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Reply to my Critics

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Reply to My Critics

ANDREW SABL

I salute the careful attention these three distinguished scholars have given *Hume's Politics*, and I am flattered by their compliments. That these scholars from different disciplines all value my work speaks well of their broad-mindedness. It also illustrates my hopes for the book, which (as noted in more than one of these contributions) avowedly aims to build bridges among different social sciences, as well as between empirical social science and normative political theory. The three scholars' criticisms are also sharp and important, though I believe they can be met. This response will, unavoidably, restate theses and arguments that appear in the book. But it shall also aim to re-cast some of those theses and arguments in a new forms, in some cases more intuitive than those in the book, less technical and detailed. As a result these remarks may, I hope, interest both those who have read *Hume's Politics* and those who have not.

Mark Spencer's comments, leaving aside his excellent and welcome summary, focus squarely on one crucial question: whether Magna Charta can be for Hume—as I argue at length that it is—a “fundamental convention” that, along with constitutional monarchy, defines the English polity, permanently establishing both political authority and the limits to that authority. The question is crucial because I regard the existence of such conventions to be a crucial lesson we can and should take from Hume. Without conventions that limit authority, politics would rest solely on force or a dangerously variable short-term opinion. And Hume's political thought would not embody—as I believe it does—a fundamental alternative to Kantian liberalism, a systematic account of how not just authority but also liberty,

diversity, social progress, and political equality may rest on conventions rather than requiring (or being fully capable of) rational justification.

Against Spencer's claim that Hume's identification of Magna Charta as fundamental is always ironic, I am afraid I must insist—without being able to repeat all the evidence from the book—that Hume's identification of the Charter as fundamental is repeated and conclusive.¹ This is so even taking into account, as I work assiduously to do, the ever-present possibility of irony and the perhaps even greater challenge posed by Hume's penchant for placing alternative viewpoints in different actors' mouths, with Hume's own view often attributed to so-called "men of sense." Spencer's confident claim that a key passage is "dripping with irony" begs the question, in my view. Parliament's hope that repeated reassertion of the Charter's limits on governmental authority could over time firmly establish those limits, so as to restrain both the monarch and Parliament itself, is absurd only if one rejects the possibility that Magna Charta could come to limit parliamentary supremacy—but for Hume, it could, and did.² Of Magna Charta and an allied charter concerning public forestry rights, Hume writes: "Though often violated, they were still claimed by the nobility and people; and as no precedents were supposed valid, that infringed them, they rather acquired, than lost authority, from the frequent attempts, made against them in several ages, by regal and arbitrary power" (H 2:7).³

Spencer is completely right to portray Hume as a constant critic of the *ancient* constitution, of appeals to both its perfection and its normative validity. He is also completely right to stress that appeals to Magna Charta were, on Hume's account, often political and strategic, deliberately distorting and changing its ancient meaning. As Spencer's own work shows, many in Hume's own time took such criticism to mean that Hume had written against constitutionalism as such.⁴ But on my view, Hume has a fundamentally different, and non-ancient, conception of what counts as fundamental or properly constitutional.⁵ Magna Charta, like all fundamental conventions of authority, *became* fundamental over time as the product of repeated political experience. Its validity was established through recurrent appeals to its principles. Different actors in English history invoked the Great Charter against their powerful adversaries because its principles were flexible enough to be useful in a variety of historical circumstances, while always representing limits, ever clearer and more solid, on what would otherwise have been arbitrary authority. In a happy accident of strategy and history, the Charter's provisions were just broad enough that actors throughout society (and despite shifts in the structure of society) could find advantage in rallying to defend them. As a result, Magna Charta's became the kind of convention that could serve everyone in society and whose validity was therefore acknowledged by everyone. Hume's call to "cherish [our] present constitution" precisely reinforces, rather than undercutting, an attachment to those

elements of the constitution current in Hume's day that were most fundamental because they had been constantly reinforced and developed.

We might usefully compare constitutions to the structures ("fabrics") of buildings, as so many did in Hume's time. The most beloved, most admired, and most permanent buildings in any society are almost never the oldest buildings—which are small, crude, and have very low ceilings—but rather those striking and revered enough that successive generations, and a wide range of powerful social groups, thought them worthy of continued renovation, making use of new materials and the latest building techniques. We revere St. Paul's not because seventeenth-century architecture was typically superior to our own but, on the contrary, because St. Paul's is *not* typical. It was so superior to most buildings of its time that its fabric has come to be regarded as a fundamental achievement and one worth preserving, even if it goes momentarily out of fashion.

I cannot help seeing in Spencer's comments, as well as in the work of John Stewart (whom he cites), a "Canadian school" bias. On this reading, interpretive charity requires that we not read Hume as a constitutionalist, because constitutionalism is assumed to be old-fashioned, an enemy of political progress. Against this, I regard Hume as a proto-American in his view of how constitutions develop. His *History* shows how durable constitutional principles come to have permanent authority precisely because they are flexible enough to be adapted and improved.

Ryu Susato's acute observations raise many questions. I shall leave the question of pseudo-conventions to my discussion of Willem Lemmens's remarks. And I am afraid I shall mostly pass on the question of Public Credit, on principle. Political economy is a classic example of what, I argue in the book, is the kind of progressive, data-driven social science with respect to which Hume's own pioneering but speculative efforts were bound to be vastly outdone by later efforts, building on centuries of systematic analysis and political experience, and on vastly better data.⁶ Susato astutely notes that Hume traces the origins of public credit to a repeated series of constitutional abuses or exceptions. That point is well taken, and given my focus on conventions of authority, I might have made more of it. Aside from this point, however, the best accounts of the causes and consequences of public debt in today's societies are surely to be found in contemporary economics and political science, not in Hume.⁷ And to the extent that Hume's reflections on public credit led him to lament the possibility of the wrong sort of people (speculators) gaining political power, his conservative philosophical sociology seems to me to have drawn, in ways not necessarily to be praised or copied, on his prejudices or ideology, not his systematic science or philosophy.⁸

Susato's remaining points require a fuller response. First he asks, in effect, whether conventions of authority work best when their conventional quality is consciously recognized, or whether such recognition is, as I often claim it to be, optional. (I must protest, however, that *Hume's Politics* never draws a distinction

between the “wise” and the “vulgar”: it neither states nor implies an esoteric doctrine.) The question is admittedly complex. One sort of answer, not present in *Hume’s Politics*, might draw on the familiar analogy between conventions of authority and language.

Consider three ways in which one can know a language. Those who speak a language most perfectly are those who grew up habituated to it. Linguists attribute grammatical rules to a language, but native speakers need not know those rules. In fact, to the extent that native speakers do know them, they can only speak with native fluency when not thinking about them. Using a language more professionally, in formal writing, indeed requires proficient use-knowledge of standard rules, with respect to grammar, style, and diction. But the writer need not have academic or expert knowledge of why those rules *are* standard, how they developed, whether or how other languages or so-called dialects do things differently. Finally, a scholar seeking systematic knowledge of how languages in general work must develop these last kinds of knowledge, and perhaps a theory of language as such. Such expert knowledge will tend to undercut naïve or mystical notions of language, for example those present in Heidegger and bits of Plato, under which deep knowledge of a particular language (and that alone) provides insights into the nature of the cosmos. But while scholarly knowledge undermines ideological or mystical notions *about* language,⁹ it has no particular impact on either everyday speech or good writing. (Remarkably, it is not even infallibly true that academic experts on language write well themselves.)

Knowledge regarding conventions of authority works much the same way. Ordinary people need not understand conventions of authority in order to live by them. The conventions operate automatically and unconsciously as so-called “enabling restraints” that rule out certain clashes among citizens so that we may consciously pursue other things. It is not that knowledge of the conventions is secret; it just is not useful, much less necessary. Political practitioners, statesmen if one will, need a working knowledge of conventions of authority since they must deftly navigate in difficult cases—and those who successfully lead countries through crises steer us through *very* difficult cases. But they need not have an overall theory of where authority in general comes from. For even high-level political practice, attachment to one’s own accustomed institutions is normally sufficient—though curiosity regarding what experts think is permissible, not systematically harmful, and occasionally useful. Finally, experts on conventions of political authority derive from their expertise a sense of those conventions’ relativity; this can undercut certain kinds of chauvinism and ancestor-worship. But this expertise does not particularly threaten the attachment to their particular institutions displayed by citizens or statesmen. On the contrary, Humean expertise regarding the origins of authority is likely to yield the conclusion that we should allow for naïve, “civic” attachment, and indeed go along with projects of promoting

it. For in politics, as with language, few people will acquire the same proficiency in a strange language of authority, learned in school, that they have in their native idiom, learned through constant habit rather than by rule.

Regarding spontaneous order, Susato accurately portrays me as distinguishing Hume's politics from Hayek's economics. But I submit I have good reasons for doing so. Susato is quite right to portray Hayek, as well as Ferguson and other Scottish Enlightenment thinkers, as describing politics as akin to economics in being the product of spontaneous social forces rather than representing the outcome of intentional actions. But *contra* Hayek, I think this, in fact, fairly sharply *distinguishes* Hume from other so-called Scottish Enlightenment thinkers (the term is of course a later invention) and renders him superior to them.¹⁰ To the admiration of those in his age who called him the English Tacitus, and the frustration of later scholars who wished he had been exclusively a modern, causal social scientist or scientific historian, Hume's work gives due credit both to unchosen, impersonal circumstances and to the importance of prudent and deliberate choice by individuals. Hume pays extensive and careful attention to both the "great mixture of accident" and the "small ingredient of wisdom and foresight" that drive history—and, in particular, to the dynamic interplay between them.¹¹ That is, Hume appreciates the sometimes momentous consequences of decisions by powerful individuals at particularly crucial times; their choices can shunt conventions onto one track rather than another, or derail them altogether. Nor is it any accident that Hume's *History* is primarily—and again, in contrast to many so-called "philosophical" histories—a political and constitutional history. Hume took stable political authority to have conceptual and temporal primacy. Without it, other realms of society could not properly develop.

Finally, Susato, like Lemmens, accuses me of optimism. As someone whom no less than Judith Shklar once called a "true pessimist," I am tempted to take offense. But I admit to finding in Hume's political writings, including the *History*, some chastened hope. One motivation for the book, indeed for much of my work as a political theorist, has been my deep sense of admiration and gratitude, as the son of a refugee, for Anglo-American constitutional conventions. During a twentieth century consumed by totalitarian nightmares, those conventions bent but did not break. I do not think anything in Hume's theory gives reason to doubt the *History's* central story of conventions that grow, if anything, stronger and better over time (notwithstanding Hume's undoubted personal pessimism in his late letters, a sentiment which was never particularly well grounded and was utterly falsified by events).¹² While Susato portrays the close of book two of the *History* as containing a "cyclical" view of civilization, I beg to differ. It contains a story of the decline of the rule of law, and a resulting decline in civilization, after the Roman republic, and of the revival of law and civilization after the early middle ages. But Hume's systematic work nowhere predicts another decline in the rule

of law. In fact, in his essays, Hume calls the rule of law a “hardy plant,” so clearly useful that it is likely to be constantly rediscovered and borrowed. And he provides excellent reasons to think the progress of the arts and sciences will, in the long run, cement law’s status ever more securely regardless of changes—partly cosmetic, partly substantive—in political forms.¹³

I turn finally to Willem Lemmens’s remarks, which are far too searching and subtle to do full justice to (in addition to containing another summary, with different emphases from Spencer’s but constituting a fine supplement to that; I particularly value the observation that Hume’s political theory involves an “inversion of political theology,” a set of anti-myths). He makes three main points: one regarding method, one regarding religion, and one regarding authority.

As said in the book, I regard most questions of method as unfortunate distractions from discussions of substance. No method has a unique ability to discover truths about the world, and no specialized jargon a unique ability to describe them. Briefly, however: while I do think a very soft form of rational choice political science, which I take to be one among many methods that Hume’s *History* employs, provides a critical supplement to ordinary, interpretive *Verstehen* history (as well as to Baier-style moral psychology, rich and fascinating as it is) when motives are hidden or circumstances involving collective action sever the link between actors’ goals and likely outcomes, I do not think that rational choice and interpretive explanations are fundamentally opposed. Nor do I take the very soft and qualitative form of rational choice theory that is the only form I endorse—with Thomas Schelling, I refuse to assimilate coordination theory to “game theory”—to have the scientific and deterministic aspirations that Lemmens attributes to it.

Regarding Lemmens’s specific example of General Monck, I would note a small misreading with large implications. *Hume’s Politics* never claims that Monck himself had no clear goal in mind. It claims only that he took great lengths, for strategic reasons, to conceal that goal—Restoration—from everyone else. I do not and would not claim that coordination theory sheds particular light on Monck’s own motivations or on the source of his own noble reluctance to grab power for himself. Something else, call it empathetic history or moral psychology, must explain those (though to my mind, Hume does not adduce sufficient historical evidence to effectively do so himself).¹⁴

What coordination theory can help explain, however, is the outcome of the relevant *political action*. The shape of that action—as with all political actions and choices, which are in this respect different in kind from most events in private life—depended not primarily on Monck’s personal goals, but on how many people (and when, and how) he could persuade to follow him in pursuit of those goals. This is where coordination theory can help illuminate for us what at the time was probably an act of intuitive genius. Through what I call naked bandwagoning, made possible by his keeping his professed goals indefinite and secret, Monck

rallied to his side much greater numbers, with much less opposition, than would have dared declare for his actual goal, given the Protectorate's ability to detect and punish severely any open attempt at Restoration.

Of course political action and political authority rest, as Lemmens writes, on "tricks of the passions and imagination." (On what else, for a Humean, could they rest?) But surely a full account of human passions and imagination includes the passion to bring about political outcomes and the imagination that plots strategies conducive to doing so. If the marshaling and manipulation of passion and imagination were not subject to patterns and general lessons, we could hardly write intelligible books of history or politics at all. Fortunately, it is precisely on this level of analysis, the level of individual decision in unstable contexts (science (2) as I awkwardly call it, in distinction from science (1), which treats broad social trends and causes), that Hume's political theory actually yields its greatest and most permanent insights.

Both Lemmens and Susato fault me for describing religion in Hume as a pseudo-convention.¹⁵ They point out religion's continuing social force and political importance, which of course Hume himself fully recognized. But in calling religion a pseudo-convention, I was making a claim not about its empirical importance, but about its ultimate basis or permanent worth. Real conventions, as Hume describes them, arise from an interest in doing as others do for the sake of some actual, permanent, human good. Authority, property and justice, and promise-keeping all serve such goods. Religion, for Hume, does not. And the reason is, bluntly put, that those who collectively define modes of prayer and moral actions with a view to pleasing God and reaching Heaven are aiming at things that, in Hume's view, *do not exist*: the personal, Christian God on the one hand, and Heaven on the other. Their efforts are irrational in one of the technical, *Treatise* senses: they rest on belief in nonexistent things.¹⁶ Collective worship therefore rests only on opinion, in a self-fulfilling but unstable way. While it may make sense for me to practice—or pretend to practice—the same religion others do, for the sake of social peace and my own advantage, it only makes sense to do so *because* others do. If everyone else stopped praying, there would be no reason, on Hume's view, for me to continue doing so.

While Hume does say, or seems to say, that the "proper office" of religion is to improve morals, he adduces plenty of reasons in the *Natural History of Religion*, the *Dialogues*, and elsewhere, to doubt—for deep and systematic reasons—that religion on a mass scale will commonly, or perhaps ever, fulfill this office. Nor does Lemmens's fully accurate account of Hume's respect for religious management, including the pragmatic promotion of moderate and ceremonial forms of religion as an antidote (Lemmens's word) to more dangerous kinds, undermine this basic story. That people in Hume's time inoculated people with a controlled

bit of smallpox to prevent the more deadly, epidemic form was not an argument for smallpox.

To be sure, and despite the book's passing observation that aggressive secularism or laicism might be theoretically consistent with Humeanism at a very high level of generality, I do not believe either that Hume endorsed aggressive secularism or laicism as a government policy or, in my own voice, that doing so would be a good thing. On the contrary, Hume, on my view, puts forth a complex but insistent account of why *toleration* of all religions has become established by experience as clearly the best policy.¹⁷

Finally, Lemmens maintains that in discussing authority as the product of instrumental reasoning, I neglect the role of reverence or awe for established government. The question—which again goes to one of Susato's points as well—is whether insisting on an account of government as conventional, constituted by citizen opinion and nothing else, rules out regarding it as meriting our civic reverence and profound attachment. There is no reason it should, given that *Humean* “reverence” in no way requires irrationalism. On the contrary. For each of us to revere the constitution we live under is a matter of civic virtue, if one will, but also a matter of good sense. We have reason to cultivate our own and others' attachment to any deeply established constitution that is adequately good at serving human needs, on the grounds that it would be impossible to establish a deep and universal attachment to the authority of any other constitution.¹⁸ A science that demonstrates why having *some* fundamental conventions of authority is good for instrumental reasons does not rule out reverence for particular conventions but on the contrary confirms the need for such reverence. For Humean theory teaches conventions' indeterminate character:¹⁹ while it demonstrates the need for some fundamental conventions of authority, it cannot, and knows it cannot, uniquely ground any particular ones. Only historical experience does that. One of Hume's lessons is that to demand a rational justification of particular set of conventions that serves adequately well is itself, demonstrably, irrational. Such demands will, if widely adopted, prevent us from attaining the ends we seek. And accepting an existing, adequate set of conventions of authority is particularly crucial because authority is the ultimate appeal. If we disagree over property or contract, authority can settle the question; if we disagree over fundamental questions of authority, only violence can.

The father of a friend of mine once noted, in his native small-town Mississippi accent, “It's no wonder that so many cultures worship the sun. The damn thing works pretty well!” I think our stance towards our established constitutions should be quite similar: reverential precisely because those constitutions do such palpable, crucial work.

NOTES

1 See Sabl, *Hume's Politics*, 142–48 and supporting notes. To shrink the evidence there: An especially clear statement occurs in Hume's *History of England*, 3:123 (henceforth cited as "H" followed by volume and page number), where Hume says that for centuries the Charter has been "regarded as the basis of English government, and the sure rule by which the authority of every custom was to be tried and canvassed" ("regarded" might seem ambiguous, but on a convention-based view of authority, what people regard as authoritative is, thereby, authoritative). Of France's Salic law, the only example in the *Treatise* of a law Hume calls "fundamental," Hume says something very similar: it "acquired equal authority with the most express and positive law" by being "old and established opinion," "supported by ancient precedent" and by many reaffirmations made "unanimously" and "without dispute or controversy," "confirmed by recent instances, solemnly and deliberately decided" (H 2:196–98).

2 "If the maxims of Edward's reign had not been in general somewhat arbitrary, and if the Great Charter had not been frequently violated, the parliament would never have applied for these frequent confirmations, which could add no force to a deed regularly observed, and which could serve to no other purpose, than to *prevent the contrary precedents from turning into a rule, and acquiring authority* (H 2:274; emphasis added). "It is computed, that above thirty confirmations of the charter were at different times required of several kings, and granted by them, in full parliament; a precaution, which, while it discovers [i.e. reveals] some ignorance of the true nature of law and government, proves a laudable jealousy of national privileges in the people, and an extreme anxiety, lest contrary precedents should ever be pleaded as an authority for infringing them" (H 2:122–23). "The jurisdiction of the Star-chamber, martial law, imprisonment by warrants from the privy-council, and other practices of a like nature, though established for several centuries, were scarcely ever allowed by the English to be *parts of their constitution*: The affection of the nation for liberty still *prevailed over all precedent*, and even all political reasoning" (H 2:123, emphases added). I suppose that one could take these wry remarks about "reasoning" to mean that Hume thinks all these opinions "allowed by the English" to be absurd (as indeed they might seem according to a logic of parliamentary supremacy, though again that begs the question). I would, however, draw the opposite conclusion: Hume is stressing his usual claim that morality and politics are the creatures not of reasoning, but of opinion and habit.

3 Around the same place Hume writes that Magna Charta and the forestry charter "were, during many generations, the peculiar favourites of the English nation, and esteemed the most sacred rampart to national liberty and independence. As they secured the rights of all orders of men, they were anxiously defended by all, and became the basis, in a manner, of the English monarchy, and a kind of original contract, which both limited the authority of the king, and ensured the conditional allegiance of his subjects" (H 2:6–7).

4 See Spencer, *David Hume*, esp. 143, 258. Spencer's own reading of the "established practice of the age" passage is essentially that of John Adams, who lamented that Hume had poisoned people's minds against his own constitutionalism. I claim, in contrast, that an *established* practice is one in accord with fundamental conventions. It corresponds neither to prevailing practice nor to the "ancient constitution," but rather to

something that is more durable and prescriptive than the former, and far more perfect, as well as better established through long experience, than the latter.

5 As Lemmens notes in his comments, Hume, on my view, thinks the proper foundations of a thing have little or no connection to its origin.

6 See Sabl, *Hume's Politics*, 12, citing passages from the first *Enquiry* and the essays.

7 Particularly well-cited and promising, with excellent citations of their own, seem the following: Battaglini, "The Political Economy of Public Debt"; Grilli et al., "Institutions and Policies"; Alesina and Tabellini, "Positive and Normative Theories of Public Debt"; Alesina and Perotti, "The Political Economy of Budget Deficits."

8 Here I employ the distinction made by David Miller, *Philosophy and Ideology in Hume's Political Thought*.

9 The most obvious forms of such ideologies are conservative or reactionary, amounting to a kind of linguistic nativism. But expert knowledge of a language also undercuts half-baked radicalism. Crackpot proposals for root-and-branch "reform" of a language's grammar and spelling, or for the creation of new languages *ex nihilo*, almost always come not from expert linguists but from confident and ignorant amateurs. Again analogies to politics may be drawn.

10 Works on the Scottish Enlightenment that (not unreasonably) trace similarities among people like Kames, Ferguson, Stewart and to some extent Smith, almost always adduce Hume as an exception to whatever regularities they note. Hume put forth no four-stage theory of development, and his "science of man" was much more contingent and less law-like in aspirations than that of these other thinkers. Conversely, works on Hume that seek to assimilate him to this larger tradition often are embarrassed for textual evidence at crucial points: they assume that he must have thought something similar to what these other Scots thought, but cannot prove it.

11 In his valediction to the *History*, Hume claims to have learned that constitutional development rests on a "great mixture of accident" and a "small ingredient of wisdom and foresight" (H 2:525). But he can properly be called a modern Tacitus, and not just an amateur social scientist, because he gave due respect to the latter, to the foresight of certain great individuals and the crucial, path-determining consequences of their choices.

12 Even countries that once had no settled fundamental conventions, such as Germany and Japan, have now had the requisite several generations of experience necessary, perhaps, to settle them tolerably well. Certainly no one in either country fears a coup, or a restoration of absolute monarchy, when once those were very live options.

13 See Hume, "Of the Rise and Progress of the Arts and Sciences."

14 H 6:247, note g.

15 Religion may also be a *negative* convention in the specialized sense used in the book, that is, something that binds together limited groups of people but inhibits the growth of more enlarged structures that transcend such groups. Whether something is a pseudo-convention depends on its object; whether it is a negative convention depends on its likely scope.

16 “According to this principle, which is so obvious and natural, ’tis only in two senses, that any affection can be call’d unreasonable. First, When a passion, such as hope or fear, grief or joy, despair or security, is founded on the supposition of the existence of objects, which really do not exist” (Hume, *Treatise* 2.3.3.6, SBN 416). References to the *Treatise* are to Hume, *A Treatise of Human Nature*, ed. Norton and Norton, cited by Book, part, section, and paragraph number, and to Hume, *A Treatise of Human Nature*, ed. Selby-Bigge, rev. by Nidditch, cited as “SBN” followed by the page number. To be sure, as the sociology of religion and liberal theology developed after Hume’s time, they articulated reasons for religion—having to do with moral fellowship and social solidarity—that do not rest directly on belief in God and Heaven. But these reasons themselves seem a bit question-begging and empirically self-undermining. The self-trickery by which people try to believe in the body of those who worship God, or in the value of the idea of God, without particularly believing in God, seems to be unstable; forthrightly liberal denominations tend to lose their congregants in droves.

17 See Sabl, “The Last Artificial Virtue.”

18 This does not rule out, in fact it recommends, constant attempts to improve our existing constitutions and the politics that take place under them.

19 On this, see Russell Hardin’s fascinating *Indeterminacy and Society*.

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