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William Stubbs (1859-1901)

We would not expect the question of family and kinship to occur directly in the work of the greatest of English constitutional historians, William Stubbs. Hay¹ singles out as the 'masters of a century ago' Ranke and Stubbs. Yet his views throw considerable indirect light on the question of degree to which by the end of the nineteenth century English historians had escaped the view that there was a great continuity between the medieval and modern periods. If he still believed that basically social structure, as mirrored in the constitutional documents, was generically similar as between say 1250 and 1750, it would be difficult for him to perceive the revolution in family structure and sentiment which historians now believe occurred between 1450-1750. His views are all the more interesting because he was prodigiously learned, having used and edited vast quantities of documents from Anglo-Saxon and medieval society, but also with a wide-ranging knowledge of medieval Europe. Nor was he merely a medieval scholar. He wrote on modern history and his position as Bishop of Oxford ensured some practical experience of modern social conditions. His eminence and virtues are well summed up by two scholars. His eminence and virtues are well summed up by two scholars, Petit-Dutaillis and Lefebvre, who annotated his works when they were translated into French:

All that we know of Stubbs inspires confidence, confidence in the solidity and extent of his knowledge, the honesty of his criticism, the sureness of his judgment, the depth of his practical experience of men and things...the 'Constitutional History'. It is the fruit of prodigious labour, of a thorough investigation of the printed sources which a historian could consult at the period when these three bulky volumes successively appeared. It is an admirable storehouse of facts, well chosen, and set forth with scrupulous good faith.² Although, as Pettit-Dutaillis and Lefebvre show, his work has been the subject of number of amendments, there is no work that I know of which has openly challenged his central thesis. This thesis concerns the continuity of English institutions.

In the **Constitutional History** Stubbs again and again stressed that the basic linguistic, constitutional and hence legal structure of England had been laid down very early. This is expressed in two major views. One is that the foundations of English society are almost purely Germanic; the second is that all these foundations had been laid down by the thirteenth century and that from then on there was only surface change. On the first point, he writes

'The English...are a people of German descent in the main constituents of blood, character, and language, but most especially, in coercion with our subject, in the possession of the elements of primitive German civilization and the common germs of German institutions. This descent is not a matter of

¹Analysts and Historians, 169

²Studies and Notes, v

inference. It is a recorded fact of history...³

or again, concerning the Germanic element, as one among others,

'The very diversity of the elements serves to illustrate the strength and vitality of that one which for thirteen hundred years has maintained its position either unrivalled or in victorious supremacy. If its history is not the perfectly pure development of Germanic principles, it is the nearest existing approach to such a development...'

or in relation to law

'Her (i.e.England's) common law is, to a far greater extent than is commonly recognized, based on usages anterior to the influx of feudality, that is, on strictly primitive custom; and what she has that is feudal may be traced through its frank stage of development to the common Germanic sources. The result of this comparison (i.e. with France, Spain, Germany etc.) is to suggest the probability that the polity developed by the German races on British soil is the purest product of their primitive instinct...language, law, custom and religion preserve their original conformation and colouring. The German element is the paternal element in our system, natural, and political...⁴

It was a consequence of this belief that language, law, custom and religion were basically Germanic (and hence social structure, which is a mixture of all of these), that the basic sub-structure of modern England should have been laid out very early. Stubbs believed it to have been so by the end of the thirteenth century. He comments that 'The great characteristic of the English constitutional system is the continuous development of representative institutions from the first elementary stage...The nation becomes one and realizes its oneness...It is completed under Henry II and his sons.⁵ He is, of course, aware that there are very considerable turmoils ahead and political changes of considerable importance. But he believes that the basic nature of the nation does not change. 'The constitution (which) reached its formal and definite maturity under Edward I...the continuity of life, and the continuity of national purpose, never fails: even the great struggle of all (sic), the long labour that extends from the Reformation to the Revolution (i.e. 1688), leaves the organization, the origin of which we have been tracing, unbroken in its conscious identity, stronger in the strength which it has preserved, and grown mightier through trial.⁶ There is thus no notion here of any basic shift from one kind of society to another, from a world where people thought and felt in one way, to a 'modern' world where they think and feel in another. Again, this was not because Stubbs was blind to changes. He admitted the

³pi, 2

⁴ p.11

⁵i, 584-5

⁶p.682

C16-C17 'witnessed a series of changes in national life, mind, and character, in the relations of the classes, and in the balance of political forces, far greater than the English race had gone through since the Norman Conquest.'⁷ here he listed as the Reformation, the 'transformation of the baronage of early England into the nobility of later times' and 'the recovered strength of the monarchic principle...' But he believed that the changes did not basically alter the society from one kind into another; furthermore, he believed that they did not affect those below the level of the gentry as much as others.

If we turn to his occasional speculations on social structure, he again paints a picture of continuity, especially at the levels of the middling ranks downwards.

'As we descent in the scale of social rank the differences between medieval and modern life rapidly diminish; the habits of a modern nobleman differ from those of his fifteenth-century ancestor far more widely than those of the peasantry of today from those of the middle ages, even when the increase of comfort and culture has been fairly frequent throughout.'⁸

He admitted that the balance of ownership between the state?? shifted over time, but believed that always the gentry, tradesmen and yeomanry were present. The yeomanry, he stressed were a body which 'in antiquity of possession and purity of extraction...probably superior to the classes that looked down upon it as ignoble...' Two features of the early yeomanry especially struck him, their wealth and their social mobility. He wrote that 'The wills and inventories of the well-to-do freeholder and farmer furnish similar evidence of competency; and these are an irrefragable answer to the popular theories of the misery and discomfort of medieval middle-class life...The house of the freeholder was substantially but simply furnished, his store of clothes and linen were ample, he had money in his purse and credit at the shop and at the market.'⁹

This is no miserable subsistence peasant, but a small capitalist involved in a market economy. And these small men could rise to be big men, just as merchants could marry into the gentry. Stubbs clearly believed that the feature which later sociologists like De Tocqueville were to isolate as the central feature of a 'modern' social structure, namely the absence of hereditary and legally privileged orders, was already present in medieval England. 'Before the close of the middle ages the rich townsmen had begun to intermarry with the knights and gentry, and many of the noble families of the present day trace the foundation of their fortunes to a lord mayor of London or York...It is probably that there was no period in English history at which the barrier between the knightly and mercantile class was regarded as insuperable, since the days of Athelstan, when the merchant who had made three voyages over the sea and made his fortune, become worthy of then-right...'¹⁰ He makes the point even more forcefully later,

⁷iii, 3

⁸iii, 570

⁹573

¹⁰iii, 6115

'there is little evidence to show that our forefathers, in the middle ranks of life, desired to set any impassable boundary between class and class...The city magnate formed a link between the country squire and the tradesman; and the tradesman and the yeoman were in position and in blood close akin. Even the villein might, by learning a craft, set his foot on the ladder of promotion...'¹¹ The final feature of a world which looks surprisingly similar to that of the seventeenth or eighteenth centuries may be noted. It is a feature of a pre-capitalist social structure that there is little division of labour; without money there is little occupational specialization. Nor are there more than a few wage-labourers. Yet Stubbs seemed to believe that there were 'whole classes of labourers and artisans, whose earnings never furnished more than the mere requisites of life...'¹² This was well before the disruptions of the later fifteenth century.

The total effect of Stubbs work, if we consider it in relation to the family and kinship, is to make us believe that we would have expected little structural change between the thirteenth and eighteenth centuries. If the basic political, constitutional and class framework was very recognizably the same, if he was able to end his selection of constitutional documents in the reign of Edward I 'because the machinery is now completed, the people are at full growth. The system is raw and untrained and awkward, but it is complete'¹³, it seems overwhelmingly likely that he would not have expected a massive transformation in family structure. It is self-evident that the family and kinship system did not exist in isolation. They are interlinked with law, language, political and class structure to such an extent that it seems very unlikely to us, as it would have done to Stubbs, that if the fundamentals of social and legal structure were unchanged, then the basic nature of knowledge would be also. There is no sense in Stubbs' work that he thought of those living before, say, 1500, either at the lower or higher levels as living in a different world. He does not seem to have realized that their property relations, their upbringing, their perceptions, their sentiments, were those of a totally alien, 'pre-capitalist'/'pre-modern' society. Despite his vast erudition, despite his endless editing of medieval and earlier documents, this looming fact which is so obvious to us now seems to have escaped him.

¹¹p. 626

¹²iii, 618-9

¹³Select Charters, 51