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Una macchina che non poteva andare da sola: The 1790 owner's manual for civil government-as-a-machine

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Una macchina che non poteva andare da sola: The 1790 owner's manual for civil government-as-a-machine**

di Peter Aschenbrenner*

Abstract (Ita): Edmund Burke pubblicò nel 1790 le sue Riflessioni sulla Rivoluzione in Francia. Nello stesso anno compariva la risposta di Catharine Macaulay, col titolo di Osservazioni sulle riflessioni sulla Rivoluzione in Francia del Right Hon. Edmund Burke. Burke sosteneva che uguali diritti politici avrebbero destabilizzato il sistema, le strutture e le istituzioni di una società politica; Macaulay sosteneva che un allargamento dell'elettorato attivo sarebbe stato compatibile con «il livello di ordine più elevato». Discuterò quattro profili: (a) Quale sia il livello ottimale di mutamento delle istituzioni in una società politica; (b) Se gli elettori debbano avere uguali diritti politici, o se il voto di ciascuno debba essere commisurato alla sua ricchezza; (c) Macaulay propugnava «un vero e proprio governo popolare». Che ruolo hanno avuto, nel dibattito tra Burke e Macaulay sull'implementazione di questo «principio popolare», la cultura politica britannica o quello che stava accadendo in Francia? (d) Quali dati, ricavabili dalla produzione legislativa della Camera dei Comuni, hanno un impatto sulla questione: un «governo popolare» destabilizzerebbe le istituzioni di una società politica? Per rispondere all'ultima domanda esaminerò a titolo d'esempio i progetti di legge in materia di trasporti varati nelle sessioni VI e VII del 16° Parlamento (1789-90; 1790). Nelle mie osservazioni finali noterò come gli studiosi, a partire da William Blackstone, hanno ricavato schemi di dati dall'attività legislativa (e da altre attività ufficiali) e ne hanno estratto dei modelli, al fine di portare la cultura politica a confrontarsi con questa domanda: qual è il livello ottimale di mutamento in una società politica?

Abstract (Eng): Edmund Burke published his 'Reflections on the Revolution in France' in 1790. Catharine Macaulay's reply (also published in 1790) appeared under the title 'Observations on the Reflections of the Right Hon. Edmund Burke, on the Revolution in France'. Burke argued that equal political rights would destabilize systems, structures and institutions in political society. Macaulay argued that extending the franchise would be consistent with «the highest degree of order». I discuss four issues: (a) What was the optimum rate of change for institutions in political society? (b) Should voters have equal political rights or should each person's vote be weighted according to his wealth? (c) Macaulay advocated «truly popular government». What role did British political culture or current events in France play as Burke and Macaulay debated the issue of implementing the «popular principle» she advocated? (d) What data from the legislative output of the House of Commons can be brought to bear on this question: would «popular government» destabilize institutions in political society? To address the last question I sample transportation projects enacted in the 6th and 7th Sessions of the 16th Parliament: 1789-1790, 1790. In concluding remarks I note that investigators, beginning with William Blackstone, have gathered patterns of data from legislative (and other official) output and extracted patterns from this data, for the purpose of bringing political culture to bear on the question: what is the optimum rate of change in political society?

Sommario: Table of contents: 1. Working the great machine of government; 2. There was no general agreement on the necessity for reform; 3. We compensate, we reconcile, we balance; 4. He that has five hundred pound; 5. Too arduous to be accomplished; 6. Who gave these conventions their authority?; 7. An unfinished bridge; 8. A contrivance of human wisdom; 9. Concluding remarks; 1. Working the great machine of government; 2. There was no general agreement on the necessity for reform; 3. We compensate, we reconcile, we balance; 4. He that has five hundred pound; 5. Too arduous to be accomplished; 6. Who gave these conventions their authority?; 7. An unfinished bridge; 8. A contrivance of human wisdom; 9. Concluding Remarks

Table of contents: 1. Working the great machine of government; 2. There was no general agreement on the necessity for reform; 3. We compensate, we reconcile, we balance; 4. He that has five hundred pound; 5. Too arduous to be accomplished; 6.

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Who gave these conventions their authority?; 7. An unfinished bridge; 8. A contrivance of human wisdom; 9. Concluding remarks

1. Working the great machine of government

It was a popular way to engage the interest of a reader. When John Adams took up his pen to join the transatlantic debate over the Stamp Act (January 1766), he directed his readers' attention to *«the essentials and fundamentals of a clock»*[1]. Signing his essay as the 'Earl of Clarendon' — the author of *The History of the Rebellion and Civil Wars in England* (1702-1704) — Adams questioned whether *«the same reasoning is not applicable in all its parts to government. For government is a frame, a scheme, a system, a combination of powers for a certain end, namely the good of the whole community»*[2]. Thomas Jefferson appealed to the machine metaphor in his not-very-subservient message to King George III. The King *«will think we have reason to expect, when he reflects that he is no more than the chief officer of the people, appointed by the laws, and circumscribed with definite powers, to assist in working the great machine of government, erected for their use, and, consequently, subject to their superintendence»* (July 1774)[3].

The machine metaphors that Adams and Jefferson employed emphasized regularity. Readers were invited to appreciate patterns of official behavior as if human intervention (in the operation of the machinery) could be disregarded or taken up once the machinery had been installed and set to running. Here is the best known of these rhetorical flourishes. In 1888 the American essayist and poet James Russell Lowell declared: *«After our Constitution got fairly into working order it really seemed as if we had invented a machine that would go of itself»*[4]. (a) If the reader were to take a seat in the gallery overlooking a parliamentary assembly — watching members speaking and voting — what she would observe is government at work. In real time, bills and resolutions are being crafted and, if the assembly adopts them, they will be printed in a highly stylized form. Statutory text consists of semi-regimented sentences. The authors of these texts have drilled down to a highly concrete level of detail. Statutory text spells out the rights and duties of public officials (by title) and inhabitants (by community of economic interest). Conditions precedent and subsequent are made explicit. (b) When a participant in public discourse proposes a plan for a new government or to reform an existing government, the reader is being offered statements at

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[2] Ibid.

[3] T. Jefferson, *Draft of Instructions to the Virginia Delegates in the Continental Congress (MS Text of A Summary View, &c.)*, in *Founders Online, National Archives*. See https://founders.archives.gov/documents/Jefferson/01-01-02-0090.

[4] J.R. Lowell, *The Independent in Politics: an Address delivered before the Reform Club of New York, April 13, 1888*, New York, G.P. Putnam's Sons, 1888, pp. 16-17. See https://www.loc.gov/resource/gdcmassbookdig.independentinpol00lowe/?sp=32&st=image.

a very high level of abstraction. Details are missing in action. When two authors cross swords — in print — huge gaps in their arguments appear and make apples-to-apples comparisons difficult. Readers are induced to 'go all in' by embracing one grab-bag of ideological preferences or its competitor.

Edmund Burke published his 'Reflections on the Revolution in France' in 1790[5]. Catharine Macaulay's reply (also published in 1790) appeared under the title 'Observations on the Reflections of the Right Hon. Edmund Burke, on the Revolution in France'[6]. Burke's essay runs over 160,000 words; Macaulay's essay runs 17,000 words. In this essay, Macaulay goes first and Burke responds, contrary to the order in which their essays were published in pamphlet form. (a) These authors crossed swords in 1770: I refer to Burke's 'Thoughts on the Cause of the Present Discontents'[7] and Macaulay's response 'Observations on a Pamphlet, Entitled, Thoughts on the Cause of the Present Discontents'[8]. I assume Burke gained some familiarity with Macaulay's arguments on that occasion. (b) Burke declared that he composed his 'Reflections' in response to a sermon of Dr. Richard Price preached at Old Jewry. As Burke explains in the 'Reflections', *«On the forenoon of the 4th of November last, Doctor Richard Price, a non-conforming minister of eminence, preached at the dissenting meeting-house of the Old Jewry, to his club or society, a very extraordinary miscellaneous sermon, in which there are some good moral and religious sentiments, and not ill expressed, mixed up in a sort of porridge of various political opinions and reflections»*[9]. Macaulay also credits Price's sermon as the origin of Burke's 'Reflections': *«Dr. Price, whose animated love for mankind and the spread of general happiness, moved him to express the effusion of his patriotick sentiment, in a sermon preached the 4th of Nov. 1789, at the dissenting meeting house in the Old Jewry, is censured by Mr. Burke in severe, and even acrimonious terms»*[10]. (c) At least two of Macaulay's arguments have gained nearly complete acceptance: (i) constituency districts (electing members of a national parliamentary assembly) should contain roughly equal numbers of voters and (ii) the right to vote should be extended to all adult citizens[11]. It seems fair to give Burke his chance to rebut Macaulay's arg-

[5] E. Burke, *Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to that Event, in a Letter Intended to be Sent to a Gentleman, In Paris*, London, printed for J. Dodsley in Pall-Mall, 1790. I use the Payne edition appearing at oll.libertyfund.org/title/canavan-select-works-of-edmund-burke-vol-2. The reader should click on 'Downloads' to access the Payne edition with original pagination in single brackets []. The OLL 'Payne edition' is sourced to Selected Works (Oxford, Clarendon Press, 1874-1878; John Payne, ed.; 3 vols). Archive.org offers Burke's 1st edn. online at https://dn790004.ca.archive.org/0/items/reflections00burkuoft/reflections00burkuoft.pdf.

[6] C. Macaulay, *Observations on the Reflections of the Right Hon. Edmund Burke, on the Revolution in France, in a letter to the Right Hon. the Earl of Stanhope*, London, printed for C. Dilly in the Poultry, 1790. I use the edition that appears at https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1664/Macaulay_0885.pdf. My pagination is drawn from that source. I did not transcribe the italics in Macaulay's text; I lack confidence that Macaulay directed her printer to employ them. The US edition (Boston, 1791) of Macaulay's essay has also been posted online. The employment of italics in the US edition does not align with the 1790 British edition. Another reason to dispense with italics.

[7] London, printed for J. Dodsley, in Pall-Mall, 1770, 3rd edn.

[8] London, printed for Edward and Charles Dilley in the Poultry, 1770, 'The Fourth Edition, Corrected'.

[9] E. Burke, *op. cit.*, p. 12.

[10] At p. 4.

[11] I refer to 'extension of the franchise' as a concept that includes reconfiguration of parliamentary constituency boundaries.

uments since — over the last two hundred years — his arguments in favor of wealth-weighted voting rights have been abandoned.

2. There was no general agreement on the necessity for reform

The year 1790 offered stark contrasts in political developments in Great Britain and France. A spectacular public event in Paris celebrated the progress of the French Revolution (14 July 1790): 300,000 people watched as Louis XVI swore to uphold the constitution (which was not to be completed until 3 September 1791). *«Queen Marie Antoinette held up the young dauphin, who was dressed in the uniform of the National Guard, to thunderous applause»*[12]. *«Malgré le mauvais temps, la foule est enthousiaste»*[13]. Louis XVI refused his assent to the new constitution, was promptly tried, convicted and decapitated (via the guillotine, 21 January 1793) and a few days later, the French Republic declared war on Great Britain (1 February 1793)[14]. The war — with intermissions — dragged into the next century, ending with the battle of Waterloo (18 June 1815).

In Great Britain's 1790 general election (June-July) voters returned MPs supporting William Pitt with a potential majority of roughly 150. *«Upon the whole»*, he remarked, *«I have no doubt of our being considerably stronger than in the last Parliament»*[15]. The next General Election would take place in 1796. Two features of British votarian mechanics (my phrase) required, but did not receive, legislative attention. The boundaries of constituency districts (employed to elect MPs) were malapportioned and only a small number of voters enjoyed the elective franchise: 190,000 in the interval 1790-1801[16]. The 'borough' of Old Sarum is frequently cited as the worst case. Edward Porritt nails this down, drawing on an American visitor's eye-witness report: *«this spot, containing about sixty acres, without one house on it, unless I am misinformed, sends two members to Parliament»*[17].

- In 1788 Commons enacted 28 Geo. 3, c. 36 *«An Act for the better securing the rights of Persons qualified to vote at County Elections»*; *«proper registers of freeholders to be by law established»*. This significant (threshold) legislation would create electoral rolls for eligible voters before writs of election were issued. This reform was repealed in the session following. 29 Geo. 3, c. 18.
- In 1785 Pitt's government moved for leave to bring in a bill designed to redistribute seats from the *«rotten boroughs»* to London and the counties. MPs defeated the motion

[12] See https://www.worldhistory.org/Festival_of_the_Federation/.
[13] See https://gallica.bnf.fr/essentiels/repere/fete-federation-1790.
[14] See https://origins.osu.edu/milestones/january-2018-execution-louis-xvi.
[15] See https://www.historyofparliamentonline.org/volume/1790-1820/member/pitt-hon-william-1759-1806.
[16] See https://www.historyofparliamentonline.org/search/node/electivefranchise.
[17] E. Porritt assisted by A.G. Porritt, *The Unreformed House of Commons*, Cambridge, at the University Press, 1903; 2 vols., pp. 35-36. The Porritts drew on the *Letters and Journal* of Samuel Curwen, an American visitor to Great Britain (1775-1783). Were the Porritts reminding their British readers that, beginning in 1790, the US government conducted a nation-wide decennial census? This enumeration enabled Congress to reapportion seats in the House of Representatives every ten years. 1 Stat. 253, c. 23, Act of April 1, 1792: 'An Act for apportioning Representatives among the several States, according to the first enumeration'.

— to *«amend the representation of the people of* England *in Parliament»* — 174-248[18]. John Ehrman makes light of his hero's defeat. *«His failure in this instance owes a good deal to his success elsewhere. He did not try again»*[19].

I refer to Julian Hoppit's *Patterns of Parliamentary Legislation, 1660-1800*[20]. As of 1789 rather than conceiving *«the parliamentary history of the eighteenth century … largely in terms of parties, ministries, constitutional battles and "great men"»*, Hoppit recommends the following approach: *«it is time for someone to drill down to a more concrete level of analysis»*. To further background the reader, I draw on the concluding chapter of Sheila Lambert's *Bills and Acts*. Lambert concentrates on the progress — paralyzed — in the House of Commons at the end of the 18th c[21]. She concludes that 18th c. *«parliamentarians clung to their old ways»*:

> *«More attempts at general reforming legislation were made than the century is usually given credit for. But faced with the increasing complexity of political and economic life, a piece-meal approach was preferred. There was no general agreement on the theoretical necessity for reform; little possibility that the bureaucratic structures involved could, practically, be established, much less accepted»*[22].

To recap: As of 1790 one European government is enjoying a wild excess of revolutionary zeal in refashioning organic arrangements. Another European government lacks any serious interest in reforming the votarian mechanics that would put candidates into office, out of office or send them back into office. Lambert attributes this paralysis, in part, to the fact that MPs of the time *«clung to their old ways»*[23].

3. We compensate, we reconcile, we balance

How did Burke and Macaulay see the proper rate of change in political society? I begin with Macaulay.

> *«If any thing which may be thought defective is left for the wisdom of future legislators to correct, the constitution must remain defective, as future reformers will find their difficulties increase, instead of being diminished, by time. The reason is plain; for that which constitutes the defects in all governments, are those principles in them which support a partial interest, to the injury of a public one; and the prescription of time with the politic use of power, has been found an irresistible barrier to every important part of reformation in the ordinary course of things»*[24].

Burke's position follows:

> *«By a slow but well-sustained progress, the effect of each step is watched; the good or ill success of the first, gives light to us in the second; and so, from light to light, we are conducted with safety through the whole series. We see, that the parts of the system do not clash. The evils latent in the most promising contrivances are provided for as they arise. One advantage is as little as possible sacrificed to another. We compensate, we reconcile,*

[18] *Journals of the House of Commons*, 40:863, 18 April 1785.
[19] J. Ehrman, *The Younger Pitt*, Vol. I: *Years of Acclaim*, New York, E.P. Dutton, 1969, p. 227.
[20] J. Hoppit, *Patterns of Parliamentary Legislation, 1660-1800*, in *The Historical Journal*, n. 39/1, Mar. 1996, p. 131.
[21] S. Lambert, *Bills and Acts, Legislative Procedure in Eighteenth-Century England*, Cambridge, Cambridge University Press, 1971.
[22] S. Lambert, *op. cit.*, p. 189.
[23] S. Lambert, *op. cit.*, p. 189.
[24] C. Macaulay, *op. cit.*, pp. 30-31.

> *we balance. We are enabled to unite into a consistent whole the various anomalies and contending principles that are found in the minds and affairs of men. From hence arises, not an excellence in simplicity, but one far superior, an excellence in composition. Where the great interests of mankind are concerned through a long succession of generations, that succession ought to be admitted into some share in the councils which are so deeply to affect them. If justice requires this, the work itself requires the aid of more minds than one age can furnish»*[25].

Neither Burke nor Macaulay referred to William Blackstone's survey on the rate of change in organic arrangements. He gathered this material within the final chapter of Book IV of his *Commentaries on the Laws of England* (1765–1769)[26]. Blackstone titled the essay in chapter 33 'Of the Rise, Progress and Gradual Improvements, of the Laws of England'[27]. The sixth and last of Blackstone's surveys (from 1688 to 1765) gathered data from 16 Acts of Parliament, four instances of executive acquisition of power and 15 instances of judicial reform. Blackstone used this data to review the *«successive mutations at different periods of time»*[28]. In this interval Blackstone's survey gathered 35 changes in 77 years. This works out to one instance of 'organic change' (my term) or 'mutation' (Blackstone's) every 2.2 years. Blackstone's survey furnished the reader with *«an historical review of the most remarkable changes and alterations, that have happened in the laws of England»*[29].

I score the debate over the rate of change at 6-4 in Burke's favor. If the rate of change has (previously) logged 'mutations' at one every two years (more or less), then one would not be surprised that a slow but steady attention to *«gradual improvements»* should be maintained as the optimum rate of change[30]. Macaulay, however, speculates that the *«difficulties of … future reformers increase»* if reforms are *«left for the wisdom of future legislators»*[31]. Blackstone would counter that, if partial reforms win popular favor, then there is no reason to suppose that future *«gradual improvements»* would not also invite public support. Here, one may employ hindsight: extension of the franchise and reform of constituency districts proceeded, from 1832 to 1928, via three interim measures: those of 1867, 1884/1885 and 1918. Macaulay should have placed more confidence in the public's acceptance of these reforms once the first step had been taken. This rate of change does not precisely follow the pattern that Burke endorsed: *«a slow but well-sustained progress»*. As for Macaulay's prediction that *«difficulties* [in electoral reform] *will increase, instead of being diminished, by time»,* this does not align with Blackstone's rate of change. Proponents of electoral reform faced considerable challenges in 1790s. I refer to Charles Grey's attempt to induce Commons to refer his 1793 bill to committee — defeated 282 against 41 — which foreshadowed the 1797 defeat of Grey's second reform plan: leave to bring in a bill lost by 256 against 91[32].

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[25] E. Burke, *op. cit.*, pp. 200-201.
[26] W. Blackstone, *Commentaries on the Laws of England*, Chicago (IL.), University of Chicago Press, 1979; ed. S.N. Katz; facsimile reprint of the 1st edition, Oxford, printed at the Clarendon Press, 1765-1769; 4 vols.
[27] W. Blackstone, *op. cit.*, pp. 400-436.
[28] W. Blackstone, *op. cit.*, p. 400.
[29] W. Blackstone, *op. cit.*, p. 400.
[30] W. Blackstone, *op. cit.*, p. 400.
[31] C. Macaulay, *op. cit.*, p. 31.
[32] *Journals of the House of Commons*, 48:749, 7 May 1793 and *Journals of the House of Commons*, 53:616, 26 May 1793. On these occasions, Pittite adherents opposed reform.

4. He that has five hundred pound

I turn now to the competing views of Macaulay and Burke on the elective franchise: should inhabitants (excluding paupers) have equal political rights (her view) or should political rights be weighted according to wealth (his view)? As to reform of the elective franchise in France, Macaulay declared:

> *«A qualification to the right of election in the first instance, is placed at the low rate of the price of three days labour; the qualification of being elected into the* Commune*, is the amount of ten days labour; and that of being elected a deputy to the* National Assembly*, is only one mark of silver»*[33].

Macaulay was quick to argue that this electoral reform would be consistent with *«the highest degree of order»*, without arguing that it would stabilize political society[34]. *«This plan, in theory at least, promises to unite the highest degree of* freedom *with the highest degree of* order*: it extends the right of election* to every man who is not a pauper*, and as such by living on the* alms *of society, cannot reasonably have a* right *to enjoy its political privileges»*[35].

Burke makes the question turn on stabilization. How can you give men equal voting power, he asks, if the rich are few in number while most of the nation's inhabitants are poor?

> *«The contest between the rich and the poor is not a struggle between corporation and corporation, but a contest between men and men; a competition not between districts but between descriptions. It would answer its purpose better if the scheme were inverted; that the votes of the masses were rendered equal; and that the votes within each mass were proportioned to property»*[36].

Unsurprisingly, Burke rethreads Aristotle's doubts on this point.

> *«If I recollect rightly, Aristotle observes, that a democracy has many striking points of resemblance with a tyranny. Of this I am certain, that in a democracy, the majority of the citizens is capable of exercising the most cruel oppressions upon the minority, whenever strong divisions prevail in that kind of polity, as they often must; and that oppression of the minority will extend to far greater numbers, and will be carried on with much greater fury, than can almost ever be apprehended from the dominion of a single sceptre»*[37].

This sets the stage for Burke's argument that wealth-weighted participation in political society is essential for its institutions to achieve the minimum level of stability.

> *«I readily admit (indeed I should lay it down as a fundamental principle) that in a republican government, which has a democratic basis, the rich do require an additional security above what is necessary to them in monarchies. They are subject to envy, and through envy to oppression»*[38].

The contrast seems straightforward. Macaulay advocates (what moderns would term) one man, one vote, while Burke responds with weighted voting.

> *«Let us suppose one man in a district (it is an easy supposition) to contribute as much as an hundred of his neighbours. Against these he has but one vote. If there were but one representative for the mass, his poor neighb-*

[33] C. Macaulay, *op. cit.*, p. 31.
[34] C. Macaulay, *op. cit.*, p. 31.
[35] C. Macaulay, *op. cit.*, p. 31.
[36] E. Burke, *op. cit.*, p. 210.
[37] E. Burke, *op. cit.*, pp. 147-148. See Aristotle, *Politics,* 1295b33 and 1281a12-28. These passages align with Burke's fear that the poor will use their voting power to confiscate wealth from their neighbors.
[38] E. Burke, *op. cit.*, p. 209.

ours would outvote him by an hundred to one for that single representative»[39].

With an important caveat — drawing on hindsight — this debate scores to Macaulay. You can't have citizen armies conscripted en masse, to fight opposing national forces (levied in like manner) without extending the franchise. The US extended the right to vote to adult white males substantially before the outbreak of the US Civil War (1861-1865)[40]. In the case of World War I, the UK extended the franchise to all men and a substantial number of women, via the Representation of the People Act (1918)[41]. Macaulay would have hoped for a better reason to enfranchise males. The battle of Valmy [20 September 1792] brought French citizen-soldiers and regular troops into combat against professional armies. That event signaled that enfranchisement of adult males was inevitable. *«From this place and from this day forth»*, an observer of the battle J.W. Goethe observed, *«commences a new era in the world's history»*[42].

The rich want to out-vote the poor to defend their wealth. Fair enough; you can't argue with Aristotle's logic. One should expect people, by economic class, to vote their interests. But the rich also want the poor to join the nation's mass armies and fight for the economic status quo: put crudely, the rich want the poor to fight for the rich to stay rich. Macaulay 7, Burke 3.

5. Too arduous to be accomplished

Burke and Macaulay missed the opportunity to introduce political culture as a serious factor enabling/disabling political society's transition to a *«truly popular government»*[43]. What *«Burke endeavours to establish in his elaborate "Reflections on the French Revolution", is the incompatibility of a truly popular government with the human constitution»*[44]. At this point Macaulay should have tackled two questions: (a) what are the features of a national political culture that suggest that transition to a *«popular government»* in Great Britain is feasible? (b) how would a technocratically-inclined scholar or politician identify these features?

Macaulay could have argued that: if a nation's inhabitants (minus paupers) have resolved that the nation should extend political rights to all of its citizens, then that political will counts for something. She draws on the following events in France (1789-1790):

> *«This address … contained a language the best adapted to sooth the personal afflictions of the king. Not the smallest hint was given, than any ill conduct in his Majesty had provoked the people to emancipate themselves from his power; it thanked him for his concurrence with their wishes; it represented their liberty as the necessary*

[39] E. Burke, *op. cit.*, p. 210.
[40] D. Ratcliffe, *The Right to Vote and the Rise of Democracy, 1787—1828*, in *Journal of the Early Republic*, n. 33/2, Summer 2013, pp. 219-254 [adult white male suffrage well-established in the US by 1828].
[41] 7 & 8, Geo. 5, c. 64, 6 February 1918 [property qualification for men abolished; woman suffrage granted to voters over 30 with a modest property qualification]. See https://www.parliament.uk/about/living-heritage/transformingsociety/electionsvoting/womenvote/parliamentary-collections/collections-the-vote-and-after/representation-of-the-people-act-1918/.
[42] See https://www.frenchempire.net/battles/valmy/ The reputation of French arms post-Valmy established that governments that drafted young men to fill the ranks of its citizen-armies would — sooner or later — extend voting rights to these citizen-soldiers.
[43] C. Macaulay, *op. cit.*, p. 35.
[44] C. Macaulay, *op. cit.*, p. 35.

consequence of their enlightened spirit, not of their sufferings under his administration»[45].

As of November 1790 this whitewash is unconvincing; before the fall of the Bastille — 14 July 1789 — much more violent anti-monarchical sentiment was in circulation. Burke, for his part, is unwilling to blame French political culture. *«The legislators who framed the antient republics knew that their business was too arduous to be accomplished with no better apparatus than the metaphysics of an undergraduate, and the mathematics and arithmetic of an exciseman. They had to do with men, and they were obliged to study human nature»*[46]. The reason that Burke pulls his punches is obvious. Assume that French political culture enjoys a revolutionary upheaval — once a century or two, the latest being 1789-1790; so do the British. I refer to events in the intervals 1642-1652 and 1688-1689. Burke has no argument with British advocates for equal political rights unless he can, drilling down to historical details, show that British political culture, because it was tainted with an appetite for political equality, then indulged un-British tendencies. Burke would be hard pressed to make such an argument. Given British events in the 17th c. it would be hard to argue that — as of November 1790 — the norms of British political culture were resistant to the siren-song of political equality.

6. Who gave these conventions their authority?

At this point, I impose my framing on three points that follow. I begin with Macaulay's brief but effective dismissal of pre-history as a source of a nation-state's authority.

> *«For if we say that lawful governments are formed on the authority of conventions, it will be asked, who gave these conventions their authority? If we grant that they derived their authority from the assent of the people, how came the people, it will be said, to exert such an authority at one period of society, and not at another*[47]*?»*

If you suppose that the *«authority of convention»* could found a nation-state, then whatever founds the *«authority of conventions»*, must continue to have that power after the nation-state was founded. Moreover, *«no abuse of their power can take away their right, because their right exists in the very constitution of things»*. Concluding this passage, she identifies this *«authority of convention»* and the underlying *«assent of the people»* with the *«will of the people»*[48].

Macaulay concedes that a nation-state's inhabitants could bring the nation-state to collapse — through the inhabitants' *«abuse of their power»* — but the inhabitants' power to create and the power to destroy organic arrangements exist *«in the very constitution of things»*[49]. To recap: Macaulay does not rely on a nation's pre-history. There is no distant, remote or even immediate past that discloses how and why political society is organized. If an opponent argues that popular government, however defined, would enable *«abuse of power»*, that claim, she would argue, sweeps too broadly. There is no form of government that, by virtue of its organic arrangements, is immune from abusing its power.

[45] C. Macaulay, *op. cit.*, p. 23.
[46] E. Burke, *op. cit.*, p. 218.
[47] C. Macaulay, *op. cit.*, p. 38.
[48] C. Macaulay, *op. cit.*, p. 39.
[49] C. Macaulay, *op. cit.*, p. 38.

> *«It is on the basis of industry alone, the only principle which exactly squares with a native right, and not on rent-rolls, that the legislature has formed the rights of representation; and this on such liberal principles, that every man who has activity and industry, may qualify himself as to the matter of property, for a seat in the legislative assembly»*[50].

Macaulay does not explain, in detail, how political society is able to stabilize itself, which she terms the *«highest degree of order»*[51]. We are assured that developments in France are trending in that direction, thanks to the Assemblée attempting to

> *«regulate the rights of election in such a manner, as whilst it secured to the citizens at large this invaluable blessing, it should provide for the public tranquillity»*[52].

At least the reader can be confident that she's taken the goal of stabilization (or avoiding destabilizing arrangements) seriously. Speaking of the Assemblée's plan for the new French constitution:

> *«This plan, in theory at least, promises to unite the highest degree of freedom with the highest degree of order»*[53].

On the negative side of the equation, Macaulay declares that privilege is a deadweight loss, denying that *«that there is an inherent right attached to privileged persons to make laws for the community»*[54].

Burke discusses the subject of a nation-state's pre-history, going back to a *«great primæval contract of eternal society»*. In quoting the passage below, I draw on the 1st edn. of Burke's 'Reflections'[55].

> *«Each contract of each particular state is but a clause in the great primaeval contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures, each in their appointed place»*[56].

In this passage Burke called on the stabilizing effect of a *«fixed compact sanctioned by … inviolable oath»*. That is, the unequal distribution of wealth[57]. By whatever means you acquired your wealth, through hard work or thanks to family wealth (your reward for picking the right parents), Burke argued that private wealth should define your rights and duties in political society. On Burke's account, the wealthier classes would have the right to veto any program which called for the rich to pay for benefits to be distributed to the less wealthy. In other words, unequal wealth would supply the guardrails required to keep MPs from following the French Revolution into the proverbial roadside ditch. To support these

[50] C. Macaulay, *op. cit.*, p. 38.
[51] C. Macaulay, *op. cit.*, p. 31.
[52] C. Macaulay, *op. cit.*, p. 31.
[53] C. Macaulay, *op. cit.*, p. 31.
[54] C. Macaulay, *op. cit.*, p. 38.
[55] E. Burke, 1st edn. See https://dn790004.ca.archive.org/0/items/reflections00burkuoft/reflections00burkuoft.pdf. The passage quoted appears at p. 144.
[56] The place in the OLL online edition where this text should appear (but doesn't) is at p. 114. The text (I have quoted above) also appears in the 2nd edn. (available via Hathi Trust) and also in the OLL print edition of the Payne edition of the 'Reflections'.
[57] E. Burke, *op. cit.*, p. 144; 1st edn. See previous note.

claims, Burke brings in the following partnership metaphor. Burke singles out the respective capital accounts of two partners: on the balance sheet the ratio of entries is 1:2000.

> *«He that has but five shillings in the partnership, has as good a right to it, as he that has five hundred pound has to his larger proportion. But he has not a right to an equal dividend in the product of the joint stock»*[58].

In this passage Burke has put *«the great primaeval contract»* behind him; his attention now centers on stabilizing political and civil society. *«Government»*, Edmund Burke declared, *«is a contrivance of human wisdom to provide for human wants»*[59]. What's the principal threat to stabilization? The *«state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, callico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties»*[60]. Burke's argument for stabilization — to protect the state from being *«dissolved by the fancy of the parties»* — rests on his case for unequal political rights based on wealth[61]. Burke would argue that deferred satisfaction is presumptively unmanageable: *«By having a right to every thing they want every thing»*[62].
And this brings in Burke's conclusion, which — at the same level of abstraction as the *«great primaeval contract»* — explains that distribution of economic benefits can only destabilize political and civil society.

> *«[Government] is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection»*[63].

I recap this discussion. As for Macaulay: She does not give us a word picture of how a political society — recognizing the equal political rights of all its inhabitants — can maintain a level of stability in the face of popular demands that the parliamentary assembly distribute economic benefits.
As for Burke, drawing on his remarks and recasting them: He would contend that minimal (limited, modest) distribution of economic benefits will reduce expectations that inhabitants have *«a right to every thing»*[64]. Equal political rights would break down the resistance of lawmakers; they would then open the floodgates of benefit distribution, conducting themselves as if everyone has a right to everything.

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[58] E. Burke, *op. cit.*, p. 69. I offer the following additional points regarding the voting rights of the 5s. partner, given the state of 18th c. partnership law. (a) The 5s. partner had no right to put more money into the partnership (technically, to increase the balance of his individual capital account) without obtaining the consent of the other partners. (b) Burke is correct: voting (at a general partnership meeting) is weighted according to the respective balances in the partners' capital accounts. (c) Combining points 1 and 2: the 5s. partner has no political rights other than the rights other general partners grant him. (d) Assume a surplus of £1 million in the partnership's current account at the end of the year. The 5s. partner can look forward to a £500 dividend. (I'm rounding to make this easier; there are only two partners.) The 5s. partner has no right to 'merge' this dividend with the 5 shillings in his capital account, thereby boosting his capital account by £500 and obtaining equal political rights.
[59] E. Burke, *op. cit.*, p. 69.
[60] E. Burke, *op. cit.*, pp. 113-114.
[61] E. Burke, *op. cit.*, p. 70.
[62] E. Burke, *op. cit.*, pp. 113-114.
[63] E. Burke, *op. cit.*, pp. 113-114.
[64] E. Burke, *op. cit.*, p. 70.

Neither argues that the pre-history of a nation-state is a helpful resource in day-to-day governing. These concepts are not resources that guide lawmakers in their attempts to (more) effectively deliver benefits and alleviate burdens. On this ground, Burke and Macaulay agree that there is a connection between how the lawmakers won their seats and how much in the way of economic benefits inhabitants will acquire.

7. An unfinished bridge

The 6th Session of the 16th Parliament (of Great Britain) gathered for the first time on 20 November 1788 and adjourned on 10 August 1789. Of 110 Acts of Parliament adopted in that session, 44 acts were devoted to transportation improvements. The count breaks down as follows: 34 statutes addressed road projects, 3 provided for harbors and a lighthouse, with a single bill completing a bridge project; 6 acts addressed navigation and canal projects[65]. The 7th Session of the 16th Parliament opened on 21 January 1790; dissolution took place on 10 June 1790, in anticipation of the 1790 General Election. These are the totals for the last session: 115 bills were enacted into law, with 46 acts providing for transportation projects. The subtotals are: 31 road projects, a bridge, a ferry and 13 navigation and canal projects[66].

To recap: in the two sessions of the Parliament of Great Britain (opened and adjourned) before Burke published his 'Reflections', almost half of the House of Commons's legislative output was devoted to transportation projects. Going from the titles listed in the *Consolidated Table of Statutes*, each improvement project benefited a community of economic interest none of whose members were also members of a second community of economic interest that received a benefit in the same session. A computer-aided map would reveal if Alphaville's road project and Betaville's navigation project could be considered as a single unit of a national transportation network. A transportation network could be designed top-down. Experts could design these routes to promote maximum productivity gains within given budget constraints (national and local). On the other hand, the House of Commons could respond — ground-up — to demands for project legislation as these 'wants' were articulated in petitions directed to that body.

Based on my samplings in the *Consolidated Table of Statutes* and two volumes of the Journals of the House of Commons[67], I suggest the following: of the 90 communities — which Commons benefited in two sessions, that is, in 1788-1790 — 44 got something in 1788-1789, nothing in 1790 while 46 communities got nothing in 1789 and something in 1790. The reader motoring the A1 to Edinburgh may exit at the Edinburgh Road roundabout and backtrack a few hundred meters to Cockburnspath. This will take the traveler to a bridge over a small stream; the bridge was unfinished, at least in 1788. In the 6th session, Parliament released £1000 from the Treasury's escheat accounts *«towards completing and finishing the Bridge»* (29 Geo. 3, c. 42). Another case: in 1789 the River Tamar offered an unb-

[65] *Journals of the House of Commons*, vol. 44.
[66] *Journals of the House of Commons*, vol. 45.
[67] *Consolidated Table of Statutes*, Part I, London, TSO, 2005.

ridged waterway to those in Plymouth wishing to do business in Torpoint and vice versa. To answer this need Parliament (in the 7th Session, 1790) granted the Earl of Mount Edgecumbe (and his business partner) the right to *«establish and maintain a common ferry … between a certain place north of Plymouth dock»* and Torpoint (30 Geo. 3, c. 61). I suggest that the beneficiaries of these two improvements belong to mutually exclusive communities of economic interest; to falsify this claim, investigation would have to find some household or business with simultaneous operations in both Berwick (Scotland) and Cornwall (England). Put another way: if you want a ferry in Plymouth, you must patiently wait your turn. The residents of Cockburnspath will get their bridge in 1789-1790 while your ferry project is deferred to 1790. I will connect these two phenomena of political culture — (a) demands for economic benefits and (b) deferred satisfaction — in the section following.

8. A contrivance of human wisdom

In this section I draw on the essay of Daron Acemoglu and James A. Robinson, *Why Did the West Extend the Franchise? Democracy, Inequality, and Growth in Historical Perspective*[68]. The authors employ concepts that are (virtually) identical to those appearing in Burke's 'Reflections' and Macaulay's 'Observations'. In brief: they traffic in economic reasoning, political science, revolution, political culture, elites and their counterpart non-elites. Two causal links in 'Why Did the West' shed light on the difficulties that challenged both Burke and Macaulay. Acemoglu and Robinson state their first claim as follows:

> *«The nineteenth century was a period of fundamental political reform and unprecedented changes in taxation and redistribution. Britain, for example, was transformed from an "oligarchy" run by an elite to a democracy. The franchise was extended in 1832 and then again in 1867 and 1884, transferring voting rights to portions of the society with no previous political representation»*[69].

Acemoglu and Robinson highlight the following causal link: *«If democratization is likely to lead to increased taxation and redistribution … why should the elite extend the franchise? Our answer is that the elite were forced to extend the franchise because of the threat of revolution»*[70].

Acemoglu and Robinson offer a second argument (the inverse of the first) which they pursue less aggressively: *«Rising inequality often associated with industrialization increases social unrest and induces democratization»*[71].

Summed up: Acemoglu and Robinson conjecture that elites must have reasoned that (a) if the franchise were to be extended, the non-elites would get *«increased taxation [of the elites] and redistribution of benefits [thereby funded]»*, but (b) if the elites were to delay extension of the franchise, industrialization would bring in *«rising inequality»*. The resulting *«social unrest»*

[68] In *The Quarterly Journal of Economics*, n. 115/4, Nov. 2000, pp. 1167-1199.
[69] D. Acemoglu and J.A. Robinson, *op. cit.*, p. 1167.
[70] D. Acemoglu and J.A. Robinson, *op. cit.*, p. 1168; the authors employ the phrase *«threat of revolution»* on 21 more occasions.
[71] D. Acemoglu and J.A. Robinson, *op. cit.*, p. 1168.

would stimulate elites to extend the franchise[72]. What follows are my comments on Burke and Macaulay, employing the points made by Acemoglu and Robinson.

1. Burke's fear that the House of Commons (under the influence of the French revolution) will become a 'low concern' — delivering economic benefits on demand — can be readily nested within the claims that Acemoglu and Robinson advance. Assume many communities of economic interest in Great Britain were enjoying the heady pleasures of gaining economic benefits such as increased access to pepper and coffee. Members of these communities might agitate for even more economic benefits. If these demands were unsatisfied, the resulting *«social unrest»* would reliably stimulate demands for increased political rights. This might play out as follows: *«Thanks for the pepper and coffee but now extend the franchise, so that all inhabitants can vote themselves more of these (and like) benefits»*. To sharpen Burke's point: even a modest distribution of economic benefits is the first step down the slippery road to collapse of British political society. In other words, the ultimate source of the benefits is irrelevant. Even if Lord and Lady De Luxe continue to enjoy the same level of benefits, the mob's demands for economic benefits will trigger their demand for political rights.
2. Burke's citation to Aristotle nails a point that Macaulay does not address. If the franchise is extended, isn't this an invitation to the new non-elite voters (now a majority of the electorate) to redistribute the wealth of the rich to the poor? Put another way, Macaulay needs an argument based on British political culture to backstop her claim that the franchise should be extended and that franchise extension will — somehow — not disturb social 'order'[73]. Macaulay does the best she can with the evidence available. The French revolution had not yet gone off the rails, at the time she published her 'Observations' in November 1790.
3. At this point Aesop's fable — featuring the Goose's Golden Eggs — may be deployed. I summarize the story in the margin[74]. If it is the case that many communities of economic interest in Great Britain are accustomed to widespread distribution of unequal economic benefits, then the incremental 'egg a day' program may be seen — through the lens of British political culture — as preferable to the revolutionary 'kill the goose' program.
4. Transportation projects are unequal economic benefits. In this essay I have noted that, in the two sessions of Parliament immediately preceding publication of their essays, the House of Commons voted a total of 90 projects[75]. The majority of these projects did not involve significant public funding; the benefit involved was the approval of Parliament for the route (as dictated by statute). Would a revolutionary parliament operating a distribution system as a supermarket or other *«low concern»* (Burke's

[72] D. Acemoglu and J.A. Robinson, *op. cit.*, p. 1168; the authors employ the phrase *«social unrest»* on 13 more occasions.
[73] See note 34 above.
[74] See https://read.gov/aesop/091.html. A goose, laying a golden egg every morning, inspired her owner to kill the goose today to get tomorrow's supply of eggs. There being no opposing voices to warn him of the folly of this crime, he discovered that he had killed the source of his wealth.
[75] See text at p. 13 above.

term) do a better job of addressing the transportation needs of individual communities in Great Britain? Is the pattern of 40 or so transportation projects distributed nationwide (per year) better than taking a chance on French-style top-down modelling of a national road network? Are promises (to be fulfilled tomorrow) better because bigger? The baseline is *«gradual improvements»* delivered at the reliable pace of one-a-week.

5. While Macaulay is silent on this point, Burke addresses this point, at least in general terms. Revolutionary assemblies do a poor job of governing; they allow women *«lost to shame, who, according to their insolent fancies, direct, control, applaud, explode [male lawmakers]»*. Do revolutionary assemblies possess the competence to wrangle the details of the Donnington to Southall Canal, 28 Geo. 3, c. 73 and the Cromford Canal, 29 Geo. 3, c. 74 into the statute books? Burke's assessment of French competence is entirely negative: lawmakers *«act like the comedians of a fair before a riotous audience»*[76]. More precisely, one might say that Burke is casting, in a negative light, the capacity of lawmakers to resist popular demands.
6. I attempt a reconciliation of all four authors. (a) The extent to which reforms in political society can get out of alignment if they must be coherent with political culture is marginal. The French 'great leap forward' is bound to fail because British political culture likes the 'egg a day' pace more than 'killing the goose'. If it takes generations — from Blackstone's 1688/1689 start date for *«gradual improvements»* to the Reform Act (1832)'s expansion of the franchise — then that's how long it takes. (b) However, reform can be 'out in front' (my phrase) of political culture to a modest degree. This is because political culture can absorb small-scale changes. Implementation of Macaulay's 'popular principle' — if dialed back to a slower rate of change — could arguably be successful, assuming that extensions of the franchise were limited, sporadic or both[77]. This would also count as a success in Burkean terms: *«no revolutionary outbursts please, we're British»*[78].

9. Concluding Remarks

I refer back to the surveys of William Blackstone and Julian Hoppit. At two different levels of abstraction, these authors furnish examples of pattern-discovering; their purpose is to frame inquiry into British political culture. Blackstone's survey covers 77 years (1688-1765) and targets *«gradual improvements»* or *«successive mutations»* (his terms). I make Blackstone's target a bit more precise: in my terms his survey reveals the rate of change in successive *«organic arrangements»* (my term)[79]. Hoppit surveys 'Patterns of Parliamentary Legislation, 1660-1800' (the title of his essay)[80]. One of Hoppit's key assumptions follows: *«the volume of*

[76] E. Burke, *op. cit.*, p. 81.
[77] C. Macaulay, *op. cit.*, p. 22.
[78] Quel horreur! See https://en.wikipedia.org/wiki/No_Sex_Please,_We're_British. Half the fun was watching London audiences enjoy the show at the Garrick; personal reminiscence, 1984.
[79] J. Hoppit, *op. cit.*, p. 111.
[80] See note 20 above.

legislation is the outcome of the demand for acts and the capacity or willingness of parliament to meet that demand»[81]. Hoppit concludes that his survey *«provides the best means of detailing and initially exploring the general nature of what was, in effect, a revolution in parliament»*[82]. He dates this *«revolution to the Glorious Revolution»*, events of 1688-1689. Blackstone likewise regards the *«revolution in 1688»* as pivotal. A revolution was avoided. These events open the sixth interval in which large-scale, substantive changes in political society attract his attention[83].

What Blackstone and Hoppit offer is an antidote to any author's bland assurances that the *«improvements of [French] national assembly are superficial; their errors, fundamental»*[84]. To the same tenor but, if possible, in worst taste: *«I wish my countrymen rather to recommend to our neighbours the example of the British constitution, than to take models from them for the improvement of our own»*[85]. Of all authors to trade in breezy generalizations, this is not what readers should expect from someone who (by then) had spent almost 25 years of his 30-year career in the House of Commons (1765-1794)[86]. There is more to be said about Burke than appears in Brooke's annotation in the *History of Parliament Trust* website, which in passing notes that Burke's *«reform legislation [in the early 1780s] passed the House with little difficulty»*[87]. Holdsworth's *History of English Law* lists 12 Acts of Parliament in his census of Burkean reforms[88]. I have counted another 5. *«These enactments may be taken as an attempt to frame and bolster the trust relationship between members and their constituency electorates. The principal method employed was the regulation of dual office-holding; this was supplemented by nascent attempts to enact a measure of campaign finance reform»*[89]. That these statutes are highly technical in nature merits more than passing mention in the *History of Parliament* and *Dictionary of National Biography* annotations[90].

Here's why.

If a British author has acquired and refined technical expertise in the composition of legislation, readers are entitled to hear what his French counterparts are doing wrong at a concrete level of analysis. We get something along those lines: Burke relates the following fact situation: a peasant *«first brings his corn to market»* and is cheated by the local magistrate who *«obliges him to take the assignat* [the revolution's paper money] *at par»*[91].

> *«When he goes to the shop with this money, he finds it seven per cent. the worse for crossing the way. This market he will not readily resort to again. The townspeople will be inflamed! they will force the country-people*

[81] J. Hoppit, *op. cit.*, p. 125.
[82] J. Hoppit, *op. cit.*, p. 110.
[83] W. Blackstone, *op. cit.*, p. 433.
[84] E. Burke, *op. cit.*, p. 292.
[85] E. Burke, *op. cit.*, pp. 292-293.
[86] See https://www.historyofparliamentonline.org/volume/1754-1790/member/burke-edmund-1729-97.
[87] E. Burke, *op. cit.*, pp. 292-293.
[88] W. Holdsworth, *A History of English Law*, London, Methuen, 1903-1938; 17 vols. inc. Index; vol. 10, pp. 520-526.
[89] P.J. Aschenbrenner, *British and American Foundings of Parliamentary Science*, Abingdon-on-Thames, Routledge, 2017, pp. 62-63.
[90] See J. Brooke, *Burke, Edmund (1729-97), of Beaconsfield, Bucks.*, https://www.historyofparliamentonline.org/volume/1754-1790/member/burke-edmund-1729-97 and P. Langford, *Burke, Edmund (1729/30–1797), politician and author*, in *Oxford Dictionary of National Biography*. 23 Sep. 2004; Accessed 7 Jun. 2024. https://www-oxforddnb-com.ezproxy.unibo.it/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-4019.
[91] E. Burke, *op. cit.*, p. 229.

> *to bring their corn. Resistance will begin, and the murders of Paris and St. Dennis may be renewed through all France»*[92].

This instance of subpar French revolutionary lawmaking suggests that a more detailed critique might challenge one of Burke's central points. Assignats are debt instruments, technically speaking. Burke is unhappy that there exists a secondary market in French paper currency and also that the (market) value of assignats varies. Fair enough. Had the French followed the British example, they would have created a government agency under the sonorous title 'Commissaires pour la Réduction de la Dette Nationale'. If the French lawmakers (in 1790) had followed the British example (from 1786), the former would have legislated that the *«monies [of the Commissaires] shall be applied by the said commissioners in payments for the purchase of publick annuities below par»*[93].

This point goes off in two directions. First, if Burke had read the *Lois, et Actes du Gouvernement* — as they came off the press in August 1789 — he could have engaged his readers in an apples-to-apples comparison of British and French lawmaking[94]. He balked his fire when it came to the French government's failure to legislate price supports to maintain the value (in the secondary market) of its debt instruments. Second: Burke owed his readers a review, even if concentrated, of some instances of French lawmaking. I supply another apples-to-apples comparison that Burke could have taken into account. I refer to the opening volume of the *Bulletin des Lois* (published in 1806) and Titre XIV 'De la Suppression des anciens offices et tribunaux' which addresses a variety of garden-variety issues in bureaucratic management of public pathways, canals and public works.

> *«Article IV. Requests and disputes regarding the settlement of compensation due to individuals, in respect of land taken or excavated for the construction of paths, canals or other public works, will likewise be brought, by way of conciliation, before the district directorate, and may then be sent to the departmental directorate, which will ultimately resolve them, in accordance with the estimate that will be made by the justice of the peace/juge de paix and his assessors»*[95].

This very humble piece of legislative handiwork may be compared with the following text, drawn from the Public Highways Act, 13 Geo. 3, c. 78 (1773):

> *«Section XXI. That where any Footway shall be diverted [through lands belonging to a different owner than the previous footway] the Damage occasioned by such old Footway to the lands through which it lay … shall be adjudged … and the Money at which such Damages shall be assessed shall be applied in making Satisfaction to the Owner or Owners of the Land through which such new Footway shall be made».*

If Burke had engaged in a detailed analysis of the deficiencies of French revolutionary lawmaking, it might have tempered his taste for thundering: *«The improvements of the national*

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[92] E. Burke, *op. cit.*, p. 229.
[93] 26 Geo. 3, c. 31, National Debt Reduction Act (1786); see also P.J. Aschenbrenner, *op. cit.*, p. 149.
[94] According to the Bibliothèque Nationale de France website issues of the 'Lois, et Actes du Gouvernement' were published in pamphlet form as the Assemblée adopted new legislation. In November 1790 Burke would have had access to these pamphlets. However, for use in this essay, I refer to the 1806 edition of the first volume which is also titled 'Lois, et Actes du Gouvernement' and now known as the Bulletin des Lois. The title page of the first volume includes the following additional data: 'Tome I.er, Août 1789 à Septembre 1790'. See https://gallica.bnf.fr/ark:/12148/bpt6k30566583.
[95] *Bulletin*, cit., pp. 407-408.

assembly are superficial; their errors, fundamental›[96]. Worse, Burke does not pursue the following line of attack: he's not going to argue that day-to-day British legislative product is better than the output of their French counterparts.

Assume that Burke did offer his sage counsel to French members of the *Assemblée*: *«see here, I can see that there are a lot of issues in French government that call for reform, but you're not going about this the right way. Here's how to fix what's gone wrong up to July 1789»*. Such an essay would sink out of sight. No one would trumpet Burke as the founder of 'modern conservatism'. We have Emily Jones's study *Edmund Burke and the Invention of Modern Conservatism* — her title previews her thesis — to make this point. British opinion-makers in the 19th c. settled on Burke's 'Reflections' as a vessel that could carry any water. It is the lack of detail that makes the 'Reflections' readable. His 'Reflections' does not reflect any significant hard work on the author's part. If Burke had any serious ambitions to critique the output of European parliamentary assemblies, he could have directed his readers to John Hatsell's *Precedents of Proceedings* (3 volumes published by 1790)[97]. Burke failed to engage his readers with details exposing the organic (constitutional) side of the equation, as well as on the programmatic (legislative) side. Burke had a great deal to contribute to public discourse on these two subjects. By 1790, he had served a quarter-century in the House of Commons and authored an entire tranche of significant and highly technical pieces of reform legislation. In getting his hands dirty with the details Burke would then have challenged Macaulay (and those in agreement with her) to engage Burke on ground that he could dominate. What posterity would have had in hand (if Burke had done his homework) would be an apples-to-apples comparison of the competence of these two national parliamentary assemblies: the House of Commons and the *Assemblée nationale constituante*. By the same token I fault Macaulay: it was her job to get her hands on issues of the *Lois, et Actes du Gouvernement* and the counterpart volume of the *Public Statutes* and compare and contrast outputs.

That brings us back to 'una macchina che non poteva andare da sola'. What was the 'machine that would go of itself'[98]? (a) Expectations that the wants (of some number of communities) would, over time, receive programmatic attention, (b) with the expectations (of other communities) deferred but not ignored for so long as to stimulate insurrection, (c) so that decade after decade the House of Commons's distribution of unequal economic benefits would facilitate (d) the eventual reform of the elective franchise — Representation of the People Act, 2 & 3 Will. 4, c. 45, 7 June 1833 — just in time (e) for the Great Western Railway Act — 5 & 6 Will. 4, c. 107, 1 August 1835 — to open up a new species of economic demands that communities could make on the House of Commons[99]. I have light brushed a few inconvenient facts like the riots in Bristol (1831). In these disturbances, according to an account of 3 November 1831, *«a very great number must have lost their lives, of which we can obtain no account»*. To be sure, French revolutionary appetite for violence (1789-

[96] E. Burke, *op. cit.*, pp. 292-293.
[97] See https://www.precedentsofproceedings.com/.
[98] J. R. Lowell, *op. cit.*, pp. 16-17. See https://www.loc.gov/resource/gdcmassbookdig.independentinpol00-lowe/?sp=32&st=image.
[99] See https://www.nationalarchives.gov.uk/education/resources/what-caused-the-1832-great-reform-act.

1790, 1830) — to say nothing of the Terror (1793-1795) — puts Bristol (and British) rioting in a much rosier light[100]. If the 'machine that could go of itself', over time, accommodates demands for organic change, one causal factor might be the stable appetite of communities of economic interest for reliably delivered economic benefits.

That's really all I'm saying in this essay. The burden of going forward — a lawyerly phrase — fell on Edmund Burke. It was his job to counter Price and Macaulay by pointing out that British political culture's acceptance of Blackstonian *«gradual improvements»* in the organic affairs of political society — one every 2.2 years — was stimulated, fed and satisfied by steady deliveries of programmatic benefits. Instead, Burke employed the internal inconsistencies, self-inflicted errors and outright missteps of French political culture to attack British advocates of a *«bill of rights»* whose first sentence declared that British inhabitants have the right *«To choose our own governors»*[101].

> *«I wish my countrymen rather to recommend to our neighbours the example of the British constitution, than to take models from them for the improvement of our own»*[102].

That's the level of abstraction that suits Burke and that breezy level of generalization most certainly suits those who find Burke congenial to their tastes. Is data-driven analysis anathema to public and scholarly discourse? Is it to be avoided at all costs? Blackstone managed it and quite nicely, thank you. Macaulay should have done it and she had no excuses as an historian *not* to get into the details. My essay offers no exciting thesis. A bridge here, a ferry there, roads, canals, navigation projects. In 1776 Adam Smith described *«good roads, canals, and navigable rivers [as] the greatest of all improvements»*[103]. Distribution of these benefits doesn't seem to add much to our understanding of British political culture. But these distributions enabled Great Britain to make its way forward, without revolution, and — just to irritate the shade of Edmund Burke — a riot every now and then dispersed by a proverbial and Napoleonic *«whiff of [urban] grapeshot»*[104].

In the end, why did it matter that the French took a great leap forward (in 1789-1790) but fumbled the follow-on sorting of equal political rights while the British muddled their way to the same goal through the long long 19th c.? Macaulay's *«popular principle»* became reality in the United Kingdom, without a bloody revolution, thanks to the Hohenzollern dynasty's bloodthirsty appetite for world war[105]. This makes Edmund Burke right; he cautioned against extending the franchise. That is, until British foreign policy required millions of citizen-soldiers to serve in one of Britain's many continental wars. At that point, British hostility to joining the French *«gang of usurpers, who reign ... over the face of this our miserable world»*

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[100] According to the National Archives website, noted above: *«There was a fear in government that unless there was some reform there might be a revolution instead. They looked to the July 1830 revolution in France, which overthrew King Charles X and replaced him with the more moderate King Louis-Philippe who agreed to a constitutional monarchy».*

[101] E. Burke, *op. cit.*, pp. 18, 19, 20, 21. Burke paraphrases Macaulay's expression *«an original right in the people to chuse their governors»*: C. Macaulay, *op. cit.,* p. 6.

[102] E. Burke, *op. cit.*, p. 293.

[103] A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Oxford, Oxford University Press, 1976; R.H. Campbell, A.S. Skinner and W.B. Todd, eds.; the 'Glasgow' edn., p. 163.

[104] See https://library.brown.edu/cds/napoleon/napoleon1.html.

[105] C. Macaulay, *op. cit.*, p. 22.

disappeared[106]. The UK and France liberated Europe from German domination … for about two decades.

[106] E. Burke, *op. cit.*, p. 16.