



David Hume Liberal Political Theory

GMU 27 Nov 2018 Youtube video: <https://youtu.be/7cNI1uC620c>

By Daniel Klein and Erik Matson



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George Mason University



“Mere-liberty in David Hume”

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GMU PhD 2017

NYU Postdoc

Works on Hume and Smith

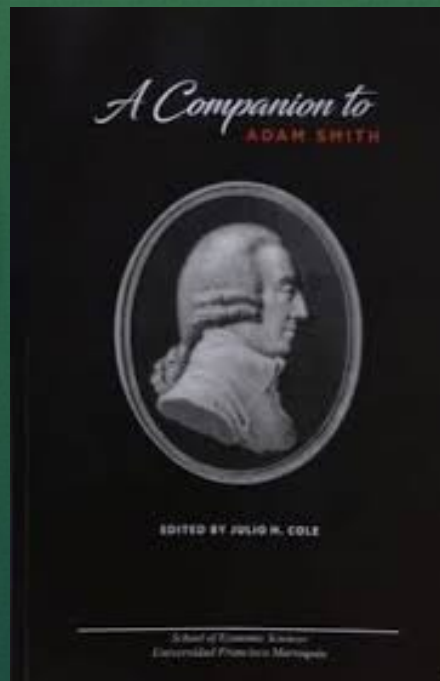


A Companion to David Hume

Edited by Moris Polanco



Universidad Francisco Marroquin (UFM)



Related Dan Klein videos

The Semantic History of Liberalism (20 min)

<https://newmedia.ufm.edu/video/semantic-history-of-liberalism/>

Liberalism 1.0: The Genealogy of Adam Smith's Liberalism (66 min)

<https://newmedia.ufm.edu/video/liberalism-1-0-the-genealogy-of-adam-smiths-liberalism/>

Adam Smith's Commutative, Distributive, and Estimative Justice (55 min)

<https://www.youtube.com/watch?v=JBA6Z1qJH5I&feature=youtu.be>

Niche Libertarianism: A Critique (39 min)

<https://www.youtube.com/watch?v=7E1GiyTDz4w&feature=youtu.be>

James Madison



“Among the difficulties encountered by the [Constitutional] Convention, a very important one must have lain, in combining

the requisite stability and energy in Government,

with the inviolable attention due to liberty,

and to the Republican form.”

Federalist Paper #37 (p. 252)



Mere-liberty:

Others not messing with one's stuff

In particular: The government

Paradox



- “A great sacrifice of liberty must necessarily be made in every government”
- "liberty is the perfection of civil society"
- But "authority must be acknowledged essential to its very existence" (EMPL 40).

“liberty” in Hume

- "personal liberty"
- "civil liberty"
- "political liberty"
- "English liberty"
- "established liberty"
- "general liberty"
- "public liberty"
- “regular liberty”
- “plan of liberty”
- “natural liberty”
- “native liberty”
- “liberty”: ~ 700 in *History*.

I learned...

- Mere-liberty in Hume
- The role of natural jurisprudence in liberal political theory
- The importance of **jural integration** in liberal political theory: **The liberal nation-state**
- **The jural logic of one's own**
- The arc and character of liberalism 1.0

1440-1776

1. Gutenberg printing press 1440.
2. Protestant reformation: Innovation and secession from Roman Catholicism
Cuius regio, eius religio: Whose realm, his religion.
3. Wars of religion



Adam Smith:
“more difficult to preserve
this harmony [of sentiments]”

1. An idea: Religious toleration
2. Another idea: Liberty of religion.
Separation of Church and State
3. Another idea: Liberty.
Separation of High Things and State.

Meanwhile:
The rise of the nation-state



- Arthur Melzer:

“[E]arly modern thinkers...endeavored to find a form of politics that could do without such consensus. They deliberately set out to subvert traditional society and to replace it with a fundamentally new kind of social organization, one that would renounce the ever precarious attempt to define the truth about life’s highest goods. Instead, it would unite men on the promise of preventing the most obvious and basic evils...Thus, by standing traditional society on its head, by openly switching the purpose and moral basis of the state from our highest to our lowest end, they attempted to separate politics from the whole disputed sphere of morality and religion...” (2014, 171)

High things, sacred things. Low things, mundane things.



The low things

Clarifying pieces: Dividing and subdividing rights and duties

Natural jurisprudence

Basic rules: operating system

“the liberal plan”

- dangers of discohesion
- a faith in spontaneous order



J.G.A. Pocock

“The child of jurisprudence is liberalism, in which the disjunction between individual and sovereign remains, no matter how close the two are brought to one another; whereas republican virtue pertains immediately to the individual, not as proprietor or rights-bearer but as citizen, sharing self-rule among a number of equals without the need of any prior *translatio*.” (essay in Hont & Ignatieff 1983, 249)



Dugald Stewart

The systems of natural jurisprudence were “the first rudiments...of liberal politics taught in modern times.” (CW I, p. 26, see also 183)

And to which “we are chiefly indebted for the modern science of Political Economy” (p. 171)

Some genealogy of liberalism 1.0

“proto-liberals” → Political stability in Britain

Grotius-Locke-Hume

Hume-Smith

“liberal” as the name

1600 1689 1776 Gladstone....

We extend “liberal” backward in time, before 1776

Hume scholarship

Our take broadly concurs with:

- Frederick Whelan
- Knud Haakonssen
- Nicholas Capaldi
- Russell Hardin
- Thomas Merrill

Others shy on mere-liberty

	what is highlighted as central in Hume's meaning of liberty
John Valdimir Price (1966)	"individual activities and expressions of ideas that are not inimical to the stability of the government" (p. 141)
Friedrich Hayek (1967)	"general and inflexible laws" (117f)
Duncan Forbes (1975)	"the security of the individual under the rule of law" (87, also 88, 153); "general and equal laws" (154f); "the absolute rule of law" (170, 181)
David Miller (1981)	"the absence of arbitrary coercion" (148)
John B. Stewart (1992)	"civil liberty entails a rule of law; it requires established rights with respect to economic activity, speech, religion, and so forth" (232)
Donald Livingston (1998)	"uncoerced by the arbitrary will of another," "a government of Laws, not of Men," "Law must be known, regular, and predictable," "the rule of law" (182f)
Andrew Sabl (2012)	"strategies and institutions for limiting the power that accrues to those who hold power under conventions of authority" (16);

“transportation”



Is a car transportation?

Essential meaning:

Moving things from one place to another

Contributory meaning:

Things that contribute to moving things from one place to another

“liberty”



Essential meaning:

Others not messing with one's stuff

Contributory meaning:

Things that contribute to others not messing with one's stuff

James Madison



“Among the difficulties encountered by the [Constitutional] Convention, a very important one must have lain, in combining

the requisite stability and energy in Government,

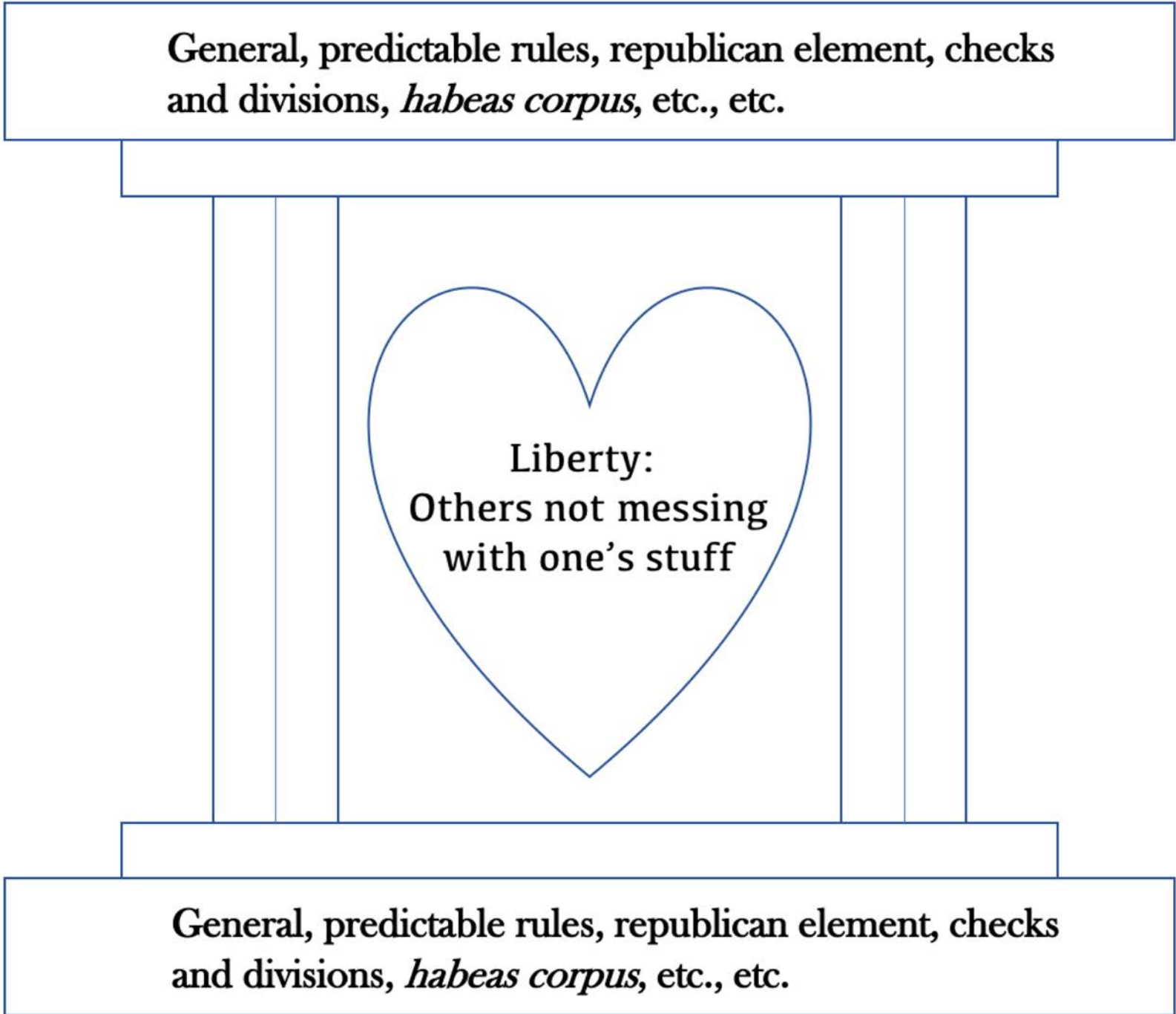
with the inviolable attention due to liberty,

and to the Republican form.”

Federalist Paper #37 (p. 252)

HUME'S CONSTITUTION OF LIBERTY

General, predictable rules, republican element, checks and divisions, *habeas corpus*, etc., etc.

The diagram depicts a classical building with a pediment and a base. In the center of the building's facade is a large heart shape. Inside the heart, the text 'Liberty: Others not messing with one's stuff' is written. The top and bottom sections of the building, which would be the pediment and base, contain identical text: 'General, predictable rules, republican element, checks and divisions, habeas corpus, etc., etc.' The building is flanked by two vertical bars, each with an orange top half and a green bottom half.

Liberty:
Others not messing
with one's stuff

General, predictable rules, republican element, checks and divisions, *habeas corpus*, etc., etc.

Polysemy, contrarities

Hume:

nature, natural

reason

liberty, freedom

justice

Smith:

nature, natural

justice

impartial spectator



Others not messing with one's stuff

is flipside of

Not messing with other people's stuff

COMMUTATIVE JUSTICE -- CJ

“abstaining”



- In THN, Hume uses *abstain* and its cognates *NINE TIMES*:
 - “by *abstaining* from the possessions of others”
- “...particular goods are to be assign’d to each particular person, while *the rest of mankind are excluded* from their possession and enjoyment” (T 3.2.3.1, italics added)
- “A man's property is suppos'd to be *fenc'd* against every mortal, in every possible case” (T 3.2.1.16).
- CJ: “*abstaining from what is another's*”



abstaining from = not messing with

what = stuff

another's = other people's




Commutative justice:

Not *messing with*
other people's
stuff

Understood within historical context.

- Uniformity amidst variety.
- Government law affects fine points but does not undo natural conventions

Commutative justice



“The most sacred laws of justice...are the laws which guard the **life and person** of our neighbour; the next are those which guard his **property and possessions**; and last of all come those which guard what are called his personal rights, or **what is due to him from the promises of others.**”

Self-ownership



“There are **three different species of goods**, which we are **possess’d of**; [1] the internal satisfaction of our minds, [2] the external advantages of our body, and [3] the enjoyment of such possessions as we have acquir’d by our industry and good fortune.” (T 3.2.2.7)

Men "must seek for a remedy, by putting these goods, as far as possible, ***on the same footing with the fix’d and constant advantages of the mind and body***. This can be done after no other manner, than by a convention" (T 3.2.2.9; italics added).

Self-ownership



"the most considerable of all goods, life and limbs" (T 3.2.8.1)

"our natural liberty," "native liberty" (EMPL 588 n6, 580)

the English government's obligation "to secure every one's life" (EMPL 12)

In the *History*



- *captives/prisoners/slaves recovering their liberty/being restored to liberty/etc.:* I: 142, 143, 149, 172, 224, 231, 260, 265, 291, 384, 396, 398, 401, 402, 403, 409, 469; II: 48, 58, 58, 61, 62, 79, 89, 93, 113, 124, 187, 190, 191, 244, 253, 259, 260, 330, 334, 387, 417, 424, 472, 488; III: 22, 35, 36, 67, 70, 75, 159, 162, 163, 164, 166, 167, 174, 175, 229, 240, 270, 294, 296, 297, 305, 379, 382, 405, 406, 407, 428; IV: 7, 8, 50, 80, 98, 124, 128, 130, 132, 156, 157, 171, 180, 190, 198, 201, 202, 232, 296, 327, 335; V: 62, 63, 74, 216; VI: 9, 13, 33, 88, 124, 133, 228, 327, 371, 529.
- *liberty of thought/conscience/religion:* I: 393; III: 136, 189, 212, 266, 289, 322, 342, 384, 433; IV: 19, 150, 168, 211; V: 115, 125; VI: 71, 88, 139, 184, 250, 254, 364, 377, 389, 398, 482.
- *liberty of press/speech:* III: 345; IV: 140, 180, 285; V: 91, 92, 130, 190, 240; VI: 540, 542.

Property extended, Contract



By emergent *conventions*:

- new objects permanently owned, propertized
- signs and words for contract

CJ conventions



any property/contract rule or principle
that emerges “**admits not of degrees**” (T 3.2.6.8)

“precise and accurate” – Smith

Like grammar

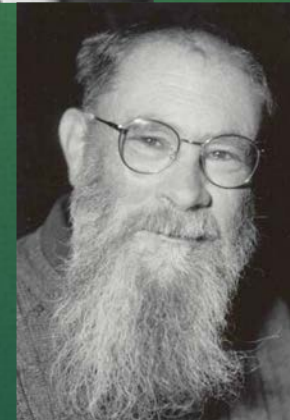


David Hume

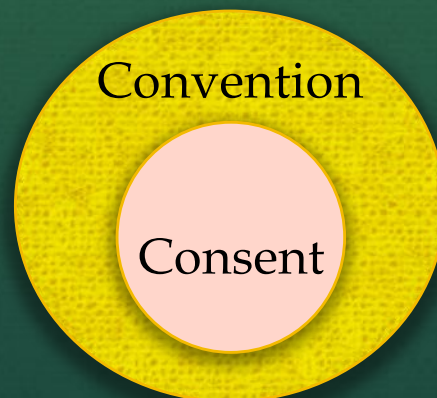
- Problems in mutual coordination
- Focal points (Schelling)
- Focal points all the way down.
- Convention: Language, etc. (D.K. Lewis)
 - Does not imply contract/consent.



Thomas
Schelling
1921-2016



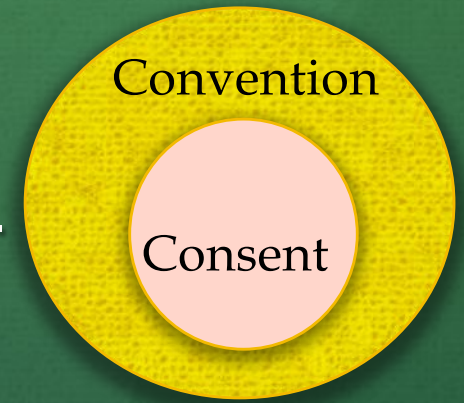
David K.
Lewis





David Hume

- Natural convention
- Commutative justice: A set of conventions.
- Political authority: A set of conventions.
 - He attacks social contract
- “liberty is the perfection of civil society” Essays, 41



Talk of
contract/
consent/
compact

for
property?

for
political
authority?

<u>Grotius</u> <u>Pufen.</u>	Locke	Hume, Smith
Yes	No	No
Yes	Yes	No

See Hont & Ignatieff 1983



“Tis sufficient to observe on this occasion, that property may be defin’d, *such a relation betwixt a person and an object that permits him, but forbids any other, the free use and possession of it, without violating the laws of justice and moral equity.* If justice, therefore, be a virtue, which has a natural and original influence on the human mind, property may be look’d upon as a particular species of *causation*; whether we consider the **liberty** it gives the proprietor to operate as he pleases upon the object, or the advantages, which he reaps from it.” (T 2.1.10.1; italics original, boldface added)



“[T]he convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society, and that after the agreement for the fixing and observing of this rule, ***there remains little or nothing to be done*** towards settling a perfect harmony and concord.” (T 3.2.2.12; italics added)



Knud Haakonssen



For Hume:

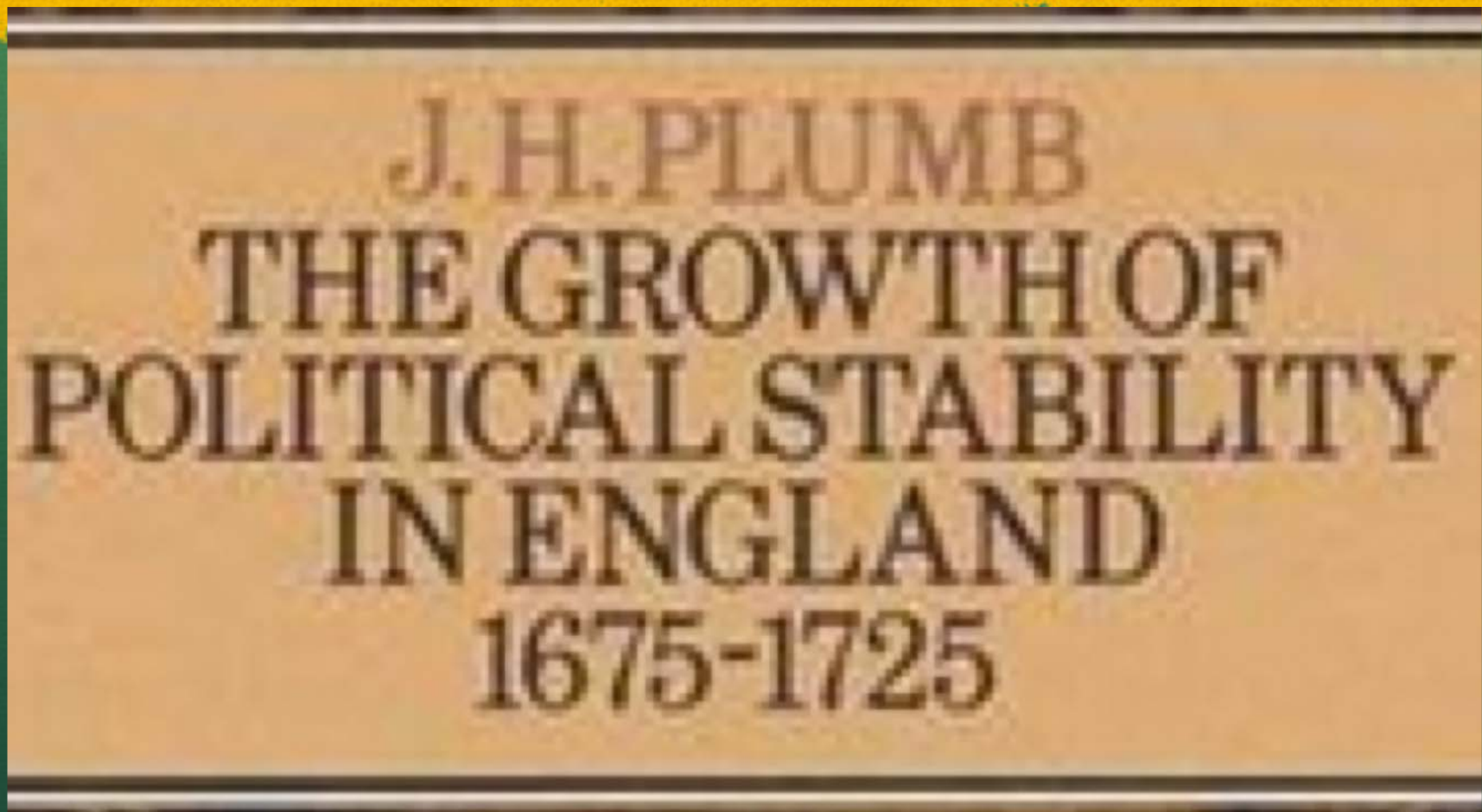
"The object of just laws is thus **individual liberty**, and, since the most obvious and most endangered expression of **such liberty** is the acquisition and use of property, justice is centrally concerned with property and, it follows, with contracts" (1996, 117).

Pinning down mere-liberty



1. "stuff"?
2. "one's"?
3. "messing with"?

Stable polity in Britain



Hume and Smith presuppose a stable polity context.

Jural integration, Stable polity



"the government"

Integration of municipal, county, provincial, national authorities.

Stable polity

The modern nation-state: A stable polity of **jural dualism**

Two kinds of jural relationships:

Equal-Equal (E-E)

Superior-inferior (S-i)



The jural logic of one's own:

For such societies:

A type of action in S-i is an initiation of coercion **if and only if** such action in E-E is.

S-i

taxation

arrest

regulation, intervention

asset seizure

conscription

E-E

extortion

abduction

assault

theft

slavery





- "municipal laws" may "fix what the principles of human nature have left undetermin'd" (T 3.2.3.10 n75.13)
- Historicity pins down "stuff," "one's," and "messing with," yielding operative CJ and liberty.
- CJ and liberty need historicity to pin down the specifics of the social grammar, but as general formulations they achieve a uniformity pervading all such societies.



Jural integration makes the liberty
maxim meaningful

⇒ “the liberal plan”

But...



suppose no integration:

- families
- clans (Highlands)
- master-slave relationships
- tribes
- barons and lords
- ecclesiastical institutions
- multiple unstable kings, chieftains, rulers (Jacobites 1715, 1745)
- guilds and corporations
- secessionism
- foreign allegiances

Hume's *History*



Favorable to jural integration and stable polity:

“In the ancient feudal constitution, of which the English partook with other European nations, there was **a mixture, not of authority and liberty**, which we have since enjoyed in **this island**, and which now subsist uniformly together; but of authority and **anarchy**, which perpetually shocked with each other, and which took place alternately, according as circumstances were more or less favourable to either of them... During an unpopular and weak reign, the current commonly ran so strong against the monarch, that none durst enlist themselves in the court-party; or if the prince was able to engage any considerable **barons** on his side, **the question was decided with arms in the field, not by debates or arguments in a senate or assembly.**” (H V: 556, Note [J]; see also [533](#))

Hume's *History*



“[The pre-Tudor period] required the authority almost absolute of the sovereigns, which took place in the subsequent period, to pull down those disorderly and licentious tyrants, who were equally averse from peace and from freedom, and to establish that regular execution of the laws, which, in a following age, enabled the people to erect a regular and equitable plan of liberty.” (H II: 525)



Andrew Sabl



“In the feudal era, they [England's barons] did not support the rule of law because in its absence they themselves were law. Civilization was a matter of bringing the barons, through a mix of force and bribery, to believe that great wealth and status among fellow subjects, under equal laws, was more desirable than a lawless and miserable domination over slaves. This was eventually a change in identity: barons became gentlemen.” (2012, 65)

~ “honest gentlemen”

800 AD

(king)

Allodial Lord

serf

Feudalism

King

lords/nobles

serf

Modern

Governor (S)

citizen (i)

Jurisprudence
highlights the
awfully special
nature of
government.

Hume's *History*



“Above all, a civilized nation, like the English, who have happily established the most perfect and most accurate system of liberty that was ever found compatible with government, ought to be cautious in appealing to the practice of their ancestors, or regarding the maxims of uncultivated ages as certain rules for their present conduct.” (H II: 525)

Conceptual fog, the fog of war



- In the fog of jural pluralism, less clarity in translating E-E principles to form a concept of "liberty". It may not even make sense to speak of a system of E-E relationships.
- Such powers battle one another, leaving liberty on the back-burner.

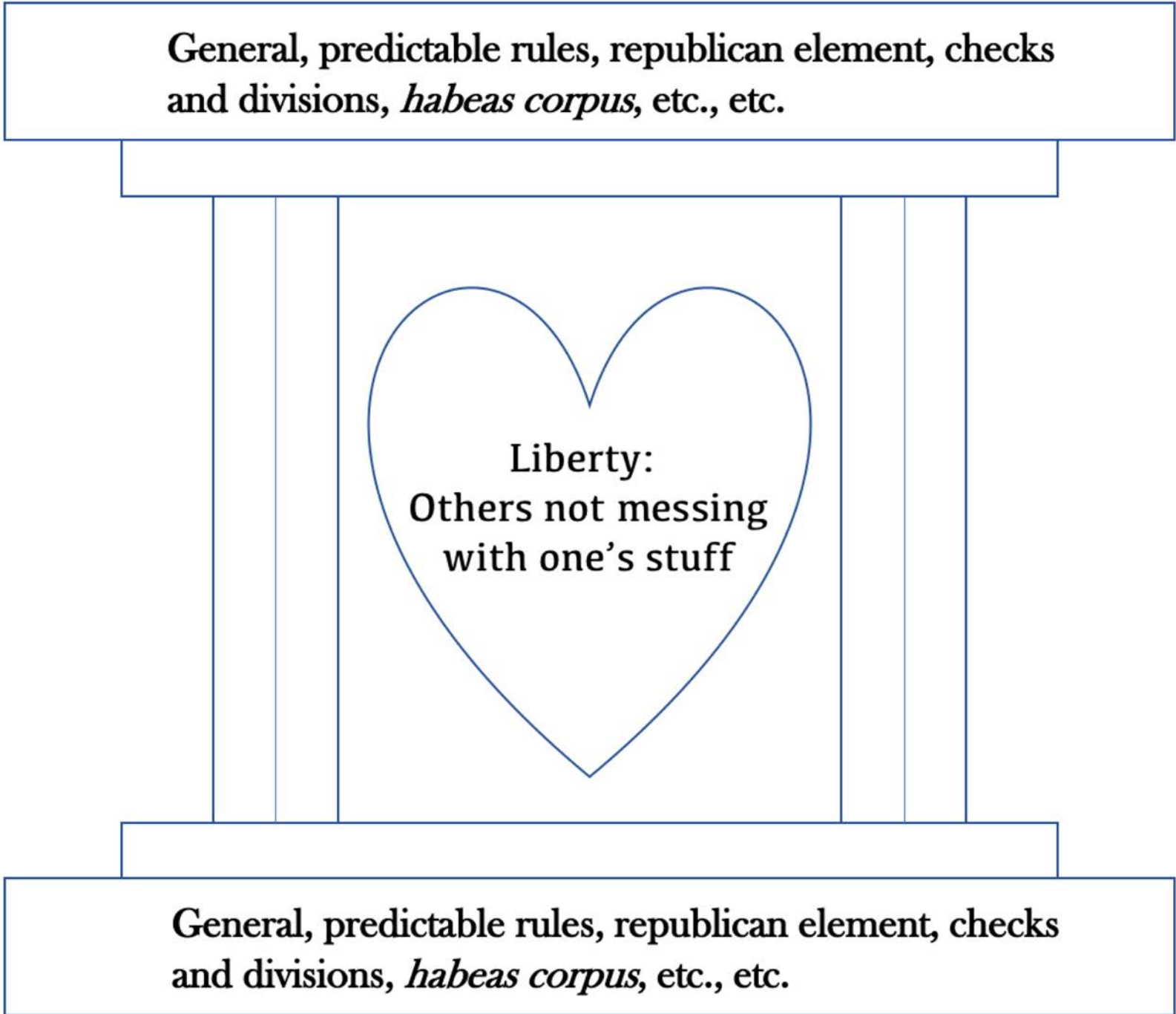


Hume, Smith, Franklin, Burke, Madison:
convention-savvy civilizational leaders.

They built on anticipations of Grotius,
Locke, who could not presuppose stable
integrated polity.

HUME'S CONSTITUTION OF LIBERTY

General, predictable rules, republican element, checks and divisions, *habeas corpus*, etc., etc.

The diagram depicts a classical building with a pediment and a base. In the center of the building's facade is a large heart shape. Inside the heart, the text 'Liberty: Others not messing with one's stuff' is written. The top and bottom of the building are labeled with the same text: 'General, predictable rules, republican element, checks and divisions, habeas corpus, etc., etc.' The building is flanked by two vertical bars, one orange and one green, each with a yellow and green gradient at the top.

Liberty:
Others not messing
with one's stuff

General, predictable rules, republican element, checks and divisions, *habeas corpus*, etc., etc.



Hume sees a regular system of mere-liberty as of late distillation.

Duncan Forbes: "if liberty and the constitution are modern, **the Stuarts**, or the first two at least, **could hardly be blamed for trying to destroy something which did not then exist**" (1975, 263).

Hume basically endorses the integrative work of divine right monarchy, but is then glad of how it was reconstituted, in fitful succession, by "opinion" associated with such things as print culture, commerce, and not least Puritan enthusiasm.

Mere-liberty talk is copious



In the *History*:

- Copious talk that clearly implies mere-liberty
- Besides “liberty”/“freedom” talk:
 - “prohibited,” “restraints,” “limitations,” “shackles,” “fetters,” “slavery,” “tampering,” etc.

Policy judgment



Once we may presuppose stable integrated polity,

Hume favors:

- Presumption of liberty
- liberalization, free enterprise, degovernmentalization of social affairs

Hume




An establishment political philosopher—
“conservative”

But:

Not an establishment political economist—
“liberal” in presumption of liberty.

Likewise Smith and Burke

(D. Miller, D. Livingston, T. Merrill, N.
Capaldi, Y. Levin, R. Bourke)



Some scholars have been shy on seeing mere-liberty in Hume.



And some have disputed the drift of our paper and this presentation.

My view:

Hume&Smith = classical liberalism

Why the unclarity?



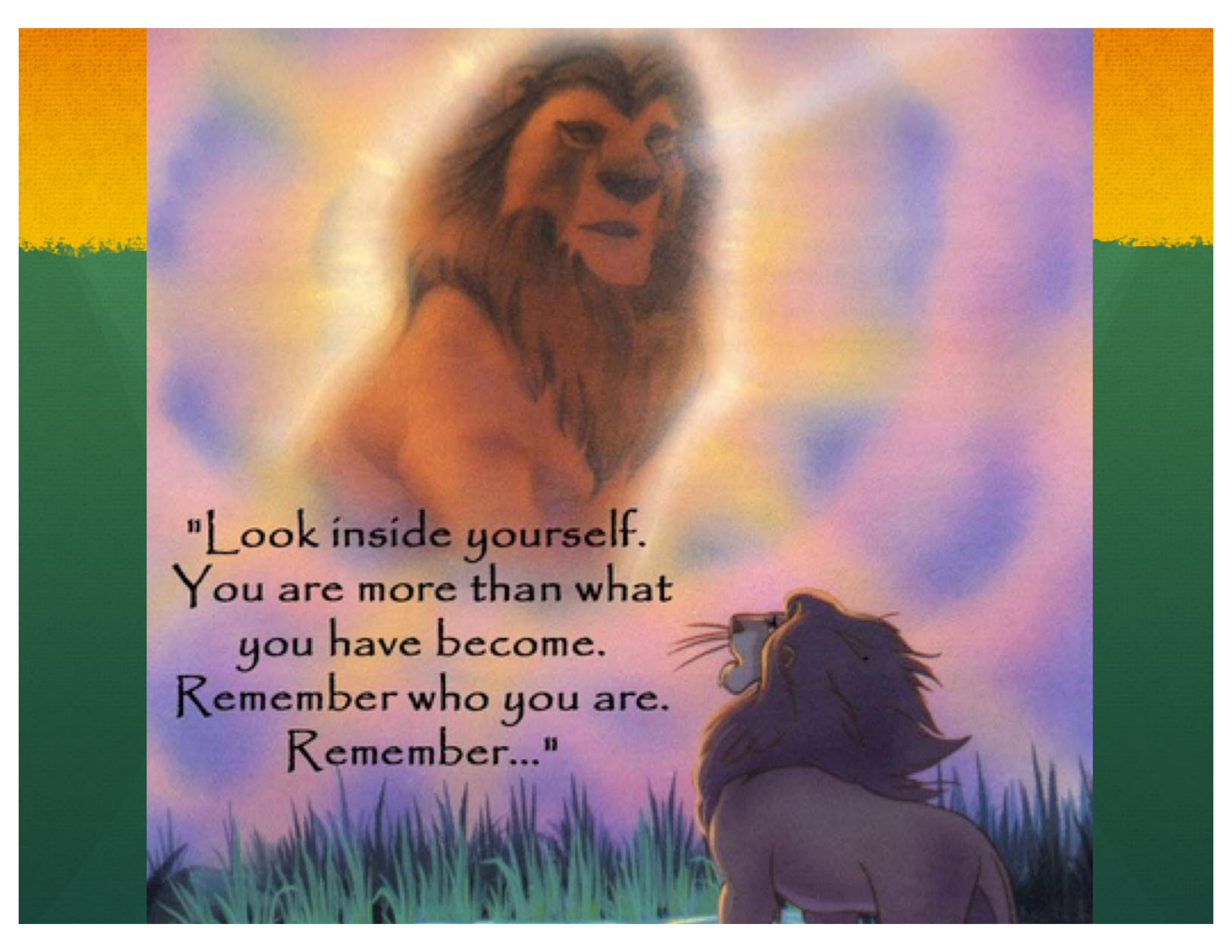
- Paradoxes
- Taboos



Thomas Merrill:

“Hume’s model is Socrates rather than Newton”
(2015, 8) ■



A scene from Disney's The Lion King. In the foreground, Simba is shown from the back, looking up at a large, glowing, ethereal image of his father, Mufasa, who appears to be speaking to him from the sky. The background is a soft, colorful sky with purple and blue hues, and the foreground is filled with tall green grass. The entire scene is framed by a yellow border at the top and green borders on the sides.

"Look inside yourself.
You are more than what
you have become.
Remember who you are.
Remember..."

Thank you
for your attention!

That's all Folks!

