

# INTRODUCTION

## Political Economy

Scholars do not often think of political economy, banks, joint-stock corporations, annuities, tontines, funds of various stripes and the paper credit instruments they emitted as part of the Enlightenment. It is, however, clear that the financial revolutions of the long eighteenth century on both sides of the Atlantic were critical to the creation of a radically different social order. Responding to the economic crises and opportunities associated with a growing market society, increased international trade and a technological revolution, Enlightenment-era financial innovators created the instruments, institutions and ideas that solved long-standing economic problems, resolved new challenges, improved lives and made modernity possible.

The creation of new financial instruments and the institutions that emitted and mediated them were not, however, simple innovations. Early modern Anglo-Americans did not understand money as simply a medium of exchange. Money was silver and gold, created, as had been all other matter, by God for man's use.<sup>1</sup> The creation of value implicit in the construction of paper credit instruments that circulated as money was thus a fundamentally transgressive act that both shaped and expressed new ways of thinking about value; put simply, value for Enlightenment thinkers was a function of the human imagination not the will of God. Similarly, the creation of a fractional reserve banking system represented an institutional revolution that challenged the state's economic and institutional hegemony and reflected larger structural changes in the so-called 'public sphere'. Further, the creation of banks and the numerous other financial institutions associated with a credit-based economy expressed the new Enlightenment spirit of association, fraternity and benevolence. We are fond of thinking of competition as the key to economic progress in a capitalist society. But in the era of the American Enlightenment, it was cooperation and trust that made the financial system and thus the capitalist economy work.

These changes were part and parcel of a larger transformation in the human imagining of the economy. Beginning in the late seventeenth century and com-

ing to fruition in the works of Adam Smith and his various disciples on both sides of the Atlantic, Anglo-American and Continental political economists moved from a mercantilist economy based on institutional goals like dynastic stability and imperial domination, to a free-trade economic order based on human agency, the quality of everyday life, and desire. In the new liberal economic order, these political economists argued, individual desires, agency and satisfaction drove the economy and *naturally* achieved a higher level of wealth than a state-driven mercantilist system. In imagining an economic order driven by the aggregate of human decisions, an ‘invisible hand’ guiding the economy to *naturally* harmonious and maximizing equilibriums, contemporaries presumed that human emotions and desire ‘fit’ in the larger cosmological order; human emotions and action were tied into the *natural* ‘reason’ of the universe – the logic of how things worked. Presented as a ‘rational’ and even empirical system of analysis, the new political economy was in fact a teleological vision of the economic order based on the Neo-Platonic concepts of harmony, balance and equilibrium.<sup>2</sup>

### Paper Credit and Banks

The creation of financial institutions and paper credit instruments was part of a long-standing debate on the nature of value. Critics based their resistance to banks and paper credit on early modern ideas about the origin, function and purpose of money. No less a figure than John Locke clearly expressed these ideas in a series of pamphlets associated with the late seventeenth-century English Recoinage Crisis. The Recoinage Crisis of the 1690s was a function of the popular English practice of ‘clipping’ silver coins (shaving silver off the coin). Though ‘clipping’ was hardly new to the period, the larger financial crisis associated with King William’s wars exacerbated the ‘money’ problem and forced the Privy Council and the King to act. Looking for a solution they turned to the great political economist and philosopher John Locke.<sup>3</sup>

Locke’s ideas on money were consistent with the theocratic values he expressed in his epistemological and political treatises.<sup>4</sup> Very briefly, Locke argued that the King could not – as numerous political economists urged – change the mint ratio, lower the silver content in money, and thus officially devalue the coinage to have it more accurately reflect international silver and gold prices as well as the clipped coins then circulating in Britain. Silver, according to Locke, was money by weight and had a *natural* value that the Crown could not alter. Though Locke talked about custom and international practice, he ultimately rested his argument on the concepts of *natural* value and *natural* law.

Seizing on the word ‘natural’, historians of these ideas have often misread Locke’s position and thus the profound significance of the shift to paper credit

instruments, primarily bank notes. For Locke, the ‘natural law’ was a theocratic statement of purpose or design.<sup>5</sup> Locke was a voluntarist and his ideas on money reflected his larger sense of human beings’ role and purpose in the world.<sup>6</sup> In terms of money, as in everything else, Locke ultimately felt that its *natural value* derived from its divine maker. Men had no business creating value in money – silver was naturally money, as all of nature was God’s creation, designed for human use – a use revealed to man through his senses and reason. Locke’s vision of money was also consistent with his notions of the economic order. He was a mercantilist ultimately concerned not with the individual desires of Englishmen but with the war-making capacity of the state. He thus promoted economic policies that promised to create a surplus of specie through a trade imbalance.<sup>7</sup>

A new generation of political economists – men like Nicholas Barbon – countered Locke’s notions of *natural* value and his ideas on money and the nature of the economy. In part this change is best expressed in terms of changes in the concept of the *natural*. Barbon and others also saw their economic theories as *natural*, but now understood *natural* as a sociological or historical idea; *natural* was a human creation through time.<sup>8</sup> These changes also expressed different ideas about the nature and purpose of the economy. Locke’s economic order served the state and the social and spiritual hierarchy upon which it was based. Barbon expressed an unmitigated confidence in undirected human action. Money, Barbon argued, was a value made by law; it was a human product. His economic order derived from and served the people who made it up. This approach to the economy, money and financial institutions was increasingly popular in the seventeenth century.<sup>9</sup> It came to fruition, however, in the eighteenth century with the rise in importance of the Scottish political economists, especially the prophet of modern capitalism, Adam Smith.

### The Political Economy of Freedom

The key to Adam Smith’s ideas is the concept of freedom. Smith hinged the success or failure of the economy to efficiently allocate resources and thus maximize growth on the individual consumption and production patterns of millions of people in a worldwide economy. Following the logic of this idea, government needed only to provide for the safety of property, and other institutional or structural safeguards. It should, most of all, avoid steering consumption and production. The people acting as an aggregate force would *naturally* lead the economy to its greatest heights. Smith’s political economy thus followed the reifying teleological narrative of *nature*. Prices had *natural* equilibriums reached as a function of supply and demand; production rose and fell to meet the needs and desires of individual consumers in a self-adjusting system.<sup>10</sup>

At the centre of Smith's new vision of political economy were contemporary Scottish ideas about money and banks. Smith championed the American colonists' use of paper money but did not support a complete fiat-money economy; he did, however, support the creation of banks and the circulation of bank notes. Banks during this period functioned on a fractional reserve ratio system. Banks lent out notes, essentially promises to pay in gold and silver that circulated in the economy as money. They retained only enough gold and silver to meet everyday demands on their paper. If the bank notes retained people's confidence, then they circulated at par with specie and carried out all of the functions of 'money'. Smith also advocated what was known as free banking: banking without any legislative oversight of the specie reserve ratio (the amount of gold the banks held to meet the demands on their liabilities).<sup>11</sup> He felt that the market should determine the specie reserves that each bank needed to retain, and that government restrictions on these measures were arbitrary and might slow economic growth.<sup>12</sup>

Smith's ideas in the *Wealth of Nations* (1776) both shaped and expressed the beliefs of eighteenth-century bankers, investors and consumers. Long before his ideas circulated, however, innovations on both sides of the Atlantic stood poised to transform the economy and the human imagination. In England the most powerful innovations began with the creation of the Bank of England, which circulated bank notes in lieu of specie and greatly expanded credit markets, facilitated commerce and provided a stable currency and source of credit for the growing eighteenth-century economy.<sup>13</sup> Parliament chartered the Bank of England in 1694 as a way to refinance the English debt and thus both solve the debt crisis associated with the perennial state of war, and facilitate credit market expansion. In Scotland, 'free banking' dominated over the eighteenth century; the Scots were particularly adept at running an economy on the barest of specie patinas.<sup>14</sup> Nowhere was innovation pushed further, however, than in the colonies and Early Republic United States.

### Colonial and Early Republic Innovations

In the colonies, as discussed in the headnotes and documents below, issues related to money resulted in a series of crises in the 1720s. Colonists perceived themselves in a perennial credit crunch, lacking capital and a circulating medium. To alleviate these problems, individual colonies created land banks that issued credit on land mortgages, and/or they printed paper money that was pulled out of circulation using special taxes. This worked reasonably well in most of the colonies save New England.<sup>15</sup> These innovations were not, however, without controversy. Paper credit emissions and land banks undermined the empire's monopoly control of money and credit and threatened international creditors.

In 1740 Parliament used the 1720 Bubble Act, originally designed in the wake of the South Sea Bubble to limit speculation, to quash the Massachusetts and Connecticut land banks. In 1751, Parliament passed the Currency Act that ended the New England financial experiment with paper money emissions. In 1764, they tried to extend it to the remaining colonies, with various levels of success and the eventual creation of an incomplete policy riddled with illogical exceptions. Only with the Revolution did the power to innovate devolve completely into the hands of the colonial assemblies.

Financial innovation in this period ultimately meant paper money or paper credit emissions of some kind, and during the Revolution both the Continental Congress and the individual 'states' embraced this experiment. As Edwin Perkins notes, these groups financed the Revolution by printing more than \$400 million.<sup>16</sup> This money fluctuated wildly in value throughout the Revolution and did much to discredit paper money in the eyes of ordinary Americans. After the war, Congress and the states depreciated their paper money at radically different rates. Congressional emissions for example, totalled more than \$227 million and retained a specie value of \$47 million (though there was a great deal of divergence over time). State depreciations of their Revolutionary paper emissions fluctuated over time and from state to state. Virginia, for example, emitted almost \$128 million in paper money over the war. It eventually adopted a depreciation schedule of 1,000 to 1. Of course, Congress and the states sold other debt instruments at home and abroad to finance the war. Some of these, like the Massachusetts inflation-indexed bonds issued in 1780, were radically innovative.<sup>17</sup> The final total specie debt amounted to around \$70 million.<sup>18</sup> It was Hamilton's genius to embrace this debt as a powerful bond of union.

Hamilton's federal embrace of the Revolutionary debt involved some of the greatest financial innovations since the Recoinage Crisis. Hamilton imagined a sophisticated financial system under which the federal government assumed the state and Continental debt at the full face value, and restructured it to pay between 3 and 6 per cent interest in the form of what were really 'consols' – British debt instruments that had no maturity and were thus in effect perpetual. He also created a sinking fund to pay down that debt (or at least create the illusion that he was paying down the debt); and he established a central-like bank, the Bank of the United States, that used its size and power as a brake on the speculative over-issuing tendencies of many smaller state-chartered banks.<sup>19</sup> The creation of the first Bank of the United States spawned stock markets, the specialized knowledge and experience necessary to run them, and the public confidence necessary to maintain them.<sup>20</sup>

Americans in the post-Revolutionary period did not wait, however, for Hamilton, to assume the leadership in creating the conceptual and institutional innovations necessary to stimulate the economy and bring about a modern

financial system. Banks were the first of these innovations and in 1781 Robert Morris, the Continental Congress's superintendent of finance, obtained a 'national' charter for the Bank of North America, a key element in the financial survival of the nation during the revolution. Banks in Massachusetts and New York followed even before the creation of the first Bank of the United States. Before long, banks and bank paper flooded the nation. Overall, the number of banks across the nation increased from 0 in 1780 to 53 in 1803, to 338 by 1818. These banks were joined by a plethora of joint-stock companies, canal, bridge, real estate, insurance and other corporations, as well as Tontines (see below), 'Annuity Funds,' 'Exchange Offices' and various other imaginative capital accumulation mechanisms and enterprises that, in addition to government securities, flooded the market with their paper.<sup>21</sup> The stock of these companies was of course bought and sold at auction and through securities brokers. Individuals might also sell their stock in a company or simply use it to pay off a debt; they might also countersign their dividend cheques, adding yet another layer to the many layers that made up a late eighteenth-, early nineteenth-century paper economy.

This unprecedented expansion of credit markets clearly promoted economic growth. Howard Bodenhorn has recently argued that the banks were the key to the significant economic growth of this period by bringing lenders and borrowers together. My own reading suggests that the credit-creation mechanism of banks greatly exploded the supply of money and fuelled economic growth through this period.<sup>22</sup> Paper credit also eroded notions of intrinsic worth, and transformed the nature of value. It created an *interdependent* economic order based on confidence and trust that greatly stimulated changes in society and personality during this period. It gave rise, to paraphrase J. G. A. Pocock, to a culture of *manners*. Benevolence, sympathy and a culture of politeness and consumption replaced the arms, independence and, most importantly, the *virtue* of the *republican* independent landowner.<sup>23</sup>

These institutional innovations went hand in hand with a revolution in political economy. Increasingly, the political economy of freedom promoted by Adam Smith resounded with Americans. From this system contemporary Americans drew three conclusions. First, money was a sign not a commodity; second, wealth was defined by consumption and individual 'riches'; third, an economy based on these principles *naturally* achieved its greatest potential.

As discussed above, money was in the early modern period understood as silver and gold, often, as Locke saw it, by weight. With the rise of sophisticated banking systems new ideas about money and value entered human psychology. Early national Americans increasingly saw economic value as a function of the human imagination. The value of bank notes in particular was loosely backed by gold but, as Janet Riesman has argued, the banking system used the gold reserves as a confidence maintenance device, not an actual 'currency' with which to back

their paper credit emissions. Further, what really backed the banks' paper notes was confidence – not confidence in the bank – but, as Riesman argues, confidence in the 'the productive potential of manufacturing, turnpike and canal companies, all of which were engaged in tapping the true wealth of the land.'<sup>24</sup>

Second, under a mercantilist economic order, political economists frequently defined private wealth as public poverty. The logic of these ideas spoke to the nature of mercantilism. Promoting the private consumption power of the economy was not the point, because the economy was imagined as a weapon against other nationally driven economic orders. Reimagining the economy to serve the everyday lives of ordinary people led to a radically different set of conclusions. Political economists redefined *wealth* as the aggregate of individual incomes and consumption; further the logic of the economy – the very way that it worked – derived from this individualistic ethos. The 'enlightened selfishness' of acquisitive individuals, J. Porter concluded, adds 'immediately to the accumulation of their wealth, and leads, in the plainest manner and with unerring steps, to the rapid increase of national wealth, and to the general improvements of all the enjoyments of social life.'<sup>25</sup>

Along these lines Thomas Cooper and others expressed an unmitigated confidence in human agency. Cooper and other Smith devotees, supported strongly by both Thomas Jefferson and Federalists in Boston, argued that the aggregate of individual human actions always led to equilibrium and maximized economic potential. The economy, Thomas Cooper argued, regulated and directed itself. It was, according to the *North American Review* critic J. Porter, based on the principle of *'vis medicatrix natura'*. 'The natural feelings and dispositions of man', Porter concluded, 'undirected and uncontrolled but by the rules of justice, obviously tend to the most rapid advancement of his own condition, and to the most rapid advancement also in opulence and improvement, of the whole community to which he belongs.'<sup>26</sup> The economy for these men was driven by the same sort of animating force the Greeks, their Neo-Platonic devotees and the Scottish philosophers had aspired to for physical and human nature, 'the natural feelings and dispositions of man.'

## Politics

If we accept Kant's definition of Enlightenment as self-assertion, then the American Revolution, both as an act of political independence and as the source of political ideas associated with self-rule, 'democracy' and constitutionalism, has legitimately dominated the American Enlightenment. The establishment of the American republic with its obvious *de facto* repudiation of monarchy, its rejection of imperial hegemony, its confident assertion of the inherent equality of all white men, and its theoretical and institutional innovations in the creation of

a government, is clearly consistent with, if not the epitome of, Enlightenment. Associating the American Enlightenment with the American Revolution, however, embroils us in a number of historiographical and historical questions. First, is there some resolution to the debate surrounding the Republican and/or Liberal origins of the American Revolution?<sup>27</sup> Second, to paraphrase Joyce Appleby, what is left of ideology or ideas in the history of the American Revolution and American Enlightenment?

### Republicanism versus Liberalism

The recent debates on the ideology of the American Revolution and thus the political ideas of the Enlightenment in America begin with the dominance of John Locke.<sup>28</sup> In the 1950s a generation of scholars, in part as a reaction to the Progressive or Beardian interpretation of the American Revolution, sought to re-establish the place of ideas overall, and John Locke in particular, as causal agents in the minds of the so-called Founding Fathers.<sup>29</sup> Scholars such as Louis Hartz and Clinton Rossiter correlated Revolutionary ideology with Lockean and Enlightenment notions of natural rights, contract theory, limited government and human equality. At the same time, many of these scholars found in the nation's post-Revolutionary economic and social settlement the ideas that Locke espoused. Associating economic liberalism with Locke, scholars of the immediate post-World War II generation saw in the acquisitive individualism of post-Revolutionary American society a new 'Lockean' and middling man, and Locke became America's philosopher.

Beginning in the 1960s, however, a new generation of American scholars created a countervailing paradigm to Lockean Liberalism. Borrowing from the theories of Quentin Skinner, Thomas Kuhn and Clifford Geertz, Bernard Bailyn and others re-examined a series of Revolutionary pamphlets that had been largely ignored by generations of scholars.<sup>30</sup> What they discovered was a rich legacy that tied American patterns of dissent to the long history of British radicalism going back to the execution of Charles I, but especially active in the age of Walpole.<sup>31</sup> This so-called 'country' tradition, seen most richly in the writings of the Tory Jacobite Lord Viscount Bolingbroke, as well as the radical Whigs John Trenchard and Thomas Gordon, emphasized mixed and limited government, promoted traditional English liberties, condemned the rising militaristic nature of English society (a standing army), often waxed nostalgically about an agrarian order, and overall condemned the new financial oligarchy that supplanted the traditional landed gentry from the seat of power. In the colonial context, the pamphleteers of the American Revolution used this language to condemn what they perceived as transgressions of their traditional English rights. Using the political language of *virtue* and *corruption* that Machiavelli and a host of other thinkers had derived

from the classical history and historians of Rome and ancient Greece, the 'country' narrative on both sides of the Atlantic was part pose, part aesthetic tradition, part political intrigue, and part serious political criticism and philosophy. Most importantly, however, it was a political philosophy of crisis. Even in Renaissance Italy, republicanism as a political narrative prospered only when republicanism as a political practice was threatened.<sup>32</sup> In the Anglo-American world it became a powerful oppositional voice against Stuart absolutism, Walpole's Robinocracy and imperial hegemony.

The Republican paradigm was extremely successful; perhaps it was too successful. Used everywhere and anywhere as an explanation for historical change, it soon lost much of its vitality.<sup>33</sup> The subsequent waning of republicanism has, however, opened the door to more sophisticated hybrids as well as both old and new liberalisms. Carl J. Richard, for example, has recently argued against the false dichotomy of 'republicanism' and 'liberalism', pointing to *stoic* natural law and the idea of *natural rights* as a bridge between the two competing paradigms. Similarly Paul Rahe has constructed a 'liberal republicanism' based on the commercial political economy of modern republics.<sup>34</sup> Advocates of Locke also continue to place him at the centre of the Revolution. Isaac Kramnick, for example, continues to document the extensive influence of Lockean notions of contract theory, natural human rights and equality, the responsibility of government, and government trust on radical writers from John Wilkes to Thomas Burgh, John Cartwright, Thomas Jefferson, Joseph Priestly, Richard Price and Thomas Paine.<sup>35</sup> Finally, historians have also returned to long fallow and newly fertile pastures, like the Scottish Enlightenment.<sup>36</sup>

### Scottish Enlightenment

On a broad level the impact of the Scottish Enlightenment on the new nation was in the realm of epistemology and political economy. Although the Scottish philosophers were not without their contributions to political theory, their larger contributions clearly spoke to the nature of knowledge, morality, psychology, aesthetics, pedagogy and economics. Francis Hutcheson's moral sense, alongside Adam Smith's 'impartial spectator' and 'invisible hand', were endemic to American cultural and economic thought.

Their epistemic and psychological contributions were not, however, without political applications. David Hume, for example, promoted the idea of politics as the science of man. This idea derived from his epistemic scepticism. Hume pushed Locke's empiricist logic to the edge and argued that if all knowledge was sensual, then we could in effect know nothing. Men could have no objective knowledge of the world through subjective senses. On one level this undermined all intellectual inquiries. On another level, it simply suggested that a

priori rationalism was flawed. Hume was in fact confident in history and custom as systems of knowledge. For Hume, John Werner concludes, ‘custom [replaced] a priori reason as the subjective basis of beliefs about causation in external and human nature.’ Put simply, for Hume, ‘only experience could decide questions of morality or politics.’<sup>37</sup> As Douglas Adair and others have argued, these ideas were critical to efforts by James Madison to understand politics as the ‘science of man.’<sup>38</sup> Hume’s use of history as a tool of political analysis represented a new approach to political theory. It suggested that the way to construct a social order was to study the historical development of societies and in effect apply what worked. This ultimately meant that social problems were to be solved by constructing institutions that shaped men, not the other way around.<sup>39</sup>

One of the institutions Hume influenced with these ideas was the Constitution. Hume argued that passion was the ruling principle behind men’s behaviour. Men could thus, according to Hume, ‘be governed through their passions and ambitions’. The founders adopted this principle, Daniel Walker Howe notes, as the logic of the Constitution. The Constitution, Howe concludes, ‘with its system of checks and balances, was based on the principle that even without enlightened statecraft, the vices could, through wise contrivance, be made to do the work of virtues.’<sup>40</sup>

American scholars have also discovered in some of America’s seminal Enlightenment contributions the influence of Scottish Moral and Common Sense philosophy. Looking into James Madison’s thought in Federalist No. 10 and Federalist No. 51, Roy Branson, Theodore Draper and Douglas Adair have seen Madison’s view of social progress, his defence of large republics and his defence of factions as all derived from David Hume and Adam Ferguson. Other scholars like Gary Wills have found in the Declaration of Independence the logic of Scottish Moral Sense philosophy.<sup>41</sup>

Daniel Walker Howe calls the project of delineating the Scottish influence ‘a hopeless enterprise.’<sup>42</sup> The founders were too eclectic, he suggests, to clearly ascribe influence. Had the founders been consistent, however, it would still have been a difficult task. By the late eighteenth century the logic and grammar of Scottish philosophy were *American*. In part this was a result of the domination of the American educational system by Scottish teachers; in part it spoke to the power of Scottish ideas to negotiate modernity.

### Common Law

Other influences on the political ideas of American Enlightenment thinkers include the common law and the natural law. Long before ‘country’ or opposition narratives filled American pamphlets, American colonists understood the nature of their government in terms of the most persistent intellectual tradition

in their lives, the common law.<sup>43</sup> Often trained in the law, many of the American Revolutionaries were very familiar with the common law lawyer and scholar Sir Edward Coke. As a student Thomas Jefferson thought him ‘an old dull scoundrel’ and wished him a spot next to the Devil; yet in later years he recognized both his influence and his revolutionary credentials.<sup>44</sup> John Adams groaned through Coke’s heavy volumes under his legal mentor, John Putnam. But when it came time to quote the Magna Carta, it was Coke that Adams used.<sup>45</sup> Edward Coke was a seventeenth-century lawyer and scholar, Queen Elizabeth’s Attorney General of England, Chief Justice under James I, and a member of the parliamentary opposition under Charles I. After a brief time in jail for those activities he retired and published his *Institutes of the Lawes of England*, widely recognized as the most important summation of the common law, and the text that brought the common law tradition through the constitutional crises of the seventeenth century into the modern era.<sup>46</sup>

In many ways Sir Edward Coke created the common law from an ungainly combination of precedent, positive law, tradition, memory and history. Described by Coke variously as the equivalent of the ‘natural law’, ‘the perfection of reason’, the *summa ratio* (the highest reason), and the *Leges Angliae*, Coke’s understanding of the common law became the law to generations of law students.<sup>47</sup> Coke, however, was often inconsistent. On occasion, especially when he was a member, parliamentary positive law was supreme; on other occasions, parliamentary law was *unconstitutional* if it violated the laws of *reason*. In Calvin’s Case, a case often drawn upon by the Revolutionary pamphleteers to establish the rights of colonists as Englishmen, he found that the ‘law of nature’ was supreme. In Bonham’s Case he held that the common law (and hence judges) could ‘sometimes adjudge [Acts of Parliament] utterly void; for when an act of Parliament is against *common right and reason*, or repugnant, or impossible to be performed, the common law will control it, and adjudge such act to be void.’<sup>48</sup>

Overall, Coke was critical to Anglo-American legal and political history for developing the idea of limitations on the power of the executive, legislative and judicial branches of government. This vision, as Kevin Ryan concludes, was at the time backward-looking – based on the perceived ‘ancient constitution’ and a loose grab bag of customs, treatises and precedents – and in opposition to the rising centralized, absolutist European states. His transmission of these ideas, however, served to preserve these principles as *the* English constitution and to pass them along to American Revolutionaries.<sup>49</sup> Samuel Adams, James Otis, John Adams, John Dickinson, Richard Bland, Arthur Lee, William Henry Drayton, Charles Carroll, James Wilson and others referred to Coke explicitly and used the logic of his common law in their arguments for limits on the power of Parliament and or the Crown; he was cited in the crises associated with the Stamp Act,

the writs of assistance, taxation and representation, the issue of sovereignty and parliamentary jurisdiction.<sup>50</sup>

## Natural Law

The appeal to the natural law is one of the most important keys to understanding the political ideas of the American Enlightenment. Inevitably, when colonists and Revolutionaries referred to classical thinkers, the Civic Humanists, Locke or the common law, they also evoked the natural law. Natural law ideas date back to Plato and Aristotle but underwent substantive changes during the Enlightenment. Under Plato and Aristotle, the natural law was descriptive – a kind of sociology or natural history of humanity as it developed following intuition and/or reason.<sup>51</sup> For the Stoics, the natural law was founded on reason and nature. Living naturally was living through reason, and was in accord with the natural law. ‘Reason’, concludes Louis Dupré, ‘converts nature’s *order of rightness* (*jus naturale*) into a *morally normative order* (the *lex naturae*).’<sup>52</sup>

Christian thinkers like St Thomas of Aquinas developed Stoic ideas into a system that tied positive law to natural law, and both to divine ‘providence’ and divine ‘reason’. Late medieval nominalists and Reformation Calvinists, however, emphasized not so much God’s reason or providence, as his power and will. Locke talked of ‘nature’ and ‘reason’. But for Locke the natural law was a divine edict that had a binding force to it. From Aristotle to the medieval Scholastics, the ‘natural law had been the law of a rational world order inherent in nature’. For Locke, ‘it had been the conclusion of a divine decision.’<sup>53</sup> By the late eighteenth century, however, important thinkers like Montesquieu recast the natural law into a historical process that described societies and the positive laws upon which they were based as *natural* historical developments.<sup>54</sup>

Enlightenment thinkers in America often picked sporadically and inconsistently from all of these ideas. James Otis, Samuel Adams and his cousin John Adams all espoused a legal system that mixed common law notions with natural law ideas. ‘The rights of Nature’, Samuel Adams asserted, ‘are happily interwoven in the British Constitution – It is its Glory that it is copyd from Nature.’<sup>55</sup> More radically, in ‘Common Sense’, Thomas Paine depended upon a theory of universal natural rights based on nature, and independent of laws or government institutions. The Connecticut wag Joel Barlow developed a natural law and natural rights idea based on reason aided by the moral sense that did not even pretend a theocratic base.<sup>56</sup>

American Enlightenment thinkers also followed Montesquieu and put the natural law to work legitimizing the Revolution by turning it into a historical narrative. In this version of the natural law, thinkers like James Wilson and Mercy Otis Warren combined abstract universal rights with particular historical

situations. Thus, the ‘Natural Law [was] no longer conceived as a static body of immutable principles. Rather, Natural Law was historicized; it was seen as a process by which fundamental principles were made concrete in the course of history itself. Natural law was thus conceived to require historical actions or practice for it to be “legal”.’<sup>57</sup> Of course the historical actions in turn were reified and given the legitimacy or inevitability of the natural law, thus turning the logic of the conversion in on itself.

All of these sources and ideas – the classical heritage, Civic Humanism, John Locke, the Scottish Enlightenment, the common law and the natural law can be found in the writings preceding, during, and immediately after the American Revolution. The writings of the American *philosophes* during this crisis represent one of the most prolific outbursts of political theory in human history and as such they are the political expressions of the Enlightenment in America. However, something too must be said for the ingenuity of the American *philosophes* in reacting to their particular context. As James Conniff points out, James Madison and other legislators might have gleaned valuable lessons from their European libraries; they also, however, learned valuable lessons in the practice of politics during the colonial period, trying to hold together religiously- and ethnically-diverse societies, working within provincial common law courts and functioning governments.<sup>58</sup>

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## Notes

1. For a fuller discussion of these ideas and many of the concepts below, see J. R. Torre, *The Politic Economy of Sentiment: Paper Credit and the Scottish Enlightenment in Early Republic Boston, 1780–1820* (London: Pickering & Chatto, 2007).
2. See O. H. Taylor, ‘Economics and the Idea of Jus Naturale’, *Quarterly Journal of Economics*, 44:2 (February 1930), pp. 205–41; R. A. Kleer, ‘The Role of Teleology in Adam Smith’s Wealth of Nations’, *History of Economics Review*, 31 (Winter 2000), pp. 14–29.
3. See J. O. Appleby, ‘Locke, Liberalism and the Natural Law of Money’, *Past and Present*, 71 (May 1976), pp. 43–69; J. O. Appleby, *Economic Thought and Ideology in Seventeenth-Century England* (Princeton, NJ: Princeton University Press, 1978); P. Laslett, ‘John Locke, the Great Recoinage, and the Origins of the Board of Trade: 1695–1698’, *William and Mary Quarterly*, 3rd series, 14:3 (July 1957), pp. 370–402; M. Li, *The Great Recoinage of 1696–1699* (London: Weidenfeld & Nicholson, 1963); D. Vickers, *Studies in the Theory of Money, 1690–1776* (Philadelphia, PA: Chilton, 1959); J. K. Horsfield, *British Monetary Experiments, 1650–1710* (Cambridge, MA: Harvard University Press, 1960).
4. See, for example, J. Dunn, *Political Obligation in its Historical Context* (Cambridge: Cambridge University Press, 1980).
5. For Locke and the divine law as the natural law, see S. Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford: Clarendon Press, 1991), pp. 125–38. On Locke and the relationship of ‘natural law’ to money, see Appleby, ‘Locke, Liberalism, and the Natural Law of Money’. For a discussion of the natural law and theocratic law, see

- D. Levy, 'Adam Smith's "Natural Law" and Contractual Society', *Journal of the History of Ideas*, 39:4 (October–December 1978), pp. 665–74; K. Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996); T. J. Hochstrasser, *Natural Law Theories in the Early Enlightenment* (Cambridge: Cambridge University Press, 2000).
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  39. Werner, 'David Hume and America', p. 444.
  40. D. W. Howe, 'Why the Scottish Enlightenment Was Useful to the Framers of the American Constitution', *Comparative Studies in Society and History*, 31:3 (July, 1989), pp. 572–87, on p. 585.
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