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Source: *Journal of the History of Ideas*, Jul. - Sep., 1982, Vol. 43, No. 3 (Jul. - Sep., 1982), pp. 397-416

Published by: University of Pennsylvania Press

Stable URL: <https://www.jstor.org/stable/2709430>

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REASON AND HISTORY IN EARLY WHIG THOUGHT:
THE CASE OF ALGERNON SIDNEY

BY JAMES CONNIFF

I. In recent years, scholars have expressed considerable disagreement about the nature and development of Whig thought in the late 17th and early 18th centuries. In his seminal *The Ancient Constitution and the Feudal Law*, J.G.A. Pocock argued that, especially on the issues of consent and obligation, Whig writers gradually gave up the view that the rights of English subjects were based on an ancient constitution, which created a mixed and limited government and remained in force in their own day; they turned instead to a more abstract and rationalistic model of politics which relied on natural law, pre-political individual rights, and a social contract.¹ According to Pocock, the key figure in this transformation was John Locke. In his *Two Treatises*, Locke reshaped Whig ideas by removing individual rights from the frameworks of particular political systems and by placing them in a general and naturalistic context. The consequences of this shift were enormous, for if rights are innate and universal and cannot be lost except by consent, the circumstances of a given historical environment cannot be used to defeat them unless some specific act of popular renunciation can be demonstrated. In the context of 18th-century English politics, however, such a demonstration was virtually impossible. Beyond its obvious immediate application to practical politics, moreover, this shift from history to reason, from the ancient constitution to a political contract, involved a serious dislocation in the focus of political thought. As another writer put it,

contract thinking depicts men as essentially equal, discrete and autonomous units of will, whose consent is the only legitimate source of obligation. This broad conception involves the repudiation not only of the basic assumption of a static and graded social order, but also the whole style of a traditional political order: ancestral piety and reverence for the past, the personal and familial nature of organization and interests.²

In short, Locke's importance lies less in his talent for argumentation within an established mode of discourse than in his ability to create a new one.

While at first other scholars largely accepted Pocock's notion of an evolution from history to reason in Whig thought, many have disagreed with his explanation of its causes. Pocock argued that the shift resulted from an inability to cope with Tory attacks.³ While Tory

¹ J.G.A. Pocock, *The Ancient Constitution and the Feudal Law* (New York, 1967).

² Donald W. Hanson, *From Kingdom to Commonwealth* (Cambridge, Mass. 1970), 318.

³ Pocock, 236 ff.

historians like Sir Robert Brady denied the antiquity of Parliament and argued that the Norman Conquest had given English kings feudal rights over the nation, Sir Robert Filmer advanced a rationalistic critique which held that all law must originate somewhere (that is, the existence of law implies a lawmaker), and that the Bible demonstrates that the original right to govern was granted to kings by God. Locke's reply was to make continuing popular consent the basis of legitimate government and thereby to render irrelevant the historical record. Yet, the Whig historical position does not seem to have been so desperately outmoded as Pocock claimed, for if the Tories could locate divine right in the historical past so, too, could the Whigs find evidence for the origins of popular sovereignty. Gordon Schochet, therefore, argued that it was not the weakness of their position that led the Whigs to abandon history but rather its internal logic; if the principle of individual consent is what legitimates government, the giving of that consent is all that need be established and additional historical evidence is superfluous.⁴ This answer is, however, also unsatisfactory; no matter what the logic of the case, men of the time would still want to know how the theoretical model could fit the actual world of politics. Perceiving the weakness of these accounts, some writers have come to question the existence of a shift from history to reason in Whig thought, and to express doubt about the emphasis on Locke. Thus, H. T. Dickinson and Julian H. Franklin, for example, maintain that the mainstream Whigs found Locke's ideas too radical because he appeared to open the door to extensive democracy.⁵ In their view, the Whigs continued to employ the concept of a historical constitution as a means of controlling popular participation in politics, and, in fact, seldom referred to Locke's *Treatises*. Indeed, as John Dunn, another critic, put it, "the work . . . enjoyed no great immediate éclat."⁶ It

⁴ Gordon J. Schochet, *Patriarchalism in Political Thought* (Oxford, 1975), 269.

⁵ H.T. Dickinson, *Liberty and Property* (London, 1977), 65 and *passim* is an interesting discussion, as is Julian H. Franklin, *John Locke and the Theory of Sovereignty* (Cambridge, England, 1978), esp. 93 ff.

⁶ John Dunn, "The Politics of Locke in England and America in the Eighteenth Century," in John W. Yolton (ed.), *John Locke: Problems and Perspectives* (Cambridge, England, 1969), 56. While the current tendency to de-emphasize Locke's influence on 18th-century thought is sound, there is some danger of going too far. Granted that writers, such as Louis Hartz in his *The Liberal Tradition in America* (New York, 1955), were mistaken in seeing Locke everywhere, and that such correctives as Dunn and Dickinson in general and Garry Wills, *Inventing America* (New York, 1978), 167 ff, on particular points like Locke's influence on Jefferson are necessary, the point remains that Locke was important. Even if read only as the leading representative of a school, he was read. For example, John Witherspoon's reading list at Princeton contained more titles by Locke than by any other author. See Dennis F. Thompson, "The Education of a Founding Father: the Reading List for John Witherspoon's course in Political Theory, as Taken by James Madison," *Political Theory*, 4 (Nov. 1976), 523-29.

was, rather, seen as merely one example of a tradition of discourse, and, even within that tradition, played a decidedly secondary role.

In this essay, I suggest yet another view. An examination of the *Discourses* of the radical Whig, Algernon Sidney, especially of Sidney's use of historical evidence, will help clarify several key points.⁷ First, I suggest that the belief that Filmer forced the Whigs to abandon history is simplistic. Filmer's primary concern was to advance an alternative political model to that of the Whigs. Because it was based on different assumptions and appealed to a somewhat different body of evidence, his model could not be used to prove the Whigs mistaken in their history. Thus, Filmer's attack was both indirect and weak. The nature of Filmer's specific claims was not of such a caliber as to frighten competent Whig writers. Second, the Whigs were quite aware of the weaknesses of Filmer's position, and had a perfectly adequate reply in Sidney's works. Though that reply, because of the very nature of a debate about the merits of contradictory paradigms, could not disprove Filmer's argument, it did render any retreat from the field unnecessary. Indeed, much of the debate about prescription versus reason, ancient constitution versus contract, loses its force when we realize that, apart from Locke, in the actual texts the two arguments were usually combined and that it made good sense for the Whigs to do so. What was important to the Whigs about the ancient constitution was that it proved that English government rested on an original contract; yet, the idea of a contract would have been of little use if it could not be applied to the real world of English politics. Neither ancient constitutionalism nor contract stood alone; each required the complement of the other. Third, the significance of Sidney, then, is precisely that he does combine the arguments. Similarly, what is remarkable about Locke is that he employs only one-half of the common Whig argument, and not that he shifts grounds from history to reason. Fourth, the Whigs, nonetheless, did tend to deemphasize historically grounded arguments as the 18th century unfolded. When one considers only the relative merits of arguments based on prescription and arguments based on contract, Locke's move remains difficult to explain. However, if one considers how the two arguments were generally combined and developed, it becomes possible to see that the Whig theory of history contained an important internal inconsistency which became increasingly embarrassing over time. Finally, I suggest that an understanding of the nature of this inconsistency and of its consequences will both help us understand the roles of Locke and Sidney in the development of Whig thought, and clarify the nature of eighteenth-century Whiggism and its relation to modern liberalism.

⁷ Algernon Sidney, *Discourses on Government*, 3 Vols. (New York, 1805).

II. Before the historical researches of the Tory scholars could have an impact on the controversies of the early eighteenth century, their political relevance had to be made clear. Hence, even though he antedated some of the histories, Sir Robert Filmer's primary role was as a simplifier and publicizer. This role he played with such success that, in the words of Peter Laslett, "Filmer . . . was the man of the moment, a formidable and growing force with those whose political opinions mattered. . . ." ⁸ The requirement that they in some sense meet the claims advanced by Filmer meant that the Whigs were forced to allow him to set the terms of the debate and to emphasize those factors which he considered most important. This, of course, introduces an element of distortion into a discussion of the Whig theorists, a distortion which is further compounded by the fact that Filmer himself was quite consciously replying to the earlier social contract theories of Bellarmine and others. ⁹ Therefore, to present Filmer's case in a form which more closely parallels that of the Whigs, I propose to reorganize it into the following form. Filmer's primary concern is to refute what he calls the doctrine of "natural freedom," that is, the view that "mankind is naturally endowed and born with freedom from all subjection, and at liberty to choose what form of government it please, and that the power which any one man hath over others was at the first by human right bestowed according to the discretion of the multitude." ¹⁰ He thinks that this belief is of such significance that if it can be destroyed, "the main foundation of popular sedition would be taken away." ¹¹ Filmer proceeds to offer an alternative rationalistic framework which holds that political authority is naturally derived from the authority of a father over his children. He then combines this assertion of the patriarchal origins of political rights with Bodin's argument that every society must have a unitary sovereign. Thus far, Filmer's argument is entirely rationalistic, a combination of bald assertion and logic. However, he next introduces a Scriptural element which serves two purposes: it provides a text for his argument that God originally gave all authority to Adam and, through him, to all kings and also offers the Bible to support that claim. Finally, to some extent in *Patriarcha* and to an even greater extent in some of his other works, Filmer adds to his argument an

⁸ Peter Laslett (ed.), *Locke's Two Treatises of Government* (Cambridge, England, 1966), 67. For Filmer's ties to the historians, see Peter Laslett (ed.), *Patriarcha and other Political Works of Sir Robert Filmer* (Oxford, 1949), p. 4. Laslett's work on Locke and Filmer represents an important intermediate step in the recent growth of Filmer's reputation. However, while the traditional view of Filmer as a bad joke, see George H. Sabine, *A History of Political Theory* (New York, 1963), 512-13, is undoubtedly unjustified, the view of Pocock and Schochet that he is virtually unanswerable is probably also extreme.

⁹ See Laslett, *Patriarcha and other* . . . , 56 ff.

¹⁰ *Ibid.*, 53.

¹¹ *Ibid.*, 54.

empirical element, namely, that all nations historically observe his model and that England in particular, fits his theory perfectly.

Of its various components, most students of Filmer's thought have emphasized the importance of the scriptural element. Thus, Laslett holds, "Sir Robert Filmer's prime assumption was that the Bible was the true, the unique and complete revelation of God's will on all things. It contained the whole truth about the nature of the world and the nature of society."¹² Gordon Schochet concurs, "the final test was always scriptural history and not the ancient philosophers."¹³ Yet, when viewed from the perspective I have just suggested, Filmer's position, though a blend of elements, is actually more rational than either scriptural or empirical. Both the Bible and history are used only as supports for his rationally constructed argument that society by natural necessity requires a single supreme political authority, and that this authority ought to be paternalistic. Only after the necessity of authority and something of its proper paternal form are logically established, can the Bible and history be employed to tell us where, specifically, it is to be located. In fact, the weakest points in Filmer's argument come when he seeks to reconcile the differences between his rational theory and the scriptural texts or historical events he uses to support it. Thus, for example, the theory of usurpation, which Filmer inconsistently accepts as a legitimate origin of power and which is so bitterly attacked by Sidney, is nothing more than an *ad hoc* attempt to account for the absence of paternal rulers in the real world of history and its then current politics.¹⁴

It should therefore come as no surprise that when one turns to Filmer's use of history, it is clear that his approach is quite primitive. Though he was personally acquainted with many of the leading historians of his time and familiar with their work, Filmer's own writings remain within an older, more medieval, tradition.¹⁵ He denies that political forms are relative to historical circumstances or that they can change over time to reflect changes in those circumstances; he insists, rather, that the past and the present are fundamentally the same and that what was in force at the origins of a society remains binding throughout its history. Indeed, even in cases where Filmer draws on the findings of the Tory historians, it is only their specific conclusions, not their conception of the historical process, that he borrows. For

¹² *Ibid.*, 11.

¹³ Schochet, 13.

¹⁴ Laslett, "Patriarcha," *Patriarcha and other . . .*, 62. For the problem that Filmer's theory of usurpation causes his patriarchalism, see Schochet, 143 ff. We should however note that Filmer does not, in fact, argue that possession is an ideal way to determine the right to rule, but only that it is useful in the absence of other and stronger indicators.

¹⁵ See Schochet, 117 ff and Pocock, *op. cit.* (n. 1 above), 187 ff for informative discussions of Filmer's use of history and of the Whig attempts to counter his efforts.

example, when Filmer cites Sir Henry Spelman's view that the king was originally the source of all law in England, his use of the reference takes no account of time, place, or context.¹⁶ He simply applies the argument willy-nilly to all possible circumstances. For Filmer, to prove that England had at first been ruled by a sovereign king also proves that "Parliament could claim no rights that were embedded in the English constitution, only privileges that had been granted by the royal sovereign. . . . [Filmer] was absolutely unwilling to acknowledge that a practice of long standing could become converted to a right; thus, it was essential to see how Parliament began in order to understand its nature."¹⁷ Given Filmer's premises that only origins count and that time changes nothing, his view is, of course, defensible. It is not, however, one calculated to impress anyone possessed of the more sophisticated understanding of historical method which was beginning to emerge in his time.

In regard to the details of English history, Filmer makes three claims that are of special interest. First, he denies the existence of ancient Saxon rights. On the contrary, Filmer maintains that when Caesar arrived in England, he found the land divided among four kings, and when the Romans left "the Saxons divided us into seven kingdoms."¹⁸ Whatever parliaments existed in those days, and Filmer admits that there were some, held their powers by grant of the kings. Second, Filmer refuses to use the Norman Conquest as a support for absolute authority. Instead, he argues that the Conquest created no new royal rights but merely confirmed those which were already in existence.¹⁹ The reason for this self-denial becomes clear when one recalls the difficulty Filmer has in trying to square conquest with paternalism. Basing his position on the Conquest would add little to his argument save clarity; on the other hand, it would be inconsistent with his patriarchalism and also shorten the pedigree of royal authority in England. In short, in accepting William I as the proper heir to the English crown, Filmer takes much the safer course. Thirdly, Filmer adopts Spelman's opinion that the institution of feudalism provided the vehicle for the expansion of the political role of subjects and that the pivotal period in this process was the reign of Henry I.²⁰ In Filmer's view, the king originally held both feudal control of the land and complete political power. As feudal overlord, he distributed his land among his followers and also consulted with them at his court. Gradually, the king came to see the advantage of calling certain com-

¹⁶ See Pocock, 154 ff for a discussion of Filmer's relationship to the Tory historians and the limits of his understanding of Spelman.

¹⁷ Schochet, 117.

¹⁸ Laslett, "The Freeholder's Grand Inquest," in *Patriarcha and other*, 174.

¹⁹ Laslett, "Patriarcha," *ibid.* 114.

moners to these discussions, and Henry I took the step of actually doing so. Finally, during the reign of Henry III the practice of commoners attending the councils became fully regularized, and the modern Parliament was, in a sense, born. Of the various implications of Filmer's position, the most important is obvious enough: all that the subjects have is held only by revocable grant of the king, and, though the king ought to continue graciously to respect the privileges of Parliament and of his subjects, he is not, strictly speaking, required to do so.

III. Filmer's historical argument is, then, not so impressive as to render any attempt at reply futile. His theoretical framework is simplistic and his discussion of particulars is idiosyncratic and controversial. Nonetheless, Locke, the most famous of the Whig writers, did not seek to refute Filmer's history directly. While a full explanation of Locke's strategy remains to be made clear, I would suggest that two factors are of special concern here. First, Locke perceived that history was not the central component of Filmer's case, for it actually rested on the claim that men are naturally subject to authority and, therefore, are not born free. Locke preferred to attack this base; as he put it, "this is the Foundation on which his absolute monarchy stands. . . . But if this Foundation falls, all his Fabric falls with it, and Governments must be left again to the old way of being made by contrivance, and the consent of man. . . ." ²¹ Thus, Locke reasoned that if Filmer's assumption of the universality of political subjection were destroyed all further discussion of historical circumstances would be moot. Secondly, Locke saw little need to be concerned with history when that task was already being performed by others. At one point in the *Second Treatise*, Locke tells his readers that if they are interested in historical questions they might best refer to James Tyrrell's *Patriarcha non Monarcha* and other such works and adds "I need say no more. . . ." ²² In short, it is a mistake to see Locke's reply to Filmer as covering the whole ground of the Whig position. ²³ Just as the Tories employed both Filmer and historians like Spelman and Brady, so the Whigs made use of the efforts of a number of different writers. To emphasize the absence of historical argumentation in Locke's *Treatises* is to ignore the other writers who were also involved in the debate.

It is to Algernon Sidney's *Discourses on Government* that one may

²⁰ Laslett, "The Freeholder's Grand Inquest," *ibid.*, 136 ff. Pocock, 91 ff, discusses Spelman and the politics of his time.

²¹ Laslett, *Locke's Two Treatises*, 162.

²² *Ibid.*, 249. See the introduction, 59 ff, for the relationship between Locke and Tyrrell. Laslett believes that they wrote at about the same time and were in close touch but were unaware of each other's research.

²³ See *ibid.*, 75 ff, for Locke's failure to discuss history.

profitably turn for a full expression of the various elements of the Whig position. The *Discourses* is a long and rambling work. Sidney frequently repeats himself, and his argument, for all its detail, is often hard to follow. Any organization which the book possesses results from Sidney's determination to make a point-by-point refutation of Filmer rather than from any plan of his own. Read without reference to Filmer, Sidney presents a picture of intellectual chaos, and many students of his work have concluded that the picture is the reality. Yet, for all its apparent faults, Sidney's *Discourses* was quite popular and its appeal easily surpassed that of Locke's *Treatises*.²⁴ Moreover, this popularity was not without basis: Sidney was a posthumous hero, he employed examples drawn from familiar and interesting texts and historical situations, and he was a superior literary stylist. Perhaps a further reason for his large audience was that Sidney also developed a valid reply to Filmer's use of history. This reply consisted of two elements. Sidney first challenged the persuasiveness of Filmer's model through a theoretical consideration of the relative roles of reason and history in political debate, and, based on that consideration, created a general paradigm of political obligation. Second, Sidney proceeded to apply his model to actual English circumstances. I consider the first part of his argument in this section and reserve the examination of Sidney's version of English history until the next.

Sidney believes that all sources of knowledge, whether God's revelation, the Bible, natural law, human reason, or the study of history, teach the same truth. In his view, God is rational and implanted reason in man at the time of the creation. Since both God and man share reason, we can perceive order in His proceedings and in nature, and His plan for us must be accessible to our intelligence. As Sidney puts it, ". . . as reason is our nature, that can never be natural to us that is not rational."²⁵ And, of course, the reverse is also true: that which is rational is also natural to us. As a further guide to His intentions, God provides the Bible, which is the story of His work in the world and is also capable of rational interpretation. However, while all of these forms of knowledge are formally of equal validity, Sidney's primary appeal is to reason, and, in actual practice, he controls his interpretation of the evidence offered by the other forms by what he considers to be reasonable. Thus, since the will of God is generally discounted as inaccessible for most purposes, both the Bible and human history serve only to provide examples to confirm Sidney's rationalistic conclusions. For Sidney, then, history must always

²⁴ On Sidney's popularity, see J.P. Kenyon, *Revolution Principles* (Cambridge and London, England, 1977, 18-19. Laslett, *Patriarcha and other . . .*, 39, is an example of the generally negative assessment of Sidney.

²⁵ Sidney, *Discourses*, II, 12.

be confined within some theoretical framework, and where history and reason appear to conflict it is reason which takes precedence. Any Biblical or historical example which seems to contradict reason is reinterpreted either to fit the general model or dismissed as an example of human error and folly. Sidney can now criticize Filmer's precedents by treating them as "mere" history; by reducing them to examples of rational truths, he removes their independent normative power. In fact, by incorporating them into his own theoretical framework, Sidney can even use the historical research of the Tories to support his own Whig conclusions.

Sidney's theory of obligation begins with the claim that "man is naturally free; . . . he cannot justly be deprived of that liberty without cause; and . . . he doth not resign it, nor any part of it, unless it be in consideration of a greater good. . . ." ²⁶ However, God has shown His desire that men live under some political authority by creating man as both incapable of meeting all his own needs and rational. God does not determine the form of that authority, but rather leaves it to man to establish whatever form of government best serves human interests and needs. ²⁷ The proper basis of government, then, must be explicit individual consent, for only such a formulation can offer the proper combination of initial freedom, universal agreement, and continuing popular control. A number of points are noteworthy here. First, Sidney believed that all legitimate governments are based on contracts which are more than mere theoretical constructs. In fact, he cites several states as examples of historical instances of origination through contract. ²⁸ Further, while the people are free to establish any form of government they desire, Sidney makes his own view quite clear that the best form is mixed ". . . there never was a good government in the world, that did not consist of the three simple species of monarchy, aristocracy, and democracy. . . ." ²⁹ Moreover, citing Plato and Aristotle, Sidney goes on to maintain that governments exist to serve the interests of the governed, and are strictly limited to those concerns which the people choose to place in their hands. ³⁰ Since the people create government and control its functioning, they have the further right to change or abolish it at any time and for any reason: "if the multitude therefore do institute, the multitude may abrogate; and they themselves, or those who succeed in the same right, can only be fit judges of the performance of the ends of the institution." ³¹ Finally,

²⁶ *Ibid.*, I, 314.

²⁷ *Ibid.*, 332.

²⁸ *Ibid.*, II, 24. Sidney runs together both the formation of states and the selection of rulers. He cites, among others, Rome, Athens, Israel, Carthage, Spain, Sweden, Hungary, Poland, and Germany as examples of popular sovereignty.

²⁹ *Ibid.*, II, 138.

³⁰ *Ibid.*, I, 451 ff.

³¹ *Ibid.*, I, 335. Kenyon, *op. cit.*, 102 ff, among others, stresses the Whig's ambivalence toward the "people." Often, they identified the "people" with those who

neither the passage of time nor the weight of contrary precedent can alter the morality of the situation; what rights the people once possessed, they, or their descendants, retain forever.

Sidney can now answer Filmer by creating an ideal-type of universal history. Since, for Sidney, whatever paternal authority which might have been established in the world is by now lost, all existing states must be based either on the consent of some group of previously free men or on a conquest by some despot. But only those states based on consent are legitimate. Therefore, any authority based on conquest is invalid and governments which originated in such a manner have no rightful title and may be overthrown at any time.³² Indeed, a usurper is a tyrant with no right to rule; "every man might kill a tyrant; and no names are recorded in history with more honour than of those who did it."³³ The effect of this argument is to make Filmer's history irrelevant. If only rational consent can validate government, then the question of who descended from whom or which king conquered which nation means nothing. On the other hand, though Sidney's theory answers Filmer, it does not completely refute him. The problem is that, while both Whig and Tory historical frameworks include both rational structures and Biblical and historical evidence, the structures are not the same. Thus, the same body of evidence can be interpreted to fit either model and there is no way to choose between them except arbitrary preference.³⁴ In this perspective, the strength of Filmer's argument lies precisely in its, to us, bizarre patriarchalism, whereas popular sovereignty is the key to Sidney's position. Each view is sociologically plausible and, since based on postulated axioms and properly reasoned, logically unassailable. This raises the question of what it means to say, as many scholars have said, that Tory history was superior to Whig history in the period. Such a claim is ambiguous at best. Even if one were to grant that the Tories had a better understanding of the facts of history, it would not follow that their political theories were more compelling. What mattered most was the interpretation imposed on the facts. To insist that facts *per se* place moral requirements on thinkers is to commit a rather basic positivistic fallacy. As Sidney was quick to point out, the fact that Parliament actually grew out of actions taken by kings tells us nothing about the moral basis of their authority to call parliaments or how the political process of the eighteenth century ought to work.

possessed a substantial amount of property and, therefore, disenfranchised much of the population. Sidney does not explicitly define the "people" but his use of the word "multitude" and the contexts of his discussions make clear that he does not limit the concept in this way. Indeed, there is relatively little reference to property in the *Discourses*.

³² Sidney, *Discourses*, I, 353.

³³ Sidney, II, 234-35.

³⁴ For a good discussion of this point, see Schochet, 8ff.

IV. Sidney agreed with Locke that a theoretical resolution of the conflict would make an appeal to English history superfluous, but Sidney also realized that the failure to settle matters there made some discussion of particulars necessary. If both Tory and Whig theoretical models were tenable in principle, then one way of choosing between them was by their ability to explain the course of English history. It is this consideration which makes Locke's disregard of history so curious. While no analysis of historical evidence could end the debate, for the rival models were both compatible with much of the data, the most that Locke could have hoped for, given the lack of practical discussion in his *Two Treatises*, was a stand-off; he might well have presented an abstract model with plausibility equal to Filmer's; but without some attempt to apply the model Locke could never counter Filmer's sense of relevance and immediacy. Sidney avoids this pitfall by making the next step in his argument an application of his theory of obligation to various historical issues. Simply put, he holds that the English, like all other nations, were originally free to create any kind of government they desired. The first English kings, therefore, were instituted by the people for certain specific and limited purposes and, to enforce those limits, were placed under a body of law.³⁵ To further check the kings, they were hemmed in by coronation oaths and by parliaments created to share in the exercise of power.³⁶ For example, Sidney notes, ". . . we have already proved the essence of parliaments to be as ancient as our nation, and that there was no time in which there were not such councils or assemblies of the people as had the power of the whole, and made or unmade such laws as best pleased themselves."³⁷ Sidney continues by penetrating the forms of government to discover the logic beneath. Thus, he argues that even if the original constitution had established absolute monarchy, the people would still have retained the right to alter the government at any time: ". . . there can be no reason why a polite people should not relinquish the errors committed by their ancestors in the time of their barbarism and ignorance. . . ."³⁸ The key to Sidney's argument, once again, is the belief that the basis of all political authority is popular consent.³⁹ He claims that the people were originally sovereign and continue to be so. Since this sovereignty is never lost, Sidney may advance a multi-pronged argument that the original government was

³⁵ Sidney, *Discourses*, III, 167.

³⁶ On coronation oaths, see *ibid.*, 82, and for Parliaments, see 10.

³⁷ *Ibid.*, 10.

³⁸ *Ibid.*, 173.

³⁹ Thus, popular sovereignty, not limited government, is central to Sidney's thought. Sidney is prepared to accept strong government, even conceding the necessity of some supreme power in every state (*ibid.*, 367), but he insists that the difference between good and bad government depends on whether this power is lodged in representative bodies or not. (368ff).

popular, mixed, and limited, that its evolution has been toward ever greater freedom, and that English subjects remain empowered to alter it even in his own time.

Sidney also considered several of the specific events in English history which were interpreted by Tory writers as supporting their theories. One of the most important of these was the Norman Conquest. With the notable exception of Filmer, for reasons which we have already considered, most Tories held that the Norman Conquest had subjected the English to the arbitrary authority of William I, and that any rights which they came to possess either during or after his reign followed from his or some other king's revocable grant. As might be expected, Sidney strongly disagreed. Believing that English government before the Conquest was both popular in origin and mixed in form, Sidney maintained that the Conquest merely confirmed the ancient constitution. In his opinion, William was first required to agree to govern in the traditional manner and only then was his power as king confirmed.⁴⁰ Thus, even after the Conquest, the old laws and assemblies remained supreme and ". . . the Norman kings were obliged to swear they would govern according to the laws that had been made by those assemblies."⁴¹ The power of the laws comes not from the will of the king but from the acts and consent of the nation. On this view, the Magna Carta, another of the controversial subjects of 18th-century historical writings, far from being a freely given and hence freely revocable grant of the king, was a declaration of the rule of law in general.⁴² In pledging to be ruled by the Charter, the king did not enact some new law but simply recognized the supreme binding power of the people's law.

A whole set of issues revolved around what might be called the feudal thesis of English politics and law. Based on the researches of Brady, Spelman, and others, Filmer argued that English kings were originally the feudal overlords of the nation; that the possession of land by individual subjects and the concomitant right of political consultation were extended through the grace of the kings; that Parliament did not truly exist before the Conquest; and that the House of Commons developed even later during the reign of Henry I.⁴³ Sidney's reply takes two lines. First, on the basis of his theory of obligation he denies the relevance of the argument. Sidney holds that it is a question of right not history, for "time can make nothing lawful or just . . . that is not so of itself."⁴⁴ What does it matter how things originate? What is right does not change and a lost freedom can be regained at any time. Second, if his opponents are to still insist on the relevance of precedent, Sidney will oblige; in his opinion the precedents are all on his side: ". . . the nations whose rights we inherit, have always en-

⁴⁰ *Ibid.*, 94.

⁴¹ *Ibid.*, 10.

⁴² *Ibid.*, 87. See also, 199 ff.

⁴³ Filmer, "The Freeholder's Grand Inquest," *Patriarcha and other*, 136 ff.

⁴⁴ Sidney, *Discourses*, III, 207.

joyed the liberties we claim, and always exercised them in governing themselves popularly, or by such representatives as have been instituted by themselves, from the time they were first known in the world.”⁴⁵ Thus, Sidney proceeds to a point-by-point refutation of the feudal thesis. He denies that English kings were even feudal overlords, and insists that the right to the land was at first lodged in the nation as a whole.⁴⁶ Private property, therefore, was created by individual appropriation of common stock with the approval of the community. For this reason, political rights, according to Sidney, did not grow out of feudalism but were always present as a derivative of membership in the whole society. Furthermore, while, strictly speaking, it does not matter when Parliament began, for the people have always had the right to create it, Parliaments of some type, are as old as the nation, and the Commons is as old as Parliament.⁴⁷ Citing Henry Spelman for his own purposes, Sidney claims that the ancient councils did include commoners and that the ancient writs which seem to restrict participation to nobles actually use the word “nobility” to refer to any person of importance and not just to men with titles.⁴⁸

This concern with the precise meaning of words like “nobility” brings us to another aspect of Sidney’s reply to Filmer’s historical arguments which deserves special mention: his consistent opposition of a philosophical nominalism to Filmer’s attempt to argue from essences. Filmer often used an argument of this type: the essence of kingship is the possession of certain powers; England has rulers called kings; therefore, English kings must possess the powers in question. At times, Sidney replies by simply noting the variety of usages in the world, as when he says “the powers of Kings are so various, according to the Constitutions of several states, that no consequence can be drawn to the prejudice or advantage of any one, merely from the name.”⁴⁹ On occasion, however, Sidney displays an awareness that the issue goes deeper. Words, he says, may be used in many ways and do not deal with the essence of things; rather, they are merely arbitrary labels we attach to objects for our own convenience.⁵⁰ For example, in arguing that the rights and duties of magistrates vary from nation to nation, Sidney maintains that it lies within the power of the people, who appoint their officials, to decide on the nature of the magistrate’s authority “. . . without any relation at all to the name that is given; for that is no way essential to the thing.”⁵¹ Combined with his denial of the value of precedent, Sidney’s perception of language forms the basis of his historical relativism, for if historical circumstances can vary so extensively that even the words we use to describe them are unstable in meaning, a rule laid down at the very beginning of time can hardly remain binding for all posterity.

⁴⁵ *Ibid.*, 208.⁴⁶ *Ibid.*, 233 ff.⁴⁷ *Ibid.*, 220.⁴⁸ *Ibid.*, 220.⁴⁹ *Ibid.*, 259.⁵⁰ *Ibid.*, 38 ff.⁵¹ *Ibid.*, 43.

Much more might be said about the comparative merits of Filmer's and Sidney's use of history, but I believe that enough has been said to permit some conclusions. To begin with, Filmer's use of historical evidence is not especially profound; it was in his own day perfectly possible to create a Whig theory of English history which met his. Indeed, Sidney did so. The key to that theory is the doctrine of continuing popular sovereignty. By arguing that the people retained in the seventeenth and eighteenth centuries a power to create, alter, and abolish governments, a right which they had always possessed, Sidney both denied the patriarchal origins of English politics and made irrelevant any supposed royal usurpation of authority. In asserting the continued predominance of Parliament throughout English history, moreover, Sidney offered empirical evidence to support his theory. Thus, the claimed superiority of Tory theories of history largely vanishes upon examination. According to Pocock, the superior merits of Tory history were its greater precision (that is, its better correspondence with the facts of English history) and its ability to accommodate an evolutionary or developmental perspective.⁵² Yet, Sidney's version of history does no more violence to the facts than does Filmer's; power originating in the consent of a sovereign people is no less plausible than power authorized by divine selection and transmitted from father to son.⁵³ Nor is Sidney's interpretation of English history absurd. Certainly, Magna Carta is plausibly explained either as a confirmation of traditional rights or as an original grant by a previously absolute monarch, and the Whig vagueness on the original contract is no more an embarrassment than the corresponding Tory gap between Adam and Charles II; nor was the evolutionary perspective of great importance to political thinkers of the time. Their use of history was, for the most part, rather haphazard and unsystematic; they were less interested in the general question of historical change than in the specific question of whether certain given events supported royal or popular views of the existing constitution. Moreover, Sidney's discussion of the development of language reveals that the Whigs were, at the political-theoretical level, at least as aware as the Tories were of change over time. Indeed, the Whigs were able to draw some very useful conclusions from a developmental framework. For example, Sidney's denial of the relevance of precedent depends on such a viewpoint. Finally, neither Tory nor Whig succeeded in dis-

⁵² Pocock, 233 ff. Other scholars seem surprisingly content with Pocock's thesis, perhaps in deference to Butterfield's demolition of Whig history; see Herbert Butterfield, *The Whig Interpretation of History*, (London, 1931).

⁵³ With characteristic perceptiveness, Halifax cut through the verbal fog; he wrote, "That a People may let a king fall, yet still remain a People; but if a king let his People slip from him, he is no longer King." See Walter Raleigh (Ed.), *The Complete Works of George Savile* (Oxford, 1912), 183.

crediting the other's theory. Once placed in a rationalistic theoretical matrix of patriarchalism or popular sovereignty respectively, each of the theories was largely immune to assaults based on the assumptions of the rival model.

V. Some Whig thinkers continued to write history after the early 1680s. For example, William Petyt, in *the Antient Right of the Commons of England asserted*, held that English rights and Parliament as the defender of those rights were both immemorial,⁵⁴ and James Tyrell and William Atwood also contributed histories of note.⁵⁵ Nonetheless, there does appear to have been a tendency for arguments grounded on reason to replace those based on history. The theoretical model employed by Walpole's apologists in the 1720s and after is a key to this process.⁵⁶ The apologists argued that, whereas previous English history was largely the story of one tyranny after another, the Revolution of 1688 had launched an age of increasing freedom. In this perspective, the ancient constitution loses its normative force and pre-revolutionary history becomes irrelevant to modern politics. Such an argument had a twofold advantage for Walpole, for it freed him of both Tory patriarchalism and left-wing Whig populism. Thus, a denial of the relevance of history was of fundamental importance to the moderate Whig ideal of managerial politics. There were probably other reasons for the transition from history to reason. Some Whigs undoubtedly agreed with Locke that the logic of their position on popular sovereignty, on the contractual origins of government, and on the right of resistance made any appeal to history unnecessary. One can also sense a certain division of labor taking place in the Whig writings of the time. When confronted with a difficult problem, one author often drew on the expertise of another.⁵⁷ However, I submit that the Whig theory of history contained an important internal contradiction. A close examination of Sidney's *Discourses* reveals that Whig writers oscillated between two different views of the historical process. At times Sidney saw the age in which he lived as having

⁵⁴ William Petyt, *The Antient Right of the Commons of England Asserted* (London, 1680), *passim*.

⁵⁵ Perhaps the most important of the Whig historians was James Tyrrell. His *Bibliotheca Politica* (London, 1692-94) and *General History of England* (London, 1696-1704) represent the fullest statement of the Whig interpretation of the English past. See Kenyon, 36 ff. William Atwood, *Jani Anglorum Facies Nova* (London, 1680) and *Jus Anglorum ab Antiquo* (London, 1681, and William Petyt, *The Antient Right of the Commons of England Asserted* (London, 1680) also figured prominently in the development of Whig history. For a good general treatment of the post-1680 controversy which developed around the works of Robert Brady, see Pocock, 182-228.

⁵⁶ For Walpolian ideology, see Isaac Kramnick, *Bollingbroke and His Circle* (Cambridge, Mass., 1968), Chap. V, 111-36.

⁵⁷ Pocock, 187-88, for example, notes that Tyrrell asked Petyt to reply to Filmer, and later cited Petyt's work in his own.

degenerated from a persisting past ideal of an ancient mixed constitution, but on other occasions he treats history as a story of evolutionary progress from a past barbarism toward a future perfection.

The argument from the ancient constitution is probably less frequent in Sidney, though it has a longer pedigree than the evolutionary argument in English thought. During the preceding two centuries, study of the common law had led to a “belief in the existence of an ancient constitution, reference to which was constantly made, precedents, maxims and principles from which were constantly alleged, and which was constantly asserted to be in some way immune from the king’s prerogative action. . . .”⁵⁸ When the theoretical form of the ancient constitution was filled with the matter of an idealized and unalterable Anglo-Saxon limited government based on popular consent, both a powerful critique of Stuart rule and a platform for reform could be generated. In his *Discourses*, Sidney used the concept of the ancient constitution in a number of related ways. First, it offered a basis for reply to Filmer’s generic argument; to his claim that political power in England was based on the absolute power of the king, Sidney contended, as we have seen, that the English people created their government, that all English kings, even William I, were elected by the people, and that the people retain the right to discipline their rulers.⁵⁹ The theory of the ancient constitution also provided an explanation of the extensive powers of the seventeenth-century monarchy through its concomitant theory of corruption: “he that could rise from the plough to the triumphal chariot, and contentedly return thither again, could not be corrupted . . . But when luxury was brought into fashion . . . the most virtuous men were exposed to scorn if they were poor: and that poverty which had been the mother and nurse of their virtue, grew insupportable.”⁶⁰ Thus, he believed that over the course of centuries various rulers and their lackeys had sapped the virtue of the people and slowly usurped their rightful power.⁶¹ Furthermore, since the ancient constitution had never been expressly repudiated, it remained in force; no passage of time alone, no matter how great, could even undo the ancient form. Finally, and related to this last point, the ancient constitution, eternally valid, provided Sidney with a standard:

if . . . it be said, that in two or three thousand years all things are changed; the ancient virtue of mankind is extinguished; and the love that every one had to his country is turned into a care of his private interests: I answer, that time changes nothing, and the changes produced in this time proceed only from the change of governments. . . . The same order that made men valiant and industrious in the service of their country during the first ages, would have the same effect if it were now in being. . . .⁶²

⁵⁸ *Ibid.*, 46.

⁵⁹ Sidney, *Discourses*, II, 24 ff.

⁶⁰ *Ibid.*, 292.

⁶¹ *Ibid.*, 280 ff.

⁶² *Ibid.*, 225-26.

In short, according to Sidney, all of England's present evils could be corrected and its politics placed on a proper basis, if only the English would return to their traditional mode of government.

Sidney more commonly sees the passage of time as progress toward a better state of affairs. It is, he suggests, impossible simply to return to the past, for its record is incomplete. For example, even if we were to accept the general logic of the patriarchal case, we would be left with "a multitude of destructive and inextricable" controversies.⁶³ No existing government could prove its legitimacy and men would have no idea of whose authority to accept. What is more, to accept the bounds of the past is to ignore human nature. Man, after all, is a limited creature, prone to error. Therefore, ". . . it is a rare thing for a city at the first to be rightly constituted: men can hardly at once foresee all that may happen in many ages, and the changes that accompany them ought to be provided for."⁶⁴ To reject any alterations in politics is to assume a mistaken infallibility in one's ancestors and to deny the advantages of experience. Opposition to change also ignores the danger of corruption, for "all human constitutions are subject to corruption, and must perish, unless they are timely renewed, and reduced to their first principles."⁶⁵ Furthermore, progress is real. If it is legitimate in other areas of life, then why not in government? Indeed, Sidney suggests, ". . . it might as well be inferred, that it is unlawful for us to build, clothe, arm, defend, or nourish ourselves, otherwise than our first parents did . . . as to take from us the liberty of instituting governments that were not known to them."⁶⁶ He often uses a military analogy to make his point: "he that should make war at this day as the best commanders did two hundred years past, would be beaten by the meanest soldier."⁶⁷ Thus, things progress, and as "changes therefore are unavoidable . . . the wit of man can go no farther than to institute such, as . . . are suitable and adequate to what is seen. . . ."⁶⁸ Sidney, to be sure, was not consistent in his perception of society as a complex and evolving system, for the older view remains in his thought and his awareness of the nature of social development remained correspondingly cloudy. He had therefore a much less sophisticated appreciation of the issue than a contemporary such as Matthew Hale.⁶⁹ Still, when compared to other *political* writers, Sidney was relatively advanced.

Sidney's problem is that his two theories of history are mutually inconsistent. If the ideal lies in the past, one cannot innovate but must

⁶³ Sidney, I, 398.

⁶⁴ *Ibid.*, II, 110.

⁶⁵ *Ibid.*, 111.

⁶⁶ *Ibid.*, 59.

⁶⁷ *Ibid.*, 462.

⁶⁸ *Ibid.*, 151.

⁶⁹ For Hale, see Pocock, 170 ff. Hale, in asserting the primacy of judges in the definition of law, took the position that law should be seen as a system of customs and precedents which evolves over time.

return to the ancient perfection, but if history is progressive, a reformer is free to seek his ends in ways unheard of in the past. It is not, in short, merely a question of whether one's goal is retrogressive or progressive, but it is also a matter of what possibilities are open and the means which are permitted to realize them. That is to say, Sidney's two views are not only inconsistent, but the inconsistency has profound consequences for his political thought. Yet, in spite of the importance of the problem, Sidney had good reason not to choose between the theories, for each could make an important contribution to Whig ideology. The concept of history as degeneration provided a standard of comparison, an explanation of current evils, and a basis for a program of political action. As a traditionalistic slogan of reform, it had the additional virtues of appearing moderate and safely grounded in the perceived realities of English circumstances; but the view of history as progress offered many of the same advantages, for it, too, provided a standard of criticism and a model for reform. Moreover, history as progress could serve as a more effective support for some of the most important Whig values. Unlike history as degeneration, it made a place for trade, commerce, and luxury, for the Whigs could combine the theory of progress with a defense of the middle classes of the city to build a model of a society based on economic expansion. It should, then, be no surprise that Sidney, faced with such a clear contradiction, seems incoherent at times on the status of the constitution, nor that with a powerful incentive not to resolve it he may well have felt it best to leave matters alone. Later Whigs may have been equally reluctant to choose between two sets of extremely attractive values. Thus, one reason why Whig thought deteriorated into an unsystematic chaos after Locke and Sidney may be that any attempt to impose system on their arguments would only reveal their inconsistency. The Whigs could indeed respond to Tory attacks; what they could not do was resolve their own confusion.

VI. The verdict of posterity seems clear. While Locke is treated today as a major political thinker, Sidney has become a footnote in a comprehensive text. For example, George Sabine writes of Sidney's *Discourses*, "despite the esteem in which it was later held, for example by Thomas Jefferson, it is not in fact an effective book. It follows Filmer, expanding every objection into a short discourse until all sense of direction is lost. It might have made an effective pamphlet of a tenth its size. There is not an original idea in it."⁷⁰ It seems that Locke was wise to concentrate on rational arguments, for this permitted him to avoid a problem which neither could nor had to be resolved. Nor does Sidney's reputation suffer only through comparison with Locke; there are other reasons for his current obscurity as

⁷⁰ Sabine, 54.

well. For instance, Sidney's preoccupation with the particular circumstances of his own time has caused his work to become dated in a way that Locke's has not. Thus, Sidney's point-by-point refutation of Filmer guaranteed that a decline in Filmer's popularity would be accompanied by one in his own.⁷¹ Moreover, the theoretical inconsistency which so plagued his use of history soon was bypassed when the view of history as progress came to predominate in Whig thought and theories of the ancient constitution declined in importance. Thomas Paine was, therefore, quite typical of later Whig and radical thinkers when he argued

the circumstances of the world are continually changing, and the opinions of men change also; and as government is for the living, and not for the dead, it is the living only that has any right in it. That which may be thought right and found convenient in one age, may be thought wrong and found inconvenient in another. In such cases, who is to decide, the living, or the dead?⁷²

This renewed consistency rendered Sidney less attractive as a source of ideas. A large portion of his thought, that which dealt with the ancient constitution, was outdated, and his ambivalence on the issue of progress proved to be an embarrassment to later Whigs. On the other hand, Locke offered a clearer guide to theories of consent and contract, and Paine was a more powerful advocate of the right of each generation to build for itself.⁷³

However, while basically sound, this assessment of the relative merits of Locke, Sidney, and other Whig thinkers leads to two serious difficulties. First, it fails to recognize Sidney's very real merit as a political thinker. Though not, on balance, his equal, Sidney is in some ways Locke's superior. Precisely because he included an historical element, Sidney's theory was more complete and more effectively focused on the concerns of his time. The theory of popular sovereignty offered a rival theoretical model to Filmer's patriarchalism, but for that model to be persuasive it had to be shown to be compatible with the political circumstances of eighteenth-century England. Sidney's unwieldy *Discourses* attempted to do just that. To consider only one aspect of the matter, by showing that modern government is,

⁷¹ Ironically, from this standpoint, Locke probably benefitted from the destruction of much of the *First Treatise*. See Laslett, *Locke's Two Treatises*, 62 ff. It was also advantageous to Locke that his reply to Filmer was organized by topic rather than page-by-page as Sidney's was. Locke's work was thus tied to a type of argument more than to a particular instance of it.

⁷² Thomas Paine, *the Rights of Man* (Garden City, N.Y., 1973), 281.

⁷³ Moreover, I believe that Sidney's reputation has suffered from the emphasis in recent scholarship on the development of historiography and the consequent disinterest in the political use of historical evidence. As a result, Sidney is too often assessed as a historian, while the very real merits of his political thinking are ignored.

in fact, based on a contract which was actually formulated at some time in the historical past and remained in force, Sidney demonstrated that the excesses of anarchy and chaos, which Tories (and some Whigs as well) imagined would follow from popular rule, need not occur.⁷⁴ Thus, Sidney's use of history, whether Biblical, European, or English, gave his works an air of practicality which was absent from Locke's *Treatises*, and so helped convince men of the validity of the Whig view of society. Also, the hitherto negative assessment of Sidney encourages a failure to recognize that the Whigs of the early 18th century were torn between two sets of values. One set was profoundly backward looking: it affirmed the importance of social stability and sought a return to a lost ideal. The other set, just coming into prominence, argued for rationally designed progress, and emphasized self-interest, the promotion of commerce, and the spread of civilization. The point of contact, and of conflict, between these two alternative sets was the relevance of history. Thus, for a long time to come, thinkers located themselves on the political spectrum, in part, according to whether they saw history as degeneration or progress. Furthermore, it was the faith in progress and rational reform which linked Whiggism to liberalism in the next century. While Sidney did not resolve the contradiction between the two views of history, he at least raised the issue, and in doing so dealt with one of the major concerns of the coming age. In his endorsement of trade, acquisition, luxury, civilization, and progress Sidney thus anticipated the direction of future Whig thought.

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⁷⁴ Many scholars have commented on the Whig's fear of popular government. Kenyon, esp 102 ff, and Dickinson, 57 ff, esp 69-90, are two of the most persuasive among recent writers.