in the British Parliament. In the *Wealth of Nations* Smith wrote:

Towards the declension of the Roman republic, the allies of Rome, who had borne the principal burden of defending the state and extending the empire, demanded to be admitted to all of the privileges of Roman citizens. Upon being refused, the social war broke out. During the course of that war Rome granted those privileges to the greater part of them, one by one, and in proportion as they detached themselves from the general confederacy.¹³²

Great Britain should heed this lesson and grant American representation in Parliament. Once inside Parliament the Americans would have the same rights and obligations (i.e. taxation) as other Britains. On this point Galloway concurred.

Should representation in the British Parliament not be possible Galloway had an alternative suggestion — the establishment of a colonial parliament within the confines of a federal union where each individual constituent colonial government would retain control over internal matters. Such a union could also tame the ambitions of men. The colonial parliament would have the power to

legislative areas of concern to more than one colony or of mutual concern to Britain and the colonies. In the event of a dispute between Britain and the colonies Galloway proposed, in effect, a system of concurrent majorities. That is, both Great Britain and the colonial parliament could pass legislation affecting both Britain and the colonies but these laws had to be approved by both parliaments before they went into effect.

Galloway was insistent that his plan was based upon the principles of the mixed constitution. He felt that it was "*Joint assent* that [formed] the unity of parliament and of all other mixed Forms of Government."¹³³ It was possible, but not always desirable, to have two, three, four or even five branches of a legislature incorporated in such a system. Galloway, then, saw no problem in extending the principles of the mixed constitution to a trans-Atlantic union between Great Britain and the colonies and a federal union between the colonial parliament and individual colonial legislatures.

The colonial parliament, itself, was to be designed according to the principles of the mixed constitution. This necessitated a strengthening of the executive branch of government which was now so weak. Wrote Galloway:

In order to preserve the same Ballance of Power, between the Crown and the people in America, as in Great Britain, and to give the Crown that weight and influence which it has long wanted in America, it is necessary that the American Branch of the Legislature be established on the principles of a mixed Government. An entire Democracy without the checks of aristocracy and monarchy would be dangerous to the State.¹³⁴

Furthermore, the principles of mixed government had to be applied not only to the colonial parliament but to each colonial assembly as well. "Had," he said,

"these Governments been originally formed upon the same principles of mix't policy upon which the principal state [Britain] is established America had not known a Rebellion."¹³⁵ Again the intent was to increase the authority and influence of the Crown and lessen that of the people.

Institutionally, the colonial parliament would consist of a presiding officer representing, and appointed by, the Crown and also an upper and lower house. The members of the upper house would be appointed for life by the Crown. Members of the lower house would be chosen by the colonial assemblies thus minimizing direct input by the people. In addition, just as the British Parliament could, in certain instances, veto the acts of the colonial parliament likewise any acts of the colonial assemblies that encroached upon the prerogatives of the Crown could also be repealed or annulled by the colonial parliament.

Galloway's plans of union were in many respects a forerunner of nineteenth century Canadian thinking on the subject. Clearly in Galloway's mind a federal union was compatible with not only empire but also monarchy and a parliamentary sovereignty, since sovereignty could be divided and shared. A federal union could be an effective answer to the growing pains of local legislatures and would undoubtedly help preserve the empire. Given Galloway's vision, a vision that in some ways predated the British Commonwealth, it is all the more difficult to understand the contention by Bernard Bailyn and others that the Loyalists lacked ideals and a positive vision of the future.¹³⁶

William Smith's Proposal for Federal Union

Other Loyalists besides Galloway advocated federal union of the American colonies. One was William Smith, one time Chief Justice of New York and later Chief Justice of Quebec. Like Galloway, Smith was a firm believer in the mixed constitution. He feared democracy and stressed the importance of strong government. "The Essential Properties of Civil Governments" he wrote, "are Power in the Magistracy to protect all the Orders who live under it in every Enjoyment not repugnant to the General Felicity, and the Establishment of that Power free from the arbitrary exertion of a Few, or the capricious Wantonness of the Multitude."¹³⁷ Democratic republics, he warned, were inherently unstable and unsuited for large areas of territory. The governments being established by the revolutionaries were weak internally because of the powers possessed by popularly elected assemblies. During the war Smith proposed federal schemes of union that were not dissimilar to Galloway's.¹³⁸ Again, like Galloway, he saw no incompatibility between parliamentary supremacy and federalism.

After the Revolution Smith turned his attention to rebuilding the shattered Empire. In 1790, as Chief Justice of Quebec, he drew up a plan for federal union of the British North American colonies. In his letter introducing the plan Smith contended that the root cause of the American Revolution stemmed from the fact that the colonies had "outgrown" their government. It was impossible, he said, to have expected "a score of Petty Parliaments" dominated by one branch of government to have exhibited moderation. The American colonies from the very outset had been "abandoned to Democracy." Smith's "cure" for the democratic

disease resembled Galloway's. A strong central government capable of controlling the "little Republics" should have been erected. Such a government would have also acted as a partner in the legislation of the Empire. The primary purpose of Smith's plan for British North America to which he now turned was to ensure that the "folly" of the American colonies would not be repeated on the northern half of the continent.¹³⁹

In its details Smith's plan for federal union in British North America was also analogous to Galloway's. There would have been, for instance, a general legislature consisting of a Governor General, a Legislative Council with life time members representing the provinces but appointed by the Governor General and a General assembly consisting of members appointed by the legislative assemblies of the provinces. Smith's plan differed from Galloway's in one respect. Smith stipulated that all legislation had to be approved by not only the Governor General and the Legislative Council by also be a double majority of the General assembly consisting of 1) a simple majority of all votes cast and 2) a majority of the provinces represented. Smith offered no explanation for this peculiarity. One can only assume it was another device to circumscribe the power of democratic majorities.¹⁴⁰

Sewell's Proposal for Federal Union

In comparison to Sewell's plan the plans of Galloway and Smith were much more moderate in tone. Sewell, unlike Galloway and Smith, came from New England where Loyalists were vastly outnumbered and had developed a much stronger aversion to popular institutions. Having witnessed the activities of the

Boston 'mob' from close up Sewell had little faith in the reasonableness of men or their capacity for self-government. But, like Galloway and Smith, Sewell believed that the multiplicity of colonial governments had been a major source of irritation leading to revolution. Now independent, he felt that the American republics faced certain anarchy.

Sewell, though, believed that the British North American colonies did not need to suffer the same fate. In 1785 he proposed that a federal, highly centralized, stratified government be created for the remainder of Britain's North American colonies.¹⁴¹ He advocated a variety of devices to curtail the democratic impulse of North Americans. But while he favoured strict limitations on democratic rule, Sewell argued that the colonial government be given more executive and legislative powers. This for the purpose of elevating the status of the colonies vis-a-vis Great Britain. Sewell's rationale for this proposal was that the great distance between the colonies and Great Britain had led to inefficiencies in decision-making and had thereby contributed to the outbreak of the rebellion.¹⁴²

Above all, though, Sewell wanted to elevate the stature and power of the executive branch of government. According to his plan the new government would receive central direction from a President and Privy Council to be appointed by the king and selected from the highest ranks of colonial society. The President and Privy Council were to be given broad administrative powers including: the power to direct individual colonial governors how to act in emergencies, the power to suspend colonial governors, the right to approve all legislation passed by the colonial legislatures, and regulation of the military forces and

currency. The President and Privy Council, acting as a federal supervisory body would, in effect, exercise most of the executive *and* legislative functions of government.

Sewell's plan included a suggestion that the ruling class forming the basis of support for the government would be an oligarchy consisting of large landowners, leading merchants, magistrates and clergymen.¹⁴³ Hopefully, the privileged place as a ruling class and enhanced responsibility and power would ensure a close connection between the colonies and Britain. Their powers would also help keep a tighter rein on the local and more democratically prone assemblies.

Sewell's fear and aversion to democratic assemblies, so typical of Loyalist leaders, was reflected in the devices suggested to mitigate their power and effectiveness, "Legislative Courts there must be," he said, but property qualifications should be raised, elections should be every three years and not annually.¹⁴⁴ Members should be chosen at large and not from particular communities. The size of the assembly had to be reduced as well. In Sewell's opinion, "the larger bodies of men are the more false importance they reflect on each other...by lessening the number of Representatives the expense of them will be diminished. And business will be sooner dispatched...Lastly it will lessen the number of fools and knaves often too abundant in such assemblies."¹⁴⁵ As one descended down to the lowest levels of government, the New England town meeting, the need for restraints on democracy increased. According to Sewell, "town meetings have been the source of much evil" and needed to be "expressly confined within the proper limits."¹⁴⁶ Their jurisdiction had to be severely limited

and if they ever exceeded their authority they should be forcibly dispersed.

Sewell was aware that his proposal would not be viable without a more favourable disposition to authority by the populace than had existed in the American colonies. He insisted that "a deference for, and obedience to the ministers of government and their acts, are the only true and durable cements of society."¹⁴⁷ These qualities, so obviously missing in the American colonies, had to be cultivated in the northern half of the continent. To what extent the proposals of Galloway, Smith and Sewell were echoed by Canadian Tories will become evident in the next two chapters.

Footnotes

1. Michael Oakeshott, "Political Education," in Oakeshott, *Rationalism in Politics and other Essays* (London: Methuen and Co. Ltd., 1974), p. 116.
Ibid., p. 114.
2. *Ibid.*, pp. 118, 119.
Ibid., p. 19.
3. Frank M. Coleman, *Hobbes and America: Exploring the Constitutional Foundations* (Toronto: University of Toronto Press, 1977).
4. *Ibid.*, p. 6.
5. *Ibid.*, pp. 6, 7.
6. *Ibid.*, pp. 7, 8.
7. *Ibid.*, p. 3.
8. *Ibid.*, p. 6.
9. *Ibid.*, p. 7.
10. S.F. Wise, "Sermon Literature and Canadian Intellectual History" in J.M. Bumstead, ed. *Canadian History Before Confederation* (Georgetown, Ontario: Irwin-Dorsey, Ltd. 1972) p. 254.
11. *Ibid.*, p. 256.
12. On analyses of educational curricula see for instance, Fil McDonald, Alf Chaiton eds., *Egerton Ryerson and His Times* (Toronto: Macmillan Co. of Canada, Ltd.).
13. On the dominance of Whiggism see, John Brewers, *Party Ideology and Popular Politics at the Accession of George III* (Cambridge: Cambridge University Press, 1976). On the division of Court and Country I have relied upon H.T. Dickinson, *Liberty and Property: Political Ideology in Eighteenth-Century Britain* (London: Weidenfeld and Nicolson, 1977).
14. Noel O'Sullivan, *Conservatism* (London: J.M. Dent and Sons Ltd., 1976).
15. Dickinson, *op. cit.* pp. 123, 124.
16. On this point see J.G.A. Pocock, *The Machiavellian Moment*, *op. cit.*, p. 425. See also H.T. Dickinson, *op. cit.*
17. W.N. Blackstone *Commentaries*, Vol. 1, pp. 161-2 as quoted in Dickinson, *ibid.* p. 131.
18. Dickinson came to this conclusion after an exhaustive survey of the political literature of the period.
19. The ideas of the first have been explored in previous chapters and in Pocock and Dickinson. See Pocock and the following for a discussion of the concepts of the Court party.
20. Anthony Quinton, "The Neglect of Victorian Philosophy," *Victorian Studies*, 1 (1957-58) p. 4.

21. Gladys Bryson, *Man and Society: The Scottish Inquiry of the Eighteenth Century*, (Princeton: Princeton University Press, 1945), p. 18.
22. Montesquieu was commonly regarded in the last half of the eighteenth century as the "greatest genius of the present age" and his *Spirit of the Laws* was praised by the thinkers of the Scottish Enlightenment. (See Andrew Skinner, p. 30, Introduction to Adam Smith's, *The Wealth of Nations* (Harmondsworth, Middlesex, England: Penguin Books, 1977).
23. Francis Hutcheson (1694-1746) was often called the Father of the Scottish Enlightenment. Adam Smith was one of his students. Hutcheson also had a great influence on David Hume, so much so that A.N. Prior wrote in 1949: "there is little or nothing in Hume's moral philosophy that cannot be traced to Hutcheson, but in Hume it is all more clear and pointed." A.N. Prior, *Logic and the Basis of Ethics* (Oxford: Clarendon Press, 1949), p. 31. As quoted in Bernard Peach, ed., "Editor's Introduction" to Francis Hutcheson, *Illustrations on the Moral Sense*, (Cambridge, Mass.: Harvard University Press, 1971), p. 7. Hutcheson's major work was *System of Moral Philosophy* published posthumously, 1775. Thomas Reid (1710-1796) founder of what is known as the "common sense" philosophy. He was Adam Smith's pupil and successor in moral philosophy at Glasgow. Dugald Stewart (1753-1828) was the prize pupil of Thomas Reid known for his biographies (esp. Adam Smith) and for his lectures and writings on political economy. Lord Kames (1696-1782), Hume's older cousin was known primarily as a critic and patron of many of the above thinkers. The tendency of many analysts of the Scottish Enlightenment is to discuss the Scottish literati as a more or less distinct group or school of thinkers. (See, for example, the work of Gladys Bryson, *op. cit.*, H.T. Dickinson, *op. cit.*, Jane Rendall, *The Origins of the Scottish Enlightenment*, (London: Macmillan Press, 1978), Louis Schneider, introduction to *The Scottish Moralists* (Chicago: University of Chicago Press, 1967); and Anand Chitris, *The Scottish Enlightenment* (London: Croom Helm, 1976). While I also stress the similarity of their ideas, one must be careful not to overlook the fact that they held differing views on a variety of subjects. For example, unlike later thinkers of the Scottish Enlightenment, Francis Hutcheson accepted, as did Hobbes, Locke and Rousseau, not only the idea of a state of nature prior to the formation of government (even as he stressed the natural sociability of man) but also the idea of an original contract. While Hume, too, accepted the original contract as a device to explain the origin and basis of government he asserted that this was no longer the case. Governments, he maintained, no longer rest on contract and consent but on habit and utility. Later thinkers, such as Adam Smith, Adam Ferguson, and John Millar, however, viewed the 'state of nature' and the 'original contract' as fictions, no longer of use even as explanatory devices. Elsewhere, there were disagreements on the effects of luxury. Hutcheson, for example, warned against excessive luxury and overly large fortunes, not only for their moral but also because of their political effects. Hume, on the other hand, praised luxury in society for its stimulation of men's minds and talents. Furthermore, not all of the Scottish historians subscribed to, or accepted fully, the

four stage theory of economic progress and human development. Hume, for example, did not explore in any real depth the theme of economic development as a critical factor in the shaping of human institutions and there is little to indicate his espousal of the four stage theory. Although Adam Ferguson accepted the argument that man progressed in stages, he argued that there were only three stages, (savagery, barbarism, and the 'polished' society) instead of four (hunting, pastoral, agriculture, commerce). Ferguson also deemphasized the overwhelming importance varying modes of production had in determining the nature of a society. Instead Ferguson placed his emphasis on evaluating the possibilities offered by each kind of society for man to fulfill his moral potential. There were other significant differences among these thinkers as well. Hume's views and reputation as a sceptic were met by considerable hostility and academic rejection; Thomas Reid, for example, founded the 'common sense' school in opposition to Hume. These are only some examples of the diversity among the Scottish literati. They also differed in other areas, natural law and justice, for example. Despite their diversity, however, it is widely agreed that they shared a "common framework of ideas." (Rendall, p. 25, p. 101) For further discussion of the variance of the Scottish literati on these and other topics see: Jane Rendall, *op. cit.*, R.H. Campbell and Andrew S. Skinner, eds., *The Origins and Nature of the Scottish Enlightenment* (Edinburgh: John Donald, 1982), especially the articles by Duncan Forbes, T.D. Campbell, and Neil MacCormick; I. Hont and Michael Ignatieff, *Wealth and Virtue* (Cambridge: Cambridge University Press, 1983), especially the articles by J.G.A. Pocock and James Moore.

24. David Hume *A Treatise of Human Nature*, Book III, Part 2, section ii as quoted in H.T. Dickinson, *op. cit.*, p. 135.
25. David Hume, "Of the Original Contract," in *Hume's Moral and Political Philosophy*, ed., by Henry D. Aiken, (Darien, Conn.: Hafner Publishing Co., 1970), p. 359.
26. Francis Hutcheson, *System of Moral Philosophy* (London, 1755), I, 34-35 as quoted in Gladys Bryson, *op. cit.*, p. 153.
27. Thomas Reid, *Works of Thomas Reid* ed. by Sir William Hamilton, (Edinburgh, 1846-63) Vol. I, p. 244
28. Adam Ferguson, *Essay on the History of Civil Society* (Edinburgh, 1766), 4-6 as quoted in Bryson, *op. cit.*, p. 14.
29. David Hume in Henry D. Aiken, ed., *op. cit.*, p. 14.
30. Adam Smith *Theory of the Moral Sentiments* (8th ed. 1790), Vol. I, p. 292. as quoted in Andrew Skinner, Introduction to the *Wealth of Nations*, *op. cit.*, p. 20.
31. Hutcheson, *An Inquiry into the Origin of our Ideas of Beauty and Virtue*, 1725, p. 256. as quoted in Wills, *op. cit.*, p. 216.
32. Adam Ferguson, *Essay on the History of Civil Society* (Edinburgh, 1766), 4-6 as quoted in Bryson, *op. cit.*, p. 164.

33. Adam Smith *Theory of Moral Sentiments* (1759), p. 331 as quoted in D.A. Reisman, *Adam Smith's Sociological Economics*, (London: Croom Helm, 1976), p. 210.
34. See Gladys Bryson, *op. cit.*
35. Adam Smith, "The History of Astronomy," as quoted in Andrew S. Skinner, *A System of Social Science Papers Relating to Adam Smith* (Oxford: Clarendon Press, 1979), p. 12. The Scots, though, were certainly not the first to employ the word, "system". "System" was used in the late seventeenth century beginning most likely with Thomas Hobbes. Hobbes defined systems as "any number of men joined in one interest, or one business." In Chapter II I noted that Montesquieu had used the word in a sense familiar to any systems theorist. The term reoccurs frequently in the works of Hume and Adam Smith where both described the mutual dependence of individuals on one another and the relationship of what would be described today as social subsystems. Smith, for example, believed that ethics, jurisprudence, politics and economics had to be seen as intellectual subsystems connected to an even wider system of social science. Smith, it should be remembered, first received public acclaim in philosophy, not economics and he, himself, looked upon *The Theory of Moral Sentiments* and *The Wealth of Nations* as parts of a greater whole. He hoped to complete this intellectual system with an account of "the general principles of law and government, and of the different revolutions they had undergone in the different ages and periods of society." Unfortunately, he never did and like Marx we must glean his political ideas from his other works. Hobbes' quote is taken from Chapter 22, *The Leviathan*, *op. cit.*, Smith's quote is found in the advertisement to the 6th edition of the *Moral Sentiments* and has been taken from Andrew Skinner's "Introduction" to the *Wealth of Nations* A. Skinner, ed., (Harmondsworth, Middlesex, England: Penguin Books, 1977) p. 13:
36. Adam Smith, *Lectures on Justice, Police, Revenue and Arms*, ed. Edwin Cannan, (Oxford: Clarendon Press, 1896) as quoted in Anand C. Chitnis, *The Scottish Enlightenment*, (London: Croom Helm, 1976), p. 104.
37. John Millar *The Origin of the Distinction of Ranks* (London, 1771) as quoted in *ibid* p. 101. Of all the Scots Millar was most committed to political activity and radical political ideas. On this point see Jane Rendall, *The Origins of the Scottish Enlightenment* (London: Macmillan Press, 1978), p. 35.
38. David Hume, "Of Refinement in the Arts," *Essays Moral, Political and Literary*, Vol. I, ed. T.H. Green and T.H. Grose (London: Longmans, Green and Co., 1875), p. 300.
39. In *The Fable of the Bees* Mandeville had written

"The root of evil, avarice,
 That damn'd ill-natur'd baneful vice,
 Was slave to prodigality,
 That noble sin; whilst luxury
 Employ'd a million of the poor,

And odious pride a million more.
 ...Thus vice nursed ingenuity,
 Which jo'n'd with time and industry,
 Had carry'd life's conveniences,
 It's real pleasure, comforts, ease;
 To such a height, the very poor
 Lived better than the rich before;
 And nothing could be added more."

Mandeville, *The Fable of Bees*, *op. cit.*, pp. 31, 32.

40. See M.M. Goldsmith, "Public Virtue and Private vices: Bernard Mandeville and the English Political Ideologies in the Early Eighteenth Century," *Eighteenth Century Studies*, Vol. 9, 1976, pp. 477-510.
41. David Hume, "Of Refinement in the Arts," *op. cit.*, pp. 308-309.
42. Edwin Cannan in his introduction to *The Wealth of Nations* (New York: Random House, 1937), p. liv. For more on Smith's attitudes toward Mandeville and luxury see Cannan's introduction, esp. p. lii.
43. Adam Smith, *Theory of Moral Sentiments* as quoted in Cannan introduction, *ibid.*, p. liii.
44. David Hume, "Of Refinement in the Arts," *op. cit.*, p. 186.
45. David Hume "Of Commerce", *Essays, Moral, Political and Literary*, p. 294. as quoted in James Moore, "Hume's Political Science and the Classical Republican Tradition," *Canadian Journal of Political Science*, December, 1977, Vol. X, No. 4, p. 850.
46. David Hume "Of Refinement in the Arts" as quoted in *Essays*, *op. cit.* p. 306.
47. See footnote no. 36.
48. David Hume "Of the Parties of Great Britain," *ibid.*, p. 134.
49. For Burke on interest see Dickinson *op. cit.* pp. 149, 150.
50. For importance of religion in Burke see Dickinson, *ibid.*
51. On this point see Pocock, *op. cit.*, p. 496.
52. *Some Considerations on Public Credit* as quoted in Dickinson, *op. cit.*, p. 496.
53. Admittedly Smith thought the public debt might grow too large and ruin the nation but this was certainly not an immediate peril and the debt had not yet had destructive effects. For a comparison of Smith and Hume on the national debt see Donald Winch, *Adam Smith's Politics* (Cambridge: Cambridge University Press, 1978), pp. 121-146.
54. Adam Smith, *Lectures on Justice, Police Revenue and Arms*, ed. Edwin Cannan, (New York: Kelley and Millman, 1956), p. 45. Smith's lectures are based on notes taken by one of his students. These lectures are commonly referred to as *Lectures on Jurisprudence*.

55. From E. Rotwein (ed.), *David Hume: Writings on Economics*, p. 95 as quoted in Winch, *op. cit.*, p. 130.
56. Adam Smith, *Wealth of Nations*, Cannan ed., *op. cit.*, Book II, Chapter III, p. 325.
57. Adam Smith, *Lectures*, *op. cit.*, p. 239.
58. Adam Smith, *Wealth of Nations*, *op. cit.*, Book II, Chapter III p. 331.
59. *Ibid.*, Book V, Chapter I, p. 766.
60. *Ibid.*, Book V, Chapter III, pp. 896,897
61. Winch, *op. cit.*, p. 172. For Viner's views see his "Adam Smith and Laissez Faire," in John Maurice Clark, *et. al. Adam Smith, 1776-1926* (New York: Augustus M. Kelley, 1966), pp. 116-156. Skinner's analysis may be found in his "Adam Smith on the Origins, Nature and Functions of Government", microfiched proceedings of the International Political Science Association meetings, Edinburgh, 1976.
62. Viner, *ibid.*, p. 144.
63. John Plamenatz, *The English Utilitarians* (Oxford: Basil Blackwell and Mott, Ltd., 1949).
64. On the appropriation by Burke and other propagandists of Scottish Ideas see Dickinson, *op. cit.*
65. Burke, *Works*, (Bohn ed. 6 vols., 1854-56, Vol. VI, p. 48) as quoted in Dickinson *ibid* p. 298.
66. Burke, *Reflections on the Revolution in France*. Oxford World's Classics, ed., p. 83. as quoted in C.B. Macpherson, "Edmund Burke," in Isaac Kramnick ed., *Edmund Burke* (Englewood Cliffs, N.J.: Prentice-Hall, Inc. 1974) p. 155.
67. C.B. Macpherson *ibid* p. 157.
68. C.B. Macpherson *ibid.*
69. Burke, *Reflections*, pp. 35-6 as quoted in C.B. Macpherson, *Burke*, (Oxford: Oxford University Press, 1980) p. 42.
70. Macpherson, *ibid*, p. 42.
71. Macpherson, *op. cit.*, p. 159.
72. Edmund Burke, "Thoughts on the Cause of the Present Discontents" (1770), *Edmund Burke On Government, Politics and Society*, ed. B.W. Hill, (Sussex, England: The harvester Press Limited, 1975), p. 80.
73. Edmund Burke, *Parliamentary History of England*, ed., William Öbbett, Vol. XX, p. 1297 as quoted in Dickinson, *op. cit.*, p. 207.
74. Edmund Burke, "An Appeal from the New to the Old Whigs", 1791, in B.W. Hill, *op. cit.*
75. On consistency in Edmund Burke see B.W. Hill, *op. cit.*, C.B. MacPherson, *Burke*, *op. cit.*, Burleigh Taylor Wilkins, *The Problem of Burke's Political Philosophy* (Oxford: Clarendon Press, 1967)

76. Pocock, "English Political Ideologies", *op. cit.*, p. 580.
77. Michael Freeman, *Edmund Burke and the Critique of Political Radicalism* (Oxford: Basil Blackwell, 1980), p. 580.
78. See for instance, Kenneth W. McRae, "The Structure of Canadian History," in Louis Hartz, ed., *The Founding of New Societies* (New York: Harcourt, Brace and World, 1964). David Bell, "The Loyalist Tradition in Canada," *Journal of Canadian Studies*, V (May, 1970), also David Bell and Lorue Tepperman, *The Roots of Disunity* (Toronto: McClelland and Stewart, 1979).
79. See for instance, Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Belknap Press, 1967); Gordon Woods, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969); H.T. Dickinson, *Liberty and Property: Political Ideology in Eighteenth-Century Britain* (London: Weidenfeld and Nicolson, 1977).
80. See especially Bailyn, Woods, *op. cit.*
81. Ann Gorman Condon, "Marching to a Different Drummer — The Political Philosophy of the American Loyalists," in Esmond Wright, ed., *Red White and Blue* (New York: AMS Press, 1976) p. 2.
82. *Ibid.*
83. Joseph Galloway, *Historical and Political Reflections on the Rise and Progress of the American Rebellion* (London: G. Wilkie, 1790, reprinted New York: Johnson Reprint Corp., 1972) pp. 38, 39.
84. Francis Bernard, as quoted in Pierre Tousignant, "Problematique Pour Une Nouvelle Approche de la Constitution de 1791," in *Revue D'Histoire De L'Amérique Française*, Vol. 27, No. 2 (September 1973) p. 212.
85. Charles Inglis, *The Letters of Papinian* (New York: Hugh Gaine, 1777) p. 120.
86. Jonathan Boucher as quoted in William H. Nelson, *The American Tory* (Boston: Beacon Press, 1961) p. 173.
87. Jonathan Boucher, *The Causes of the American Revolution* (London: G.G. & J. Robinson, 1797) XLIV.
88. *Ibid* p. 218.
89. James Chalmers, *Plain Truth* (Philadelphia, 1776) in Merritt Jensen, ed., *Tracts of the American Revolution* (New York: Bobbs-Merrill, Inc., 1967) p. 451.
90. *Ibid.*
91. Jonathan Sewell, Sr., "Letter from 'J'", *Boston Evening Post*, May 14, 1763, as quoted in Condon, *op. cit.* p. 10.
92. *Ibid* p. 9
93. Charles Inglis, *The True Interest of America Impartially Stated* (Philadelphia: Jeffrey Humphrey, 1776) p. 52.

94. *Ibid.*
95. Bernard as quoted in Boucher, *op. cit.*, p. XLIV.
96. Sewell, "Jonathan Sewell to Ward Chipman, Feb. 1, 1783", in Lawrence Collection, Chipman Papers, Public Archives of Canada as quoted in Condon *op. cit.* p. 14.
97. Jonathan Boucher was inconsistent and at times took an extreme position endorsing the views of Robert Filmer. In other places, though, he "protests" against "passive obedience and non-resistance." See *op. cit.* p. 544. and W.H. Nelson, *op. cit.*
98. Inglis, *op. cit.*, p. 52.
99. W.H. Nelson, *The American Tory* (Boston: Beacon, 1961) p. 172.
100. Ann Gorman Condon, *op. cit.*, p. 11.
101. J. Boucher, *op. cit.*, p. xxv.
102. Inglis, *op. cit.*, p. 9.
103. *Ibid.*, p. 9.
104. Inglis, *op. cit.*, *Letters of Papinian*, p. 27.
105. Adam Smith, *The Theory of Moral Sentiments*, ed. D.D. Raphael and A.L. Macfie, (Oxford: Clarendon Press, 1976) Book VI, Chapter II, p. 235.
106. Boucher, *op. cit.*, p. 332.
107. Jonathan Sewell "From 4 Series, 1763-1775", written under pseudonyms in Condon, *op. cit.*, p. 9.
108. W.H. Nelson, *op. cit.*, p. 189.
109. *Ibid.*, p. 188.
110. See David Hume, "Of Refinement in the Arts," *op. cit.*
111. Inglis, *True Interest of America*, p. 115. James Chalmers cites Hume on the original contract, *op. cit.*, p. 451.
112. Inglis, *ibid.*, pp. 11,12, system here is being used in the sense of "abstract" system.
113. *Ibid.*, p. 3.
114. W. H. Nelson, *op. cit.*, pp. 186, 187.
115. Gov. Bernard, Jonathan Boucher, Charles Inglis, William Smith, Joseph Galloway, and Jonathan Sewell all believed in and promoted larger forms of union.
116. On the imperial strategy of divide and rule see Stanley Ryerson, *Unequal Union* (Toronto: Progress Books, 1968) p. 312.
117. For a discussion of the other proposals see W.H. Nelson, "The Last Hopes of the American Loyalists" *Canadian Historical Review*, Vol. XXXII, No. 1, March, 1951.
118. On the importance of Adam Smith to Loyalists writers on union see W.H. Nelson *ibid.*, and L.F.S. Upton, "The Idea of Confederation, 1754-1758" in

W.L. Morton ed., *The Shield of Achilles* (Toronto: McClelland and Stewart, 1968). Adam Smith's essay may be found in Sir George Cornwell Lewis, ed., *Governance of Dependencies* (London: Mr. Walter Dunne, 1901). Most of Smith's essay is replicated in the *Wealth of Nations*.

119. Smith, *Essay on Colonies*, *ibid* pp. 76, 77, 78.

120. *Ibid.*, p. 8.

121. Adam Smith, *Wealth of Nations*, ed. E. Cannan, *op. cit.*, Book IV, Chapter VII, p. 588.

122. *Ibid.*, p. 551.

123. *Ibid.*, Book V, Chapter III, p. 589.

124. *Ibid.*, Book IV, Chapter VII, p. 589.

125. According to Donald Winch this quotation is from Alexander Carlyle's anonymous pamphlet a *Letter to the Duke of Buccleuch on National Defence* (1778), p. 23 and has been quoted by Winch, himself, *op. cit.*, p. 151.

126. According to Winch:

it seems worth drawing attention the important parallels between, for example...Smith's argument in favour of imperial union and the case advanced by Madison for an extended union of confederated republics in *The Federalist Papers*, Number 10. The parallelism in the latter case is quite striking when one bears in mind the common concern with ways of controlling and harnessing the more destructive effects of the natural tendency to form factions in all forms of free government. The similarities are less surprising when the results of Douglas Adair's pioneering research on *Federalist* Number 10 are brought into the picture: Adair demonstrated Madison's heavy reliance on Hume's essays on parties and on his 'Idea of a perfect Commonwealth' as an answer to the general eighteenth-century view associated with Montesquieu, namely that republican forms of government were only suitable to small states. For as Hume said: 'Though it is more difficult to form a republican government in an extensive country than in a city; there is more facility, when once it is formed, of preserving it steady and uniform, without tumult and faction. Smith's scheme of imperial union employs the same pattern of ideas; and in view of the other affinities between Hume and Smith which have been noted earlier, the indirect link between Smith and Madison which runs through Hume's political essay should not be regarded as one involving casual juxtaposition. The three men are united by the common preoccupations of the eighteenth century science of politics—a science founded by Montesquieu, but significantly developed by Hume, Smith, and other Scottish historians of civil society in their attempts to understand and assess the effect of commerce on the political arrangement of society.

Winch, *op. cit.*, pp. 161-162. Winch oversimplifies Montesquieu's position however. Montesquieu had argued that England was really a republic in disguise and the territory it governed was large. Winch conveniently overlooks Madison's acceptance of a system of divided and countervailing powers rather than Humean influence as a means of governing. Neither should the fact that Madison sided with Jefferson rather than Hamilton

after 1787 be forgotten.

127. Franklin's proposal for union may be found in the *Papers of Benjamin Franklin* Vol. 5, Leonard W. Larabee ed., (New Haven: Yale University Press, 1962) pp. 387-392.
128. Francis Bernard as quoted in Merrill Jensen *op. cit.* p. 313.
129. Joseph Galloway, *Historical and Political Reflection op. cit.* p. xxi.
130. Joseph Galloway, "Two Plans of Union", 1780, Julian P. Boyd, ed., *Anglo-American Union* (Philadelphia: University of Pennsylvania Press, 1941) p. 129.
131. Joseph Galloway, "Two Plans of Union", 1779 pp. 116, 117.
132. Smith, *op. cit.*, Book V, Chapter III, p. 589.
133. *Ibid* p. 118.
134. *Ibid* pp. 120, 121.
135. *Ibid* p. 125.
136. For more on this point see Condon, *op. cit.*
137. W.H. Smith in L.F.S. Upton, *The Loyal Whig William Smith of New York and Quebec* (Toronto: University of Toronto Press, 1969) p. 112.
138. See W.H. Nelson, "The Last Hopes..." *op. cit.*
139. William Smith, "Letter to Dorchester" Quebec, February 5, 1790 in W.P.M. Kennedy, ed., *Documents of the Canadian Constitution 1759-1915* (Toronto: Oxford University Press, 1918) p. 204.
140. For details of plan see "Proposed additions to the New Canada Bill for a General Government" by Smith in *ibid* pp. 205-207.
141. Jonathan Sewell, "Plan of Union" in Boyd, *op. cit.* Boyd originally attributed authorship to Galloway but Nelson, *op. cit.* demonstrates that Sewell, in fact, was the author.
142. *Ibid* p. 158.
143. For more on this see W.H. Nelson, *op. cit.*
144. Sewell, *op. cit.* p. 163.
145. *Ibid* p. 164.
146. *Ibid* p. 170.
147. *Ibid* p. 161.

CHAPTER V CANADIAN TORYISM AND THE CALL FOR UNION

Introduction

In the previous chapter I discussed the origins of the Court ideology which subsequently became the basis of nineteenth century Toryism. I characterized it as commercial Whiggism because it celebrated commercial society as the highest level of social development and because it articulated the interests of commercial and finance capital. I then noted the close similarity between it and Loyalist thinking. Finally, I discussed some Loyalist proposals for federal union, proposals that were forerunners of Canadian thinking on the subject.

In this chapter I argue that commercial, or more appropriately Court Whiggism, became the basis of Canadian Toryism. Like the Court Whigs of the previous century Canadian Tories were hostile to democracy associating it with political instability. Their fear of political instability led them in a search to strengthen executive authority. A strong executive, though, would not only preserve order and restrain the limitless ambition of men it would also preserve freedom, for freedom was in danger of being crushed under the feet of the mob. A strong and stable government was also needed to attract capital and guide economic development. Canadian Tories, like Court Whigs, were always willing to contract a large public debt if need be to underwrite the costs of economic development. Proposals for federal union were frequently stimulated by this indebtedness, for the union of several governments would improve public credit and make the debt load easier to bear.

The ideology of Canadian Toryism resembled Court Whiggism in a number of other ways. First, Canadian Tories rejected contract theory. They stressed instead that man was a social creature and social institutions were a convenience tested by time and experience. Their utilitarianism also led them to reject the abstract and experimental in favour of the practical and the useful.

Proposals for federal union were always seen by Tories, not as abstract theoretical exercises, but as attempts to solve specific problems whether they be political instability, French-Canadian intransigence, or public indebtedness. Inevitably the pre-confederation Canadian Tory proposals for federal union advocated a highly centralized union with a strong executive. This is consistent with their historical desire to strengthen executive authority and to have a stable state that would be under their control.

While I emphasize the ideology of Canadian Toryism in this chapter along with their calls for union, the other part of the dialectic, Canadian Reformism, cannot be overlooked. Canadian Reformers, both English and French, in many ways projected an image of state and society that was almost the opposite of Canadian Toryism. The old eighteenth century struggles between land and commerce, frugality and luxury, simplicity and complexity, locality and centrality reappear once more producing the clash of opposites, political and economic, that characterized pre-confederation Canada. Unlike their Jeffersonian and Jacksonian counterparts who allied with Southern plantation owners, the social base of Canadian Reformism was almost entirely petit-bourgeois and thus weaker, making it difficult to effectively challenge the power of Canadian Toryism.

I will examine the Reform experience of English Canada in the final portion of the chapter and then compare it with Reformism in French-Canada. Both English and French Canadian Reformers gave little thought to federal union--the exception being Etienne Parent who was to articulate a decentralized version of federalism in which the provinces had substantial power. Parent believed that a decentralized federal union would give French-Canadians the means to preserve their national identity. Parent, then, was the first French-Canadian to envisage federalism in this manner. On the eve of Confederation his became a view widely accepted among French Canadians. In effect, for many French-Canadians two states were to be created by Confederation, one state for English economic interests, the other to preserve the French-Canadian culture. Unfortunately, for many French-Canadians it was not to be on the terms they preferred.

Canadian Toryism in the Pre-Confederation era

In this first section, I will discuss the Canadian Tory tradition in pre-confederation Canada and in the next consider the many formulations for union that were an outgrowth of this tradition. In this way I will demonstrate that the Canadian Tory outlook possessed many characteristics of the Court and Loyalist ideologies including, for example, a deep fear of, and disdain for, democracy.

Canadian Tories were aware of the two critical lessons of eighteenth century political science. These were: 1) Simple forms of government inevitably degenerate. 2) There is a critical relationship between the form of government and the size of territory it governed. For Canadian Tories democracy was an unstable form of government given to excess and would, if instituted, eventually end in

the despotism of one man. Furthermore, democracy was ill-suited to large expanses of territory. The authority of government, it was argued, had to be strengthened in order to prevent liberty from degenerating into the licentiousness of the mob. The Canadian Tory, then, was not so much interested in putting limits on authority as placing restraints on the actions of the many. But these Tories accepted that the authority of government, in nineteenth century Canada, could be used to promote economic development and the growth of commerce. True to the Court ideology of the nineteenth century the idea of a public debt was accepted. In Canada, though, it was not to be incurred so much for military purposes as it was in Europe but for the purposes of creating economic infrastructure — canals, bridges, roads and railways. (There were exceptions, of course, notably the Rideau Canal built for defence purposes.) Indeed as the century wore on and the fear of revolution receded this became the core function of government culminating in the creation of Canadian confederation.

Other Court Whig themes of the eighteenth century were also carried forward. Canadian Tories rejected, for example, utopian modes of thought. "Speculative" and "abstract" thought was generally condemned. In true utilitarian fashion only what was proven by experience and fitted to Canadian practice and circumstance could be accepted. This concern with the practical, however, does not necessarily represent a rejection of theory *per se*, but only a rejection of speculative thought. Tories such as Richard John Uniacke and John Strachan, for example, rejected abstract political ideas but indicated they thought along the lines of Court Whiggism. The Tory attitude toward theory was, then, very close to that of Burke's and Oakeshott's. Practice could not be

derived from theory. Rather theory was immanent in practice. For example, Canadian Tories were proud of the fact that they did not possess, as did the Americans, a "parchment constitution". They operated rather on the well-tested and well-understood principles of the British constitution. Similarly, when they did deliberate on the subject, Tories rejected contract theory seeing man and society as natural. Parliament, furthermore, had to be supreme. According to John A. Macdonald it had to employ the principle of virtual representation and represent classes and interests, not individuals.

Canadian Toryism, then, could hardly claim to be an original body of thought. It drew heavily on the Court Whig tradition and Loyalism. This tradition of thought was evident in the very creation of Upper and Lower Canada and provides a good starting point. For example, Lord Grenville, British Secretary of State, echoed many Loyalist views in the preparation of his new constitution for Upper and Lower Canada. He agreed that the American colonial governments had become unbalanced. There was the lack of an aristocracy and a viable upper chamber in addition to the presence of ineffectual executive authority. Endorsing the importance of aristocracy Grenville wrote:

To the want of an intermediate Power, to operate as a check, both on the misconduct of Governors, and on the democratical Spirit, which prevailed in the assemblies, the defection of the American Provinces, may perhaps, be more justly ascribed, than to any other general cause which can be assigned. And there seems to be one point of more consequence, in this view, than the labouring to establish in the remaining provinces, a respectable Aristocracy, as a support and safeguard to the monarchy, removed, as it is, at so great a distance, and on that account, so much less powerful, in its weight, and influence upon the people at large.¹

In the interim, while a hereditary aristocracy was being established, there would be an independent Legislative Council whose members would be appointed

for life. Necessary as the construction of an independent upper chamber was there were other parts of the mixed constitution that were defective. For example, the defects of "the constitution and administration of executive Government, were scarcely less glaring, and had, unquestionably a powerful operation, in producing the defection of the colonies."² One of the more glaring defects of executive government was the lack of influence of the colonial governors. While in the mother country the Sovereign could obtain political support by the means of "honours, and emolument" in the colonies the case was different — "the rewards of the Crown were few" and "conferred little distinction." In Adam Smith's terms colonial governments lacked the "prizes of ambition". This would be a difficult problem to remedy, Grenville observed, in a government "yet in its infancy" but without due weight and influence government itself would be diminished and its duties poorly performed.³

The design of the constitution of 1791, then, was one constructed in hindsight of the American revolution. (And to some extent, the French Revolution.) It was intended to be a replica of the British Constitution — that is, a balanced constitution which gave due weight to executive authority and recognized the hierarchical and inegalitarian nature of society in its stress on aristocracy.

Canadian Toryism and Democracy

While the attempt to create an aristocracy in British North America failed miserably the political thinking that led to the formation of the constitution sunk deep roots in the British provinces. Probably the most pervasive attitude displayed by nineteenth century Canadian Tories was hostility to democracy. A

democratic society and political system was the worst of all possible worlds, sure to pass into anarchy, mob rule and eventually despotism.

One pamphleteer, writing early in the nineteenth century, likened democracy to "a permanent disease, which strikes a deep root in the corruption of our common nature."⁴ This comparison of democracy to a disease was a common one. "The chief symptom" of this disease, S.F. Wise tells us, "was galloping factionalism."⁵ Factionalism was just one expression, partyism or party spirit another. All this connoted, for Tories, a society consumed by petty politics with continual elections and querulous, bickering legislatures that never got about the business of the country.

British Americans tended to reveal their distasté for democracy most often when discussing American politics. One Upper Canadian newspaper in 1811 expressed this opinion on American democracy:

The characteristic evil of their democratic system is its tendency to foster an uncontrollable spirit of party. Their frequent elections of all branches of their government furnish fuel and fan the flame. The rage of their parties has become intolerable. In their mutual struggles to oppose and crush each other, they spare neither feelings nor characters.... This fervor of party zeal must disturb the harmony and intercourse of social life and pollute the streams of justice. It must render their tribunals, and especially the popular branch of them, their juries, prejudiced, partial and prone to favor their co-partizans and condemn those of the opposite party.... These are the practical and perhaps inevitable results of the principle of democracies, operating upon the passions of human nature; and they detract much from the advantage of elective governments.

This statement was typical for not only this period but also for the decades that followed. Democracies were characterized by the absence of restraint on the passions of the people, the mob, who were led by ambitious demagogues that abused authority and were, therefore, enemies of good government. The United States was commonly cited by Tories as the worst example of democratic excess.

But democracy posed an ever present threat to British North America as well. In 1838 the following comment was made by the *Montreal Gazette*. It illustrates, in tones hardly dissimilar from the Loyalists, the disdain for the popular branch of the legislature. "Nothing," said the *Gazette*,

tends so much to paralyse the supreme authority of the Mother Country...as those petty Legislatures which have been established in almost every Colony in the Empire...with the unlimited authority which they have always possessed...they have almost uniformly resolved themselves into nurseries of party and faction; and have generally done more to estrange the affection and goodwill of the Colonist from the Mother Country, than time, distance or paternal neglect could ever have accomplished.⁷

Similar scornful statements concerning democracy abounded in nineteenth century Canada. Responsible government, for example, posed a special threat. Again, according to the *Montreal Gazette*, if responsible government was implemented it "would in the course of a few short months, completely transform our well poised monarchy into a pure and reckless democracy."⁸ T.C. Haliburton essentially concurred with this assessment of responsible government. "Canadian politicians," he wrote, "have tasted the sweets of despotism and they will not limit or diminish their own power."⁹

Even as they accustomed themselves to the inevitability of responsible government Tories made no attempt to disguise their contempt for democracy, particularly the American variety. This includes no less a politician than John A. Macdonald. Macdonald had an especially low opinion of democracy and didn't conceal it. As late as 1876 he could make the following comment and still receive enthusiastic approval from his audience. Speaking of the United States he said, "the educated classes do not govern there; it is the many-headed mon-

ster, that governs that country."¹⁰

As S.F. Wise tells us, many of the critical comments that were made about democracy were based as much upon the classical political science of the ancients as upon close observation. The lessons of history told Canadian Tories much the same thing that they had told Polybius — that democracies were characterized by flux and would end in despotism. In all democratic republics, wrote one of their early nineteenth century critics,

there appears to be one material defect...which is, the want of that permanence or duration so essential to the progressive improvement and perfecting of any human institution, for it is a well known historical fact, that Republics are most perfect at their commencement, and inevitably fall off and degenerate, until, by internal discord, corruption and anarchy (before any great lapse of time) they end in the most intolerable Despotism, or become an easy prey to some neighbouring Power.¹¹

This interpretation was echoed by others. Bishop John Strachan, for example, had come to the same conclusion. The Americans, he said, were "one short removal from a pure democracy."¹² Anyone who examines

this form of government will find that the tyranny exercised by the people...debase and corrupt as much as the sword of the despot. [In] a short time morals, religion and justice are gone and neither the spirit, nor even the desire of liberty, is found. Can anything else be expected, when the government is directed by the passions of the people, and the vices and ambitions of their demagogues....The mob...the blatant beast, will gather round a leader who will flatter its appetites; and not one who desires to keep it within bounds.¹³

Strachan's attitudes toward democracy were remarkably close to those of Edmund Burke. In Burke's opinion, "A perfect democracy [was]...the most shameless thing in the world" and the sovereignty of the people, "the most false, wicked, and mischievous doctrine that could ever be preached to them." Democracy also meant that the people were loosened from restraint and inevitably

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became tyrannical. This was a fundamental tenet of Burke's political theory. "I hate tyranny, at least I think so, but I hate it most of all where most are concerned in it. They tyranny of a multitude is but a multiplied tyranny."¹⁴

Such anti-democratic attitudes were common among Canadian Tories. Democratic governments were unstable and would surely end in despotism. One Upper-Canadian legislative councillor prophesied,

that the elective principle, carried to an extreme stretch, changed the pulse of men and inoculated the people of the United States, with principles destructive to liberty and good Government, and that the time may yet arrive when on the revolving wheels of their Government the cog of despotism may be found not to be far distant from that of democracy — when civil broils, and servile war, may madden to a contest.¹⁵

Years later, at the beginning of the civil war in the United States, John A. Macdonald warned of the dangers of universal manhood suffrage.¹⁶ History told him of its inevitable consequences. "Experience," he said, "had shown that it left a nation weak and led it towards anarchy and despotism. Unless there was a middle power, unless property was protected and made one of the principles on which representation was based, they might perhaps have a people altogether equal; but they would soon cease to have a people altogether free."¹⁷ Revolutionary France, he said later in his speech, was just one example where this had occurred. There "men of property had been obliged to seek refuge in despotism, to rescue them from the tyrannical power of mere numbers."¹⁸

The belief, then, about the innate instability of democracy was widespread. Misgivings were also expressed about its applicability to large territories of territory. In the early years of the nineteenth century even prominent leaders of the Parti Canadien such as Pierre Bedard harboured doubts about its applicability to

areas of great extent. Fernand Ouellet claims that Bedard "like Montesquieu, ...believed that democracy would not work in a large country; too much liberty would lead to anarchy and ultimately dictatorship."¹⁹

In the years that followed French-Canadian leaders increasingly warmed to the idea of democracy believing it applicable to Canadian circumstances. Many politically conservative English Canadians, though, continued to believe that it was not suitable to large territories and would end in despotism. Writing at mid-century, James Beaven, then Professor of Divinity at University of King's College, Toronto came to much the same conclusion. He also argued, according to the canons of eighteenth century political science, "that in order to preserve republicanism, it was desirable to keep all institutions as simple as possible; and therefore...banks and indirect taxation should be avoided."²⁰ Beaven then proceeded to offer his opinion "that the complicated relations which wealth engenders are inconsistent with the permanent maintenance of the theory, that government is or should be so simple that every one can understand it, — which is the theory of democracy."²¹ It was useless, said Beaven, to struggle against the growing wealth and complexity of society and the complicated forms of government that society required. The conclusion to be drawn was

not that we...set our faces against those complicated relations...but that democratic theories are totally inapplicable to any state of great extent, and in an advanced condition of civilization; that, in short, if a state in this kind of progression begins with democracy, it must pass through aristocracy or oligarchy into monarchy or tyranny.²²

The Need for a Strong Executive

Against the onrushing tide of democracy Tories searched for barriers. Commonly mentioned was the need for strong executive authority. Like all conservative Whigs they believed that the people were the greatest threat to liberty, not the Crown. In addition, they searched for an equivalent in North America of an aristocracy that would serve as a counterweight to the democratic spirit and thereby indirectly bolster the authority of the Crown. A strong government would serve to restrain the masses and protect the liberty of all. Liberty, Tories argued in Burkean tones, had to be restrained to be enjoyed. We could only enjoy liberty within an ordered society governed by the rule of law. The following comment by Bishop Strachan is fairly representative. It is, he said,

a self-evident maxim that is only by the due restraint of others that I become truly free...My freedom depends not so much on restraints as upon the restraints of others in respect of me. Now in good government these restraints are the laws — and what do I lose or surrender by becoming obedient to these laws? Nothing, for by them my liberty is extended and secured...The restraints, therefore, imposed by a good government are only the sovereignty of good laws, the restraints of sound principles, and the commands of duty.²³

Strachan's notion of a restrained or bounded liberty had always been of critical importance to Court Whiggism. According to Reed Browning "the liberty they [Court Whigs] protected was regulated, for they were wont to regard their fellow Britons as inclined to forays into licentiousness."²⁴ It was because of the tendency of Britons to stray beyond the confines of regulated liberty that one Court pamphleteer believed "written laws are circumscribed around him, only to keep him right within his sphere; yet free within that sphere."²⁵ Burke's opinion on the necessity of regulated liberty was very similar. In *Reflections on the*

Revolution in France he declared, "I flatter myself that I love a manly, moral, regulated liberty..." Elsewhere Burke said much the same thing insisting that in order to enjoy liberty men needed stable government capable of maintaining order and rule according to known and unbiased laws:

Permit me...to tell you what the freedom is that I love and that to which I think all men are entitled. It is not solitary, unconnected, individual, selfish liberty, as if every man was to regulate the whole of his conduct by his own will. The liberty I mean is *social* liberty. It is that state of things in which liberty is secured by the equality of restraint; a constitution of things in which the liberty of no one man, and no body of men and no number of men can find means to trespass on the liberty of any person or description of person in society. This kind of liberty is indeed but another name for justice, ascertained by wise laws, and secured by well-constructed institutions.²⁶

Surveying the views of the Scots on liberty, Apand Chitnis concluded that they, defined liberty "as the opportunity to exist in a state of law and order."²⁷ Adam Smith, for example, had observed that "the law of England [is] always the friend of liberty."²⁸ Hume, of course, had always insisted that liberty, ever so fragile, be protected by order and authority. At the end of the *Origin of Government* he observed "that liberty is the perfection of civil society; but...authority must be acknowledged essential to its very existence."²⁹ Clearly, then, liberty to the Court Whigs of the eighteenth and the Tories of the nineteenth centuries was a social product protected and regulated by the institutions of government. This was, without doubt, the position of John Strachan.

In Canada, John Henry (Camillus) mused very much along the same lines as Strachan and Burke believing that democracy was characterized by the absence of restraint and the passion and licentiousness of the many. His tone was clearly Burkean. Like Burke, he argued for the need for restraints remarking that "reasonable creatures consider political freedom as a blessing only when it is

restrained by positive rules, accompanied with a sufficient sanction, in such a manner as to be incapable of degenerating into licentiousness."³⁰ To support his argument Henry invoked the following maxim which in all likelihood was adapted from Burke. "Control" said Henry "ought to be strong in the direct ratio of passion as well as in the inverse of knowledge and reason."³¹ Furthermore, "without a controlling power, sufficiently strong, placed somewhere, society cannot exist in security and repose. Whoever denies this, is referred to the history of free governments, with whose ruins the map of time is strewn."³² Henry's statement should be placed beside the following remarks by Burke in the *Reflections*.

Society requires not only that the passions of individuals should be subjected, but that...the inclinations of men should frequently be thwarted, their will controlled, and their passions brought into subjection. This can only be done by a power out of themselves; and not, in the exercise of its function, subject to that will and those passions which it is its office to bridle and subdue. In this sense the restraints on men, as well as their liberties, are to be reckoned among their rights.³³

Decades later, on the eve of Confederation, D'Arcy McGee also insisted that liberty had to be bounded by authority stating, "as the scythe to the fabled bundle of sticks, as the hoops to the staves, as the helm to the ship...so is authority to liberty, in all well-balanced governments."³⁴

Of all the liberties that governments had to protect none was more important than that of property. Liberty and property, in true Whiggish tradition were inseparably linked. This was the point made by Bishop Strachan when he asked:

Does any person doubt whether the British be the first nation on earth, let him tell me where property and its rights are so well protected. This is the life and soul of liberty. What shall oppression seize when property is secure?³⁵

This underscores, once again, the antipathy that eighteenth and nineteenth century Tories had towards democracy. Democracy would mean the rule of those with little or no property thus endangering the most precious of all liberties, the freedom to possess and dispose of one's property.

The Hobbesian image of the state projected by Canadian Tories was very analogous to that of the Scots and Burke. A strong state was needed to preserve order and restrain the passions and limitless ambitions of men. This necessitated the strengthening of the executive branch of government and the maintenance of an inequalitarian social structure to serve as counterweights to the increasing strength of democracy. Such a state, however, would not only serve to restrain the passions of men it would also serve to promote the economic development of the country. Most Canadian Tories saw the two as linked. Economic development required a state in which democracy with its agrarian base and traditional hostility to commerce was restrained.³⁶

The Strong State, Stability and the Promotion of Commerce

One of the first to link the discussion of the need for a strong state to the preservation of order and the promotion of commerce was Richard Uniacke, Attorney General for Nova Scotia at the turn of the nineteenth century. Uniacke was particularly appalled by the idea of democratic republicanism. In Burkean tones he observed

the most sanguine speculators in governmental systems are obliged to acknowledge that the fine spun theories on which the government of the American States was formed, afford in practice neither stability nor security. It has become a country so distracted with faction that every man of property views the uncertainty of his situation with fear and apprehension. He dreads the fraternal hug of liberty and equality."³⁷

The Americans, Uniacke felt, had erred in insisting that government should maintain a minimal presence in a new country. "This," he believed, "has caused the maxim of not governing too much to be abused, and has produced the positive fault of governing too little."³⁸ If Americans did not yield to authority when the country was young what could be expected as the country matured?

Unfortunately, the systems of government granted the British American colonies were not much better. His opinion on the matter parallels the thought of the American Loyalists. Said Uniacke:

So many petty states as now exist in the colonies, having the power of legislation ill defined and as badly executed, govern'd by persons whose small salaries and emoluments are inadequate to support the dignity of the kings representatives or to uphold the authority of the Mother Country, together with the dependence of most of the officers of Government on the Colonial Assemblies, diminishes the authority of the British Government and places those who should support it in a state of dependence.³⁹

Obviously, then, the executive branch of government had to be strengthened, it had to have more influence. The Crown's officers, for example, should be independent of all authority except for the king. It was, Uniacke believed, this dependence of the Crown's officers on the colonial assemblies that had caused the American Revolution.

Uniacke offered a variety of proposals to improve the quality of colonial government. The most significant of these were two separate proposals for uniting colonial governments. In 1806 he made a proposal for two legislative unions, one for Lower and Upper Canada, and the other for the Maritime provinces. By 1826, he had decided against legislative union and opted for federal union instead. My concern here is with the 1806 proposal.

Uniacke was convinced that legislative union, particularly Maritime union, would attract commerce and strengthen the state. Uniacke's proposal called for the redirection of British capital from the United States where it was threatened by faction and the "fraternal hug of liberty and equality." Great Britain, instead, should employ her capital in her remaining colonies where it would find safe asylum under a firm and well-ordered government. To facilitate this Uniacke proposed that Great Britain reserve the power of regulating duties, while permitting the colonies to trade, in British shipping, to all parts of the world with the same freedom enjoyed by American merchants.⁴⁰ If only the colonies possessed the same "commercial liberties" enjoyed by the Americans "they would soon command a large share of the coasting trade of America."⁴¹ With new sources of commerce would also come potential new sources of revenue. Uniacke believed that taxation of commerce was acceptable provided that the revenue raised gave the executive the independence it needed from the democratic assembly. In turn, a stable and secure government would be advantageous to the interests of commerce. There was, then, clearly an interdependent relationship between a strong state, political stability and commerce.

Uniacke's belief in the necessity for an intimate connection between government and commerce was demonstrated in a variety of ways ranging from his presence on legislative committees dealing with economic matters to his promotion of the study of Political Economy — that most "important part of the British system of education."⁴² Uniacke urged, before the idea became acceptable, that the provincial legislature create a public bank that would be capable of sup-

porting a paper currency replacing specie. The province, furthermore, should accept a public debt sufficient to carry out necessary public works.⁴³

In sum, Uniacke firmly believed in a strong state capable of curbing democratic excess and also attracting capital. He was in this way clearly following in the tradition of Court Whiggism described earlier. Although a firm advocate of authority Uniacke, like all Whigs, believed in government by consent and that the chief end of all human institutions was "the preservation of men's lives, liberties and properties."⁴⁴

Years later, T.C. Haliburton in his Sam Slick series of novels mused along similar lines as Uniacke. Haliburton believed that the chief ills of Nova Scotia were the result of an excess of political talk, universal manhood suffrage and democracy. Much needed was a check on popular feeling. The radicals his Sam Slick character said were "a most dangerous, disaffected people...eternally appealing to the worst passions of the mob."⁴⁵ Although himself a Tory, Haliburton had unkind words for the ultra Tories believing they contributed to the economic underdevelopment of the province. They threatened to "ruinate the country" spending "the whole revenue on themselves."⁴⁶ The bankers, councillors, judges, bishops, public officers and lawyers were like "locusts" devouring the country. As a result "there's nothin left for roads and bridges."⁴⁷

A few pages later, Sam Slick, offered as a disinterested man (the non-party man in Court lexicon) some advice that reinforced his previous comment. Said Slick, in a passage accentuated to underscore its significance:

Now, as a disinterested man, I say if the members of the House of Assembly, in-

stead of raising up ghosts and hobgoblins to frighten folks with, ... would turn to heart and hand, and developpe the resources of this fine country, facilitate the means of transport, promote its internal improvement, and encourage its foreign trade, they would make it the richest and greatest, as it now is one of the happiest sections of all America."⁴⁸

In Upper Canada, as S.F. Wise and Reg Whitaker tell us, Tories were even more zealous and vocal in their advocacy of a strong state than were their Nova Scotian counterparts.⁴⁹ Both Wise and Whitaker agree that Upper Canada, from its origins, was characterized constitutionally by the prevalence of a strong executive authority and a deep ideological hostility to the principle of popular representation. According to Whitaker the Upper Canadian state was intended to stand atop a class divided society and serve as "an instrument of economic development."⁵⁰

To this end Upper Canadian Tories actively promoted public works, most notably canals but also roads, bridges and later railways. There was little fear of mounting a large public debt to finance these improvements. Bishop Strachan, for example, took David Hume directly to task for his gloomy prognostications on the public debt arguing that they simply had not come to pass. Wrote Strachan, in a passage in which he revealed how closely he read Hume:

Mr. Hume, in the first edition of his essays, asserted that we could not maintain our credit when our debt reached 100 millions, but he lived to see double this sum, and prudently expunged this passage in the future editions of his works observing that it was impossible to conjecture how far we might extend our credit, or what amount the debt might be raised.

In Strachan's opinion a national debt meant expensive government. This, in turn, meant high taxes. But "enormous taxes [were] the natural consequences of the greatness of our wealth." Furthermore, argued Strachan, "the existence of a

national debt may be perfectly consistent with the interest and prosperity of the Country, and it is only when the borrowing system has been abused; that it has become alarming."⁵¹

The fall of John Strachan and the Family Compact with its excesses does not mean that there was a disjuncture between its belief system and that of later Tories. To the contrary, claims S.F. Wise, there is an "essential continuity of Upper Canadian with subsequent provincial history."⁵² Indeed, the later arguments over railroads and the public debt at Confederation, and after, clearly echo earlier arguments over canals and the public debt. The state was seen as a credit instrument necessary for the economic development and prosperity of the country.

Lower Canadian Tories in principle differed little from their counterparts elsewhere in British North America. In comparison to Upper Canadian Tories, however, they possessed little or no influence in the lower house and came, consequently, to possess an even greater disdain for democracy. David Chisholme, for example, in 1829 wrote that French Canadians, acting in a spirit of "licentiousness, faction and envy" were threatening to swallow up all branches of government.⁵³ The possibilities of counteracting their influence were limited. Chisholme believed that Canada lacked the social basis to provide a check upon democracy. There was nothing analogous to the House of Lords, for in Aristotelian terms, "the materials for forming a counterpart, do not, and cannot exist" in Canada.⁵⁴ The executive was equally enfeebled, for:

Neither the King nor government holds any patronage in the provinces, which can create attachment and influence sufficient to counteract that restless arro-

gating spirit, which in popular assemblies, when left to itself, will never brook an authority that checks and interferes with its own.⁵⁵

Earlier Camillus (John Henry) had made essentially the same point. Part of the problem, though, lay in the fact that too many appointments were made in England.

In Canada the Executive Government has no influence in the Commons, and very little out of it. The PATRONAGE, limited and comparatively insignificant as it is, does not rest exclusively with the King's representative. Many appointments to offices in Canada are made in England; and if made injudiciously—without regard to individual merit and local circumstances, have a direct tendency to diminish the influence of the Governor; on whom every office ought to feel his dependence, and with whom he ought to cooperate.⁵⁶

The lack of influence over the legislative assembly meant, claims Fernand Ouellet, that Lower Canadian Tories lacked control over public expenditures and were to be continually frustrated in using these funds for purposes of public works such as canalling as much as they wanted to do so.⁵⁷

Chisholme's and Henry's arguments were classical Court positions and differed little from those of Hume. Hume, it must be recalled, had defended the Crown's use of influence to control parliament. Hume defined influence in the following manner, "By that *influence of the crown*, which I would justify, I mean only that arising from the offices and honours which are at the disposal of the crown." By the adroit use of offices and "when assisted by the honest and disinterested part of the house," he contended,

it will always command the resolutions of the whole so far, at least, as to preserve the ancient constitution from danger. We may, therefore, give to this influence what name we please; we may call it by the invidious appellations of *corruption and dependence*; but some degree and some kind of it are inseparable from the very nature of the constitution, and necessary to the preservation of our mixed government.⁵⁸

Adam Smith's position on the use of influence, as I indicated in the previous chapter, was indistinguishable from Hume's. There I quoted Smith as saying "it was only by distributing among the particular members of the parliament, a great part either of the offices arising from [the] civil and military establishment" that the sovereign was able to "manage" the parliament of England. Smith, furthermore, had diagnosed the problem of a want of influence in colonies long before Chisholme and Henry. In America he observed "the executive power has not the means to corrupt" the colonial legislatures, it lacked "prizes of ambition."⁵⁹ Political stability, to Smith, very much depended on a strong government and strong executive. Canadian Tories felt the same way.

The attempt, then, to strengthen the state in Canada, particularly the executive, and use it as a counterweight to democratic tendencies and promote commerce, was a central theme among nineteenth century Tories. As indicated earlier there is agreement among historians and political economists on this. Indeed, one can refer to any number of works of other students of nineteenth century Canada to substantiate the active role of the state, particularly in contributing to economic development. The Canadian state, it is contended, was never a laissez-faire state.⁶⁰ H.G.J. Aitken writes "the standard interpretation of the entire history of the Canadian economy assigns to the state a major role in guiding and stimulating development; on any reading of the historical record, government policies and decision stand out as the key factors."⁶¹ Donald Creighton makes a similar point about Canada in the nineteenth century: "Within the field of provincial development," he writes,

the powers and, indeed the obligations of state, were practically without bounds. The government was expected to quicken the pace of progress, to hasten the business of exploitation, to throw open the avenues of provincial expansion to the coming of men and the movement of goods. The government, in popular estimation, became a kind of super-corporation, could alone set free the energies of innumerable promoters and subsidiary organizations.⁶²

Harold Innis confirms the activist role of government in economic development at this period which he claims "involved the development of a centralized government in Canada."⁶³ Whitaker contends that, at this time, it was difficult to distinguish between the public and private sectors. He writes "the basic engine of development in Canada was to be private enterprise, but it was to be private enterprise at public expense. That is the unique national feature of our Tory tradition."⁶⁴

Yet it was not the immediate dictates of economic imperatives alone that prompted state intervention and the close working relationship between the state and private enterprise. On the contrary the commercial ideology of Canadian Tories was one that legitimated the use of state power, not only as a means of social control, but also as a means of promoting economic development. Canadian Tories had inherited an ideological system that told them that the growth of a commercial society represented the highest stage of social development. That private enterprise should profit from public expense was at the heart of Court ideology and not a "unique feature of [the Canadian] Tory tradition."

The image of the state projected by Canadian Tories was, in many ways, Hobbesian. But, while they may have shared with Hobbes a belief in the need for a strong state to control men's passions, enforce contracts and protect and promote commerce, they were not contract theorists. To the contrary, there is

evidence to indicate that they rejected the notion of a social contract and a state of nature. Governments were a convenience, tested by experience, and men, while passionate, were social creatures as well. Duties were emphasized rather than natural rights. Finally, Canadian Tories expressed a utilitarian preference for the practical and useful over the abstract and the experimental.

Bishop Strachan and the Tory Tradition

Bishop Strachan is a good example of such thinking in the early years of nineteenth century Upper Canada. His student, John Beverly Robinson, thought along similar lines.⁶⁵ Strachan, himself, was educated in Scotland in the twilight of the Scottish Enlightenment and in the full glow of the Burkean reaction against the French Revolution. This influence is reflected in his many pamphlets. Like Burke he stressed the harm done by the ideas of the "abstract", "speculative" philosophers. Like Burke and the Scots he felt experience and time had legitimized and proved the utility of social institutions. This is made clear in the following passage:

*In this age of innovation, the great antiquity of any law, custom or institution is deemed by many, a sufficient reason for its abrogation. Everything old must give place to that which is new. I am so far from acquiescing [sic] in this particular doctrine, that I am rather prejudiced in favor of antiquity, and shall without hesitation, premise it as a maxim from which it shall never be found safe to depart. That practices and institutions of long standing should be carefully examined in all their bearings, before they are made to give way to speculative improvements, which are not sanctioned by the test of experience.*⁶⁶

Experience and the test of time, then, and not abstract reason was to be the measure of an institution's usefulness. As I will indicate later John A. Macdonald reasoned along similar lines in his defence of virtual representation.

It should be pointed out here that Strachan, like the Scots and Burke, was not an opponent of change. Change, *per se*, was not the enemy — it was the rate and method of change that mattered. Incremental, gradual change with the established order, controlled from above, was perfectly acceptable. After stating his "maxim", Strachan had continued:

This rule does not prevent useful changes, it only insures caution in their introduction — it does not prohibit necessary improvements, but wishes them to be gradual. Its rigid application might not indeed please hasty innovators, because it would prove the propriety and wisdom of many ancient practices which they have denounced and demonstrate that others not entirely free from defects are yet far superior to those which are offered in their room.⁶⁷

Strachan's cautious approach to change bears comparison to similar statements by Hume, Smith and Burke. All three recognized change as inevitable. But change had to be gradual, conserving what already existed rather than destroying and building afresh according to the dictates of theoretical speculation. Hume, for example, remarked:

To tamper...or try experiments merely upon the credit of supposed government and philosophy, can never be the part of a wise magistrate, who will bear a reverence to what carries the marks of age; and though he may attempt some improvements for the public good, yet he will adjust his innovations, as much as possible, to the ancient fabric, and preserve the chief pillars and supports of the constitution.⁶⁸

Smith's attitude toward change is very close to Hume's. Smith, I pointed out in Chapter IV, feared the actions of the man of system who attempted to alter established institutions on the "imaginary beauty" of an "ideal system." In a passage which also revealed his preference for "orders and societies" over individuals Smith wrote

The man whose public spirit is prompted altogether by humanity and benevolence, will respect the established powers and privileges even of individuals, and still more those of the great orders and societies, into which the state is

divided. Though he should consider some of them as in some measure abusive, he will content himself with moderating what he often cannot annihilate without great violence. When he cannot conquer the rooted prejudices of the people by reason and persuasion, he will not attempt to subdue them by force... He will accommodate, as well as he can, his public arrangement to the confirmed habits and prejudices of the people; and will remedy, as well as he can, the inconveniences which may flow from the want of those regulations which the people are averse to submit to. When he cannot establish the right, he will not disdain to ameliorate the wrong; but like Solon, when he cannot establish the best system of laws, he will endeavour to establish the best that the people can bear.⁷⁰

Burke's attitude to change was similar to Smith and Hume's. Those who desired change, Burke thought, must make only minor adjustments, keeping in mind the wisdom of the past.

We must all obey the great law of change. It is the most powerful law of nature, and the means perhaps of its conservation. All we can do, and that wisdom can do, is to provide that the change shall proceed by insensible degrees. This has all the benefits which may be in change, without any of the inconveniences of mutation. Everything is provided for as it arrives. This mode will, on the one hand prevent the unfixing of old interests at once: a thing which is apt to breed a black and sullen discontent in those who are at once dispossessed of all their influence and consideration. This gradual course, on the other side, will prevent men, long under depression, from being intoxicated with a large draught of new power, which they always abuse with a licentious insolence.⁷¹

Elsewhere Strachan reinforced his insistence that the laws and regulations that guide our conduct in society have proved their utility through experience—a view shared by Hume, Smith and Burke. He also made it clear that he shared the opinion of the Scottish literati that man had never lived in a state of nature or that such a state could ever be found. All men's lives, their liberty, all their happiness presupposed the existence of society. These points, Strachan makes clear in the following passage:

A principle has been adopted by many writers, and held as indisputable that in society I surrender part of our natural liberty to secure the rest. This principle is false — I make no such surrender — I gain everything, we lose nothing. The laws protect, warn and enlighten us; they are continually destroying or removing whatever is offensive...we no more restrain our liberty by entering into society, than I do in building a house to protect us from the cold — a well regulated so-

ciety, that is a just government, so far from infringing, establishes and extends our liberty. In a state of nature, or before the establishment of a society, if such a state can ever be found, there is no liberty for there are no laws, all laws and regulations pre-empt the intercourse which they regulate, and experience has proved their utility, before they are publicly recognized. To seek for liberty, even in the first stages of society, is to seek for a claim in the midst of a tempest. Are the barbarians free who act by the caprice of the moment, who are governed by their passions and the cravings of their appetites? He then who will take the trouble to reflect, must clearly perceive, that without society, we cannot enjoy liberty, what I possess another may take away.⁶⁸

Moreover, it was clear to Strachan that, since members of society were mutually dependent and performed reciprocal services, our duties and our obligations were antecedent to our right. This underscores, once again, Strachan's conception of man as a social creature. It was Strachan's opinion that all writers since Rousseau, including, he believed, Thomas Jefferson, had erred in speaking

always of rights but never of duties. Now it is evident that duties precede rights, indeed the establishment of our rights is the reward of our duty...Man...must join himself to other men; by this junction they become useful to one another, that is they perform certain reciprocal duties, and the fruit of these duties is greater personal security, greater power over property, more comfort, and more freedom. Now this life, this liberty, this happiness [referring to Jefferson] is in a manner created by society, is rendered invaluable by the performance of certain duties. To speak thus of liberty and happiness as rights previous to the establishment of society is absurd, and to speak of them at all, without proving that they flow from the performance of duty is exceedingly incorrect, and leads to the most terrible consequences.⁷²

The consequences were, of course, revolution. The revolutionaries, he felt, had told people of these rights, but never of duties. "They were loosed from all restraint; they thought they might seize everything and do nothing."⁷³

Strachan's emphasis on duties was typical of the Scottish literati. Hutcheson, I mentioned previously accented the importance of duty. So did Hume and Smith.⁷⁴ Hume, for example, in *Of the Original Contract*, stressed that moral duties were indispensable to the maintenance of society. Among these duties

were "justice" defined as "a regard to the property of others"; "fidelity" or the keeping of promises; and the political or civil duty of "allegiance". We subscribe to these moral duties because they are necessary to our social existence. The same reasoning applied to government. "If the reasoning be asked of that obedience which we are bound to pay to government, I readily answer, *because society could not otherwise subsist*; and this answer is clear and intelligible to all mankind."⁷⁵

Strachan's reasoning on the relationship between rights and duties, however, most closely resembles that of Burke's. Governments, according to Burke, were not made

in virtue of natural rights, which may and do exist in total independence of it; and exist in much greater clearness, and in a much greater degree of abstract perfection; but their abstract perfection is their practical defect. By having a right to everything, they [revolutionaries] want everything.

For Burke, the rights men possessed were concrete rights, legal and historical rights, which could be defended in a court of law. Under different forms of government men could possess different rights at different times. Moreover, like the Scottish thinkers, Burke felt men not only had rights, but they also had duties. Men, Burke argued, without any choice of their own, receive benefits from society. Furthermore, without their choice, they are obligated to duties in lieu of these benefits. "Look," he said,

through the whole of life and the whole system of duties. Much the strongest moral obligations are such as were never the results of our option... We have obligations to mankind at large, which are not in consequence of any special voluntary pact. They arise from the relation of man to man, the relation of man to God, which relations are not matters of choice.⁷⁶

The duties we perform, moreover, are fixed in relation to our station in society.

Many of Strachan's contemporaries echoed his sentiments. Like Strachan, John Henry feared and detested democracy. Henry attacked its advocates in the same vein as Strachan, as "projectors and experimenters" ever ready "to decompose every venerable and useful institution in hopes of enriching themselves out of the dross and lumber of the great political laboratory."⁷⁷ His tone is clearly similar to Burke and the Scots. Government he argued,

is a matter of convenience and science, and so far from deriving its origins from a state of nature, in which all are free; is a system of benevolence suited to the necessities of the human race in a state of society; adjusting and securing to every member of that society, his relative and distributive proportion of power and privilege.⁷⁸

The Scottish literati shared Henry's utilitarian view of government. Governments, they believed, were "advantageous," "useful," "expedient," "convenient," and "beneficial" to man and society. Government was needed to ensure justice, protect property, restrain our passions and bring the advantages of civilization. According to Hume, with the "invention" of government,

men acquire a security against each other's weakness and passion, as well as against their own, and under the shelter of their governors, begin to taste at ease the sweets of society and mutual assistance. But government extends still further its beneficial influence; and not contented to protect men in those conventions they make for their mutual interest, it often obliges them to make such conventions, and forces them to seek their own advantage by a concurrence in some common end or purpose.⁷⁹

In Adam Smith's opinion "There are two principles which induce men to enter into a civil society, which we shall call the principles of authority and utility." Of utility Smith said "Everyone is sensible of the necessity of this principle to preserve justice and peace in the society."⁸⁰

Burke's views on government were close to those of the Scots. Government, too, was based on convention and designed to restrain our passions. In Burke's words, "civil society [was]...made for the advantage of man" and was an "institution of beneficence." Civil society was also "the offspring of convention," that convention being law. In addition, observed Burke "Government is a contrivance of human wisdom to provide for human wants...among those wants is to be reckoned the want, out of civil society, of a sufficient restraint upon their passions."⁸¹ Finally, Burke, like Hume, would have concurred with Henry that government was also "a matter of science".

♦ Egerton Ryerson and the Continuity of the Tory Tradition

Support for the political views expounded by Strachan and Henry can be found elsewhere. An examination of the political views of Egerton Ryerson, for example, indicates that ideologically he was not far distant from the Tory mainstream. Although one of the staunchest foes for years of Strachan until he abandoned the Reform cause in 1833, Ryerson's conservative cast of mind was shaped more by the same tradition of eighteenth century thought. While he did champion the cause of civil and religious liberty in Canada, he was a Wesleyan Methodist, the most politically conservative of the Dissenting religions, and very reluctant to challenge established authority. Ryerson, like the Tories, preferred a society characterized by order, stability, hierarchy and loyalty.⁸²

Ryerson's firm attachment to the British connection and the established political order led him to declare his opposition "to any new and untried theories of government."⁸³ Decisions on forms of government, he insisted, could not be

justified on the ground of "abstract political theory."⁸⁴ This disavowal of abstract thought does not mean that Ryerson did not possess political principles. He did. Ryerson was particularly influenced by the thought of such eighteenth century thinkers as Paley and Blackstone, most of all Paley, whose political views were Court, believing as he did in "influence", "utility", and "prescription".⁸⁵

William Paley, like Ryerson, was a clergyman and one of the most conservative of utilitarians believing in a utilitarian God who promoted the greatest happiness of the greatest number of men — men who as individuals were thoroughly selfish passionate beings believing only in their own happiness. Civil society, Paley believed, was conducive to the promotion of human happiness and could only be maintained if the interest of the entire society was binding on each and every member. Paley, too, rejected contract theory and placed in its stead the concept of public utility or "public expediency" as the grounds of political obligation. This, of course, differed little from Hume.⁸⁶

Ryerson first indicated his intellectual indebtedness to Paley in a long column in the October 8, 1831 *Christian Guardian*. Ryerson began by arguing that the constitution of human nature proved beyond a doubt that civil government

is beneficial to the private and public interest of mankind, the history of all ages, most clearly demonstrates. That every member of civil society ought to obey the government, the nature of the case shows to be unquestionable; for if civil government be expedient, it is equally expedient to obey and support it, and the interests of the government must necessarily be binding upon all and each of its members.⁸⁷

As with Paley and other eighteenth century utilitarians there was a Hobbesian flavour to Ryerson's political thinking. Without government of one kind or

another, he said in a later pamphlet, we would have no security or means of protection. In this situation every man might act according to his own interest or passions "and no man's property would be secure for half an hour."⁸⁸ The weak as a result, would be at the mercy of the strong and "disorder, confusion, mischiefs, murders, and ten thousand miseries would overspread the earth, and the human race would soon become extinct."⁸⁹ It was obvious, then, that government was necessary.

Ryerson's utilitarian views of government were deep set and long held. Years later, for example, commenting on Canada's brand new federal government he stated that his countrymen should continue to "develop those principles of legislation and government which have contributed most to the promotion of our own happiness and interests, as well as those of other nations."⁹⁰ The new government he likened to a constitutional machine, a "machine of public utility" about to be subjected to trial in order "to test its merits and efficiency."⁹¹

While there is a Hobbesian flavour to his thought Ryerson explicitly rejected the social contract theorists and their concept of a state of nature. Rather he believed that government had always existed and was coeval with the human race. He explicitly questioned the "assumption that...a 'state of nature' ever did exist in the early ages of the world."⁹² This "assumption," he said, appeared "to be founded merely upon conjecture."⁹³ According to Ryerson the origins of government were patriarchal. Paley believed likewise but also thought government might have had military origins.

Like other eighteenth century utilitarians Ryerson also emphasized duties rather than rights.⁹⁴ Others such as the Reverend James George concurred with Ryerson.⁹⁵ Of the views that I have considered, so far, those of Ryerson and Strachan are the most important because of the impact that they had on the socialization process of generations of Canadians. Of the two Ryerson probably had the most profound effect on the educational process. As Chief Superintendent of Upper Canada's public schools, Ryerson injected his own brand of conservative Christian utilitarian values into the educational system. The following passage clearly states Ryerson's views of education. In a country such as Canada, he said,

where conservative elements are comparatively few and feeble the fundamental principles of the System of Public education are of the gravest importance.

My leading idea has been, not only to impart to the public mind the greatest amount of useful knowledge based upon, and interwoven throughout with sound Christian principles, but to render the Educational system...the indirect but powerful instrument of British Constitutional Government.⁹⁶

As the above passage indicates education not only had to be useful, it also had to promote religious, Christian values, and serve as a mechanism of social control producing good and loyal citizens. According to Susan Houston the middle classes in Upper Canada, with Ryerson as their spokesman, saw education primarily as a means of social control. It was the "fear of a motley of Americanism, civil disorder, ignorance, and the lower classes generally in an increasingly socially differentiated society which provided the mainspring of middle class support for education..."⁹⁷

Ryerson's views bear comparison with those of Adam Smith for Smith was one of the first to articulate the need for state aid to education, particularly of the lower classes. He did so for much the same reasons as Ryerson. In Smith's opinion the division of labour had stupefying effects on workers making them "as stupid and ignorant as it is possible for a human creature to become."⁹⁸ Education of the lower orders would counteract these effects. Smith, however, was not thinking of a liberal education that would improve workers culturally. Rather, like Ryerson, Smith proposed a practical curriculum:

If, instead of a little smattering of Latin, which the children of the common people are sometimes taught (in the charity schools), and which can scarce ever be of any use to them; they were instructed in the elementary parts of geometry and mechanics, the literary education of this rank of people would perhaps be as complete as it can be. There is scarce a common trade which does not afford some opportunities of applying to it the principles of geometry and mechanics.⁹⁹

Useful, of course, meant an increase in the productivity of the worker thus accelerating economic growth. Smith also stressed the civil and religious functions of education. The civil function would teach the lower classes of the benefits they received from the existing social order and to avoid factions and revolutionaries. The religious function would combat "superstition". The more the lower classes are instructed, said Smith,

the less liable they are to the delusions of enthusiasm and superstition, which among ignorant nations, frequently occasions the most dreadful disorders. An instructed and intelligent people besides are always more decent and orderly than an ignorant and stupid one. They feel themselves, each individually, more respectable, and more likely to obtain the respect of their lawful superiors, and they are therefore more disposed to respect those superiors. They are more disposed to examine, and more capable of seeing through, the interested complaints of faction and sedition, and they are, upon that account, less apt to be misled into any wanton or unnecessary opposition to the measures of government. In free countries, where the safety of government depends very much upon the favourable judgement which the people may form of its conduct, it must surely be of the highest importance that they should not be disposed to judge rashly or capriciously concerning it.¹⁰⁰

From the preceding passages it is evident that both Smith and Ryerson saw it as imperative that the "opinion" of the lower classes be shaped in a manner conducive to the promotion and stability of the existing economic and social order. Lower class education was by no means intended as a preparation for participation in a liberal democratic polity. Rather it was quite the opposite.

At the university level Ryerson also strove to develop a God-centred but practical education for British Americans. The ideal was shared by Ryerson's contemporaries. In the mid-nineteenth century a wave of practical education swept British North America. While heavily utilitarian it remained God-centred and conservative.¹⁰¹ Evidence indicates that works of Paley were almost universally in use.¹⁰² The prevalence of Paley and utilitarianism was complemented by the influence of a university curriculum imported from, and instituted by, men trained in Scottish universities. Taught alongside Paley and utilitarian philosophy was the Common Sense philosophy of Thomas Reid, Dugald Stewart and Sir William Hamilton.¹⁰³ Like Utilitarianism, Common Sense was the product of the eighteenth and early nineteenth century Scottish mind and as I indicated earlier, stressed the general over the particular and the whole over the parts.¹⁰⁴ It differed from Hume essentially over his philosophical skepticism. It continued, though, to view man as a social being and society as natural. Among Canadians educated in this philosophy was George Grant who had a decisive influence on generations of students at Queen's University in the late-nineteenth century.¹⁰⁵

Common Sense and the Rejection of Abstract Theory

By the 1850's utilitarianism and common sense had become important elements of British North American thinking. According to Professor Rasporich "political expediency" and "common sense politics had become the order of the day."¹⁰⁶ The old patrician E.P. Taché encapsulated both the utilitarian spirit and common sense in a letter to John A. Macdonald in 1858. In it he stressed the necessities of a "practical spirit" and of "common sense" framing his appeal in a discourse upon duty — to party, state and nation. He wrote:

Il faut donc dans l'intérêt du parti modérée, dans l'intérêt du pays en général que vous n'abandonnez la barque de l'état qu'à la dernière extrémité...et je compte beaucoup sur l'esprit pratique de vos amis politiques aussi bien sur le common sense des habitants du Haut Canada.¹⁰⁷

By the 1850's the emphasis on what was practical had led to a strong antipathy to abstract thought that was common not only among Tories but also many Reformers. Like Oakeshott they rejected the use of premeditated political theories or ideologies to guide behaviour. The test now of any theory, or any principle was not how it looked in the abstract, or on paper, but whether or not it in fact worked. This led the *Hincksite Pilot* to declare:

Theories may be beautiful and principles may look well on paper; but the question is...How will they work? We want practical men and practical measures in Canada...men who understand the state and requirements of the province...and measures adapted to its circumstances, as well as to the declared wishes of the people.¹⁰⁸

There was good reason to reject abstract thought many felt. If applied to circumstances to which they were not suited theories might very well prove destructive. This was the point being made by the old Tory T.C. Haliburton in 1850 when he warned against attempts by "revolutionists" to apply republican

theories everywhere. The revolutionists, he claimed, had concluded that what "worked so well in the United States" was "equally applicable to or attainable by every other people."¹⁰⁹ This said Haliburton, was "a great and fatal error." Rather governments had to be molded to particular circumstances. "A government," he said, "must not only be suited to the population, but to the country for which it is designed; and the moral and social condition of the one, and the size, the climate, and political and relative position of the other, are of the utmost importance to be thoroughly understood, and maturely considered."¹¹⁰

On this basis the American experiment was not applicable to Europe.

Remarkd Haliburton:

We must then judge whether all these circumstances...were indispensably necessary to success, and if so, whether there is anything analogous in Europe. I shall furnish the facts: let others build their own theories. I enter into no speculations; and, above all, offer no opinions on the durability of this great republic of the western world, or how it will work when the population shall be proportionally as large as that of Europe. I simply portray it as it is.¹¹¹

A careful reading of Haliburton makes it clear that what is being denounced is speculative abstract theory not theory *per se*. Haliburton is only insisting that theories must be borne out by the facts of history and by actual practices.

Denunciations of abstract theory can be found ad nauseam in nineteenth century British North America. Theories and institutions had to be tested by history and experience. They had to work and conform to practice. John A. Macdonald, for example, denounced the use of theory.¹¹² Such a denunciation, though, didn't stop Macdonald from making a stout defence of virtual representation on utilitarian grounds. Macdonald, in 1861 (like Burke, in the 1790's) found it useful to invoke virtual representation in support of the existing political

system.¹¹³ Macdonald argued, as had Burke, that Parliament represented not individuals but classes and interests. In England "all interests and all classes found protection in her legislatures, and so he would have it in this country."¹¹⁴ In the 1790's virtual representation had been defended on the grounds of utility, on the basis that "experience proved it worked."¹¹⁵ Macdonald as well argued for its utility on the basis of experience. He carefully pointed out to those in the Legislative Assembly that under this system England had weathered the storms of revolution, war, and domestic dissension.¹¹⁶ In other words, the system had proven by experience, historical experience, that it worked and should be kept. What other reason was needed?

In sum, by the mid-nineteenth century there was a preference amongst not only Tories but even Reformers for the practical and the useful over the abstract and the visionary.¹¹⁷ In political terms political institutions came to be evaluated on utilitarian grounds. Some asked had they passed the tests of experience? Others asked: were they practical? Were they fitted to Canadian circumstances? What were their merits, their costs and benefits? From the foregoing it is perfectly correct to say that nineteenth century Canadians rejected abstract political thought. To say, however, that they refused to be guided by political thought at all, that they preferred atheoretical practical activity, is not only nonsensical but wrong.

Tory Attitudes Toward Union in the Pre-Confederation Era

The Tory ideology I have been examining is clearly derived from the same tradition as Loyalism and Court or Established Whiggism. It too, expressed a fear of democracy and accepted the lessons of eighteenth century political science. The authority of government had to be strengthened to counteract the democratic impulse and prevent liberty from being abused. It showed little fear of concentrated political power and believed such power could also be used to promote the interests of commerce. Tories desired, in particular, a state that would more readily be used for these ends instead of the petty squabbling provincial governments which frustrated their ambitions and dreams of development. In addition they rejected social contract theory with its emphasis on rights and the state of nature. True to the tradition of the Scots, the Tory ideology rejected abstract political thought insisting that ideas and institutions be tested by experience and practice. In the section that follows I will demonstrate that Canadian Tories were also very interested in finding institutional means to tame the ambitions of men. Their thoughts on this matter were to closely parallel those of Hume and Smith.

The institutional means suggested for taming ambition and making men more responsible as often as not involved unions of the British North American provinces of one type or another. Such unions, it was argued, would give parliamentary institutions more room to work and would thereby promote political stability. They would also serve as larger instruments of public credit thus relieving provincial indebtedness and providing the greater financial security needed to build the public works desired by commercial interests. Invariably the

forms of union proposed were highly centralized. Some involved legislative unions. Many proposals envisaged federal unions but with the provinces clearly subordinated to the central government. In reality they can best be described as quasi-federations — where the two levels of government were not seen as operating in separate but equal spheres but rather the provincial levels were given powers of less importance and were subjected to the influence and veto power of the federal level.

Most of the proposals for union that I will examine in the following pages are of this type, i.e. quasi-federations. But I have also chosen some of the more important proposals advanced for legislative union. Although calling for only one level of government for the provinces the proposals for legislative union differed little in ideological character from the calls for federation. In addition there is a continuity between the proposals for union advanced by the Loyalists and those suggested by Canadian Tories. One finds, for example, that the ideas advanced by Galloway, Smith and Sewell were passed on from one generation in Canada to another. For instance, Jonathan Sewell's son married into the family of William Smith and came under the sway of his ideas.¹¹⁸ In turn the younger Sewell published two plans of federation similar in nature to Smith's. Sewell's plans were eventually used as the basis of a plan for federal union proposed by John Beverly Robinson. Robinson and Strachan later also collaborated and proposed a similar plan for federal union. In 1839 an anonymous proposal for federal union by "O.T." liberally borrowed from Strachan and Robinson. In 1849 Strachan's son, James, repeated his father's plan almost verbatim at one of the two meetings of the British American League where the subject of federation was actively

considered. Finally, Sewell as an old man presented his plan to Lord Durham, who mentioned Sewell's support of federation in his Report.

There is, then, a continuity of thinking on federalism before Confederation. The subject by that time was hardly novel. As the decades went by the ideas of the earlier plans were expanded upon and amended to suit Canadian circumstances. In examining these plans certain themes reoccur. Prominent among them is the call to strengthen the executive branch of government. As a corollary to this it was expected that as the powers of the Crown increased, the influence of democratic and factious provincial legislatures would be reduced. Furthermore, through union, the "obstructionist" power of French-Canadians at the provincial level would be mitigated. Many, if not most, of these plans argued that in a larger union, French-Canadians would be swamped, i.e. reduced to insignificance or even assimilated. The ascendancy of the British, in turn, was linked to the ascendancy of a commercial society. Union would also improve the financial health of the provinces, increase public works, improve trade and create a larger market. Furthermore, virtually every proposal asserted, much as Adam Smith had done years before, that men's ambitions could be tamed as larger prizes of ambition were placed before them and their responsibilities increased. This included not only provisions for a federal state but increased participation in the affairs of the Empire as the status of the British North American colonies was elevated. The question of what to do with ambitious men preoccupied proponents of federalism and this concern is reflected in their proposals.

I shall examine each of the above themes in turn beginning with the call to strengthen the position of the Crown in the colonies.

4

Proposals for a Federal Union: Strengthening the Executive

Justice Sewell of Quebec, for example, in his first call for federal union in 1807 lamented the fact that "the crown has but little influence in the democratic branches of [the] provincial legislatures."¹¹⁹ Unfortunately, he said, it lacked the ability to carry its measures in opposition to local provincial interests. In a general parliament, though, this ~~would~~ not be the case for the representation of any one province would not constitute a majority. More local prejudices would as a result "be sunk."¹²⁰ Sewell, in 1807, was not precise in what he meant by "sinking" local prejudices but in an 1810 proposal to unite Upper and Lower Canada he was more definite. He stated then "I am led...to conceive it indispensably necessary to overwhelm and sink the Canadian population [by] English Protestants, and this I believe to be practicable."¹²¹ In the resulting union of all the provinces provision would be made to ensure that the executive officers of government "would feel themselves secure from the attacks of the democratic branches of the provincial legislature."¹²²

In Sewell's mind the politics of local legislatures were factious and petty and failed to take into account the interests of the provinces as a whole. In his proposal the legislative powers of the provinces would have been considerably reduced. Here Sewell is echoing voices of the past such as William Smith and presaging future calls for union of the provinces. Indeed, one of Sewell's contemporaries, Richard John Uniacke, with the exception of the call for assimilation, had expressed similar sentiments. In 1806 Uniacke, had, as stated earlier, advocated two legislative unions of British North America, one for the Maritimes and

one for Upper and Lower Canada on the basis that there were too many petty states in the colonies. Furthermore, he argued, the executive branch was weak and the democratic branch too strong. These problems could be remedied by legislative union. By 1826 Uniacke had changed his mind arguing for a federal union of the provinces instead. However, his basic analysis still hadn't changed. Uniacke was still frustrated by the weakness of executive government in a divided colonial system and appalled by the continued pettiness and factionalism rife in Nova Scotia politics.¹²³ The dangers of division, in Uniacke's mind, were obvious. Accepting the analysis first advanced by Governor Bernard and echoed by others Uniacke insisted that the problems of the American colonies had resulted from the absence of a general government over the whole.¹²⁴ The parallels in British North America were obvious.

J.B. Robinson with the works of Justice Sewell before him reflected similar concerns. Provincial legislatures were too factious and too democratic.¹²⁵ The executive branch was too often at their mercy and its independence and strength too insecure.¹²⁶ Robinson, likewise, accepted the argument that a union of the American colonies would have prevented revolution.¹²⁷

The above diagnosis of the ills of the provinces was repeated by Bishop Strachan in his observations in 1824 on the bill for uniting Upper and Lower Canada. The "influence of the Executive is trifling" he said and the politics of the provinces "too agitated by local concerns and popular views."¹²⁸ However Strachan was unconvinced that a legislative union would be able to withstand the disproportionate numbers of French Canadians. Instead he and Robinson pro-

posed a federal union of the provinces. Within it, "the Canadian character would sink into the English without irritation."¹²⁹ Although it has been claimed that Robinson and Strachan intended to provide a "practicable government for the French Canadians" the language of the pamphlet is clear.¹³⁰ The intention of the union was "to make the French of Lower Canada gradually English."¹³¹ The resulting union would also be able to prevent rebellion and ensure political stability.¹³²

In the late 1830's in the aftermath of the rebellions in Upper and Lower Canada this claim must have taken on added significance. The democratic menace was all too threatening. A report issued in February 1838 by a select committee of Upper Canadian House of Assembly chaired by Henry Sherwood contended that the "safety and security of [the] lives and liberties" of most colonists in North America depended on "repelling the encroachments of Democracy, which they detest."¹³³ These encroachments were reflected in the weakness of the executive and its dependence on the legislative assembly for the maintenance of an adequate civil list. The report also called for a centralized union with very limited powers for provincial assemblies. Such a union, it was hoped, would greatly accelerate "British ascendancy" in the colonies.

And so it went, proposal after proposal, decrying the rising power of democracy and political instability. Repeated as well was the need for "British ascendancy." Even Lord Durham who spoke of the need to improve administrative effectiveness called for a federal union of the colonies and the assimilation of the French Canadians.¹³⁴ An anonymous pamphlet by O.T. reiterated these themes.

A federal government was the solution to Canada's many ills. There was, for example, O.T. said, a growing contempt in society for authority, especially among the masses who "are blind in every country" and are "prey to every breeze of passion and every sudden impulse."¹³⁵ The result is that "neither ability in the management of public affairs nor moral worth, are recommendations to their favour."¹³⁶ Fortunately, however, de Tocqueville was wrong and democracy was not inevitable.¹³⁷ Rather distinction was a "natural propensity of the human condition."¹³⁸ Moreover, given a strong central state with control over education and religious instruction, the masses could be taught "to distinguish between liberty and licentiousness, and between social tranquility and anarchy."¹³⁹ Control over education and religious instruction would hasten the assimilation of the French O.T. added. It was fully expected that the "Canadian character would by degrees sink into the English without irritation" within a general union.¹⁴⁰

These themes were repeated throughout the 1840's, 50's and even 1860's. James Strachan, for example, repeated in a speech to the British American League his father's calls for federation and justified it in almost identical language.¹⁴¹ Even calls for legislative union revealed the same litany of ills. In 1854, for instance, J.W. Johnston, Conservative Premier of Nova Scotia, made a speech advocating a legislative union of the British North American colonies and the West.¹⁴² Johnston accepted many of the conclusions of earlier proposals for federal union. He agreed, for example, that the American revolution could have been prevented by union and like others before him expressed his disdain for the

petty politics of the colonies. Employing Aristotle's classification of governments he proceeded next to demonstrate why the British system of mixed government was inapplicable to Nova Scotia. At this point Johnston revealed the ambiguity in Tory thinking about the nature of British North American society. Unlike O.T. he accepted it as democratic. "Here," he said,

we have not and cannot have the presence of the influence of monarchy or nobility, and all attempts at imitation will have but spurious and incongruous results. We have, and can have, but one element of government — the democratic, and that is our interest so to regulate and check as to preserve a simple, an incorrupt and an economic system of government.¹⁴³

Nova Scotia, he said, was vexed by party division and lacked a "middle class" that would promote a healthy public opinion. The result, he concluded, led to "imbecility of Executive action, to defective legislation, and above all, to corruption."¹⁴⁴ The solution? A union of all the colonies which would offer a wider scope to ambition and mitigate the acrimony of party politics thus giving British institutions a greater sphere in which to operate.

This latter point, the importance of a union as a safety valve for the ambitious few in provincial politics was, as I shall soon see, repeated over and over again by almost all Tory proposals for provincial union.

In the 1850's and 60's P.S. Hamilton of Nova Scotia restated once again the concern expressed in the preceding pamphlets over the lack of a strong executive in the provinces. Hamilton, for example, wrote a series of pamphlets during this period calling at first for legislative union then later acquiescing to federal union.¹⁴⁵ In 1864, in an introduction to his republished pamphlets, Hamilton argued that a major cause of political instability in the colonies was the frequent

change of Governor Generals. "We require," he said, "a permanent executive...at home."¹⁴⁶ Hamilton's political science told him that governments without permanent executives, i.e. republics, were short lived and the recurring changes of Governor Generals meant "our political institutions are essentially republican."¹⁴⁷ Hamilton's first proposal called for a legislative union of all the provinces led by a hereditary vice-roy. He believed that such a union would be able to transcend the pettiness, partyism and factionalism endemic to colonial legislatures. It would also ensure British ascendancy. "One great object to be obtained by the Union," he said, "is a complete breaking down of all local prejudices, and a fusion of races, throughout the Provinces."¹⁴⁸ In this union municipal corporations would replace provincial governments. Later, as I indicated, he changed his mind and accepted the existence of provinces but with jurisdiction only in very specified areas.

The Problem of Ambition

Of all the themes entertained by the writers that I have just considered none is more ubiquitous than the theme of what to do with ambitious men. Most believed that the dissensions and discontent of colonial politics would be vastly ameliorated by a union of the provinces that would provide worthier offices and outlets for the ambitious few. These offices would serve as a safety valve for colonial discontent and would attract men of greater talent to political office. In addition such a union would elevate the provinces vis-a-vis the Empire and, combined with representation in the British Parliament, would make the colonies very nearly a partner in colonial affairs. J.B. Robinson, for instance,

argued that political union "would elevate the colonies into an important and really integral part of the empire."¹⁴⁹ Colonial representation in the Empire would provide "an opportunity of making known their wants, their interests, and their dangers in the great Council of the Nation."¹⁵⁰ The union, in sum, "would put an end to all danger and inconvenience from petty factions and local dissensions."¹⁵¹

These sentiments were frequently repeated. Bishop Strachan believed that in a federal union "a seat in the Legislative Council or Assembly would become a very great object of ambition and success would produce nearly the same effect on inspiring young men as a title in Great Britain", i.e. it would satisfy their ambition.¹⁵² Uniacke argued that by means of a federal union able men would find opportunities for their abilities, thus ending petty intrigues.¹⁵³ Lord Durham, in this respect, differed little from Canadian Tories. Like Adam Smith Durham was troubled by the problem of what to do with the ambitious few who had caused so much trouble in Upper and Lower Canada. Like Smith he came to the conclusion that they could only be restrained by allowing them to assume higher offices and participate in decision making:

As long as personal ambition is inherent in human nature, and as long as the morality of every free and civilized community encourages its aspirations, it is one great business of a wise Government to provide for its legitimate development.... We must remove from these colonies the cause to which the sagacity of Adam Smith traced the alienation of the Provinces which now form the United States: We must provide some scope for what he calls "the importance" of the leading men in the Colony beyond what he forcibly terms the present "petty" prizes of the paltry raffle of colonial faction."¹⁵⁴

For Durham either a general legislative union or a federal union of the provinces

would have provided the necessary scope for the ambitious few. Other proposals were to continue this line of argument. O.T.'s sentiments, for example, were similar to Durham's although he borrowed literally and without acknowledgement from Strachan's 1824 proposal. By means of federal union, O.T. insisted "a new and inexhaustible field of ambition for youth, much beyond anything now before them, would be opened."¹⁵⁵ Canadian participation in the Imperial Parliament would also have a moderating effect on colonial politics.¹⁵⁶ It would attract men of greater stature to public office. According to O.T. "Public men must be rewarded according to their rank and ability, or they will decline the services of the government; and inferior men who remunerate themselves a thousand ways, and laugh at the parsimony and credulity of the people, will readily take their place."¹⁵⁷

In later proposals for federal and legislative union similar arguments were to be made. The debates of the British American League in 1849, for example, emphasized the importance of federal union as an outlet for ambition.¹⁵⁸ J.W. Johnston, in 1854, continued to press the same point. He argued that the provinces were too small, too poor, too backward for the British Constitutional system to work properly. Only by a larger union, in this case a legislative union, could "an enlarged and more wholesome public opinion, a wider range for talent, and more extended scope for the aspirations of ambition, ... be found."¹⁵⁹ Finally, one finds that P.S. Hamilton made much the same argument. Hamilton felt that personal ambitions were being thwarted in British America. The result? "A strong feeling of discontent among the more intellectual and better educated

classes, and the splitting up of the whole community into small, but violent political factions."¹⁶⁰ A union of the colonies would remove the causes of discontent and smother the factious spirit of the colonists. The ambitions of the few satisfied, "the old, narrow, partizan spirit would readily die out...and politicians...would move with a higher and nobler aim."¹⁶¹ In the Confederation Debates, John A Macdonald was to repeat these themes.

As I have indicated the preceding arguments vary little from those made by Adam Smith and his Scottish contemporaries. Throughout the first half of the nineteenth century it was made clear that the ambitious few of the colonies, particularly those from the "more intellectual and better educated classes", were highly dissatisfied with provincial governments incapable of satisfying their high ambition. Instead they took to quarreling and bickering with one another producing the factionalism and pettiness of provincial legislatures. Once their importance was recognized, and elevated positions provided, it was argued, political passions would cool within the larger union, men would become more responsible, and discontent and factionalism would virtually cease. This argument, it should be pointed out, conforms with the lessons of eighteenth and nineteenth century political science which taught that the territorial size of a state and strength of executive authority were linked to political stability. For some a union of the provinces, most often federal, would suffice. Others favoured provincial union and representation in the Imperial Parliament as Adam Smith had suggested. Even those opposed to federation such as Joseph Howe and T.C. Haliburton used the argument of ambition.¹⁶² Only in this case Howe and Halibur-

ton believed that ambition could best be satisfied through the Empire without the mediation of federalism. Haliburton, for example, even went to England to live and eventually became a member of the Imperial Parliament.

Economic Development

There were other arguments for political union besides those of political stability. The factious and petty nature of provincial legislatures meant that the energies of government were deflected from their primary objective, that of promoting economic development. To begin with, a united and politically stable legislature would be better able to regulate trade and control revenue.¹⁶³ These revenues and the combined resources and borrowing power of the provinces could, in turn, be used to alleviate provincial debt and provide for the building of public works, i.e. roads, canals and later, railroads.¹³⁷ These arguments were equally true of the 1850's as they were of the 1820's and 30's. Supporters of schemes for union left no doubt that in a reorganized political union the state would play a more active role in the financing and building of necessary public works. In 1854, for example, P.S. Hamilton called for a legislative union on the basis that "political isolation hinders the provinces from carrying out any great work in which they are interested in common, and which requires their joint efforts."¹⁶⁵ The example cited by Hamilton was railways.

The works of Canadian economic historians substantiate the points made above. In the first part of the nineteenth century Canada's commercial classes continually pressed for union of one type or another. It was recognized particularly in Upper and Lower Canada, claims Aitken, that "politically the provinces

might be divided, but economically they were a unit."¹⁶⁶ Harold Innis essentially agrees and contends that by the late 1830's "the demands of the new commercial class for lower costs of transportation by roads and canals for imports and exports involved a reorganization of the political structure."¹⁶⁷ The necessity for capital expenditures by the state was not only responsible for the act of union, says Innis, it was also responsible for Confederation and its "expenditures on railways."¹⁶⁸ Union was also compelled by the fact that Canadian provinces often teetered on the edge of bankruptcy because they engaged in development projects on a greater scale than their fiscal resources could support.¹⁶⁹ Union, particularly, confederation, may be seen as a credit instrument.¹⁷⁰

Complementing the belief that political union would underwrite the costs of public works in vital areas of transportation was the belief that it would bring an expanded market and the means to exploit Canada's resources.¹⁷¹ Hamilton, for example, dreamed of a transcontinental economy and a market that stretched from the Atlantic to the Pacific. Each part of the nation would exchange its surpluses with one another.¹⁷² Hamilton, like nearly all proponents of union, saw political and economic union as being inseparable from the other.

In addition it was frequently argued that union would also serve as a means of checking the rising commercial might and ambitions of the United States and protecting the interests, primarily economic, of British Americans. Finally, it was asserted that colonial union would provide a better means of defence against the Americans although this tended to be of more concern to earlier rather than later advocates of union.

In summary, there were a number of similarities in the proposals for union. All seemed to envisage a form of union that was strongly centralized, politically stable and capable of encouraging economic development. There was a preference amongst some, e.g. Uniacke in 1806, Johnstone, and Hamilton, for the elimination of provinces altogether. Even those who did favour the continuation of provinces did not possess a classical vision of federalism as expounded by K.C. Wheare. Rather, they tended to see the provinces as subordinate to the general parliament and granted only very local powers. The general parliament, on the other hand, was usually given the power to regulate commerce, levy taxes and duties on imports and exports, pay off provincial debt, promote the building of roads, canals, etc., and pass laws for the "peace, welfare and good government" of the united provinces in all matters of general interest. Invariably the general parliament was seen as possessing residual powers and the Governor General given powers to disallow the acts of provinces.

Reform Ideology in Pre-Confederation Canada

Up to now our discussion of nineteenth century Canadian political ideology has focussed almost entirely on Canadian Toryism and its vision of state and society. Yet, powerful as it was, Toryism was not unopposed. In many ways its counterpart, Reformism, was to project an image of state and society that was precisely the opposite. What Toryism extolled Reformism condemned. Where Toryism embraced commerce, Reformism embraced land. Against luxury Reformers spoke of frugality. While Toryism insisted that influence and patronage were necessary to make the political system work Reformers spoke of

the man of independence and virtue. Where Toryism emphasized executive authority Reformers defended the power and privileges of the House of Assembly. Toryism accepted the need for a complex and powerful state while Reformism insisted that government be simple and close to the people. In sum, the contest between Reformism and Toryism was between different classes of property owners, one dominated by trade and finance, the other largely by small-landowners, each with different images of man, society and state.

It is evident from the description given above that Reformism, like Toryism, had pre-nineteenth century roots. Clearly, at the core of Canadian Reformism is the republican tradition that was firmly anchored in eighteenth century England and France as the Country party and the works of Montesquieu attest. While Reformism, particularly in English Canada, was to be complemented by admixtures of other belief systems, e.g. those of the Dissenting religions, Chartism and Cobdenism, it remained very much in the republican tradition. This should not come as a surprise for the tradition had continued into the nineteenth century in Britain, the United States and France. The republican tradition imparted to eighteenth and nineteenth century thought, the concept of corruption, with all its moral connotations, which was used to attack the established order.

In Britain, for example, the more radical elements repeatedly warned the nation about the threat of corruption. They recognized the dangers posed by political influence, i.e. the use of Crown patronage, but doubted that Parliament could reform itself without the efforts of the people. They demanded democratic reforms and a Parliament that was more representative of and responsive to the people.¹⁷³

One of the more radical reformers who qualifies as a nineteenth century bearer of the republican tradition was William Cobbett, editor of the *Political Register*. Cobbett's concern was with the social effects of the industrial revolution and his thought was anti-capitalist in nature. Cobbett wrote often of the plight of small farmers and farmer labourers, displaced by the enclosure movement, high rents and forced into the city where they became the new working class. According to E.P. Thompson, Cobbett,

gathered up all the vigor of the eighteenth century tradition and took it forward, with new emphasis, in the nineteenth. His outlook approximated most closely to the ideology of the *small producers*. The values which he endorsed...were those of sturdy individualism and independence. He lamented the passing of small farmers; of small tradesmen, the drawing of the resources of the country together into "great heaps"; the loss by the weavers of the frank and bold character formed in the days of their independence.¹⁷⁴

Cobbett hurled invective against "Old Corruption", the National Debt, the paper-money system, speculation, taxation and the parasites who benefited from their existence. "We are," he said, "daily advancing to the state in which there are but two classes of men, *masters*, and *abject dependants*."¹⁷⁵ Cobbett's arguments, as E.P. Thompson tells us, "were moral as well as economic" and served to shape nineteenth century working-class culture and chartism with its memories of rural life and subsequent dispossession.¹⁷⁶

Robert Kelley substantiates these arguments as well. He claims that the fear of corruption was a trans-Atlantic phenomenon, found in England, Canada and the United States. He writes:

Tories and Republicans, as Liberal-Democrats saw the matter, ruled not simply through aristocratic elites, but through skillfull use of corruption. From Jefferson's day to Cleveland few issues so obsessed the Liberal-Democratic mind as this one....In 19th century Canadian and American politics, Liberal-Democrats

were convinced that corruption was the principal danger that faced democracy and responsible government. [Alexander] McKenzie and Cleveland both believed that it was the enemy's chief means for deforming the government and debasing the morals of the people at large.¹⁷⁷

As Richard Vernon has told us, the theme of corruption surfaced in nineteenth century French political thought as well. Proudhon, says Vernon, was preoccupied with the concept of corruption. Three chapters in the first part of Proudhon's; *Du Principe fédératif*, for example, are concerned with corruption.

According to Vernon:

The corruption which especially concerns Proudhon is...the corruption of the democratic republic, whose principle, according to Montesquieu was that of "virtue". What corrupts virtue is passivity, lack of responsibility, dependence, all of which undermine the engaged concern for a common good which the democratic citizen is required to have. This is the essence of Proudhon's critique of the grossly centralized nation-state, France in particular, in which the citizen has become a mere subject....Citizenship requires, on the contrary, the diffusion of a spirit of responsibility, of self-government, of local and individual initiative.¹⁷⁸

In sum, one can see that in the nineteenth century the theme of corruption had lost little of its meaning. It was to be used to indict statism, centralization and growing executive power. Emphasis instead was placed on virtue, independence, political participation, decentralization of political power and the primacy of the petty producer. Furthermore, it was realized that capitalism, particularly commercial and finance capitalism, would lead to the destruction of the participatory society and towards a society and state based on privilege, influence and centralized political power.

The Theme of Corruption and Reform Ideology in English Canada

In the pages that follow I will indicate the extent to which the republican tradition dominated Reform ideology in pre-Confederation Canada. One finds

that, like their North Atlantic counterparts, corruption was a central concern of Canadian Reformers both English and French. There was a widespread fear of the effects of Crown influence and the abuse of the patronage system. Crown influence, though, was just one aspect of a societal system of influence that was threatening the independence of the petit-bourgeoisie. Commercial and financial capitalism with its banks and credit system was every bit as threatening. So was state religion. Dissenters made up the core of the Reform movement in English Canada and they were adamantly opposed to monopolies in religion. Canadian society, it was argued, with the yeoman farmer as its base, was essentially democratic. Since it was a democratic society non-democratic institutions such as a state church or non elective legislative council could not be erected upon it. Democracy, moreover, required a virtuous and simple people and that the literature informs us, Canadians were. Because they were virtuous and simple they insisted that government had to reflect these qualities. Emphasis was placed on local control and government that was responsive to the popular will.

In British North America the Reformist struggle against Toryism began at different times, in Upper Canada about 1820, Lower Canada 1815, and Nova Scotia 1830.¹⁷⁹ An indication of many of the arguments raised can be found in a political pamphlet that circulated in British North America at the time. Entitled "The Englishman's Manual or A Dialogue Between a Tory and a Reformer" and written by Walter Fawkes and published in London in 1817 it discusses many of the concerns Reformers had on both sides of the Atlantic.¹⁸⁰ Reformers, Fawkes claimed were at "issue with what our modern Tories call Influence, but what our more plain spoken forefathers designated by the coarser name of Corruption."¹⁸¹

In his treatment of "Corruption". Fawkes quoted liberally from both Bolingbroke and Machiavelli.¹⁸²

The Gourlay Movement

In English Canada, the beginning of opposition to Toryism can be seen most clearly in what has been described as the Gourlay Movement, named after Robert Gourlay, a Scottish immigrant who came to Canada in 1817. Gourlay, himself, was very much influenced by the oppositionist thought of late eighteenth and early nineteenth century England. His biographer, Lois Milani, claims Gourlay's political views were close to "an almost forgotten party called the Country Party which opposed court corruption."¹⁸³ Indeed, the theme of corruption was central to Gourlay's thought. In his pre-Canadian pamphlets, for example, he lamented "the gnawings of domestic decay" in Great Britain.¹⁸⁴ He doubted, moreover, the prospects of reversing the process and stated in rather florid terms:

O places and pensions, ye are irresistible! O aristocracy! thou has hast degraded our King; thou are not only the gloomy ivy which feeds on the mouldering walls of palaces and lordly towers; the crawling moss which adheres to every stunted plant stuck in an acre of feudal ground art thou!¹⁸⁵

Although certainly indebted to the country tradition of opposition, Gourlay was also very much influenced by his contemporaries. Most of all Gourlay admired William Cobbett and patterned his style after him.¹⁸⁶

Not long after his arrival in Upper Canada Gourlay quickly saw the need for political reforms and a better system of land management. Upper Canada, it was evident, was also under the sway of corruption. The province had to sweep

away the "filth", "vermin" and "lice" of the Tory system before it would become attractive to other emigrants.¹⁸⁷ Changes in the constitution could ensure this, for constitutions, he believed, were man made and could be revised. They also had to correspond to the material on which they were to be imposed. "Our constitution," he said in words that echo Machiavelli and the Country tradition "...is that beautiful contrivance by which the people, when perfectly virtuous, shall become all-powerful; but which reins back their freedom in proportion to their vice and imbecility."¹⁸⁸

Gourlay's democratic propensities, while widely supported, did not sit well with his Tory opponents and eventually he was expelled from the province. Gourlay's protests and efforts at popular organization and change, though, became part of the tradition of later reform from William Lyon McKenzie to the Clear Grits. During most of this period the corrupt system of Tory rule was to be condemned over and over again and compared to the virtuous and independent farmer, shopkeeper etc. There is, though, little to indicate in the political literature of the period that Reformers were explicitly aware of their links to the ideology of eighteenth century opposition. One exception to this can be found in the columns of the *Upper Canadian Herald* of Kingston. During the 1820's the *Herald* was edited by Hugh Thompson, a non-republican radical, who had once given support to Robert Gourlay. The sources of Thompson's radicalism can be found in his reading of English constitutional history and the ideas of the Country party as first expounded by Lord Bolingbroke.

Through these sources Thompson learned about the eighteenth century Country party that opposed the narrow and selfish interests of the Court party and its attempts to destroy the balance of the English constitution and erect a form of despotism. Graeme Patterson maintains that "a mirror image of this situation...[can] be found reflected in the pages of Thompson's *Herald*."¹⁸⁹ When the Family Compact proposed for example, that the pay of assembly members be abolished Thompson warned that members would then become dependent upon executive patronage. "Such a state of Court influence, the most subtle species of bribery, would tend to render members really representative of the Crown, instead of, as the Constitution intends, the Representatives of the People."¹⁹⁰

It is Graeme Patterson's contention that the "compact theory" of the 1830's is very much indebted to the "court party" rhetoric of the 1820's. Patterson claims that the

"compact" exercised power very much after the fashion of a "court party". It surrounded the governor, whom it moulded like wax; and it filled offices with its partisans. Like a "court party", moreover, it upset the balance of the constitution. The whole of the provincial revenues were at its members mercy; "they are the paymasters, receivers, auditors, Kings, Lords and Commons".¹⁹¹

The final phrase of the preceding quote Patterson borrowed from W.L. Mackenzie who, more than anyone else, epitomized resistance to the Family Compact in the 1830's. Unlike Hugh Thompson, though, Mackenzie gave little indication that he was aware of the tradition within which he was acting. His themes, however, were similar to Thompson's. He returned over and over again, for example, to the Crown's influence and its threat to legislative independence. He asserted "the power of the Crown has increased, is increasing and ought to be

diminished."¹⁹² This he and other members of the assembly concluded in the *Seventh Report on Grievances* was the main bone of contention: "the almost unlimited extent of the patronage of the Crown, or rather of the Colonial Minister for the time being and his advisers here, together with the abuse of patronage, are the chief causes of colonial discontent."¹⁹³ The struggle between assembly and executive was symbolized most clearly in the battle to control the civil list and public expenditure. This, too, was a repetition of the struggle between Court and Country in eighteenth century England.

In the eyes of Reformers the Crown's threat to the balance of the constitution was just one part of a vast web of corruption and influence spreading throughout the province. It included not only the banks and their privileges, but also the established Church, land companies, and the legislative Council all of which threatened to destroy the independence of not only the assembly but the people as a whole. The Tories were condemned as sycophants, parasites feeding off the producing classes. This led one newspaper editor to condemn those who "wallowing in luxury...arrogate to themselves the right of governing....[They] are not the Producing class in any other sense than this — they produced discord — engender strife — create rebellions — foster disease — and fatten upon the miseries of their fellow creatures."¹⁹⁴ W.L. Mackenzie concurred commenting "the farmer toils, the merchant toils, the labourer toils, and the Family Compact reap the fruit of their exertions."¹⁹⁵

The Virtuous Society and the Democratic State

Against the Tory system of elite control and influence Reformers posed democracy. Democracy, to Reformers, did not simply refer to a system of government, it referred to a type of society as well. What was being argued, in Aristotelian terms, was that the social constitution of a country, its material base, very much limited the institutions that could be erected upon it. Anything else was unnatural and disruptive as the following pamphlet makes clear:

Since I have seen that the constitution of society in British North America is perfectly homogeneous with that of Republican America, the conclusion is evident, that any attempt to force things out of their natural channel, can only tend to derangement and disorganization, and must ultimately prove a signal failure, recoiling upon and overwhelming its authors, and convulsing the whole body politic.¹⁹⁰

In order for democracy to survive it required special qualities of a people. If virtuous, the people "would keep the reins of government in their hands until corruption and intrigue wrested them out."¹⁹⁷ Being a system based upon virtue democracy was the "only form of government...in accordance with every feeling of an honest heart, and the happiness and prosperity of any country. Let education be encouraged, and a strict guard placed against corruption; and then democracy will be as lasting as the world."¹⁹⁸

Virtue, in Reformers eyes, resided in the people. The question, though was, who were the people? According to the author of "Prospectus" the "body of the people [were]...the yeomanry, the agricultural, mercantile, mechanical labouring classes."¹⁹⁹ In other words the people represented the petty producers of Canada, the farmer, the small merchant, the artisan. Above all, the people consisted of Canada's farmers, the "manly freeholders" as Mackenzie described

them.²⁰⁰ Farmers, in particular, were portrayed in terms of their rural virtues. They were "honest", "sturdy", "manly", "intelligent", the true bearers of freedom. In his first issue of the *Colonial Advocate* Mackenzie addressed the farming population in these terms urging them to cast their votes wisely:

On you alone, Farmers, does Canada rely. You are the sole depositories of civil and religious liberty....You are the only true nobility that this country can boast of....Choose the wisest, the honestest, the most esteemed of your body; men who have long been known as untried patriots, in whose souls the voice of freedom is not ~~yet~~ extinct.²⁰¹

The rhetoric of virtue characterized Reform thinking throughout the first half of the nineteenth century. Probably the best example of such language can be found in a letter published in 1848 in an Upper Canadian journal, the *Agriculturalist and Canadian Journal*. The letter went further than most arguing that farmers were not only the noblest class in society but the only producing class. Farmers, it said,

are the *first class*, in the noblest and best sense. The Merchants, Mechanics, Priests, Lawyers, Artists, Literati, etc., etc., are all non-producers — mere hangers-on, dependents of the husbandman. He can do without them, they cannot live without him. If you wish to see genuine virtue, true patriotism, unostentatious benevolence, sterling honesty and practical piety, go among the cultivators of the soil. Look not for these rarities in the crowded city; they will not vegetate in the tainted atmosphere that surrounds the haunts of busy, plotting rivalry, priestly intrigue, scheming political selfishness, loyal trickery, and reckless commercial gambling. Even in a country as young as Canada, with a changing, heterogeneous population, the truth of this contrast becomes every day plainer to the view. The sturdy yeomen are the true conservatives of society. They are the substratum — the foundation of the social fabric — and if that be defective, the whole building will tumble in ruins. It has been so in all past time, in all countries; it is so in ours.²⁰²

Because farmers formed the "substratum" of society, it was argued that political institutions, like other social institutions, had to reflect this fact. Government, like the farmer, had to be simple, honest, independent, virtuous and close

to the people. A one-class democracy of property owners demanded a more democratic government. The House of Assembly, for example, had to be independent and the principal forum of decision-making reflecting the concerns of farmers. One pamphlet queried "Are not the interests of the landed proprietors, the interests of the Commons of Canada....If the interests of the landed proprietary can be guarded by the people themselves...what other interest is there in Canada whose protection requires the existence of an aristocracy?"²⁰³ Given the want of an aristocracy there was no need for a legislative council that exercised meaningful political power. Rather, what was needed was responsible government conducting public affairs with the advice of officers possessing the confidence of the people's representatives in parliament. Government also had to be cheaper, efficient, debt free and responsive to local concerns. Inevitably comparisons were made with state governments in the United States which seemed to possess these features. However, only when the House of Assembly controlled public expenditures and taxation could the goal of cheap, simple government be realized.

The Rebellion of 1837 and the Changing Face of Reformism and Liberalism in English Canada

The efforts of Reformers to construct a society and state harmonizing with their vision was delivered a severe blow by the failure of the 1837 Rebellion. The more radical leaders were removed and a more moderate urban leadership emerged to continue the fight for responsible government. However, once that was achieved the Reform movement splintered into three different groups.²⁰⁴

The first group, the Clear Grits, led by William Macdougall tried to maintain the influence of the more radical agrarian element of the Reform movement. The second group, led by George Brown, attempted to bring together rural and urban forces under a leadership headed by Toronto business interests. The third group, led by Francis Hincks, eventually joined forces with John A. Macdonald to form the Liberal-Conservative party dedicated to the promotion of big business Whiggism.

Of all the groups, the one headed by George Brown and the *Globe* was the largest. While Brown was closely connected with business interests his paper, the *Globe*, peppered its pages with the traditional language of Reform. The *Globe* spoke frequently of the "intelligent and incorruptible yeomanry" of Upper Canada and never tired of attacking the corruption of the cities, the Grand Trunk, the bureaucracy etc.²⁰⁵ The historian G.W. Brown claims that the voice of agrarian democracy was raised at the Reform Convention of 1859. "Here," he says,

we listen to the farmer of Canada voicing his suspicions of merchants, bankers, and politicians who fattened themselves at the expense of the honest toilers of the frontier. There was a sturdy belief in the essential virtues of a free and enfranchised citizenry. Government, it was felt, should be near at hand and always under the scrutinizing eye of the sovereign people; it should be simple, inexpensive, and entrusted with as few responsibilities and powers as possible.²⁰⁶

But of the two groups, farmers and urban business and professional men, the *Globe*, says J.M.S. Careless, tilted towards the latter.²⁰⁷ The fact that agricultural classes and elements of urban business classes were now becoming linked indicates that, as in the United States, agriculture had developed to the point that farmers with surpluses to sell now saw it was in their interests to ally with

business interests. John McCallum and David McNally, for example, agree that this was the case. During the 1850's and 1860's Upper Canadian wheat was proving to be the engine of economic growth.²⁰⁸ According to McCallum, the growing agricultural surplus for not only domestic but also external markets stimulated a "classic pattern of industrial growth" in Upper Canada marked by "industrial development based on the internal market, internal-sources of capital, internally generated transportation facilities and locally produced raw materials."²⁰⁹ "Agriculture," claims McCallum "provided the market directly in the form of the farm population and indirectly in the form of the urban population which it sustained."²¹⁰ It was agriculture that furnished much of the raw materials for industry. It was also agricultural growth that provided, directly or indirectly, capital, transportation facilities, and other infrastructure.²¹¹ In sum, says McCallum, Upper Canada's "industrial growth...was inextricably bound up in an organic process of wheat-based economic growth."²¹² David McNally essentially concurs with McCallum's analysis.²¹³ McCallum and McNally give us a plausible explanation for the rural-urban linkage that was found in Brown's Reformism.

Indicative of this linkage was the type of liberalism increasingly found on the *Globe's* pages, that of the mid-Victorian material liberalism of Cobden, Bright and Gladstone.²¹⁴ The liberalism of Cobden and Bright, it must be remembered, also had much in common with agrarian reformism. Both were out-groups, one old, one newly rising, that were fighting entrenched power whether that be political, economic or religious. Cobdenism particularly was popular with

Evangelical Christians. According to Raymond Cowherd "Cobden's interest in Evangelical causes and his espousal of religious freedom endeared him to the Dissenters."²¹³ Brown, as well as much of his rural readership, it should be noted, were Dissenters not long arrived from England.²¹⁵

Only the organ of the Clear Grits, the *North American*, continued to espouse the interests of the more radical agrarian sectors of the province. Careless tells us that elements of Chartism, which as I indicated earlier, embraced the rural myth, and Cobdenism appeared on its pages.²¹⁷ It continued to argue in the Country tradition contending that the executive was "too powerful, extravagant, and corrupt."²¹⁸ It argued also for a written constitution and the separation of powers, common themes in Country rhetoric stemming from the days of Harrington.

In summary, the language of corruption played an important role in Reform ideology even while it mixed with the ideas of Dissenters and mid-Victorian Liberalism. Later Liberals such as Alexander Mackenzie demonstrated the extent to which the language of corruption, with its broad moral overtones, became a part of nineteenth century Canadian Liberalism. According to Robert Kelley, Mackenzie's believed that "corruption was the greatest evil of the age, that it sprang fundamentally from unnatural ties between business and government."²¹⁹ Furthermore, says Kelley, Mackenzie "was convinced that in fighting corruption in government he was battling to save the soul of all of society."²²⁰ Mackenzie himself stated:

• You may depend upon it that if you once relax the laws of public morality in

high places, the contagion will spread like a plague all over the community, you will induce social and financial disorder, and an utter want of principle will be infused not only into our Federal and Provincial Governments, but into the very centre of our municipal and school systems, which will bear its fruit for many years to come, and prove disastrous to our boasted system of self-government.²²¹

For years the focus of Mackenzie's attacks on corruption and "unnatural ties between business and governments" centred on the connection between Tory governments and the railway builders. Finally, like so many of his Liberal contemporaries, Mackenzie identified himself with Christian Chartism and the Liberalism of Richard Cobden. Of the latter he said "I believe myself, that the principles of Richard Cobden, and the principles of free trade over the world, are the real principles of civilization."²²²

English Canadian Reformers and Federalism

Suggestions for federal union coming from English Canadian Reformers were few. Not until George Brown gave it his blessing in the late 1850's did Reformers give it active consideration. Proposals for federations were advanced by W.L. Mackenzie and Robert Gourlay in the 1820's but they were so sketchy and incomplete that it is very difficult to pass comment on them. It appears that Mackenzie, for example, saw federalism as a step towards great mastery and control over local concerns. So many things that were poorly attended to—currency, post-office, bankruptcy laws, poor laws, naturalization laws, post-roads—would receive the attention they deserved under federation. As it was the colonies were "disjointed, disquieted, dependencies, liable to become the prey of revolution, and oppressed by a government which ought to protect us."²²³ Once united, but still faithful to Great Britain, they could raise their voices and be recognized.

Unfortunately, Mackenzie's proposals were not developed sufficiently enough to allow lengthy comparison with the proposals of his Tory contemporaries. He certainly did not pursue it with the vigor they did. Robert Gourlay's proposal of 1825, likewise, was not fully and clearly developed. He perceived a confederation of all the provinces "each to be as free within itself as any of the United States and the whole to hold Congress at Quebec."²²⁴ This seems to indicate given the vigorous nature of state governments in the United States, that Gourlay envisaged the provinces as partners, not subordinates, in any federal union. Gourlay's comments on this matter are, though, very inconclusive. Elsewhere, for example, he argued that the union would become stronger as a standard legal code replaced provincial laws. Gourlay was also among the first to give federation a specific economic task—the building of a system of commercial canals under the supervision of a central government. By federation and such improvements as canals, Canada would be that much more attractive to the land-hungry emigrants that Gourlay wanted to come to Canada. Aside from the proposals put forward by Mackenzie and Gourlay, Reformers were not that concerned with federalism until the late 1850's.

The Reform Tradition in French Canada

The controversies which marked the politics of nineteenth century Upper Canada were only faintly echoed in the Atlantic provinces. To be sure there were quarrels between the executive and the assembly over the control of patronage and public expenditure but they were much more muted than they were in the Canadas.²²⁵ There also remained a strong suspicion of commercial

capitalism on the part of rural elements as witnessed by the difficulties Uniacke and others had in convincing these groups of the benefits of banks and a credit system. Only in Lower Canada did the struggle between executive and legislature, agriculture and commerce, reinforced by the cleavages of ethnicity and culture, rival, if not exceed, those of Upper Canada. It was, I argue a struggle with clear parallels to the one that took place in Upper Canada.

In Lower Canada the political manifestations of this struggle, the contest between the executive and the assembly, were visible early in the nineteenth century. It was, though, not solely a political or even an ethnic struggle. G. Paquet and J.P. Wallot have summarized the contest in the following manner. On one side, they say; "la société britannique (colons, bourgeois, aristocrates) fait bloc autour de l'Exécutif et du Conseil législatif...Elle s'identifie aux valeurs britanniques et protestantes de même qu'aux intérêts des grandes commerces."²²⁶ On the other side was the société canadienne minus the ancient seigneurial elite which had allied itself with the British. This group we are told "s'agrége en un front commun autour de l'Assemblée législative qui incarne et développe le début de la souveraineté locale. Elle promeut des valeurs coloniales et catholiques "comme les intérêts de l'agriculture et des professions libérales."²²⁷ As in Upper Canada both sides were attempting to use the state to preserve and build a society conforming to their own image. As in Upper Canada the struggle centered around the question of influence and patronage as well as the control over public expenditures.²²⁸ There were frequent assembly campaigns against patronage, favouritism and corruption in the province. In addition there was a

common French Canadian fear of the effects of a protestant, anglo-saxon commercial civilization. Not only the habitant but also the "French-Canadian professionals, even those born and raised in the cities, even the sons of craftsmen, professionals, or merchants, were deeply imbued with the values of their overwhelmingly rural society."²²⁹

The campaign against patronage, favouritism, and corruption in the province, then, represented a struggle not only to assert the independence of the House of Assembly but also to protect the French Canadian nationality and preserve the agricultural base of the province upon which the political support of the professional classes rested.²³⁰ The campaign, cautious at first, gradually radicalized. It was not long before an impasse developed between the House of Assembly and the Executive over the vital question of supply. In effect the political system functioned in a state of conflictual equilibrium until 1840 when the weight of the Imperial government decided matters in favour of the commercial classes.²³¹

Aside from the intensity of the contest and the fact that it was reinforced by ethnicity and nationalism there are a number of significant parallels with similar developments in Upper Canada. The concern with corruption was certainly one. Papineau, for example, in an 1831 election address charged that the provincial administration was "corrupt in its head and in all its members" and that the "hirelings" who administered it were "too corrupt to be reformed and too rotten and too gangreous to be healed."²³² The 92 Resolutions of 1834 make a similar point. In addition, as the Upper Canadian Reformers had done, Papineau argued

that the social base of Canada was democratic. He dreamed of a one class democracy of small property owners. In 1836 he proclaimed in the House: "The Ministers have wished to put into action and into force aristocratic principles in the Canadas [,] whose social constitution is essentially democratic, where everyone is born and dies a democrat; because everyone is a property owner; because everyone has small properties."²³³

Other similarities with Upper Canadian Reformers included an indictment of commercial capitalism, the belief that economic development could only proceed on the basis of agriculture, the belief that farmers and small producers were the best defence of liberty and a tendency to admire the American system with its republican simplicity.

The sources of Lower Canadian Reform ideology are difficult to identify. Papineau, for example, is believed to have drawn his ideas from such republicans as Rousseau, Jefferson, the Jacksonian democrats and also de Tocqueville.²³⁴ Papineau, himself, though stated near the end of his political career that

l'homme et la livre qui font le plus honneur aux âges modernes et à la philosophie du 18e siècle, est bien Montesquieu et son *Esprit des Loix*. Son livre est bon à ce point, vous le savez, qu'il a fait dire que le genre humain ayant perdu la grande charte de ses libertés, Montesquieu l'avait retrouvée et la lui avait rendue.²³⁵

Political Ideologies in French-Canada after 1837

The defeat of the 1837-1838 rebellions in Lower Canada had consequences that were somewhat more severe than in Upper Canada. The professional petite bourgeoisie was severed from its rural economic base. More so than Upper Canada the rupture was complete. The habitants, disillusioned by events,

gradually slipped into a value system which, while retaining much of its agrarian republican symbolism, became both politically and economically conservative retreating from both politics and commerce.²³⁶ This value system was combined with messianism and anti-statism. Replacing the petite bourgeoisie as leaders of the habitants was the increasingly Ultramontaine Catholic Church.

This value system is best reflected in the popular literature of the period. Novels of the period were filled with the image of the land and the Catholic Church as sources of economic and cultural salvation to French-Canadians.²³⁷

The most popular of these was Antoine Gerin-Lajoie's *Jean-Rivard*, which was widely read in French-Canada in both the nineteenth and twentieth centuries. Originally printed in 1862, it enjoyed ten printings—seven alone between 1913 and 1958.²³⁸ Gerin-Lajoie's values are captured succinctly in an abstract taken from his diary in 1849:

I have returned to my project of going to live in the country as soon as possible. Oh, if only I were a farmer! He does not become rich by beggaring others, as lawyers, doctors and merchants sometimes do. He draws his wealth from the earth: his is the state most natural to man. Farmers form the least egotistical and most virtuous class of the population. But this class has need of educated men who can serve its interests. The educated farmer has all the leisure necessary to do good; he can serve as a guide to his neighbours, counsel the ignorant, sustain the weak, and defend him against the rapacity of the speculator. The enlightened and virtuous farmer is to my mind the best type of man.²³⁹

As is clearly evident, the power of the republican idea, its disdain for commercial and city life, and its praise of agricultural pursuits are central themes in Gerin-Lajoie's work. In *Jean Rivard* the parish, in essence, becomes a mini-republic possessing the virtuous life missing in the city. The plight of the unemployed professional and the salesmen looking for jobs in business is contrasted

with the rosy well-being of the farmer. Writes one of the central characters from the city to the hero, Jean Rivard:

If you knew my friend, how much anxiety and poverty are hidden sometimes under a fashionable topcoat. One thing is certain, in the agricultural classes, with all their frugality, simplicity and apparent deprivation, there is a thousand times more happiness and I might say real wealth than in the homes of the majority of our city dwellers with their borrowed luxury and deceitful life.²⁴

There is little in this to differentiate it from other portrayals of the rural republican ideal I have sketched so far. What is different, however, is a rejection of the political process and the willingness to accede to the hierarchy and authority of the Catholic Church. For example, in the novel, the hero, Jean Rivard, becomes a member of parliament. Not long after he becomes disillusioned about this level of government. He finds that political parties dominate the process and nothing can be accomplished voting as an independent. He decides to withdraw from the partisanship and turbulence of politics and return to the peace, harmony and isolation of his parish cum republic.

Within Jean Rivard's parish there is a definite hierarchy. At the head is the priest. Then follow the notary, the doctor, the teachers, the merchants, the artisans, and finally the farmer, ever so virtuous, but still at the lowest level of the social structure.

Jean Rivard, then, symbolizes in many ways the value system that became an essential part of French-Canadian society in the mid and late nineteenth century. The adeptness of the Catholic Church in appropriating and turning the values of republicanism to its own ends cannot be underestimated. For example, the traditional tension between land and virtue versus commerce and the

decadence of urban life was retained. To it was added the supremacy of spiritual values of the church over materialistic ones. Whereas in the United States republicanism led to a messianic faith in America's mission to spread its credo over the face of the globe in French Canada that same faith and commitment was turned to differing ends.²⁴¹ French Canadians, said Mgr. L.-F.-R. LaFlèche in 1866, had a mission. In LaFlèche's words:

the mission with which Providence entrusted French Canadians is basically religious in nature: it is namely to convert the unfortunate infidel local population to Catholicism, and to expand the Kingdom of God by developing a predominantly Catholic nationality.²⁴²

As one critic has noted "from the mid-nineteenth century onward, 'the dominant ideology would reflect the clergy's world view and interests, as well the sources of its power. It was the beginning of a century of obscurantism.'²⁴³

Aside from the growing ideological power of the ultramontanists two other ideological streams emerged in the aftermath of 1837-1838 rebellions. They were the liberal moderates and the Rouges. The liberal moderates were composed of those elements of the French middle classes willing to work with British parliamentary institutions and to accept the spread of capitalism, including industrial capitalism. Led by former patriotes such as L.-H. Lafontaine, they spearheaded, with the assistance of moderate Upper-Canadian Reformers, the drive for responsible government. Once control over the civil service was achieved the gates of patronage were opened to the middle classes thus blunting the aggressive political edge of French-Canadian liberalism. One sees, once again, political opposition being eroded by the use of political office. One critic goes so far as to claim that after 1840 "national awareness now had no higher aim than the procurement of

government jobs for French Canadians and the defence of the language.²⁴⁴

For some liberal moderates such as Etienne Parent who himself secured a prize government patronage post later in his career, the opening up of government employment to the middle classes was not enough. French Canadians, he insisted, had to change their attitudes towards manual labour and industry if they were to break away from being confined to the overcrowded professional occupations or to seeking government jobs.²⁴⁵ Once they overcame this disdain they could work or compete with the businessmen and industrialists of Quebec. Furthermore, only by becoming more practical could French Canadians ensure their national survival. Parents' embrace of capitalism is succinctly summarized in this advice offered to French-Canadian youth: Said Parent:

Si j'avais un jeune ami studieux, doué des talents convenables, plein d'ardeur et de ces nobles aspirations qui portent aux grandes choses... je dirais à mon jeune ami: étudiez, 1°. l'économie politique; 2°. l'économie politique; 3°. l'économie politique.²⁴⁶

By the early 1850's the Lafontaine liberal moderates, having now reached an accommodation with the Church, an accommodation necessary for political survival, were gradually transforming themselves into Conservatives or "les blues" as they were dubbed. Where French-Canadian politicians had once quarrelled with English commercial interests over canals in the 1820's the 1850's and 60's, under the leadership of such men as George Etienne Cartier, they joined forces to build railways and create Confederation.²⁴⁷

The third ideological stream that emerged after the Rebellion was a minority, but radical, liberalism dedicated to the defence of French and American democratic and republican ideals. The adherents to this ideology became known

as the Rouge party. Anticlerical in nature it attempted to maintain its alliance with agriculture as the prime economic priority. It also rejected union and stressed the need for Lower Canada to remain a distinct political entity governed by French Canadians. Their political support sapped by patronage and their rural base effectively challenged by the Church, the Rouges were never able to achieve political and ideological ascendancy.²⁴⁸

French-Canadian Views of Federalism

French-Canadians, unlike the Tories of English Canada displayed an aversion to federalism seeing it for decades as an attempt to establish English-Canadian dominance. Until the 1850's French-Canadian proposals for federal union were almost non-existent. The exception to this was Etienne Parent, in the 1830's and 40's, in his capacity as editor of the revived *Le Canadien*, he made several proposals for Confederation of the British North American colonies. In the early 1830's, during his days as a Reform leader, Parent was of the firm opinion that the colonial state was only one of transition, that independence would surely come one day. Confederation, to Parent, represented both a preparation for independence and the form the independent state would take:

...La nature de leur intérêt réciproque enseigneront aux pays qui bordent le Saint-Laurent de former une espèce de confédération, soit à l'instar de celle des Etats-Unis, soit sur d'autres principes plus conformes à leur situation et à leurs mœurs, et c'est ce qui arrivera probablement aussitôt que le temps de leur indépendance sera venir.²⁴⁹

Parent did not elaborate on how the powers of this confederation would be allocated. What is noteworthy, at this time, was his favourite disposition to federalism. He did not approach it as the lesser of evils but as a positive step

forward. When W.L. Mackenzie, for instance, suggested that the colonies send delegates to a conference to discuss matters that concerned the colonies as a group Parent responded favourably:

Ce projet est si vaste, si fécond en conséquences, qu'il est difficile d'y concourir au premier abord; mais il mérite assurément d'attirer toute l'attention de nos hommes d'état. Nous dirons cependant que notre première impression lui a été favorable, d'autant plus que nous parlions il y a quelque temps que l'intérêt commun des colonies les ferait concourir un jour, lorsque la protection immédiate de la Mère-patrie leur serait devenue moins nécessaire, à former entre elles une espèce de confédération, pour être un état pour chaque colonie isolée.²⁵⁰

Within this federal state, Canadians would share with the British those powers relating to the land grants, the settling of new residents, and powers "aussi essentiels à la préservation et à l'épanouissement de la 'nation canadienne'"²⁵¹

Here Parent has injected into the debate a new perspective on federalism. Parent viewed federalism not as a means of economic advancement but as a means of preserving the French Canadian nation. This was to be a common refrain of later French Canadian discussions of federalism—would the federal state possess adequate powers to protect the interests of the 'nation canadienne'? Where the English commercial class tended to view federal union as an economic venture and as a means of underwriting the cost of economic development, French Canadians came to view it as a means of protecting their cultural identity. Parent was merely the first to see it in this light.

Distracted by political events Parent did not return to the subject until 1838 when Lord Durham had begun his inquiry on the ills of the Canadas. Here federalism was to serve a slightly different purpose—as an alternative to a legislative union of the Canadas: "avec la première nous conservons notre législature

locale pour notre législation locale, et avec tombent sous la jursidiction [sic] conjointe d'une autre province."²⁵²

Later, Parent learned that the fiery editor of the *Montreal Herald*, Adam Thorn, had been encouraged by Durham to promote his plan of federation for British North America. In promoting the plan Thom related Durham's thoughts about assimilating the French-Canadians and British ascendancy. At this point Parent indignantly charged that Durham had perverted the idea of a federal state turning it from a liberal solution to the problem of the existence of the French Canadian nation to a harsh one of ensuring Britain dominance.²⁵³

By the late 1840's Parent's emphasis on federalism had shifted. By this time Parent had become increasingly intrigued by the ideas of free trade, political economy, and according to Professor Nourry, utopian socialism and romantic federalism.²⁵⁴ Parent, then brought these ideas together for a new perspective on federalism. He now disavowed the idea of 'national self-determination'.²⁵⁵ He suggested instead, that because free trade was spreading freedom throughout the world, that people of like minds would find nation states unnecessary and would come together in a world federation. While Parent was no longer flying the nationalist flag it is necessary to point out that he still associated federalism with decentralized power and freedom.

While Parent's views about world federation found few adherents in the 1850's and 60's French-Canadians increasingly came to look upon federalism as a means of preserving the French-Canadian nation and as a means of asserting not centralized but local control. In effect French Canadians were looking at the

other side of the federal coin—the English emphasizing centralized control and economics, the French decentralized control and culture. J.C. Taché, for example, writing on the subject in 1858 argued that, to date, English proponents of federalism had considered it only in a limited perspective—in terms of the material interests of England and colonial merchants.²⁵⁶ They had not considered it from the perspective of race and caste. Taché, furthermore, argued that it would be necessary to give the provinces the greatest share of power and that the federal government would only be “considérés...comme une cession de droits spécialement désignés.”²⁵⁷

While others did not go so far as Taché as to support the notion of provincial sovereignty—they did stress the importance of local control. Joseph Cauchon, for example in 1858, wondered whether or not the local government would have sufficient powers to protect the French nationality.²⁵⁸

On the eve of Confederation the doubts and questions remained the same. Even Cartier's newspaper, *La Minerve*, which favoured confederation, claimed:

The English...have nothing to fear from the central government, and their first concern is to ensure its proper functioning. That is what they base their hopes upon, and the need for strong local governments only takes second place in their minds.

The French press, on the contrary, feels that guarantees for the particular autonomy of our nationality must come before all else in the federal constitution. It sees the whole system as based on these very guarantees.²⁵⁹

Le Courrier de St-Hyacinthe concurred stating “we do not have the same ideas as our compatriots of British origin concerning the powers which are to be given to the central government...We cannot consent to the loss of our national autonomy.”²⁶⁰

Federalism, it was argued, would only be acceptable if local governments had complete control over their own affairs. Their model of federalism had striking similarities to the classical model of K.C. Wheare. As one paper asked "Isn't it possible for each of these bodies [i.e. federal/local legislatures] to have perfect independence within the scope of its own jurisdiction of the other?"²⁶¹

A cursory glance at the federal model adopted by the Fathers of Confederation indicates that the French-Canadian model with its stress on local autonomy and control did not prevail. Clearly what did prevail was the English Canadian, the Tory commercial view of federalism, one which had been raised in various forms since the beginning of the century. It was to be, as I indicate in the next chapter, a highly centralized form of federal union with Ottawa the senior partner in Confederation.

Footnotes

1. Lord Grenville as quoted in Adam Shortt and Arthur G. Doughty, *Documents Relating to the Constitutional History of Canada, Part II* (Ottawa: J. de L. Taché, King's Printer, 1918) p. 978.
2. *Ibid.*, p. 984.
3. *Ibid.*, p. 984.
4. Camillus (John Henry), *An Enquiry into the Evils of General Suffrage* (Montreal: Nahum Mower, 1810) as reprinted in John Haare and Jean-Pierre Wallot eds., *Confrontations* (Trois-Rivieres: Boreal Express, 1970) p. 103.
5. S.F. Wise "Colonial Attitudes from the Era of the War of 1812 to the Rebellions of 1837," in S.F. Wise and Robert Craig Brown, *Canada Views the United States* (Seattle: University of Washington Press, 1967) p. 17.
6. *Kingston Gazette*, January 29, 1911 in *ibid.*, p. 18.
7. *Montreal Gazette*, December 27, 1838 in André Lefebvre, *La Montréal Gazette et le nationalisme Canadien (1835-1842)* (Montréal: Guérin, 1970) p. 98.
8. *Montreal Gazette*, September 7, 1839 *ibid.*, p. 143.
9. T.C. Haliburton, *Rule and Misrule of the English in America* (New York: Harper and Bros. Pubs., 1851) p. 338.
10. John A. Macdonald, "Speech at Montreal", *Liberal-Conservative Handbook* (Ottawa: C.H. McKintosh, 1876) p. 24.
11. Mr. Justice William Campbell, charge to the Grand Jury, in *Upper Canada Gazette*, April 1, 1822. Wise *op. cit.*, pp. 19, 20.
12. John Strachan, *A Discourse on the Character of King George Addressed to the Inhabitants of British America*, (Montreal: Nahum Mower, 1810) p. 77.
13. *Ibid.*,
14. Edmund Burke, *Reflections of the Revolution in France*, ed., Russell Kirk (Chicago: Henry Regnery Company, 1968) p. 135; *Works and Correspondence* (London: Rivington, 1852) vol. IV, 431, 432, vol. I, p. 578 as quoted in Michael Freeman, *Edmund Burke and the Critique of Political Radicalism*, *op. cit.*, p. 126.
15. W.H. Dickson, August 13, 1839 in Lefebvre *op. cit.*, p. 56.
16. It should be pointed out that Macdonald who fought all extensions to the system of suffrage introduced franchise legislation in the Canadian parliaments in 1870, 1883 and 1885. He succeeded in his last attempt thus bringing almost universal manhood suffrage. In 1885 he also advocated, less successfully, limited enfranchisement of women.
17. John A. Macdonald, *Legislative Assembly Debates* April 19, 1861.
18. *Ibid.*

19. Fernand Ouellet, *Lower Canada 1791-1840* (Toronto: McClelland and Stewart, 1980) p. 87.
20. James Beaven, *Recreations of a Long Vacation* (London: James Burns, 1846) p. 99.
21. *Ibid.*, p. 100.
22. *Ibid.*, pp. 100, 101.
23. Strachan, *King George*, *op. cit.*, p. 59.
24. Reed Browning, *Political and Constitutional Ideas of the Court Whigs*, *op. cit.*, p. 201.
25. [anon] *A Letter from a Gentleman in Worcestershire to a Member of Parliament in London* (London, 1727) in Browning, *ibid.*
26. Edmund Burke, *Reflections*, *op. cit.*, p. 7; *Correspondence of Edmund Burke*, vi, p. 286 as quoted in H.T. Dickinson, *op. cit.*, p. 286.
27. Anand C. Chitnis, *The Scottish Enlightenment* (London: Croom Helm, 1976), p. 51.
28. Adam Smith, *Lectures on Justice*, *op. cit.*, p. 51.
29. Hume, "Origin of Government", in *Essays Moral, Literary and Political*, *op. cit.*, pp. 116, 117.
30. Camillus, *op. cit.*, p. 106.
31. *Ibid.*, p. 99. Compare to C.B. Macpherson's quote in *Edmund Burke on the Leviathan state* *op. cit.*, p. 43.
32. *Ibid.*, p. 99.
33. Edmund Burke, *Reflections*, *op. cit.*, p. 90. (Burke's emphasis).
34. D'Arcy McGee, cited in Wise, *op. cit.*, p. 120.
35. Strachan, *op. cit.*
36. The hostility of agriculture to commerce will become clearer in the next section.
37. "Uniacke's Memorandum to Windham, 1806" in *Canadian Historical Review*, Vol. 17, 1936 p. 46.
38. Richard John Uniacke, *The Statutes at Large, Nova Scotia* (Halifax: John Howe and Son, 1805) p. VIII.
39. "Uniacke's Memorandum" *op. cit.*, p. 35.
40. On this point see B.C.U. Cuthbertson, *The Old Attorney General, Richard John Uniacke, 1753-1830*, M.A. Thesis, University of New Brunswick, April, 1970 p. 114.
41. "Uniacke's Memorandum", *op. cit.*, p. 54.
42. Uniacke in *Halifax Journal*, March 9, 1819 as quoted in Cuthbertson, *op. cit.*, p. 202.
43. *Ibid.*, p. 208.

44. Uniacke, *Statutes*, *op. cit.*, p. 1.
45. Thomas Chandler Haliburton, *Sam Slick* (New York: George H. Doran Co., 1923) p. 80.
46. *Ibid.*,
47. *Ibid.*,
48. *Ibid.*,
49. Reg Whitaker, "Images of the State in Canada," in Leo Panitch, ed., *The Canadian State: political economy and political power* (Toronto: University of Toronto Press, 1977) p. 35, see also S.F. Wise "Upper Canada and the Conservative Tradition," in Ontario Historical Society, *Profile of a Province* (Toronto, 1967) and "Conservation and Political Development: The Canadian Case," *South Atlantic Quarterly*, LXIV, 1970, pp. 226-43.
50. Whitaker, *ibid.*
51. Strachan, *King George*, *op. cit.*, p. 29, 30, 50.
52. Wise, "Upper Canada and the Conservative Tradition," *op. cit.*, p. 21.
53. David Chisholme, *The Lower-Canada Watchman* (Kingston: James Macfarlane, 1829) p. 305.
54. *Ibid.*
55. *Ibid.*, Camillus said much the same thing, *op. cit.*
56. Camillus (John Henry), *op. cit.*, p. 100.
57. F. Ouellet, *op. cit.*, p. 134.
58. David Hume, "Independency of Parliament", in *Essays*, *op. cit.*, pp. 120, 121.
59. See Chapter IV.
60. Leo Panitch, "The role and nature of the Canadian State," *op. cit.*, p. 14.
61. H.G.J. Aitken, "Defensive Expansionism: The State and Economic Growth in Canada," in W.T. Easterbrook and M.H. Watkins, *Approaches to Canadian Economic History* (Toronto: McClelland and Stewart, Ltd., 1967) p. 184.
62. Donald Creighton, *British North America at Confederation*, A Study Prepared for the Royal Commission on Dominion — Provincial Relations, (Ottawa: Queen's Printer, 1963) p. 67.
63. Harold Innis, *The Fur Trade in Canada* (Toronto: University of Toronto Press, 1973) p. 396.
64. Whitaker, *op. cit.*, p. 43 (emphasis Whitaker).
65. Terry Cook, "John Beverley Robinson and the Conservative Blueprint for the Upper Canadian Community," in J.K. Johnson, *Historical Essays on Upper Canada* (Toronto: McClelland and Stewart, 1975) p. 354.
66. Strachan, *op. cit.*

67. John Strachan, "The Reckoner No. 11," *Kingston Gazette* (Kingston), March 12, 1811 ["The Reckoner"] was Strachan's pseudonym for his biweekly newspaper column while he was at Kingston.
68. Strachan, *King George*, *op. cit.*, p. 19.
69. David Hume, "Idea of a Perfect Commonwealth", *Essays*, *op. cit.*, p. 480.
70. Adam Smith, *Theory of Moral Sentiments*, ed. D.D. Raphael and A.L. Macfie, *op. cit.*, vi, ii, 2.16, p. 233.
71. Edmund Burke, *Works*, iii, as quoted in H.T. Dickinson, *op. cit.*, p. 301.
72. *Ibid.*, p. 59.
73. *Ibid.*, p. 60.
74. For Smith on duty, see *Theory of Moral Sentiments*, *op. cit.*
75. David Hume, "Of the Original Contract", in *Essays*, *op. cit.*, pp. 454-456.
76. Edmund Burke, *Reflections*, *op. cit.*, p. 90; *An appeal from the new to the Old Whigs*, in *The Works of Edmund Burke*, Vol 3, (London: Henry G. Bohn, 1855), p. 99.
77. David Hume, "Of the Origin of Government", in *Hume's Moral and Political Philosophy*, *op. cit.*, p. 100.
78. Adam Smith, *Lectures on Justice*, *op. cit.*, p. 9.
79. Edmund Burke, *Reflections*, *op. cit.*, p. 88-90.
80. Camillus, *op. cit.*, p. 104.
81. *Ibid.*, p. 106.
82. See Neil McDonald, "Egerton Ryerson and the School as an Agent of Political Socialization," in Neil McDonald and Alf Chaiton, *Egerton Ryerson and His Times* (Toronto: Macmillan Co. of Canada, 1978) p. 98.
83. *Ibid.*, p. 83.
84. *Ibid.*
85. See H.T. Dickinson, *op. cit.*, pp. 276, 277, 301, 302.
86. Frederick Copleston, *A History of Philosophy: Modern Philosophy Vol. 5 Hobbes to Paley*, (Garden City, New York: Image Books, 1964) p. 210.
87. E. Ryerson, *Christian Guardian*, October 8, 1831.
88. E. Ryerson, *Civil Government — The Late Conspiracy*, Toronto, 1838. p. 8.
89. *Ibid.*
90. E. Ryerson, *The New Canadian Dominion* (Toronto: Lovell and Gibson, 1867) p. 27.
91. *Ibid.*
92. Ryerson, *Civil Government op. cit.*, p. 4.
93. *Ibid.*
94. On the importance of duties see especially *Civil Government* and *The New Canadian Dominion*.

95. See for example, Reverend James George, "The Duties of Subjects to Their Rulers." in George, *Thoughts on High Themes: A Collection of Sermons* (Toronto: James Campbell and Son 1874).
96. Ryerson in McDonald, *op. cit.*, p. 87.
97. Susan E. Houston, "Politics, Schools and Social Change in Upper Canada," *The Canadian Historical Review*, vol LIII, no. 3, September, 1972, p. 261.
98. Adam Smith, *Of the Wealth of Nations*, *op. cit.*, book V, I, ii, p. 734.
99. *Ibid.*, p. 737.
100. *Ibid.*, p. 740.
101. See Richard A. Jarrell, "Science Education at the University of New Brunswick," *Acadiensis*, Spring, 1973 Vol. 2.
102. A.B. McKillop. *A Disciplined Intelligence* (Montreal: McGill-Queen's University Press, 1979).
103. *Ibid.*, see also W. Stanford, Reid, ed., *The Scottish Tradition in Canada* (Toronto: McClelland and Stewart, 1976) esp. Chapter by D.C. Masters.
104. McKillop, *ibid.*, p. 25.
105. *Ibid.*
106. Anthony Walter Rasporich, *The Development of Political and Social Ideas in the Province of Canada 1848-1858*, Ph.D. Thesis, University of Manitoba, 1970. p. 417.
107. E.P. Taché as quoted in *ibid.*, p. 417.
108. *Hincksite Pilot*, *ibid.*, p. 418.
109. Haliburton, *English in America*, *op. cit.*, p. 14.
110. *Ibid.*
111. *Ibid.*
112. John A. Macdonald denounced theory, but abstract theory. See Rod. Préce, "The Political Philosophy of Sir John A. Macdonald" paper read at 9th *Interdisciplinary Research Seminar*, September 30, 1976, Wilfrid Laurier University, Waterloo, Ontario.
113. On the use of virtual representation in the 1790's see H.T. Dickinson, *op. cit.*,
114. Macdonald, Leg. Ass. Debates, *op. cit.* In full he said "Our representation of counties might be fairly said to protect the agricultural interest. So the members for cities and towns might be held to represent the great commercial and manufacturing interests and those of our artisans and mechanics. And if it were thought proper to enlarge still further the representation in parliament, he would not only continue but increase the system of burgh representation giving a member to every considerable town having vitality."
115. Dickinson, *op. cit.*, p. 283.

116. Macdonald, *op. cit.* His words were "That was the principle of representation in England and under it England had flourished, and had withstood the storms of revolution, of foreign war, and domestic dissension."
117. For example W.L. McKenzie said "There is nothing more pernicious than systems purely intellectual especially if they exhibit a thoroughly uncompromising character than the cries which are contested, however justly, or are repugnant to the greater number, than economical or philosophical speculation which are not applicable to the moment. Their effect is to frighten and keep in a state of deplorable inertness the best disposed men, whose aid would be most useful, sometimes indispensable." In Rasporich p. 419.
118. See W.H. Nelson, "Last Hopes" *op. cit.*
119. Jonathan Sewell Jr., "Memoir on the Means of Promoting the Joint Interests, 1807" J.B. Robinson, *Plan for a General Legislative Union of the British Provinces in North America* (London: W. Clowes, 1822) p. 7.
120. *Ibid.*
121. "Observations of Chief Justice Sewell on the Union of the Provinces, 1810" Kennedy, *Documents, op. cit.*, p. 268.
122. Sewell, "Memoir" *op. cit.*, p. 8.
123. Cuthbertson, *op. cit.*, p. 225.
124. *Ibid.*, p. 218.
125. J.B. Robinson, *op. cit.*, p. 33.
126. J.B. Robinson, *Letter to the Right Hon. Earl Bathurst* (London: William Clowes, 1825) p. 31.
127. *Ibid.*, p. 42.
128. John Strachan, *Observations on a Bill for Uniting the Legislative Councils and Assemblies* (London, 1824) in J.L. H. Henderson *John Strachan: Documents and Opinions* (Toronto: McClelland and Stewart, Ltd. 1969) p. 157.
129. John Strachan (and J.B. Robinson) *Observations on the Policy of a General Union of all the British Provinces of North America* (London: William Clowes, 1824) in Henderson *op. cit.*, p. 168.
130. T.L. Henderson, *ibid.*, p. 168.
131. Strachan, *ibid.*, p. 170.
132. *Ibid.*, p. 169.
133. Henry Sherwood, chairman, *Report of Select Committee of House of Assembly, Upper Canada, February 1838.* Kennedy, *Documents, op. cit.*, p. 419.
134. For more on Durham and the need to strengthen the executive and improve administrative effectiveness see Janet Ajzenstadt *op. cit.*
135. "O.T.", *Remarks on a Legislative Union* (Cobourg: R.D. Chatterton, 1839) p. 87.

136. *Ibid.*, pp. 87, 88.
137. *Ibid.*, p. 75.
138. *Ibid.*, p. 69.
139. *Ibid.*, p. 105.
140. *Ibid.*,
141. See Appendix, *Report of Debates at the Convention of Delegates of the British North American League* (Toronto, November, 1849).
142. J.S. Johnston in Edward Manning Saunders *Three Premiers of Nova Scotia* (Toronto: William Briggs, 1909).
143. *Ibid.*, p. 254.
144. *Ibid.*
145. P.S. Hamilton, *Union of the Colonies of British North America Being Three Papers Upon This Subject* (Montreal: John Lovell, 1864).
146. Introduction, *ibid.*, p. 10.
147. *Ibid.*
148. *Ibid.*, p. 58
149. J.B. Robinson, *Plan for a General op. cit.*, p. 28.
150. *Ibid.*, p. 40.
151. *Ibid.*
152. Strachan, *Observations on the Policy op.*, p. 167.
153. B.C. Cuthbertson, *op. cit.*, p. 224.
154. *Lord Durham's Report*, ed. and intro. by Gerald M. Craig (Toronto: McClelland and Stewart, 1963) p. 162.
155. *Ibid.*, pp. 162, 163.
156. O.T. *op. cit.*, p. 32, here O.T. borrows Strachan's exact wording.
157. *Ibid.*, p. 99.
158. On this point see Cephas D. Allan, "The Genesis of the Confederation of Canada," in *Annual Report of the American Historical Association*, Vol. 1, 1911.
159. Johnston, *op. cit.*, p. 255.
160. P.S. Hamilton, "Observations upon a Union of the Colonies, 1854-1855," *op. cit.*
161. *Ibid.*, p. 18.
162. For Haliburton's views on the importance of ambition see, Haliburton, *Sam Slick*, *op. cit.*, pp. 143, 144. See also Joseph Howe, "Speech of...on the Union of the North American Provinces." 1855.
163. See for example, J.B. Robinson, *op. cit.*
164. See Aitken, Innis, *op. cit.*

165. Hamilton, *op. cit.*, p. 20.
166. Aitken, *op. cit.*, p. 194.
167. Harold Innis, "Significant Factors in Canadian Economic Development," in *Essays in Canadian Economic History* (Toronto: University of Toronto Press, 1973) p. 205.
168. Innis, *Fur Trade*, *op. cit.*, p. 396.
169. On this point see Aitken, Innis, Creighton.
170. Harold Innis as quoted in C.B. Macpherson, *Democracy in Alberta: Social Credit and the Party System* (Toronto: University of Toronto Press, 1962).
171. On this point see J.B. Robinson, R.J. Uniacke, *op. cit.*
172. P.S. Hamilton, "A Union of the Colonies of British North America, 1856" in *op. cit.*, p. 92.
173. H.T. Dickinson, *op. cit.*, p. 221.
174. E.P. Thompson, *op. cit.*, p. 759.
175. *Ibid.*, p. 757.
176. *Ibid.*, p. 759.
177. Robert Kelley, *op. cit.*
178. Richard Vernon, "Freedom and Corruption: Proudhon's Federal Principle," *Canadian Journal of Political Science* Vol. XIV, No. 4, December 1981 p. 781.
179. See W.L. Morton, *The Kingdom of Canada* (Toronto: McClelland and Stewart, 1969).
180. Walter Fawkes, *The Englishman's Manual or Dialogue Between a Tory and a Reformer* (London: Hurst and Co., 1817).
181. *Ibid.*, p. iv.
182. *Ibid.*, p. 66.
183. Lois Dorroch Milani, *Robert Goulay, Gadfly* (Thornbury, Ont.: Ampersand Press, 1971).
184. *Ibid.*, p. 26.
185. *Ibid.*, p. 35.
186. *Ibid.*, p. 33.
187. *Ibid.*, p. 27.
188. *Ibid.*
189. Graeme Patterson, "An Enduring Canadian Myth: Responsible Government and the Family Compact," *Journal of Canadian Studies*, Vol. XII, No. 2, Spring 1977, p. 8.
190. *Ibid.*
191. *Ibid.*, p. 9.

192. *The Seventh Report from the Select Committee of the House of Assembly of Upper Canada on Grievances* (Toronto: M. Reynolds, 1832) p. iii.
193. *Ibid.*
194. Samuel Hart, Coburg Plain Speaker in S. Ryerson, *op. cit.*, p. 93.
195. W.L. Mackenzie, in *ibid.*, p. 93.
196. *Prospectus of the Plan and Principles of a Society For: Perfect Religious Liberty and Equality* (Montreal: Courier Office, 1836) p. 23.
197. David, *op. cit.*, p. 97.
198. *Ibid.*
199. *Prospectus, op. cit.*, p. 17.
200. W.L. Mackenzie, *Colonial Advocate*, October 28, 1830 in Craig, *op. cit.*, p. 24.
201. W.L. Mackenzie, *Colonial Advocate*, May 18, 1824.
202. In Lavere, *op. cit.*, pp. 160, 161.
203. *Address to the People of Canada by the Reform Association* (Toronto: Examines Office, 1844) p. 12.
204. On this see Barbara Cameron, *op. cit.*
205. Frank Underhill, "Some Aspects of Upper Canadian Radical Opinion in the Decade before Confederation." in Ramsay Cook, ed. *Upper Canadian Politics in 1850's*, Canadian Historical Readings (Toronto: University of Toronto Press, 1967) p. 2.
206. G.W. Brown, "The Grit Party and the Great Reform Convention of 1859" in *ibid.*, p. 25, 26.
207. J.M.S. Careless, "The Toronto Globe and Agrarian Radicalism, 1850-1867", in *ibid.*, p. 61.
208. John McCallum, *Unequal Beginnings: Agriculture and Economic Development in Quebec and Ontario until 1870* (Toronto: University of Toronto Press, 1980) p. 5.
209. *Ibid.*, pp. 5, 6.
210. *Ibid.*
211. *Ibid.*
212. *Ibid.*
213. David McNally, "Staple Theory as Commodity Fetishism: Marx, Innis and Canadian Political Economy," *Studies in Political Economy A Socialist Review* No. 6, Autumn 1981 p. 53.
214. J.M.S. Careless, *op. cit.*, p. 61.
215. Richard G. Cowherd, *The Politics of English Dissent: The Religious Aspects of Liberal and Humanitarian Reform Movements from 1815 to 1848* (London: The Epworth Press, 1959) p. 131.

216. Robert Kelley, *op. cit.*
217. J.M.S. Careless, "Mid-Victorian Liberalism in Central Canadian Newspapers 1850-1867," *The Canadian Historical Review* Vol. 31, No. 3, September 1950.
218. *Ibid.*, p. 224.
219. Robert Kelley, *op. cit.*, p. 383.
220. *Ibid.*, p. 386.
221. Alexander Mackenzie, *ibid.*, p. 386.
222. *Ibid.*, p. 389.
223. W.L. Mackenzie, "Letter to John Neilson, December 7, 1829" in Margaret Fairly, ed., *The Selected Writings of William Lyon Mackenzie* (Toronto: Oxford University Press, 1960), p. 291.
224. Robert Gourlay, "To the Honourable the Commons of Upper Canada Met in Assembly, December 24, 1825," Public Archives of Canada Co.O. 42/Vol. 380.
225. For more on this see W.L. Morton, *op. cit.*, and W.S. MacNutt, *The Atlantic Provinces*, (Toronto: McClelland and Stewart, 1965).
226. Gilles Paquet and Jean-Pierre Wallot, *Patronage et Pouvoir dans le Bas-Canada (1794-1812)* (Montreal: Les Presses de l'Université du Québec, 1973) p. 138.
227. *Ibid.*
228. *Ibid.*
229. Ouellet, *op. cit.*, p. 71.
230. Paquet, Wallot, *op. cit.*, Monière, *op. cit.*
231. G. Paquet, an J.P. Wallot, *ibid.*
232. L.J. Papineau, *Address to the Electors of the West Ward of Montreal* (Montreal: Fabre, Perrault and Co., 1831), p. 1.
233. L.J. Papineau, *La Minerve*, March 17, 1836, as quoted in F. Ouellet, *Lower Canada 1791-1840, op. cit.*, p. 218.
234. Ouellet, *op. cit.*, 217. Marcel Trudel argues that Voltaire had a major influence on French-Canadians in the eighteenth and nineteenth centuries. I am not yet convinced of his argument. Trudel seems to strain to make the connection.
235. Papineau, "Discours...Devant Les Membres de l'Institut Canadien" (1867) in *Papineau, textes choisis et présentes par Fernand Ouellet*, (Laval: Les Presses Universitaires Laval, 1959), p. 101.
236. See D. Monière, *op. cit.*, Susan Mann Trofimenkoff, *The Dream of Nation* (Toronto: Macmillan of Canada, 1982); Ralph Heintzman, "The Political Culture of Quebec, 1840-1960", *Canadian Journal of Political Science* Vol. XVI, No. 1, March, 1983; M. Rioux, "The Development of Ideologies in Quebec," in R. Schultz, et. al., *The Canadian Political Process*, 3rd edition,

(Toronto: Holt, Rinehart and Winston of Canada Ltd., 1979)

237. On this point see M. Rioux, *ibid.*
238. See especially the introduction by Vida Bruce to Antoine Gerin-Lajoie's *Jean Rivard* (Toronto: McClelland and Stewart, 1977)
239. Antbire Gerin-Lajoie, as quoted in M. Rioux, *op. cit.*, p. 101.
240. *Jean Rivard*, *op. cit.*, p. 85.
241. On the impact of messianism in American ideology see Pocock, *op. cit.*, p. 549.
242. Mgr. L-F. R. Lafêche, "The Providential mission of the French Canadians," in Ramsay Cook, ed., *French Canadian Nationalism* (Toronto: Macmillan of Canada, 1966), p. 98.
243. Monière, *op. cit.*, p. 120
244. *Ibid.*, p. 130.
245. S.M. Trofimenkoff, *op. cit.*, p. 92.
246. Etienne Parent, *Lecture devant L'Institut Canadien*, Nov. 19, 1856 (Montréal, 1846), p. 13.
247. S.M. Trofimenkoff, *op. cit.*, p. 98.
248. Monière, *op. cit.*, p. 136.
249. Etienne Parent, *Le Canadien*, 15 avril 1833, as quoted in Louis Nourry, "L'idée de Fédération Chez Etienne Parent 1831-1852," in *Revue d'Histoire de l'Amérique Française*. Vol. 26, no. 4 Mars. 1973. pp 538, 539.
250. Etienne Parent, *Le Canadien*, 21 avril 1833 in *ibid.*
251. L. Nourry, *ibid.*, p. 540.
252. Etienne Parent, *Le Canadien*, 21 juillet 1833 in *ibid.*
253. L. Nourry, *ibid.*, p. 546.
254. L. Nourry Indicates that it is Proudhon he has in mind but makes no firm linkages between the two.
255. *Ibid.*, pp. 552-554.
256. J.C. Taché, *Des Provinces de l'Amérique du Nord et d'une Fédérale* (Québec, 1858). p. 101.
257. *Ibid.*, p. 148.
258. Joseph Cauchon, *Etude sur L'Union Projetée des Provinces Britanniques* (Québec, 1858). At the time of Confederation Cauchon opted for a centralized form.
259. *La Minerve*, 14, Sept. 1864, as quoted in A.I. Silver, *The French-Canadian Idea of Confederation* (Toronto: University of Toronto Press, 1982) p. 35.
260. *Le Courrier de St.-Hyacinthe*, 23, Sept. 1864, as quoted in *ibid.*
261. *Le Journal de Québec*, 1, Sept. 1864, as quoted in Silver *ibid.*, p. 36.

CHAPTER VI THE IDEOLOGICAL ROOTS OF CANADIAN CONFEDERATION

Introduction

In the last chapter I discussed the political ideologies of Canadian Tories and Reformers. Of the two groups Canadian Tories were the strongest proponents of federal union. I noted how the themes of Canadian Toryism were reflected in their proposals for union, especially federal union. Mentioned in particular was the traditional Tory antipathy to democracy. Democracy, it was believed was an inherently unstable form of government, unsuited to large areas of territory and sure to end in despotism. Only governments with a strong executive could counteract the democratic impulse and rule large areas of territory. Such governments, if instituted, would be more stable than the petty, querulous provincial governments Canadians were burdened with. They would also serve as large instruments of credit and thus be able to borrow more and underwrite the costs of Canadian economic development. Lastly, such governments would elevate the stature of the colonies, particularly vis-a-vis the mother country. They would thus be able to offer offices that would be worthier "prizes" to the ambitious few. In effect, the availability of office, whether elected or appointed, via the patronage system, would serve as a means of safely channeling the political frustrations of colonists, thus lending support to government.

In the founding of Canadian Confederation it was primarily the central themes of Canadian Toryism that were to be expressed in the configuration of federal government that emerged. In effect these themes belie the argument that

Canadian Confederation is bereft of an ideological foundation. To be sure Confederation had a "fundamentally empirical character" and was "practical" as Peter Waite and others have suggested.¹ None of the Fathers of Confederation would have denied this. Yet, this does not mean their activity was nonideological or atheoretical. In fact, Peter Waite's classic book on the period, *The Life and Times of Confederation* can be cited to prove the opposite case. The first chapter of Waite's book is essentially concerned with the theme of ambition although its ideological roots are not recognized by Waite. For example Waite argues that by 1860:

There was one characteristic common to all the provinces, especially Nova Scotia, and one which is not easy to describe: it might be called restlessness. There was a pervasive feeling that colonial ambitions had reached a dead end. 'The bars of these Provincial cages' were clearly too confining for Nova Scotia; and this same feeling was reflected in the growth of territorial ambitions in Canada West. The little worlds of Halifax, Charlottetown, Fredericton, Quebec, perhaps even of St. John's were becoming cramped for some of the politicians who made their careers there.²

Colonial politicians, in essence, were tiring of their "provincial cages". They wanted something more, they wanted greater respect from other nations and to be elevated in the eyes of the mother country.

Psychologically, as Adam Smith pointed out, ambition, represents the desire to emulate the good fortune and station of those who have more than us.³ It does not represent a rejection of that status. In the case of the colonies it did not represent a rejection of empire, only the desire to emulate it or become more fully a part of it as in the case of imperial federation.

Historians such as Peter Waite are by no means alone in noting the role of ambitious politicians in creating federal states. Political scientists have also

stressed the importance of ambitious men in building federal states. William Riker, for instance, argues that federal states were created by ambitious politicians taking advantage of technological advances in transportation to enlarge the size of governments.⁴ These advances made "it possible to rule a large geographic area from one center; to fill a treasury more abundantly, to maintain a larger bureaucracy and police," and in Riker's opinion, "most important of all, to assemble a larger army."⁵ No doubt Canadian politicians understood the implications of the railway in fulfilling their ambitions and building a large new nation but one must question whether or not they put premium on large armies.

Ambition, then, will be a central theme of this chapter. It led, I maintain, to the desire for a larger stage for the colonists, an empire and nation of their own. A critical question at the time was how would this nation be institutionally expressed? In the tradition established by Loyalism and Canadian Toryism, the Fathers of Confederation were concerned with extricating themselves from what they perceived to be the pettiness and perpetual deadlock of provincial politics. Only a state with strong central controlling power could bring the desired political stability. The American experience had proved that. The American revolution had convinced the Loyalists of the need for counteracting the influence and power of local legislatures.⁶ The Civil War now raging to the South brought the same message home to the Fathers of Confederation. John A. Macdonald, for example, was to cite as the primary cause of the American Civil War the doctrine of states' rights. American experience also reinforced the notion that democratic republics were inherently unstable and sure to end in despotism. American democracy, according to the Aristotelian classification of government, represented

a bad form of government. Monarchies, on the other hand, were viewed as a good form of government, in which the sovereign was always portrayed as politically disinterested and working for the common good. Only monarchies, possessing as they did a strong and stable executive, could bring stability to government. That this was the case was not really questioned by proponents of the scheme.

While some such as Macdonald favoured, in principle, a legislative union, the exigencies of Canadian politics, in particular the historical commitment to localism by French Canadians and their insistence on institutional means to protect their culture and nationality, led to Macdonald to view legislative union as "impracticable."⁶ If, under the circumstances, a legislative union was impractical, then what was? For Macdonald second best meant a highly centralized state with the federal government given the lion's share of powers.

Keeping with the Court tradition, the federal government (that is, cabinet and the Prime Minister) were given the requisite means of influence and patronage needed to ensure political loyalty and control over local governments. For example, important sources of patronage such as the appointment of judges and Legislative Councillors (later Senators) were put under executive control. No doubt they would serve as important "prizes" in the raffle of Canada politics. In case that wasn't enough, the power of disallowance could be used to keep the provinces in line. The attempt to bolster executive control, so typical of previous federal proposals, was furthered by the appointment of Legislative Councillors for life. The purpose of this measure can be seen in the same way as in the past—as

an attempt to counteract popular influence in favour of executive control.

Admittedly, then, one of the purposes of a strong central authority was to bring political stability, but what other functions was the state to perform? As already indicated, Canadian Tories put a high value on a commercial society. To that end the state was to be used for the purposes of economic development and the extension of a market society across the continent. The state was to play a primary role in building and underwriting the costs of the transportation infrastructure that the country needed. As Harold Innis has indicated, Confederation was a "credit instrument" and a much needed one at that for the provinces, particularly Upper and Lower Canada, were badly in debt. By the mid-1860's debt charges had amounted to nearly 30 per cent of total current expenditure in British North America, a truly astronomical figure.⁷ Most of this debt was contracted in the process of improving transportation, the single most important responsibility of government in British North America.⁸ Confederation, then, was necessary to restore investor confidence in government. With improved public credit would come more capital to be used for economic development. All this conformed with the ambitions of provincial politicians to build an empire and take their place among the nations of the world.

In brief, an outlet for ambition, political stability and economic development preoccupied provincial politicians in the 1860's. In what follows I shall discuss each of these themes beginning first with the theme of ambition. I shall draw primarily from the Confederation Debates of 1865, but also from the accounts of the Charlottetown and Quebec conferences of 1864 along with leading secondary

sources. Following consideration of the theme of ambition, I shall discuss the arguments for a strong central authority, the concern with democracy, and views regarding what form of government could best bring political stability to British North American politics. Finally, I shall discuss the proposed role of the state in promoting economic development and the creation of a commercial empire in the northern half of the continent. What must be emphasized throughout is that the selection of a highly centralized federation as the form of government best suited to the circumstances of British North Americans represents, as any choice does, a selection from a system of values. These values, I argue, were the values most compatible with commercial, or better said, Court Whiggism.

"The Bars of these Provincial Cages"—

Ambition and the Desire for Empire

As Peter Waite has indicated the question of ambition was a pervasive one the eve of Confederation. Yet, as I have pointed out, the theme of what to do with ambitious men was hardly new in colonial life. Adam Smith had recognized the problem in the American colonies and posed a solution. So had Canadian Tories in the first half of the nineteenth century. Lord Durham as well was similarly concerned. The confines of colonial politics were simply too narrow and restricting for colonial politicians, their importance, in their opinion, not being recognized. It was perceived that the actions of ambitious men had contributed substantially to the political difficulties in the provinces. All the proposed solutions had a common theme—somehow the energies of public men had to be vented, redirected or, more pointedly, coopted on another level of government.

This was in the tradition of Court Whiggism and their clever use of patronage and office to control potential dissidents. Adam Smith proposed representation in the Imperial Parliament as a safety valve, others Imperial Federation, some appointments to the colonial office, and still others a federal union of the colonies both American and Canadian.

The accent on union was in keeping with the lessons of eighteenth century political science, as espoused by Hume and Adam Smith for example, and stressed the correlation between locality, smallness of government and political instability. The American Founding Fathers, for example, heeding these lessons feared democracy at the local level believing it led to factionalism and instability. In particular, the more democratic small governments were the more unstable they were. There was, however, clearly a division in eighteenth-century thought on this point. Believers in republican virtue, whether they be Rousseau or the Country opposition, certainly put a high value on democratic stability and small government. Others such as Hume, the American Founding Fathers, and the Loyalists were more pessimistic. It is their views I speak of when I refer to eighteenth century political science. David Hume, for example, had argued that while democratic republics may be easier to establish in small areas the "same circumstances, which facilitate the erection of commonwealths in cities, render their constitution more frail and uncertain." Furthermore, said Hume,

Democracies are turbulent. For however the people may be separated or divided into small parties, ...their near habitation in a city will always make the force of popular or popular tides and currents very sensible [i.e. more pronounced.]⁷

Adam Smith made a similar point in his diagnosis of the political ills of the

American colonies. Montesquieu had also claimed it was the particular synthesis of England as a monarchy and republic that kept democracy in check. The Loyalists also accepted the argument that democracy would be moderated in an extended territory provided the authority of government was enhanced. This meant the executive, the monarchical element, had to be strengthened. Unlike Hume, who went on to argue that if a democratic republic could be established in an extensive territory it would be more stable, Loyalists rejected the notion of republican democracy out of hand. They did accept as I noted above, Hume's (and Smith's) principle that the tumults and factionalism of democracy could be cooled in an extended territory. It was imperative, though, that the monarchical element of government always be present. The larger, then, the territory and government and the more monarchical the system, the more stable the government. These lessons were not lost on Canadian politicians in the 1850's and 1860's or during the debates on Confederation.

In the years just previous to Confederation, the frustration with the narrowness and pettiness of provincial life had intensified. According to Waite "young, energetic, ambitious journalists and politicians" were the ones who expressed their discontent most forcefully, the great mass of the public remaining relatively unaffected by this restlessness.¹⁰ Waite selected a representative quotation from P.S. Hamilton, a young Halifax journalist whom I cited earlier. Wrote Hamilton, "To be a British American means nothing in the world's estimation: to be a Canadian, a New Brunswicker, or a Nova Scotian, is to be just next to nothing."¹¹ This feeling of colonial inferiority and frustration was echoed by others. At the time of Confederation itself, Jonathan McCully, another journalist wrote,

"Local politics...have become a farce, nothing more or less...the only politics to divide parties...[is] who shall be high constable of the parish, first footman in a Governor's hall, or master of ceremonies at a political pic-nic... 'Small countries make small men.'" ¹²

As Waite has told us the feeling of restlessness, or put more crassly the desire for office, was particularly strong in Nova Scotia. In our previous chapter I mentioned T.C. Haliburton's and Joseph Howe's concerns on this question. Howe, for example, fretted about "contending for the 'petty prizes' of the colonial raffle."¹³ Charles Tupper apparently agreed. In a speech given in St. John in November, 1860 he stated "that colonists were tied hand and foot to the chariot wheels of Downing Street...that colonial statemen were...nobodies unknown beyond their bailwick, that England snubbed us at every turn..."¹⁴ Added the newspaper report, "the truth of all of which, no one can deny."¹⁵

Three suggestions for the curing of colonial ills were advanced by Nova Scotians: 1) Representation of the colonies in the imperial parliament (By Howe); 2) more imperial patronage, for example in the Colonial Office (By Hamilton, Tupper and Howe); 3) Colonial union. The *Quebec Daily News* offered this opinion on the matter. "For probably forty years the most prominent politicians and public men of Nova Scotia have been clamouring for some colonial system which would give a large scope to their intellectual activity...."¹⁶ Nova Scotians, though, were not alone in these feelings. They were shared with others most notably politicians from the Canadas. Yet, not until Brown of the *Globe* became equally infected with the virus of ambition in 1859 and led Reformers to endorse Con-

federation did union finally seem practicable.¹⁷ By 1864, when politicians from the Canadas met with their counterparts in the Maritimes, it was discovered that in many ways their ambitions and desires for a larger political stage were quite similar.

In early September 1864, a delegation of politicians from the Canadas met with their counterparts from the Maritime provinces who themselves were gathering to discuss the idea of Maritime legislative union. Instead discussion focussed on the possibility of a federal union with the Canadas. It was agreed to take matters further, and in October of that same year delegations from the Canadas and the Maritimes met in Quebec to spell out the details of a federal union.

Minutes and notes of these meetings held in camera, are sketchy, the language of discourse missing. Yet all indications are that a vision of a great nation spanning the continent caught the imagination of many delegates. J.H. Gray, for example, from Prince Edward Island tried to communicate the vision he had witnessed at Charlottetown and Quebec. He asked rhetorically, "Shall we form part of a nation extending from Halifax to Vancouver, as citizens of which our sons will reach distinction and carve out for themselves fame and fortune?"¹⁸ Unfortunately, for Gray his appeal could not sway the provincial legislature in Charlottetown. Gray's colleagues in the Canadas were, though, to be more fortunate when the Confederation proposal was debated in Quebec in the winter of 1865. There, the debates on Confederation indicate the theme of ambition and the dream of a new northern nation and empire surfaced time and time again.

By now even Conservative politicians from Quebec, the *bleus*, were waxing eloquent on this theme. It was clear, for example, that Confederation had caught the imagination of Hector Langevin, Solicitor General from Canada East. To a great extent, the theme of ambition, which included the dream of nation and empire, was at the centre of what Langevin had to say in the Confederation Debates. To illustrate his opinion Langevin quoted at length from a newspaper that had just arrived from British Columbia. Because the quotation expressed the attitudes of many both before and during the debates it bears repeating:

Whatever may be the result of the present attempts to form a Confederation of the North American Colonies, we may be certain of one thing, and that is, that but few years will pass away before the accomplishment of a plan of this nature. Half a dozen provinces lying adjacent to each other, and subject to one and the same power, having different tariffs, exhibit a state of affairs which, from its very nature, cannot continue long. However, setting aside this anomaly, we find North American Colonies for which a more vast political career must be provided. The people have too long laboured under the weight of disabilities which, by wounding their pride, have placed them in a humiliating position before the eyes of the whole world. With all the advantages of responsible government granted to him by the Imperial authorities, after years of strife and trials, the colonist hardly possesses one half the national privileges enjoyed by an Englishman. He is deprived of his share of patronage even in cases in which he is entitled to it and is eminently worthy of it. The position of Colonial Governor is seldom or never granted to him, in many parts of Her Majesty's dominions he is forbidden to practise his profession in the courts of justice. We therefore hail this initiative taken by the Canadian Government as the commencement of the regeneration of the colonists, who have hitherto remained in pupillage. With a confederation of colonies extending from one ocean to the other, what limits shall we assign to our greatness, our material progress and our political aspirations? Instead of seeing the talent of our statesmen fettered, harassed and restrained within the narrow limits of local politics, we shall find its scope extended to a whole continent, while a more vast and natural field will be thrown open to the active and enterprising spirit of the North American Provinces. We hope that the movement will succeed, and will allow us at no distant day to emerge from the isolated and feeble position in which we now are, to become a part of the great British North American Confederation.¹⁰

The quotation, just one of a number that Langevin employed, summed up well the feelings of many Colonists. It articulated their resentment at their inferior position in the world, their desire for office, the frustration with the narrow

confines of provincial politics and the belief that confederation would be a fitting forum of their talents.

Langevin was just one of many politicians who both before and during the Confederation Debates expressed these sentiments. Before the debates, in Charlottetown, John A. Macdonald had let his exasperation with current conditions and his desire for something greater be known, "For twenty long years I have been dragging myself through the dreary waste of Colonial politics. I thought that there was no end, nothing worthy of ambition but now I see something which is worthy of all I have suffered."²⁰ During the debates Macdonald maintained union would elevate the new country in the eyes of the mother country. Said Macdonald, "we may be permitted to hope, that when the union takes place, and we become the great country which British North America is certain to be, it will be an object worthy the ambition of the statesmen of England to be charged with presiding over our destinies."²¹ In other words Canada would now receive the attention it deserved.

Others such as D'Arcy McGee emphasized the new importance confederation would give the colonies. Said McGee, "We have given...to every man...a topic upon which he can fitly exercise his powers, no longer gnawing at a file and wasting his abilities in the poor effort of advancing the ends of some paltry faction or party."²² What is more, those discussing union did so "with a dignity and carefulness which formerly did not characterize them, when they were watched only by their narrow and struggling section and weighed only according to a stunted local standard. Federation...may supply to all our public men just ground for

uniting in nobler and more contests than those which have signalized the past."²³

It is evident from the above that McGee thought federation a worthy object of ambition for public men and an escape from the narrowness and pettiness of provincial life.

McGee's concerns with the limitations and pettiness of provincial life were shared by others participating in the debates. Alexander Galt observed that with union "We shall have the legislation of the General Government restricted to those great questions which may properly occupy the attention of the first men in the country, we shall not have our time frittered away considering the merits of petty local bills...."²⁴ Among the great questions that the General Government would consider would be "the utmost possible development of its resources."²⁵ Confederation, Galt insisted, "would afford a better opening than we now possess for the industry and intelligence of the people"²⁶ Continuing Galt urged, "let us seek by this scheme to give them [the people] higher and worthier objects of ambition. Let us not reject the scheme with the bright prospect it offers of a nobler future for our youth and grander objects for the emulation of our public men."²⁷

Richard Cartwright from Canada West thought along the same lines as Galt. In the following passage he gave his reasons for endorsing confederation:

It is not merely because of the barriers to material progress which it will remove—though I am far from undervaluing their importance; it is not merely because of the higher prizes which it will throw open to individual ambition—though I do not affect to despise this either; but it is chiefly...because it will be found to have the most beneficial results, in elevating our politics and in inspiring our people with those feelings of dignity and self-respect which lie at the bottom of all real national greatness.²⁸

Cartwright continued at length recounting the abuses and slights that the colonists had endured through the years. Now, though, Canada would take its place among the rank of nations.

Alexander Morris' aspirations were similar to McGee's, Galt's and Cartwright's. Confederation, he said, invoking Durham's words of nearly three decades previous, "would raise up to the North American colonist a nationality of his own by elevating those small and unimportant communities into a society having some objects of national importance."²⁹ Morris, however, was insistent that the establishment of a new nationality would not rupture the ties with the mother country but would, in fact, make Canada more fully a part of the empire binding Canadians more closely to the Crown. Morris was under the spell of empire as much as the idea of nation. So were others. D'arcy McGee opted to quote from one of the more popular political pamphlets of the time written by Morris and entitled *Nova Britannia*. McGee found this passage worth particular merit:

The dealing with the destinies of a future Brittanic empire, the shaping its course, the laying its foundations broad and deep, and the erecting thereon a noble and enduring superstructure, are indeed duties that may evoke the energies of our people, and nerve the aims and give power and enthusiasm to the aspirations of all true patriots. The very magnitude of the interests involved, will, I doubt not, elevate many amongst us above the demands of mere sectionalism; and enable them to evince sufficient comprehensiveness of mind to deal in the spirit of real statesmen with issues so momentous, and to originate and develop a national line of commercial and general policy, such as will prove adapted to the wants and exigencies of our position.³⁰

What was being created was not only a new nation but a new empire, a commercial empire on the northern half of the continent.

George Alexander, a Legislative Councillor from Canada West, dreamed of the creation of a new nation and empire.³¹ The empire would be a commercial empire and was likened in expanse to the Russian Empire. It would give "our people higher aspirations." Canadians were raising up "a great Northern Power" to be distinguished by the "wisdom and stability of its institutions."³²

And so it went speaker after speaker addressing themselves to the great new nation and empire that would be erected, Nova Britannia as Morris called it. E.P. Taché, George Brown, G.E. Cartier, Joseph Cauchon each rose to speak of their frustration with the present state of provincial affairs with its political instability and squabbling. They desired and deserved something better they thought. Confederation would offer a practical solution to the problems of the day and serve as a worthy object of ambition for themselves and future generations. Above all it would offer political stability without which the country could not develop. Assumed throughout most of the speeches I have cited was the traditional association of locality with political instability. Governments of a small size and democratic nature were clearly seen as unstable. Canadian history itself was eloquent testimony to that fact. Any political structure that was to be created, then, had to take this into account.

The Need for Strong Central Government

In their search for an appropriate political structure for the new nation and empire the Fathers of Confederation relied upon lessons drawn from both classical and eighteenth century political science, their own and American history, and a value system that instructed them on the importance of strongly centralized

political authority. From this they concluded that:

- (1) Democracy was a weak and unstable form of government sure to end in despotism.
- (2) There was a strong correlation between political instability and locality, i.e. the closer governments were to the people, the smaller in size and jurisdiction; the greater the likelihood of political instability.

Given these conclusions, there were only certain responses for those shaping a new government. First, one antidote to democracy was monarchy with its association with strong and stable executive power. Second, the more circumscribed the power of local governments the better.

With this in mind, one can more readily see how the Fathers of Confederation came to the inescapable conclusion that the preponderance of power had to be put in the hands of the national government. The stress on authority first becomes apparent when it is understood that the leading proponents of Confederation were guided, much as their predecessors had been, by the lessons of Polybian political science. This knowledge also helps understand how Canadians could come to view the United States in such a paradoxical manner. That is, on the one hand, democracies were characterized by mob rule, weakness and instability, yet, on the other hand, the American President was a figure of strength, a despot.

The American experience, which exemplified all the dangers of democracy, was uppermost in the minds of the advocates of union as they contemplated what shape it should take. John A. Macdonald, for instance, was particularly

aware of the limitations of American government. In the Quebec Conference of 1864 he argued that "a great evil in the United States is that the President is a despot for four years."³³ In the Confederation Debates Macdonald expanded on this point. One of the great defects in the American Constitution, he claimed, was that "the President, during his term of office, is in a measure a despot, a one-man power, with the command of the naval and military forces—with an immense amount of patronage as head of the Executive."³⁴ Paradoxically, though, he reflected all the weaknesses of democracy continually having to cater to the people in order to win re-election and a continuance of power for his party. "By adhering to the monarchical principle," Macdonald said, "we avoid [this] defect."³⁵

Numerous other speakers concurred with Macdonald. G.E. Cartier's analysis, for example, was virtually identical to Macdonald's. Cartier maintained that most leading American statesmen and writers had "admitted that governmental powers had become too extended, owing to the introduction of universal suffrage."³⁶ With universal manhood suffrage, mob rule had followed "and we now saw the sad spectacle of a country torn by civil war, brethren fighting brethren."³⁷ All this led Cartier to declare that "he was opposed, ...most distinctly, to the democratic system which obtained in the United States."³⁸ The great defect of that system he argued "was the absence of some respectable executive element...Such a system could not produce an executive head who would command respect."³⁹ This was not the case under the British system and monarchy. Cartier made a similar point much later in the debates. According to Cartier one

of the objectives of the Quebec conference was "to give the country a Constitution which might reconcile the conservative with the democratic element; for the weak point in democratic institutions is the leaving of all power in the hands of the popular element."⁴⁰ History, said Cartier, proves "that this is an evil."⁴¹ Finally, concluded Cartier, "in order that institutions may be stable and work harmoniously, there must be a power of resistance to oppose to the democratic element. In the United States the power of resistance does not reside in the Senate, nor even in the President."⁴²

J. Cauchon, a leading Bleu politician agreed in most particulars with MacDonald and Cartier. According to Cauchon monarchy tempered by a parliamentary system solved the problem that befuddled most political philosophers "because, without interfering with liberty, it renders institutions more solid and secure."⁴³ On the other hand, not far away, democracy wrapped not in the mantle of monarchy, but of democratic republicanism was "moving at a rapid pace towards demagoguery and from demagoguery to an intolerable despotism."⁴⁴

It is not difficult to find other participants in the debates who thought along similar lines. A.C.L. Harwood, Legislative member from Canada East, for example, employed almost precisely the same language as MacDonald and Cartier in his analysis of the role of the American president.⁴⁵ Clearly monarchy, as the source and symbol of authority, had to be a prominent part of the new Confederation if it was to be stable and longlasting.

Stability, authority, permanency were, then, key concepts in the debates. Yet one cannot conclude from this that liberty was not held in high esteem. It

was simply as Cauchon indicated that liberty had to be balanced by authority. In the United States, liberty had run amuck under democratic republicanism. This was not to be the case under a limited monarchy, which in the eyes of many was a "mixed monarchy" combining favourably the elements of authority, liberty and democracy. Of all the speakers D'arcy McGee probably made the most succinct case for a balance between liberty, authority and democracy. Said McGee:

The two great things that all men aim at in any free government, are liberty and permanency. We have had liberty enough—too much perhaps in some respects—but at all events, liberty to our heart's content...But it is necessary there should be respect of the law, a high central authority...We need in these provinces, we can bear, a large infusion of authority. I am not all afraid this constitution errs on the side of too great conservatism. If it be found too conservative now, the downward tendency in political ideas which characterizes this democratic age, is a sufficient guarantee for amendment.⁴⁶

McGee also favoured more authority in government because he felt that Canada did not possess the web of social traditions and institutions so necessary to support government. Here McGee's method of analysis differs little from Burke and the Scots. Contended McGee:

We have here no traditions and ancient venerable institutions; here, there are not aristocratic elements hallowed by time or bright deeds; here, every man is the first settler of the land, or removed from the first settler one or two generations at the furthest...We have none of those influences about us which, elsewhere, have their effect upon government just as much as the invisible atmosphere itself tends to influence life, and animal and vegetable existence.⁴⁷

In the absence of this "invisible atmosphere" it was necessary to inject even more authority into government. These comments recall Uniacke's observation that the Americans had erred in maintaining a minimal governmental presence in a new country. "This," Uniacke had stated, "has caused the maxim of not governing too much to be abused, and has produced the positive fault of governing too

little."⁴⁸ Canadian in the mid-1860's were determined not to govern too little.

Summarizing then, it is clear that democracy was a principal source of difficulty for modern governments. The American experience confirmed the age-old view that democracies were unstable and would eventually come to ruin. In particular they lacked the authority to check the excesses of liberty particularly prevalent in new countries. To counter this, the monarchical principle, (the Crown, the source of all authority) had to be strengthened. These prescriptions definitely conformed to the values of Court Whiggism. In addition, as I will indicate shortly, since democracy was believed to be strongest at the local level the power of local government had to be limited as much as possible.

The Fathers of Confederation, it is clear, viewed local governments with much suspicion. They were seen, as I stated earlier, as ~~too~~ narrow, petty and full of the divisiveness of faction and party. This was one of the reasons why union was seen as such an attractive alternative. It would bring stability and "permanence" as McGee described. The very first speech encountered in the Confederation Debates by E.P. Taché, emphasized the weariness with prevailing political conditions. Taché feared the consequences of continued sectional strife. Confederation presented the opportunity of settling "the domestic difficulties which for some years had distracted the country."⁴⁹ There was, he warned, not a very great distance between exasperation with present conditions and actual conflict.

Other speakers were not quite so pessimistic as Taché but there was widespread agreement that something had to be done. George Brown, for exam-

ple, had concluded:

...The constitutional system of Canada cannot remain as it is now. Something must be done. We cannot stand still. We cannot go back to chronic, sectional hostility and discord—to a state of perpetual ministerial crises."⁵⁰

George Allan, a member of the Legislative Council, concurred and remarked that "anything like a stable and vigorous government seemed to have become a hopeless impossibility."⁵¹ The same argument was made throughout the entire debates. Near the end of the debates A.C.L. Harwood rose and made the following point, "Mr. Speaker, the country is come to a political deadlock; we have arrived at a crisis; ambition, the thirst of power, political passions worked in all ways and on all sides, have so clogged the wheels of the machine of government, that it has been brought to a stand—still."⁵² Public men, insisted Harwood, must find some "escape from the slough of *status quo* in which the wheels of government are stuck."⁵³

Confederation, in effect, represented that escape. To be effective and bring stability, however, it had to have a strong central government. This was the conclusion that Alexander Morris, for example, had reached. Morris, like so many before him, drew upon the first American plans of federation as a comparison. Observed Morris:

It is singular that nearly a hundred years ago, Benjamin Franklin, looking at the difficulties then existing between the colonies should have suggested a plan of union similar to that proposed to us, and it is a strong proof the wisdom of the plan now before this House, that seeing the difficulties under which the other colonies labored for want of a central power, just as we now see them, proposing this Confederation, he [Morris] should have declared that if such a plan had been adopted then it would have prevented the severance of the British Connection.⁵⁴

The preceding passage underscores the extent to which Canadians were still

guided by American experience. It was the want of a central power over the American colonies that had led to the severance of the British connection. The Canadian provinces faced similar difficulties and Confederation provided the means to prevent a repetition of the American experience.

Indeed, throughout the debates it was clear that the errors of the American experience with local governments had to be avoided. The Civil War represented not only the inevitable result of unchecked democracy, it represented the breakdown of federalism with its weak central power. Just as too much power to the colonies had ended in revolution and the rupture of the colonial tie too much power to the states had ended in Civil War. In the Canadian mind, democracy and locality continued to be associated with political instability.

John A. Macdonald was particularly insistent that Canada avoid the shortcomings of the American system. I have already discussed Macdonald's criticisms of democracy and presidential despotism. Macdonald was equally concerned with the weakness of the American federal system. He made this point over and over again. The politicians representing the Canada's in Charlottetown in September 1864 harboured similar views. They were, says Creighton, "convinced that states' power and states' pretensions had caused the break-up of American federalism."⁵⁶ The notes of the Quebec Conference confirm this. Macdonald, for example, was of the opinion that the American states had always acted as distinct and sovereign bodies with little in common. The inevitable result was civil war. "We must," he said,

reverse this process by strengthening the General Government and conferring on the Provincial bodies only such powers as may be required for local purposes.

All sectional prejudices and interests can be legislated for by local legislatures. Thus we shall have a strong and lasting government under which we can work out constitutional liberty as opposed to democracy, and be able to protect the minority by having a powerful central government.⁵⁶

A careful reading of Macdonald's comments confirms that he linked democracy with locality and political instability. Only a strong central government could bring stability, counteract democracy and ensure constitutional liberty. A few days later Macdonald made similar remarks on the dangers of decentralization but this time asserted that others shared his opinion. "All writers," he said, "point out the errors of the United States. All the failings prognosticated by De Tocqueville are shown to be fulfilled."⁵⁷

In the Confederation Debates the next winter speaker after speaker made much the same argument as Macdonald had made and as he was to make once again. "'State Rights', he [Macdonald] declared...had much to do in bringing on the present unhappy war in the United States."⁵⁸ The Americans, claimed Macdonald, had begun at the wrong end. They had given each state sovereignty and delegated powers to the national government. In Canada, the process had been reversed. The national government had been strengthened and given residual powers, the local governments only those power specifically assigned to them. Consequently, "we have thus avoided that great source of weakness which has been the cause of the disruption of the United States."⁵⁹

Speaking in the Legislative Council John Ross recounted the experience of previous federated republics, particularly the American, the Dutch, and the Swiss. None had ever possessed sufficient central power to ensure political stability and were consequently beset by political strife. He claimed in particular that

"the difficulties between the North and the South...arose wholly upon the question of state rights, and had provisions existed in the Constitution of the American Union, similar to those which it is proposed to introduce into ours, the probability is the States would have remained united."⁶⁰ Ross also emphasized that Confederation ensured freedom as well as stability. Compared to the other federated republics "ours, as now proposed, is that which promises best to secure freedom to those who live under it, and stability for the political condition of country."⁶¹

John Rose from Montreal Centre also stressed the importance of strong central government. Canadians had learned from the American experience, he said, and established a "central authority which it will not be within the power of any of the local governments to interfere with or rise up against."⁶² Other examples could be cited. D. McGee, Allan, Harwood, Cartier, H. McKenzie, Morris, W. Shanly were just some of those who spoke on the danger of states' rights and the historical weakness of federal systems. Speaking of what he described as "the principle of Confederation" itself, D'arcy McGee asserted that Confederations suffered from "one fatal defect, the weakness of the central authority."⁶³ Fortunately much had been learned from these experiences, particularly American experience and "contrivances" had been prepared to remedy this defect in Canadian confederation. In the Canadian case the monarchical element—that is the executive—had been strengthened to provide the central authority so desperately wanted.

The belief that states rights and democracy, the principle weaknesses of the American federal system, had led to chaos had very important implications for the institutional arrangements of the new government, in particular for the Upper House and the responsibilities of the national versus local governments. It meant, for instance, that the composition of the Upper House could not be justified upon the same basis as in the United States where each state was represented in Washington by two senators. This implied state sovereignty. Representation in the Legislative Council had to be justified upon some other basis—in this case on the basis of region with Canada West, Canada East and the Maritimes being allotted twenty-four members each. The Upper House, said Macdonald, would "protect local interests, and...prevent sectional jealousies."⁶⁴ Keeping with the anti-democratic spirit present neither could it be elected—the practice since 1856. The argument that it be appointed was premised on the widely held fear of the excesses of the elective principle. Many agreed with Joseph Cauchon that it was necessary to put in place "a counterpoise to prevent any party legislation and moderate the precipitancy of any government which might be disposed to move too fast and go too far."⁶⁵ The Upper House was to be filled with "disinterested," "independent" men with a general view of the country while the Lower House was built on the shakier foundation of public opinion tied as it was to locality and popular feeling.⁶⁶ Again we see the principle of democracy and locality being tied to a particular institution, the Lower House. Because Canada "lacked the elements...of a landlord aristocracy"⁶⁷, it was necessary to appoint members for life. Paradoxically, an appointed Upper House would strengthen the patronage powers of the government and thus the

government itself. In effect, the Fathers of Confederation were following the prescriptions first articulated a century earlier by American Loyalists.

The fear of state rights and democracy meant that the powers of local governments had to be as circumscribed as much as possible. John A. Macdonald didn't hide the fact that he preferred a legislative union but admitted circumstances would not permit it.⁶⁸ I pointed out earlier, for example, the determination of French-Canadians to protect their national institutions. As Garth Stevenson has pointed out the "French-Canadian nation [was] too weak to form an equal partnership with the Anglo-Canadian nation but too strong to be disregarded."⁶⁹ The state would, to some extent, have to be decentralized but Macdonald also conceded that the Maritime provinces were antagonistic to legislative union.⁷⁰ In addition, there were other factors that led to leaving the powers of local governments at least partially intact. Donald Creighton has pointed out that the absence of a general system of municipal government in the Maritime Provinces would have thrown a large mass of petty legislation on the national legislature.⁷¹ This was anathema to the Fathers of Confederation. They no longer wanted to deal with petty things. Let the local legislatures deal with these. They had a nation to build. Important as well in mitigating against legislative union was the lingering presence of agrarian Reformism, particularly in Upper Canada, with its attachment to local control and a government that was close to the people. Confederation, in a sense, reconciled two important principles in Canadian political life—the historical Tory desire for union and the Reform desire for local autonomy.

Yet, if these two principles were reconciled in Confederation the terms of reconciliation were very favourable to the Tory tradition. The influences tending toward a strongly centralized union predominated. Donald Creighton confirms this stating:

From the evidence afforded by the discussions at Quebec and the debates in the legislatures of the different provinces it is apparent that the Fathers of Confederation wished to invest the new general government with the bulk of those functions which at that time were regarded as the most important onerous responsibilities of the state. It is equally apparent that the Fathers intended to effect a considerable reduction of the duties which up to that time had come within the sphere of the provincial governments.⁷²

The general government was granted all the powers, mechanisms of control, and patronage that it needed to establish its supremacy within Confederation. These powers included the powers to oversee the economy, to tax, and provide for communications and defence. Included among the means of control given to the general government to limit the actions of local governments were the right to appoint Lieutenant Governors and the power of disallowance. John Rose described the right to appoint local governors "an admirable provision which establishes the connection of authority between the central power and the different localities."⁷³ The power of disallowance was described as the "best protection and safeguard of the system."⁷⁴ It would ensure, in case of a clash between the two levels of government, that the will of the general government would prevail.

With the allocation of the major powers and means of control to the general government came all the important positions of patronage. From now on all the important "prizes" in the raffle of Canadian politics would be in the hands of the

central government. In Rose's opinion all the desired offices of government including "the appointment of the judges, the patronage of the post office, the customs, the excise, the board of works, and all other important branches of the administration [were] in the hands of the Federal Government?"⁷⁵ Clearly ambitious men would no longer covet the patronage of local governments. What did local governments possess "but a few municipal officers to be appointed by the local legislatures?"⁷⁶ To a great extent, then, strengthening the monarchical principle and therefore, central authority and government, itself, involved enhancing the appointive powers of the Crown.

None of this was lost upon the opponents of Confederation. A.A. Dörion, for example, saw Confederation as the "most conservative measure ever laid before a Parliament."⁷⁷ The Conservatives, he argued, wanted to put as much power as possible in the hands of the government. This, said Dörion, was what distinguished the tories from the whigs—"the tories always side with the Crown, and the liberals always want to give more power and influence to the people."⁷⁸

Dörion came to this conclusion on the political beliefs of Cartier and Macdonald:

...They think the hands of the Crown should be strengthened and the influence of the people, if possible, diminished—and this Constitution is a specimen of their handiwork, with a Governor-General appointed by the Crown; with local governors...appointed by the Crown; with [the] legislative council,...in the General Legislature...nominated by the Crown."⁷⁹

According to Dörion it was public knowledge that the potential promise of these positions and others was "one of the reasons assigned for the great unanimity which prevailed in the [Quebec] Conference" of 1864.⁸⁰

Canadian Confederation and Economic Development

While Canadian Confederation was definitely believed to be the answer to the pettiness and political instability plaguing the provinces it was also seen as the solution to the economic problems they faced. As matters stood in the early 1860's all the British North American provinces were beset by serious fiscal and economic difficulties, the two being inextricably linked. First of all, the provinces were badly in debt. They had contracted this debt for the purposes of creating a transportation structure that would hasten economic development. According to Donald Creighton, "the cause of provincial development and, in particular, the burden of improved transport, had...become the greatest single responsibility of government in British North America."⁸¹ Most of this debt had been incurred "in expenditures on railways. The contracting of public debt had been made without embarrassment if Alexander Galt's remarks are any indication. Defending the public debt as a legitimate burden of the state Galt stated in his budget speech of 1862 that:

It is thus clear if the productive power of the country has been largely developed, and the fruits of the soil realize better prices, the public improvements we have undertaken have been of the greatest possible benefit to the country....It is too often supposed that our canals and railways and other public improvements cost much and yield nothing to the public exchequer; consequently, that they are heavy, unproductive burthens. Sir, there never was a greater fallacy. It is those improvements which, in a great measure, have been the source of the progress of the country.⁸²

This was to be very much the same argument Galt and others offered during the Confederation debates. Yet, by the 1860's, defensible as the public debt might be, there were very serious problems. Many municipalities, which had severe debt burdens as well, had defaulted in the depression following the panic

of 1857. The Grand Trunk Railway, which had been a prime beneficiary of public largesse, was in a condition of continual financial chaos. Canadian governments turning to London for assistance found it difficult to float new loans. This, says Creighton, prompted the British to support the idea of Confederation. Creighton claims this support "might be interpreted as an effort to assist in the creation of a great holding company in which could be amalgamated all those divided and vulnerable North American interests whose protection was a burden to the British state and whose financial weakness was a grievance of British capital."⁸³ In brief, in quintessential Court terms, Confederation was to be a credit instrument. Harold Innis, as I stated in Chapter V, was of the same opinion. Stanley Ryerson also agreed and offered the following quote from Alfred Dubuc: "In economic terms Confederation was essentially an instrument of public finance whose object it was to those responsible for effecting investment, the resources necessary for the unified economic development of the British colonies in North America."⁸⁴ In particular continued Dubuc, "the privileged sector was to be that of the railroads. It was precisely the interests of groups associated with the railroads which inspired Confederation."⁸⁵

There is, then, a concurrence among Canadian historians of differing ideological persuasions that Confederation was to be an important credit instrument and the railways, in particular, were to be the main beneficiaries. In essence, Confederation reinforces the point made by proponents of the Court ideology in the eighteenth century—that the wealthy only loaned to governments they could trust. That trust, now, could only be retained by union. As the Confederation

scheme was being hammered out in Quebec in 1864 it was done so under the watchful eye of railway men. Writes W.L. Morton, "the railways chieftains had to know what was going on, and they had to be available to tell any politician under pressure what was possible and what might be dared."⁸⁶

Besides the pressure the mounting public debt put on politicians there was another important economic problem confronting the British North America provinces—the impending abrogation of the Reciprocity Treaty with the United States. The Reciprocity Treaty had opened American markets to Canadian products and with its threatened loss Canadians had to find alternative markets that would ensure prosperity. No longer could they rely on Britain where they had lost protected markets in the 1840's and 1850's. They had to rely on one another.

These concerns are reflected in Alexander Galt's speech during the Confederation Debates. Macdonald and Cartier had dealt with the crucial political and philosophical questions, he said, now it was left to him to consider the material interests of union. What followed was a lengthy exposition on the commercial and financial aspects of union in which Galt emphasized the benefits of an internal market, free trade, and economic diversification and defended the use of public funds for internal improvements. In brief, Galt was speaking on the political economy of state building.⁸⁷ Union, he said, would mean that the tariffs that had impeded the free flow of goods between the provinces would be removed thereby "opening up...the markets of the provinces to the different industries of each."⁸⁸ In addition union, Galt insisted, would mean that the country would

have a more diversified economic base with all the advantages that entailed. No longer would Canada be "dependent on one branch of industry as a purely agricultural country."⁸⁹ As he reminded his listeners "it is in the diversity of employment that security is found against those sad reverses to which every country, depending mainly on one branch of industry, must always be liable."⁹⁰ Finally, Galt observed, union would provide a means of solving the problems of public debt and improving public credit. It was clear, in Galt's opinion, that "the credit of each and all the provinces [would be] greatly advanced by a union of their resources," thus removing "those apprehensions which have latterly affected the public credit of this country."⁹¹ While the public debt may have been large Galt once again stated he was not embarrassed by its size:

The public debt of all these provinces has...been incurred for public improvements intended to develop the resources of the country, to attract immigration and wealth to their respective shores, to cheapen the means whereby the products of their farms were...taken to market, and to reduce the cost of the freight of articles which enter largely into the consumption of their inhabitants.⁹²

There is little in this to distinguish Galt from Adam Smith. Smith, I noted in Chapter IV, had argued for a union between Britain and her colonies for very similar reasons. In Smith's opinion a union would have alleviated the public debt, strengthened public credit and government, and also provided for free trade within the new union.

Harold Innis has also commented on the similarity of their arguments. Innis noted Galt's earlier defence of the imposition of a tariff on British goods, a defence entirely consistent with Smith's economic views. The tariff had been instituted to raise revenue and repay British capitalists for the loans used to

build public transportation infrastructure.⁹³ Innis selected the following quotes of Smith and Galt to illustrate their similarity. Wrote Smith, "as the expence of carriage is very much reduced by means of such public works, the good, notwithstanding the toll, come cheaper to the consumer than they could otherwise have done; their price not being so much raised by the toll, as it is lowered by the cheapness of the carriage."⁹⁴ Wrote Galt, "it might very easily be shown that any increase of duty which has been placed on English goods is quite indemnified by the decreased cost at which our canals, railways and steamships enable them now to be delivered throughout the province."⁹⁵

Similarly, it should not be forgotten that Adam Smith justified an active role for the state in building economic infrastructure. One of the duties of the "sovereign or commonwealth" Smith said,

"is that of erecting and maintaining those public institutions and those public works, which, though they may be in the highest degree advantageous to a great society, are, however, of such a nature, that the profit could never repay the expence to any individual or small number of individuals, and which it therefore cannot be expected that any individual or small number of individuals should erect or maintain. The performance of this duty requires two very different degrees of expence in the different periods of the society."⁹⁶

These public works included "those for facilitating the commerce of the society...such as good roads, bridge, navigable canals, harbours etc."⁹⁷

Nor can it be overemphasized that Smith foresaw occasions when the state would have to borrow and incur public debt. This was most likely in advanced stages of society such as a commercial society. In a "rude state of society" without the advantages of mercantile or manufacturing capital, individuals hoarded and were reluctant to lend due to a distrust of the justice of govern-

ment.⁹⁸ Because of the impossibility of borrowing the sovereign had to provide for exigencies by saving. This, however, was not the case in a commercial society where commerce and manufactures could flourish only because they enjoyed a regular administration of justice and security of property. Furthermore, commercial societies abounded "with a set of people who have it at all times in their power to advance, if they chuse to do so, a very large sum of money to government."⁹⁹ Not only did capitalists have the ability to lend to government, they also possessed a willingness to do so for by lending to government they frequently increased their ability to carry on their trade and manufactures. Smith reasoned as follows:

The necessities of the state render government upon most occasions willing to borrow upon terms extremely advantageous to the lender. The security which it grants to the original creditor, is made transferable to any other creditor, and from the universal confidence in the justice of the state, generally sells in the market for more than was originally paid for it. The merchant or monied man makes money by lending money to government, and instead of diminishing, increases his trading capital. He generally considers it as a favour, therefore, when the administration admits him to a share in the first subscription for a new loan. Hence the inclination or willingness in the subjects of a commercial state to lend.¹⁰⁰

Smith believed that war provided the primary motive for a state to borrow. Yet as H.G.J. Aitken has pointed out, in North America, economic development was the equivalent of war.¹⁰¹ In the 1860's Canada, no doubt, was a commercial state but the willingness to lend was now threatened by a loss of confidence on the part of British capitalists in the ability of the isolated provinces to repay the debt incurred in the building of public works. Only a union which combined not only their liabilities but also their assets and taxing power could do that.

Many others in the debates echoed Galt's arguments, particularly those concerning public debt. Hector Langevin defended Lower Canada's public debt saying, "We leave the union with a debt greater than that with which we entered it, but we leave it with a most perfect system of lighthouses, wharves, piers, slides, in fact with a large number of other public works, which have mainly contributed to the settlement and prosperity of the country, and which have more than doubled its resources since the union."¹⁰² Langevin pointed with particular pride to the benefits the costly Grand Trunk Railway had brought them. John Rose also defended the public debt arguing that the state should continue to underwrite the costs of economic development.¹⁰³ Now, however, "works of improvement" will have no chance of being obstructed by the local government of Lower Canada as they once had been in the days of Papineau.¹⁰⁴ In "an age of progress" there was hostility to such a state of things.

Evident from Rose's comment, and also Galt's, is that progress was perceived almost solely in economic terms. Both Galt and Rose were conservatives politically. Rose, for example, had made the following comparison of Canadians to Americans. "The genius and instincts of our people," he said, "are monarchical and conservative—theirs leveling and democratic."¹⁰⁵ The fact that the "genius and instincts" of the people were "conservative" did not mean that the state could not be used as an instrument of economic development bringing the advantages of a transcontinental market society to Canadians. As Donald Creighton has told us, "the creation of a national economy was the economic counterpart of the establishment of a new political nationality."¹⁰⁶ The political

expression of that new nationality, the federal state, had to be politically stable and possess sufficient economic powers in order to build that national economy and at the same time retain the confidence of British capitalists. While capital in Canada may have aspired to a national-building role it was commonly recognized that British assistance was needed to complete the task. Consequently, the new state could not become fully independent but had to remain within the fold of the British Empire.¹⁰⁷

Confederation and Defence

While without doubt the desire for political stability and economic development were the primary concerns of the Fathers of Confederation the new government was not justified on these grounds alone. Confederation, its proponents argued, would also greatly improve the defensive position of British North America. That is, union would not only strengthen North America politically and economically, but also militarily.

D'arcy McGee was the point man for the government of the Canadas on the issue of defence. He reminded his colleagues during the debates that Canada had to become more responsible for its own defence and the the growing military might of the United States underscored the urgency.¹⁰⁸ The United States, McGee insisted, historically possessed an appetite for expansion and designs were being made on Canada. The increased military strength of the United States could only embolden its imperialistic aims and had to be countered by an improvement in Canada's defensive position.

With the Civil War now drawing to a conclusion the realization of Canada's weak position militarily struck a responsive chord with many. John Rose, E.P. Taché, and J.H. Cameron were only a few of those who spoke on the matter. Yet, as important as the issue of defense was to the Fathers of Confederation, it must be put in proper perspective. It was used more to sell the scheme and convince doubters than anything else. Donald Creighton weighed the impact the American Civil War and the growth of the American military machine had on Confederation and concluded:

It is easy to exaggerate the influence of the American Civil War upon the movement for Canadian Confederation...The American Civil War did not inspire the Canadian desire for constitutional reform or the British wish for retrenchment; but it did help given both amplitude and urgency to the Anglo-Canadian plans for achieving their objectives.¹⁰⁰

Confederation and French-Canadian Culture

Aside from defence there was one other important question raised concerning Confederation and that was, would it provide the means to protect French-Canadian culture? This question, however, important as it may have been, was largely restricted to French-Canadian members of the legislature. English-Canadians, for example, put a greater emphasis on economic matters and their direction by the central government than they did on the ability of the local government to protect culture.

Those politicians who most strongly defended federalism as a means of guaranteeing local autonomy and preserving French-Canadian culture were *bleu*.

These politicians were to take an ambiguous position that left them open to attack by their *rouge* opponents. Cartier, for example, forcefully spoke of the

need to have a strong central government that would be largely responsible for commercial matters.¹¹⁰ On the other hand, he insisted, local governments would have all the necessary powers to protect their interests and in the case of French-Canadians, their race and religion.¹¹¹ H.E. Langevin made the same point, the central government would promote commerce, the local government would protect culture.¹¹² Langevin expressed it this way: "When the matter under consideration is a great public enterprise, such as a railway, a canal or a telegraph line, our religious and national interests will not be endangered. It will be the duty of the Central Government to see that the country prospers, but it will not be its duty to attack our nationality, which...I have...proved, will be amply protected."¹¹³ The greatest "proof," however of the ability of local government of Lower Canada to preserve French-Canadian culture was offered by Joseph Dufresne. Dufresne, in detailed fashion, listed all the powers of local governments concluding federalism secured "the safety of all our rights and institutions."¹¹⁴

Others, however, were not so sure. Some, such as Joseph Perrault, expressed the long held fear among French-Canadians that Confederation meant centralization and centralization meant the annihilation of their race in Canada.¹¹⁵ Confederation was little more than a means to achieve representation by population and English-Canadian dominance. In this case it would be best to stay with the present system with its entrenched equality. Perrault's views were echoed by others, H. Joly, M. Laframboise and the Dorion brothers among them. The speeches of this group contained numerous references to Lord Durham's

Report and to George Brown's *Globe* that were used to prove their case.

Protest as they might, French-Canadians were not able to alter the Confederation scheme in its particulars. The government that emerged conformed very closely to the image of union that had been held by generations of Tory politicians. That even Reformers such as George Brown had now embraced the Tory dream of nation, empire and economic expansion is indicative of the hegemony of Toryism. That local governments were subordinated to such a degree to the central government is eloquent testimony to the weak pulse of Reformism.

The Confederation Debates and the Opposition to the Scheme

To be sure the assumption and arguments of those advocating Confederation were subjected to close scrutiny by its opponents. Suspicion was also cast upon both the motives and necessity for Confederation. Here many of the arguments are in keeping with the Reform tradition. Thomas Scatherd, for instance, saw "the hand of the Grand Trunk in this Confederation scheme."¹¹⁶ If built, the Intercolonial Railway would be extremely costly and a "piece of corruption from the time of the turning of the first shovelful of earth."¹¹⁷ A.A. Dorion agreed. In his opinion Confederation had been "concocted for bringing aid and relief to the unfortunate Grand Trunk."¹¹⁸

Of all those criticizing the Confederation proposal from within a Reform perspective, the arguments of the Dorion brothers were the most insightful. Both articulated the need for less, not more government, and a government that was

cheaper and closer to the people. In both instances the familiar comparison with the United States was made but this time favourably. According to J.B.E. Dorion, Confederation was "a Tory plot that was anti-democratic and a threat to political liberty."¹¹⁹ He also viewed federalism as a highly decentralized form of government. "Federalism means," he said, "the union of certain states, which retain their full sovereignty in everything that immediately concerns them, but submitting to the General Government questions of peace, of war, of foreign relations, customs and postal service."¹²⁰ The present scheme was the opposite of this. His brother, G.A. Dorion agreed. Both saw Confederation as bringing more centralized and expensive government. J.B.E. Dorion also saw Confederation as "extravagant" and another "display of luxury."¹²¹ As W.L. McKenzie and others had done decades previously he compared the expense of government in the United States to that of Canada. His conclusion? "The financial system of our neighbours is greatly superior to ours."¹²² Outlays on railways and for needless purposes of defence would only mean more public debt and more taxation.¹²³ Finally, J.B.E. Dorion insisted the constitution of the United States was not only superior to the one being suggested it was "far better suited to our habits and state of society."¹²⁴

As forceful as the arguments of the Dorion brothers were they were deflected without much effort. The defenders of Confederation were convinced in their own minds that it was an improvement over the American system.

A final effective argument against Confederation came not from a Reformer but from an independent conservative, Christopher Dunkin. The new constitu-

tion, he maintained, was a mongrel constitution borrowing the worst features of the American, such as its system of representation, and not enough of the British.¹²⁵ Neither in principle nor in detail would it work. Speaking as a conservative Dunkin believed Confederation was a sudden change for the sake of something new. "There must be," he said, "the same slow, steady change in political matters which answers to the growth visible in the physical world."¹²⁶ Instead Dunkin argued if there was to be any change or federal union "it is the entire Empire that should be federalized, and cemented together as one; and not any mere limited number of its dependencies...."¹²⁷ Unfortunately for Dunkin there were too few independent conservatives to support him and even fewer, in the light of Imperial retrenchment, who believed Imperial Federation was a viable alternative.¹²⁸

Conclusion

It should by now be obvious that Confederation was not a product of atheoretical activity. It was rather the expression of a relatively consistent system of values which had its roots in the Court Ideology and Loyalism. Like the Court Whigs, the Fathers of Confederation valued commerce and empire. These are not "neutral" or "value-free" concepts. A commercial society was consciously preferred to an agricultural society. Similarly, a strong state, a Hobbesian state, was preferred, one that could curb democracy and the unfettered liberty present in the new world. This meant an emphasis had to be put on the rights of the Crown and executive authority, the monarchical principle. There was a clear recognition of the importance of patronage and office and the manner in which

they could be used in satiating the desires of ambitious men thereby ensuring loyalty instead of opposition. The Fathers of Confederation such as John A. Macdonald believed, as the Loyalists had believed, that a principal source of difficulties stemmed from the power possessed by local governments. Only another level of government with enhanced authority could counteract their centrifugal tendencies.

The belief system of the main proponents of Confederation legitimated an active role for the state in promoting commerce and a society in which the principle mechanism of exchange was the market. To this end, if necessary, a large public debt could be incurred. Few advocates of confederation expressed embarrassment that public largesse might enrich private enterprise. The boundary between the public and private sectors was neither an important nor distinguishable one.

To conclude, Confederation epitomizes the core feature of Court Whiggism, the marriage of a political conservatism with an economic liberalism. The Fathers of Confederation had no doubts that this would be a lasting if, albeit, convenient marriage.

Footnotes

1. Peter B. Waite, *The Life and Times of Confederation 1864-1867: Politics, Newspapers and the Union of British North America* (Toronto: University of Toronto Press, 1962), p. 325.
2. *ibid.*, pp. 13,14.
3. For Adam Smith's treatment of the subject see his, "Of the origin of Ambition, and of the distinction of Ranks," in Adam Smith, *The Theory of Moral Sentiments*, ed. by D.D. Raphael and A.L. Macfie, (Oxford: Clarendon Press, 1976).
4. William Riker, *Federalism, Origin, Operation Significance*, *2op. cit.*, p. 2.
5. *Ibid.*
6. *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces* (Quebec: Hunter and Rose and Co., 1865), p. 29. Hereinafter referred to as *Confederation Debates*
7. D.G. Creighton, *British North America at Confederation: A Study Prepared for the Royal Commission on Dominion-Provincial Relations* (Ottawa: Queen's Printer, 1963), pp. 62-79.
The figure today in Canada at the federal level is approximately 21.5%. The percentage in recent years has risen swiftly, raising concern. Source: Canada, *The Budget in More Detail* (Ottawa: Nov. 12, 1981).
8. *ibid.*, p. 70.
9. David Hume, "Idea of a Perfect Commonwealth, *Essays*, *op. cit.*, p. 492
10. Waite, *op. cit.*, p. 4.
11. P.S. Hamilton, *Observations upon a Union of the Colonies* (Halifax, 1855) p.6, as quoted in *ibid.*, p. 14.
12. *Halifax Unionist*, July 10, 1865, as quoted is in *ibid.*, p. 15.
13. [B.W.A.] Sleigh, *Pine Forests and Hacmatack Clearings* (London, 1853), p. 344., as quoted in *ibid.*, p. 15.
14. *Saint John Morning News*, Nov. 22, 1860, as quoted in *ibid.*, p. 15.
15. *ibid.*
16. *Quebec Daily News*, Nov. 17, 1863, as quoted in *ibid.*, p. 15
17. In a speech to the Reform Convention in November, 1859 Brown was ambitious as any Nova Scotian. "Now, Sir, I do place the question on the ground of nationality. I do hope there is not one Canadian in this assembly who does not look forward with high hope to the day when these northern countries shall stand out among the nations of the world as one great confederation. (Cheers)" *Toronto Globe*, Nov. 16, 1859, as quoted in *ibid.*, p. 16.
18. *Islander*, Nov. 18, 1864, J.H. Gray's Letter of Nov. 10, 1864, as quoted in Donald Creighton, *The Road to Confederation; The Emergence of Canada: 1863-1867* (Toronto: Macmillan of Canada, 1964), p. 198.

19. *Confederation Debates*, *op. cit.*, p. 381. The name of the newspaper is not given.
20. John A. Macdonald as quoted by E. Whelan, *Union of the British Provinces*, p. 42., as quoted in Waite, *op. cit.*, p. 80.
21. *Confederation Debates*, *op. cit.*, p. 34.
22. *ibid.*, p. 128.
23. *ibid.*
24. *ibid.* p. 70
25. *ibid.*
26. *ibid.*, p. 71.
27. *ibid.*
28. *ibid.*, p. 823.
29. *ibid.*, p. 438.
30. *ibid.*, p. 127.
31. *ibid.*, pp. 81,82.
32. *ibid.*, pp. 81.
33. Joseph Pope ed., *Confedexation: Being a Series of Hitherto Unpublished Documents Bearing On the British North America Act* (Toronto: Carswell Co. Ltd., 1895) p. 57. Minutes and notes of discussion of the Quebec conference were kept by Hewitt Bernard.
34. *Confederation Debates*, *op. cit.*, p. 33.
35. *ibid.*
36. *ibid.*, p. 59.
37. *ibid.*
38. *ibid.*, p. 62
39. *ibid.*
40. *ibid.*, p. 571.
41. *ibid.*
42. *ibid.*
43. *ibid.*, p. 561.
44. *ibid.*
45. *ibid.*, p. 833.
46. *ibid.*, p. 146.
47. *ibid.*
48. See Uniacke, *The Statutes at Large*, *op. cit.*, p. VIII.
49. *ibid.*, p. 6.
50. *ibid.*, p. 87.

51. *ibid.*, p. 116.
52. *ibid.*, p. 825.
53. *ibid.*
54. *ibid.*, p. 349
55. Donald Creighton, *Road to Confederation*, *op. cit.*, p. 117.
56. Pope, *op. cit.*, p. 55.
57. *ibid.*, p. 86.
58. *Confederation Debates*, *op. cit.*, p. 33.
59. *ibid.*
60. *ibid.*, p. 74.
61. *ibid.*, pp. 74, 75.
62. *ibid.*, p. 404.
63. *ibid.*, p. 144.
64. *ibid.*, p. 35.
65. *ibid.*, p. 572. See also John A. Macdonald, pp. 36, 37.
66. *ibid.*, p. 37.

Hypothetically, said Macdonald, this is how members of the Upper House could justify themselves to members of the Lower House on any action they might take. "We as much represent the feelings of the people as you do, even more so; we are elected from small localities and for a short period; you as a body were elected at a particular time, when the public mind was running in a particular channel; you were returned to parliament, not so much representing the general views of the country, on general questions, as upon the particular subjects which happened to engage the minds of the people when they went to the polls. We have as much right, than you to be considered as representing the deliberate will on general questions, and therefore we will not give way."

67. *ibid.*, p. 35.
68. *ibid.*, p. 29.
69. Garth Stevenson, "The Political Economy Tradition and Canadian Federalism," *Studies in Political Economy* 6 (1981), p. 114.
70. *Confederation Debates*, *op. cit.*, p. 29. For the New Brunswick perspective see Alfred G. Bailey, "The Basis and Persistence of Opposition to Confederation in New Brunswick," *Canadian Historical Review*, XXIII (4), December, 1942.
71. Donald Creighton, *The Road to Confederation*, *op. cit.*, p. 143.
72. D.B. Creighton, *British North America at Confederation*, *op. cit.*, p. 79.
73. *Confederation Debates*, *op. cit.*, p. 404.
74. *ibid.*

75. *ibid.*, p. 409.
76. *ibid.*
77. *ibid.*, p. 253.
78. *ibid.*, p. 255.
79. *ibid.*, pp. 255, 256.
80. *ibid.*, p. 256.
81. D.G. Creighton, *British North America at Confederation*, *op. cit.*, p. 68.
82. A.T. Galt, *Budget Speech*, 1882, pp. 11, 12, as quoted in *ibid.*, p. 68.
83. D.G. Creighton *British North America at Confederation*, *op. cit.*, p. 9.
84. Alfred Dubuc as quoted in Stanley Ryerson, *Unequal Union: Confederation and the Roots of the Conflict in the Canadas* (Toronto: Progress, 1968), p. 344.
85. *ibid.*
86. W.L. Morton, *The Critical Years: The Union of British North America, 1856-1873* (Toronto: McClelland and Stewart, 1968), p. 154.
87. Articles in Leo Panitch, *The Canadian State: Political Economy and Political Power* (Toronto: University of Toronto Press, 1977) treat the subjects of state-building and province-building.
88. *Confederation Debates*, *op. cit.*, p. 64.
89. *ibid.*, p. 63.
90. *ibid.*
91. *ibid.*, p. 67.
92. *ibid.*, p. 65.
93. Harold A. Innis, "Significant Factors in Canadian Economic Development," in *Essays in Canadian Economic History* (Toronto: University of Toronto Press, 1973), p. 206.
94. A.G. Galt, *Canada 1849 to 1859* (London, 1860) as quoted in *ibid.*
95. Adam Smith, *An Inquiry into the Nature and Causes of The Wealth of Nations*, Edwin Cannan edition, (New York: Random House, Inc., 1937) p. 683 as quoted in *ibid.*
96. Adam Smith, *An Inquiry into the Nature and Causes of The Wealth of Nations*, Edwin Cannan edition, (New York: Random House, Inc., 1937) p. 681
97. *ibid.*
98. *ibid.*, p. 863.
99. *ibid.*
100. *ibid.*
101. Aitken offers the following quote from Lord Durham's *Report on the Affairs of British North America* "I know of no difference in the machinery of

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government in the old and new world that strike a European more forcibly than the apparently undue importance which the business of constructing public works appears to occupy in American legislation...The provision which in Europe, the State makes for the protection of its citizens against foreign enemies, is in America, required for...the 'War with the Wilderness.'" - H.G.J. Aitken, "Defensive Expansion: The State and Economic Growth in Canada," in W.T. Easterbrook and M.H. Watkins, *Approaches to Canadian Economic History* (Toronto: McClelland and Stewart, 1967), p. 183.

102. *Confederation Debates, op. cit.*, p. 386.
103. *ibid.*, pp. 414, 415.
104. *ibid.*, p. 409.
105. *ibid.*, p. 396.
106. W.G. Creighton, *British North America at Confederation, op. cit.*, p. 40.
107. For more on this point see Garth Stevenson, *op. cit.*
108. *Confederation Debates, op. cit.*, pp. 130-132.
109. D.G. Creighton, "The United States and Canadian Confederation," *Canadian Historical Review*, XXXIX (Sept., 1958) pp. 222 as quoted in W.L. White, et. al., *Canadian Confederation: A Decision-Making Analysis*. (Toronto: MacMillan of Canada, 1979) p. 42.
110. *Confederation Debates, op. cit.*, p. 61.
111. *ibid.*, p. 57.
112. *ibid.*, p. 368.
113. *ibid.*
114. *ibid.*, p. 925.
115. *ibid.*, pp. 585-626.
116. *ibid.*, p. 752.
117. *ibid.*, p. 759.
118. *ibid.*, p. 251.
119. *ibid.*, p. 859.
120. *ibid.*, p. 858.
121. *ibid.*, p. 864.
122. *ibid.*, p. 865.
123. *ibid.*, p. 258.
124. *ibid.*, p. 869.
125. *ibid.*, pp. 482-544.
126. *ibid.*, pp. 484.
127. *ibid.*, p. 525.

128. The fact that Imperial Federation was such an unlikely prospect also meant that opposition such as Joseph Howe's could eventually be overcome. Howe had concluded that the alternative to the bars of the provincial cages did not lie with a federation of the British North American provinces but with greater recognition by, and links to, the Imperial government. His opponents feared his response to a measure which would make Nova Scotia now "a patriotic colony of a great empire a doubtful province of a dubious experiment in nation-building." As the most articulate foe of Confederation in the Maritimes Howe was able to rally opposition to the measure. The fact that the Imperial government supported Confederation and favoured retrenchment and opposed making Nova Scotia a welcome member of the Imperial household meant that there was no real choice. Nova Scotia would eventually have to join Confederation. Howe secured some minor financial concessions from the federal government and led Nova Scotia into Confederation in 1869.

For more on Howe's ambivalent position see W.L. Morton, *op. cit.*, and Peter Waite, *op. cit.* The quote is Morton's, p. 168.

CHAPTER VII POLITICAL IDEOLOGY AND CANADIAN CONFEDERATION CONCLUDING REMARKS

Introduction

In the preceding chapter I argued that Canadian Confederation was the expression of a coherent set of values which had its roots in the Court ideology and Loyalism. The central feature of this ideology, I noted, was the marriage of a political conservatism with an economic liberalism. In this chapter I conclude this examination of Canadian political ideas by returning and reconsidering, in summary form, the objectives I set for this thesis. First, as I noted above, an ideology does underlie the creation of the federal state in Canada. Second, contrary to the arguments of modern constitutionalists such as Carl Friedrich the constitutionalism of Canadian Tories was predicated on the notion that freedom could only be protected if the authority of government was enhanced.

In addition to these issues, there are a number of questions that must be addressed in this final chapter. In particular, the role of Locke and the validity of the Hartzian thesis needs to be reassessed. I have taken the position in this thesis that John Locke was not the seminal and influential political figure of the eighteenth century that he has been portrayed as being. This, in turn, calls into question the dominance of Locke in the American and English Canadian ideological fragments. After this lengthy examination of nineteenth century political ideas it is once more appropriate to consider the applicability of fragment theory to Canada. I will do so primarily by examining the last major contribution to the Hartzian literature in Canada, David Bell and Lorne Tepperman's *The Roots*

of *Disunity*, and comparing it to the insights of the Court-Country framework. Finally, I will outline the implications of this study for future research not only in political science but in the allied fields of political economy and Canadian history, particularly the history of ideas in Canada.

The Role of Ideology

The primary objectives of this thesis has been to demonstrate that the creation of Canadian Confederation was expressive of a coherent system of values. The choice of such a focus stems in large part from dissatisfaction with the assessments of political scientists and historians which argued that the Fathers of Confederations were motivated by practical, that is non-ideological, concerns. I pointed out that such arguments are intellectually unsound. All political activity, I noted, is normative activity and thereby ideological activity. That is, whenever a person acts that person acts on the basis of choice. Choice, in turn, means making a decision based on a system of values about how one *ought* to behave in any particular situation. This, in effect, makes us all, in William Bluhm's words, "philosophers or theorists of sorts."¹ That is, if we think about politics at all (and the Fathers of Confederation did think about politics) then we must use political theories. Without a political theory, says Bluhm, we would "be unable to recognize an event as political, decide anything about why it happened, judge whether it was good or bad, or decide what was likely to happen next."²

Most of us though, admitted Bluhm, do not theorize about politics in the same way as the leisured political philosopher. The theorizing of the average

person is, in most cases, more rudimentary, less accurate, and not as elaborate, consistent, or parsimonious as the political philosopher. In other words, the political thinking of the ordinary person is ideological in nature with ideologies representing rough forms or variants of political theory.

If this is the case, some may ask, why hasn't the ideology of the Fathers of Confederation been identified previously? There is more than one response to this question, the most obvious of which is that ideology is most typically viewed as only existing as abstractions, as explicit, rational and well-developed ideational expressions. Not finding ideology existing in this form leads too often to the conclusion that ideology is not important. The same conclusion can be reached if a person compares existing institutions to the explicit ideologies on which they are supposedly based and finds they vary widely. In the case of Canadian Confederation the common argument is that evidence of ideological statements in an explicit written form are hard to find.

Furthermore, denunciations, by eighteenth and nineteenth century figures, of political theory, political speculation, and the "men of system" desiring to rearrange society according to an abstract plan, reinforce conclusions that these figures were hostile to political ideas *per se*. This is not necessarily the case, however. There was, indeed, a reaction in the eighteenth and nineteenth centuries against abstract thought. David Hume, Adam Smith, and Edmund Burke were only a few that expressed their hostility to theoretical speculation. Yet, on the other hand, it is hard to question the assertion that they were serious thinkers. Much of their thought was utilitarian, emphasizing the empirical, practical and useful over abstract political ideas; i.e. ideas not grounded in experience and

reality. It is this style of thought that characterized Loyalism, and the Toryism of late eighteenth and nineteenth century Britain and Canada. In the aftermath of the American and French revolutions in Canada and Britain it was thought to be particularly dangerous to tinker with abstract political ideas.

To some extent, then political scientists and historians have been misled by criticism of abstract political ideas and the claims that Canadians are a pragmatic, practical people into believing that political ideas *per se* were not of much importance in nineteenth century Canada. While it was, indeed, difficult to find well-developed and explicit ideational expressions it was possible to gain an understanding of the ideological differences of the period by consulting the everyday political literature—articles and pamphlets for example. This effort was aided by descriptive accounts of nineteenth century Canadian politics by historians and political economists. Their work also helped to identify the major political problems and issues that divided Canadians; for example, the recurring debate over public spending, the financial system, patronage and executive power, thus both guiding my research and substantiating my conclusions.

By themselves, though, descriptive accounts and the political literature of the period were not sufficient to fully understand the ideological debates of the period. The debate between Canadian Tories and Reformers was ~~very~~ much part of a larger trans-Atlantic debate between commercial capitalism (and later, industrial capitalism) and landed property that raged in Britain, the United States, Canada and France in the eighteenth, nineteenth and even twentieth centuries. In eighteenth century Britain the debate crystallized in the exchanges between Court and Country Whiggism. In turn Court and Country Whiggism

were part of a large intellectual tradition shaped by the ancients and such moderns as Machiavelli, Harrington, and Hume.

The Material and Ideological Bases of Federation

In brief, I contend that state forms in eighteenth and nineteenth century North America very much reflect the relative political strength of those who took part in the debate between land and commerce. In revolutionary America, for example, opposition thought with its localist tendencies was particularly strong. In the chaos of the post-revolutionary era opposition thought was challenged and a strong central government created. Not long after 1787, however, the political strength of agrarian America, in the form of Jeffersonian democracy, reasserted itself and a trend towards a highly decentralized federal union began. Centralization in the American federal system only emerged finally triumphant with the victory of the commercial and manufacturing North in the Civil War. Populist movements with their agrarian roots later challenged the power of commercial and industrial capitalism but were not able to dislodge it. In nineteenth-century Canada, commercial capitalism backed by the weight of the empire was able to effectively counter the combined strength of farmers and other independent commodity producers. The highly centralized federal union that emerged in 1867 reflects the political strength of Canadian Tories and the political weakness of Canadian Reformers.

To say that one class fraction favoured commerce and political centralization and the other land and decentralization is not enough to understand the form of federal state that emerged in Canada. One must also understand why it

was that Tories preferred centralized authority and Reformers decentralized authority. This, I believe, can be done by briefly summarizing the differences between Court and Country Whiggism and then relating these differences to the Canadian context.

Republicanism and the Country-Court Debate

In eighteenth century England, Country Whiggism, or more broadly, the Country opposition, was very much shaped by the republican political thought of Machiavelli and Harrington. Central to this thought was a belief in the applicability of the ancient Greek and Roman notions of classical citizenship to the eighteenth century. Man, it was argued, was a political animal who fulfilled himself by participating in politics and by acting selflessly for the public good, or *la patria*. Not everyone, though, was fit for citizenship. Citizenship required a material base, preferably land. It was landed property that gave individuals the personal independence and permanent stake in one's country to motivate them to act on its behalf. The other requisite for citizenship was the right to bear arms. Together land and the right to bear arms conferred personal independence.

The greatest threat to this notion of classical citizenship came from a growing social complexity and the expansion of state size and activity. Classical citizenship necessitated a world in which the public good was easily perceived and the political weight of the individual was directly felt. In Britain it meant favouring a powerful and independent Parliament and opposition to the growing centralization of economy and political power in London. Government, it was argued, had to be simple and close to the citizen. In the new world it was to

• translate into an attachment to local government and opposition to statism.

• The ideology of the Country opposition was highly moralistic in tone seeing corruption and decay near at hand. One sure sign of corruption was the emergence of new forms of property, finance and commerce. Men of finance and commerce, men of paper credit and movable wealth, were not seen as possessing that attachment to country so necessary for citizenship. These new forms of wealth also injected luxury into society bringing certain decay. Moreover, financial and commercial capital preferred a large, centralized, and administrative state to protect and promote economic development.

The ideology of the Court Whigs was a study in contrast to the Country ideology. While it viewed man as basically social, the emphasis was not on man as a political animal but as an economic animal, a creature who engaged in trade and exchange. Politics and the state were important, not so much as a means of political participation and fulfillment of political personality, but as a means of financing and guiding economic development. This entailed, as I have indicated, a centralized administrative state. Only a strong executive was capable of governing a complex commercial society of any great extent and checking the forces of democracy. Democratic governments, even republics of limited extent, were turbulent, politically unstable, and sure to pass over into despotism.

In the opinion of such thinkers as David Hume the rise of commerce, which he welcomed, meant the growth of a society in which men, while social, were also acquisitive, passionate, and ambitious beings interested, often as not, in their own particular welfare. Commercial society, in Hume's opinion, was factious and

contentious. To counter the rising power of the middle classes in Parliament Hume saw it was necessary to govern by influence, patronage and money. By making men dependent on the Crown they could be "managed" politically and the state could effect its policies. While Hume, himself, decried the size of the national debt, others welcomed it seeing it as a means of building political support among creditors.

This willingness to tolerate the use of office and money to build political support was, in the eyes of the Country opposition, one indicator of the Court ideology's low ethical and moral tone. The utilitarian streak to the Court ideology must have been another indication to the Country opposition of the weak moral fibre of Court Whigs. After all, is not the pursuit of pleasure and the avoidance of pain central to utilitarianism? And where pleasure is valued will not prosperity, comfort and luxury be similarly valued?

No wonder, then, that the Country opposition feared the rise of a commercial society. Its destructive effects on land owners, politics, freedom and the human personality were all too obvious. No less a thinker than Adam Smith foretold the disfiguring effects specialization and the division of labour would have on the human spirit and society. Although he took many positions that were decidedly Court, for example his acceptance or toleration of standing armies, the public debt, and influence, Smith had a more detached and less favourable view of the effects of commerce than did Hume. In a passage that reveals the extent to which Smith employed the Machiavellian language of virtue and corruption Smith warned that the person who must live by performing specialized and simplified task would be rendered:

...as stupid, and ignorant as it is possible for a human creature to become. The torpor of his mind renders him, not only incapable of relishing or bearing a part in any rational conversation, but of conceiving any generous, noble, or tender sentiment, and consequently for forming any just judgement concerning many even of the ordinary duties of private life. Of the great and extensive interests of his country he is altogether incapable of judging; and unless very particular pains have been taken to render him otherwise, he is equally incapable of defending his country in war. The uniformity of his stationary life naturally corrupts the course of his mind, and makes him regard with abhorrence the irregular, uncertain, and adventurous life of a soldier. It corrupts even the activity of his body, and renders him incapable of exerting his strength with vigour and perseverance, in any of the employment than that to which he has been bred. His dexterity at his own particular trade seems, in this manner, to be acquired at the expence of his intellectual, social and martial views. But in every improved and civilized society this is the stage into which the labouring poor, that is, the great body of the people, must necessarily fall, unless government takes some pains to prevent it.³

Although one can certainly see this passage as a forerunner to Marxist thought on the theme of alienation one can just as easily see it as a frank admission by Smith of something that the Country ideologists already knew and greatly feared. No less a Country ideologist than Thomas Jefferson warned of the destructive effects of a system based on a division of labour. Manufacturing, for example begat dependance said Jefferson, and dependence

begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition.... Generally speaking, the proportion which the aggregate of the other classes of citizens bears in any state to that of its husbandmen, is the proportion of its unsound to its healthy parts, and is a good-enough barometer whereby to measure its degree of corruption. While we have land to labour then, let us never wish to see our citizens occupied at a workbench, or twirling a distaff.⁴

In the new world the fear of commerce (including manufacturing) and corruption was to sink particularly deep and long lasting roots which the political struggles of the eighteenth, nineteenth and even the twentieth centuries were to reflect. This was in large part due to the fact that the ready availability of land in North America meant, that for decades, the mass of immigrants did not neces-

sarily have to live in an urban environment and perform mindless labour. They could, instead, choose the greater autonomy and freedom of a rural existence thus ensuring the debate between commerce, finance and land would remain one of the central features in North American politics.⁵

In the United States and Canada, however, this debate was to take different shapes and have differing political outcomes. The opposition thought of the Country party, for example, was particularly strong in pre-revolutionary and revolutionary America. The English constitution and nation were seen as corrupt and every perceived accumulation of power by the Crown depicted as a step towards tyranny. Independence, when it came, I noted, had a highly moral significance representing not only a call to revolution but also a call for moral regeneration.

The American Experience: Two Contending View of Federalism

This optimism of the virtuous nature of the American people was shaken by the social turmoil brought on in part by the revolution. Revolutionary leaders such as George Washington, James Madison and John Jay came to believe that American society no longer fully possessed the social homogeneity and moral qualities necessary for a virtuous people and republic. Virtue was either fleeing or had fled the land. America, furthermore, was too extensive and too diverse to form a single republican state.

The purity of republican thought at this point was compromised. If the people were no longer so virtuous republican governments of a finite size were no longer required. No longer was direct political participation necessary.

Democratic participation could be reduced to choosing representatives at election time. These representatives, Madison hoped, would be men of greater substance and virtue than the ordinary citizen and thus virtue would be filtered out of the social complexity of American society by a compound republic spread over a large territory.

It is evident, then, that American Federalists were edging towards the thought of Court Whiggism with Alexander Hamilton going so far as to advocate the Court system of governing by influence. The advantages of enhanced political authority to restrain the passions and ambitions of men were now apparent. A strong central government or a powerful executive could govern a large territory and keep the states and people in check.

While Federalist thought resembled Court Whiggism in many ways there were, as I have noted, some critical differences. First, the people, not a parliament, were to remain sovereign. Second, the system of "Court" influence was rejected in favour of a separation of powers with its institutional antagonisms. A free society, Madison thought, was characterized by both social and institutional conflict. Finally, the constitutional debates did not indicate that most federalists thought America was to be governed by commercial and monied interests.

The triumph of American Federalists was short lived, however. Opposition thought and agrarian democracy with its emphasis on public virtue, citizen participation, and local government reasserted itself not long after Alexander Hamilton began to introduce his financial program. Led by Thomas Jefferson, and reinforced by the weight of southern plantation owners, American federalism

became much more decentralized than the Founding Fathers had contemplated. This image of a decentralized federal system tutoring Americans in the ways of democratic participation was succinctly captured in the work of Alexis de Tocqueville. Throughout the nineteenth century wherever farmers formed substantial numbers the rhetoric of Jeffersonian democracy appeared to criticize the interests of finance, commerce and industry. This was particularly true of populist movements.⁶

There were, then, in the late eighteenth and early nineteenth century American two concepts of federalism, with somewhat contrary purposes. The Federalist concept of 1787 emphasized a centralized authority capable of restraining the passions of men in a democratic and socially pluralistic society. The other concept, as exemplified by Thomas Jefferson, rejected the idea of a strong central government posing in its stead a decentralized federal system which encouraged political participation. This system would be erected not on the material foundation of a socially diverse society but on the virtues of the yeoman farmer.

Of the two concepts of federalism, Loyalists, whose own thinking on federalism resembled the Federalists, opted for a centralized federal system. The Loyalists generally had little faith in the democratic ethos viewing democracy as the source of the political ills of the colonies. Operating within the Court tradition they decried weak executive influence and advocated diluting the strength of democracy by means of a centralized federal union. Only monarchies they perceived, were capable of governing territories of any great extent.

Canadian Toryism and the Drive for Confederation

Canadian Tories accepted the Loyalist diagnosis of democracy. Democracy was inherently factious and unstable, destined to end in mob rule and despotism. A strong and permanent executive armed with patronage power was needed to control the popular branch of the assembly and bring political stability. In the Court tradition a strong executive was also needed to finance and direct economic development. Unfortunately, however, Tories, even as they won elections in some provinces, despaired of remaining on these small political stages. There were a variety of reasons for this. To begin with, in some provinces, particularly Lower Canada, the commercial classes were never able to obtain the control over the spending power of the state that they wanted. In provinces where they did, for example Upper Canada, provincial debt had become so large that only a union could restore public credit once again. Finally, Tory politicians were highly ambitious and resented the factious, petty politics of the provinces. A large federated union would, in effect, provide Tories with a state of their own. They would have the high offices, the prizes of ambition that they so desperately wanted. Once their importance was recognized, and elevated positions provided, political passions would cool within a large union. Canadian Tories, I argue, were clearly working within the same tradition of political ideas as David Hume and Adam Smith.

Reformers, I noted, bitterly opposed the ideal of society and state projected by Canadian Tories. They resented a large, centralized, heavily indebted state preferring cheap, simple government that was close to the people. In the tradition of the Country opposition and republicanism, they also believed that

government had to reflect the fact that British North America was largely composed of small-landowners and other petit-bourgeois elements—artisans, small-time merchants and professionals.

Virtually every Reform pamphlet that I examined in the 1820's, 30's, and 40's, whether English or French, indicted the prevailing system of corruption and influence governing the provinces. The main bone of contention in William Lyon Mackenzie's eyes was "the almost unlimited patronage of the Crown" and its abuse.⁷ The system of influence was not only reflected in the relationship between the executive and the houses of assembly it was reflected in the financial and banking system of the provinces and the privileged position of an established Church. Of the latter, Robert Davis, author of *The Canadian Farmer's Travels*, contended that Canada had become "clogged with the baneful influence of Lord Bishops, and very reverend archdeacons."⁸

There was, then, in British North America a repetition of the quarrels present at the time of the American revolution. This time, however, the outcome was to be different. Canadian Reformers did not have great political weight behind them. They were no match of the combined strength of Canadian Tories and the British Empire and their unity was to be broken in the aftermath of the 1837-38 rebellions.⁹

In the nineteenth century Canada it might be argued there were, as in late eighteenth century America, two constitutional philosophies at work. One articulated the need for a strong central government and authority, the other the right of the people to have a government in which the popular voice would be directly

felt. At Confederation it was the former principle that prevailed. In many ways it could be said that John A. Macdonald got most of what Alexander Hamilton wanted in 1787. This included a strong central government that would not only possess the political offices that would mute political discontent and provide political stability but would, at the same time, vastly enhance public credit and provide the capital to underwrite commercial expansion across a continent. The localist attachments in Canadian political culture, particularly in French Canada and amongst English Canadian Reformers, would have to be satisfied with the greatly inferior provincial governments they were given.

Canadian Confederation, then, was not without ideological underpinning. Both Canadian Tories and Reformers viewed the state and its activities very much in the same manner as their eighteenth century Court and Country predecessors had done. In the case of Canada, however, the commercial ideology of Court Whiggism was to predominate politically in 1867. Nevertheless, the political ideology of agrarian democracy was not to be extinguished in Canada. It was to emerge as powerful as ever on the prairies in the twentieth century giving sustenance to radical movements of both the right and the left.

Carl Friedrich and Nineteenth Century Constitutionalism

The preceding discussion also sheds light on the second underlying objective of this thesis. That was to contest the view of modern constitution writers, such as Carl Friedrich, who argue that the constitutionalism underlying the creation of federalism is based upon the belief that there is a negative correlation between freedom and power, the more power possessed by government the less freedom

for individuals. "A constitution," or to Friedrich, its equivalent, a "division of power provides a system of effective restraints upon governmental action."¹⁰ Governmental action is restrained because the leaders of the community value freedom. "Because they value freedom they distrust all power."¹¹ Federalism, in particular, represents a special type of division of power, "a spatial or territorial separation and division of power."¹² According to Friedrich, "such a separation provides a rather effective restraint upon the abuse or misuse of governmental power."¹³

Friedrich, I maintain, has over-simplified the nature of modern constitutionalism. (By modern, I mean post-sixteenth century.) In eighteenth century Britain there were, in essence, two constitutional philosophies. The first, that of the Country opposition, most approximates Friedrich's interpretation. Man, the Country party believed, while a political animal, was selfish and lusted for power. Power, in turn, was an ever present threat to liberty and had to be checked or liberty would be destroyed. From the Country party came proposals for a separation of powers because of their fear of encroaching executive power. The thought of the Country opposition, I noted, was strong among American revolutionaries, Jeffersonian and Jacksonian democrats, Canadian Reformers, nineteenth century Whiggism, and even modern liberalism. Its constitutional outlook might be briefly summarized in Lord Acton's aphorism, "Power tends to corrupt and absolute power corrupts absolutely."

Opposing the Country ideology of the eighteenth century was another constitutional philosophy, that of Court Whiggism. Court Whigs prized liberty as

much as the Country opposition but insisted that it had to be bounded, restrained by authority or it would degenerate into licentiousness. Liberty, in a democratic and factious age, was in constant danger of being crushed in the vice of equality. There was a need, then, to concentrate more power in the hands of the executive in order to protect freedom and ensure political stability. In the mind of Court Whigs they were most assuredly not absolutists, rather they insisted there had to be a necessary balance between authority and liberty and constitutions had to reflect this fact.

Proposals for federalism, I contend, sprang not from those who were closest to the Country opposition but rather from those whose views were closer to the constitutional views of the Court Whigs. Seldom given the credit due for the attention they gave the subject, Loyalists developed the first proposals for federalism in North America. Loyalists hardly distrusted power or wanted to divide or restrain it. Precisely the opposite was the case. It was because power was already so divided in the colonies that they proposed centralized federal unions to bring political stability and protect freedom. The constitutional debates in Philadelphia in 1787 echoed a similar desire to strengthen political power although not all the Court prescriptions were followed. In Canada, Canadian Tories picked up where the Loyalists left off. The British North America colonies needed a more powerful government presence. A highly centralized federal union would bring the necessary authority that would guarantee both political stability and freedom. It was an ordered freedom that Court Whigs, Loyalists and Canadian Tories wanted and this is reflected in their constitutional philosophy.

The dynamics of federalism in North America in the nineteenth century reflected the relative political strength of those holding these constitutional philosophies. In the United States the political power of the adherents to opposition thought was too strong to be checked for long and it was not long before centralized political power was attacked and a movement towards a decentralized federal system began. In Canada, I have argued, Reformers never had the political strength to ensure a decentralized federal state. Rather it was the centralized vision of Canadian Tories that prevailed. While Friedrich's view of federalism as embodying a distrust of political power might be appropriate at particular times and places it is by no means universally true.

Court, Country and Fragment Theory

The preceding discussion of the opposing constitutional philosophies of Court and Country raises once again the appropriateness of the fragment theory as a means of explaining Canadian social and political development. While intellectually attractive at an abstract level, fragment theory is, I contend, historically inaccurate and glosses over ideological differences and social confrontation. The more one looks at what nineteenth century Canadians actually said and did the clearer it becomes that fragment theory cannot account for the ideological dialectic amongst Canadians, particularly English Canadians.

Rather than offer a lengthy critique of fragment theory I have chosen a different alternative. That is, I have decided to take one of the major contributions to the Hartzian literature, David Bell and Lorne Tepperman's *The Roots of Disunity*, and compare its historical analysis of the development of the anglo-

phone fragment in Canada to the insights of the Court-Country framework. This comparison will indicate, I believe, how the Court and Country ideologies may more succinctly account for the elements of Canadian political culture described by Bell and Tepperman. I have limited my efforts to a discussion of the second chapter, "Founding Fragments and Formative Events" which, in my opinion, is representative of their work. As much as possible I will let Bell and Tepperman speak for themselves.

The principal focus of "Founding Fragments and Formative Events" is the establishment and development of the anglophone fragment in English Canada. In their analysis Bell and Tepperman combine the insights of the Hartzian thesis and Seymour Martin Lipset's "theory of formative events."¹⁴ The two approaches are combined because, while the ideology of the founding groups of a new society may contain the "genetic codes of political culture", Bell and Tepperman feel that, "this insight is not enough."¹⁵ For in addition to the values generations may inherit from founding groups, "later events visibly influence the way a culture develops. Such 'formative events' can even cause a culture to shift direction."¹⁶ Bell and Tepperman assume by formative events "Lipset meant those historical events that leave their mark upon (a) the 'national memory' through the medium of myths, symbols or sagas; (b) basic institutions and structures, perhaps set up or modified in response to these events; and (c) political alliances, especially among minority groups."¹⁷

Bell and Tepperman insist, though, that the notion of 'formative events' must be combined with an examination of the 'cultural baggage' immigrants

bring with them, particularly during the period of a society's 'founding'.¹⁸ Together, the authors argue, Lipset and Hartz complement one another, Hartz identifying 'the cultural baggage' of founding immigrants, Lipset identifying the 'formative events' that lead toward the dominance of a single national culture composed primarily of the initial fragment.

In the case of English Canada the 'founding fragment' was composed of Loyalists who were Lockean liberals. "Most...Tories" Bell and Tepperman contend, "were just as sympathetic to John Locke as their opponents."¹⁹ While both Whigs and Tories (i.e. Loyalists) subscribed to Locke's writings, they arrived at very different conclusions, Whigs insisting the American colonies formed a nation, Tories they did not, and that "independence was impossible, even disastrous."²⁰ The formative event for America was the revolution, for Canada, "the counter-revolution and the movement of revolutionary Loyalists to Canada from the United States."²¹

Bell and Tepperman begin their analysis of the Anglophone fragment by asking who were the Loyalists and what distinguished them from the supporters of the Revolution? They respond by saying that "whether a colonist supported or opposed the Revolution was...determined...by how much of the colonist's wealth and power depended on the colonial connection."²² They cite as an authority on the matter, William Nelson. According to Nelson, "What distinguished the Tory from the Whig oligarchs was that the former needed, and the latter did not need, support from Britain, since the Whig oligarchs could, and the Tories could not, gain sufficient support in America to hold power."²³ In par-

ticular the Loyalist elite "were pulled into the Revolution by . . . various kinds of interest and *dependency*, religious, bureaucratic and mercantile."²⁴

The belief system of these Loyalists, Bell and Tepperman insist, was based upon Lockean liberalism. The Loyalists, took comfort from elements of Locke's political ideology which distinguished between a tyranny attempting to enslave the people and a government that was basically 'just' even as it committed 'Great Mistakes'. Against tyranny revolution was justified, violence against a just government was not. Loyalists, then, were able to find a means to adhere to Locke's principles and, at the same time, oppose the call to arms against Britain.²⁶

Once in Canada the Loyalists sought to justify "their authority not from fellow colonists but from the mother country." This decision, in Bell and Tepperman's opinion, "would animate a debate about political legitimacy in North American, as between the principles of democratic election and administrative appointment."²⁷

In the American colonies this debate had had very serious consequences. In a sense, Bell and Tepperman claim, "the American Revolution had been a war between politicians and administrators" with the politicians elected to represent the people and sit in the colonial assemblies and the administrators—the customs officials, the judges, the governors, etc.—being appointed.²⁸ The elected politicians possessed a source of local authority, for appointed officials authority resided across the sea.

From the very beginning of colonial history there had been a conflict between the interests of locally-oriented politicians and London-oriented administrators. According to Bell and Tepperman, one noted historian has gone so far as to insist that "the causes of the Revolution stem . . . from the effort of the British government . . . to organize a more efficient administration in North America. . . ."²⁹ Revolution marked the moment when "each member of the political and administrative elite was forced to choose sides for the last time."³⁰

Most politicians sided with the revolutionaries while most administrators remained loyal to the Crown. Although the largest number of administrators returned to Britain or part of the Empire some, however, settled in Canada. There they "indulged their lust for bureaucratic office."³¹

The exodus of Loyalists had significant effects on the political cultures of both the United States and Canada Bell and Tepperman claim. They cite Carl Friedrich as knowledgeable on the matter. Friedrich maintains the Revolution "created a permanent suspicion of executive power which has stood ever since in the way of developing responsible government."³² The revolutionaries went to great lengths to bring the bureaucracy under control. This, say Bell and Tepperman, "is the historic root of American distrust of the bureaucracy."³³ One finds, therefore, in the nineteenth century Andrew Jackson "triumphantly proclaiming the 'spoils system', and in the twentieth century, George Wallace smugly threatening to 'throw the bureaucrats' briefcases in the Potomac River."³⁴

In Canada, the effect was much the opposite. The counter-revolution tended to make "Canadian government and politics more bureaucratic."³⁵

Ultimately "Canadian politics were largely 'bureaucratized.'"³⁶ While the same struggle between administrators and politicians flared anew in Canada this time it was the politicians, led by William Lyon Mackenzie, and not the administrators, that were to lose.³⁷ In British North America the colonial administrators had built an administration powerful enough to resist efforts to overthrow it.³⁸

Yet, if the politicians were not able to dislodge the administrators they were able to rein in their power through the advent of responsible government. According to Bell and Tepperman responsible government, though, was not inspired by a desire for "good government" on behalf of politicians. Rather, politicians "were motivated by the immense opportunities for patronage that the 'power of the purse' can bestow."³⁹ The result say Bell and Tepperman was a modified Canadian version of the "spoils system."⁴⁰ That is, access to political office became more democratized as patronage was extended to more Canadians. But while unified and responsible the "Executive still appointed people to the bureaucracy on almost purely 'political' grounds."⁴¹

The introduction of a spoils system, however, did not signal the adoption of the American attitude toward government. For Canadian liberals were to continue to love government with "a passion" (but opposite) to that of his American counterpart."⁴² From the very beginning, when Loyalists received favours and rewards for supporting government, to the present, Canadian liberals have exhibited a fondness for government and what it can do for them. "Little wonder, then," say Bell and Tepperman, "that Canadian political culture has traditionally permitted the widest range of state intervention in the economy

and other forms of 'positive government' that were anathema in the United States."⁴³

Canadians, in brief, argue the authors, have developed a very different orientation toward government than the American. While both are inherently Lockean liberals the American revolution had very different effects on their respective political cultures. Among Americans, the Revolution "helped build up a high degree of citizen competence that has lasted to this day."⁴⁴ By citizen competence, Bell and Tepperman mean the belief on the part of citizens that they can influence what the political system does. At the same time, however, the Revolution created widespread distrust among Americans of the 'output' institutions of government, especially the bureaucracy. That is, "although the Revolution raised citizen competence, it lowered subject competence" in American political culture.⁴⁵ By subject competence, Bell and Tepperman mean "a person's feeling that he will be treated fairly by the system."⁴⁶ Americans, they say, still possess an underlying fear of government, particularly central government.

In Canada, however, the results were to be different. In the wake of the counter-revolution while the Loyalists never abandoned their rights as citizens but their "attitude to system *outputs* differed considerably from the attitude of the Revolutionaries. Some Loyalists, especially members of the elite, did not come to fear government but to love it."⁴⁷ This regard for what government can do for them is still strong among Canadians today the authors assert.

Most of what Bell and Tepperman say about the differences between American and Canadian political culture it is possible to agree with. What is difficult to accept is the necessity of maintaining that Locke remain at the centre of American and Canadian liberalism. Unwittingly, I believe, Bell and Tepperman have made much the opposite case for one can simply impose the Country and Court ideologies upon their historical analysis without doing the least damage to it. (Except, of course, for the exorcism of Locke's political influence).

A final brief review of the main features of the Court and Country ideologies will illustrate what I mean. Politically, at the centre of the differences between the Court and Country ideologies were very different attitudes about government and the use of political power. The Country party greatly feared the growth of a large centralized administrative state. Such a state was a threat to their own value system and way of life for it meant the rise of specialization and luxury at the expense of simplicity and frugality. It also posed a threat to Parliament and the ability of a citizen to have an effect on what government did. In the American colonies the strength of the Country ideology has been well established. Virtually everything Bell and Tepperman describe as part of American political culture in the Revolutionary and post-Revolutionary period is consistent with opposition thought. Opposition thought did emphasize the legitimacy of elected politicians over administrators and locality over centrality. Opposition thought was antagonistic to executive power and bureaucracy. That Andrew Jackson would introduce the spoils system should come as no surprise. Who was Andrew Jackson but one of the greatest embodiments of the Country tradition in America? According to two noted American historians:

The Jacksonian Democrats represented the older order, articulating an agrarian philosophy of frugality, simplicity and virtue. Above all, the Jacksonians condemned the artificial contrivances of the new capitalism—paper money, chartered corporations and banks. These economic institutions, the Jacksonian contended, had enabled a privileged aristocracy of wealth to steal the birthright of the common people. Old Hickory, as the symbol of national virtue, would restore the government to the people.⁴⁸

Restoring the government to the people meant in part offering government positions to the common man. As Karl Deutsch notes, "In the days of President Andrew Jackson, government offices were a matter not for specialists and experts but for ordinary men."⁴⁹ This, at least, was Jackson's opinion which he summarized in his first annual message:

The duties of all public offices are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance....Offices were not established to give support to particular men at the public expense. No individual wrong is, therefore, done by removal, since neither appointment to nor continuance in office is matter of right....[Removal] would, by promoting that rotation which constitutes a leading principle in the republican creed, give healthful action to the system.⁵⁰

Once again the deeply ingrained hostility of opposition thought to specialization asserted itself. The best government was one that possessed a republican simplicity and in which the common man had the right to participate at all levels. Opening up government to the people could, then, hardly be styled corruption.

It should also be expected that American citizens would historically exhibit a high degree of citizen competence. A very important emphasis of the Country ideology, after all, was on citizen participation. It was expected that a citizen could and should influence what government did. Neither should it come as a surprise that Americans possess a low subject competence, that is, a widespread distrust of the "output" institutions of government, especially the bureaucracy. The fear in opposition thought of bureaucracy and bureaucratic activity has been

well established.

If what Bell and Tepperman say of American political culture is perfectly compatible with the Country ideology, much of what they describe of Loyalism and Canadian political culture is consistent with the Court ideology. After all, how did the Court Whigs govern? By a system of influence Hume maintained. Court Whigs approved of a centralized administrative state which, they believed, was necessary to maintain public order and promote economic development. In the opinion of Reed Browning, Court Whigs took great pride in their ability to govern well.⁵¹ It was, they believed, "their duty to provide decisive, firm, and fair leadership to the kingdom."⁵² The use of a system of influence, patronage and personal dependence strengthened the power of government and made it easier to effect its policies and build an empire.

Consequently, that the American colonies should witness a schism between politicians and administrators is entirely in accordance with the division between Country and Court. Furthermore, that the Loyalty of colonists to the Crown was determined by the fact they needed support from Britain is also in accordance with the Court ideology. Court Whigs governed, I have argued, by spreading their web of influence as far as possible creating as many dependants as they could. The use of patronage is but one example of this system, the system of public debt in which individual leaders felt obligated to prop up the government is another.

It also helps to recall at this point that Loyalists and other friends of government identified as a primary cause of colonial rebellion the fact that the

Crown had so little influence. Adam Smith concurred. America lacked the prizes of ambition that could be used to manage and manipulate legislators. That is one reason why Smith advocated imperial union. One of the defects of colonial government Lord Grenville set out to correct in the remaining portion of British North America was the lack of influence of colonial governors. This effort to strengthen government remained a Canadian preoccupation up to, and including, Confederation.

Canadians, as Bell and Tepperman admitted, came to love government with a passion. Unlike Americans they saw the virtues of positive government. Canadians were to also develop a higher subject competence appreciating more than Americans the outputs of government while at the same time de-emphasizing citizen competence. All these elements of Canadian political culture can be understood from the perspective of Court Whiggism which I have pointed out was decidedly non-Lockean.

While Canadians came to have a greater respect for government than Americans one must be careful not to overstate the case. Not all Canadians came to "love government." Rather evidence suggests that substantial numbers of Canadians in the nineteenth and twentieth centuries came to distrust *both* the political process and state activity. Much of this distrust appears to be associated with the unintended effects of the 'spoils system', the system which Bell and Tepperman claim became such a part of Canadian political life. By the unintended effects of the spoils system, I mean, that it did not give "healthful action" to the political system as Jackson predicted it would. Instead, it had the opposite effect in both the United States and Canada. Offices became the rewards of party

loyalty and political patronage and corruption became entrenched more strongly than ever before. At the time some had detected the potential effects of the spoils system. John C. Calhoun, for example, recognized that government patronage had become the basis of the party system. The struggle of political parties, in turn, was corrupting the body politic.⁵³

Indications are that the politics of patronage and corruption continued to be a prominent feature of twentieth century Canadian political culture much as it had been in the previous century. The political culture of twentieth century Quebec and the populist phenomenon of the prairies are good examples of this. Both examples, I believe, also substantiate two of the essential arguments of this thesis. First, that fragment theory is not a useful device for explaining Canadian political culture, whether English or French, and second, that Canadian political culture has historically contained a residue of hostility to central government power. A brief overview of these two examples indicates what I mean and suggests, at the same time, potential areas of future research.

Political Culture in Quebec, Fragment Theory or the Dialectic of Patronage?

The suggestion that the politics of patronage may help account for the development of Quebec political culture is a novel one at least in English Canada. While English Canadian academics have questioned the ability of fragment theory to explain English Canadian political culture they have been reluctant to question those who argue that French Canadian political culture was shaped by a feudal fragment. Fortunately, however, a recent article by Ralph Heintzman

poses a plausible alternative to the interpretation which sees French Canada as a feudal fragment.

Heintzman, after extensive research, has drawn the conclusion "that the traditional political culture of Quebec, from 1840 to 1960, was shaped by the *dialectic of patronage*."⁵⁴ The dialectic of patronage, Heintzman contends, was rooted in the chronic economic underdevelopment of Quebec which forced many French-speaking Québécois, particularly in the liberal professions, to turn to outlets provided by the political process. The preoccupation of the political system with patronage, Heintzman claims, prompted two simultaneous but contradictory tendencies in the French-Canadian mind. First, "in order to profit from the spoils system, ambitious or needy Québécois were led to play the game of politics with that partisan zeal which provoked so many references to their intense "*esprit de parti*". Second, the "knowledge that government activity would be exploited for patronage purposes led to a corresponding distrust of politics and a fear of committing delicate or technical matters to its sphere, a distrust and a fear which competing elites (such as the clergy) were able to exploit to their advantage. The fear of the corrosive effects of politics led either to a reluctance to grant new responsibilities to the state or an effort to insulate administrative responsibilities from politicians by such devices as nonpolitical boards of control."⁵⁵

Heintzman contends that a primary advantage of a patronage perspective "is that it helps to reveal the unity of Quebec history and to link what would otherwise be disconnected phenomena, chronologically as well as themati-

cally.⁵⁶ He chooses as an illustration the supposedly opposing viewpoints of the nationalists of the early twentieth century led by Henri Bourassa and the *cité libristes* of the 1950s led by Pierre Trudeau. At first glance the latter groups seemed to have rejected everything which the first group stood for. Yet, beneath the surface, Heintzman finds an underlying unity based on their primary concern with "the parlous condition of political life in Quebec." Their solutions differed of course: one saw the problem as the result of insufficient national feeling, the other thought the problem could be attributed to an excess of the same. Both were wrong observes Heintzman, but that, he feels, should not

obscure the fact that both were obsessed by what was, at bottom, the same problem; and both aimed at a common goal; the renovation of the political process in order that it might be made to serve the public good instead of merely private advantage. If this common goal is kept in mind the history of French-Canadian thought and action acquires a unity and continuity it would not otherwise possess.⁵⁷

Heintzman's observations have a decidedly familiar ring to them. One hears in the background the whisper of an eighteenth century republican condemning the moral corruption of his age and urging a moral regeneration of the body politic so that at long last citizens would be animated by a desire to serve the public good instead of self-interest. Indeed, the language that Trudeau employed in his articles clearly indicates disdain for, and frustration with, what he saw as the political immorality of French-Canadian politics. The spoils system, bribery, favouritism, and corruption were all denounced.⁵⁸ Particularly condemned was the penchant of French-Canadians to use parliamentary institutions as a tool for national survival, instead of valuing them for their intrinsic worth as embodiments of democratic principles. In Trudeau's opinion, whenever,

the Canadiens banded together to fight for survival within the national whole-- they came to regard politics as a game of every man for himself. In other words, their civic sense was corrupted and they became political immoralists.⁵⁹

The preceding observations are just a part of Heintzman's larger examination of the political culture of patronage in Quebec. Heintzman, though, is careful not to single Québec out as an anomaly in Canada. Rather what distinguishes Quebec from other parts of Canada and North America is Quebec's chronologically underdeveloped and dependent economy. As economic opportunities improved elsewhere, in Ontario for example, the politics of patronage, while still practiced, became less intense.⁶⁰

Heintzman concludes his study by making suggestions for future research. First, he recommends that the political culture of Quebec not be studied as a distinctive case apart from other areas and societies of the continent. This rules out, of course, viewing it as a feudal fragment. Instead, he urges, that the political culture of Quebec be regarded as a regional variation of a more general North American pattern. In order for worthwhile comparisons to be made, however, Heintzman urges that social scientists and historians devote more effort to the study of patronage, particularly as it pertains to English Canada. While the subject is now being given serious consideration in Quebec it has been neglected in English Canada.

Populism, Corruption, and the Politics of Patronage

This is, indeed, a fruitful suggestion. Heintzman notes, for example, that populist movements in both the Canadian and American wests were fixated with corruption and the politics of patronage.⁶¹ Earlier work on the populist

movements seems to confirm this. According to Paul Sharp, for example, twentieth century prairie farmers "shared...the Jeffersonian faith in the virtue of the people and in the perfect ability of human institutions. They possessed a similar evangelistic fervor for reform, for they too were in moral revolt against the corruption and sophistication of the system which threatened to overwhelm them."⁶²

In a recent article on populism John Richards came to a much similar conclusion.⁶³ Richards maintains that the Jeffersonian tradition figures prominently in both the left and right variants of Canadian populism, the CCF and Social Credit, for example. Richards also contends that "much of what passes for socialist politics, particularly in western Canada, has its roots not in European Marxism or social democracy, but in the 'populist' ideology of the left wing of the American Revolution."⁶⁴

The system which prairie farmers were protesting against so vehemently is well known. Economically, farmers indicted eastern Canadian financial and corporate interests. In particular, they objected to the National Policy and the tariff structure along with "railway monopolies", manufacturing trusts and the banking and credit system.

The economic system, in turn was corrupting the entire body politic. "The root of the evil," said one Canadian muckraker

lies largely in our economic life. It corrupts our political system, our political system corrupts and degrades the public administration, and the corroding influence extends to the social system and business until the disease permeates the whole community.⁶⁵

Singled out for special criticism was the patronage system. In the opinion of William Irvine, "the patronage system is one of Canada's social evils—a canker, a

disease more blighting, more demoralizing than any other social disease that infects the body politic today.⁶⁶

For decades the consequences of the populists revolt continued to be felt. Populists retained a hostility to eastern economic power, party politics, representative institutions, and the use and misuse of state power. Populists, in general, advocated that political power be dispersed. The emphasis of William Irvine on non-partisan government, for example, is said to be more appropriate to the American system of government with its division of powers than the British system of cabinet government which depends upon partisan support in the legislature.⁶⁷ Populists, furthermore, had a distinct preference for locality, whether it be the community province or region over that of the nation.⁶⁸

Conclusion

This brief overview of the populist phenomenon, with its indictment of the economic system and its corrupt effects, lends credence to Heintzman's suggestion that a comparative perspective be used to study political culture in North America. It is imperative, however, that any future research be done within a broad historical framework. It must be recognized that the debate between land and the commercial and financial systems, later to include industry, has its roots in the eighteenth century and earlier. The language, the arguments are not peculiarly North American or Jeffersonian. They are part of the debate between the republican tradition of civic humanism and the utilitarian spirit of capitalism, both commercial and industrial. That this debate retained its vitality in North America longer than it did in Europe is, in large part, due to the particular

nature of North American economic development. Unlike Europe the class of petit bourgeois farmers continued to expand in Canada, for example, into the twentieth century.

Future research, then, must not divorce the study of Canadian political culture from the study of Canadian political economy. The two are intimately related. The debate between Court and Country, for example, represented not merely a clash of ideas it represented a clash between two very different economic and social classes, commerce and land. Each side had their own ideas on not only what type of human relationships were desirable but also how the resources of society should be divided and what the limits of state activity should be.

If the debate between land and commerce took root in Canada, then, and shaped attitudes towards the state and the political process for such a long period it is because for decades longer than in Europe, they had no serious competitors. Even as Canada industrialized independent commodity producers were to demonstrate impressive political strength. Today, this class is no longer significant and the main arena of class conflict has shifted toward the more typical conflict between organized labour and industrial capitalism.

Yet, as Bell and Tepperman indicate (even as they mistake the source of these ideas) the ideas of the past linger on possessing a life of their own far beyond the conditions which gave them birth. They continue to be very much a part of Canadian political culture even as that political culture itself is modified by changing social conditions. What is old and what is new about Canadian political culture is, however, a question that must be answered on another occasion.

Footnotes

1. Bluhm, *theories*, *op. cit.*, p. I.
2. *Ibid.*
3. Adam Smith, *Wealth of Nations*, *Canadian ed.*, *op. cit.*, v. i. f. pp. 734,735.
4. Thomas Jefferson, *Notes on the State of Virginia*, as quoted in John Richards, "Populism and the Left," *Studies in Political Economy*, No. 5, Spring, 1981, p. 17.
5. See for instance, Richards, *ibid.*, and Leo Panitch, "Dependency in Canadian Political Economy," *Studies in Political Economy*, No. 6, Autumn, 1981, pp. 7-35.
6. See Richards, *ibid.*
7. William Lyon McKenzie, *The Seventh Report*, *op. cit.*, p. iii.
8. Robert David, *The Canadian Farmer's Travels*, *op. cit.*, p. 27
9. It is true that changes that Reformer wanted, such as responsible government, were introduced but even as the executive council was made answerable to a representative body a contrary constitutional principle was introduced. From now on money bills were to originate from the executive council. The executive, henceforth, would initiate most legislative programs, the assembly would review them. This ensured executive dominance at the same it provided means for the legislature to control excess. In a way it could be said the cabinet government was the first occasion in Canada that the Court position was reconciled with the Country position. Canadian Tories, masters in the use of political patronage, soon displayed their ability to manipulate this system as well. On the constitutional principles of responsible government see Janet Ajzenstat, "An Argument for the Social Utility of Inequality: The Mixed Regime," prepared for the *Canadian Political Science Association Annual Meeting*, Universite d'Ottawa, June 1982.
10. Carl J. Friedrich, *Limited Government*, *op. cit.*, p. 20.
11. *Ibid.*, p. 23
12. *Ibid.*, p. 21
13. *Ibid.*, p. 63.
14. David Bell and Lorne Tepperman, *The Roots of Disunity* (Toronto: McClelland and Stewart Ltd., 1979), pp. 23,24.
15. *Ibid.*
16. *Ibid.*, p. 23.
17. *Ibid.*, p. 30
18. *Ibid.*
19. *Ibid.*
20. *Ibid.*, p. 51.

21. *Ibid.*, pp. 28, 29. Emphasis author's.
22. *Ibid.*, p. 48.
23. William Nelson, *The American Tory*, p. 3, as quoted in *ibid.*, p. 48.
24. *Ibid.*, p. 49.
25. *Ibid.*, p. 50.
26. *Ibid.*
27. *Ibid.*, p. 51
28. *Ibid.*
29. Lawrence Henry Gipson, *The Coming of the Revolution, 1763-1775* as quoted in *ibid.*, p. 52.
30. *Ibid.*, p. 52
31. *Ibid.*
32. Carl J. Friedrich, *Constitutional Government and Democracy*, as quoted in *ibid.*
33. *Ibid.*, p. 53
34. *Ibid.*
35. *Ibid.*
36. *Ibid.*, p. 54.
37. *Ibid.*
38. *Ibid.*
39. *Ibid.*, p. 56.
40. *Ibid.*, p. 57.
41. *Ibid.*
42. *Ibid.*, p. 62.
43. *Ibid.*
44. *Ibid.*
45. *Ibid.*, p. 61.
46. *Ibid.*
47. *Ibid.*
48. Peter N. Carroll and David W. Nobel, *The Free and the Unfree* (Middlesex, England: 1977), p. 199.
49. Karl W. Deutsch, *Politics and Government*, 2nd edition (Boston: Houghton Mifflin Co., 1974), p. 199.
50. Andrew Jackson, as quoted in J.B. Brebner, "Patronage and Parliamentary Government," (Canadian Historical Association Report, 1938), p. 23.
51. Reed Browning, *Political and Constitutional Ideas of the Court Whigs*, *op. cit.*, p. 206.

52. *Ibid.*
53. John C. Calhoun, *Disquisition*, *op. cit.*, pp. 15,38.
54. Ralph Heintzman, "The Political Culture of Quebec, 1840-1960," *Canadian Journal of Political Science*, Vol. XVI, No. 1, March, 1983, p. 40.
55. *Ibid.*, p. 55.
56. *Ibid.*, p. 50.
57. *Ibid.*
58. See for instance his "Some Obstacles to Democracy in Quebec," in Pierre Elliott Trudeau, *Federalism and the French Canadians* (Toronto: Macmillan Co. of Canada Ltd., 1968)
59. *Ibid.*, p. 108.
60. Heintzman, *op. cit.*, p. 15.
61. *Ibid.*, p. 47.
62. Paul F. Sharp, *The Agrarian Revolt in Western Canada* (New York: Octagon books, 1971), pp. 53,54.
63. John Richards, *op. cit.*
64. *Ibid.*, p. 12.
65. J.A. Stevenson, *Grain Grower's Guide*, Nov. 2, 1910, as quoted in Sharp, *op. cit.*, p. 64.
66. William Irvine, *Nutcracker*, Feb. 3, 1917 as quoted in *ibid.*, p. 80.
67. Reginald Whitaker, "Introduction to Carleton Library Edition," William Irvine, *The Farmer in Politics* (Toronto: McClelland and Stewart, 1976), p. XIV.
68. Richards, *op. cit.*, p. 19.

BIBLIOGRAPHY

A) Primary Sources

(i) Political Theorists

Acton, Baron Lord *History of Freedom and Other Essays*. London: Macmillan and Co., 1907.

Aristotle *The Politics*. Edited by John Warrington. London: J. M. Dent and Sons Ltd., 1961.

Burke, Edmund. *Edmund Burke on God, Politics and Society*. New York: Fontana,

Burke, Edmund. *Reflections on the Revolution in France*. Edited by Russell Kirk. Chicago: Henry Regnery Company, 1968.

Burke, Edmund. *The Works of Edmund Burke*. Edited by Henry G. Bohm. Volumes 3 and 5. London: 1855

Cicero. *De Officiis*. Translated by Walter Miller. London: William Heineman Ltd., 1947.

Cicero. *On the Commonwealth*. Translated by G.H. Sabine and S.B. Smith. New York: Bobbs-Merrill Co. Inc., 1960.

Cicero. *Res Publica: Roman Politics and Society According to Cicero*. Translated and Selected by W.K. Lacy and B.W. Wilson. Oxford: Oxford University Press, 1970.

Ferguson, Adam. *An Essay on the History of Civil Society*. New York: Garland Publishing, Inc., 1971. (reprint of 1787 edition)

Filmer, Robert. *Anarchy of a Limited or Mixed Constitution*. Edited by Peter Laslett. Oxford: B. Blackwell, 1949.

Harrington, James. *The Political Works of James Harrington*. Edited by J.G.A. Pocock. London: Cambridge University Press, 1977.

Hobbes, Thomas. *The Leviathan*. New York: Bobbs-Merrill, 1958.

Hume, David. *Hume's Moral and Political Philosophy*. Edited by Henry Aitken. Darien, Conn.: Hafner Publishing Co., 1970.

Hume, David. *Essays Moral, Political and Literary*. Edited T.H. Green and T.H. Grose. Volume I. London: Longmans, Green and Co., 1875.

Hutcheson, Francis. *Illustrations on the Moral Sense*. Edited by Bernard Peach.

- Cambridge, Mass.: Harvard University Press, 1971.
- Machiavelli, Niccolo. *The Discourses*. Translated by New York: The Modern Library, 1950.
- Mill, John Stuart. *Collected Works*. Edited by J.M. Robson. Vol. 18. Toronto: University of Toronto Press, 1965.
- Manderville, Bernard. *The Fable of the Bees*. Edited by Irwin Primer. New York: Capricorn Books, 1962.
- Montesquieu. *Considerations on the Causes of the Greatness of the Romans and Their Decline*. Translated by David Lowenthal. New York: The Free Press, 1965.
- Montesquieu. *The Political Theory of Montesquieu*. Edited and Introduced by Melvin Richter. Cambridge: Cambridge University Press, 1977.
- Montesquieu, *The Spirit of the Laws*. Volume I and II. Translated and Introduced by F.R. Coudert. New York: Colonial Press, 1900.
- Plato *The Laws*, Translated by A.E. Taylor. London: Everyman's Library, 1934.
- Polybius *The Histories of Polybius*. Translated by E.S. Shuckburgh and introduced by F.W. Walkbank. Volume I. Bloomington, Indiana: Indiana University Press, 1962.
- Reid, Thomas. *The Works of Thomas Reid*. Edited by Sir William Hamilton. Edinburgh: 1846-63.
- Smith, Adam. *An Inquiry into the Nature and Cause of the Wealth of Nations*. Edited by Edwin Cannan. New York: Random House, Inc., 1937.
- Smith, Adam. "Essay on Colonies", In *Governance of Dependencies*. Edited by Sir George Cornwell Lewis. London: M. Walter Dunne, 1901.
- Smith, Adam. *Theory on Moral Sentiments*. Edited by D.d. Raphael and A.L. Macfie. Oxford: Clarendon Press, 1976.
- Smith, Adam. *The Wealth of Nations*. Edited by Andrew Skinner. Harmondsworth, England: Penguin Books, 1977.
- Torquerville, Alexis de. *Democracy in America*. Edited by J.P. Mayer. Garden City, New York: Anchor Books, 1969.

(ii) Eighteenth and Nineteenth Century American Works (Including Loyalist Writings)

Boucher, Jonathan. *The Causes of the American Revolution*. London: G.G. and J. Robinson, 1797.

Boucher, Jonathan. *A View of the Causes and Consequences of the American Revolution*. New York: Russell and Russell, 1797.

Calhoun, John C. *A Disquisition on Government*. New York: Bobbs-Merrill Co., Inc, 1953.

John C. Calhoun. *The Works of John C. Calhoun*. Edited by Richard Crallé. New York: Walker and James, 1851-56.

Ferrand, Max, ed. *The Records of the Federal Convention 1787*. New Haven: Yale University Press, 1966.

The Federalist Papers. Edited by Clinton Rossiter. New York: Mentor Books, 1961.

Franklin, Benjamin. *The Papers of Benjamin Franklin*. Vol. 5. Edited by Leonard W. Larabee. New Haven: Yale University Press, 1962

Galloway, Joseph. *Historical and Political Reflections on the Rise and Progress of the American Rebellion*. London: G. Wilkie, 1790. Reprinted New York: Johnson Reprint Corp., 1972.

Galloway, Joseph. "Two Plans of Union". (1780) In *Anglo-American Union*. Edited by Julian P. Boyd. Philadelphia: University of Pennsylvania Press, 1941.

Inglis, Bishop Charles. *The Letters of Papinian*. New York: Hugh Gaine, 1777.

Inglis, Bishop Charles. *True Interests of America Impartially Stated*. Philadelphia: Jeffrey Humphrey, 1776.

Jefferson, Thomas. *Thomas Jefferson on Democracy*. Edited by Saul K. Padover. New York: Mentor Books, 1939.

Madison, James. *The Complete Madison*. Edited by Saul K. Padover. New York: Harper and Brothers, 1953.

Madison, James. *The Mind of the Founders—Sources of the Political Thought of James Madison*. Edited by Marvin Myers. New York: Bobbs-Merrill, 1973.

✓
Madison, James. *The Writings of James Madison*. Edited by G. Hunt. New York: G.P. Putnam's Sons, 1910.

Morison, Samuel Eliot., ed. *Sources and Documents Illustrating the American Revolution, 1764-1788*. Second edition. New York: Oxford Press, 1965.

Novanglus and Massachusettensis (1819) New York: Russell and Russell, 1968.

Washington, George. *Writings of George Washington*. Edited by J. Fitzpatrick. Vol. 29. Washington, D.C.: Government Printing Office, 1931-1944.

(iii) Nineteenth Century Canadian Works

Address to the People of Canada by the Reform Association. Toronto: Examines Office, 1844.

An Inquiry Into the Merits of Confederation and the Duty of the Hour By One of the People. Halifax: Z.S. Hall, 1867.

An Apology for the Church of England in the Canadas in Answer to a Letter to the Earl of Liverpool Relative to the Rights of the Church of Scotland etc by a Protestant of the Church of Scotland, By a Protestant of the Established Church of England. Kingston: James Macfarlane, 1826.

A Letter to the Electors of Nova Scotia, Being a Reply to "Confederation Considered on its Merits" By An Acadian. Halifax: R.T. Muir, 1867.

Beaven, James. *Recreations of a Long Vacation*. London: James Burns, 1846.

Bourdages, Louis. *Adresse A tous Les Electeurs Du Bas Canada*. Montreal, 1827.

Camillus, John Henry. *An Enquiry into the Evils of General Suffrage*. Montreal, 1810. In *Confrontations*. Edited by John Haare and Jean-Pierre Wallot. Trois-Rivières: Borcal Express, 1970.

Cauchon, Hon. Joseph. *Etude sur L'Union Projetée des Provinces Britanniques*. Quebec: 1858.

Cauchon, Hon. Joseph. *Union of the Provinces of British North America*. Translated by George Henry Macaulay. Quebec: Hunter, Rose and Co., 1865.

Chisholme, David. *The Lower Canada Watchman*. Kingston: James Macfarlane, 1829.

Comité Constitutionnel de la Reforme et du Progrès. *Manifeste Addressé du Peuple Du Canada*. Quebec: Fréchette and Frere, November 5, 1847.

Commons House of Assembly. *Important Public Documents Relative to the Late Changes in the Executive Council*, Toronto: 1836.

Confederation: Being a Series of Hitherto Unpublished Documents Bearing On the British North American Act. Edited by Joseph Pope. Toronto: Carswell Co. Ltd., 1895.

Confederation Considered on its Merits: Being an Examination into the Principles, Capabilities and Terms of Union, as Applicable to Nova Scotia By a Nova Scotian. Halifax: R.T. Muir, 1867.

A Constitutional Conversation with a Conscientious Colonist or Truth vs. Error Circa 1837. (no publisher or author given)

Craig, Gerald ed. *Discontent in Upper Canada.* Vancouver: Copp Clar, 1974 (a collection of 19th century primary sources)

The Daily Advertiser. *What is the Result of the Canadian Elections? Fully Answered.* Montreal: 1831.

Davis, Robert. *The Canadian Farmer's Travels in the United States.* Buffalo: Steel's Press, 1837.

Declaration of the Causes which led to the formation of the Constitutional Association of Quebec, and of the objects for which it has been formed. Quebec: 1834.

Dorion, J.D. *Lecture Publique-Instituté Canadian*, 1852.

Dumesnie, Clement. *Reflexions Préliminaires des Vrais Principes Politiques.* Montreal: Des Presses de L'Avenir, 1849.

Easton, Robert. *Sermon Delivered Before the Members of the Female Benevolent Society.* Montreal: Nahum Mower, 1816.

Fawkes, Walter. *The Englishman's Manual or Dialogue Between a Tory and a Reformer.* London: Hurst and Co., 1817.

Ferguson, The Hon. Adam. *Address to the People of Canada by the Reform Association.* Toronto: Printed at the Examiner Office 1844.

Fleming, John. *The Political Annals of Lower Canada.* 1810.

Fleming, John. *Some Considerations on This Question Whether the British Government Acted Wisely in Granting to Canada Her Present Constitution.* 1810.

Galloway, The Rev. J.C. *The Claims of the Mechanics Institutes or the Importance of Communicating Literary, Scientific and Mechanical Knowledge to the Working Classes*. Saint John, N.B.: Robert Shives, 1844.

George, Reverend James. "The Duties of Subjects to Their Rulers", In *Thoughts on High Themes: A Collection of Sermons*. Toronto: James Campbell and Son, 1874.

Gerin-Lajoie, Antoine. *Catechisme Politique ou Elements Du Droit Public et Constitutionnel du Canada*. New York: Johnson Reprint Corp., 1967.

Gerin-Lajoie, Antoine. *Jean Rivard*. Toronto: McClelland and Stewart, 1977. (original published in 1862)

Gourlay, Robert. *Petition for the benefit of the Labouring Poor*.

Haliburton, Thomas C. *Rule and Misrule of the English in America*. New York: Harper and Brothers, 1851.

Haliburton, Thomas C. *Sam Slick*. New York: George H. Doran Co., 1923.

Haliburton, Thomas C. *Sam Slick the Clockmaker*. London: George Rowledge and Sons, Ltd., 1907.

Hamilton, P.S. *Union of the Colonies of British North America Being Three Papers Upon This Subject*. Montreal: John Lorell, 1864.

Hincks, Honorable Francis. *Address to the Reformers of Frontenac*. Reform Association of Canada. Toronto: C. Donleavy, 1844.

Howe, Joseph S. *Speech of ... on the Union of the North American Provinces*, 1855.

Hudson, Reverend J. *A Sermon on the Death of His late Royal Highness, The Duke of York*. York, Upper Canada (Toronto): Robert Stanton, March 11, 1827.

Hume, Joseph Esq. M.P. *The Celebrated Letter to William Lyon Mackenzie*. Toronto: G.P. Hull, 1834.

Kennedy, W.P.M. ed. *Documents of the Canadian Constitution 1759-1915*. Toronto: Oxford University Press, 1918.

Knox, The Reverend John. *Real Education, A Lecture Before the Mechanics Institute, Charlottetown*. Charlottetown: James Douglas Haszard, 1841.

The Letters of a Constitutionalist, 1842.

Liberal—Conservative Handbook. Ottawa: C.H. McKintosh, 1876.

Lindsay, Charles. *The Life and Times of William Lyon Mackenzie* Volume II. Toronto: P.R. Randall, 1862.

Lord Durham's Report Edited and Introduced by Gerald M. Craig. Toronto: McClelland and Stewart, 1963.

Macdonald, John A. "Speech at Montreal". In *Liberal-Conservative Handbook.* Ottawa: C. H. McKintosh, 1876.

McGee, Thomas D'Arcy. *On the Union of the Provinces* Quebec: Hunter and Rose, 1865.

McKenzie, William Lyon. *Colonial Advocate.* (May 18, 1824)

McKenzie, William Lyon. *Selected Writings of William Lyon McKenzie.* Edited by Margaret Fairly. Toronto: Oxford University Press, 1960.

Observations Upon the Doctrine, Lately Advanced, That His Majesty's Council have the Constitutional Power to Control Individual Appropriations, or to Amend or Alter Money Bills Halifax: The Nova Scotian, 1828.

On the Historical Mis-Statements and Fallacies of Goldwin Smith by a Canadian. Toronto: 1866.

O.T., *Remarks on a Legislative Union of the Provinces of British North America.* Cobourg: R.D. Chatterton, 1839.

Papineau, Hon. L.J. *Address to the Electors of the West Ward of Montreal.* Montreal: Fabre, Perrault and Co., Dec, 1831.

Papineau, Hon. L. J. *Papineau.* Textes choisis et présentés par Fernand Ouellet. Laval: Les Presses Universitaires Laval, 1959.

Parent, E. *Lecture Devant L'Institut Canadien* Montreal: La Revue Canadienne, 1846.

Parliamentary Debates on the Subject of the Confederation of the British North American Provinces. Quebec: Hunter, Rose and Co., 1865.

Proceedings of the First General Meeting of the Reform Association of Canada. Toronto: Geo. Brown at "The Globe" office, 1844.

Proceedings at a Meeting of the Inhabitants of the Townships of Hope and Hamilton, in the District of Newcastle, U.C. Held Agreeable to Notice from Robert Gourlay. York, U.C.: R. Horne, (No date)

The Prompter: A Series of Essays on Civil and Social Duties Published Originally in the *Upper Canada Herald* 1820's. In *A Bibliography on Canadiana*. Toronto: Toronto Public Library

Prospects of the Plan and Principles of a Society For Perfect Religious Liberty and Equality. Montreal: Courier Office, 1836.

The Reform Alliance Society to Their Brother Reformers in Upper Canada. Circa 1835.

Remarks on the Petition of the Convention and on the Petition of the Constitutionalists by Anti-Bureaucrat Montreal: At the Herald office, 1835.

Report of Debates at the Convention of Delegates of the British North American League Toronto: November, 1849.

Robinson, John Beverley. *Letter to the Right Hon. Earl Bathurst* London: William Clowes, 1825.

Robinson, John Beverley. *Plans for a General Legislative Union of the British Provinces in North America*. London: W. Clowes, 1822.

Ryerson, Egerton. *The affairs of the Canadas: A Series of Letters*. London: J. King, 1837.

Ryerson, Egerton. *Christian Guardian* (October 8, 1831)

Ryerson, Egerton. *Civil Government—The Late Conspiracy* Toronto: 1838.

Ryerson, Egerton. *The New Canadian Dominion*. Toronto: Loyell and Gibson, 1867.

Ryerson, Egerton. *The Story of My Life*. Toronto: William Briggs, 1883.

The Seventh Report from the Select Committee of the House of Assembly of Upper Canada on Grievances Toronto: M. Reynolds, 1832.

Sewell, Jonathan Jr. "Memoir on the Means of Promoting the Joint Interests, 1807," In *Plans for a General Legislative Union of the British Provinces in North America* by J.B. Robinson. London: W. Clowes, 1822.

Sewell, Robinson and Stuart, Chief Justice, *Four Pamphlets on Confederation or Union of the Canadas* Toronto: Canadiana House, Reprinted 1967.

Shortt, Adam and Doughty, Arthur G. ed. *Documents Relating to the Constitutional History of Canada*. Part II Ottawa: J. de L. Taché, King's Printer, 1918.

Simpson, John. *Essay on Modern Reformers: Addressed to the People of Upper Canada* Kingston: Stephen Miles, 1818.

Smith, Chief Justice William. *The Diary and Selected Papers of William Smith*, Edited by L.F.S. Upton, Vol. 1. Toronto: The Champlain Society, 1963.

Smith, Goldwin. *Canada and the Canadian Question*. Toronto: Hunter Rose and Co. 1892.

Smith, Goldwin "The Proposed Constitution For British North America London, 1865" *MacMillan's Magazine* (1866).

Somerville, James. *A Discourse Delivered at the Scotch Church at Montreal on the 21st of April 1814 Being the Day Appointed for a General Thanksgiving*.

Spark, Reverend Alexander. *A Sermon Delivered in St. Andrew's Church Quebec*: J. Neilson, 1819.

Spark, Reverend Alexander. *The Connexion Between the Civil and Religious State of Society: A Sermon*. Quebec: J. Neilson, 1811.

Strachan, John. *A Discourse on the Character of King George Addressed to the Inhabitants of British America*. Montreal: Nabum Mower, 1810.

Strachan, John. *Documents and Opinions*, Edited by J.L.H. Henderson. Toronto: McClelland and Stewart, 1969.

Strachan, John. *The John Strachan Letter Book 1812-34* Edited by George W. Spragge Toronto: Ontario Historical Society, 1946.

Strachan, John. "Observations on a Bill for Uniting the Legislative Councils and Assemblies," London, 1824. In *John Strachan: Documents and Opinions* Edited by J.L.H. Henderson. Toronto: McClelland and Stewart, 1969.

Strachan, John and J.B. Robinson, "Observations on the Policy of a General Union of all the British Provinces of North America." London: William Clowes, 1824. In *John Strachan: Documents and Opinions* Edited by J.L.H. Henderson. Toronto: McClelland and Stewart, 1969.

Strachan, John. "The Reckoner No. 11," *Kingston Gazette*, (March 12, 1811)

Taché, J.C. *Des provinces de l'Amerique du Nord et d'une Federale*. Quebec, 1858.

Ten Letters on the Church and Church Establishment in Answer to Certain Letters of the Reverend Egerton Ryerson by an Anglo-Canadian Toronto: The Commercial Herald Press, 1839.

Thom, Adam. *Anti-Gallic Letters Addressed to His Excellency the Earl of Gosford*. Montreal: 1836.

Thompson, T. Phillips. *Future Government of Canada, Being An Argument in Favor of a British American Independent Republic*. St. Catharines: H.F. Leavenworth's Press, 1864.

Thoughts on Emigration, Education Etc. In a Letter to the Right Honorable Lord John Russell, Prime Minister of England By "A Citizen". Montreal: J.C. Becket, 1847.

Thoughts on the Banking System of Upper Canada and on the Present Crisis. Toronto: 1837.

Three Letters to the Hon. John Alexander McDonald. Montreal: John Lovell, 1864. (D. McGee ?)

Tickle, Paul I. *The Future of British America*. Toronto: C.A. Backus, 1865.

Uniacke, Richard. "Memorandum to Windham, 1806" Reprinted in *Canadian Historical Review* 17(1936).

Uniacke, Richard John. *The Statutes at Large, Nova Scotia*. Halifax: John Howe and Son, 1805.

Upper Canada. *Legislative Assembly Debates* April 19, 1861.

Upper Canada. *First Report on the State of the Representation of the People of Upper Canada in the Legislature of that Province*. House of Assembly. 1831.

Upper Canada. *Report of the Select Committee of the House Assembly*. February, 1838.

Viger, D.B. *Considerations*. Montreal: James Brown, 1809.

Viger, D.B. *Papers*. Vol. 8 Archives of Canada, Ottawa.

Vox Populi *The Loss of the Appropriation Bill Chargeable on the Legislative Council with A Vindication of the Proceedings of the House of Assembly by a Freeholder*. Saint John: Donald Cameron, 1835.

A Warning to the Canadian Land Company By an Englishman Resident in Upper Canada. Kingston: Printed at the Herald Office, 1824.

Wesleyan Methodist Church in Canada. *Minutes of Twelve Annual Conferences 1824-1845*. Toronto: Anson Green, 1846.

Zeno. *The "Crise" Metcalfe and the Lafontaine-Baldwin Cabinet Defended—
Letter to the Legislative Assembly.* Quebec: W. Cowan and Son, 1844.

B) Secondary Sources

(i) Articles

Adair, Douglas C. "Experience must be our only Guide: History, Democratic Theory, and the United States Constitution," In *The Reinterpretation of the American Revolution*. Edited by Jack P. Greene. New York: Harper and Row, 1968.

Aitken, H.G.J.: "Defensive Expansionism: The State and Economic Growth in Canada," In *Approaches to Canadian Economic History* Edited by W.T. Easterbrook and M.H. Watkins. Toronto: McClelland and Stewart, 1967.

Ajzenstat, Janet, "An Argument for the Social Utility of Inequality: The Mixed Regime," Paper prepared for the Annual Meeting of the Canadian Political Science Association, University of Ottawa, Ottawa, Ontario, June 1982.

Allan, Cephas D. "The Genesis of the Confederation of Canada," In *Annual Report of the American Historical Association*, Vol. 1, 1911.

Bailey, Alfred G. "The Basis and Persistence of Opposition to Confederation in New Brunswick," *Canadian Historical Review* 23; 4 (December, 1942)

Banning, Lance. "Republican Ideology and the Triumph of the Constitution 1789 to 17983," *William and Mary Quarterly* Serv. 3, 31(1974); 167-187.

Barkley, Murray. "The Loyalist Tradition in New Brunswick", *Acadiensis* No. 2, 4 (spring 1975): 3-45.

Beer, Samuel H. "Federalism, Nationalism and Democracy in American," *American Political Science Review*, (March, 1978).

Bell, David V.J. "The Loyalist Tradition in Canada", *Journal of Canadian Studies*, 5 (May, 1970).

Bell, David V.J. "Methodological Problems in the Study of Canadian Political Culture." Paper presented at the annual meeting of the Canadian Political Science Association, 1974.

Bell, David V.J. "Social Change and Political Culture, After Modernity, What?" Paper presented at the Conference on Political Change in Canada, Saskatoon, Saskatchewan, march 1977.

Brebner, J.B. "Patronage and Parliamentary Government", *Report of the Annual Meeting, Canadian Historical Society*, Toronto: University of Toronto Press, 1938.

Brebner, J.B. "Laissez-Faire and State Intervention in Nineteenth-Century Britain," *Journal of Economic History*, Supplement 8, 8 (1948): 59-73.

Brown, G.W. "The Grit Party and the Great Reform Convention of 1859," In *Upper Canadian Politics in 1850's* Edited by Ramsey Cook. Toronto: University of Toronto Press, 1967.

Brown, R.E. "The Beard Thesis Attacked: A Political Approach," *Essays on the Making of the Constitution*. Edited by L.W. Levy. New York: Oxford University Press, 1969.

Burroughs, Peter. "Parliamentary Radicals and the Reduction of Imperial Expenditure in British North America, 1827-34", *The Historical Journal*, Vol. 11 No. 3 (1968): 446-461.

Cameron, Barbara. "The Transition from Whig to Social Reform Liberalism in English Canada," Paper presented at the Annual Meeting of the Canadian Political Science Association. Halifax, May, 1981.

Cameron, Margaret, "Authorized Readers in Ontario Schools 1846-1909." Unpublished paper. Faculty of Education, University of Western Ontario, London, Ontario, December, 1976.

Careless, J.M.S. "Limited Identities in Canada," *Canadian Historical Review* 1 (March 1969): 1-10.

Careless, J.M.S. "Mid-Victorian Liberalism in Central Canadian Newspapers 1850-67," *Canadian Historical Review* 31 (September 1950): 221-236.

Careless, J.M.S. "The Toronto Globe and Agrarian Radicalism 1850-1867," In *Upper Canadian Politics in the 1850's*. Edited by Ramsey Cook. Toronto: University of Toronto Press, 1967.

Chinard, Gilbert, "Polybius and the American Constitution," *Journal of the History of Ideas*, 1 (January, 1940)

Christian, William. "James Mackintosh, Burke and the Cause of Reform," *Eighteenth Century Studies* 7 (Winter, 1973-74).

Condon, Ann Gorman. "Marching to a Different Drummer: The Political Philosophy of the American Loyalists," In *Red, White and Blue* Edited by Esmond Wright. New York: AMS Press, 1976.

Cook, Terry. "John Beverley Robinson and the Conservative Blueprint for the Upper Canadian Community," In *Historical Essays on Upper Canada*. Edited by J.K. Johnson. Toronto: McClelland and Stewart, 1975.

Daniels, Bruce E. "Emerging Urbanism and Increasing Social Stratification in the Era of the American Revolution," *West Georgia College Studies in the Social Science*, 15 (June 1976).

Duffy, Dennis. "Upper Canadian Loyalism: What the Textbooks Tell," *Journal of Canadian Studies* 12 (Spring, 1977).

Dunn, John. "The Politics of Locke in England and American in the Eighteenth Century", In *John Locke: Problems and Perspectives* Edited by John W. Yolton. Cambridge: Cambridge University Press, 1969.

Eidlin, Fred. "Critical Comments on: 'Fact' and 'Value' in the Thought of Peter Winch" January, 1981.

Femia, Joseph. "An Historicist Critique of "Revisionist Methods for Studying the History of Ideas," *History and Theory* No. 2, 20 (1981):

Fingard, Judith. "Attitudes Toward the Education of the Poor in Colonial Halifax," *Acadiensis* 2 (Spring, 1973): 15-42.

Fox, Sherwood. "School Readers as an Educational Force (A Study of a Century of Upper Canada)," *Queen's Quarterly* 39 (1932): 688-703.

Galimberti, T. "Themes on Federalism", Paper Prepared for the Annual Meeting, Canadian Political Science Association, Montreal, 1980.

Garon, André. "La Fonction Politique et Sociale des chambres hautes canadiennes 1791-1841," *Histoires Sociales-Social History*. 5 (April 1970): 66-87.

Garon, André. "Le Conseil législatif du Canada-Uni: Revision Constitutionnelle et composition socio-économique," *Histoire-Sociale-Social History* 8 (November, 1971): 61-83.

Gill, Emily R. "Smith, Tocqueville and Self-Interest Rightly Understood," Paper prepared for the Annual Meeting of the American Political Science Association, Washington, D.C., Aug 23-31, 1980.

Goldsmith, M.M. "Public Virtue and Private Vices: Bernard Mandeville and English Political Ideologies in the Early Eighteenth Century," *Eighteenth Century Studies*, 9 (1976) pp. 477-510

Goodman, Paul, "Elbridge Gerry, the Founding Fathers, and the Republic of Virtue," *Reviews in American History* 5 (December, 1977)

Greenstone, David. Review of *Hobbes and America* by Frank Coleman. *American Political Science Review* (date?)

- Heintzman, Ralph. "The Political Culture of Quebec, 1840-1860." *Canadian Journal of Political Science*, XVI, No. 1 (March 1983).
- Hill, B.W. "Executive Monarchy and the Challenge of Parties, 1689-1832: Two Concepts of Government and Two Historiographical Interpretations" *The Historical Journal*, 13, no. 3, (1970): 379-401.
- Hodgins, Bruce W. "The Canadian Political Elite's Attitudes Toward the Nature of the Plan of Union", in *Federalism in Canada and Australia: The Early Years*. Edited by Bruce W. Hodgins, D. Wright, W.H. Heck. Waterloo: Wilfrid Laurier University Press, 1978.
- Houston, Susan E. "Politics, Schools and Social Change in Upper Canada," *The Canadian Historical Review* 53, No. 3 (Sept. 1972): 249-271.
- Howe Jr., John R. *Journal of Southern History* 33 (1970)
- Innis, Harold "Significant Factors in Canadian Economic Development", in *Essays in Canadian Economic History*. Toronto: University of Toronto Press, 1973.
- Irving, John. "The Development of Philosophy in Central Canada from 1850 to 1900," *Canadian Historical Review*, 31, No. 3 (Sept. 1950): 252-287.
- Jarrell, Richard A. "Science Education at the University of New Brunswick in the Nineteenth Century," *Acadiensis* 2 (Spring 1973): 55-79.
- Jones, David C. "The Western Agrarian Press and Country Life Ideology," *Journal of Canadian Studies* 17, No. 3 (Autumn, 1982).
- Johnson, J.K. "John A. Macdonald," in J.M.S. Careless, ed., *The Pre-Confederation Premiers: Ontario Government Leaders, 1841-1867*. Toronto: University of Toronto Press, 1980.
- Kesler, Sanford. "Tocqueville on Civil Religion and Liberal Democracy," *Journal of Politics* 39 (1977): 199-146.
- Lafleche, Mgr. L.-F.R. "The Providential Mission of the French Canadians," in *French Canadian Nationalism*. Edited by Ramsey Cook. Toronto: Macmillan of Canada, 1968.
- Landi, Alexander. "Madison's Political Theory," *Political Science Reviewer* 6 (Fall, 1976).
- Lemisch, Jesse. "The American Revolution Seen From the Bottom Up," in *Towards a New Past*. Edited by Barton J. Bernstein. New York: Vintage Books, 1969.

Lindblom, Charles. "The Science of 'Muddling Through'," *Public Administration Review* 19 (1959): 79-88.

Lockridge, Kenneth. "Land, Population and the Evolution of New England Society, 1630-1790." In *Class and Society in Early America*. Englewood Cliffs: Prentice-Hall, 1970.

Lucas, Paul. "On Edmund Burke's Doctrine of Prescription; or an Appeal From the New to the Old Lawyers," *The Historical Journal* 11, No. 1. (1968): 35-63.

Lundberg, David and May, Henry F. "The Enlightened Reader in America," *American Quarterly* 28 (1976).

Macpherson, C.B. "Edmund Burke". In *Edmund Burke*. Edited by Isaac Kramnick. Englewood Cliffs, New Jersey: Prentice-Hall Inc., 1974.

Masters, D.C. "The Scottish Tradition in Higher Education," In *The Scottish Tradition in Canada*. Edited by W. Stanford Reid. Toronto: 1976.

McDonald, L.R. "France and New France: The Internal Contradiction," *Canadian Historical Review* 52, No. 2 (June 1971).

McDonald, Neil. "Egerton Ryerson and the School as an Agent of Political Socialization," In *Egerton Ryerson and His Times*. Edited by Neil McDonald and Alf Chaiton. Toronto: Macmillan of Canada, 1978.

McNally, David. "Staples Theory as Commodity Fetishism: Marx, Innis and Canadian Political Economy," *Studies in Political Economy*. 6 (1981): 35-65.

McRae, Kenneth D. "Louis Harz's Concept of the Fragment Society and its Applications to Canada," *Etudes Canadiennes: Canadian Studies* 5 (1978:17-30).

McRae, Kenneth W. "The Structure of Canadian History," In *The Founding of New Societies*. Edited by Louis Hartz. New York: Harcourt, Brace and World, 1964.

Monière, Denis. "L'Utilité Du Concept de Mode de Production Des Petits Producteurs Pour L'Historiographie de la Nouvelle-France," *Revue d'Histoire De L'Amérique Française*. 29 No. 4 (March 1976): 483-502.

Moore, James. "Hume's Political Science and the Classical Republican Tradition," *Canadian Journal of Political Science*. 10, No. 4 (December, 1977).

Nelson, Ralph C.; Sunderlund, Walter; and Wagenburg, Ronald "The Political Thought of the Fathers of Confederation," Paper presented at the Annual

Meeting of the Canadian Political Association Fredericton, N.B., June, 1977.

Nelson, W.H. "The Last Hopes of the American Loyalists," *Canadian Historical Review* 32, No. 2 (March, 1951).

Nourry, Louis. "L'idée de Federation Chez Etienne parent 1831-1852," *Revue d'Histoire de l'Amérique Française*. 28 No. 4 (March, 1973)

Panitch, Leo. "The Role and Nature of the Canadian State," In *The Canadian State*. Edited by Leo Panitch. Toronto: University of Toronto Press, 1977.

Paquet, Gilles and Wallot, Jean-Pierre. "Reflections on Nineteenth Century Canadian History: Idéal Historique, State of the Arts, Needs for the Future," in *The London Project: Interdisciplinary Studies on the Historical Evolution of Southwestern Ontario. Second Annual Report 1977-8*. London: Faculty of Social Science, University of Western Ontario, 1978.

Pargellis, Stanley. "The Theory of Balanced Government". In *The Constitution Reconsidered*, edited by C. Reed New York: Harper and Row, 1968.

Patterson, Graeme. "An Enduring Canadian Myth: Responsible Government and the Family Compact," *Journal of Canadian Studies* 12, No. 2 (Spring 1977).

Patterson, Graeme. "Whiggery, Nationality and the Upper Canadian Reform Tradition," *Canadian Historical Review*. 56 (March, 1975) 25-44.

Perlman, Mark. Review of *Hobbes and America* by Frank Coleman and *The political Economy of the American Revolution* by Nancy Spannaus and Christopher White. *History of Political Economy* 12.2 (1980): 295-302.

Pocock, J.G.A. "Machiavelli, Harrington and English Political ideologies in the Eighteenth Century." *William and Mary Quarterly* 22 (1965), 549-583.

Preece, Rod. "The New Conservatisms of the Nineteenth Century: MacDonald, Disraeli et al.," Paper presented at the Conference on Political Thought in English Canada, March 10, 1978.

Preece, Rod. "The Political Philosophy of Sir John A. Macdonald," Paper read at Ninth Interdisciplinary Research Seminar, Sept. 30, 1976. Wilfrid Laurier University, Waterloo, Ontario.

Preece, Rod. "Sir John A. Macdonald and the Founding of the Canadian Nation." Unpublished chapter.

Quinton, Anthony. "The Neglect of Victorian Philosophy," *Victorian Studies*. 1

(March, 1958)

Reitan, E.A. "The Civil List in Eighteenth Century British Politics: Parliamentary Supremacy Versus The Independence of the Crown," *The Historical Journal* 9: 3 (1966): 318-337.

Richards, John. "Populism and the Left." *Studies in Political Economy* 5 (1981): 5-29.

Richter, Melvin. "Comparative Political Analysis in Montesquieu and Tocqueville," *Comparative Politics* 1:2 (January, 1969): 129-61.

Richter, Melvin. "The Uses of Theory: Tocqueville's Adaptation of Montesquieu," In *Essays in Theory and History* Edited by melvin Richter. Cambridge, Mass.: Harvard University Press, 1970.

Rioux, M. "The Development of Political Ideologies in Quebec" in R. Schultz *et al. The Canadian Political Process*. Third Edition. Toronto: Holt, Rinehart and Winston, 1979.

Russell, Peter. "Images of Social Mobility in Upper Canada: The Ladder, the Wheel and the Mushroom," *Etudes Canadiennes: Canadian Studies*. 8 (June, 1980), 77-92.

Siegel, Arthur. "The Canadian Mass Media, Federalism and the Politics of Referendum," Paper presented to the Annual Meeting of the Canadian Political Science Association Fredericton, New Brunswick. June 9-11, 197.

Smith, Lawrence A.H. "Le Canadien and the British Constitution, 1806-1810," *Canadian Historical Review* 38:2 (June, 1967): 93-108.

Stevenson, Garth. "The Political Economy Tradition and Canadian Federalism," *Studies in Political Economy* 6 (1981),

Stewart, Gordon T. "Political Patronage Under Macdonald and Laurier, 1878-1911," *American Review of Canadian Studies*. 10:1 (Spring, 1980).

Tousignant, Pierre. "Problématique Pour Une Nouvelle Approche de la Constitution de 1791," *Revue d'Histoire de L'Amérique Française* 27:2 (September, 1973)

Truman, Tom. "A Critique of S.M. Lipset's Article 'Value Differences Absolute or Relative: the English-Speaking Democracies,'" *Canadian Journal of Political Science* 4:4 (December, 1971): 497-525.

Underhill, Frank. "Some Aspects of Upper Canadian Radical Opinion in the Decade Before Confederation," In *Upper Canadian Politics in the 1850's*

Edited by Ramsey Cook. Toronto: University of Toronto Press, 1967.

Vernon, Richard. "Freedom and Corruption: Proudhon's Federal Principle," *Canadian Journal of Political Science* 14, No. 14 (December, 1981):

Wallot, Jean. "Le Régime Seigneurial et son abolition au Canada," *Canadian Historical Review* 50:4 (December, 1969)

Weston, Corrine Comstock. "The Theory of the Mixed Monarchy Under Charles I and After," *English Historical Review* 75 (July, 1960): 427.

Whitaker, Reginald. "Images of the State in Canada," In *The Canadian State*. Edited by Lee Panitch. Toronto: University of Toronto Press, 1977.

Whitaker, Reginald: "Introduction to the Carleton Library Edition," William Irvine. *The Farmer in Politics*. Toronto: McClelland and Stewart, 1976.

Wise, S.F. "Colonial Attitudes from the era of the War of 1812 to the Rebellions of 1837." In *Canada View the United States*, Edited by S.F. Wise and Robert Craig Brown. Seattle: University of Washington Press, 1967.

Wise, S.F. "Conservatism and Political Development: The Canadian Case," *South Atlantic Quarterly* 54 (1970): 226-43.

Wise, S.F. "Sermon Literature and Canadian Intellectual History," In *Canadian History Before Confederation: Essays and Interpretations*, Edited by J.M. Bumstead, 253-269. Toronto: Irwin-Dorsey, 1972.

Wise, S.F. "Upper Canada and the Conservative Tradition," In *Profiles of a Province*. Toronto: Ontario Historical Society, 1967.

Wood, Gordon S. "Heroics." Review of *Explaining America*, by Garry Wills. *New York Review of Books* 28 (April 2, 1982)

Wood, Jerome H. "There Ought to be no Distinction: The American Revolution and the Powerless," *West Georgia College Studies in the Social Sciences* 15 (June, 1976)

Wood, Neal. "The Values of Asocial Sociability: Contributions of Machiavelli, Sidney and Montesquieu." In *Machiavelli and the Nature of Political Thought*, Edited by Martin Fleischer. New York: Atheneum, 1972.

(ii) Books

Adcock, F.E. *Roman Political Ideas and Practice*. Ann Arbor: The University of Michigan Press, 1967.

Altick, Richard. *Victorian People and Ideas*. New York: W.W. Norton and Co., 1973.

Anderson, Perry. *Passages From Antiquity to Feudalism*. London: New Left Books, 1974.

Anderson, James G. *Public Policy-Making*. Second Edition. New York: Holt, Rhinehart and Winston, 1979.

Apter, David E. *Introduction to Political Analysis*. Cambridge, Mass: Winthrop Publishers Inc., 1977.

Balsdon, J.P.V.D. *Roman Civilization*. Baltimore: Penguin Books, 1965.

Baily, Bernard. *The Ideological Origins of the American Revolution*. Cambridge: Harvard University Press, 1967.

Banning, Lance. *The Jeffersonian Persuasion*. Ithaca: Cornell University Press, 1978.

Beattie, Rev. F.R. *An Examination of the Utilitarian Theory of Morals*. Brantford: J.J. Sutherland Publisher, 1885.

Bell, David V.J. and Tepperman, Lorne. *The Roots of Disunity*. Toronto: McClelland Stewart, 1979.

Bernstein, Barton. Ed., *Towards a New Past*. New York: Vintage Books, 1969.

Billias, G.A., ed. *The American Revolution*.

Black, E.R. *Divided Loyalties: Canadian Concepts of Federalism*. Montreal: McGill-Queen's University Press, 1975.

Blitzer, Charles. *An Immortal Commonwealth*. New Haven: Yale University Press, 1960.

Bluhm, William T. *Ideologies and Attitudes: Modern Political Culture*. Englewood Cliff, N.J.: Prentice-Hall, Inc., 1974.

Bluhm, William T. *Theories of the Political System*. Third edition. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1978.

Bourinet, John George. *The Intellectual Development of the Canadian People*. Toronto: Hunter, Rose and Co., 1881.

Brewers, John. *Party Ideology and Popular Politics at the Accession of George III*. Cambridge: Cambridge University Press, 1976.

Brant, Irving. *James Madison*, Vol. 3 New York: Bobbs-Merrill Co., Inc., 1950.

Brown, Charles. *Charles Beard and the Constitution* Princeton: Princeton University Press, 1956.

Brown, S.G., ed. *Revolution, Confederation and Constitution*. New York: Appleton-Century-Crofts, 1971.

Brown, Wallace. *The good Americans: The Loyalists in the American Revolution*. New York: William Morrow and Co., Inc., 1969.

Browning, Reed. *Political and Constitutional Ideas of the Court Whigs*. Baton Rouge: Louisiana State University, 1982.

Bryson, Gladys. *Man and Society: The Scottish Inquiry of the Eighteenth Century* Princeton, N.J.: Princeton University Press, 1975.

Bumstead, J.M., ed. *Canadian History Before Confederation: Essays and Interpretations*. Toronto: Irwin-Dorsey, 1972.

Campbell, R.H. and Skinner, Andrew S. eds., *The Origins and Nature of the Scottish Enlightenment*. Edinburgh: John Donald, 1982.

Cannon, John. *Parliamentary Reform 1640-1832*. Cambridge: University Press, 1967.

Careless, J.M.S., ed. *Colonists and Canadians 1760-1867*. Toronto: Macmillan of Canada, 1971.

Carroll, Peter N. and Noble, David W. *The Free and the Unfree*. Middlesex, England: Penguin Books, 1977.

Cornell, M., and Scullard, H.H. *A History of Rome*. Third Edition, London: Macmillan Press, 1975.

Chaudhuri, Jayotpaul, ed. *The Non-Lockean Roots of American Democratic Thought*. Tuscon, Arizona: University of Arizona Press, 1977.

Chitnis, Anand C. *The Scottish Enlightenment*. London: Croom Helm, 1976.

Christie, Ian R. *Myth and Reality in Late Eighteenth Century British Politics and*

- Other Papers*. London: Macmillan and Co., Ltd., 1970.
- Christian, William and Campbell, Colin. *Political Parties and Ideologies in Canada*. Toronto: McGraw-Hill Ryerson, 1974.
- Clark, S.D. *Church and Sect in Canada*. Toronto: University of Toronto Press, 1974.
- Coleman, Frank. M. *Hobbes and America: Exploring the Constitutional Foundations*. Toronto: University of Toronto Press, 1977.
- Cook, Ramsey. *Constitutionalism and Nationalism in Lower Canada*. Canadian Historical Readings. Toronto: University of Toronto Press, 1969.
- Cook, Ramsey, ed., *Upper Canadian Politics in the 1850's*. Canadian Historical Readings, Toronto: University of Toronto Press, 1967.
- Copleston, Frederick. *A History of Philosophy: Modern Philosophy*. Vol. 5 *Hobbes to Paley*. Garden City, New York: Image Books, 1964.
- Cornell, Paul G. *The Alignment of Political Groups*. Toronto: University of Toronto Press, 1962.
- Cowherd, Raymond G. *The Politics of English Dissent: The Religious Aspects of Liberal and Humanitarian Reform Movements from 1815 to 1848*. London: The Epworth Press, 1959.
- Creighton, Donald. *British North America at Confederation*. A Study Prepared for the Royal Commission on Dominion-Provincial Relations. Ottawa: Queen's Printer 1967.
- Creighton, Donald. *The Road to Confederation; The Emergence of Canada: 1868-1867*. Toronto: Macmillan of Canada, 1964.
- Crosland, Maurice., ed. *The Emergence of Science in Western Europe*. London: Macmillan Press, 1975.
- Current, Richard N. *John C. Calhoun*. New York: Washington Square Press, 1963.
- Cuthbertson, B.C.U. "The Old Attorney General, Richard John Uniacke, 1753-1830." Master's thesis, University of New Brunswick, 1970.
- Dahl, Robert. *A Preface to Democratic Theory*. Chicago: University of Chicago Press, 1956.
- Dargo, George. *Roots of the Republic: A New Perspective on the American*

- Constitution* New York: Praeger Publisher, 1974.
- Davies, Richard A. ed. *On Thomas Chandler Haliburton*. Ottawa: The Tegumseh Press, 1979.
- David, S. Rufus. *The Federal Principle*. University of California Press, 1978.
- Dickinson, H.T. *Liberty and Property: Political Ideology in Eighteenth-Century Britain*. London: Weidenfield and Nicolson, 1974.
- Deutsch, Karl W. *Politics and Government*. Second Edition. Boston: Houghton Mifflin Company, 1974.
- Downs, Michael. *James Harrington* Boston: Twayne Publisher, 1977.
- Easterbrook, W.T. and Watkins, M.H. Ed. *Approaches to Canadian Economic History*. Toronto: McClelland
- Ebenstein, William. *Introduction to Political Philosophy*. New York: Rinehart and co., 1952.
- Ehrenberg, Victor. *Man, State and Deity* London: Methuen and Co. Ltd., 1974.
- Eidelberg, Paul. *A Discourse on Statesmanship: The Design and Transformation of the American Polity*. Urbana Illinois: University of Illinois, 1974.
- Elder, George Davie. *The Democratic Intellect: Scotland and Her Universities in the Nineteenth Century* Edinburgh: University of Edinburgh Press, 1964.
- Ernst, Joseph Albert. *Money and Politics in American, 1755-1775*.
- Feiling, Keith Grahame. *The Second Tory Party, 1714-1832*. London: MacMillan, 1959.
- Ferguson, E. James. *The American Revolution: A General History 1763-1790*. Homewood: Illinois: The Dorsey Press, 197.
- Fink, Z.S. *The Classical Republicans* Evanston, Illinois: Northwestern University Press, 1962.
- Fleisher, Martin., ed. *Machiavelli and the Nature of Political Thought*. New York: Atheneum, 1972.
- Foord, A.S. *His Majesty's Opposition*. Oxford: Clarendon Press, 1964.
- Forbes, Duncan. *Hume's Philosophical Politics*. Cambridge: Cambridge University Press, 1975.

Freeman, Michael. *Edmund Burke and the Critique of Political Radicalism*. Oxford: Basil Blackwell, 1980.

French, Goldwin. *Parsons and Politics: The Role of the Wesleyan Methodists in Upper Canada and the Maritimes from 1780 to 1855*. Toronto: Ryerson Press, 1962.

Friedrich, Carl J. *Limited Government: A Comparison*. Englewood Cliffs, N.J.: Prentice-Hall Inc., 1974.

Fritz, Kurt Von. *The Theory of the Mixed Constitution in Antiquity*. New York: Columbia University Press, 1958.

Galaupneau, Calude. *La France devant L'Opinion Canadienne 1760-1815*. Quebec: Les Presses de L'Université Laval, 1970.

Greene, Jack P., ed. *The Reinterpretation of the American Revolution*. New York: Harper and Row, 1968.

Gwyn, William B. *The Meaning of the Separation of Powers*. New Orleans: Tulane University Press, 1965.

Hamburger, Joseph. *Intellectuals In Politics—John Stuart Mill and the Philosophic Radicals*. New Haven: Yale University press, 1965.

Hare, John E. *La Pensée Socio-Politique au Quebec, 1784-1812*. Ottawa: Editions de l'Université d'Ottawa, 1977.

Harris, Richard Colebrook. *The Seigneurial System in Early Canada*. Quebec: Les Presses de L'Université Laval, 1966.

Hartz, Louis ed. *The Founding of New Societies*. New York: Harcourt, Brace and World, 1964.

Henretta, James. *The Evolution of American Society, 1700-1815*. Lexington, Mass: D.C. Heath and Co., 1973.

Himmelfarb, Gertrude. *Lord Acton: A Study in Conscience and Politics*. Chicago: University of Chicago Press, 1952.

Holmes, G., ed., *Britain After the Glorious Revolution 1689-1714*. London: Macmillan and Co., Ltd., 1969.

Homo, Léon. *Roman Political Institutions: From City to State*. New York: Barnes and Nobel, Inc., 1962.

Hont, I. and Ignatieff, Michael. *Wealth and Virtue*. Cambridge: Cambridge

University Press, 1983.

Howe, John R. Jr. *The Role of Ideology in the American Revolution.* New York: Kregger, 1970.

Innis, Harold A. *Essays in Canadian Economic History.* Toronto: University of Toronto Press, 1973.

Innis, Harold. *The Fur Trade in Canada* Toronto: University of Toronto Press, 1973.

Jensen, Merrill. *The American Revolution Within America.* New York: New York University Press, 1974.

Johnson, J.K. ed. *Historical Essays on Upper Canada* Toronto: McClelland and Stewart, 1975.

Kelley, Robert. *The Transatlantic Persuasion: The Liberal-Democratic Mind in the Age of Gladstone* New York: Alfred A Knopf, 1969.

Ketcham, Ralph. *From Colony to Country: the Revolution in American Thought, 1750-1820.* New York: Macmillan, 1974.

Kramnick, Isaac., ed. *Edmund Burke.* Englewood Cliffs, N.J.: Prentice-Hall, 19.

Lavere, Trevor H., and Jarrell, Richard A. *A Curious Field-Book and Science and Society in Canadian History.* Toronto: Oxford University Press, 1974.

Lefebvre, André. *La Montreal Gazette et le Nationalisme Canadien (1895-1842).* Montreal: Guerin, 1970.

Liljegren, S.J. *Canadian History and Thoms C. Haliburton* Upsala, Sweden: Canadian Institute, 1969.

Lipset, Seymour Martin. *Revolution and Counterrevolution* New York: Basic Books, 1968.

Livingstone, William S. *Federalism and Constitutional Change* Oxford: Clarendon Press, 1956.

Lynd, Staughton. *Class Conflict, Slavery and the United States Constitution.* Indianapolis: Bobbs-Merrill and Co. Inc., 1968.

Lynd, Staughton. *The Intellectual Origins of American Radicalism.*

MacNutt, W. S. *the Atlantic Provinces: The Emergence of Colonial Society 1712-1857.* Toronto: McClelland and Stewart Ltd., 1965.

Macpherson, C.B. *Burke* Oxford: Oxford University press, 1980.

Macpherson, C.B. *Democracy in Alberta: Social Credit and the Party System*. Toronto: University of Toronto Press, 1982.

Maier, Pauline. *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776*. New York: Knopf, 1972.

Mannheim, Karl. *Ideology and Utopia* New York: Harvest Books, 1958.

McCallum, John. *Unequal Beginnings: Agriculture and Economic Development in Quebec and Ontario Until 1870*. Toronto: University of Toronto Press, 1980.

McDonald, Neil and Chaiton, Alf. ed. *Egerton Ryerson and His Times* Toronto: Macmillan Co. of Canada, 1978.

McIlwain, Charles H. *Constitutionalism, Ancient and Modern*. Ithaca, New York: Cornell University Press, 1947.

McIlwain, Charles H. *The Growth of Political Thought in the West*. New York: MacMillan, 1932 (12th printing 1960)

McKillop, A.B. *A Disciplined Intelligence* Montreal: McGill-Queen's University Press, 1979.

Milani, Lois Dorroch. *Robert Gourelay, Gadfly*. Thornbury, Ontario: Ampersand Press, 1971.

Mitchell, Austin. *The Whigs in Opposition 1815-1830*. Oxford: The Clarendon Press, 1967.

Moir, J.S. *Church and State in Canada West*. Toronto: University of Toronto press, 1959.

Monière, Denis. *Ideologies in Quebec* Toronto: University of Toronto Press, 1981.

Moore Jr., Barrington. *Social Origins of Dictatorship and Democracy*. Boston: Beacon Press, 1966.

Morice, G.P., ed. *David Hume bicentenary Papers* Edinburgh: Edinburgh University Press, 1977.

Morton, W.L. *The Critical Years: The Union of British North America, 1856-1873*. Toronto: McClelland and Stewart, 1968.

- Morton, W.L. *The Kingdom of Canada*. Toronto: McClelland and Stewart, 1969.
- Morton, W.L., ed. *The Shield of Achilles*. Toronto: McClelland and Stewart, 1968.
- Myers, Gustavus. *A History of Canadian Wealth Volume I*. Toronto: James Lawes and Samuel, 1972.
- Nash, Gary B., ed. *Class and Society in Early America*. Englewood Cliffs, N.J.: Prentice-Hall, 1970.
- Nelson, William. *The American Tory*. Boston: Beacon Press, 1964.
- Oakeshott, Michael. *Rationalism in Politics and Other Essays*. London: Methuen and Co., Ltd., 1974.
- Ostrom, Vincent. *The Political Theory of a Compound Republic*.
- O'Sullivan, Noel. *Conservatism*. London: J.M. Dent and Sons Ltd., 1976.
- Ouellet, Fernand. *Lower Canada 1791-1840*. Toronto: McClelland and Stewart, 1980.
- Pansis, D.J. *The Decline of Toryism in Upper Canada*. Master's Thesis University of Manitoba, 1969.
- Panitch, Leo ed. *The Canadian State: Political Economy and Political Power*. Toronto: University of Toronto Press, 1977.
- Paquet, Gilles and Wallot, Jean-Pierre. *Patronage et Pouvoir dans le bas Canada (1794-1812): Un essai d'économie historique*. Montreal: Les Presses de l'Université du Québec, 1973.
- Parel, Anthony. *The Political Calculus: Essays on Machiavelli's Philosophy*. Toronto: University of Toronto Press, 1972.
- Parvin, Elizabeth Viola. *Authorization of Textbooks for the Schools of Ontario 1846-1950*. Toronto: University of Toronto Press in Association with Canadian Textbook Publisher Institute, 1965.
- Pessen, Edward. *Riches, Class and Power Before the Civil War*. Lexington, Mass: D.C. Heath, 1973.
- Phillips, N.T. and Mitchison, Rosalind. *Scotland in the Age of Improvement*. Edinburgh: Edinburgh University Press, 1970.
- Plamenatz, John. *The English Utilitarians*. Oxford: Basil Blackwell, 1958.

Pocock, J.G.A. *The Machiavellian Moment*. Princeton: Princeton University Press, 1975.

Prior, A.N. *Logic and the Basis of Ethics*. Oxford: Calrendon Press, 1949.

Raab, Felix. *The English Face of Machiavelli (1500-1800)*. Toronto: University of Toronto Press, 1964.

Rasporich, Anthony Walter. *The Development of Political and Social ideas in the Province of Canada 1848-1858*. Ph.D. Thesis, university of Manitoba, 1970.

Read, Conyers. *The Constitution Reconsidered*. New York: Harper and Row, 1968.

Reid, W. Stanford., ed. *The Scottish Tradition in Canada: A History of Canada's Peoples*. Toronto: McClelland and Stewart and Department of the Secretary of State, 1976.

Reisman, D.A. *Adam Smith's Sociological Economics*. New York: Barnes and Noble, 1976.

Rendall, Jane. *The Origins of the Scottish Enlightenment*. London: Macmillan Press, 1978.

Richter, Melvin. *Essays in Theory and History*. Cambridge, Mass: Harvard University Press, 1970.

Riker, William. *Federalism: Origin, Operation, Significance*. Boston: Little, Brown and Co., 1964.

Robbins, Caroline. *The Eighteenth Century Commonwealthman*. Cambridge, Mass.: Harvard University press, 1959.

Rossiter, Clinton. *The Political Thought of the American Revolution*. New York: Harcourt, Brace and World, 1963.

Rossiter, Clinton. *Seedtime of the Republic*. New York: Harcourt, Brace and Co, 1953.

Ryerson, Stanley. *Unequal Union*. Toronto: Progress Books, 1968.

Saunders, Edward Manning. *Three Premiers of Nova Scotia*. Toronto: William Briggs, 1909.

Schneider, Louis. *The Scottish Moralists*.

Schuyler, R.L. and Weston, C.C., ed. *British Constitutional History Since 1832*.

- Princeton: D. Van Nostrand Co., Inc., 1957. Chicago: University of Chicago Press, 1967.
- Sharp, Paul. *The Agrarian Revolt in Western Canada*. New York: Octagon Books, 1971.
- Silver, A.L. *The French-Canadian Idea of Confederation*. Toronto: University of Toronto Press, 1982.
- Simon, Herbert A. *Administrative Behavior: A Study of Decision Making in Administrative Organization*. Second Edition. New York: The Free Press, 1957.
- Sissons, C.B. *Egerton Ryerson: His Life and Times*. Toronto: Clark, Irwin and Co., 1937.
- Skinner, Andrew S. and Wilson, Thomas. *Essays on Adam Smith*. Oxford: Clarendon Press, 1975.
- Skinner, Andrew S. and Wilson, Thomas, ed. *The Market and the State: Essays in Honour of Adam Smith*. Oxford: Clarendon Press, 1976.
- Skinner, Andrew S. *A System of Social Science: Papers Relating to Adam Smith*. Oxford: Clarendon Press, 1979.
- Smiley, Donald v. *Canada in Question: Federalism in the Eighties*. Third Edition. Toronto: McGraw-Hill Ryerson Ltd., 1980.
- Starr, Chester G. *The Ancient Romans*. New York: Oxford University Press, 1971.
- Stourzh, Gerald. *Alexander Hamilton and the Idea of Republican Government*. Stanford: Stanford University Press, 1970.
- Suggs, George G. *Perspectives on the American Revolution: A Bicentennial Contribution Published for Southeast Missouri State University by Southern Illinois University Press*, 1977.
- Thompson, E.P. *The Making of the English Working Class*. New York: Vintage Books, 1966.
- Trofimenkoff, Susan Mann. *The Dream of a Nation*. Toronto: MacMillan of Canada, 1982.
- Trudeau, Pierre Elliot. *Federalism and the French Canadians*. Toronto: Macmillan of Canada, 1968.

Underhill, Frank. *In Search of Canadian Liberalism*. Toronto: MacMillan Co. of Canada, 1960.

Upton, L.F.S. *The Loyal Whig: William Smith of New York and Quebec*. Toronto: University of Toronto Press, 1969.

Upton, Leslie F.S. *Revolutionary Versus Loyalist*. Toronto: Blaisdell Publishing Co., 1968.

Upton, L.F.S. *The United Empire Loyalists: Men and Myths*. Issues in Canadian History Series. Toronto: Copp Clark, 1967.

Vile, M.J.C. *Constitutionalism and the Separation of Powers*. Oxford: Clarendon Press, 1967.

Waite, Peter B. *The Life and Times of Confederation 1864-1867: Politics Newspapers and the Union of British North America*. Toronto: University of Toronto Press, 1962.

Wallbank, F.W. *Polybius*. Berkeley: University of California Press, 1972.

Wallot, Jean-Pierre. *Un Québec Oui Bougeait*. Quebec: Les éditions du Boreal Express, 1973.

Weston, Corrinne Comstock. *English Constitutional Theory and the House of Lords 1556-1832*. London: Routledge and Kegan Paul, 1965.

Wheare, K.C. *Federal Government*. New York: Oxford University Press, 1963.

Wheare, K.C. *Modern Constitutions*. Oxford: Oxford University Press, 1980.

White, W. L. et al., *Canadian Confederation: A Decision-Making Analysis*. Toronto: MacMillan of Canada, 1979.

Williams, William Appleman. *The Contours of American History*.

Wills, Garry. *Inventing America: Jefferson's Declaration of Independence*. Garden City, New York: Doubleday and Co., 1978.

Winch, Donald. *Adam Smith's Politics*. Cambridge: Cambridge University Press, 1978.

Wirzubski, Chales. *Libertas As A Political Idea at Rome During the Late Republic and Early Principate*. Cambridge: Cambridge University Press, 1950.

Wise, S.F. and Brown, Robert Craig, ed. *Canada Views the United States*. Seattle: University of Washington Press, 1967.

Wolf, A. *A History of Science, Technology and Philosophy in the Eighteenth Century*. New York: MacMillan Co., 1939.

Wood, Gordon S. *The Creation of the American Republic 1776-1787*. Chapel Hill: University of North Carolina Press, 1969.

Wormwuth, Francis. G. *The Origins of Modern Constitutionalism*. New York: Harper and Brothers, 1949.

Wright, Esmond E. *Red, White and Blue*. New York: AMS Press, 1976.

Yolton, John W., ed., *John Locke: Problems and Perspectives*. Cambridge: Cambridge University Press, 1969.

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