Constitutionalism in Burke’s *Reflections* as Critique of the Enlightenment Ideas of Originative Political Consent and the Social Compact

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*Burke’s Reflections on the Revolution in France* is an anti-Enlightenment tract. His treatment therein of the British constitution (and constitutionalism in general) is set in critical opposition to the Enlightenment philosophical principles that animated the French Revolution. However, he often employs the very terms of Enlightenment political theory in framing his criticisms of Enlightenment principles. The solution to this interpretive problem is that Burke purposefully employed Enlightenment terminology in the *Reflections* precisely to signal his specific intention to criticize the key Enlightenment notion of political consent and to transform the Enlightenment theory of social compact into a theory of constitutionalism, understood as the generational transmission of prescriptive political institutions. Proof comes through a reading of the *Reflections* limited by the parameters of the problem of interpretation, which in turn indicates some general aspects of a Burkean theory of the political and social order.

The logic leading to the problem that this essay addresses is simple. Edmund Burke’s *Reflections on the Revolution in France* is a scathing criticism of the French Revolution. The animating principles of the Revolution derive from the political theories of Enlightenment thinkers. Therefore, Burke’s *Reflections* is a scathing criticism of such Enlightenment theory. Often in the *Reflections*, however, Burke employs the very terminology of Enlightenment politics in framing his criticism. Therefore, the *Reflections* presents an interesting problem of interpretation epitomized in the question, What does Burke mean when he uses terms like “compact of society” and “original compact of state?” which evoke thoughts of such Enlightenment political thinkers as Locke and Rousseau. We refer to this difficulty as an interpretative problem because, as will become clear, the text of the *Reflections* itself suggests the solution.

To describe Burke’s aims in the *Reflections* is, of course, not as simple as the above syllogism suggests. Interpretation is complicated by at least three factors: the enigma of Burke (the man and the thinker), the character and style of the *Reflections*, and its nature as an occasional piece of
writing. Even so, the Reflections certainly presents (intentionally, as our argument will show) the interpretative problem described. In addressing this problem we do three things. We examine the enigma of Burke and the character of the Reflections to set up and justify the parameters of a method, namely, an internal analysis of the text of the Reflections itself for what Burke means by constitution. We then examine the most flagrant occurrence of the interpretative problem to show that Burke’s use of Enlightenment terminology signals his intention to criticize Enlightenment political theory. Finally, we piece together from the Reflections Burke’s doctrine of constitutionalism. Burke’s understanding of constitution turns out to be at once a critique of the Enlightenment theory of originative political consent and a transformation of the Enlightenment idea of the social compact.

While our reading of the Reflections is specific to its purpose, it nevertheless reveals some wider features of a general Burkean view of the social and political order. These can be catalogued under the headings: political pragmatism, traditionalism, and what might be described as a divine eidos of the political order. These points are collected against the specifics of the paper to set them in the context of a more general view of Burke’s political thought.

**BURKE AND THE REFLECTIONS**

That Burke has been an enigma for interpreters is beyond dispute. His writings, for example, have at one time or another been invoked in support of liberalism and conservatism, of political utilitarianism and theories of natural law. The Reflections itself has contributed to the difficulty of taking the measure of Burke. It has been adduced as evidence for an array of contradictory assessments. He is, according to various contrasting readings, a Whig conservative, an insincere political opportunist, a traditionalist with aristocratic sympathies, a veiled revolutionary. He has a well-developed and consistent political philosophy; he is “deliberately unsystematic.” He holds a theory of natural law in the Thomistic tradition; “he had a strong contempt for natural law and was a conservative utilitarian.” His knowledge of the historical causes of the French Revolution was insightful and prophetic; his knowledge of this history was limited by contemporary proximity to the events. And so on.

The Reflections in its own right as text has also presented something of a puzzle. Burke himself notes that “having thrown down his first thoughts in the form of a letter . . . he found it difficult to change” and was sensible that “a different plan . . . might [have been] more favorable to a commodious division and distribution of his matter.” It is, as are most of Burke’s writings, an occasional piece written for a particular persuasive end.
**Reflections** was a reaction to events in France and to how they were being received by certain parties in England,\(^\text{15}\) for example, dissenting unitarians like Richard Price and some members of Burke’s own Whig party, such as Charles James Fox.\(^\text{16}\) It is, therefore, often difficult to distinguish therein Burke’s more permanent thought from that which was required for the exigencies of his occasional purpose.

Some scholars have attempted to solve the enigma of Burke and the interpretative problem of the *Reflections* by recourse to the history of ideas, but this approach contributes to the array of contradictory assessments one finds in studies on Burke. Under this method, Burke is sometimes placed squarely in the tradition of British empiricism;\(^\text{17}\) at other times he is aligned more closely with classical and medieval thinking but is said to have used the language of current philosophy to advance the persuasion of contemporary audiences.\(^\text{18}\) Moreover, Burke’s relation to Enlightenment theories of political contract is still a matter of lively contention among scholars, with the *Reflections* regarded as one stage in the development of his views.\(^\text{19}\)

Although the *Reflections* is indeed an important piece of evidence for an historical reconstruction of Burke, it is also a coherent whole shaped by reasoned argument on clear and identifiable themes. While the piece is certainly rhetorically diverse—sometimes sober, sometimes hyperbolic—its most prevalent style is what one scholar called the *Whig manner*, defined as “rational, perspicacious, business-like” and said to be “the prevailing tone of the greater part of the *Reflections*.\(^\text{20}\) Further, it is sufficiently plain from the work’s full title, *Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to That Event*, that one of Burke’s major concerns was the treatment of the Revolution by certain English political thinkers. In particular, he was deeply and negatively affected by the implications of a sermon preached to the Revolution Society by the dissenting clergyman Dr. Richard Price. In language sympathetic to the animating philosophy of the French Revolution, Price argued that the English revolution of 1688 was informed by a similar philosophy, namely, that all legitimate government derives from the consent of the people. To Burke this was an incorrect history of events and, more significantly, an invidious betrayal of the deepest principles of the English constitution. “His doctrines,” says Burke, “affect our constitution in its vital parts.”\(^\text{21}\) A great part of Burke’s business in the *Reflections* therefore is devoted to a rebuttal of Price and, through this rebuttal, to a critique of the animating philosophy of the French Revolution.

Judging by the endurance of its influence, we indulge the hypothesis that the *Reflections* is a great book. The generation of interpretative prob-
lems is a characteristic of great books, because it is difficult, perhaps im-
possible, to articulate complex notions without raising at the same time
a set of equally difficult related questions. Such problems are especially
striking when, as in the *Reflections*, an author employs to his own ends the
special terminology of his particular opponents. Thus, when Burke speaks
of the “pact of society” and the “original compact of the state” in descri-
b
ing the English Constitution, he creates an interpretative problem of this
very sort because he undeniably invokes by association the “original con-
tact” of Locke and the “social compact” of Rousseau, and the general
range of Enlightenment thought associated with these writers. However,
the integral coherence of a great book justifies the expectation that such
interpretative problems will find their resolution in the very integrity of the
text itself. Since the *Reflections* presents a reasoned, coherent argument
integrated by a defense of British constitutionalism against the animating
principles of the French Revolution, we are prompted (and justified) to
look, in the first instance at least, to the text itself for a solution to such
difficulties. The specific project of this essay, then, is to seek a solution to
the interpretative problem in the development of the idea of constitutional-
ism in the *Reflections*. Since it is peculiar to Burke’s particular genius
that thought and word cannot readily be separated, our argument is sup-
ported by frequent incorporation of Burke’s own words into the text of the
narrative.

One other assumption will serve as a limiting principle of the analy-
sis. The *Reflections* is in general anti-Enlightenment. Diderot said, in a
rallying call of the French Enlightenment, “all things must be examined,
debated, investigated, without exception. . . . We must ride roughshod
over all these ancient puerilities, overturn the barriers that reason never
erected.” Burke in the *Reflections* embraces, for himself and the English
people, a diametrically opposite sentiment: “You see, Sir, that in this en-
lightened age I am bold enough to confess, that we are generally men of
untaught feelings; that instead of casting away all our old prejudices, we
cherish them to a very considerable degree . . . we cherish them because
they are prejudices.” While *Reflections*, therefore, under this general at-
titude, is hostile to the spirit of the Enlightenment, it does not follow that
all of Burke’s positions on politics contravene the doctrines of particular
Enlightenment theorists. For example, in Locke, one of the fundamental
benefits of the political compact is that “*Civil Government* is the proper
Remedy for the Inconveniences of the State of Nature, which must cer-
tainly be Great, where Men may be Judges in their own Case.” Burke in
some measure accepts this point and says: “One of the first motives to civil
society, and which becomes one of its fundamental rules, is, *that no man*
should be judge in his own cause.” We do not intend, therefore, a comparison between Burke and any particular Enlightenment writer, which might indeed on certain points show Burke to be more “Enlightened” than Locke or Rousseau and Locke or Rousseau to be more “Burkean” than is commonly thought. Nevertheless, Burke’s notion of constitutionalism is, in general, at odds with Enlightenment contract theory as interpreted by the protagonists and precipitators of the French Revolution, who recognized the “natural rights of the individual” in their “full force and abstraction . . . as the only legitimate basis of government. Under this limitation Burke’s constitutionalism is a critique of the Enlightenment notion of originative consent and a transformation of the Enlightenment doctrine of social compact.

THE INTERPRETATIVE PROBLEM

The interpretative problem manifests itself pointedly at the very beginning of Burke’s long rebuttal of Price. Price brought the Enlightenment principle of consent to the foreground of the battle. He argued that in the Glorious Revolution the English people had won for the first time in their political history the right to frame their own government by consent. On this principle Price held that George III “[was] almost the only lawful king in the world, because the only one who [owed] his crown to the choice of his people.” For Burke “this doctrine . . . [was] either nonsense, and therefore neither true nor false, or a most unfounded, dangerous, illegal, and unconstitutional position.” Price’s doctrine of consent was in Burke’s view a fundamental misunderstanding of the foundation and operative history of the English constitutional order. Surprisingly, then, in confronting Price on the meaning of the Glorious Revolution, Burke made a specific and astonishing concession to the principle of consent:

It is true that, aided with the powers derived from force and opportunity, the nation was at that time, in some sense, free to take what course it pleased for filling the throne; but only free to do so upon the same grounds on which they might have wholly abolished their monarchy, and every other part of their constitution.

With the same stroke of his pen, however, Burke also rejected this interpretation, contending that the operation of the constitution precluded this consensual transformation, and he supported his contention in language that invoked fundamental Enlightenment concepts. He argued that neither the people, nor the House of Commons, nor the House of Lords, nor the King himself had the moral competence to dissolve any part of the constitution, because “the engagement and pact of society, which generally goes
by the name of the constitution, forbids such invasion and surrender” and that the institution of the crown was a matter of law “emanating from the common agreement and original compact of the state.” Hence arises a critical form of the interpretative problem: a principal Enlightenment doctrine rejected through Enlightenment terminology.

The very context of the concession, however, and the mode of its rejection indicate the path of solution, namely, that Burke intends his exposition of British constitutionalism to be a critique and transformation of Enlightenment political principles. We see this in two points. First, Burke introduces the idea of consent in its most vulnerable context. Enlightenment political writers were aware that the general absence in history of moments of consensual political formation presented a substantial difficulty for the theory of consent. Thus, in the Second Treatise of Government Locke acknowledges as an objection to the theory “that there are no instances to be found in History of a company of men . . . that met together and in this way began and set up a government.” And Rousseau in his Social Contract waived aside the objections of history by fiat: “I assume that men reach a point where obstacles to their preservation in a state of nature proves greater than the strength each man has to preserve himself in that state.”

Thus Burke identifies a precise moment in history, namely, the deposition of James II, where the great Enlightenment principle of originative consent might have in some sense been historically vindicated but where, far from being vindicated, it was in fact supplanted by constitutional operation. By emphasizing this contrast, Burke with purposeful rhetorical force reveals that it was his precise intention to expound constitutionalism as a political principle independent of consent, originative or otherwise. Second, by identifying constitution with the social and originative compact in the very context where constitution supplants consent, he disassociates these ideas from their Enlightenment foundation and instead unites them to the constitutional principles operative in the resolution of the Glorious Revolution. It is therefore also his intention to expound these notions on a basis different from the version championed by Price and the enlightened architects of the French Revolution. Indeed, a reading of the Reflections will show that Burke’s notion of constitutionalism is incompatible with the theory of originative consent and that the British constitution is a social compact in a very different sense from that of Enlightenment theory.
Constitution and Consent

Burke rejects the principle of originative consent on both historical and philosophic grounds. Historically, consent does not explain the outcome of the Glorious Revolution nor the origin or the current status of any existing political institution. Rather it obscures vital constitutional causes. Philosophically, it is theoretical nonsense, and politically false. Consent and constitution are for him incompatible principles precisely insofar as the one is a philosophic abstraction, the other an historically operative principle of politics.

As a matter of historical fact, consent does not explain the outcome of the Glorious Revolution. In the passage quoted above, Burke acknowledged that during this constitutional crisis, the English people were in some sense free to abolish their constitution. He therefore implies that they were also in some sense free to form by their own consent a new political order. But he rejects this interpretation of the events as incorrect history. For Burke, the ancient constitution persisted through the chaos of the revolution, and the government acted through constitutional norms to resolve the crisis. For him, it is a “gross error of fact” to hold with Price and company that after the Glorious Revolution the present king “owe[d] his crown to the choice of his people.” The crisis did require a deviation from the strict constitutional order of inheritance in the next line of succession to the crown, but the deviation was itself of constitutional order, implemented by constitutional action for the sake of the constitution itself. Thus “the change was confined to the peccant part only . . . to be effected without decomposition of the whole civil and political mass, for purpose of originating a new civil order out of the first elements of society.” In accord with the most inveterate desires of the English people, the government acted “by the ancient organized states in the shape of their old organization, and not by the organic molecules of a disbanded people.” For Burke, therefore, constitutional principles prevailed throughout the crisis of the Revolution of 1688 to the complete exclusion of any principle of a new originating political consent. Thus, to dwell on consent is to lose site of the real political potency of the constitutional principles in effect during the crisis.

Beyond grossly failing to explain the outcome of the Glorious Revolution, the theory of consent is impotent to account for any political institution in reach of historical analysis. Thus with dismissive irony Burke remarks:
At some time or other, to be sure, all the beginners of dynasties were chosen by those who called them to govern. There is ground enough for the opinion that all the kingdoms of Europe were, at a remote period, elective, with more or fewer limitations in the objects of choice; but whatever kings might have been here or elsewhere, a thousand years ago, or in whatever manner the ruling dynasties of England or France may have begun, the King of Great Britain is at this day a king by a fixed rule of succession, according to the laws of his country, while the legal conditions of the compact of sovereignty are performed by him (as they are performed) he holds his crown in contempt of the choice of the Revolution Society.

Burke means that history cannot reach these remote periods. To explain by originative consent an event 1000 years old involves “equivocations and slippery constructions” and is “to say no more than that some . . . [given] king’s predecessors have been called to the throne by some sort of choice.” Thus, by a miserable subterfuge, [the theorists of originative consent] hope to render their proposition safe, by rendering it nugatory. It is the principle of constitution, not that of consent, which explains the current status of any government. Thus, in particular, “the King of Great Britain is at this day a king by a fixed rule of succession, according to the laws of his country,” that is, “by a fundamental principle of British constitutional policy.” In contrast, consent, unlike constitution, is an “abstract principle” which cannot account either for the past or the current history of political institutions.

As an abstract principle, consent is also, for Burke, a kind of philosophic “nonsense,” and, therefore, “neither true nor false.” But his censure goes deeper: speculative philosophy is one thing, but political philosophy another. The philosophical abstraction of consent becomes dangerously false as a principle of politics. As an abstraction it is part of that “maze of sophistry” by which men like Price and the architects of the French Revolution “entangle” sound political thinking. “The pretended rights of these theorists are all extremes; and in proportion as they are metaphysically true, they are morally and politically false.” This is one the most prevalent points in the Reflections’ criticism of the French Revolution and, indeed, in all of Burke’s work. As an “abstract principle” the theory of consent is innocuous enough, but when it acquires the status of historical and political truth it threatens the security of all governments, for application of the principle would turn not only “the king of Great Britain, who most certainly does not owe his high office to any form of popular elec-
Critique of Enlightenment Ideas in Burke’s *Reflections*

In his *Reflections*, Burke names his conception of constitution. He calls it “an engagement and pact of society” and “the common agreement and original compact of state.” These names, of course, implicate the interpretative problem, but the meanings that they acquire from an examination of Burke’s remarks in the *Reflections* transform the Enlightenment notions that the names suggest. In the first instance, for example, Burke cannot mean that the constitution as pact of society and original compact of state is a creature of consent. That is, the *Reflections* cannot be interpreted to espouse a contract theory of constitution based on some form of mutual consent, because it would be rank contradiction to condemn consent as Burke does, only to turn around and hold that constitution is a consensual contract. With this as a first negative conclusion about Burke’s meaning of constitution, we turn to the text of the *Reflections* for two characteristics of constitution that flesh out the Burkean sense of these names.

First, the constitutional compact is a fundamental, permanent principle of deliberation and action in the state. When Burke noted that the English people decided to preserve rather than abolish their constitution in 1688, he said: “They . . . subject[ed] occasional will to permanent reason, and to the steady maxims of faith, justice, and fixed fundamental policy.” Therefore constitutional permanence is for Burke a function of the stability of reason and justice, and accordingly constitution represents a fixed and fundamental point of reference amidst the more volatile fluctuation of competing will within active political society.

Second, the constitutional compact is a limiting principle, intelligible and binding upon political actors, not by a contractual, but by a moral obligation. Burke says that the “limits of a moral competence” constrained the actions of Parliament during the events of 1688, and that such limitations “are perfectly intelligible, and perfectly binding upon those who exercise any authority, under any name, or under any title, in the state.” Thus, under the terms of the pact of society, “the house of lords, for instance, is not morally competent to dissolve the house of commons.” Competence in its positive sense refers to an act defined and legitimated by conformity to
a set of identifiable principles, so that a constitutional competence is an act in conformity with the constitutional order itself, that is, with the permanent and fundamental terms of the pact of society. Constitutional competence is to be distinguished from power, both from what Burke calls abstract supreme power, which operates at the fringe of constitutional order, and power operating within the constitutional order itself. Supreme power is an abstraction, an unpredictable potency standing outside the constitutional order and is therefore not subject to political analysis. Within the constitutional order, however, constitutional competence imposes moral regulation on the ordinary operation of power. So Burke says, when the “engagement and pact of society,” [i.e., when constitutional competencies], are “flouted,” then “competence and power . . . [are] confounded, and no law [will] be left but the will of prevailing force.” Therefore, for Burke, constitution creates moral competencies that act as limiting principles on government.

So far, then, constitution as the pact of society and the original compact of state is a fundamental and permanent, non-contractual principle of political action defining competencies that are morally binding on all political actors within the particular order established by the constitutional pact itself. Further examination of the Reflections shows, in addition, that both the content of the compact and the source of the moral obligation are functions of the cumulation of human experiences over long periods of time. Indeed, in what amounts virtually to the thematic statement of the Reflections, Burke says: “The science of constructing a commonwealth, or renovating it, or reforming it, is . . . not to be taught a priori. Nor is it a short experience that can instruct us in that practical science; because the real effects of moral causes are not always immediate.”

**Constitutional Content**

For Burke the constitutional compact at any given time is the present instantiation of a long process of transmission from one generation to the next of essential social and political structures. Burke explains this notion as it pertains to one specific constitutional policy, namely, hereditary succession, as follows:

You will observe that from Magna Charta to the Declaration of Rights, it has been the uniform policy of our constitution to claim and assert our liberties, as an entailed inheritance derived to us from our forefathers, and to be transmitted to our posterity; as an estate specially belonging to the people of this kingdom
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without any reference whatever to any other more general or prior right.64

This principle of transmission obtains not only as a means of conservation but also as a means of renovation and reform. Thus, “the idea of inheritance is a sure principle of conservation, and a sure principle of transmission; without excluding a principle of improvement,”65 for “a state without the means of some change is without the means of conservation.”66 “All the reformations we have hitherto made, have proceeded upon the principle of reference to antiquity.” It is this very aspect of the British constitution which Burke saw in full effect during the crisis of 1688: “The two principles of conservation and correction operated strongly at the . . . critical period[,] . . . of the Revolution.”68 The constitutional compact, therefore, consists of the multifarious institutions of state, which from the perspective of origin are inveterate, which from the perspective of the present are “an unbroken unity”69 with the past, and which from the perspective of reform are a whole made up of both “the part left standing” and the part “altered or superadded,” the entirety reflecting “the principle of reference to antiquity.”70

The legal counterpart of the principle of generational transmission is the principle of prescription. Prescription refers to the recognition of the permanent status of present institutions derived from long and uninterrupted use.71 Thus, the transmission of constitutional institutions from generation to generation is a form of prescription. The architects of the French Revolution rejected this principle and thereby provoked some of Burke’s most pointed criticism. “With the national assembly of France,” he writes, “possession is nothing; law and usage are nothing. I see the national assembly openly reprobate the doctrine of prescription which one of the greatest of their own lawyers [Domat] tells us, with great truth, is part of the law of nature.”72 The spirit of the French Revolution, namely, “to act as if . . . [France] had never been moulded into civil society, and had every thing to begin anew,”73 was wholly incompatible with the spirit of prescription. Burke’s censure is therefore severe. The French have considered their country “as nothing but a carte blanch, upon which [to] . . . scribble whatever [they] please[d],”74 destroying the “old scheme of things, [simply] because it . . . [was] old.”75 For Burke, therefore, the French Revolution was, in the worst sense of the term, a “philosophic revolution,”76 “committing the [public good] to untried speculations” and “loose theories,”77 with not even “one of the great influencing prejudices of mankind in its favor.”78 To the contrary, for him, the constitutional compact is forged by the long use of prescription and sanctioned by a natural salutary prejudice.
Burke’s attachment to antiquity in the principles of generational transmission and prescription is not a matter of sentiment but a consequence of a particular anthropology. He sees at work in English constitutionalism a “powerful prepossession toward antiquity, with which all [the] lawyers and legislators, and all the people [of England] . . . have always been filled,” and which generates change “by a slow but well-sustained progress.” This prepossession is an essential principle of prescriptive politics, because individual intellect, no matter how potent, is unable without the benefit of long experience to comprehend the irreducible complexity of social-political reality. Thus, for him, “the science of government . . . requires . . . more experience than any person can gain in his whole life, however sagacious and observing he may be,” and he is “afraid to put men to live and trade each on his own private stock of reason; because . . . this stock is small, and individuals would do better to avail themselves of the general bank and capital . . . of [the] ages.”

All of this, therefore—generational transmission, prescription, and the anthropology of collective wisdom—comprise Burke’s view of the content, permanency, and pliancy of the constitutional compact. Indeed, he says:

By a constitutional policy working after the pattern of nature, we receive, we hold, we transmit our government . . . in the same manner in which we enjoy and transmit our property. . . . The institutions of policy . . . are handed down, to us and from us, in the same course and order. . . . By adhering in this manner and on those principles to our forefathers, we are guided not by the superstition of antiquarians, but by the spirit of philosophic analogy.

In contrast is the animating spirit of the architects of the French Revolution. “They have,” as Burke says, “‘the rights of men.’ Against these there can be no prescription; against these no agreement is binding. . . . Against these their rights of men . . . no government . . . [is] secur[e] in the length of their continuance.” They look to the political metaphysics of individuals rather than to the continuum of human experience to form and shape the content of their constitution. And its permanence is no greater than the present consent of the people, because constitution for them “is a singular species of compact between . . . [the people] and their magistrates . . . [which] the majesty of the people has the right to dissolve . . . without any reason, but its will.” For Burke, therefore, the pact of society that generally goes by the name of constitution is a permanent work of the experience of generations, which stands in diametric opposition to the principles
of consent advocated by Price and to the principles of innovation implemented by the protagonists of the French Revolution.

**Constitution as Moral Authority**

To understand how the constitutional compact is a source of moral obligation, we turn to one of the more famous (and one of the most rhetorically elaborate) passages in the *Reflections*, where Burke speaks of the great primeval contract of eternal society. This contract fixes the moral limitations of all societal action. Burke identifies the constitutional compact as a subordinate species of this great primeval contract so that constitution sets the same sort of moral limitations for its own citizens as the eternal contract does for society at large.

Burke says, “Society is indeed a contract.”

It is a partnership, but not one engaging mere “temporary interests,” the “occasional” terms of which are subject to easy dissolution. Rather it is “a partnership in all science . . . in all art . . . in every virtue, and in all perfection,” the “ends” of which are forged over generations—“not only between those who are living, but between those who are living, those who are dead, and those who are to be born”—so that the societal partnership or contract tends toward permanence. Because of this generational duration, Burke associates the particular societal contract with the eternal nature of the primeval contract of society: “Each contract of each particular state is but a clause in this 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.” The permanent generational dimension of the particular societal contract bears a kinship to the eternal nature of the primeval contract, and just as the eternal contract establishes the fixity of moral nature, so the particular societal contract sets the moral parameters for societal interaction. Therefore, no individual is morally competent to subvert the generational terms of his particular societal contract. Again, the individual contract—the constitutional compact, being a clause in the eternal contract—sets the same inviolable moral limitations on its own political actors as the eternal contract does on members of general human society. Thus we recall that “the house of lords . . . is not morally competent to dissolve the house of commons [because] . . . the engagement and pact of society, which generally goes by the name of the constitution, forbids such an invasion.” In context of the eternal contract, Burke makes the same point in broader terms: “The municipal corporations of that universal kingdom are not morally at liberty at their pleasure, and on speculations of a contingent improvement, wholly
to separate and tear asunder the bands of their subordinate community, and to dissolve it into an unsocial, uncivil, unconnected chaos of elementary principles.”

Therefore, just like the eternal contract, the constitutional compact creates a set of moral parameters that limit but also define the various competencies of political actors within the given constitutional order.

Even the parts of the constitutional compact that are for Burke, in the strictest sense, conventional, are subsumed within the larger moral competencies set by prescription. “Government,” he says, “is not made in virtue of natural right.” And, therefore, “the moment you abate anything from the full [natural] rights of men . . . from that moment the whole organization becomes a consideration of convenience.” Hence, there is within the prescriptive order a set of tasks that are, as matters of “convenience,” indifferent both to natural right and to the particular form of prescriptive institutions. However, “this [consideration of convenience,] [m]akes the constitution of a state . . . a matter of the most delicate and complicated skill,” a skill, “which requires a deep knowledge of human nature and human necessities” and which requires a moral, not a metaphysical genius aimed at understanding “true moral denominations.” Constitution in this sense sets the civil advantages of citizens by a rule of law and therefore “all the advantages for which it is made become his right.” Precisely for this reason, namely, to preserve the orderly administration of civic advantages, “the constituent parts of the state are obliged to hold their public faith with each other, and with all those who derive any serious interest under their engagements.” Thus, just as the boundaries between the House of Commons and the House of Lords are set by a moral limitation, so are the boundaries between the institutional actors and their citizens.

For Burke, the French Revolution represented a breach of the moral obligations set by the constitutional order. The framers of the Revolution, in servile imitation of their patron Rousseau, turned to “new and unlooked for strokes in politics and morals.” Their “literary men . . . and politicians, and . . . the whole clan of the enlightened” rejected the proposition that “prejudice renders a man’s virtue his habit” and believed instead “that there needs [be] no principle of attachment, except a sense of present conveniency, to any constitution of the state.” They, Burke avers, think it among their rights to cut off the entail . . . [to] commit waste on the inheritance, by destroying at their pleasure the whole original fabric of society; hazarding to leave to those who come after them, a ruin instead of an habitation . . . By this unprincipled facility of changing the state as often, and as much, and in as many ways as there are floating fancies or fashions, the
whole chain and continuity of the commonwealth, [i.e., the municipal corporation in the universal kingdom], would be broken. No one generation could link with the other.”

In short, “the commonwealth itself would, in a few generations, crumble away, be disconnected into the dust and powder of [so-called enlightened] individuality.” Thus the “barbarous” and “mechanic philosophy” of the French Revolution “rendered the habit of society dangerously valetudinary,” by “destroying the ancient opinions and rules of life.” The result, for Burke, is an unmitigated disaster in the moral order established by the great contract of society and the particular constitutional order. Thus “when kings are hurl’d from their thrones . . . and become the objects of insult to the base, and of pity to the good, we behold such disasters in the moral, as we should behold a miracle in the physical order of things.”

For him, in contrast, the “ruling principles” of constitutional change should reflect “a politic caution, a guarded circumspection, a moral rather than a complexional timidity,” an adherence, that is, to the moral limitations set by the constitutional compact which by long and tested experience “render[s] man’s [societal and political] virtues his habit.” Far then from being contractual in its nature and origin, the constitutional compact in the Reflections is part of the general moral order of things, which encompasses the social-political life of man.

CONCLUSION

From the sophisticated philosophizing of Locke and Rousseau to the popularization of Paine and the religious preaching of Price, consent is the first principle of Enlightenment political philosophy. Burke in the Reflections rejects the principle in all its forms. As philosophic abstraction it is metaphysical sophistry. As history it explains no real existing political or societal organization. As a principle of reformation it created the moral horror of the French Revolution. Moreover, consent for the Enlightenment is always consent to a compact so that political obligation for Enlightenment theorists is in its ultimate nature contractual. Burke’s rejection of consent entails the rejection of contract and the transformation of “the pact of society,” into “constitution,” a set of fundamental and permanent political and moral principles of both conservation and change, which arise from generational prescription. Thus, as one scholar has said, Burke’s “idea of the social contract is a very special one;” indeed it entails a fundamental transformation of the core Enlightenment notions advocated by Price and of the principles of innovation implemented by the protagonists of the French Revolution.
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IN THE REFLECTIONS

It is not surprising that the “philosophy” of one who spent his life addressing the various political problems of his nation, each with its own infinitude of particular details, should evade universal and consistent characterization. For just this reason we presented herein a specific problem raised by a specific work and sought the solution within that work alone. Nevertheless, even such a directed analysis identifies notions that tend to a wider philosophic characterization of Burkean social and political thought. Three such notions are conveniently catalogued under the headings: the divine eidos of the political order, traditionalism, and practical politics, each of which usefully contributes to an attempt to synthesize some of the more general tendencies of Burkean thought on politics.

For Burke, in the Reflections, the moral content of constitution as “an engagement and pact of society” derives from a hierarchical structure wherein the particular constitutional compact is a temporal and subordinate part of the “great primaeval contract of eternal society.” The eternal nature of this contract and its establishment of a moral fixity in the temporal and changing order of politics insinuates a kind of divine causality. While Burke in the Reflections is not wholly explicit about the divine origin of the eternal contract, the inference finds support in things he says elsewhere. For example, in his Speech in the Impeachment of Warren Hastings, he says: “We are all born in subjection—all born equally, high and low, governors and governed, in subjection to one great, immutable, pre-existent law . . . by which we are knit and connected in the eternal frame of the universe out of which we cannot stir.” Again, in his Tract on the Popery Law, when arguing for limitations on positive legislative enactments, he says: “it is not in the power of any community, or of the whole race of man, to alter, I mean the will of Him who gave us our nature, and in giving impressed invariable law upon it.” Such statements (putting aside for the moment the references to a natural law) have supported the inference that for Burke “there is a creative, transcendent being who has created an ‘eternal frame of the universe.’” Statements like those of the Hastings speech and the tract on the Popery Law lend credibility to the similar inference that Burke sees the great primeval contract as a divine paradigm defining both the shape and the limitations of the constitutional compacts of the temporal political order. The moral limitations of the constitutional order, then, may be seen as a function of the transcendent divine paradigm impressed upon political life by an eternal order emanating from the transcendent eternal being who created both.
For Burke, in the *Reflections*, the temporal implementation of the pri-
meval contract consisted in the generational transmission of constitutional
institutions. In addition to generational transmission, Burke speaks in the
*Reflections* of the transmissions of liberties as entailed inheritances from
political forefathers and of a politically operative prepossession toward
antiquity which function not only as mechanisms of conservation but also
as mechanisms of gradual necessary change. Burke set this brand of tradi-
tionalism in stark opposition to the radical innovating spirit of the French
Revolution, which subjected all the old “puerilities” to the eradicating scal-
pel of the new “Enlightened” reason. It is possible to understand Burke’s
traditionalism as a kind of temporally conditioned permanence (including
the temporally necessary possibility of gradual change) that reflects the
more perfect permanence of the divine order. Thus Burke’s traditionalism
in the *Reflections* expresses something much greater than an irrational ad-
herence or an unexamined attachment to old precedent as a causal force in
political matters. It achieves, in the operation of generational transmission,
a participation in the more permanent order emanating from the work of
the supreme, transcendent creator of eternal society.

For Burke, in the *Reflections*, prescription was the legal counterpart of
the generational transmission of constitutional institutions. Burke’s state-
ments in the *Hastings* speech and the tract on the *Popery Laws* indicate
clearly that he embraces some form of natural law theory that is tied to
the transcendent order emanating from the supreme creator of the uni-
verse. One finds many similar statements concerning natural law through-
out Burke’s writings.121 Although Burke says no more in the *Reflections*,
it is reasonable to suggest that prescription has the force of natural law
because it is an acknowledgment that political and social stability are con-
sonant with the divine paradigm of order in the universe. Prescription is
not something wholly absolute but rather a strong presupposition that the
disruption of long, well-functioning political structure is inconsistent with
the order of nature, which is a reflection of permanence of the eternal so-
ciety emanating from the will of the supreme lawgiver.122

Burke acknowledged in the *Reflections* that there are things within
the paradigmatic constitutional order that are essentially and necessarily
contingent, indifferent to natural rights and the particular form of prescrip-
tive institutions. He argued that political operation over such contingen-
cies was in large part a moral matter requiring a deep knowledge of the
human condition and the application of a pragmatic politics of prudential
judgment. Thus, for Burke, constitutional compact embodied, in part, a
moral content and functioned through moral criteria implicated by the in-
finite human details over which pragmatic judgment operates. There is no
contradiction for him in espousing a contingent part of a more essentially permanent constitutional order. One sees this point in his treatment of human rights, his “real rights of men”\(^1\) as set against the abstract “rights”\(^2\) of the French Revolutionists. Whatever human rights were for Burke, they confounded their purpose, if they operated to destroy the divinely paradigmatic and legally prescriptive order of political stability.\(^3\) The moment such rights “‘blended with the happiness and misery’” of the real world, [their] exercise becomes a matter of prudence.”\(^4\) While Burke may ascribe the permanency of prescriptive political institutions to the ordered stability of the supreme creator, he also ascribes the infinitude of human circumstances within those institutions to another divine activity, the divine Providence of the “mysterious Governor of the world[.]”\(^5\) which subjects men “to act the part which belongs to the place assigned to [them] in the world.”\(^6\) Therefore, even within the permanency of the prescriptive order, securing the real rights of men requires the calculus of a moral, pragmatic, and prudential politics. Within the institutions sanctioned by prescriptive longevity, Providence disposed man to govern the particulars with “the most delicate and complicated skill” and “a deep knowledge of human nature and human necessities . . . which are to be pursued by the mechanisms of civil institutions.”\(^7\) Therefore, “the rights of men in governments” are often to be secured through “a pragmatic political reasoning, a computing principle,” which requires “compromises sometimes between good and evil, and [even] sometimes, between evil and evil.”\(^8\) Thus for Burke the permanence of the constitutional order includes, as part of the very order itself, the necessity for the application of a pragmatic politics.

These points constitute one possible characterization of a Burkean political philosophy indicated by our specific argument that Burke’s *Reflections* transforms the Enlightenment notion of social compact. Possibility it must remain, because the occasional nature of the *Reflections* (and the greater part of Burke’s writings) stands in the way of an integral and universal characterization of a Burkean theory of politics.

Notes

1. *Eidos* is the word for the ideal or divine Forms in Platonic philosophy; see, e.g., *Pl. Phd.* 91e.


4. O’Brien, introduction to Reflections, 11: “Burke provides, in Reflections and elsewhere, some of the best examples of that aristocratic critique of the bourgeoisie, to which the Communist Manifesto allows a provisional and sardonic welcome.”


9. Peter J. Stanlis, Edmund Burke and the Natural Law (Ann Arbor: University of Michigan Press, 1965), 29: “From at least 1857–1861, when [Henry T.] Buckle’s The History of Civilization in England appeared, until the present, it has been the almost universal conviction of utilitarian and positivist scholars and critics that Burke had a strong contempt for the Natural Law, and that the ultimate basis of his political philosophy was to be found in a conservative utilitarianism.” Among other passages, these critics appeal to those in the Reflections denigrating metaphysics.


11. Ibid., 70.


14. David Cameron, The Social Thought of Rousseau and Burke (Toronto: University of Toronto Press, 1973), 9: “His writings were most frequently drafted in response to and in the atmosphere of some pressing contemporary issue, and they were undoubtedly placed before the public in the expectation that they would influence general opinion.”
15. Charles Parkin, The Moral Basis of Burke’s Political Thought (Cambridge: Cambridge University Press, 1956), 9: “His French writings, although all *oeuvres de circonstance*, inspired by immediate events and designed for specific purposes, rise at the height of the argument to a level of philosophic reflection on political life.”


22. Ibid., 105.


28. Burke, *Reflections*, 150 (emphasis in original). Similarly, Rousseau is clear that through the social contract man loses his natural liberty but gains civil liberties (*Social Compact*, 65), and again Burke agrees with the fundamental point: “Government is not made in virtue of natural rights, which may and do exist in total independence of it” (*Reflections*, 150).

29. See, for example, Cameron, The Social Thought of Rousseau and Burke, whose purpose is to explore points of similarity in the thought of Burke and Rousseau.

30. Parkin, The Moral Basis of Burke’s Political Thought, 9: “It was the concept of individual natural rights which became the preponderant aspect of Contract theory . . . which formed the basis of a new theory of political revolution. Natural right implied an ultimate limitation to the authority of community and government . . . In the new radical interpretation of Contract theory . . . the natural rights of the individual, those inalienable rights inherent in him simply by virtue of his human nature, were envisaged in a much more immediate and unqualified relation to his place in civil society. The recognition of them in their full force and abstraction was indeed proclaimed to be the only legitimate basis for government. The codifications and formulations of the ‘Rights of Man’ which were produced in France . . . claimed the assurance to the individual within civil society of his rights *qua* man, his equality and liberty.”


32. Ibid., 97.

33. Ibid., 104.

34. Ibid., 105.
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38. Ibid., 102.
39. Ibid., 106.
40. Ibid., 183
41. Ibid., 106.
42. Ibid., 98.
43. Ibid.
44. Ibid.
45. Ibid.
46. Ibid., 106.
47. Ibid., 97.
48. Ibid. For an interesting gloss on Burke’s meaning, see David Hume, *Treatise of Human Nature* (Amherst: Prometheus Books, 1992), 493: “Philosophers may, if they please, extend their reasoning to the suppos’d state of nature; provided that they allow it to be a mere philosophical fiction, which never had, and never cou’d have any reality.”
50. Ibid., 105.
51. Ibid., 153.
53. Burke, *Reflections*, 97
54. Ibid.
55. Ibid., 105.
56. Ibid.
57. Ibid., 104.
58. Ibid.
59. Ibid., 104–05.
62. Ibid., 105.
63. Ibid., 152.
64. Ibid., 119 (emphasis in the original).
65. Ibid., 120.
66. Ibid., 106.
67. Ibid., 117.
68. Ibid., 106.
69. Ibid., 109.
70. Ibid., 375.
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71. See *OED*, s.v., prescription, II, 4, b (1523 Fitzhern, *Surv.* 6: “This is commen appurtenaunte by prescription, bycause of use out of tyme of mynde”).
73. Ibid., 112.
74. Ibid., 266.
75. Ibid., 184.
76. Ibid., 237.
77. Ibid., 277.
78. Ibid., 275.
79. Ibid., 117.
80. Ibid., 281.
81. Ibid., 152–53.
82. Ibid., 152.
83. Ibid., 183.
84. Ibid., 120.
85. Ibid., 148–49.
86. Ibid., 184.
87. Ibid., 194.
88. Ibid.
89. Ibid.
90. Ibid.
91. Ibid.
92. Ibid., 194–95.
93. Ibid., 195.
94. Ibid.
95. Ibid., 153.
96. Ibid., 104–05.
97. Ibid., 194.
98. For all quotations to this point in the paragraph see ibid., 375.
99. Ibid., 153.
100. Ibid.
101. Ibid., 105.
102. Ibid., 284.
103. Ibid., 183.
104. Ibid., 184.
105. Ibid., 192–93.
106. Ibid., 194.
107. Ibid., 172.
108. Ibid., 154.
109. Ibid., 172.
110. Ibid., 175.
111. Ibid., 375.
112. Ibid., 183.
114. See, e.g., Locke, *Second Treatise*, §120.
117. Ibid., 195.
121. For such statements and their sources, see ibid., 40.
122. Cf. ibid., 49: “It is not the sheer weight of time . . . that hallows . . . institutions. While there is a Burkean presumption in favor of . . . constitutions that have endured for a long . . . time, Burke wishes to place this presumption in the text of a larger normative horizon (i.e. whether these . . . constitutions have actually benefited a country).”
124. Ibid., 148.
125. For Burke only the most egregious circumstances can justify such disruption: “Governments must be abused and deranged indeed before it [revolution] can be thought of; and the prospect of the future must be as bad as the experience of the past.” *Reflections*, 116.
128. Edmund Burke, “Appeal from the New Whigs to the Old,” in *Selected Writings and Speeches*, 647.
130. Ibid., 153.