

**National University of Ireland, Maynooth**

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**From the Selected Works of Seth Barrett Tillman**

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Seth Barrett Tillman



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## ARTICLE

### ARTICLE III AND THE SCOTTISH JUDICIARY

*James E. Pfander and Daniel D. Birk*

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ereignty, and political institutions.<sup>84</sup> Although Professor Gordon Wood has rightly cautioned against attempting to isolate a single influence from the array of ideas in play at the time,<sup>85</sup> no one doubts that Scottish Enlightenment philosophers and social scientists had earned a prominent place in the thinking of Framing-era Americans.<sup>86</sup>

Part of that influence stemmed from an influx of Scottish immigrants and royal officials during the eighteenth century and the proliferation of Scottish teachers in colonial American universities, primary schools, and private homes. According to Adair, the works of the major figures of the Scottish Enlightenment, such as David Hume, Adam Smith, Francis Hutcheson, Thomas Reid, Lord Kames, and Adam Ferguson, "had become the standard textbooks of the colleges of the late colonial period."<sup>87</sup> At Princeton, the Scottish parson John Witherspoon, university president and later a delegate to the federal Constitutional Convention, steeped his students, including James Madison, in both Scottish social science and Whig politics.<sup>88</sup> At William and

preceding and history in 1971.

<sup>87</sup> Adair, *supra* note 54, at 345; see also Rogers, *supra* note 55, at 221 n.5.

<sup>88</sup> RALPH KETCHAM, JAMES MADISON 45 (1971) (describing the large number of Scottish books Witherspoon brought to Princeton); WILLS, EXPLAINING, *supra* note 54, at 18. On the heavily Scottish-focused nature of the education prevailing at Princeton and the influence of Wi-

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therspoon and Scotland on Madison, see also Nora Rotter Tillman & Seth Barrett Tillman, *A Fragment on Shall and May*, 50 AM. J. LEGAL HIST. 453, 458 n.15 (2010).

<sup>89</sup> See DUMBAULD, *supra* note 66, at 4–5.

and Scots-Irish officials had been involved in imperial administration, both at home in Great Britain and in North America. . . . This class of imperial middlemen brought with them a special appreciation for the many varieties of union, as well as a confederal vocabulary that was crucial for American federal thought.”)

<sup>95</sup> See 1 ALBERT J. BEVERIDGE, *THE LIFE OF JOHN MARSHALL* 53, 57 (1916); DUMBAULD, *supra* note 66, at 3–4 (describing Jefferson’s early education under William Douglas and James Maury); WILLS, *EXPLAINING*, *supra* note 54, at 63; *id.* at 66 (noting that King’s College relied heavily upon Scottish social science and philosophy and that Hamilton’s tutor