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An Essay on the Vicissitudes of Civil Society with Special Reference to Scotland in the Eighteenth Century

MARVIN B. BECKER*

The intention of this essay is to highlight certain general developments and problems confronting civil society in our own times and then to turn to the experience of the Scots during the eighteenth century. It was the Scot, Adam Ferguson, who was the first writer to discourse at length in English on the genesis and significance of the emergence of civil society. This he did in his remarkable *An Essay on the History of Civil Society*, published in 1767.¹ As an account of the rise of civil society and as an analysis of its wellsprings in human nature, it has never been superseded. Anyone studying this topic would be well-advised to take into consideration Ferguson's analysis and his definition of the complex character of this model of social and economic arrangements. When he introduced the term, it was not without deep misgiving, for he saw clearly the defects, limitations, and even the vicissitudes of civil society. He was both an advocate of its economic benefits and a critic of the damage it might do to human character. From Ferguson to Marx there were both champions and critics, and Marx was not alone in prophesying its doom. Indeed, I shall suggest that in a curious way it was Marx, *The Communist Manifesto*,² and the successive revolutions of 1848 that marked a decisive time for the fate of civil society.³

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1. Deeply influenced by Montesquieu's *The Spirit of the Laws*, CHARLES DE SECONDAT, BARON DE MONTESQUIEU, *THE SPIRIT OF THE LAWS* (Thomas Nugent ed. & trans., 1949) (1748), Adam Ferguson resolved to provide an account of human morals, manners, and laws predicated upon tactics of introspection and an explication of the details of history and the daily experience of peoples. The Scottish Highlander confided to his readers: "When I recollect what the President Montesquieu has written, I am at a loss to tell, why I should treat of human affairs . . ." His justification follows: his account will be more within the range of the comprehension of ordinary citizens. ADAM FERGUSON, *AN ESSAY ON THE HISTORY OF CIVIL SOCIETY* 65 (Duncan Forbes ed., Edinburgh Univ. Press 1966) (1767). (Since I have used different libraries, I shall cite, on occasion, different editions of the same text.) For further discussion of Adam Ferguson, see MARVIN B. BECKER, *THE EMERGENCE OF CIVIL SOCIETY IN THE EIGHTEENTH CENTURY: A PRIVILEGED MOMENT IN THE HISTORY OF ENGLAND, SCOTLAND, AND FRANCE* at xi-xiv (1994). A revival of interest in the writings of Ferguson, as well as other Scottish moralists and exponents of civil society, is most evident in Eastern Europe. See William Rees-Mogg, *Up and Running Ahead: Recovery in the Auction Rooms*, *TIMES LITERARY SUPPLEMENT*, June 21, 1991, at 22.

2. KARL MARX & FRIEDRICH ENGELS, *THE COMMUNIST MANIFESTO* (Leo Huberman & Paul M. Sweezy eds., Monthly Review Press 1964) (1848).

3. For a nuanced and thoughtful discussion of Karl Marx's views on civil society, see ADAM SELIGMAN, *THE IDEA OF CIVIL SOCIETY* 52-56 (1992). Seligman regards the separation of civil society from private life as one of the defining characteristics of modernity, citing Marx's oft-quoted words from *On the Jewish Question*:

Where the political state has attained its true development, man—not only in thought, in consciousness, but in reality, in life—leads a twofold life, a heavenly and an earthly life: life in the political community, in which he considers himself a communal being, and life in civil society, in which he acts as a private

Over the seventy-five years or so after the publication of Ferguson's classic work, profound economic and political changes were in process in Western Europe. At the mid-nineteenth century or thereabouts, staunch proponents of civil society believed that it was not likely that it could survive in a democratic age.⁴ However, what occurred over the century was the gradual realization that civil society might endure even in a democratic and egalitarian world. I might mention two key figures—men of great influence—who came to this conclusion: Alexis de Tocqueville and John Stuart Mill. Each had learned much about politics and society over a lifetime of experience and serious reflection. Perhaps democracy might not prove to be the most pleasant world in which to live, but it could be one in which the normalities of civil life were maintained. In this type of society where diffidence was dying, it still might be possible to live with a certain dignity.⁵

I have already noted the significance of the revolutions of 1848, most particularly the one that transpired in the territories of Germany. Here there was a confrontation of vital importance for the study of civil society. Liberals who were desirous of change and frequently sympathetic to the claims of the lower orders for social and economic justice were now faced with stark choices. When demands were made by the more radical liberal representatives aiming to improve

individual, regards other men as a means, degrades himself into a means and becomes a plaything of alien powers.

Id. at 54 (some original emphasis omitted) (quoting Karl Marx, *On the Jewish Question*, DEUTSCH-FRANZÖSISCHE JAHRBÜCHER (1844), reprinted in 3 KARL MARX, FREDERICK ENGELS, COLLECTED WORKS 146, 154 (Progress Publishers 1975)); see also MARX, *supra*, at 162, 164-66.

4. It is the thesis of my *The Emergence of Civil Society* that the concept of civil society came to fruition in Scotland and England at a "privileged moment," when religious and political stability combined with rapid commercial expansion. The governing order was confronted with moderate claims for social and economic reform and, therefore, able to maintain the basic features of commercial/civil society intact. Of course these included laissez-faire economics, free market, competitiveness, and division of labor.

5. The trend toward equality at the mid-nineteenth century appeared to prescient observers to be irresistible, but that in itself was no reason to be pleased. Mill shared with Tocqueville an anxious apprehension that the moral dangers certain to follow in the wake of this social transformation were matters of grave concern. See F.L. VAN HOLTHOON, *THE ROAD TO UTOPIA: A STUDY OF JOHN STUART MILL'S SOCIAL THOUGHT* 92-95 (1971). Benjamin Constant, whose part in the discussion of civil society will be considered subsequently, is perhaps one of the early authors (1767-1830), whose writings dramatize the unease and ambivalence toward life in a commercial/civil society. He recognized the irremediable force of social and economic change and the power of egalitarianism while fearing that modern life would suffocate "noble ideals and generous emotions." Biancamaria Fontana, *Introduction to BENJAMIN CONSTANT, POLITICAL WRITINGS* 25 (Biancamaria Fontana ed. & trans., 1988) (quoting Benjamin Constant, *De M. Dunoyer et de quelques-uns de ses ouvrages*, in MELANGES DE LITTÉRATURE ET POLITIQUE 155 (1829)). His influential novel, *ADOLPHE* (W. Andrew Oliver ed., St. Martin's Press 1968) (1816), remains a classic of romantic yearning and torn impulses. See Fontana, *supra*, at 1-42. It might be well to recall, however, Tocqueville's conclusion in *ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA* 704 (J.P. Mayer ed., Anchor Books 1969) (1850), when comparing the generosity and aristocratic honor of the old regime with its unheroic revolutionary successor: "Equality may be less elevated, but it is more just, and in its justice lies its greatness and beauty."

the structure of civil society, there was the legitimate fear that their purposes were revolutionary. In the name of seeking reform they sought to achieve a socialist state and thus to threaten the bedrock of civil society which was, of course, private property. These were indeed opinions voiced by not unsympathetic delegates to the Frankfurt Assembly in 1848. The bitter contests of that year presaged the subsequent politics of revolution.

In 1917, in Russia, the Social Democrats assisted the bourgeoisie in toppling the tsar. The end product, it was hoped, would be a Western-style civil society. The more radical opposition, however, took advantage of the new Western-style freedom to organize the working class, but the workers were not sufficiently radicalized, and instead of acting to further the revolution, they desired labor unions. This conservative step was perceived by the revolutionaries as a bourgeois accommodation to the state. Here we observe the repudiation of what was an essential feature of civil society, namely, intermediary institutions between the family and the state with labor unions being a primary form of voluntary association. Since at least the time of Jean-Jacques Rousseau's *Social Contract*,⁶ the attack against these intermediate forms of associative life has been and continues to be a prominent feature of totalitarian political thought.

At the outset we should recognize that the topic of civil society has attained centrality in contemporary political discourse. This is a result of two significant changes: first, the collapse of the Soviet system in 1989, and second—though this is less commented upon—the beginnings of a depression in Western Europe and America in 1973.⁷ In the case of the collapse of the Soviet system, it became

6. JEAN-JACQUES ROUSSEAU, *THE SOCIAL CONTRACT AND DISCOURSES* (G.D.H. Cole ed. & trans., J.M. Dent & Sons Ltd. 1973) (1762). The oft-repeated charge by Jacob L. Talmon in J.L. TALMON, *THE ORIGINS OF TOTALITARIAN DEMOCRACY* 40-49 (1952) that Rousseau was the very embodiment of the "esprit révolutionnaire" is surely exaggerated. Even a cursory reading of Rousseau's writings discloses that he condemned revolution and those who plotted it. ARTHUR M. MELZER, *THE NATURAL GOODNESS OF MAN: ON THE SYSTEM OF ROUSSEAU'S THOUGHT* 262-65 (1990). Even Edmund Burke, his contemporary adversary, did not believe that Rousseau desired revolution. However, it is necessary to acknowledge his advocacy of the surrender of all "natural liberty" to a community whose authority was to be sovereign. His attack against civil society was the most systematic of all eighteenth-century literati. Works on the Revolution of 1848 are legion, but see, especially, Theodore S. Hamerow, *1848, in THE RESPONSIBILITY OF POWER: HISTORICAL ESSAYS IN HONOR OF HAJO HOLBORN* 145-61 (Leonard Krieger & Fritz Stern eds., 1967) (1848). Count Cavour of Piedmont, the future architect of Italian unification, placed his finger on the weakness of revolutionary zeal. This he did two years before the Revolution of 1848: "If the social order were genuinely menaced, if the great principles on which it rests were to be at serious risk, then many of the most determined oppositionists, the most enthusiastic republicans, would be, we are convinced, the first to join the ranks of the conservative party." E.J. HOBBSAWM, *THE AGE OF CAPITAL 1848-1875*, at 15 (1975) (quoting Count Cavour of Piedmont). For an unblinkered analysis of the damage done by the Bolshevik Revolution of 1917, see the recent work of RICHARD PIPES, *A CONCISE HISTORY OF THE RUSSIAN REVOLUTION* (1995), as well as his standard work, *RICHARD PIPES, RUSSIAN REVOLUTION* (Vintage Books 1991) (1990).

7. E.J. Hobsbawm presents a thoughtful summary of economic data on the global economy and its economic consequences in an excellent chapter entitled, *The Crisis Decades*, E.J. HOBBSAWM, *THE AGE OF EXTREMES: A HISTORY OF THE WORLD, 1914-1991*, at 403-32 (1994). For bibliography and commentary on Eastern Europe and the events of 1989, see Vassily Arsyonov et al., 59 *PARTISAN REV.* 525-751 (1992) and John Gray, *Post-Totalitarianism, Civil*

clear that the destruction of civil society throughout Eastern Europe at the end of the Second World War in 1945 had exacted a terrible price from the citizenry, their culture, and their economy. In this case, an end to intermediate institutions between the state and family, and displacement of a market economy by state planning were unmitigated disasters. The effects of the depression in 1973 meant that civil society could not be so extravagantly buttressed by the welfare state. Narrow definitions of liberalism generated a narrow sphere of social responsibility.

These factors, then, are the primary conditions driving the politics of Western Europe and the United States at the present moment. The durability and survival of civil society has since the mid-nineteenth century been secured in considerable measure by the political brokering of bargains between "citizen-haves" and "citizen-have-nots." In times of growth and prosperity (after the 1840s), buying off opposition and quieting dissent, even forestalling subversion and revolution, were lively possibilities. In present times, however, politics in the West have been strained by the perceived economic need to control and contract government spending for the welfare state. Moreover, real wages and economic growth have been in decline, and this has made crucial compromises between capital and labor increasingly difficult. The welfare state itself served to mitigate the harshest effects of the two cornerstones of civil society: the "free market" and the "sacredness of private property."⁸

Over the past 100 years the power of the state has increased inordinately and civil society has been threatened and even eradicated in many regions of Europe. Here I wish to make several points: first, militarization—especially that undertaken by Germany during the generation before World War I—undermined many essential elements of civil society; next, the alliance between state and industry on the scale with which it was promoted after the First World War in Germany, Italy, and elsewhere, proved deadly to the survival of civil society.⁹ Yet another factor worthy of careful attention, in addition to militarism, is the

Society, and the Limits of the Western Model, THE REEMERGENCE OF CIVIL SOCIETY IN EASTERN EUROPE AND THE SOVIET UNION 145-60 (Zbigniew Rau ed., 1991). For additional information, see BECKER, *supra* note 1, at xi-xxiii.

8. For a bleak account of the prospects of social democracy in contemporary Britain, see Seumas Milne, *My Millbank*, LONDON REV. BOOKS, Apr. 18, 1996, at 3, 5 (reviewing PETER MANDELSON & ROGER LIDDLE, *THE BLAIR REVOLUTION: CAN NEW LABOUR DELIVER?* (1996)). Both the reviewer and authors of the monograph are firm Labour supporters who acknowledge the benefits and irreversibility of the Thatcherite revolution. Labour's victory will be largely rhetorical rather than substantive. In Britain, France, Spain, Italy, and Australia, Social Democrats have given free rein to business and market forces, clinging only to an outdated radical vocabulary. What will be the fate of civil society with the shrinking of social entitlements? See *Restoring Germany's Shine*, THE ECONOMIST, May 4, 1996, at 11-12.

9. It should be noted that the drive for industrialization was sponsored, in critical instances by the state, principally for its own military security. See GAUTAM SEN, *THE MILITARY ORIGINS OF INDUSTRIALISATION AND INTERNATIONAL TRADE RIVALRY* 64-213 (1984). In Germany and Russia, late industrialization made it difficult for these nations to face international competition, thus state intervention. It was necessary to create ties between state, bureaucracy, banks, and industry. The aspiration of liberals that the market, if unhindered, would produce political order, if not harmony, was thereby thwarted.

role of religion and the church. Here serious challenges were posed to the durability of civil society. On the European continent the link between absolute monarchy and the Catholic church led to bitter anticlericalism marking French, Italian, and Spanish politics over the nineteenth century. Ideological contests and doctrinal disputes could not be properly negotiated within the boundaries of civil society. The formation of what David Hume and Edmund Burke termed "parties of principle," posed irreconcilable claims for justice, and there was little possibility that these "parties" could be converted readily into parties of interest capable of effective bargaining. Bitter contests over control of education and even the feasibility of national unification served to undermine an essential ingredient of civil society—a modicum of toleration.¹⁰

A few examples from the American experience might be useful at this juncture. The intervention of the state, so decried by certain advocates of civil society, did not come into being without reason. When local and regional government fails to solve problems, the prospect of state intervention is enhanced. The American Civil War is a case in point, with the failure of Southern states to confront the problem of chattel slavery; yet another instance was of course the Great Depression of 1929. Our own contemporary history marked the civil rights movement in which federal intervention did weaken civil society and was again a consequence of the failure of local and regional political culture to confront a century of discrimination.

At this present moment a vital question about the health of our civil society remains unanswered. Coming out of the 1960s, with the diffusion of the civil rights movement, we face the spread of demands for justice and equality being voiced by numerous groups who have considered themselves marginalized because of ethnic background, race, or gender. Perhaps these challenges are the most interesting problems to be studied in light of the durability of civil society. Can civil society satisfy competing and often antithetical claims for social and economic justice? The demand for equality has been extended from equality of opportunity to equality of outcome. Furthermore, many of these claims for justice are metaphysical and speculative, predicated on a refashioning of human nature, and there is no practical way to satisfy them. Based upon my study of civil society in the past, I am somewhat dubious about its prospects in our times. I will attempt to explain why by reviewing selected historical developments.¹¹

10. For Edmund Burke's views on political parties, see EDMUND BURKE, *THE PHILOSOPHY OF EDMUND BURKE* 132-38 (Louis I. Bredvold & Ralph G. Ross eds., 1960). On Hume and Burke, see Donald W. Livingston, *Hume, English Barbarism and American Independence, in SCOTLAND AND AMERICA IN THE AGE OF THE ENLIGHTENMENT* 133-47 (Richard B. Sher & Jeffrey R. Smitten eds., 1990). (I wish to thank my graduate student, John Goodrich, for sharing his thoughts with me on the political philosophy of Burke and his critics.)

11. For a valuable discussion on the prospects for the durability of civil society, see Adam B. Seligman, *Animadversions upon Civil Society and Civic Virtue in the Last Decade of the Twentieth Century, in CIVIL SOCIETY: THEORY, HISTORY, COMPARISON* 200-23 (John A. Hall ed., 1995). In recent literature the tendency has been to emphasize that the law in civil society is a bargain struck between the state and its citizens: the latter agree to abide by the rules, and the state concurs that it will administer them properly. General interpretations of labor relations follow a similar course; in fact, differences in national labor history have been attributed to the failure of governments to recognize the value of bargaining as a means of avoiding syndicalist

To go back to its origins in Britain, perhaps the four most thorough eighteenth-century explicators of the limits and strengths of civil society were three Scotsmen and one Irishman (David Hume, Adam Smith, Adam Ferguson, and Edmund Burke). Their views are valuable, since our conception of civil society is in large measure derived from the ideas and experiences of their times. In each version there is a projection of public space defined by the play of market forces free of government intervention and the dynamics of the division of labor. The latter had served as the principal engine for change. Smith in *An Inquiry into the Nature and Causes of the Wealth of Nations*,¹² employed a by now familiar argument that the structure of a given society is determined by the extent to which its inhabitants depend on one another for the necessities of life: "The woollen coat, for example, which covers the day labourer, as coarse and rough as it may appear, is the produce of the joint labour of a great multitude of workmen."¹³ He goes on to include some sixteen different métiers, ending with the conclusion that "without the assistance and co-operation of many thousands the very meanest person in a civilized society could not be provided, even according to, what we falsely imagine, the easy and simple manner in which he is commonly accommodated."¹⁴

Burke, whom Smith acknowledged as the most expert individual on the doctrines embodied in *An Inquiry into the Nature and Causes of the Wealth of Nations*, infused Smith's model with a key addition: political parties. Burke legitimated political parties, making them essential to the resolution of conflict resulting from the play of interests. Thus, by converting passions into "interests" (a more rational political form), Burke rendered political institutions fundamental for conflict resolution. What had formerly been condemned as mere factiousness, was now perceived as having utility; thus political parties were authenticated. The move from Adam Smith to Edmund Burke teaches us that the workings of civil society—economic, political, and social—depend upon the conversion of ideology into negotiable political bargaining. Essentially, civil society is predicated on converting parties of principle into parties of interests. We might appropriately refer to the modern political philosopher Michael Oakeshott's dichotomy between the "politics of skepticism" and the "politics of faith," and

and anarchist labor conflict. See SELIGMAN, *supra* note 3, at 105-06. There is a tendency for social conservatives to elevate the role of culture and the mechanisms of civil society (its voluntary forms of association), while ignoring the decisive impact of state policy on facilitating bargaining and compromise between competing interest groups.

12. ADAM SMITH, *AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS* (Roy H. Campbell & Andrew S. Skinner eds., Clarendon Press 1976) (London 1776).

13. JEAN JONES, *MORALS, MOTIVES & MARKETS: ADAM SMITH 1723-1790*, at 29 (1990) (quoting SMITH, *supra* note 12, at 22).

14. For a discussion of this quotation from Adam Smith, as well as other aspects of his thought, see the well-documented and illustrated publication, *Morals, Motives & Markets: Adam Smith 1723-1790*. *Id.* at 28 (quoting SMITH, *supra* note 12, at 22). On the genesis of the concept of the division of labor, dating back to SIR WILLIAM PETTY, *POLITICAL ARITHMETICK* (London 1690), through Smith's teachers, Francis Hutcheson and Adam Ferguson, see JANE RENDALL, *THE ORIGINS OF THE SCOTTISH ENLIGHTENMENT 176-78* (1978).

invoke his ideal types of government: "civil association" and "enterprise association." These constructs are most useful for illuminating Burke's thought.¹⁵

Perhaps it would be useful to give a modern example of the limitations of civil society. To employ eighteenth-century language, it is not possible to satisfy metaphysical grievances, myriad claims for justice, or the realization of abstract rights within the context of a civil society. For example, civil society cannot deal with the proposition that racism must be eradicated, but it can work to prevent illegal discrimination. It cannot end rape or "take back the night," but it can insure that legal procedures will be fairer to women. It cannot end homophobia, but it can punish employers for job discrimination. In other words, it cannot satisfy grand and overarching claims calling for fundamental changes in culture or social psychology. Moreover, the public space or political sphere characterizing civil society is inadequate to deal with ideological differences such as the opposition between "pro-life" and "pro-choice." As eighteenth-century exponents of civil society clearly perceived, such ideological differences were not amenable to rational disposition or empirical proof. The great social questions involve issues incapable of reconciliation; they must be reduced or broken down into interest components. The three Scots and one Irishman of the eighteenth century recognized that these were serious limitations.

If we consider only the origins of the concept of civil society (limiting ourselves to Scotland), we observe that the first substantial discourse on this topic concerned the protection of the Protestant religion from the "papal empire" and royal tyranny.¹⁶ These concerns were fortified by the importation from England of the teachings of John Locke, with his belief that a public sphere characterized by religious toleration would solve the most serious problems confronting society. What we witness over the 100 years or so between the late seventeenth and late eighteenth centuries is an expansion of civil society and its public sphere. During that time, the space between the individual and the state was conceived of "not as a refuge from terror" and oppression, but "as a kind of market for the satisfaction of wants" and interests.¹⁷

Behind this change were many significant historical developments: first, the recognition of the disasters visited on Scotland as a result of civil and religious wars in the seventeenth century. Fanaticism received an eighteenth-century

15. A notice appeared in the March 15, 1996 issue of the *Times Literary Supplement* that MICHAEL OAKESHOTT, *THE POLITICS OF FAITH AND THE POLITICS OF SCEPTICISM* (Timothy Fuller ed., 1996) would be published in April of 1996. *Introduction to Michael Oakeshott, The Fortunes of Scepticism: Dispersal of Power and the Traditions of English Politics*, *TIMES LITERARY SUPPLEMENT*, Mar. 15, 1996, at 14. Oakeshott's *On Human Conduct* has a strong Burkean charge. MICHAEL OAKESHOTT, *ON HUMAN CONDUCT* (1975). Burke believed that there were absolute standards of morality which even God could not alter; in fact, defining them was a difficult and bootless human task. Burke repudiated the notion of original sin, while willingly affirming the limitations of reason. Still, he believed that there was enough good in the individual to enable humankind to make the world just a bit better.

16. See DAVID ALLAN, *VIRTUE, LEARNING AND THE SCOTTISH ENLIGHTENMENT: IDEAS OF SCHOLARSHIP IN EARLY MODERN SCOTLAND* 29-58 (1993).

17. JOHN PLAMENATZ, *MAN AND SOCIETY* (1963).

equivalent with the word "enthusiasm."¹⁸ Enthusiasms were dangerous and civil society was turning away from the ideological controversies of the past that had proved so damaging. Partially, as a result of this, historical consciousness among political thinkers and literati was transformed. The judgment was made that there were various stages in human history leading up to the present—that is, from nomadic to pastoral to feudal to commercial.¹⁹ There were mores and manners appropriate to each stage.

The Scots learned a great deal from Montesquieu's *The Spirit of the Laws*,²⁰ paying close attention to the interrelation of geographic, economic, political, and religious forces in the shaping of the civilization of their region.²¹ Montesquieu's dedication to the patient study of the material environment of particular regions and its connection with mores led Scottish writers on civil society to link certain virtues and attitudes to commercial/civil society. These virtues were both anti-heroic and anti-fanatical—what Hume termed "aldermanic" and "middling." At the heart of "thinking civil society" (that is, conceptualizing it) was the realization that in the commercial world of the eighteenth century the prospects for sustaining a "moral community" were becoming increasingly remote. Instead, a society undergirded by the play of interests and market forces was the real and lively possibility. Furthermore, there was an awareness that the radical division of labor essential for the functioning of the Scottish civil/commercial world promoted not only the specialization of manual skills, but also the decline of the intellectual generalist and, thereby, the narrowing of moral vision.²²

Montesquieu's essay into comparative sociology was criticized by French *philosophes* on the ground that he had failed to realize that all governments have the same needs and goals—principally the promotion of economic well-being. His inclination (sometimes ambiguous) toward determinism, whereby climate shaped human temperament and, therefore, the type of society suitable to a given

18. See *The Oxford English Dictionary* under "enthusiasm" for the change in meaning from the seventeenth to eighteenth centuries. 3 PHILOLOGICAL SOC'Y, THE OXFORD ENGLISH DICTIONARY 215-16 (1933).

19. See RENDALL, *supra* note 14, at 181-205.

20. MONTESQUIEU, *supra* note 1.

21. A translation of *The Spirit of the Laws* from French into English was available in 1749 and was widely read by Scottish literati.

22. For a consideration of Montesquieu's influence on Scottish literati, see BECKER, *supra* note 1, at 60-75, 105-08. For an example of Montesquieu's favorable views on commercial society, see MONTESQUIEU, *supra* note 1:

True is it that when a democracy is founded on commerce, private people may acquire vast riches without a corruption of morals. This is because the spirit of commerce is naturally attended with that of frugality, economy, moderation, labour, prudence, tranquillity, order, and rule. So long as this spirit subsists, the riches it produces have no bad effect.

Id. at 46. John Dunn's *The Political Thought of John Locke* is a thoughtful explication of the philosopher's religious sensibility. JOHN DUNN, THE POLITICAL THOUGHT OF JOHN LOCKE (1969). Hugh Trevor-Roper's *The Scottish Enlightenment*, discusses foreign influences and the dynamics of civic humanism on Scottish literary culture. Hugh Trevor-Roper, *The Scottish Enlightenment*, in STUD. VOLTAIRE & EIGHTEENTH CENTURY 1635-58 (Theodore Besterman ed., 1967). For a thoughtful study of the impact of the abortion debate, see FAYE GINSBERG, CONTESTED LIVES: THE ABORTION DEBATE IN A CONTESTED COMMUNITY (1989).

people at a particular historical moment, was not acceptable to leading French *philosophes*. Representative of their views was the contention that: "Men have not united by chance into civil societies." Influential physiocrats intent upon maximizing French economic development believed that society generated itself apart from the state and was not a structure produced by interaction. Unlike the Scots, the physiocrats' version of civil society was "a kind of Platonic model to be instituted by a theoretically informed state. . . . Missing in the physiocrats' notion of civil society was the notion of an imminent civilizing process by which individuals spontaneously formed a group and adopted enlightened patterns of interaction within it."²³

For the Scots, both the constitution of and stage of society's development were vital. To translate this proposition into modern parlance, one could not offer the prescription of civil society to an Islamic Fundamentalist state or to a Totalitarian Chinese regime. Moreover, the experience of civil society was itself an essential ingredient of the civilizing process. In other words, civil society worked to create certain forms of knowledge simply because it existed. It was in itself educative. However, here we must be cautious and not subscribe unequivocally to the brilliant arguments of Jürgen Habermas and his celebration of eighteenth-century civil society. To say that civil society was responsible for developing critical reason among the citizenry is excessive. One has but to read the English press in the latter half of the eighteenth century to appreciate the extent to which hostility and even murderous rage against Catholics were promoted successfully among its readership. One has but to read Flaubert's *Sentimental Education*²⁴ to gain a burning insight into the corruption of the Paris press, its journalists, and the parties paying the bribes. The role of critical reason and the Revolution of 1848 in France allow for no easy equation.²⁵

My own view, perhaps a bit less sanguine than that of Habermas, advances the notion that the public sphere generated by civil society can serve as a laboratory for testing social, economic, and political points of view and programs—a limited type of reality testing—without having to engage in radical revisions of social arrangements. In Scotland during the latter half of the eighteenth century,

23. DANIEL GORDON, *CITIZENS WITHOUT SOVEREIGNTY: EQUALITY AND SOCIABILITY IN FRENCH THOUGHT, 1670-1789* (1994) (making a comparison of French views of civil society and their Scottish contemporaries).

24. GUSTAVE FLAUBERT, *SENTIMENTAL EDUCATION* (Robert Baldick trans., Penguin Books 1964) (1869).

25. Jürgen Habermas's *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* is a work that has promoted a veritable growth industry of research and scholarship. JÜRGEN HABERMAS, *THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY* (Thomas Burger & Frederick Lawrence trans., MIT Press 1989) (1962). For an incisive appraisal of its strengths and limitations, see Anthony J. La Vopa, *Conceiving a Public: Ideas and Society in Eighteenth-Century Europe*, 64 *J. MOD. HIST.* 79-116 (1992). Habermas's critique of capitalism in the West in the nineteenth and twentieth centuries is heightened by his comparison of these later times with an idyllic version of civil and civic society in the eighteenth century with its public values and ideals. See COLIN HAYDON, *ANTI-CATHOLICISM IN EIGHTEENTH-CENTURY ENGLAND, c. 1714-80: A POLITICAL AND SOCIAL STUDY* 37-39, 91-92 (1993).

the religious split between evangelicals and moderates over the explosive issue of lay patronage was notable in that it did not explode. Similarly, the bitter resentments stirred up by the militia issue, whereby England denied the Scots the right to form a militia, dissipated over a generation as citizens on both sides of the border came to recognize how impractical the formation of such a body would be. In the nineteenth century many dangerous and frivolous ideas were disproven through public debate and limited testing in the public sphere. One recalls the advice of John Stuart Mill encouraging governments and society to look kindly on “experiments” in daily living. Mayhap toleration for these ventures might in the end enrich quotidian life in the community. Today’s eccentricity may be tomorrow’s orthodoxy, thereby satisfying real needs.²⁶

Habermas does call attention to the proliferation of voluntary forms of associative life flowering as never before in the eighteenth century, and this is a point made by contemporaries from Hume to Burke, and then from Hegel to Tocqueville. The role of these “little platoons” or “squadrons” included everything from musical societies to political parties to literary clubs to coffee houses. They did indeed serve as a buffer between state and society. In fact they contributed to society as an entity having a life of its own. But one must not idealize them, for they were as liable to corruption and the pinched pursuit of self-interest as any other citizen body—voluntary or involuntary. This observation might hold for modern day political scientists who indiscriminately praise all intermediate forms of associative life as beneficial to the well-being of civil society—be they the P.T.A., the Michigan Militia, or Mafia.²⁷

Scotland was open to the idea of civil society, since it was a nation without a government or, at best, a lean-to government. With the Act of Union of 1707, political rule was transferred from Edinburgh to Westminster, and politics was subsumed under the arts of management and patronage. Therefore, forms of associative life, regarded as negligible and marginal in other regions of Europe, were the very engines driving social change. Those literati who understood the significance of these little platoons and recognized the markings of historical change culminating in commercial/civil society were well aware of its shortcomings. For example, the play of market forces and radical specialization had deleterious social consequences for ordinary men and women. There were

26. Mill’s advocacy of voluntary forms of association and the need for spontaneous forms of action led him to contend that even elementary education under state sponsorship had serious defects: “It is not endurable that a government should either *de jure* or *de facto*, have a complete control over the education of the people.” 2 JOHN STUART MILL, PRINCIPLES OF POLITICAL ECONOMY WITH SOME OF THEIR APPLICATIONS TO SOCIAL PHILOSOPHY 577 (New York, D. Appleton & Co., 5th ed. 1864). The question can be raised as to whether Mill was in favor of pluralism at a time when support for this idea was entirely limited. See HOLTHOON, *supra* note 5, at 126.

27. On the subject of romanticizing intermediate forms of voluntary association, from bowling clubs to choral groups, see Fareed Zakaria’s witty and incisive review of Francis Fukuyama’s *Trust*. Fareed Zakaria, *Bigger Than the Family, Smaller Than the State: Are Voluntary Groups What Make Countries Work?*, N.Y. TIMES BOOK REV., Aug. 13, 1995, at 1 (reviewing FRANCIS FUKUYAMA, *TRUST: THE SOCIAL VIRTUES AND THE CREATION OF PROSPERITY* (1995)).

also fears that commercial/civil society would undermine martial virtues and civic humanist values.

In my book, *The Emergence of Civil Society*,²⁸ I have dealt with the next point in great detail, so I shall simply state it baldly: many of the transactions of Scottish daily life were initiated and mandated from a world of favors, gifts, clientage, patronage, dependency, and a battery of archaic practices and customs. Deference and hierarchy, as well as the individual's need for approbation were primary. This was true throughout Western Europe, and the keenest critics of a paternalistic and honor culture, from Jean-Jacques Rousseau to Mary Wollstonecraft, singled out the egregious flaw of generalized social dependency. Wollstonecraft's attack on Edmund Burke on this and other vexing issues is worthy of careful and serious regard. The social dependency of women and the many barriers against careers open to talent became topics of mounting complaint and political agitation. But it was from Rousseau that the deadliest and most influential critique emanated. He judged the sickness of society to be much graver: the history of civil society itself was a bleak chronicle of disease. Gladly would he eradicate from the political landscape all forms of intermediate associations and institutions. He despised representative bodies such as the English Parliament; in his ideal government nothing would intervene between the family and the state. Men would rush to the public assembly to vote, then back to the workbench. Life does seem a lonely one in the community posited by Rousseau. This very "unclubbable" Swiss-Frenchman was contemptuous of Burke's "little platoons" and Samuel Johnson's clubs which added spice to the workaday life. The ultimate and lasting purpose of civil society was in Rousseau's view not to be found in its lofty ideas, but rather in its cowardly need to protect property—obviously, that of the rich. Oh, the social injustice of retaining one's liberty at the expense of other people! This powerful line of argument, lodged in the political culture of Western Europe, found modest expression in the French Revolution and gained full voice in the writings of Karl Marx and the "scientific Socialists."²⁹

The ideas of socialism gained strength in the West and the new Socialists became formidable analysts of the social injustice fostered by civil society. Rousseau, himself, however, went far beyond any critique of private property, disputing vigorously the optimistic forecast of David Hume and his fellow Scottish literati that the emergence of commercial/civil society was perforce accompanied by the flourishing of the arts, letters, and sciences. Of course

28. BECKER, *supra* note 1.

29. David Bromwich's review of Mary Wollstonecraft's *Mary and Maria* discusses the importance of the repudiation of archaic forms of dependency in the author's writing. David Bromwich, *Narcissus and Cain*, LONDON REV. BOOKS, Aug. 6, 1992, at 14 (reviewing MARY WOLLSTONECRAFT, *MARY* (1788) and *MARIA* (1798) (Janet Todd ed., Pickering and Chatto 1991)); see also VIRGINIA SAPIRO, *A VINDICATION OF POLITICAL VIRTUE: THE POLITICAL THEORY OF MARY WOLLSTONECRAFT* 77-116 (1992). For Burke's views on the "new morality of France and Rousseau," see BURKE, *supra* note 10, at 246-55. The true villain in Rousseau's analysis provoking social damage is "personal dependence." This has been obscured by excessive emphasis upon *amour propre*. See CAROL BLUM, *ROUSSEAU AND THE REPUBLIC OF VIRTUE: THE LANGUAGE OF POLITICS IN THE FRENCH REVOLUTION* (1986).

Rousseau's version of history pointed in an opposite direction. What Hume and his fellows celebrated was for Rousseau a sure and deadly reminder of the corruption of the age. Finally, there was Rousseau's foggy and often contradictory vision of the "general will," which, if implemented, would subvert, making indefensible the building blocks of a commercial/civil society. The ideas of fraternity and national well-being would certainly overwhelm any defense of the well-being of the individual citizen. Moreover, the total politicization of the "general will" entailed, as already noted, the abolition of all forms of intermediate associative life. Such an abolition would include the exclusion of the arts and sciences beyond the most rudimentary level, a notion anathema to the durability of civil society. Religion, except for what Rousseau termed "civil religion," was to be expunged, since it worked to subvert allegiance to the social contract.³⁰

Rousseau's revolutionary ideas were grounded in an optimistic psychology, almost alien to that of the Calvinistically minded Scots. His lament for the lost virtues of natural society ran counter to the stern vision of the Scots. Rejected was the idea of a retrieval of a lost golden past; so too was repudiated the buoyant forecast that it would be possible to refashion the mind and character of men and women. Still, the influence of the Calvinist Reformation was strong: few could distance themselves entirely from the notion of original sin, however faint. There was also a recognition of the limitations of human reason and the feebleness of human agency. This last belief tended to endorse a deterministic view of human history and was itself a source of great tension. Scottish skeptics such as Hume and Smith, as well as the Irishman, Burke, were entirely dubious concerning the assertion that a refashioning of the human character was possible. Likewise, they would deny that under any circumstances would a reshaped individual find the liberty of equality in the *volonté générale*. Rousseau's passionate approach to politics and his holistic dream (totalitarian?) were to survive among millennialist revolutionaries from Robespierre to Tolstoy, troubling the tranquil ease of generations. Rousseau was to write in *The Social Contract*, the following stern recommendation for decisive political action:

He who dares to undertake the making of a people's institution ought to feel himself capable, so to speak, of changing human nature, of transforming each individual, who is by himself a complete and solitary whole, into part of a greater whole from which he in a manner receives his life and being; of altering man's constitution for the purpose of strengthening it; and of substituting a partial and moral existence for the physical and independent existence nature has conferred on us all. He must, in a word, take away from man his own resources and give him instead new ones alien to him . . .³¹

30. The tragic failure of the French revolutionaries and their policies toward the Catholic church stand as stunning evidence against an abstract idea of secularization whose time will never come.

31. ROUSSEAU, *supra* note 6, at 194. An eccentric but riveting discussion of the intellectual links between Marx and Rousseau is presented in LOUIS ALTHUSSER, *POLITICS AND HISTORY: MONTESQUIEU, ROUSSEAU, HEGEL AND MARX* 113-86 (Ben Brewster trans., 1972). For other relevant passages from the writings of Rousseau, see ROUSSEAU *supra* note 6, at 191-203, 227. On the vexing subject of Rousseau's conception of the "General Will," see Judith Sklar's entry in the *Dictionary of the History of Ideas*. Judith Sklar, *General Will*, in 2 *DICTIONARY OF THE*

Favorable reactions to and polemics against Rousseau's *The Social Contract* would fill a small library; to our day the dialogue with the author remains fruitful and vivid. I shall mention only one communicant, Benjamin Constant (1767-1830), who was a French-Swiss like Rousseau, but unlike his forebear, was active and experienced in French politics. Profoundly influential was his Scottish university education at Edinburgh (1783-85), where he imbibed "common sense" philosophy. A member of the Chamber of Deputies after the Restoration of 1815, he spurned both divine right theory and the political nostrum of unlimited popular sovereignty. In his view it was impossible to adapt Rousseau's concept of liberty, derived from the world of antiquity and the ancient Greek city-state (most particularly Sparta), to the complex and economically advanced, densely populated modern world. While Rousseau's defense of popular rights was laudable, his theories of popular sovereignty and unlimited liberty were dangerous and certain to lead to despotism. For Constant, the dangers of totalitarian democracy were plain for all to see in the reign of revolutionary Terror. Had not the French Revolution demonstrated the death-dealing power that might be unleashed from below, and had not Napoleon and his despotism been a menace both to France and all of Europe? Yet, had not the tyrant claimed that his regimen rested on popular sovereignty? In his *Principles of Politics*³² and his *Ancient and Modern Liberty*, Constant tied civil society and the protection of the public sphere to leading liberal ideas.³³ The majority, no matter whether they have authority from the nation or not, cannot oppress the minority.³⁴

Benjamin Constant's modern conception of liberty and civil society contrasted sharply with his views of liberty in antiquity. If his comparisons were not entirely dependable on historical grounds, they did illuminate his thought on governance as well as that of his followers over the next generation (the Guarantists).³⁵ Constant relied on the historical past to demonstrate that there was no necessary correspondence between liberty and popular democracy; the link was entirely contingent. The defining experience for him had been the bloody French Revolution in which more than a million lives were lost. How pernicious was Rousseau's brilliant literary effort to revive the "liberty of participation of collective decision making." Here, then, are Constant's cautionary words—an antidote to revolutionary radicalism:

HISTORY OF IDEAS 275-81 (1973). David Allan's *Virtue, Learning and the Scottish Enlightenment* provides a useful reminder of the persistent influence of the anti-rational bias of Calvinism and its emphasis on the role of unintended consequences in human affairs; he does, however, take the argument beyond its appropriate limits. See ALLAN, *supra* note 16.

32. M. BENJAMIN CONSTANT, *PRINCIPES DE POLITIQUE* (Paris, L'imprimerie de Hoquet 1815).

33. The "L" word, with its modern meaning, was coined precisely in this decade.

34. CONSTANT, *supra* note 5, at 309-28. See Adam Seligman's discussion of the relevance of Constant's ideas for an understanding of the politics of civil society in his *Animadversions upon Civil Society*. Seligman, *supra* note 11, at 200-01.

35. Principal among these was the premier historian, Francois Guizot, who served as minister in the government of Louis Phillipe (1830-48) and was the designer of essential educational reforms.

Liberty is every man's right to be subject to the law alone, the right of not being arrested, tried, put to death or in any way molested, by the caprice of one or more individuals. It is every one's right to express his own opinion, to attend to his own art, to come and go, to associate with others. It is, lastly, every one's right to influence the administration of the state either by nominating all or some of its officers, or by his advice, demands and petitions, which the authorities are in a greater or less degree obliged to take into account.

Let us compare this liberty with that of the ancients. That consisted in the collective but direct exercise of many privileges of sovereignty, deliberating upon the public welfare, upon war and peace, voting upon laws, pronouncing judgment, examining accounts and so forth; but while the ancients regarded this as constituting liberty, they held that all this was compatible with the subjection of the individual to the power of the community. . . . Among the ancients, the individual, a sovereign in public affairs, is a slave in all private relations. Among the moderns, on the contrary, the individual, independent in his private life, is even in the freest states a sovereign only in appearance. His sovereignty is restricted, and almost always suspended; and if now and again he exercises it, he does so only in order to renounce it.³⁶

Constant spoke to a commanding question raised a generation earlier by Scottish literati and their English counterparts: the pressing need to institutionalize individuals within the framework of a system of consent and representation. The problem was vexing at a time when commercial/civil society was widely regarded as a sure engine of economic prosperity that would raise all ships.³⁷ In doing its laudable work, civil society demanded of governors that they cease regulating and intervening in the lives of its citizens. Therefore, it became essential to explicate new views on the relationship of the individual to his community, as well as to his practical political sovereignty. The French Revolution demonstrated how fierce this debate could be. In the National Assembly between 1789 and 1790, the dispute over sovereignty and representation became embittered and was to have dreadful consequences. Soon simplistic assertions, such as Rousseau's: "The man who first had the idea of enclosing a field and saying *this is mine* and found people simple enough to believe him, was the real founder of civil society," would become a famous *boutade*.³⁸ All of this stands in sharp contrast to the development of civil society

36. John Gray cites and discusses this passage by Constant in his *Liberalism*. JOHN GRAY, *LIBERALISM* 21 (2d ed. 1995).

37. Progressive and Whiggish interpretations of history sometimes fail to appreciate the difficulties and tensions implicit in displacing an aristocracy as guardians and custodians of ancient liberty with more representative parliamentary bodies. The shift from an aristocratic ethos to a more variegated and pluralistic political culture was a demanding and very uncertain journey that had not been undertaken since antiquity. Earlier systems of representation carried a heavy freight in favor of the registration of consent for policies and programs already formulated by the crown. Legislation in the modern sense was entirely exceptional. The pressure toward representative government was to some extent a consequence of the division of labor and specialization in all fields from culture to politics to commerce.

38. For the quotation from Rousseau and comments, see NORMAN HAMPSON, *THE ENLIGHTENMENT: AN EVALUATION OF ITS ASSUMPTIONS, ATTITUDES AND VALUES* 210 (Penguin Books 1990) (1968). FRANÇOIS FURET, *PENSER LA RÉVOLUTION FRANÇAISE* 88-101 (esp. 91) (1978), locates the roots of the Reign of Terror in debates of the National Assembly

and its institutions then emerging in Scotland. Under a sheltering sky, with only a few rough winds and the catcalls of a handful of cranky lairds and disgruntled poets, the transition was without serious and sustained opposition.

By the 1780s and 1790s, the cumulative effect of economic change, at least as measured in Scotland, appeared to close the distance between middling and upper-ranks in society. There was a notable decline of social dependence, and this was brilliantly explicated by John Millar who had been a student of Adam Smith. It was to be the next generation of Scottish and English lawyers, many of them Millar's former students, who championed reforms of the electoral system in Britain. The lawyer was destined to be the crucial figure in whose hands rested the institutional fate of the lineaments of civil society.³⁹

Before considering Millar's principal writings and influence, however, it should be emphasized that throughout the eighteenth century, commercial/civil society was buttressed by social arrangements and values stemming from hierarchy and aristocratic ideals of diffidence. Indeed, this is a general truth pertaining to the viability of civil society (commercial or industrial) over the next 200 years. The durability of civil society in the nineteenth and twentieth centuries was insured by the triumph of a political economy of entitlements and acquired rights. To use social science parlance, modernization was only possible in conjunction with welfare and social insurance. For example, if it had been fully implemented, the experiment of the Republicans of 1995-96 (the "Contract with America") would have had (and still may have) dire consequences for the future of civil society. A similar observation could be entertained for several governments on the European continent.

As I have mentioned previously, the context in which civil society existed and endured is vital for our historical understanding. Clearly it differed in other ages. Likewise, various political thinkers viewed the context most favorable to its durability from many perspectives. While there were certain constants lending force to its definition, such as the free market, minimal government regulation, the benefits of competition, the advantage of ambition on the positive side, with citizen alienation, the decline of martial spirit and civic virtue on the other, there were very different assessments rendered as to the necessary elements required

over representation and sovereignty during the years 1789 and 1790. Elizabeth L. Eisenstein offers a fair-minded critique of the Furet's scholarly preoccupations and reverence for the views of Alexis de Tocqueville in Elizabeth L. Eisenstein, Book Review, 99 *AM. HIST. REV.* 1323, 1323-24 (1994) (reviewing FRANÇOIS FURET, *REVOLUTIONARY FRANCE 1770-1880* (1992)).

39. For a study of John Millar's influence on future leaders and statesmen (many of whom were former students), see WILLIAM C. LEHMANN, *JOHN MILLAR OF GLASGOW, 1735-1801*, at 35-42, 149-53 (1960). The role of lawyers is essential for understanding the subsequent history of civil society in nineteenth-century Britain. They played a leading part in the reforms initiated by parliamentary commissions and the courts. For France, see DAVID BELL, *LAWYERS & CITIZENS: THE MAKING OF A POLITICAL ELITE IN OLD REGIME FRANCE* (1994), which is a detailed examination of the French barristers at mid-eighteenth century operating in that territory between an absolute monarchy and an aggressive church to carve out a public sphere favorable to the development of a civil society. Discussions of the politics of welfare and the welfare state are legion, but for Scotland, see LINDSAY PATTERSON, *THE AUTONOMY OF MODERN SCOTLAND* 15-23, 108-69 (1994).

to make it work. Edmund Burke's view is worthy of special regard, since his brand of conservatism and acute historical sensibility have kept alive his eloquent political reflections for over these 200 years. No admirer was clearer or more succinct in his celebration of Burke's legacy than the poet William Wordsworth in his 1832 revision of *The Prelude*:

While he forewarns, denounces, launches forth,
Against all systems built on abstract rights,
Keen ridicule; the majesty proclaims
Of Institutes and Laws hallowed by time;
Declares the vital power of social ties
Endeared by Custom; and with high disdain,
Exploring upstart Theory, insists
Upon the allegiance to which men are born⁴⁰

Burke was among the very first to conceive of society as having a life of its own: "A society is not a merely causal and contingent assemblage of human beings who happen to be in the same place at the same time." He judged that "the great chain of society" was sustained by human passions. His debt to Adam Smith's *Theory of Moral Sentiments*⁴¹ was evident when he contended that individuals were linked by sympathy, the desire for approbation, the tendency toward emulation (the desire to excel another), and with leaders driven by the psychology of ambition. Among the many there was "satisfaction arising from the contemplation of gaining approval" of fellow citizens with a bond of sympathy and the drive for eminence; human beings were never "indifferent spectators of almost anything which men can do or suffer." Thus there was a meld between empathy and the drive toward success. The passions are entirely natural and will give rise to a "graduated social order." The mix of sympathy, imitation and ambition makes certain that inequality will become natural. Sympathy makes us conscious of what men feel; imitation makes us copy what they do, and when this is complemented by ambition, makes men desire to excel. Nature, in Burke's view, encompasses the adaptation of the artificial to the ends suggested by man's nature. *Inequality* and dependence are the gentle rains nourishing the growth of that fragile plant—civil society. Attempts to cancel inequality are doomed.⁴²

This argument, stimulated by Burke's reading of Rousseau's *Discourse on the Origin and Foundation of Inequality* and brought to sharp focus by his analysis

40. On the topic of William Wordsworth's growing admiration for Edmund Burke, see JAMES CHANDLER, WORDSWORTH'S SECOND NATURE: A STUDY OF POETRY AND POLITICS 216-31 (1984). Anthony Quinton, in his *Political Philosophy, in THE OXFORD HISTORY OF WESTERN PHILOSOPHY* 235 (Anthony Kenny ed., 1994), considers the implications of the poet's celebration of Burke's views on culture and society.

41. ADAM SMITH, *THEORY OF MORAL SENTIMENTS* (D.D. Raphael & A.L. Macfie eds., 1976) (1759).

42. In the first edition of *The Theory of Moral Sentiments*, sympathy and approbation were described as "the compelling drives for all the toil and bustle of the world . . . the end of avarice and ambition, of the pursuit of wealth." For Smith the community was "a mirror" in which the individual could assess his or her behavior. See *id.* at 100 and *Introduction* by Raphael; BECKER, *supra* note 1, at 34-37.

of the events of the first year of the French Revolution, is vital. To his admirers his historical powers were almost prophetic. He predicted, based on the early experiences of the Revolution, that it was certain to breed anarchy and, within a short time, the demand for law and order would induce the citizens to call in "the man on a horse"—a military despot. The Jacobins had assumed that natural inequalities stemming from development of society could be annulled and socialized dependence sustained by religious belief abrogated. For Burke, religion was based upon revelation, therefore, salvation was denied to those living beyond its true light. Thus, by its very nature, religion prompted inequality. In his work, *Reflections on the Revolution in France*, he was certain in his opinion that the manners and civilization of the Europe of his day were the offspring of hierarchy and the Church: "Nothing is more certain, than that our manners, our civilization, and all the good things which are connected with manners, and with civilization, have . . . depended for ages upon two principles . . . I mean the spirit of a gentleman, and the spirit of religion."⁴³

Burke was surely right: in every European society there was subordination, and in the eighteenth century, commercial/civil society was no exception. Moreover, social dependency and a legion of archaic practices and customs served to undergird a world actively "trading at a distance." But two significant questions arise to challenge the Irishman's elaborate discourse. First, since he favored unfettered competition (the free play of market forces without government intervention even in times of famine), the question remains: how was hierarchy to be stabilized? Secondly, the very play of the market served to reduce social dependence. John Millar, whom we have mentioned previously, noting his discipleship to Adam Smith and the influence of his "Lectures on Civil Society" at the University of Glasgow, saw clearly that in a commercial/civil society traditional ties and economic arrangements were becoming increasingly fragile. In his *Origin of the Distinction of Ranks* he states:

The farther a nation advances in opulence and refinement, it has occasion to employ a greater number of merchants, of tradesmen and artificers; and as the lower people, in general, become thereby more independent in their circumstances, they begin to exert those sentiments of liberty which are natural to the mind of man, and which necessity alone is able to subdue. In proportion as they have less need of the favour and patronage of the great, they are at less pains to procure it; and their application is more uniformly directed to acquire those talents which are useful in the exercise of their employments. The impressions which they received in their former state of servitude are therefore gradually obliterated, and give place to habits of a different nature. The long attention and perseverance, by which they become expert and skilful in their business, render them ignorant of those decorums and of that politeness which arises from the intercourse of society; and that vanity which was formerly discovered in magnifying the power of a chief, is

43. FRANCIS P. CANAVAN, *THE POLITICAL REASON OF EDMUND BURKE* 65-66 (1960). For the essential writings of Burke on religious matters, see BURKE, *supra* note 10, at 104-12. On the general question of the superior wisdom embodied in traditional ways and institutions, see J.G.A. Pocock's sparkling essay, *Burke and the Ancient Constitution: A Problem in the History of Ideas*. J.G.A. POCKOCK, *Burke and the Ancient Constitution: A Problem in the History of Ideas*, POLITICS, LANGUAGE AND TIME 202-32 (1973).

now equally displayed in sullen indifference, or in contemptuous and insolent behaviour to persons of superior rank and station.⁴⁴

When Adam Ferguson was examining the long-term prospects of civil society and effects of wealth on the “national character” (his term), he drew moral conclusions. Supported by contemporary experience, as well as evidence from ancient Greece and Rome, he posited an endgame to be played out on history’s chessboard. His concern was with the sure and ultimate corruption of civil society as the appetite for luxury and opulent display took its toll. Ferguson opined that one might suppose men had been successful in discovering the arts by which states are “preserved and governed,” but he cautions:

The event, however, has not corresponded to this expectation. The virtues of men have shone most during their struggles, not after the attainment of their ends. Those ends themselves, though attained by virtue, are frequently the causes of corruption and vice. Mankind, in aspiring to national felicity, have substituted arts which increase their riches, instead of those which improve their nature. They have entertained admiration of themselves, under the titles of *civilised* and *polished*, where they should have been affected with shame; and even where they have for a while acted on maxims tending to raise, to invigorate, and to preserve the national character, they have, sooner or later, been diverted from their object, and fallen a prey to misfortune, or to the neglects which prosperity itself had encouraged.⁴⁵

John Millar’s interpretive strategy was very different: he moved through the expanse of history with short steps rather than seven-league boots. He was the most optimistic of the Scottish literati about historical prospects. Perhaps it might be fair to suggest that he was one of the first Scottish “liberals,” recognizing the implications for politics that the base of propertied society was broadening and diversifying. Appropriately enough, he repeatedly expressed thanks to Adam Smith for the privilege of hearing his “Lectures on Civil Society,” but extended his purview. For Millar, the individual was the measure; in time his engagement worked principally to elevate people of “low rank toward a state of independence.”⁴⁶ Moreover, Millar pilloried those who advocated keeping the lowly in their penurious place. The force propelling the tendency toward democratization was solidly economic. Simultaneous with the elevation of the lowly was the decline of great families of “more polished” qualities. In this way great families will be reduced in wealth and authority primarily through their addiction to conspicuous consumption. Parenthetically, it was Edmund Burke

44. JOHN MILLAR, *ORIGIN OF THE DISTINCTION OF RANKS* 264 (4th ed. 1806). Prefixed to this edition is a very useful account of the life and writings of Millar by his nephew, John Craig. For Burke’s memorandum to Prime Minister William Pitt, warning against interfering with the free market in grain, see BURKE, *supra* note 10, at 27-28; *see also* 5 EDMUND BURKE, *THE WORKS OF EDMUND BURKE* 133-34 (Boston, Little Brown & Co., 5th ed. 1877).

45. RENDALL, *supra* note 14 (citing and discussing the passage from Ferguson); *see also* DAVID KETTLER, *THE SOCIAL AND POLITICAL THOUGHT OF ADAM FERGUSON* (1965). Ferguson was deeply troubled about the decline of military valour among the Scots and continued to lecture on this favorite theme of humanists since the fifteenth century in Florence. *See* J.G.A. POCOCK, *THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION* 498-505 (1975).

46. MILLAR, *supra* note 44.

who provided the aristocrats with their most systematic vindication. He both acknowledged their deep and valuable roots in history while pleading for the nurture of a concept of social responsibility and benevolence which characterized a large propertied class rather than a narrow oligarchy.⁴⁷

The solvent of economic change severed customary ties and hierarchies. The debate concerning the need to preserve hierarchy for reasons of state (the stability of society and government) raged throughout the British political community over the last three decades of the eighteenth century, drawing upon the talents of Benjamin Franklin, Alexander Hamilton, Thomas Jefferson, James Madison, Richard Price, Adam Ferguson, Edmund Burke, and scores of others. Millar was the first to write in purely economic terms on the historical development of the English constitution in his *Historical View of English Government* (1787).⁴⁸ The onset of commercial civilization had a dual impact: on the one side it could buttress monarchical authority, whereas on the other it could strengthen democratic forces within a society. Only a close analysis of history could disclose which of these two tendencies would prevail. As has been noted, Millar saw a rosy future. Political and civil liberty were very likely outcomes of a burgeoning commercial/civil society; the fear of descent into savagery and barbarism was improbable:

Wherever men of inferior condition are enabled to live in affluence by their own industry, and, in procuring their livelihood, have little occasion to court the favour of their superiors, there we may expect that ideas of liberty will be universally diffused. This happy arrangement of things is naturally produced by commerce and manufactures; but it would be as vain to look for it in the uncultivated parts of the world, as to look for the independent spirit of an English waggoner among persons of low rank in the Highlands of Scotland.⁴⁹

Clearly, the French Revolution with its successes and failures posed a most serious challenge—even threat—to Scottish Enlightenment ideas and general views of civil society. Sir James Mackintosh, friend of Millar and admirer and formidable antagonist of Burke, mused in 1799 about the impact of both the American and French Revolutions on English and Scottish statesmen and literati:

Recent events have accumulated more terrible practical instruction on every subject of politics than could have been in other times acquired by the experience of ages. Men's wit, sharpened by their passions, has penetrated to the bottom of almost all political questions. . . . The mind of that man must

47. For Burke's views on aristocracy and leadership, see BURKE, *supra* note 10, at 139-46. For Burke's letter to a noble lord, indicative of his nuanced views on aristocratic obligation and the duties of rank, see PAUL LANGFORD, *A POLITE AND COMMERCIAL PEOPLE: ENGLAND 1727-83*, at 690-91 (1989). The success of the English aristocracy, who in 1688 made the necessary compromises and reforms, stood in grim contrast with the failure of their progeny (the King and men of rank at the time of the war with the American colonies (1775-83)) to come to terms with the claims of their brothers overseas for claims for independence.

48. JOHN MILLAR, *AN HISTORICAL VIEW OF ENGLISH GOVERNMENT* (London, J. Mawman 1812) (Research Publications 1990).

49. MILLAR, *supra* note 44, at 296.

indeed be incurious and indocile, who has either overlooked all these things, or reaped no instruction from the contemplation of them.⁵⁰

By standards of the past, the period of the Enlightenment in Scotland stood out as one of religious toleration and relative ecclesiastical calm; this in bold contrast to the venomous and brutal battles of the past. Hanoverian stability and the government at Westminster worked to make the country a harmonious place. Lowland Scotland had been indeed fortunate, since the decades after the 1760s were exceedingly prosperous: a time of economic takeoff. Therefore, the large population forced off the land as a result of agricultural modernization (clearance) was able to find work in the cities. The pressures on civil society were thus not overwhelming. There was, however, a change in the nature of unrest in the cities, being more assertive expressing distrust and misunderstanding between an urban patriciate and ordinary folk. Privileged discourse about civil society was contested as a new rhetoric about politics was heard voicing social division rather than a call for sustaining a moral consensus about urban life.

Millar was among the first Scottish literati sympathetic to the French Revolution and its claims for liberty; for this he made many enemies. He was a member of the “seditious” Society of the People and an opponent of the younger Pitt and his policies of repressing citizen liberty in the name of eradicating subversion. Under the pseudonym of Crito, he, or a like-minded confederate, published, serially, fifteen letters, from May to September of 1796, in the *Edinburgh Scots Chronicle*. In the same year they appeared in pamphlet form under the title of *Letters of Crito: On the Causes, Objects and Consequences of the Present War*, and dedicated to Charles James Fox. Here Millar staunchly advocated parliamentary reform, speaking against the present government as corrupt and prodigious in its use of patronage. It was essential, in his view, that “inequality of the national representation” be corrected and the “discretionary powers” of the government be reduced. Moreover, on the pretense of “guarding the public safety,” prosecution and oppressive treatment of the innocent had become a daily occurrence. Restraints on liberty led to violation of freedom of the press. Most telling, however, was the government’s objection to parliamentary reform; here the people were suspect. Would they not imitate the French who were “in reality, desirous of a total revolution?” Would they be contented with an “amendment of the defects particularly specified . . .?” For Millar the answer was “yes.” How moderate had been the temper of the people in all parts of Britain! Clearly, the history of the last years demonstrates “that the lower orders are in general firmly attached to the British Constitution.”⁵¹ Millar closes with this powerful assertion of confidence in the lowly and those of modest means:

But notwithstanding the mortifying suspicions which have been cast upon them, notwithstanding the neglect which their humble petitions on behalf of

50. JAMES MACKINTOSH, A DISCOURSE ON THE STUDY OF THE LAWS OF NATURE AND NATIONS 30 (London, Printed for T. Cadell, jun., W. Davies, J. Debrett, & W. Clarke, 1799).

51. JOHN MILLAR, LETTERS OF CRITO: ON THE CAUSES, OBJECTS AND CONSEQUENCES OF THE PRESENT WAR, letter xv (Edinburgh, 1796) (Giuffrè 1984).

their favourite object have constantly met with, notwithstanding the invidious distinctions which have unnecessarily and injudiciously been held up between them and the superior ranks, they have never been betrayed into violent or unconstitutional measures; they have never testified any marks of resentment against the ruling powers; and, under the pressure of uncommon difficulties, even in procuring their daily bread, they have waited with patience the issue of a war which they could not approve of, and against which they had in vain remonstrated. Of the many who were capitally prosecuted for political offences, all have been acquitted by the verdict of a jury, except two obscure persons in Scotland, of whom the principal was a noted spy, that had received a bribe upon the part of the Executive Government.⁵²

A new discourse concerning civil society came to the fore working to achieve a broader James definition. When Hume and Smith spoke of liberty, it was presented as typical of commercial/civil society at a particular stage in its historical development. When Hume considered the absolute monarchy of France, he judged it to be a government of laws, not men. The monarchy was as secure and stable as any other mixed form of government. Constitutions were less significant than the law, and if laws provided security, the preservation of order, a guarantee of property and of contracts, this was a lofty end. Liberty in Smith and Hume's view was not the exclusive preserve of Britain and its constitution. What preoccupied these men and many of their confreres of the generation was civil and economic rather than political liberty. Many in Lowland Scotland believed that the Union of Scottish and English Parliaments of 1707 relieved them of heavy political burdens, and that it would now be possible to devote energy to agricultural and commercial improvement. With the decline of government regulation and extension of the sphere of civil society, natural relations prompted by competition and initiative would take root. No longer would talent and the drive toward excellence be smothered. No surprise that Hume's historical essays won great favor and gratitude among the French men of letters. As we have noted, they were pleased to endorse the view that it was refinement of manners, civility and advance in the arts and sciences, not constitutions and political liberty, that were the hallmark of a civilized and cultured society.⁵³

The great Montesquieu had endorsed the notion that liberty and restraint were not mutually exclusive, and leading Scottish literati—Adam Ferguson included—warmly accepted this proposition. Hume, after an assiduous study of

52. *Id.* at 100-110.

53. See GORDON, *supra* note 23, at 160-70. David Hume reciprocated the affection and regard of the French, although he took no pleasure in being viewed as a person of fashion. In his memoir he wrote:

Those who have not seen the strange effects of modes will never imagine the reception I met with at Paris, from men and women of all ranks and stations. The more I [recoiled] from their excessive civilities, the more I was loaded with them. There is, however, a real satisfaction in living at Paris, from the great number of sensible, knowing, and polite company with which that city abounds above all places in the universe. I thought once of settling there for life.

DAVID HUME, *ESSAYS: MORAL, POLITICAL, AND LITERARY* at xxxix (Eugene F. Miller ed., Library Classics 1985) (1875).

history, opined that an ineradicable tension existed between liberty and authority and would very likely continue to be a perturbing component of political culture. It was true that in his lifetime there had been an increase in "personal and civil liberty," however, this was incremental and sure to be partial: "In all governments, there is a perpetual intestine struggle, open or secret, between Authority and Liberty; and neither of them can absolutely prevail in the contest."⁵⁴ For very different reasons, Edmund Burke, and numerous others, voiced epistemological modesty concerning prospects for any rational disposition of this inexorable contest.⁵⁵

Again, when John Millar referred to Adam Smith and his "Lectures on Civil Society," it was to celebrate his teacher; from Smith, Millar appropriated his chain of reasoning and systematization of economic relationships. He followed his mentor closely when explicating the decline of archaic culture, with the reduction of armies of retainers, devotion to lordship, hospitality, and the thousand courtesies binding that once-heroic society. He appreciated Smith's highlighting of the division of labor and the play of market forces as promoting the decline of social dependence. Civil society, in Smith's view, provided a context favorable to the release of economic and social forces for the betterment of the lives of individuals and nations, but was no panacea for a myriad of attendant problems, from over-population to citizen alienation. As one of his contemporaries remarked, the great strength inherent in civil society is that it avoids the "greatest Mischief." Millar and others were not entirely satisfied with this limited, even rather negative, definition. Looking to the future, it is possible to suggest that the fate of commercial/civil society over the next two centuries was to be one in which modest expectations gave way to buoyant and exaggerated hopes. One can follow the trail of Millar's Scottish and English students observing the cargo of popular, political expectations that now freighted commercial/civil society. The ideas of liberty and the reform of Parliament were brought to heightened consciousness by news of the events of the American and, more particularly, the French Revolution.⁵⁶

Millar was, as we have seen, sympathetic to the ideals of the French Revolution in its early stage and was a supporter of Charles James Fox,

54. HUME, *supra* note 53.

55. For Millar's views on the social consequences of the division of labor, see LEHMANN, *supra* note 39, at 379; here Millar follows closely Adam Smith's explication in *Wealth of Nations*, bk. 5, ch. 1, part 3, art. 2. Significant, however, is the difference between pupil and master. In the last decade of his life, Smith backed away from attempts to construct a science of ethics predicated on a demonstrable empirical foundation and became increasingly despairing concerning the artificial and dependent character of his fellow Scots. The last edition of his *Theory of Moral Sentiments* suggests "a Scottish moralist's increasing concern over the extent of vanity and ambition within a modern 'society of strangers.'" JOHN DWYER, VIRTUOUS DISCOURSE: SENSIBILITY AND COMMUNITY IN LATE EIGHTEENTH-CENTURY SCOTLAND 183 (1987). This bleak view was far distant from the reforming and "progressive" sensibility of Millar.

56. See LEHMANN, *supra* note 39 for references to the names of Millar's students who achieved political eminence in nineteenth-century British politics. See also KNUD HAAKONSEN, THE SCIENCE OF A LEGISLATOR (1981); MILLAR, *supra* note 44 (advocating vigorously parliamentary reform).

champion of these ideas in Parliament.⁵⁷ John Craig, nephew of Millar and his earliest biographer, wrote in detail of the distracting influence of the French Revolution on his uncle's thinking. In fact he was to write no major work after the outbreak of the revolution, only contributing the fifteen letters serially published in the *Scots Chronicle* in 1796. More relevant than the study of history was the mounting recognition of the need for political action to realize something of the promise of the ideals of that revolution. The political, with its heavy charge of ideas of utility, reform, and liberty, perturbed the relatively autonomous zone of civil society. Economic freedom, religious toleration, and the principle of voluntary association were the bedrock of commercial/civil society; now the French Revolution and Britain's subsequent war with France altered the case for its legitimation. Could it remain viable and survive the vicissitudes of internal repression by its conservative enemies? Could it satisfy the inflated expectations of its radical friends?⁵⁸

CONCLUSIONS

From its beginnings in Scotland in the eighteenth century, the model of commercial/civil society posed a deadly challenge to the most influential and durable ideas of classical political theory. By its very nature civil society required less sacrifice, participation in public life, and fulfillment of serious public obligations than did the civic humanist tradition with its ancient conceptions of virtue rooted in the experience of Greece and Rome. The classical model highlighted a morality that was public rather than private, and its appeal was widespread and persistent among Scottish political theorists, historians, and humanist scholars. The weight of opinion, as measured by their writings, unquestionably disclosed that theirs was the majority literary view. Clearly, Hume, Smith and company were a minority in their advocacy of a scaled-down system of moral virtue. Political theory was more certain to be anchored in the ideas of the ancient authors from Aristotle to Cicero. That the individual was a political animal who realized himself most fully in the public world and *vita activa* was a proposition advanced with literary elegance and exquisite logic. Yet

57. Dedication of his principal work to Fox has already been noted *supra* text accompanying note 50.

58. For a useful introduction to this complex topic, see HENRY W. MEIKLE, *SCOTLAND AND THE FRENCH REVOLUTION* (1912). John Craig's observations on his uncle's political sensibilities at the outbreak of the French Revolution are to be found in his *Account of the Life and Writings of John Millar, Esq.*, prefixed, as has previously been mentioned, to John Millar's *The Origin of the Distinction of Ranks*. MILLAR, *supra* note 44, at xcix-cxx. Notable, in Craig's estimation, was Millar's belief that in supporting the cause of the revolution and joining the Society of the Friends of the People, he was performing "an important duty to his country." *Id.* at cxv. In HENRY COCKBURN, *MEMORIALS OF HIS TIME* 80 (Edinburgh, Adams & Charles Black, 1856), Cockburn observes, perhaps without exaggeration, the effects of the French Revolution on the energies, talents, and interests of Scottish literati in this terse comment: "Everything, not this or that thing, but literally everything, was soaked in this one event." Millar had been a keen admirer of Burke and expressed his strong support for him when he served as rector of the University of Glasgow. When Burke broke with Fox, over the latter's support of the French Revolution, Millar turned against Burke. MILLAR, *supra* note 44, 32-38.

against this resolute humanistic stance was the ineluctable, irremediable force of historical change. By the end of the century it would be fair to suggest that the morality of civil society had effectively challenged classical norms of civic virtue.⁵⁹

A very different model of society had been institutionalized with growth of the market and the emergence of ties of instrumental exchange. No longer would it be easy to persuade readers and listeners that private interests might be overcome by public concerns. Displacement of classical ideals of virtue and solidarity appeared less relevant in a society governed by what the great Scot, Thomas Carlyle, in the next generation, bitterly termed "the cash nexus." How, in the face of the very likely triumph of instrumental rationality do we keep civil society civil? Is there a viable foundation on which to construct a vision of moral solidarity beyond the play of the sure forces of meager self-interest and calculus of pure exchange? Is it possible for civil society to find a psychological and sociological basis for coherence, while at the same time valuing the benefits of competition, the free market, and radical division of labour?⁶⁰

The sustained and fruitful efforts of Scottish ethical thinkers, from Francis Hutcheson to Adam Smith, resulted in increasing refinement and psychological subtlety of what justly might be termed "the moral rules" of a commercial/civil society. To confirm this observation one has but to read the successive six editions of Adam Smith's *The Theory of Moral Sentiments* published between 1759 and 1790. Gradually, and with many twists and turns, Smith came to locate the base of morality in the individual human conscience. Here we have the radical separation of private and public. How intellectually satisfactory this division would be can only be judged by reviewing the responses of the next generation of poets, economists, and political philosophers. One fact was clear: if civil society was to survive in the new industrial age of the nineteenth century, more would be required to sustain it than was contained in Smith's final edition of *The Theory of Moral Sentiments*.⁶¹ Much more "radical" proposals would emanate from the writings of Wordsworth, Samuel Taylor Coleridge, Thomas

59. I am completing a monograph entitled *Civil Society and the Decline of the Moral Community*, in which I discuss conflicts among literati on questions of moral sentiment, politics, and commercial/civic society.

60. The thesis of David Allan in his *Virtue, Learning and the Scottish Enlightenment* highlights the persistence and deep roots of classical humanist scholarship and research in the Scottish Lowlands. The intellectual fires of this learned tradition continued to burn brightly in the eighteenth century. ALLAN, *supra* note 16. However, Allan does not give sufficient weight to the new politics and economy which did not seek legitimation in any civil humanist tradition. Economic and social change rendered classical political theory more of a private adornment than a generator of deeper insight into the public good. Finally, radical specialization of intellectual labor was to play *hob* with the generalist and amateur humanist. For the movement toward privatization and celebration of domestic virtues, over and against a public sensibility, see DWYER, *supra* note 55, at 95-113.

61. SMITH, *supra* note 41.

Carlyle, John Stuart Mill, and, of course, Matthew Arnold. A new and heavy reliance would fall upon religion and culture.⁶²

Sufficient unto the day of commercial/civil society in Scotland in the eighteenth century was the psychology of natural sympathy, moral affection, and human sociability. Ideas of propriety and the adequacy of "common sense," strong enough to guide men and women through daily events of business and politics, lent assurance to advocates of civil society. In the following two generations on the European continent, beginning with Immanuel Kant and continuing with Hegel and Marx, human sociability and empathy proved entirely inadequate for endowing civil society with moral coherence. The task of those engaged in discourse on civil society in the wake of the French Revolution and disruptive beginnings of industrialism required new insights into the relationship between private rights and public morality. Here it would be necessary to begin a discussion of the role of the state. This was an issue of minor consequence to the Scots: the less the role of the state, the better. It is easier to take that position in a commercial world, in a privileged era, however, than in an industrial society under strong popular pressures.⁶³

62. Would Adam Smith have clung to the concept of "free market" with such tenacity as exhibited in 1776, if he had written only a decade later? Was Dugald Stewart—the leading economist of the next generation and a student of Smith's—correct when contending that his mentor did not wish to mislead his audience further, therefore, he wrote little after completing *Wealth of Nations* in 1776? Adam Smith had relied on economic theology to celebrate the invisible hand of God as being more in tune with the free market than Christ was with His disciples. With buoyant confidence, Smith averred in *Wealth of Nations* that the wealthy "divide with the poor the produce of all their improvements. They are led by an invisible hand to make nearly the same distribution of the necessaries of life, which would have been made, had the earth been divided into equal portions among all its inhabitants." In an addition to the sixth edition of *The Theory of Moral Sentiments*, Smith juxtaposes the deference and approbation of the poor for the wealthy over and against the contempt the latter display for the impoverished. This is not merely a minor failing but the "great and most universal cause of the corruption of moral sentiments." Nor was Smith alone in his fears as to the injustice of the play of the free market in civil society. See James Buchan, *Presto!*, LONDON REV. BOOKS, Dec. 14, 1995, at 13, (reviewing IAN SIMPSON ROSS, *THE LIFE OF ADAM SMITH* (1995)).

63. Alan Bewell, in his *Wordsworth and the Enlightenment: Nature, Man, and Society in the Experimental Poetry*, considers in detail the migration of the themes of civil society and conjectural history into the poetry of Wordsworth and his generation. ALAN BEWELL, *WORDSWORTH AND THE ENLIGHTENMENT: NATURE, MAN, AND SOCIETY IN THE EXPERIMENTAL POETRY* (1989). Here he explicates the variety of ways in which Wordsworth and his contemporaries examined questions of the meaning of property, dangers of the uprooted peasants of the countryside, blight of economic development, and the thousand natural ills to which rural society and urban life might be prey if the "cash nexus" were to destroy customary sentiment and compassion.

