

PREFACE

When discussing the respective spheres of responsibility proper to the Church and to the State, and the limits on the right of the Church to intervene in secular affairs, medieval canon lawyers employed a useful image. For churchmen to intervene in secular matters would be as wrong as the act of a man who “put his sickle in a stranger’s harvest.”¹ Such an act violated a legitimate boundary line and enabled the trespasser to steal from the owner. The phrase came to mind in the course of writing this book. After all, what right does a medieval historian have to write a book on one of the most deeply intellectual of the Founding Fathers? Am I swinging my sickle in the bountiful fields that academic practice assigns to specialists in American colonial history?

This project originated many years ago as a query from my graduate mentor, Brian Tierney, some time after I had completed graduate school where I studied medieval canon law and written a dissertation on the concept of secular power in the medieval canonists. He inquired what I could make of Adams’s *Dissertation on the Canon and Feudal Law*, a collection of essays that Adams published in 1765 against the backdrop of the Stamp Act Controversy and the rumor that the Church of England was going to establish a diocese in North America. At first glance, the

¹Innocent III, Venerabilem (1202) in *The Crisis of Church and State 1050–1300*, ed. Brian Tierney (Englewood Cliffs, NJ: Prentice Hall, 1964; reprinted, University of Toronto Press: Toronto, 1988), 133–134 at 133. The phrase is from Deuteronomy, 23:25.

title is misleading because the articles were not about law, canon or feudal in the literal sense. These laws represented the kinds of pressure involved in the struggle between the North American colonists and the increasing power of the English parliament. It seemed to me that Adams was employing the image of the two laws to compare the situation in the colonies with the Norman Conquest of England in 1066 and the imposition of what came to be labeled the Norman Yoke, feudalism in secular affairs and the canon law of the reformed Catholic Church in religious matters, on Saxon England. This image was widely employed in the seventeenth century by opponents of the Stuarts to describe Stuart government and became a part of the English political vocabulary.²

In the course of reading Adams I discovered that he never used the term Norman Yoke, but it seemed to me that he did not need to use that specific language to make his point. His readers would recognize the image and the association with Norman oppression. As we shall see, the image of the imposition of the yoke contributed to the theme of the history of England since 1066 as the contest between the virtuous Saxon republican tradition and the Norman tradition of oppression. The struggle between the colonists and parliament was only the most recent stage of that conflict.

Could Adams have really believed that the eighteenth-century government of England was ready to suppress the Americans in the way that the Normans suppressed the Saxons? Would the American colonies have been returned to the medieval dark ages unless the colonists had rebelled and continued to develop a republican government? Given the memory of the English Civil War (1642–1649), the numerous historical works available to the English-speaking world that dealt with English constitutional history, and the memory of the English Civil War, how could the Americans not fear a repetition of Norman and Stuart oppression? That being the case, how could they not recognize the two laws as symbols of the Norman Yoke?

Professor Tierney's interest in Adams's writings sprang from an exchange of articles with Prof. Samuel Beer, a distinguished political scientist. Professor Beer had published an article contrasting the political

²Christopher Hill, *Liberty Against the Law* (London: Penguin, 1996), 83–90; also his *Puritanism and Revolution* (London: Secker & Warburg, 1958); John Pocock, *The Ancient Constitution and the Feudal Law* (Cambridge: Cambridge University Press, 1957, 1987), 318–319.

thought of Thomas Aquinas (1225–1274) with that of John Adams (1735–1826) in order to demonstrate the radical difference between medieval political thought and that of the American revolutionaries. Professor Beer argued that when the American revolutionaries chose to create a republic “they turned their backs on one of the main lessons of the Western political tradition,” a belief that authority was vested “in a hierarchy of natural virtue and a hierarchy of divine ordination,” a theory that he argued was central to the thought of Aquinas. He employed “the Thomistic system as a magnifying glass to bring more fully into view the deeper lineaments of the hierarchic idea,” which he argued was the fundamental principle of medieval political thought. In his opinion, “we today will not grasp the radicalism of the American choice in 1776 unless we compare it with the ancient political orthodoxy against which both the English republicans and their American successors took up arms.”³

In Beer’s opinion, for 2000 years virtually all political thinkers “had rejected popular government” because they “did not doubt that the ruler, whether prince or prelate, knew what was good for the ruled and, therefore, had the right, indeed the duty, to direct them toward the good.”⁴ The bulk of the people were not capable of knowing what was best for them.

In contrast to the thought of Thomas Aquinas, Beer pointed to John Adams’s *A Dissertation on the Canon and Feudal Law*. According to Beer, these essays “had gone to the heart of the conflict between Britain and America,” and saw it “as a contest between the idea that the many must look to the few for instruction in and direction toward the common good and the opposing idea that the many can themselves determine the common good and direct the polity toward its realization.”⁵

Professor Beer’s polarized vision of political thought, medieval and modern, Aquinas and Adams, did not go unchallenged. Tierney pointed out that Aquinas was far from being the only medieval thinker who dealt

³Samuel H. Beer, “The Rule of the Wise and the Holy: Hierarchy in the Thomistic System,” *Political Theory* 14 (1986): 391–422 at 391–393. He made a similar argument in “The Rule of the Wise and the Holy: Thomas Aquinas,” Chap. 1 of *To Make a Nation: The Rediscovery of American Federalism* (Cambridge: Harvard University Press, 1993), 31–65.

⁴Beer, “Rule of the Wise and the Holy,” 391.

⁵Beer, 392–393.

with political matters and he was far from being the most important.⁶ He discussed the large amount of work that scholars dealing with medieval political thought had produced since World War II, especially work dealing with theories of political representation that Beer had asserted only arose much later. Tierney pointed out that theories of popular representation had arisen in the later Middle Ages in connection with the conciliar movement that sought to create a constitutional structure for the Christian Church. Furthermore, it was not the theologians and philosophers such as Aquinas who were developing these theories but the canon lawyers who were a dominant force in the organization and administration of the medieval Church.⁷ For these thinkers the concept of representation “implied also an actual bestowal of authority upon the representative by those whom he was to represent, with the corollary that such authority could be withdrawn in case of abuse.” A pope’s power was “a derivative and limited right of government conferred on him by the Church” so that the pope “far from possessing absolute power, responsible to no human tribunal” had limited power and could be removed if he failed in his role.⁸ In Tierney’s opinion, well before the eighteenth century, the concept of representation, one of the most debated issues in the decade preceding the American Revolution, was being discussed and developed by medieval scholars, especially canon lawyers. In fact, there “seemed to be a possibility of presenting a coherent history of the growth of Western constitutional thought from twelfth-century jurisprudence to the fully developed constitutional theories of the seventeenth century.”⁹ Seen in that light, Adams’s work does

⁶Brian Tierney, “Hierarchy, Consent, and the Western Tradition,” *Political Theory* 15 (1987): 646–652. It is worth noting that in *To Make a Nation*, Beer did not cite Tierney’s article.

⁷On the importance of the canonists: see Walter Ullmann, *Medieval Papalism: The Political Theories of the Medieval Canonists* (London: Methuen, 1949), 1–4.

⁸Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge: Cambridge University Press, 1955; reprinted and enlarged, Leiden: Brill, 1998), 4–5.

⁹Tierney, *Foundations*, xxi; subsequently, he produced a volume to do just that: *Religion, Law, and the Growth of Constitutional Thought, 1150–1650* (Cambridge: Cambridge University Press, 1982). See also the work of Francis Oakley, *The Conciliarist Tradition* (Oxford: Oxford University Press, 2003) and J.H. Burns and Thomas M. Izbicki, *Conciliarism and Papalism* (Cambridge: Cambridge University Press, 1997). The work of Tierney, Oakley, and those who have demonstrated the importance of the medieval canonists has received strong criticism, especially from Cary Nederman: see his

not appear to be the radical break with the past that Prof. Beer postulated, because the medieval debates about governance provided concepts and a vocabulary that when secularized in the early modern world could be and were employed in secular political debates up to the eighteenth century and beyond.¹⁰

At the beginning of his article, Tierney observed that the work of medievalists is ignored except by fellow medievalists. At the same time, “everyone feels competent to pass judgment on medieval achievements, or to decry the lack of them.”¹¹ This was not restricted to Prof. Beer’s work.

The Tierney-Beer debate ended with the publication of Tierney’s article. One might have expected some further discussion between the authors because of the importance of the issue at stake, the development of representative government, but none occurred. There was some scholarly discussion of these articles but not apparently in journals devoted to

“Conciliarism and Constitutionalism: Jean Gerson and Medieval Political Thought,” *History of European Ideas*, vol. 12 (1990): 189–209; his “Constitutionalism – Medieval and Modern: Against Neo-Figgisite Orthodoxy (Again),” *History of Political Thought*, 17 (1996): 179–194; and his “Empire and Historiography of European Political Thought: Marsiglio of Padua, and the Medieval/Modern Divide,” *Journal of the History of Ideas* (2005): 1–15. Nederman in turn received a sharp response from Francis Oakley, “Nederman, Gerson, Conciliar Theory and Constitutionalism: *Sed Contra*,” *History of Political Thought*, 16 (1995): 1–19.

¹⁰The way in which medieval ecclesiastical concepts entered the secular political vocabulary has attracted a good deal of interest in recent years: see, for example, Carl L. Becker, *The Heavenly City of the Eighteenth-Century Philosophers* (New Haven: Yale University Press, 1932). There is also the work of Carl Schmitt: see Giacomo Marramao, “The Exile of the *Nomos*: For a Critical Profile of Carl Schmitt,” *Cardozo Law Review*, 21 (2000): 1567–1587 at 1571. The work of Tierney, Oakley, and those who have demonstrated the importance of the medieval canonists has received strong criticism, especially from Cary Nederman: see “Conciliarism and Constitutionalism: Jean Gerson and Medieval Political Thought,” *History of European Ideas*, 12 (1990): 189–209; see also “Constitutionalism—Medieval and Modern: Against Neo-Figgisite Orthodoxy (Again),” *History of Political Thought*, 17 (1996) 179–194; and “Empire and the Historiography of European Political Thought: Marsiglio of Padua, and the Medieval/Modern Divide,” *Journal of the History of Ideas* (2005): 1–15. Nederman in turn received a sharp response from Francis Oakley, “Nederman, Gerson, Conciliar Theory and Constitutionalism: *Sed Contra*,” *History of Political Thought*, 16 (1995): 1–19.

¹¹Tierney, “Hierarchy and Consent,” 646.

American history.¹² In a note, Tierney observed one of his own books on these issues had been translated into Japanese and that an Italian translation was in process. “But such current work somehow just does not enter the consciousness of modern historians who feel moved to write about medieval ideas.”¹³ Specialists in American history failed to appreciate the importance of this work.

My first response to the questions that Tierney raised was to focus on eighteenth-century American knowledge of the Middle Ages. Did Adams assume that his readers would immediately recognize the Norman Conquest of England and related developments in the Catholic Church and its implications for English development? Such recognition would demonstrate the extent of their knowledge of Saxon England upon which the yoke was placed; their understanding of the great Investiture Controversy that reformed the Roman Church and created the canon law; and finally their understanding of feudalism that was the basis of English property law. It is often assumed that eighteenth-century Americans knew little or nothing about the Middle Ages because the modern world of which the Americans were an important exemplar was a rejection of all that was medieval, the Middle Ages being the Dark Ages, the age of obscurantism and ignorance as Adams declared in the *Dissertation on the Canon and the Feudal Law* and as Prof. Beer saw matters.

Subsequently, discussing Tierney’s interest in Adams with my Rutgers colleague Gordon Schochet led to the suggestion that I attend a seminar on eighteenth-century political thought at the Folger Library (1987) directed by John Pocock. Participation in this seminar introduced me to a number of scholars working on issues relating to Adams and his generation. One consequence was the publication of an article on the *Dissertation*, as well as a great deal of encouragement to continue working on Adams. Subsequently, an invitation to present a paper at

¹²These articles appear to have interested scholars dealing with political thought but not American historians. See, for example, Mark C. Murphy, “Consent, Custom, and the Common Good in Aquinas’s Account of Political Authority,” *The Review of Politics* 59 (1997): 323–350; Constantin Fasolt, “Voluntarism and Conciliarism in the Work of Francis Oakley,” *History of Political Thought* 22 (2001): 41–52; Carl Watner, “Quod omnes tangit: Consent Theory in the Radical Libertarian Tradition in the Middle Ages,” *Journal of Libertarian Studies* 19 (2005): 67–85.

¹³Tierney, “Hierarchy, Consent,” 651, n. 2.

The Many Legalities of Early America Conference (1996) enabled me to develop some ideas about Adams's views of the legality of the British acquisition of North America, a topic usually associated with Spanish debates about the legality of the conquest of the Americas. The annual International Medieval Congress at Western Michigan University provided a very helpful venue for trying out ideas about the relation between medieval and early modern political ideas to an audience of medievalists. A book-length attempt to deal with the issues involved, however, went nowhere and I gave up on the topic.¹⁴

A few years ago, after retiring from Rutgers University and coming to The John Carter Brown Library, in a discussion of current research projects, I mentioned my interest in eighteenth-century American knowledge of the Middle Ages, especially as John Adams employed such knowledge in his polemical writings. A listener asked if I was examining previously unknown or unappreciated sources containing materials by Adams. I answered that the project was not so ambitious. In fact, considering the amount of attention given in recent years to Adams, it is hard to imagine that there are any untapped sources to be exploited. My goal was simply to approach some of Adams's extensive pre-revolutionary writings from the perspective of a medieval historian. One might, of course, reasonably ask "Why bother?" What could a medievalist see in Adams's writings that others have not already seen? Indeed, what possible relevance could Adams's knowledge of the Middle Ages have for his writings in support of the Revolution? Was not the American Revolution one of the major elements of modernity, a forceful rejection of the medieval approach to political life as Prof. Beer argued?

It being the conventional wisdom that eighteenth-century Americans had no interest in or knowledge of the Middle Ages, a casual observer glancing at the cover of a book entitled *John Adams and the Constitutional History of the Medieval British Empire* might be puzzled. Such a response would be perfectly understandable. After all, was it not Henry Adams who was intimately connected with the

¹⁴James Muldoon, "John Adams, Canon Law, and the Ghost of Thomas Becket," in *Empire and Revolutions*, ed. Gordon Schochet (Washington DC: Folger Institute, 1993): 235–259; also "Discovery, Grant, Charter, Conquest, or Purchase: John Adams on the Legal Basis for English Possession of North America," in *The Many Legalities of Early America*, eds. Christopher L. Tomlins and Bruce H. Mann (Chapel Hill: University of North Carolina Press, 2001): 25–46.

nineteenth-century revival of things medieval in the United States, serving as Professor of Medieval History at Harvard for a few years, who wrote *Mont-Saint Michel* and *Chartres*? Henry Adams did as much as anyone else to encourage Americans to contemplate the virtues of medieval society.¹⁵ Furthermore, it was the mid- and late nineteenth century that saw widespread interest in the Middle Ages in both Europe and the United States, not the early nineteenth century and certainly not the eighteenth century. Nineteenth-century intellectuals who recoiled from what they perceived as the multiple plagues of industrialization, urbanization, and democracy shunned the smoke-belching factories and replaced them in their own minds, and occasionally in their parish churches, with visions of Gothic cathedrals and square-towered Norman village churches filled with virtuous peasants who knew their place in the grand scheme of things.¹⁶

Eighteenth-century Americans, John Adams and his contemporaries, were, so the popular argument goes, quite different from their nineteenth-century descendants. The members of the earlier generation shared a belief in rational Christianity, progress, and republicanism. They were optimistic about the future and about their place in it. Such men, so the argument went, did not feel shoved aside by the surging modern world. They were, on the contrary, on the leading edge of the wave of progress. Their approach to the world was plain, austere, and hard-working, admiring not the chivalric warriors of the Middle Ages who fought for the love of fighting but the poor, valiant republican citizen-soldiers of ancient Rome who fought only when necessary and then returned to the plow. Cincinnatus not Ivanhoe was their beau ideal. Eighteenth-century Americans rejected what they saw as the dark, superstitious Middle Ages in favor of the cool, rational Roman Republic. They failed to appreciate, however, that their interest in the ancient Romans was quite as romantic in its own way as was the nineteenth-century infatuation with the Middle Ages. Livy's Rome was as romantic a vision of the past as was Sir Walter Scott's England. Given this tradition, it would be much easier to accept

¹⁵Henry Adams, *The Education of Henry Adams* (Boston: Houghton Mifflin, 1918). For his experiences as a professor: see chapter XX, significantly entitled "Failure", 251–263.

¹⁶Concerning the romantic revival of things medieval in nineteenth-century America: see Howard Mumford Jones, *O Strange New World* (New York: The Viking Press, 1964), 76–77.

a book on John Adams and the Roman Republic than one dealing with Adams and the Middle Ages, but that will not be the case here.

John Adams is, however, an especially useful figure to examine when considering the intellectual formation of the revolutionary generation. Not only was he actively involved in the revolutionary movement from its earliest days and through the Revolution, he wrote extensively on the fundamental issues involved. This is not to say that Adams was the ideal type of American revolutionary. He clearly was not typical. He was famously ambitious, touchy, sensitive to slights, and, eventually quite concerned that the country that emerged out of the Revolution was not quite what he anticipated.¹⁷ On the other hand, although he was quite proud of his learning, he was not a closet scholar. He wrote for newspapers so that he could reach a wide audience, he served on committees that required that he exchange views with other learned individuals, and he held various public offices. He may well have overestimated the educational level and the moral qualities of many of his readers, but this only demonstrated his high expectations of them and of himself.¹⁸

Taking up Adams again, at first it looked as though the best path was to take the approach that I had taken years earlier, simply examining Adams's writings for information about the Middle Ages. In the years since my first attempts to deal with Adams's political thought, however, I had become interested in early modern discussions about the nature and structure of the vast oceanic empires that were being constructed in the wake of Columbus's voyages, something which lead me to write a book on the history of the concept of empire.¹⁹

Subsequently, it became clear to me that Adams's writings, poorly organized and developed as they were, contained a history of the development of the British Empire from the twelfth century to the eighteenth. The work of Daniel Leonard, the Loyalist defender of parliament's claim to legislate for the American colonies, and whose writings

¹⁷Adams's personality, sensitive to slights, vain, has attracted a good deal of attention in recent work: see the brief survey in C. Bradley Thompson, *John Adams and the the Spirit of Liberty* (Lawrence: University Press of Kansas, 1998), xv–xvi.

¹⁸In later years, beginning around 1790, "Adams' conception of American society had dramatically changed." See John R. Howe, Jr., *The Changing Political Thought of John Adams* (Princeton: Princeton University Press, 1966), 155.

¹⁹James Muldoon, *Empire and Order: The Concept of Empire, 800–1800* (NY: St. Martin's Press, 1999).

Adams challenged, made it clear that he and Adams had conflicting conceptions of the history of the British Empire and that their competing political positions rested on these competing histories. Seen in this light, the proposed book became a continuation of themes I had developed earlier in the volume on the concept of empire.

The John Carter Brown Library has been a wonderful place to work on this and other projects over the last sixteen years. Norman Fiering, the former Director of the Library, created the title of Invited Research Scholar that has allowed me to use the Library's great resources and to benefit enormously from the company of scores of scholars who have come here. They are indeed the greatest treasure that the Library possesses. His successors, Ted Widmer and Neil Safir, have allowed me to remain here for which I am eternally grateful. Being here brought me into contact with two leading colonial historians, Jack Greene and Gordon Wood, who listened patiently while I went on at length about Adams and the Middle Ages and generously suggested what I should be reading on the topic. Tim Harris suggested what I should be reading in early modern English History. They encouraged me to take up the Adams project again. I owe them and their students a great debt of gratitude. I also owe a great debt to the many fellows here who made suggestions about what to read, criticized some of my arguments, and read parts of the work. Neil Kamil's comments were especially helpful.

Over the years a large number of friends and colleagues encouraged, critiqued, modified, and otherwise contributed to shaping the book: these include Edward Peters, the late Tom Leavitt, Rodney Carlisle, Dennis Cashman, Alan Tarr, Frederick Russell, Russell Murphy, and my sister Mary Muldoon. I realize that there are others whose names I have omitted. I apologize to them. Finally, I owe a great debt of gratitude to my late wife, Judith Fitzpatrick, who lived with this project for a very long time and put up patiently with it. I dedicate this book to her.

Providence, USA

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