The Classical Economic Model and the Nature of Property in the Eighteenth and Nineteenth Centuries

Charles S. Telly

Follow this and additional works at: https://digitalcommons.law.utulsa.edu/tlr

Part of the Law Commons

Recommended Citation

Available at: https://digitalcommons.law.utulsa.edu/tlr/vol13/iss3/2
THE CLASSICAL ECONOMIC MODEL AND THE NATURE OF PROPERTY IN THE EIGHTEENTH AND NINETEENTH CENTURIES

Charles S. Telly*

I. THE CLASSICAL MODEL AND ITS HISTORICAL BACKGROUND... 407
   Is There a Classical Theory? ................................................ 412
II. PART I OF THE CLASSICAL MODEL: ALL RESOURCES ARE PRIVATELY OWNED ........................................... 414
   A. Natural Law and Rights .................................................. 416
   B. Greek Ideas ........................................................................ 416
   C. Stoic (Roman) Ideas ......................................................... 426
   D. The Middle Ages and St. Thomas Aquinas ......................... 428
   E. The Eighteenth Century: John Locke's Theory .................. 436
III. FREEDOM AND NATURE—TWO MAJOR THEMES IN CLASSICAL ECONOMIC THEORY ............................................. 442
   A. Freedom ............................................................................ 444
   B. Nature ................................................................................ 445
IV. PART II OF THE CLASSICAL MODEL: FIRMS ARE MANAGED BY OWNER-ENTREPRENEURS WHO AIM TO MAXIMIZE PROFITS .... 446
   A. The Entrepreneur—Turgot and Smith's Definitions ............ 448
   B. The "Projector" as Entrepreneur (Bentham) ....................... 450
   C. The Entrepreneur—Ricardo, Say, and J.S. Mill ................... 451
V. PART III OF THE CLASSICAL MODEL: HOUSEHOLDS SEEK TO MAXIMIZE INCOMES ............................................... 453
   The Economic Man .................................................................. 455
VI. PART IV OF THE CLASSICAL MODEL: COMPETITION .......... 458
VII. PART V OF THE CLASSICAL MODEL: LAISSEZ-FAIRE .......... 463
    A. The Legacy of Laissez-Faire ............................................. 464
    B. Classical Laissez-Faire ..................................................... 469
VIII. PART VI OF THE CLASSICAL MODEL: HOUSEHOLDS HAVE FREEDOM OF HOUSEHOLD CHOICE AND FIRMS HAVE FREEDOM OF ENTERPRISE ......................................................... 473


Published by TU Law Digital Commons, 1977
I. THE CLASSICAL MODEL AND ITS HISTORICAL BACKGROUND

One of the deepest undercurrents of Western culture that has surfaced within the last two or three centuries to influence profoundly Western thought has been that of Economics. Those who have thought about and written on the subject have swayed decisions of numerous rulers, be they monarch, dictator, ecclesiastic, president, premier, or chairman of some revolutionary party, affecting almost all walks of life. For economics asks that eternal and plaguy question: How do we go about making a living by the best use of our property for production and trade, and profit thereby?—even at the risk, according to the Apostle Matthew, of losing our souls if we should overreach ourselves. Indeed, such conglomerations of humans given legal status as persons called corporations and such looser associations as partnerships must never lose sight of the problem. Economics supplies several answers, none of the solutions without their different interpretations and ambiguities.

One of the answers having a long history behind it is that of the “Classical Model.” The Classical Model is shaped around the germinal idea of a free society whose principal components consist of men born with natural, inalienable rights yet ever seeking to realize their desires...
as well as profits for their own self-interest; and a government created for the purpose of protecting but not depriving them of their rights, for men will be guided in their transactions by what is good for them and, hence, good for society as a whole. The model functions by means of that ineffable quality which distinguishes men from other living creatures: the Logos or reason. The purpose of this article, then, is to examine the Classical Model by first sketching in its historical background, so influential in its formation, in order at last to demonstrate how the idea of property along with its qualities and governance, through a remarkable metamorphosis, moved gradually from the periphery as a relatively unimportant element to become the Model's veritable heart.

Yet, because history has viewed the so-called cultural aspects of man's endeavors as somehow distinct from his economic practices the science of economics is a youngster compared to the more venerable disciplines. The human animal may now be called an economic animal, just as Aristotle and his successors once considered him a "political animal."
<table>
<thead>
<tr>
<th>Greek Philosophers</th>
<th>Biblical Times</th>
<th>Roman Law Givers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middle Ages</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Church</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aquinas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scholasticism</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12-15th Centuries</td>
<td>Rise of National States</td>
<td></td>
</tr>
<tr>
<td>The Beginning of Modern Capitalism</td>
<td></td>
<td></td>
</tr>
<tr>
<td>French Colbertism</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physiocrats</td>
<td></td>
<td>German Cameralism</td>
</tr>
<tr>
<td>1755-1775</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adam Smith</td>
<td>Wealth of Nations 1776</td>
<td></td>
</tr>
<tr>
<td>Malthus, Ricardo, Say, Senior, J.S. Mill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crisis of Classical Economics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Socialists</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Optimists</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationalists</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romantics</td>
<td></td>
<td>The Nazi State</td>
</tr>
<tr>
<td>Historical School</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Austrian School</td>
<td>Menger, Wieser, Böhm-Bawerk</td>
<td></td>
</tr>
<tr>
<td>Emphasis on Utility, Demand</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Austrian School</td>
<td>Menger, Wieser, Böhm-Bawerk</td>
<td></td>
</tr>
<tr>
<td>The Classical School</td>
<td>Cost of Production, Supply</td>
<td></td>
</tr>
<tr>
<td>Switzerland</td>
<td>Walras, Pareto</td>
<td>England, Edgeworth</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Walras, Pareto</td>
<td>England, Edgeworth</td>
</tr>
<tr>
<td>Alfred Marshall</td>
<td>Neo-Classical Synthesis</td>
<td>Principles of Economics 1890</td>
</tr>
<tr>
<td>Welfare Economics</td>
<td></td>
<td>Economometrics</td>
</tr>
<tr>
<td>Monopolistic Competition</td>
<td>Keynesian Economics</td>
<td></td>
</tr>
<tr>
<td>Value and Distribution Theory</td>
<td>Microeconomics</td>
<td></td>
</tr>
<tr>
<td>Theory of Economic Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Theory of Aggregates Macroeconomics</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

THE DEVELOPMENT OF ECONOMIC THOUGHT †

† J. BELL, A HISTORY OF ECONOMIC THOUGHT 9 (2d ed. 1967).
The development of economic thought can be described succinctly by the following outline:

I. The essentials of Economics are found in Ancient thought (1000 B.C.-476 A.D.)
   A. Hebraic concepts included those of property, agriculture, commerce, money: such as taxes and loans.
   B. Greek thought, especially in Plato (427-347 B.C.) and Aristotle (384-322 B.C.), centered on the state, division of labor, slavery, money, property, exchange and finance.
   C. Roman ideas were drawn from the Greek, but were shaped and augmented by the Roman concept of the centralized state and its promulgated laws which included those of private property, contract, and, philosophically, a "natural" law.

II. Medieval thought (476 A.D. - 1500 A.D.) developed under the influence of the Christian Church and feudalism.
   A. The work of Thomas Aquinas (1225-1274) was a major influence inasmuch as it synthesized the doctrines of the Church with Aristotelian thought.
   B. The concepts of just price, division of labor, trade and private property were of prime importance in the development of economic ideas during these feudal times.

III. The beginning of Modern Economics (1600-1776) occurred with the gradual disappearance of feudalism and the emergence of nationalism.
   A. The earlier moral and religious disapproval of commerce and trade was supplanted by an emphasis upon these activities as vital to development of national aspirations.
   B. Mercantilism thus became the means whereby the state might control economic life in order to maintain political strength and independence of the nation through a favorable balance in foreign trade.
   C. The practices of mercantilism, existing from approximately 1613-1767, never assumed a coherent system.
      1. The practices were primarily one-sided and negative commercial operations, with a tendency toward opportunistic expediency.
      2. In general, however, mercantilists held certain assumptions:
a. Precious metals were considered the most desirable form of national wealth.

b. A nation lacking natural resources of such wealth could obtain it through trade.

c. Accumulation of precious metals was therefore dependent upon a favorable balance of trade and this, in turn, on an excess of exports over imports.

d. Colonies could be useful both as markets for exports and as sources of supply for raw materials, including precious metals.

e. Colonies, moreover, could be only feeders to the mother country and were prohibited from manufacturing lest they upset her trade balance and exhaust supplies of raw materials. In effect, all colonial trade was considered a monopoly of the mother country.¹

D. Following mercantilism was a period of transitional ideas that resulted from the emergence of Liberal thought (1651-1776). In less than a century, the concept of economics became of vital interest, particularly to certain British thinkers, such as William Petty (1623-1687), Josiah Child (1630-1699), James Denham Steuart (1712-1780).

The Physiocratic school (1756-1778) developed in France as the direct result of intolerable political and economic conditions arising from years of wars and government extravagance. For some twenty years, minimization of regulatory controls, and maximization of economic freedom was the argument of such men as Francois Quesnay (1694-1774), Richard Cantillon (1685?-1734), Anne Robert Jacques Turgot (1727-1781), and others.²

IV. The development of The Classical Economic Theory (1776-1875) required the synthesizing of diverse ideas appropriate to creation of an organic whole.


¹ J. Bell, A History of Economic Thought 59 (2d ed. 1967) [hereinafter cited as Bell, Economic Thought].
² Their argument derived from the conviction that a natural order governed the affairs of men, and that man's task was to discover and to conform to it. For this reason duPont deNemours coined from the Greek the term physiocratie, or physiocracy, meaning the "rule of nature."
B. The "Classical Theory of Economics" is the generic term for that body of doctrines synthesized and developed by Smith, and augmented by such men as Thomas Robert Malthus (1766-1834), David Ricardo (1772-1823), James Mill (1773-1836), and J. B. Say (1767-1832). Their disciples and, in some respects, publicists were N. W. Senior (1790-1864), John Stuart Mill (1806-1873), J. E. Cairnes (1824-1875), and Henry Fawcett (1833-1884).³

Is There a Classical Theory?

Despite the commonalty of the term "Classical Theory," economists disagree as to whether, in fact, a theory, as such, ever existed. If, indeed, it did, then there must be discoverable criteria for determining the manner and mode of its existence. Lord Robbins supports the notion of a theory per se.⁴ On the other hand, Mark Blaug concludes that the so-called Ricardian Theory of Economic Policy is a myth.⁵ Moreover, Frank Knight argues that the classical economists "never developed either a clear and defensible program of action or a 'theory' of economic policy."⁶ Robbins, of course, urges that there was the general body of principles of governmental action or inaction . . . in regard to economic activity.⁷ Samuels, however, speaks of any economic system as a decision-making process through which the basic economic problems are continuously resolved.⁸ In his view, the chief problem thus becomes the manner in which the economy is organized and controlled and "comprises a theory of the structure and operation of a particular economic decision-making process."⁹ In light of these several opinions, it seems possible to propose that there is a notion of a Classical Economic Theory.

What is clear, however, is that some theorists conceive of the so-called classical theory as a recognizable concept having certain defini-

³ Karl Marx was the originator of the term "classical economics." K. Marx, A Contribution to the Critique of Political Economy 56 (M. Stone trans. 1911).
⁵ M. Blaug, Ricardian Economics 194 (1958) [hereinafter cited as Blaug, Ricardian].
⁷ Robbins, English Classical, supra note 4, at 177-81.
⁹ Id.
ble parts as elements. Moreover, all theorists accept that certain fundamental ideas have been asserted by numerous earlier and influential economic thinkers.

However, whether or not this body of ideas constitutes a formal economic theory is not the concern of this article. The intention here is rather to consider certain basic ideas as elements to be utilized in constructing what we may call a "model" of the so-called classical theory. Clearly any such construction must be a hypothetical one, inasmuch as some economic thinkers disagree on the definition of "theory," and others on the question of what may constitute the elements in such a theory. Moreover, economists who reject the notion of a model may do so through their reluctance to define what are the essential ideas posited by classical theorists.

Nonetheless, it is not only possible but also practical to construct a model of classical economic theory sufficient to the purpose of this article. This means that generally recognized ideas of classical theorists will thereby be synthesized to the extent that they may constitute a model of that theory. More specifically, the model to be utilized here is that proposed by Professor Grossman of the University of California at Berkeley, which is known as "Anglia: The Perfect Competition Model."  

Grossman's model has nine components which provide an appropriate and convenient framework within which to develop the proposition of this article. The elements that make up the Grossman model may be outlined as follows:

1. All resources are privately owned.
2. Firms are managed by owner-entrepreneurs who aim to maximize profits.
3. Households seek to maximize incomes.
4. No firm, let alone a household, is large enough to affect in the market the prices of things that it sells and buys ("Competition").
5. Laissez-faire is observed by the government.

---

10. For example, Checkland raises many questions and takes issue with the position of Robbins. See Checkland, Prescriptions, supra note 6, at 71.
12. Grossman entitled the system "Perfect Competition" but, as will be seen in a following section, "Competition" is more accurate for classical theory.
6. Households have freedom of household choice and firms have freedom of enterprise.
7. Prices move freely.
8. The market mechanism coordinates production and distributes income.
9. Labor is unorganized, and other factors of production receive the rewards that the market concedes them.13

This article will examine in detail each of these nine sections as distinctive parts of the Grossman model. Analysis of each element in the Grossman model will illustrate and define the conditions under which the theory of property was first developed. Furthermore, it will serve as a lead-in to a consideration of the Classical Model as the keystone of modern corporate structure. Many theorists of today are unaware of the extent to which corporations are manifestations of the traditional, or Classical Model, theory of ownership of property. Without such a buoy or beacon to guide them they may be as badly off as those described by Leonardo da Vinci in a maritime simile: "Those who give themselves to ready and rapid practice before they have learned the theory resemble sailors who go to sea in a vessel without a rudder."14

II. Part I of the Classical Model: All Resources Are Privately Owned

The central idea of the eighteenth-century classical economic theorists was that man, by his nature, had an inalienable right to "life, liberty, and estate."15 This concept of man's absolute and natural right to property was expressed in various ways, all of which meant, in effect, the same thing. Blackstone, for example, said that property is "that sole and despotic dominion which one man claims and exercises over the external things of the world in total exclusion of the right of any other individual in the universe."16

Several definitions of property by American courts also represent this point of view; for example, property is "the exclusive right of possessing, enjoying and disposing of a thing."17 Or again, it is "the highest right a man can have to anything; property being used for that right

15. J. Locke, Two Treatises of Civil Government 158-59, 180, 187 (1966) [hereinafter cited as Locke, Two Treatises].
17. McKee v. Bisbee, 9 Cal. 137, (1858); see also R. Ely, 1 Property and Contract in
which we have both to lands or tenements, goods, or chattels, which no way depends on another man’s courtesy.”18 Similarly,

The right of acquiring and possessing property and having it protected, is one of the natural, inherent, and inalienable rights of man. Men have a sense of property; property is necessary to their subsistence, and correspondent to their natural wants and desires; its security was one of the objects that induced them to unite Society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labor and industry. The preservation of property then, is a primary object of the social compact.19

Such a theory of property, of course, did not generate spontaneously, but developed from many earlier ideas. These provided the foundation upon which new ideas, necessary in new circumstances, were built. But while new concepts develop to meet new needs, the idea of property remains central, because it is vital in establishing man’s relation to the state and his place in the social context.

Indeed, human history shows that such ideas retain their vitality precisely because they are seminal in man’s definition of his relationship to the general ethos of his civilization. In this relationship, three ideas emerge as paramount. These are: (1) the relation of the individual to the state; (2) the basis of this relationship; and (3) the consequent relationship between men and property.

The first pertains to the opposing concepts of right and privilege. One idea assumes that man is an individual, with rights separate from those of the state, and that the duty of the state is, therefore, to protect those rights. The other idea upholds the primacy of the state, assuming that, rather than having inherent rights, the individual is granted privileges by the state.

The second idea, positing a relationship between the individual and the state, involves the opposing notions of natural law and of convention. On the one hand, exercise of certain rights (such as to property) is accepted as indigenous in man; on the other, such “rights” are considered purely conventional and, therefore, not inalienable.

---

19. VanHorne v. Dorrance, 2 U.S. (2 Dall.) 304 (1795); see also Ely, Property and Contract, supra note 17, at 107.
Finally, theories of the relationship between men and property argue either that property is an absolute and private right or that the state permits exercise of property rights only in the interests of the community as a whole.

These three seminal ideas, as well as the centrality of property in eighteenth-century classical theory, provide a framework for discussing property in terms of the major periods of its development. For the Greek, the Roman Stoic, the Medieval, and the eighteenth century (or Enlightenment) periods were all concerned with the individual's relation to the state, with the basis for this relationship, and with the consequences of this relationship to the idea of property.

A. Natural Law and Rights

Natural Law and Rights are not only present in the concept of Property, but are omnipresent throughout the model. Of the nine sections of the Classical Model (herein often referred to as the Classical Economic Theory as an interchangeable term), this section requires the most extensive development. One reason is that property has been a motivating power behind mankind's continuing adjustments to his own character, to himself as a social being, and to that sense of justice that has led him to create systems of jurisprudence. The classical theorists on property based their particular model on the two ideas of Natural Law and Rights, both of which are central to the concept of freedom or liberty. Accordingly, the discussion of each part of the model accepts as fundamental the underlying assumptions of Natural Law and Rights.

Because it is essential that the reader thoroughly understand the concepts, the discussion of property is presented first, and a careful analysis made of the two related ideas, especially in the section on Greek thought.

B. Greek Ideas

The Polis (State)—and Rights as Considered by the Greeks

The Politics of Aristotle, more than any other work, presents an orderly and comprehensive idea of what the Greeks meant by the state. Notwithstanding the fact that his is an ideal conception of a state that was already a thing of the past, if it ever existed at all, his conception is not an arbitrary one. Rather, it is an accurate manifestation of the Greek ideal.

Moreover, the conception in the *Politics* is more realistic than that found in Plato's *Republic*. For while Aristotle regards reconstruction of the state as necessary, he avoids Plato's severe break with the past.21

To examine the Greek notion of a "state" is to be reminded that the word itself comes from the Latin *status*. At the time of its sixteenth-century adoption into English, *status* referred to the standing or position of person(s) in authority. With the passage of time the term "state" has, of course, come to refer generally to a given political and economic entity. Nonetheless, the modern sense of the term retains implications of the role of "authority" in that entity.

The Greek *polis*, on the other hand, had altogether different connotations which derive from its denotation of "our city." There is a sense of wholeness, of unity, of a partnership in belonging, that precludes any distinction between the individual and the city.22

The term *polis* is, accordingly, a more accurate designation here than is the word "state." For the *polis* existed not merely for the sake of "life" but primarily for the "good life," that being the ultimate aim of man. The function of the state was to make possible the development in the individual of his personal and intellectual powers. Its obligation was to teach him ways for attaining full stature as an ideal man. As in Athens, it developed the practical, the productive, and the theoretical arts in light of this one all-encompassing aim. The role of the *polis*, then, quite literally involved every member of the body *polis*, or, as we put it today, "the body politic."

The concept of a purely profane *polis*, or the *polis* as distinct from religion, was altogether foreign to Greek thought. From its inception, the character of the *polis* was inherently sacred, and religious ritual was woven naturally into the socio-political texture of life. Moreover, its sacred nature made of the *polis* a dwelling-place for the protecting gods and thereby the embodiment of socio-political morality.

For this reason, to understand the nature of the *polis* requires an awareness of its ethical dimensions. The idea of political science, for instance, is related to moral philosophy rather than to the Roman notion of jurisprudence; for the terms of Greek political science are those of ethics. To understand the nature of the *polis* is to appreciate the difference between a moral and legal emphasis. Questions of political power, legal rights, or distribution of taxes can be viewed in a legal

---


context. But the polis must be discussed in a moral context, where all other principles are subsumed by the moral principle.

This is not to say that law had no place in the Greek notion of the polis. On the contrary, it occupied a most important place, inasmuch as men were to be educated and improved by law. For law inculcated those moral and social virtues upon which rested civilization itself. But again, it is clear that the central principle of the society is morality. Political Science must be regarded as "the ethics of the whole society, which coheres in virtue of a common moral purpose: it must determine the 'good' of such a society, the structure by which its 'good' will be realized, the action by which it will best be secured."23 Ideally, the good of the individual is the same as the good of society. Private virtue in the individual is ideally public virtue in the polis. Political science codifies the whole duty of man in his environment and the fullness of his actions and relations. Political science, therefore, has three dimensions: a theory of the state (polis), a theory of morals, and a theory of law.

This conception of political science underlies the essential differences between the Greek political thought and our own. For the concept of the polis as an ethical association, existing for the attainment of virtue, requires a different idea of the relation of polis to individual. Although the Greek citizen clearly saw himself as having worth in and influencing the action of his community, "the fact remains that in the political thought of Greece the notion of the individual is not prominent, and the conception of rights seems hardly to have been attained."24 It may well be that the individual's confidence in his role as a citizen superseded any notion of the need to assert specific rights against the general whole. For modern man regards the state from a negative and suspicious viewpoint. And it must be remembered that such an anxious view was alien to the Greek mind. Consequently, the individual citizen had little, if any, concept of private or personal rights. In its ultimate sense, then, the Greek idea of the polis admits the sovereignty of the state while assuming that the goals of the citizen are inherent in the goals of the state. And while this requires the individual to look to the state's exercise of its power, it does not, at the same time, suggest that he has any rights, as such, existing outside his relation to the state.

23. E. Barker, Greek Political Theory: Plato and His Predecessors 6 (1918) (hereinafter cited as Barker, Political Theory).
24. Id. at 7.
Natural Law as Considered by the Greeks

The concept of Natural Law, so fundamental in Greek thought, was the essential theme that permeated much of Greek thinking before Plato and Aristotle. Theories of Natural Law may be traced to the fifth-century B.C. period of sophist enlightenment in Greece.25 "In Greek philosophy natural law appears as a valiant and precocious effort to rationalize a world in which the appearance was chaos and conflict and the aspiration was order."26

Despite its presence in Greek tradition, the idea emerges in "bits and pieces," falling short of any recognizable philosophy until Plato and, more especially, Aristotle. The reason behind the following development is that the question has been debated whether or not Plato and Aristotle were in fact Natural Law theorists.

The Greek Word Physis—Nature

The Greek concept of Natural Law involves the Greek sense of the word physis. Our notion of it relates to the Latin natura, which (when used with a verb) denotes birth and thereby has connotations of primogeniture, etc. To appreciate the distinct sense of the Greek physis, however, is to remember that this word (when used with a verb) connotes growth or growing; hence it may be used in a transitive sense (e.g., the growing of a family or of teeth). It suggests an entire process, from inception to completion, and can be applied, as well, to the concept of men and the polis. Thus, when Aristotle says, "the polis is by physis," this can be literally translated as "the state exists by nature." However, it is now essential to bear in mind the above-noted distinction between the Greek physis and the Latin natura, if we are to understand clearly the sense of Aristotle's statement. Moreover, his use of this word in the Ethics, the Poetics, and the Rhetoric, connotes "form" or "essence," a meaning much broader than that afforded "nature" in modern English usage. For example, "Form, therefore, is nature." "By form I mean the essence or very nature of the thing." For it is physis that connotes the process of growth, the condition of being grown, and the beginnings of growing.27

Natural Law Defined and as Considered by the Greeks

To discuss Natural Law requires a precise definition of the terms themselves. For example, John Wild defines Natural Law as consisting of five basic doctrines: (1) The world is an order of divergent tendencies which on the whole support one another. (2) Each individual entity is marked by an essential structure which it shares in common with other members of the species. (3) This structure determines certain basic existential tendencies that are also common to the species. (4) If these tendencies are to be realized without distortion and frustration, they must follow a general dynamic pattern. This pattern is what is meant by natural law. It is grounded on real structure, and is enforced by inexorable natural sanctions. (5) Good and evil are existential categories. It is good for an entity to exist in a condition of active realization. If its basic tendencies are hampered and frustrated, it exists in an evil condition.28

These premises may be accepted as a reasonable and valid definition of Natural Law. If to hold these theses is to be a Natural Law theorist, then Aristotle qualifies as such a one.29 First, the world is an order of divergent tendencies which on the whole support one another. Aristotle’s writings are pervaded with the word “nature” in reference to the changing universe. The universe, he insists, is one of ceaseless flux and this evolution is not a random process.30 Rather, change proceeds according to a purpose or a cosmic ordering. Generally, “nature never makes anything without a purpose and never leaves out what is necessary.”31 It functions systematically or methodically “since everything that depends on the action of nature is by nature as good as it can be.”32 The presence of order, and the thrust of all things toward a purposeful end “are to be found in nature’s works in the highest degree, and the resultant end of her generations and combinations is a form of the beautiful.”33

Second, each individual entity is marked by an essential structure which it shares in common with other members of the species. Aristotle is positive in his assertion that every individual substance has a dwell-

29. Aristotle is generally considered the “founder” or “father” of natural law and, rather than Plato, will be so considered here. More material on Aristotle and natural law is available in Wild, Plato’s Modern Enemies, supra note 28, at 134-56, 158-72; Barker, Political Theory, supra note 23, at 326-30; Barker, The Politics, supra note 22, at lxxii-lxxiii.
30. McKeon, Physics, in The Basic Works, supra note 20, at 229.
31. Id. De Anima, in The Basic Works, supra note 20, at 597.
32. Id. Nicomachean Ethics, in The Basic Works, supra note 20, at 946.
33. Id. Parts of Animals, in The Basic Works, supra note 20, at 657.

Published by TU Law Digital Commons, 1977
ing structure, called *eidos*, of its own. The matter of substance of nature which has been created through evolution embodies the matter from which it came. In this sense, nature implies a definite structure. In the *Metaphysics*, Aristotle discusses the form (i.e., *eidos*) of what is generated as well as that which generates it—"the so-called 'formal' [eidetic] nature." 34 Hence, the most important element here is the determinate form which makes the thing what it is. Nature *is* this determinate structure, itself the basis for consequent powers and actions of the entity. 35

Third, this structure determines certain basic existential tendencies that are also common to the species. Aristotle’s philosophy assumes the principles of change and evolution in which all entities are involved. Of "all things," he says in the *Physics*, "each of them has within itself a principle of motion and of stationariness." 36 Of what does this indwelling consist? Aristotle’s answer is "that nature in the primary and strict sense is the essence [or form] of things which have in themselves, as such, a source of movement." 37

Aristotle argues that natural tendencies should, of course, be correctly directed in their beginning stages. In things which have no cognition, this direction comes about automatically [*to anagkaion*]. 38 But in the cognitive man, possessed of self-direction, the proper direction does not occur automatically. 39 The correct direction of this imperceptible trend (or drift), therefore, is a cognitive function. 40

Fourth, if these tendencies are to be realized without distortion and frustration, they must follow a general dynamic pattern. This pattern is what is meant by natural law. The term "virtue" is central in Aristotelian thinking, and it pertains to obligation and value. In the *Nicomachean Ethics*, he argues that "the virtue of man also will be the state of character which makes a man good and which makes him do his work well." 41 Man, however, is not alone in virtues. Any body has its virtue or active tendency to perform well. By way of example, he notes that "[t]he excellence of the eye makes both the eye and its work good; for it is by the excellence of the eye that we see well." 42 Horses and other animals, therefore, possess "virtue." Accordingly, "every vir-

34. *Id.* *Metaphysics*, in *The Basic Works*, *supra* note 20, at 792.
37. *Id.* *Metaphysics*, *supra* note 20, at 756.
38. *Id.* *De Poética*, *supra* note 20, at 1455.
39. *Id.*
42. *Id.*
tue or excellence both brings into good condition the thing of which it is the excellence and makes the work of that thing be done well.\textsuperscript{443} Thus, when man's indistinct urge toward realization is set in its proper direction, toward its natural fulfillment, that is virtue. Evil action, therefore, is contrary to nature, while virtue is "natural when it brings to actuality the proper activities that [fire or earth] potentially possess."\textsuperscript{444}

The first stages of man's tendencies toward realization are weak. Hence, it is most important to establish rational control over them in their early stages. And although we possess the virtue inherently, it is a tendency only, and therefore still far from its goal. And that goal, of course, is the ultimate value.\textsuperscript{45}

Fifth, good and evil are existential categories. It is good for an entity to exist in a condition of active realization. The end, Aristotle declares, is the good which has "rightly been declared to be that at which all things aim."\textsuperscript{446} And this good that "the action is the end, and the actuality is the action. And so even the word 'actuality' is derived from 'action', and points to the complete reality."\textsuperscript{447} The end of an instrumental process, such as building or knitting, lies beyond the process itself, in the product by that process. If life were such a process, only our dead bodies would be its product. But the value of life is the "process of living"; that is, the value is in and of the process itself. Here, then, "value" is no fixed quality but rather the quality of the process as it proceeds. The incipient value is already in action which realizes itself in actions of completion.

All the elements or components of this structure are held together by nature. And the entities of nature constantly change, tending towards something beyond. Thus goodness evolves from nature, it is our essence being the final act or fulfillment.\textsuperscript{48} Aristotle says, "What grows qua growing grows from something into something. Into what then does it grow? Not into that from which it arose but into that to which it tends. The shape then is nature."\textsuperscript{449} Nature, then, is the form and the ordered tendency; further, it is the end and final value.\textsuperscript{50}

\textsuperscript{43} Id.
\textsuperscript{44} Id. Physics, in The Basic Works, supra note 20, at 365 (footnote omitted).
\textsuperscript{45} Id. Nicomachean Ethics, in The Basic Works, supra note 20, at 34, 940.
\textsuperscript{46} Id. at 935 (footnote omitted).
\textsuperscript{47} Id. Metaphysics, in The Basic Works, supra note 20, at 830.
\textsuperscript{48} Wild, Plato's Modern Enemies, supra note 28, at 164-65.
\textsuperscript{49} McKeon, Physics, in The Basic Works, supra note 20, at 238.
\textsuperscript{50} Id. at 239.
Aristotle's conclusions constitute a theory of Natural Law which is fundamental in all his works.

(Property as Considered by the Greeks)

Plato, in the Republic, advocates only to a small extent common ownership of property.51 He urges that articles required for daily use be retained by the guardians, those who qualified as philosopher-kings, and owned by them in common. However, all real property is by no means to belong to them. Rather it shall be owned by members of the third estate (agiculturists) and be held by them individually, rather than in common.

The reason that the guardians cannot own but must, in common, renounce property is that their private economic interests might compete with those of the subjects. If, however, such interests are nonexistent, so also is the motive for abuse of their power. Consequently, they are enabled to use this power in the interest of the commonwealth.

Plato endows members of the third estate with both property and families, although these are subject to strict government supervision. So, also, are trade and industry. And each member of the economic class is assigned his specific work in order to prevent dissension. Such constraints, moreover, assure that producers will never become either rich or poor.52

The concept of property also figures in Aristotle's Politics.53 Here, ownership is justifiable in terms of the ideal. Private property is a good, so long as it subserves the moral end. Property, therefore, is not to be merely retained but to be retained when it has been "improved and perfected by proper customs and legislation regulating its use."54 Such customs and legislation will assure that private property is an instrument for moral purposes. In this manner, therefore, property becomes public as well as private, and common as well as individual. In effect, Aristotle's formula provides for both private possession and common use.55 But does this constitute a defense of the right to private property?

Whatever Aristotle's defense of private property may be, his conclusion is consistent with that noted above; for the theory of the state

51. Jowett, Plato, supra note 21, at 464, 726.
52. M. Foster, I Masters of Political Thought 77-84 (1941); Barker, Political Theory, supra note 23, at 140-41.
54. Id.
has not changed, and egoistic philosophy does not exist where private property is defined within a context of moral public use.

C. Stoic (Roman) Ideas

In the history of political philosophy, the death of Aristotle (322 B.C.) marks the end of an era. And the failure of the city-state creates a serious hiatus in the history of political theory. The ideals of the city-state, as understood in Plato and Aristotle, were totally inapplicable a generation later.

In effect, it became necessary that the individual learn a new way of life, one never before experienced. This required him to live together with his fellows in a new kind of social order, one much larger and more impersonal than that of the old city-state. The ramifications of this new orientation were extensive. To realize its extent, one need only consider the fragmentation of religion that took place at this time, a phenomenon culminating in a “universal” i.e., catholic, church.

The psychological dimensions of this religious growth are generally understood in terms of the trauma of the individual confronted with the fact of his individuality and bereft of any real socio-political identity. Accordingly, he developed a self-consciousness, a sense of personal privacy and internality, of which the classical Greeks had never conceived. He began to develop a sense of selfhood and of personal responsibility, the like of which his ancestors had not known.

A major consequence of his adjusting to his new role was the dissolution of hitherto close ties between the individual and the polis, or city-state entity. This adjustment was facilitated in some degree by the emergence of a philosophy which interpreted social relations in different terms. Whereas the ancient Greek was identified (by himself and others) in terms of the polis, the decline of the city-state entity required him to identify himself with his fellow beings generally, in terms of a common human nature.

This sense of a common human nature brought to man, in general, two new ideas. The first was that of his relationship with all others of his kind, and his place within a community, a brotherhood of fellow beings. The second was the idea of his personal and individual nature, the paradox of his having at once a public and a private identity.

It was at this point that Stoic philosophy became identified with the problems of the paradox.
Natural Law According to the Stoics

The Stoics derived many of their ideas from Heraclitus, the pre-Socratic philosopher who was a strong exponent of a Logos, the concept of a rational principle common to all things and permeating the entire universe. The material principle of the Logos is fire, since this represents the purest incidence of matter, the vehicle for soul and mind. Such fire, however, is not the visible flame but rather is invisible vapour. The concept of the Logos is intimately connected with ideas fundamental in Heraclitus' interpretation of the world. These precepts can be expressed in three general statements: (a) everything exists in continuous motion and change; (b) the world is a living and everlasting fire; and (c) harmony is always the product of opposites, thus strife is the basic fact of the natural world.

Of these three ideas, the Stoics put relatively little emphasis on unity of opposition. But they stressed heavily the concept of Logos, and Zeno adopted fire as the basis of Stoic physics. "Above all the Stoics systematically developed the linguistic and logical implications of a universe directed by Logos."

In addition to the Logos concept, the Greek physis (the idea of nature) was important in Stoic thought. In Stoic thought the term connotes the power which shapes things, i.e., fiery breath, self-moving and generative, necessity and destiny, God, providence, craftsmanship and right reason. Nature is that which holds the world together and that which causes things to grow. Further, it is not only a physical power but also a rational force. Thus God is the supreme rational being who directs all events and purposes that are necessarily good. While nature is equivalent to Logos in one sense (since it is present in all things), in another sense, the rational principle (Logos), a natural faculty, belongs to man alone.

The Roman acceptance of Stoic philosophy led to its application in their legal system. Their common system of law (jus gentium) was a distillation of various local laws. But the laws of their conquered neighbors (jus naturale) were distinguished from those of their own common system. Stoicism, however, taught that laws would be the same every-

58. Id. at 435.
59. Long, Hellenistic Philosophy, supra note 56, at 146.
60. Id. at 148-49.
where since all men were possessed of Logos. Accordingly, when Rome discovered the similarities between its laws and those of others, the logos and nature were assumed as the cause of the similarities.

In this way, the Roman Stoics' theory of the Natural Law evolved. In effect, the distinction between the ideal law of Stoic philosophy and the positive law of Rome (and its conquered states) vanished, and the two were now seen as one. Cicero articulates the Roman Stoic's belief in Natural Law in his famous treatise *The Republic*:

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, of different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and ruler, that is, God, over us all, for he is the author of this law, its promulgator, and its enforcing judge.\(^{61}\)

Cicero emphasizes the human nature which all men hold in common brotherhood. In effect, then, since all men are subject to one law and are therefore fellow citizens, all men are equal under the law. And this truth argues a proper respect for the dignity of humanity and a consequent respect for each man as a member of the human brotherhood.

Therefore most theorists will agree that the Stoic concept of Natural Law encompasses the five principles basic in a general theory of Natural Law:

1. The world is an order of divergent tendencies which, on the whole, support one another (Logos).

2. Each individual entity is marked by an essential structure which it shares in common with other members of the species (universal brotherhood).

3. This structure determines certain basic existential tendencies that are also common to the species (universal brotherhood).

---

(4) These tendencies, to be realized without distortion and impediment must follow a general dynamic pattern. This pattern is known as the Natural Law, and is grounded on real structure and enforced by inexorable natural sanctions (jus gentium and jus naturale).

(5) Good and evil are existential categories. An entity existing in a condition of active realization exists in a condition that is good; an entity whose essential tendencies are impeded or distorted exists in a condition that is evil. In the good condition, the Logos and reason are present, whereas in the evil condition they are absent.

The Stoic State—Rights

The theory of the Roman state influenced by Stoic ideals and by the Roman love of law suggests a state dependent upon law. For Cicero, the Natural Law, common to all men and to God, and as old as time, is also the source of the state itself.62 The state is a moral community, a group of persons who possess in common the state and its law. Thus it is a corporate body in which membership is the common possession of all its citizens. Moreover, it exists for the express purpose of serving its members. Three consequences follow from this:

(1) The authority of the state arises from the collective power of its citizens. They are a self-governing organization. It possesses the powers required to govern itself and to preserve its existence.

(2) When political power is rightfully and lawfully exercised, it is without doubt the corporate power of the citizens. The public official who exercises power does so because of his office. His warrant for this is the law, and he is a creature of the law.

(3) The state and the law of the state are always subject to the law of God (Logos), or the Natural Law (moral law)—that higher rule of right which transcends human decisions and human organizations.63

This theory of the state is far more dependent on law than is the Greek theory. Moreover, it is based on a theory of rights with which the Greeks were unacquainted.64 Here, the state does not supersede the individual. The society and the state are not equivalent terms. The Stoic

---

62. "The political thought of Cicero is not important because of its originality . . . [they had however one merit . . . everybody read them. An idea once embedded in Cicero was preserved to the reading public for all future time." G. SABINE, A HISTORY OF POLITICAL THEORY 161-62 (3d ed. 1951) [hereinafter cited as SABINE, POLITICAL THEORY].


64. MCILWAIN, POLITICAL THOUGHT IN THE WEST, supra note 63, at 116.
and Roman theorists speak of society as wider than a political unit and regard man as
more than a mere "part" of a state, lifeless as a foot of stone if separated from it, and even inconceivable but in reference to it. Man may have a real existence before he enters into any state, he has had an existence before states were or any of their laws; and if so, it is possible to think of him as in some ways independent of a state's existence, and it is conceivable that he may have "rights" with which it has nothing to do.65

Thus, for the first time in history, there appeared a theory of man as an egocentric individual with rights gained from eternal law, a theory developed by the Stoic philosophers and the practical bureaucrats of Rome.

Property as Considered by the Stoics

In *The Republic*, Cicero suggests that the Natural Law would assign property simply on the basis of the ability to use the property well.66 Apparently, then, private property is acceptable, but only within the context of the Natural Law. Under this condition, all individuals have an equal right to property. Furthermore, it follows that the state must protect this right. These ideas are the liberal principles of ownership of property in the Roman state. Roman law demanded that ownership be as unrestricted as possible. For the Roman, property right included the "right to use" (*jus utendi*), and the "right to draw fruit" (*jus fruendi*), as well as the "right to abuse" (*jus abutendi*).67

D. The Middle Ages and St. Thomas Aquinas

When, in the course of the Roman Empire, Caesarism became a permanent institution, the republic beloved of Cicero ceased forever to exist. No breath of the democratic spirit persisted sufficient to wither the insidious growth of absolute power. Rather, the climate of the times engendered a temperate acquiescence. Augustus, and the age he fathered, inspired a general religious reformation. Both he and his successors were considered as more or less "divine," and the allegiance he (and others) received served to solidify the empire. This commonality of adulation became a token and a symbol of an imperial unity. The empire became, in effect, a politico-ecclesiastical institution, both

65. *Id.* at 117.
church and state in one. In this sense it became a coherent society infused with a common will. Accordingly, the common citizenship granted to different peoples culminated in the edict of Caracalla (212 A.D.), whereby all free-born members of the empire were granted Roman citizenship. And it was the development of a common law for the empire which helped to promote the idea of common citizenship.

After the reign of Diocletian, fragmentation of the empire began. The East fell away toward Byzantinism; the West moved into Latin Christianity. The result of this disparity was a paradox of significant proportions. For the East, which had brought religion and the Church to the West, came under control of the state. And the West, which had given politics and the state to the East, came under control of the Church.

The Roman Empire, in its last days, was driven by self-preservation to adopt the religious creed as the only basis on which it could continue to exist. The new religious temper of the times created an atmosphere in which the role of the Empire was that of a church. As such, it survived in the West as a respublica Christiana, a Christian commonwealth which recognized, in Constantine, the formal Byzantine Succession. Gradually, however, it found a formal spiritual leader of its own in the Bishop of Rome.

Medieval civilization was a single society, of which all were baptized members and thereby knit together in a single fellowship. While some members were merchants and artisans, the majority lived in country villages, tied to the soil. This produced both a great uniformity and a great isolation. The Church was the society’s spirit, permeating and unifying all its parts. Latin was the language of the Church and of scholars, while the vernacular of the community was Romance or vulgar Latin. Thus the linguistic dimension of medieval civilization was inherited from Rome. The universality of the Church was promulgated and its singularity was emphasized with forceful intensity. All human activity came within the province of the Church: education and learning, trade and commerce, war and peace, crime and punishment. Under its aegis, the Civitas Dei was to be built on earth.

The learning of the past was, therefore, to be brought within the context of the City of God and adapted to its needs. And the heritage of the pagan Hellenic world must be purified and transformed for this purpose. It was Thomas d'Aquin who accomplished the merger of Hellenic learning and Christian thought and thereby "wrought the greatest miracle of genuine alchemy which is anywhere to be found in the an-
nals of learning."  

The modern distinction between the Church and the state was unknown to the Middle Ages, where both were one. Thus no conflict could arise within a commonwealth where institutions were all members of the same living body, a body infused with the Spirit of God Himself.

*The State as Considered in Medieval Times*

The essence of Thomistic philosophy was that it propounded a universal synthesis, an all-embracing system, the fundamental idea of which was harmony. God and nature afford a place for the endless diversity of finite life. Human knowledge, taken in its totality, is only one single part. Each of the sciences is a part of this knowledge, and the aim of philosophy is to formulate the universal ideas of all the sciences. At the peak of the system stands Christian theology which is above reason and is dependent upon divine revelation. But even though divine, revelation is above reason, it is not contrary to reason. Theology pulls together the entire system, giving it fulfillment and completion. Thus, faith is that which fulfills reason; and faith and reason combine to create the structure of knowledge.

In the universe of St. Thomas, God is at the pinnacle of a hierarchy that, in a descending order, includes the lowest being. The internal nature of each creature urges it to seek the good, i.e., that form of perfection which is natural to its kind. Even the lowest of creatures has its station and duties whereby it contributes to the whole. In this structure man alone is unique; for although he has an animal body, his rational and spiritual soul make him related to God.

Like Aristotle, St. Thomas saw society as consisting of a mutual exchange of services all aiming toward the good life. The farmer, the artisan, the priest—all contribute services to this end. Thus each class does its own work. The good of all requires that each member of this body has a principal role, even as higher parts of any body rule the lower. All that man does on earth, the building of cities, the creation of universities, the establishing of markets and ruling states, all represent God's action, by which He makes and rules the world.

68. E. Barker, Church, State, and Study; Essays 59 (1930).
70. T. Aquinas, Summa Theologica, in 1 Basic Writings of St. Thomas Aquinas 682-863 (A. Pegis ed. 1944).
Thus earthly rulers are the advocates and servants of the Lord. His trust in them is evidence of their own trustworthiness, and this is their justification as rulers of men’s actions. Thus, like all other men, the ruler makes his contribution to the common goal. For the power he wields derives from God, and he must use it in the interests of that good. Government action, then, must be rooted in the moral purpose of governing.

Every ruler, therefore, must so govern as to enable each man in every class to realize a virtuous and happy life. For this will fulfill the true purpose of society; and

it is the function of the earthly ruler to lay the foundations of human happiness by maintaining peace and order, to preserve it by seeing that all the needful services of public administration, of juricature, and of defense are performed, and to improve it by correcting abuses wherever they occur and by removing all possible hindrances to the good life.\(^{71}\)

Since rule exists for a moral purpose, the implication seems to be that authority should be limited and exercised in accord with the law. While Thomas maintained that true government is lawful, he made no attempt to define lawful authority. Respecting the problem of tyrants, he mentions two remedies to be used against them: Where government authority derives from the people, it is their legal right to enforce the conditions upon which authority is given. Where the ruler has a political superior, it is the obligation of the aggrieved to appeal to the superior.

Thomas does not speak specifically of rights of an individual because the individual is a part of an organic whole ruled by a ruler who is ruled by God. The ruler is a trustee who looks after those in his care and leads them to the ultimate end of the good life. Hans Meyer says that in the Thomistic system, man is

by nature a member of the community, and . . . is related to the community as a part is to the whole, and as the imperfect to the perfect . . . As the whole, the community possesses a higher being; and as the perfect entity, it possesses a higher value. This particular specific value of the community is the common good, which is better and more divine than the good of the individual. St. Thomas frequently brings into relief the Aristotelian thought that the organic community excels the indi-

\(^{71}\) Sabine, Political Theory, supra note 62, at 250.
Natural Law as Considered in Medieval Times

St. Thomas, like most medieval thinkers, was deeply influenced by the traditional notion of the sanctity of the law. He revered the law and assumed that it was not of human invention, but implanted in man by divine power. His effort was always to relate, to the widest possible extent, the human to the divine law. Human law, however, was only one aspect of the cosmic fact. Divine law, emanating literally from God’s reason, governed the relationships among all living things.

In the Summa, St. Thomas establishes a complete theory of law. The theory posits four levels of cosmic reality, which are four kinds of law: Eternal Law, Natural Law, Divine Law, and Human Law. In effect, these constitute four forms of reason combined in one reason.

Eternal Law is that reason which is identical with God, the overall plan, the perfect reason, the divine wisdom in which all of creation gains order. Being reason, it is not alien to man’s reason, but it is unattainable to him and beyond his comprehension. As far as nature permits, man is able to participate in the eternal wisdom and goodness of God; yet he is unable to participate directly, for man is not God and cannot comprehend this eternal law. As St. Thomas says: “Although each one knows the eternal law according to his own capacity . . . yet none can comprehend it . . . .”

Natural Law is the reflection of divine reason in created things and is evident in the inclination implanted by nature in all beings. The inclination is to do and promote good and to avoid evil; to seek preservation of his own being, to provide education of offspring, and to live as perfectly as possible in accordance with natural endowments. For mankind, the inclination is “to know the truth about God, and to live in society . . . to shun ignorance.” In effect, it is the inclination to seek a life in which the rational nature may be realized.

Divine Law, says St. Thomas, is substantially revelation, for example, the Ten Commandments; or, it is other legislation given by God through scripture or the Church. Divine Law is a gift of God’s grace, not a discovery of natural reason. It is important to notice that St. Thomas does not allow Divine Law to eclipse Natural Law. Revelation

73. T. Aquinas, Summa Theologiae, in 2 Basic Writings of St. Thomas Aquinas 742-852 (A. Pegis ed. 1944) [hereinafter cited as Pegis, St. Thomas Aquinas].
74. Id. at 764.
75. Id. at 775.
is an addition to reason, but it does not negate it or nullify it. The structure that Thomas builds is basic and dependent upon reason and faith; thus Divine Law is only a part of that structure.\footnote{76. Pegis, St. Thomas Aquinas, \textit{supra} note 73, at 752-55; Meyer, \textit{The Philosophy}, \textit{supra} note 69, at 506-11.}

The three parts of the structure, Eternal, Natural, and Divine Laws, all define criteria for behavior but are not applicable always and exclusively only to men.

Human Law is that applicable only to human beings. It is divided into \textit{jus gentium} and \textit{jus civile}, and since man's rationality distinguishes him from other beings, the standard is set by reason.\footnote{77. Pegis, St. Thomas Aquinas, \textit{supra} note 73, at 743.} The mean is that of the general good rather than that of particular advantage.\footnote{78. \textit{Id.} at 744-45.} To St. Thomas, promulgation was essential to law. Thus he completes his definition of law by saying that law is an "ordinance of reason for the common good, promulgated by him who has the care of the community."\footnote{79. \textit{Id.} at 747.}

In this fourfold classification of the law, it is obvious that Natural Law is the fundamental principle. Thomas's thesis is that Human Law is derived from Natural Law. The inherent principle of Human Law, and the regulation and enforcement by which it is realized is tied to the rational nature of man. And reason moves implicitly toward rightness and goodness. Human Law, then, is but a corollary of Natural Law. And Natural Law need only be realized in human terms for its relevance in the human sphere to be seen. For example, in the Natural Law, murder is clearly a contrary, since it is alien to peace and order. But Natural Law gives only a general definition of murder and posits no particular penalty for it. Murder is wrong by reason of its being opposed to the logos. But the retribution required of the murderer is a question of human policy, which will vary in accordance with time, place, and circumstance. The principle here is immutable, because the fact of human rationality is immutable. Man's fundamental inclinations remain always the same, despite the various ways and means he finds for realizing them. The state and its governance change inessantly but always there is one right, one law and one justice.\footnote{80. McIlwain, \textit{Political Thought in the West}, \textit{supra} note 63, at 333-35; Meyer, \textit{The Philosophy}, \textit{supra} note 69, at 500-11.}

The ruler (preferably a monarch, in Aquinas) is always bound by reason and justice, since his power over the positive law arises from
maintaining an agreement with Human Law and Natural Law. Thus, St. Thomas sought to justify, in terms of human reason, the Christian Society that he thought was eternal by constructing "a rational scheme of God, nature, and man within which society and civil authority find their due place."81

The Thomistic system, therefore, upholds the supreme authority of the Church in the organic society of the Middle Ages. It also gives to the Emperor his due share. But the Eternal Law of God is paramount and, as both Natural and Divine Law, it is the basis for all law. It follows, therefore, that all human laws must be just, since they derive from the Natural and Divine Laws.

Thus, the Theory of Natural Law is evident in Aquinas, for his argument supports its five elemental theses:

1. The world is an order of divergent tendencies which on the whole support one another (Eternal Law).

2. Each individual entity is marked by an essential structure which it shares in common with other members of the species (Natural Law).

3. This structure determines certain essential tendencies common to the species (Natural Law).

4. To be realized, these tendencies must follow, without distortion or frustration, a general dynamic pattern which is the Natural Law, a law grounded on real structure and enforced by inexorable natural sanctions (Natural Law).

5. Good and evil are existential categories. An entity existing in a condition of active realization exists in a condition that is good; an entity whose essential tendencies are impeded or distorted exists in a condition that is evil. In the good condition, the Logos and reason are present, whereas in the evil condition they are absent (Human Law).

Property as Considered in Medieval Times

Respecting the right of property, Thomas stands somewhere between the Church's rejection of private property and the Lockean elevation of property to a natural right.82 St. Thomas comments upon private property (and the power to possess it) in these words:

81. Sabine, Political Theory, supra note 62, at 257.
82. Two long analyses of Thomistic theory of property are included in: McDonald, The Social Value of Property According to Thomas Aquinas, in 58 Cath. U. of America Philosophical Ser. 1-300 (1939) [hereinafter cited as McDonald, Social Value]; R. Schlatter, Private Property 47-76 (1951).
First because every man is more careful to procure what is for himself alone than that which is common to many or to all: since each one would shirk the labor and leave to another that which concerns the community, as happens where there is a great number of servants. Secondly, because human affairs are conducted in 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, because a more peaceful state is ensued to man if each one is contented with his own. Hence it is to be observed that quarrels arise more frequently when there is no division of the things possessed.\footnote{Pegis, St. Thomas Aquinas, supra note 73, at 508.}

But he maintains that the use of things must be for the common good rather than for individual gain. He recognizes the difference between rich and poor with his awareness of the inequities that are liable to occur when open property allows some people to possess more than others. This situation, however, can be acceptable so long as some share goes to each. But the exclusion of everyone from property is unlawful. Thomas’s distinction derives from the difference between the Natural Law and the Human Law. Regulation of the right to property is a part of the state’s function. Thus, as Professor Friedman says, “There is no foundation whatsoever, in St. Thomas’s teaching, for the elevation of the right of private property into a principle of natural law.”\footnote{W. Friedman, Legal Theory 111 (5th ed. 1970) [hereinafter cited as Friedman, Legal Theory].} Friedman goes on to emphasize that scholastic doctrine was amended in the late nineteenth century to give credence to private property as a principle of Natural Law. But such thinking is clearly not derived from Thomistic thought.\footnote{Id. at 108-12.}

The problem for St. Thomas is clear: Society is an organic one ruled by the Church and God; despite that fact, though, those who work the land desire to own that which they labor over. For Thomas, this fact created a dilemma. But its clear resolution must be that the land, whether or not certain aspects of ownership were allowed, was subject to the will of the organic society. The good of the whole was paramount. Therefore, private property owned by egocentric individuals was unthinkable in an organic society. In the last analysis, the dilemma was resolved for St. Thomas as it had been for Aristotle. For the individual was a part of the society, and generally never considered...
thinking in egoistic terms. The Reverend William J. McDonald, commenting on the Thomistic theory of property, rightly concludes that "The Thomistic concept of property is dominantly ethical. It avoids the extremes of selfish possession and violent dispossession. Its aim is socialized private property."86

E. The Eighteenth Century: John Locke’s Theory

The Renaissance is a historical epoch that defies easy characterization.87 Generally, it was a transitional period between the Middle Ages and modern times. But the transition was not accomplished by promulgation of definite theories or firmly established values. Rather, it is manifested in significant shifts of emphasis. The central fact of this transition is that traditional medieval ideas no longer sufficed as the apologia for existence. Men therefore sought to understand themselves without recourse to God or to an organic world view. The concept of values peculiarly secular arose; and, concomitantly, the peculiar value of the individual was noticed. Man’s ultimate discovery of himself was inevitable. And such thinkers as Erasmus became exponents of the new humanism, a theory suggesting that man’s own worldly purposes might be distinguished from, and independent of, traditional theological conceptions.

Thus arose a new consciousness of man’s unique and tragic position as he faced an expanding cosmos. In no other epoch was the admonition “know thyself” so idealized as the goal of life. Nevertheless, means for achieving the ideal were often derived from earlier humanistic philosophies, especially those of Hellenic origin.

Renaissance man lived, in effect, between two worlds: that of the Christian Middle Ages and that of secular scientific knowledge. In the one, the significance of every phenomenon was pre-determined by a priori definitions. In the other, the phenomena resisted systematic codification in terms of given scientific concepts and social principles. In effect, then, he was suspended between faith and knowledge.88

86. McDonald, Social Value, supra note 82, at 185.
88. An important transitional figure between Aquinas and Locke is Richard Hooker (1593-1662), the Anglican divine and Oxford fellow, whose massive treatise, Of the Laws of Ecclesiastical Polity (1669), sought to modify the literality of Puritan extremism in terms of the value of human reason and the Natural Law. See E. Davies, The Political Ideas of Richard Hooker (1946); P. Munz, The Place of Hooker in the History of Thought (1952); F. Shirley, Richard Hooker and Contemporary Political Ideas (1949); Strauss, Political Philosophy, supra note 66, at 330-39.
Central in the Age of Enlightenment was the conviction that human understanding is capable, by its own power and without recourse to supernatural assistance, of comprehending the system of the world. The Enlightenment is best characterized in Kant’s definition:

Enlightenment is the liberation of man from his self-incurred tutelage. Tutelage is man’s inability to make use of his understanding without direction from another. Self-incurred is this tutelage when its cause lies not in lack of reason but in lack of resolution and courage to use it without direction from another. Sapere aude! ‘Have courage to use your own reason!’—that is the motto of enlightenment.89

From this conviction grew man’s faith in his ultimate ability to master his world.

The modern conception of natural science begins at this point, and the spirit of Galileo permeates the age of Kepler. Fundamental is the notion of nature as a closed system of causes and effects, of reasons and implications. In Leibnitz’s hypothesis, nothing is accidental or arbitrary; but everything is ruled by universal or necessary laws. These laws, however, are not derivable from mere sense experience but by a conceptual analysis of natural phenomena. Galileo’s first results had been reached by such analysis. And Descartes confirmed and enlarged this theory by the discovery of analytical geometry. So also did Leibnitz with his analysis of the infinite, and Newton in his discovery of a calculus of fluxions.

But it remained to establish the significance of the new conceptions in terms of universal laws, since the being of man was assumed to be implied by and subordinate to the being of nature. Whereas the medieval view had been spiritualistic, the Enlightenment view was materialistic. Hobbes’s Leviathan90 was an attempt to justify the transition from the one view to the other, a task not undertaken by Locke in his political theory.

The organic concept of the state was supplanted by the mechanistic one on the basis of two vital assumptions. One held that all social organization is based on the explicit consent of the associates, or on a social contract. It originates in restrictions accepted voluntarily by individuals. A second assumption was that by contracting among themselves to act in unity, individuals transcend the state of nature. Thus, by

the theory of natural rights, individuals (singli) are transformed into the universitas, or the manifestation of the common will.

**Basic Theory of John Locke**

Locke interprets Natural Law as the claim of each individual to innate, indefeasible rights. Embraced within these rights came private property. This theory, consequently, was as egoistic as that of Hobbes, inasmuch as the government and society existed only to preserve the individual’s rights. The limitation on the authority of government and society was based on the indefeasibility of such rights.

**Locke’s Theory of the Natural Right to Property**

Locke holds that the state of nature is one of “peace, good will and mutual assistance and preservation.” He defends this position on grounds that the law of nature provides an outline of human rights and duties unique to nature. But the state of nature lacks organization and written law by which the rules of right can be actualized in the social milieu. Since whatever is right or wrong is that way eternally, positive law provides only a means of enforcing rather than amending the ethical quality of human conduct.

Locke, like the medieval philosophers, considered good government as expedient in human affairs. Good government was that which recognizes the primacy and the immutability of certain moral rights and duties. Moreover, neither a national tradition nor a divine law necessarily provided such a government; rather it must be derived from a social contract or agreement between the body politic and the ruling authority. Locke’s position thus places him clearly among exponents of the law of nature; and his advocacy of constitutionalism is reinforced by the arguments of Natural Law.

Locke’s insistence upon man’s native moral sense led him to conclude that the right to private property was among the natural rights of men. If this is so, then it is neither the duty nor the prerogative of social governments to deprive men of this right. For if government is not the source of the right to property, then government is not possessed of the power to deny that right. On the contrary, it is the duty of both society and government to protect the right to property. For a natural right (such as property) takes precedence over any principles that may obtain in the arbitrary socio-political practices of men.

Locke’s reliance on the theory of Natural Law leads to his consequent definition of “life, liberty, and estate” as rights natural to man.
This definition, moreover, is greatly significant to his conception of the nature and function of government. For if the responsibility of government is to guard and to provide for man's exercise of his natural rights, then a special kind of government is required. It must be one that regulates man's rights (e.g., property) only for the purpose and to the extent of providing for equity in the exercise of all those rights. Simply stated, one person's "life, liberty, and estate" may be limited only to protect the equally valid and just claims of some other person who has the same rights.

**Locke's Theory of The Social Contract**

Locke defined civil power as "a right of making laws, with penalties . . . for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, . . . all this only for the public good."91 Such a power, however, can arise only from the consent of those whose rights are regulated by it. Moreover, since it is to regulate all individuals, it must proceed from the acquiescence of each individual, according to his natural right to protect himself and his property.

Thus both the legislative and executive powers of government actually represent the particular power of the individual "resigned to the public." This situation is justifiable because, while his rights are inherent, man's ability to exercise these can be weakened or impeded by various forces to which he is subjected. The "original compact" in which all men "incorporate into one society" is a bare agreement "to unite into one political society, which is all the compact that is, or needs be, between the individuals, that enter into or make up a commonwealth."92

Thus the two parts of Locke's theory unite in his hypothesis that an agreement of a majority of the members constitutes an act of the community. Accordingly, the consent by which each person agrees with others to form a body politic obligates each to submit to majority rule. Effectively, then, agreement of the majority is agreement of the entire society.

**Locke's Theory of Society and Government**

In general, Locke regards the setting up of government as less meaningful than the original social compact creating a civil society.

---

91. Locke, Two Treatises, supra note 15, at 118.
92. Id.
Once the majority has acquiesced to the government as realized, then the entire power of the community is vested in them. The particular form of government depends upon how the community delegates or disposes of its power. Locke envisioned the legislative as the supreme power, while regarding the executive as sharing in its processes. What is plain, however, is that the powers of both are limited. A legislature cannot, for example, arbitrarily interfere in matters of property without consent (i.e., majority rule); nor can it delegate its powers, since these were given to it alone for exercise in the interests of the delegators. Essentially, the legislative power is a fiduciary one and the people can change or curb it if the legislature acts outside the power. Limitations of executive power derive from its dependence upon the legislative. The relationship of these two powers is assured by their definition as separate bodies.

At the end of his second treatise, Locke examines the right of the people to resist tyranny. Again, his assumption that moral truths are immutable and primary produces a conclusion: force cannot create nor maintain these truths. Accordingly, a government erected through force is justifiable only when it proceeds to recognize the inherent presence of natural rights in the community. Then, despite its origin through force, it will evolve in harmony with the Natural Law (i.e., moral order), thereby becoming a part of that order. On this point, Locke's notion is very similar to that of Aristotle, Cicero, and St. Thomas.

Dissolution of government, according to Locke's theory, can occur in either of two ways. One involves a change in the location of legislative power; the other results from government's abuse of the power entrusted to it. Should the legislature, for example, invade life, liberty, or property rights, it thereby forfeits its powers. In his persistent emphasis on the unlawful acts of legislatures, Locke continues to equate that which is unlawful with violations of the Natural Law or moral law.

Discussion of Locke's Natural Law and Property

The major theme of John Locke's political theory is plainly derived from the idea of Natural Law. And while the concept is not openly argued, it seeps into and through every principle of his theory. Yet John Locke wrote An Essay Concerning Human Understanding, in which he postulates the empiricist ideas of knowledge. Consequently, he is accused of being inconsistent because he emphasizes, on one hand, the empirical theory of knowledge and, on the other hand,

propounds the rationalist theory of natural law in his political works. The explanation is that Locke was an Enlightenment thinker who was influenced, like most others of the time, by the two major theories of knowledge that were not considered mutually exclusive but complementary. Thus, it was perfectly appropriate for him to theorize in two different disciplines (political science and philosophy), employing different, but complementary, theories of knowledge. As Overton Taylor says:

[E]ighteenth-century minds could thus blend, without any sense of being inconsistent, tendencies toward the contrary 'methods' of allout 'rationalism' and full-fledged 'empiricism,' because in and for that age the appeals to 'reason' and to 'experience' were in the main not rivals but allies, in the general, common opposition to all uncritical, reverent acceptance of views supported by tradition and authority.  

Moreover, many maintain that such a strong empiricist thinker could not have seriously supported Natural Law thinking, and thus Locke did not really mean what he said in the political essays. W. von Leyden, in newly discovered writings of John Locke, shows that in one of two early unpublished Treatises on the Civil Magistrate, Locke supports one of his proofs using the Natural Law rationalist arguments. Further, and far more important, there is ample evidence that the Essay Concerning Human Understanding was unfinished, and the unpublished essays on Natural Law were intended to be the groundwork for completing the Essay, with a discussion of the theory of rationalist knowledge. Says von Leyden: "His intention, obviously, was to continue his investigation on a more comprehensive scale so as to be able to introduce into it the relevant material contained in his essays."

Therefore, the presence of the unpublished essays, their relationship to the Essay on reasoning, and the general context of Locke's work provide evidence for the theory of Natural Law as the basis of his political theory. At the very least, the evidence for this assertion is clear and available.

94. O. TAYLOR, A HISTORY OF ECONOMIC THOUGHT: SOCIAL IDEALS AND ECONOMIC THEORIES FROM QUESNAY TO KEYNES 5 (1960) [hereinafter cited as Taylor, Quesnay to Keynes]; M. COHEN, REASON AND NATURE: AN ESSAY ON THE MEANING OF SCIENTIFIC METHOD 5 (2d ed. 1953) [hereinafter cited as Cohen, Reason and Nature].
96. Id. at 62.
Comparison of Locke's Ideas and Those of St. Thomas

In comparing the ideas of Locke and Aquinas, it is interesting to note that, with each man, the notion of right order is based on a different conception of the causal relations between subject and object. In Thomas, "the subject is determined to the objective good as his end." With Locke, on the other hand, "the objective good is determined to the subject as its end." And it is a difference in values which places one idea in contrast to the other. Paul M. Downing observes that "the ultimate value recognized by St. Thomas is being, while the ultimate value recognized by Locke is the productive agency of the individual. The Thomistic conception of order is determinate or rational; the Lockean conception, . . . is indeterminate (within the bounds of the law of nature), since it is subjective."98 Downing also notes that St. Thomas posits a teleological right order which requires that "the authority exercise determination for the sake of that objective good of order which is common."99 Locke, however, argues effectively against the exercise of authority as an objective principle of society: "Authority is admitted only as a convenient evil."100

George Sabine says of John Locke and his theories: "His sincerity, his profound moral conviction, his genuine belief in liberty, in human rights, and in the dignity of human nature, united with his moderation and good sense, made him the ideal spokesman of a middle-class revolution."101

III. FREEDOM AND NATURE—TWO MAJOR THEMES IN CLASSICAL ECONOMIC THEORY

There is general agreement among scholars of Classical Economic Theory that its two central themes are those of freedom and of nature. Overton Taylor, speaking of Adam Smith, founder of the Classical Theory, illustrates this fact:

Smith's great economic treatise contains both his 'preaching' of his 'gospel' of economic liberalism, i.e., economic freedom for all individuals, and his 'scientific' theory or account (general description and explanation) of the operating processes of the economic systems of (nation) societies, and the effects upon those processes and their results of the ways

99. Id. at 143.
100. Id.
101. SABINE, POLITICAL THEORY, supra note 62, at 540.
and degrees in which the societies do or and do not accept and realize the liberal ideal in developing their institutions and public policies. And these two parts—the ethical-normative and the positive-scientific (descriptive-explanatory) parts—of the book’s total message are partly interdependent or bound together, and yet are largely independent of each other. . . . His ethical-and-economic ideal vision of 'the system of natural liberty' for all individuals seemed to him to be in a sense implicit or potential in the 'nature' of the universe and of mankind, and to have much real power and a 'tendency' to get itself approximately realized, through the working out of men's 'natural' propensities and uses of their intelligence, experience, and growing knowledge . . . .

Not only are the themes of freedom and nature found in Smith, but they also permeate the work of all Classical Theorists. As one of the most renowned biographers and researchers of Classical Theory, Lionel Robbins, observes:

there can be no doubt that the English Classical Economists regarded their system as something vastly superior in its implications for human happiness than the systems of restraint and regulation which then prevailed. We do not get these men in their proper historical setting unless we realize that, in the context of their day at least, they were reformers. The System of Economic Freedom was not just a detached recommendation not to interfere: it was an urgent demand that what were thought to be hampering and anti-social impediments should be removed and that the immense potential of free pioneering individual initiative should be released.

Further, in speaking of nature, Robbins says,

It is certainly true that the Classical analysis is teleological in the sense that, like all analysis of conduct, it runs in terms of purpose. . . . They believed that, in a world of free enterprise, certain relationships would arise which were of a mutually advantageous kind to the individuals concerned and superior to those resulting from alternative systems . . . .

It is apparent, then, that the two ideas of freedom and nature are indigenous to the Classical Model.

102. TAYLOR, QUESNAY TO KEYNES, supra note 94, at 78-79.
103. ROBBINS, ENGLISH CLASSICAL, supra note 4, at 19.
104. Id. at 28-29.
A. Freedom

The concepts of property and liberty have been inseparable, particularly since Locke, in whose theory property was indeed the source of the most important of liberties. In effect, Locke's discussion of property was his presentation of liberty. Up to now our discussion has emphasized the distinction to be understood between the notion of freedom in the ancient and in the modern world. Clearly, the Greeks must be considered the inventors of the idea of freedom and were themselves the first free men. Herbert J. Muller pays special attention to the nature of Greek society and the uniqueness of its character. 105 The failure of Greek society has been revealed as resulting from an absence of certain vital elements which were developed by succeeding cultures. The Greek society lacked the legal element which the Roman Stoics developed; it lacked the moral one which was developed in the Middle Ages; and it lacked the institutions necessary to safeguard the inherent instability of such a society. Those safeguards were developed by both Roman and British legal bureaucracies. 106

By the eighteenth century it was possible to perceive and to resolve these problems of society. Locke's Two Treatises of Civil Government 107 were the apogee of the theory of freedom. And, in the nineteenth century, the concept of freedom was further defined by John Stuart Mill, the last of the Classical Economic Theorists. Mill's essay, On Liberty, 108 is perhaps the most famous ever written on the subject of the free man in a free society. In the main, it offers four principles indigenous to the idea of freedom. One of these is that the moral responsibility native to men requires that each man be treated with the dignity appropriate to his nature as a responsible being. Another is the acceptance of political and social freedom as a good in itself, since freedom is the proper condition of a responsible being. The good society is thus one which allows to every man not only freedom but also opportunity for the good life. A third principle holds that liberty is a social as well as an individual good; for if a free idea is silenced by force, this does violence not only to him who holds it but also to the community which is thereby denied any advantage to have been gained from free criticism of the idea. Finally, Mill insists that the function of a free society

---

106. Id. See also MULLER, WESTERN WORLD, supra note 87, at 106.
107. LOCKE, TWO TREATISES, supra note 15.
108. J. MILL, ON LIBERTY: ANNOTATED TEXT, SOURCES AND BACKGROUND CRITICISM (D. Spitz ed. 1975) [hereinafter cited as MILL, ON LIBERTY].
is positive rather than negative; for the presence of legislation allows for the creation, the increase, and the equalization of opportunities to all. Accordingly, its limits are defined in terms of its capacities to extend conditions of opportunity to all citizens, improving the quality of life and lessening the chances of coercion.

The "inconsistencies" in Mill's thought (like those in Locke's) are generally resolved by thorough study of his complete oeuvre, especially if particular attention is paid to the position of a given work within the context of the whole.109

The centrality of the notion of liberty in classical economic thought is summed up by Glenn R. Morrow: "Individual liberty, in politics, in religion, in industry was felt to be the first and sometimes the only thing necessary for the introduction of a better social and political order..."110 It is, therefore, not surprising that the concept of liberty is seminal in the works of Locke, Smith, Mill, and other exponents of the Classical Economic Theory.111 It is significant, also, that the works of these three men remain today among the world's most read, most valued, and most relevant treatises on liberty.

B. Nature

The concept of nature as a universal substance, idea, or rationality is perhaps one of the oldest in human history. Those civilizations in which this concept was fundamental accordingly developed societies that were emblematic of it. Since Greek thought was the first systematically to conceive of reason, it is responsible for the notion that man's relationship to the universe is both determined by and discovered in his rational capacity. While Classical Economic Theory received the concept of freedom through Locke, who, in turn, was indebted to Greek, Roman, and medieval thought, clearly the idea is fundamental to Enlightenment thinking generally, and particularly to the thought of Smith and others. Thus, even without Locke's contribution, the idea of liberty was given expression by many voices. Adam Smith, for exam-


111. The reader understands, of course, that Locke was not a Classical Economic Theorist, but one followed by such theorists insofar as his theory pertained to liberty and property.
ple, is supposed to have been greatly influenced by the ideas of his mentor, Francis Hutcheson.\textsuperscript{112}

The convolutions of Enlightenment thinking on nature, the Natural Law, universal rationality, and so forth, cannot be explored here. It is useful, however, to consider Glenn R. Morrow’s remark about Adam Smith. Observes Morrow, “Adam Smith not only represents self-interest as the usual and most powerful motive in economic activity, but [shows] that economic institutions arise naturally, i.e., spontaneously, through the operation of this principle in human nature . . . .”\textsuperscript{113} Smith accepts unquestioningly a natural or rational social order. Thus when the removal of social restrictions is accomplished, and, consequently, conditions of natural liberty and free competition restored, the natural order of society can be realized to the fullest extent. Smith conceived of systems of preference and restraint as artificial impediments to the natural liberty of men; thus, if these are removed altogether, the essential system of natural liberty will establish itself of its own accord.\textsuperscript{114} In effect, Smith’s theory assumes the existence of an order or power not created by but comprehensible through human reason. Accordingly, social and economic institutions must be manifestations of this order, if they are not to thwart or impede man’s realization of his place in that order.

Smith speaks of this realization with appropriate awe: “The great, the immense fabrick of human society, that fabrick which, to raise and support, seems, in this world, if I may say so, to have been the peculiar and darling care of nature . . . .”\textsuperscript{115} The self-interest of the individual, to Smith, his natural guide, inasmuch as it emanates from the invisible, inherent rule of nature. As he writes in the Theory of Moral Sentiments: “[Men] are led by an invisible hand to make nearly the same distribution of the necessaries 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 society . . . .”\textsuperscript{116}

In The Wealth of Nations, Smith continues to speak of man in this way, observing that “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


\textsuperscript{113} Morrow, Adam Smith, supra note 110, at 164.

\textsuperscript{114} Id.

\textsuperscript{115} A. Smith, 1 Theory of Moral Sentiments 115 (Boston, 1817).

\textsuperscript{116} Id. at 249.
was no part of his intention.\textsuperscript{117}

This notion of the "invisible hand" is a manifestation of the eighteenth-century faith in a Natural Law or order which operates according to the principle of harmony and ultimate rationality of all things. In Smith, this concept is fundamental to the argument of both the \textit{Theory of Moral Sentiments} and \textit{The Wealth of Nations}.

Scholars generally do not hesitate to accept the presence of the Natural Law concept in Adam Smith. Its place in the thinking of other Classic Economic Theorists is, however, occasionally a subject for disagreement. Contention arises over the notion of the "invisible hand," as this is understood by theorists less religiously inclined than Smith. There is no reason to suppose, however, that Classical Theorists of the eighteenth and nineteenth centuries defined the "invisible hand" as the hand of God. On the contrary, to many of them, the invisible guide was the principle of ultimate rationality in all things; whether this principle and a "prime mover" were one and the same was not the central issue of the argument. This issue was, rather, the relation of social and economic institutions to an underlying principle of natural order in all things.\textsuperscript{118}

\section*{IV. Part II of the Classical Model: Firms Are Managed by Owner-Entrepreneurs Who Aim to Maximize Profits}

Giving the names of "entrepreneur" and "creative entrepreneur" to classes of people hitherto unidentified as to their commercial species and sub-species apparently occurred more than two hundred and fifty years ago. "Entrepreneur" appears in the \textit{Dictionnaire de Commerce} of Jacques de Bruslons Savary as early as 1723. But aside from its presence in a lexicography of terms used in commerce, the word seems to have had no specific meaning other than to describe a type of owner familiar to business that need not be defined. Two years later, however, "entrepreneur" becomes a defined term in Richard Cantillon's \textit{Essai sur le Commerce}. Cantillon applies it to that category of gainfully employed persons (such as farmers, tavern-keepers, wholesalers, retailers, etc.) who buy at a certain price and sell at an uncertain one. Thus begins the "risk-bearer" concept of the entrepreneur as one who is the owner of an enterprise for uncertain profit.\textsuperscript{119}

\begin{footnotesize}
\begin{enumerate}
\item Robins, \textit{English Classical}, supra note 4, at 11.
\item Redlich, \textit{The Origins of the Concepts of "Entrepreneur" and "Creative Entrepreneur,"} in \textit{Explorations in Entrepreneurial History} 1 (1949).
\end{enumerate}
\end{footnotesize}
The concept of the "creative entrepreneur" appears first in Daniel Defoe's work, *An Essay Upon Projects* (1697). In the second chapter of the book, Defoe uses the term "projector" to define one who "puts his project in execution and contents himself with the real procedure of his invention." Defoe's "projector" is thus the creative inventor, i.e., one who undertakes or attempts a venture in the sense of *entreprendre*. In the eighteenth century, Malachy Postlethwayt's *Universal Dictionary of Trade and Commerce* uses the term "projector" in a sense approaching the modern meaning of "creative entrepreneur." Postlethwayt also offers quotations from Sprat's *History of the Royal Society* (1667) in which the term "projector" appears.\(^{120}\)

The evidence suggests, then, that the concept of the "entrepreneur" was not altogether unfamiliar to eighteenth-century theorists.

A. The Entrepreneur—Turgot's and Smith's Definitions

By the eighteenth century, capital was becoming accepted as an important factor in production and, relative to labor, began to occupy a significant position vis-a-vis the business unit. In the absence of credit facilities for the easy lending and borrowing of capital, businesses came into the control of those already possessed of capital, thus joining together land and labor as a business unit. In this way, independent artisans became laborers in factories. But business units per se were still relatively small.

Originally, both ownership and cultivation of land were bound together; eventually, however, there were those who owned the land but rented it to others for cultivation. In this way, they could live off the land without the need to cultivate it themselves. Turgot calls such landowners a "disposable class," and the only social class "which, not being bound by the need of subsistence to a particular labor, can be employed for the general needs of society."\(^{121}\)

Jacques Turgot, the Physiocrat, pursues this idea further by distinguishing the ownership of capital as a separate economic function.\(^{122}\) His rationale for this is his conception of the capitalist as one who may either invest or lend his capital. The first is free to invest in either land or business. Should he decide to purchase land, he is a capitalist landowner. But if he invests in goods required for his business, he is a capitalist and entrepreneur; as owner of the accumulated fund of value, he

---

120. *Id.*
122. *Id.* Tuttle states that Turgot makes this analysis for the first time in economic history.
is a capitalist, and as owner of the goods in which he invests, he is an entrepreneur. If the capitalist prefers to lend (rather than to invest) his funds, he remains simply a capitalist, since another person now uses the capital for investment into goods.

From this distinction, it follows that the capitalist who becomes an entrepreneur invests in all kinds of enterprises and may, thereby, employ many kinds of labor (e.g., commercial, agricultural, etc.). Moreover, says Turgot,

besides interest on his capital, [the entrepreneur gains] a profit to recompense him for his care, his labor, his talents, and his risks and to furnish him in addition with that wherewith he may replace the annual wear and tear of his advances,—[sic] which he is obliged to convert from the very first into effects which are susceptible of change, and which are, moreover, exposed to every kind of accident.\(^\text{123}\)

Thus, for Turgot, the entrepreneur is necessarily a possessor of capital; but the capitalist per se differs from the entrepreneur inasmuch as the latter is an owner, and more important, an organizer and manager, as well. Mere ownership of business, therefore, does not make an entrepreneur. It is his organizational and management functions, i.e., the quality of his labor per se, that distinguish him from the mere capitalist.

In the works of Adam Smith, the term "entrepreneur" does not appear, since the word "undertaker" was the current English term applied to one who undertook a business venture. And the function of the undertaker is not discussed directly in *The Wealth of Nations*. Smith, in fact, is regarded as having "sidetracked" the concept of capital found in Turgot, for he discusses capital as an accumulated stock of goods, exclusive of land.\(^\text{124}\) In the words of Charles A. Tuttle: "Adam Smith's failure . . . consciously to distinguish between capital and production goods rendered it impossible for him to differentiate as Turgot had done, the ownership of capital from the ownership of a business.\(^\text{125}\) Thus, to Smith, the term "profits of stock" was merely another name for interest, since he considered ownership either of capital or of production goods as basically the same thing. Tuttle agrees with Professor Edgeworth that Smith's concept of capital obviates any specific differentiation between the capitalist and the entrepreneurial functions. As

\(^{123}\) *Id.* at 504.


\(^{125}\) Tuttle, *The Entrepreneur*, supra note 121, at 501, 506.
Edgeworth says, “To determine at what point the capitalist ends and the entrepreneur begins, appears to defy analysis.”

Thus, while Turgot distinguishes between capitalist and capitalist-entrepreneur, Smith offers no real entrepreneurial conception of business management.

B. The “Projector” as Entrepreneur (Bentham)

In his interesting doctoral dissertation, Zoltan Sebestyen shows that Jeremy Bentham in his writings proposes a “projector.” Bentham’s use of the term satisfies, in many ways, the sense of entrepreneur, for his projector is an agent who takes an innovation and both produces and markets it. Bentham enlarges this idea:

The projector is one who seeks to promote his own interest through . . . the public by some extraordinary exertion of the inventive faculty, [in the interests of] the pursuit of wealth, or even of any other project, [the projectors] endeavour, by the assistance of wealth, to strike into any channel of inventions.

For, with wealth as both the instrument and the end of their activity, the projectors cultivate those arts which have been by way of eminence termed useful, and their function is to introduce new commodities toward improvement of quality in those already extant, or to establish new and more efficient processes of production.

In his economic writings, Bentham further describes the projectors: “[They] aim at anything that can be called improvement; whether it consists in the production of any new article adapted to man’s use, or in meliorating the quality, or diminishing the expense, of any of those which are already known to us.” Bentham’s projector, therefore, is one who creates a business enterprise from an invention that is either his own or another’s. This definition, of course, could not have foreseen the various functions of today’s entrepreneur, such as exploration for new raw materials and development of new markets.

Bentham, however, does anticipate the concept of patent guarantees in his notion that the incentive for the projector is the ability to

---

127. Although Jeremy Bentham was not technically a classical economic theorist, he had a great influence on the classical theorists, especially James Mill, Ricardo, and John Stuart Mill.
129. *Id.* at 252.
130. *Id.* at 259.
THE NATURE OF PROPERTY

exclude others from imitating his invention. Indeed, he argues forcefully the necessity of the patent as a means of assuring that the producer-projector can sell his product at a price whereby the revenue received is "superior to the measure of recompense ordinarily annexed to labor in that line." Moreover, he insists: "A patent considered as a recompense for the increase given to the general stock of wealth by an invention, as a recompense for industry and genius and ingenuity, is proportionate and essentially just. No other mode of recompense can merit either the one or the other epithet." The temporary "monopoly privilege" thus allows the projector to earn profits.

Despite the contribution made to the notion of the entrepreneur, Bentham's views "remained almost unnoticed by professional economists." But notwithstanding its limited definition, his term "projector" has connotations of entrepreneurism in business inasmuch as it refers to one who transforms an invention into a business enterprise.

C. The Entrepreneur—Ricardo, Say, and J. S. Mill

The concept of the entrepreneur is virtually excluded from the theories of Ricardo, of the Ricardians, and of Senior. For these thinkers (as well as for Karl Marx), the business process does not depend upon an entrepreneur. Rather, it runs effectively all by itself, so long as there is available the capital sufficient to ensure its functions.

On the other hand, the theory of Jean Baptiste Say (1767-1832) "moving along in the French (Cantillon) tradition, was the first to assign to the entrepreneur—per se and as distinct from the capitalist—a definite position in the scheme of the economic process." To Say, the entrepreneur is the economic agent who

unites all means of production—the labor of the one, the capital or the land of the others—and who finds in the value of the products which result from their employment the reconstitution of the entire capital that he utilizes, and the value of wages, the interest, and the rent which he pays, as well as the profits belonging to himself.

Moreover, this entrepreneur must possess specific personal qualities:

---

131. Id. at 262.
132. Id. at 263.
134. Id.; J. Schumpeter, History of Economic Analysis 556 [hereinafter cited as Schumpeter, Economic Analysis].
judgement, perseverance, and a knowledge of the world as well as of business. He is called upon to estimate, with tolerable accuracy, the importance of the special product, the probable amount of the demand, and the means of its production: at one time, he must employ a great number of hands; at another, buy or order the raw material, collect laborers, find consumers, and give at all times a rigid attention to order and economy; in a word, he must possess the art of superintendence and administration . . . .

To J. B. Say, therefore, the entrepreneur is a vital and forceful presence in the formation and functions of the business organization. As several theorists have observed, he is both innovative and adventurous. Furthermore, Say’s entrepreneur pulls together the chief economic factors of land, labor, and capital to make the organization efficiently and competitively under the aegis of his artful leadership (superintendence) and administration.

John Stuart Mill, influenced at an early age by Say, abandoned the Ricardian notion of the entrepreneur. Like Smith, Mill uses the English term “undertaker,” and says of it: “It is to be regretted that this word, in this sense, is not familiar to an English ear. French political economists enjoy a great advantage in being able to speak currently of les profits de l’entrepreneur."

However, Mill describes the capitalist employer as one whose activities relate to profit. This entrepreneur is first a capitalist:

the person who advances the expenses of production—who, from funds in his possession, pays the wages of the labourers, or supports them during the work; who supplies the requisite buildings, materials, and tools or machines; and to whom, by the usual terms of the contract, the produce belongs, to be disposed of at his pleasure.

Moreover, he is a business owner, since he embarks in business on his own account, and exposes his capital, in varying degrees, to the danger of partial or total loss. The entrepreneur is also a worker, since he devotes his time and labour [and] the control of the operations of industry usually belongs to the person who supplies the whole or the greatest part of the funds by which they are carried on,

and who, according to the ordinary arrangement, is either alone interested, or is the person most interested (at least directly) in the result.\footnote{140. Id. at 407.}

Mill continues in the same vein: “To exercise this control with efficiency, if the concern is large and complicated, requires great assiduity, and often, no ordinary skill. This assiduity and skill must be remunerated.”\footnote{141. Id.} In accordance with this, “the three parts into which profit may be considered as resolving itself, may be described respectively as interest, insurance, and wages of superintendence.”\footnote{142. Id. at 404-07.} In effect, Mill aims to put into a proper relationship all the functions attributable to the entrepreneur.

Hence, in Mill’s mind, the entrepreneur is a capitalist whose essential relationship is with profit. He advances the expenses for production, land, labor and capital, even as he also takes the risks involved in establishing a business. All of this, and the hard work concomitant with it, entitles him to remuneration in the form of profits.

In effect, then, Mill, “who brought the term entrepreneur into general use among English economists,” gathered together several ideas of the entrepreneur and gave the final concept a solid position in Classical Economic Theory.\footnote{143. Schumpeter, Economic Analysis, supra note 135, at 556.}

V. PART III OF THE CLASSICAL MODEL: HOUSEHOLDS SEEK TO MAXIMIZE INCOMES

The general character and antecedent sources of eighteenth-century thought were both Lockean and Newtonian. The philosophy, ethics, and politics of Locke, as well as the fundamental ideas of Newton’s physics, were powerful influences on the entire age. Lockean empiricism mingled with the notion of absolute rationalism. Over all, of course, was a dominant faith in the power of the human faculty to reason to solve all problems, refute and abolish all erroneous beliefs and practices, and achieve and diffuse into all minds, in time, all of the true knowledge, understanding, and wisdom needed to guide all men and societies to the attainment of the highest levels of wealth, welfare and happiness made possible by their environment, nature, and abilities.\footnote{144. Taylor, Quesney to Keynes, supra note 94, at 4.}
Nor was this faith in reason any contradiction of empirical knowledge. Morris R. Cohen notes that the great founders of modern science saw no opposition between the rational (mathematical or logical) and the empirical (or experimental) elements in their procedure. Literary historians and philosophers, unacquainted with the actual scientific work of men like Copernicus, Kepler, Galileo, Descartes and Newton have been misled in this respect by Bacon, and by some polemic messages in the more popular works of Galileo and Descartes.\textsuperscript{145}

The importance of faith in reason, therefore, lay in its application to human experience. Empirical data (or experimental knowledge) complemented, rather than contradicted, human reasoning.

According to Cohen, rationalism and naturalism were allies in the war of emancipation from medieval thought. Together, they opposed what many like Goethe regarded as the essence of medievalism, namely, the view that nature is sin and intellect the devil. The appeal to reason was a favorite weapon against superstitions and needlessly cruel restraints on natural life. The great enemy of rationalism, therefore, was not empiricism, but some form of nonrational authoritarianism, generally supernatural.\textsuperscript{146}

Thus did the average eighteenth-century man, as householder and consumer, begin to look upon himself as a free being with an independent and rational mind, an intelligence whose proper function was to examine the facts of experience and the data of the senses. Such an intelligence, moreover, was designed to analyze critically all traditional authoritative doctrines; to discard whatever was erroneous or absurd in them; and, in the process, to discover new knowledge, carefully derived from and firmly based upon ideas of demonstrable cogency.

Out of his new awareness of himself grew eighteenth-century man’s distrust in what was arbitrarily authoritative and his belief in the discoverability of knowledge that would lead to a world of "rationally reconstructed sciences, of free, enlightened individuals all severally both thinking and behaving ‘rationally’ and in line with their own best interests as individuals and with those of all mankind."\textsuperscript{147}

\textsuperscript{145.} COHEN, REASON AND NATURE, supra note 94, at 140.

\textsuperscript{146.} Id.

\textsuperscript{147.} TAYLOR, QUESNEY TO KEYNES, supra note 94, at 5.
Accompanying this hope was the idea of psychological “rationalism,” intellectualism which regarded reason as the universal determinant of human behavior. This notion assigned to “human nature” the function of defining the natural dimensions of human behavior. In effect, it asserted the supremacy of man’s power to make rational decisions. This supremacy, accordingly, implied the essential rationality in man’s action and conduct of life. Since reason empowers him to make correct decisions, the tendency to make valid and appropriate choices among available courses of action is natural to him. He has only to select that which is logically amenable to the circumstances and to his reasoned set of objectives. Since all men are so empowered by rationality, the desire of each individual will be mutually consistent with that of every other, hence with that of the generality of men.

The eighteenth-century conception of man’s rationality thus underlies the assumption of Adam Smith (and other Classical Economic Theorists) that human actions are predicated upon reason. Indeed, it is this rational being who becomes the “economic man” of the Classical Economic Model. Since the householder, of course, had his place in the economy, he was, like all other men, a rational being and therefore an economic man. His goal was the same as that of any economic man; but he spoke of his goal as income maximization rather than profit maximization as would have the owner-entrepreneur.

The Economic Man

Since the economic man is, first of all, a decision-maker, two modern economists have suggested six elements as belonging intrinsically to the decision-making process.148 These are: (1) the decision-maker; (2) the state of nature; (3) the goals or ends to be served; (4) the relevant alternatives and set of actions from which a choice will be made; (5) a condition producing a preferential ordering of alternatives; and (6) information feedback.149

If we may assume that the decision-making process is composed of these six elements, they, in turn, must be understood in terms of the rationalist or economic man. They must be related to assumptions of Classical Economic Theory that involve decision-making behavior in

148. M. Alexis & C. Wilson, Organizational Decision Making 149 (1967) [hereinafter cited as Alexis, Organizational Decision Making].
149. The sixth element, i.e., the choice itself, proposed by Alexis and Wilson, is deleted in this article because it is not an element but in fact the end result of the decision process. On the other hand, another element, “feedback,” is added because it is important in describing the adaptiveness of the decision-making model.
its reaction with the environment. Such a description of the six elements will provide a helpful composite profile of the so-called economic man.

Economic man, as the first element in the decision-making process, has an infinite capacity for knowledge. He is capable of realizing and controlling definable variables in the environment, owing to his rational thought processes. His capacity for knowledge is such that, ultimately, he will understand the environment in its totality. 150

The second element in the decision-making process, the state of nature, is economic man's environment. And since, like the principle of man, the principle of nature is a rational one, it follows that what man does not yet know of nature he will eventually learn. 151

A rationalist holds that goals or ends to be served—the third element in the decision-making process—are innate in man's nature. For, if men are at once rational and economically directed, it follows that they will strive to maximize their income, i.e., for profit maximization. 152

The element of relevant alternatives (and sets of actions) from which to choose is an inseparable one from the decision-making process. For the concept of "choosing" or "deciding" assumes the existence of definable available options. Economic man, by virtue of his reasoning power, is able to define, within the rational environment of the state of nature, the relevant options available to him. 153

A circumstance producing preferential ordering of alternatives is the fifth element in the decision-making process. Like other elements, it relates to the fact of man's rationality and his unlimited capacity for knowledge. Given the natural tendency of that rationality to make correct decisions, and the presence of this tendency in all rational men, it follows that reason will determine the best possible order of alterna-

---


152. Edwards, Decision Making, supra note 150, at 381; see also Alexis, Organizational Decision Making, supra note 148, at 150-51; Robinson, Promotional, supra note 150, at 52; Simon, Administrative Behavior, supra note 151, at 80.

153. Edwards, Decision Making, supra note 150, at 381; see also Alexis, Organizational Decision Making, supra note 148, at 151-54; Robinson, Promotional, supra note 150, at 52; Simon, Administrative Behavior, supra note 151, at 81.
Information feedback is considered here as the sixth element of the decision-making process. In light of the other five, this concept is useful in describing the adaptiveness of the decision-making model. To the eighteenth-century mind, of course, the idea of feedback would appear irrelevant. Since the natural tendency of rational man’s decisions is toward correctness (and this tendency obtains in decisions of all men), informational feedback is altogether unnecessary. Man’s choice and ordering of alternatives is governed by the rule of reason, the principle of rationality which obtains in all of nature.

The image of economic man which emerges from the above definition of elements in the decision-making process is present in economic theory even today. It is worth noting that, in Adam Smith, this form of rational economic man first appears. However, given its dependence upon empiricism, the conception was considerably altered with the passage of time. The Classical Economic Theory, as it prevailed through Mill and the utilitarians, combined empiricism with rationalist thought. However, the neoclassicism arising in the late nineteenth and early twentieth centuries saw the withering away of empiricism. Even though the original notion of the economic man appeared to undergo little change, more emphasis came to be placed on the value of a priori reasoning per se and less upon a priori reasoning coupled with empiricism. Thus Smith’s original image of economic man, depicted by most of the Classical Theorists, was stripped of his empiricism by the neoclassicists and became, once more, the plainer, rational, natural man of the Greeks, Romans, and the Middle Ages.

Robinson and Luck describe the economic man as an “ultrarational, omniscient, supercalculator who relentlessly pursues the single-minded goal of maximizing profits.” Beneath this Latinate jargon of present-day economics, however, lurks the same economic man who was the subject of earlier definitions: he is a rational being with an infinite and insatiable capacity for knowledge; one who exercises this capacity in his environment for the purpose of serving his inborn economic goals by means of determining correctly his alternatives; he is one who arrives at rational conclusions without information feedback, conclusions which are correct inasmuch as they produce the desired result of income maximization or profit maximization.

154. Edwards, Decision Making, supra note 150, at 381-82; see also Alexis, Organizational Decision Making, supra note 148, at 155-57; Robinson, Promotional, supra note 150, at 52; Simon, Administrative Behavior, supra note 151, at 80.
155. Robinson, Promotional, supra note 148, at 52.
VI. PART IV OF THE CLASSICAL MODEL: COMPETITION

No concept in any discipline, no matter how fully defined, is under all possible circumstances always clear. Strange as it may seem, the concept of even simple competition, as set forth by Adam Smith, did not receive definite and systematic attention until 1871. It had been treated for years as such an innate part of the scheme of economics that no one bothered to question its validity or necessity. Even after 1871, little was done with the idea until the eighteen-nineties and early twentieth century. The elaborate and complex concept of perfect competition, supposedly one of the clearest in modern economic theory, did not evolve until after the First World War.

This part then defines competition as it was developed by classical economic theorists who attempted to synthesize the early ideas. It does not consider "perfect competition" as Gregory Grossman assumes it in his development of the model of the Classical Economic Theory.

Early Theorists\textsuperscript{156}

An early theorist, Johann Joachim Becher, was a German mercantilist of the seventeenth century who wrote on monopoly and competition. He said that monopoly ("monopololium") would result in high prices while, on the other hand, competition, which should produce many sellers ("polypolium"), would push prices down.\textsuperscript{157}

A second writer, Pierre le Pesant (1616-1714), according to Joseph A. Schumpeter, found in competition "[T]he economic principle of order . . . quite as clearly as did A. Smith a half a century later, [and further, his] conception of competitive 'proportionate' equilibrium was as definite as A. Smith's."\textsuperscript{158}

A third writer was the great English-born banker, living in Paris, Richard Cantillon. What Cantillon wrote about in this area was primarily a "bargaining" type of economic rivalry rather than Adam Smith's competitive type. Even so, Cantillon discussed market price in such a way that it is anticipatory of Adam Smith's concept at many points. He says:

Suppose the Butchers on the one hand & the Buyers on the other. The price of meat will be determined after some altercations; a pound of Beef will bear about the same ratio to

\textsuperscript{156} Much of this material is found in an excellent article by McNulty, \textit{A Note on the History of Perfect Competition}, 75 J. POL. ECON. 395 (1967) [hereinafter cited as McNulty, \textit{A Note}].

\textsuperscript{157} E. HECKSCHER, \textit{I MERCANTILISM} 271 (1962).

\textsuperscript{158} SCHUMPETER, \textit{ECONOMIC ANALYSIS}, \textit{supra} note 134, at 216.
a piece of money, that all the Beef offered for sale in the Market
bears to all the money brought thither to buy Beef.

This proportion is settled by altercation. The Butcher
holds out for a price according to the number of buyers he
sees; the Buyers, on their part, offer less according as they be-
lieve that the Butcher will have less market: the price settled
upon by some is ordinarily followed by others. Some are more
skillful in getting good prices for their merchandise, others
more adroit in discrediting it. Though this method of fixing
the prices of things in the Market has no just or geometrical
basis, since it often depends upon the eagerness of the facility
of a small number of Buyers or of Sellers; yet it does not seem
possible to arrive at it in any other more suitable way. It re-
 mains true that the quantity of commodities or of merchan-
dise offered for sale, compared with the demand or with the
number of Buyers, is the basis upon which people fix, or al-
ways think they fix, the prevailing Market prices; & that in
general these prices do not differ much from the intrinsic
value.159

A fourth writer was the physiocrat, Jacques Turgot. He discussed
the concept of competition saying that when there is a great deal of it
the proprietor will raise the rent of his property. Thus the one with the
ability to pay the highest rent will get the land:

The competition of rich entrepreneurs engaged in agri-
culture establishes the current price of leases in proportion to
the fertility of the land and the price at which its produce
sells, always according to estimates which the farmers make
of all their expenses and the profit they should make on their
advances; they can pay the proprietor only the surplus.

But when the competition between them is very keen,
they pay him all this surplus, the proprietor leasing his land
only to the one who offers the highest rent.160

Finally, the most complete analysis of competition before Adam
Smith was Sir James Steuart's. He was probably the last of the mercan-
tilists and the most able. His thesis was that competition could exist
among either buyers or sellers. And when supply falls short of demand
he said: "it occasions a competition among the buyers, and raises the
current, that is, the ordinary prices . . . [but] it is from the effects of
competition among sellers that I apprehend prices are brought

160. Id. at 360.
down.” 161 The best situation, Steuart thought, was when competition operated at the same time among buyers and sellers, which he called “double competition.” He discusses double competition in this passage:

Double competition is, when, in a certain degree, it takes place on both sides of the contract at once, or vibrates alternately from one to the other. This is what restrains price to the adequate value of merchandise . . . . Double competition is what is understood to take place in almost every operation of trade; it is this which prevents the excessive rise of prices; it is this which prevents their excessive fall. While double competition prevails, the balance is perfect, trade and industry flourish. 162

The above examples show that when The Wealth of Nations was published in 1776 there was a large accumulation of literature on the subject of competition. Such competition was recognized as the tendency to bring market prices to a level that would disallow excessive profits and unsatisfied demand. In a sense then, the period before Adam Smith’s work was a period when ideas emerged, and The Wealth of Nations is the “capstone” of these ideas, “the concept of competition [becoming] . . . the sine qua non of economic reasoning.” 163

The Classical Theorists

Adam Smith discusses the reduced supplies that led to high prices when he says, “When the quantity of any commodity which is brought to market falls short of the effectual demand, . . . some [are] willing to give more. A competition will immediately begin among them, and the market price will rise more. . . .” When there is an excessive supply, “some part must be sold to those who are willing to pay less, and the low price which they give for it must reduce the price.” 164

“Competition” is used here in the sense of rivalry. It is as if there was a race to get limited supplies or to rid oneself of excess products. As Stigler says, “Competition is a process of responding to a new force and a method of reaching a new equilibrium.” 165 Further, Adam Smith looked at economic rivalry as if it was more likely to make gains by numerous competitors underbidding or overbidding each other. In this connection, where the competitors are not numerous, Smith says: “The

162. Id. at 196-97.
trades which employ but a small number of hands, run more easily into . . . combinations."\textsuperscript{\ref{166}} He continues:

If this capital [sufficient to trade in a town] is divided between two different grocers, their competition will tend to make both of them sell cheaper, than if it were in the hands of one only; and if it were divided among twenty, their competition would be just so much the greater, and the chance of their combining together, in order to raise the price, just so much the less.\textsuperscript{\ref{167}}

Apparently, according to Stigler, this is all that Adam Smith has to say about the advantage or disadvantage of few or numerous competitors.

Yet there are some implicit and explicit ideas that run through the concept of competition that may not have been precisely defined in Adam Smith's mind. According to Stigler, too, several other ideas made up the notions that went into the concept of competition. Three specific ones are:

1) Those who undertake the management of economic units must have reasonable knowledge of employment conditions in terms of profit in the various industries. "This equality [of remuneration]" Smith says, "can take place only in those employments which are well known, and have been long established in the neighborhood."\textsuperscript{\ref{168}} On the other hand, the necessary information is readily available: "Secrets . . ., it must be acknowledged, can seldom be long kept; and the extraordinary profits can last very little longer than they are kept."\textsuperscript{\ref{169}}

2) The results of competition are only achieved in the long run. "This equality in the whole of the advantages and disadvantages of the different employments of labor and stock, and take place only in the ordinary, or what may be called the natural state of those employments."\textsuperscript{\ref{170}}

3) Trade must be free. There must be free entry into or exit out of any trade for the economic unit. Examples of such interferences with "free competition are exclusive privileges, corporations which exclude men from trades, and the restrictions imposed on mobility by the settlement provisions of the poor laws."\textsuperscript{\ref{171}}

\textsuperscript{166} SMITH, THE WEALTH OF NATIONS, supra note 117, at 126.

\textsuperscript{167} Id. at 342.

\textsuperscript{168} Id. at 114.

\textsuperscript{169} Id. at 60.

\textsuperscript{170} Id. at 115.

\textsuperscript{171} Id.
In conclusion, Stigler states five conditions of competition espoused by Adam Smith:

1. The rivals must act independently, not collusively.
2. The number of rivals, potential as well as present, must be sufficient to eliminate extraordinary gains.
3. The economic units must possess tolerable knowledge of the market opportunities.
4. There must be freedom (from social restraints) to act on this knowledge.
5. Sufficient time must elapse for resources to flow in the directions and quantities desired by their owners.\textsuperscript{172}

Stigler emphasizes that a modern economist may read more into the above statements than Adam Smith and his contemporaries would, for the modern economist looks at competition in a much more sophisticated way. Adam Smith offered no proof to support his assumptions about competition. The inference is that he probably did not need to because the operative conditions were directly observable. As Stigler says "[e]very informed person knew, at least in a general way, what competition was, and the essence of this knowledge was the striving of rivals to gain advantages relative to one another."\textsuperscript{173}

Stigler concludes, after admitting that he had not made a search of the literature, that one would no doubt find that Adam Smith's concept of competition was not amplified or challenged by any of the classical theorists with the exception of Cairnes. Even his challenge turns out to be debatable. Therefore, for all intents and purposes, the classical theory pertaining to competition was the theory presented by Adam Smith.

\textit{Neo-Classical Theory of Perfect Competition and Classical Theory}

Did the classical theorists have the same theory as the neoclassicists? The literature on classical theory and perfect competition is almost nil. Everything was written with a complete disregard of the classical theory on competition, as if the only theory was pure competition as presented by the neoclassical theorists. Every beginning textbook has the pure competition model of four or five parts. They are: 1) A large number of buyers and sellers. 2) A homogeneous commodity. 3) Buyers and sellers have equal knowledge of market conditions. 4) Free exchanges among buyers and sellers. 5) Ease of entry into and exit

\textsuperscript{172} Stigler, \textit{Perfect Competition}, supra note 165, at 21.
\textsuperscript{173} \textit{Id.} at 2-3.
out of industries. Such a model is, of course, different from the classical model, but it is stated at this time to show that it obviously was derived from the classical theorists' thinking.

Finally, although it has changed somewhat since the classical theorists, competition continues to be a highly important and viable concept in economic thought. Stigler concludes his article by saying: "My fundamental thesis, in fact, is that hardly any important improvement in general economic theory can fail to affect the concept of competition. But it has proved to be a tough and resilient concept and it will stay with us in recognizable form for a long time to come."

VII. PART V OF THE CLASSICAL MODEL: LAISSEZ-FAIRE

Laissez-faire, as a general and systematically expounded doctrine, made its appearance in the eighteenth century. As is usually the case with complex theories, it used ideas from earlier times. It combined the old with the new and constructed an economic method which did not have a previous counterpart.

As we have seen the ideas of "freedom" and "nature" underlie each part of the classical economic model. In the case of laissez-faire, such an assumption is central. The point of laissez-faire is that each individual should be allowed to freely pursue his own goals because an inherent quality in competitive economy makes the common good an important by-product of such a pursuit. Given this, then, the government should function in such a way as to maintain the right of the individual to achieve his purpose. But where individuals acting alone go too far and endanger the common good, then the government must step in to impose restrictions on them in order to act for the good of all. The devisers of laissez-faire were quite firm about allowing every individual a free rein to exercise his abilities in an unrestricted market place because, ideally speaking, society would be protected from any depredations by the protective, built-in pattern of God or nature to deter him from damaging the economic good of the community—which, logically, would include himself.

The previous discussion of private property centers on freedom, especially from the point of view of individual and common rights, and nature from the standpoint of Natural Law. These two positions are entirely satisfactory for the discussion of laissez-faire. A brief reference might be made to them and then the rest of the discussion might center

174. Stigler, Perfect Competition, supra note 165, at 17. For further comments on the meaning of competition, see McNulty, A Note, supra note 156, at 398.
primarily on the role of government as overseer of laissez-faire policy. But such a discussion seems to deny to laissez-faire some of its most pervasive and important ideas. Some of these ideas should be included here: first, because each part of the classical economic model should stand by itself as much as possible; second, the emphasis on "freedom" and "nature" as they apply to property is somewhat different from the model (even though the base is the same); third, although there may be some repetition (for example, a short discussion of Lockean egoistic ideas), generally the material will derive from different and very "invigorating" sources that have clearly influenced laissez-faire policy.175

Although much of the theory of laissez-faire had its origin in Aristotle and the Stoics and in medieval theology and philosophy, its emergence in roughly modern form occurred in the writings of the more immediate predecessors of Adam Smith who greatly influenced him. It is their ideas and those of the classical theorists who followed him that will now be discussed.176

A. The Legacy of Laissez-Faire

Egocentric Man

Thomas Hobbes's "Leviathan"177

Thomas Hobbes (1588-1679) lived during a chaotic time in English history when wars and revolutions were constant occurrences. From these events he learned two lessons which he stresses in his political writings: 1) where there is no government, anarchy will prevail in the relations of men with each other and, 2) such anarchy can only be prevented if the government has enough strength to suppress any dispute among its citizens. Taken in conjunction, these points led him to the conclusion that the sovereign must be given absolute authority, and that this is the only alternative to life in a state of social upheaval.

This basic outline of Hobbes's philosophy in Leviathan does not seem to advance man's individual freedom. But Hobbes's philosophy


was based upon a theory of human nature which is fundamental to his political thinking. According to Hobbes, man is by nature a selfish and egoistic creature. He is motivated by internal and private desires which require satisfaction if he is to be happy. His conduct is explainable, in the final analysis, by uncovering his motives, and these in turn are always found to be directed toward the satisfaction of private wants, such as the desire for food, sex, fame, money, and power.

In order to focus on this point, Hobbes begins *Leviathan* by describing life as it was before societies came into existence. He portrays a state of war. Life, "red in tooth and claw" as Tennyson described nature, is a war of each against all.

Obviously such a state of affairs cannot continue if men are to survive. Recognizing this, they agree among themselves to erect and abide by a set of rules which serve to govern their conduct. This agreement, or "covenant" as Hobbes terms it, explains the origin of society. It develops from the recognized need for peace. At the same time, this covenant creates a government to secure tranquility and to enforce the rules that will bring about such a condition. This implies that the power of enforcement be vested in an agent who is outside the fabric of society. Such an agent becomes a sovereign. And, if he is to be effective in maintaining social order, his authority must be absolute.

Most theorists assume that Hobbes's theory tends toward totalitarianism. Others feel that it does not necessarily do so. "Beyond its policing functions the state [that Hobbes proposes] need not be an active or meddling or planning state." 178

The point Hobbes makes is that man is by nature an egoistic, self-centered person. 179 This observation greatly affected the thinking of the seventeenth and eighteenth centuries.

*John Locke*

The theory of John Locke (1632-1704), as it pertains to the individual's relation to the state and the state to him, is contained in his *Two Treatises of Government*, discussed in the section of the classical model on property. 180 It will be sufficient to repeat briefly the conclusion to which Locke comes:

180. *Locke, Two Treatises*, supra note 15; see also text and accompanying notes 51-55.
First, the foundation of his theory is that individuals have a natural right to life, liberty, and estate. Second, men are members of a community. Though Locke explains that society depends on the consent of the majority, he expresses his belief that the community is a specific unit and the trustee of individual rights. Third, in addition to society there is government, which is the trustee for the community just as the community is for the individual. Fourth, the legislature is the most important part of government. The executive has a lesser role.

The central theme of John Locke's theory concerns the natural rights of each individual. The great difference, as it applies to the individual, between Hobbes and Locke is that Hobbes looks at men as selfish and warlike, while Locke looks at them as good and loving. Locke is aware, however, that strife does exist in the natural state but it is this quite unsatisfactory condition that causes men to come together to establish a social contract.181

Bernard Mandeville—"Fable of the Bees"

Bernard Mandeville (1670-1733), a contemporary of Locke, was a Dutch physician who in his youth had settled in England and from its shores "scandalized" the world with his marvelous satire entitled The Grumbling Hive or, Knaves Turn'd Honest published in 1705 and subsequently republished in 1714 as The Fable of the Bees: or Private Vices, Public Benefits.182

His work was written as an allegorical poem. In it Mandeville declares that it is the vices of society, such as ambition, greed, and pride, which advance it in power and wealth. It describes the adventures of a hive of bees which originally were wicked but prosperous, later reforming their morals only to become poor. As honesty triumphs over the common vices of pride and envy, the driving need for luxuries to gratify one's palate and passions diminishes. Thus, industry and trade decline and what was once a flourishing society, founded on a healthy and natural human selfishness, in a short time becomes vulnerable to its enemies. Finally, decimated in battle, the bees that are left retreat to a hollow tree to lead temperate, frugal lives "Blest with content and honesty." By giving up their vices, the bees sacrifice their "progressive" civilization. The moral of the story is: Do not indulge the utopian long-

181. DUNN, THOUGHT OF JOHN LOCKE, supra note 97; J. MABBOTT, JOHN LOCKE (1973); J. GOUGH, JOHN LOCKE'S POLITICAL PHILOSOPHY (2d ed. 1973); M. SELIGER, THE LIBERAL POLITICS OF JOHN LOCKE (1969); STRAUSS, POLITICAL PHILOSOPHY, supra note 66.

ing for a society which is free of vice, for, “Fools only strive/To make a
Great and Honest Hive.”183

Mandeville’s ideas effectively stated that we either indulge our
passions directly or we skillfully disguise them, but our behavior is fun-
damentally based upon our overt or latent egoism. If allowed to seek its
own ends, society would become vigorous and successful in the worldly
sense.

The three theorists, Hobbes, Locke, and Mandeville, have emphat-
ically stated the egoist position. They have taken the stand that there is
a pattern to which all human action conforms. Hence, all human action
other than mere reflex is motivated by a person’s desire to promote
their own advantage or interest, whether or not at the expense of others.

Invisible Hand or Encompassing Pattern

Francis Hutcheson

Another theorist, Francis Hutcheson (1694-1746), was Adam
Smith’s professor at Glasgow College.184 “The never-to-be-forgotten
Dr. Hutcheson,” as Adam Smith eulogized him in 1787, was a major
influence on Smith’s intellectual outlook. Hutcheson was a follower of
the Third Earl of Shaftesbury (1671-1713) and, like Shaftesbury, who
identified private virtues with public benefits, he saw the origin of the
idea of beauty emanating from nature’s order and harmony existing
within its infinite variety. What is it that is experienced through the
observer’s moral sense as being morally good? Hutcheson’s answer was,
benevolence. Hutcheson maintained that men are not motivated by
self-interest entirely but have in their natures a spontaneous and pure
benevolent feeling toward their fellows with no thought of a resulting
benefit to themselves.

It is, therefore, from Hutcheson and the British tradition of moral
philosophy that Adam Smith acquired the concept of “a providential
order of the universe in which man is but an instrument of the Author
of Nature, promoting ends that are not of his intention.”185 The idea of
benevolence, however, Adam Smith declined to accept.

The basic concept of the eighteenth century was that natural law
combined with the overall principle of reason which ordered the world

---

183. Id. at 36.
184. For a discussion of Hutcheson’s philosophy and influence on Adam Smith, see J. RAE,
LIFE OF ADAM SMITH (1895); SMITH, THE WEALTH OF NATIONS, supra note 117 at xli-li; Viner,
Intellectual History, supra note 175, at 58-59; SCOTT, THE DEVELOPMENT, supra note 176, at 62; C.
185. SPIEGEL, THE GROWTH, supra note 112, at 231.
and controlled the men who acted in it seeking through rationality a knowledge of God’s will, often called the “invisible hand.” Shaftesbury and Hutcheson were two theorists who accepted this idea and attempted to propagate it.

The Physiocrats and the Early Formulation of Laissez-Faire

The physiocrats arrived at the early formulation of laissez-faire. The physiocrat DuPont attributes to Gournay (a French businessman) the origin of the famous maxim, “Laissez-faire, Laissez-passer,” which Gournay seems in fact to have popularized. But the study of Turgot’s Eloge de Gournay suggests that the expression Laissez-faire was really due to LeGendre, a merchant who served in a deputation to Colbert about 1680 to protest against excessive state regulation of industry and pleaded for liberty of action in the phrase Laissez-nous faire.186

Laissez-faire As Interpreted by the Physiocrats

In time the phrase laissez-faire signified to the physiocrats an entire doctrine. Into it the physiocrats blended Hobbesism, Cartesian realism, and their own fresh ideas of coordinating free competition.187 Their conclusion was that there “was a providential harmonious and self-operating physical order of nature, which, under appropriate social organization and sound intellectual perception, could be matched in its providential character, in its automism, and in its beneficence, in the social order of nature.”188 Through education, they believed, this would become evident to all men. Rationality, achieved through education, would lead these men then to equate social interest with their own proper behavior since both would be necessary to realize “the good life.” It was the economists’ role to perceive and to make known to the government this doctrine so that the government would suppress inconsistent action on the part of malicious individuals or monopoly groups.189 They would benevolently propagate self-interest through enlightened despotism.190

188. Viner, Intellectual History, supra note 175, at 59.
189. Id.
B. Classical Laissez-faire

Adam Smith

Synthesis of Three Ideas

Adam Smith, in his *Wealth of Nations*, pulled together the above ideas: first, egocentric man selfishly promotes his own self-interest; second, an "invisible hand" channels men's actions so that in effect they are for the good of society *in toto*; third, government will function positively in order to remove hindrances to man acting egocentrically.

It is obvious that the physiocrats already had pulled these ideas together. But Adam Smith made a clearer analysis of the theory and changed it in two major respects—the government he advocated was a free government and further, some economic actions could not be done by individuals. Adam Smith recommended positive government action in such areas.

The doctrine of laissez-faire became one of the major themes of classical economic theory, although Adam Smith never used the phrase "laissez-faire" in his book. It was not until 1848, when John Stuart Mill used the phrase in the title of one of the sections of his book *Principles of Political Economy*, that it became widely used by classical theorists.

Adam Smith interpreted laissez-faire to mean:

1) **Egoistic man.** Man was an egoistic being whose prime psychological drive as an economic being is the drive of self-interest. (Derived from Hobbes, Locke, and Mandeville, above).

A famous passage from *The Wealth of Nations* expresses this concept very well:

> 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 interests. 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...  

191. A. Jenkins, *Adam Smith Today: An Inquiry Into the Nature and Causes of "The Wealth of Nations," Simplified, Shortened and Modernized* 16 (1948). The reference is to Jenkins' introduction where he affirms that Adam Smith does not use the term laissez-faire in *The Wealth of Nations*. Moreover, Jenkins says that Adam Smith was against laissez-faire, but Jenkins interprets laissez-faire as meaning no government intervention whatsoever. But where laissez-faire means limited government intervention, then Jenkins agrees that Adam Smith entertained such thinking. He says that Adam Smith "specifically lists cases where intervention of the state is beneficial, and even essential to justice and prosperity." *Id.* at 16.


2) **Invisible hand.** An invisible hand leads men to promote social benefits which he has no conscious intention of advancing. (Derived from Shaftesbury, Hutcheson, and the Natural Law theorists, above).

   In *The Wealth of Nations* the concept is presented in this way:

   He [the individual] generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such manner as its produce may be of 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 worst for the society that is no part of it. By pursuing his own interest he frequently promotes that of 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.\(^{194}\)

3) **Government's role in maintaining "the invisible hand" and limiting positive activities.** The Government's role, through its Hobbesian monopoly of power, was to maintain the "evident" doctrine and to suppress inconsistent and hostile action on the part of ignorant or malicious individuals or groups or nations.\(^{195}\) (Derived from the Physiocrats). Certain positive functions, moreover, which cannot be practically accomplished in any other way, will be undertaken by a free government.

   It should be noted that, pertaining to the positive action of government, Adam Smith intended a relatively free government restricting men's actions, whereas the physiocrats were interested in an enlightened despot doing so. In that respect, Adam Smith's concept of laissez-faire differed from that of the Physiocrats. In all other respects it was essentially the same.

   In a deliberate and comprehensive generalization, Smith made it abundantly clear that he would narrowly restrict the activities of government. He says, "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: . . ."\(^ {196}\) Then he enumerates them:

---

194. *Id.* at 423.
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; . . . 197

Smith does not elaborate much on each of these functions. It seems appropriate, nevertheless, to briefly go into more detail on the second function. Jacob Viner includes in this function, gathered from Adam Smith’s writings and lectures, these basic parts: a) punishment and enforcement of redress; b) preventive measures to give security against the perpetration of dishonesty, extortion, and violence; c) enforcement of contracts; d) a law obligating masters to pay wages in money rather than in kind to protect workers against fraud; e) protecting slaves against violence of their masters; and f) regulation of paper money banking. 198

At this juncture, it should be stated that Adam Smith and the others of the classical school had little trust in the competence or good faith of government. Hence, they preached the doctrine of laissez-faire but, as is obvious from the above, they never preached the dogma of no government intervention. Laissez-faire meant government support of a society which fostered the egocentric economic man who was guided by the invisible hand. It made allowance for limited but sound government intervention where individuals could not themselves operate effectively.

John Stuart Mill: Interpretation of Laissez-faire
by the Classical School

John Stuart Mill, one of the last classical theorists, in the chapter entitled “Of The Functions of Government in General” in his book, Principles of Political Economy, classified the functions of government and the exceptions made to the laissez-faire principle. 199 In another interesting chapter, entitled “Interference of Government Grounded on

197. Id.
Erroneous Theories,” he attacks government interference that he feels is unwarranted because such intervention may be based on incorrect theoretical assumptions.

Then, in the most famous chapter on laissez-faire, entitled “The Grounds and Limits of the Laissez-Faire on Non-Interference Principle,” he discusses the free agency of individuals and the government’s relation to this freedom.

Most of the classical theorists discussed laissez-faire because it was so central to classical economic theory. So does Mill. Mill’s work on laissez-faire was the most famous produced by the later theorists and thus is briefly mentioned in this article. Basically, other than differences of opinion as to what in particular the government ought to do, the classical theorists made few changes from Adam Smith’s theory with one exception. After Adam Smith, the classical theorists secularized the classical doctrine and thus dispensed with the appeal to an “invisible hand” to bolster up the argument that man acted in his own interests and would at the same time serve the community well. Instead, they attributed the socially beneficial behavior of individuals not to the rationalistic perception by those individuals that the common good was also their own private good, but to an inherent quality in competitive economic behavior which made the common good an incidental and not a deliberately sought by-product of the pursuit by the individual of his own particular interest.

The final meaning of laissez-faire to the classical economic theorists was:

1) Man is an egoistic being whose prime psychological drive as an economic being is the drive of self-interest.

2) There is an inherent quality in the competitive economy which makes the common good an incidental by-product of the pursuit by the individual of his own particular good.

3) A free government will maintain the rights of the individual to act for his own selfish interests by essentially not acting but, at the same time, it will function in those areas in which it is not feasible for anyone but government to act, for example, national defense, jurisprudence, education, and so on.
VIII. PART VI OF THE CLASSICAL MODEL: HOUSEHOLDS HAVE FREEDOM OF HOUSEHOLD CHOICE AND FIRMS HAVE FREEDOM OF ENTERPRISE

It is important at this point to remind the reader of the two structural assumptions holding up the classical model: that men have freedom and that they are guided by the rational forces around them. Although in the other sections the two assumptions are important, in this section the discussion will stress them in some detail. These assumptions have been looked at politically in other sections, but in this section they must be looked at from the standpoint of economics.

The two major actors in this section are the consumer and the producer. Economically, the consumer has buying power and earning power. Thus, this section discusses the rights of individuals to purchase goods and to seek jobs so that purchasing power (money) can be earned. The producer is the corporation. Economically, the producer has rights to decide what, how, when, and where to produce goods. These questions relate to the corporate purchasing power in terms of buying land, materials, and so on, in order to create goods which are sold in order to make profits, and thus create earning power in order to stay in business.

The essence of this section, then, is the economic relationships of consumers and firms in a free economic society.

A. Household Choice

Freedom of Consumer Choice

Let us begin with households then. Here begin in various social complexes consumer purchase rights. The right to buy goods available for purchase (assuming that their purchasing power is sufficient) is freedom of consumer choice. This right may be strictly limited if the society places restrictions on purchasing power, such as allowing only the nobility to purchase certain goods (sumptuary laws), or, in modern times, has rationing (which occurred in England and the U.S. and other countries during World War II) or, if people are doled out goods in predetermined amounts (as happened in Russia during the period of the Bolshevik Revolution) or, if certain goods are not allowed to be produced or imported because the state decides they are unnecessary.

(as in Russia, where chewing gum was not allowed to be produced or imported, at least through 1965).

Hence, the classical economic theorists felt strongly that, in the free economic society they were espousing, the consumer should have the right to purchase any goods on the open market without interference by government or any other source.

**Freedom of Job Choice**

The right of individuals to freely accept any job within the limits of their abilities and to quit any job and move to another is freedom of job choice. In most societies, this freedom has limitations because of professional degree requirements, restrictions imposed by labor groups, military service and so on. Some of these requirements are assumed to be necessary, in order to protect people against incompetence, and to protect the nation from attack. Such limitations are minor compared to the limitation in many societies where job choice is almost totally non-existent. In India, for example, the caste system for centuries did not permit job choice. Under the European feudal system of the Middle Ages, many were tied to the land as serfs and for all intents and purposes existed in a caste system or one of modified slavery. In some totalitarian countries today, people do not make job choices but the state makes the choices for them in various prescribed ways.

The right to quit a job and find another allows people to improve their earnings and thus adds to the competitive structure of society since workers can be lured to other industries and jobs by higher wages. In India, under the old caste system, not only was the job chosen for an individual based upon his father's job, but no person, except with great difficulty, could leave his predetermined job. If there was a change, it had to be within the jobs available horizontally in that caste structure. A person could never leave the particular caste he was born into and go up a caste or two.

In the feudal system, which the classical theorists were fighting against, the serf was tied to the land and had nowhere else to go. And in many totalitarian societies today, the job in which the state places a person cannot be left very easily, if at all.

Thus the classical theorists were convinced that in a free economic society the consumer-laborer had the right to choose his own job as well as the right to quit that job and seek another that would give him more money. In effect, the classical theorists proposed labor mobility. Competition, therefore, would operate freely among corporations.
They would acquire labor on a competitive basis by offering higher wages. This, however, did not necessarily mean vertical mobility into the upper leisured classes, just horizontal mobility among the laboring class itself. (This topic will be discussed in more detail in the later sections on labor).

B. Firm or Corporate Choice

Freedom of Enterprise

A business enterprise is an economic entity which functions within society. In the classical theorist’s day, the business enterprise was small and the head of it was an individual or a small group of individuals, later called entrepreneurs, who promoted and ran the business. The concept of the classicists was that the firm should be completely free to acquire the resources it wanted and could pay for, to use any available technology, to produce any goods, to sell them at any price in the competitive market, and to invest profits in any way it pleased. If these economic rights should be allowed in the society within which it functioned, then there was freedom of enterprise. Adam Smith expresses the position well:

What is the species of domestic industry which his capital can employ, and of which the produce is likely to be of the greatest value, every individual, it is evident, can, in this local situation, judge much better than any statesman or lawgiver can do for him. 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, 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.

Further, Adam Smith presents the position again, with an even stronger message:

All systems either of preference or of restraint, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as

---


long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which, he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient: the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of the society.\textsuperscript{203}

In reality, there are limits to the business organization’s doing as it pleases. Many regulations, such as zoning laws, building codes, provisions in the corporate charter, and so on, may be restrictive. The classical theorists recognized that there would be some restrictions on the business organization’s movement, but they advocated as little interference as possible by government or any power coalition.

Freedom to Create New Economic Institutions

Grossman presents this concept in terms of today’s corporation, but it seems valid for the classical theorists’ model in a limited sense. By advocating a free society, they, as a corollary, advocated competition. It would be entirely logical to assume that some variations in the corporate way of conducting business would be allowed in order to meet new demands from competition within their own ranks. But for these institutions to make substantial changes in their structure and in their ways of doing things would not be in line with classical thought. The classical economic theorists in their day were revolutionaries who propagated a new system but they were not revolutionaries who looked to the future, to an evolving system which would differ from what they propagated. Theirs was the scientific “natural” system which obeyed certain fundamental laws, and, as far as they were concerned, there were no others.

Thus, they would allow some innovations which were basically within the system and consequently only variations, but they could not think in terms of radically new ideas. Theirs was the idea.

With the passage of time this idea has assumed a popular name, “free enterprise.”

\textsuperscript{203} Id. at 65.
IX. PART VII OF THE CLASSICAL MODEL: PRICES MOVE FREELY

Classical economic theory as initiated by Adam Smith owes much to its predecessors. In this instance, the central ideas of price, supply and demand, and equilibrium were not new when Adam Smith wrote *The Wealth of Nations*. But placing them into such a central position in the classical economic model, along with competition, and causing price to become the regulator in a free economic society, was quite revolutionary.

Price in a free, decentralized economic system is the regulatory mechanism. This is Smith's thesis as it pertains to price.204

Smith begins his famous chapter "Of The Natural and Market Price of Commodities" in *The Wealth of Nations* by saying that in every society or neighborhood there exists an average or ordinary rate of wages, profits, and rents which is "natural" with respect to the time and place it prevails.205 Therefore when a commodity sells for a price which is high enough to compensate the worker, the landlord, and the owner of stock at the "natural" rate, the commodity is being sold at its "natural price." "The commodity," he states "is then being sold precisely for what it is worth."206 But this does not mean that the commodity will always sell for its natural price. There will be changes in demand for and supply of the commodity that will cause the market price to rise above or fall below the natural price. The deviation from the natural level will generally be corrected because supply will change to suit the demand which will cause the market price to rise or fall, as the case may be, until it returns to the natural price. Smith states it in this way:

The natural price, therefore, is, as it were, the central price, to which the prices of all commodities are continually gravitating. Different accidents may sometimes keep them suspended a good deal above it, and sometimes force them down even somewhat below it. But whatever may be the obstacles which hinder them from settling in this center of repose and continuance, they are constantly tending towards it.207

204. This section is heavily indebted to E. Heimann, HISTORY OF ECONOMIC DOCTRINES: AN INTRODUCTION TO ECONOMIC THEORY (1944) [hereinafter cited as HEIMANN, ECONOMIC DOCTRINES]; M. Blaug, Economic Theory in Retrospect (rev. ed. 1968) [hereinafter cited as BLAUG, ECONOMIC THEORY IN RETROSPECT]; Rima, Economic Analysis, supra note 190.
206. Id.
207. Id. at 58.
Hence, Smith sees the long-term natural price as a long-term equilib-
rium price which tends always to be reestablished as a result of short-
term adjustments of supply and demand.

For Smith, demand and supply were not thought of in the sched-
uled sense that we think of them. He thought of supply and demand as
a willingness of the participants in a market to buy or sell at a particu-
lar price rather than at various prices. He looked at the market price as
being restored to the natural price level when short-run shifts occurred
in the supply schedule. When he says that the "quantity" of a com-
modity is too small to meet the "effectual demand," and the market price
rises above the natural price, he means, in modern terms, that there is
an upward shift in the supply curve. On the other hand, when the sup-
ply is larger than the demand, the market price will drop below the
natural price since, in modern terms, the supply curve will shift down-
ward. The market price is equal to the natural price only when the
quantity brought to market is enough to meet the demand. In
Smith's words: "When the quantity brought to market is just sufficient
to supply the effectual demand and no more, the market price naturally
comes to either exactly, or as nearly as can be judged of the same natu-
ral price." Consequently, for Smith, the interaction of demand and
supply under competitive conditions determined prices in the short run;
the natural price, however, was a long-run price that was independent
of demand forces. This natural price was conceived as determined by
the costs that were incurred on the supply side of the market. These
costs were not affected by the rate of output because it was assumed
that they were constant. This means that the "natural" position around
which price fluctuates is cost. Anything above cost is profit. Anything
below cost, of course, is loss. Cost is totalled by adding up the pro-
ducer's labor, materials, tools, rent, and use of capital (interest).

It is important to recognize that competition is the indispensable
condition of natural price. When price and profit rise then expansion of
output will soon follow. But not all those who produce goods will re-
spond the same. Many outsiders will be lured in by the high profits.
The rise in expansion will mean more goods and the demand will
lessen with the resulting lowering of prices and profit. Sometimes there
will be a natural scarcity or a legal advantage and a monopoly will thus
arise. The prices will therefore be maintained above their natural

208. RIMA, ECONOMIC ANALYSIS, supra note 190, at 77.
210. HEIMANN, ECONOMIC DOCTRINES, supra note 204, at 66.
rate.211 As Smith expresses it: "The monopolists by keeping the market constantly under-stocked, by never fully supplying the effectual demand, sell their commodities much above natural price, and raise their emoluments, whether they consist in wages or profits, greatly above their natural rate."212 It is obvious that an advocate of free competition, like Smith, was very much against monopolies.

Price is the manifestation of value. And Smith does talk about value in this chapter. For centuries the distinction has been between value in use and value in exchange. Value in exchange is what corresponds to natural price. Smith says that value in use is a precondition of exchange value, because things would have no exchange value if they had no value in use. The problem is that value in use does not always have value in exchange or price.213 Smith saw what had been contrasted by such writers as Locke, Law, and Harris, that useful things such as water or bread are cheap while less useful things such as diamonds are expensive.214 The point is, though, that the usefulness of a commodity will not always determine the price. The conclusion was that the relative scarcity of the commodity will determine the price regardless of the usefulness of the article. And the relative scarcity is governed in the short run by demand and supply; in the long run by the cost of producing the article. Blaug explains the problem of the eighteenth-century theorists when he says: "This curious belief that only the short-run or current price of a commodity is the province of the forces of demand and supply is very characteristic of 18th century economics, and it is a belief that survived until the marginal revolution."215

The gist of Adam Smith's argument on price can be summarized in two propositions:216

1) Price is determined by the ratio between demand and supply, and rises and falls with that ratio. The analysis of demand had not yet been made; thus the eighteenth-century thinking on demand was that it is of a given magnitude at any moment and may change in time. Later on demand was understood as a schedule, meaning a readiness to take more commodities at a lower price and few commodities at a higher price, but that was an unknown factor at this time. Also considered as given or assumed in Smith's theory is the short-run supply. Conse-

211. Id. at 66-67.
213. HEIMANN, ECONOMIC DOCTRINES, supra note 204, at 67.
214. BLAUG, ECONOMIC THEORY IN RETROSPECT, supra note 204, at 43.
215. Id. at 43.
216. HEIMANN, ECONOMIC DOCTRINES, supra note 204, at 65-66.
quently, the ratio rises when the demand is higher or the supply lower, and it falls when the opposite pertains. This ratio is what determines “market price.”

2) If the price of a commodity rises, then there is an increase in the gain to be made by its sale and this encourages an increase in output. When prices fall, there is a loss to the seller and it is very difficult, psychologically and monetarily, to continue to produce at the former level. Therefore, the ups and downs of the market price, which are but reflections of the fluctuations in demand for a particular commodity, stimulate a corresponding contraction or expansion of output. In this way, the previous ratio of demand to supply is regained on a different level of absolute numbers and the previous price is restored. Price, therefore, in a free decentralized economic system, is the regulatory mechanism.

*Other Classical Theorists*

Generally, the classical theorists followed Adam Smith’s analysis of price theory. Much of what Adam Smith analyzed had been known for some time. The general principles of supply and demand had been developed earlier, but Adam Smith gave them an honored place in a free market system with price ending up as the regulator. There was a good deal of discussion of Ricardo and Mill on monetary and price theory but little change from Smith’s thinking. Perhaps the most important changes were made by his disciple, Jean-Baptiste Say, in what is now called “Say’s Law.” It is a monetary theory that extends Smith’s thinking but does not change the underlying thesis of classical theory as presented by him, although it was a significant contribution to classical theory.

It was after classical theory and the rise of Marshall and the neoclassical theorists when many changes were made in the classical price theory during the late nineteenth and early twentieth century.
X. PART VIII OF THE CLASSICAL MODEL: THE MARKET MECHANISM COORDINATES PRODUCTION AND DISTRIBUTES INCOMES

A. Production

Historical Background of Wealth and Production

Nature of Wealth

The first problem is to determine the nature of "wealth" which is the subject of production and distribution. Unlike the mercantilists, Adam Smith attacked the notion that gold and silver were the primary measures of wealth. Smith, and essentially all of the classical theorists, assumed the existence of private property and the practice of exchange. Wealth, to them, was the annual produce of the "real wealth" of a nation, that is, original revenue and derived revenue. Original revenue is equal to the wages of productive labor, rent of land, and profits of stock. Derived revenue is equal to the wages of unproductive labor and rent of houses. Needless to say, many theorists, including some of the classical theorists, disagreed with these definitions. Nevertheless, they serve as reasonable definitions of some of the classical theorists. After Adam Smith, wealth and its sources became an important part of political economic theory.

Production Equals Labor, Capital, Land

English economic treatises are commonly divided into several sections, two of which are generally entitled "Production" and "Distribution." Before Smith's time they were not used as technical economic terms. The practice of ascribing production to the cooperation, concurrence or joint use of three great agents, instruments or requisites of production, Labor, Capital, and Land, apparently originated in Adam Smith's division of the component parts of prices into wages, profit, and rent. The next obvious step was to say that the revenues of the community are produced by labor, capital, and land. J. B. Say was the first to employ these terms. Torrens follows him and J. S. Mill uses the first two and only subsequently adds a description of the third. Consequently, not until as late as 1848 did the use of Say's terms become entirely clear. That production equalled labor, capital, and land, how-

217. The material for this part of the classical model is primarily based on E. Cannan, A History of the Theories of Production and Distribution in English Political Economy from 1776 to 1848 (1955) [hereinafter cited as Cannan, Theories of Production].

218. Id. at 1-25.
ever, slowly began to be realized as an economically important distinction. Eventually, it became central to economic thought.

Labor

Adam Smith says that the great increase in the productiveness of industry results from the division of labor, which

is owing to three different circumstances; first, to the increase of dexterity in every particular workman; secondly, to the saving of the time which is commonly lost in passing from one species of work to another; and lastly, to the invention of a great number of machines which facilitate and abridge labour and enable one man to do the work of many.”219

There was a lot of disagreement among subsequent followers of Smith about these “circumstances.” Some even added to them. M'Culloch in his Principles gave as the “first and most indispensible of the means by which the productive powers of labor are increased” the “security of property” and “cooperation.”220 J. S. Mill agreed with M'Culloch and enumerated three other causes for labor, capital, and land being of superior productiveness, namely, “greater energy of labor,” “superior skill and knowledge” and “superiority of intelligence and trustworthiness in the community generally.”221 Most theorists, nevertheless, agreed on Smith's division of labor but felt there was more that remained to be developed out of it. The general thesis of all, though, is that man is like a machine. If we observe carefully and objectively, we will find what makes a rational man under the classicists' system appears to be an automaton.

Capital

1) Origins of the capital of a community. According to Adam Smith, a man's stock or capital-wealth may be divided into the part which he invests in a business intended to bring in a money return and the part which he retains for his own use.222 The first part is “capital.” He divided an individual's capital into two parts: circulating and fixed. Circulating capital is employed in growing produce, manufacturing or purchasing goods and selling them again at a profit. Fixed capital is employed in the improvement of land, purchase of useful machines or

220. Cannan, Theories of Production, supra note 217, at 40.
instruments of trade, or in such things that yield a revenue or profit without changing masters. In effect, it becomes frozen capital.

As for the stock of the community, Smith divides the whole of it into three portions: one, the reserve for consumption, two, the fixed capital, and three, the circulating capital. A brief explanation of each is in order:

First, the reserve for consumption consists of "the stock of food, clothes, household furniture, etc., which have been purchased by their proper consumers, but which are not yet entirely consumed, [and of] the whole stock of mere dwelling-houses too subsisting at any one time."\(^{223}\)

Second, the fixed capital consists of "(a) useful machines and instruments of trade, (b) profitable buildings which are the means of procuring revenue, (c) improvements of land [and] (d) the acquired and useful abilities of all the inhabitants or members of the society."\(^{224}\)

Third, the circulating capital consists of "(a) money, (b) provisions in the possession of sellers (c) materials and unfinished goods in possession of the makers, and (d) finished goods in the possession of makers, merchants, or retailers."\(^{225}\)

2) The functions of the capital of a community. When it comes to the functions of the capital of the community, Adam Smith endeavors to show that the accumulation of capital is necessary in order to enable exchange and division of labor to flourish. He shows, with some vigor, that if there were no such trade as that of a butcher, every man would be obliged to purchase a whole ox or a whole sheep every time he wanted beef or mutton.\(^{226}\) So if men lived in isolation from one another, not putting into practice all exchange of goods, the stock of cattle and sheep would have to be enormously increased in order to give an equal result.

Smith ascribes different functions to fixed and circulating capital. To him, machines typically represent fixed capital. The machines which constitute part of the capital of the nation are highly useful because they enable labor to produce quickly and easily.

But it is circulating capital which puts industry into motion. The amount of industry must remain the same if the capital remains the same. But an increase in capital of a country increases the quantity of industry and a decrease in its capital decreases the quantity of industry.

\(^{223}\) Id. at 264-66.
\(^{224}\) Id.
\(^{225}\) Id.
\(^{226}\) Id. at 342.
In addition, Smith argues that circulating capital consists of those goods that yield a return to their owners by being sold. This is in contrast to fixed capital goods which take part in the productive process without changing hands. The fundamental characteristic of circulating capital is that it embodies a quality of purchasing power that always returns to the owner as he disposes of it.\textsuperscript{227} Since fixed capital was defined as not only including implements and buildings, but also human capital, that is, the capital value of the abilities and habits of all members of the society, then capital stands for produced means of production and the acquired skills of workers are surely “produced” by means of material resources.

Smith’s major point then becomes clear. It is that accumulation of capital is necessary if the exchange of goods and the division of labor are to flourish. Smith goes on to show how each of the three stocks of the community help considerably in keeping it flourishing.

In general, Adam Smith’s successors, Mill, Malthus, Ricardo, M’Cullock and J. S. Mill, followed his views on capital.

\textit{Land}

1) \textit{Land in general.} David Hume said that, “[E]verything useful to the life of man arises from the ground.”\textsuperscript{228} It has always been recognized that land is a requisite of production. Productiveness of industry depends upon the quality of the land, that is, fertility of the soil, accessibility to minerals, richness of fisheries, and so on. Smith, and the rest of the classical theorists, accepted Hume’s statement without question.

2) \textit{Population.} In the seventeenth and eighteenth centuries, most writers on economics declared that it was desirable to have an increase in population. Smith agreed with the general consensus when he said: “The most decisive mark of the prosperity of any country is the increase of the number of its inhabitants.”\textsuperscript{229} Most writers such as Vauban, Joshua Gee, and Palen agreed.\textsuperscript{230}

In 1798 Malthus wrote \textit{An Essay on the Principle of Population As It Effects The Future Improvement of Society.}\textsuperscript{231} He had been disputing with his father the general question of the improvement of society, and had determined that the necessary checks to the growth of population

\textsuperscript{227} Based on Smith’s analysis, later writers thought of circulating capital only in terms of money, an error which seriously affected the theory of capital for many years.

\textsuperscript{228} Hume, \textit{Of Interest}, in DAVID HUME: WRITINGS ON ECONOMICS 51 (Rotwein ed. 1970).

\textsuperscript{229} SMITH, THE WEALTH OF NATIONS, \textit{supra} note 117, at 70.

\textsuperscript{230} CANNAN, THEORIES OF PRODUCTION, \textit{supra} note 217, at 97-102.

\textsuperscript{231} T. MALTHUS, AN ESSAY ON POPULATION (P. Appleman ed. 1976).
could be used as an argument against the possibility of society ever arriving at the state of perfection that was argued by William Godwin and Condorcet. All the checks on the growth of population, he argued, necessarily produce misery or vice; thus, if the checks are always necessary, then vice and misery will always exist and perfectibility becomes impossible. Such was the argument contained in the first edition of his book.

In the second edition, entitled An Essay on The Principle of Population; Or, A View of Its Past and Present Effects on Human Happiness,\textsuperscript{232} Malthus argued a bit differently from the first edition. The question then was not, as it is today, a question of density of population and productiveness of industry; it was a question concerning the comparative rapidity of the increase of population and the increase of the annual production of food. Malthus did not think that checks on the growth of population were made necessary by the population having approached or exceeded some economic limit, but simply by the impossibility of increasing the annual production of food as fast as an unchecked population would increase. The reason for this conclusion was, he argued, that when left unchecked the population would increase in a geometric ratio. On the other hand, subsistence increases only in an arithmetic ratio. It can readily be seen that the smallest sum accumulating at a geometric rate eventually grows much larger and faster than the largest sum accumulating at an arithmetic rate. His conclusion was that the earth could not feed a burgeoning population.

Malthus was one of the classical theorists and his theory of population became an important part of their production theory. Not all of the classical theorists agreed with his conclusion, but they agreed that the problem had to be dealt with.

3) \textit{Law of diminishing returns}. The year 1815 saw the appearance of four publications by West, Torrens, Malthus, and Ricardo. Each one independently formulated a theory of differential rent, and each reacted to a recent fall in grain prices. The underlying explanation, according to the four, was the law of diminishing returns, that is, as West put it, "[T]he progress of the improvement of cultivation the rising of crude produce becomes progressively more expensive."\textsuperscript{233} He continued, "Each equal additional quantity of work bestowed on agriculture yields an actually diminished return . . . . Where it is obvious that

\textsuperscript{232} T. MALTHUS, \textsc{Essay on the Principle of Population or a View of Its Past and Present Effects on Human Happiness}, (7th ed. repr. of 1872 ed.).

\textsuperscript{233} BLAUG, \textsc{Economic Theory}, supra note 204, at 80-89.
an equal quantity of work will always fabricate the same quantity of manufactures." One would assume from West’s formulation of the principle that it only holds true for a given state of technology, but all four theorists thought that returns in agricultural activity actually do diminish in time in spite of technological change.

The “law” of diminishing returns became a part of classical theory after these four theorists published their views. The problem of defining exactly what was meant by diminishing returns was not really treated in depth until the twentieth century and even then with mixed results.

B. Distribution

The Idea of Distribution

Historical Background

The use of the noun “distribution” goes back to Adam Smith’s *The Wealth of Nations* where it is first used in Book I entitled, “Of the Causes of Improvement in The Productive Powers of Labour, and of the Order According To Which Its Produce is Naturally Distributed Among The Different Ranks of The People.” Before Adam Smith, English economists did not talk of “distribution” or of the manner in which wealth or produce is distributed. In France, on the other hand, Turgot had used the term before *The Wealth of Nations* was published. It seems quite clear that both parties acquired the use of the word from Quesnay.

Although the account of distribution does not occupy a main place in the body of Book I in *The Wealth of Nations*, the effect has been to identify distribution in economic treatises with the discussion of the causes which affect wages, profit, and rent. Ricardo, J. B. Say and James Mill refer to distribution and, under that heading, specifically place wages, profits, and rents. Since that time, the major topics under the heading of “Distribution” in a standard English economics text have been retained under these categories.

---

234. *Id.*
235. *Id.*
236. *Id.* (for a discussion of Ricardo’s theory of differential rent).
237. CANNAN, *THEORIES OF PRODUCTION*, supra note 217, at 144.
238. *Id.* at 148.
239. *Id.*
The Meaning of Wages, Profit, and Rent

There seems to be little doubt that Adam Smith and his followers intended only true income to be included in wages, profits, and rents. The proposition that the produce or income is divided into wages, profits, and rents has always meant the same as the equation:

\[ \text{Total produce or income} = \text{wages} + \text{profit} + \text{rents}. \]

Then, wages, profits, and rents must always be understood to represent net (that is net wages, net profits, and net rents).

Furthermore, wages applied to amounts received by the lower-wage class of workers from persons who hired them at fixed rates even before any production had taken place. Profit was a vague term applicable to any kind of gain if some expense or risk had to be incurred. Rent meant the periodic payments made to owners of land, houses, and other fixtures to the land (e.g., barns, sheds, and so on).\(^{240}\)

Pseudo-Distribution

Background: Wages per head, Profits per cent, and Rent per acre

The problem now is to discover the causes which determine the proportions in which the produce is distributed between the three divisions. Although Smith declared that the entire annual produce is distributed into wages, profit, and rent, meaning the total of each, the last four chapters of Book I of *The Wealth of Nations* deal with wages per head, profits per cent, and rent per acre. Since most subsequent writers discussed these headings first and the division of produce between wages, profits, and rents, second, or not at all, this discussion begins in the same order.

Wages per head

When *The Wealth of Nations* was written, the subsistence theory of wages was the general rule among the political economists of the period. It assumes that in order to live and work a man must have something to exist on, and that the wage-earner need not and should not claim more than enough to modestly shelter, feed, and clothe himself. Smith apparently starts with the subsistence theory, but in the last part of the chapter he ends with the supply and demand theory which assumes that labor is a commodity, the demand for which depends upon

---

\(^{240}\) Id. at 149-57. Cannan expands on this brief interpretation and shows some differences in the interpretation by Smith, J. S. Mill, Senior, Ricardo, and James Mill of wages, profits, and rents.
the amount of funds ready to be laid out for it. He becomes one of the originators of the supply and demand theory of wages.\textsuperscript{241} Malthus, Ricardo, Senior, and J. S. Mill also followed this line of reasoning.

\textit{Variations of Profits per cent}

In the first chapter on the profits of stock, Smith maintains that the rise and fall of the rate of profit is due to the increasing or declining state of the wealth of society.\textsuperscript{242} High profit causes rapid accumulation, and this causes high wages. But, "when the most fertile and best situated lands have been occupied, less profit can be made by cultivation of what is inferior both in soil and situation," thus, as the economic community increases, profits fall. Wages, however, do not fall along with profits, because the rapidity of accumulation does not slacken.

Smith, however, in qualification, admits that there is another cause for rising profits, Declining wealth, or, "the diminution of the capital stock of the society, or of the funds destined for the maintenance of industry" raises profits, because it causes a reduction in wages and a rise in prices, so that "the owners of what stock remains in the society can bring their goods at less expense to market than before, and less stock being employed in supplying the market than before, they can sell them dearer."\textsuperscript{243} When a country's industry becomes stationary (nondynamic),

both the wages of labor and the profits of stock would probably be very low. [T]he competition for employment would necessarily be so great as to reduce the wages of labor to what was barely sufficient to keep up the number of laborers, [while] as great a quantity of stock would be employed in every particular branch [of business] as the nature and extent of the trade would admit, [so that the competition] would everywhere be as great, and consequently the ordinary profit as low as possible.\textsuperscript{244}

Thus Adam Smith's concept of profits is a historical one, one which maintains that profits rise in a young state, but fall in an old state. He so qualifies this outcome, however, that his theory often becomes slightly contradictory.

The Ricardian school, which looked on profits as mere surplus remaining to employers after having paid wages, totally rejected Adam

\begin{footnotesize}
\begin{enumerate}
\item Id. at 182-86.
\item SMITH, THE WEALTH OF NATIONS, supra note 117, at 87.
\item Id. at 94.
\item Id. at 94-95.
\end{enumerate}
\end{footnotesize}
Smith's explanation of the historical fall of profits. They preferred to attribute profits to the supposed diminution in the productiveness of agricultural industry. The argument was that an increasing difficulty in the production of corn would lower profits by raising wages. Wages meant money wages not real wages, which were the amount of necessaries and conveniences enjoyed by the laborers. And this is "proven" by showing that the price of corn is regulated by the quantity of labor necessary to produce it with that portion of capital which pays no rent and all manufactured commodities rise and fall in price in proportion as more or less labor becomes necessary for their production.  

James Mill apparently agreed with Ricardo, although after he read M'Culloch on this matter he seems to have changed his position somewhat.

John Stuart Mill also agreed with the Ricardian doctrine that, "the rate of profits depends upon wages; rising as wages fall, and falling as wages rise," only considering it necessary to substitute for wages "what Ricardo really meant," the "cost of labor." 

Although generally classical theorists accepted the Ricardian theme of profits as mere surplus remaining to employers after they had paid wages, there was some lack of agreement on the question of profits.

Variations of Rent per acre

In Smith's very long chapter on rent, his main proposition is "that every improvement in the circumstances of the society tends either directly or indirectly to raise the real rent of land, to increase the real wealth of the landlord." He supports this proposition with four additional propositions:

[one], the landlord's share of the produce necessarily increases with the increase of the produce; [two], the extended improvement and cultivation and . . . the rise in the price of cattle, [the rude produce of land] for example . . . tends to raise rent of land directly; [three], [a]ll those improvements in the productive powers of labour which tend directly to reduce the real price of manufactures tend indirectly to raise the real rent of land; [four], [e]very increase in the real wealth of the

245. CANNAN, THEORIES OF PRODUCTION, supra note 217, at 219-25; id. at 225-29 (mathematical proofs that Ricardo uses).
246. Id. at 229-34.
247. Id. at 234-44.
society, every increase in the quantity of useful labour employed within it, tends indirectly to raise the real rent of land.  

In effect, Smith's position is that when society's circumstances are improved, the landlord benefits because rent, directly and indirectly, in four different ways, increases.

Ricardo, and his disciple, West, adopted the theory that the necessity of cultivating inferior land to supply increased demand for food raises rent. The proposition that the necessity of employing less productive industry in order to supply an increased demand for food causes a rise in rent became an immediately accepted principle.  

Although there was some disagreement among the classical theorists, generally speaking the Smith idea that good times raised rents because of the four propositions, coupled with the Ricardian proposition, which was also based on good times, was accepted.

Distribution Proper

Division of the Entire Produce Among Aggregate Wages, Aggregate Profits, and Aggregate Rents

The above pseudo-distribution dealt with the ideas of economists with regard to the causes of variations of wages per head, profits per cent, and rent per acre. Distribution proper, however, deals with the causes which determine the proportions in which total produce or income of the community is divided among these classes: laborers, capitalists, and landlords, or labor, capital, and land.

In general, before Ricardo wrote, the question of distribution does not seem to have occurred to anyone. The most that will be found on the subject is incidental and incomplete.

Toward the end of the first chapter of the Principles, Ricardo says:

It is according to the division of the whole produce of the land and labour of the country between the three classes of landlords, capitalists, and labourers, that we are to judge of rent, profit, and wages, and not according to the value at which that produce may be estimated in a medium which is confessedly variable.

249. Id. at 247-48.

250. It is interesting to note that Ricardo was so convinced of this proposition that he endeavored to disprove the existence of other causes. See Cannan, Theories of Production, supra note 217, at 253-66.

251. Id. Thomas Malthus and Richard Jones are two glaring examples.
It is not by the absolute quantity of produce obtained by either class that we can correctly judge of the rate of profit, rent, and wages, but by the quantity of labour required to obtain that produce. By improvements in machinery and agriculture the whole produce may be doubled; but if wages, rent and profit be also doubled, these three will bear the same proportions to one another as before, and neither could be said to have relatively varied. But if wages partook not of the whole of this increase; if they, instead of being doubled, were only increased one-half, if rent, instead of being doubled, were only increased three-fourths, and the remaining increase went to profit, it would, I apprehend, be correct for me to say that rent and wages had fallen, while profits had risen; . . .

It is evident that what he wishes to say is that when wages and rent increase, but in moderate proportion, then profits will increase substantially.

Ricardo’s arguments are interesting but involved. Only a summary of them can be set forth here. Ricardo postulates that the produce of the entire economy of a nation can be divided between wages, profit, and rent. He seems to have assumed that rent takes a larger proportion of income in the “progress of society,” with a resulting smaller proportion left for wages and profits. Moreover, wages become a larger and profits a smaller proportion of what is left for the two together. Consequently, this tenet results in the proportion of the whole produce falling to rent and the proportion to wages increases while the proportion falling to profits decreases. For the belief that rent increases in proportion, he had little evidence. For the theory that wages become a larger proportion of what is left, after rent has been deducted, he looked to the previous assumption that wages rise with a rise in the price of necessaries and, further, to the assumption that the returns to agricultural industry diminish in the progress of society. Since no one in the classical school wrote on the subject other than Ricardo, his conclusion is that of the classical theorist: The produce of the economy lies in wages, profits, and rents; when prices in the economy go up, then rents take the largest proportion, wages take a smaller part, and profits the smallest.

252. D. RICARDO, PRINCIPLES OF POLITICAL ECONOMY 31 (Rhys ed. 1933) [hereinafter cited as RICARDO, PRINCIPLES OF ECONOMY].
253. See CANNAN, THEORIES OF PRODUCTION, supra note 217, at 268-78.
254. Id. at 278.
Distribution of Wages Among Workers

It is such an obvious fact that the difference in wages between one person and another lies in their industriousness and possession of skills or lack of them that economists do not even bother to discuss what appears to be so axiomatic. More important to them is the problem of differences in earnings among persons of equal industry and ability. In the famous chapter, “Of Wages and Profit in the Different Employments of Labour and Stock,” Adam Smith talks about “perfect liberty” and how under “perfect liberty” the advantages would amount to very little and the differences in income and profit would be nil:

The whole of the advantages and disadvantages of the different employments of labour and stock must, in the same neighbourhood, be either perfectly equal or continually tending to equality. If in the same neighbourhood, there was an employment evidently either more or less advantageous than the rest, so many people would crowd into it in the one case, and so many would desert it in the other, that its advantages would soon return to the level of other employments. This at least would be the case in a society where things were left to follow their natural course, where there was perfect liberty, and where every man was perfectly free both to chuse what occupation he thought proper, and to change it as often as he thought proper. Every man’s interest would prompt him to seek the advantageous, and to shun the disadvantageous employment.255

The gap that lies between wages and profits is caused by five principle factors, all of them to a degree subjective: (1) the different agreeableness of different employments, (2) the different cost of preparing persons to pursue them, (3) the different constancy of employment in them, (4) the different amount of trustworthiness required in them, and (5) the different probability of success in them.

Still, Smith does not prove his major contention, that perfect liberty causes the advantages and disadvantages of different employments to be either equal or continually tending to equality. The five factors only show why there is not perfect equality in a society without perfect liberty, but not how perfect equality is attained in a society with perfect liberty. Neither Ricardo nor Malthus, nor James Mill, nor Senior, change this position taken by Adam Smith. J. S. Mill does attack two of the “five principle circumstances” but does not seem to disagree with

the rest of the Smith thesis. On the whole then, the classical theorists accept Smith's "perfect liberty" proposition with its modifying "circumstances."

**Distribution of Profits Among Capitalists**

The classical economists devoted little or no attention to the causes which determine the distribution among its various holders of the capital of a country. Even J. S. Mill, who made extreme proposals for obstructing the transmission of enormous fortunes from the deceased to the living, offered no ideas pertaining to the accretion and subdivision of these fortunes.

**Distribution of Rents Among Landlords**

The distribution of the land of a country among landowners is the first factor in determining the proportions in which the aggregate rental is divided among the landlords. The classical economists devoted almost no attention to the subject.

With regard to the second factor, which determines the distribution of rent as well as the different values of different areas of land, there are a great many generalizations but most of the material is of little importance. Adam Smith pretty much said what was generally repeated by the rest. In brief, he said that the rent of any land was the surplus of produce left after paying the expenses of cultivation and the ordinary profits upon the capital employed. Land on which this surplus was large would yield a large rent, and land on which the surplus was small would yield a small rent. It is also evident that Smith thought that where any local variations in the rate of profit were absent, then any differences between the rent of various pieces of land would be determined by the differences in its fertility and in its location.

---

256. Cannan, Theories of Production, supra note 217, at 285-88.
257. Id. at 288-91.
259. Cannan, Theories of Production, supra note 217, at 291.
XI. PART IX OF THE CLASSICAL MODEL—LABOR IS UNORGANIZED, AND OTHER FACTORS OF PRODUCTION RECEIVE THE REWARDS THAT THE MARKET CONCEDES THEM\textsuperscript{261}

A. Historical Background of Classical Wage Theory

Central to the classical labor theory was the idea of a man free to give vent to his individualistic drives with a minimum of control or restraint imposed by society. Adam Smith believed that "[e]very individual [was] continually exerting himself to find out the most advantageous employment for whatever capital he can command."\textsuperscript{262} Those who lacked capital were always searching for that employment in which the monetary return for their labor would be the maximum offered for their services. Should both capitalists and laborers be left alone, self-interest would guide them to use their capital and labor where they were most productive. There would be, then, a free market in which producers competed for labor and consumer dollars in their quest for more profits. Such competition would guarantee the direction of capital and labor to their most productive uses and would ensure the production of the goods consumers wanted and needed most (as measured by their ability and willingness to pay for them). Not only would a free market be an incentive for constantly striving to improve the quality of products but to constantly organizing production in the most efficient and least costly manner possible. The market, Smith asserted, would act as an "invisible hand" channeling self-centered motives into mutually consistent and complementary activities that would best promote the welfare of the entire society.

The Genesis of Wage Theory

The gradual decline of the guild system in the seventeenth century put an end to the old, and basically outworn, economic organization. Commercialism sprang up to take the place of the guilds and rapidly developed into competitive enterprises. Politics changed in such a way that the state began to foster industrial expansion and capital accumulation to protect the activities of businessmen. The need to increase the capital values of the nation became important. Public control began to be superseded by the inherent regulative power of competition. The

\textsuperscript{261} Much of this material is based on M. Wermel, The Evolution of the Classical Wage Theory (1939) [hereinafter cited as Wermel, The Evolution].

\textsuperscript{262} Smith, The Wealth of Nations, supra note 117, at 421.
medieval concept of “just price” began to be abandoned in favor of the action of supply and demand in the open market. In this respect England was the most advanced, and its writers on economics adopted the central theme of lowering and fixing wages at as low a level as possible. Thomas Mun, Joshua Gee, William Temple, and Bernard Mandeville all believed the laborer should constantly toil in order to pay for the day-to-day essentials of his existence.263

Another argument of a different character was also advanced. Mun, Manley, Davenant, Yarranton, and Pollexfen believed that low-wage labor would allow the manufacturer to put his commodity on the market at a lower price, thus helping him to capture trade. These authors felt strongly that workers were incorrigibly lazy, preferring to do as little as possible rather than working to gain a higher standard of living. A natural limit to wages, therefore, became the lowest possible standard of living. Out of this theorizing evolved a universal agreement in the business community that the cost of subsistence forms the norm to which the rate of wages ought to be adjusted.264

Thomas Culpeper, Josiah Child, and William Petty proposed the idea that the more people there are in a country the cheaper the wages and the cheaper the manufactured goods. Conversely, the fewer the people, the higher the wages and the more expensive the manufactured goods. John Houghton concurred. Daniel Defoe presented the thesis that wages are affected by two things: dearness of provisions and the lack of people.265

These propositions formed the early foundations of wage theory. As a result, firm structures, continually elaborated upon, were able to be erected upon them.

John Locke’s Subsistence Theory

John Locke was actually the first to state that the tendency of wages is to fall to the minimum of the means of subsistence. He discussed the existence of a wage level that was inevitably limited to the most immediate needs of the workers. He explained that such a wage level existed because of a peculiar psychological inertia which was itself created by the very fact that a low level of wages prevailed, saying;

[t]he poor laborer and handicraftsman cannot [bear it]: for he just lives from hand to mouth already, and all his food, cloth-

263. See Wermel, The Evolution, supra note 261, at 1-5.
264. Id. at 5-13.
265. Id. at 23-25.
TULSA LAW JOURNAL

ing, and utensils costing a quarter more than they did before, either his wages must rise with the price of things, to make him live, or else, not being able to maintain himself and family by his labor, he comes to parish; and then the land bears the burden a heavier way. 266

Locke added that

[f]or the laborer’s shares being seldom more than a bare subsistence, never allows that body of men time or opportunity to raise their thoughts above that, or struggle with the richer for theirs [as one common interest] unless when some common and great distress, uniting them in one universal ferment, makes them forget respect and emboldens them to carve to their wants with armed force; and then sometimes they break in upon the rich, and sweep all like a deluge. 267

That wages have a tendency to be fixed at a minimum level of bare subsistence is Locke’s point. He reasoned that a worker could not raise himself above the poverty level because of his limited income. Psychologically and socially, too, he could not do so because of his “respect for the rich.” Yet it is clear that Locke’s political beliefs left a loophole open for isolated revolt when misfortunes of vast extent would bring about permanent changes in the living standard.

Locke seems to have had influence on such theoreticians as Melchoir von Osse, John Cary, Bernard Mandeville, Jacob Vandelint, and Matthew Decker, all of whom presented similar theories on wages. 268

Richard Cantillon’s Ideas

Cantillon looked at the demand for labor as the factor controlling wages and the supply of labor as dependent on it. Be believed that farmers, laborers, and tradesmen adjusted to the demand for them. He says:

It often happens that laborers and handicraftsmen have not enough employment when there are too many of them to share the business. It happens also that they are deprived of work by accidents and by variations in demand, so that they are overburdened with work according to circumstances. Be that as it may, when they have no work they quit the villages, towns or cities where they live in such numbers that those who remain are always proportioned to the employment

266. Id. at 25-26.
267. Id.
268. Id. at 27-29.
which suffices to maintain them; when there is a continuous increase of work there is gain to be made and enough others to share it.269

He also discusses individual wage rates. He points out that the labor of a tradesman was valued at more than the labor of a farmer. He explains:

The [working] life of a man is estimated but at 10 or 12 years, and as several are lost in learning a trade most of which in England require 7 years of apprenticeship, a husbandman would never be willing to have a trade taught to his son if the mechanics did not earn more than the husbandmen.

Those who employ artisans or craftsmen must need therefore pay for their labor at a higher rate than for that of a husbandman or common laborer; and their labor will necessarily be dear in proportion to the time lost in learning the trade and the cost and risk incurred in becoming proficient.270

If the owner uses slave labor, he needs only to provide subsistence for the slaves. But if the owner uses vassals or free peasants then

[h]e will probably maintain them at a somewhat higher level than slaves in accordance with the prevailing customs of a given locality. But, in this case as well the labor or the free laborer must correspond in value to twice the produce of the soil which is necessary for his subsistence, [since the surplus must be expended for the upbringing of his children], . . .271

Moreover, Cantillon maintains that a population will increase quite rapidly up to the limit of the available means of subsistence. Most, if not all classes, are subject to this law, especially the lower ones. "The lower classes of inhabitants," he says, "do not even dream of anything more than merely to marry and to bring up children who could live in the same style as they are content to live themselves."272

There are at bottom four parts to Cantillon's thinking that apply to the theory of wages. Although they are somewhat disjointed, they do enter as independent links into the development of that theory: (1) wages are equalized by means of adapting the supply of labor to the demand for it; (2) wages vary in different occupations because of different conditions and circumstances; (3) there is a tendency for the wages of hired labor to be maintained at subsistence level, "probably some-

269. Id. at 49.
270. Id. at 50.
271. Id. at 51.
272. Id. at 52.
what exceeding” the standard of living of the slave; (4) population increase is a factor in restricting and maintaining the prevailing minimum level of wages.273

The Physiocrats—Turgot’s Ideas—The First Formulation of the “Iron Law”

Quesnay greatly concerned himself with the concepts of wage theory. It was Turgot, however, who completed Quesnay’s work and formulated the first coherent and consistent theory of wages. The most famous of Turgot’s theses on wages was Reflexions sur la formation et la distribution des richesses (1768). And under the heading, “The Wages of Labor Are Limited by Competition among Workers to a Subsistence Level. The Worker does not Receive more than is necessary for Life,” Turgot wrote:

The common laborer who possesses only his hands and a trade, has nothing but what he receives when he sells his labor to others. He sells his labor power at a higher price or at a lower price, but his higher or lower price does not depend upon him alone. It is determined as a result of an agreement with the one who pays for his work. The latter pays the lowest amount possible, and since he has the opportunity of selecting from a large number of workers, he will prefer those who will work for the lowest wages. The workers are then obliged to lower their wage prices in imitation of each other. In every kind of work wages must be, and in reality are, limited by that amount which is necessary to him for his subsistence.274

Turgot’s opinion here is clear but generally is not much different from Locke’s ideas. Locke effectively said that wages are established at the level of subsistence, since the purchaser of labor tries to pay the laborer as low a wage as possible and the laborer is forced to agree to the lowest scale, competition among laborers giving him no alternative. Turgot, in a less well-known work, the Observations sur le Mémoire de M. Graslin, presents ideas of greater significance:

The exchange value of the products of the soil, given a constant production, becomes a measure of wealth which the framer obtains each year and which he must share with the owner of the land. A high exchange value of the products of the soil and an increased income give the landowner and the farmer an opportunity to pay higher wages to the people who

273. Id. at 53.
274. Id. at 62.
live from the income of their labor alone. These higher wages, on the other hand, give the hired laborers an opportunity to increase their consumption and to enhance their welfare and the high wage encourages the growth of population . . . . The fertility of the soil attracts foreigners and increases the number of people. A multiplication of the number of people, in its turn, by virtue of competition, lowers wages, while the number of people maintains consumption and exchange value at the former level. The exchange value of food products, profits, the level of wages and the population are phenomena which are mutually interconnected and interdependent. The balance among them is established in accordance with a peculiar natural proportion and this proportion is constantly maintained if trade and competition are completely free.275

In addition, Turgot says, in effect, that the worse the economic conditions of the laborer, the less is he able to control the conditions of his labor. After wages are taxed, the entrepreneur will hardly agree at first to increased wages. Thus the workers are forced to reduce consumption and to live in poverty. This restricted consumption by the laborer will reduce the demand for commodities and objects of necessity. Therefore prices will fall. If the wages fall below subsistence level then the worker will go elsewhere for his livelihood since otherwise he cannot exist where he presently is employed. The population will decrease and the pool of laborers who are left will be so small that competition for their services will grow more severe and force the entrepreneurs to increase the workingman's wages. The ultimate level of wages will become established as a result of all such fluctuations and this will be "the just price of their labor." However, this can only come about by the exercise of a free choice between employers and employees.276

What Turgot's theory boils down to is this:

In a commodity exchange economy the tendency of wages to sink to the level of the minimum means of existence is dependent on the reciprocal action of the specific parts and relationships of this economy. Stability in these relationships is attained through readjustments which occur when one part of this economy deviates from the established norm. As one section of the economy changes, it induces changes in other sections, which react on the original change, bringing the first

275. Id. at 63.
276. Id. at 62-65.
section back to its former condition.277

Turgot presented two types of such reaction and indicated two cycles. The first cycle pertains to changes affecting prices. Changes in wages cause the laborer's consumption to be less and, consequently, lowering wages lowers the price of necessaries. On the other hand, raising wages causes an increase in the laborer's purchasing power because he now demands more products; thus there is a re-establishment of the former real income.

The second cycle concerns the welfare of the laborer. When wages are reduced, existence for the laborer soon becomes impossible and the laborer emigrates in search of better working conditions. Hence the labor supply will decrease and the laborer's wages will go up to its former level. This improvement will mean that higher pay will bring about an influx of labor into the particular locality where such a condition prevails.278

Turgot effectively formed, for the first time in the history of economic thought, a self-contained wage theory—the first complete presentation of the "iron law" of wages.

B. The Classical Synthesis of Wage Theory

Adam Smith, the Synthesizer

Adam Smith's initial analysis of the determination of wages is based on two factors, social and economic. The social struggle, that "struggle for distribution" among workmen and masters, is the root cause of the contention. The relative strength of the respective forces determines the level of income. He says:

What are the common wages of labor, depends everywhere upon the contract usually made between these two parties, whose interests are by no means the same. The workmen desire to get as much, the masters to give as little as possible . . . . [Furthermore:] It is not, however, difficult to foresee which of the two parties must, upon all ordinary occasions, have the advantage in the dispute, and force the other into a compliance with their terms.279

The advantage lies with the employers because, (1) the employers, who are few, can combine more easily; (2) the employers receive protection from the state in the form of statutes which outlaw strikes for

277. Id. at 65.
278. Id. at 65-70.
higher wages; (3) the employer has more economic security than the employee, thus he can hold out longer in the struggle for distribution. 280

Since the entire problem in each separate case was reduced to the relationship of social forces, any limits to wage fluctuations could be presented only in relative terms. Smith does not mention an upper limit to wages. The lower limit appears to rest on the “common humanity” of employers.

The second element of Smith’s wage theory is economic determination. When there is a scarcity of labor, employers bid for it and wages rise. Smith says:

When in any country the demand for those who live by wages, laborers, journeymen, servants of every kind, is continually increasing; when every year furnishes employment for a greater number than had been employed the year before, the workmen have no occasion to combine in order to raise their wages. The scarcity of hands occasions a competition among masters, who bid against one another, in order to get workmen, and thus voluntarily break through the natural combination of masters not to raise wages. 281

That, in Smith’s terms, is the nature of wages in a rapidly progressing economy. In a stationary economy there would be too many laborers. And the laborers would bid against each other and “soon reduce them[elves] to this lowest rate [of wages] which is consistent with common humanity.” 282

In a country with a decaying economy, the competition for employment would be so great that the wages would be reduced to mere subsistence: “famine and mortality” would take their toll until the number of inhabitants was reduced to those who could be maintained. 283

In this manner, Smith analyzes the conflict in society, which is always subject to the limiting effects of economic factors in relation to a self-contained complex of economic conditions. He expresses it well when he says:

Every species of animals naturally multiplies in proportion to the means of their subsistence, and no species can ever multiply beyond it. But in civilized society it is only among

280. Id. at 66-67.
281. Id. at 68.
282. Id. at 71.
283. WERMEL, THE EVOLUTION, supra note 261, at 134.
the inferior ranks of people that the scantiness of subsistence can set limits to the further multiplication of the human species; and it can do so in no other way than by destroying a great part of the children which their fruitful marriages produce.284

He goes on to say that men, like any other commodity, are regulated by supply and demand. What men produce quickens when there are too few to hire and abates when they produce too much.

Smith postulates that the factors regulating the level of wages and those regulating the level of prices display a basic parallelism. But he fails to conclude that the price of labor, like the price of all other commodities, has one unified permanent level: the level of the minimal costs for the production of the commodity.

Thomas Malthus: Population Control

In *Principles of Population*, Thomas Malthus sounded a warning that the possibilities of sustained progress were endangered by the rapid rise in population. The rate of population growth had been extremely slow in the Middle Ages but it had gained considerable momentum in the eighteenth century. Despite this growth in Europe, and especially in England, no additional land seemed to be available for cultivation to support more people. Farming techniques, while fairly effective over most of Europe, seemed to be stationary and not subject to rapid improvement. Malthus, with respect to these conditions, asserted that populations have a tendency to outgrow food supply. Such an imbalance between the rate of population growth and the rate of increase in agricultural output, Malthus declared, would lead to the spread of poverty. In order to rectify this situation, Malthus advocated a slowing down of population increase.

Malthus in all likelihood had a theory of wages, but it is unimportant at this point.285 Of importance to future economists was his theory of population control, later used by Ricardo to explain the “iron law” of wages.

David Ricardo: “Iron Law” of Wages

Ricardo commenced his study of wages by agreeing with Adam Smith that labor is a commodity and subject to supply and demand. He

---

284. SMITH, THE WEALTH OF NATIONS, supra note 117, at 79.
285. See WERMEL, THE EVOLUTION, supra note 261, at 139-52 (where such a wage theory is presented).
also agreed that "the natural price of labor is the price which is neces-
sary to enable the laborers, one with another, to subsist and to perpetu-
ate their race, without either increase or diminution."\textsuperscript{286} Ricardo
continues by discussing labor's market price. This natural price is the
price that is actually paid for it from the operation of supply and de-
mand. Consequently, labor is expensive when it is in short supply and
cheap when it is plentiful. Whatever deviation there is from its natural
price, labor, like commodities, has a tendency to conform to natural
price.\textsuperscript{287} Ricardo goes on to say that when the market price of labor
exceeds its natural price, labor's condition is "flourishing and happy."
But when because of high prices there is an increase in laborers, then
wages fall again to the natural price. When the market price of labor is
below the natural price, the condition of labor is "wretched." When the
labor population is reduced, then the price of labor will rise to the natu-
ral one and labor will have "moderate comforts" afforded by the natu-
ral rate of wages.

The assumption that labor is analogous to commodities is followed
to its logical conclusion. He continues his analogy by stating that the
quantity of food and necessaries determining the natural price is sharply
defined and limited by strict necessity. Thus wages become fixed by the
amount of the laborer's necessary means of subsistence. This leads to
Ricardo's assumptions that the relationship between capitalism (profit)
and labor (wages) is such that the share of one can be increased only to
the extent to which the share of the other is diminished. Wages are
increased only at the expense of profit and vice versa.

If the "iron law" is defined as a combination of factors which
brings wages down to the minimal means of subsistence, as later used
by Lassalle, then clearly Ricardo was the author of the law.\textsuperscript{288} Even
though Adam Smith showed the connections that existed between
wages and natural movements of population and displaying the ways
of their interaction, he did not present a "natural" level of wage fluctua-
tions and a norm to which they "naturally" return. This idea was Ri-
cardo's.\textsuperscript{289}

"It would seem that the entire contents of the remarkable
Principles are, in essence nothing but a set of critical commentaries on
the theoretical theses of The Wealth of Nations," Michael Wermel com-

\textsuperscript{286} Ricardo, Principles of Economy, supra note 252, at 50.
\textsuperscript{287} Id. at 50-51.
\textsuperscript{288} Ferdinand Lassalle (1825-1864), the German socialist, labor leader, and political econo-
mist, gave the "iron law" its name and brought out its social and political significance.
\textsuperscript{289} Wermel, The Evolution, supra note 261, at 158-59.
ments. Yet Ricardo compressed, elucidated, and made a most perceptive conceptual addition to the theory of wages in order to arrive at the "iron law" that governs them.

Many economists have stated that Ricardo owed a debt to Malthus for the theory. The ideas about population were clearly essential, and Malthus is the one who popularized them. He probably did have some influence on Ricardo.

The Modification of the Classical Theory by the Wages Fund Theory of John Stuart Mill

The main theory of classical economics was the "iron law" of wages. But John Stuart Mill is recognized by almost everyone as a classical economist and his thinking on labor in his Principles of Political Economy caused a shift in emphasis from the pressure of population on labor supply to the somewhat more hopeful factor of the demand for labor. With this shift in emphasis, the subsistence theory gave way to the theory of wages fund which was in effect a modification of the subsistence theory.

The theory presents the idea of the market price of labor, rather than its long-term natural price, which was regarded as successfully explained by the subsistence theory. Mill describes it as a portion of what he calls "circulating capital." "Circulating capital" is held by entrepreneurs who had accumulated it from their operations in previous years. Part of this circulating capital is used to purchase facilities and materials, paying rent and interest. Another portion, however, is allocated—the wages fund—to buy labor. The amount of their allocation to wages, plus the supply of labor to be employed, controls the market price for labor in each working period.

Mill looks upon the wage fund as relatively fixed in the short run, and he holds it to be an "advance" to labor in the system of production that he calls "industrial capitalism."

290. Id.
This theory was not as rigid as the "iron law" of wages theory; yet it too was principally used to show that bargaining power or trade-union action was impotent to alter the wage level as a whole because whatever one group of workers gained in excess of the market price had to be subtracted from what was in the wages fund to distribute to other wage earners. Mill regarded the theory as displaying an unchanging and unchangeable law of supply and demand.

Both theories, i.e. "the iron law" and Mills's modification, show that the laborer must act as a free agent. Any group action (e.g., a labor union) could not benefit him because the wage level cannot be changed.

XII. Conclusion

This article has examined each of the nine parts of the Classical Model proposed by Gregory Grossman, showing it to be a blend of economics and politics. The economic, in the Classical Model, functions, though springing from nature, like a self-regulating mechanism, mirroring in its way the clockwork universe of Newton and the deists, able to adjust automatically to external forces that threaten its equilibrium or natural state. The Classical Model is comprised of a number of parts that synchronize, each depending, as it were, on the oil of rationality to smoothly mesh gears one with the other. Such parts of the whole are the entrepreneur, laborer, and consumer, who are rational people pursuing their own interests. Such, too, are the buyers and sellers, and, because their self-interest as reasonable men could be only beneficial to themselves, it would follow that such benefits would accrue to the community at large through competition in a free, open market. The buyers and sellers would never, of course, grow too big and powerful to impose their will on others. Such groups as households and business organizations would be free to choose the goods they wished to buy and produce. Prices would move freely. The "invisible hand" of rationality, the Logos at work, would coordinate production and incomes would be distributed, in accordance with Natural Law, in this ideal open market-place.

As for politics, government would not interfere with business but would support the economy through the basic services it could more efficiently provide.

Underlying both the economic and political elements of the model was ownership of property. Although the ideas concerning property were ancient ones, the Enlightenment gave them unique status. The
idea of property itself became the core around which man formed and established his relationship to the state and his place in his social environment. This article has traced the growth of the conception of ownership from its beginnings in Greece in order to show how the Enlightenment developed the outstanding position that property enjoyed in the Classical Model. It has been assumed that property and its ownership could not be discussed without considering two related ideas: the individual's position vis-a-vis the state (right) and the reason for this position (Natural Law). The evolution of these ideas and how they affected thought during the Enlightenment have been set forth historically.

Greek and medieval society, mainly because both subsumed to religion ownership on any grander scale than farming and household goods, denied the rights of the individual. They saw property, under Natural Law, as existing for the benefit of the entire community and not the specific individual. In the meantime, the Roman Stoic created an egocentric person who lived in a nonorganic community that defined the ownership of property as a natural right, a birthright, which it was the duty of the state to protect.

The Enlightenment was fully cognizant of the thinking of all three periods. It proceeded to mingle their philosophies, embracing enthusiastically the Greek, Stoic, and medieval ideas of Natural Law, and arrived by synthesis at its own ideology about the nature of property and the pertinent rights thereof. Except as it belonged to the community as a whole, including most importantly the religious community, in the Greek and medieval societies property was not the fulcrum upon which their economy turned. With the advent of individual ownership as the Roman Stoic saw it, the fulcrum and the lever became more apparent. Under Locke and the Classical Economists, however, property, its ownership and use, became the whole machine by which the economy operated.

The combining of right and Natural Law with property, as the thinkers of the Enlightenment formulated the technique, resulted in an explosive product: property is a natural right of man. According to Locke, property, therefore, can be appropriated by man through the efforts of his labor.

Labor, thus, becomes a source for the acquisition of property and lays the foundation for all claims to wealth. As a consequence, this concept of property, as a natural right under Natural Law, with man’s la-
bor upon it bringing him wealth and the maximization of profit, becomes a fundamental precept of the Classical Model.