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H-France Review Vol. 19 (June 2019), No. 92

Tanguy Pasquier-Briand, *La réception de la Constitution anglaise au XIXe siècle. Une étude du droit politique français*. Varenne: Institut Universitaire Varenne, 2017. xv + 958pp. Notes, bibliography, index, abstract, and table of contents. 45€ (pb). ISBN 978-2-37032-144-2.

Review by Michael Drolet, Worcester College, University of Oxford

At a time when Europe, and the United Kingdom's relation to it, has caused the United Kingdom's political settlement and constitutional order to be tested as never before and found wanting, there is a certain irony in reviewing a book which takes as its topic Europeans--particularly the French, who from the late eighteenth-century were troubled by the extreme instability of revolutions and coups d'état--turning to the English Constitution as a model for political stability. Tanguy Pasquier-Briand's *La réception de la Constitution anglaise au XIXe siècle* does not fail to note this irony. This book represents the definitive study of how eighteenth- and nineteenth-century French thinkers idealised and instrumentalised--or as Pasquier-Briand prefers to describe it "modeled" (*modéler*)--the English constitution in order to achieve the kinds of political and institutional reforms that they believed could moderate France's agitated and divided political culture and achieve conditions of political and social stability. This awareness of irony is partly why this book is both so enlightening about the past, and profoundly instructive about the present.

One does not have to read very far into *La réception de la Constitution anglaise* to see why the thesis out of which this book emerged was awarded the *Prix spécial du jury du Prix de thèse* by the Assemblée nationale, and the *Prix de thèse* of the Université de Paris. A careful and sustained reading of this book will reward the reader handsomely. It is a superb study: methodologically rigorous, detailed, comprehensive, subtle, and profound. It is a sophisticated historical study, informed by sociological and cultural theories, and a detailed knowledge of and active engagement with the abundant secondary literature on eighteenth- and nineteenth-century political thought. It reveals just how rich, sophisticated, and contested nineteenth-century French political thought was. Pasquier-Briand achieves this textured and splendid representation by examining how French thinkers used and abused the English constitution in order to advance their own ideas on how French political culture might be moderated and stabilised. The extent to which Pasquier-Briand is attuned to the subtleties of French nineteenth-century ideological representations of the English constitution is one of this book's great strengths.

What is fascinating about this book is how Pasquier-Briand shows the different ways in which the English constitution was idealised, and the different ideological functions those

idealizations served. He presents the reader with a detailed forensic examination that is captivating. Authors are meticulously analysed in this process of “*modélisation*”, and the various roles these “models” played is described meticulously. This stylised model of the English constitution would do a great deal of ideological work and political heavy lifting. Pasquier-Briand contextualises nineteenth-century uses of the English constitution by offering a detailed analysis of how, in the eighteenth-century, it was discovered as a way of contesting monarchical power. Though his analysis here goes over well-trodden terrain, he establishes what he describes as a “genealogy of the liberal representation of the English constitution” (p.40) that enables him to bring together eighteenth- and nineteenth-century uses of the English constitution. Their point of union is how the English constitution was seen as providing a check on the concentration of sovereign power in a single body—the crown under monarchy and the people under democracy—and establishing harmonious relations between the classes.

The checking of monarchical power was the principal preoccupation of eighteenth-century French thinkers. The experience of the English civil war and so-called “Glorious Revolution” was not lost on the Huguenot Paul de Rapin-Thoyras (1661-1725). Rapin-Thoyras, forced by the revocation of the Edict de Nantes to flee France, enlisted with French volunteers in the Netherlands and accompanied William of Orange to England in 1688. His 1717 *Dissertation sur l'origine du gouvernement d'Angleterre* and his monumental thirteen-volume *Histoire d'Angleterre*, published between 1724–1727, presented a progressive, Whig history of English liberty that—in stressing how religious toleration marked wider considerations of freedom of conscience and association—would mark the more famous account of the English constitution by Montesquieu in *De l'esprit des lois* (1748). Rapin-Thoyras established a narrative that presented the English constitution as the outgrowth of a national temperament and religious sensibility, both shaped by geography and the kind of inwardness that came of the United Kingdom's island status. The product of this alchemy was a parochialism that, with the retrospective reading of the Enlightenment, served, ironically, the cause of liberty. Rapin-Thoyras's view of the English constitution was, as Pasquier-Briand observed, fundamentally organic: the constitution developing out of centuries of contestation, negotiation, and, critically, compromise. But as Pasquier-Briand notes it was far from clear whether Rapin-Thoyras's understanding of the English constitution arose out of a series of *a priori* assumptions, largely religious, or whether it emerged out of an historical reading of the constitution itself; though how that reading would itself be free of *a priori* assumptions Pasquier-Briand never makes clear. What is clear is that Rapin-Thoyras fashioned an “organic” reading of the English constitution in which “une société déterminée par une disposition à la liberté réalise de manière inédite la fusion du roi et du peuple par des institutions qui se partagent harmonieusement l'exercice du pouvoir” (p. 63).

This singularly influential narrative would have repercussions for Montesquieu's more famous account of political liberty and its relation to the English constitution in bk. XI ch. 6 of *De l'esprit des lois*. Pasquier-Briand highlights how Montesquieu created an image of the English constitution which enabled him to attack the over-reaching, and near despotic, powers of the French monarchy. By painting an idealised model of the English constitution, which was the “spontaneous outcome of a political culture” and a judicious delimitation of executive, legislative and judicial power, the English “established through their laws” the conditions that allowed them to enjoy political liberty (p. 53). It was this combination of culture and institutional architecture that established the altogether deeper conditions of political liberty. Montesquieu stressed this when, in ch.4 of bk. XI, he noted “la liberté politique ne se trouve

que dans les gouvernements modérées.” His depiction of the English constitution served the deeper purpose of establishing, in Pasquier-Briand’s words, “a philosophy of political moderation” (p. 53). But this philosophy and the architectonic structure on which it was founded were highly ideological, and this neither escaped Rousseau’s attention nor his criticism. For as he observed in Book III chapter 15 of *Du Contrat Social*, neither political liberty nor moderation could arise from what was clearly an aristocratic depiction of the English constitution. Instead of the English enjoying liberty and moderation, Rousseau observed that the brief instant when they exercised their freedom, during elections, they squandered it and “warranted” being “enslaved”. Rousseau saw the established view of the English constitution for what it was: an ideological construction that assigned sovereignty to the aristocracy, and, as a consequence restricted the scope of the national interest, or common good, to the interest of the nobility. Montesquieu himself made this clear when, again in book XI ch.6, he noted that “tous les citoyens, dans les divers districts, doivent avoir droit de donner leur voix pour choisir le représentant; *excepté ceux qui sont dans un tel état de bassesse, qui’ils sont réputés n’avoir point de volonté propre*” [emphasis added]. This restricted conception of citizenship became directly linked to what would become in the nineteenth-century the hotly contested concept of “capacity”. Montesquieu acknowledged the importance of capacity when he opined that the citizen “ne doit entrer dans le gouvernement que pour choisir ses représentants, ce qui est très à sa portée. Car, s’il y a peu de gens qui connoissent le degré précis de la capacité des hommes, chacun est pourtant capable de savoir, en général, si celui qu’il choisit est plus éclairé que la plupart des autres.” The link Montesquieu established between intellect and the capacity to govern, and their fusion to political moderation and the ability to compromise—central features of his account of the English constitution—would, along with Rapin-Thoyras’s organic characterisation of the constitution, open the way to the civilizational accounts that would come to dominate the nineteenth-century reflections of those who saw citizenship as intimately bound up with capacity. This would be particularly true of the “moderate”, or conservative, liberals such as Pierre-Paul Royer-Collard, François Guizot, and Charles Rémusat, known collectively as the *Doctrinaires*, and some socialists such as Henri Saint-Simon—though the Saint-Simonians themselves would chart an altogether different course for the idea of capacity, deriding constitutional politics, or in Michel Chevalier’s words, “la phatasmagorie parlementaire”, and venerating instead the re-engineering of French economy and society by a technocratic elite.[1]

Before that happened, the French Revolution “focused”, in Pasquier-Briand’s words “political considerations on English institutions and the hypothesis on their importation” into France (p. 83). What emerged were contrasting visions of the English constitution. The first and altogether favourable judgement on the English constitution emerged a year before the Revolution in the work of Jean-Louis De Lolme. His famous *La constitution de l’Angleterre* departed from Rapin-Thoyras’s and Montesquieu’s sociological accounts, which had stressed the foundational role played by manners and customs to the English Constitution’s upholding of political and civil liberties, and it stressed instead the role played by institutions—their interlayering and interaction—in upholding freedoms and the culture of moderation that maintained them. This view of constitutional design was endorsed by the *Monarchiens* Pierre-Victor Malouet, Jean-Jacques Mounier Lally-Tolendal, and Jacques Mallet du Pan, who attacked republicans and “la vanité de ce préjugé [de la souveraineté du peuple] par l’expérience et la raison, par l’exemple de l’Angleterre”(p. 69).

Parallel romantic, liberal and conservative views emerged after De Lolme and in the aftermath

of the Revolution. These, Pasquier-Briand summarises in the work of Mme de Staël, Benjamin Constant, Joseph de Maistre, Louis de Bonald, Charles René de Chateaubriand, and most importantly, the *Doctrinaires*. What emerges in these expositions is a characterisation of the English constitution and parliamentary government as epitomising an “incomparable rigour” (p. 286). Chateaubriand’s 1816 *De la monarchie selon la Charte* exemplified this view. It was a without a doubt a “catechism of representative government” (p. 280), according to Pasquier-Briand. Of equal importance was Mme de Staël’s understanding of the English constitution and English history since 1688. These presented an idealised vision of England’s history that characterised it as a constant struggle to defend liberty against the encroachments of absolutist government. This account, informed by Montesquieu and Burke, but especially the latter, narrated a history of England in which the 1688 revolution established the conditions for political and social harmony. Her 1818 *Considerations sur les principaux événements de la Révolution française* represented a “veritable panegyric” (p. 144) of the English constitution, just as a similar veneration for British political culture could be found in her 1813 *De L’Allemagne* where she attributed the British enjoyment of liberty and its moderate political culture to a “moral superiority” that had roots in English empiricism, the Scottish Enlightenment and a moderate Humean scepticism (p. 145). The enduring nature of this assessment was revealed in part III, ch.1, of Tocqueville’s *L’Ancien Régime et la Révolution* with its harsh critique of the *philosophes* and the physiocrats.

Among the most detailed chapters in this book are those analysing the *Doctrinaires*’ instrumentalisations of the English constitution. Pasquier-Briand traces how the *Doctrinaires* subtly altered their representation of the English constitution in response to changing political circumstances. As opponents of Bonaparte committed to restoring the Bourbons to the throne, they stressed royal prerogative, but after the 1820 assassination of the duc de Berry and the ultra-royalist reaction that followed, they became arch-defenders of parliamentary sovereignty. Under Charles X they became fierce defenders of rights, but once the July Monarchy was established, they purged their liberalism of its democratic and popular elements (p.473), and, in the words of Tocqueville, “put to the sword the first principles of civil liberty”. [2]

Pasquier-Briand’s sustained focus on the *Doctrinaires* is fully justified. Of particular interest to him is how they—and Guizot in particular—believed the English constitution was the expression of an altogether deeper, and progressive, historical development of representative institutions. This was the theme of Guizot’s 1821 *The History of Representative Government in Europe*. In drawing on elements from German idealist philosophy, particularly its emphasis on the progressive unfolding of reason and freedom, and Thomas Reid’s Common Sense philosophy, which Royer-Collard and Guizot saw as embodying the kind of morality, natural and social orderliness and political authority that they believed France desperately needed, Guizot gave in his famous 1828 *History of Civilization in Europe* the wider and altogether more powerful narrative of civilizational development to what had been in 1821 merely an interesting history of representative institutions in Europe.

The assuredness Pasquier-Briand shows in analysing the *Doctrinaires*’ instrumentalisation of the English constitution is less on display in the treatment of the more sceptical accounts of the English constitution that emerged in the nineteenth century. It is a pity that Pasquier-Briand shies away from fulfilling the imperative of his proposition that there were competing French visions of English political culture and the English constitution. His account does not take in the large number of nineteenth-century socialist and republican critics of England because

these fall outside of the “liberal” frame of his analysis. But this delimitation is hard to sustain with chapters devoted to conservatives such as Maistre and Bonald (pp. 292-311). Nor does it aid Pasquier-Briand’s task. For in seeing how republicans and socialists attack the English constitutional model, one gains a fuller understanding of liberals’ idealisation of it. These republican and socialist critiques found their initial inspiration in Rousseau. His judgement in *Considérations sur le gouvernement de la Pologne* was that English institutions were neither representative nor propitious in safeguarding basic liberties. They were in fact corrupt. This judgement was repeated by most nineteenth-century republican and socialist critiques. But they also developed an important new dimension to that critique. For many of them, the ideological function the English constitution served in French politics and culture detracted from the more fundamental cause of social and political division and instability. This was the deep economic, social, and political inequalities that marked France and which constitutional theories that elevated ideas such as capacity further entrenched. Among these leading critics was the legal and social theorist Joseph Rey (1779-1855). His 1815 *Des bases d’une constitution ou de la balance des pouvoirs dans un état* and his more famous 1828 *Des institutions judiciaires de l’Angleterre comparées avec celles de la France*, developed a subtle and sophisticated critique of the English constitution. Praised by Jeremy Bentham for its rigour and judiciousness, *Des institutions judiciaires de l’Angleterre* highlighted just how unrepresentative English institutions were, serving, as they did, a corrupt aristocracy.[3] At the heart of Rey’s critique was that profound social inequalities were reproduced in law and the institutions of state, and that this basic injustice could never yield an enduring political stability.[4] A similar critique was articulated in the pages of the widely read *Encyclopédie Nouvelle*, edited by the former Saint-Simonians Pierre Leroux and Jean Reynaud. In the fourth volume of the *Encyclopédie*, Eyre E. Crowe, Paris correspondent for the *Morning Chronicle*, offered a highly critical assessment of the English constitution in his article “Constitution.” He attacked the constitution for being “devoid of rigorous precision and without systematic logic”, and he took aim at its French defenders, particularly the *Doctrinaires* and the relation Guizot established between civilisation and representative institutions, for giving a representation of the English constitution that was, in his words, both “puerile” and “false”. [5]

Though Pasquier-Briand does not quite succeed in giving the fullest account of the nineteenth-century French reception of the English constitution, the analysis he does provide is extraordinary for its richness and depth. *La réception de la Constitution anglaise au XIXe siècle* is a superb and highly instructive work that will without doubt be the benchmark against which all future works on this topic will be judged.

## NOTES

[1] Michel Chevalier, “Aux hommes politiques,” in Michel Chevalier, Charles Duverrier, Stéphane Flach, and Henri Fournel eds., *Religion Saint-Simonienne: Politique industrielle et Système de la Méditerranée*, (Paris: d’Éverat, 1832), p. 83.

[2] Alexis de Tocqueville to Gustave de Beaumont, 4 April 1832, in Alexis de Tocqueville, *Oeuvres complètes*, VIII, i, André Jardin ed., (Paris: Gallimard, 1967), p. 113.

[3] Jeremy Bentham to the Marquis de La Fayette, 11 & 21 May 1827, in Jeremy Bentham, *The Collected Works of Jeremy Bentham: The Correspondence of Jeremy Bentham*, vol.12: July 1824 to

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June 1828, Luke O'Sullivan and Catherine Fuller eds., (Oxford: Oxford University Press, 2006), pp.362-5.

[4] Joseph Rey, *Des institutions judiciaires de l'Angleterre comparées avec celles de la France et de quelques autres états anciens et modernes*, Tome I (Paris: Charles-Béchet, 1828), p.viii.

[5] "Constitution", *Encyclopédie Nouvelle*, IV, Pierre Leroux & Jean Reynaud eds., (Paris: Charles Gosselin, 1843), p.16.

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ISSN 1553-9172