The Politics of Liberty in England and Revolutionary America

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CAMBRIDGE
UNIVERSITY PRESS

PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE
The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS
The Edinburgh Building, Cambridge CB2 2RU, UK
40 West 20th Street, New York, NY 10011-4211, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
Ruiz de Alarcón 13, 28014 Madrid, Spain
Dock House, The Waterfront, Cape Town 8001, South Africa

http://www.cambridge.org

First published 2004

Printed in the United States of America

Typeface Sabon 10/12 pt. *System* LaTeX 2ε [TB]

A catalog record for this book is available from the British Library.

Library of Congress Cataloging in Publication Data

Ward, Lee, 1970–
The politics of liberty in England and revolutionary America / Lee Ward
p. cm.
Includes bibliographical references (p.) and index.
ISBN 0-521-82745-0
1. Political science – Great Britain – Philosophy – History – 17th century.
2. Political science – Great Britain – Philosophy – History – 18th century.
3. Political science – United States – Philosophy – History – 17th century.
4. Political science – United States – Philosophy – History – 18th century.
5. United States – History – Revolution, 1775–1783 – Causes. 6. Liberty.
I. Title.
JA84.G7W37 2004
320′.01–dc22 2003068725

ISBN 0 521 82745 0 hardback

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Introduction

Reexamining the Roots of Anglo-American Political Thought

This project is as an effort to address some of the problems contemporary political theorists and intellectual historians have encountered in writing about the Anglo-American political tradition. At least since the demise of Marxist and progressive methods of interpretation, with their emphasis on subrational interests and economic and material forces as the major, if not only, motivational springs for political and constitutional thought and practice, scholars of the Anglo-American tradition have largely agreed on one fundamental interpretive and conceptual premise: ideas matter.[1] The broad, almost universal, consensus among scholars of the field is that early modern Anglo-American thought is defined by a set of principles and deeply held commitments to certain notions of government and law, rights and citizenship. It is now generally assumed that Anglo-American political thinkers and actors in the seventeenth and eighteenth centuries operated within a distinctive framework, or perhaps distinct frameworks, with established categories of thought, ideological assumptions, and philosophical premises.

The bad news, or at least the other side of this overarching "superconsensus," is the deep contentiousness that has characterized the study of seventeenth- and eighteenth-century Anglo-American thought in the past four decades. Ideas matter, but as we have come to realize, scholarly interpretations of these ideas may matter even more. The deepest fault line in contemporary scholarship on Anglo-American thought lies in the divide between the liberal and republican, or Lockean and civic humanist, schools of interpretation. This by now familiar, perhaps all too familiar, dispute pits different interpretive lenses often in search of comprehensive paradigms for understanding our political and constitutional tradition. A typical feature

[1] For the classic example of the progressive school of interpretation in America, see Charles Beard, *An Economic Interpretation of the Constitution* (New York: Macmillan, 1935, orig. pub 1913): esp. chs. 5–7.

of the liberal-versus-republican debate is the dispute over the dominance, the relative importance, or even the existence of one or the other system of thought in Anglo-American early modernity.

The roots of the current debate go back at least as far as the middle of the last century. At that time, numerous distinguished scholars like Louis Hartz, Carl Becker, Clinton Rossiter, and Richard Hofstadter established a "liberal" consensus regarding the dominant mode of thought in the Anglo-American political and constitutional tradition.[2] These scholars agreed that the prevailing mode of political discourse and constitutional theory in America was profoundly shaped by the overwhelming influence of Lockean-liberal ideas at the time of the Founding. This assertion of a dominant Lockean-liberal paradigm in American political thought mirrored the work of political theorists studying the early modern period such as Leo Strauss and C. B. MacPherson, who proclaimed that early modernity marked the triumph of Lockean-liberal notions of rights and government over the classical and Christian assumptions and principles of the premodern era.[3] The distinctive features of this liberal consensus in the fields of both Anglo-American and early modern studies were an assertion of the centrality of individual natural rights, an instrumentalist or conventionalist understanding of government as a product of human artifice designed and directed to the securing of rights, and a statement of the importance of private property rights and the unleashing of essentially selfish and materialist passions channeled through the political and economic institutions of a competitive, individualistic, and capitalist society. In sum, early liberal modernity peaked in Locke, and Locke was America's philosopher.

The liberal consensus began to unravel in the late 1950s and 1960s when a body of scholarship emerged questioning the alleged univocity of Lockean liberalism ("Locke et praetera nihil") in the Anglo-American tradition. Robert Shalhope coined the phrase "republican synthesis" to describe this

[2] For the seminal statements of the liberal consensus, see Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt, Brace, 1955): pp. 3–86; Carl Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (New York: Knopf, 1942, orig pub. 1922); Richard Hofstadter, *The American Political Tradition* (New York: Vintage, 1957): pp. v–xi, 3–17 and Clinton Rossiter, *Seedtime of the Republic* (New York: Harcourt, Brace, 1953). While Rossiter did identify Locke as "primus inter pares" among the formative thinkers in America, it is important to note that he also did much to identify the influence of Opposition Whigs and "continental libertarians" on Anglo-American thought (cf. pp. 358–9).

[3] Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953): esp. ch. 5 (though, note Strauss' identification of classical and premodern elements of the British Constitution in "German Nihilism," *Interpretation*, 26, 3 [Spring 1999]: pp. 353–78, esp. pp. 372–3) and C. B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford University Press, 1962). For a recent study that follows the Strauss–MacPherson path, see Pierre Manent, *An Intellectual History of Liberalism*, Rebecca Balinski, trans. (Princeton: Princeton University Press, 1994): esp. ch. 4.

diverse, but interrelated, body of work.[4] Caroline Robbins's classic *Eighteenth Century Commonwealthman* began the process of dethroning Locke by identifying him as only one of many figures in a diffuse stream of republican thought in Britain from the civil war and interregnum periods to the late-eighteenth-century radicals like Burgh, Priestley, and Price.[5] In Robbins' analysis, long-neglected thinkers like Harrington and Sidney, as well as Trenchard and Gordon, took on new importance as influential voices in the English radical and libertarian traditions. Robbins' work was an impetus to other scholars and initiated a largely salutary correction to the monolithic Lockean-liberal consensus. J. G. A. Pocock, spurred in part by Hannah Arendt's rediscovery of classical republican politics, took Robbins' analysis to another level. In a vast collection of articles culminating in the monumental *The Machiavellian Moment*, Pocock identified a civic humanist republican tradition of thought originating in the city-states of Renaissance Italy. He argued that this civic humanist mode of thought, with its emphasis on mixed government, civic virtue, property as instrumental to citizenship, and the importance of participatory politics, was transmitted to the Anglo-American world via Machiavelli and his English followers, most notably Harrington. It was from this civic humanist tradition, Pocock argued, that Anglo-American thought inherited and developed a profoundly anti-Lockean and anti-individualist notion of liberty. This idea of liberty hearkened back to the classical Aristotelian ideal of citizenship as the fulfillment of the human personality through common political discourse and action. At some points, Pocock even suggests that civic humanism was more than a competing paradigm with Lockean liberalism – that it was actually the dominant political philosophy in eighteenth-century America.[6] The impact of Robbins and Pocock's work on the study of American political thought was enormous.

Bernard Bailyn, for example, while not an advocate of the classical republican or civic humanist interpretation, plays down the significance of Locke in the formation of the eighteenth-century Whig mind by identifying Robbins' English Commonwealthmen as the chief inspiration behind the pre-Revolutionary American idea of liberty. It was in the subtradition of "Opposition" or radical "Country" party Whigs epitomized by Trenchard

[4] Robert Shalhope, "Towards a Republican Synthesis," *William and Mary Quarterly*, 20 (January 1972): pp. 49–80.

[5] Caroline Robbins, *The Eighteenth Century Commonwealthmen* (New York: Atheneum, 1968). 1959).

[6] J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975): pp. 545–7 and J. G. A. Pocock, "Virtue and Commerce in the Eighteenth Century," *Journal of Interdisciplinary History*, 3 (1972): p. 122. Cf. Quentin Skinner, "Machiavelli," *Great Political Thinkers* (Oxford: Oxford University Press, 1992): pp. 3–100 and Skinner, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998).

and Gordon's *Cato's Letters*, rather than primarily in Locke, that Bailyn discovered the most important and comprehensive statements on liberty and power, and virtue and corruption, in Revolutionary America.[7] For Bailyn, the English radical opposition Whigs provided the conceptual frame of reference for American Whigs regarding the most important questions about government and liberty. Gordon Wood went further than Bailyn, and even Pocock, in developing the classical republican influence on Anglo-American thought. Like Pocock, and in contrast to Bailyn, Wood found the great alternative to Lockean-liberal interpretations of eighteenth-century American thought to be a tradition of republicanism rooted in classical antiquity. In Wood's formulation of the republican hypothesis, American Whigs were essentially classical republicans dedicated to an idea of community as a natural organic whole in which sacrifice of individual self-interest for the sake of the common good lay at the core of their notion of virtue. The deep tension between republican virtue and liberal individualism, which Pocock identified in the Whig distrust of commerce, becomes, in Wood's reinterpretation, open warfare, as Wood's classical republican Whigs are now seen as staunch anticapitalists and anti-individualists.[8] For both Wood and Pocock, political liberty – the public share in government – is the central classical assumption underlying eighteenth-century Whig thought.

Thus, the crux of the liberal–republican debate centered on two pivotal issues. While the proponents of the republican interpretation were by no means monolithic in their positions (indeed, the term "republican synthesis" may itself be misleading), they did share a common tendency to de-emphasize, or at least seriously question, the once thought formative influence of Lockean-liberal thought on the Anglo-American tradition. For Bailyn, Wood, and Pocock, other voices such as Machiavelli, Harrington, and the Opposition Whigs gained a prominence hitherto unseen in the field. The other major question at issue between the liberal and republican schools was the status of premodern, especially classical, thought in the eighteenth-century Anglo-American world. On one point at least the proponents of the liberal and republican theses were in agreement: Locke was thoroughly modern, and

[7] Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967): esp. p. 34. Bailyn's findings emerged almost contemporaneously with John Dunn's influential article claiming that Locke's *Two Treatises* were not nearly as important or even as widely read as was previously thought. See John Dunn, "The Politics of Locke in England and America," in *John Locke: Problems and Perspectives*, John Yolton, ed. (Cambridge: Cambridge University Press, 1969): pp. 56, 80.

[8] Gordon Wood, *The Creation of the American Republic, 1776–87* (Chapel Hill: University of North Carolina Press, 1969): pp. 29, 53, 58, 60, 417. For his part, Wood sees the end of this classical politics in America and the ideological victory of liberalism occurring at the time of the enactment of the U.S. Constitution. For an argument that sees the classical republican influence extending well into the nineteenth century via the Jeffersonians, see Lance Banning, *The Jeffersonian Persuasion* (Ithaca: Cornell University Press, 1978).

so is liberalism. Pocock and Wood, for example, argued that it was not from Locke's modern natural rights theory that the Whigs in England and America learned the fundamentals of government, but rather from the classical Romans and Greeks. It was from this classical source transmitted through the Italian civic humanists that the Whigs developed their most formative ideas about constitutionalism, virtue, property, and citizenship.

In the past two decades, following a steady republican onslaught, Locke and liberalism have made something of a comeback. In the wake of the bygone era of "Locke et praetera nihil" and the "omnia praeter Lockem" spirit of the republican school, another generation of scholars arose to challenge the newly minted republican orthodoxy– it was Locke redivivus.[9] These scholars such as Joyce Appleby, Steven Dworetz, Isaac Kramnick, Thomas Pangle and John Patrick Diggins contested the republican interpretation on several counts. Thomas Pangle and Steven Dworetz argued that the republican interpretation overstated the importance of nonliberal thought in the eighteenth-century Anglo-American tradition while systematically muting and neglecting unmistakably Lockean modes of thought and discourse.[10] Both Dworetz and Pangle attacked the civic humanist or non-Lockean credentials of Trenchard and Gordon's *Cato's Letters*, a central text in the Whig canon of Robbins, Bailyn, Wood, and Pocock. If, as the neoliberal school argued, *Cato's Letters* and other English Whig writings are fundamentally Lockean, then it was not civic humanism that was transmitted to the colonies via Cato and the others, but rather Locke, albeit in somewhat modified form.[11] Joyce Appleby argued that it was the Lockean account of the origins of government to which American Whigs turned during the imperial crisis with Britain in the 1760s and 1770s. Whatever traces of classical republicanism there may have been in eighteenth-century America, she claims, disappeared with the demise of the Federalists and the rise of the thoroughly Lockean liberal philosophy of individualism and capitalism she associates with the Jeffersonians.[12] Isaac Kramnick looks to late-eighteenth-century British radicals like Priestley, Price, Paine, and Burgh to illustrate the formative impact of Locke on the political thought of the period. By uncovering the Lockean roots of late-eighteenth-century British radicalism, Kramnick observed an

[9] For "Locke et praetera nihil," see Pocock, "Virtue and Commerce," p. 107. "Omnia praeter Lockem" is the catchy phrase, I believe, coined by Steven Dworetz in *The Unvarnished Doctrine: Locke, Liberalism, and the American Revolution* (Durham, NC: Duke University Press, 1990): p. 23.

[10] Dworetz, *Unvarnished Doctrine*, and Thomas Pangle, *The Spirit of Modern Republicanism* (Chicago: University of Chicago Press, 1988).

[11] Dworetz, *Unvarnished Doctrine*, pp. 10, 89 and Pangle, *Spirit*, pp. 30–3 (though note John P. Diggins, *The Lost Soul of American Politics* [New York: Basic Books, 1984]: pp. 19–20 for a republican reading of *Cato's Letters*).

[12] Joyce Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790's* (New York: New York University Press, 1984): pp. 8–9, 14, 21–3.

underlying continuity of liberal thought from at least the 1760s on.[13] John Patrick Diggins, in his study *The Lost Soul of American Politics*, regretfully but firmly confirms the centrality of Locke's teaching of economic individualism for the shaping of American political discourse. While Diggins bewailed the demise of the alternative nonliberal stream of American political thought, which he identifies with Calvinist Protestantism rather than classical republicanism, he nonetheless confirmed the great importance of Lockean liberalism in forming the American mind.[14]

In many respects, the neo-liberal Locke *redivivus* school is no more united than the republican synthesis it sought to correct or replace. It was not always the same Locke who appeared to reclaim his place on the stage. One essentially Hobbesian Locke would not have much truck with another theistic Locke. Likewise, the bourgeois capitalist Locke was not identical to the radical dissenting Protestant Locke. Where the new Lockean-liberal school did stand together, however, was in their criticism of the republican revisionists' tendency to mute or silence what the neoliberals took to be Locke's enormous influence on the Anglo-American tradition. They often attacked what they took to be weak (or nonexistent) evidence of classical influences on eighteenth-century Anglo-American thought.[15] And they questioned the coherence of forming a republican paradigm out of materials – that is, books and authors – deeply penetrated by the pervasive spirit of Lockean liberalism.

Thus, the state of the debate in the wake of the republican revision and the liberal restoration is one of stalemate. Despite the fundamental differences between the two schools of interpretation, there is, however, almost universal agreement on at least one central question. One legacy of the republican revision of the old liberal consensus and the recent liberal response is the general concurrence regarding the importance of understanding the roots and character of English Whig political philosophy. In a sense, the liberal–republican debate has become an interpretive battle over the heart and soul of Whiggism. This is not to suggest that there are no other important elements in eighteenth-century Anglo-American thought such as Protestant theology or British constitutional custom and practice, but rather to observe the obvious and yet controversial influence of Whig thought in the period. The overwhelming evidence supplied by the republican and liberal revisionists suggests that English and American Whigs in the eighteenth century read, studied, quoted, plagiarized, and digested the works of both Locke and the radical Opposition Whigs. Is Whiggism essentially liberal or republican? Is Locke a Whig? Is there any reasonable basis to identify a Whig "canon" that excludes or marginalizes Locke? Does it make sense to speak of two competing, even contradictory, strains of thought emerging from the same

[13] Isaac Kramnick, *Republicanism and Bourgeois Radicalism* (Ithaca: Cornell University Press, 1990): esp. pp. 35–40, 172–85.

[14] Diggins, *Lost Soul*, pp. 5, 14, 17, 30.

[15] See especially Pangle, *Spirit*, pp. 28–9.

root in late-seventeenth-century England? These are the questions that confront us, along with a growing suspicion that the stark liberal–republican dichotomy in the current debate in Anglo-American thought rests largely on distinctions and assumptions foreign to the subject matter itself.

I believe Lance Banning's 1992 restatement of the liberal–republican debate can help guide us through the conceptual minefields facing the contemporary student of Anglo-American early modern thought. Banning, himself a veteran of the liberal-versus-republican interpretive wars, observed that the most important legacy of republican and liberal revisionist scholars has been to show the deep complexity in seventeenth- and eighteenth-century Anglo-American thought. Unfortunately, he argued, they have often not paid enough attention to the subtleties of each other's positions. While criticizing Pocock for perhaps going too far in the direction of minimizing Locke's influence, Banning also noted that the republican revision properly understood should be seen not as a replacement for, but as a vital supplement to, scholarship demonstrating the Lockean-liberal dimension in the tradition.[16] Republican scholarship, in this view, brought to light important, but previously neglected, writers, ideas, and modes of thought. Banning observed that by illuminating the part, we often cast a shadow on the whole. By identifying diverse strains of thought and constructing paradigms based on this process of speciation, scholars have broken into disputing parts principles and ideas that often coexisted in a distinctive combination in the eighteenth-century Anglo-American Whig mind. Banning suggests that one approach to understanding the distinctive combination of liberal and republican elements in the Whig intellectual and political tradition is "to start with further exploration of its origins in seventeenth century England."[17]

In a number of important respects, this study reflects Banning's suggestions and concerns.[18] First, we will examine the origins of the Whig politics of liberty in late-seventeenth-century England. Through detailed analysis of the major Whig Exclusion era tracts by James Tyrrell, Algernon Sidney, and John Locke, we will observe the emergence of distinctively liberal and republican modes of thought and discourse. Why start with the Exclusionists? On the one hand, it seems to be the most natural place to begin. It was during the Exclusion crisis that the uniquely modern term "Whig" made its first appearance in the political lexicon of the tradition.[19] On a more

[16] Lance Banning, "The Republican Interpretation: Retrospect and Prospect," in *The Republican Synthesis Revisited: Essays in Honor of George Athan Bilias*, Milton M. Klein, Richard D. Brown, and John Hench, eds. (Worcester: American Antiquarian Society, 1992), pp. 156, 171–2.

[17] Ibid., p. 176.

[18] Of course, this is not to suggest that Lance Banning envisioned with his suggestion my specific approach in this study.

[19] The classic study of the political and social dynamics of the Exclusion crisis is J. R. Jones, *The First Whigs: The Politics of the Exclusion Crisis, 1678–1683* (London: Oxford University Press, 1961). A recent and generally insightful study of this period is found in Mark Kishlansky, *A*

fundamental level, the major Exclusion era writings of Tyrrell, Sidney, and Locke mark the first time three distinctive voices in the English libertarian mold were raised against a common enemy. It is often forgotten amid the contemporary clamor over competing paradigms that the "conservative" or "moderate" Whiggism of Tyrrell, the "republicanism" of Sidney, and the "liberalism" of Locke all entered the world at the same time, battling in common cause against Robert Filmer's defense of divine right monarchy, which was republished by the Tories during the turbulent days of the Exclusion crisis.[20] Perhaps by understanding what it was that united the Exclusion Whigs – their opposition to seventeenth-century divine right absolutism – we may be in a better position to understand and account for the various strains of Whiggism that characterized the following century.

At this point, I should explain the principles of selectivity in my approach to the study of Exclusion period Whig thought and writings. In contrast to the historiographical methodology of Caroline Robbins and Bernard Bailyn, for example, who have elaborated the writings of innumerable figures in the Anglo-American tradition, this study focuses in its central part on the formative impact of three major tracts from among the vast collection of Exclusion Whig writings. However, this methodological approach is not idiosyncratic. The basis for the selection of Tyrrell, Sidney, and Locke rests on three criteria. First, *Patriarcha, Non Monarcha*, the *Discourses Concerning Government*, and the *Two Treatises of Government* evince, as I hope to demonstrate, a level of philosophical sophistication and depth that make them not just *pieces d'occasion*, but rather serious works of political theory in their own right. While an understanding of the historical context in which Tyrrell, Sidney, and Locke operated in the late 1670s and early 1680s provides invaluable insights regarding their motivations, assumptions, and rhetorical strategies, the works selected for special attention possess a degree of intellectual rigor and ideological clarity that surpassed that of the vast majority of the over 200 hastily crafted pamphlets and equally expeditious responses by the

Monarchy Transformed (London: Oxford University Press, 1996). While Locke's *Two Treatises* and Sidney's *Discourses* were not published until after the Exclusion crisis (in 1690 and 1698, respectively), whereas Tyrrell's *Patriarcha, Non Monarcha* was published during the crisis in 1681, it is now generally agreed, thanks to the pathbreaking research of Peter Laslett and Richard Ashcraft, that all three of these works were composed wholly or in large part during the period 1679–82. See Peter Laslett, introduction to Locke's *Two Treatises of Government* (Cambridge: Cambridge University Press, 1988): pp. 52–64 and Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton: Princeton University Press, 1986).

[20] Banning, "Republican Interpretation," p. 155. For Tyrrell as a "conservative" Whig, see Robbins, *Commonwealthmen*, pp. 73–4; and for a sample of Sidney's characterization as a "republican," see Zera Fink, *The Classical Republicans* (Chicago: Northwestern University Press, 1962) and Pocock, *Machiavellian Moment*, p. 422. While the literature identifying Locke as a "liberal" is truly enormous, and will be the subject of Chapters 8 and 9 of this study, one interesting presentation of a nonliberal Locke to note is James Tully, *A Discourse on Property: Locke and His Adversaries* (Cambridge: Cambridge University Press, 1980).

protagonists in this period.[21] Tyrrell, Sidney, and Locke distill and articulate logical premises and philosophical principles typically implicit or inchoate in the works of their Whig associates. Second, I argue that the three Whig thinkers on whom I focus in Part Two are uniquely representative of the underlying philosophical and ideological strains among the Whigs. While Tyrrell's moderate constitutionalism reflected the political vision of most English Whigs at the time and long afterward, Sidney and Locke developed arguments for natural rights and popular sovereignty that took Whiggism in different and competing directions. These alternative directions, moreover, emerged as species of thought deriving their particular character from the logical thrust of the basic Whig position in the Exclusion Crisis. Tyrrell, Sidney, and Locke exemplify differing and discrete arguments that are still identifiably Whiggish.

Third, the selectivity of my approach is validated by the judgment of the historical development of the Anglo-American tradition in the seventeenth and eighteenth centuries. Historically, Tyrrell, Sidney, and Locke were among the most influential Whig writers working (as opposed to publishing) in the earliest stages of the formation of the Whig ideology. The initial impact of Tyrrell's work during the Exclusion era, and the notoriety of Locke and Sidney's work in the years following the Glorious Revolution, ensured their prominence in the pantheon of early Whig champions of limited government. Whereas Tyrrell's moderate Whig argument represented the core of English Whiggism in the eighteenth century, among radical Whigs in England and America Locke and Sidney became the widely accepted authorities on the fundamental principles of popular resistance, political obligation, and constitutional government. Thus, the selection of these major Whig thinkers and their works as a kind of fulcrum for this study is justified by their degree of theoretical sophistication, their representative quality of important strains of Whig thought, and their historical legacy and impact.

The second element of Banning's restatement of the current debate that informs this study is his suggestion to resist the temptation to create "Kuhnian" paradigms or mutually exclusive interpretive syntheses. This study takes to heart Aristotle's caution to the student of political things not to expect the same degree of precision in moral and political studies as in the mathematical and natural sciences.[22] Imagine this study as an archeological project of exploration into the very foundations of early modern Anglo-American

[21] For good general surveys of the Exclusion pamphlet literature, see O. W. Furly, "The Whig Exclusionists: Pamphlet Literature in the Exclusion Crisis, 1679–81," *Cambridge Historical Journal*, vol. 13, issue 1 (1957): pp. 19–36 and Charles D. Tarlton, "The Exclusion Controversy, Pamphleteering, and Locke's Two Treatises," *The Historical Journal*, vol. 24, no. 1 (March 1981): pp. 49–68.

[22] Aristotle, *The Nicomachean Ethics*, H. H. Rackham, trans. (Cambridge: Harvard University Press, 1934): 1094b12–28. Cf. Thomas Engeman, "Liberalism, Republicanism, and Ideology," *Review of Politics*, 55 (Spring 1993): p. 331.

political thought. Locke, Sidney, and Tyrrell each had access to the same theoretical and intellectual resources in the philosophical milieu of late-seventeenth-century England in their critique of divine right, yet they created substantially different edifices in response to the divine right challenge to the principle of natural liberty. Rather than following a synthesizing or paradigmatizing impulse, this study adopts a syncretic approach. The three major Exclusion Whig champions produced distinct but frequently intersecting and overlapping arguments. As such, we will illuminate the deep complexity and diverse streams of reasoning inherent in the Whig tradition. Only by digging down to the very roots of Whig thought will we find the materials necessary to reconcile the different strands of this early modern philosophy into the complex heterogeneous whole it originally was. We are faced with the prospect that seventeenth- and eighteenth-century English and American Whigs could and did draw on much richer theoretical and philosophical resources than our prevailing paradigms will admit.

In my attempt to gain a fuller understanding of the Anglo-American political tradition by reexamining the classic Whig texts of the late seventeenth century, this study builds on a number of previous efforts. Paul Rahe's landmark *Republics Ancient and Modern* traced the origins and development of republicanism from Greek antiquity until the early American Republic.[23] In his breathtaking coverage and careful treatment of over 2,000 years of ancient and modern political and constitutional thought, Rahe demonstrated the profound conceptual and philosophical differences between classical thought and the early modern successors of the republican ideal. Rahe challenged prevailing assumptions about the republican project and exposed the deep antagonism of modern theorists such as Machiavelli, Hobbes, Locke, and Madison toward the classical republican principles of moral education and distributive justice.[24] Rahe's work illuminated the formative impact early modern political theory had on the republican dimension of the Anglo-American political and constitutional tradition.

Jerome Huyler's *Locke in America* also went a considerable distance to point beyond the confining paradigms characterizing the contemporary liberal–republican debate. He argued persuasively that Lockean liberalism and classical republicanism were not antithetical modes of thought for eighteenth-century American Whigs. In the Opposition Whig classic *Cato's Letters*, Huyler discovered a carefully crafted synthesis of Lockean individualism and natural rights, on the one hand, and the "Old Whig" constitutional republicanism of Algernon Sidney, on the other. This synthesis of liberal and republican elements was ready made for digestion into the bloodstream of

[23] Paul Rahe, *Republics Ancient and Modern: Classical Republicanism and the American Revolution* (Chapel Hill: University of North Carolina Press, 1992).

[24] See ibid., esp. Book II, "New Modes and Orders in Early Modern Thought."

pre-Revolutionary America.[25] A third important study, and one to which this project is deeply indebted, is Michael Zuckert's *Natural Rights and the New Republicanism*. Zuckert drew on a vast knowledge of the seventeenth-century natural rights and natural law tradition to illuminate distinct but related and connected strands of Whig thought. Zuckert examined *Cato's Letters* and made the same connection between the Lockean-liberal philosophy of natural rights and the Whig republican political science that Huyler identified. However, Zuckert identified both a distinctly Lockean form of Whiggism and a separate brand of Whig thought he associated with the philosophical authority of Hugo Grotius.[26] Zuckert argued that it was Grotius who was the inspiration and guiding light for most English Whigs, while Locke's influence penetrated only on the margins of eighteenth-century English political discourse, though ultimately finding a home in the American colonies. Rahe's, Huyler's, and Zuckert's findings compel the contemporary student of the Anglo-American tradition to look anew and with fresh eyes at the rich and complex veins of argumentation and theoretical principles underlying the Whig politics of liberty.

The Whig Politics of Liberty

This study is at once broader and more focused than most previous efforts to understand the origins of Anglo-American thought. This study is more focused than many of its predecessors in the sense that I pay primary attention to examining the philosophical foundations of Anglo-American early modernity. This is not intended to deny or diminish the importance of historical, economic, or theological influences in the formation of Whig political thought, but rather to focus on one very important influence that has not been properly understood or fully appreciated hitherto. Thus in Part One of this study I examine the relation of Whig thought to the ideas of its predecessors in the great natural liberty tradition of the seventeenth century. The central element in the Whig critique of divine right in the Exclusion tracts was the response to Filmer's rejection of the doctrine of natural liberty. In his bold and uncompromising assertion of the English divine right position, Filmer, the "most prominent royalist theorist" in England, systematically countered every major form of this natural liberty school extant in mid-seventeenth-century Europe.[27] The natural liberty tradition was by no means uniform in every, or even most respects, but all the adherents to the principle of natural liberty agreed on the premise that human beings are naturally free and equal,

[25] Jerome Huyler, *Locke in America* (Lawrence: University Press of Kansas, 1995): pp. 224–46.
[26] Michael Zuckert, *Natural Rights and the New Republicanism* (Princeton: Princeton University Press, 1994): esp. chs. 4, 5, and 7–9.
[27] Mark Goldie, "The Reception of Hobbes," in *Cambridge History of Political Thought*, J. H. Burns and Mark Goldie, eds. (Cambridge: Cambridge University Press, 1991): p. 595.

and that the particular form of government for a given people is the product of consent. Filmer assaulted this tradition with guns blazing, leveling scathing criticisms of the Catholic natural law, Calvinist politics and theology, English civil war era parliamentary contractarianism, and Hobbesian and Grotian natural jurisprudence. Thus, in critiquing Filmerian divine right, the Whigs explicitly defended the principle of natural liberty associated with these schools of thought. The political thought of Filmer's Whig critics, then, emphatically did not emerge from an intellectual and philosophical vacuum.

Each of the major Exclusion Whigs attacked divine right; however, they each did so in defense of a particular understanding of the doctrine of natural liberty. By carefully examining the arguments of Tyrrell, Sidney, and Locke, I have found that the most fundamental source for Whig thought was the philosophic principles of early modern natural jurisprudence. There is, I admit, a paradox at the origin of the Whig politics of liberty. The natural liberty tradition that preceded the Whigs may be broken into two general camps. The first was the anti-absolutist strain typically associated with the later scholastic, Calvinist, and parliamentary radical thought of the English Civil War period. These arguments tended to rest on either a classical natural teleology, the Christian understanding of the divine ordination of political power, or a combination of these elements. For these philosophical and theological partisans of natural liberty, absolute monarchy was antithetical to God's and/or nature's plans for human flourishing.

The Whigs Tyrrell, Sidney, and Locke, however, generally eschewed this respectable anti-absolutist tradition and the classical and Christian assumptions underlying it. They turned rather to the second camp of the seventeenth-century natural liberty tradition: modern natural jurisprudence.[28] Herein lies the paradox. The two most influential natural law and natural rights theorists of the period prior to the Whigs were Hugo Grotius and Thomas Hobbes. Yet these thinkers produced theories of right more or less consistent with absolutist models of political legitimacy. Grotius and Hobbes presented arguments that offered no necessary or even easy connection between natural rights and the principle of limited government so dear to the Whigs. Thus, the first Whigs present a complicated relation to their forbears in the natural liberty tradition eschewing a bona fide anti-absolutist tradition in favor of a modern natural jurisprudence with at least a dubious connection to limited constitutionalism. This study will try to demonstrate how and why

[28] My argument runs counter to that of scholars such as Tierney and Oakley, who maintain that the language, and to some extent the logic, of modern natural rights derive from the medieval period (see, for example, Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150–1625* [Grand Rapids, MI: William B. Eerdmans, 1997]: pp. 5, 8, 54–69 and Francis Oakley, *The Politics of Eternity: Studies in the History of Medieval and Early-Modern Political Thought* [Leiden: Brill, 1999]: pp. 217–48 dealing with Locke). In contrast I argue that seventeenth-century modern natural rights theory represents more than simply a modification of earlier concepts of right and law; rather, it marks a decisive break from the theological and classical foundations of the medieval concept of natural justice.

the Whigs came to square the natural rights circle and develop principles of natural jurisprudence consistent with limited government.

In other respects, this study is considerably broader than similar efforts. For example, it is surprising, given the enormous scholarly attention paid to Locke over the years, that there is still a relative paucity of thematic treatments of Locke's *Two Treatises* in their proper context, in bas relief as it were, in comparison and contrast with the contemporaneous offerings of other influential Whigs such as Tyrrell and Sidney.[29] On a more fundamental level, however, the present study demands that we expand even further the analytical horizons traditionally employed in investigating the theoretical foundations of the Anglo-American tradition. A principal aim of this study is to demonstrate the seminal influence of seventeenth-century natural jurisprudence on the formation of the early modern Anglo-American mind. I propose that Whig philosophy represented the political instantiation in the English-speaking world of intellectual forces that are fully intelligible only in the context of the massive civilizational changes in the West introduced by the European Enlightenment. The key development in the formation of the Whig politics of liberty, and eighteenth-century Anglo-American thought generally, was the infusion of the concepts, premises, and categories of seventeenth-century continental natural jurisprudence into the fundamental debate over English constitutional theory and practice in the Exclusion and Glorious Revolution periods. This was the critical point when the Whig political philosophy that shaped the eighteenth-century Anglo-American mind was first conceived.

The transformative impact of modern natural law and natural rights philosophy on the essential structure of political and moral reasoning in the Anglo-American world not only radically altered the constitutional landscape of late-seventeenth-century England. The theoretical and ideological aftereffects of the political revolution in 1680s England extended far in time and space, providing the philosophical touchstone for the way British and American Whigs articulated their deepest moral and political commitments up to and beyond the American Revolution. In order to fully appreciate the palpable connection between the ideas produced during what Jonathan Scott calls "England's Troubles" in the 1600s and the renewed series of imperial "troubles" that culminated in American independence, we must unearth the complex and multifarious character of Whig political philosophy in the context of the great natural liberty tradition of seventeenth-century Europe.[30]

[29] Notable exceptions are Ashcraft, *Revolutionary Politics*; Julia Rudolph's welcome recent study of Tyrrell, *Revolution by Degrees: James Tyrrell and Whig Political Thought in the Late Seventeenth Century* (New York: Palgrave, 2002); and Martyn P. Thompson, *Ideas of Contract in English Political Thought in the Age of John Locke* (New York: Garland, 1987): esp. chs. 6–10.

[30] Jonathan Scott, *England's Troubles: Seventeenth Century English Political Instability in European Context* (Cambridge: Cambridge University Press, 2000).

Thus, in Part Two of this study I examine the genesis of the three strains of Whig thought that came to define the various dimensions of Anglo-American modernity: Tyrrell's conservative restorationism, Sidney's modern republicanism, and Locke's liberalism. Each of these distinct strains of thought originated in the same source, namely, the modification of key principles of early modern natural jurisprudence and the introduction of these modified notions of natural rights and natural law into British constitutional and political discourse. The results of this process of modification differ, however, in each case.

Tyrrell's moderate Whig restorationism relies on the philosophical authority of the celebrated German jurist Samuel Pufendorf. Tyrrell inaugurated the distinctive subtradition of Whig thought that understood Britain's balanced and mixed constitution as the product of a contextualized social compact blending elements of custom, history, and prescription with inherent natural law obligations. The moral and political implications of this Pufendorfian formulation of compact and natural law were antithetical both to divine right monarchy and to the doctrine of popular sovereignty. The moderate Whig architects of the Glorious Revolution settlement of 1689 such as James Tyrrell, William Atwood, and Gilbert Burnet would set a deeply conservative stamp on British constitutional thought for the coming century by their rejection of the radical principles of popular sovereignty, the dissolution of government, and the right of revolution in favor of the more conservative principles flowing from their natural law-based idea of constitutional sovereignty. They understood sovereignty in terms of the Pufendorfian dictum that the essence of law is to be the command of a superior, and as such they rejected popular sovereignty, or the extra-constitutional supreme power of the people, turning instead to the idea of sovereign power as the product of compact and law. In the moderate Whig conception of liberty so deeply influenced by Pufendorf, political liberty and civil order could be secured only by the complex and balanced set of institutions enshrined in the British Constitution.

Sidney offered a modern republican version of radical Whig thought. In contrast to Tyrrell and the moderate Whigs, he held popular sovereignty to be the logical and moral implication of natural liberty and equality. Sidney's commitment to republicanism derived from a populist conception of the proper form of government for securing liberty. He criticized England's mixed monarchical system as an obsolete legacy of the country's feudal past, and favored rather a constitutional reordering based on the goal of establishing the radical legislative supremacy of a democratized parliamentary system marked by more equal and numerous representation, frequent elections, and the rotation of delegates. Sidney argued for what we will call a "reflection theory" of sovereignty, whereby the sovereign power in any constitutional order must reside in the representative legislative body, which alone among institutions can mirror or reflect the popular will. Sidney advanced classical republican notions of virtue and hostility to monarchy and heredity, but he

incorporated the ideals of the old republicanism in the language and logic of modern natural jurisprudence. The conceptual model that best helps us understand Sidney's new republicanism is that provided by the Dutch republican theorist Benedict Spinoza. The heart of Sidney's republicanism is, as it was for Spinoza, an attempted synthesis of Machiavellian republicanism and Hobbesian natural rights theory on the basis of the quintessentially Spinozist reflections on the natural order of power relations. In a sense, Sidney employs a Spinozist understanding of power and the naturalness of democracy in order to republicanize Hobbes with elements from Machiavelli and liberalize Machiavelli with Hobbesion natural rights theory. The final product of Sidney's republicanism is a complex mixture of philosophical elements that breaks radically from the tradition of classical republicanism and moves in the direction of a distinctly modern democratic understanding of republicanism.

One goal of this study is to help us understand what is distinctively Lockean in the Anglo-American political tradition. Locke's radical Whiggism rests on a liberal individualist theory of government and natural rights. He, like Sidney and in contrast to Tyrrell, is a partisan of popular sovereignty. Locke's liberalism, however, derives from the individualist core of his philosophy. For Locke, government is a product of consent directed to the securing of certain individual natural rights, most significantly property. While the Lockean theory of rights is not opposed to republicanism as a legitimate form of government, the individualist core of Lockean-liberal philosophy is consistent with a variety of models of limited government. Lockean constitutionalism was consistent with mixed constitutionalism, including mixed monarchy, and went far in developing a sophisticated theory of the separation of powers that included a crucial role for executive prerogative. Moreover, Locke's principle of sovereignty did not necessarily share Sidney's populist premises. Sidney propounded a view of sovereignty that stressed the need for government to reflect the public will and popular consent directly and continuously through democratic institutions. For Locke, on the other hand, the derivation of political power from the people logically means that the people can delegate their authority to a number of constitutional bodies, including the kind of dispersed and balanced system of sovereignty typical in mixed and compound governments. The theoretical core of Lockean-liberal constitutionalism represents his most important innovation of the seventeenth-century natural liberty tradition, namely, his argument for political individualism that maintained that all political power originates in the natural executive power of individuals and can return or devolve to this original source in the event of a dissolution of government. Locke thus supplied the individualist basis of liberal constitutionalism.

The radical Whig assertion of popular sovereignty in the people's right to alter or abolish their form of government was anathema to the Pufendorfian moderate Whig philosophy of Tyrrell and the moderate Whigs who helped

craft the Glorious Revolution settlement and came to dominate British political and constitutional thought in the eighteenth century. In the last two chapters in Part Two, we will examine the development of British constitutionalism from the Glorious Revolution to the middle of the eighteenth century, paying particular attention to the gradual consolidation of the moderate Whig interpretation of the constitution and the marginalization of radical Whig arguments in Britain. In 1680 there was a very wide variety of opinions on the British political spectrum ranging from divine right monarchists on the right to radical republicans on the left. Through the course of the century following the Glorious Revolution, however, Britain experienced a process of ideological convergence toward the conservative moderate Whig understanding of sovereignty and rights. Republican and liberal ideas were soon marginalized in Britain after 1689, while hard-core divine right royalists after 1714 gradually accepted the principles of a balanced constitution and absolute legal sovereignty residing in king-in-Parliament. In my analysis of eighteenth-century British constitutional thought, I demonstrate that the British regime eulogized by Bolingbroke, Montesquieu, and even the skeptic David Hume was the compound balanced government rooted in the principles of seventeenth-century conservative natural law. So complete was this moderate Whig intellectual hegemony in the second half of the eighteenth century that when Britain's preeminent authority on the constitution, William Blackstone, affirmed the "supreme, irresistible, absolute, uncontrolled" sovereignty of a Parliament that can make or alter any law it chooses, scarce a voice in Britain demurred. Thus, when the British public and political leaders confronted colonial resistance to parliamentary sovereignty in the 1760s and 1770s, they understood the dispute in terms of the conservative philosophical principles of rights and sovereignty derived from Pufendorf a century earlier.

Part Three of this study will trace the development of Whig thought in the context of the British Empire, and analyze the role of Whig philosophy in the American Revolution and the first experience of constitution making in the early American Republic. The central argument in Part Three is that the philosophical origins of the American Revolution lay in the unraveling of the complex fabric of seventeenth- and eighteenth-century Anglo-American natural jurisprudence that pitted American radical Whigs against their British moderate Whig cousins. The legacy of the Whig politics of liberty was inherently multifarious, complex, and characterized by internal ideological tensions between not only, or even primarily, a liberal and a republican strain, but also between radical principles, on the one hand, and the more conservative principles of the moderate Whigs, on the other. The defining feature of Anglo-American thought in the eighteenth century was the gradual coalescing of the various elements of radical and moderate Whiggism into two competing interpretations of the meaning of liberty and constitutionalism. The philosophical origins of the imperial crisis that produced the American