Prof. Amar's Eccentric Asides on British History

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Anthony Gary Brown Signature Track · 17 days ago

One of the things I'm appreciating about this course is the combination of Law, Political Science and History, and particularly the British History (being both a Brit and a historian by origins...). Prof. Amar makes many references to the British way of doing things, and the American adoption/rejection thereof (and there will be a lot more in the Common Law parts of the 'Unwritten Constitution' lectures). However, I do find some of the Prof.'s British *dicta* a tad eccentric. And, while none of them are terribly crucial, an eye for detail is surely a necessary, though not sufficient, part of the legal mind! So, here's a few of my nit-picks from the material so far (with apologies for their nit-picky length....).

A) *In the second part of "America's First Officer" lecture [at just after the 6.00 min mark] Prof. Amar states that in England foreign-born people* ***are*** *"perpetually ineligible" for membership of Parliament, the Privy Council and certain executive offices.*

That was largely true in 1789, under the terms of the Act of Settlement of 1701 - whose language Amar is quoting - but even by then was somewhat attenuated (a small number of MPs were foreign-born, though all to British parents away on government service). But such restrictions (including most religious ones too) were certainly no longer in force by the early 20th century (the UK had an American-born lady MP in 1919, and a Canadian-born Prime Minister and Privy Councillor in 1922, neither of whom had British parents), and were emphatically swept away in 1948, when citizenship rules were vastly revised.

True, until quite recently those "freedoms" were more granted to those born in the former colonies than to pure outsiders. But, today, there are a good number of naturalized citizen MPs and senior government officers from all parts of the globe. BTW, the UK is somewhat unusual in allowing even non-citizens to vote and to become MPs: Irish citizens are fully eligible for almost aspects of UK civic life, as are Commonwealth citizens.

B) *Who chooses the Prime Minister?*

In the Article II section (at Kindle location 3121) of "America's Constitution: a Biography" (but not, so far, in the lectures), Prof. Amar states in an aside that, ***today****, the UK Prime Minister is chosen by Parliament, contrasting that with the late 18th century practice of the King making his own choice from among his grandees.*

Not so.

Technically, the Prime Minister is chosen by the Queen (on advice from her Privy Councillors), and is the person who can "command the confidence of the House of Commons", ie the leader of the Party with the largest number of seats therein (if need be - and as at present - in coalition with a smaller party to command an absolute majority of the votes in the House). But the Parties - not Parliament, not the Queen, not the People - choose their own leaders, all in various different ways (by some combinations of their own MPs and their membership at large), with the only modern rule being that the party leader is invariably an elected Member of the House of Commons (ie, an MP: not a Lord, a Prince or anyone else).

So, the present UK Prime Minister, David Cameron was elected MP in 2001 with about 40,000 votes in his constituency of Whitney; chosen as Conservative Party Leader in 2005 with about 135,000 votes from members of that Party (from a short-list voted on by its then 198 MPs); and appointed Prime Minister by one single Queen Elizabeth II after the 2010 national election for Parliament (when his party won 306 seats, offering a coalition to a smaller Party that had won 57 seats, so as to have an overall majority over the chief opposition Party with its 258 seats).

Though Parliament does not choose the PM, Parliament can *un-choose* him! If the majority of MPs support a *vote of no confidence* in his government, he resigns as PM and asks the Queen to call a new general election for Parliament. I say *Him*. There's a famous *Her* too: when sitting Prime Minister Margaret Thatcher was defeated in a re-election vote for the leadership of her own Party, she too resigned as PM. However, in that case, her *Party* still had a clear majority in the House of Commons, so the Queen merely appointed the new Party leader, John Major, as PM, without any national election.

C) *In the first part of "New Rules for a New World" lecture, Prof. Amar compares the majesty of Buckingham Palace to the homeliness of the White House in the early days of the republic: as he says, a picture [can be] worth a thousand words.....*

Fair enough today: the Palace is about 10 times the size of the White House. But in 1789 it was very much smaller than it now is – not much bigger at all than the White House – and in any case was called "The Queen's Residence", bought by King George III from the Duke of Buckingham in 1761 to be a private home for his immediate family. It was hugely expanded from 1826 under George IV, and only then became "Buckingham Palace". Even then, it only attained its present grandeur in about 1850, though what you see today is essentially the effect of the last major facade-lift, in 1913.

In 1789 the official Royal Palace of London was (and technically still is) St. James' Palace: a charming, ramshackle collection of mostly 16th and early 17th century dark-brick buildings and narrow corridors, somewhat tucked away and easily missed by visitors: no one part of it is especially grand or large. It's that cluster of mostly sepulchral, intimate spaces that would have been very familiar to American diplomats.

Even the Houses of Parliament were less impressive, back in the day. What you see now is the massive re-build after the calamitous fire of 1834. Before that, the old, part-medieval Palace was another ramshackle collection of great halls and pokey offices (though better sited than St. James for pure visual impact), housing not just the debating chambers of Lords and Commons, but parts of both the royal executive and the high courts.

Gary B.

↑ 1 ↓ · flag

Stanley H Kelley · 17 days ago

On the first two points I think Professor Amar is talking about the situation as it existed in the late 18th Century and not what the situation as it is a Century later, just as he sees the Constitution as very democratic for its time, not in the context of today.

↑ 3 ↓ · flag

+ Comment

 Anthony Gary Brown Signature Track · 17 days ago

No: in both cases he specifically talks about what is *now* the case, today in the UK.

Gary B.

↑ 0 ↓ · flag

Stanley H Kelley · 17 days ago

This is far from clear. It is often the case that when talking about historical events that in bringing in other contemporaneous event one uses the present tense which is all he does here. In the text "America's Constitution: A Biography" he says that by opening most offices to immigrants "the Constitution represented a considerable liberalization of eighteenth-century English practice."

↑ 2 ↓ · flag

+ Comment

 Anthony Gary Brown Signature Track · 17 days ago

Stanley,

Agreed that point A) is perhaps not so clear, and Amar may well not have been suggesting that the English "perpetual ineligibility" of 1701 remains the case today (which it does not). But it wasn't quite the case in 1789 either. The problems that the 1701 Act had been designed to address - a) the potential return of continental relatives of the Catholic Stuarts, and b) the potential influx of even Protestant advisers to Sophia of Hanover, the declared heir to the childless Queen Anne - were, some 90 years later, pretty much long-settled.

Clear as crystal in respect of my B):
"The modern Westminster model, in which Parliament picks its own leader with minimal monarchical involvement, still lay in the future." (*America's Constitution: A Biography*, @Kindle 3121)

An interesting follow-on on the immigration point is that of course it was some years after 1789 that a post-Constitution immigrant could actually become naturalized and eligible for office (probably not much before 1800 I guess). The first so naturalized US Representative looks to have been the Scot James Stewart, seated for NC in 1818, and the first naturalized Senator seems to have been the Frenchman Eligius Fromantin, seated for LA in 1813; the first naturalized Cabinet Secretary was the Irish William Duane of the Treasury, appointed in 1833. There was no naturalized Secretary of State until Henry Kissinger! Of course, there were probably naturalized State-level politicians and lesser Federal officials somewhat before those early dates. And, again, there were numbers of foreign-born high achievers - most of them active in the Revolutionary War, which gave them their "chops" for office - around in 1789 itself, though they were not "naturalized" in the narrow legal sense of the word. (A shout-out here for the remarkable Swiss immigrant Albert Gallentin, who was an early occupier of a cluster of post-1789 high State and Federal offices; but he was almost certainly naturalized a few years before that date.)

BTW, an an immigrant myself, I love and cherish the heights to which one can freely aspire in the US, and do believe they have long been more available that in many other lands, including my native UK. Many will recall that Gen. Colin Powell noted that his parents contempled both the UK and the USA as potential places to move from their native Jamaica. As he said, had he grown up in the UK and joined the British Army, he could perhaps have made sergeant....

Gary B.

↑ 1 ↓ · flag

Stanley H Kelley · 17 days ago

Is it not the case with respect to point B that the reason Cameron had to have the votes of the Liberals was because one has to be chosen by a majority of the Commons and not just by a majority of one's own Party?

↑ 0 ↓ · flag

 Anthony Gary Brown Signature Track · 17 days ago

No: in 2010, the old Parliament was dissolved by the Queen on April 11th; the national election took place on May 5th; Cameron was appointed PM by the Queen on May 11th; the new Parliament met for the first time on May 25th (when the Queen made a speech

announcing what her new Government would be proposing to the House by way of legislation).

Usually, the appointment of the new PM (assuming the previous one has retired / been defeated) takes place the day after the election. But here it took some time, behind the scenes, for the Lib-Dems to formally agree to support Mr Cameron's party in the forthcoming Parliamentary session; hence the delay until May 11th. BTW, the previous PM, Mr Brown (no relation!) remained as PM after the previous Parliament was dissolved by the Queen, and after he was defeated in the May 5th election. On May 11th, he was summoned by the Queen to be politely dismissed, and a few minutes later Mr Cameron arrived to be appointed.

Gary B.

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 Malcolm Saunders Signature Track · 12 days ago

Interesting points Gary thanks. Just one trivial observation from me as a Brit. I know it is customary in the US to refer to Britain as England, but it should be pointed out that it is not. The Westminster Parliament comprises Members from England, Scotland, Wales and Northern Ireland making up the British Parliament. In 1789, of course, the whole of Ireland was incorporated into the British state and Parliament.

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 Anthony Gary Brown Signature Track · 12 days ago

Malcolm - you're thinking of the United Kingdom. Prior to 1801, King George was King of (amongst other places) Great Britain and King of Ireland, separately. Great Britain was the outcome of the earlier voluntary 1707 Union of the Kingdoms of England (and its Principality of Wales, conquered centuries earlier) and Scotland. In 1801 the United Kingdom of Great Britain and Ireland was formed. In 1927 that became the Kingdom of Great Britain and Northern Ireland. In, say 2016 (maybe!) the name might need changing again, if Scotland leaves the Union.

Prof. Amar tends to use England, Britain, Great Britain and the United Kingdom interchangeably, which is fairly common worldwide, even if strictly inaccurate. A side issue is that the United States and the United Kingdom are two countries for which it's not easy to form an adjective: so the inaccurate "Americans" or "British" etc tend to get used instead.....

Gary B.

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 Malcolm Saunders Signature Track · 12 days ago

The Professor predominantly refers to the 'English Parliament' and I was just pointing out that this is wrong now and was in 1789. It is almost universal for US citizens to do this, but I haven't noticed it being prevalent in other countries. I think this may originate in the desire of many in the USA wishing to identify with Irish and Scots ancestors while having some antipathy to the English as colonialists. You are right, Gary, that Northern Ireland is part of the UK, but not Britain (the 'Great' is not necessary, nobody identifies themselves as 'Great British' although they may choose to be British rather than of one of the component parts).

The fact that before 1801 the king was styled monarch of Ireland separately from Britain and the other places of which he was head of state does not alter the fact that Ireland's Parliament was subordinate to the British Government and its laws could be overturned.

This is nit picking, but it is still true that not all the British are English just as not all Americans are from the United States.

If Scotland chooses independence there will still not be an English Parliament at Westminster.

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 Anthony Gary Brown Signature Track · 11 days ago

From 1707 to the last day of 1800, the official style of the country was The Kingdom of Great Britain (sometimes the United Kingdom.....), never the Kingdom of Britain alone. Great Britain is also the geographic term for the largest of the British Isles, the one that holds the greater part of England, Wales and Scotland, and the name reflected that 1707 union into one crown. "British" is the normal adjective formed from either the political of geographic entities of Great Britain, the "Great" being dropped, as you say.

The Kingdom of Ireland had been formed officially by Henry VIII in 1542. As you say, it was for centuries effectively run by executive fiat from London (it was the monarch's London advisers who appointed the Dublin Executive), even though it nominally had its own government and - sometimes - Parliament. Oddly, from 1782 to 1800 it had its most independent Parliament ever - largely under the great "home-ruler" Henry Grattan - and it was precisely its rather (chaotic, in truth) independent tendencies that led London to abolish the entire separate kingdom in 1800, forming the modern "UK" on the first day of 1801. (Of course, the insurrections of 1798 played a vast role too: I don't mean to underplay their extra-political effect.)

I live in France for half of each year - and I can promise that they are as confused about England, Britain, the UK etc etc as anyone else, as are many others who don't have "inside track" knowledge!

Gary B.

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Karl Frank Signature Track · 7 hours ago

Writers prior to 1707 understood that terms 'Briton', 'Britain' (in the non-geographic sense) and 'British' as denoting the Celtic (Britonnic speaking) inhabitants who were either absorbed by the migration of the Angles, Saxons, Jutes, et al. in the 5th and 6th centuries, or were driven west to Cornwall and Wales. Following the act of union, a neutral generic term covering Scots, English, and Welsh was needed, and the terms "British" and so on were re-applied in a new sense to do this job. The OED's dated examples of usage support this point.

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Linda Singer · an hour ago

and there is a bit of a problem of what to call the rest if Scotland votes to leave, with or without the pound stirling. will the remnant nation be called the Former United Kingdom? oops

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+ Comment

 Louis Moya · 11 days ago

At a White House Christmas dinner in the White House Green Room on the first floor in the White House, used for receptions and teas, in 1979 British Prime Minister Margaret Thatcher-- who'd called for more self-policing by the media, declaring that: "we must try to find ways to starve the terrorists and the hijackers of the oxygen of publicity on which they depend!' mirroring JFK's 1961 speech before the UN General Assembly that: "terror is not a new weapon; throughout history it has been used by those who could not prevail, either by persuasion or example--" reminded President Carter, up as early as 5:00 A.M., and in bed by 11:45 P.M, that George Washington was a British subject until well over his 40th birthday. And who not minutes before had invoked Dickens, pseudonym Boz, considered the greatest novelist of the Victorian period, saying: "perhaps you can't hear the running of the Themes in my speech, after all I am from Georgia, but we all have a part of Britain in us."

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 Malcolm Saunders Signature Track · 10 days ago

Many French simply know us as' les rosbifs' irrespective of which nationality of Briton they are referring to. Some of the more historically inclined regard the Scots as friends and the English with grave suspicion.

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 Anthony Gary Brown Signature Track · 10 days ago

And I tell my French friends that, these days, I am *mi-rosbif, mi-hamburger* !

Gary B.

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+ Comment

Dr John Kirkhope · 9 days ago

What an interesting and erudite discussion

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