

Constitutional History Teaching in Britain (19th-20th centuries)

ROCCO GIURATO

English constitutional history has been a prominent subject taught in the most respected British universities from late nineteenth century until mid-twentieth century. Within a few decades after its inception, it became increasingly compulsory in humanities university curricula, until the trend rapidly began to reverse in the 1950s. It exerted considerable influence on history teaching in schools as well. In hindsight, it may be surprising to find out how a subject that is now regarded as highly technical among other historical disciplines, thereby chiefly (if not exclusively) relevant to students of law or politics, played a key role in historical studies. As I will show in further detail, constitutional history had initially appeared in the context of political history in connection with legal studies; this feature was particularly highlighted by the contributions of Frederic William Maitland (1850-1906). To understand the reasons why this happened, we should start focusing on the intrinsic transformations of British historiography and «the historian's craft»

between the nineteenth and twentieth century in relation with the historical events from which they originated. Consequently, this article is divided in five parts: in the next section, I will trace the origins of English constitutional history back to the nineteenth century, with particular reference to the work of William Stubbs (1825-1901); sections 2 and 3 deal respectively with the early teaching of constitutional history at Oxford and Cambridge, and the later teaching at London; section 4 briefly shows the "external" influences exerted by constitutional history, namely, on the teaching of history in schools and on constitutional law; in the last section, I will give the reader a glimpse on the current perspectives of constitutional historiography.

1. For several generations of students, English constitutional history was an academic subject whose educational purposes went far

beyond the transmission of purely historical knowledge. Its aim was to make the British public at large (starting with the most educated part, namely, the clerisy, and the highest and most influential social classes, eventually down to the literate public) familiar with the basic whig¹ assumptions concerning the historical experience of England and the supposed pre-eminence of its culture among the most civilised nations in the world. The historical continuity of the English law and institutions since the high Middle Ages, assumed as the foundation of Britain's imperial glory, is the main idea on which English constitutional history firmly rested from the nineteenth to the twentieth century. All this, in turn, constitutes the foundation of the whig interpretation of history². Therefore, constitutional history was a subject that clearly bore the mark of whig ideology right from the beginning. Where the ideas that shaped constitutional history for a long time did come from and how did they spread among the public and academia is the first point that we should consider in this section before proceeding further to discuss more in detail the teaching of constitutional history in Britain through the most important examples.

English constitutional historiography was born with the purpose of celebrating the historical experience from which it drew inspiration and nourishment. Although Britain already boasted a long historiographical tradition, only during the nineteenth century a keen interest on the long-term transformations of political institutions arose. Hereafter, in the rest of this section I will briefly set forth the reasons why this happened, recalling at the same time the most influential nineteenth-century works on English constitutional history.

The first work specifically dedicated to the constitutional history of England (and, as such, so titled) appeared slightly before the beginning of the Victorian age, written by Henry Hallam³. Other influential works written by other authors followed Hallam's *Constitutional History*, even though they do not explicitly mention the subject in the title; this is the case of Thomas Babington Macaulay (1800-1859), the most famous Victorian author of historical works, who published a *History of England from the Accession of James the Second*⁴. The adjective 'constitutional' does not appear in the title, but this absence should not be surprising because the main focus of the work is on the impact of the so-called Glorious Revolution on the development of the English constitution: it is a constitutional history in all respects, and like the said work by Hallam, its author had a whig approach to history. The *Constitutional History of England* written by Thomas Erskine May (1815-1886), albeit much less influential than the previously cited works, is also worth mentioning⁵.

Among the champions of whig constitutional history, however, a prominent figure is that of William Stubbs (1825-1901). Bishop of Chester (1884-1888) and later of Oxford (1888-1901), he was one of the most authoritative exponents of the whig constitutional historiography. However, to distinguish Stubbs and the authors contemporary to him from those cited in the previous paragraph, it can be said that the former were exponents of a "Romantic" whiggism, while the latter believed they were further ahead «in their superior scholarship»; their attitude symbolises the appearance of the so-called modernism in historiography⁶. Stubbs's reputation as a scholar was recognized with the appointment as Regius

Professor of Modern History at Oxford in 1866⁷. Although politically a tory, he developed a whig vision of history which clearly shines through in his works, especially in the *Constitutional History*, his best known and most celebrated work⁸. This may seem paradoxical, but upon closer inspection it is an unequivocal sign of the fact that the whig cultural substratum had definitively become the foundation of constitutional historiography. That set of values and beliefs rooted in the British mentality found in Stubbs a talented interpreter who was able to effectively coagulate it around an idea of a constitution that found favour with the Anglophone cultural elites for decades. «The study of Constitutional History», according to Stubbs, was «the examination of a distinct growth from a well-defined germ to full maturity» which drew nourishment from «the very nature of the people»⁹. Notwithstanding his teleological vision of the English legal and institutional experience, credit is due to Stubbs for having continued and promoted historiographical research based on archival documents.

Many years of archival research allowed William Stubbs to bring to light a huge quantity of manuscript sources dating back to the Middle Ages¹⁰. Consequently, it can be said that his *Constitutional History*, among similar contemporary works, is the foremost study of English political-institutional history largely based on first-hand sources¹¹. Since the 1870s, when it first appeared, it exerted for decades an exceptionally long and vast influence on nineteenth- and twentieth-century historical-institutional studies as well as on the teaching of history in schools and universities¹². Although it is a very large and detailed work, it is possible to outline the structure of Stubbs's *magnum*

opus by rapidly reporting the general characteristics and the basic assumptions that animate it.

The «continuity of life» and «national purpose», combined with the continuous development of law and institutions, is the idea on which William Stubbs based his interpretation of the English constitutional experience, the alpha and omega that symbolically opens and closes the first volume of the aforesaid work¹³. It is a recurring theme in Stubbs's historiographical reflection, pervasive to the point of imprinting its peculiar characteristics on almost every page. In the background of his narrative, he placed the other element, that is, the national «spirit» which supposedly manifested itself constantly in history and would finally be embodied in nineteenth-century British constitution. Stubbs built the emergence of the English constitution around the historical transformations of the national spirit – a concept, however, which remains poorly defined –, conceived as an evolutionary process which he exposed in essence already in the first pages of the work, with an outcome necessarily predetermined by the interplay of «three forces, [...] the national character, the external history, and the institutions of the people»¹⁴.

Two main assumptions support William Stubbs's historical interpretation: the certain origin and the deterministically predictable outcome of the English constitution. A further basic assumption that also serves as the underlying theme of his *Constitutional History* is «the continuous development of representative institutions»¹⁵. This teleological vision unfolds through some key moments. Overall, they form a neat and essential frame which from

the Germanic origins of the English people continues with the dialectic between the nation on the one hand and the monarchy and aristocracy on the other, the failure of the Lancastrian "constitutionalist" experiment, the Tudor «despotism», the civil war and the so-called "Glorious Revolution" of 1688-'89 which supposedly begot the nineteenth-century constitution. Stubbs believed that the Middle Ages were crucial to the subsequent English constitutional development; in particular, he recognized in the Parliament of 1295, called by Edward I (1272-1307), the place and date of birth of English political representation, whose essential characteristics would then remain almost unchanged up to his days. The centrality of representative institutions in the English constitution was, according to Stubbs, a Germanic legacy. Furthermore, the link with Germany emerges even beyond his historical interpretation, as he was influenced by Leopold von Ranke (1795-1886). For Stubbs, the 'scientific' rather than 'political' historiographical approach was the main reason for admiration towards the authoritative German scholar. Around 1872, Stubbs even suggested to the Clarendon Press that the massive *Englische Geschichte*, published in several volumes over the course of a decade by von Ranke, be translated into English¹⁶.

The ideas of Charles Darwin (1809-1882) also had a strong influence on William Stubbs, who mentioned the «process of natural selection», a concept unequivocally borrowed from the well-known evolutionary theory¹⁷. It seems that it is no coincidence that Stubbs's *Constitutional History* was published a few years after Darwin's widely read book on the origin of species¹⁸.

Overall, William Stubbs's work does not depart from the whig interpretation of history. It affords an underlying teleologically orientated vision of British history, narrated as a continuum invariably destined for «magnificent and progressive fate» as well as the predominance of the English people over all others. Though, while showing on the one hand the consolidation of the whig creed in English constitutional historiography, on the other hand it marks the beginning of its decline, especially at an academic level. Notwithstanding this – somewhat paradoxically –, since its appearance, Stubbs's main work has traditionally occupied a position of great importance in British historiography, exercising a notable influence until the 1950s, waning about twenty years later. In the twentieth century, British political-institutional historiography often retained a more or less explicit tendency to take the whig interpretation of history into consideration, while hypocritically pretending to criticize it.

2. English constitutional history was first taught at the two universities of Oxford and Cambridge, starting from the second half of the nineteenth century, but afterwards it came to be included in the curricula of other institutions. Predictably enough, the pioneer at Oxford University was William Stubbs, Regius Professor from 1866 to 1884, who also contributed significantly to the establishment of modern history (as opposed to ancient history) as an autonomous academic degree¹⁹. Stubbs's teaching and research were closely related, as his *Select Charters* «was assigned in bits and pieces. From the date of publication, the

Charters became, as Charles Oman recalled, a "sort of bible, from which a candidate was expected to identify any paragraph without its context being given"»²⁰. Afterwards, it even «became a textbook for history students both in Oxford and Cambridge»²¹. Undoubtedly, Stubbs's works in general commanded a wide influence; as we will see later, even such an authoritative scholar like Frederic William Maitland was influenced by them. This was not only due to the originality of Stubbs's works, but also to his captivating narrative style, which was the most remarkable sign of his literary prowess²². However, his «lectures in Oxford were not well attended»²³, and college tutors carried out much of the educational tasks, to the point that a group of them published a small collection of essays – with Stubbs's approval – aimed at clarifying many topics which eventually went through two editions²⁴.

At Oxford, constitutional history was taught for about two decades until 1872 at the School of Law and Modern History. After the separation between the two disciplines, the new School of Modern History aimed to draw and educate men who aspired to a political career or to a position of great responsibility in public administration²⁵. By looking at both the examination papers and the syllabi we may gather sufficient information about the structure and the educational goals of the courses of lectures on constitutional history²⁶.

In 1884, Edward Augustus Freeman (1823-1892) was appointed Regius Professor of Modern History. He was interested in constitutional history, but it seems he did not lecture on this subject, and as in his predecessor's time, there were tutors who did²⁷. Pretty much the same can be said about James Anthony Froude (1818-1894)

who succeeded Freeman in 1892 and held the post until 1894²⁸. The custom of entrusting teaching to tutors continued into the early twentieth century. For tutors lectured on constitutional history and some of them at the same time published professional works which supplied the want of readily available printed documents and authorities (either legislative or judicial) relating to specific historical periods, often re-edited several times to suit teaching needs²⁹.

At the same time, there was also a change in research interests that went hand in hand with teaching. In some instances, the focus of constitutional history significantly shifted from the Middle Ages to later periods – it is worth remembering that Stubbs's *Constitutional History* stopped at 1485, and the *Select Charters* at the beginning of the fourteenth century –, up to the nineteenth century³⁰; while in others it was administrative history that drew more attention. It can be said that the latter was the offspring of constitutional history. I will return to this point in the next paragraph.

Oxford University, at the beginning of the twentieth century, had other prominent historians after William Stubbs, among which at least one of his pupils, Charles Harding Firth (1857-1936) should be mentioned, but none of them matched his remarkably wide influence in the field of historical studies. Between the wars, constitutional history continued to be taught by lecturers and tutors, but after World War II fewer and fewer students took courses. In the late 1960s, the teaching of constitutional history at Oxford had virtually disappeared. In the words of an authoritative British medievalist, it «was no longer a popular course by the time I took it, having

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SIXPENCE.



THE RIGHT REV. WILLIAM STUBBS, D.D., BISHOP OF OXFORD.
Born, June 23, 1825; Died, April 27, 1901.

Photo: Trust and Sons.

The Right Rev. William Stubbs, D.d., Bishop of Oxford, photoengraving from The Illustrated London News, April 27, 1901

been eclipsed by one on the Crusades. As far as I remember, there were only one or two other students in the audience». The teacher was then John Mason (1920-2009), who «said that the lectures were actually those of his old tutor, Sir Goronwy Edwards, who had been taught by T. F. Tout, who in turn had been taught by Stubbs himself»³¹. It is worth mentioning, *en passant*, the figure of Thomas Frederick Tout (1855-1929), Professor of History at Manchester, leader – along with James Tait (1863-1944) – of the “Manchester History School”, who dedicated many years to the study of English administrative history³². The teaching of history at Manchester School differed from any other British university in that students were encouraged to visit the archives and write undergraduate dissertations based on archival documents³³. The School was regarded as «highly professional in its approach to research»³⁴ and therefore much criticised by Oxbridge lecturers, but eventually the model inaugurated at Manchester would prove successful.

Bringing the discussion back to Oxford University in the interwar period, it is inevitable to mention one of its main figures, John Goronwy Edwards (1891-1976), who served as a tutor and lecturer from 1919 to 1948. However, as noted by a contemporary leading scholar in medieval studies, he was one of the last historians of his generation «who find anything called “Constitutional history” sufficient in itself; but they also look through the windows»³⁵. Where did this view come from? What changes had historical research in general undergone between the two wars? After the First World War, research interests began to converge increasingly towards economic and social history. The horror and destruction caused

by the two world wars, the British constitutional crises of 1911 and 1936, led most British historians to assume that previous approaches were extremely narrow and therefore obsolete. Furthermore, the celebratory tones of nineteenth-century constitutional history could no longer catch the attention of a disillusioned public. As a consequence, historical research focused more on socio-economic phenomena rather than legal and political ones. Obviously, this change affected not only research, but also the teaching of constitutional history in British universities. Whether constitutional history’s outlook was really so narrow or not is a question that I am trying to address throughout this article – and so far, I have already showed that this was not the case. Having concluded this part concerning the teaching of constitutional history at Oxford, we can turn our attention to Cambridge.

At Cambridge University the teaching of English constitutional history began a few years later than at Oxford, thanks to John Robert Seeley (1834-1895) who included it in the Historical Tripos³⁶. Seeley was appointed Regius Professor of Modern History in 1869 and set out to rearrange the Tripos soon afterwards. In 1870, he firstly reinstated the teaching of history that had been removed from the Moral Sciences Tripos the previous year; so, until 1874, it constituted the Law and History Tripos. The experiment that had already taken place at Oxford was repeated at Cambridge, where it had a much shorter life though. Finally, in 1875, historical studies acquired their autonomy with the birth of the Historical Tripos. Constitutional history had been part of the Law and History Tripos because of its connection with legal subjects, and was also maintained later, when History

was separated from Law, with the classic books by Hallam, Stubbs, and May still being suggested to students³⁷. It soon became an important subject; as Joseph Robson Tanner (1860-1931) noted in 1901, «English constitutional history is by tradition the backbone of the Cambridge Historical Tripos»³⁸. It was split into two historical periods, with the year 1485 acting as a watershed; Part I of the Tripos covered the earlier era, and Part II covered the later. As a consequence, its teaching took place in different moments of the course and was carried out by different lecturers. This arrangement was symptomatic of a change that occurred in historical research, that is, first of all the specialisation between medievalists and modernists and the consequent appearance of new works, which were in turn the result of a problematic approach to the study of constitutional issues³⁹. In this respect, Frederic William Maitland led the way questioning received views and making new historical discoveries through an extensive and (above all) critical study of archival documents.

It was especially thanks to Maitland, then, that constitutional history made important progresses at Cambridge. His «own achievement was to make Cambridge a leading centre of the study of legal history – and among historians to help to embed law (for a time) and the constitution deeply in the History Tripos»⁴⁰. Maitland's famous course of lectures delivered in 1887-1888, but posthumously published, soon became a classic⁴¹. A genius and a literary talent in his own right, he nevertheless was influenced by the writings of William Stubbs, at least to some extent – an influence that waned in his later works – and most notably from Paul Vinogradoff (1854-1925) – a cru-

cial encounter in his life, occurred in 1884 – who directed him to the study of history. However, Maitland's most valuable contribution to the teaching of constitutional history – as it is evident from his printed course of lectures and his works in general – was his focus on the study of legal and institutional issues to grasp their socio-economic substratum⁴². His writings in general are littered with hints at how much data on society and economy may be gleaned from the legal records of the past.

After Maitland, the teaching of constitutional history at Cambridge continued until the 1960s, although its golden age had already ended nearly three decades before. Among the most distinguished scholars who taught constitutional history at Cambridge during the period between the beginning of the twentieth century and the First World War and then of the interwar period, we should mention Joseph Tanner, Helen Maud Cam (1885-1968), and Gailard Thomas Lapsley (1871-1949).

Joseph Tanner served as a tutor and lecturer for nearly four decades, from 1883 to 1921. He wrote many valuable historical works, but one of his essays (specifically dedicated to the topic discussed in this article) best suits our purposes here. While addressing several caveats to teachers and students regarding their respective methods, it provides many first-hand insights on the teaching of constitutional history⁴³. First, he showed how Stubbs's «three sacred volumes», jokingly equated with the Vedas, despite their immense popularity were already obsolete, and in any case insufficient with respect to the teaching of English constitutional history in a long-term perspective. In line with the evolution of historical science in the late nineteenth century, Tan-

ner also highlighted the dangers of an antiquarian approach to constitutional history. Furthermore, he warned against a preference for legal technicalities (which since Stubbs's time had always found a place in constitutional history books) rather than for the relations between the socio-institutional components, say, between the monarchy and the aristocracy, as well as against the anachronisms in the use of modern words and expressions for rendering ideas from the past. All this was the consequence of changes in historical research that I have already partially mentioned above, which also had repercussions on the teaching of constitutional history.

Moving forward to the 1930s, we note that constitutional history suffered the same fate at Cambridge as it did at Oxford. Moreover, as was observed in those years, «Sir Lewis Namier has put constitutional history out of fashion among the historians»⁴⁴. However, let us briefly return to the two Cantabrigian teachers of the inter-war period that I have already mentioned previously. Gaillard Lapsley was tutor, lecturer, and finally reader in constitutional history until 1939. Hailing from New York, educated at Harvard under the guidance of Charles Gross (1857-1909), he was influenced by the ideas of Maitland through his teacher, proving how much they were welcomed overseas. Better known than Lapsley was Helen Cam who taught at Cambridge from 1921 to 1948 and then moved to Harvard, where she was the first woman to gain a tenure. She wrote important contributions to constitutional history and innovated the traditional approach compared to her predecessors by placing emphasis on the history of administration.

After the Second World War, Geoffrey Rudolph Elton (1921-1994), one of the most influential historians in twentieth-century Britain, «was promoted to a personal chair and chose the unfashionable title of 'Professor of English Constitutional History»⁴⁵. Elton held this chair until 1983, when he was appointed Regius Professor of Modern History. More will be said about Elton in the following sections.

Notwithstanding its importance, also proved by the presence of the illustrious scholars I have mentioned so far, «the syndrome of constitutional history» in post-war Cambridge was fading out, until it disappeared in the 1970s⁴⁶. And the same tendency can be found regarding the University of London which I will discuss below.

3. As we have seen in the previous section, the two universities of Oxford and somewhat later Cambridge pioneered the teaching of English constitutional history in the second half of the nineteenth century. Oxonian and Cantabrigian scholars set the standard for the time to come, both in terms of teaching and research. Therefore, at the beginning of the following century, other lecturers at British universities continued to teach the said subject in the manner established at Oxbridge and new books on constitutional history appeared.

In Victorian London, lectures on constitutional history were held as early as in 1861, apparently based on the book by Henry Hallam, however not in the university, but in the Inns of Court as part of a broader educational programme focused on constitutional law and legal history⁴⁷.

In 1869, a chair of English constitutional law and history was established at King's College, to which John William Bund Willis-Bund (1843-1928) was appointed⁴⁸. At the same college, a course of twenty lectures on «Jurisprudence, Roman Law, and Constitutional History», in view of the examination for the Bachelor of Law, was held in 1875 by John Cutler (1839-1925), then Professor of Jurisprudence⁴⁹. In the same years, an analogous chair was also established at University College, apparently held by Willis-Bund until 1882. The course «embraced the Crown Prerogative, the Houses of Parliament, the executive and the government, and then constitutional history from the Norman Conquest through to 1688»⁵⁰. Willis-Bund was succeeded by Thomas Pitt Taswell-Langmead (1840-1882), formerly tutor on constitutional law and legal history to the four Inns of Court; however, his professorial experience was a short-lived one, as he died in the same year of his appointment⁵¹. The following year, Thomas Edward Scrutton (1856-1934) – later one of the most influential judges in the United Kingdom – was appointed to the said chair⁵². As is evident in all the cases that I have cited so far, though, there is a very close relation between constitutional history and law, if not a real dependence of the former on the latter. Moreover, only Willis-Bund and Taswell-Langmead published historical works.

The chair gained its autonomy with the figure of Albert Frederick Pollard (1869-1948) who was Professor of Constitutional History at University College from 1903 to 1907, then of English History (1907-1927), and once again of Constitutional History until 1931. Among the most influential and prolific historians in twentieth-century

Britain, Pollard may be counted among the modernists⁵³. He gave birth to the London School of History, contributed to the creation of the Historical Association (1906), and most notably in 1921 founded the Institute of Historical Research (IHR, which still exists today), where postgraduates could carry out advanced studies. These few facts would already be sufficient to make it clear that during Pollard's heyday history experienced a significant change and that he was one of the architects of them. The nineteenth-century, now old-fashioned «idea of history as a general education in gentlemanly values», was superseded by «the idea of history as the serious, professional pursuit of greater knowledge through scholarly research»⁵⁴. At Pollard's hands, constitutional history remained of course involved in this process of general transformation. How did this change come about? The emergence of modernism, which brought with it a scientific approach to history – as evidenced among other things by the founding of the IHR –, is primarily responsible for the said transformation. Pollard's heuristic approach put an overarching emphasis on the study of manuscript sources, which combined with his specialisation in Tudor history.

Thenceforth, students of constitutional history increasingly focused their attention on Tudor Parliaments since Pollard had come to see early modern parliamentary institutions as the fulcrum of political and institutional modernity and the sixteenth century as the time when the modern English state was created. Pollard's work on Tudor Parliaments was continued by his pupil John Ernest Neale (1890-1975), in turn mentor of Geoffrey Elton, who was especially critical of traditional constitutional

history with its teleological and evolutionary perspective. Undoubtedly, they were both constitutional historians, but their professorships were in modern history – with the «unfashionable» exception of Elton during the period 1967-1983, which I have already mentioned –, a fact that once again confirms the transformation of the historical profession in twentieth-century Britain.

4. As I stated earlier in this article, constitutional history produced some important “external” influences. For some time, it shaped the teaching of history in schools and of course it influenced constitutional law. Until the 1960s, history in British schools was basically taught on the basis of constitutional history⁵⁵. Methods and contents formed what has been termed the «Great Tradition», that is, dispensing a selection of accepted political facts from antiquity to the First World War, with the purpose of asseverating an evolutionary vision of Great Britain towards democracy⁵⁶. In short, history was about passing on a common cultural heritage that descended from the whig assumptions concerning the historical experience of England.

Given all this, for much of the twentieth century, Governments did not interfere with the historical curricula of schools. They saw history as a means to promote acceptance of the traditional socio-political order through a noncontroversial interpretation of British (actually Anglocentric) history. Moreover, pupils were not expected to develop other skills and/or abilities but to remember a string of significant

facts, names, and dates, to be eventually recounted in an examination essay⁵⁷.

The early 1970s saw a significant shift in the traditional approach to teaching history due to societal changes that had taken place in Britain during the 1960s. British society was becoming multicultural; therefore, values were changing. Due to migrations brought about by the United Kingdom’s employment prospects, cultural homogeneity was undermined by the emergence of new communities. Accordingly, the teaching of history had to change. School curricula were thus adapted to new educational needs. A new approach was used, and history classes were now expected to deal with new topics. Understanding fundamental concepts, such as the use of evidence, causation, and change and continuity, was emphasised.

The other influence, namely, on constitutional law, arose in late nineteenth century, as can be especially seen from the work of Albert Venn Dicey (1835-1922), one of the two leading Victorian constitutional lawyers, the other being William Reynell Anson (1843-1914). As is known, Dicey made extensive use of history, both British and comparative, in his most important book, the *Law of the Constitution*⁵⁸. He did not claim that an historical point of view was the key to understanding constitutional law, though he acknowledged that history was a means to contextualise the law of the constitution⁵⁹.

This theoretical premise serves as an explanation for Dicey’s interest in constitutional history. He obviously used the books by William Stubbs – he also reviewed the first of the three volumes in 1875⁶⁰ – and Henry Hallam as his primary sources, but how did he use them? In short, how did

whig constitutional history affect Dicey's legal doctrine?

Dicey identified three fundamental principles – the legislative sovereignty of Parliament (*rectius*, of the Crown-in-Parliament), the rule of law, and the role of constitutional conventions – that he believed to be the cornerstone of the British constitution. Out of the three, he drew the second idea directly from Stubbs's account⁶¹. We may thus see the extent to which constitutional history (or, rather, Stubbs's account) has shaped the law of the United Kingdom's constitution in light of the influence that Dicey's vision in general and the idea of the rule of law in particular exerted on common law constitutional thought in the following decades.

5. As this article draws to a close, one may wonder if constitutional history truly vanished before the turn of the century. In a sense, it did, as after the 1980s there were no more chairs of English or British constitutional history and very rarely new books bearing such title have been published, although history has not entirely disappeared from the constitutional lawyers' scope, as some notable works prove⁶². As we have already seen, history saw a significant shift at the turn of the twentieth century, moving from being a subject primarily directed to the education of gentlemen to becoming a technical-scientific field of studies; at the same time, constitutional history came under growing criticism for being too narrowly focused on law and institutions, thus ignoring social and economical factors. However, a closer look reveals that constitutional history did not really disappear;

rather, its main focus shifted and limited to parliamentary history, especially because of Albert Pollard's research and teaching at London throughout the interwar years.

Such scholars as John Ernest Neale, Geoffrey Rudolph Elton, along with those ones who were mentored by them, and many others still working today, undoubtedly are constitutional historians in that laws and institutions of Britain are the main subjects of their research. However, we may say that a parliamentary perspective has long dominated constitutional history. One extremely poignant example of this is the appearance of a very recent collection of essays on the history of Parliament, which on its cover features a portrait of William Stubbs⁶³.

Notwithstanding this, there are some recent and significant developments to consider. Despite the fact that a more than a century-old tradition vanished about fifty years ago, a new book-length *Constitutional History* – this time a collective work – has been published⁶⁴. The project arose in a legal milieu, spurred by new legal and political theories that followed the British constitution's changes, particularly those occurred in the 1970s⁶⁵. A highly innovative feature is the fact that the work brings together essays written by historians, lawyers, and students of politics; a choice which accounts both for the multidisciplinary approach to the phenomenon and the nature of the constitution itself. A clear pattern that foreshadows a great deal of future research on constitutional history is therefore discernible.

- ¹ Readers should note the difference between the noun «Whig» which indicates the name of the political party and the adjective «whig». As we will see later, the second has a broad meaning and includes attitudes and ideas that can also refer to people who did not belong to the Whig party.
- ² The expression was coined by H. Butterfield, *The Whig Interpretation of History*, London, G. Bell and Sons, 1931. The first extensive treatment of this subject has been carried out by P.B.M. Blaas, *Continuity and Anachronism: Parliamentary and Constitutional Development in Whig Historiography and in the Anti-Whig Reaction between 1890 and 1930*, The Hague, M. Nijhoff, 1978. See also J.W. Burrow, *A Liberal Descent: Victorian Historians and the English Past*, Cambridge, Cambridge University Press, 1981.
- ³ H. Hallam, *The Constitutional History of England from the Accession of Henry VII to the Death of George II*, 2 vols., London, John Murray, 1827.
- ⁴ T.B. Macaulay, *The History of England from the Accession of James the Second*, 5 voll., London, Longman & Co., 1848-1861.
- ⁵ T.E. May, *The Constitutional History of England since the Accession of George the Third: 1760-1860*, 2 vols., London, Longman, Green, Longman, and Roberts, 1861-1863. Clerk of the House of Commons from 1871 until 1886, May is especially remembered for his well-known book on the parliamentary procedure: *A Treatise upon the Law, Privileges, Proceedings and Usage of Parliament*, London, Charles Knight & Co., 1844.
- ⁶ M. Bentley, *Modernizing England's Past: English Historiography in the Age of Modernism, 1870-1970*, Cambridge, Cambridge University Press, 2005, p. 23. This book is the most extensive and up-to-date monographic treatment of modernism in British historiography.
- ⁷ The adjective «modern», eliminated in 2005, indicated all historical periods posterior to antiquity.
- ⁸ W. Stubbs, *The Constitutional History of England in Its Origin and Development*, 3 voll., Oxford, Clarendon Press, 1874-1878. In 1907, Charles Petit-Dutaillis published a French translation of the first volume and thereafter felt the urge to complete and correct it through a series of 12 essays: *Studies and Notes supplementary to Stubbs' Constitutional History Down to the Great Charter*, translated by W.E. Rhodes, Manchester, Manchester University Press, 1908.
- ⁹ Id., *Select Charters and Other Illustrations of English Constitutional History, from the Earliest Times to the Reign of Edward the First*, Oxford, Clarendon Press, 1870, p. v.
- ¹⁰ Published in the book previously cited. Subsequently, he added English translations of the sources already reproduced in print: Id., *Translation of Such Documents as are Untranslated in Dr. Stubbs' Select Charters from the Earliest Times to the Conclusions of Edward I's Reign*, Oxford, E. B. Gardner et al., 1873.
- ¹¹ Contemporary historical works include most notably E.A. Freeman, *The History of the Norman Conquest, its causes and its results*, 6 vols., Oxford, Clarendon Press, 1867-1879; J.R. Green, *A Short History of the English People*, London, Macmillan & Co., 1874; S.R. Gardiner, *History of England from the Accession of James I to the Outbreak of the Civil War, 1603-1642*, 10 vols., London, Longmans & Co., 1883-1884; J.A. Froude, *History of England from the Fall of Wolsey to the Death of Elizabeth*, 10 vols., London, John W. Parker, 1856-1870; J.R. Seeley, *The Growth of British Policy*, 2 vols., Cambridge, Cambridge University Press, 1895.
- ¹² Cf. H. Cam. Stubbs *Seventy Years after*, in «The Cambridge Historical Journal», IX, n. 2, 1948, pp. 129-147.
- ¹³ Stubbs, *Constitutional History* cit., vol. I, pp. iii, 638.
- ¹⁴ Ivi, p. 1.
- ¹⁵ Ivi, p. 544.
- ¹⁶ L. von Ranke, *A History of England: Principally in the Seventeenth Century*, 6 vols., Oxford, Clarendon Press, 1875 (English translation of *Englische Geschichte, vornehmlich im sechzehnten und siebzehnten Jahrhundert*, 7 vols., Berlin, Verlag von Duncker and Humblot, 1859-1869). Cf. A.D. Boldt, *Leopold Von Ranke: A Biography*, Abingdon, Routledge, 2019, pp. 258-259.
- ¹⁷ Stubbs, *Constitutional History* cit., vol. I, p. 170.
- ¹⁸ C. Darwin, *On the Origin of Species by Means of Natural Selection, Or the Preservation of Favoured Races in the Struggle for Life*, London, John Murray, 1859.
- ¹⁹ On this topic, cf. R.N. Soffer, *Modern History*, in M. Brock, M.C. Curthoys (eds.), *The History of the University of Oxford: Volume VII: Nineteenth-Century Oxford, Part 2*, Oxford, Clarendon Press, 2000, pp. 361-384.
- ²⁰ Ivi, p. 366.
- ²¹ A. Briggs, *History and the Social Sciences*, in W. Rüegg (ed.), *A History of the University in Europe: Volume 3, Universities the Nineteenth and Early Twentieth Centuries (1800-1945)*, Cambridge, Cambridge University Press, 2004, pp. 459-491, quotation at p. 473.
- ²² Cf. R.J. Brentano, *The Sound of Stubbs*, in «The Journal of British Studies», VI, issue 2, May 1967, pp. 1-14.
- ²³ Briggs, *History and the Social Sciences* cit., p. 473. Stubbs himself recognised this fact: *Two Lectures on the Present State and Prospects of Historical Study*, Oxford, E.P. Hall & J.H. Stacy, 1876, p. 7.
- ²⁴ H.O. Wakeman, A. Hassall (eds.), *Essays Introductory to the Study of English Constitutional History by Resident Members of the University of Oxford*, London, Rivingtons, 1887.
- ²⁵ Cf. Soffer, *Modern History* cit., pp. 362-363. However, see also the article by P. Slee, *Professor Soffer's 'History at Oxford'*, in «The His-

- torical Journal», XXX, n. 4, 1987, pp. 933-942, who raises doubts about Soffer's statement relating to the careers of Oxford graduates in late nineteenth century.
- ²⁶ See, for example, «Oxford University Gazette», Supplement to n. 3, vol. I, Tuesday, Feb. 8, 1870, p. 3; Supplement to n. 21, vol. I, Tuesday, June 21, 1870, p. 3. Reading lists concerning «The Constitutional History» recommended «Stubbs' Select Charters; [...] Hallam's Constitutional History; May's Constitutional History»: ivi, p. 383 (5 December 1871); as for «History of Constitutional Law. [...] Mr. Stubbs' "Documents Illustrative of English History" (the original documents, with the notes and introductions, should be consulted and referred to on the more important points rather than minutely studied) [...]. Reference may also be made to the chapters on the English Constitution in Hallam's Middle Ages, and to Hallam's Constitutional History»: ivi, p. 396 (12 December 1871).
- ²⁷ For example, in the academic year 1889-1890, «The Master of University [James Franck Bright] lectured on English Constitutional History from 1688. [...] Mr. C.W. Boase gave three Courses of Lectures on English Constitutional History. Mr. A. L. Smith gave two Courses of Lectures on English Constitutional History. Mr. Lodge lectured on English Constitutional History from 1485 to 1688»: «Oxford University Gazette», Supplement (2) to N. 690, 13 November 1890, p. 137.
- ²⁸ One of the tutors during those years was Dudley Julius Medley (later Professor of Modern History at the University of Glasgow from 1899 to 1931) who published *A Student's Manual of English Constitutional History*, Oxford, B. H. Blackwell, 1894.
- ²⁹ As, for example, in the case of C.G. Robertson, *Select Statutes, Cases and Documents to illustrate English Constitutional History, 1660-1832. With a supplement from 1832-1894*, London, Methuen & Co., 1904, which went through nine editions until 1949.
- ³⁰ As the book cited in the previous note shows.
- ³¹ D. Carpenter, *Magna Carta*, London, Penguin Classics, 2015, p. 11.
- ³² Cf. Soffer, *Modern History* cit., p. 363.
- ³³ Cf. P.R.H. Slee, *Learning and a Liberal Education: The Study of Modern History in the Universities of Oxford, Cambridge, and Manchester, 1800-1914*, Manchester, Manchester University Press, 1986.
- ³⁴ Briggs, *History and the Social Sciences* cit., p. 475.
- ³⁵ Letter from Frederick Maurice Powicke (1879-1963) to Helen Cam, dated 15 July 1951, cited in Bentley, *Modernizing England's Past* cit., p. 21. In the passage quoted above, Powicke mentions together with Edwards the names of Gaillard Lapsley (of whom I will speak shortly) and Bertie Wilkinson, Professor of History in the University of Toronto until 1966.
- ³⁶ C.N.L. Brooke, *A History of the University of Cambridge: Volume 4, 1870-1990*, Cambridge, Cambridge University Press, 1993, pp. 227-232.
- ³⁷ Cf. B.E. Hammond, *The Historical Tripos, in The Student's Guide to the University of Cambridge, Third Edition, Revised and Partly Re-written*, Cambridge, Cambridge University Press, 2009, pp. 421-438 (original edition Cambridge, Deighton, Bell and Co., 1874).
- ³⁸ J.R. Tanner, *The Teaching of Constitutional History*, in W.A.J. Archbold (ed.), *Essays on the Teaching of History*, Cambridge, Cambridge University Press, 1901, pp. 51-68, quotation at p. 52.
- ³⁹ Cf. ivi, pp. 53-55.
- ⁴⁰ Brooke, *A History of the University of Cambridge* cit., p. 218.
- ⁴¹ F.W. Maitland, *The Constitutional History of England: A Course of Lectures*, ed. By H.A.L. Fisher, Cambridge, Cambridge University Press, 1908.
- ⁴² Cf. Bentley, *Modernizing England's Past* cit., p. 124.
- ⁴³ Tanner, *The Teaching of Constitutional History* cit., *passim*.
- ⁴⁴ I. Jennings, *Cabinet Government*, Cambridge, Cambridge University Press, 1969 (1st edn. 1936), p. ix.
- ⁴⁵ P. Collinson, *Geoffrey Rudolph Elton*, in «Proceedings of the British Academy», XCIV, 1997, pp. 429-455, quotation at p. 447.
- ⁴⁶ Bentley, *Modernizing England's Past* cit., p. 21.
- ⁴⁷ «The Law Times», 29 December 1860, n. 927.
- ⁴⁸ D. Foxton, *The Life of Thomas E. Scrutton*, Cambridge, Cambridge University Press, 2013, p. 36.
- ⁴⁹ J.E. Benham, *The Preliminary Examination Journal and Student's Literary Magazine. Vol. I, February, 1871, to May, 1875*, London, Butterworths, 1875, p. 66.
- ⁵⁰ Foxton, *The Life of Thomas E. Scrutton* cit., p. 36.
- ⁵¹ He was the author of an *English Constitutional History: A Text-book for Students and Others*, London, Stevens & Haynes, 1875, which went through eleven editions until 1966.
- ⁵² Foxton, *The Life of Thomas E. Scrutton* cit., p. 167.
- ⁵³ Cf. P. Cavill, A.F. Pollard, in D. Hayton and L. Clark (eds.), *Historians and Parliament*, Chichester, Wiley for the Parliamentary History Yearbook Trust, 2021, pp. 45-58.
- ⁵⁴ Ivi, p. 46.
- ⁵⁵ Cf. R. Phillips, *Government policies, the State and the teaching of history*, in J. Arthur and R. Phillips (eds.), *Issues in History Teaching*, London, Routledge, 2000, pp. 10-23, quotation at p. 12.
- ⁵⁶ D. Sylvester, *Change and Continuity in History Teaching, 1900-93*, in H. Bourdillon (ed.), *Teaching History*, London, Routledge/Open University Press, 1994. Cf. also R. Harris, S. Harrison, R. McFahn (eds.), *Cross-Curricular Teaching and Learning in the Secondary School: Humanities*, Abingdon, Routledge, 2012, chapter 1.
- ⁵⁷ Cf. J.G. Slater, *The Politics of History Teaching: A Humanity Dehu-*

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manised?, London, Institute of Education, University of London, 1989, p. 1.

- ⁵⁸ A.V. Dicey, *Lectures Introductory to the Study of the Law of the Constitution*, London, Macmillan and Co., 1885; subsequently republished several times with the title *Introduction to the Study of the Law of the Constitution*.
- ⁵⁹ Cf. M.D. Walters, *A.V. Dicey and the Common Law Constitutional Tradition: A Legal Turn of Mind*, Cambridge, Cambridge University Press, 2020, p. 142.
- ⁶⁰ A.V. Dicey, *Stubbs's Constitutional History of England*, «The Nation», 4 March 1875, n. 20, pp. 152-154.
- ⁶¹ Cf. Walters, *A.V. Dicey and the Common Law Constitutional Tradition* cit., p. 95.
- ⁶² During the above-mentioned period, the only new book bearing this title with reference to Britain has been published by A. Lyon, *Constitutional History of the UK*, London, Cavendish Publishing, 2003. A partial exception is represented by E. Wicks, *The Evolution of a Constitution: Eight Key Moments in British Constitutional History*, Oxford, Hart, 2006, being a collection of essays on single topics and not a constitutional history in the classical sense. The most notable work combining constitutional law and history which I was referring to in the text of the article is the book by J.W.F. Allison, *The English Historical Constitution: Continuity, Change and European Effects*, Cambridge, Cambridge University Press, 2007.
- ⁶³ Hayton and Clark (eds.), *Historians and Parliament* cit.
- ⁶⁴ P. Cane, H. Kumarasingham (eds.), *The Cambridge Constitutional History of the United Kingdom*, 2 vols., Cambridge, Cambridge University Press, 2023.
- ⁶⁵ Much debate sparked after the publication of the article by J.A.G. Griffith, *The Political Constitution*, in «The Modern Law Review», XLII, n. 1, January 1979, pp. 1-21.