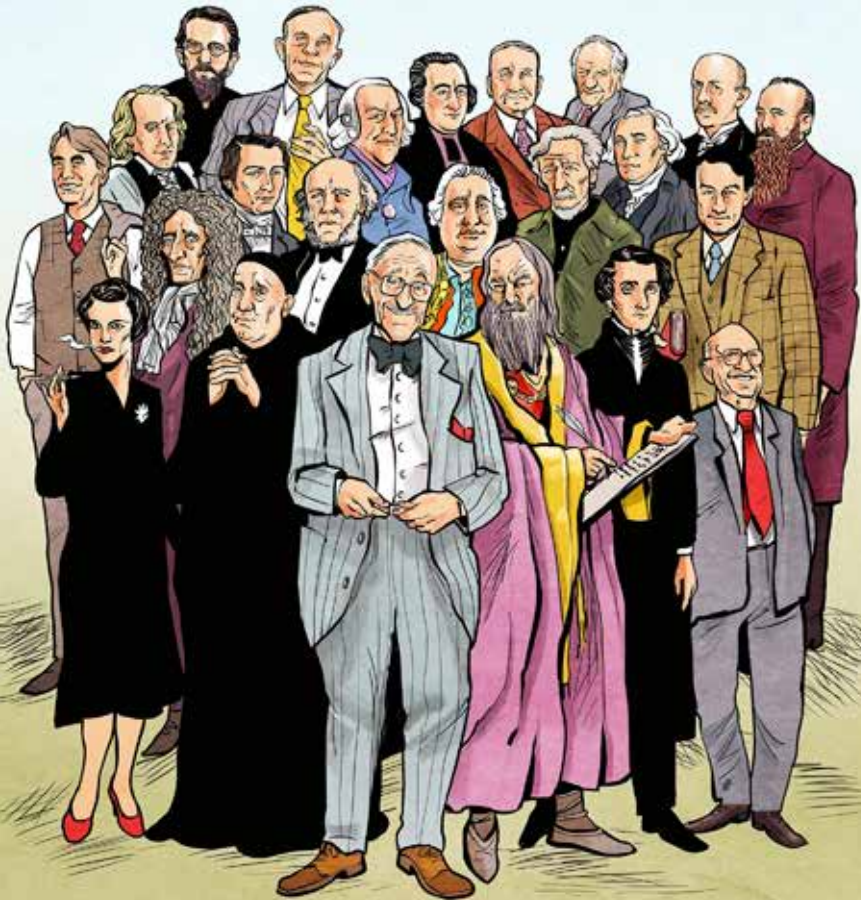


Hannes H. Gissurarson

Twenty-Four Conservative-Liberal Thinkers

Part I



New
Direction



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INTRODUCTION

Conservative liberalism is not a political programme: it is a tradition which can be traced back to medieval ideas about government by consent, found in the writings of Snorri Sturluson, and a natural law applying both to princes and the people, as St. Thomas Aquinas taught. These two principles were combined by John Locke into a theory of a social contract and a justification of private property. In the eighteenth century, these ideas were refined by Adam Smith, who based his political theory on the twin pillars of authority and utility and who presented powerful arguments for economic freedom, and by David Hume and Edmund Burke who conceived of the social contract as being written by history, consisting in a partnership between people living, dead, and unborn. Smith, Hume, and Burke all believed that coordination without commands would be possible in a free society. Their contemporary, a Nordic clergyman, Anders Chydenius, expressed similar thoughts about natural law and economic harmony. Conservative liberalism may be contrasted with eighteenth century French rationalism and nineteenth century English utilitarianism, as three French thinkers demonstrate, Benjamin Constant, Frédéric Bastiat and Alexis de Tocqueville. Their case for liberty was moral no less than economic, and they stressed the importance of limited government, spontaneous cooperation, and voluntary associations. They were also, like Hume and Burke, sceptical of claims that *individual reason*, unaided by practice, could and should reconstruct society, while

they sought to uncover and explain the role of *social reason*, embodied in traditions, customs, habits, and manners. In England, Lord Acton took a similar view. He and his forerunners in the conservative-liberal tradition all held that the 1688 Glorious Revolution in Great Britain and the 1776 American Revolution were made to preserve liberties, while the 1789 French Revolution was about *relocating* power instead of trying to *limit* it. Although Herbert Spencer and William Graham Sumner, writing in the late nineteenth century, employed consequentialist arguments, as sensible people do, they rejected futile efforts to make the world over. For them, people could claim the fullest liberty to exercise their faculties compatible with the possession of the same liberty for others.

Economics, a discipline founded by Adam Smith, has provided strong intellectual support for conservative liberalism. In Austria, Carl Menger not only presented the subjective theory of value, but also cogently explained spontaneous development. Another economist in the Austrian tradition, Ludwig von Mises, pointed out the chief weaknesses of socialism, being belatedly vindicated by its collapse in the late 1980s. The Austrian-English economist and philosopher Friedrich von Hayek developed the insights found in Austrian economics and the British political tradition into a social and political theory which seeks to explain the enormous achievements of Western civilisation despite individual ignorance. After the Second World War his friend and compatriot Karl Popper published a spirited defence of the open society. At the same time, Wilhelm Röpke in Germany and Bertrand de Jouvenel in France reaffirmed liberal values in a confrontation with the totalitarianism that haunted Europe in the twentieth century. In 1947, Mises, Hayek, Popper, Röpke and Jouvenel all became founding members of the Mont Pelerin Society, an international academy of liberal thinkers which has played a pivotal role in the rejuvenation of the conservative-liberal tradition.

In America, Russian-born Ayn Rand forcefully responded to the challenge posed by Burke and Tocqueville that in commercial societies heroes might be replaced by mere calculators. In her novels, she described innovators and entrepreneurs who refuse to be enslaved by the masses. In England, Michael Oakeshott further articulated the British political tradition, conservative in its emphasis on proven practices, liberal in its celebration of individuality. Three American thinkers have since

made significant contributions to the conservative-liberal tradition: Milton Friedman by elucidating many unintended consequences of interventionism, while presenting ingenious proposals for liberal reforms, James M. Buchanan by exposing the myth of benevolent despots and Robert Nozick by explaining the principles of justice in initial appropriation and voluntary exchange and by refuting arguments for extensive redistribution.

Of the twenty-four thinkers discussed in this work, seven are British, the English Locke, Spencer, Acton, and Oakeshott, the Scots Hume and Smith, and the Irish Burke; and five are American, Sumner, Rand, Friedman, Buchanan, and Nozick. Five come from German-speaking countries (one from Germany and four from Austria), Röpke, Menger, Mises, Hayek, and Popper; four are French, Constant, Bastiat, Tocqueville, and Jouvenel; one is Icelandic, Snorri, one Italian, Aquinas, and one Swedish, Chydenius. Some of them straddle borders: Hayek and Popper can be said to be Anglo-Austrian, Mises Austrian-American, Rand Russian-American, Constant Franco-Swiss and Röpke German-Swiss. Of these emigrants, four were refugees from European totalitarianism, Mises, Röpke, Popper and Rand. Locke also had to flee his country, although he was able to return after a successful revolution. Acton, perhaps the most cosmopolitan of these twenty-four thinkers, is half-English, one fourth German and one fourth Italian. Incidentally, five of the thinkers discussed here are Jewish (by ethnicity rather than religion), Mises, Popper, Rand, Friedman, and Nozick, and one is half-Jewish, Jouvenel, whereas two are ordained clergymen, the Catholic Aquinas and the Evangelical-Lutheran Chydenius. Eight belonged to the nobility, Aquinas, Constant (who rarely used his title, Baron de Rebecque), de Tocqueville, Lord Acton, Menger (who never used his title, von Wolfersgrün), von Mises, von Hayek and de Jouvenel, and two were knighted, Snorri Sturluson and Sir Karl R. Popper.

Ten of the twenty-four thinkers are political philosophers, Aquinas, Locke, Hume, Constant, Tocqueville, Spencer, Popper, Jouvenel, Oakeshott, and Nozick; eight are economists, Smith, Bastiat, Menger, Mises, Hayek, Röpke, Friedman, and Buchanan; two are historians, Snorri and Acton; one is a sociologist, Sumner, and one a novelist, Rand. Six were men of independent means, Snorri, Constant, Bastiat, Tocqueville,

Acton, and Jouvenel, three mainly supported themselves by their books, Hume, Spencer, and Rand, whereas thirteen were university professors, at least for some time, Aquinas, Locke, Smith, Sumner, Menger, Mises, Hayek, Röpke, Oakeshott, Popper, Friedman, Buchanan, and Nozick. Chydenius was a government official, and Burke did not fall into any single category.

There are three reasons why in this work I frequently use examples from Iceland. First, I am as an Icelander more familiar with her history than that of other countries. I am using my comparative advantage, as Smith would understand. In the second place, this hopefully allows me to say something new about thinkers on whom countless books have been written, instead of simply repeating what can be found there. Icelanders are rare birds, and an Icelandic perspective is an uncommon one, for example on the relevance of Locke to the Icelandic system in the fisheries, of Aquinas to the operation of an illegal radio station in 1984, and of Friedman to the liberal reforms in Iceland between 1991 and 2004. Thirdly, the ideas and approaches of conservative liberalism were mostly developed in relatively big countries like Great Britain, the United States, France and the two German-speaking countries, Germany and Austria. If they can be shown to be relevant also in tiny outposts like Iceland, it serves to strengthen their universal appeal. I also share my personal recollections of five thinkers, Hayek, Popper, Friedman, Buchanan, and Nozick, in a further attempt to add something to the knowledge and understanding of them and their ideas.

Another feature of this work is that I try to put these thinkers in an historical context, although their arguments can of course be evaluated on their own, and I also discuss their political impact which in some cases was, and remains, quite significant. Snorri delayed Iceland's annexation by Norway; Aquinas is the official philosopher of the Catholic Church;⁽¹⁾ Locke inspired the revolutionaries of 1688 in Britain and of 1776 in America; Smith can be regarded as the father of economic liberalism, a force which transformed the world; Tocqueville was Foreign Minister of

France; Acton was adviser to British Prime Minister William Gladstone; Hayek's books were avidly read by British Prime Ministers Winston Churchill and Margaret Thatcher and by President Ronald Reagan of the United States; Röpke was adviser to the German government during the rapid recovery of his country; Popper was an effective spokesman for the West in the Cold War; and Friedman's proposals were implemented in countries as diverse as the United States, China, Great Britain, New Zealand, Chile, Estonia, Poland, the Czech Republic, and Iceland. Moreover, eight of these thinkers sat in the national assemblies of their respective countries, Snorri in Iceland, Constant, Bastiat and Tocqueville in France, Chydenius in Sweden, Burke and Acton in Britain, and Menger in Austria. Thus, some of these thinkers were detached scholars, staying above the fray, whereas others by no means eschewed political action.

Finally, while these twenty-four thinkers are independent individuals, with diverse backgrounds and different approaches to political problems, I have focused on the ideas they *share*, not where they may *differ*. Certainly they all are in favour of the rule of law, separation of powers, a flourishing civil society alongside the state, competition in the marketplace, free trade, and private property. They all prefer evolution to revolution, except in dire circumstances, whereas they share a distrust of people in power, whether by inheritance, election, or usurpation. Again, they all resolutely reject ancient absolutism and modern totalitarianism. While they may present various kinds of arguments for their positions, from divine command, human reason, social utility, natural evolution, moral intuition, and common consent, these positions are all in the end based on a choice, which is a commitment to, indeed a celebration of, Judeo-Christian Western civilisation. Ultimately, their theories may be regarded as different, but not mutually exclusive, historical interpretations and philosophical articulations of this civilisation. Perhaps the best, albeit somewhat metaphysical, way of describing conservative liberalism is as the self-consciousness of Western civilisation.

Reykjavik, 4 October 2020.

Hannes Gissurarson

(1) According to the 2019 *Annuario Pontificio* [Pontifical Yearbook] (Rome: Libreria Editrice Vaticana, 2019), there were 1.3 billion Catholics in the world at the end of 2017. Apparently, the Sunni section of the world Muslim population is similar in size.

Snorri Sturluson

(1179–1241)

It is hardly surprising that one of the main sentiments shared by conservative liberals, a deep-rooted suspicion of potential despots, was prevalent in Medieval Iceland. This remote island in the North Atlantic Ocean had been settled in the period between 874 and 930, mostly by farmers moving from Norway where one such despot, King Harold Finehair, had conquered the whole country and imposed new taxes on the population. Thus, Iceland can be said to have been the first tax haven, or, in a less charitable interpretation, a refugee camp. The settlers of the new country established a remarkable political order in 930, the Icelandic Commonwealth, under which they shared the same law, but managed without a central government, let alone a king or an aristocracy. ‘Apud illos non est rex, nisi tantum lex,’ wrote the German chronicler Adam from Bremen in the 11th century: they have no king, except the law.⁽¹⁾ The owners of the roughly five thousand farms scattered around the island, mostly on or close to the coast, were members of two kinds of political communities. One was the commune, *hreppur*, which was territorial and not subject to choice, usually extending over a valley with at least twenty farms, administering the mountain pastures jointly utilised by the farmers and providing mutual insurance against natural disasters.⁽²⁾ The other community was the chieftainship, *godord*: Iceland was divided into Quarters, with farmers in each Quarter being



Snorri wrote his chronicle of Norwegian kings as a warning to his compatriots about royal abuse of power. Painting by Haukur Stefansson.

(1) Adam von Bremen, *Gesta Hammaburgensis ecclesiae pontificum* (ca. 1075), Book IV, §244. *History of the Archbishops of Hamburg-Bremen*, tran. by Francis J. Tschan (New York: Columbia University Press, 1959), p. 217.

(2) Thrainn Eggertsson, Analyzing Institutional Successes and Failures: A Millennium of Common Mountain Pastures in Iceland, *International Review of Law and Economics*, Vol. 12, No. 4 (1992), pp. 423–437.

able to choose to which chieftain in their Quarter they would pledge allegiance. The 39 chieftains of the country were meant to execute the law and to protect the weak. They met every summer for two weeks at the Althing, or parliament, to hear cases and thus to interpret and sometimes, inevitably, to revise or to expand the law. Thus, the law of the Icelandic Commonwealth was privately developed and enforced, with each chieftainship operating as a protective association, or a nascent mini-state.⁽³⁾ The only public official of the Icelandic Commonwealth was the Lawspeaker, elected every third year by the chieftains. It was his task to recite the law at the Althing, one-third each year, and to counsel people in legal matters. After Iceland's law was written down in the early 11th century, the Lawspeaker's counselling role became more important. The best-known Lawspeaker of the Commonwealth, Snorri Sturluson, was also the author of seminal works in which conservative and liberal sentiments were expressed, *Heimskringla*, a history of political conflicts in Norway, and *Egil's Saga*, one of the most-acclaimed sagas of the Icelanders.⁽⁴⁾

Snorri's Life and Works

Born in 1179, Snorri Sturluson was the son of Gudny Bodvarsdaughter and her husband, a quarrelsome chieftain, Sturla Thordson of the farm Hvamm in Western Iceland. (The Icelanders do not have family names, Sturluson just indicating that Snorri was son of Sturla, so here he will be called by his first, and only, name.) When Snorri was only three years old, the most powerful chieftain in Iceland, Jon Loftsson, interfered in one of Sturla's numerous feuds, on behalf of his opponent. In order to ease the resulting tension, Jon offered to foster Sturla's son Snorri at Oddi, where he lived, in Southern Iceland. For Snorri, this was a crucial move. At the

time, Oddi was a site of learning and tradition. Jon Loftsson's paternal grandfather, Saemund Sigfusson, had been a distinguished scholar. He had been educated abroad (in the German region of Franconia) and composed a (now lost) history of Norwegian kings. Even more remarkably, Jon Loftsson's maternal grandfather was a Norwegian king, Magnus Barefoot, one of whose illegitimate daughters had married Jon's father. At Oddi, Snorri developed an avid interest in ancient poetry, law and history. His fosterfather passed away in 1197 when Snorri was 18 years old, but with the assistance of his fosterbrothers, two years later he was able to marry an heiress, Herdis Bersadaughter, moving to her estate at Borg in Western Iceland and inheriting the chieftainship of her father. They had two children together, but after four years Snorri divorced his wife and moved to Reykholt, also in the West where he was to live to the end of his life, while acquiring many other farms and chieftainships. He had five more children by three concubines.

Snorri soon became known and respected for his knowledge of the law, and when he was 36 years old, in 1215, he was elected Iceland's Lawspeaker. He also wrote a lot of poetry, even compiling a handbook and anthology for aspiring poets, the so-called *Edda* of Snorri. There he gave a detailed account of Germanic mythology and demonstrated his skill in composing various forms of verse. In 1218, Snorri went to Norway to pay his respects to the fourteen-year old King Haakon IV and to the regent, Earl Skuli Bardsson. The two rulers were keen to extend royal power to Iceland, which they considered an integral part of the Norse world. Whereas first Orkney and Shetland and then the Faroe Islands had been annexed by the Norwegian king, in 875 and 1035 respectively, Iceland had remained independent, although with close cultural and economic ties to Norway. Snorri promised to bring their message to his compatriots. Because of skirmishes in Iceland between some chieftains and Norwegian merchants, Earl Skuli briefly considered sending an invasion force to the island, but Snorri managed to calm him down. He and the Earl became friends, and Snorri was made a 'Landed Man', or Knight, at the Norwegian Court. In the summer of 1219 he made a trip to Sweden and met with the Lawspeaker of West Gotland, Eskil Magnusson, and his wife, Kristina Nilsdaughter, the widow of a Norwegian ruler. The couple could tell him much about the history of

(3) David Friedman, Private Creation and Enforcement of Law: A Historical Case, *Journal of Legal Studies*, Vol. 8, No. 2 (1979), pp. 399–415.

(4) I will not deal here with minutiae in exegesis. I leave controversies about Snorri's works to learned philologists. It seems to me most plausible that Snorri composed *Edda* before his first trip to Norway, in preparation for offering his services as poet to the Norwegian king, that he wrote *Heimskringla* between the two trips, partly in response to attempts by the king to acquire Iceland, and that he wrote *Egil's Saga* after his second trip to Norway, after which he had become an explicit opponent of the king. This has all been contested, however, even his authorship of any or all of these three works.



The settlers of Iceland in 874–930 braved rough seas to escape royal rule and taxes. Painting by Carl Rasmussen.

Sweden. After his return to Iceland in 1220 Snorri was again Lawspeaker from 1222 to 1231, but he did nothing to further the cause of the Norwegian king except providing protection to Norwegian merchants. Back in Reykholt he married the richest woman in Iceland, Hallveig Ormsdaughter, a widow, and wrote a work about Norwegian history, usually called *Heimskringla* (The Disc of the World) after the opening words in the Prologue: “The disc of the world that mankind inhabits is very indented with bays.”⁽⁵⁾ It is often said that *Heimskringla* is a history of the Norwegian kings, but in fact it is no less a history of the opposition to them, not only by potential rivals, but also by Norwegian chieftains and farmers, some of whom emerge as strong, independent and occasionally admirable characters.

In Iceland, Snorri became embroiled in conflicts between competing chieftains, not least those belonging to his own family, the descendants of Sturla Thordson. Although Snorri was the richest man in Iceland at

the time and long the country’s only elected official as Lawspeaker, time and again he hesitated to use force against his opponents, and in 1237 he decided to evade them by going again to Norway. Now however King Haakon IV was a grown man of 33 years and not only intent on ruling Norway without the help of Snorri’s friend Earl Skuli, but also on extending Norwegian power to Iceland and Greenland. When Snorri wanted to return to Iceland in 1239, King Haakon ordered him to stay, but Snorri disobeyed with the words, ‘Nevertheless, I will go home.’⁽⁶⁾ In the next two years in Reykholt Snorri wrote a saga about his forefather, the poet and warrior Egil Skallagrimsson, who in the 10th century had lived at Borg like Snorri and who had entered with vengeance into a longstanding feud between his own family and the Norwegian royal family. Meanwhile, in Norway King Haakon had Earl Skuli (who by now had become a Duke) killed after Skuli’s failed rebellion. The king also sent a secret letter to one of Snorri’s Icelandic rivals, Gissur Thorvaldsson, telling him either to bring Snorri to Norway or to have him killed. On 23 September 1241, Gissur went with seventy men to Snorri’s residence, Reykholt. Taken by surprise, Snorri managed to hide in a cellar under a storeroom. A priest in his household was tricked into telling the attackers about his whereabouts, and five of Gissur’s men went down to the basement. When they approached Snorri, he exclaimed, ‘You shall not strike!’ They killed him on the spot.⁽⁷⁾

A Warning Against Kings

Snorri’s *Heimskringla* shows a keen awareness of the conflict in Norway between two kinds of law, the folk law and royal decrees. The ancient German conception of the law was that it was mainly customary. It was a common heritage, not unlike language, maintained in an oral tradition and to be discovered rather than stipulated. It was permanent and not

(5) Snorri Sturluson, *Heimskringla* (ca. 1220–30), Vol. I–III, tran. by A. Finley and A. Faulkes (London: Viking Society for Northern Research, 2014–2016). Vol. I. The Saga of the Ynglings, Ch. 1, p. 6. An older translation of *Heimskringla*, by Samuel Laing and Rasmus B. Anderson, is accessible at the website of Liberty Fund, whose founder, the entrepreneur and philanthropist Pierre Goodrich, considered Snorri Sturluson one of the thinkers who contributed significantly to our understanding of liberty.

(6) *Sturlunga Saga*, Vol. I, tran. by Julia H. McGrew (New York: Twayne, 1970). Sturla Thordson, The Saga of the Icelanders, Ch. 143, p. 349. Sturla Thordson was Snorri’s cousin, but as the king’s man he was quite ambivalent about his uncle and probably not always fair to him. It seems to me that many commentators on Snorri have not been sufficiently critical of Sturla and his motives. For example, in the case of Snorri’s alleged mission after 1220 on behalf of the Norwegian Crown, we should rather look at what Snorri *did* than at what Sturla suggested Snorri *said* in conversations with the Norwegians.

(7) *Ibid.*, Ch. 151, p. 360.

subject to deliberate change. Its development required something like unanimous acceptance in an assembly after consultations with leading members of the community, the wise old men whom everybody respected. Where there were kings, they were bound by the law like everybody else. But after the conquest of Norway in the 870s by King Harold Finehair, a new conception of law was introduced there. It was that it consisted in royal decrees. The king became a lawgiver, not being necessarily bound himself by the law. Even if the legal system might become more efficient by such a change, the law itself could not be regarded any more as a curb on arbitrary power. Instead, it became an instrument in the hands of the king.⁽⁸⁾ Snorri vividly describes in *Heimskringla* how King Harold Finehair in the 870s took possession of all inherited property in Norway, collecting fines and making the farmers, rich and poor, pay him land dues.⁽⁹⁾ In order to gain the support of farmers, his successors however often promised them that they would obey the good, old law. One of them was Harold's son Haakon, the foster-son of King Athelstan of England. 'Harold had enslaved and oppressed all people in the land, while Haakon wished everyone well and offered to return the farmers their patrimonies,' as Snorri reports.⁽¹⁰⁾

Again, a century later, in the 990s when the farmers learned that King Olaf Tryggvason was travelling around with a large force 'and breaking the people's ancient laws, while all those who objected had to face punishments and harsh terms', they flocked to their assemblies to meet the king and tell him that they would 'not subject themselves to wrongful laws even if they are introduced by the king'.⁽¹¹⁾ Snorri also approvingly

(8) Sigurdur Lindal, Law and Legislation in the Icelandic Commonwealth, *Scandinavian Studies in Law*, Vol. 37 (1993), pp. 53–92. Cf. Sigurdur Lindal, Stjórnspeki Snorra Sturlusonar eins og hun birtist í Heimskringlu [Snorri Sturluson's Political Thought, as Expressed in Heimskringla], *Ulfjotur*, Vol. 60, No. 3 (2007), pp. 651–732. Although Lindal does not mention it in his trenchant analysis of Snorri's thought, the contrast can also be illustrated by Otto von Guericke's terms, *Herrschaft*, lordship, and *Genossenschaft*, fellowship, in his account of German medieval law, *Community in Historical Perspective*, tran. by Mary Fischer (Cambridge: Cambridge University Press, 1990). Daniel Hannan plausibly argues that the British political tradition can be partly traced back to German folk law, *How We Invented Freedom and Why It Matters* (London: Head of Zeus, 2013).

(9) *Heimskringla*, Vol. I. The Saga of Harold Finehair, Ch. 6, p. 56.

(10) Ibid., Vol. I. The Saga of Hakon, Athelstan's Foster-son, Ch. 1, p. 88. Here, unlike Snorri's translators, I anglicise Norse names, e.g. Harold for Haraldr.

(11) Ibid., The Saga of Olaf Tryggvason, Ch. 54 and 55, p. 189.

comments on two earls who ruled Norway for a while that 'they kept well to the ancient law and all the customs of the land and were popular and good rulers'.⁽¹²⁾ Yet again, when King Olaf the Fat asked the landowners to accept him as king, he promised them 'in return ancient laws and to defend the land from foreign armies and rulers'.⁽¹³⁾

More telling examples of a conflict between the ancient law and royal decrees are found in Snorri's *Heimskringla*.⁽¹⁴⁾ The author must have seen the problem more clearly than other legal scholars because he could observe it from the vantage point of a country where the old conception of law had been maintained: the Icelandic Commonwealth. Moreover, according to the ancient tradition, the king was not only regarded as being under the law: he also had to rule by general consent rather than by the grace of God. Normally, he could only expect such consent by promising to follow the good, old law and to keep taxation within limits. Thus, a social contract between the king and his subjects was in force, even if implicit, and when the king abused his power, he risked being deposed and even killed. This is a recurrent theme in *Heimskringla*, but nowhere expressed as strongly as in a famous speech given by Snorri's Swedish colleague, Lawspeaker Torgny, to his king in 1018. Snorri may have heard the story in his trip to Sweden in 1219. Torgny complains that 'this king that we have now lets no one dare to say anything to him except just what he wants to have done, and devotes all his enthusiasm to that, but lets his tributary lands slip from his grasp through lack of energy and lack of determination.' He argues against a war with Norway and bluntly warns the king: 'Should you be unwilling to accept what we demand, then we shall mount an attack against you and kill you and not put up with hostility and lawlessness from you. This is what our forefathers before us have done.'⁽¹⁵⁾ The assemblymen expressed their approval by clashing their weapons and making a great din. Torgny's message to the king was

(12) Ibid., Ch. 113, p. 233.

(13) *Heimskringla*, Vol. II. The Saga of Saint Olav, Ch. 37, p. 30. Often his surname is given as Olaf the Stout, but the Icelandic word 'digur' has a more derogatory meaning and should be translated as 'fat'.

(14) Cf. Lawman Emund's comment, *Heimskringla*, Vol. II. The Saga of Saint Olav, Ch. 94, p. 99; a comment on King Canute, Ibid., Ch. 130, p. 148; and the critique of King Sven, Ibid., Ch. 239, pp. 267–8.

(15) *Heimskringla*, Vol. II. The Saga of Saint Olav, Ch. 80, p. 74–75.

later reinforced by Lawspeaker Emund and a wise old man, Arnvid the Blind.⁽¹⁶⁾ The king had to relent and accept the farmers' terms.⁽¹⁷⁾ Snorri makes the Swedish king quite unsympathetic and ineffectual, probably because it gives him a freer hand in criticising him than if he had been a Norwegian king, let alone a canonised one like Olaf the Fat.

Nevertheless, Snorri has so much to say about the avarice, callousness and cruelty of many Norwegian kings that it is tempting to read *Heimskringla* as a warning against kings in general.⁽¹⁸⁾ Prince Erling Ericson, the grandson of Harold Finehair, 'made great demands on the farmers and made life hard for them' with the result that they killed him.⁽¹⁹⁾ Almost routinely, Norwegian kings had their own brothers assassinated, not to mention others. King Olaf Tryggvason had one of his opponents killed by placing red-hot bits of coal on his stomach and another one by forcing a snake down his throat.⁽²⁰⁾ Some he had maimed or thrown over high cliffs.⁽²¹⁾ Taking Icelandic hostages in Norway, he bullied the Icelanders into adopting Christianity. As King Olaf the Fat was a saint of the Church, Snorri was more circumspect in describing him, putting criticisms into the mouths of his opponents, one of them exclaiming: 'But when Olaf felt that he was secured in his power, then no one was independent of him. He went at it with us petty kings to claim in a domineering way all the dues for himself that Harold Finehair had received here, and some things even more despotically.'⁽²²⁾ The king had this speaker blinded in

(16) Ibid., Ch. 94, pp. 95–102.

(17) The leader of the Swedish conservative-liberal party Carl Bildt in a speech on 23 August 1986, Frihetens parti (The Party of Freedom), available online, invoked the example of Lawspeaker Torgny. 'A strong sense of justice is not unique to our country. But its role has been important in a country which has never seen slavery or serfdom and where every young student has read the words of Lawspeaker Torgny.'

(18) Magnus Fjalldal, Beware of Kings: Heimskringla as Propaganda, *Scandinavian Studies*, Vol. 85, No. 4 (2013), pp. 455–68; Birgit Sawyer, *Heimskringla: An Interpretation* (Tempe AZ: Arizona Center for Medieval and Renaissance Studies, 2015). Norwegian historian Sverre Bagge rejects such a reading of Snorri's *Heimskringla* but admits that 'Snorri evidently regards it as very important for a king to treat the people in the right way and finds it natural that they react against hard exactions,' *Society and Politics in Snorri Sturluson's Heimskringla* (Berkeley: University of California Press, 1991), p. 140.

(19) *Heimskringla*, Vol. I. The Saga of Harold Greycloak, Ch. 16, p. 135.

(20) *Heimskringla*, Vol. I. The Saga of Olaf Tryggvason, Ch. 76, pp. 201–2, and Ch. 80, p. 204.

(21) Ibid., Ch. 85, p. 208.

(22) *Heimskringla*, Vol. II. The Saga of Saint Olaf, Ch. 36, p. 29.



From 930 to 1262 the Icelanders had no king but the law. The chieftains met every summer at Thingvellir to interpret the law. Photo: Diego Delso.

both eyes and the tongue cut out of another petty king who had refused to accept his rule.⁽²³⁾ A later pretender to the Norwegian throne, Sigurd Slembe, was tortured to death in an unspeakable manner.⁽²⁴⁾ The reason

some commentators have overlooked or downplayed Snorri's anti-royalist message in *Heimskringla* probably is that he rarely reveals his own personal views: he prefers to let the events speak for themselves. The style of the chronicles and sagas written in Iceland in the thirteenth century, including Snorri's works, is relentlessly objective. What people think and feel is shown by their remarks and actions.

Best to Do Without Kings

A distinction between good and bad kings runs through Snorri's *Heimskringla*. The good kings are peaceful, keep the tax burden light and uphold the good, old law. The bad kings are warriors, raising taxes and conscripting

(23) Ibid., Ch. 75, p. 67.

(24) *Heimskringla*, Vol. III. The Saga of the Sons of Harold, Ch. 12, p. 196.

farmers for their adventures home and abroad. One comparison already mentioned is between Harold Finehair and his son, Haakon, the foster-son of English king Athelstan. Under Haakon the country prospered. Another comparison is between two brothers who were jointly earls of Orkney: ‘Bruce was gentle and a very compliant person, wise and eloquent and popular. Einar was obstinate, reserved and unfriendly, impetuous and avaricious and a great warrior.’⁽²⁵⁾ Snorri has this to say about Einar’s rule: ‘Now there came to be famine in his realm as a result of the labour and expense imposed on the farmers. But in the part of the country that Bruce had, there was much prosperity and an easy life for farmers. He was popular.’⁽²⁶⁾ A third example is that of Magnus, son of Olaf the Fat. In the beginning of his reign, he was quite harsh, and the farmers started grumbling. ‘Does he not remember that we have never put up with loss of our rights? He will go the same way as his father or some of the other rulers that we have deprived of life when we got tired of their tyranny and lawlessness.’ An Icelandic poet at his court took it upon himself to admonish him in a poem, politely, but firmly. After this warning the king changed for the better. ‘King Magnus became popular and beloved of all the people in the country.’⁽²⁷⁾ Incidentally, this last story also illustrates another recurrent topic in Snorri’s works: the power of words, especially words of poets. Of course, Snorri saw himself as such a poet, gently guiding dignitaries such as King Haakon or Earl Skuli into behaving well.

Snorri uses the distinction between good and bad kings to great effect in a famous speech given in 1024 at the Althing by Einar of Thvera. King Olaf the Fat had sent an Icelandic courtier of his to the Althing, asking the Icelanders to give him Grim’s Isle off the Northern coast of Iceland and promising them his friendship in return. Einar the Farmer responded:

“ The reason I have had little to say about this business is that no one has called upon me to speak about it. But if I am to give my opinion, then I think that the

(25) *Heimskringla*, Vol. II. The Saga of Saint Olav, Ch. 97, p. 104.

(26) *Ibid.*, Ch. 97, pp. 104–105.

(27) *Heimskringla*, Vol. III. The Saga of Magnus the Good, Ch. 16, p. 19.

course for us dwellers in this land is not to submit here to the taxes paid to King Olaf and all the burdens such as he has imposed on people in Norway. And we shall be causing this deprivation of freedom not only to ourselves, rather both to ourselves and our sons and all our families that inhabit this land, and this bondage will never go away or disappear from this land. So though this king may be a good man, as I firmly trust that he is, yet it will happen from now on as it has before now, when there is a change of ruler, that they turn out differently, some well, some badly. But if the people of this country wish to keep their freedom, which they have had since this land was settled, then it will be best to grant the king no foothold on it, either in possession of land here or by payment from here of specific taxes which may be interpreted as acknowledgement of allegiance. But this I declare to be quite proper, that people should send the king friendly gifts, those who wish to, hawks or horses, hangings or sails or other such things that are suitable to send. It is making good use of these things, if they are rewarded by friendship. But as for Grim’s Isle, there is this to say, if nothing is transported from there that can be used as food, then a host of men could be maintained there. And if a foreign army is there and they come from there with longships, then I think many a cottager would feel that oppression was at hand.⁽²⁸⁾

Clearly Snorri is here putting into the mouth of Einar from Thvera his own recommendation about Iceland’s foreign policy: The Icelanders should be friends with the Norwegian king, not his subjects.

The whole of Snorri’s *Heimskringla* can be regarded as a reaffirmation of Einar’s argument, that kings turn out differently, some well, some

(28) *Heimskringla*, Vol. II. The Saga of Saint Olav, Ch. 125, pp. 143–144. Grimsey is here changed to Grim’s Isle.



badly, so it is best to have no king. It is an early version of Sir Karl Popper's argument that we have to design our institutions in such a way that bad rulers do the least harm.⁽²⁹⁾ In his efforts to annex Iceland, King Olaf the Fat did not give up, however. In 1028, as Snorri describes, the king took four Icelandic hostages in Norway and sent one of them to Iceland with the message that he wanted the Icelanders to accept the laws that he had laid down in Norway and to pay to him weregilds (compensation for property damage, including lives and injuries) and a poll-tax, a penny for every nose. In return he promised his friendship, but otherwise he threatened 'harsh treatment, as much as he was able to inflict'. The Icelanders sat a long time discussing this 'offer'—or threat—but finally agreed unanimously to refuse it.⁽³⁰⁾ As King Olaf was shortly thereafter driven into exile, nothing came out of this.

The Icelanders were less fortunate in Snorri's own time. King Haakon IV was as determined as Olaf the Fat before him to bring Iceland

In his pool at Reykholt, Snorri entertained guests with tales about kings and poets of the past. A natural hot spring, it is still called Snorri's Pool (Snorralaug). Photo: Wikipedia TommyBee.

under his rule. In 1247, six years after he had had Snorri killed, he was crowned in Bergen by Cardinal William of Sabina who observed that it was improper that Iceland did not serve under a king 'like all others in the world'.⁽³¹⁾ While this may have lent papal authority to King Haakon's designs on Iceland, it was somewhat odd coming from a Cardinal who some twenty years earlier had served as the Pope's emissary to the Baltic countries, ruled by the Teutonic Order of Knights, and not by a king. Again, the Cardinal came from Italy where many city-states such as Venice and Florence had long been established, not serving under any king. Meanwhile, Snorri's *Heimskringla* seems to have had an impact in Iceland where vellum copies of it went from one farm to another to be eagerly read by the farmers and their families, often aloud for all the household on dark winter nights. This is shown by two events taking place in 1255, fourteen years after Snorri's assassination. One of the contenders for power in Iceland, the chieftain Thorvard Thorarinsson, asked an assembly of farmers at Djupadalsa in Eyjafjord for acceptance as their ruler. One of the farmers, Thorvard Thordson from Saurbaer in Eyjafjord, responded: 'I can put up with a chieftain if he is already here, but best of all would be to have none.'⁽³²⁾ The same year, one of the Sturlungs, the chieftain Thorgils Bodvarsson (grandson of Snorri's brother), met local farmers at Vallalaug in Skagafjord and asked them to accept him as their ruler. One of the farmers, Broddi Thorleifsson from Hof, wearily said: 'If I have to serve a chieftain, I would prefer Thorgils most of all, but it would be better to serve none if I could rule myself.' Both Thorvard and Broddi echoed the speech on kings by Einar from Thvera, written by Snorri. They must have read it in *Heimskringla*.

The two Icelandic farmers were however defending a lost cause, as they probably knew themselves. After internal struggles in Iceland, Snorri's killer, Gissur Thorvaldsson, was appointed Earl of Iceland by King Haakon, and in 1262 he managed by a combination of promises and threats to cajole the reluctant and suspicious Icelanders into becoming

(29) Karl R. Popper, *The Open Society and Its Enemies*, Vol. I (London: George Routledge, 1945), Ch. 7.

(30) *Heimskringla*, Vol. II. The Saga of Saint Olaf, Ch. 136, p. 160.

(31) Sturla Thordson, Hakonar Saga, *Icelandic Sagas and Other Historical Documents Relating to the Settlements and Descents of the Northmen on the British Isles*, Vol. II, ed. by Gudbrand Vigfusson (London: Eyre and Spottiswood, 1887), p. 252.

(32) *Sturlunga Saga*, Thorgils saga skarda, Ch. 54, pp. 446–447.

subjects of the Norwegian king. Although Iceland at the time seems to fit the definition of a nation,⁽³³⁾ it was probably fear of excessive taxation rather than a national sentiment which motivated the opposition to the Norwegian demands. In the so-called ‘Old Covenant’, the Icelanders agreed to pay an annual tribute to the Norwegian king, but insisted on maintaining their own law and on their right to renounce the agreement if its stipulations were not fulfilled.

It is an intriguing question whether in the thirteenth century the Icelanders could have kept their independence. Was Snorri’s political programme—to be friends and not subjects of the Norwegian king—unfeasible? Was the Old Covenant inevitable? In fact, King Haakon died on an expedition to Scotland a year after the Old Covenant had been accepted. Thus, if the Icelanders had held out one or two more years, then some of the pressure from Norway might have eased off. The Icelanders might however also have had to reduce their total dependence on Norway in matters of foreign trade: the Norwegian king could, and sometimes did, force the Icelanders into obedience by forbidding trade with them. This would by no means have been impossible, as a market for Icelandic stockfish was opening up in Europe. A military expedition to Iceland would also have been problematic: While the island might have been relatively easy to conquer, it would have been difficult to retain. The example of another European country without a king, Switzerland, may be relevant in this context. In 1291, three poor and sparsely populated mountain cantons made a pact to establish the Swiss Commonwealth, *Eidgenossenschaft*, reaffirmed in an oath taken by their representatives in 1307. In the next few centuries Switzerland was able to withstand several attempts by royal neighbours to subdue her, slowly expanding and turning into one of the freest, stablest and most prosperous countries in the world.⁽³⁴⁾ Iceland, alas, followed a different path for six centuries. Trying to maintain control of the remote island at any cost, the Norwegian, and later Danish, king allied himself with the small and

powerful Icelandic landowning class, impeding the development of the potentially profitable fisheries, hindering free trade with other countries and the formation of urban areas. Surrounded by some of the most fertile fishing grounds in the world, for centuries the Icelanders were doomed to poverty and starvation.⁽³⁵⁾

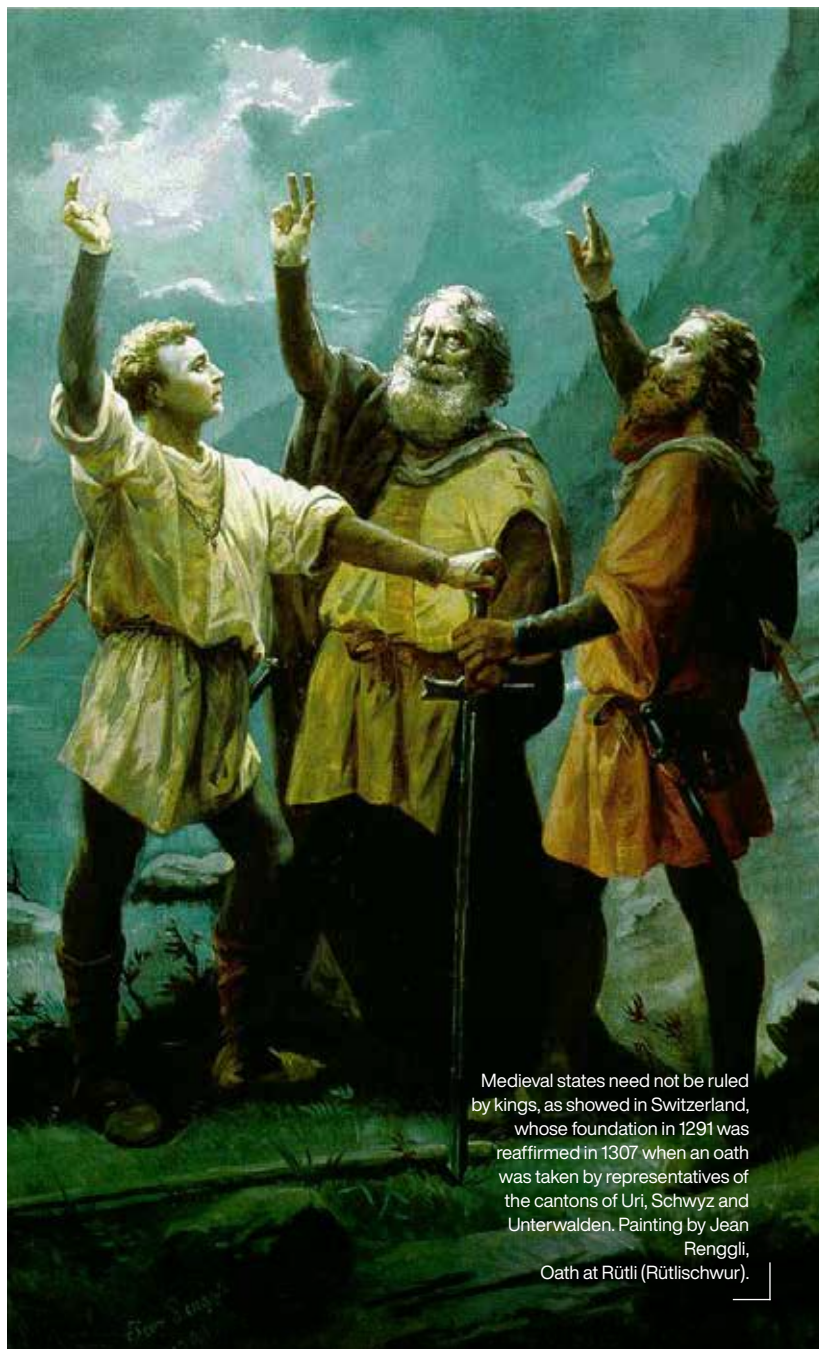
An Assertive Individual Against a King

Snorri Sturluson was an accomplished writer, as *Egil’s Saga*, his biography of—or perhaps historical novel about—his forefather, Egil Skallagrimsson, shows. The saga has two main themes. One of them is the feud between Egil’s family and the Norwegian royal family after the conquest of Norway by Harold Finehair. The canny old Norwegian landowner Kveldulf refuses both to support and to oppose the new king, but advises his two sons, Thorolf and Grim, against serving him. Thorolf nevertheless decides to join the king’s force. While Thorolf proves a valiant fighter, his enemies spread slander about him. King Harold Finehair believes them and dismisses him. Two of the king’s men seize a ship belonging to Thorolf, and he reciprocates by pillaging their farm and killing their brothers. The king subsequently has Thorolf killed. Kveldulf and Grim ask the king for compensation, but when Grim refuses to join him at the court, the king angrily rejects their request. In 891, father and son decide to emigrate to Iceland, but on the way they take revenge for Thorolf by killing some of the king’s men. Kveldulf dies at sea, but Grim establishes a big farm at Borg. He is totally bald and is therefore called Skallagrim in Icelandic (skalli means bald head). He has two sons, Thorolf and Egil. As a young man, Thorolf Skallagrimsson decides to visit old friends of the family in Norway and then to become a viking. He fights under King Harold’s son, Eric Blood-Axe, and briefly returns to Iceland in 926. When Thorolf returns to Norway in 927, Egil who is now 17 years old accompanies him. He is big, strong and assertive and has already started to compose poems. He runs into King Eric in a place called Atli’s Isle,

(33) As Theodore M. Andersson points out, *The Sagas of Norwegian Kings (1130–1265): An Introduction* (Ithaca NY: Cornell University Press, 2016), p. 161.

(34) Robert Nef, *In Praise of Non-Centralism* (Zürich: Liberales Institut, 2004); Jonathan Steinberg, *Why Switzerland?* (Cambridge: Cambridge University Press, 2016).

(35) Thrainn Eggertsson, No Experiments, Monumental Disasters. Why it Took a Thousand Years to Develop A Specialized Fishing Industry in Iceland, *Journal of Economic Behavior and Organization*, Vol. 30, No. 1 (1996), pp. 1–24.



Medieval states need not be ruled by kings, as showed in Switzerland, whose foundation in 1291 was reaffirmed in 1307 when an oath was taken by representatives of the cantons of Uri, Schwyz and Unterwalden. Painting by Jean Renggli, Oath at Rütli (Rütlichschwur).

and manages in a drunken brawl to kill the king's steward, and during his subsequent flight from the place he kills or maims three more of the king's men. While the king eventually accepts compensation for his men, he orders Egil to leave Norway. After participating in some viking raids, Thorolf and Egil go to England and join the force of King Athelstan. In a battle between English and Scottish forces in 937, Thorolf is killed.

A year later, in 938, Egil leaves the service of King Athelstan and heads to Norway where Asgerd Bjornsdaughter, the widow of his brother, lives. He marries her and they go to Iceland and live at Borg. A few years later Asgerd's father, who had been a wealthy landowner, dies. Egil and Asgerd go to Norway to claim their inheritance. But Asgerd's half-brother, a friend of King Eric, refuses to hand over her share, with the support of the king. The king's men seize a ship belonging to Egil and kill some of his men, while Egil manages to kill the king's helmsman. He goes to the farm of Asgerd's half-brother and kills him and some of his men, and on his way from it he runs into one of King Eric's sons, Rognvald, and kills him and his men. Before leaving Norway, he sets up a scorn-pole against King Eric, calling on the nature spirits of the land to drive him out. He returns to Iceland in 946, but spends only two years there before going to England to meet King Athelstan. His ship runs aground in the mouth of the Humber, in a territory ruled by King Eric who has by now been driven out of Norway. Egil has to pay a visit to his old adversary who wants to have him beheaded. But an old friend of both Egil and the king, Knight Arinbjorn, suggests that Egil should compose a poem in praise of King Eric. After Egil has delivered the poem, the king tells him that he can keep his head, but that he must never cross his path again. Appropriately, the poem is called 'Head's Ransom'. After some further adventures, Egil settles down at Borg in Iceland. When two of his sons die, he composes a long poem in their memory, 'Lament for My Sons'. He also composes a poem to honour a Norwegian friend of his, Knight Arinbjorn, who had stayed loyal to him through his various romps. Egil passes away in 990.

If the feud between the families of Egil and the Norwegian kings is one of the main themes in *Egil's Saga*, then the other one is individuality, exemplified by its larger-than-life chief protagonist, Egil. In the Middle Ages, Swiss historian Jacob Burckhardt famously observed, 'Man was conscious of himself only as a member of a race, people, party, family, or

corporation — only through some general category. In Italy this veil first melted into air; an *objective* treatment and consideration of the state and of all the things of this world became possible. The *subjective* side at the same time asserted itself with corresponding emphasis; man became a spirited *individual*, and recognized himself as such.’ Burckhardt added that ‘at the close of the 13th century, Italy began to swarm with individuality; the ban laid upon human personality was dissolved; and a thousand figures meet us each in its own special shape and dress.’⁽³⁶⁾ Snorri’s Egil certainly steps out of any general category and meets us in his own special shape and dress. Avaricious and violent, sometimes grotesque, he is also capable of composing fine and sensitive poems about his secret love of his brother’s widow, the loss of his sons, his appreciation of a loyal friend and the ravages of old age. Not content with staying at home, Egil travels to Norway and England and participates in Vikings raids in the Baltic countries and elsewhere. He is a tenth century cosmopolitan. Therefore, perhaps it was in Iceland rather than in Italy that the ‘veil of collective consciousness’ first melted into air. As Icelandic scholar Sigurdur Nordal writes, Egil ‘is the first man in the history of the Germanic peoples who describes himself in his own words, from his outer appearance to his innermost thoughts’.⁽³⁷⁾

Snorri wrote *Egil’s Saga* after he had returned in 1239 from his second trip to Norway which explains why this saga is overtly more hostile to the Norwegian kings than *Heimskringla*. By now, King Haakon regarded Snorri as an enemy, and Snorri may have given up the hope of remaining the king’s friend without becoming his subject. *Egil’s Saga* is the first of the great ‘Sagas of the Icelanders’ so it is hardly an exaggeration to say that Snorri laid the foundations of a remarkable literary tradition shortly before his own untimely death.⁽³⁸⁾ Indeed, in many other Icelandic sagas, kings are viewed with the same scepticism and even hostility as in *Egil’s Saga*. In the *Saga of the People of Vatnsdal* (Water Valley), for example,

(36) Jacob Burckhardt, *The Civilisation of the Renaissance in Italy* (1860), tran. by S. G. C. Middlemore (London: Penguin, 1990), p. 98.

(37) Sigurdur Nordal, *Icelandic Culture* (1942), tran. by Vilhjálmur T. Bjarnar (Ithaca NY: Cornell University Library, 1990), p. 115.

(38) Jonas Kristjánsson, Var Snorri Sturluson upphafsmadur Íslendingasagna? [Was Snorri Sturluson the Pioneer in Writing Sagas of Icelanders?], *Andvari*, Vol. 32 (1990), pp. 85–105.

one of the protagonists expresses his intention of moving to Iceland where ‘men are free from the assaults of kings and criminals’.⁽³⁹⁾ The *Saga of Hord and the People of Holm* also begins in no uncertain terms:

“ Most of Iceland was settled in the days of Harold Finehair. People would not endure his oppression and tyranny, especially those who belonged to aristocratic families and who had ambition and good prospects. They would rather leave their property in Norway than suffer aggression and injustice—whether from a king or from anyone else.⁽⁴⁰⁾

While the Icelandic sagas are not as well known as, say, Homer’s epics, few would deny that they are an important contribution to Western civilisation, having inspired eminent writers such as John R. R. Tolkien and Jorge Luis Borges, not to mention Nordic authors such as Esaias Tegnér, Nikolaj F. S. Grundtvig and Henrik Ibsen. Tolkien, a Professor of Anglo-Saxon at Oxford University, told his colleagues that their students should read less of Shakespeare and more of Snorri Sturluson,⁽⁴¹⁾ and Borges composed an elegy in Spanish about Snorri and his death.⁽⁴²⁾ The so-called ‘Tales of the Icelanders’ which are much shorter than the sagas also display wariness of kings. Many of them are about clever Icelanders who have confrontations with Norwegian or Danish kings and usually outwit them or offer pithy and unfavourable comments about them.⁽⁴³⁾

Why were the Icelanders, a tiny nation on a windswept island far away from the European mainland, able to create such exceptional literature?

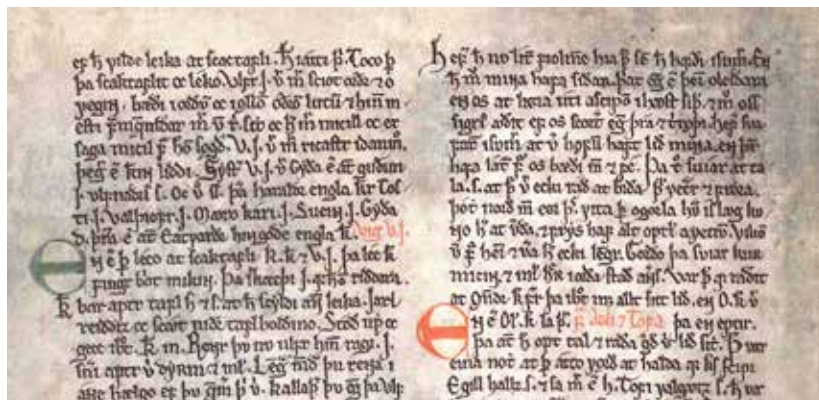
(39) *The Complete Sagas of Icelanders*, Vol. IV (Reykjavik: Leifur Eiríksson, 1997). The Saga of the People of Vatnsdal, Ch. 10, p. 15.

(40) *Complete Sagas*, Vol. II. The Saga of Hord and the People of Holm, Ch. 1, p. 193.

(41) Nancy Marie Brown, *Song of the Vikings: Snorri and the Making of Norse Myths* (New York: Palgrave, 2012), p. ix.

(42) Jorge Luis Borges, Snorri Sturluson (1179–1241), *El otro, el mismo* (Buenos Aires: Emecé, 1969), p. 149.

(43) Examples might be The Tale of Audun from the West Fjords and The Tale of Thorvard Crow’s-Beak, *The Complete Sagas of Icelanders*, Vol. I, pp. 369–373 and 397–400, respectively; and the Tale of Halldor Snorrason, Vol. V, pp. 219–222.



The life of Snorri Sturluson certainly provides one mundane answer. He was a rich man, and his wealth enabled him not only to write, but also to produce books. This was no easy task in his time. The production of just a copy of an Icelandic saga would have cost the equivalent of at least £10,000 in modern money.

Calves had to be reared and slaughtered to provide the parchment on which it would be written; berries had to be collected out of which to make the ink; a scribe had to be employed, or at least fed, clothed and lodged, for some months to make the copy.⁽⁴⁴⁾ Thus, Snorri's example may strengthen one argument for a leisure class: that it makes possible cultural achievements that otherwise would not exist. Another possible answer may be weightier. Many of the Icelandic sagas were written in a period when the Icelanders were becoming aware of Norwegian expansionism, in the mid-thirteenth century. They felt the need to express their own identity, tell the story of how and why they separated from Norway and grew into a nation.⁽⁴⁵⁾ Thus, the sagas may have been a political response to Norwegian aggression, an

A part of the single surviving page from a manuscript of Snorri's *Heimskringla*, dated around 1260. In the Middle Ages, only the wealthy could produce books. The manuscripts of Iceland's ancient sagas, chronicles and poems are considered a national treasure. Photo: National Library of Iceland.

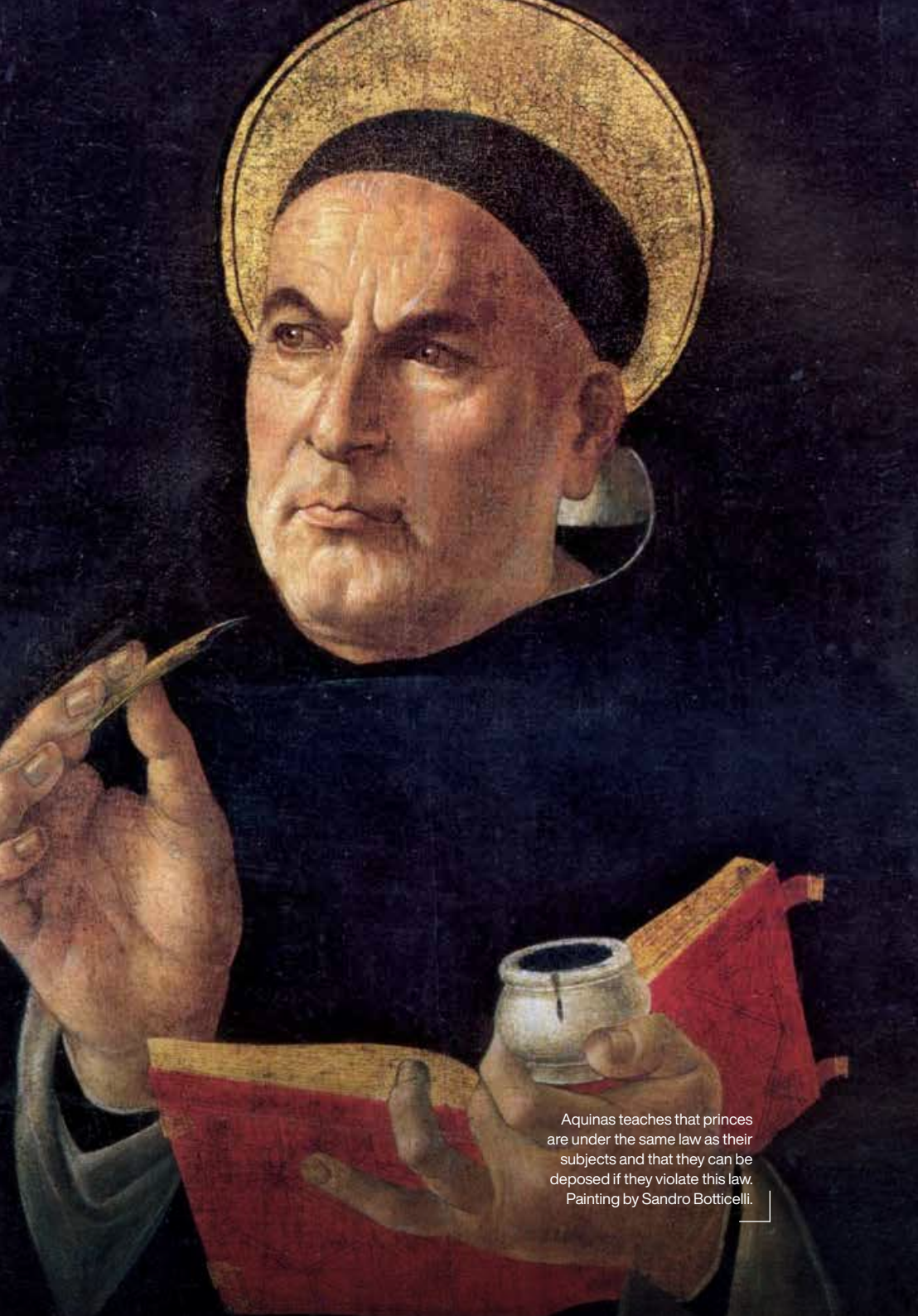
(44) Apparently, a famous Icelandic manuscript, *Flateyjarbók*, required 113 calves for its production. Sigurdur Nordal, Time and Vellum, *Annual Bulletin of the Modern Humanities Research Association*, Vol. 24 (1952), pp. 15–26.

(45) Theodore M. Andersson, The King of Iceland, *Speculum*, Vol. 74, No. 4 (1999), pp. 923–934.

assertion of both nationality and individuality.⁽⁴⁶⁾ This may also partly explain how and why Snorri Sturluson in *Heimskringla* and *Egil's Saga* expressed many of the ideas later associated with the Whig tradition in British politics: that law should be formed by consultation rather than stipulation; that government should be by consent, not by the grace of God; that there was in place an implicit social contract between the people and the sovereign and that the people could depose the sovereign if he violated that contract; and that man could be defined not only by some general category, but had to be conceived of also as an individual who had acquired the ability and will to make his or her own choices.⁽⁴⁷⁾

(46) Individuality as constitutive of Western man is an idea eloquently expressed in Michael Oakeshott's political thought, discussed later in this book. The warrior-poet Egil Skallagrimsson, for example, is an assertive individual such as Oakeshott envisages. Arguably, the Icelandic Commonwealth has some features of a civil association in Oakeshott's sense, as described in *On Human Conduct* (Oxford: Clarendon Press, 1975). It was an association of individuals united in acknowledgement of non-instrumental principles, the law. This association implied rules about *how* to do things, but not about *what* things to do. This applied even to manslaughter. If you killed a man for a cogent reason and did not try to hide it, you were guilty of a slaying, and you could try to negotiate a settlement with the victim's family. But if you tried to hide what you had done, you were guilty of murder, a much more serious violation of the law.

(47) Individuality in the Icelandic sagas is by no means confined to males. A few of the original settlers were strong-willed women, such as Aud the Deep-Minded and Steinunn the Old. Some of the chief protagonists in the sagas are also women. Indeed, I argue that some sagas should have been named after these women. For example, 'The Saga of the People of Salmon Valley' should have been called *The Saga of Gudrun*. Cf. my condensations in English of three sagas, *The Saga of Gudrun: Her Four Husbands and Her True Love* (Reykjavik: Almenna bokafelagid, 2017) and *The Saga of Gudrid: The Icelandic Discovery of America* (Reykjavik: Almenna bokafelagid, 2019).



Aquinas teaches that princes are under the same law as their subjects and that they can be deposed if they violate this law.
Painting by Sandro Botticelli.

St. Thomas Aquinas

(1225–1274)

When totalitarianism descended on the European continent in its two guises, national socialism and communism, during the twentieth century, the almost sole internal resistance to it was put up by the Christian churches, even if it was eventually fought off by the joint forces of the Anglo-Saxon powers and, in the case of communism, also defeated by its own long-term economic unsustainability. Certainly, totalitarianism and Christianity are incompatible. Whereas totalitarianism constitutes an attempt to control the mind no less than the body, as George Orwell uncannily brought out in his dystopia, *Nineteen Eighty-Four*, Christianity involves a belief in the sacredness of every human being, and a distinction between spiritual and temporal affairs, between what belongs to God and what belongs to Caesar. Indeed, in the great struggle of the late Middle Ages between religious and secular authorities, such as the Guelphs and the Ghibellines in Italy, some of the ideas commonly associated with the political tradition of conservative liberalism were developed by Christian philosophers. 'But although liberty was not the end for which they strove, it was the means by which the temporal and the spiritual power called the nations to their aid.'⁽¹⁾ The most distinguished of these Christian philosophers, the Dominican friar St. Thomas Aquinas, argued that the ruler was not above the law and that if he was unfaithful to his duty and violated the law then he had forfeited his claim to obedience and could be deposed. But it was better to abridge his power so that he would be unable to abuse it. The whole nation ought to have a share in governing

(1) Lord Acton, *The History of Freedom in Christianity, Selected Writings of Lord Acton*, Vol. I, ed. by J. Rufus Fears (Indianapolis IN: Liberty Fund, 1985), p. 33.

itself, and no government should have a right to levy taxes beyond the limit determined by the people. This was, in the words of Lord Acton, ‘the earliest exposition of the Whig theory of the revolution’.⁽²⁾ Another Catholic, G. K. Chesterton, agreed, observing that around Aquinas there was an atmosphere ‘of believing in breadth and balance and debate’.⁽³⁾

The Life and Works of St. Thomas

Thomas was born in the castle of his father, Count Landulf of Aquino, close to the town of Aquino in Central Italy, in 1225. The count was related to and a vassal of the Hohenstaufen kings of Sicily. Thomas’ mother Theodora also came from a noble family. His paternal uncle was abbot of the monastery at Monte Cassino, and when Thomas was five years old he went to school there, but in 1239 he moved to the newly established university in Naples to continue his studies. He was bookish, serious and intensely religious, and when he was nineteen he decided to join the recently founded Dominican Order and to leave Naples for Paris. His family disagreed strongly with his decision to become a ‘begging friar’, had him kidnapped on his way and held prisoner in their castles for almost a year. Once his brothers, in the hope of turning his mind to worldly affairs, introduced a courtesan into his room. This was the only time during his captivity that the normally mild-mannered Thomas lost his composure. He sprang from his seat, snatched a brand out of the fire and stood wielding it like a flaming sword. The woman shrieked and fled. He strode after her to the door and banged it, ramming the brand into the door, blackening and blistering it with one black sign of the cross.⁽⁴⁾ Finally, the family relented and released him. He went to Paris in 1245, where he was taught by the distinguished Dominican scholar Albertus Magnus. He moved with his teacher to Cologne in 1248. Thomas was quite big, but quiet and withdrawn, and some of his fellow students

(2) Ibid., p. 34. Arguably, though, Snorri Sturluson was the ‘First Whig’, as I describe in the first chapter of this book.

(3) G. K. Chesterton, *St. Thomas Aquinas: ‘The Dumb Ox’* (Nashville TN: Sam Torode Book Arts, 2010 [1933]), p. 104.

(4) Ibid., p. 30.

therefore thought little of him. But Albertus exclaimed: ‘You call him a Dumb Ox; I tell you this Dumb Ox will bellow so loud that his bellowing will fill the world.’⁽⁵⁾

Thomas taught for four years in Cologne and then returned in 1252 to Paris. He was appointed master in theology at the University of Paris in 1256 and returned three years later to Italy where he lived first in Naples and then in Orvieto, completing one of his major works, *Summa contra Gentiles* (Arguments against Unbelievers). In 1265 he was summoned to Rome by the Pope and served as papal theologian, also teaching at a convent. In Rome he began his best-known work, *Summa theologica* (Arguments in Theology). The Dominicans sent him to Paris in 1268 where he took up his former position as master in theology at the University, this time becoming embroiled in various philosophical disputes, both between Dominicans and Franciscans and between the Aristotelians and their opponents. Thomas was known as a disciple of Aristotle, trying to reconcile his theories with Christian theology. First and foremost, however, he was a defender of Christianity against non-believers and heretics. Once, King Lewis IX of France (Saint Louis) invited him to a banquet. Normally, Thomas preferred to spend his time among his beloved books, but his Dominican superiors told him to accept. At the banquet, he sat silent in the midst of the gaiety, deep in his thoughts. But suddenly, the great table shook, for the friar had brought down his huge fist and cried out in a loud voice: ‘And that will settle the Manichees!’ He had thought of new arguments against the Manichees, a sect which believed life to be a fight between good and evil forces. Instead of taking offence at this interruption, the king instructed his secretaries to sit around the absent-minded scholar and take down notes about the arguments.⁽⁶⁾

In 1272 Thomas went again to Italy where he established a school in Naples, teaching there and continuing to work on the *Summa theologica*. On the way to a Church Council in Lyon in 1274 Thomas fell ill. He passed away on 7 March 1274, leaving the *Summa* uncompleted. Shortly after his

(5) Ibid., p. 33.

(6) Ibid., p. 51.

death, the Bishop of Paris condemned some of his arguments for their Aristotelian slant. But his reputation improved slowly and surely. He was canonized in 1323, and in an 1879 papal encyclical, his theology was pronounced to be a definitive exposition of Catholic doctrine.

Natural Law and Its Content

In political philosophy, Aquinas is best known for his theory of law which severely circumscribes the power of the ruler. Human law has to be in accordance with natural law, according to him. It is not a series of commands by a ruler, backed up by force. Instead, it is ‘an ordinance of reason for the common good, made by him who has care of the community, and promulgated’.⁽⁷⁾ If law does not fulfil these four conditions, then it is not law, but something else, perhaps only a scrap of paper; it has no validity at all; it is not even bad or unjust law. Most people would agree with Aquinas that a law which has not been promulgated and is therefore unknown to the people subject to it, can hardly be called a law. The same can be said about a law which has not been passed by the proper authorities, although Aquinas certainly recognises the existence and validity of customary law. But the two first conditions that the law should be an ordinance of reason and for the common good may seem less persuasive, at least to proponents of a greater role for a legislative body. An example of an unreasonable law might be if a ruler commands his soldiers to become healthy, as they lie sick in an epidemic. But why would a law against polygamy among Mormons in the United States be an ordinance of reason? Aquinas would reply that polygamy goes against human reason. Others might disagree. In Paraguay after a disastrous war in the nineteenth century which left the male population decimated, apparently the Catholic Church temporarily granted an informal dispensation allowing polygamy in order to increase the population.

An example of a law that would definitely not be an ordinance of reason for the common good in Aquinas’ sense would be a German law discriminating against Jews under the Nazi rule in 1933–1945,

(7) St. Thomas Aquinas, *Summa theologiae*, tran. by Fathers of the English Dominican Province, 2nd rev. ed. (London: 1912–1936), Bk. II, Pt. I, q. 90, §4.



Aquinas and the Thomists make a crucial distinction between justice and generosity: between what one can demand from others and what one may hope for. Painting by Joachim Beuckelaer, *The Fish Market*.

essentially depriving them of all civil rights, or a law prescribing racial segregation in South Africa during the 1948–1994 Apartheid regime, for example prohibiting marriages between individuals of different races. These are both real examples from modern times.

Are we obliged to obey them? But legal positivists from Thrasymachus in Ancient Greece to Hobbes and Bentham and onwards would reject Aquinas’ characterisation of such laws as not being in fact laws. They would say that of course they were laws, as they were passed by the proper authorities, enforced by them and obeyed by those subject to them, but that they might on the other hand be bad or unjust laws. They would say that it had to be clear what the law was, irrespective of whether it was good or bad, and that this could not be done with any certainty in the natural law tradition, since reason and the common good were both contested concepts, meaning different things to different men.⁽⁸⁾

The problem with legal positivism which sets little or no conditions, constraints or material requirements on the content of the law, and only

(8) John Austin, *The Province of Jurisprudence Determined*, ed. by W. E. Rumble (Cambridge: Cambridge University Press, 1995 [1832]).

on its form, is however that it becomes difficult or even impossible to resolve adequately certain cases which nevertheless seem clear. Legal positivists can hardly say that the Nazis depriving Jews of all civil rights in Germany or the Boers segregating the races in South Africa were acting unlawfully, provided that these two ruling groups took care to fulfil all formal conditions for their legislation. Aquinas on the other hand has a criterion with which to reject these laws completely, not even recognising them as law. His concept of the law thus provides protection to powerless, persecuted or marginal groups like the Jews in Nazi Germany and the Blacks, Coloured and Indians in South Africa under Apartheid. It is perhaps also not as difficult as legal positivists claim to define the concepts of reason and the common good which should constrain the content of valid law. Thomists may not be guilty of the ‘naturalistic fallacy’ of deriving values from facts even if they recognise certain constraints on the content of valid law. A modern Thomist, Oxford philosopher John Finnis, has pointed out that some things are almost universally accepted as basic goods, necessary for a life worth living: these are life, knowledge, play, aesthetic experience, sociability of friendship, practical reasonableness and religion.⁽⁹⁾ Respect for these basic goods would be a requirement for valid law.

While neither Finnis’ list of basic goods nor his application of it to practical cases are above criticism,⁽¹⁰⁾ it should be noted that another Oxford philosopher, by no means a conservative or a Thomist, Professor Herbert Hart, has pointed out another way of recognising constraints on the content of law. Hart plausibly makes it his premise that society is not a suicide club. Arguing from that, he thinks that there are five features of the human condition which have to be taken into account for a legal system to be feasible: physical vulnerability and the danger of bodily attack; approximate equality between human beings, creating the need for mutual forbearance; limited altruism which strengthens the need for

mutual forbearance; limited resources which have the same effect; and limited understanding and strength of will, making sanctions on anti-social behaviour inevitable.⁽¹¹⁾ As Hart recognises himself, this theory about the ‘minimum content of natural law’ is not too different from Hume’s deduction of the principles of justice from basic facts of human life, such as the niggardliness of nature and the selfishness of man.

Hart’s attempt to identify the ‘minimum content of natural law’, basing it on human nature, is plausible and illuminating. But society is about more than survival. Aquinas himself emphasises that the crucial part of human nature is reason: In order to be law, it has to be an ordinance of reason for the common good. There may be some boundary problems involved with making human reason the basis for natural law. *Whose* common good is under discussion? Who are supposed to have *reason*? Not only ordinary working and law-abiding citizens, but also groups that seem to lack important elements of reason, such as children, the old and the mentally unstable? What about man’s nearest relatives, the apes? Or possible intelligent beings on other planets? Leaving such problems aside, perhaps the economic theories of Ludwig von Mises and Friedrich von Hayek can serve considerably to extend the ‘minimum content of natural law’, as Hart conceives of it. Essentially, Mises and Hayek argue that economic principles would disqualify traditional socialism, in the sense of central economic planning, from being a feasible system for arranging the production and distribution of material goods. The rules in such a system would never be able to draw upon all the knowledge and special skills dispersed among the citizens, and they could therefore never achieve their stated aims of social reforms, for example the alleviation of poverty, irrespective of the desirability of such reforms.⁽¹²⁾ Hayek actually goes further and argues that if capitalism, with its division of labour and free movement of capital, goods and services across borders, would be abandoned, only a fraction of the people living now on the planet could survive. If people are to avail themselves of the

(9) John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).

(10) For example, Stephen Macedo, *Against the Old Sexual Morality of the New Natural Law, Natural Law, Liberalism, and Morality*, ed. by Robert P. George (Oxford: Clarendon Press, 1996). An interesting discussion followed between Finnis and Macedo, on somewhat similar lines as a celebrated debate between H. L. A. Hart and Judge Patrick Devlin in the 1960s: Do same-sex relationships threaten the social fabric, or might they in fact strengthen it? The experience of the last decades seems to favour the case made by Hart and Macedo.

(11) Herbert L. A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1961).

(12) Ludwig von Mises, *Die Gemeinwirtschaft: Untersuchungen über den Sozialismus* (Jena: Gustav Fischer Verlag, 1922); *Socialism: An Economic and Sociological Analysis*, tran. by J. Kahane (Indianapolis IN: Liberty Fund, 1981).

social reason embodied in a dynamic and competitive system of private property rights and free trade where knowledge is both transmitted and generated and individual plans are adjusted, then they have to accept this system. If law is to be ‘an ordinance of reason for the common good’, as Aquinas puts it, it has to be based on private property, free trade and unfettered competition.⁽¹³⁾ Americans could say in their savvy way that capitalism remains the only game in town.

Rights of Resistance

If there are strict constraints on the content of valid law, as Aquinas argues, then what happens if the legislator or the ruler does not respect them and proclaims laws that go against the natural law? Or if he becomes a tyrant? In *De regimine principum* (On Kingship), Aquinas discusses the case when tyranny becomes so extreme as to be intolerable. He rejects the notion that it is justified to kill the tyrant, at least on somebody’s private presumption.⁽¹⁴⁾ Anticipating Burke’s critique of the French Revolution, ‘What is more likely to come of such presumption,’ Aquinas warns, ‘is peril to the community through the loss of a king than relief through the removal of a tyrant.’⁽¹⁵⁾ It is crucial, he argues, to use the recognised channels to depose a tyrant. In *Summa Theologica*, Aquinas returns to the problem. He points out that laws may be unjust in two ways. First, they may be contrary to the common good, for example when the ruler puts unnecessary and unequal burdens on his subjects; or when he goes beyond the authority vested in him; or when they are not correctly formulated and promulgated. Or they can be unjust through being opposed to the Divine good, such as a law inducing people to idolatry. It is quite clear that in the latter case people have no duty to obey the laws. But in the case when laws inflict unjust hurt on the subjects, they are also not bound to obey them, provided they avoid giving scandal or

(13) Friedrich A. Hayek, *Law, Legislation and Liberty*, Vols. I–III (London: Routledge & Kegan Paul, 1973–1979).

(14) In an early work, he seems however to join Cicero in praising those who slew Caesar because he had usurped power. *Scripta super libros sententiarum*, Bk. II, Ch. 44, Q. 2, *St Thomas Aquinas: Political Writings*, tran. and ed. by R. W. Dyson (Cambridge: Cambridge University Press, 2002), p. 73.

(15) *De Regimine principum*, Ch. VII, *St Thomas Aquinas: Political Writings*, p. 19.



The premise of the 1946 Nuremberg trials over Nazi leaders was that there is a natural law valid for every human being.

inflicting a more grievous hurt. They can even actively resist them.⁽¹⁶⁾ As an expert on Aquinas remarks: ‘His remarks, taken together, add up to an intelligible position of

cautious conservatism which recognises that extreme measures may be justified sometimes but should be avoided if at all possible.’⁽¹⁷⁾

These are not only abstract speculations. If Martin Luther King had been a legal positivist, how could he have advocated and organised civil disobedience in protest against discriminatory laws? I shall take a more mundane example from my own experience. In the 1874 Icelandic Constitution, freedom of the press and freedom of assembly were guaranteed. In the twentieth century, however, by law broadcasting became the monopoly of a government agency, the National Broadcasting Service, NBS. For many years, I argued that the constitutional statutes guaranteeing freedom of the press and freedom of assembly should be interpreted more

(16) *Summa*, Bk. II, Part I, Q. 96, §4. Here the translation by R. W. Dyson in *St Thomas Aquinas: Political Writings*, p. 145, is more accurate than that of the Dominican Fathers: ‘so a man is not obliged to obey the law in such cases, if he can resist [resistere] doing so without scandal or worse harm’. The Latin verb ‘resistere’ is stronger than for example *defugere*, *vitare* or *declinare*, as Dyson observes. It signals resistance rather than mere avoidance or passive disobedience.

(17) Dyson, Introduction, *St Thomas Aquinas: Political Writings*, p. xxx.

generally as protecting freedom of expression—that this was the logical basis of the statutes. It was the letter of the Constitution which was antiquated, not its spirit: The means of expression known to nineteenth century lawgivers were just through the printing press or meetings, whereas in the 1970s and 1980s, new technology greatly facilitated the operation of radio and television stations. The newspapers in Iceland were privately owned and run. Why should broadcasting be any different? Even if it might be said that the law granting a monopoly to the NBS was unjust in Aquinas' sense, and in conflict with another and higher law, the Icelandic Constitution, this was probably not according to his theory a sufficient ground for disobedience. But in the autumn of 1984, Iceland found herself in a rather unusual situation. Journalists had been on strike for a while so that no newspapers or magazines came out. The Association of Public Employees, of which the staff of the NBS were members, had announced a strike on 4 October. In Iceland, salaries of public employees are paid in advance, on the first of each month for that month. In these circumstances, with the strike pre-announced, the Treasury however did not pay out in advance the whole salary for the month of October. The staff of the NBS, led by militant left-wingers, decided to walk out in protest on 1 October. All broadcasting ceased with the consequence that there were no means of mass communication available in the country. Silence fell over Iceland.

In this situation, I and a few of my friends decided to start operating a small radio station, providing much-needed news reports to the country. The first broadcasts were on 2 October. The strikers, especially the NBS staff, were outraged by our initiative and strongly encouraged the police to close down our station. On the other hand, we enjoyed widespread public support. Technicians at the National Telephone Company were granted an exemption from the strike so that they could use their equipment to try and locate our transmitter. Finally, after a chase of eight days, the police found the transmitter and closed down our radio station.⁽¹⁸⁾ The staff of the NBS reported us to the Public Prosecutor for violating the law on broadcasting, whereupon he decided to lay a charge against us. In

1986, the Supreme Court confirmed the judgement of a lower court that we were guilty of violating the law on broadcasting and gave us small fines. In the meantime, as a result of a public outcry after the police had closed down our station, Parliament had passed a law abolishing the monopoly of broadcasting enjoyed by the National Broadcasting Service. Iceland's largest political party, the Independence Party, strongly supported us, whereas the other parties in Parliament were divided on the issue.

While a legal positivist would reject our legal arguments, like the Icelandic judges did,⁽¹⁹⁾ a Thomist might find them acceptable. We knew that we were violating the law, but we believed that it was an unjust law and that our disobedience was justified. First, the law granting monopoly of broadcasting to a certain agency, and its staff, might not be in accordance with the common good, as required by Aquinas. It might even go against it, by only considering some interests, while disregarding the interests of potential broadcasters and their audiences. Secondly, this law might conflict with another and higher law, the Icelandic Constitution, as we argued. Freedom of broadcasting might form a part of the general freedom of expression protected by the Constitution like freedom of the press and freedom of assembly. In the third place, the Icelandic public had forcibly been deprived of all news reports by the strikers, and this in itself constituted a threat to public order. In a modern society, used to a steady flow of information, this was a highly undesirable situation. It was the militant strikers who threatened violence, not us. Fourthly, we voluntarily provided a service to those who wanted to take advantage of it, leaving everybody else alone. People had to turn on their radios and find our bandwidth in order to listen to our broadcasts. Fifthly, our position that the broadcasting monopoly was an anomaly was eventually accepted by Parliament. Nobody, except perhaps the NBS staff, regarded us as having committed a reprehensible act:

“ Treason doth never prosper; what's the reason?
For if it prosper, none dare call it treason.

(18) At least one other radio station started operating a day later than did ours, while it was closed down on the same day by the police, 10 October 1984. But strangely, those operators were not reported to the Public Prosecutor and were never charged.

(19) Icelandic judges were much influenced by Danish jurisprudence, in particular by left-winger Alf Ross, disciple of Austrian legal philosopher Hans Kelsen. Alf Ross, *Om ret og retfærdighed* (København: Arnold Busck, 1953), *On Law and Justice* (Berkeley: University of California Press, 1959).



So little difference did the judgement against us make that one of my co-defendants, Kjartan Gunnarsson, was soon thereafter appointed Chairman of the Broadcasting Licence Commission set up after the abolition of the government monopoly of broadcasting. Another associate in operating the radio station, Bjorn Bjarnason, became in 1995 Minister of Education and Culture, and thus in charge of the NBS. A third associate, Elin Hirst, even served as director of NBS television news in 2002–2008. So, in the language of Aquinas, our disobedience of the outdated law on broadcasting did not cause any scandal and it did not inflict a hurt on anyone.

With some friends (here Elin Hirst, later television journalist), I ran a 'pirate' radio station in October 1984, after strikers had shut down all newspapers in Iceland as well as radio and television. As a consequence of our action, government monopoly in broadcasting was abolished. I argued on Thomist principles that ours had been justified disobedience.

A Defence of Private Property

In his discussion of law, Aquinas provides a cogent defence of private property. He says that man has a natural dominion over external things, because, by his reason and will, he is able to use them for his own profit, as they were made on his account. Thus, the possession of external things is natural to man. In support of this, Aquinas quotes God's decision in Genesis: 'Let us make man in our image, after our likeness. Let them

have dominion over the fish of the sea, the birds of the air, and the cattle, and over all the wild animals and all the creatures that crawl on the ground.'⁽²⁰⁾ Aquinas believes that private property is necessary for three reasons. First, every man is more careful to procure what is for himself alone than that which is common to many or to all. Everybody's business becomes nobody's business. Secondly, human affairs are conducted in a more orderly fashion if each man is charged with taking care of some particular thing himself, whereas there would be confusion if everyone had to look after any one thing indeterminately. Thirdly, a more peaceful state is ensured to man if each one is contented with his own. Quarrels arise more frequently, Aquinas observes, where there is no division of the things possessed,⁽²¹⁾ such as branding cattle or fencing off land. This last observation has been expressed in the famous adage: 'Good fences make good neighbours.'

Even if Aquinas may not believe that private property rights are natural rights, so that they would be general, absolute and valid at all times, and that the rich man has a moral duty to help the poor, he is not necessarily a redistributionist in the modern sense, as some have suggested.⁽²²⁾ It is quite different when a rich man chooses to help the poor of his own accord and when government forcibly taxes people who create wealth in order to redistribute the catch (or booty) in some way, perhaps allegedly to the poor, but often in fact to those who are best organised and most powerful politically, while not necessarily morally most deserving.⁽²³⁾ Moreover, Aquinas emphasises that the burdens which it is necessary to place on the ruler's subjects should be distributed fairly. This might imply for example that progressive taxation would be unjust.⁽²⁴⁾ In the Ottoman Empire, Christians paid

(20) Genesis, 1, 26. Aquinas, *Summa*, Bk. II, Pt. II, Qu. 66, §1.

(21) Aquinas, *Summa*, Bk. II, Pt. II, Qu. 66, §2.

(22) Dyson, Introduction, *St Thomas Aquinas: Political Writings*, p. xxxii.

(23) George J. Stigler, Director's Law of Public Income Redistribution, *Journal of Law and Economics*, Vol. 13, No. 1 (1970), pp. 1–10. Put simply, this 'Law' states that redistribution made by politicians will tend to favour groups with the greatest ability to influence those very politicians, and such groups will not necessarily be the good or the poor.

(24) Walter J. Blum and Harry J. Kalven, Jr., The Uneasy Case for Progressive Taxation, *University of Chicago Law Review*, Vol. 19 (1952), pp. 417–520.

a higher rate of tax than Muslims. In modern times, high-income earners pay a much higher proportion of their income than people with low income who contribute little or nothing to the treasury of their countries.

While Aquinas supports private property rights, he takes the same position as Hayek and Robert Nozick, two modern defenders of such rights, that when they come into conflict with liberty, they have to give away, even if such situations may be extremely rare. Both Hayek and Nozick mention the example of the twenty springs in an oasis where nineteen of them suddenly dry up, leaving the owner of the sole remaining spring in a position to impose tyranny on his neighbours.⁽²⁵⁾ Aquinas writes:

“ Nevertheless, if the need be so manifest and urgent, that it is evident that the present need must be remedied by whatever means be at hand (for instance when a person is in some imminent danger, and there is no other possible remedy), then it is lawful for a man to succour his own need by means of another’s property, by taking it either openly or secretly: nor is this properly speaking theft or robbery.⁽²⁶⁾

Hume, a third prominent defender of private property, agrees: In an emergency, the rules of justice, including those of private property, are suspended. Hume mentions a shipwreck and a city besieged.⁽²⁷⁾

Aquinas on Business Ethics

Aquinas briefly discusses another famous example about justice and morality in business. It was originally introduced by Stoic philosophers,

according to the Roman lawyer Cicero. There has been a famine on Rhodos. A merchant from Alexandria arrives in a ship heavily laden with wheat. He expects more merchants to be on their way to the island because he could see their sails on the distant horizon. The question is whether the merchant has to reveal this to the islanders. It would definitely deprive him of the chance to sell his wheat at a much higher price than would otherwise be the case. In antiquity, opinion on this question was divided. Diogenes from Babylon argued that the merchant was obliged to inform his customers of known defects of the good he was selling, but that he was permitted to try and get the highest price possible for it. Diogenes made a distinction between concealing something about a good from others and not taking the initiative of informing them of something which might change their evaluation of it. The merchant was not forcing the islanders to buy his wheat, Diogenes pointed out. They did so only if they wanted and needed it. Antipater of Tarsus disagreed. The merchant was a member of the same moral community as the islanders and thus he had an obligation to them not to take advantage of the situation.⁽²⁸⁾

While Cicero himself concurred with Antipater, Aquinas disagreed with both of them:

“ The defect in a thing makes it of less value now than it seems to be: but in the case cited, the goods are expected to be of less value at a future time, on account of the arrival of other merchants, which was not foreseen by the buyers. Wherefore the seller, since he sells his goods at the price actually offered him, does not seem to act contrary to justice through not stating what is going to happen. If however he were to do so, or if he lowered his price, it would be exceedingly virtuous on his part: although he does not seem to be bound to do this as a debt of justice.⁽²⁹⁾

(25) Friedrich A. Hayek, *The Constitution of Liberty* (London: Routledge and Kegan Paul, 1960), p. 136; Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 180.

(26) Aquinas, *Summa*, Bk. II, Pt. II, Qu. 66, §7.

(27) David Hume, *An Enquiry Concerning the Principles of Morals*, ed. by L. A. Selby Bigge (Oxford: Clarendon Press, 1902), Section III, Part 1, p. 186.

(28) Marcus Tullius Cicero, *De officiis* [On Duties], tran. by Walter Miller (Cambridge, MA: Harvard University Press, 1913), Book III, XII–XIII, pp. 50–57.

(29) Aquinas, *Summa*, Bk. II, Pt. II, Q. 77, §3.



Here, Aquinas uses the crucial distinction between *justice* and *generosity*. He points out that the merchant is not selling a defective good; he is not cheating his customers, even if he may be lacking in generosity. Although the philosopher-saint does not explicitly say so, it seems that in his argument he relies on uncertainty about the future: Whereas the merchant has seen the sails of other merchant ships on the horizon, he cannot be sure that they will arrive safely in Rhodos. He is not bound to lower the price others are willing to pay him, on the basis of educated guesswork. Another argument which could strengthen Diogenes' and Aquinas' case is from self-ownership: If people own themselves, then they presumably also own the knowledge which they have acquired without violating any moral or legal rules (even if some would call it 'insider trading'). It is theirs, and theirs alone, to choose whether or not they reveal it in negotiations with others.

Aquinas seems surprisingly liberal on another issue: the attempts by government to impose conventional morality on its subjects, prohibiting victimless crimes where modern examples could be the use of recreational drugs, gambling, pornography and prostitution, not to mention various non-procreational sexual activities between consenting adults. Here as elsewhere Aquinas is practical and moderate:

The deadly aftermath of a shootout over the ownership of an unbranded cow. Aquinas argues that private property rights reduce conflicts over scarce resources. Painting by Frederic Remington, *What an Unbranded Cow Has Cost*.

“ Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.⁽³⁰⁾

Certainly people would be better if they would abstain from vices, the philosopher-saint thinks, but government should concentrate its limited resources on suppressing those vices which are dangerous to other people, such as murder and theft. This does not look all that different from the celebrated principle of liberty for which English philosopher John Stuart Mill argued: ‘The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent *harm* to others.’⁽³¹⁾ Or, as American anarchist Lysander Spooner exclaimed, vices are not crimes.⁽³²⁾

The Thomist Tradition in Politics

Aquinas cannot be viewed, anachronistically, as a fully-fledged conservative liberal, and some of his disquisitions, for example on heresy and usury, may appear odd to a modern reader. It should be noted however that the opposition by many medieval thinkers to interest on loans was perhaps influenced by the fact that most enterprises in those days were self-financed and that loans were usually granted in emergencies such as crop failures, house fires, animal diseases, epidemics or armed conflicts, where charging interest may have seemed immoral or at least

(30) Aquinas, *Summa*, Bk. II, Part I, Q. 96, §2.

(31) John Stuart Mill, *Essay on Liberty* (1859). *Collected Works*, Vol. XVIII, ed. by John M. Robson (Toronto: University of Toronto Press, 1977).

(32) Lysander Spooner, *Vices are Not Crimes: A Vindication of Moral Liberty* (1875), *The Shorter Works and Pamphlets of Lysander Spooner*, Vol. 2 (Indianapolis IN: Liberty Fund, 2010).

ungenerous. Moreover, interest on loans reflects a time preference—a gold coin is worth more to you today than it will do in a year's time—and where there is little or no economic progress, even if there is a lot of change and turmoil, as in the Middle Ages, time preference may not have played an important role. Medieval thinkers thought that time was a common good, not subject to scarcity. But as soon as it becomes scarce, it has to be priced. Be that as it may, the ideas that natural law constrains the ruler, that the people have a right to depose a tyrant, that private property is necessary to create wealth and keep the peace, that merchants perform a useful role and that government should tolerate victimless crimes are all important tenets in the conservative-liberal tradition.

In the two centuries after Aquinas' death, during the Italian renaissance some of his economic ideas were developed further by two of his compatriots, San Bernardino of Siena (1380–1444) and Sant'Antonino of Florence (1389–1459). They argued that merchants were useful and the value of goods depended on their utility. According to San Bernardino, the 'just price' was the market price. In particular, a just wage was that on which the employer and his worker could agree, but then the employer was not allowed to cheat by paying the wage in clipped or debased coin.⁽³³⁾ Indeed, during the late Middle Ages modern capitalism can be said to have been born in the merchant republics of Northern Italy with the introduction of banking, joint-stock companies and double-entry bookkeeping. But with the rediscovery of America in 1492,⁽³⁴⁾ the centre of gravity moved westwards, from the Mediterranean to the Atlantic Ocean. Spain became a major European power, and the School of Salamanca was established. The Salamanca Scholastics had many fascinating moral issues thrust upon them by the Spanish and Portuguese conquests in America (Portugal was ruled by the Spanish king for 60 years, 1580–1640).

(33) Raymond de Roover, *San Bernardino of Siena and Sant'Antonino of Florence: The Two Great Economic Thinkers of the Middle Ages* (Boston: Harvard Graduate School of Business Administration, 1967).

(34) America had already been discovered in the year 1000 by the Icelanders, but their settlement in 1008–1011 foundered, mainly because of attacks from the native Indians. Christopher Columbus probably learned of the Icelandic discoveries in a trip to Northern Europe in 1477. Hannes H. Gissurason, *The Saga of Gudrid: The Icelandic Discovery of America* (Reykjavik: Almenna bókafélagid, 2019).

Were the price increases in Spain in the sixteenth century caused by the great inflow of gold and silver from the New World? Should the Indians in America be treated with the same respect as other human beings, or were they savages? How should the merchants travelling between Spain and Flanders behave if they wanted to be good Christians and at the same time profit from their trade?

Francisco de Vitoria (1483–1546) was the founder of the School of Salamanca, publishing works on international law and defending the rights of American Indians. He also took great interest in commercial ethics, trying to reconcile Thomism with the new economic reality confronting him. He emphasised that virtue could not be commanded. The Good Samaritan was spending his own money, not that of a government. 'Alms should be given from private goods and not from the common ones.'⁽³⁵⁾ He also saw that any kind of enforced redistribution created temptations. 'Evil men will take more and add less to the barn of the common goods.'⁽³⁶⁾ Vitoria and other members of the Salamanca School came close to formulating the subjective theory of value that Austrian economist Carl Menger presented in the nineteenth century: that the value of a good is derived from the utility it has in the minds of consumers, especially the utility of the last unit consumed, and from its quantity, in other words from demand and supply, as revealed in market transactions, and that the value does not depend on the cost of production, such as labour. Vitoria wrote: 'When Peter sells wheat, the buyer need not consider the money Peter spent nor his work, but, rather, the common estimation of how much wheat is worth.'⁽³⁷⁾ British historian Richard H. Tawney was therefore wide of the mark when he said that 'the true descendant of the doctrines of Aquinas is the labour theory of value. The last of the Schoolmen was Karl Marx.'⁽³⁸⁾ Neither Aquinas nor his disciples held

(35) Alejandro Antonio Chafuen, *Christians for Freedom: Late Scholastic Economics* (San Francisco CA: Ignatius Press, 1986), pp. 52–53. Cf. also José Moreira and André Azevedo, *The Salamanca School* (London: Bloomsbury, 2013).

(36) Ibid., p. 156.

(37) Ibid., p. 98. Cf. the chapter on Menger in this book.

(38) R. H. Tawney, *Religion and the Rise of Capitalism* (New York: Harcourt, Brace, 1926), pp. 38–39.



the labour theory of value.

While many distinguished thinkers belonged to the Salamanca School, only a few can be mentioned here. Like Vitoria, Domingo de Soto (1494–1560) defended the rights of

American Indians and discussed commercial ethics. He was a renowned scholar who was for a while confessor to the king of Spain, Charles I (as Holy Roman Emperor Charles V). Martín de Azpilcueta (1491–1586) formulated an early version of the ‘quantity theory of money’, later made a household term by American economist Milton Friedman: if the money supply in a territory increases without a corresponding increase in the territory’s total product, prices will rise.⁽³⁹⁾ An example was inflation in Spain herself after the conquest of Central and South America. Diego de Covarrubias (1512–1577) taught like Vitoria that value was subjective: ‘The value of an article does not depend on its essential nature but on the estimation of men, even if that estimation be foolish.’⁽⁴⁰⁾ Tomás de Mercado (1525–1575) wrote a manual for businessmen, emphasising like

The University of Salamanca in the 16th century became a Thomist centre, and many of the philosophers there supported economic freedom and private property rights.
Photo: Antoine Taveneaux.

Ayn Rand much later that love can be regarded as the extension of the self: ‘And if I love a friend it is *my* friend or *my* parent or *my* neighbour. If I desire the common good, it is for the benefit of *my* religion or *my* country or *my* republic. Love always involves the word ‘mine’ and the concept of property is basic to love’s nature and essence.’ Mercado recognised however that the self could not be extended too far if it was to be effective: ‘If universal love won’t induce people to take care of things, private interest will. Hence, privately owned goods will multiply. Had they remained in common possession, the opposite would be true.’⁽⁴¹⁾ But even if members of the Salamanca School enjoyed much respect, their nascent conservative liberalism did not have much impact. In Spain, absolutism prevailed. It was on an island further north that in a long and arduous struggle between king and parliament arbitrary power became so constrained that there was found a leeway for entrepreneurs, investors, and merchants, who consequently could explore the immense new territories which were suddenly opened up in America, Africa, Asia and Australia. In Great Britain the tradition of conservative liberalism found a home and could flourish.

(39) Friedman’s monetary theory is discussed in the chapter on him in this book.

(40) Chafuen, *Christians*, p. 100.

(41) *Ibid.*, p. 50.

John Locke

(1632–1704)

How can individuals appropriate valuable resources without harming other people? How can they justly exclude others from the use of resources that they claim as their own, such as fencing off land or branding cattle? Some thinkers who understand and accept free trade in goods and services to the mutual benefit of those involved, reject the moral case for private property rights, even if they may grudgingly admit their usefulness and even their inevitability, at least after the collapse of communism in the early 1990s. Capitalism may be efficient, they say, but is it just? It was English philosopher John Locke who gave perhaps the most plausible response to their challenge in his *Two Treatises of Civil Government*, within a more general political theory of government by consent, separation of powers, and the right to resist despots, for which he is better known. Locke provided arguments for, and partly inspired, the ‘Glorious Revolution’ in Great Britain during his own lifetime and the American revolution a century later and can therefore, with Karl Marx, be regarded as one of the most influential political philosophers in history. He is rightly seen as the founder of conservative liberalism, even if earlier thinkers such as Snorri Sturluson and St. Thomas Aquinas already had expressed many of the ideas associated with it.

Locke’s Life and Works

John Locke was born on 29 August 1632 in Somerset in Southern England, near Bristol, the son of staunch Puritans, John Locke senior, an attorney and farmer, and his wife Agnes, born Keene. When Locke junior was fourteen years old, he went to Westminster School in London. These

A detailed oil portrait of John Locke, showing him from the chest up. He has long, dark, wavy hair and is wearing a dark coat with a white cravat tied in a knot. The background is dark and indistinct.

Locke argues that the creative powers of capitalism are such that one can appropriate goods from the commons without making others worse off. Painting by Michael Dahl.

were tempestuous times. A civil war between king and parliament was raging between 1642 and 1652, with King Charles I being beheaded in 1649. In 1652, after five years in London, Locke went to Oxford where he pursued his studies at Christ Church College over six years in various subjects, mostly philosophy and the natural sciences. In 1661, one year after the monarchy had been restored, he became a lecturer at Christ Church. He took great interest in medicine, and in 1666 he met Anthony Ashley Cooper, Lord Ashley, who invited him to join his household as his personal physician. This was a turning-point in his life. It brought Locke, a shy and cautious man by nature, right into the centre of British politics, because Lord Ashley was leader of the Whigs who wanted to constrain the power of the monarch, Charles II, whereas the other party, the Tories, supported the king. When Earl Shaftesbury, as Lord Ashley had become, fell out of favour and left politics in 1675, Locke used the opportunity to take a trip across France. He returned to England in 1679 at the behest of Shaftesbury and soon thereafter started composing his major political work, *Two Treatises of Government*, where he argued that kings had to rule by consent and that they could be deposed if they did not respect the natural rights of their subjects, most importantly rights to life, liberty and property. His arguments were directed against King Charles II and his brother, James, the heir to the throne who wanted to introduce in Great Britain absolutism such as was found in France and some other continental monarchies.

In 1681, Shaftesbury was thrown into the Tower for conspiring against the Crown. Acquitted by a grand jury, but already in indifferent health, he fled to Holland, and passed away after a few months. In late 1683, Locke thought it prudent also to go into exile in Holland where he devoted the next five years to writing philosophical works. James II succeeded his brother in 1685, but was only to reign for three years. Alarmed by the king's absolutist tendencies, Parliament, supported by an army led by James' Protestant son-in-law William of Orange, forced James II to leave the country at the end of 1688, whereupon it passed a resolution: 'That King James II., having endeavoured to subvert the constitution of the kingdom, by breaking the original contract between king and people; and having, by the advice of Jesuits and other wicked persons, violated the fundamental laws, and withdrawn himself out

of the kingdom, has abdicated the government, and that the throne is thereby vacant.'⁽¹⁾ William of Orange and his wife Mary, the daughter of James, became joint monarchs. In February 1689, Locke returned to England, in the convoy of Queen Mary, and soon thereafter he had his *Two Treatises of Government* printed, but not under his own name. He declined all offers from the government and devoted himself to publishing and revising his philosophical works, including besides *Two Treatises of Government*, *An Essay Concerning Human Understanding* and *A Letter Concerning Toleration*. From 1691, he lived in the household of his friends, Sir Francis and Damaris Masham, at Oates Manor in Essex. Locke died on 28 October 1704.

Justice in Initial Appropriation

Property plays a central role in Locke's political theory. 'The great and *chief end*, therefore, of men's uniting into common-wealths, and putting themselves under government, *is the preservation of their property*.'⁽²⁾ But this is property in a wide sense, not only the right to use and transfer material goods, but also the ownership by persons of their bodies, knowledge, special skills and other abilities and of what flows from them. Locke is not strictly speaking of the opinion that people own themselves: they are, he believes, owned by God, their creator. But this means that nobody else owns them. They are not slaves to others,

“ for men being all the workmanship of one omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order, and about his business; they are his property, whose workmanship they are, made to last during his, not one another's pleasure.⁽³⁾

(1) David Hume, *The History of England* (1778), Vol. VI (Indianapolis IN: Liberty Fund, 1983), Ch. LXXXI, p. 309.

(2) Locke, *Second Treatise*, Ch. 9, §124. *Two Treatises of Government* (1689), ed. by Thomas Hollis (London: 1764). Locke's works are accessible on the website of Liberty Fund.

(3) *Ibid.*, Ch. 2, §6.

It does not really make much difference to Locke's theory whether people are regarded as owning themselves or being owned by God, because the conclusion in both cases is that *others* do not own them, their bodies, knowledge, special skills and other abilities and what flows from them. Perhaps the only real difference is that Locke would not find suicide or other forms of self-destruction morally acceptable because then people would be damaging what is God's property. Neither would he accept that people could sell themselves into slavery, since they are really owned by God.

Our moral intuitions seem to support self-ownership in persons. Who owns a heart but the person who already has it? Certainly surgeons are not allowed to transfer that heart to somebody else, except in special circumstances. Again, a woman owns her body and can deny the use of it to others, and those who do not respect her decision can expect severe punishments for rape or other violations of her personal integrity. Some might object that self-ownership would not be as obvious in the case of personal knowledge, special skills and other abilities as it is about the body of a person itself. People acquire knowledge and discover and develop their special skills and other abilities in a social process. This may certainly be true, but nevertheless these are *their* distinct abilities, skills and knowledge, and not those of others. An opera singer might not have been able to develop her abilities if she had been born and brought up in the jungle and not in Vienna. However, the voice, however well trained, is *hers* and not that of others. Whereas the move from ownership of one's body to ownership of one's abilities may thus seem plausible, the next move, to ownership of material goods, is really the contested conclusion. How can self-ownership lead to world-ownership? The opera singer may own her voice, but how does she acquire a full right to all the income that may flow from the use of her voice? Wherefrom does the farmer get the right to fence off land and call it his? This is a particularly critical question because Locke says that God has given the earth 'to mankind in common'.⁽⁴⁾

Locke's answer is that everybody has a property in his own person, including the labour of his body and the work of his hands. 'Whatsoever

then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with it, and joined to it something that is his own, and thereby makes it his property.'⁽⁵⁾ He continues:

“ It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it, that excludes the common right of other men. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others.⁽⁶⁾

At first sight, this seems unclear and questionable. How does a man acquire a property right to a natural resource by 'mixing' his labour with it? Did the first Icelandic settler, Ingolf Arnarson from Norway, for example acquire a property right to the whole of the island upon arriving in 874, or only to a part of, and if so, to how large a part of it? But Locke's proviso has to be noted: the man who removes a resource out from the state of nature and mixes his labour with it, has to leave 'enough, and as good in common for others'. He adds another proviso which is that nobody can appropriate more than he can use before it spoils. However, Locke also observes that with the introduction of money, this second proviso becomes moot, because perishable goods may be exchanged for money which is durable. It is also not clear whether he would have needed the second proviso: it seems to follow logically from the first one, that 'enough, and as good' should be left 'in common for others'.

Understood literally, the Lockean proviso seems impractical. When a man removes a good or a resource out of the state of nature, he rarely would leave enough and as good in common for others. He would always be changing the situation for them as well as for himself. But the proviso can be rephrased, as American philosopher Robert Nozick pointed out.⁽⁷⁾

(5) Ibid., Ch. 5, §27.

(6) Ibid., Ch. 5, §27.

(7) Nozick, *Anarchy, State, and Utopia* (Oxford: Basil Blackwell, 1974), p. 175.

(4) Ibid., Ch. 5, §27.



After the Glorious Revolution, Queen Mary, daughter of the deposed king, arrived in England 12 February 1689 to assume the crown. Locke was in the convoy. Painting by Willem van de Velde younger.

A man can remove a material good out from the state of nature in order to appropriate it, provided that others are not made worse off by this removal. This is precisely what Locke believes: Because of the enormous productive powers of private property rights, non-owners need not become worse off if and when natural resources are appropriated by some people who become their owners. These non-owners are more than compensated by the many opportunities created by economic progress which, in turn, has been made possible by the initial appropriation. Their situation has been changed, but it has not become worse. This applies even to land whose supply is limited:

“ I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one: for I ask, whether in the wild woods and uncultivated waste of America, left to nature, without any improvement, tillage or

husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres of equally fertile land do in Devonshire, where they are well cultivated?⁽⁸⁾

St. Thomas Aquinas made a similar observation: Owners tend to look much better after their property than do non-owners. They have a direct interest in it.⁽⁹⁾ However, Locke's main argument for justice in initial appropriation is really an argument from liberty: one person may appropriate resources justly in the state of nature if and only if he is not making others worse off by it, in other words if he is not reducing their liberty, equal to his, to try and better their economic condition.

(8) Locke, *Second Treatise*, Ch. 5, §37.

(9) St. Thomas Aquinas, *Summa theologiae*, tran. by Fathers of the English Dominican Province, 2nd rev. ed. (London: 1912–1936), Bk. II, Pt. II, Qu. 66, §2.

Modern economists could add some further arguments for the productive powers of private property rights, not least of the rights to natural resources and capital goods. In an economic system of profit and loss, capital will be transferred, perhaps slowly, but surely, from those who do not know how to make it grow, to those who manage it well or at least better than their competitors. Repeated losses lead to bankruptcy, whereas profit-making enterprises continue to operate. Competition in a free market is somewhat like a sieve that only allows the more efficient to get through. But if capital is to be transferred, split up or merged, in such a self-corrective process, this capital has to be owned by somebody and be transferable. Moreover, in a system where capital is dispersed among many relatively wealthy capitalists, it will not be as difficult for potential innovators and entrepreneurs to find investors as it would be if they would have to convince a majority in a public Innovation Fund Board of their idea. Thirdly, experiments are much easier and likely where capital is in many private hands, not in one public fund, and it is not least experiments leading to new knowledge which make an economic system dynamic and productive. Fourthly, private ownership of capital goods and natural resources extends the time horizon of the owner. He would plant a tree that would only bear fruit in ten years, even if he had to sell his plot in five years, because the potential gain from the tree will be reflected in the price he is able to get for the plot. In other words, he takes the future into account.⁽¹⁰⁾

Locke's Social Contract

According to Locke, property rights are natural in the sense that they exist in the state of nature, prior to the formation of civil society and government. Man is not the property of anyone else and therefore, unlike a slave or a child, he has a right to his own body and mind, including the knowledge particular to him, his special skills and other abilities. His right to material things that he has appropriated (without making anyone else worse off) and to the income he can derive from these things and from

his knowledge, skills and abilities is really an extension of his right to his own body and mind. But the problem in the state of nature is that there is nobody but himself to protect his rights. This is the main reason, Locke submits, that men decide to form civil society: to protect their property rights, both in themselves and in material things. They consent to leaving the state of nature and entering civil society, to which they give up some of their natural rights, mainly those of self-defence, 'for the end of civil society, being to avoid, and remedy those inconveniencies of the state of nature, which necessarily follow from every man's being judge in his own case, by setting up a known authority, to which every one of that society may appeal upon any injury received, or controversy that may arise, and which every one of the society ought to obey.'⁽¹¹⁾ But men do not only consent to entering into civil society in order to avoid trouble. They do it also to obtain 'many conveniencies, from the labour, assistance, and society of others in the same community'.⁽¹²⁾ As Aquinas had observed before Locke (and Aristotle before them),⁽¹³⁾ man is a social being.

The foundation of civil society, as Locke describes it, reflects the fact that the relationship between its members is not that of a child and his father, or a slave and his owner, or a master and his servant, or a student and his teacher. It is a relationship between independent, consenting and rational adults who regard and recognise one another as equals under the law, both the law of nature valid at all times and prior to civil society and human law which subsequently is introduced in civil society. But the human law has to be 'founded on the law of nature, by which they are to be regulated and interpreted'.⁽¹⁴⁾ Upon entering civil society men do not and cannot give up their natural and equal right to liberty, only some rights which derive from that, such as the right of self-defence. In turn, they acquire an obligation to obey the law of the land, including the government of the day, under normal circumstances. It should be emphasised that Locke's social contract establishing civil society is

(11) Locke, *Treatise*, Ch. VII, §90.

(12) Ibid., Ch. IX, §130.

(13) Aristotle, *Politics*, 1253a, 1–10.

(14) Locke, *Treatise*, Ch. II, §12.

(10) Nozick, *Anarchy*, p. 177.

between all its members, and not between people and government, as for example Thomas Hobbes envisaged. In Locke's theory, government is introduced after civil society has been established, and it could take on various forms, as it did in Europe at his time, but it was important, Locke held, to try and separate the executive and legislative powers. Whereas the relationship between the members of civil society was based on *consent*, the relationship between them and government was based on *trust*. Those who held power were entrusted with it, and if they seriously abused it then the people could 'appeal to heaven'.⁽¹⁵⁾

Locke's concept of the social contract does not seem as plausible as his theory of justice in initial appropriation. Was there ever a state of nature? When was consent given to move out of it and to establish civil society? Was this consent explicit or tacit? Was it given by all or just the majority, and if so, why should the minority be bound by it? And how were coming generations bound by the original contract? David Hume pointed out some of these problems and also identified a logical flaw in the very concept of social contract. Men were supposed to have a duty to obey an authority because they had promised to do so in a social contract. But wherefrom did they acquire the duty to keep their word? Such a duty had to precede the promise. 'What necessity, therefore, is there to found the duty of *allegiance* or obedience to magistrates on that of *fidelity* or a regard to promises, and to suppose, that it is the consent of each individual, which subjects him to government,' Hume asked, 'when it appears, that both allegiance and fidelity stand precisely on the same foundation, and are both submitted to by mankind, on account of the apparent interests and necessities of human society?'⁽¹⁶⁾

Perhaps some sense can be made out of the idea of a social contract if it is supposed to be hypothetical, consisting in a set of rules to which rational men would agree if they were put into the position of Adam Smith's 'impartial spectator' or under John Rawls' 'veil of ignorance'.⁽¹⁷⁾ They would probably agree to rules that would enable society at least to

survive, and hopefully to flourish. These rules would therefore not be too different from what Herbert Hart called 'the minimum content of natural law'. Conservatives would argue that such rules should be those that had proved their usefulness in history, as Edmund Burke eloquently exclaimed:

“ Society is indeed a contract. Subordinate contracts, for objects of mere occasional interest, may be dissolved at pleasure; but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, callico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Each contract of each particular state is but a clause in the great *primaeval* contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures, each in their appointed place.⁽¹⁸⁾

However, perhaps Burke and Hume, writing in Great Britain a century after the Glorious Revolution, did not appreciate how necessary it may have been for Locke to come up with a theory which circumscribed the powers of both king and parliament and which allowed for a rebellion

(15) Ibid., Ch. XIV, §168.

(16) David Hume, *Of the Original Contract, Essays: Moral, Political, and Literary*, ed. by Eugene F. Miller (Indianapolis IN: Liberty Fund, 1987), pp. 480–481.

(17) Their theories are discussed in the chapters on Smith and Robert Nozick, respectively, in this book.

(18) Edmund Burke, *Reflections on the Revolution in France* (1790), *Select Works of Edmund Burke*, Vol. II (Indianapolis IN: Liberty Fund, 1999), p. 192–193.

if there was an attempt to extend those powers and abuse them. Hume and Burke were confidently and comfortably arguing within a political tradition which had been articulated by Locke, even if it stretched back to the Middle Ages, and for whose preservation Englishmen had had to fight, both in the Civil War and in the Glorious Revolution.

The Marxist Challenge to Locke

Hume and Burke were criticising Locke from within the liberal Whig tradition, dominant in Great Britain after the Glorious Revolution. There were of course other critics who attacked Locke from the outside. In the nineteenth century, Karl Marx thundered against the enclosure of commons. Less polemically, some modern Marxist scholars, including Crawford B. Macpherson and Gerald A. Cohen, have tried to refute Locke's political theory. They have asserted that Locke is not trying to articulate the common good; rather, that he is defending the special interests of the British governing class at the time, landowners and city merchants, and that he is ignoring the dispossessed. Locke does not give voice to liberalism, they said, but to 'possessive individualism'. Macpherson claimed to identify a contradiction in Locke's political theory. On the one hand, Locke assumes that men are rational agents, guided by their self-interest, but not evil by nature, and that therefore life in the state of nature is at least tolerable. On the other hand he also seems to believe that in the state of nature men grossly misbehave, treating one another like animals, whereupon it becomes necessary to leave the state of nature and to establish civil society.⁽¹⁹⁾ Again, Cohen claimed that Locke's description of how the commons could be enclosed in a process of justifiable initial appropriation was based on the implausible premise that resources in the commons initially were unowned. According to Cohen, these resources were jointly owned by everybody living there at the time, and in order to justify their appropriation, Locke needs the consent of all of these people, which has however never been given and

(19) C. B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford University Press, 1962), pp. 240–241.



An area shaped like a half-moon stretched from Northern Italy through Switzerland, the Rhineland, the Netherlands and England, where a commercial civilisation developed in the absence of strong central power. Painting by Quentin Massys, *The Moneychanger*.

which would never be given.⁽²⁰⁾

However, it is unfair to dismiss Locke as a mere ideologue, with Macpherson, and it requires reading a lot into his theory that is not there, although Locke of course shares some of the prejudices of his age. Locke's real target is the absolute and arbitrary power of monarchs, which threatens the poor no less—and perhaps more—than the rich.⁽²¹⁾ While Locke assumes political equality, he is indifferent to economic inequality. He is not trying to defend or justify it: for him it is neither good nor bad, but rather the inevitable consequence of

(20) G. A. Cohen, *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995), p. 115.

(21) Alan Ryan, *Locke and the Dictatorship of The Bourgeoisie*, *Political Studies*, Vol. 13, No. 2 (1965), pp. 219–230.

the fact that people have different knowledge, skills and abilities. But the interests of the poor weigh as much in the state of nature as those of the rich. They are just as free to appropriate natural resources as the rich. Locke's proviso on initial appropriation that 'enough, and as good' has to be left 'in common for others' should be recalled, or on our interpretation, that others are not to be made worse off by it. Locke then argues that wealth creation under capitalism would more than compensate for the loss of particular parcels of property removed by individuals from the commons. It has to be emphasised that he is arguing from liberty, and not offering a utilitarian argument for private property rights. These factual claims about wealth creation *enter* his argument for private property rights, but do not *constitute* it. The main argument is that if other people are not made worse off by the initial appropriation of resources, then they have nothing to complain about. Their liberty has not been infringed. Whether or not they are being made worse off can only be decided by an appeal to the facts, and the facts certainly seem to suggest that Locke was right. When I was at Oxford, I once had a discussion with one of my teachers, David Miller, a market socialist who accepted free trade and rejected private property. 'My worry,' he explained, 'is about the latecomers, the people who arrive in a country where everything has been appropriated.' I replied: 'But surely, people who arrived in North America in 1950 could expect to be better off even if all the natural resources had been appropriated and all the capital goods were privately owned, than people who arrived in 1550 when they could more or less appropriate at will.'

If anything, the poor have more to fear than the rich from the arbitrary power that was Locke's main target. They have lesser means to resist it. It is instructive to observe what happens when property rights to natural resources are abolished. Ukraine had long been the breadbasket not only of the Romanov Empire, but of Europe as a whole. In the early 1930s, the Bolsheviks transferred the land from individual farmers to the state or to farmers' collectives. First, it took a famine claiming six million lives to force the unwilling farmers into the state farms or the collectives. They were literally starved into submission.⁽²²⁾ Then, over time agricultural

productivity went down, with the Soviet Union of which Ukraine formed a part, eventually having to import grain. The main victims of this historical experiment were the poor in Ukraine. Again, the famine in Communist China from 1959 to 1962 which claimed more than forty million lives was much worse.⁽²³⁾ A comparison between countries also is telling. Texas and Mexico are both oil-rich countries and side by side, separated only by Great River, the Rio Grande. In Texas oil wells are privately owned and operated, whereas in Mexico all oil reserves belong to the 'nation' which in practice means the federal state. But the poor want to move from Mexico to Texas, because she is a much richer country with many more opportunities. Almost invariably, if given the chance, the poor vote with their feet for capitalism.

Macpherson is not necessarily right, either, that there is an inherent contradiction in Locke's idea of human nature. Locke does not present a logical contradiction, but a paradox that can be resolved. In a large society where people do not know one another, there is much more uncertainty than in a small, face-to-face society. Therefore one rationally can hold two different views on other individuals. This can be brought out by an example. When you want to have your house repaired, you seek out the carpenters with the best reputation and choose the one which you trust the best to do the job. But at the same time you sign a written contract with him about the total estimated cost of the job and the time it is supposed to take. Your choice of the carpenter shows your trust in him. Your contract with him shows your distrust of him. You hold both views at the same time, because you live in a large society where there is uncertainty about other people and about the future. Even if most people are honest, you may, in your behaviour, have to assume that everybody else is a rogue.⁽²⁴⁾ Therefore, for example, you lock your door when you leave your house and you do not entrust your credit card, with the Personal Identification Number, PIN, to strangers. Moreover, human

Hutchinson, 1987).

(23) Frank Dikötter, *Mao's Great Famine: the History of China's Most Devastating Catastrophe* (London: Bloomsbury, 2010).

(24) James M. Buchanan and Geoffrey Brennan, *The Reason of Rules* (Cambridge: Cambridge University Press, 1985), p. 60.

(22) Robert Conquest, *The Harvest of Sorrow: Soviet Collectivization and the Terror-Famine* (London:



Rice paddies: Locke observes that when land is privately owned it is worth much more than in commons.

nature is not totally fixed. Temptation may bring out the worst in men. In the state of nature people who are strong and aggressive by inclination may be tempted to seize their neighbours' property or to threaten their lives and limbs; they would behave much more decently in civil society where the policeman stands ready to keep order on High Street. This can be observed in periods of lawlessness, as a result of war or, however briefly, power shortages, even in civil societies with a long history.⁽²⁵⁾

Cohen's objection to Locke's theory of property—that natural resources were owned jointly before being appropriated, not unowned—is also less than plausible.⁽²⁶⁾ Joint ownership has to be argued for, not simply postulated. But even if we would assume joint ownership, then it would not necessarily follow that it would of the same kind as we find for example in marriage where one of the partners cannot transfer the

(25) For example, Keith Lowe, *Savage Continent: Europe in the Aftermath of World War II* (London: Picador, 2013).

(26) While Cohen presents ingenious arguments against justice in initial appropriation, he has been well answered: Jan Narveson, *Libertarianism vs. Marxism: Reflections on G. A. Cohen's Self-Ownership, Freedom and Equality*, *The Journal of Ethics*, Vol. 2, No. 1 (1998), pp. 1–26; Tom G. Palmer, *G. A. Cohen on Self-Ownership, Property, and Equality*, *Realizing Freedom* (Washington DC: Cato Institute, 2009), pp. 129–154.

couple's joint assets in any significant way without the explicit consent of the other partner. If God gave the earth to men in common so that they are to use its resources for their survival and eventually for a good life, then surely each of them would not have to get the approval of everybody else for any use he would make of any of the earth's resources. He would only have to make sure that he would not be making others worse off. Locke wrote:

“ We see in commons, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which begins the property; without which the common is of no use. And the taking of this or that part, does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my property, without the assignation or consent of any body. The labour that was mine, removing them out of that common state they were in, hath fixed my property in them.⁽²⁷⁾

This can be seen by the real commons of the world, jointly owned by some group. Since the settlement of Iceland in the ninth century, for example, the mountain pastures have been a commons, jointly owned by the farming community in the valleys nearby: the farmers drive their sheep up there in spring and collect them in autumn. Certainly, they do not need the permission of their co-owners to do so. However, the farmers may not harm one another by individually grazing too many sheep up there (as it would be tempting to do because the cost of over-grazing would be borne by the community as a whole, but the benefit would go to the individual farmer who cheated). Therefore, each farmer received a sheep 'quota' on the basis of the value of his farm; he could

(27) Locke, *Treatise*, Ch. V, §28.

not graze a larger number of sheep than that in the mountain pasture. The total number of sheep allowable in the pasture was that which in the judgement of the farmers ‘does not give fatter sheep if reduced but also fills the pasture’, or in other word that number of sheep which maximised the ‘output’ of the pasture.⁽²⁸⁾

The Marxist preoccupation (or even obsession) with initial appropriation in natural resources may be somewhat off the mark. As Locke emphasises, only a fraction of total income comes from ownership of natural resources. Most of it is derived from the use of one’s abilities, physical or mental.⁽²⁹⁾ It has been estimated that at most 5% of total income is based upon untransformed raw material and resources.⁽³⁰⁾ Adam Smith pointed out the scant relevance of original appropriation:

“ The produce of the soil maintains at all times nearly that number of inhabitants which it is capable of maintaining. The rich only select from the heap what is most precious and agreeable. They consume little more than the poor; and in spite of their natural selfishness and rapacity, though they mean only their own conveniency, though the sole end which they propose from the labours of all the thousands whom they employ be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements. They are led by an invisible hand to make nearly the same distribution of the necessities of life which would have been made had the earth been divided into equal portions among all its inhabitants; and thus, without intending it, without knowing it, advance the interest of the society, and afford means to the multiplication of the species.

(28) Thrainn Eggertsson, Analyzing Institutional Successes and Failures: A Millennium of Common Mountain Pastures in Iceland, *International Review of Law and Economics*, Vol. 12, No. 4 (1992), pp. 423–437.

(29) Locke, *Treatise*, Ch. V, §42.

(30) David Friedman, *The Machinery of Freedom* (New York: Harper & Row, 1973), pp. xiv–xv.

When providence divided the earth among a few lordly masters, it neither forgot nor abandoned those who seemed to have been left out in the partition.⁽³¹⁾

Again, it may be true that historically initial appropriation often was violent and unjust. But economists have reached an interesting conclusion: ‘Almost all earnings advantages and disadvantages of ancestors are wiped out in three generations.’⁽³²⁾

Perhaps the simplest way of describing the issue between conservative liberals and socialists is in terms of the garden and the fence. Supporters of private property focus on *the garden*: after it has become somebody’s property, the owner usually cultivates it, planting trees and growing corn, so that its value increases considerably. Opponents of private property focus on *the fence*: after it has been erected, nobody except the owner is allowed to enter the garden and pick fruits from the trees or harvest corn from the fields. But if others complain, then the owner can point out that he is creating value from which they benefit, and indeed they benefit so much that they are more than compensated for the fact that they are excluded from the use of this parcel of land. The fence is in other words immaterial to the issue, whereas the garden is not. The infringement of liberty that the fence constitutes is illusory.

A Modern Application of Locke’s Theory

Locke’s theory of property is still relevant, as a modern example of justice in initial appropriation shows. Locke remarks in the *Treatise on Government* that the ocean is the ‘great and still remaining common of mankind’.⁽³³⁾ Indeed, until recently, offshore fish stocks around the world were treated as a non-scarce resource. But in 1954, H. Scott Gordon demonstrated that under open access, in a given fishery, effort would

(31) Adam Smith, *The Theory of Moral Sentiments* (1759), ed. by D. D. Raphael and A. L. Macfie (Indianapolis IN: Liberty Fund, 1982), Pt. 4, Ch. I, pp. 184–185.

(32) Gary S. Becker and Nigel Tomas, Human Capital and the Rise and Fall of Families, *Journal of Labor Economics*, Vol. 4, No. 1 (1986), p. 32.

(33) Locke, *Treatise*, Ch. V, §30.

increase up to the point where all possible profit would disappear.⁽³⁴⁾ The reason was simple: if there was still some profit to be had from harvesting fish, then people would keep adding fishing vessels to the fleet. This would not stop until no more profit was to be had. But catch, and therefore revenue, changed according to another principle than effort, or cost. First catch increased with effort, reaching a maximum at some level of effort, after which it started going down. What this meant was that fishing effort was, under open access, bound to increase beyond the point at which the difference between total revenue and total cost in the fishery was the greatest, or in other words where possible profit was greatest.⁽³⁵⁾ A simple example shown on the opposite page will suffice. Total catch in a given fishery would be highest at the effort of 10 boats, whereas it would go down to nothing at the effort of 20 boats (which would mean that the fish stock would then have been exhausted). Under open access total fishing effort would increase to 16 boats because after that no profit is to be had. But for it to be as profitable as possible, total fishing effort should really be at 8 boats because then total catch would be just as much as with greater effort, or even more, whereas total cost would be only half of what it would be at 16 boats. The problem was the absence of property rights, as Gordon pointed out. There seemed to be no way to stop the addition of boats, after the most profitable level of fishing effort had been reached, up to the level where all profit (or rent from the resource) had been dissipated in excessive fishing effort—in short with 16 boats harvesting what 8 boats could have done.

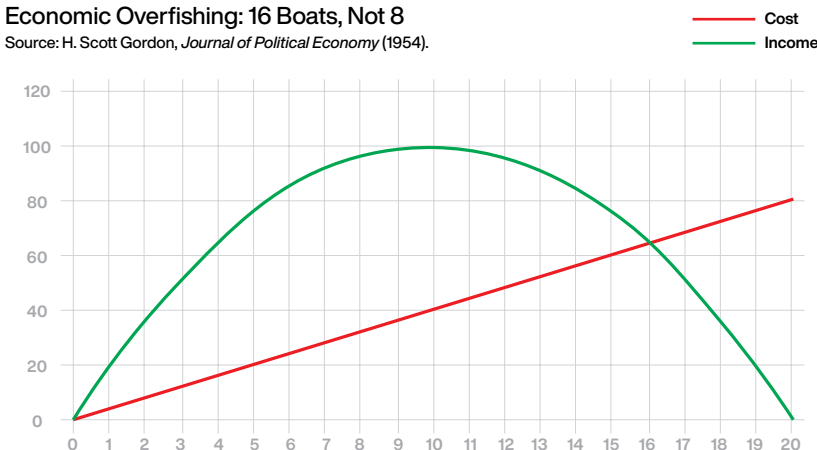
How could property rights however be introduced in the ‘great and still remaining common’ of the ocean? Neither fencing nor branding seemed feasible there, unlike the appropriation of land and cattle. Fishing grounds extended over enormous areas of the sea, and fish stocks moved around in large schools. I was still a student at the University of Iceland when I was challenged about this at a

(34) In fact, a Danish economist had anticipated his analysis, but as he wrote in Danish, no notice was taken of it at the time. Jens Warming, Om ‘Grundrente’ af Fiskegrunde, *Nationaløkonomisk Tidsskrift*, Vol. 49 (1911), pp. 495–506; Peder Andersen, ‘On Rent of Fishing Grounds’: A Translation of Jens Warming’s 1911 Article, with an Introduction, *History of Political Economy*, Vol. 15, No. 3 (1983), pp. 391–396.

(35) H. S. Gordon, The Economic Theory of a Common-Property Resource: The Fishery, *Journal of Political Economy*, Vol. 62, No. 2 (1954), pp. 124–142.

Economic Overfishing: 16 Boats, Not 8

Source: H. Scott Gordon, *Journal of Political Economy* (1954).



conference in the autumn of 1980. This is a problem where capitalism fails, I was told. When I suggested that property rights could perhaps be developed, either to fishing grounds or to individual fish stocks, I was derided.⁽³⁶⁾ But this is precisely what happened. For the reasons Gordon had explained, the fish stocks in the Icelandic waters had been over-utilised. For decades, growing fishing fleets were chasing dwindling fish stocks. After Iceland had gained sole control of her waters in 1977, she could start managing the fisheries. In a slow and experimental process, the authorities, in close cooperation with the fishing industry, decided to introduce so-called individual transferable quotas, ITQs, to fish stocks. In 1984, the owner of a fishing vessel received a right to harvest a certain proportion of the Total Allowable Catch, TAC, in a certain stock of groundfish, based on his catch history in the preceding three years.⁽³⁷⁾ For example, if he had harvested 5% of the total catch in 1981–1983, he received the right to harvest 5% of the TAC in 1984. This meant that he could plan his fishing effort over the season in such a way that cost would

(36) [Arni Bergmann], Thadan skin ljósíð [Therefrom Shines the Light], *Thjóðviljinn* 14 November 1980. It was a derisive comment on my contribution. I explained my proposal in English, The Fish War: A Lesson from Iceland, *Journal of Economic Affairs*, Vol. 3 (1983), pp. 220–223.

(37) A quota system was already in place in the much less important herring and capelin fisheries.

be minimised, instead of having to participate in a ‘Derby’—a race in which the fisherman had to harvest as much as he could in the shortest time possible, with the inevitable result that he over-invested in fishing vessels and gear. Moreover, the right was transferable so that if the quota-holder was efficient and enterprising, he could buy quota from others less interested in harvesting fish. Sooner or later, in such a process fishing effort would go down whereas the catch would remain the same or even go up. To return to the example of 16 boats harvesting fish where 8 boats would have sufficed: The owners of the 8 more profitable boats would eventually buy quotas from the owners of the 8 less profitable ones so that fishing effort would go down from 16 to 8 boats. The profit which had been dissipated under open access, would now be captured by the owners of the fishing vessels.

In 1990, after much debate, the system of ITQs was made comprehensive in all Icelandic fisheries, and in the same year I published a book in Icelandic arguing that such a system could be both efficient and just.⁽³⁸⁾ It certainly had its critics. They focused on the indisputable fact that the fishing grounds had been enclosed. Whereas in the past, everybody who wanted to harvest fish and had the proper equipment, could do so, now the only people with access to the fishing grounds were those who held quotas in the fish stocks found there. Others were excluded. Instead of giving the quotas to incumbent fishermen, why did government not auction them off? the critics asked. The end result would be the same: the number of fishing vessels in the example discussed would go down from 16 to 8. With the introduction of the ITQ system, were others not being deprived of the right to go to sea and harvest fish? Why were valuable resources transferred to a small group of people, the owners of fishing vessels? The ITQ system might be efficient, the critics said, but it was not just. In an auction of the quotas, on the other hand, everybody would have a chance.⁽³⁹⁾

(38) Hannes H. Gissurarson, *Fiskistofnarnir vid Island: Thjodareign eda rikiseign?* [The Fish Stocks in the Icelandic Waters: Property of the Nation or of the State?] (Reykjavik: Stofnun Jons Thorlakssonar, 1990).

(39) Thorvaldur Gylfason, The Pros and Cons of Fishing Fees: The Case of Iceland, *EFTA Bulletin* 3/4 (Geneva: European Free Trade Association, 1992). Eventually, Gylfason founded a political party whose main tenet was the nationalisation of the fishing quotas as a part of creating a new constitution for Iceland. He stood in the 2013 parliamentary elections, where his party received 2.4 per cent of the votes and failed to win a seat in the Parliament.

My response was that this critique was based on a misunderstanding of the problem. The only right others were deprived of was that of harvesting fish at zero profit, as would inevitably happen under open access, and this right was worth nothing. The Lockean proviso, that nobody would be made worse off by the initial appropriation, was fulfilled by allocating the quotas on the basis of catch history. To see this more clearly, compare the two ways of initially allocating quotas, in a government auction or on the basis of catch history. After the auction, government would be much better off since it would capture at least some of the profit which previously had been dissipated in excessive effort. The fishermen who would remain in the fishery because they could afford to buy the quotas from government would be neither better nor worse off: they would just pay to government what previously they had spent on the excessive fishing capacity of their vessels. But the fishermen who would leave the fishery because they did not have the means to buy the quotas from government would be much worse off: they would see their human and physical capital suddenly disappear because without the quotas their special skills, and their vessels, and their fishing gear would be worthless.

An initial allocation of quotas on the basis of catch history (sometimes called ‘grandfathering’) would have a different impact. Government would be somewhat better off because an economic sector which previously had been operating at zero profit would now be profitable so that it could pay taxes and be the source of increased consumption and investment. The fishermen who would remain in the fishery because they would hold on to their own quotas and buy additional quotas from those leaving it, would be better off: they would now be owners of valuable extraction rights. The fishermen who would leave the fishery because they would sell their quotas would also be better off, with all the money they had received for the quotas. In the first scenario, there would be some winners and some losers, but in the second one, there would only be winners and no losers. In other words, only the second way of initially allocating quotas would fulfil the Lockean proviso.

This conclusion can be expressed differently. A change is called

Pareto optimal if somebody gains by it and nobody is harmed.⁽⁴⁰⁾ The initial allocation of quotas on the basis of catch history was Pareto optimal in this sense, unlike the proposed government auction. This may indeed explain why this alternative was chosen. It was more feasible to *buy out* people (reduce excessive fishing capacity) in transactions among the quota holders than to *drive out* people by their inability to bid a high enough price for the quotas in a government auction. To return once again to the simple example of a single fishery: fishing effort had to be reduced from 16 to 8 boats. This could be achieved in an auction where the price of the quotas would be set high enough that only 8 boat owners would be able to buy them; or it could be done by allocating the quotas to all 16 boat owners and allowing them to transfer them between themselves, with the foreseeable outcome that the 8 more efficient boat owners would buy out the 8 less efficient ones. Needless to say, also, ‘grandfathering’ was a more peaceful solution. It is somewhat optimistic to expect half the people working in the fisheries in a given country suddenly and obediently to leave them.

Some further considerations about the two alternatives are worth mentioning. First, the potential profit from the fisheries—the resource rent previously dissipated and now captured—would probably not be used as wisely in the long run by government as it would be by fishing vessel owners. Bureaucrats are usually worse investors than capitalists. Would the profit not be dissipated again, not at sea, but in political bargaining, with one kind of waste replacing another kind of waste?⁽⁴¹⁾ In the second place, overfishing can be analysed as a harmful effect for some of other people’s economic activities, similar in nature to pollution from a factory or overcrowding on motorways. The boat owners who arrive on the fishing grounds after effort has reached the most profitable level are imposing costs on the whole group (including themselves) and these costs could be eliminated if access was not open. But if government steps in and charges for the use of the resource, it

(40) James M. Buchanan, Positive Economics, Welfare Economics, and Political Economy, *Journal of Law and Economics*, Vol. 2, No. 1 (1959), pp. 124–138.

(41) Birgir Th. Runolfsson, ITQs in Iceland: Their Nature and Performance, *Individual Transferable Quotas in Theory and Practice*, ed. by R. Arnason and H. H. Gissurason (Reykjavik: University of Iceland Press, 1999), pp. 103–140.



One example of initial appropriation which satisfies the Lockean Proviso of not making anyone worse off is the introduction in Iceland of a system of individual transferable quotas in offshore fisheries.

is not really bettering the condition of the people working in this particular sector. It is simply using the harmful effect as an opportunity for taxation. Is the solution then any better than the problem?⁽⁴²⁾ Thirdly, and consequently, if government develops and enforces rules under which individuals are able profitably to utilise this natural resource, offshore fish stocks, then it is just doing in the fishery what it has already done, according to Locke’s theory, in other sectors of the economy, where property rights, or at least exclusive use rights, are in place.⁽⁴³⁾ It is promoting peace and prosperity by clearly defining the citizens’ rights and duties, as should be its role.

(42) Ronald H. Coase, The Problem of Social Cost, *Journal of Law and Economics*, Vol. 3, No. 1 (1960), pp. 1–44. I return to this question in the chapter on James M. Buchanan in this book.

(43) Hannes H. Gissurason, *The Icelandic Fisheries: Sustainable and Profitable* (Reykjavik: University of Iceland Press, 2015).

David Hume

(1711–1776)

The Glorious Revolution of 1688 in England was not made to reconstruct society according to any abstract principles: Its goal was to preserve ancient liberties that were perceived to be under threat from King James II who was influenced by the absolutism of his neighbour, King Louis XIV of France. Thus, it was a conservative revolution. In the eighteenth century, royal power was further restrained by an emerging tradition of parliamentary democracy; it was accepted that government had to enjoy the confidence of a majority in parliament where the House of Commons was an elected body. While certainly imperfect, the English Constitution was admired by writers and thinkers all over Europe, most prominently by Voltaire. ‘The English are the only people upon earth who have been able to prescribe limits to the power of kings by resisting them,’ he wrote, ‘and who, by a series of struggles, have at last established that wise Government where the Prince is all powerful to do good, and, at the same time, is restrained from committing evil.’⁽¹⁾ The Kingdom of Great Britain came into being in 1707, when Scotland and England formed a union. It was a Scot, David Hume, one of the most eminent philosophers of all time, who provided perhaps the best articulation and explanation of the Anglo-Saxon conservative-liberal political tradition, not only in his philosophical treatises, but also in a best-selling history of England in six volumes that ended with the Glorious Revolution.

Hume describes how the notion of justice is developed in response to two facts of life: scarcity and selfishness. Painting by Allan Ramsay.

(1) Voltaire, Letter VIII: On the Parliament, *Letters on the English* (1733). Of course the book was suppressed when it came out in French the following year.

Hume's Life and Works

David Hume was born in Edinburgh on 7 May 1711, the son of Joseph Home, an advocate, and his wife Katherine, born Falconer. He was related to the earls of Home, but changed the spelling of his name for the benefit of English friends. Hume's father died when he was an infant, and the family had to struggle to let ends meet. At the age of twelve, Hume entered the University of Edinburgh, but he was unhappy there and did not graduate. In 1734, he became a merchant's assistant in Bristol for a while, but then moved to France where he lived frugally and devoted himself to writing. He returned to London in 1737 and in 1739–1740 he published a *Treatise of Human Nature: Being an Attempt to Introduce the Experimental Method of Reasoning into Moral Subjects*. In this deeply original philosophical work he argued that experience was the sole source of what little and unreliable knowledge we had. We could not even be sure that the sun would rise tomorrow: the expectation that it would was based only on observation and provided no assurance about the future, although we would do wisely in expecting it to rise tomorrow. Hume also exposed the 'naturalistic fallacy' that values could be deduced from facts:

“ In every system of morality, which I have hitherto met with, I have always remarked, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surprised to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*.⁽²⁾

The young philosopher thought that he had presented many strong arguments, and felt ready vigorously to defend them against any critics,

(2) David Hume, *A Treatise of Human Nature*, ed. by L. A. Selby-Bigge (Oxford: Oxford University Press, 1978), Bk. III, Sect. I, p. 409. Most of Hume's writings are accessible at the website of Liberty Fund.

but he was to be bitterly disappointed. 'Never literary attempt was more unfortunate than my Treatise of Human Nature. It fell *dead-born from the press*, without reaching such distinction, as even to excite a murmur among the zealots,' he later commented.⁽³⁾

Hume moved to Scotland where he lived for a while with his mother and elder brother and continued writing. His *Essays*, whose first part was published in 1742, were well-received. In 1745, Hume was hired to spend time with and look after an English lunatic, the Marquess of Annandale. After twelve months of doing this he was invited to become secretary to an English general and remained in his service for two years, travelling with him to Vienna, Turin and other places. He nevertheless found time to write a revised and much shorter version of his failed early work, *Enquiry concerning Human Understanding*, published in 1748. Again he returned to Scotland and lived for two years with his brother. There he composed the second part of his *Essays* and also an *Enquiry concerning the Principles of Morals*. Both works were published in 1752, and in the same year the Faculty of Advocates in Edinburgh chose him to be their Librarian which gave him the command of a large library. He set about writing a *History of England* which was published in six volumes between 1754 and 1761. As a best-seller it made the author financially independent. Hume was going to retire comfortably when in 1763 he was invited by the Earl of Hertford to be the secretary of the Embassy in Paris. Already well-known as a distinguished philosopher and historian, he lived in Paris for the next three years. The stout, polite and good-natured Scot was a welcome guest in Parisian salons, earning the nickname *Le bon David*. 'Those who have not seen the strange effects of modes, will never imagine the reception I met with at Paris, from men and women of all ranks and stations,' he later wrote. 'The more I resiled from their excessive civilities, the more I was loaded with them. There is, however, a real satisfaction in living at Paris, from the great number of sensible, knowing, and polite company with which that city abounds above all places in the universe.'⁽⁴⁾

(3) David Hume, *My Own Life, Essays: Moral, Political, and Literary*, ed. by Eugene F. Miller (Indianapolis IN: Liberty Fund, 1987), p. xxxiv.

(4) *Ibid.*, p. xxxix.



At the end of Hume's stay in Paris, in late 1765, he made the acquaintance of another philosopher, Jean-Jacques Rousseau, who had been driven out of Switzerland for his radical religious views and was now risking arrest in France. Hume decided to try and help the fugitive, ignoring the advice of his French friends that he was paranoid and dangerous. Baron d'Holbach even warned Hume that he was warming a viper in his bosom. Perhaps Hume thought that his experience of looking after a mad Marquess would help. In January 1766, Hume brought Rousseau with him to England and provided him with a house in the country. But soon Rousseau started to suspect Hume of working against him, indeed of organising a vast conspiracy against him. When Hume learned about this, he was shocked and wrote to many of his friends, trying to explain that these were delusions. This strange affair ended with an agitated Rousseau fleeing to France after staying only four months in England. Hume returned to Edinburgh, but in 1767 he accepted a position in London as Under Secretary of State for the Northern Department which later became the Foreign Office. Two years later he retired to Edinburgh, remaining there till his death on 25 August 1776. In a short

Hume's principles of stability of possessions and their transference by consent are preconditions of a flourishing market order. Painting by John Collet, Covent Garden Piazza and Garden in 1775.

autobiographical note, written shortly before his death, he described himself: 'I was, I say, a man of mild dispositions, of command of temper, of an open, social, and cheerful humour, capable of attachment, but little susceptible of enmity, and of great moderation in all my passions. Even my love of literary fame, my ruling passion, never soured my temper, notwithstanding my frequent disappointments.'⁽⁵⁾ His good friend, Adam Smith, wrote after his death: 'The extreme gentleness of his nature never weakened either the firmness of his mind, or the steadiness of his resolutions. His constant pleasantry was the genuine effusion of good-nature and good-humour, tempered with delicacy and modesty, and without even the slightest tincture of malignity, so frequently the disagreeable source of what is called wit in other men.' In Smith's judgement, Hume was 'approaching as nearly to the idea of a perfectly wise and virtuous man, as perhaps the nature of human frailty will permit'.⁽⁶⁾

Hume's Theory of Justice

The core of Hume's legal philosophy can be summed up in one sentence: Human society is a survival game, not a suicide club. In his *Treatise*, Hume observes that man can hardly survive on his own. He has to live in society in order to fulfil his needs. Hume goes on to show how in society the principles of justice are developed in an historical process, being neither divine ordinances nor innate ideas. They 'leave every one in the peaceable enjoyment of what he may acquire by his fortune or industry'.⁽⁷⁾ These principles are responses to two basic facts about human beings: Individuals seek their self-interest, or the interests of their immediate circle of family and friends, whereas the resources at their disposal are scarce, much less than they want. To avoid chaos, conflict and war, in these circumstances men slowly come to learn and accept certain rules. Hume explains

(5) Ibid., p. xl.

(6) Letter from Adam Smith, LL.D. to William Strahan, Esq. 9 November 1776. David Hume, *Essays*, pp. xlviii and xlix.

(7) Hume, *Treatise*, Pt. II, p. 489.

“ that justice takes its rise from human conventions; and that these are intended as a remedy to some inconveniencies, which proceed from the concurrence of certain *qualities* of the human mind with the *situation* of external objects. The qualities of the mind are *selfishness* and *limited generosity*; and the situation of external objects is their *easy change*, join'd to their *scarcity* in comparison of the wants and desires of men.⁽⁸⁾

This theory is entirely naturalistic. Justice is contingent on certain human circumstances, ‘the concurrence of certain qualities of the human mind with the situation of external objects,’ and if these circumstances were different, then the system of justice would also be different, or perhaps not exist at all. Hume suggests, for example, that justice would disappear in a world where the generosity of men would be extensive and where everything would be in abundance: there, ‘they render it useless.’⁽⁹⁾ Since such a world is not logically impossible, justice is not a deliverance of reason alone, Hume argues.

The main principles of justice, derived from the qualities and circumstances of human beings, are three, according to Hume, ‘the stability of possession, its translation by consent, and the performance of promise’.⁽¹⁰⁾ Hume asks his readers to imagine a place where scarce goods would not be securely possessed by individuals. It would be a society of endless strife and misery. Therefore stability of possession, or private property, is adopted as the first principle of justice, not consciously, but historically. ‘Nor is the rule concerning the stability of possession the less deriv’d from human conventions, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it.’⁽¹¹⁾ Again, people

have different abilities and needs, and find themselves in situations where property has to be adjusted to persons. ‘Different parts of the earth produce different commodities; and not only so, but different men both are by nature fitted for different employments, and attain to greater perfection in any one, when they confine themselves to it alone. All this requires a mutual exchange and commerce.’⁽¹²⁾ This is the idea which Adam Smith was later to call ‘division of labour’. Therefore translation by consent, or free trade, is adopted as the second principle. But the peaceful and orderly transfer of goods between consenting customers requires a certain amount of trust. Therefore the performance of promises—what lawyers used to call ‘*Pacta sunt servanda*’—is adopted as the third principle.

Hume rejects Locke’s theory of property as implausible and unnecessary. Like some modern philosophers,⁽¹³⁾ Hume believes the Lockean proviso—that nobody is made worse off by initial appropriation—is superfluous. The absence of a legitimate counter-claim is sufficient. Hume’s own description of how people originally come to hold property is therefore simple. When the move is made from the state of nature to civil society those who already hold goods keep them. They continue to enjoy them. Possession becomes recognised ownership. According to Hume, other goods, not originally held by anybody, can be acquired in four different ways, by occupation, prescription, accession and succession. He freely admits that it may be difficult to define how much people can come to hold by occupation: if a man arrives at a small and uninhabited island, then he may perhaps become its owner, but this is not necessarily true if it is a big island. Prescription or a deliberate decision is another way of assigning holdings to individuals, when the main task is to eliminate uncertainty. Accession is when people come to hold goods which are somehow connected to the goods that they already own. An example might be when a coal mine or an oil well is suddenly discovered on privately owned farmland. In a footnote, Hume mentions the ocean:

(8) Ibid., p. 494.

(9) Ibid., p. 496.

(10) Ibid., p. 541.

(11) Ibid., p. 490.

(12) Ibid., p. 514.

(13) Jan Narveson, Property Rights: Original Acquisition and Lockean Provisos, *Public Affairs Quarterly*, Vol. 13, No. 3 (1999), pp. 205–227.

“ ’Tis the general opinion of philosophers and civilians, that the sea is incapable of becoming the property of any nation; and that because ’tis impossible to take possession of it, or form any such distinct relation with it, as may be the foundation of property. Where this reason ceases, property immediately takes place. Thus the most strenuous advocates for the liberty of the seas universally allow, that friths and bays naturally belong as an accession to the proprietors of the surrounding continent.

In the case of the Icelandic fishery, where access to offshore fishing grounds had to be restricted, Hume would most likely have favoured the initial allocation of transferable fishing rights to those who had already been fishing: This would be the most expedient, or least harmful, way of closing off the commons. A third example which Hume mentions in passing is the property of rivers which ‘by the laws of most nations, and by the natural turn of our thought, is attributed to the proprietors of their banks’.⁽¹⁴⁾ The fourth way of acquiring property not originally held by anybody, succession, is fairly straightforward. It is the rule that one may leave one’s property to one’s heirs.

Possession and Ownership

A possible modern counter-example to Hume’s theory is the return of properties to their previous owners in post-communist European countries. Why should Hume’s rule on present possession leading to ownership not apply there? Why should those who possessed these properties when communism fell in 1989–1991 not keep them? The answer is that there are in many cases well-justified counter-claims to the properties. They were seized without compensation from their owners by governments that were usurpers, not legitimate rulers. Those who then took those properties over were accomplices to a robbery.

(14) Hume, *Treatise*, Pt. II, p. 511n.



Hume was a Whig who, in his popular history of England, was fair to the Tories. Painting by William Hogarth, *The Polling*.

While this argument may be plausible about the continuous post-war history of Central and Eastern Europe, perhaps it cannot be taken very far back. The authorities in the Czech Republic, for example, have been unwilling to recognise property claims by members of the German-speaking minority that were forced to emigrate from the then Czechoslovakia after the Second World War. Germany’s defeat in 1945 marked a dramatic break with the past in Central and Eastern Europe, and individual rights that existed before then may have become irrelevant: they were a part of a legal structure which has since disappeared. If the goal is peace in Europe, then the borders drawn in 1945 and the massive population transfers subsequently implemented, often violently and probably contrary to international law, have to be accepted. On his theory, Hume probably would find it easier than Locke to deal with this moral dilemma: let bygones be bygones and hope that time will heal wounds.

Another much-discussed example where present possession does not necessarily lead to ownership is that of Jewish properties in Europe before

and during the Second World War, including works of art stolen by the Nazis and deposits in Swiss bank accounts, sometimes without adequate records. The claims of the owners, or their heirs, could be accepted like the claims of previous owners of property in post-communist countries, for a related, but not identical reason. The Jewish properties were seized by governments which were not all usurpers originally, but which had lost their legitimacy as a result of their misdeeds, in particular the Nazi government of Germany: While Hitler took power legally in 1933, he soon forfeited it. Yet another intriguing and difficult example is Cuba. After the communist takeover in 1959, virtually the whole middle class, about one million people, one-tenth of the population, fled to the United States, often leaving behind nice houses, into which others have moved, sometimes even many families, as my walk around Havana in 2002 revealed. These houses have not been occupied by their rightful owners for sixty years. If the communist regime in Cuba would suddenly fall, would it then be fair to recognise the claims of the previous owners, provided of course that these claims are well-documented, and hand the houses over to them, leaving the present occupants homeless? Perhaps considerations similar to those about the German-speaking minority that was driven out of Czechoslovakia may be relevant: some historical facts have to be conceded rather than challenged; some claims can be kept alive and others become oblivious in the course of history. Hume would in such cases probably stress the general benefits of property rights, but also the need for peace and continuity, including a smooth transfer of power from one regime to another.

An example about stability of possession as a principle briefly mentioned by Hume is instructive. It is a story that Cyrus, Emperor of Persia, told about his youth, recorded (or perhaps invented) by Xenophon:

“ There were two boys, a big boy and a little boy, and the big boy’s coat was small and the small boy’s coat was huge. So the big boy stripped the little boy and gave him his own small coat, while he put on the big one himself. Now in giving judgment I decided that it was better for both parties that each should have the coat that fitted him best. But I never got any further in my

sentence, because the master thrashed me here, and said that the verdict would have been excellent if I had been appointed to say what fitted and what did not, but I had been called in to decide to whom the coat belonged, and the point to consider was, who had a right to it: Was he who took a thing by violence to keep it, or he who had had it made and bought it for his own? And the master taught me that what is lawful is just and what is in the teeth of law is based on violence, and therefore, he said, the judge must always see that his verdict tallies with the law.⁽¹⁵⁾

Hume’s point is that for the system of property rights to have its desired effects, it had to be comprehensive and inflexible: The big boy owned the small coat and the little boy the big coat, and that was the end of it, as far as a judge was concerned. But the example also shows the necessity of translation by consent. The big boy should not use violence to exchange his coat with that of the little boy, but he could buy the big coat and sell his own small coat. Goods are transferred in a peaceful process to produce a better fit.

Thus, justice, although contingent upon certain circumstances, is far from being arbitrary. Its principles have, for the very idea of justice to have any application, to be fixed and perfectly general, Hume emphasises:

“ But however single acts of justice may be contrary, either to public or private interest, ’tis certain that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual. ’Tis impossible to separate the good from the ill. Property must be stable, and must be fix’d by general rules. Tho’ in one instance the public be a sufferer, this momentary ill is amply compensated by the steady prosecution of the

(15) Xenophon, *Cyropaedia*, tran. by Henry Graham Dakyns (London: J. M. Dent, 1914), Bk. I, Ch. 3, p. 17.

rule, and by the peace and order which it establishes in society. And even every individual person must find himself a gainer on ballancing the account; since, without justice, society must immediately dissolve, and everyone must fall into that savage and solitary condition, which is infinitely worse than the worst situation that can possibly be suppos'd in society.⁽¹⁶⁾

It is, in other words, expedient in the long run not to be expedient in the short run. Narrow rationalism is self-defeating.

The distribution of wealth and income in society Hume would consider not to be unjust, if it would be brought about by following his three principles of stability of possession, its translation by consent and the performance of promises:

“ ’Twere better, no doubt, that every one were possess'd of what is most suitable to him, and proper for his use: But besides, that this relation of fitness may be common to several at once, 'tis liable to so many controversies, and men are so partial and passionate in judging of these controversies, that such a loose and uncertain rule wou'd be absolutely incompatible with the peace of human society. The convention concerning the stability of possession is enter'd into, in order to cut off all occasions of discord and contention; and this end wou'd never be attain'd, were we allow'd to apply this rule differently in every particular case, according to every particular utility, which might be discover'd in such an application.⁽¹⁷⁾

In modern terms, Hume could make some further points about income distribution. First, if poverty is the problem (rather than, say,

(16) Hume, *Treatise*, Pt. II, p. 497.

(17) *Ibid.*, p. 502.



Statue of Hume by Alexander Stoddard on Royal Mile in Edinburgh. Hume is a sceptic who bases his political theory on time-tested rules, not on eternal truths or divine commands. Photo: Bandan/Wikipedia.

inequality), then a system of private property and free trade—stability of possession and its translation by consent—has historically proved to be the best way of alleviating it. In the second place, once government has taxed the citizens with the result that vast resources

are at its disposal for redistribution, ferocious political conflicts may start about who should receive them, and it is by no means certain that the weakest and poorest would win such political battles. Thirdly, private charity should not be ignored as a way of helping unfortunate people who do not deserve their poverty. But the unfortunate poor would not have a legitimate claim to other people's property, according to Hume.

Hume's Political and Economic Theory

One of Hume's most important contributions to legal and political philosophy is that he showed that some rules are neither invented by men nor revealed by God or human reason. These are rules which are spontaneously developed: they are products of human action, but not of human design. The system of justice with its three main principles, the stability of possession, its translation by consent and the performance

of promises, is a successful adaptation to circumstances, not a rational construct. It is what Friedrich von Hayek was later to call a ‘spontaneous order’. Other examples are language and money, as Hume mentions: ‘In like manner are languages gradually established by human conventions without any promise. In like manner do gold and silver become the common measures of exchange, and are esteemed sufficient payment for what is of a hundred times their value.’⁽¹⁸⁾ While Hume argues for such orders in terms of their utility, he cannot be considered a proper utilitarian, as is indeed obvious from the examples he discusses, such as that of the big boy and the little boy in their non-fitting clothes. It is the whole system which has the utility, not individual rules or acts. And this is utility seen and elucidated after the system has come into being as the unintended consequence of following certain principles. Perhaps Hume’s moral position could therefore be called ‘system utilitarianism’ or ‘indirect utilitarianism’.⁽¹⁹⁾ The difference between him and nineteenth century utilitarians is that for Hume human reason could be employed to explain order where it was already in place, whereas the utilitarians thought that it could be used to reconstruct society in order to maximise happiness or welfare. It is indeed likely that Hume, describing the evolution of institutions, inspired Charles Darwin who was to present a general theory of human evolution a century later.

Hume’s theory of political authority is as simple and direct as his theory of justice. He rejects Locke’s idea that people owe allegiance to government because they have made a promise to do so. Instead, Hume thinks that the duties to perform promises and to obey government are both derived from the gradually forming and often tacit acceptance of rules and principles enabling people to live together peacefully. People owe allegiance to government because it is useful. They are preserving their lives and properties by appointing somebody to keep law and order. But government also has a positive function as a forum for human cooperation: ‘Thus bridges are built; harbours open’d; ramparts rais’d;

canals form’d; fleets equip’d; and armies disciplin’d; every where, by the care of government, which, tho’ compos’d of men subject to all human infirmities, becomes, by one of the finest and most subtle inventions imaginable, a composition.’⁽²⁰⁾ Nevertheless Hume agrees with Locke that if government becomes intolerable, the duty to obey it disappears: ‘whenever the civil magistrate carries his oppression so far as to render his authority perfectly intolerable, we are no longer bound to submit to it. The cause ceases; the effect must cease also.’⁽²¹⁾ Hume is therefore a qualified supporter of the Glorious Revolution in 1688.

It depends on circumstances, Hume says, to whom people owe allegiance, or, in his words, ‘whom we are to regard as our lawful magistrates’.⁽²²⁾ The first principle which gives authority to established government is long possession, even if originally it was founded on usurpation and rebellion. The second source of public authority is present possession. ‘No maxim is more conformable, both to prudence and morals, than to submit quietly to the government, which we find establish’d in the country where we happen to live, without enquiring too curiously into its origin and first establishment.’⁽²³⁾ A third source of the title of sovereigns is conquest, the fourth one is succession and the fifth one positive laws. ‘In this particular, the study of history confirms the reasonings of true philosophy; which, shewing us the original qualities of human nature, teaches us to regard the controversies in politics as incapable of any decision in most cases, and as entirely subordinate to the interests of peace and liberty.’⁽²⁴⁾ None of these principles is conclusive, Hume thinks, but the concurrence of all of them would form the strongest title to sovereignty.

In one of his essays, published posthumously, Hume speculates about which would be the ‘perfect commonwealth’, beginning however with words of caution:

(20) Hume, *Treatise*, Pt. II, p. 539.

(21) *Ibid.*, p. 551.

(22) *Ibid.*, p. 554.

(23) *Ibid.*, p. 558.

(24) *Ibid.*, p. 562.

(18) Hume, *Treatise*, Pt. II, p. 490.

(19) John Gray, Indirect Utility and Fundamental Rights, *Social Philosophy and Policy*, Vol. 1, No. 2 (1984), pp. 73–91; Tom G. Palmer, What is Not Wrong with Libertarianism, *Realizing Freedom* (Washington DC: Cato Institute, 2009), pp. 183–203.

“ An established government has an infinite advantage, by that very circumstance of its being established; the bulk of mankind being governed by authority, not reason, and never attributing authority to any thing that has not the recommendation of antiquity. To tamper, therefore, in this affair, or try experiments merely upon the credit of supposed argument and philosophy, can never be the part of a wise magistrate, who will bear a reverence to what carries the marks of age; and though he may attempt some improvements for the public good, yet will he adjust his innovations, as much as possible, to the ancient fabric, and preserve entire the chief pillars and supports of the constitution.⁽²⁵⁾

But, he adds, ‘In all cases, it must be advantageous to know what is most perfect in the kind, that we may be able to bring any real constitution or form of government as near it as possible, by such gentle alterations and innovations as may not give too great disturbance to society.’ First, Hume says that all attempts at changing human nature are futile, such as those proposed by Plato in the *Republic* and Sir Thomas More in *Utopia* (and we could add: the Jacobins in France and the Bolsheviks in Russia). In the second place, government institutions should be radically decentralised, with the many counties and parishes electing local magistrates and both local representatives and members of a senate based in the capital. The vote would be confined to those with a stake in society: those who own property and pay taxes. The senate in the capital would have the power of peace and war and all other prerogatives of the king, except his negative (veto). The legislative power would be divided between the senate and the county assemblies. The militia would be organised as in Switzerland where the cantons of the Confederation provided a citizen army to defend it. ‘A small commonwealth is the happiest government in the world within itself, because every thing lies under the eye of the rulers: But it

(25) Hume, *Idea of a Perfect Commonwealth*, *Essays*, pp. 512–513.



Hume, featured on a Scottish banknote, presents a 'monetarist' explanation of inflation. It is caused by monetary expansion.

may be subdued by great force from without,' Hume argues, and therefore there have to be many almost self-governing counties in one large country. 'This scheme seems to have all the advantages both of a great and a little commonwealth.'⁽²⁶⁾ Finally, Hume observes that 'extensive conquests, when pursued, must be the ruin of every free government'.⁽²⁷⁾

In his essays on economic issues, Hume writes as a liberal and monetarist, as it would be called today. He shares the idea with Adam Smith that nations benefit by the division of labour, although he does not use that term, and applauds merchants, 'one of the most useful races of men, who serve as agents between those parts of the state, that are wholly unacquainted, and are ignorant of each other's necessities'.⁽²⁸⁾ He anticipates David Ricardo's idea of comparative advantage: Even if one nation has benefitted initially from the division of labour and become wealthy, poorer ones can do so too, 'by the low price of labour in every nation which has not an extensive commerce, and does not much abound in gold and silver'.⁽²⁹⁾ Hume argues against 'jealousy of trade',

(26) *Ibid.*, p. 525.

(27) *Ibid.*, p. 529.

(28) Hume, *Of Interest*, *Essays*, p. 300.

(29) Hume, *Of Money*, *Essays*, p. 283.

as he calls protectionism. It is based on erroneous thinking: ‘Each new acre of vineyard planted in FRANCE, in order to supply ENGLAND with wine, would make it requisite for the FRENCH to take the produce of an ENGLISH acre, sown in wheat or barley, in order to subsist themselves; and it is evident, that we should thereby get command of the better commodity.’⁽³⁰⁾ In the end, he submits, everybody loses by protectionism: ‘in the arithmetic of the customs, two and two make not four, but often make only one.’⁽³¹⁾ Hume also presents modern ideas of money as a means of exchange and unit of account. It is ‘none of the wheels of trade: It is the oil which renders the motion of the wheels more smooth and easy.’⁽³²⁾ And it is ‘nothing but the representation of labour and commodities and serves only as a method of rating or estimating them’.⁽³³⁾ The reason for inflation is that the money supply is increasing at a faster rate than the total amount of commodities which money can buy. This explains why prices rose in Europe when gold and silver flowed in from Spanish America. ‘We fancy, because an individual would be much richer, were his stock of money doubled, that the same good effect would follow were the money of every one encreased; not considering, that this would raise as much the price of every commodity, and reduce every man, in time, to the same condition as before.’⁽³⁴⁾

It is not surprising that Hume has both been called a conservative and a liberal. Two British Tories, Lord Anthony Quinton and Sir Ian Gilmour, each devote a chapter in their respective books on conservatism to Hume,⁽³⁵⁾ and in one of his best-known essays English philosopher Michael Oakeshott says that his conservatism owes more to Hume than to Burke.⁽³⁶⁾ Hayek, on the other hand, says that ‘Hume gives us probably

the only comprehensive statement of the legal and political philosophy which later became known as liberalism’.⁽³⁷⁾ Quinton and Gilmour focus on Hume’s cautious conservatism, his willingness to accept existing institutions and his deep scepticism about radical reform programmes, whereas for Hayek his most important contribution is how he derives the fundamental principles of the free market order, private property rights, the freedom to trade and the fulfilment of voluntary obligations, from the two basic facts about the human condition, man’s selfishness and nature’s niggardliness. Perhaps Hume can be interpreted as not rejecting natural law, as is often said, but rather as having set out its ‘minimum content’, or the principles that have to be followed if life is a survival game, and not a suicide club. Like the conservatives, Hume does not think individual reason is capable of much in contrast to the social reason embodied in time-tested institutions, but like the liberals, he believes in a progressive, tolerant society. He can therefore be regarded as a genuine conservative liberal.

(30) Hume, *Of the Balance of Trade*, *Essays*, p. 315.

(31) *Ibid.*, p. 324.

(32) Hume, *Of Money*, *Essays*, p. 281.

(33) *Ibid.*, p. 285.

(34) Hume, *Of the Balance of Trade*, *Essays*, p. 316.

(35) Anthony Quinton, *The Politics of Imperfection* (London: Faber and Faber, 1978); Ian Gilmour, *Inside Right. A Study of Conservatism* (London: Quartet Books, 1978).

(36) Michael Oakeshott, *On Being Conservative*, *Rationalism in Politics and Other Essays*, (Indianapolis IN: Liberty Fund, 1991), p. 435.

(37) F. A. Hayek, *The Legal and Political Philosophy of David Hume* (1963), *The Collected Works of F. A. Hayek*, Vol. 3 (Chicago: University of Chicago Press, 1991), p. 105.

Adam Smith

(1723–1790)

Rarely is one individual considered the founder of a scientific discipline. But this applies to Adam Smith and economics, whose theoretical foundations he laid in his monumental work, published in 1776, *An Inquiry into the Nature and Causes of the Wealth of Nations*. His explanation of how wealth is created, by division of labour and free trade, is almost uncontested by any serious student of the subject. Under his influence, most Western countries in the nineteenth century abandoned mercantilism and protectionism. In his book, Smith also presented two powerful ideas which even to this day have not been fully comprehended: that order can arise without design and that one man's gain need not be another man's loss. He tried to explain these ideas by his famous metaphor of an 'invisible hand' leading people pursuing their own interests to promote the common good. Smith was also a formidable moral philosopher who in his *Theory of Moral Sentiments* discussed how sympathy could guide individuals in their dealings with others despite their limited benevolence. As most other thinkers of the Scottish Enlightenment, such as his good friend David Hume, Smith supported cautious economic and political reforms within the confines of existing institutions and can therefore certainly be regarded as a conservative liberal.

Smith's Life and Works

Adam Smith was born on 16 June 1723 in Kirkcaldy in Scotland, the son of a solicitor, Adam Smith senior, and his wife Margaret, born Douglas. His father, a comptroller of customs, died two months before he was born, and he was raised by his mother. At the age of three, he was abducted by



Smith teaches that one man's gain need not be another man's loss and that economic coordination can be achieved without commands. Painting by an unknown artist.

gypsies, but soon rescued. He would have made a poor gypsy, one of his biographers drily remarked.⁽¹⁾ Smith was a gifted student, and when he was fourteen years old he was sent to the University of Glasgow where his favourite pursuits were mathematics and natural philosophy. Three years later, in 1740 he went to Oxford to continue his studies. He was not happy at Oxford, commenting later:

“ The discipline of colleges and universities is in general contrived, not for the benefit of the students, but for the interest, or more properly speaking, for the ease of the masters. Its object is, in all cases, to maintain the authority of the master, and whether he neglects or performs his duty, to oblige the students in all cases to behave to him as if he performed it with the greatest diligence and ability. It seems to presume perfect wisdom and virtue in the one order, and the greatest weakness and folly in the other. Where the masters, however, really perform their duty, there are no examples, I believe, that the greater part of the students ever neglect theirs. No discipline is ever requisite to force attendance upon lectures which are really worth the attending, as is well known wherever any such lectures are given.⁽²⁾

After seven years at Oxford, Smith returned to Kirkcaldy and lived two years with his mother, but in 1748 he moved to Edinburgh where he befriended David Hume. In 1751, Smith was appointed Professor of Logic in the University of Glasgow and a year later Professor of Moral Philosophy. He had a happy time in Glasgow. ‘It was indeed a situation in which he was eminently fitted to excel, and in which the daily labours of his profession were constantly recalling his attention to his favourite

(1) John Rae, *Life of Adam Smith* (London: Macmillan, 1895), p. 5.

(2) Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. by Edwin Cannan (London: Methuen, 1904), Bk. V, Ch. I, Pt. III, §II, p. 253. This and some other works by Adam Smith are accessible on the website of Liberty Fund.

pursuits, and familiarising his mind to those important speculations he was afterwards to communicate to the world.’⁽³⁾

One fruit of Smith’s labours in Glasgow was *The Theory of Moral Sentiments* which came out in 1759 and met with much acclaim. There he tries to explain moral principles by the sympathy that we feel for our neighbours and our ability to put ourselves in their footsteps. We listen to an ‘impartial spectator’ inside us who serves as our moral compass. In his lectures in the following four years, Smith shifted his attention more to jurisprudence and political economy. But when he received an offer to accompany the young Duke of Buccleuch on his travels, he gladly accepted. They set out in early 1764 from London, and first stayed briefly in Paris where Smith made many friends. Then they settled for quite a while in Toulouse and travelled after that in the South of France and on to Geneva, before returning to Paris in late 1765, staying there for ten months. In Paris Smith found the opportunity to discuss his ideas with contemporary French economists, including Robert Jacques Turgot, François Quesnay and Jacques Necker. With a life pension from the Duke, the next ten years Smith passed in retirement with his mother in Kirkcaldy, with occasional visits to London and Edinburgh, and worked on his great treatise on economics, *An Inquiry into the Nature and Causes of the Wealth of Nations*. On its publication in 1776 Hume wrote to his friend:

“ It was a work of so much expectation, by yourself, by your friends, and by the public, that I trembled for its appearance, but am now much relieved. Not but that the reading of it necessarily requires so much attention, and the public is disposed to give so little, that I shall still doubt for some time of its being at first very popular. But it has depth and solidity and acuteness, and is so much illustrated by curious facts that it must at last attract the public attention.⁽⁴⁾

(3) Dugald Stewart, Account of the Life and Writings of Adam Smith, LL.D., *The Theory of Moral Sentiments* (London: Henry G. Bohn, 1853), p. xvi.

(4) Ibid., p. xlvi.

Hume's doubts about the reception of the *Wealth of Nations* turned out to be unfounded. The work quickly became popular in the United Kingdom, with the first edition selling out in six months, and soon it was translated into many other languages, including French, Danish, German, Spanish and Italian.

In the next two years after the publication of the *Wealth of Nations*, Smith lived in London, but in 1778, at the initiative of his former student, the Duke of Buccleuch, he was appointed Commissioner of Customs in Edinburgh where he lived for the rest of his life, with his mother and niece who took care of the household, relieving 'him of a charge for which he was peculiarly ill qualified'.⁽⁵⁾ The irony of the ardent free trader becoming a customs officer seems to have been lost on his contemporaries. In Edinburgh, Smith kept a simple, though hospitable table, and was always happy to receive his friends. He was also known secretly to spend a considerable proportion of his income on charity. When the infirmity of old age set upon him, he asked that all his manuscripts be destroyed, while he spent a lot of time revising his two major works. The fifth edition of the *Wealth of Nations*, the last in his lifetime, came out in 1789. Smith had a circle of close friends who appreciated his intelligence and were quietly amused by his absent-mindedness. 'He was certainly not fitted for the general commerce of the world, or for the business of active life,' one of them wrote. 'The comprehensive speculations with which he had been occupied from his youth, and the variety of materials which his own invention continually supplied to his thoughts, rendered him habitually inattentive to familiar objects, and to common occurrences.'⁽⁶⁾ Adam Smith passed away on 17 July 1790.

The Division of Labour

For thousands of years, poverty and even misery had been the common lot of mankind, with only a few conspicuous individual exceptions. But in the late Middle Ages this began to change with the rise of commercial society in that part of Europe shaped as a half-moon stretching from Northern Italy

over Switzerland and Southern Germany to the Low Countries and over the Channel to England: this was an area where for historical reasons political power became relatively weak and where commerce could therefore thrive. No longer was poverty regarded as the natural condition of man; it was wealth that had to be explained. Put simply, Adam Smith's explanation for the emerging wealth of nations is the division of labour. He gives the example of pin-making. One man could scarcely make one pin a day. But when people specialise in certain aspects of the task, the product can be greatly increased. 'One man draws out the wire, another straightens it, a third cuts it, a fourth points it, a fifth grinds it at the top for receiving the head; to make the head requires two or three distinct operations; to put it on, is a peculiar business, to whiten the pins is another; it is even a trade by itself to put them into the paper; and the important business of making a pin is, in this manner, divided into about eighteen distinct operations.'⁽⁷⁾ Smith estimates that thus ten men can make up to 48,000 pins in a day, or in other words that each of them could make 4,800 pins in a day instead of just one. The division of labour enables each workman to specialise and become more dexterous; people save time commonly lost from passing from one species of work to another; and machines will be invented which facilitate and abridge labour so that one man can do the work of many.

In the example of the pin factory, Smith does not assume different initial abilities of the workers. The benefits from the division of labour are even clearer when people enter work with different abilities. Thirty years before the publication of the *Wealth of Nations*, German poet Christian F. Gellert had illustrated this in the fable of the blind man and the lame, where the two of them overcame their deficiencies by the blind carrying the lame:

“ The gifts of others thou hast not,
While others want what thou hast got;
And from this imperfection springs
The good that social virtue brings.⁽⁸⁾

(5) Ibid., p. lxii.

(6) Ibid., p. lxvii.

(7) Smith, *Wealth of Nations*, Bk. I, Ch. II, p. 6.

(8) Christian F. Gellert, *Der Blinde und der Lahme, Fabeln und Erzählungen* (1746), Bk. I, Ch. 16. *The Poetry of Germany*, ed. by Albert Baskerville (New York: Rudolph Garrigue, 1854), pp. 7–8. The translator calls 'social virtue' what in the German original is 'Gesellschaft', or society.



This can be shown by a less dramatic example. Assume that Robinson Crusoe and Man Friday are the only people on an island and that they require only fish and fruit for their survival.

Crusoe is better at fishing and Friday is better at picking fruits. Crusoe can catch 6 fishes a day or pick 4 fruits, whereas Friday can pick 6 fruits and catch 4 fishes. If they do not cooperate, then Crusoe will catch 3 fishes and pick 2 fruits a day, whereas Friday will catch 2 fishes and pick 3 fruits. The 'total product' of the island will be 10 food units. But with division of labour and peaceful trade between the two islanders, Crusoe will catch 6 fishes and Friday will pick 6 fruits. The total product of the island will have increased from 10 to 12 food units. Crusoe and Friday are both better off as a result. When subsequently money is introduced into the economy, division of labour is greatly facilitated. A violinist needs a haircut, but he cannot take for granted that he can pay the barber by playing on his violin. Therefore he holds a concert for those who enjoy violin music, collects money from them and uses part of it to pay the barber. With money, people can choose what and when to consume.

Smith presents a powerful critique of mercantilism. Painting by Claude Lorrain, Seaport with the Embarkation of Saint Ursula.

The division of labour not only benefits individuals, but also nations, as Smith points out time and again in the *Wealth of Nations*. Poland is well suited for raising corn, and Portugal for growing wine. Both nations benefit from specialising accordingly and then trading those different goods which can be produced most cheaply in their respective countries. Smith uses this observation to launch a powerful attack on mercantilism, prevalent in the eighteenth century, whereby nations were meant to increase exports while protecting their industry and commerce from imports; this they were supposed to do in order to accumulate wealth. Smith points out, however, that wealth is not a heap of gold coins, but rather the productive capital of a country which will increase if she engages in mutually beneficial trade with other countries. The end of the mercantilists, to accumulate money, is therefore misconceived. The means advocated by the mercantilists, to protect domestic industry and commerce from foreign competition, is also wrong. The main fact about economic life is that everybody needs the goods and abilities of other people most of whom are and will remain strangers. 'It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages.'⁽⁹⁾ This applies even more to nations than to individuals. The Poles sell corn on the international market and use part of their income to buy wine from the Portuguese. The individuals of these two nations do not know one another personally except in rare cases and may not even feel the slightest sympathy for one another. But they all benefit from the division of labour.

Division of labour between nations requires international free trade. It must be possible for goods to cross borders. Smith takes an example from his own country:

“ By means of glasses, hotbeds, and hotwalls, very good grapes can be raised in Scotland, and very good wine too can be made of them at about thirty times the

(9) Smith, *Wealth of Nations*, Bk. I, Ch. II, p. 16.

expençe for which at least equally good can be brought from foreign countries. Would it be a reasonable law to prohibit the importation of all foreign wines, merely to encourage the making of claret and burgundy in Scotland?⁽¹⁰⁾

The answer is obvious. It would be a ‘manifest absurdity’, as Smith says, to turn towards any employment thirty times more than would be necessary to purchase from foreign countries an equal quantity of the commodities wanted. He adds that the same applies to other less glaring cases. It would also be an absurdity to turn towards any employment a thirtieth, or even a three hundredth, part more of either.

Nations should concentrate on producing what they can do better than others, and then trade with those others, to their mutual benefit. Iceland provides an instructive example. The island is surrounded by some of the world’s most fertile fishing grounds, whereas agriculture in her harsh climate is not very productive. But from 1380, Iceland was a tributary of the Danish Crown which tried to isolate the country in order to keep its control over her. In 1602, a few Danish merchants obtained a monopoly on all trade with Iceland. Despite many attempts by the rulers in Copenhagen to close off Icelandic waters, every summer the fishing grounds attracted vessels from several European countries. If any Icelander was found to have done trade with these foreigners, however, he could expect severe punishment. The Danish Crown ruled the country in collaboration with a small class of Icelandic landowners who did not want any competition from the fisheries. No Icelander was allowed to be domiciled outside one of the country’s five thousand farms, and no foreigner could stay on the island during the winter. Thus, ocean fishing was only possible as a part-time activity for farmers, and the Icelanders, forced to rely on agricultural products, were locked in a poverty trap.⁽¹¹⁾ In the eighteenth century, after a series of disasters, famines, epidemics,

(10) Ibid., Bk. IV, Ch. II, p. 423.

(11) Thrainn Eggertsson, No Experiments, Monumental Disasters. Why it Took a Thousand Years to Develop A Specialized Fishing Industry in Iceland, *Journal of Economic Behavior & Organisation*, Vol. 30 (1996), pp. 1–23.

earthquakes, and volcanic eruptions, the tiny nation, already weakened by misguided mercantilist policies, almost became extinct. There was even talk in Copenhagen about moving what was left of the population to other Danish territories.⁽¹²⁾ In 1787, the disastrous trade monopoly was finally abolished, whereas foreign trade only became fully free in 1855.

It is an intriguing possibility that Adam Smith played a role in the abolition of the Danish trade monopoly in Iceland. In May 1762 when Smith still lived in Glasgow he met three Norwegians who were travelling around Europe, Andreas Holt and his students, the brothers Peter and Carsten Anker who came from a wealthy merchant family. Smith wrote in a travel notebook which the Anker brothers had brought with them: ‘I shall always be happy to hear of the welfare & prosperity of three Gentlemen in whose conversation I have had so much pleasure, as in that of the two Messrs. Anchor & of their worthy Tutor Mr. Holt. 28th of May 1762.’ In March 1764, the three Norwegians met the Scottish scholar again in Toulouse where Smith’s student, the Duke of Buccleuch, wrote in the travel notebook: ‘Having had the pleasure of meeting Messieurs Anchers & Mr. Holt at Toulouse. It is with the greatest satisfaction that I member myself amongst their acquaintance. Buccleugh.’⁽¹³⁾ Norway was then, like Iceland, a part of the Danish Realm, and Holt and Carsten Anker went on to become high officials in the Danish Ministry of Finance. Holt’s duties in the Ministry included chairing a Royal Commission on Iceland in 1770–1772. Shortly after the publication in the United Kingdom of the *Wealth of Nations*, Holt and the Anker brothers arranged for its translation into Danish, and it came out in 1779–1780.⁽¹⁴⁾ Holt contacted his old friend to tell him about the translation, and Smith replied to him in October 1780, thanking him for his entertaining account of travels in Iceland and expressing his pleasure

(12) Anna Agnarsdottir, Scottish plans for the annexation of Iceland 1785–1813, *The Scottish Society for Northern Studies*, Vol. 29 (1992), pp. 82–96.

(13) Niels Banke, Om Adam Smiths Forbindelse med Norge og Danmark [On Adam Smith’s Connection with Norway and Denmark], *Nationaløkonomisk Tidsskrift*, Vol. 93 (1955), p. 172. The travel notebook, *stambog*, was in the Anker family archive. Cf. also Peter Kurrild-Klitgaard, Adam Smith og kredsen bag National-Velstands Natur [Adam Smith and the Group Behind the Wealth of Nations], *Libertas*, No. 25 (June 1998), pp. 5–16.

(14) *Undersøgelser om National-Velstands Natur og Aarsag af Doctor Adam Smith* (Copenhagen: Gyldendal, 1779–1780).

over the translation.⁽¹⁵⁾ The translator, Frants Dræbye, was also an official in the Danish Ministry of Finance. It is tempting to assume that friends and disciples of Adam Smith in Copenhagen had some influence on the decision in 1787 to abolish the Danish trade monopoly in Iceland (although by then Holt had passed away). As a result of free trade, gradually introduced in 1787–1855, the Icelanders finally began to enjoy their comparative advantage and to develop their fisheries, becoming in the twentieth century one of the richest nations of the world. Yet again, the division of labour had proved its worth.

Coordination Without Commands

The *Wealth of Nations* is much more than a tract for the times, or a polemic against mercantilism. It is an analysis of how spontaneous co-operation can take place in an extended order not based on immediate contacts or personal knowledge. The free market order is not designed by anyone:

“ This division of labour, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is the necessary, though very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another.⁽¹⁶⁾

Smith’s work is a description of commercial civilisation and the forces on which it rests. In a complex economic order, how are demand and supply, import and export, savings and investment, and other economic forces,

(15) *The Correspondence of Adam Smith*, ed. by Ernest Campbell Mossner and Ian Simpson Ross (Oxford: Clarendon Press, 1987), pp. 249–253. Neither Holt’s account of travels in Iceland nor his 1780 letter to Adam Smith seem still to exist.

(16) Smith, *Wealth of Nations*, Bk. I, Ch. II, p. 15.



It is division of labour and the unfettered trade of goods that creates wealth, according to Adam Smith who long adorned the twenty pounds banknote.

coordinated without commands? Smith’s answer is that it is through the mutual adjustments of all the economic units. With this, he laid the foundations of economics which as a scientific discipline seeks to explain order

without design. Without trade restrictions, he writes, ‘the obvious and simple system of natural liberty establishes itself of its own accord’.⁽¹⁷⁾

This system is one of cooperation into which people enter freely, not under the whip of pharaoh’s slave drivers. One of Smith’s examples of a product of the joint efforts of many workmen is a simple woollen coat. The shepherd, the sorter of the wool, the wool-comber, the dyer, the scribbler, the spinner, the weaver, the fuller, the dresser and many others must all join their different arts in order to complete even this homely product. Merchants and carriers must have been employed in transporting the materials from some of these workmen to others, often living in distant places. In order to bring together the different drugs of the dyer, for example, ship-builders, sailors, sail-markers, and rope-makers must have been employed. Again, complicated machines such as the ship of the sailor, the mill of the fuller and even the loom of the weaver are all required to form the simple shears with which the shepherd clips the wool. The miner, the builder of the furnace for smelting the ore, the

(17) Ibid., Bk. IV, Ch. IX, p. 184.

feller of the timber, the burner of the charcoal used in the smelting-house, the brick-maker, the brick-layer, the workmen who attend the furnace, the mill-wright, the forger, and the smith, must all of them join their different arts in order to produce them. Smith continues to trace the origins of such goods, concluding that ‘if we examine, I say, all these things, and consider what a variety of labour is employed about each of them, we shall be sensible that without the assistance and co-operation of many thousands, the very meanest person in a civilized country could not be provided, even according to, what we very falsely imagine, the easy and simple manner in which he is commonly accommodated.’⁽¹⁸⁾ Later, the American free trader Leonard Read popularised Smith’s point in his tale of the pencil, and its ‘family tree’ of all the things that went into its production, without anyone forcibly directing the countless activities required for it.⁽¹⁹⁾

In the *Wealth of Nations*, Smith introduces a new approach to the study of man. Economists analyse people as they *are*, not as they *ought to be*, in contrast to the moral philosophers of the past who for millennia had tried to teach people how to be virtuous, without any significant results. For the economist, the task becomes, not the moral betterment of the preacher’s flock, but the mutual adjustment of individuals pursuing different and often incompatible aims. In the second place, economists judge human actions mainly by their *consequences*, in contrast to the moral philosophers of the past who focused on the *intentions* of individuals. Those who only seek their own profit, may unwittingly contribute to the common good. On the other hand, the actions of those who profess to work for the common good may sometimes have unintended consequences, not least because they ignore economic laws:

“ The statesman who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most

unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it.⁽²⁰⁾

Smith is therefore highly sceptical of government intervention, however well-meant.

Two modern and perhaps unexpected examples may serve to illustrate Smith’s case. In order to protect tenants from avaricious landlords, many cities of the world have introduced rent control. This amounts to partial expropriation of property rights. Moreover, the effect of forcing down prices from what they would be in free exchanges between individuals is to encourage all kinds of costly evasions from the regulations, while the long-term effect is to reduce the maintenance and supply of housing, for real and potential tenants.⁽²¹⁾ ‘Next to bombing, rent control seems in many cases to be the most efficient technique so far known for destroying cities.’⁽²²⁾ Again, in order to protect consumers and patients, the United States operates the FDA, Food and Drug Administration. Probably it has saved some lives by hindering some dangerous drugs from entering the market. But it has been estimated that more lives are *lost* than *saved* as a result of FDA operations: new and useful drugs enter the market much later than they would otherwise do, patients dying or suffering in the meantime, while some drugs are simply not approved (even if they may be used with good results in other countries); the long, costly and cumbersome approval process also tends to discourage development of new drugs.⁽²³⁾ The ultimate victims are the sick and frail.

(20) Smith, *Wealth of Nations*, Bk. IV, Ch. II, p. 421.

(21) Milton Friedman and George J. Stigler, *Roofs or Ceilings? The Current Housing Problem* (Irvington-on-Hudson NY: Foundation for Economic Education, 1946).

(22) Assar Lindbeck, *The Political Economy of the New Left: An Outsider’s View* (New York: Harper & Row, 1971), p. 39.

(23) Sam Peltzman, The Benefits and Costs of New Drug Regulation, *Regulating New Drugs*, ed. by Richard L. Landau (Chicago: University of Chicago Press, 1973), pp. 114–211.

(18) *Ibid.*, Bk. I, Ch. I, p. 14.

(19) Leonard E. Read, I, Pencil: May Family Tree as Told to Leonard E. Read, *The Freeman*, Vol. 8, No. 12 (December 1958), pp. 32–37.

Economic anti-interventionism is sometimes referred to as ‘laissez-faire’, French for leave it alone. John Maynard Keynes, in a famous essay on ‘The End of Laissez-Faire’, asserted that the phrase ‘laissez-faire’ is not to be found in the works of Adam Smith.⁽²⁴⁾ This is only a half-truth. In a paper as early as 1755 Smith said that ‘Projectors disturb nature in the course of her operations on human affairs, and it requires no more than to *leave her alone* and give her fair play in the pursuit of her ends that she may establish her own designs.’⁽²⁵⁾ It is true, however, that Smith sees a meaningful role for the state:

“ According to the system of natural liberty, the sovereign has only three duties to attend to; three duties of great importance, indeed, but plain and intelligible to common understandings: first, the duty of protecting the society from the violence and invasion of other independent societies; secondly, the duty of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice; and, thirdly, the duty of erecting and maintaining certain public works and certain public institutions, which it can never be for the interest of any individual, or small number of individuals, to erect and maintain; because the profit could never repay the expence to any individual or small number of individuals, though it may frequently do much more than repay it to a great society.⁽²⁶⁾

The second duty of the state, to protect people from the injustice or oppression of others, certainly may call for some government measures

(24) John M. Keynes, *The End of Laissez-Faire* (London: Hogarth Press, 1926), p. 19.

(25) Rae, *Life of Adam Smith*, p. 62. Italics added.

(26) Smith, *Wealth of Nations*, Bk. IV, Ch. IX, pp. 184–185.

to ensure fair play and a level field. The third duty Smith mentions is what would in modern times be called the production of public goods. These are goods which are necessary or desirable, but which cannot be properly priced in the market because it would be difficult or nearly impossible to limit their consumption only to those who would pay for them. Smith himself mentions roads, bridges, canals, and harbours, all of which would, he says, facilitate commerce.⁽²⁷⁾

In modern times, economists have devoted much effort to investigating public goods, but here I shall only make three general observations about them. First, even if we would accept that there are public goods, for example primary education, it would not necessarily follow that they should be produced by government. Instead of running schools, the state could ensure that sufficient primary education would be available, for example by reimbursing parents (up to a pre-set point) for fees paid to schools. In the second place, some goods that appear to be public goods, may in fact be priced in the market and produced privately.⁽²⁸⁾ A textbook example of a public good is the lighthouse. How can ships passing by a lighthouse be identified and charged for the service provided to them?⁽²⁹⁾ But in fact ingenious ways have been devised to charge for the service provided by lighthouses, by so-called tie-in or club contracts: Ships are charged in port for the joint services of the port and of the lighthouses on the way to the port.⁽³⁰⁾ Thirdly, often the reason why some goods cannot be properly priced in the market is that there is some kind of a technological barrier, and with progress such a barrier can sometimes be overcome. It is true, for example, that road tolls and tunnel fees are costly to implement and cumbersome. But nowadays machines set up besides roads or tunnels could easily read number plates of cars passing by and the relevant tolls or fees could then be charged

(27) Ibid., Bk. V, Ch. I, Pt. III, §I, p. 216.

(28) Harold Demsetz, The Private Production of Public Goods, *Journal of Law and Economics*, Vol. 13, No. 2 (1970), pp. 293–306. Cf. also Edward Stringham, *Private Governance* (Oxford: Oxford University Press, 2015).

(29) Paul A. Samuelson, *Economics: An Introductory Analysis*, 6th ed. (New York: McGraw Hill, 1964), p. 45. Earlier, John Stuart Mill, Henry Sidgwick and Arthur C. Pigou had given the same example of a true public good.

(30) Ronald H. Coase, The Lighthouse in Economics, *Journal of Law and Economics*, Vol. 17, No. 2 (1974), pp. 357–376.



to the driver's credit card, all in a matter of seconds. It has also become easy to limit the consumption of television to those willing to pay for the service. These examples suggest that perhaps some goods can be regarded as non-permanent public goods: the prohibitive cost of exclusion may fall to a workable level.

Smith remarks that people of the same trade seldom meet without the conversation ending in a conspiracy against the public. Painting by Rembrandt van Rijn, *Syndics of the Drapers' Guild*.

The Invisible Hand

Adam Smith's best-known idea is that of the 'invisible hand'. He uses the notion both in the *Theory of Moral Sentiments* and the *Wealth of Nations*. In the former work, he observes that the rich are bound to share their wealth with the poor, even if that is far from what they intend, because they consume little more than the poor. 'They are led by an invisible hand to make nearly the same distribution of the necessities of life which would have been made had the earth been divided into equal portions among all its inhabitants; and thus, without intending

it, without knowing it, advance the interest of the society.'⁽³¹⁾ In the *Wealth of Nations* Smith writes that every individual necessarily labours to render the annual revenue of society as great as he can, and that by directing industry

“ in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good.”⁽³²⁾

Here Smith again employs his crucial distinction between intentions and consequences. By the notion of the invisible hand Smith seems to be referring to a type of explanation rather than to just one kind of outcome. These are explanations in terms of spontaneous orders (and disorders) and unintended consequences (bad as well as good).

Smith's invisible hand which leads those merely seeking to produce what is of greatest value to themselves—maximising their profits—to promote the public interest, is closely connected to the division of labour: If you are doing what you can do better than others, and they are doing what they can do better than you, then obviously everybody benefits from you and them trying to produce what is of greatest value. This way, people are taking advantage of one another. They all benefit. It may well be that you are only trying to better your own condition and that you do not really care about the public, but in order to achieve your aim you have to produce something cheaper or better for the public than your competitors. Indeed, it is in the competition in the marketplace

(31) Smith, *Moral Sentiments*, Pt. IV, Ch. I, pp. 264–265.

(32) Smith, *Wealth of Nations*, Bk. IV, Ch. II, p. 421.

where you discover which is your comparative advantage. You make a profit if you are doing something better than your competitors, whereas you make a loss if your competitors are doing this same thing better than you. It is sometimes said that competition in the free market is like a gladiatorial combat where some win and others lose. It is supposed to be a ‘dog-eat-dog’ or ‘cut-throat’ struggle, bringing out the worst in people. But this is a total misunderstanding of competition, as it takes place within a framework of rules. Consider competition in sports or at school. It does not consist in trying to harm your competitors, by maiming other athletes or stealing the notes of other students. That would be in breach of the rules. It would go against the nature of competition. As Smith puts it, if you ‘should jostle, or throw down’ any of your competitors, ‘the indulgence of the spectators is entirely at an end. It is a violation of fair play.’⁽³³⁾ Rather, competition in those two fields consists in you trying to improve *your* own abilities to excel in the race or the contest, by working hard, training and preparing. This is also the case in business. Competition in the free market does not consist in trying to harm your competitors. Again, that would be in breach of the rules. Rather, you leave them alone and try hard to offer better or cheaper goods and services than they do, not least by finding a niche in the market where you have an advantage over them.

Competition in sports or at school is similar to competition in the free market in that it is about self-improvement rather than harming others. Another similarity is that it is about discovering who is best at doing certain things. If we would know beforehand who is the fastest runner or the cleverest mathematician, then we would not need to hold a race or a contest between different individuals. Also, if we would know beforehand who is best at managing a certain enterprise or at solving a given task, then we would simply hire them. But there is one crucial difference between competition in sports and at school on the one hand and competition in the free market on the other hand. It is that in the former kind of competition there are winners and losers. In the latter kind there need not be any losers, for the reason Smith explains: The division of labour enables

people to take advantage of one another, and the point of competition is to direct everybody to that occupation or task where their special advantages can be enjoyed both by themselves and by others.

It should be emphasised that this is not done by coercion. Nobody forces people to enter the market to sell their goods or services. However, if they refuse to adjust and move to the professions where they are ablest to serve others—and there will probably always be some people who refuse to do so—then they will have to bear the cost of their choices themselves. This is what profit and loss in the market are about. Smith is however convinced that this would, under normal circumstances, be an insignificant minority. Most people most of the time would move to the professions, occupations and tasks where their abilities would produce the greatest value for themselves. ‘The natural effort of every individual to better his own condition, when suffered to exert itself with freedom and security, is so powerful a principle, that it is alone, and without any assistance, not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often incumbers its operations; though the effect of these obstructions is always more or less either to encroach upon its freedom, or to diminish its security.’⁽³⁴⁾

Smith’s theory is dynamic rather than static: it is not only about coordination, but also about economic growth. In the simple economy of Robinson Crusoe and Man Friday the total product on their island could increase by each of them concentrating on doing what he could do better than the other one and then trading between themselves. This may explain why Smith is much more interested in the *creation* of wealth than in its ensuing *distribution*. The task at hand, as he sees it, is to facilitate the movement of individuals into the positions where they can best serve society, or in other words where they can employ their abilities to create the greatest value. Therefore, income distribution in a commercial society will hardly be according to moral merit, as traditionally conceived. ‘The industrious knave cultivates the soil, the indolent man leaves it uncultivated. Who ought to reap the harvest?

(33) Smith, *Moral Sentiments*, Pt. II, Sect. II, Ch. II, p. 120.

(34) Smith, *Wealth of Nations*, Bk. IV, Ch. V, p. 43.

Who starve, and who live in plenty? The natural course of things decides it in favour of the knave: the natural sentiments of mankind in favour of the man of virtue.’⁽³⁵⁾

Indeed, economic growth can be seen as a great conciliator in the competition for scarce resources. If you are unhappy with your portion of the total pie, there are two ways of increasing it. One is to use force to transfer an additional part of the pie to you. This solution may be worse than the problem itself, as other people may resist an enforced reduction of their portions. The other way is to increase the total pie so that all portions of it will increase, including yours. Smith points out how the pie can be increased: by the division of labour and free trade. Increasing the pie certainly seems a more peaceful way of alleviating possible discontent than using force to transfer parts of the pie from one person to another.

Smith is wary of attempts to reconstruct society, arguing against what he calls ‘the man of system’ who

“ is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely and in all its parts, without any regard either to the great interests, or to the strong prejudices which may oppose it. He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board. He does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might chuse to impress upon it.”⁽³⁶⁾

(35) Smith, *Moral Sentiments*, Pt. III, Ch. V, p. 238.

(36) Ibid., Pt. VI, Sect. II, Ch. II, pp. 342–343.

Smith prefers practical considerations to lofty ideals. He says that ‘the care of the universal happiness of all rational and sensible beings, is the business of God, and not of man. To man is allotted a much humbler department, but one much more suitable to the weakness of his powers, and to the narrowness of his comprehension—the care of his own happiness, of that of his family, his friends, his country.’⁽³⁷⁾

‘Das Adam Smith Problem’

In the last decades of the nineteenth century, German scholars coined a phrase, ‘Das Adam Smith Problem’, to describe what they saw as an inconsistency between Smith’s two major works. In the *Theory of Moral Sentiments*, sympathy seems to be prevalent, whereas in the *Wealth of Nations* man is supposed to be guided chiefly by self-interest. Smith opens the former work with an unequivocal statement: ‘How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him though he derives nothing from it, except the pleasure of seeing it.’⁽³⁸⁾ In the latter work, Smith insists, as I have already noted, that it is not from the benevolence of the butcher, the brewer, or the baker, that you expect your dinner, but from their regard to their own interest; and that you address yourself, not to their humanity but to their self-love, and never talk to them of your own necessities but of their advantages.

This is however a paradox, not an inconsistency, and it can be resolved. The two works deal with different subjects, and they refer to different social spheres. In the *Theory of Moral Sentiments* Smith seeks an answer to the question what makes man moral, whereas in the *Wealth of Nations* he wants to explain what makes nations wealthy. What makes man moral, according to Smith, is his ability to enter into the situation of others and thus to feel sympathy with them, combined with his regard for his own reputation and his respect for traditional rules of conduct.

(37) Ibid., Pt. VI, Sect. II, Ch. III, p. 348.

(38) Ibid., Pt. I, Sect. I, Ch. I, p. 3.

What makes nations wealthy, on the other hand, is division of labour and free trade.

In his two books, Smith is discussing two different social spheres, or games. Faced with his family, friends and neighbours, man behaves differently than in dealings with strangers and foreigners. A mother normally loves her baby tenderly and is ready to do a lot for it. She extends herself, so to speak, to the baby. But she cannot love all the babies in the world with the same tenderness. There is a difference between the concrete reality in which people live and the abstract society in which they find themselves. In the paragraph just quoted about the butcher, the brewer and the baker on whose benevolence you cannot rely, Smith also makes a crucial observation about man: ‘In civilized society he stands at all times in need of the co-operation and assistance of great multitudes, while his whole life is scarce sufficient to gain the friendship of a few persons.’⁽³⁹⁾ Benevolence depends on proximity and circumstances. Out of sight, out of mind. The further away people are from our moral and social sphere, the less we are guided by benevolence towards them. Nevertheless, we need their cooperation, and the only way of obtaining it is by accepting some rules of conduct in dealings with them and offering a mutually acceptable price for their goods or services. Relationships with family, friends and neighbours are concrete and direct, whereas relationships with strangers and foreigners are abstract and indirect and based on mutual gain. Indeed, modern research has shown that the cognitive limit to the number of individuals with whom any one person can maintain stable relationships is around 150.⁽⁴⁰⁾

Smith is not saying that man is or ought to be selfish. He is far subtler than that. He is saying that in his dealings with strangers and foreigners man is not guided by a strong sense of benevolence, although perhaps partly by a weak one, but that he is mainly pursuing his self-interest. It is also a misunderstanding of Smith’s theory that it is about man as a rational maximiser, ‘homo economicus’. Smith holds a much more complex view of human nature. Man has some noble feelings; he is indulgent to children,

(39) Smith, *Wealth of Nations*, Bk. I, Ch. II, p. 16.

(40) This is the so-called ‘Dunbar’s Number’. Robin I. M. Dunbar, *How Many Friends Does One Person Need?: Dunbar’s Number and Other Evolutionary Quirks* (London: Faber & Faber, 2010).



Hong Kong: a creation of the invisible hand. After the Second World War, her economy and those of Singapore and Taiwan grew much faster than the fourth Chinese economy, in mainland China. Photo: Ben Lieuh Song.

tolerant of parents, kind to friends. He is also dominated by self-love, conceited, envious, malicious, quarrelsome, and resentful.⁽⁴¹⁾ But when economists try to explain spontaneous cooperation in the international free market, they have to use the model of individuals

pursuing their self-interest. In the *Wealth of Nations*, Smith is concerned with how it is possible for people to make their contribution to the social product as large as possible, and this requires, he thinks, that they are paid what their services are worth to those to whom they render them.⁽⁴²⁾

In fact, Smith has much more sympathy personally with ordinary workers than with businessmen. ‘People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices,’ he observes, although he adds: ‘It is impossible indeed to prevent such meetings, by any law which either could be executed, or would be consistent with liberty and justice.’⁽⁴³⁾ Smith is also concerned that the

(41) Ronald H. Coase, Adam Smith’s View of Man, *Journal of Law and Economics*, Vol. 19, No. 3 (1976), p. 535. This misunderstanding of economic liberalism is still prevalent, as can be seen by a book of poems recently published about me by an Icelandic left-wing writer, Sigfus Bjartmarsson. He calls it *Homo economicus* (Reykjavik: mth, 2018) and repeats well-known clichés about capitalism.

(42) Friedrich A. Hayek, Adam Smith (1723–1790): His Message in Today’s Language (1976), *The Trend of Economic Thinking: Essays on Political Economists and Economic History*, ed. by W. W. Bartley and S. Kresge (Indianapolis IN: Liberty Fund, 1991), pp. 119–122.

(43) Smith, *Wealth of Nations*, Bk. I, Ch. X., Pt. II, p. 130.

division of labour may have some negative side-effects, or, as he puts it, that certain ‘inconveniencies’ may be ‘arising from a commercial spirit’. Division of labour may make workers mindless, turning their work into a dreadful routine, ‘in every commercial nation, the low people are exceedingly stupid.’⁽⁴⁴⁾ Also, the commercial spirit may tend to weaken certain qualities and dispositions, in particular military vigour and prowess. Perhaps most importantly, in a large society individuals may lose some of their social incentives to behave morally. The ‘man of low condition’, Smith writes, ‘is far from being a distinguished member of any great society. While he remains in his village his conduct may be attended to, and he may be obliged to attend to it himself. In this situation, and in this situation only, he may have what is called a character to lose. But as soon as he comes to a great city, he is sunk in obscurity and darkness. His conduct is observed and attended to by nobody, and he is therefore very likely to neglect it himself, and to abandon himself to every sort of low profligacy and vice.’⁽⁴⁵⁾

One obvious remedy for the loss of authority about which Smith is worried is compulsory education, and it is in fact proposed by him.⁽⁴⁶⁾ But would it really be underproduced in a free market? Parents have a strong incentive to educate their children, either themselves or at their own cost in institutions. It could even be argued that in an advanced society, private education is less likely to be underproduced than public education. As a part of the populace does not have children, a decision procedure wherein the whole populace participates (a political procedure) is likely to produce less education of children than a decision procedure wherein only the parents participate (a market procedure). Smith’s argument, apparently one for government intervention, could thus perhaps become an argument for government non-intervention. However, in so far as education can be regarded as a public good, its main aim would be less to transmit knowledge than to teach the common

standards which make peaceful coexistence possible.⁽⁴⁷⁾ Another remedy for the loss of authority would be the social monitoring and discipline brought about by small communities within the great society. In a free society all kinds of associations, groups and communities will form spontaneously: the churches and congregations, small close-knit national communities, such as the Irish, the Italian and the Polish ones in the United States, and the Asian and West Indian ones in the United Kingdom, voluntary associations, the neighbourhood, the family in a wide sense, and thousands and millions of other organisations. The city of New York may seem the world’s most anonymous and abstract place. But underneath the concrete jungle there is the business community with a strict code of conduct (not to speak of dress), the legal and medical professions, the Catholic Church, the Jewish community, intellectuals of the left and the right, and countless other formal and informal groups. Perhaps the best remedy for freedom is more freedom.

(44) Adam Smith, Report dated 1766, *Lectures on Jurisprudence*, ed. by R. L. Meek, D. D. Raphael and P. G. Stein (Oxford: Clarendon Press, 1978), p. 539.

(45) Smith, *The Wealth of Nations*, Bk. V, Ch. I, Pt. III, §III, p. 280.

(46) Ibid., §II, pp. 267–269.

(47) Cf. Friedrich A. Hayek, *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960), p. 377.

Edmund Burke

(1729–1797)

Two revolutions of late eighteenth century stand in stark contrast to each other. One was a success, the other a failure. The American Revolution of 1776 was made by colonists in British North America to uphold ancient English principles, primarily that there should be no taxation without representation. Locke and Hume had taught the Americans that it was right to resist tyranny, and the reluctant revolutionaries had come to regard the British King in Parliament as a tyrant. The American Revolution was successful. The revolutionaries established a state which soon expanded enormously, both by trade and conquest, and which soon became the richest and most powerful country in the world, able to rescue Europe from totalitarianism twice in the twentieth century. The United States of America became a magnet for poor immigrants most of whom found ample opportunities to better their conditions. The French Revolution of 1789 was different. In the beginning, it seemed that the revolutionaries were only trying to assert the same civil and political rights as the citizens of the United Kingdom had enjoyed for a century. But there was hardly any liberal political tradition in France upon which the revolutionaries could draw, and soon the more radical elements took over and tried to impose their programme upon French society, using terror as a means, and the Revolution ended in a military dictator proclaiming himself an emperor and waging war all over Europe. Initially the attempts to replace French absolutism by a constitutional monarchy were followed with sympathetic interest at the other side of the Channel, but an eloquent Anglo-Irish politician, Edmund Burke, was one of the first to see that the French Revolution was going in a different direction to the American one. Burke was a conservative because he wanted to preserve liberty, not to abolish it.



Burke is a reformist, not a reactionary. But when it is not necessary to change, it is necessary not to change, he thinks. Painting by James Barry.

Burke's Life and Works

Edmund Burke was born in Dublin on 12 January 1729. His mother Mary was Catholic, whereas his father, Richard, probably originally a Catholic, had conformed to the Established Anglican Church of Ireland in order to be able to practise law. In 1744, young Burke entered Trinity College in Dublin, graduating four years later. He then went to London, initially to read law, but eventually abandoning his studies for a literary career. He married Jane Nugent, the daughter of a Catholic doctor, in 1757, having then already published two philosophical works. She bore him two sons, one of whom died in infancy. In 1758, Burke founded a yearly review of events and literature, the *Annual Register*. He also became private secretary to the Anglo-Irish politician William Hamilton, going with him to Dublin in 1761 when Hamilton was appointed Chief Secretary to the Lord Lieutenant of Ireland. He returned with Hamilton to London in 1764, but after a bitter break with him, in 1765 he became private secretary to the Marquess of Rockingham, one of the wealthiest and most powerful men in England. The two main political factions in the House of Commons were the Whigs who had made the Glorious Revolution of 1688 when King James II was deposed, and the Tories who tended to support the king, although they also by now accepted the Revolution. King George III, who had succeeded to the throne in 1760, was trying to reassert royal power, against opposition from Rockingham, leader of the Whigs. Nevertheless, Rockingham was appointed Prime Minister (First Lord of the Treasury) in July 1765, and he immediately repealed the unpopular Stamp Act recently imposed on the British colonies in North America. The colonists had resisted the Act on the grounds that there should be no taxation without representation.

In December 1765 Burke entered the House of Commons as Member for Wendover in Buckinghamshire and immediately gained a reputation as a powerful orator. His ally Rockingham fell however from power after only a year, in July 1766. In 1768, Burke became a country gentleman when he bought an estate near Beaconsfield in Buckinghamshire. He also joined a dining club in London whose members included three other prominent writers, Samuel Johnson, Edward Gibbon and Oliver Goldsmith. In 1770, Burke published a defence of Rockingham's

conciliatory policies towards the British colonies in North America, *Thoughts on the Cause of the Present Discontents*. He also gave two renowned speeches on 'conciliation with America'. In the second one he exclaimed: 'It looks to me to be narrow and pedantic to apply the ordinary ideas of criminal justice to this great public contest. I do not know the method of drawing up an indictment against a whole people.'⁽¹⁾ Losing his seat in Wendover, Burke was instead elected in 1774 from Bristol where he gave a famous speech. A representative should listen to his constituents and respect their opinion. 'But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living,' Burke told his voters. 'These he does not derive from your pleasure, no, nor from the Law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your Representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.'⁽²⁾ In Parliament, Burke supported free trade and Catholic emancipation. He was a good friend of Adam Smith who in 1776 published the *Wealth of Nations*, arguing for free trade as a means of facilitating division of labour which was, Smith taught, the main reason nations could become wealthy. Indeed, Smith told Burke that 'he was the only man, who, without communication, thought on' economic issues 'exactly as he did'.⁽³⁾

Burke was not re-elected to the seat from Bristol, but became instead in 1780 Member for Malton in Yorkshire. The efforts of Burke, Rockingham and other British friends of America were in vain. Thirteen colonies in North America declared their independence from Great Britain and defended it in a war from 1775 to 1783. Rockingham formed a government again in March 1782 in order to make peace with the colonies, and Burke was appointed Paymaster of the Forces. But Rockingham died in July, and Burke lost his job. He was reappointed in

(1) Burke, Speech on Moving Resolutions for Conciliation with the Colonies (1775), *Select Works of Edmund Burke*, Vol. 1 (Indianapolis IN: Liberty Fund, 1999), pp. 250–251. All four volumes of the *Select Works* are accessible at the website of Liberty Fund.

(2) Burke, Speech to the Electors of Bristol (3 November 1774), *Select Works*, Vol. 4 (Indianapolis IN: Liberty Fund, 1999), p. 11.

(3) Robert Bisset, *The Life of Edmund Burke*, Vol. II, 2nd ed. (London: George Cawthorn, 1800), p. 429.



General George Washington crossing the Delaware River. Burke supported the American Revolution which was made to preserve liberal principles such as no taxation without representation. Painting by Emanuel Leutze.

1783, but only briefly, and did not hold office after that. The Tories, under William Pitt the Younger, came into power in December 1783, and Burke spent the rest of his parliamentary career in opposition. From 1788, he was engaged in the impeachment in the House of Commons of Warren Hastings, who had been Governor-General of Bengal. Hastings was accused of various abuses of power. For Burke, the Indian issue had begun in commerce, but ended in empire. The British administration in India had not sufficiently respected local traditions and customs. The House of Commons eventually impeached Hastings, but in 1795 the judgement was overturned by the House of Lords, to the disappointment, but not the surprise, of Burke.

In the House of Commons, Burke was also preoccupied with the French Revolution which began in the spring of 1789. He feared that the revolutionary fervour might be transmitted to England. A young Frenchman, Charles Jean-François Depont, who had visited the Burke family in 1785, had written to Burke to ask him his opinion about the French Revolution. The letters he sent to Depont grew into a book, *Reflections on the Revolution in France*, published in the beginning of November 1790. Burke's work was soon recognised as a significant

contribution to political theory and provoked several responses in Great Britain and France, the best-known being *Rights of Man: Being an Answer to Mr. Burke's Attack on the French Revolution* by Thomas Paine. Burke employed all his rhetorical skills to argue against those of his compatriots who were in sympathy with the Revolution and to criticise the French revolutionaries, especially the Jacobins who were by late 1790 leading the way. 'It is a virile prose and I can think of no one who wrote with so much force combined with so much elegance,' English novelist William Somerset Maugham observed.⁽⁴⁾ In France, King Louis XVI and Queen Marie Antoinette read his book with great satisfaction. But Burke's fierce opposition to the French Revolution caused a rift with the Whigs, while the Tories never fully accepted him. In 1793, the French revolutionaries declared war on Great Britain, and Burke forcefully supported the British war efforts and protested against any peace offers. 'If *your* hands are not on your swords, their knives will be at your throats,' he wrote in a letter. 'There is no medium,—there is no temperament,—there is no compromise with Jacobinism.'⁽⁵⁾

Burke retired from Parliament in 1794. His last days were not happy. He had lost many personal friends among the Whigs as a result of his critique of the Revolution, and in 1794, his son Richard, the apple of his eyes, died. He was also saddled with debt from the time he bought his estate. He had many admirers in the British Establishment, but also some enemies. When it was criticised by the Duke of Bedford in the summer of 1795 that he had been granted a government pension, he replied in a brilliant 'Letter to a Noble Lord'. He pointed out that he had not asked for the pension himself, and he recalled how the first Earl of Bedford had received his original wealth from a capricious tyrant. 'Mine was from a mild and benevolent sovereign; his from Henry the Eighth.'⁽⁶⁾ Burke reminded the Duke that he would certainly not be safe under revolutionaries:

(4) W. Somerset Maugham, After Reading Burke, *The Vagrant Mood* (London: William Heinemann, 1922), p. 148.

(5) Letter to William Windham 30 December 1794. *The Correspondence of Edmund Burke, Volume VIII: September 1794–April 1796*, ed. by R. B. McDowell (Cambridge: Cambridge University Press, 1969), p. 104.

(6) Burke, Letter to a Noble Lord (February 1796), *Further Reflections on the Revolution in France*, ed. by Daniel E. Ritchie (Indianapolis IN: Liberty Fund, 1992), p. 303.

“ They are the Duke of Bedford’s natural hunters; and he is their natural game. Because he is not very profoundly reflecting, he sleeps in profound security: they, on the contrary, are always vigilant, active, enterprising, and though far removed from any knowledge, which makes men estimable or useful, in all the instruments and resources of evil, their leaders are not meanly instructed, or insufficiently furnished. In the French Revolution every thing is new; and, from want of preparation to meet so unlooked for an evil, every thing is dangerous. Never, before this time, was a set of literary men, converted into a gang of robbers and assassins.⁽⁷⁾

The Jacobins used evil means to attain what they thought of as the common good. ‘Their humanity is at their horizon—and, like the horizon, it always flies before them.’⁽⁸⁾ Burke also found sufficient energy to compose several letters against a ‘regicide peace’, warning his compatriots in no uncertain terms against the Jacobins and anticipating twentieth century totalitarianism:

“ Individuality is left out of their scheme of government. The State is all in all. Everything is referred to the production of force; afterwards, everything is trusted to the use of it. It is military in its principle, in its maxims, in its spirit, and in all its movements. The State has dominion and conquest for its sole objects—dominion over minds by proselytism, over bodies by arms.⁽⁹⁾

Burke died shortly after he uttered those prophetic words, on 9 July 1797.

(7) Ibid., p. 312.

(8) Ibid., p. 315.

(9) Burke, *On the Genius and Character of the French Revolution as it regards other Nations*, *Select Works*, Vol. 3, p. 182.

The First Stages of the Revolution

When Burke published his *Reflections on the Revolution in France* in November 1790, the Revolution was still in its first stages. The prelude to it was the economic crisis of the 1780s in France, partly derived from bad harvests; they were, in turn, partly caused by a massive volcanic eruption in Iceland which began in June 1783 and lasted for eight months, creating a mist which was driven by winds from Iceland to the continent. Benjamin Franklin observed in 1784 that in the summer of 1783, ‘there existed a constant fog over all Europe, and great part of North America’.⁽¹⁰⁾ The economic crisis led to a fiscal crisis in France. In August 1788, the French Treasury was declared empty, and the Paris *Parlement*, an assembly of ennobled judges, refused to lend more money to the Crown. The Minister of Finance saw no way out but to summon the Estates General, an assembly of three houses, the nobility, clergy and commoners, which had not met since 1614. It was decided that the Estates General would convene on 5 May 1789 and that the house of commoners would have double as many deputies as each of the two other houses. The state received temporary relief through a large loan, given by French commoners on the condition that the Estates General would have extensive powers. The elections to the house of commoners, called the Third Estate, caused commotion all over France. The abbot Emmanuel Joseph Sieyès wrote in a pamphlet: ‘What is the Third Estate? Everything. What is it now? Nothing. What does it want to be? Something!’⁽¹¹⁾ Whereas the answers to the two first questions were obvious exaggerations about contemporary conditions in France, the third answer, ‘Something,’ was soon discovered.

The Estates General was formally opened on 5 May 1789 at Versailles where King Louis XVI resided. But perhaps the first step into the direction of the Revolution was taken the next day when the deputies of the Third Estate insisted that the three houses or Estates should meet together, not separately as had been the plan. They would have had a clear

(10) Benjamin Franklin, *Meteorological Imaginations and Conjectures*, *Memoirs of the Literary and Philosophical Society of Manchester*, Vol. II (London: Warrington, 1785), p. 359.

(11) Emmanuel Joseph Sieyès, *Qu’est-ce le Tiers-État?* (January 1789).



Inauguration of the Estates General in Versailles 5 May 1789. The king, Louis XVI, presides over the meeting. The clergy sits to the left, the Third Estate in the middle and the nobility to the right. The demand for joining the three Estates into one Assembly was really for creating one centre of power. Painting by Auguste Couder.

majority if the three Estates were unified. The nobility flatly refused. Later in the month, both the clergy and the nobility however renounced their tax privileges. On 10 June the deputies of the Third Estate, at the initiative of Sieyès, formally invited the other two Estates to join their meetings. A few days later some deputies of the clergy decided to accept the invitation. A big step was taken on 17 June when the deputies of the Third Estate declared themselves the National Assembly. Two days later, the deputies of the clergy decided to join them. The king felt that matters were getting out of hand and on 20 June he had the meeting hall of the Third Estate closed and locked. Undaunted, the deputies met instead in an indoor tennis court where they vowed to give a new constitution to France. On 23 June the king addressed the Estates General, declared decisions of the 'National Assembly' invalid and instructed the three

Estates to meet separately. The Third Estate ignored his instructions, and one member shouted: 'We are assembled here by the Will of the People!' Two days later, some nobles, under the leadership of the king's cousin, the Duke of Orléans, joined the meetings of the Third Estate. The king hesitated, fearing that he could not rely on the loyalty of his troops, and on 27 June he reversed course, instructing the nobility and clergy to meet with the Third Estate. The National Assembly, now recognised by the king, started writing a new constitution for France, and on 9 July it redefined itself as the National Constituent Assembly. Soon thereafter, riots started in Paris, with French soldiers mostly siding with the crowds, whereas Swiss and German mercenaries stayed loyal to the king. The residence of the Duke of Orléans in Paris, Palais Royal, became a centre of rebellious activities. On 14 July, a large crowd stormed a notorious

royal prison the Bastille. After some resistance, the prison governor, Bernard de Launay, surrendered. The furious mob killed Launay, sawed his head off, put it on a pike and paraded it through the streets of Paris. In an ironic twist, the prison turned out to be virtually empty, with only seven inmates.

It was the Duke of Rochefoucauld-Liancourt who brought the news to King Lewis XVI in Versailles. ‘It is a revolt, then,’ the king said. ‘Sir! it is a revolution,’ the duke replied.⁽¹²⁾ Again the king hesitated and tried to reach an understanding with deputies of the Third Estate, withdrawing royal troops from Paris and accepting the establishment of a National Guard out of his control. Some members of his family and of the nobility were less sanguine and fled France in the next few days. On 22 July an angry mob seized the intendant of Paris, Louis de Sauvigny, blaming him for food shortages in the city. He was beaten and stoned and shown the severed head of his father-in-law before he was hanged from a lamp post in the front of the city hall, Hôtel de Ville. All kinds of wild rumours circulated around France and riots broke out in several cities. On 27 August, the National Constituent Assembly adopted the ‘Declaration of the Rights of Man and of the Citizen’. In early October a rumour reached Paris that royal guards had trampled on the revolutionary symbol, the tricolour. A crowd marched to Versailles, invaded the palace and demanded that the king and his family accompanied them back to Paris. The severed heads of two royal guards killed in the attack on the palace were put on pikes in front of the parade.⁽¹³⁾ The royal family took up residence in the Tuileries Palace, while the National Constituent Assembly also moved to the capital. In November, the Assembly found a solution to the financial difficulties: it was to confiscate the vast holdings of the Catholic Church in France. In December, the Assembly abolished the traditional division of France into provinces and introduced departments, roughly equal in size.

In the next few months, the moves by the Assembly against the Church caused widespread opposition and even riots in the provinces.

(12) Hippolyte Taine, *The French Revolution*, Vol. I (1878), tran. by John Durand (Indianapolis IN: Liberty Fund, 2002), Bk. I, Ch. I, I, p. 3.

(13) Ibid., Ch. IV, V, p. 122.

In June 1790, the Assembly abolished titles and other privileges of the hereditary nobility, and in July it ordered clergymen to become government servants. By now, King Lewis XVI and his family were virtual prisoners in the Tuileries, helplessly watching the revolutionary tide rise ever higher.

It was at this point in time that Burke published his book. For him, the crux of the matter was that the French revolutionaries had at an early stage, some even before the Estates General first met in May 1789, adopted the doctrine of absolute sovereignty, without any consideration for traditional liberties or any respect for existing institutions. Burke did not doubt that the old regime in France was in need of reform:

“ The absolute monarchy was at an end. It breathed its last, without a groan, without struggle, without convulsion. All the struggle, all the dissension arose afterwards upon the preference of a despotic democracy to a government of reciprocal controul. The triumph of the victorious party was over the principles of a British constitution.⁽¹⁴⁾

But the choice had been between ‘despotic democracy’ where the People replaced the King, and ‘reciprocal control’ as in the United Kingdom. It had been between revolution or reform. ‘A state without the means of some change is without the means of its conservation. Without such means it might even risque the loss of that part of the constitution which it wished the most religiously to preserve,’ Burke wrote.⁽¹⁵⁾ But the two principles of correction and conservation had to operate together, not just one of them, as was the case in France.

When Burke described the treatment of the royal family which in October 1789 had been marched by a mob from Versailles to the Tuileries, in a famous passage he expressed his admiration for the ‘serene patience’ of Queen Marie Antoinette:

(14) Burke, *Reflections*, p. 159.

(15) Ibid., p. 108–109.

“ It is now sixteen or seventeen years since I saw the queen of France, then the dauphiness, at Versailles; and surely never lighted on this orb, which she hardly seemed to touch, a more delightful vision. I saw her just above the horizon, decorating and cheering the elevated sphere she just began to move in; glittering like the morning star, full of life, and splendor, and joy. Oh! what a revolution! and what an heart must I have, to contemplate without emotion that elevation and that fall! Little did I dream when she added titles of veneration to those of enthusiastic, distant, respectful love, that she should ever be obliged to carry the sharp antidote against disgrace concealed in that bosom; little did I dream that I should have lived to see such disasters fallen upon her in a nation of gallant men, in a nation of men of honour and of cavaliers. I thought ten thousand swords must have leaped from their scabbards to avenge even a look that threatened her with insult. But the age of chivalry is gone. That of sophisters, oeconomists, and calculators, has succeeded; and the glory of Europe is extinguished for ever.⁽¹⁶⁾

Burke criticised the revolutionaries for rejecting traditions. They had no compass to govern them; they did not know to what they were steering:

“ We are afraid to put men to live and trade each on his own private stock of reason; because we suspect that this stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations, and of ages. Many of our men of speculation, instead of exploding general prejudices, employ their sagacity

to discover the latent wisdom which prevails in them. If they find what they seek, (and they seldom fail) they think it more wise to continue the prejudice, with the reason involved, than to cast away the coat of prejudice, and to leave nothing but the naked reason; because prejudice, with its reason, has a motive to give action to that reason, and an affection which will give it permanence. Prejudice is of ready application in the emergency; it previously engages the mind in a steady course of wisdom and virtue, and does not leave the man hesitating in the moment of decision, sceptical, puzzled, and unresolved. Prejudice renders a man's virtue his habit; and not a series of unconnected acts. Through just prejudice, his duty becomes a part of his nature.⁽¹⁷⁾

Burke was full of forebodings about the Revolution.

“ On the scheme of this barbarous philosophy, which is the offspring of cold hearts and muddy understandings, and which is as void of solid wisdom, as it is destitute of all taste and elegance, laws are to be supported only by their own terrors, and by the concern which each individual may find in them from his own private speculations, or can spare to them from his own private interests. In the groves of their academy, at the end of every visto, you see nothing but the gallows.⁽¹⁸⁾

Events in France in the next few years confirmed his fears, except that a new technology of executing people had been adopted, the guillotine in place of the noose.

(16) Ibid., p. 89.

(17) Ibid., p. 102–103.

(18) Ibid., p. 91.

The Terror

Soon after Burke published his *Reflections on the Revolution in France*, the Revolution moved on to the next stage. The revolutionaries had already confiscated Church property and imprisoned the Royal Family in all but name. In January 1791, priests were ordered to take an oath to the Nation, but a majority refused. After that two churches were operating in France, the official one supported by the state, and a clandestine one, mainly enjoying support outside Paris. In the spring, the National Constituent Assembly transformed a new church in Paris into a mausoleum for illustrious citizens, the Panthéon. In June the Royal Family tried to flee from Paris to a camp with loyal soldiers on the French border, but they were recognised on the way and turned back. The National Constituent Assembly suspended the authority of the king until a new constitution would be ratified. In September 1791, King Louis XVI formally accepted the new Constitution, and a new Legislative Assembly was elected to replace the National Constituent Assembly. In February 1792, domestic passports were introduced in France and the Legislative Assembly confiscated émigré properties. In April, the Legislative Assembly declared war on the Holy Roman Empire and a French army invaded the Austrian Netherlands, or Belgium. It showed the rampant lawlessness in France that in June a rabble invaded the Tuileries Palace and forced King Louis XVI to wear a red liberty cap and drink to the health of the nation. A public warning in July by an Austrian commander against harming the Royal Family infuriated the Paris mob, with demands for the king's removal becoming ever louder.

On 10 August 1792 revolutionary elements of the National Guard stormed the Tuileries Palace, massacring the Swiss Guards defending the Palace. The Royal Family sought refuge in the Legislative Assembly which temporarily suspended the authority of the king and called for the election of a new National Convention. The Royal Family subsequently was imprisoned in a medieval fortress, the Temple. Ironically, the Temple had been built by the Order of Knights Templars whom the king's kinsman, King Philip IV, had destroyed centuries earlier. In August 1792, the Legislative Assembly yielded to loud demands by the Jacobins, led by Maximilien Robespierre, to establish a Revolutionary Tribunal.



The storming of the Bastille on 14 July 1789. The prison turned out to be almost empty, one of the many ironies of the Revolution. Painting by an unknown artist.

Executions by the guillotine immediately started and soon took on a momentum of their own. Royalist riots in Brittany, Vendée and Dauphiné and the capitulation of a French force at Verdun again infuriated the mob and its leaders, and prisoners in Paris were massacred. One of them was a close friend of the Queen, the Princess Lamballe. She was stabbed to death by a crowd, with her body mutilated and the head severed off and put on a pike and paraded through the streets of Paris, and beneath Marie Antoinette's window in her prison at the Temple.

The new National Convention held its first session on 20 September 1792 and decided to abolish the monarchy, proclaiming a republic two days later. A number of victories on the battlefield made the revolutionaries more confident. In November the Convention asserted a right to intervene in any country 'where the people desire to recover their freedom'. In December, King Louis XVI was tried before the Convention. He was found guilty of conspiracy against public liberty with all votes cast and sentenced to death with a majority of one, 361 against 360. One of those voting for his execution was his cousin, the Duke of Orléans. When the king wanted to

address the crowd at his execution on 21 January, his words were drowned out by a drum roll. The whole of Europe followed what was happening in France, alternatively with horror, fear or hope. A few days after the king's execution the National Convention declared war on Britain and the Dutch Republic. In March royalists rose up in Brittany and the Vendée, but they were brutally put down. In April, a Committee of Public Safety was established. The Jacobins became ever more aggressive. In the beginning of June, an armed crowd stormed the hall of the National Convention and forced it to vote for the arrest of some moderate deputies.

Catholics in the countryside revolted against the Jacobins, but on 24 June 1793 a new Constitution was ratified by the National Convention. In July, the son of King Louis XVI and Marie Antoinette, recognised as king by royalists, was taken from his mother and put into the custody of a cobbler. In the beginning of September the mob again stormed the hall of the National Convention and demanded the arrest of counter-revolutionaries. The government imposed draconian economic regulations, and adopted a new calendar, starting on 22 September 1792 when the Republic was founded. On 16 October 1793 Queen Marie Antoinette was beheaded. A month later, the Cathedral of Notre Dame was transformed into a 'Temple of Reason', and all churches and places of worship in Paris were closed. Between November 1793 and February 1794, mass executions by drowning took place in Nantes in the Vendée, claiming the lives of thousands of people. The victims, men, women and children, often tied together or to heavy stones, were put out to the river Loire in barges and thrown overboard or alternatively the barges were sunk while the executioners escaped in small boats.⁽¹⁹⁾

The slogan of the Revolution was Liberty, Equality, Fraternity. Perhaps the suggestion by one of the revolutionaries, Nicolas Chamfort, is more appropriate: Be my brother, or I'll kill you. The Terror started in September 1793. The Revolution was devouring her own children, not only nobles and priests of the old regime. The King's cousin, the Duke of Orléans, who was now calling himself Philippe Égalite, was beheaded in November 1793. In the next few months, so were many

moderate revolutionaries. But the Republican generals knew that they were fighting for their lives and managed to defend France against a coalition of most European powers. One of them in particular, Napoleon Bonaparte, excelled in the battlefields of Northern Italy. In the midst of the terror, in April 1794, the Jacobin leader, Robespierre, found time to arrange for the transfer of the ashes of Jean-Jacques Rousseau to the Panthéon. His fellow Jacobins were beginning however to fear for their own lives, and in July they turned against him. On 28 July 1794 Robespierre was beheaded, and subsequently most of his followers were captured and executed. The Terror was at an end. Uprisings by the Jacobins failed and the Revolutionary Tribunal was abolished. Shortly afterwards, the son of Louis XVI and Marie Antoinette, Louis XVII, died in prison. He had been badly treated. The doctor who did an autopsy on him was shocked by the many scars he found on his body. In August 1794 yet another Constitution was adopted by the National Convention, and a Directory, with five members, was appointed. Then, on 9 November 1799, General Bonaparte led a coup. The French Revolution had ended in military dictatorship.

Chinese communist Zhou Enlai was once asked by American visitors about the impact of the French Revolution. 'It is too soon to say,' he replied. This has been quoted as an example of the wisdom of the far-sighted Chinese leaders. The story is however based on a misunderstanding. Zhou was talking about the Paris riots of May 1968.⁽²⁰⁾ Nevertheless, the story is noteworthy on two accounts. First, the Chinese communist leaders, including Zhou, were far from being wise, far-sighted old sages, drawing strength from an ancient civilisation. They were cruel, narrow-minded fanatics who slaughtered millions of people after they won the Chinese Civil War in 1949 and who let no less than 44 million die of hunger during the so-called 'Great Leap Forward' in 1958–1962.⁽²¹⁾ Many of the unflattering words Burke used about the Jacobins would apply to them as well. In the second place, it is indeed not too soon to say. Burke

(20) Charles W. Freeman, the translator present at the exchange in 1972, disclosed this, *Financial Times* 10 June 2011.

(21) Frank Dikötter, *Mao's Great Famine: The History of China's Most Devastating Catastrophe, 1958–62* (London: Bloomsbury, 2010); *The Tragedy of Liberation: A History of the Communist Revolution 1945–1957* (London: Bloomsbury, 2013).

(19) Simon Schama, *Citizens* (London: Penguin, 1989), p. 789.

more or less said it in his *Reflections*: The French Revolution cost a lot of human lives and turned the lives of many more upside down, while it did not deliver any significant benefits for most people. Not only was Burke's case strengthened by the events in France that followed the publication of his book, but also by scholars who closely studied the Revolution. In the mid-nineteenth century, Alexis de Tocqueville pointed out that the excesses of the Revolution were made possible by the centralisation of French society in the previous two centuries under the Bourbon kings. The Revolution was the completion of an historical trend, not a deviation from it. The King was simply replaced by the People, or rather by those who succeeded in convincing themselves and others that they were speaking on behalf of the People.⁽²²⁾ In the late nineteenth century, Hippolyte Taine described in detail how the Revolution was the work of a few unscrupulous, merciless fanatics, steeped in Rousseau's fantasies about a general will and direct democracy.⁽²³⁾

It is estimated that during the Terror a total of 40,000 people were killed by the revolutionaries, in addition to all those who lost their lives because of famine, disease or war; half a million were imprisoned.⁽²⁴⁾ In the first half of the twentieth century, orthodox Marxists tried to reinterpret the French Revolution as a class war, a passage from feudalism to capitalism, with the 'bourgeoisie' seizing power from the nobility, but refusing to share it with the proletariat. They played down the Terror, explaining it as a response to the counter-revolution, embodied in French émigrés and their foreign allies. For them, the French Revolution was a social revolution with political consequences.⁽²⁵⁾ In the latter half of the twentieth century, scholars challenging orthodox Marxism returned to a largely Burkean interpretation of the French Revolution (even if they themselves sometimes were left-liberals). They argued that the French Revolution was a political revolution with social consequences.

(22) Alexis de Tocqueville, *The Old Regime and the Revolution*, tran. by John Bonner (New York: Harper & Brothers, 1856).

(23) Hippolyte Taine, *The French Revolution*, Vols. 1–3, tran. by John Durand (New York: Henry Holt, 1878).

(24) Donald Greer, *The Incidence of the Terror during the French Revolution* (Cambridge MA: Harvard University Press, 1935).

(25) Albert Mathiez, *The French Revolution*, tran. by C. A. Philips (New York: Alfred A. Knopf, 1928).

Alfred Cobban pointed out that the Revolution did little to change French society: it remained largely a rural society with small farms until industrialisation in the latter half of the nineteenth century.⁽²⁶⁾ François Furet saw the French Revolution as primarily a clash of political ideas. The revolutionaries were ideologues who consciously rejected the English model of mixed government, developed in the previous century and a half. Instead, they tried to impose the idea of unlimited democracy upon French society. The French Revolution was not a breakthrough, it was a breakdown, brought about by embittered outsiders who seized the opportunity provided by the economic crisis of the 1780s.⁽²⁷⁾ In a readable, best-selling book, Sir Simon Schama adopts a similar approach, but excels in telling stories about the victims of the Revolution, such as Queen Marie Antoinette. He believes, like Burke, that the Terror was inherent in the Revolution. 'Violence was the necessary condition of the Revolution, and that from the very beginning, from the summer of 1789.'⁽²⁸⁾

Burke's Defence of Established Institutions

Burke is a traditionalist. He says that 'instead of quarrelling with establishments, as some do, who have made a philosophy and a religion of their hostility to such institutions, we cleave closely to them. We are resolved to keep an established church, an established monarchy, an established aristocracy, and an established democracy, each in the degree it exists, and in no greater.'⁽²⁹⁾ Nevertheless, Burke is no reactionary, as can be shown by an examination of his arguments for these four institutions. His support for a state religion is based on what he saw as the need for a shared morality, transmitted from one generation to another, making their conduct proper and predictable,

(26) Alfred Cobban, *The Social Interpretation of the French Revolution* (Cambridge: Cambridge University Press, 1964).

(27) François Furet, *Interpreting the French Revolution*, tran. by Elberg Forster (Cambridge: Cambridge University Press, 1981).

(28) Simon Schama, *Citizens: A Chronicle of the French Revolution* (New York: Viking, 1989), p. xv.

(29) Burke, *Reflections*, pp. 186–187.



Burke's prediction that the Revolution would end in terror, turned out to be accurate: Queen Marie Antoinette on the way to the guillotine on 16 October 1793. Drawing by Jacques-Louis David.

but also on the need to make frail human beings aware that there might be a higher and greater power than they possessed themselves and that this power might set limits on what is permitted. Dostoevsky famously said that if God did not exist, then everything would be permitted.⁽³⁰⁾ One of his examples was of eight-year boy who had mistakenly thrown a stone at the paw of a general's favourite dog. The general captured the boy and ordered his flock of fierce hounds to devour him. How can this be permitted? Certainly not if God exists. Burke was afraid '(being well aware that the mind will not endure a void) that some uncouth, pernicious, and degrading superstition, might take place of it'.⁽³¹⁾ This

(30) This is a paraphrase of a question: 'Without God and the future life? It means everything is permitted now, one can do anything?' Fyodor Dostoevsky, *The Brothers Karamazov*, Pt. 4, Bk. 11, Ch. 4, tran. by Richard Pevear and Larissa Volokhonsky (Berkeley CA: North Point Press, 1990), p. 589.

(31) Burke, *Reflections*, p. 186.

is not too different from the observation that if you stop believing in God, you will not believe in nothing: you will believe in anything.⁽³²⁾ It should be noted that one effect of the confiscation of church property in France by the revolutionaries was greatly to reduce the ability of the Church to engage in its traditional charity work for the poor and weak. This group, now thrown on the resources of a state bent on warfare, suffered considerably.

One reason why conservative liberals might have sympathy with Christianity is that it, unlike some other religions, advocates the separation of religious and secular authorities. Of course, this has not always been respected in practice. Often Christian persecution of infidels and heretics in the past is invoked by those who doubt the merits of religion as a civilising social force. 'Thank God I have arrived at a Christian country.—I behold a gallows!' But it should be recalled that in the Spanish conquest of America, clergymen were in the forefront defending Indians against the cruelty of the colonialists. Modern research has also found that the notorious Spanish Inquisition was not nearly as bad as often suggested. For example, only 1 per cent of the 125,000 people tried in Spain by church tribunals as heretics were executed.⁽³³⁾ Without trying in any way to defend the Inquisition it should also be noted that its main purpose was to discover 'cheating', or those of the Jewish faith who said they had converted to Christianity, but in fact had not done so.

Perhaps an established religion is not as relevant today as it was in Burke's time. What he said about the old regime in France may not apply to the connection between today's church and the state, not least in light of the fact that the most religious and moral people in the world apparently are the citizens of the United States where there is a complete separation between religion and the state. Moreover, even if an established morality may be desirable and even necessary for stability, it is not obvious that it needs to be upheld by a belief in supernatural forces, as the examples of the Romans and the Japanese

(32) This is often attributed to G. K. Chesterton, but not found in his writings.

(33) This emerges after the release of hitherto secret documents from the Vatican. Sophie Arie, Historians say Inquisition wasn't that bad, *Guardian* 16 June 2004. Cf. also Edward Peters, *Inquisition* (Oakland CA: University of California Press, 1989).

show. Burke could answer that these were the traditions of the Romans and the Japanese and that therefore they ought to be respected. What is essential for him is not the belief in supernatural forces, but rather the ability to civilise people, make their behaviour predictable and proper. On his principles, this would be the task of the Anglican Church in England, the Presbyterian Church in Scotland and the Catholic Church in Ireland.

On a similar note, Burke's support for an 'established monarchy' is not based on the divine rights of kings, but on stability, continuity and the division of powers and loyalties. Therefore the British crown should pass from one generation to another, instead of the king being in any way, directly or indirectly, elected or chosen by the population:

“ I shall beg leave, before I go any further, to take notice of some paltry artifices, which the abettors of election as the only lawful title to the crown, are ready to employ, in order to render the support of the just principles of our constitution a task somewhat invidious. These sophisters substitute a fictitious cause, and feigned personages, in whose favour they suppose you engaged, whenever you defend the inheritable nature of the crown. It is common with them to dispute as if they were in a conflict with some of those exploded fanatics of slavery, who formerly maintained, what I believe no creature now maintains, “that the crown is held by divine, hereditary, and indefeasible right”. These old fanatics of single arbitrary power dogmatized as if hereditary royalty was the only lawful government in the world, just as our new fanatics of popular arbitrary power maintain that a popular election is the sole lawful source of authority.⁽³⁴⁾

For Burke it is crucial that the British monarchy has withstood the test of time. Other forms of government might fit other nations and com-

munities, for example his contemporaries in the Swiss Federation or in several city-states of Northern Italy and Germany. Burke would not have agreed with Cardinal William of Sabina who in 1247 expressed his indignation over the fact that the Icelandic Commonwealth was not ruled by a king 'like all others in the world'.⁽³⁵⁾

However outdated and irrelevant monarchy may appear to many, a possible argument for it is that it tends to instil in the general public a healthy respect for continuity. A head of state performs a symbolic function, staying out of controversy and speaking for the nation when it seems necessary and proper. It may be prudent to distinguish this role from that of a battle-scarred, elected leader of government. Perhaps those who happen to hold political power should not also enjoy the historical glory. Burke believes that there should be many sources of authority, not only one, and that monarchy can be one of them. He may have a point. At the time when Beatrix was Queen of the Netherlands, I once spoke with a Dutch political observer who told me that he was no monarchist, but that he could observe that Dutch politicians were somewhat in awe of their queen. 'She keeps them in check,' he said with a chuckle. Some of the freest and stablest regimes in Europe are monarchies, Great Britain, the three Scandinavian countries and the Benelux countries, Belgium, the Netherlands and Luxembourg. Canada, Australia and New Zealand have also all chosen to remain monarchies, perhaps to emphasise their historical roots.

Consider also two counter-factual cases from other continents. First, Brazil was a monarchy from 1822 to 1889, under the reign of two relatively liberal emperors. They enjoyed respect, but had limited power. The second one, Pedro II, was deposed by a military clique that was under the influence of French positivism and found the monarchy obsolete. Since then Brazil has not been very stable politically. Possibly, she might have been better off if the monarchy had been maintained, exercising some constraints on politicians and generals. In the second place, during the British Raj India was an amalgamation of many political and cultural communities, some of which were ruled by princes, maharajahs, nizams and nawabs. They were

(35) Sturla Thordson, *Hakonar Saga, Icelandic Sagas and Other Historical Documents Relating to the Settlements and Descents of the Northmen on the British Isles*, Vol. II, ed. by Gudbrand Vigfusson (London: Eyre and Spottiswood, 1887), p. 252.

(34) Burke, *Reflections*, pp. 113–114.

Evolution instead of revolution: The House of Commons in 1793–1794. Burke is 3rd from right in 2nd row of the Whig opposition bench. The Whig leader, Charles James Fox, is 6th from right in 1st row. Standing opposite them and speaking is the Tory leader, Prime Minister William Pitt. Painting by Karl Anton Hickel.



largely left alone by the British. But after India was partitioned into two countries in 1947, India and Pakistan, mostly on religious lines and at a great cost in human lives, the princes of Hyderabad, Mysore, Jammu and Kashmir and other Indian territories were replaced by elected politicians, many of them steeped in Fabian socialism. Since then, Pakistan, a totally artificial country, has split into two, with East Pakistan becoming Bangladesh in 1971. Under their elected rulers, these three countries have not done nearly as well as some other former British territories overseas, such as Australia, New Zealand, Singapore and Hong Kong. In retrospect, would it not have been more prudent to respect the traditional regimes and boundaries of the Indian subcontinent, perhaps within a loose federation? At least it is likely that a lot of human lives would have been spared and also that more experiments in economic policies would have been conducted, not just Fabian socialism over the whole subcontinent.

Modern readers may be apt to misunderstand Burke's argument for 'established aristocracy'. He is not advocating a closed caste system, but rather a flexible social structure of different classes and ranks where people in the upper classes are born into responsibility, and where other people of ability and achievement can hope eventually to join their ranks. It is a structure in which some people are seen as role models for others. Burke's friend, Adam Smith, makes the same point:

“ A man of rank and fortune is by his station the distinguished member of a great society, who attend to every part of his conduct, and who thereby oblige him to attend to every part of it himself. His authority and consideration depend very much upon the respect which this society bears to him. He dare not do any thing which would disgrace or discredit him in it, and he is obliged to a very strict observation of that species of morals, whether liberal or austere, which the general consent of this society proscribes to persons of rank and fortune.⁽³⁶⁾

Burke is expressing something similar when he speaks of the 'true

(36) Smith, *Wealth of Nations*, Vol. 2, Bk. V, Ch. I, Pt. III, §3, p. 280.

natural aristocracy' which is 'taught to respect one's self' and is 'habituated to the censorial inspection of the public eye'.⁽³⁷⁾

Modern research has shown that the French aristocracy of the Old Regime was by no means closed to talented or rich commoners. From the middle of the eighteenth century to the French Revolution, the French king granted some 6,500 ennoblements: between one-fourth and one-third of noble families had achieved their status within the past fifty years.⁽³⁸⁾ It was difficult, but not impossible, for people born in modest circumstances to leave them behind, both in France and Britain. Social and economic inequality is not only about some people being at the lowest level: it is also about other people being at higher levels and acting as inspirations and examples, and also as countervailing forces to government power. Some may envy those at higher levels, but others will see them as people to admire and as sources not only of inspiration, but also of aspiration. This still seems to apply. In England outstanding scholars are routinely knighted, for example the philosophers Sir Karl Popper and Sir Roger Scruton and the historian Sir Simon Schama, or they are created life peers, for example Lord Ralph Harris, Director of the Institute of Economic Affairs, the most influential think tank in the Thatcher years, and Lord Peter Bauer, the development economist. It may be good for a society to have such resources to show respect and appreciation to people of achievement, and it in no ways detracts from them that in the United Kingdom some titles are inherited. In fact, it might make them more valuable, because then those knighted or ennobled enter into an historical community.

Burke is far from being an apologist of the titled, rich or powerful. 'I am accused, I am told abroad, of being a man of aristocratic principles,' he says in one of his speeches. 'If by aristocracy they mean the peers, I have no vulgar admiration, nor any vulgar antipathy towards them; I hold their order in cold and decent respect.' But the aristocracy performs a useful function, even if that may not always be their intention:

(37) Burke, *An Appeal to the Old Whigs from the New*, *Further Reflections*, p. 168.

(38) Donald M. G. Sutherland, *France, 1789–1815: Revolution and Counterrevolution* (New York: Oxford University Press, 1986), p. 17.

“ I hold them to be of an absolute necessity in the Constitution; but I think they are only good when kept within their proper bounds. I trust, whenever there has been a dispute between these Houses, the part I have taken has not been equivocal. If by the aristocracy (which, indeed, comes nearer to the point) they mean an adherence to the rich and powerful against the poor and weak, this would, indeed, be a very extraordinary part. I have incurred the odium of gentlemen in this House for not paying sufficient regard to men of ample property. When, indeed, the smallest rights of the poorest people in the kingdom are in question, I would set my face against any act of pride and power countenanced by the highest that are in it; and if it should come to the last extremity, and to a contest of blood,— God forbid! God forbid!—my part is taken: I would take my fate with the poor and low and feeble. But if these people came to turn their liberty into a cloak for maliciousness, and to seek a privilege of exemption, not from power, but from the rules of morality and virtuous discipline, then I would join my hand to make them feel the force which a few united in a good cause have over a multitude of the profligate and ferocious.⁽³⁹⁾

Burke has sympathy for the poor, but not for an anonymous and irresponsible mob. Both the aristocracy and the lower classes have to be kept ‘within their proper bounds’, as he puts it.

Burke places ‘established democracy’ besides monarchy, religion and aristocracy as a pillar of a free and stable order. Some bodies should be elected, for example the House of Commons in the United Kingdom. Government certainly should be by consent. But Burke explicitly rejects Rousseau’s idea that the People are invested with absolute and indivisible authority and that this does not mean any infringement on liberty since

they are ruling themselves. For Burke, democracy is essentially majority rule, and he abhors mob rule as he observes during the Revolution in Paris. There is a crucial difference between individuals within the aristocracy and the multitude which

“ are less under responsibility to one of the greatest controlling powers on earth, the sense of fame and estimation. The share of infamy that is likely to fall to the lot of each individual in public acts, is small indeed; the operation of opinion being in the inverse ratio to the number of those who abuse power. Their own approbation of their own acts has to them the appearance of a public judgment in their favour. A perfect democracy is therefore the most shameless thing in the world.⁽⁴⁰⁾

Burke also warns against the danger of the majority oppressing the minority.⁽⁴¹⁾

Burke’s conception of the nature and limits of democracy has to be understood in terms of his notion of the social contract that ties together past, present and coming generations. It is not confined to those who happen to have the vote at some particular point in time. Our ancestors and descendants have to be regarded as well as our contemporaries. ‘It is obvious that tradition is only democracy extended through time,’ English writer Gilbert Chesterton wrote. ‘Tradition means giving votes to the most obscure of all classes, our ancestors. It is the democracy of the dead. Tradition refuses to submit to the small and arrogant oligarchy of those who merely happen to be walking about.’⁽⁴²⁾

(40) Burke, *Reflections*, p. 189.

(41) *Ibid.*, p. 225.

(42) Gilbert K. Chesterton, *The Ethics of Elfland, Orthodoxy* (London: Bodley Head, 1908), p. 85. Cf. my critique of James M. Buchanan’s social contract theory for insisting on including coming generations in decisions about political structures, but leaving out our ancestors, in the chapter on him in this book.

(39) Speech on a Bill for the Repeal of the Marriage Act, 15 June 1781. Repr. in *The Works of the Right Honourable Edmund Burke*, Vol. VII (London: John C. Nimmo, 1837), p. 134.

Burke's Relevance Today

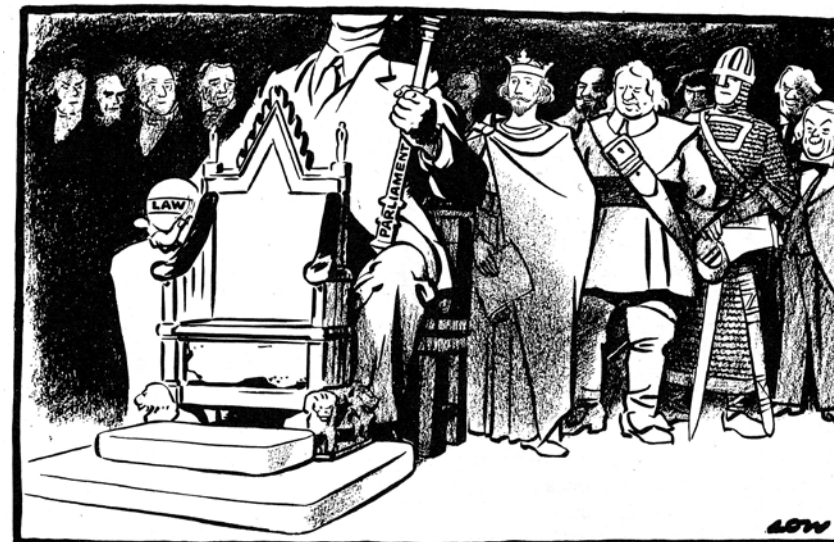
When Burke's four pillars of a free and stable society are sympathetically interpreted, it becomes obvious that he is not a reactionary. Burke is at pains to show that the Glorious Revolution of 1688 was not about electing a king, but rather about recognising a king on the basis of inheritance when his predecessor had vacated the throne. As a Whig, he supports the 1688 Revolution: the constraints on the monarch according to a social contract—which for him is slowly written by history rather than by individuals marching out of the state of nature—and the right to depose the monarch in extreme circumstances. Indeed, Burke accepts that sometimes rebellions may be necessary, but only in emergencies; and no firm rules can be given as to when they are justified:

“ Without attempting therefore to define, what never can be defined, the case of a revolution in government, this, I think, may be safely affirmed, that a sore and pressing evil is to be removed, and that a good, great in its amount, and unequivocal in its nature, must be probable almost to certainty, before the inestimable price of our own morals, and the well-being of a number of our fellow-citizens, is paid for a revolution.⁽⁴³⁾

Besides the Glorious Revolution of 1688, Burke supported four separate rebellions against authority in his time: the American War of Independence, the Corsican struggle for self-determination, the rising of the Poles against Russian oppression, and various revolts against abusive British officials in India. Alfred Cobban comments: ‘There are certain features common to all these. Each was the rising of a whole community, under its natural communal leaders in defence of just liberties against violent innovation, and no approval of revolution under any other circumstances should be read into them.’⁽⁴⁴⁾

(43) Burke, *Appeal*, p. 91.

(44) A. B. C. Cobban, Edmund Burke and the Theory of Nationality, *The Cambridge Historical Journal*, Vol. 2, No. 1 (1926), p. 40.



In the United Kingdom, popular sovereignty does not mean unlimited democracy, abhorred by Burke. It is constrained by the rule of law, the King in Parliament, and political traditions with a long pedigree. Illustration by David Low.

Even if cogent arguments may be given to respecting monarchy, an established religion and an aristocracy, partly hereditary, it is true that these institutions seem much less relevant in modern times than they were in the late eighteenth century. Some would not even take them seriously and see them as obsolete, but perhaps harmless relics of the past. But what kind of guidance could Burke give people in the twenty-first century? First and foremost, that the state should not be our only focus of loyalty, reverence and appreciation and that there are many more institutions or traditions that we should support, cultivate and develop: the rule of law, family, property, regions and nation, and the institutions that perform such necessary functions as defending a country and keeping law and order, mainly the army and the police. Three practical examples, different in scope and importance, could be given: child support, national monuments and federalism.

Assume there is broad agreement that families should be supported in bringing up their children. Then a Burkean conservative liberal would favour a choice by families between using the money available either for running nurseries and kindergartens (which could be private, even if publicly funded) or as direct payments to the mothers or fathers who

choose to remain at home in order to rear their young children. They would receive the same sum as would be used to subsidise other parents who would send their children to nurseries and kindergartens.

Again, a Burkean conservative liberal, believing in a social contract of past, present and coming generations rather than a business deal made between those who are walking around today, would seek to preserve and respect certain potent symbols of our common life and shared values, not allowing disrespect for the flag, maintaining historic buildings, operating museums, memorials and national parks, protecting natural wonders such as the American Eagle and other things with special significance for past and coming generations. A Burkean conservative liberal would be a conservationist, looking to the future no less than to the past.⁽⁴⁵⁾

The third modern case where Burkean considerations might seem quite relevant is that of regions and nations, not least in Europe with her rich tapestry of distinct local communities, such as Flanders in Belgium, Scotland in Great Britain and Catalonia in Spain. Whether these three regions and others in a similar situation will continue to be self-governing units within larger states or become independent states themselves is something to be left to history, the choice of generations, daily confirmed,⁽⁴⁶⁾ but what is important is that they provide foci of loyalty and identification to many or most of their inhabitants. Sometimes such communities are both political and cultural, such as the three Baltic states, Estonia, Latvia and Lithuania, which were occupied by the Soviet Union for decades, but never really accepted Russian control. Sometimes such communities are however mainly cultural and extend to many independent countries or to parts of them. One example would of course be the British Commonwealth of which the United Kingdom and many former British territories are members, and of which the British Queen is head, although some member states have become republics. Another example is the Nordic countries. For a long time, Sweden and Finland on the one hand and Denmark, Norway and Iceland on the other hand were

politically united, and all five countries also formed a union for a while, the Kalmar Union. The Nordic nations share many cultural traits, and today they cooperate in the Nordic Council. Indeed, before the European Union came into being, they had already abolished passport control on their borders and established a common labour market. A third example is the Tyrol Council whose members are those regions in Switzerland, Austria and Italy which used to belong to ancient Tyrol. They share a long, if not unbroken history and German as language, although politically they are separated.

Presumably Burkean conservative liberals would look with sympathy on such spontaneously formed communities, and they would tend to think that if there is a problem about smallness, it could be overcome by federations (such as the United States of America) and alliances (such as NATO, the North Atlantic Treaty Organisation). What is essential is that such communities are natural—spontaneously developed—and not artificial, imposed from above.⁽⁴⁷⁾ Loyalty to them has to be earned, not commanded. ‘There ought to be a system of manners in every nation which a well-formed mind would be disposed to relish. To make us love our country, our country ought to be lovely.’⁽⁴⁸⁾

(45) Roger Scruton, *Green Philosophy: How to think seriously about the planet* (London: Atlantic Books, 2013); Hannes H. Gissurarson, *Green Capitalism: How to Protect the Environment by Defining Private Property Rights* (Brussels: New Direction, 2017).

(46) Ernest Renan, What is a Nation? (1882), *What is a Nation? and Other Political Writings*, tran. by M. F. N. Giglioli (New York: Columbia University Press, 2018), pp. 247–263.

(47) Cf. Chandran Kukathas, *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003). The author presents the idea of a ‘society as an archipelago of different communities operating in a sea of mutual toleration’.

(48) Burke, *Reflections*, p. 172.

Anders Chydenius

(1729–1803)

In modern times, the five Nordic countries, Sweden, Denmark, Finland, Norway, and Iceland, have been held up as being quite successful, all of them being free, stable, and prosperous. But how can their relative success be explained? Is there anything like a 'Nordic model' from which other nations may learn? It is noteworthy that the Nordic countries were only united politically, under a king from the Danish royal family, for little more than a century, from 1397 to 1523. Then the Swedes re-established their own kingdom, comprising most of present-day Sweden and Finland. While all Nordic nations converted to Lutheranism in the early sixteenth century, Sweden was for a while a major power in the Baltic region, but lost many of her possessions in a war against Russia, Poland and Denmark which ended in 1721. As a result of the defeat, the Swedish Diet, the Estates of the Realm, which could trace its roots all the way back to a 1435 meeting of the nobility, gained in influence. It consisted of four estates, the nobility, clergy, burghers and peasants. Soon two loosely defined parties emerged in the Diet, the 'Hats', *hattar*, mainly aristocrats, who sought to restore Sweden to her former glory, and the 'Caps', *mössor*, who wanted to pursue peace. In 1765, the clergy in Ostrobothnia (Österbotten in Swedish)—roughly Central Finland—elected from their ranks a Swedish-speaking Finn to the Diet. He was a young parish priest from the small town of Nedervetil, known as a Cap, Anders Chydenius, who was to become a pioneer of Swedish liberalism. He provided 'an almost classically clear and simple exposition of the fundamental tenets of economic liberalism'.⁽¹⁾

In his writings and as a deputy to the Estate of the Clergy, Chydenius successfully fought for increased economic freedom in the Swedish Realm. Painting by Per Fjällström.

(1) Eli F. Heckscher, *Ekonomisk-historiska studier* (Stockholm: A. Bonnier, 1936), p. 121.

Chydenius' Life and Works

Anders Chydenius was born on 26 February 1729 in the inland commune of Sotkamo in Central Ostrobothnia, not far from the border with Russia, the son of Hedvig Hornæus and her husband Jacob Chydenius, who was chaplain of the church there. When Anders was five years old, the family moved to the inland town Kuusamo in Northern Ostrobothnia where his father Jacob became a vicar and in 1746 the family moved westwards, to another town in Northern Ostrobothnia, Kokkola, close to the Gulf of Bothnia in the Baltic Sea. In 1745–1753 Anders studied philosophy and theology at Turku Academy in Finland (*Åbo* in Swedish) and at Uppsala University in Sweden. 'Apart from the philosophical sciences, I was very interested in mathematics, especially geometry, astronomy, gnomonics, mechanics and some algebra,' Anders later recalled.⁽²⁾ Upon finishing university he became chaplain in Nedervetil (*Alaveteli* in Finnish), close to his father's parish. Married, but childless, he was a diligent and resourceful farmer, and a conscientious shepherd of his flock. He was a practical man, active in the clearing of marshes, experimenting with new breeds of animals and plants, and adopting new methods of cultivation. He also tried to be useful in other ways, performing minor operations, preparing medicines and inoculating his parishioners against smallpox. Soon, he became interested in issues of trade and politics. At the time, the Kingdom of Sweden followed mercantilist policies and upheld the monopoly of a few chartered cities to engage in foreign trade. Thus, the farmers and burghers of Ostrobothnia were not able to sell their products, mainly tar and timber, directly to customers in other countries. Trade had to go through Stockholm, at the other side of the Gulf of Bothnia.

Chydenius became convinced that trade monopolies worked against the public good. If the Kingdom of Sweden was to prosper, free trade was necessary, indeed freedom in general. In 1763 he participated in

an essay competition held by the Swedish Royal Academy of Sciences on the causes of emigration. His contribution proved however too radical for the jury, and he did not even get an honourable mention. In his essay, Chydenius detailed the abuses, regulations and taxes making it difficult to escape poverty in Sweden. 'A fatherland without freedom and livelihood is a big word that signifies little.'⁽³⁾ The reputation which Chydenius had by now gained in Ostrobothnia ensured his election to the Estate of the Clergy in the Swedish Diet. In 1765, the Caps were for the first time in control of the Diet, and Chydenius emerged as an active and influential member of their party. In Stockholm, he wrote several political pamphlets, but the most important one was *National Gain* where he argued that 'each individual will of his own accord gravitate towards the locality and the enterprise where he will most effectively increase the national profit, provided that the laws do not prevent him from doing so.'⁽⁴⁾ In the Diet, Chydenius successfully campaigned for the abolition of trade restrictions on the towns in Ostrobothnia. He was also instrumental in abolishing censorship in Sweden. In three memorials on freedom of the press he expressed his belief that in a free competition of ideas, truth would win. Man was a fallible being, and therefore nobody could be entrusted with deciding what to publish and what not to publish.⁽⁵⁾ His arguments were accepted and a Freedom of Information Act was passed by the Diet, the first of its kind in the world. But finally,

(3) Anders Chydenius, *Svar På den af Kgl. Wetenskaps Akademien förestälta Frågan: Hwad kan wara orsaken, at sådan myckenhet Swenskt folk årligen flytter utur Landet? och genom hwad Författningar det kan bäst förekommas?* (Peter Hesselberg, Stockholm, 1765), §18. Repr. Answer to the Question Prescribed by the Royal Academy of Sciences: What May Be the Cause of So Many People Annually Emigrating from This Country? And by What Measures May It Best Be Prevented? *Anticipating The Wealth of Nations*, pp. 63–120. In the original, these words are in italics. Chydenius used the same words in other works.

(4) Anders Chydenius, *Den Nationnale Winsten* (Stockholm: 1765), §5. Repr. *The National Gain, Anticipating The Wealth of Nations*, pp. 142–165.

(5) Memorial om tryckfriheten, 1765. Manuscript in the National Archives of Sweden. Repr. Memorial on the Freedom of Printing, *Anticipating The Wealth of Nations*, pp. 219–225; Rikens höglofl. ständers stora deputations tredje utskotts betänkande, angående skrif- och tryckfriheten; gifwit wid riksdagen i Stockholm then 18 december 1765. Repr. Report of the Third Committee of the Grand Joint Committee of the Honourable Estates of the Realm on the Freedom of Writing and Printing, submitted at the Diet in Stockholm on 18 December 1765, *Ibid.*, pp. 228–234; Rikens höglofl. ständers stora deputations tredje utskotts ytterligare betänkande rörande tryckfriheten; gifwit wid riksdagen i Stockholm d:n 21. aprilis 1766. Repr. Additional Report of the Third Committee of the Grand Joint Committee of the Honourable Estates of the Realm on the Freedom of Printing, Submitted at the Diet in Stockholm on 21 April 1766, *Ibid.*, pp. 237–248.

(2) Anders Chydenius, *Självlbiografi* (manuscript, 1780). *Autobiography submitted to the Society of Arts and Sciences in Gothenburg*, tran. by Peter C. Hogg. Repr. *Anticipating the Wealth of Nations: The Selected Works of Anders Chydenius, 1729–1803*, ed. by Marin Jonasson and Pertti Hyttinen, introd. by Lars Magnusson (London: Routledge, 2012), pp. 331–350. Gnomonics is the art of constructing and using sundials.



Chydenius became too outspoken and independent for his party, the Caps. The currency had depreciated under the previous Hats regime, and the Caps wanted to restore it to its former value. After studying the issue, Chydenius became convinced that it would be more prudent to fix it at its present level.⁽⁶⁾

When he published a pamphlet about this in 1766, the majority in the Estate of the Clergy turned on him for having offended the Diet and had him expelled.

Chydenius returned in 1766 to Ostrobothnia as somewhat of a celebrity. When the Caps eventually had to accept the depreciation of the currency, his analysis of Sweden's monetary plight seemed to be fully vindicated. Chydenius was elected again to the Diet in 1769, but his election was invalidated because of a formality. In 1770 he became vicar of Kokkala, following in the footsteps of his father. Two years later, King Gustav III seized absolute power in a coup although he did not abolish the Diet. Chydenius had become disgusted with the corruption

When Danish kings ruled Sweden in the 14th century, they impoverished her with exorbitant taxes. If people did not pay up, their dwellings were burned to the ground. Painting by Carl Gustaf Hellquist, Valdemar Atterdag imposes a levy on Visby, 1361.

and bickering in the Diet and welcomed some liberal initiatives of the king. In 1778 he was elected for the third time to the Diet. No sooner had he arrived in Stockholm than he published a pamphlet pleading for reforms of existing statutes about servants and hired workers. At the time, they had very limited rights, their masters even being able to administer corporal punishments to them. 'I speak only in favour of the one small but blessed word *Freedom*,' Chydenius wrote.⁽⁷⁾ While many, including King Gustav, were sympathetic to his suggestions they were also vigorously resisted and only implemented in the mid-nineteenth century. Chydenius made more headway with another idea: introducing religious freedom in Sweden and welcoming people of other religions to the country, including Catholics and Jews. The Swedes should, he wrote, open their arms 'to all those unfortunates who already are or may in future be deprived of a sanctuary in their native countries and therefore yearn to move elsewhere in search of some protection from violence and oppression'.⁽⁸⁾ Despite fierce opposition from many in his own Estate of the Clergy, Chydenius managed to convince the other three Estates of his proposal, and also King Gustav who remarked: 'I am fairly audacious as well, but I would never have dared to do what Chydenius did.'⁽⁹⁾ Sweden passed a Toleration Act in 1781.

The Diet sat until 1779 when Chydenius returned to the Kokkola vicarage and with his usual diligence resumed his pastoral duties. He was having misgivings about King Gustav who had abandoned some of his liberal policies and who was also engaging in military adventures. In early 1792 Chydenius was elected for the third time to the Diet which now met in Gävle, only for a month. Soon afterwards the king was assassinated by disgruntled aristocrats. This was a time of conflict and great uncertainty in Swedish society. But even if Chydenius still had the courage of his convictions, he was no revolutionary. In a letter from the autumn of 1793 he commented on the French Revolution which had started four and

(6) Anders Chydenius, *Rikets Hjälp, Genom en Naturlig Finance-System* (Stockholm: 1766). Repr. A Remedy for the Country by Means of a Natural System of Finance, *Anticipating The Wealth of Nations*, pp. 170–212.

(7) Anders Chydenius, *Tänkar Om Husbönders och Tienstehions Naturliga Rätt* (Stockholm: 1778), §12. Repr. Thoughts Concerning the Natural Rights of Masters and Servants, *Anticipating The Wealth of Nations*, pp. 281–312.

(8) Anders Chydenius, *Memorial, Angående Religions-Frihet* (Stockholm: 1779). Repr. Memorial Regarding Freedom of Religion, *Anticipating The Wealth of Nations*, pp. 317–322.

(9) Chydenius, *Autobiography*.

a half years earlier, describing how he had ‘observed streams of blood flowing under the banner of enlightenment and freedom and under the sacred name of the enlightenment a frenzy of high-handedness rapidly spreading around the whole of Europe, which threatened rulers, subjects and citizens alike with the most terrible anarchy’.⁽¹⁰⁾ Later, Chydenius wrote an essay which remained unpublished during his lifetime about how the sparsely populated Lapland in the very north of Finland could be turned into an economic free zone where agriculture, industry and trade would be totally unregulated.⁽¹¹⁾ He also devoted much time to writing his sermons and to farming his land, while directing an orchestra which gave concerts in the vicarage. Chydenius passed away on 1 February 1803.

Natural Rights and Harmony of Interests

Chydenius’ case for liberty rested on two pillars, natural rights and harmony of interests. Economic freedom ‘guarantees a Swede the enjoyment of his most precious and greatest natural right, granted to him as a human being by the Almighty, namely, to earn his living by the sweat of his brow in the best way he can’.⁽¹²⁾ In economic affairs Chydenius’ premise was similar to that of John Locke with whose works he was familiar: God had given the resources of nature to man for his use and enjoyment. He should be fruitful, multiply, fill the earth and subdue it. ‘Should the great Master, who adorns the vale with flowers and clothes the very mountain peak in grass and moss, expose such a great flaw in human beings, His masterpiece, as that they should be unable to populate the globe with as many inhabitants as it can feed?’ But each man should be a producer and not a parasite on his fellow human beings: ‘The more opportunities that the laws provide for some to live on the toil of others and the more obstacles that are placed in the way of others’ ability

(10) Brev till Nils von Rosenstein 21 August 1793. Georg Schauman, *Biografiska undersökningar om Anders Chydenius* (Helsingfors: 1908), pp. 412–413. In English: Letter to Nils von Rosenstein 21 August 1798, tran. by Peter C. Hogg, <http://chydenius.kootuttekset.fi/kirjoitukset/brev-till-von-rosenstein-1793/?lang=en>

(11) Förslag till Lappmarkernas upphjälpande. Schauman, *Biografiska undersökningar*, pp. 623–627. In English: Proposal for the Improvement of Lapland, tran. by Peter C. Hogg, <http://chydenius.kootuttekset.fi/kirjoitukset/brev-till-von-rosenstein-1793/?lang=en>

(12) Chydenius, *The National Gain*, §31.

to support themselves by their labour, the more will industriousness be stifled.’⁽¹³⁾ Chydenius took self-interest for granted:

“ Each individual pursues his own advantage. That inclination is so natural and necessary that every society in the world is based on it: otherwise laws, penalties and rewards would not even exist and the whole human race would perish completely within a short space of time. That work is always best rewarded that is of the greatest value and that most sought after that is best rewarded.”⁽¹⁴⁾

He pointed out however that the ‘injurious’ self-interest ‘which always tries to conceal itself behind one regulation or another’ could ‘most effectively be controlled by mutual competition’.⁽¹⁵⁾

This ‘mutual competition’ was the reason why the pursuit of self-interest need not result in destructive chaos, according to Chydenius. People adjust to one another; if left free, then they move on their own from a less to a more valuable use of their labour. In such a way, private and national profit merge into a single interest, as he put it. There could be a harmony of interests, or what modern economists would call spontaneous coordination. Like Adam Smith later, Chydenius realised that it was the division of labour which brought about prosperity: ‘If ten men in one trade produce commodities to a value of 100 *daler* a day but in another to no more than 80, it is clear that the work of the ten men in the latter causes the nation a loss of 20 *daler* every day.’⁽¹⁶⁾ The gravitation of labour to its most valuable use was similar to the downward movement of water, an analogy which Chydenius frequently used. Superfluous regulations were like ‘dams that concentrate the people in certain places, removing them from one place and moving them to another, without it being possible to say in

(13) *Ibid.*, §4.

(14) *Ibid.*, §5.

(15) *Ibid.*, §31.

(16) *Ibid.*, §8.

Swedish expansionism ended with military defeats under King Charles XII. After that, the country could devote herself to the maintenance of peace and the pursuit of prosperity. Painting by Gustaf Cederström, Bringing Home the Body of Charles XII.



which place they will be most useful and increase or reduce the national profit'. Thus, Chydenius' conception of the economy was dynamic rather than static, expressed in terms of a stream rather than a pond:

“ When the stream is allowed to run evenly, every drop of water is in motion. When there are no obstacles in the way, every worker competes for his livelihood and thereby increases the profit to the nation. By means of regulations, people are concentrated in certain groups, the opportunities to move into industry are reduced and a small number of people within each group rise above the majority, whose well-being is presented as evidence of the prosperity of the whole kingdom.⁽¹⁷⁾

Chydenius was much more concerned about inequality as a result of privileges created and protected by government than about inequality flowing from different individual achievements. 'The community at large may have no right to the property of private individuals when it has been legally acquired, but on the other hand it also contributes to the ruin of the country if it does not promptly open those dams that have gathered wealth together in a few places and impoverished the rest.'⁽¹⁸⁾

Implicit in Chydenius' case for liberty was a persuasive critique of interventionism. Government regulations and other attempts to steer the economy away from what would be its natural course were harmful, he held, for four main reasons. The politicians making them had no fixed principles to follow; they were not in a position to know which branch of industry would produce the greatest national profit, or how many should be employed there; they might have a special interest in moving people into some particular branch of industry; and some unexpected events might undermine the whole system and turn useful regulations into harmful ones. It is noteworthy that Chydenius, by emphasising ignorance and time, anticipated the approach of the Austrian School of

Economics, especially Carl Menger and Friedrich von Hayek, who viewed the economy as a process rather than as a given state of affairs. Chydenius also was a precursor of James Buchanan's Public Choice School when he stressed that politicians and public servants might be motivated by self-interest like the rest of society. Again, an early statement of a point often made by Ludwig von Mises, that interventionism may become a vicious circle wherein one regulation requires another, is found in Chydenius: 'One constraint always makes another inescapable.'⁽¹⁹⁾

Chydenius' Intellectual Heirs

Chydenius was not a systematic thinker who would devote his whole life to writing a big treatise of economics like Adam Smith did with his *Wealth of Nations*, published eleven years after Chydenius' *National Gain*. Certainly, many of their ideas were already circulating in eighteenth century society. But it is remarkable how insightful this Lutheran pastor in a sparsely populated periphery of Europe was, and how clearly and forcefully he expressed his views. Chydenius was also a brave and successful champion of freedom in the Kingdom of Sweden, being instrumental during his first term in the Diet in lifting trade restrictions in the Gulf of Bothnia and in abolishing censorship and during his second term in introducing religious freedom. He represented the same sturdy Swedish individualism as Lawspeaker Torgny in his famous message to the Swedish king in 1018: respect our ancient rights and keep the peace. But ideas are not enough. They have to conspire with circumstances. Arguably, and paradoxically, some preconditions for the revival of Swedish individualism were laid by the country's defeat in the struggle against Russia in the early eighteenth century. In 1718, Sweden not only had to bury King Charles XII, but also her military ambitions abroad. She ceased to be a major European power which meant that she could turn to domestic reforms, and transform herself from a military to an industrial society. Shortly after a further setback in 1809 when Sweden lost

(17) Ibid., §15.

(18) Anders Chydenius, *Källan til rikets van-magt* (Stockholm: Lars Salvius, 1765). Repr. The Source of Our Country's Weakness, *Anticipating The Wealth of Nations*, pp. 124–138.

(19) Anders Chydenius, Thoughts Concerning the Natural Right of Masters and Servants, §1.

Finland to Russia, Swedish poet Esaias Tegnér expressed this thought in a memorable poem:

“ Led flodens böljor kring som tamda undersåter
och inom Sveriges gräns erövra Finland åter!⁽²⁰⁾

(Lead the river waves around as compliant subjects; and regain Finland inside Sweden's border.) The first line referred to the construction of the great Göta Canal in Southern Sweden then under construction. Tegnér was telling his compatriots that they should give up trying to conquer foreign countries, and instead subdue nature within the borders of Sweden, and thus make up for the loss of Finland.

Danish poet Hans Peter Holst expressed a similar thought after the catastrophic defeat of Denmark in a war over Schleswig against the German Federation in 1864:

“ For hvert et tab igen erstatning findes;
hvad udad tabes, det må indad vindes.⁽²¹⁾

(Every loss brings with it some compensation; what is lost outside, should be regained inside.) Under ambitious kings, both Sweden and Denmark had sought to become military powers; and both countries had to abandon their dreams of glory which turned out to be, for their inhabitants, a blessing.

In Sweden, the liberal tradition, facilitated by Sweden's turn inwards and articulated by Chydenius, had great impact in the nineteenth century. Perhaps the army officer Count Georg Adlersparre (1760–1835) was not as original as Chydenius, but he was even more influential. He translated parts of Adam Smith's *Wealth of Nations* for a magazine he published and was the first Swede to call himself 'liberal'. After the loss of Finland, Adlersparre led a successful revolt against King Gustav IV Adolf. The ousted king's childless old uncle was put on the throne,

(20) Esaias Tegnér, *Svea* (1812), 2.

(21) Poem engraved on a commemorative medal at a Nordic Exposition of Industry and Arts in Copenhagen 1872.

and restrictions on the freedom of the press—which the two previous monarchs had reintroduced, after Chydenius' reform in 1766—were lifted again. A constitution was adopted which in a perhaps typical Swedish way was the result of a compromise between liberals and conservatives. Freedom of the press, of religion, and of assembly, as well as the protection of property rights were guaranteed, while the nobility retained some of its privileges. Bitterly disappointed when his candidate to succeed the old king suddenly died, Adlersparre retired from politics. One of Napoleon's generals, Jean-Baptiste Bernadotte, calling himself Carl Johan in Swedish, was elected king. He allied himself with Russia and Great Britain against Napoleon and in 1814 as compensation for Finland received Norway from Napoleon's defeated ally Denmark. To placate the unruly Norwegians, he had however to accept a much more liberal constitution there than in Sweden, the Eidsvoll Constitution, largely written by Adam Smith's friend and disciple, Carsten Anker (1747–1824). Indeed, Eidsvoll, the building in which the constitution was ratified, was owned by Anker.

King Carl Johan turned out to be quite authoritarian, forcing the liberals into opposition. One of them was the distinguished legal scholar Johan Gabriel Richert (1784–1864). As a young man, he had read the Icelandic sagas, finding their account of arbitration by consent rather than commands fascinating.⁽²²⁾ He proposed several legal reforms in order to liberalise Swedish society, but his proposals were only slowly adopted. Another liberal in opposition to the authoritarian king was the nobleman Lars Johan Hierta (1801–1872). Both a successful entrepreneur and a political activist, in 1830 he founded *Aftonbladet* which became a bastion of liberalism and the growing middle class, fighting against class privileges and economic controls. Hierta had a copy of a famous painting of the American revolutionaries of 1776 on the wall in his office, and like Chydenius he strongly believed that no group should be allowed to take money out of others' pockets. His liberalism was eclectic, bringing together utilitarian arguments and ideas of natural rights. 'Some would argue that this is characteristic of the Swedish mentality,' Johan Norberg

(22) Johan Norberg, *Den svenska liberalismens historia* (Stockholm: Timbro, 1998), p. 81.

remarks.⁽²³⁾ Hierta and other liberals were convinced that the only way to bring Sweden out of poverty was to liberalise the economy and to create new opportunities both for the peasants remaining in the countryside and for the poor masses flocking to the cities.

It was quite a sensation, as well as a sign of the times, when Sweden's most distinguished intellectual, the poet, historian, and composer Erik Gustav Geijer (1783–1847), in 1838 openly declared his wholehearted support for economic liberalism. Because of his patriotic verses and writings on the history of Sweden, until then he had been regarded as more of a conservative. Inspired like Richert by the Icelandic sagas, in his poems Geijer portrayed the independent Swedish farmer, working in the sweat of his brow, holding his own against the wealthy and the learned:

“ Må ho, som vill, gå kring världens rund:
vare herre och dräng den det kan!
Men jag står helst på min egen grund
och är helst min egen man.

(May he who so likes, go all over the world, be master or servant. But I would rather stand on my own ground and be my own man.) Geijer insisted that the real measure of a system was not found by asking the powerful and the wealthy. What mattered was how the humble and the weak fared.⁽²⁴⁾

After King Carl Johan's death in 1844, the Swedish government became more open to liberal ideas. An ardent disciple of French writer Frédéric Bastiat, Baron Johan August Gripenstedt (1813–1874), was in 1848 appointed minister without portfolio, and in 1856 finance minister. In the following decade, he used his considerable political skills to implement comprehensive liberal reforms, especially after he was in 1858 joined in the government by another committed liberal, Baron Louis De Geer (1818–1896). The Diet of the four Estates was replaced by a bicameral Parliament; the guilds were abolished; entry into business was facilitated; regulations

(23) Johan Norberg, *How Laissez-Faire Made Sweden Rich*, <https://www.libertarianism.org/publications/essays/how-laissez-faire-made-sweden-rich>

(24) Erik Gustaf Geijer, *Freedom in Sweden* (Stockholm: Timbro, 2017), p. 238.



Stockholm Stock Exchange, built in 1773–1778 and now the headquarters of the Swedish Academy: Liberal economic reforms in 1848–1866 laid the foundations for Sweden's modern prosperity. Photo Arild Vågen.

on the important timber and iron industries were lifted; tariffs were lowered; a law was passed on joint-stock companies; banks were established and interest rates deregulated; public education was improved; freedom of the press and of religion were expanded;

women won rights to own and inherit property, receive education, and make a career. Together, Gripenstedt and De Geer also resolutely pursued a foreign policy of non-intervention, in the spirit of Lawspeaker Torgny and Anders Chydenius. They for example stopped plans by the king to assist Denmark in the Schleswig War. In 1865, Sweden joined the free-trade treaty between France and the United Kingdom. Two years later, when the bicameral Parliament convened for the first time, Lars Johan Hierta, as its oldest member, gave the opening address, celebrating recent liberal reforms and warning his fellow parliamentarians not to devise new ways of taking money from the people.

Gripenstedt was fond of quoting Tegnér's exhortation about regaining Finland inside Sweden's border. When he stated that Sweden, one of the poorest European countries at the time, could become one of the richest through free trade and modernisation, his opponents tried to ridicule

him and his ‘flower paintings’.⁽²⁵⁾ But Gripenstedt was proved right. Liberalism transformed Sweden. In 1860–1910, real earnings of male industrial workers increased by 25 per cent per decade, while life expectancy increased by 12 years. Indeed, in the fifty years from 1860 to 1910, real earnings increased by 17 per cent, whereas in the next fifty years, from 1910 to 1960, they increased by 110 per cent.⁽²⁶⁾ The living standards of ordinary people improved not only as a result of higher earnings, but also because they got running water, sewerage and electric lights installed in their homes, and access to other material goods. During this period, government remained small: at the turn of the century, central public expenditure was only about 6 per cent of GDP. New companies were established to produce goods out of the ‘green gold’, as timber was called, and out of iron and other resources. Entrepreneurs flourished. Lars Magnus Ericsson devised an automatic telephone exchange and founded L. M. Ericsson. Alfred Nobel invented dynamite and established Nitroglycerin AB. Sven Wingquist designed the self-regulating ball bearing and created SKF. Gustaf Dalén invented a flashing apparatus for lighthouses and set up AGA. Axel Wenner-Gren built up Electrolux, introducing vacuum cleaners and refrigerators into Swedish homes. André Oscar Wallenberg founded Stockholms Enskilda Bank and Albert Bonnier started a publishing company. In Swedish intellectual life, liberals were prominent, for example the pioneer of academic economics, Count Gustaf Knut Hamilton, who contrasted spontaneous associations to enforced associations envisaged by socialists.

The new Swedish Parliament did not altogether heed Hierta’s advice to seek only the common good instead of serving special interests. In the 1880s tariffs on grain were raised, and protectionists took power, although they were unable to reverse most of the liberal reforms. In 1889, the Social Democratic Party was founded with the explicit goal of gaining power and using it for the benefit of only a segment, albeit a large one, of the population, urban workers. The Social Democrats were however against ‘hunger tariffs’, realizing that they reduced the

living standards of the poor. Slowly, economic liberalism ceased to be a new and attractive idea and seemed to become merely a defence of the status quo. Great Britain had long been the model for many Swedes, but now Otto von Bismarck’s new state south of the Baltic Sea, the vigorous German Empire, was viewed with admiration, not least Bismarck’s introduction of government-funded welfare benefits and of tariffs to protect domestic industry. But both the German and the Russian empires collapsed in the First World War, and Chydenius’ homeland, Finland, gained her independence. Since 1809, Finland had been a Grand Duchy within the Russian Empire, with some autonomy. But the liberal tradition in Finland was not strong. Finns certainly claimed Chydenius as their countryman, but it complicated the development of liberal ideas and movements in Finland in the 19th century that the population was divided between a large Finnish-speaking majority and a small Swedish-speaking minority which had formerly constituted most of the ruling elite of the country. Nationalism, both Finnish and Swedish, played a much more important role in Finland than liberalism, even if the Young Finns, prominent at the end of the 19th century, were at once nationalists and liberals. Nonetheless, the Finnish republic established in 1917 was built on the liberal principles of constitutional democracy and the protection of human rights. Its constitution was written by the distinguished legal scholar Kaarlo Juho Ståhlberg (1865–1952) who served as President of Finland in 1919–1925. But the Soviet Union, established after the Bolshevik Revolution, cast a long shadow over Finland until its dissolution in 1991.

Swedish Liberalism Today

In Sweden, during and after the First World War the old differences between conservatives and liberals were gradually replaced by differences between on the one hand conservative-liberals in a broad sense, split into many political parties, and on the other hand socialists, organised in one large party, the Social Democrats, with a small communist party to their left. Two renowned economists became outspoken critics of advancing socialism, Gustav Cassel (1866–1945) and Eli Heckscher (1879–1952). As young men, both had been rather sceptical about economic freedom,

(25) Norberg, *Den svenska liberalismens historia*, p. 147.

(26) Norberg, *How Laissez-Faire Made Sweden Rich*.

but by their studies and reflections they had become convinced that socialism would not have the beneficial consequences intended or at least advertised. Cassel, a mathematician by training, was Economics Professor at Stockholm University. He was a world-famous monetary economist who developed the idea of purchasing power parity and was internationally influential in the 1920s. He was also an excellent writer who contributed a stream, almost a torrent, of articles, in lucid, powerful prose, to Swedish newspapers in the 1920s and 1930s on the virtues of competition and the free market.⁽²⁷⁾ Heckscher was Economics Professor at the Stockholm School of Economics. As a scholar, he contributed to the theory of international trade and wrote a comprehensive history of mercantilism as well as a monumental economic history of Sweden.⁽²⁸⁾ He mainly argued for economic freedom on consequentialist grounds. He held that income distribution ought to be as equal as it could be without harming the process of wealth creation,⁽²⁹⁾ in a clear anticipation of John Rawls' theory of justice.⁽³⁰⁾ Heckscher was like Cassel adamantly opposed to protectionism: 'Either an economic sector is profitable, and then it does not need tariff protection; or it is not profitable, and then it does not deserve tariff protection.'⁽³¹⁾ But to their chagrin, Cassel and Heckscher saw the Social Democrats assume power in 1932, although neither of them probably imagined that they would keep it for 44 years.

Immediately after the war, the Social Democrats adopted a radical programme calling for comprehensive economic planning. Swedish businessmen looked with apprehension on this development and welcomed the translation of Friedrich von Hayek's 1944 book, *Road to Serfdom*, where he argued that national socialism and communism were of the same ilk and that despite the undoubtedly good intentions of many

(27) Gustav Cassel, *Socialism eller Framåtskridande* (Stockholm: Norstedt & Söner, 1928). Parts of this collection of articles were translated into both Danish and Icelandic. In Iceland, Cassel had quite an impact on members of the Independence Party, Iceland's conservative-liberal party, founded in 1929, especially on its first Leader, Jon Thorlaksson.

(28) Eli F. Heckscher, *Mercantilism*, Vols. I–II (London: Allen & Unwin, 1935); *An Economic History of Sweden* (Cambridge MA: Harvard University Press, 1954).

(29) Norberg, *Den svenska liberalismens historia*, p. 229.

(30) John Rawls, *A Theory of Justice* (Cambridge MA: Belknap Press of Harvard University Press, 1971).

(31) Johan Norberg, *Den svenska liberalismens historia*, p. 232.



Chydenius teaches that economic freedom can establish harmony between producers and consumers. He was featured on a Finnish banknote.

social democrats, the extensive economic planning they craved would, if consistently carried out, lead to despotism. In Sweden, as in many other countries, a lively debate took place about Hayek's dire warnings. One of

Sweden's best-known social democrats, Herbert Tingsten, Professor of Politics at Stockholm University, even changed his mind after reading Hayek's book. In June 1945 Tingsten said in a famous radio debate: 'The problem is whether one can, in a state which directs, leads, plans, and owns most things, preserve freedom in some designated sectors which are then highly taxed. Will such small oases not soon be destroyed by the desert storm which central planning really is?'⁽³²⁾ Soon afterwards, Tingsten left his professorship and became editor of one of Sweden's largest newspapers where he used his eloquence and wide learning to promote liberal principles, but displayed more interest in politics than economics. When Hayek founded an international academy of liberal thinkers, the Mont Pelerin Society, in 1947, Heckscher and Tingsten became members. However, Tingsten only attended the first meeting of the society. He did not share the fierce opposition of some members, Ludwig von Mises in particular, to redistribution.

The lively debate in Sweden on central planning at the end of the war

(32) *Ibid.*, p. 267.

was an intellectual victory for the anti-socialists. In order to keep power, the Social Democrats retreated somewhat from their most radical positions. The next two decades saw a new consensus forming whereby the state refrained from nationalisation and comprehensive economic planning, but instead levied high taxes on the more well-off, while not impairing the competitiveness of the export industries. This was the time of ‘Harpseud Democracy’, named after a country manor that a rich industrialist left the Swedish state in 1952 as the prime minister’s summer house. Regular consultations were held there between leaders of the Social Democrats, the business community, and the trade unions. It sometimes felt, critics said, like Sweden was not ruled by her people, but by an unholy alliance of Big Government, Big Business, and Big Labour. The Social Democrats cautiously started extending welfare benefits to the middle class both to enlarge their own electoral basis and to strengthen support for the welfare state, just like Bismarck had introduced welfare benefits in Germany to try and capture the working-class vote. In the 1960s and 1970s, the welfare state seemed to be firmly entrenched in Sweden, the old liberals quietly falling silent and leaving the scene without younger thinkers or activists replacing them.

A rare exception was economist Sven Rydenfelt (1911–2005). In his books Rydenfelt applied classical price theory to economic problems, noting for example that rent control reduced supply of housing relative to demand and that the welfare state was like a knight in armour: the heavier the protection, the less the mobility.⁽³³⁾ Polemical and uncompromising, Rydenfelt was not a prophet in his own country. Slowly but surely, the Social Democrats continued raising taxes and increasing welfare benefits, intensifying the corporatism inherent in ‘Harpseud Democracy’, except that the business community was no longer welcome at the table. By 1970, in the Social Democratic Party ideologues had replaced pragmatists, and the emphasis had shifted from lifting up the poor to bringing down the rich. Ambitious plans were designed to transfer private enterprises gradually into the hands of trade

unions by means of special wage earner funds. Swedish society was to become as socialised as possible: capitalism without capitalists. But as sometimes happens, the time of a movement’s greatest triumph is also the time when it may have over-extended itself. The ‘Swedish model’, touted by left-wing intellectuals around the world, was not to last. Indeed, a distinction can be made between three Swedish models. The Chydenius model, as it could be called, was developed in the mid-19th century, when the principles of free trade and unfettered competition were generally accepted and implemented in Sweden. The years between 1970 and 1990 were the heyday of the social democratic welfare model, although it had started its development much earlier and was to last for a few more years. The third model emerged in the 1990s after the failure of the social democratic model: this was the liberal welfare model, based on a new consensus in Sweden of reducing taxes and encouraging entrepreneurship, while securing the access of all citizens to welfare services irrespective of their means.

The reason why the second Swedish model was abandoned was simple. It was unsustainable. The economy stagnated, entrepreneurs left the country, the only new jobs created were in the public sector, and the traditional Swedish virtues of hard work, self-reliance and thriftiness were visibly eroded. More and more people came to see that the success of Sweden and the other Nordic countries was not *because of* social democracy, but *despite* it. The three main factors explaining their relative success in modern times were the rule of law, free trade and social cohesion.⁽³⁴⁾ These three factors all rely on the conservative-liberal tradition of Chydenius and his disciples, tracing its roots all the way back to the old Nordic notion of folk law—a tradition which has now been revived in Sweden and the other Nordic countries.

(33) There are three chapters on Eli Heckscher and two chapters on Sven Rydenfelt in Mats Lundahl, *Seven Figures in the History of Swedish Economic Thought* (Basingstoke: Palgrave Macmillan, 2014). Rydenfelt’s critique of socialist agricultural policies was published in an English translation, *A Pattern for Failure: Socialist Economies in Crisis* (New York: Harcourt Brace Jovanovich, 1984).

(34) Nima Sanandaji, *Scandinavian Unexceptionalism* (London: Institute of Economic Affairs, 2015); Hannes H. Gissurarson, *The Nordic Models* (Brussels: New Direction, 2016).

Benjamin Constant

(1767–1830)

In 1819, thirty years had passed since the French Revolution begun, throwing France into turmoil and having a strong impact in many other European countries and in the Americas. From his vantage point across the Channel, Edmund Burke had already in 1790 predicted that the Revolution would end in terror, and so it did in 1793–1794, after which General Napoleon Bonaparte seized power in 1799, eventually making himself Emperor and ruling France for 16 eventful years, until the Bourbon monarchy was restored under Lewis XVIII in 1815, with the help of foreign armies. Of course, conservative and liberal French thinkers were preoccupied with the Revolution: What went wrong? Why did it end in terror and then in a military dictatorship? The renowned French writer and politician Benjamin Constant used the occasion to give a speech, at the Athenée Royal in Paris on 13 February 1819, in which he tried to answer those questions. What went wrong, he argued, was that the Jacobins of the Revolution, under the influence of Jean-Jacques Rousseau, had confused ancient and modern liberty, self-government of small cities on the one hand and protected domains of individuals on the other hand. The notion of ancient liberty could not be easily applied to large modern societies based on commerce rather than warfare. In his speech and several other works Constant presented his conservative liberalism, combining support for private property rights and free trade with respect for traditions such as those embodied in established religion and local communities. The distinguished historian of ideas Sir Isaiah Berlin called Constant ‘the most eloquent of all defenders of freedom and privacy’ and believed him to be the originator of the famous distinction between negative and positive liberty, articulated by Berlin himself.⁽¹⁾

Constant criticises the Jacobins for failing to distinguish between two kinds of liberty, ancient and modern.
Painting by Hercule de Roches.

(1) Isaiah Berlin, *Two Concepts of Liberty*, *Four Essays on Liberty* (Oxford: Oxford University Press,

Constant's Life and Works

Benjamin Constant lived a much more colourful life than most other political thinkers, not only because he was born and raised in tempestuous times, but also because he was by nature an adventurer, gambler and womaniser who described several of his intimate affairs in his journals and letters and in romantic novels. Born on 25 October 1767 in Lausanne, he was descended from French Huguenots who had fled religious persecution in the sixteenth century. His father, Juste Constant de Rebecque, was a professional Swiss soldier in Dutch service, but his mother, Henriette de Chandieu, died when he was still in the cradle. A child prodigy, Henri-Benjamin Constant de Rebecque, as he was christened, was educated by private tutors and almost wore out his eyes by voracious reading. As a young man, at the initiative of his father, he was briefly appointed to the court of the Duchess of Brunswick, but a love affair forced him to leave Germany in 1783. For the next two years, Constant studied at the University of Edinburgh where he came under the influence of David Hume and Adam Smith. It was the most pleasant time of his life, he later recalled.⁽²⁾ From 1788 until 1794, he served at the court of the Duke of Brunswick, marrying in 1789 a lady of the court, only to divorce her five years later.

In 1794, Constant met the rich and famous writer Germaine de Staël who found him 'not very good looking, but exceptionally intelligent'.⁽³⁾ They became lovers, although she was already married to the Swedish Ambassador in Paris. Constant and de Staël were to have a daughter together, Albertine. They went to Paris in 1795 after the Terror had ended and the Directorate had been put in place, and de Staël was soon to preside over a salon where guests engaged in animated discussions with the host and her companion, both brilliant conversationalists. The couple supported the Directorate, and in 1798 Constant became French citizen. A year later he was appointed to the Tribune, an advisory

1969), p. 126.

(2) Rene Winegarten, *Germaine de Staël and Benjamin Constant: A Dual Biography* (New Haven CT: Yale University Press, 2008), p. 47.

(3) Ibid., p. 13.



Constant's long-time companion Germaine de Staël, a liberal author in her own right, and their daughter Albertine, later Duchess of Broglie. Painting by Marguerite Gérard.

assembly which first convened in the beginning of 1800. The couple also found time occasionally to stay in de Staël's country house Coppet in Switzerland, overlooking Lake Geneva, where they received many of the leading intellectuals of Europe.

General Bonaparte overthrew the Directorate in late 1799 and established the Consulate in which he was First Consul. Slowly, but surely, he began reducing freedom of expression. In the Tribune on 5 January 1800, Constant denounced the regime of 'servitude and silence' which Bonaparte was implementing. The First Consul was mightily offended, and none of the many expected guests at de Staël's salon turned up that day.⁽⁴⁾ The couple suddenly became outsiders in Paris. Nevertheless, Constant kept fighting against Bonaparte's encroaching authoritarianism, and in February 1802 he was expelled from the Tribune. His companion de Staël was also a fierce critic of Bonaparte who in 1803 banished her from Paris. Constant followed her into exile in Germany, where they both became imbued with German romanticism.⁽⁵⁾ During his voluntary exile, occasionally interrupted by trips to Paris, Constant worked on religious writings, but also on a general defence of individual liberty, *Principles of Politics*, of which a shortened version was published in 1815,⁽⁶⁾ and a critique of authoritarianism, *The Spirit of Conquest and Usurpation and Their Relation to European Civilization*, published in 1814.⁽⁷⁾ Against three French political practices, Colbertism, the high taxes and tight regulations of King Louis XIV's notorious Finance Minister Colbert, Jacobinism, the democratic despotism of the French revolutionaries, and Bonapartism, the military dictatorship of General Bonaparte, Constant set out his own version of conservative liberalism, inspired by Hume and Smith.

(4) Ibid., p. 128.

(5) Benjamin Constant, *Principles of Politics: Applicable to All Governments* (Indianapolis IN: Liberty Fund, 2003), Introduction, p. xviii. This and some other works by Constant are accessible at the website of Liberty Fund.

(6) Benjamin Constant, *Principes de politique, applicables à tous les gouvernements représentatifs et particulièrement à la constitution actuelle de la France* (Paris: Alexis Eymery, 1819).

(7) Benjamin Constant, *De l'esprit de conquête et de l'usurpation dans leurs rapports avec la civilisation européenne* (Hanover: Hahn, 1814).

Bonaparte proclaimed himself Emperor Napoleon in the spring of 1804, but ten years later, after several wars, he was defeated by the Allied Powers, mainly the United Kingdom and Russia,⁽⁸⁾ but also Sweden, Prussia and Austria. Constant returned to Paris and offered his services to King Louis XVIII. By now, Constant had broken up with de Staël and entered into a relationship with her best friend, Juliette Récamier, reputed to be the most beautiful woman in Europe. He was also since 1809 secretly married to a German lady, Charlotte von Hardenberg. In order to pay his gambling debts he had been forced to sell his beloved country house near Paris, but a stroke of luck at the roulette table enabled him in 1814 to buy a house in Paris.⁽⁹⁾ His daughter Albertine de Staël married Duke Victor de Broglie and was the great-grandmother of the physicist Duke Louis de Broglie who received the Nobel Prize in Physics in 1929.

Emperor Napoleon, after his defeat, had abdicated and gone into exile, but in the spring of 1815, he suddenly returned to France, seizing power again. He now presented himself as a committed liberal and invited his old adversary Constant to advise him on a new constitution, which Constant did. However, in the summer, the Allied Powers again defeated Napoleon and King Louis XVIII returned to France. Somewhat discredited by his brief association with Napoleon, Constant went to England, but soon returned to France where he was elected to the Chamber of Deputies and became the eloquent leader of the liberal faction. In 1816 Constant published a romantic novel, *Adolphe*, partly inspired by his numerous love affairs, and in 1819 he gave his celebrated speech about two kinds of liberty, ancient and modern.⁽¹⁰⁾ His mature reflections on politics are also presented in the *Commentary on Filangieri's Work*, published in two parts in 1822 and 1824.⁽¹¹⁾

(8) Constant's companion, de Staël, was so well-known as Napoleon's opponent that one of her contemporaries, Victorine de Chastenay, observed: 'Bonaparte had so persecuted her that people said in Europe one had to count three Great Powers: England, Russia, and Mme de Staël.' *Mémoires de Madame de Chastenay, 1771-1815*, ed. by Alphonse Roserot, Vol. II (Paris: Plon, Nourrit & Cie, 1897), p. 445.

(9) Winegarten, *Dual Biography*, pp. 189 and 254.

(10) Benjamin Constant, *De la liberté des anciens comparée à celle des modernes, discours prononcé à l'Athénée royal de Paris* (1819).

(11) Benjamin Constant, *Commentaire sur l'ouvrage de Filangieri*, Vols. I–II (Paris: P. Dufart, 1822 and 1824).

Constant was a forceful critic of the reactionary Count of Artois who in 1824 succeeded his brother Louis XVIII as King Charles X. In the preface to a collection of essays published in 1829, Constant wrote:

“ For forty years I have defended the same principle, liberty in everything, in religion, in philosophy, in literature, in industry, in politics: and by liberty I mean the triumph of individuality both over authority that would seek to govern by despotism and over the masses who demand the right to enslave the minority to the majority. Despotism has no right. The majority has that of constraining the minority to respect order.⁽¹²⁾

Constant welcomed the 1830 revolution when the king was deposed and replaced by a relative, Louis-Philippe de Orléans. The new king paid Constant's gambling debts and appointed him to the Council of State as President. The health of the venerated liberal statesman was however failing, and he passed away on 8 December 1830.

Ancient and Modern Liberty

In his 1819 speech on two kinds of liberty, Constant said that their confusion was responsible for many an evil during the French Revolution. But what did modern man understand by the word 'liberty'? Constant replied that

“ it is the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account

for their motives or undertakings. It is everyone's right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations or whims. Finally it is everyone's right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.⁽¹³⁾

He contrasted this modern liberty with that of the ancients which

“ consisted in exercising collectively, but directly, several parts of the complete sovereignty; in deliberating, in the public square, over war and peace; in forming alliances with foreign governments; in voting laws, in pronouncing judgments; in examining the accounts, the acts, the stewardship of the magistrates; in calling them to appear in front of the assembled people, in accusing, condemning or absolving them.⁽¹⁴⁾

Indeed, Constant said, among the ancients the individual might be sovereign in public affairs and a slave in his private relations.

Constant traced the difference between ancient and modern liberty to several sources. Ancient republics had tiny populations and were restricted to narrow territories; they were constantly engaged in wars against their neighbours; and since their citizens could rely on slaves performing many necessary functions, they had leisure to attend public meetings. By contrast, modern states were much larger than Sparta or Rome, and they were connected by commerce. 'Commerce is simply a

(12) Benjamin Constant, *Mélanges de littérature et de politique* (Paris: Pichon & Didier, 1829). Quoted from Winegarten, *Dual Biography*, p. 291.

(13) Benjamin Constant, *The Liberty of the Ancients Compared with that of the Moderns*, *Political Writings*, ed. by Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), pp. 310–311.

(14) *Ibid.*, p. 311.



tribute paid to the strength of the possessor by the aspirant to possession. It is an attempt to conquer, by mutual agreement, what one can no longer hope to obtain through violence.⁽¹⁵⁾ Thus, commerce had replaced war. Slavery had also been abolished, so that free men had to provide for all the needs of society. They were fully occupied with their speculations, enterprises and pleasures and had developed a sense of individuality which had not existed in antiquity. Constant found ancient Athens to be the exception that proved the rule. Even if commerce and individuality were more advanced there than in other Greek city-states, the Athenians relied on slaves to do most of the work, and they did not tolerate dissent: Socrates was executed for not believing in the gods of the city and for corrupting youth, and other thinkers were expelled at the whim of the voting population. It should be added in support of

The French Revolution was extremely violent. Princess de Lamballe, loyal friend of Queen Marie Antoinette, was brutally murdered by the Paris mob on 3 September 1792. Her head was placed on a pike and paraded through the streets of Paris. Painting by Leon M. Faivre.

(15) Ibid., p. 313.

Constant's argument that at his trial Socrates did not defend himself by stating that he should not have to believe in the gods of the city and that corruption was in the eye of the beholder. Quite the contrary: He argued that the accusations were untrue—that he did indeed believe in the gods of the city and that he had not corrupted youth. In other words, Socrates accepted the premise that those who did not believe in the gods of the city and who corrupted youth should be prosecuted and punished.

Constant observed that in large, modern states each individual had much less say than in the small city states of antiquity, simply because he formed a relatively much smaller part of the now much larger whole. In addition, being preoccupied with satisfying his material needs, he had much less opportunity to participate in political decisions. Hence, a need arose for a representative system. 'The representative system is nothing but an organization by means of which a nation charges a few individuals to do what she cannot or does not wish to do herself.'⁽¹⁶⁾ It was in other words impossible to try and introduce direct democracy in a large and diverse commercial society. Rousseau had written with disdain about English democracy where a citizen was only free on the one day every fifth year when he was voting.⁽¹⁷⁾ Constant suggested, however, that Rousseau was fatally wrong in his attempt to transpose to the modern age the idea of a collective unlimited sovereignty which belonged to other centuries. Rousseau had argued that by surrendering all his liberties to the people the individual was only surrendering it to himself since he was a member of the community, but Constant pointed out that he always had to delegate, and when this happened a group of people acquired unlimited power which then, in turn, was bound to be abused. Thus Rousseau had, perhaps unintentionally, 'furnished deadly pretexts for more than one kind of tyranny'.⁽¹⁸⁾

Constant claimed that two ancient practices had no place in modern society, Athenian ostracism and Roman censorship. Different individuals had to be tolerated, not exiled; and public opinion had to be formed freely. In schools, government should not try to shape new generations

(16) Ibid., p. 325.

(17) Jean-Jacques Rousseau, *The Social Contract, The Social Contract and Discourses*, tran. by G. D. H. Cole (London: J. M. Dent, 1913), p. 83.

(18) Constant, *Liberty*, p. 318.

to its pleasure. It should instead confine itself to providing people with the general means of instruction, ‘as travellers accept from them the main roads without being told by them which route to take’.⁽¹⁹⁾ Religion should not be imposed, either, from above. Constant emphasised that he was not trying to diminish the value of political liberty. There was a danger that modern man, having delegated power to the authorities, would neglect politics. He might become absorbed in the enjoyment of his private independence, with the authorities only too anxious to encourage him to do so. ‘Political liberty, by submitting to all the citizens, without exception, the care and assessment of their most sacred interests, enlarges their spirit, ennobles their thoughts, and establishes among them a kind of intellectual equality which forms the glory and power of a people.’⁽²⁰⁾ The two kinds of liberty had to be combined, the pursuit of private interests and the exercise of political rights.

In his lecture about two kinds of liberty, Constant presented a plausible explanation of the failure of the French Revolution. His lecture also became an inspiration to those twentieth century thinkers who tried to make sense out of totalitarianism. One of them, Sir Isaiah Berlin, in his inaugural lecture as Professor of Political Theory at Oxford in 1958 made a distinction between negative and positive liberty. The former concept was basically the absence of coercion. An individual was unfree if he was shackled, or kept in a prison cell. This was the plain, common-sense interpretation of the concept. Positive liberty on the other hand was self-mastery. An individual was free if he was himself in control of his life, not in thrall to an obsession, addiction or delusion. In this sense, an individual was unfree if he let anger overtake him, or if he gave in to the temptation to eat and drink too much. This was the metaphysical interpretation of the concept. Berlin pointed out that positive liberty seemed to presuppose a division of the human self into a higher and a lower self, where liberty consisted in the higher self overruling the lower one. But then it was easy to make a move to the identification with some collective as an expression of the higher self. A man might be deluded into thinking that he was just

an individual, but once he came to realise that he belonged to, say, a nation or a class, he became free. Then he was liberated from his delusions about himself, or from what Marxists called ‘false consciousness’. Yet another move could then be made: If a man was deluding himself, then others might liberate him by preventing him to act on his delusions, just as they might prevent someone from crossing an unstable bridge. They might coerce him in the name of some goal which he would, if more enlightened, himself pursue. Thus, they might make him to realise his higher or inner self, or in Rousseau’s memorable words, force him to be free.⁽²¹⁾ This, in short, was the argument of modern totalitarians and the process in which Berlin’s positive liberty became Constant’s liberty of the Ancients.

Berlin argued that the contrast between negative and positive liberty was that between two profoundly divergent and irreconcilable attitudes to the ends of life. Liberals like Constant wanted to curb authority as such, authoritarians and totalitarians wanted it placed in their own hands. In 1991, Berlin returned to Constant when he was responding to a critic who had taken him to task for calling Edmund Burke a reactionary. He admitted that he did not know much about Burke, but that he thought it was perhaps Constant who had offered the most penetrating analysis of the French Revolution. ‘That cold, perceptive, independent, civilised Swiss wrote better about the destruction of individual liberty and the horrors of both the Terror and, to some degree, of Bonapartist rule, than anybody,’ Berlin wrote. ‘I cannot deny that his famous essay on the difference between the ancient and modern worlds did have a pretty strong influence on me.’⁽²²⁾

Safeguards of Liberty

It is often said that nineteenth century liberalism was materialistic, utilitarian, and uninspiring. While this may be true partly of the English utilitarians and perhaps also of the free traders from Manchester,

(19) Ibid., p. 323.

(20) Ibid., p. 327.

(21) Rousseau, *Social Contract*, p. 18.

(22) Lionel Gossman, Benjamin Constant on Liberty and Love, Isaiah Berlin’s Counter-Enlightenment, *Transactions of the American Philosophical Society*, Vol. 93, Pt. 6, ed. by Joseph Mali and Robert Wokler (Philadelphia PA: American Philosophical Society, 2003), p. 133.

Constant certainly does not fit this description. He explicitly rejected utilitarianism. According to him, the principle of utility awakened in the human heart the hope of advantage rather than the feeling of duty. It was also indeterminate and could be used to justify all prohibitions.⁽²³⁾ Happiness was not the only aim of mankind:

“ If it were so, our course would be narrow indeed, and our destination far from elevated. There is not one single one of us who, if he wished to abase himself, restrain his moral faculties, lower his desires, abjure activity, glory, deep and generous emotions, could not demean himself and be happy. No, Sirs, I bear witness to the better part of our nature, that noble disquiet which pursues and torments us, that desire to broaden our knowledge and develop our faculties. It is not to happiness alone, it is to self-development that our destiny calls us; and political liberty is the most powerful, the most effective means of self-development that heaven has given us.⁽²⁴⁾

Instead, Constant's ideal was human flourishing, man's self-development, such as Wilhelm von Humboldt and, to some extent, John Stuart Mill had pursued, the 'highest and most harmonious development of his powers to a complete and consistent whole'.⁽²⁵⁾

Man could not develop his faculties and flourish under despotism, however enlightened, Constant believed. He had a much more critical attitude toward government than most political thinkers in France in the eighteenth and early nineteenth century. Men in power were just as fallible as others, and in the course of imposing their will on others they became worse:

(23) Constant, *Principles*, pp. 40 and 48.

(24) Constant, *Liberty*, p. 327.

(25) Wilhelm von Humboldt, *The Sphere and Duties of Government*, tran. by Joseph Coulthard (London: John Chapman, 1854), p. 11.

“ In tolerating speculative laws—that is, taking legislation beyond the sphere of necessity—you thus subject the human race to the inevitable mistakes of men vulnerable to error, not only through the weakness inherent to everyone, but through the additional effect of their special position.⁽²⁶⁾

If human weakness was an argument against individual freedom, then it was an even better one against despotism. Against Rousseau, Constant held that the omnipotent nation was as dangerous as a tyrant, indeed more dangerous, pointing out 'that in handing yourself over to everyone else, it is certainly not true that you are giving yourself to no one. On the contrary, it is to surrender yourself to those who act in the name of all'.⁽²⁷⁾ The failure of the French Revolution was always on Constant's mind. Early on, the revolutionaries had proclaimed a 'Declaration of Human Rights', but that document had been useless to stop the Terror. 'In a few years we have tried some five or six constitutions and found ourselves the worse for it. No argument can prevail against such an experience.'⁽²⁸⁾ The point, Constant said, was that a simple declaration did not suffice. What was required were positive safeguards.

These safeguards were of two kinds, internal and external: they were on the one hand about creating checks and balances by separating government powers and on the other hand about constraining these powers by counteracting forces. Constant proposed five bodies or institutions of authority: the monarch and the government would share between them executive power; a hereditary and an elected chamber would share between them legislative power; and the judiciary would be independent of the two other branches of government. The monarch, Constant hoped, would exert a moderating influence on the government of the day, as would a hereditary chamber of parliament on the elected one. These two institutions would be stabilising factors. The government

(26) Constant, *Filangieri*, p. 41.

(27) Constant, *Principles*, p. 16.

(28) *Ibid.*, p. 3.

and the elected chamber would be sanctioned by the people, and the monarch and the hereditary chamber by history. For Constant, democracy was not about discovering or constructing the general will in Rousseau's sense, an impossible task anyway. It was about holding those in power responsible to those whom they are supposed to represent. Those who look upon monarchy and a hereditary chamber of parliament as quaint ideas, irrelevant in the modern age, should note that to some extent Constant's goal of creating checks and balances by them could be achieved by an elected head of state, acting independently of government, and by a bicameral system where the upper house or senate would represent regions or states, whereas the lower house would represent people more directly. In Restoration France, from 1814 to 1848, the French parliament was divided into a Chamber of Peers and a Chamber of Representatives, later called Chamber of Deputies. The Chamber of Peers was however abolished after the 1848 Revolution and a single chamber established, the National Assembly. The present division of the United States Congress into the Senate and the House of Representatives is an example of how the legislative power can be shared by two bodies. Constant also suggested yet another means of decentralisation, an increased role for local communities. 'The capital would cease to be a unique centre, destructive of any other centres. It would become a link between diverse centres.'⁽²⁹⁾ Devolution would keep alive local interests, customs and memories which would enable individuals to resist attempts by the state to extend its powers and impose uniformity on the citizens.

Constant's contribution to liberal political theory lay not least in the external constraints on government that he envisaged. An important one was freedom of the press, enabling the spontaneous formation of public opinion and nourishing a strong civic spirit:

“ A nation's lethargy, where there is no public opinion, communicates itself to its government, whatever the latter does. Having been unable to keep the nation awake, the government finishes by falling asleep with

it. Thus everything falls silent, subsides, degenerates and is degraded in a nation which no longer has the right to make public its thoughts, and sooner or later, such a realm presents the spectacle of those plains of Egypt, where we see an immense pyramid pressing down on the arid dust, reigning over the silent wastes.⁽³⁰⁾

Constant pointed out that it was not freedom of press which overthrew the French monarchy; it was financial disorder. If there had been freedom of the press under Lewis XIV and Lewis XV, the 'insane wars of the first and the costly corruption of the second would not have drained the State dry'.⁽³¹⁾ Where there was no freedom of the press, people believed nothing coming from government and everything said against it. When talented individuals were hindered in expressing their thoughts, some would become fierce opponents of government, while others would compensate for their lack of freedom by withdrawing into a hedonistic and irresponsible life.

Another important constraint on government and thus a safeguard of individual liberty was private property. 'Without property the human race would be in stasis, in the most brutish and savage state of its existence,' Constant wrote. 'The abolition of property would destroy the division of labour, the basis of the perfecting of all the arts and sciences.'⁽³²⁾ He emphasised its civilising impact:

“ When wealth is the gradual product of assiduous work and a busy life or when it is transmitted from generation to generation by peaceful possession, far from corrupting those who acquire it or enjoy its use, it offers them new means of leisure and enlightenment and consequently new motives for morality.⁽³³⁾

(30) Ibid., p. 123.

(31) Ibid., p. 108.

(32) Ibid., p. 168.

(33) Ibid., p. 366.

(29) Ibid., p. 325.



Constant used many of the same arguments against economic interventionism as Adam Smith: 'Every time governments pretend to do our own business, they do it more incompetently and expensively than we would.'⁽³⁴⁾ Again, 'it suffices to leave each individual perfectly free in the deployment of his capital and his labor. He will discern better than any government the best use he can make of them.'⁽³⁵⁾ Constant explicitly used the French word 'laissez-faire': 'Thus whenever there is no absolute necessity, whenever legislation does not have to intervene so that society will not be overthrown, whenever finally it is only a question of a hypothetical good, the law must abstain, allow things to happen, and be silent.'⁽³⁶⁾ Constant also believed, with Adam Smith, in the spontaneous coordination of a free economy: 'Wealth is distributed and divided by itself in perfect equilibrium, when the division of property is not limited and the exercise of industry does not

In the country house of Germaine de Staël, Coppet on Lake Geneva, Constant met with some of the most brilliant intellectuals of Europe. He and de Staël were both noted conversationalists.

encounter any hindrances.'⁽³⁷⁾

Property was no less a safeguard of political liberty than of individual liberty, Constant thought. People needed some leisure for developing an informal outlook and soundness of judgement, and they could only find this leisure if they had property. To be good citizens people had to own some property. Therefore the vote, Constant said, should be confined to property owners. It was also desirable that legislators would be men of means because they could afford to devote themselves to their set tasks. Constant agreed with David Hume however that the institution of property was a social convention rather than a natural right:

“ Society found that the best way to get its members to enjoy goods common to all or disputed by all before its institution, was to concede some of them to each person or to maintain each person in that part of them he happened to possess, guaranteeing to him enjoyment of this, plus such changes as this enjoyment might undergo either by the countless changes of chance or by inequality in the degrees of effort.⁽³⁸⁾

It goes almost without saying that Constant was opposed to entails, primogeniture and other restrictions on the transfer of property by consent.

A third important constraint on government was religion which Constant viewed with much more sympathy than most eighteenth century French thinkers. According to him, religion not only sought to satisfy man's deeply rooted need for meaning and purpose in life. It also acted to instil humility in him and aided the development of morality. Noble passions and religious feelings 'make man break out of the narrow circle of his interests, they give the soul that flexibility, that delicacy, that exaltation smothered by habituation to life in the community and the

(34) Constant, *Liberty*, p. 315.

(35) Constant, *Principles*, p. 235.

(36) Constant, *Filangieri*, p. 42.

(37) *Ibid.*, p. 27.

(38) Constant, *Principles*, p. 167.

calculations it necessitates’.⁽³⁹⁾ Everything fine, intimate and profound was religious, Constant said. It was important that the state would not be the only institution with a claim to the loyalty of the citizens. Individuals had to be able to identify with churches and local communities. But this required religious freedom. ‘In the hands of government, religion has been transformed into a menacing institution.’⁽⁴⁰⁾ Constant was opposed both to the Jacobins who sought to destroy religion and to the reactionaries of the Restoration Era who wanted to impose one faith on the nation. He was a traditionalist, but the touchstone for him, as American historian Ralph Raico has stated, was whether or not illegitimate force was used to uphold traditions.⁽⁴¹⁾

Thus, Constant’s analysis of the French Revolution and of the possible safeguards of liberty was not all that different from that of Burke, despite Berlin’s pronouncement that Constant was a liberal and Burke a reactionary. Both Constant and Burke emphasised the useful, indeed indispensable, function of the many intermediary institutions and traditions to be found between government and the individuals, such as family, church and local community, as well as the monarchy and the aristocracies of birth and wealth. ‘To be attached to the subdivision, to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections. It is the first link in the series by which we proceed towards a love to our country and to man,’ Burke had written.⁽⁴²⁾ Even if Constant was much more critical of Burke than he was of Adam Smith, he definitely agreed, but the task in France was to try and develop new intermediary institutions such as the freedom of the press and a strong civic spirit. Constant was by no means oblivious to the danger of unbridled materialism: ‘Along with its advantages, the division of labor has great drawbacks. It circumscribes and thereby narrows the intellectual faculties. It reduces man to the level of a simple

machine.’⁽⁴³⁾ Therefore he saw a place for political liberty, or democracy, besides individual liberty. A strong civic spirit was both a product of liberty and its precondition. Indeed, the question with which Constant was preoccupied was, as Benedetto Croce later pointed out, whether liberal culture could survive without a soul.⁽⁴⁴⁾

Constant in South Africa

In his critique of Rousseau and other social reformers, Constant acknowledged that they had legitimate grievances. ‘But their wrath has been directed against the wielders of power and not the power itself. Instead of destroying it, they have dreamed only of relocating it.’⁽⁴⁵⁾ Perhaps the best example of legitimate grievances and misguided attempts at relocating power instead of reducing it would be South Africa in the twentieth century. Her problems have to be put into an historical context. The first Dutch settlers arrived at the Cape of Good Hope in 1652, and over the course of the next one hundred and fifty years a large Dutch colony was formed, with people of Dutch origin co-existing and sometimes mixing with Huguenot refugees from France, Black natives and immigrants from Dutch Indonesia. In 1815, after the Napoleonic Wars in Europe, the colony was transferred to the United Kingdom which sought to impose the English language and culture on the Boers, as the Dutch farmers were called. In protest, the Boers emigrated and established their own republics north and east of Cape Colony, in Transvaal and Orange Free State. There, they introduced segregation where the native Black population did not possess any political rights. Meanwhile, the British colonial administration encouraged immigration from British India, mostly in Natal, a new colony east of the Cape. South Africa offered large stretches of fertile land, and she became even more attractive when diamonds and gold were discovered in the latter half of the nineteenth century. In the Boer Wars which ended in 1902, the United

(39) Ibid., p. 132.

(40) Ibid., p. 134.

(41) Ralph Raico, Great Individualists of the Past: Benjamin Constant, *New Individualist Review*, Vol. 3, No. 2 (1964), p. 54.

(42) Edmund Burke, Reflections on the Revolution in France (1790), *Select Works of Edmund Burke*, Vol. II (Indianapolis IN: Liberty Fund, 1999), p. 136.

(43) Constant, *Principles*, p. 258. Adam Smith had of course made the same point.

(44) Nicholas Capaldi, Introduction, Constant, *Principles*, p. xxii.

(45) Constant, *Principles*, p. 21.

Kingdom defeated and annexed the two Boer republics. After some debate in the four colonies about whether a federation or a union should be established, in 1910 they were merged into the Union of South Africa. By then, South Africa had become a very diverse country ethnically, with a large native majority, 67 per cent of the total population, two relatively large minorities, Whites and ‘Coloureds’, as people of mixed origin were called, 22 and 9 per cent respectively, and a relatively small Indian minority, 2 per cent.⁽⁴⁶⁾ It was only in the Cape that non-Whites had any significant political rights.

In the first decade of the Union, the South African Party led by Boers who now called themselves Afrikaners was dominant. Within the white community, the Afrikaners were in a majority. Having a strong sense of identity, they spoke their own language, Afrikaans, derived from the original settlers’ Dutch, whereas the minority, mostly in the Cape, spoke English. In the new Union, unskilled white workers, especially in the mining sector, resented what they saw as unfair competition from other ethnic groups. They formed militant labour unions and managed in 1911 to have written into law segregation in the labour market and privileges for Whites. This was the first colour bar. In 1913, a law was also enacted that provided for separate territories for white and black farmers. A Labour Party was founded with a socialist agenda, while some Afrikaners who were unhappy with attempts to reconcile the Afrikaner and the English-speaking communities founded the National Party. In the 1924 elections, the South African Party was defeated, and the Labour Party and the National Party formed a coalition government which sought to ensure various privileges of white workers. This was an ‘unholy alliance’ of socialists and nationalists, seeking to keep Blacks inside tribal communities in the territories reserved for them. This aim was not achieved, Blacks finding themselves barred ‘only from semi-skilled and skilled employments and not from work classed as unskilled’.⁽⁴⁷⁾ The nationalist-socialist alliance lasted until 1933 when the National Party and the South African Party formed a coalition government which

three years later abolished the franchise which Blacks had enjoyed in the Cape and reinforced the 1913 law about black reserves. The Afrikaners were increasingly fearful of the black majority and white segregationists gained ground, until in the 1948 elections they obtained a majority in the Parliament and formed a government which reinforced and extended segregation, *apartheid* in Afrikaans. Mixed marriages were prohibited in 1949 and segregation of lifts, toilets, parks, beaches, hotels, cinemas, restaurants and other public spaces became mandatory in 1953. Education was also fully segregated. The franchise which Coloureds had enjoyed in the Cape was abolished.

The Apartheid regime was still largely in place when I went to South Africa in 1987. I travelled to the four main cities of the country, Cape Town, Johannesburg, Pretoria and Durban and used the opportunity to speak to people from the different political groups in the country. One of them was a member of the Conservative Party which had been founded by hard-line Afrikaners in opposition to the ruling National Party which was by now seeking a compromise with leaders of the black majority. I asked him: ‘In this country, interracial marriages are prohibited by law. But what is really wrong with a white man marrying a black girl? Whom do they harm?’ He replied right away: ‘This white man in your example would be harming his race. It would not be the same afterwards. It would be weakened.’ This response illustrates the collectivism prevalent in the Afrikaner community. They held fast to their identity, moulded by three centuries of shared history, and were afraid of the fast-growing black majority: having been 22 per cent of the population in the early twentieth century, the Whites were 15 per cent in 1986 whereas the Blacks were now 74 per cent.⁽⁴⁸⁾ If the two communities had been roughly equal in size, then probably there would not have been the pervasive fear of the Blacks I could sense among the Whites, especially the Afrikaners. ‘We made a mistake at the end of the Second World War,’ a leading member of the ruling National Party told me. ‘Then millions of people in Europe would have been willing to move to South Africa. We should have welcomed them. Then there would not have been this imbalance in the

(46) The numbers are from 1904. William K. Hancock, *Smuts: The Sanguine Years 1870–1919* (Cambridge: Cambridge University Press, 1962), p. 219.

(47) William H. Hutt, *The Economics of the Colour Bar* (London: Andre Deutsch, 1964).

(48) *Survey of Race Relations—1986* (Johannesburg: South African Institute of Race Relations, 1986).

population of this country.’ It was obvious to me that most Afrikaners had tacitly accepted that the Apartheid regime was approaching its end. Even if the white minority had the means to deal with black insurgents, it was losing the will to do so, not least because Apartheid was economically inefficient, with all its restrictions on trade and petty regulations. On my tour of South Africa I spent a few days at the Mala Mala Game Resort, where at night dinner was served in an enclosed boma under the starlit sky. As I sat with other guests around the campfire, I chatted with them; they were mostly businessmen, and they complained bitterly about the problems Apartheid caused them. In effect, the South African economy was capitalism for Whites and socialism for Blacks. The enormous economic potential of the black majority, as producers and consumers, was largely untapped.

The year before, two South African friends of mine, Leon Louw and Frances Kendall, had published a book about a possible peaceful transition to a free and democratic regime in their country, *South Africa: The Solution*. They argued that Apartheid was wrong both morally and economically, suggesting that non-white citizens of South Africa should be compensated for this affront to their dignity and self-respect. But this compensation should not consist in redistribution of resources from the white to the black community which was anyway bound to fail. Rather, it should be financed by selling off the substantial assets of the South African government. Their main proposal was that South Africa should adopt the Swiss system of largely self-governing and relatively small cantons which has enabled the population of Switzerland to live peacefully together, although the citizens are divided into four linguistic groups and two main religious groups. Some and perhaps most South African cantons would have a black majority, others a white majority, some a majority of Coloureds and others of Indians. In some the Dutch Reformed Church would dominate, in others the Anglican Church; Catholics or Jews might gravitate toward one canton or another. The great advantage of the canton system would be that it would break the spell of race: people would have nothing to fear because they could move



Modern society is built on commerce and not, like ancient society, on war, according to Constant. Painting by Abraham Storck, Harbour Scene.

freely from one canton to another if they were dissatisfied.⁽⁴⁹⁾ Power would not be relocated from Whites to Blacks; instead, it would be broken up, becoming almost harmless.

The very idea that in South Africa unrestrained and indivisible sovereignty had to be transferred from Whites to Blacks was of the same kind as the Jacobin project which Constant had criticised where democratic despotism replaced royal despotism. In the next three years after my visit, the resolve of the white minority was further weakened by international developments, mainly the decline and fall of communism and the subsequent end of the Cold

(49) Leon Louw and Frances Kendall, *South Africa: The Solution* (Bisho, Ciskei: Amagi Publications, 1986).

War. The Afrikaner government announced in 1990 that it would release the leader of the ANC, African National Congress, the charismatic Nelson Mandela, and end Apartheid. Mandela was however unwilling to accept a federal system with strong guarantees for ethnic minorities; he insisted on a unitary system with majority rule. Other ethnic minorities would have to rely on the mercy of the vast black majority. The Afrikaner government felt that it had to give in, and in 1994 general elections were held, in which the ANC won a sweeping victory. Mandela became President. Since then, the course of events has not been nearly as bad as some had feared. Mandela and some other leading members of the ANC genuinely wanted national reconciliation. Nevertheless, the situation could have been better. Crime markedly increased, and corruption was rampant in the ranks of the ANC. Apprehensive about the future, many Whites emigrated: In 2019 Whites were only 8 per cent of the population, whereas Blacks were 81 per cent, Coloureds 9 per cent and Indians 2 per cent.⁽⁵⁰⁾ Perhaps their fears were not altogether unfounded. In 2018, ANC activist Cyril Ramaphosa became President and announced that his government would expropriate without compensation land owned by white farmers and transfer it to black farmers. He ignores lessons of history. In neighbouring Zimbabwe the economy collapsed because property rights were not secure: the land of white farmers was expropriated without compensation.

Constant on Tax Competition

Another contemporary issue where Constant's political thought is relevant is in the discussion about tax competition and harmonisation in Europe. In his 1819 speech about two kinds of liberty, Constant said: 'Commerce confers a new quality on property, circulation. Without circulation, property is merely a usufruct; political authority can always affect usufruct, because it can prevent its enjoyment; but circulation creates an invisible and invincible obstacle to the actions of social power.'⁽⁵¹⁾ Here

Constant emphasised that capital is usually more mobile than other factors of production such as labour. With the abolition of capital controls in most countries in the late twentieth century and innovations in transport and telecommunications, capital has become even more mobile than in Constant's day. Rich individuals and large corporations engage nowadays in extensive tax planning, either moving their assets to low-tax countries or organising exchange between their subsidiaries and agencies around the world in such a manner that tax on them will mostly be collected in low-tax countries. Some European countries such as Ireland have tried to attract capital by offering tax advantages, not to mention tropical tax havens like the Cayman Islands and Panama. This has caused concern in high-tax countries like Germany and France, the two most powerful Member States of the European Union. In 1997, EU finance ministers adopted a 'Code of Conduct' according to which Member States undertook to roll back existing tax measures that constitute 'harmful tax competition' and to refrain from introducing any such measures in the future. The EU politicians claimed that 'harmful tax competition' included cases when corporations enjoyed an effective level of taxation significantly lower than the general level of taxation in the countries concerned; when tax benefits were reserved for non-residents; and when tax incentives were offered for activities isolated from the domestic economy and which would therefore have no impact on the national tax base.⁽⁵²⁾ In 2017, the European Commission estimated 'revenue losses' from profit shifting within the EU alone to be 50–70 billion euros.⁽⁵³⁾ It called on Member States such as Ireland, Cyprus and Malta to stop 'aggressive tax planning'.

There are two reasons why the EU and some other international organisations find tax competition harmful. First, it may create a 'race to the bottom', forcing governments to cut public spending and reduce the production of certain desirable public goods, such as education and poverty relief. In the second place, it seems unfair that some taxpayers

(50) *Mid-year population estimates* (Statistics South Africa: Pretoria, 2019), p. 8.

(51) Constant, *Liberty*, pp. 324–325.

(52) Conclusions of the Ecofin Council Meeting on 1 December 1997, concerning tax policy, *Official Journal of the European Communities*, 6 January 1998. https://ec.europa.eu/taxation-customs/sites/taxation/files/resources/documents/coc_en.pdf

(53) European Commission, *Curbing Aggressive Tax Planning* (20 November 2017). http://www.europarl.europa.eu/cmsdata/150511/5%20-%202004%20european-semester_thematic-factsheet_curbing-aggressive-tax-planning_en.pdf

who benefit from public spending can avoid financing them just because they have a mobile tax base. But these two arguments rest on the implausible assumptions that the present level of public spending is optimal so that a cut would be harmful and that the given distribution of tax burdens is fair so that a change in it would be undesirable. Consider the provision of public goods. When is it at an optimal level? When are the public goods being provided desirable? The only logical answer would be when everyone desires them.⁽⁵⁴⁾ Their utility to each individual also would have to be higher than the utility brought about by the private goods which could have been produced with the resources devoted to the production of those public goods. Moreover, the distribution of the corresponding tax burden would have to be considered unanimously as the fairest possible one.

It is obvious that no tax system is optimal in this strict sense, but this means that the tacit assumptions of the EU about the harm from tax competition are not necessarily true. On the contrary, such competition may serve to reveal individual preferences about alternative bundles of public services and taxation on offer in different tax jurisdictions; and thus to restrain government, both at the national and local level, from imposing higher taxes on the citizens than these citizens would like.⁽⁵⁵⁾ Thus, tax competition may be useful for the citizens. ‘How could we say that a process which is preventing someone (the state) from being harmful to others be harmful?’ French economist Pascal Salin asks.⁽⁵⁶⁾ In fact, there does not seem to have been any significant ‘race to the bottom’ in Europe despite some tax competition taking place there. It is true that usually capital is more mobile than other factors of production, but highly educated labour is also quite mobile, and even unskilled labour is somewhat mobile, as immigration problems in many European countries amply demonstrate.

When rich people and large corporations move to low-tax countries

(54) Cf. the discussion about the unanimity requirement for collective or public choices if they are to be as non-coercive as private choices in the marketplace, in the chapter in this book on Buchanan.

(55) Charles M. Tiebout, A Pure Theory of Local Expenditure, *Journal of Political Economy*, Vol. 64, No. 5 (1956), pp. 416–424.

(56) Pascal Salin, The Case Against Tax Harmonisation, *Cutting Taxes to Increase Prosperity*, ed. by Hannes H. Gissurarson and Tryggvi Th. Herbertsson (Reykjavik: Bokafelagid, 2007), p. 76.



Switzerland is an example of the benefits of tax competition. She not only attracts capital from abroad, because she is stable politically, but the cantons also compete with one another.

in order to lighten their tax burdens, the tax bases in the high-tax countries they leave may contract. This does not necessarily mean that remaining taxpayers would have to suffer higher taxes, because the costs of providing public goods may vary with the number of their consumers. It would only be when the costs are fixed and not variable (and when governments resist cutting public spending) that taxes in the high-tax countries would have to be raised even more. Also, the tax bases in the low-tax countries receiving them may expand. Such moves may often imply spontaneous redistribution from the rich to the poor. For example, when a large corporation relocates a factory from a high-income, high-tax country such as Sweden to a low-income, low-tax country such as Bangladesh, income is in effect redistributed from high-income workers in the country of origin to low-income workers in the country of choice. In the long run, the high-income workers in the country of origin also benefit from the move because they are consumers and the goods can be produced more cheaply in the country of choice. Tax competition is not necessarily a zero-sum game where one man's gain is offset by another man's loss. By preventing taxes from becoming too high, it facilitates productive investment and employment. Low-tax

jurisdictions also make global capital markets more efficient.⁽⁵⁷⁾

Moreover, rich people and large corporations may move away for a reason. In many countries the tax system discriminates against high income, by progressive income taxes, and against savings and investment, by taxing income saved as well as income spent. Incidentally, Constant rejected taxes on capital:

“ Capital is only accumulated assets, gradually taken out of income. The more you encroach upon capital, the more income declines, the less asset accumulation can happen, and the less capital can reproduce itself. The State which taxes capital prepares therefore the ruin of individuals. It gradually takes away their property. Now, the security of that property being one of the state’s obligations, it is apparent that individuals have the right to assert that obligation against a system of taxation with results contrary to that end.⁽⁵⁸⁾

The determination of the tax base may reflect the political constituency of the tax collectors: There are more votes to be gained from the many medium and low-income people than from the rather few rich; and by discriminating against the future, which has no vote, the tax collectors may win the support of the present generations. It is this discrimination which is harmful and unfair, not tax competition. Perhaps the mobility of capital should not be seen as an unfair advantage of capital owners, but rather as a means somewhat to correct the strong political bias against the rich on the one hand and against the future on the other hand.

Switzerland is one example of the benefits of tax competition, not as much because she tends to receive tax exiles from abroad as because there is vigorous competition between her 26 cantons. In effect, the country is a federation of 26 small sovereign states, each of them enjoying tax sovereignty. The federal government can only levy the income tax

and the value-added tax if approved regularly by the majority of voters and the majority of cantons. In addition, the 2,800 municipalities also have various powers over taxation, depending on the constitution of the canton in which they find themselves. Nevertheless, there has been no ‘race to the bottom’ in Switzerland which is a country providing excellent public services. The effects of tax competition are demonstrated by the two adjacent cantons Nidwalden and Oberwalden. The former has long pursued a low-tax strategy unlike the latter one, with the result that Nidwalden’s GDP per capita became significantly higher than that of her neighbour, which used to have the heaviest tax burden in the whole country, relying on central government subsidies. In 2006, however, Oberwalden changed her policies and lightened the tax burden.⁽⁵⁹⁾ In 2019, Nidwalden offered the second-lowest corporate tax rate in the world, after Hong Kong, with Obwalden in the fifth place (coming after three other Swiss cantons).⁽⁶⁰⁾ But because of decentralisation, the failed policies of Oberwalden in the past were confined to one small area in Switzerland and not imposed on the whole of the country. The relative ease with which people can move between cantons or ‘vote with their feet’ also puts some pressure on the tax collectors. Switzerland illustrates the advantages of divided and limited sovereignty. But the lesson derived from Constant’s country of origin and applicable to France, his country of choice, and indeed to the whole world, has still not been learned, alas, by most.

(57) Richard Teather, *The Benefits of Tax Competition* (London: Institute of Economic Affairs, 2005).

(58) Constant, *Principles*, p. 215.

(59) Pierre Bessard, *Tax Competition: The Swiss Case*, *Cutting Taxes*, p. 89.

(60) *BAK Taxation Index 2019* (Basel: BAK Economics, 2019). Table 1, BAK Taxation Index für Unternehmen 2019, p. 2.

Frédéric Bastiat

(1801–1850)

In trying to describe spontaneous coordination in the marketplace, Adam Smith used the notion of an ‘invisible hand’: people who were just pursuing their own private interest, were brought to work for the public interest; in order to sell their goods or services they had to offer better terms than their competitors. Hence, the task of the economist could be regarded as that of making the invisible hand visible. It should be to explain why people do not need commands from above to balance demand and supply; why the common good is best served by economic freedom; and why human actions often have unintended consequences, good and bad. During his short writing career in the 1840s, French writer and politician Frédéric Bastiat did this with unsurpassed force and clarity, in accessible and lively prose. Joseph Schumpeter called him ‘the most brilliant economic journalist who ever lived’,⁽¹⁾ and Friedrich von Hayek wrote that he was ‘a publicist of genius’,⁽²⁾ although neither Schumpeter nor Hayek thought highly of him as an economic theorist, perhaps unjustly: even if Bastiat’s contribution to conservative-liberal thought may chiefly have been that of exposing economic fallacies, which by itself is no mean achievement, he has been underestimated as an economist. His arguments against Ricardo’s theory of rent and Malthus’ theory of over-population are cogent and plausible. Moreover, Bastiat came close to formulating the useful concept of opportunity cost. His distinction between visible short-term consequences of human

In his witty parables, Bastiat exposed protectionist fallacies. He taught that the state was “the great fiction by which everyone endeavours to live at the expense of everyone else”.
French engraving.

(1) Joseph Schumpeter, *History of Economic Analysis* (New York: Oxford University Press, 1954), p. 500.

(2) Friedrich A. Hayek, Introduction, Frédéric Bastiat, *Selected Essays on Political Economy* (Princeton NJ: D. Van Nostrand, 1964), p. ix.

actions and their invisible, but no less real, long-term consequences is both illuminating and inspiring: it reinforces, deepens and extends the traditional argument made by Smith for economic freedom.

Bastiat's Life and Works

Claude-Frédéric Bastiat was born on 30 June 1801 in the port town Bayonne on the Bay of Biscay, in Aquitaine, near the Spanish border. His father Pierre ran a trading house with his father and brother-in-law, but their business was severely hampered by the Napoleonic wars which raged until Napoleon's final defeat in 1815. Bastiat's mother, Marie Julie, born Frechou, and his grandmother both died of tuberculosis when he was seven years old, upon which his grandfather and his father moved to a small estate the family owned in Mugron, also in Aquitaine. His father soon died of tuberculosis, and Bastiat was raised by his grandfather and aunt. He attended a prestigious grammar school at Sorèze, near Carcassonne, but returned to Bayonne in 1818 to work in the family firm, under the reign of the restored Bourbon kings. During his stay in Bayonne, Bastiat studied business and read the works of Adam Smith and his French and English disciples. He became a committed free trader, publicly criticising the protectionism which restricted opportunities in Bayonne and other French port towns. When Bastiat's grandfather passed away in 1825, he returned to the family estate in Mugron where he devoted his time for the next few years to reading and reflecting on economics on politics. In Mugron, he became a close friend of a neighbour, the lawyer Félix Coudroy, whom he converted from socialism. For the next twenty years, these two young men had animated and intensive discussions about books and ideas almost every day. Bastiat supported the 1830 Revolution when the reactionary King Charles X was deposed and replaced by a cousin, Louis-Philippe of Orléans. He even went to Bayonne and enlisted in a revolutionary force which was prepared to take the government citadel by force if necessary. Instead, the citadel opened its gates and the officers of the garrison invited the young revolutionaries in to join a celebration. 'I was expecting blood but

it was only wine that was spilt,' Bastiat wrote.⁽³⁾ A year later he married a local girl, Marie-Clotilde Hiard, but they were not close and came to live separate lives. The same year, in 1831, he was appointed Mugron's Justice of the Peace. Fluent in English, he followed with great interest the activities of the English free trade movement led by Richard Cobden and John Bright.

In October 1844 Bastiat's life took an unexpected turn when he published his first article in a French economics journal and suddenly found himself a recognised author. Encouraged by the favourable reaction, he continued writing and publishing and also began a correspondence with Cobden. In May 1845 he went to Paris, met with other free traders and arranged for the publication of two books, one on Cobden and the free trade movement in Great Britain, the other a collection of articles against protectionism, *Economic Sophisms*.⁽⁴⁾ In 1846, Bastiat went again to Paris, trying to establish a French free trade movement on the model of the English one. He found the task daunting and wrote to Cobden: 'Believe me, it is neither my spirit nor my heart that is failing. But I feel that this superb Babylon is not my place and I must make haste to return to my solitude.'⁽⁵⁾ Nevertheless, he and his allies succeeded in founding the Free Trade Association whose first meeting was held in Paris 28 August 1846. Some local associations were also founded in France. The Association started a newspaper in which Bastiat published some of his best-known essays, such as the 'Petition of the Candlemakers'. Word spread around Europe, and similar associations were formed in Spain, Italy, Belgium, Sweden, and Germany. Hopes were high, not least after the repeal of the British Corn Laws in 1846. But Bastiat's Association, already struggling, was overcome by events. In February 1848, increased unemployment in an economic depression and popular dissatisfaction with the staid and uninspiring regime led to its overthrow by the Parisian crowds, the government finding itself

(3) Letter to Félix Coudroy, Bayonne 5 August 1830. *The Collected Works of Frédéric Bastiat*, Vol. I, tran. by Jane and Michel Willems (Indianapolis IN: Liberty Fund, 2011), p. 30. Most of Bastiat's works are online, at the Liberty Fund website.

(4) Frédéric Bastiat, *Cobden et la Ligue, ou, L'agitation anglaise pour la liberté du commerce* (Paris: Guillaumin, 1845); *Sophismes économiques* (Paris: Guillaumin, 1846).

(5) Letter to Richard Cobden, Paris 25 March 1846. *Collected Works*, Vol. I, p. 96.



without any support and the National Guard unwilling to take action. King Louis-Philippe went into exile, a provisional government was formed and the Second French Republic was proclaimed. Bastiat witnessed the riots in Paris and wrote woefully to a friend at home: ‘We have tried so many things; when shall we try the simplest of all: freedom?’⁽⁶⁾

An acquaintance of Bastiat, the poet Alphonse de Lamartine, led the 1848 uprising. Neither he nor the other revolutionaries had any idea about what to do, and every fantasist and fanatic in the capital loudly presented a plan for the future, while the masses suddenly thought that they had become the masters. For example, when Bastiat started a short-lived journal to try and persuade people not to rely solely on government for their prosperity, the printers expressed their disapproval: the journal

Bastiat supported the 1830 Revolution in which a reactionary king was replaced by a constitutional monarch. Painting by Eugène Delacroix, *Liberty Leading the People*.

(6) Here after George Charles Roche III, *Frederic Bastiat: A Man Alone* (New Rochelle NY: Arlington House, 1971), p. 79.

was, they said, ‘counter-revolutionary’.⁽⁷⁾ The day the Paris insurrection began, one of Bastiat’s friends, the liberal economist Jérôme-Adolphe Blanqui—brother of the notorious socialist—overheard a servant in his house saying, as he was clearing the table after dinner: ‘Next Sunday we shall be eating the wings of the chicken.’ A maid replied: ‘And we shall be wearing fine silk dresses.’⁽⁸⁾ Bastiat declined a tentative offer from Lamartine of a position in the new government, but despite his failing health he stood as a candidate in elections to the Constituent Assembly and was elected. Other delegates included the liberal writer Alexis de Tocqueville, the poet and novelist Victor Hugo and the socialist Pierre-Joseph Proudhon. In 1835 and 1840, Tocqueville had published the two parts of his treatise on *Democracy in America*. His influence on Bastiat can for example be detected in this comment from 1849: ‘Among all races, it seems that civilisation raises the level of the masses and lowers the value put on individual character.’⁽⁹⁾ This seems to be an echo of Tocqueville’s analysis of the effects produced by the pursuit of self-interest in commercial society: ‘Consider a few individuals, it lowers them. Envisage the species, it elevates it.’⁽¹⁰⁾ Bastiat was however critical of what he considered to be Tocqueville’s pessimism.⁽¹¹⁾

In the Constituent Assembly, Bastiat opposed National Workshops which the provisional government had started. When the cost of the Workshops became exorbitant and they were abolished in June 1848, riots broke out in Paris, but they were suppressed by troops under General Louis-Eugène Cavaignac. During this troublesome time, Bastiat was tireless in trying to explain economic principles and to expose falsehoods to his colleagues in the Constituent Assembly as well as to the general public in newspapers and journals. He also criticised businessmen. ‘Under another name, many industrialists, highly honest

(7) Letter to Félix Coudroy, Paris 29 February 1848. *Collected Works*, Vol. I, p. 144.

(8) *The Recollections of Alexis de Tocqueville*, tran. by Alexander Teixeira de Mattos (New York: Macmillan, 1896), pp. 197–198. Italics in the original.

(9) Letter to Mme Chevreux, Brussels June 1849: *Collected Works*, Vol. I, p. 201.

(10) Alexis de Tocqueville, *Democracy in America* (1840), tran. by James T. Schleifer, Vol. 3 (Indianapolis IN: Liberty Fund, 2010), p. 922.

(11) Frédéric Bastiat, *Economic Harmonies*, tran. by W. Hayden Boyers (Irvington-on-Hudson NY: Foundation for Economic Education, 1964 [1850]), pp. xxviii and 531.

people incidentally, treat communism as it is always treated, that is to say, on the condition that only *other people's* property will be shared out.⁽¹²⁾ Despite his weak voice and faltering health, Bastiat spoke eloquently in the Assembly: 'Our doctrine is based on private property. Communism is based on systematic plunder, since it consists in handing over to one man, without compensation, the labour of another. If it distributed to each one according to his labour, it would, in fact, recognise private property and would no longer be communism.'⁽¹³⁾

Bastiat did not blame General Cavaignac for temporarily suspending all forms of freedom during the June 1848 riots, arguing that his measures had been necessary to ensure public safety.⁽¹⁴⁾ In the presidential elections of late 1848, Bastiat supported the General who was however roundly defeated by the populist Louis-Napoléon Bonaparte, nephew of Emperor Napoleon. In 1849, Bastiat was elected to the Legislative Assembly. He did not join any faction of the Assembly, writing to his constituents: 'Yes, I have voted with the right against the left when it was a matter of resisting the excesses of mistaken popular ideas. Yes, I have voted with the left against the right when the legitimate complaints of the poor, suffering classes were being ignored.'⁽¹⁵⁾ Unlike his fellow liberal Tocqueville, he opposed colonisation, having written already in 1846 that it was 'the most disastrous illusion ever to have led nations astray'.⁽¹⁶⁾ He was also active in the French pacifist movement, participating in August 1849 in a peace congress in Paris over which Victor Hugo presided. Now suffering from throat cancer, he did not speak frequently in the Assembly, while from his pen flowed a steady stream of articles and pamphlets. Bastiat's wife died in February 1850. Now in a race with death, Bastiat in early 1850 published *Economic Harmonies*, a summary of his economic ideas, and in the summer he composed a short book, *The Law*, on the proper functions of the state, and a famous

pamphlet, elaborating on a theme that he already mentioned in a speech to the Constituent Assembly, *What is Seen and What is Not Seen*.⁽¹⁷⁾ In September 1850 he went to Italy on his doctors' advice. When he felt death approaching, he sent for a confessor. 'I want,' he told a friend who was present, 'to die in the religion of my forefathers. I have always loved it, even though I have not followed its external practices.'⁽¹⁸⁾ Bastiat passed away in Rome on 24 December. He was only 49 years old.

What is Seen and What is Not Seen

Bastiat begins his celebrated essay on 'What is Seen and What Is Not Seen, or Political Economy in One Lesson' by pointing out that an action, a habit, an institution or a law produces not just one effect, but a series of effects. Only the first one is immediate and revealed simultaneously with its cause: *It is seen*. The other effects occur later: *They are not seen*, and we are lucky if we foresee them. Bastiat goes on to say that this defines the difference between a bad and a good economist. A bad one relies on the visible effect, whereas the good one takes account both of the effect one can see and the effects one must try to foresee. This is a crucial difference, because frequently the immediate consequence is favourable, while later consequences are disastrous, and conversely: the immediate consequence may be unpleasant, while later consequences are advantageous. Thus, a bad economist will pursue a small current benefit followed by a large disadvantage in the future, whereas a good economist will prefer a large benefit in the future at the risk of suffering a small disadvantage immediately.

Bastiat takes an example. The dreadful son of James Goodfellow breaks a window,⁽¹⁹⁾ and the onlookers seek to console the angry father with this observation: 'Good comes out of everything. Accidents like this keep production moving. Everyone has to live. What would happen

(12) Protectionism and Communism (1849), *The Collected Works of Frédéric Bastiat*, Vol. II, tran. by Jane and Michel Willen (Indianapolis IN: Liberty Fund, 2012), p. 236. Italics supplied.

(13) Roche, *A Man Alone*, p. 118.

(14) Letter to Félix Coudroy, Paris 26 August 1848. *Collected Works*, Vol. I, p. 162.

(15) Letter to a Group of Supporters, 1849. *Ibid.*, p. 389.

(16) To the Electors of the District of Saint-Sever, *Ibid.*, p. 363.

(17) Frédéric Bastiat, *Harmonies économiques* (Paris: Guillaumin, 1850); *La Loi* (Paris: Guillaumin, 1850); *Ce qu'on voit et ce qu'on ne voit pas* (Paris: Guillaumin, 1850).

(18) Letter from Prosper Paillottet to Mme Cheuvreux, Rome 22 December 1850. *Collected Works*, Vol. I, p. 297.

(19) Bastiat himself uses the name Jacques Bonhomme.

to glaziers if no window panes were ever broken?’ But the theory behind this observation is fallacious, Bastiat says, however common it may be. If it is necessary to spend six francs to repair the damage, then it is true that six francs will go to the glazing industry and thus it will stimulate it. This is what is seen. But what is not seen is that now Goodfellow cannot spend these very six francs on new shoes (or books or other goods or services). The outcome for the economy is that the glazing industry has been stimulated to the tune of six francs, whereas the shoemaking industry (or some other sector of the economy) would have been stimulated to the tune of six francs if the window had not been broken. The outcome however for James Goodfellow is different. In the case of the broken window, he would spend six francs and enjoy the benefit of a window neither more or less than before. But if the accident had not happened, he would have spent six francs on shoes and would have had the benefit both of a pair of shoes and a window. Since Goodfellow is a member of society, the conclusion is that it has lost the value of the broken window.

Bastiat applies this insight to a series of other examples. Here I shall discuss only three of them. A deputy proposes to discharge one hundred thousand men from the army in order to save one hundred million francs. Bastiat hastens to say that if there is a real need to keep those one hundred thousand men under arms, then he would have no argument to refute. It would be a necessary sacrifice. But if it is claimed that the sacrifice is in fact an advantage because if discharged those one hundred thousand men would be a burden on the economy, then Bastiat protests. It is true that one hundred thousand men who cost taxpayers one hundred million francs would live and provide a living for their suppliers to the extent that one hundred million francs could be spread. This is what is seen. But the one hundred million francs which would be extracted from the pockets of taxpayers, would interfere with the economic lives of these taxpayers and their suppliers to the tune of that same one hundred million francs. That is what is not seen. Bastiat illustrates the loss in this particular case by moving from the one hundred thousand men and the one hundred million francs to one man and a thousand francs. This one man is recruited from a village, while the tax collector carries off from it one thousand francs. The man

and the money are taken to Metz, one intended to provide a living for the other over a year without doing anything. It seems that for Metz the change is beneficial. For the village it is not, because it has lost one man and a thousand francs.

Does the gain for Metz not compensate for the loss for the village? This is where the loss enters, Bastiat points out. In the village the man worked for three hundred days a year, digging and ploughing, producing goods. In Metz, he is engaged in unproductive work for three hundred days a year. Suppose now that the deputy’s proposal to discharge the one hundred thousand men is accepted. What is seen is that they enter the labour market and may bid down wages for others. What is not seen is that at the same time one hundred million francs are not destroyed: they are returned to taxpayers. Casting one hundred thousand men onto the market is also casting the one hundred million francs intended for their upkeep onto the same market. Since the measure which increases the supply of labour also increases the demand for it, the alleged reduction in wages is an illusion; at most it is temporary. The difference is that taxpayers are handing over money, either to soldiers in return for *nothing*, or to workers in return for *something*.

Art Subsidies and Trade Restrictions

Government subsidies to art are also commonly proposed. Bastiat acknowledges that art may expand and elevate the soul of a nation, tearing it away from purely material preoccupations and giving it an appreciation of beauty, and that thus art may have a beneficial effect on the nation’s manners, customs, and habits. Bastiat also recognises some counter-arguments. One is redistribution: they imply that artisans are taxed in order to provide increased income to artists. This hardly seems just. Moreover, it is not certain that subsidies encourage creative art. Bastiat admits, in addition, that he is one of those who think that choice should come from below, not above—from citizens, not legislators. He stresses that opposition to government subsidies of an activity is not the same as opposition to that activity itself. But he emphatically rejects the argument that subsidies to art are productive in themselves because they stimulate work.

In the Constituent Assembly, Bastiat's fellow deputy and acquaintance Lamartine had used the stimulation argument in a discussion about a proposed grant of 60,000 francs to a theatre in Paris. In his essay, Bastiat responds:

“ Yes, it is to the workers in the theatres that these sixty thousand francs in question will go, at least in part. A few trifling sums may well be lost in transit. If you give the matter close scrutiny, actually, you may discover that things work out quite differently, such that fortunate are those workers if a few scraps are left to them! However, I am willing to accept that the entire subsidy will go to the painters, decorators, costume makers, hairdressers, etc. *This is what is seen.* But where has it come from? This is the other side of the question that is just as important to examine as its face. Where is the source of these sixty thousand francs? And *where would they go* if a legislative vote did not initially send them to the rue de Rivoli and from there to the rue de Grenelle? *That is what is not seen.*⁽²⁰⁾

The taxpayers who have to provide the 60,000 francs no longer have them available and hence cannot spend them on other goods or services. It is an illusion that a government grant to a theatre in Paris adds anything to national well-being and work: it just displaces enjoyment, and a displacement is not a gain.

Bastiat's third example is about trade restrictions. A man named Constraint can supply iron to his fellow Frenchmen for 15 francs a quintal,⁽²¹⁾ whereas the Belgians can, because nature has been more prodigal to them, supply the same amount for 10 francs. Consequently, a host of nail makers, blacksmiths, wheelwrights, mechanics, farriers and



After the 1848 Revolution, Bastiat was elected to the Constituent Assembly where he opposed socialist fantasies. Print Collector.

ploughmen buy their iron from the Belgians, either directly or through middlemen. Frustrated and angry, Constraint first intends to go to the border and shoot everybody who trades with the Belgians. He has second thoughts, however, when he realises that such an action might not be taken kindly by the traders and that he could not anyway hinder all exchanges across the long border. About to resign himself to being merely as free as everybody else, he suddenly gets an idea. In Paris there is a great law factory. If he could obtain a tiny little law which said: 'Iron from Belgium is prohibited,' then an invincible force of customs officers would see to it that he could sell his iron for fifteen francs a quintal. He goes to Paris and tells the legislators that everybody would profit by such a law. He would expand his operations and provide jobs to more workers, and they in turn would spend their money on all kinds of supplies, which would act as a spur on the whole economy.

The legislators are convinced by Constraint and pass the law he proposes. It has all the consequences foretold by him. But his reasoning

(20) What is Seen and What is Not Seen (1850), *Collected Works*, Vol. III (Indianapolis IN: Liberty Fund, 2016), p. 417. Italics in the original. The Ministry of Finance was located in the rue de Rivoli, and the Ministry of Education and Fine Arts in the rue de Grenelle.

(21) In the French original text, Bastiat uses the name 'Prohibant'. In the same spirit, I coined the name Constraint.

is not as much false as incomplete, Constant suggests: ‘Petitioning for a privilege, he had pointed out those of its effects *that are seen*, leaving those *that are not seen* in the shadows. He presented two people only, when there are three in the cast. It is up to us to put right this involuntary or perhaps premeditated oversight.’⁽²²⁾ Now, the blacksmith, the nail maker, wheelwright, farrier, ploughman or builder have each to pay fifteen francs a quintal for the iron; Constraint’s gain is their loss. What is not seen offsets what is seen, with an injustice added to it. But there is a second loss, for the third person in the cast. The ordinary citizen now has to pay fifteen francs for what previously cost ten francs. Before the little law was passed, he would not have thrown the five francs he could save on cheaper iron into the river; he would have given them to a businessman in exchange for a particular object he desires, for example a book. In this case, he would have obtained both the required amount of iron and the desired book. But after the law is passed, he has only the iron and cannot buy the book. This is therefore for him a net loss. Bastiat asks what is really the difference between Mr. Constraint going on the one hand in person to the border, using violence to hinder the trade of iron across it, and him on the other hand enlisting the great law factory in Paris to hinder the trade by force. ‘Some people think that plunder loses all its immorality when it is legal. For my part, I cannot imagine a circumstance that is worse. Be that as it may, what is certain is that the economic results are the same.’⁽²³⁾

Economic analysis enables us to extend our social vision and grasp the invisible hand. In another piece, Bastiat asks his readers to envisage a simple village cabinetmaker who spends his days planing boards. But there is more to the story than meets the eye. Every day the cabinetmaker gets up and dresses. His clothes are the product of a collective effort: Americans have produced the cotton; Indians the dye; Frenchmen the wool and the flax; Brazilians the leather; and all these materials have been shipped to various cities to be processed, spun, woven and dyed. Then the cabinetmaker has breakfast. For his bread to arrive every morning, farm lands had to be cleared, fenced in, ploughed, fertilised,

and planted; wheat had been harvested, ground, kneaded, and prepared; iron, steel, wood, and stone had to be converted into production tools; some people had to exploit the strength of animals, others had to harness the powers of a waterfall. In the course of the day, the cabinetmaker consumes a little sugar and a little olive oil, and uses a few utensils, all of which are produced by others. He leaves his house and finds his street paved and lighted. He goes to church, and brings a book with him whose author had professional training, frequented libraries and seminaries, drew knowledge from the sources of human tradition, and was able to live his life without having to concern himself with his bodily needs. The cabinetmaker takes a trip and finds that other men have facilitated it by smoothing and levelling the ground, lowering the mountains, spanning the rivers, filling in the valleys, placing wheeled cars on blocks of sandstone or iron rails, taming horses and harnessing steam. Thus, in one day the cabinetmaker consumes more things than he could produce himself in centuries. What is true of him, is also true of all other men. Yet no one has robbed anyone else. Bastiat sums up the lesson from this observation: ‘So ingenious, so powerful, then, is the social mechanism that every man, even the humblest, obtains in one day more satisfactions than he could produce for himself in several centuries.’⁽²⁴⁾

The Petition of the Candlemakers

One of Bastiat’s most famous satires in support of free trade is the ‘Petition of the Candlemakers’.⁽²⁵⁾ Written in 1846, it is supposed to be directed to members of the Chamber of Deputies (in place before the 1848 revolution) by manufacturers of tallow candles, wax candles, lamps, candlesticks, street lamps, snuffers, extinguishers, and producers of tallow, oil, resin, alcohol, and in general of everything relating to

(22) Seen and Not Seen, *Collected Works*, Vol. III, p. 429. Italics in the original.

(23) *Ibid.*, p. 431.

(24) Bastiat, *Harmonies*, p. 4. Earlier, Adam Smith had made the same point in his example of a simple woollen coat, arguing that ‘without the assistance and co-operation of many thousands, the very meanest person in a civilized country could not be provided, even according to, what we very falsely imagine, the easy and simple manner in which he is commonly accommodated’. *Wealth of Nations*, Bk. I, Ch. I, p. 14. Later, Leonard Read wrote a similar piece, inspired by Bastiat and possibly also by Smith. I, Pencil: My Family Tree as Told to Leonard E. Read, *The Freeman*, Vol. 8, No. 12 (1958), pp. 32–37.

(25) Frédéric Bastiat, Pétition des fabricants de chandelles, etc., *Journal des économistes*, Vol. 12 (1845), pp. 204–207.

lighting. These manufacturers tell the deputies that there is a wonderful opportunity to keep the domestic market for domestic labour only:

“ We are suffering from the intolerable competition of a foreign rival whose situation with regard to the production of light, it appears, is so far superior to ours that it is flooding our national market at a price that is astonishingly low for, as soon as he comes on the scene, our sales cease, all consumers go to him, and a sector of French industry whose ramifications are countless is suddenly afflicted with total stagnation. This rival, which is none other than the sun, is waging such a bitter war against us that we suspect that it is instigated by perfidious Albion (good diplomacy in the current climate!), especially as it treats this proud island in a way which it denies us.⁽²⁶⁾

The petitioners point out that the legislators, by forbidding access to natural light, such as closing doors and windows during the day, would create a need for artificial light. Thus, if more tallow would be consumed, many more cattle and sheep would be needed, and this in turn would lead to an increase in artificial meadows, meat, wool, leather, and fertilisers. Again, if more oil and resin would be consumed, many more poppies and olive trees would be cultivated, and thousands of ships would go to catch whales. The petitioners add that even if consumers may have an interest in the admission of natural light, producers have one in its prohibition.

Bastiat's piece is a clever restatement of Adam Smith's argument for the division of labour. The premise is that countries as well as individuals may have special natural advantages. New Zealand is well suited for sheep rearing, Chile for wine growing, Iceland for fishing, the Canary Islands for tourism. Bastiat himself takes a simple, but highly relevant, example: 'If an orange from Lisbon is sold at half the price of an orange from Paris, it is because natural and consequently free heat gives to one

what the other owes to artificial and consequently expensive heat.'⁽²⁷⁾ Therefore, in Paris an orange from Lisbon can be said to be half-free. But this is used by French orange producers as an argument to exclude it. It is claimed that domestic labour cannot withstand the competition. They must do everything by themselves and Portuguese labour only half the task, with the sun accomplishing the rest. But if a product is excluded for being half-free, what about a product that is totally free, such as sunlight? It should be rejected with twice as much zeal, Bastiat exclaims on behalf of the sun's competitors in producing light. He follows the argument of the petitioners to its absurd conclusion. His serious point is that when a product, wool from New Zealand, Chilean wine, fish from Iceland or sunshine in the Canary Islands, can be acquired with less effort than if we made it ourselves, then the difference in effort, and hence in price, is a gift bestowed on us. It is our loss if we refuse to avail ourselves of the various advantages nature has given to different territories and different individuals and which are offered to us through free trade.

This same point is vividly brought out in another parable in which Bastiat uses the familiar figure of Robinson Crusoe on the desert island. He recalls Crusoe's comment that if he wants a board, he has no other way but to cut down a tree, set it on an edge before him, and hew it flat on either side with his axe.⁽²⁸⁾ Bastiat observes that it takes Crusoe two weeks to make a plank, and meanwhile he has to live on his provisions, while his axe becomes blunt. Then Bastiat adds his own variant of the story. Just when Crusoe is about to give the first stroke of his axe, he sees a plank cast up by the waves on the beach. He runs to pick it up, but then he suddenly remembers the protectionist argument and stops. If he picks up the plank, it would only cost him the effort of carrying it and the time to run down the cliff and climb it again. But if he makes a plank with his axe, he would give himself enough work for two weeks, while he would wear out his axe which would give him the opportunity of repairing it, and he would also eat up his provisions and have to obtain fresh ones. Therefore the right thing for Crusoe to do is to push this plank

(27) Ibid., p. 52.

(28) Daniel Defoe, *The Life and Adventures of Robinson Crusoe* (London: T. Cadell & W. Davies, 1820 [1719]), p. 93.

(26) Petition by the Manufacturers of Candles, Etc., *Collected Works*, Vol. III, p. 50.



back into the sea: thus he can create more work for himself, and ‘work is wealth’, as protectionists claim. Bastiat agrees that this line of reasoning is absurd: ‘It is nevertheless the one followed by any nation that protects itself through prohibition. It rejects the plank offered to it for little work in order to give itself more work.’⁽²⁹⁾ Bastiat also points out that in the two weeks Crusoe would save by picking up the plank instead of making a new one from the tree, he could do something else.

Since Bastiat has a singular ability to state his argument for free trade clearly, all this may seem elementary and obvious. Nonetheless, protectionism has prevailed in many places and many times, supported by the logical fallacies exposed by Bastiat. It is unfair however to regard Bastiat merely as a brilliant economic journalist. As an economist, he is an independent and original thinker. For example, in the parables about the broken window, the candlemakers and Robinson Crusoe he is really introducing the important concept of opportunity cost, first formally defined by Friedrich von Wieser in 1876.⁽³⁰⁾ When we choose

In the famous story of the broken window, Bastiat points out that the immediate and visible effects of an action can be quite different from its invisible consequences in the long run. The destruction of goods cannot stimulate the economy. Photo: Thomas Castelazo.

(29) Something Else, *Collected Works*, Vol. III, p. 288.

(30) Friedrich von Wieser, Über das Verhältnis der Kosten zum Wert [On the Relation of Cost to Value], repr. in *Gesammelte Abhandlungen* (Tübingen: J. C. B. Mohr, 1929 [1876]), pp. 377–404. Cf. his *Social Economics* (New York: Greenberg, 1927 [1914]), pp. 99–100.

from alternatives, we implicitly reject, or sacrifice, the other alternative as second-best, and this is our opportunity cost. In his parables, Bastiat demonstrates that the opportunity cost of creating jobs by government intervention will be the non-creation of an unknown, but perhaps much larger number of jobs in the private sector.⁽³¹⁾ The created jobs are *what is seen*, whereas the non-created jobs are *what is not seen*.

Bastiat’s emphasis on exchangeability rather than labour as the source of value also enables him to identify some of the problems with Ricardo’s theory of rent and Malthus’ theory of over-population, both of which were accepted by most nineteenth century economists. David Ricardo taught that land was different from other goods in that its supply was more or less fixed, while demand could change. A landowner derived income from his land in proportion to its quality, or fertility, and this was rent, a unique form of income. The quality of land was a gift of nature, not the result of the landowner’s labour.⁽³²⁾ Bastiat’s fellow member of the Constituent Assembly, Pierre-Joseph Proudhon, therefore concluded: ‘Who is entitled to the rent of the land? The producer of the land, without doubt. Who made the land? God. Then, proprietor, retire!’⁽³³⁾ Obviously, Proudhon considered the state to be God’s representative on earth. On a sombrero note, later in the nineteenth century Henry George proposed the transfer of all rent from land to government (leaving with the landowner that part of his income which was the result of his improvement of the land) through a special land tax which could replace most or even all other taxes.⁽³⁴⁾ Bastiat however thinks that there is nothing about land that makes it different in kind rather than degree

(31) David M. Hart, The Paris School of Liberal Political Economy, *The Cambridge History of French Thought*, ed. by Michael Moriarty and Jeremy Jennings (Cambridge: Cambridge University Press, 2019), pp. 301–313. Cf. Anthony de Jasay, The Costly Mistake of Ignoring Opportunity Costs, *Political Economy, Concisely: Essays on Policy that does not work and Markets that do* (Indianapolis IN: Liberty Fund, 2009), pp. 303–306.

(32) David Ricardo, *On the Principles of Political Economy and Taxation* (London: John Murray, 1817).

(33) Pierre-Joseph Proudhon, *What is Property? An Inquiry into the Principle of Right and of Government* (1840), tran. by Benjamin R. Tucker (New York: Humboldt Publishing Company, 1893), Ch. III, §1. Marx and Engels, of course, listed the ‘Abolition of property in land and application of all rents to land to public purposes’ as the first priority of a communist government. Karl Marx and Friedrich Engels, *Manifest der Kommunistischen Partei* (1848). *Werke*, Vol. 4 (Berlin: Dietz, 1959), p. 481. Tran. by Samuel Moore.

(34) Henry George, *Progress and Poverty: An Inquiry into the Cause of Industrial Depressions and of Increase of Want with Increase of Wealth: The Remedy* (New York: D. Appleton, 1879).

from other exchangeable goods. This insight is formulated more clearly by modern economists: future utilisation possibilities, subjectively evaluated, determine the value of land, not its natural qualities, a concept difficult to quantify, at least in the absence of market exchanges.⁽³⁵⁾ Thomas Malthus taught that population increased at a faster rate than the means of subsistence so that eventually people would run out of food. Historically, wars, famines and epidemics had brought population down to a sustainable level, but in modern times, Malthus suggested, celibacy and austerity were the only feasible solutions.⁽³⁶⁾ His analysis has been echoed by modern environmentalists. Bastiat, on the other hand, believes that people do not breed like rabbits; they are able to plan their lives; and progress, not least technological innovation, will enable people to escape the Malthusian trap. Certainly, history seems to have proved him right.

The Politics of Plunder

Time and again Bastiat stresses that we cannot expect to get something for nothing. In his piece on ‘The State’ he recalls that people seem to expect everything from the state, at the same time as they demand tax reductions. But there is no such thing as a bountiful and inexhaustible being, which has bread for every mouth, work for every arm, capital for all businesses, milk for children and wine for the elderly. People can only get what they want by their own work or that of others. ‘Man rejects pain and suffering,’ Bastiat writes. ‘And yet he is condemned by nature to the suffering privation brings if he does not embark upon the pain of work. All he has, therefore, is a choice between these two evils. How can he avoid both? Up to now, he has only found and will only ever find one means, that is, to *enjoy the work of others*.’⁽³⁷⁾ On the basis of this observation, Bastiat gives a famous definition: ‘*The state is the great fiction by which*

everyone endeavors to live at the expense of everyone else.’⁽³⁸⁾ Bastiat claims that the real choice is between two models of the state: one is that it should do much, but then also has to take much; the other one is that the state should confine itself to a few tasks which would only require moderate taxes. The third model, that the state should do much, while keeping the tax burden light, is illusory.

Which are the tasks to which the state should confine itself? Bastiat discusses this question in *The Law*. Man has according to him a natural right to life, liberty and property, and consequently a right to defend those values, and the state should be ‘the collective organization of the individual right of legitimate defense’. The state should ensure justice, and leave it to individuals to promote fraternity. Justice, for Bastiat, is best defined by its opposite, injustice. It is the absence of injustice, like peace is the absence of war and freedom the absence of coercion. ‘*The aim of the law is to prevent injustice from reigning.*’ In reality it is not justice that has its own existence, it is injustice. The one results from the absence of the other.’⁽³⁹⁾ But the law has become corrupt, Bastiat says. It is used to transfer assets from producers to others. This is the ‘legal plunder’ that he also speaks about in his parable of the broken window. There are, Bastiat claims, three alternatives in modern society. One is that the minority plunders the majority. This is what happens if only a few have the right to participate in political decisions. An example might be France in 1830–1848, during the reign of King Louis-Philippe. The second case is when everyone plunders everyone else. This is what can happen under universal franchise, if the voters are guided by unintelligent selfishness. An example might be France after the 1848 revolution. The third alternative is that no one plunders anybody. This is what could happen if the voters would become enlightened and realise that they are also taxpayers and consumers. It is Bastiat’s aim to try and bring about this enlightenment through his writings. It is to reveal the real interests of the citizens and to expose the fallacies of those who want to seize their earnings, directly or indirectly.

(35) Carl Menger, *Grundsätze der Volkswirtschaftslehre* (Wien: Wilhelm Braumüller, 1871), pp. 145–148; *Principles of Economics* (Auburn AL: Ludwig von Mises Institute, 2007), pp. 166–169.

(36) Thomas Malthus, *An Essay on the Principles of Population* (London: J. Johnson, 1798).

(37) *The State*, *Collected Works*, Vol. II, p. 96.

(38) *Ibid.*, p. 97. Italics in the original.

(39) *The Law*, *Collected Works*, Vol. II, p. 120. Italics in the original.

Bastiat's argument that enforced redistribution achieved through taxation, regulation or trade restrictions is really plunder may seem implausible. One crucial distinction between the highwayman on the one hand and the tax collector and the customs officer, acting on behalf of legislators, on the other hand is that there is not obviously any intention to do wrong by legislators. Therefore their action does not seem as morally reprehensible as a plain robbery. Again, the distinction between legitimate and illegitimate functions of the state may not be as clear as Bastiat assumes. Even if there may be general agreement that the state should provide public goods, people may disagree on what should count as a public good: the maintenance of a defence force and the police may qualify, but what about education, or poverty relief? Is taxation to finance the provision of education or a safety net for the poor morally equivalent to plunder? A third argument might be that the income people enjoy, even in a free and competitive market, with no restrictions on trade, are not always the fruit of their labour: they may have been lucky in their choice of parents, or in their share of the talent pool, or in their investments; thus, they may not strictly speaking deserve income derived from such advantages. Perhaps it is therefore fair to expect these lucky people to transfer at least some of their undeserved gains to others, and even to compel them to do so. Fourthly, while Bastiat may have a case regarding regulation and trade restrictions, one important difference between a robbery and taxation is that people to some extent decide themselves how much they pay in taxes: they can choose to switch their efforts from taxed to untaxed channels, for example from work to leisure. They are however unprepared and helpless when faced with an armed robber, not to mention the very unpleasant violence involved, or the threat of it.

In response to these objections, Bastiat could say that an action should be judged by results, not only by intentions, and that it is precisely the task of a skilled economist to demonstrate the possible and likely results of government intervention. He could add that in the distinction between enforced redistribution by government and plunder there might be a problem of demarcation, but not really of classification. It might be a matter of debate which activities of government could be justified, with some people accepting the provision of education and poverty relief as

public goods. But it would not follow that some other kinds of enforced redistribution could be justified, for example a monetary transfer from one group to another, simply on the basis of political bargaining. There it may be appropriate to speak of plunder. Moreover, even if some individuals may not strictly speaking deserve all of the income they enjoy in a free and competitive market, they may be entitled to it. 'For what are our faculties if not an extension of our personality, and what is property if not an extension of our faculties?' Bastiat asks.⁽⁴⁰⁾ Why should some be entitled to the income of others, anyway? 'If I use force to appropriate all the work of a man for my benefit, this man is my slave,' Bastiat writes. 'He is also my slave if, while letting him work freely, I find a way through force or guile to take possession of the fruit of his work.'⁽⁴¹⁾ Again, enforced redistribution has some consequences which are not immediate or seen. For example, productive people such as professionals, entrepreneurs and venture capitalists will adjust their activities to the level of taxation that they confront, while unproductive and indolent people (and such people certainly exist) will discover opportunities to have resources transferred to them by government: A race might start between dwindling resources and growing demands, where ultimately, '*taxing more is to receive less*,' as Bastiat puts it,⁽⁴²⁾ in anticipation of the Laffer Curve according to which tax revenue will reach a maximum at a given tax rate, and then start to fall when the tax rate is increased further.⁽⁴³⁾

Bastiat presents a theory of both harmony and conflict in society. In the marketplace, where people are pursuing their own interests and freely exchanging goods and services, there is harmony. In the political arena, on the other hand, where people are also pursuing their own interests, there is conflict, because some want to appropriate and enjoy the work of others. Bastiat points out that the interventionists rely on three premises, the apathy of the voters who do not realise their true interests, the omnipotence of the state, ignoring all the unintended

(40) Ibid., p. 108.

(41) Protectionism and Communism, *Collected Works*, Vol. II, p. 250.

(42) Peace and Freedom or the Republican Budget, *Collected Works*, Vol. II, p. 294. Italics in the original.

(43) Arthur B. Laffer, The Laffer Curve: Past, Present, and Future, *Heritage Foundation Backgrounder*, No. 1765 (June 2004).

consequences of government intervention, and the infallibility of the legislators. The first premise can be changed, but the two other premises are wrong, Bastiat claims. The state is not omnipotent, and the legislators are fallible. He criticises Rousseau and other political thinkers in France for trying to set themselves above the masses. ‘Are the legislators and their agents not part of the human race? Do they think they are formed from a different clay from the rest of mankind?’⁽⁴⁴⁾ Under the influence of ancient fables about omniscient legislators, they want to mould the masses. Bastiat quotes the French revolutionary Maximilien Robespierre: ‘We have made a republic,’ Robespierre had said, ‘it now remains for us to make republicans of everyone.’⁽⁴⁵⁾ Bonaparte, the military dictator who replaced the French revolutionaries, shared this idea with them, although he did not use terror to the same extent to achieve his aims.

Bastiat’s ideal is the minimal state. Again, he does not think, any more than, say, St. Thomas Aquinas that the state should shift some resources from the protection of its citizens against injustice such as robberies, assaults and rapes to a fight against ‘victimless crimes’. The examples of victimless crimes that he discusses include the production and consumption of opium and alcohol, gluttony, luxurious clothing, non-traditional educational practices, and ostentatious religious practices. Other examples might be the use of various recreational drugs other than opium, such as cannabis, morphine, cocaine and heroin, and commercial or non-traditional sex. Bastiat believes that each individual has a natural right to produce or consume whatever he or she likes regardless of what other people think, provided that this activity does not violate the right to life, liberty, and property of others. ‘Advise me, but do not impose anything on me. I will take the decision *at my risk and peril*; that is enough, and the intervention of the law would be tyranny in this instance.’⁽⁴⁶⁾ The government’s fight against victimless crimes is also futile: if there is demand, then there will be supply, with the difference

that suddenly two new groups are created by a sleight of hand, the perpetrators, having now become criminals, and their moral guardians.

Bastiat’s Influence and Relevance

In the heyday of free trade and economic liberalism, in the latter half of the nineteenth century, Bastiat was one of the most widely read and influential economists in the world. One of his disciples, Michel Chevalier, negotiated with Bastiat’s old friend Richard Cobden a free trade treaty between France and Great Britain, signed in January 1860 and usually called the Cobden-Chevalier Treaty. This was perhaps the apogee of the free trade movement in Europe.⁽⁴⁷⁾ Even the Catholic Church was favourably disposed towards Bastiat. In 1877, the future Pope Leo XIII wrote in a pastoral letter that Bastiat had ‘clearly explained the many benefits that society brings to man; and that marvel is worthy of our attention’.⁽⁴⁸⁾

It is less well-known that in the nineteenth century Bastiat had a significant impact in the Nordic countries, reinforcing the strong existing liberal tradition there. *Economic Sophisms*, Part I, was translated into Swedish already in 1846, and the two most prominent liberals in Sweden at the time, Lars Johan Hierta and Johan August Gripenstedt, were both ardent disciples of Bastiat. Gripenstedt who had met Bastiat on a trip to France in 1850 had the opportunity to put theory into practice when he was a key government minister in 1848–1866. It is no exaggeration to say that Gripenstedt laid the foundations for Sweden’s prosperity in the following hundred years, introducing free trade, removing various economic restrictions, reforming the financial system, and abolishing guilds and other outdated practices. ‘Free trade is one of the main pillars upon which human society and culture resides,’ he wrote in 1851.⁽⁴⁹⁾ In 1865, under Gripenstedt’s leadership, Sweden became a partner to the

(44) The Law, *Collected Works*, Vol. II, p. 139.

(45) Frédéric Bastiat, To the Electors of the District of Saint-Sever, *Collected Works*, Vol. I, p. 362. He quotes Robespierre’s words again in Baccalaureate and Socialism, *Collected Works*, Vol. II, p. 220.

(46) On Responsibility, *Harmonies*, Ch. XX, p. 505. Italics in the original.

(47) Friedrich A. Hayek, Liberalism, *New Studies in Philosophy, Politics, Economics, and the History of Ideas* (London: Routledge & Kegan Paul, 1978), p. 129.

(48) Dean Russell, *Frederic Bastiat: Ideas and Influence* (Irvington-on-Hudson NY: The Foundation for Economic Education, 1965), p. 140.

(49) Per T. Ohlsson, *100 år av tillväxt: Johan Gripenstedt och den liberala revolutionen* [100 Years of Economic Growth: Johan Gripenstedt and the Liberal Revolution] (Stockholm: Brombergs, 1985), p. 85.

Cobden-Chevalier Treaty. A leading Swedish economist, Count Gustaf Knut Hamilton, even baptised his son Bastiat.⁽⁵⁰⁾ In Denmark, Bastiat also had a significant influence on many economists and politicians, for example Professors Carl Johan H. Kayser and Niels Christian Frederiksen, both of whom also were members of the Danish Parliament.⁽⁵¹⁾ Another well-known Danish writer and politician, Fredrik Bajer, was also Bastiat's disciple, publishing in 1870 a short extract of *Economic Harmonies*.⁽⁵²⁾ A pacifist, Bajer received the Nobel Peace Prize in 1908. Even in tiny, remote Iceland, Bastiat was applauded. The first book to be published in Icelandic on economics, by Arnljotur Olafsson in 1880, was more or less a recapitulation of Bastiat's *Economic Harmonies*, as the author stated in his foreword.⁽⁵³⁾ Olafsson was member of the Icelandic Parliament for many years.

In the first half of the twentieth century, however, Bastiat was largely forgotten. In the muddy trenches on the Western Front during the First World War, his optimism seemed strangely irrelevant, and in the Great Depression most countries abandoned free trade. In his own country, France, Bastiat was dismissed as an outdated ideologue. But during the Second World War Bastiat was rediscovered in the United States, by two businessmen in California, Raymond C. Hoiles and Leonard Read. They had old translations of Bastiat's works reprinted, and in 1946 Read moved to the state of New York where he set up the Foundation for Economic Education which did much to promote Bastiat's ideas. The economic journalist Henry Hazlitt wrote a readable best seller based on Bastiat's parable of the broken window, *Economics in One Lesson*,⁽⁵⁴⁾ and in the spring of 1947 both Read and Hazlitt became founding members of Friedrich von Hayek's Mont Pelerin Society, an international academy of liberal scholars.

(50) Eli F. Heckscher, A Survey of Economic Thought in Sweden, 1875–1950, *Scandinavian Economic History Review*, Vol. 1, No. 1 (1953), p. 110.

(51) Peter Kurrild-Klitgaard, Classical Liberalism and Modern Political Economy in Denmark, *Econ Journal Watch*, Vol. 12, No. 3 (2015), pp. 400–431.

(52) Fredrik Bajer, *Kort vejledning ved foredrag over samfundshusholdning (politisk økonomi) til brug ved folkehøjskoler* [A Short Guide for Lectures on Political Economy, for Use in Public Schools] (København: C. A. Reitzels forlag, 1870).

(53) Arnljotur Olafsson, *Audfraedi* [The Science of Wealth] (Reykjavik: Hid íslenska bokmenntafelag, 1880).

(54) Henry Hazlitt, *Economics in One Lesson* (New York: Harper & Brothers, 1946).

Bastiat's writings brought out by the Foundation for Economic Education had a marked impact on a retired Hollywood actor, Ronald Reagan, who was in the 1950s employed by General Electric and travelled around the United States defending economic freedom. In October 1965, a conservative activist, Lee Edwards, spent a few days with Reagan, while writing a profile of him. He had the opportunity to browse in Reagan's large library at his home in Pacific Palisades and came across books such as Hayek's *Road to Serfdom* and Hazlitt's *Economics in One Lesson*, and one book he had never read, *The Law* by Frédéric Bastiat. He was stunned. He had never read Bastiat. He opened the book. It was dog-eared and underlined. So were several other books in the library. Reagan was obviously a thoughtful conservative liberal (in the European sense) who had arrived at his position the old-fashioned way, one book at a time. That night Edwards wrote in his notebook, 'President Reagan?'⁽⁵⁵⁾ Indeed, Reagan was elected President in 1980. He often quoted Bastiat, for example in 1982, when he recalled Bastiat's comment that public funds seemed to belong to no one.⁽⁵⁶⁾ The British Prime Minister in 1979–1990, Margaret Thatcher, had also read Bastiat's works and occasionally referred to him, for example in 1978 when she quoted Bastiat's observation that socialists contradicted themselves when they said that people were too bad to govern themselves: 'Are not the legislators and their agents part of the human race? Do they believe themselves moulded from another clay than the rest of mankind?'⁽⁵⁷⁾

Bastiat's works are still highly relevant, for at least three reasons. First, populists and demagogues have continued to present the arguments against economic freedom that Bastiat exposed as fallacies. One of the most eminent economists of the twentieth century, John Maynard Keynes, once suggested that government should tackle unemployment by burying goods and then digging them up again:

(55) Lee Edwards: *Just right: A Life in Pursuit of Liberty* (Wilmington DE: Intercollegiate Studies Institute, 2017).

(56) Radio Address to the Nation on the Federal Budget, 22 May 1982, *Public Papers of the Presidents of the United States: Ronald Reagan, January 1 to July 2, 1982* (Washington DC: United States Government Printing Office, 1982), p. 665.

(57) Margaret Thatcher, Speech to Conservative Central Council, Leicester 8 April 1978. <https://www.margaretthatcher.org/document/103651> Thatcher quoted this passage by Bastiat in other speeches as well.

“ If the Treasury were to fill old bottles with banknotes, bury them at suitable depths in disused coalmines which are then filled up to the surface with town rubbish, and leave it to private enterprise on well-tryed principles of laissez-faire to dig the notes up again (the right to do so being obtained, of course, by tendering for leases of the note-bearing territory), there need be no more unemployment.⁽⁵⁸⁾

One of Keynes' disciples, Nobel Prize Laureate Paul Krugman, holds that sometimes wars, terror attacks or natural disasters can stimulate the economy.⁽⁵⁹⁾ Despite the enormous success of free trade in the 75 years since the end of the Second World War, economic nationalism seems to be on the rise, whereas the parables of the broken window, the candlemakers' petition and Robinson Crusoe with the wooden plank well illustrate the benefits of economic freedom.

In the second place, Bastiat's model of government as the rapacious proponent of special interests seems not all that farfetched in modern democracies. Politics usually is not a high-minded fight against injustice; it is a bargaining process in which the participants try to advance their own interests. Elections can be, in the words of American journalist H. L. Mencken, 'advance auctions of stolen goods'.⁽⁶⁰⁾ Bastiat may contribute to a more realistic picture of politics, like the one offered by James M. Buchanan and the Virginia School in economics which stresses that men

(58) John Maynard Keynes, *The General Theory of Employment, Interest and Money* (London: Macmillan, 1936), Bk. 3, Ch. 10, Sect. 6.

(59) In his *New York Times* blog, Paul Krugman argued 14 September 2001 that the terror attack on New York 11 September, '—like the original day of infamy, which brought an end to the Great Depression—could even do some economic good.' For example, 'If people rush out to buy bottled water and canned goods, that will actually boost the economy.' Reckonings; After the Horror, <https://www.nytimes.com/2001/09/14/opinion/reckonings-after-the-horror.html> Again, Krugman argued 15 March 2011 that the Fukushima nuclear disaster could stimulate the world economy. 'And yes, this does mean that the nuclear catastrophe could end up being expansionary, if not for Japan then at least for the world as a whole. If this sounds crazy, well, liquidity-trap economics is like that — remember, World War II ended the Great Depression.' Meltdown Macroeconomics, <https://krugman.blogs.nytimes.com/2011/03/15/meltdown-macroeconomics/>

(60) H. L. Mencken, Sham Battle, *Baltimore Evening Sun* 26 October 1936, repr. in *On Politics: A Carnival of Buncombe* (Baltimore: The Johns Hopkins University Press, 1956), p. 325.

are not suddenly transformed into altruists when they enter the political arena.⁽⁶¹⁾

Thirdly, Bastiat's optimism is still needed. Neo-Malthusians predict disaster because population is supposed to be increasing too fast. In 1968, for example, Stanford Professor Paul Ehrlich wrote that 'In the 1970s the world will undergo famine—hundreds of millions of people are going to starve to death in spite of any crash programs embarked upon now.'⁽⁶²⁾ He was wrong. No such disaster happened. The evidence shows that the rate of population increase is now declining, and has fallen below zero in some places, while new technology has increased the capacity for food production enormously. The neo-Malthusians are convinced that economic growth is not sustainable in the long run. They do not seem to realise that economic growth usually means *less* rather than *more* production because it consists in the discovery and development of new, cheaper and simpler ways of doing things. But in the possible panic brought about by such dire predictions economic freedom might be severely restricted, even if it is the precondition for such crucial discovery and development. It is therefore still necessary for economic liberals to try and make the invisible hand visible.

(61) Cf. the chapter on Buchanan and his ideas in this book.

(62) Paul R. Ehrlich, *The Population Bomb* (New York: Ballantine Books, 1968), p. xi.



A liberal aristocrat, de Tocqueville accepts democracy as inevitable, but wants it to be restrained. Painting by Théodore Chassériau.

Alexis de Tocqueville

(1805–1859)

Why did the American Revolution of 1776 succeed and the French Revolution of 1789 fail? This was the question which preoccupied French nobleman Alexis de Tocqueville his whole life. In sympathy with many of the ideals for which the French revolutionaries fought, but strongly repudiating both the Terror of 1793–1794 and Bonaparte's subsequent military dictatorship, he travelled to the United States of America in 1831 in search for answers. He presented his conclusions in a justly famous book, *Democracy in America*, where he described the fascinating, dynamic new society which was developing across the ocean and compared it with French society. America was a country without a king or an aristocracy, but where the passion for equality had not led to the elimination of liberty. The words of the Declaration of Independence on 4 July 1776 had resounded in Europe: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.' Tocqueville was however not as interested in lofty announcements as in the institutions, traditions, practices, customs, habits and manners that had served to maintain a relatively free and stable society in America, a beacon of hope for those Europeans who wanted to escape oppression and misery. In the course of his comparative study of the United States

and France, he presented what could be called the ‘sociology of freedom’. He was also remarkably prescient about the future, predicting the 1848 revolution in Paris a few weeks before it occurred, the Cold War between the United States and the Russian Empire and the enervation and social disintegration of certain groups within the welfare state.

Tocqueville’s Life and Works

Alexis Charles-Henri-Maurice Clérel de Tocqueville was born in Paris on 29 June 1805, the youngest of three brothers. His mother, Louise Madeleine Le Peletier de Rosanbo, was granddaughter of the distinguished lawyer Guillaume-Chrétien Malesherbes who courageously had defended the hapless King Louis XVI before the Convention in 1792 and who was later sent himself to the guillotine. Indeed, Tocqueville’s parents had narrowly escaped execution during the Terror. His father, Hervé Clérel, Count of Tocqueville, had opposed both the excesses of the Revolution and Bonaparte’s military dictatorship, but became under the restored Bourbon kings after 1814 successively Prefect of Metz, Amiens and Versailles and a Peer of France. Upon finishing law school in 1826, young Alexis travelled around Italy for almost a year before being appointed assistant judge in Versailles where his father was now Prefect. In Versailles, he met another young nobleman, Gustave de Beaumont, who became a close and lifelong friend. When the Bourbon king was deposed in 1830 and replaced by a relative, Louis-Philippe of Orléans, Tocqueville unenthusiastically pledged allegiance to the new regime, but decided to travel to the United States to observe a new society in the making. He and Beaumont managed to obtain a commission from the new government to study the American penal system and left for America. They arrived in New York in May 1831 and travelled all over North America for nine months, busy observing American customs and manners and taking notes.

Upon returning to France in early 1832, Tocqueville and Beaumont duly delivered a report to the government about the penal system in the United States. Tocqueville resumed his duties in Versailles, but a year later he resigned in protest against Beaumont’s dismissal by the government. Tocqueville devoted the next two years to writing the two

first volumes of *Democracy in America* which were published as one book in early 1835, to great acclaim. His work made a huge impact in the United States. ‘The American could not understand how a stranger, after a residence among them of only a year, could, with such marvellous sagacity, master their institutions and manners; enter into the spirit of them; and exhibit, in a clear and logical form, what they themselves had, till then, only vaguely apprehended.’⁽¹⁾ In 1835, Tocqueville married an Englishwoman, Mary Mottley, four years his senior. A year later, after the death of his mother, he took up residence at the old family seat of Tocqueville, near Cherbourg, in an amicable arrangement with his two elder brothers. He did not however use his title of Baron. Neither did he share his family’s reactionary views which he considered outdated and illusory. ‘When I entered life, aristocracy was dead and democracy as yet unborn,’ he told his English translator, Henry Reeve. ‘My instinct, therefore, could not lead me blindly either to the one or to the other. I lived in a country which for forty years had tried everything, and settled nothing. I was on my guard, therefore, against political illusions.’⁽²⁾

In the next few years Tocqueville worked on the third and fourth volumes of *Democracy in America* which were published as one book in 1840.⁽³⁾ There the emphasis was not as much on the distinctive customs and manners of the Americans as on the general lessons Europeans could learn from a society which seemed to combine equality and freedom. The author told a friend that with the work he ‘did not want to do a portrait, but to present a mirror’.⁽⁴⁾ In his *Autobiography*, English philosopher John Stuart Mill remarked that he had learned from Tocqueville that the practical political activity of the individual citizen was ‘a necessary protection against it degenerating into the only despotism of which, in the modern world, there is real danger—the absolute rule of the head of

(1) Gustave de Beaumont, Memoir of Alexis de Tocqueville, *Memoir, Letters, and Remains of Alexis de Tocqueville*, Vol. I (London: Macmillan, 1861), p. 35. Most of Tocqueville’s works are accessible at the website of Liberty Fund.

(2) Letter to Henry Reeve, Paris 22 March 1837. Tocqueville, *Memoir, Letters, and Remains of Alexis de Tocqueville*, Vol. II (London: Macmillan, 1861), p. 31.

(3) Alexis de Tocqueville, *De la démocratie en Amérique*, Vols. I–II (Paris: Gosselin, 1835 and 1840).

(4) The friend was Jean-Jacques Ampère. Editor’s Introduction, Alexis de Tocqueville, *Democracy in America*, tran. by James T. Schleifer, Vols. 1–4 (Indianapolis IN: Liberty Fund, 2010), Vol. I, p. cvii.



The American Constitution, signed in 1787, was based on the separation of powers. George Washington, President of the Constitutional Convention, stands beneath the flags. Benjamin Franklin sits in front of him, with Alexander Hamilton leaning on him, and James Madison at the same table. Painting by Howard Chandler Christy.

the executive over a congregation of isolated individuals, all equals but all slaves’.⁽⁵⁾

In 1839, Tocqueville was elected from his home district to the Chamber of Deputies and became a member of the constitutional opposition. He found the Orléanist regime, dominated by bankers and businessmen, dull and uninspiring, a feeling best summed up by the poet Adolphe de Lamartine, also a deputy: ‘France is bored!’⁽⁶⁾ In the Chamber, Tocqueville took a strong position against slavery, while

(5) John Stuart Mill, *Autobiography* (1873). *Collected Works*, Vol. I, ed. by John M. Robson (Toronto: University of Toronto Press, 1981), p. 201.

(6) The remark was made in speech in the Chamber of Deputies 10 January 1839.

he argued for free trade and perhaps surprisingly also for the ongoing colonisation of Algiers. He and his friend Gustave de Beaumont belonged to Parisian high society. ‘Gustave de Beaumont was as lively as he was amiable; he had solid qualities of the heart and a vivacity of spirit that gave rise to a great deal of grace and gaiety. Tocqueville, in contrast, was cold, reserved, master of himself to the point of calculating his actions as well as his relationships.’⁽⁷⁾ Tocqueville was elected to the French Academy in 1841. In the next few years he watched with alarm the growing discontent in France, issuing a warning in a speech to the Chamber on 27

(7) Editor’s Introduction, Tocqueville, *Democracy in America*, Vol. 1, p. 1v.

January 1848: ‘I believe that at the present moment we are slumbering on a volcano.’⁽⁸⁾ Four weeks later his fears were confirmed. After riots in Paris, King Louis-Philippe was deposed, a provisional government was formed, and the Second French Republic was founded. While Tocqueville did not lament the fallen regime, he was worried about what would replace it, as ‘a thousand strange systems came issuing pell-mell from the minds of innovators, and spread among the troubled minds of the crowds’.⁽⁹⁾ Elected to the Constituent Assembly, Tocqueville went from his country seat to Paris when the Assembly convened in May. In the French capital he saw society cut into two: those who possessed nothing, united in a common greed, and those who possessed something, united in a common terror. There were no bonds, no sympathy, between these two great sections of society.⁽¹⁰⁾ Tocqueville was less than impressed by most of the other deputies to the Constituent Assembly who ‘bore little resemblance to the men, so certain of their objects and so well acquainted with the measures necessary to attain them, who sixty years before, under Washington’s presidency, so successfully drew up the American Constitution’.⁽¹¹⁾

In the Constituent Assembly, Tocqueville unsuccessfully argued for indirect election of the president and a bicameral parliament. With a sigh, he observed: ‘In France there is only one thing we can’t set up: that is, a free government; and only one institution we can’t destroy: that is centralisation.’⁽¹²⁾ In these turbulent times, he advocated strict measures to uphold law and order. He was convinced ‘that the only means which remained, after so violent a revolution, of saving liberty was to restrict it’.⁽¹³⁾ In the presidential elections of December 1848 he supported General Louis-Eugène Cavaignac who had put down a rebellion in June, but the General was defeated by Napoleon Bonaparte’s nephew, the

populist and adventurer Louis-Napoléon Bonaparte. Tocqueville was however elected to the National Assembly in 1849, and from June to October he served as Foreign Minister. In a conversation with President Bonaparte during this period, Tocqueville said: ‘I will never serve you in overthrowing the Republic, but I will gladly strive to assure you a great position in it.’⁽¹⁴⁾ In December 1851, when the President seized power in a coup, Tocqueville was among those deputies who wanted to resist him with force. As a result, he was briefly imprisoned, and when he was released, he retired to his family estate where a bust of his great-grandfather Malesherbes adorned his writing desk. The new dictator introduced universal male suffrage and had his action ratified in a referendum, and a year later, following another referendum, he proclaimed himself Emperor under the name of Napoleon III. His uncle had been called Napoleon the Great, but the poet Victor Hugo, a fighting member of the National Assembly like Tocqueville, called the new Emperor Napoleon the Small. In retirement, Tocqueville wrote a book about the French Revolution, *The Old Regime and the Revolution*.⁽¹⁵⁾ The first part was published in 1856. Suffering from tuberculosis, Tocqueville did not finish the second part. He died on 16 April 1859. He and his wife left no children. His *Recollections* about the eventful years of 1848 and 1849 were published posthumously.⁽¹⁶⁾

A Society Guided by Self-Interest

When Alexis de Tocqueville arrived in the United States in 1831, the federation had existed for 42 years. In the preceding two centuries, North America had been slowly settled by Europeans, many of them trying to escape religious persecution or poverty at home. For them, this new country had been a shining ‘City upon a Hill’.⁽¹⁷⁾ Eventually,

(8) Beaumont, *Memoir*, p. 55.

(9) *The Recollections of Alexis de Tocqueville*, tran. by Alexander Teixeira de Mattos (New York: Macmillan, 1896), p. 98.

(10) *Ibid.*, p. 132.

(11) *Ibid.*, p. 235.

(12) *Ibid.*, p. 238.

(13) *Ibid.*, p. 310.

(14) *Ibid.*, p. 318.

(15) Alexis de Tocqueville, *L'Ancien Régime et la Révolution* (Paris: Michel Lévy frères, 1856).

(16) Alexis de Tocqueville, *Souvenirs* (Paris: Calmann-Levy, 1893).

(17) This term is derived from the parable of salt and light in the Sermon on the Mount. ‘You are the light of the world. A city set on a mountain cannot be hidden.’ Matthew 5, 14. It was used in a famous sermon by the Puritan John Winthrop in Southampton, on 21 March 1630.

thirteen colonies were founded on the Atlantic Coast, some named after British monarchs: Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia. When the British government tried to impose on the colonists taxation without representation, they rose up and fought the War of Independence in 1775–1783, with the formal foundation of the United States on 4 July 1776. A constitution for the new federation was drafted in 1787 and ratified by the states in the next three years. In 1789, the government of the United States began operating, with George Washington as the country's first President. The federation soon expanded: Vermont joined in 1790, Kentucky in 1792, Tennessee in 1796, and Ohio in 1803. Under President Thomas Jefferson, in 1803 the United States purchased from France the immense territory in the middle of the continent called Louisiana. A smaller state of the same name joined in 1812, Mississippi in 1817, Illinois in 1818, Alabama in 1819, Maine in 1820, and Missouri in 1821. The population of the United States, a little more than two million when independence was declared, had grown to thirteen million in 1830, whereas the population of France then was 31 million. The first six presidents of the United States had been members of the elites of Virginia and Massachusetts, landowners or lawyers, but when Tocqueville arrived, General Andrew Jackson, a populist politician from Tennessee, had been President for three years.

Jackson might be President of the United States, but what Tocqueville soon noticed was how little politicians mattered in this new, vast country. It seemed to be ruled by the invisible hand of the marketplace (as Adam Smith would have said) rather than by anyone identified as holding power. 'What most strikes the European who travels across the United States is the absence of what among us we call government or administration,' Tocqueville comments. 'In America, you see written laws; you see their daily execution; everything is in motion around you, and the motor is nowhere to be seen. The hand that runs the social machine escapes at every moment.'⁽¹⁸⁾ Instead of seeking power, the

Americans pursued wealth. Soon after his arrival in the United States, Tocqueville wrote to his brother: 'We are very truly in another world here; political passions are only at the surface; the profound passion, the only one that deeply moves the human heart, the passion of every day, is the acquisition of wealth, and there are a thousand ways to acquire it without disturbing the State.'⁽¹⁹⁾ What he also observes, however, is that in America this pervasive materialism is held in check by strong religious sentiments and a vibrant civic spirit which finds expression in all kinds of associations, which in turn modifies and even enlightens the pursuit of self-interest. The moral guidance which an aristocratic elite might provide in a hierarchical society like France before the Revolution, is in the egalitarian American society created by reciprocal relationships within religious communities and civic associations. Thus, the citizens are instructed in their true interests, as Tocqueville sees it, and given to understand that, in order to take advantage of the good things of society, they have to submit to its burdens. Cooperation between individuals could replace the authority of nobles, and the state could be sheltered from tyranny and from license.⁽²⁰⁾

Self-interest could be enlightened, or what Tocqueville calls 'interest well understood', and the pursuit of this self-interest could serve the common good:

“ Interest well understood is a doctrine not very lofty, but clear and sure. It does not try to attain great objectives, but without too much effort it attains all those it targets. Since the doctrine is within reach of all minds, each man grasps it easily and retains it without difficulty. Accommodating itself marvelously to the weaknesses of men, it easily gains great dominion and it is not difficult for it to preserve that dominion, because the doctrine turns personal interest back against itself and, to direct passions, uses the incentive that excites

(19) Letter to Édouard de Tocqueville 28 May 1831. Editor's Introduction, Tocqueville, *Democracy*, Vol. 1, p. lxvii.

(20) Tocqueville, *Democracy*, Vol. 1, p. 20.

(18) Tocqueville, *Democracy*, Vol. 1, p. 116.

them. The doctrine of interest well understood does not produce great devotions; but it suggests small sacrifices every day; by itself, it cannot make a man virtuous, but it forms a multitude of steady, temperate, moderate, farsighted citizens who have self control; and, if it does not lead directly to virtue by will, it imperceptibly draws closer to virtue by habits. If the doctrine of interest well understood came to dominate the moral world entirely, extraordinary virtues would undoubtedly be rarer. But I also think that then the coarsest depravities would be less common. The doctrine of interest well understood perhaps prevents some men from rising very far above the ordinary level of humanity; but a great number of others who fall below encounter the doctrine and cling to it. Consider a few individuals, it lowers them. Envisage the species, it elevates it.⁽²¹⁾

While Tocqueville clearly recognises the benefits to all produced by the individual pursuit of self-interest, he also tries to identify its disadvantages. His conclusion is similar to that of Burke, that in a commercial society, unlike an aristocratic one, there will be a dearth of heroes. ‘But the age of chivalry is gone. That of sophisters, oeconomists, and calculators, has succeeded; and the glory of Europe is extinguished for ever,’ Burke had famously exclaimed.⁽²²⁾ Perhaps what Tocqueville and Burke have in mind are those men whom Aristotle called ‘magnanimous’. They are great of mind and heart, proud and noble, rising above the multitude.⁽²³⁾

I doubt that Tocqueville and Burke are right about this. Does the market order tend to lower extraordinary and outstanding people? Are there fewer magnanimous individuals and heroes around than in the past? Certainly, in a commercial society where careers are open

(21) Tocqueville, *Democracy*, Vol. 3, pp. 921–922.

(22) Burke, *Reflections on the Revolution in France*, *Select Works of Edmund Burke*, Vol. 2 (Indianapolis IN: Liberty Fund, 1999), p. 89.

(23) Aristotle, *Nicomachean Ethics*, Bk. IV, Ch. 3, 1123b.



In the United States, Tocqueville found democracy restrained by a vibrant public spirit and a flourishing civil society. Painting by George C. Bingham, *The Verdict of the People*.

to talent more individuals with special abilities should be able to cultivate and develop them than in an aristocratic society where opportunities for self-development were mostly confined to a small elite.⁽²⁴⁾ For

example, Austrian economist Ludwig von Mises was a true hero who did not give up when he saw his old world collapse. At the age of 59, he moved to America and built a new career: He had the courage of his convictions, and continued into old age to present arguments for his position, little affected by adversity. Consider Margaret Thatcher, a grocer's daughter from Grantham who went to Oxford and became not only a chemist and a lawyer, but also Member of Parliament, Leader of the Conservative Party and Prime Minister of the United Kingdom for eleven years. Strong-willed and hardworking, she certainly made the most out of her considerable abilities, dwarfing her opponents in the Labour Party, such as Michael Foot, a solicitor's son, and Tony Benn, the Viscount Stansgate. Again, look at American golfer Tiger Woods. The son of a war veteran of mixed ethnicity, he did not belong to any upper class, but his father

(24) Samuel Smiles, *Self-Help; with Illustrations of Character and Conduct* (London: John Murray, 1859); Lawrence Reed, *Real Heroes: Inspiring True Stories of Courage, Character, and Conviction* (Intercollegiate Studies Institute, 2016).

devoted much time and effort to training him, with the result that at a young age he surpassed almost all his fellow players and became one of the most accomplished professional golfers of all times.

Examples abound in modern times of sportsmen, artists and scientists who have excelled, even if they came from humble backgrounds and could not rely on royal favours, like, say, German philosopher Gottfried Wilhelm Leibniz and Austrian composer Wolfgang Amadeus Mozart. The best historical example may be a lad from Ohio, Thomas Alva Edison, who invented the phonograph, the film camera and the light bulb. He had only a few months of formal education and supported himself as a young man by selling candy and newspapers on trains, but eventually he became a highly successful entrepreneur. As he remarked, ‘Genius is one percent inspiration, ninety-nine percent perspiration.’⁽²⁵⁾ Surely, the Carnegie, Rockefeller and Ford foundations bear witness to the magnanimity of their founders. Moreover, in modern society not only are there heroes who face extraordinary situations with courage and skill, such as the New York firefighters on 11 September 2001, but also many everyday heroes all around the world, for example devoted mothers.

Indeed, Tocqueville himself recognises that heroism has a place in commercial society. He looks at an American obliged to live by his own efforts and driven by the desire for wealth, going boldly down all the paths that fortune opens to him. He ‘becomes indiscriminately seaman, pioneer, manufacturer, farmer, bearing with an equal constancy the work or the dangers attached to these different professions. There is something marvelous in the resources of his genius, and a sort of heroism in his greediness for gain.’⁽²⁶⁾ Again, he describes an American navigator who went from Boston to buy tea in China, fighting against the sea, against disease, against boredom. ‘I cannot express my thought better than saying that the Americans put a kind of heroism in their way of doing commerce.’⁽²⁷⁾ According to Tocqueville, the American rebels

of 1776 were also outstanding individuals, heroes. ‘The Revolution in the United States was produced by a mature and thoughtful taste for liberty, and not by a vague and undefined instinct for independence. It was not based upon passions for disorder; on the contrary, it proceeded with love of order and of legality.’⁽²⁸⁾

Divided and Limited Popular Sovereignty

In trying to solve the riddle why equality did not destroy liberty in the United States, Tocqueville points to the strict separation of powers stipulated by the American Founding Fathers. ‘In this way they wanted to make authority great and the official small, so that society might continue to be well regulated and remain free.’⁽²⁹⁾ The United States are ‘twenty-four small sovereign nations, that together form the great body of the Union’.⁽³⁰⁾ The bicameral Congress is a compromise between two principles, the Senate being based on the idea of a federation of states and the House of Representatives on the idea of popular sovereignty. The division into two houses has the advantage that legislation is slowed down, each house serving as a court of appeal for the other one.⁽³¹⁾ While government is centralised in the United States, administration is decentralised, Tocqueville says, not least in the towns and the counties. The state has to be strong and speak with one voice; therefore some centralisation of government is necessary. But at the same time the state has to be limited, because ‘it excels at preventing, not at doing.’⁽³²⁾ Decentralisation of administration encourages political participation by the citizens and their identification with their own country. ‘The inhabitant becomes attached to each of the interests of his country as to his very own. He glories in the glory of the nation; in the successes that it achieves, he believes that he recognises his own work, and he rises with

(25) Martin André Rosanoff, Edison in His Laboratory, *Harper's Monthly*, Vol. 165 (September 1932), p. 406. Cf. in general Malcolm Gladwell, *Outliers: The Story of Success* (New York: Little, Brown & Co., 2008).

(26) Tocqueville, *Democracy*, Vol. 2, p. 560.

(27) Ibid., p. 641.

(28) Tocqueville, *Democracy*, Vol. 1, p. 117.

(29) Ibid., p. 117.

(30) Ibid., p. 98.

(31) Ibid., p. 137.

(32) Ibid., p. 154.

them; he rejoices in the general prosperity that benefits him.’⁽³³⁾

Tocqueville finds the independence of the judiciary in the United States an important additional safeguard of liberty. Judges have the right to base their decisions on the constitution rather than on laws coming from legislatures. ‘Enclosed within its limits, the power granted to the American courts to rule on the unconstitutionality of laws still forms one of the most powerful barriers that has ever been raised against the tyranny of political assemblies.’⁽³⁴⁾ Another restraint against the tyranny of political assemblies is the presidential veto which ‘forces the legislature to consider the question again; and this time, it can no longer decide except with a two-thirds majority of those voting’.⁽³⁵⁾ Tocqueville thinks that the jury is also an institution which could serve to teach people civic virtue. ‘You must consider it as a free school, always open, where each juror comes to be instructed about his rights.’⁽³⁶⁾ Yet another restraint against absolute power is freedom of the press, although Tocqueville hastens to add: ‘I love it much more from consideration of the evils it prevents than for the good things that it does.’⁽³⁷⁾

Tocqueville makes interesting observations about the size of nations. For him, ‘small nations have at all times been the cradle of political liberty’.⁽³⁸⁾ One reason is that in small nations society keeps its eye on everything and that therefore the spirit of improvement gets down to the smallest detail, as he puts it (in modern times we would perhaps speak of transparency facilitating reforms). Small nations are also unlikely to waste their resources on the empty illusion of glory. But they suffer from their lack of strength. Therefore large states often succeed, where small states fail. But the American ‘federal system has been created to unite the various advantages that result from the

large and the small sizes of nations’.⁽³⁹⁾ In Tocqueville’s memorable words, ‘The Union is free and happy like a small nation, glorious and strong like a large one.’⁽⁴⁰⁾ This is not least because of the many intermediary institutions and associations in America, from the states down to the counties and towns. ‘It is in the town, at the center of the ordinary relations of life, that the desire for esteem, the need for real interests, the taste for power and notice are focused.’⁽⁴¹⁾ The provincial liberties the Americans enjoyed are crucial: ‘So the municipal bodies and county administrations form like so many hidden reefs that slow or divide the tide of popular will.’⁽⁴²⁾ No less important is the role of non-political associations in sustaining the civic spirit, in restraining government and in keeping their members moral by non-obtrusive monitoring. ‘In our time, freedom of association has become a necessary guarantee against the tyranny of the majority,’ Tocqueville writes.⁽⁴³⁾ Such civic associations maintain informal order. They are both democratic and conservative. Or, as American philosopher Leo Strauss somewhat ironically comments, ‘One of the most conservative groups here calls itself Daughters of the American Revolution.’⁽⁴⁴⁾ Tocqueville’s point about civic associations seems as valid today as in his time. Churches, clubs, charitable organisations, philatelic societies, neighbourhood watches, parents’ associations, bowling leagues, and the Boy Scouts are some of the many examples. It is no coincidence that in totalitarian societies such civic associations are viewed with suspicion and often even outlawed.

The civic spirit is still strong in the United States. According to the ‘World Giving Index’, citizens of the United States give much more to charity per capita than any European nation. In Europe, the two most generous nations are the Irish and citizens of the United Kingdom.

(33) Ibid., p. 160.

(34) Ibid., p. 175.

(35) Ibid., p. 203.

(36) Tocqueville, *Democracy*, Vol. 2, p. 448.

(37) Ibid., p. 290.

(38) Tocqueville, *Democracy*, Vol. 1, pp. 255–256.

(39) Ibid., p. 260.

(40) Ibid., p. 263.

(41) Ibid., p. 112.

(42) Tocqueville, *Democracy*, Vol. 2, p. 429.

(43) Ibid., p. 307.

(44) Leo Strauss, *Liberalism Ancient and Modern* (Chicago: University of Chicago Press, 1968), p. ix.



The French are remarkably ungenerous.⁽⁴⁵⁾

Some civic associations in free societies extend their activities to the well-being of non-members. Clubs like Rotary, Lions, Kiwanis, and Junior Chamber did not exist in Tocqueville's time, but they well illustrate his

point: they tend to channel the energy of hard-working and occasionally greedy businessmen or professionals into activities such as collecting money for medical equipment in a local hospital, or for books to the local library, or for student scholarships. These clubs moderate the ambitions of their members, fulfil their desire for social recognition and are venues of self-improvement. Tocqueville's argument about civic associations has been further strengthened by the research of James M. Buchanan and Elinor Ostrom, both of them Nobel Laureates in economics. They discuss goods which are in between purely public goods like defence and purely private goods like pieces of manufactured cloth. Buchanan analyses 'club goods'. They are excludable and non-rivalrous which means that their consumption by some does not significantly lessen the possibilities of others to consume them. Examples might be local television

Tocqueville is worried that equality might destroy traditional bonds between people and produce amoral, isolated individuals, the lonely crowd. Painting by Edward Hopper, *Nighthawks*.

(45) CAF World Giving Index 2018. *A Global View of Giving Trends* (London: Charities Aid Foundation, 2018). <https://www.cafonline.org>

broadcasting and public safety. He shows that groups of individuals can form private associations, or clubs, to provide themselves with such 'club goods' which they can enjoy, while excluding non-members from their use.⁽⁴⁶⁾ Ostrom on the other hand deals with 'common goods'. They are not easily excludable and they are rivalrous which means that their consumption by some makes them unavailable or less available to others. Examples might be mountain pastures in Iceland, fisheries in Indonesia and forests in Nepal. She shows how relatively small, local communities may develop rules about the utilisation of such resources in an economically efficient and sustainable way.⁽⁴⁷⁾

Tocqueville is an acute observer of American society, and many of his comments on it still seem relevant. Here I shall only mention a few features of American society that we can observe with him. First, visitors to the United States are struck by the strong sense of individuality and deep-rooted suspicion of power there. The principle is universally accepted in the United States, as Tocqueville says, 'that the individual is the best as well as the only judge of his particular interest and that society has the right to direct his actions only when it feels harmed by them, or when it needs to call for his support'. In the second place, visitors notice, like Tocqueville, the restlessness of Americans, and their willingness to relocate whenever they think it would be to their advantage. 'In America,' Tocqueville remarks, 'society seems to live from day to day, like an army in the field.'⁽⁴⁸⁾ He notices, like we do today, that Americans always seem to be in a hurry. He explains: 'The man who has confined his heart solely to the pursuit of the goods of this world is always in a hurry, for he has only a limited time to find them, to take hold of them and to enjoy them.'⁽⁴⁹⁾ (This can be put in modern terms: Opportunity costs are high, because

(46) James M. Buchanan, *An Economic Theory of Clubs*, *Economica*, New Series, Vol. 32, No. 125 (1965), pp. 1–14.

(47) Elinor Ostrom, *Beyond Markets and States: Polycentric Governance of Complex Economic Systems*, *American Economic Review*, Vol. 100 (2010), pp. 641–672.

(48) Tocqueville, *Democracy*, Vol. 2, p. 331.

(49) Tocqueville, *Democracy*, Vol. 3, p. 944.

opportunities are plentiful.)⁽⁵⁰⁾ Again, when I travel in the United States, I see the same conformity without uniformity that Tocqueville described almost two hundred years ago. The Americans ‘love order, without which business cannot prosper’.⁽⁵¹⁾ But I would add, and emphasise, that this order is for facilitating individual choices, not for replacing them. It is about providing the road, not determining the direction. Fourthly, another prevalent characteristic of the Americans is that they seem to believe that all problems have solutions. There is a strong self-corrective element built into their emphasis on problems and solutions. Fifthly, Americans are much less interested in your history than in your capacities. They do not ask wherefrom you are, but what you can contribute. Sixthly, visitors cannot but perceive the patriotism prevalent or even rampant in American society. The tacit assumption everywhere is that the United States is the best country in the world. The Americans are still as proud of their country as they were in Tocqueville’s day when he, exasperated, wrote to his mother: ‘These people seem to me to stink of national pride; it pokes through all of their politeness.’⁽⁵²⁾

Indeed, Tocqueville is the originator of what has since been called ‘American exceptionalism’. This is the idea that there is something unique about the United States:

“ So the situation of the Americans is entirely exceptional, and it may be believed that no democratic people will ever be put in the same situation. Their entirely Puritan origin, their uniquely commercial habits, even the country that they inhabit and that seems to divert their intelligence from the study of the sciences, letters and the arts; the proximity of Europe, that allows them not to study them without falling

back into barbarism; a thousand particular causes, of which I have been able to show only the principal ones, had to concentrate the American mind in a singular way in the concern for purely material things. The passions, needs, education, circumstances, everything seems in fact to combine to bend the inhabitant of the United States toward the earth. Religion alone makes him, from time to time, turn a fleeting and distracted gaze toward heaven.’⁽⁵³⁾

However, the United States may not have been as exceptional as Tocqueville thought. It is sometimes called ‘the first new nation’.⁽⁵⁴⁾ In fact Iceland was the first new country from a European point of view, facing some of the same challenges as the thirteen British colonies in North America that eventually rebelled and formed a federation. On this remote, windswept island in the North Atlantic Ocean, partly as a result of the distance from the continent, a unique system of laws without government, let alone kings and aristocrats, arose in the Commonwealth period.⁽⁵⁵⁾ The three new Anglo-Saxon countries, Canada, Australia and New Zealand (which did not exist as independent countries in Tocqueville’s time), also share some features with the United States, and certainly they have been more or less as free as the United States.

Nevertheless, there is something special about the United States, if only in terms of its great historical impact, its size and its might and because it was a frontier society. When Tocqueville looks around the world, he sees only one other great frontier society, the Russian Empire, which had in the preceding century expanded south to the Black Sea and the Caucasus and east through Siberia and over the Bering Strait all the way to North America:

(50) This insight is developed by Swedish economist Staffan Burenstam Linder, *Den rastlösa välfärdsmänniskan: tidsbrist i överflöd* [Restless Because Prosperous: Time Shortage in Abundance] (Stockholm: Norstedts Akademiska Förlag, 1969).

(51) Tocqueville, *Democracy*, Vol. 2, p. 463.

(52) Letter to Tocqueville’s mother, the Countess de Tocqueville, 26 April 1831. In his edition of Tocqueville’s works, Beaumont left out this sentence! Tocqueville, *Democracy*, Vol. 2, p. 388n.

(53) Tocqueville, *Democracy*, Vol. 3, p. 768.

(54) Seymour Martin Lipset, *The First New Nation: The United States in Historical and Comparative Perspective* (New York: Basic Books, 1963).

(55) Richard F. Tomasson, *Iceland: The First New Society*, with an intro. by Seymour M. Lipset (Minneapolis MN: University of Minnesota Press, 1980).

“Today there are two great peoples on earth who, starting from different points, seem to advance toward the same goal: these are the Russians and the Anglo-Americans. Both grew up in obscurity; and while the attention of men was occupied elsewhere, they suddenly took their place in the first rank of nations, and the world learned of their birth and their greatness nearly at the same time. All other peoples seem to have almost reached the limits drawn by nature, and have nothing more to do except maintain themselves; but these two are growing. All the others have stopped or move ahead only with a thousand efforts; these two alone walk with an easy and rapid stride along a path whose limit cannot yet be seen. The American struggles against obstacles that nature opposes to him; the Russian is grappling with men. The one combats the wilderness and barbarism; the other, civilisation clothed in all its arms. Consequently the conquests of the American are made with the farmer’s plough, those of the Russian with the soldier’s sword. To reach his goal the first relies on personal interest, and, without directing them, allows the strength and reason of individuals to operate. The second in a way concentrates all the power of society in one man. The one has as principal means of action liberty; the other, servitude. Their point of departure is different, their paths are varied; nonetheless, each one of them seems called by a secret design of Providence to hold in its hands one day the destinies of half the world.”⁽⁵⁶⁾

Tocqueville is remarkably prescient. After the Second World War, where the Soviet Union, dominated by Russia, and the United States were allies, a Cold War broke out between them. As Tocqueville anticipates, it was not only a struggle between two superpowers: it was a war of ideas, with

(56) Tocqueville, *Democracy*, Vol. 2, p. 656.



Civic associations like Boy Scouts tend to civilise people and make them into good citizens and patriots. Illustration by Norman Rockwell.

Norman Rockwell

the plough pitted against the sword, liberty against servitude. The Cold War only ended with the collapse of communism in the Soviet Union and its satellite states in Central and Eastern Europe in 1989–1991.

Democracy and Socialism

Tocqueville accepts democracy, or popular sovereignty, but hopes that it does not lead to equality in servitude. Therefore the lessons to be learned from the United States are important for Frenchmen and other Europeans. ‘There is a country in the world where the great social revolution that I am speaking about seems more or less to have reached its natural limits; it came about there in a simple and easy way, or rather it can be said that this country sees the results of the democratic revolution that is taking place among us, without having had the revolution itself.’⁽⁵⁷⁾ However, these lessons cannot be applied uncritically on distant shores. Each country has her own history, soul, nature, conditions, unique features:

“ My goal has been to show, by the example of America, that laws and above all mores could allow a democratic people to remain free. I am, moreover, very far from believing that we must follow the example that American democracy has given and imitate the means that it used to attain the goal of its efforts; for I am not unaware of the influence exercised by the nature of the country and antecedent facts on political constitutions, and I would regard it as a great misfortune for humankind if liberty, in all places, had to occur with the same features.⁽⁵⁸⁾

What France can learn from America, according to Tocqueville, is to introduce stricter separation of powers and encourage intermediary institutions, between the state and the individuals. But France cannot

imitate America. She has to rely on her own civic spirit.

Tocqueville is certainly right about the perils of slavish imitation. There is great difference over the last two centuries between the relative success of the two North American countries, the United States and Canada, on the one hand and the general failure of Latin American countries on the other hand, despite the fact that almost all of them adopted written constitutions quite similar to that of the United States. These outcomes illustrate how little can be achieved by importing the letter without the spirit that gives it life, as Tocqueville would put it. Indeed, revolutions from above—such as attempts to impose Western principles on a resistant population—are likely to fail. In the 1970s, the Shah of Iran sought to modernise his country, but ended up losing power. It is true that the modernisation of Japan during the Meiji era and of Turkey under Mustafa Kemal seemed to succeed, but Japan became an aggressive expansionist power in the 1930s, and a stable, liberal democracy has not emerged in Turkey. Where modernisation has been somewhat successful, as in Taiwan and South Korea after the Second World War, it has been because historical circumstances have enabled governments to protect private property, maintain law and order and promote trade.

What Tocqueville fears is that democracy will become the tyranny of the majority or rather of those who speak in the name of the majority. He finds detestable the maxim that the majority has a right to do anything, but yet he considers the will of the majority to be the source of all power. How does he resolve this paradox? He invokes a similar idea as Burke who had spoken about a social contract or partnership ‘not only between those who are living, but between those who are living, those who are dead, and those who are to be born’.⁽⁵⁹⁾ Tocqueville says: ‘So when I refuse to obey an unjust law, I am not denying the right of the majority to command; I am only appealing from the sovereignty of the people to the sovereignty of the human race.’⁽⁶⁰⁾ But Tocqueville is first and foremost a champion of liberty. ‘Passions are attributed to

(57) Tocqueville, *Democracy*, Vol. 1, pp. 26–27.

(58) Tocqueville, *Democracy*, Vol. 3, pp. 512–513.

(59) Edmund Burke, *Reflections*, *Select Works*, Vol. II, p. 192–193.

(60) Tocqueville, *Democracy*, Vol. 2, p. 410.



me where I have only opinions,' he wrote in 1837, 'or rather I have but one opinion, an enthusiasm for liberty and for the dignity of the human race.'⁽⁶¹⁾

The two political ideas on the ascendancy in the nineteenth century were democracy and socialism. While Tocqueville regards democracy as being inevitable and desirable, if properly implemented and restrained, he rejects socialism as being both undesirable and impractical. But he does not underestimate its appeal. In October 1847, he drafts a manifesto for a group of his allies in the Chamber of Deputies:

“ The French Revolution, which abolished all privileges and destroyed all exclusive rights, has allowed one to remain, that of landed property. Let not the landlords deceive themselves as to the strength of their position, nor think that the rights of property form an insurmountable barrier because they have not as yet been surmounted; for our times are unlike any others.

Tocqueville, seated far left, was a member of a constitutional commission set up by the National Assembly in 1851. Another member, General Louis-Eugène Cavaignac, is seated far right.

(61) Letter to Henry Reeve, Paris 22 March 1837. Tocqueville, *Memoir, Letters, and Remains of Alexis de Tocqueville*, Vol. II (London: Macmillan, 1861), pp. 30–31.

He foresees a struggle about property:

“ Before long, the political struggle will be restricted to those who have and those who have not; property will form the great field of battle; and the principal political questions will turn upon the more or less important modifications to be introduced into the rights of landlords.⁽⁶²⁾

In a speech to the Constituent Assembly on 12 September 1848, Tocqueville refuses to accept socialism as a logical outcome of the French Revolution:

“ And after this great Revolution, is the result to be that society which the socialists offer us, a formal, regimented and closed society where the State has charge of all, where the individual counts for nothing, where the community masses to itself all power, all life, where the end assigned to man is solely his material welfare—this society where the very air is stifling and where light barely penetrates? Is it to be for this society of bees and beavers, for this society, more for skilled animals than for free and civilized men, that the French Revolution took place?

He contrasts socialism with democracy:

“ Democracy extends the sphere of personal independence; socialism confines it. Democracy values each man at his highest; socialism makes of each man an agent, an instrument, a number. Democracy and socialism have but one thing in common—equality. But note well the difference. Democracy aims at equality in liberty. Socialism desires equality in constraint and in servitude.⁽⁶³⁾

(62) Tocqueville, *Recollections*, p. 13.

(63) The speech is reproduced in Tocqueville on Socialism, tran. by Ronald Hamowy, *New Individualist Review*, Vol. 1, No. 2 (1961), pp. 18–23.

In his *Old Regime and the Revolution*, Tocqueville also points out that socialism, or the demand for common property, is by no means new. For example, Lewis XIV issued an edict by which he declared all land in France public property, only temporarily granted to actual holders. ‘It was the mother of modern socialism, which thus, strange to say, seems to have been the offspring of royal despotism.’⁽⁶⁴⁾

Ironically, the staunch anti-socialist Tocqueville may have had some influence on the most influential socialist thinker of the nineteenth century, Karl Marx.⁽⁶⁵⁾ The ideas found in Tocqueville’s writings of an inevitable and irreversible historical movement towards equality and of class conflict, first between the aristocracy and the middle class and then between men of property and the proletariat, both play a major role in Marxism. Some passages in the *Communist Manifesto* also seem to echo Tocqueville’s apprehensions about the moral effects of commercial society:

“ The bourgeoisie, wherever it has got the upper hand, has put an end to all feudal, patriarchal, idyllic relations. It has pitilessly torn asunder the motley feudal ties that bound man to his ‘natural superiors’, and has left remaining no other nexus between man and man than naked self-interest, than callous ‘cash payment’. It has drowned the most heavenly ecstasies of religious fervour, of chivalrous enthusiasm, of philistine sentimentalism, in the icy water of egotistical calculation. It has resolved personal worth into exchange value, and in place of the numberless infeasible chartered freedoms, has set up that single, unconscionable freedom—Free Trade. In one word, for exploitation, veiled by religious and political illusions, it has substituted naked, shameless, direct, brutal exploitation.”⁽⁶⁶⁾

(64) Tocqueville, *Old Regime*, p. 229.

(65) Marx and Engels refer twice to Tocqueville (and his friend Beaumont), in *Zur Judenfrage* (1844), *Werke*, Vol. 1 (Berlin: Dietz, 1956), p. 362, and in *Die heilige Familie* (1845). *Werke*, Vol. 2 (Berlin: Dietz, 1962), p. 198.

(66) Karl Marx and Friedrich Engels, *Manifest der Kommunistischen Partei* (1848), *Werke*, Vol. 4

The difference is that Tocqueville proposes various remedies against the social and moral disintegration that he fears, whereas Marx wanted to overthrow the whole system.

Tocqueville also discusses what would become the concept of worker alienation in Marx. He shares Adam Smith’s worries about the enervating consequences of division of labour, however desirable it might be economically. ‘What should you expect from a man who has used twenty years of his life making pinheads?’ Life becomes a deadening routine, the worker is turned into a mindless machine. ‘In a word, he no longer belongs to himself, but to the profession that he chose,’ Tocqueville comments.⁽⁶⁷⁾ Marx would have said that the worker had lost his freedom; he was being controlled by material goods instead of controlling them. Tocqueville makes another observation which would become one of the pillars of the Marxian system. It is about the difference in bargaining power between the employer and workers. ‘If by common agreement they refuse work, the master, who is a rich man, can easily wait, without ruining himself, until necessity leads them back to him; but they must work every day in order to live, for they have hardly any other property except their hands,’ Tocqueville writes.⁽⁶⁸⁾ For Marx, it was crucial that the workers had no reserve funds and that the employer could therefore force down their wages to the subsistence level.

There was a soft socialism however which could be even more dangerous than the hard socialism Tocqueville encountered in the French Constituent Assembly. In a famous passage he tries to imagine what it would look like:

“ I see an innumerable crowd of similar and equal men who spin around restlessly, in order to gain small and vulgar pleasures with which they fill their souls. Each one of them, withdrawn apart, is like a stranger to the

(Berlin: Dietz, 1959), pp. 464–465. Trans. by Samuel Moore.

(67) Tocqueville, *Democracy*, Vol. 3, p. 982.

(68) Tocqueville, *Democracy*, Vol. 4, p. 1029.

destiny of all the others; his children and his particular friends form for him the entire human species; as for the remainder of his fellow citizens, he is next to them, but he does not see them; he touches them without feeling them; he exists only in himself and for himself alone, and if he still has a family, you can say that at least he no longer has a country.—Above those men arises an immense and tutelary power that alone takes charge of assuring their enjoyment and of looking after their fate. It is absolute, detailed, regular, far-sighted and mild. It would resemble paternal power if, like it, it had as a goal to prepare men for manhood; but on the contrary it seeks only to fix them irrevocably in childhood; it likes the citizens to enjoy themselves, provided that they think only about enjoying themselves. It works willingly for their happiness; but it wants to be the unique agent for it and the sole arbiter; it attends to their security, provides for their needs, facilitates their pleasures, conducts their principal affairs, directs their industry, settles their estates, divides their inheritances; how can it not remove entirely from them the trouble to think and the difficulty of living?⁽⁶⁹⁾

This may be a restatement of the ‘Paradox of the Contented Slave’. Is a slave who accepts his condition really unfree?

Some people have seen the modern welfare state as such ‘an immense and tutelary power’, for example Sweden.⁽⁷⁰⁾ But even if there may be a grain of truth in this, it is not the whole story. Tocqueville was speculating about a possibility, not predicting a coming reality. In Sweden certainly there seemed to be a strong consensus after the Second World War for an extended role of government. The few voices raised against it were relegated to the wilderness. But when the Swedish Social Democrats were perceived as going too far in the late 1970s, there was a swing back to the traditional

Swedish conservative liberalism of Lawspeaker Torgny (in the interpretation of Snorri Sturluson), Anders Chydenius and Johan August Gripenstedt. There was a realisation that Sweden was not prosperous because taxes were high, but that taxes were high because Sweden was prosperous, and that she was prosperous as a result of Gripenstedt’s comprehensive liberal reforms in the nineteenth century, and the preservation, despite social democratic hegemony, of the rule of law and of free trade.

Tocqueville’s vision probably does not apply to any society as a whole, but it may be relevant in some social sectors, for example among the recipients of welfare benefits on the one hand and in the academy on the other hand. The recipients of welfare benefits may become enervated and isolated as a consequence of their situation; they may lose their self-respect and passively accept intrusions by government into their lives. While the academics may not have lost their self-respect, and may even have too much of it, there has been an unmistakable trend in recent times away from the conception of science as the free competition of ideas and towards not only conformity, but also uniformity. If your views are not ‘politically correct’, you will find it hard to get tenure at a university; and in the unlikely case that you get tenure, perhaps by oversight, you will not get your unorthodox papers published in peer-reviewed academic journals—arguing, say, that development aid tends to become aid without development; or that climate change must be partly natural rather than solely anthropogenic; or that the gender wage gap can be explained mostly by different choices made by the sexes. At the same time, various kinds of nonsense will be published in these journals if it is ‘politically correct’.⁽⁷¹⁾ But since a publication record is the most common criterion of academic success, you will become an outsider even if you have tenure. Sooner or later the students, encouraged by your colleagues, will turn on you which will give your employer a pretext to

(69) Ibid., pp. 1249–1250.

(70) Roland Huntford, *The New Totalitarians* (London: Allen Lane, 1971).

(71) Alan Sokal, a physics professor at New York University, submitted in 1996 a paper to a journal of ‘postmodern cultural studies’. Intentionally, the paper was full of nonsense about quantum gravity being a social and linguistic construct. The paper was accepted and published. In 2017–2018 a team of three authors, James A. Lindsay, Peter Boghossian, and Helen Pluckrose, submitted bogus papers to academic journals in cultural, queer, race, gender and fat studies, or in what the authors call ‘grievance studies’. Some were accepted and published, even if they included arguments that the penis is a social construct, that dogs engage in rape culture and that men may reduce their transphobia by inserting sex toys into their ani.

dismiss you with a severance payment. You need not fear an execution squad or a labour camp, but you feel strong peer pressure to which most academics, at least in the social sciences, will succumb.

The French Revolution

The main thesis of Tocqueville's book about the French Revolution, supported by extensive archival research, is that it was a continuation of policies pursued by absolute kings. The author finds 'the roots of our modern society deeply imbedded in the old soil'.⁽⁷²⁾ For centuries, kings had been scaling down the many intermediate institutions and associations of France, and tearing apart the various bonds and attachments between their subjects, turning them into a mass of equals. 'In France, kings showed themselves to be the most active and most constant of levellers.'⁽⁷³⁾ Tocqueville teaches that the Revolution was the adaptation of the political state to the social state, of the letter to the spirit. 'The Revolution effected suddenly, by a convulsive and sudden effort, without transition, precautions, or pity, what would have been gradually affected by time had it never occurred.'⁽⁷⁴⁾ Indeed, paradoxically, the French Revolution was neither French nor a Revolution.⁽⁷⁵⁾ It was not French, because the trend towards equality, and popular sovereignty, and centralisation, was an international one. It was not a Revolution because it did not bring about a radical transformation of society, as this transformation had already been taking place over centuries. The revolutionaries had simply continued the centralisation implemented by kings. 'I am willing to admit that centralisation was a noble conquest, and that Europe envies us its possession; but I deny that it was a conquest of the Revolution. It was, on the contrary, a feature of the old regime, and, I may add, the only one which outlived the Revolution.'⁽⁷⁶⁾

(72) Tocqueville, *Old Regime*, p. iv.

(73) Tocqueville, *Democracy*, Vol. 1, p. 8.

(74) Tocqueville, *Old Regime*, p. 37.

(75) Editor's Introduction, Tocqueville, *Democracy*, Vol. 1, p. cvii.

(76) Tocqueville, *Old Regime*, p. 50.



On 10 August 1792 the Paris mob stormed the Tuileries Palace where the royal family resided, killing many of the king's guards. Tocqueville's father, one of the guards, narrowly escaped. Painting by Jacques Bertaux.

Tocqueville is however not a fatalist about centralisation or equality. 'The nations of today cannot make conditions among them not be equal; but it depends on them whether equality leads them to servitude or liberty, to enlightenment or barbarism, to prosperity or misery.'⁽⁷⁷⁾ While equality was inevitable, the great transformation of French society could have been affected gradually and peacefully, as the examples of the 1688 Glorious Revolution in Great Britain and the 1776 American Revolution suggested. It was for example a huge mistake, Tocqueville thinks, to destroy the aristocracy instead of subjecting it to the law.⁽⁷⁸⁾ Tocqueville also criticises the two types of people who stood out during the French Revolution, the would-be despots and the dreamers. 'Despots acknowledge that liberty is an excellent thing; but they want it all for themselves, and maintain that the rest of the world is unworthy of it,'⁽⁷⁹⁾ he exclaims. The philosophers and writers

(77) Tocqueville, *Democracy*, Vol. 4, p. 1285.

(78) Tocqueville, *Old Regime*, p. 140.

(79) *Ibid.*, p. xi.

prominent before the Revolution are also found wanting. ‘These writers were naturally tempted to indulge unreservedly in abstract and general theories of government. They had no practical acquaintance with the subject; their ardours were undamped by actual experience; they knew of no existing facts which stood in the way of desirable reforms; they were ignorant of the dangers inseparable from the most necessary revolutions, and dreamed of none.’⁽⁸⁰⁾ They all assumed, Tocqueville remarks, that the powers of the state ought to be unlimited, and that the only thing needed was to persuade it to use them wisely.⁽⁸¹⁾

In his reflections about revolutions, Tocqueville presents what has been called ‘Tocqueville’s Paradox’. It is that regimes are most vulnerable when they are reforming. One reason for this is that thereby they are drawing attention to existing ills which may be becoming an exception rather than the rule:

“ The hatred that men bring to privilege increases as privileges become rarer and smaller, so that you would say that democratic passions become more inflamed at the very time when they find the least sustenance. I have already given the reason for this phenomenon. No inequality, however great, offends the eye when all conditions are unequal; while the smallest dissimilarity seems shocking amid general uniformity; the sight of it becomes more unbearable as uniformity is more complete. So it is natural that love of equality grows constantly with equality itself; by satisfying it, you develop it.⁽⁸²⁾

The journey from a worse to a better situation is fraught with dangers, not least because expectations have been raised and uncertainty created:

(80) Ibid., pp. 172–173.

(81) Ibid., p. 91.

(82) Tocqueville, *Democracy*, Vol. 4, p. 1203.

“ The regime which is destroyed by a revolution is almost always an improvement on its immediate predecessor, and experience teaches that the most critical moment for bad governments is the one which witnesses their first steps toward reform. A sovereign who seeks to relieve his subjects after a long period of oppression is lost, unless he be a man of great genius.⁽⁸³⁾

The example Tocqueville has in mind is of course the reign of Lewis XVI, a much more progressive king than his two predecessors and namesakes, Lewis XIV and Lewis XV.

History provides many other examples of ‘Tocqueville’s Paradox’. It was after the Brazilian Emperor had in 1888 abolished slavery, without compensation, that he was deposed. He had lost one constituency, the slave-owning landowners, without gaining another. Perhaps more importantly, he had lost the will to rule, and this was perceived by ambitious military officers seeking to replace him. Again, from 1906 the Russian tsarist regime under the firm leadership of Pyotr Stolypin implemented many reforms which might have saved it if Stolypin had not been assassinated in 1911. The Shah of Iran in the 1970s feebly tried to modernise and liberalise his country after decades of authoritarian rule, but when his opponents felt that they had little to fear, he was overthrown. I had a memorable conversation about this with Sir Geoffrey Arthur, the Master of my college, Pembroke, in the autumn of 1981, less than three years after the Shah had lost power. Sir Geoffrey had been the last British Resident in the Persian Gulf states and knew the Shah well. He said: ‘The problem was that the Shah was unwilling to use force. He should have had 10,000 people shot, and if that would not have been sufficient, he should have had 20,000 people shot.’ I was stunned by this exclamation, but perhaps the Master had a point: The willingness to reform possibly reveals a weakness which subsequently may be exploited by elements hungry for power. Certainly the Iranians went out of the frying pan into

(83) Tocqueville, *Old Regime*, p. 214.

the fire when the Islamic clerics seized power. A more recent example might be Mikhail Gorbachev's attempts to reform the Soviet Union from above. He alienated his own supporters at the same time as he raised the expectations of those who opposed communism. When the oppressed peoples of Central and Eastern Europe realised that he was reluctant to use force to maintain communist rule, they rose up: The Berlin Wall fell in a spectacular way in 1989, and with it the communist regime of East Germany; the three Baltic countries reaffirmed their independence, having been occupied by the Soviet Army since 1940 (with a brief Nazi interlude), while many other countries followed suit. Perhaps the leadership of the Chinese Communist Party had observed 'Tocqueville's Paradox' and therefore used brute force in June 1989 to bring down the nascent democratic movement in China, after extensive economic reforms in the preceding decade.

Even if Tocqueville criticises Burke's interpretation of the French Revolution, the political lessons the two thinkers draw from this momentous event are in many ways similar.⁽⁸⁴⁾ First, while Tocqueville is ambivalent about equality and Burke almost hostile to it, neither of them supports a return to an aristocratic regime. In the second place, they both favour private property rights and free trade, although they are critical of what they regard as excessive materialism in commercial society. Burke speaks disparagingly about 'sophisters, economists and calculators', and Tocqueville condemns the French economists of the eighteenth century:

“ They were quite familiar with the form of tyranny which we call democratic despotism, and which had not been conceived in the Middle Ages. No more social hierarchies, no distinctions of class or rank; a people consisting of individuals entirely equal, and as nearly alike as possible; this body acknowledged as the only legitimate sovereign, but carefully deprived of the means of directing or even superintending the

government; over it a single agent, commissioned to perform all acts without consulting his principals: to control him, a public sense of right and wrong, destitute of organs for its expression; to check him, revolutions, not laws; the agent being de jure a subordinate agent, in fact a master: such was the plan.⁽⁸⁵⁾

Thirdly, Tocqueville and Burke share a deep distrust of abstract speculations. Fourthly, both Tocqueville and Burke believe that religion is necessary for a stable order. 'When religion is destroyed among a people, doubt takes hold of the highest portions of the intellect and half paralyses all the others,' Tocqueville writes. 'Such a state cannot fail to enervate souls; it slackens the motivating forces of will and prepares citizens for servitude. Then not only does it happen that the latter allow their liberty to be taken, but they often give it up.'⁽⁸⁶⁾ Unlike Burke, Tocqueville however wants the separation of state and church, for the sake of both.

A fifth similarity between Tocqueville and Burke is that they both teach that some traditions and principles have to be accepted on authority. Burke speaks about cherishing 'prejudices', whereas Tocqueville thinks that man cannot do without some dogmatic beliefs, or opinions that he receives on trust. 'If each person undertook to form all his opinions himself and to pursue truth in isolation, along paths opened up by himself alone, it is improbable that a great number of men would ever unite together in any common belief.'⁽⁸⁷⁾ He goes even further: 'It is true that every man who receives an opinion on the word of others puts his mind into slavery; but it is a salutary servitude that allows making a good use of liberty.'⁽⁸⁸⁾ Yet another similarity between Tocqueville and Burke is that both worry about increasing

(84) Sanford Lakoff, Tocqueville, Burke, and the Origins of Liberal Conservatism, *The Review of Politics*, Vol. 60, No. 3 (1998), pp. 435–464.

(85) Tocqueville, *The Old Regime*, p. 198.

(86) Tocqueville, *Democracy*, Vol. 3, p. 745.

(87) *Ibid.*, p. 712.

(88) *Ibid.*, pp. 715–716.



mediocrity if popular taste is to dominate society. Finally, Tocqueville and Burke share a fear of mob rule or the tyranny of the majority.

Tocqueville's ideas are also closely related to those of two other French conservative liberals, Benjamin Constant and Frédéric Bastiat. This is not surprising. They were responding to the same events and situations: Constant and Tocqueville to the Terror and the subsequent military dictatorship, Bastiat and Tocqueville to the extension of government power in the name of the people. Strangely, though, Tocqueville nowhere refers to these two thinkers, although he must have known of them and their works. Constant was famous in France as 'the first liberal', and there are many similarities between his thought and that of Tocqueville. Their differences are more about emphasis than content: Whereas Constant is chiefly concerned about free and flourishing individuals and their protected domains, Tocqueville's main topic is the free society and its prerequisites. Bastiat served in the Constituent Assembly and in the Legislative Assembly with Tocqueville and was also a well-known spokesman in France for economic freedom. There is an unmistakable resemblance between Tocqueville's observation about democracy, published in 1835, and Bastiat's later distinction

Château de Tocqueville in Normandy where Tocqueville wrote about the French Revolution. It was, he held, the continuation of a despotic tradition, the People just replacing the King..

between the immediate and visible consequences of human actions and their invisible consequences in the long run:

“ The vices and weaknesses of the government of democracy are easily seen; they are demonstrated by obvious facts, while its salutary influence is exerted in an imperceptible and, so to speak, hidden way. Its drawbacks are striking at first sight, but its qualities are revealed only in the long run.”⁽⁸⁹⁾

Tocqueville himself may have provided an explanation of his conspicuous silence about these two liberals: when he was writing, he consciously avoided reading books on the same topics.⁽⁹⁰⁾ He preferred to reach his own conclusions rather than rely on previous authors. Another explanation is that Constant and Bastiat both supported the Orléanist regime, whereas Tocqueville considered that regime to be vulgar, mediocre, narrow-minded and corrupt and may therefore not have cared to be seen as their ally. It is likely, moreover, that the aristocratic and aloof moralist Tocqueville looked with some disdain on Constant, a notorious womaniser and gambler, and also, albeit for different reasons, on Bastiat who was both provincial and middle-class. Certainly, in his style Bastiat is different from Tocqueville. Bastiat is polemical, Tocqueville rhetorical; the former is sarcastic, the latter ironic; one is forceful, the other one subtle.

Nevertheless, all three, Constant, Bastiat and Tocqueville, are remarkable thinkers. While Bastiat skilfully exposes the folly of economic interventionism, Constant and Tocqueville develop their trenchant analyses of the French Revolution into a conservative liberalism which is in many ways more satisfying and richer morally and socially than the insipid utilitarianism presented by their English contemporaries.

(89) Tocqueville, *Democracy*, Vol. 2, p. 377.

(90) Letter to Duvergier de Hauranne 1 September 1856. Editor's Introduction, Tocqueville, *Democracy*, Vol. 1, p. lxxxiv.

Herbert Spencer

(1820–1903)

In the history of ideas, Herbert Spencer occupies a peculiar position. In the late nineteenth century, this polymath who wrote about almost everything was probably the world's best-known philosopher, whereas in the early twentieth century he had sunk into oblivion. 'Who now reads Spencer?' a left-wing sociologist asked in 1937.⁽¹⁾ There are many possible answers. The belief in progress, endorsed by Spencer and plausible in the late nineteenth century, was largely abandoned by twentieth century man, confronted by total war and total state and the unspeakable horrors produced by those twins. Moreover, it certainly did not look like Spencer's minimal state had been selected by history as the state fittest to survive. Everywhere the state has taken on a much wider role than that of just preventing injustice. Some of Spencer's utterances, especially about the unfittest people in society, also sound harsh to modern ears.⁽²⁾ But in fact, few philosophers have been as misunderstood and maligned as Spencer. For him, survival of the fittest did not mean victory of the strongest in a violent struggle, but rather success in adapting to new circumstances and producing goods to satisfy human needs. Spencer was not a defender of the powers to be, the aristocracies of birth and wealth, but rather a spokesman for the common man, consumers and taxpayers. He did not reject charity, but wanted it to be private and doubted that it could indeed be called charity if enforced by the state. Unlike his more acclaimed contemporary John Stuart Mill, he

When Spencer speaks about the 'survival of the fittest', he means those who can best satisfy the needs of others, not the physically strongest. Painting by John Bagnold Burgess.

(1) Talcott Parsons, *The Structure of Social Action* (New York: Free Press, 1968 [1937]), p. 3. He was quoting C. Crane Brinton, *English Political Thought in the Nineteenth Century* (London: Benn, 1933). Perhaps today one could ask: Who now reads Parsons? Or Brinton?

(2) Even Friedrich von Hayek, perhaps the most distinguished liberal philosopher of the twentieth century, distanced himself from Spencer, despite the many features that their respective theories share.

was a consistent opponent of British colonialism. Indeed, he abhorred military aggression: People should trade with other countries, he held, not try to conquer them. Arguably, Spencer's Principle of Equal Freedom is clearer, and supported by better arguments, than the 'Harm Principle' presented by Mill. To many, Spencer's idea of a state confined to the task of preventing injustice seems more likely to allow individuals to flourish than the modern 'warfare-welfare state'.⁽³⁾

Spencer's Life and Works

Herbert Spencer was born in Derby, England, on 27 April 1820, the son of George Spencer, a religious dissenter who ran his own school, and his wife Harriet, born Holmes. He was educated at home and by his uncle, the Reverend Thomas Spencer, vicar of Hinton Charterhouse, near Bath, a committed free trader and anti-statist. Spencer was proud of his family's tradition of non-conformity, but quick to point out that it was only non-conformity to other human beings, fallible as they are, not to principles, as

“ nonconformity to human authority implies conformity to something regarded as higher than human authority. And this conformity is of the same intrinsic nature whether it be shown towards a conceived personal Deity, or whether it be shown towards a Power transcending conception whence the established order proceeds—whether the rule of life is derived from supposed divine dicta or whether it is derived from ascertained natural principles. In either case there is obedience to regulations upheld as superior to the regulations made by men.

He added that there was a further trait common to his two lines of forefathers, a 'regard for remote results rather than for immediate

(3) The term 'warfare-welfare state' is used by Alberto Mingardi, *Herbert Spencer* (London: Bloomsbury, 2013), p. 3.

results'.⁽⁴⁾ In Spencer's youth liberalism was the order of day. His country saw a slow, but sure, increase in individual freedom, not as the implementation of a master plan, but rather as a series of concessions by the ruling class to maintain peace. Restrictions on the participation by Roman Catholics in public life were removed in 1829; the outdated electoral system was reformed in 1832; slavery was abolished throughout the British Empire in 1833; the Corn Laws were repealed in 1846.

The young Spencer worked as a civil engineer in the booming British railways, but found time to publish a booklet in 1843, *The Proper Sphere of Government*, where he argued for a minimal state confining itself to the protection of justice or, rather, the prevention of injustice.⁽⁵⁾ From 1848 to 1853 Spencer served as assistant editor of *The Economist*. In 1851, he published one of his main works, *Social Statics*, where he criticised the utilitarianism of many of his English contemporaries and presented his Principle of Equal Freedom. Some of the ideas found in the book were quite radical, such as his advocacy of a right to ignore the state and the demand for land expropriation, despite his general support of private property. One reason for his position on land was that he thought it had in most cases been unjustly appropriated. 'The original deeds were written with the sword, rather than with the pen; not lawyers, but soldiers, were the conveyancers; blows were the current coin given in payment; and for seals, blood was used in preference to wax. Could valid claims be thus constituted? Hardly.'⁽⁶⁾

According to Spencer, spontaneous evolution is cruel in order to be kind; it is

“ a discipline which is pitiless in the working out of good: a felicity-pursuing law which never swerves for the avoidance of partial and temporary suffering. The poverty of the incapable, the distresses that come

(4) Herbert Spencer, *Autobiography*, Vol. I (New York: D. Appleton & Co., 1904), pp. 12–13. This book, and many others by Spencer, are accessible at the Liberty Fund website: <https://www.libertyfund.org/>

(5) Herbert Spencer, *The Proper Sphere of Government* (London: W. Brittain, 1843). The booklet consisted of twelve letters which had been published in *The Nonconformist* in 1842–1843.

(6) Herbert Spencer, *Social Statics, or the Conditions Essential to Human Happiness Specified, and the First of Them Developed* (London: John Chapman, 1851), p. 115.

upon the imprudent, the starvation of the idle, and those shouldering aside of the weak by the strong, which leave so many ‘in shallows and in miseries,’ are the decrees of a large, far-seeing benevolence.⁽⁷⁾

Two years after the publication of *Social Statics*, Spencer inherited some money from his uncle and left his job at *The Economist* in order to devote himself to his studies. In London, through his friend and publisher, John Chapman, he made the acquaintance of many of the leading British intellectuals of the day, including philosopher John Stuart Mill and writer Marian Evans who wrote novels under the pseudonym George Eliot; Evans seems to have been the only woman that the rather unsociable Spencer ever fancied.

In the next few decades Spencer produced one heavy tome after another on various subjects, trying to construct a coherent system of knowledge, based upon self-reliance and spontaneous evolution. ‘The ultimate result of shielding men from the effects of folly, is to fill the world with fools,’ he wrote in 1858.⁽⁸⁾ Spencer looked upon Charles Darwin’s theory of evolution, first published in 1859, with interest, although he did not completely agree with him, and in 1864 he coined a new term, ‘the survival of the fittest’.⁽⁹⁾ Two years later Darwin wrote to a friend: ‘I fully agree with all that you say on the advantages of H. Spencer’s excellent expression of “the survival of the fittest”. This, however, had not occurred to me till reading your letter.’⁽¹⁰⁾ Darwin inserted the expression ‘survival of the fittest’ into later editions of his *Origin of Species*.⁽¹¹⁾ Spencer’s interest in evolution brought him into

(7) Spencer, *Statics*, pp. 322–323. The author is of course quoting Shakespeare, *Julius Caesar*, Act 4, Scene 3: ‘There is a tide in the affairs of men, Which taken at the flood, leads on to fortune. Omitted, all the voyage of their life is bound in shallows and in miseries.’

(8) Herbert Spencer, *State-Tamperings with Money and Banks*, *Westminster Review*, Vol. 13 (1858), pp. 210–232.

(9) Herbert Spencer, *The Principles of Biology*, Vol. 1 (London: Williams & Norgate, 1864), p. 444.

(10) Letter from Charles Darwin to Alfred R. Wallace 5 July 1866. *The Correspondence of Charles Darwin*, Vol. 14, ed. by Frederick Burkhardt (Cambridge: Cambridge University Press, 2004), p. 235.

(11) He commented in the fifth edition of the *Origin of Species* (London: John Murray, 1869), p. 72: ‘The expression often used by Mr. Herbert Spencer of the Survival of the Fittest is more accurate, and is sometimes equally convenient.’



Railways, facilitating trade between distant places, are for Spencer symbols of progress. Painting by Lionel Walden, Cardiff Docks.

contact with some liberal Darwinists, including Thomas H. Huxley. With them, Spencer formed the X Club which from 1864 met regularly for dinners and conversation.

It was supposed to be united by a ‘devotion to science, pure and free, untrammelled by religious dogmas’.⁽¹²⁾ Huxley once joked that Spencer’s idea of a tragedy was ‘a beautiful theory killed by an ugly fact’.⁽¹³⁾ Spencer was also a member of the Athenaeum Club in London, many of whose members were distinguished scientists. During a war which British forces in India fought against Afghanistan in 1878–1880, Spencer was once around in the Athenaeum when another club member expressed concern about British troops in danger. Spencer retorted: ‘When men hire themselves out to shoot other men to order, asking nothing about the justice of their cause, I don’t care if they are shot themselves.’⁽¹⁴⁾ Spencer, a lifelong bachelor, was a family friend of a businessman, Richard Potter, and his wife, Laurencina, who was

(12) Ruth Barton, *The X Club: Power and Authority in Victorian Science* (Chicago: University of Chicago Press, 2018), p. 13.

(13) *Ibid.*, p. 226.

(14) Herbert Spencer, *Patriotism, Facts and Comments* (New York: D. Appleton & Co., 1902), p. 126.

passionately interested in ideas. He spent much time with one of their daughters, Beatrice, acting as a kind of a substitute father to her. It is one of the ironies of history that Beatrice later married Sidney Webb, and together they became formidable champions of socialism in Great Britain.

Spencer was at the height of his fame in 1882 when he reluctantly accepted an invitation to visit the United States. One of the passengers on the ship taking him to New York was an admirer, steel magnate Andrew Carnegie. Over dinner one evening, the discussion fell upon impressions made by famous people at first meeting. Were they anything like people imagined? Carnegie said that nothing could be more different than the person imagined and the person beheld in the flesh. ‘Oh!’ said Spencer, ‘in my case, for instance, was it so?’ Carnegie replied, ‘Yes’, and went on: ‘You more than any. I had imagined my teacher, the great calm philosopher brooding Buddha-like, over all things, unmoved; never did I dream of seeing him excited over the question of Cheshire or Cheddar cheese.’ The day before Spencer had pushed away a piece of Cheshire cheese at his table, served by the waiter, exclaiming angrily: ‘Cheddar, Cheddar, not Cheshire; I said Cheddar.’ Spencer laughed heartily at the joke with other passengers.⁽¹⁵⁾ In the United States, he only gave one talk, at Delmonico’s in New York, where he surprised the guests, mostly businessmen, by strictures against the American way of life, especially what he saw as an over-devotion to work. ‘Life is not for learning nor is life for working, but learning and working are for life.’⁽¹⁶⁾

Spencer observed with alarm the increased economic intervention in Britain, under Liberals as well as Conservatives, and in 1884 he published *The Man Versus the State*, a collection of polemical articles where he concisely set out his political views.⁽¹⁷⁾ He made a distinction between military societies based on brute force and industrial societies based on free trade and surmised that hitherto there had been a steady

development from military to industrial societies that was in danger of being reversed. Fearing that unlimited democracy might extinguish individual liberty he now opposed the extension of the franchise which he had supported as a young man. He also repudiated his early belief that land should be expropriated. It was, he argued, unfair to those who had paid full price for their land; it was also difficult, well-nigh impossible, to distinguish between the contributions of man on the one hand and nature on the other hand to the value of land; again, this change would confer too much power into the hands of officials. Spencer remained a strong opponent of British imperialism: ‘The white savages of Europe are overrunning the dark savages everywhere.’⁽¹⁸⁾ But he had become a voice in the wilderness. The trend towards the warfare-welfare state continued, and Spencer died a disappointed man on 8 December 1903.

Individual Rights Based on Utility

With his moral theory, Spencer tries to move beyond the traditional distinction in ethics between deontological and teleological theories. Deontologists, for example Immanuel Kant, claim that there are absolute principles ruling society, defining the rights and duties of individuals, whereas teleologists such as Jeremy Bentham judge human actions by their consequences, good and bad. Theories of natural law and natural rights are deontological, and utilitarianism is teleological. There are logical and practical problems with both positions. How are people to derive the fixed principles in which deontologists believe? What is the moral basis of individual rights? If the answer is human reason, as is most common, then a demarcation problem arises about those with little reason, such as children, imbeciles, lunatics and the demented, or perhaps the mass in a frenzy. In Spencer’s time, ‘savages’ were not thought to qualify, either, as individuals with rights and duties. John Stuart Mill, unlike Spencer a British imperialist, held that ‘Despotism is a legitimate mode of government in dealing

(15) Andrew Carnegie, *Autobiography* (New York: Houghton & Mifflin, 1920), p. 333. Cf. Spencer, *Autobiography*, Vol. I, p. 424.

(16) Spencer, *Autobiography*, Vol. II, p. 479.

(17) Herbert Spencer, *The Man Versus the State* (London: Williams & Norgate, 1884), repr. with additions in *The Man Versus the State, with Six Essays on Government, Society, and Freedom* (Indianapolis IN: Liberty Fund, 1981).

(18) Letter from Herbert Spencer to Moncure D. Conway 17 July 1898. David Duncan, *The Life and Letters of Herbert Spencer* (London: Methuen, 1908), p. 410.



with barbarians, provided the end be their improvement.’⁽¹⁹⁾ For ‘civilised’ nations on the other hand, Mill suggested that common workers, with their inferior reason, would have one vote each, while educated people would be given two or more votes.⁽²⁰⁾ Perhaps the demarcation problem can be resolved, but hardly in the way proposed by Mill. Another difficulty with deontological theories is that, even if human reason may be invoked as the moral basis of individual rights and duties, such theories may be indeterminate because people disagree about what is reasonable and what is not. For centuries, heresy, witchcraft and adultery were considered abominable crimes. Nowadays, the very words sound strange. But opinion is still

Famous Victorian authors. Seated from left: poet Charles Lamb, Spencer, and writer John Ruskin. Standing from left: philosopher John Stuart Mill, the Rev. Charles Kingsley, and biologist Charles Darwin. Spencer is neither a utilitarian like Mill nor an evolutionist like Darwin. Albumen Print 1876: Hughes & Edmonds.

(19) John Stuart Mill, *Essay on Liberty* (1859), *Collected Works*, Vol. XVIII, ed. by John M. Robson (Toronto: University of Toronto Press, 1977), p. 224.

(20) John Stuart Mill, *Considerations on Representative Government* (1861), *Collected Works*, Vol. XIX, ed. by John M. Robson (Toronto: University of Toronto Press, 1977), p. 475.

divided on other moral issues. Should people have a right to enter into same-sex marriages, or to practise bigamy? These issues are real and by no means settled. The former right is now accepted in most Western countries, but hardly elsewhere. No right to practise bigamy, by consent of all concerned, is however recognised in Western countries. Utah was not admitted to the United States until she had outlawed bigamy, while in many Muslim countries it is legal and practised.⁽²¹⁾

Teleological moral theories are also problematic. First, they seem even more indeterminate than deontological theories. For example, if Bentham’s maxim of the greatest happiness to the greatest number is adopted, then the question becomes what constitutes happiness. There is no one standard of happiness, no compass to guide us. This is one reason Spencer rejects Bentham’s utilitarianism (which he calls ‘the expediency philosophy’). Even if people could agree on a definition of happiness, Spencer adds, it would be difficult or impossible to implement that agreement, not least because our activities often have unintended consequences. Thirdly, utilitarians seem to assume that it should be the task of government to bring about the greatest happiness to the greatest number. Utilitarianism ‘takes government into partnership’.⁽²²⁾ But government is a necessary evil, Spencer believes, and should confine itself to the prevention of injustice. If the utilitarian goal ‘means the benefit of the mass, not of the individual—of the future as much as of the present, it presupposes some one to judge of what will most conduce to that benefit’.⁽²³⁾ Utilitarians and other teleologists ignore the individual. He is not supposed to have any irrevocable rights that could constrain government, and indeed Bentham dismissed natural rights as ‘nonsense upon stilts’.⁽²⁴⁾ The individual seems to be nothing but a means to the

(21) Of course, rich and powerful people practise bigamy at will. In most countries, they are not breaking any law, if they do not go through a formal marriage ceremony with their second partner. French President François Mitterand kept two homes in Paris, although only one of his two female partners was legally recognised as his wife.

(22) Spencer, *Statics*, p. 14.

(23) *Ibid.*, p. 15.

(24) Jeremy Bentham, *Rights, Representation, and Reform: Nonsense upon Stilts and Other Writings on the French Revolution*, *The Collected Works of Jeremy Bentham*, ed. by Philip Schofield, Catherine Pease-Watkin, and Cyprian Blamires (Oxford: Oxford University Press, 2002), pp. 317–401. Bentham was criticising the French Declaration of the Rights of Man and the Citizen from 1789.

given end, in the case of utilitarians the greatest happiness to the greatest number.

The dilemma is that a liberal like Spencer wants the conclusions of a theory of natural rights, while he cannot but admit the cogency of consequentialist arguments. Spencer solves this dilemma by providing consequentialist arguments for a system in which natural rights are regarded as given, unconditional and irrevocable. What is crucial is the utility of the whole system, not that of individual acts or rules. Thus, Spencer can be described as a system-utilitarian, not as an act-utilitarian or a rule-utilitarian, to use two terms common in moral philosophy. This system has not been designed by anyone. It has slowly developed in an historical process as people have gained a moral sense by cumulative experiences. The system is the result of human action, but not of human design, and once it has come into being, people can see and understand its utility. But it only maintains its utility, paradoxically, if people respect and obey certain general moral and political principles, such as, say, the ten commandments, which in the case of a conflict will overrule utilitarian considerations. Consider Raskolnikov's choice in *Crime and Punishment*. If he kills the evil old usurers Alyona Ivanovna, then total happiness in the world would probably increase. But he would be violating the commandment: 'Thou shalt not kill', which implies in turn your right not to be killed, even if your death would make a lot of people happy. This commandment is part of a system which has proved its utility, precisely by compliance with principles and rejection of short-term utilitarian calculations. Moreover, such calculations are subject to uncertainty. When Raskolnikov is killing the usurers, her half-sister Lizaveta, innocent of any misdeeds, unexpectedly appears, so he has to kill her too.

Another example of the difference between Spencer's system-utilitarianism and what could be called narrow utilitarianism could be when terrorists threaten to kill hostages unless their accomplices in custody are released. The narrow utilitarian might argue that we would be better off by agreeing to their demands. But the long-term consequences would be to encourage those and other terrorists to play the game again. Under the rule of law, people in custody certainly are entitled to due process, but should not be released because of threats. If they have violated the law, they should receive punishment. A third

example, less dramatic but more relevant, is private property. Taken as a system, it has immense utility, but one could easily think of individual cases where it would be tempting to abrogate it, for example when a young spendthrift inherits a fortune that he will squander or when an old curmudgeon refuses to sell a piece of land, useless to him but necessary for building a road. But the system ceases to be useful if in such cases exemptions would be allowed. David Hume presents a similar argument:

“ But however single acts of justice may be contrary, either to public or private interest, 'tis certain that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual. 'Tis impossible to separate the good from the ill. Property must be stable, and must be fix'd by general rules. Tho' in one instance the public be a sufferer, this momentary ill is amply compensated by the steady prosecution of the rule, and by the peace and order which it establishes in society. And even every individual person must find himself a gainer on ballancing the account; since, without justice, society must immediately dissolve, and everyone must fall into that savage and solitary condition, which is infinitely worse than the worst situation that can possibly be suppos'd in society.⁽²⁵⁾

Hume and Spencer both argue for individual rights—the rights to life, liberty and property—which are natural in the sense that they are spontaneously evolved, not ordained by God, prescribed by reason or stipulated by a legislator.

The idea behind this acceptance of a system of firm and fundamental principles, ensuring individual rights, but based on considerations of utility or happiness, has been expressed in one form or another by other conservative-liberal thinkers besides Hume. Edmund Burke conceived

(25) David Hume, *A Treatise of Human Nature* (1739–1740), ed. by L. A. Selby-Bigge (Oxford: Clarendon Press, 1896), Bk. III, Pt. II, p. 497.

of the social contract as being written by history, being a partnership between the living, dead, and unborn; it was a contract about the principles which promote the good life; and it could not be dissolved at pleasure.⁽²⁶⁾ In a similar vein, Alexis de Tocqueville exclaimed that when he refused to obey an unjust law, he was not denying the right of the majority to command; he was ‘only appealing from the sovereignty of the people to the sovereignty of the human race’.⁽²⁷⁾ Again, American economist James M. Buchanan takes his lead from the founder of the Chicago School of Economics Frank H. Knight when he talks about ‘relatively absolute absolutes’ by which he means principles which are absolute in the short term, but relative in the long term. Such rules are chosen by generations rather than by the people here and now, by the species rather than the individual. ‘Existing preference functions and the institutions generated by past choices are ‘relatively absolute absolutes,’ subject to change, but only through time—change that might be influenced only marginally by choices made now.’⁽²⁸⁾ Such principles change very slowly. But perhaps one day banning bigamy will seem as bizarre as legislating against heresy and witchcraft.

Spencer’s system-utilitarianism could also be called indirect utilitarianism: Utility should not be regarded as the direct and desirable goal of human actions, but it will be brought about indirectly by respecting and obeying certain moral principles.⁽²⁹⁾ In *Social Statics* Spencer writes: ‘It is one thing, however, to hold that greatest happiness is the creative purpose, and a quite different thing to hold that greatest happiness should be the immediate aim of man. It has been the fatal error of the expediency-philosophers to confound these positions.’⁽³⁰⁾ He explains his position clearly in a letter to John Stuart Mill who

(26) Edmund Burke, *Reflections on the Revolution in France* (1790), *Select Works of Edmund Burke*, Vol. II (Indianapolis IN: Liberty Fund, 1999), p. 192–193.

(27) Alexis de Tocqueville, *Democracy in America* (1835), Vol. 2, tran. by James T. Schleifer (Indianapolis IN: Liberty Fund, 2010), p. 410.

(28) James M. Buchanan and Geoffrey Brennan, *The Reason of Rules: Constitutional Political Economy* (1985), *The Collected Works of James M. Buchanan*, Vol. 10 (Indianapolis IN: Liberty Fund, 1999), p. 85.

(29) John Gray, Indirect Utility and Fundamental Rights, *Social Philosophy and Policy*, Vol. 1, No. 2 (1984), pp. 73–91.

(30) Spencer, *Statics*, p. 66.



Beverley Minster seen from Western Pasture. The young Spencer held that privately owned land should be expropriated because the rent from it was unearned. He later revised his view, as this would cause too much upheaval and also be unfair to those who had paid full price for their land. Photo: Tony Grist.

had said that Spencer was not a utilitarian. ‘My dissent from the doctrine of Utility as commonly understood, concerns not the object to be reached by men, but the method of reaching it. While I admit that happiness is the ultimate end to be contemplated, I do not admit that it should be the proximate end.’⁽³¹⁾ In the letter, Spencer says that the business of moral philosophy should be to

deduce, from the laws of life and the conditions of existence, what kinds of actions would tend to produce happiness and what kinds would tend to produce unhappiness. ‘Having done this, its deductions are to be recognized as laws of conduct; and are to be conformed to irrespective of a direct estimation of happiness or misery.’ In the course of time, man has developed certain fundamental moral intuitions, and ‘though these moral intuitions are the results of accumulated experiences of utility, gradually organized and inherited, they have come to be quite

(31) Spencer, *Autobiography*, Vol. II, p. 100.

independent of conscious experience.’⁽³²⁾

Mill himself came close to presenting indirect utilitarianism in his *Essay on Liberty*. While he, like Bentham, rejected natural rights, he offered a qualified utilitarianism: ‘I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being.’⁽³³⁾ Mill’s qualifications were crucial. Possibly, ‘utility in the largest sense’ could be interpreted as the utility of a system rather than of individual acts or rules, and in *Essay on Liberty* and other writings Mill explained that the ‘permanent interests of man as a progressive being’ consisted in him being able to exercise and develop his abilities, cultivate his higher self, grow as a person. Thus Mill moved from utilitarianism proper to some kind of perfectionism, arguing that a society could be considered good if and when it would provide possibilities for human flourishing.⁽³⁴⁾ His position may seem similar to that of Spencer. But Mill, unlike Spencer, would not shed his utilitarian heritage. He was ambivalent between direct and indirect utilitarianism, and therefore his defence of freedom in terms of utility, even in ‘the largest sense’, was much less coherent and less clear than that of Spencer. For Mill, utility, if seriously endangered, would overrule rights, whereas for Spencer, fundamental rights will always prevail over utility. But then the question becomes whether Spencer’s system-utilitarianism has lost those features which would make it utilitarianism. It might be said as well that it is a theory of natural law and natural rights, based on the human condition.

The Principle of Equal Freedom

Spencer’s Principle of Equal Freedom is based on his moral theory. The system which promotes human happiness is the system in which individuals have the right to life, liberty and property. Spencer presents his Principle in several places. In *Social Statics* he writes: ‘Every man may

claim the fullest liberty to exercise his faculties compatible with the possession of like liberties by every other man.’⁽³⁵⁾ In a later treatise on justice he writes: ‘Every man is free to do that which he wills, provided he infringes not the equal freedom of any other man.’⁽³⁶⁾ Spencer’s Principle of Equal Freedom seems clearer than Mill’s Harm Principle that ‘the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.’⁽³⁷⁾ As countless commentators have noted, the concept of harm offers limited guidance in resolving practical cases. You may harm others by your actions, even if you have a right to undertake them. In a world of interrelated individuals, it is often difficult to distinguish between self-regarding and other-regarding activities. Is the harm in question subjective, for example hurt feelings, disappointments and moral outrage, or objective, such as material damage? If the latter, does it consist in deprivation of potential gain or direct loss of present assets? ‘But when we set about drawing practical deductions from the propositions that a man is not at liberty to do things injurious to himself, and that he is not at liberty,’ Spencer writes, ‘to do what may give unhappiness to his neighbours, we find ourselves involved in complicated estimates of pleasures and pains, to the obvious peril of our conclusions.’⁽³⁸⁾ Mill was of course aware of some of these difficulties, but his attempts to resolve them were not always successful. Spencer points out a crucial difference between the two principles. His Principle of Equal Freedom excludes a wide range of improper actions, but does not exclude certain other improper ones, whereas the utilitarian principle of limiting the liberty of each by the necessity of not giving pain to the rest, excludes not only improper actions, but also along with them many other actions which are proper. Therefore his principle should be preferred to that of the utilitarians.⁽³⁹⁾

(35) Spencer, *Statics*, p. 78.

(36) Herbert Spencer, *Justice: Being Part IV of the Principles of Ethics* (London: Williams & Norgate, 1891), p. 46.

(37) Mill, *Essay on Liberty. Collected Works*, Vol. XVIII, p. 223.

(38) Spencer, *Statics*, p. 82.

(39) *Ibid.*, p. 81.

(32) *Ibid.*, p. 101.

(33) Mill, *Essay on Liberty. Collected Works*, Vol. XVIII, p. 224.

(34) John Gray, John Stuart Mill on liberty, utility and rights, *Nomos*, Vol. XXIII, ed. by J. Roland Pennock and John W. Chapman (New York: New York University Press, 1981), pp. 80–116.



Spencer grounds individual rights in the superior performance, in the long run, of a society respecting such rights, and thus in its survival against the test of time. Painting by Casper David Friedrich, *Wanderer Above the Sea of Fog*.

The Principle of Equal Freedom implies the minimal state in Spencer's view: a state which confines itself to preventing injustice. In an 1862 speech in Berlin, German socialist Ferdinand Lassalle mocked this idea as being that of a night-watchman state, *Nachtwächterstaat*.⁽⁴⁰⁾ But it would not be amiss for minimalists to adopt this description of their ideal state, because it emphasises an important, perhaps the most important, function of any legitimate state, to defend its citizens against forces of the dark, against foreign and domestic aggressors. In *Social Statics* Spencer actually goes further. He argues that people have a right to ignore the state:

“ As a corollary to the proposition that all institutions must be subordinated to the law of equal freedom, we cannot choose but admit the right of the citizen to adopt a condition of voluntary outlawry. If every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man, then he is free to drop connection with the state — to relinquish its protection, and to refuse paying towards its support.

Spencer regards it as self-evident that in so behaving the citizen in no way reduces the liberty of others, for his position is a passive one and whilst passive he cannot become an aggressor. He cannot be compelled to continue his relationship with the state, because it involves payment of taxes, and the taking away of a man's property against his will is an infringement of his rights. If the citizen decides to ignore the 'mutual-safety confederation' which the state is, consequently he loses all claim to its good offices, and exposes himself to the danger of maltreatment—a thing he is quite at liberty to do if he likes. 'He cannot be coerced into political combination without a breach of the law of equal freedom; he can withdraw from it without committing any such breach; and he has therefore a right so to withdraw.'⁽⁴¹⁾

(40) Ferdinand Lassalle, *Das Arbeiterprogramm: ... Rede gehalten 12. April 1862* [The Workers' Programme: Speech delivered 12 April 1862], *Gesammelte Reden und Schriften*, ed. by Eduard Bernstein, Vol. 2 (Berlin: Cassirer, 1919), p. 195.

(41) Spencer, *Statics*, p. 206.

Although Spencer repudiated this view, and deleted the chapter from later editions of his book, his anarchism is not as farfetched as it might seem, if the state is conceived of as a ‘mutual-safety confederation’. Economists distinguish between four kinds of necessities. First, they may be *private goods* such as pieces of cloth. Such goods are rivalrous which means that their consumption by you prevents simultaneous consumption of them by others. They are also excludable which means that their consumption can be confined to those who pay for them. It is in the nature of private goods that they can be produced privately, without any help from the state. Secondly, they may be *club goods*, non-rivalrous and excludable, for example broadcasting in a certain area. Such goods can also be produced privately, by free associations, as James M. Buchanan has demonstrated.⁽⁴²⁾ Thirdly, they may be *common goods*, rivalrous and non-excludable, such as fish stocks, forests and other common pool resources. Such goods can also, in most cases at least, be produced privately, by local communities, as Elinor Ostrom has shown.⁽⁴³⁾ Finally, they may be *pure public goods*, non-rivalrous and non-excludable, such as defence. If there is a theoretical justification for government as a ‘mutual-safety confederation’, it would be as a producer of such public goods. The main reason why public goods are non-excludable is that information costs are too high: The producer of a public good cannot prevent people who have not paid for it from having access to it, because he does not know who those people are. But technological improvements tend to lower information costs which may turn public goods into one of the other three kinds of goods. Consider roads. They are not really a public good because road tolls could in theory confine their consumption to those who pay for it. But road tolls are cumbersome, and therefore people have accepted road building by government. However, nowadays electronic devices placed by roads could read the number plates of cars driving on them and instantly charge their use, or ‘consumption’ to the credit cards of the car owners.

(42) James M. Buchanan, An Economic Theory of Clubs, *Economica*, New Series, Vol. 32, No. 125 (1965), pp. 1–14.

(43) Elinor Ostrom, Beyond Markets and States: Polycentric Governance of Complex Economic Systems, *American Economic Review*, Vol. 100, No. 3 (2010), pp. 641–672.

It is of course difficult to see how those who do not want to contribute to defence could be excluded from its benefits. But perhaps one day technological improvements may make this possible, or perhaps defence in its traditional sense may become irrelevant. Certainly the other pure public good, law and order, can to a large extent be produced privately.⁽⁴⁴⁾ There are private arbitration courts, and privately funded measures to increase safety, such as gated communities, armoured vehicles, security guards, doormen, private investigators, locks, alarm systems and security cameras, not to forget Lassalle’s night watchmen. In medieval Iceland there was no central government from 930 to 1262. The country was too far away from other European countries for defence to be an acute task, and law and order were privately produced. Iceland was a society of about 5,000 farmers, and their families and farmhands. The country was divided into four Quarters and thirteen Districts. Each farmer could choose which chieftain in his Quarter to follow and support. In return, the chieftain undertook to protect and support him in legal cases. Thus, the chieftainships could be regarded as competitive protection associations. Legal disputes were settled by District and Quarter courts and by the so-called Fifth Court, and they were enforced by the people involved, supported by their chieftains and possible allies. Violations of the law were punished on the basis of restitution: if you had killed or maimed a man, then you had to pay damages to his family or, if he remained alive, to himself. The law was mainly customary, but it was interpreted and developed by an assembly of chieftains, the Commonwealth Parliament, *Althingi*, meeting at Thingvellir each summer, at the same time as the Quarter Courts and the Fifth Court. The Icelandic Commonwealth had only one official, the Lawspeaker, whose role was to announce and interpret the law.⁽⁴⁵⁾ The system worked tolerably well for 300 years, and Iceland was peaceful in comparison with the countries closest by, Norway, Scotland and England, which were the battlefields of kings, their rivals and armies.

(44) Murray Rothbard, *Power and Market* (Menlo Park CA: Institute for Humane Studies, 1970); David Friedman, *The Machinery of Freedom* (LaSalle IL: Open Court, 1973).

(45) Birgir Th. Runolfsson [B. Solvason], Institutional Evolution in the Icelandic Commonwealth, *Constitutional Political Economy*, Vol. 4, No. 1 (1993), pp. 97–125.

The example of Iceland demonstrates that law and order are not necessarily pure public goods.

Anarcho-capitalism, however interesting theoretically, is hardly on the agenda in liberal Western democracies. Spencer certainly is better known for his resolute defence of economic non-interventionism than for his anarchist leanings as a young man. The impact of Spencer's ideas could be seen in a case argued before the Supreme Court of the United States in 1905. Joseph Lochner was a baker who had been fined by the state of New York for letting employees work longer than 60 hours a week, thus breaking a state law. Lochner held that the state law was in violation of the Fourteenth Amendment to the US Constitution which prevented any state from depriving persons of their life, liberty or property without due process of law. This implied, he believed, a constitutional protection of freedom of contract. The Court accepted his argument and ruled that the law limiting bakers' working hours was not a legitimate exercise of state police powers and that therefore it was unconstitutional. A minority dissented, one of them, Justice Oliver Wendell Holmes, writing that the majority's decision rested 'upon an economic theory which a large part of the country does not entertain'. According to him, the Fourteenth Amendment did not imply the protection of freedom of contract. It did 'not enact Mr. Herbert Spencer's *Social Statics*'.⁽⁴⁶⁾ In the 1930s, the US Supreme Court in effect reversed the decision in the Lochner case, upholding limitations on the freedom of contract and interpreting the due process requirement as formal rather than substantive. Some legal scholars, albeit a minority, argue nevertheless that the decision in the Lochner case was right.⁽⁴⁷⁾

Spencer's Liberalism and Social Darwinism

Spencer's critics thought of him as an uncaring person who wanted to leave the poor and weak to their cruel, but inevitable fate. This is brought out in a satirical poem which Canadian socialist Thomas Phillips Thomp-

son published in 1878. The author is walking along a country road when he comes across a beggar who asks him for food. He replies:

“ ‘Tis contrary to every rule
That I my fellows should assist;
I'm of the scientific school,
Political economist.
Dost thou know, deluded one,
What Adam Smith has clearly proved,
That 'tis self-interest alone
by which the wheels of life are moved?

The author continues:

“ This competition is the law
By which we either live or die;
I've no demand thy labour for,
Why, then, should I thy wants supply?
And Herbert Spencer's active brain
Shows how the social struggle ends;
The weak die out, the strong remain;
'Tis this that nature's plan intends.

The beggar, impressed by the logic, points out to the poet that they are alone on the road. Now they should put it to a test who is the fitter. If the poet declines the test, the beggar will take his watch and pocketbook, 'As competition strips the rival.' And so he does.⁽⁴⁸⁾

Amusing as the socialist poet is, he distorts the arguments of Smith and Spencer. Smith believes that people in pursuit of their own interests unintentionally work for the common good. Competition forces them to try and offer better goods or services than their competitors. While Spencer certainly does not think the idle and slothful should be given food, which would only encourage their idleness and sloth, he is in favour of *private* charity. His opposition to *public* charity is based on

(46) 198 US 45, Lochner v. People of the State of New York.

(47) Richard Epstein, *Takings: Private Property and the Power of Eminent Domain* (Cambridge MA: Harvard University Press, 1985), pp. 128–129.

(48) Phillips Thompson, The Political Economist and the Tramp, *Labor Standard* (New York), 14 December 1878.



his non-aggression rule. If people want to be charitable, then they should be so at their own expense, not that of others. They should not enlist government in an attempt to transfer resources forcibly from some to others. In fact, Spencer submits, if they do so, they are enslaving others. The definition of a slave is that he works under coercion to satisfy the

desires of others. Spencer asks his readers to imagine how this slavery could be gradually mitigated. The slave is first allowed a short time in which to work for himself and a plot of land to grow extra food. Then he is given the power to sell the product of his plot and keep the money. When the owner of the slave dies and his estate comes into the hands of the community, has the condition of the slave changed? ‘The essential question is—How much is he compelled to labour for other benefit than his own, and how much can he labour for his own benefit?’ Spencer asks. ‘If, without option, he has to labour for the society, and receives from the general stock such portion as the society awards him, he becomes a slave to the society. Socialistic arrangements necessitate an enslavement of

Socialists dismiss the liberal conception of the state as the ‘Night-Watchman State’. But it is an important, indeed indispensable, function of the state to protect its citizens from thugs of the night, domestic or foreign. Painting by Rembrandt van Rijn, *The Night Watch*.

this kind; and towards such an enslavement many recent measures, and still more the measures advocated, are carrying us.’⁽⁴⁹⁾

Unwittingly, the Canadian poet illustrated some of Spencer’s points. He certainly does not condone the violence the beggar used in the end against the poet. It was made possible by the fact that the poet and the beggar were alone on the road and nobody else in sight. Some kind of night watchman was needed. Moreover, if the beggar was strong enough to assume the role of a highwayman, he was able to work instead of begging. Nevertheless, modern conservative liberals might envisage a larger role for the state than Spencer may have done, although they would accept his Principle of Equal Freedom and argue from it. Not only has the state to provide defence and maintain law and order, as Spencer would agree (or as modern economists would put it, produce pure public goods), but it may have to keep up a safety net which would include transfers to those who cannot support themselves, such as victims of unforeseen accidents, disabilities or chronic illnesses for which they bear no responsibility, or of natural disasters and epidemics which no one caused or could foresee. Such transfers would be made in the name of freedom and not justice, because they would be necessary to maintain law and order and the respect for private property and free trade. These transfers would not be based on any rights of the recipients, but on the duties of the contributors to keep the ship of state on an even keel. The state is not merely a protection association, but also an insurance company. In my country, Iceland, there is a consensus for example that the state would support victims of earthquakes, volcanic eruptions, and avalanches, common on the island. Less plausible would be to transfer taxpayers’ money to people in order to tackle self-inflicted problems such as alcoholism, promiscuity, obesity or venereal diseases recklessly contracted. The two real criteria to distinguish between justified and unjustified transfers would be individual responsibility and social peace.

Yet another important role that the state has to assume according to conservative liberals is to be a guardian of commonly shared values, the social contract between our ancestors, those living now and coming

(49) Spencer, *Man Versus the State*, pp. 55–57.

generations. This would imply, for example, the preservation of national monuments, respect for the flag and national anthem of the state, and support for instruction in the country's language and history. In Iceland, for example, the state sets strict rules about the use of the national anthem, protects some historic houses and certain rare species, such as the White-tailed Eagle and the Gyr Falcon, operates a national park on the site of the old Icelandic Parliament, and runs an institute where the old Icelandic manuscripts, the pride of the nation, are kept. This is intervention, because these operations require modest amounts of taxpayers' money and restrict individual freedom, again modestly, but it is to a large extent *non-authoritative*, not forced upon people, whereas the intervention Spencer opposes is mostly *authoritative*, involving commands and penalties.⁽⁵⁰⁾

The poem about the fight between the poet and the beggar may illuminate however why Spencer has been widely regarded as a proponent of Social Darwinism. What is meant by this term, almost invariably used as a term of abuse, is the view that Darwin's notions about struggle for existence, natural selection and survival of the fittest, used by him to explain the evolution of species, plants and animals (including man), can be transferred to human society. This would imply, the argument goes, that there are superior races or nations which would succeed, whereas the inferior ones would fail and vanish. Might is right, and Devil take the hindmost. Social Darwinism would then be used to justify imperialism, racism, eugenics, and in general mercilessness towards the weak of the world. But no serious liberal thinker has held this view, and certainly not Spencer. It is a misapplication of Darwin's ideas in at least two ways. First, Social Darwinism really is about the survival of the *strongest*, not the fittest, and secondly, it implies that the strongest are also the *best*. A theory which was intended by Darwin to be an explanatory device, is misconstrued as a normative postulate: whatever evolution throws up, is good. Despite the fact that Spencer coined the term 'survival of the fittest', he was not even a Darwinist. His idea of social evolution was mainly Lamarckian which meant that he thought successful traditions, customs and habits could be acquired by one generation and

passed on to those following it. Spencer did not believe that the survival of the strongest was necessarily good, as was shown by his distinction between military and industrial societies, force and trade. He was one of the most vocal opponents of imperialism in the nineteenth century, and the very idea of eugenics—that government officials should decide who would be born and who would not—goes against his core belief in spontaneous evolution, brought about by interactions of free individuals.

While Spencer was not a Social Darwinist, some of his contemporaries were. Karl Marx and Friedrich Engels, for example, believed that 'superior' nations would survive, and 'inferior' ones perish.⁽⁵¹⁾ In 1849, Engels wrote that in the Habsburg Empire, only Germans, Poles and Magyars could be regarded as progressive: 'All the other large and small nationalities and peoples are destined to perish before long in the revolutionary world storm.' Engels added: 'There is no country in Europe which does not have in some corner or other one or several ruined fragments of peoples, the remnant of a former population that was suppressed and held in bondage by the nation which later became the main vehicle of historical development.' He specifically mentioned Gaels in Scotland, Bretons in France, Basques in Spain and Southern Slavs in the Habsburg Empire.⁽⁵²⁾ Engels ended his diatribe against 'inferior' nations on a threatening note: 'The next world war will result in the disappearance from the face of the earth not only of reactionary classes and dynasties, but also of entire reactionary peoples. And that, too, is a step forward.'⁽⁵³⁾ After the United States annexed large parts

(51) Engels famously said at Marx' funeral: 'Just as Darwin discovered the law of evolution in organic nature, so Marx discovered the law of evolution in human history.' Das Begräbnis von Karl Marx (1883). *Werke*, Vol. 19 (Berlin: Dietz, 1962), p. 335. And Marx sent the first volume of *Capital* to Darwin on 16 June 1873, signing it as a 'sincere admirer'.

(52) Expressing himself softly, as was his wont, John Stuart Mill seems to have agreed with Marx and Engels about small nations on the fringe: 'Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilized and cultivated people—to be a member of the French nationality, admitted on equal terms to all the privileges of French citizenship, sharing the advantages of French protection, and the dignity and prestige of French power—than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation or interest in the general movement of the world. The same remark applies to the Welshman or the Scottish Highlander, as members of the British nation.' *Thoughts on Parliamentary Reform* (1859). *Collected Works*, Vol. XIX, ed. by John M. Robson (Toronto: University of Toronto Press, 1977), p. 247.

(53) Friedrich Engels, *Der magyarische Kampf*, *Neue Rheinische Zeitung* 13 January 1849. *Werke*, Vol. 6 (Berlin: Dietz, 1961), pp. 168, 172 and 176. English translation, <http://marxists.anu.edu.au/archive/>

(50) The useful distinction between authoritative and non-authoritative intervention is made by John Stuart Mill, *Principles of Political Economy* (1848), Bk. III, Ch. XI, §1, *Collected Works of John Stuart Mill*, ed. by John M. Robson, Vol. III (Toronto: University of Toronto Press, 1965), p. 937.

of Mexico after a war in 1846–1848, Engels found it rather fortunate that ‘splendid California has been taken away from the lazy Mexicans’. Commenting again on the Habsburg Empire, he said that

“ the Germans and Magyars united all these small, stunted and impotent little nations into a single big state and thereby enabled them to take part in a historical development from which, left to themselves, they would have remained completely aloof! Of course, matters of this kind cannot be accomplished without many a tender national blossom being forcibly broken. But in history nothing is achieved without violence and implacable ruthlessness.”⁽⁵⁴⁾

Engels also referred contemptuously to the ‘lousy Balkan’ nations under Ottoman rule: ‘These wretched, ruined fragments of one-time nations, the Serbs, Bulgars, Greeks, and other robber bands, on behalf of which the liberal philistine waxes enthusiastic in the interests of Russia, are unwilling to grant each other the air they breathe, and feel obliged to cut each other’s greedy throats.’⁽⁵⁵⁾

Even if Marx was not quite as outspoken as Engels, he was also a Social Darwinist, applauding the survival of the strongest nations in the merciless struggle for existence. He wrote that ‘there is only one way in which the murderous death agonies of the old society and the bloody birth throes of the new society can be shortened, simplified and concentrated, and that way is revolutionary terror.’⁽⁵⁶⁾ Echoing Engels, he referred to the European territories under Ottoman rule as having ‘the misfortune to be inhabited by a conglomerate of different races and nationalities, of which it is hard

marx/works/1849/01/13.htm

(54) Friedrich Engels, Der demokratische Panslawismus, *Neue Rheinische Zeitung* 15 February 1849. *Werke*, Vol. 6 (Berlin: Dietz, 1961), pp. 273 and 278–279. English tran. <http://marxists.anu.edu.au/archive/marx/works/1849/02/15.htm>

(55) Engels to August Bebel 17 November 1885. *Werke*, Vol. 36 (Berlin: Dietz, 1967), p. 391. Tran. by Bertram Wolfe. This letter is, for some reason, not published online at the Marxist Archive, where Engels’ other letters to Bebel are found.

(56) Karl Marx, Sieg der Kontrerevolution zu Wien, *Neue Rheinische Zeitung* 7 November 1848. *Werke*, Vol. 6, p. 457. English translation, <https://www.marxists.org/archive/marx/works/1848/11/06.htm>



Spencer distinguishes between industrial and military societies: one is based on peaceful cooperation, the other one on warfare. Painting by William Bell Scott, *Iron and Coal*.

to say which is the least fit for progress and civilisation’.⁽⁵⁷⁾ In a comment on Great Britain as a naval power, he wrote: ‘Such is the redeeming feature of war; it puts a nation to the test. An exposure to the atmosphere reduces all mummies to instant dissolution so war passes supreme judgments upon social organizations that have outlived their vitality.’⁽⁵⁸⁾ Marx and Engels had nothing but scorn for one of the tiniest nations in Europe. Engels wrote to Marx in 1846: ‘The Iclander still speaks

(57) Karl Marx, Britische Politik. British Politics, *New York Daily Tribune* 7 April 1853. *Werke*, Vol. 9 (Berlin: Dietz, 1960), p. 7. English translation, <https://www.marxists.org/archive/marx/works/subject/russia/crimean-war.htm#01>

(58) Karl Marx, Eine neue Enthüllung in England [A New British Revelation], *New York Daily Tribune* 24 September 1855. *Werke*, Vol. 11 (Berlin: Dietz, 1961), p. 522. The article is, for some reason, not published online at the Marxist Archive, but it can be found in English in Vol. 14 of Marx and Engels, *Collected Works* (London: Lawrence & Wishart, 2010), p. 516.

the very same language as the greasy Vikings of anno 900. He drinks fish-oil, lives in an earthen hut and breaks down when the atmosphere doesn't reek of rotten fish.'⁽⁵⁹⁾ In 1855, a German socialist in a conversation with Marx made the remark that the English language had been corrupted by Latin. Marx replied that Dutchmen and Danes said the same about the German language and that the 'Icelanders' (to show his contempt for that small nation, Marx put inverted commas around the name) were the only true people untainted by Southern European influences.⁽⁶⁰⁾

Social Darwinism and Eugenics

Perhaps the most notorious expression of Social Darwinism in the early twentieth century was in eugenics, the attempt to improve the genetic quality of human beings by excluding 'inferior' individuals and groups. In the Commonwealth of Virginia and some other states in North America laws were passed that gave government the power to sterilise 'inferior' women. The Supreme Court heard a case about this in 1927. Carrie Buck, born in 1906, had been placed with foster parents at birth, because her mother had had several children out of wedlock and was deemed unfit to bring her up. When Carrie was seventeen, she became pregnant. Her foster parents had her committed to a colony for epileptics and imbeciles where she gave birth to her child, after which she was sterilised. The Supreme Court upheld the Virginia sterilisation act. Now the same Justice Oliver Wendell Holmes who had attacked Spencer in the *Lochner* case was in the majority, and he wrote with disdain that 'Three generations of imbeciles are enough'.⁽⁶¹⁾ Much later, when the case was investigated by interested laymen, it turned out that Carrie was of normal intelligence and that she had been raped by a relative of her foster parents who had tried to hush up the affair

by having her committed to the colony.⁽⁶²⁾ Carrie's daughter was no imbecile, either, but she died of measles when she was only eight years old. Carrie Buck was eventually released from the colony. She married twice, but always regretted that she could not bear more children. She died in 1983.

In the United Kingdom, Spencer's foster daughter Beatrice Potter and her husband Sidney Webb, both leading Fabian socialists, held that 'inferior' women had to be prevented from having children. Already in 1891 Sidney Webb warned against the 'breeding of degenerate hordes of a demoralized "residuum" unfit for social life'.⁽⁶³⁾ The Webbs—who were childless themselves—worried that the superior classes (in which they included themselves) had far too few children and the inferior classes too many. According to them, 'adverse selection' was leading to 'race suicide', and the country might gradually fall victim to the Irish and the Jews. They proposed a system of state grants for 'good' families from the working class, and later they argued in favour of segregating the 'feeble-minded'.⁽⁶⁴⁾ As Sidney Webb put it, 'No consistent eugenicist can be a "laissez faire" individualist unless he throws up the game in despair. He must interfere, interfere, interfere!'⁽⁶⁵⁾ Another Fabian socialist, the physician and writer Havelock Ellis, wrote:

“ The superficially sympathetic man flings a coin to the beggar; the more deeply sympathetic man builds an almshouse for him so that he need no longer beg; but perhaps the most radically sympathetic of all is the man who arranges that the beggar shall not be born.— So it is the question of breed, the production of fine individuals, the elevation of the ideal of quality in human production over that of mere quantity, begins

(59) Engels to Marx, Paris, December 1846. *Werke*, Vol. 27 (Berlin: Dietz, 1963), p. 72. Tran. by Jesse Byock.

(60) Marx to Engels, 14 December 1855. *Werke*, Vol. 28 (Berlin: Dietz, 1963), p. 467. I return to Marx' bigotry in the chapter on Popper in this book.

(61) 274 US 200, *Buck v. Bell*.

(62) Stephen Jay Gould, *Carrie Buck's Daughter*, *Natural History*, Vol. 93, No. 7 (1984), pp. 14–18.

(63) Sidney Webb, *The Difficulties of Individualism* (London: The Fabian Society, 1896), p. 6. Reprint of an article from the *Economic Journal* for June 1891.

(64) Sidney and Beatrice Webb, *The Prevention of Destitution* (London: The Fabian Society, 1912), pp. 46, 52–53, and 58–59.

(65) Sidney Webb, *Eugenics and the Poor Law: The Minority Report*, *Eugenics Review*, Vol. 2, No. 3 (1910), p. 237. The article was co-written by Beatrice Webb.

to be seen, not merely as a noble idea in itself, but as the only method by which Socialism can be enabled to continue on its present path.⁽⁶⁶⁾

Ellis notably left out the solution which Spencer and other conservative liberals would have proposed: to turn the beggar into a working man.

In Sweden, leading Social Democrats Gunnar and Alva Myrdal expressed similar opinions in the 1930s as the Webbs had done earlier in the United Kingdom, but they had more direct influence on government policy in their country. In 1934, the Myrdals co-authored a book on the *Crisis in the Population Question*, arguing forcefully for sterilisation. It was necessary, they said, to ‘circumscribe the reproductive freedom of the slightly feeble-minded’.⁽⁶⁷⁾ A sterilisation bill was passed by the Swedish Parliament the same year, and between 1935 and 1975, 62,888 people were subjected to sterilisation. Most were women. The majority were labelled as mentally defective, although most probably they suffered from minor physical or social disabilities. The ideas of the Webbs and the Myrdals even reached remote Iceland where a leading Social Democrat, the physician Vilmundur Jonsson, was Iceland’s Director of Health and an influential Member of Parliament. A sterilisation bill proposed by him was passed by the Icelandic Parliament in 1938, and between 1938 and 1975, 722 people were subjected to sterilisation, mostly women as in Sweden.⁽⁶⁸⁾ Some other countries in Northern Europe, as well as some states in the United States and provinces in Canada, implemented sterilisation programmes. This was not the case in Southern Europe where the Catholic Church strongly opposed any such programmes. Unsurprisingly, the National Socialists ruling Germany in 1933–1945 implemented much more ruthless eugenic programmes than Swedish Social Democrats, under the banner of ‘racial hygiene’. More than

400,000 people were forcibly sterilised, while up to 300,000 fell victim to a euthanasia programme which was however strenuously opposed by the German Churches. During the war, millions were sent to labour camps or killed in gas chambers, mostly Jews, but also other groups deemed by the Nazis to be anti-social. Inmates wore triangular badges which identified them, yellow ones for Jews, pink for homosexuals, purple for Jehovah’s witnesses, and black for Gypsies.

A consistent disciple of Spencer could oppose eugenic birth control with two arguments, each of which would be conclusive. First, the Principle of Equal Freedom would protect the freedom of all women, and their male partners, to have babies, provided they would take full responsibility for them after birth. After all, there are no illegitimate children—only illegitimate parents.⁽⁶⁹⁾ In the second place, government officials do not have, and cannot acquire, the knowledge necessary to decide who would turn out right in life and who would not. Therefore decision-makers substituted their own prejudices about race or class for scientific knowledge. Perhaps the sorry saga of eugenics is not only an example of how power corrupts, but also an illustration of a point made by many conservative liberals that it may be necessary to accept some principles on authority, in this case the axiom that man should not play god.

(66) Havelock Ellis, *The Task of Social Hygiene* (Boston: Houghton Mifflin, 2016 [1912]), pp. 324–325.

(67) Alva and Gunnar Myrdal, *Kris i befolkningsfrågan* (Stockholm: Bonniers, 1934), p. 223. Cf. Alberto Spektorowski and Elisabet Mizrahi, Eugenics and the Welfare State in Sweden: The Politics of Social Margins and the Idea of a Productive Society, *Journal of Contemporary History*, Vol. 39, No. 3 (2004), pp. 333–352.

(68) Unnur Birna Karlsdóttir, „Vonun andlegra faradlinga ...“, [‘Sterilisation of the Feeble-minded ...’], *Saga*, Vol. 43, No. 2 (2005), pp. 7–56.

(69) *Zipkin v. Mozon*, District Court, S. D. California, Central Division, June 1928. Opinion by Judge Leon R. Yankwich.

Lord Acton

(1834–1902)

The belief in objective truth and in absolute moral standards by which rulers and subjects alike should be judged is shared by most or even all conservative liberals, but no one has expressed this belief more clearly than Lord Acton, the British historian. He taught that the discipline of history should not be about what would sound good or please the masters of the day, but about what is true. Perhaps historians could never fully attain truth, but they had an obligation to prefer the more true to the less true. As Icelandic scholar Ari the Learned wrote around 1125 in a history of his country: ‘But whatever is incorrectly stated in these records, it is one’s duty to prefer what proves to be more accurate.’⁽¹⁾ Acton regarded human history as first and foremost the history of freedom. ‘History is liberal because it teaches disrespect, shows up horrors, follies, errors, crimes of the ablest and the best.’⁽²⁾ While people should not be governed by the past, they should be guided by knowledge of the past.⁽³⁾ Indeed, history is our collective memory. It is therefore crucial that knowledge of the past is accurate. In a way, our history is our identity. ‘When a day passes it is no longer there. What remains of it? Nothing more than a story. If stories weren’t told or books weren’t written, man would live like the beasts, only for the day. The whole world, all human life, is one long story.’⁽⁴⁾ Acton devoted his

Lord Acton warns that power tends to corrupt and that absolute power corrupts absolutely. Painting by Franz Seraph von Lenbach.

(1) *The Book of the Icelanders; the Story of the Conversion*, tran. by Siân Grønlie (London: Viking Society for Northern Research, 2006), p. 3.

(2) Selections from the Acton Legacy: History, *Selected Writings of Lord Acton*, ed. by J. Rufus Fears, Vol. III (Indianapolis IN: Liberty Fund, 1988), p. 622. The *Selected Writings* are only available from Liberty Fund as books, but some older editions of Acton’s works are accessible at the website of Liberty Fund.

(3) *Ibid.*, p. 620.

(4) Isaac Bashevis Singer, Naftali the storyteller and his horse, Sus, *Stories for Children*, tran. by Joseph

life to a study of the institutions and traditions which could sustain and support a free society.

Acton's Life and Works

John Emerich Edward Dalberg-Acton was born in Naples on 10 January 1834, the only son of Sir Ferdinand Dalberg-Acton and Marie Louise de Dalberg. He had an aristocratic and cosmopolitan background. His father was son of a Catholic English nobleman who came from an old Shropshire family, but who had been Prime Minister of the Kingdom of Naples. His mother was the only child of the Duke of Dalberg, a German-born French diplomat who had served both Napoleon and the Bourbon kings. The Dalbergs were an ancient and distinguished noble family of the Holy Roman Empire. John Acton's father died when he was only three years old, and in 1840 his mother married Earl Granville, a British politician who was the liberal leader in the House of Lords and three times Foreign Secretary. Acton was raised as a Roman Catholic and was therefore denied entry to Cambridge University. Instead, he went to Munich in 1850 to study history under the eminent Catholic historian Ignaz von Döllinger who taught him to view his discipline as science, not literature, impressing upon him the need for a meticulous study of original documents. Acton became a friend of Döllinger and other famous European historians, such as Alexis de Tocqueville in France and Leopold von Ranke in Germany. In 1853 Acton travelled with a relative in the United States and in 1856 he went to Russia where he was a member of the official British mission led by his stepfather Earl Granville at the crowning of Tsar Alexander II. After his studies in Germany and travels around Europe, Acton settled down on his family estate at Aldenham in Shropshire and was in 1859 elected to the House of Commons. The 25 year old Member of Parliament became a personal friend of a fellow liberal, the much older Chancellor of the Exchequer William Gladstone, who steadily reduced taxes during his tenure and who was instrumental in making a historic free trade treaty with France in 1860. Gladstone was in 1867 elected Leader of the Liberal

Party and served four times as Prime Minister, for almost fourteen years in total. It was said that 'Gladstone influences all around him but Acton. It is Acton who influences Gladstone.'⁽⁵⁾

In 1865, Acton married a relative whom he knew from his years in Munich, Bavarian Countess Marie von Arco auf Valley. They had six children four of whom survived into adulthood. The couple divided their time between London, Acton's estate in Shropshire, and houses on the Tegernsee in Bavaria and in Cannes on the French Riviera. Acton lost his parliamentary seat in 1866, but three years later Gladstone had him raised to the peerage as Baron Acton. 'His character,' Gladstone wrote to Queen Victoria, 'is of the first order, and he is one of the most learned and accomplished, though one of the most modest and unassuming, men of the day.'⁽⁶⁾ Acton was the first English Catholic to be created a peer. He also became Marquess of Gropoli in 1888 when an Italian relative of his died. After Acton settled in England and gained a seat in the House of Commons, he soon became known as the country's foremost liberal Catholic. He was editor of the Catholic monthly *Rambler* in 1859–1862 and of its successor the *Home and Foreign Review* for two more years, until he came under criticism from the Catholic Church and halted publication. With his old teacher Döllinger and other liberal Catholics, he fought in vain against the doctrine of papal infallibility, adopted by the first Vatican Council in 1870. While Döllinger was excommunicated, Acton remained a practising Catholic, and did not publicly challenge the Pope. He devoted himself to reading and gained a reputation as one of the most learned men in Europe, but he also lived a rich social life. 'An insatiable, systematic, and effective reader, he was anything but a recluse. No man had a keener zest for the society of his intellectual equals. No one took a stronger interest in the events of the day, and the gossip of the hour. His learning, though vast and genuine, was never obtruded.'⁽⁷⁾ Acton spoke French and German as fluently as English, and also knew Italian and Spanish. He was a passionate book collector and

(5) Mary Drew [born Gladstone], *Acton, Gladstone and Others* (London: Nisbet & Co., 1924), p. 2.

(6) Quoted by Herbert Paul, Introductory Memoir, *Letters from Lord Acton to Mary, Daughter of the Right Hon. W. E. Gladstone* (London: Macmillan, 1913, 2nd ed.), p. xlv.

(7) *Ibid.*, p. ix.



at his estate in Aldenham he kept a library of 60,000 books which later found its way to the University of Cambridge. Acton intended to write a comprehensive history of liberty, but never accomplished this, although he delivered two lectures on the topic in 1877, in his dense and elliptical style. It was said of him that he knew everyone worth knowing and had read everything worth reading.⁽⁸⁾

In 1892, Acton was appointed by Gladstone as Lord-in-Waiting to Queen Victoria. He became a good friend of the Queen and often dined with her and members of her family at Windsor Castle. But his service at the Court only lasted three years, because in 1895 he was appointed Regius Professor of History at Cambridge University, on the recommendation of the liberal government of Earl Rosebery, Gladstone's successor. Acton began his inaugural lecture on an autobiographical note: 'Fellow Students—I look back to-day to a time

St. Peter's Cathedral, Rome. A Catholic liberal, Acton vehemently opposed the doctrine of papal infallibility, proclaimed in 1870. Photo: Alberto Luccaroni.

(8) Gertrude Himmelfarb, Introduction, *Essays on Freedom and Power by John Emerich Edward Dalberg-Acton* (Glencoe IL: The Free Press, 1949), p. xix.

before the middle of the century, when I was reading at Edinburgh and fervently wishing to come to this University. At three colleges I applied for admission, and, as things then were, I was refused by all. Here, from the first, I vainly fixed my hope, and here, in a happier hour, after five-and-forty years, they are at last fulfilled.'⁽⁹⁾ In the lecture, he set out his view about the moral duty of historians: 'I exhort you never to debase the moral currency or to lower the standard of rectitude, but to try others by the final maxim that governs your own lives, and to suffer no man and no cause to escape the undying penalty which history has the power to inflict on wrong.'⁽¹⁰⁾ Acton's years in Cambridge were probably the happiest of his life. He was in his element and earned the respect of his colleagues one of whom wrote: 'His incomparable learning, his cosmopolitan outlook, and his moral and philosophical power made us feel that we had found a master who soon proved to be a friend.'⁽¹¹⁾ Another Cambridge colleague wrote: 'Neither glamour of reputation nor splendour of achievement blinded him to moral iniquity. He had a wealth of righteous indignation which upon occasion blazed out fiercely.'⁽¹²⁾ Acton's health was however declining, and on 19 June 1902 he passed away at the family chalet on Tegernsee.

The History of Freedom

In the first of his two lectures in 1877 on the history of freedom, Acton emphasises that freedom is a practice or tradition rather than an abstract ideal. 'It is the delicate fruit of a mature civilisation.'⁽¹³⁾ He points out that freedom has many foes and only a few friends and that the institutions supposed to promote freedom only work if sustained by

(9) The Study of History, *Selected Writings of Lord Acton*, Vol. II (Indianapolis IN: Liberty Fund, 1986), p. 504.

(10) *Ibid.*, p. 546.

(11) Roland Hill, *Lord Acton* (New Haven CT: Yale University Press, 2000), p. 382. The colleague was G. M. Trevelyan.

(12) Paul, *Memoir*, p. lxiv. The colleague was Professor Henry Jackson, Professor of Greek.

(13) *Freedom in Antiquity, Selected Writings*, Vol. I, p. 5.

a spirit of freedom. His definition of freedom is

“ the assurance that every man shall be protected in doing what he believes his duty against the influence of authority and majorities, custom and opinion. The State is competent to assign duties and draw the line between good and evil only in its immediate sphere. Beyond the limits of things necessary for its well-being, it can only give indirect help to fight the battle of life by promoting the influences which prevail against temptation,—religion, education, and the distribution of wealth.⁽¹⁴⁾

Thus, Acton does not share the belief of Frédéric Bastiat and Herbert Spencer that the state should limit itself to preventing injustice. But the real test of a free society, Acton says, is the amount of security enjoyed by minorities. Freedom is only acquired by the doctrines of national tradition and the higher law: ‘the principle that a constitution grows from a root, by process of development, and not of essential change; and the principle that all political authorities must be tested and reformed according to a code which was not made by man.’⁽¹⁵⁾

Acton traces liberal ideas far back, and also the threats to liberty. The Athenians discovered the perils of unlimited democracy. ‘It is bad to be oppressed by a minority, but it is worse to be oppressed by a majority. For there is a reserve of latent power in the masses which, if it is called into play, the minority can seldom resist. But from the absolute will of an entire people there is no appeal, no redemption, no refuge but treason.’⁽¹⁶⁾ In Rome, there was only one legislator and one authority. ‘What the slave was in the hands of his master, the citizen was in the hands of the community. The most sacred obligations vanished before the public

advantage. The passengers existed for the sake of the ship.’⁽¹⁷⁾ While the domination of one state over another was more common in Antiquity than a federation of states, the federal check was as familiar to the ancients as the constitutional, Acton says. ‘If the distribution of power among the several parts of the State is the most efficient restraint on monarchy, the distribution of power among several States is the best check on democracy. By multiplying centres of government and discussion it promotes the diffusion of political knowledge and the maintenance of healthy and independent opinion.’⁽¹⁸⁾ All these checks serve one end: ‘Liberty is not a means to a higher political end. It is itself the highest political end.’⁽¹⁹⁾ While the ancients knew natural law, three liberal ideas were wanting from their literature in Acton’s opinion, representative government, emancipation of slaves, and liberty of conscience. Acton discusses the political significance of Christianity, declaring the doctrine of self-reliance and self-denial, the foundation of political economy according to him, to be written as legibly in the New Testament as in Adam Smith’s *Wealth of Nations*. The words of Christ, that we should render unto Caesar the things that are Caesar’s, and unto God the things that are God’s, mark a new beginning, Acton submits: the separation of secular and religious powers and the foundation of an energetic institution, the Church, which could act as a restraint on government.

The ancients knew of liberty, but they rarely practised it, Acton observes. The German tribes also made a contribution to liberty:

“ Their kings, when they had kings, did not preside at their councils; they were sometimes elective; they were sometimes deposed; and they were bound by oath to act in obedience with the general wish. They enjoyed real authority only in war. This primitive Republicanism, which admits monarchy as an occasional incident, but holds fast to the

(14) Ibid., p. 7.

(15) Ibid., p. 8.

(16) Ibid., p. 13.

(17) Ibid., p. 18.

(18) Ibid., p. 21.

(19) Ibid., p. 22.



collective supremacy of all free men, of the constituent authority over all constituted authorities, is the remote germ of Parliamentary government.⁽²⁰⁾

At his family estate, Aldenham in Shropshire, Acton kept a library of 60,000 volumes. He meant to write a history of freedom.

These are ideas also found in Snorri Sturluson's *Heimskringla*, written in the 1220s about the struggle between Norwegian kings and their subjects. But it was in the conflict between the ecclesiastical and feudal hierarchies of the Middle Ages that a balance was found, not consciously, but slowly and arduously, and on the basis of this balance liberty could grow as an unintended consequence. 'But although liberty was not the end for which they strove, it was the means by which the temporal and the spiritual power called the nations to their aid.'⁽²¹⁾ A political theory was articulated, not least by St. Thomas Aquinas, that no prince is above the law and that if he is unfaithful to his duty he can be deposed, but that it is better to abridge

(20) The History of Freedom in Christianity, *Selected Writings*, Vol. I, pp. 30–31. Cf. Otto von Guericke, *Community in Historical Perspective*, tran. by Mary Fischer (Cambridge: Cambridge University Press, 1990) and Daniel Hannan, *How We Invented Freedom and Why It Matters* (London: Head of Zeus, 2013).

(21) *Ibid.*, p. 33.

his power for it not to be abused. In the fourteenth century, the Swiss cast off the yoke of Austria, two long chains of free cities arose in Germany, and municipal liberties grew in Flemish towns, even if sometimes they were short-lived. In seventeenth century France, absolute monarchy was victorious and tried to extinguish liberty, but in Britain the idea of religious tolerance gained ground. 'That great political idea, sanctifying freedom and consecrating it to God, teaching men to treasure the liberties of others as their own, and to defend them for the love of justice and charity more than as a claim of right, has been the soul of what is great and good in the progress of the last two hundred years.'⁽²²⁾

The British Revolution of 1688 struck a blow at Continental despotism, although it led to a government of the gentry rather than a free society, Acton submits. Nevertheless, John Locke's ideas about separation of powers and resistance to bad rulers, originally formed to justify the British Revolution, inspired the inhabitants in thirteen British colonies on the Eastern Coast of North America.

“ Europe seemed incapable of becoming the home of free States. It was from America that the plain ideas that men ought to mind their own business, and that the nation is responsible to Heaven for the acts of the State—ideas long locked in the breast of solitary thinkers, and hidden among Latin folios—burst forth like a conqueror upon the world they were destined to transform, under the title of the Rights of Man.⁽²³⁾

The American Revolution was about a principle, no taxation without representation. It was successful because the Americans surrounded the popular will with restrictions, according to Acton. The French Revolution on the other hand failed: 'the finest opportunity ever given to the world was thrown away, because the passion for equality made vain the hope of freedom.'⁽²⁴⁾

(22) *Ibid.*, p. 47.

(23) *Ibid.*, p. 49.

(24) *Ibid.*, p. 51.

Acton often refers to his predecessors in the conservative-liberal tradition. He says that the chain of the tradition that connects Aquinas and Edmund Burke is ‘limited authority and conditional obedience’.⁽²⁵⁾ Acton admires Burke although he grew more critical of him with time: ‘Systems of scientific thought have been built up by famous scholars on the fragments that fell from his table. Great literary fortunes have been made by men who traded on the hundredth part of him.’⁽²⁶⁾ Acton also feels close to Alexis de Tocqueville whom he considers one of the most eminent political philosophers of the nineteenth century.⁽²⁷⁾ He agrees with Tocqueville’s interpretation of the French Revolution as a continuation of the previous centralisation of France and with his analysis of the benefits of American decentralisation. ‘Tocqueville was a Liberal of the purest breed—a Liberal and nothing else, deeply suspicious of democracy and its kindred, equality, centralisation and utilitarianism. Of all writers he is the most widely acceptable, and the hardest to find fault with. He is always wise, always right.’⁽²⁸⁾ Acton is less sympathetic to other conservative-liberal thinkers, somewhat unfairly. Locke is in his opinion a protagonist of property rather than liberty, and so is David Hume.⁽²⁹⁾ Acton thinks that Adam Smith’s notion of free contracts between capital and labour has to be revised; it is unjust that all the advantages are on the side of capital.⁽³⁰⁾ Acton only mentions Frédéric Bastiat in passing, but he seems to regard him as a materialist, too narrowly focused on economic freedom.⁽³¹⁾ Acton is critical of Herbert Spencer for arguing for liberty in terms of evolution; in the end, Acton believes, liberty and evolution are bound to conflict.⁽³²⁾ Acton’s liberalism is based not on the hope of economic gain, or happiness, or evolution, or

(25) Ibid., p. 41.

(26) Letter from Lord Acton to Mary Gladstone, Cannes, 27 December 1880. *Letters of Lord Acton*, p. 43.

(27) Freedom in Antiquity, *Selected Writings*, Vol. I, p.

(28) John E. E. Dalberg-Acton, *Lectures on the French Revolution* (Indianapolis IN: Liberty Fund, 2000), p. 308.

(29) Freedom in Christianity, *Selected Writings*, Vol. I, p. 48

(30) Letter from Lord Acton to Mary Gladstone, Cannes, 24 April 1881. *Letters of Lord Acton*, p. 72.

(31) Report on Current Events, July 1860, *Selected Writings*, Vol. I, p. 489.

(32) Selections from the Acton Legacy: Threats to Liberty, *Selected Writings*, Vol. III, pp. 500–501.

any other end, but on the necessity for human beings to be able to follow their own conscience. Therefore, for him religious freedom is the most important of all freedoms.

Egalitarianism, Socialism, and Nationalism

Acton identifies three political movements of the nineteenth century which sought to reconstruct society on the basis of past grievances, real or imagined, ancient or recent: egalitarianism, socialism and nationalism. Their followers rejected the present distribution of power, wealth and territories, respectively. The demand for equality was inspired by Rousseau. For egalitarians, democracy meant unlimited sovereignty of the people. Acton finds this a corruption of the democratic principle:

“ The true democratic principle, that none shall have power over the people, is taken to mean that none shall be able to restrain or to elude its power. The true democratic principle, that the people shall not be made to do what it does not like, is taken to mean that it shall never be required to tolerate what it does not like. The true democratic principle, that every man’s free will shall be as unfettered as possible, is taken to mean that the free will of the collective people shall be fettered in nothing.”⁽³³⁾

For Acton, as for Tocqueville, democracy is not the ultimate end. It is a means to the ultimate end, liberty. Democracy should be one of many safeguards against despotism, alongside separation of powers, an independent judiciary, a free press, spontaneous associations and a strong civic spirit. It should imply equal freedom, not equal submission.

Acton holds socialism to be another threat to liberty, defining it in the traditional way as demand for common property. He points out that Greek philosopher Plato, Fathers of the Church, the mendicant friars of

(33) Sir Erskine May’s Democracy in Europe, *Selected Writings*, Vol. I, p. 80.



the Middle Ages, Italian monk Campanella and French bishop Fénelon all favoured common property in the belief that they were removing temptations and the corruption of the soul. Socialism was practised among the Essenes and the Incas. ‘The Incas had an exact census, a thing unknown to the Spaniards. It was a system of communistic distribution of land. And the most terrible despotism on earth.’⁽³⁴⁾ In the twentieth century, French political philosopher Louis Baudin reaffirmed Acton’s conclusion in a thorough analysis of the socialist empire of the Incas. It was a rigid, highly regulated society where the inhabitants were treated like a flock of sheep by their shepherds, the Incas; arguably, they enjoyed some economic security, but they had no freedom.⁽³⁵⁾ Another point which Acton makes about socialism is less plausible: ‘Their best writer, Engels, made known

In 1879 the Gladstones visited the Actons at their chalet by the Bavarian lake Tegernsee. Seated from left: William Gladstone, Elisabeth (Lily) Acton, Catherine Gladstone (holding a fan), Countess Anna von Arco-Valley (Acton’s mother-in-law), Leopoldine (Tini, his sister-in-law), Ignaz von Döllinger and Acton. Standing behind Gladstone, from left: Herbert Gladstone and Richard Acton. Standing on the terrace, from left: Lady Charlotte Blennerhassett, Mary Gladstone (glancing at an album) and Acton’s wife, Lady Marie, with their child Jeanne (Simmy). Photo: Karl Hahn.

(34) Selections from the Acton Legacy: Socialism, *Selected Writings of Lord Acton*, Vol. III (Indianapolis IN: Liberty Fund, 1988), p. 562.

(35) Louis Baudin, *L’Empire socialiste des Inka* (Paris: Institut d’Ethnologie, 1928); *A Socialist Empire: the Incas of Peru*, tran. by Katherine Woods (Princeton NJ: D. Van Nostrand Co., 1961).

the horrors of our factory system.’⁽³⁶⁾ Modern research has shown that Friedrich Engels greatly exaggerated ‘the horrors of the factory system’ in his 1845 book, *The Condition of the Working Class in England*.⁽³⁷⁾ It is not true, as Engels asserted, that the Industrial Revolution had made urban workers worse off. Of course, at the early stages of industrial development their condition left much to be desired, but it was still better than in the agricultural societies of the past. This was recognised by some of Engels’ contemporaries, such as Lord Macaulay who mocked the fantasies of the poet Robert Southey:

“ Mr. Southey has found out a way, he tells us, in which the effects of manufactures and agriculture may be compared. And what is this way? To stand on a hill, to look at a cottage and a factory, and to see which is the prettier. Does Mr. Southey think that the body of the English peasantry live, or ever lived, in substantial or ornamented cottages, with box-hedges, flower-gardens, beehives, and orchards? If not, what is his parallel worth?⁽³⁸⁾

Despite many hardships, caused not least by wars and social upheaval, opportunities increased for urban workers in the first half of the nineteenth century. Engels’ evidence was incomplete, and he was writing shortly after an economic depression in 1842. The standard of living fluctuated in nineteenth century England, but in the early 1850s it was substantially above that of 1800.⁽³⁹⁾

(36) Socialism, *Selected Writings*, Vol. III, p. 563.

(37) Friedrich Engels, *Die Lage der arbeitenden Klasse in England* (1845), Karl Marx and Friedrich Engels, *Werke*, Vol. 2 (Berlin: Dietz, 1945), pp. 225–506.

(38) Thomas Babington, Lord Macaulay, Southey’s Colloquies on Society (1830), *Critical and Historical Essays contributed to the Edinburgh Review*, Vol. 1 (London: Longman, Brown, Green & Longmans, 1848), p. 233.

(39) *Capitalism and the Historians*, ed. by Friedrich A. Hayek (Chicago: University of Chicago Press, 1954); *The Long Debate on Poverty: Eight Essays on Industrialisation and ‘The Condition of England’*, ed. by Norman Gash (London: Institute of Economic Affairs, 1972). In England, the chief protagonists in a debate in the early 1960s on ‘pauperisation’ were Marxist Eric Hobsbawm and Oxford historian Ronald Hartwell. Hobsbawm had to admit that pauperisation ‘while not implausible, cannot be proved’ and therefore he invoked social factors like ‘mass unhappiness’ and also said that ‘the poets saw things

When Karl Marx published his *Capital*, Acton read it and found it remarkable, ‘as the Koran of the new socialists’.⁽⁴⁰⁾ While Acton believes that some of the grievances on which socialism feeds are real, he thinks they have to be addressed within the framework of a free society. Socialism demands centralisation and will inevitably lead to despotism. ‘The danger is not that a particular class is unfit to govern. Every class is unfit to govern. The law of liberty tends to abolish the reign of race over race, of faith over faith, of class over class. It is not the realisation of a political ideal: it is the discharge of a moral obligation.’⁽⁴¹⁾ But Acton regards nationalism as being even more reprehensible than socialism. He defines it as the demand that nation and state should coincide and suggests that it was awakened by the partition of Poland in the late eighteenth century, and reinforced by the French Revolution, not least in response to the aggression of the revolutionaries. By 1861, nationalism had become an established doctrine, with John Stuart Mill writing that it was ‘in general a necessary condition of free institutions, that the boundaries of governments should coincide in the main with those of nationalities’.⁽⁴²⁾ Acton rejects Mill’s doctrine as being illiberal. What is important is not that political power is held by our compatriots rather than foreigners, but that it is circumscribed, limited:

“ Whenever a single definite object is made the supreme end of the State, be it the advantage of a class, the safety or the power of the country, the greatest happiness of the greatest number, or the support of any speculative idea, the State becomes for the time inevitably absolute. Liberty alone demands for its realisation the limitation of the public authority, for liberty is the only object which benefits all alike, and provokes no sincere opposition.”⁽⁴³⁾

which the vulgar economists did not’. Eric Hobsbawm, *The Standard of Living during the Industrial Revolution: A Discussion*, *The Economic History Review*, Vol. 16, No. 1 (1963), pp. 119–134.

(40) Letter from Lord Acton to William Gladstone, Aldenham Park, 17 November 1873, *Selections from the Correspondence of the First Lord Acton*, ed. by John N. Figgis and Reginald V. Laurence (London: Longmans, Green & Co., 1917), p. 169.

(41) Letter from Lord Acton to Mary Gladstone, Cannes, 24 April 1881, *Letters from Lord Acton*, p. 73.

(42) John Stuart Mill, *Considerations on Representative Government* (1861). *Collected Works*, Vol. XIX, ed. by John M. Robson (Toronto: University of Toronto Press, 1977), p. 548.

(43) Acton, *Nationality*, *Selected Writings*, Vol. I, p. 424.

Nationality, Acton holds, is an essential, but not a supreme element in determining the forms of the state. Liberals should aim at diversity and not at uniformity. They should respect existing conditions of political life, not the aspirations of an ideal future. A free society should be one where many different nations would co-exist in one state. ‘The presence of different nations under the same sovereignty is similar in its effect to the independence of the Church in the State.’⁽⁴⁴⁾ Acton favours states like the British and Austrian Empires which ‘include various distinct nationalities without oppressing them’.⁽⁴⁵⁾

The Case for National Liberalism

Acton’s critique of nationalism is not as convincing, I think, as his rejection of egalitarianism and socialism. It was understandable, however. Acton was cosmopolitan, half-British, one-fourth German and one-fourth Italian, speaking German and French as fluently as his mother tongue, English, living for most of his life not only in England, but also in Bavaria and on the French Riviera. It is therefore not surprising that he was hostile to the militant nationalism which he witnessed as an adult. Many liberal thinkers share Acton’s aversion to nationalism. In some cases it may have been because of their personal experiences. Ludwig von Mises, Friedrich von Hayek and Karl Popper were German-speaking citizens of the Habsburg Empire which collapsed in the First World War. They saw that the Empire, despite its many shortcomings, was a better guardian of liberty than most of its successor states, and that the doctrine of national self-determination was not followed anyway in the formation of these states. A large Hungarian minority suddenly found itself in Romania; in Czechoslovakia Slovaks and Germans were forced into a union with the dominant Czechs; and in Yugoslavia Slovenes and Croats were likewise forced into a union with the dominant Serbs. The author of a well-argued denunciation of nationalism, Elie Kedourie, was brought up as a member of the Jewish community in Baghdad,

(44) *Ibid.*, p. 425.

(45) *Ibid.*, p. 432.



which had been tolerated in the Ottoman Empire and destroyed by Arab nationalism. He saw nationalism as an attempt to impose an end upon society instead of searching for principles which would enable mutual adjustment of individuals and groups.⁽⁴⁶⁾

Scholars from the United Kingdom and the United States also tend to dismiss nationalism, sometimes rather contemptuously. But their words may belie their deeds. They feel no need to present themselves as nationalists because their mother tongue is the international language of communication, while their countries are large, powerful and prosperous, and have not suffered humiliating military defeats on the scale of, say, Germany, France and Italy. In fact, most inhabitants of Anglo-Saxon countries identify strongly with their homelands and are proud of their heritage. Taking their nationality for granted, they do not expand words on it.

Of course, domestic oppression is no better than foreign one, as the history of some 'liberated' former colonies—such as Algeria, Rwanda and even India—in the twentieth century demonstrates. Nevertheless,

Norwegian nationalism was not about oppressing foreigners: it was about protecting Norwegian identity. Painting by Adolph Tidemand and Hans Gude, *Bridal Procession on the Hardangerfjord*.

Acton's argument against nationalism is weakened by the example of the small nations of Europe. In 1905, Norway chose to renounce her union with Sweden because the Norwegians thought of themselves as Norwegians, not Swedes. They had a distinct identity and believed that it could be better preserved in their own state than in a union with Sweden. To their credit, the Swedes did not use force against their much smaller neighbour. In 1917, Finland proclaimed her independence. She did not want to remain a self-governing part of the Russian Empire. The Finns had resisted Russification attempts in the nineteenth century. They thought of themselves as Finns, not Russians. Temporarily weakened by war and revolution, the Russian government had to recognise Finland's independence, although in 1939 Stalin attempted to annex the country again, but changed course when he realised the high cost of trying to subdue the hardy Finns. In 1918, Iceland, long a Danish dependency, in friendly negotiations with Denmark decided to establish a sovereign state. The Icelanders thought of themselves as Icelanders. To the bewilderment of their well-meaning Danish rulers, they did not want to become Danes, although Iceland was then much poorer than Denmark.

Likewise, the Baltic nations founded their own states as soon as they could, after the Bolshevik Revolution, although the Russians occupied and annexed their countries anew in 1940. As soon as another opportunity presented itself, when the Soviet Union was collapsing in 1991, they reaffirmed their independence, regarding the long Soviet rule as illegitimate. This was because the three nations thought of themselves as Estonians, Latvians and Lithuanians. They did not want to be Russians. In all these instances, the nation more or less coincided with the state (although there were small Sami populations in Norway and Finland, and German, Russian and Jewish minorities in the Baltic countries).

Contrary to what Acton seems to suggest, a case can be made for liberty thriving better in small and homogeneous societies than in larger and heterogeneous ones. This is because civil society may be stronger in smaller societies, with greater trust, transparency and spontaneous cooperation and cohesion and thus with less need for compulsion. Small countries usually keep relatively small security forces and rarely pursue an adventurous foreign policy. They also tend to have more open

(46) Elie Kedourie, *Nationalism* (London: Hutchinson & Co., 1960).

economies, perhaps by necessity rather than virtue, as they can hardly be self-sufficient.⁽⁴⁷⁾ Indeed, Acton overlooked the fact that *economic integration* may facilitate *political disintegration*, because in the global market small nations can benefit from division of labour and free trade without having to join larger political units. The real challenge for small states is however that they are powerless on their own against aggressive large states, as the sad examples of Tibet and Crimea show. Therefore they have to enter into alliances either with other small states or with more powerful states.

The advantages, and disadvantages, of small states were seen by both Hume and Tocqueville. ‘A small commonwealth is the happiest government in the world within itself, because every thing lies under the eye of the rulers: But it may be subdued by great force from without,’ Hume argued, and therefore there have to be many almost self-governing counties in one large country. ‘This scheme seems to have all the advantages both of a great and a little commonwealth.’⁽⁴⁸⁾ For Tocqueville, ‘small nations have at all times been the cradle of political liberty.’⁽⁴⁹⁾ But the American ‘federal system has been created to unite the various advantages that result from the large and the small sizes of nations’.⁽⁵⁰⁾ In Tocqueville’s words, ‘The Union is free and happy like a small nation, glorious and strong like a large one.’⁽⁵¹⁾ Indeed, Acton might have agreed. He is concerned about centralisation, the unification of state and nation. He would not have worried as much over a federation of many small states, such as the United States of America before the Civil War or Switzerland, or over a defence alliance of many states, such as the North Atlantic Treaty Organisation, NATO. Perhaps the Austrian Empire would have survived if it had been subdivided early enough into many self-governing units, similar to Swiss cantons.

(47) Hannes H. Gissurarson, *In Defence of Small States* (Brussels: New Direction, 2016).

(48) David Hume, *Idea of a Perfect Commonwealth, Essays Moral, Political, and Literary* (1777), ed. by Eugene F. Miller (Indianapolis IN: Liberty Fund, , p. 525.

(49) Alexis de Tocqueville, *Democracy in America*, Vol. 1 (1835), tran. by James T. Schleifer (Indianapolis IN: Liberty Fund, 2010), pp. 255–256.

(50) *Ibid.*, p. 260.

(51) *Ibid.*, p. 263.

Acton’s belief that in a large country freedom would best be served by her subdivision into many self-governing units serves to explain his position on the American Civil War. Many have found it hard to accept that this champion of liberty unequivocally sided with the secessionist states of the South. Was he not condoning slavery? The answer is that Acton did not regard the Civil War as being about slavery. It was according to him about states’ rights. In order to maintain America as a free society it was essential to protect the autonomy of the states which had formed the union. This was clearly expressed in a letter Acton wrote to General Robert E. Lee, who had led the army of the South:

“ I saw in State Rights the only availing check upon the absolutism of the sovereign will, and secession filled me with hope, not as the destruction but as the redemption of Democracy. The institutions of your Republic have not exercised on the old world the salutary and liberating influence which ought to have belonged to them, by reason of those defects and abuses of principle which the Confederate Constitution was expressly and wisely calculated to remedy. I believed that the example of that great Reform would have blessed all the races of mankind by establishing true freedom purged of the native dangers and disorders of Republics. Therefore I deemed that you were fighting the battles of our liberty, our progress, and our civilization.⁽⁵²⁾

The letter also shows that what was uppermost in Acton’s mind was the impact of the Civil War on Europe. ‘We must always remember that what concerned him most was the war’s significance for a continent where slavery had vanished long ago,’ a modern scholar points out. ‘At a time when aggressive nationalism, centralization, and bureaucracy defined the modern state, Acton was a visionary who looked forward to a federal

(52) Letter from Lord Acton to Robert E. Lee, Bologna 4 November 1866. Acton-Lee Correspondence, *Selected Writings*, Vol. I, p. 363.



Europe that lay far in the future.⁽⁵³⁾ But it had to be a federal Europe that respected sovereignty and accepted secession.

Acton is not alone in his interpretation of the Civil War. The leader of the Northern states, President Abraham Lincoln, wrote in 1862:

“ If there be those who would not save the Union, unless they could at the same time *save* slavery, I do not agree with them. If there be those who would not save the Union unless they could at the same time *destroy* slavery, I do not agree with them. My paramount object in this struggle *is* to save the Union, and is *not* either to save or to destroy slavery. If I could save the Union without freeing *any* slave I would do it, and if I could save it by freeing *all* the slaves I would do it; and if I

While Acton opposed slavery, he thought that the American Civil War was chiefly about states' rights. Painting by Eastman Johnson, *Negro Life at the South*.

could save it by freeing some and leaving others alone I would also do that.⁽⁵⁴⁾

It was only in the beginning of 1863 that Lincoln issued the Emancipation Proclamation, that all slaves within the ‘rebellious states’ were freed. There were important qualifications: slaves in the loyal border states or in those Southern states already occupied by the North were not freed, and the freedom promised would only come after the North’s military victory. Nevertheless, in the minds of many it changed the nature of the American Civil War. Acton is a firm opponent of slavery, and his advice to the South was to free the slaves and to enlist some of them in its army. ‘If, then, slavery is to be the criterion which shall determine the significance of the civil war, our verdict ought, I think, to be, that by one part of the nation it was wickedly defended, and by the other as wickedly removed. Different indeed must our judgment be if we examine the value of secession as a phase in the history of political doctrine.’⁽⁵⁵⁾ Slavery should be abolished in the United States, Acton submits, not by war, but by skilful statesmanship, not suddenly, but gradually.

Although Acton deplors slavery, he prefers that *some* be free, even if others remain unfree, rather than that *all* be unfree. To see his argument about states’ rights more clearly, consider Britain’s official position on slavery in the nineteenth century. In 1807, she had outlawed slave trade by British subjects and even employed the Royal Navy to intercept slave ships on open sea. But she did not invade other countries in order to force them to abolish slavery, neither the United States before abolition in 1863 nor, say, Brazil where all slaves were freed as late as 1888. It is only if sovereignty is denied that stronger states can force weaker ones to abolish slavery, or for that matter any other social evil, and this was precisely the issue in the Civil War, according to Acton: Had the states of the South the right to uphold a practice which a majority in the North rightly regarded as unjust and evil? To illustrate his case, Acton mentions the Swiss Civil War. In the

(53) Christopher Clausen, Lord Acton and the Lost Cause, *The American Scholar*, Vol. 69, No. 1 (2000), p. 58.

(54) Quoted in Report on the Civil War in America (1862), *Selected Writings*, Vol. I, p. 339.

(55) The Civil War in America: Its Place in History, *Selected Writings*, Vol. I, p. 277.

early 1840s, Anti-Catholics had gained a majority in the Federal Diet, at the same time as they dominated some cantons. They closed some monasteries and convents and seized their properties. In response, Lucerne, governed by Catholics, invited the Jesuit Order to oversee education in the canton. This led to an attack on Lucerne from an Anti-Catholic militia. Most of the Catholic cantons consequently formed an alliance, the *Sonderbund*, in 1845. The Federal Diet declared the alliance unconstitutional and sent an army against it in November 1847. After a short war, it defeated the *Sonderbund*. A new constitution was adopted which changed Swiss from a federation of semi-independent states, the cantons, to something approaching a federal state, although the cantons retained much of their earlier autonomy. The Jesuits were banished from Switzerland, and a Federal Assembly replaced the Federal Diet. The contested issue was whether Jesuits could be in charge of education in a particular canton, but the general principle at stake was that of canton autonomy.

While centralisation in the wake of civil wars has not been as detrimental to liberty in Switzerland or in the United States as Acton feared, he was certainly right that the American Civil War did woefully little to improve the condition of Blacks in the South. The defeated white majority there took revenge on the Blacks by making them second-class citizens and implementing racial segregation, as immoral and inhumane as Apartheid in South Africa. The spell of race was only broken in the mid-twentieth century. In Brazil, by contrast, the abolition of slavery was gradual and not attained in a civil war that left 700,000 people dead and a large part of the country in ruins, as in the United States.⁽⁵⁶⁾ Race relations after abolition were much better in Brazil than in the South of the United States.⁽⁵⁷⁾ There the ‘mixture of races’ took place that Acton finds desirable.⁽⁵⁸⁾

(56) In 1831, all slaves entering Brazil from abroad were declared free, although the law was not implemented consistently. In 1871, all new-born children of slaves were declared free. In 1885, slaves over 60 years old were freed. When slavery was finally abolished formally in 1888, only one-fourth of the Black population was still enslaved.

(57) Gilberto Freyre, *The Masters and the Slaves: A Study in the Development of Brazilian Civilization* (Berkeley: University of California Press, 1986).

(58) Acton, Nationality, *Selected Writings*, Vol. I, p. 430.

The Moral Duty of Historians

For Acton, the transformation of history from a branch of literature into a scientific discipline rests upon three main principles. Historians have to seek truth rather than literary effect; they should prefer primary to secondary sources, but evaluate all of them critically; and they should strive to be impartial.⁽⁵⁹⁾ ‘By going from book to manuscript, and from library to archive, we exchange doubt for certainty,’ Acton observes.⁽⁶⁰⁾ The principle of impartiality implies that they should be no respecters of power or wealth, as Acton famously argues in a letter to another historian, Anglican bishop Mandell Creighton:

“ I cannot accept your canon that we are to judge Pope and King unlike other men, with a favourable presumption that they did no wrong. If there is any presumption it is the other way against holders of power, increasing as the power increases. Historic responsibility has to make up for the want of legal responsibility. Power tends to corrupt and absolute power corrupts absolutely. Great men are almost always bad men, even when they exercise influence and not authority: still more when you superadd the tendency or the certainty of corruption by authority. There is no worse heresy than that the office sanctifies the holder of it. That is the point at which the negation of Catholicism and the negation of Liberalism meet and keep high festival, and the end learns to justify the means.⁽⁶¹⁾

It is not only historical truth which is objective, but also the moral code, according to Acton, with no exemptions for the mighty:

(59) Acton, The Study of History, *Selected Writings*, Vol. II, pp. 527–533.

(60) Selections from the Acton Legacy: History, *Selected Writings*, Vol. III, p. 624. From the article Notes on Archival Researchers 1864–1868.

(61) Acton-Creighton Correspondence, *Selected Writings*, Vol. II, p. 383.



“ The inflexible integrity of the moral code is, to me, the secret of the authority, the dignity, the utility of history. If we may debase the currency for the sake of genius, or success, or rank, or reputation, we may debase it for the sake of a man’s influence, of his religion, of his party, of the good cause which prospers by his credit and suffers by his disgrace. Then history ceases to be a science, an arbiter of controversy, a guide of the wanderer, the upholder of that moral standard which the powers of earth, and religion itself, tend constantly to depress. It serves where it ought to reign; and it serves the worst better than the purest.⁽⁶²⁾

History can be a burden as well as an inspiration. It is written in blood no less than in ink. A French teacher points to the regions (Alsace and Lorraine) lost in the war with German states in 1870–1871, encouraging his students to reconquer them. How many of them lost their lives in trying to do this? Painting by Albert Bettannier, *The Black Spot*.

(62) Ibid., p. 384.

Acton rejects the whole idea of *Staatsräson*, that princes, elected or not, should be judged more leniently than their subjects; that there are different moral standards for those in power and others. A murder is no less a crime if committed by a person in high office than an ordinary citizen.

Historians therefore perform an important function, Acton believes, ensuring that rulers would not ‘escape the undying penalty which history has the power to inflict on wrong’. French writer François-René de Chateaubriand made a similar point about the moral duty, and importance, of historians:

“ When in the silence of abjection, the only sounds that can be heard are the chains of slaves and the voice of the collaborator, when everything trembles before the tyrant, when it is as dangerous to curry his favour as to merit his disgrace, the historian appears, charged with the vengeance of the peoples. Nero prospered in vain, for Tacitus was already born during the Empire.⁽⁶³⁾

Some modern Neros saw this challenge. Before Nazi Germany invaded Poland in 1939, Adolf Hitler gave a secret speech to military leaders at his home in the Bavarian Alps. ‘Our strength consists in our speed and in our brutality. Genghis Khan led millions of women and children to slaughter—with premeditation and a happy heart. History sees in him solely the founder of a state. It’s a matter of indifference to me what a weak western European civilization will say about me,’ Hitler exclaimed. ‘Who, after all, speaks today of the annihilation of the Armenians?’⁽⁶⁴⁾ The Romanian-born American writer Elie Wiesel, a Holocaust survivor and Nobel Laureate in Literature, observed that the executioner always

(63) Review of *Voyage pittoresque et historique de l’Espagne* by Alexandre de Laborde, *Mercure de France* 7 July 1807. Napoleon Bonaparte understood against whom the comment was really directed and angrily banished Chateaubriand from Paris.

(64) Louis P. Lochner, *What About Germany?* (New York: Dodd, Mead & Co., 1942), pp. 11–12. Lochner was an American reporter in Berlin who obtained the minutes of the meeting from an undisclosed source, most likely Wilhelm Canaris, Chief of the German Military Intelligence Service.

kills twice, the second time with silence.⁽⁶⁵⁾

Most people may know about the tragic fate of the Armenians and the Jews. But what about the Ingrians? I first came across them when I was editing the reprinted memoirs of an Ingrian priest who in 1930 had escaped from the Gulag.⁽⁶⁶⁾ They were the people living in Ingria along the southern shore of the Gulf of Finland. They spoke their own language, close to and mutually intelligible with Finnish and Estonian. They were never able to establish their own state like their neighbours and cousins, and after Tsar Peter I built St. Petersburg in the early eighteenth century Russians began to move in droves to their territory. At the time of the Bolshevik Revolution the number of Ingrians was nevertheless a little over 140,000. In the Soviet era many Ingrians were killed or deported, while others fled to Finland, and now they have largely disappeared. Many other small nations have sadly suffered a similar fate, especially if they have not had a state to protect their collective identity. Some have barely survived, for example the three Baltic nations that were subject to intense Russification under Soviet occupation. Other nations still face a challenge, such as the Tibetans under Chinese occupation and the Kurds in the mountains between Turkey, Iran and Iraq.

Historians cannot bring back disappeared nations, but they can try to keep their memory alive. They can make invisible people visible. History has a tendency to change persons into numbers: We are told that almost four million people perished in Stalin's Ukrainian famine,⁽⁶⁷⁾ and that Hitler had almost six million Jews killed,⁽⁶⁸⁾ and that forty-five million people lost their lives in Mao's famine from 1958 to 1962.⁽⁶⁹⁾ But historians must change the numbers into persons again, if they want to heed Acton's advice. For example, they have to describe the horrors

(65) Quoted by Mounir Bouchenski, *Breaking the Silence: Sites of Memory*, *World Heritage Newsletter*, No. 23 (September–October 1999).

(66) Aatami Kuortti, *Thjonusta, Thraelkun, Flotti* [Service, Servitude, and Escape] (Reykjavik: Kristilegt studentafelag, 1938). I had it reprinted in 2016.

(67) Anne Applebaum, *Red Famine: Stalin's War on Ukraine* (London: Allen Lane, 2017). In addition, about two million died in other parts of the Soviet Union, mostly in Kazakhstan.

(68) Martin Gilbert, *Never Again: A History of the Holocaust* (New York: Universe, 2000).

(69) Frank Dikötter, *Mao's Great Famine: The History of China's Most Devastating Catastrophe, 1958–62* (London: Bloomsbury, 2010).

of twentieth century totalitarianism with sensitivity and sympathy for the victims and lay the responsibility for those horrors where it belongs. However, even in remote Iceland, some historians have tried to trivialise, dismiss or ignore inconvenient truths and 'kill with silence', as Wiesel would say. Examples abound, but I shall just give two from a widely used textbook on modern history by two Icelandic left-wing historians.

The first example is about the Baltic countries. The authors briefly note their 1940 occupation, without using that word: 'The Soviet Union had moved its furthest front to the West when it seized the Eastern Part of Poland. In 1940, the three Baltic states, Estonia, Latvia and Lithuania, were annexed to the Soviet Union as member republics, and the same year Romania had to cede Bessarabia to the Soviet Union.'⁽⁷⁰⁾ But when it is said that the Baltic states were annexed, an important truth is left out: they were occupied. They did not join the Soviet Union of their own accord. The authors mention the Baltic states again in their account of the end of the Second World War: 'In Yalta, the West recognised *de facto* that the Baltic States and the Eastern part of Poland would remain a part of the Soviet Union and that Eastern Europe would remain in the Soviet sphere of influence. In the same way, Stalin took it as given that the Western part of the continent where the British and the American armies conquered Germans would be in their sphere of influence.'⁽⁷¹⁾ The authors do not point out the widely divergent senses which 'spheres of influence' had on the one hand for the democratically elected leaders of the West, Franklin D. Roosevelt and Winston Churchill, and on the other hand for the dictator in the Kremlin. Moreover, neither the United States nor the United Kingdom ever recognised the Baltic states as parts of the Soviet Union. The two authors finally mention independence movements in the Baltic countries: 'Increased freedom of speech, however, woke up old nationalism in many Soviet republics. The nationalist movement was strongest in the three Baltic countries, Estonia, Latvia and Lithuania, but it was also present elsewhere. Finally the Baltic countries declared their

(70) Gunnar Karlsson and Sigurdur Ragnarsson, *Nyir timar. Saga Islands og umheimsins fra lokum 18. aldar til arthusundamota* [Modern Times. The History of Iceland and the World from the End of 18th Century and to the New Millennium] (Reykjavik: Mal og menning, 2006), p. 246. The authors use the Icelandic verb 'innlima' which means incorporate, but can mean annex.

(71) Ibid., p. 263.



independence and seceded from the Soviet Union as they had actually the right to do according to the constitution. After this other republics followed the same path.’⁽⁷²⁾ This is highly misleading. The Baltic countries had no real right to secede, whatever the letter said. They were occupied and all resistance to the communist regime was suppressed. The authors should have known better. In 1955, a well-written and moving account of Estonia’s tragic fate was published in Icelandic.⁽⁷³⁾

My second example from this textbook is about the Ukrainian famine in 1932–1933, one of the greatest atrocities of the twentieth century. This treatment is conspicuous by its absence: the famine is not mentioned at all. The authors write:

French Queen Catherine de' Medici leaves the Louvre on 24 August 1572, after the St. Bartholomew's Day massacre of protestants. A murder is a murder, even if organised or condoned by people in high office, Acton holds. Painting by Édouard Debat-Ponsan, *One Morning at the Gates of the Louvre*.

(72) Ibid., p. 292.

(73) Ants Oras, *Orlaganott yfir Eystrasaltslandum* [Baltic Eclipse] (Reykjavik: Almenna bokafélagid, 1955). I had it reprinted in 2016 when 25 years had passed since Iceland was the first country to reaffirm her old recognition of the Baltic states.

“ When Stalin had acquired all power in 1928, he started comprehensive industrialisation on the basis of so-called five years’ plans, while establishing collective farms in the rural areas. Collectivisation was implemented *against the wishes of a large part of the farmers* and this took a toll on agricultural production. Industrial production increased however very rapidly in the next decades, so that in 1940 the Soviet Union was the next largest industrial power in the world.’⁽⁷⁴⁾

It is astonishing that any historians could say that collectivisation was implemented ‘against the wishes of a large part of the farmers’ and that this ‘took a toll on agricultural production’, when the fact of the matter was that collectivisation was brutally forced upon farmers, many of whom were killed or deported to Siberia, while the result was a famine that claimed the lives of almost four million people in Ukraine alone. The authors cannot feign ignorance. As their book was published in 2006, they had access to modern research on the Ukrainian famine, for example in the *Black Book of Communism*.⁽⁷⁵⁾ The famine had also been widely reported in the Icelandic press in the 1930s, and mentioned in many books and articles published thereafter.⁽⁷⁶⁾ In this book, required reading for many Icelandic students, the millions who fell victim to communist policies in Ukraine are killed again, with silence. (Needless to say, the authors do not mention, either, the famine of 1921–1922 in Russia which cost five million lives.) Of course a textbook cannot cover everything. But these Icelandic historians seem to have no sense of proportion. Whereas they do not even mention the Ukrainian famine, elsewhere in the book they spend no less than ten lines on criticising Senator Joseph McCarthy’s campaign in the early 1950s against communists in

(74) Karlsson and Ragnarsson, *Nýir tímar*, p. 227. My italics.

(75) Stéphane Courtois et al., *The Black Book of Communism* (Cambridge MA: Harvard University Press, 1999). I translated it into Icelandic, *Svartbók kommunismans* (Reykjavik: University of Iceland Press, 2009).

(76) For example, Arthur Koestler et al., *Gudinn sem brast* [The God that Failed], tran. by Hersteinn Pálsson (Reykjavik: Studlaberg, 1950); Victor Kravchenko, *Eg kaus frelsid* [I Chose Freedom], tran. by Larus Johannesson (Seydisfjörður: Prentsmidja Austurlands, 1951).

the U.S. federal administration—a campaign by an individual which was eventually suspended and in which nobody lost his or her life.⁽⁷⁷⁾

When the authors add that ‘industrial production increased however very rapidly in the next decades’, they seem to invoke the cynical excuse of despots, that omelettes cannot be made without breaking eggs. Numbers on economic growth in the Soviet Union were highly questionable, not only because they may have been falsified, but also because they did not always reflect reality: Accumulation of capital in the munitions industry did not improve living standards of ordinary people. Moreover, economic growth can indeed take place without breaking people. Consider two comparable periods in the Soviet Union and the United States. In 1928, eleven years after the Bolshevik Revolution, GDP (gross domestic product) per capita in the Soviet Union was \$1,370, increasing in the next twelve years, till 1940, to \$2,144, or by \$774. In 1876, eleven years after the Civil War, GDP per capita in the United States was \$2,570, increasing in the next twelve years, till 1888, to \$3,282, by \$712, or about the same as in the comparable period in Soviet history.⁽⁷⁸⁾ The United States was, and is, an imperfect society, but this economic growth took place without terror or famines.

I could give many other examples of left-wing historians in Iceland trying to trivialise, dismiss or ignore twentieth century totalitarianism.⁽⁷⁹⁾ However, while they may partly be motivated by political fanaticism, some of their oversights can be attributed to the sheer thoughtlessness of people in sheltered places. In April 1979 I had a discussion with Polish philosopher Leszek Kolakowski who was visiting Iceland. Somewhat naively, I asked him whether our present troubles stemmed from the fact that in the mind of modern man, God was dead. ‘No,’ he replied. ‘The problem is that in the mind of modern man the Devil is dead.’ I then told him an old Icelandic folktale about three demons that the Devil had sent to mankind in order to corrupt it. They returned to Hell after a year. The

Devil asked them what they had achieved. One said that he had taught mankind to lie. The Devil was pleased. The second said that he had taught mankind to steal. The Devil was mightily pleased. The third was the smallest and least respected demon. He said: ‘I have convinced mankind that you don’t exist.’ The Devil was happiest with this little demon and said that from now on he would be second in rank in Hell. Modern man in prosperous, peaceful Western societies, especially in remote places like Iceland, has little awareness of evil. It is something that you read about in books or see in films. But evil still exists, and if we are to fight it, we have to be aware of it. ‘History is not a master but a teacher. It is full of evil,’ Acton remarked.⁽⁸⁰⁾ His admonitions to historians are still relevant.

(77) Karlsson and Ragnarsson, *Nyir timar*, p. 268.

(78) Figures, all in 1990 Geary-Khamis dollars, are from the Maddison Project on historical statistics. <http://www.ggdc.net/maddison/maddison-project/home.htm>, 2013.

(79) They are quite similar to the cases in the US discussed by John Earl Haynes and Harvey Klehr, *In Denial: Historians, Communism and Espionage* (San Francisco, California: Encounter Books, 2003).

(80) History, *Selected Works*, Vol. III, p. 620.

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